

Shri Hari Vishnu Kamath: I introduce the Bill.

Mr. Speaker: Then, "Bill to be withdrawn". Shri Yashpal Singh—not here.

14.33 hrs.

CONSTITUTION (AMENDMENT)
BILL—contd.

(Amendment of articles 75 and 164)
by Shri Hari Vishnu Kamath]

Mr. Speaker: The House will now proceed with the further consideration of the following motion moved by Shri Hari Vishnu Kamath on the 1st April, 1966:

"That the Bill further to amend the Constitution of India, be taken into consideration."

Shri Hari Vishnu Kamath (Hoshangabad) rose—

Mr. Speaker: Mr. Kamath is replying to the debate?

Shri Hari Vishnu Kamath: That is what I thought; I do not know, if the House wants more time to continue with it. (*Interruption*)

Mr. Speaker: I did not note it.

Shri Hari Vishnu Kamath: You were not in the Chair then. I do not know why. I welcome it now, and I am grateful that you are in the Chair now.

Mr. Speaker: So do I.

Shri Hari Vishnu Kamath: I am happy. Mr. Speaker, Sir, we are at the fag-end of our labours with regard to this Bill, which seeks to provide that the Prime Minister of India shall be a Member of the lower House, the Lok Sabha, that the Chief Ministers of the States shall be members of the Vidhan Sabhas of their respective States and that not more than 25 per cent or one-fourth of the Council of Ministers at the Centre and in the States shall belong to the Rajya Sabha or the Vidhan Parishads respectively.

I would like to say that this Bill has received the warm support—I am loathe to blow my own trumpet but sometimes that has to be done—not merely in this House but in the press and among the public as well. It has been really said, rightly said, that it is possible for the Prime Minister, as she herself has conveyed to this House through the Minister of State in the Ministry of Home Affairs—she conveyed a special message as the President of the United States does to the Congress—

The Minister of State in the Ministry of Home Affairs and Minister of Defence Supplies in the Ministry of Defence (Shri Hathl): No, no.

Shri Hari Vishnu Kamath: More or less she conveyed a message through the Minister, that she would be happy, only too glad, to face, to contest a by-election to the Lok Sabha and become a Member of this Sabha. And, as I said, and as many hon. Members have rightly said the other day and on previous occasions, unless something unforeseen happens, she is sure to be elected to this House. Therefore, I do not see any reason why when the Home Minister has declared that he would revoke the emergency in part—it was declared a fortnight ago—and during the last fortnight much water has flowed over the Jamuna, and the Home Minister has declared—(*Interruption*) Don't worry, there will be no drought; I should suppose there may be floods.

Mr. Speaker: Under it.

Shri Hari Vishnu Kamath: Under the Jumna bridge; down the Jumna. The Home Minister has said that he is prepared to revoke the emergency in part, and a Bill perhaps is being drafted in the alcoves of the Home Ministry—

Shri Hathl: Alcoves?

Shri Hari Vishnu Kamath: Yes; somewhere in the alcoves or the dovecots of the Home Ministry; that

[Shri Hari Vishnu Kamath]

would be presented to the House, brought before the House, during the next session. But the spirit has been accepted, the principle has been accepted, that the emergency should be revoked in part. That means to say, in some States of the Union there will not be emergency and the provisions relating to the emergency will lapse. Therefore, as far as those States are concerned, it is open to the Government, to the Election Commission, to hold by-elections in those States where the emergency is not in force; we do not want to force a general election in November, as the general elections in the whole country are coming up in February. But a by-election, for fulfilling the heart's desire, the wishes of the Prime Minister, that she should be enabled to enter the Lok Sabha, should be held. If the Government means what it says, if the Government is not hypocritical about the statement, the Prime Minister should not be balked, should not be deprived of a chance to stand in a bye-election, if it is really her heart's desire, and come here to the Lok Sabha as its Member. She should be welcome here, as a Member of this House.

It has been said by several hon. Members that we may not amend the Constitution for this purpose. Why not a convention, a tradition, a healthy tradition grow up as it has grown up in other countries, so as to support the grand edifice of parliamentary democracy which we are having, of which we are speaking, in this country. I wish and I pray to God also that such a tradition may grow in our country. But you know, Sir—I need not tell you but I would like to remind you, when you are in the Chair—of the manifold ways in which healthy traditions have not grown in this country, but also traditions are set at naught in various ways. I would only point to one or two instances, and not waste the time of the House by pointing to a legion of instances to illustrate my point.

You will be pleased to recollect that in the last general election, to elect

the leader of the Congress parliamentary party—if the press reports are correct and if my memory does not betray me—one of the tellers was the Deputy-Speaker of the House, of the Lok Sabha. Now, my Bill has been introduced, but I do not know when it will get a chance to be discussed in the House; the Bill is to the effect that as soon as they are elected—the President, the Vice-President, the Speaker, the Deputy-Speaker, and the Governors—all these must cease to be members of the political party and must cease to indulge in partisan, political activities. If the Deputy Speaker had not been from the Congress party, I do not think that the Congress party would have dared to make the Deputy Speaker a teller at the election. It is *infra dig*, beneath the dignity, of the Deputy-Speaker to act as a teller in that election. That is one instance.

Then, the press reports recently have said that in Himachal Pradesh, the warrant of precedence has been newly devised: in it, even the president of the local, provincial congress committee comes next to the Chief Minister. I do not know under what rule, under what provision, what tradition or convention of parliamentary democracy that has been devised. I hope the press reports are wrong, but I go by press reports. It is almost like putting Kamaraj Avergal next to the Prime Minister; Shri Kamaraj President of the Congress, being placed next to the Prime Minister in the warrant of precedence; that has not been done here, but I am told that in Himachal Pradesh, the president of the congress committee comes next to the Chief Minister of Himachal Pradesh. You can appreciate whether this is a good convention or tradition.

I will give one more instance. Recently the House also discussed this matter. The Governor of Kerala flew from Trivandrum to Delhi to take part in this party election and indulge in partisan activity. When the matter was raised, the convenient argument was trotted out that there

was no code of conduct for Governors. What can we do? Because of these things, traditions detrimental to parliamentary democracy have been built up. I, who would have been happy if healthy traditions were building up, therefore, would like to have the Constitution amended for that purpose, because healthy and salutary traditions are not being built up. There is no other way, therefore, but to amend the Constitution to force the issue.

While intervening in the debate, the Minister of State said, it was not proper to suggest that Ministers from Rajya Sabha were not useful and therefore they should not be there; and he said the hon. member should not use any derogatory words. So far as I am aware. . . .

Shri Hathi: It was not you. Some other Members said it was "Yatim Khana".

Shri Hari Vishnu Kamath : Only one Member said it and I think he practically withdrew it.

Shri H. N. Mukerjee (Calcutta Central): I said nothing derogatory.

Shri Hathi: Not you.

Shri Hari Vishnu Kamath : The point is the Prime Minister and the Chief Ministers should belong to the House of the People and Vidhan Sabhas respectively. In a parliamentary democracy, the people are the repository of all sovereign powers and whoever represents the people directly should be Chief Minister or Prime Minister. Otherwise, what happens is this. Under the Constitution, the Council of Ministers is responsible to the House of the People. Thousands of crores of rupees are being voted by the House of the people. The Prime Minister is not a member of this House but of the other House which has no right to discuss and vote the demands of the various ministries un-

der the Constitution. So, the Prime Minister belongs to a House which has no right or power under the Constitution to vote the demands of the various ministries.

The Minister of State for Home Affairs also said, there would be no doubt in principle that the Prime Minister should be normally a member of the Lok Sabha. I am glad he has admitted this point that it is indubitable that the Prime Minister must be a member of the Lok Sabha and the Chief Ministers must be members of the Vidhan Sabhas. Then why may I ask, should there be any objection to the Bill being circulated for public opinion? A popular Government and popular ministers should not be afraid of public opinion. I am glad that the Bill has evoked such interest and enthusiasm that two amendments have been moved to my motion seeking to circulate the Bill for public opinion. I am sure the Government will not be frightened of a circulation motion of that kind and will agree to it.

Lastly, I would appeal to the Members of this House: Is there a Member here with soul so dull, if not dead, that he will say, "I do not want the Prime Minister to belong to this House, I do not want the Council of Ministers to consist of as few members from the Rajya Sabha as possible? I would, therefore, appeal to the House to vote for the circulation motion of the Bill to elicit public opinion.

Mr. Speaker: Though Mr. Yashpal Singh is not here, I shall put his amendment to the vote of the House because it has been moved.

The question is:

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

The Lok Sabha divided:

Division No. 16]

AYES

[14.51 hrs.

Aney, Dr. M.S.
Berwa, Shri Omkar Lal
Brij Raj Singh, Shri
Kapur Singh, Shri
Mahanan la. Shri

Matcharaju, Shri
Misra, Dr. U.
Mukerjee, Shri H. N.
Murmu, Shri Sarkar
Nambiar, Shri

Pandey, Shri Sarjoo
Rajaram, Shri
Ramabadaran, Shri
Tan Singh, Shri
Utiya, Shri

NOES

Abdul Wahid, Shri
Achuthan, Shri
Alva, Shri A. S.
Bajaj, Shri Kamalnayan
Bal Krishan Singh, Shri
Balakrishnan, Shri
Banerjee, Dr. R.
Basappa, Shri
Bhanja Deo, Shri L. N.
Bisai, Shri J. B. S.
Borooh, Shri P. C.
Brij Basi Lal, Shri
Chakraverti, Shre P. R.
Chandak, Shri
Chandrabhan Singh, Shri
Chaudhry, Shri Chandremani Lal
Chevan, Shri D. R.
Chuni Lal, Shri
Daljit Singh, Shri
Das, Dr. M. M.
Das, Shri B. K.
Deahmukh, Shri Shivaji Rao S.
Dixit, Shri G. N.
Doral, Shri Kashinatha
Dwivedi, Shri M. L.
Ganspati Ram, Shri
Hansda, Shri Subodh
Harvani, Shri Ansar
Hazarika, Shri J. N.
Hem Raj, Shri
Jamunadevi, Shrimanti
Joshi, Shri A. C.
Joshi, Shrimati Subhadra
Jyotishi, Shri J. P.
Karuthiruman, Shri

Konyalgi, Shri H. V
Krisbna, Shri M. R.
Lahtan Chaudhry, Shri
LakshmiKanthamma, Shrimati
Lalit Sen, Shri
Lonikar, Shri
Masoriya Din, Shri
Mehdi, Shri S. A.
Mehrotra, Shri Braj Bihari
Mehta, Shri J. R.
Mehta, Shri Jashvant
Mishra, Shri Bihuti
Misra, Shri Mahash Dutta
Misra, Shri Shyam Dhar
Mohain, Shri
More, Shri K. L.
Munzoi, Shri David
Murti, Shri M. S.
Musafir, Shri G. S.
Naik, Shri D. J.
Naskar, Shri P. S.
Nayak, Shri Mohan
Paliwal, Shri
Pande, Shri K. N.
Pandey, Shri R. S.
Pandey, Shri Vishwa Nath
Panna Lal, Shri
Parasahar, Shri
Patel, Shri Man Siro P.
Patel, Shri P. R.
Patel, Shri Rajeshwar
Patil, Shri D. S.
Pattabhiraman, Shri C. R.
Pratab Singh, Shri
Raghunath Singh, Shri

Rajdeo Singh, Shri
Ram Sewak, Shri
Ram Singh, Shri
Ranjit Singh, Shri
Rao, Shri Murhyal
Rao, Shri Thirumala
Reddy, Shri H.C. Linga
Sadhu Ram, Shri
Dr. S. K.
Samanta, Shri S. C.
Satyabhama Devi, Shrimati
Shah, Shrimati Jayaber
Sharma, Shri A. P.
Sharma, Shri D. C.
Sheo Narain, Shri
Shree Narayan Das, Shri
Siddananjappa, Shri
Siddheshwar Prasad, Shri
Singh Shri D. N.
Sinha, Shrimati Ramdulari
Soy, Shri H. C.
Sumat Prasad, Shri
Surya Prasad, Shri
Swamy, Shri M. P.
Tiwary, Shri D. N.
Tiwary, Shri K. N.
Tripathi, Shri Krishna Deo
Tula Ram, Shri
Uikey, Shri
Upadhyaya, Shri Shiva Dutt
Valvi, Shri
Varma, Shri M. L.
Verma, Shri Balgovind
Virbhadra Singh, Shri
Yadava, Shri B. P.

Shri Hari Vishnu Kamath: I would like to remind Mr. Vishwa Nath Pandey who is in the Congress that his amendment also is there for circulation of the Bill for eliciting opinion.

श्री मधु लिमये (मुंगेर) : मेरा ना-
दुस्त हो गया है । एक बोट मेरा हाँ में
बढ़ा लिया जाए ।

Shri Matcharaju (Narasipatnam):
My vote may be added for Noes.

Shri Dhuleshwar Meena (Udaipur):
My vote also may be added for
Noes.

Mr. Speaker: I will add 1 to Ayes
and 2 to Noes.

The result of the division is as follows:

Ayes 16; Noes 107.

The motion was negatived.

Mr. Speaker: Does Mr. Vishwa Nath Pandey want his amendment to be put to the House?

Shri Vishwa Nath Pandey (Salen-pur): No, Sir; I withdraw it.

The amendment was, by leave, withdrawn.

Mr. Speaker: I shall now put the main motion to the vote of the House.

Shri Hari Vishnu Kamath: With regard to that, Sir, I may submit, that this is a Constitution (Amendment) Bill, and unless there is a special majority to pass the motion it is not possible.

Mr. Speaker: This being a Constitution (Amendment) Bill, the voting has to be by division. The lobbies have already been cleared. I shall put the motion to the vote of the House. The question is:

“That the Bill further to amend the Constitution of India, be taken into consideration.”

The Lok Sabha divided:

AYES

Division No. 1]

[14.53 hrs.

Berwa, Shri Onkar Lal
Bhat, Shri J. B. S.
Brij Raj Singh, Shri
Kamath, Shri Hari Vishnu
Kapur Singh, Shri
Lahtan Chaudhry, Shri
Lakshminathanma, Shrimati

Limaye, Shri Madhu
Mahananda, Shri
Mishra, Dr. U.
Mukerjee, Shri H. N.
Murmu, Shri Sarkar
Nambiar, Shri
Pandey, Shri Sarjoo

Rajaram, Shri
Ramabhadra, Shri
Samanta, Shri S. C.
Tan Singh, Shri
Utiya, Shri
Valvi, Shri

NOES

Abdul Wahid, Shri
Ajithan, Shri
Alva, Shri A. S.
Beje, Shri Kamalnayan
Bai Krishna Singh, Shri
Banerjee, Dr. R.
Basappa, Shri
Baswant, Shri
Bhanja Deo, Shri L. N.
Borooh, Shri P. C.
Brij Basi Lal, Shri
Chakraverti, Shri P. K.
Chandak, Shri
Chandrabhan Singh, Shri
Chandhrv, Shri Chandramani Lal
Chavan, Shri D. R.
Chuni Lal, Shri
Daljit Singh, Shri
Das, Dr. M. M.
Das, Shri B. K.
Deshmukh, Shri Shivaji Rao S.
Dhuleshwar Meena, Shri
Dixit, Shri G. N.
Dorai, Shri Kasinatha
Dwivedi, Shri M. L.
Genapati Ram, Shri

Gupta, Shri Badabahu
Hanada, Shri Subodh
Harvani, Shri Anwar
Hasarika, Shri J. N.
Hem Raj, Shri
Jamunadevi, Shrimati
Joshi, Shri A. C.
Joshi, Shrimati Subhadra
Jhotabhi, Shri J. P.
Karuthiruman, Shri
Koujalgi, Shri H. V.
Krishna, Shri M. K.
Lalit Sen, Shri
Lonkar, Shri
Masuriya Din, Shri
Matarhaju, Shri
Mehdi, Shri S. A.
Mehrotra, Shri Braj Bihari
Mehta, Shri J. R.
Mishra, Shri Bihari
Mishra, Shri Mahesh Datta
Mohale, Shri
Munani, Shri David
Murti, Shri M. S.
Musafir Shri G. S.
Nalk, Shri D. J.

Nayak, Shri Mohan
Pandey, Shri K. N.
Pandey, Shri K. S.
Pandey, Shri Vishwa Nath
Panna Lal, Shri
Parashar, Shri
Patel, Shri Man Singh P.
Patel, Shri Rajeshwar
Patil, Shri D. S.
Pratap Singh, Shri
Rajdeo Singh, Shri
Ram Sewak, Shri
Ram Singh, Shri
Ranjit Singh, Shri
Rao, Sri Muthyal
Rao, Shri Thirumal
Reddy, Shri H. C. I. Inga
Sadbhu Ram, Shri
Saha, Dr. S. K.
Saryabhama Devi, Shrimati
Shah, Shrimati Jaysben
Sharma, Shri A. P.
Sharma, Shri D. C.
Shree Narain, Shri
Shree Narayan Das, Shri
Siddananiappa, Shri

Sidheshwar Prasad, Shri
Singh, Shri D. N.
Sinha, Shrimati Ramdulari
Soy, Shri H. C.
Sumat Prasad, Shri
Surya Prasad, Shri

Swamy, Shri M. P.
Tiwary, Shri D. N.
Tiwary, Shri K. N.
Tripathi, Shri Krishna Deo
Tula Ram, Shri

Uikey, Shri
Upadhyaya, Shri Shiva Dutt
Verma, Shri M. L.
Verma, Shri Balgovind
Virbhadra Singh, Shri
Yadava, Shri B. P.

Mr. Speaker: The result of the Division is: Ayes—20; Noes—96. The motion is not 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.

The motion was negatived.

14.51 hrs.

CONSTITUTION (AMENDMENT)
BILL, 1962

(Amendment of articles 136, 226 etc.)

by Shri Shree Narayan Das

Shri Shree Narayan Das (Darbhanga): Sir, I beg to move:

“that the Bill further to amend the Constitution of India be referred to a Select Committee consisting of 25 members, namely:

Dr. M. S. Aney, Shri Brij Raj Singh, Shrimati Renu Chakravartty, Shri Basanta Kumar Das, Shri G. N. Dixit, Shri Ganapati Ram, Shri S. Hansda, Shri Hari Vishnu Kamath, Shrimati T. Lakshmi Kanthamma, Shri Madhu Limaye, Shri Harish Chandra Mathur, Shri C. R. Pattabhi Raman, Shri Raghunath Singh, Shri Shivaram Rango Rane, Shri N. G. Ranga, Shri Sham Lal Saraf, Shri Era Sezhayan, Shrimati Jayaben Shah, Shri Sidheshwar Prasad, Dr. L. M. Singhvi, Shrimati Tarkeshwari Sinha, Shri Sinhasan

Singh, Shri Ravindra Varma, Shri Amar Nath Vidyalkar, and Shri Shree Narayan Das,

with instructions to report by the last day of the first week of the next session.”

Sir, this Bill, for reference to a Select Committee for which I have just moved a motion, was circulated for eliciting public opinion. In the beginning, I would like to say that the majority of opinions are not in favour of the Bill. Even then I want to bring to the notice of this hon. House certain points that I would like to be considered by the hon. Members.

14.53 hrs.

[SHRI SHAM LAL SARAF in the Chair]

The principle on which my Bill stands is that the independence of an elected Assembly requires that the Assembly itself should have exclusive powers to decide controversies about its membership, and this power ought to override the ordinary law enforced through courts. The Constitution-makers, when the Constitution was framed, had this principle in mind when they framed this article or the articles of Chapter XV of the Constitution. I would quote only one article, article No. 329, for the benefit of the House. It reads like this:

“Notwithstanding anything in this Constitution—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituen-