

Siddiah, Shri
Siddheshwar Prasad, Shri
Singh, Shri D. N.
Sinha, Shrimati Turkeshwari
Snatak, Shri Nardoo
Sonavane, Shri

Subbaraman, Shri
Subramanyam, Shri T.
Surendra Pal Singh, Shri
Tiwary, Shri D. N.
Tiwary, Shri K. N.
Tiwary, Shri R. S.

Ulkey, Shri
Upadhyaya, Shri Shiva Dutt
Varma, Shri Ravindra
Verma, Shri Balgovind
Verma, Shri K. K.

NOES

Bade, Shri
Banerjee, Shri S. M.
Barwa, Shri Onkar Lal
Brij Raj Singh, Shri
Chakravarty, Shrimati Renu
Gokaran Prasad, Shri
Gupta, Shri Indrajit

Gupta, Shri Kashi Ram
Kamath, Shri Hari Vishnu
Koya, Shri
Lakhan Das, Shri
Limaye, Shri Madhu
Lohia, Dr. Ram Manohar
Maurya, Shri

Rangra, Shri
Roy, Dr. Saradish
Shastri, Shri Prakash Vir
Singh, Shri Y. D.
Singhvi, Dr. L. M.
Tan Singh, Shri
Utiya, Shri

Mr. Speaker: The result of the Division is: *Ayes:* 101; *Noes:* 21:

The motion was adopted.

Shri Tyagi (Dohra Dun): I have abstained from voting and I hope deliberately done so because this is not the stage to oppose.

Shri Y. B. Chavan: I introduce the Bill.

अध्यक्ष महोदय : उन्होंने सुन लिया ।

श्री प्रकाशबीर शारत्री : आप उन से पूछ तो लें, मारा देश जाना चाहता है श्री शंकरा चायें जी के दार में . . . (व्यवधान)

Shri Hari Vishnu Kamath (Hoshangabad): You may ask him to make a statement. Let him make it in the evening or some time in the afternoon.

Mr. Speaker: It is for him and not for me.

The hon. Minister can tell me if he is going to make any statement.

There is no answer. So, what should I do?

The Minister of Home Affairs (Shri Y. B. Chavan): I am not making any statement.

श्री बड़े (खारगोन) : गृह मंत्री जी को कुछ तो कहना चाहिये ।

अध्यक्ष महोदय : उन्होंने कहा कि उन को कुछ नहीं कहना है ।

Shri K. K. Verma (Sultanpur): Yesterday, the Law Minister had made a motion that rule 338 of the Rules of Procedure and Conduct of Business in the Lok Sabha in its application to amendment No. 63 of the Representation of the People (Amendment) Bill be suspended. An objection was raised.....

Shri S. M. Banerjee (Kanpur): You may kindly ask the hon. Minister to make a statement on.....

13.55 hrs.

MOTION UNDER RULE 388

MOTION RE: AMENDMENT TO REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

Mr. Speaker: The House will now take up further consideration of the following motion moved by the G. S. Pathak on the 24th November, 1966, namely:—

"That rule 338 of the Rules of Procedure and Conduct of Business in Lok Sabha in its application to amendment No. 63 to the Representation of the People (Amendment) Bill, 1966, adopted by the House on the 23rd November, 1966, be suspended."

Shri K. K. Verma may continue his speech.

श्री प्रकाशबीर शारत्री : (बिजनौर) :
आप गृह-मंत्री जी से पूछ लीजिये । वह
बो शब्द तो कह दें ।

Mr. Speaker: Order, order.

Shri S. M. Banerjee: Kindly hear me. I had raised this matter yesterday also

Mr. Speaker: If it had been raised yesterday and I had already decided it, I cannot take it up now.

Shri S. M. Banerjee: You have not decided it. Therefore, I want a ruling from you.

Mr. Speaker: It cannot be taken up now in this manner. Now, let us proceed with the business before us.

Shri K. K. Verma: An objection was made to the suspension of rule 338 in its application to amendment No. 63 to the Representation of the People (Amendment) Bill, 1966. The objection was that the rule should be suspended only on very extraordinary occasions and that in the present case the need for suspension had arisen because of a mistake committed by the hon. Minister, and, therefore, the rule should not be suspended.

13.57 hrs.

[**MR. DEPUTY-SPEAKER** in the Chair]

I am surprised that the hon. Member who had raised this objection did not realise that in reality a very extraordinary situation had arisen. For showing this, I should like to compare amendments Nos. 63 and 67.

Amendment No. 63 simply seeks to add an explanation to the proposed new section 9A in Chapter III. The proposed section 9A reads thus:

"A person shall be disqualified if, and for so long as there subsists a contract entered into by himself or by any person or body of persons in trust for him or for his benefit or on his account in the course of trade or business with the appropriate Government or with any company or corporation (other than a co-operative society) in the capital of which

the appropriate Government has not less than twenty-five per cent. share for the supply of goods or animals to it, or for the execution of any works or for the performance of any services undertaken by, the appropriate Government or by such company or corporation."

This was the provision adopted by the Joint Committee and forwarded to the House for being passed. But, Shri G. N. Dixit in his amendment No. 67 wants that the proposed section 9A....

Mr. Deputy-Speaker: The hon. Member need not go into the merits of it. Now we are only on the motion for suspension of the rule. He can speak on the clause later on.

Shri K. K. Verma: I am pointing out that the suspension of the rule is called for. Shri S. M. Banerjee had objected to it on the ground that no extraordinary situation had arisen. Therefore, I am pointing out that there is a contradiction between the two amendments, and, therefore, the suspension of the rule is necessary.

14 hrs.

Shri S. M. Banerjee: One should be withdrawn.

Shri K. K. Verma: Shri Dixit's amendment is as follows:—

"A person shall be disqualified if, and for so long as.....

Mr. Deputy-Speaker: He need not go into that. That will come only when the rule is suspended.

Shri K. K. Verma: Yes. The clause that was under consideration, clause 9A visualises a contract with a company or corporation other than a cooperative society in the capital of which the appropriate Government has not less than 25 per cent share. The Law Minister, when he was explaining his amendment very clearly said that if this clause regarding contract with any company

[Shri K. K. Verma]

or corporation in the capital of which the appropriate Government has not less than 25 per cent share remains, then millions and millions of people—these are his words—would be disqualified. Such a situation should not be allowed to arise. So in the course of his speech, he made it quite clear that so far as cl. 9A is concerned, it is not advisable, and so he twice or thrice in his statement said that he would prefer the amendment of Shri Dixit and would not press his amendment. But as the amendment of the Law Minister was first in the list, you were pleased to put it to the House. This was adopted. But when Shri Dixit's amendment came, you were pleased to say that it was barred.

I think in the interest of democracy, so many people should not be disqualified. So it is necessary to suspend this rule so that the amendment of the Law Minister that has been adopted could be deleted and Shri Dixit's amendment admitted and allowed to be voted upon.

श्री मधु लिमये (मूंगेर) : उपाध्यक्ष महोदय, कानून मंत्री ने अपनी अयोग्यता एक बार नहीं कई बार साबित की है। अब कानून मंत्री अपनी अयोग्यता का नया सबूत पेश कर रहे हैं। बार-बार उन्होंने ऐसा ही किया है। अब एक बार फिर वह अपनी अयोग्यता साबित कर रहे हैं। मैं आप से निवेदन करना चाहता हूँ कि सदन की नियमावली को स्थगित रखने का प्रस्ताव कोई मामूली प्रस्ताव नहीं है और न हो सकता है। मैं आपको ध्यान दिलाना चाहता हूँ कि जब पब्लिक एकाउंट्स कमेटी की रपट पर बहस चल रही थी तो सरकार अड़चन में थी : मैंने चेयरमैन और कमेटी की तारीफ करने का प्रस्ताव रखा था। बिना नोटिस दिये सदन नेता ने नियम स्थगित करने का प्रस्ताव रखा और आपने उसको स्वीकारा और वह पास हो गया। लेकिन हमारे प्रस्ताव को स्वीकार नहीं किया गया। मैं आपको यह भी बतलाना

चाहता हूँ कि हम ने नोटिस दे कर यह कहा कि स्वीकर साहब का हटाने सम्बन्धी जो नियम है उसको आप स्थगित रखिये। और प्रस्ताव की शक्ल में वह नोटिस दिया गया था लेकिन आपने चैम्बर में उस को कल कर दिया। अब यह प्रस्ताव कानून मंत्री की नालायकी को छिपाने के लिए और दुश्स्त करने के लिए प्राया है। मैं आपकी माफ़त सदन से प्रार्थना करूँगा कि इसका वह डट कर विरोध करें और अगर जरूरी हो तो डिवायज़न भी किया जाए इस पर।

Shri Hari Vishnu Kamath (Hoshangabad): I am constrained to say that the Minister insisted on amendment No. 63 being put to the House despite the salutary advice given to him by the House and reinforced by you also—you were in the Chair at that time. But he wanted to push things through by hook or by crook.

Shri D. C. Sharma (Gurdaspur): No, no. Do not say that.

Shri Hari Vishnu Kamath: How has this situation arisen? I presume that the motion is being made, though it is not mentioned here, under rule 388. It should also be mentioned. He forgot even to mention that. What does rule 388 say?

"Any member may, with the consent of the Speaker,"....

I presume you have given consent because it is on the order paper—

"move that any rule may be suspended in its application to a particular motion before the House"—

the words are 'motion before the House'—

"and if the motion is carried, the rule in question shall be suspended for the time being."

This amendment was carried by the House. Therefore, at the moment,

there is no motion with regard to that amendment at all before the House. There is a distinction between 'motion before the House' and 'motion pending in the House'. Rule 336 uses the phrase 'pending in the House'. The two phrases are distinct. With regard to this particular amendment, as far as I am aware, there is no motion before the House. It has been already completely disposed of. So I do not know how this motion for suspension of the rule can arise at this stage.

Shri S. M. Banerjee: Under what rule?

Shri Hari Vishnu Kamath: Under 388 which does not apply. Rule 338 is with regard to a decision taken by the House.

"A motion shall not raise a question substantially identical with one on which the House has given a decision in the same session".

The House has decided that matter. The question of suspension of rule 338 under rule 388 cannot arise unless there is a motion before the House with regard to this thing.

As there is no motion at all at the present moment with regard to that amendment—it has been disposed of finally—how does the question arise? Where is the motion before the House? I would like the Law Minister to answer this point.

Shri S. M. Banerjee: I support the point of order raised by Shri Kamath. Yesterday when the hon. Law Minister wanted to introduce this amendment, I said that opposed it on three grounds.

One is that a rule is suspended under extraordinary conditions. Suppose something has happened by which a Bill is likely to be declared *ultra vires* by the Supreme Court or a High Court or there is some gross negligence on the part of the executive due to which such a Bill has

been brought in, the Minister had not seen the whole thing and it had been passed unnoticed, in such cases there is justification for suspending a rule to deal with the matter.

Another point, which is very vital, has been raised by Shri Kamath. What is the motion before the House? May I read from the debate of yesterday? Shri Saraf was in the Chair then. He said:

"The Minister may move his motions one after the other".

Then Shri G. S. Pathak:

"I beg to move":

"That rule 338 of the Rules of Procedure and Conduct of Business in Lok Sabha in its application to amendment No. 63 to the Representation of the People (Amendment) Bill, 1966, adopted by the House on 23rd November, 1966, be suspended".

That is, there was no motion of November 23 before the House. We were discussing certain provisions of the Bill and a controversy arose when Shri Dixit's amendment was accepted by Shri Pathak, in advertently perhaps, without knowing the implications of it. Then Shri Pathak said that if Shri Dixit's amendment was accepted, he would not move his amendment. We repeatedly warned him, 'Are you sure of what you are doing?' He said, 'Yes'. He perhaps forgot that he was creating confusion in his own mind and in the mind of the House, and it was confounded by another motion which he moved yesterday unwisely. Therefore, I submitted there was no motion before the House. Even in this he has not mentioned under what rule he is bringing this motion. Motions are brought always under rule 184. He simply wants suspension of rule 338 without giving valid reasons for it. Mr. Dixit can withdraw his amendment. Mr. Pathak's amendment can remain on the statute-book.

Mr. Deputy-Speaker: We have not yet come to Mr. Dixit's amendment.

Shri S. M. Banerjee: He has moved it, that is why we are discussing it.

Mr. Deputy-Speaker: Not yet.

Shri S. M. Banerjee: I would only request you to give a ruling. If there was no motion before the House, why should we suspend the rule? For rectifying a mistake committed by the Minister knowingly or unknowingly can we possibly suspend the rule? In that case, we will be making a very bad precedent, which will be utilised by many members who want to suspend the rule for their own purposes.

Dr. L. M. Singhvi (Jodhpur): I think this motion of the Law Minister confronts the House with a very complex procedural embarrassment. To err is human, it must be conceded, and it is no less a Minister's privilege than it is a member's privilege or err and then to seek to rectify it. But it seems that at the time when it was pointed out to the Minister, he was not quite willing to consider it. This is how ministerial steamroller actually generally ignores and is indifferent to suggestions which are made in all earnestness in the House. If only some greater attention was paid to the observations which were made then, this kind of procedural embarrassment both to the Minister and to the House as a whole would not have been created.

The situation now is that he wishes to have suspension of the rule in its application to amendment No. 63. There, I would submit that it is necessary for him first to explain the merits of the proposal and then to ask us to vote on the procedural question. Apart from the validity, propriety, of the procedural rule which is sought to be invoked, there is the question of merit itself because this House has passed a certain provision. For it even to relax its rules or suspend its rules, it must first be convinced in good conscience that the

suggested amendment is superior to what has already been enacted. I would, therefore, submit with great respect and in all humility that the hon. Minister should be first asked to explain the propriety, the validity, the merits of the proposal he is making. If it is convincing, we can then consider the question of procedural relaxation. I think that is the only way out. Otherwise, we cannot be browbeaten merely by a majority, that because they want suspension of the rules, the rule is suspended. Then the whole crux of parliamentary procedure is put to naught.

Shri D. C. Sharma: I think the procedure in this House as elsewhere are meant for the smooth and orderly transaction of business, and I think that is the fundamental basis of these procedures which we have in view. If the suspension of the rule which is asked for leads to any change which goes against the spirit of the law or against the spirit of the Constitution or the spirit of the procedures that we have adopted here. I think all the gentlemen would be very much within their rights to question the suspension of this rule.

But the fact of the matter is that the suspension of this rule is asked for so that we may have on the statute-book something which is in keeping with the spirit of this House, with the spirit of the Constitution and the spirit of those objectives for which we have been working. Therefore, I think, to take shelter behind technicalities of the procedural rules and to forego the spirit of those procedural rules is something which goes against the spirit of law, constitutional, parliamentary or procedural.

My hon. friend Shri Kamath and others have taken shelter behind what I may call some technicality, and that technicality has been put in cold storage so many times whenever it has suited the House. That technicality is not sacrosanct, it is not something which is like the laws of the

Medes and Persians which cannot be superseded or bypassed. That we have done so many times, and I think if we bypass now, we are within our rights, and we are doing something which will not in any way detract from the dignity of the House, but which will only enhance the dignity of the House.

Something has been said about the Minister of Law. Somebody has said certain things about him. I think the Minister of Law is not under discussion. The Minister of Law is the Minister of Law. Whether somebody calls him by one name or by another name, he is there. Nobody can take away that office from him. What the Minister of Law is aiming at is this, that something which should have been done should be done now, and for doing that, the rules of procedure, which we have so many times bypassed, should be bypassed now. I think there is nothing novel or sensational or strange about it. It is a normal procedure and we have having recourse to normal procedure.

The Minister of State in the Ministry of Law (Shri C. R. Pattabhi Raman): The House will remember that while dealing with section 9(a) which deals with a subsisting contract, the Minister explained that even if payment was due from Government in respect of a concluded contract, then there was this attached to it, whether he would be disqualified. Having all these things in view, the Election Commission had recommended in their report that it would mean a great hardship.

Today we have the private sector, the public sector, and, as members are aware, we have got the co-operative sector also. This is something very peculiar to the Indian economy. Our economic activity is spread over all these three sectors, and so many lakhs of people, very well qualified otherwise, would become ineligible. For example, I myself, the other day, had to deal with a company in Maharashtra. We had sug-

gested to the local MLA to advise us if he could be put on the Board. If this is so wide, he will be immediately disqualified.

I do not want to tire this House, and I would like to finish as soon as possible. I do not want to stand on my legs longer than is necessary. But I would like to point out that Mr. Pathak said:

"Section 9A deserves a careful consideration at the hands of this House because it is an important one. I will not press my amendment No. 63, if Mr. Dixit's amendment No. 67 is carried because there is partial overlapping and a part of my amendment is covered by that amendment."

You were then adorning the Chair, and if I may submit with great respect, there was so much confusion then about amendments 63 and 67. In that confusion what really happened is this. You said, "There is Government amendment No. 63", in that melee, if I may be permitted to use that word. Government really accepts Mr. Dixit's amendment No. 67.

I do not see Mr. Banerjee here, but he referred to the unprecedented move made by us. In the Punjab Reorganisation Bill so many motions were adopted under rules 388 and 338. It is not as if we are running away from any point.

Mr. Deputy-Speaker: I will put the motion to the House now. The question is...

Shri Hari Vishnu Kamath: Sir, on a point of order. There should be quorum at least when a vote is taken.

Mr. Deputy-Speaker: Let the Bell be rung—now there is quorum. The question is:

"That rule 338 of the Rules of Procedure and Conduct of Business in Lok Sabha in its applica-

[Mr. Deputy-Speaker]

tion to amendment No. 63 to the
Representation of the People
(Amendment) Bill, 1966, adopted

by the House on the 23rd Novem-
ber, 1966, be suspended."

The Lok Sabha divided:

Division No. 16]

AYES

[14.28 hrs.

Akkamma Devi, Shrimati
Alva, Shri Jaochim
Babunath Singh, Shri
Balmiki, Smt
Barman, Shri P. C.
Chandak, Shri
Chandharbhan Singh, Dr.
Chavda, Shri Johrabhan
Chadrikal, Shri
Das, Shri B. K.
Das, Shri Ng T.
Das, Shri Sudhanu
Dasa, Shri C.
Deshmukh, Shri B. D.
Deshmukh, Shri Shivaji Rao S.
Deshmukh, Shrimati Vimala
Dixit, Shri G. N.
Gandhi, Shri V. B.
Ganga Devi, Shrimati
Hazari, Shri J. N.
Hem Rai, Shri
Himat Singh, Shri
Kotaki, Shri Liladhar
Krishna, Shri M. R.
Lahtan Chaudhry, Smt

Lekshmikanthamma, Shrimati
Lalit Sen, Shri
Mahishi, Dr. Sarolini
Malaichami, Shri M.
Mandal, Dr. P.
Maniyangadan, Shri
Mantri, Shri D. D.
Maruthiah, Shri
Mehta, Shri Jashvant
Mirmata, Shrimati
Mishra, Shri Bibhuti
Murti, Shri M. S.
Paliwal, Shri
Panna Lal, Shri
Patel, Shri Chhotubhai
Patel Shri. N. N.
Patil, Shri J. S.
Patil, Shri T. A.
Pattabhi Raman, Shri C. R.
Prabhakar, Shri Naval
Pratap Singh, Shri
Rai, Shrimati Sahodra Bai
Rajdeo Singh, Shri
Raju, Shri D. B.
Ramanathan Chettiar, Shri R.

Ramdhan Das, Shri
Rant, Shri
Rao, Shri Jaganatha
Roy, Shri Bishwanath
Saha, Dr. S. K.
Samnani, Shri
Shah, Shrimati Jayaben
Shakuntala Devi, Shrimati
Sharma, Shri D. C.
Sharma, Shri K. C.
Sheo Narain, Shri
Shyamkumari Devi, Shrimati
Siddananjappa, Shri
Siddiah, Shri
Siddheshwar Prasad, Shri
Sonavane, Shri
Subramanyam, Shri T.
Surendra Pal Singh, Shri
Tula Ram, Shri
Ulkey, Shri
Verma, Shri K. K.
Vidyalankar, Shri A. N.
Viyas, Shri Radhelal
Yadav, Shri Ram Harkh

NOES

Alvares, Shri
Aney, Dr. M. S.
Banerjee, Shri S. M.

Chakraverty, Shrimati Renu
Kamath, Shri Hari Vishnu
Lakshmi Das, Shri

Roy, Shri Saradish
Singhi, Dr. L. M.
Utiya, Shri

Mr. Deputy-speaker: The result of
the Division is:

The motion was adopted.

Ayes 74; Noes 9.

The motion was adopted.

14.30 hrs.

Shri C. R. Pattabhi Raman: Sir, I
beg to move:

REPRESENTATION OF THE PEOPLE
(AMENDMENT) BILL—contd.

"That the decision of the House
adopting amendment No. 63 to the
Representation of the People Am-
endment) Bill, 1966, be rescinded."

Clause 20—contd.

Mr. Deputy-Speaker: We were on
clause 20.

Sir, I do not want to say anything
more on this.

Shri Hari Vishnu Kamath (Hoshan-
gabad): Many amendments are to be
put to vote still.

Mr. Deputy-Speaker: The question
is:

Mr. Deputy-Speaker: You can move
your amendments.

"That the decision of the House
adopting amendment No. 63 to the
Representation of the People Am-
endment) Bill, 1966, be rescinded."

Shri G. N. Dixit (Etawah): You
were taking a vote on amendment No.
67; that was the stage.