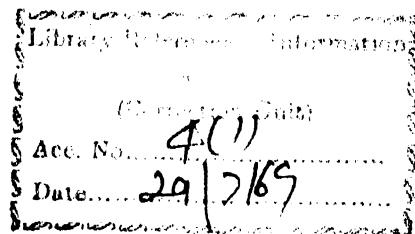


LOK SABHA

**JOINT COMMITTEE  
ON  
THE CONSTITUTION (TWENTY-  
SECOND AMENDMENT) BILL,  
1968**

**E V I D E N C E**



**LOK SABHA SECRETARIAT  
NEW DELHI**

*March, 1969/Phalgun, 1890 (Saka)*

*Price : Re. 0.65 P.*

JOINT COMMITTEE ON THE CONSTITUTION (TWENTY-SECOND AMENDMENT) BILL, 1968

**Composition of the Committee**

**Shri Shantilal Shah—Chairman.**

**MEMBERS**

*Lok Sabha*

2. Shri Debananda Amat
3. Shri Bedabrata Barua
4. Shri Fakhruddin Ali Ahmed
5. Shri B. Bhagavati
6. Shri R. D. Bhandare
7. Shri Anil K. Chanda
8. Shri M. K. Nanja Gowder
9. Shri Hem Barua
10. Shri Dhireswar Kalita
11. Shri K. M. Koushik
12. Shri Valmiki Choudhary
13. Shri Bal Raj Madhok
14. Shri K. Ananda Nambiar
15. Shri Nihal Singh
16. Chaudhary Nitiraj Singh
17. Shri T. D. Ramabadran
18. Shri M. B. Rana
19. Chaudhuri Randhir Singh
20. Shri J. Ramapathi Rao
21. Shri V. Sambasivam
22. Shri Naval Kishore Sharma
23. Shri Prakash Vir Shastri
24. Shri Sheo Narain
25. Shri V. C. Shukla
26. Shri G. G. Swell
27. Shri Om Prakash Tyagi
28. Shri Atal Bihari Vajpayee
29. Shri G. Viswanathan
30. Shri Y. B. Chavan

*Rajya Sabha*

31. Dr. B. N. Antani
32. Shri Pitamber Das
33. Shri K. Chandrasekharan

34. Shri Golap Barbora
35. Shri A. D. Mani
36. Shri Purnananda Chetia
37. Shri Sriman Prafulla Goswami
38. Shri Hayatullah Ansari
39. Shri E. M. Sangma
40. Shri P. C. Mitra
41. Shri A. P. Sinha
42. Shri M. L. Kollur
43. Shri B. C. Pattanayak
44. Shri G. R. Patil
45. Shri Dalpat Singh

**LEGISLATIVE COUNSEL**

1. Shri V. N. Bhatia, *Secretary, Legislative Department, Ministry of Law.*
2. Shri K. K. Sundaram, *Joint Secretary and Legislative Counsel, Ministry of Law.*
3. Shri G. A. Shah, *Joint Secretary and Legal Adviser, Ministry of Law.*
4. Shri R. V. S. Peri-Sastri, *Addl. Legislative Counsel, Ministry of Law.*
5. Shri G. N. Saksena, *Assistant Draftsman, O. L. (Leg.) Commission, Ministry of Law.*

**REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS**

1. Shri M. R. Yardi, *Additional Secretary, (UT).*
2. Shri K. R. Prabhu, *Joint Secretary.*
3. Shri N. C. Sareen, *Deputy Secretary.*

**SECRETARIAT**

**Shri M. C. Chawla—Deputy Secretary.**

## WITNESSES EXAMINED

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	(1) Shri A. N. Kidwai, Chief Secretary.		
	(2) Shri B. C. Barua, Advocate General.		
	(3) Shri G. C. Phukan, Secretary, Finance.		
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	(1) Shri H. C. Sarin, Secretary, Ministry of Defence.		
	(2) Shri L. P. Singh, Secretary, Ministry of Home Affairs.		
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JOINT COMMITTEE ON THE CONSTITUTION (TWENTY-SECOND AMENDMENT) BILL, 1968.

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CONSTITUTION (TWENTY-SECOND AMENDMENT) BILL, 1968

Tuesday, the 11th February, 1969 at 15.00 hours

PRESENT

Shri Shantilal Shah—Chairman

MEMBERS

*Lok Sabha*

2. Shri Debananda Amat
3. Shri Bedabrata Barua
4. Shri Fakhruddin Ali Ahmed
5. Shri B. Bhagavati
6. Shri R. D. Bhandare
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15. Shri Prakash Vir Shastri
16. Shri Sheo Narain
17. Shri G. G. Swell
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31. Shri G. R. Patil

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2. Shri G. A. Shah, *Joint Secretary and Legal Adviser, Ministry of Law.*

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2. Shri K. R. Prabhu, *Joint Secretary*
3. Shri N. C. Sareen, *Deputy Secretary.*

## SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*

## WITNESSES EXAMINED

*Representatives of the Government of Assam:**Spokesmen:*

1. Shri A. N. Kidwai, *Chief Secretary*
2. Shri B. C. Barua, *Advocate-General*
3. Shri G. C. Phukan, *Secretary, Finance.*

*(The witnesses were called in and they took their seats)*

MR. CHAIRMAN: Let us begin. I would like to read out the Direction of Speaker to the witnesses. It reads:

“Where witnesses appear before a Committee to give evidence, the Chairman shall make it clear to the witnesses that their evidence shall be treated as public and is liable to be published unless they specifically desire that all or any part of the evidence given by them is to be treated as confidential. It shall, however, be explained to the witnesses that even though they might desire their evidence to be treated as confidential, such evidence is likely to be made available to the Members of Parliament.”

So, you can keep this in mind.

The Assam Government have suggested certain amendments and comments on the Bill. I believe, the best

thing for the Chief Secretary and the Advocate-General would be to explain the amendments which they have suggested to us. The first is amendment to sub-clause (1) of proposed article 244A. No explanatory notes have been sent. We have only got the amendments.

SHRI B. C. BARUA: In the 11th September statement, it was guaranteed that the Assam Government will continue to exercise all the powers that they have been exercising in respect of Shillong Municipality. But Shillong Municipality comprises of two parts. One part belongs to former British and the other part belongs to former Khasi State of Mylliem. The part which belongs to Khasi State of Mylliem is a tribal area. So, unless that part is specifically excluded, the jurisdiction will automatically extend to that....

SHRI G. G. SWELL: Will you kindly read out the portion of 11th September statement which says like this? For the enlightenment of the Committee, it will be better if he reads out that portion. He is referring

to a part of it, not the whole of it. In order that the Committee may not be misguided, I would request him to read out the whole thing.

MR. CHAIRMAN: That has been circulated to us.

SHRI G. G. SWELL: The witness has mentioned only half of it and left the other half.

MR. CHAIRMAN: We have got the whole of it. We will take note of it.

So, what you want is that the whole of the Municipality and Cantonment area should be excluded from the jurisdiction of the autonomous State.

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN): I think, Mr. Swell has made a correct point. What is the statement of 11th September? The particular para which deals with Shillong reads thus:

"Shillong will continue to serve as the headquarters both of the State of Assam and Autonomous State. The State of Assam will have the same legislative and administrative control over the Cantonment and Municipality area of Shillong as at present."

That is what is says. In order to suit this particular provision, we have amended the section, calling it wholly or in part", at the recommendation of the Chief Minister of Assam. Now, you are going a step further to defeat the very purpose of the statement made. 'Wholly or in part' was accepted at the suggestion of the Chief Minister. It was accepted after discussion with him in order to meet this point. Under whatever arrangement we have made, Shillong continues to be the headquarters of both. That seems to be the wise solution of this whole matter. Otherwise, we will unnecessarily create problem there. Municipality and Cantonment jurisdiction will remain with the Assam Legislature and, about the other part, the

tribal area, it will remain with that. The present provision in the Bill itself is, really speaking, a compromise of the whole thing. If you try to take it further, you defeat the very purpose of it.

SHRI B. C. BARUA: It should be made clear in the Bill.

SHRI Y. B. CHAVAN: The Bill, as it is drafted today, meets the purpose of the 11th September announcement.

SHRI G. G. SWELL: I would like to read this sentence in the same para which is as follows:

"The present powers of the District Council under the Sixth Schedule in regard to certain areas of Shillong Municipality will remain with that body."

Why is it you have left out this sentence in your evidence? You have totally ignored this part of the paragraph. What will be the benefit to this Committee by leaving out this sentence? I am referring to the last sentence of this paragraph.

SHRI G. C. PHUKAN: There is no intention of ignoring what the hon. Member has just now pointed out. There is no intention, whatsoever, to take out from the jurisdiction of the District Council any portion whatsoever. That portion will always remain with the District Council of Khasi Hills. So far as the territorial jurisdiction of the Autonomous State is concerned, the idea is to exclude it. In that portion while in the higher level the jurisdiction of the State of Assam will remain, at the next level the jurisdiction of the District Council will remain....

SHRI G. G. SWELL: Shall I read out for your benefit the provisions in the Constitution, in the Sixth Schedule, with regard to Shillong. Perhaps it would help to refresh your mind and would also help the Committee to understand the position. I am reading Paragraph 20:

"The areas specified in Parts A and B of the table below shall be the tribal areas within the State of Assam.

The United Khasi-Jaintia Hills District shall comprise the territories which before the commencement of this Constitution were known as the Khasi States and the Khasi and Jaintia Hills District, excluding any areas for the time being comprised, within the cantonment and municipality of Shillong, but including so much of the area comprised within the municipality of Shillong as formed part of the Khasi State of Mylliem:

Provided that for the purposes of clauses (e) and (f) of sub-paragraph (1) of paragraph 3, paragraph 4, paragraph 5, paragraph 6, subparagraph (4) of paragraph 8, and clause (d) of subparagraph (2) of paragraph 10 of this Schedule, no part of the area comprised within the municipality of Shillong shall be deemed to be within the District."

You were talking of territorial jurisdiction. Here the territorial jurisdiction of the Khasi Hills District Council has been well defined in the Constitution. I do not think that you would suggest any amendment overriding the provisions of the Constitution.

Secondly, certain powers have been excluded. Is it not a clear evidence that territorially Shillong belongs to Khasi Hills and only certain powers have been excluded from the Khasi Hills District Council? But your suggestion is the other way round!

SHRI G. C. PHUKAN: We are not questioning the territorial jurisdiction

of the District Council. In fact, we want to keep the territorial jurisdiction of the District Council unreduced. So far as Mylliem portion of Shillong municipal area is concerned, only certain functions of the District Council have been excluded from the area but nonetheless that area is within the jurisdiction of the District Council....

SHRI G. G. SWELL: You accept that position?

SHRI G. C. PHUKAN: Yes, we accept that position.

MR. CHAIRMAN: Then what is the point in amending it?

SHRI F. A. AHMED: In the Sixth Schedule, it is clearly said:

"The United Khasi-Jaintia Hills District shall comprise the territories which before the commencement of this Constitution were known as the Khasi States and the Khasi and Jaintia Hills District, excluding any areas for the time being comprised, within the cantonment and municipality of Shillong....."

So, it is already there.

SHRI B. C. BARUA: The legislative power enjoyed in respect of that area will be taken away in that case...

SHRI F. A. AHMED: How?

SHRI B. C. BARUA: The Assam Government will lose the power.

SHRI F. A. AHMED: How?

SHRI G. G. SWELL: You have not been able to prove how the legislative power of the Assam Government will be excluded. You are labouring under certain apprehensions.

SHRI G. C. PHUKAN: We only want that the Reorganisation Bill should be within the strict terms of the declaration made by the Government in this behalf.

MR. CHAIRMAN: How does this differ from the declaration?

SHRI G. C. PHUKAN: We assume that the Reorganisation Bill to be drafted and introduced in the Parliament will exclude the municipal area of Shillong. But there is the possibility that, in the course of the debate, some amendment may be suggested suggesting inclusion of the Myllieum portion of Shillong Municipality. We only want to exclude the possibility of such an amendment being brought about subsequently.

SHRI Y. B. CHAVAN: How can it be done? You are suggesting ideas which nobody has thought of.

SHRI F. A. AHMED: If there is any amendment, we will look after that.

SHRI G. G. SWELL: The witness has said that he has apprehensions. We have to carefully note the word 'apprehensions'....

SHRI K. CHANDRASEKHARAN: This is an enabling bill. There is the enabling provision. It does not define the areas. It only suggests in broad terms what will be the areas to be included. It is the view of the witness that the areas should be definitely stated in this constitution amendment Bill itself?

SHRI G. C. PHUKAN: Our view is this. Parliament should be given power of re-organisation only of those areas which clearly come within the September declaration of the Government of India.

MR. CHAIRMAN: "Whether fully or in part"—those are the words. That will be defined when the other Bill comes. Do you want to put that here?

SHRI G. C. PHUKAN: Yes.

SHRI F. A. AHMED: It will be relevant only when the other Bill comes.

SHRI G. C. PHUKAN: In the other Bill by mere majority an amendment can be passed.

MR. CHAIRMAN: You can object when the other Bill comes. You want to forestall any amendment even being proposed in the other Bill. All right. We can go ahead. What is the other part of your amendment? For sub-clause (3) instead of the words, not less than two-thirds, you want to say 'by a majority of not less than two thirds of the members of that House present and voting'. The draftsman can look after this.

SHRI F. A. AHMED: We can modify this. There is Art. 308. We should have the same language as in Article 368.

MR. CHAIRMAN: We will follow that language.

Now, on Cl. 4, you have said—'subject to the provisions of clause 3.' What do you mean?

SHRI G. C. PHUKAN: We accept the position. Our amendment in Clause 3 is only concerning distribution of subjects. The procedure of article 368 should be applied there. Excluding that portion, for the other portion, that will not be an amendment of the constitution.

SHRI G. G. SWELL: You are no doubt aware of the expression Tweedle-dum and Tweedledee! Have you read your own proposal properly? What does Art. 368 of the Constitution say? You want in Clause 4, the same thing to be repeated.

SHRI G. C. PHUKAN: Only in respect of clauses (a) and (b).—Not the others.

SHRI Y. B. CHAVAN: There is some printing mistake there.

MR. CHAIRMAN: They have sent the correction.

DR. B. N. ANTANI: I would like to know from the witness as to what are the other reasons except the apprehensions that they have stated just now. What are the other reasons? Let us understand and be clear about it. Let there be no reservation at all in the mind of the committee.

SHRI G. C. PHUKAN: Our Government's view is this. The scheme framed by the Government of India is the most satisfactory in the prevailing circumstances. Everybody should try to settle down to the accepted position and try to work for it. If there is any scope for an agitational approach, the agitational approach should die down and people should settle down to working this new arrangement which has created goodwill and cooperation.

SHRI G. G. SWELL: You have gone beyond official and legal interpretations. You have gone to political questions. Are you within your right?

MR. CHAIRMAN: The question put was this. Beyond the apprehensions, have you any other reasons?—Let them answer.

SHRI G. C. PHUKAN. The object of the Government of Assam is that people should settle down and try to work out this to the best of their ability.

MR. CHAIRMAN: Everybody has followed that. You have certain apprehensions which have prompted these amendments. In addition, have you any other ground?

SHRI G. C. PHUKAN: There should be no scope left to go on agitating about this matter.

MR. CHAIRMAN: You want this scheme to go through.

DR. B. N. ANTANI: Every right-thinking citizen desires that it has to be settled down. The object is the same. Beyond that, is there any other ground?

SHRI G. G. SWELL: In spite of the reservations, the APHLC has accepted the position. It has clearly and ungrudgingly accepted the position of...

MR. CHAIRMAN: Let us not argue. They have stated their view point. Anything else? After all, they are welcome to state their views.

SHRI G. C. PHUKAN: Sub-clause 2(d) reads:

"provide that any reference to a state in any article of this Constitution all be construed as including a reference to the autonomous State".

We feel it is our duty to point out that in order to prevent any kind of dispute in future the Constitution Amendment Bill itself should be complete in all its aspects instead of making a reference to any parliamentary legislation to come. We feel that the Constitution Amendment Bill itself should be so comprehensive that no cross-reference is necessary.

SHRI Y. B. CHAVAN: The whole theory seems to be based on apprehension. I am now speaking on behalf of the Government of India and it is the intention of the Government not to deviate in any way from the announcement made on 11th September.

SHRI G. C. PHUKAN: In the very beginning I pointed out that we have no specific suggestions to make. We are just pointing out that Sub-clause 2(d) should be so modified as to make any reference to the proposed Autonomous State by virtue of any article in the Constitution to mean a reference for specific purposes and with regard to particular articles only in the Constitution to avoid any administrative confusion.

SHRI K. CHANDRASEKHARAN: With regard to paragraphs 2 and 3 of your note concerning Clauses 3 and 4, is it the view of the Advocate General that the amendment now incorporated

in clauses 3 and 4 is likely to be unconstitutional, particularly in view of Article 368 and therefore he would like to have the provisions of Article 368 incorporated and adhered to in the matter of passing any law which would be a deemed amendment of the Constitution but nonetheless would not be an amendment as the clause 4 would state. I think then it is a very serious constitutional issue.

SHRI B. C. BARUA: I am only suggesting that an attack will be possible on the ground that it is a round about way of getting rid of Article 368 of the Constitution. It may be argued that a full-fledged State has been created without going to Article 368. I am only saying that there may be a possibility of attack on this ground.

SHRI YARDI: I may point out here that a large number of reorganisations have taken place in this way.

SHRI B. C. BARUA: In Golak Nath's case . . .

MR. CHAIRMAN: Don't quote that case here.

SHRI Y. B. CHAVAN: Then, discussion on that will be re-opened.

SHRI K. CHANDRASEKHARAN: Though this question is not of immediate relevance,—would like to know from the Chief Secretary his opinion. It is proposed to transfer most of the subjects in the State List to the autonomous State and most of the subjects in the Concurrent List would remain with the Assam State Government. In the matter of control of the administrative services and in the exercise of administrative functions, *prima facie*, does he feel that there will be any special difficulties?

SHRI A. N. KIDWAI: I don't think so. It is a question of working together.

DR. B. N. ANTANI: We have been receiving copies of some telegrams. One reads as follows:

"Considering composition and distribution of habitation of minorities in proposed autonomous State there is no possibilities for minorities to represent in proposed legislature by direct election hence minority convention Garo Hills most sincerely and strongly appeal for making provision of nomination in proposed amendment of constitution for creation of autonomous State in Assam.

MR. CHAIRMAN: Whether elected or partly elected or partly nominated, the Assam Government does not seem to object to it; otherwise they would have said it.

SHRI KAUSHIK: Is this going to be compulsory or discretionary or in proportion?

MR. CHAIRMAN: When the other Bill comes, which provides for nomination, etc. we will discuss about this.

SHRI DHIRESWAR KALITA: Amendment No. 4 which is submitted by the Government of Assam—I want to ask the officials of the Government of Assam about this amendment.

SHRI B. C. BARUA: That will impinge upon the power of the legislative assembly.

MR. CHAIRMAN: That is a point for consideration.

SHRI B. C. BARUA: In Art. 371 there is a similar provision. There is one safeguard which secures the proper functioning of the regional committees. If necessary that safeguard can be added.

SHRI Y. B. CHAVAN: At the most you are willing to have some amendment.

SHRI B. C. BARUA: Our Government has asked for abolition. So far as the Speaker is concerned, he will be satisfied with this amendment.

SHRI Y. B. CHAVAN: That is a point for consideration.

SHRI SWELL: You are speaking on behalf of the Speaker also?

SHRI B. C. BARUA: Speaker has consulted me this time.

SHRI OM PRAKASH TYAGI: Is it not true that HSPDP has not accepted this autonomous State and has demanded a separate full-fledged State, since the APHLC has also given a partial acceptance to it. If so, why has your Government accepted this unless the parties came to any permanent settlement in respect thereto?

SHRI Y. B. CHAVAN: This question ought to be put to the Chief Minister and not the officials.

MR. CHAIRMAN: It is a very important question, but not at this time. The Home Minister may answer it in the House when it is debated.

SHRI Y. B. CHAVAN: The officers have come here on the basis of the acceptance. It is not a question which the Chief Secretary can answer.

SHRI OM PRAKASH TYAGI: Mr. Chairman! When the officers are representing the Assam Government here, then why we are not entitled to know the reasons as to why the Assam Government has accepted the same? What are the reasons why Assam Government has accepted this?

SHRI Y. B. CHAVAN: Assam Government in its own wisdom has come to their own decision even though some Parties have decided not to agree. They have accepted the scheme according to the 11th September announcement.

SHRI BEDABRATA BARUA: Some suggestion have been made with regard to the District Councils. The amendability of the District Councils should also be clarified.

SHRI Y. B. CHAVAN: We will discuss that when the witnesses have withdrawn. When we sit as members of the Select Committee, you can ask me any number of questions and I will answer them, not in the presence of witnesses.

MR. CHAIRMAN: We conclude the business for the day.

(The witnesses then withdrew)

(The Committee then adjourned)

**MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CONSTITUTION  
(TWENTY-SECOND AMENDMENT) BILL, 1968**

*Wednesday, the 12th February, 1969 at 15.00 hours*

**PRESENT**

**Shri Shantilal Shah—Chairman.**

**MEMBERS**

***Lok Sabha***

2. Shri Debananda Amat
3. Shri Bedabrata Barua
4. Shri Fakhruddin Ali Ahmed
5. Shri B. Bhagavati
6. Shri Anil K. Chanda
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**REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS**

Shri N. C. Sareen, *Deputy Secretary.*

**SECRETARIAT**

Shri M. C. Chawla—*Deputy Secretary.*

**WITNESSES EXAMINED**

**Representatives of the Ministries of Defence and Home Affairs:**

**Spokesmen:**

- 1. Shri H. C. Sarin, *Secretary, Ministry of Defence.*
- 2. Shri L. P. Singh, *Secretary, Ministry of Home Affairs.*

*(The witnesses were called in and they took their seats)*

MR. CHAIRMAN: Shri Sarin, you have seen the Constitution (Amendment) Bill. From the point of view of your ministry, have you any comments to offer?

SHRI H. C. SARIN: From the defence point of view I do not think that this amendment makes any difference. Law and order will continue to be with the Assam Government and, therefore, there is in any case, no difference from the previous position. If it is the Judgment of the Ministry of Home Affairs, Government and Parliament that this Constitution Amendment will lead to more peaceful conditions in the area, it is only going to help in the defence effort.

SHRI ATAL BIHARI VAJPAYEE: You have just now told the Committee that law and order has not been transferred to the proposed Hill State. Do you not think that once a separate State is created, the demand for the transfer of law and order from the Assam Government to the Government of the Hill State will gain

momentum and, if such a transfer does take place, do you think that it will alter the situation in any way?

MR. CHAIRMAN: I believe, the reference to law and order by the Defence Secretary was an *obiter dictum*. He ought to have confined himself to defence; law and order is another ministry's responsibility.

SHRI ATAL BIHARI VAJPAYEE: Defence cannot be separated from law and order. If the situation is bad in regard to law and order, you cannot defend the borders.

SHRI H. C. SARIN: I will explain the position. The reason why I mentioned law and order was that under our law if a disturbed state of affairs arises, the local magistrate has a right to call for army assistance. It is for this reason that I mentioned law and order.

As regards the answer to the question which has been put, I would like to say that it really makes no differ-

ence even if the State is divided into another State and law and order finally goes to the smaller state. Much nearer and on a much livelier border, we have the division of the State of Punjab into Punjab and Haryana and I do not think that it has made any difference as far as the defence of the country is concerned, because for defence purposes our writ runs all over the country equally.

**SHRI OM PRAKASH TYAGI:** Is it true that the States' Reorganisation Commission was against the creation of the Hill State from the point of view of defence?

**MR. CHAIRMAN:** It is a question of fact; it is not for the Defence Secretary to answer.

**SHRI OM PRAKASH TYAGI:** The Commission's opinion was that the bifurcation of the State of Assam will put the country in danger from the point of view of defence.

**MR. CHAIRMAN:** If the States Reorganisation Commission said so, it is a question of fact.

**SHRI BAL RAJ MADHOK:** Mr. Sarin said that the bifurcation of the Punjab State into Punjab and Haryana has not, in any way, affected the defence. Technically, it may be right. Defence is a Central subject. Whether the country has 20 States or 40 States, Defence is going to remain with the Centre. But when the question of Punjab was being discussed, at the time of S.R.C. or even later, it was often quoted—even the military authorities were quoted and the experience of 1965 war has also proved it—that the population of the border area, the depth of the State on the border and the general conditions of law and order prevailing in that area affect the defence potential of the country and the capability of the people to cooperate with the Government in the matter of defence. Do you agree with this or not?

**SHRI H. C. SARIN:** As a general rule, I would agree. It is for you to decide whether the division will help in better and more peaceful conditions or it will help to create contrary conditions. It is on the assumption that this division will help in creating better conditions that I said it is helpful. If it does not create better conditions, then it will not be helpful. But I do not think that this is a material factor in either case as far as the defence of the country is concerned.

**SHRI BAL RAJ MADHOK:** We are not on hypothetical basis. Here is an area which is surrounded on three sides by the enemy countries, that is, Pakistan and China. Of course, only the one frontier the Burmese side, may be called friendly. Both China and Pakistan have been trying to create troubles by arming the rebels and by training them in so many ways. Already, we find that in Nagaland which was created just to meet the similar kind of problem, the situation from the point of view of defence purposes has not improved. Rather, it has deteriorated. If the law and order and other conditions were not in Nagaland as they are and the civil administration was not as it is, perhaps, things would have been better. Now, with the experience of Nagaland, with the experience of Mizo Hills, the creation of the separate Hill state which will ultimately have law and order also with them, as you just now admitted and everybody admits, it is bound to affect, sooner or later, the defence potential and defence capability of the country to meet the danger that we face in that area.

**SHRI H. C. SARIN:** To clarify the factual position, I did not say that it was my view that law and order will be finally transferred to the new State. What I said was that even if it is transferred, it does not make any difference. As far as Nagaland is concerned, I can give my personal opinion because I was associated with the reorganisation of Nagaland State

and I was on the official committee of Joint Secretaries who dealt with it and, I think, that creating a separate State of Nagaland has, certainly, helped and the situation is better. The recent elections have proved it.

SHRI SWELL: I was just going to refer to that. The elections in Nagaland are just completed. A very striking feature of the elections is that there has been no incident of violence. If the reports are to be believed, about 70 per cent of the population of Nagaland have gone to the polls. Don't you think that this is a very big improvement from the situation that obtained in 1957 when the elections were totally boycotted by the Nagas and that creating a separate State of Nagaland has helped in bringing peaceful conditions and, to that extent, helped the defence of the border there?

MR. CHAIRMAN: These are political considerations on which Parliament has to decide. You may confine yourself to defence point of view.

SHRI H. C. SARIN: I have already given my answer. As far as Defence is concerned, I do not think that the division of the State makes any material difference to the defence preparedness or defence effectiveness of the country.

DR. B. N. ANTANI: Assuming that out of the demand of so many Hill States, the Government, after serious deliberations, has thought it proper to make one separate Hill State and with regard to the law and order situation, assuming that there is infiltration of people from East Pakistan in that particular area, with the sword of Damocles hanging for the demand of other Hill States, what does the Home Ministry think about it?

MR. CHAIRMAN: He is the Defence Secretary.

DR. B. N. ANTANI: Even then, what is his reaction?

MR. CHAIRMAN: In such a case, would the Army go to the help of the civil authorities?

SHRI H. C. SARIN: Of course.

SHRI L. P. SINGH: With your permission, I may supplement what the Defence Secretary has said. Here is an instance of the Mizo Hills which is not a separate or an autonomous State. We have a very serious law and order problem. We have Pakistan on one side and Burma on the other. The fact that it is an integral part of the State of Assam has certainly, not made it easier for us to deal with the law and order problem. I think, this is a fact that need to be borne in mind.

SHRI O. P. TYAGI: Is it not a fact that peaceful conditions are necessary on the border side from the defence point of view? Now, the Government is going to make an autonomous State only for some tribal areas, that is the Khasi Hills and the Garo Hills. The other Hills tribes are left alone and they have got their own demands. Then, there will be dissatisfaction among those Hills tribes and that dissatisfaction among those Hills tribes will, in any way, affect your defence.

SHRI H. C. SARIN: This is a hypothetical question. There is no such thing in any of these districts to which a reference has been made. When such a situation arises, the Government will have to deal with it.

SHRI O. P. TYAGI: North Cachar and Mizo Hills are just on the border of Pakistan. If they are dissatisfied, if they are not given the same rights, there may be some trouble.

SHRI L. P. SINGH: That is a question which falls in my sphere. Our idea is to give them the option to join the Autonomous State. North-Cachar and Mikir Hills will be given the option either to remain a part of Assam or to join the proposed Autonomous State. So long as they have the choice, the freedom of choice, there is no reason why they should feel dissatisfied. Likewise, the Mizo Hills will also be given the same option. It is not that any discrimina-

tion is being made. They are free to join the Autonomous State.

**SHRI OM PRAKASH TYAGI:** Why have you not given the option for Garo Hills also?

**SHRI L. P. SINGH:** So far as Garo Hills and Khasi-Jaintia Hills were concerned, their District Councils, and their representatives in the State Assembly were unanimously of the view that they should have a separate State. In the case of North Cachar Hills and the Mikir Hills, there was a division of opinion and, therefore, it was considered necessary to give them an option.

**SHRI OM PRAKASH TYAGI:** Is it not true that the Garo Hills people have got some apprehension that they would be exploited by the Khasi-Jaintia Hills people?

**SHRI L. P. SINGH:** It is possible that a certain number of people may have some apprehension, but we have every reason to think that the leaders have expressed no such apprehension.

**SHRI OM PRAKASH TYAGI:** When there are some people who have got that apprehension then, why have you not given an option to the Garo Hills people?

**SHRI L. P. SINGH:** We have no material on the basis of which we can say that any considerable number of people are entertaining such an apprehension.

**SHRI BEDABRATA BARUA:** So far as the defence problem of the State of Assam is concerned, I think, it has to be taken as a whole. Another factor is that the mass support can be very seriously eroded if the political structure becomes very unstable. These concessions may arouse various types of local or tribal demands. Therefore, can the Home Secretary

think of evolving an administrative system that can contain all these demands? We are politicians and we certainly try to take up a problem, but only when it boils down to a problem. We have to look and see the situation even before it boils down to a problem; otherwise, it flares up into something which becomes difficult to control. I would like to know what exactly is the thinking in this regard.

**SHRI L. P. SINGH:** We have taken the view that a monolithic structure is not necessarily the most stable one. We have, on the other hand, taken the view that so long as you maintain the organic unity of Assam, a certain measure of autonomy in certain areas which are capable of functioning as autonomous units will increase the stability and not weaken it.

Secondly, it is true that there are demands from certain tribal communities in the plains. We have met their representatives from time to time; we have some idea of their demands. If you go to the root of the matter, you will find that their demands are really for removal of certain grievances. In the very nature of things, they are not capable of being put forward for any reasonable, any entertainable or any viable demand for an autonomous separate structure.

**SHRI BAL RAJ MADHOK:** From you we expect an answer not as a politician but as an administrator without caring what the Congress or the Jan Sangh thinks.

In this area we have a number of hill tribes—Nagas, Khasi, Jaintia, Garo, Mikir and Mizo. The population of each of these tribes is almost the same—about 3 to 4 lakhs. There was some discontent among the Nagas and they demanded that they should have a separate State; they also had been given the autonomous district status under the Sixth Schedule, but they said that they should have full Statehood and we gave them full

Statehood. We know that it is not a viable state; the Centre is bearing all the expenditure. We also know—whatever you may say—that that has not solved any problem but, on the other hand, the problem has become complicated. You are trying to lump together Khasi-Jaintia and Garo Hills. If tomorrow the Garo Hills people demand that they should have a separate State, that they have nothing to do with Khasi-Jaintia Hills, what justification have you to stop them from demanding that and what justification have you to say that they will not have a separate State? Today you may say that the demand is not there, but tomorrow one may come. It is the experiment of the Naga State which has given rise to Mizo and other demands. Therefore, don't you think that the way in which you are tackling the problem or tinkering with the problem, is not going to solve the problem? It might only postpone the evil day by a year or two years or five years and the problem will burst up with much greater velocity? Don't you think it that will be much more proper that we give more thought to it and try to solve it? Nothing can be absolutely fool-proof but some steps could be taken so that the Naga situation does not repeat itself, that all possible satisfaction is given to the separatist feelings whatever they are to whatever extent we can reconcile them with the overall unity and defence of the country. You say that today there is no demand from Garo Hills because you talk of leaders, but that way every day we get telegrams what the leaders of the hill people conference have agreed. The people of those areas want a full-fledged State. We, therefore, want to know whether you have made a thorough enquiry and found out whether they want to remain together or whether they want separate States for Garo and Khasi-Jaintia Hills.

SHRI L. P. SINGH: We have made a detailed enquiry. You have asked me to answer as an administrator. I may submit respectfully that your

questions are bristling with political issues. But I shall confine myself to the administrative sphere. We have made very detailed enquiries and we are satisfied that the desire of the Garo Hills and the Khasi-Jaintia Hills people to live together is there. As to the future, I certainly have no prophetic sight; I am no astrologer; I cannot say what will happen after 20 or 30 years; something may or may not happen. But we have tried to preserve the District Councils. The whole idea is that the District Councils should be kept in tact both in Khasi-Jaintia and Garo Hills so that the opportunity for local self expression may continue to be there even when they become part of the autonomous State. We have tried to keep that aspect in mind.

SHRI BAL RAJ MADHOK: You have given an option to Mikirs and others—if they want to join the new Hill State they can, or if they want to remain in Assam, they can remain there. Can't we give a similar kind of option to the Garo Hills people?

SHRI L. P. SINGH: If I want to pose a problem, I must have the material to pose that. In the case of Garo Hills, there is no material.

SHRI K. CHANDRASEKHARAN: With East Pakistan on the one side and Burma on the other, the Mizo Hills area constitutes an area of very great strategic importance from defence point of view. Would you agree to this?

SHRI L. P. SINGH: Yes; undoubtedly.

SHRI K. CHANDRASEKHARAN: According to the proposal, the Mikir and North Cachar Hills can join the Autonomous State and if, at a stage, they do join the Autonomous State, there will be an enclave of this Autonomous State between the main State of Assam and the Mizo Hills area. Don't you anticipate that it would lead

to any administrative difficulties and on account of those administrative difficulties, there might be difficulties in the matter of maintaining the defence requirements for the country as a whole?

**SHRI L. P. SINGH:** I may submit that we have seen, studied and re-studied the map of the whole area. It is true as you observed, that there will be some kind of enclaves with respect to the Mizo Hills and the autonomous regions and the rest of Assam. But the point is this: Since public order and police will continue to be with the Assam State, this kind of an autonomous unit coming in between does not make a difference to the maintenance of law and order. So far as defence is concerned, the defence forces do not know State boundaries. They move from one region to another; they move from one end of the country to the other. The State boundary does not exist for the defence forces.

**श्री अश्वन विहारी वाजपेयी :** दोनों तरह की बातें कही जा रही हैं कि ला एण्ड आर्डर हिल स्टेट को नहीं दिया जायेगा इसलिये समस्यायें नहीं पैदा होंगी, साथ ही यह भी कहा जा रहा है कि दे भी दिया जायेगा तब भी कोई समस्या नहीं पैदा होगी।

**MR. CHAIRMAN:** Defence and Army on the one side and law and order and Police on the other side. That is the distinction.

**SHRI A. B. VAJPAYEE:** Law and order has not been transferred—He used the argument in both ways. It is not fair.

**SHRI L. P. SINGH:** I will explain my point.

**MR. CHAIRMAN:** I don't think that will arise when the second Bill comes. This Bill even does not say that you will or you will not be transferring Law and Order. What subjects will be transferred? Some subjects will be

transferred out of the State List/Concurrent List. Now, what will be transferred will be debated when the Bill comes. Subject to that, you can answer.

**SHRI A. B. VAJPAYEE:** How can he start with the presumption that law and order is not going to be transferred? This committee cannot function like that....

**MR. CHAIRMAN:** Any subject in the concurrent list can be transferred. What subject this will be he cannot answer....

**SHRI L. P. SINGH:** My reply was related to the scheme which was publicly announced. That is the basis on which this legislation is framed. That is what I referred to.

**SHRI SHEO NARAIN:** By assuming that defence of the country can better be served by not responding to the political aspirations of the hill people are we not doubting the loyalty and patriotism of these people? Is this fair?

**MR. CHAIRMAN:** It is a question by way of an answer....

**SHRI H. C. SARIN:** We are not doubting anybody's patriotism.

**SHRI DHIRESWAR KALITA:** This amendment visualises three things. It is a three-tier system. One is Assam State. Another is Hill State and the third one the Autonomous Council. How this three-tier system will work in a harmonious way? That is to be understood by us. That is one thing. The second thing is this. This Council set up is being opposed by people of Nagaland, by Manipur etc. It has come out in the Press. My apprehension is this. Over and above the Assam State, when the question of a sub-state is being considered by this constitutional amendment Bill, why in Nagaland which has got no connection at all in the Reorganisation of Assam, a new foreign element is brought in by the Home Ministry?

Shri Vajpayee has said about defence. But in the very declaration you have said that for defence, for security, this very Council has been brought in. But it has got no relation at all and direct bearing on the Assam Reorganisation. Will you please explain?

SHRI L. P. SINGH: First and foremost the Regional Council is an extra constitutional concept. As you might have observed, there is no mention of that word in the Constitution Bill. There is no mention of that word in the Bill which you are considering.

SHRI DHIRESWAR KALITA: I am going into the merits it....

SHRI L. P. SINGH: It is an extra constitutional concept. Obviously any extra constitutional arrangement can work only if all the parties concerned willingly and gladly join it and are prepared to work it out. You observed that State Chief Ministers dislike the idea of a North-Eastern Council. If the Chief Ministers say they are not prepared to participate, obviously since there is no legal or constitutional provision such a thing cannot function. Secondly I would say that the Council, if it comes into existence, does not take away from any State or Union Territory any power which it possesses. It does not impinge upon any rights which any of these constitutional or administrative units possess.

SHRI DHIRESWAR KALITA: You have stated about the permanent secretariat.

SHRI L. P. SINGH: The Chief Ministers and Chief Commissioners can come and discuss common problems. The common problems broadly fall into two groups. One would be problems of development of a regional character. A regional development scheme runs across the present boundaries. There are certain problems of security which are in a measure interlinked. They can come together and exchange ideas. They can take agreed decisions and they can coope-

rate. It is only to facilitate interchange of ideas and cooperation to which they voluntarily agree that a permanent secretariat is provided.

SHRI L. P. SINGH: You have got Zonal councils. A Zonal council has got a statutory basis. The North-Eastern Council will have no basis in the form of Legislation. We may provide for it by a notification under article 263 of the Constitution. That is a different matter. We are not providing for it by legislation....

SHRI DHIRESWAR KALITA: Will this be part of the Bill?

SHRI L. P. SINGH: No.

SHRI PITAMBER DAS: Under the scheme of reorganisation, a limited number of essential subjects of common interest will be assigned to the Regional Federation leaving the rest of the State functions to the federating units. Is that so?

SHRI L. P. SINGH: The items in the State and Concurrent Lists in the Seventh Schedule to the Constitution will be distributed between the autonomous units and the State of Assam and some of the items which will be entrusted to the autonomous units will be subject to the overriding powers of the Assam Legislature.

SHRI PITAMBER DAS: Will not a limited number of essential subjects of common interest be assigned to the Regional Federation leaving the rest to the other federating units?

SHRI L. P. SINGH: I thought it was the other way round. Certain essential things should be preserved for the Assam Legislature and the Assam Government, and things like development projects of local importance, welfare, local justice, local financing and various other things will go to the proposed autonomous State.

**SHRI PITAMBER DAS:** If you look into the press note issued on 13th January 1967, it talks the other way round.

**SHRI L. P. SINGH:** I think you are referring to the statement issued in January 1967.

**SHRI CHANDRASEKHARAN:** But that is part of these papers.

**SHRI Y. B. CHAVAN:** But the present proposal is not based on that statement of January 1967. It is based on the statement of 11th September 1968.

**SHRI PITAMBER DAS:** Shall I take it then that the picture that will now emerge will lay more emphasis on the unifying character of the State than on the diversification of the State?

**SHRI L. P. SINGH:** I think the attempt will be to balance both the needs of the autonomous State and the need to maintain integrity. I would not really say that the balance is in favour of one side or the other side. The attempt is to balance them perfectly.

**SHRI PITAMBER DAS:** What would you suggest whether the residuary powers will rest with the federating units or with the Regional federation?

**SHRI L. P. SINGH:** Our intention is to distribute all these powers and leave no residuary powers anywhere.

**SHRI Y. B. CHAVAN:** Under our Constitution, residuary powers are only with the Centre. That is the basic concept of our Constitution.

**SHRI PITAMBER DAS:** What is the concept when it is a question between federating units and the Regional federation.....

**SHRI Y. B. CHAVAN:** It is not a federation. You are still thinking of the January idea. That note is cir-

culated just to give you the history of it. We really want to safeguard the integrity which under the new scheme has been maintained.

**SHRI SANGMA:** I would like to know from the Home Secretary one thing. Just now you have said that there is no substantial evidence that the Garo Hills want a separate autonomous State. I would like to refer you to the Constitutional provision contained in the Sixth Schedule, Paragraph 1, sub-paragraph (3) (f) which says that "the Governor may, by public notification, unite two or more autonomous districts or parts thereof so as to form one autonomous district". May I know whether the Home Secretary knows that there was a bifurcation in Khasi-Jaintia Hills recently into autonomous Councils, one in Jowai and the other in Shillong. If that is so, how can the Home Secretary say that the Garo Hills do not demand for a separate autonomous State for them? Is there no representation from them?

**SHRI L. P. SINGH:** I admit that I am somewhat confused by the question. As far as I can see, the analogy of Khasi-Jaintia would be all right if there is demand within the Garo Hills for a separate District Council. That is the kind of situation that will be comparable. The earlier question was whether the Garo Hills as a whole wish to continue as part of the autonomous State along with Khasi-Jaintia Hills. As far as we have been able to ascertain, there is no significant, sizeable, notable feeling that the Garo Hills should not join with Khasi-Jaintia Hills—except to the extent to which their separate aspirations can find expression through the District Council.

**SHRI SANGMA:** I just cited clause (3), Paragraph 1, of the Sixth Schedule to the Constitution. This provision has been there since 1952 and District Councils were constituted except in Nagaland. Why during this long period of 16 to 17 years, if they want to be united together, this Garo

Hills District Council and Khasi-Jaintia Hills District Council had not joined together to form one District Council?

SHRI L. P. SINGH: The District Council concept is a concept of local Government and I would say that the tendency is likely to be in favour of small units of local Government. It is unlikely that two areas covering two District Council would like to join together and become a big unit covering about 12,000 sq. miles. The whole thing is a local self-Government arrangement. It cannot be towards a greater synthesis.

SHRI G. G. SWELL: The question of creation of Jawai District Council has been raised. I would like to know from the Home Secretary whether he has any information that the elected representatives of the people of Jawai, both in the State Assembly and in the Khasi-Jaintia District Council, have all opposed the idea of creating a separate Jawai District Council, but in the teeth of their opposition, the Government of Assam went ahead and created this Jawai District Council in order to create division among the hill people? Was this not done with a political motive?

MR. CHAIRMAN: You might answer the first part leaving the question of political motive to us.

SHRI L. P. SINGH: I am aware that there was a division of opinion about this. About political motive, I am precluded from answering that question.

SHRI SWELL: Did the elected representatives from Jawai oppose it?

SHRI L. P. SINGH: Assam Government appointed a commission. On the basis of the recommendations of that Commission, this division was made.

SHRI SWELL: I want a specific answer whether the elected representatives opposed it.

SHRI L. P. SINGH: I have not got the precise information. I know that there was some opposition.

SHRI SWELL: Will you kindly check up? I am sure they did it.

SHRI L. P. SINGH: You can check up from the Assembly proceedings.

SHRI OM PRAKASH TYAGI: I would like to know whether the hill tribes of Assam have agreed to give up their agitation if this Bill is passed.

MR. CHAIRMAN: Was there any agreement between you and the hill tribes that they will give up the agitation if this Bill is passed?

SHRI OM PRAKASH TYAGI: I would like to know whether the Assam tribes have given any assurance to give up their agitation if this Bill is passed.

SHRI L. P. SINGH: In the course of various discussions we have had, we have been led to expect and believe that this settlement is something which is helpful to them and it will, therefore, endure. Whether somebody somewhere will agitate or not—this is a free country—is something about which nobody can be sure.

SHRI OM PRAKASH TYAGI: Is it not true that the HSPDP has not accepted this autonomous State and has demanded a separate full-fledged State and APHLC also has given this agreement a partial acceptance. If so, where is the assurance?

SHRI L. P. SINGH: I am aware that a splinter group is not satisfied. It is our information that the splinter group does not represent any large section of the people.

SHRI OM PRAKASH TYAGI: These are the two main parties. If they have not agreed, then where is the assurance?

SHRI Y. B. CHAVAN: You are asking him a political question. This is a matter of political judgment. It is not a matter for the Home Secretary to answer. Put that question to me. I will answer.

श्री ओम प्रकाश त्यागी : चेयरमैन साहब, मेरी प्रार्थना सीधी सी है कि यह बिल लाया गया है ग्रासास की पहाड़ी जातियों की राजनीतिक आकांक्षाओं की पूर्ति के लिए। जो पार्टियां आन्दोलन कर रही थीं अब तक, जिन के दबाव में आकर सेंट्रन गवर्नरेंट ने इस बिल को समझौते के रूप में पेश किया है...

श्री यश न्त राय बड़ुएँ : त्यागी, जो मेरा इतना ही निवेदन है कि यह जो आप कह रहे हैं उसके ऊपर यहां प्राप्त में डिबेट हो सकती है।

Your question is a legitimate question and it can be debated and discussed thoroughly in this Committee. I have no doubt about it. My only point is whether this question is relevant at this time to be answered by the Home Secretary.

श्री ओम प्रकाश त्यागी : गृह मन्त्री महोदय ! होम सेकेटरी जब ला एण्ड आर्डर से सम्बन्ध रखते हैं तो इन्होंने दिमाग में सोचा तो होगा ही कि अगर यह बिल पास होगा तो फिर एजीटेशन होगा या नहीं, पुलिस फोर्स वहां रखी जाय या न रखी जाय, जेल का विस्तार किया या जाय या न किया जाय यह तो उन्होंने सोचा ही होगा।

श्री एन० पी० रिहः : जो कुछ हमारे दावरे की चीज है उसके बारे में जो सवाल पूछेंगे मैं ईमानदारी से उसका जवाब दूंगा। हमारा जजमेंट यह है कि इस कदम के लेने के बाद वहां जो ऐसा ग्रुप है उसकी कोई ऐसी स्ट्रेंग नहीं है कि हमें कोई दिक्कत हो।

श्री ओम प्रकाश त्यागी : आपका यह जजमेंट, जो आन्दोलन करने वाली पार्टीज है क्या उनसे बताती है कि बाद हुआ है ?

गारो हिल्स वालों का इसमें कोई रेप्रेजन्टेशन नहीं हुआ। उन के लीहर नहीं मिले। मेरा सवाल यही है कि जिन के साथ मिल कर आपने यह समझौता किया है, वही सहमत नहीं हैं तो फिर आप यह बिल किस के लिए बना रहे हैं ?

SHRI L. P. SINGH: May I respectfully submit that this is not something on which we have formed our judgment on the basis of what they say. We got all the information we wanted. We got reports from the State authorities. We discussed matters with the various officials. We got reports from our intelligence agencies. We talked to the leaders who came here for discussion. Even though the judgment may not prove correct—that of course one can never be sure of—but we did not form our judgment hastily. We did not form our judgment without making as detailed an enquiry as was feasible.

MR. CHAIRMAN: You may differ from the judgment.

श्री ओम प्रकाश त्यागी : मैं यह जानना चाहता हूं कि नागालैण्ड का एक अनुच्छव हमारे सामने है। वहां पर आज मित्र नागा, शत्रु नागा, भ्रति शत्रु नागा हैं क्या यही हिस्ट्री आप यहां भी बनाने जा रहे हैं ? या तो आप यह कहिए कि उन जातियों के साथ आपका समझौता हो गया। अब यदि एजीटेशन कल को होगा तो आप यह तो नहीं कहेंगे कि होस्टाइल ट्राइब्स एजीटेशन कर रहे हैं। जैसे नागालैण्ड में किया। तो मैं पूछना चाहता हूं कि आप किसी एक पार्टी का नाम बताइए जो कि हिल पीपुल की पार्टी है और जिसने आप की स्कीम को स्वीकार किया हो ? किसी एक का नाम बताइए जो पूरी तरह से आप के निर्णय से सहमत हो ?

MR. CHAIRMAN: Every citizen is interested in the whole of the country.

**SHRI L. P. SINGH:** If I may say so, this is a larger question consisting of 2 or 3 questions. One is about 100 per cent acceptance. Now the Hill Leaders, Conference leaders have accepted it. Even they said that it does not fully satisfy them and they would like to have more. If I answer your question 'yes' or 'No', I will be giving a wrong answer. I would say that the most representative body has accepted it. The APHLC representatives were here and they have accepted it substantially and we have been assured even by people concerned with Assam administration—I talked to various officials—that this scheme is substantially acceptable to the people of both sides.

**श्री श्रीम प्रकाश त्यागी :** हमारे पास हर पार्टी से टेलीग्राम आए, मेमोरेंडम आए। उन्होंने लिखा है कि हम इस को परीक्षण के रूप में मान रहे हैं या नहीं स्वीकार कर रहे हैं।

**MR. CHAIRMAN:** He does not say that every body is agreed hundred per cent.

**श्री श्रीम प्रकाश त्यागी :** आप के स्टेटमेंट में यह बात आई है कि हिल ट्राइब्स की राजनीतिक आकांक्षाओं को पूरा करने के लिए आपने यह योजना बनाई है। तो मैं यह जानना चाहूँगा कि क्या जितने ट्राइब्स हैं अलग अलग भाषा या अलग अलग रीतिरिवाज रखने वाले उनकी राजनीतिक आकांक्षायें अलग अलग हैं या सम्मिलित हैं? दूसरा प्रश्न है कि क्या आप केवल "पोलिटिकल ऐस्पिरेशंस ही देख रहे हैं या आपने आर्थिक स्थिति का भी कोई ध्यान रखा है इस अमेंडमेंट बिल को लाते समय?

**श्री एल० पी० सिंह :** यह तो एनेबलिंग लेजिस्लेशन है। The structure of the legislation on which the new political, Constitutional system will be built is still to come. This is an enabling legislation. We have certainly considered the political aspiration, and

we have not found that the political aspirations in this area particularly follow rigidly the linguistic division. Secondly, we have also taken into account the cultural homogeneity, economic considerations and we have also taken into account transport facilities and so on.

**श्री श्रीम प्रकाश त्यागी :** भारतवर्ष का यह अनुभव है कि भाषाओं के आधार पर जो अलग अलग प्रान्त बने हैं, हरेक भाषा-भाषी प्रांतों के लोगों के पोलीटिकल ऐस्पी-रेशन्स अलग बन कर खड़े हो गये हैं जाहे वह गलत हों या सही और चाहे वह हमारी गलती के कारण हुआ हो। बल्मान स्थिति ऐसी है। अगर एसा है तो क्या आसाम में जितनी भाषा भाषी जातियां हैं उनकी राजनीतिक आकांक्षायें अलग हैं, क्या यह बात सही नहीं है?

**MR. CHAIRMAN:** You are addressing me. I am listening to you. He is not putting any questions to you.

**श्री श्रीम प्रकाश त्यागी :** चेयरमैन जाहब, प्रान्त के भीतर प्राप्त कुछ राजनीतिक आकांक्षायें पूर्ण करने के लिए आपने जो यह जीज बनाई है, तो क्या जिस तरह से आनंद प्रदेश में तेलंगना वालों की अलग से तेलंगना स्टेट बनाने की डिमाण्ड है, उसी प्रकार से क्या यह एमेंडिंग बिल दूसरे प्रोविन्सेज को इस तरह का रास्ता नहीं दिखाता है?

**MR. CHAIRMAN:** Whether this Bill has anything to do with other parts of the country is not to be discussed here. This Constitutional Amendment Bill specifically mentions only Assam and not the whole of India.

**श्री श्रीम प्रकाश त्यागी :** नो नो। जितने ट्राइब्स हैं, उनके पोलीटिकल ऐस्पीरेशन्स अलग अलग हैं।

**MR. CHAIRMAN:** You kindly refer to clause 2 of the Bill. The expression used is "Parliament may, by law, form

within the State of Assam". Other political repercussions will be discussed elsewhere, not here.

**श्री घोष प्रकाश त्यागी :** मैंने एक उदाहरण दिया। मैंने एक चीज़ पूछी थी। पालीटीकल एस्पीरेशन्स का क्या आपने व्याप रखा है। मेरा निश्चित प्रश्न यह है कि क्या जितने द्वाइन्स हैं उन के पालिटिकल एस्पीरेशन्स सब के एक हैं या अलग अलग हैं? अगर अलग अलग हैं तो अलग अलग प्राटोनोमस स्टट्स बनाने का विचार आपके दिमाग में क्यों नहीं आया?

**SHRI L. P. SINGH:** It is a very legitimate question. I will straightway accept that generally speaking language provides the basis for political aspirations. But in tribal areas it is the cultural link that unites people. In Nagaland there are 37 dialects spoken and yet over the years a single movement developed there and all these linguistic and dialectical divisions were lost sight of. You take Chotanagpur in Bihar where there are four or five linguistic groups. Yet there developed a common political movement. This shows that even though the tribals speak different languages, a certain tribal cohesion can develop.

**श्री प्रकाशबीर शास्त्री :** मेरा अनुमान ऐसा है, सही या गलत, कि इस के पर्वतीय राज्य बनाने की जो पृष्ठभूमि है, उसका बहुत बड़ा कारण यह है कि नागालैण्ड के पृष्ठक्षेत्र बनने के बाद उसके विकास कार्यक्रमों पर जो केन्द्रीय सरकार ने धन खर्च किया है, उससे उनके अन्दर एक भावना उत्पन्न हुई है कि अगर हमारा पृष्ठक्षेत्र हो तो शायद केन्द्र से हमें कुछ अधिक सहायता मिलेगी डेवलपमेंट के कार्यों के लिए और दूसरे कार्यों के लिए। मैं यह जानना चाहता हूँ कि यह जो राज्य बनेगा, आपने क्या इस बात का अनुमान लगाया है कि इस तरह की स्टेट बनाने के बाद केन्द्र के ऊपर कितना अतिरिक्त बोझ आ जाएगा और स्टेट बनने के बाद क्या आपको इस तरह की कोई योजना है कि यह राज्य

धीरे धीरे अपने पैरों पर बढ़ा होता जाए और केन्द्र के ऊपर पूरा बोझ न रहे? धीरे धीरे विकास कार्यों के माध्यम से और कुटीर उद्योगों के माध्यम से किसी प्रकार यह राज्य अपने पैरों पर बढ़ा हो। इस सम्बन्ध में आपने कोई योजना बनाई है?

**SHRI L. P. SINGH:** For the Hill Districts of Assam, certain plans were prepared three years ago. The Planning Commission sent a special team to prepare development schemes for each of these Hill Districts in Assam. Mr. Trilok Singh, a Member of the Commission, took a lot of interest in preparing them because these areas do require development. There has been a certain lag in the development and this needs to be looked into. Now whether these districts remain part of Assam or they are constituted into an autonomous State or whether some of them remain in Assam the intention is that these development schemes which were prepared for each of the units and for the whole of the area will be carried forward to the utmost extent possible.

Secondly, there is no doubt that there will be some increase in the administrative expenditure as a result of this. I think we have made some calculation. The additional expenditure because of this separation will be about Rs. 20 lakhs. Personally, I think this is an under-estimate. It may be more than 20 lakhs. But it will be something of that order.

Now, Assam itself is a heavily deficit State. Under the Fifth Finance Commission, Assam will be receiving something like 20 crores of rupees. A part out of that will naturally go to the autonomous State. The development plans have already been drawn up and they have to be pursued. I do not think that the creation of an autonomous State will make it incumbent on the Central Government to do something which they would not have done otherwise.

CHAUDHURI RANDHIR SINGH: My question is entirely from the national defence point of view. My view is that the present set-up embodied in the present Bill is the most viable solution that can be found for the turbulent areas of Assam. I would like to know from you one thing as to whether this solution would infuse a spirit of inner patriotism among the erstwhile discontented tribal people. Let me explain it further. There are certain areas known as Mizo Hills. In fact there are as many Hills as there are people. There are four and half lakhs of people here. Should I get it from you that as a result of this settlement of the Hill people of different communities, different affiliations, they will be satisfied and they will not be misled by anyone, and it will make them very patriotic and would work as a first line of defence?

SHRI L. P. SINGH: As you are aware, Mizo Hills stand apart. But so far as these two districts are concerned, and their representatives are concerned, I would say that in something like 50 discussions I have had with them I always got the impression that they were most anxious to do their patriotic duty, that they were profoundly worried about the risk of a certain amount of disloyalty developing. I, therefore, personally feel that the patriotic feeling, if anything, will be strengthened by this arrangement.

SHRI BEDABRATA BARUA: Would you suggest some safeguards to see that there will be no discrimination?

SHRI L. P. SINGH: We are absolutely clear in our mind that when a district becomes a part of the autonomous State, it will get identical treatment. I would say, Sir, that we are clearly of the view that whether a district becomes part of the autonomous State or remains part of Assam, it will receive identical treatment.

MR. CHAIRMAN: And there will be no discrimination whatsoever?

SHRI L. P. SINGH: No discrimination at all.

SHRI G. G. SWELL: I have not been able to locate the Article just now, but I think there is a provision in the Constitution to constitute a council when it appears in the interest of the nation. I cannot locate it just now.

SHRI L. P. SINGH: It is Article 263. What I said was that we are not providing for a zonal council either in the Constitution (Amendment) Bill or in the proposed legislation. I mentioned that it could possibly be done under Article 263 of the Constitution, but there the functions of a council are purely advisory.

SHRI BAL RAJ MADHOK: Have you made an estimate of the total internal resources that are being raised at the moment in this area which is going to be formed into an autonomous Hill State?

SHRI L. P. SINGH: I think it is of the order of 65 lakhs of rupees.

SHRI HAL RAJ MADHOK: What are the internal resources of the Nagaland State?

SHRI L. P. SINGH: I am sorry, Sir, I have not come prepared partly because the Home Ministry does not deal with Nagaland. But it is very small.

SHRI BAL RAJ MADHOK: What was the total annual budget of Nagaland State for the last year?

MR. CHAIRMAN: This information can be had from the published documents.

SHRI BAL RAJ MADHOK: One thing is very clear that their internal resources are very scanty, and that the Government is spending quite a large sum of money on their development, on administrative expenses and for that reason a good deal of vested interest has developed as happens in democracy. Don't you think that the

same process will work elsewhere also and the demand for more development funds, a demand for more administrative machinery, etc., will come? This process of vested interest that is created by democracy may create conditions for this. Don't you think that such a situation will arise in which separate demands, separate aspirations may arise and a process of balkanisation may start, which is a very distinct possibility? Don't you visualize that such a possibility is there? Don't you think that it may create difficulties for the coming generation?

SHRI L. P. SINGH: I would say that in a way these Hill districts of Assam are historically and otherwise distinguishable from certain other tribal areas. In the first place, the Constitution itself has two Schedules about the tribal people. The Fifth Schedule provides for the other tribal population and the scheduled areas. The sixth Schedule refers only to the tribal districts in Assam. This again has a historical reason into which I need not go at present. Over the years certain hopes had been aroused, certain assurances were given and there was a problem which had developed over the years and it has to be solved in as wise and statesmanlike a way as possible. Now, in drafting this Constitution Bill we have taken care to relate it to Article 244 of the Constitution. Article 244 refers to the Sixth Schedule. I have also looked round the tribal picture generally and other areas. I cannot say that demands will not be made; demands may be made. But I think we should be able to distinguish this case from the other cases that may arise and we should be able to check a process of balkanisation.

SHRI BAL RAJ MADHOK: The distinction in our Constitution is very clear. But we have amended our Constitution so many times. We have brought this amendment Bill of the Constitution. It can happen in future also. We politicians are sometimes prone to political compulsions. Now,

sitting in this Committee I ask you as an administrator, as a patriot; is it your honest opinion that what is being done is in the best and long range interests of the country or whether this is a kind of political convenience?

SHRI L. P. SINGH: I can say in all honesty that what is being done is right and desirable and is in the country's interest.

SHRI K. CHANDRASEKHARAN: There is a Press note on the administrative services in pursuance of the September 1968 statement. I would like to have a clarification. There are joint cadres of All-India Services; there are joint cadres of higher State Services and some State Officers are allotted to the autonomous State. These officers who will be serving in these different cadres will they not have to discharge duties both in relation to the autonomous State and in relation to the State Government of Assam in many spheres.

SHRI L. P. SINGH: Yes, Sir, particularly at the higher levels. These will be multi-purpose officers. For instance, the Deputy Commissioner of a district will be performing law and order functions under the Government of Assam. He will be performing certain developmental and revenue functions under the autonomous State. They will be multi-purpose officers serving both Administrations, but that will be true at higher levels and as you go lower down they will be serving one Government or the other.

SHRI K. CHANDRASEKHARAN: These high level officers should be controlling the Administration because it is the higher level that controls the Administration.

SHRI L. P. SINGH: They certainly supervise and direct the lower level but the Administration will be controlled by the Ministries of the two States.

**SHRI K. CHANDRASEKHARAN:** The joint cadres of the higher services will be under the control of the Chief Minister of Assam.

**SHRI L. P. SINGH:** Yes, they will be under the Government of Assam.

**SHRI K. CHANDRASEKHARAN:** The officers allocated to the autonomous State will be under the control of the autonomous State Government.

**SHRI L. P. SINGH:** Operationally while they are functioning in the autonomous district and performing functions relatable to the autonomous field they will be guided and controlled by the Ministry of the autonomous State.

**SHRI K. CHANDRASEKHARAN:** Do you think that this will lead to great confusion and administrative decontrol particularly if and when it were to happen that the State Government of Assam will be headed by one political party and the Government of the autonomous State by another political party.

**SHRI L. P. SINGH:** Confusion is not the word I would like to use. I certainly think that certain problems are likely to arise and I think this scheme can work smoothly if there is mutual understanding and spirit of accommodation and give and take. If either side takes an uncompromising or un-understanding attitude there will be friction.

**SHRI K. CHANDRASEKHARAN:** I am referring to press note of 30.1.67. The original idea built from that press note has been to have federating units of equal stature not subordinate to one another. Now, the idea adumbrated in the present scheme is certainly an autonomous State subordinate to the State Government of Assam.

**SHRI L. P. SINGH:** I would not like to use the word 'subordination'.

There are certain fields, for instance, in which the Centre is supreme. There are certain fields where State is supreme. There will be certain areas where the autonomous State will be supreme. So, this concept of general subordination in a constitutional arrangement of this kind does not arise in my view.

**SHRI K. CHANDRASEKHARAN:** You have stated definitely with regard to the Public Service Commission and the High Court that there will be common Public Service Commission and a common High Court and then a common Electricity Board. May I take it that there will be a single Advocate General for the whole State? Is that the scheme?

**SHRI L. P. SINGH:** We have not thought of the Advocate General problem but when they have a common High Court they will presumably have a common Advocate General.

**SHRI K. CHANDRASEKHARAN:** In view of the present provisions in the Constitution the Chairman and Members of the Public Service Commission and the High Court Judges would have to be appointed on the advice of the Chief Minister of Assam.

**SHRI L. P. SINGH:** For the appointment of High Court Judges there is a constitutional procedure. The Chief Justice of the High Court initiates the proposal unless the appointment is of the Chief Justice himself. The Chief Minister sends his recommendations to the Home Minister which go to the Chief Justice of India. It is a complicated constitutional procedure.

**SHRI K. CHANDRASEKHARAN:** In that complicated constitutional procedure may I take it in that procedure there will be only the Chief Minister of the State of Assam and not the Chief Minister of the proposed autonomous State.

**SHRI L. P. SINGH:** Constitutionally the power would be with the

Governor of Assam and he will certainly consult the Chief Minister of Assam but I would say there will be room in all these matters for a great deal of convention to grow up so that people can move together. So far as constitutional arrangement is concerned the Chief Minister of Assam will be consulted.

DR. ANTANI: In answering to the question of my colleague the Home Secretary has drawn a distinction in supervision and control. He has mentioned, that he will be supervising Will that imply some sort of control or it will be a mere academic supervision. If it is merely academic supervision there is no likelihood of a confusion being created.

SHRI L. P. SINGH: What I was trying to say was that the ultimate control in any democratic form of Government vests with the Ministry. But as you come lower down naturally the Deputy Commissioner has to see that the machine functions. I am not quite clear what the point is.

श्री अंतानि प्रकाश त्यागी: इस समय आसाम प्रान्त के मैदानी भागों में व्यापार और उच्चोंग ज्यादा हैं, जबकि पहाड़ी क्षेत्र में वे नहीं हैं। यह नया प्रान्त बनने के बाद अल्हृदगी की भावना आ जाने के कारण मैदानी लोग कहेंगे कि हमारा रूपया पहाड़ी क्षेत्र पर ख़र्च न हो। जन संख्या के हिसाब से विद्वान् सभा में बहुमत मैदानी भागों के लोगों का होगा। पहाड़ी क्षेत्र का आर्थिक विकास समान रूप से हो और उस प्रान्त का पैसा दिल्ली एवं या पर भी अनुपात से ख़र्च हो, इसके लिए क्या सुरक्षा है?

MR. CHAIRMAN: I do not think it is a correct question. It assumes two independent States. Any more question.

Thank you Mr. Singh.

We meet to-morrow at 3 p.m.

(The witnesses then withdrew)

(The Committee then adjourned)

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**MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CONSTITUTION  
(TWENTY-SECOND AMENDMENT) BILL, 1968)**

*Thursday, the 18th February, 1969 at 15.00 hours.*

**PRESENT**

Shri Shantilal Shah—Chairman.

**MEMBERS**

*Lok Sabha*

2. Shri Debananda Amat
3. Shri Bedabrata Barua
4. Shri Fakhruddin Ali Ahmed
5. Shri B. Bhagavati
6. Shri R. D. Bhandare
7. Shri Anil K. Chanda
8. Shri M. K. Nanja Gowder
9. Shri Dhireswar Kalita
10. Shri Valmiki Choudhary
11. Shri Bal Raj Madhok
12. Shri K. Ananda Nambiar
13. Shri Nihal Singh
14. Choudhary Nitiraj Singh
15. Shri T. D. Ramabadran
16. Shri M. B. Rana
17. Chaudhuri Randhir Singh
18. Shri Naval Kishore Sharma
19. Shri Sheo Narain
20. Shri G. G. Swell
21. Shri Om Prakash Tyagi
22. Shri Y. B. Chavan

*Rajya Sabha*

23. Dr. B. N. Antani
24. Shri K. Chandrasekharan
25. Shri Golap Barbora
26. Shri A. D. Mani
27. Shri Purnananda Chetia
28. Shri Sriman Prafulla Goswami
29. Shri E. M. Sangma
30. Shri P. C. Mitra
31. Shri M. L. Kollur
32. Shri G. R. Patil

## LEGISLATIVE COUNSEL

1. Shri K. K. Sundaram—*Joint Secretary and Legislative Counsel, Ministry of Law.*
2. Shri G. A. Shah—*Joint Secretary and Legal Adviser, Ministry of Law.*

## REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri M. R. Yardi, *Additional Secretary, UT.*
2. Shri K. R. Prabhu, *Joint Secretary.*
3. Shri N. C. Sareen, *Deputy Secretary.*

## SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

## WITNESSES EXAMINED

- I. Shri Vishnu Sahay, *former Governor of Assam.*
- II. Shri Niren De, *Attorney-General of India.*

1. Shri Vishnu Sahay, *former Governor of Assam.*

(The witness was called in and he took his seat)

MR. CHAIRMAN: We are sorry to disturb you, Mr. Vishnu Sahay, from your rest and retired life. The Committee thought that with your experience of Assam you will be able to help us. I presume you have seen the Bill which is now under the consideration before this Committee. The Committee would like to have your comments before the Members put their questions.

SHRI VISHNU SAHAY: In judging this issue one has really to take into account not merely the Bill for amending the Constitution but also what is intended to be the follow-up legislation. The object of the two is fairly clear from the proceedings. My own personal view is that though on grounds of some sort of theory or other considerations it is possible to think of better solutions—solutions of more lasting value—this particular proposal has the supreme merit of being largely acceptable and in our present situation in Assam I think it is important to think of the immediate future from the security point of view and to avoid doing anything which will put that very sensitive area into a dangerous situation, considering what we may expect from some of our neighbours in that area.

SHRI MANI: May I ask that in view of your very varied experience you do not apprehend that the example which we are setting up in this enabling Bill might be demanded by other States also. We are trying a very unique experiment of forming a sub-State with limited administrative power excluding law and order from the control of the autonomous State. In view of what is happening in regard to Centre-State relations—the trouble between Kerala and the Government of India don't you envisage that the autonomous State within the State of Assam itself may demand Powers of law and order and say that they should be completely independent of the Government of Assam.

SHRI VISHNU SAHAY: There is a great deal of force in the view that exceptions are catching. The chances are—quite fair chances—that there will be a demand for the autonomous State to have law and order responsibilities and powers. All those dangers are there. Nevertheless, as I said in the beginning you have to weigh all that against the great consideration that a very large proportion of the people who matter in that area have accepted it and, therefore, it has

a reasonable chance of success. I would not say that the dangers you have mentioned are imaginary.

**SHRI MANI:** In the list which has now been reserved for autonomous State under this Bill the prohibition of intoxicants and liquors is one of the items. You know how in other States the enforcement of prohibition has led to many disputes between the States on the question of dry belt. Don't you think that with the creation of an autonomous State with a separate list of powers will weaken the economy of Assam if the scheme is pushed through.

**SHRI VISHNU SAHAY:** I doubt that. I do not think it will weaken the economy of Assam.

**SHRI CHANDRASEKHARAN:** The Garo Hills and United Khasi and Jaintia Hills are to constitute the autonomous State in the first instance according to the Government of India Press note and then the United Mikir and North Cachar Hills can also come in. If these latter hills also come in in-between there will be the Mizo hills area and the Mizo Hills area will be under the State Government of Assam. Don't you think this will create administrative difficulties and complications.

**SHRI VISHNU SAHAY:** As far as I can remember the Mizo Hills will not be enclosed it will be an appendix hanging below Assam. Nevertheless problems will arise. But the law does not say anywhere that there will be any denial of access or that law and order requirements will in any way be affected.

**SHRI CHANDRASEKHARAN:** So far as the Services are concerned—the All India Services and the Higher State Services—they are proposed to be jointly with the State Government of Assam and the Autonomous State Government. A section of the services of the State would be transferred to the autonomous State of Assam. All these personnel who man these

services will have to function both under the Assam Government and under the autonomous State Government in relation to discharge of their duties. Do you think that this will again create complications in the actual working and function of the services in the two States and particularly in the autonomous State.

**SHRI VISHNU SAHAY:** This will need skilled working.

There always is difficulty when a joint cadre is there. Bihar and Orissa had a joint cadre of ICS. I am talking of 1940. Bihar got the cream of officers and Orissa got the worse. I do not know whether that will be the position here but there will be difficulties of that kind, also difficulties of an official being responsible to the autonomous State for a certain set of functions and to the joint set up for another set of functions. That problem will be there. But it is not insoluble. It will need careful and wise working.

**SHRI CHANDRASEKHARAN:** Under Article 202 of the Constitution, the Annual Financial Statement is to be laid by the Governor of the State. The Governor of the State would naturally be advised either by the Chief Minister of Assam or if there is a proposed amendment to Article 202 by the Chief Minister of Assam and that of Autonomous State, will it not create difficulties particularly when the two Chief Ministers may not agree on the division of resources so far as divisible pool of finances is concerned.

**SHRI VISHNU SAHAY:** I dare say there will be difficulties. But in our system of working that kind of difficulties will arise and will have to be solved.

**DR. B. N. ANTANI:** In view of the delicate nature of the whole situation I want to know what will be the political repercussion if we visit Assam.

SHRI VISHNU SAHAY: My personal opinion is the sooner you pass the Bill without exciting more discussion, debate, controversy, negotiations, the better.

SHRI G. G. SWELL: I would like to know from your experience whether by delaying this matter, by the Committee coming in-between for any length of time, would be conducive to the security of the country or it would give rise to agitations'.

SHRI VISHNU SAHAY: I have answered the question of further delay. This Bill is necessary for the security of Assam.

SHRI BALRAJ MADHOK: In answer to a question by Mr. Mani you said that sooner or later law and order will have to be transferred.

Shri VISHNU SAHAY: No. I said there is a possibility of the demand coming up.

SHRI BALRAJ MADHOK: Demand is already there. We are getting telegrams that we want full State for Hill areas and that this scheme as envisaged in this Bill is not acceptable to us. As a very seasoned Administrator who has been on the spot for many years you also know that it is not very profitable or good from the administrative point of view to go on changing your stand under pressure.

Assam is a very sensitive area and as you said from the security point of view some arrangement has to be made. Do you not think that it would be correct to have a separate State right now instead of considering it later on? There we have conceded some kind of Statehood to Nagaland. Mizo trouble is going on. Centre has special responsibility for Defence and development. Centre is giving so much to Nagaland for development out of proportion to its internal resources. When Part 'C' States were created it was assumed at that time that those areas regarding which Centre has special responsibility, they should be made Union Territories.

Would you think it proper that we make hill areas of Assam separate union territories with full local autonomy than what is provided in the Bill.

SHRI VISHNU SAHAY: I will go back to what I said in the beginning. There are better solutions. There is a great deal of force in what Mr. Madhok has said. I myself might have expressed opinion like that. But with this you do have got a chance of running the administration smoothly.

SHRI BALRAJ MADHOK: You said it is largely acceptable. With 51 per cent it is democratically accepted. The telegrams and even Memoranda before us by a number of people show that they are not satisfied with the state of affairs. There are some other people like Gorkhas who according to the existing laws are considered a minority. They have no rights. But in Nagaland the determined minority dictates terms. My opinion is as Shri Mani has also said that we should go and see things on the spot and have the opinion of the local people so as to judge whether it is the wish of the majority or not. When you say sizeable majority, is it 70 per cent, 80 per cent, what is your assessment?

SHRI VISHNU SAHAY: Mathematically I would not venture any opinion at all. I do not think anybody can with any pretence of logic say what the mathematics of it is. But the two main parties, the Congress Party in the plains and the APHLC who have already demonstrated their influence many times, have broadly accepted this. There are groups even in the Congress Party or in the APHLC who want a separate arrangement. As far as minorities among Garos and others are concerned it is difficult to have a solution which would on the one hand satisfy them and give them complete protection and at the same time go with autonomy in the hill districts. They will have to trust the people among whom they live.

**SHRI BALRAJ MADHOK:** Every citizen of the country is granted equal rights by our Constitution. If the local assemblies pass certain laws which impose certain disabilities on some citizens, don't you think it would not be fair and proper and it would go against the Constitution itself.

**SHRI VISHNU SAHAY:** That is rather a different point. That would be a common problem whether you make separate units, Union Territories or autonomous States.

**SHRI BALRAJ MADHOK:** According to this arrangement the Mikir and North Cachar Hills have been given the option later on to join this State or remain part of Assam. Supposing tomorrow the Garo Hills too opt to go back to Assam, don't you think that that kind of option should be given to them. Secondly if some of them want to remain as separate States don't you think that we should concede that demand?

**MR. CHAIRMAN:** The question is based on two hypothesis, that they would like to join and thereafter they would like to go back.

**SHRI NAMBIAR:** Shri Madhok tried to explain it in a way that he wanted to have an autonomous State or a Union Territory directly under the Centre. If a regular State as any other State in India is given to these hill districts as per the request made by the APHLC or any other party, what is the harm in doing that? Why are we tinkering with this problem creating a sub-state, then wait for agitation and then grant a full State.

**SHRI VISHNU SAHAY:** I can only go back to where I started and say that there is a large measure of agreement behind it.

**SHRI NAMBIAR:** Apart from the measures of agreement, if we solve the problem right now, what is it that stands in the way of doing so if the Parliament desires it?

**SHRI VISHNU SAHAY:** I take the view that in judging merits you have to take into account the prevailing atmosphere, the pressures, the lobbies and even the political parties.

**SHRI SWELL:** Shri Madhok has put a very hypothetical question—if a discriminatory law is passed by the future autonomous State Assembly what will happen to this person, that person, this group, that group and so on. I would like to know whether when we are considering the Constitution Amendment Bill that question can be considered or whether it could be more appropriately considered at the time when the Reorganisation Bill itself is discussed. Secondly, from your experience of the other hill areas and when the APHLC has demonstrated many times that they have a sway over the hill people and their patriotism cannot be doubted, may I know whether it is fair for this Committee or anybody in this country to pre-suppose any kind of legislation that the future autonomous State Assembly will undertake?

**SHRI VISHNU SAHAY:** One should not look too far ahead in this matter. A statesman, as somebody pointed out, is concerned with the immediate future. It may be that these demands will come up. If you take an exceptional stand in one case other demands may come up.

**MR. CHAIRMAN:** Taking the advantages and disadvantages or hopes and apprehensions, what is your ultimate view?

**श्री शोभ प्रकाश त्यागी :** मैं यह जानना चाहता हूँ कि जो विधान संसोधन विधेयक उपस्थित, इसमें क्या आप यह अनुभव करते हैं कि असम की कुछ पहाड़ी जातियों की भाषनाओं का ध्यान करते हुए, अर्थात् उनकी राजनीतिक भाषानाओं का ध्यान करते हुए, स्टेट के अन्दर स्टेट बनाने का जो विल आया है यह अन्य प्रान्तों में भी इन व्यक्तियों को जो भाषा और अन्य आधार पर यह

भावना रखते हैं कि उनको भी अलग प्रान्त मिले, इसी प्रकार का स्टेट्स मिले, उसी प्रकार के एजिटेंस को, आन्दोलनों को जन्म दे सकता है या नहीं ?

**SHRI VISHNU SAHAY:** The question was whether it will not lead to some divisive demands from other parts of the country. The danger is definitely there.

**श्री ओम प्रकाश त्यागी:** असम में चूंकि आप काफी समय रहे हैं इसलिए क्या आप इस बात का अनुभव करते हैं कि इन पहाड़ी क्षेत्रों में नागालैंड और मिजोहिल्स के पिछड़े और भोके-भालै लोगों ने जो ऐसी मांग की है तो उन की इन मांग के पीछे क्या विदेशी सत्ताओं का भी हाथ है ? अथवा क्या इस प्रकार के उनके आन्दोलन के पीछे क्या विदेशी मिशनरीज का भी कोई हाथ है ?

**श्री विश्वनाथ सहाय :** नागालैंड में इसाई मिशनरीज बीस वर्ष से नहीं हैं।

**श्री ओम प्रकाश त्यागी :** आन्दोलन कराने में हाथ तो उन्हीं का मुख्य रूप से है। मेरा दूसरा प्रश्न यह है कि असम में जितनी हिली ट्राइब्स हैं उन के पोलिटिकल एस्प्रेशंस ज्वाएट हैं या वह उन के अलग-अलग हैं ?

**श्री विश्वनाथ सहाय :** अलग-अलग हैं।

**श्री ओम प्रकाश त्यागी :** क्या यह जो संशोधन हो रहा है वह किसी विशेष दो या तीन पहाड़ियों का व्यान करते हुए हो रहा है ? अर्थात् जो अमेडमेंट बिल आ रहा है और जिस में केवल दो या तीन पहाड़ी जातियों का ही जिक्र है परन्तु दूसरी पहाड़ियों से और दूसरे रीजेंस से भी इसी प्रकार की आवाज उठ रही है और मांग की जा रही है तां क्या आप की दुष्टि में इस अमेडमेंट बिल में किसी विशेष पहाड़ी जाति का नाम न लेते हुए यदि सिद्धान्त के आधार पर चेंज करने के लिए

कहा जाय ताकि बाद में और भी बाकी पहाड़ी क्षेत्र के लिए कोई हल निकल सके, उन की भी गरीबी की अवस्था को ध्यान करके पूरे पहाड़ी क्षेत्र के लिए एक स्थाई हल निकाला जाय क्या आप इस के पक्ष में हैं ? इस प्रकार का उन्होंने जो हल निकाला है और वह भी एक पहाड़ी रीजन को औपचारिक दिया है तो क्या यह एक परमानेट सौल्युशन हो सकेगा ?

**श्री विश्वनाथ सहाय :** साफ़ बात तो यह है कि मेरे मन में यह सौल्युशन मीजों का तो नहीं है लेकिन परमानेट सौल्युशन और कौन-सा दूसरा निकल सकता है जोकि इस बहुत देश की रक्षा के लिए ज्ञादा मुफीद साबित होगा ?

**SHRI DHIRESWAR KALITA:** What is your solution?

**SHRI OM PRAKASH TYAGI:** My solution is that the Government must consider the whole hilly region and not one part of it. This solution cannot be a permanent solution. This will create a problem area.

**श्री ओम प्रकाश त्यागी :** मैं एक चीज़ और पूछता चाह रहा हूं कि जैसा आप ने अभी यह कहा कि यह लार्जली एक्सैप्टेंड फारमूला है, तो क्या आप ने यह जानकारी प्राप्त कर ली है कि गवर्नर्मेंट ने जितने हिली रीजंस हैं और जो उन की डिस्ट्रिक्ट कौसिल्स हैं उन सब कौसिल्स से मिल करके यह अपना लार्जली एक्सैप्टेंड फारमूला बनाया है ? मैं आप की जानकारी के लिए यह बतला दूँ कि इस सम्बन्ध में हमारे पास मैमोरेंडम्स आये हैं; उन में एवं पी एल सी पार्टी ने इसे परीक्षार्थ स्वीकार किया है। इसी तरह से एक और दूसरी पार्टी है उस ने तो उस को स्वीकार ही नहीं किया है। जब ऐसी हालत है तो आपने परीक्षार्थ इस फारमूले को लार्जली एक्सैप्टेंड के साथ मान लिया-

है जब कि सब ने उसे स्वीकार नहीं किया है। इसके अतिरिक्त दूसरे भी पहाड़ी क्षेत्र हैं जोकि इस से बिलकुल अलग खड़े हैं? इस में मिजो डिस्ट्रिक्ट नहीं है, नार्थ कालार हिल्स नहीं हैं तो खाली यूनाइटेड खासी जयन्तिया हिल्स को लेकर ही आप ने ऐसा कैसे समझ लिया कि वह तमाम हिली एरियाज का एक सौल्युशन निकल आया है? आपने उसे कैसे एक लार्जली एक्सेप्टेड फारमूला मान लिया जब कि उस में नार्थ कालार नहीं है और मिकिर हिल्स आदि नहीं है केवल खासी जयन्तिया हिल्स ही हैं?

SHRI VISHNU SAHAY: These are largely acceptable to the Kasi area, Garo area and the plains people. As far as I know, Mizos have not joined in it. I do not know the views of the Cachar area.

श्री ओम प्रकाश त्यागी : चूंकि अभी नार्थ कालार हिल्स और मिकिर हिल्स आदि ने इसे स्वीकार किया है तो क्या आप इस फारमूले को स्पाई हल स्वीकार करते हैं कि यह सभी पहाड़ी क्षेत्र के लिए हो सकेगा?

SHRI Y. B. CHAVAN: His point is that this Bill relates merely to the demands of Khasi-Jaintia hills and not the whole hilly area. I am saying that when we have given the option to the Mikirs and North Cachar, either to join or not to join, then this solution touches them as well.

श्री ओम प्रकाश त्यागी : मेरी शंका यह है कि आपने इस बिल में आप्शन करने वालों के नाम निश्चित कर दिये हैं। इस के बजाय यदि आप यह लाते कि यह समस्त पहाड़ी क्षेत्रों के लिए आप्शन है कि वह जब भी चाहें इसमें मिल जायें . . .

SHRI Y. B. CHAVAN: They will have only one option.

श्री ओम प्रकाश त्यागी : आपने आप्शन केवल एक को दिया है या सब को?

श्री यशवन्त राय चट्टारण : जो चाहते थे उन को दिया है। मीजो के बारे में सबाल अलग है। नार्थ कालार में और मिकिर हिल्स में दो राय हैं। कई चाहते हैं कि आटोमग्स स्टेट में रहना चाहिए जबकि कई चाहते हैं कि नहीं रहना चाहिए।

Therefore, in a difficult situation of finding exactly what is their view, it is left to the people themselves to make the choice.

श्री ओम प्रकाश त्यागी : इस बारे में मेरी यह प्रार्थना है कि जिनकी आज राय नहीं है आप्शन की, उनकी हो सकता है कि कल बन जाय अर्थात् जिन्होंने आज सहमति नहीं दी है उनकी भी कल को सम्मिलित होने की इच्छा हो जाय। आप ने आप्शन के लिए दो, तीन हिली एरियाज का नाम ही दिया है शेष समस्त पहाड़ी क्षेत्रों को यह अधिकार आपने क्यों नहीं दिया?

SHRI Y. B. CHAVAN: Khasi Jaintia, Garo, Mikir, North Cachar and Mizos are the areas here. So far as Mizos are concerned, it is a problem which you have to treat separately because of some compelling political reasons. When there is an armed rebellion going on in Mizoland, it will be absurd to think of some sort of political solution at this stage. Therefore, we have deliberately left Mizos outside the consideration of this Bill. Then, out of the remaining areas, to those who largely agree with this solution we have said "yes, they will form the State." About those two areas where there is difference of opinion, we shall leave it to their choice.

श्री ओम प्रकाश त्यागी : श्री सहाय जी समस्त पहाड़ी जातियों की अलग अलग राजनीतिक आकांक्षायें हैं ऐसा आपने स्वीकार किया है तो गारो हिल्स और खासी

जयन्तिया हिल्स, उनके भी अलग अलग ऐस्प्रेशंस होंगे, पोलिटिकल ऐस्प्रेशंस होंगे तो क्या आपकी राय में इस बिल में गारो हिल्स को भी मिकिर हिल्स और नार्थ काठार की तरह शौष्णन देना चाहिए या इस तरह से उसको जबरदस्ती जोड़े रखना चाहिये था ?

श्री विश्नु साहाय : एक अच्छी बात को बिगड़ा होगा ।

श्री ओम प्रकाश त्यारी : यह सब जो आन्दोलन है वह इस बात पर आधारित है कि पिछले 20-21 वर्षों में पहाड़ी क्षेत्र की ओर असम गवर्नरेंट ने ध्यान नहीं दिया । उनकी पिछड़ी हुई हालत है और उन लोगों की अलग अलग पार्टियां और सांस्कृतिक रीतिरिवाज आदि हैं तो इन सबको मिला करके क्या इस प्रकार की जो एक आटोनमस स्टेट बना रहे हैं तो उसके बन जाने पर क्या आप यह अनुभव करते हैं कि जो असम में वर्तमान रेवेन्यू प्राप्त होता है, उसके अधिकांश भाग की जो आय है वह मैदानी क्षेत्र से हो रही है जहां कि बिजनेस भी है और फैक्टरीज आदि भी हैं तो इस प्रकार की एक नवी स्टेट बनने पर हिली ऐरियाज के डेवलपमेंट में कोई बाधा नो नहीं आयेगी । क्योंकि मैदानी लोग अपने घन को वहां व्यय नहीं होने देंगे और विद्यान सभा में उनका बहुमत भी होगा ऐसा न होने देने के लिये ।

SHRI VISHNU SAHAY: As far as I am able to understand your question, you ask whether this will not reduce the contribution which the plains are making at present to the development of the Hill areas. Probably, it will; but then all are counting on the Centre. Everybody counts on the Centre.

श्री ओम प्रकाश त्यारी : गारो, जयन्ती आसी हिल्ज आदि पाकिस्तान की सीमा

पर हैं । सुरक्षा की दृष्टि से क्या आप इस समाधान को अच्छा मानते हैं ? असम में जो पाकिस्तानी नैशनलज अवैध रूप से आए हैं क्या यह सब नहीं है कि वे इन्हीं हिल्ली ऐरियाज के अन्दर होकर आते रहे हैं ? उनके अवैध रूप से आत्मन को सेकने के लिए इस नई स्टेट को क्या अलग से पुलिस फोर्स नहीं रखनी पड़ेगी और इस कारण से उस पर खचं का भार ज्यादा तो नहीं पड़ेगा ?

SHRI VISHNU SAHAY: In my opinion the particular problem of Pakistani infiltration will not be affected in the least adversely by this proposal. I do not think this proposal is going to make it any more difficult at all.

श्री ओम प्रकाश त्यारी : अगर इन पहाड़ी क्षेत्रों को यूनियन टैरिटरीज का रूप दे दिया जाए तो क्या यह ज्यादा अच्छा होगा या वर्तमान जो सौल्यूशन है यह ज्यादा अच्छा है ?

SHRI VISHNU SAHAY: I think, I have already answered that.

श्री ओम प्रकाश त्यारी : अगर पूर्ण प्रान्त का रूप इसको दे दिया जाय तो इस में क्या हानि है ?

SHRI VISHNU SAHAY: There are many solutions that have been put forward for this problem. If you look at the real division of powers, you will find that many of these are really very similar. But then the point is, to use a Hindi phrase, मूळ का सवाल है ।

श्री ओम प्रकाश त्यारी : अगर अलग प्रान्त बना दिया जाए तो उससे हानि क्या होगी ?

SHRI VISHNU SAHAY: May I put a counter question? What is the difference really, from the point of view

of the political scientist, between the federal scheme as originally put forward and this, except that it is a case of dignity and prestige?

श्री ज्ञान प्रकाश त्यार्गः : डिग्निटी और प्रेस्टीज का ध्यान अधिक रखा जाना चाहिये या देश की सिक्योरिटी और प्रगति का ?

SHRI VISHNU SAHAY: That is not the way I look at it.

MR. CHAIRMAN: These are not necessarily contradictory ideas.

SHRI VISHNU SAHAY: People are touchy about their own dignity. We see that problem everywhere in the country today. You have to satisfy their dignity. And that adds to the national strength. From that point of view I support it. I support anything that satisfies the Hill people by and large without incurring too great a risk to the country—and this one does not increase the security risk.

श्री ज्ञान प्रकाश त्यार्गः : क्या किसी पार्टी ने सरकार को यह आवासन दिया है कि अगर यह बिल पास हो जाएगा तो हम अपना आनंदोलन को खत्म कर देंगे ?

SHRI VISHNU SAHAY: I think, it is a matter of opinion. As I said, I would give this a chance.

श्री ज्ञान प्रकाश त्यार्गः : अगर आप केन्द्रीय सरकार में होते तो आप क्या करते ?

SHRI VISHNU SAHAY: I would have certainly gone ahead, without any hesitation.

SHRI BAL RAJ MADHOK: You would not like to be in his place.

SHRI VISHNU SAHAY: No.

MR. CHAIRMAN: Thank you, Shri Vishnu Sahay.

(The witness then withdrew.)

(The Committee then adjourned to meet again at 16.30 hours)

(The Committee re-assembled at 16.30 hours)

II. Shri Niren De, Attorney General of India.

(The witness was called in and he took his seat)

MR. CHAIRMAN: Mr. Attorney General, the Government of Assam has drawn our attention to clause 4 of the Bill and Art. 371B of the Constitution. At the end of the new proposed Article 371B are the words "and for the modifications to be made in the rules of procedure of that Assembly". The Article as a whole provides for the constitution of a Committee of Members of the Assam Legislative Assembly elected from the tribal areas and few others and empowers the president to provide for the modifications in the rules of procedure of the Assam Legislative Assembly. This is analogous to Art. 371 (1) which confers similar powers on the President in respect of the State of Andhra Pradesh. It has been pointed out that in Art. 371 which is an analogous provision, the specific words of limitation on the powers of the President might be lost sight of and it is apprehended that it might be claimed that the powers of the President to modify the rules of procedure of Assam Legislative Assembly under clause 4 were unfettered. Such a possible claim, if put into effect, will affect the dignity and status of the Assam Legislative Assembly and would impinge its powers under Art. 208 of the Constitution.

Would you give us your advice?

SHRI NIREN DE: I think your question involves two separate questions. One is as to whether this provision, that is to say, the proposed Art. 371B as it stands, confers very wide power which might be misinterpreted as a matter of interpretation. The second question, I think, relates more to the question of propriety, that is to say, as to whether the Parliament should bring in such a provision which might affect the dignity of the Speaker and the Legislative Assembly itself.

As for the second question, I am afraid the Parliament will have to decide that. But so far as the first question is concerned, of course I can see that it is modelled on Art. 371 (1). But if I were a Draftsman I would probably make it a little more specific. I suppose what is meant here is that so far as the modifications to be made in the rules of procedure of the Assembly—so far as that expression is concerned, it relates really to the Committee which is going to be set up and that being so it might be a matter of drafting. Any expression in that behalf or any suitable expression might be introduced.

MR. CHAIRMAN: You think that this relates to the functioning of the Committee.

SHRI NIREN DE: I should think so.

SHRI A. D. MANI: May I draw the attention of the learned Attorney General to clause 2 of the Bill on page 2 ? This clause says:

"Notwithstanding anything in this Constitution, Parliament may, by law, form within the State of Assam an autonomous State...."

And sub-clause (b) says;

"a Council of Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law".

After introducing the word 'autonomous', is it possible for the Government to give a restricted form of autonomy? This is the question which occurs to me on reading the language of the Bill. We all understand what an autonomous State is. We do not want this contingency to arise that after two years they will say that this is not autonomy because the power to restrict in each case is left with Parliament. Therefore, I would like to know from you whether there is any inconsistency between both these provisions.

SHRI NIREN DE: Am I to understand that the question asked is whether this provision, as it stands, is unconstitutional?

SHRI A. D. MANI: No. After using the word 'autonomous' in the earlier part of this provision, later on we go on to say about "powers and functions, in each case, as may be specified in the law". Will this not lead to litigation?

SHRI NIREN DE: I understand the question. Your question resolves into this, that the Bill uses the expression 'autonomous' and at the same time does not give full autonomy. Well, this is a Bill for amendment to the Constitution and once the Constitution is amended by insertion of the provisions of this Bill, the provisions of the Bill become part and parcel of the Constitution and once it becomes part and parcel of the Constitution, you could as well read it as if it stood there when the Constitution came into effect in 1950. I am not suggesting that it should have retrospective effect. But it has as much validity as any other Constitutional provision. About the adjective used, namely, 'autonomous' that is entirely for the Parliament to decide. Once it goes into the Constitution, I can foresee no scope for any litigation about that and nobody will, I think, say: "You gave us an autonomous State, but you are not giving full autonomy". I cannot answer that question. It is for the Parliament to decide. There is nothing wrong about it. As a Law Officer, I can say that this Bill is Constitutional. Regarding the drafting of it or the propriety of it—it is not for me to answer.

SHRI A. D. MANI: Could there be any legal objection to the dropping of the word 'autonomous' and insertion of the term "sub-State"?

SHRI NIREN DE: There is no legal objection to drop anything. I cannot answer that question. It is for the Houses of Parliament to decide what expression they should use.

DR. B. N. ANTANI: In the interests of clarity and phraseology and in order to avoid future complications and litigation....

MR. CHAIRMAN: He has already mentioned by saying that he sees no scope for litigation on this issue.

SHRI Y. B. CHAVAN: I am speaking about Art. 371 (b). You referred to the two aspects of the question. One was the constitutional aspect and the other was the propriety. Can you as Adviser to the Government say that without this provision the regional Committee will be able to function properly?

SHRI NIREN DE: No. There must be such a provision. The wording of it may be anything but it must have some provision whereby a Committee of the legislature consisting of both sides should sit down and solve the major problems.

SHRI Y. B. CHAVAN: Thank you.

SHRI NAMBIAR: In Section 2 on page 2, in part X of the Constitution after article 244, the following shall be inserted. Then the whole of the article comes in and the Parliament has been given power to constitute both the Council of Ministers and the legislature for the autonomous State. In (a) it is stated:

"a body, whether elected or partly nominated and partly elected, to function as a legislature for the autonomous State, or"

This power is given to the Parliament. Under the Constitution as framed today has the Parliament got the power to constitute a legislature by nomination or by election without specifying under what provision this can be done? After all the Parliament cannot constitute a legislature by nomination or by election. The whole scheme is left to the Parliament. Then the Parliament would also have made law as to what is to be done in regard to the constitution of other states also. Has the Parliament got such a power? Even if it is included in the Constitution will a

legal objection not be found out by somebody that the Parliament cannot be given such a power and only the Constitution can enact?

SHRI NIREN DE: I think the answer to that question depends very much upon the answer to the fundamental question as to whether you can amend the Constitution in this manner at all. If I may add to what I wanted to say, if once you accept the position that the Constitution could be amended, as I said before, this becomes a part of the Constitution and if I may say so with respect, if there is any doubt on the subject, I think, the hon. Member is possibly thinking of the question of delegated power. Now I see a vital difference between a constitutional provision delegating certain powers to Parliament or the President and the legislature delegating powers to certain authorities. If a Constitution by its own force, by its own provisions gives power to the Parliament or to the President or to anyone else that power is derived from the Constitution itself. There is hardly any question of delegation here, in the sense we understand in the case of delegation by the legislature. Once you admit that you have the power to amend, you can amend anything except I say, of course, unless you fall into the trap of the Golak Nath case. It is another matter. Besides, if I may add, that so far as this scheme is concerned, that is to say, leaving certain matters to the Parliament even in respect of the formation or constitution of a legislature or Council of Ministers, you have, I think, certain precedents in the Constitution itself. For instance, if you look—I think it is Art. 239—regarding the Union Territories, in Art. 239A clause 1 you have absolutely the same sort of power being given by the Constitution to Parliament to constitute a body or a Council of Ministers. So far as clause (1) or rather sub-section (1) of the proposed Article 244A is concerned, this is exactly similar to Art. 239A (1). So far as sub-section 2 of the proposed Article is concerned, it is merely enumera-

tion of certain instances or the way in which the special power can be exercised.

**SHRI CHANDRA SEKHARAN:** The amendment of the Constitution including any provision in the Constitution will have to be done in accordance with Art. 368 of the Constitution.

**MR. CHAIRMAN:** There is only one way of amending the Constitution.

**SHRI CHANDRASEKHARAN:** I am asking about Art. 368. Any provision of the Constitution can be amended only in accordance with the procedure laid down in Art. 368 of the Constitution.

**SHRI NIREN DE:** There is some controversy about this. Golak Nath's case, as you probably know, gives one point of view but I still hold that the power is contained in Art. 368 itself. This view was shared by Five learned Judges of the Supreme Court. Five learned Judges did not find any power of amending in Art. 368. They found the power in the residuary entry of List I. The procedure described in Art. 368 has obviously to be followed.

**SHRI CHANDRASEKHARAN:** I am not going into the controversy at all. I am also in respectful agreement with the Attorney General's view that the power is contained in Art. 368. The procedure adumbrated in Art. 368 will have to be conformed to in respect of any amendment of any provision of the Constitution.

**SHRI NIREN DE:** There can be no two answers to that. The answer is always 'Yes'.

**SHRI CHANDRASEKHARAN:** May I invite the Attorney General's attention to Clause (4) of Art. 244A and clause (3) of the new article 244A and the law to be enacted by Parliament in terms of sub-article (1) of Art. 244A, the provisions therein for the making of the law do not appear to be in conformity with the provisions in Art 368.

**SHRI NIREN DE:** With great respect I think there is a little fallacy there. I said once these provisions come into the Constitution they form part of the Constitution. Once they become a part of the Constitution there is an end of the matter. So far as this point is concerned which is troubling the hon. Member, I will invite his attention to the fact that there are other articles of the Constitution where Parliament has been given the power to do certain things which, on the face of it, look like amendment of the Constitution as for example, Art. 4 or for that matter Schedule 5 or Schedule 6. You will find provisions to the similar effect that Parliament may by law do certain things regarding 5th Schedule or 6th Schedule, even amend or vary the provisions of the 6th Schedule which really relates to the constitution or administration of Scheduled Areas or Tribal areas. I do not see any objection to this clause at all.

**SHRI CHANDRASEKHARAN:** May I put it this way that when once Article 244A is incorporated in the Constitution, it would be not in terms of restricted amendment under Article 368?

**SHRI NIREN DE:** I would not say that. There are two provisions; one is Article 368 and the other is where the Constitution itself provides the way in which certain matters would be amended.

**SHRI CHANDRASEKHARAN:** Clause 4 of 244-A and various provisions will not be merely saying that some provisions are likely to be amended or not likely to be amended. There will be substantial amendments to the Constitution, particularly various provisions relating to Finance, appointment of Public Services Commission, various constitutional appointments to be made. In regard to these, the law or an amendment of the law would be a substantial constitutional amendment but not conforming to the provisions of Article 368 for the pur-

pose of legislation. Will it be like that?

SHRI NIREN DE: I cannot agree with the hon. Member for two reasons. Once it comes into the Constitution there is no question of violating Article 368. I would like to remain the hon. Member that so far as this piece of legislation is concerned, as it is proposed, it relates to certain areas which in any event have been set aside as a sort of areas for special treatment under the original Constitution itself. So far as these special areas are concerned, although within the State of Assam, the Constitution empowers the Parliament to provide certain special laws for special areas. I see no deviation from the principle embodied in the Constitution and also I don't see any violation of Article 368.

SHRI CHANDRASEKHARAN: You don't apprehend that clause 4 of 244A is likely to be challenged as a fraud on the Constitution, particularly keeping in view of Article 368.

SHRI NIREN DE: It would be a fraud on the Constitution, if the Constitution did not have the power to do it.

SHRI CHANDRASEKHARAN: Will it not mean that this amendment to the Constitution is not according to the procedure adumbrated in Article 368

SHRI NIREN DE: I am afraid that my answer is the same; only the question has been put in a different form.

SHRI CHANDRASEKHARAN: Sub-article 3 of 244-A says that with regard to certain matters two-thirds of the members present and voting in each House of Parliament is required for passing an amendment of the law. There is no such provision anywhere in the earlier clauses. Is this not required when the original law itself is being legislated upon and if it is not there, would that be an omission?

SHRI NIREN DE: There is nothing wrong in that from the constitutional point of view. Secondly, it is for the Parliament to decide what is to be there.

MR. CHAIRMAN: If the Constitution is amended this will work. Whether it should be half or one-third is for the Parliament to decide.

SHRI CHANDRASEKHARAN: For an amending law two-thirds majority is required, but for the main law relating to the same subject itself there is no such provision.

MR. CHAIRMAN: That is the pleasure of Parliament to so indicate it.

SHRI NIREN DE: It is for the sponsors of the Bill to answer.

SHRI NAMBIAR: The term 'autonomous State' is used for the first time here and there is no definition. We will have to see the dictionary what it means. Is it proper?

SHRI NIREN DE: I don't think there can be legal objection to that. Although there is no definition, the powers and functions of the autonomous State will be there in the proposed law.

SHRI NAMBIAR: In the Constitution there is no mention of 'autonomous State'. This law may be made later in regard to the powers and functions of the autonomous State. What is the harm if it is defined in the Bill itself, because it will be more specific?

SHRI NIREN DE: As a matter of fact, the word 'autonomous' occurs in the Sixth Schedule in respect of region. And it has not been defined. But the powers and functions of this autonomous State will be specified in the proposed law. Beyond that, it is not necessary to have a definition.

SHRI NAMBIAR: Will this be equal to that word in the Sixth Schedule? What will be the reader's impression?

**SHRI NIREN DE:** If any impression is to be formed by a reader, it will be about the powers and functions of the autonomous State, and not about its definition.

**CHAUDHURI RANDHIR SINGH:** According to the law of construction and interpretation according to General Clauses Act, the word 'State' here, will it include the Sub-State and autonomous State also?

**SHRI NIREN DE:** The word 'State' used here is not that word as defined in the General Clauses Act. A law will be made by the Parliament wherein the powers and functions of the autonomous State will be specified.

**CHAUDHURI RANDHIR SINGH:** The word 'Minister' includes 'Deputy Minister'; 'Sarpanch' includes Panch. According to law of construction, will not State include autonomous State also?

**SHRI NIREN DE:** I would not say that here. I don't think there need be any controversy about it, because the proposed legislation will specify the powers and functions of this autonomous State. That is the end of the matter.

**MR CHAIRMAN:** Thank you.

*(The witness then withdrew)*

*(The Committee then adjourned)*

JOINT COMMITTEE ON THE CONSTITUTION (TWENTY-SECOND AMENDMENT) BILL, 1968

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5. Shri G. N. Saksena, *Assistant Draftsman, O. L. (Leg.) Commission, Ministry of Law.*

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3. Shri N. C. Sareen, *Deputy Secretary.*

**SECRETARIAT**

Shri M. C. Chawla—*Deputy Secretary.*

## WITNESSES EXAMINED

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1.	Representatives of the Government of Assam.	11-2-1969	I
	<i>Spokesmen :</i>		
	(1) Shri A. N. Kidwai, Chief Secretary.		
	(2) Shri B. C. Barua, Advocate General.		
	(3) Shri G. C. Phukan, Secretary, Finance.		
2.	Representatives of the Ministries of Defence and Home Affairs.	12-2-1969	9
	<i>Spokesmen :</i>		
	(1) Shri H. C. Sarin, Secretary, Ministry of Defence.		
	(2) Shri L. P. Singh, Secretary, Ministry of Home Affairs.		
3.	Shri Vishnu Sahay, Former Governor of Assam.	13-2-1969	26
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