

**Mr. Speaker:** I find that there is some difference of opinion in this respect. I do not think that such a decision should be taken by a vote of the House. I will take it up after sometime and I would request the hon. Members to discuss it among themselves so that a unanimous decision might be taken. We should not divide.

**Shri H. N. Mukerjee** (Calcutta Central): May I submit, Sir, that in matters of this description it is the universal convention in parliamentary life that the Leader of the House takes the principal part. The Leader of the House is not present here and the Minister of Parliamentary Affairs who is here does not seem to do anything at all about this..... (Interruptions).

**The Minister of Parliamentary Affairs** (Shri Satya Narayan Sinha): I think the Government's opinion would be communicated to the House after all the hon. Members who wanted to participate in the debate have done so.... (Interruptions).

**Mr. Speaker:** Order, order. I will postpone it to the afternoon. I am calling upon the Law Minister now. We might take it up at 4 O'clock. Would it be convenient? Or, I think 5 O'clock would be all right.

**Shri Priya Gupta** (Katihar): The House should not be extended beyond 5 O'clock today, because today is May Day. (Interruption).

**Shri Hari Vishnu Kamath** (Hoshangabad): We can have it tomorrow.

**Shri Surendranath Dwivedy:** After Question Hour.

**Mr. Speaker:** If the House agrees, we can take it up tomorrow.

**Shri Satya Narayan Sinha:** Yes.

**Mr. Speaker:** We will take it up tomorrow.

12.26 hrs.

CONSTITUTION (FIFTEENTH  
AMENDMENT) BILL—contd.

**Mr. Speaker:** The House will now take up further consideration of the following motion moved by Shri A. K. Sen on the 29th April, 1963, namely:

“That the Bill further to amend the Constitution of India, as reported by the Committee, be taken into consideration.”

Shri A. K. Sen.

**The Minister of Law** (Shri A. K. Sen): Mr. Speaker, Sir, I was dealing yesterday with the points made by Shri Tridib Kumar Chaudhuri, Shri Daji and a few others,—

**Shri Priya Gupta** (Katihar) We cannot hear, Sir.

**Mr. Speaker:** If hon. Members will stop talking, then they will be able to hear. If these conversations go on, certainly it is difficult to hear.

**Shri A. K. Sen:** It is quite true, because I had paused several times in order that I may be audible after there is calm in the House. As I said, Shri Tridib Kumar Chaudhuri, Shri Daji and a few others criticised the provisions by which we propose to determine in case of dispute the age of a judge, whether he is 60 or not, after consultation with the Chief Justice. It has been said that this is a method of coercing the judiciary, and the judgment of the Calcutta High court has been quoted by several hon. Members including Shri Daji and Shri Tridib Kumar Chaudhuri, which is completely different from the judgment of the Punjab High Court on this point; and the matter is *sub judice* because the Supreme Court has given special leave to appeal against that particular judgment. Since portions of that judgment have been quoted, I am constructed to say that I may have to deal with these criticisms of the learned judges and I may have to say that it is unfair that some judges take

a long view of their role and travel beyond the realms of judiciary, to the realms of politics and try to criticise policies of Government with which they are not concerned. They are only concerned with interpreting the policies when they are translated into law. Shri Daji said here is a judgment appealing to Parliament. It would be the end of the judiciary if the judiciary appeals either to Parliament or to the Government. The judiciary will never appeal to anyone, and I hope that the interpretation put on the judgment that the judges have appealed to Parliament is not correct. In any event, the judgment has been quoted; we have not got a copy of the judgment yet.

**Shri Daji (Indore):** I have got a copy.

**Shri A. K. Sen:** I will read from his speech the relevant portion that he has quoted. It says:

"...if the Judges of this Court are so much at the mercy of the Executive that Executive fiat would be enough to retire them and to terminate their tenure, that would mean the end of judicial independence in this country. Independence of the Judiciary would then be a thing of the past and the cherished safeguards of the age, so fondly enshrined in the Constitution in that behalf, would become useless and unmeaning and would be reduced to a mockery. I shudder to think of such consequences. I was, therefore, immensely relieved, when I found..."

May I put the question in a different way? The independence of the judiciary and the rights of citizens will be reduced to a mockery if they find that Judges have delivered judgments either in their favour or in favour of the State or against the State and the judgements are challenged in a court of law as *ultra vires* on the ground that the Judge has reached

the age of 60 years. If after years of litigation, after a lapse of 7 or 8 years, the judgments passed 7 or 8 years ago were declared *ultra vires* and the man who had obtained a judgment or the State which has got a verdict either in a criminal or civil action would find, after 7 or 8 years, that the decree of the civil court is ultimately negated by the Supreme Court, I say with conviction that in such a case, the rights of the citizens would be reduced to a mockery.

It is inherent in a Constitution where an age is fixed that the age is to be determined by someone apart from the Judge himself. It will be a mockery again if a Judge thinks that about the age, whatever he gives is the final thing and it can never be challenged. It is conceded that it can be challenged in a court of law. I was amazed to hear that you should let it be determined by uncertain decisions of dozens of munsiffs' courts going up to the Supreme Court. When I asked Mr. Setalvad, "Do you think it is more consistent with the dignity and independence of the judiciary that these matters, including wrong statements made by a Judge are agitated in a munsiff's court, they are subjected to cross-examination, evidence is adduced and then the matter is dragged up to the Supreme Court; and in the meantime, the litigant is uncertain whether the judgment that the learned Judge will be delivering will be valid or not, or, is it not proper, as has been the practice, that the President in consultation with and on the advice of the Chief Justice determines the age?", there was no answer. He only said, "No, still the civil court should decide".

**Shri C. K. Bhattacharyya (Raiganj):** I beg to interrupt the hon. Law Minister. Mr. Setalvad definitely stated that there is nothing so sacrosanct as not to be subjected to decision by a court of justice.

**Shri A. K. Sen:** It is not a question of sacrosanct; it is a question of great public mischief arising when judg-

[Shri A. K. Sen]

ments of a Judge are not certain and when they are liable to be challenged as *ultra vires* on the ground that the Judge has reached 60 years. Ordinary citizens are entitled, as Mr. Setalvad admitted, to challenge it in a munsiff's court and 8 year later, it may either be determined or not be determined whether the judgment delivered all these years are valid or not.

I am absolutely certain that the Government's decision is not only intended to avoid that great public mischief, but it is more conducive to the preservation of the dignity and independence of the judiciary than what the learned Judges have said. I am constrained to say again with due respect to these Judges that they have completely ignored the concurrent judgment of the Punjab High Court, which was not allowed to be appealed against to the Supreme Court; there is not a reference to it. They have gone into realms which, in my humble opinion, are not meant for judges. They have criticised an amendment which is before Parliament. It is for the Parliament to decide whether in their wisdom they will allow such an amendment or not by way of clarification. But for Judges to say that such amendments are bad, without hearing the pros and cons of it, negatives the very judicial mind with which we have been so far familiar. How can they possibly criticise that amendment without going into the merits of it? The Joint Committee were still in session then; they were still deliberating the matter. Their report was still to come to Parliament. Here three learned Judges sit and pass a judgment without even hearing the Government's point of view. No, Sir; I must say that it will be a bad day for the judiciary if Judges try to enter the realm of politics. In recent times, there has been a noticeable temptation on the part of Judges to do so. In England, repeatedly the Judges have cautioned themselves and others that it is not for the courts to deal with policies of

legislation. It is for them to interpret and to say what it means in the language which has been employed. I hope, Sir, that that golden rule will be followed here as it has been followed so far.

Now, Sir, as I said, it has been forgotten and completely ignored by those who have said that it should be left to the decisions of civil courts what result will follow when in case of dispute about a judge's age the whole thing is kept hanging and the Chief Justice is not, according to these views, to take any action whatsoever and it is left to be determined by a series of civil actions which may either be in favour of the judge or against him.

Further, this is hardly a case—the case which has been cited—which will do credit to the judiciary. Shri Daji said that a judge is sitting and just before his vacation he is asked to quit.

**Shri Daji:** I did not say that. I said that he has retired, he is taking a holiday and when he is taking a party he is called back.

**Shri A. K. Sen:** That is a different thing.

**Shri Daji:** I referred to the case in the Pakistan High Court where the powers were abused. We may not have such powers so that they may not be open to abuse here tomorrow.

**Shri A. K. Sen:** It ignores the great tradition which has been followed in dealing with the judiciary. That answers the point raised by Shri Tridib Kumar Chaudhuri. Even in matters where the Chief Justice is not....

**Shri Daji:** That tradition has been violated when a judge went from the Punjab High Court to the Supreme Court and the very same judge went from the Supreme Court to the Calcutta High Court saying that his

age is something, the President says his age is something else and so on. Therefore, that tradition has gone. We have to take such precautions as to see that no such thing occurs in future.

**Shri A. K. Sen:** It is for us to see that traditions are not gone because of the folly of one particular individual.

**Shri Daji:** Therefore, my point is that you finalise the age in the warrant of appointment, and let it be the final age and let not the President or the Chief Justice have any say on it. Let it be finalised once and for all when he is appointed.

**Shri A. K. Sen:** I did listen to Shri Daji when he spoke yesterday. I will deal with all his points. In fact, I am dealing with them. As far as new appointments are concerned, the Government has already made it a rule that at the time of appointment their age has to be verified. But these disputes have occurred in regard to appointments already made. It was a bad day when judges had to have their age verified, because in olden days the age they gave was accepted. And, it does not do credit for the judiciary that several judges have given their ages which have come to be disputed later on even by their colleagues. But, anyway, the new appointments are certainly made on the basis of verification of age. The disputes are with regard to old appointments which were never verified.

**Shri Tridib Kumar Chaudhuri (Berpampur):** What is the objection of Government in making the statement of age in the warrant of appointment as final?

**Shri A. K. Sen:** That is a different matter. At the present moment we are verifying the disputes.

**Shri Tridib Kumar Chaudhuri:** That would set at rest all disputes. Make whatever enquiries you think proper at the time of appointment and make it final.

**Shri A. K. Sen:** With regard to new appointments that has been the rule.

**Shri Daji:** As long as there is no provision in the Constitution, even if we take their age at the time of appointment as final any citizen can still challenge it. Therefore, unless you make a constitutional amendment it is not possible.

**Shri A. K. Sen:** Shri Daji thinks that he has not made his points clear. They are quite clear to us. We are prepared to deal with them as we are dealing with them. Simply reiterating them will not make them clearer. As I said, Sir, it was a bad day for the judiciary when from 1958 Government was so constrained to have the ages of judges who are going to be appointed verified. It was never done in olden days.

I was dealing with the individual case which has been more or less canvassed here. It is a bad case to be canvassed. I gave the facts originally. I understand, Sir, the particular gentleman is here in Delhi when the Parliament is going on and has been seeing Members of Parliament and giving them extracts from the judgment of the Calcutta High Court.

**Sir Daji:** Sir, I rise to a point of order. It is hardly fair on the part of the Minister to say so. We have not canvassed any case, neither myself nor my colleague Shri Chaudhuri. He says that the judge has been in Delhi and seeing Members of Parliament and canvassing. It is certainly unfair.

**Shri H. N. Mukerjee (Calcutta Central):** He is not here to answer.

**Shri Daji:** It is certainly unfair, coming from the Law Minister. It reflects an impression on us. We have not met anyone.

**Shri A. K. Sen:** It is a bad thing. . . .

**Shri Ramanathan Chettiar (Karur):** Sir, I rise to a point of order. You

[Shri Ramanathan Chettiar]

have ruled that no hon. Member cannot refer to anybody and canvass for the same person in this hon. House. Just now, the hon. Law Minister referred to some hon. Member canvassing on behalf of a particular retired Judge. So, I would like to be enlightened on that.

**Shri A. K. Sen:** I have never said that.

**Mr. Speaker:** Not that any member has been going on canvassing. The objection that was taken by Shri Daji was that an allegation had been made that some judge had been going round to present his case, or canvass support, or brief them to take that case up. That was a different thing altogether.

**Shri Ramanathan Chettiar:** I will make myself clear. I am only supporting the viewpoint of the hon. Law Minister. Because, the hon. Law Minister said that it is a very bad policy to canvass support in this House. I think he said that no hon. Member is permitted to canvass on behalf of another person, much less to canvass for a High Court judge. Only two or three weeks ago there was a ruling on this subject.

**Shri Daji** The hon. Minister first said that some Members canvassed for him and then he said that canvassing is bad. Only two Members have spoken on this, myself and Shri Tridib Kumar Chaudhuri. We have never even mentioned his name and we do not hold any brief for him. We did not say anything about his action, whether it was right or wrong. We have not expressed any opinion on his action in going to the Supreme Court or any other court. We have not been canvassed by him and, certainly, we are above canvassing by any one, be it a High Court judge or be it any other high dignitary. It is not fair to make such charges. (*Inter-uptions*).

**Shrimati Renu Chakravartty (Barackpur):** Sir, this cannot stand be-

cause, on a earlier occasion, when your predecessor was in the Chair, one of the Ministers who is now no longer a Minister, said that a question that I had raised was motivated by the idea of propagating something which I wanted to do. Then the Speaker ruled that such words should not be used and they were expunged. So, I would humbly request that this sort of expression should not be permitted and should be expunged.

**Shri Tyagi (Dehra Dun):** Sir, I protest against this. I have never made that remark and I am the only ex-Minister here.

**Shrimati Renu Chakravartty:** He need not be so touchy about it. He is not the only ex-Minister.

**Mr. Speaker:** The objection that has been taken by Shri Daji is on the ground that the remark has a restricted application because only two hon. Members have spoken. Therefore, it can be attributed only to them—either of them might have been approached or both of them might have been approached. He says that neither of them has been approached. But the position is that, ordinarily, aggrieved persons or those that are interested in any legislation can go to Members. They have got the right to go to the Members.

**Shri Nath Pai (Rajapur):** That is representation; not canvassing.

**Mr. Speaker:** Therefore, I say that any person interested in, or affected by, any measure or legislation can go to any Member and explain to him his point of view so that it might be put before the House and there is no harm in that. Even if any judge might have gone to any Member, though certainly it would not look nice and would not be in keeping with his dignity to approach a Member, there is nothing that we should now take exception to here at this moment. If somebody is interested in getting a law passed or not passed, because

he would be affected, he can go to any Member he likes.

**Shri H. N. Mukerjee:** In this case, the judge whom the Law Minister is referring to is trying frantically in courts of law to get redress, and if in Parliament an insinuatory statement is made about his activities in Delhi in order wrongly to influence Members of Parliament in his behalf, and he is not in a position, because he is not present in the House, to answer the accusation which the Law Minister quite openly made, then surely it is a contravention of the approved procedure of this House, and this kind of thing cannot be permitted.

**Shri Hari Vishnu Kamath** (Hosangabad): Sir, you would agree that the word "canvassing", if I heard him aright, is malodorous and improper in this context and, therefore, it has to be expunged. Canvassing by itself is not right. This is even worse than that. Sir, you have ordered the expunction of my remarks some time ago.

**Mr. Speaker:** I think that expunction is weighing heavily on Shri Kamath.

**Shri Hari Vishnu Kamath:** Because it did not deserve to be expunged.

**Shri Tridib Kumar Chaudhuri:** What Shri Daji said is not correct. In point of fact, I did refer yesterday to the case of Shri J. P. Mitter, and from personal knowledge I can say that Shri J. P. Mitter is in Delhi. He is in Delhi because his case is coming up for hearing before the Supreme Court tomorrow, on the 2nd. To my knowledge, he has not come here to canvass, and I do not know what other knowledge or information the Law Minister has got to say that he has come to canvass his case. I might also point out that so far as this case is concerned, the Special Bench of the Calcutta High Court did not go into the question of the corrections of his age. It is only said.....

**Mr. Speaker:** That is all right now. We have the facts now. I will advise the hon. Law Minister not to use the word "canvassing" unless he has got some reliable information with him.

**Shri Tridib Kumar Chaudhuri:** I was just saying that it was a *rule nisi* and the only question that was decided by the Special Bench of the Court was whether the executive government had any power to retire a judge by any executive action without referring the matter to the Parliament.

**Shri Hari Vishnu Kamath:** I am confident, Sir, that with regard to expunction and other matters you have an equal eye for all Members and would not use two standards for Members and Ministers.

**Mr. Speaker:** I am also confident that he would not throw any reflection on the Chair.

**Shri H. N. Mukerjee:** He has already done so. He has already reflected and you have not stopped him. You have not even directed him not to make further reflections.

**Mr. Speaker:** Whom?

**Shri Hari Vishnu Kamath:** The hon. Minister, Sir.

**Mr. Speaker:** I have asked him.

**Shri H. N. Mukerjee:** You have asked him now not to continue in the manner in which he did before.

**Mr. Speaker:** I have asked him. I have said that the hon. Minister should not say that unless he has got reliable information.... (*Information*). That is exactly what I have told him.

**Shri H. N. Mukerjee:** I ask your ruling in this regard. Even assuming that the hon. Minister has got some information against the judge concerned, is it permissible when the judge is nowhere on the scene to refer to these matters? In regard to officers of Government we never make such accusations though we may have a

[Shri H. N. Mukerjee]

*prima facie* a lot of allegations, we never present them. Is the hon. Minister justified to do this kind of a thing?

**Shri A. K. Sen:** It is my duty to answer many of the insinuations that are made against the Government. It was said that the sword of Damocles was hanging on their heads and that they were being retired because they were not popular and so on.

**Mr. Speaker:** Of course, hon. Members have the right to criticize the Ministers and the Government.

**Shri A. K. Sen:** I have never doubted it.

**Mr. Speaker:** But as regards other persons who are not here, the usual procedure that we follow is that we do not make any reference to them that is derogatory to them because they have no opportunity to defend themselves. Unless the hon. Minister has got cogent evidence or information with him, he should not do so.

**Shri A. K. Sen:** I entirely agree with you. As I said, we have not mentioned this particular name. It was specifically mentioned by Shri Tridib Kumar Chaudhuri. That is why I said that it is hardly a case which is worth canvassing here. The word "canvass" is meant in the ordinary way. This case is being canvassed because it was specifically mentioned as an example how the Government dealt with the judges.

As I have said, the facts of the case which I read out when it was raised on the first occasion are contained in the judgment of the Punjab High Court and they hardly do any credit to the person concerned.

In any event it is absolutely necessary, as I said that these matters cannot be left to the uncertainties of civil litigation and must be determined. As I said originally and I repeat it now, the Government has never decided on such matters except

on the advice of the Chief Justice and the cases that I have given to the House are all cases in which the President had made the order exactly as the Chief Justice of India had advised and there was no variation from it. Even in this case that was so done.

With regard to the question about article 311, Shri Daji pointed out, as other representatives of civil servants, that they never wanted the right to adduce further evidence, but that they only wanted the right to make a representation on the proposed penalty. When the representatives of the civil servants saw me, they gave me a draft which contained the words "but only on the evidence already adduced". Instead of the word "already" we have used the words "adduced during the inquiry".

**Shri Priya Gupta:** In case some documents are not produced and the witnesses are not called that should be allowed.

**Shri A. K. Sen:** By this process we shall miss 1 o'clock. I intend to stop at five minutes to 1.

Now, Sir, as I explained, when the motion was first before the House and before it went to the Joint Committee it was never the intention of the Government to vary rule 25 of the civil service rules which provided for representation by the civil servant against the penalty proposed. The point taken was that in future some irresponsible Government might do away with rule 25 ignoring the assurance given to Parliament. Well, then, I told the representatives of the civil servants and other representatives of the INTUC who had come to see me to give me a draft which would make it quite clear that the representation against the penalty proposed would not include any right to insist on further hearing and further evidence being given. They gave me that draft which I have accepted with a slight modification. And I was really

surprised that Mr. Priya Gupta, after all this, had put in an amendment omitting that altogether.

**Shri Priya Gupta:** I was not a party to that.

**Shri A. K. Sen:** I am not saying that. You know what was done.

**Shri Priya Gupta:** I explained the circumstances as to why I had given my amendment.

**Shri A. K. Sen:** Now, Mr. Daji said that the law already is this and he took pains to read from the Supreme Court judgments to make it quite clear that the right of representation on the penalty did not include the right of re-hearing or adducing further evidence. If that is so, as I told so, a clarification would hardly be a matter to which objection can be taken. But I was surprised that when Mr. Krishna Menon spoke he did not agree with Mr. Daji and he said that by denying a right of re-hearing we are really taking away a constitutional safeguard. That proves the truth of what I said. It is seriously contended by no less than a man like Mr. Krishna Menon that even at this stage of representing on the penalty proposed the Constitution provides a right of re-hearing and giving evidence and Mr. Menon, in his usual characteristic manner, emotionally ended by saying that a great safeguard is being taken away, completely contradicting Mr. Daji and Mr. S. M. Banerjee who have taken pains all these months to inform me that even now no hearing is insisted upon at this stage when representation is given on the penalty proposed.

**Shri Bade (Khargone):** After second stage, in departmental enquiries, no evidence is taken.

**Shri A. K. Sen:** If that is so, then Mr. Gupta should be addressed to by you.

**Shri Priya Gupta:** References to certain witnesses not cross-examined and evidence not brought in should be given chance in the second hearing.

**Shri A. K. Sen:** That was the evidence, Mr. Gupta.

**Mr. Speaker:** Now he should conclude.

**Shri A. K. Sen:** I will finish now.

I was pained to hear from Mr. Krishna Menon, when he said that Government presided over by the Prime Minister is still in power and we shall be taking away this safeguard. We have done our utmost to see that the civil servant is completely protected. We gave the assurance that rule 25 will not be varied. Even then, we had put in this amendment and, Sir, to be charged that we are taking away vital rights of the civil servant is hardly fair. I do not agree with Mr. Menon that the Prime Minister is the only democrat here. We all respect him and we are all certainly proud that he leads us. But we certainly do not concede that we are no democrats and the Prime Minister is the only democrat.

**An Hon. Member:** That will be derogatory to Parliament.

**Shri A. K. Sen:** We shall be failing in our devotion to the Prime Minister if we do not subscribe fully to his ideals of democracy.

**Shri Tyagi:** The Prime Minister meant the whole party. The Prime Minister did not mean his person. He meant the whole party.

**Shri A. K. Sen:** I, therefore, dispel any idea, if there is any, that there has been any deviation from the ideals of democracy and preservation of the vital rights not only of civil servants but of the citizens. I hope we shall never deviate from that course because it is our great strength and it is through the processes of democracy that we are functioning, not through the processes of fear or force.

With these words, I commend the Bill to the House.

**Mr. Speaker:** Now there is an amendment by Mr. Tridib Kumar Chaudhuri.

**Shri Tridib Kumar Chaudhuri:** Before you put my amendment to the vote of the House. I have two short questions to ask from the Minister.



**Mr. Speaker:** We will have further proceedings and he can participate in the clause-by-clause consideration of the Bill.

**Shri Tridib Kumar Chaudhuri:** Otherwise, we may not be able to make up our minds.

**Mr. Speaker:** He has made a long speech of 40 minutes.

**Shri Tridib Kumar Chaudhuri:** I know. I only want to ask two short questions; nothing more.

**Mr. Speaker:** But the answers also he would require.

**Shri Tridib Kumar Chaudhuri:** Otherwise, I may not be able to make up my mind whether to ask for a division or not.

13 hrs.

**Mr. Speaker:** I think he had enough of it. Now I put the amendment of Mr. Tridib Kumar Chaudhuri that the Bill as reported by the Joint Committee be circulated for the purpose of eliciting opinion thereon by the 31st of July, 1963.

The question is:

"That the Bill as reported by the Joint Committee be circulated for the purpose of eliciting opinion thereon by the 31st of July 1963." (1).

Those in favour may kindly say 'Aye'.

**Some Hon. Members:** 'Aye'.

**Mr. Speaker:** Those against may kindly say 'No'.

**Several Hon. Members:** 'No'.

**Mr. Speaker:** The 'Noes' have it, the 'Noes' have it.

The amendment is lost.

*The motion was negatived.*

**Mr. Speaker:** Then, there is amendment No. 9 by Mr. S. M. Banerjee.

**Shri Tridib Kumar Chaudhuri:** Sir, I made a mistake I wanted to ask for a division.

**Mr. Speaker:** Then, he might call it on the second one.

The question is:

"That the Bill as reported by the Joint Committee be circulated for the purpose of eliciting opinion thereon by the 1st day of the next session." (2).

Those in favour may kindly say 'Aye'.

**Some Hon. Members:** 'Aye'.

**Mr. Speaker:** Those against may kindly say 'No'.

**Several Hon. Members:** 'No'.

**Mr. Speaker:** The 'Noes' have it, the 'Noes' have it.

**Shri Tridib Kumar Chaudhuri:** The 'Ayes' have it.

**Mr. Speaker:** Then, he is too slow. But I will allow him that now.

**Shri Surendranath Dwivedy (Kendrapara):** This is another amendment by Mr. S. M. Banerjee.

**Mr. Speaker:** There are two amendments. The second one is by Mr. S. M. Banerjee. Lobbies may be cleared.

The question is:

"That the Bill as reported by the Joint Committee be circulated for the purpose of eliciting opinion thereon by the 1st day of the next session."

*The motion was negatived.*

**Mr. Speaker:** The question is:

"That the Bill further to amend the Constitution of India, as reported by the Joint Committee, be taken into consideration."

*The Lok Sabha Divided.*

**Shri N. Sreekantan Nair (Quilon):** I have put abstention instead of 'Noes'.

**Shri Nataraja Pillai (Trivandrum):** 'Ayes'.

**Some Hon. Members** rose—

**Mr. Speaker:** Five additional 'Ayes'; Five additional 'Noes'.

**Division No. 26]**

**AYES**

[12.58 hrs.]

Abdul Rashid, Bakshi	Ghosh, Shri Atulya	Matcharaju, Shri
Abdul Wahid, Shri T.	Ghosh, Shri N. R.	Mehdi, Shri S. A.
Achal Singh, Shri	Goni, Shri Abdul Ghani	Mehrotra, Shri Braj Bihari
Achuthan, Shri	Govind Das, Dr.	Mehta, Shri J. R.
Alagesan, Shri	Guha, Shri A. C.	Melkote, Dr.
Alva, Shri A. S.	Gupta, Shri Shiv Charan	Mengi, Shri Gopal Datt
Alva, Shri Joachim	Hajarnavis, Shri	Menon, Shri Krishna
Aney, Dr. M. S.	Hansda, Shri Subodh	Mirra, Shri Bakar Ali
Anjanappa, Shri	Hanumanthaiya, Shri	Mishra, Shri Bibhutl
Arunachalam, Shri	Haq, Shri M. M.	Mishra, Shri Bibudhendra
Babunath Singh, Shri	Hazarika, Shri J. N.	Mishra, Shri M. P.
Bajaj, Shri Kamalnayan	Heda, Shri	Misra, Shri Mahesh Dutta
Bal Krishna Singh, Shri	Hem Raj, Shri	Mohiuddin, Shri
Balakrishnan, Shri	Himatsingka, Shri	Mohsin, Shri
Balmiki, Shri	Iqbal Singh, Shri	Morarka, Shri
Banerjee, Dr. R.	Jadhav, Shri M. L.	Mora, Shri K. L.
Basappa, Shri	Jadhav, Shri Tulshidas	Mora, Shri S. S.
Basumatari, Shri	Jagjivan Ram, Shri	Mukane, Shri
Besra, Shri	Jain, Shri A. P.	Mukerjee, Shrimati Sharda
Bhakt Darshan, Shri	Jamunadevi, Shrimati	Murthy, Shri B. S.
Bhanja Deo, Shri L. N.	Jedhe, Shri	Murti, Shri M. S.
Bhargava, Shri M. B.	Jha, Shri Yogendra	Musafir, Shri G. S.
Bhatkar, Shri	Joshi, Shri A. C.	Muthiah, Shri
Bhattacharyya, Shri C. K.	Jyotishi, Shri J. P.	Naidu, Shri V. G.
Bist, Shri J.B.S.	Kabir, Shri Humayun	Naik, Shri D. J.
Borooh, Shri P. C.	Kadadi, Shri	Naik, Shri Maheswar
Brahm Prakash, Shri	Kajrolkar, Shri	Nanda, Shri
Brajeshwar Prasad, Shri	Kamble, Shri	Naskar, Shri P. S.
Brij Basi Lal, Shri	Kanungo, Shri	Nayak, Shri Mohan
Chakraverti, Shri P. R.	Kappen, Shri	Nayar, Dr. Sushila
Chanda, Shrimati Jyotsna	Karuthiruman, Shri	Nehru, Shri Jawaharlal
Chandrasekhar, Shrimati	Kedaria, Shri C. M.	Nigam, Shrimati Savitri
Chaturvedi, Shri S. N.	Keishing, Shri Rishang	Niranjan Lal, Shri
Chaudhuri, Shri Sachindra	Khadilkar, Shri	Oza, Shri
Chaudhuri, Shrimati Kamala	Khan, Shri Osman Ali	Paliwal, Shri
Chav la, Shrimati	Khanna, Shri Mehr Chand	Pande, Shri K. N.
Chettiar, Shri Ramanathan	Kindar Lal, Shri	Pandey, Shri R. S.
Chuni Lal, Shri	Kisan Veer, Shri	Pandey, Shri Vishwa Nath
Colaco, Dr.	Krishna, Shri M. R.	Panna Lal, Shri
Dafle, Shri	Krishnamachari, Shri T. T.	Pant, Shri K. C.
Daljit Singh, Shri	Kureel, Shri J. N.	Paramasivan, Shri
Das, Dr. M. M.	Lakhan Das, Shri	Parashar, Shri
Das, Shri N. T.	Lakshmikanthamma, Shrimati	Patel, Shri Chhotubhai
Das, Shri Sudhansu	Lalit Sen, Shri	Patel, Shri Man Singh P.
Dasappa, Shri	Laskar, Shri N. R.	Patel, Shri N. N.
Dass, Shri G.	Laxmi Bai, Shrimati	Patel, Shri P. R.
Deo Bhanj, Shri P. C.	Laxmi Dass, Shri	Patil, Shri J. S.
Deshmukh, Shri B. D.	Lonikar, Shri	Patil, Shri M. B.
Deshmukh, Shri Shivaji Rao S.	Mahtab, Shri	Patil, Shri S. B.
Dhuleshwar Meena, Shri	Mahishi, Shrimati Sarojini	Patil, Shri S. K.
Dighe, Shri	Maimoona Sultan, Shrimati	Patil, Shri T. A.
Dinesh Singh, Shri	Malaviya, Shri K. D.	Patnaik, Shri B. C.
Dubey, Shri R. G.	Malhotra, Shri Inder J.	Pattabhi Raman, Shri C. R.
Dwivedi, Shri M. L.	Manaen, Shri	Pillai, Shri Natarsaja
Gackwad, Shri Fatehsinhrao	Mandal, Dr. P.	Prabhakar, Shri Naval
Gaitonde, Dr.	Mandal, Shri J.	Pratap Singh, Shri
Gajraj Singh Rao, Shri	Maniy angadan, Shri	Puri, Shri D. D.
Ganapati Ram, Shri	Mantri, Shri	Raghunath Singh, Shri
Gandhi, Shri V. B.	Masuriya Din, Shri	Raghubaraiyah, Shri

## Bill

Rai, Shrimati Sahodrabai  
 Raj Bahadur, Shri  
 Raja, Shri C.R.  
 Ram Sewak, Shri  
 Ram Subhag Singh, Dr.  
 Ram Swarup, Shri  
 Ramakrishnan, Shri P. R.  
 Ramaswamy, Shri S. V.  
 Ramaswamy, Shri V.K.  
 Ramdhani Das, Shri  
 Rananjai Singh, Shri  
 Rane, Shri  
 Ranga Rao, Shri  
 Ranjit Singh, Shri  
 Rao, Dr. K. L.  
 Rao, Shri Jaganatha  
 Rao, Shri Krishnamoorthy  
 Rao, Shri Muthyal  
 Rao, Shri Ramapathi  
 Rao, Shri Rameshwar  
 Rattan Lal, Shri  
 Raut, Shri Bholaj  
 Ray, Shrimati Renuka  
 Reddi, Dr. B. Gopala  
 Reddiar, Shri  
 Reddy, Shrimati Yashoda  
 Roy, Shri Bishwanath  
 Saha, Dr. S. K.  
 Sahu, Shri Rameshwar  
 Saigal, Shri A. S.  
 Samanta, Shri S. C.  
 Samnani, Shri

Sanji Rupji, Shri  
 Saraf, Shri Sham Lal  
 Satyabhama Devi, Shrimati  
 Sen, Shri A. K.  
 Sen, Shri P. G.  
 Shah, Shri Manabendra  
 Shah, Shri Manubhai  
 Shah, Shrimati Jayaben  
 Sham Nath, Shri  
 Shankaraiya, Shri  
 Sharma, Shri A. P.  
 Sharma, Shri K. C.  
 Shashi Ranjan, Shri  
 Shastri, Shri Lal Bahadur  
 Sheo Narain, Shri  
 Shinde, Shri  
 Shree Narayan Das, Shri  
 Shrimali, Dr. K. L.  
 Siddiah, Shri  
 Sidheshwar Prasad, Shri  
 Singh, Shri D. N.  
 Singh, Shri K. K.  
 Sinha, Shri Satya Narayan  
 Sinha, Shrimati Ramdulari  
 Sinha, Shrimati Tarkeshwari  
 Sinhasan Singh, Shri  
 Sonavane, Shri  
 Srinivasan, Dr. P.  
 Subbaraman, Shri  
 Subramaniam, Shri C.  
 Subramanyam, Shri T.  
 Sumat Prasad, Shri

Surendra Pal Singh, Shri  
 Swaran Singh, Shri  
 Tahir, Shri Mohammad  
 Tantia, Shri Rameshwar  
 Thimmaiah, Shri  
 Thomas, Shri A. M.  
 Tiwary, Shri D. N.  
 Tiwary, Shri K. N.  
 Tiwary, Shri R. S.  
 Tombi, Shri  
 Tirpathi, Shri Krishna Deo  
 Tyagi, Shri  
 Uikay, Shri  
 Ulaka, Shri  
 Upadhyaya, Shri Shiva Dutt  
 Vaishya, Shri M. B.  
 Varma, Shri Ravindra  
 Veerabasappa, Shri  
 Veerappa, Shri  
 Venkatasubbaiah, Shri P.  
 Verma, Shri Balgovind  
 Verma, Shri K. K.  
 Vidyalkar, Shri A. N.  
 Virbhadra Singh, Shri  
 Vyas, Shri Radhelal  
 Wadiwa, Shri  
 Wasnik, Shri Balkrishna  
 Yadav, Shri N. P.  
 Yadav, Shri Ram Harkh  
 Yadava, Shri B.P.  
 Yusuf, Shri Mohammad

## NOES

Bade, Shri  
 Barua, Shri Hem  
 Barua, Shri R.  
 Basant Kunwari, Shrimati  
 Bhattacharya, Shri Dinen  
 Buta Singh, Shri  
 Chakravarty, Shrimati Renu  
 Chatterjee, Shri H. P.  
 Chaudhuri, Shri Tridib Kumar  
 Daji, Shri  
 Dharamalingam, Shri  
 Dwivedy, Shri Surendranath  
 Gopalan, Shri A. K.  
 Gupta, Shri Indrajit  
 Gupta, Shri Kanashi Ram  
 Gupta, Shri Priya  
 Himmatsinhji, Shri

Imbichibava, Shri  
 Ismail, Shri Muhammad  
 Kamath, Shri Hari Vishnu  
 Kandappan, Shri S.  
 Kapur Singh, Shri  
 Kar, Shri Prabhat  
 Kohor, Shri  
 Kunhan, Shri P.  
 Manoharan, Shri  
 Marandi, Shri  
 Mukerjee, Shri H. N.  
 Murmu, Shri Sarkar  
 Nair, Shri N. Sreekantan  
 Nair, Shri Vasudevan  
 Nath Pai, Shri  
 Pandey, Shri Sarjoo

Pottakkatt, Shri  
 Raghavan, Shri A. V.  
 Rajyalaxmi, Shrimati  
 Ranga, Shri  
 Reddy, Shri Narasimha  
 Roy, Dr. Saradish  
 Sen, Dr. Ranen  
 Sezhian, Shri  
 Shashank Manjari, Shrimati  
 Singh, Shri J. B.  
 Singha, Shri Y. N.  
 Singhhvi Dr. L. M.  
 Soy, Shri H. C.  
 Swamy, Shri Sivamurthi  
 Utya, Shri  
 Warrior, Shri

**Mr. Speaker:** The result of the Division is:

Ayes 270; Noes 51.

'Ayes' have it; 'Ayes' have it. The motion is carried by a majority of the total membership of the House and

by a majority of not less than two-thirds of the Members present and voting.

*The motion was adopted.*

**Mr. Speaker:** We now take up clause by clause consideration.

**Clause 2—(Amendment of article 124)**  
**Shri Sumat Prasad** (Muzaffarnagar):  
I beg to move:

Page 1, for lines 7 to 9 substitute—

“(2A) If any question arises as to the age of any Judge of the Supreme Court, the question shall be decided by the President in consultation with a Board consisting of three Judges of the Supreme Court nominated by the President. The age so determined shall not be questioned in any court of law.”. (10).

**Shri P. R. Patel** (Patan): I beg to move:

Page 1, for lines 7 to 9 substitute—

“(2A) The age of a Judge of the Supreme Court admitted at the time of his appointment shall not be questioned after his appointment.”. (11).

**Shri Tridib Kumar Chaudhuri**:  
I am not moving.

**Shri Braj Behari Mehrotra** (Bilhaar): I am not moving the amendment.

**Shri S. N. Chaturvedi** (Firozabad):  
I beg to move:

Page 1, for lines 7 to 9 substitute—

“(2A) The age of a Judge of the Supreme Court shall be determined by the President after consultation with the Chief Justice of India, and such determination shall be final.”. (22).

**Shri Tridib Kumar Chaudhuri**:  
I want to move amendment No. 23 in list No. 5.

**Mr. Speaker**: All right; No. 23 also moved.

**Shri Tridib Kumar Chaudhuri**:  
I beg to move:

Page 1, for lines 7 to 9 substitute—

“(2A) The correct age of a Judge of the Supreme Court shall be determined by the President at the time of his appointment and shall be entered into the warrant of his appointment.

(2B) If a question arises as to the age of a Judge of the Supreme Court other than the Chief Justice, the question shall be referred to the President and his decision shall be final.

(2C) Before giving decision on any such question, the President shall obtain the opinion of the Chief Justice of India and shall act according to such opinion.

(2D) If a question arises as to the age of the Chief Justice of India, the question shall be decided by the President and his decision shall be final.

(2E) Before giving any decision on any such question, the President shall obtain the opinion of a Board of three Judges of the Supreme Court, other than the Chief Justice, to be nominated by the President for the purpose and he shall act according to such opinion:

Provided that where the age of a Judge of the Supreme Court has been stated in his warrant of appointment that statement of his age shall be final.”. (23).

**Shri Sumat Prasad**: Mr. Speaker, in this Bill, provision has been made for the determination of the age of a Judge of a High Court, but no provision has been made for the determination of the age of a Supreme Court Judge. Clause 2 provides that a separate Bill has got to be moved.

**The Minister of Parliamentary Affairs** (Shri Satya Narayan Sinha): May we have an idea as to when the next voting will take place?

**Shri Hari Vishnu Kamath**: After 2:30.

**Mr. Speaker:** So far as voting is concerned, we might put it a little later, about 4 o'clock, because all the clauses we might discuss and having the voting at one time.

**Shri Sayta Narayan Sinha:** The voting will take place at 4 o'clock?

**Shri Hari Vishnu Kamath:** May I submit, Sir, there is some objection to that procedure, because some of the clauses are inter-dependent, clauses 4 and 6, regarding the raising of the age to 62. If the earlier clause is defeated, the second clause cannot be discussed. Unless the result of the earlier . . .

**Mr. Speaker:** Only the time that was spent in the discussion must have been lost.

**Shri Hari Vishnu Kamath:** It is infructuous.

**Mr. Speaker:** Of course. We must give an idea to the Members so that they might come . . .

**Shri Hari Vishnu Kamath:** Those clauses only which are not inter-dependent can be taken. Those which are so dependent cannot be taken.

**Mr. Speaker:** We will take up one by one. Only discussion will take place. Voting takes place . . .

**Shri Hari Vishnu Kamath:** May I explain? Clause 4 relates to the raising of the age of retirement of a Judge from 60 to 62. Clause 6 substitutes 62 for 60. Suppose the earlier clause is rejected, the clause 6 will not arise.

**Mr. Speaker:** It would be rejected by a vote.

**Shri Hari Vishnu Kamath:** Unless voting is done . . .

**Mr. Speaker:** Only the time spent would have gone un-utilised; that is what he says.

**Shri Hari Vishnu Kamath:** The time taken on the discussion of the later clause will be wasted.

**Mr. Speaker:** I also say that it will be wasted. Members want some idea about voting. Therefore, I have to give it. I realise that.

**Shri Sumat Prasad:** Clause 2 says:

"The age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide."

The amendment that I have moved says:

"If any question arises as to the age of any Judge of the Supreme Court, the question shall be decided by the President in consultation with a Board consisting of three Judges of the Supreme Court nominated by the President. The age so determined shall not be questioned in any court of law."

In this Bill, there is a provision for the determination of the age of a High Court Judge. I see no reason why provision should not be made in this Bill itself for the determination of the age of a Supreme Court Judge and why a separate Act should be made for this purpose.

**Shri Tridib Kumar Chaudhuri:** Sir, I also more or less agree in principle with the previous speaker about the question of the age of a Judge of the Supreme Court. This and the question about the age of a Judge of the High Court should be decided on the same principle and the whole thing should be taken out of the purview of the courts and provision should be incorporated in the Constitution so as to make it non-justiciable. This is what I have tried to provide in my amendment with regard to clause 2 of the Bill which speaks about the age of a Judge of the Supreme Court.

I do not think I need add anything more to what I have said at the time of the discussion of the Consideration motion. The only point I want to add is that the age should be finally determined at the time of appointment and

it should be entered in the warrant of appointment of the Judges and that entry shall be final, and it shall not be called into question before any court of law. Only difficulty would arise in the case of the existing Judges. There, I am prepared to meet the Government point of view half way that the question may be referred to the Chief Justice. The Chief Justice should decide this question in his judicial capacity. The Chief Justice should not be associated in any administrative decision of the Government which the present practice of the Government amounts to whatever might be the intention of the Government. That is why I want to ensure firstly that the age of a judge should be entered into his warrant of appointment. Secondly, if any question arises as to the correct age of a judge, that should be referred to the Supreme Court. In this case, I have simply copied the language in article 103 of the Constitution where the question of disqualification of Members of Parliament has been dealt with. If any question arises as to whether any sitting Member of Parliament has become subject of disqualification, then that question can only be referred to the President under the Constitution, and the President's decision is final but the President is not a free agent, for, before coming to a decision, he has to refer the matter to the Election Commission and he is bound by the opinion expressed by the Election Commission. I have simply copied the language of article 103 in this matter.

**Shri Joachim Alva (Kanara):** It is a great pity that this clause has got to be included in this Bill in regard to the age of the judges. This question raises the entire question in regard to the character and appointment of the judges. If that point had been settled firmly and in a well laid-out manner, all these things could not have arisen. I am surprised that this matter of age has arisen in regard to the judges.

In my own community, wherever I am born, my age is immediately not-

ed down, because the Church register is there. Whichever church it may be, whether it is a church of 50 people or 500 people, that register is scrupulously maintained, and the matter is settled straightway.

This also raises a very important point that it is time that in the Indian law as a whole, we formulate an enactment by which the age of every child of every community, in every language, in every district and even in a tiny village is registered immediately after a birth. This is a lacuna which exists at present. When we find that even the age of a judge is in doubt, what is going to happen? It almost seems as if the foundations of our State are in doubt. I say this with all the sense of responsibility that if a gentleman comes and says, this is my age, I must believe him. If the gentleman has given his age from his childhood onwards, in his matriculation certificate, in his B. A. register, at the time of marriage, when he had his first child, when he applied for his first job, when he applied for Membership of Parliament and so on, if his age is consistent from the beginning up to the last stage, then the veracity cannot be doubted.

13.12 hrs.

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

At least give him a chance to say he is a gentleman and he has given it correctly.

Today, if this Parliament has to debate about the point in regard to the age of a judge, I do not know where we have come to. We seem to have lost the character of the great judges who ruled over us, whether they were British judges or Indian judges, who were great judges and scholars, and whose word was the last word in law. Even if we were harshly dealt with by them and sent to jail, we felt happy that we had justice meted out to us, and we felt justice meted out at the hands of a strict and humanitarian judge and a

[Shri Joachim Alva]

judge who never cared for any kind of influence, religious, communal, family or even national.

But, today, when we are debating the question of the determination of the age of a judge, I am really wondering where we have come to. This is what I feel, I who have been hauled up before six High Court judges, three of them the ablest judges of India; and thank God, I got off from the executive action which was proposed by the British raj. This is what I who have surveyed the character, the deportment and personality of the judges feel in regard to this matter.

In fact, I had once gone to the Nagpur High Court to see what kind of a judge he was who handled a particular case, because I had written an article. 'Halt this march to the gallows', and that article was reproduced in Nagpur, and Mr. Mani or some other journalist was hauled up. I went to see what kind of judge he was. It was a hot afternoon, and I went to see Mr. Justice Vivian Bose, and the impression about him which was in my mind fifteen years ago has been more than fortified by the character of Mr. Vivian Bose. We want judges of the character of Mr. Vivian Bose whose word is the last law in the land. I went also to see two other judges of the Allahabad High Court, and one of those judges was an European judge. Mr. B. G. Hornimann, one of our greatest journalists had written an inoffensive two-line reference in his paper, the *Bombay Sentinel* most harmless, most informal, but the Allahabad High Court Decree was that the judges decreed that the body of Mr. Hornimann shall be produced before the Allahabad High Court. I think that that was one of the last briefs at the lower level which I had handled, and I am very proud of the briefs which I handled on behalf of Mr. Hornimann, particularly the one in which this greatest journalist was involved, and

I won all those cases. He was very keen that I should come to the High Court also, where Mr. Munshi argued out his case. The European Chief Justice of the Bombay High Court, one of the ablest and the fairest among the judges, Sir John Beaumont just threw out the case and said that the body of Mr. Hornimann shall not be handed over to the Allahabad High Court. This is the character of the judges which we want. Sir John Beaumont when he came from England just confirmed the death sentence on four famous Sholapur patriots, and they were hanged. And how did Sir John Beaumont come to that judgment? I know this because I discussed it with him. At that time he was Chief Justice of the Bombay High Court, and later on, he became a judge of the Privy Council in England. He said that he had thought that a police writ or police evidence contained unchallenged veracity and whatever the police wrote was law. He had come from England and, therefore, he said 'I confirm this sentence'.

**Mr. Deputy-Speaker:** The hon. Member has to address the Chair.

**Shri Joachim Alva:** Sir, you and I always clash with each other. I did not get my chance yesterday. I am coming to the point. You and I always clash with each other. You did not give me a chance yesterday. This is a matter affecting our future. Therefore, please allow me to go on.

**Mr. Deputy-Speaker:** The hon. Member will have to address the Chair and not be turning this side and that side.

**Shri Joachim Alva:** I have been hauled up before six judges. Therefore, please hear me. I am mentioning what happened then. Mr. Bhulabhai Desai, who was one of our greatest patriots, the man who defended the INA—I lived with him in Nasik Jail, and when he died, I wept.... in the appeal.

**Mr. Deputy-Speaker:** We are, on clause 2 now.

**Shri Joachim Alva:** He argued out the appeal of the Sholapur accused, and the Chief Justice Sir John Beaumont within no time came to the conclusion that whatever the police had put up before the High Court was correct, and true. But later on realising the truth he began to slash at the police and hammer the police, so much so that the British *raj* was shaken up and felt 'What is this Chief Justice doing? He was a European Chief Justice brought from England, and was later throwing out all the cases brought up by the police'. And that happened, of course, at the cost of four great patriots, who were hanged, and, therefore, nothing could be done.

**Mr. Deputy-Speaker:** What has all this to do with the clause?

**Shri Joachim Alva:** I am coming to the question of the character of the judges.

**Mr. Deputy-Speaker:** We are on clause 2 now.

**Shri Joachim Alva:** Please do not interrupt me. If you want, I shall sit down.

**Mr. Deputy-Speaker:** We are concerned with the age of the Supreme Court Judges.

**Shri Joachim Alva:** If I am a judge of the High Court, and if I make a declaration in regard to my age, and it is challenged, then there is something rotten somewhere, which we have got to put right. That is what I am coming to. If you do not understand my line of argument, I can sit down.

**Mr. Deputy-Speaker:** We are concerned with the age of the Supreme Court judges in clause 2.

**Shri Joachim Alva:** We are concerned with that. I do know that.

**Mr. Deputy-Speaker:** The hon. Member has to be relevant.

**Shri Joachim Alva:** In all humility, I may point out that you are barricading me for nothing. If you want, I shall sit down. It is a very important point. The character of the judges is at stake.

**Mr. Deputy-Speaker:** We are not concerned with the character of the judges. . .

**Shri Joachim Alva:** Please allow me, Sir, to continue.

**Mr. Deputy-Speaker:** We are concerned only with the age, in this clause.

**Shri Joachim Alva:** We are concerned with the age. But you are not allowing me to develop my point.

**Mr. Deputy-Speaker:** We are not concerned with the character of the judges. We are concerned only with the age of the judges of the Supreme Court in clause 2.

**Shri Joachim Alva:** What I mean to say is that when a judge makes a statement in regard to his age, it must be sacrosanct and it must not be challenged. It must be sacrosanct and it must not be challenged; that is what I am submitting. It is a great pity that this Parliament is being called upon to debate about the age of the judges. The age is also connected in many cases with many other things, such as an association, an appointment, nationality, religion, his being the next-door neighbour of somebody, his brother-in-law and so on.

One of the Ministers of a State in South India who is now here moved the whole law to be changed because he had a relation of his to be brought in as a High Court judge. I say nothing other than what I saw in the newspapers. If the Chief Justice of the Supreme Court of India attends a party thrown in his honour by a



gentleman who is involved in a report we are going to take up, then it is time that we picked up strength and put matters right. I am saying nothing which has not appeared in the newspapers. In all humility, I repeat that a gentleman whose conduct is impugned by the Vivian Bose Commission's report threw a party in honour of the present Chief Justice of India on his sixtieth birthday. I ask whether the Chief Justice could attend that party. These are the points that we have got to consider. We have to consider what these things will come to.

I submit that the age of a judge must be settled in a sacrosanct manner. Either it should be in the municipal record or in the record of the legislature, or we should come to some arrangement by which everybody's age will be registered in a perfect and fool-proof manner, which can never be challenged by anybody. What is the use of embarrassing a judge by saying that the President of India will decide his age or that somebody else would decide it. What an embarrassment it will be if somebody's age is challenged tomorrow. If I have been giving my age correctly, right from birth up to the last point, in a uniform, correct and consistent manner, then no one can dare challenge it.

**Shri S. N. Chaturvedi:** I have an amendment to this clause, and I shall not take very long. It is very unfortunate that the question of the determination of age of judges has to be brought before this House. But, as has been pointed out by the hon. Minister, circumstances have arisen and we have seen the unedifying spectacle of the age of a judge being disputed in courts and in public forums and that has necessitated this legislation meet that contingency.

My objection to the proposed article 2A is that, first of all, it does not

agree with the article which has been provided for the determination of the age of Judges of High Courts. There should be some uniformity of procedure in these matters; there is no justification for any differentiation. Secondly, I think it is not at all unnecessary for Parliament to pass a separate law for the purpose. My amendment reads:

"The age of a Judge of the Supreme Court shall be determined by the President after consultation with the Chief Justice of India, and such determination shall be final".

I think a lot has been said about the possibility of the Judiciary being subjected to Executive pressure, if the power of determination of age of the judges is vested in the President. If the amendment as proposed by me is accepted, the President will exercise this power in consultation with the Chief Justice of India. If he cannot be trusted to exercise impartial judgment even in consultation with the Chief Justice, I am really surprised what things are coming to. We cannot trust the head of the State and the head of the Judiciary sitting together and deciding the question about the age of Judge; we are thinking in terms of forming a Board of three Judges and framing other decrees. But we cannot do the very simple thing that is available to us. We asked some of the very eminent witnesses who appeared before the Joint Committee what was the alternative. They said this matter could be agitated in courts of law. The spectacle we are seeing is by no means very edifying where a Bench of a High Court is issuing writs against the orders of its own Chief Justice. Is the question of the age of a High Court Judge or Supreme Court Judge going to be agitated or decided in a munsif's court? Will that be conducive to the dignity of our judiciary, of the High Courts and the Supreme Court?

The Joint Committee has suggested that the age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide. I have already said that a separate law is not necessary. But the contingency about disputes about age arising has to be met. My amendment provides for it. Most of the Members who have spoken are of the opinion that the age of a Judge should be determined at the time of his appointment and it should be entered into the warrant of appointment. At that time, it can be easily done. My amendment provides for that. I have also left room open for cases of those Judges whose age has not been so determined and who are still in service and a question has arisen or may arise about their age. My amendment provides for that also. So I think it will be a very fit and suitable amendment and there will be no dispute for which provision has not been made. Instead of Parliament having to legislate again on this point, I think it will be very desirable to accept my amendment.

Another point made is that it will not be right and proper to involve the President and especially the Chief Justice in such sort of administrative decisions. May I point out that this is the whole scheme of the Constitution? It appears that we have swallowed a camel and are straining at a gnat. The President has the power of appointment, first and foremost, in consultation with the Chief Justice. He has the power of appointing temporary Chief Justice or officiating Chief Justice without even consultation with the Chief Justice. He has the power of transferring Judges of High Courts from one place to another in consultation with the Chief Justice. All these powers are there. But merely the power of determination of age of a Judge will give him some power which will affect the independence and dignity of the judiciary—I fail to see the logic of this argument.

I think my amendment is fully consistent with the scheme of the Constitution and I commend it.

**Shri P. R. Patel:** I do not understand the amendment proposed by Government. It is not at all desirable to bring a Bill and discuss it and pass it according to which the age of a Supreme Court Judge will be determined. A Supreme Court Judge generally comes from a High Court.

**Shri A. K. Sen:** May I correct the hon. Member? The amendment in clause 2 was moved by Shri Kamath in the Joint Committee, it is not a Government amendment.

**Shri P. R. Patel:** It is provided that the age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide. Instead of that, I am proposing the amendment that the age of a Judge of the Supreme Court admitted at the time of his appointment shall not be questioned after his appointment. What I desire is that once a Judge is appointed in the Supreme Court, the question of his age should not be raised by him or by anybody else. What will happen We have today Judges in the Supreme Court. Tomorrow the executive may think that the age entered of certain Judges is not correct and the matter crops up. Is that desirable in the interest of the dignity and independence of our Supreme Court? Such questions should not be raised at all. We must put a stop to it. So I am proposing that whatever age is admitted at the time of his appointment should be taken as final and nobody should be allowed to question it.

Today our Supreme Court is known for its integrity and independence. We know that an independent judiciary is the bulwark of our democracy. If we weaken our judiciary, our democracy will fall to the ground. Nothing should be done which would weaken or tend to weaken the judiciary. Such questions of age and

[Shri P. R. Patel]

other small things should not be allowed to be raised, and the Government also should decide not to raise such questions. I know the independence of our judiciary and I am very proud of it. Very recently there was an election case in which the Gujarat High Court delivered a judgment, and those who wanted to appeal asked for copies and they could not get them even though one month passed. They came to the Supreme Court and the Supreme Court, without hesitation or delay, wired the Chief Justice of the Gujarat High Court asking whether the judgment was ready. So, the Supreme Court is absolutely independent and it could do it.

If there is anything which would weaken our Judges, I think that would be a bad day for the country and for democracy. If my amendment is not proper, we should consider some way out to put an end to this question of age of the Supreme Court or High Court Judge.

What has happened in Calcutta is not a good thing I know. The Bench issued a writ against the Chief Justice. Whether it is good or bad, it shows the independence of the judiciary, and it could pass an order against the Chief Justice under whom it was working. It is a worthy and good thing, and we want to maintain it.

Appointments of High Court Judges are now taking place as a result of consultations between the Chief Justice and the Chief Minister. I think the opinion of the Chief Minister of the State should not be taken. It should be the concern of the judiciary only, and at the earliest possible moment the judiciary should be separated from the executive absolutely. I hope the Minister will consider it.

**Mr. Deputy-Speaker:** Shri Prabhat Kar. I want the hon. Members to take only two or three minutes. We are

on amendments. He has no amendments.

**Shri Prabhat Kar** (Hooghly): Shri Daji has moved an amendment.

**Mr. Deputy-Speaker:** No, he has not moved any to Clause 2. There are no amendments of his party.

**Shri Prabhat Kar:** I agree entirely that so far as the age of the Supreme Court or High Court Judges is concerned—here it is concerned with Supreme Court Judges only—under no circumstances should any question be allowed to be raised either by the Government or by the Judge himself.

The Supreme Court Judges are appointed generally after serving some time as High Court Judges, or they should have had practice for ten years as advocate. They are educated persons and have got their bachelor's degree. Naturally, their age is recorded all right. Whenever they are appointed, they know the age that is entered and also the time when they would be retiring. Therefore, no controversy should be raised either by Government or the Judge himself.

**Mr. Deputy-Speaker:** In this clause we are concerned only with the age of the Supreme Court Judge. He may confine himself to this clause. The age of the High Court Judges is coming in another clause.

**Shri Prabhat Kar:** Generally he would have been a Judge of the High Court for some time. That means his age is already recorded as a Judge. That is why under no circumstances, the question should be allowed to be reopened.

Secondly, article 124(4) states:

"A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the

total membership of that House  
....."

But now a Judge of the Supreme Court who otherwise cannot be removed can be removed by the President at the instance of the Government because the Government can *suo moto* raise this question and refer the matter to the President. This is in contradiction with the article I have referred to. Therefore, I do not agree with this amendment.

**Shri Kashi Ram Gupta** (Alwar):

This clause has been inserted on two grounds. One is that it is not good to put in such a thing as age in the Constitution, but if it is at all to be put, it should be in a way which is quite in agreement with the basic principles of the Constitution.

If the age of a person is questioned at all, it has to be decided by a court of law, and not by any one else. Even the evidence before the Joint Committee was like that.

When this clause was substituted, the main purpose was that there should be power to the President by himself or in concurrence with the Chief Justice to determine the age. As a matter of fact, the Law Minister had given his opinion that this question might not at all arise, but if it did arise, this was the only good way to face it.

My predecessors have given the argument that a Judge of the Supreme Court may generally be promoted from the High Courts, and because their age would have been decided already, the question may not arise. If that is so, this amending article put in by the Joint Committee is all right, and I think it should be retained.

**Shri Man Sinh P. Patel** (Mehsana):

I have heard the hon. Members who have spoken in support of their amendments on the Clause. I would only like to support the main clause of the Joint Committee.

What we are considering is not the character of the Judges or the circumstances under which their appointments might have been made, but how to decide the question of age if sometimes it is agitated.

It has been clearly stated before the Joint Committee that in the last 15 years no question of the age of a Supreme Court Judge was ever agitated, but now as the number of the Supreme Court Judges has increased because of the increasing volume of work, there is a possibility that in future the question might be agitated. How should it be decided then?

Originally, Government came forward with a proposal to amend the Constitution. Now the Joint Committee has suggested that Parliament should once and for all decide how it should be decided. If necessary, the Law Minister will come forward with a new Bill.

My friends suggested that generally a High Court Judge is appointed a Judge of the Supreme Court, and therefore his age would have been determined. I do not take this argument at its face value. The Constitution provides that even outsiders with eminent practice might be directly appointed. Further, we know that the birth registers are not accurate. In the case of some eminent people born in small rural places, there are no notings of their birth. Sometimes, such eminent persons are not anxious to join the judicial service, but at the invitation of some eminent Judges of the High Court, they join the service in order to serve the people through the judiciary. They have never known at that time what was their actual age or that a particular date is being registered. There may be a date in the matriculation or university certificate. He may never have dreamt that he would join the service. So, if some question arises, there should be a judicious decision of it. The judgment is not only to be judicious but it should be understood that it is judiciously given. There are three or four

[Shri Man Singh P. Patel]

amendments which are suggesting small and trivial remedies. They will not serve the real purpose. Some friends ask: why different legislations for deciding the age of High Court Judges and Supreme Court Judges. When the matter concerns a High Court the Chief Justice of the Supreme Court will be in a position to guide the President. The Chief Justice is himself a Judge of the Supreme Court and so the question arises as to who should direct it and what should be the procedure. There should not be the slightest doubt or ambiguity in the minds of the people about the possibility of the so-called interference of the executive or of the Government. Some Members even referred to it. Here the special legislation will help. Therefore, I support this clause.

**Mr. Deputy-Speaker:** The hon. Law Minister.

**Shri C. K. Bhattacharyya:** Sir, I want to speak.

**Mr. Deputy-Speaker:** Every Member cannot go on speaking like this. I can understand those who have tabled amendments wanting to speak. We have to finish this by 4 O'clock.

**Dr. L. M. Singhvi (Jodhpur):** If that is the view taken, the point of view of the Select Committee would have to go by default, that is if only those who have moved amendments are to be permitted.

**Mr. Deputy-Speaker:** I have allowed others also to speak but there should be some limit. The others may take 2-3 minutes.... (Interruptions.)

**Shri C. K. Bhattacharyya:** Sir, I will take only two or three minutes. This particular amendment creates a discrimination. While the age of the High Court Judge is being put in the Constitution itself, the age of the Supreme Court Judge is left to be determined by Parliament by law. In case the age of a High Court Judge

has got to be changed the Constitution will have to be changed but the age of the Supreme Court Judge can be changed by modification of common law that Parliament may pass. In this matter the Supreme Court Judges are being put in a disadvantageous position as compared to the High Court Judges.

My second submission is this, I do not see any need for this amendment at all. This amendment invests Parliament with power of passing a law to fix the age of Supreme Court Judges. I have gone through the Constitution and I do not find anywhere in the Constitution where it denies the Parliament's power of passing such law. When Constitution does not deny the Parliament the power to pass such a law what is the use of putting this in the Constitution again so that Parliament may have a power which, I believe, it already has.

**Dr. L. M. Singhvi:** I have to say only a few words. My submission is that the Select Committee arrived at the proposed draft after prolonged discussion and consideration of the matter. There were conflicting considerations both for the insertion and exclusion of such a draft. It is true that some of the distinguished witnesses who appeared before us thought it better to leave the matter as it was but the form in which the draft is put has made it clear that the processes and methods for the determination of the age of a Supreme Court Judge is left to be determined by means of legislation under the common law of the land. By this draft we have actually been able to steer clear of the pitfalls of leaving it to executive decision or even to executive decision aided by judicial advice. This draft represents a compromise of the various conflicting considerations and it should commend itself for acceptance by the House.

श्री सिंहासन सिंह (गोरखपुर) : उपाध्यक्ष महोदय, यह जो इस धारा के द्वारा

आप संविधान में संशोधन करने जा रहे हैं, यह समझ में नहीं आता है। एक घटना हो गई कलकत्ता की और उसको लेकर आप संविधान में परिवर्तन करें यह संविधान के लिए भी शोभा नहीं देता है...

**एक माननीय सदस्य :** ज्यादा हुए हैं।

**श्री सिंहासन सिंह :** चाहे कितने भी केस हुए हों, यह चीज शोभा नहीं देती है।

यहां पर सुप्रीम कोर्ट और हाई कोर्ट्स के जजों की अवस्था का सवाल है और उस पर विचार किया जा रहा है। अगर आप देखें तो इनकी अवस्था का ही सवाल नहीं है, और भी बहुत सी सर्विसेस हैं, जिनकी अवस्था का सवाल पैदा हो सकता है। यूनिन कमीशन है, स्टेट कमीशन है, उनके मੈम्बरो की अवस्था ६५ बरस और ६० बरस दी हुई है। फिर पार्लियमेंट के मेम्बरो की अवस्था का भी सवाल पैदा होता है। उनकी अवस्था भी कहा गया है कि पच्चीस साल से कम नहीं होनी चाहिये। क्या आप इन सब की अवस्थाओं का फेसला इस तरह से करते फिर सकते हैं। आदमी एक बार पैदा होता है, बार बार पैदा नहीं होता है। आदमी की अवस्था एक होती है, वह बदला नहीं करती है। जब वह पैदा होता है तो उसकी अवस्था एक ही होती है। उसका रिकार्ड भी होता है, वह अवस्था म्युनिसिपैलिटी के रिकार्ड में दर्ज रहती है, गांव के चौकीदार के पास दर्ज रहती है, गांव सभा में दर्ज रहती है। इसके अलावा वह जब स्कूल में पढ़ने के लिए जाता है तो उसके मां बाप उसकी एज वहां दर्ज कराते हैं। वह हाई स्कूल पास करता है, बी० ए० पास करता है, एम० ए० पास करता है, हर जगह उम्र दर्ज होती है। इस सबके बावजूद भी अगर झगड़ा होता है तो इसका मतलब केवल यही निकल सकता है कि कहीं गड़बड़ी है, हमारे ख्याल में गड़बड़ी है। आप इस तरह का प्राविजन संविधान में करके चरित्र को नीचे करने जा रहे हैं और उम्र को भी झगड़े में रख

रहे हैं। मेरे विचार में ये दोनों बातें लाना हाईकोर्ट और सुप्रीम कोर्ट के लिए, इस सदन को शोभा नहीं देता है। जो भी कानून आप बनायें सबके लिए एक सा बनायें। अगर आप इनके लिए इस तरह से करते हैं तो क्या आप आई०ए०एस० में जो हैं, या तो यूनिन कमीशन में हैं या दूसरे हैं, उन सबके झगड़े मिटाते फिरेंगे। फिर लोकसभा की सदस्यता के लिए जो पचीस साल की उम्र रखी गई है, उसको कौन तय करेगा, पटवारी तय करेगा, हम तय करेंगे, कौन करेगा। यूनिन पब्लिक सर्विस कमीशन के सदस्यों की जो पैंसठ साल की उम्र रखी हुई है, उसको कौन तय करेगा। कौन तय करेगा कि यह साठ का हो गया है या नहीं, पैंसठ का हो गया है या नहीं। बंगाल के एक दो केसिस को लेकर जो झगड़ा हो गया, उसको लेकर आप जो संविधान में परिवर्तन कर रहे हैं, वह उचित नहीं है। मैं उसका विरोध करता हूँ। यह संविधान के लिए शोभा की बात नहीं है। जब संविधान बनाया गया था तो बहुत सोच समझ कर बनाया गया था और उम्मीद की गई थी कि सभी हाईकोर्ट के जज अपनी उम्र ठीक बतायेंगे।

सुप्रीम कोर्ट के चीफ जस्टिस ने अपनी एक चिट्ठी में जो इसके बारे में लिखा था, उम्र के झगड़े के बारे में लिखा था, उसको पढ़ कर मैं आपको सुनाना चाहता हूँ। उन्होंने उसमें कहा था कि हमारी डिगनिटी के लिए, आपकी डिगनिटी के लिए यह बड़ा जरूरी है कि हम लोग उम्र का झगड़ा न उठायें, जो मैट्रिकुलेशन के सर्टिफिकेट में उम्र दर्ज है, या जो यूनिवर्सिटी में दर्ज है, उसी को रखें। आपकी जानकारी के लिए उस चिट्ठी में से थोड़ा सा हिस्सा आपको पढ़ कर मैं सुनाना चाहता हूँ।

“Neither the Government of India, nor anybody, far less the Supreme Court, would do anything to detract from the prestige of a High Court which must de-

[Shri Sinhasan Singh]

pend upon the respect in which the Judges of the Court are held by all concerned. Certainly we would not do anything to cast aspersions on the veracity of a Judge of a High Court; but in order to save the Judge himself and the Government from any embarrassment in Court and out of Court this policy has been adopted."

**Mr. Deputy-Speaker:** It is not concerned with this clause. You yourself are a lawyer.

**Shri Sinhasan Singh:** They are formulating a policy. The letter continues:

"In pursuance of this policy, I understand, all those who have been appointed as High Court Judges in recent years have been asked to submit their matriculation certificate or any other evidence of age, as it appears in the University records."

**Mr. Deputy-Speaker:** That is as regards high court judges.

**Shri Sinhasan Singh:** But there is no provision in regard to the Supreme Court judges here. I say that the whole basis of the amendment is wrong. You are having two standards for two categories of judges: you are having one standard for the high court judges and another standard for the Supreme Court judges. That is also wrong. If the judges are to have one standard, the standard should be same for both the Supreme Court judges and the high court judges. So, my submission is that we are not enhancing either the prestige or the independence of the judiciary by this provision. I therefore submit that the hon. Minister should not press it and he should withdraw it.

**Shri A. K. Sen:** Mr. Deputy-Speaker, Sir, the Joint Committee after hearing the Government and the diverse points of view have decided upon this particular form. It is no doubt diffe-

rent from the Government point of view. In fact, appearing for the Government, I did say that we would not be sorry if there was no provision for the Supreme Court Judges, and I stated that the problem would not be very important because in the case of most of the judges appointed in the Supreme Court after 1958,—those who are now serving—the age has already been verified at the time of their appointment. There would be only a few who have been appointed before 1958, and in their case the question would be completely academic. Shri Kamath apparently had a better advocacy than myself when he carried the Joint Committee with him.

**Shri Hari Vishnu Kamath:** Because you agreed with me.

**Shri A. K. Sen:** Since the Joint Committee had passed it, we have kept it. There is no objection on principle, because the power is given to Parliament. If the Parliament thinks that the problem does not arise, we will not pass any law. But it is absolutely necessary that the power is taken away from every individual to go to court and challenge the age. That is what is necessary, because we do not want any odd individual to go to court and challenge a judge's age which has the effect of invalidating all his judgments during the period of the litigation.

**Shri S. N. Chaturvedi:** Then, would it not be essential to pass a law?

**Shri A. K. Sen:** As a point of fact, it is not so necessary.

**Shri S. N. Chaturvedi:** Anybody might challenge it.

**Shri A. K. Sen:** If such a problem arises, the Parliament can think it necessary. What I am saying is in the case of the Supreme Court it has not arisen up till now and it is unlikely to arise. But if any occasion like this arises, Parliament takes the power to do so, instead of giving it by way of a constitutional amendment—

**Shri Sinhasan Singh:** You must have a law before a case arises. If you go on making laws after every case, then I think it will be bad.

**Shri A. K. Sen:** It is not every case. It is general. Therefore, I think we better have it.

**Mr. Deputy-Speaker:** Are you accepting any amendment?

**Shri A. K. Sen:** I am not accepting any amendment.

**Mr. Deputy-Speaker:** Is Shri Sumat Prasad pressing his amendment?

**Shri Sumat Prasad:** I beg leave to withdraw the amendment.

*Amendment No. 10 was, by leave, withdrawn.*

**Shri Tridib Kumar Chaudhuri:** I do not press my amendment No. 23.

*Amendment No. 23 was, by leave, withdrawn.*

**Mr. Deputy-Speaker:** Amendment No. 11 by Shri P. R. Patel. He is absent. I shall put it to the vote.

*Amendment No. 11 was put and negatived.*

**Shri S. N. Chaturvedi:** I am not pressing my amendment.

*Amendment No. 22 was, by leave, withdrawn.*

**Mr. Deputy-Speaker:** We will hold over the voting on clause 2 till a later hour....

**Clause 3.—(Amendment of article 128)**

**Mr. Deputy-Speaker:** There are two amendments. Shri Daji, Shri S. M. Banerjee and Shri Mohammed Elias are not here.

**Shri Prabhat Kar:** I beg to move:  
Page 1, after line 13, insert—

‘(b) after the existing proviso, the following new proviso shall be inserted, namely:

“Provided further that the appointment shall be for a

definite period not exceeding three months”.’ (24)

The question is about the judges who have already retired being again re-appointed. My amendment is because of this: because of the accumulation of work, or due to some other extraordinary circumstances, it may be felt that a judge whom we have retired should be reappointed, but then it should be for a very short period. That is why I have moved this amendment, although I had said earlier that we do not agree that judges who have already retired should again be appointed.

**Shri A. K. Sen:** I explained earlier why we do not want to fix a period, because the very purpose of appointing an *ad hoc* judge would be frustrated. The necessity for appointing *ad hoc* judges arises during the temporary absence of a sitting judge either through illness or otherwise. The appointment is to be made during the period of the temporary absence of a sitting judge. As I said, it is quite different from the appointment of additional judges. We do not, therefore, know how long the temporary absence will continue. If you put a time-limit, it will frustrate the very object.

**Mr. Deputy-Speaker:** Those in favour of amendment No. 24 will please say Aye. But then, are you pressing your amendment, Shri Prabhat Kar?

**Shri Prabhat Kar:** No.

**An Hon. Member:** After his reply.

**Dr. L. M. Singhvi:** Is clause 3 of the Bill being finished like this?

**Mr. Deputy-Speaker:** The hon. Minister has replied.

**Dr. L. M. Singhvi:** This is very strange. After all, clause 3 is an important clause. We want to speak on it and we want to explain as to why we were persuaded to append a note of dissent.



## Bill

**Mr. Deputy-Speaker:** He did not get up.

**Dr. L. M. Singhvi:** How could I get up while another hon. Member was speaking?

**Mr. Deputy-Speaker:** I called the hon. Minister, and he has replied.

**Dr. L. M. Singhvi:** I thought the Law Minister's reply was to a particular query raised by Shri Prabhat Kar.

**Mr. Deputy-Speaker:** The hon. Member moved an amendment and he spoke on the amendment; the hon. Minister was called and he has replied. Dr. Singhvi did not get up. I am sorry.

**Dr. L. M. Singhvi:** I certainly feel that this is an important question. (*Interruption*).

**Mr. Deputy-Speaker:** I cannot reopen the question.

**Dr. L. M. Singhvi:** The Law Minister was asked only to give an answer to the query raised by Shri Prabhat Kar.

**Mr. Deputy-Speaker:** It was not a query. He moved an amendment. Are you withdrawing your amendment, Shri Prabhat Kar?

**Shri Prabhat Kar:** Yes.

**Mr. Deputy-Speaker:** Those in favour of withdrawal of amendment No. 24 will please say Aye.

**Some Hon. Members:** Aye.

**Mr. Deputy-Speaker:** Those against will please say No.

**Dr. L. M. Singhvi:** No. He does not have leave to withdraw. The Noes have it. You put this question to the House and the House said No. (*Interruption*).

**Shri Hari Vishnu Kamath:** When you asked whether the hon. Member had the leave of the House, he said "No".

**Mr. Deputy-Speaker:** Shall I put the amendment?

**Shri Hari Vishnu Kamath:** The leave of the House to withdraw the amendment should be granted unanimously.

**Mr. Deputy-Speaker:** I will put the question again. The question is:

"That leave be granted to Shri Prabhat Kar to withdraw his amendment."

Those for the motion will please say Aye.

**Some Hon. Members:** Aye.

**Mr. Deputy-Speaker:** Those against it will please say No.

**Dr. L. M. Singhvi:** No.

**Mr. Deputy-Speaker:** So, I shall put the amendment to the vote.

*Amendment No. 24 was put and negatived.*

**Mr. Deputy-Speaker:** The voting on clause 3 will be held over.

**Clause 4.**—(*Amendment of article 217*)

**Shri Hari Vishnu Kamath:** I beg to move:

(i) Page 1,—

omit lines 15 and 16.

(ii) Page 2,—

for lines 3 to 6, substitute—

“(3) If any question arises as to the age of a Judge of a High Court, the question shall be decided by such authority and in such manner as Parliament may by law provide”. (31)

**Shri K. C. Sharma (Sardhana):** I beg to move:

(i) Page 1, line 16,—

for “sixty-two years” substitute—  
“sixty-five years”. (2)

(ii) Page 2, line 4,—

for “President” substitute—  
“Chief Justice of the High Court”. (4)

**Dr. L. M. Singhvi:** I beg to move:

Page 1, line 16,—

for "sixty-two years", substitute—

"sixty-four years". (42)

(ii) Page 2,—

for lines 3 to 6, substitute—

"“(3) The age of a Judge of a High Court shall be determined by such authority and in such manner as Parliament may by law provide.” (44)

(iii) Page 2,—

for lines 3 to 6, substitute—

"“(3) The age of a Judge of a High Court shall be stated in the warrant of his appointment and shall not be questioned in any court of law or otherwise.” (45)

**Shri Kashi Ram Gupta:** I beg to move:

(i) Page 1, line 16,—

for "sixty-two years" substitute—

"sixty-five years, with no right to practise after retirement," (26)

**Shri C. K. Bhattacharyya:** I beg to move:

Page 2,—

for lines 3 to 6, substitute—

"“(3) The age of a Judge of a High Court shall be determined by such authority and in such manner as Parliament may by law provide.” (30)

**Shri Tridib Kumar Chaudhuri:** I beg to move:

Page 2,—

for line 3 to 6, substitute—

"“(3) The correct age of a Judge of a High Court shall be determined by the President and entered into the warrant of his appointment.

(4) If any question arises as to the age of a Judge of a High

Court, the question shall be referred for the decision of the President and his decision shall be final.

(5) Before giving any decision on any such question, the President shall obtain the opinion of the Chief Justice of India and shall act according to such opinion:

Provided that where the age of a Judge has been stated in his warrant of appointment, that statement about his age shall be final.” (28)

**Shri Prabhat Kar:** I beg to move: Page 2,—

for lines 3 to 6, substitute—

"“(3) The age of a Judge of a High Court shall be stated in the warrant of his appointment and the date so stated shall be final.” (29)

**Shri S. N. Chaturvedi:** I beg to move:

Page 2,—

for lines 3 to 6, substitute—

"“(3) The age of a Judge of a High Court shall be determined by the President after consultation with the Chief Justice of India and such determination shall be final.” (27)

**Shri C. K. Bhattacharyya:** I beg to move:

(i) Page 2, line 5,—

for "after" substitute "in" (32)

(ii) Page 2, lines 5 and 6,—

for "the decision of the President" substitute "such decision". (33)

**Shri K. C. Sharma:** Mr. Deputy-Speaker, Sir, this is an important question about the retirement age of judges. It is not a question of employment as such as some hon. friends have taken it or have understood it,

[Shri K. C. Sharma]

but it is the question of the functioning of a judge. A judge interprets the law. But, at the same time, he also make the law. It is a strange irony that in India we have now the seventh Chief Justice within twelve years, while in USA the seven Chief Justices have been presiding over the deliberations of the Supreme Court for over 170 years. From 1789 up to the Present day, only 14 Supreme Court Chief Justices have taken their seats in USA. Some of the Chief justices there have held office for as long as 30 years. So, my respectful submission is that the Judge's tenure of office should not be looked upon as a matter of job or employment, but as a matter of function, as a matter of service to the people and laying down the foundations of a valid law for generations to come.

14 hrs.

My suggestion is that the High Court Judge should be appointed at the age of 55 and should be in office up to 65. In 10 years, a mature Judge can lay down the law for future Judges to look into and for the people to get justice in the right way and in a valid way. For Supreme Court Judges, I put in a Bill, which has not come. I requested the Law Minister and he agreed with me that a Supreme Court Judge should remain in office up to 70. It is not that I want they should get employment up to 70 years. For employment, I agree with Mr. Menon that they should be appointed for life. That is not the question. The simple question is, at the age of 60 a High Court Judge comes to the Supreme Court and for 10 years he remains there. He lays down certain doctrines of constitutional law, which would be a guide for the future generations. My respectful submission is that the age of retirement for High Court Judges should be raised to 65 years. I appeal to the lawyers' conscience of the Law Minister whether these 2 years of extension are going to help. Are we reducing the High

Court Judge to the position of a clerk in the office? I say it is insulting to introduce this sort of amendment and bring it before this august House. 65 years will have some meaning. At least in India, we generally think in terms of 5, 10, 50, 100 and so on, and not like as at the shop who think in terms of 2 and 3. My friend here tells me that not even at the shop they think like that. Have we reduced the High Court Judge to a position worse than the men at the shop?

It is a fantastic conception that it will help the Judges in any way and it is bad in logic, because the gentlemen who are competent to give opinion on this have given the opinion that the age should be raised to 65. It is bad logic not to accept their opinion based on experience and have an arbitrary and illogical extension of 2 years.

I have put in an amendment that the age of the High Court Judge should be decided by the Chief Justice of the High Court. My respectful submission in regard to that provision is that they have the doctrine of estoppel in the Evidence Act under section 115. When a Judge is appointed, he puts down his age at the time of appointment as Judge or at the time of enrolment as an advocate. Once having given his age, he is estopped from contesting it. What is good for a citizen in the street must be followed in the case of a Judge also, because the Judge lays down the law for the man in the street. Therefore, it is not open to him to question what he has given at the time of appointment as Judge or enrolment as advocate. If a larger question arises, that should be left to the Chief Justice. I do not think the Chief Justice will do any injustice to his own colleague, from that exalted Chair. This is my submission, Sir.

Shri Prabhat Kar: I have said in my amendment No. 29 that the following should be substituted in place of sub-clause (3):

"The age of a Judge of a High Court shall be stated in the warrant of his appointment and the date so stated shall be final."

Sub-clause (3) as it stands reads as follows:

"If any question arises as to the age of a Judge of a High Court, the question shall be decided by the President after consultation with the Chief Justice of India and the decision of the President shall be final."

So far as the first part is concerned, while the Constitution (Fifteenth Amendment) Bill was being referred to a Joint Committee, at that time I drew the attention of the House to the fact that there was no reason why there should be any difference between the High Court Judge and the Supreme Court Judge in the matter of age of retirement and why if a Supreme Court Judge can carry on up to 65, a High Court Judge also cannot go up to 65. But I find that the Joint Committee has not agreed to that proposition and it has made a difference between the age of Supreme Court Judge and High Court Judge.

So far as the second part of it is concerned, it is very unfortunate that very recently this question has given rise to so many controversies and also court proceedings. A Judge is appointed from eminent people in the Bar and raised to the Bench. In the case of educated persons, their age is recorded in their matriculation certificate and also in the degrees. Not only that. When they are called to the Bar, their age is recorded. So, how can there be any controversy about the determination of a Judge's age? At the time of appointment, he must have given an age, which has been verified. So, I do not see why that age should not be the final thing; I am really surprised at this. So far as the particular amendment suggested in this Bill is concerned, apprehensions

have been raised even in the Bar Associations. I may just draw attention to the resolution adopted by the Calcutta Bar Association:

"This Association feels that the security of tenure of office of a High Court Judge as fixed at the time of his appointment is the very essence of the independence of the Judiciary. It is only during a fixed tenure of office that a Judge can discharge his judicial duties without fear or favour and without interference, executive or otherwise. Therefore, this Association apprehends that the provision for any possible dispute about age and its determination by the President after it has been once determined at the time of his appointment, will leave the tenure of office of a High Court Judge in perpetual peril and inevitably affect his judicial independence."

At the time of appointment, the age is required to be given and at that time that age is verified. Once the age has been verified, the question of raising any dispute over it either by the Judge himself or by the Government should not be allowed. Earlier the Law Minister, while speaking, made certain references to a particular case of a Calcutta High Court Judge. I do not hold any brief for anybody. So, I say that neither the Judge will be allowed to raise any dispute about the age which has been already given rightly or wrongly nor the Government will have the right to raise a dispute about the age of a Judge. The Law Commission has also made reference that various extraneous circumstances are taken into consideration at the time of appointment of a Judge.

**Mr. Deputy-Speaker:** Your amendment relates to future appointments. The Law Minister has already made it clear that they are taking particular care about future appointments.

**Shri Prabhat Kar:** Already, in the case of the sitting judges, their ages have been recorded. No further question should be raised about that.

**Mr. Deputy-Speaker:** Your amendment does not read like that.

**Shri Prabhat Kar:** Already there is a warrant of appointment in which the age has been recorded. That age which has been recorded should not be controverted by the judge himself or by the Government. That should be the final thing. In view of certain disputes which have been raised, these apprehensions have come in that there might be some difference of opinion. My point is, whatever be the difference of opinion, whether the record is right or wrong, the judge as well as the Government should not be allowed to raise any dispute.

As I pointed out earlier, if this matter is left to the Government—because the “President” means that the President will act on the advice of the Ministry and Ministry means a government department—there will be perpetual apprehensions in the minds of the people that the independence of the judiciary is being interfered with. What do we find today? It has been said here on the floor of the House that at the time of appointment certain extraneous matters are taken into consideration. If again at the time of retirement this question can be raised and a controversy can be raised by the judge or by the Government and it has to be settled by the Government, then the independence of the judiciary will be interfered with. That is why we do not want at any stage any dispute to be allowed to be raised. All disputes should be set at rest at the time of appointment, and the age put in the warrant of appointment should be taken as final. Therefore, Sir, we do not agree with the amendment that is proposed.

**Shri Hari Vishnu Kamath:** Mr. Deputy-Speaker, Sir, I move amendments Nos. 25 and 31 standing in my name.

**Mr. Deputy-Speaker:** They were taken as moved.

**Shri Hari Vishnu Kamath:** I shall briefly deal with each one of them. I shall first take my amendment No. 25 which seeks to omit the sub-clause relating to the raising of the retirement age of High Court judges. Yesterday, I briefly referred to this matter, but for lack of time I could not adequately deal with the curious argument made by the Law Minister in the course of his speech in the first reading, that we have got some experienced judges, some very experienced judges, and that it will be unfortunate for the country if we are forced or compelled to lose the benefit of their services for the High Courts, for the country. This, Sir, to say the least, is a very strange argument embodying, what I may, the doctrine of indispensability of individuals in human affairs. I do not at all, and I am sure my colleagues also do not, subscribe to the doctrine of indispensability of individuals in human affairs and, if I may say so with all respect, only God is indispensable and no individual however great can be deemed to be indispensable. Individuals are important, some are more important than others, some are more necessary than others; but to say that any individual is indispensable or even to hint at such a possibility is derogatory to all conceptions of human history that we have been taught to believe in. Great men have come and gone and yet the world, yet India goes on, and I am sure the High Court and the Supreme Court also will go on whether some judges are there or some judges are not there. Yesterday I demanded—I do not know whether the Speaker took it in the spirit in which I had said it—what the facts are. I said, let us have the facts so that this House can bring to bear an unbiased and serious view on the matter and come to a decision. Who has written to whom? Has the Chief Justice of India written to the Law Minister or to the Prime Minister that such and such judges are very experienced, very competent that it

may be difficult to find substitutes for these judges and therefore some law must be passed by Parliament to accommodate individual judges? whether judges or somebody else, this Constitution, however, embodying the eternal verity of justice, liberty, equality and fraternity in the preamble, is not meant, and I hope it will not be meant, to accommodate a few individuals at every turn of history. That will be a sad day for our country if the Constitution will be prostituted to accommodate individuals. I use the word advisedly. The Constitution should embody principles, should embody certain policies, should embody certain ideals and those that we have been taught to believe in.

But, Sir, today we had the said spectacle of the Law Minister of the country coming and telling the House that just because there are a few judges who retire on such and such a date and if they retire it will be a loss to the High Courts, we should try to ensure their continuity in service. What will happen after one year when they retire at the age of 62? We are raising their age to 62. After a year and half or, I suppose, after two years, they will retire or they will be compelled to retire. What will happen then? Will the same argument be trotted out by the Law Minister saying that they are retiring at their age of 62, we will lose their services and therefore we should amend the Constitution again? I think, Sir, that this sort of argument should not have been reared by the Law Minister. He should have brought out some other argument saying that some of the judges are retiring at 60 and that they should be enabled to serve till they reach 62 when they may retire. But he has not answered this query, this counter-argument as to what will happen when they become 62. What will happen then? They will have to retire then. How will you stop them from retiring? How will you enable them to continue in service then?

Therefore, Sir, I am constrained to say that ever since this Bill was brought on the anvil of Parliament—just before that or perhaps soon after that—not merely the case of Mr. Justice Mitter has been brought before the House—it has been referred to by the Law Minister and other Members of the House also—but I have got a signed letter from a friend in a State—I will pass it on to the Law Minister and I hope he will enquire into the matter, because I do not know whether the facts he has quoted are true—saying that the Chief Justice in a State—a service judge unlike Justice Mitter—who has all along given his date of birth as one thing according to which in December, 1962....

**Mr. Deputy-Speaker:** You may write a letter to the Law Minister instead of bringing it before the House.

**Shri A. K. Sen:** You better pass it on to me.

**Shri Hari Vishnu Kamath:** He has recently changed his date of birth, that is what I am told. I will pass on this letter to the Law Minister to enquire into the matter. As you say, I will pass it on to him for such enquiry as he may deem fit. But it is very bad that this sort of infection is spreading all round.

Now, Sir, I will come to the second amendment. It is unfortunate that these two sub-clauses which deal with separate matters have been lumped together, because those of my colleagues who may like to vote for one and may not like to vote for the other sub-clause may not vote at all now. I do not know whether when it come to voting you will be pleased or the Speaker will be pleased to direct that the two sub-clauses may be put separately. They are quite different matters. I do not want that they should be jumbled together. This Bill is jumbled even as it is, and this may make it still worse.

The second part of my amendment No. 31 seeks to put the High Court Judges on a par with Supreme Court

[Shri Hari Vishnu Kamath]

Judges. Because clause 2 has been accepted by the Government—I cannot say accepted by the House because so far the House has not voted on it, but as the Minister has accepted it, the Government has accepted it and I am sure the ruling party will vote for it and there is no question of the ruling party not voting for it when once the Minister has accepted it, and I take it that the House has accepted clause 2.....

**Shri Sinhasan Singh:** You cannot say that the House has accepted it because it has not yet been voted upon.

**Shri Hari Vishnu Kamath:** I hope it does not occur. Necessarily, uniformly, whenever Government accepts a thing the ruling party accepts it. I know this House has not been an exception to that rule. Unfortunately, there are no exceptions to that rule. I wish there were exceptions to that rule where even when the Government accepts the ruling party votes against. Now, coming to the second amendment, Government have accepted clause 2, seeking to provide . . .

**Mr. Deputy-Speaker:** Clause 2 is in the Bill.

**Shri Hari Vishnu Kamath:** In the Joint Committee, Government were not willing to accept it, but the Joint Committee decided in favour of it. Now the Minister has accepted it. It seeks to provide that the age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide. I am glad to see that a colleague of mine of the Congress Party, Shri C. K. Bhattacharyya, is also of the same view, shares my view in this matter. He has tabled an amendment almost on the same lines as I have done.

**Shri Kashi Ram Gupta:** I have also tabled an amendment.

**Shri Hari Vishnu Kamath:** But you are in the opposition. We are together. The Congress Party is in a different boat. If it is carried, if he convinces the Law Minister of the soundness of his amendment, I would be glad, because then my amendment will not come to voting; otherwise, my amendment will come for voting.

Then, so far as High Court judges are concerned, I submit that the President should not be brought into the picture. The President is the executive head of the Union, and the President, as I said yesterday briefly, acts on the advice of the Council of Ministers. So, whatever the President does in this matter means *ipso facto* what the Council of Ministers, or that particular Minister, says in the matter. How he advises the President in the matter or how the President obtains the advice is not relevant. In any case, it is not his individual judgment; it is not acting in his discretion. When he acts on the advice of the Ministers, here also it will be some Secretary of the Government in the Law Ministry or the Home Ministry who will decide the question, or it will be even at a lower level, by the Deputy-Secretary or the Joint Secretary, and it will be placed before him for his approval. I am sure in most cases of this type the President will ditto what the Minister has said or the Ministry has said. Therefore, I am very reluctant to drag the President into such controversial matters. I would be very happy if the matter is sought to be determined in exactly the same manner as the age of the Supreme Court Judge is sought to be determined.

**Dr. L. M. Singhvi:** Mr. Deputy-Speaker, Sir, the proposed amendment before us, which is embodied in clause 4, seeks two objectives—one is to raise the age of retirement of High Court Judges from 60 to 62 years and the other is to provide for cases in which the age of a High Court judge might become subject-matter of

a dispute. I have moved certain amendments to clause 4, and I commend them for the consideration of this House.

My amendment No. 42 seeks to raise the age of retirement to 64 years. My second amendment, No. 44, seeks to provide for the determination of the age of a judge of a High Court in the same manner as it is sought to be provided in clause 2 of the Bill before us. My third amendment, No. 45, seeks to provide for the statement of the age of a High Court judge in the warrant of his appointment and make it unquestionably final in any court of law or otherwise.

Mr. Deputy-Speaker, You would recall that the Joint Committee, over which you presided with distinction, had to devote itself at great length in this matter, because this has been a much vexed question, this has been a question on which conflicting opinions were available to us and on which the policy considerations weighing with the Government were definitely at variance with some of the evidence that was adduced before us.

So far as the general question of age is concerned, I shall, first of all, deal with the idea of giving retrospective effect, which was suggested by many members of the Joint Committee and which has been discussed and bandied about on the floor of this House time and again. It seems to me that the Government have, in their wisdom, adopted a policy of sheer opportunism, a policy which has been shifting and swinging from one position to another, policy which bespeaks lack of legislative leadership and initiative. I feel this has actually made the matter much worse than what it would have been otherwise. Now, naturally, motives are imputed when arguments are advanced as if persons who had suggested giving retrospective effect to this particular provision of the Constitution were interested in one particular judge or another. Sir, I repudiate the suggestion, because I have also made this suggestion in an

indirect way by saying that the Government had greatly delayed the passing of this Bill and thereby denied a certain number of distinguished High Court judges the opportunity of serving in their respective High Courts for a longer term.

So far as the general question of raising the age of retirement is concerned, I shall invite the attention of the House to what the Law Commission had to say in the matter. The Law Commission says:

"The information gathered by us shows that a large number of retired judges of the High Courts have been in Government employment of some kind or other after retirement. The recent constitutional change which permits retired judges to practise in the Supreme Court has resulted in a fair number of them setting up practice in the Supreme Court."

Then it goes on to say:

"No doubt, we have been told of a few cases in which the High Court Judges have not been able to reach even the age of 60 years with their physical or mental capacity unimpaired. These, however, are exceptions. We think that we are justified in concluding that the average and the normal High Court Judge would be able to discharge his duties efficiently even if the age-limit is raised to sixty-five years. It will be remembered that there is no age-limit for the retirement of High Court Judges in other countries and where the age limits exists they are higher than sixty-five years. So great is the importance attached to a judge's ripe experience that justices of foreign countries who have visited India have often expressed surprise at the age-limit of retirement which prevails in our country. These considerations lead us to recommend that the age limit of High



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Court Judges be raised to sixty-five years."

**Mr. Deputy-Speaker:** Please be brief.

**Dr. L. M. Singhvi:** As a matter of fact, I am speaking on this Bill for the first time. So, I have to speak at some length. Further, this is an important Bill.

**Mr. Deputy-Speaker:** This is the amendment stage.

**Dr. L. M. Singhvi:** I am speaking on the amendments. I am not speaking on the general question. I am saying why the age limit should not be 62 or 65.

**Mr. Deputy-Speaker:** We have to finish all the stages by 4 o'clock. Then, there are other hon. Members who are wanting to speak on this.

**Dr. L. M. Singhvi:** In that case, certainly, the time must be extended. Or, I shall not speak. Because, after all, it is not possible, to do justice to the subject matter within a very short time. This is a matter of great constitutional significance. If you simply desire me to say "yes" or "no", or say things in a perfunctory manner, certainly, I refuse to participate in the debate. If that is your pleasure, I will sit down. If even the Constitution is to be discussed in the way in which sometimes routine legislation is being passed in this House, Well, I certainly take exception to it.

**Mr. Deputy-Speaker:** I would request the hon. Member to be as brief as possible.

**Dr. L. M. Singhvi:** In suggesting the age of 64 years, I was persuaded by the consideration that was before the judges of the then Federal Court and the Chief Justices of the High Courts at the time of constitution-making. They had felt at that time that the difference of three or five years between the age of retirement

of High Court judges and the age of retirement of Supreme Court judges should be maintained. This is a matter which has been dealt with by the Law Commission in this manner. The Law Commission says:

"We have already indicated elsewhere that the appointment of High Court Judges at a late age to the Supreme Court is not necessarily an advantage. If judges are selected at a younger age from the High Court for the Supreme Court we shall have among other things succeeded in having in the Supreme Court, judges with long tenures".

a matter to which Shri Sharma referred during the discussion on another clause. This then would be a real solution. The Law Commission has also observed that subsequent experience does not justify the recommendation made that there should be substantial difference between the age of retirement of a High Court Judge and the age of retirement of a Supreme Court Judge.

They have also recommended that it should be stipulated the service conditions of all High Court Judges necessarily to accept appointment to the Supreme Court. This, I say, because there have been cases in the past where some judges of the High Court were sought to be elevated to the Supreme Court, and even though the status of the Supreme Court judges is higher, certain High Court judges had expressed their reluctance to agree to be elevated to the Supreme Court. Therefore, this problem has to be resolved by providing it as a service condition, as recommended by the Law Commission.

In this connection, I should like to justify why I have suggested 64 years of age. The idea is that there should be at least a difference of one year, and this difference of one year may, in some cases, prove to be decisive in certain cases of Judges or Chief

Justices of ripe experience of the High Courts in enabling them to accept judgeship of the Supreme Court so that they may serve for one more year. Sir, above all, our consideration should be to secure efficient judges in the High Courts. In that respect I should like the Government to consider the recommendations made by the Law Commission to recruit them at a younger age, to "catch them while they are young", if I may use a somewhat lighter phrase used at one time by the Chief Justice of India, and not to delay the appointments till the age of fifty-five when the prospect of elevation becomes rather unattractive.

In respect of the second amendment of mine which seeks that the age of a High Court judge shall be determined by such authority and in such manner as Parliament may by law provide, I am persuaded to suggest this amendment because I find that this is precisely the formula which we have adopted in clause 2 of this Bill. There is no reason why there should be a distinction. The duality is a denial of all constitutional consistency and logic, as I have submitted in my note of dissent. After all, what reasons impel us to provide a different procedure in determining the age of a judge of the High Court and in determining the age of a judge of the Supreme Court? There is absolutely no logic, no justification for making this distinction. I suggest therefore that in the interests of constitutional consistency, in the interests of logic, in the interests of a proper arrangement of the articles of the Constitution, it is necessary to adopt and to repeat the same formula for the determination of the age of a High Court judge as we have adopted in the case of Supreme Court judges.

I would also mention here, in passing, that if we have to attract judges of calibre to the High Court we must increase the pensions. I would invite the attention of the House and the Government to the fact that this was consistently the point made by all the

spokesmen of the All India Bar Association and the Indian Law Institute, who came to tender evidence before the Joint Committee. Sir, this a matter which requires to be approached by the Government with an open mind, with an undaunted mind, because they perhaps feel that they would then be laying themselves open to the charge that by increasing these emoluments, they are increasing economic disparities in our national life. This is not so. This is an argument which is very unrealistic, and I would plead with the Government through you, Sir, that the matter of pensions and salaries and other benefits available to judges should be reviewed in a wholesale manner so as to attract the best possible talent and so as to arrest the visible decline in judicial standards in our country.

Before I conclude, I would like to say a word or two about clause 4(b), because I feel that clause 4(b) has been prompted more by, what I may be permitted to call, vendetta or by personal considerations or by considerations of a particular case which has been engaging the attention of the Government in a very disproportionate measure. I do not think that it behoves us in this House, nor does it behove the Government, to bestow so much attention to a particular case. This almost presents the spectacle of deliberate, calculated victimisation. The matter is *sub-judice*; the matter is being adjudicated upon by the courts of law under the law of the land in this country. The Law Minister time and again bandies words which are neither respectful to the judiciary in this country nor proper in the perspective of Parliamentary deliberations. It is likely to cause prejudice to the proceedings which are pending. My friend Mr. Chaudhuri mentioned that the case is due to be heard tomorrow in the Supreme Court. But just before he mentioned this, the Law Minister had talked rather freely about the case and a particular judgment. I think this is a tendency which at least those who are interested and committed to the

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preservation of the rule of law in this country must avoid.

I would suggest that so far as clause 4(b) is concerned, the determination of the age of a judge of the High Court, if disputed, should be made in accordance with the same formula that we have adopted for the determination of age of the judges of the Supreme Court and that the age should be stated in the warrant of appointment.

**Shri Kashi Ram Gupta:** Mr. Deputy Speaker, Sir, so far as the question of this age limit is concerned, after hearing the Law Minister I came to the conclusion that there is no logic or solid ground behind what he has said. The thing is otherwise. It seems that he was under the influence of that feeling that so many judges are going to retire, and most probably those judges or some agency on their behalf must have given out that if two more years are given to them, that will suffice for them. Otherwise there is no logic at all in putting the figure 2 over 60. Of course, he argues what logic there can be if it is to be sixty-five or beyond. The logic is very simple. The age limit, the general age limit of people in India has increased much above this, and we have to see it from the point of view of the benefits to the people and not only of the benefits to the judges. Raising the age to sixty-five will benefit both the people as well as the judges. It will benefit the people in this way that those judges who are mature, they will continue, and people will benefit by their judgments. It will benefit the judges because they will have at least a sufficient period before them during which they can work, act satisfactorily and silently. At present the age is sixty. Now, if it is only raised to sixty-two, how can the person who is working as a judge today feel that after two years he will be quite safe and sound in his house—when the economic conditions are what they are, when this particular Constitution is going to provide for so many other

things about them, when the question of poor pension is there. And the foremost thing is that these people who come from the Bar, they get little time to work on the Bench, and providing them the right of practice means demoralising them. So the Government has taken a step which, instead of benefiting the judges or the people, will demoralise the people, will demoralise the judges to this extent that they will think "all right, let us have two years more, and after that we will be able to practise somewhere or get a job here or there". That way of thinking is not conducive to the good of the country. And when we talk of the high standard of morality of our judges of High Courts and the Supreme Court, it must follow that our Constitution provides such things which may not go against the interests of judges and against the interests of the public.

We have been hearing the arguments of so many hon. Members here. Most of the Members, even in the Joint Committee and also here, have been in favour of raising the age to sixty-five. The Law Commission in its report has recommended it. The evidence before the Joint Committee was all in its favour. I fail to understand what then are the reasons behind all this logic of our Law Minister. Most probably the reason may be that there may have been some party pressures or matters of that sort, or the decision must have been taken in a hurry without giving due consideration to it. So when all the hon. Members.....

**Mr. Deputy-Speaker:** The hon. Member's time is up.

**Shri Kashi Ram Gupta:** Sir, let me have some more time, because I could not speak earlier, being a Member of the Joint Committee.

**Mr. Deputy-Speaker:** There is only one amendment, and he was a Member of the Joint Committee.

**Shri Kashi Ram Gupta:** I had no chance to speak here in the general discussion. It is an important point and I am elaborating on it. (*An hon Member: Very important*).

It is not only from the opposition side, but Members on the other side of the House are also in agreement with us, and to a large extent. So, in the face of all these arguments there must be no ground for refusing to raise the age-limit to sixty-five. No doubt there should be a limit, and I have in my amendment put in that he must not have the right to practise. That too must be there, because this practice is rather derogatory to the status of judges. So all these points lead us only to one conclusion and it is that our Law Minister has not based his decision to put the age at sixty-two on any scientific grounds. It may be on some grounds which may be best known to him. At least his reasonings have not convinced anybody in this House. So, through you, Sir, I again request the hon. Law Minister to see to the wishes of the House in this respect, amend the article and raise the age to 65 years.

As for my second amendment I have nothing much to say. Already my hon. friends, Shri Kamath and Dr. Singhvi, have elaborated this as also Shri Bhattacharyya. This is completely in line with clause 2 and, I think, the hon. Law Minister is only hesitating because certain decisions have been taken by the Government regarding certain judges. He wants to validate those decisions by putting this clause in the Constitution; otherwise, that clause has no meaning and it will give rise to so many complications later on.

**Shri Tridib Kumar Chaudhuri:** In discussing clause 4 which seeks to raise the retirement age of High Court Judges to 62 years, I am intrigued with one question which I had also put at the time of the general discussion and about which I have got no satisfactory answer in the course

of the reply given by the hon. Law Minister. The hon. Law Minister told us that the Government is seriously considering the question of giving the benefit of this raising of the age to 62 years to a number of High Court Judges who were due to retire on the 1st January this year.

**Shri A. K. Sen:** I said that we shall consider seriously Shri Tyagi's amendment. But I understand that he is not moving it.

**Mr. Deputy-Speaker:** That will come later on. He should confine his remarks to his own amendment.

**Shri Tridib Kumar Chaudhuri:** I am not discussing Shri Tyagi's amendment. This is another question. I wanted to know as to what the decision has been with regard to those judges who were due to retire on the 1st January, 1963.

**Shri A. K. Sen:** They have retired. They could not but retire. If Shri Tyagi's amendment is moved and accepted, the effect would be to reinstate them with effect from the date of retirement.

**Shri Sinhasan Singh:** Is it not being moved?

**Shri A. K. Sen:** So I hear. He is not here.

**Shri C. K. Bhattacharyya:** Let us not raise that question now.

**Shri Tridib Kumar Chaudhuri:** Anyway; the next thing is my substantive amendment as to how the question about the correct age of a Judge of the High Court shall be determined. I have more or less suggested the same procedure as I suggested in the case of Supreme Court Judges and have said that the correct age of a Judge of the High Court shall be determined at the time of appointment by the President and entered into the warrant of appointment and if any question arises at any subsequent stage, which can very well arise

[Shri Tridib Kumar Chaudhuri]

in the case of the existing judges, in that case the question shall be referred to the President and the President will have to refer the whole matter to the judicial decision of the Chief Justice of India and shall have to act according to that. I do not want to add anything to what I have said earlier.

**Shri Bakar Ali Mirza** (Warangal):  
Mr. Deputy-Speaker, Sir, the question before the House is as to what should be the retiring age of a Judge of the High Court, whether it should be 62 or 65 or whether the sky should be the limit. The independence of the judiciary is highly important for the maintenance of a democratic government. No good government can really exist without a sound and fearless judiciary. It follows then that even a good government should not only not interfere in the administration of justice but should not also have the power or the opportunity to make such an interference or to affect the judicial mind of a judge. So, anything that we examine today will have to stand that test.

I submit that judges are expected to be very impartial, independent, fearless and all that. Compare them with the members of the Public Service Commissions. A member of the Public Service Commission who functions only in a limited field and that too for a period of six years cannot become either an Ambassador to any country or the Chairman of any public undertaking. He cannot hold any office under the Government. Then, why can a Judge before he retires, or even during his service, be shifted as Ambassador here or as Chairman of some Commission and so on and so forth? If the restriction placed on the members of the Public Service Commission is in the interest of creating an atmosphere of impartiality, surely those conditions are not different in the case of the judges; rather, the requirement is much more. Therefore if the Government is not going

to have the same prohibitions for the judges as they have for members of Public Service Commissions then this problem could be solved by tackling this question of age.

Some say that it should be 62 years and some say that it should be 65. I might say that it is arbitrarily fixed for no apparent good reasons in the interest of administration. They want the judges to continue. They are not finding talent and all that. That is not the basis on which a Constitution is made. Therefore I submit to the House that if we put no limit to the age of a Judge and have a Judge for life then with one sweep we remove all these difficulties that I have just now mentioned. You cannot offer any other office to him then and he is not in a position to accept. So, temptation is out of the way in the judges' garden. No Eve is allowed to enter there; there are only the apples. This question is very important and I am in complete agreement with Shri Krishna Menon who yesterday pleaded for having the appointment of judges for life.

Further, it will also save in pension. Now we are paying the Judge who is working and we are also paying pension to the ex-Judge. The proposal is to raise the pension. Why not raise it a little further and, instead of having one milking cow and one dry cow, have one good cow.

Dr. Singhvi suggested that it should be 64 or 65, as if we are trying to tempt them or we are putting a net to get these judges in. After all, if a little life of one year more of service is so important then that man is not worth having. Before this, people who had been earning Rs. 20,000/- to Rs. 30,000/- came for Rs. 3,000/- or Rs. 4,000/-. They considered it as an honour. So, if we have judges for life then we will find a better administration of justice and this question of determination of age will also be solved because then there will be no ques-

tion. There will be no need for declaring his age.

One last word and I am through. If you think—and that is in the Constitution itself; the idea is there—that a judge is capable, when about 60 years or so, of fishing out an old horseshoe from his grandfather's chest giving an age which now gives him an opportunity to serve one or two years more. Look at the approach and standard that you have set up. If you have that mental reservation in your mind while you are framing the Constitution naturally it will not have a good effect. I, therefore, plead that the judges be appointed for life according to the suggestion of Mr. Krishna Menon.

**Shri C. K. Bhattacharyya:** Sir, we have already accepted the amendment to clause 2. The hon. Law Minister gave out his mind that he did not like the age of the judge to be determined by the courts of justice. But the amendment that has been accepted already leaves it open for the Parliament to pass any law, that the age of the judge could be determined by the courts of justice. What the hon. Law Minister wanted not to be done has really been opened to be done by the amendment to clause 2 that has already been accepted. According to that, Parliament may pass any law for determining the age of the judges and in passing such a law, Parliament, of course, may decide that the age of the judge will be determined by the courts of justice. Here, we are adopting a different method, that is, in regard to the judges of the High Courts, we are investing the power in the President—the question shall be decided by the President after consultation with the Chief Justice of India. That is what I feel. High Court judges are put on a different pedestal. I do not want the High Court judges to have any advantages which are not open to the Supreme Court judges and I do not want them to suffer any disadvantages from which the Supreme Court

Judges do not suffer. In fact, this also introduces another element in the Constitution to which Mr. Setalvad took objection. He said, "by investing the President with the authority of determining the ages of the judges, we will be introducing in the Constitution his acting on individual judgment which, I think, would not be wise to do." That was the ex-Attorney General's comment on the proposal that is embodied in the Bill now.

I have two suggestions more to make. Firstly, I want to change the word 'after' to 'in'. The reason for this is this. If it is that the President after consultation with the Chief Justice decides the age, that means after consulting the Chief Justice, when he decides, he decides individually and that he may ignore the advice of the Chief Justice altogether. By changing the word 'after' into 'in', my intention is, when the President decides the age of the judge, that is a joint decision of the President and the Chief Justice together. That is my intention. That is why I have also given another amendment that on page 2 in lines 5 and 6, for "the decision of the President" substitute "such decision". That was my object in putting forward this amendment.

**Mr. Deputy-Speaker:** The Law Minister.

**Shri S. N. Chaturvedi:** There is my amendment also. I also want to speak.

**Mr. Deputy-Speaker:** All right. The hon. Member may take two minutes.

**Shri S. N. Chaturvedi:** The Law Minister has already accepted that the age of a judge should henceforth be determined at the time of his appointment. In this case, as the clause stands, if any question arises as to the age of the judge of the High Court, the question shall be decided by the President after consultation with the Chief Justice. What is being done now is under executive orders.

[Shri S. N. Chaturvedi]

It has no sanction of the Constitution. If my amendment is accepted then it will have the authority of the Constitution. This matter will not wait until a question arises about the age of a judge. But it will be done automatically at the time of appointment. So, that is the advantage I see if my amendment is accepted. I think it is not also desirable that we should leave the question of the determination of the age of a judge to a time when a question arises. Now, what we are doing is that it is determined at the time of his appointment so that no future question may arise. That is the advantage I see which, I think, my draft will give over the present one. That is why I commend it for the acceptance of the House.

**Shri A. K. Sen:** Mr. Deputy-Speaker, Sir, I have really made my point in the course of my reply to the main motion. I have explained why it has been thought necessary to have a determination of the age of a High Court judge apart from leaving it to the courts of law which is a highly unsatisfactory and uncertain state of affairs. The only point that was made in the Joint Committee was that the assurance to Parliament that this power will never be exercised except in consultation with the Chief Justice of India should be translated into a constitutional measure and we agreed to it. I do not see how, after this, anything more can be said against the provision as it now stands after the Joint Committee's report.

**Shri C. K. Bhattacharyya:** The hon. Law Minister may kindly explain the reason for differentiating between High Court judges and Supreme Court judges in choosing the method of determining the age.

**Shri A. K. Sen:** I said so even in reply to the other clause, that is, clause 2, that the Supreme Court is Supreme Court, the High Court is High Court. There are very few judges of the Supreme Court. There are many more judges of the High Court.

The problem has arisen in the High Court. It has not arisen in the Supreme Court. The problem is not likely to arise in the Supreme Court. It is likely to arise in the High Court.

**Shri Tyagi:** My friend does not realise that the spelling is different.

**Shri Hari Vishnu Kamath:** Words, not spelling.

**Shri A. K. Sen:** As I said, the question of discrimination is relevant in respect of equals—equality for equals. When peoples are placed differently, it does not mean any discrimination if the provisions are made different. Therefore there is no question of that. The power should be exercised in consultation with the Chief Justice as it has been done so far. It becomes a constitutional provision. The only point made by Mr. Bhattacharyya is that the wording should be 'in consultation' and not 'after consultation'. The wording 'after consultation' has been introduced as has been used in the Constitution itself in regard to the appointment of High Court judges and Supreme Court judges. This is the expression used:

"Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary....".

**Shri C. K. Bhattacharyya:** But there the President does not decide a question of fact. Here he will have to decide a question of fact.

**Shri A. K. Sen:** He decides a very important question of fact, namely, whether a particular person is fit and proper to be a judge of the Supreme Court.

**Shri C. K. Bhattacharyya:** It is a matter of opinion.

**Shri A. K. Sen:** Of course, not. He has to decide a question of fact.

**Dr. L. M. Singhvi:** It is a mixed question perhaps.

**Shri A. K. Sen:** Of course, not. It is a pure question of fact. He has to find out who is the most capable person under the circumstances amongst a large number of people. He has to evaluate the history, the capabilities and various other things of various persons. As to whether it is a question of fact or not is immaterial. The question is, he has to have the consultation with the President. The expression that we have borrowed has been used already in the Constitution itself. Therefore, we thought it proper to keep the same form of expression as has been used when the provision for consultation with the Chief Justice has been provided for in the other articles. Therefore, there is no valid reason in my submission, with due respect to those who have moved the amendments, why we should not accept the report of the Joint Committee.

**Mr. Deputy-Speaker:** There is an amendment No. 25 of Mr. Kamath. Does he want to press it? Am I to put it to the vote of the House?

**Shri Hari Vishnu Kamath:** Yes.

**Mr. Deputy-Speaker:** There is another amendment No. 31 also by Mr. Kamath. Shall I put them together?

**Shri Hari Vishnu Kamath:** No, Sir. They may be put separately.

**Mr. Deputy-Speaker:** All right.

The question is:

"Page 1,—

Omit lines 15 and 16. (25)

Those in favour may kindly say 'Aye'.

**Some Hon. Members:** 'Aye'.

**Mr. Deputy-Speaker:** Those against may kindly say 'No'.

**Several Hon. Members:** 'No'.

**Mr. Deputy-Speaker:** The 'Noes' have it.

**Shri Hari Vishnu Kamath:** The 'Ayes' have it.

**Mr. Deputy-Speaker:** All right. You want to have a division on it?

**Shri Hari Vishnu Kamath:** I want to have a division on this.

**Mr. Deputy-Speaker:** So, voting on amendment No. 25 is held over.

Now, I put amendment No. 31 to the vote of the House. The question is:

"Page 2,—

for lines 3 to 6, substitute—

"(3) if any question arises as to the age of a Judge of a High Court, the question shall be decided by such authority and in such manner as Parliament may by law provide."  
(31)

Those in favour may say 'Aye'.

**Some Hon. Members:** 'Aye'.

**Mr. Deputy-Speaker:** Those against may kindly say 'No'.

**Several Hon. Members:** 'No'.

**Mr. Deputy-Speaker:** The 'Noes' have it.

**Shri Hari Vishnu Kamath:** The 'Ayes' have it.

**Mr. Deputy-Speaker:** All right. You want a division on this also.

**Shri Hari Vishnu Kamath:** Yes.

**Mr. Deputy-Speaker:** So, this amendment also is held over.

Voting on both the amendments Nos. 25 and 31 is held over.

15 hrs.

**Mr. Deputy-Speaker:** Shri K. C. Sharma: Does he press his amendments?

**Shri K. C. Sharma:** Yes.

**Mr. Deputy-Speaker:** Both of them?

**Shri K. C. Sharma:** Yes.

**Mr. Deputy-Speaker:** Shall I put them together?

**Shri K. C. Sharma:** Yes.



**Mr. Deputy-Speaker:** The question is.

(i) Page 1, line 16, for "sixty-two years" substitute—

"sixty-five years". (2).

(ii) Page 2, line 4, for 'President' substitute "Chief Justice of the High Court." (4).

*The motion was negatived.*

**Mr. Deputy Speaker:** The question is:

Page 1, line 16, for "sixty-two years" substitute "Sixty-four years". (42)

*The motion was negatived.*

**Mr Deputy-Speaker:** Amendment No. 44 is the same as 30. I will put amendment No. 30 first.

**Shri C. K. Bhattacharyya:** I do not press it.

**Shri Kashi Ram Gupta:** I press.

**Mr. Deputy-Speaker:** The question is:

Page 2, for lines 3 to 6, substitute—

"(3) The age of a Judge of a High Court shall be determined by such authority and in such manner as Parliament may by law provide." (30).

Those in favour may say 'Aye'.

**Some Hon. Members:** 'Aye'.

**Mr. Deputy Speaker:** Those against may say 'No'.

**Some Hon. Members:** 'No'.

**Mr. Deputy-Speaker:** The 'Noes' have it.

**Shri Kashi Ram Gupta:** The 'Ayes' have it.

**Mr. Deputy-Speaker:** All right. Amendment No. 44 is barred.

The question is:

Page 2, for lines 3 to 6, substitute—

"(3) The age of a Judge of a High Court shall be stated

in the warrant of his appointment and shall not be questioned in any court of law or otherwise." (45).

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

Page 1, line 16, for "sixty-two years" substitute—

"sixty-five years, with no right to practice after retirement," (26). Those in favour may say 'Aye'.

**Some Hon. Members:** 'Aye'.

**Mr. Deputy-Speaker:** Those against may say 'No'.

**Some Hon. Members:** 'No'.

**Mr. Deputy-Speaker:** The 'Noes' have it.

**Shri Kashi Ram Gupta:** The 'Ayes' have it.

**Mr. Deputy-Speaker:** You want a division?

**Shri Kashi Ram Gupta:** Yes.

**Mr. Deputy-Speaker:** Held over. Amendment No. 28 Shri Tridib Kumar Chaudhuri is not here.

The question is:

Page 2, for lines 3 to 6, substitute—

"(3) The correct age of a Judge of a High Court shall be determined by the President and entered into the warrant of his appointment.

(4) If any question arises as to the age of a Judge of a High Court, the question shall be referred for the decision of the President and his decision shall be final.

(5) Before giving any decision on any such question, the President shall obtain the opinion of the Chief Justice of India and shall act according to such opinion:

Provided that where the age of a Judge has been stated in his warrant of appointment, that statement about his age shall be final." (28).

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

Page 2, for lines 3 to 6, substitute—

“(3) The age of a Judge of a High Court shall be stated in the warrant of his appointment and the date so stated shall be final. Those in favour may say ‘Aye’.

**Some Hon. Members ‘Ayes’.**

**Mr. Deputy-Speaker:** Those against may say ‘No’.

**Some Hon. Members:** ‘No’.

**Mr. Deputy-Speaker:** The ‘Noes’ have it.

**Shri Prabhat Kar:** The Ayes’ have it.

**Mr. Deputy-Speaker:** Held over. Amendment No. 27. Does the press?

**Shri S. N. Chaturvedi:** No.

Amendment No. 27 was, by leave, withdrawn.

**Mr. Deputy-Speaker:** Amendment Nos. 32 and 33.

**Shri C. K. Bhattacharyya:** I do not press.

Amendments Nos. 32 and 33 were, by leave, withdrawn.

**Mr. Deputy-Speaker:** We will take up the amendments, four of them, which are held over and the clause afterwards. Clause 5.

**Clause 5—(Amendment of article 222).**

**Shri Kashi Ram Gupta:** I beg to move:

Page 2, for lines 10 to 16, substitute—

“(2) When a Judge has been or is so transferred, he shall, during the period he serves, after the commencement of the Constitution (Fifteenth Amendment) Act, 1963, as a Judge of the other High Court, not be entitled to receive any compensatory allowance, in addition to his salary.” (34).

**Dr. L. M. Singh:** I beg to move:

Page 2, line 16, for “by order fix” substitute—

“fix by notification to be published in the official Gazette and laid on the Table of both Houses of Parliament as soon as may be” (46).

**Shri Kashi Ram Gupta:** Mr. Deputy-Speaker, after seeing this amendment for allowing allowances to Judges, it came to my mind that unless an amendment in the way I have put it comes in, the matter may be worsened in the future. I am not able to understand the logic behind this question of giving allowances on transfer. Our putting it in the Constitution itself is all the more an important matter. There are thousands of government servants, senior government servants get more or less the same pay as Judges of the High Courts. It is said because there is a convention not to transfer them, that convention now can be converted into a provision for transfer only if allowances are given to them. This is a very peculiar argument. It means that we are going to make the Judges money-minded and nothing else. If at all they are not adequately paid, the pay may be raised. If their pension is poor, as it is, the pension may be raised. But, to put in a discriminatory clause like this in the Constitution itself does go against the very spirit of the Constitution. People in other countries will try to formulate the opinion that Indian Judges of High Courts are persons who get themselves transferred only if they are given an allowance, and otherwise they will not prefer. The Law Minister himself has said that unless this provision is there, why should a Judge get himself transferred at all. I do not understand all that logic at all. This is a country which has been a country of saints and sages, a country in which at least one class, brahmins has been the picture, symbol of sacrifice and dedication. Judges come in that category of Brahmin. If Judges cannot sacrifice like that, I do not know. (Interruption) Ancient Brahmin or modern Brahmin, everything is the same.

**Mr. Deputy-Speaker:** Order, order.

**Shri Kashi Ram Gupta:** The definition applies equally to both. Please do not object to the word brahmin. It is a scientific word. When these very people as lawyers who had a practice of Rs. 20,000 or 50,000 and who are expected to pay honestly income-tax on it—because, otherwise had there been no honesty, these people could not be taken as Judges at all—when they are honest people, and they have sacrificed so much and they have come to the Bench, in that position, how can we satisfy their ego by providing them with a small allowance of Rs. 400 or 500 a month? My request is that this point may not be taken lightly. This is very serious. If this would not have had far-reaching repercussions, I would not have come forward with this amendment in the opposite direction. The amendment in the opposite direction is there to show that Judges shall never care for having transfer on the basis of having allowances. This point is also connected with the other aspects of this amendment. I may add one thing very clearly that the whole edifice of appointment and functioning of Judges is now being built on monetary thinking and nothing else, and even that in a crude way. Any persons who come to this post, when they sacrifice so much, they must be regarded as persons above others, and not as ordinary people. This will be a discriminatory provision. This can be challenged in a court of law. Because, in our constitution we cannot provide a certain thing for one class of persons which is not the same for another class of persons. From this point of view, I am of opinion that this clause should be deleted, or otherwise my amendment should be accepted.

**Dr. L. M. Singhvi:** Sir, unfortunately, appointment of Judges of High Courts has not been free from political strings and stigma. As a matter of fact, a body, so well placed to pass a judgment in the matter as the Law Commission was, has itself more than

casually reflected on the deficiencies which attend and surround recruitment to the High Court. In this connection, I need hardly cite what the Law Commission had to say, particularly in respect of the State Governments having rival nominations for recruitment to the High Court judiciary.

Sir, the Law Commission had suggested a specific amendment. I express, in the first place, my regret that while the Government has been so alert and has exhibited so much alacrity in bringing as many as a dozen amendments to the Constitution, it has not acted in consonance with the recommendations of the Law Commission to amend article 217 (1) of the Constitution as recommended by the Law Commission.

In this respect, I would like to pay a tribute to the work of the Joint Committee of which, in all humility, I too happened to be a Member. The House would recall that the Bill as it was introduced in the House contained a highly objectionable and obnoxious provision in the form of enabling retired Judges to go back to their respective High Courts and to practise as Advocates in those High Courts also.

The House would recall that there is a ban on this at present in the Constitution, and it is a very salutary provision of the existing Constitution, which precludes a judge retired from a particular High Court from going back to his own former jurisdiction and from practising there. This particular proposal of the Government, when the Bill was introduced, was outvoted and abandoned at the stage of the Joint Committee. I am glad that the Government have shown in this particular respect a certain responsiveness to the demand almost unanimously made by the witnesses who appeared before us, by the country at large, by the Bar Association of India and by the Members of the Joint Committee, in giving up this provi-

sion which would have otherwise enabled retired judges to practise in their own High Courts.

I would draw the attention of the House only to two pieces of evidence before us, at pages 11 and 35 of the Joint Committee's report, that is, the evidence part of it. Mr. Setalvad had this to say in answer to a question by me. He said:

"The view of the Institute seems to be that any alarm which tends to make a judge seek some favour either from his Chief Justice or from the executive is to be deprecated. That I understand to be the principle behind the memorandum.

Thus, in respect of the proposed amendment in clause 5, in which it is provided that:

"When a Judge has been or is so transferred, he shall, during the period he serves, after the commencement of the Constitution (Fifteenth Amendment) Act, 1963, as a Judge of the other High Court, be entitled to receive in addition to his salary such compensatory allowance as may be determined by Parliament by law, and until so determined, such compensatory allowance as the President may by order fix."

I have appended a note of dissent. In appending this minute of dissent, I have made certain submissions, one of which I shall read out before the House. I have said:

"The provision of compensatory allowance is not altogether undesirable in itself, but as a pecuniary inducement to facilitate transfer of Judges from one High Court to another, it has nothing to commend itself; indeed, several undesirable and unbecoming consequences may arise particularly by way of patronage and by way of opening up possibilities of manipulation of seniority with

an eye on Chief Justiceship in this or that High Court."

And I have submitted this on the strength of certain memoranda submitted before the Joint Committee, as you, Sir, are very well aware.

I would also invite the attention of the House to page 35 of the evidence part of the report, wherein one of the distinguished witnesses who appeared before us in the Joint Committee had this to say. My question was:

"Would you like in case of transfers to completely preclude any transfer without the consent of the judge sought to be transferred? Would you say that the Chief Justice of India may tender such advice to the President as it is provided in the present provisions on transfer of a judge? Or would you say that in all cases, the consent of the judge must be the necessary prerequisite to the transfer of any judge from one court to another?"

The witness who appeared on behalf of the Bar Association of India, Mr. Purushottam Trikamdas had this to say:

"A Convention to that effect has grown. I would like that convention to remain and to be respected, and if the convention is not being respected, then it is time enough for you to consider an amendment and put it in the Constitution."

It is clear that the evidence before the Joint Committee was persuasive enough and was forceful enough to convince us that transfers should not be countenanced as a rule, that transfers should be discouraged, particularly because, apart from the reasons already given by me just now, there would also be the difficulties of the understanding of a judge of the language of another State, and the records cannot be prepared at the expense of the litigants

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either in English or in the language which is known to the judge so transferred to a different court.

I would also like to invite your attention to another observation that I have made in my minute of dissent in regard to this question of transfer of judges. I have said:

"Transfer as a means of promoting national integration is irrelevant except as a homage of hypocrisy to a slogan. Transfers from one court to another are also fraught with practical difficulties of an insurmountable character because the records of a large number of cases even at the level of a High Court are kept in the language commonly spoken in that State."

To say that such transfers on a large scale would promote national integration, as I have said, is very hypocritical, and will not serve the interests of judicial integrity and judicial efficiency.

**Mr. Deputy-Speaker:** The hon. Member's amendment is to the effect that the emolument so should be fixed by notification in the Official Gazette. All that the hon. Member has said so far has nothing to do with that amendment.

**Dr. L. M. Singhvi:** I should also like to say that, after all, the Bill as introduced in the House did provide for certain things. The present proposal before the House has omitted that. There should be some reasons for that; the House is entitled to know why there have been these changes.

There was a large volume of opinion in the evidence tendered before the Joint Committee, and in this case, the Members of the Joint Committee almost unanimously agreed; so, I feel should be a complete or as a large a measure as possible that there of ban or prohibition written in the Constitution against enabling a retired judge

to practise after his retirement. This ought to be provided, and if this is not provided, then, many complications will arise.

15.16 hrs.

[MR. SPEAKER in the Chair]

My amendment to clause 5 is of a limited character. Clause 5 says that the compensatory allowances may be fixed by order by the President, until the Parliament may by law provide\* otherwise. I have suggested that the compensatory allowances should be fixed by notification to be published in the Official Gazette and laid on the Table of both Houses of Parliament as soon as may be. I hope that the Law Minister could not have any objection to inserting this relatively innocuous and unexceptionable safeguard so that Parliament may take cognizance of such an order being made under this constitutional amendment. I commend this amendment to the acceptance of the House, and I hope that the Law Minister would agree to insert this amendment proposed by me.

**Shri A. K. Sen:** I have already made my submissions on these points in detail, and I am afraid that I am unable to accept the amendment of Dr. L. M. Singhvi or any of the other amendments.

**Mr. Speaker:** Should I put the amendments to vote?

**Dr. L. M. Singhvi:** Yes, you may put them to vote.

**Mr. Speaker:** I shall now put amendment No. 46 to vote. What about amendment No. 34 standing in the name of Shri Kashi Ram Gupta?

**Shri Kashi Ram Gupta:** I have already asked for a division on that.

**Dr. L. M. Singhvi:** After all, the Law Minister has in a very brief manner and summarily declared that he

cannot entertain these amendments. So, they might be put to vote. Without giving any reasons he has declined to entertain them and, therefore, I have no real option.

**Mr. Speaker:** The reasons may not be there. We are only concerned now with whether he insists on a division.

**Dr. L. M. Singhvi:** I shall press my amendment to a division unless reasons are given.

**Mr. Speaker:** Then, these amendments will also be taken up at 4 p.m.

**Clause 6 (Amendment of article 224).**

**Mr. Speaker:** We shall now take up clause 6.

**Shri Hari Vishnu Kamath:** I have an objection to this clause being taken up now, which I have mentioned earlier to you, that unless clause 2 is finally decided one way or the other, we cannot proceed with the discussion of this clause.

**Mr. Speaker:** We can have the discussion, even though, if a decision is taken otherwise, the time spent on it might probably have been lost or wasted, as he says, to which I agree; but, of course, we cannot keep it pending without discussion.

So, we shall now take up clause 6. Are there any amendments to this clause?

**Dr. L. M. Singhvi:** I have an amendment. But the reasons are quite the same as have been given by me before.

**Shri A. K. Sen:** I may say, with regard to Dr. L. M. Singhvi's amendment to clause 5 that we do propose to put such notifications or such orders of the President before Parliament.

**Dr. L. M. Singhvi:** This could have been stated at least in reply to the discussion on that clause. We cannot possibly appreciate a complete and

summary denial of any explanation to us.

**Mr. Speaker:** Now that he has given, I think the hon. Member may not press it to a division.

**Dr. L. M. Singhvi:** I would not have wanted to press it to a division if we had had this explanation then.

**Shri Kashi Ram Gupta:** I beg to move:

Page 2, line 18,—for "sixty-two years" substitute—"sixty-five years" (35).

I do not want to make a speech on this, because it is connected with the other thing and the same reasons hold good here.

**Dr. L. M. Singhvi:** I beg to move:

Page 2, line 18,—for "sixty-two years" substitute—"sixty-four years" (47).

The reasons are the same as I have already stated.

**Mr. Speaker:** These amendments are moved. Shall I put them to a voice vote?

**Shri Kashi Ram Gupta:** These can be voted only after the other amendments are voted on.

**Mr. Speaker:** I will hold over these amendments as well as the clause.

**Clause 7.—(Insertion of new article 224A)**

**Shri P. R. Patel:** I beg to move:

Page 2, line 25,—after "State" insert—"for a period not exceeding three months". (18)

**Mr. Speaker:** Almost all views have been expressed now. He need not make a speech.

**Shri P. R. Patel:** I only say this. The services of a retired Judge may be had, according to this clause. I fail

[Shri P. R. Patel]

to understand why, when there are so many young persons in the Bar, the services of retired Judges should be had. If at all it is necessary, it should be for a period of three months and not more.

**Shri Daji:** We have finished with that clause.

**Shri P. R. Patel:** If more experience is necessary, the age limit may be raised from 62 to 65. Once they retire, they should not be called back, because that will lead to temptation. Those retired Judges who would be in the favour of the Chief Justice or of the executive may get the chance. We should maintain the integrity and independence of the Judges; if at all it is necessary to have their services, after retirement, it should be for a period not more than three months. That is my submission.

**Shri Prabhat Kar:** I beg to move:

Page 2,—after line 33, insert—  
“Provided further that the appointment shall be for a definite period not exceeding three months”. (36)

I have already spoken on this amendment.

**Mr. Speaker:** Amendments Nos. 18 and 36 are before the House.

**श्री सिंहासन सिंह :** अध्यक्ष महोदय, इस एमेंडमेंट के जरिये आप आर्टिकल ३२४ का अमेंडमेंट करने जा रहे हैं। मुझे बड़े खेद के साथ कहना पड़ता है कि इसके द्वारा आप हाई कोर्ट के जजों में सुप्रीम कोर्ट के जजों में जो आज इतनी ईमानदारी पाई जाती है, उम्र पर व्याघात करने जा रहे हैं। आप उनको लालच देने जा रहे हैं कि किसी हाई कोर्ट के जज को फिर से थोड़े असें के लिए एप्वाइंट किया जा सकता है। उसको अगर इस बात का आशा हो जाए कि रिटायर होने के बाद फिर से उम्रको रखा जा सकता है, तो इससे उसकी इंडिपेंडेंस में आप कुछ व्याघात करेंगे। दूसरा बात यह है कि किसी सविस की ईमान-

दारी के लिए यह चीज बहुत जरूरी है कि अगर उसने कोई ऐसा काम किया तो उसका प्रमोशन रुक सकता है, उसकी तरक्की रुक सकती है। मैं उसूलन इस बात के खिलाफ हूँ कि रिटायर होने के बाद किसी आदमी को फिर से एप्वाइंट किया जाए। रिटायर होने के बाद उसको कोई डर नहीं रहता है कि उसका प्रमोशन रुकने वाला है, तरक्की रुकने वाली है और अगर वह बेईमानी करना चाहता है तो खुले आम कर सकता है और अगर कोई नाराज हो जाता है तो वह उसके खिलाफ कुछ नहीं कर सकता है क्योंकि वह हटा हुआ तो है ही। अगर हाई कोर्ट के जज में इस तरह की कोई भावना रही कि चीफ जस्टिस या कोई उसका जूनियर, उसके ६२ साल की उम्र के बाद रिटायर हो जाने पर, उसको दुबारा रख सकता है, तो इससे उसकी जो इंडिपेंडेंस है, उस पर व्याघात पहुंचेगा। वह उनके पास जाकर प्रार्थना करेगा कि मुझे रख लो।

फिर आपने यह भी कही नहीं कहा है कि कितने असें के लिए उसको रखा जा सकता है। कितने दिनों के लिए रखा जा सकता है। एक बरस के लिए, दो बरस के लिए, एक महीने के लिए या तीन महीने के लिए और क्या इनको उम्र होनी चाहिये। आर्टिकल २२४ के अन्दर आपको यह पावर मिली हुई है कि अगर जरूरत पड़े तो नए आदमी को रखा जा सकता है, टेम्पोरेरी जजिज मुकरर किए जा सकते हैं। ऐसी हालत में हाईकोर्ट का जो जज रिटायर हो चुका है, उसको फिर से लेने की क्या जरूरत आपको पड़ें। क्या हमारे देश में टेनेंट की कर्मा आपको दिखाई देती है? यह बात अगर कही जात है तो इसको माना नहीं जा सकता है। मैं चाहता हूँ कि आप कोर्टस के जजिज को इस तरह का कोई मौका न दें कि वे फिर से नीचे गिरें और अगर ऐसा होता है तो इससे उनकी इंडिपेंडेंस पर बड़ा व्याघात पहुंचेगा।

**Dr. L. M. Singhvi:** Politics has always been plagued by the demon of patronage. Under the banner of the proposed article 224A, I sense the likelihood of the demon of patronage seeking entrance. I feel the Government should have respected the more or less unanimous opinion in this matter of the various professional associations and of distinguished jurists who felt that there was no great need for the creation of the institution of *ad hoc* Judges. As a member of the Constituent Assembly, Sir, you would recall that the institution of *ad hoc* Judges was not countenanced in our Constitution, and for very good reason. I hope that there is time enough even now,—though usually at this stage the Government is not in a responsive enough mood to listen to arguments, howsoever persuasive they may be—to rectify matters. I feel that it is unfair and invidious to the Constitution which is a product of great historic deliberations to seek to change any and every provision of it every now and then in a casual and cavalier manner. The proposal embodied in the proposed clause 7 would open the floodgates for the distribution of patronage by Government or by those who count in the elevation of members of the Bar to the Bench. I hope the House will not countenance the proposed amendment.

**Shri Hari Vishnu Kamath:** At the outset, may I appeal to you earnestly to see that this Bill being a Bill to amend the Constitution, it is all the more necessary, more than in the case of ordinary Bills, that discussion on it should not be throttled or the debate should not be hustled? We would look up to you to ensure that that is not done—I am sure you will see that it is not done, and if necessary, the time would be extended. A Bill to amend the Constitution is a very serious matter and cannot be dealt with as if it is the same as minor Bills, and the time, if necessary, must be extended. I am sure you would do it, if you feel that the House needs more time.

**Shri Kapur Singh (Ladhiana):** He is so sure of yourself.

**Shri Hari Vishnu Kamath:** May I refer you to article 224, to which this is a bit remotely, not directly, related? That article provides for the appointment of additional and acting Judges in clauses (1) and (2) thereof. In both cases, the appointment should be by the President. But here is a new article sought to be inserted as article 224A, whereby the Chief Justice of a High Court is sought to be empowered to make appointments as *ad hoc* Judges of persons who have held the office of High Court Judge. That is, after retirement, they will come back and function in those High Courts with all the jurisdiction and powers and privileges of a High Court Judge, but shall not, of course, be deemed to be High Court Judges. I am afraid the President is only brought into this picture in so far as his consent has got to be obtained by the Chief Justice. I am afraid that if this clause is accepted by the House and a new article is inserted in the Constitution, it is liable to be misused for appointments on grounds unrelated to necessity or public interest.

There is a proviso to this clause to the effect that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that High Court unless he consents so to do. First of all, the President's consent, and now it has been very safely provided with a sort of flourish that the Judge, who is sought to be appointed by the Chief Justice, must also give his consent. This is, if I may use the expression, as events will prove, is a laughable provision, because in the words of Charles Dickens, of whom I am told the Law Minister is very fond...

**Shri A. K. Sen:** I was as a child. I am more sophisticated now.

**Shri Hari Vishnu Kamath:** I am sorry he is sophisticated. It is better to be child-like, I do not say childish. I wish he had used a word other than



[Shri Hari Vishnu Kamath]

"sophisticated". I do not know what exactly is meant by "sophisticated".

**Mr. Speaker:** Does he want me to extend the time for these things?

**Shri Hari Vishnu Kamath:** No. I was only provoked by his own remarks.

In the words of the British author, of whom I was told that he is very fond,—it was said by Dickens with regard to Barkis that Barkis was very willing—in all these cases I am sure every person, every retired High Court Judge who would be appointed to the High Court will be found to be very willing.

That is all I have got to say. It should not be misused.

**Shri Bade:** This provision was there originally, but it was deleted in 1956. There is a remark in a booklet which I have got here as follows:

"The Bill adds similar provision to Article 224 with a view to facilitating the retired judges of the High Courts to sit and act in the High Courts. It may be interesting to note that what has now been proposed to be added to the Constitution as Article 224A originally occupied the place of Article 224 and it was deleted in 1956 and in its place the present provision was substituted." The reason advanced at that time for the omission of the provision was: "The provision in article 224 for recalling retired judges to function on the bench for short periods has been found to be neither adequate nor satisfactory...."

That was the reason given.

We consider the Constitution to be Manu Smriti. It should not be changed now and then like this, for every little thing. In 1956 there was Shri Datar, now it is Shri Sen. When the Minister is changed, the Constitution is changed according to his whims. This change which was not desired

or accepted in 1956, should not be brought forward before the House saying that there is growth of arrears and therefore we employ them, just as we employ labourers to cut the grass, that the arrears should be done away with by having *ad hoc* judges. That is not desirable. There is criticism of this clause in all the pamphlets we receive.

**Shri Tyagi:** I want a clarification. This clause says:

"...to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances...."

There is no mention of his consent here.

**Dr. L. M. Singhvi:** There is proviso to this.

**Shri Tyagi:** But it should be mentioned in the main clause instead of in the proviso, because it is stated here that the Judge so requested shall have the powers and privileges of a Judge of that High Court.

**Shri A. K. Sen:** It will be appreciated that article 224 as it now stands gives power to the President to appoint an Additional Judge or an Acting Judge for two reasons: that it appears to the President that there are arrears of work, or there is a temporary increase in the business of the High Court. But there have been cases frequently where, without there being an increase in the volume of the work, or without the arrears having increased, due to temporary reasons, such appointments become necessary. For instance, a Judge is absent either due to illness or leave or being assigned some other work. When Shri Jagannada Das was sitting as a Supreme Court Judge, he was made the Chairman of the Pay Commission, and in his place we had to appoint an *ad hoc* Judge. Such cases are not covered.

Unfortunately, when article 224 was amended, it was not appreciated that there might be cases where a temporary appointment might become necessary though the volume of work had not increased or arrears had not accumulated. In such case it has been felt that it would be improper to get a man from the Bar just for a few months, so that he goes back to the Bar. It is a practice which has been deprecated by every one. The charge of nepotism which Dr. Singhvi has given expression to so frequently in this debate is more inherent in article 224 as it is where it is the President who has to form an opinion and appoint, whereas the amendment says it will be the Chief Justice who is empowered to call upon a retired Judge of the High Court.

**Dr. L. M. Singhvi:** Those are the tenure appointments, these are the *ad hoc* appointments.

**Shri A. K. Sen:** Therefore, this is in line with article 128 relating to the Supreme Court, where the same power is enjoyed by the Chief Justice to call upon any retired Judge to sit at the Supreme Court when there is a temporary absence of a sitting Judge.

Therefore, it is a highly necessary thing. Instead of getting a man from the Bar for a few months, so that he goes back from the Bench to the Bar with added prestige, it is better to appoint for such temporary purposes a man who has been a Judge as in the case of the Supreme Court. I should have thought that this would be welcomed because the Bar has everywhere deprecated the practice of appointing a man only for a few months.

**Shri Joachim Alva:** One question. What happens to a High Court where the Chief Justice does not finish the cases in his own hands? I am talking of a case which I know, and I shall hand it over on a bit of paper to the hon. Minister.

**Mr. Speaker:** He may hand it over.

**Dr. L. M. Singhvi:** There is one clarification which I would seek because this is a very important constitutional change, namely whether the *ad hoc* Judge, in the understanding of the Law Minister, will be able to go back to the Bar, because there is at present a ban on going back to the Bar?

**Shri A. K. Sen:** An ex-Judge cannot go back to the Bar. He can only go to the Supreme Court.

**Dr. L. M. Singhvi:** Let me mention that the relevant clause says:

"He shall be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court."

**Mr. Speaker:** Already he has been a Judge there.

**Shri A. K. Sen:** The disability of practising in the High Court already attaches to him. This provision is to distinguish him from a regular Judge.

**Shri Tyagi:** Is there any possibility of the Government accommodating those Judges who are retiring in the meantime?

**Shri A. K. Sen:** Each case we judge on merits.

**Mr. Speaker:** Clause 8.

I put amendment Nos. 18 and 36 to the vote of the House.  
Amendments Nos. 18 and 36 were put and negatived.

**Mr. Speaker:** There is no amendment to clause 8.

**Shri Kashi Ram Gupta:** There is an amendment for the insertion of a new clause—8A.

**Mr. Speaker:** I am coming to that. He has made sufficient speeches and he will be brief now.

## Bill

**Shri Kashi Ram Gupta:** Sir, I beg to move my amendment. I will be brief. Page 3,—

after line 8, insert.

8A. In article 276 of the Constitution, the proviso to clause (2) shall be omitted." (37).

Due to oversight this could not be taken up at the time of the Joint Committee meeting. There were representations from certain areas which go to show that in those areas the proviso to article 276 applies and naturally they have to pay very much more taxes, sometimes 4 times or even eight times. The Joint Committee unanimously decided not to increase Rs. 250 to Rs. 500. At that time the representations were not before us because only one copy was there and copies were not distributed to Members. The proviso reads:

"Provided that if in the financial year immediately preceding the commencement of this Constitution there in force in the case of any State or any such municipality, board or authority a tax on professions, trades, callings or employments the rate, or the maximum rate, of which exceeded two hundred and fifty rupees per annum, such tax may continue to be levied until provision to the contrary is made by Parliament by law, and any law so made by Parliament may be made either generally or in relation to any specified States, municipalities, boards or authorities."

If this proviso is not deleted, then those municipalities or local boards which are authorised to do so by this proviso will go on multiplying their taxes and the people will suffer for no fault of theirs. We have at present come to the decision that the present rate of Rs. 250 should not be enhanced and naturally it should apply to those areas also so that they may be at par with the other areas. Otherwise, it will be a sort of discrimination and the people there will suffer financial

harassment. It is not just that they shall always be harassed like this. I request the hon. Minister to accept this amendment.

**Shri A. K. Sen:** Mr. Speaker, with due respect to the hon. Member, I am afraid that there is not much substance in this amendment. Parliament can, if it so chooses, negative such an enactment. The proviso says:

"Provided that if in the financial year immediately preceding the commencement of this Constitution there was in force... a tax on professions... the maximum rate of which exceeded two hundred and fifty rupees per annum, such tax may continue... until provision to the contrary is made by Parliament by law...".

The existing taxes which were there before the commencement of the Constitution are validated until Parliament by law decides otherwise. It is not necessary to have a constitutional amendment as Parliament can, if it so chooses, decide it.

**Shri Kashi Ram Gupta:** Those municipalities are authorised to levy a tax upto 5 or 6 times more. What is the remedy for it?

**Shri A. K. Sen:** I said Parliament could pass a law.

**Shri Kashi Ram Gupta:** Is he prepared to come forward with that law?

**Shri A. K. Sen:** I cannot commit the Government off hand.

**Mr. Speaker:** I shall now put amendment No. 37 to the vote of the House.

*Amendment No. 37 was put and Negatived.*

**Mr. Speaker:** We shall take up clause 9.

**Dr. L. M. Singhvi:** Sir clause 8 is very important concerning the jurisdiction of the High Courts and we would

like to speak on it, not necessarily by way of amendment.

**Mr. Speaker:** I called out that clause and said there were no amendments.

**Dr. L. M. Singhvi:** While you were standing we could not possibly get up.

**Mr. Speaker:** I am sorry that he is misunderstanding me. I called that clause long ago. After that Shri Kashi Ram Gupta moved his amendment for the insertion of a new clause 8-A but he is referring to my standing now.

**Shri Hari Vishnu Kamath:** Mr. Speaker, I submit at the outset that the hon. Minister of Law should not take things for granted. Neither during his first speech on the motion for reference to the Committee nor in his speech yesterday or even today, did he explain to the House what exactly this phrase 'continental shelf' means. I would like to have some light on this matter. He may get it passed by the majority that is already assured to him but he should not think that just because it is somewhat a technical term used in international law everybody is supposed to know it and that, in any event, there is no need to explain it fully. It will be passed in any case because of the majority behind him but we would like to know exactly what we are voting for. He must have at least that courtesy to explain it to us, to the House what this phrase means.

**Dr. L. M. Singhvi:** Sir, I welcome the proposed clause 9 amending article 297 thereby seeking to enlarge the jurisdiction of the Union in matters of continental shelf. As is well known this amendment has been brought in consonance with developments in the field of international law. This amendment is somewhat belated but it is nevertheless to be welcomed very much that the Government is enlarging the jurisdiction of the Union of India over the continental shelf. Perhaps in the years to come it will be of

great and decisive importance in the economic growth and development of the country. I feel, Sir, that the concepts of international law which are so very important to our economic well being should be sought to be popularised than taking them for granted, as my friend Shri Kamath said just now.

**Shri A. K. Sen:** Sir, I must frankly apologise to Mr. Kamath for not anticipating that he needed enlightenment on a subject of which I have no doubt he has perfect knowledge.

**Shri Hari Vishnu Kamath:** No, no. I am ignorant and that is why I raised that point.

**Shri A. K. Sen:** We were merely following the well-known method of not taking up the time of the House on matters over which there was no controversy. This was a step which was welcomed when the motion was referred to the Joint Committee and every single Member who spoke welcomed this provision. There was not a single voice against it. If there was any demand for an explanation of it, I would have been too glad to give it.

**Shri Hari Vishnu Kamath:** I am not against it. Please explain it.

**Shri A. K. Sen:** I am not saying against; why should I be against it? But he did make a point of my not dealing with what continental shelf meant. It is that part of the ocean, beyond the territorial sea, which has been now regarded as belonging to the adjoining State, so far as the natural resources, mineral resources and other things are concerned which are embodied in the continental shelf. It has now been agreed in the Law of the Sea convention that these resources belong to the State adjoining the continental shelf, because it has been found that many important minerals lie in the continental shelf, and so it will be best appropriated by the adjoining State itself. It is distinguished from the territorial sea which according to the Indian proclamation extends

[Shri A. K. Sen]

up to six miles from the coast, and that is part of the country itself for all purposes; it is a part over which the sovereign authority of the adjoining State completely extends.

**Shri Hari Vishnu Kamath:** Was it not been increased to 12 miles now?

**Shri A. K. Sen:** So far as India is concerned, the proclamation is six miles. Burma also—

**Shri Ranga (Chittoor):** Up to what distance can India exercise her right?

**Shri A. K. Sen:** 200 miles. But the continental shelf differs from the territorial waters in that the State adjoining the continental shelf owns the minerals and other natural resources, but for other purposes it is not part of the territory of the country. That is the difference. Since our Constitution did not provide for the continental shelf, which is now agreed all over the world as belonging to the State so far as the natural resources and mineral resources are concerned, we are amending the Constitution.

**Shri Hari Vishnu Kamath:** Is it a fact that different countries have different concepts with regard to the territorial waters? Some countries have stipulated 12 miles and others have stipulated six miles.

**Shri A. K. Sen:** There has been no agreement on the width of territorial waters. In fact, that is one matter on which the conference on the Law of the Sea could not come to an agreement.

**Mr. Speaker:** Now, we take up clause 10.

**Clause 10—(Amendment of article 311).**

**Shri Hari Vishnu Kamath:** I beg to move:

(i) Page 3, lines 17 and 18,—  
for "of being heard in respect of

those charges" substitute—"of showing cause why the action proposed to be taken against him should not be taken" (38).

(ii) Page 3, line 18,—

add at the end—

"and also a reasonable opportunity of showing cause against the action proposed to be taken against him." (40).

**Shri A. K. Sen:** I beg to move,  
Page 3, line 18,—

add at the end—

"and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed but only on the basis of the evidence adduced during such inquiry." (41).

**Shri Bade:** I beg to move:

Page 3, line 18,—

add at the end—

"and after giving an opportunity of showing cause against the action proposed to be taken or punishment proposed to be imposed on him" (20).

**Shri Prabhat Kar:** I beg to move:

Page 3, line 18,—

add at the end—

"and given an opportunity to represent against the action proposed to be taken against him." (21)

**Dr. L. M. Singhvi:** I beg to move:

That in the amendment proposed by Shri Asoke K. Sen, printed as No. 41 in List No. 6 of amendments,—

for "has been given a reasonable opportunity of making representation on the penalty"

substitute—

—“has also been given a reasonable opportunity of being heard in respect of the penalty” (53).

**Shri Priya Gupta:** I beg to move:

(i) That in the amendment proposed by Shri Asoke K. Sen, printed as No. 41 in List No. 6 of amendments,—

for “representation on” substitute—

“representation against” (51).

(ii) That in the amendment proposed by Shri Asoke K. Sen, printed as No. 41 in List No. 6 of amendments,—

omit “but only on the basis of the evidence adduced during such inquiry” (52).

**Shri Hari Vishnu Kamath:** Mr. Speaker, Sir, by a remarkable coincidence today, on May Day, a day sacred to the cause of the workers by head and by hand all over the world, this clause relating to the workers' rights is being discussed in our Parliament, the Lok Sabha. (*Interruption*). There are workers by head and workers by hand.

**Shri A. K. Sen:** We are workers.

**Shri Hari Vishnu Kamath:** There is no doubt in my mind that the amendment to the clause as has been moved by the Law Minister is a gross invasion of the rights that have been guaranteed to civil employees. Not merely today but even during the British regime the workers have always responded magnificently to the call of the nation and even in 1960, in the days of the general strike, when stringent action was taken against hundreds of workers, the workers behaved with discipline and decorum and dignity. Recently, when the whole nation rose as one man to meet the

challenge of the Chinese invasion, the workers pledged not merely their labour but all their lives for the sacred cause of the nation, it is unfortunate that after this stirring episode in our national history, the Government have thought it fit to curtail the rights guaranteed to the employees.

The Law Minister moved an amendment yesterday—the second amendment—which was read out and now it has been circulated to the Members. He seems to be willing to go half way or perhaps a quarter way to meet the demands of the Opposition. I fail to see why even now there is hesitation, this reluctance—I would not say intransigence, but reluctance,—to restore the article to its original pristine purity. That would be the best way out of the difficulty, the only honourable course for the Government to meet the difficulty now created by themselves. His ex-colleague, the ex-Defence Minister, also criticised him in regard to this measure I am doubtful whether, had he continued as Minister of Defence, he would have said the same thing. Perhaps, as his colleague in the Government he would not have said so. I do not know whether the ex-Defence Minister would welcome such a change with regard to the law and regulations to employees in communist countries in Europe and elsewhere over which he seems to have at times a sneaking affection. I do not know about that—whether he would like a similar change with regard to the Government employees in those countries. But I would plead with the Law Minister to restore the article and drop this amendment not shilly-shally about this measure. Do not move amendments which only make matters worse, to make confusion worse confounded. I would request him to give an assurance to the employees who have stood as one man, who have risen to the nation's call every time, to ensure that their rights are not jeopardised in any manner.

[Shri Hari Vishnu Kamath]

I am told that with regard to the railway employees there is what is called the notorious rule 149, in the Railway Establishment Code or Act, whereby the General Managers are empowered to terminate the services of railway employees without giving any reasons, without any enquiry. If that is so, it is high time....

**Shri A. K. Sen:** Where?

**Shri Priya Gupta:** It is rule 149 of Indian Railway Establishment Code Vol. I, under which without assigning any reasons, they can terminate the services of even confirmed Railway employees.

**Shri Hari Vishnu Kamath:** If that is so—if the hon. Law Minister doubts it . . .

**Mr. Speaker:** He will find out.

**Shri Hari Vishnu Kamath:** If that is so, I would urge that this should be deleted from the Code as soon as possible, and I would urge therefore that my amendments be accepted by the House.

**श्री बड़े :** अध्यक्ष महोदय, यह बलाज जब प्रमोडमेंट के वास्ते सामने आया तो मैं कहना चाहता हूँ कि जितने भी कर्मचारी हैं तथा शासन के कर्मचारी हैं उन के दिल में इसकी लेकर एक डर का भावना घर कर गयी। एक तरफ तो कांग्रेस सोशलिस्टिक पैटर्न आफ सोसाइटी कायम करने जा रही है, ऐसा होते हुए यह समझ में नहीं आता है कि यह सैकंड प्रपोरचुनिटी का जो राइट है उसे यह सरकार क्यों छानने जा रहा है ?

इस के बारे में आनरेबल मिनिस्टर साहब ने जो अर्थ प्रमोडमेंट किया है उसमें यह लिखा है :—

“and where it is proposed, after such enquiry, to impose on him, any such penalty until he has been given a reasonable oppor-

tunity of making representation on the penalty proposed.....”

कांस्टीट्यूशन का जो प्रोरोजनल आर्टिकल ३११ (२) है उसमें यह शब्द लिखे हुए हैं :—

“..... until he has been given a reasonable opportunity of showing cause against the action proposed to be taken.....”

अब रीजनेबल प्रपोरचुनिटी ऑफ मीकिंग रिप्रेजेंटेशन इसका मतलब शोइंग काज, कैसे हो गया ? माननीय मन्त्री प्रोरोजनल आर्टिकल का जो वर्डिज है उनको कायम नहीं रखना चाहते हैं। मेरा कहना है कि उसमें गवर्नमेंट जो संशोधन कर रहा है उसका उद्देश्य कर्मचारियों का जो सैकंड प्रपोरचुनिटी का हक है उसको नष्ट करना है। संविधान की वर्तमान शब्दावली के कायम रहने से कभी कभी हाईकोर्ट्स में शासन को नाचा देखना पड़ता है, उससे शासन इसमें संशोधन करके हमेशा के लिये खत्म कर देना चाहता है। इसी कारण कर्मचारियों के इस बुनियादी हक पर इस प्रकार से कुठाराघात हो रहा है।

अगर यह सरकार दरअसल दिल से इस देश में सोशलिस्टिक पैटर्न आफ सोसाइटी जो कायम करना चाहती है और यह चाहती है कि सरकारी कर्मचारियों के राइट्स पर कुठाराघात न हो और वे सुरक्षित रहे और जैसा कि कल हाउस में मन्त्री महोदय ने कहा भी है तो मैं कहता हूँ कि उनको यह शोइंग काज रखने में कौनसा आपात्त है ?

इसलिए मैं कहता हूँ कि अगर केवल यहाँ रहेगा कि वह अपना रिप्रेजेंटेशन लिख कर दे सकता है तो वह पर्याप्त न होगा और इसलिए मैं पुनः कहता हूँ कि यह रिप्रेजेंटेशन का शब्द निकलना चाहिए और उसके बजा शोइंग काज जैसा कि पहले था वही कायम रहना चाहिए। मैंने यह देखा है कि आज के जैसा शासन का रवैया जनता के प्रति है उसके

मुकाबले जब कांस्टीट्यूशन बन रहा था और पास किया जा रहा था तब शासन की जनता के प्रति उदार कल्पना थी। अब सरकार धीरे-धीरे उस कल्पना को निकाल कर एक दूसरी कल्पना को अपना रहा है और जनता के हकों को अपने हाथ में लेकर एक ब्यूरोक्रेटिक गवर्नमेंट और हिटलर का गवर्नमेंट स्थापित करने और अतंक जमाने के उद्देश्य से काम कर रहा है। मैं कहना चाहता हूँ कि डेमोक्रेसी में पोलिटिकल पार्टीज का स्थान होता है और उन पोलिटिकल पार्टीज में प्रजा सोशलिस्ट पार्टी, जनसंघ और कम्युनिस्ट पार्टी जैसी अर्जोर्जाशन पार्टियां भी हैं। यदि कोई भी एक अधि कर्मचारी मेरे पास या जनसंघ के पास गया, तो अट उसके खिलाफ एप्लीकेशन दे दी जाती है, क्योंकि जो छोटे-छोटे नेता और छटभंये नेता होते हैं, वे उस कर्मचारी के खिलाफ आरोप लगाने लगते हैं। इस अवस्था में उसके विरुद्ध एन्क्वायरी करने के बाद उस को सैकंड अपार्टूनिटी न देना उचित नहीं है। डेमोक्रेसी में गांव-गांव में पोलिटिकल पार्टीज का वातावरण रहता है। इसलिए कर्मचारियों के हकों को कायम रखने के लिए माननीय मंत्री जी को अरिजिनल क्लॉज को ही रखना चाहिए। तभी जनता और साधारण कर्मचारियों में शासन के प्रति विश्वास उत्पन्न होगा।

16 hrs.

**Shri Prabhat Kar:** Sir, I request the Law Minister to withdraw the amendment sought to be made in article 311. So far as the amendment that he has now moved is concerned, no doubt he has granted a little concession, but it does not go a long way. So far as the civil servants are concerned, the fundamental right which is guaranteed to them under article 311 is sought to be taken away. There cannot be any presumption that this summary power will not be exercised arbitrarily. Up till now it has not been explained by the hon. Minister as to why it was necessary to amend this

article 311. This article has given certain rights to the civil servants who are denied ordinary rights under the industrial legislation. Under these circumstances, to take away this fundamental right and put them at the mercy of the officers at this particular moment is wrong. Already we know what part they have played in building up the administration. These employees have manifested their intelligence and integrity during the days of the emergency. At this particular moment, to ask Parliament to amend this article 311 is very wrong. All those who gave evidence before the Joint Committee on this matter have spoken against this amendment. From every section of the House there have been requests to the Law Minister that there should not be any amendment of article 311. Therefore, I request the hon. Law Minister, even now, to withdraw the amendment of article 311.

**Shri Priya Gupta:** Sir, I rise to oppose the amendment proposed by the Law Minister. Just imagine what the other countries in the world will say. They will say that the rights of the labourers in India have been curtailed and the party running the Government must have changed. There has been some change in those who are the party in power. What is the change? After independence, there came the Avadi Congress session and the Congress Party took the decision to become socialistic—establish socialist pattern of society. That they are going to implement today by curtailing further rights of the labourers. This is the view others outside will take, because whenever there is a fundamental change in the country, outsiders look at it and ask, what is the reason.

The hon. Labour Minister is sitting over there. I would appeal to him, to kindly refer to the Resolution on the industrial truce that was agreed upon by the different central organisations of labour, the employers and the Government, and it was decided that no unilateral decision in respect of the



[Shri Priya Gupta]

service conditions will be taken in view of the emergency. Now there is a clear unilateral departure from it on the part of Government. When somebody said in the Rajya-Sabha that in the time of emergency, the right to strike should be taken away, our Labour Minister was pleased to say, "No; this right must remain". I do not understand how this amendment is being made now. Already there is provision in rule 149 of Indian Railway Establishment Code Vol. I, that an employee's job can be taken away without any reason being assigned. If you look at this paragraph, there is also provision that this can be done even if employees are permanent and confirmed. I do not understand this. I appeal to the Law Ministry and the Home Ministry also that if these things are done, these will be rather curtailing the rights of the labourers. I think this has been done due to the change of conception of "Rights", the Congress Party had due to the unnoticed infiltration into their minds of Communist ideology of curtailment of civic rights, during the Chinese aggression on India. The labourers will not tolerate it. We will have it restored. When we get power, we will show how the Government runs more smoothly taking the labour into confidence. I protest and request the Law Minister not to take this unwarranted step. This is just curtailment of the fundamental rights given under the Constitution of India.

Dr. L. M. Singhvi: Sir, so stupendous is the Government's decision, so large is the number of people involved in this proposed amendment before us and so great is the likelihood of the State emerging as the main employer in the country in not unforeseeable future, that the concern expressed has been countrywide in this matter. I feel that the detailed memoranda and emphatic evidence tendered before the Joint Committee are proof positive of the fact that the amendments of the Government initially proposed were

looked at with great apprehension. I am glad that in response to the legitimate pressure from the Members of Parliament and indeed from all sections of the country, the Government have finally agreed to omit the proposed removal of guarantee in respect of the reduction of rank, which is at present on par with termination and removal.

The Government had not agreed to allow at the Joint Committee stage the continuance of a second opportunity in respect of the proposed penalty to be inflicted on an employee. Now the Law Minister has come forward with an amendment which I welcome, though it is entitled to our endorsement only partially. The Law Minister has proposed that the second opportunity would remain, but that it would be only on the basis of the evidence adduced at the enquiry. The distinguished Law Minister has said that the matter is not free from doubt, but perhaps that is not the correct position. What is sought to be provided now is mere representation. A representation, we very well know, is a very mechanical device; if we know the various official echelons in the bureaucracy in the country, we know it very well that the destination of a representation is the waste paper basket, with a short stoppage on the table of the official concerned. As a matter of fact, even the second opportunity has quite often been an illusion, but I feel the Government need not destroy that illusion, and need not cause alarm and apprehension in the country. I feel the Government should actually proceed to provide for a more effective appeal on record so that the legitimate grievances of employees who may have been victims of illegal or wilful actions by their superiors may be remedied.

With these words, I commend the amendment which I have proposed and put before the House, namely, that the employee would have the opportunity of being heard in respect of the

penalty proposed to be awarded to him.

**Shri Ranga:** Sir, I endorse all that has been said by my hon. friends on this side of the House belonging to different parties. I am opposed to this amendment that is proposed by the hon. Law Minister. Even ordinarily it is a dangerous thing, because an employee however high placed he may be is always in danger of being treated in an arbitrary manner by his superior. Especially in civil service that danger becomes even more glaring, more intolerable. When we know for a fact through our own bitter experience during the past sixteen years of our freedom that more and more of politics is being brought into all these disputes that arise in regard to the activities of our civil servants and all those who have got to work with them, it is not possible I am sure for the Law Minister to gainsay the experience that we are having all over that political interests are coming more and more into play and people who are in authority in politics are trying to interfere, not in all cases but in some cases at least, with the freedom or with the power to use their sense of responsibility and their discretion which is vested in so many of our civil servants. Whichever employee fails to kowtow to their political superiors is in danger of being victimised, punished, demoted and made to suffer various other disabilities because of the frowns that he has won from his political superiors. Therefore, under these circumstances, it is much better for us not to make any change at all in the Constitution and we should continue to allow our civil service, which is growing very rapidly, as we all know, and lakhs and lakhs of people are coming within its purview, the privilege of enjoying the protection of the Constitution that was given to them instead of trying to tamper with it.

In conclusion, I would like to say that if we are to upset even this last remnant of independent administra-

tive element through our political impatience with them and their readiness, their courage to exercise the initiative, enterprise and spirit of independence, we are likely to endanger the very foundations of our social life here in our country as it is being buttressed by our Constitution.

So I appeal to the Government and the Congress friends even at this last moment to yield themselves, not so much to the voice of protest but to the voice of warning that is being sounded not from one political opposition party but all opposition parties in this House.

**Some Hon. Members rose—**

**Mr. Speaker:** Hon. Members of the Congress also want to speak on this? We are already very late.

**Shri S. N. Chaturvedi:** Sir, I may be given two minutes.

**Shri D. C. Sharma (Gurdaspur):** There should be some time for the Third Reading.

**Mr. Speaker:** Hon. Members may put one or two questions if they so desire—Shri Chaturvedi.

**Shri S. N. Chaturvedi:** Sir, we have heard one side of the question that has been agitating the minds of everybody, and I want to put the other side of the case. As compared to the common man the Government employees are very well organised and they are almost a privileged class in this country. It is possible sometimes that they might suffer injustice at the hands of their superiors. But for a common man it is very difficult to get redress against an injustice that is done to him by a Government servant. If we compare the opportunities that are afforded for defending themselves in this country with what is given in other countries like the United States, Australia and other countries, we find that they are much better secure and protected here than anywhere else. In other countries a charge-sheet is given and they are asked to submit

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their explanations within five or seven days.

**Shri Priya Gupta:** Let the common man's privilege be given to us; we do not mind it.

**Mr. Speaker:** Order, order. He has had his chance. He should hear others now.

**Shri S. N. Chaturvedi:** I am only pleading that we should look at this question with the background of the common man who is helpless and unorganised, and I dare say that we are voicing vociferously the case of the government servants because they are organised and they have strength behind them. Besides, as I have said, they have ample safeguards to protect them. Here is a study made by the Indian Law Institute about the utility of this second opportunity. I will read out only two or three sentences from this. In the *Disciplinary Proceedings Against Government Servants*, a case study conducted by the Indian Law Institute, it is said:

"It is, therefore, believed on the basis of this study that the second opportunity given to the accused officer in disciplinary proceeding does not seem to be serving any useful function. It only protracts the proceedings". . . Placing a technical construction on the expression 'action proposed' it may be easy for one to ask: what is the harm in giving two opportunities? But it is also difficult to answer the counter question: why should there be two? The explanation that at that stage an accused officer can plead for the reduction in the proposed penalty is not convincing especially after Hukam Chand's case where the Supreme Court not only upheld a notice in which all the possible major penalties were inserted but sought to rationalise it. Even admitting that the above is a valid consideration, still it is not intelligible why a distinct opportunity is to

be given to an accused officer for this limited purpose. He can as well plead for a lesser penalty even if he is given one opportunity. Further, he has ample opportunity to address himself to this aspect in an appeal. Indeed our study discloses that at the appellate stage the accused officers often successfully prosecute their case for the mitigation of the penalties."

Sir, I will quote only one sentence more and then conclude.

**Mr. Speaker:** Is that as long as the previous one?

**Shri S. N. Chaturvedi:** I will quote only one sentence and then conclude. Here it is said:

"In response to the second notice the accused officers almost invariably repeat the very contentions that they had already raised in their defence statement though by that time the stage would be too much advanced to canvass the correctness of findings of fact. Their anxiety even at that stage was not so much to plead for the reduction in the quantum of punishment proposed in the second show-cause notice as to establish their innocence. They would think presumably that such plea might be construed as an admission of guilt. When the disciplinary authority came to a finding of guilt on the basis of the evidence supplied by the accused officer as well as the department during the enquiry, it would be unlikely that he would arrive at the finding of not guilty on repetitious contentions."

This is the other aspect of this question.

**An Hon. Member:** Is it one sentence?

**Mr. Speaker:** There was no full stop in between. Now, the hon. Minister.

**Shri Daji:** Sir, before that, I would like to have half a minute.

**Mr. Speaker:** I have refused others.

**Shri Daji:** I have moved amendments. They have not moved any amendment.

**Mr. Speaker:** I was calling every hon. Member who was present on this side. Only after I exhausted all of them I turned to the other side. If I allow him now, I will have to allow others also.

**Shri Daji:** I only want to ask one clarification from the hon. Minister. That is why I have given the amendment. I want to ask the meaning of the term "on the penalty proposed". Does that not mean that the aggrieved employee can only make submissions regarding deduction of penalty and not against the penalty? That is why I have used the term "against the penalty". It may be on the same evidence. He need not give any further evidence. On the same evidence which has been recorded once, he should be allowed to make submissions in respect of both deduction in penalty and also against it, that he should not be given any penalty at all.

**Shri Bakar Ali Mirza:** This is a fundamental change in the conditions of service of the civil servants. A Government employee cannot get any legal help when the first inquiry is being conducted. That being the case, what advantage the Government are getting except saving some time, I do not know. A number of legal pronouncements have already made the position clear. Further, this has been there for a very long time, even during the British time. So, why make this fundamental change in the conditions of service now?

**Shri A. N. Vidyalkar (Hoshiarpur):** I do not think the amendment that the Law Minister has been pleased to move now will satisfy the requirements of justice. We are

dealing with the punishment, an extreme penalty of removal, discharge or reduction in rank. The penalty being extreme, the requirements of justice demand that the employees should be given full opportunity. Also, psychologically and from the administrative point of view, the acceptance of this amendment will create a situation where the attitude of the officers will grow more stiff and they will take a cue from this amendment as to what their general attitude towards their subordinates during the inquiry should be. Therefore, I am of the opinion that this will not only not meet the requirements of justice, but rather produce contrary results.

**Shri A. K. Sen:** Mr. Speaker, Sir, it is not very often that the civil servant gets a bouquet from everywhere, but on this occasion he has been made the subject matter of a May Day rally—he has been called a labourer, he has been called a worker—and I think the civil servants will be certainly delighted to hear it.

**Shri Prabhat Kar:** He is.

**Shri Hari Vishnu Kamath:** We are all workers.

**Shri A. K. Sen:** He will be happy to know that besides Government, there are others who think of him.

Now, the point is that I am confirmed in my original belief that the Constitution, as it stood, had led many people to think that the expressions used in article 311 enabled the officer concerned, even after the first inquiry, to have more or less a second inquiry. I was told by Shri Daji and others, when the original motion was adopted here, in the Joint Committee and here again now that all that they wanted was the right of representation on the penalty proposed and that they did not think that article 311, as it stands now, provides for a second opportunity, in the sense of a second hearing. Shri Daji has stated in his speech even as late as yesterday:

[Shri A. K. Sen]

"If one inquiry has been gone into before the show-cause notice has been given, it would not be reasonable for him to ask for a second inquiry. That is the considered view."

Then he quotes Khemchand's case and tells me that I have read the case wrongly. Well, after hearing Shri Krishna Menon and others, it is now quite clear that there is a great divergence of view in this matter, and the suggestion that some vital right is being taken away, as voiced by Shri Priya Gupta, even though the Government amendments specifically grant it in so many words the constitutional right to make a representation on the penalty proposed shows that what is needed is not a representation on the penalty proposed but more or less a re-hearing on the question of innocence, as read out from Santhanam Committee's report.

**Shri Priya Gupta:** You do that. Then it is very good. You become more socialist day by day by curtailing of the privileges and rights of the labour!

**Shri Krishna Menon** (Bombay City North): The Law Minister has thought it fit to interpret what I said. What I said was about the removal of the constitutional safeguard.

**Dr. L. M. Singhvi:** Sir, on a point of order. The Law Minister should yield to Shri Menon. When Shri Menon is making a statement, he should yield.

**Shri A. K. Sen:** Shri Menon said that I had interpreted him wrongly and what he said...

**Shri Krishna Menon:** I did not say "wrongly interpreted". I said that he interpreted me. I said that the constitutional safeguard has been removed.

**Shri Ranga:** Sir, on a point of order. When one Member is speak-

ing, you should not allow another Member to stand.

**Shri Tyagi:** Then, how is he standing, Sir? (*Interruptions*)

**Shri Ranga:** He must sit down and not we.

**Mr. Speaker:** Order, order. He repeats the same thing which he accuses in others.

**Shri Prabhat Kar:** The Law Minister is still standing. Let him sit down.

**Shri Ranga:** Even in spite of all this, he is doing the same thing, standing.

**Shri Priya Gupta:** Instead of this, let us come to some serious business.

**Mr. Speaker:** There are some who stand up and begin to interrupt or attempt to interrupt and say something. There are others who remain sitting, even though they are interrupting.

**Shri Ranga:** That does not justify this. Why do you not say this is not in order?

**Mr. Speaker:** Order, order. He is not prepared to listen to me.

**Shri Ranga:** Excuse me, Sir, this does not call for an omnibus observation. I have called your attention to one particular impropriety committed by the Law Minister. We will be content if you will give your simple ruling over it.

**Mr. Speaker:** If there are three or four Members who have raised some points, why should I not refer to all of them?

**Shri Ranga:** You need not refer to all of them.

**Mr. Speaker:** Why not? Why should I not take that opportunity to refer

to all of them? Am I required only to refer to the point of the hon. Member and not of the others, who have also raised some points?

**Shri Ranga:** This is the only point which we have raised.

**Mr. Speaker:** No, no. Others have also raised it, apart from Shri Ranga. I am referring to all of them. This is a specific case that Shri Ranga has referred to. But there are other Members who continue to interrupt. Should the Member in possession of the House keep silent? That is what I was referring to. Some do take objection to some impropriety, as Shri Ranga did, but there are some others who go on interrupting, while they are sitting, and they do not take that much trouble of standing up and then saying something to which the other Member can answer. It is a proper acknowledged procedure that if one hon. Member, be he a Minister or a Member, is in possession of the House, then others have to listen to him patiently. If there is an interruption, courtesy demands that the hon. Member or Minister, who is in possession of the House, should ordinarily yield to him.

**Dr. L. M. Singhvi:** That is what I have suggested.

**Mr. Speaker:** Then, he has to listen to what the interrupter has to say. But, if he does not yield, then the interrupter should sit down and wait for his opportunity when the other Member has finished. That is the procedure and normally every hon. Member should observe that.

**Shri A. K. Sen:** Mr. Speaker, when there is an interruption, particularly when it comes from behind, it is very difficult to watch whether the interrupter has sat down. In this case, by the time I looked back, I found Shri Menon had sat down, and I started answering him.

**Shrimati Renu Chakravartty:** He was standing and still the hon. Minister did not yield or resume his seat.

**Shri A. K. Sen:** Shrimati Chakravartty need not stand up for Shri Menon. He can speak for himself.

**Shrimati Renu Chakravartty:** See the arrogance of the Minister. It is absolutely unbearable.

**Shri C. K. Bhattacharyya:** The hon. Member is sitting and interrupting.

**Shri A. K. Sen:** As I read Shri Menon's observations, I find that Shri Menon has said that a great constitutional safeguard was being taken away by the proposed amendment. I find that we are bringing into the Constitution by the proposed amendment, which I moved yesterday, something in addition to what was there when the Joint Committee had reported, a right which, I was told by hon. Members on the other side, was the only right which was demanded, namely, the right to make a representation on the penalty proposed, because article 311, as will be seen, before it was referred to the Joint Committee, did give a right of representation and a right of hearing on the charges framed against the officer concerned, and a reasonable opportunity of being heard in respect of those charges. What was sought was that even after the hearing on the charges and a conclusion on the facts, the officer should have a right to make a representation on the penalty proposed when the facts are found and the penalty is proposed. It was then, after the representatives of the civil servants had seen me and made it clear that they do not want a right of re-hearing in the matter again and a repetition of the entire proceedings but only a right to represent against the penalty proposed, that I brought this amendment.

[Shri A. K. Sen]

The draft originally given to me only mentioned the words "on the evidence already adduced" and I changed those words into "on the evidence adduced during the inquiry". The enquiry that I had in the Lobby, one from Shri Daji, was whether the expression "right of representation on the penalty proposed" was equivalent to "against the penalty proposed". I can understand that, but to say that a great constitutional safeguard is being taken away is in my submission completely unfounded.

**Shri Frank Anthony** (Nominated—Anglo-Indians): May I ask the hon. Law Minister one question?

**Mr. Speaker:** If he yields.

**Shri Frank Anthony:** I agree entirely that this amendment merely spells out the decision of the Supreme Court. The Supreme Court said clearly that the second opportunity is only an opportunity to represent against the penalty proposed. Then why not leave article 311 as it was? Unfortunately, for no rhyme or reason laymen, MPs are suspecting that because you are changing it, you are taking it away. Actually this merely spells out the Supreme Court judgement.

**Shri A. K. Sen:** Shri Anthony and others will remember that the decision of the Supreme Court makes it quite clear that the second opportunity was merely an opportunity to make a representation on the penalty proposed. If that is so, I said, there was no harm in having it clarified.

**Shri Hari Vishnu Kamath:** Why amend the article?

**Shri A. K. Sen:** Because there are persons of responsibility, like, Shri Menon, who think that a great constitutional safeguard is being taken away. If that is so, the Government is entitled to make it clear. . . . (*Interruption*). I am afraid I cannot make it clear further. The Government having regard to the decision of the

Supreme Court is entitled to make the matter clear beyond doubt so that there will be no controversy on the question

**Shri Priya Gupta:** Are you not satisfied with the Supreme Court's clarification?

**Shri A. K. Sen:** Now the next question is about the clarification of this question as to whether opportunity to make representation on the penalty proposed is as good as "against the penalty proposed". In my submission—and of course—"opportunity to make a representation on the penalty proposed" is as good as "opportunity against the penalty proposed". In fact, it is a little wider because it need not be confined to "against the penalty" but may cover anything connected with the penalty. Therefore in my submission when we put the words "on the penalty", we have a mind to make it as comprehensive as possible to make representation connected with the penalty.

This disposes of most of the objections. If it is agreed that what the Government proposes to do by the new amendment is only what the Supreme Court has made clear in the course of its decision—if that was the position—we should make it clear because every time this comes up we are told that the second opportunity is something wider than an opportunity to make a representation merely on the penalty proposed, as we have heard here. I quite concede that these submissions are made genuinely under a genuine impression that this is the law, namely, that the second opportunity is much wider than what has been construed by judicial authorities and what the Government considers to be the proper scope of the article. Because of these misapprehensions it has been thought absolutely necessary to put such an important article beyond any shadow of doubt.

**Mr. Speaker:** Can I put any of these amendments to a voice vote?

**Shri Hari Vishnu Kamath:** No, Sir; I would press for a division.

**Shri Bade:** I would also press for a division.

**Shri Prabhat Kar:** I also will press for a division.

**Mr. Speaker:** There is no amendment to clause 11. Is Shri Tyagi going to move his amendment No. 7 for the insertion of New Clause 11 A?

**Shri Tyagi:** I had given notice of an amendment to clause 11. I wanted to move amendment No. 8.....

**Mr. Speaker:** No. 7 is not moved then.

**Shri Tyagi:** No, Sir.

**Mr. Speaker:** Shri Muhammad Ismail is not here; so, his amendment also goes. Then what about amendment No. 8 for insertion of New Clause 13?

**Shri Tyagi:** This is an amendment which I proposed to move because I felt that there were a number of judges who were retiring during the course of consideration of this Bill, but in deference to the opinion of some of the hon. friends on this side....

**Shri A. P. Jain (Tumkur):** Mine also.

**Shri Tyagi:** .... advocates and those who are well-versed with law—I also had a doubt—that an amendment to the Constitution which would give retrospective effect would not look very well, in the hope that Government will accommodate these retiring judges under another clause, I do not feel like moving this amendment. I feel that I must respect the wishes and the comments of learned people on this side.

**Mr. Speaker:** So, this amendment is not moved. Now I am putting the clauses to the vote of the House one by one. Every clause is to be voted upon. So, let the lobbies be cleared..

The question is:

“That clause 2 stand part of the Bill”.

Division.

**Shri Tyagi:** We could not understand this.

**Mr. Speaker:** I could not follow what the objection was. I was directly calling for the division because nothing can be decided by a voice vote here. That statutory majority is necessary in any case. Therefore, voice vote is not necessary. The hon. Members should get ready now. I am calling for the division.

**Shri Radhelal Vyas (Ujjain):** Some of the Members who just came do not know on what clause the division is.

**Mr. Speaker:** I am putting it again.

The question is:

“That clause 2 stand part of the Bill.”

*The Lok Sabha divided*

\*Division No. 27

**Mr. Speaker:** The result of the division is:

Ayes—300

Noes—9

The ‘Ayes’ have it, the ‘Ayes’ have it. The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

*The motion was adopted.*

*Clause 2 was added to the Bill.*

\*The names of the Members could not be recorded due to mechanical defect in the voting machine.



**Mr. Speaker:** The question is:

"That clause 3 stand part of the Bill".

*The Lok Sabha divided.*

\*Division No. 28

**Mr. Speaker:** The result of the division is:

*Ayes—288*

*Noes—35*

The 'Ayes' have it, the 'Ayes' have it. The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

*The motion was adopted.*

*Clause 3 was added to the Bill.*

**Mr. Speaker:** Clause 4: amendment No. 25.

The question is:

Page 1. omit lines 15 and 16. (25)

*The Lok Sabha divided.*

\*Division No 29

**Some Hon. Members rose—**

**Mr. Speaker:** Four more for 'Noes' and one more for 'Aves'.

The result of the Division is:

*Ayes 37; Noes 288.*

The 'Noes' have it: the 'Noes' have it; the amendment is lost.

*The motion was negatived.*

**Mr. Speaker:** The question is:

Page 2, for lines 3 to 6. substitute—

"(3) If any question arises as to the age of a Judge of a High Court, the question shall be decid-

ed by such authority and in such manner as Parliament may by law provide." (31)

*The Lok Sabha divided.*

\*Division No. 30

**Some Hon. Members rose—**

**Mr. Speaker:** Four more for 'Ayes'

The result of the Division is:

*Ayes 32; Noes 290.*

The 'Noes' have it; the 'Noes' have it. The amendment is lost.

*The motion was negatived.*

**Mr. Speaker:** Is every amendment to be divided?

**Shri Hari Vishnu Kamath:** I have no more amendments.

**Some Hon. Members:** Voice vote

**Mr. Speaker:** Any other amendment?

**Shri Kashi Ram Gupta:** Nos. 26 and 30.

**Shri Prabhat Kar:** No. 29

**Mr. Speaker:** The question is:

Page 2, for lines 3 to 6, substitute—

"(3) the age of a Judge of a High Court shall be determined by such authority and in such manner as Parliament may by law provide." (30)

*The motion was negatived.*

**Mr. Speaker:** The question is:

Page 1, line 16, for "sixty-two years", substitute—

"sixty-five years, with no right to practise after retirement," (26).

*The motion was negatived.*

\*The names of the Members could not be recorded due to mechanical defect in the voting machine.

**Mr. Speaker:** I shall now put amendment No. 29 to vote.

The question is:

Page 2, for lines 3 to 6, substitute—

“(3) The age of a Judge of a High Court shall be stated in the warrant of his appointment and the date so stated shall be final.”. (29)

*The motion was negatived.*

**Mr. Speaker:** Amendment No. 29 is lost. All the amendments which were moved to clause 4 are lost. There is no Government amendment to this clause. I shall now put clause 4 to vote.

**Shri Hari Vishnu Kamath:** May I submit that there are two sub-clauses to this clause, and they are wholly unrelated to each other? While one may like to vote for one sub-clause, one may like to vote against the other sub-clause. I think that Government have not been well advised on this matter.

**Mr. Speaker:** At this moment, I might not be able to put them separately.

The question is:

“That clause 4 stand part of the Bill”.

Let the Lobby be cleared.

**Shri Bhagwat Jha Azad** (Bhagalpur): I would like to submit that many of us could not vote in the earlier stages, because the bell was not ringing in the Library and in the adjacent portion of the Parliament House. The bell must be properly tested beforehand. About seven Members were there in the Library, and the bell did not ring there, and, therefore, we have been deprived of our vote on the earlier clauses. I would only like to draw your attention to this that the ringing of the bell should be properly tested in advance.

**Mr. Speaker:** How could the others hear it? Most other Members have

heard it and they have been able to come.

**Shrimati Renu Chakravartty:** It happened the other day also. We were in the Select Committee, and the bell did not ring at all.

**Mr. Speaker:** I shall get it tested again. I shall send some messenger to find out whether the bell is ringing now. Now, the Lobby has been cleared.

The question is:

“That clause 4 stand part of the Bill”.

*The Lok Sabha divided.*

\*Division No. 31

**Mr. Speaker:** The result of the division is: Ayes 291: Noes 37. The ‘Ayes’ have it; the ‘Ayes’ have it. The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

*The motion was adopted.*

*Clause 4 was added to the Bill.*

*Clause 5*

**Mr. Speaker:** I shall now put amendment No. 46 to vote. The question is:

“Page 2, line 16, —for “by order fix” substitute—

“fix by notification to be published in the official Gazette and laid on the Table of both Houses of Parliament as soon as may be”. (46).

*The motion was negatived.*

*Amendment No. 34 was also put and negatived.*

**Mr. Speaker:** The question is:

“That clause 5 stand part of the Bill”.

*The Lok Sabha divided.*

\*The names of the Members could not be recorded due to mechanical defect in the voting machine.

## Division No. 32]

## AYES

[16.55 hrs.

Abdul Rashid, Bakshi	Dhuleshwar Meena, Shri	Kureel, Shri B. N.
Abdul Wahid, Shri T.	Dighe, Shri	Lakhan Das, Shri
Achal Singh, Shri	Dinesh Singh, Shri	Lakshmikanthamma, Shrimati
Achuthan, Shri	Dubey, Shri R. G.	Lalit Sen, Shri
Akkamma Devi, Shrimati	Dwivedi, Shri M. L.	Laskar, Shri N. R.
Alagesan, Shri	Ering, Shri D.	Laxmi Bai, Shrimati
Alva, Shri A. S.	Firodia, Shri	Lonikar, Shri
Alva, Shri Joachim	Gaekwad, Shri Fatehsinharao	Mahtab, Shri
Aney, Dr. M. S.	Gahmari, Shri	Maimoona Sultan, Shrimati
Anjanappa, Shri	Gaitonde, Dr.	Malaviya, Shri K. D.
Arunachalam, Shri	Gajraj Singh Rao, Shri	Malhotra, Shri Inder J.
Azad, Shri Bhagwat Jha	Gandhi, Shri V. B.	Malliah, Shri U. S.
Babunath Singh, Shri	Ganga Devi, Shrimati	Mallick, Shri
Bajaj, Shri Kamalnayan	Ghosh, Shri Atulya	Manaan, Shri
Bal Krishna Singh, Shri	Ghosh, Shri N. R.	Mandal, Dr. P.
Baakrishnan, Shri	Goni, Shri Abdul Ghani	Mandal, Shri J.
Balmiki, Shri	Gopalan, Shri A. K.	Mandal, Shri Yamuna Prasad
Banerjee Dr. R.	Govind Das, Dr.	Maniyangadan, Shri
Barkataki, Shrimati Renuka	Guha, Shri A. C.	Mantri, Shri
Barupal, Shri P. L.	Gupta, Shri Priya	Maruthiah, Shri
Basant Kunwari, Shrimati	Gupta, Shri Ram Ratan	Masuriya Din, Shri
Basappa, Shri	Gupta, Shri Shiv Charan	Matcharaju, Shri
Basumatari, Shri	Hajrmaavis, Shri	Mehdi, Shri S. A.
Baswant, Shri	Hansda, Shri Subodh	Mehrotra, Shri Braj Bihari
Berwa, Shri Onkarlal	Hanumanthaiya, Shri	Mehta, Shri J. R.
Besra, Shri	Haq, Shri M. M.	Melkote, Dr.
Bhagat, Shri B. R.	Hazarika, Shri J. N.	Mengi, Shri Gopal Datt
Bhakt Darshan, Shri	Heda, Shri	Menon, Shri Krishna
Bhanja Deo, Shri L. N.	Himatsingka, Shri	Mirza, Shri Bakar Ali
Bhargava, Shri M. B.	Himmatsinhji, Shri	Mishra, Shri Bibhuti
Bhatkar, Shri	Imbichibava, Shri	Mishra, Shri Bibudhendra
Bhattacharyya, Shri C. K.	Iqbal Singh, Shri	Mishra, Shri M. P.
Bhattacharya, Shri Dinen	Jadhav, Shri M. L.	Misra, Dr. U.
Bist, Shri J. B. S.	Jadhav, Shri Tulshidas	Misra, Shri Mahesh Dutta
Brahm Prakash, Shri	Jagjivan Ram, Shri	Mohanty, Shri G.
Brajeshwar Prasad, Shri	Jain, Shri A. P.	Mohiuddin, Shri
Brij Basi Lal, Shri	Jamunadevi, Shrimati	Mohsin, Shri
Chakravartty, Shrimati Renu	Jayaraman, Shri	Morarka, Shri
Chakraverti, Shri P. R.	Jedhe, Shri	More, Shri K. L.
Chanda, Shrimati Jyotana	Joahi, Shri A. C.	More, Shri S. S.
Chandrasekhar, Shrimati	Jyotishi, Shri J. P.	Mukane, Shri
Chaturvedi, Shri S. N.	Kabir, Shri Humayun	Mukerjee, Shri H. N.
Chaudhry, Shri C. L.	Kadadi, Shri	Mukerjee, Shrimati Sharda
Chaudhuri, Shri Sachindra	Kamble, Shri	Murmu, Shri Sarkar
Chaudhuri, Shrimati Kamala	Kanungo, Shri	Murthy, Shri B. S.
Chavan, Shri D. R.	Kappen, Shri	Murti, Shri M. S.
Chavda, Shrimati	Kapur Singh, Shri	Musafir, Shri G. S.
Chettiar, Shri Ramanathan	Kar, Shri Prabhat	Muthiah, Shri
Chuni Lal, Shri	Karuthirumān, Shri	Naidu, Shri V. G.
Dafle, Shri	Kedaria, Shri C. M.	Naik, Shri D. J.
Daji, Shri	Khadilkar, Shri	Naik, Shri Maheswar
Daljit Singh, Shri	Khan, Shri Osman Ali	Nair, Shri Vasudevan
Das, Dr. M. M.	Khanna, Shri Mehr Chand	Nanda, Shri
Das, Shri N. T.	Khanna, Shri P. K.	Naskar, Shri P. S.
Das, Shri Sudhanau	Kindar Lal, Shri	Nayak, Shri Mohan
Dasappa, Shri	Kisan Veer, Shri	Nayar, Dr. Sushila
Datta, Shri C.	Kripa Shankar, Shri	Nehru, Shri Jawaharlal
Deo Bhan, Shri F. C.	Krishna, Shri M. R.	Nigam Shrimati Savitri
Deshmukh, Shri B. D.	Krishnamachari, Shri T. T.	Niranjan Lal, Shri
Deshmukh, Shri Shivaji Rao S.	Krishnapal Singh, Shri	Oza, Shri

Paliwal, Shri	Rao, Shri Krishnamoorthy	Sinha, Shri Satya Narayan
Pande, Shri K. N.	Rao, Shri Muthyal	Sirha, Shrimati Ramdulari
Pandey, Shri R. S.	Rao, Shri Ramapathi	Sinha, Shrimati Tarkeshwar
Pandey, Shri Sarjoo	Rao, Shri Rameshwar	Sinhasan Singh, Shri
Pandey, Shri Vishwa Nath	Rao, Shri Thirumala	Srinavane, Shri
Panna Lal, Shri	Rattan Lal, Shri	Srinivasan Dr. P.
Pant, Shri K. C.	Raut, Shri Bhola	Subramaniam, Shri C.
Paramasivan, Shri	Ray, Shrimati Renuka	Subramanyam, Shri T.
Parashar, Shri	Reddi, Dr. B. Gopala	Sumat Prasad, Shri
Patel, Shri Chhotubhai	Reddiar, Shri	Sunder Lal, Shri
Patel, Shri Man Singh P.	Reddy, Shri Yallamanda	Surendra Pal Singh, Shri
Patel, Shri N. N.	Reddy, Shrimati Yashoda	Swamy, Shri M. P.
Patel, Shri P. R.	Roy, Dr. Saradiab	Swarn Singh, Shri
Patil, Shri D. S.	Roy, Shri Bishwanath	Tahir, Shri Mohammad
Patil, Shri M. B.	Sadhu Ram, Shri	Tantia, Shri Rameshwar
Patil, Shri S. B.	Saha, Dr. S. K.	Thimmaiah, Shri
Patil, Shri S. K.	Sahu, Shri Rameshwar	Thomas, Shri A. M.
Patil, Shri T. A.	Saigal, Shri A. S.	Tiwary, Shri D. N.
Patnaik, Shri B. C.	Samanta, Shri S. C.	Tiwary, Shri R. S.
Pattabhi Raman, Shri C. R.	Sanji Rupji, Shri	Tombi, Shri
Pillai, Shri Nataraja	Saraf, Shri Sham	Tripathi, Shri Krishna Deo
Pottekkatt, Shri	Sarma, Shri A. T.	Tyagi, Shri
Prabhakar, Shri Naval	Satyabhama Devi, Shrimati	Uikey, Shri
Pratap Singh, Shri	Sen, Dr Ranen	Ulaka, Shri
Puri, Shri D. D.	Sen, Shri A. K.	Upadhyaya, Shri Shiva Dutt
Raghavan, Shri A. V.	Sen Shri P. G.	Vaishya, Shri M. B.
Raghunath Singh, Shri	Shah, Shri Manabendra	Varma, Shri Ravind
Raghubaraiiah, Shri	Shah, Shrimati Jayben	Veerabasappa, Shri
Rai, Shrimati Sahodrabai	Sham Nath, Shri	Veerappa, Shri
Raj Bahadur, Shri	Shankaraiya, Shri	Venkatasubbaiah, Shri P.
Raja, Shri C. R.	Sharma, Shri A. P.	Verma, Shri Balgovind
Raju, Dr. D. S.	Sharma, Shri D. C.	Verma, Shri K. K.
Ram, Shri T.	Sharma, Shri K. C.	Vidyalankar, Shri A. N.
Ram Sewak, Shri	Shashi Ranjan, Shri	Vimla Devi, Shrimati
Ram Subhag Singh, Dr.	Shastri, Shri Lal Bahadur	Virbhadra Singh, Shri
Ram Swarup, Shri	Shastri, Shri Ramanand	Vyas, Shri Radhelal
Ramakrishnan, Shri P. R.	Sheo Narain, Shri	Wadiwa, Shri
Ramaswamy, Shri S. V.	Shinde, Shri	Warior, Shri
Ramaswamy, Shri V. K.	Shree Narayan Das, Shri	Wasnik, Shri Balkrishna
Ramdhani Das, Shri	Shrimali, Dr. K. L.	Yadav, Shri N. P.
Rananjai Singh, Shri	Siddiah, Shri	Yadav, Shri Ram Harkh
Rane, Shri	Sidheshwar Prasad, Shri	Yadava, Shri B. P.
Ranga Rao, Shri	Singh, Shri D. N.	Yusuf, Shri Mohammad
Rao, Dr. K. L.	Singh, Shri K. K.	
Rao, Shri Jaganatha	Singh, Shri R. P.	

## NOES

Bade, Shri	Ranga, Shri	Swamy, Shri Sivamurthi
Gupta, Shri Kashi Ram	Reddy, Shri Narasimha	Tan Singh, Shri
Kamath, Shri Hari Vishnu	Shashank Manjri, Shrimati	Utiya, Shri
Marandi, Shri	Singhvi, Dr. L. M.	

**Mr. Speaker:** The result of the Division is: Ayes 313; Noes 11.

The 'Ayes' have it; the 'Ayes' have it. The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

*The motion was adopted.*

*Clause 5 was added to the Bill.*

## Clause 6

**Mr. Speaker:** The question is:

"Page 2, line 18,—for "sixty-two years" substitute—"sixty-five years". (35).

*The motion was negatived.*

**Mr. Speaker:** The question is:

"Page 2, line 18,—for "sixty-two years" substitute—"sixty-four years". (47)

*The motion was negatived.*

**Mr. Speaker:** The question is:

"That clause 6 stand part of the Bill".

*The Lok Sabha divided:*

**Division No. 33]**

**AYES**

**[16.57 hrs.**

Abdul Rashid, Bakshi  
Abdul Wahid, Shri T.  
Achal Singh, Shri  
Achuthan, Shri  
Akkamma Devi, Shrimati  
Alagesan, Shri  
Alva, Shri A. S.  
Alva, Shri Joachim  
Aney Dr. M. S.  
Anjanappa, Shri  
Arunachalam, Shri  
Azad, Shri Bhagwat Jha  
Babunath Singh, Shri  
Bajaj, Shri Kamalnayan  
Bal Krishna Singh, Shri  
Balakrishnan, Shri  
Balmiki, Shri  
Banerjee, Dr. R.  
Barkatki Shrimati Renuka  
Barupal Shri P. L.  
Basant Kunwari, Shrimati  
Basappa, Shri  
Basumatari, Shri  
Baswant, Shri  
Besra, Shri  
Bhagat Shri B. R.  
Bhakt Darshan, Shri  
Bhanja Deo, Shri L. N.  
Bhargava, Shri M. B.  
Bhatkar Shri  
Bhattacharyya, Shri. C. K.  
Bhattacharya, Shri Dinen  
Bisai, Shri J. B. S.  
Brahm Prakash, Shri  
Brajeshwar Prasad, Shri  
Brij Basi Lal, Shri  
Chakravarty, Shrimati Renu  
Chakraverti, Shri P. R.  
Chanda, Shrimati Jyotona  
Chandrasekhar, Shrimati  
Chaturvedi, Shri S. N.  
Chaudhry, Shri C. L.  
Chaudhuri, Shri Sachindra  
Chauchuri, Shrimati Kamala  
Chavan, Shri D. R.  
Chavda, Shrimati  
Chettiar, Shri Ramanathan  
Chuni Lal Shri  
Dafre, Shri  
Daljit Singh, Shri  
Das, Dr. M. M.  
Das, Shri N. T.  
Das, Shri Sudhanu

Dasappa, Shri  
Dass, Shri C.  
Deo Bhanj, Shri P. C.  
Deshmukh, Shri B. D.  
Deshmukh, Shri Shivaji Rao  
Dhuleshwar Meena, Shri  
Dighe, Shri  
Dinesh Singh, Shri  
Dubey, Shri R. G.  
Dwivedi, Shri M. L.  
Ering, Shri D.  
Firodia, Shri  
Gaekwad, Shri Farchunhrao  
Gahmari, Shri  
Gaitonde, Dr.  
Gajraj Singh Rao, Shri  
Gandhi, Shri V. B.  
Ganga Devi, Shrimati  
Gosh, Shri Atulya  
Ghoosh, Shri N. R.  
Goni, Shri Abdul Ghani  
Gopalan Shri A. K.  
Govind Das, Dr.  
Guha, Shri A. C.  
Gupta, Shri Ram Ratan  
Gupta, Shri Shiv Charan  
Hajarnavis, Shri  
Hansda, Shri Subodh  
Hanumanthaiya, Shri  
Haq, Shri M. M.  
Hazarika, Shri J. N.  
Heda, Shri  
Himatsingka, Shri  
Himmatsinghi, Shri  
Imbichibava, Shri  
Iqbal Singh Shri  
Jadhav, Shri M. L.  
Jadhav, Shri Tulahidas  
Jagjivan Ram, Shri  
Jain, Shri A. P.  
Jamunadevi, Shrimati  
Jayaraman, Shri  
Jedhe, Shri  
Joshi, Shri A. C.  
Jyotishi, Shri J. P.  
Kabir, Shri Humayun  
Kadadi, Shri  
Kamble, Shri  
Kanungo, Shri  
Kappen, Shri  
Kar, Shri Prabhat  
Karuthiruman, Shri  
Kedarla, Shri C. M.

Khadilkar, Shri  
Khan, Shri Osman Ali  
Khanna, Shri Mehr Chand  
Khanna, Shri P. K.  
Kindar Lal, Shri  
Kishan Veer, Shri  
Koya, Shri  
Kripa Shankar, Shri  
Krishna, Shri M. R.  
Krishnamachari, Shri T. T.  
Kureel, Shri B. N.  
Lakhan Das, Shri  
Lakshminanthamma, Shrimati  
Lalit Sen, Shri  
Laskar, Shri N. R.  
Laxmi Bai, Shrimati  
Lonikar, Shri  
Mahatab, Shri  
Maimoona Sultan, Shrimati  
Malaviya, Shri K. D.  
Malhotra, Shri Inder J.  
Malliah, Shri U. S.  
Mallick, Shri  
Manaan, Shri  
Mandal, Dr. P.  
Mandal, Shri B. N.  
Mandal, Shri Yamuna Prasad  
Maniyangadan, Shri  
Mantri, Shri  
Maruthiah, Shri  
Masuriya Din, Shri  
Matcharaju, Shri  
Mehdi, Shri S. A.  
Mehrotra, Shri Braj Bihar  
Mehtre, Shri J. R.  
Melkote, Dr.  
Mengli, Shri Gopal Datt  
Menoa, Shri Krishna  
Mirza, Shri Bakar Ali  
Mishra, Shri Bibhuti  
Mishra, Shri Bibudhendra  
Mishra, Shri M. P.  
Misra, Dr. U.  
Misra, Shri Mahesh Dutta  
Mohanty, Shri G.  
Mohiuddin, Shri  
Mohain, Shri  
Morarka, Shri  
More, Shri K. L.  
More, Shri S. S.  
Mukane, Shri  
Mukerjee, Shri H. N.  
Mukerjee, Shrimati Sharda

Murmu, Shri Sarkar	Ram Subhag Singh, Dr.	Shrimali, Dr. K. L.
Murthy Shri B. S.	Ram Swarup, Shri	Siddiah, Shri
Murti, Shri M. S.	Ramakrishnan, Shri P. R.	Sidheshwar Prasad, Shri
Musafir, Shri G. S.	Ramaswamy, Shri S. V.	Singh, Shri D. N.
Muthiah, Shri	Ramaswamy, Shri V. K.	Singh, Shri K. K.
Naidu, Shri V. G.	Ramdhani Das, Shri	Singh, Shri R. P.
Naik, Shri D. J.	Rananjai Singh, Shri	Sinha, Shri Satya Narayan
Naik Shri Maheswar	Rane, Shri	Sinha, Shrimati Ramdulari
Nair, Shri Vasudevan	Ranga, Shri	Sinha, Shrimati Tarkeshwari
Nanda, Shri	Ranga Rao, Shri	Sinhasan Singh, Shri
Naskar, Shri P. S.	Rao, Dr. K. L.	Sonavane, Shri
Nayak, Shri Mohan	Rao, Shri Jagannatha	Srinivasan, Dr. P.
Nayar, Dr. Sushila	Rao, Shri Krishnamoorthy	Subbaraman, Shri
Nehru, Shri Jawaharlal	Rao, Shri Muthyal	Subramaniam, Shri C.
Nagam, Shrimati Savitri	Rao, Shri Ramapathi	Subramanyam, Shri T.
Niranjan Lal, Shri	Rao, Shri Rameshwar	Sumat Prasad, Shri
Oza, Shri	Rao, Shri Thirumala	Sunder Lal, Shri
Paliwal, Shri	Rattan Lal, Shri	Surendra Pal Singh, Shri
Pande, Shri K. N.	Raut, Shri Bhol	Swamy, Shri M. P.
Pandey, Shri R. S.	Ray, Shrimati Renuka	Swaran Singh, Shri
Pandey, Shri Sarjoo	Reddi, Dr. B. Gopala	Tahir, Shri Mohammad
Pandey, Shri Vishwa Nat	Reddiar, Shri	Tantia, Shri Rameshwar
Panna Lal, Shri	Reddy, Shri Yallamanda	Thimmaiah, Shri
Pant Shri K. C.	Reddy, Shrimati Yashoda	Thomas, Shri A. M.
Paramasivan, Shri	Roy, Dr. Saradish	Tiwary, Shri D. N.
Parashar, Shri	Roy, Shri Bishwanath	Tiwary, Shri R. S.
Patel, Shri Chhotubhai	Sadhu Ram, Shri	Tombi, Shri
Patel, Shri Man Singh P.	Saha, Dr. S. K.	Tripathi, Shri Krishna Deo
Patel, Shri N. N.	Sahu, Shri Rameshwar	Tyagi, Shri
Patel, Shri P. R.	Saigal, Shri A. S.	Uikey, Shri
Patil, Shri D. S.	Samanta, Shri S. C.	Ulaka, Shri
Patil, Shri M. B.	Sanji Rupji, Shri	Upadhyaya, Shri Shiva Dutt
Patil, Shri S. B.	Saraf, Shri Sham Lal	Vaishya, Shri M. B.
Patil, Shri S. K.	Sarma, Shri A. T.	Varma, Shri Ravindra
Patil, Shri T. A.	Satyabhama Devi, Shrimati	Veerabasappa, Shri
Patnaik, Shri B. G.	Sen, Dr. Ranen	Veerappa, Shri
Pattabhi Raman, Shri C. R.	Sen, Shri A. K.	Venkatasubbaiah, Shri P.
Pillai, Shri Nataraja	Sen, Shri P. G.	Verma, Shri Balgovind
Pottekkatt, Shri	Shah, Shri Manabendra	Verma, Shri K. K.
Prabhakar, Shri Naval	Shah, Shrimati Jayaben	Vidyalankar, Shri A. N.
Pratap Singh, Shri	Sham Nath, Shri	Vimla Devi, Shrimati
Puri, Shri D. D.	Shankaraiya, Shri	Virbhadra Singh, Shri
Raghavan, Shri A. V.	Sharma, Shri A. P.	Vyas, Shri Radhelal
Raghunath Singh, Shri	Sharma, Shri D. C.	Wadiwa, Shri
Raghuramaiah, Shri	Sharma, Shri K. C.	Warior, Shri
Rai, Shrimati Sahodrabai	Shashi Ranjan, Shri	Wasnik, Shri Balkrishna
Raj Bahadur, Shri	Shastri, Shri Lal Bahadur	Yadab, Shri N. P.
Raja, Shri C. R.	Shastri, Shri Ramanand	Yadav, Shri Ram Harkh
Raju, Dr. D. S.	Sheo Narain, Shri	Yadava, Shri B. P.
Ram, Shri T.	Shinde, Shri	Yusuf, Shri Mohammad
Ram Sewak, Shri	Shree Narayan Das, Shri	

## NOES

Bade, Shri	Kamath, Shri Hari Vishnu	Soy, Shri H. C.
Berwa, Shri Onkarlal	Mahto, Shri Bhajahari	Swamy, Shri Sivamurthi
Chaudhuri, Shri Tridib Kumar	Shashank Manjri, Shrimati	Tan Singh, Shri
Daji, Shri	Marandi, Shri	Utiya, Shri
Gupta, Shri Kashi Ram	Reddy, Shri Narasimha	

**Mr. Speaker:** The result is: Ayes 310; Noes 14.

The 'Ayes' have it; the 'Ayes' have it. The motion is carried by a majority of the total membership of the

House and by a majority of not less than two-thirds of the Members present and voting.

*The motion was adopted.*

*Clause 6 was added to the Bill.*

17 hrs.

17 hrs.

Mr. Speaker: The question is:

Let the Lobby be cleared.

"That clause 7 stand part of the

The Lok Sabha divided:

## Division No. 34]

## AYES

[16.59 hrs.

Abdul Rashid, Bakshi  
 Abdul Wahid, Shri T.  
 Achal Singh, Shri  
 Achuthan, Shri  
 Akkamma Devi, Shrimati  
 Alagesan, Shri  
 Alva, Shri A. S.  
 Alva, Shri Joachim  
 Alva, Shri Joachim  
 Aney, Dr. M. S.  
 Anjanappa, Shri  
 Arunachalam, Shri  
 Azad, Shri Bhagwat Jha  
 Babunath Singh, Shri  
 Bajaj, Shri Kamalnayan  
 Bal Krishna Singh, Shri  
 Balakrishnan, Shri  
 Balmiki, Shri  
 Banerjee, Dr. R.  
 Barkataki Shrimati, Renuka  
 Barupal, Shri P. L.  
 Basappa, Shri  
 Basu, Shri G.  
 Basumatari, Shri  
 Baswant, Shri  
 Beera, Shri  
 Bhagat, Shri B. R.  
 Bhakt Darshan, Shri  
 Bhanja Deo, Shri L. N.  
 Bhargava, Shri M. B.  
 Bhatkar, Shri  
 Bhattacharyya, Shri C. K.  
 Bist, Shri J. B. S.  
 Brahm Prakash, Shri  
 Brajeshwar Prasad, Shri  
 Brij Basi Lal, Shri  
 Chakraverti, Shri P. R.  
 Chanda, Shrimati Jyotana  
 Chandrasekhar, Shrimati  
 Chaturvedi, Shri S. N.  
 Chaudhary, Shri Y. S.  
 Chaudhry, Shri C. L.  
 Chaudhuri, Shri Sachindra  
 Chaudhuri, Shrimati Kamala  
 Chavan, Shri D. R.  
 Chavda, Shrimati  
 Chettiar, Shri Ramanathan  
 Chuni Lal, Shri  
 Daffe, Shri  
 Daljit Singh, Shri  
 Das, Dr. M. M.  
 Das, Shri N. T.  
 Das, Shri Sudhansu  
 Dasappa, Shri  
 Dass, Shri C.

Deo Bhani, Shri P. C.  
 Deshmukh, Shri B. D.  
 Deshmukh, Shri Shivaji Rao S.  
 Dhuleswar Meena, Shri  
 Dighe, Shri  
 Dinesh Singh, Shri  
 Dubey, Shri R. G.  
 Dwivedi, Shri M. L.  
 Ering, Shri D.  
 Firodia, Shri  
 Gaekwad, Shri Fatehsinhrao  
 Gahmari, Shri  
 Gaitonde, Dr.  
 Gajraj Singh Rao, Shri  
 Gandhi, Shri V. B.  
 Ganga Devi, Shrimati  
 Ghosh, Shri Atulya  
 Ghosh, Shri, N. R.  
 Goni, Shri Abdul Ghani  
 Govind Das, Dr.  
 Guha, Shri A. C.  
 Gupta, Shri Ram Ratan  
 Gupta, Shri Shiv Charan  
 Hajarnavis, Shri  
 Hansda, Shri Subodh  
 Hanumanthaiya, Shri  
 Haq, Shri M. M.  
 Hazarika, Shri J. N.  
 Heda, Shri  
 Himatsingka, Shri  
 Iqbal Singh, Shri  
 Jadhav, Shri M. L.  
 Jadhav, Shri Tulshidas  
 Jaijivan Ram, Shri  
 Jain, Shri A. P.  
 Jaganmoadi, Shrimati  
 Jayaraman, Shri  
 Jedhe, Shri  
 Joshi, Shri A. C.  
 Jyotishi, Shri J. P.  
 Kabir, Shri Humayun  
 Kadadi, Shri  
 Kamble, Shri  
 Kanungo, Shri  
 Kappen, Shri  
 Karuthiruman, Shri  
 Kedari, Shri C. M.  
 Khadiikar, Shri  
 Khan, Shri Osman Ali  
 Khanna, Shri Mehr Chand  
 Khanna, Shri P. K.  
 Kindar Lal, Shri  
 Kishan Veer, Shri  
 Kishan Shankar, Shri  
 Kishan, Shri M. R.  
 Krishnamachari, Shri T. T.  
 Kureel, Shri B. N.  
 Lakhan Das, Shri  
 Lakshminanthamma, Shrimati  
 Lalit, Sen, Shri  
 Laskar, Shri N. R.  
 Laxmi Bai, Shrimati  
 Lonikar, Shri  
 Mahtab, Shri  
 Maimoona Sultan, Shrimati  
 Malaviya, Shri K. D.  
 Malhotra, Shri Inder J.  
 Malliah, Shri U. S.  
 Mallick, Shri  
 Manaen, Shri  
 Mandal, Dr. P.  
 Mandal, Shri J.  
 Mandal, Shri Yamuna Prasad  
 Maniyangadan, Shri  
 Mantri, Shri  
 Maruthiah, Shri  
 Masuriya Din, Shri  
 Matcharaju, Shri  
 Mehdi, Shri S. A.  
 Mehrotra, Shri Braj Bihari  
 Mehta, Shri Jashvant  
 Melkote, Dr.  
 Mengi, Shri Gopal Datt  
 Menon, Shri Krishna  
 Mirza, Shri Bakar Ali  
 Mishra, Shri Bibhuti  
 Mishra, Shri Bibudendra  
 Mishra, Shri M. P.  
 Mahesh Dutt Misra, Shri  
 Mohanty, Shri G.  
 Mohiuddin Shri  
 Mohsin, Shri  
 Morarka, Shri  
 More, Shri K. L.  
 More, Shri S. S.  
 Mukane, Shri  
 Mukerjee, Shrimati Sharda  
 Murthy, Shri B. S.  
 Murti, Shri M. S.  
 Musafir, Shri G. S.  
 Muthiah, Shri  
 Naidu, Shri V. G.  
 Naik Shri D. J.  
 Naik, Shri Maheswar  
 Nambiar, Shri  
 Naskar, Shri P. S.  
 Nayak, Shri Mohan  
 Nayar, Dr. Sushila  
 Nehru, Shri Jawaharlal  
 Nigam, Shrimati Savitri

Niranjana Lal, Shri  
Oza, Shri  
Paliwal, Shri  
Pande, Shri K. N.  
Pandey, Shri R. S.  
Pandey, Shri Vishwa Nath  
Panna Lal, Shri  
Pant, Shri K. C.  
Parasivan, Shri  
Parashar, Shri  
Patel, Shri Chhotubhai  
Patel, Shri Man Singh P.  
Patel, Shri N. N.  
Patel, Shri P. R.  
Patil, Shri D. S.  
Patil, Shri M. B.  
Patil, S. B.  
Patil, Shri S. K.  
Patil, Shri T. A.  
Patnaik, Shri B. C.  
Pattabhi Raman, Shri C. R.  
Prabhakar, Shri Naval  
Pratap Singh, Shri  
Puri, Shri D. D.  
Raghunath Singh, Shri  
Raghuramaiah, Shri  
Rai, Shrimati Sahodrabai  
Raj Bahadur, Shri  
Raja, Shri C. R.  
Raju, Dr. D. S.  
Ram Sewak, Shri  
Ram Subhag Singh, Dr.  
Ram Swarup, Shri  
Ramakrishnan, Shri P. R.  
Ramaswamy, Shri S. V.  
Ramaswamy, Shri V. K.  
Ramdhani Das, Shri  
Rananjai Singh, Shri  
Rane, Shri  
Ranga Rao, Shri  
Rao, Dr. K. L.  
Rao, Shri Jaganatha

Rao, Shri Krishnamoorthy  
Rao, Shri Muthyal  
Rao, Shri Ramapathi  
Rao, Shri Rameshwar  
Rao, Shri Thirumala  
Rattan Lal, Shri  
Raut, Shri Bhola  
Ray, Shrimati Renuka  
Reddi, Dr. B. Gopala  
Reddiar, Shri  
Reddy, Shrimati Yashoda  
Roy, Shri Bishwanath  
Sadhu Ram, Shri  
Saha, Dr. S. K.  
Sahu, Shri Rameshwar  
Saigal, Shri A. S.  
Samanta, Shri S. C.  
Sanji Rupji, Shri  
Saraf, Shri Sham Lal  
Satma, Shri A. T.  
Satyabhama Devi, Shrimati  
Sen, Shri A. K.  
Sen, Shri P. G.  
Shah, Shri Manabendra  
Shah, Shrimati Jayaben  
Sham Nath, Shri  
Shankaraiya, Shri  
Sharma, Shri A. P.  
Sharma, Shri D. C.  
Sharma, Shri K. C.  
Shashi Ranjan, Shri  
Shastri, Shri Lal Bahadur  
Shastri, Shri Ramanand  
Sheo Narain, Shri  
Shinde, Shri  
Shre Narayan Das, Shri  
Shrimati, Dr. K. L.  
Siddiah, Shri  
Sidheshwar Prasad, Shri  
Singh, Shri D. N.  
Singh, Shri K. K.  
Singh, Shri R. P.

#### NOES

Kamath, Shri Hari Vishnu  
Kapur Singh, Shri  
Kar, Shri Prabhat  
Krishnapal Singh, Shri  
Marandi, Shri  
Misra, Dr. U.  
Mukerjee, Shri H. N.  
Murmu, Shri Sarkar  
Nair, Shri Vasudevan  
Nath Pai, Shri  
Pandey, Shri Sarjoo  
Pottakkatt, Shri  
Raghavan, Shri A. V.  
Ranga, Shri

#### Amendment) Bill

Sinha, Shri Satya Narayan  
Sinha, Shrimati Ramdulari  
Sinha, Shrimati Tarkeshwari  
Sonavane, Shri  
Srinivasan, Dr. P.  
Subbaraman, Shri C.  
Subramaniam, Shri C.  
Subramanyam, Shri T.  
Sumat Prasad, Shri  
Sunder Lal, Shri  
Sundera Pal Singh, Shri  
Swamy, Shri M. P.  
Swaran Singh, Shri  
Tahir, Shri Mohammad  
Tantia, Shri Rameshwar  
Thimmiah, Shri  
Thomas, Shri A. M.  
Tiwary, Shri D. N.  
Tiwary, Shri R. P.  
Tombi, Shri  
Tripathi, Shri Krishna Deo  
Tula Ram, Shri  
Tyagi, Shri  
Uikey, Shri  
Ulaka, Shri  
Upadhyaya, Shri Shiva Dutt  
Vaishya, Shri M. B.  
Varma, Shri Ravindra  
Veerabasappa, Shri  
Veerappa, Shri P.  
Venkatasubbajah, Shri  
Verma, Shri Balgovind  
Verma, Shri K. K.  
Vidyalankar, Shri A. N.  
Virbhadra Singh, Shri  
Vyas, Shri Radhelal  
Wadiwa, Shri  
Wasnik, Shri Balkrishna  
Yadav, Shri N. P.  
Yadav, Shri Ram Harkh  
Yadava, Shri B. P.  
Yusuf Shri Mohammad

Reddy, Shri Narasimha  
Reddy, Shri Yallamanda  
Roy, Dr. Saradish  
Sen, Dr. Rane  
Shashank Manjantri, Shrimati  
Singhvi, Dr. L. M.  
Sinhasan Singh, Shri  
Soy, Shri H. C.  
Swamy, Shri Sivamurthy  
Tan Sigh, Shri  
Utiya, Shri  
Vimla Devi, Shrimati  
Warior, Shri

Bade, Shri  
Barua, Shri R.  
Basant Kunwari, Shrimati  
Berwa Kotah, Shri  
Bhattacharya, Shri Dinen  
Chakravarty, Shrimati Renu  
Chaudhuri, Shri Tridib Kumar  
Daji Shri  
Gokaran Prasad, Shri  
Gopalan, Shri A. K.  
Gupta, Shri Kashi Ram  
Gupta, Shri Priya  
Himmatsinhji, Shri  
Imchibava, Shri

**Mr. Speaker:** The result of the division is:

\*Ayes: 289; Noes: 41

The 'Ayes' have it; the 'Ayes' have it. The motion is carried by a major-

ity of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting. Therefore, clause 7 stands part of the Bill.

*The motion was adopted.*

\*Ayes: Name of one Member could not be included.



Clause 7 was added to the Bill.

Bill".

Mr. Speaker: The question is:

Let the Lobby be cleared.

"That clause 8 stand part of the

The Lok Sabha divided:

Division No. 35]

AYES

- [17.01 hrs.

Abdul Rashid, Bakshi	Daji, Shri	Kabir, Shri Humayun
Abdul Wahid, Shri T.	Daljit Singh, Shri	Kadadi, Shri
Achal Singh, Shri	Das, Dr. M. M.	Kamath, Shri Hari Vishnu
Achuthan, Shri	Das, Shri N. T.	Kamble, Shri,
Akkamma Devi, Shrimati	Das, Shri Sudhansu	Kanungo, Shri
Alagesan, Shri	Dasappa, Shri	Kappen, Shri
Alva, Shri A. S.	Dass, Shri C.	Kapur Singh, Shri
Alva, Shri Joachim	Deo Bhanj, Shri P. C.	Kar, Shri Prabhat
Aney, Shri M. S.	Deshmukh, Shri B. D.	Karuthiruman, Shri
Anjanappa, Shri	Deshmukh, Shri Shivaji Rao S.	Kedaria, Shri C. M.
Arunachalam, Shri	Dhuleshwar Meena, Shri	Khadilkar, Shri
Arunachalam, Shri	Dighe, Shri	Khari, Shri Osman Ali
Azad, Shri Bhagwat Jha	Dinesh Singh, Shri	Khanna, Shri Mehr Chand
Babunath Singh, Shri	Dubey, Shri R. G.	Khanna, Shri P. K.
Bade, Shri	Dwivedi, Shri M. L.	Kinjar Lal, Shri
Bajaj, Shri Kamalnayan	Ering, Shri D.	Kisan Veer, Shri
Bal Krishna Singh, Shri	Pirojia, Shri	Kripa Shankar, Shri
Balakrishna, Shri	Gaekwad, Shri Patehsinhro	Krishna, Shri M.R.
Balakrishnan, Shri	Gahmari, Shri	Krishnamachari, Shri T. T.
Balmiki Shri	Gaitonde, Dr.	Krishnapal Singh, Shri
Banerjee, Dr. R.	Gajraj Singh Rao, Shri	Kureel, Shri B. N.
Barkataki, Shrimati Renuka	Gardhi, Shri V. B.	Lakhan Das, Shri
Barua, Shri R.	Ganga Devi, Shrimati	Lakshminanthamma, Shrimati
Barupal, Shri P. L.	Ghosh, Shri Atulya	Lalit Sen, Shri
Basant Kunwari, Shrimati	Ghosh, Shri N. R.	Laskar, Shri N. R.
Basappa, Shri	Gori, Shri Abdul Ghani	Laxmi Bai, Shrimati
Basumatari, Shri	Gopalan, Shri A. K.	Laxmi Dass, Shri
Baswant, Shri	Govind Das, Dr.	Lonikar, Shri
Berwa Onkarlal, Shri	Guha, Shri A. C.	Mahtab, Shri
Besra, Shri	Gupta, Shri Indrajit	Maimoona Sultan, Shrimati
Bhagat, Shri B. R.	Gupta, Shri Kanshi R.	Malaviya, Shri K. D.
Bhakt Darshan, Shri	Gupta, Shri Priya	Malhotra, Shri Inder J.
Bhanja Deo, Shri L. N.	Gupta, Shri Ram Ratan	Malliah, Shri U. S.
Bhargava, Shri M. B.	Gpta, Shri Shiv Charan	Mallick, Shri
Bhatkar, Shri	Hajirani, Shri	Manan, Shri
Bhattacharyya, Shri C. K.	Hansa, Shri Subodh	Mandal, Dr. P.
Bhattacharya, Shri Dinen	Hanumanthaiya, Shri	Mandal, Shri J.
Bist, Shri J. B. S.	Haq, Shri M. M.	Mandal, Shri Yamuna Prasad
Brahm Prakash, Shri	Hazarika, Shri J. N.	Maniyangadan, Shri
Brajeshwar Prasad, Shri	Heda, Shri	Mantri, Shri
FrijBasi, Lal, Shri	Himatsingka, Shri	Marandi, Shri
Chakravartty, Shrimati Renu	Himmatsinhji, Shri	Maruthiah, Shri
Chakraverti, Shri P. R.	Imbichibava, Shri	Masuriya Din, Shri
Chanda, Shrimati Jyotsna	Iqbal Singh, Shri	Matcharaju, Shri
Chandrasekhar Shrimati	Jadhav, Shri M.L.	Mehdi, Shri S. A.
Chaturvedi, Shri S. N.	Jadhav, Shri Tulshidas	Mehrotra, Shri Braj Bihari
Chaudhry, Shri C. L.	Jagjivan Ram, Shri	Mehta, Shri J. R.
Chaudhuri, Shri Sachindra	Jain, Shri. A. P.	Melkote, Dr.
Chaudhuri, Shri Tridib Kumar	Jaamunadevi, Shrimati	Mengi, Shri Gopal Datt
Chaudhuri, Shrimati Kamala	Jayaraman, Shri	Menon, Shri Krishna
Chavan, Shri D. R.	Jedhe, Shri	Mirza, Shri Bakar Ali
Chettiar, Shri Ramasathan	Joshi, Shri A. C.	Mishra, Shri Bibhuti
Chuni Lal, Shri	Jyotishi, Shri J. P.	Mishra, Shri Bibudhendra
Dafle, Shri		

Mishra, Shri M.P.	Rai, Shrimati Sahodrabai	Sheo Narain, Shri
Misra, Dr. U.	Raj Bahadur, Shri	Shinde, Shri
Misra, Shri Mahesh Dutta	Raja, Shri C. R.	Shree Narayan Das, Shri
Mohanty, Shri G.	Raju, Dr. D. S.	Shrimali, Dr. K. L.
Mohiuddin Shri	Ram, Shri T.	Siddiah, Shri
Mohsin, Shri	Ram Sewak, Shri	Sidheshwar Prasad, Shri
Morarka, Shri	Ram Subhag Singh, Dr.	Singh, Shri D. N.
More, Shri K. L.	Ram Swarup, Shri	Singh, Shri K. K.
More, Shri S. S.	Ramakrishnan, Shri P. R.	Singh, Shri R. P.
Mukane, Shri	Ramaswamy, Shri S. V.	Singhvi, Dr. L. M.
Mukerjee, Shri H. N.	Ramaswamy, Shri V. K.	Sinha, Shri Satya Narayan
Mukerjee, Shrimati Sharda	Ramdhani Das, Shri	Sinha, Shrimati Ramduari
Murthy, Shri B. S.	Rananjal Singh, Shri	Sinha, Shrimati Tarkeshwar
Murti, Shri M. S.	Rane, Shri	Sinhasan Singh, Shri
Musafir, Shri G. S.	Ranga, Shri	Sonavane, Shri
Muthiab, Shri	Ranga Rao, Shri	Soy, Shri H. C.
Naidu, Shri V. G.	Rao, Dr. K. L.	Srinivasan, Dr. P.
Naik, Shri D. J.	Rao, Shri Jagannatha	Subbaraman, Shri
Naik, Shri Maheswar	Rao, Shri Krishnamoorthy	Subramaniam, Shri C.
Nair, Shri Vasudevan	Rao, Shri Muthyal	Subramanyam, Shri T.
Nanda, Shri	Rao, Shri Ramapathi	Sumat Prasad, Shri
Naikar Shri P. S.	Rao, Shri Rameshwar	Sunder Lal, Shri
Nath Pai, Shri	Rattan Lal, Shri	Surendra Pal Singh, Shri
Nayak, Shri Mohan	Raut, Shri Bhola	Swamy, Shri M. P.
Nayar, Dr. Sushila	Ray, Shrimati Renuka	Swamy, Shri Sivamurthi
Nehru, Shri Jawaharlal	Reddi, Dr. B. Gopala	Swaran Singh, Shri
Nigam, Shrimati Savitri	Reddi, Shri R. N.	Tahir, Shri Mohammad
Niranjana Lal, Shri	Reddiar, Shri	Tantia, Shri Rameshwar
Oza, Shri	Reddy, Shri Narasimha	Thomas, Shri A. M.
Pande, Shri K. N.	Reddy, Shri Yallamanda	Tiwari, Shri D. N.
Pandey, Shri R. S.	Reddy, Shrimati Yashoda	Tombi, Shri
Pandey, Shri Sarjoo	Roy, Shri Bishwanath	Tripathi, Shri Krishna Deo
Pandey, Shri Vishwa Nath	Sadhu Ram, Shri	Tyagi, Shri
Panna Lal, Shri	Saha, Dr. S. K.	Uikey, Shri
Pant, Shri K. C.	Sahu, Shri Rameshwar	Uleka, Shri
Paramasivan, Shri	Saigal, Shri A. S.	Upadhyaya, Shri Shiva Dutt
Parasahar, Shri	Samanta, Shri S. C.	Utiya, Shri
Patel, Shri Chhotubhai	Sanji Rupji, Shri	Vaishya, Shri M. B.
Patel, Shri Man Singh P.	Saraf, Shri Sham Lal	Varma, Shri Ravindra
Patel, Shri N. N.	Sarma, Shri A. T.	Veerabasappa, Shri
Patel, Shri P. R.	Satyabhama Devi, Shrimati	Veerappa, Shri
Patil, Shri D. S.	Sen, Dr. Ranen	Venkatasubbaiah, Shri P.
Patil, Shri M. B.	Sen, Shri A. K.	Verma, Shri Balgovind
Patil, Shri S. B.	Sen, Shri P. G.	Verma, Shri K. K.
Patil, Shri S. K.	Shah, Shri Manabendra	Vidyalankar, Shri A. N.
Patil, Shri T. A.	Shah, Shrimati Jayaben	Vimla Devi, Shrimati
Patnaik, Shri B. C.	Sham Nath, Shri	Virbhadra Singh, Shri
Pattabhi Raman, Shri C. R.	Shankaraiya, Shri	Vyas, Shri Radhelal
Pillai, Shri Nataraja	Sharma, Shri A. P.	Wadiwa, Shri
Pottakkatt, Shri	Sharma, Shri D.C.	Warior, Shri
Prabhakar, Shri Naval	Sharma, Shri K. C.	Wasnik, Shri Balkrishna
Pratap Singh, Shri	Shashank Manjari, Shrimati	Yadav, Shri N. P.
Puri, Shri D. D.	Shashi Ranjan, Shri	Yadav, Shri Ram Harkh
Raghavan, Shri A.V.	Shastri, Shri Lal Bahadur	Yadava, Shri B. P.
Raghunath Singh, Shri	Shastri, Shri Ramanand	Yusuf, Shri Mohammad
Raghubarasaiah, Shri		

## NOES

Nil

**Mr. Speaker:** The result of the division is:

\*Ayes, 324; Noes, Nil

\*Ayes: Names of three Members could not be recorded.

The 'Ayes' have it; the 'Ayes' have it. The motion is carried by a majority of the total membership of the House and by a majority of not less

[Mr. Speaker]

than two-thirds of the Members present and voting. Clause 8 stands part of the Bill.

The motion was adopted.

Clause 8 was added to the Bill.

Mr. Speaker: The question is:

"That clause 9 stand part of the Bill".

Let the Lobby be cleared.

The Lok Sabha divided:

### Division No. 36]

### AYES

[17.02 hrs.]

Abdul Rasheed, Bakshi  
Abdul Wahid, Shri T.  
Achal Singh, Shri  
Achuthan, Shri  
Akkamma Devi, Shrimati  
Alagesan, Shri  
Alva, Shri A. S.  
Alva, Shri Joachim  
Aney, Dr. M. S.  
Anjamma, Shri  
Arunachalam, Shri  
Azad, Shri Bhagwat Jha  
Babunath Singh, Shri  
Bade, Shri  
Bajaj, Shri Kamalnayan  
Bal Krishna Singh, Shri  
Balakrishnan, Shri  
Balmiki, Shri  
Banerjee, Dr. R.  
Barkataki, Shrimati Renuka  
Barua, Shri R.  
Barupal, Shri P. L.  
Basant Kunwari, Shrimati  
Basappa, Shri  
Basumatari, Shri  
Baswant, Shri  
Berwa, Shri Onkar Lal  
Besra, Shri  
Bhagat, Shri B. R.  
Bhakt Darshan, Shri  
Bhanja Deo, Shri L. N. J  
Bhargava, Shri M. B.  
Bhatkar, Shri  
Bhattacharyya, Shri C.K.  
Bhattacharya, Shri Dinen  
Bisot, Shri J. B. S.  
Brahm Prakash, Shri  
Brajeshwar Prasad, Shri  
Beij Basi Lal, Shri  
Chakravarty, Shrimati Renu  
Chakraverti, Shri P. R.  
Chanda, Shrimati Jyotsna  
Chandrasekhar, Shrimati  
Chaturvedi, Shri S. N.  
Chaudhry, Shri C.L.  
Chaudhuri, Shri Sachindra  
Chaudhuri, Shri Tridib Kumar  
Chaudhuri, Shrimati Kamala  
Chavan, Shri D.R.  
Chavda, Shrimati  
Chettiar, Shri Ramanathan  
Chuni Lal, Shri  
Dasg, Shri

Daji, Shri  
Daljit Singh, Shri  
Das, Dr. M.M.  
Das, Shri N. T.  
Das, Shri Sudhansu  
Dasappa, Shri  
Dasa, Shri C.  
Deo Bhanj, Shri P. C.  
Deshmukh, Shri B. D.  
Deshmukh, Shri Shivaji Rao S.  
Dhuleshwar Meena, Shri  
Dighe, Shri  
Dinesh Singh, Shri  
Dubey, Shri R. G.  
Dwivedi, Shri M. L.  
Ering, Shri D.  
Firodia, Shri  
Gackwad, Shri Panchalshrao  
Gahmari, Shri  
Gaitonde, Dr.  
Gajraj Singh Rao, Shri  
Gandhi, Shri V. B.  
Ganga Devi, Shrimati  
Ghosh, Shri Atulya  
Ghosh, Shri N. R.  
Gokaran Prasad, Shri  
Goni, Shri Abdul Ghani  
Gopalan, Shri A. K.  
Govind Das, Dr.  
Guba, Shri A. C.  
Gupta, Shri Kanahi Ram  
Gupta, Shri Priya  
Gupta, Shri Ram Ratan  
Gupta, Shri Shiv Charan  
Hajarnavis, Shri  
Hansda, Shri Subodh  
Hanumanthaiya, Shri  
Haq, Shri M. M.  
Hazarika, Shri J. N.  
Heda, Shri  
Himatsingka, Shri  
Himmatsinhji, Shri  
Imbichibava, Shri  
Iqbal Singh, Shri  
Jadhav, Shri M.L.  
Jadhav, Shri Tulshidas  
Jaggiwan Ram, Shri  
Jain, Shri A. P.  
Jamunadevi, Shrimati  
Jayaraman, Shri  
Jedhe, Shri  
Joshi, Shri A. C.  
Jyotishi, Shri J.P.  
Kebir, Shri Humayun  
Kadadi, Shri  
Kamath, Shri Hari Vishnu  
Kamble, Shri  
Kanungo, Shri  
Kappen, Shri  
Kapoor Singh, Shri  
Kar, Shri Prabhat  
Karuthiruman, Shri  
Kedaria, Shri C. M.  
Khadilkar, Shri  
Khan, Shri Osman Ali  
Khanna, Shri Mehr Chand  
Khanna, Shri P. K.  
Kindar Lal, Shri  
Kisan Veer, Shri  
Kripa Shankar, Shri  
Krishna, Shri M. R.  
Krishnamachari, Shri T.T.  
Krishnapal Singh, Shri  
Kureel, Shri B.N.  
Lakhan Das, Shri  
Lakshminathanamma, Shrimati  
Lalit Sen, Shri  
Laskar, Shri N. R.  
Laxmi Bai, Shrimati  
Lonikar, Shri  
Mahtab, Shri  
Maimoona Sultan, Shrimati  
Malaviya, K. D.  
Malhotra, Shri Inder J.  
Malliah, Shri U. S.  
Mallick, Shri  
Mansan, Shri  
Mandal, Dr. P.  
Mandal, Shri J.  
Mandal, Shri Yemuna Prasad  
Maniyangadan, Shri  
Mantri, Shri  
Marandi, Shri  
Maruthiah, Shri  
Masuriya Din, Shri  
Matcharaju, Shri  
Mehdi, Shri S.A.  
Mehrotra Shri Brij Bihar i  
Mehta, Shri J.R.  
Melkote, Dr.  
Mengi, Shri Gopal Datt  
Menon, Shri Krishna  
Mirza, Shri Bakar A I  
Mishra, Shri Bibhuti  
Mishra, Shri Bibudhendra

Mishra, Shri M. P.	Rai, Shrimati Sahodrabai	Shree Narayan Das, Shri
Misra, Dr. U.	Raj Bahadur, Shri	Shrimali, Dr. K.L.
Misra, Shri Mahesh Dutta	Raja, Shri C. R.	Siddiah, Shri
Mohanty, Shri G.	Raju, Dr. D.S.	Sidheshwar Prasad, Shri
Mohiuddin, Shri	Ram Sewak, Shri	Singh, Shri D.N.
Mohsin, Shri	Ram Subhag Singh, Dr.	Singh, Shri K.K.
Morarka, Shri	Ram Swarup, Shri	Singh, Shri R. P.
More, Shri K. L.	Ramakrishnan, Shri P. R.	Singhvi, Dr. L. M.
More, Shri S.S.	Ramaswamy, Shri S. V.	Sinha, Shri Satya Narayan
Mukane, Shri	Ramaswamy, V. K.	Sinha, Shrimati Ramdulari
Mukerjee, Shri H. N.	Ramdhani Das, Shri	Sinha, Shrimati Tarkeshwari
Mukerjee, Shrimati Sharda	Rananjai Singh, Shri	Sinha, Shrimati Ramdulari
Murmu, Shri Sarkar	Rane, Shri	Sonavane, Shri
Murthy, Shri B. S.	Ranga, Shri	Soy, Shri H.C.
Murti, Shri M.S.	Ranga Rao, Shri	Srinivasan, Dr. P.
Musafir, Shri G. S.	Rao, Dr. K. L.	Subbaraman, Shri
Muthiah, Shri	Rao Shri Isanatha	Subyamaniam, Shri C.
Naidu, Shri V. G.	Rao, Shri Krishnamoorthy	Subramanyam, Shri T.
Naik, Shri D. J.	Rao, Shri Muthyal	Sumat Prasad, Shri
Naik, Shri Maheswar	Rao, Shri Ramapathi	Sunder Lal, Shri
Nair, Shri Vasudevan	Rao, Shri Rameshwar	Surendra Pal Singh, Shri
Nanda, Shri	Rao, Shri Thirumala	Swamy, Shri M.P.
Naskar, Shri P. S.	Rattan Lal, Shri	Swamy, Shri Sivamurthi
Nath Pai, Shri	Raut, Shri Bhola	Swaran Singh, Shri
Nayak, Shri Mohan	Ray, Shrimati Renuka	Tahir, Shri Mohammad
Nayar, Dr. Sushila	Reddi, Dr. B. Gopala	Tantia, Shri Rameshwar
Nehru, Shri Jawaharlal	Reddiar, Shri	Thimmaiah, Shri
Nigam, Shrimati Savitri	Reddy, Shri Narasimha	Thomas, Shri A.M.
Niranjan Lal, Shri	Reddy, Shri Yallamanda	Tiwary, Shri D.N.
Oza, Shri	Reddy, Shrimati Yashoda	Tiwary, Shri R.S.
Paliwal, Shri	Roy, Dr. Saradish	Tombi, Shri
Pande, Shri K. N.	Roy, Shri Vishwanath	Tripathi, Shri Krishna Deo
Pandey, Shri R. S.	Sadhu Ram, Shri	Tula Ram, Shri
Pandey, Shri Sarjoo	Saha, D.- S.K.	Tyagi, Shri
Pandey, Shri Vishwa Nath	Sahu, Shri Rameshwar	Uikey, Shri
Panna Lal, Shri	Saikal, Shri A. S.	Ulaka, Shri
Pant, Shri K. C.	Samanta, Shri S. C.	Upadhyaya, Shri Shiva Dutt
Parasivan, Shri	Sanji Rupji, Shri	Utiya, Shri
Parashar, Shri	Saraf, Shri Sham Lal	Vaishya, Shri M.B.
Patel, Shri Man Siub P.	Sarma, Shri A. T.	Varma, Shri Ravindra
Patel, Shri N. N.	Satyabhama Devi, Shrimati	Vecrabasappa, Shri
Patel, Shri P. R.	Sen, Dr. Ranen	Vecrappa, Shri
Patil, Shri D.S.	Sen, Shri A.K.	Venkatasubbalah, Shri P.
Patil, Shri M.B.	Sen, Shri P. G.	Verma, Shri Balgovind
Patil, Shri S. B.	Shah, Shri Manabendra	Verma, Shri K. K.
Patil, Shri S.K.	Shah, Shrimati Jayaben	Vidyalankar, Shri A. N.
Patil, Shri T. A.	Sham Nath, Shri	Vimla Devi, Shrimati
Patnaik, Shri B. C.	Shankaraiya, Shri	Virbadra Singh, Shri
Fattabhi Raman, Shri C. R.	Sharma, Shri A. P.	Vyas, Shri Radhelal
Pillai, Shri Nataraja	Sharma, Shri D.C.	Wadiwa, Shri
Pottakkatt, Shri	Sharma, Shri K. C.	Warior, Shri
Prabhakar, Shri Naval	Shashank Manjari, Shrimati	Wasnik, Shri Balkrishna
Pratap Singh, Shri	Shashi Ranjan, Shri	Yadab, Shri N.P.
Puri, Shri D.D.	Shastri, Shri Lal Bahadur	Yadav, Shri Ram Harkh
Raghavan, Shri A.V.	Shastri, Shri Ramanand	Yadav, Shri Ram Sewak
Raghunath Singh, Shri	Sheo Narain, Shri	Yadava, Shri B. P.
Raghuramesh, Shri	Shinde, Shri	Yusuf, Shri Mohammad

Mr. Speaker: The result of the division is:

Ayes: 328; Noes: Nil

The 'Ayes' have it, the 'Ayes' have it. The motion is carried by a majority of the total Membership of the House and by a majority of not less

## Bill

[Mr. Speaker]  
than two-thirds of the Members present and voting. Clause 9 stands part of the Bill.

*The motion was adopted.*

*Clause 9 was added to the Bill.*

## Clause 10

**Mr. Speaker:** There are amendments to be put to vote. Any particular amendment on which the House would like to divide?

**Shri Hari Vishnu Kamath:** I beg leave of the House to withdraw amendment No. 38, but press amendment No. 40 to a division.

*Amendment No. 38 was, by leave, withdrawn.*

**Mr. Speaker:** The question is:

"That in the amendment proposed by Shri Asoke K. Sen printed as No. 41 in List No. 6 of amendments,—

for "has been given a reasonable opportunity of making representation on the penalty".

substitute—

"has also been given a reason-

able opportunity of being heard in respect of the penalty". (53)

*The motion was negatived.*

**Mr. Speaker:** The question is:

"That in the amendment proposed by Shri Asoke K. Sen printed as No. 41 in List No. 6 of amendments,—

for "representation on" substitute—"representation against" (51).

"That in the amendment proposed by Shri Asoke K. Sen printed as No. 41 in List No. 6 of amendments,—

omit "but only on the basis of the evidence adduced during such inquiry". (52)

*The motion was negatived.*

**Mr. Speaker:** The question is:

"Page 3, line 18, —add at the end—

"and also a reasonable opportunity of showing cause against the action proposed to be taken against him". (40)

*The Lok Sabha divided:*

## Division No. 37]

Bade, Shri  
Barua, Shri R.  
Basant Kunwarl, Shrimati  
Berwa Kotah, Shri  
Bhattacharya, Shri Dinan  
Chakravarty, Shrimati Renu  
Chaudhuri, Shri Tridib Kumar  
Daji, Shri  
Gokaran Prasad, Shri  
Gopalan, Shri A. K.  
Gupta, Shri Kashi Ram  
Gupta, Shri Pajiya

## AYES

Himmatsinhji, Shri  
Imbichibava, Shri  
Kamath, Shri Hari Vishnu  
Kapur Singh, Shri  
Kar, Shri Prabhat  
Krishnapal Singh, Shri  
Misra, Dr. U  
Mukerjee, Shri H. N.  
Murmu, Shri Sarkar  
Nair, Shri Vasudevan  
Pottakkatt, Shri  
Raghavan, Shri A. V.

[17' 07 hrs.

Ranga, Shri  
Reddy, Shri Narasimha  
Reddy, Shri Yallamanja  
Sen, Dr. Ranen  
Shah, Shrimati Jayaben  
Shashank Manjari, Shrimati  
Singhvi, Dr. L. M.  
Swamy, Shri Sivamurthi  
Tan Singh, Shri  
Utiya, Shri  
Vimla Devi, Shrimati  
Warior, Shri

## NOES

Abdul Rashid, Bakhshi  
Abdul Wahid, Shri T.  
Achal Singh, Shri  
Achuthan, Shri  
Akkamma Devi, Shrimati  
Alagesan, Shri  
Alva, Shri A. S.  
Alva, Shri Joachim

Auey, Dr. M. S.  
Anjanappa, Shri  
Arunchalam, Shri  
Azad, Shri Bhagwat Jha  
Babunath Singh, Shri  
Bajaj, Shri Kamalnayan  
Bal Krishna Singh, Shri  
Balakrishnan, Shri

Balmiki, Shri  
Banerjee, Dr. R.  
Barkataki, Shrimati Renuka  
Barupal, Shri P. L.  
Basappa, Shri  
Basumatari, Shri  
Baswant, Shri  
Bera, Shri

Bhagat, Shri B. R.	Jeyaraman, Shri	Muthiah, Shri
Bhakt Darshan, Shri	Jedhe, Shri	Naidu, Shri V.G.
Bhanja Deo, Shri L.N.	Joshi, Shri A.C.	Naik, Shri D.J.
Bhargava, Shri M. B.	Jyotishi, Shri J. P.	Naik, Shri Maheswar
Bhatkar, Shri	Kabir, Shri Humayun	Nambiar, Shri
Bhattacharyya, Shri C.K.	Kadadi, Shri	Naskar, Shri P. S.
Bisat, Shri J.B.S.	Kamble, Shri	Nayak, Shri Mohan
Brahm Prakash, Shri	Kanungo, Shri	Nayar, Dr. Sushila
Brajeshwar Prasad, Shri	Kappen, Shri	Nehru, Shri Jawaharlal
Brij Basi Lal, Shri	Karuthiruman, Shri	Nigam, Shrimati Savjtri
Chakravarti, Shri P. R.	Kedaria, Shri C.M.	Niranjan Lal, Shri
Chanda, Shrimati Jyotsna	Khadilkar, Shri	Oza, Shri
Chandrasekhar, Shrimati	Khan, Shri Osman Ali	Paliwal, Shri
Chaturvedi, Shri S. N.	Khanna, Shri Mehr Chand	Pande, Shri K.N.
Chaudhry, Shri C. L.	Khanna, Shri P. K.	Pandey, Shri R.S.
Chaudhuri, Shri Sachindra	Kindar Lal, Shri	Pandey, Shri Vishwa Nath
Chaudhuri, Shrimati Kamala	Kisan Veer, Shri	Panna Lal, Shri
Chavan, Shri D.R.	Kripa Shankar, Shri	Pant, Shri K. C.
Chavda, Shrimati	Krishna, Shri M. R.	Paramasivan, Shri
Chettiar, Shri Ramanathan	Krishnamachari, Shri T.T.	Parashar, Shri
Chuni Lal, Shri	Kureel, Shri B. N.	Patel, Shri Chhotubhai
Dafle, Shri	Lakhan Das, Shri	Patel, Shri Man Singh P.
Daljit Singh, Shri	Lakshmikanthamma, Shrimati	Patel, Shri N. N.
Das, Dr. M.M.	Lalit Sen, Shri	Patel, Shri P. R.
Das, Shri N.T.	L. skar, Shri N. R.	Patil, Shri D.S.
Das, Shri Sudhansu	Lonikar, Shri	Patil, Shri M.B.
Dasappa, Shri	Mahtab, Shri	Patil, Shri S.B.
Das, Shri C.	Maimoona Sultan, Shrimati	Patil, Shri S. K.
Deo Bhanj, Shri P. C.	Malaviya, Shri K. D.	Patil, Shri T.A.
Deshmukh, Dr. P. S.]	Malhotra, Shri Inder J.	Patnaik, Shri B. C.
Deshmukh, Shri B.D.	Malliah, Shri U. S.	Pattabhi Raman, Shri C.R.
Dhulechwar Meena, Shri	Mallick, Shri	Pillai, Shri Nataraja
Dighe, Shri	Mansaen, Shri	Prabhakar, Shri Naval
Dinesh Singh, Shri	Mandal, Dr. P.	retap Singh, Shri
Dubey, Shri R. G.	Mandal, Shri J.	Puri, Shri D.D.
Dwivedi, Shri M. L.	Mandal, Shri Yamuna Prasad	Raghunath Singh, Shri
Ering, Shri D.	Maniyaganadan, Shri	Raghuramaiah, Shri
Firodia, Shri	Mantri, Shri	Rai, Shrimati Sahodrabai
Gaekwad, Shri Fatehsinhroo	Marandi, Shri	Raj Bahadur, Shri
Gahmari, Shri	Maruthiah, Shri	Raja, Shri C. R.
Gaitonde, Dr.	Masuriya Din, Shri	Raju, Dr. D.S.
Gajraj Singh Rao, Shri	Matcharaju, Shri	Ram Sewak, Shri
Gandhi, Shri V. B.	Mehdi, Shri S.A.	Ram Subhag Singh, Dr.
Ganga Devi, Shrimati	Mehrotra, Shri Braj Bihari	Ram Swarup, Shri
Ghosh, Shri Atulya	Mehta, Shri Jashvant	Ramakrishnan, Shri P. R.
Ghosh, Shri N.R.	Melkote, Dr.	Ramaswamy, Shri S.V.
Goni, Shri Abdul Ghani	Mengi, Shri Gopal Datt	Ramaswamy, Shri V. K.
Govind Das, Dr.	Menon, Shri Krishna	Ramdhani Das, Shri
Guha, Shri A.C.	Mirza, Shri Bakar Ali	Rananjai Singh, Shri
Gupta, Shri Ram Ratan	Mishra, Shri Bibhuti	Rane, Shri
Gupta, Shri Shiv Charan	Mishra, Shri Bibudhendra	Ranga Rao, Shri
Hajarnavis, Shri	Mishra, Shri M. P.	Rao, Dr. K.L.
Hanumanthaiya, Shri	Misra, Shri Mahesh Dutta	Rao, Shri Jaganatha
Haq, Shri M. M.	Mohiuddin, Shri	Rao, Shri Krishnamoorthy
Hazarika, Shri J. N.	Mohsin, Shri	Rao, Shri Muthyal
Heda, Shri	Morarka, Shri	Rao, Shri Ramapathi
Himatsingka, Shri	More, Shri K. L.	Rao, Shri Rameshwar
Iqbal Singh, Shri	More, Shri S. S.	Rao, Shri Thirumala
Jadhav, Shri M. L.	Mukane, Shri	Rattan Lal, Shri
Jadhav, Shri Tulshidas	Mukerjee, Shrimati Sharda	Raut, Shri Bhola
Jagivan Ram, Shri	Murthy, Shri B. S.	Ray, Shrimati Renuka
Jain, Shri A. P.	Murri, Shri M.S.	Reddi, Dr. B. Gopala
amunadevi, Shrimati	Musafir, Shri G.S.	Reddiar, Shri

## Bill

Reddy, Shrimati Yashoda	Shrimall, Dr. K.L.	Tiwary, Shri R.S.
Roy, Shri Bishwanath	Siddiah, Shri	Tombi, Shri
Sadhu Ram, Shri	Sidheshwar Prasad, Shri	Tripathi, Shri Krishna Das
Saha, Dr. S.K.	Singh, Shri D.N.	Tula Ram, Shri
Sahu, Shri Rameshwar	Singh, Shri K.K.	Tyagi, Shri
Saigal, Shri A.S.	Singh, Shri R.P.	Uikey, Shri
Samanta, Shri S.C.	Sinha, Shri Satya Narayan	Ulaka, Shri
Sanji Rupji, Shri	Sinha, Shrimati Ramdulari	Upadhyaya, Shri Shiva Das
Saraf, Shri Sham Lal	Sinha, Shrimati Tarkeshwari	Vaishya, Shri M.B.
Sarma, Shri A.T.	Sinhasan Singh, Shri	Varma, Shri Ravindra
Satyabhama Devi, Shrimati	Sonavane, Shri	Veerabasaappa, Shri
Sea, Shri A.K.	Soy, Shri H.C.	Veerappa, Shri
Sen, Shri P.G.	Sririvasan, Dr. P.	Venkatasubbalah, Shri P.
Sezhiyan, Shri	Subbaraman, Shri C.	Verma, Shri Balgovind
Shah, Shri Manabendra	Subramaniam, Shri C.	Verma, Shri K.K.
Sham Nath, Shri	Subramanyam, Shri T.	Vidyalankar, Shri A.N.
Shankaraiya, Shri	Sumat Prasad, Shri	Virbhadra Singh, Shri
Sharma, Shri A.P.	Sunder Lal, Shri	Vishram Prasad, Shri
Sharma, Shri D.C.	Surendra Pal Singh, Shri	Vyas, Shri Redhelal
Sharma, Shri K.C.	Swamy, Shri M.P.	Wadiwa, Shri
Shashi Ranjan, Shri	Swaran Singh, Shri	Wasnik, Shri Balkrishna
Shastri, Shri Lal Bahadur	Tahir, Shri Mohammad	Yadav, Shri N.P.
Shastri, Shri Ramanand	Tantia, Shri Rameshwar	Yadav, Shri Ram Harkh
Sheo Narain, Shri	Thimmaiah, Shri	Yadava, Shri B.P.
Shinde, Shri	Thomas, Shri A.M.	Yusuf, Shri Mohammad ]
Shree Narayan Das, Shri	Tiwary, Shri D.N.	

Mr. Speaker: The result of the division is: Ayes\* 38; Noes\* 290.

The 'Noes' have it; the 'Noes' have it. The amendment is lost.

*The motion was negatived.*

Mr. Speaker: The question is:

"Page 3, line 18, —add at the end—

"and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed but only on the basis of the evidence adduced during such inquiry". " (41).

*The motion was adopted.*

Mr. Speaker: The question is:

(i) "Page 3, line 18,—add at the end—

"and after giving an opportunity of showing cause against the action proposed to be taken or punishment proposed to be imposed on him". (20)

"Page 3, line 18, —add at the end—

"and given an opportunity to represent against the action proposed to be taken against him". (21).

*The motion was negatived.*

Mr. Speaker: The question is:

"That clause 10, as amended, stand part of the Bill".

Let the Lobby be cleared.

*The Lok Sabha divided:*

\*\*Division No. 38

\*Ayes: 2 names and Noes: 2 names, could not be recorded.

\*\*The names of the Members could not be recorded due to mechanical defects in the voting machine.

**Mr. Speaker:** The result of the division is:

Ayes: 287; Noes: 41

The 'Ayes' have it, the 'Ayes' have it. The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting....

**Shri A. K. Gopalan:** I want to make a submission. There is no necessity for amending this article. The position has already been explained here. The unanimous opinion of the Opposition and wish of the majority of the people outside has not been accepted. As a protest against that, we walk out.

17.12 hrs.

(**Shri A. K. Gopalan and some other hon. Members left the House**)

**Shri Hari Vishnu Kamath:** It is a very sad day. I register my protest and walk out. It is a very sad day.

(**Shri Hari Vishnu Kamath and some other hon. Members left the House**)

**Shri Ranga:** I also join my other hon. friends and walk out in protest.

(**Shri Ranga and some other hon. Members left the House**)

*The motion was adopted.*

**Clause 10, as amended, was added to the Bill.**

**Mr. Speaker:** Now, I shall put clause 11 to vote. Those who are inside the House must be attentive.

**Dr. L. M. Singhvi:** You may give them some time perhaps to come back.

**Mr. Speaker:** The question is:

"That clause 11 stand part of the Bill."

Let the Lobby be cleared.

*The Lok Sabha divided:*

"Division No.

**Mr. Speaker:** The result of the division is:

Ayes: 290; Noes: Nil.

The 'Ayes' have it; the 'Ayes' have it, the motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting. Clause 11 stands part of the Bill.

*The Motion was adopted.*

*Clause 11 was added to the Bill.*

**Clause 12**

**Mr. Speaker:** The question is:

"That clause 12 stand part of the Bill".

*The Lok Sabha divided:*

Ayes: 289; Noes: 1.

\*Division No. 40

The 'Ayes' have it; the 'Ayes' have it. The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

*The motion was adopted.*

*Clause 12 was added to the Bill.*

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

**Shri A. K. Sen:** I move:

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

**Mr. Speaker:** The question is:

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

*The Lok Sabha divided:*

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\*The names of the Members could not be recorded due to mechanical defect in the voting machine.



## Division No. 41]

## AYES

[17.17 hrs.]

Abdul Rashid, Bakhshi	Gaekward, Shri Fatchisrao	ani yangadan, Shri
Abdul Wahid, Shri T.	Gabmari, Shri	Mantri Shri
Achal Singh, Shri	Gitonde, Dr.	Maruthiah, Shri
Achuthan, Shri	Gajraj Singh Rao, Shri	Maauriya Din, Shri
Akkamma Devi, Shrimati	Gandhi, Shri V. B.	Matcharaju, Shri
Alagesan, Shri	Ganga Devi, Shrimati	Mehdi, Shri S.A.
Alva, Shri A.S.	Ghosh, Shri Atulva	Mehrota, Shri Braj Bihari
Alva, Shri Joachim	Ghosh, Shri N.R.	Mehta, Shri J.R.
Ancy, Dr. M.S.	Goni, Shri Abdul Ghani	Melkote, Dr.
Anjanappa, Shri	Govind Das, Dr.	Mengi, Shri Gopal Datt
Arunachalam, Shri	Guha, Shri A.C.	Menon, Shri Krishna
Azad, Shri Bhagwat Jha	Gupta, Shri Ram Ratan	Mirza, Shri Bakar Ali
Babunath Singh, Shri	Gupta, Shri Shiv Charan	Mishra, Shri Bibhuti
Bajaj, Shri Kamalnayan	Hajarnavis, Shri	Mishra, Shri Bibudhendra
Bal Krishna Singh, Shri	Hanada, Shri Subodh	Mishra, Shri M.P.
Balakrishnan, Shri	Hanumanthaiya, Shri	Misra, Shri Mahesh Dutt
Balmiki, Shri	Haq, Shri M. M.	Mohanty, Shri G.
Banerjee, Dr. R.	Hazariya, Shri J. N.	Mohiuddin, Shri
Barkataki, Shrimati Renuka	Heda, Shri	Mohsin, Shri
Barupal, Shri P.L.	Himatsingka, Shri	Morarka, Shri
Basappa, Shri	Iqbal Singh, Shri	More, Shri K. L.
Basumatari, Shri	Jadhav, Shri Tushidas	More, Shri S.S.
Baswant, Shri	Jajjivan Rami Shri	Mukane, Shri
Beera, Shri	Jain, Shri A.P.	Mukerjee, Shrimati Sharda
Bhagat, Shri B.R.	Jamunadevi, Shrimati	Murthy, Shri B.S.
Bhakt Darshan, Shri	Jayeraman, Shri	Murti, Shri M.S.
Bhanja Deo, Shri L.N.	Jedhe, Shri	Musafir, Shri G.S.
Bhargava, Shri M.B.	Joshi, Shri A.C.	Muthiah, Shri
Bhatkar, Shri	Jyotishi, Shri I.P.	Naidu, Shri V.G.
Bhattacharyya, Shri C.K.	Kabir, Shri Humayun	Naik, Shri D.J.
Bisai, Shri J.B.S.	Kadadi, Shri	Naik, Shri Maheswar
Brahm Prakash, Shri	Kamble, Shri	Nanda, Shri
Brajeshwar Prasad, Shri	Kanungo, Shri	Naskar, Shri P.S.
Brij Basi Lal, Shri	Kappen, Shri	Nayak, Shri Mohan
Chakraverti, Shri P.R.	Karuthiruman, Shri	Nayar, Dr. Sushila
Chanda, Shrimati Jyotsna	Kedaria, Shri C.M.	Nehru, Shri Jawaharlal
Chandrasekhar, Shrimati	Khadilkar, Shri	Nigam, Shrimati Savitri
Chaturvedi, Shri S.N.	Khan, Shri Osman Ali	Niranjan Lal, Shri
Chaudhry, Shri C.L.	Khanna, Shri Mehr Chand	Oza, Shri
Chaudhuri, Shri Sachindra	Khanna, Shri P.K.	Paliwal, Shri
Chaudhuri, Shrimati Kamala	Kindar Lal, Shri	Pande, Shri K.N.
Chavan, Shri D.R.	Kisan Veer, Shri	Pandey, Shri R.S.
Chavda, Shrimati	Kripa Shankar, Shri	Pandey, Shri Vishwa Nath
Chettiar, Shri Ramnathan	Krishna, Shri M.R.	Panna Lal, Shri
Chuni Lal, Shri	Krishnamahari, Shri T.T.	Pant, Shri K.C.
Dafle, Shri	Kureel, Shri B.N.	Paramasivan, Shri
Daljit Singh, Shri	Lakhan Das, Shri	Parashar, Shri
Das, Dr. M.M.	Lakshmikanthamma, Shrimati	Patel, Shri Chhotubhai
Das, Shri N. T.	Lalit Sen, Shri	Patel, Shri Man Singh P.
Das, Shri Sudhansu	Laskar, Shri N.R.	Patel, Shri N.N.
Dasappa, Shri	Laxmi Bai Shrimati	Patel, Shri P.R.
Dasa, Shri C.	Lonikar, Shri	Patil, Shri D.S.
Deo Bhanj, Shri P.C.	Mahtab, Shri	Patil, Shri M.B.
Deshmukh, Shri B.D.	Maimoona Sultan, Shrimati	Patil, Shri S.B.
Deshmukh, Shri Shivaji Rao S.	Malaviya, Shri K.D.	Patil, Shri S.K.
Dhuleshwar Meena, Shri	Mathotra, Shri Inder J.	Patil, Shri T.A.
Dighe, Shri	Malliah, Shri U.S.	Patnaik, Shri B.C.
Dinesh Singh, Shri	Mallick, Shri	Pattabhi Raman, Shri C. E.
Dubey, Shri R.G.	Manaan, Shri	Pillari, Shri Nataraja
Dwivedi, Shri M.L.	Manuel, Dr. P.	Prabhu, Shri P. S.
Bring, Shri D.	Mandal, Shri J.	Pratap Singh, Shri
Pirodia, Shri	Manda, Shri Yamuna Prasad	Puri, Shri D.D.

Raghunath Singh, Shri	Sanji Rupji, Shri	Sumat Prasad, Shri
Raghuramaiah, Shri	Sara', Shri Sham Lal	Sunder Lal, Shri
Rai, Shrimati Sahodrabai	Sarma Shri A. T.	Surendra Pal Singh, Shri
Raj Bahadur, Shri	Satyabhama Devi, Shrimati	Swaran, Shri M.P.
Raja, Shri C. R.	Sen, Shri A.K.	Swaran Singh, Shri
Raju, Dr. D.S.	Sen, Shri P.G.	Tahir, Shri Mohammad
Ram, Shri T.	Shah, Shri Manabendra	Tantia, Shri Rameshwar
Ram Sewak, Shri	Shah, Shrimati Jayaben	Thimmaiah, Shri
Ram Subhag Singh, Dr.	Sham Nath, Shri	Thomas, Shri A. M.
Ram Swarup, Shri	Shankaraiya, Shri	Tiwary, Shri D.N.
Ramakrishnan, Shri P.R.	Sharma, Shri A.P.	Tiwary, Shri R.S.
Ramaswamy, Shri S.V.	Sharma, Shri D.C.	Tombi, Shri
Ramaswamy, Shri V.K.	Sharma, Shri K.C.	Tripathi Shri Krishna De
Ramdhani Das, Shri	Shashi Ranjan Shri	Tyagi, Shri
Rananjai Singh, Shri	Shastri, Shri Lal Bahadur	Uikey, Shri
Rane, Shri	hastri, Shri Ramanand	Ulaka, Shri
Ranga Rao, Shri	eo r a in, :	Upadhyaya, Shri Shiva Dut
Rao, Dr. K.L.	Shinde, Shri	Vaishya, Shri M.B.
Rao, Shri Jaganatha	Shree Narayan Das, Shri	Varma, Shri Ravindra
Rao, Shri Krishnamoorthy	Shrimali, Dr. K.L.	Veerabasappa, Shri
Rao, Shri Muthyal	Siddiah, Shri	Veerappa, Shri
Rao, Shri Rampathi	Sidheshwar Prasad, Shri	Venkatasubbaiah, Shri P.
Rao, Shri Thirumala	Singh, Shri D.N.	Verma, Shri Balgovind
Rattan Lal, Shri	Singh, Shri K. K.	Verma, Shri K.K.
Raut, Shri Bhola	Singh, Shri R.P.	Vidyalankar, Shri A.N.
Ray Shrimati Renuka	Sinha, Shri Satya Narayan	Virbhandra Singh, Shri
Reddi, Dr. B. Gopala	Sinha, Shrimati Ramdu a	Vyas, Shri Radhelal
Reddier, Shri	Sinha, Shrimati Tarkeshwari	Wadiwa, Shri
reddy, Shrimati Yashoda	Sinhasan Singh, Shri	Wasnik, Shri Balkrishna
Roy, Shri Bishwanath	Sonavane, Shri	Yadav, Shri N.P.
Sadhu Ram, Shri	Srinivasan, Dr. P.	Yadav, Shri Ram Harkh
Saha, Dr. S.K.	Subbaraman, Shri	Yadava, Shri B.P.
Saigal, Shri A.S.	Subramaniam, Shri C.	Yusuf, Shri Mohammad
Samants, Shri S.C.	Subramanyam, Shri T.	

## NOES

Singhvi, Dr. L.M.

Mr. Speaker: The result of the division is:

\*Ayes 290; Noes 1.

The 'Ayes' have it; the 'Ayes' have it. The motion is carried and the Constitution (Fifteenth Amendment) Bill, as amended, is passed by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

*The motion was adopted.*

17.20 hrs.

## RE: BUSINESS OF THE HOUSE

Mr. Speaker: Does Shri Swaran Singh want to make any statement?

The Minister of Railways (Shri Swaran Singh): No Sir, I am not making any statement.

Mr. Speaker: Does he intend to make a statement on the Kashmir talks,—because I have been getting so many notices—here in this House, not at this moment, but later on? I just want to know.

\*Ayes: The name of one Member could not be recorded.