is absolutely *bona fide*. I have no doubt in my mind at all because any Member who might be dealing with such a matter would be answerable to the House.

Pandit Kunzru (Uttar Pradesh) **:** Sir, it is past one o'clock now.

Mr. Deputy Speaker : If possible let us complete the first reading now.

Pandit Kunzru : The Hon. Minister might take half an hour.

Mr. Deputy Speaker : How long will the Hon. Minister take to finish?

Dr. Ambedkar : I will not take long, Sir.

My friend, Mr. Sarwate, in his anxiety to criticise Government for giving certain privileges to the former Rulers of Indian States said that he did not quite understand why sub-section (2) of section 86 was not made applicable to the Indian Princes, I am sure my friend, Mr. Sarwate, will realise that we have done the wisest thing in not applying it because if we had applied it Government would have been debarred from giving any consent to a suit against a Prince unless the four conditions mentioned in sub-section (*2*) had been satisfied. Clauses (a), (b), (c) and (d) embodied in sub-section (*2*) of section 86 are really rules of International law. There can be no dispute about them and we don't want to treat the Indian Princes on the same footing as ambassadors or heads of States or Rulers of other foreign States. The immunity that we have granted therefore, is of a very small dimension. If sub-section (2) had been made applicable the thing would have been worse.

I do not think, therefore, that any serious objection can be levelled against this Bill.

Mr. Deputy Speaker : The question is :

> "That Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

The motion was adopted.

Mr. Deputy Speaker : The House will stand adjourned till 2-35 p.m.

The House then adjourned for Lunch till Thirty Five Minutes Past Two of the Clock.

The House re-assembled after Lunch at Thirty Five Minutes Past Two of the Clock.

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

Clauses 2 and 3

Clauses 2 and 3 were added to the Bill.

Clauses 4 to 11

Shri Raj Bahadur (Rajasthan) **:** I have an amendment to clause 4 but I would not like to move it formally. I only want to say one thing. Nowhere in the Constitution has the Central Government as such been empowered to constitute a court. The authority that is there in this behalf is exercised in the case of the Supreme Court by the President and in the case of the courts in the States by the Governor of the State. My objection pertains only to this point. I think that if we simply substitute the words "under the authority of the Constitution" for the words "Central Government" it would be much better.

Dr. Ambedkar : I Cannot accept the suggestion. The Constitution has established certain courts—the Supreme Court and the High Courts. As far the establishment of special courts, Parliament has been given the power and the Central Government can act under the authority given by Parliament. Therefore, it is inappropriate to use the words "the Constitution of India". Besides, "Central Government" has been used throughout in all the adaptation orders and I think it would be very unfortunate if a departure is made in the matter of terminology in this particular Bill.

Mr. Deputy Speaker : So, the hon. Member's point is answered. I shall put clauses 4 to 11 together as there are no amendments to them.

The question is :

"That clauses 4 to 11 stand part of the Bill."

The motion was adopted.

Clauses 4 to 11 were added to the Bill.

Mr. Deputy Speaker : On a point of information, in regard to clause 9 may I know from the Hon. Minister what is the need for saying "execution of a decree of any revenue court in any State in any other State". Could it not be "a revenue court in that State"? Why should it be augmented?

Dr. Ambedkar : The object of putting it in larger terms is to facilitate.

Dr. R. U. Singh : When the general discussion on the motion for consideration was on, I raised the same point and the Hon. Law Minister was pleased to say that the word 'Ruler' is used in some of the sections of the Civil Procedure Code under discussion. I have looked through the various sections of the Civil Procedure Code which are under discussion under clause 12 of the amending Bill, and I dare say that the word 'Ruler' is not used anywhere else. As I said earlier, it is only the sub-title that uses the word "Foreign Rulers". In the sections themselves the word 'Ruler' is not used. 'Ruling chiefs' may have been used because this term was in vogue in this country or some such term may have been used, but I dare say, Sir, the term 'Ruler' has not been used.

As the provisions of the Civil Procedure Code stand, it was not necessary to define the term Ruler. The point that was made by me was that it has been done unnecessarily and I reinforce that argument by saying that when we are dealing with questions of International Law, we might use terminology which is familiar to International Law. I observe that the term "Ruler" is not used. The words used generally are, "Head of a State" or "Sovereign", "foreign State" or "Foreign Sovereign". I do think that Government have taken pains unnecessarily to introduce the term "Ruler". I do feel that if the word 'Head' only is substituted now, because they have re-arranged the section and framed the thing in such a manner, some of the clauses will become clumsy. In some places 'Head of the State' will have to be used, in some places 'Head' only will do. Therefore, while sticking to my original point of view, I observe that it is unhappy that the term "Ruler" has been used. I think the clumsy phraseology used

in the amending Bill may be allowed to stand. Or if that is not to stand, then, in some places, the word "Head" has to be used and in other, the ;erm "Head of a Foreign State" has to be used, because the draftsmen have some-how rearranged the clauses in such a manner that there is no escape from this position.

Dr. Ambedkar : I am really at a loss to understand why my hon. friends are unhappy over the phraseology that has been used in this Bill My hon. friend Mr. Raj Bahadur says that it is better to distinguish foreign Rulers from Indian Rulers by giving them a different name. Supposing that was true, would it not be necessary again to define "Head of a Sate".

Shri Raj Bahadur : No, no .....

Dr. Ambedkar : In the United States of America, there is the President; in Great Britain, there is the King; in Switzerland, there is some other machinery to represent the State. If the facts are various, you will have to have a definition of "Head of State".

Another hon. Member says that he has examined the provisions of the Civil Procedure Code to which I made reference in the morning. He thinks that the words that we have used in this amending Bill do not occur there. I hope he has got a copy of the Civil Procedure Code in front of him.

Dr. R. U. Singh : I have got it here.

Dr. Ambedkar : Please look up the heading of section 83.

Dr. R. U. Singh : That I stated earlier.

Dr. Ambedkar : The heading is, "Suits by Aliens and by or against Foreign Rulers and Rulers of Indian States." I would like to draw his attention also to the fact that this amendment was made in 1937 by the adaptation of Indian Laws Order. I cannot say that I am quite up-to-date in the matter of International Law and the phraseology that they use. But, I am quite content in saying that any one who made this Adaptation—and he will permit me to say that the adaptation was made by the India Office—must have been advised by some Parliamentary Lawyer, who could not have gone very much wrong in using the phraseology 'Foreign Rulers'

Then, he says that the term 'Ruler of an Indian Sate' has never been used in sections 83 onwards. I quite agree that a variety of designations have been used. The Indian Rulers have been called Princes, Rulers, Chiefs and so on. But, what I want to submit is this. When the Constitution by several articles has given them a particular description, namely. 'Rulers of Indian States', is it permissible for the draftsmen to use a language other than the one that is used in the Constitution? The Justification for using the words "Rulers of Former Indian States" is simply that that is the language that is used in the Constitution. We do not want to have any departure from the language used in the Constitution so as to leave it open to anybody like my hon. friend Mr. Naziruddin Ahmed to come up and say, "well, this provision does not apply to the people to whom it is intended to apply."

Mr. Speaker : The question is :

In clause 12 in the proviso to the proposed new section 84 of the Code of Civil Procedure, 1908, for "Ruler" substitute "Head",

The motion was negatived.

Similar 3 other motions were negatived

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* **Dr. R. U. Singh :** ..... So far as the immunity of the Rulers of the Indian States is concerned, we do not have any such assurance from the Law Minister, in regard to things done even in their personal capacity. We are concerned with that aspect of the question. It has not been said that a certain amount of notice would be sufficient or some such thing. The immunity now sought to be conferred on them is much greater than the immunity conferred on the Head of the Indian Republic, as also the Heads of the various States of the Union. And if Government would indicate their mind and their policy in this regard, as to the duration of the immunity and the extent of that immunity—I dare say it ought not to be very wide—it would be extremely nice indeed..

* P. D., Vol. 8, Part VIII, 9th February 1951, pp. 2664-65.

Dr. Ambedkar : Before recess, I was also called upon to answer some of the questions which have been raised by my friend. I think I gave replies to those which I thought one should very safely give, and I do not know that I have anything further to add to what I have said. All that I would like to say now is this. My hon. friend if he will forgive my saying so, seems to lack sufficient imagination.

Shri R. U. Singh : All lawyers do not have much of it.

Dr. Ambedkar : Lawyers sometimes have very long imagination. If he had sufficient imagination he should have realised the fact that the Constituent Assembly very definitely and very rightly said that whatever was included in the covenant made before a certain date, matters contained in it were not justiciable. Now, I think that was a very great protection and a very important fact. It means that Parliament or Government is free to make any change it likes, notwithstanding the fact that the matters were mentioned in the convenant. That being so, I think the House at any rate, should feel satisfied that the future is in no way closed or dark. I do not think that anybody would expect me to say anything more than that.

Mr. Speaker : The question is :

In clause 12, omit the proposed new section 87B.

The motion was negatived.

Mr. Speaker : The question is :

"That clause 12 stand part of the Bill,"

The motion was adopted.

Clause 12 was added to the Bill.

Clauses 13 to 18 were added to the Bill.

Clause 19.—*(Special Provisions etc.)*

Amendment made :

In Clause 19, *omit* "Code of" occurring in line 2.

—[Dr. Ambedkar]

Clause 19, as, amended, was added to the Bill.

Clause 20 was added to the Bill.

Clause 1.—(*Short title etc.*)

Amendment made :

In Sub-clause (1) of clause 1, for "1950", substitute "1951".

—[Dr. Ambedkar]

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

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

Dr. Ambedkar : I beg to move :

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

Mr. Speaker : The question is :

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

The motion was adopted.

(28)

*PART B STATES (LAWS) BILL

The Minister of Law (Dr. Ambedkar) : Sir, I move for leave to introduces Bill to provide for the extension of certain laws to Part B States.

Mr. Speaker : The question is :

"That leave be granted to introduce a Bill to provide for the extension of certain laws to Part B States."

The motion was adopted.

Dr. Ambedkar : Sir, I introduce the Bill.

**PART B STATES (LAWS) BILL

The Minister of Law (Dr. Ambedkar) : I beg to move :

"That the Bill to provide for the extension of certain laws to Part B States, be taken into consideration."

The Bill is a very simple one...

An Hon. Member : As all other Bills are.

Dr. Ambedkar : Much simpler than the others. The object of the Bill is this. There are certain Acts passed by the Central Legislature which on account of the jurisdiction formerly exercised by the Central Government were confined in their operation to Part A States only. Part B States (formerly called the Indian States) which were sovereign and independent, had their own laws which might be compared to the laws passed by the Central Legislature under Lists I and III. Now this Parliament has obtained jurisdiction over the territories covered by Part B States so far as Lists I and III are concerned. There are already in existence a large number of Acts passed by the Central Legislature covering the field of Lists I and III, which on account of their territorial limitation did not apply

* P. D., Vol 6, Part II, 20th November 1951, p. 183.

** P. D., Vol 8, Part II, 9th February 1951, pp. 9665-66.

to Part B States. It is for this purpose that this Bill has been brought forward.

Hon. Members will see that to this Bill is added a Schedule giving the list of Acts which it is proposed under the powers given by this Bill to be extended to Part B States. There are altogether 135 Acts, so far as I have computed them, which are sought to be extended to Part B States.

While seeking to extend the Central Acts to Part B States it is felt that these Acts themselves required some small amendment according to the views of the various administrative departments of the Government of India which are working these Acts. Consequently the occasion which now exists for the purpose of extending these 135 Acts is also utilised for the purpose of making certain amendments in these Central Acts, so that when this Bill is passed, not only these Acts will come into operation in Part B States but they will also come into operation in the form in which they are modified by the provisions contained in the various Acts in the Schedule as mentioned therein. I do not think any controversy is likely to arise over the principle of this Bill.

There are one or two omissions which we have discovered since and I propose to move amendments in order to bring them under this Schedule.

Mr. Speaker: Motion moved:

> " That the Bill to provide for the extension of certain laws to Part B States, be taken into consideration. "

*** Dr. Ambedkar:** With regard to the point made by my friend from Travancore-Cochin, Shri Sivan Pillay the position is quite easy as I see it. There are some laws which are sought to be extended by this Bill which fall in the Concurrent List. Consequently, it would be open to any State in India to amend these laws in the manner that they wish to do. To take his illustration, namely, the Indian Penal Code, it is quite true that the Indian Penal Code sanctions death as one of the

* P. D., Vol 8, Part II, 9th February 1951, pp. 2669-77.

penalties. It is equally true, as he has said, that the Penal Code as it now operates in Travancore abolishes that penalty. Well, after the Indian Penal code has been made applicable under this Act, it would be perfectly possible for the Travancore-Cochin Legislature to pass an amending Bill and amend the Indian Penal Code in the way they wish to do. Consequently, so far as the laws which fall under the Concurrent List are concerned, all States in India which have the power to make laws will certainly make laws to suit their circumstances.

With regard to the point made by my other hon. friend, it seems to me that he has not read correctly the provisions of clause 3 of this Bill which says :

> "The Acts and Ordinances specified in the Schedule shall be amended in the manner and to the extent therein specified ".

Therefore, this Bill is both a Bill to amend and also to extend. Of course, he might stay that this is a very inelegant method of legislation, but let him consider his plan of doing the thing. We will have to stay here and pass 135 different laws, first to amend and then to extend. I think it is desirable, although it may not be quite so straight or elegant, to adopt the summary procedure that has been adopted in this Bill, namely, both to amend and to extend. I do not think my hon. friend will have any quarrel after this explanation.

Mr. Speaker: The question is :

> " That the Bill to provide for the extension of certain laws to Part B States, be taken into consideration. "

The motion was adopted.

Clauses 2 to 6.

Clauses 2 to 6 were added to the Bill.

Clause 7.—*(Power to remove difficulties)*

Amendment made:

In sub-clause (2) of clause 7, after part (b) insert:

> "(c) specify the areas or circumstances in which, or the extent to which or the conditions subject to which, anything done or any action taken (including any of the matters specified in the second proviso to

section 6) under any law repealed by that section shall be recognised or given effect to under the corresponding provision of the Act or Ordinance as now extended. "

—[Dr. Ambedkar]

Clause 7, as amended, was added to the Bill.

The Schedule

Dr. Ambedkar: I was wondering whether all the amendments to the Schedule standing in my name may be taken as moved.

Mr. Speaker: Is the House agreeable to this course?

Hon. Members: Yes, Sir.

Shri Shiv Charan Lal: I would like to have clarification on one point before you put these amendments to vote. On page 4 of the schedule, under the Government Savings Banks Act, 1873, it is said that that Act would not apply to any deposits made in the Anchal Savings Bank of the State of Travancore-Cochin. It is not clear to us why it won't apply to this Bank.

Dr. Ambedkar: I am afraid it would be very difficult for me to reply to the various queries. I should therefore like to explain my position. This Bill is like a supplementary estimate which the Finance Minister puts before the House, although the actual responsibility of defending the different estimates falls upon the different Ministers who are responsible for them. I am merely sponsoring what the other Departments desire should be done. I am sorry that the Finance Minister is not here, otherwise, he might have explained to my friend exactly why he wants this particular amendment to be made. All the same, I hope that my friend will agree that this must have been done after very deliberate and mature consideration.

Mr. Speaker: I do not wish to raise any objection, if the House has none, but this is not a satisfactory procedure. An hon. Member is entitled to know before he votes what he is called upon to vote and why. Even if the position be like the supplementary estimate, it should be the practice to append some kind of notes for the benefit of hon. Members explaining

the reasons why they are called upon to vote for a certain proposition.

Dr. Ambedkar: It is a very valuable suggestion. We shall try and follow it up.

Mr. Speaker: What is the present position of Shri Shiv Charan Lal ? Is he agreeable to vote for it without knowing the reasons?

Dr. Ambedkar: We shall insure any risk, if he is undergoing one.

Mr. Speaker: It does not mean that he doubts the correctness or the soundness of the proposition, but still as a Member he is entitled to know the reason.

Shri S. V Naik (Hyderabad)**:** On page 5 of the list of amendments to the Schedule, under the heading "Currency Ordinance, 1940" after section 2, certain temporary provisions with respect to Hyderabad one-rupee notes are made. I would like to know what will be the position in regard to the other currencies that are prevalent in the Hyderabad State.

Dr. Ambedkar: I shall have to answer in the same way that I have done before. I can inform the Hon. the Finance Minister and he will probably communicate to the hon. Member what is the answer.

4 P.M.

I have one more amendment to the schedule. I request that that may also be taken as moved.

Amendments made:

1. In the schedule, under the heading "The Indian Oaths Act, 1873", for the item relating to section 1, substitute :

"Section 1.—"except Part B states" substitute "except the States of Manipur and Jammu and Kashmir".

2. In the Schedule, after entry relating to "The Partition Act, 1893", insert:

"The Livestock Importation Act 1898 (IX of 1898) ,

Section 1.—For sub-section (2) substitute :

(2) It extends to all Part A States, Part C States and the States of Saurashtra and Travancore-Cochin'."

3. In the Schedule, under the heading " The Indian Coinage Act, 1906 ", for the last item substitute :

"After section 23, insert the following, namely:

' 24. temporary provisions with respect to certain Part B States Coins.—Notwithstanding anything in section 6 of the Part B States (Laws) Act, 1951, coins of such description as at the commencement of the said Act were in circulation as legal tender in any Part B State shall continue to be legal tender in that State to the like extent and subject to the same conditions as immediately before the commencement of the said Act for such period, not exceeding two years from such commencement, as the Central Government may, by notification in the *Official Gazette,* determine.' "

4. In the Schedule, under the heading "The Indian Companies Act, 1913", after the item relating to the new section 2B, insert:

" Section 144.—After sub-section (*1*) insert:

(2) Notwithstanding anything contained in sub-section (*1)* but subject to the provisions of rules made under sub-section (*2A*), the holder of a certificate granted under a law in force in the whole or any portion of a Part B State immediately before the commencement of the Part B States (Laws) Act, 1951, entitling him to act as an auditor of companies in that State or any portion thereof shall be entitled to be appointed to act as an auditor of companies registered anywhere in that State.

(2A) The Central Government may, by notification in the *Official Gazette,* make rules providing for the grant, renewal, suspension or cancellation of auditors' certificates to persons in Part B States for the purposes of sub-section (*2*), and prescribing conditions and restrictions for such grant renewal, suspension or cancellation'."

5. In the Schedule, after the entry relating to the " Indian Copyright Act, 1914 ", insert:

"*The Cinematograph Act, 1918 (II of 1918)*

Section 1.—In sub-section (2), omit "Hyderabad and'."

6. In the Schedule, after the entry relating to "The Indian Bar Councils Act, 1926 ". insert:

" The Child Marriage Restraint Act, 1929 (XIX of 1929).

Section 1.—In sub-section (2), for 'except Part B States' substitute 'except the State of Jammu and Kashmir'."

7. In the Schedule, under the heading "The Petroleum Act, 1934", in the item relating to section 1. for "For" substitute "In sub-section (2), for".

8. In the Schedule, after the entry relating to "The employment of Children Act, 1938", insert:

" The Motor Vehicles Act, 1939 (IV of 1939)."

Throughout the Act, unless otherwise expressly provided, for the States' substitute 'India'.

Section 1.—(a) In sub-section (2), for 'except Part B States' substitute 'except the State of Jammu and Kashmir';

(b) for sub-section (*3*), substitute:—

'(3) Chapter VIII shall not have effect in any Part B State to which this Act extends until the Central Government, by notification in the *Official Gazette,* so directs, and notwithstanding the repeal by section 6 of the Part B States (Laws) Act, 1951, of any law in force in that State corresponding to the Motor Vehicles Act, 1939, the corresponding law, in so far as it requires or relates to the insurance of motor vehicles against third party risks shall, until Chapter VIII takes effect in that State, have effect as if enacted in this Act.'

Section 2.—(a) after clause 9 insert

'(9A) 'India' means the territories to which this Act extends':

(b) omit clause (29A).

Section 9.—(a) In sub-section (2), for 'In any Part B State', substitute 'in the State of Jammu and Kashmir';

(b) In sub-section (4),—

(i) for 'any Part B state or' substitute 'the State of Jammu and Kashmir or any'; and

(ii) for 'in any State' and 'in any such State' substitute 'in the State'.

Section 28.—(a) In sub-section (2), for 'any part B State' substitute 'the State of Jammu and Kashmir';

(b) in sub-section (5),—

(i) for 'any Part B State or' substitute 'the State of Jammu and Kashmir or any';

(ii) for 'registration in such State' and 'registration in any State' substitute 'registration in the State '; and

(iii) for ' issued in any such State' substitute 'issued in the State'.

Section 42.—In sub-section (*3*),—

(i) in clause (a), for 'the Government of a Part A State' substitute 'a State Government';

(ii) in clause (h), for 'any Part B State or' substitute ' the State of Jammu and Kashmir or any.'

Section 133.—For 'the Legislature of a Part A State' substitute 'the State Legislature'.

The Sixth Schedule.—For the table, substitute the following:—

Assam	...	...	AS
Bihar	...	...	BR
Bombay	...	...	BM, BY
Madhya Pradesh	...	...	CP, MP
Madras	...	...	MD, MS
Orissa	...	...	OR
Punjab	...	...	PN

Uttar Pradesh	...	...	UP, US
West Bengal	...	...	WB, WG
Hyderabad	...	...	HT, HY
Madhya Bharat	...	...	MB
Mysore	...	...	MY
Patiala and East Punjab States Union		...	PU
Rajasthan	...	...	RJ
Saurashtra	...	...	SS
Travancore-Cochin	...	...	TC
Ajmer	...	...	AJ
Bhopal	...	...	BS
Bilaspur	...	...	BL
Coorg	...	...	CG
Delhi	...	...	DL
Himachal Pradesh	...	...	HI -
Kutch	...	...	KH
Manipur	...	...	MN
Tripura	...	...	TR
Vindhya Pradesh	...	...	VP
Andaman and Nicobar Islands	...	...	AN' "

9. In the Schedule, under the heading " the Protective Duties Act, 1946 ", omit the last item relating to section 2.

10. In the Schedule, omit the entry relating to the Employees' State Insurance Act, 1948, (XXXIV of 1948).

11. In the Schedule, omit the entry relating to "The Transfer of Detained Persons Act, 1949 (XLV of 1949)".

12. In the Schedule, under the heading "The Currency Ordinance, 1940 ", after the item relating to section 2, insert;

" After section 2, insert the following, namely:—

"2A. *Temporary provisions with respect to Hyderabad one-rupee notes*.—Notwithstanding anything contained in section 6 of the Part B States (Laws) Act, 1951, notes of the denominational value of one rupee which at the commencement of the said Act were in circulation as legal tender in the state of Hyderabad shall continue to be legal tender in that state to the like extent and subject to the same conditions as, immediately before the commencement of the said Act and for such period, not exceeding two years, from such commencement, as the Central Government may, by notification in the *Official Gazette,* determine'."

13. In the Schedule, insert the following as the first entry:

"The caste Disabilities Removal Act, 1850 (XXI of 1850)

Long title and preamble.—For 'the territories subject to the Government of the East India Company' substitute 'India'

Section 1.—(1) For 'the territories subject to the Government of the East India Company' substitute 'India' and for 'in the courts of the East India Company and in the courts established by Royal Charter within the said territories' substitute 'in any court'.

After section 1, add the following section, namely:—

2. *Short title and extent.*—(1) This Act may be called the Caste Disabilities Removal Act, 1850.

(2) It extends to the whole of India, except 'the State of Jammu and Kashmir'. "

—[Dr. Ambedkar]

The Schedule, as amended, was added to the Bill.

Clause 1.—*(Short title etc.)*

Amendment made:

In sub-clause (1) of clause 1 and elsewhere in the Bill where there is a reference to the Part B States (Laws) Act, 1950, for " 1950 " substitute "1951".

—[Dr. Ambedkar]

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

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

Dr. Ambedkar: I beg to move :

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

Mr. Speaker: Motion moved :

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

Capt. A. P. Singh (Vindhya Pradesh)**:** Sir, I would like to draw your attention to one point. The statement of Objects and Reasons lays down that "for the purpose of improving the administration", and as such I oppose it; although this is not a part of it and so no amendment could be put forth in this connection.

Mr. Speaker : Order, order. The hon. Member is too late. I may inform him, however, that a protest on this same point was raised by another Member of this House previously.

Dr. Ambedkar: I would like to apologise, Sir.

Mr. Speaker : The question is :

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

The motion was adopted.

PREVENTIVE DETENTION (AMENDMENT) BILL

*** The Minister of Home Affairs (Shri Rajgopalachari):** ..... I was coming here in a hurry for I heard that Dr. Ambedkar was able to get through two solid Bills in this House as I had not at all anticipated last evening. It seems to me that people treat me much worse than they treat Dr. Ambedkar.

The Minister of Law (Dr. Ambedkar): I am a Harijan; you are not.

LAYING OF ADAPTATION ORDER ON THE TABLE

**** Mr. Deputy Speaker :** Dr. Ambedkar.

The Minister of Law (Dr. Ambedkar): Mr. Deputy Speaker, Sir.....

Shri Syamnandan Sahaya (Bihar)**:** Sir, before the Law Minister begins, may I make a submission? Now we have got an idea of the work to be done by Parliament up to the 16th. But we do not yet know what Bills or other legislative measures or other work will be taken up on the 17th of this month and ...

Shri Sidhva (Madhya Pradesh)**:** There is the agenda up to the 19th.

Shri Syamnandan Sahaya : But it only says whether the business will be official or non-official.

Shri Sidhva : No, they are all official Bills. We got it today.

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* P. D., Vol 8, Part II, 9th February 1951, p. 2679.

** P. D., Vol 10, Part II, 12th April 1951, p. 6659.

Dr. Ambedkar: Mr. Deputy-Speaker, yesterday, my hon. friend Mr. Hussain Imam raised a question with regard to an answer which I gave to a question put by Pandit Bhargava with regard to the Adaptation Order issued by the President. Unfortunately I was not present in the House. I wish he had given me previous notice that he was going to raise this matter; I certainly would have been present in the House to give him the answer. From the proceedings, extracts from which were supplied to me yesterday evening. I find that he raised two questions. One question which he raised was that he was not able to obtain a copy of the Adaptation Order although he made an effort to get one. On that point, the facts which I have been able to ascertain are these. The Adaptation Order was published in the Gazette Extraordinary dated the 4th instant. I gave my reply on the 7th. Copies of the Adaptation Order, or rather, of the Gazette, were received in the Constitution Branch on the 10th, the date on which he sent a telephonic message to the Constitution Branch, enquiring as to what had happened to the copies of the Adaptation Order. My information is that the Superintendent whom he contacted on that matter told him that the copies of the Gazette Extraordinary had just reached him and that he was examining whether there were any clerical or printers' errors. I am told that my hon. friend did not specifically ask for a copy. I do not know, he is in a better position to confirm this or not.

Shri Hussain Imam (Bihar)**:** I asked for it in the Notice Office and in the Library.

Dr. Ambedkar: I am telling what happened in the Superintendent's branch. That being so, the hon. Member was not directly supplied any copies from the Constitution Branch. It is obvious that if the copies were received by the Superintendent on the 10th it was not possible for him to supply copies to the Notice Office for distribution among Members of Parliament. That is the position so far as the first complaint is concerned.

I find from the proceedings, extracts of which were sent to me, that the hon. Member also raised a question of privilege.

What I understood him to say was that as soon as an Adaptation Order is made by the President, it ought to be placed on the Table of the House. Now, Sir so far as that point is concerned, my submission is this. Whatever privileges this House has, they are regulated by article 105 of the Constitution which says that the Parliament shall have all the privileges which the House of Commons has. That takes us to an enquiry as to whether, when laying a paper on the Table of the Parliament is a matter of privilege and when it is not a matter of privilege. Referring to May* one thing is quite clear....

Mr. Deputy Speaker: I am sorry to interrupt the Hon. Minister. So far as the question of privilege is concerned first of all the Speaker looks into the matter, goes through the rules and regulations and then ascertains the opinion of the House. If he comes to the conclusion that a matter of privilege is involved, he then sends it to the Privileges Committee. I do not think the hon. Member seriously raised a question of privilege. The question was that a copy of the Adaptation Order ought to be made available. He went to the Notice Office and also to the Library. He said that the Adaptation Order was made as early as the 4th April and therefore normally expected it to be placed in the Library in a day or two. Now that the matter has been made clear by the Law Minister we need not go further into the question of privilege.

Dr. Ambedkar : If that is your ruling I would not pursue the matter. But I only wanted to submit one point which 1 think is of general interest and which the House should know. A matter of privilege can arise only when a statute makes it obligatory upon the government that a paper should be laid on the table of the House. Now so far as the Adaptation Order is concerned there is no such obligation at all. I would like hon. members to compare article 372, which deals with Adaptation, with article 392 which deals with an order made by the President for the removal of difficulties in the Constitution during the transition period. It will be found that so far as article 392 is concerned there is a specific sub-clause which says that any order made by the President for the removal of difficulties shall be placed on the table of the

* May's Parliamentary Practice—*ed.*

House. There is no such proviso with regard to article 372. Therefore my submission was that there is really no privilege involved and the question of breach of privilege therefore cannot arise.

Pandit Maitra (West Bengal)**:** Sir, are you going to allow a general discussion as to whether or not this is a question of privilege ....

Shri Bharati (Madras)**:** The Chair has already ruled that there was no question of privilege.

Mr. Deputy Speaker: I am not deciding the question of privilege at all. In as much as there was a reference by Mr. Husain Imam to the word privilege, the Hon. Law Minister thought that he must answer that other point also. He has now placed his view point. That question does not arise now and therefore I will not go into it.

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

***Mr. Deputy Speaker:** The hon. Member may resume after we hear the Hon. the Law Minister.

Dr. Ambedkar: Sir, I have applied my mind to the points which you were good enough to put to me and I would like to submit my opinion about those points.

The real question that the House has to consider is whether this Bill offends against Article 117—either clause (1) of that article, or clause (3) of that article. Those are the main points that are to be considered and the clauses which require to be considered in the light of Article 117 are clauses (4), (5) and (6) of the Bill.

I should take clauses (5) and (6) together. Now it is contended that those clauses offend against clause (1) of Article 117. The validity of that contention must depend upon the meaning that is to be attached to the word "appropriation" occurring in sub-clause (d) of clause (1) of Article 110 which defines what is a "Money Bill". Now, I am quite certain in my mind that the word "appropriation" which is used in

* P. D., Vol. 10, Part II, 12th April 1951, pp. 6725-27.

sub-clause (d)—and I have verified myself by reference to May's " Parliamentary Practice " where this matter has been discussed at great length—is a term of art and it involves two things: first the naming of the service, the particular service, and secondly the exact allotment of money to be spent on that particular service. It is these two things that go to make what we know now as appropriation and it is in that sense that the word is used both in Article 114 and Article 266 of the Constitution.

Reading the two clauses 5 and 6 in the Bill I do not think it is possible to import into those two clauses any such thing as we now understand by the term " appropriation". They are, in my judgment, mere directions to the Government that this is a service on which money may be spent which Government may or may not spend. Therefore, so far as Article 117, clause (1) is concerned, the Bill, it may be said, sails clear and no difficulty can arise on that account.

Now, I turn to clause 4 of the Bill. There, we have to consider whether that clause offends against clause (3) of Article 117. My conclusion is that it does, because clause 4 of the Bill imposes a liability upon the Government to undertake a service which, if the Bill is passed by this House, would undoubtedly involve expenditure out of the Consolidated Fund. Therefore, it would require a recommendation from the President under the provisions of clause (3) of Article 117.

The question that remains for consideration is this. At what stage must the recommendation of the President be forthcoming? The word used there is " consideration ". It has been contended that " consideration " means the very initation of the Bill. I am afraid I cannot agree with that contention. A bill has two stages: the first stage is called in our parlance " Introduction ", which is different from ' consideration '. After a Bill is introduced, then the stage of consideration begins and the stage of consideration continues from that point when the Bill is taken up by the House after the stage of introduction, until it is passed. During that interval the proceedings are proceedings in respect of consideration of the Bill. Therefore, in my humble opinion, if before the motion for passing is put,

a recommendation is obtained, that would meet the requirements of clause (3) of Article 117. But while that is so, I think there is one practical point which must be considered. The House must not readily assume that the President will give his assent or recommendation whenever it is asked. If a financial liability is involved, the President will have to consider the matter in detail and find out whether the financial condition of the country is such as he could agree to take more financial liability. It is possible that the President may refuse his recommendation, in which case the labour spent by the House would be wasted. I think, therefore, there is no harm in adopting or suggesting the rule that whenever there is any bill projected before the house which involves or is likely to involve expenditure from the Consolidated Fund, the House should insist that immediately, before the consideration stage begins, the Member in-charge should produce a recommendation from the President so that the House may be engaged in labours which may ultimately not turn out to be fruitless.

Mr. Deputy Speaker: We have heard this point *in extenso*. I entirely agree with the Hon. the Law Minister in coming to the conclusion that 'appropriation' as used in Article 110, Sub-clause (1) (d) is only a term of art and it applies only to cases which are referred to in Article 114. Therefore the provisions do not militate against the provisions of Article 117 (1). Of course, it involves expenditure from the Consolidated Fund and therefore comes within the purview of sub-clause (3) of Article 117.

***Mr. Chairman :** So far as the word "mechanical" goes it appears the defect must be something relating to the machine. So far as the word "construction" used by Mr. Sidhva goes, it does not look quite opposite. The word "structural" better explains the meaning. At the same time, if both the words are taken away the wording will be merely "defective" which perhaps will be more vague than now. So

* P. D., Vol 10, Part II, 18th April 1951, pp. 7006-8.