

Mr. Chairman: The question is:

"That the time appointed for the presentation of the Report of the Select Committee on the Bill further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951, and to make certain consequential amendments in the Government of Part C States Act, 1951, be extended upto the last day of the first week of the next session."

The motion was adopted.

ANDHRA STATE BILL

Clause 28.—(High Court for Andhra)

Mr. Chairman: The House will now proceed with the further consideration of the Andhra State Bill.

We have finished up to clause 27. We shall now take up clause 28. There are amendments to this clause.

The Deputy Minister of Home Affairs (Shri Datar): I have given one more amendment to clause 28.

Mr. Chairman: First let me inquire of hon. Members which of the amendments they are willing to move.

Dr. Lanka Sundaram (Visakhapatnam): I am not moving my amendment.

Shri S. V. L. Narasimham (Guntur): I am moving my amendment.

Shri Nanadas (Ongole—Reserved—Sch. Castes): Before moving my amendment, I want to have some explanation from the hon. Minister.

Mr. Chairman: Order, order. I first want to know which hon. Members want to move which amendments.

Shri S. V. L. Narasimham: I beg to move.

In page 9, lines 11 and 12, for "the 1st day of January, 1956" substitute "the 1st day of June 1954".

Mr. Chairman: Amendment moved.

In page 9, lines 11 and 12, for "the 1st day of January, 1956" substitute "the 1st day of June 1954".

Shri Raghavachari (Penukonda): Sir, I move:

In page 9, lines 11 and 12, for "the 1st day of January, 1956" substitute "the 1st day of July 1954".

Mr. Chairman: Amendment moved:

In page 9, lines 11 and 12, for "the 1st day of January, 1956" substitute "the 1st day of June 1954".

Shri S. V. L. Narasimham: In the course of this speech extending the time up to 1956, the hon. Minister of Home Affairs, has stated that the High Court has to be housed with dignity and therefore, some time will be necessary to enable the Andhra State to erect such buildings as would conveniently accommodate the High Court. My respectful submission to this House is that the High Court of any State derives its dignity from the integrity, impartiality and independence exercised by it in the course of judgments. It is not the palatial buildings in which a High Court is located that add to its dignity. After all if we trace back to the origin of the agitation for an Andhra State, it will be noted that once it was decided that the capital for the Andhra State should be only within the territory of the Andhra State, it was agreed on both sides, namely, Andhras and Tamilians that the High Court also should be located simultaneously within the territory of the Andhra State itself. In fact, I may invite the attention of the House to the resolution passed by the Madras Assembly itself limiting the time to 1954. So my respectful submission is that once the Andhra State is capable of selecting its own locality within its territory for its Capital, no difficulty or inconvenience can be experienced in locating the High Court also. So in that view, my respectful submission is

[Shri S. V. L. Narasimham]

that the limit of the period of one year would certainly be sufficient and in that spirit I have moved this amendment.

Shri Nanadas: This is also regarding the date from which the High Court of Andhra should function. Since the time Mr. Justice Wanchoo arrived in Andhra, the Andhra public have wanted that the Andhra High Court also should function in the territory of Andhra simultaneously with the formation of Andhra. There have been a great feeling among the Andhra public regarding this. We want that the High Court also should function in Andhra from the 1st day of October. But in his speech, the hon. Home Minister said that the time required for the establishment of the Andhra High Court, that is, buildings and other facilities, is too meagre and there must be sufficient time. But in the case of the capital, no such time is required. For the capital also the Government have to provide many facilities. They will have to provide accommodation for thousands of officers and staff, but in the case of High Court only the Government wants some time. I fail to understand why the Government want such a long time as up to January 1956. Hence I request that the Government should clearly state from which date the High Court of Andhra will be allowed to function in the territory of Andhra itself. According to the resolution passed in the Madras Legislative Assembly, we wish that the High Court should function at least from the 1st day of June 1954. In the absence of a clear explanation from the Government, I would like to press which is similar to the one moved by Shri S. V. L. Narasimham.

Shri Nambiar (Mayuram): We from Madras also say that if they are in a position to have the High Court earlier, they may be allowed to do so, and with all goodwill we will allow them to go and establish their High Court in Andhra Desh. We are not at all in a mood to do anything

in the way of their shifting their High Court on or before the appointed day. We appreciate their point and I request that the hon. Minister may be pleased and kind enough to see that the High Court also is shifted.

Shri B. S. Murthy (Eluru): About this High Court, there is a very intriguing point. If you peruse the report of Mr. Wanchoo, it has been stated there that 60 per cent. of the income of the Madras High Court today is from the Andhra area. Ever since the report came out, there has been a section of people in Madras who have been anxious to retain a joint High Court both for the Andhra and the Madras States.

Now, the hon. Home Minister has been very much pleased to state that his heart does not permit him to send the Judges to sit under the tree and to house the advocates in tents in Kurnool. But when we are able to send a Governor, who is supposed to be the epitome of the self-respect and dignity of the State, into places where there are not even trees, not even holes to protect himself from the sun and rain, what is the harm in sending the Judges and advocates? Moreover, it is rather very unkind on the part of the future Andhra State to allow the clientele to come all the way from places like Vizag or Srikakulam—which are really 500 to 600 miles away—to Madras and expend what little they have.

Another point is this. After all, the Andhra State High Court must have its own Judges and in appointing the Judges the Chief Justice will have a great say. As long as the Chief Justice of Madras will function as the Chief Justice of Andhra State, I am not sure that in the matter of appointment, the Andhra might not suffer. As you know, Sir, the Andhra State today is to a great extent an indirect result of the ill treatment meted out to them by the present Madras State. Therefore, considering all these points I wish that the amendments now

tabled to have the High Court of Andhra established before 1954 may be accepted by the Government.

Shri Raghavachari: May I know whether the whole clause 28 is under discussion or only the first part of it?

Mr. Chairman: Clause 28. The hon. Member may speak on the whole clause, if he so pleases.

Shri Raghavachari: Yes. I have before me the proposed amendment of Government to add a sub-clause (4) also to this, which is given notice of today.

Mr. Chairman: That has not yet been moved. The hon. Member may then wait till it is moved.

Shri Raghavachari: It is intimately connected with that also.

Mr. Chairman: It would be better if I ask the hon. Minister to move the amendment and then the hon. Member may speak.

Shri Raghavachari: That would be better.

Shri Datar: I beg to move:

In page 9, after line 23, insert:

"(4) The principal seat of the High Court of Andhra shall be at such place as the Governor of Andhra may, before the prescribed day, by order, appoint:

Provided that if a resolution recommending any place for such principal seat is adopted by the Legislative Assembly of Andhra, such place shall be appointed by the Governor as the principal seat."

Mr. Chairman: Amendment moved:

In page 9, after line 23, insert:

"(4) The principal seat of the High Court of Andhra shall be at such place as the Governor of

Andhra may, before the prescribed day, by order, appoint:

Provided that if a resolution recommending any place for such principal seat is adopted by the Legislative Assembly of Andhra, such place shall be appointed by the Governor as the principal seat."

Shri Raghavachari: Now that the other proposal by way of amendment is also before the House, I only wish to stress two or three points. The reason for the amendment of the date of 1st January, 1956 to some other earlier date as recommended by the Legislative Assembly of Madras, that is, to 1st June, 1954, or 1st July, 1954—as I have given notice of an amendment—is this. Sub-clause (2) makes provision no doubt that the date may be accelerated by a resolution. But if one reads the language of the Bill, it does not necessarily compel a date being fixed in conformity with it notwithstanding the explicit intention of the Andhra Assembly, expressed. It is possible that in spite of the resolution, it is open to the President to fix a date that is later than the date resolved upon but earlier than the first day of January, 1956, though it is not expected that such a meticulous use would be made of the language. The President may be pleased to declare a day which technically answers the provision but not the spirit or the intention. Therefore, there is the necessity to alter the prescribed date, namely, 1st January, 1956 to 1st July, 1954.

It appears to be the intention of the Government that with due respect and regard to the intentions expressed by the Legislative Assembly of Andhra the date would be fixed. Therefore, if that is the intention, then I only request the hon. Home Minister to make that perfectly clear and that would allay a considerable amount of suspicion in the minds of some of us.

Sub-clause (4) that is now being added refers to the principal seat of the High Court. This incidentally makes us consider a part of clause 30 that is to come.

The Minister of Home Affairs and States (Dr. Katju): We will come to that later.

Shri Raghavachari: I am not complicating that. The principal seat of the High Court which was originally intended to be fixed by some other authority has now been the subject of this amendment here and in this amendment, proposed sub-clause (4), by the proviso, the power to fix the principal seat of the High Court is given to the Legislative Assembly. That would certainly make for a satisfactory arrangement as regards both the date and the seat of business of the High Court. By this proposed amendment, much of the difficulty about the location would be removed. But, as regards the necessity to advance the date to 1954, as I have submitted, if the hon. Minister is prepared to give the assurance that the date will be fixed by the President in consonance with the desire of the Assembly when it resolves under sub-clause (2), then I think I need not press the amendment that I have given notice of for 1st July, 1954.

Shri Veeraswamy (Mayuram—Reserved—Sch. Castes): The Andhra State is going to be formed very soon. When a new State is formed, it is proper in every respect that that new State should have in its area not only the capital but also the High Court and the Governor's residence. But, now the Bill provides that a separate High Court for Andhra will be established on or before the first day of January, 1956. So, for more than two years the Madras High Court has to function for the new Andhra State also. What I want to say is that the people of the Andhra province will have to undergo many difficulties in coming to Madras City and so I suggest that a separate High Court for the new State may be formed soon so that the people of Andhra will be benefited. When the capital for the new Andhra State is going to be located at Kurnool why should the new State have its highest judiciary at Madras? Why should not they es-

tablish a separate High Court for the Andhra Desh immediately or at least in the near future? So, I suggest the first day of April, 1954 for the establishment of a separate High Court for the Andhra State and it will be very convenient to the Andhras. If the Andhra State will be having its High Court at Madras for more than two years the feelings of the Tamilians will be embittered and then there may arise some difficulties. So, I request the hon. Home Minister to consider this point and to suggest to the new Andhra Government to make arrangements for the early establishment of the High Court in the area of the new Andhra State.

Dr. Katju: I am indeed rather sad to hear from one hon. Member that there is any suspicion of any sort or description in their minds. Many amendments have been tabled. I believe, based on that suspicion. Evidently, there is some misapprehension. You will please recollect that Chief Justice Wanchoo, who in his report recommended giving effect to the views expressed by the Andhras at that time that the temporary capital of the executive Government should be Madras for a number of years, went further and said that so far as the High Court was concerned, he was of the opinion that the High Court should continue at Madras even longer and at page 8 of his report he goes into the reasons. I am not going to take up the time of the House by reading that. All that is now past history.

The seat of the executive Government is going to Andhra Desh immediately. Well and good. So far as the High Court is concerned, I am aware of the views expressed by the Madras Legislature. In the original Bill which was sent to Madras there was no mention of the period of time that the High Court would continue in Madras, but the President had the discretion to have a new Andhra High Court established for the Andhra territory. I wish to make it quite clear that

the date mentioned in the present Bill has been mentioned purely out of regard for the convenience of the Andhra people. If the Andhra Legislative Assembly meeting at any time after the appointed day, namely the 1st of October, pass a resolution saying that they would like to have the Andhra High Court established in Andhra and by another resolution say which in their opinion should be the principal seat of the Andhra High Court, the President here shall give effect to their opinion and make an order for the establishment of the Andhra High Court as from the date suggested by them. I take them all to be reasonable people, responsible people. The Governor of Andhra Desh will immediately pass an order fixing the headquarters at the place which the Legislature nominates. I do not want to trave over the ground which I covered yesterday; I would only say to my friends in Andhra Desh that when they are considering this question of the establishment of the Andhra High Court they should bear in mind many relevant considerations and not act in haste.

The High Court, as Mr. Justice Wanchoo has mentioned, requires a lot of preparation. You have got to have a building; then the law libraries for the Judges; law libraries for the advocates; advocates' chambers, some place where the litigants might sit, houses for Judges, for the staff, for the advocates, and all that. When you have considered all this and come to the conclusion that you would like to have a High Court in Andhra Desh from the 1st of February, 1954, we will have no objection: it is your look-out: if you can do all that, so much the better. A suspicion was expressed that the Central Government had at the back of its mind a desire to continue the High Court in Madras for an indefinite time. I tell you plainly, I was rather pained to hear that remark. My hon. friend expressed a lurking suspicion that supposing the Andhra Legislature passed a resolution that a High

Court should be established in Andhra, say from the 1st of April, 1955, the President may ignore that resolution and not establish a High Court from the 1st of April 1955, and not even from the 1st of January, 1956, because he cannot do it. He might hold up his hand and advance the date just by fifteen days or a month and say: Very well, I am going to establish the High Court from the 1st of December, thereby prolonging the life of the High Court in Madras, so far as the Andhra people are concerned, by another five months. There is not the slightest intention of that. You may take it from me as a complete assurance from the Government of India that the whole of this clause is based purely upon the interest and convenience of the people of Andhra—nothing else. So far as the Madras people are concerned they do not come into the picture. It is entirely a domestic matter of yours.

We thought that you will, in the first instance, be probably concerned with the big question which will arise about the establishment of your capital. Today is the 22nd of August. The appointed day is 1st of October. You go there: you will have to make arrangements for the Legislature; there are lots of other questions. If you are in a hurry to fix up your High Court you may be involved in many difficulties. We thought we will give you time: we will give you time till the 1st of January 1956 to make arrangements at your leisure. If you think that you can make arrangements both for the location of the High Court and the principal seat of Government, you are welcome to do it. So far as the President is concerned, he would very much like to be guided by your Legislature. Please remember, in the Bill there is no suggestion that the Governor of the residuary State of Madras shall have to be consulted or the Chief Justice of Madras High Court will have to be consulted. It is entirely the wish of the Andhra Legislature. What more do you want? We have

[Dr. Katju]

advanced the date or rather postponed the date from the 1st of June, 1954—which came to us from Madras—by nineteen months to give you a little more time to consider. If you think you can make it 1st of June, well and good. If you think you can establish the High Court earlier still, say on the 1st March, or 1st of April, again well and good. What I wish is that when the Andhra Legislature considers this matter they will take all the relevant factors into consideration and not act in a hurry. Do not say we want the High Court after a week. That may be no good. I suggest that in the amendment that has now been moved by my hon. friend Mr. Datar the whole question is put in the clearest possible light. In the Bill as it stood, the fixation of the headquarters of the High Court, the principal seat, was left to the Chief Justice; that is a cumbersome procedure. Now it is quite clear, namely that the Legislature will have a voice.

After all who is the Governor? The Governor acts upon the advice of his Ministers. The Ministers are responsible to the Legislature. If you want the matter to be considered by the Legislature, I am sure the Ministers will bring a formal resolution of their own, or any member of the House can give notice of a resolution suggesting a particular date for the principal seat of the judiciary and you can have your vote upon it. You get that done and then you make all your arrangements and fix a date. Whatever the date is, if it comes to the President, he will be happy to abide by what you suggest to him. There should be no suspicion whatsoever that there shall be any attempt on our part to by-pass the express desire of the Madras Legislature in any disingenuous manner. I, therefore, suggest to the House that the amendment moved by my hon. friend Dr. Datar may be approved by the House.

Dr. Jaisoorya (Medak): I believe all the discrepancies can be removed

by a very slight modification of Mr. Datar's amendment, namely:

"Provided that if a resolution recommending any place and time for such principal seat is adopted by the Legislature of Andhra, such place and time shall be appointed by the Governor for the principal seat."

It actually conveys the sense of what the hon. Home Minister has just now said.

Dr. Katju: There are two different things. The resolution of the Legislature for changing the date about the establishment of the High Court is dealt with by sub-clause (2), and there the President comes into the picture. In Mr. Datar's amendment to add a new sub-clause (4), the President does not come into the picture at all; it is the Governor who comes into the picture. Therefore, I suggest that so far as the question of the time is concerned, you leave it entirely to sub-clause (2) because sub-clause (1) and sub-clause (2) are tied together.

The Constitution confers on the President the power to establish a High Court. Sub-clause (1) mentions it as 1st of January 1956 and the President may advance that day if the Andhra Legislature passes a resolution to that effect. Then comes Mr. Datar's new sub-clause (4) which is about the principal seat of the High Court. The President has nothing to do with that; it is only your Governor meaning thereby the Ministry. Suppose the Governor has fixed a particular place as the headquarters. If the Legislature wants to intervene, they may intervene. Suppose the Legislature does not want to intervene, it may accept the choice made by the Ministry. I respectfully suggest to Dr. Jaisoorya that he may not be improving matters. I think the whole structure of clause 28 with the amendment moved by my hon. friend Shri Datar is as perfect as the drafts-

man could make it and with the assurance that I have given him he should be satisfied.

Shri S. V. L. Narasimham: I beg leave of the House to withdraw my amendment.

The amendment was, by leave, withdrawn.

Mr. Chairman: There is an identical amendment of Shri Nanadas which I need not put to the House. Then there is the amendment of Mr. Raghavachari.

Shri Raghavachari: I beg to withdraw it.

The amendment was, by leave, withdrawn.

Mr. Chairman: I now put the amendment of Shri Datar.

The question is:

In page 9, after line 23, insert:

"(4) The principal seat of the High Court of Andhra shall be at such place as the Governor of Andhra may, before the prescribed day, by order, appoint:

Provided that if a resolution recommending any place for such principal seat is adopted by the Legislative Assembly of Andhra, such place shall be appointed by the Governor as the principal seat."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 28, as amended, stand part of the Bill."

The motion was adopted.

Clause 28, as amended, was added to the Bill.

Clauses 29 to 35 were added to the Bill.

10 A.M.

Clause 36.—(Seat of the Court)

Shri Datar: I beg to move:

In page 11, for clause 36, substitute:

"36. *The place of sitting of the High Court.*—The Judges and division courts of the High Court of Andhra may sit at such place or places in the State of Andhra other than its principal seat as the Chief Justice may, with the approval of the Governor of Andhra, appoint."

Mr. Chairman: Amendment moved:

In page 11, for clause 36, substitute:

"36. *The place of sitting of the High Court.*—The Judges and division courts of the High Court of Andhra may sit at such place or places in the State of Andhra other than its principal seat as the Chief Justice may, with the approval of the Governor of Andhra, appoint."

There are some other amendments also.

Shri Nanadas: Sir, in view of the new additional sub-clause added to clause 28, leaving it to the decision of the Governor, I submit.....

Mr. Chairman: Order, order. Now that we have passed the amendment to clause 28, moved by Shri Datar, is it necessary to go on with this? Does the hon. Member want to move his amendment?

Shri Nanadas: Sir, in view of that amendment and the one now moved by the hon. Minister to clause 36, I am not moving my amendment.

Mr. Chairman: I will now put the amendment to the House.

The question is:

In page 11, for clause 36, substitute:

"36. *The place of sitting of the High Court.*—The Judges and division courts of the High Court of

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Andhra may sit at such place or places in the State of Andhra other than its principal seat as the Chief Justice may, with the approval of the Governor of Andhra, appoint."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 36, as amended, stand part of the Bill".

The motion was adopted.

Clause 36, as amended, was added to the Bill.

Clauses 37 to 42 were added to the Bill.

Clause 43.—(Authorisation of expenditure etc.)

Shri Datar: I beg to move:

(i) In page 14, line 1, for "three" substitute "four".

(ii) In page 14, after line 4, add:

"Provided that the Governor of Andhra may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the State of Andhra for any period not extending beyond the said period of four months."

(iii) In page 14, line 9, for "three" substitute "four".

Mr. Chairman: Amendment moved:

(i) In page 14, line 1, for "three" substitute "four".

(ii) In page 14, after line 4, add:

"Provided that the Governor of Andhra may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the State of Andhra for any period not extending beyond the said period of four months."

(iii) In page 14, line 9, for "three" substitute "four".

Dr. Lanka Sundaram: I beg to move:

In page 14, line 4, add at the end:

"subject to consultation with the Special Officer for Andhra Affairs, and prior approval by the President of India."

I venture to move this to get an assurance from the hon. Home Minister as regards the process of consultation before the appointed day as between the Special Officer on the one side and the Governor of Madras on the other side. I also want to safeguard the rights and powers of the future Government of Andhra State to make certain recommendations. Even as regards the appropriation sanction by the President, I do not know how far it will be permitted in the light of the informal discussions we had yesterday. I had felt that the hon. Home Minister wanted to make a categorical statement to come on record about this process of consultation.

If I get that assurance I think I would have done my duty to this House and to my constituency by initiating this discussion, and I will submit to the decision of the House.

Mr. Chairman: Amendment moved:

In page 14, line 4, add at the end:

"subject to consultation with the Special Officer for Andhra Affairs, and prior approval by the President of India."

Shri Nambiar: Of course, this is a question of appropriation etc. But I wish to say that no new adventurous expenditure or policy should be undertaken by the Government of Madras during this period, because we know that in the matter of educational policy

there is a new adventure. The whole thing is an adventure. The question as to what sort of Government will be coming in Andhra is on the anvil. But in the mean time certain new policies are being undertaken in Madras against the wishes of the people and also the Legislature where by a majority of votes the Government was defeated on this issue. But even after this defeat the Madras Government is not prepared to give it up. This adventure should not be allowed. It is a very serious question. Here the Government is authorised to spend, whether the expenditure is in connection with its educational policy or police force, etc. During this period they must always go by the feelings of the Legislature and the people. There is a case here definitely that the feelings and wishes of the Madras Legislature have been flouted with regard to the educational policy. Whether it will involve extra expenditure or not is a different matter. But the feelings and wishes of the Legislature have been flouted and the whole people are against this new policy. It is condemned by every organisation and set of people. And there was a series of agitations, stopping of trains, strikes, marches, arrests, detentions and prosecutions. And still these things are going on. And there is a tendency, during this unsettled period, on the part of the Madras Government, under the able—I do not know what it is—of Shri Rajagopalachari to flout the people's desire and.....

Shri Venkataraman (Tanjore) : On a point of order, Sir. Can this House discuss a policy relating to a subject which is within the exclusive jurisdiction of the Madras Legislature? My hon. friend is attacking the education policy of the Madras Government, and he is not entitled to do it in this House.

Shri Joachim Alva (Kanara) : May I also add this? Let not my hon. friend try to make the House misunderstand the educational policy. The essence of that educational policy has been to send home tender children after mid-day and not to keep them in school.

Shri Nambiar: My submission is with regard to the expenditure. Of course, the Governor acts on the recommendation of the Government. Here the question is whether the Government or the Governor should spend money in this unsettled period, whether this can be allowed and a blank cheque can be given for this. We the people of residuary Madras State feel that the Madras Government do act against the wishes of the people. It is on the record of the Madras Legislative Assembly proceedings of the 29th July, 1953 that the Government of Madras was not allowed to carry on that educational policy. The resolution passed by a majority vote stayed that educational policy and there was to be an Enquiry Committee.....

Dr. Katju: Sir, what has it got to do with the Andhra State Bill?

Shri Venkataraman: Sir, my point is that this House cannot discuss the education policy of the Madras Government which is within the exclusive jurisdiction of the State Government. The hon. Member can transfer himself to the other House and give full vent to his spleen in that House. But so long as he is a Member of this House he cannot discuss it here.

Shri Punnoose (Alleppey) : Sir, is the use of the word "spleen" in order?

Mr. Chairman: After all we are discussing here clause 43 and as to what is to be done for the future. But it is not necessary for the hon. Member to go into the merits of what the Madras Government has done so far, and I would just request the hon. Member to desist from all kinds of aspersions so far as the past action of that Government is concerned. We are concerned in this clause only with what should be done in the future. And on that the hon. Member has expressed himself already.

Shri Nambiar: The feelings of the people and the Legislature must be respected. Here the whole thing is under consideration. If they flout

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the wishes of the Legislature how are we to.....

Mr. Chairman: The hon. Member has indicated what he wanted to indicate, already. He need not go into the merits of the present or past policy of the Madras Government, that is all, that I am telling him.

Dr. Jaisoorya: Actually we want a clarification and a clear statement from the hon. Home Minister because here in the Notes on Clauses, in clause 44, it is stated:

"This clause accordingly seeks to regularise the position by providing that notwithstanding the failure of the Madras Legislative Assembly to vote on the grants and of the Madras Legislature to pass the necessary Appropriation Bill, the vote on account passed by that Assembly and the consequent Appropriation Bill passed by that Legislature will be sufficient authority for the incurring of expenditure covered by the said vote.....etc."

We do not know what appropriations were asked, how the money is going to be spent before the appointed day, and therefore, we think it is essential that the Governor and the subsequent Legislature in Andhra should have the right to reopen the question of how the money is being spent. Mr. Viswanathan, for instance, has repeatedly tried to get some inkling as to how the expenditure is going to be incurred, but he has not been able to get it. Therefore, much of the difficulty will be overcome if the hon. Home Minister will clarify or give an assurance that the Governor who is to be appointed and the Legislature that will come into being thereafter will have the right to reopen the entire question as to how the money has been spent before the appointed day.

Shri Viswanatha Reddy (Chittoor): I beg to move:

In page 14, lines 1 and 2, for "three months" substitute "six months".

The period intervening between the appointed day and the beginning of the next financial year is exactly six months. My amendment is in accordance with the recommendation made by the Madras Legislature also. When the Andhra State is formed on the appointed day it will be confronted with a number of issues. The new State must devote its attention to various problems which are very emergent. The Legislature will be subjected to two Budget Sessions if this amendment is not accepted. Because, the period intervening is six months and according to the amendment just moved by Shri Datar, the power for appropriation is given only for four months. Therefore, instead of subjecting this new Legislature to two Budget Sessions consecutively it is better that this power is given for six months and the Legislature may be subjected to only one Budget Session. We all know how the whole Secretariat will be thrown in a state of convulsion during a Budget Session. When the whole Secretariat is situated perhaps in tents or temporary structures, to throw that in that state of convulsion in the very beginning, I think, is not fair. I, therefore, request the Government to accept my amendment.

Mr. Chairman: Amendment moved:

In page 14, lines 1 and 2, for "three months" substitute "six months".

Shri Venkataraman: I am afraid, the amendment of my hon. friend Mr. Viswanatha Reddy would be against the Constitution. The Budget has got to be passed within the financial year and if a period of six months is accepted, it will carry the date beyond the financial year and it would be as if there was no Budget at all for this year. That is why the hon. Minister has given an amendment increasing the period from three months to four months so that they may have some breathing time to have the new Budget passed.

My second point is this. In moving the amendment Dr. Lanka Sundaram clearly stated that his object was to get an assurance from the Government. We have nothing against the Government giving an assurance. The only point is this. So far as future expenditure is concerned, I want to make it clear, right from the date on which the Special Officer has been appointed, I know that the Madras Government has been incurring every pice of expenditure and taking every step in consultation with the Special Officer.

Dr. Lanka Sundaram: May I interrupt my hon. friend to clarify a certain point? The consultation is there. But, the right to reopen is the point at issue; the right to reopen the expenditure sanctioned by the Governor and the Government of Madras.

Shri Venkataraman: I am proceeding step by step. First, even before expenditure is incurred, we consult the Special Officer. After consulting the Special Officer, I do not know how the question of re-opening would arise, because this matter has been taken up in consultation with the Special Officer.

Dr. Lanka Sundaram: The Legislature has the right to know.

Shri Venkataraman: The Legislature can always put questions and get answers. Should it form part of the Bill? Should you say that it should form part of the proviso to the clause as it stands? That is the point. Since there is not even the slightest suspicion or scope for mismanagement or mistake in this matter, I would appeal to my hon. friend not to press this amendment, but to take the clause as it is.

Dr. Katju: I suggest that in the light of amendment already moved by my hon. friend Mr. Datar, all misapprehensions should be allayed. Before the appointed date, the Madras Government may sanction some expenditure as Vote on Account for a period

of four months after the appointed date. There may be some misapprehension that the Governor of Madras or the Government of Madras may be able to control the expenditure in the newly established State of Andhra for two, three or four months after the appointed date. Why should they interfere with the affairs of Andhra Desh: that is precisely the misapprehension which my hon. friend Mr. Datar wants to remove. As I understand it, if the Legislature or the Governor, on a Vote on Account, sanctions some sort of expenditure to be incurred in the future, it is not absolutely compulsory that that expenditure must be incurred. You always find at the end of the financial year that the House has granted one crore of rupees, but the one crore either has not been spent at all or only a part of it is spent. After the appointed date, when the new Andhra State comes into existence, if they find that the Governor or the Government of Madras have laid out a scheme for them in any field as from the appointed date for a period of four months, and if they are not in agreement with that particular policy or particular line of action, they can act in two ways. They ignore that particular policy and that particular item of expenditure and drop it. If they want to spend the money in some other way, Mr. Datar has suggested here clearly:

“Provided that the Governor of Andhra may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the State of Andhra for any period not extending beyond the said period of four months.”

After four months, the Legislature comes into the picture. Therefore, what you have in mind, namely that the Andhra people should be the sole arbiters of their treasury, as to how they will spend after the appointed date, you get that completely. If you dislike anything which is proposed to be done by the Madras Government,

[Dr. Katju]

you do not incur that expenditure. If you want that the expenditure should be incurred in some other way, that is a positive line, Mr. Datar has given the authority to the Governor of Andhra Desh to authorise such expenditure. The negative side is not to incur the expenditure. The positive side is incurring the expenditure in some other way. Therefore, the misapprehensions that Dr. Lanka Sundaram mentioned have been laid at rest. We have done this, if I may say so, in the light of the discussion that I have had in this matter with many hon. Members. We have tried to put the Andhra Government, Andhra Ministry and the Andhra people in sole charge of their affairs in financial matters as from the appointed date. If there are any questions, I shall be very glad to answer.

Dr. Lanka Sundaram: On a point of clarification, Sir, Clause 43 as drafted here relates to the power of the Governor of Madras, at any time before the appointed day, to authorise expenditure. The second amendment of my hon. friend Mr. Datar relates to the power of the Governor of Andhra State after the appointed date to incur additional expenditure. The point arising in the informal talks and here so far is a very limited specific point, namely, the right of the Andhra Legislature after the appointed day, to scrutinise the expenditure authorised by the Governor of Madras before the appointed date. I shall be glad if you could cover that point: a very specific limited point.

Dr. Katju: How can the Legislature scrutinise any expenditure incurred before the appointed day? It cannot be done.

Dr. Lanka Sundaram: Because, the Governor of Madras is authorising before the appointed day.

Dr. Katju: What you said was that the expenditure to be incurred after the appointed day should be sanctioned by the President: not before the appointed day. Please remember

that only forty days remain yet; I have been counting the days. For these 40 days, constitutionally, the Governor of Madras is responsible. The whole administration is under his charge. God forbid, if anything happens tomorrow the Governor of Madras has to take steps. If relief schemes have to be undertaken in Godavari during the next two weeks, the Governor of Madras is responsible. Of course, we have got the Special Officer. The Special Officer has no statutory powers. He is there so that the wishes of the Andhra people may be ascertained through the Special Officer and the Committee and all the procedure if you want. What I thought was passing in the mind of the Andhra Members was that the Government of Madras may try to control the expenditure during the four months or three months after the appointed day. That was the apprehension expressed to me.

Dr. Lanka Sundaram: No.

Dr. Katju: Because, the new Legislature may meet afterwards. It is the Governor of Madras who will sanction particular schemes of expenditure to be incurred after the 1st of October for three or four months. The suggestion was: why should he interfere in our matters. We tried to remove this in this way. On the negative side—I am repeating—you do not incur the expenditure. If you want to incur the expenditure in some other line, you get that power here. The Governor of Andhra Desh may pass another order saying, we will expend on A, B, C and D. You meet the point. Up to the 30th of September the responsibility of the Madras Government is there. How can you scrutinise it? You cannot do it. Your wishes will be ascertained by the device that has been adopted by appointing a Special Officer who is in constant touch with the Ministry of Madras and your interests are properly safeguarded.

Dr. Lanka Sundaram: I am sorry, Sir, I have to seek your indulgence. I want to satisfy myself on one point.

The present composite Government of Madras has already incurred some expenditure for the benefit of Andhra Desh before the appointed date. Will the Governor of the Andhra State and the Andhra Legislature scrutinise the expenditure after the appointed date?

Dr. Katju: The money that has been spent is spent and the matter is finished. You cannot call it back. It has already been spent. If the money has actually been spent, you cannot direct the Governor of Madras or the Government of Madras to refund the money to you. It has been spent in Andhra Desh. For God's sake concentrate on the expenditure after the 1st of October when your State comes into being. We have done all that human ingenuity can do, viz., we have adopted the device of appointing a Special Officer. We have also asked the political parties to appoint a Committee. The Committee is there. The Special Officer is in constant touch with the Government of Madras on the one hand and with the popular leaders of the Andhra Desh on the other hand. Therefore, if the Government of Madras during these 40 days are going to incur any expenditure, I am sure that before incurring the expenditure they will ascertain the wishes of the Andhra people through the Special Officer and the constitutional responsibility, the legal responsibility and the statutory responsibility lie with the Governor of Madras and the Madras Government. I am perfectly certain in my mind that so far as Andhra Desh is concerned, the Government of Madras will try to do their best to act in accordance with the suggestions made to them by the Special Officer. Do not entertain too much of suspicion. Let us proceed in a friendly manner. I have not been in the South. I have not suffered as you have suffered. That is between the Tamilians and yourselves. What I wish to impress on you is that it is now only a question of forty days more. The money will be spent on Andhra Desh and not elsewhere.

Dr. Lanka Sundaram: You do not know where the shoe pinches.

Shri B. S. Murthy: As it is the Madras Legislative Assembly before the separation of the Andhra State will be in a position to make the Government answer for all the expenditure they have incurred in the Madras State, whereas after the appointed date the Andhra State will not have that facility and hon. Minister says there are only a few days more. It was Napoleon who said: "If I had five minutes more, I would have devoured the whole of England".

Dr. Katju: The affection that subsists between the Tamilians and the Andhras is a sad affair.

Shri B. S. Murthy: Dr. Lanka Sundaram's amendment is seeking that the power which is vested in the residuary Madras Legislative Assembly to enquire into the question of the amount of expenditure incurred by the Madras Government should also be given to Andhra Assembly to go into the expenditure incurred during this period before the appointed date in the Andhra areas.

Mr. Chairman: It is quite clear on this point.

Shri S. V. Ramaswamy (Salem): I invite the attention of the hon. Member to clause 46 also in this connection:

"The reports of the Comptroller and Auditor-General of India referred to in clause (2) of article 151 relating to the accounts of the State of Madras in respect of any period prior to the appointed day shall be submitted to the Governor of each of the States of Andhra and Madras who shall cause them to be laid before the Legislature of the State".

Clause 46 covers that point also.

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): I think my hon. friend Dr. Lanka Sundaram is quite right in his fears

[Shri T. T. Krishnamachari]

but at the same time he will recognise that it is a very peculiar position that exists just at the time the State is being divided and arrangements have been made for the State's administration to be carried on. So, some action has to be taken even prior to the appointed date and what my hon. friend wants is that that action should be taken in consultation with the Special Officer and with the sanction of the President. That is what he says.

The position really is that the sanction that would be made would be for expenditure to be incurred after the appointed date and not before the appointed date. The expenditure that is incurred before the appointed date and until the appointed date will be under the signature or authorisation of the Governor of Madras. The moment the Andhra State comes into being moneys will have to be spent on various matters. Salaries will have to be paid. It is more a question of procedure. The Governor of Madras would be authorising the spending of moneys out of the Consolidated Fund of the Andhra State to come on the 1st October. It will have to be spent on the Andhra State and the hon. Member will recognise the difficulty of the insertion of a provision of the nature that "it shall be in consultation with the Special Officer and the sanction of the President". My hon. friend says what happens to the responsibility? The responsibility will undoubtedly be vicarious. There is a vacuum in regard to the responsibility, it is no doubt true, but in actual fact the responsibility will be on the Government of Andhra that will come into being. Assuredly, some Ministers will be appointed on the 1st of October. The Governor will not be acting on his own. There will be the new Andhra Assembly. That will have to ratify the action of the Governor. For all acts either prior to or after the Andhra State comes into being the responsibility will have to be taken by the new Andhra Ministry. It must be a vicarious responsibility.

Regarding the question of fixing responsibility, I do not think my hon. friend need fear. If he wants a scapegoat, it will be provided. But whether it is justifiable to saddle vicarious responsibility on a Ministry which has probably had nothing to do with the sanction of the expenditure is a matter which we cannot avoid in a transitional stage. My hon. friend might rest assured that the money will be spent out of the Consolidated Fund of the Andhra State on whatever is an absolute necessity. The expenditure cannot be curtailed by putting in a provision of this nature, because obviously when there is a Special Officer, who would be designated as the Governor of Andhra, his wishes will be taken into consideration. In fact it is his function. It is not the Governor of Madras or the Chief Minister of the residuary State, who will initiate this expenditure but it will be the Special Officer, who will be the Governor designate—who will do it. But what my hon. friend wants is the additional provision that he should consult the President. I think the time involved in consultation, recording of the consultation and so on with the President is a thing which is needless, provided my hon. friend feels that there is complete confidence in the man who is to be appointed as the Governor of the Andhra State. I do recognise that there is some validity in what my hon. friend says regarding the fact that a vacuum does exist.

Dr. Lanka Sundaram: May I interrupt my hon. friend on a certain limited point? My hon. friend has made certain assumptions about the Ministry coming into being after the 1st of October. As far as I know something about Andhra politics, exactly the opposite thing will happen.

Shri T. T. Krishnamachari: My hon. friend does not recognise that there can be no vacuum because the Governor will be in the picture. Further, there is no vacuum so far as the administration is concerned.

Dr. Lanka Sundaram: I want the prior approval of the President to be obtained.

Mr. Chairman: I will put the amendments to the vote of the House.

The question is:

In page 14, lines 1 and 2, for "three months" substitute "six months".

The motion was negatived.

Mr. Chairman: The question is:

In page 14, line 4, add at the end:

"subject to consultation with the Special Officer for Andhra Affairs, and prior approval by the President of India".

The motion was negatived.

Mr. Chairman: The question is:

In page 14, line 1, for "three" substitute "four".

The motion was adopted.

Mr. Chairman: The question is:

In page 14, after line 4, add:

"Provided that the Governor of Andhra may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the State of Andhra for any period not extending beyond the said period of four months."

The motion was adopted.

Mr. Chairman: The question is:

In page 14, line 9, for "three" substitute "four".

The motion was adopted.

Mr. Chairman: The question is:

"That clause 43, as amended, stand part of the Bill."

The motion was adopted.

Clause 43, as amended, was added to the Bill.

Clauses 44 to 46 were added to the Bill.

Clause 47.—(Apportionment of assets and liabilities)

Dr. Lanka Sundaram: May I make a submission? Clause 47 onwards are very vital as far as we from Andhra Desh are concerned. They are also related to the Seventh Schedule. May I request you to adjourn for six or seven minutes? We can take over the debate on Monday.

Dr. Katju: I have no objection. You might formally move the amendments, and let the discussion proceed.

Mr. Chairman: I would rather prefer that this clause 47 as well as clause 48 may be held over.

Dr. Katju: Clause 48 is not very controversial.

Mr. Chairman: Fairly controversial.

Dr. Lanka Sundaram: The whole part may be held over. You may take from clause 53 onwards, and they can be disposed of in the next seven minutes.

Mr. Chairman: If the House agrees, I have no objection. We can proceed to Part VI. The clauses left over will be taken up the next day.

Clause 53.—(Territorial extent of laws)

Shri Basappa (Tumkur): I beg to move:

In page 17, for clause 53, substitute:

"53. Territorial extent of laws: On and from the appointed day, all laws in force in the State of Mysore shall extend and apply to the territory added to the State of Mysore by sub-section (1) of section 4 and all laws in force immediately before the appointed day in such territory shall cease to have any force therein:

Provided that the Government of Mysore may by notification made before the appointed day in the Mysore Gazette declare that any law in force in the transferred

[Shri Basappa]

territory immediately before the appointed day shall continue to be in force and apply to the territory added to the State of Mysore by sub-section (1) of section 4 until otherwise provided by a legislature competent to make laws for the State of Mysore or other competent authority as the case may be:

Provided further that anything done or any action taken under the laws in force in the transferred territory before the appointed day shall be deemed to have been done or taken under the corresponding law in force in that territory as from the appointed day."

Why I say this clause should be substituted for the existing one is this. The clause as it stands in the proposed Bill envisages that all laws in force in the transferred territory before the appointed day shall continue to be in force even after the appointed day until otherwise provided by a competent Legislature or other competent authority. Such continuance results only in confusion and inconvenience. It was the view of the Mysore Legislature also that it would be appropriate to apply the laws of the State of Mysore to the transferred territory from the appointed day. It was considered to be the most natural and convenient thing to do.

In similar instances, legislation under which there was a transference of territory always provided for the immediate application of the laws of the absorbing territory. Gradual replacement of the laws of Madras by the Mysore laws as contemplated in the Bill would mean considerable inconvenience to the public and difficulties in the administration of Mysore. Hence the view that the laws of Mysore should apply to the transferred territory from the appointed day was accepted. The amendment by which the new clause is now substituted makes provision accordingly and seeks to give power to Mysore to select for continuance in the transferred territory such existing laws as it

considers necessary. There might be cases where there is no Act in Mysore corresponding to the existing laws in Madras State or the transferred territory such as, for instance, the Madras Estates Abolition Act. And there might be cases where the Mysore law cannot be applied immediately in the transferred territory for administrative, physical or other considerations. It may be desirable in those circumstances to continue the existing law in the transferred territory. Provision has, therefore, been made to the effect that the Government of Mysore may, by notification, before the appointed day, continue such laws to be in force until otherwise provided by a competent Legislature or other competent authority, in the transferred territory.

The only main point is that as soon as this transferred territory goes to Mysore, whatever laws there are in Mysore should immediately be applicable to the transferred territory. Otherwise, complications will arise and the Mysore Government will be put to a lot of administrative difficulties. And until the Mysore Government by notification makes some arrangement, the laws of Madras will apply to the transferred territory. Hence, it will lead to all sorts of inconvenience, and therefore the Mysore laws should be made applicable to the transferred territory from the commencement of the Act.

Dr. Katju: We considered this matter, and I respectfully submit that every consideration of convenience to which my hon. friend referred points the other way. Here are people who are going to Mysore after I do not know how many years—100 years or 200 years. They have become accustomed to a certain body of laws, very likely beginning with the Regulations of Clive's time or Warren Hastings' time, and all that. They go from the 1st of October to Mysore, and according to my hon. friend the laws with which they are not familiar and of which they have no knowledge, should become applicable immediately to them, to these six or seven taluks.

*Compulsory Military
Training of Students*

He said there are precedents to that effect. Speaking as a lawyer, all the precedents of which I have knowledge are to the contrary, viz., if territories are added to any province, then the condition is that the laws to which the people were previously bound should continue unless and until those laws are changed by the appropriate Legislature or by the appropriate authority. Now, these Bellary people go there as from 1st October. They continue with their old laws. They become accustomed to Mysore, and then you may through your Legislature make appropriate legislation as the Bill suggests.

I, therefore, very confidently say that the amendment which is based upon the resolution of the Mysore Legislature should not be accepted, and the Bill should be allowed to stand as it is.

Mr. Chairman: The question is:

In page 17, for clause 53, substitute:

“53. *Territorial extent of laws:* On and from the appointed day, all laws in force in the State of Mysore shall extend and apply to the territory added to the State of Mysore by sub-section (1) of section 4 and all laws in force immediately before the appointed day in such territory shall cease to have any force therein:

Provided that the Government of Mysore may by notification made before the appointed day in the Mysore Gazette declare that any law in force in the transferred territory immediately before the appointed day shall continue to be in force and apply to the territory added to the State of Mysore by sub-section (1) of section 4 until otherwise provided by a legislature competent to make laws for the State of Mysore or other competent authority as the case may be:

Provided further that anything done or any action taken under

the laws in force in the transferred territory before the appointed day shall be deemed to have been done or taken under the corresponding law in force in that territory as from the appointed day.”

The motion was negatived.

Mr. Chairman: The question is:

“That clause 53 stand part of the Bill.”

The motion was adopted.

Clause 53 was added to the Bill.

Clauses 54 to 58 were added to the Bill.

Mr. Chairman: Now it is 10-45, and we take up the other business of the House.

**RESOLUTION RE COMPULSORY
MILITARY TRAINING OF
STUDENTS—concl'd.**

Mr. Chairman: The House will proceed with the further discussion of the following resolution moved by Dr. Ram Subhag Singh, on the 7th August 1953:

“This House is of opinion that immediate steps be taken to impart compulsory military training to all High School and College students.”

There are also the amendments moved by Shri U. C. Patnaik and Shri A. K. Gopalan.

The Deputy Minister of Defence (Shri Satish Chandra): When I was speaking on the last occasion on this resolution, I ventured to point out that two distinct approaches had crystallised during the debate. Some hon. Members had laid emphasis on the development of character, physique and personality of our young men, while others emphasised the defence aspect in order to develop martial qualities amongst the youth of our country. There were some hon. Members who were opposed to the second approach, though all of them were unanimous, as far as the first one was concerned.