

sort of an emergency or semi emergency or mini emergency or something like that in some Union Territory, in any remote Union Territory, then the provisions are very good because he has brought his lawyers into the picture, things can be challenged or contested in the courts of law but nowhere Parliament is in the picture. It is that they can promulgate it only subject to the satisfaction of the President and the Home Ministry, but the Parliament is nowhere. Even the administrator of a Union Territory, when its legislature is not in session, can promulgate and its life is only 6 weeks. It is all right. But where does the Parliament come into the picture? If some ordinance or a frightening ordinance or some ordinance of legal consequences is promulgated, are we to be simply silent spectators to that? That is why I have said, 'except by a majority of the Parliament in both Houses'. My whole contention is this: keep it away from litigation and enlarge the powers of this Parliament. You know, Sir, the angry words of President Roosevelt, 'Save the Constitution from the court'. If it is true for America, it is doubly true for India.

**SHRI SHANTI BHUSHAN:** The hon. Member is apprehensive that if this Bill is accepted, the paradise shall belong to the lawyers and he would be afraid to go to such a paradise. I can assure the hon. Members that the lawyers will never have the monopoly over the paradise and it shall be available and open to other members also.

This clause 4 in this Art 239B did not exist in the original Constitution and its absence never presented any difficulty because the courts had ever exercised a power for sitting in judgment over the subjective satisfaction of either the President or the Governor or even administrators in the matter of issuing ordinances. Therefore, it did not call for any such amendment to expressly say that the satisfaction of the appropriate authority shall not

be questioned on any ground. That was not called for. The courts themselves had exercised their powers with a sense of responsibility and, therefore, to say that even in an extreme case, the power would be expressly excluded, I submit, was not a desirable amendment and, therefore, the original provision is being restored by this amendment and it is not necessary to involve the two Houses of Parliament in this.

**MR. SPEAKER:** Clause 33—**Shri Shambhu Nath Chaturvedi.** Now it is 3 O'clock. The discussion on the Constitution Amendment Bill stands adjourned to 21st August.

15.00 hrs.

#### COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

##### TWENTY-SECOND REPORT

**MR. SPEAKER:** Now we take up the Private Members' Business. **Shri Gomango.**

**SHRI GIRIDHAR GOMANGO** (Koraput): I beg to move:

"That this House do agree with the Twenty-second Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 19th August, 1978".

15.01 hrs.

[**SHRI RAM MURTI in the Chair**]

**MR. CHAIRMAN:** Now, the question is:

"That this House do agree with the Twenty-second Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 9th August, 1978".

*The motion was adopted.*