

[Shrimati Sucheta Kripalani]

Members in the Parliament and different Legislatures? 3877. Out of these, twelve have been unseated. If only twelve are unseated and if we order a bye-election for these twelve seats, heavens will not fall. The whole Constitution of India will not be in jeopardy. That is why I want to say that the Government have not made out any case. There is no proper case for doing this thing which will put our President, who is respected by the whole of India, in an awkward position. It raises constitutional issues, it creates innumerable difficulties and at the same time it reflects on the Government. I would like the Government to act in such a manner that nobody—even we in the Opposition—can point a finger at the Government. I would like that Government always act rightly. I would like that Government always stand for equity and justice.

So, I think the effect of this legislation will not be good. What will be the psychological effect of such a measure in the country? The people—average people—will not understand all these niceties and constitutional and legal implications. All that they will know is that twelve Members were unseated, and the Vindhya Pradesh Government and the Central Government wanted that they should be restored by hook or crook, by any method, taking advantage of some legal loopholes by which they can act and put them back there.

Therefore, Sir, in all humility I plead before you to kindly prevail upon the Government to withdraw this Bill. Bring in a Bill of wider import, of general scope; bring a fair Bill, or bring an amendment to the Representation of the People Act, or a Bill to amend the Prevention of Disqualification Act or an amendment of the Constitution; all our support is with you and we shall always help the Government to be just and equitable.

#### QUESTION OF PRIVILEGE

##### ARREST OF A MEMBER

**Mr. Deputy-Speaker:** I have just received a telegram, at 9.55, from the Chief Secretary to the Jammu and Kashmir Government:

"Hon. Speaker, House of the People, New Delhi.

Dr. Syama Prasad Mookerjee declared publicly his intention to enter Jammu and Kashmir State in connection with his agitation launched against the Government by Praja Parishad, a local party. In Jammu for the last six months

an organised movement started with a view to subverting law and order through unlawful and violent means. This movement had the avowed support of Bharatiya Jana Sangh in India. Dr. Syama Prasad Mookerjee as the President of Bharatiya Jana Sangh did not merely justify this unlawful movement but also lent it the full support of the Sangh for the purpose of continuing and intensifying it. Even today in some parts of Northern India volunteers inspired and organised by Bharatiya Jana Sangh have in defiance of law been demonstrating in support of this movement. It was apprehended that the presence of Dr. Syama Prasad Mookerjee who along with his political party has been supporting the subversive movement launched by the Praja Parishad in Jammu would constitute a grave threat to public peace and law and order. It was, therefore, with deep regret that the Jammu and Kashmir Government had to serve a notice under section 4(1) of the Jammu and Kashmir Public Security Act on Dr. Syama Prasad Mookerjee according to which his entry was banned into the State. Dr. S. P. Mookerjee, in defiance of this notice, entered the territory of Jammu and Kashmir State. Taking into account the presence of Dr. S. P. Mookerjee in the State and also the threat that it constituted to the peace and tranquillity of the State, the Inspector General of Police ordered his detention under section 3 of the Jammu and Kashmir Public Security Act.

Chief Secretary."

**Kumari Annie Mascarene** (Trivandrum): When was this received by the Secretary, Sir?

**Mr. Deputy-Speaker:** 9.55.

**Kumari Annie Mascarene:** How is it that it was not read out earlier when the House was sitting?

**Mr. Deputy-Speaker:** The House was in session. It has been placed before me at 9.55. Mr. Trivedi was on his legs and I did not want to interrupt. Even now when Mr. Mookerjee was about to speak, I called him to stop. This was brought to my notice. There is therefore no harm. I received it at 9.55.

Now, so far as the notice is concerned, this was received at 8.45 A.M. If it should stand over till tomorrow, I have no objection. Otherwise, in view of this telegram, if this is to be disposed of then also I have no ob-

jection. The hon. Member who wanted to raise this....

**Shri N. C. Chatterjee** (Hooghly): May it be taken up tomorrow after Question Hour?

**Mr. Deputy-Speaker:** Very well. In all matters of privilege, the consent of the Speaker is necessary. I will look into it and if the Speaker gives his consent, he may raise this point; otherwise, I will intimate him.

**The Minister of Home Affairs and States (Dr. Kaju):** When was the telegram despatched, Sir?

**Mr. Deputy-Speaker:** The telegram was despatched from Srinagar, I think it must be at 11 o'clock yesterday. It is not decipherable. I will find out. We received it here at 9.55. As to the exact time it was despatched, I will find out. I will consider the matter and if the motion is permitted, he can raise it tomorrow.

VINDHYA PRADESH LEGISLATIVE ASSEMBLY (PREVENTION OF DISQUALIFICATION) BILL—contd.

**Shri H. N. Mukerjee** (Calcutta North-East): I oppose this Bill, I oppose it root and branch because I consider it a most unsavoury piece of legislation and if we care for the decencies of political life, we ought to throw it out unanimously. Now, in regard to this Bill, I fear that even the Prime Minister had something of an uneasy conscience. I say this because when this Bill came up on Saturday, certain questions were raised regarding the opinion of the different political groups in this House about the feasibility of discussing this Bill during this session. But, even before we had gone into the merits of the matter, the Prime Minister was pleased to make certain observations. He said it was a necessary Bill, an urgent Bill and an important Bill about which the law is 100 per cent. clear. The Prime Minister went on to make these observations because—I suggest, Sir—he had something of an uneasy conscience about it. He went forward also to refer particularly to me, because I had asked a question previously, and said that I should study the law carefully because it has to be approached from a legal point of view as much as it has to be approached from any other point of view.

Now, coming from the Prime Minister, this advice regarding my studying the law carefully is somewhat ironical; but, at any rate, we find that he said the law is 100 per cent. clear on the point. I am sorry the Prime

Minister is not here, but, sometimes I have a feeling that like the 18th century encyclopaedists he specialises in omniscience, but, of course, the rest of us, poor mortals do not try that kind of thing. But, at any rate, from what we can find out about the law, it seems to be very clear to us that this particular Bill violates not only the letter but also the spirit of the law. It may be a necessary, urgent and important Bill from the viewpoint of the caucus that Congress practically is in Vindhya Pradesh and so many other places, but, from any other point of view, this cannot be considered to be a necessary Bill, an urgent Bill or an important Bill. But, on the contrary, I say that it is a Bill which militates against all that we understand by the decencies of political life. Therefore it should be unanimously rejected. (Hear, hear)

My hon. friend, the Home Minister when he made his preliminary observations also, as is expected of him, made a rather cavalier treatment of the entire subject. He said that the Vindhya Pradesh Government had made a poor job in considering that it was a trivial matter, a trivial matter which should be set right by this piece of parliamentary legislation. Now, I should think that perhaps this is a trivial matter from the point of view of the Home Minister but there are certain principles involved in this legislation which make it very far from being a trivial matter.

We had the advantage of hearing the learned Attorney-General. He tried to point out to us that this Bill is neither unconstitutional nor illegal. He said it was quite correct from a constitutional point of view. He said it was legally and technically quite valid. He said also at the same time that as far as the proprieties are concerned, this Bill was perfectly all right. Now, with all respect, I should say that I wish he did not refer to the propriety or otherwise of the matter. I wish he had not tried to give us his views about the propriety of the matter. Of course, he came here to give us his very learned opinion in regard to the legality, the constitutionality and the technical validity of the matter. But, even in so far as that goes, his argument did not appear to us to be very convincing. The main point which the learned Attorney-General sought to make was, that the disqualification that was incurred, the procedure that was followed by the Election Commission and the issue of the Presidential order were all done not under the Constitution but under the Part C States Act, which was merely a piece of parliamentary legislation over which the Parliament had, as in any other