

Shri Gidwani (Thana): What about whipping in the jails?

Shri Datar: So far as whipping in jails is concerned, I have made the position clear already. Prisons are a State subject, and therefore this question has to be taken up by the various State Governments. I am confident that whipping even in jails is not at all salutary; it has got just the opposite effect. I would request my hon. friends to go and see what is happening in the jails. I myself was in jail for nearly three years, and I know that a number of persons have become hardened criminals after they had this whipping. It was a matter of great shame that during the agitation for freedom, a number of Indians received flogging. It was to me a matter of grief to learn that some hon. Members of Parliament had also received whipping before.

Shri Tyagi: In Parliament, every day Shri Satya Narayan Sinha whips us.

Shri Datar: Apart from that, the question is whether for ordinary criminals whipping is necessary and it will have a deterrent effect. Government's opinion after full consideration and with full experience is that whipping will not have any such effect at all.

So, apart from other considerations, the short question is whether such a barbarous provision should be maintained even now on the statute-book or whether it should disappear immediately without waiting for the Law Commission's report or for any other thing to happen.

So, I am very glad that this House has on the whole—subject to certain exceptions—welcomed this Bill quite well; and I am confident that the Whipping Act of 1909 will be a matter of the past.

Mr. Deputy-Speaker: The question is:

“That the Bill to provide for the abolition of whipping as a

punishment by repealing the Whipping Act, 1909, and further amending the Code of Criminal Procedure, 1898, as passed by Rajya Sabha, be taken into consideration.”

The motion was adopted.

Mr. Deputy-Speaker: As there are no amendments tabled, I shall put all the clauses to vote now.

Shri Kamath: I want to speak on clause 3.

Mr. Deputy-Speaker: The time is up already. I am going to apply guillotine now, for we have already exceeded the time allotted for this by about 15 minutes.

The question is:

“That clause 1 to 4, the Enacting Formula and the Title stand part of the Bill.”

The motion was adopted.

Clauses 1 to 4, the Enacting Formula and the Title were added to the Bill.

Shri Datar: I beg to move:

“That the Bill be passed.”

Mr. Deputy-Speaker: The question is:

“That the Bill be passed.”

The motion was adopted.

CONSTITUTION (SEVENTH AMENDMENT) BILL

Mr. Deputy-Speaker: The House will now take up the Constitution (Seventh Amendment) Bill. The voting will take place at 3-30 P.M.

The Minister of Law and Minority Affairs (Shri Biswas): I beg to move:

“That the Bill further to amend the Constitution of India, be referred to a Select Committee consisting of 21 Members namely, Dr. Kailas Nath Katju, Shri Kotha

Raghuramaiah, Shri Debeswar Sarmah, Shri Nageshwar Parsad Sinha, Shri Narendra P. Nathwani, Shri Hari Vinayak Pataskar, Shri Shriman Narayan, Shri S. V. Ramaswamy, Shri Birakisor Ray, Shri Diwan Chand Sharma, Pandit Munishwar Dutt Upadhyay, Dr. Susilranjan Chatterjee, Shri K. T. Achuthan, Swami Ramnanda Tirtha, Shri Shivram Rango Rane, Shri Asoka Mehta, Shri Hirendra Nath Mukerjee, Shri N. C. Chatterjee, Shri Frank Anthony, Dr. Lanka Sundaram and the Mover, with instructions to report by the 1st December 1955."

This is a very short Bill. Copies of it have already been circulated to hon. Members. As I pointed out the other day, this Bill should not spring any surprise on hon. Members, for the subject-matter of this Bill formed part of the Constitution (Fifth Amendment) Bill which was introduced by me in this House along with the Constitution (Sixth Amendment) Bill, on the opening day of this session.

If you compare the provision of this Bill with the relevant clause in the Constitution (Fifth Amendment) Bill, you will find that the two are exactly in the same terms. All that is suggested is that when a Bill is prepared for the purpose as set out in article 3 of the Constitution, it will no longer be necessary to wait for its introduction till the views of the State legislatures concerned are obtained. If you compare the existing provision of article 3 with the proviso which it is proposed to substitute for it, you will find that whereas the former provision was that the Bill could not be introduced before the views of the legislatures of the States concerned both with respect to the proposal to introduce the Bill and with respect to the provision thereof had been ascertained by the President. In lieu of that, it is now suggested that no such Bill shall be introduced unless where the proposal contained in the Bill affects the area, boundaries or name

of any of the States specified in part A or Part B of the First Schedule, the Bill has been referred by the President to the Legislature of that State or expressing its views thereon within such period as may be specified in the reference.

The whole object is this that it will not be possible for any State to take up a non-cooperative attitude and thereby impede implementation of the Bill for the formation of new States or for alteration of boundaries etc. As a matter of fact, the President will specify the period within which the State Legislatures will be expected to submit their views and we may take it that the President will fix a reasonable period within which such views may be expressed. It is only for the purpose of guarding against a possible contingency in case any particular State may adopt delaying tactics that we are making this change, so that the introduction of the Bill will not be impeded by reason of such attitude on the part of even one State. Not that we anticipate such a contingency, but it is just as well that we should guard against the possibility of any such thing happening. As you know, the Report of the States Reorganisation Commission will be coming up before this House for consideration and Government will then have to come to a decision on the recommendations contained in it. The matter will have to be referred to the State legislatures for their opinion. Sufficient time will be given to the State legislatures to express their views. Put to guard against any possible contingencies we are taking this step so that the progress of the Bill may not be unduly thwarted by reason of any attitude of non-cooperation on the part of any of the States concerned.

I need not say anything more. It is a simple measure and I hope there will be no difficulty. In fact the hon. Speaker had made a suggestion that this might be taken up and disposed of at one sitting and there was no need for reference to a Select

[Shri Biswas]

Committee. But then some hon. Members were of opinion that because this was a Bill concerning amendment of the Constitution, however, minor the amendment might be it was just as well to follow the convention that there should be reference to a Select Committee. The whole matter might be discussed in the Select Committee and all points of view expressed therein. All the same two hours have been allotted for discussion on the floor of the House today. So it is suggested that the Select Committee which I have named will meet this afternoon, because it will have to present its Report to this House tomorrow. So at any time which will suit hon. Members—say, quarter past four this afternoon—the Select Committee may meet. I do not expect that the meeting will be a very long one. It can be disposed of very soon. I will not say anything more at this stage.

Mr. Deputy-Speaker: Motion moved:

“That the Bill further to amend the constitution of India be referred to a Select Committee consisting of 21 members namely: Dr. Kailas Nath Katju, Shri Kotha Raghuramaiah, Shri Debeswar Sarmah, Shri Nageswar Prasad. Sinha, Shri Narendra P. Nathwani, Shri Hari Vinayak Pataskar, Shri Shriman Narayan, Shri S. V. Ramaswamy, Shri Birakisor Ray, Shri Diwan Chand Sharma, Pandit Munishwar Dutt Upadhyay, Dr. Susilranjan Chatterjee, Shri K. T. Achuthan, Swami Ramananda Tirtha, Shri Shivram Rango Rane, Shri Asoka Mehta, Shri Hirendra Nath Mukerjee, Shri N. C. Chatterjee, Shri Frank Anthony, Dr. Lanka Sundram, and the Mover, with instruction to report by the 1st December, 1955.

I would like to know how long the hon. Minister will take for reply.

Shri Biswas: That will depend upon the points raised on the floor of the House. In my opinion, it is a

simple measure and I need not take more than ten minutes at the most. But if hon. Members expatiate on this Bill, I may require a little more time.

Mr. Deputy-Speaker: By way of abundant caution, I will provide 15 minutes, including that for voting. I will call upon the hon. Minister at quarter past three. How many hon. Members want to take part in the debate? So that I may divide up the time. Of course, this does not prevent any other hon. Member rising later, nor does it prevent me from not calling him.

Shri D. C. Sharma (Hosiarpur): Your last statement is very dangerous.

Mr. Deputy-Speaker: All those hon. Members who are interested in it have already stood up. We have 105 minutes.

Shri Kamath (Hoshangabad): Ten minutes each.

Mr. Deputy-Speaker: Five to ten minutes.

Shri Kamath: At your discretion.

Mr. Deputy-Speaker: Five to ten minutes as may be convenient or desirable.

Shri Tyagi: Before you proceed, May I seek one clarification? I have been interested in Constitution-making and since some change is sought to be made, I would like to have a clarification.

Shri Kamath: You are a Minister.

Shri Tyagi: Am I not a Member? I am not making a speech.

Mr. Deputy-Speaker: The hon. Member is raising a constitutional point.

Shri Tyagi: I just want a clarification as regards the difference between the wordings of the article as it exists and the one now proposed. The original wording is: “with respect to the proposal to introduce the

Bill and with respect to the provisions thereof have been ascertained by the President". At the time the Constitution was being made, the idea was that two points were to be referred to....

Shri Kamath: Making a speech?

Shri Tyagi: One is with respect to the provisions thereof; the second is the proposal to introduce the Bill. Even these words stand changed. Here it is said: "for expressing its views thereon". So I would like it to be clarified as to what is the difference between the two, what it actually means by this change. (*Inter-ruptions*)

Shri Kamath: You are a part of the Government.

Mr. Deputy-Speaker: The hon. Minister will reply once for all to all the points raised on this side as well as on that side. I think for the benefit of the House he might have stated—though the clause seems to be practically on all fours with the existing clause—what is exactly the difference, how it is sought to be made out and what is the purpose of this difference:

Shri Biswas: I did not say it was on all fours with the existing clause: I said it is on all fours with the clause which was included in the Constitution (Fifth Amendment) Bill introduced on the 21st November.

Mr. Deputy-Speaker: Has that been taken into consideration?

Shri S. S. More: No.

Mr. Deputy-Speaker: That Bill has not yet been taken into consideration

Shri Biswas: I know.

Mr. Deputy-Speaker: Therefore, this clause comes for the first time before this House for consideration. Is it not, then, necessary for the hon. Minister to say what exactly is the difference, in what particular respect he wants to alter the existing article and for what purpose? In fact, I was

expecting that he would do so, but he has not done so. All the same, I will allow discussion. In the end, he will do so. In all these matters, it is not as if the House can be taken to know all the implications which the sponsor has in his mind.

Shri Biswas: I thought I had explained why this change was being made.

Pandit Thakur Das Bhargava (Gurgaon): The hon. Law Minister has been pleased to tell us that the main purpose of this Bill is that the States may not be allowed to have a non-co-operative spirit and may not be able to delay the bringing in of the final Bill in this House.

It appears that when the Constitution was framed, the idea was that no changes in the boundaries or the names etc. should be made unless the Legislatures were consulted. Here, it is not necessary that the States should express their opinions or that their views should be ascertained before any such Bill is brought. According to the Bill before us, if a State does not choose to express its opinion, the recommendation of the President could be made even without the ascertainment of the wish of the Legislature. It is, therefore, that a time limit is practically being set to the expression of these views. It appears now that the idea is that so far as non-co-operating States are concerned, they may not be able to be an obstacle so far as the introduction of the Bill and further passing is concerned. I do not think any such contingency is likely to arise in the present circumstances or in any circumstances that I can visualise. All the same, there are two parties to this, the President—or, I should say, the Central Government—and the State Legislatures: I should think that there is no harm in passing this Bill. Yet, when there is an obligation on the States to express their views, there must be an obligation on the Central Government also to see that those views are allowed to be expres-

[Pandit Thakur Das Bhargava] *

sed. I can also visualise a set of circumstances—which I do not think is likely to happen—in which the States may have some complaints that they have not been afforded full opportunity to express their views. It may happen that the Central Government may introduce a Bill at such a time when the State Legislatures may not be able to express their views in time for some obstacles may arise. I would, therefore, like the Select Committee should be pleased to consider that instead of 'a period' they should say 'within reasonable period'. After all, we must guard against both things. We must see that the Legislatures must be able to express their views—because according to the Constitution and according to ordinary principles, it is necessary that the States should be allowed to express their views; and, at the same time it may happen that during the time specified the States may not be able to express their views, without taking any sort of non-co-operating attitude. They may be anxious that their views should be expressed but, all the same, time passes on and they may have to write to the Central Government or the President for extension of time. So, the second point that I want to urge is that you must provide here two things; one; that this period should be a reasonable period and, secondly, that if, in certain contingencies it is necessary to extend the period, then it may be extended so that the entire purpose behind the original Constitution may not be defeated. We all want—and I think every Member would support my idea—that it is absolutely necessary that the States should be given full opportunity for the expression of their views and the Central Legislature should see that these views are expressed and no complaint should be brought that it has not been able to express its views. With these two suggestions which I have indicated, I support the principle of the Bill because I am anxious that when the Government and the whole country wants to be made, no particular

State or Legislature may be able to stand in the way and defeat the purpose behind such a provision.

A question has been raised by Shri Tyagi. He wanted to know whether there is any change or difference between the provisions which are now sought to be made and the provisions which already exist. So far as I can see, before a Bill is allowed to be introduced the views of the States will have to be ascertained or opportunities shall have to be given to them to express their views. If you compare both the provisions, I find that in the previous article, the words 'areas etc.' are not there.

Mr. Deputy-Speaker: 'Name' is there.

Pandit Thakur Das Bhargava: 'Boundaries' and 'names' are there but not area. If the boundaries are changed, naturally, the area is changed.

Shri S. S. More: You see you increase the area.

Pandit Thakur Das Bhargava: We are considering the proviso.

Shri S. S. More: Proviso along with the original article.

Pandit Thakur Das Bhargava: The original is there.

Shri Tyagi: Both 'area' and 'boundary' are not necessary.

Pandit Thakur Das Bhargava: I am only pointing out that so far as the first 7 or 8 lines are concerned, there is no change; they only want to substitute this proviso. So far as the proviso is concerned, the 'area' is not there but with the diminution or increase or an alteration in the boundaries, 'area' comes in automatically.

Shri U. M. Trivedi (Chittor): Sometimes the area may remain equal.

Mr. Deputy-Speaker: Area is referred to in the earlier portion of the article. The original proviso did not include the word and it is sought to be made good here.

Pandit Thakur Das Bhargava: What I was submitting is that even as my hon. friend submitted, when there is a change of boundary there is change in area.

Shri U. M. Trivedi: Area means total or *kshetraphal*.

Pandit Thakur Das Bhargava: Whatever it may mean, this is not such a drastic change that you should think that we should not accept it.

I support the principles of the Bill and I think the House will be well advised to agree to the motion for reference to the Select Committee.

Shri N. Sreekantan Nair (Quilon *cum* Mavelikkara): Sir, I thank you for giving me this opportunity. I wish to point out one or two facts about this Bill which have already been pointed out by my hon. friend Pandit Bhargava. There is the question of reasonable time. But, when once a reasonable time-limit is given, it is not necessary to allow the State Government to apply for more time. The main defect of this Bill is that there is no provision for making the time-limit "reasonable." When it is reasonable, the second amendment or suggestion of Pandit Bhargava falls to the ground. Once we give them a reasonable time, it is not for the States to ask this House or the President to change it. That will impede the progress of legislation.

The basic approach to the whole question adopted by the constitution-making body was that the considered opinion of the Legislature may be ascertained. The procedure followed in the various States is not the same. Some say that there need be no voting and that the full text of the discussions should be sent. What is intended is also, to some extent, left undefined. If a particular State says, the reorganisation should not be

effected, then Parliament has got over-riding powers to go beyond that and pass the legislation. That the Government want to have a fair idea of the consensus of opinion there, might be the reason why this Article has been put in the Constitution. I would like to know, why a specific statement is not there that if the State Legislature does not send its views in time, Parliament will carry on with the Bill as if it had expressed its opinion. That provision should be added, definitely, towards the end of the proviso so that the meaning may be complete. These two important amendments have to be brought in.

The amendment that the Bill will be carried on or proceeded with as if the State Legislature has expressed its opinion is a very necessary factor because in the case of several articles like the articles dealing with the fundamental rights, there is no provision in the Constitution to enforce those rights. Here also we have laid down some provision which cannot be enforced. Here the article says that the opinion of the Legislature must be sent. Suppose it is not sent. Why should we leave it for inference that if it is not sent, this House will proceed with it? There must be a definite statement; otherwise, it will not only lead to complications but may also give rise to the Supreme Court and other courts cutting in and all sorts of delay occurring, especially at a time when the States Reorganisation Committee Report, a very important matter, is taken up.

Dr. Krishnaswami (Kancheepuram): This is an important amendment even though it involves the alteration of a single article only. I am surprised that the Government have not yet thought it fit to take the House fully into confidence on this issue. I have attempted to understand this Bill and I have got certain doubts which I wish to express and which, I hope, the Select Committee will take into account.

[Dr. Krishnaswami]

The Constitution-makers, as you will realise, anticipated that the States affected would take all possible steps to transmit their views within a reasonable time to Parliament. We are having today the same administration both at the Centre and in the States. Nevertheless the Government have come to the conclusion that since States' reorganisation may cut across party lines, Legislatures may not respond and the legislation in the Centre may be held up, it may be necessary to introduce a Bill to specify a limited period within which the views of the Legislatures may be available. While I hold the view that no Legislature of any State should delay, and thus in effect exercise a veto power, which would go quite against the spirit and tenor of article 3, I must at the same time point out to this House that we would be really abdicating our responsibility if we do not take care to avoid the other extreme, namely, of stifling the expression of views by a Legislature. Discussions on such a vital matter must not be stifled. Changes in territory are important, especially as they bring in their wake many awkward problems of administration and adjustment. But the article as worded can be worded so as to disregard the views of the people of the States expressed in their Legislatures. The president on the advice of the Cabinet may fix any time limit, whether adequate or not. This gives rise to apprehensions that any arbitrary period may be chosen and the views of the Legislatures may not be available to Parliament because of failure to transmit them due to the inadequacy of the time limit. We have after all to realise that article 3 specifies that views on the provisions of Bill are required to be ascertained. Views on a Bill require detailed consideration and the Bill will have to be given due publicity in the State and opinions will have to be invited, and then only discussed in the State Legislatures. While Government may suggest that it would definitely think of a reason-

able period being fixed, there is nothing in the Bill to indicate what that reasonable period should be. I, therefore, suggest to the Select Committee that we should fix a minimum period in the article itself, and the amendment which I have chosen to word runs in the following terms, which I place before the Select Committee. Instead of saying "for expressing its views thereon, within such period as may be specified in the reference" I have chosen to alter it and say "within a period of not less than two months to be specified in the reference". I have chosen to omit the word "reasonable" as I feel that if the word "reasonable" is included, there is a chance of these disputes being carried to the courts of law and courts coming in and interpreting whether a particular period is reasonable or not. But if we fix a minimum period of, say, not less than two months, we would not only have given sufficient time to the various State Legislatures to give due publicity to the Bill but we would also have given the State Legislatures time to invite public opinion and also to discuss these provisions thoroughly. After all, when we say that we want views on Bills, we also expect that the State Legislatures, apart from allowing their members to speak on the various provisions of the Bill, may even submit alternative provisions for the consideration of Parliament. It is a different matter altogether whether Parliament will accept those views or not, but certainly Parliament will have to take account of those views because Parliament is given the Supreme power to alter, to diminish or increase the size of any State, and it is better that we have the views of the people as expressed through the Legislatures made available to Parliament.

Shri S. S. More: This measure seems to be rather simple but in its implications I feel there will be so many serious things. We are now contending that our Constitution is that of a federal structure. But in

a federal constitution, when the federating units come forward for the purpose of surrendering some of their powers and creating the Central Government, the consent of the federating States is supposed to be necessary for the purpose of the Central Government altering their boundaries or limits of areas as visualised in article 3. In America, in Australia and in many other countries where the States were first existing and then they came together for certain federal purposes, the consent of the units is necessary and is a condition precedent before any alteration is effected.

Mr. Deputy-Speaker: It is not in the Constitution.

Shri S. S. More: In one of our provisos that principle has been accepted. I am referring to article 370, and for its application to the State of Jammu and Kashmir, there is a proviso on these lines: Provided further that no Bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the boundary of that State shall be introduced in Parliament without the consent of the Legislature of that State.

This is perfectly natural. When the Central Government or the so called federal government came into existence, Kashmir Government was not part and parcel of India; it acceded subsequently and we made a gesture that in the case of a State which has acceded to the Union subsequently, the consent of the State should be a condition precedent, and that is the right which has to be conceded to all federating units all over where a genuine federal constitution has been evolved. This so-called simple Bill inevitably will demonstrate to the whole world that it is the Union Government which really matters and the State Governments are not the federating units, so to say, but are the creatures of the Central Government, and therefore the sovereign Parlia-

ment may do anything regarding the boundaries, regarding the areas or regarding some other matters which are referred to in article 3, irrespective of their wishes. According to this original article, the views had to be ascertained. I understand by the word "views" the views expressed by the State Legislature, because it is occasionally contended by many persons that it is not the views of the State Legislature which are really to be ascertained but the views as expressed by the different members of the Legislature are to be ascertained before the Bill is introduced. I do not subscribe to that view and I say that the collective views as determined by a certain majority prevailing in that Legislature has to be ascertained before the introduction is made. According to the original article, views have to be ascertained regarding the fact of introduction and the provisions of the Bill. What happens if we accept this Bill? I quite see the necessity of forging ahead with some expedition as far as re-drawing of the map is concerned, but let us stop for a while and find out what will be the implications. You are already aware of the fact and the House is also painfully aware of the fact that due to the Report of the States Reorganisation Committee, powerful feelings and even violent feelings have been aroused in the country and even in a State different sections hold different views and have strong views. It is right to say that these differing views are not identical with the party divisions. Some persons from the same party, holds a particular view while another section from the same party holds a certain different view. I am pointing out some of my apprehensions. Suppose this Bill is passed. Then in a State A—I am not indicating the category of the State but a symbolical State—let us suppose that the Cabinet is of one view and the Members are of another view. A meeting of the legislature can be convened only by the Cabinet. If the Cabinet feel that they are likely to be defeated not only by a total majority in the House

[Shri S. S. More]

but even by a majority of their own followers, they will find out the best course to suppress and keep their own differences properly submerged under some ostensible appearance of unanimity; they will not convene a meeting of the legislature at all to express its views. Then the prescribed period will elapse and the President will be perfectly justified in making a recommendation to the House. It is just like a period of limitation for suit. A suit on a promissory note must be filed within three years; if it is not filed the next moment it gets time-barred. That will be the unhappy position to which many of the States will be reduced because there are sharp differences of opinion among persons who happen to be in power; on this particular occasion they are seriously divided.

2 P.M.

This Bill will become an instrument in the hands of certain persons to flout the united will of their States, because the State legislatures are supposed to represent the people and their interest. Thus people will be denied the opportunity to express their desire regarding their future. You know how cattle are sold. We sell cattle and they are not concerned whether they are in A's house or B's. In that way people of the particular State which is likely to be affected will be transplanted from one area to another without giving them any opportunity to express their views. The whole political, social and economic life is likely to be disturbed. Parliament may pass a legislation but it will also have to reap the dividends of people's dissatisfaction and the crops of such settlement imposed from the Centre.

Shri N. Sreekantan Nair: Their representatives are here.

Shri S. S. More: My friend says: we are representatives here, I do not know on what theory that he says that. But technically it may be expected. But it is too tall a claim

to say that Shri Sreekantan Nair represents the united will of Travancore-Cochin because there are so many parties having variety of views. In that case the particular majority of Members coming from that particular State will have to be consulted. If you have to put this claim that we are proceeding in a democratic and representative manner, then you will have to consult somebody. Who are the people whom you are going to consult? Unfortunately in our Constitution there is no referendum, in our Constitution there is only this expedient under article 3 which operated as a sort of a barrier before the President making any recommendation because the views of the State had to be ascertained — the views as expressed by a majority have to be ascertained not only with regard to the introduction but even with regard to the provision. This last barrier—it was also a weak barrier—is being removed.

I shudder to think about the consequences that may follow. I come from a State which is sufficiently agitated; I need not comment on it.

Mr. Deputy-Speaker: What is the remedy?

Shri S. S. More: My submission to this House will be this. We will have to pause for a while and deliberate to find a remedy. No one can play the role of a quack and come out with a remedy the moment some remedy is asked for. I feel that it is an essential matter.

Mr. Deputy-Speaker: The Constitution must give an opportunity, as in the case of local boards, to Members to have an extra-ordinary session convened notwithstanding the fact that the executive does not convene it. The Constitution itself has to be amended.

Shri S. S. More: I am not disclosing anything; in some of the States even the executive is sharply divided.

The Chief Minister may be on one side and the other colleagues may be on the other side. What is going to happen under such circumstances? The Cabinet has to decide on a date though the Governor may summon the House. He acts on the recommendation of the Government. When the Government's house is divided against itself, who is going to take the initiative? In such circumstances many of the States will not be in a position to comply with this provision. It is very unfortunate and regrettable but all the same a grave fact of which we must take notice. Instead of the State Governments discharging their responsibility to the people and making these recommendations, they will be shoving on this responsibility to the Central Government. They will be going about saying to their own people that they never wanted things to be done in a particular manner but it is the Central Government and the Parliament which have imposed this. And that way we ourselves are coming into discredit. Subject to these remarks, I want to make one or two suggestions for the consideration of the Committee.

It may be referred to the legislature of the State for expressing its views thereon within such period as may be specified in the reference. If the period has to be specified in the reference, the President will be incapable of extending that period if there are proper considerations and proper reasons. Instead of that if we say "within such period as may be specified by the President" then the President may get automatically the power of extending the period if there are just grounds, or impelling grounds for the purpose of extending the period. My submission is that in this matter we should not be in a hurry to stick to any particular schedule. Some Members are keen; at least Government are keen on holding elections according to a particular schedule. I could accept that. But at the same time law and order requirements must also be taken into consideration and if it is necessary in

the interest of having peace and tranquility all over the country and an amicable settlement regarding the changes in the boundaries, I would rather request the Government—it may look selfish, but I speak collectively for all the Members elected to this House—that it would be desirable to change our schedule. Heavens do not fall if we continue in office for some time but heavens will surely fall if people start resorting to arson; if people start resorting to *kirpans* and other deadly things.

We are entering an era of prosperity and building up the country for enriching the life of the people. It is we who have aroused these sentiments. Now, we are reaping the crops. My submission therefore is that if necessary the Central Government and the Parliament can wait for sometime and the Prime Minister who commands a great popularity and is a controlling and sobering influence all over the country, can go about in order to bring about the necessary compromise and adjustments by peaceful methods. Shri Tyagi says he is interested in Constitution building but I find him interested in building cannons and other things. It is no use hanging on Shri Tyagi for the purpose of defence. (*Interruptions.*) With these remarks, I support this Bill with all the remarks of caution, and sobriety.

Shri Kamath: I am glad my friend, Shri Tyagi who now adorns the Treasury Benches harks back to the old days of the Constituent Assembly. He almost made a walk-over to this side of the House. He missed this by a few paces, and on this issue I find that he is more with us than with the Treasury Benches.

The history of this particular provision is rather curious. The Constituent Assembly had before it a draft provision, and those colleagues who were Members of that body will recall that certain changes were made in the draft which encroached upon the State rights and powers. The Chairman of the Drafting Committee,

[Shri Kamath]

Dr. Ambedkar referred to these changes made in the draft provision and remarked as follows:

"The conditions were that there must be, before the initiation of any action, representation made to the President by a majority of the representatives of the territory in the Legislature of the State, or a resolution in that behalf passed by the Legislature of any State whose boundaries or name will be affected by the proposal contained in the Bill."

That was changed and for that was substituted mere 'consultation' with regard to part A States and 'consent' with regard to part B States. In respect of the States falling under part I of the Schedule mere consultation only was required and in regard to those States falling in part II consent was necessary. Now, when we come to this Bill which is before the House we find further erosion of powers conferred upon the States in India. My Party which stands for decentralisation of political and economic power, though it welcomes or supports the main principle or object of the Bill I am afraid, cannot, support the provisions of this Bill *in toto* because this Bill seeks to curtail, and curtail very drastically, the powers conferred upon the State legislatures to deliberate upon a very important measure such as the change of boundaries which may be effected by the Report of the States Reorganisation Commission. Even though there is no mention of the Report of the States Reorganisation Commission in this Bill, that is the immediate provocation for this Bill.

Now, Mr. Tyagi raised that point, the difference between the original article and the provision in the amending Bill. Two things were there in the original article. Before a Bill was introduced in the Parliament the views of the States with respect to the proposal to introduce the Bill,

whether the Bill should be introduced or not, were required to be obtained first. Then came the views with respect to the provisions of the Bill. Here, in clause 2 of the Bill before the House we find only an opportunity given to every State for expressing its views within such period as may be prescribed. There is no other power or right given to the State legislature to express its opinion with respect to the proposal to introduce a Bill, whether a Bill should be introduced or not. That has been curtailed—not merely curtailed, but taken away. There is no mention of that part of the article in this Bill at all. Sir, will you kindly have a look at the article of the Constitution? In article 3 it is said that the views of the States are to be ascertained in respect of the proposal to introduce the Bill. That is mentioned first, but that finds no place in this Bill at all.

Mr. Deputy-Speaker: Is it not open to them to say: "No, you should not introduce the Bill?" Is it not included in the "expression of views"?

Shri Kamath: But, what exactly do these "views" mean? It is a very vague term. Will it mean a resolution passed by the House or the entire proceedings of the legislature?

Mr. Deputy-Speaker: Even in the original article the term used is "views".

Shri Kamath: I know that is true. But, there are two things mentioned in the original article. The views of the States are required to be taken in regard to the proposal to introduce the Bill and then the provisions thereof.

Mr. Deputy-Speaker: Of course, one includes the other. The Bill as a whole means both the introduction, or the proposal to introduce and the several provisions contained therein. They can say "No" and express their views saying that the Bill is unnecessary.

Shri Kamath: That is merely a ruling. I want to know whether the Government accepts that or not. It is for the Minister to say so and then only we can be satisfied.

Mr. Deputy-Speaker: What I say is merely that the term "views" is there on both the original article as well as the present amending Bill.

Shri Kamath: I agree that the term "views" is there but I want further clarification as to what the "views" will mean. Let us have it from the Minister—from the horse's mouth. (*Interruption.*) It is only a phrase, Sir; it does not cast any reflection on the Minister. The horse, of course, is a noble animal in God's creation.

I would, therefore, like to know what exactly the term "views" will mean; whether it will mean a resolution of the House or the entire proceedings of the House, besides what I have already asked. A time limit of two months from the date of the reference of the Bill to the State was suggested. I wonder whether this will be adequate. I would suggest three months from the date of receipt of the Bill in the State by the State Government. The State Governments, many of them, are chary of summoning State assemblies or rather advising the Governor to summon the Assemblies. Therefore every State Assembly must be given adequate time and the advice—of course, we cannot have it by a piece of legislation—must go from Delhi to all State Governments that they must summon the Assemblies within a particular period. I do not know whether it would be binding on the State Governments, but, otherwise, the State Governments, some of them at any rate, may summon the Assemblies a week or two before the expiry of the period without giving adequate time for the members of the Assembly to express their views on the Bill.

Then I would like to refer to another aspect of the matter. In the United States of America no State

boundaries can be altered without the consent of the State concerned. In Switzerland, in Swiss Democracy, the boundaries of no canton can be altered without the consent of the canton concerned. Here, we do not want to insist upon consent because it might occasion or cause delays, avoidable delays; but, certainly, when we are trying to curtail or seeking to curtail the powers of State legislatures we must see to it and this House must see to it, that there is not too much centralisation of power in the Central Government or in the Central Parliament, and what is legitimately a matter in the State List and about which they have got every power to deliberate and submit their views, that power or that right should not be abrogated or curtailed in any manner whatsoever.

I would, therefore, suggest that: first, the Minister should clarify whether this provision includes both aspects of the matter—the proposal to introduce the Bill in Parliament and the views of the legislature with regard to the provisions thereon. There was a Bill in the last Parliament according to the terms of which certain areas of Assam State was ceded to, I believe, Sikkim, and the boundaries of Assam State were thereby altered. The procedure followed in that case by the Government and Parliament was substantially different from the procedure that may be followed if this Bill is adopted. There was a discussion in the Assam Assembly and a resolution was passed by the Assembly. Then the Bill came up here, so far as I recollect, and then the Parliament passed that Bill. Here there is no explicit provision for the legislature concerned to pass a resolution of that kind about both aspects of the matter. They have got to merely express their views on the provisions, and the Central Government will only obtain the views of the State Governments or the State Legislatures within the period specified in the reference. Further what I say is there must be an opportunity given not only to the

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various State Legislatures, but also to the people of the States concerned. All the States concerned must be given adequate time to formulate their views and the party organisations, public institutions, etc., must be given adequate time to formulate their views and forward them to the State legislatures. If these changes are made by the Select Committee, I think they will have done a good job of this measure. Otherwise, I am afraid we will lay ourselves open to the charge of encroaching upon the States' powers and of erosion of the States' rights and powers and robbing them of the legitimate powers conferred upon them by the Constitution. The Constitution, as I already said, originally envisaged a different mode and a different procedure. But they were watered down by the Constituent Assembly and this Bill seeks to dilute and water them down further still. I for one would not wish that there should be any departure from the provisions of the original article, and if there be any departure because of the urgency of the S.R.C. Report, I would earnestly request this House to see that no State legislature will have any ground for complaint that its powers or rights under the Constitution have been curtailed in any manner whatsoever.

Shri Kasliwal (Kotah-Jhalawar): As far as I have been able to analyse this Bill, four changes are proposed to be made to the original article. The first is, a new word "area" is proposed to be inserted. Really, it is not a new word because it has already been used in the actual article, as such, where it has been said: "increase the area of any State." and "diminish the area of any State". So, so far as this particular insertion of the word "area" is concerned, I support it.

The second change which is proposed to be laid down is that if a Bill is to be introduced, as Shri Kamath has put it, the proposal to introduce a Bill need not be referred to the State legislatures. It is quite

true that in the original article, these were the words: "with respect to the proposal to introduce the Bill". I do respectfully submit that whenever a State legislature is called upon to express its views on the proposal to introduce a Bill, it is natural that some sort of a Bill containing certain provisions will be before the State legislature. I do not visualise the position that there may be a Bill without any provision, on which the State legislature should express an opinion, but if you can introduce any Bill, the State legislature will go into the provisions of the Bill, and then alone express its views. So, really, there are two things: as if the proposal to introduce a Bill is something different from expressing the views on the provisions of the Bill, but it is not so. I submit that this new clause—expressing its views on the provisions of the Bill—is quite enough. It covers the point with regard to the proposal to introduce a Bill.

Then, the third point is, in the place of the words "ascertain the views", the words "expressing its views" have been inserted. I do not know what is the purpose of substituting "expressing" for "ascertain". I have consulted the dictionary and I find there is very little change in the meaning of the word "ascertain" from that of the word "express". If it is the object of the hon. Minister just to polish the language of the original article, that is a different matter. But I would like to know why the Minister proposes to substitute the words "expressing its views" in the place of "ascertained".

The fourth point is in regard to the period to which reference has already been made. The words are: "within such period as may be specified in the reference". As my learned friend Pandit Thakur Das Bhargava said, when you say that the period is to be specified, that means that a reasonable time must be given to the States to express their views. Shri More

said that at least two months may be given and some other hon. Member said that more time must be given. I do not know whether it is quite proper to fix a time limit. You may leave the article as it is, and a reasonable time may be given to the State legislatures for expressing their views. With these words, I support the amendment.

Shri C. D. Pande (Naini Tal Distt. cum Almora Distt.—South-West cum Bareilly Distt.—North): I am somewhat constrained to make certain observations which I am afraid will not be very helpful to the Minister concerned, in this respect. My field of observation is limited to this extent, namely, frequent amendments of the Constitution are not desirable. That we have got amendments Nos. 5, 6 and 7 within a period of two months shows that Government found it necessary to make many changes in the Constitution without mature thought. Even last time—six months back—when an amendment was brought forward to amend the Constitution, I told the party that frequent amendments is not a healthy practice.

An Hon. Member: Which party?

Shri C. D. Pande: The Congress Party of course. I told them that it is not a healthy convention to have a hurried and unceremonious amendment of the Constitution. After all, what is the necessity of this hurry? I do not want to go into the merits of the provisions contained in the Bill. The Bill is quite innocent and useful and it may be necessary to have that legislation, but can we not wait for a few months. Have we found any difficulty now, or so far? Has any State in India been recalcitrant or has not replied to our requests. Have they refused anything? Within six weeks or so, you can get replies from the States, if not within three or four weeks. If there was any possibility of any recalcitrant State which, out of spite for our legislation, and delayed its reply, then you may say that a provision of this kind in the Constitution is called for. If there is a certain States which does

not oblige us by sending its replies in time, you may proceed with the next step. Nothing of the kind has happened now, and therefore, I think it is very undesirable to resort to the amendment of the Constitution. On every possible occasion, when the Government finds a slight difficulty, an amendment of the Constitution comes in. I belong to the Congress Party and there is a vast majority behind the Government, but that vast majority—I must say to the Minister concerned—should not be made a hand-maid of the Government to change the Constitution now and then and so frequently. In my opinion, all these three Bills to the Constitution containing the amendments can wait for two or three months, and we can, in the meanwhile, amalgamate them and make them into one Bill, and if there is a possibility of including some more amendments that may be thought of, they may be included in such an amalgamated Bill. Otherwise, we will become the laughing-stock of the world. The world will say, "look here, within just four years of the Constitution, they have made not less than seven amendments". In the U.S.A., which also attaches the great sanctity to the Constitution, they have found it necessary to amend the Constitution only 19 times within the course of 175 years, whereas within four years we have proposed seven amendments. I think, the Government can therefore wait for two months and amalgamate all the amendments. In future, I submit, they should not rush to the Parliament to amend the Constitution so hastily. Otherwise, we will be accused of reducing the Constitution to a farce. In 1952, 1953, 1954 and 1955, we found a lacuna every time. It reveals a very serious state of affairs. We should guard against this treatment to the Constitution.

Shri U. M. Trivedi: We are very anxious in making an amendment which is perhaps not liked by those who are in the State legislatures. It is true that ours is not entirely a federal form of Government. Our aim

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is entirely a unitary form of Government. But we still play upon this word of federation, and try to hold out to the public at large that ours is a federal form of Government. Article 3 gives a lie to that proclamation of ours. What fun is there in saying that the legislatures' views may be expressed when there is absolutely nothing to bind us to the views that can be expressed? Not even the unanimous views of a legislature of a State will prevent the diminution, the addition, alteration or the change in name of the State, taking place. I for one, would, therefore, say and suggest that if we really want the value of democracy and want to value the views of certain sections of the people of our country, at least let us go to this extent, namely, in this amendment which we are now suggesting, let an amendment be made that "no such change shall be made as has been disapproved unanimously by the legislature of the State concerned." If, without any party affiliation, everyone in the whole of the legislature, says, "we do not want a change" then that change shall not be made by the Parliament. What is happening in Madhya Bharat today? People in Madhya Bharat are entirely unhappy over the question of linking themselves to Madhya Pradesh. They do not want to go into Madhya Pradesh, because those of us who had the misfortune of being inhabitants of the old native States which merged unceremoniously into the Bombay State suffered very heavily on account of those people who felt that they were some sort of bosses coming over us. Whether they were party men, Government men, police officers or revenue officers, they always came with a superiority complex and they thought that the people living in the States were a sort of sub-human beings who are not equal to their status. Everyone in Madhya Bharat will receive the same treatment as the people in Mount Abu were treated by the Bombay State and as the people of Santranpur, Lunavada, Devgad,

Baria were treated by the people of the Bombay State. These experiences are glaring in the eyes of the poor people of Madhya Bharat and they do not want to be tagged on under any circumstances to Madhya Pradesh. Therefore, just to satisfy the whims of certain people, it is not fair to say that the legislature of Madhya Bharat should not be allowed to express its view in unequivocal language. I do not know who has put that interpretation before the various States that they can merely express their opinions. It is not the view of the legislators that is required. What is required is the view of the legislature and the view of the legislature means the collective view of the legislature. I say that there should be a clear embargo that if the disapproval is by the whole of the legislature, by all the Members of the legislature, then it should not be forced down their throats that they must go and join another State.

Shri A. M. Thomas (Ernakulam): What will happen if there is disapproval by one Member?

Shri U. M. Trivedi: I am talking of unanimous disapproval. I do not say that there should be disapproval by one man alone. For instance, in this House even if one Member objects to the withdrawal of an amendment, it is put to the vote of the House. I do not want to go to that extent. My point is, if there is unanimous disapproval for the change, will it be fair to force it down their throats? What I am saying is that under these circumstances, it should not be forced down their throats.

There is another thing. Under articles 239 and 240 of the Constitution, the so-called Part C States are there. Why are they being allowed to discuss the S.R.C. Report or the question of States reorganisation under article 3 of the Constitution, Part C States come nowhere in the picture, but still we are seeing that discussions are going on in the Delhi

State Legislature, in the Bhopal legislature, in the Ajmer legislature and so on. All these are our creations. As far as the other States are concerned, we do not value the legislatures which are accepted as legislatures having certain powers. We do not want to value them and we say that they may merely express their views. On the contrary, we allow it in the case of the Part C States which are not to be accepted and which are there simply to satisfy the whims of certain people. The Nawab of Bhopal said, "I must have it for five years" and we said, "all right". The Ajmer people said, "we have got a different culture" etc. and we allowed it. I say that this inconsistency must not be there; it should be taken out.

As I have already stated, if the legislature of a State unanimously disapproves of any change in the boundary or increasing or diminishing of its area or the alteration of its name, then such changes shall not be introduced. I agree with the view which has been expressed by Dr. Krishnaswamy and by Mr. Kamath also. I go a step further and say, "do not put the time limit at three months only". Once a reference is made, let it be said that not later than six months from the date of reference, the legislature must decide. We do not merely want the views of the legislators, the Congress Party, the Socialist Party, the Communist Party or the Hindu Maha Sabha. These should not be enough. It must be the view of the whole of the legislature. I therefore submit that the phrase "within such period as may be specified in the reference" is merely fettering the ordinary liberty of a legislature. When we say period, it may be one week. Therefore, it should be a reasonable period because proceedings in the legislatures cannot be rushed through. We know the difficulties of this legislature. Today the Whipping Bill was being discussed; most of us were taken by surprise and we had forgotten at what stage it was. We had not the copies

of the Bills. We were taken by surprise because we were not prepared for it.

Mr. Deputy-Speaker: Were hon. Members not supplied with copies of the Bill?

Shri U. M. Trivedi: This must have been done long ago. At any rate, I don't have a copy of the Bill with me.

Mr. Deputy-Speaker: If he had gone into the lobby, he would have got it. Perhaps the hon. member did not want it.

Shri U. M. Trivedi: I am only mentioning it as an illustration. Constitution amendment is not an ordinary change of law. This is a question of abolishing a particular State and taking away the powers of a legislature which will be affecting the social life of the people living in that State. Under these circumstances, it is very essential that a particular time-limit must be fixed. That time-limit, certainly from our own point of view, must not be such as to allow the legislatures to go on thinking and thinking. I do not agree to that also; but at the same time I submit that sufficient time must be given for the legislature of that State to deliberate upon it. I am submitting that these two amendments may kindly be considered by the Joint Committee, namely, that the period to be specified by the President must be not less than six months from the date of reference. I am also suggesting a further amendment, namely, that no change shall be introduced which has been disapproved unanimously by the legislature of a State.

Shri Jaipal Singh: (Ranchi West-Reserved—Sch. Tribes): I feel that I must make use of the opportunity you have given me, so very kindly, to express the views of the jungle with regard to what is very vital not only for the jungle tracts but also for the whole country.

You, Sir, like me, were a signatory to the Constitution. You and I were not normal people when we made the

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Constitution. The sanctity that is being attached by several quarters in the ruling party as well as the hopeful rulers of this country, the argument that the Constitution is so sacrosanct that for such and such a period it must not be touched or tampered with is wholly untenable. May I stress that the constitution-makers, because of the very difficult task they were entrusted with, were not normal people. There are many things in the Constitution that we, today, would not have countenanced. That is a fact. The name of democracy is invoked. I feel that the very people who invoke the name of democracy have not the least idea of democracy. When it suits them, they invoke democratic principles. I am not one who in any way belittles the opinions of the various legislatures. But, I think that, we in this country particularly, if we really believe in building a welfare State, have to build it from the bottom, and, the most important foundation is the village. Legislatively it is the State legislature concerned that has to be more articulate in expressing its views. I do admit that we in the Parliament here are prone to think we have become a bit more representative. That is what we think, but that is not true. Arithmetically, it may be true. But, it is in the inverse ratio, because the people who are more representative than us in regard to the boundaries of the States, the names and the like are the people who are lower than us. From that point of view, I do think that while I welcome this, I have to say that I am not prepared to confer the authority to the ruling party to decide what is the reasonable period. Today there is one party; tomorrow there may be another party. Now, 'reasonableness' will depend upon the party that is in the *gaddi*. That, to my mind, is a power that we should not confer in a hurry.

Only the last time we met, I took the hon. Minister for Parliamentary Affairs to task for misrepresenting

what happened in the Advisory Committee when it last met. He had stated that the Advisory Committee had practically agreed that this Bill would come in directly and would be passed and it would go through. That was not a fact. I am going to take him to task again when in about an hour's time we meet. It is very important that an amendment of the Constitution, however urgent and necessary it may be, must go through certain hurdles. Constitution is not something that we can change overnight whether we on this side like it or whether it is sponsored from the other side. The difference between a democracy and a totalitarian regime is that, in a democracy, you have certain hurdles to get over. Whether the thing is good or not, the hurdles are there and they must be there. That is the only safeguard that the individual citizen has. In a totalitarian scheme, there is no such thing as delay. Things can just be rushed through. Here is something which, in my opinion, should be rushed through. But, even then, as a democrat,—anybody in the jungle is a democrat and he is the only true democrat in this country—I am bound to look at this with a great deal of apprehension. That is why I oppose this undetermined period of reference. As the hon. Member who preceded me said, it may be one day. It is one day in which you are rushing this. Much as I approve of it, I do think, if we really mean democracy, we must put a brake against ourselves, against our own strength, against our own weaknesses. I do think that the people who raise the argument that the Constitution is sacrosanct and so it should be left alone, have ample wisdom behind them, and logic also. It said that the Government had no business to appoint the States Reorganisation Commission. But, things have happened. As I said, right at the beginning, we were not normal people. I am very doubtful whether we are now normal. In my view, much as I want myself a Jharkhand State, — I want it, I will continue to

struggle for it and I shall get it at the end — the fact is, I do not desire that it should be there unless the whole country wants it.

[PANDEIT THAKUR DAS BHARGAVA
in the Chair]

An argument was advanced from this side that if in any particular State legislature there was complete unanimity, the rest of the country had no right to have a contrary opinion. If that is the opinion this country accepts, it will be a very sad day for this country. There are my fellow Adivasis sitting on mountains of high grade iron ore, sitting on mountains of gold. If one man can say, I have been here for 6000 years, who is the hon. Member who preceded me to remove him? The country is one. We have to move as a whole. Although there may be instances where it will hurt me, there is one thing which is more important. We must all hold that the country as a whole has to move. The country is one. In seeking any amendment of the Constitution, however unimportant or important, I urge that we must bear in mind that we have to carry the rest of the country with us. That is democracy. I fully accept, I have repeated this on the floor of the House with vehemence before, that democracy is no democracy unless you are prepared to accept a situation in which the view of the minority shall be heard. That is exactly where most of the quasi-democrats or bogus democrats who speak from this side or that side go wrong. That is the tragedy on the other side. Humbly, may I give a warning to the other side. They talk of their majority and say, people have sent us. They sent you, how many years ago? May I repeat again, did the country send you to divide the country? When did you have sanction to partition the country or to accept a partition of the country? You did it on your own. Let us be honest with ourselves. Similarly, in a thing like this, I feel strongly,—as you know I am a Jharkhandi and for thousands of years I shall remain so—let us not invoke

lightly the name of democracy. Let us not do a thing just because we have numbers behind us or just because we are sovereign. I do plead that we shed some of those sanctimonious ideas about our power. I think it is high time we remember the people who have sent us here. Let us be a little more uptodate as to what the people think. That is very important. While I support this, I do feel that it is a most dangerous thing not to specify a specific period, which may be something like a constitutional guarantee as to the time limit envisaged in this Amendment Bill.

Shri Dhulekar (Jhansi Distt.—South): I would point out to the House and also to the Law Minister that the Bill as it has been introduced today is not an improvement on the language that is in the Constitution. If there were not the doubt that the legislatures of this country will not send their replies within the specified time, I would submit that the language of the Constitution is very clear and all the objects of this Bill can be served by the present article 3 of the Constitution.

Let us take the word "ascertain". If I have to ascertain the opinion of any person, I write to him saying that I want his opinion on a particular point. It is commonsense for me to write: "Please send your reply within a week or ten days". So, it is obvious commonsense that the President when he ascertains the views of the legislatures would ask them to send their replies within three, four or five months, whatever it be. In the Bill also you have not specified the time, but have only said "within such period as may be specified in the reference". That is to say, you have yourself seen the advisability of clothing the President with the power of exercising his discretion to name the period in the reference that is to be sent to the legislatures. The Constitution itself says: "... to introduce the Bill and with respect to the provisions thereof have been ascertained by the President." The ascertainment by the President of the

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views of the legislatures carries with it the power of specifying the time, and I would therefore submit that this Bill is not an improvement on the language that is already there in the Constitution.

Secondly, in the Bill now we say that the Bill will be referred by the President to the legislatures of the States. The language in the Constitution is that the views of the legislatures of the States are to be ascertained with respect to the proposals to introduce the Bill and with respect to the provisions thereof. It clearly means that the Bill as framed by the Central Government is not to be sent to the legislatures, but the proposals are to be sent. So, my point of view is this, that under the Constitution as it is, the President will have wider power. I submit "the views of the legislatures on the proposals" is a wider term than the Bill that is to be introduced. What will happen if a Bill is framed by the Central Government and sent? In every legislature there will be about 150 or 200 amendments, and the amendments will be passed by a majority. So, the views are not ascertained by the President, but certain amendments to the Bill will be received by the President. What will be the shape of those amendments? The Bill will come in a very different form from every State, and by that the Members of Parliament here will not know the real views of the legislatures. As a Member of the Constituent Assembly I say that we had collectively thought that the views should be ascertained with regard to the proposals, and not with regard to the Bill. When you send a Bill to any person, you circumscribe his views. Under the Constitution, views will not be, may not be in the form of amendments to the Bill, but may be in the form of a memorandum running to 80 or 100 pages. The whole memorandum may be placed before the House. Every Member will have a right in the legislature to speak upon it and give his opinions, and then the whole legis-

lature may approve that that memorandum may be sent to the President with the views or with the dissenting notes of the members of those legislatures. If they are placed before us, we can certainly know the views of the legislatures,—mark the words. "the views of the legislatures"—and we can make our own amendments when the new Bill comes before us. Therefore, I submit that this Bill is not an improvement upon the language of the Constitution that prevails today. Your object can be served by the present Constitution. The time-limit can be given by the President and also the views can be ascertained.

Thirdly, you cannot brush away the rights of the Part C States when they are there, their Ministers are there and the legislative assemblies are working. When you are bringing an amendment, why should you not include the Part C States also and take their opinion on it. You cannot say Bhopal or Ajmer cannot say anything. Are they not States with legislative assemblies. You have repeated that mistake again. You are ascertaining the views only from Part A and B States. Why not C?

Shri U. M. Trivedi: Why not D?

Shri Dhulekar: There is no D.

An Hon. Member: There is D.

Shri Dhulekar: You can also say that Manipur and other small States may also send a memorandum. You cannot exclude certain sections of the people of India from expressing their views on it.

The present Constitution is very right, and under the present Constitution you can do everything that you desire to do by bringing this Bill.

Pandit K. C. Sharma (Meerut Distt.—South): This Bill is very simple and very innocent. It makes no substantial changes whatsoever. Anyhow, a fundamental question has been raised as to the desirability of changing the Constitution so rapidly. On this question, there are two divergent views. One is that the Consti-

tution is a supreme law, and that provides a model for the community to develop, and all institutions, social organisations, and patterns of administration, legislative or judicial, must conform to that model. The argument based on this view is this, namely that rapidity and easiness in changing the Constitution might result in the tyranny of the majority; and it is asked; 'What is there to safeguard the rights of the minority, if the majority takes it into its head to do the other way?' Another view is that in the modern dynamism of social and economic objectives, the pattern of life changes rapidly, and that the legislative, judicial and administrative set-ups also need change consequently; this is very necessary in order that the economic and social welfare of the people may be safeguarded, and life may grow despite the fact that the letter of the law or the supreme law, viz. the Constitution says, 'no, to it. No letter of the law, whether constitutional or otherwise, should be allowed to stand in the way of the development of the people.

3 P.M.

It is the latter view that our people have taken. In the constitutional provision as it stands, there are three things involved, namely the introduction of the Bill, the necessary recommendation of the President, and the necessary reference to the State Legislatures for eliciting their views. In the proposed amendment also, those three things have been provided for. The only addition now made is 'with-in such period as may be specified in the reference'.

A point has been made that the time-limit should be specified in the Bill. My respectful submission is that when no time is specified, it always means reasonable time, and the President and the Legislature cannot fail to do their duty in a reasonable way and behave as the spirit of the law direct them to do. So, there need be no fear on this account.

I would again say that this Bill is most innocent and simple, and en-

tails no complications whatsoever. So, I support this Bill.

A point has also been made out as to why certain sections of people must be tagged on to another State, despite their unwillingness to agree to such a proposal. My respectful submission with regard to that is that the territorial arrangement are not the fundamental rights of a citizen, and therefore he cannot claim to be with this State or that State. It is for the administration and the Parliament to see that the people grow in their own natural way. There is also the question of administrative convenience, financial soundness and so on. So, it is for the Parliament to look to the welfare of the people and to see that no wrong is done to any set of people or any class of people. But no citizen can stand up and say. I want this kind of territorial adjustment or I do not want this kind of adjustment. It is not given to him to do so as a matter of fundamental right.

With these words, I support the Bill.

श्री बी० जी० देशपांडे (गुना) : इस संविधान का संशोधन करते समय मेरी समझ में यह बात नहीं आई है कि इतनी जल्दी से यह संशोधन क्यों किया जा रहा है। मेरे माननीय मित्र श्री पांडे जी की स्पष्ट वक्तृता के लिये मैं उनको बधाई देता हूँ, क्योंकि बात यह है कि जिस प्रकार की सिफारिशें इस राज्य पुनर्गठन आयोग ने की हैं उसके कारण आठवां संशोधन भी आपको करना पड़ेगा। क्योंकि इस संशोधन में आपने पार्ट ए और पार्ट बी स्टेट्स का उल्लेख किया है। इसके पश्चात् आप पार्ट ए और पार्ट बी स्टेट्स (भाग क और भाग ख राज्य) को समाप्त करने वाले हैं। नया बिल जब आवेगा तो उसमें पार्ट ए और पार्ट बी स्टेट्स नहीं रहेंगी और फिर उसमें यह संशोधन करना पड़ेगा। यह जो संविधान का संशोधन किया जा रहा है यह शाश्वत काल के लिये किया जा

[श्री वी० जी देशपांडे]

रहा है और इस लिये यह विधेयक स्वीकृत होने के पश्चात् आपको आठवां संशोधन लाना पड़ेगा।

मुझे एक बात समझ में नहीं आती। कांग्रेस का राज्य केन्द्र में है और कांग्रेस का ही राज्य प्रान्तों में है। मैं यह मानने के लिये तैयार नहीं हूँ कि कोई विधान सभा निश्चित समय के अन्दर अपना मत प्रदर्शित नहीं करेगी। इसके लिये यह संशोधन हो रहा है ऐसा मानने में शायद कुछ गलत-फहमी हो। मेरे मित्र मोरे साहब ने जैसा कहा है, हो सकता है कि इसका फायदा लेकर यदि कोई विधान सभा यह चाहे कि उसका मत व्यक्त न हो तो वह ऐसा करने के लिये इसका उपयोग करे। आपने इसमें शब्द "एक्सप्रेसन आफ व्यू" (विचार की अभिव्यक्ति) रखे हैं और इनमें आप परिवर्तन नहीं कर रहे हैं। आप देख रहे हैं कि आजकल विभिन्न विधान सभाओं में राज्य-पुनर्गठन आयोग के प्रतिवेदन पर चर्चा हो रही है। मेरे पास आज मध्यभारत से खबर आयी है कि वहाँ की विधान सभा में मंत्रिमंडल ने यह प्रस्ताव रखा है "डेट दी रिपोर्ट बी टेकिन इंटू कंसीडरेशन" (प्रतिवेदन पर विचार आरम्भ किया जाय) और जब उस पर कई सदस्यों ने अपने अपने संशोधन भेजे कि खालियर को राजधानी बनाया जाय या मध्य भारत को मध्यप्रदेश में न मिलाया जाय तो स्पीकर (अध्यक्ष) ने यह निर्णय दिया कि सन्टेण्टेटिव मोशन (मूल प्रस्ताव) न होने के कारण आप इसमें कोई संशोधन नहीं दे सकते। मैं नहीं जानता कि प्रक्रिया या प्रोसीज्योर की दृष्टि से वह यह रूलिग (निर्णय) दे सकते हैं या नहीं। पर कांग्रेस दल के मन में यह भय था कि शायद वह लेजिस्लेचर यह मत व्यक्त करे कि मध्य भारत का मध्य प्रदेश में नहीं मिलाना चाहिये और शायद कांग्रेस के मेम्बरों (सदस्यों) की परिस्थिति आगे चुनावों

में खराब हो जाय, इसलिये यह कोशिश की जा रही है कि वहाँ से कोई प्रस्ताव न भेजा जाय। इसलिये मैं चाहता हूँ कि इस बिल में इस प्रकार की शब्द रचना की जाय कि यदि कोई मंत्रिमंडल या दल "एक्सप्रेसन आफ व्यूज" को रोकना चाहे तो ऐसा न किया जा सके। केन्द्रीय सरकार को निश्चित रूप से विधान सभाओं का मत जानना चाहिये। मैं समझता हूँ कि उनको प्रस्ताव के रूप में अपना मत व्यक्त करने का अवसर देना चाहिये और दूसरी बात यह है कि यदि कोई मंत्रिमंडल जान बूझ कर केन्द्र के कानों तक उनका मत न जाने देने की कोशिश करे तो केन्द्र को इस प्रकार की सत्ता अपने हाथ में लेना चाहिये कि केन्द्र के आदेशानुसार वहाँ का राज्यपाल या राज्य प्रमुख एक निश्चित काल के लिये वहाँ की विधान सभा को आमंत्रित करे।

दूसरी बात यह है कि आज जो टाइम टेबिल (समय सारिणी) है उसके अनुसार बजट (आय-व्ययक) का अधिवेशन अब आने वाला है। और काम की अधिकता के कारण लोग यह भी कह सकते हैं कि दो तीन दिन में इसका फैसला हो जाय। आपको देखना पड़ेगा कि लोगों को अपना मत व्यक्त करने के लिये पूरी सुविधा मिलनी चाहिये। उनका मत चाहे कुछ भी हो, लेकिन गणतन्त्र का यह मूलभूत सिद्धान्त है कि चाहे हम उनका मत मानें या न मानें हमको उनका मत जानना चाहिये। इसलिये मेरा कहना है कि इस समय इस बिल की आवश्यकता नहीं है। आपको इसमें जो आपने निश्चित अधि की बात रखी है उसको निकाल देना चाहिये। आज कोई ऐसी परिस्थिति नहीं है कि लोग अपना मत व्यक्त नहीं करेंगे। आज आवश्यकता यह है कि आप यह बता दें कि निश्चित रूप में उनका मत प्रस्ताव के रूप में प्रदर्शित होना चाहिये। इस प्रकार का संशोधन आपको करना चाहिये। इतना ही मुझे निवेदन करना है।

Shri C. R. Narasimhan (Krishnagiri): The proposed amendment of the Constitution looks very inoffensive, and is worded more or less like an one-clause Bill. But though it appears to be inoffensive and innocuous, I feel that it is very far-reaching in character. One has only to go through the Report of the *States Reorganisation Commission* in this connection. One of the paragraphs in that report, while discussing the structure of the Indian States, makes it clear that the Constitution is federal in structure and the States are necessary parts; yet actually it is possible for the Centre to dispense with the States or to alter the character and the number of the States by simply reducing or increasing the number of the States or by merging one area with another.

Like that, the nature and the number of the units can easily be changed by Parliament without much reference to the States concerned. As it is, there is this kind of danger to the States. The Centre is indispensable under the Constitution, but the States are not. Therefore, I say that though this proposed change is very innocuous authorising the President to give a time-limit, it actually empowers the President to issue a sort of ultimatum to a State to give its answer within a certain time. This is really changing the complexion of the Constitution. Therefore, I would not like the Members to imagine that this is a very innocuous change. We should remember that we are practically changing, even though indirectly, the nature of the Constitution itself. The Constitution now provides that the States should be consulted in certain matters before a change in the Constitution is effected. Here, by changing this and getting for the President, the power to issue a sort of ultimatum to the States in regard to the number of States and the complexion of the States—either by regrouping or merging or abolishing them, the Centre has got the power to alter the complexion of the Constitution also. Therefore, I would

like the Members to fully realise the implications of the change, and not simply take it as a very innocuous thing. I have nothing more to say.

Some Hon. Members rose—

Mr. Chairman: If the hon. Minister will take 15 minutes, I will call upon him now. But if he will take less, I will call upon one more hon. Member to speak.

Shri Biswas: I have heard with great interest the comments which have been expressed by various Members of this House on what I still maintain is an innocent Bill. I am glad the majority of my hon. friends support the principle of the Bill. But they have their doubts on certain points on which they want clarification. I can quite understand that. Of course, I do not think I should be justified in attempting a full clarification now because of the limited time at my disposal. But to all these points, Government have a sufficient and satisfactory answer and when we meet in Select Committee, I am sure all these points will be thrashed out and our viewpoint will be placed before hon. Members.

But I must just refer to some of these observations within the time my disposal. In the first place, I should explain that there is absolutely no change between the provision in the Bill and the proviso in article 3 of the Constitution so far as ascertaining the views of the State legislatures is concerned. If you refer to article 3, you find that the first substantive provision of that article is for the formation of new States and alteration of areas, boundaries or names of existing States. Then this is followed by a proviso, and what does that proviso deal with? It deals with the stage at which the Bill for the purpose of carrying out these proposals may be introduced. The proviso says that no such Bill may be introduced unless it receives the recommendation of the President. That is condition number one. The second condition is—unless a reference has been made to the State legislatures for their views

[Shri Biswas]

and their views ascertained. In other words, you have got to wait before you can introduce the Bill till all the State legislatures concerned have sent their views. Now, so far as giving expression to their views is concerned, there is no change. Under the new proviso we are now introducing, the States are required to express their views. But because in the existing article, you find the word 'ascertained', you should have to wait till you get their views. That is being changed. It is only the views which are of importance. Government wants these views to be before them before they take final action. That is the material thing. What are the views of the legislatures? So far as that is concerned, there is absolutely no change. That is the main thing, for which this proviso has been enacted.

Shri Gidwani (Thana): Even after the amendment, you will have to wait.

Shri Biswas: According to the amendment, we are now making, we need not wait till all the views are ascertained. You may introduce the Bill after making the reference. Therefore, there is no necessity, there is no reason, for making any provision saying that opinions are wanted not merely with respect to the provisions of the Bill but also with respect to the proposal to introduce the Bill. The Bill may already have been introduced after reference is made to the State legislatures. There is accordingly no point in providing for expression of opinions on the question of introduction of the Bill.

Mr. Chairman: The argument is that the Bill can be introduced before the legislatures have expressed their opinion?

Shri Biswas: Yes.

Shri Dhulekar: It cannot be introduced.

Shri Biswas: The whole object of the change is this. I have explained that the Bill may be introduced on the recommendations of the Presi-

dent, but you need not wait till the views of the State legislatures concerned had been obtained. You can introduce the Bill after a reference has been made to the State legislatures.

The Minister of Communications (Shri Jagjivan Ram): And a certain period has elapsed.

Shri Biswas: Then the question arises, if you are not to wait till all the views had been ascertained, is there any device for providing a reasonable period of time within which the States may express their views? That is a very important and vital question. As a matter of fact, it may reasonably be asked: why is it that we have not specified any period—one month, two months, three months, or a period not exceeding or not less than one month, two months or three months or so? It is up to the Select Committee to adopt some other phraseology. But the point is this. The time-limit will be adjusted by the President according to circumstances. Suppose you are making a very minor change. It does not require three months for that purpose. The time-limit will be such as will give a reasonable opportunity to the States to express their views.

Shri S. S. More: Will there be different treatment?

Shri Biswas: Then I come to the suggestion which has been made that in that case, there should be express provision which will enable the President to extend the time, if necessary. I can quite appreciate that. A safeguard like that can be there, and that is a point which the Select Committee will certainly carefully consider. But what I was going to point out was that the Government's idea is that a reasonable period must be allowed to the States to express their views. It is not that they are going to be hustled or will be hustled. Nothing of the kind. I might disabuse hon. Members of that impression, if they have it.

Shri Dhulekar: Your point is that the posting of the letter or reference is sufficient.

Shri V. G. Deshpande: Certificate of posting.

Shri Biswas: That is perfectly so. That is the whole object of this proviso, that as soon as the President has given a recommendation and the Bill has been referred to the State legislatures for expression of their views, it will be open to Government to introduce the Bill.

Shri Kamath: It is quite different..

Mr. Chairman: Order, order.

Shri Biswas: In my opening remarks, I made it quite clear that it is only as a safeguard against any possible contingency which may hold up the passing of a Bill for forming a new State because of the intransigence of any particular State. I made that perfectly clear. I referred to the SRC Report only by way of illustration, because that is of immediate consequence. That is all. Otherwise, there is no change. The only change is that we are taking the right to introduce the Bill without waiting for the receipt of the opinion from the State legislatures.

Pandit K. C. Sharma: But there should be reasonable time given.

Shri Jaipal Singh: May I just seek a clarification? I did not want in any way to interrupt the hon. Minister. But I am a bit confused by his legal logic. May I first ask something further? Is there anything to prevent the Central Government from ascertaining the view of any State Legislatures or any other person before it materialises in the form of legislation?

Secondly, I want to understand the meaning; when the President's assent is there, they would introduce the Bill and not wait for the views of the legislatures.

Shri Biswas: They need not wait; I do not say, will not wait.

Shri Jaipal Singh: It may be put in cold storage at a later stage.

Mr. Chairman: The position of the hon. Minister is quite plain. The Government need not wait for the expression of the views of the legislatures and they are entitled to bring in a Bill as soon as the expression has been made after the reference for expression of views has been sent.

Shri Biswas: I will answer the first point raised by my hon. friend. Government are under no statutory obligation to have obtained the views of the various State Governments; still, that is what they have done with reference to the SRC Report. What does that show? That shows the anxiety of Government to consult all possible interests. They summoned a conference of the Chief Ministers of the States. They want to know the opinion of the States. As a matter of fact, we have actually seen the State Legislatures considering the SRC Report and expressing their opinions. What does this show? Government wants these opinions. So far as the question of the formal reference is concerned, we are doing the necessary things. But, we need not wait till all the opinions have been obtained from all the States.

It has been suggested following the precedent of federal constitutions that no change ought to be made unless the States or State concerned agrees to the changes proposed. That is not our Constitution. This is not a federal constitution. Then you can say that unless the States give their consent no change could be made; that is not the provision in our Constitution.

Shri S. S. More: Is not our Constitution a federal constitution?

Shri Biswas: It is not said that all the States must agree. All that the existing provision requires is that the views should be ascertained. Government is not bound to accept their views nor is it bound to reject the proposal simply because one particular State has refused its assent.

[Shri Biswas]

Look at this from another point of view. According to our set-up, supposing one State withholds the expression of its views, will that one State be allowed to hold up something to which all the other States may have agreed? Is that right? We are now redrawing the whole map of India.

Shri Dhulekar: Sir, on a point of order. The hon. Minister has interpreted this amendment as if to say that only the posting of the reference to the different States is quite sufficient and it is not necessary for the President or this Parliament to wait till the views have been ascertained and that they can come forward in the Parliament with the Bill and proceed with it and pass it without receiving those replies.

Mr. Chairman: It is not a point of order. There are two interpretations. As a matter of fact, there are two views. One view has been expressed by the hon. Law Minister. The other view seems to be that the reference should be made and the time given there should be utilised by the State Legislatures for the expression of their opinions and before the expiry of that time the Bill cannot be introduced. The matter is going to the Select Committee and may be thrashed out there. Those who think that their view is correct may see that that view is implemented by necessary changes in the Bill. But, it is now no use discussing these two interpretations.

Shri H. N. Mukerjee (Calcutta North-East): My difficulty is that the hon. Minister seems to contradict the official Statement of Objects and Reasons which gives us an indication of the interpretation which should be put.

Mr. Chairman: Order, order.

Shri Biswas: Hon. Members who are already on the Select Committee need not interrupt me in this way.

Mr. Chairman: I quite see the point of the hon. Member. But, I have already remarked that this is not the occasion when the two interpretations ought to be discussed in the House. After all, in the Select Committee, this matter can be gone into. Those hon. Members who feel that this does not carry out the real purpose may attempt to change it there.

Shri H. N. Mukerjee: I think I am one of those whose names have been mentioned for the Select Committee. It is my duty to know exactly the terms on which we are to work on this Select Committee. From a reading of the Bill and the Statement of Objects and Reasons as well as from following the debate, my idea is that this Bill only wants to set a time-limit to be given to the States by the President in order to ascertain the wishes of the Legislatures concerned. Now, the Minister comes forward to say that the process of ascertaining can be concluded by a notification to the States.....

[MR. DEPUTY-SPEAKER in the Chair]

Mr. Deputy-Speaker: I just ascertained what exactly the point was that Shri Mukerjee was raising. It is the opinion of the Law Minister. The Bill is going to the Select Committee. If the Members of the Select Committee take the view that the language is all right—whatever may be the interpretation of the Law Minister—the language may be allowed to stand. If, on the other hand, the opinion of the Members of the Committee, the majority of them, is that this interpretation is not correct and they want a different set of expressions to be used, they will do so. We are not bound absolutely by the opinion regarding the language that is used in the Bill.

Shri H. N. Mukerjee: I confess I am very befuddled but I just seek enlightenment from you. When a Bill goes to the Select Committee the House accepts the principle of it. As

far as the principle of this Bill is concerned, I presume we all accepted it on certain understanding and that understanding appears to be contravened by what the hon. Law Minister has said. Sir, I understood from a reading of the Bill as well as the discussion on the floor of the House and in other places that the object is to have a time-limit fixed regarding the ascertainment of the wishes of the Legislatures and the President was to set the time-limit. Therefore, we all expected the ascertainment of the wishes of the Legislature to be made before the expiry of the time-limit. Otherwise, there is no point in the time-limit at all.

Now, the Minister comes forward to say that it is incumbent on the Government only to send notices to the different States and that is tantamount to ascertainment of the wishes of the Legislatures. It seems to be a fantastic distortion of the meaning, of words. On that basis, for us to work on the Select Committee becomes a very precarious proposition. That is why I want your ruling.

Shri Biswas: Sir, my time is over.

Pandit Thakur Das Bhargava: This is a very important matter which I wish to bring before you. When a motion for reference to the Select Committee was made, we had understood from what we have seen in the Statement of Objects and Reasons and the debate here that all the States will be afforded an opportunity to express their views. What the hon. Minister seeks to lay down is that the Bill will be introduced before they are allowed to express their opinions. In that case I would not vote for reference to the Select Committee. This is the position. When we enacted article 3 in the Constituent Assembly, we were of the view that the views of all the Legislatures were to be ascertained and that it was the duty of the President to do so and that the President would not have been justified in allowing the introduction of any Bill or making any recommendations whatsoever unless those views are ascertained. Now,

we are quite anxious that the views of the Legislatures must be expressed before any such Bill is allowed to be introduced. This goes to the root of the matter. If the view of the hon. Law Minister is that as a matter of fact the Bill can be introduced without any Legislature being given an opportunity to express its views, it means that the Central Government can do what it likes without knowing the views of the Legislatures. I understand our votes are dependent on this fact. If the Legislatures are given the opportunity to express their views, then we will support the Bill. We want that the time may be fixed. But at the same time, fixing the time has no meaning if the Bill is going to be introduced and recommendations made and the Bill proceeded with without the views of the Legislatures being known. Then I think every Member of the House should vote against the Bill.

Shri Biswas: I have explained what the ordinary words of an article mean. This is the ordinary meaning and that is all that I have to state.

Shri Satya Narayan Sinha: So far as I have been able to follow, there has been absolutely no difference between what my friends opposite say and what the Law Minister says. The Law Minister also agrees that all that we want to see is that no State should adopt some dilatory tactics and block the passage of the Bill. That is our only object.

Mr. Deputy-Speaker: I have heard both sides. I want a clarification from the hon. Law Minister. With the full knowledge of what he proposes under this Bill, let it go to the Select Committee. All that he said is that the intention of the Government is to ask the States to express an opinion with one hand through the President, and introduce the Bill with the other hand before the opinions are received. Or will the Bill be introduced only after the opinions of the States are received so that the Bill might be shaped in accordance with the opinions of the States?

[Mr. Deputy-Speaker]

Until that time, no Bill will be introduced. Is that the object of the Bill?

Shri Biswas: Unless the time given by the President in the reference expires, nothing will be done. That is in the Bill itself and I have repeated it several times.

Mr. Deputy-Speaker: The hon. Law Minister is so reasonable and so sweet now, and there is no misunderstanding now. Has the hon. Law Minister to say anything more?

Shri Biswas: If my hon. friend only refers to the Statement of Objects and Reasons, he will find that this matter has put in as clearly as the English language can make it. That is all that I have to say.

Shri Jaipal Singh: The entire House is grateful to you for having got the latest view of the hon. Law Minister. In that case, may I humbly suggest that whatever he had said before be expunged from the records?

Mr. Deputy-Speaker: Whatever he had said before is to be understood according to what he has said now.

Shri N. C. Chatterjee: The last clause of the bill is operative and so

also the last view of the Law Minister is operative!

Mr. Deputy-Speaker: Hon. Members are dealing with the Constitution amendment now.

The question is:

"That the Bill further to amend the Constitution of India be referred to a Select Committee consisting of 21 Members, namely, Dr. Kailas Nath Katju, Shri Kotha Raghuramaiah, Shri Debeswar Sarmah, Shri Nageshwar Prasad Sinha, Shri Narendra P. Nathwani, Shri Hari Vinayak Pataskar, Shri Shriman Narayan, Shri S. V. Ramaswamy, Shri Birakisor Ray, Shri Diwan Chand Sharma, Pandit Munishwar Dutt Upadhyay, Dr. Susilranjan Chatterjee, Shri K. T. Achuthan, Swami Ramananda Tirtha, Shri Shivram Rango Rane, Shri Asoka Mehta, Shri Hirendra Nath Mukerjee, Shri N. C. Chatterjee, Shri Frank Anthony, Dr. Lanka Sundaram and the Mover, with instructions to report by the 1st December 1955."

The Lok Sabha Divided: Ayes, 246; Noes, 2

Division No. 2]

AYES

Abudulabbhai, Mulla
Abdus Sattar, Shri
Achal Singh, Sen
Achini Ram, Lala
Achuthan, Shri
Agrawal, Shri H. L.
Agrawal, Shri M. L.
Akarpuri, Sardar
Alagesan, Shri
Amjad Ali, Shri
Asthana, Shri
Azad, Shri Bhagwat Jha
Tasunath Singh, Shri
Badan Singh, Ch.
Balasubramaniam, Shri
Belmiki, Shri
Beneji, Shri
Bansal, Shri
Berman, Shri
Barupal, Shri P. L.
Baspal, Shri
Bhagat, Shri B. R.
Bhakt Darshan, Shri
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur Das
Bhatkar, Shri
Bhatt, Shri C.
Bhawani, Shri
Bheeka Bhat, Shri
Birbal Singh, Shri
Biren Dutt, Shri
Brajeshwar Prasad, Shri
Brahmo-Choudhury, Shri
Chalaha, Shri Bimalaprasad

Chanda, Shri Anil K.
Chandak, Shri
Charak, Th. Lakshman Singh
Chatterjee, Shri Tushar
Chatterjee, Dr. Susilranjan
Chatterjee, Shri N. C.
Chaturvedi, Shri
Chavda, Shri
Chettiar, Sir Nagappa
Chettiar, Shri T. S. A.
Damar, Shri Amar Singh
Dandaram, Shri Netur P.
Das, Shri B.
Das, Shri B. C.
Das, Shri B. K.
Das, Shri K. K.
Das, Shri N. T.
Das, Shri Ram Dhani
Das, Shri Sarangadhar
Das, Shri Shree Narayan
Dasarath Deb, Shri
Datar, Shri
Dib, Shri S. C.
Dsozani, Shri
Desai, Shri K. N.
Desai, Shri Khandubhai
Deshmukh, Shri C. D.
Deshmukh, Shri K. G.
Deshpande, Shri G. H.
Dholakia, Shri
Dhulekar, Shri
Dhusiya, Shri
Digamber Singh, Shri
Dube, Shri Mulchand

Dube, Shri U. S.
Divedi, Shri D. P.
Divedi, Shri M. L.
Echaram, Shri I.
Ebenezer, Dr.
Gandhi, Shri B. B.
Ganpati Ram, Shri
Ganga, Shri S. M.
Gidvani, Shri
Gopi Ram, Shri
Gounder, Shri K. S.
Gounder, Shri K. P.
Gavind Das, Seth
Ghosh, Shri A. C.
Gupta, Shri Badshah
Gupta, Shri R. K.
Gurupadaswamy, Shri M. S.
Hansda, Shri Benjamin
Hazarka, Shri J. N.
Heda, Shri
Hem Raj, Shri
Ibrahim, Shri
Iqbal Singh, Sardar
Jiyanni, Shri C. R.
Jaggiwan Ram, Shri
Jain, Shri A. P.
Jaipal Singh, Shri
Jajwari, Shri
Jatav-vir, Dr.
Jena, Shri Niranjan
Jethan, Shri
Joshi, Shri Jethalal
Joshi, Shri Krishnacharya
Joshi, Shri Liladhar
Joshi, Shri M. D.

[9-55 P.M.]

AYES—contd.

Joshi, Shrimati Subhadra
Iwala Prasad, Shri
Kairolkar, Shri
Kamath, Shri
Kasliwal, Shri
Khedkar, Shri G. B.
Kuroikar, Shri
Krishna Chandra, Shri
Krishnamachari, Shri T. T.
Kureel, Shri B. N.
Lakshmayya, Shri
Lalnanji, Shri
Laskar, Shri
Madiah Gowda, Shri
Majithia, Sardar
Malliah, Shri U. S.
Malviya, Shri B. N.
Malviya, Pandit C. N.
Malviya, Shri Motilal
Masuriya Din, Shri
Mathew, Shri
Matthen, Shri
Maydeo, Shrimati
Mehta, Shri Asoka
Mehta, Shri B. G.
Mehta, Shri Balwant Sinha
Mehta, Shri J. R.
Menon, Shri Damodara
Mishra, Shri Bibhuti
Mishra, Shri L. N.
Mishra, Shri S. N.
Misra, Shri R. D.
Misra, Shri S. P.
Mohiuddin, Shri
Morarka, Shri
More, Shri K. L.
More, Shri S. S.
Muhammed Shafee, Chaudhuri
Mukerjee, Shri H. N.
Mukne, Shri Y. M.
Munswamy, Shri N. R.
Muthukrishnan, Shri
Nair, Shri C. K.
Nair, Shri N. Sreekantam
Narasimhan, Shri
Natarajan, Shri
Neeswadkar, Shri
Nathwani, Shri N. P.

Nehru, Shrimati Shivravati
Nehru, Shrimati Uma
Neswi, Shri
Paichoudhury, Shrimati Ila
Pande, Shri B. D.
Pande, Shri C. D.
Pariik, Shri S. G.
Patel, Shri Rajeshwar
Patel, Shrimati Maniben
Patnaik, Shri U. C.
Pillai, Shri Thanu
Prabhakar, Shri Naval
Radha Raman, Shri
Raghavachari, Shri
Raghubir Sahai, Shri
Raghubir Singh, Ch.
Ragunath Singh, Shri
Raghuramaiah, Shri
Ramanand Shastri, Swami
Ramaseshaiah, Shri
Ram Dass, Shri
Ram Saran, Shri
Ram Subhag Singh, Dr.
Randaman Singh, Shri
Rane, Shri
Rao, Shri P. Subba
Rao, Shri T. B. Vittal
Ray, Shri B. K.
Reddi, Shri Ramachandra
Rishang Keishing, Shri
Roy, Shri Binwa Nath
Rup Narain, Shri
Sahu, Shri Rameshwar
Saigal, Sardar A. S.
Saksena, Shri Mohanlal
Saksena, Shri S. L.
Samanta, Shri S. C.
Sanganna, Shri
Sankarapandian, Shri
Sen, Shri P. G.
Sen, Shrimati Sushama
Sewal, Shri A. R.
Shah, Shri C. C.
Shah, Shri Raichandbhai
Shahnawaz Khan, Shri
Sharma, Pandit Balkrishna
Sharma, Pandit K. C.
Sharma, Shri D. C.

Sharma, Shri K. R.
Sharma, Shri R. C.
Shastri, Shri R. R.
Siddaanajappa, Shri
Singh, Shri D. N.
Singh, Shri H. P.
Singh, Shri L. Jogeswar
Singh, Shri T. N.
Singhal, Shri S. C.
Sinha, Dr. S. N.
Sinha, Shri Anirudha
Sinha, Shri Thulan
Sinha, Shri K. P.
Sinha, Shri Nageshwar Prasad
Sinha, Shri Satya Narayan
Sinha, Shri K. Jugal Kishore
Siva, Dr. Gangadhara
Snatak, Shri
Soahia, Shri K. C.
Subrahmanyan, Shri T.
Suresh Chandra, Dr.
Surya Prasad, Shri
Swaminadhan, Shrimati Amma
Tandon, Shri
Telkikar, Shri
Tewari, Sardar R. B. S.
Thirumalaiah, Shri
Thomas, Shri A. M.
Tivary, Shri V. N.
Tiwari, Pandit B. L.
Tiwari, Shri R. S.
Tiwary, Pandit D. N.
Tripathi, Shri V. D.
Trivedi, Shri U. M.
Tvagi, Shri
Upadhyay, Pandit Munishwar Dutt
Upadhyay, Shri Shiva Dayal
Upadhyaya, Shri Shiva Datt
Vaishnav, Shri H. G.
Vaishya, Shri M. B.
Verma, Shri B. B.
Verma, Shri B. R.
Verma, Shri Ranji
Vidyalankar, Shri A. N.
Vishwanath Prasad, Shri
Vyas, Shri R. Anantal
Waghmare, Shri

NOES

Deshpande, Shri V. G.

4 P.M.

Shri Tyagi: I rise on a point of order. As far as I understand the Constitution, this voting was not a voting on a Division and there are certain Members who have been stopped from voting. The general custom is that whenever there is a Division the doors of the gates are closed in the lobby and, therefore, the Members are not permitted to come in. This is a rule which is applicable when there is some contested motion on which a Division is called for. Here nobody has challenged the decision and asked for a Division. It was only a normal voting.

Shri V. G. Deshpande: Yes, I said 'No'.

Shri Tyagi: Let me have my word. It was a normal voting. Instead of saying "Ayes" and "Noes" we were required to count the heads and for that purpose signatures were taken. In that case those Members who were

Mascarene, Kumari Annie

outside the lobby must have the privilege to come in. Why should they be locked out? Perhaps it is unconstitutional to lock out Members unless there is a Division.

Som: Hon. Members: It is too late.

Shri N. Sreekantam Nair: Sir, on a point of information. I want to know whether anybody has voted against it.

Mr. Deputy-Speaker: Order, order. The tellers are still counting. In the meanwhile no point of order can be raised. But, apart from any question of legal objection, are there really any Members who have been shut out?

Shri Tyagi: I was informed that several Members have been locked out.

Shri S. S. More: Sir, I rise on a point of order.

Mr. Deputy-Speaker: Order, order. I am coming to the hon. Member. Until I sit down there cannot be a point of order. What is the meaning of raising a point of order against my rising up and talking. This is wonderful. I am coming to him. Why he is in a hurry? I have never disallowed a point of order. I always welcome them. Only I wanted to know whether any of the Members who must have voted and who have not voted are here. I want to know whether any such Members are here who have not gone to one or the other lobby. I only wanted to know that.

Shri Tyagi: I have not noticed any other irregularity except that constitutional point which I wish to raise in this matter. When voting is being taken on a motion which seeks to amend the Constitution it is not a question of Division. The signatures are taken just to ascertain the exact number of Members present and voting because there is a requirement that it must be passed by a majority of the membership of the House. Unless there is an actual Division there is no reason why the doors should be closed. Members who are outside can also come in and vote. I can understand this being disallowed when there is a regular Division, when votes are taken on a contested Bill. Then it can be said that if the Members do not come within a certain time they will lose their votes. In this case the right of voting should not be denied to any Member if he is within the precincts of this building. I would, therefore, suggest that a re-voting should be done so that the Members who are outside may also get a chance to cast their votes.

Shri S. S. More: My submission is, when a Division is in progress, it has not been completed and the tellers are still counting, the House is supposed to be not in Session and therefore during this period no submission can be validly considered by the Chair. That is my point.

Shri Tyagi: I fully agree.

Mr. Deputy-Speaker: This is an important matter for consideration. A point has been raised that some Members who must have come here have not been able to come within the 3 minutes for which time the bell was rung. Normally the time that is allowed for hon. Members to come in is only 3 minutes and the bell was rung for that much time. So, there is no irregularity in the procedure so far adopted.

But, in matters of this kind, where it is a serious Division on a point as to whether a Bill ought to be passed or not to be passed and if there is any serious objection to the principle of the Bill and on that ground the Members have divided, then there is no question of any hesitation and the procedure as laid down has to be followed. But, in this case there seems to be a general desire to send the Bill to a Select Committee and the acceptance of the principle of the Bill with certain modifications and clarifications. That is what is intended and inasmuch as this is an amendment of the Constitution a special provision is laid down that so many Members must be present in the House. Therefore, the question is whether I should immediately declare or, in view of the fact that there has not been any opposition to the Bill as such though one hon. Member said 'No' which is not by way of a challenge saying "Come along; let me see whether there is any strength in you." I can allow, in a matter of this kind, a recount and thus give opportunities to Members who are outside. This is an important measure. We are not absolutely going by the rules. We only look to what is the essential principle of the Bill. Therefore, what is the harm if a second Division Bell is rung and hon. Members can go and get the other Members. I am only trying to put this suggestion to the House and now let me hear their views.

Shri Raghavachari (Penukonda): I wish to submit—now that you have put your suggestion to the House—that the procedure you are now pro-

posing simply comes to this. I will take the very argument that you just advanced. You said that there was no serious opposition in the House and therefore why not we allow a recounting. Supposing 100 of us attend here, even if all of us agree that there should be no opposition and that we should not divide, these 100 Members do not make the majority that is required by the Constitution. Can you go on counting and recounting till the number is made up. Here, you will see that the procedure is fixed; you also said that the procedure has been regularly followed up till now. If the number is less than the majority required then you must take the result rather than say: "After all, it will only delay matters" and we will have a recount. I am also anxious that it should not be delayed. We have all voted for it. But, nevertheless, on a question of procedure in respect of an important matter like this, where the Constitution has provided a requirement of a particular majority, if you do not have that required majority you must announce 'we lost the motion' rather than quibble with the thing and say: "I will allow a recounting". So, I think it is not in the interests of proper administration of the procedure of this House that a recounting should be done.

Shri Jaipal Singh: Mr. Deputy-Speaker, I am glad that what you have said has carried me back to what I said earlier. You are fully aware that people say one thing and vote another way. What people have said on the floor of the House cannot be proved by the ballot system. You are taking it for granted that because people have said certain things either for or against this Constitution, therefore, they, logically, would vote according to what they have said.

Sir, you and I, I think, are just as old parliamentarians as anybody else here. Our experience has been that people say one thing, generally speaking, and vote differently. That is a

fact, Sir. Now, the question is an important one. I will give a secret to you and to this House. I have supported this Bill but I am not prepared to agree with you about a recount. Just because you have let out the figures people have been going about saying that there are 6 votes short, 7 votes short and so on. I could have made it 10 short by going to the other side.

I put it to you, Sir; after all, a voting is a voting and it is not proper for the Minister of Defence Organisation to say that there was not proper voting. Because he had plugged both his ears he could not have heard the bell ringing outside.

It is not a question whether this is an important Bill or an unimportant Bill. There is a certain definite procedure and it is the hon. Minister for Parliamentary Affairs who has lagged behind in his duty to tell everybody to turn up here from his side. If they have not turned up, just because the figures are available here, you cannot change the procedure. हार गये तो

पाईट आफ आर्डर उठता है। अगर जीत जाते तो पाईट आफ आर्डर न उठता। मेरे कहने का मतलब यह है कि आपको एक कायदे से चलना चाहिए। रास्ता एक होना चाहिये चाहे आप संविधान में संशोधन करते हों या एक कानून को एबालिश करते हों। आप दोमुंजी* न बनिये। नियम सब के लिए बराबर होना चाहिये हम को एक ही राह चलना चाहिये। चाहे आप उधर हों या इधर हों। जब आप ने

Pandit K. C. Sharma: The word used is a very bad term.

Shri N. Sreekantan Nair: Sir, can any hon. Member speak in two languages during one speech?

Shri M. L. Dwivedi (Hamirpur Dist.): Sir, the word is very bad.

Mr. Deputy-Speaker: Order, order. Let there be no heat generated. In

*This word was substituted as directed by the Speaker.

[Mr. Deputy-Speaker]

this matter let us discuss calmly. I have not yet learned those expressions in Hindi and therefore, I am not yet able to decide as to whether that particular expression is wrong or right. In these matters I leave it to the hon. Members themselves, consistent with the dignity of the House, to use expressions which will not detract from the seriousness or decorum of the House. If Shri Jaipal Singh feels that there is an expression which has slipped out of his mouth and which is bad he will do well to withdraw it. I am not competent to judge whether it is right or wrong.

Shri Tyagi raised this point. I just gave to the House the pros and cons and allowed Shri Jaipal Singh and one other Member to speak. If hon. Members have anything new to say, they may say it, and I shall hear them closely.

Shri T. S. A. Chettiar (Trippur): If you want to hear new things, I have something new to say.

Mr. Deputy-Speaker: I have no objection.

Shri T. S. A. Chettiar: It is undoubtedly an important matter. We are not going into the merits of the decision on this Bill. We are very proud about the precedents to be set up in this House. In my parliamentary experience of the last 20 years, I have not had a single instance in which it has been said that a decision once taken shall be taken again. I think if we have committed a mistake—I say that with all responsibility and sometimes we commit mistakes—we should learn to bear the responsibility for that mistake. I do not know how the voting stands, but I do not know whether the voting should be an element in a decision on a matter like this. To my mind, without knowing what the voting is I should think that once voting having taken place, it should stand. We want to set up precedents here. After all, we are a new democracy. We want to set up precedents in this House and I would

beg of you, to consider what will go as good precedents in this House, without going into the merits of the case. I would beg of you not to do something which tomorrow it may be said, was not a good precedent. I leave it to you to come to a conclusion, which will be held valid by all legislatures everywhere.

Shri N. C. Chatterjee: May I point out that under article 368, we are amending the Constitution. You know that in Part XX the procedure of amending the Constitution is prescribed.

“An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting...” etc.

Therefore, on the motion you put it to vote, the Members present in the House are entitled to participate in the voting and if the requisite majority is there, then the motion for reference is deemed to be carried. That has been made clear under our rules also.

If you will kindly look at rule 169 of our Rules, you will find that “if the motion in respect of such Bill is that it be referred to a Select Committee of the House, then the motion shall be deemed to have been carried if it 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”.

You know the Rules Committee had a discussion as to whether this goes beyond what is required. They reaffirmed it, and the unanimous decision is that this is in conformity with article 368. Therefore, I submit that when it is put to the vote, thereafter you cannot say that some people who are not present in the House at

that stage should be allowed to participate in the voting. That will be against the Constitution itself. I quite agree with Shri Chettiar that we should not create undesirable precedents. My point is more fundamental. I submit that no precedent can be created in violation of the clear mandate of the Constitution.

Shri S. S. More: Shri Chatterjee did not refer....

Mr. Deputy-Speaker: Has the hon. Member anything new to speak?

Mr. S. S. More: With your permission, I submit something new because you said you would order a recount.

Mr. Deputy-Speaker: I never said that.

Shri S. S. More: I shall bring to your notice rule 170. There is no discretion left to the Chair. The word is "shall". The result has to be declared either this way or that way.

Shri Tyagi: I submit that there are certain rules pertaining to division. In these rules also, there is no mention of the doors being closed.

Shri S. S. More: Division means division.

Shri Tyagi: The doors of the lobbies are closed only by convention. It is not according to rules that doors shall be closed. It is an old convention of this House that when the division bell is rung and a vote is taken, then those doors of the lobbies are closed so that outsiders may not come in. Here, in the rules as such, there is no such provision. My only submission is that when Members are free to go into the lobby and vote, it is not that those Members who are here in the House will only vote, but also those who are sitting in the lobbies can come and vote, because they are not outside the House. Even when the doors are closed those Members who are not in the chamber itself and who are sitting outside can also participate always in the case of a division. Here, it was not exactly a case of a division, but

it was a case of taking votes. So, there was no time-limit fixed that only such Members as come within such and such time will vote. My submission is that till the last Member had signed, the doors ought to have remained open for Members to come. So, I submit—you may have no recounting and I do not know—that such Members as have been deprived of their right to vote in this Constitution (Amendment) Bill should be permitted to vote. My claim is not for any second count. I want to know why the right should be denied. It was not exactly a division and there was no rule which would ban them from voting either in favour or against.

Shri N. C. Chatterjee: The hon. Minister has forgotten what the Speaker has said. The Speaker definitely said that voting shall take place at about this time. That is why we changed the sequence of the order paper and we took up the other Bill. Members were told that that was being done so that the voting would take place at this hour.

Shri Dhulekar: We are against recounting. It should not be done. We should lay down principles, we should follow conventions that our sons and grandsons will follow. We should not entertain anything which will become a very bad precedent. If we adopt a bad procedure, from tomorrow Members may or may not come. It is a question of passing an amendment to the Constitution. We are against any recounting of votes and the result should be taken as it has come out.

Shri Tyagi: I am not advocating that there should be any recounting. I only say that those Members who were not allowed to vote should now be allowed to come in and vote (*Interruption*).

Shri Mohanlal Saksena (Lucknow Distt. cum Bara Banki Distt.): Sir, I only want to submit that Shri Tyagi should have raised that point before the actual counting took place. He should have pointed out that some Members were not being allowed to vote before the actual counting of votes was done. Had he raised this

[Shri Mohanlal Saksena]

point before the counting, that would have been all right. Now, at this stage I am afraid it is too late.

Shri M. L. Dwivedi: The division bell rang only for two minutes whereas it should have rung for three minutes.

Shri Tandon (Allahabad Distt.-West): May I have a word, Sir?

Mr. Deputy-Speaker: Yes.

Shri Tandon: I have had something to do with the interpretation of Constitutions. I have listened to the argument advanced by the Government benches.

An Hon. Member: No.

Shri Tandon: I am glad that one of them is shaking his head in the negative. I thought that Tyagiji was voicing the feeling of the Government benches.

Some Hon. Members: No; not all the Members.

Shri Tandon: I am glad he is not. Probably he is a corporation sole in himself. I submit that though a thing like this may cause some inconvenience to the Government yet we have to take the result with good grace.

A Constitution, like truth, is sometimes very inconvenient. We may have the temptation to resort to an unconstitutional way or to an untruth in order that the matter may be cut short. But that does permanent injury to the Constitution.

Shri S. S. More: And democracy:

Shri Tandon: I submit that whatever verdict has been already given by the House should be accepted and that there can be no recounting because that verdict is inconvenient for the present. We have to put up with it. The Heavens will not fall. Let us accept it. I submit that that would be the proper thing to do.

Mr. Deputy-Speaker: I have heard sufficiently on this point. A point was raised....

श्री आर० धार० शास्त्री : (जिला कानपुर, मध्य) : टंडन जी ने बहुत जरूरी बात कही है। अच्छा होता यदि उसको हिन्दी में भी कह दिया जाता।

Mr. Deputy-Speaker: Order, Order. Hon. Members are expected to speak in both the languages here and if one does not understand it, we cannot help it.

I have heard this point of order raised by Shri Tyagi. It was raised after the division was ordered, after the bells were rung, after the three minutes were over and after the Hon. Members had gone to one lobby or the other. The objection that was raised was that when deciding or taking votes on an amendment to the Constitution, a different procedure ought to have been adopted. Secondly, even under the normal process of taking division, it has been the ancient practice to give opportunity to Members who are not inside the House to come in for a period of two minutes and thereafter close the doors and take the votes of only such Members as are present inside the House. That has been the ancient practice. Shri Tyagi says that practice is not borne out by any rule and, therefore, Members ought to have been allowed to come in. A chit was handed over to me just now and I find that one of the Deputy Whips and as many as 15 Members are waiting outside....

Shri S. S. More: In the Central Hall.

Mr. Deputy-Speaker:....and, in the circumstances, they must be allowed an opportunity to come in and vote for this measure. In fact he went to the length of saying that it is not proper to close the door at all. Now that has been the practice. I do not want to justify and say one way or the other. But it will be endless if the doors are kept open and we will have to wait and wait or some man may go on obstructing, taking time inside the lobby until another Member can be sent for and brought inside the House. These are the difficulties and dangers.

Therefore, I do not see why I should not adopt the ancient and time honoured rule of closing the door after giving notice for two minutes. If I am following it, I am only following an ancient practice and precedent. Under these circumstances, my attention has been drawn to article 368, where it is said that a Bill which seeks to amend the Constitution or relates to the amendment of the Constitution must be passed by a majority of the full House and two thirds of the Members present and voting.. present means those present after two minutes after the bells are rung and doors are closed after an opportunity has been given for voting. The objection has been raised too late. I only wanted to ascertain the views of the House because some time ago with respect to very important Bills we have adjourned the Bills to enable Members from various parts of the country to come in when they wanted to have their own views expressed not to canvass the opinion of a very thin House. That is before the stage of taking up the Bill for discussion or even while the Bill is under consideration, a motion for adjournment may be moved. But I am afraid Shri Tyagi has come too late with his suggestion, I must inform the Members that I have not yet looked into what the tellers' story is about the result, one way or the other. It is not as if this point was raised after the result was known. Others may or may not know, but so far as I am concerned, I am yet to look into it for the first time hereafter. Now I will announce the result of the division. The result of the division is as follows: Ayes—246; Noes—2.

As to what is to be declared so far as this motion is concerned, I will reserve consideration till tomorrow?

Shri Kamath: How can that be done?

Mr. Deputy-Speaker: I have to do so. I have to look into the provisions about "51 per cent of the members" and "two-thirds of the members present". On two thirds of the members present, we have here 246 plus 2,

that is 248. As to "51 per cent of the members" I have to find out what exactly it is. I am not going to invite others to come here and vote hereafter. The result is 246 for and 2 against. What is the total number of Members?

An Hon. Member: 499.

Shri Tyagi: Absolute majority of the House means the strength of the House for the time being. Suppose some bye-elections are going on and there are some vacancies in the House. So the total strength of the House today is the total Constitutional strength minus those constituencies which have not been able to return their members.

Shri S. S. More: No, no.

Shri Tyagi: It is also there somewhere in the Constitution that if the House has not been completed, the House will not be barred from transacting its business. Whether the House is complete or not, the House shall transact its business as if it were complete in spite of some bye-elections going on. I therefore submit that when you announce the result, you will kindly take the total absolute strength of the House to be the strength of the House as is today, that is, elected Members and not those constituencies which have not returned their Members.

Shri S. S. More: May I make a submission? I am referring to rule 170, where it is stated that it should be the majority of the total membership of the House and not of the total members present. According to the Constitution, the Members' strength is 499. Then, regarding your point, the Speaker shall, while announcing the result, say whether the motion is carried or not. So, while announcing, you will have to make a declaration whether it is carried or not.

Shri T. T. Krishnamachari: The matter, I think, is now for the Chair to make a declaration. It is perfectly within the competence of the Chair to make the declaration when it chooses to do so I do not feel that, whatever you may say, you can alter the facts. At the same time since you have

[Shri T. T. Krishnamachari] chosen to say that you are considering the matter, I think courtesy requires of the House to abide by what the Chair has said and take the declaration as and when the Chair is prepared to give it.

Shri S. S. More: Is it not under the rules.

Shri T. T. Krishnamachari: It is not as a member of the Government that I am suggesting this. It is again for the same reason for which some of the Members felt that we should not break a convention. Let us not break the convention of abiding by the ruling of the Chair. The Chair has said it will consider the matter further and give a ruling. Allow the Chair to give the ruling. I for one moment have no hesitation in believing that it can only be in one way, but let the Chair decide at its own will and pleasure and convenience.

Pandit K. C. Sharma: My point is that under the Constitution, a majority of the Members of the House is necessary when a Bill amending the Constitution has to be passed, not when there is a motion for Select Committee. The Bill to be passed will come in the final shape. then the question of the majority of the Members will arise. Till then in the intermediate stages the majority of the House does not arise. A bare majority of the Members present is sufficient.

Shri N. C. Chatterjee: My hon. friend is forgetting rule 169 which makes it perfectly clear that the motion in respect of such a Bill, that is a Bill for amendment of the Constitution, be referred to a Select Committee of the House, shall be deemed to have been carried only if it 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.

Pandit K. C. Sharma: A rule cannot supersede or add to the words of the Constitution.

Shri N. C. Chatterjee: I am pointing out that the Speaker explained it

very clearly. We had a discussion with the Speaker. He said according to him passing means passing at every stage, every relevant stage of the whole procedure of amendment.

Mr. Deputy-Speaker: Order, order. We will dispose of this. This is the final stage. After announcing the result of voting as 246 Ayes and 2 Noes, this point was in my mind because it was raised yesterday in the Rules Committee. The question was whether this division or the majority should be applied only for the final stage of passing a Bill or it ought to be applied to every stage as is referred to in rule 169, and therefore I thought this may stand over. But there is also the suggestion of Shri T. T. Krishnamachari that once I said to the House that it would stand over, it is not right that I ought not to be allowed the discretion to allow it to stand over. But Shri More drew my attention to sub-rule(2) of rule 170, and pointed out that the Speaker shall, while announcing the result, say that the motion is carried by a majority etc. But I do not want to create a hiatus and delay between announcing the result of the voting and announcing the result of the motion as a whole. True, I thought this matter could be considered, this matter could stand over, but Shri Chatterjee has drawn our attention to rule 169 where it is provided that if it be referred to a Select Committee of the House, then the motion shall be deemed to have been carried if it is passed by a majority of the total membership of the House. Therefore, so long as the rules stand—I am not prepared to declare them to be *ultra vires*, I am bound to follow them—I have declared the result of the voting, and I shall now declare the result of this motion. The motion is not carried in accordance with rule 169 of the Rules of Procedure and Conduct of Business of the Lok Sabha and in accordance with the Constitution.

The motion was not carried in accordance with Rule 169 of the Rules of Procedure.

Shri U. M. Trivedi: Long live democracy!

Shri Kamath: Resign, resign.

MANIPUR (COURTS) BILL

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

"That the Bill to provide for the establishment of a Judicial Commissioner's Court and other Courts in Manipur, be taken into consideration."

Mr. Deputy-Speaker: Let there be no talk across the benches. Hon. Members may recover from the excitement.

Shri Datar: If possible, recover outside. The object of this Bill is to introduce a uniform system of courts in the State of Manipur.

As you are aware, the State of Manipur consists of plain areas and hilly areas also. Till now, Manipur State was governed by two laws. One was The Manipur State Courts Act of 1947, as amended by The Manipur State Courts Amending Order of 1950. This mainly applied to the plain areas. So far as the hilly areas in Manipur State were concerned, they were governed by the Manipur State (Hill Places) Regulation Act of 1950. It was considered that the present position was anomalous and certain discrepancies were found, as a result of which the administration of justice in the State of Manipur was not and could not be carried on in a satisfactory manner. That is the reason why the present Bill has been introduced for the purpose of having throughout the State of Manipur a uniform administration. This uniform administration has to be secured by the establishment of a hierarchy of courts. We have got a Judicial Commissioner's court at the head. In addition to the Judicial Commissioner's court it is also felt that on account of the large increase in work in the Judicial Commissioner's court, there ought to be an additional Judicial Commissioner as well.

Mr. Deputy-Speaker: What is the recommendation of the States Reor-

ganisation Commission in regard to Manipur?

Shri Datar: So far as the States Reorganisation Commission is concerned, they have stated that it should continue as a territory administered centrally by the Government of India.

Mr. Deputy-Speaker: Not merged with one or the other?

Shri Datar: No, not merged at least for the time being. Therefore, you will find that we have to carry on the administration on the model more or less of the Part C States like Vindhya Pradesh or Bhopal and the present Act has been modelled on the system that is prevailing in these two Part C States. Therefore, what has now been proposed is a hierarchy of courts. At the top we shall have the Judicial Commissioner with an Additional Judicial Commissioner if necessary. Then, we shall have the District Judge's court below it and then the court of a Subordinate Judge, and last the court of a Munsiff. These are the various courts that are to be established for the purpose of administration of justice. You will also find one more point. Recently, the Code of Criminal Procedure has been introduced. Under that Code, a number of criminal courts will also have to be duly established, not under the old Manipur State Courts Act, but under the Criminal Procedure Code. You are aware that we have got a sessions court and we have got various magistrates courts, magistrates of the first class, second class and third class. All these will have to be duly introduced so far as administration of criminal justice is concerned. So far as administration of civil justice is concerned, that would be governed by the present Manipur Courts Act. It will thus be found that so far as the judicial side of the work is concerned, that is entirely the concern of the judicial courts, namely, the Judicial Commissioner and also the District judge and a number of other judges. So far as the executive or administrative side is concerned, Manipur is a Part C