

That is under 370(i) (d) and 370(i) (b) only specifies regarding the legislative powers of Parliament. Where is that order?

**SHRI GOVINDA MENON:** It is a public document. That order was issued in 1954 and has been amended from time to time. The subject matter of this Bill referred to entries 22, 23 and 24 of the Concurrent List has been included in that order as amended.

**MR. SPEAKER:** This question has been raised and answered here on previous occasions.

The question is:

"That leave be granted to introduced a Bill to provide the extension of certain Central Labour Laws to the State of Jammu and Kashmir".

*The motion was adopted.*

**SHRI HATHI:** I introduce\* the Bill.

12.18 hrs.

#### MATTER UNDER RULE 377

##### Time-lag in assumption of office by the President-elect

**SHRI D. N. PATODIA (Jalore):** In the matter of the presidential election, I wish to draw your attention to an anomalous situation, a situation of constitutional impropriety that has arisen on account of keeping a gap between today, the 20th August when the result will be announced and 24th August when the President will assume office. During these four days, the President-elect will be prevented from taking his office.

The situation that has arisen is not comparable to any similar situations in the past in the course of the last five presidential elections. In each of the past cases the election took place

when the previous President was in office. He was in office for a fixed period of five years, and in each of the previous cases it so happened that the term expired on 18 May after the five years. So irrespective of the date of the announcement of the result, the new President could assume office only on 13 May.

But here the situation is entirely different. For the first time in India after independence, the vacancy has been caused by the death of the President. On account of the vacancy, at the moment the Chief Justice is discharging the functions of the President. So when election is being held, the vacancy is there. After a particular candidate, whoever he may be, is elected as President and holds a certificate in his hand issued by the Election Commissioner, he will still be prevented from assuming office, and during these four days, another gentleman, who happens to be the Chief Justice will be discharging those functions when already the person duly declared elected as President is available. This will, to say the least, be a constitutional impropriety. A vacancy exists. There is no elected President in office. The Constitution would never support a situation where a President-elect should be prevented from assuming office for four days.

Suppose we are faced with some sort of an unexpected emergency and this situation continues, it means that when a President-elect has been declared elected and is available, he is not permitted to function as President but that the Chief Justice of India will be left to deal with the situation and function as President. Suppose the President elect gets a certificate from the Election Commissioner and telephones the Chief Justice: I have been declared elected, please administer the oath of office

\*Introduced with the recommendation of the Chief Justice of India discharging the functions of the President.

office to me, what is the Government going to do? Can the Government prevent such a situation? Why have they not taken care? The present circumstances and the prevailing political uncertainties are known to you and there is absolutely no justification for delay. It is desirable that the assumption of office by the President Elect must not be delayed; when the results are declared today he must assume office.

I also wish to comment briefly on the whole procedure. Dr. Zakir Husain died in the first week of May. The electoral college was limited; it consisted only of Members of Parliament and of the state Assemblies. It was possible to elect a new President within one month. There is no reason why it should be delayed and we are not happy that the Government delayed it like this. I want to seek assurances on two counts. Firstly, in view of the new situation created by the death of a President and the vacancy arising thereof, the President-elect should assume office today and the assumption of office should not be delayed. Secondly, in future whenever such an occasion arises, Government shall see to it that no such delay occurs and the new President is elected within the shortest possible time.

SHRI GOVINDA MENON: I request hon. Members to refer to article 56(1): the President shall hold office for a term of five years from the date on which he enters upon his office. Article 55 describes the manner in which the election of the President should take place and article 56 shows that he does not automatically enter upon office; the day on which he would enter office is provided for. It is provided that he will hold office for a period of five years. So the Constitution provides for a ceremony and it is referred to as entering upon office. The election result will be available. let us say, by evening today, that is the 20th. I understand that arrangements have been

made for his installation... (*Interruptions*.) It is usually done in the Central Hall of Parliament. The Government have made arrangements to instal him in office on the 24th and I do not think there is any undue delay. (*Interruption*). Regarding the election of the President . . .

SEVERAL HON. MEMBERS rose—

SHRI N. K. SOMANI (Nagaur): You know, Sir, he has not answered those points which were raised by my hon. friend.

SHRI D. N. PATODIA: Kindly request him to reply to my points.

MR. SPEAKER: I was very doubtful about admitting this motion, but Shri Patodia insisted on it. I do not think there is much controversy as to the date that is fixed. A number of formalities have to be gone into, and a gazette notification and other arrangements are to be made. I enquired about the American elections. They said that the President of the USA was elected on the 20th December and he took the oath on the 20th January. So, we are much better comparatively. Next item. (*Interruption*)

SHRI SURENDRANATH DWIVEDI (Kendrapara): Since this matter has been raised on the floor of the House, let us know from the Government what was the period, in the past, between the date of election of the President and the real installation of the President in office, and whether such instance earlier (*Interruption*) time. Let them clarify it.

MR. SPEAKER: The date of the election was fixed; it was a definite date. And the date of installation is fixed already. There has not been any such instance earlier. (*Interruption*)

SHRI BAL RAJ MADHOK (South Delhi): Shri Patodia raised the question: a question of constitutional propriety. I want to ask the Government one thing. They said that they have

[Shri Bal Raj Madhok]

to make some arrangements. Now, four days are elapsing between the date of election of the President and the date of his installation. Will the Government give an assurance that during these four days, they will be only a care-taker Government, care-taker President, and that no major decisions will be taken during this period? We want an assurance to that effect. We want an assurance from the Government on this. (*Interruption*) They want three days for preparation, and so, this assurance must be given to us.

SHRI GOVINDA MENON: Until the elected President enters upon his office, the Chief Justice, discharging the functions of the President, will discharge those functions.

SHRI RAL RAJ MADHOK: Why not he take it up tomorrow? There is something fishy in all this. We want to know; we want the Government to make it clear why the installation is delayed.

SHRI GOVINDA MENON: There is nothing fishy about this.

AN HON. MEMBER: He must be installed today.

MR. SPEAKER: We shall proceed to the next item.

SHRI RANGA (Srikakulam): Sir, I do not wish to enter into any argument; there is no intention on our part—we do not have any motive or anything like that in this matter, nor do we wish to read any sinister attitude with the particular position that they have taken. But are we not at least entitled to have an assurance from the Government, acting as a responsible institution here, in answer to those two questions that were posed, that at least in future, they will try to see that such a delay does not take place in these two things: holding the election of the President, and also allowing the new President to take charge.

SHRI GOVINDA MENON: That will be kept in view.

SHRI RANGA: I do not follow; the two Ministers are talking to each other. Let them say it clearly.

SHRI GOVINDA MENON: The valuable suggestion made by Prof. Ranga will certainly be kept in view.

SHRI D. N. PATODIA: For this election also.

MR. SPEAKER: I hope such situations do not arise very often.

12.30 hrs.

RE: STRIKE OF TEA GARDEN WORKERS IN WEST BENGAL

SHRI S. M. BANERJEE (Kampur): Sir, I want your permission to raise an important matter and I hope you will be kind enough to give me some time. I wrote a letter to you regarding the strike by the tea garden workers. You say that there is a short notice question. Sir, you have misunderstood the whole thing.

MR. SPEAKER: Please resume your seat. I have considered this matter about the strike situation in your favour.

SHRI S. M. BANERJEE: Sir, I know you are referring to the Short Notice Question. I read my parliamentary papers very carefully. The Short Notice Question will be replied to by Shri B. R. Bhagat. But the Calling Attention Notice regarding the tea garden strike by two lakhs workers was replied to by the hon. Labour Minister in the other House only yesterday. We could not discuss that because, unfortunately for us, the House adjourned early. So, I would humbly request that the Calling Attention or the Short Notice Question should be replied to by the Labour Minister. Otherwise, what will happen is that when we ask certain questions of Shri B. R. Bhagat, he will say "I am concerned only with the industry, not with the industrial dispute". So, you should ask