

चांधरी चरण सिंह]

लेकिन फौरन उस को मिर्जापुर ट्रांसफर कर सकते थे। लेकिन दिल्ली तो एक शहर है, 6 डिस्ट्रिक्ट के बराबर समझ लीजिये या 7 डिस्ट्रिक्ट के बराबर समझ लीजिये। एक मुहल्ले से दूसरे मुहल्ले में या एक थाने से दूसरे थाने में भेजा जा सकता है। जब एडमिनिस्ट्रेशन टाप से बाटम तक इनफेफिशिएन्ट हो, तो उस के सुधारने में यह उम्मीद करना कि एक दम एफिशियेन्ट हो जायगा या एक दम उस में इन्टीग्रिटी आ जायगी, मैं समझता हूँ—यह ज्यादा उम्मीद करना है। मेरी कोशिश होगी कि जो चीज़ भी मेरी नोटिस में आये, उस को जल्द से जल्द ठीक किया जाये।

एक शिकायत यह की गई कि हमें होम मिनिस्टर के यहां मारे-मारे फिरना पड़ता है, कभी फला मिनिस्टर के यहां मारे-मारे फिरना पड़ता है, मैं तो नहीं समझता कि असेम्बली के हो जाने में यह समस्या हल हो जायगी। जब असेम्बली होगी तो मिनिस्टर वहां भी कई होंगे और फिर उस में भी कई मन्त्रैवत्स होते हैं। असेम्बली हो जाने के बाद भी ओवरलैपिंग तो होता ही है इसी लिये वहां का आइंडेन्टर के रूप में चीफ मिनिस्टर की आवश्यकता होती है।

सभापति महोदय, इन शब्दों के साथ मैं सदन के माननीय सदस्यों में अपील करूंगा कि वे इस विधेयक को पास करें।

सभापति महोदय : प्रश्न यह है :

“कि दिल्ली प्रशासन अधिनियम, 1966 का संशोधन करने वाले विधेयक पर विचार किया जाये।”

The motion was adopted.

सभापति महोदय : प्रश्न यह है कि क्लॉज न० 2, 3, 1, इनेक्टिंग फार्मूला और टाइटल विधेयक के अंग बनें।

The motion was adopted.

Clauses 2, 3 & 1, the Enacting Formula and the Title were added to the Bill.

चांधरी चरण सिंह : मैं प्रस्ताव करता हूँ :
“कि विधेयक को पारित किया जाय।”

सभापति महोदय : प्रश्न यह है :
“कि विधेयक को पारित किया जाय।”

The motion was adopted.

18.26 hrs.

DISPUTED ELECTIONS (PRIME MINISTER AND SPEAKER) BILL

MR. CHAIRMAN: Now, we take up the next item. Shri Shanti Bhushan.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHANTI BHUSHAN): Mr. Chairman, Sir, I beg to move*: “That the Bill to provide for Authorities to deal with disputed elections to Parliament in the case of Prime Minister and Speaker of the House of the People and for matters connected therewith, be taken into consideration.”

I do not want to make a long speech. The other day, while introducing this Bill, I had stated that it was the Government's intention to do away with Art. 329A of the Constitution which had made a distinction between the Prime Minister and the Speaker on the one hand and the other Members of Parliament on the other hand in regard to the manner in which their elections could be disputed and the election petitions could be tried.

We have already introduced a Bill for the appropriate amendment of the Constitution for the purpose of deleting that Art. 329A from the Constitution. But, as I had stated earlier,

*Moved with the recommendation of the Vice President acting as President.

so long as that Article in the Constitution remains on the statute book, the Government was under some constraint because it had been provided that an authority other than that specified in Art. 329 alone could go into the election disputes relating to a person holding office of Prime Minister or holding Office of Speaker. It was, for that purpose, that this Bill was introduced.

Now, Sir, earlier, an Ordinance had been issued by the previous Government by which they had provided that the authority to go into the election disputes relating to elections to the Parliament of the Prime Minister and the Speaker shall be a Committee consisting of nine members—three representatives of the Lok Sabha, three representatives of the Rajya Sabha and three nominees of the President.

Now, it was considered that such an authority would not command the confidence of the people and, in that connection, Sir, I would like to invite the attention of this House to a passage in *May's Parliamentary Practice* because, in England also, earlier, dispute about elections of Members of Parliament used to be considered by the Parliament itself, by the House of Commons itself and, subsequently by committees of the House. This is what is stated in the *May's Parliamentary Practice* in page 9 with regard to that. I quote:

“Before the year 1770 controverted elections were tried and determined by the whole House of Commons, as mere party questions, upon which the strength of contending factions might be tested. In order to prevent so notorious a perversion of justice, the House consented to submit the exercise of its privileges to a tribunal constituted by law, which, though composed of its own Members, should be appointed so as to secure impartiality and the administration of justice according to

the laws of the land and under the sanction of oaths. The principle of the Grenville Act, and of others which were passed at different times since 1770, was the selection by lot of committees for the trial of election petitions. Partiality and incompetence were, however, generally complained of in the constitution of committees appointed in this manner;

“...and, in 1839, an Act was passed establishing a new system, upon different principles, increasing the responsibility of individual Members, and leaving but little to the operation of chance. This principle was maintained, with partial alterations of the means by which it was carried out, until 1868, when the jurisdiction of the House in the trial of controversial election was transferred by statute to the courts of law.”

So, Sir, in England also earlier the House used to go into disputes in regard to elections. Later on, the Committees went into such disputes. Even that procedure was found to be unsatisfactory. Thereafter the matter was handed over to the courts. That was the position which was accepted in our Constitution originally. It was only later on that Article 329A was introduced. As I said earlier we have already introduced a Constitutional Amendment Bill for rectifying that position. So far as this Committee was concerned this was not considered a satisfactory authority which would command the confidence of the people. The question was as to which authority should be substituted in its place. We gave anxious consideration to that question and we thought since it was not possible to introduce High Court—as it was ruled out by Article 329A which said it must be some authority other than that specified under Article 329(b)—the only other authority which could command the confidence of the people would be a still superior authority, namely, a judge of the

[Shri Shanti Bhushan]

Supreme Court to be nominated by the Chief Justice of India. That was the reason why this authority has been stipulated in this Bill.

Sir, I would like to say—with your permission—that I am sorry that the other day when I introduced the Bill a question had arisen as to whether against the decision of the single judge of the Supreme Court, a further appeal would lie and under an error I had stated then that perhaps an appeal would lie under Article 136. I referred to the analogy of Article 139 and the Supreme Court decisions on the subject. I am very sorry to say that I had overlooked at that time that under Article 329A there is an express provision saying that the decision of the authority so constituted shall be final. I apologise to the House for having made a statement which was not correct. Since the point was raised at the spur of the moment I had overlooked that provision in Article 329A.

SOME HON. MEMBERS: We appreciate what you say.

SHRI SHANTI BHUSHAN: So I apologise to the House for that. With these few words I commend the Bill to this House.

MR. CHAIRMAN: Motion moved:

“That the Bill to provide for Authorities to deal with disputed elections to Parliament in the case of Prime Minister and Speaker of the House of the People and for matters connected therewith, be taken into consideration.”

SHRI O. V. ALAGESAN (Arakonam): Mr. Chairman, Sir, I am surprised that the learned Law Minister should bother this House with this Bill at this late hour as we are already working overtime.

AN HON. MEMBER: The original Bill was also passed in a hurry.

SHRI O. V. ALAGESAN: Now, Sir, I am on a firmer ground because hon. Members from the opposite side contested even at the introduction stage the principle of this Bill, the manner of introducing it and the very necessity for introducing it.

Now, Sir, in answer to the various objections that were raised by the experienced hon. Members of this House Sarvashri S. N. Mishra, Madhy Limaye, Shri Yadav and also by my friend, Shri Kamath—I am very happy to see Mr. Kamath again in this House—in answer to the various doubts and objections that were raised by the hon. Members, the Minister said that there would be a lacuna and so he is bringing forward this Bill. From what we have seen of the hon. Law Minister in the short period, we have credited him with clear thinking and very precise speech. He comes to this House with a very big legal reputation and I hope he will soon find a berth in this House or in the other House and we will have the benefit of his knowledge and experience and both the House and the nation, I hope, will benefit by his being in this House.

Now, I am really surprised that there is some confusion whether there is really a gap that should be filled. Now we are going through the whole process of this long Bill being enacted by this House. I think it would be simply road rolled because the Minister of Parliamentary Affairs was very anxious to finish the business as quickly as possible. I do not know whether it is necessary to go through the whole process of looking into this Bill and considering this Bill and passing this Bill or not, when you have already introduced your Constitution (Forty-third Amendment) Bill where you have said in clause 6 that you are going to omit Article 329A.

SHRI SOMNATH CHATTERJEE (Jadavpur): Would you support that?

SHRI O. V. ALAGESAN: When it comes, we will see whether we support or oppose. Don't be impatient.

Now, there is a provision in sub-clause (2) of clause 6 where you say election petitions are to be disposed of by the authority that you are now going to create, namely, one of the Supreme Court judges appointed by the Chief Justice for this purpose. Then as soon as this Constitution (Amendment) Bill takes effect, it will abate and you will be reverting to the regular authority, to the original position and the authorities that were there then will come into existence and will be approached by the Election petitioner. Apart from the fact whether there is any election petition against the present Prime Minister and present Speaker, I do not think that there is any necessity to provide in this fashion against all that you have said during the election time, and that is why hon. Members on your side took objection to it. You can easily provide and easily alter sub-clause (2) of clause 6 and say that if any election petition is to be filed, that can be filed, the time can be allowed and that can be filed under the old authority, under the authority to which we will revert if this Constitution (Amendment) Bill becomes law. When that is the case, I do not know why this Bill should be brought and the House should be put to the necessity of going through the process of passing this law.

Sir, I have done.

SHRI HARI VISHNU KAMATH (Hoshangabad): Mr. Chairman, at the outset may I request that instead of hustling the business of the House—these three items are fairly important—the House if it agrees unanimously may sit on Saturday.

AN HON. MEMBER: Next Session only.

SHRI HARI VISHNU KAMATH: The House must agree for the next Session in that case.

Mr. Chairman, I am glad to note that the Minister of Law has admitted that the Bill before the House is

wholly repugnant to the luminous principle of equality before the law, and I am sorry to say that the acceptance of this Bill goes totally against the grain because it appears that we have not yet emerged from the umbra of the emergency into the light of freedom and equality and we are still living in the penumbra of that emergency. The Law Minister the other day also advanced certain pleas for acceptance by the House. In spite of all that he has said, I have still got doubts whether this Bill should have come before the House as it is and as it has been moved by the Law Minister. In the first place, there are two grounds on which I would like to criticise this Bill.

What does clause (b) of Article 329 say? How does it read? What does article 329(b) say: No election to either House of Parliament or either House of the legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate legislature. I would invite your attention to Directions 19(a) and 19(b) of the Directions of the Speaker. The present Bill seeks to replace the Ordinance with certain modifications. So, it is quite patent that the Bill modifies the Ordinance. So, if you could modify it to a certain extent, why cannot you modify it to a fuller extent and establish the principle of equality before the law on as high a pedestal as we can because the House will agree that the Speaker of the House and the Prime Minister who were holding the offices at the time of elections are on a different footing from those who were elected Prime Minister and Speaker after the elections were over. Therein lies the rub, because this Bill seeks to provide for both contingencies.

[Shri Hari Vishnu Kamath]

I now invite your attention to clause 5 of the Bill, the proviso thereto:

"Provided that a petition calling in question the election of a person who does not hold the office of Prime Minister or, as the case may be, Speaker of the House of the People at the time of such election and who is appointed or chosen to that office, after such election but before the expiry of the time for presenting such election petition, may be presented within forty-five days from the date on which such person was appointed as the Prime Minister or chosen as the Speaker of the House of the People."

Could this not have been deleted, because the Ordinance is sought to be modified? Could this not have been included in the modification? It is wholly repugnant. I do not know why the hon. Law Minister wants to insist upon this provision. Imagine a person who fights the election as an ordinary candidate. A, B, C are all equals on the battle-field of the ballot. The hon. Law Minister has tremendous experience because he conducted the election petition of Shri Raj Narain against the then Prime Minister after the 1971 election. A person who holds the office of the Prime Minister at the time of election is in a different category. Because the Prime Minister can exploit the advantages accruing to him on account of wealth money, or position and other things. But consider a person who fights the election as an ordinary candidate like most of us who fought the election now,—we have fought elections in the past also,—and if after the election a person is elected as Prime Minister or Speaker, how does it entitle him to be placed in a different category from other persons who fought the elections on the same battle field? I hope the hon. Minister will throw some light on this matter because it is a very important matter; not that it is probable but it is not beyond the realms of possibility, that within a certain period of time, the party which has

come to power may elect somebody as speaker or Prime Minister and within a few days, the candidate who opposed him might file an election petition against him, but within the next few days either due to an act of God or may be for other reasons, the person chosen as Speaker or Prime Minister no longer may be holding that office. Again that means therefore, the petition will have to be filed against the new incumbent before a proper authority. This proviso, I think, should be wholly deleted. It is a repugnant, undesirable, unhealthy anti-equality proviso. Generally speaking, the entire Bill is against the principle of democratic equality. We can accept it only on the solemn assurance of the Law Minister that no stone will be left unturned to see, to ensure, that the principle of equality has been established under the Constitution with regard to elections and also further reinforced by the Peoples Representation Act of 1951; that principle is again upheld and a new law, a new Bill is brought before the House at the earliest possible date, seeking to delete all these inequality provisions with regard to the Speaker, with regard to the Prime Minister from the Statute that provides for challenging elections to persons who have been elected to such offices or who were holding such offices before the elections.

Now, I would refer to another matter and that is: here it is stated in the Statement of the Minister that the Ordinance was passed in February 1977 and the Ordinance promulgated provided for a Council of 9 Members, 3 Members of this House, 3 Members of the other House and 3 other Members. Now, I made the point the other day when it was introduced that either it could have been allowed to lapse or the Council of Ministers could advise the President to withdraw the Ordinance. Neither of these two courses was adopted. The Law Minister then said on that occasion that there might be a vacuum if that course had

been adopted, because of Article 329A, I would request him, because he is a legal luminary, to throw some light on this particular point. Suppose the Ordinance had lapsed or suppose the Ordinance had been withdrawn by the President, Article 329A provides for the constitution of authority of 9 Members—of Council of Members. Suppose the House refused to appoint 3 Members from this House, then there would have been no vacuum. The old law would have taken effect, under the R.P. Act of 1951; and because the House refused to cooperate in this matter and refused to appoint 3 members of this House in the Council, the Council would have been defunctus officio more or less *ab initio*. There would have been no body under Article 329A. And therefore, this point might be considered by the Law Minister and he might throw some light as to whether this could not have been attempted or this could not have been tried before bringing this inequality Bill before the House. I have tabled some amendments, and I will take them up at the appropriate stage.

SHRI SOMNATH CHATTERJEE (Jadavpur): Sir, I do not envy the Law Minister who has to pilot an obnoxious Bill like this, but I quite appreciate that he has no option because there cannot be a gap until article 329(a), an aberration which was incorporated in the Constitution, is set right. I hope the opposition will have at least that much of sense to support the deletion of article 329(a) when the matter comes before the House. I am sure it was incorporated in the Constitution with the expectation that Shrimati Indira Gandhi will be returned to this House and made Prime Minister again. If she could have understood the minds of the people and realised the effects of the actions of the previous government during the last 20 months, they would not have taken the trouble of amending the Constitution. Surely, they had no concern about Shri

Morari Desai's election. Who the really intended beneficiary of article 329(a) was is obvious. As I said, the Speaker was brought in to keep company only. The real person who was intended to be saved from judicial decision was the then Prime Minister, who thought she was the permanent Prime Minister of this country. But the people have given their verdict. The previous government was afraid of judicial scrutiny. So they tried to conceive of a method for deciding the election disputes in respect of two individuals in this country, however high position they might be made to occupy and they were intended to be put above the law. A special class was created for two persons in this country to whom the legal processes will not apply. My friends here do not feel ashamed that they had supported that law. Today they are giving advice to the Law Minister why this Bill should or should not have been brought. It has to be brought, because otherwise there will be a gap, which has to be filled up. I am sure the Law Minister is not happy to hold the deformed child of a diseased progenitor. This is an atrocity committed on the Constitution. I am thankful that he has done at least one thing. So long as it will remain on the statute book—I hope it will not be used at any point of time—at least the obnoxious features of the ordinance have been deleted. The original provision was, there will be a body of 9 persons to be handpicked. She thought it will be a captive Parliament as it was in the past. Through the so-called process of election with 3 members of the Lok Sabha, 3 members of the Rajya Sabha and a captive bureaucracy and handpicked ex-judges etc. a unique body of 9 persons would be formed who would decide her election petition on the basis of partisan policies. This atrocity was committed on the Constitution for the sake of one individual in this country, but before a judicial tribunal had an opportunity to deal with her election, the people have dealt with her election properly and rejected her outright.

[Shri Somnath Chatterjee]

As I said, I must thank the Law Minister that that sort of authority has not been continued in this Bill. Under this new Bill which he has brought, a Supreme Court judge is to be nominated by the Chief Justice and he will be the authority to try the election petition. We do not know whether an election petition will be filed or not. When Mr. Kamath objected to this proviso to clause 5, he might not have noticed that article 329(a) itself has made a provision that even if subsequently a person is appointed as Speaker or Prime Minister, the previous election petition, even if filed against him or her, would abate. Therefore, this proviso has to be inserted here and it cannot be helped. I know Mr. Kamath would feel outraged at this atrocity but it has been done. The Constitution has been defiled and raped by a power-hungry executive at that time. They wanted to perpetuate their hegemony in this country by all sorts of Draconian laws and outrageous provisions put into the Constitution. In the name of bringing about the paramountcy of Parliament, they defiled the Constitution and they defiled this House. They insulted the people's intelligence. This is what had happened. Therefore, a judicial body, a hand-picked body as was contemplated in the Constitution, was selected for the obvious and ulterior motive of keeping her in office. She knew that she could remain in office only through these people and not otherwise. But the people's judicial authority had found it out and given its judgment. I do hope that there will be no occasion to use this law in future in this country. We wish at least to get rid of 329(A) if we do not get rid of other provisions of the Constitution. I only wish that some good sense will dawn on this Opposition and they will behave according to the wishes of the people which have been very clearly manifested during the last elections.

1 श्री हरिकेश बहादुर (गोरखपुर) :
माननीय सभापति महोदय, इस सदन में

जो बिल हमारे माननीय ला मिनिस्टर ने प्रस्तुत किया है मैं उसका समर्थन करने के लिए खड़ा हुआ हूँ। पुरा मुल्क इस बात को जानता है कि 12 जून, 1975 को जब इलाहाबाद हाईकोर्ट ने तत्कालीन प्रधान मंत्री श्रीमती इन्दिरा गांधी के एलेक्शन को सेट एसाइड कर दिया तो उस समय इस मुल्क के अन्दर एक बहुत बड़ी चेतना जागृत हुई और इस देश की जनता ने कहा कि प्रधान मंत्री को अपने पद से इस्तीफा दे देना चाहिए। नैतिकता की मांग भी थी कि प्रधान मन्त्री अपने पद से इस्तीफा दे देतीं। लेकिन बजाय इसके कि वे इस्तीफा देतीं उन्होंने सबसे पहले इस मुल्क के अन्दर जो कांग्रेस के लोग थे इस पार्लियामेंट में उन से एक प्रस्ताव करवाया कि उन के बिना मुल्क नहीं चल सकता है। इस से भी आगे बढ़कर जब एक रैली हो रही थी उसमें कांग्रेस अध्यक्ष ने एक गीत गाया। प्रधान मंत्री के लिए वह गीत था कि तुम्हारी सुबह की जय, तुम्हारी शाम की जय तुम्हारे नाम की जय, तुम्हारे काम की जय। इस तरह की बातें कहने के बाद इस मुल्क में इमर्जेंसी लागू की गई। तमाम लोगों को गिरफ्तार किया गया। पीपुल्स रेप्रेजेंटेशन एक्ट में अमेंडमेंट कर दिया गया और उस से भी आगे बढ़कर संविधान में संशोधन कर दिया गया। प्रधान मंत्री को जुडिशियरी की सीमा से बाहर कर दिया गया। यह इस देश की जनता के साथ लोकतंत्र के साथ बहुत बड़ा अन्याय था। ये बहुत गलत काम हुए। डेमोक्रेसी की जो सब से जरूरी बात है ईक्वलिटी बिफोर ला जो कि लोकतंत्र को जीवित रखने के लिए जरूरी होता है उस को समाप्त करने की कोशिश की गई। चूँकि हमारा मुल्क एक लोकतांत्रिक मुल्क रहा है, जब आजादी मिली उसी समय देश के सभी महान नेताओं ने फैसला किया कि इस देश में लोकतंत्र की स्थापना होनी चाहिए और जनता के विचार

से, जनता की राय से सरकार चलनी चाहिए, इस लिए आर्टिकल 14 में ईक्वलिटी बिफोर ला की बात कही गई थी, लेकिन इन सारी बातों को ताक में रख कर जो कानून बनाया गया और जो संविधान में संशोधन किया गया उस से साफ जाहिर होता है कि प्रधान मंत्री को जुडिशियरी की सीमा से बाहर रखने की साजिश की गई। केवल एक व्यक्ति के लिए, स्पीकर का नाम तो ऊपर से जोड़ दिया गया, ये सारी चीजें की गई। आज जो संविधान में आर्टिकल 329(ए) है, यह हमारे संविधान के लिए एक बहुत बड़ा ब्लाट है, इसको जल्दी समाप्त करना चाहिए।

आनरेबिल ला मिनिस्टर ने हमारे सामने जो बातें दो दिन पहले कही थीं, उन को दृष्टि में रखते हुए न केवल हम बल्कि हमारे विरोधी दल के सभी माननीय सदस्य जरूरी समझते होंगे कि यह जो बिल आया है, इसको जल्दी पास किया जाय। लेकिन एक बात मैं अवश्य कहना चाहता हूँ—हम अपनी सरकार के बहुत आभारी हैं, जिन्होंने इस बिल को यहां ला कर यह साबित किया है कि जनता पार्टी की यह सरकार लोकतन्त्र में और इस देश की जुडिशियरी में गहरी आस्था रखती है।

19 hrs.

श्री शिवनारायण (बस्ती) : सभापति महोदय, मैं ला मिनिस्टर साहब को धन्यवाद देना चाहता हूँ—12 जून, 1975 को जिस मुकदमे को लड़ कर इन्होंने जीता था—उस से इस मुल्क में डेमोक्रेसी की नांव मजबूत हुई। इन का और इलाहाबाद के जस्टिस जगमोहन लाल सिन्हा का नाम हमेशा के लिए इस देश के इतिहास में अमर हो गया। उसी का यह परिणाम

है कि इस देश की जनता ने आप को यहां लाकर बैठा दिया और पुरानी प्राइम मिनिस्टर जो अपने आप सुपर-ह्यूमन बनना चाहती थी, उन को 1, सफदरजंग रोड में ले जा कर बैठा दिया।

मैं ला मिनिस्टर से रिक्वेस्ट करूंगा कि आर्टिकल 329(ए) को जल्द से जल्द संविधान से निकाल दिया जाय, इस के निकलने से बाद हमारा संविधान शुद्ध हो जाएगा। आज आप से बड़ा कांस्टीट्यूशनलिस्ट हमारे पास कोई नहीं है, आप कानून के महान पण्डित हैं, मैं आप की सराहना करता हूँ, आप की हर आज्ञा का पालन करूंगा। इस देश में डिसिप्लन आप ही ला सकते हैं, ये सामने बैठने वाले कुछ नहीं कर सके, केवल अपना ढोल ही बजाते रहे। इन के कारनामों ने ही इन को वहां बैठाया है। हम ने डेमोक्रेटिक सैट-अप का जो नक्शा बनाया है, अपनी जनता से जो वायदे हम ने किए हैं—उन को हमें पूरा करना है।

आज 10 दिन के बाद मुझे बोलने का अवसर मिला है—1970 के बाद आज पहली दफा मैं इस सदन में बोल रहा हूँ। मैं आप को धन्यवाद देता हूँ—आप ने मुझे बोलने का अवसर दिया। हमारी जनता की लालसा है कि किस दिन आप अमेंडमेंट पास कर के इस को पांच साल करें और पुराने काले कानून को समाप्त करें।

इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ।

THE MINISTER OF LAW, JUSTICE
AND COMPANY AFFAIRS (SHRI
SHANTI BHUSHAN): First of all I

[Shri Shanti Bhushan]

would like to thank the hon. Member Mr. Alagesan for the kind words that he has said about me. I would also thank the hon. Members Mr. Kamath, Mr. Somnath Chatterjee, Mr. Hari-kesh Bahadur; and particularly the hon. Member Mr. Sheo Narain for the very kind words that he has said about me. The point which has been raised by the hon. Member Mr. Alage-san is as to why, at this late hour, this Bill is being brought and if the Bill was not brought, how would Heavens have fallen. All that I would like to say is that I do not know I cannot forecast and I am not a for-tune-teller as to whether anybody is going to question the election of Mr. Morarji Desai or Mr. Sanjiva Reddy. But the whole question is: if the law of the land was in such a shape that even if a person wanted to challenge the election of Mr. Morarji Desai or of Mr. Sanjiva Reddy—if he had no forum to go to, what will be the face of this demo-cratic country before the whole world? As it is, it is highly unfortunate that an election petition against these two persons cannot be filed before the same authority before whom election petitions can be filed against the other Members of Parliament. But we had to recognize the constraints of Arti-cle 329-A. Hon. Member Mr. Kamath has raised the point as to whether, if there had been a gap, would not the position under the Representation of People's Act have been reverted to, and an election petition laid in the High Court, as is usual in the case of other Members of Parliament. With the utmost humility at my command, I would like to invite the hon. Mem-ber's attention to the very clear words in Article 329-A. The words are not capable of being construed in two ways at all. It is well known that in laws sometimes two interpretations are possible. In fact, two courts sometimes differ on the interpretation, but there are certain situations in which two interpretations are not

possible, and this is a situation of that kind, because the words are:

“(b) no election to...of... shall be called in question, except before such authority [not being any such authority as is referred to in clause (b) of article (329) or body and in such manner....’

So, the provision is very clear that the election of a person who has be-come the Prime Minister or Speaker shall not be questioned before any authority which is specified in the law of Parliament and such authority shall be different from the one which is specified in article 329(b).

SHRI HARI VISHNU KAMATH: Does clause (b) refer specifically to High Court Judges? I do not think so.

SHRI SHANTI BHUSHAN: Article 329(b) refers to an authority, such authority as may be provided for by or under any law made by Parliam-ent. Therefore, the authority which is specified in article 329(b) is the authority which is specified in the appropriate law of Parliament, name-ly, the Representation of the People Act. The authority which is refer-red in article 329(b) is, therefore, the High Court. So, it was not possi-ble under article 329(A) to specify the High Court as the authority which would deal with the election peti-tions regarding the election of the Speaker and the Prime Minister.

As I said earlier, with the utmost humility and great deference to the experience of the hon. Member, Shri Kamath, here he seems to be on slip-pery ground because it would not be possible for any counsel in a High Court to advance an argument of that kind.

SHRI HARI VISHNU KAMATH: Not even an eminent counsel like you.

SHRI SHANTI BHUSHAN: There-fore, these were the constraints.

It is true that there is a distinction and that is why we took care to substitute the High Court not by a district Judge, not by a lower authority, but by a higher judicial authority, namely, a Supreme Court Judge. So, I would say that there cannot be really any objection to this Bill.

So far as article 329 is concerned, as I stated earlier, we have already introduced the Bill today for the deletion of the entire article. Of course, we cannot take this august House or the other House for granted. Obviously that Constitutional (Amendment) Bill will have to be discussed both in this House and in the other House and as and when it becomes law, automatically this Bill which is being enacted will fall through, will become infructuous. Till then, because the result of the elections have already been declared, any person is entitled today to file an election petition before some authority.

SHRI K. LAKKAPPA (Tumkur): The other amendment will apply.

SHRI SHANTI BHUSHAN: As soon as the Constitution (Amendment) Bill is adopted. Until then this would be the position. Today that has not been adopted. It has merely been introduced. Till then the gap cannot be there because every person is entitled to file an election petition today. There must be some forum. The forum provided for by the Ordinance was that Committee. We thought that was not a desirable thing. It was in that connection that I referred to the history in England also. It was for that reason that a Supreme Court Judge has been substituted by this Bill.

With these words I commend the Bill to the House.

SHRI HARI VISHNU KAMATH: On a point of clarification. May I ask if, in view of the constraints of article 320A, a Bench of two High Court Judges could not have been

visualised as then there would have been no violation of the Constitutional provision?

SHRI SHANTI BHUSHAN: So far as two judges are concerned, the Representation of the People's Act provides for the High Court. The election petition has to be presented to the High Court. Even a bench of the High Court is a part of the High Court and one cannot say when the petition is presented to the High Court authority, it is not being presented to the High Court. Of course, there could be other difficulties. When I come to the amendments which have been moved, then I shall explain.

Whenever there is an original trial in which the evidence has to be recorded, witnesses have to be examined, it becomes complicated if a bench of more than one judge has to try that original case at the appeal stage. Arguments have to be heard. When the evidence has to be recorded, witnesses have to be examined, it becomes highly difficult and highly inconvenient if more than one judge sits there. That is why, it is customary that at the stage of the original appeal, it is normally the one judge who tries it.

MR. CHAIRMAN: The question is:

"That the Bill to provide for Authorities to deal with disputed elections to Parliament in the case of Prime Minister and Speaker of the House of the People and for matters connected therewith, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: Now, we shall take up clauses. There are amendments by Mr. Kamath against Clause 2. Are you moving them?

SHRI HARI VISHNU KAMATH: In view of the clarification given by the Minister and the constraints

[Shri H. V. Kamath]
 which he has now explained before the House, I would not like to move amendments nos. 1, 2 and 3.

MR. CHAIRMAN: There are no amendments to Clause 3

The question is:

"That Clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

MR. CHAIRMAN: There are amendments by Shri B. C. Kamble and Shri Ram Dhari Shastri against Clause 4.

Are both of you moving your amendments?

SHRI RAM DHARI SHASTRI (Padranna): No.

SHRI B. C. KAMBLE (Bombay South Central): No.

MR. CHAIRMAN: The question is:

"That Clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5—(Presentation of petition)

MR. CHAIRMAN: There are two amendments nos. 3 and 4 by Shri Kamath. Are you moving them?

SHRI HARI VISHNU KAMATH: I am moving amendment No. 4.

I beg to move:

"Page 3, line 28,—

for "two thousand" substitute "one thousand" " (4).

When the Government made it clear that the Ordinance is being replaced with certain modifications, I thought it would be more in consonance with the Janata principle of democracy and equality, the Janata Government's shining and luminous ideal of democracy and equality, to reduce the

security deposit of Rs. 2,000 which is provided in Section 117 of the Representation of the People Act, 1951.

It is hightime that this new Government in office did so. The modification could have been inserted in this Bill with no violence to the necessity for such a provision in view of Art. 329A.

Art. 329A does not rule out any such provision with regard to security costs of the petition and there is no reason why the Government should not reduce it. As a matter of fact, it was Rs. 1,000 before the emergency. I do not know when it was amended. I have not been in the House for ten years now. I am not sure. When I filed election petitions, two or three of them—one 10 years ago, one 20 years ago and another 15 years ago—it was only Rs. 1,000. I am not sure when it was raised to Rs. 2,000. It is hightime that the Government gave thought to this matter and reduced the security deposit from Rs. 2,000 to 1,000, because that won't do violence to the intentions of the Government or to the Bill as it is before the House. I think this should be accepted by Government.

SHRI SHANTI BHUSHAN: The hon. Member, Mr. Kamath, was very keen that there should be uniformity in the case of the Prime Minister and the Speaker on the one hand and the other Members of Parliament. It was in deference to his keenness for that uniformity that we had adopted Rs. 2,000 as security because that is the amount of security provided in the Representation of the People Act.

SHRI HARI VISHNU KAMATH: That Act too should be amended then. The relevant provision in the Representation of the People Act may be amended.

SHRI SHANTI BHUSHAN: That does not arise at this stage.

MR. CHAIRMAN: Is Mr. Kamath pressing for it or withdrawing it?

SHRI HARI VISHNU KAMATH: I reluctantly withdraw it.

MR. CHAIRMAN: Does he have the leave of the House to withdraw it?

HON. MEMBERS: Yes.

Amendment No. 4 was, by leave withdrawn.

MR. CHAIRMAN: The question is:

"That Clauses 5 to 12 stand part of the Bill."

The motion was adopted.

Cluses 5 to 12 were added to the Bill.

Clause 13—(Answering of criminalising motions and certificate of indemnity)

SHRI HARI VISHNU KAMATH: I beg to move:—

Page 6, line 8,—

for "criminate" substitute "incriminate" (5).

Page 6, line 9,—

for "criminate" substitute "incriminate" (6).

Substantially, they are the same because they refer to a linguistic or a verbal change. I looked up the dictionary this afternoon in the Library. I am reminded of what happened in the Third Lok Sabha when you, Sir, and Mr. Ravindra Varma were also Members of the House. It was the word "vermin" which appeared in the Bill as "vermins". I opposed that at that time. But the House decided by vote, not by the dictionary, unfortunately. Now, today I looked up the Oxford Dictionary and I found a little enlightening note on this matter. Both the words "criminate" and 'incriminate' are there

On the word "criminate", the note says that it was an old English word of 1645—the word "criminate" was current at that time—but it became "incriminate" in 1730. That is to say, the word "incriminate" is a more modern English word than the word "criminate". This is according to the Shorter Oxford Dictionary, not Concise.

19.17 hrs.

[SHRI TRIDIB CHAUDHARI *in the Chair*]

My hon. friend, the Minister of Law, is a very good lover of the English language. I have heard him addressing the Supreme Court. He is a master of the English language. I am sure, he will appreciate the force of this argument, that we should adopt a more modern English word as far as possible. I am not an authority on this matter; I am not a stickler of words either. I take my stand on the Oxford Dictionary that the word "incriminate" is a more modern word having been current from 1730 onwards, whereas the word "criminate" is an older English word which existed in 1648. I admit that both are permissible. But I for one would prefer the word "incriminate" rather than the word "criminate". I do not know what the Law Minister will say.

SHRI SHANTI BHUSHAN: The hon. Member has been rather modest in saying that he does not regard himself as an authority on English language. Because I found that the amendment was in his name, I also had taken the care to consult the dictionary myself. I found that both the words "criminate" and "incriminate" are there. My hon. friend is quite right in saying that one might be an old word and the other might be a modern word. But he would kindly bear in mind that in law, one prefers the older word, the well-tried word which is properly understood by the judges and the lawyers. If you

unnecessarily substitute an old word by a new word, the argument may arise that the change must have been made deliberately and, therefore, the meaning must be different. In order to obviate any such thing and unnecessarily create disputes, litigation, etc, we have chosen to follow the well-used word.

SHRI HARI VISHNU KAMATH: Old is not gold always. (*Interruptions*).

Since this is a linguistic amendment I think we may consult the dictionary here. I would like to say that, as it is a question of the English language or words, it is not too late even now to get a dictionary and see which is the more current expression—'incriminate' or 'criminate'. 'Incriminate' has a euphonious sound, whereas 'criminate' sounds similar to 'cremate'. I don't like it. 'Incriminate' would be a far better word in this context.

SHRI SHANTI BHUSHAN: I would request the hon. Member not to press it because it will unnecessarily give rise to litigation. I have some experience of such litigations. If you change a word in any area there would be some kind of a litigation.

I may add that, for the sake of uniformity also, we have used the same word that has been used in the Representation of the People Act.

SHRI HARI VISHNU KAMATH: If that is so, I would like to withdraw them, though with great reluctance. I seek leave of the House to withdraw them.

The Amendments Nos. 5 and 6 were, by leave, withdrawn.

MR. CHAIRMAN: The question is:

"That Clause 13 stand part of the Bill"

The motion was adopted.

*Clause 13 was added to the Bill.
 Clauses 14 to 28 were added to the Bill.*

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

SHRI SHANTI BHUSHAN: I beg to move:

"That the Bill be passed".

MR. CHAIRMAN: The question is:

"That the Bill be passed".

The motion was adopted.

19.23 hrs.

FOOD CORPORATIONS (AMENDMENT) BILL

THE MINISTER OF AGRICULTURE AND IRRIGATION (SHRI PRAKASH SINGH BADAL): I beg to move:

"That the Bill further to amend the Food Corporations Act, 1964, as passed by the Rajya Sabha, be taken into consideration".

Sir, the main issue in this Bill is a very limited one. It is proposed to amend Section 12A of the Food Corporation Act which regulates the emoluments, retirement and other benefits to the erstwhile employees of the Food Department who were transferred to the Food Corporation of India, it, thus, seeks to further protect the interests of the Food Corporation employees and does not relate to any major policy issue and I hope that all sides of the House would support the provisions of the Bill.

As the Hon. Members are aware, the Food Corporation of India came into existence in January, 1965, and the functions hitherto discharged by the Food Department, Government of India, relating to purchase, storage, movement, distribution and sale of foodgrains and other foodstuffs, were transferred to this Corporation. Consequently, about 17,000 employees belonging to the Food Department were transferred to the Food Corporation and for safeguarding their interest, a new Section 12A was inserted in the