Mr. President : The question is:

"That article 119, as amended, stand part of the Constitution."

The motion was adopted.

Article 119, as amended, was amended to the Constitution.

Article 121

Mr. President : 120, we have passed 121. There are several amendments to this. No. 1958.

Mr. Z. H. Lari (United Provinces : Muslim) : Sir, I move :

"That in clause (1) of article 121, the words 'with the approval of the President' be deleted."

This article deals with certain provisions which are necessary to be made by the Supreme Court in the discharge of its duties and functions. If you look to the article, the main purpose of the article is that there must be such rules as shall govern persons practising before the Court, and the number of judges which shall hear particular kinds of cases, and rules as to granting of bail and the like. All these are such as should be left to the entire discretion of the Supreme Court. The necessity of having the approval of the President is in a way interference by the Executive with the Judiciary. I think that in all these matters, which really relate to internal arrangement by the Supreme Court, there should be no hand of the President therein, and as such, I think that these words are entirely superfluous. The Supreme court shall be competent enough to frame all the necessary rules and there is no necessity of securing the previous approval of the President.

I hope that this House will accept this amendment which is really intended to make the Supreme Court entirely immune from the influence of the Executive.

(Amendments Nos. 1959 to 1961 were not moved.)

Shri T. T. Krishnamachari : Sir, Dr. Ambedkar has gone out for the moment. May I move it ?

Mr. President : Yes.

Shri T.T. Krishnamachari : Sir, with your permission I move amendment 1962 standing in the name of the Honourable Dr. Ambedkar:

"That in sub-clause (b) of clause (1) of article 121, the words 'and the time to be allowed to advocate appearing before the Court to make their submissions in respect thereof' be deleted."

Mr. President : There is another amendment with reference to this amendment. It is No. 42.

Shri T. T. Krishnamachari : Sir, I move:

"That with reference to amendments Nos. 1959, 1960 and 1962 of the List of Amendments, after sub-clause (b) of clause (1) of article 121, the following new sub-clause be inserted :—

'(bb) rules as to the procedure for the review of any judgment pronounced or order passed by the Court including the time within which applications to the Court for such review are to be entered;' "

This amendment is necessary in view of the fact that the House has already accepted a new clause moved by Dr. Ambedkar in respect of conferring powers on the Supreme Court to make rules for the purpose of reviewing its own decisions. This is a corollary to that amendment which the House has accepted.

(Amendment No. 1963 was not moved.)

[Shri T. T. Krishnamachari]

This amendment (No. 1964) has to be moved formally in order to enable the other amendments to be moved, of which notice has been given, namely, 42 and 43.

Sir, I formally move:

"That for the proviso to clause (2) of article 121, the following be substituted:

'Provided that it shall be the duty of every judge to sit for the said purposes unless owing to illness he is unable to do so, or owing to personal interest or other sufficient cause he considers that he ought not to do so.' "

Shri Alladi Krishnaswami Ayyar : Sir, I move:

"That with reference to amendment No. 1964 of the List of Amendments, for clause (2) of article 121, the following clauses be substituted :—

'(2) Subject to the provisions of the next succeeding clause, rules made under this article may fix the minimum number of judges who are to sit for any purpose, and may provide for the powers of single judges and Division Courts.

(2a) The minimum number of judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution, or for the purpose of hearing any reference under article 119 of this Constitution shall be five:

Provided that where the Court hearing an appeal under article 111 of this Constitution consists of less than five judges and in the course of the hearing of the appeal the court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal such court shall refer the question to a court constituted under this clause for opinion and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.' "

I do not think there is any need for comment on sub-clauses (2) and (2a) which speak for themselves. The only clause which requires some elucidation is the proviso. The main point of the proviso is that judicial time need not be unnecessarily wasted. A constitutional point may be raised by a party in the course of a general appeal in which other questions are raised. A court hears the appeal; it comes to the conclusion that really the constitutional point that is raised is not necessary for the disposal of the appeal, and that the case can be easily disposed of on the other point that has been raised. Under those circumstances it will be sheer waste of judicial time that a Bench of five Judges should hear this case, if otherwise a Bench of three Judges can under the rules of the Court dispose of the appeal. Therefore the provision is made—if the Bench that is hearing the case is satisfied that a real question of constitutional law has arisen, for the proper disposal of the case, the matter is referred to a full Bench of five Judges. They hear the constitutional question and the matter comes back before the three Judges who hear the original appeal and the other points of law that have been raised and that Bench disposes of the case. This is the normal procedure followed in cases where any point is referred to a full Bench for consideration by the High Courts in India. The idea is to assimilate this procedure to the procedure that is being followed for full Bench references to the High Court.

There is another point that I should like to mention so that the House may not think that I have brought it at a later stage and I have no doubt that Dr. Ambedkar will agree with it, namely, the express reference to article 111 of the Constitution in the proviso. Now there are various amendments tabled with a view to expand the jurisdiction of the Supreme Court and which have been left over. A constitutional question may be raised in the course of a criminal appeal if the Supreme Court is to be invested with criminal jurisdiction. Therefore possibly the expression "an appeal under article 111 of the Constitution" might have to be omitted. Or a constitutional point might arise even in the course of

a special appeal and if the court is satisfied that a constitutional question arises then it may be referred to a court constituted under this clause. I am mentioning it so that it may not be thought that we are trying to bring in new amendments at every stage.

With these words, Sir, I move the amendment that is tabled in the name of Dr. Ambedkar and myself.

Shri T. T. Krishnamachari : Sir, amendment No. 44 is no longer necessary, if as I suppose Mr. Alladi Krishnaswami Ayyar's amendment is to be accepted.

The Honourable Dr. B. R. Ambedkar : Sir, I move:

"That for clause (3) of article 121, the following be substituted :—

'(3) No judgment shall be delivered by the Supreme Court save in open Court, and no report shall be made under article 119 of this Constitution save in accordance with an opinion also delivered in open court.' "

Sir, I shall move also amendment No. 1966:

"That for clause (4) of article 121, the following be substituted :—

'(4) No judgment and no such opinion shall be delivered by the Supreme Court, save with the concurrence of a majority of the judges present at the hearing of the case but nothing in this clause shall be deemed to prevent a judge who does not concur from delivering a dissenting judgment or opinion.' "

Dr. P. S. Deshmukh (C.P. & Berar : General) : Sir, article 121 has undergone considerable change as a result of several amendments moved, some of them by or on behalf of Dr. Ambedkar and some others by Mr. Alladi Krishnaswami Ayyar. In view of that, the necessity for the retention of the words "with the approval of the President" has further diminished. I therefore feel considerable sympathy with the amendment that has been moved by Mr. Z.H. Lari, notice of which was given by Mr. Shanker Rao Deo and others. In view of the changes that have been now effected there is no need for any reference to the President, because in most matters the whole position has been particularized and specifically stated. We have laid down the number of judges that should be there to hear particular classes of cases. We have also provided for cases falling under article 109. We have by the fresh amendments accepted that the judgment shall be in open court. The only powers that are retained with the Supreme Court under the article are those by which they can frame rules on matters more of day to day procedure which are not of such vital importance or significance as must be laid before the President before they can be made operative. The position is not very different from the powers of the High Courts in the provinces. The High Court has got wide powers of making rules in almost every matter as enumerated in this article and they are not required under any rule or procedure to refer them to the Governor or obtain his consent. I therefore feel that a reference to the President is unnecessary and it would be good if the House accepts the amendment moved.

Shri B. Das : Sir, I would like Dr. Ambedkar to clarify the words "No report shall be made under article 119 of the Constitution save in accordance with an opinion delivered in open court." This affects the liberties of the press. Suppose the press gets hold of some opinion which the Supreme Court has given to the President and if it is published, is the Government going to prosecute the paper which has published that secret information which the Supreme Court has tendered to the President? Newspapers have their sleuths. There are sometimes intelligent newspaper men who are able to anticipate the advice of High Court judges or Supreme Court judges. Is it contemplated that the Constitution will empower the Parliament under the present law that the liberty of the press will be affected? That is the question involved whether the liberties of the press will be affected and pressmen will be prosecuted.

Dr. Bakhshi Tek Chand : Sir, I support the amendment moved by Mr. Lari (No. 1958), that in clause (1) the words "with the approval of the President" be deleted. Article 121 gives the Supreme Court the power to frame rules, relating firstly, as to persons practising before the Court; secondly, rules regulating the procedure for hearing appeals and for determining what class of cases are to be heard in single Bench or in Divisional Courts or by Benches consisting of a larger number of judges. It also empowers the Court to frame rules relating to costs and other incidental matters, rules for granting bail, stay of proceedings, providing for summary determination of any appeal which appears to the court to be frivolous, vexatious or for purposes of delay. Now, Sir, these all are matters which ought to be solely within the jurisdiction of the Chief Justice and the judges of the Supreme Court and there is no reason why they should be subject to approval of the President. If you see the constitution of the High Courts, as they have functioned in the country for the last eighty years or more and also the provisions of the Government of India Acts of 1915 and 1935 relating to these matters, you will find that it is purely within the jurisdiction of the Chief Justice and the judges of the High Court to frame rules in such matters, as the admission of advocates, attorneys, etc. and the constitution of Benches. Sanctions or approval of the Governor-General or Governor is not obtained for promulgating these rules. In this connection, I would draw the attention of the House to clauses 9 and 10 of the Letters patent of the Calcutta High Court and similar provisions in the Letters patent of all the other High Courts, *i.e.,* the presidency High Courts, as well as the High Courts of Allahabad, Patna, Nagpur and of the East Punjab, Orissa and Assam which have been established recently.

Clause 9 reads :

"And we do hereby authorise and empower the said High Court of Judicature at Fort William in Bengal to approve, admit, and enrol such and so many Advocates, Vakeels, and Attorneys as to the said High Court shall seem meet; and such Advocates, Vakeels and Attorneys shall be and are hereby authorised to appear ....."

Then clause 10 says:

"And we do hereby ordain that the said High Court of Judicature at Fort William in Bengal shall have power to make rules for the qualification and admission of proper persons to be Advocates, Vakeels and Attorneys-at-Law of the said High Court, and shall be empowered to remove or to suspend from practice, on reasonable cause....."

These provisions are not subject to the approval of the Governor or the Governor-General, though in several other matters such as the creation of new courts, the fixation of salaries of the staff and so on, rules framed by the High Courts, are subject to the approval of the Governor-General in the case of Calcutta and provincial Governments in the case of the other provinces. But so far as the admission of advocates, vakeels, etc. are concerned, the framing of the rules is purely a matter within the jurisdiction of the Chief Justice and the other judges of the High Courts, and no approval of the Governor-General or the Governor is necessary.

With regard to the constitution of Division Benches, the provision in section 108 of the Government of India Act, 1915 was as follows :—

"Each High Court may by its own rules provide as it thinks fit for the exercise by one or more judges or by division courts constituted by two or more judges of the High Court of the original and appellate jurisdiction vested in the court.

(2) The Chief Justice of each High Court shall determine what judge in each case is to sit alone, and what judges of the court, whether with or without the Chief Justice are to constitute the several division courts."

This provision was re-enacted with slight verbal alterations in section 223 of the Government of India Act, 1935. If this is the position relating to the

High Courts, why should a different rule be adopted in regard to the Supreme Court which will be the highest court in the country? Why should the previous approval of the President be necessary? In practice this will mean the approval of the Prime Minister. I submit this is a wholly unnecessary interference with matters which relate to the internal administration of the Supreme Court.

I have mentioned these two clauses relating to the admission, etc. of the advocates, pleaders and attorneys and with regard to the constitution of Benches. The other matters referred to in article 121 are matters of very small import; they relate to costs and other incidental matters. Obviously, the Supreme Court is the proper body to decide these matters.

Then there is the question of the granting of bail. Why should rules relating to this matter, which is purely a judicial matter, be referred to the executive? They should be left to the Chief Justice and the other Judges. Similarly rules as to stay of proceedings. When the Courts stay proceedings in a pending suit or appeal, generally security has to be taken for the due execution of the order which may ultimately be passed. Whether that security is to be certified before the Registrar of the Supreme Court or before the High Court are matters of detail which should be settled by rules framed by the Court.

This aspect of the matter seems to have escaped the attention of the Drafting Committee and there is no reason why the words "subject to approval of the President" should be imported, in the article. Sir, I support the amendment moved by Mr. Lari.

Prof. Shibban Lal Saksena : Sir, with regard to the amendment moved by my honourable Friend, Mr. Lari, there is a general feeling in the House, that Constitution allows too much interference with the work of the Supreme Court. We have given enough powers to the President, that is the Prime Minister, over the Supreme Court. If even in small matters like the framing of rules in regard to the powers vested in the High Courts, etc., we say that these should the subject to approval by the President, it is objectionable. We should make our Supreme Court etc. completely independent of the influence of the Executive. Once we have chosen a Supreme Court and the President himself has nominated the Judges there should be no further interference. They will frame rules which are contemplated in the section according to the canons of jurisprudence and in the best interests of the country. Sir, I support the amendment of Mr. Lari.

Shri T. T. Krishnamachari : On a point of information, Sir, may I ask the speaker whether he has changed his mind in regard to what he said with regard to article 111 where he wanted its provisions to be subject to the law made by Parliament?

Prof. Shibban Lal Saksena : Sir, I have not heard the question.

Mr. President : Mr. Krishnamachari has put a question which you do not understand and therefore need not answer.

Mr. Naziruddin Ahmad : Sir, I rise to support the amendment of Mr. Lari. As has been clearly explained by Dr. Tek Chand, with all the authority of his unique judicial experience, matters relating to rules under article 121 relate entirely to the procedure to be observed in Courts. In fact rules relating to practising lawyers and other things are matters of internal administration of the Courts. Such being the case, it will be extraordinary for the Court to send its proposals to the President for his approval. I could well understand and appreciate a provision which requires consultation with the President. That would have been something acceptable. I have no doubt whatsoever that if we delete these words the Supreme Court will always consult the Government.

[Mr. Naziruddin Ahmad]

But to make it a condition of the validity of the rules is somewhat extraordinary. I submit that the President, for all practical purposes, will mean the Ministry or the Government of the day. That is more objectionable. That the Supreme Court with whom vests the supreme authority of the judiciary and which should be absolutely independent of the executive should be required to take the approval of the executive in regard to internal matters of administration of the Court in its judicial functions, would be highly objectionable. With regard to rules for the grant of bails, whether bail should be granted or not is a matter for the legislature but the exact regulation of rules relating to the granting of bails, whether an application is to be made, whether a surety is to be taken, and so on and so forth, are matters for the internal administration of the Supreme Court. As regards stay of proceedings, it is a matter entirely in the discretion of the Court and it is impossible to provide in advance any definite rule as to stay of proceedings. They are matters entirely discretionary and change with the circumstance of each case. Nothing could be determined in advance. Rules should, therefore, be left to the discretion of the Court and somewhat general and elastic for easy application to individual cases. Again, matters which are incidental to the proceedings and matters for summary determination are all purely judicial matters. I do not wish to go into the details which have been so ably explained by Dr. Bakhshi Tek Chand. I submit that there should not only be no interference with the independence of the judiciary, but there should be no appearance of it even. For these reasons, these words are obnoxious and should be struck out. I have no doubt, as I have submitted, that the Supreme Court will always consult the Government and that should be enough. The matter should be left rather to convention than to legislation. With these few words, I support the amendment of Mr. Lari.

The Honourable Shri K. Santhanam : Sir, I am rather surprised at this support for the removing of the words "with the approval of the President." The consequence of this will not be the independence of the Supreme Court from the Executive; it will only give the right to the Executive to limit the rule making power by law. So long as the first portion of the article is there, "Subject to the provisions of any law made by Parliament", the words "with the approval of the President" form the safety valve for the Supreme Court. Because, it will be open to Parliament to make a law taking away the rule making power altogether from the Supreme Court and Parliament may prescribe every one of these things by law. Therefore, it is always better to have the things done with the approval of the President, if you want to vest the ultimate power in Parliament.

Then it is a matter of public policy also. Take for instance rules as to the person practising before the Court. Should it be open to the Supreme Court to say that they shall recognise the Degrees of a particular University and not of any other University? The whole question of legal education and inter provincial matter also arise. This is a matter probably in which the Supreme Court will not have sufficient materials for coming to a judgment and it will have to consult the Executive, not only the Executive in the Centre, but also the Executive in the provinces. The Education Department in the Central Ministry will be the authority to say which law college is conferring proper Degrees. Otherwise, the Supreme Court will have to appoint a Commission to go into the standard of education of every University to see whether a particular Degree should be recognised. I do not think this should be left to the absolute power of the Supreme Court. Similarly, in matters relating to costs and fees, it is also a matter of public policy. It is but right that the Supreme Court should also have the co-operation of the Executive. This idea that the Supreme Court has to be somebody which is absolutely separate from every other institution set

up by the Constitution is a wholly wrong and mischievous idea. The Supreme Court has to be one of our safeguards. But, If it is to be put in a position of hostility to the Executive or Parliament, then, the power of the Supreme Court will vanish, because, after all, it has to depend upon the goodwill both of Parliament and the Executive. I would suggest therefore that this idea of independence of the Supreme Court should not be done to death as many Members are attempting to do.

There is only one other small point which I would like to point out. In the new clause which has been moved by my honourable Friend Mr. T. T. Krishnamachari by amendment No. 42, it is stated, rules as to the procedure for the review of any judgment pronounced or order passed by the Court including the time within which applications to the Court for such review are to be entered". I would suggest that this is not wholly consistent with the new article 112-A as has been adopted. There, it is said, not only the procedure, but the power of review itself, or the conditions of review will be limited by rules. I personally objected to that provision. But, having passed that, I think the subsequent amendment should be consistent with the provision already adopted. I would suggest that the words "the procedure for" may be left out. "Rules as to the review of any judgment" will be sufficiently comprehensive, If you want that the word "procedure" must stand in the clause, the words "rules as to the conditions of and procedure for" may be adopted to be consistent with the provision which we have already adopted.

The Honourable Dr. B. R. Ambedkar : Mr. President, I regret very much that I cannot accept the amendment moved by my honourable Friend Mr. Lari. It seems to me that he has completely misunderstood what is involved in his amendment.

The reason why it is necessary to make the rule-making power of the Supreme Court subject to the approval of the President is because the rules may, if they were left entirely to the Supreme Court, impose a considerable burden upon the revenues of the country. For instance, supposing a rule was made that a certain matter should be heard by two Judges. That may be a simple rule made by the Supreme Court. But undoubtedly, it would involve a burden on public revenues. There are similar provisions in the rules, for instance, regarding the regulation of fees. It is again a matter of Public revenue. It could not be left to the Supreme Court. Therefore, my submission is that the provisions contained in article 121 that the rules should be subject to the approval of the President is the proper procedure to follow, Because, a matter like this which imposes a burden upon the public revenues and which burden must be financed by the legislature and the Executive by the imposition of taxation could not be taken away out of the purview of the Executive.

I may also point out that the provisions contained in article 121 are the same as the provisions contained in article 214 of the Government of India Act, 1935 relating to the Federal Court and article 224 relating to the High Courts. Therefore, there is really no departure from the position as it exists today. With regard to the comments made by my honourable Friend, Mr. Santhanam relating to amendment No. 42 moved by honourable Friend, Mr. T. T. Krishnamachari, I am afraid, I have not been able to grasp exactly the point that he was making. All that, therefore, I can say is this, that this matter will be looked into by the Drafting Committee when it sits to revise the Constitution, and if any new phraseology is suggested, which is consistent with the provisions in the article which we have passed conferring power of review by the Supreme Court, no doubt it will be considered.

There is one other point to which I would like to refer and that is amendment No. 43. In amendment No. 43, which has been moved by my honourable

[The Honourable Dr. B. R. Ambedkar]

Friend, Shri Alladi Krishnaswami Ayyar, and to which I accord my whole hearted support, there is a proviso which says that if a question about the interpretation of the Constitution arises in a matter other than the one provided in article 110, the appeal shall be referred to a Bench of five judges and if the question is disposed of it will be referred back again to the original Bench. In the proviso as enacted, a reference is made to article 111, but I quite see that if the House at a later stage decides to confer jurisdiction to entertain criminal appeals, this proviso will have to be extended so as to permit the Supreme Court to entertain an appeal of this sort even in a matter arising in a criminal case. I, therefore, submit that this proviso also will have to be extended in case the House follows the suggestion that has been made in various quarters that the Supreme Court should have criminal jurisdiction.

Mr. President : The question is:

"That in clause (1) of article 121, the words 'with the approval of the President' be deleted."

The amendment was negatived.

Mr. President : The question is:

"That with reference to amendments Nos. 1959,1960 and 1962 of the List of Amendments after sub-clause (b) of clause (1) of article 121, the following new sub-clause be inserted :-

'(bb) rules as to the procedure for the review of any judgment pronounced or order passed by the Court including the time within which applications to the Court for such review are to be entered;' "

The amendment was adopted.

Mr. President : The question is:

"That in sub-clause (b) of clause (1) of article 121, the words 'and the time to be allowed to advocates appearing before the Court to make their submissions in respect thereof' be deleted."

The amendment was adopted.

Mr. President : The question is:

"That with reference to amendment No. 1964 of the List of Amendments, for clause (2) of article 121, the following clauses be substituted:—

'(2) Subject to the provisions of the next succeeding clause, rules made under this article may fix the minimum number of judges who are to sit for any purpose, and may provide for the powers of single judges and Division Courts.

(2a) The minimum number of judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution, or for the purpose of hearing any reference under article 119 of this Constitution shall be five:

Provided that where the Court hearing an appeal under article 111 of this Constitution consists of less than five judges and in the course of the hearing of the appeal the court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such court shall refer the question to a court constituted under this clause for opinion and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.' "

The amendment was adopted.

Mr. President : The question is:

"That for clause (3) of article 121, the following be substituted :

'(3) No judgment shall be delivered by the Supreme Court save in open court, and no report shall be made under article 119 of this Constitution save in accordance with an opinion also delivered in open court.' "

The amendment was adopted.

Mr. President : The question is:

"That for clause (4) of article 121, the following be substituted :—

'(4) No judgment and no such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the judges present at the hearing of the case but nothing in this clause shall be deemed to prevent a judge who does not concur from delivering a dissenting judgment or opinion.' "

The amendment was adopted.

Mr. President : The question is:

Article 121, as amended, was added to the Constitution.

The motion was adopted.

Article 121, as amended, stand part of the Constitution.

New Article 122-A

Dr. Bakshi Tek Chand : Sir I move:

"That with reference to amendments Nos. 1909 and 1926 of the List of Amendments, after article 122 the following new article be inserted :—

122-A. In this Chapter, references to any substantial question of law to the interpretation of this Constitution shall be construed as including references to any substantial question of law as to the interpretation of the Government of India Act, 1935, or of any Order in Council or order made thereunder or of the Indian Independence Act, 1947, or of any order made thereunder.'"

Interpretation.

Sir, the necessity for adding this new article has arisen because in several sections of this chapter which relates to the powers of the Supreme Court, the expression used is "as to the interpretation of this Constitution". For instance, in article 110 which takes the place of section 205 of the Government of India Act, power is given to a party to prefer an appeal to the Supreme Court in any matter, whether in civil, criminal or other proceedings, if the High Court certifies that the case involves a substantial question of law "as to the interpretation of this Constitution." "This Constitution" would meat the Constitution which is being passed by, this Constituent Assembly now. There may be other cases, however, in which the question of the interpretation of the Government of India, Act of 1935 or of an Order in Council by His Majesty or an order of the Governor General issued under the powers conferred on them by the Government of India is involved; similarly, questions relating to the interpretation of the Indian Independence Act of 1947 may arise. No provision for appeals in such cases is made in the article as drafted. Such questions may have arisen in such cases which are pending before the High Court or before subordinate Courts on the day the new Constitution comes into operation. What will happen to them? Unless we enlarge the meaning of this expression "this Constitution" in the manner in which it is suggested in this amendment, there will be no appeal at all from the decisions of the High Court in those matters. Those matters may be of very vital importance, and may arise in connection with legislation which has been enacted by the provincial or Central legislatures or in Ordinances promulgated by the Governor or the Governor-General. If these question arose in cases which had been decided by the High Court and are pending before the Privy Council on the date on which the New Constitution comes into force, they will be automatically transferred to the Supreme Court under the transitional provision, made in article 308(2) which will be placed before this House at the proper time. But there is no provision with regard to cases in which similar questions are involved. But which have not yet been decided either by the subordinate court or by the