

12761 *Advocates (Amendment) Bill* APRIL 25, 1964 *Goa, Daman and Diu* 12762
Diu Judicial Commissioner's Court (Declaration as High Court) Bill

[Shri Bibudhendra Misra]

he must have obtained a degree in law. If you look at the amending Bill on page 6, it reads: "fulfils the conditions specified in clauses (a), (b), (e) and (f) of sub-section (1)". So, (c) is not mentioned here. Therefore, he need not be a law graduate; this amendment is unnecessary.

It is said that the barristers are put in a different category other than the law graduates who pass out of Indian universities. I would only say this. If you look at the Act itself, barristers were put in a different category. Formerly, the position was that the barrister must have a practical training for one year in England. That was the distinction in the original Act. Now, it has been found difficult because of the foreign exchange position and other difficulties. The Indian students who go out find it very difficult to be in England or one year after the completion of the course. To bring them to the same level, they can have some training after they come back to India. That is the provision that is made. There is no case of discrimination. An attempt has been made to bring the two classes as close to each other as possible:

Shri D. D. Mantri: Sir, I beg to withdraw my amendments.

Mr. Deputy-Speaker: Has the hon. Member leave of the House to withdraw his amendments?

Amendments No. 1 and 2 were, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

"That Clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

Clauses 14 to 25, Clause 1, Enacting Formula and Title were added to the Bill.

Shri Bibudhendra Misra: Sir, I move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed".

The motion was adopted.

12.50 hrs.

GOA, DAMAN AND DIU JUDICIAL COMMISSIONER'S COURT (DECLARATION AS HIGH COURT) BILL

The Minister of State in the Ministry of External Affairs (Shrimati Lakshmi Menon): Mr. Speaker, Sir, I beg to move:

"That the Bill to declare the Judicial Commissioner's Court for Goa, Daman and Diu to be a High Court for certain purposes of the Constitution, be taken into consideration."

The House is aware that a provision was made under section 7 of the Goa Daman and Diu (Administration) Act, 1962 for the extension of the jurisdiction of the High Court at Bombay over the courts of the Union territory from such date as the Central Government may by a notification specify. But before a date for this purpose could be notified, a court of Judicial Commissioner was constituted on 18th December, 1963 for the Union territory of Goa, Daman and Diu, under the Goa, Daman and Diu (Judicial Commissioner's Court) Regulation, 1963. This court is the highest Court of Appeal replacing the then existing Court of Appeal (Tribunal de Relacao) in that territory.

Article 241 (1) of the Constitution provides that Parliament may by law declare any court in a Union territory to be a High Court for all or any of the purposes of the Constitution. In

the absence of such a declaration, the Judicial Commissioner's Court will not be competent to exercise the powers of a High Court and no appeals from its judgments will lie to the Supreme Court. The Bill, therefore, seeks to declare the Judicial Commissioner's Court for Goa, Daman and Diu to be a High Court for certain purposes and to apply thereto provisions of Chapter V of Part VI of the Constitution with certain exceptions and modifications.

In this Bill, provision has also been made for appeals to the Supreme Court against judgments, decrees and orders of the Tribunal de Relacao in respect of the following:

(a) passed before 20th December, 1961 in respect of which appeals lay to the superior courts in Portugal, and

(b) passed on or after 20th December, 1961 in respect of which appeals could not be preferred in the absence of necessary provisions.

By constituting the Judicial Commissioner's Court, the provisions of section 7 of the Goa, Daman and Diu (Administration) Act, 1962, enabling the Central Government to extend the jurisdiction of the High Court at Bombay to the Union territory of Goa, Daman and Diu has become superfluous. Section 7 of the said Act is, therefore, being repealed.

On the whole, the Bill is intended to confer on the Judicial Commissioner's Court in Goa, Daman and Diu certain functions of a High Court as in those of other Union territories.

Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill to declare the Judicial Commissioner's Court for Goa, Daman and Diu to be a High Court for certain purposes of the Constitution, be taken into consideration."

Shri Daji (Indore): Mr. Speaker, Sir, I rise to speak on this Bill not

in terms of which it stands but in the larger context of the policy behind this Bill, the policy of constituting and continuing with courts of judicial commissioners. It is from this point of view that I say that this Bill embodies a policy which is a retrograde one. We are reducing the citizens of Goa, Daman and Diu—and I venture to say that it is now an open secret that the same scheme is going to be extended to Pondicherry also—and of Pondicherry into citizens of C class, or C class citizens. That is the scheme behind this Bill.

We have had the experience both administratively and as lawyers working in the judicial commissioners' courts in the erstwhile Part C States, and therefore we know very well how they functioned. Knowing how they functioned, and knowing what a mockery it was—a poor copy of the high court—I make bold to say that you are actually taking away the valued rights of the people of Goa, Daman and Diu, and in the scheme of things, of the people of Pondicherry, who are entitled, as Indian citizens, having merged their territories with India, to the benefit which accrues from an independent judiciary which is embodied in the Constitution in terms of the high courts.

Whenever occasion arises, our Law Minister is over zealous about it and is loudly professing his support for the independence of the judiciary, that our judiciary should not be tampered in anyway whatsoever, and he sometimes waxes eloquent to an extent that is more than necessary. In this particular case, his professions are being put to the test. When the professions are being put to the test, I do not regard his professions to be of an individual lawyer but of a spokesman of the Government; the Government cannot run away with it. After all, Goa, Daman and Diu as well as Pondicherry are likely to become and indeed are bound to become, if not today but tomorrow,

[Shri Daji]

merged in the neighbouring territories of Maharashtra and Madras respectively, and the logic of history is going to take that course. You cannot gain-say that; in the very recent elections the people of Goa raised this issue straight—not as a side-issue—namely, the merger with Maharashtra, and they have given a considered verdict in favour of the merger.

Shri Hari Vishnu Kamath: (Hoshangabad): Sir, I am sure you will agree that my hon. friend Shri Daji must have a quorum when he is speaking.

Mr. Speaker: All right; the bell is being rung—Now, there is quorum. The hon. Member may continue.

Shri Daji: I was submitting that the people of Goa in the recent elections have given a considered verdict that they want merger with Maharashtra. It is a verdict which is an eye-opener, which cannot be denied or side-tracked. It is a considered verdict, because that was the specific issue raised in the elections there, and it is such a thumping verdict where the Congress party, the party in power, has been completely swept down. If anyone wants to reverse the course of history in a blind-folded manner even after this clear and distinct verdict of the people of Goa, I would only say what King Canute did; he ordered the waves of the sea to go back and in that process got his own chair swept away by the ocean. If that is the context in which we are considering this Bill, how can we justify the setting up of separate judicial commissioner's court for Goa, and what would be wrong if the jurisdiction of the Bombay High Court is extended to the territory of Goa? Even conceding what the Prime Minister says—I know that the Prime Minister is rather touchy about this question of the merger of Goa with Maharashtra which he says cannot be considered just now—the Constitution has conferred sufficient powers on us

to extend the jurisdiction of the high court to another union territory. That power actually exists in the Constitution. So, even if you want to flatter the private opinion of the Prime Minister, it is not worth it in the face of the verdict of the people; even then you could have managed to extend the jurisdiction of the Bombay High Court to the territory of Goa. If such a provision was available in the Goa, Daman and Diu Administration Act of 1962, it could have been done, namely, the extension of the jurisdiction of the Bombay High Court to these territories could have been made. Therefore, the question is one of comparative merits and demerits of having a separate judicial commissioner's court or extending the jurisdiction of the Bombay High Court in the case of Goa and similarly extending the jurisdiction of the Madras High Court to Pondicherry.

13 hrs.

Coming to the merits and demerits, there is only one thing which could be said in favour of constituting the Judicial Commissioner's Court and that is that the Judge will sit in Goa and the people can immediately go and get quick justice. As against this petty advantage, the people of Goa are going to lose numerous other advantages which will flow to them if the jurisdiction of the Bombay High Court is extended. Who can deny that the justice meted out by an old traditional and well-established High Court like the Bombay High Court, of whose history, tradition and prestige all are proud, will be hundred times better than the justice meted out by a petty Judicial Commissioner. Allow me to say that this is being motivated and forced upon the Central Government by the petty authorities and petty officials in these territories who want to have a judiciary in their own territory which may be easily influenceable. We cannot compare the justice meted out by the Bombay

High Court and the petty Judicial Commissioner's court.

Who will go to the Judicial Commissioner's court as Judicial Commissioner? Only a man who is not appointed or who is not fit to be appointed as a High Court Judge would go to the Judicial Commissioner's Court. Ask any lawyer whether he would like to be appointed to the High Court or to the Judicial Commissioner's court. Any lawyer would prefer to be a High Court Judge, if he is to be appointed to that post. So, the very constitution will give second calibre men to the Judicial Commissioner's court, which is without any past traditions of the Bar and the Bench, which we all cherish so much as the bastions of our democracy and justice.

Secondly, if we go to a High Court, in regard to cases which are dealt with by a single judge or a division bench, in certain special cases, there is provision for special leave of appeal to a larger bench and for getting the more considered opinion of a larger number of judges. That advantage also is taken away from the people of Goa, Daman and Diu and Pondicherry. To correct the decision of the Judicial Commissioner, people have to go straightway to the Supreme Court. We all know how costly and prohibitive appeals to the Supreme Court are. It is impossible for an ordinary citizen, excepting for big-moneyed people, to approach the Supreme Court. Right from Goa, almost at the other end of the country, even in the case of first appeal, a litigant has to come from the Judicial Commissioner's Court to Delhi for appealing to the Supreme Court, with all the expenses it entails. As a practising lawyer I know it—many lawyer friends also know it—how difficult it is to move the Supreme Court and how prohibitive it is. I have known cases in which I have appeared and even senior lawyers have said, this is a first class. But the security deposit of Rs. 1,000 or Rs.

2,000 could not be arranged and therefore, important and weighty points of law have gone by default in so many cases without coming to the Supreme Court. To expect a petty peasant litigating his rights about some land, a petty tradesman litigating about some contract or agreement or the common citizen who wants to defend his fundamental rights against the inroads of the executive, to expect him to rush to the Supreme Court is completely impossible.

Dr. M. S. Aney (Nagpur): The cost of litigation in High Court would be more than in the Judicial Commissioner's court.

Shri Daji: I do not agree with that view that High Court will be more costly. In the case of a single judge of a High Court, who considers ordinary matters, it will not be more costly in terms of stamp duty and other things as compared to the Judicial Commissioner's court. There will not be much difference. The only point in favour of the Judicial Commissioner would be there right in Goa itself whereas in the case of the High Court, he has to go to Bombay. But there are sprawling States like Madhya Pradesh, which is the largest State in the Indian Union, where the distance from one place to another within the State itself is more than a thousand miles. Can we have a High Court for every district? Goa is smaller than many districts of U. P. Madhya Pradesh or Maharashtra. The Bombay, High Court, in their wisdom have already constituted a Nagpur Bench and a Bombay Bench, so that the litigating public can easily get justice. Even in Madhya Pradesh, we have got three Benches in Gwalior, Indore and Jubbulpur. I am quite sure that if the Bombay High Court is properly approached, they would not refuse to have a Bench sitting for a few days in a month or for a part of the year sitting there in Goa and disposing of the cases expeditiously,

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which would have been more convenient for the public. The Judicial Commissioner's court is a truncated court, a court of second jurisdiction, a C Class court, as we used to call when we had C Class States like Bhopal, Ajmer, Himachal Pradesh and others. To relegate the citizens of Goa, Daman and Diu to the status of C class citizens of India is something to which I cannot subscribe. Therefore, I oppose the philosophy behind this, which is retrograde and which will hinder proper justice being meted out to the people of Goa, Daman and Diu.

The people of Goa have bravely withstood the Portuguese rule for quite a number of years. We salute them for the struggle they waged. We the people of India, also in our humble way tried to help them and liberate them from the tentacles of Portuguese imperialism. We have liberated them and we have rejoined them to their Motherland. After this proud struggle, is this the way justice is meted out to them? We have taken them to our bosom, as a mother takes a child, and in fact, they have become fully and completely a Part of India. That is why they have got this logical aspiration of linguistic merger with the neighbouring State of Maharashtra. That is the only logical step to the liberation of Goa. Anything else is not logical; it is absolutely illogical. Let me remind the Government that when in the past the Government tried to stand against the aspirations of the people of Maha Gujrat and the people of Maharashtra, it is the people's movement which completely swept away that folly. Now the people of Goa have given a democratic verdict in a democratic way. If the Government is not prepared to listen to them, I have no hesitation in saying that the people of Goa, who were strong enough to liberate themselves from the tentacles of foreign imperialism, will rise even stronger to overthrow this sort of C class treatment

that some persons want to meet out to them. It is from this angle—political, democratic and judicial—that I oppose this whole Bill and I even now submit that the Government should withdraw it and reconsider the whole thing in its entirety.

Before I close, I would draw your kind attention to the difficulties that we are again and again coming across in the House. I made that suggestion to you about 1½ years back. Many of these Bills do not go to the Select Committees and it is not necessary by their very nature. That is why I suggested that you, in your wisdom, might constitute a Standing Committee for such Bills, so that we may have more considered legislation. Many such Bills are rushed through just as the Advocates (Amendment) Bill. What will happen after 31st March 1964 is not clear. I am sure if we have a Standing Committee and knock out these things sitting across the Table, if Bills which do not go to a Select Committee are processed in this manner, it will bring about a process of more considered legislation. Here we can only exchange words. We hardly exchange ideas in the House. Even if we try to exchange ideas, the atmosphere is not so conducive for it. So, the constitution of such a Standing Committee is very much called for. With these words. I oppose the Bill.

Shri N. C. Chatterjee (Burdwan):
Mr. Speaker, Sir, since the attainment of independence, liberation of Goa was our greatest achievement. We liberated that territory from Portuguese Salazar's dictatorship. It is amazing that Parliament's verdict is going to be reversed in this way. I am reading section 7 of the Goa, Daman and Diu (Administration) Act, 1962—Act 1 of 1962. Section 7 runs as follows:

"As from such date as the Central Government may, by notification in the official Gazette, specify the jurisdiction of the High Court of Bombay shall extend to Goa, Daman and Diu."

Bill

Therefore, it was a clear verdict of this Parliament in 1962, when it enacted Act No. 1 of 1962, that the Bombay High Court shall be the High Court which will have jurisdiction over Goa Daman and Diu. I do not know why this section is being repealed. The hon. Minister's Bill says:

"Section 7 of the Goa, Daman and Diu (Administration) Act, 1962, is hereby repealed."

Why should Parliament be called upon to reverse its verdict?

As a matter of fact, what has happened since then clearly shows that they want integration with India, they want integration with Maharashtra, they want closer association with India. The best force for integration is the judicial integration. I cannot understand why the High Court of Bombay cannot function as the proper court.

Dr. Aney was raising the question of cost. May I point out that when I was associated with the Calcutta High Court I was sent for by Chief Justice Trevor Harries shortly before I left that High Court. He asked me whether I would go to the Andamans to preside over as a High Court Judge and administer justice in Andaman and Laccadive Islands. I was prepared to go. You know Andaman is a practically a place of pilgrimage of all nationals and patriots. Our greatest revolutionaries were there locked up. I was very happy. As a matter of fact, Chief Justice Chakravartty, who succeeded Sir Trevor Harries, went there as Judge of the Calcutta High Court. Why cannot they depute one High Court Judge to go to Goa and administer justice as is being done under the aegis of the Calcutta High Court in regard to Andaman and Nicobar Islands and all those places? I am submitting, Sir, that his is a very salutary principle and there is no question of any extra cost.

A question may be raised as to whether one High Court Judge or one High Court can function outside the State of Maharashtra? If you give it to the High Court of Bombay there is no difficulty. You know that the Punjab High Court is functioning as a High Court in the Union territory of Delhi. It is technically a different State. There is a Bench sitting here—not one Bench, I think there are now four Judges. The other day when I was there Justice Dua and Justice Mahajan constituted the Division Bench. Two other judges are sitting singly. There are four Judges now. There is no difficulty in that.

Why are you reversing that decision and putting up a Judicial Commissioner? You know what a Judicial Commissioner is. If I may be permitted to refer to a personal matter, Sir, you may remember, when Dr. Shyama Prasad Mukerjee and myself were arrested in connection with the Kashmir movement the Supreme Court delivered a thundering judgment through the Chief Justice—and released us because the magistrate who was in charge of the case did not make any remand order but ultimately prepared a remand order which was not believed to be genuine by the Supreme Court. Therefore, we were released. What happened to that Magistrate? He was made Judicial Commissioner of Tripura. Amazing things happen here. These are our Judicial Commissioners. I have got a horror of them. You may know about the Judicial Commissioner of Himachal Pradesh. It is called a High Court and has one Judicial Commissioner. If you have got ten persons hauled up for murder, that one Judge will dispose of everything. There is no letters patent appeal and no Bench, nothing of the kind. It is a travesty of justice. I do not think it is proper.

I think in this case it will be much better to place it under the High

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Court of Maharashtra, as was contemplated, as was indicated, as was the deliberate verdict of this Parliament. Why should we reverse that process. After all—Shri Peter Alvares has given me the figures because he represents that portion of the territory of India in Parliament—only five lakhs people are there. Why should we have a separate court for five lakhs of people? Why do you not bring it within the jurisdiction of the High Court of Maharashtra, which is a High Court as ancient as the Calcutta High Court or the Madras High Court, which is one of the tribunals which command the confidence of all sections of the people. The greatest obstacle to the disintegrating forces is an integrated judicial system. I would, therefore, appeal that this section should not be repealed. It should be kept up and we should place Goa, Daman and Diu not under any Judicial Commissioner.

I do not know why they want a Judicial Commissioner's court to function for it. Have it under the Maharashtra High Court. I am quite sure if Chief Justice Chagla had been still the Chief Justice he could have easily sent one or two Judges to Goa whenever necessary. I am quite sure the present Chief Justice Chanani will do so if it is put to him. There will be no question of any additional cost or anything of the kind. There is arrangement there for accommodation and for installation of a court and the High Court can easily function there.

Therefore, Sir, I am suggesting that this is a retrograde step. Do not have anything to do with the old set up in that part of India. We know what is happening in Kashmir and in Nagaland. Therefore we should be particularly careful not to entertain any idea of keeping the old enclaves, keeping the old type of feudalism or imperialism. We should integrate it strongly, quickly and wholeheartedly

into the Indian judicial structure and make it function as such.

Shri Sinhasan Singh (Gorakhpur): Sir, when I read this Bill and saw that it was being moved by the Minister of External Affairs, I was surprised and I thought whether we were dealing with a foreign State or an Indian State. Our territory has been divided into two parts. States and Union Territories. I do not know the reasons why, unfortunately, we are still having some territories administered by the Home Ministry and some, separately, by the Ministry of External Affairs. So far as I know, according to my conception of foreign affairs, the External Affairs Ministry is to deal with matters relating to our connection with foreign countries. No where else in the world do I find the Ministry of External Affairs dealing with a State which forms a part of its own territory. As a result of this kind of treatment we are still facing trouble in Kashmir and Nagaland.

The very idea of having it under a different Ministry is something obnoxious. I think the parliament should feel very sore about it. Why is it that this Government is dividing the territories between two ministries? Why should it be taken away from the Ministry of Home Affairs as if the Home Ministry is not competent to look after these territories and the Ministry of External Affairs alone is competent to look after them. This problem should be looked into.

My second point is, this Bill cannot be moved in the form in which it has been done. No Indian territory can have a High Court. It is only the States which can have High Court. Article 1 has divided India into States and Union Territories. Article 1 (2) says:

"India, that is Bharat, shall be a Union of States. The States and the territories thereof shall be as specified in the First Schedule."

That means we have divided India into States and Union Territories. There is no third kind. Article 214

says that only States will have High Courts and not Union Territories. Article 214 says: "There shall be a High Court for each State." The provision in the Constitution in no way empowers any Union Territory to have a separate High Court.

13:20 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

In Schedule I, where the States are categorised, Daman and Diu find a representatives of these Union Territories Schedule I refers to 16 States in India and 9 Union Territories. The States begin with Andhra and end with Nagaland. The Union Territories begin with Delhi and end with Pondicherry. Thus, we have got a distinct sphere and nomenclature of States and Union Territories. Article 214 says that every state will have a High Court; not every Union Territory. How the Union Territories are to be dealt with is nowhere mentioned in the Constitution. It has been provided in Article 230 that the Union Territories will be assigned to one or the other of the High Courts. Article 230 says that 'Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union Territory.' A Union Territory is to be administered by a High Court which may be assigned to it by Parliament. Here it says: Section 7 of the Goa, Daman and Diu (Amendment) Act is hereby repealed. As was pointed out by my learned friend the previous speaker, who was himself High Court Judge, you are taking away the jurisdiction of Bombay High Court and conferring the High Court status on the Judicial Commission, which, I say, cannot be done under the provisions of the Constitution. It deprives the Union Territory to have an independent High Court. It may be attached to one of the High Courts and it is already attached to the Bombay High Court. Therefore, to take away the jurisdiction of the Bombay High Court and constitute an independent High Court

may be challenged sometimes on the ground that Parliament is not competent to appoint or to constitute a separate High Court for a Union Territory.

So, Sir, my submission firstly to the Home Minister or the Law Minister is why he should not sponsor this Bill, Goa is still being treated as a foreign State. There is no provision to constitute a High Court for a Union Territory.

Then, Sir, I submit that the time has come for the Government now to consider as to how long they are going to treat some of the parts of our country as separate from the Home Ministry. (An hon. Member: Hear, hear). Pondicherry is treated separately. Goa is treated separately. Nagar Haveli is treated separately. NEFA and Nagaland are treated separately. All these things have to stop; and now, Sir, if Kashmir was not treated separately, this problem of Sheikh Abdullah meeting our Prime Minister would not be there, and this morning's discussion would not have come. We must consider fully and sympathetically whether India should be run by one Government, by the Home Ministry, so far as Law and Order are concerned, and the Foreign Ministry should take off its hands. Therefore, I would like them to consider whether it is proper to move this Bill. It is open for discussion. I would again request my learned ex-High Court Judge and now Member of Parliament here whether in view of Article 214 Union Territory could not have a High Court independently because Article 214, and Article 230, read together constitute that only State can have a High Court and Union Territory can be run through one of the High Courts which may be assigned to it.

With these words I oppose this Bill and I hope that the hon. Minister will consider it.

Shri Shinkre (Marmagao): I am grateful to hon. Members of the

[Shri Shinkre]

House who have preceded me and who have very strongly opposed this Bill and shown valid reasons why this Bill should not be adopted. Sir, I oppose this Bill both on principle as well as on grounds of logic; on principle, because, as my hon. friend Shri Daji just now pointed out, the creation of small judicial units like a High Court or similar institutions will have very dangerous possibilities. We know, Sir, that in our former Princely States we used to have even Supreme Courts for territories like Goa or smaller with a small population. And, what was the performance of those courts? Everybody knows, and it is not necessary for me to take the time of the House on such details.

Sir, it is most surprising that this Bill should have been introduced in the Lok Sabha on the 18th December, 1963, that is, after the election results of Goa, Daman and Diu have been known, and after both the representatives of these Union Territories had not only taken oath in the Lok Sabha, but had already been functioning here as the lawful representatives of those territories. The Government should have at least tried to seek some sort of advice from these only two representatives of these Union Territories before introducing such a Bill and if, at that stage, they did not have enough time to consider the question of seeking the advice of the representatives of these Territories, at least now, at the stage of bringing the Bill for the consideration of the House, they could have well shown some sort of eagerness to know from me and my hon. friend Mr. Peter Alvares what was the general feeling of the people of Goa, Daman and Diu regarding this Bill. But I am sorry to state here that perhaps because neither of us belongs to the ruling party the Government have thought it fit to ignore us in matters which concern us most.

Shri Hari Vishnu Kamath: People ignored them and they have ignored you.

Shri Shinkre: Anyway, I am very thankful to the people of this country as I said on an earlier occasion, because people have not ignored us and have supported us all the time. It is the Government which tries to behave in a very peculiar manner. I do not want to state here that the Government are trying to be vindictive for the crushing defeat that we inflicted on the Congress Party in the last general elections in Goa.

I said, Sir, that I oppose this Bill both on principle as well as on grounds of logic. As you know very well, this Union Territory is composed of Goa, Daman and Diu. Now, Goa speaks Marathi as their main language and Daman and Diu speak Gujarati. In Goa nobody knows, nor has ever learned Gujarati. Both the Indian Penal Code as well as the Criminal Procedure Code have been extended to these Union Territories from 1st November, 1963. That means that the Criminal Procedure regarding the Union Territories of Goa, Daman and Diu is being carried from the first of November, 1963 on Indian pattern, in Gujarati in Daman and Diu, as the regional language of the people concerned and in Marathi and English in Goa. The Judges of the High Court or Commissioner's Court, not only do not know Gujarati, but are seldom interested to learn even remotely the Gujarati language. So, this is the first objection that I have on grounds of logic to the passing of this Bill, because the Judicial Commissioner's Court of Goa, Daman and Diu will not be able to deal with matters relating to Daman and Diu as they are completely different set of people inhabiting those two Territories from the people of Goa.

Sir, it may be argued on behalf of the Government that it is to the benefit of the people of this Territory that they have brought this Bill because they will provide, as a result of this Bill, an excuse for a High Court near-

by, nearer home, and they will be saved the expenditure sometimes involved in running to Bombay if Bombay were adopted as the High Court for this Territory. But this may be only a temporary benefit. In the long run, the establishment of a Judicial Commissioner's Court in these Union territories will only serve the purpose of creating vested interest and I do not know whether the Government's main purpose is to create gradually more and more vested interest in these Union territories and tomorrow claim the benefits for this vested interest created by themselves. I do not know whether this Government of ours have learnt cleverly the tactics of our by gone rulers, British rulers, who were masters at the art of creating vested interests everywhere. I say this because I cannot find any justification whatsoever for such a Bill when in the Act No. 1 of 1962 referred to earlier by Mr. N. C. Chatterjee, it had already been stated that the Bombay Branch of Maharashtra High Court will function as the High Court in the Union territories of Goa, Daman and Diu. Such an enactment was perfectly justified as well as logical because, as you know, Sir, the Bombay High Court could do equally well both for Marathi-speaking and Gujarati-speaking people because Bombay has a population of both Marathi-speaking people and Gujarati-speaking people and there was even a move to make Bombay a bilingual State.

Now, Sir, you will excuse me for making a personal point. I am opposing this Bill to some extent against myself because I am myself a professional lawyer and as a result of the establishment of the Judicial Commissioner's Court in Goa, it will certainly be a benefit to me professionally, but I cannot view such benefit either in the longer context nor in the larger interest of the people concerned who have already given their verdict, unequivocal verdict, that they want to merge with Maharashtra and I do

not want that such a Bill as this one should serve tomorrow or in the near future as an excuse to raise arguments against the merger.

Mr. Deputy-Speaker: The hon. Member may conclude now.

Shri S. M. Banerjee (Kanpur): He represents the Union territory and may get a little more time.

Mr. Deputy-Speaker: He can have two or three minutes more.

Shri S. M. Banerjee: I request that the time allotted to this Bill may be increased by half an hour.

Shri S. S. More (Poona): It may be extended to two hours.

Shri Daji: We have saved so much time on the Advocates (Amendment) Bill.

Mr. Deputy-Speaker: The hon. Member may continue.

Shri Shinkre: All the time, we have been hearing in this House talks of national integration and the emotional integration and the Government want us, the people of this country, to think in terms of national integration. But it is a pity that the Government seem to have no notion or knowledge of what emotional integration of the country is. Otherwise, I cannot find any justification for so many enactments that are brought forward on behalf of the Government and the purpose of which can only be disintegration and not integration. It has been just now pointed out by my hon. friend in front of me that an enactment like this and the things that are happening elsewhere in other Union territories are not only not conducive to the emotional integration of the country but, on the contrary, they will eventually lead to disintegration.

Lastly, I may be allowed to point out here—I also raise my voice with my hon. friend who said it before that these Union territories should immediately be taken away from the jurisdiction of the External Affairs Ministry and brought under the Ministry

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of Home Affairs as a first step towards the integration of these territories.

Mr. Deputy-Speaker: Shri S. S. More.

Shri Hari Vishnu Kamath: On a point of order, Sir. Before we proceed further with the Bill, I submit that the entire scheme of this Bill is *ultra vires* of the Constitution. I invite your attention, Sir, to articles 1, 214 and 230 of the Constitution. Article 1 stipulates that India, that is Bharat, shall be a Union of States. It says:

"(3) The territory of India shall comprise—

- (a) the territories of the States;
- (b) the Union territories specified in the First Schedule; and
- (c) such other territories as may be acquired."

Then, article 214 clearly states that there shall be a High Court for each State. All that Parliament can do under the Constitution, that is, under article 230 of the Constitution, is:

"Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union territory."

That is between the State and the Union territory concerned.

Now, Sir, what is sought to be done through this Bill is to invest the Judicial Commissioner's Court in the Union territory of Goa, Daman and Diu with the status or the position or the powers of a High Court which is not contemplated by any article of the Constitution. Before we proceed further I want your ruling on this point whether the Bill is in order. I submit that the Bill is not in order considering articles 1, 214 and 230.

Schedule 1 to the Constitution gives the list of States, that is to say, the names of States and the Union territories. I would, therefore, ask the

Minister if she can enlighten the House under which article of the Constitution this is being done. Clause 3 of the Bill says:

"The Court of the Judicial Commissioner . . . is hereby declared to be a High Court. . . ."

It is absolutely arbitrary to say, ". . . is hereby declared to be a High Court. . . ." by the fiat or the *fatwaa* of the Government. There is no article in the Constitution which can thus declare a High Court. All that the Parliament can do is to extend the jurisdiction or exclude the jurisdiction of a High Court. Here, they have declared it wantonly, without any support of constitutional law, as the High Court for certain purposes. Let the Government point out what the articles are under which this is sought to be done. Otherwise, the Bill is not in order. The Bill must not be proceeded with in the House.

Mr. Deputy-Speaker: It has been consistently held by the Chair that the Chair does not decide the question of *ultra vires*. If the House considers it unconstitutional, it can throw it out at the consideration stage. There is no point of order. Shri S. S. More.

Shri Hari Vishnu Kamath: You are taking the line of least resistance. You must give a considered ruling.

Mr. Deputy-Speaker: That is my considered ruling.

Shri Hari Vishnu Kamath: This is not a considered ruling.

Shri S. S. More: Mr. Deputy-Speaker, Sir, I strongly oppose the present Bill. My hon. friend, Mr. N. C. Chatterjee was pleased to ask the question why section 7 of the original Act is being amended or repealed. I will furnish him the reply. I will tell you, Mr. Deputy-Speaker, that the people in Maharashtra have come to believe that there is a sinister design behind this measure. What is

that sinister design? It is to keep the **Maharashtrians separate from each other** and to drive a wedge between Maharashtra and Goa. This Government is supposed to be a Government based on democracy. Now, if we have to implement democracy, we must have democratic values. Without democratic values, we cannot implement democratic principles. The people of Goa who have been very sturdy and valiant fighters for ages have unequivocally declared their intention to merge with Maharashtra. But there are certain elements here at the Centre who do not desire such integration. This Government speaks of integration. When we go to Kashmir, when we go to Nagaland, we talk about integration. But when the people are ready to integrate themselves with India, we try to keep them separate.

Shri Shinkre: Hear, hear.

Shri S. S. More: One of the previous speakers stated that the justice of the Judicial Commissioner's Court may not be a good quality justice. I will take another matter. The people who have been brought up on pure ghee are being forced to purchase now adulterated vanaspati for the purpose of their maintenance. What is the standard of justice of a judicial commissioner? Some immature and inexperienced officer who will be prepared to toe the line of Government will be appointed there and he will dispense justice.

I am a product of the Bombay High Court and the Bombay University. I feel very much proud of the great tradition which has been established by the Bombay High Court and of the maturity of judgement there. The people of Goa have been accustomed so far to the best quality of justice there, but now that is being removed, and an inferior type of justice is sought to be imposed on the

people of Goa. The people of Goa who have stood the oppression of the Portuguese Government for so many centuries are not going to tolerate this sort of oppression in judicial matters.

My hon. friends Shri N. C. Chatterjee and others have given very valid and cogent reasons for disapproving of this Bill. If Government want to retain the sympathy of the Maharashtrians who are believing that they are being treated like guinea-pigs for experiments, and if they want to win over the Maharashtrians who won for the Congress more than 41 seats out of a total number of 44 seats, then I would submit that Government would be wise if they withdraw this measure. If there is something like gratitude, I would say that Government should respect our sentiments and take back this particular measure.

It may be argued on behalf of Government that they are bringing justice nearer home to the Goa people. I think that that is a fallacious argument. The Bombay High Court was prepared to appoint a division bench there, as it has appointed a division bench at Nagpur. The Bombay High Court would have been very happy to appoint division bench not only for the Goa people but even for Daman and Diu, in view of the language difficulty. If the Bombay High Court is prepared to take over the responsibility of giving fair justice to the Goa people, why the Central Government should step in and take away that great opportunity from the Goa people is something which it is very difficult for us to follow.

Then, as my hon. friend Shri N. C. Chatterjee has said, the attempt to repeal section 7 of the original Act and supplant it with the present provision is a very reactionary step on the part of Government, and this Government which is wedded to progressive advance and progressive democracy should not take such a reactionary

[Shri S. S. More]

step. My hon. friend Shri Kamath is smiling because he feels that I am speaking with a double voice. But as far as Maharashtra's interests are concerned, I have got only one voice, and I am speaking with that one voice.

Shri Alvares (Panjim): I see in this Bill for the establishment of a High Court in Goa the intention of Government to run counter to the declared wishes of the people. A few days ago, when answering a question on the merger of Goa, the hon. Minister Without Portfolio said that the issue of Goa's merger into Maharashtra was an open question. And one week later, Government present Parliament with a Bill whereby the separate identity of Goa is made a fait accompli by the establishment of a High Court. Let us get into the history of this move. When Dadra and Nagar Haveli were freed by the Goan liberation fighters, the Government of India invited two Goan representatives to visit Dadra and Nagar Haveli regularly to hear disputes and to settle them. The idea was that those who knew Marathi and a little Portuguese and were conversant with the peoples language and the law would be able to render justice better in all the disputes that might arise. If this principle had been followed in Goa, I am sure that the existing provision deliberately made by Government under the authority of article 231 of the Constitution whereby the jurisdiction of the High Court of Bombay was extended to Goa would have been quite relevant. As my hon. friend Shri Shinkre who himself is a prominent lawyer from Goa has made out, this would have been the best arrangement. And the Bombay High Court would have willingly obliged by setting up a Bench in Goa.

In this connection, may I say that the history of the people's struggle in Goa to liberate themselves from Por-

tuguese rule and their struggle for 'n-tegration with Maharashtra have had decisive results? The Government, right in the beginning, had a prejudice about the future of Goa. They appointed a language commission, and the language commission permitted any student to decide what his mother-tongue was, and it was said that he would be provided with primary education facilities in that mother-tongue. I am to state that after the award of this language commission presided over by the eminent educationist, Dr. Amarnath Jha, the children of Goa voted, as once before their parents had voted in regard to merger, by deciding that 54,000 of them would study in Marathi, while only 600 opted for Konkani and 2000 opted for education in English. It is, therefore, obvious that the language of Goa is Marathi, and it will be proper if a Bench of the Maharashtra High Court is established in Goa. After all, justice must not only be administered speedily, but it must be administered in a language that the people could understand and could participate in. The days of the British rule when there was interpretation always are now gone. The people demand now a more direct participation in the judicial procedure.

Obviously, looking to the statistics of education now in Goa, it would be obvious that the proper thing would be to extend the Bench of the Maharashtra High Court whereby not only could a large amount of money be saved, but justice could also be speedily administered in the language of the people.

May I make just one more reference, and that is to an arbitrary action which the Ministry of External Affairs had once before done in Goa. Immediately after Goa's liberation, in spite of the unanimous demand of the people of Goa, the Ministry of External Affairs decided that the matriculation

examinations in Goa should be conducted by the Central Board of Education at New Delhi. There was no *raison d'être* for this order, and there was no precedent. All the while, during the past one hundred or two hundred years, the students from Goa were coming to Bombay for their matriculation examinations, and the SSC Board of Poona was conducting the matriculation examination in Goa up to the satyagraha period, and outside Goa thereafter. But, suddenly, because of this latent prejudice, the Ministry of External Affairs decided that the SSC Board of Poona should not have any jurisdiction, and that the Central Board of Education in New Delhi should conduct the matriculation examination. There was a tremendous agitation in Goa, and ultimately, the Ministry of External Affairs had to bow down to the wishes of the people of Goa, withdraw the control of the Central Board of Education in New Delhi and once again permit the matriculation examinations for the Goa students to be conducted by the SSC Board of Poona.

Mr. Deputy-Speaker: That is far beyond the point. He should try to conclude now.

Shri Alvares: I shall conclude in a couple of minutes.

This is only an example of how because of the retention of the Goa problem with the External Affairs Ministry and how the External Affairs Ministry is not able to understand the wishes of the people and to find out what their emotions and sentiments are. They view the whole Goa problem still from the point of view of what repercussions there may be in the relationships with other countries and in the matter of external affairs. This is one more reason why the department in charge of Goa should be speedily transferred from the Ministry

of External Affairs to the Ministry of Home Affairs.

Therefore, with these words, I would submit that for the reason that this issue of the High Court of Goa is entirely unjustifiable because of the fact that article 231 of the Constitution permits that the High Court of a particular State can also extend its jurisdiction to a Union Territory under section 7 of the Act relating to Union Territories, and since there is already a provision for the jurisdiction of the High Court of Bombay to be extended to Goa, and since because of the language issue, of it is still possible for the High Court to set up a Bench in Goa, I oppose the setting up of a separate High Court in Goa, and I oppose this Bill.

Mr. Deputy-Speaker: Shall we extend the time by half an hour?

Shri Hari Vishnu Kamath: By one hour.

Mr. Deputy-Speaker: Yes.

Dr. M. S. Aney: In the matter of having a particular State for themselves, the views of the people of the area affected should prevail. That being the case, if the people of Goa have decided and shown also in the general elections that they would like to be merged with Maharashtra, I think it is not prudent for Government to postpone the decision in the matter. It should be dealt with as the people concerned want it to be dealt with. If after dealing with the matter in that way, something else happens, that is another matter. But for the present, with the unity of the country so much paramount, it is better for Government to minimise the points of difference and friction and try to make things as smooth as possible for them to work with Government. From that point of view, I believe the postponement of the decision to merge Goa with Maharashtra

[Dr. M. S. Aney]

will create greater difficulties for Government than it would otherwise be. So, so far as that point is concerned, I entirely agree with them.

As regards the matter concerning the court, my hon. friends, Shri Chatterjee and Shri Sinhasan Singh, raised a pertinent point, whether the Government has the right to set up a High Court for a territory which is not a State. Under the existing provisions, they can set up a High Court for a State or extend the jurisdiction of a High Court to any territory which Government would like to add. To set up a High Court for a territory other than a State is a matter not provided for under our law. That is how it looks to us. Anyhow, we bow to your ruling and I do not want to discuss this further. I leave it at that.

But I must say one thing, that the judicial Commissioner's Court is not altogether a new thing in this country. I am a resident of Berar. Four districts of Berar had a separate Judicial Commissioner. 18 districts of C.P. had a Judicial Commissioner.

Shri Hari Vishnu Kamath: It was all in bygone days.

Dr. M. S. Aney: Let me say this that it is to their credit that the Judicial Commissioners were good lawyers. Though the institution is less dignified, the lawyers manning it were good. They were supposed to be carrying an inferior status. I knew what would be the position of a Judicial Commissioner in the company of High Court Judges. Shri Chatterjee may be knowing it. When a big Commission was appointed in connection with the Civil Procedure Code, Mr. Ismay, one of the Judicial Commissioners, was there as one of the members.

Shri N. C. Chatterjee: Sir Lawrence Jenkins was the Chairman.

Dr. M. S. Aney: He was sitting in the midst of men like Sir Lawrence Jenkins who himself said the Judicial Commissioner is more up to date and in touch with the subject than any one of the members.

So it all depends upon the person occupying that post. But the real thing is that if they really think justice will be meted out cheaper and quickly and it will be more convenient for them to have the jurisdiction of the High Court, there is no reason why the old order of things should be changed and this amendment made. In that view, the Bill looks superfluous.

Shri Sonavane (Pandharpur): I rise to oppose this Bill for the only reason that the Government has not given any cogent and justifiable reason as to why it wants to bring forward this Bill and change the jurisdiction of the Bombay High Court as per the law passed by Parliament in 1962, Act I of 1962. The statement of objects and reasons nowhere gives any cogent reason for the enactment of this legislation. I feel the Government have no reason whatsoever to come forward with this Bill and hence the total absence of reason for the passage of this Bill.

I do not know also what has transpired within the course of two years when Act I of 1962 was passed making the Bombay High Court the High Court for Goa, Diu and Daman. Immediately thereafter, the Judicial Commissioner's Court Regulation Act was brought in 1963. Later on, in December, this Bill was introduced. During the course of these two years, nothing has happened. The Bombay High Court has not misbehaved in its judgments, nor were any complaints received from the Goa people that it was disadvantageous or harmful for them to be under the jurisdiction of that High Court. Therefore, it is

very surprising, and it looks mysterious why this Bill has been brought forward. As stated by some speakers preceding me, there is some mysterious hand behind this Bill. It is likely that the apprehensions of some Members may be true, because there is no cogent reason adduced for bringing in this Bill divesting the Bombay High Court of its jurisdiction over Goa.

Then another thing. I do not understand why Government complicates matters; instead of solving them by making easy the solution of problems before the country, the Government at times complicates them. There are already complications before the country—Kashmir issue and some other issues. Now the Goa issue is likely to be complicated. So I earnestly appeal to the Ministry that even at this late stage, they should desist from proceeding with this Bill and they should withdraw it. I do so in the sincere hope that the problem should not be complicated further.

Further, Goa being an internal matter, it is the proper concern of the Home Ministry. I do not understand why the External Affairs Ministry should at all be in charge of this matter. It gives the impression to the world that Goa is outside India. It is now under the External Affairs Ministry. Therefore, the affairs of Goa should be transferred to the Home Ministry. That has been the demand of the august House. My hon. friend Shri Kamath and others pointed out that Constitution also did not provide for a separate High Court for Union Territory. In spite of this if this Bill is passed, we look small in the eyes of the Supreme Court who at the first instance say that such Bills are *ultra vires* the Constitution. Therefore, it is in the fitness of things if this Bill is thrown out as pointed out by our Deputy-Speaker . . .

14 hrs.

Shri Hari Vishnu Kamath: The Deputy-Speaker gave a contrary ruling.

Mr. Deputy-Speaker: I did not say anything.

Shri Sonavane: You opined Sir, that if the House does not want the passage of this Bill, it has the right to throw out this Bill: That is what I mentioned here.

Shri Hari Vishnu Kamath: I hope that your party will not throw you out.

Shri Sonavane: We will look after that. If the hon. Minister of State who is in charge of this Bill had applied her mind and thought about the complications that would be created by the passage of this Bill, she would not have brought this Bill before this House. Probably the Secretaries and Deputy Secretaries had prepared such a Bill in a hurry and our Ministers have no time to consider it well and the hon. Members point out all these complications. Even at this stage I feel that it would be a proper gesture if this Bill is withdrawn.

Shri S. M. Banerjee: Sir, I rise to oppose this Bill. If the views of all those who have spoken so far were to be taken, the hon. Minister, instead of replying to the debate would only say, I withdraw the Bill. There is unanimous opposition to this Bill. Even then, whip will be issued but that is a different matter. Mr. More's speech makes the point very clear. There were pungent remarks about the functioning of the Government and the way in which they have brought this Bill. My hon. friend Shri Daji mentioned in this House how Government's position was changing with regard to Samyukha Maharashtra. They went on denying and ultimately they agreed to it. Similarly, we can see the election results and the Congress reverses here in the hands of those who wanted merger of Goa with Maharashtra. Even after such a democratic decision, such a legislation is brought I know that according to article 241(1) of the Constitution, Parliament may by law declare any

[Shri S. M. Banerjee.]

court any territory to be a High Court for all or any of the purpose of this Constitution. But what is the necessity of it? Was there any complaint from the people of Goa? Were they denied justice? Why is this separatist tendency allowed to grow with the help of the Central Government. It is time that the Home Minister looked after Goa. It is no use giving the people a feeling that they are a separate entity. In fact they do not feel so. It is the same type of mistake which they have committed in Nagaland and in NEFA also; they made them feel that they are a separate entity. The Treasury Benches accuse the Opposition Members of creating disaffection among the people of the country and of creating separation in the country. I must say that it is being practised by the Treasury Benches themselves and by this Government. People have sacrificed for the liberation of Goa. I am sure Congress would have suffered defeat in the 1962 elections if Goa had not been liberated. I was in Kirkee at that time when the Samyuktha Maharashtra Samiti was fighting that battle. People were killed. Near Flora Fountain firing took place. At that time I was also one of them who tried to champion the cause of Samyuktha Maharashtra Samiti under the wise guidance of Joshi . . .

Mr. Deputy-Speaker: That is all besides the point.

Shri S. M. Banerjee: The satyagrahis went into Goa and they opposed the Salazar regime and faced the bullets. That is why I oppose this Bill. I would request the hon. Minister to withdraw the Bill taking the sense of the Parliament and not take recourse to the steam-roller majority.

Shrimati Lakshmi Menon: Mr. Deputy-Speaker, Sir, this is a unique Bill in the sense that not a single person who has spoken in the House has supported it. Therefore, it is my duty to point out why we have introduced this Bill . . . (Interruptions.) Many things were said which have

no relation to this Bill. Sinister motives were attributed to the Government and we were told that certain Union Territories in India were administered by the External Affairs Ministry and are, therefore, regarded as something outside this country; or at least an impression was created that this prevents the integration and creates a lot of problems and the Government of India are creating problems instead of solving them forgetting that these problems were created mostly by the hon. Members and not by the Government of India. I do not want to waste my time in dealing with small matters. I shall answer some important issues raised by the hon. Members. The question was asked: what was the need to create this judicial commissioner's court repealing article 7 of the Goa, Daman and Diu Administration Act. This article 7 of the Goa, Daman and Diu (Administration) Act was really a sort of *ad hoc* decision and it was felt, because of the representations made to us by the people of Goa, that the matter must be reviewed. The Law Secretary himself visited that country and I would like to read to the House what he had to say on this subject. He went there to find out what the people, the Bar Association and the lawyers, and the citizens of Goa thought about what should be done. (Interruption).

Shri Sonavane: Was it the opinion of the Secretary of the External Affairs Ministry?

Mr: Deputy-Speaker: Order, order.

Shrimati Lakshmi Menon: The Law Secretary said that it is extremely doubtful that the Bombay High Court would be able to dispose of the Goa cases as long as they are governed by the Goan Portuguese laws.

Shri Shinkre: Sir, on a point of order about a clarification. Now that Goa, Daman and Diu have their legally elected representatives in this House, the opinion of the Law Secretary is completely irrelevant.

Mr. Deputy-Speaker: There is no point of order.

Shrimati Lakshmi Menon: He further said that it is, therefore, desirable that at least for a few years the High Court, that is, the Tribunal de Relacao, at Panjim should continue to function as the High Court of the union territory. The reason why this provision was not enforced in Goa is given in this extract. Moreover, there were representations from the Bar and the judiciary in Goa that as the Tribunal de Relacao or the High Court in Goa had been in existence for a long time during the Portuguese period, it would be wrong to lower the status of the High Court with the territory becoming a part of India. There was considerable force in this argument and the Government has only yielded to this demand by the Bar Association and other citizens of Goa.

A question was asked whether there was any complaint about the administration of justice by the Bombay High Court. Perhaps the hon. House does not know that the Bombay High Court has never exercised its powers at all in respect of these territories; there was never an appeal from the Goa courts to the Bombay High Court at all at any time. Therefore, to say that this was really something which we have done because of the supposed complaint about the Bombay High Court is all wrong.

I am really surprised at Shri More's speech, not because he belongs to the party in power but because he said that by this Act we are separating Goa from Maharashtra. I would like to tell him that for 450 years Goa was separate from Maharashtra and at that time there was no grievance; just because Goa has become part of India, anything that we do in order to administer justice in that area is regarded as an attempt to drive in a wedge between Goa and Maharashtra!

Some Members referred to the inferior kind of justice. But as far as I know, justice is absolute, and we cannot have an inferior kind of justice and a superior kind of justice.

Shri S. S. More: Will the justice administered by a High Court and that administered by a third class magistrate be of the same quality?

Shrimati Lakshmi Menon: Justice is justice; just as truth is truth.

Shri S. S. More: We have a different experience.

Shrimati Lakshmi Menon: The question was also asked why the Judicial Commissioner's Court is given powers of the high court. I might inform the House that article 241 does empower Parliament either to constitute a high court for a Union territory or to declare any court in any such territory to be a High Court for all or any of the purposes of the Constitution, and this is exactly what has been done in this Bill.

I regret that I cannot accede to the request of hon. friends on the other side that I should withdraw the Bill.

Shri Alvares: In view of the fact that not a single speech was in favour of this Bill, will the hon. Minister in the Ministry of External Affairs be prepared to withdraw it?

Mr. Deputy-Speaker: She said that she is not going to withdraw it. Now, the question is:

"That the Bill to declare the Judicial Commissioner's Court for Goa, Daman and Due to be a High Court for certain purposes of the Constitution, be taken into consideration."

Division No. 32]

[14:21 hrs.

AYES

Akkamma Devi, Shrimati
Babunath Singh, Shri
Balakrishnan, Shri
Barman, Shri P. C.
Basappa, Shri
Basumatari, Shri
Bessa, Shri
Brajeshwar Prasad, Shri
Chakraverti, Shri P. R.
Chuni Lal, Shri
Daljit Singh, Shri
Das, Shri N. T.
Das, Shri Sudhansu
Deo Bhanj, Shri P. C.
Firodia, Shri
Ganapati Ram, Shri
Gandhi, Shri V. B.
Hajarnavis, Shri
Hansda, Shri Subodh
Jyotishi, Shri J. P.
Kayal, Shri P. N.
Keshing, Shri Rishang
Khan, Dr. P. N.
Kotoki, Shri Liladhar
Koujalgi, Shri H. V.

Laskar, Shri N. R.
Mahishi, Shrimati Sarojini
Maimoona Sultan, Shrimati
Mallick, Shri Rama Chandra
Mandal, Dr. P.
Marandi, Shri
Mehrotra, Shri Braj Bihari
Menon, Shri P. G.
Mishra, Shri Bibhuti
Mishra, Shri Bibudhendra
Mohsin, Shri
Morarka, Shri
Patel, Shri P. R.
Patel, Shri Rajeshwar
Patnaik, Shri B. C.
Pattabhi Raman, Shri C. R.
Pillai, Shri Nataraja
Pratap Singh, Shri
Raghunath Singh, Shri
Raju, Shri D. B.
Ram Sewak, Shri
Rane, Shri
Rao, Shri Muthyal
Rao, Shri Thirumala
Sadhu Ram, Shri

Saha, Dr. S. K.
Sahu, Shri Rameshwar
Sarma, Shri A. T.
Shah, Shri Manabendra
Sharma, Shri A. P.
Shastri, Shri Lal Bahadur
Shinde, Shri
Siddananjappa, Shri
Siddiah, Shri
Siddeshwar Prasad, Shri
Singh, Shri D. N.
Sinha, Shri B. P.
Sinha, Shrimati Ramdulari
Soy, Shri H. C.
Subbaraman, Shri
Sumat Prasad, Shri .
Ujkey, Shri
Valvi, Shri
Varma, Shri Ravindra
Vecrappa, Shri
Vyasa, Shri Radhelal
Wadiwa, Shri
Yadab, Shri N. P.
Yadava, Shri B. P.

NOES

Alvares, Shri
Ancy, Dr. M. S.
Banerjee, Shri S. M.
Bhanu Prakash Singh, Shri
Chakravarty, Shrimati Renu
Chatterjee, Shri N. C.
Daji, Shri
Deo, Shri P. K.
Dwivedy, Shri Surendranath

Gounder, Shri Muthu
Gupta, Shri Kashi Ram
Kamath, Shri Hari Vishnu
Kandappan, Shri
Mohan Swarup, Shri
Nair, Shri N. Sreekanth
Nair, Shri Vasudevan
Nambiar, Shri

Ram Singh, Shri
Ranga, Shri
Reddy, Shri Narasimha
Shinkre, Shri
Singh, Shri Y. D.
Sonavane, Shri
Swamy, Shri Sivamurthi
Yashpal Singh, Shri

Mr. Deputy-Speaker: The result of the Division is: Ayes 73; Noes 25.

The motion was adopted.

Mr. Deputy-Speaker: Clause-by-clause consideration. The question is:

"That clauses 2 to 4 stand part of the Bill."

The motion was adopted.

Clauses 2 to 4 were added to the Bill.

Clause 5— (Short title and commencement Court from judgment, decree, etc. whether passed or made before or after the commencement of this Act).

Amendment made:

Page 2,—

for lines 5 to 13, substitute—

"*Appeals to Supreme Court from Judgement, decree, etc. passed or made by judicial Commissioners Court.*—5. Subject to any rules made under article 145 or any other law as to the time within which appeals to the Supreme Court are to be entered, an appeal shall lie to that Court from a judgement, decree or final order of the Judicial Commissioner's Court, under the provisions of article 132 or article 133, or from

a judgement, final order or sentence of such court under the provisions of article 134:

Provided that an appeal may be preferred within ninety days from the date of passing of this Act from a judgement, decree, final order or sentence passed or made by the Judicial Commissioner's Court before that date." (4)

(Shrimati Lakshmi Menon)

Mr. Deputy-Speaker: The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clauses 6 to 8 were added to the Bill.

Clause 1—(Short title and commencement)

Amendment made:

Page 1, line 4, for "1963" substitute "1964".

(Shrimati Lakshmi Menon)

Mr. Deputy-Speaker: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

Amendment made:

Page 1, line 1, for "Fourteenth" substitute "Fifteenth"

(Shrimati Lakshmi Menon)

Mr. Deputy-Speaker: The question is:

"That the Enacting Formula, as amended, stand part of the Bill".

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill. The Title was added to the Bill.

Shrimati Lakshmi Menon: I beg to move:

"That the Bill, as amended, be passed"

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed".

The motion was adopted.

14.23 hrs.

CONSTITUTION (SEVENTEENTH AMENDMENT) BILL

The Deputy Minister of the Ministry of Law (Shri Bibudhendra Misra): On behalf of Shri A. K. Sen, I beg to move:

"That the Bill further to amend the Constitution of India, as reported by the Joint Committee, be taken into consideration."

This Bill seeks to incorporate two changes in the Constitution. One is in article 31A of the Constitution by defining the term "estate" and the other is to put in the Ninth Schedule of the Constitution as many as 44 State Acts. There is no new principle that is being enunciated by the provisions of this Bill. It only seeks to implement the land reform policy that has been accepted by the Parliament from time to time.

Criticism has been made of this Bill mainly on two grounds, firstly that it introduces a dangerous and new principle, namely, the principle of expropriation and secondly that it violates the Constitution. I would later on point out that it neither introduces a new principle nor violates the Constitution. On the contrary, the