

problems and various other types of things that the Railways can do for the promotion of export trade will be looked after by them. An Export division in the Mines and Fuel Ministry is being considered so that they can help us in the development of minerals for export. An Export division in the Ministry of Steel and Heavy Industries is also under consideration.

With all these different Ministries, wide mercantile community, more participation of the State Trading Corporation in future in a larger number of commodities and in a larger way of the international trade, while the task of export promotion is extremely difficult, all these measures do not make us disheartened.

**Mr. Deputy-Speaker:** We have to take up non-official business.

15.32 hrs.

\*POLITICAL SUFFERERS AID BILL  
by Shri S. C. Samanta

**Shri S. C. Samanta (Tamluk):** I beg to move for leave to introduce a Bill to provide for aid to the political sufferers.

**Mr. Deputy-Speaker:** The question is:

"That leave be granted to introduce a Bill to provide for aid to the political sufferers."

*The motion was adopted.*

**Shri S. C. Samanta:** I introduce the Bill.

12.32½ hrs.

\*HINDU MARRIAGE (AMENDMENT) BILL

(Amendment of section 23) by Shri J. B. S. Bist

**Shri J. B. S. Bist (Almora):** I beg to move for leave to introduce a Bill

further to amend the Hindu Marriage Act, 1955.

**Mr. Deputy-Speaker:** The question is:

"That leave be granted to introduce a Bill further to amend the Hindu Marriage Act, 1955."

*The motion was adopted.*

**Shri J. B. S. Bist:** I introduce the Bill.

**Mr. Deputy-Speaker:** Shri Indrajit Gupta: not present.

15.33 hrs.

LEGISLATIVE COUNCILS (COMPOSITION) BILL—contd.

by Shri Shree Narayan Das

**Mr. Deputy-Speaker:** The House will resume further discussion of the motion moved by Shri Shree Narayan Das on the 25th May 1962.

"That the Bill to provide for the composition of the Legislative Councils of States and for matters connected therewith be circulated for the purpose of eliciting opinion thereon by the 31st December, 1962."

Out of two hours allotted for the discussion of this Bill, 1 hour and 24 minutes have already been taken up on the 25th May, 1962. Thirty-six minutes are now available.

**Shri D. C. Sharma (Gurdaspur):** Mr. Deputy-Speaker, I wholeheartedly support this Bill. There are some persons who have been doubting the value of the Upper Chamber. But I believe they are not thinking along democratic lines, but along different lines. Democracy is a series of checks and counterchecks. It is a series of balances and counter-balances. I think the Upper House is an effective check on the Lower House as the Lower

[Shri D. C. Sharma]

House is sometimes a check on the Upper House. People have said that these Upper Houses either at the State level or the Central level have not justified their existence. I doubt it very much. When we passed the Dowry Abolition Bill here, it went to the Upper House. I remember it very well that the Rajya Sabha suggested certain amendments. We did not accept those amendments. The result was that a Joint session of the Rajya Sabha and the Lok Sabha was held in order to resolve the tangle. This single instance is enough to show that the Upper House sometimes does exercise some kind of a restraint on what we have done. Similar things are happening in the States also. Therefore, I believe that Upper Houses have come to stay in this country and as time passes, I think they will gain greater and greater influence and be more and more useful.

At the same time, I believe that some of these Upper Houses either at the State level or the Central level serve as a training ground for future politicians. I find a constant stream of migration from the Lower House to the Upper House and from the Upper House to the Lower House. I find this more from the Upper House to the Lower House than from the Lower House to the Upper House. That is because some of our friends gain very good experience in the Upper House and then come to the Lower House so that we can profit by that. Similarly, some of us go to the Upper House so that we can give them the benefit of our experience. Therefore, this two-way traffic which is going on at the State level and at the Central level is bound to increase the legislative potential of our country. I think there is no harm in having it.

After having said that, I come to the provisions of this Bill. I think Shri Shree Narayan Das has put before us a very rationalised, scientific and up-to-date picture of the Upper House at the State level. When I look

at the composition of the Councils in the different States, I think they are a ramshackle combination of very diverse elements and they are often lacking in some of those elements which are essential to our national solidarity and essential to give them the look of national character. I think that we took a lot of pains in drafting the composition of the Lok Sabha or the Legislative Assemblies but we did not pay much attention to the drafting of the composition so far as the State Councils are concerned. We thought that we could make do with whatever provisions were made. Therefore, our Councils do not give that unified picture of our country as the lower Houses, the Lok Sabha and the Rajya Sabha and the Assemblies give. Therefore it is necessary that our Legislative Councils should be a kind of a microcosm. They should be the mirrors of the various elements of our national life. I think this has been done in this Bill. I find that so many different kinds of interests have been given representation in this Bill. I need not go over the list. I think that the representation that has been given to primary school teachers is a very very welcome feature of this Bill. I happen to be connected with some educational organisations and all my life I have been a worker in those federations. I know that all of them have passed resolutions to the effect that a primary school teacher should not be regarded as inferior to secondary school teacher or a college teacher or a University teacher. At present, a college teacher can have representation as a graduate, as a representative of the graduates. But the primary school teacher has no say in the matter. I think that if a democracy ignores the majority, it ignores them at its own peril. The majority of teachers are primary school teachers in this country, and they are the back-bones of our educational system. If we do not give them a fair deal in this matter, I think we are doing a lot of injustice to them. I do not think we can go on heaping insults on the primary school teachers by not giving

them a living wage, by not giving them all these amenities and so on. At the same time, I would also submit that we are not doing proper justice to the primary school teachers by denying them this franchise.

I think the primary school teachers will be welcome in the State Legislative Council and will be able to voice the hopes and needs of fellow-teachers. I think that this is a very good provision which this Bill has, and I am sure that this Bill is going to be useful from that point of view.

Of course, I would have liked that the Governor should have been given a little more elbow-room. Unfortunately, he has been equated with all others. He should have been given a little more elbow-room because there are many interests which cannot be represented through elections, and the Governor should have the right to represent them by nomination; but, of course, it should be specified what kind of persons he should nominate; that should not be left to his free choice.

I, therefore, think that this Bill which, I hope, will be accepted by Government will go a long way in making our State Legislative Councils fully representative of the people, and will make them some sort of constitutional forums, forums of a kind which will enable people not to say that the Second Chamber in our legislatures should be abolished. They will give such a good account of themselves that the talk of their abolition will come to an end. This can happen only if the whole structure is revised and changed, and the way of change has been indicated by Shri Shree Narayan Das. I, therefore, wholeheartedly support this Bill.

**Mr. Deputy-Speaker:** I would like to know how many more hon. Members want to participate in the debate on this Bill.

**Some Hon. Members rose—**

958 (Ai) LSD—7.

**Mr. Deputy-Speaker:** I find that there are four or five more Members who want to speak. I shall extend the time for this Bill by half an hour.

**Dr. L. M. Singhvi (Jodhpur):** The proposed Bill, although it is a private Member's Bill, the uniform fate of which in this House is not particularly heartening, seeks to enlarge and broad-base the composition of second Chambers or second Houses in the various States in which they exist. I think it is a matter of very great importance, and I must congratulate the hon. Mover of the Bill in drawing the attention of this House and the country to this important problem of altering the composition of the Second Chambers in the various States in which they exist.

The idea of a Second Chamber as enshrined in our Constitution is founded in the pluralistic or the functional theory of State, which emerged against the absolutist theory of State which preceded it and which dominated the scene during the entire nineteenth century. We find, however, as an exposition of the pluralistic theory would show, that society is composed not of one dominating power, not of one dominating influence but of various pockets, and various pulls of power which compose the contours of a given society. In order to make Legislative Councils fulfil their functions adequately, it is only meet to consider that we may broad-base the composition of these Second Chambers.

Many of the Members who have spoken before me have concentrated their attack on the existence of the Second Chambers themselves. I do not think that this is an appropriate time for us to consider the desirability or otherwise of continuing Second Chambers in the country, because, the proposal as it stands only seeks to alter the present or the existing composition of the Legislative Councils.

Some of the Members seem to have been under a misapprehension that this would involve an amendment of the Constitution. I might, if it is neces-

[Dr. L. M. Singhvi]

sary to do so, allay the apprehensions that have been given expression to by some of the Members, by a reference to article 171 (2) which says that:

"Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3)."

This gives sufficient latitude to Parliament to enact an appropriate law to provide for a different composition of Legislative Councils in the various States in which they exist. And this is what the Mover of the Bill, I suppose, has attempted to do.

The Second Chambers have their own utility. It may be that they have by and large outlined the original rationale of their existence. It has been said by a very renowned French commentator, Professor Achille Mestre, that:

"English democracy continues to feel the need of a directing elite whose economic independence guarantees its probity."

I would like to draw the attention of the House to the fact that the rationale of the Second Chamber in England is no longer that it happens to be the House of wealth or the House consisting of those, who, because of their economic independence, can be relied upon for their intellectual probity. Indeed, it is no longer necessary in England to allege, as was the ancient custom, 'great estate', for aspiring to the membership of the House of Peers.

I suppose that the situation is somewhat analogical in this country where we have not created Second Chambers in order to provide refuge for the rejected in politics, or to provide an umbrella for the politically protected (after perhaps long struggles in the field of politics). Unfortunately, there is that danger that lurks in the functioning of a Second Chamber. A greater danger lurks inasmuch as they are made the mainstays and

the hotbeds of partisan politics, and, therefore, before we consider the composition or the alteration in the composition of Second Chambers in the country, we should also strive to achieve a situation in which Second Chambers are not made the play-grounds of partisan politics. Unfortunately, partisan politics completely dominates the scene in all Second Chambers in the various States, and wherever more Second Chambers are sought to be created, the idea is to provide a shelter or those rejected or for those seeking protection in politics.

I think that the Bill as it stands may not be acceptable to many of us, but I would certainly support, and support with all the emphasis at my command, that the idea deserves a greater consideration in the country, and the proposal to circulate the Bill for eliciting public opinion thereon has all my commendation and support.

**Shri B. K. Das** (Contai): When this matter was discussed in the Constituent Assembly, the members belonging to the different States were given the opportunity to exercise their choice of having a second chamber or not having it in the States. As a result, 8 States gave their consent to have Legislative Councils in their States. Therefore, today we find that there are Legislative Councils in 8 of our States, while the rest have no such Councils.

There was a lot of opposition to the existence of a second chamber in the States. The reason was that it would serve no useful purpose, it would be dilatory and would hamper the progress and passage of Bills according to popular will. On the other hand, those who supported the idea were of opinion that a second chamber would be an effective check against hasty legislation, it would be a permanent body and the element of nomination provided for would enable the House to have certain number of people who

would be experts, who would possess expert knowledge in arts, science, literature, co-operative organisations and the like. So these 8 States gave their consent to have Legislative Councils.

The Bill that is before us and the circulation motion would give an opportunity to the country, at least to the 8 States, to assess how far the idea has worked and how far it has been successful and how far the purpose of their constitution has been fulfilled.

Although the Bill does not go to the principle of the existence or otherwise of Legislative Councils, the Mover has tried to give a new shape to the composition of these Councils. When we look at the present composition of second chambers, we find certain loopholes. It appeals to reason to ask why when there is representation for teachers, only secondary and university teachers should be given representation and not primary teachers. If teachers are given representation, it stands to reason that all those who come under that category should be able to have representation.

Again, local authorities have been given a chance to have their representatives in the Councils. Today the local authorities have been undergoing a substantial change. We find that the panchayats, the zila parishads are coming into existence and the district boards and local boards are being abolished. Now that the panchayats are having a good deal of say in the matter of administration, in the matter of developmental work in the country and they are taking the place of the previous local authorities, they should be given representation in Legislative Councils. Of course, the Mover has tried to do away with representation from the Legislative Assemblies. He thinks it is not necessary that Members of the Legislative Assemblies should have the right to elect one third of the total strength

of the Councils. He wants to do away with that provision.

I do not wish to go into other details. I wholeheartedly support the motion for circulation so that the country will have an opportunity to express its opinion as regards the composition of the Councils, and also the principles on which Legislative Councils are formed. I support the motion.

**Shri Nambiar** (Tiruchirapalli): I have gone through the Bill. Firstly, I would like to submit that we are opposed in principle to these so-called Legislative Councils, for the reason that these Councils in the States as well as in the Centre—the Rajya Sabha—are not directly responsible to the people but are elected indirectly by an electoral college. But here the question is not whether we must continue to have these Councils or not. The question is whether these Councils which we have in the States should be broad-based and made more democratic by getting members elected from the panchayats, from co-operative societies, from teachers etc. etc. In that way, the Mover has brought in a new element of furthering the democratic principle. To that extent, we support the idea,

But while going through the Bill, I find the procedure rather cumbersome. Will the process of election contemplated be practicable? For instance, certain percentages have been fixed for certain sections. Even under the present method of electioneering with adult franchise, composition of the voters' list, delimitations, actual polling etc. we have a hell of a trouble. Add to that, if you also say that so much percentage of seats should go to teachers of five years' standing, so much for graduates of three years' standing etc., the very preparation of the voters list will be difficult, which may in turn give room for unholy or undesirable practices. Therefore, it may well create administrative difficulties. Even if the difficulties can be narrowed down, if even

[Shri Nambiar]

after eliciting public opinion, we find that more modifications can be accepted and the Government may also come forward to elaborate the process of democratisation of these Councils, we can support this Bill only with the qualification I have stated.

Therefore, let us accept the circulation motion, let us gather opinions and consider the question and see if further democratisation of these Councils cannot be done. But I have this reservation that we shall stand for the abolition of the Legislative Councils and the Council of States. That is our ultimate aim. But since that is not directly concerned with the proposal now before the House, I cannot canvass that here just now. With this reservation, I support the motion.

**Shri Oza (Surendranagar):** I welcome the Bill and agree with the objects which prompted the Mover of the Bill to introduce it. I must, however, say that I do not agree with the details as have been given in clause (3), but this is not the stage to draw his attention to the various defects which I find in clause (3) and in various sub-clauses.

As a matter of principle, I am in favour of having two chambers in this big country. With a very vast population, some States having even five or six crores, it is not possible under our democracy to give representation to all the interests by direct election. It is not possible for so many interests to contest the general elections. So, unless they are brought into the second chamber by providing them with certain facilities of electoral colleges through which they can come and ventilate their viewpoints, I do not think we will be able to give them representation.

Democracy means rule by discussion and consultation. So many problems come nowadays before the legislature, problems concerning

various interests in the country, and unless those interests have an opportunity of expressing their viewpoint when the legislation or the problems come up for discussion, I do not think they will have satisfaction, and that will not be a happy state of affairs.

So, particularly because we have got so many interests, and there is such a vast population, I think the purpose of the Bill should be welcomed, and I think the Government will give serious consideration to it or bring legislation of their own. I think Government will be wise in accepting the principle behind the Bill.

**Shrimati Sarojini Mahishi (Dharwar North):** Some States in India are unicameral and some are bicameral. The very fact that some are unicameral is proof of the fact that there need not be a second chamber, but then there are States which are bicameral also. We cannot say that the second chamber is a waste. In England the House of Lords is criticised severely as being a waste of money, waste of time and energy also, but the principles on which the second chamber is provided under the English Constitution are a bit different from ours. Neither does the Indian second chamber resemble the Senate under the American Constitution. The Senate under the American Constitution has got equal representation from each State, two Members representing each State. The Senate has also got certain powers which neither the Indian second chamber nor the English second chamber have. The Senate has got certain judicial powers also and the power of impeaching the President, but we are not very much concerned with the powers of the Senate or the second chamber in England, but we must remember that we have tried to combine the American and the English constitutions in our system. Our Constitution cuts *via media* between the presidential and the cabinet forms of Government.

We cannot always say that the second chamber is a waste of money. The main object of the second chamber in our country is to check hasty legislation as it is called, but then how far it is able to check hasty legislation, and whether it is able to influence the lower House is also a problem to be considered, because there are so many conditions in the Constitution which restrict the power of the upper house. For instance, if a Bill lies with the second chamber for six months without being attended to, there is a provision for a joint session. If certain amendments are made by the second chamber, they may or may not be accepted by the lower House. In the matter of Money Bills, under article 110, the second chamber has not got any authority at all.

But the second chamber has been so constituted that such elements as the so-called experts in social services, in literature, in science, and people who are representatives of different bodies within the States, will be able to reflect public opinion on the measures passed and endorsed by the lower house. Therefore, because it is more representative of the whole country, and because people who cannot directly contest the elections will be taken as representatives of different bodies in the second chamber, the second chamber has its own role to play in matters of legislation.

As article 171 stands today, it provides:

"Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3).

(3) Of the total number of members of the Legislative Council of a State—

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and

such other local authorities in the State as Parliament may by law specify;"

Therefore, the bodies that can send members to the upper house have to be decided by Parliament itself. The words "such other local authorities" will include a number of other institutions which may spring up in course of time. The Mover of the Bill has, therefore, brought the measure in time to meet the changing needs of the country. The law is made for the people, and not the people for the law. So, as values change in course of time, there are certain amendments that ought to be introduced in the Constitution also. The Constitution is no doubt written and rigid, but at the same time, it is also flexible. With the changing political and social values, certain changes have to be introduced.

Clause 3(b) of the same article reads:

"as nearly as may be, one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;"

So, Parliament has reserved to itself the right of determining what are the institutions or bodies that will be eligible to send representatives, who will be considered as graduates, and which are the universities to be recognised.

Now that we have got panchayati raj and co-operative societies in our country, it is but right that they should have representatives in the upper house which represents the different bodies in the country. So, I think that now panchayats and co-

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operatives should be included under "such other local authorities" in Clause 3(a) of article 171.

I see the hon. Member has tried to introduce certain amendments as far as the composition of the second chamber is concerned. He wants one-sixth to be elected by members of co-operative societies and one-sixth by members of panchayat bodies, and he wants that a teacher to be eligible as a voter should have served for five years in a recognised school. Without going into the details, I concede that proper representation for these bodies and interests is essential in the second chamber as long as the second chamber continues. Whether the second chamber should continue or not is not the question under consideration now. As long as it continues, what should be the representation in it? That is the main problem. So, I feel that according to the changing values of society, it is but proper that we should have such representation, and I hope Parliament will not find any difficulty in introducing the necessary changes.

**The Deputy Minister in the Ministry of Law (Shri Bibudhendra Mishra):** I have listened with rapt attention to the speeches delivered by the hon. Members, and I must confess that I have greatly profited by the wisdom reflected in the speeches.

I do not want to inflict a speech on this House since the proposition for the circulation of the Bill for eliciting public opinion thereon will be accepted by me. Therefore, any speech will be unnecessary. But since the general question has been raised, a question of vital importance, a question of principle, that is, about the existence of the utility of the second chamber—even though that does not strictly come within the purview of this Bill because this Bill takes the existence of the second chamber for granted and provides only for its composition, I would fail in my duty if I do not speak a few words about that.

While speaking against the utility of second chambers, it has been pointed out by some hon. Members that anti-social elements who fail to get elected in the direct elections at the polls come by manipulation and by device to the upper chamber. I do not want to express any such opinion. Even popular leaders of political parties who fail at the polls come to the second chamber. Everybody can find his way to the second chamber if he can, but accepting for argument's sake that anti-social or undesirable elements who get defeated at the polls come to the second chamber by manipulation, may I humbly ask, is it the fault of the system itself? It must be admitted that the cure does not lie, in the abolition of the second chamber but the cure is somewhere else which must be searched for by political parties in the country.

Then, criticisms about the upper House in the Union, the Rajya Sabha, and about the upper Houses in the States have been made in the same breath, and the same reasoning has been adduced. I would here point out that the Rajya Sabha, the upper House in the Union, and the upper Houses in the States cannot be treated on the same level and no comparison can be made about them. So far as the upper House in the Union is concerned, it has a base in the constitutional theory itself. It has a purpose, a significance. If we miss it, we miss the essence of the Constitution of India. May I humbly point out that so far as the Council of States or the upper House in the Union or the Rajya Sabha is concerned, it is not a hereditary body as we have in the House of Lords in Great Britain.

**Shri P. K. Deo (Kalahandi):** I do not like to interrupt the hon. Minister, but may I say that the hon. Minister should not have opted from the Rajya Sabha to the Lok Sabha.

**Mr. Deputy-Speaker:** Order, order.

**Shri Bibudhendra Mishra:** It is not a hereditary body as the House of Lords in Great Britain. It is not a



nominated body, an appointed body, as we find in Germany. It is not an elected body as we find in the United States of America. But it is a body which consists of the representatives of the States, the constituent units, the constituent States. That is the fundamental object which gives rise to the federal principle. It must be remembered that India is a Union of States. Article 1 of the Constitution says:

"India, that is Bharat, shall be a Union of States."

Then, if you turn to article 80 of the Constitution, you will find that "not more than two hundred and thirty-eight representatives of the States" shall be represented in the upper House.

Therefore, if India, is a Union of States, if we have accepted the federal principle so far as the Constitution is concerned, it is essential that the States should have representation, that the States should have a voice and so the Council of States is representative of the States.

**Shri Nambiar:** They can be represented through the constituencies. The Lok Sabha Members are coming from the States.

**Shri Bibudhendra Mishra:** They are representatives of the people. I make a difference between the representatives of the people and the representatives of the States. That is the essence of the federal Constitution. My hon. friend need not worry about it since even in the Soviet Union also there is an upper House. Therefore, he need not very much bother about the upper Houses here.

**Shri Nambiar:** Not that the Soviet Union has got it. Here there is no utility.

**Shri Bibudhendra Mishra:** Apart from that, that the upper House should consist of representatives of the States has been expressed more

than once in the Constitution itself. You will find that it serves a purpose; it is not given to the Lok Sabha even. I will refer to article 249 which prescribes that if the Council of States passes a resolution by two-thirds majority, then a subject can be brought from the State List to the Concurrent List. That right has been given to the Council of States and not the Lok Sabha on the basis and the principle that the Council of States is representative of the states.

Similarly, if you look to article 312 of the Constitution, it is again said there that the Council of States alone and not the Lok Sabha that can, by a resolution, create an all-India service which will then be created by the Union Government but shall work under State Governments. Therefore, in the entire scheme of things, the Council of States has been put in a different category altogether.

There is another difference. It has been provided in the Constitution that the Upper House in a State can be created and abolished in the manner laid down by article 168, but there is no question of the abolition of Rajya Sabha, unless it is done by a general way by way of an amendment of the Constitution. That difference is there. So far as the second chamber in the States is concerned, it is not founded on any constitutional principle, but it has been founded on reasons of history and dictates of prudence. It was an idea that originated in the 19th century when it was thought that any second chamber was better than none. But in the present day world, opposition is growing to the idea of second chamber in the constituent units of a federation; in spite of that, in almost all the bigger countries, excluding certain small countries, there is a second chamber. It will be seen that under the Government of India Act, 1935, there was a second chamber in some of the States and it is only being continued under this Constitution, because the members representing those States in the Constituent Assembly wanted that

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the second chamber should be continued there.

As I have said, opposition is growing very much against it to the extent that somebody remarked that if the Upper House agrees with the Lower House, it is superfluous; if it disagrees, it is pernicious. May I point out in the present context of things, with all the complexity of legislation that touches the human life and human relationships at all points, when discussion is fettered by Rules of Procedure because of lack of time, and rightly so, is it not necessary to have another body where non-controversial Bills can be originated, discussed and given final shape, so that it can find an easier way for passage in the Lower House? Is it not necessary to have a body of experts, of able men, who know the problems, who know the aspirations of the society and at the same time who are independent of the public opinion of the moment, to discuss the problems and lend their advice? Therefore, even today certain political thinkers feel that the second chamber has its own utility.

Coming to the Bill itself, I must congratulate the mover that at least he has raised a discussion on a vital point. He has rightly pointed out in the Statement of Objects and Reasons that with the decentralisation of democracy, new institutions are springing up, which should find representation in the second chamber in the States. I agree with him. But I would only point out that article 171, as it stands does not create any bar to that, because it is not exhaustive. It is only indicative and it says that whenever it is necessary to give representation to any new panchayat body or any body that is coming up, it is always competent for the Parliament by law to give such representation. It will be seen that some of these panchayats and block committees have also been given representation, according to the recommendations of some of the States, after

the passing of the Constitution and they have been incorporated in the Fourth Schedule of the Representation of the People Act, 1950.

So far as the representation of the cooperative societies, middle school and primary teachers, organised interests of trade, commerce and industry and tillers of the soil are concerned, these matters were discussed in the Constituent Assembly itself. After much discussion, the makers of the Constitution thought that it would not serve any useful purpose. A point was raised by a Member that we are not bound by what the makers of the Constitution thought, because Parliament is supreme. Nobody doubts the supremacy of the Parliament. That is not a matter to be debated, because that has been accepted. If the Parliament feels at any point of time that the historical conditions or social conditions have changed so as to justify the inclusion of new elements in the State upper house, it is always competent to provide for it. But I would only ask the House to consider one thing, whether by giving representation to loose elements or whether by giving representation to primary school teachers or co-operative societies the purpose that we have in mind about having a second chamber would be served.

**Dr. L. M. Singhvi:** What is meant by "loose elements"?

**Shri Bibudhendra Mishra:** Tillers of the soil in the sense that they are not organised.

**Dr. L. M. Singhvi:** Are they loose elements?

**Shri Bibudhendra Mishra:** Not organised. I only want the House to consider whether any useful purpose will be served thereby. It is a good thing, after the passing of the Constitution, this question has been raised and it is going for eliciting public opinion thereon. The House will have a further opportunity of discussing it.

Sir, with these words I accept the proposition that the Bill be circulated for eliciting public opinion.

**Shri Shree Narayan Das** (Dharbhanga): Mr. Deputy-Speaker, Sir, I am very thankful to all the hon. Members who have participated in this debate and also to the hon. Minister who has supported the motion for circulation which I moved the other day. Some of the hon. Members were pleased to place their viewpoints regarding the existence or otherwise of a second chamber both at the Centre and in the States. I think this question is beyond the provisions of the Bill. As the hon. Minister has stated, the Constitution provides for the establishment of both the Council of State at the Centre and legislative councils in many of the States. It also provides for the abolition of legislative councils or for creation of such legislative councils where they do not exist at present. It is for the Government, if they think that bicameral legislatures both at the centre and in the States are not necessary, to bring forward the necessary legislation. Any hon. Member here can bring forward such a legislation.

My purpose in moving this motion for circulation of this Bill is to provide for the various elements that have come into being after our attaining independence. I have pointed out in the Statement of Objects and Reasons that a number of organisations in the sphere of local bodies and other interests have come into being. It is in the fitness of things that such organisations which have come up after independence are given representation in the councils.

Sir, I was one of those who thought that these bicameral legislatures were unnecessary. I have heard many hon. Members here who have also advocated abolition of bicameral legislatures. Some hon. Members have also expressed the opinion that there is necessity for having bicameral legislatures. It is said that only those who have been elected by the people represent the people and it is that body con-

sisting of such people that is representative of the people. But I would like to point out one thing. Some hon. Members sitting opposite have many times pointed out that the Congress Party was not able to secure the majority of the votes and therefore they are not representative of the people. In that way, in the system of voting that is prevalent in our country where there is this vote by the majority, it can be said that the Government, the whole House is not representative of the country.

**Shri Nambiar:** We only said that you get minority votes and majority seats. We did not question the other aspect.

**Shri Shree Narayan Das:** You analyse the public opinion as expressed in the voting. Then this House also cannot be said to be a representative body.

**Mr. Deputy-Speaker:** The Minister is accepting your motion. Is a long speech necessary?

**Shri Shree Narayan Das:** As the hon. Minister has just said, democracy means government rule by discussions and deliberations. A large number of persons participate in the deliberation and discussion and when something comes out, it will be the representative opinion of the people. Therefore, the question whether there should be bicameral legislature or not is beyond the scope of the Bill. If any hon. Member is in favour of that proposal, he has to bring forward a Bill on which we will also have to secure the assent of the various State Assemblies, because a majority of the State Assemblies have decided that they should have a Legislative Council. Also, article 167, 168 and 171 of the Constitution will have to be amended if we do not want bi-cameral legislatures.

Some of the hon. Members said that they were not agreeable to the provisions of the Bill. In that case, after public opinion has been received on

[Shri Shree Narayan Das]

the Bill, when it comes before the House for consideration, amendments can be moved and the provisions changed or amended.

Here I would like to refer to only one point. Shri Warior said that I was trying to perpetuate the representation of vested interests. There is already provision in the Constitution for representation of particular interests. I am only trying to give representation to labour, commerce and some other important elements of society, which are playing a very important part in the social structure of our country. As it is, representation is given only to a few elements. I have tried to give representation to as many elements as possible.

Then I do not understand what the hon. Minister meant by saying that I have given representation not to loose element. I have made provision for the representation for the various bodies like commerce, business and tillers of the soil. Further, the representatives of these interests will be elected by their organised bodies.

With these words, I again request hon. Members to support my motion as I have moved it.

**Mr. Deputy-Speaker:** The question is:

"That the Bill to provide for the composition of the Legislative Councils of States and for matters connected therewith be circulated for the purpose of eliciting opinion thereon by the 31st December, 1962."

*The motion was adopted.*

16.29 hrs.

INDIAN POST OFFICE (AMENDMENT) BILL

(Amendment of sections 68 and 69 by Shri S. C. Samanta)

**Shri J. B. S. Bist** (Almora): What is the time allotted for this Bill?

**Mr. Deputy-Speaker:** I think one hour will be sufficient.

**Shri S. C. Samanta** (Tamluk): I beg to move:

"That the Bill further to amend the Indian Post Offices Act, 1898 be taken into consideration."

I think there is one amendment to this Bill, which should be moved.

**Mr. Deputy-Speaker:** The amendment can be taken up after the Bill is moved.

**Shri S. C. Samanta:** My proposal to amend the Post Office Act is very simple.

16.29 ½ hrs.

[SHRI MULCHAND DUBE in the Chair]

In the Statement of Objects and Reasons, I have stated:

"Under the present Act no effective and quick action can be taken against a person who knowingly receives or opens any letter or postal article which ought to have been delivered to any other person."

16.30 hrs.

The Bill also seeks to make the provisions of the present Act more effective so that quick and immediate action may be taken against the offenders under this Act. I think the House will agree to the proposal which I am putting before it.

In the rules I find that section 52, 53 etc. provide penalty for the offenders of the post offices for infringing the law. I want to help the Government by taking the responsibility upon ourselves, that is, if we the public, who are benefited by the postal system in the country, do not help them to carry out their work, I