

Shri Tangamani (Madurai): They were there when he was arrested. He was arrested under the very nose of Shri Rajaeshwar Dayal.

Shri Jawaharlal Nehru: Yes. How can our army start petty actions of its own when things happen which they do not like? It is a disciplined army. They function as they are told to function. The whole policy of the U.N. Army in the Congo had been fixed in another way. It is a different matter, but it had to function under the orders, under the board directions of the United Nations authorities. I may make it clear previously that many things were done, specially in the early days, on behalf of the United Nations in the Congo which I think were wrong and which led to a worsening of the situation. It may even be said that that step, by step, not directly but indirectly, to this unfortunate killing of Mr. Lumumba. One may say that. But to accuse us of being inconsistent in our policy there is not correct. So long as we are there, we must function as a disciplined group under the United Nations. If we do not approve of that, we would withdraw our troops. We cannot function as an independent group there. Fortunately, after all this trouble in the Congo, there is some hope now of a measure of unity, solidarity and some kind of democratic progress there.

Shri Nath Pai said something, with which I agree, and that is our right to buy arms in any country. We pay for them and get them from wherever we can, if that suits us and if the prices are favourable. If they are suitable, we will buy there. Of course, there is no inhibition about that in our minds.

I do not wish to take any more time of the House. I am grateful to the hon. Members for their approach to this question, and I could beg of them again to look at this picture of international affairs in the broadest sense. We cannot get lost in our petty likes

and dislikes when these big things are happening which may make a vast difference to the whole world.

There are some amendments. I do not accept all the amendments. The one which I accept is by Shri Naldurgkar which, I need hardly say, is one of approval of the policy of the Government of India.

Mr. Speaker: I shall now put the substitute motion to the vote of the House.

Raja Mahendra Pratap: I object to it. I admire the hon. Prime Minister, but he has not said a word.....

Mr. Speaker: Order, order. He cannot say anything more now. The question is:

"That for the original motion, the following be substituted, namely:—

"This House, having considered the present international situation and the policy of the Government of India in relation thereto, approves of the policy of the Government of India."

The motion was adopted.

13.12 hrs.

THE DADRA AND NAGAR HAVELI BILL

Mr. Speaker: The House will now take up the consideration of the Dadra and Nagar Haveli Bill. The hon. Prime Minister.

Shri Tangamani (Madurai): On a point of order. The Constitution (Tenth Amendment) Bill has been passed by us and we were told this morning that a message has been received from Rajya Sabha that it has also passed this Bill without any amendments. We have not been able to understand whether the Bill has re-

ceived the assent of the President under article 111. It is only when the President has given his assent....

Mr. Speaker: I have got a copy of the assent of the President. I was about to read it. I will now do so. It reads:

"The undersigned is directed to forward herewith a copy of the Constitution (Tenth Amendment) Bill, 1961, which received the assent of the President on the 16th August, 1961. The Act is being published in a Gazette of India Extra-ordinary, Part II-Section 1 dated the 17th August, 1961."

So, now there is no impediment.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): I beg to move:

"That the Bill to make provision for the representation of the Union territory of Dadra and Nagar Haveli in Parliament and for the administration of that Union territory and for matters connected therewith, be taken into consideration."

This, Sir, follows from the Constitution (Tenth Amendment) Bill which we passed the other day. Until that had been done, this matter could not be taken up. Now that Constitution (Tenth Amendment) Bill has been passed by the requisite majorities in both Houses and has become the law of the land, I present this simple Bill which provides for the actual practical effect of incorporation and what should be done there.

Most of the provisions in this Bill are temporary provisions. It is perhaps not desirable at this stage to make any permanent changes. Of course, they may last till we care to make any changes. Hon. Members will notice that we have given them a seat in the Lok Sabha and, for the moment, it is by nomination. I may mention that

the Varishta Panchayat is an elected body, because there is some reference to it. I find that some of the amendments that have been given notice of relate to nomination by the President. At the present moment, we cannot go into the election part, without consulting the Election Commission carefully about the electoral rolls and all that. Of course, we want to give effect to this as soon as possible. Later this matter may be dealt with in other ways, proper electoral rolls made and action taken thereon. Then it will be easy for that change to be made without any fresh legislation. for clause 10 reads:

"The Central Government may, by notification in the Official Gazette, extend with such restrictions or modifications as it thinks fit, to Dadra and Nagar Haveli any enactment which is in force in a State at the date of the notification."

An amendment seeks to terminate the Varishta Panchayat after a period of six months and the constitution of bodies on the basis of universal adult franchise. The present Varishta Panchayat is chosen by the people of Dadra and Nagar Haveli and there is no element in it which is nominated. So, no amendment is needed on that score for the present.

Lastly, there are some amendments about the High Court. In the present Bill it is suggested that the High Court should be the High Court of Bombay. This does not in any sense decide that Nagar Haveli in future will be attached to the Bombay or Maharashtra. Bombay has been mentioned here simply because it is convenient to reach Bombay. There is no other reason. And I should like to make it clear that it in no way prejudices in future what the association of Nagar Haveli might be to either Gujerat or Maharashtra, as the case may be.

[Shri Jawaharlal Nehru].

There are some financial provisions which are necessary. Really, it is not a matter for controversy. Therefore, I submit that the House might approve of it.

Mr. Speaker: Motion moved:

"That the Bill to make provision for the representation of the Union territory of Dadra and Nagar Haveli in Parliament and for the administration of that Union territory and for matters connected therewith, be taken into consideration".

Raja Mahendra Pratap (Mathura):

Mr. Speaker, Sir, I strongly support this Bill and congratulate our Government on bringing forward this Bill. But I must also say that it has to be considered as to where we stand. We have not been able to settle the question of Indians in Ceylon and in South Africa. We are still having some kind of a quarrel with Pakistan and the question with China also has not yet been settled. Now, suppose some kind of a war between Portugal and us starts. Then, we have to consider what Pakistan is going to do, because Pakistan has entered into some kind of a treaty with Portugal. That has to be considered. I suggest that we should deal with all these questions in a way that this action of ours will have no great opposition around our country. I suggested to our hon. Prime Minister, as I have been to Formosa and have met Marshal Chiang Kai Shek, that we make a front from Rangoon to Japan along with Formosa. It is very easy. With this front we can force—of course, we are not going to make wars—but we can bring about pressure on Peking to accept our point of view as regards this border question. In this way this question may be settled for all times.

As regards Pakistan,.....

Mr. Speaker: All that is irrelevant.

Raja Mahendra Pratap: No, Sir. We want to settle all the questions so that there may be no trouble on account of the Portuguese taking some foolish action in this case. That is my point.

As regards Pakistan, I have always been saying that it is quite possible to settle the question of Pakistan for all times by having common defence. Now that Marshal Ayub Khan agrees to it, I do not see any reason why we should delay this. If we have common defence, the question of Kashmir will be settled for all times and we will have no enemy from that side.

Mr. Speaker: Order, order. I am not going to allow the hon. Member to continue.

Raja Mahendra Pratap: I say that we can settle all the questions.

Mr. Speaker: Order, Order.

Raja Mahendra Pratap: But I support this Bill and congratulate the Government.

Shri Naldurgkar (Osmanabad): Mr. Speaker, Sir, I really congratulate the Government on the introduction of this Bill. The important feature of this Bill is that the prestige and the dignity of the members of the Varishta Panchayat have been maintained and a chance has been given to them to participate in the general administration of that area. But as far as their future constitution is concerned, I am not in a position to know because some of the words have not been printed in my copy. There is no stipulation in clause 14 about filling up casual vacancies, till a firm policy is adopted by the Government, if some member resigns or a vacancy is caused.

As far as administration is concerned, rightly the Central Government has taken upon itself all the liabilities so far as the present transactions are concerned. But I have got a doubt about clause 12 as it reads. Clause 12 says:

"For the purpose of facilitating the application of any law in Dadra and Nagar Haveli, any court or other authority may construe any such law with such alterations not affecting the substance, as may be necessary or proper to adapt it to the matter before the court or other authority."

With great respect I can say that no law can be imposed upon any court exercising judicial jurisdiction anywhere else. It is left to the discretion of the court to interpret the law according to the phraseology or the words that are used in a particular enactment. Therefore, I am afraid that we cannot advise the court that they should interpret the law with some alterations or in some particular way. I request the hon. Minister to consider how far clause 12 will be valid.

Again, suppose a certain interpretation has been given to a certain law by the administrative authority or by a judicial court. Then, what is the remedy for the person aggrieved? Has he to prefer an appeal or revision against that decision or interpretation? This clause is silent about that. There is no mention of that here. We do not know whether the original Act gives the right of appeal or revision because those laws are not here for our consideration. Therefore, I am of the opinion that this clause requires consideration. I think, as far as the duty that is imposed upon the court to interpret is concerned, these words should be deleted from this clause.

It is very good that the court there has been brought under the jurisdiction of the Bombay High Court as at the present time it is not possible and is not in the interest of that territory to divide it and make a provision for different High Courts having jurisdiction there. Therefore as far as the jurisdiction of the Bombay High Court is concerned, clause 11 is a very good clause.

Under clause 4, sub-clause (2) the functions of the Varishta Panchayat will be advisory only but due regard shall be given to such advice by the Administrator in reaching decisions on the matter in relation to which the advice is given. I have got a doubt here. I have some fear that if there is difference of opinion between the Panchayat and the Administrator, there will probably be some conflict between them and it will lead to some sort of an undesirable administration there. I think the Government should think out or devise some means so that there will not be any conflict between the members of the Varishta Panchayat and the Administrator in running the general administration.

On the whole we must be proud that the persons who had been fighting for their independence and for integration of this territory in the Indian Union have achieved their object. Perhaps in the future they will be part and parcel of our country. We must be proud of their endeavour and the patriotism that they have shown in liberating themselves. With these words I extend my compliments to the Government and thank it again for introducing this Bill.

Shri D. C. Sharma (Gurdaspur): Mr. Speaker, Sir, by passing the Constitution (Tenth Amendment) Bill we added a splendid page to the history of free India. By passing this Bill today we will be giving implementation to the noble intentions that we have towards this new Union territory of Dadra and Nagar Haveli. I feel that it is a very happy day in the life of our country when we are able to welcome a new member in the family of the Union territories of India.

I hope that that family will increase in number and that we will have more and more such members, especially from the so-called "possessions" of the Portuguese in India.

I am afraid that we have treated this territory, the Union territory of Dadra and Nagar Haveli, as a kind of

[Shri D. C. Sharma].

a municipality. It may be a kind of municipality, but I believe that when we have conferred upon it the status of a Union territory we should have given the administrator some other name, the name of Commissioner something like that. It is true that the name does not matter. But it is also true that we should give it that name which is commensurate with the dignity of the territory to which we are referring. I feel that the word Administrator smells too much of a small town municipality or a medium-sized municipality. I would, therefore, have been very happy if the name Administrator had been taken away and we would have called this gentleman who is going to administer this Union territory by the name of Commissioner.

Again, I would have been very happy if we had done something to give the Varishta Panchayat a little higher status than we have given it. When I look at the civic map of India I find that our municipalities are doing very well in some ways, but I cannot help saying that this Varishta Panchayat has given an excellent account of itself so far as local self-government is concerned. In the case of the municipalities of India I find that they are running deficit budgets and that they are not able to cope with the mounting problems of the cities they are in charge of. But in the case of these Varishta Panchayats they have been doing admirable work for the development of the area over which they have had their sway and they have also been able to save money; they have been able to have some kind of a surplus budget. So I would say that this Varishta Panchayat which has given such a good account of itself in every sense of the word and which, I think, can be a kind of model for the panchayats and municipalities of our country, should have been given a higher status than it has been given. It should not have been merely advisory in character. Perhaps conventions would be established between the Administrator and

the Varishta Panchayat by means of which this Varishta Panchayat will have a more effective say in the matters of general policy and other things than is given to it by clause 4 of the Bill. Perhaps it may happen—or perhaps it may not happen—but I would like to have a better status for this Varishta Panchayat.

I am very glad that these Varishta Panchayats will be called upon to formulate schemes of development for this area. I think that they are already having a five year plan; at least I learn this from the note that I got from the Research and Reference Branch of this Parliament, which is very useful to us, Members, that they are having a five year plan of about Rs. 85 lakhs or something like that. I would have felt that in this matter of the development of this Union territory we should be very very generous, because I know that this is going to set the tone of other developments in the so-called "Portuguese areas." It is by watching the developments in this area that other enclaves which are still under the Portuguese rule will take heart and take their cue. Therefore, I think that this Varishta Panchayat should have been given a higher status and a more generous aid for doing this work.

I am very happy that the existing laws are going to be continued. As the Prime Minister said, it is a provisional Bill and all taxes, duties, cesses and fees are to continue as before. I think that we would like to have a little more information as to what kind of taxes, duties, cesses and fees are there. Because, nobody has ever complained against them, people have paid them very willingly, and even after doing so they have been able to get more than what they have paid. We would have liked to have all this information, and I think a note should be circulated on the subject to the Members of Parliament and for the benefit of the people of India in general, so that we can understand how this Varishta Panchayat has been functioning in such an

admirable way without levying too many taxes, duties, cesses and fees and how, in spite of all that, it has been able to have a surplus budget. We would like to have all this information so that we can learn from this Varishta Panchayat.

I have nothing to say so far as the jurisdiction of the Bombay High Court is concerned. For instance, in the case of Himachal Pradesh we have the jurisdiction of Punjab. But it does not mean that Himachal Pradesh is going to be a part of Punjab or that it is a part of Punjab. It is a matter of geographical convenience and I think it is very useful thing. But I cannot understand how we can skip over the different judicial ladders and come on to the High Court. I would have liked to know what the judicial set-up in Dadra and Nagar Haveli is. I have no doubt that there is a very good judicial set-up, because we have been hearing good things about this. But I would like to know how they can go to the High Court without going through the intermediate process of judicial administration.

In clause 13 we have made a very blanket provision:

"If any difficulty arises in giving effect to the provisions of this Act or in connection with the administration of Dadra and Nagar Haveli, the Central Government may, by order, make such further provision as appears to it to be necessary or expedient for removing the difficulty.

Of course, this kind of provision is necessary, because we are having an interim constitution. But I hope that whenever anything is done to remove any kind of judicial or administrative or constitutional difficulty in that area, the House would be informed.

One of the most gratifying things so far as this Bill is concerned is the fact that we are going to have a Member of Parliament from this Union territory very soon in our midst. Of course, for the time being he will be a nominated Member. But I think as

time passes he will be a duly elected Member of this Lok Sabha. We welcome him and I would request the Government, through you, Mr. Speaker, that the nomination of this Member should be made as early as possible, so that all of us may have the privilege of sitting with this Member. After all, this House is on the way to dissolution, and I hope too much time will not be taken before this Member is nominated. I say this because I feel that there will be something in sitting along with this Member who belongs to a territory which has been freed, not with the help of guns or with the help of any army or with the help of any armed forces but which has got its freedom by its own strength, by its own effort. I think Dadra and Nagar Haveli have completed, in some way, the process of liberation which Mahatma Gandhi started so far as India is concerned. That process of liberation is not yet complete. We have to think of other territories also which are under Portuguese rule. But, there is no doubt about it that Dadra and Nagar Haveli represents a very fine link in the chain of liberated territories with which we have been dealing. With these words, I welcome this Bill and I hope that everything will be done to integrate this area with the Union territories as fully and as satisfactorily as possible.

Shri P. R. Patel (Mehsana): Mr. Speaker, I congratulate the Government for introducing this Bill and I wholeheartedly support it. Before we passed the Constitution Amendment, in Dadra and Nagar Haveli, the Varishta Panchayat was a supreme body. Now, it becomes an Advisory body. Under clause 4, the advice of the Varishta Panchayat will be taken on matters of administration involving general policy and schemes of development and also on any other matter referred to it by the Administrator. Administration of justice is a part of the administration and I think it would have been very proper to seek the opinion of the Varishta Panchayat. That body was supreme and that body could hand over the territory to the

[Shri P. R. Patel].

Indian Union. I do not understand why that body is not consulted as regards the selection of the High Court. If it is a matter of convenience, it is for them to decide what will be convenient to them. If they think that the Bombay High Court would be convenient to them, they have the choice to select the Bombay High Court. If they feel that Ahmedabad will be convenient to them, I think the choice must be with them. I submit that there are certain amendments. I know, putting their judicial administration under the Bombay High Court is not going to prejudice or decide the question hither or thither. What I am feeling is this. When everything is left on the advice of the Varishta Panchayat and the Varishta Panchayat was supreme in all affairs in these territories why is the opinion of the Varishta Panchayat not taken in deciding the jurisdiction of the High Court? My submission is that it would have been very proper and just if the Government would be pleased to seek the opinion of the Varishta Panchayat. I would like that for the time being, in clause 11, the High Court may not be named. Let the Government decide which High Court would be convenient to the people of these territories after consulting or getting the opinion of the Varishta Panchayat of the place.

Under clause 12, as it stands, I beg to submit, the courts will not only interpret the law, but add certain more things to the present law. That is not proper. After all, the function of the court is to interpret the law as it stands.

In the end, I would like to submit one thing. The Government should have given us details of the taxes there and also some literature of the laws prevalent there. Because, without that, we cannot see what is the state of affairs there. We feel that the people of the place are happy and they must be under good government.

By putting the Administration under us, I hope the administration will be better and the people would be very happy there. In future, we have to think of Goa, Diu and Daman. Our Prime Minister has made a statement and I do not want to add anything more. But, I feel that so long as Goa, Diu and Daman are under Portuguese rule, it is a shame to a big country like India.

Shri Nathwani (Sorath): Mr. Speaker, I rise to welcome this Bill. Because of the functions of the Advisory Committee, I feel that some higher status should have been accorded to that body. Just now, my hon. friend Shri D. C. Sharma referred to this aspect. I also know that this is a temporary measure and I share his hope that some convention would be set up whereby their advice would be generally followed. In the meanwhile, I wonder whether the phraseology of clause 4 could not have been improved upon. Clause 4, sub-clause (2) says that due regard should be given to such advice by the Administrator. I think, if provision had been made to the effect that such advice would be taken into account, perhaps, it would be giving a higher status to that body. But, I again see that this measure is a temporary measure.

Something was said about clause 12. I do not see any difficulty about the construction or scope of clause 12. It is a necessary formality. The existing laws are to be continued and before applying them, some adaptations are to be made necessarily. That is what clause 12 seeks to do.

Something was said as regards jurisdiction of the High Court of Bombay. I come from the High Court of Bombay and I have got the highest regard for that High Court. I have love, regard, respect, everything. I have not the slightest doubt that the administration of justice would be cheap and quick there. But, some friends including myself have given notice of an

amendment to the effect that the jurisdiction which has to be extended may be either that of the High Court of Bombay or that of the High Court of Gujarat, and the High Court should be recommended by the Varishta Panchayat. Our idea was not and is not to start any controversy as regards its merger, whether it should go to this part or that part.

Shri Braj Raj Singh (Firozabad): What is it then?

Shri Nathwani: The hon. Member will kindly listen and then he will understand.

Shri Braj Raj Singh: I have understood.

Shri Nathwani: He has not understood.

Mr. Speaker: The hon. Member does not come from either Ahmedabad or Bombay.

Shri Nathwani: The hon. Prime Minister has made the position very clear. He said that it is a matter of convenience. When I gave one of the amendments, my only object was to secure convenience and the convenience lies this way that the proceedings in the trial court whether it is a civil court or a criminal court are all held in the Gujarati language. Therefore, I thought and I still think that it would facilitate administration of justice if ultimately the choice is given to the Varishta Panchayat. Therefore, the question is left to them to decide. They may decide. There is no difficulty. They may decide for the High Court of Bombay also. I am quite content with that. That was my only object, and not to start any controversy. Nobody would think at this stage of raising a controversy like that, when all of us are happy over the merger of this part in the Indian Union.

With these words, I support the Bill.

Dr. M. S. Aney (Nagpur): There is nothing in this Bill which can make

anybody think of any matter for controversy in it. It is, in fact, a Bill which seeks to make better arrangements for the administration of these territories, which are necessary as a consequential arrangement; after having passed the Bill for the merger of Dadra and Nagar Haveli into the Indian Union, some arrangements have to be made as regards their administration, and the present Bill is intended to fulfil that purpose.

Unfortunately, the amendments which have been given notice of, of course, with good intentions, by my hon. friends Shri Nathwani and Shri P. R. Patel have created some suspicions. Yesterday, it has been stated very clearly by the Prime Minister in his opening speech as well as in his concluding speech that in creating this administrative unit, they mainly took into consideration the wishes of the people there and their convenience. That point has been made very clear by him. I think that even in fixing this High Court of Bombay for them, probably Government have had some indications, from whatever talks they may have had with the people there, or from whatever source they have been able to gather the wishes of the people there, that, for the present, at any rate, the arrangement should be like that; there is nothing to prevent us from making any change later on, if it is necessary.

I believe that while passing this Bill today, we must keep out of our minds the idea as to what the share of Maharashtra in this territory would be or what the share of Gujarat in this territory would be in this arrangement. We have had enough of that quarrel when the last bilingual State Bill was passed by us. So, let us not introduce that element today and create some sort of a linguistic consideration to rule the minds of the people.

Shri P. R. Patel: But that is the case. What we say is that the opinion of the Varishta Panchayat should be taken. Let them decide.

Dr. M. S. Aney: Let us not give a new turn by our discussion here and create a kind of an opportunity to make the people think in these linguistic terms or in these racial terms. That was all that I wanted to say.

I wish that since the arrangements that have been suggested here are of a temporary nature, everyone should be content with that, for the time being. If, later on, experience indicates that some changes are required, then it is for this House to decide. Since these areas would become a Union Territory, it will be for this House to consider those matters, and we shall look at the question not from the point of view of Maharashtra or from the point of view of Gujarat but from the point of view of the interests of India and then decide what their future should be.

13.53 hrs.

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

With these words, I support the Bill.

Shri Tyagi (Dehra Dun): In the first place, I would submit once again that the Statement of Objects and Reasons repeats:

"At the request of the Varishta Panchayat and the people of Free Dadra and Nagar Haveli, it is proposed to integrate the areas with the Union of India with effect from the 11th August, 1961."

My feeling is that this is too apologetic. To whom are we addressing this? Why should we emphasise every time that the integration has taken place because of the desire expressed by the people of these areas? I do not understand the logic behind it. Why is their desire needed? After all, they are citizens of India. We have, all along, and for years together, claimed that these areas are Indian territory, although they are in foreign possession. Therefore, their willingness or their desire to integrate with India

was not at all necessary. If they did not desire to come into India, they would be committing an act of treason, because they are Indian citizens, as good Indian citizens as we are. This repetition every time that they have been integrated into this country on account of their expressed desire means that they may also desire to go out some time. No citizen of India enjoys that freedom. The people living in Goa, Diu, Daman, and Dadra and Nagar Haveli are as good Indian citizens as we are. The only unfortunate thing is that we have not yet been able to see that that part of our territory is freed from foreign rule. That is the first remark that I would like to make on this Bill, but that is rather casual.

Coming to the provisions of the Bill, I would submit that there is something lacking. I must express my regret that I am not quite acquainted with the law which prevails there or which is in force there in Dadra and Nagar Haveli. Therefore, I shall be going into a blind alley if I were to say that whatever law is there will continue. There ought to have been some provision to the effect that unless it contravenes the regular or basic laws of India, a law in force there will continue. For instance, I do not know whether the Indian Penal Code is in force there or not, and whether the law in force there is inconsistent with the provisions of the Indian Penal Code or not. So, all those laws which are basic laws should be provided for, and we must say that the present laws will remain in force, unless they are in conflict with the Indian Penal Code or other basic laws of our country. I could well understand that probably Government were in a hurry, just like us, to integrate these areas, and they will have to study what laws are operating in these areas, and that is why probably they are not hurrying up with any proposals in this behalf.

But, in one of the clauses in the Bill, they say that Parliament, or Government with the consent of Parlia-

ment, might extend any law to these areas. I submit that as regards those laws which are already in force in India, Parliament does not come in the way of their extension to these areas at all, because those laws could be extended to these areas by simple notification. To say that Parliament will have to enact every little law is something which I cannot understand. I hope the hon. Law Minister will see the difficulty that would arise in that case. It must be possible to extend these laws by notification, as is done in other cases, in the case of extending jurisdiction and so on. Likewise, it should be within the competence of the Central Government to extend these laws by simple notification.

Clause 8 of the Bill reads thus:

"Save as otherwise provided in this Act all laws in force in Free Dadra and Nagar Haveli immediately before the appointed day shall continue to be in force until repealed or amended by Parliament or other competent authority."

This means that every time, Government will have to come before Parliament to amend every law. I think that that will be too much of a function for Parliament to perform. Therefore, I suggest that instead of coming to Parliament, Government should be able to do it by notification, so long as it is consistent with the laws which are in force in the rest of the territories of India.

Then, clause 9 provides that:

"All taxes, duties, cesses or fees which, immediately before the appointed day, were being lawfully levied in Free Dadra and Nagar Haveli or any part thereof shall continue to be levied and to be applied to the same purposes, until other provision is made by Parliament or other competent authority."

Again, I do not know what the taxes are, but anyway, we are enacting this

provision. But I hope that Government would again have some reserve powers to vary those taxes etc. if they are very much in conflict with the taxation system in the rest of India. For instance, if there is no income-tax in those areas, Government must have the right to extend the Income-tax law to these areas.

I do not know also what the law operating there regarding customs duties is. For, after all, they were till recently a foreign territory. I am not quite sure whether they were realising customs duties or not. If there were any customs duties, then, surely they will be inconsistent now, because, once they are integrated, they become part of our territory, and, therefore, there can be no customs duties. So, if there is any customs law operating there, that should be automatically deemed to have been amended.

Therefore, my proposal would be that the Law Minister should see his way to have some provision giving reserve powers to Government to make by simple notification such changes as will bring their laws in conformity with the laws in the rest of India. And I suggest that it should not be necessary to go through the parliamentary procedure, because the procedure of Parliament is too cumbersome for these small matters.

14 hrs.

Here I would like to read clause 10 which says:

"The Central Government may, by notification in the Official Gazette, extend with such restrictions or modifications as it thinks fit, to Dadra and Nagar Haveli any enactment which is in force in a State at the date of the notification".

This refers to some local laws of a State. Perhaps that is the meaning; it is not the general basic law that prevails in India.

This is all I have to say.

श्री बजराल सिंह : उपाध्यक्ष महोदय, इस बिल का मैं स्वागत करता हूँ। इस संबंध में मैं दो तीन बातें कहना चाहता हूँ।

पहली बात तो मैं धारा ३ की उपधारा १ के बारे में कहना चाहता हूँ। इसमें कहा गया है कि जहाँ पर लकादीव, मिनिकाय और अमीनदीव आइलैंड्स लिखा हुआ है उसके बाद दादरा और नगर हवेली लिख दिया जाए। इसका यह अर्थ होगा कि जिस तरह में इन द्वीपों में राष्ट्रपति को अधिकार मिला हुआ है कि इन इलाकों से लोक सभा के लिए वह एक सदस्य को नामजद कर सकते हैं, उसी तरह में दादरा और नगर हवेली का लोक सभा में कौन प्रतिनिधित्व करेगा, इसका फैसला राष्ट्रपति जी करेंगे, उसको राष्ट्रपति जी नामजद करेंगे। राष्ट्रपति की नामजदगी का तात्पर्य हम सभी समझते हैं—केन्द्रीय सरकार से है। उपाध्यक्ष महोदय, मेरी समझ में नहीं आता है कि दादरा और नगर हवेली में कौन सी ऐसी विशेष परिस्थितियाँ हैं जिन के कारण केन्द्रीय सरकार को वहाँ से लोक सभा के लिए प्रतिनिधि नामजद करने की आवश्यकता होती है। आसपास का साग इलाका इस तरह का है जहाँ पर कि चुनाव होते हैं। वरिष्ठ पंचायत के लिए भी वहाँ चुनाव हुए हैं। ऐसी मूलतः में चुनाव के द्वारा वहाँ के प्रतिनिधि को न लेना मैं समझता हूँ जनतंत्रीय परम्पराओं के विरुद्ध है। वहाँ के लोग जब इतनी प्रगति कर चुके हैं तब फिर पीछे की तरफ उनको धकेलना और यह कहना कि उनके प्रतिनिधि को केन्द्रीय सरकार नामजद करेगी, मैं समझता हूँ उचित नहीं है और सरकार इस व्यवस्था को इसमें से हटा दे।

एक बात कही जा सकती है। आम चुनाव इतने नजदीक हैं कि सम्भवतः वहाँ पर मतदाता सूचियाँ ठीक तरह से नहीं बन सकती हैं। अगर मैं समझता हूँ कि यह उचित कारण नहीं होगा। वह इतना छोटा इलाका है और

इतने कम वोटर वहाँ हैं कि इस काम को एक सप्ताह के अन्दर समाप्त किया जा सकता है। ५०-६० हजार की वहाँ की आबादी है और इस में से मुश्किल से २५-३० हजार ही मतदाता होंगे। इनकी सूचियाँ एक सप्ताह में बनाना मुश्किल नहीं होनी चाहिये। जनरल इलक्शन अभी काफी दूर है, उसके होने में अभी काफी वक्त है और इस बीच में मतदाता सूचियाँ आसानी से बनाई जा सकती हैं। मैं समझता हूँ कि केन्द्रीय सरकार इस और ध्यान देगी और इस तरह की कोई व्यवस्था नहीं रखेगी जो कि आज की परिस्थितियों में प्रतिक्रियावादी कही जा सके।

अब मैं धारा ४ के सम्बन्ध में कुछ कहना चाहता हूँ। जैसा हम जानते हैं अब तक वहाँ का पूरा शासन प्रबन्ध वहाँ की वरिष्ठ पंचायत चलाती थी। वह जो शासन चलाती रही है, उसमें अब एक एडमिनिस्ट्रेटर को वहाँ का एक डिप्टेटर बना देना ठीक नहीं होगा। भले ही यह कहा जाए कि जो वरिष्ठ पंचायत की राय होगी, उसको हर सम्भव तरीके से एडमिनिस्ट्रेटर मानने की कोशिश करेंगे। यह उनके लिए बंधनकारक नहीं है, यह उनके लिए जरूरी नहीं है कि उसकी राय को एडमिनिस्ट्रेटर मान ही लें। आज जब कि वहाँ के लिए जनतंत्रवादी परम्पराओं की स्थापना हम कर रहे हैं, यह गलत होगा कि उसकी राय को वहाँ के एडमिनिस्ट्रेटर न मानें। अगर उसकी राय को वह नहीं मानते हैं तो उस पंचायत को ऐसा लगेगा कि अब तक जो अधिकार उसको प्राप्त रहे हैं और जो वह करती रही है, हम में सम्मिलित होने के बाद सम्भवतः उनकी आजादी का कुछ हद तक हटाना ही रहा है। अगर वहाँ के लोग ऐसा सोचते हैं तो इस तरह की कोई भी बात करना हमारे लिए उचित नहीं होगा। मैं जानता हूँ कि भारतीय जनतंत्र के बनने के बाद जो राजा थे, उनके इलाकों को जब हमने अपने में मिलवाया तो वहाँ भी कुछ इस तरह की बातों की गई थीं जो कि पहले वहाँ नहीं होती थीं और इससे जाहिर

होता था कि हम उनके लिए और भी प्रतिक्रियावादी हो गए हैं। इस केस में भी अगर इन दो चीजों पर अमल होगा तो उससे लगेगा कि वहां की जनता के लिए दो ऐसी चीजों की जा रही हैं, जो प्रतिक्रियावादी हैं, जो प्रगतिशील नहीं हैं। अगर किसी चीज का यह अर्थ लगाया जा सकता हो कि भारतीय जनतंत्र में शामिल होने का मतलब उनके लिए यह है कि अब तक जो कुछ प्रगतिशील कानून वहां थे, प्रगतिशील कुछ चीजें चल रही थीं, उनको प्रतिक्रियावादी बादों में बदला जा रहा है, तो फिर उनके लिए भारतीय जनतंत्र में शामिल होने के कोई माने नहीं रह जायेंगे और वे समझेंगे कि सम्भवतः वे कुछ और प्रतिक्रियावादिता की तरफ जा रहे हैं।

जब आदिवासी इलाकों के बारे में यह कहा जाए कि वहां से किसी को नामजद किया जाए तो इसको माना जा सकता है। लकादीव और मिनिकाय आदि द्वीपों के बारे में भी इसको माना जा सकता है। अंदमान आइलैंड के बारे में भी माना जा सकता है। लेकिन दादरा और नगर हवेली के लिए जो कि बिल्कुल एक मैदानी इलाका है और जहां आसानी से चुनाव किए जा सकते हैं और चुनाव हुए हैं, वहां पर नामजदगी की बात को रखना कतई उचित नहीं होगा और यह भी उचित नहीं है कि वरिष्ठ पंचायत जो पूरा शासन प्रबन्ध अब तक चलाती रही है उसकी पोजीशन अब सिर्फ एक सलाहकार परिषद् की कर दी जाए और दिल्ली से कोई वहां पर बिठा दिया जाए और मनमाने ढंग से कार्य करे और वरिष्ठ पंचायत की सलाह को न माने। इसलिए मैं चाहता हूँ कि इन व्यवस्थाओं में उचित संशोधन किया जाए और अगर आप अब संशोधन करने की स्थिति में नहीं हैं और सोचते हैं कि यह एक आर्जी कानून है और जल्दी ही वहां के लिए विधिवत एक स्थाई कानून बनाया जाएगा और इसको लागू किया जाए तो एक बात में जरूर चाहूंगा कि जब तक यह अस्थाई कानून

लागू रहे और जब तक कोई विधिवत स्थायी कानून नहीं बन जाता तब तक के लिए इस तरह की व्यवस्था कर दी जाए कि हर साल के बाद उन मामलों में जिनमें कि एडमिनिस्ट्रेटर वरिष्ठ पंचायत की सलाह को न माने, वरिष्ठ पंचायत की वलाह के खिलाफ कोई शासन प्रबन्ध करे, उस सब के बारे में एक वक्तव्य संसद् में रखा जाए ताकि हमें पता लग सके कि वरिष्ठ पंचायत की सलाह को क्या कीमत दी जा रही है, और कहीं ऐसा तो नहीं हो रहा है कि एडमिनिस्ट्रेटर एक तरफ खींच रहे हैं और वरिष्ठ पंचायत दूसरी तरफ खींच रही है और इस तरह से जनतंत्रवादी शक्तियों में और प्रतिक्रियावादी शक्ति जो है, उनमें कोई खिंचाव पैदा हो रहा है, तनाव पैदा हो रहा है।

अब मैं दफा ५ के बारे में कुछ कहना चाहता हूँ। इसमें भी मैं समझता हूँ कि वह सफाई नहीं है जो कि वरिष्ठ पंचायत के अधिकारों के बारे में होनी चाहिए। जो भी अधिकार वरिष्ठ पंचायत के अब तक र हैं वे हिन्दुस्तान में सम्मिलित होने के बाद, विदेश नीति तथा दूसरे जो केन्द्रीय सरकार के विषय हैं, उनके अतिरिक्त जितने भी और विषय हैं, सीमित नहीं किए जा रहे हैं और उन सभी के बारे में उसको पूर्ण अधिकार है, ऐसा उनको अनुभव होना चाहिये। उसके अधिकारों का किसी भी प्रकार से हनन नहीं होना चाहिये इस वास्ते कि वह इलाका भारत में शामिल हो रहा है। ऐसी व्यवस्था करना उन इलाकों के लिए भी अच्छा होगा जो कि भविष्य में हम में मिलने वाले हैं, जो हमारे अभिन्न अंग हैं और जो कानूनी रूप से हमारे अंग बनने वाले हैं। उनके सामने भी हमें अच्छा उदाहरण उपस्थित करना चाहिये।

मैं अन्त में इतना ही कहना चाहता हूँ कि अहमदाबाद और बम्बई की हाई कोर्टों के सम्बन्ध में जो विवाद बड़ा किया जा रहा है, वह उचित विवाद नहीं है। भी

[श्री ब्रजराज सिंह]

नथवानी ने कहा है कि वह यह बात इसलिए कह रहे हैं कि गुजराती जो कि शायद वहाँ के रहने वालों की मातृभाषा है, इसलिए उनको उसमें शामिल किया जाए और उसी में उनका काम काज चले। इसी लिए उनको यह चिन्ता है कि इस तरह के संशोधन को मान लिया जाता और वहाँ के लोगों की राय के मुताबिक हाई कोर्ट के बारे में सवाल तय किया जाता। मैं उनकी इस चिन्ता से सिद्धान्त रूप में सहमत हूँ। मैं समझता हूँ कि न सिर्फ़ दादरा और नगर हवेली में बल्कि हिन्दुस्तान के किसी हिस्से में भी जहाँ तक न्याय देने का सवाल है, वह सभी को अपनी भाषा में दिया जाना चाहिये। मातृभाषा में दिया जाना चाहिये। वहाँ के जो निवासी हैं, उनकी मातृभाषा अगर गुजराती है तो गुजराती को अपनाने में कोई ऐतराज नहीं होना चाहिये भले ही वे बम्बई हाईकोर्ट में रहें या अहमदाबाद हाई कोर्ट में रहें। इस पर कोई विवाद खड़ा करने की कोई जरूरत नहीं होनी चाहिये। वहाँ का काम काज गुजराती में चलाया जाए या मराठी में, इसका फैसला वहाँ की जनता की राय से किया जाना चाहिये। वहाँ का शासन प्रबन्ध और न्याय प्रशासन आदि उनकी अपनी भाषा में चले; इसमें अच्छी बात और क्या हो सकती है।--

श्री त्यागी : अब तक गुजरात बम्बई में ही था।

श्री ब्रजराज सिंह : अब तो अलग हो गया है।

इन शब्दों के साथ मैं इस विधेयक का स्वागत करता हूँ और आशा करता हूँ कि जो मुझाब मैंने दिए हैं उन पर विचार किया जाएगा और कोई तरीका निकाला जाएगा जिससे कोई ऐसी बात नहो सके जिसे प्रतिक्रियावादी कहा जा सके।

Shri Nath Pai (Rajapur): This is a very welcome measure that the

Prime Minister has today introduced in this House. I trust that he introduced the Bill in his capacity as Prime Minister and Leader of the House and not as the Minister of External Affairs as that would be very wrong. The other day it was appropriate that he dealt with this matter as Minister of External Affairs, but after the House had adopted the Constitution (Tenth Amendment) Bill, this caution must be taken that he introduced the Bill as Prime Minister.

The acceptance and passing of this Bill will complete the process of liberation and integration of these territories. We will be having soon the privilege of having a representative of these people sitting in this House, and with his presence in this House, the number of Indians who will be denied this right will be diminished very considerably—barring those remaining in Goa, Diu and Daman and, of course, in the area in the occupation of Pakistan.

I should like to make certain remarks, in view of the fact that though normally there should be unanimity with regard to a Bill of this kind, a jarring element has been introduced, unfortunately, by certain Members. It will not be a very edifying spectacle if after 400 years of foreign occupation, when a territory is being merged with India, we introduce such considerations about provincial borders. I think it very appropriate and correct that the Government of India have recommended that the High Court for this area should be the High Court of Bombay. I am glad that Shri Nathwani said that he did not want to introduce any controversy. I reciprocate his sentiments. He of course has great respect for the High Court of Bombay. Only a little doubt lingered in some minds. What is the objection to the High Court of Bombay being the appropriate High Court for these areas? The reasons are very clear. Everybody knows that that is the most convenient High Court, apart from being a High Court

which perhaps has the highest prestige and reputation in the country.

There is this thing, none-the-less which I would say to my hon. friend, Shri P. R. Patel, who is looking very anxious. Let us remember what the Prime Minister has said, that this is a provisional, temporary arrangement. We hope it is and that this will not be perpetuated. Just as they had the right to belong to the Union, I hope that sooner or later they will be given the right to decide which part of the Union they want to belong to. If he has that in mind, I fully endorse that the people in this area should ultimately have the freedom, which the Bengalis, Marathis and others had, of deciding the State to which they should belong. But that will have to wait for some time, and we should not be presenting a spectacle of quarrelling about the part of India to which a liberated territory should belong. That will be providing a handle to Portuguese propaganda, particularly in Goa. I have very strong views about where Goa belongs, and the Ministry of External Affairs, which knows so little about it—nobody has been near the border—will not tell me where it should belong, but we would not like to be dragged into that controversy right now. All attention should now be concentrated on liberation.

Having said this, I will make one or two points about the substance of the Bill. Shri Tyagi, who normally speaks with accuracy on constitutional matters, was making a slight lapse which needs to be corrected. He talked about the freedom of these people. Under our Constitution there is freedom to join the Union, but no freedom to leave it. This matter needs to be reiterated again and again. We want to make it clear that it is not India that is taking any territory, and this is in reply to Portuguese propaganda. These people, by the exercise of their sovereign choice, are coming to India. That freedom is there to anybody who attracted by

our traditions, wants to become a part and parcel of our country, but there is no freedom to leave this country.

You, Sir, are a student of law and an eminent judge, and you will concede that there is a little ambiguity in the Bill which the Law Minister should remove. Some of the existing Portuguese laws are highly regressive, for instance in regard to inheritance, civil liberty etc. Whenever there is any conflict between these and our laws, I hope the law that will prevail will be the law of India under the Constitution of India. Perhaps it is very obvious to you, but it needs to be clarified. We do not get any kind of information on that.

Mr. Deputy-Speaker: It only provides for the continuance of the present laws, and then they are to be examined.

The Minister of Law (Shri A. K. Sen): Apart from it, they have already been examined in the last seven years, ever since these areas were liberated and only those laws of the olden days are continued which are not repugnant to our basic ideas.

Shri Nath Pai: I very much welcome this clarification of the Law Minister. That is all that was needed.

Shri Braj Raj Singh has ably dealt with the question of bringing in the representative of these people into this august House. If the arrangement of nomination is of a temporary nature, I shall not quarrel with it though I am not very much satisfied, in view of the fact that there is a very short time that now remains for the general election, but if this method is to be perpetuated, I think it is a very dangerous thing. There is no reason why these people should not have the right which the rest of India has. They have been Indians, they should not be made second-rate Indians. They should be full Indians, having the full freedom of sending their re-

[Shri Nath Pai]

representative to this sovereign House. If, however, this arrangement is only of a temporary nature, though it is not very satisfactory, we shall accept this, but I hope that a categorical assurance will be given. In the meantime, when the nomination is made I hope full consideration will be given to the representative character of the individual, and lesser consideration to his party affiliation etc., by those who advise the President.

With these very brief remarks, I extend my very hearty support to this Bill.

Shri Prabhat Kar (Hooghly): While welcoming this Bill, I would like to have certain clarifications.

Clause 3(2) of the Bill reads:

"In the Representation of the People Act 1950,—

(a) in section 4, in sub-section (1) after the words 'to the Laccadive, Minicoy and Amindivi Islands', the words, 'to Dadra and Nagar Haveli' shall be inserted."

As mentioned by Shri Braj Raj Singh and Shri Nath Pai, if this arrangement is of a temporary nature as there is no time for preparation of electoral rolls etc., for the coming elections, it is all right, but the very suggestion that the Representation of the People Act should be amended creates the apprehension that this is going to be continued; that is, not only in 1962 but at the time of every election the representative of Dadra and Nagar Haveli will be nominated by the President and not elected by the people. Since the Centrally administered areas like Delhi and Tripura are electing their representatives to this House there is no reason why the people of Dadra and Nagar Haveli should not have that opportunity. This requires clarification. If it is not going to be temporary, this type of amendment should not be made.

Then I come to Clause 4. No doubt in the Centrally administered areas we have the Administrator and the Advisory Council, but we should not forget the history of the struggle of the people of Dadra and Nagar Haveli and how ably they administered their affairs all these seven years. If, without appreciating this, we put them on a par with the general run of the administration, and reduce them to the status of having an Administrator and an Advisory Council, I think it will be doing them a great injustice and the fine tradition and administrative capacity manifested by their Panchayat.

Clause 4(2) states:

"The functions of the Varishta Panchayat referred to in this section will be advisory only but due regard shall be given to such advice by the Administrator...."

As the final decision will be taken by the Administrator, these words have no meaning. The Administrator is not bound to act according to the advice of the Varishta Panchayat. Though the Governors are the heads of States, they have to act under advice of the Council of Ministers, but here the Administrator may or may not accept the advice of the Panchayat. This Panchayat has a beautiful background of seven years in which it has administered in such a way as to realise a surplus out of revenue. I therefore feel that a specific direction should be imported into this Bill so that the Administrator may not just listen to them, and do everything in his own way.

Clause 8 states:

"Save as otherwise provided in this Act all laws in force in Free Dadra and Nagar Haveli immediately before the appointed day shall continue to be in force until repealed or amended by Parliament or other competent authority."

Already, the hon. Minister has stated that the existing laws have been examined, and they are not repugnant to our Constitution. Under our Constitution, there are fundamental rights and other things. Therefore, the laws to be continued there must not be repugnant to the Constitution.

Lastly, Sir, I wish to say this. Dadra and Nagar Haveli had been governed by the Varishta Panchayat. They had their own ways of functioning. Now, it will be part and parcel of a huge administration of the Government of India. The only thing that I would like to say, without casting any aspersion, is that they should not lose their identity and they should not be put into difficulties which is generally the result of such a huge administration and the red tapism that is the order of the Government here. They are the persons who have been administering themselves and let them not feel no better under the control of the Central Government. With these words, Sir, I welcome this Bill.

Shri Kalika Singh (Azamgarh):

Sir, this Bill is a consequential legislation following the passing of the Constitution (Amendment) Bill which we adopted here on the eve of the Independence Day. This Bill makes a provision for the representation of the Union Territory of Dadra and Nagar Haveli in Parliament and for the administration of that territory and for matters connected therewith. The Bill was introduced here by the Minister of External Affairs and is now being dealt with by that Ministry. When Kashmir was integrated with the Indian Union, that territory also was being administered for a long time by this Ministry but later on the Government thought that if Kashmir was a State just like the other States which were being administered by the Home Ministry, then the administration of Kashmir should also be taken over by the Home Ministry, and therefore, the territory of Kashmir passed over to the Home Ministry from this Ministry. Some time back the same question arose about the Nagaland. Naga-

land was part of Assam State. In reply to a question by me, the Prime Minister gave some information. I asked for how long will Nagaland remain under the administration of the External Affairs Ministry? He replied that it would be so as long as the people of Nagaland wished to remain under that Ministry. He said that there was a specific agreement between the party consisting of fifteen persons who had come from Nagaland and the Prime Minister that it should be administered by the Prime Minister as the Minister of External Affairs. This is the development that is going on and the Government should now reconsider the whole matter. We should not allow any territory of India to be administered by the External Affairs Ministry, if it is a part and parcel of the Indian Union. So, after the passing of the Constitution (Amendment) Bill Dadra and Nagar Haveli have become an integral part of India and there remains no doubt about it. My hon. colleague Shri Tyagi went to the extent of saying that the people there were already citizens of India, and, there was no question of their expressing any wish or their being integrated into India, and that we had only declared that these people would now be administered hereafter by the Home Ministry of the Indian Government. Dadra and Nagar Haveli as also Goa, Daman and Diu are part of India, and time will come, as our Prime Minister has said,—when it is a fact—that if any part of the territory which has not so far been in the Indian Union expressed a wish to be integrated in the Indian Union, the Government of India will consider about integrating that territory. The same thing may follow about Goa very soon. There appears now to be a major shift in the Government of India's policy.

Lately, the Prime Minister said that Goa involves a very complicated question because the moment we deal with Goa, NATO comes in. Long back, the USA had said that the NATO powers had nothing to do with any territory which was outside Europe. When a

[Shri Kalika Singh]

letter went from the Government of India to U.K., the U.K. Government was not very clear about that but U.S.A. was very much clear about the scope of NATO.

Therefore, there is no complication about Goa, Diu and Daman or about Dadra and Nagar Haveli. The Prime Minister referred to a note of protest of the Portuguese Government to-day . . . (Interruptions).

Dr. M. S. Aney: They say that these are the provinces of Portugal.

Mr. Deputy-Speaker: In the Constitution (Amendment) Bill, all these things were very relevant. This Bill is only in relation to integration of what has already become a part of India.

Shri Kalika Singh: Dadra and Nagar Haveli are a part of India and Goa also will become a part of India very soon if we just decide about the matter. If any territory which is in India and expresses its wish through its varishta panchayat or through any other method to come to the Indian Union, we should incorporate that territory. If the Goans expressed such a wish, the Government of India will not hesitate to admit that territory also into the Indian Union. I was referring to all these matters because India before the 15th of August 1947 was a police State. Dadra and Nagar Haveli also, I presume, till the 11th August 1947 was a police State because it was governed by an imperial power like Portugal. It is said to be the biggest imperialist power in the world today though it is a very tiny country; it has got a very big empire spreading over the whole world in Africa, in Asia and in the new world also. So, these areas were police State. We in India have passed from a police State to a welfare State and therefore, we have to see that in the administration of Dadra and Nagar Haveli, we should introduce all the measures and laws that are necessary for the adminis-

tration of a welfare State and the people there should get the impression that there is a change and the wind of freedom is blowing from the whole of India to their territory. That will affect the Goan people also and they will say that they want to be admitted to India. The population of Dadra and Nagar Haveli is about 50,000. The other day I was reading in the *News-week*, an American magazine, that in Angola the Portuguese people have killed outright 56,000 persons; they have massacred them. Therefore it can very easily be imagined that if we do not admit Goa, Daman Diu and Dadra and Nagar Haveli, then these Portuguese people in alliance with some of the other States may massacre people in a large number or, so to say, the whole people of Dadra and Nagar Haveli could be killed by the Portuguese people. Now that the Government of India is wedded to the Constitution of India and to the fundamental principles on which our freedom has been won from such a mighty empire as that of the British, we should now give the benefit of our advice and the benefit of our administration to Dadra and Nagar Haveli in such a way that these people would feel a real change in their administration.

Against this background, I would just refer to clauses 8 and 9 of the Bill. Clause 8 says as follows:

"Save as otherwise provided in this Act all laws in force in free Dadra and Nagar Haveli immediately before the appointed day shall continue to be in force until repealed or amended by Parliament or other competent authority."

I think that all laws which were prevalent in the police State will continue to remain. Therefore, I request the hon. Minister of Law to see that an amending Bill is brought here very soon, to introduce the Indian laws

there. Or, he should make a provision in this Bill to the effect that any law which is repugnant to the Constitution of India and which is prevalent in that territory shall be void.

Then I come to clause 9 which says as follows:

"All taxes, duties, cesses or fees which, immediately before the appointed day, were being lawfully levied in Free Dadra and Nagar Haveli or any part thereof shall continue to be levied and to be applied to the same purposes, until other provision is made by Parliament or other competent authority."

The "other provisions" referred to will have to be made very soon, in a month or two, because, later on, these people may begin to complain that the same taxes, the same levies and the same duties continue to exist and ask what has been the change. Therefore, they might think later that they had made a wrong decision to integrate their territory with the Indian Union. So, our Government should see that all the changes which are contemplated in respect of these territories are brought into effect at once. That is, the relevant laws and other fiscal measures should be introduced in Parliament here at once so as to be applied to these territories.

With these words, I welcome this Bill and I congratulate the Prime Minister on his bringing forward such a measure.

श्री ना० नि० पटेल (बलसार-रक्षित-अनुसूचित आदिम जातियाँ) : उपाध्यक्ष महोदय, दादरा और नगर हवेली का जो बिल यहां हाउस में पेश हुआ है, उसका मैं स्वागत करता हूं। उसके बारे में मुझे कुछ ज्यादा कहना नहीं है। मुझे केवल थोड़ी सी बातें निवेदन करनी हैं।

अभी यहां जो बिल के सम्बन्ध में चर्चा हुई और उसके दौरान श्री नथवानी ने और

शर्मा जी ने भी कहा कि वरिष्ठ पंचायत को हार स्टेटस दिया जाना चाहिए था जो कि बिल को देखने से नहीं दिया मालूम पड़ता है।

इसके अतिरिक्त वरिष्ठ पंचायत के जो कुल २१ सदस्य हैं, उन में २ केवल गैर आदिवासी हैं बाकी १९ आदिवासी लोग हैं जिनमें घोडी, कुफना और वारली हैं। अब हालत यह है कि उन सदस्यों को अगर कहीं जाना हो तो स्टेट ट्रांसपोर्ट की बसेज में बैठने के लिए भी उनके पास पैसा नहीं है। यहां पर जो २१ लोग आये हैं उनमें से २ आदमी ऐसे हैं जिन्होंने कि इससे पहले कभी अपनी तमाम जिन्दगी में रेलगाड़ी पर सफर नहीं किया।

आपने बिल में लिखा है कि वरिष्ठ पंचायत की सलाह लेकर वहां का ऐडमिनिस्ट्रेशन आप चलायेंगे। अब दादरा और नगर-हवेली का १८८ मील का क्षेत्रफल है जिसमें कि ७२ गांव हैं और अगर आप उनको पंचायत की मीटिंग्स में हिस्सा लेने के लिए सेलवास जोकि वहां की राजधानी है, बुलायेंगे तो सेलवास पहुंचने के वास्ते उन लोगों को करीब करीब ३०-३० और ४०-४० मील का फासला तय करना होगा और आपने उसके वास्ते इस बिल में कोई प्राविजन नहीं रक्खा है कि उनको इसके वास्ते क्या रैम्युनेरेशन दिया जायगा। अब वरिष्ठ पंचायत में जो २१ सदस्य हैं उनमें से मैं समझता हूं कि केवल ४ या ५ आदमियों के पास ही अपना साल भर गुजारा करने लायक खेतीबाड़ी करने के लिए जमीन होगी। बाकी दूसरे लोग बेचारे मजूरी करने वाले हैं और आप स्वयं समझ सकते हैं कि वह ऐडमिनिस्ट्रेशन को सलाह देने कैप्टिल जायेंगे या वह मेहनत मजदूरी करेंगे या अपनी खेतीबाड़ी का काम करेंगे? मेरा यह सुझाव है कि वरिष्ठ पंचायत के सदस्यों के वास्ते रैम्युनेरेशन की कोई माकूल व्यवस्था होनी चाहिए।

[श्री ना० नि० पटेल]

श्री नथवानी ने दादरा और नगरहवेली के ऊपर हाईकोर्ट के जुरिस्टिक्शन के बारे में जो कहा है मैं उससे सहमत हूँ। मैंने उसके वास्ते प्रमैडमेंट भी मूव किया है। मेरी कांस्टीट्यूंसी दादरा और नगरहवेली के तीन बाजू में लगी हुई है और वहां उधर के लोग गुजराती के साथ ज्यादा सम्बद्ध हैं। वहां के लोग गुजराती ज्यादा बोलते हैं। मैं चाहता हूँ कि दादरा और नगरहवेली पर किस हाईकोर्ट का जुरिडिक्शन रहे इसका फेसला वरिष्ठ पंचायत करे। वरिष्ठ पंचायत इस बात का निर्णय करे कि हम बम्बई हाईकोर्ट के अन्तर्गत रहें अथवा अहमदाबाद हाईकोर्ट के। जैसा वरिष्ठ पंचायत तय करे वैसे ही भारत सरकार को तय कर देना चाहिए।

इसके अलावा मुझे और कुछ अधिक नहीं कहना है।

Shri Achar (Mangalore): Mr. Deputy-Speaker, Sir, I only wish to make a few observations. The first thing that I would like to point out is in regard to clause 3. I am not in the least grudging one seat in Parliament for these brave people, but we have to remember that their population is only 50,000. In this connection, I would like to point out that Coorg was not willing to merge in the Karnataka State. They were about two and a half lakhs in point of population and so they also claimed a seat in Parliament, at least one seat. I am not at all grudging a seat so far as the people of Nagar Haveli and Dadra are concerned, but there is this aspect of the question to be considered. When a territory merges into the Union of India, whether there should be any special case for any part of the country which has only a population of 50,000 to be represented in Parliament, has to be considered. As it is, there is one seat for every eight lakhs of population. The Prime Minister has said that it is a temporary measure. I have nothing to say against it. But we have to

consider whether for 50,000 people there should be one seat here.

Shri Nathwani: There is no other representative body there.

Shri Achar: I have made it clear. We here are having one seat for every eight lakhs. When the people of a territory merge into the Union and become emotionally and nationally integrated into India, whether 50,000 people by themselves should have a separate seat is a point to be considered. Not that I am saying that it should be changed immediately. The only point is, the people of Coorg who number about two lakhs, whose culture is different, whose way of life is different and who have a speciality of their own, claimed a seat, but they were not given a seat. This aspect of the question has to be considered.

Then I come to clause 4. Very deserving and high tributes have been paid to these brave people of Dadra and Nagar Haveli. After doing that, is it proper to provide for that small territory only an advisory body? They are very careful people. I am told there has been no deficit financing or anything of that kind there. They have saved Rs. 30 lakhs. It was practically an independent unit. They have administered the territory very beautifully, for the last seven years. Of course, we have delayed their integration into the Indian union on account of the case in the Hague court. There has been delay because of it. All the same, the have managed things very well. So, why should the Varishta Panchayat—Varishta means superior—be only an advisory body? There is agitation among the people of Himachal Pradesh, the hill States of Assam, Tripura, etc., for a democratic system of Government; they are all claiming a system of democratic government for them. Of course, this is only a temporary measure, and I have not sent any amendments. I fully support

this Bill, but this aspect of the question should also be considered.

Then I come to clause 8. I have not studied the laws there and I do not know what exactly the statute law of that territory is—whether there are any statute laws or whether there are only customary laws. There may be some customary laws, such as marriage laws, which may be repugnant to the Constitution of India, and we should consider whether it is proper to say that everything there would be legal, even if it is repugnant to our Constitution. So far as this question of continuance of existing laws is concerned, I think some consideration should be paid to it. As I pointed out, the Prime Minister has himself said that this is only a temporary measure, and we have not put in any amendments.

It looks as if some linguistic controversy has crept in here between my friends from Maharashtra and Gujarat.

Shri Nathwani: It is not our intention. We say that the only criterion should be of convenience.

Shri Achar: All right there is absolutely no trouble between Maharashtra and Gujarat. He need not get angry with me on that account.

The Prime Minister was pleased to say that it is not Naagar Haveli, but Nagar Haveli and the word 'Nagar' is Hindi. In all humility, I would like to point out that it is not Hindi; it is Sanskrit. The root word is 'Nagra' (नगर).

Mr. Deputy-Speaker: Whatever it is it is Nagar.

Shri Achar: Yes; it is Nagar. I am pointing this out because let not the Hindi people claim that also saying that the name is in Hindi. That is my purpose.

श्री रा० स० तिब्बारी (खजराहो) :
उपाध्यक्ष महोदय, प्रधान मंत्री जी ने दादरा और नगरहवेली की शासन-व्यवस्था के

सम्बन्ध में जो बिल पेश किया है, मैं उस का स्वागत करता हूँ, क्योंकि हमारा यह क्षेत्र पांच सात सौ वर्ष के बाद भारत-भूमि में शामिल हुआ है, जिस के सम्बन्ध में बिल परसें पार्लिमेंट ने पास किया है। वहाँ से पार्लिमेंट के लिये प्रतिनिधि के विषय में राष्ट्रपति द्वारा नामजदगी की जो व्यवस्था की गई है, वह जरूरी और ठीक है, क्योंकि अभी उसका कुछ हिस्सा हम को मिला नहीं है और विदेशियों के हाथ में है।

जहाँ तक हाईकोर्ट का सम्बन्ध है, जो उन की मातृ-भाषा है, जिस भाषा से उन का सम्बन्ध है, उस को और उन की रचि तथा सुविधा को ध्यान में रखते हुए इस बारे में निर्णय लिया जाये।

मैं यह भी चाहता हूँ कि हमारा जो क्षेत्र पांच सौ वर्ष के बाद भारत-भूमि में शामिल हुआ है, वहाँ के लोगों के उद्धार के लिये, वहाँ के कम्युनिकेशन (आमदो-रफ्त), हिक्राजत और विकास के लिये जितनी भी सुविधा हम दे सकें, वह उन को दी जाये।

Shri N. E. Muniswamy (Vellore): Mr. Deputy-Speaker, Sir, I welcome this Bill. Many of the features of this Bill have been highlighted by my friends and I may be permitted to repeat one or two points. With regard to clause 4(2), which deals with the functions of the Varishta Panchayat, some of my friends have been saying that the functions should be not of an advisory character, but of a mandatory character. I am also of the same view. We must give them some sort of autonomy and whatever advice is given by the Varishta Panchayat must be adopted by the administrator. Otherwise, if it is only of an advisory character, it looks as if the administrator need not give any serious consideration and act according to it. If it is made mandatory, it will be an impetus for other pockets also to come into the Indian Union. We must give them freedom and make them understand that they are the rulers of the country.

[Shri N. R. Muniswamy]

I feel that the status of the administrator should be that of an executive officer and he must carry out faithfully, sincerely and honestly the decisions arrived at by the Varishta Panchayat. There should be no departure from the advice given by them.

Then, there has been a good deal of discussion about the jurisdiction of the High Court. We do not have the High Court of Bombay now. It has been renamed as the High Court of Maharashtra at Bombay. I find that clause 11 says:

"... the jurisdiction of the High Court at Bombay shall extend to Dadra and Nagar Haveli."

I request the hon. Minister to see that it is changed and put as "the jurisdiction of the High Court of Maharashtra at Bombay" instead of "High Court at Bombay", because the High Court at Bombay has been renamed as the High Court of Maharashtra at Bombay.

About the representation in the House of the people, one representation has been given to Dadra and Nagar Haveli. My friend, Shri Achar, has been saying that the population is only 50,000 and there is no need to give one representation, because even lakhs of people are not given representation. I do not agree with him. Unless we give them representation in Parliament, they may not feel that they are one with us. Therefore, even if their number is only 50,000, a representation has to be given, and it has been rightly given by the Government of India, for a representative of those people to come and sit in this august House. It is not as if representation should be based on any numerical strength, saying it must be 7 or 8 lakhs. At a time when we want many of the pockets to be integrated with India, unless we show them how they integrate with us by giving them representation, we may not have this Bill as a fore-runner of many more such Bills. Therefore, I

only wish that there should be no such observation that representation should not be given.

With regard to the Acts and laws which will be implemented in that part of the country, one hon. Member said that unless we apply the laws of the Indian Union to them, we may not be able to create the impression on them that they have been integrated with us. With great respect, I disagree with that view. The people there are mainly tribals and they have their own tradition, heritage and habits and manners. Unless we give them an assurance that there will be no inroads into those things by any imposition of our laws, it would look as though we are encroaching very much into their autonomy. Therefore I only wish that we must respect their traditions and habits. So far as social customs are concerned, whatever system is obtaining they must be retained without our making any inroads. We have got an armoury of laws and in our anxiety to see that they come on a par with us, if we transpose bodily all those laws into that part of the country, there will be some repulsion from them. Therefore, we should not interfere with their traditions and habits. The enthusiasm expressed by some Members to see that they are also brought on a par with us should not be heeded, because we would be doing them a harm if we impose our laws on them.

Shri Tyagi referred to the fact that they requested the Government of India that they should be taken into the Indian Union. Whether it is a request or not, so far as the facts are concerned, it is a fact. It is not a misstatement of facts. This request has been pending for a long time and we have been hesitating to take them in for various reasons. The reasons have been mentioned by the Prime Minister and those reasons have to be given proper weight. Certain formalities have to be gone through before the integration can take place

and that is why it has taken such a long time. There is nothing wrong in their request being made to the Government of India to take them. This Bill has come at the right time and we must invite them and give them all facilities;

As regards the development aspect, we must see that we spend more money out of the Consolidated Fund of India in developing that area, because by their administration, they have already saved Rs. 30 lakhs.

With these words, I support this Bill.

Shri Jhunjhunwala (Bhagalpur): Sir, this Bill is very welcome in all respects. It is said in clause 4(2) that:

"The functions of the Varishta Panchayat referred to in this section will be advisory only but due regard shall be given to such advice by the Administrator in reaching decisions on the matter in relation to which the advice is given."

In this connection, I have to say that such a thing occurs in many parts of India. Many bodies have been made simply advisory and therefore the people feel that something is being imposed on them from above. Here, Sir, these people have voluntarily joined us. So the Administrator should not act in a way as though he is doing something whereby something is being imposed on them. Just as my previous speaker has said, many other States might be willing to join us if they feel that the States which have already joined us are functioning very well, they are very happy and they do not feel that something is being imposed on them. Things may be good from our point of view, but they may not feel well with those things. Therefore my suggestion only is that the Administrator should see that his action is such as will not create an impression on the mind of the Panchayat that things are being imposed on them.

875(Ai)LSD—9.

As regards the question of High Courts, Sir, it should be left to them to decide where they want to go. We should not impose upon them whether they should go to the Bombay High Court or to the Ahmedabad High Court or to any other High Court.

About the question of taking one Member for Lok Sabha, it is necessary in the beginning that impetus should be given to them and one Member should be taken from Dadra and Nagar Haveli to the House of the People.

Shri A. K. Sen: Mr. Deputy-Speaker, Sir, it was only to be expected that this measure will receive the unanimous approval of the House. It is also natural that this House has welcomed this measure wholeheartedly though it follows only naturally from what we did previously in incorporating by a formal amendment of the Constitution the territory of Dadra and Nagar Haveli within our own territory. I, therefore, propose immediately to deal with some of the misapprehensions which have been expressed in the course of the debate. I say 'misapprehensions' because I conceive that though they are genuine apprehensions they are not properly founded.

May I straightway deal first of all with the point raised by Shri Tyagi? I do so because he laid emphasis on the same point when he spoke in the course of the debate in this House on the Constitution Amendment Bill. He takes objection to the Statement of Objects and Reasons in which it is mentioned that at the request of the people of Dadra and Nagar Haveli this Bill has been brought forward as the previous Constitution Amendment Bill. He takes exception on the ground that it expresses rather a weak frame of mind to say that we shall accept within our territory only those who want to come in and leave out those who naturally belong to it but do not express themselves so openly. I, Sir, with due respect to him, fail to appreciate the logic of this objec-

[Shri A. K. Sen]

tion. This country in its march to freedom and, after freedom, in its march to progress has never taken recourse to the methods of compulsion. We believe in government by consent, and we believe that that gives us greater strength than compulsion and the might of this country consists not in what is dictated from above but in what is done collectively by the people voluntarily and with a sense of purpose and dedication. I hope, Sir that in our future affairs and in our future course of administration we shall never take resort to the methods of compulsion.

Now, Sir, with regard to the objections raised by various Members—not objections really but apprehensions—with regard to clause 4 prescribing the function of the *varishta Panchayat* in relation to the Administrator, if I have understood the hon. Members properly, they have felt that the word 'advisory' limits the functions of this body only to what is literally known as 'advisory' and the Administrator will be more or less free to act as he likes disregarding the advice which may be given by the *varishta panchayat*. May I remind the House, Sir, that while we give such functions under the name of 'advisory functions' to such bodies, to such responsible bodies in relation to their functions *vis-a-vis* either a high office like that of a Governor or an Administrator or a Commissioner, in the field of constitutional law especially in a democratic State, the expression 'advisory function' has a particular meaning and only one meaning.

Let us examine Article 74 of our Constitution. Even the Prime Minister and the Council of Ministers in the Centre under the Constitution only give advice to the President. Legally we are all advisers. Article 74 says:

"There shall be a Council of Ministers with the Prime Minister at the head to aid and ad-

vice the President in the exercise of his functions."

I, therefore, fail to appreciate, Sir, how by describing the function of the *panchayat* as advisory we have not conferred a sufficiently high status to this body. I can understand the objection that the advice may be low, but I cannot understand the objection, with due respect to those who have made it, that the description of advisory function used in connection with the *varishta panchayat* gives them an inferior status. If the Cabinet at the Centre is only advisory...

Shri Achar: The only point is this. The constitutional point would have been all right. But let us read the earlier portion. Clause 4(1) says:

"Until other provision is made by law, as from the commencement of this Act the *Varishta Panchayat* shall have the right to discuss and make recommendations to the Administrator..."

It specifically says: "discuss and make recommendations". I do not think the constitutional provision will help us.

Mr. Deputy-Speaker: That is the third stage. First discussion is to take place and then only advice is to be given. What does the hon. Member want?

Shri A. K. Sen: I shall explain that point. Because it is contemplated that this body would not merely aid in an advisory capacity the administration of this territory but it is contemplated that some legislative function may also be given to it, it has been put like that. At the present moment it is exercising some legislative functions. With the incorporation of this territory with the Indian Union all legislative functions will now vest in Parliament and in the President. Even the function of making regulations for the peace, good order and government of this

territory will now vest, under article 240, in the President. Therefore, this means, until other provisions are made giving legislative powers to subsidiary bodies which may be indicated—in this case no subsidiary body is necessary because the varish-ta panchayat is already there—they will function in an advisory capacity, meaning thereby that this will function in the executive acts of the government of this territory as opposed to legislative functions, and that other functions which we may call legislative functions may be given in the future. That is what is indicated. Shri Achar is a lawyer of repute. I am sorry that it has not struck him why we are emphasising "other functions" in contrast with the functions appertaining to the administrator and the Varishta Parishad at the present moment functioning only in an advisory capacity in relation to the administration. Because, as from today rather as from the 11th August, they are divorced from all legislative affairs concerning that territory until that competence is given to them. Therefore, I am saying and answering the objections that advisory function does not indicate any status inferior or superior; it indicates a particular constitutional set-up, like the Cabinet in the Centre or the Cabinets in the States. They function in an advisory capacity. And in my submission, when they are given such functions, it is indicated very clearly what their function is, and it is also indicated naturally that the Administrator is normally bound to accept the advice, as the President in the Centre and the Governor in the States. Therefore, the point as to whether there is a possibility in the future of the Governor or the Administrator acting arbitrarily ignoring the advice, in the day to day administration of the territory, given by the Varishta Parishad is also answered by the same argument. Well, legally speaking, the competence of the administrator to act by himself is there, as he is the head of the union. But the advisory function is meant to be followed, and

not to be ignored. And the constitutional function in a democratic country is, as it has been in this country, and will always be, that that advice is by convention made binding.

15 hrs.

The next objection that has been more or less indicated though not specially taken, is about a provision relating to making the High Court of Bombay the High Court for this territory. May I only indicate the subordinate objection which I just now heard from Shri Muniswamy? He referred to the name "High Court of Bombay" and said that it should be called "High Court of Maharashtra in Bombay".

Shri N. R. Muniswamy: I said the Maharashtra High Court at Bombay.

Shri A. K. Sen: Well, it is more or less the same—the High Court of Maharashtra in Bombay or the Maharashtra High Court in Bombay. Then you might as well say the Utar Pradesh High Court at Allahabad, the Bengal High Court at Calcutta and so and so forth.

Shri N. R. Muniswamy: It is stated in the Bifurcation of Bombay Act.

Shri A. K. Sen: Let us leave the question of the actual words to the draftsman's language and not deprive him completely of the duty as to in which language he should express it. I for one would uphold, if I have to adopt a language, one which is not shorn of all its beauty and elegance simply to appeal to the tastes of some parochial minds.

Mr. Deputy-Speaker: What he means is the bare description given in an earlier enactment.

Shri A. K. Sen: I do not know where.

Mr. Deputy-Speaker: In the Act itself.

Shri N. R. Muniswamy: I do not have any parochial view at all. I have specifically referred to the earlier enactment. The thunder and lightning of the Bombay High Court is there.

Shri A. K. Sen: I personally think that this is a much more elegant description—the High Court in Bombay—as it is much more elegant to describe the U.P. High Court as the High Court in Allahabad without saying the Uttar Pradesh High Court in Allahabad.

Shri N. R. Muniswamy: I only say that you conform to the previous Act.

Shri A. K. Sen: If any Act has used inelegant language, let us remove that inelegant language rather than making this also inelegant. This is understood very well. This is also, in my submission, much more elegant than the other description.

Mr. Deputy-Speaker: There is no doubt that this is more elegant. I disagree with the hon. Member there. But if there is a description of that High Court in a particular way in any Act passed by this Parliament then we must follow that description. That is the objection.

Shri A. K. Sen: As I said, the better thing would be to change that description rather than follow it here also.

Mr. Deputy-Speaker: Unless we change that, we have to follow it here as well.

Shri A. K. Sen: I do not know for what purpose that expression was used.

Mr. Deputy-Speaker: Anyhow, he might consider it.

Shri A. K. Sen: Any way, the expression "High Court of Bombay" is fairly well understood. In which Act is the other expression used?

Shri N. R. Muniswamy: In the Bifurcation of Bombay Act they have specifically used this expression.

Shri A. K. Sen: We will see that. Nevertheless, I think this is fairly well understood and the description is also, as you rightly pointed out, more elegant.

The substance of the objection is in prescribing the High Court of Bombay for this purpose, instead of leaving it to the Varishta Parishad. As has been indicated already this Bill as also the Constitution (Tenth Amendment) Bill were drafted in close consultation with the representatives of the people of Dadra and Nagar Haveli. They have been appraised of the provisions of this Bill very well and they have not taken this objection, and administratively and from the point of view of contiguity....

Shri N. R. Muniswamy: I have only referred to the name of the High Court.

Mr. Deputy-Speaker: That point has already been dealt with.

Shri A. K. Sen: If I may say so, I am now dealing with the substance of the objection, and not the name. I said that the people there have not taken any objection to it. We are trying to leave an option which they have not wanted. And from all points of view this provision has been welcomed, as the appellate court nearest in distance, approachable much better and from every point of view. To us every High Court is the same in India. They uphold the same system of law with the same fearlessness and the same impartiality. It matters little to which High Court a particular appeal goes or not. Every High Court is the same and we pay the same respect to the decrees and judgments of every High Court. And it is our honour and our privilege too that we have a system of High Courts in this country which have set a standard not only for our-

selves but also for the whole world. Therefore, it does not matter, as I said, to which High Court it goes. We have done this only for the purpose of making the approach to a particular High Court which is the most convenient from the practical point of view, not from any other point of view, and it has not been expressed by the representatives of the people at any stage that any other High Court would be more convenient. Therefore, it is better to leave it as it is.

The next point is about the question of nomination of a member to the Lok Sabha from this area. I wish it was not suggested at all that these people having only a population of 50,000 should not have a representative in Parliament because in the rest of the country we only have one member for four lakhs of people. Well, the population has been divided into units of four lakhs for convenience. For the purpose of representing the people the essential requirement is the element of representation of a particular area, and for the purpose of making that representation effective and possible the country has been divided into these units, roughly containing a population of four lakhs each.

Shri Maniyanganadan (Kottayam): It is seven lakhs.

Shri A. K. Sen: It is not seven lakhs; it is four lakhs. Seven lakhs is for double-member constituencies. For single-member constituencies it is between four lakhs to five lakhs.

Shri Maiyangadan: That is voters.

Shri A. K. Sen: I was only referring to voters, because it is they who are to be represented. Therefore, the element that has to be taken into consideration and which we must never lose sight of is the essential purpose of representation that an area or particular set up has to be represented. This area not only needs representation for making its voice

felt when functioning by this particular set up, it deserves to be represented by every test that we may lay down. They have valiantly fought, freed themselves, ruled themselves properly and now they are going to be ruled by the laws of this Parliament. There is no reason to suppose that this is against any test which we may think of to give representation to these people. I am glad that it has not only not been grudged but has been welcomed by every section of this House.

The question of nomination is certainly important, but I must say that it is acknowledged freely by everyone in this House that in the beginning there must be nomination. We cannot have all the paraphernalia of elections, the voters' lists and everything, straightaway. But I have no doubt that like the rest of the country these people will be able to elect from themselves their own representative.

As I said, there was a faint suggestion, unfortunately from Shri Nath Pai that the Government here might perpetuate this system of nomination and more or less bring representatives belonging to a particular party. Practically speaking, one more addition to the Government party would not mean either an acquisition of strength or really a loss of strength for the other side. But in any event, I think it is a rather unfair suggestion to make because we have never believed in having a rump Parliament. No government will function properly and command respect from the people if there is only a rump Parliament at its command. This Parliament has behaved as it ought to as the guardian of the interests of the entire people fearlessly and always critical of the Government. I am very glad to say that the Party from which the Government has been drawn has been most critical of the Government than possibly in other countries.

Shri Tangamani: Rump Parliament?

Shri A. K. Sen: Yes, rump Parliament. I may be wrong in my exposition, but I cannot conceive of a Parliament which consists of people or representatives at the command of the Government. I think it is an appellation of Professor Mukerjee. Possibly that description was given to one of the Parliaments during the reign of Charles the First.

Shri Tyagi: I might clarify that it is not that the Members of Parliament of this Party oppose the Government. It is only when the Opposition fails altogether in its duty that we have to take up the cause of the people.

Shri Braj Raj Singh: Why should you take over their function?

Mr. Deputy-Speaker: That opportunity is not given at this moment.

Shri A. K. Sen: I must also, in fairness to the Opposition, say that they have been alive to their duties as Opposition. I have heard it from very good authority. It is not really for me to philosophise on this, but people from outside who have come have given tributes not only to the Government Party but to the constructive way also in which the Opposition has behaved in this Parliament.

Some Hon. Members: Thank you.

Shri A. K. Sen: I remember Dr. Hugh Gaitskell told me when he was here that he was amazed to find the hon. Members from the Opposition being so respectful to the members of the Government. He said that in England it was quite the other way about.

Shri Indrajit Gupta (Calcutta—South West): Are we supposed to take the hint?

Shri A. K. Sen: Not at all. I am only stating facts. As I said, there is hardly any danger of getting this House packed with nominees. Even

for other areas where we have the system of nomination the Government has taken good care to find out who really commands the confidence of the people whom he seeks to represent as the nominee of the President in the Parliament. I have no doubt that these people who have proved their ability equally if not more than others in the rest of the country, will enjoy the same right of electing their own representatives to Parliament as the rest of the country.

This really disposes of all the objections excepting the technical ones raised by Shri Tyagi and a few others regarding the continuance of the existing laws. It is not possible, while incorporating or integrating areas, to forget the legal past of the territories concerned. It has happened not only with regard to foreign territories in the sense of territories which were governed by foreign powers, like the French possessions and this particular Portuguese possession, but also in the matter of integrating territories which were governed by Indian rulers in the olden days having their distinct forms of administration of law and also other laws different from ours. Those laws cannot be effaced straightaway, like, the property laws and laws of succession. For instance, in Pondicherry and in Chandranagore even now we have the old French laws continuing. Chandranagore has integrated completely for over a decade now. I have gone to Chandranagore myself and have argued French law because still the French laws have not either been repealed or amended. They still hold the field.

I remember that under the French law there is no system called relief against forfeiture of a leasehold for non-payment of rent. Those who are lawyers will particularly appreciate it. I am mentioning it because this case is reported as a decision of the Calcutta High Court. The point specifically taken was whether after integration the French laws which did not recognise any relief against forfeiture would hold against the Transfer of Property Act which specifically en-

joined upon the court to give relief. The District Court held against me. They held that the Transfer of Property Act would apply as the principles of it and the rigours of the French law would be modified to that extent. But the Calcutta High Court decided to the contrary.

This only exemplifies that particular territories being run and social and legal relationships being guided by different systems of laws cannot be changed overnight, like the penal law in Pondicherry and various other laws. That is why the best course in such cases has been, as we have done in the past, to continue the existing laws and then to introduce laws from India as and when it is necessary. For that power has been taken under clause 10. Also, power of adaptation has been taken under clause 12 which is very wide as also rule-making powers under clause 14. The apprehension that some laws of a colonial country in conflict with or hostile to our basic laws, namely, the fundamental rights and other provisions of the Constitution, would be continued is again not a very genuine apprehension because no law can be continued, even if we say so, contrary to the Constitution. The moment this territory becomes part of India, all laws continued or not continued, which are repugnant to the Constitution would, to that extent, be void. It is not necessary to reiterate. It will, in fact, be bad to reiterate that all laws contrary to the Constitution will be void. They are void.

Shri Tyagi: Why not mention that”.

Shri A. K. Sen: It is not necessary. We never mention that, because when laws are continued the paramount condition subject to which they are continued is that they are continued subject to the prescriptions of the Constitution. In any event, let us not also forget that these territories had been administering themselves with their own laws but modified to the extent that they were necessary in order to adjust the old

laws to the new set-up. Therefore no laws were allowed to continue during these seven years which were in conflict not only with our Constitution but also with the basic laws of the country, like the Penal Code or other things. Therefore what is continued by clause 8 in fact are laws which were not the old laws but laws which were modified during the last seven years and which guided the affairs of this territory in the course of their free government until integration.

With these words I again recommend this motion for acceptance.

Shri Nath Pai: Everybody has spoken about the representative from this area coming to this House as a Member. We have not been able to follow whether the arrangement of nomination is limited till the general elections or it holds good for all time.

Mr. Deputy-Speaker: He has answered that. Perhaps the hon. Member was not here.

Shri Nath Pai: I did try to get a report as the custom on that side is. The argument raised is that there are 50,000 people.....

Shri A. K. Sen: All that I said was that it is agreed that it must be during the temporary period of transition by nomination. But I said that there is no reason to suppose that these valiant people would not enjoy the same right of electing their representatives to Lok Sabha as the rest of the country.

Shri Braj Raj Singh: In 1962?

Shri A. K. Sen: I dispelled the insinuation, rather a faint insinuation, of Shri Nath Pai, which was unfortunate, that the Government of the day would continue this or perpetuate this system of nomination.

Shri Braj Raj Singh: That is not the point. Is it clear that in 1962 the people of these areas shall be sending their representative by election?

Mr. Deputy-Speaker: It is very clear, but not as the hon. Member thinks it should be!

The recollection of Shri N. R. Muniswamy was wrong. The description of the High Court is: "hereinafter referred to as the High Court at Bombay".

Shri N. R. Muniswamy: That is what I wanted to apologize about. Here I find "the High Court of Gujerat".

Mr. Deputy-Speaker: Yes, I have got it and I have seen it.

Shri A. K. Sen: I was myself surprised when I was told about it—such an inelegant description.

Shri Nath Pai: There are fifty thousand people all around in that area and we are getting one representative in this House. Under the constitution it must be to the tune of three-quarter million. Does it mean that this is a significant appointment for the whole of what is today a Portuguese colony or that for every fifty thousand people we will be getting one representative?

Mr. Deputy-Speaker: That too he has answered. The hon. Member was not attentive perhaps.

Now I put the motion to the vote of the House.

The question is:

"That the Bill to make provision for the representation of the Union territory of Dadra and Nagar Haveli in Parliament and for the administration of that Union territory and for matters connected therewith, be taken into consideration."

The motion was adopted

Mr. Deputy-Speaker: We will now take the Bill clause by clause.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Mr. Deputy-Speaker: Is any amendment being moved to clause 3? I find there is none.

The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clauses 4 to 7 were added to the Bill.

Clause 8 was added to the Bill.

Clauses 9 to 10 were added to the Bill.

Clause 11—(Extension of the jurisdiction of Bombay High Court to Dadra and Nagar Haveli)

Shri P. R. Patel: Sir, I have given notice of two amendments, Nos. 6 and 10, to clause 11. They are as follows:

(i) Page 3, line 18,—

for "As from such date as" substitute—

"In accordance with the opinion of the Varishta Panchayat". (6)

(ii) Page 3, line 20,—

after "Bombay" insert—

"or at Ahmedabad". (10)

I am very grateful to the Law Minister and the Prime Minister for making it clear that giving jurisdiction to the Bombay High Court means that it is only for the convenience of the people. We must look to the convenience of the people. May I point out here that Dadra is surrounded on

all sides by Pardi taluk. If it is convenient to the people of the Pardi taluk, I would like to know how it is inconvenient to the people of Dadra. And Nagar Haveli is surrounded on three sides practically on four sides, by Dharampur taluk and Umargaon taluk. If it is convenient to the people of these taluks, how is it inconvenient to the people of Nagar Haveli! The nearest station is Vapi. Whether it is convenient or inconvenient, that should be the wish of the people of Dadra and Nagar Haveli. If the option is given to the people of this territory and if they have expressed the desire that the High Court should be at Bombay, I have nothing to say. I would like to know from the Government whether the people were given the option, whether they were asked what is convenient to them—the High Court at Bombay or at Ahmedabad. And if the people had been asked then I would like to know what their reply is. There is a Varishta Panchayat, and if the Varishta Panchayat was consulted I want to know what its opinion is, whether they have said that Bombay will be convenient or whether they have expressed anything against Ahmedabad. The question of convenience of the people is the only thing there and so I would like to know the position from the Government.

Then I would like to know from the Government the language in which the proceedings of the Varishta Panchayats had been conducted up till now. And if it is Gujarati, then naturally their convenience would be there if they are put under the Ahmedabad High Court.

But I do not want to press this point at this time, because this Bill is such a Bill that there should not be any two opinions; and in order to get the Bill passed without any opposition, without any amendment, I would, with your permission, like to withdraw my amendments. I am not pressing them.

Shri Braj Raj Singh: Sir, has he moved those amendments?

Mr. Deputy-Speaker: No, he has not moved them.

The question is:

“That clauses 11 to 14 stand part of the Bill”.

The motion was adopted.

Clauses 11 to 14 were added to the Bill.

Clause 1 was added to the Bill.

The Enacting Formula and the Title were added to the Bill.

Shri Jawaharlal Nehru: Sir, I beg to move:

“That the Bill be passed”.

In proposing that the Bill be passed, may I say one word in view of some apprehension about the election or the selection of the Member of Parliament from that area? It is obvious that the person who comes from there should be elected. There is no doubt about it. But at the present juncture, to cast that duty on them will be to create difficulties for them, for the Election Commission and others. Therefore, we have said this.

I am not sure, I rather doubt if at the time of the General Elections the Election Commission and others would be ready to have a proper election there. I imagine that at the next General Elections he will be selected. But I can assure the House that as soon as possible after that the process of formal election will come in.

Mr. Deputy-Speaker: The question is:

“That the Bill be passed”.

The motion was adopted.