

of the said article dealing with the abolition or creation of Legislative Councils in States reads as follows :

"Notwithstanding anything in article 168, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the Members of the Assembly present and voting."

The phraseology of article 169 clearly shows that the framers of the Constitution have chosen to clothe Parliament with the requisite power in this behalf either for the abolition or for the creation of a Legislative Council on the fulfilment of a prior condition, namely, the adoption of a resolution to that effect by the concerned State Legislative Assembly with the requisite majority. Once the condition precedent is fulfilled, by virtue of operation of the provisions of article 169, Parliament gets clothed with the necessary power.

Besides, the two types of resolution referred to, the Constitution does not contemplate any other type of resolution by the passing of which the State Legislative Assembly would be able to withdraw an earlier resolution of which the Lok Sabha is seized. This is the answer to the first question.

So far as the second question is concerned, article 169 does not mention Government as such. Parliament, if it so chooses, may exercise the power with which it gets clothed on the passing of a resolution by a State Legislative Assembly. The machinery of Parliament may be set in motion by Government or by a Private Member. What is more, whether the necessary action is taken by the Government or it is sponsored by a Private Member, the ultimate say in the matter is that of Parliament itself.

But, Parliament has to exercise its discretion and judgment; for, the word used in the

Article is "may" and not "shall". The wording is significant since in the Article in the first part (1) the word "may" is used and in the second part (2) the word "shall" is used. "May" denotes discretion and therefore Parliament is not bound blindly to implement the State Assembly resolution. The Parliament cannot only choose the time for implementation of the resolution but also decide against it. The answer to the second question is therefore, that it is optional.

However, before Parliament makes a law in pursuance of the provisions of article 169, if the Legislative Assembly of the State concerned were to revoke or modify its earlier resolution, it would be more appropriate for Parliament not to invoke the provisions of article 169 in this regard.

12.50 hrs.

RE: ALLEGATION BY MEMBER

SHRI MORARJI DESAI (Surat) : Sir, I have written a letter to you. Mr. Shashi Bhushan is here.

MR. SPEAKER : About your son ?

SHRI MORARJI DESAI : Yes.

MR. SPEAKER : I sent that to Mr. Shashi Bhushan. He wrote to me saying that he is going out for a week.

SOME HON. MEMBERS : He is here.

श्री शशिभूषण ( खारगोन ) : अध्यक्ष महोदय, मैंने आपको लिखा था कि मैं इस हफ्ते में आप से मिलने वाला हूँ और आप से इस सिलसिले बात करूँगा। अब यह मैं नहीं समझता, हफ्ता तो अभी खत्म नहीं हुआ तो मैं खुद मिलने वाला हूँ और इस सिलसिले में बात करना चाहता हूँ क्योंकि उसमें बहुत-सी चीजें उससे सम्बन्धित हैं, तो उस सिलसिले में मैं डाक्यूमेंट्स इकट्ठे कर रहा हूँ और उसके लिये इजाजत चाहता हूँ आप से मिलने के लिये।

SHRI RANGA (Srikakulam): On the spur of the moment that day, my hon. friend somehow or other chose to introduce that particular point, although it was not at all relevant to the discussion. It was done in such a rapid manner that it was not possible for any of us to take objection to that, then and there. Thereafter, my hon. friend has drawn your attention as well as his attention through you. I do not understand why he should take one week or 10 days. Is it proper first of all for a person to make allegations and thereafter conduct his own personal, private enquiry and not be prepared to express his regret, if he has not got any information at all to substantiate his point?

SHRI SURENDRANATH DWIVEDY (Kendrapra): We have a healthy convention in this House that if any member wants to make any complaint against another member, he has to inform the speaker first. Mr. Shashi Bhushan has not done that. After it has been publicised throughout the country, I do not think he can take shelter under the plea, "I am collecting documents". If he has made the statement without documents, either he should contradict it or he can say, "This is my information, but I cannot prove it."

श्री शशि भूषण : अगर इस पर आप सुनना चाहते हैं, अध्यक्ष महोदय, मैं बहुत से ईशयूज रेज नहीं करना चाहता, लेकिन अगर आप चाहते हैं तो मुझे टाइम दीजिए, मैं दो तीन मिनट में अभी कहे देता हूँ...

MR. SPEAKER: You raised it in the debate the other day suddenly. The usual practice should have been followed, namely, if there was something against an hon. member, it should have been conveyed to the Speaker. If it had been about another person and if you had not mentioned Mr. Morarji Desai's name, it would have been a different matter. But you connected Mr. Morarji Desai also and referred to his son. So, it is very proper that in future if you suddenly jump up and say something, then the next moment you should supply me the document. I have been waiting for a week. I cannot wait further. you must submit the documents today.

SHRI SHASHI BHUSHAN: Yes, Sir; today I will give the documents. (Interruptions).

310 सुशीला नय्यर (झाँसी) : अध्यक्ष महोदय, एक सीधी सी बात है, सारे अखबारों में यह तो आ चुका है कि कांति देसाई स्मॉगिंग में भेरेट में पकड़े गए लेकिन वह जब मोरारजी भाई ने कहा कि वह तो दो महीने से इधर आये ही नहीं तो न वह यहाँ रेकार्ड में आ रहा है न किसी अखबार में आ रहा है। यह क्यों ?

MR. SPEAKER: No further comments.

12.50 hrs.

## ELECTION TO COMMITTEE

### COMMITTEE ON ESTIMATES

THE MINISTER OF PARLIAMENTARY AFFAIRS, AND SHIPPING AND TRANSPORT (SHRI RAGHU RAMAIAH): Sir, I beg to move :

"That the members of this House do proceed to elect in the manner required by sub-rule (3) of Rule 254 read with sub-rule (1) of Rule 311 of the Rules of Procedure and Conduct of Business in Lok Sabha, one member from among themselves to serve as a member of the Committee on Estimates for the unexpired term of the Committee *vice* Shri M. Thirumala Rao died."

MR. SPEAKER: The question is :

"That the members of this House do proceed to elect in the manner required by sub-rule (3) of Rule 254 read with sub-rule (1) of Rule 311 of the Rules of Procedure and conduct of Business in Lok Sabha, one member from among themselves to serve as a member of the Committee on Estimates for the unexpired term of the Committee *vice* Shri M. Thirumala Rao died."