

13.33½ hrs.

CONSTITUTION (AMENDMENT)
BILL—contd.

(Amendment of Articles 75 and 164)

By Shri Hari Vishnu Kamath

Shri Hari Vishnu Kamath (Hosangabad): Mr. Deputy-Speaker, when the House adjourned a fortnight ago, I had drawn the attention of the House to the relevant Articles of the Constitution, namely Article 75 and Article 164, the former pertaining to the Union Parliament, the Union Government, the Union Executive, and the latter to the Executive in the States.

15.34 hrs.

[SHRI SHAM LAL SARAF in the Chair]

My Bill seeks to amend both these Articles, Article 75 and Article 164, in order to provide, in order to guarantee, under a full-fledged parliamentary democracy like ours, and the greatest democracy which we hope it will be in the very near future, in order to lay down very healthy, very sound traditions which will be emulated by other democracies of the world and I am sure that every Member on every side of the House will agree that India should provide, should guarantee, should set an example in this matter, should become, may I say, the arbiter of constitutional elegance and the paragon of constitutional and parliamentary manners. Therefore, the Constitution should stipulate, should lay down peremptorily, specifically, categorically, unambiguously and unequivocally that the Prime Minister of the Union Cabinet, of the Union, and the Chief Minister in the States should be an elected member of the Lok Sabha, the House of People at the Centre and the Vidhan Sabha or the Legislative Assembly in the States respectively. Why do I urge this, Sir? Mr. Sharma says, yes. He is perfectly within his right to ask me why I urge this amendment. May I say, Sir, that at the moment the Union Council of Ministers, the Union Cabinet, I mean,

presents a rather dismal picture from this point of view, not from any other standpoint—I am not going into the wider question of Ministers of State, the Deputy Ministers etc.—... Mr. Shukla has walked in and he is walking out.....

Mr. Chairman: Why do you name him alone?

Shri Hari Vishnu Kamath: He chose to walk out. His senior Minister is here; but he belongs to the other place.

The Minister of State in the Ministry of Home Affairs and Minister of Defence Supplies in the Ministry of Defence (Shri Hathi): Which place?

Shri Hari Vishnu Kamath: To Rajya Sabha. Whenever this House refers to Rajya Sabha, it is called the other place. You can check it up from the records of the proceedings of this House in the last one decade. The Union Cabinet is rather curiously composed for the first time in India's parliamentary history: Out of 16 members of the Cabinet—this number is not curious—9 are members of the Lok Sabha....

Mr. Chairman: Order, order. There should be no crossing of the floor.

Shri Hari Vishnu Kamath: 9 members of the Lok Sabha—may be Navaratnas; I do not know whether they are Navaratnas or Navagrahas—and 7 members belong to the other place.

Shri Kapur Singh (Ludhiana): Saptarishis!

Shri Hari Vishnu Kamath: It is supposed to be the House of Elders. I do not know whether it is appropriate to call it as the House of Elders, because so many youngsters have been nominated for ulterior purposes.

Shri Khadilkar (Khed): Your former leader is also there.

Shri Hari Vishnu Kamath: 7 members belong to the other House. 9 and 7—this is a most atrocious proportion. No other country in the world, no

[Shri Hari Vishnu Kamath]

other parliamentary democracy in the world can boast of such a proportion. No other parliamentary democracy shows such an example with regard to their own Cabinet functioning in that country.

Now, Sir, of these 7 Ministers belonging to the other House.....

Shri Warrior (Trichur):other place.

Shri Hari Vishnu Kamath: Yes, other place. I am glad that the hon. Member pointed out this thing. We should be quite correct in our parliamentary phraseology or parlance.

Mr. Chairman: Perhaps you need a little help from others.

Shri Hari Vishnu Kamath: I welcome help from all quarters, from you too. I am sure it will be forthcoming in abundant measure from you also, as I proceed. You will not be able to take part in the proceedings. If you are down below, you will also support me.

Of the seven members of the other House too, as you are well aware, when they were appointed to the Cabinet, maybe three, perhaps two, were houseless Ministers, houseless in the sense of belonging to neither House.

You remember that in the last House of Commons, when Sir Alec Douglas Home was appointed Prime Minister in succession to Mr. Macmillan, Mr. Harold Wilson quipped, "This is a houseless Home"—or Hume—because he had to come into the House afterwards, he had to be elected to the House of Commons subsequently.

Here, there was one Minister—I am sorry to point out this fact, but there is no casting of reflection on any one, I am pointing out the hard facts and figures which we should not shirk facing, we should face them with the fullest courage and honesty—who was appointed to the Cabinet. He had

been, unfortunately, I am sorry for that, defeated in the last election, and he was appointed to the Cabinet. He should not have been appointed to the Cabinet unless he had been elected to one of the Houses.

Shri Khadilkar: Who is it?

Shri Hari Vishnu Kamath: I think you know it.

This is not such a bad instance. Some years ago you will recall that the founder-leader of the Swatantra Party was the Chief Minister, last-term Chief Minister—he did well, of course, as Chief Minister, I do not deny his capability, talent and what not—but he had been nominated by the Governor to the Legislative Council of Madras, nominated, not even elected to the Legislative Council, and he became Chief Minister and carried on the administration for, I think, two or three years in that capacity.

Shri Man Sinh P. Patel (Mehsana): One year only.

Shri Hari Vishnu Kamath: That is a minor point, whether it was one year or two years. He was there as Chief Minister, a nominated Member of the Legislative Council.

The point I am trying to make out is that we are establishing bad traditions, setting up unhealthy conventions, very unsound traditions which are anti-thetical to the principles and spirit of parliamentary democracy and to even the letter of the Constitution.

There was another instance in 1952 I believe, when a candidate who was defeated in the election at that time, the first general election, was straight-away appointed Chief Minister of that State, Bombay, the then bigger, bilingual, or rather quadrilingual State.

Mr. Chairman: Why not multilingual?

Shri Hari Vishnu Kamath: Thank you for the help, timely help.

He was appointed Chief Minister. It was some time before he got elected to the lower House, the Bombay Assembly.

We are in the seventeenth year of the Republic of India by the grace of God, established by the grace of God and the goodwill and co-operation and sacrifice of the people. We should now make up our mind once for all that henceforth we shall not commit these blunders.

Mr. Chairman: There are two hours allotted for this Bill.

Shri Hari Vishnu Kamath: The time may be extended.

Mr. Chairman: And there are a number of hon. Members wanting to speak.

Shri Hari Vishnu Kamath: I am glad to hear it.

Shri Raghunath Singh (Varanasi): He should allow others to support the Bill.

Shri Hari Vishnu Kamath: Yes.

श्री मधु लिमये (मुंगेर) : समय बढ़ाया जाना चाहिये ।

Mr. Chairman: The hon. Minister has also to reply. So, he will kindly keep the time in mind.

Shri H. N. Mukerjee (Calcutta Central): The time may be extended.

Mr. Chairman: There is no motion as such. It will be seen later on.

श्री मधु लिमये : नियम 355 के अन्दर मैं एक स्पष्टीकरण चाहता हूँ । कामत साहब का विधेयक बहुत अच्छा है । उन्होंने इसलिए इसको रखा है कि राज्य सभा के मंत्री जो मंत्रिमंडल में हैं वे थोड़ा शर्मिदा हो जायें । कांग्रेस का दो तिहाई बहुमत है । इस वास्ते इसके पास होने का तो सबाल है ही नहीं । लेकिन राज्य सभा का कोई मंत्री यहां मौजूद नहीं है ।

Shri H. N. Mukerjee: It is the great desire of the House that some Cabinet Minister ought to be here. This is a subject of very great importance, and Government disregards it because they have a majority and we cannot change the Constitution by our vote, and they send a comparatively junior Minister. I have nothing against Mr. Hathi, but he does not belong to the Cabinet. The Prime Minister is not here. None of the other Cabinet Ministers is here. This is a reflection on the House. From that point of view, you can perhaps have it conveyed to the Prime Minister or the Leader of the House that they should do something about it.

Mr. Chairman: It will be conveyed.

Shri Ranga (Chittoor): Is there any whip at all here?

श्री मधु लिमये : कॅबिनेट का राज्य सभा वाला एक भी मंत्री मौजूद नहीं है । इंदिरा जी से लेकर अशोक मेहता और चागला तक एक भी मौजूद नहीं है । कम से कम पाठक साहब तो रहते ।

श्री रघुनाथ सिंह : मेरा निवेदन है कि इनने महत्वपूर्ण विधेयक पर विचार के समय कोई न कोई मंत्री तो मौजूद होना चाहिये । लीडर आफ द हाउस मौजूद नहीं, प्राइम मिनिस्टर मौजूद नहीं है, क्लिप मौजूद नहीं है, डिप्टी क्लिप मौजूद नहीं है । हाउस कैसे चलेगा ?

Mr. Chairman: I have taken note of that, and I am taking action with regard to that.

Shri D. C. Sharma (Gurdaspur): I endorse every word of what Mr. Raghunath Singh has said. It is a sad reflection upon our House and upon parliamentary democracy that the Treasury Benches should be empty, except for this gentleman who is a very dutiful Member of the House.

Mr. Chairman: I am seized of the situation.

Shri Raghunath Singh: Thank you.

Shri Hari Vishnu Kamath: I am happy that the Bill has evoked so much interest, and rightly so, from Members on all sides of the House, and I do hope that in response to the request made by my hon. colleagues, some Cabinet Minister may appear from somewhere and will be present in the House.

Mr. Chairman: That point is clear. Please be brief.

Shri D. C. Sharma: He will not drop from the ceiling.

Shri Hari Vishnu Kamath: I was inviting your attention to this rather unpleasant fact, unsatisfactory fact, of the proportion of 9 to 7 in the Cabinet here. What is the position obtaining in other parliamentary democracies of the world?

Shri D. C. Sharma: Do not make a long speech.

Shri Hari Vishnu Kamath: I will give you full time. The time will be extended by another two hours.

In Great Britain whose Parliament, the House of Commons, is called the Mother of Parliaments, the most ancient democracy from whom we have borrowed much of our Constitution, though not in entirety, there, in Britain, no peer, that means a Member of the Upper House, the House of Lords, has been Prime Minister since the resignation of Lord Salisbury in 1902. In 1923, the question whether it was then possible for a peer to become Prime Minister, was definitely raised. The resignation of Mr. Bonar Law left George V with a choice between Lord Curzon and Mr. Baldwin. The convincing argument was that, in the opinion of many members of the House of Commons, "the time... has passed when the direction of domestic policy can be placed outside the House of Commons." They definitely said that no longer a Member of the other House, the House of Lords, could be

trusted with the direction of domestic policy.

"It was not plain in 1923 that the Prime Minister must necessarily be in the House of Commons."

Then it goes on to say:

"It is however now conceded that the Government owes a responsibility to the House of Commons alone."

Then, we have a similar provision in our Constitution also. Will you kindly see article 75 and article 164? Article 75(3) says:

"The Council of Ministers shall be collectively responsible to the House of the People."

There is also the parallel and corresponding article for the States, article 164(2):

"The Council of Ministers shall be collectively responsible to the Legislative Assembly of the State."

Is it not a strange irony—may I use another word which is more appropriate—travesty and mockery of the spirit and letter of these provisions of the Constitution if the cabinet is headed or the council of ministers is headed by a person who is not a member of that very House to which the cabinet is collectively responsible, the council of ministers is collectively responsible? Today I am not making any personal reference in this matter. It is a matter of principle, tradition, and good conventions. I am sure that but for this emergency which has become more a shroud than a cloak to cover the cadaverous sins and crimes of the government, but for that there would be by-elections. Even with the emergency on, there is no reason why there should not be by-elections in the country. When the war with Japan was in full swing in 1945, there were general elections in Great Britain; the British government

was carrying on the war against Japan after the fall of Germany, still general elections were held in Great Britain. Here the Government is fighting shy of holding even byelections in the country. I am sure the dignity and the status of the Prime Minister would be enhanced if fighting a byelection, Shrimati Indira Gandhi got elected to this House and came here, as an elected Member of this House, of Lok Sabha; because she is Prime Minister she will displace the Leader of the House also from his position, not that I am against him. But it is in the fitness of things that the Prime Minister should get elected to this House and I am sure she can face a byelection and after winning the byelection come here. I hope in spite of what the government thinks on this emergency at the present moment, you yourself, I am sure, and the Members of your party and the House, of Parliament as a whole will compel the government . . .

Mr. Chairman: At the moment I have no party.

Shri Hari Vishnu Kamath: When you come down, you will have . . . You will compel the government to hold byelections even if the emergency is not revoked. I hope it will be revoked in response to popular demand. Even if that is not done, there should be byelections and the members of the cabinet should be from this House. I hope, I wish very much even Mr. Hathi comes to this House but it is perhaps too late in the day now, but next year . . .

Shri Hathi: I was.

Shri Hari Vishnu Kamath: I know I am talking of this Parliament. Next year he will perhaps be in this House.

I was pointing out about the other countries; there are very strict conditions in other countries. In Canada, another Commonwealth country, all ministers in charge of departments of government must be members of the House of Commons—all ministers in charge of departments. Who can be

members of the other place? Can you guess? Those who are without any portfolio can be members of the other House. I do not mind if one or two ministers without portfolio can be taken from the other House, Rajya Sabha, the other place. In Ireland, the Irish Free State, only the members of the Dail Eireann can be members of the Executive council, that is the cabinet, thus preventing the country—that is how he puts it, it is unfortunate, but it is true and we have to face facts—from making full use of such ability and experience as may be found in the Senate. The Senate is the other House. In spite of that, they have provided that no member of the Senate or the upper House in the Irish Free State can be a member of the executive council. Then comes New Zealand; it has got only one House. In France which has gone through many vicissitudes, there is now no parliamentary democracy as we know it. In West Germany, where there is parliamentary democracy, the federal chancellor, that is the Prime Minister, is nominated.

"The federal chancellor is nominated, as we have seen, by the federal President and must then be elected by the Bundestag."

Bundestag is the lower house; Bundesrat is the upper house, as you are well aware. There also it is the same position. In Canada, Irish Free State, Germany and Britain which are among the important parliamentary democracies, there are provisions guaranteeing that the head of the cabinet, the Prime Minister, is a member of the lower house, House of Commons.

One or two words more and I have done. For the present, I would like to say—I have the right of reply and I will take up some other issues at that time, one or two matters—that there are two amendments to my Bill, one in the name of Shri Yashpal Singh and the other in the name of Shri Vishwanath Pandey. I welcome these amendments, and if the House

[Shri Hari Vishnu Kamath]

agrees to the amendments, I accept them; I agree to them. I will be glad if the House agrees to the amendment for the circulation of my Bill for public opinion.

One word about the import of the Bill, because it is likely to be misconstrued that this is a sort of reflection, unjust and unfair reflection on the Rajya Sabha, the other place. By no means is it so. Because, whatever may be our likes or dislikes, aspirations or desires, the Constitution has made them unequal; there is no question of equality. We have got respect for each other just as in the wide world, though human beings are unequal, they respect each other. They are unequal. We have regard for them. But I do not think our regard should be carried to a point where it becomes reverence, in the words of the Finance Minister who talked the other day about reverence for the other House. I do not know what he meant by reverence; it is reserved for something much higher, much more than political institutions. Regard, respect, love, affection, yes, but certainly not reverence . . . (An Hon. Member: Consideration).

Mr. Chairman: There is a little line of distinction between the two.

Shri Hari Vishnu Kamath: There is much distinction, not a little. You will find even in the Rules of Procedure that for certain purposes and for certain committees they have no *locus standi*; they cannot get into these committees. You know that. The Constitution makes it quite clear about their powers in regard to Money bills, financial business, etc. They have not got any financial powers; they do not discuss the budget demands. It is very wise, therefore, that other countries have provided that the head of Government should come from among themselves, from that House to which the cabinet, the council of ministers, is collectively responsible.

16 hrs.

Now, on the question of a motion of no-confidence, as you are well aware, a motion of no-confidence has been moved four times in this House, the Lok Sabha. This House has had the distinction, the third Lok Sabha has had the distinction, of moving a motion of no-confidence in the Council of Ministers not once, twice or thrice, but four times. In the other place, the poor Rajya Sabha—I should not say poor—they have not had the privilege of moving any motion of no-confidence. So, does it not stand to reason that the Prime Minister should be an elected Member of this House?

May I, before I conclude, ask, is there any Member of this House whose soul is so dull—I will not say so dead—who is so soulless and so dull that he will not accept the provisions of my Bill? He will be stultifying himself, the House will stultify itself, if the House rejects my Bill which provides that a Member of this House should become the Prime Minister of India. Does it not appeal to you, Sir? If you were down below here, I am sure you will agree. Does it not appeal to all the Members, Members on all sides of the House? Could anybody feel otherwise? I am sorry to say that if the House votes against this Bill, if the House disagrees with this Bill, I will have no hesitation in saying that the House will be stultifying itself.

I would, therefore, urge that, as I have said in my Statement of Objects and Reasons, in no circumstances should the Prime Minister or a Chief Minister be a Member who has been elected indirectly and who has not been elected directly by the people of this country. I therefore move this Bill for the consideration of the House and I commend it for acceptance by all sections of the House, by all sides of the House and by every Member of the House.

Mr. Chairman: There are two amendments, one by Shri Yashpal Singh and the other by Shri Vishwa Nath Pandey.

Shri Yashpal Singh (Kairana): I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 30th September, 1966."

**Shri Vishwa Nath Pandey (Salem-
pur):** I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 30th October, 1966."

Mr. Chairman: Both the amendments have been moved. Shri Harish Chandra Mathur.

Shri Harish Chandra Mathur (Jalore): Mr. Chairman, Sir, Shri Kamath, as usual, has drawn the attention of the House to a matter of real, vital and significant importance. So far as the basic principle of the Bill is concerned, I think there can be no two opinions, and it will have my support in full.

At the very outset, I wish to draw the attention of the House to the fact that if we were to accept the constitutional amendments that are brought before this House, I think we will have to amend our Constitution almost every month. I have here before me a list. Of course, the Government have amended the Constitution 18 times or more. But the private Members have felt it necessary, on certain vital matters, to bring before this House Bills for the amendment of the Constitution and as I counted the Bills, I found that during 1964, we had about 16 Constitution (Amendment) Bills; so, it is more than one in a month. In 1965, it is the same ratio. In 1966—we are in the month of April—this is the fifth Constitution (Amendment) Bill.

Shri Kapur Singh (Ludhiana): So, you exceed the average this year.

Shri Harish Chandra Mathur: We are progressing. This indicates that there are certain Bills which are brought obviously with a view to highlighting certain points, to focus the attention of the Government on certain matters, but I think there is great need for us to give some thought to the basic matter, where there is need for an amendment of the Constitution in vital parts, in several respects, after our experience of these 17 years. As a matter of fact, when I went through the proceedings of the Constituent Assembly, I found that the late Prime Minister, Pandit Jawaharlal Nehru, had observed, when his attention was drawn during the concluding portion of the debate, that there were certain important matters on which decisions had been taken at that time and they could not go back to review the entire matter. He thought that it would be wise to review the Constitution after five years or so. I think in these matters as have been highlighted by the Opposition—the Opposition may be weak in numbers—the points are not weak. The Opposition's points have strength, and such points, such matters, such subjects as have real strength in them need to be examined. Therefore, I would suggest that a Committee might be constituted to go into all the various constitutional amendments, Constitution (Amendment) Bills, that have been presented so far, and the Government should examine whether there is need for this House to constitute itself, after the next election, into another Constituent Assembly and to have a complete review of the entire matter. There are many other matters such as the State-Centre relationship and others which will have to be given a deeper thought and consideration.

Coming to the provisions of this particular Bill, as I said, while I entirely agree with the basic principle, I am afraid I cannot subscribe to the

[Shri Harish Chandra Mathur]

clauses as they have been incorporated in this Bill. I see no justification for a 25 per cent strength of Cabinet Ministers to be drawn from the other House. My amendment to this would be, if on account of any emergency or urgency there is need for somebody to be appointed as a Cabinet Minister from the other House it may be done, but he must seek election within six months; he must immediately vacate his seat if he accepts the Cabinet Minister's position and then he must seek election in the other House.

So far as the Prime Minister is concerned, it is for the first time that we are faced with a very difficult and unique situation. Our minds were really very much exercised at that time, and I feel the only correct thing would have been for the Prime Minister, before she took the oath of office before the President, to have resigned from that House—even before she took the oath. Without being a Member of any House she could be the Prime Minister for six months and then the election should have followed. Some of us did express such an opinion, as a matter of fact, even then. What was thrown in our face was that we are in the midst of an emergency. May be legally it is a valid point; technically, it is a legal point. But I am unfortunately one of those who have been advocating all the time that it is time to do away with the emergency for all practical purposes. Even yesterday, we had a meeting and I have been pleading—it is no secret—on the floor of this House and outside, that if you want to give real meaning to the emergency in the minds of the people, if you want Government to be really aware of its own responsibilities for the sake of the Government, to make them aware of a sense of their responsibility, to let people have complete freedom and be exercised when there is the emergency to consider it as an emergency, it is high time that we did away with the emergency. So, to my mind, there is absolutely

no consideration whatsoever. But, even if it is, technically, as it stands today, an emergency, though certain reasons are advanced for not having by-elections now, reasons with which I am not in agreement, I think the Government should consider this matter and have these by-elections held. Now, possibly I do not want to be absolutely impractical. Now that hardly 8 to 10 months are left for the general elections, I will not force the hands of the government here and now that they should ask all the Cabinet ministers coming from the other House to go in for by-elections now. But it is very significant and important that the Government, the Prime Minister, makes a policy decision that they subscribe to this particular view that they do not want this to be carried any further and they will be doing nothing than what we have been following all the time.

You are possibly aware, Mr. Chairman, that the late Prime Minister Jawaharlal Nehru had made it abundantly clear to all the Cabinet ministers from the other House that if they were to continue in the Cabinet after the elections, they must contest the elections and come to this House. So, the thinking, the philosophy, the principle, is there. It is now time that the government reiterates and makes abundantly clear that very policy and assure this House and the country that there would be no backdoor entry for the Cabinet ministers and that we will adhere to this very sound principle and policy to which we have subscribed all the time and which the country has held in approbation all the time. I think at present all that is necessary is a clear enunciation of that policy and a commitment by the government. I do not think it would be possible or advisable to pass this Bill as it is, because as I said in the beginning, I do not subscribe to the view that there should be a quota fixed for the other House. I do not subscribe to

the view of such quotas and permits so far as this matter is concerned.

Shri H. N. Mukerjee: Sir, I am glad that at least the Leader of the House, after more than half an hour has passed, has chosen to appear and the Law Minister also has condescended to be with us.

Shri Ranga: But without his rose!

Shri H. N. Mukerjee: I was recalling what the Americans used to say about rapid means of communication which are available these days and which are much improved today. They used to say that the three quickest ways of communication were telephone, telegraph and tell-a-woman. It seems that even though we have got quicker means of communication, we could not communicate with members of the Cabinet and could not persuade them to come here, because—I feel very strongly—and I cannot understand why the House does not seem to take this matter seriously enough—Government seems to think that this is a matter which, being a constitutional amendment, has not the foggiest chance of being passed and, therefore, they can make short-shrift of it. Here is a matter of principle, as Mr. Mathur's speech has made it very clear, how the minds of Congress members are working in regard to the measure which Mr. Kamath has proposed. He might not agree to something suggested in the Bill, but the main point in the Bill that the Prime Minister must belong to the Lower House and the Chief Minister in the respective State must belong to the Legislative Assembly and not to the Upper House, is a matter on which the government's assurances have got to be forthcoming. There is nothing personal about it. Though I said tell-a-woman, there is nothing personal. The Congress administration, whoever heads it, being bad as it is will stink just as badly. It is not aimed against any particular Prime Minister. It is based on a certain principle.

I also wish to say something which Mr. Kamath has referred to and Mr. Mathur in his own way has very strongly mentioned it, namely, the decision of the Election Commission, which unfortunately has come to mean the same thing as the decision of the government, something which we are not going to accept. The Election Commission is a body which should behave differently. The Election Commission in the desire of the ruling party and in the name of the emergency, which to all intents and purposes does not exist, have banned bye-elections. This is a most peculiar state of things. Lal Bahadur Shastri is dead and his seat is lying vacant. Was it not possible for the Prime Minister of India to contest that seat, which ought to be a very safe seat for a Congress candidate, and come to this House? But she does not choose to do so because that would mean that the revocation of the emergency would become a really practicable proposition, which it is. Government is denying that it is a practicable proposition, but it is, in the eyes of the people and in the eyes of genuinely enlightened representatives of Congress opinion like Mr. Mathur, certainly eminently practicable.

The points of principle have been placed by Mr. Kamath. I need not refer to the case of Curzon or Home. There is another instance of Quintin Hogg, who merely aspiring to become Prime Minister gave up his succession to Lord Hailsham, whose son he is. These British precedents are there. Why are we asking for our country accepting the spirit of these British precedents? It is because, if this country is serious about working parliamentary democracy—and, more than us on this side, the government party says it is very serious about parliamentary democracy; I am twitted from time to time as having no very great fondness for parliamentary democracy, and for many respects of parliamentary democracy—I do not have much of a fondness, I can assure

[Shri H. N. Mukerjee]

them—but if government really and truly cares about parliamentary democracy, it is a matter of delicate balance. If that delicate balance is to be preserved in conformity with the principle that the people's representatives should have a real say in the administration, then this kind of thing like the Prime Minister being a member of the representative, elected House becomes a categorical imperative. There is no getting away from it. This is a matter of principle which you cannot get away from.

There have been occasions and already it has happened in this House—it is the Prime Minister's duty to express the sense of the House on formal occasions. In the British House of Commons, this is exactly what is done. I am quoting from Erskine May:

"It is the Prime Minister's duty to express the sense of the House on formal occasions on motions of thanks or congratulations and motions of condolence."

None of us had any objection personally to Shrimati Indira Gandhi leading the debate when we were expressing our condolence as we did at the passing away of Lal Bahadur Shastri. We were not vulgar enough to object to that procedure at that point of time. But it is perverse and ridiculous that this sense of the House is being representatively expressed by some person, who however eminent he or she may be in some other domain, does not belong to this House. This is not a purely legal quibbling kind of thing; it is very important. The spirit of the matter is lost of that kind of thing takes place.

Some of us remember, and certainly the Leader of the House will remember—that in the first Parliament—I think at that time Mr. Kamath also was here—there was a great deal of trouble and hullabaloo over some *faru pas*, some false step having been

taken by the then Minister of Law, the late Mr Charu Chandra Biswas. Mr. Biswas, the then Law Minister, belonged to the Rajya Sabha. I do not want to go into the details of that incident. He was hauled up here and also hauled up in that House. He walked out of this House because that other place, that other shop, had put a ban on him to open his mouth in this House. It went so far—and Mr Satya Narayan Sinha will certainly remember that occasion when in a huff, obeying the directive of the Chairman of the other House representing the Rajya Sabha, Mr. C. C. Biswas, the Minister of Law, walked out of this place. Ultimately an understanding was reached between the Speaker and the Chairman who sat down together. The Government of India represented by Jawaharlal Nehru tried to intervene and a sort of understanding was reached.

Mr. Chairman: Do you mean to say that an hon. Minister functioning here, a member of the Cabinet, could not speak out his mind here irrespective of the above fact because he belonged to that House?

Shri H. N. Mukerjee: A Minister of the Cabinet, who according to the Constitution belonged to a Council of Ministers, answerable to this House and this House alone and not to the other House, who was driven by the compulsion of his position in the other House, whose discipline he was bound to obey, refused to speak and answer questions and walked out of this House in a huff. This can be referred to. Shri Satya Narayan Sinha is nodding his head in agreement because I am stating a fact. This is the kind of thing which took place, this kind of thing might very well take place later on, this kind of thing has got to be safeguarded against and it should not be allowed to happen.

Sir, I do not have much time and I do not have to talk about the necessity of this measure on which everybody is agreed. Shri Kamath

mentioned about the Chief Ministers. He has referred to the case of our revered leader of the Swatantra Party, Shri Rajagopalachari entering by the backdoor. Shri Mathur has put it strongly that "backdoor entry" into positions of power has got to be stopped. It was said that he got into position as Chief Minister by the backdoor. This has great implications for the future of parliamentary democracy. Already there are indications in the country that these satraps—one day Shri Kamath described Chief Ministers as subedars—are becoming too powerful, and if in addition to the power which they have come to enjoy in the Congress set-up—they dominate discussions at the Centre, they decide who is to be the Prime Minister and who is not to be the Prime Minister—these Chief Ministers, if in regard to the population of their own respective States can say: "To hell with you, I can get into the Council or the Upper House through nomination even and I can be a Chief Minister without having ever been answerable to the electorate", then, Sir, where is parliamentary democracy leading us to? We have had the instances not only of Shri Rajagopalachari—who, after all, has a record which will speak for itself and he does not have to defend his own position—but of other people like the Chief Minister of Uttar Pradesh or the Chief Minister of the multilingual Bombay State or early days. They were thrown out by the electorate and they had the gumption to walk back into the position of the highest power in their particular States. If this kind of thing get constitutional sanction on account, perhaps, of an inadvertent dereliction of duty on the part of the Constituent Assembly which had gone into the serious implications of this matter when putting in those particular clauses but not an additional safeguard about making sure that the Prime Minister should belong to the Lower House and the Lower House alone—it was perhaps an inadvertent omission—this country's parliamentary democracy, this country's demo-

cratic future will be in danger. Because of an inadvertent omission on the part of the Constituent Assembly, this country's parliamentary democracy, this country's democratic future should not be mortgaged, should not be endangered in the way it appears to have been.

Therefore, I feel from every point of view, from the point of view of principle, from the point of view of practical working, from the point of view of parliamentary life in our country, from the point of view of the delicate balance which parliamentary system ought to represent otherwise, we ought to accept the principle of the measure. Let Shri Hathi, instead of saying nothing but at length and in a very gentle fashion, come forward with a definite assurance that Government is going to look into this matter much more seriously, the Government understands the implications of this measure and Government is going to do something about it.

Shri Hathi: You want me to say that or a Cabinet Minister to say that?

Shri H. N. Mukerjee: I do not mind. You are there. I do not mind if you say that. It is not that I want a particular Cabinet Minister to say something. You are very welcome to speak on behalf of the Government. As long as we permit you in this House to speak on behalf of the Government we accept whatever you say.

Mr. Chairman: How much time will the hon. Minister take for his reply?

Shri Hathi: It all depends on how the debate proceeds. I will take at least half-an-hour.

Shri Raghunath Singh: Sir, this is a very important Bill. The time should be extended and every Member who wants to speak should be given a chance to express his views.

Mr. Chairman: Let there be a motion.

श्री रामसेवक यादव (बाराबंकी) :
 मैं प्रस्ताव करता हूँ कि इस बिल के लिए
 दो घंटे का समय बढ़ा दिया जाये ।

Shri Khadilkar: Sir, I beg to move:

"That the time allotted for this
 Bill be extended by one hour".

Mr. Chairman: I shall put the
 motion to the vote of the House. The
 question is:

"That the time allotted for this
 Bill be extended by one hour".

The motion was adopted.

श्री रामसेवक यादव : मैं ने पहले
 प्रस्ताव रखा है कि दो घंटे का समय बढ़ा
 दिया जाये ।

Shri D. C. Sharma: Mr. Chairman,
 Sir, I have great regard for Shri Hari
 Vishnu Kamath as I have great regard
 and respect for that great novelist of
 England, Charles Dickens. Both of
 them are great artists of exaggeration.
 Now, Sir, Shri Kamath tried to
 paint a very gloomy picture of our
 parliamentary democracy. But I can
 say, after surveying the parliamen-
 tary democracies all over the world,
 that our parliamentary democracy is
 much better, sounder than and as
 effective as any other parliamentary
 democracy in the world.

But there is one thing. If the
 number of Bills to amend the Con-
 stitution is so great, as was referred
 to by the hon. Member, it is for the
 simple reason that it is the most easy
 thing to bring forward a Bill by a
 private Member favouring the amend-
 ment of the Constitution. It requires
 only one additional sentence or re-
 quires only the omission of one
 sentence. Therefore, if there are so
 many Bills it does not mean that our
 Constitution has gone to pieces or
 that there should be a Commission
 appointed or that the Parliament
 which will come into being in 1967
 should constitute itself into a Con-
 stituent Assembly. I think, Sir, here

I find that imagination is running
 amuck.

An hon. Member: Shri Mathur is
 a level-headed person.

Shri D. C. Sharma: All are level-
 headed persons, but sometimes level-
 headed persons run amuck more than
 anybody else.

I would submit very respectfully,
 Sir, that no reflection should have
 been cast on our Prime Minister. She
 can win any election from any con-
 stituency in India at any time, and if
 she had not sought election up to this
 time it is because of the fact that the
 Election Commission has suspended
 the by-elections for the time being.
 Otherwise, to say that our Prime
 Minister stands in the same category
 as some Chief Minister of some kind
 of State or some Chief Minister of
 some multi-lingual, bi-lingual, tri-
 lingual or mono-lingual State, is
 nothing but a travesty of facts.
 Therefore, I think we should not
 drag into this picture the great per-
 sonality of the Prime Minister of
 India who, I think, is by all judg-
 ment, capable of not only fighting her
 own elections but fighting the election
 also of the members of our party and
 bringing them to victory in this
 House in 1967.

Shri Shinkre (Marmagoa): Yet to
 be seen.

Shri D. C. Sharma: After having
 said that I want to make one point. I
 cannot understand one thing. I can-
 not understand why our parliamen-
 tary democracy is putting so much
 emphasis on the defeated candidates.
 I tell you, Sir—may you live long and
 may you always be victorious.....

Mr. Chairman: In what?

Shri D. C. Sharma: May you always
 be victorious in the elections and
 everywhere. I submit very respect-
 fully that in this parliamentary

democracy of India it is much better to be defeated than to be elected. If you are defeated you become the Chairman of some big corporation, some big commission and, if nothing else, you become the Governor of some State. If nothing else, you become an Ambassador somewhere. Therefore, this is a very unhealthy trend in our parliamentary democracy. I believe that defeated candidates should not have any truck at the hands of the powers that be in this country. They should stand where they are. They have been adjudged by the people; they have been found to be unfit; they have been found to be below par; they cannot represent the people. And yet we find that they are levelled up, upgraded, raised high, which is an unhealthy trend.

The second point that I want to make is this. As was pointed out by a friend of mine, you cannot compare our Rajya Sabha with the House of Lords of Great Britain. You cannot compare our Upper House with the Upper House of a Commonwealth country. There the hereditary principle prevails, more or less. Here you have elections, more or less; of course, there are some nominations. I am glad that the retired Secretary of Lok Sabha has been promoted to the Rajya Sabha. Perhaps, he has been sent there to acquaint the Sabha with better parliamentary procedure and better parliamentary practices there. I do not know why he has been sent there, but I am very happy. Otherwise, I find that most of the Members of Rajya Sabha are elected indirectly and those few who are nominated are persons who are nominated for one reason or other—some person is a social worker, some person is a writer or some person is a parliamentarian. Therefore, you cannot compare our Rajya Sabha with the House of Lords or the Upper House of a Commonwealth country. There is a fundamental difference between the two.

An hon. Member: Which is better?

Shri D. C. Sharma: If you were to ask for my opinion, I would say: abolish Rajya Sabha, abolish the Upper Houses in the States. But I am not an Utopian. I take things as they are. A Brahmin always takes facts as they are. Therefore, I would very respectfully submit that this disparity, this differentiation between the Rajya Sabha and Lok Sabha in our country is absolutely unwarranted and uncalled for. We stand on one footing and they stand on a different footing. But, all the same, I would say that, so far as things go, so far as our Constitution stands as it is, and the Council of Ministers is responsible to the House of the People, most of the Ministers who come from the Rajya Sabha are concessional Ministers.

These poles or pillars are there; similarly, they are there. All the same, I would submit very respectfully that almost all the members of the Cabinet, almost all the Ministers of State, almost all the Deputy Ministers, almost all the Parliamentary Secretaries should come from the Lok Sabha, because it is the Lok Sabha that represents the people. The Rajya Sabha people represent this group or that group or this or that State; they do not represent the people (*Interruptions*). You, Rajas, are having a good time. So, why do you bother about this? You should not be annoyed about it.

I was submitting very respectfully that we are used to quotas, permits and licences in this country and they are helpful for our industrial growth. Similarly, I think the quota system may be useful for our parliamentary growth. Therefore, I would say that 80 per cent of the members of the Council of Ministers should come from the Lok Sabha and only 20 per cent should come from the Rajya Sabha. We should have them only so that they should not feel ignored. George Barnard Shaw used to write prefaces to good plays, and one of the prefaces he wrote was like this "to

[Shri D. C. Sharma]

the critics lest they feel ignored". Therefore, I say that 20 per cent of the members in the Council of Ministers may be from the Rajya Sabha lest they feel ignored. So I say: Give them a small place in the picture but do not give them a big place in the picture.

As I said in the beginning, our parliamentary democracy is working very well. But we have to take note of the composition of the Council of Ministers with particular reference to the members from Rajya Sabha in the Council of Ministers. We have to take note of the great advantage which the defeated candidates are getting in this country. We have also to take note of those factors which may not work to the advantage of our parliamentary democracy. Parliamentary democracy is a very tender plant which requires constant looking after; it has to be tended very carefully; it has to be watered with the life-blood of the people; it has to be fertilized by new ideas. So, we have to see to it that those persons who do not represent the will of the people do not have a controlling voice or a dominant voice or a predominant influence in the Council of Ministers in this country.

श्री रामसेवक राव : अध्यक्ष महोदय, 18 साल पुराने प्रजातंत्र के दमियान यह पहली शर्मनाक घटना हुई है कि हिन्दुस्तान का प्रधान मंत्री राज्य सभा का व्यक्ति बना। इस सदन की परम्पराओं की चर्चा अक्सर चला करती है और यह कहा जाता है कि परम्परायें इतनी मजबूत हो जाती हैं कि वे संविधान का स्थान ग्रहण कर लेती हैं और अध्यक्ष महोदय, मैं आपके सामने यह रखूँ कि हमारा संविधान यह कहता है कि पार्लियामेंट अफेयर्स के मामले में हम चाहें तो कंट्रोल दे सकते हैं, लेकिन एक परम्परा बनाई कि नहीं दी जा सकती और इस चीज को लेकर जब यह प्रश्न उठता है तो परम्परा की दुहाई दी जाती है। इंग्लिस्तान का भी जिक्र आ

जाया करता है। इंग्लिस्तान की यह परम्परा है। लेकिन मुझे दुख के साथ कहना पड़ता है कि जिस परम्परा को वे 45-50 वर्षों से इंग्लिस्तान में कायम किये हुए हैं कि वहां का प्रधान मंत्री लोकसभा का ही चुना जाता है, राज्य सभा से नहीं आता, उस परम्परा को हम तोड़कर उल्टी दिशा में जा रहे हैं, फिर भी हम परम्परा की बात करते हैं।

अगर हम अपने संविधान को देखें तो संविधान में साफ लिखा है--74 इस का अनुच्छेद है--

"There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions."

और फिर अनुच्छेद 75 का जो तीसरा है--

"The Council of Ministers shall be collectively responsible to the House of the People."

जो प्रधान मंत्री होगा वह कान्सिल आफ मिनिस्टर्स सहित इस सदन को, लोक-सभा को, राज्य सभा को नहीं, इस के प्रति जिम्मेदार होंगे। लेकिन जिस कान्सिल आफ मिनिस्टर्स का हैड ही राज्य सभा का सदस्य हो, इस सभा का सदस्य न हो, तो हम तो यह कहेंगे कि यह हैडलेस गवर्नमेन्ट है, कोई है ही नहीं। इस बुरी तरह से इस परम्परा को, संविधान की मान-मर्यादा को, इच्छा को तोड़ा गया है, शायद इस का पैरलल दुनिया में और किसी जगह नहीं मिलेगा। हमारे कामत साहब ने महत्व देते हुए कहा है कि प्रधान मंत्री कहीं से भी चुनाव लड़ सकती थीं। लेकिन मैं कहना चाहता हूँ कि यह उस परिवार की परम्परा रही है कि जिस परिवार का पहला प्रधान कोई पद, कोई स्थान जीता ही नहीं जब तक कि वह हिन्दुस्तान की किसी अफसरी की गद्दी पर आसीन नहीं हुआ। फिर अगर

यह लड़ना चाहती तो यह प्रधान मंत्री की हैसियत से चुनाव जीत सकती थीं और वैसे जीत नहीं सकती थीं। उनका राज्य सभा से लिया जाना

श्री रघुनाथ सिंह : गलत है, रांग है।

सभापति महोदय : जो बिल इस वक्त हमारे सामने है और जो उसका मकसद है

श्री रामसेवक यादव : वही कह रहा हूँ। मकसद इसका बड़ा महत्वपूर्ण है। अगर प्रधान मंत्री कोई हो गया और उसका नाम आ जाये तो नाम से आपको चिढ़ना नहीं चाहिये। माननीय सदस्य मैं समझता हूँ हल्ला इसलिए मचा रहे हैं कि वे चाहते हैं कि उनको जरा और जानकारी मिले और मैं उनको और जानकारी देना चाहता हूँ।

सभापति महोदय : जातियात पर न उतरें।

श्री रामसेवक यादव : जब मौजूदा प्रधान मंत्री गद्दी पर बैठी तो इनके पहले प्रधान मंत्री श्री लाल बहादुर शास्त्री थे। उस समय यह मंत्री बनी थीं। उस समय भी फूलपुर से जगह खाली हुई थी। वर्तमान हमारी प्रधान मंत्राणी महोदया आसानी से वहीं से चुनाव लड़ सकती थीं। इन्होंने ने नहीं माननीय विजय लक्ष्मी पंडित जी ने उस खतरे को मोल लिया और वह चुनाव लड़ने के लिए मंदान में उतरीं। उस चुनाव को लड़ने में इन्होंने हिस्सा नहीं लिया और उम्मीदवार बनना पसन्द नहीं किया। यह साफ बताता है कि जनता से यह कितनी दूर

सभापति महोदय : मैं अर्ज करूंगा कि इस वक्त हम एक कानूनी नुस्ते पर, एक कांस्टीट्यूशनल नुस्ते पर बहस कर रहे हैं और हम बहुत होशियारी से, बहुत समझदारी

से बातचीत करें। जिस तरह से माननीय सदस्य बोल रहे हैं इसका मतलब यही निकलता है कि खास जात के खिलाफ वह बोल रहे हैं। ऐसा मतलब नहीं निकालना चाहिये।

श्री रघुनाथ सिंह : व्यक्तिगत आक्षेप नहीं होना चाहिये।

श्री रामसेवक यादव : मैं श्री रघुनाथ सिंह जी की सलाह को शिरोधार्य करता हूँ।

एक बार भी चुनाव नहीं लड़ा। उसके बाद आज फिर यही स्थिति पैदा हुई है। एक जगह खाली है। फिर भी इस्तीफा न दे कर वहां से चुनाव न लड़ने की उस परम्परा को तोड़ा नहीं गया है। मैं कहना चाहता हूँ कि यह जो चीज है यह जनतंत्र की स्वस्थ परम्परा के बिल्कुल प्रतिकूल है। इस वारंते माननीय कामत जी ने जो विधेयक प्रस्तुत किया है, उसका मैं समर्थन करता हूँ।

इस के साथ साथ एक बात मैं यह भी कहना चाहता हूँ कि यह विधेयक जनतंत्र की परम्पराओं और मान्यताओं की प्रावश्यकताओं को पूरा नहीं करता है क्योंकि आज हिन्दुस्तान के जनतंत्र के माथे पर चाहे विधान परिषदें हों या राज्य सभा हो, कलंक का टीका बन गई है। कलंक इस हद तक बन गई है कि उन में मतों की खरीद फरोख्त होती है, बोट खरीदे जाते हैं

एक माननीय सदस्य : यह गलत है।

श्री रामसेवक यादव : अदालत का फैसला आपके सामने है। एक कांग्रेस के माननीय सदस्य हार गये थे। उन्होंने पेटिशन किया था। उसके जो नतीजे थे वे सब के सामने आये थे। मैं सदन के माननीय सदस्यों से चाहता हूँ कि जो कन्तुस्थिति है उसको देख कर और उसको मान कर अगर हम चले तो हम आगे कुछ सुधार कर सकते हैं, अन्यथा नहीं कर सकते हैं।

[श्री रामसेवक पादव]

श्री उत्तर प्रदेश में यही चीज सामने आई थी और हम लोग उसका मुकाबला करके आये हैं। आज स्थिति यह बन गई है कि ये दोनों सदन, राज्य सभा और विधान परिषदें, जनतंत्र को मजबूत करने के बजाय, उसको तोड़ रही हैं। इसलिए आज आवश्यकता इस बात की है कि ये जो विधान परिषदें और राज्य सभा है इनको तोड़ दिया जाये और जिस को बैंकडोर अंग्रेजी में कहा जाता है, उसका हिन्दी में अनुवाद चोर दरवाजा है, और इस दरवाजे को बन्द कर दिया जाये। इससे कई खराबियां पैदा होती हैं।

हमारे पाठक जी बैठे हुए हैं। मैं उनकी बड़ी कद्र करता हूँ। शायद कानून के मामले में वह बहुत जानकार हैं। लेकिन जो जनता की भावनाएँ हैं, जो जनता की इच्छाएँ हैं, जो जनता की जरूरतें हैं, उन से पाठक जी का कभी कोई वास्ता नहीं रहा है। जब किसी कैबिनेट में इस तरह से इनका बहुमत या इतनी अधिक संख्या हो जाये, तो वह कैबिनेट जनता की आकांक्षाओं और जनता की इच्छाओं की पूर्ति नहीं कर सकती है और उसकी जगह . . .

श्री बी० ना० कुरील (राय बरेली) : कानून अलग है, इच्छाएँ अलग हैं।

श्री रामसेवक पादव : कानून लोगों की इच्छाओं की पूर्ति के लिये बनते हैं। कानून के लिए कानून नहीं बनते हैं। जब इस तरह की चीज चलती है तो लोगों से उसका कोई सम्बन्ध नहीं रह जाता है। तब सद्भावना, चापलूसी आदि चीजें भर करने लगती हैं। इसकी मिसालें भी दी जा सकती हैं। लाल बहादुर शास्त्री जी के निधन पर जब नेता का चुनाव हुआ तो राज्य सभा के सदस्यों को वोट का अधिकार दिया गया और उन लोगों ने या उन में से बहुत से लोगो ने कांग्रेस हार्ड कमान के उम्मीदवार का समर्थन इसलिए किया कि उन में से एक-तिहाई को छंटनी

होने वाली थी और उनको लालसा थी कि कि हमें टिकट मिल जाए, उस की तरफ उनकी नजर थी। इस तरह से इन चीजों का आज इस्तेमाल होता है। इसी तरह से काउंसिल का आज इस्तेमाल हो रहा है। डेमोक्रेसी की बात की जा रही है। जब यह बात चल रही थी तो मैंने एक जुमला कहा था और माननीय श्री खाडिलकर हुंसे थे। मैंने कहा था कि डेमोक्रेसी की जगह कहीं हिपोक्रेसी तो नहीं चल रही है। अष्टाचार खूब चलता है। अष्टाचार का हम अन्त करना चाहते हैं। लेकिन आप देखें कि कौन लोग चुनाव में आते हैं। पैसे वाले ही तो आते हैं। जो साधारण आदमी हैं वह पैसा खर्च नहीं कर सकता है। साधारण आदमी के लिए जो सीधा चुनाव है उसको लड़ना भी मुश्किल होता जा रहा है मौजूदा परिस्थितियों में। इस वास्ते आप को देखना चाहिये कि किस तरह से जनता की इच्छाओं की पूर्ति हो सकती है, जनता की आकांक्षाओं की पूर्ति हो सकती है और इस तरह की जो बुराइयाँ हैं, इनका मुकाबला किया जा सकता है, इनका अन्त किया जा सकता है।

विधान परिषदें और राज्य सभा बिल्कुल अनावश्यक हैं। उनकी जरूरत नहीं है। उनके ऊपर जो खर्च होता है वह बेमतलब होता है। उससे देश का हित नहीं, अहित होता है। यदि आप चाहते हैं कि हमारे जनतंत्र में स्वस्थ परम्पराएँ स्थापित हों, इस देश में जनतंत्र पनपे तो मैं अर्ज करूंगा कि इस पर आप गम्भीरता से विचार करें कि लोक-सभा ही अकेली रहे और राज्य सभा समाप्त हो जाये और जब राज्य सभा समाप्त हो जायेगी तो कोटा, चौधार्द, दो-तिहाई आदि का कोई मतलब नहीं रहेगा और मजबूरन नेता को या प्रधान मंत्री को लोक-सभा का सदस्य बनना पड़ेगा।

Mr. Chairman: Shri Khadihar.

Shri Man Singh P. Patel: Normally senior Members are preferred for

speaking first. You should give a chance to junior persons also.

Shri Raghunath Singh: You are also a senior Member; why should you say that you are a junior Member?

Mr. Chairman: What happens generally is that hon. Members speak and go away. If we take this piece of legislation that is before us very seriously, I wish that Members' not only speak on it but they listen to what is being said later on and not go away. Therefore, my hon. friend, Shri Sinh, should stay on for some time. He may get a chance later.

Shri Narendra Singh Mahida (Anand): Normally all the senior Members are given a chance to speak on all the matters and other Members who are back benchers do not get a chance. I request that you should give a chance to back benchers also.

Mr. Chairman: If the hon. Member is desirous of speaking, he might catch my eye.

Shri Khadilkar: Mr. Chairman, I fully share your view that those of us who are interested in the very lively debate that has been raised by this Bill should attend throughout while discussion is going on and I promise, though I have written to you that I have to attend a meeting, I will come back again after some time.

It is said that if democracy becomes dull, it becomes lifeless and my hon. friend, Shri Kamath, in his own way tries to bring some life into democracy by activities on the floor of the House as well as outside.

Mr. Chairman: Deep study too.

Shri Khadilkar: He has raised an important issue, but it should not be construed, though incidentally he may have got inspiration from the present composition of the Cabinet, and I do not think that he wants to highlight that issue and bring forward a constitutional amendment.

An hon. Member: Why not?

Shri Khadilkar: Because, under compelling circumstances, according to me, the present arrangement has been made and I feel that as soon as conditions are improved, the emergency is lifted—and the time is not very far off—the Council of Ministers and, particularly, the Prime Minister would certainly offer herself and get elected to this House.

I support the principle of the Bill; whether it should be by amending the Constitution or by a convention should be left to the House because in Britain, as he pointed out several instances, it is by convention. If you take into consideration the structure of the Indian Constitution and the practice up till now, it is such that the Leader of the House, the Prime Minister, has always been a Member of this House, that is, Lok Sabha. Therefore, as to whether this measure needs a constitutional amendment, I have my own doubts. Sometimes I feel the Constitution framers or the founders of our Constitution were, no doubt, inspired with the best of motives to give a Constitution to this country that would meet all the growing needs of the community. But 16 years' experience has shown—my friend Mr. Mathur had just indicated—that there is a need for a complete overhaul and not for a piecemeal amendment.

One day I had a long discussion with the predecessor of the present Law Minister. He also agreed with my view when I stated that the time has come when a small committee should be constituted to review the present Constitution. Why? I stated one or two things. I do not want to repeat all the arguments. Firstly, the Constitution, if at all it is to serve the social objective which we have placed before us, must be an effective instrument in that direction. In my opinion, the social objective of having a socialistic pattern of society needs radical amendment of this Constitution if it is to serve as an instrument of social change through a peaceful and a parliamentary method. He agreed. But nothing happened be-

[Shri Khadilkar]

cause that was a private conversation. As Mr. Mathur said, we are having so many discussions on small suggestions for amendment of the Constitution and that does not satisfy. An overall review is called for.

In America, the amendment of the Constitution is very rare. But the recent publication has pointed out—there is a good publication—how the policy-oriented judges, the judiciary, in that framework, has effectively directed the attention of the Government and the Parliament there so that it has influenced in many ways and supplemented the provisions of the Constitution. In this country, unfortunately, the judiciary, even the Supreme Court, has hesitated on many occasions to play an active role as Justice Frankfurter or others in America have done to play that role, though they have occasionally struck down certain legislations; beyond that nothing has happened. Therefore, Mr. Kamath's Bill highlights that the time has now come for a review.

There is another aspect also. We are watching with a little apprehension the relationship of the Central leadership and the State Governments. It is a matter of concern—I used that word on the last occasion—that a new type of war lordism is developing in this country. The Constitution has meticulously divided the function has the powers between the Centre and the States and there are certain concurrent powers and the residue is with us, that is, without union Government. The inherent jurisdiction, the ultimate, the final, the sovereign authority is vested in us. We are the repository of that authority. With the growing State influence and a certain personality of States, developing, because of the new reorganisation, because of the State chauvinism, on the one side, and the Centre being looked upon as if the Centre is eroding the powers or encroaching upon the powers and the functions of the State Governments, the time has come when a comprehensive review of the Consti-

tution must be taken very seriously. From this point of view, I do hope that it is a welcome measure. I fully share that view. I may give you one instance only. When Chamberlain resigned—he was compelled to resign as he failed as a war leader—there was a serious proposal that Lord Halifax should be the Prime Minister. He stepped down and said in effect—and that was certainly an act of wisdom—as follows:

“I have to lead the nation and we are fighting an all-out war, I am not a fit person for this job. Let Mr. Churchill come in.”

Ultimately, Mr. Churchill was elected and he won the victory in that war. Therefore, if you want a proper leadership, if you want to reflect the popular urges and social sanction being built up in the country properly, this House alone can deliver the goods. Take these Committees, the Estimates Committee, the Public Accounts Committee and the Public Undertakings Committee. Though the Rajya Sabha Members are associated, the Chairman is from this House.

Shri Raaga: He is from your Party.

Shri Khadilkar: Why are you getting frustrated? He is from this House. Therefore, all the financial measures are in our hands. The supremacy of this House has been recognised and enshrined in the Constitution and it should reflect in the leadership and the Council of Ministers. I do not believe in this quota system. Those who have a popular support, those who are in touch with the people, with their aspirations and all that, should alone lead the country and lead the Government and for that it should be a healthy convention. I do not think that a sort of amendment is called for. As it has been the practice for so long, it should be established and under no circumstances, the leader and the majority of the Council of Ministers should come from the other House. They should never come from the other House.

Shri B. K. Das (Contai): Mr. Chairman, Sir, everyone of the hon. Members who have preceded me has supported the principle underlying the Bill that has been brought before the House by Mr. Kamath.

16.57 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Mr. Kamath is one of those who was active at the time of making the Constitution. I am not sure whether the lacuna was noticed by him at that time. It should be considered whether it is a lacuna at all. After all, the direction is there that the Council of Ministers is to be responsible to the House of the People and not to the Upper House. So, we should consider whether the direction given in this provision is enough or whether an amendment is called for. In my opinion, the direction that we find in this provision is enough and that by changing the Constitution no further improvement will be made. I think in the provisions of the Constitutions of other countries, there is no definite provision like that.

Shri Hari Vishnu Kamath: I gave the instances of Canada, Ireland and West Germany.

Shri B. K. Das: Mr. Kamath, very scholarly, has been able to show only three instances to us out of so many countries. He has given the instance of United Kingdom where the House of Lords is a hereditary body and not an elected body. In our country, the Council of States, after all, is an elected body, although it is an indirect election, and it cannot be compared with the House of Lords. He is not able to give many instances from the Constitutions of other countries. I may draw his attention to the Constitution of Austria where the provision is this. There are two Houses—National Council and the people's federation akin to ours, i.e., the Federal Council. The members of the Federal Government must not belong to the National Council. . .

Mr. Deputy-Speaker: The hon. Member may resume his speech after some time. There is a calling attention to be taken up now.

17 hrs.

CALLING ATTENTION TO MATTERS OF URGENT PUBLIC IMPORTANCE—contd.

(ii) STRIKE CALL GIVEN BY THE UNITED CHAMBER OF TRADE UNIONS

Shri D. C. Sharma (Gurdaspur): I call the attention of the Minister of Home Affairs to the following matter of urgent public importance and I request that he may make a statement thereon:—

“The strike call given by the United Chamber of Trade Unions to protest against the Government's decision to increase sales-tax in the Union Territory of Delhi on the 19th April, 1966.”

Shri S. M. Banerjee (Kanpur): I want to make a submission before the Minister makes the statement.

I pointed out in the morning that this call attention notice was based on the report that we got that there was going to be a general strike on the 19th April, as a protest against the increase in sales-tax. We expected the Finance Minister to make the statement. This is not a law and order question. It is a peculiar thing that the hon. Home Minister is making the statement.

Shri Kapur Singh (Ludhiana): This is a reasonable demand.

Shri S. M. Banerjee: My call attention notice was addressed to both the Home and the Finance Ministers.

The Minister of Home Affairs (Shri Nanda): I am prepared to shoulder this burden. I have also requested the Finance Minister. He will also come.

Shri Harish Chandra Mathur (Jalore): The Speaker had made it