

the statement of the Minister of Parliamentary Affairs is concerned.

The second point is about the Acquired Territories (Merger) Bill. It is on the agenda today and it has to be taken up next. But let it come before the House. The hon. Member has argued that after the Minister stands up to introduce it and just tries to get leave, the Speaker gets up and puts it to the House. But there is some interval in between, and then is the time for the hon. Member to get up and say, "Now, this item is before the House" and then raise his objection if any. Unless we take that up, and that comes up before the House, no point of order can be raised.

Shri Tridib Kumar Chaudhuri: If I may anticipate, the point of order is....

Mr. Deputy-Speaker: But there is nothing before the House in relation to which a point of order can be raised. The hon. Prime Minister.

12.17 hrs.

ACQUIRED TERRITORIES
(MERGER) BILL*

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

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

Mr. Deputy-Speaker: Motion moved:

"That leave be granted to introduce a Bill to provide for the merger into the States of Assam, Punjab and West Bengal of certain territories acquired in pursuance

of the agreements entered into between the Governments of India and Pakistan and for matters connected therewith."

Some Hon. Members rose—

Shri Mahanty (Dhenkanal): I have got a different point of order.

Mr. Deputy-Speaker: I will hear all the points of order that are to be raised. Shri H. N. Mukerjee.

Shri H. N. Mukerjee (Calcutta-Central): Mr. Deputy-Speaker, Sir, I wish to raise a point of order in regard to the motion for leave to introduce which the Prime Minister has just made. I feel that the Bill which he has tried to introduce in this House is vitiated under the terms of the Constitution on account of certain defaults which have taken place in regard to the formulation of this business.

In the Statement of Objects and Reasons, it is stated in paragraph 3 as follows:

"As required by the proviso to Article 3 of the Constitution, this Bill was referred by the President to the Legislatures of the States of Assam, Punjab and West Bengal who have expressed their views thereon."

12. 18 hrs.

[MR. SPEAKER in the Chair.]

it is signed by the Prime Minister—Shri Jawaharlal Nehru—and is dated the 12th December, 1960.

Under article 3, it has been said that the President shall ascertain the views of the legislatures of the States concerned before he makes his recommendation, and on this point the commentators seem to think that the views of the State legislatures are to be ascertained on two points: (a) as

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regards the proposal to introduce the Bill and (b) as regards the provisions of the Bill. Article 168 defines what a legislature is supposed to be in the terms of our Constitution. Article 168(1) says:

"For every State there shall be a Legislature which shall consist of the Governor, and

(a) in the States of Bihar, Bombay, Madras, Punjab, Uttar Pradesh and West Bengal, two Houses;"

It goes on to say that the two Houses are the Legislative Assembly and the Legislative Council. As far as we know, the Legislatures of the States of Assam, Punjab and West Bengal have not expressed their views in regard to this Bill. I am astonished that on the 12th December, this statement was made by the Prime Minister. I cannot possibly associate prevarication with the Prime Minister, but his advisers seem to be very astonishing people.

Even today, the *Calcutta Statesman* has reported that:

"The Chairman of the West Bengal Legislative Council told reporters that the thought that the resolution on the Bill had been placed in the House the day before. It was, however, true that the House did not have the opportunity to express its opinion on it."

It was on the 12th December that Dr. B. C. Roy, the West Bengal Chief Minister, told the Legislative Assembly—and this is reported in the *Calcutta edition of the Amrita Bazaar Patrika* of the 13th December that:

"He told the House that Government intended to bring the Acquired Territories (Merger) Bill in the State Council today", i.e. Tuesday.

Here we find on the 12th December, a State paper being prepared and the signature of the Prime Minister purporting to be appended to it, which says something which is not true; and that is, that the State Legislatures of Assam, Punjab and West Bengal have expressed their views already. I have already said that article 3 is very clear that the President has to ascertain the views of the concerned Legislatures before he makes the recommendation. On the face of the Bill, it has been said that the President has made the recommendation. I take it that there has to be a certain physical lapse of time between the President ascertaining the views of the Legislatures concerned and then making the recommendation, on the basis of which the Prime Minister and the Government can put forward a Bill of this description.

I know also that in the West Bengal Assembly, the question was raised on the 4th December. They have passed a resolution in regard to what they considered, rightly or wrongly, to be the unconstitutionality of this particular Bill. I am not going into the merits of the matter.

Mr. Speaker: Was it after the Bill was sent? Opinion can be expressed only after the Bill was sent. By that time, had the Bill been sent to them for the expression of opinion? I would like to know from the hon. Member when the Bill was sent to the Legislature.

Shri H. N. Mukerjee: The matter was referred by Government to the West Bengal Legislature and Legislature implies the Legislative Assembly and the Legislative Council. There is a mandatory provision of the Constitution to that effect. The matter was placed before the Legislative Assembly for some kind of discussion before the 12th December. A special resolution was passed by the West Bengal Assembly and on the 12th December the West Bengal Assembly held another discussion on

the motion of the Chief Minister of West Bengal, where nothing definitive was done and it was claimed that the views of the Legislative Assembly had not been communicated. That may be wrong, but as far as the West Bengal Legislative Council is concerned, according to all the papers we had access to, the matter was not placed before them till the 14th of this month. On the 14th, there was a pandemonium in the Council, because of which reason, the Chairman adjourned the House.

On the 15th again, the Chairman came, but no proceedings took place and the House was adjourned *sine die*. The Chairman told the correspondent of the *Statesman*, which I have quoted to you, that the views of the Legislative Council had not been collected and naturally, therefore, they could not have been communicated to the President.

My submission is—I want to make it early—that on the 12th December, the Statement of Objects and Reasons is prepared and in that Statement of Objects and Reasons, on the basis of which we are to proceed to consider whether the Bill is acceptable or not, there is an obviously fallacious statement, which I hesitate to describe as mendacious, because the views of the West Bengal Legislative Council have not been ascertained.

Mr. Speaker: There need be no hot words. Hon. Member need not say all that. The date is there. Let us hear the other side and not only one side. Hon. Members may know that under rule 72,

"If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the members....".

Shri H. N. Mukerjee: I am on a point of order.

Mr. Speaker: We cannot take it as a point of order.

Shri H. N. Mukerjee: It has already been permitted.

Mr Speaker: There is no question of point of order in this matter.

Shri Tangamani (Madurai): It is a clear point of order.

Mr. Speaker: If there is a point of order, it must be briefer still. What is the point of order?

Shri H. N. Mukerjee: My point of order is that this Bill is vitiated *ab initio*, because this Bill was conditional upon the ascertainment by the President of the views of the Legislatures of certain concerned States, including the State of West Bengal. It so happens, from all the records that are available, that the view of the Legislature of West Bengal which includes according to the mandatory provision of the Constitution, the Legislative Assembly as well as the Legislative Council, has not been collected and communicated to the President. Therefore, it is impossible for the President, being a human being as he is, to recommend to this House after having ascertained the views, which he has not ascertained, and it is rather unfortunate that a mendacious statement is put in the mouth of the Prime Minister, because on the 12th December, he has signed this statement, which is not true. I am sorry to say that his advisers are putting him in an embarrassing situation. Therefore, *ab initio* this matter is void and this matter cannot come because it goes against the provisions of the Constitution.

Shri Jaipal Singh (Ranchi West—Reserved—Sch. Tribes): Mr. Speaker, Sir, I have a difficulty and I want you to relieve me of my difficulty. I feel certain processes have not been followed, which have to be strictly adhered to. I am not either for or against the Bill, but the point is I do not think Parliament is competent to entertain this Bill, unless certain conditions have been fulfilled and they

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have not been fulfilled maybe only in one item. The fact is we are not yet competent to entertain this Bill, because all the processes have not been completed.

Shri Tyagi (Dehra Dun): On important points of order, Members are given a chance of expressing their views too. I have definite views about this matter. I understand that the point of order is quite relevant, but the only requirement under article 3 is that the Bill must have been first referred to the Legislatures concerned. It is not mentioned there that the Statement of Objects and Reasons should be dated such and such. He is objecting to the date of the signature of Shri Jawaharlal Nehru in this Statement of Objects and Reasons.

In the last para of the Statement, it is said:

"As required by the proviso of article 3 of the Constitution, this Bill was referred by the President to the Legislatures of the States of Assam, Punjab and West Bengal, who have expressed their views thereon."

This statement was recorded after the Bill had been duly referred to the Legislatures as required by the Constitution. Therefore, this statement had been signed only after their objections were collected. The Prime Minister has rightly mentioned on the date of 12th December that the Bill had been referred to the State Legislatures. Therefore, there is no point of order. (Interruptions).

Shri Tridib Kumar Chaudhuri (Berhampur): On this matter, may I be given a chance? I have a point of order.

Mr. Speaker: Hon. Members will hear me and then I will hear hon. Members. This is rather an unfortunate matter. When points of order are raised, I am here to dispose of

them. Whenever I have a doubt, I will certainly ask Shri Tyagi's opinion. Why does he make himself the Attorney-General of this House? I am really surprised. So far as this matter is concerned, I was about to call upon the hon. Prime Minister, if he has to say anything. I will certainly ascertain the views of the whole House if I have doubts about the point of order. I cannot go on having a general discussion on every point of order that is raised. I have to dispose of it immediately. If there is another point of order, I will come to it. What is the need for this? I have heard the point of order, which is simple. I am now asking the Prime Minister for a clarification. If I still have a doubt, I will ask any hon. Member. Now, of his own accord, the hon. Member starts giving his views. Then the difficulty is that if I allow one hon. Member, how can I shut out another hon. Member who starts giving his views. Now I would like to put one or two questions to the Prime Minister. Under article 3, when a Bill has been referred by the President to the Legislature of a State for expressing its views thereon, he can fix a time-limit within which the views of the State have to be expressed. Has that date been fixed?

Shri Jawaharlal Nehru: These papers were sent on behalf of the President on the 23rd October and the date fixed was a month ahead of it, that is, 23rd November. So far as Assam and Punjab Governments and their legislatures were concerned, they sent their replies within that month, a full record of them. So, no question arises about them.

In regard to the West Bengal Assembly, as the House will remember, various objections were raised by the West Bengal Government. This matter was indeed raised here also, the legal objections I mean, and I stated at some length what the legal position was then, in this House, and I submitted to you, Sir, and through you to the House that the legal objec-

tions raised had no substance. That was the position. Nevertheless, when the date 23rd November passed, we recommended to the President to issue further directions extending that date, as provided for by the Constitution.

Mr. Speaker: What was the date?

Shri Jawaharlal Nehru: The last date. Extension was given up to 15th December. It was done so that they could be given some time and they could consider it before the 15th December. That was the position.

So far as the West Bengal Assembly is concerned, they had considered this much earlier, when they raised these objections. Now, technically speaking, I am advised that is enough so far as the Assembly is concerned, that is to say, we are satisfied that the President had sent it to them. If they did not consider it in the proper way, that is not the fault of the President or of anybody else. However, that question does not arise because the time was actually extended till the 15th December and they were asked, both the Assembly and the Council were asked, through the President to do this. Thereafter, the West Bengal Assembly did consider it at some length and the matter was placed before the Council too and they considered it, though their consideration was not completed because, as the hon. Member said, there was disorder and there was some difficulty in carrying on. So, after various attempts the Chairman of the Council adjourned the Council.

Mr. Speaker: The hon. Member who raised the point of order says that it was sent to the Council on the 13th of December.

Shri Bimal Ghose (Barrackpore): On the 14th.

Shri Jawaharlal Nehru: It was sent from here several days earlier to the West Bengal Government. The previous objections raised were, you

will remember, that it should not have been sent that way and that the President should have directly sent it to the Speaker or the Chairman. I submitted then that was not the correct procedure and it had not been followed for the last ten years whenever this question had arisen. A State Ministry is functioning on behalf of the President, like here the Ministries are functioning on behalf of the President. The President does not write to you, normally, directly on any subject, because somebody has to put a motion forward. So, it was decided like this and we had sent this to the West Bengal Government in the name of the President, and the West Bengal Government first placed it before the Assembly—it is up to them to place it wherever they like—there was discussion there and after finishing that discussion it was placed before the Council. There was a short difference in time of a few days and they dealt with one House first and then with the other. We have received full reports from the West Bengal Government of the proceedings of the Assembly and the Council till it was adjourned.

Now what are the requirements of law in this matter? The requirements are, if the hon. Member will look into them, three, in regard to any such matter. There must be a recommendation of the President to such a piece of legislation. That has been fulfilled. The President must refer the Bill to the State Legislatures concerned for expressing their views thereon. No. 2, I submit that it was referred. There is no doubt about it that it was referred. Thirdly, the period specified in the reference or the further period that may be allowed has to expire. I submit this has also happened. The period specified in the extended reference to them has expired. Otherwise, if it was said that we must wait for a definite answer from them and cannot proceed, Parliament may be held up. A particular Assembly or a Council may not choose to say anything or say "We will not say anything". The

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point is that it is a reference to them and if that reference is not taken advantage of within the stated period, well, it does not vitiate any proceeding. That is the point. I submit that all these three requirements, that is, President's recommendation, President's reference of the Bill to the State Legislatures and the expiry of the period specified in the reference, all these three have been fulfilled.

Now the hon. Member has drawn attention to the Statement of Objects and Reasons. It is a small matter and the hon. Member surely realises that all these Bills are printed in advance, two or three days before they are placed before the House. The actual date in fact is the date when I present it. In fact, the formal copy of the Bill which I have placed in the Secretariat has today's date on it. That is the formal copy which contains the date. But it was printed ahead for facility's sake. Otherwise, we would not have been able to produce copies of the Bill. So, the date which I have given to it is the date on which I have placed it before you.

Shri Tyagi rose—

Mr. Speaker: Order, order. I am not going to allow. I am satisfied.

Shri Tyagi: No, Sir. I must also be satisfied. I am a member of this House.

Mr. Speaker: Order, order. Let him resume his seat. So far as points of order are concerned, it is not as if every hon. Member has a right to speak. I have heard both sides, I am thoroughly satisfied and I am coming to a conclusion. He has heard them also. He has no right to go on interrupting the proceedings from time to time. He must also understand his limitations.

Now the point is this. A point of order has been raised, based evidently

on the printed Statement of Objects and Reasons, a copy of which was circulated to him, dated the 12th December 1960. If time had been extended by the President till 15th December, one would naturally be under the impression that it is premature; and without ascertaining the views of the Legislature there is no meaning in coming to this House.

Shri H. N. Mukerjee: Perhaps you were not in the Chair when I quoted from today's edition of the Statesman and here is a whole paper—I have brought the whole of it—where the Chairman of the West Bengal Legislative Council is reported clearly to have stated that the Bill had been placed in the House the day before but the House did not have the opportunity to express its opinion on it.

Shri Tyagi: There are two Bills.

Shri H. N. Mukerjee: Even today the opinion has not been given. That is a mandatory provision.

Shri Tyagi: May I submit that there are two Bills? Which one is he referring to? One is the Merger Bill and the other is the Constitution Amendment Bill. The difficulty arose with regard to one and not the other.

Mr. Speaker: There is only one Bill that is sought to be introduced.

Shri Tyagi: But he is referring to the other Bill. Therefore I have to point this out. There were two Bills referred to the West Bengal Assembly. One was referred earlier on which there was not much trouble. The trouble arose when the Constitution Amendment Bill went there. Therefore a distinction must be made between the two. Both the Bills were not considered simultaneously.

Shri Bimal Ghose rose—

Shri Prabhat Kar (Hooghly): The other Bill is not within the jurisdiction of the West Bengal Assembly to consider at all. That is a Constitution Amendment Bill which this Parliament alone can consider.

Mr. Speaker: Under article 3 it has to go to them.

Now the point is this. I have a copy of the Bill before me. In that copy the statement of objects and reasons is dated the 12th December. Evidently the same copy was circulated to the hon. Member, Shri Mukerjee.

An Hon. Member: To all of us.

Mr. Speaker: If time had been given up to the 15th December, how does it happen that the President has come to the conclusion even in advance of the 15th? That is the point that was raised. Then Shri Mukerjee also relies upon the fact that the Chairman West Bengal Legislative Council made a statement, which has appeared in the *Statesman*, that the Council had no opportunity to dispose of it there and that it was placed before it only the previous day.

Now three issues arise. Originally in the Constitution, as it was framed, it was said that you must get their consent. But their consent may be given or may not be given and therefore it would become impossible to get along with a legislation. Therefore subsequently the Constitution was amended suitably to say that it must only be referred to them to express their views, but if they do not do so, we ought not to wait indefinitely for them to express their views. They need not express their consent. But if they do not express their views and begin to quarrel amongst themselves, I do not know if I should be called upon to put off this. 15th December was the date given. Before that it is open to both the Houses of legislature to express their views. If one House does not care to express its views, we are not bound to it.

The only other point is that by a mistake the copy of the Bill which had been printed earlier and has been circulated to hon. Members bears the date 12th December. But the Bill has been introduced only after the 15th December. Thus there is no irregularity committed.

The President has given his recommendation. Secondly, the Bill was sent to the West Bengal Assembly and the West Bengal Legislative Council, that is, to the West Bengal legislature. Once it goes to the Assembly it is their business to send it to the other House. It was sent to the other House also who could have disposed of it that very day or it might have been sent to them earlier. We have absolutely no jurisdiction there except for sending it to the legislature. Then it is in their jurisdiction. Therefore the terms of article 3 have been complied with. We need not wait indefinitely for the expression of their views.

Rightly, as the hon. Prime Minister pointed out, the Bill was presented here on the 16th, that is, after the lapse of the period prescribed by the President. Therefore there is no irregularity. Only by mistake the earlier copy has been circulated.

Shri H. N. Mukerjee: In regard to the Constitution every principle of interpretation of statutes insists that there should be exact application of the rules envisaged in the Constitution. This is a matter which might affect subsequent events also.

Mr. Speaker: I agree.

Shri H. N. Mukerjee: This matter might very well be a footling little thing. That is why I feel, if your ruling implies that Government can come forward and state that the President has made a certain recommendation having ascertained the views of certain legislatures in advance of those things, because we got this earlier than the 16th and this was printed much earlier—this whole statement was prepared much earlier—

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if in regard to constitutional changes this kind of liberty is taken by Government, where shall we go? We are supposed to be the people who do not care for the Constitution. But you are the guardian of the Constitution as far as this House is concerned which is a sovereign assembly. Are we going to interpret the provisions of the Constitution liberally only because this Government has behaved in a fashion which suggests egregious neglect of its liabilities and obligations? Article 3 makes a special provision about the States and India is a Union of States. The amendment of the Constitution is being done without any reference to the States. Here a reference is being made to the States. A particular State may be refractory. But for that reason to condemn it out of hand and not give it the opportunity even to express its views and only to say that because there has been some pandemonium in the legislature there the Government could not but proceed quickly because Government has made its commitments elsewhere; that is riding roughshod over the wording and the spirit of the Constitution. I think the hon. Prime Minister should consider this matter much more carefully than he has done so far.

Shri Jaipal Singh: There is a clarification which I wish to seek from you. It is in regard to one item only. While I fully agree with Professor Hiren Mukerjee in regard to the wrong date being given to you and the right date being given to the Secretary, I find myself in a difficulty. The difficulty is this. It does not seem fair to me, or to anyone of us here, to say that the West Bengal Council had not had an opportunity to express its views. Disorder can also be an expression of views. People walking out—it has happened—is also an expression. I would like you to enlighten me on this.

Mr. Speaker: I am not called upon to say whether disorder amounts to expression of views or not here. The

only point that we have to consider is this. Let us not swerve from the point. The point is whether it has been referred to the legislature for expression of their views and whether an opportunity has been given to them for the expression of their views. They may not care to meet at all. But we are not concerned with that. They may meet and then quarrel. We are not concerned with that also.

As regards the point whether those terms have been compiled with or not, I am thoroughly satisfied that the President has sent it for the opinion of the legislature. The only thing that has been raised somewhat pertinently, is that the President, according to the copy that has been circulated to us, seems to have come to the conclusion regulating the recommendation on this in advance of the time that has been prescribed. The President is to wait, otherwise it is meaningless. If the Bill is sent to the legislature for expressing their views, the President cannot in anticipation come to a conclusion irrespective of the views expressed. He cannot anticipate that that expression of views would be made or would not be made. Under those circumstances it is just and proper that the President should wait till the views are received. If the views are not received until the date expires, after the date has expired he can come to a conclusion. Therefore any impression created that the President comes to a conclusion in advance irrespective of the views I am not going to allow. According to the copy that has been circulated it is unfortunate that it should appear that on the 12th itself, that is, three days in advance of the final date fixed for the purpose, the President came to a conclusion. The President must have known—and I am sure the Government which advises the President must know—that the time has been extended till the 15th. This unfortunate mistake ought not to have occurred. I therefore request the hon. Prime Minister to get the

President's recommendation today. Now that 15th is over it is open to him to do so. I do not ask him to send it again to the legislature. But let it appear to this House that the President came to the conclusion after the period was over, that is, after the 15th.

Shri Jawaharlal Nehru: The President's approval of this Bill has no relation to the legislature's opinion. It is taken previously. It is only then that we proceed with it. So, there is a recommendation of the President for us to consider this matter regardless....

Shri Tridib Kumar Chaudhuri: That was the point that I was going to make.

Shri Jawaharlal Nehru: Therefore that was over and done with. Now what the hon. Member, Shri Hiren Mukherjee, has drawn attention to is the date 12th there. In the last paragraph of the statement of objects and reasons it is stated—it is not the President who comes in the picture now—

"As required by the proviso to article 3 of the Constitution, this Bill was referred by the President to the Legislatures of the States of Assam, Punjab and West Bengal who have expressed their views thereon."

That is a statement being made by me: not by the President. This is a statement which I made naturally in the expectation. We had to get this printed previously. We wanted to give time to the Members to look at it. Actually, of course, it is introduced today. The statement is as from today. It is perfectly correct, I think that the date should now there be today's date. Also I am perfectly prepared to correct that now or at a later stage as you may be pleased to advise to make it more in conformity with actual happenings.

I repeat, what is necessary for us is not the consent of the legislatures

or even the fact that they have considered it; it is that they should be given an opportunity to consider it and the period given to them should expire. These are the two things. These have been fulfilled. As stated here, "who have expressed their views" applies fully to the Assam legislature, to the Punjab Legislature and to the Assembly of West Bengal. It does not fully apply to the Council for the simple reason that because of disorder and the rest, they could not do it. But, they were given a chance. The legalities of the position are complete. But, I should be glad to vary the statement to make that little point clear by a few words here and there and change the date if you will permit me.

Shri Tridib Kumar Chaudhuri: This, I was going to raise.

Mr. Speaker: I am coming to that. The hon. Member wants to oppose it. Shri Tridib Kumar Chaudhuri sent me two letters saying that he wants to object to the introduction of the Bill. I will allow him an opportunity. This is a point of order which has been admitted.

Shri Tridib Kumar Chaudhuri: I wanted to raise the point of order.

Mr. Speaker: If he raises another point of order, I will come to it later on.

Shri Naushir Bharucha: Here is a difficulty arising out of your ruling. Just now, you said that you direct the hon. Prime Minister to obtain....

Mr. Speaker: I am coming to that. What I meant was, under article 3, rightly as the hon. Prime Minister has pointed out, the President must recommend and send it to the state legislatures before the Bill is introduced. That has been done. The legislatures are given an opportunity to express their views. Before introduction, the idea of sending it to the legislatures is for the purpose of finding out whether any further modification is necessary or any other thing

and whether it has to be presented to this House or dropped. The only matter in this case is this printing on the 12th of December. The Government—of course, the President always means the Government—has considered, rather waited until the 15th to see whether they had an opportunity to consider. Otherwise the granting of time till the 15th will become absolutely useless. The hon. Prime Minister has explained and he has presented this only on the 16th. The Government has waited sufficiently long to ascertain what the views of the legislature are. Therefore, there is no objection. It is only a technical one. He is now prepared to correct it. I request hon. Members to treat the 12th December as 16th December in the copies that have been given. There is no point of order. Let us proceed.

Shri Tyagi: Do I take it that your previous ruling has been revised after the later ruling?

Mr. Speaker: I do not want the President's recommendation now. All that I meant was, for the hon. Minister, instead of having it printed on the 12th, it is enough, if it is printed on the 16th. Otherwise, there is no irregularity.

Shri Jawaharlal Nehru: May I say one word, Sir, for the information of the House? I am having placed in the Library of Parliament the proceedings of the State legislatures of Assam and Punjab and the Bengal Assembly.

Shri Anthony Pillai (Madras North): May I seek a clarification? I would like to know on what date the President made this recommendation that this Bill should be considered by the Lok Sabha, whether it was on the 12th, 13th or 14th or after the midnight of the 15th of December.

Mr. Speaker: The hon. Member has not followed. The President is not bound to make a recommendation here. The President prepares the Bill and sends it away.

Shri Naushir Bharucha (East Khandesh): I think he is bound to make a recommendation.

Shri Tangamani: He is bound to make a recommendation to this House that this House may take this into consideration.

Mr. Speaker: That does not depend upon the expression of views by the Bengal Legislature. This is unnecessary. So far as recommendation to this House is concerned, because this involves some expenditure, the recommendation under that article does not depend upon the expression of opinion of the legislature of Bengal. That is independently of it. Has it been put to the House?

Sardar Hukam Singh: The motion was put. The question has to be put.

Shri Vajpayee (Balrampur): May I point out, Sir?....

Mr. Speaker: Apart from the point of order?

Shri Vajpayee: Apart from the date, there must be a correction in the Statement of Objects and Reasons. The West Bengal Legislative Council has not been consulted. They have not been given an opportunity to express their views.

Mr. Speaker: No, no. It has been consulted.

Shri Vajpayee: A moment ago, the Prime Minister was pleased to say that he will correct this also that the Council was not given time to express its views.

Mr. Speaker: The Council was consulted. The Council did not give its view.

Shri Vajpayee: It has been stated that the legislatures have expressed their views. But, the Council has not expressed any view.

Mr. Speaker: That is the view.

Shri Jawaharlal Nehru: I am perfectly agreeable. I am not very specially proficient in the art of law. I am perfectly agreeable to make that minor correction by a few words now or later. I am in your hands.

Mr. Speaker: It is not necessary.

Shri Jaipal Singh: I have a little difficulty. I would like to have an assurance from you. I feel I must get it from you because you have given the ruling. There is such a thing as sufficiency of time. Just one minute ago, the Prime Minister says, all right, if you will permit me, I can change the date from the 12th to 16th or whatever it is. I hope this will not happen again.

Shri Tyagi: May I know one thing?

Mr. Speaker: Order, order. There is no discussion on the point of order. I have given my ruling on the point of order. He wants to oppose it?

Shri Tyagi: I wanted your ruling on another matter whether the Statement of Objects and Reasons is considered to be a part of the Bill. The House is not required to vote on it. This is only by way of information. It is not part of the Bill. It is as good as a speech.

Mr. Speaker: Shri Tridib Kumar Chaudhuri.

Shri Tridib Kumar Chaudhuri: You have already disposed of my point of order. Shall I oppose the Bill? I want to oppose the Bill.

Mr. Speaker: Yes.

Shri Tridib Kumar Chaudhuri: I oppose the introduction of the Acquired Territories (Merger) Bill. Although the Bill apparently provides for the merger into the States of Assam, Punjab and West Bengal of certain territories acquired in pursuance of the Agreement entered into between the Government of India and

the Government of Pakistan and it may seem that in the case of India, it is gaining some territory, we cannot forget the fact that this Bill flows from the Indo-Pakistan Agreement which is one integrated whole. We cannot also forget on this occasion that the said Agreement, in so far as it affects India, has violated every canon of democratic principle and the people's sacred rights of nationality and citizenship. The agreement is an instance of our abject surrender to the blackmailing tactics of our refractory neighbour. I do not want to go into the details of the agreement at this stage, but on these grounds we have to oppose the Bill.

13 hrs.

Secondly, although the Bill is named Acquired Territories (Merger) Bill, it is, in a sense, a misnomer. If you look at the Second Schedule of the Bill, you will find that in paragraph 2, item (10) of the agreement which is appended, it has been mentioned:

"Exchange of old Cooch Behar enclaves in Pakistan and Pakistan enclaves in India without claim to compensation for extra area going to Pakistan, is agreed to."

This means we are really ceding something like 11 sq. miles to Pakistan without any compensation. We are making a free gift of it, we are ceding it. Although it is called Acquired Territories (Merger) Bill, it is really a Bill for cession so far as this item is concerned.

Thirdly, my further objection to this Bill is that the territories which we are getting and which are going to be merged into the territory of India have been very vaguely and imprecisely defined. If you again look at the Second Schedule of the Bill, you will find that item (5) of paragraph 2 with regard to the boundary disputes of 24 Parganas—Khulna and 24 Parganas—Jesore, says:

"It is agreed that the mean of the two respective claims of India

[Shri Tridib Kumar Chaudhuri]

and Pakistan should be adopted, taking the river as a guide, as far as possible, in the case of the later dispute (Ichhamati river)."

Similarly, with regard to item (7), the Piyain and Surma river regions have yet to be demarcated, yet to be ascertained, measured as to what would be the actual extent of territory that would be coming to us. Even with regard to the Cooch Behar enclaves, whose boundaries are fairly well known and can be ascertained from the old records of Cooch Behar State, we only find mention of the enclaves, we do not find any mention of the extent of territory that is coming to us.

If I may refer to you to an old Act passed by the provisional Parliament, the Assam Alteration of Boundaries Act, Act 47 of 1951, there nearly 32 sq. miles of Assam's territory and India's territory was transferred to the State of Bhutan. There it was precisely stated that the strip of territory measuring so much, with the boundaries indicated, was to be ceded to the State of Bhutan. But here we find...

Shri Tyagi: On a point of order, Sir. As far as I understand, the merits of the Bill can be gone into only when you are pleased to say that the Bill is under consideration. You have not yet been pleased to announce that the Bill is under consideration. So, this is not the stage for a detailed discussion of the merits of the Bill. He can raise objection—I can understand that but he is going into the merits of the Bill. Is this the stage to go into the merits?

Mr. Speaker: Rule 72 reads:

"If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, a brief explanatory

statement from the member who moves and from the member who opposes the motion, may, without further debate, put the question."

He is opposing the motion, and says that the Bill ought not to be introduced. If the motion giving leave to introduce the Bill is carried, his objection will not stand. I am not allowing him to argue. He has referred to three points. The third is that the boundaries have not been properly demarcated. On this ground also he says the Bill has to be thrown out, leave ought not to be given. We will come to it later on, but at this stage points on which the House has to come to a conclusion whether to give leave or not can be considered. He need not develop any argument.

Shri Tridib Kumar Chaudhuri: I wish to say that this Bill is vague and imprecise and bad in law and will be thrown out as in the case of some land laws and civil laws.

Mr. Speaker: The question is:

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

The motion was adopted.

Shri Jawaharlal Nehru: I introduce the Bill.

13.07 hrs.

CONSTITUTION (NINTH AMENDMENT) BILL*

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

*Introduced with the recommendation of the President.

*Published in the Gazette of India Extraordinary, Part II—Section 2, dated 16th December, 1960.