

12.13 hrs.

**ACQUIRED TERRITORIES (MER-  
 GER) BILL AND CONSTITUTION  
 (NINTH AMENDMENT) BILL**

**Mr. Speaker:** The House will now take up the next item on the Agenda. The hon. Prime Minister.

**Shri A. C. Guha (Barasat):** Sir, may I submit that if the two Bills—the Acquired Territories (Merger) Bill and the Constitution (Ninth Amendment) Bill—are taken together at least in the first reading stages, I think that will facilitate discussion in this House.

**Mr. Speaker:** Very well, I believe the House has no objection if to facilitate discussion both these Bills are moved together for consideration. There may be a common discussion for both in the general discussion stage, but in the clause-by-clause consideration stage I will take them up separately and put them separately to the vote of the House. They require different majority of votes also. Therefore, is the House agreeable to the proposal that the general discussion will be common to both the Bill?

**Several Hon. Members:** Yes.

**Shri Naushir Bharucha (East Khandesh):** May I point out, Sir, that there might be technical difficulties. From the constitutional point of view, Sir, the Parliament may not be competent to discuss the Bill for assimilating any territories unless the Constitution itself is amended. What I suggest is, you should give enough latitude to Members who want to speak on both the Bills, but when you come to technical aspects you should take the Constitution (Ninth Amendment) Bill first and then take the other Bill. I suggest that some latitude may be given in the matter of general discussion so that automatically the general discussion on the Acquired Territories (Merger) Bill will be very much curtailed.

**Shri A. C. Guha:** The second Bill does not deal with any cession of territories, it only deals with merger of acquired territories. Acquisition of territories is allowed with the Constitution.

**Mr. Speaker:** An amendment of the Constitution is necessary only where you secede certain territories to Pakistan. So far as acquisition of territories is concerned no amendment of the Constitution is necessary. Here the Bill relates to merger of acquired territories. Therefore, there is absolutely no intrinsic difficulty at all. The only thing is, common agreement will be there in both; otherwise, one does not follow the other.

**Shri Tyagi (Dehra Dun):** Sir, I made one request on the last occasion also. It is becoming very difficult for Members of Parliament to understand exactly where the boundary line comes. Unless the Members individually and collectively are in a position to appreciate where the Radcliffe line passes, where our position was, what we are giving over etc., we will not be able to study the matter. I suggest that on the Table of the House or somewhere else a map or some such thing showing all these details should be placed so that we can make a proper study and then exercise our votes.

**Mr. Speaker:** Has the hon. Minister got a map for ready reference of hon. Members, showing the boundary line, the portion to be acquired, the portion to be seceded etc?

**Shri Vajpayee (Balrampur):** We have been told only about the strength of the territory that is being acquired now in the explanatory memorandum which has been circulated.

**Mr. Speaker:** That will be stated now.

**Shri Vajpayee:** What is the use of saying that unless we know the actual extent of territory that is being transferred now?

**Mr. Speaker:** He does not know unless it is said, but he will object to anybody saying that also; what can be done?

**Shri Vajpayee:** There is a map in regard to West Pakistan. May I know why there is no map in regard to East Pakistan.

**Mr. Speaker:** Order, order. He is going from one thing to another. Let us see. If hon. Members are not able to understand the matter without the aid of a map, I will then consider. In the meanwhile, if there are any maps they may be made available.

**Shri Vajpayee:** Why "if there are any maps"? There should be maps. We are discussing the boundaries of India. It is not a simple matter. The Government is going to amend the Constitution. The Government has got a responsibility to this House, and we have a responsibility to the people of the country. They must have prepared the maps. As Members of the House we are entitled to ask for maps.

**Shri A. C. Guha:** The boundaries have been demarcated by the Radcliffe Award. Copies of the Radcliffe Award are available in the library. Members also have got copies of the Radcliffe Award. Map will not help us much in these small stripes of territories.

**Mr. Speaker:** Order, order. I am not going to allow this sort of thing to go on (*Interruption*). What is the object of giving notice about a Bill? If this sort of thing is to go on, then I will dispense with the practice of giving notice of Bills. The object of giving notice of Bills is to enable hon. Members to clear their doubts, if they have any, by writing to the Minister concerned. They could have asked for the maps earlier. When it is about to be taken up in the House hurdles after hurdles are put. They could have asked for the maps yesterday or the day before. They could have written to the hon. Minister. I never stopped hon. Members from raising

this point earlier. I, on the other hand, do not want them to vote blindfold in this House. Every hon. Member must understand a thing and then only exercise his vote. The hon. Prime Minister must have been under the impression that they will look into the relevant books and study the thing. How can one imagine that others do not know what they ought to know or what they can otherwise come to know. So there is no meaning in raising it now. I insisted that sufficient notice must be given so that hon. Members may bestir themselves and if they wanted any further information they may ask the mover of the Bill to give such other information as was necessary. But they waited till the last minute, till we were about to take it up. How can we go on with that now. If we go on like this, we will have to go on endlessly. Let me see how we progress.

**The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru):** Mr. Speaker, Sir, I entirely agree that it would be advantageous to the House to consider these two Bills together. They cover the same set of circumstances. They had to be made into two Bill, as I ventured to point out a few days ago, because they are two separate things to be done, one in regard to acquisition and the other in regard to transfer of territories to Pakistan. The Supreme Court have indicated different ways of proceedings, and therefore we had to put up these two Bills. But I think it is completely right and desirable that the discussion should be a joint discussion on both so that hon. Members can refer to the whole transaction. But, of course, as you were pleased to say, when we come to voting or the clause-by-clause consideration we have to take them separately.

I am very sorry that there is any feeling in this House about lack of maps etc. There are, of course, maps; the difficulty is not the absence of

maps but the abundance of them. Normally most of these areas are so small that the normal maps do not show them—sometimes they are just a few acres, sometimes a mile or two—unless we have made very large-scale maps of it. Of course, we have got them and there are so many of them, as I said. I shall endeavour in the course of the day to bring some maps here, but of course it will be difficult for hon. Members to see them while they are sitting in this House. But I shall supply such maps, to the Library or elsewhere, as I can.

These two Bills cover broadly, as I said, the same set of matters which arise out of the three Indo-Pakistan agreements. The agreement concluded on the 10th September, 1958 is the main agreement, the second one is dated 23rd October, 1959 and the third one is dated the 11th January of this year—1960. I think perhaps I had better formally move the motion before I proceed.

I beg to move\*:

"That the Bill to provide for the merger into the States of Assam, Punjab and West Bengal of certain territories acquired in pursuance of the agreements entered into between the Governments of India and Pakistan and for matters connected therewith, be taken into consideration."

Mr. Speaker: I shall place the motion before the House first, and then I will call upon the Prime Minister to make the next motion.

Shri Subiman Ghosh (Burdwan): I rise to a point of order. My point of order is this. This Bill is *ultra vires* of the Constitution. Why I say so is, because, in this Bill we are going to implement the Indo-Pakistan agreement. But, first of all, there was the Radcliffe Award on the basis of which India was divided and Pakistan was born out of it. Then there was some confusion, as we all know, and the Bagge tribunal was formed.

Even then the Pakistan Government did not raise any dispute regarding Berubari. Thereafter, there was an agreement between the Prime Minister of India and the Prime Minister of Pakistan, and the dispute.

Mr. Speaker: What is the point of order?

Shri Subiman Ghosh: I am developing the point of order. Please allow me a few minutes.

Mr. Speaker: I want to know what is the point of order, first.

Shri Subiman Ghosh: The point of order is, this Bill is *ultra vires* of the Constitution.

Mr. Speaker: Why, and how?

Shri Subiman Ghosh: I am coming to it. This dispute was settled between Pakistan and India once for all. In the year 1952 Pakistan was allowed to raise a dispute on the basis of the Radcliffe Award and so far as Berubari was concerned it should have been summarily rejected.

Mr. Speaker: Order, order. Let him answer me. The hon. Prime Minister has made the motion regarding the bill by which some territories are to be acquired. If there is any point of order regarding the acquisition, what is then that point of order?

Shri Subiman Ghosh: The point of order is regarding the agreement. This Bill is based on the agreement.

Mr. Speaker: We are not going into the agreement and we are not going to revive any agreement now—whether it is valid or invalid. We now want to acquire some territory which originally belonged to Pakistan. Is the hon. Member raising any point of order about the acquisition? There is no point of order. (Interruptions).

Shri Bimal Ghosh (Barrockpore): There is also exchange of enclaves in

\*Moved with the recommendation of President.

[Shri Bimal Ghose]

respect of the acquisition. We find that.

**Shri M. Khuda Bukhsh** (Murshidabad): Acquisition in exchange of the property that lies in India.

**Shri Bimal Ghosh:** On page 7 of the Bill, you will find that item 10 refers to the exchange of enclaves between India and Pakistan so that that these arise out of the agreement. If we get some territory we also give some territory to Pakistan. So, the two things go together. So, it is not merely a question of our acquiring territories.

**Shri Tridib Kumar Chaudhuri** (Berhampore): Apart from that, if you look to ...

**Mr. Speaker:** Order, order. I am not going to allow any discussion about it. This matter of constitutional propriety is fixed. I may here and now state that no Speaker has taken the responsibility of disallowing or throwing out a Bill on a matter of constitutional issue. He allows arguments to be raised, but he leaves the matter to the House to decide one way or the other. This House, as a sovereign House, is competent, under the Constitution that we have enacted and given to ourselves, to change the boundaries, to acquire territories, to cede territories and so on. If there is any lacuna, of course, the House will consider it and it will also take the legal aspect into consideration and decide ultimately when it effects the vote. The hon. Prime Minister.

**Shri Sadhan Gupta** (Calcutta—East): It is a very unusual thing in respect of this Bill, because, all the time, it is true that we have not considered the question of *ultra vires*, and the courts may decide it afterwards. But, here, if we allow an invalid Bill to be passed into law, then the courts cannot give us any further remedy. The territory will go and we will have no other remedy about it. Therefore, in regard to this Bill at least you should first give your ruling whether it is not *ultra vires* or it is *ultra vires*. It is perfectly within

your power to give a ruling that the Bill is *ultra vires* or not, and if it is *ultra vires*, the House should not take it up at all, because, if it is passed into a law, if the House passes into law something which is really *ultra vires* and which is within your province to decide, then there will be no remedy left open to the people who will be illegally handed over to Pakistan. From that point of view, this point of order should be decided here and now finally.

**Shri Subiman Ghosh:** What I submit is, on the basis of the Bill, we are not taking into consideration the agreement dated 10th September, 1958. We are taking into consideration something else. It is not the agreement dated 10th September, 1958. I want to develop that point. In the Statement of Objects and Reasons and elsewhere it has been said that it is on the basis of the agreement dated 10th September, 1958 that we are going to give some territory, namely, Berubari, to Pakistan. After the decision of the Supreme Court, that is not the state of things. The Prime Minister of India discussed the matter with the Prime Minister of Pakistan on the basis of the Redcliffe Award, because there was a dispute arising from the award, and that dispute was allowed to be raised. But the Supreme Court said that absolutely there was no dispute about it, namely, Berubari. To all intents and purposes, it is a gift to Pakistan—the gift of Berubari. That was not the intention of the Prime Minister of India, when he discussed the matter—that he was going to make a gift of it to Pakistan. But then, if he did it, he exceeded his jurisdiction and he was not allowed to do that. He only discussed the dispute. He was not authorised to make a gift of it to Pakistan, which he did.

**Mr. Speaker:** I have heard the point of order. The point of order is simply this. The hon. Prime Minister and the Government were obviously under the impression that there was only an exchange of territories and therefore it

did not require a constitutional amendment. The Supreme Court held that the question involved the ceding of Indian territory and now, for that purpose, to validate it, a constitutional amendment has been brought in. This House has the jurisdiction to give away our own territory. Of course, it was intended and thought that this was in exchange for some other territory and therefore it did not require any constitutional amendment. But the Supreme Court held otherwise. But that does not stand in the way of this House ceding some territory. It is up to this House—whether absolutely ceding a territory for some purpose and not in view of something else, or even to make a grant of it—to do it, and there is nothing preventing us from making a free grant of this property, to the others. Therefore, from the point of view of it being *ultra vires* or not, whether it is within jurisdiction or not, there is no question of jurisdiction. The House can take into consideration whether there is anything that we are getting or we are making a free gift of it. It is open to this House to vote one way or the other. There is no point of order so far as this matter is concerned. Ordinarily—(Interruptions).

**Shri Subiman Ghose:** I submit to your ruling but I want to . . .

**Mr. Speaker:** I have given my ruling. I do not want to hear any more about it. I cannot allow any more discussion on the matter. I have heard sufficiently. The simple point is, whether in exchange or otherwise, this House is competent to give away territory belonging to us. It is for the House to decide whether it ought to do it or ought not to do it. There is nothing more.

Normally, after the speech, the motion is put to the House. But I am trying for this particular purpose to place both these motions before the House, because one cannot in the middle of one motion start the other motion. Therefore, I will place both the

motions before the House and allow the Prime Minister to speak on both the motions. Afterwards I will allow others. He has formally moved the first motion.

Motion moved:

“That the Bill to provide for the merger into the States of Assam, Punjab and West Bengal of certain territories acquired in pursuance of the agreements entered into between the Governments of India and Pakistan and for matters connected therewith, be taken into consideration.”

The hon. Prime Minister may move the other motion.

**Shri Jawaharlal Nehru:** I beg to move\*:

“That the Bill further to amend the Constitution of India to give effect to the transfer of certain territories to Pakistan in pursuance of the agreements entered into between the Governments of India and Pakistan, be taken into consideration.”

**Mr. Speaker:** Motion moved:

“That the Bill further to amend the Constitution of India to give effect to the transfer of certain territories to Pakistan in pursuance of the agreements entered into between the Governments of India and Pakistan, be taken into consideration.”

**Shri Subiman Ghose:** I have another point of order on this Bill. This militates against the very basic concept of the creation of a Welfare State.

**Mr. Speaker:** He says that this House has no right to amend the Constitution ceding certain territories to other countries? There is no point of order.

\*Moved with the recommendation of President.

**Shri Subiman Ghose:** This Constitution cannot be amended in a fashion which will militate against the creation of a Welfare State which is our avowed object.

**Mr. Speaker:** I have heard the point of order.

**Shri Subiman Ghose:** Please allow me two minutes. If I read the joint communique, it will clear up the matter. In their joint communique dated the 12th September, 1958, it is said:

"The Prime Minister agreed that when areas are exchanged on agreed dates, as a result of settlement and demarcation of these disputed areas an appeal should be made to the people in the areas exchanged to continue staying in their present homes as nationals of the State to which the areas are transferred."

Therefore, our Prime Minister is saying that the Indian citizens should be Pakistan Nationals. Is it the Welfare State which is being contemplated. He wants that those citizens of India should become Pakistan Nationals.

**Mr. Speaker:** The hon. Member is merely arguing the fact. Propriety is one thing and legality is another. The only point so far as I am concerned is whether this House is competent. This House is competent. Whether it is proper or not, it is for the House to take into consideration and then vote for or against.

**Shri Vajpayee:** I have another point of order. This House has been constituted under the Constitution, according to which no cession of territory is permitted. It is competent for the House and the Members to amend the Constitution, but that amendment should not be made unless the Members of this House have a fresh mandate from the people.

**Mr. Speaker:** I have heard the point of order . . .

**Shri Vajpayee:** You have not heard, Sir. It is open for us to amend the

Constitution, but this House has been constituted under the Constitution according to which no cession of territory is possible. So, if there is to be an amendment of the Constitution which is of such a serious nature, this House must have a fresh popular mandate from the people.

**Raja Mahendra Pratap (Mathura):** My point of order is this. What are we talking about this small little territory? Bengal and Bengal will be one, Punjab and Punjab will be one and there will be no Pakistan. There will be Aryan Federation . . .

**Mr. Speaker:** Order, order. No hon. Member ought to stand while I am on my legs. If they want come into the House, they will have to sit in the last seat. For sometime I have been noticing that people feel as if it is a public meeting somewhere and they can come and go at any time. An amount of decorum and decency is necessary. When I am on my legs, no hon. Member shall stand. If he is anxious to come into the House, he has to sit in the end there. These are the rules. Persons from foreign countries are coming here and number of our own people are watching. This is rather wrong. I did not want to make a reference to it, but I find it more honoured in the breach than in the observance.

**Shri Naushir Bharucha:** By Ministers also.

**Mr. Speaker:** Whoever it might be.

So far as Shri Vajpayee's point of order is concerned, he says a mandate is necessary. It is true originally the Constitution did not contemplate cession of territory. But events have so occurred that the Government find it necessary to cede some territory in the interest of peace. It is for the House to accept it or not to accept it. No doubt serious matters have come in and some kind of change of policy also. But the Constitution has never

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contemplated a referendum to the people once again on everyone of these points and has trusted this House to carry on. Of course, in small countries there may be referendum to get a mandate. Whatever might be the justice for it or otherwise, I am not prepared to decide. But so far as our Constitution is concerned, it does not require a separate mandate in regard to this. It is quite in order.

**Shri Jawaharlal Nehru:** Mr. Speaker, Sir, this question contained in these two Bills which I have placed before the House has excited a great deal of concern and much feeling, specially in West Bengal. I can understand that and to some extent appreciate it even, but an unfortunate result has flowed from that, that this matter, which is important enough certainly, has been covered up by so many extraneous factors that the real position and the real issues are not to be seen clearly. That comes out even of some of the objections on legal grounds that have been raised from time to time and which have been dealt with by you or otherwise. I should like presently to place in a simpler form the issues, so that we may consider them as they are and not get entangled in extraneous considerations.

May I say that one fact which moves us, which must move everybody, is that these transfers of territory—acquisitions or transfers—involve the human element. That is really the basic thing which must move every person and all of us. It is unfortunate and we should try, we must try, to avoid anything that may affect or go against the will in such matters of a person who has been a citizen of India.

Before I proceed further with this matter, I should like to make it perfectly clear that if such persons choose to come to India, those persons who are affected by this, if they so desire and choose to come to India, certainly it is our responsibility to deal with them, to help them and to rehabilitate them. In what numbers they come I cannot

at present calculate but there is no doubt about it. That is a factor, apart from law, apart from many other factors, which immediately appeals to our emotions, as it has appealed, quite naturally, to the emotions of many people in West Bengal. We can understand that. But, nevertheless, we cannot always be governed by our emotions, we have to take other factors into consideration and, ultimately, look to the larger good of the country. That is the only test.

Here may I say just a word, because some reference has been made, not in this House but elsewhere, to the prestige of the Prime Minister? Well, if a person is placed in the high position of a Prime Minister, and if he ventures to speak in the name of India, certainly some prestige attaches and should attach, not to him personally but rather to the position he occupies. But, it is not right and it would be wrong doctrine to lay down that the prestige of a Prime Minister, whoever he might be, should at any time override or precede the interests of the nation. That matter should be cleared up and if this House is going to consider this, it would consider it on merits, whether it is good for the nation, good for Bengal, good for the people of Bengal or not. That is the real test. Prime Ministers may come and go and they may make mistakes. But, at any time, if we, as Parliament or as a Government, were to do anything which affects the interests of India taken as a whole, surely that government has not been worthy of its responsibilities and the tasks allotted to it. That is quite clear.

So, let us consider this matter in that way and forget the Prime Minister, the personal aspect of the Prime Minister saying or doing anything. But we have to remember also that one cannot isolate something, a part of the picture, and try to judge it as a full one. In national matters, in international matters, in agreements one always has to see and try to understand the entire picture. What does an agreement represent at any time between two countries or between two

[Shri Jawaharlal Nehru]

groups or between anybody? It means there was a lack of agreement previously; it means that some matters are in dispute, which have led to consideration and they try to reach an agreement in the context of those matters. Now, an agreement also means a consideration of the advantages and disadvantages and, in the balance, when the advantages outweigh the disadvantages there is an agreement. If they do not, then there is no agreement.

The point I am venturing to put before the House is that one must examine the whole picture of this agreement or any other which we have. It is no good taking out something which we dislike and say "We dislike it". We also dislike it; everybody dislikes it, but we dislike much more something else. So, if you see the two things together then you get a correct and balanced picture.

These agreements of the various dates—there is one dated 10th September, which is the main agreement called Nehru—Noon Agreement; the one of 23rd October really flows from it in regard to certain matters; the one of this year, 11th January, related largely to some Punjab issues; what are these agreements about? These agreements deal with issues and disputes which have been a continuous headache to all of us ever since partition. An hon. Member said this was not there. That is not correct. These have been there and they have been raised sometimes, at one time or another, and for years and years we have been considering these as issues arising out of partition, as issues arising out of the interpretation of the partition and the Radcliffe's Award. The partition, good or bad, one has just to accept; so also, the Radcliffe's Award. After Radcliffe's Award came in, there came a dispute about the interpretation of the Radcliffe's Award. Unfortunately such things happen even in the best regulated countries and when there are able lawyers one interprets them this way and another that way, or politicians for the

matter of that. So that, there is the partition which is basic and which, if you like and if I may say so, so far as this matter is concerned, is the root trouble. After that, comes Radcliffe who defined certain doubtful boundaries and we have necessarily to accept that, which is a part of the scheme of partition. He settles many things; we accept them, everybody accepts them and the boundaries are settled. Even so, when we settle down to the actual task of demarcation etc. there comes the interpretation of Radcliffe's Award in regard to some matters, not all; because, many things have been settled. Another commission is appointed, which is called Bagge Commission or tribunal, whatever it is. They come on the scene and interpret the previous tribunal's award, Radcliffe's Award.

So, every matter that has been dealt with here, except one, is a continuation of the Radcliffe's Award as interpreted subsequently by Bagge and the dispute that arose subsequently as to Bagge's interpretation of it. So, we go on from one to the other, each time reducing the area of disagreement. What Justice Radcliffe did led to a large measure of agreement about disputed points and what Justice Bagge did led to further agreement. But there were some more disputed points. Unfortunately, some were left over and we have been disputing them and arguing about them all this time, year after year, having lived with this problem for the last 8 or 10 years. I have lived with them because they have constantly come to me. I have looked at them and examined them numerous times, not one but scores and scores of maps, charts and other papers. It is not a new thing to me. It has been a frustrating experience, all these things going on. Naturally, we desire to settle them.

The House will remember how frequent it has been questions were asked here, adjournment motions etc. "Why



it has happened in this border?" "Why there has been an invasion in this border?" or a firing there. It is a continuous experience we have had for these years and we have dealt with them. Now, it is no small matter to put an end to this, if we can. It was a very desirable objective, a very necessary objective that we should put an end to these disputes, because all these troubles in the border have occurred very largely because it was disputed territory. So, we have been aiming at the solution of these problems for all these years and, if I may say so, the attitude of the Pakistan authorities in the past years before these particular agreements was not a helpful one.

It was a difficult one. I do not say that everything that we said was necessarily and always justifiable in regard to the border lines. Countries take up legalistic attitudes and we have to abide by the law. Each party digs in its toes and there is no settlement. That was happening year after year. When this particular matter, this series of agreements, took place beginning from September, 1958, we found that for various reasons this highly legalistic attitude and obstructionist attitude, as I said, on the part of Pakistan had changed. The approach was different. Every party was tired of these continuing disputes which brought no benefit to any. Therefore we found it much easier to discuss these matters than than we had previously.

Again, as I said, these questions have been with us for the last ten or twelve years—some more, some less and some came a little later as the situation developed. In the course of these years there have been innumerable conferences on the official level chiefly about these matters. I do not know how many there have been. Innumerable may perhaps be a big word, but numerous conferences at the Secretaries level, this level or that level and sometimes at ministerial level had been going on. Gradually some matters had been settled as a result of that. But in the main the border

questions remained unsettled. As a rule those border questions were taken up one by one. Suppose we sat down about some matter on the Punjab border. We took it up and, as usually happens, on that particular issue both took up rigid attitudes. We were not prepared to give up and they were not prepared to give up and we broke. Now for me to say on a matter of this kind that we were hundred per cent right and they were hundred per cent wrong would be manifestly not correct. It may be right patriotically that we are always right; right or wrong, we are right. But I am not prepared to take up this attitude.

These were difficult questions, namely, these tiny border issues etc. are difficult in interpretation. The whole partition of India was an illogical thing. You proceed from a basis of lack of logic and reason because of things that have happened. We are forced into it. If other illogical things happen as the consequence of that basic lack of logic, you have to face them. So they were difficult questions where reasonable arguments could be advanced often on this side and that side. Remember, it was not a question of merit. It was always a question of legal interpretation of these things. We, most hon. Members here, naturally accept our own interpretation and possibly do not even go deeply into the question as to what the other side may have about it in law. So these are legal matters. Anyhow, repeated conferences took place on the highest official level usually for single things, for single pieces of territory, for a very small area perhaps. It may be half a mile or a few hundred square yards or whatever it was.

Then came a new approach to this problem of looking at it as a whole—first as a whole in one area in the Punjab or somewhere else and later still looking at it as a complete whole....

**Shri M. Khuda Bukhsh:** Inclusive of the question of Kashmir? The hon. Prime Minister said that we looked at it as a whole.

## Bill and Constitution

## (Ninth Amendment) Bill

**Shri Jawaharlal Nehru:** If the hon. Member will restrain himself and allow me to proceed, it will be a little better I think. We are dealing with important matters and I hope he grasps that we are dealing with important matters. It does not appear very relevant—what he has said just now.

A new atmosphere developed of honestly trying to settle and we came to this agreement. Before this agreement there were a series of official meetings, that is, before the agreement of September, 1958, there were a series of official meetings in Karachi. Our officials went. Our Commonwealth Secretary went. I think he also went to Rawalpindi. They came here. So for anyone to imagine that any part of this subject or this agreement suddenly came up or was suddenly accepted or rejected is not correct. It was looked at from every point of view. Whether the decisions were right or wrong is another matter, but it was thoroughly thrashed out. Throughout these many years the External Affairs Ministry naturally tried to keep in the most intimate touch with the State Governments concerned because the State Governments sometimes may take, according to us, rather a limited view. But they were concerned and we had to keep in touch with them. We did that. Almost always when we had this official level conference, whether in Karachi, Rawalpindi, Dacca, Calcutta also or here in Delhi, the State Governments concerned were represented at those conferences. It is a normal practice. At the official level conference they were led usually by the Commonwealth Secretary who had been so intimately connected with these matters for these many years that he knew the history of it, every little bit of it much more than I can presume to know.

What I am venturing to put before the House is this developing scene, this succession of events one after the other, ultimately the whole thing converging to this particular conference of Prime Ministers in September 1958. It had

been prepared for. Just before that, a month or two before every subject had been discussed at Karachi or Rawalpindi—I forget where—on the official level. Then we met here and again all these things were discussed on the official level while we were there.

Now a controversy has arisen about consultation of representatives of the Government of West Bengal in this matter. It is a regrettable and unfortunate controversy. All I can say is that there must have been a misunderstanding because one thing is a common factor that through all these months and years these matters have been discussed jointly and apparently some hiatus occurred in the understanding of parties. Maybe, it is my fault. I certainly proceeded on the fixed conviction that all the States concerned who were represented here by their Chief Secretaries or high officials had accepted this, namely, Punjab, Assam and West Bengal. These were the three States concerned. I proceeded on that assumption. I would not have proceeded—I could not have—if I had had any doubt about that. It may be that the assumption I made was not wholly justified and there was some misunderstanding on the part of the Commonwealth Secretary or mine. Whatever it is, I am prepared to accept the responsibility. But I do wish to remove this impression that in a matter of this kind we can ever function without consulting the States concerned. That will be quite wrong.

However, this happened and we came to the decision that the proposals made, which were subsequently embodied in the agreement, were in the balance good proposals. There was in them something which we did not like, which was hard to swallow, but there were many things in them which we liked indeed. It was something to accept them as a whole with all the advantages and benefits that flowed from them than to reject them as a whole because you have to consider the whole thing as a whole. It is not all right to say that we agree to 75 per cent of the proposals and the

rest 25 per cent are not agreed to. It was a question of 100 per cent because it was a give and take offer.

So we came to this conclusion. This was definitely in the balance desirable from the point of view not only of the whole of India, of the whole of the piece of the border, but if I may say so with all respect, from the point of view of West Bengal and the people of West Bengal also. That was our approach.

13 hrs.

Now, the points to remember are these. First of all, it is an issue. It is not an isolated thing. When people talk about making a gift of land to the people of Pakistan, or under pressure from Pakistan agreeing to something which is undesirable or take it up as a new issue, this is a direct descendant of the Partition. You cannot isolate it. It is part of the Partition which had been dealt with from time to time reducing the area of difference, and then we tried to settle it this way. So, it is a Partition matter. If it is a Partition matter, the House will remember really however wrong it may seem, it is a legal matter of interpretation and all that. It is not a question of my agreeing or the people of the area even agreeing or not. People of the area, vast numbers of people, were compelled to accept the Partition itself without their agreement. They suffered and we suffered and all kinds of things happened. It is not a normal gift or transfer of territory. That has to be remembered.

The Supreme Court has called it cession of territory, quite rightly, completely rightly, if I may say so with all respect. Why? Because, it is, as a matter of fact, described in our Constitution where the boundaries are given as part of India. Therefore, you have to change the Constitution to bring it out of that description. You may call it cession. Cession means transfer of territory to another. This does not necessarily mean that,

because it is described as a cession, it is not a descendant of the disputes of the Partition. Of course, it is obvious on the face of it, that that is only a description of how to proceed with it, cession, transfer, call it what you like. We arrived at this agreement.

May I also just mention to the House that always, whenever such an agreement was arrived at, I came immediately to the House and informed them of it in detail? For instance, take the first Agreement of September. The Agreement was arrived at—signed—on 10th September. I came to the House and made a full statement on the 12th of September, within 2 days, 48 hours. Take the Agreement of 23rd October. The House was not meeting then. Immediately the House met, I came to it in the middle of November and gave them a report. Take the Third Agreement of 10th January of this year. Again, the House was not meeting in January. Immediately it met on the 9th of February, I came and reported. We have been keeping the House—there is nothing hush hush about it—informed and the country and everybody informed.

When the first Agreement was announced in the House and elsewhere and in the press, the West Bengal Government expressed their disappointment, disapproval, particularly of this Berubarj area. There was some argument then about that, their not having been consulted, etc. I am not going to repeat all that. After that, the question arose as to how we should implement this Agreement. Legal issues were involved as to the method of doing so and we decided that the President should be pleased to refer it to the Supreme Court for their opinion. We did not wish to take the responsibility in this serious matter.

What did the reference to the Supreme Court mean? It meant that we were asking them as to the method of implementing a certain decision obviously. The Supreme Court was

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not asked by the President to tell us as to the propriety of that decision, as to the rightness, legal or other of that decision. In fact, the reference to the Supreme Court meant that this has to be carried out and they have to tell us how to carry it out.

This was with the Supreme Court for nearly one year—for two weeks less than a year, from 1st April 1959 to 15th March, 1960. During all this period, in fact, right from the very beginning, from an early period, that this First Agreement was made, we were constantly in touch with the West Bengal Government with a view to carrying out this Agreement. We were helped at numerous stages in supplying us with facts and figures, information about it. What I am venturing to put before the House is this. It is true that early in 1959, there was a strong expression of opinion of the Bengal Government and the West Bengal Assembly against this part of this particular decision. That is perfectly true. We tried to explain to them. There were discussions. After that, from that time onwards, the whole procedure has been one of acceptance—not binding down this Parliament, of course; I am not saying that—even though it was not liked, because of the larger considerations, taking the picture as a whole, and there is bundle of correspondence with the West Bengal Government as to what should be done and what should not be done, normal official correspondence, not going to the basic questions I repeat that the whole reference to the Supreme Court could only have one basis, that is acceptance of this and finding out the way do it. On the other hand, why worry the high authorities of the Supreme Court to have their opinion in the air on something which we did not have to do or might not do? So, the Supreme Court was pleased to give their opinion after a considerable time, after very great care, no doubt.

That opinion referred to three possible courses for us. Out of those courses, we thought one was the most suitable and it is in accordance with that decision that I come up before the House with this Bill—in accordance with the Supreme Court's advice in this matter.

Some little time ago, certain legal issues were raised in this House in regard to these matters and I ventured to deal with them here, to point out that the course we had adopted was in strict accordance with the law and with the advice of the Supreme Court. I do not think I need go into that matter again because I have once dealt with it here.

In the Supreme Court, as far as I remember, West Bengal also was represented by eminent counsel. They argued the case, I take it, on the basis of how to do it, not challenging the very basis of the agreement.

Apart from the deep feelings involved in it or the passion involved in it, the question is a relatively simple one. Legally, I do submit that we have to proceed strictly according to the law. If any one says, as the hon. Member opposite just said raising a point of order, that this Parliament has no right to cede territory, that, surely, is a most extraordinary proposition. Nobody wants to cede territory, but to say that our sovereignty, the sovereignty of this Parliament, is a limited one is a thing which I do not think any person, any lawyer or any person acquainted with public affairs can accept. In fact, this argument was raised before the Supreme Court and has been dealt with adequately by the Supreme Court. It is really reducing the authority of this Parliament very greatly, which no sovereign country can ever accept. We have the right, this House has the right. Make it as difficult as you like, but it has the right. You can limit it in this way, in many other

ways too; it is a question of limitation, you can make it a little more difficult.

When I was dealing with some of these questions, legal issues, I ventured to point out that one of the courses that the Supreme Court had suggested—they did not recommend it, but they suggested: this is a course which might be followed—we had not adopted deliberately because that would have made it easier in future to transfer territory, and we did not wish to make it easy, we want to make it, the process, difficult, so that nobody can do it in a hurry, nobody can do it just by a casual vote, not even this House. We wanted to safeguard that. But the fact that this Parliament is supreme to do it cannot be challenged, even though the hon. Member opposite did seem to challenge it.

So, we have, as a consequence of the partition, disputes left as to the exact boundaries—as a consequence of the partition and the Radcliffe Award. Those disputes are referred to another tribunal which again decides many things, some are still left over. All those disputes continue for years, and we argue about them, have conferences, meetings, and gradually nibble away at them and succeed in solving some, but some remain. And ultimately we meet together at the Prime Ministers' level and try to solve them, and we succeed after naturally examining them and give and take. And I may say it is not merely a question of acquiring some territory and giving them some other territory. It is also a question of a number of disputes relating to territory being withdrawn. That ceasing to be a dispute is also a gain for us. And such things happened because there were areas which were challenged, were disputed, the areas in our possession, and it was decided there was no further dispute and they withdrew that. All these facts have to be taken together, not one single fact alone. So that, I should like this House to see this continuous scheme of things, this continuous history, this bad legacy of the partition which we wanted to put

an end to. And I have no doubt having dealt with this matter all this time, all these years, that the way we did it—it is open to any hon. Member to say that there is a better way of dealing with it—was, in the balance, advantageous to the country and to West Bengal, and if I did not believe so, of course I would not have done so. There is no question of rushing, it is a development of years. People seem to imagine that overnight one thought of something, and we were pushed into some kind of an agreement. That is not so. It was the culmination of a long effort.

There is one rather curious thing about these things to which, no doubt, hon. Members will draw attention in the course of these speeches later, and that is this. Here is a Bill, an amendment of the Constitution or the other Bill, which changes the borders of India to some extent, and yet, the exact change is not indicated in these Bills. It is an odd thing, but this oddity has arisen because there was no other course open to us, because the thing has to be demarcated first. Now, if you say, "Have it demarcated first, then come to us", that, too, is not open to us, because, unless legal authority is given for that, we cannot go into a disputed territory and demarcate it. In fact, I believe there was a decision of the Calcutta High Court in regard to another matter saying that without legal sanction that cannot be done. So, we were on the horns of a dilemma. We cannot go and demarcate and then come here, because we cannot do it before the legal sanction comes; and if we have legal sanction, as we seek from this House and Parliament, then it means the actual demarcating process comes later. So, in our attempt to follow the Supreme Court's advice, we had inevitably to decide to come here in this form of Bills. Hon. Members will see that only after Parliament approves of them, we can start this process of demarcation in all these areas, whether it is small or big, even in the Punjab. There, there is

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no dispute at all, in fact there is no dispute anywhere, no dispute has been raised so far as I know except in regard to the Berubari area of Bengal. The Punjab Government has been eager and pressing us: why don't you go ahead, why are you delaying, we went to exchange these territories. The Assam Government has been pressing us too. And both these Governments and their Assemblies have agreed. Those questions hardly arise, but even there some demarcation has to take place. The area may be a hundred yards this way or that way or half a mile, whatever it is, because then it has to be followed by boundary pillars and all that. Therefore, there was no course left open to us except to come here without that clear demarcating line and seek Parliament's decision in this matter, so that we may demarcate afterwards. This means that if these Bills are passed by Parliament, the amendment, then another process will start after passing them. It does not mean that transfers are suddenly made. The second process of demarcation starts, and I do not know how long it will take. It should not take very long. Some areas are quite small, like Tripura. The area, I think, is a question of a few hundred yards or something like that, very small area. Probably it can be done in a day or two by the two Commissioners who go there. In the Punjab it should not take long either. In the case of Berubari it may take longer, probably it will take longer, how long I cannot say. But that process comes, and demarcation means agreement, obviously. The dividing line can only be arrived at by agreement of the two parties, that is, the two Governments, the Government of India and the Government of Pakistan. So, all that is involved. If there is delay in coming to an agreement, there is delay in giving effect to it. That is the process. I cannot see how we could have adopted any other course in this matter, following as we wanted to and are trying to, the Supreme Court's advice.

Hon. Member Shri Tyagi wanted the exact lines and marks. I will produce the maps, as I said, but the maps will not show, because of this difficulty, the exact line that might come, but there is a fairly definite description in the schedules attached to these Bills of where the lines should be. I admit that it is not frightfully easy to understand when they say in rather technical language; a map is much better. And I shall try to produce some maps.

Therefore, when the Bills talk about the appointed day, the appointed day means the day which will be appointed after the demarcation has been made. When that is made, and both countries are satisfied, then we appoint a day called the appointed day, actually to give or to receive.

**Shri Vajpayee:** Is there any date-line by which the Nehru-Noon Agreement has got to be implemented?

**Shri Jawaharlal Nehru:** Well, in the Agreement itself, I think, in so far as Punjab was concerned, there was a date line I think it was October, 1960; I am getting rather mixed up, but there was a date-line. Then, there was some correspondence between the two countries, and for various reasons, it was pointed out that it was rather difficult; and it was extended to the 31st December, 1960. But this was really related to the Punjab transfers. I do not think there is a precise date-line for the other transfers in Bengal etc. But, of course, it was generally accepted that one would try to do it as early as possible. As a matter of fact, the fact that the Supreme Court took about a year over this naturally has extended these periods greatly.

As I said, the Punjab exchanges of territory, and the Assam boundary in so far as it is affected and even the Bengal ones too except Berubari have been fully accepted by all concerned. The question has arisen, as we all know, about Berubari. The Berubari

Union is one of the Unions of West Bengal. And frankly, the decision about Berubari was an *ad hoc* decision at that time, in September, 1958, that is to say, it was a disputed area,—the whole of Berubari, not half—claimed by Pakistan and occupied by us and claimed by us. There were only two courses open to us, apart from the fact that if we did not agree about this, the whole agreement would have been shaken up and possibly endangered; the only other course was to appoint a third commission or third arbitrator to decide these issues. In those circumstances that faced us we thought it was better to have an *ad hoc* decision, if you like, instead of going to a third arbitrator; with all the possible risks involved in that procedure. So, we decided to divide this.

That again was a reason for the Supreme Court to say that this is a kind of cession or transfer, because, obviously, the partition did not lay down the division of Berubari. You may interpret the partition as Berubari going to Pakistan or remaining with India. Nobody could interpret it as such, as half going there and half remaining here. So, it was an *ad hoc* decision taken, and, therefore, it could only be given effect to by the processes mentioned by the Supreme Court.

Then, again, there is something in these Bills, which is quite apart from the partition, and that is about the Cooch-Bihar enclaves. Certainly, as a result of Partition, little bits of territory belonging to the old Cooch-Bihar State fell in the new Pakistan or the India after Partition. It was a highly inconvenient thing, and there were—I am not quite sure about the number, but if I remember aright—over one hundred such enclaves either in Pakistan or in India. We had no approach to the Indian territory which was an enclave in Pakistan, and we could not get there, due to whatever reason it may be; likewise, broadly speaking, they could not get into their territory which

was an enclave in India; though it was Pakistan territory, they could not get there. And it was also a highly inconvenient thing, and very helpful to smugglers, criminals and the like.

So, for some years, there was this question 'Why should we not exchange these enclaves?', and ultimately, that too, in this wider agreement, was brought into the picture. But that was clearly not a question of interpretation of the Partition Agreement. This is quite independent. This was indeed a transfer of territory by us and a transfer of territory by Pakistan. So, that has been included in this also.

Now, about Berubari, there is an odd thing, apart from the fact that the line of division can only be drawn up, after Parliament has sanctioned it, by the respective authorities of the two countries; therefore, I cannot say, except broadly, that half Berubari would come to us and half there; I cannot say how many people are likely to be affected by it. There is some confusion about this matter.

The whole of the Berubari Union at the last census had a population of 5932.

**Shri Bimal Ghose:** The population of the entire Berubari Union is about 12,000.

**Shri Jawaharlal Nehru:** I beg your pardon. It was 5932....

**Shri C. K. Bhattacharya (West Dinajpur):** The West Bengal Government have circulated a paper in which they state that the population is 12,000. I have that paper with me here.

**Shri Jawaharlal Nehru:** Whatever it may be, I am telling you that in the census of ten years ago, the population of Berubari Union was 5932.

**Shri Tridib Kumar Chaudhuri:** Here, in the explanatory memorandum, you have said that it is about 12,000. I think that is from the census report.

**Shri Jawaharlal Nehru:** No, no. The hon. Member is mixing it up. I am not talking about today, but I am talking of the last census report.

**Shri H. N. Mukerjee** (Calcutta—Central): Dr. B. C. Roy says in the West Bengal Legislative Assembly, on the 29th November, 1960, as follows:

“The Berubari Union has a population of about 12,000 to 13,000, the number of Muslims being about 100. Of the 11,900 Hindus about 8,000 are displaced Hindus from Pakistan . . .”.

**Shri Jawaharlal Nehru:** Allow me to explain this. I am saying that the population, according to the last census, of the entire Union was 5932. That is a fact. The census report is there. There is no question of any difference on that. The point is how much it has gone up since then; in the last ten years, it has obviously gone up. The normal growth of population in West Bengal has been 15 per cent in these districts. Obviously, Berubari has had many more people as refugees from Pakistan. It is difficult to estimate them. You can estimate them as you like. The West Bengal Government gave this figure of the present population of the entire Union as 12,000, and in that explanatory memorandum, we naturally accepted that figure, but nobody exactly knows. In fact, only yesterday, Dr. Roy gave me a note that on further enquiry, it is likely to be 11,000; it may be 11,000 or 12,000, I cannot say definitely what it is, but all this is for the whole Union. As the Union is going to be divided into two more or less equal halves, we may presume that about 5,500 or maybe 6,000—I cannot say; if you take half of 11,000, the latest figure, it will be 5,500—people, residents, will be affected. Out of those, there are small pockets of Muslims inhabitants, some Christians, not many but some. So, that is the actual figure in terms of human population. Whatever it may be, a little more or a

little less will not make too much difference; it is about that.

As I said at an earlier stage, to such as choose to come away from those areas as a result of happenings, the door of India would always be open; they may come at any time, and we shall be responsible for rehabilitating them, helping them in every way. That is another thing.

The question of citizenship was raised. There is no difficulty about people who come in as a result of the merger of certain additional territories. Section 7 of the Citizenship Act of 1955 clearly says that the Central Government may specify the persons who shall be citizens of India. There is no difficulty about them.

The other point raised was how can you push out people who are citizens of India and force them to have some other nationality. As I said, that really was done by the partition. And, this is a consequence of partition. (*Interruptions*).

**Shri H. N. Mukerjee:** You are accentuating the evils of partition on your own.

**Shri Jawaharlal Nehru:** If you will, you may put it at that. But it is a consequence of partition. But I do not wish to deny Indian citizenship to any person who is an Indian citizen now. It is open to that person to retain Indian citizenship and remain where he is as long as he likes; or it is open to him to come away from that area. I do not want him to give up Indian citizenship. As I said, if he comes away we are responsible for rehabilitation and help. But I do not see any reason why even if he comes away—or a number—why this should be a precipitate process, a hurried process. It can only harm his interests and others. If he wants to come let him come deliberately and with proper preparations with help by the Governments concerned. He has his property there. There is no good



throwing away his property and running away. He can deal with it in some way, whatever best he may feel.

I have just to add this because this point has also been raised. First of all, as I have said, it is rather an odd argument that Parliament cannot even cede territory. That you were pleased to rule out. Then, the treaty-making power under the Constitution rests with the executive government. Of course, to give effect to the treaty, one has to come to Parliament. That is a different matter. So, Parliament comes in. But a treaty is completed under our present Constitution and practice the moment the Government of India signs it. The Government of India, if it does a wrong thing may be punished for it. But it is a different matter. But it has full authority to do that as in the case of many other governments. Of course, the practice varies. In the United States of America, the practice is different, as, I think, the Senate has to accept it. But it is not so in the United Kingdom.

Now, I do not think it will serve any useful purpose for me to go into details and the exact areas. Some of them, I think, are printed and given in the explanatory memorandum. And that could be possible for me, of course, to tell you the exact area or exact number of people involved in each of these. If any such information is required I shall be glad to give it at a later stage.

But, for the moment I might again say that except for the Berubari area, no other area in this agreement, in Punjab, Assam or in West Bengal has been really objected to or disputed. And I ventured to put before this House these developments in regard to Barubari in the context of the larger whole. And, I do submit that in such circumstances it was not only a right and proper decision but one—in spite of certain unhappy features which we all regret—which in the balance is a good one for India and that we should give effect to it.

Therefore, I submit that these Bills which, based on the Supreme Court's decision, are meant to give effect to that decision, should be accepted by this House.

**Mr. Speaker:** Now, to the motions for consideration with respect to both these Bills, there are amendments. To the Acquired Territories (Merger) Bill, Shri Tridib Kumar Chaudhuri has tabled an amendment that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st March, 1961. And, Shri Sadhan Gupta has also tabled an amendment that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1961. Under Rule 346, I select Shri Gupta's amendment. It won't be called dilatory; it won't be premature, that is, the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1961, so that there may be sufficient time in the interval. Afterwards, if the House agrees with it, we may have sufficient time to go through it. I think Shri Gupta is here. Yes.

So far as the Constitution (Amendment) Bill is concerned, there are 4 amendments, all for circulation. Of course, Shri Vajpayee's is for 30th December, 1960. He has also given notice of another which is for the first day of the next Session—because 30th December has no meaning. We will only meet on the first day of the next Session. Therefore, that amendment that the Bill be circulated for eliciting opinion thereon by the first day of the next session is selected. Others will not be allowed to be moved.

**Shri Sadhan Gupta:** Sir, I beg to move:

“That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1961.”

**Shri Vajpayee:** Sir, I beg to move:

“That the Bill be circulated for the purpose of eliciting opinion thereon by the first day of the next session.”

**Mr. Speaker:** Now, both these amendments together with the original motions of the Prime Minister are before the House.

So far as the time is concerned, I would like that 20 minutes may be taken by the leaders of groups—of course, I can extend it by 5 minutes. So far as others are concerned, it may be 15 minutes.

I would only appeal to hon. Members that all arguments may be placed. They may argue; They may debate; but let there be a calm and cool atmosphere in this House. Let us get along with these dispassionately.

Ten hours have been allotted for all the stages of the Bills—both the Bills. I would like to know the opinion of the House as to how many hours may be allowed for general discussion.

**Shri Naushir Bharucha:** Seven hours for general discussion and 2 hours for the clause by clause discussion—for both the Bills—and one hour for the final reading.

**Mr. Speaker:** Is there general agreement on that? Seven hours for general discussion, 2 hours for clause by clause consideration and one hour for the third reading?

**Some Hon. Members:** Yes.

**Mr. Speaker:** Excepting some portions like the Enacting Formula, the Title etc. other portions of the Constitution (Amendment) Bill require special majorities. As we proceed we shall be able to announce when exactly the division will take place—to avoid any hon. Member being taken by surprise.

**Shri H. N. Mukerjee:** Sir, we have heard the Prime Minister trying to commend his two motions to the House. But I fear he has not been able to explain how it is that the two together, the Constitution (Amendment) Bill and the provisions

of the other Bill, would be good for the nation, good for West Bengal and good from every point of view. As a matter of fact, as we have indicated often enough in this House, we welcome every effort at an agreement with Pakistan; and we would have been very happy if the Nehru-Noon agreement had been brought about in more propitious circumstances and had secured the satisfaction of either country. But we do not understand why and how it is that the interests of a section of our people, however minute their numbers might be, are being sacrificed without any regard for the principles that were involved.

13:40 hrs.

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

If I could be convinced that these several thousand people in Berubari would be sacrificed on the altar of the overall interests of our country, that was a different matter. I do not know why West Bengal in particular would have to be singled out every time for this kind of a sacrifice but if the call goes out to West Bengal to sacrifice a particular interest for the sake of the country, I am sure that West Bengal would respond in a manner which is in conformity with her traditions. But on this occasion, things have happened in a manner which suggest that the entire agreement was arrived at without a proper understanding of the issues involved and that, particularly in the case of Berubari, Government had no idea as to what exactly was going to be the outcome of the agreement which it was entering into.

Sir, it is quite apparently innocent on the part of the Government to come to us and say that Government has been trying all the time to proceed in the proper way. But actually after the agreement was announced in October 1958, there was tremendous opposition in the country which was also voiced in this Parliament and it was only when certain citizens of our country approached the highest judicial authority that certain decisions came out as a consequence of

that application before the Courts. It was only then that the Government appeared to wake up to the seriousness of the situation which it had somewhat precipitatedly created over that agreement. The Prime Minister says that the whole matter has been a package deal, that the matter was decided on its merits, that the question of Berubari in particular was an *ad hoc* decision arrived at, that except for one exception—presumably that one exception referred to Berubari—all the other matters settled according to the terms of the agreement ensued out of the Radcliffe Award and the decision of the Bagge Tribunal....

**Shri Jawaharlal Nehru:** The exception relates to the enclaves of Cooch-Bihar.

**Shri H. N. Mukerjee:** The Prime Minister's point is that after all it certain outstanding matters which was given by Radcliffe and the decision given by Bagge that there were certain outstanding matters which Pakistan and India used to discuss from time to time and in order to have a final settlement of that issue this agreement was arrived at. That is why, I am sure, the Prime Minister has fought shy of the words 'cession' or 'alienation' which came to be mentioned first of all in the decision in the Supreme Court and not earlier. On the instructions of the Government of India, the Attorney General, who has a very high position in our country as the leader of the bar and whose word, when he represents the Government of India, is listened to with the greatest respect in the Court, strenuously fought before the Supreme Court in order to establish his contention that only boundary disputes were concerned in the matter and there was nothing like cession or alienation of Indian territory. On account of this hesitancy to use the word cession, I find the Prime Minister, when he made a statement before us on the 5th of December, on page 8028 of the cyclostyled report,

referring to Berubari and saying as follows:

"It was not a cession of territory as such. Though it resulted in a cession, it was a recognition of something which Radcliffe had stated."

He fought shy of the word 'cession'. The words 'cession and alienation' came up first of all in the Supreme Court judgement. I do not know why he hesitates to call a spade a spade. Some of us would wish to call a spade a miserable shovel. It is better to face facts as they are. It has been a cession; it has been an alienation of certain territories which cannot be considered, according to the very considered judgement of the Supreme Court, to be a matter relating to the interpretation of boundary disputes. In regard to this at page 10 of the Court Judgement as circulated to us, the Court observed:

"On behalf of the Union of India, the learned Attorney-General has contended that no legislative action is necessary for the implementation of the agreement relating to Berubari union as well as the exchange of Enclaves. In regard to the Berubari Union he argues that what the agreement has purported to do is to ascertain or to delineate the exact boundary about which a dispute existed between the two countries by reason of different interpretations put by them on the relevant description contained in the award. The said agreement is merely the recognition or ascertainment of the boundary which had already been fixed and in no sense is it a substitution of a new boundary or the alteration of a boundary; implying any alteration of the territorial limits of India."

He emphasised—the Attorney General—that the ascertainment or the settlement of the boundary in the

[Shri H. N. Mukerjee]

light of the award by which both Governments were bound was not alienation or cession of territory of India and according to him if, as a result of the ascertainment of the true boundary in the light of the award the possession of some land has to be yielded to Pakistan, it does not amount to cession of territory: it is merely a mode of settling the boundary.

Having set forth at length the very strenuous argument presented by the Attorney-General, the Court gave its verdict in regard to this particular point and said that the agreement "does not appear to have been reached after taking into account these facts and is not based on any conclusions based on the interpretation of the award and its effect."

A little later, at page 15, near the bottom, the Court says:

"It has been reached independently of the Award and for reasons and considerations which appeared to the Parties to be wise and expedient. Therefore, we cannot accede to the argument urged by the learned Attorney General that it does no more than ascertaining and determining the boundaries in the light of the Award."

Here is confusion on the part of the Government which is first pointed out by the highest judicial authority in the land. Some citizens of our country had to go to the Court. First of all they went to the Calcutta High Court. When they went to the Calcutta High Court. Mr. Justice Sinha, in his judgment, *Nirmal Bose versus Union of India and others*, reported in A.I.R. 1959, Calcutta, page 506, remarked:

"It seems to be unthinkable that the Constitution contemplates that a citizen should wake up one morning and find that he and all

that he possessed had been bodily handed over to a foreign power without his knowledge and consent".

I am sure the Prime Minister and his advisers, at that particular point of time, never had an idea that this really was going to happen as a result of an attempt to implement the agreement. Even so, if the agreement was very good, if it brought about a real change in the relations between India and Pakistan I would be prepared to consider it as carefully as I possibly can; I would be prepared to support it. The fact of the matter is that after all we have not been able to settle the outstanding issues between India and Pakistan. I know that we have to go slow and we cannot expect miracles overnight and we have to proceed by gradual steps. Even so, I do not consider that the matter can be put by the Prime Minister in a manner which would appeal to the emotions of everybody concerned. We would be willing to give over this part of the territory only because a settlement has taken place. In Bengal we have a saying that a drop of cow's urine in a pot of milk spoils the entire thing. Here, cession of territory is a thing which is so unacceptable from any point of view legal, political, ethical, moral, emotional or any other. It is so unacceptable from any point of view. Because of its being in the package deal, it vitiates the entire proceedings. Government proceeded in 1958 on the basis that merely certain boundary disputes were being sought to be adjusted. Pakistan may have put forward certain inflated demands in regard to Berubari. It began in 1952. The claims of Pakistan began to be rooted in 1952 and our Government may have thought that it was more or less a continuation and supplementation of what had happened in the time of the Radcliffe Award and Bage Tribunal's award. That was a misunderstanding, and since that was a misunderstanding surely we could put it before the

Pakistan Government that it was on the basis of a misunderstanding that the agreement in so far as it related to Berubari was reached and therefore the whole matter should be reopened. But if the Government says rigidly that, after all, Berubari is a matter that is sacrosanct and we are going to give it over merely because it forms a part of a package deal then, surely, Sir, it cannot be acceptable to the conscience of the country, and I do not know how the Prime Minister can tell us that it is good, it is good for everybody.

As I said before, I want an agreement as soon as ever it is possible. A thorough-going agreement with Pakistan is necessary. But are we going to settle matters by this kind of proceeding? The Prime Minister said that we are having border troubles all over the place. We hear of those things—people being kidnapped, air violations taking place, the Kashmir cease fire line being violated and all the sort of thing. We hear umpteen instances almost every day in Parliament regarding this kind of thing. We want that the border disputes should stop. Particularly in the borders of West Bengal, Assam and East Pakistan, surely we want the disputes to stop. But are we going to stop disputes, are we going to minimise human suffering in that part of the world by this proceeding?

The Prime Minister, I regret to say, even took recourse to what is almost a verbal quibbling with regard to figures as to how many people there are in the Berubari Union. Dr. B. C. Roy has said 12,000, the Explanatory Memorandum says another figure, his latest census figures might be different and ultimately it transpired that something like 11,000 people are there. Half the area is going to be divided. I do not know if there would be some more quibbling about the composition of that population. Dr. B. C. Roy says that out of 12,000 people only 100 are Muslims. I do not know if that is so, but that is

what his Chief Minister of West Bengal says in the Legislative Assembly.

I do not understand. If it was an entirely illogical proceeding which had led to the partition—and it was illogical and criminal—are we going to accentuate the evils produced by that partition in 1947? What possible logic can there be in the claim of Pakistan to a territory which is inhabited almost entirely by members belonging to a community which according to the very principle of the partition should not be in Pakistan but should rather be in India? I hate to have to refer to this kind of thing because the wholly illogical and criminal principle behind partition is repugnant to all that we hold dear in political thought and political action. But if we are going to proceed on the basis of the agreement with Pakistan and cession of territories because it should on merit belong to Pakistan, then, Sir, what exactly is the merit involved in this matter? Sir, I have a lot of things prepared, ready-made, legal, technical and all that kind of arguments, but I do not wish to use those arguments. I wish our Prime Minister could tell us what exactly are on merits the reasons for giving over to Pakistan an area where the people are so composed from the point of view of community—unhappily in our country that is the position—that we have to face the risk of another uprooting of those people from that area where they have settled.

The Prime Minister himself said that a large proportion of the people who live in Berubari are already refugees from East Pakistan, and in the last 13 years the West Bengal Government has spent some money in that area brought about some improvements and enabled the refugees to settle down there. These refugees have gone there and how they are being told that they can go away again. Perhaps, Sir, I

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am expected to be grateful to the Prime Minister for the very kind assurance which he has given that if they become refugees again the Government of India will look after them. I do hope that the West Bengal Government, poor as it is and harried as it is, is not given the job of looking after these additional refugees. But we know very well, in this House, how refugees are looked after by the Government of India, we know very well how the refugee projects are conducted by the Government of India, we know how the East Pakistan refugees have so far been successfully rehabilitated, and we know how the economy of West Bengal and the very foundations and the fabric on life in West Bengal have come to be jeopardised and broken on account of a problem which the Government of India is not in a position to solve. And, however minute the addition may be—4000 to 5000 more refugees to the very large number of refugees we have already got—after all, it is accentuation of a problem which we are welcoming as something which is in the interests of the country and which therefore should be accepted on merits.

I do not understand why this kind of proceeding takes place. I, therefore, feel that something has happened which goes against the grain of political decency. The Prime Minister does not seem to realise, after all, that some people in a part of India are being told absolutely without any reference to them that they have to be carted away from one allegiance to another. On the last occasion when I had an occasion to object to this Bill, I pointed out how in the nineteenth century when the Congress of Vienna took place in 1915, Metternich, and others used to cart about people from one allegiance to another without reference to the people. Today, Sir, even in a fascist set up there is some sort of effort—I know it is completely fraudulent, but there is at least some sort of an outward effort—to con-

sult the wishes of the people. When the fortunes of the area called Saar in Western Europe between France and Germany had to be ascertained, there had to be a plebiscite, some kind of a reference to the people concerned. I do not say here on this occasion that you have a plebiscite in Berubari. But what is the kind of consultation which has taken place between the Government of India and West Bengal?

Sir, I do not wish to hold any brief for his Government of West Bengal which has behaved, I think, in a manner which is quite egregious, there is no doubt about. I have no sympathy for them. By acquiescence they have certainly agreed with whatever the Prime Minister wanted to do, and later in order to put up a brave face before their own people they spoke in a different vein in the Legislative Assembly—Dr. B. C. Roy and all his friends. I have no sympathy for them, because they completely acquiesced right from the beginning in what has happened. But how is the Prime Minister to determine the wishes of the population concerned, the wishes of the State? Even if the Government of Dr. B. C. Roy in West Bengal had said “yes, Sir” to whatever the Prime Minister wanted them to say “yes” to, after all, the legislature of West Bengal as early as the 20th of December, 1958, passed a unanimous resolution on the motion of a Congress Member of the Legislative Assembly disapproving of the entire agreement. And, Sir, in this House, opinions have been expressed by different Members disapproving this agreement, if West Bengal is to be taken into consideration. The West Bengal Legislature disapproves it. The West Bengal Government outwardly disapprove of the agreement and stealthily comes to Pandit Jawaharlal Nehru and says that it agrees. At least it acquiesced in such a manner, it took so many steps one after another, that I am

not going to exonerate the Government of West Bengal. But, after all, the legislature of West Bengal is entitled to some respect, and the wishes of the people of West Bengal are entitled to some respect. The Prime Minister may be enormously busy and he may not have the time to read the West Bengal newspapers, even the Congress newspapers, but they are writing editorially acid comments in regard to the position of the Government of West Bengal in this matter, and they are pointing out how it is that the Congress Party in West Bengal can in the legislature say one thing and then later say that they have to accept a position, which they cannot in all conscience accept, only because the prestige of the Prime Minister is involved. I do hate to have the prestige of the Prime Minister posited against the interests of the country. The Prime Minister also disabuses everybody's mind of any kind of contradiction between the prestige of the Prime Minister and the interests of the country. They must conclude. But it is only by reference to the prestige of the Prime Minister, it is only by saying that our Prime Minister has given the word of honour to Mr. Feroze Khan Noon, it is only on the basis of an agreement having been arrived at because our Prime Minister not knowing all the facts has put his signature or got his secretary to put his signature to certain documents, that the Congress Party today is being driven to try somehow to explain the position. Does not the Prime Minister know what the feeling of the people there is in regard to this point?

Why should he consider that since this matter has once been settled it cannot be reopened? Why cannot we in the most friendly possible fashion, tell Pakistan that in regard to this Berubari issue we proceeded *ab initio* on a footing which was later found to be rather wrong, and why cannot we say, that in view of the disposition of the population of Berubari after transfer and in view of the threatening further border disturbances in that

area, let us reconsider that position? Pakistan may not be in a mood to listen to us. But Pakistan is not in a mood to listen to us on so many other matters, and if we are to wait upon the good pleasure of Pakistan going to concede to us, surely we shall get nowhere with our ideas and all that. Therefore, I feel that the wishes of the people of West Bengal have not been consulted at all. I want to repeat what I said earlier that like human cattle these people in Berubari region are being shifted from one allegiance to another. Their citizenship rights are being completely disrupted and, of course, there is some chance in regard to refugee rehabilitation, but it is a small mercy for which I am surely not going to be thankful.

14 hrs.

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

Shri H. N. Mukerjee: I shall finish in two minutes' time, Sir. I have noticed also that the Congress Party has been driven to such a predicament that Congress newspapers placard such items of news—that there is a Law Minister, who happens to be from West Bengal, who has not agreed to pilot the Bill! I am sure the Law Minister has nothing to do with this kind of canard that appears in papers. But only in order to justify what was completely indefensible, they have even to go so far as to suggest that in a Cabinet set up the Law Minister can refuse to pilot this Bill, refuse, that is to say, to do something which devolves upon the shoulders of the Prime Minister. It only shows how deep the malady has gone, and how absolutely indefensible the position is in regard to the people of West Bengal. I feel, therefore, that the agreement be altered. I feel that a friendly approach should be made to Pakistan. I feel that the agreement having been entered into on the basis of certain ideas which have been declared by the Supreme Court to be

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wrong *ab initio*, we can reopen the whole matter and have further discussion and hold up the proceedings for a little while longer and then, and then alone, shall we have a settlement which should redound to the interests of our country as well as to Pakistan.

**Shri Tridib Kumar Chaudhuri:** Mr. Deputy-Speaker, Sir, the Prime Minister told us a little while ago that this was package deal and it was a give and take proposition. So, I did a little calculation of my own and tried to find out what we were giving out and what we were taking. So far as the giving out of territory is concerned, in terms of square miles, 61,185 square miles and in terms of acres, another 509 acres are being given away. So far as the area that we get is concerned, that is only 26 square miles. That is, against 61 square miles that we are giving away, we get only 26 square miles. 509 acres are given away to Pakistan and we get from Pakistan 163 acres. It is a wonderful give and take and *quid pro quo* exchange!

Now, it is more or less clear that although we are dealing with two Bills, one for the acquisition and merger and the other for cession, the overall position boils down to one of cession. On my part, I tried to seek some guidance from the discussion in the provisional Parliament nine years ago, when the Assam Alteration of Boundaries Bill was under discussion. On that occasion, the Speaker of the present House, was in the Chair, and he expressed certain doubts. Although he was presiding over the deliberations of the House, it would be worthwhile to refer to what he said. When Dr. Keskar, on behalf of the Prime Minister, moved the Bill, Mr. Speaker said:

"I have got a little doubt here under articles 3 and 4 of the Constitution. Can you give away any portion of the territory belonging to Indian Union to any

other State which is not in the Union? Is that contemplated in Article 3? It provides for diminishing the area of one State by throwing some of its territory into another State of the Union. It also provides for altering the boundaries between two States of the Union. From Madras you can give a chunk to Bombay. But can you give a portion to foreign State?"

Dr. Keskar replied to that query by saying that Article 3 says, "Diminish the area of any State" whereupon the Speaker observed, "But you cannot diminish the area of the Union as a whole." And that is the crux of the matter. Although that observation was made as a sort of *obiter dicta* as has always been the practice with Speakers or with the presiding officer in this case, whenever any constitutional question is raised, he left it to the decision of the House itself. But I found that on that occasion, several other eminent Members of the Provisional Parliament who were also the founding fathers of our Constitution, expressed every serious doubts whether the Bill that was being passed under Article 3 of the Constitution on that occasion for ceding a part of the Indian territory—32 square miles of the Devangiri hills to Bhutan—was not *ultra vires* of the Constitution.

I may also refer to the very categorical and forceful opinion that was expressed by one of the late-lamented leader of this country, one of the founding fathers of the Constitution and also a distinguished member, one of the Government, and then of the Opposition, Dr. Shyama Prasad Mukherjee. He said on that occasion:

"There is nothing in the Constitution as it stands today which empowers this parliament to cede out any portion of that territory which is included in India, that is Bharat. It is specific, clear and unambiguous. If it is thought



necessary that this particular step should be taken, then what I would suggest is that this Bill should be withdrawn and a necessary amendment of the Constitution should be made so that the thing may be done properly and and constitutionally."

He further pointed out that although the territory involved might be small,

"the question of principle involved is a highly important one and we should not allow even Parliament much less the executive, to be given this power to cede out this territory which is included within the framework of the Constitution unless there is some specific provision made in the Constitution in that behalf and that is strictly followed. So far as the powers of Parliament go, there is no residuary power vesting in Parliament outside the four corners of the Constitution. It is our Holy Book, Bible, Gita or whatever you may call, and you must remain confined within its four corners. If we find there is a lacuna which has to be covered we should not proceed in a manner which may give rise to any feeling, fear or distrust in the minds of any section of the people but we must first amend the Constitution"

Not only Dr. Syama Prasad Mukherjee but there were other eminent Members also who expressed this sort of doubt and it is only as the guardians of that cardinal principle of the Constitution that after nine years the highest court of judicature, the Supreme Court, in the country upheld that opinion.

Now, the Government have come forward with the Constitution (Amendment) Bill, and the Prime Minister has claimed that it follows strictly the opinion expressed by the Supreme Court. If I may venture to say so, and I said so the other day when I opposed the introduction of the Bill, that this is a fraud on the Constitution, and if I may be permitted to

express it in this way, I would go so far as to say that it is also a fraud on the verdict of the Supreme Court. What has been the verdict of the Supreme Court? The Supreme Court has clearly laid down—I am reading from page 22 of the judgment—as follows:

"There can be no doubt that a sovereign State can exercise its right to cede a part of its territory to a foreign State. This power, it may be added, is of course subject to the limitations which the Constitution of the State may either expressly or by necessary implication impose in that behalf; in other words, the question as to how treaties can be made by a sovereign State in regard to a cession of national territory and new treaties when made can be implemented would naturally be governed by the provisions in the constitution of the country. Stated broadly, the treaty-making power would have to be exercised in the manner contemplated by the Constitution and subject to the limitations imposed by it. Whether the treaty made can be implemented by ordinary legislation or by constitutional amendment will depend on the provisions of the Constitution itself. We must, therefore, now turn to that aspect of the problem and consider the position under our Constitution."

Having laid down that fundamental proposition, the Supreme Court went on to say—I am reading from page 32:

"We have already held that the Agreement amounts to a cession of a part of the territory of India in favour of Pakistan; and so its implementation would naturally involve the alteration of the content of and the consequent amendment of Article I and of the relevant part of the First Schedule to the Constitution, because such implementation would necessarily lead to the diminution of the territory of the Union of India. Such an amendment can be made under Article 368."

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So, the Supreme Court has clearly stated two things have to be done. Article 1 as well as the First Schedule have to be amended. By merely changing the First Schedule, you may by implication change the contents of Article 1, but that is not a substantive amendment of Article 1 itself.

Why does the Supreme Court say that an amendment of Article 1 is necessary? Before I answer that question, I may venture to point out the contradiction between what the Prime Minister has claimed to do and what he actually proposes before us. The Supreme Court has clearly said that Article 1 has also to be changed and not merely the First Schedule, because the First Schedule of the Constitution is the First Schedule of the Constitution as a whole and particularly referring to Article 1 and Article 4 of the Constitution. The amendment of the Schedule is not necessarily an amendment of the Constitution. For that, you can refer to Article 4 which says that any amendment of the Schedule Article 3 or Article 4 would not be regarded as a change of the Constitution. So, I maintain that merely by proposing a Bill which changes only the First Schedule of the Constitution, you do not follow actually what the Supreme Court has asked the Government to follow. I may also venture to say that even if by your steam-roller majority you get this Bill passed, this will not be the last occasion on which we will hear of Berubari and this cession in this country. There are other Courts of Appeal where people can go.

Why does the Supreme Court refer to Article 1? The clear implication of the Supreme Court's reference to the necessity of amending Article 1 seems to be there must be a substantive amendment of Article 1 itself, an amendment incorporated in the body of Article 1, so as to validate the cession contemplated in the Bill. Why does the Supreme Court specifically refer to Article 1 and not merely to

the First Schedule? It is because Article 1 is the only article which deals with the territory of India as a whole and any power to acquire or cede territories has to be found within that Article. Specific provisions have been made in that Article for the automatic absorption or incorporation into the territory of India of foreign territories that may be acquired by India by virtue of its inherent sovereign power. I maintain that the clear implication of the verdict of the Supreme Court is that in order to legalise the cession proposed there must be clear provision for the automatic diminution of the territories of the Union ceded to foreign countries in the exercise of its sovereign rights. The amendment of the relevant part of the First Schedule would come consequentially when actual cession from the territories of any State or any Union Territory as defined in the First Schedule is proposed.

I ventured to say on it earlier and I reiterate it now that the Bill that the Government has put before this House is not only a fraud on the Constitution, but a fraud on the verdict of the Supreme Court.

Coming to the Bill itself, I have already referred on an earlier occasion to the vagueness of the Bill. The Prime Minister has also referred to this and he was somewhat apologetic about it. That vagueness is clear in the Third Schedule of the Constitution Amendment Bill and also in the Acquired Territories (Merger) Bill. We do not know exactly what would be the extent of the areas that would come to us. But there is one aspect with regard to Berubari itself, to which the Supreme Court itself has adverted and to which the attention of the House should be drawn. The agreement with regard to the Berubari Union which we are going to put on the statute as law is that:

Berubari Union No. 12 will be so divided as to give half the area

to Pakistan, the other half adjacent to India being retained by India. The division of Berubari Union No. 12 will be horizontal, starting from the north-east corner of Debiganj thana.

The division should be made in such a manner that the Cooch Behar enclaves between Pachaghar thana of East Pakistan and Berubari Union No. 12 of Jalpaiguri thana of West Bengal will remain connected as at present with Indian territory and will remain with India. The Cooch Behar enclaves lower down between Boda thana of East Pakistan and Berubari Union No. 12 will be exchanged along with the general exchange of enclaves and will go to Pakistan."

Sir, maps have not been given. But I can claim that I have studied the position with the help of some of our West Bengal Congress friends coming from that particular area, and I dare say here—I can stand before any authority and say—that just as it is literally impossible to square a circle, similarly it is literally impossible to divide Berubari Union No. 12 half and half by drawing a horizontal line from the north-east corner of Debiganj thana and also to include one of the Cooch Behar enclaves within the Indian Union and fulfil all the other conditions I have read out.

The Supreme Court itself, on page 15 of its judgment, adverted to the fact "The use of the word 'horizontal' appears to be slightly inappropriate. Now the Prime Minister tells us that a Commission will be appointed composed of officers of the two Governments and they will go there to decide these things. But how are they going to do this, let the Prime Minister explain to the country and let him tell us, let his officers tell us how he is going to render these impossible things, geometrically impossible thing, geodesically impossible thing, possible. If a further dispute arises who is going to solve them? The Prime

Minister told us that this is a continuous process and he hopes he has been able to put an end to these disputes.

But I might remind him in all humility that when the question of raising disputes is concerned, it is always Pakistan that first raises a dispute. Our journalist friend, Shri C. K. Bhattacharya had been crying hoarse before the Government for the settlement of a dispute with regard to 5 or 6 thanas of Nadia in West Bengal. With regard to them our Government never raised any dispute. The people of Cachar and the refugees that have come from Sylhet who are now living all over the country, they have been crying hoarse to the Government to raise the dispute over 8 thanas of Sylhet which clearly from a plain reading of the Radcliffe's Award comes to India. But our Government never raised any dispute about them. Our Government wants to be a good boy in the international world, to be a nation that never creates any difficulty. If we raise a dispute, that would shatter our prestige, that would shatter our advocacy of the policy of peaceful co-existence that we are trying to build up.

But whenever Pakistan raises a dispute, our Prime Minister is very chary of mentioning what disputes have been raised. I may tell you, for a moment I officiate for him and tell you, Pakistan had raised a dispute both about the Hilly area in West Bengal and Berubari. Our officials who negotiated this agreement were satisfied because Pakistan were prepared to drop their claim on the Hilly and to get half of Berubari Union, although the Supreme Court itself has held, the Supreme Court which is the highest court of judicature in this land that there was no basis for the dispute with regard to Berubari raised by Pakistan. (*Shri Subiman Ghose: Sarva nasa samut pame ardhang tyajati Panditah!*)

The *Sarvanas* to which my hon. friend refers had not confronted the country yet but if we are going the

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way we have been going and if we try to solve our problems with Pakistan, all our quarrels with Pakistan, only by ceding our territories then we might very well solve the problem by seceding the entire country to Pakistan once and for all.

Now, that disposes of . . .

**Mr. Deputy-Speaker:** I thought he had disposed of everything.

**Shri Tridib Kumar Chaudhuri:** I will finish in five minutes.

I have just now referred to the Assam Bill. Here we have a precedent in the Assam (Alteration of Boundaries) Act, where it was precisely stated that a strip of territory measuring 31.82 sq. miles lying to the south of Bhutan within such and such latitudes and longitudes should be ceded to Bhutan. That is how you stated it at that time. Now you tell the country and the Parliament the precise area which you propose to cede to Pakistan as an act of your friendship. If you think you have to do that, for God's sake tell us what you are giving away. Here you come to us with a blanket Bill, where the Government states in its explanatory memorandum "Exact areas going to Pakistan will be known only after demarcation" and "Exact areas coming to India will be known after demarcation". There is no approximation even. As regards other items there are some approximations but here even an approximate idea is not given. It passes my comprehension how a Government seeking to pass a statute like this can come before Parliament with such vague measures.

Lastly, I come to the human aspect. The human aspect has been touched by the Prime Minister also and he has promised that if the people of Berubari become refugees for a second time, the doors of India will be open to them and he will give all help that is possible for the Government of

India to give them. But are we to tell our people that they will always go on being refugees, wandering Jews, new Jews wandering from place to place with no place under the Sun to live in, with no fixed abode of their own? Then later you will perhaps try to consign them to Dandakaranya or Andaman Islands or some other distant territory. Should that be the fate of those poor people? That is why I maintain that these two Bills flowing out of the agreement that has been placed before us is constitutionally wrong, legally invalid, and an open fraud upon the Constitution which is morally insupportable. So, it would behove this House to throw out this Bill, Prime Minister or no Prime Minister.

**Shri Atulya Ghosh (Asansol):** I rise to support the motion. But I would like to give a few words of caution to the Government. The way the Berubari case and other cases have been handled created a lot of confusion in the minds of the general public, not only belonging to Bengal but belonging to all over India. It seems to me that people have been confused all over the country. I am not going into the technicalities of the constitutional aspect of the matter. But my only emphasis is that we should be more cautious while dealing with this kind of treaties or agreements.

It is not very clear to many persons living outside Bengal why the people of West Bengal are crying hoarse for losing 4½ sq. miles of area. To appreciate that we should go a few years back. We should also consider the psychological aspect of the matter. All along, when the foreigners, dominated us they tried to curb the power of Bengal by having some kind of partition. In 1905 it was partitioned and it was openly said that it was partitioned to curb the power of Bengal. In 1911 it was again partitioned and some portion was given to Bihar and Assam. In 1947 it was again partitioned, but that partition was for the benefit of India. The people of

Bengal think that something has happened of which the Government of India was not duly anxious to look after the interests of West Bengal as the interests of India. So, as a loyal citizen, I urge to the Prime Minister and the Government of India not to deal with this matter in such casual way. I can well understand the Prime Minister saying that there must be some kind of misunderstanding.

While dealing with a foreign country, why should there be a case of a misunderstanding? There is no scope for a misunderstanding. The Chief Minister of West Bengal says that the State Government was not consulted. The officers of the Government of West Bengal say that they were not consulted. But officers of the Government of India say that they consulted them. Why should this kind of anomaly and confusion be allowed to grow? This is the real problem. My appeal to the Central Government is to move very cautiously because we are dealing with matters which may easily affect the emotions and the mind of the general people and there are parties which thrive on this emotional upsurge.

Our hon. friend, Professor Mukerjee, was saying about the prestige of the hon. Prime Minister. In a democratic country the members of Parliament are elected on adult franchise the Parliament is constituted with those members who are elected on adult franchise and the majority party elects its leader who becomes the Prime Minister. Hence Prime Minister means the whole country and the Prime Minister's prestige is the prestige of the whole country. So it is quite rational and quite reasonable that when we endanger the prestige of the Prime Minister we endanger the prestige of the country. We have no doubt that in a democratic country the prestige of the Prime Minister is symbolic. It is very difficult for hon. Members belonging to the Communist Party of India to understand the democratic set-up. I can well under-

stand his analogy of Europe and division of Poland, etc. He was citing that analogy. I can only cite him a recent case where 1,15,00,000 people were removed from one part of Russia to another. Were the people consulted? I could have understood the resentment of Professor Mukerjee if he had also resented the action of Stalin in moving 1,15,00,000 people without consulting them to other areas of Russia. I can well understand his submission that in future no country in the world may move its population in that way. But that analogy should not be referred to here.

**Shri Muhammed Elias** (Howrah): May I ask one question of the hon. Member? From which part of the Soviet Union 1,15,00,000 people had been shifted to another area? Does he know the names of those areas?

**Mr. Deputy-Speaker:** After asking the question he should resume his seat.

**Shri Muhammed Elias:** He does not know anything about the world and he is saying this.

**Shri Atulya Ghosh:** Sir, most probably my hon. friend is mistaken. I am addressing you and you may rectify if I have committed any wrong.

**Mr. Deputy-Speaker:** So far as I am concerned no wrong has been committed.

**Shri Atulya Ghosh:** I am also thankful to Professor Mukerjee for denouncing the partition of India because the Communist Party of India was the main party which supported the two-nation theory of Jinnah when all of us were opposing it.

**Shri H. N. Mukerjee:** On a point of order, Sir, reference is being sought to be made by the hon. Member over there to what he considers to have been the policy of the Communist Party about which he knows very

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little actually except to distort it. But I wish to ask you if it is in order to bring into the discussion allegations and distortions about political events in regard to the activities of a political party without having an opportunity of a discussion when the representatives of that other political party are present here to contradict entirely what he has said. I do not like this idea of merely negating what is being posited. But it is completely detrimental to the discussion. That is why I say that it is completely out of order to permit this kind of a discussion to take place. If he is allowed to say all this I will have to explain what the policy of the Congress Party was in regard to partition in the earlier years.

**Mr. Deputy-Speaker:** Strictly speaking, there is no point of order. In fact I do not have to answer any legal question or something constitutional. The question is only of propriety, whether it is desirable to make a reference to hon. Members in such a manner. So far as I could understand Shri Atulya Ghosh only wanted to say that Professor Mukerjee had today condemned that policy which was the basis of partition. At the same time he wanted to say that earlier his party, because he is a prominent member of that party, had supported partition. That is all that he wanted to say.

**An Hon. Member:** It is wrong.

**Mr. Deputy-Speaker:** If it is wrong, certainly there would be opportunities for other hon. Members and even for Professor Mukerjee, if he wants to put in some explanation in his self defence. Certainly I would give him an opportunity. But this can only be discussed by any other hon. Member. He can very well say that this was not the policy and the hon. Member was not right in putting that blame on the Communist Party.

**Shri H. N. Mukerjee:** Is it in order therefore to introduce irrelevant

matters which would lead to acrimony on the floor of the House? That is the point of order.

**Shri Atulya Ghosh:** He was freely mentioning the name of the Congress Party. So I thought that this is the custom of the Parliament. Usually he speaks in this House and after hearing him I thought that bringing in the names of other political parties is the usual custom as he freely mentioned the name of the Congress Party.

**Mr. Deputy-Speaker:** Professor Mukerjee says that whatever he says should not be taken as the custom of the party.

**Shri Atulya Ghosh:** There is another amazing factor. In the beginning we were disturbed and distressed about the Berubari issue. But when we found that the Communist Party was siding with the Congress Party in the West Bengal Assembly we became thoughtful. We thought there must be something amiss in their supporting the Congress Party which previously they never did. The party who never raised a small finger against the occupation of 15,000 square miles of Indian territory by the Chinese, who never protested, who never brought out a procession, which never held any public meeting, crying hoarse over this 4½ square miles is strange indeed!

**Shri Prabhat Kar (Hooghly):** What a logic? This is wonderful logic. It is only possible for him.

**Mr. Deputy-Speaker:** The hon. Member should be allowed to proceed.

**Shri Atulya Ghosh:** Hon. Members sitting in opposition are interrupting. When Professor Mukerjee was saying many things about Dr. B. C. Roy, our revered leader in West Bengal, and about the Congress Party, we kept mum.

**Shri Muhammed Elias:** He did not say any bogus thing as you are saying.

**Mr. Deputy-Speaker:** I would request hon. Members to exercise some patience and control over themselves. Certainly there are many things that are said which are not to our taste. We do not like them. We differ from most of them. But even then in a democracy we have to tolerate them. When the opportunity comes to others to contradict those things, they can just oppose them and clarify them. But we should have some patience. I am aware and I anticipate that there would be certain things said on both sides which may not be palatable to other hon. Members, but we have to continue, in a friendly manner, discussing things and not just come out with these explosions.

**Shri Ansar Harvani (Fatehpur)**  
 rose—

**Mr. Deputy-Speaker:** Order, order. I will request the hon. Member to hold himself in patience. He will also have an opportunity.

**Shri Atulya Ghosh:** I have been told that I am saying bogus things. But whether the Communist Party protested against the occupation of Indian territory is a matter of history.

I want to say a few words more. It is clear after reading all the papers and the correspondence relating to this transaction that the matter was dealt rather casually. I am not seeking to go into the merits of the question. But I am stressing on the casual manner which appears to have marked the procedure followed in completing this transaction. The Chief Minister of West Bengal thinks that he was not consulted. It appears that the representatives of the Government of West Bengal were informed about the proposal about the division of Berubari in a most casual manner. The whole thing appears to have been treated with an air of flip-

pancy which is hardly commendable in a serious matter of this sort. I hope that in future when Government enters into a treaty for transfer of even an inch of India's territory, to any foreign power, there should be close consultation and discussion between the State Governments concerned, Members of Parliament representing the States concerned and the Central Government before any final decision is reached. There may be legal technicalities. There may be constitutional technicalities. I am asking the Government of India for a human approach. Our Prime Minister is known for his human approach and I am pleading with him to keep it in mind that while dealing with matters of this nature, the human approach should not be forgotten. It would be certainly ignoring realities if I do not give expression to the most passionate sentiments roused in West Bengal over the cession of half of Berubari Union to Pakistan without prior consultation with the State Government.

**Some Hon. Members:** Is he reading?

**Mr. Deputy-Speaker:** It is being enquired whether he is quoting or whether he is reading?

**Shri Atulya Ghosh:** I am reading, quoting, citing and speaking.

**Shri Sadhan Gupta:** He should read only what he quotes.

**Shri Atulya Ghosh:** We are all prepared to implement the treaty signed by the Prime Minister because.....

**Some Hon. Members:** No.

**Shri Atulya Ghosh:** ....because the prestige of the Prime Minister is the prestige of India and that is, in a democratic country. We will all stand by that theory.

With these few words, I support the motion tabled by the Prime Minister.

**Shri Barman (Cooch-Bihar—Reserved—Sch. Castes):** Mr. Deputy-Speaker, I am speaking these few

[Shri Barman]

words with a very heavy heart. At the same time, I must say, that with all the heaviness in my heart, when I heard the Prime Minister, in the very beginning, expressing his deep sympathy for those unfortunate people of Berubari, my feeling was much lightened.

**Mr. Deputy-Speaker:** Just a second. I may just inform the hon. House that the Prime Minister has written to me, I have some maps relating to the Bills being placed in the Library of Parliament and an officer of the External Affairs Ministry will be present in the Library from 5 P.M. onwards to explain these maps. Yes; the hon. Member may continue.

**Shri C. K. Bhattacharya:** I want to know whether the map of Radcliffe's award will be one of the maps.

**Mr. Deputy-Speaker:** He may go and see what they are and then say.

**Shri C. K. Bhattacharya:** It is on the basis of that that the whole thing has been worked.

**Shri Barman:** This reminds me of a few lines from the great Poet, Rabindra Nath Tagore:

Nikhiler Bhar  
Bidhata Jahare Den  
Tar Booke Bedana Apar

I find them echoed today in this Bill. I understand fully what deep agony is in the mind of our Prime Minister, which also shows that though it pains him, by duty bound he has to do it. I wish only to say to these unfortunate people who are as much the blood of my blood and the bone of my bones that when the whole country, and I wish to say, even when people outside the country place such implicit faith in our Prime Minister, they need not be afraid. They need not be scared. Let them patiently wait. They are being assured by the Prime Minister that he will find a solution. I shall simply request one thing. These people having got an assurance from the

Prime Minister, they have little more to say. My request is this. They will become refugees. I am cent per cent certain about that. I do not know about the few Muslims as to what they will do. So far as the non-Muslims are concerned, not a single person will like to be transferred to the citizenship of Pakistan. When they become ousted from their land, they should not be treated just like other refugees whose fate is still unknown to them. There are so many people being ousted from their land within the Indian Union itself. We hear of them every day. We hear every day of people being ousted from their home land because of river valley schemes and they number by the thousand—50,000, 60,000. The promise held out to them is that they shall get land for land and house for house. I would request the Prime Minister to treat these people in the same way so that they may not have any grievance in their heart that they remained citizens of India but they were just left to their fate in Pakistan.

I wanted to say just a few words about this transaction. Many things have been said. Many Members have accused the Prime Minister of India, the Chief Minister of West Bengal and also the Secretaries here and in West Bengal. But, we forget one thing. All this confusion, all these happenings, all this agony have flowed out of one mistake. For that, every one of us is responsible. It is the mistake committed at the time of the Radcliffe Award, that has landed us in all this trouble. At the time when Radcliffe gave his award, he described the boundary between Pakistan and India. At the same time, he also drew a line, the boundary line. These are two things to be remembered. Though the case of Berubari is such that there should not have been committed any mistake whatsoever, that mistake was committed. Due to what? Due to some confusion and certain negligence on our part. If you go through the description, you will find that the line



that he had drawn, after reaching up to the corner of Pachagar thana, abruptly joins the Debiganj corner and after that, the Cooch-Bihar area, which is an impossible thing so far as the geography of the area is concerned. It is on that mistake that Pakistan has raised her claim that Berubari No. 12 belongs to her. The reason is this. If you go by description itself, after Pachagar thana, there is the Boda thana. There is no mention of Boda thana in that description. After Boda thana is finished, we come to Debiganj corner. Pakistan says that if it had been the intention of Radcliffe to give Berubari Union No. 12 to India, in that case, he should have described it fully and after Pachagar, he would have stated the boundary of Boda thana and come to Debiganj, and as that has not been done, the line which directly connects the south-east corner of Pachagar thana with the North-east corner of Debiganj should be the boundary line that is laid down by Radcliffe. At the same time, another argument is advanced by Pakistan that there is some map, the Thana map which relates to 1923, which makes Pachagar Thana directly connected with Deviganj Thana, and that Radcliffe had that map before his eyes when he drew that line. If that be so, it is a mistake that was committed by those who were at that time directly connected with the Radcliffe Award business. The mistake was committed at that time, but nobody, neither the Chief Minister nor the Government of West Bengal, nor the Government of India, nor the people of Bengal, had ever cared to have this mistake corrected, and it is as a direct result of that that this confusion has arisen. Pakistan has made her claim, and we are also caught in a very difficult position. We ignored the line, that is all right, but when we come to the description, we can proceed up to the Pachagar Thana boundary where the Cooch-Bihar enclave begins, but beyond that we cannot proceed.

As the Prime Minister has stated, if we deal with the matter in an abso-

lutely legalistic manner, we will get less than Berubari even if we stick to that description, because it is just after a few miles of Pachagar Thana, that we cannot proceed. Further from that end if we go to the north-east corner of Deviganj, we get less than half of Berubari.

Now the question arises, when there are arguments and counter-arguments on both sides: what is to be done? For all these years no solution had been found. There had been firings on both sides, the trouble had always been there. So, the Prime Minister has said it is for the good of Bengal, the people of Bengal. Thereby he means that the people of Bengal may live in peace, undisturbed. It is in that sense that this solution has been arrived at, giving over half to Pakistan, and retaining the other half with us.

The Chief Secretary of West Bengal recommended this horizontal division, and there is reason for that. If the division be vertical, we will lose both the enclaves of Cooch Behar, but by this horizontal division, we retain one of the big enclaves and sacrifice the other.

So, these are the things we should bear in mind while we discuss this matter, and it is no use blaming the Prime Minister for the mistake committed at the time of the Radcliffe Award for which every one of us is responsible. The Prime Minister has arrived at this solution with the best of intention, for the good of India. So far as this particular matter was concerned, he was in a difficult position. Even if you follow the description of the Radcliffe Award, you cannot take more than half. So, considering all these things, we support the Prime Minister, and there is enough reason to support him.

Had the matter gone to arbitration, we do not know what would have happened. Perhaps the whole of Berubari would have gone to Pakistan;

[Shri Barman].

er, we might have got less than half, while by this compromise we save half of Berubari.

My only appeal to the Prime Minister is this. He has already given his solemn word. These people are not ordinary citizens of India. They are the most backward people in Bengal. They belong to the backward communities like Scheduled Castes, and each one is a small agriculturist. These people cannot be transferred to any part of India; they can only be settled in North Bengal or Goalpara of Assam where people of their community reside. Outside this area they will never go to any other part of India; rather, they will die wherever they may be. So, I request the Prime Minister to make arrangements as early as possible to transfer these people accordingly. Of course, those who like to remain there may remain, but I know that not a single Hindu at least—I do not know about the 50 or 60 Muslims there, whether they would like to come over to India or not—would certainly like to come over. I would request him to make arrangements before actual possession is given to Pakistan.

**Shri Bimal Ghose:** In making a statement this morning, the Prime Minister presented a case which I am afraid does not quite agree with facts. He said the present decision is a result of the partition and a direct descendant of partition. It may be the result of partition, but I am afraid it cannot be considered a direct descendant of partition, because from 1947 to 1952, Berubari, which is the subject matter of contention in the discussion today, had always been with the West Bengal Government, and Pakistan had never raised any objection to that. In between came the Bagge Award in 1950. When that tribunal was set up, Pakistan should have raised any matter of dispute with that tribunal, but Pakistan did not raise this issue with the Bagge Tribunal. It was only in 1952 that this matter was raised by Pakistan. The question arises: if Pakistan had a claim to this part of the terri-

tory, do we mean to say that Pakistan was so foolish as not to raise it all along between 1947 and 1952. It is not quite true, as my friend, the previous speaker said just now, that this portion could be validly claimed by Pakistan. In the Supreme Court judgment it is said:

“ . . . no claim could reasonably or validly be made for the inclusion of almost the whole of Berubari Union in East Bengal on the strength of the line drawn in the map. Besides, the lacuna to which the learned Attorney-General refers could have been cured by taking into account the general method adopted by the award in fixing the boundaries.”

**Shri Ranga (Tenali):** That is, the description.

**Shri Bimal Ghose:** So, between 1947 and 1952 there was no dispute. I do not understand why in 1952 the Government of India accepted the dispute when Pakistan raised it. What was the reason that we should have accepted that this territory was under dispute when the Pakistan Government raised this matter?

The second point to which I take exception is this. The Prime Minister has stated that he would not have accepted any decision without getting the consent or concurrence of the people or the Government concerned. In this matter, there is, as we all know, a lot of controversy.

**Shri Ranga:** Why not you sit down and speak? He is not well, Sir.

**Mr. Deputy-Speaker:** He can sit down and speak.

**Shri Bimal Ghose:** No, Sir. I will finish in five or ten minutes. Conflicting statements have been made, and it is necessary that the controversies should be cleared up. What has actually happened? The Prime Minister takes upon himself the responsibility. It is very good of him,

but we in Bengal want to know what part the West Bengal Government has played in this matter.

**Shri Naushir Bharucha:** Very miserable.

**Shri Bimal Ghose:** The Chief Minister stated in the Assembly, even when he said that the Prime Minister was committed and therefore the agreement must be accepted, that neither he nor his Government nor his officers had at any time agreed to this decision. I do not understand how in the face of this we can say that the Government of Bengal had agreed to the decision taken by the Prime Minister.

There is also another point. There were many conferences, to which the Prime Minister has referred, prior to 1958. We understand that at each of these conferences the Government of Bengal had objected to the transference of Berubari to Pakistan. They said they had a very strong case and that Berubari should not be transferred to Pakistan. In the face of that, why is it that this decision was taken without referring the matter to the West Bengal Government? Why, only on what the Chief Secretary may or may not have said,—we do not know what the actual position is—should the Government of India take a decision in the matter and not refer it to Dr. Roy or the Cabinet in West Bengal as they should have done, as this is a matter which had been in dispute for a long time and the West Bengal Government had, as far as we understand, made its position known many times at previous conferences? Now, we are told that whoever might have been at fault, now that the decision has been taken, it has to be honoured. I do not know what to say to that, because the consequences are tragic, and it is very distressing to the people concerned; that people should be transferred from one allegiance to another, as my hon. friend Shri H. N. Mukerjee pointed out, without their consent, is something very objectionable and abominable. Yet, this is going to be done.

15 hrs.

Why is this done? The question naturally arises, why the Government of India agreed. I think the Prime Minister was under a misapprehension that that was only a matter of border dispute and nothing more, because, if he had known that it was not a matter of border dispute, or if he had known that there was strong objection in West Bengal to this agreement, then, I am sure he would not have agreed to that agreement. In considering that the matter was only a question of border adjustment and not a cession of territory, the Prime Minister really had not fully carried out his responsibilities. He had done something at the time when it was done, which was patently unconstitutional. We are now regularising the matter, but at the time when the agreement was effected, what the Prime Minister had done was unconstitutional and not condoned by the Constitution, and it was certainly not right for the Prime Minister to do something which is not constitutional at the time when he had done it. Of course, we are now regularising it, and, therefore, everything will be all right, but certainly it will be considered as negligence and irresponsibility on the part of the Prime Minister to have done something which in itself was an unconstitutional act, as the Supreme Court has pointed out.

If the position is that, what is to be done now? The first thing is that we should try to get this matter reconsidered. If the Prime Minister gets the authority to transfer this territory, after the Bill is passed, as probably it will be, then, he will be all the more stronger to approach Pakistan and say that 'I have full authority to transfer this land, but, on human grounds, on other considerations, or on constitutional grounds, the matter should be reconsidered and the cession should be stayed.'

**Shri Subiman Ghose:** Mistaken facts also.

**Shri Bimal Ghose:** Yes, mistaken facts also.

If Pakistan will not agree to that, and if this land is going to be transferred in any case, then, full assistance should be given to the people whose lands will be transferred to come over to India, if they so desire, and to have them rehabilitated here; they should be given full assistance.

Finally, I have one more point only, and that is that the Prime Minister should either initiate legislation or set up a convention that any international agreement or treaty should be subject to ratification by Parliament. These difficulties arise, because the Prime Minister agrees, and our Constitution has permitted him or the Government to conclude international agreements and treaties. That is a very serious thing, and it is desirable that all such treaties or agreements should be made subject to ratification by Parliament, so that these difficulties may not arise in future.

I shall conclude by just uttering a word of warning, and that is with regard to an entirely different matter, namely the proposed railway link between East Pakistan and West Pakistan. There is a lot of objection to that proposal in West Bengal, and I wish that the Prime Minister will not come forward some time here and say that that also had been agreed to; if any decision is to be taken, it has to be taken in consultation with the people and the Government of West Bengal.

**Shri M. Khuda Bukhsh:** Mr. Deputy-Speaker, Sir, the time comes in the life of every man to say his piece, and I suppose that day has dawned, as far as I am concerned.

Our Prime Minister has exhaustively stated and traced the history and origin of these two Bills that are before us. He has told us quite plainly that they are the result of quite strenuous and protracted negotiations between the two countries at different

levels, and great care and thought were bestowed in arriving at these conclusions.

When the talks were held, and those conclusions were arrived at, Mr. Noon was the Prime Minister of Pakistan, representing a distinct philosophy of state-craft which favoured friendly and harmonious and more human relations between India and Pakistan. India, I suppose, saw, in those days, a beginning of a process of *rapprochement*, of coming together, and in order to help and accelerate that process, co-operated with the Government of Pakistan in the matters that were then in dispute. That was the reason why I had the temerity to interrupt our Prime Minister and ask him, in the course of his speech, 'Did that overall position that was being viewed together by the Prime Ministers of India and Pakistan include also the dispute that exists between India and Pakistan in relation to Kashmir?'

I thought that it was in furtherance of that common desire to get together that these conclusions were arrived at.

The question that one should put oneself now, to deal with this matter before the House should, I imagine, be whether the climate that was then there, which generated this common desire between India and Pakistan to come closer and settle all these disputes is still there. I submit that that has been already tested, and it has been found that that climate is not there. In respect of this very matter, I understand, and it is now common knowledge, that the Government of Pakistan was approached through the normal diplomatic channels, indicating the difficulties that India faced in giving effect to this agreement. The Pakistani President, in the course of an interview that he chose to give at the Dacca airport disclosed this fact that an approach had, in fact, been made, and he had volunteered that not only had his Government turned down the proposal, as he termed it, but also proceeded, off his own bat, to tender advice gratis to the Government of

India. It was queer diplomatic etiquette to have revealed to the world at large what was going on between the two Governments through normal diplomatic channels, that is, in private. Anyhow, they have their own standards of morality and ethics and diplomatic conduct, and we have ours. But that is the real test: whether the desire to come together still exists.

If it does not, then I wish to submit that the circumstances that led to the conclusion of what is now known as the Nehru-Noon agreement do not exist, and the circumstances have altered, calling for an examination *de novo* of the entire question and the matters under dispute. I am not a legal pundit or an expert, but I feel that the legal implications of the passage of these two Bills would be to impart finality to the borders and also to invest the borders with permanence. We have now done nothing yet to ratify the Radcliffe Award in Parliament. This is the first time that the Radcliffe Award is coming before Parliament for ratification. I submit that the Radcliffe Award was the result or was born out of a hypothesis. The hypothesis then was that the minorities shall live in their countries in peace and accord and the majorities of the two countries will treat them with generosity and respect. That was 13 long years ago. Many things have happened since then. Much water has flown down the Ganges, and also the Jamuna and other surrounding rivers in Punjab and many other places. Time has belied that hypothesis. People in the East and West Punjabs have adjusted themselves somehow and the boundary question there is not of great moment and importance. But the boundary question between East Bengal and West Bengal is of great importance. Sixty lakhs of people have come across the border to India and we have had to rehabilitate them.

**Shri D. C. Sharma (Gurdaspur):**  
How many of them have come from West Pakistan?

**Shri M. Khuda Bukhsh:** There, there has been a total exchange. Anyhow we do not see that. There is not much evidence of that in the proceedings of the Legislature that they disagreed or did not want the agreement to go through. Here we are confronted with this problem.

Now, when we on our own should be most concerned, anxious and eager to reopen the whole question of the East-West Bengal border, would it be wise and prudent on the part of Parliament to do something which may give a handle to Pakistan and by which we may not be able to raise that question at any future date should that be necessary? Sixty lakhs of people have come away leaving all their land. It is time that we claim all that land.

Our Prime Minister has categorically said on the floor of the House and elsewhere that he has no intention of going back on his pledged word, that India has no intention of not implementing any agreement that she may enter into. But the difficulty he referred to in his communication or talks with Pakistan is that of the human problem, that he felt distressed and agonised over the displacement of the 6,500 Hindus or 5,500 Hindus who would require to be rehabilitated again in the course of 13 years, who had, at their own instance, rehabilitated themselves under a mistaken notion that the place belonged to India and, therefore, they would be permanent residents. It was only his sensitive human feeling and mind that dictated to him to make that approach if that approach was at all made. But the unfeeling Pakistanis true to their own interpretation of the Islamic culture tradition, spirit and heritage, have come and demanded their pound of flesh; this pound of flesh they must have. They must have their pound of flesh in Kashmir; they must have their pound of flesh in the Canal Waters treaty; they must have this pound of flesh in Berubari. This pound of flesh attitude on the part of Pakistan has got to be actively resisted; this has got

[Shri M. Khuda Bukhsh]

to be sternly discouraged. We are not going to have our Prime Minister's name bandied about in airports and mentioned lightly and also unwarranted and unworthy insinuations made against him. It is time someone got up and told Pakistan where they got off. It is time that we got up and told them that they would have to take the responsibility for the border Muslims, and that they will have to give up every inch of land that the refugees have left behind in their own country. We want this question to be reopened. I am quite confident that this is a case which is unanswerable.

I would request our hon. Prime Minister to take serious note of this that West Bengal is over-populated and that it is not a question of Central Government writ nor extending to Assam and West Bengal. West Bengal and Assam are two border States. They have got many problems of their own of internal adjustments which our hon. Prime Minister cannot shut his eyes against. No doubt there are human problems that he referred to.

As far as one can see from newspaper reports he made a proposal which would have been less harmful to India and more profitable to Pakistan. They won't agree. They want their pound of flesh. They want to clinch the issue. They must have what has been agreed to between India and Pakistan. Why? It is because it is the ratification by the Parliament of India of the border which is favourable to them. That is the reason. I have said that we should deny this. It is prudence and wisdom. We are all behind our Prime Minister. He has given his pledged word. We must implement it. But, should we implement it? If this hon. House thinks that the agreement should be implemented, then the question would arise as to how it should be implemented.

There appears to be a controversy that has been raised by the West Ben-

gal State as to the legality, the constitutionality and what not of the method of implementing the agreement. I am not a constitutional lawyer nor a legal pundit. I do not understand these finer points of law. But I say this that if anybody has evolved a better method of giving effect to the agreement—if effect has to be given to the agreement—let us have it. There can be no question of the Government or the Treasury Benches standing on their dignity and not accepting a better method. I think it will be accepted and agreed to. But, when we should be seeking to reopen the entire border question, should we do anything in this House which gives finality to those borders? That is the point which in the main I want to make.

I have mentioned that Pakistan had over the past many months been actively subverting the East-West Bengal border. The population, as you all know, is largely Muslim. I come from that area. As a matter of fact, I represent one such constituency—a Muslim majority area. I take the responsibility—and I will be borne out by official records, when I say that there has been a shift in Pakistani foreign policy. Mr. Nehru was replaced by the military junta that is ruling now in Pakistan.....

Some Hon Members: Mr. Noon.

Shri M. Khuda Bukhsh: I am very sorry, Sir. I mean Noon was replaced by the military junta that is ruling Pakistan. That has to be taken note of. They have been consistently subverting the area. This shift in their foreign policy if it is allowed to interpret itself without any let or hindrance, I can assure the House that it will interpret itself in terms of hostility towards India. In these altered circumstances, should this House run after the mirage of Pakistani friendship?

Shri Ranga: Mr. Deputy-Speaker, Sir, I rise to express my opposition to

these Bills which are placed before the House. I am glad my hon. friend from Bengal, Shri Atulya Ghosh, was free enough to say, not once but twice, that in his view the Prime Minister treated the whole of this matter in a casual manner. If criticism is needed that is good enough criticism. So far as I am concerned, I am convinced, and I think a great majority of the people also in our country are convinced that somebody has let down someone else; that the Prime Minister has let down the country. He was let down by some Chief Secretary; both of them have let down the Bengal Government and the Bengal Chief Minister. We do not know. It may suit the Prime Minister's convenience not to bother about who has let down whom. But, one thing is clear; that we do feel that the Prime Minister has let us down in regard to this matter.

15.15 hrs.

[SHRI JAGANATHA RAO in the Chair]

My hon. friend who has just now spoken put a very relevant question whether the Prime Minister would have been—he might have been thinking of Kashmir also at that time—as casual about Kashmir as he has shown himself to be in regard to this matter; whether he feels very strongly as everybody has given him credit for, having felt very sincerely and strongly and sentimentally and emotionally for all these people who are going to be displaced a second time. He has not shown himself to be so very weak or casual. I wonder also whether at the time he was negotiating with the Prime Minister on the other side, he was aware of the existence of so many people in Berubari, whether he was aware of their reactions and feelings, whether he had bothered at all to examine or to enquire how the Bengal Ministry and the Government and the Legislature were likely to react to the proposition he was accepting when it was placed from the other side. My hon. friend Shri Ghose has already placed some relevant facts before us. The Prime Minister was less than fair

to himself and to the House when he said that he wanted the House to believe that the latest agreement had flowed from the Radcliffe Award—not even that, but—from the Partition itself. It has already been pointed out by Shri Ghose that it was never pointed out by the Pakistan Government. We might have been casual about many of these things. It has been the privilege of our Prime Minister and our privilege too to ditto him. But it has never been the habit of the Pakistan Government to be casual about these matters. They did not bother to raise it at the time of the Radcliffe Award nor at the latter re-examination by Bagge. I do not know who were the great experts who were advisers to him and on what support they had gone on with these discussions, be they secret or open between themselves and the Pakistani representatives over all these years. But we do know one thing: it was not raised by them then and on two previous occasions. It was raised on the third occasion and because of our Prime Minister's over-anxiety, as it appears to be, to reach an agreement anyhow with Feroze Khan Noon, he came to this agreement. He wants to console ourselves with the thought that if it had been sent to a tribunal, anything might have happened and it was possible that the whole of it would have gone. That is how everybody weighs the *pros* and *cons* when he has to decide whether he should go to a court or not. At some stage or the other, an individual decides that he would rather go to a court and take the risks than accept a dishonourable compromise. I consider it to be not an honourable compromise and I am extremely sorry that the hon. Prime Minister chose this method. Unfortunately for us all, and more particularly for my erstwhile friends on this side, the hon. Prime Minister has thought it fit to embarrass all of us in the country, in this Parliament and in the Assembly by bringing in the status, prestige and position, honour and all the rest of it which are associated with the great position that he

[Shri Ranga]

has come to occupy. Embarrassed as they are, I sympathise with so many of my friends. I had been with them only a year ago. It is quite possible, if I had been with them, that I would have been obliged to go through the same plight of examination and re-examination and constant searching which they must be going through. But at the same time, they will all be obliged, I dare say, to ditto what has been done, feeling all the time that he has done a wrong thing, an unpatriotic thing—though he did it not knowing that it was an unpatriotic thing at that time. I do not want the country to be placed in such an awful plight at any future date. Why has this happened? It has happened because there are political blood brothers who are ruling over the whole of this country, in all the States and also at the Centre. Therefore one cannot very well let down the other or betray the other.

**Shri Tyagi:** You are also a blood brother.

**Shri Ranga:** I said: political blood brother.

**Shri Tyagi:** You are a political cousin.

**Shri Ranga:** Of course; we are all cousins in a parliamentary democracy; that is the beauty of parliamentary democracy; we dispute here and in the evening we shake hands with each other. There was exhibited in Bengal a new type of tragedy and a new type of play-writers have come up and they have some lessons to give to Kalidasa and Shakespeare. One day they said: it is all such a tragedy and we are not going to accept; the Prime Minister had no business to do this sort of thing; we were never consulted and so on. All of them went into mourning the next day and the Chief mourner came forward and said: we cannot let down our Prime Minister; he is such a great man and all the rest of it; therefore we must accept this.

Then the great majority of them went into the lobbies, I suppose, and then clapped their hands—tears as well as laughter, humour as well as tragedy—all have been woven together. That is the latest gift from Bengal histrionics and the dramatists and playwrights. Why has it happened? Because they also happen to be on the same side as my hon. friend the Prime Minister. Why has the Prime Minister forgotten his elementary duty to invite the Chief Minister or any representative of the Bengal Ministry to come and associate himself in those discussions that were held in this context? If for any reason he alone was entitled to take part in those discussions with his opposite number from the other side, he should certainly have armed himself with the presence of the representatives of the Bengal Ministry for purposes of close consultation. Then it would have been all right for him to have come and told us that the Ministry had agreed with him. It is a responsible Ministry. Then he may say: I have also taken this particular view and therefore, on behalf of both of us, I am coming before this House. He says: I have sent these Bills to them and the President had also fixed a time limit; he was good enough to extend the time limit also and it expired on the 15th December; but by that time I could get only one answer from out of those two houses and so I am satisfied that the provisions of the Constitution were duly observed; therefore, there is nothing wrong. Yet, holding the position that he does, he has not done justice to that position. This is not the way to deal with constitutionally-empowered State Governments. They are not mere provinces: they are States. They have their own, definite, allotted powers and functions to discharge. On such occasions, it is the duty of the Prime Minister here to arm himself or associate himself with their representatives but he did not do so.

Why did he fail to do this? Because he has got into the habit—they have



allowed him also to get into that habit—during the last thirteen years of his prolonged tenure of office as Prime Minister (An Hon. Member: Not continuous?).....yes, continuous tenure of office, the habit of doing things here and then expecting the Chief Ministers to fall in line with all their friends and supporters also. So, they have come to ignore the very existence of the Constitution and the powers that have been allotted under the Constitution to the State Governments. He has been able to do things and they were willing to accept them. There were other State Governments and other occasions also but they did not have the genius that our friends displaced recently in Calcutta and so we did not hear so much about their differences in between themselves. It was all one party and where is the need to think of the Constitution?

That brings me to the next point. I am glad the Prime Minister has said that Prime Ministers may come and Prime Ministers may go but the country's interests are always there. We must always be prepared to place the country's interests much before the interests or the prestige of the Prime Minister. This instance has anyhow brought to the fore the very important lacuna in our Constitution. The Constitution-makers did not at that time think that an occasion like this would arise when the Prime Minister would be able to have his own party friends and colleagues as Chief Ministers in the States and therefore the State's autonomy would come to be practically nullified or ignored. Therefore, they did not think it necessary to make provisions on some such lines as those in the American Constitution where the President would not be able to conclude such agreements without the consent of the Senate.

The time has now come when this Parliament and the country would have to give some serious consideration to this particular matter and see to it that the future Prime Ministers, who would certainly not be so much experienced as our Prime Minister,

who would not be able to enjoy the same amount of prestige, same amount of support and same amount of past services to their credit, would not be allowed to do things as this Prime Minister has done and at the same time get away with it. They may be able to get away, and it is against that that we have to ensure ourselves. For that reason, Sir, I think it is necessary for all the constitutional pandits in our country, this Parliament as well as this Government and the leaders of all parties to give serious thought to the possibility of amending the Constitution in such a manner that it would not be possible for the future Prime Ministers to deal with national issues in this manner.

Sir, some of our hon. friends have been asking for crumbs—they have been saying, please give us this or give us that. They have been saying, do something for the displaced persons and then we will feel that you have all the feelings for them and somehow we will reconcile ourselves to this proposal. It is an important consideration, I agree. I am glad the Prime Minister has given that assurance. He could not have given any other assurance in this House. Having done that, is that enough? It is not enough, according to me. Some time ago he made the mistake of telling this House that there are no trees, no human beings, no huts, no jhopadies etc. But that was flung on his face later on by the representatives of the other country that was giving us all the trouble. Therefore, whether there is a blade of grass or not, the question is, is it our sacred soil? If it is our sacred soil, then we have to safeguard it, we have to protect it and keep it with ourselves to the best of our ability. That is exactly where the Prime Minister, according to me, has failed.

All this does not mean that I would like to associate myself with some of the harsh statements and bad sentiments expressed by some of our hon. friends in regard to our neighbouring country. Therefore, I am one with the others, I am one with the Prime

[Shri Ranga]

Minister and the Government, in trying to maintain friendly relations with Pakistan. We would like to be friends with Pakistan. But surely, it should be done in such a way that it does not do any harm to our own vital interests and our vital interests are protected in such a manner that it would be consistent with our pursuit of friendship with our neighbour Pakistan and her leaders.

Lastly, I wish to express my gratitude to the patriotic and spirited people of Barubari and also to all those courts there as well as here who have raised this problem to the national level and reminded us all that it was wrong for the Prime Minister to have thought that he was only getting into that kind of an agreement in succession to all the other agreements that have been reached and Berubari was only a part and parcel of the earlier illogical agreements or decisions, and that even the possibility of parting away with Berubari could be taken up not merely as an Act of this Parliament but as an amendment of the Constitution.

In conclusion, Sir, I am very happy indeed that this opportunity has been given by the Supreme Court to this Parliament to remind itself and remind the Government and the Prime Minister that it is wrong for them to be thinking about these things in such a light hearted manner as to assume that they could do all these things and then get them ratified by an Act of this Parliament. No; they cannot do these things. They will have to come to this House and obtain the consent of this House for a constitutional amendment by the special procedure that is prescribed in our Constitution. I do hope that when the next opportunity comes for this Parliament, after it gets the next mandate from the people, it would not be possible for the Government, whatever Government there may be, to get a similar amendment passed, pass this kind of an amendment in such an easy manner

as they seem to be able to do on this occasion. This would be the last occasion, and I can only say—I can't wish the hon. Prime Minister good luck—that the Prime Minister is extremely lucky in having come with this Bill to this Parliament and not the next Parliament.

**Shrimati Renuka Ray (Malda):**  
 Mr. Chairman, Sir, I do not want to enter into any of the constitutional or legal matters that have been raised in the House in detail. It goes without saying, it is an undisputed proof of the fact of the Supreme Court judgment, that the Bill that is before us is there because the Constitution needs to be amended before we can implement the Nehru-Noon Pact. But the consideration that, above all, weighs with us today—not only, I think, with the people of West Bengal, but it must be something that weighs with the people of India, and it has weighed this morning with the Prime Minister—is the humane consideration. Are we justified in dealing with the people of Berubari as dumb driven cattle? That is the question. They are nationals of India. Many of them are twice refugees. Are we not going to see to their interest first? That, I think, is the paramount, the most important point that this House has to be seized of today.

I am glad that the Prime Minister has given the assurance which surely is the best that can be done that those people who are nationals of India, who are citizens of our land since independence can come over even if they lose their territory, and I hope that they will be given the same economic status that they were holding, the same consideration and the same kind of living which they enjoyed, because it is not their fault that without their consent this is being done.

Sir, it has sometimes been asked—not in this House, but perhaps in

the lobbies—why the people of West Bengal are becoming so emotional about this issue. I would say, it is not the amount of territory that is going now that is important but the whole sequence of things has to be considered. Again, when Independence came West Bengal lost nearly two-third of her territory, and today it almost becomes the last straw on the camel's back. It would be an emotional matter for anybody. If it had happened in Madras, I am sure it would have become an emotional matter for the people there. If the people of Madhya Pradesh had to lose two-third of their territory at the time of Independence and something more now, it would have been an emotional matter to them. It would be an emotional matter to all of us in this House if we were near that place and if we could only sense the feelings of the people whose territory is to be given over. I am sure the whole of India does understand that feeling. I would, Sir, with due respect, say that the Prime Minister himself understands the human consideration involved in this, and that that is the paramount consideration today. It is on that issue alone, Sir, that I rise to speak.

I speak because in spite of the assurance that has been given to us that the refugees will be rehabilitated the sorry story of rehabilitation since partition in India so far as East Bengal refugees are concerned does not give us that feeling of assurance unless something very special is going to be done for these persons who are going to lose their nationality once again, for a second time, through no fault of their own. I, therefore, hope that this House and the Government will give proper consideration.

Shri Barman mentioned that these people in the Berubari Union are of a particular type, they are agriculturists living in a particular way, and that to uproot them and to expect them to settle down helter-skelter anywhere will not be of much use.

They must be guaranteed settlement on equal footing, on the same social and economic conditions that they were enjoying so long. Otherwise, such assurances do not go very far. Not so long ago, in this House an assurance has been given that those who are uprooted in Assam would be rehabilitated in a proper manner. We hear many statements. Those who are working in Assam, the constructive workers who have gone from outside, say a different thing. What do they say? What do they say about the rehabilitation that is taking place there? I would ask who are those people who have to go to West Bengal? It is said that if any of them refuse to return to Assam, in spite of the fear that they have, then they will not be rehabilitated and they will lose all their rights for rehabilitation. Therefore, it has become a very paramount and important question, a moot question, which I would request all hon. Members of this House on all sides to bear in mind in the midst of all this trouble.

When the Prime Minister makes an agreement, when the prestige of the Prime Minister, which is the prestige of India, is involved, then it behoves on us, whether we may like it or not,—and obviously we do not like it—whether it is some thing which is done on the spur of the moment or not, to accept it, and honour the agreement that our Prime Minister has concluded with a foreign country. It may be questioned and it may be said that opportunities did arise—and more especially an opportunity arose—when a new Government, not through the way of evolution but through a revolution came to Pakistan, and when treaties which had been made earlier did not really stand. But this opportunity to abrogate the treaty was not taken and it would be spilt milk to discuss that matter today. It is not much use discussing it. It might also have been said that there are many other things which have been brought forward to cloud the issues. Yes; they have been. But the fact remains

[Shrimati Renuka Ray]

that since the word of India is plighted through the Prime Minister of the country, and since that word is plighted in this manner, we have to accept it. It is only the Prime Minister himself who, understanding our feeling, may still explore ways and means through which, in an honourable manner, it may be possible to prevent the transfer of this part of the Berubari Union. In any case we must have a guarantee that these nationals of India, who will otherwise be treated like cattle, must be given those considerations, which are real, in the matter of resettlement.

About rehabilitation, as I said, there is much that can be pointed out, especially the attitude towards the eastern region of which I have great experience. But I will say only this. If this problem is pursued in the same manner as was followed formerly, it will lead to nothing. It will mean merely that they remain nationals but as refugees who have lost their social and economic position, and that must be avoided at all costs.

I do not want to make a long speech. I have not entered into any constitutional or legal argument though there may be many cogent and valid reasons. At this stage I feel that it is the humane considerations which we have to remember. We must honour not only our words but our deeds that I got up to speak today on this Bill.

**Shri A. C. Guha:** Mr. Chairman, Sir, at the very outset, I would like to make it clear that I have stood up here in support of the two Bills. It has been mentioned both in this House and elsewhere also that the prestige of the Prime Minister has been involved. I do not look into this question from that point of view. If at all any question of prestige or honour is involved, that is the question of the prestige of India. India is a mature nation; and as a civilised, mature and cultured nation, she has

to implement any international obligations entered into by the executive. It is the inherent right of the executive to enter into international obligations all over the world.

I am surprised that a suggestion from the other side has been made to the effect that for all these things, the ratification of Parliament would be necessary. In certain cases surely they come before Parliament, but there are a number of international agreements, insignificant and significant, and for all these the Government cannot wait for the ratification of Parliament. This is a case which has come before this House for the ratification of Parliament.

I am fully conscious of the implications of rejecting the two Bills. It means the overthrow of the Government and I think no Member of this House, even those from that side of the House, would suggest that this is an occasion for which the Government should be or can be overthrown. Therefore, I say that I stand to give my full support to these two Bills.

But while giving my support to these Bills, I have also a word of criticism and caution to be put before this House and through this House and through you to the Government and the country at large. There has been some criticism about the attitude taken by West Bengal in this matter. Some hon. Members from West Bengal have already dealt with this matter. It may be said that West Bengal has been emotional, but Nature has made it so. I generally do not like to invoke the name of God, but still, I should say that Nature has made the Bengalis what they are. If we accept that Bengalis or West Bengal has an element of Indian nationhood, you must accept also what they are by Nature, and what they are by temperament and what they are by their tradition and custom. So, if Bengal has felt over this matter sorely and

bitterly, she must express that feeling and give expression to that feeling. That is the democratic right enjoyed by every citizen in this country. In referring to that aspect, I must also say how I feel over the matter. If Bengal has felt intensely over this matter, it is quite appropriate for Bengal to have been so, and to have given expression over this matter.

So, I do not feel that there is anything fundamentally wrong about the feeling or the manner in which that feeling was given expression to in Bengal or in the Bengal Legislature. But, when the question of ratification of the agreement comes—and indeed when it came—the Chief Minister of West Bengal made it quite clear that he stood by the agreement. He had made the position of West Bengal clear before the Government of India. If the Government of India has felt that this agreement had to be implemented, surely West Bengal must stand by it.

Let it not be said in this House that we the Congress Members from West Bengal are giving our support to this Bill simply in our submission to the Party whip. I would say that—and I think—the leader of the Party gave sufficient indication that if any Congress Member from West Bengal wanted to abstain from voting on this occasion, he would not mind it. But then it is not a question of any ethical or religious scruple. It is a political issue, and as Members of the Party, coming from West Bengal, we swim or sink with the Party. If it is a political issue taken by the Government or the ruling Party, we should stand by it. So, it is not a question of any Party—the Party we belong to—whip compelling us to vote in favour of this ratification of the agreements. We vote through our political conviction because, as Members of the Party we stand by the Party and we think it is proper to do so.

Having said all this, I have my own criticism about the agreement itself. There may be criticisms from two angles specially: about the contents or the merits of the agreements and also about the procedures. The Radcliffe Award at least in the eastern region has always followed the thana. No Thana or police station has been divided. They have followed the division on the basis of a thana and demarcation has always been followed on the lines of the boundaries of a thana. In this case, it would be peculiar if Radcliffe would have decided to partition a particular thana and give the whole of or a portion of a union in that thana to Pakistan. If there has been some mistake in the description, that mistake should have been due to the peculiar topography of that particular thana. It is a sort of enclave surrounded on almost three and a half sides by Pakistan territory. It might not have been properly explained to the Radcliffe Commission while he drew the line on the map and put it in Pakistan. There was also some lacuna in the description, which my hon. friend, Shri Barman, has explained. I think the Members coming from the other sides would not realise all these details;—it is a small strip of land. Anyhow, the description, on the whole, was in our favour, but the map was against us. But taking a common sense view, it might have been argued that Radcliffe has never divided any thana as far as the eastern side was concerned; the line has always gone thanawise. In this case also, he must have meant that the line should go thanawise.

Moreover, we are handing over 11 square miles of territory in excess to Pakistan. We are getting some enclaves from Pakistan whose area is 18 square miles. We are handing over to Pakistan the Cooch Behar enclaves and the area of those enclaves would be 29 square miles. So, we are giving 11 square miles more to Pakistan. The whole of Berubari would not be more than 8 square

[Shri A. C. Guha]

miles. So, it should have been argued, if Pakistan would have a reasonable frame of mind, that since we are giving 11 square miles more, Berubari may be adjusted against that.

The question about Berubari started from 1950 and since then the West Bengal Government have repeatedly intimated to the Central Government their opposition to the surrender of Berubari. Some papers have been circulated to the West Bengal Assembly by the West Bengal Government. I find from a paper report that in 1950, 1951, 1952, 1953 and on several occasions the West Bengal Government wrote to the Central Government opposing the transfer of Berubari to Pakistan. I learn that even the Chief Minister wrote to the Prime Minister here opposing this transfer. So, knowing the opposition of the West Bengal Government, the Central Government or the Prime Minister should have made some serious effort to get this adjusted with the 11 square miles of excess territory which we are surrendering to Pakistan in exchange of the Cooch Behar enclaves.

On a previous occasion I said that in almost all our agreements and negotiations with Pakistan, we have followed a policy of appeasement and surrender. I think the words may sound somewhat harsh to the Prime Minister, but I think most of the Members even on this side would endorse the view that we have been somewhat soft to Pakistan in our dealings, with the idea that Pakistan's friendship would be achieved by this. We earnestly desire to be friendly with Pakistan, but what is the friendship we have been getting? I cannot imagine the Head of the State mentioning like that in a casual manner in the aerodrome. Any nation with a sense of dignity would not have gone to that length. Only the other day, in Indonesia, the Pakistan President said that India has been doing damage and harm to Pakistan. This

is the friendship we are getting. It should be made clear that the writ of the Government of India runs throughout India. In all discussions for agreements, they become intransigent. Where they agree, we also agree. But there may be certain points where they become stiff and they do not agree. Those points are not settled. That was the case of the 12 thanas of Sylhet district and they have gone to Pakistan. I think according to the Radcliffe award, it is reasonable for India to demand those 12 thanas. I do not know what has been done about it.

The Radcliffe Commission went beyond its own jurisdiction and authority in awarding Chittagong hill tract to Pakistan. In 1947, in reply to some question, there was some announcement from the Treasury Benches that a Cabinet Committee had been set up to examine the issue. In Chittagong hill tract, 97 per cent were non-Muslims; only 3 per cent were Muslims.

Shri Jaipal Singh (Ranchi West—Reserved—Sch. Tribes): 99.9 per cent were Budhists.

Shri A. C. Guha: That has been given to Pakistan. According to the terms, it was not exactly within the jurisdiction of the Radcliffe Commission, because it was not a regularly administered area. It was some sort of a feudal or native State. I do not know what has happened to that Cabinet Committee or whatever it was, which was formed to go into that question.

In this agreement under discussion, we have surrendered a small strip of land in Tripura, which is undoubtedly Indian territory, because there was some difficulty about railway communication in East Pakistan. So, we have surrendered a small strip of land, about 3 acres. I do not mind that, but there is a similar strip of land, for want of which we have to

construct our Assam railway link. Bharungamari is a small strip of land connecting the old railway line from Gitaldah to Assam. If this strip of land was given to us, our railway connection would have been so easy from this side to Assam. But because this strip was not given, we have to construct that costly and risky Assam railway link and almost every year lakhs of rupees are required for repair of that railway line. These are the points against the pact in itself.

As for the procedure, I have already stated that the West Bengal Government mentioned its objection to the transfer of Berubari. While dealing with this matter here, the Prime Minister should have taken care to consult the Bengal Government. He has stated in this House:

"It would be very wrong for me or for any Government to deal with a matter of this kind ignoring the State Government."

Just consulting in a casual manner some officials found on the spot is not consulting the State Government, particularly when the State Government not only once, but on several occasions made it clear to the Central Government that they were opposed to the transfer of Berubari. I think the West Bengal Government can have a genuine grievance that the West Bengal Government was ignored in this matter and was not properly and formally consulted. Some officers might have given their consent. I do not know. But if they had given their consent, the Prime Minister should know that they simply went out of their jurisdiction, so give the consent on behalf of the State Government. Officials do not constitute the State Government.

In this connection, there is a discrepancy between the West Bengal officers and the Commonwealth Secretary in their respective notes.

16 hrs.

The note of the Commonwealth Secretary is also not very categorical. He only said that Bengal officials thought the proposal as a whole was practical. So, there was no mention about their agreeing to Berubari. Moreover, I think in dealing with an international agreement, it is very dangerous to depend on the oral version of officials. They are the past masters in speaking in the language of Delphi's oracles, which may be interpreted in any way according to the circumstances or situation that may suit them.

Here I should say there are some points in favour of this agreement. I am glad that Shri Hiren Mukerjee or some other hon. Member on that side referred to Hilli. According to the interpretation of the Radcliffe's Award there is some doubt about Hilli. In this negotiation, there was a sort of tie between Hilli and Berubari. It may be argued that if we lose Berubari, we gain Hilli; if we gain Berubari we lose Hilli. If it is a question of making a selection between Hilli and Berubari, I think every hon. Member of this House from West Bengal—belonging to any party—will say that Hilli is much more important not only in area but in many other respects like communication, industry, commerce and so on. So, if at all it is a question of choosing between Berubari and Hilli as to which to retain, everyone in Bengal will say that Hilli should be retained in preference to Berubari.

**Shri Tyagi:** Could we retain Hilli?

**Shri A. C. Guha:** That is a point in favour of the agreement.

**Shri C. K. Bhattacharya:** Allow me, Sir, to make one remark. Radcliffe's Award does not make any gift of any portion or part of Hilli to Pakistan. That is the correct interpretation.

**Shri Tyagi:** Anyway, Hilli is with us.

**Shri A. C. Guha:** Hilli formed part of the discussion in this conference also.

Before concluding I should say that the Prime Minister has stated that sufficient arrangement will be made for the rehabilitation of those who will be affected and who will have to be evacuated from Berubari. I am sure that almost every Hindu family will leave Berubari and come to India. So, immediately money may be sanctioned so that construction work may be speeded up. Then, if Berubari is to be given, it is better that we give it as soon as we can. We would not like to prolong the agony, prolong the irritation, and give a handle for agitation. So, if Berubari is to be given, it should be given as soon as possible and immediately rehabilitation work should be started. I am told there is some vacant space in North Berubari which is not so developed. That should be developed. Bengal Government have spent a few lakhs of rupees on the development of south Berubari, which is going to be surrendered to Pakistan. I think that money will have to be compensated. One word more regarding Railway corridor to Pakistan. The respective States should be properly consulted before any decision is arrived at.

**Mr. Chairman:** The hon. Member may please resume his seat, as he has already taken more time. Shri Subiman Ghose.

**Shri Subiman Ghose:** Mr. Chairman, this Constitution (Ninth Amendment) Bill not only raises a legal aspect but creates a dangerous precedence. Before I say anything on it, let me first refer to the background of the agreement. We know that the Radcliffe's Award was given on the basis of which India was divided and Pakistan was born. There were some anomalies and some confusion in the Radcliffe's Award and so to clear them the Bagge Tribunal was appointed. At the time of the constitution of the Bagge Tribunal both the States, India and Pakistan,

were asked to give their points of dispute. So far as Berubari is concerned, Pakistan never raised any dispute in the year 1950 when the award of Bagge was given. Thereafter, we are told, in the year 1952 Pakistan raised a dispute regarding Berubari; rather, Pakistan did not raise the dispute but we allowed Pakistan to raise the dispute.

16.05 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Because, everything has been settled on the basis of Radcliffe's Award and Bagge Award. So, Pakistan should not have been allowed to raise any dispute regarding any territory of India and we could have summarily rejected their claims. But, instead of doing this, consistent with our policy of appeasement, we allowed the dispute to drag on and, ultimately, on the fateful day of 10th September 1958 we met and, according to the Supreme Court, made a gift of Berubari to Pakistan.

Regarding this dispute the two Prime Ministers met in Delhi on the basis of the Radcliffe's Award, though that matter should not have been allowed to be agitated like that. But that was allowed to be agitated and Pakistan demanded Berubari on the basis of the Radcliffe's Award. We entertained that claim and we wanted to discuss this matter. Then we take up the position that the Prime Ministers of Pakistan and India met to interpret the Radcliffe's Award, on the basis of which some portion of Berubari was given to Pakistan. Thereafter, when the question arose how to give it, it is, I think, not a question of fact or law, as mentioned in article 143, but a question of procedure, how to give it. Then the Supreme Court came to the conclusion that it is not on the basis of the agreement but is something else, something new, which is a cession of territory, which is giving away of territory to Pakistan.

If that is the state of things, how can it be said that it is on the basis



of the agreement of 10th September 1958 that we are dealing with this Bill, or going to deal with this Bill, for the cession of territory by the Government of India to Pakistan, when it was not anticipated by the Prime Minister of India when this was talked about between these two Prime Ministers. It was never anticipated then. Therefore, new circumstances cropped up and we can very well now say, as our Supreme Court says, that this is not due to any confusion regarding Radcliffe's Award, it is something new, a cession of territory which we never intended. Hence, this matter should be reviewed in the context of the judgment delivered by the Supreme Court. Here I will read some portions of the judgment of the Supreme Court. On page 6 it says:

"There is no dispute that since the date of the Award Berubari Union No. 12 has in fact formed part of the State of West Bengal and has been governed as such."

Therefore the claim of Pakistan regarding Berubari is illusory. Thereafter on page 15 the Supreme Court said:

"We have carefully considered all the clauses in the Agreement and we are satisfied that it does not purport to be, and has not been, reached as a result of any interpretation of the award...":

Then on page 16 they say:

"...this Agreement must, therefore, be considered on the basis that it involves cession or alienation of a part of India's territory."

Therefore if we take the legal aspect, we find that we entered into an agreement on the basis of mistaken facts. But when it transpires that the basis is baseless, when there is no basis and something new crops up, is it too late in the day that we cannot review the matter in the context of the judgment?

In an agreement there are two parties required. In view of the judgment of the Supreme Court, we are ceding a territory, or, to put it clearly, we are donating or making a gift of this territory to Pakistan.

**Shri Vajpayee:** Bhoodan.

**Shri Subiman Ghose:** Have we asked Pakistan whether they accept this position? Have we told Pakistan, "You do not have a semblance of a right over Berubari, but it is a cession of territory"? Have we told them that? What is the position that has been accepted by Pakistan if at all we have referred that matter to them? If Pakistan says, "We are not going to take a gift from you; we claim it as a matter of right", there is no agreement. There are no two parties. We are making a gift of territory which is absolutely a one-way traffic, if Pakistan does not accept that position.

My second contention is this. Today in his opening remarks the hon. Prime Minister very kindly said that we are ready to welcome the refugees. Naturally, when we met with such a situation when there was the division of India and Pakistan was born, we also assured the refugees like this. But ultimately we thought that they are our burden and they had to be sent to Dandakaranya. We are giving expression to a pious wish. I read the joint communique of the Prime Ministers dated the 12th September, 1958 wherein not a word has been said that if the people there become refugees we are quite ready to welcome them; rather, we have given them homilies that we are giving you to Pakistan, you become Pakistan nationals. We are practically dealing with human beings as if they are chattels.

I think history repeats and repeats perhaps with a vengeance. Here in Delhi we have seen that in the old days one Tughlak king in his wisdom thought that the capital should be transferred from Delhi to Deogiri and retransferred from Deogiri to Delhi. We have seen that occurred in history.

[Shri Subiman Ghose]

Perhaps that is being repeated after so many decades. We have once made these people refugees. Those refugees have come there and have settled there. I have personally gone there and seen their condition. They are living there very happily. The lands are very fertile. But again we have done something in indecent haste without calculation. We have done something because of which again the refugees are becoming refugees. They are bound to leave their hearth and home and come into West Bengal which has reached the saturation point. We have practically kept the Sealdah station open for them. I do not know what *modus operandi* will be adopted by the Government. It is absolutely certain that these people will be refugees. They will come here. If this Bill is passed, regarding which I have absolutely no doubt, we should say in which way and in which manner we want to rehabilitate them.

I want to press another point. We are creating a very dangerous precedent. We are now giving a territory. We are opening the floodgates. We are not perhaps writing the last chapter of history. India will go on, and Prime Ministers will come. If some Prime Minister comes and in his wisdom thinks that the whole of Bengal should be donated to Nepal to create a buffer state between Pakistan and India, . . . .

**Shri Jaipal Singh:** A good idea.

**Shri Subiman Ghose:** . . . . where is the bar? If we pass this Bill, we are creating a bad precedent. If we cede territory, we are opening the floodgate. Whenever it will be necessary, we shall give some territory to our neighbours and we shall purchase peace. Perhaps this is a forerunner of giving some territory to our good neighbour China. Already they have come to Kurseong in Darjeeling and neighbouring area. Kalimpong is infested with Chinese. We have to keep a close watch over them. Bengal

is a very suitable place for donation. On the basis of this, there is no bar to donate that portion of Bengal to China for purchasing peace.

**Shri Tyagi:** Why do you think of Bengal alone?

**Shri Subiman Ghose:** It is because it is the neighbouring State; it has a neighbour China; it has a neighbour Pakistan.

**An Hon. Member:** U.P. is there.

**Shri Subiman Ghose:** I submit, in this way we are opening the floodgates and we are creating a very bad precedent.

Another point is, this Bill, to my mind, is also *ultra vires* of the Constitution. The President referred the Bill to the Supreme Court as to how to implement the Agreement. The Supreme Court, instead of giving that advice, assumed something that it is cession of territory and the Supreme Court gave advice how to cede territory regarding which nobody was prepared. That point was not placed before the Supreme Court. Nobody was prepared for that argument. Because, in the Constitution, Directive Principles, article 51 says that we shall encourage settlement of international disputes by arbitration. Nowhere does the Constitution say that by negotiation we shall settle disputes. If we think that that is inherent in the Government, then we are going too far by saying that by ceding territory we shall settle international disputes. That is not the intention of the Constitution. The Constitution is meant for the whole of India. The Constitution is not meant for a part of India, and some of the citizens have to be excluded. The Constitution is not meant for that. The Preamble of the Constitution begins with these words: "We, the people of India, having solemnly resolved . . ." I think in that way also, it militates against the Constitution, and it would be better if

we take the Bill out of the House and after mature deliberation bring a fresh Bill.

**Shri Jaipal Singh:** I have no desire whatever to quibble over all the juristic arguments that have been fully searchlighted on all sides. I have only two points of view. One is whether we are men of honour, whether, if we give our word, we keep it, regardless of who does it. Whoever does it in the name of the country, once he has committed us in the name of the country, even if he is wrong—I am perfectly certain in my mind he has been very wrong not only this time, but several times before, and I shall list them—we have to honour it. He is entitled to commit us in the name of the country. He is not only the Leader of this House, he is the Prime Minister of this country, he commands a very clear majority. I feel I would be wrong not to endorse what he has wrongly done. I would like to oppose him, I would like to convert him to another point of view, but that is just not possible. He has committed himself and the ruling party is making it a matter of prestige, party prestige, whereas he has made it a question of individual prestige. He says: I have done this, stand by me, or do not have me.

I do not belong to Treasury Benches. I certainly do not want to lose the hon. Member from Phulpur. This country must not lose him for many years to come. He may make many mistakes, he has made stupid mistakes in the past and I shall list them in a few minutes.

When the Radcliffe and Bagge awards and various other things were being discussed, I requested him on the floor of the House, and he assured me in writing that he would take up by negotiation the restoration of the Chittagong hill tracts, where you have, you still have, 99 per cent non-Muslims, mostly Buddhists. Has he done anything? No.

What about the States Reorganisation Commission? He commits himself. My hon. friends like Shrimati Renuka Ray can come here all the time telling us of Bengal making sacrifices. Bengal, Bengal—nobody else is making sacrifice, only Bengalees are making sacrifices for the freedom of the country. I want to ask them: have they not made the sacrifices at the expenses of the Adivasis? Did they not think that by giving away a chunk of the Chittagong hill tract, they might get a little more on the Moorshidabad side?

What about Purulia? In the States Reorganisation, did not the Prime Minister commit himself to Dr. Roy? Did not Dr. Roy demand: unless you give a little bit of Purulia, everything will go red, and I will have to hand the whole of West Bengal on a platter to my worthy friend, very worthy friend, Prof. Mukerjee? Is that not the position? When you come to a situation . . .

**Mr. Deputy-Speaker:** There is one thing that I might just bring to the notice of the hon. Member. There is greater freedom in the American Congress to move about for the Member who speaks. (*Laughter*). I am not joking. We have established these traditions that the Member sticks to his seat, remains just near about, and I would like, because the hon. Member has been a member of the Panel of Chairmen as well, to tell him that perhaps the practice is very wholesome and very good for our country and we should stick to it.

**Shri Jaipal Singh:** I hope my time will not be taken away.

**Mr. Deputy-Speaker:** The passage at least should be kept clear.

**Shri Jaipal Singh:** If you will forgive me, may I remind you that we are following the practice of the House of the Commons, and there I can go to that table and address you? However, I am in India, and I abide, by your ruling and stay here, but surely

[Shri Jaipal Singh]

you want to hear whatever I can present more comfortably. If I move half an inch this way, I do hope you have no objection. The point is this. I am not worried whether we are giving away so many square miles of territory. My friends talk of it as a human problem. To me, it is not a question of a human problem as such. The biggest blunder has already been made, and it was not over a human problem. What was the basis of Partition? It was a national principle. Have we, or for the matter of that, have Pakistan honoured it? Where is the national principle in this? If it is a notional principle, Berubari must not be ceded. For, is it by any stretch of imagination, Muslim? On what basis have we partitioned the country? Take, for instance, the Chittagong Hill Tracts; then, there are the Garo Hills, then there is the Mymensingh district and so on; I can go on multiplying them.

**An Hon. Member:** Bengal also.

**Shri Jaipal Singh:** Yes, Bengal also. The whole question is made easy. But we have got to be very clear in our mind, because today we have a leader, and an undisputed leader, who definitely and genuinely, much more than most of us, desires peace. We talk of peace, but we do not mean it in our heart of hearts. Therefore, he genuinely wants even to do, shall we say, wrong things in the hope that there will be peace. There was the question of Tibet. The *Panchsheel* was born of Tibet. What happened to him?

The question is this. To me, it is a much bigger issue, not merely of Berubari or anything else; to me, the whole question is this. Hereafter, when similar situations arise, has the Prime Minister of this country any right, and should he be given any right, to concede or to give away territory or human things or anything like that, or even to get some territory from the other side, without

some limitation? That is, to me, the bigger issue. Supposing today, for example, the hon. Member from Phuipur, who happens to be the Prime Minister, were to say, all right, let the whole of East Punjab go to West Pakistan, because it will be in the interest of peace, has he any right whatever, because he has a majority on that side? To me, it is a matter of the technique, of the *modus operandi* of parliamentary democracy? That is really what is worrying me, because when he comes round here and says, I have committed my country, then all of us, it does not matter whether we belong to the ruling party or to the Opposition, have to honour our pledges. On that, I have no doubt whatever. Once he had committed himself, there is no redress in Parliament. Unfortunately, the present picture is that he can bull-doze through anything, even a horse-and-four can ride through the Lok Sabha. To me, that is the issue, whether hereafter, such a thing is going to be allowed. We know what is going to happen. The biggest victims of Berubari are going to be the Adibasis of the Dandakaranya area.

My hon. friends talk of rehabilitation. Are they going to rehabilitate them in West Bengal? Make no mistake. It is the poor Adibasis, in Bastar, it is the poor Maharaja of Bastar who will be maligned and vilified and kicked about all over the place. Where are they going to be rehabilitated? Shrimati Renuka Ray is not going to rehabilitate them; she is not going to give half an inch in West Bengal.

**Shri Tridib Kumar Chaudhuri:** Does my hon. friend know that among the inhabitants of Berubari, there are also poor Adibasis numbering about six thousand?

**Shri Jaipal Singh:** I am glad to find that one Bengali, at least for a change, is shedding tears for Adibasis. This is the first time it has happened.

**Shri C. K. Bhattacharya:** We do not shed crocodile tears.

**Shri Jaipal Singh:** I have tried to protect the Bengalis. They know how much I have protected them against Biharis. The Biharis are here. And yet these Bengalis talk light-heartedly as to what I have done to protect the Bengalis. It is very easy for them, for some ex-Minister and somebody like that to talk lightheartedly. I am not making an issue of this. I welcome this term 'hapless human beings' or 'Helpless human beings' as they call them, but they forget that there are other human beings also. The ruling party have been making a mockery of the Maharaja of Bastar. Why? Have they ever thought of it? It is because he will not have any truck with the ruling party. Believe me, I was in Bhopal only recently; the only grievance that they have, unless they mean something other than what they say is that he is a mad man. Why? It is because he does not support the Congress.

Sir, I am sorry; but that is the only thing I have to make.

**Mr. Deputy-Speaker:** I thought he was supporting the Congress just at this moment. (*Interruptions*).

**Shri Jaipal Singh:** The Congress is bound to be kicked out at one or two places. Let them not dispute that fact. And 1962 is coming. I am a great friend of theirs. But I am not a hypocrite like some of my friends who may....

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

**Shri Jaipal Singh:** I will support anybody I like to support. It is not any....

**Mr. Deputy-Speaker:** It is not fair to say that there are some hon. friends who are hypocrites or something like that.

**Shri Jaipal Singh:** I am only stating a fact.

**Mr. Deputy-Speaker:** Then I can only say he is mistaken.

**Shri Jaipal Singh:** Sir, I accept my mistake. I have made many mistakes in my life; as I grow I become wiser. I seem to have made people laugh. I did not mean to do it. It is a very serious problem.

From the parliamentary point of view the only thing which concerns me is the point whether hereafter any Government ought to have the right to commit the country to the fact of cession of territory or for the matter of the acquisition of territory. I put it both ways. Because if we accept that it is a *fait accompli* and it is only a matter of *dasturi* just to bring it before the House and let all of us say, 'Yes or No', then, I say that is a travesty of the parliamentary form of democracy. That is my real problem.

Unfortunately, I shall not be here tomorrow. This House would have seen how I would have expressed my point of view when it came to the vote I cannot afford to be in Delhi tomorrow. I have got to be elsewhere.

Then, I know Shrimati Renuka Ray knows what is going to happen in Calcutta (*Interruption*). It is very easy to talk of democracy. Many speeches have been made here because they know what is going to happen tomorrow in Calcutta, and the rest of West Bengal. (*Interruptions*). Should we call it just a party issue or an issue of loyalty to the party? Is not loyalty to the country much more important than loyalty to the party? That is the point that really confronts me.

So, all that I would like to say to my friends over there—all of them are my friends—I somehow see a picture where they are deaf and not dumb. They do not want to hear what everybody else is saying. They do not want to hear what the people of West Bengal are saying. But they are not dumb. They tell, your country first. I do not know what democracy stands

[Shri Jaipal Singh]

for. I can understand if they are deaf and dumb. That I can understand. But when they are deaf but not dumb, that is the position I do not understand. I again repeat I stand by the Prime Minister... (Interruptions).

**Shri Tyagi:** Sir, we are glad that it is so.

**Shri Jaipal Singh:** ...because he has the courage to tell this House that he has committed this country to a certain thing and we must be men of honour and men of our word.

**Shri N. R. Ghosh (Cooch-Bihar):** Mr. Deputy-Speaker, Sir, I come from a constituency within which this Berubari is situated and I owe it to my constituency to speak a few words on their behalf. On the 9th September, 1958 at night I got a telegram that a certain portion of Berubari might go to Pakistan. I tried to contact the Prime Minister but I could not. Next day in connection with a debate on rehabilitation I spoke in this House about this and I told the House that there were about ten thousands refugees living there and it would be a very great tragedy to them because they had come to Berubari as refugees from Pakistan. That as refugees from Pakistan, they rehabilitated themselves and they are again going to be uprooted. That would be an unparalleled tragedy. I join issue with some of the speakers who say that Berubari was a doubtful case for us. I was associated with the Supreme Court case and I attended that case every day. The Attorney General tried to show that Berubari according to the Award might go to Pakistan and he said all that could be said on behalf of Pakistan but he could not commit the Judges. It was mathematically demonstrated that before a court of law Pakistan had not got any case and that it would be cession of territory pure and simple. Shri Barman is wrong because the description which prevails definitely

indicates that the territory is part of India. There are a few fixed points which are mentioned in that description, then there is a gap. Shri Barman is right in saying that there is a gap. But that gap is to be filled either by drawing a straight line or by drawing the thana line to the other fixed point mentioned. The thana line was all along accepted by Radcliffe in his award. Even if you draw a straight line, even then only one-fifth of Berubari goes. But the map was drawn wrongly and according to that only a portion of Berubari comes to India. But the description prevails over the map. That was the position and in a court of justice it could be clearly proved that Pakistan had absolutely no tenable claim to Berubari. Unfortunately now there are bigger questions and other complications involved. I know these places. If you give half of Berubari to Pakistan, then two big chunks, two big tracts of Indian territory become enclaves and these two tracts of land also automatically go to Pakistan, if Berubari is divided. Therefore, you are not only giving half of Berubari; you are also giving these two big tracts of land. Over and above this is the Lion's share in the "Enclaves". It is a tragedy and there is no doubt about it in the least. The pill need not be sugar coated.

I always feel, even now I feel that our Prime Minister was not properly posted with the facts. If he knew that this was affecting a large number of people and it was creating a great human question and that about 10,000 people were going to lose their nationality or would become refugees again, I believe he would have adopted a different course of action. Certainly he would have put forward these points and he would have said: we do not mind giving you about 10 or 12 square miles more in the enclaves but do give up your claim to Berubari. That would have been done or some other alternative could be found. So, the people who are responsible for brief-

ing the Prime Minister were wrong. I contracted two of them the next day or the day after. They tried to convince me that this half and half division was a good bargain. I do not say that they were not sincere in their belief but there was want of study in their discharge of the duties. You will be astonished to hear that even the Deputy Commissioner of Jalpaiguri in whose territory Berubari is situated, did not know about it. If they had been consulted, then the Prime Minister would have known that these questions involve the fate of about 12,000 refugees. It might have changed the whole shape of the thing.

I had occasion to study all these things and I had to scrutinise the documents from the lawyer's point of view and I have not the least doubt in my mind that in a court of justice Pakistan would have no claim. That is of no avail now. But what I feel is I have repeated it in this House again and again—that our approach to Pakistan is wrong.

Well, I mentioned on other occasions there was a tract of land in Tripura, that was ours. The Pakistan railway line goes through this tract through our territory. I can fully understand that our Prime Minister would give it up at the request of Pakistan. That would be perfectly fair. But, then we had a similar problem so far as Bharunga Mari is concerned. I was one of those who placed the case before the Commission. We said that if Bharunga Mari in Rungpur is not given to us our railway line would be cut off. In the Radcliffe Award it is mentioned that these difficulties may be solved by negotiations. Have we ever negotiated on these points? When they wanted that strip of land in Tripura for their railway line, did we make any counter claim? Losing Bharunga Mari we are actually going to Assam in a round about way which increases the distance by nearly 150 miles. Why did we not, why do we not ask for that

strip of land so that we can go to Assam through a straight route?

The ex-Advocate General of Assam, he is a friend of mine, showed me the papers and maps in connection with partition of Sylhet. According to him and according to my humble opinion they have a very good case, a very strong case with regard to twelve thanas of Sylhet now wrongful possession of Pakistan. Why do we not make any claim in regard to that. We are simply holding the shield in our hand we are always in the defence. We never press our claims. We are fighting shy of something. Of what? I think that is wrong.

If you correctly interpret the Radcliffe Award we have not a very good case in respect of certain territories now in possession of East Pakistan. But we are not pressing our claims. We are always entertaining the claims of Pakistan even belatedly made and even fantastic. I submit that is not honourable on our part and that is not fair. It never pays.

Having said all this, I would submit that this belated claim of Berubari might have been rejected, this belated claim could not have been agreed to by our Prime Minister if he only knew that it was not just or that, so much of human misery was involved in it. But there are other bigger questions which have now cropped up. Our Prime Minister has given his words. There are other issues connected with it. It is a political issue. We shall have to stand by him. There is not the least doubt about it. But, at the same time, let this House feel, let our Prime Minister know that it has been a great tragedy to the people of Berubari, it has been a great injury to West Bengal. I am not concerned with what the West Bengal Government or its officers have done. It is a controversial matter because that is not relevant or useful. But I think, Sir, in these days people cannot be simply made over to another country like chattel. I believe, civilization has progressed too far to accept this approach.

[Shri N. R. Ghosh]

But whatever has been done has been done. Now it has become a political issue, and perhaps there is no way out of it. But in our future dealings with Pakistan I would pray to our Prime Minister to press our legitimate claims in respect of the hill tracts of Chittagong. When I pressed this claim before the Commission, I was stopped from doing that as being outside the Reference to Radcliffe. As a matter of fact, because the Cooch Behar enclaves do not come within the jurisdiction of the Radcliffe Award there is a fair case for us to say that so far as the Chittagong hill tracts are concerned they are also not within the jurisdiction of the Radcliffe Award. Why should we not press our claim?

Shri A. C. Guha: Or send it to arbitration.

Shri N. R. Ghosh: If we place our claim, then there is a way of doing things. I do not agree that negotiation is not a good thing. I say negotiation if unsuccessful is a step towards either going to court or to arbitration. We can press our just claims but we never mention anything as if we are afraid of something. I think that mentality which prompts us to fight shy of asserting our just rights and our too easy capitulation is not dignified on our part. We are afraid; we always try to appease. Such appeasement, such capitulation in the name of purchasing peace is something which is bad and immoral. It never does good, either to us who seem to love to appease or to Pakistan who are sought to be appeased. I would submit that all these aspects should be seriously taken into consideration.

It is clear that we shall have to make a sacrifice in our giving away half of Berubari. The partition itself will cause great difficulties. I know personally the Berubari area. It is only a few miles from my house and it is within my constituency. I have seen it and I have travelled in those parts. If you try to divide it horizon-

tally, I feel it is almost impossible. But, if there be good sense and reasonableness on the part of Pakistan officials, we may try to find out a way. You may divide it not exactly but irregularly or something like that. There may be a way for doing it. But I submit that the people in any case will face great hardship and will be rendered miserable, and the Centre must take the entire responsibility for their relief and rehabilitation. It is not in any case the fault of the people there.

For over 12 years, they have been Indian nationals. They have voted thrice, and by their votes people have been elected to Legislative Assembly and to this Parliament. Two Members are here because of their votes. They have also contributed to it. They have sent Members here on two occasions. I think that the Centre must make special arrangements for the rehabilitation of these people and, if necessary for paying them compensation. It is not possible that all of them could be rehabilitated in the portion which will be retained by us, because, it is not the people of Berubari alone but the people who are residents in the new enclaves who have also to be rehabilitated as they are also going to be made refugees. If anybody thinks that there is any possibility of a single Hindu living there, which will go to Pakistan he is then living in his own paradise, and I believe there is no sense in such pious wish. All of them shall have to go away, and already fear and sense of insecurity have started there.

One hon. Member said that the agreement has got one good feature, namely, we have got Hilli which was disputed. I do not know whether Pakistan had any sort of real claim to Hilli. I have studied this question, and I take the responsibility for saying that they have no real claim. I have studied the award, the maps and all the relevant documents. Maybe that they had put forward a claim to



Hilli area, but that claim was absolutely bogus. The award definitely rules out such a claim. Therefore, by the agreement we have not been gainers in any sense. If some country makes fantastic claims and then give them up, that is not really giving up anything. I would submit that by these agreements Pakistan has been unduly benefited. There is not the least doubt about it, and the people of Berubari are the worst sufferers on account of this. They are all poor people and we should have some commissioner for them.

In spite of all this, this Bill is to be supported because of the plighted word of the country, because of the much bigger issues. As a political issue, we shall have to stand by the Prime Minister in this matter.

**श्री बाजपेयी :** उपाध्यक्ष महोदय, नेहरू नून समझौते को वैधानिकता का जामा पहनाने के लिए यह विधेयक हमारे सामने प्रस्तुत किए गए हैं। प्रधानमंत्री जी ने अपने प्रस्ताविक भाषण में नेहरू नून समझौते की जिस पृष्ठभूमि पर प्रकाश डाला है उससे एक ही निष्कर्ष निकलता है कि पाकिस्तान के साथ सीमा पर जो हमारे संघर्ष होते थे उनको टालने के लिए यह समझौता किया गया। दूसरे शब्दों में हम सीमा पर शान्ति चाहते थे क्योंकि पाकिस्तान गोली वर्षा करता था, भारत की सीमा का अतिक्रमण करता था और वहां गोली वर्षा होती थी तो यहां स्थगन प्रस्ताव रखे जाते थे जो प्रधानमंत्री जी के लिए सिर दर्द बनता था और शायद उन से बचने के लिए पाकिस्तान से एक समझौता कर लिया गया। उस समझौते में इस बात का भी ध्यान नहीं रखा गया कि प्रधानमंत्री के नाने उन्हें भारत की भूमि को किसी दूसरे देश को सौंपने का अधिकार है भी या नहीं। सर्वोच्च न्यायालय के निर्णय से यह स्पष्ट

हो गया है कि प्रधानमंत्री जो ने बेरुवाडी को पाकिस्तान को सौंपने का निर्णय कर अपने अधिकारों का अतिक्रमण किया। उन्होंने संविधान की अवहेलना की।

संविधान में आज जैसा रूप है वह कल तो कुछ बदलने वाला है। आज की स्थिति में हम भारत की भूमि का कोई हिस्सा किसी को दे नहीं सकते। उस में दूसरे देश के किसी भाग को मिलाने की व्यवस्था की गई है, देने की व्यवस्था नहीं की गई है। हमारे प्रधानमंत्री जी कहते हैं कि यह संसद सर्वोच्च है। इस के हाथ में प्रभुसत्ता है। हम अगर चाहें तो दे सकते हैं। मेरा निवेदन है कि लोकतंत्र में प्रभुसत्ता का निवास जनता में रहता है और जो बात मैंने प्रातःकाल कही थी उस को फिर दुहराना चाहता हूँ कि यह संसद और इस के सदस्य जिस संविधान के अन्तर्गत चुन कर आये थे उस में वे अपनी भूमि के किसी भी क्षेत्र को किसी को देने का अधिकार नहीं रखते। प्रधानमंत्री जी भी यह अधिकार नहीं रखते। अगर आप समझते हैं कि भूमि का दान देना चाहिए तो फिर इस के लिए आप को फिर से जनता के पाम जाने की आवश्यकता है। इस प्रश्न के ऊपर आप सारे देश की जनता का विश्वास प्राप्त कर के दिखाइये क्योंकि यह प्रश्न केवल साढ़े ४ मील का नहीं है, १२००० व्यक्तियों के फिर से बेघरबार हो जाने का नहीं है, यह प्रश्न एक बड़े सिद्धान्त का है। क्या भारत के प्रधानमंत्री अपने अधिकारों का अतिक्रमण करके भारत की भूमि किसी दूसरे देश को देने का अधिकार रखते हैं? अब संविधान में कहा गया है कि सरकार संधियां कर सकती है। अगर संविधान की भाषा का सम्बन्ध है तो सरकार को यह अधिकार है लेकिन क्या हमें नये लोकतंत्र की दृष्टि में नई परम्पराएं नहीं डालनी चाहिए? क्या संसद को इस सम्बन्ध में विश्वास में नहीं लिया जा सकता? प्रधानमंत्री जी ने कहा कि

[श्री वाजपेयी]

हम ने पाकिस्तान से जो भी समझौता किया है वह हम ने आकर संसद् को बताया कि क्या हमने समझौता किया लेकिन क्यों पहले समझौता कर लिया गया और संसद् को विश्वास में नहीं लिया गया और बाद में संसद् के सामने पेश कर दिया गया कि इसे आप स्वीकार कर लीजिये या ठुकरा दीजिये और ठुकरा आप सकते नहीं क्योंकि प्रधान मंत्री जी की प्रतिष्ठा दांव पर लगी हुई है। कभी यह प्रतिष्ठा बेरूवाड़ी को पाकिस्तान को देने के काम में लाई जाती है तो कभी प्रधान मंत्री जी की प्रतिष्ठा उत्तरप्रदेश में दो बड़े चुनावों में हारे हुए व्यक्ति को उत्तर प्रदेश का मुख्य मंत्री बनाने के काम में लाई जाती है। प्रधान मंत्री जी ने प्रेस सम्मेलन में ठीक कहा था कि मेरी प्रतिष्ठा जरा ठोस तत्वों की बनी हुई है। मेरा निवेदन है कि यह किसी प्रतिष्ठा का सवाल नहीं है। जब सर्वोच्च न्यायालय ने फैसला दिया कि बेरूवाड़ी का देना यह सीमा का विवाद नहीं है। बेरूवाड़ी कोई इनक्लेव नहीं है। यह तो भूमि को देना है भारत की भूमि को देना है। प्रधान मंत्री जी कह सकते थे पाकिस्तान से कि मैंने आप से एक समझौता किया था सीमा पर शान्ति स्थापित करने के लिए मगर सर्वोच्च न्यायालय का फैसला हुआ है कि मैं यह समझौता संविधान को बिना बदले नहीं कर सकता और संविधान को मैं बदलूंगा नहीं। मेरे हाथ संविधान से बंध हुए हैं। भारत में लोकतंत्र है, संसद् है, संविधान है। यह पाकिस्तान नहीं है जहां कि १३ साल में चुनाव नहीं हुए जहां कोई संविधान नहीं है जहां के कि तानाशाह कलम की एक नोक से अपने देश की तकदीर का फैसला कर सकते हैं। प्रधान मंत्री जी कह सकते थे कि मैं वैधानिक लोकतंत्र का प्रधान मंत्री हूँ और इसलिए जिस रूप में मैंने समझौता किया था सर्वोच्च न्यायालय के निर्णय के बाद उस की पृष्ठ भूमि बदल गई है और यह मेरे हाथ में नहीं कि मैं बेरूवाड़ी उठा कर आप को दे दूँ। प्रधान मंत्री

जी यह कह सकते थे। इस से प्रधान मंत्री जी की प्रतिष्ठा कुछ बढ़ जाती, भारतीय बौकल तंत्र का मुख उज्ज्वल हो जाता और आज बेरूवाड़ी को देने का सवाल पर जो संकट पैदा हो रहा है उससे भी हमारी रक्षा हो जाती। मगर प्रधान मंत्री जी ने कहा कि अगर मुझे अधिकार नहीं है तो मैं संविधान बदल दूंगा। संविधान क्या है? यह एक खिलवाड़ हो गया है। यह संविधान में नवां संशोधन किया जा रहा है और संशोधन किया जा रहा है भूमि को देने के लिए और ऐसी भूमि जिस पर पाकिस्तान ने १९४७ के बाद कभी दावा नहीं किया। जैसा अभी अन्य सदस्यों ने कहा कि रैंडक्लिफ एवार्ड में बेरूवाड़ी हमारे हिस्से में आता है क्योंकि वह एवार्ड थाने के हिसाब से चलता है। एवार्ड में यह भी लिखा है कि अगर नक्शों में और एवार्ड में जो व्याख्या दी गई है उस में कोई मतभेद तो व्याख्या को माना जायेगा नक्शों को नहीं माना जायेगा।

बागें ट्रिब्यूनल के सामने भी बेरूवाड़ी का सवाल पाकिस्तान ने खड़ा नहीं किया। कानून की दृष्टि से भी हमारा पक्ष प्रबल है। मगर प्रधान मंत्री जी समझौता चाहते थे इसलिए बेरूवाड़ी दे दिया। उन्होंने पश्चिमी बंगाल की भी उधेक्षा की। यह ठीक है कि हमारे संविधान में प्रांतीय विधान मण्डल से पूछना जरूरी है, उसकी राय के अनुसार चलना जरूरी नहीं है मगर मैं निवेदन करना चाहता हूँ कि समय आ गया है जब यह संसद् इस बात की परम्परा डाले कि केवल राज्यों के विधान मण्डल से पूछना जाय बल्कि उनकी अनुमति से फैसला किया जाय। आज तो केन्द्र में जिस पार्टी का बहुमत है पश्चिमी बंगाल में भी उसी पार्टी का बहुमत है मगर एक दिन ऐसा भी आ सकता है कि केन्द्र में किसी पार्टी का बहुमत हो और किसी राज्य में किसी दूसरी पार्टी का बहुमत हो। अगर उस स्थिति में आप संविधान की इसी धारा को लागू करें कि हम केवल

विधान मण्डल की राय लेंगे उसके अनुसार चलेंगे नहीं तो संवैधानिक संकट पैदा हो जायेगा। केन्द्र में और राज्य में संघर्ष होगा। देश की एकता की रक्षा नहीं होगी। संविधान की भावना के अनुसार हमें चलना चाहिये। अगर हमारा देश एक संघात्मक शासन के अन्तर्गत है, फेडरल कांस्टिट्यूशन है, राज्यों के अपने अधिकार हैं और उन अधिकारों का विभाजन किया गया है वैसे मैं स्वयं फेडरल स्ट्रक्चर के पक्ष में नहीं हूँ लेकिन जब तक हम इस संविधान को बदलते नहीं तब तक हमें राज्यों के विधान मण्डल की राय की कीमत करनी चाहिये। आज तो पश्चिमी बंगाल में कांग्रेस का मन्त्रिमण्डल है। वह मान लेते हैं। उनका बहुमत है, उन्हें स्वीकार करना पड़ता है मगर कल्पना कीजिये किसी दूसरी पार्टी की सरकार होती तो क्या नतीजा होता? फिर सारे देश की प्रतिष्ठा का और प्रधान मन्त्री के सम्मान का क्या बनता? आवश्यकता इस बात की है कि सरकार बेरूवाड़ी के प्रश्न पर देश में जो संकट उत्पन्न हो गया है उससे शिक्षा ग्रहण करे। कांग्रेस दल का बहुमत है, बेरूवाड़ी तो जायगा, यद्यपि मैं आशा करता हूँ कि संविधान में संशोधन करने के बाद भी और बेरूवाड़ी को पाकिस्तान को देने का अधिकार प्राप्त कर लेने के बाद भी इस बात का प्रयत्न किया जायगा कि पाकिस्तान को समझाया जाय कि भारत और पाकिस्तान की मित्रता के हित में यह नहीं है कि बेरूवाड़ी पाकिस्तान को दे दिया जाय। क्या मित्रता का तरीका पाकिस्तान के सामने झुकना है? क्या दोनों देशों की सद्भावना का आधार ६००० लोगों को घरबार से उजाड़ना हो सकता है? हम पाकिस्तान को इस तरह से खुश करके क्या शान्ति स्थापित कर सकते हैं? १३ साल के देश के विभाजन के बाद का इतिहास साक्षी है कि पाकिस्तान को दी गई हर एक अनुचित सुविधा पाकिस्तान की भूख को बढ़ाने का कारण होती है। हमने देश का विभाजन माना। जिन परि-

स्थितियों में किया वह आज परिस्थितियाँ नहीं हैं। हमने पाकिस्तान फले फूले इसके लिये क्या नहीं किया? मगर इसका प्रयत्न हमें पाकिस्तान की ओर से क्या मिला? पाकिस्तान से हमारे सम्बन्धों में सुधार होना चाहिये मगर सुधार के लिये भारतीय हितों का बलिदान किया जाय इस नीति से मैं सहमत नहीं हूँ। पाकिस्तान का अनुचित सुविधाएं देकर हम उसकी मित्रता प्राप्त कर लेंगे इस मुगालते में भी हम को नहीं रहना चाहिए। नहरी पानी समझौता किया। पाकिस्तान उसके लिये हमें धन्यवाद नहीं देता। वह काश्मीर पर अपने दावे को पुष्ट कर रहा है।

नही पानी समझौते के सम्बन्ध में भी संसद् को विश्वास में नहीं लिया गया। अभी सीधी रेल चलाने की बात हो रही है उसके सम्बन्ध में भी संसद् को विश्वास में नहीं लिया गया। सरकार संघियाँ करने का अधिकार रखती है लेकिन अगर सरकार चाहे तो ऐसी परम्परा डाल सकती है कि सारी संसद् अगर नहीं तो संसद् में विभिन्न दलों के जो नेता हैं उनकी एक समिति का निर्माण करके उनको इस सम्बन्ध में विश्वास में लिया जा सकता है। हम हर एक बात में ब्रिटिश हाउस आफ कामन्स को नकल करें, संविधान की भाषा के अक्षर के अनुसार जायें, यह हमारे देश के लिये ठीक नहीं होगा। हम लोकतन्त्र का आरम्भ कर रहे हैं। हमें नई परम्परायें डालनी चाहियें।

17 hrs.

मुझे यह देख कर निराशा हुई कि प्रधान मन्त्री जी ने अपने भाषण में एक शब्द भी नहीं कहा कि बेरूवाड़ी को देते समय सारे तथ्य मेरे सामने नहीं थे, मुझे पूरी बात नहीं बताई गई थी, मैं समझता था कि यह सीमा का विवाद है, मैंने अनुभव नहीं किया यह भूमि का देना है—सेशन आफ टेरीटरी है और इसलिये मैंने दे दिया, मेरी गलती हो गई। प्रधान मन्त्री जी ऐसा कह सकते हैं।

[श्री वाजपेयी]

इससे उनकी प्रतिष्ठा और बढ़ेगी। एक गलती हुई है। अब उस गलती के अनुसार अगर बेरू-वाड़ी जाता है, तो हमें यह अनुभूति होनी चाहिये कि भविष्य में हम इस प्रकार की और गलती नहीं होने देंगे।

कभी कभी मुझे लगता है कि विदेश मन्त्रालय शायद हमारे प्रधान मन्त्री को छोटी छोटी बातों के बारे में ठीक और समय पर परामर्श नहीं देता। पथरिया जंगल का सवाल खड़ा हुआ था। प्रधान मन्त्री जी से पूछा गया कि पथरिया जंगल का एक हिस्सा पाकिस्तान को दिया जा रहा है, वहां कितने लोग रहते हैं, तो उन्होंने कहा कि वहां कोई रहना नहीं है। जब उनसे कहा गया कि वहां कुछ लोग रहते हैं, तो उन्होंने कहा कि रहते तो हैं, लेकिन मुसलमान हैं। मैं यह प्रधान मन्त्री के उत्तर में से बता रहा हूं। जब उनको कहा गया कि मुसलमान नहीं, वहां हिन्दू भी रहते हैं, तो उन्होंने कहा कि रहते होंगे, मैं पता लगाऊंगा। मैं समझता हूं कि छोटी छोटी बातों तक जाने के लिये शायद उन को समय नहीं होगा, लेकिन उनके जो सलाहकार हैं, जो विदेश मन्त्रालय है, उन्हें छोटी छोटी बातों के सम्बन्ध में भी उन्हें पूरी जानकारी देनी चाहिये, क्योंकि कभी कभी छोटी छोटी बातें दृष्टि से ओझल हो जाती हैं। इसलिये बड़े और गलत फंसले हो जाते हैं।

**उपा.स. महोदय :** क्या माननीय सदस्य और समय लेना चाहेंगे ?

**श्री वाजपेयी :** जी हां, मैं कुछ तो और कहना चाहूंगा।

**उपा.स. महोदय :** तो फिर वह कल अपना भाषण जारी रख सकते हैं।

17.03 hrs.

#### ASSISTANT SUPERINTENDENTS' EXAMINATIONS\*

**Shri P. K. Deo (Kalahandi):** Mr. Deputy-Speaker, Sir, in this debate I do not hold any brief of any individual, but I take this opportunity of having some ambiguity clarified. This debate relates to the Assistant Superintendents' Examination which was held in 1959 under the auspices of the Union Public Service Commission. In reply to my question No. 1275 during the last session the hon. Deputy Minister replied that all the qualified candidates of the 1955, 1957 and 1958 examinations had been absorbed as Assistant Superintendents. He further stated that a final decision had been taken in this regard so that all those who had qualified in the 1957 and 1958 examinations had been taken and no one had been left over. According to this decision all those who qualified in 1959 also should have been taken in as Assistant Superintendents, but I beg to submit that there has been a departure from the pronounced policy of the Government which they have followed since the inception of the departmental examination.

Let us see what is the character of this examination. From the various records and in view of the fact that so far, whosoever has qualified in this examination or has secured 45 per cent of the marks, has been absorbed. I find that the character of this examination is qualifying. It is not a competitive examination or a competitive test. I beg to submit that a wrong notion has been created in the mind of the Minister that the character of the examination is competitive and the list of qualified candidates which is published, lapses every year. But, that is not a fact. My contention has been further corroborated by the fact that the left-overs of 1955 have been