

12.34 hrs.

CORRECTION OF ANSWER TO  
STARRED QUESTION NO. 1036 RE:  
PRICES OF MAIDA AND RAWA.

**The Minister of State in the Ministry of Food and Agriculture (Shri A. M. Thomas):** Sir, in reply to a supplementary question asked by Shri S. M. Banerjee in connection with Starred Question No. 1036 regarding prices of maida and rawa answered in the Lok Sabha on the 14th April, 1964, I stated that the price of flour mill atta comes to Rs. 16.50 a maund. The ex-mill price of wholemeal atta produced by roller flour mills has been statutorily fixed at Rs. 42.01 per quintal, which is equal to Rs. 15.68 per maund. The ex-mill price of resultant atta produced by roller flour mills is Rs. 39.97 per quintal or Rs. 14.92 per maund in the States of Assam, Orissa and West Bengal and in Greater Bombay and Rs. 39.30 per quintal or Rs. 14.67 per maund elsewhere.

12.35 hrs.

CONSTITUTION (SEVENTEENTH  
AMENDMENT) BILL—contd.

**Mr. Speaker:** The House will take up further consideration of the following motion moved by Shri Bibudhendra Misra on the 25th April, 1964, namely :—

“That the Bill further to amend the Constitution of India, as reported by the Joint Committee, be taken into consideration.”

The hon. Law Minister may continue his speech now.

श्री जगदेव सिंह सिद्धान्ती : मेरी एक अर्ज सुन लीजिये।

अध्यक्ष महोदय : सिद्धान्ती साहब, मैंने अर्ज किया कि व्यवस्था का प्रश्न किसी खास मामले के सम्बन्ध में उठ सकता है। ऐसे नहीं उठ सकता कि एक बात अभी खत्म हुई और दूसरी शुरू होनी है। दरम्यान में

कोई व्यवस्था का प्रश्न नहीं उठ सकता। अगर कोई बात हाउस के सामने हो और उन पर डिस्कशन हो रहा हो, तो उसके सम्बन्ध में व्यवस्था का प्रश्न हो सकता है। अभी हाउस में पहली बात खत्म हुई है और दूसरी शुरू नहीं हुई। इस वक्त में व्यवस्था का प्रश्न नहीं सुन सकता।

**Shri Hari Vishnu Kamath (Hosangabad):** How much time remains for this Bill?

**Mr. Speaker:** How much time is the hon. Minister likely to take?

**The Minister of Law (Shri A. K. Sen):** At the consideration stage, I would not take more than 20 minutes for the reply.

**Mr. Speaker:** That means that we shall have the voting at about 1 p.m.

**Shri Hari Vishnu Kamath:** May I request that since the Constitution (Eighteenth Amendment) Bill has been decided to be dropped or withdrawn, we could have some more time for this Bill?

**Shri Ranga (Chittoor):** Since we shall be saving time on that Bill, we could have some more time for this Bill.

**Mr. Speaker:** Let us see when we come to that. Now, let the hon. Minister continue his speech.

**Shri Hari Vishnu Kamath:** Let him continue. I have nothing to say against that. But I was suggesting that we could have some more time for the second reading of this Bill.

**Shri S. M. Banerjee (Kanpur):** I am not asking for extension of time. But I would submit that the Constitution (Eighteenth Amendment) Bill....

**Mr. Speaker:** We are now concerned with the Constitution (Seventeenth Amendment) Bill.

**Shri S. M. Banerjee:** I am asking this, because otherwise the business may collapse. ....

**Mr. Speaker:** We shall see, when we reach that. Now, we are concerned with the Constitution (Seventeenth Amendment) Bill. How can I discuss now anything relating to the Constitution (Eighteenth Amendment) Bill?

**Shri Ranga:** I do not want to embarrass you. But I would submit that it is within your discretion to give one more hour for the present Bill.

**Mr. Speaker:** We shall see, when we proceed with the clauses.

**Shri A. K. Sen:** As I was saying yesterday, we should not, while discussing the Constitution (Seventeenth Amendment) Bill, bring into the discussion or consideration the State legislation relating to land reforms, either the merits or the demerits of any particular State law, because land and land reform are matters exclusively assigned to the State Legislatures. The purpose of this Bill is to allow the State legislatures to initiate measures of land reform where it has been found as a result of judicial interpretation that their hands are tied in regard to particular matters.

**Dr. L. M. Singhvi (Jodhpur):** How can we be expected to protect legislation blindfolded without even scrutinising what the legislation is?

**Shri A. K. Sen:** I am not saying that my hon. friend is. What I was saying was this. Many questions have been raised about the progress, operation and functioning of laws which are not in the Ninth Schedule or which are not proposed to be brought into the Ninth Schedule. If we have discussion about laws which are in the Ninth Schedule or which are going to be put in the Ninth Schedule, I can certainly appreciate that argument. But we should not deal with other measures of land

reform which have nothing to do with the present Bill. The proper forum for discussing the functioning or the shortcomings of any such law would, in my submission, be the respective State legislatures.

**Shri J. B. Kripalani (Amroha):** It is because of the State legislatures passing those laws that my hon. friend has brought forward this Bill. So, how does my hon. friend say that that has nothing to do with this Bill? It is ultimately connected with that. Otherwise, my hon. friend would not have tampered with the Constitution.

**Shri A. K. Sen:** As I have said, if those laws which are sought to be validated or those laws which were struck down as a result of the limited meaning given to the term 'estate' were discussed, I can certainly appreciate that such a discussion would be pertinent and relevant. But any discussion about our general policy of land reform, about our general policy affecting ryotwari settlements, our general policy of carrying out land reforms in particular ways or the shortcomings which have been evidenced according to some hon. Members here etc. would not be relevant at all for the purpose of the present discussion.

I, therefore, propose to deal with only two limited questions with which we are concerned in this Bill. The first is whether it is necessary to widen the definition of the term 'estate', as we have sought to do in clause 2 of the Bill.

**Shri J. B. Kripalani:** Has my hon. friend consulted the dictionary?

**Shri Ranga:** My hon. friend is treating every holding as estate, including agricultural land.

**Shri A. K. Sen:** In my submission, no alternative or better definition can be thought of in order to allow the implementation of the principle of land reform which this Parliament and all State legislatures have accepted.

[Shri A. K. Sen]

The second is a technical point on which these several laws have been struck down, because it was held that in a part of Madras which has gone to Kerala, ryotwari settlement..

**Shri Ranga:** Only half of a taluk.

**Shri A. K. Sen:** It may be half, it may be full or it may be even ten times. But the point is a technical point.

**Shri Ranga:** For that, the whole of India is being penalised now.

**Shri A. K. Sen:** The point is that it was not estate within the meaning of the local laws; it was not regarded as estate because those persons were considered to be pattadars or full proprietors of the land with which they were associated, and there was no question of their holding it as estate. Only on this purely technical ground were some of these laws struck down, apart from the other question of ceiling to which I shall come later on.

Whereas in the rest of India all ryotwari settlements have been brought within the scope of land reform, and even in that part of Andhra Pradesh which has not gone from Madras, ryotwari settlements have been brought within the scope of land reform, yet, those tenures which were governed by the old Madras laws were not regarded there as estates, they being ryotwari settlements; they ought to be exempt, according to my hon. friend Shri Ranga, because they are ryotwari settlements in excess of ceilings which the particular State legislatures thought it fit to impose for the purpose of land reforms. Though in the rest of the country all ryotwari settlements are affected by land reform and completely affected in West Bengal, UP and in all other States, and the surplus lands have been taken over and distributed to other tenants or ceilings have been imposed and so on, yet, in this particular area, the law was struck down.

It will be atrocious if only in a part of the country particular ten-

ures are allowed to escape the influence of land reforms only on technical grounds, whereas similar tenures have been completely....

**Shri Ranga:** They are not similar. Why do you do injustice to yourself as a lawyer? Because you are the Law Minister, why do you want to be untrue to your own profession?

**Shri A. K. Sen:** I do not claim any superior position compared to Prof. Ranga or anyone else. In fact, if at all I claim an inferior position, my duty being as part of the Treasury Bench to serve hon. Members including Prof. Ranga. I do not think I have ever given the impression that I claim any superior privilege as a member of the Treasury Bench. Prof. Ranga will at least do me the justice of not imputing something....

**Shri Hari Vishnu Kamath:** If the claim is made sincerely, we gladly concede it.

**Shri A. K. Sen:** I may be wrong, but in my submission all ryotwari tenures in the rest of the country in substance enjoy and are subject to the same privileges and obligations.

**Shri Ranga:** But they are not treated as estates.

**Shri A. K. Sen:** An 'estate' according to local laws is not what you conceive to be one in connection with land reform.

**Shri Ranga:** What is the definition in the dictionary?

**Shri A. K. Sen:** If you allow Prof. Ranga to have another say, you will do so. But it would be impossible to reply to him in a running way.

**Mr. Speaker:** Then let the Law Minister sit down.

**Shri Ranga:** They will pass it anyhow.

**Shri A. K. Sen:** Prof. Ranga will at least hear me and if not convinced by my arguments, vote against me which he will possibly do. But I certainly deserve a patient hearing.

Therefore, in my submission it is of absolute necessity that the word 'estate' should bear a wider definition and should not be given the limited meaning which judicial interpretation has sought to put upon it. If we agree to the limited meaning, it will lead not only to great anomaly in the whole of the country but it will frustrate many of our basic principles of land reform, to which we are completely wedded, here and outside.

The next point is the question of including some of these laws for other purposes, because many of them have been struck not because the land sought to be affected is not an estate, but because ceilings which have been imposed on certain principles have been regarded as violative of article 14 of the Constitution, namely, that they lead to discriminatory treatment in the matter of imposition of ceiling, and in some cases they have been held even violative of article 19, namely, leading to unreasonable restrictions in the right of the person to hold property. I need not go into those decisions, nor it is necessary to do so.

The principles underlying these Acts which we have sought to bring within the scope of clause 3 have been explained in the explanatory note. In the Joint Committee we circulated the relevant provisions as also the reasons which compel us to bring them specifically within the saving clause in the 9th Schedule, because there is no other formula by which we can save them from attack under articles 14 and 19. By widening the definition of 'estate', you cannot prevent their being challenged on the ground that they are violative of article 14 or 19.

It is a very important part in our principle or in our scheme of land reform that not only should estates be acquired or transferred to tenants who actually till them and the surplus should be distributed according to such scheme as we accept, but it is equally important that after their

acquisition or after their dispossession from their owner, they are distributed equally according to such ceilings as we may fix.

**Shri Ranga:** There is no equity at all in this Government. That word also should have a separate definition.

**Shri A. K. Sen:** We have put in this a further safeguard that so far as holdings within the ceilings are concerned they are protected from acquisition like any other property excepting for a public purpose and excepting on payment of full market value. That, in my submission, is a completely healthy safeguard which prevents the acquisition of any land falling within this ceiling prescribed in any State from being acquired excepting on payment of full market value.

**Shri A. S. Alva (Mangalore):** But only if they are in possession. If an owner is in possession, then he will be given adequate compensation, but not if he is not in possession.

**Shri A. K. Sen:** Personal cultivation—that is the whole thing. The whole principle is that, that a man cannot keep a land which is not under his personal cultivation in any scheme of land reform which we initiate. That means enjoying cultivable lands or the fruits of cultivable lands by allowing them to be tilled by others without his own hands being employed for the purpose is a thing which runs contrary to our basic notions of land reform.

**Dr. L. M. Singhvi:** How is the artificial definition of a family and the consequent discrimination between members of a natural family necessary pre-requisite for the formulation of this land reform programme or for its implementation?

**Shri A. K. Sen:** It is very closely connected with this question because we have seen that in many States, attempts were made, and in some cases they are still being pursued, where ceilings have been frustrated

[Shri A. K. Sen]

for instance, in dayabagha families, by large scale transfers to sons, relations, nephews etc.

**Shri Ranga:** That is their own property.

**Shri A. K. Sen:** In the dayabhaga family, it is only the father....

**Dr. L. M. Singhvi:** This is a matter which has been raised by the Supreme Court itself.

**Mr. Speaker:** Only one member at a time. Some Members stand up. If the Minister is yielding, he must sit down. Otherwise, the member must be content to resume his seat.

**Shri A. K. Sen:** Dr. Singhvi made out his point very ably and there is no difficulty in appreciating it. He quoted from one of the Madras Acts which was in challenge in the Supreme Court and said that the challenge succeeded on the ground that the definition of 'family' given was an unreasonable definition violative of article 19 because it created a new family unknown to Mitakshara law. I followed the point. There is no difficulty in appreciating it. But my not being convinced by his argument does not mean that I have not followed it.

**Dr. L. M. Singhvi:** We want a forthright answer.

**Shri A. K. Sen:** The forthright answer is this, that if we have to keep all the definitions of families and other units known in law, many of our progressive legislation would be thwarted. For instance, in many taxation laws, you will find the owner is given an artificial definition not here but in other countries—the word 'owner' being given artificial definition including even a licensee. So it is not only this law which creates a legal definition of a particular entity known in law which is different from orthodox notions...

**Shri Hari Vishnu Kamath:** It is an exercise in semantic confusion.

**Shri A. K. Sen:** Confusion or creation, whatever it is. I do not think there is any confusion in understanding it. There is only difficulty in agreeing with it.

**Shri Hari Vishnu Kamath:** I referred to semantics.

**Shri A. K. Sen:** Therefore, if we find that the availability of land, considering the population and the number of landless agriculturists amongst whom the surplus land is to be distributed, is such that it is impossible to allow each member of a mitakshara family the same holding as the family as a unit, it will be well within the rights of the legislature to prescribe a principle of holding in terms of families which may depend on a different definition, as in the Dayabhaga. A Dayabhaga family is quite different from a mitakshara family. In my State, so long as the father is alive, his sons have no proprietary interests at all in the ancestral property, and the father can completely disinherit them. If Dayabhaga can do it by merely a different interpretation of the same law, the legislature can create the same results by legislation.

**Shri Ranga:** If Burma Government can do it, why not we do it? What is the difference?

**Shri A. K. Sen:** There is bar to creating an entity for holding which is different from orthodox entity.

**Shri Krishnapal Singh (Jalesar):** Is the minister prepared to apply this principle of ceiling to his own income?

**Shri A. K. Sen:** My own income is being regulated by Parliament. I cannot put a ceiling, it is for Parliament to put a ceiling. I think there is a ceiling, but I shall be quite prepared to concede the right to Parliament to regulate it.

Anyway, whether ceilings should be there for agricultural holdings or not is a matter with which we are not

concerned. It is a matter which is so settled that it bears no further argument on it. We have accepted the imposition of ceilings as regards agricultural holdings as a matter not only of principle, but as a matter of urgent necessity. Therefore, in my submission, these different Acts which have been put in have been put for the purpose of saving them very largely on other grounds, apart from their not covering land which are estates within the meaning of article 31A.

One word more. If it is pointed out that in certain of these Acts there are provisions which are not really pertinent to land reform, but deal with completely different matters along with land reform provisions, I shall be prepared to consider it at the stage of clause by clause consideration, because we are primarily enabling States to save their laws so far as they are concerned with land reforms. We have considered these Acts fairly closely, but even now if it is pointed out that any of these measures contain provisions which are completely unconnected with land reforms I shall certainly have a very open mind on the question.

These are my submissions.

**Mr. Speaker:** I shall have to clear the lobbies first. Let the lobbies be cleared.

The question is:

"That the Bill further to amend the Constitution of India, as reported by the Joint Committee, be taken into consideration."

**The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha):** A large number of members are all upstairs taking part in the voting, where three important committee elections are being held.

**Mr. Speaker:** How long do they want?

506 (Ai) LSD—5.

**Shri M. R. Masani (Rajkot):** I think the division should be taken. The stage has been reached. There is no reason for postponing it.

**Mr. Speaker:** All right. If there is objection, I will take the division.

*The Lok Sabha divided:*

**An Hon. Member:** We have to have it again.

**Another Hon. Member:** How can we have it again?

**Mr. Speaker:** Then, I have to distribute the chits now.

**Shri Ranga:** What is this chit?

**Shri M. R. Masani:** By a clear majority of the whole House it has not been voted.

**Mr. Speaker:** Certainly it has not been declared, but that went off. There might be some defect in the machine. Therefore, I will have to ask for either the chits to be distributed, or request the Members to go to the lobby.

**Shri M. R. Masani:** Why? It was there on the board.

**Mr. Speaker:** There was something wrong. There is something wrong with the machine. I think Members have to go to the lobbies or the chits might be distributed here.

**An Hon. Member:** Chits may be distributed.

**Mr. Speaker:** All right, the chits might be distributed.

**Shri A. K. Sen:** What is the decision?

**Mr. Speaker:** I am told there is something wrong with the machine.

**Shri Satya Narayan Sinha:** Let us go to the lobbies.

**Shri Mahatab (Angul):** Let us try it again.

**Shri Ranga:** Let not the doors be opened.

**Mr. Speaker:** The chits might be distributed.

13 hrs.

**Shri Hari Vishnu Kamath:** Sir, on a point of order. Under what rule is this being done? I find that rule 367 is quite clear so far as division is concerned. There is no provision for chit distribution. The division procedure is prescribed.

**Mr. Speaker:** This is also division. What else is it? If they want to go to the Lobbies, I am prepared for that. I have no objection.

**Shri Hari Vishnu Kamath:** But it came on the board—the results, I mean.

**Mr. Speaker:** I was told by the office that there was something wrong.

**Shri Satya Narayan Sinha:** The Lobbies will have to be cleared again.

**Shri M. R. Masani:** Why should the Lobbies be cleared again?

**Shri Hari Vishnu Kamath:** I object to that, Sir. . . . (*Interruptions.*)

**Mr. Speaker:** Last time when we had that results on the machine, I was told that there was an error. This is a Constitution Amendment Bill and we must record the voting correctly. That is why I said that chits might be distributed. I have no other

objective. There ought not to be any apprehensions.

**Shri A. K. Sen:** I understand, Sir, that even the Division Bell did not ring everywhere.

**Shri M. R. Masani:** No, no. Nobody who was not in the House when the Bell was rung should be allowed to come into the House.

**Shri Hari Vishnu Kamath:** After hearing both sides, Sir, you ordered Division. The Rules cannot be broken to suit their interests. . . . (*Interruptions.*)

**Shri Nath Pai (Rajapur):** Sir, on a point of order.

**Mr. Speaker:** At first a complaint was brought from both sides that the Members were busy in the Committee elections.

**Shri Ranga:** He made a motion, Sir and we objected to it. It fell through. You called division. We cannot go back upon it.

**Mr. Speaker:** But did he not come to me? . . . (*Interruptions.*)

**Shri Ranga:** I am doing many things privately between you and me. Do you mean that you are going to bring it up here?

**Shri Nath Pai:** There should be some order, here.

**Shri Ranga:** In fact our proposition was not agreed to.

**Mr. Speaker:** Has everyone voted and sent the chits to the Table? Those who have not yet voted may do so.

**Shri Nath Pai:** I have not followed exactly what direction you gave on the statement made by the hon. Minister of Parliamentary Affairs. May I draw your attention, Sir . . .

Division No. 4]

AYES

[13.06 hrs.

Achal Singh, Shri	Jena, Shri	Pandey, Shri R. S.
Akkamma Devi, Shrimati	Jha, Shri Yogendra	Panna Lal, Shri
Alva, Shri A. S.	Joshi, Shrimati Subhadra	Paramasivan, Shri
Alvares, Shri	Jyotishi, Shri J. P.	Patel, Shri Chhotubhai
Babunath Singh, Shri	Kabir, Shri Humayun	Patel, Shri N. N.
Balakrishnan, Shri	Kadadi, Shri	Patel, Shri P. R.
Banerjee, Shri S. M.	Kamath, Shri Hari Vishnu	Patel, Shri Rajeshwar
Barman, Shri P. C.	Kandappan, Shri S.	Patil, Shri D. S.
Barupal, Shri P. L.	Kar, Shri Prabhat	Patil, Shri T. A.
Basappa, Shri	Karuthiruman, Shri	Patnaik, Shri B. C.
Basumatari, Shri	Kayal, Shri P. N.	Prabhakar, Shri Naval
Baswant, Shri	Kedaria, Shri C. M.	Pratap Singh, Shri
Bhagat, Shri B. R.	Khadilkar, Shri	Puri, Shri D. D.
Bhagavati, Shri	Khan, Dr. P. N.	Raghunath Singh, Shri
Bhanja Deo, Shri L. N.	Khan, Shri Osman Ali	Raghuramaiah, Shri
Bhattacharyya, Shri C. K.	Khanna, Shri Mehr Chand	Raja, Shri G. R.
Bhattacharya, Shri Dinen	Krishnamachari, Shri T. T.	Raju, Dr. D. S.
Bhawani, Shri Lakhmu	Kureel, Shri B. N.	Ram, Shri T.
Bist, Shri J. B. S.	Lakshminanthamma, Shrimati	Ramakrishnan, Shri P. R.
Brajeshwar Prasad, Shri	Laskar, Shri N. R.	Ramanathan Chettiar, Shri
Brij Basi Lal, Shri	Mahadeo Prasad, Shri	Ramaswamy, Shri V. K.
Brij Raj Singh-Kotah, Shri J	Mahtab, Shri	Rane, Shri
Chakravartty, Shrimat Renu	Maimoona Sultan, Shrimati	Ranjit Singh, Shri
Chakraverti, Shri P. R.	Majithia, Shri	Rao, Shri Jaganatha
Chandrasekhar, Shrimati	Malhotra, Shri Inder, J.	Rao, Shri Krishnamoorthy
Chaturvedi, Shri S. N.	Mallick, Shri Rama Chandra	Rao, Shri Muthyal
Chaudhuri, Shri Sachindra	Mandal, Shri Yamuna Prasad	Rao, Shri Rameshwar
Chaudhuri, Shrimati Kamala	Maniyangadan, Shri	Rao, Shri Thirumala
Chavan, Shri D. R.	Mantri, Shri D. D.	Raut, Shri Bhola
Chavan, Shri Y. B.	Marandi, Shri	Reddiar, Shri
Chavda, Shrimati Johraben	Matcharaju, Shri	Reddy, Shrimati Yashoda
Das, Shri B. K.	Mate, Shri	Roy, Dr. Saradish
Das, Shri N. T.	Mathur, Shri Harish Chandra	Roy, Shri Bishwanath
Deo Bhanj, Shri P. C.	Mehta, Shri J. R.	Saha, Dr. S. K.
Desai, Shri Morarji	Menon, Shri Krishna	Sanji Rupji, Shri
Deshmukh, Dr. P. S.	Menon, Shri P. G.	Saraf, Shri Sham Lal
Dey, Shri S. K.	Minimata, Shrimati	Sarma, Shri A. T.
Dhuleshwar Meena, Shri	Mirza, Shri Bakar Ali	Satyabhama Devi, Shrimati
Dinesh Singh, Shri	Mishra, Shri Bibbuti	Sen, Shri A. K.
Dubey, Shri R. G.	Mishra, Shri Bibubhendra	Sen, Shri P. G.
Dwivedi, Shri M. L.	Mishra, Shri M. P.	Shah, Shrimati Jayaben
Dwivedy, Shri Surendranath	Misra, Dr. U.	Sham Nath, Shri
Pirodia, Shri	Mohsin, Shri	Shankaraiya, Shri
Gajraj Singh Rao, Shri	Morarka, Shri	Sharma, Shri D. C.
Ganga Devi, Shrimati	More, Shri K. L.	Sharma, Shri K. C.
Govind Das, Dr.	More, Shri S. S.	Shinkre, Shri
Guha, Shri A. C.	Mukane, Shri	Siddiah, Shri
Gupta, Shri Priya	Mukerjee, Shrimati Sharda	Singh, Shri D. N.
Gupta, Shri Shiv Charan	Munzni, Shri David	Singha Shri G. K.
Hajarnavis, Shri	Murti, Shri M. S.	Sinha, Shri Satya Narayan
Hansda, Shri Subodh	Muthiah, Shri	Sinha, Shrimti Ramdulari
Harvani, Shri Ansar	Nair, Shri Vasudevan	Sinha, Shrimati Tarkeshwari
Hazarika, Shri J. N.	Nambiar, Shri	Sivapraghassan, Shri Ku.
Heda, Shri	Nanda, Shri	Sonavane, Shri
Hem Raj, Shri	Naskar, Shri P. S.	Soundaram Ramachandran,
Himatsingka, Shri	Nath Pai, Shri	Sharimati
Jadhav, Shri M. L.	Nayak, Shri Mohan	Soy, Shri H. C.
Jagjivan Ram, Shri	Nesamony, Shri	Srinivasan, Dr. P.
Jain, Shri A. P.	Nigam, Shrimati Savitri	Subbaraman, Shri
Jamunadevi, Shrimati	Oza, Shri	Subramaniam, Shri C.

Sumat Prasad, Shri  
Surendra Pal Singh, Shri  
Surya Prasad, Shri  
Swamy, Shri M. N.  
Swaran Singh, Shri  
Thomas, Shri A. M.  
Tiwary, Shri D. N.  
Tiwary, Shri K. N.  
Tiwary, Shri R. S.

Tula Ram, Shri  
Uikey, Shri  
Ulaka, Shri  
Umanath, Shri Ramachandra  
Upadhyaya, Shri Shiva Dutt  
Vaishya, Shri M. B.  
Varma, Shri Ravindra  
Veerabassappa, Shri  
Veerappa, Shri

Venkaiah, Shri Kolla  
Verma, Shri Balgovind  
Vijaya Ananda, Maharajkumar  
Virbhadra Singh, Shri  
Wadiwa, Shri  
Warior, Shri  
Wasnik, Shri Balkrishna  
Yadab, Shri N. P.  
Yusuf, Shri Mohammed

### NOES

Buta Singh, Shri  
Chaudhary, Shri Y. S.  
Gulshan, Shri  
Gupta, Shri Kashi Ram  
Kakkar, Shri Gauri Shanker  
Kapur Singh, Shri  
Kesar Lal, Shri

Krishnapal Singh, Shri  
Lahri Singh, Shri  
Mahananda, Shri  
Masani, Shri M. R.  
Ram Singh, Shri  
Ranga, Shri

Shashank Manjari, Shrimati  
Singha, Shri Y. N.  
Singhvi Dr. L. M.  
Solanki, Shri  
Swamy, Shri M. V.  
Swamy, Shri Sivamurthi

**Mr. Speaker:** The voting has taken place now. Let us wait.

**Shri Satya Narayan Sinha:** The Railway Minister says he was there, he did not hear the bell.

**Shri M. F. Masani:** Take it sportingly. We lose every day.

**Shri Ranga:** Parliament has to wait on your convenience?

**Shri Nath Pal:** May I make a submission?

**Mr. Speaker:** Why should he now?

The result of the division is "Ayes" have 206, "Noes" have 19. As the motion has not been carried by a majority of the total membership of the House as required by the Constitution, the motion is not carried.

Ayes: 206; Noes: 19

*The motion was negatived.*

**Shri Ranga:** Let Nandaji now accept the decision of God.

**Shri A. K. Sen:** I do not know if you will apply your inherent powers to allow the proper vote of the House to be taken.

**Some Hon. Members:** No, no.

**Mr. Speaker:** Only one Member can have his say at one time. Others

should remain silent. I will give them an opportunity if need be, but we should hear him patiently.

**Shri A. K. Sen:** The residuary clause gives powers to vary any rules and to frame such other directions as may be necessary to meet a particular situation. Here is a case where we have taken recourse to a mechanical contrivance, and the mechanical contrivance had failed to function.

**Shri Ranga:** Question.

**Shri A. K. Sen:** Many of the Members who had come had not heard the bell ringing at all.

**An Hon. Member:** Question.

**Mr. Speaker:** Order, order. There ought not to be any question. He should be allowed to have his say.

**Shri A. K. Sen:** The mechanical contrivance, to the knowledge of all of us, failed to function.

**Shri Ranga:** No.

**Shri M. R. Masani:** Question.

**Shri A. K. Sen:** And if you call many of the hon. Members who were outside, they will tell you that they did not hear the bell ringing.

**Shri S. M. Banerjee:** They thought it to be a quorum bell.

**Shri A. K. Sen:** It is a fact that ever since the use of this mechanical device, Members have been led to believe that they will be told before they come to a division, that they will be informed by the ringing of the bells that the division is going to take place, and the bell really failed to function. Is it a case where a voting has been taken really according to the spirit of the House and the spirit of the rules? Many Opposition Members are now coming, you can see.

**Shri Daji (Indore):** The bell was not ringing. All of us were there.

**Shri Priya Gupta (Katihar):** On a point of order.

**Shri Radhelal Vyas (Ujjain):** The bell did not ring.

**Mr. Speaker:** Order, order. The Law Minister is speaking. Nobody else can speak just at this moment.

**Shri K. C. Reddy (Chikballapur):** On a point of order.

**Mr. Speaker:** When he is speaking, how can it be allowed?

**Shri Priya Gupta rose—**

**Mr. Speaker:** Order, order. Let the hon. Minister finish his point.

**Shri A. K. Sen:** If you look at rule 367(3)(a), it says:

“If the opinion of the Speaker as to the decision of a question is challenged, he shall order that the Lobby be cleared.”

Then, sub-rule (b) of the same rule says:

“After the lapse of two minutes he shall put the question a second

time and declare whether in his opinion the “Ayes” or the “Noes” have it.”

Then, sub-rule (c) says:

“If the opinion so declared is again challenged, he shall direct that the votes be recorded either by operating the automatic vote recorder or by the members going into the Lobbies.”

Now, so far as the Constitutional amendments are concerned, rule 155 comes into operation; it says:

“Each clause of schedule, or clause or schedule as amended, as the case may be, shall be put to the vote of the House separately and shall form part of the Bill if it is passed by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.”

Then, rule 158 says:

“Voting shall be by division whenever a motion has to be carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.”

So, if the result of the voting shows that the majority of the total membership of the House and the majority of not less than two-thirds of the members present and voting are in favour of the motion, it will be passed. Then, the important thing is, rule 159 which says:

“In all other respects, the procedure laid down in these rules with respect to other Bills shall apply.”

If that is so,—I do not want to be technical—you really did not declare again, before ordering the final division; that is to say, the procedure

[Shri A. K. Sen]

prescribed in rule 367(3)(b) and (c) had to be followed again; in other words, it says:

"After the lapse of two minutes he shall put the question a second time and declare whether in his opinion the "Ayes" or the "Noes" have it."

Then, the procedure under sub-rule (c) has to be followed, namely,

"If the opinion so declared is again challenged, he shall direct that the votes be recorded either by operating the automatic vote recorder or by the members going into the Lobbies:"

Now, if the failure of the system has taken place, the whole thing is void. (*Interruption*).

**Mr. Speaker:** Order, order. Only one can be heard at one time.

**Shri A. K. Sen:** You ordered the voting to be by the mechanical contrivance. That having failed, you have ordered a second time. It is in fact before the initiation of a second division and before we had resorted to voting by slips a second time that the lobbies should have been cleared again. (*Interruption*).

**Some Hon. Members:** No, no.

**Shri A. K. Sen:** The lobbies should have been cleared again, because, the first option you have exercised—by ordering the voting to be recorded by the vote-recording machine; that having failed, you have ordered a second division. Virtually, for the second method—in my submission—it was incumbent upon you to have ordered that the lobbies be cleared a second time because it was the initiation of a second division. (*Interruption*).

**Mr. Speaker:** Order, order. There is nothing more that can be said.

**Shri Daji:** Sir, in room No. 63, voting was going on. 80 persons or so, including myself, some Ministers and many of our friends were there. The bell was not heard. Shri Lal Bahadur Shastri was there; Shri

Dasappa was there. Many Members were there; a host of others were there; so many were there and they would have come, but the bell was not heard. Therefore, in that sense, the right to participate in the voting was lost to us. You had said that the voting would be at 1 O'clock. We had been rushing from floor to floor, but the bell was not heard. (*Interruption*).

**Shri Priya Gupta:** In order that the Members may be attracted, a bell may be fixed in the rooms also where election for PAC, EC etc. are conducted so that we could hear its ringing, and may I also submit that it is incumbent on you to inform the Members.

**Shri K. C. Reddy:** I would like to make the same point that has been made by Shri Daji. I would like to invite your attention to the fact that... (*Interruption*).

**Mr. Speaker:** Order, order. Will hon. Members allow me to hear? Let me hear what the hon. Member says.

**Shri K. C. Reddy:** The bell was not heard. Voting was going on for election of Members to three important Committees of the House. We were all voting and no bell was heard there.

**The Minister of Railways (Shri Dasappa):** I shall make it abundantly clear that myself and a large number of Members were waiting to hear the division bell. Before I left the House, I requested the hon. Law Minister to tell me at what time the division was likely to take place. He said it would be at 1 O'clock. I had some time and so I rushed up along with a large number of friends, voted as quickly as possible and rushed back, but by that time, the doors were barred against me and a large number of Members. Myself and a large number of other Members never heard anything about the ringing of the bell. Whatever the reasons—failure of the machine or otherwise—the division should be a fair one. I do not

think there is anybody here who wants to take undue advantage of the failure of the mechanism of the voting apparatus.

श्री शिव नारायण (बांसो) : अध्यक्ष महोदय, हम ने शपथ ली है और हम आपकी आज्ञा का पालन करेंगे। लेकिन मैं निवेदन करना चाहता हूँ कि मैं वोट देने गया था, मेरे साथ श्री लाल बहादुर शास्त्री जी थे और चीफ क्लिप हमारे साथ थे। हम लोगों ने कोई घंटों नहीं सुनी। यहाँ आप की मशीन भी तो फेल हो गई थी . .

Mr. Speaker: Order, order. I have heard enough. I think I should decide now.

Shri P. G. Sen (Purnea): On a point of order. Can you ask us to go and vote for the Estimates Committee, the Public Accounts Committee and the Committee on Public Undertakings and then, simultaneously, can you ask us to rush here and again vote in respect of the Bill? (Interruption).

Mr. Speaker: Order, order. I think I will be listened to now!

Dr. Melkote (Hyderabad): Exactly at 1 O'clock, I was downstairs, but even here I did not hear the ringing of the bell.

Mr. Speaker: What has happened may be very unfortunate, but the facts are to be accepted, whatever the consequences. I am not prepared to sacrifice the traditions of Parliament. It was enquired from me in the beginning, and I put it to the Law Minister how long he was likely to take for his speech. It was 12.35 then. He said he would take about 20 minutes. Every hon. Member knew that a division would be taking place. I then said that it would be just about 1 O'clock.

Shri Daji: What about the bell?

Mr. Speaker: Now, the main issue that is being raised is that the bell did not ring. I accept that, but that is

not a point on which a division can be questioned. It has been held so many times that there cannot be a point of order because the bell did not ring. That is very clear in the rules.

Shri Rameshwar Sahu (Rasara): May I add....

Mr. Speaker: Order, order. Second—has been held by some of my predecessors several times that the fact that the bell did not ring is no ground for upsetting the division. It is for the Whips to muster their strength and bring the Members here. (Interruption). Order, order. I am very sorry I cannot interfere in the division that has taken place and that has to be accepted by the House, whatever it is.

13.30 hrs.

#### CONSTITUTION (EIGHTEENTH AMENDMENT) BILL

The Minister of Law (Shri A. K. Sen): Sir, I am happy to say that the Government does not propose to proceed with the Constitution (Eighteenth Amendment) Bill and therefore you will excuse me, Sir, and the Government for not moving the motion for consideration of the Bill.

May I say a few words in explanation, because it is a matter which has hardly any precedent, particularly on such an important matter? It is true that this Bill has raised a rather strong controversy about either the intention of the Government or the scope of the Bill and it has often been suggested that the Government propose to ride roughshod over the Constitution. It is impossible to concede to that position and the Government never propose to do anything of the sort. In deference to the wishes of many within our party and also of hon. Members on the other side,—it is hardly a matter on which any of us would like to make it an issue. In any event, meeting the emergency would be the privilege of