

[Shri Jawaharlal Nehru]

trouble would have come perhaps sooner or in a worse form.

Anyhow, Sir, we have to face the situation as it is, and we propose to face it stoutly and with courage.

Dr. Ram Subhag Singh (Sasaram): I want to seek one clarification regarding the latest communication. The Prime Minister said that China has intimidated India that she will march her troops on this side of McMahon line. May I know whether we will repel the march of these troops if it happens?

Shri Jawaharlal Nehru: The answer is obvious, if that is done we shall resist and repel.

Shri Nath Pal: Mr. Speaker, a question which we had expected him to reply and which has been exercising the mind of all is what attitude Government is planning to take, intending to take with regard to the treaty with China which is about to lapse in June.

Shri Jawaharlal Nehru: I am glad the hon. Member has drawn my attention to this, because I wanted to mention it myself. Yesterday we received a communication from the Chinese Government pointing out that this treaty is expiring or will expire in a few months and the time for renewal of it ended, I think, day before yesterday, and suggesting that we should try, we should discuss the terms of a new treaty. That is what we received yesterday. We have, naturally, sent no answer to it. Well, in the course of the next few days we shall send an appropriate answer.

Shri Rajendra Singh: What will be that answer?

Shri Jawaharlal Nehru: I can't exactly say that. We have to consider it in our foreign affairs committee and the rest. But it is obvious that when such a request is received—unlike other Chinese communications that we have been receiving this is a

very polite communication expressing the hope that this and that will happen—merely to say that we will not discuss with you, *prima facie* seems rather wrong. Obviously, we cannot just say “yes” and go and discuss it. That too is wrong. Therefore, whatever we may say will have to be conditioned, and on certain conditions being satisfied we may.

Raja Mahendra Pratap: Why not try my peaceful methods?

Mr. Speaker: The hon. Member wants to go to China.

Shri S. M. Banerjee: He has the passport.

Mr. Speaker: If he has, let him go.

13.29 hrs.

CONSTITUTION (ELEVENTH AMENDMENT) BILL

Mr. Speaker: The House will now take up the Constitution (Eleventh Amendment) Bill. Two hours have been allotted for this Bill. It is now 1:30. So this must end at 3:30. Let hon. Members be ready for voting at 3:30, or shall we have it at 4:00?

Some hon. Members: Let it be at 4:00.

Mr. Speaker: All right. Let it be at 4:00. The discussion will go on on this and voting will take place at 4:00.

Shri Tangamani (Madurai): Sir, I rise to a point of order.

Mr. Speaker: It is usual to raise a point of order after the motion is made. Let him make the motion.

The Minister of Law (Shri A. K. Sen): Mr. Speaker, Sir, I beg to move that the Bill further to amend the Constitution of India be taken into consideration. Sir, the object of introducing this Bill has been set out in the Bill itself, particularly in the Statement of Objects and Reasons as

also the notes on the different clauses.

The difficulty relating to the election of the Vice-President arises because of the fact that article 66, clause 1, of the Constitution envisages the calling of a joint meeting of the two Houses for the purpose of electing the Vice-President, a procedure which is different from the election of the President, though it is quite clear that what was intended was that the members of the two Houses should elect the Vice-President, and not that the election should be done through the medium of the joint sitting of the two Houses. There are several difficulties if it is to be done through a joint sitting.

The first difficulty would be that under article 324 of the Constitution all the elections, including the election of the Vice-President, would have to be conducted by the Chief Election Commissioner. Now, if the Chief Election Commissioner is to conduct the elections, then, who is to preside and who is to carry out the proceedings in the joint sitting? That is the first difficulty. How can the Chief Election Commissioner function if a joint sitting involves that for the dignity of the two Houses the requirement of the Speaker having to be in charge of the conduct of the proceedings?

The second difficulty is that it will have to be done in a most formal manner if it is a joint sitting, because the filing of nominations, the scrutiny and withdrawal and various other matters connected with the elections except the actual voting would have to be done outside the House. They cannot be done in a joint sitting. Therefore, having regard to the provisions in regard to the election of the President, it appears that the intention was really that the two Houses should form an electoral college and they should vote for the election of the Vice-President. Therefore, we are trying to make it clear by a verbal amendment. So far, there has been no difficulty because there has been

no contest. The moment there is a contest, this difficulty is bound to arise.

✓ The second provision is with regard to the election of the President. It is well-known that election in some of the difficult areas cannot be completed before the presidential elections are held immediately after the general elections. Because, the electoral college for the purpose of electing the President consists of the members of the two Houses here as also the members of the Legislatures of the States. So, it has to be done after the elections. But the elections, particularly in the snow-bound areas, cannot take place before May and, therefore, the election of the President takes place before these elections in the outlying areas are completed. ✓

A point was raised in the case of Dr. Khare as to whether the election of the President would be valid if it was held before the elections in the remote areas for the assembly constituencies, as also for the parliamentary constituencies, are completed, because that exception is not provided for in the Constitution itself. Though the Supreme Court has not really expressed itself on this, as it thought that it was not necessary, yet the point is a point of substance, and the President himself felt—he was the Chairman of the Constituent Assembly, as is well known—that this difficulty should not be allowed to continue but should be clarified by an appropriate amendment of the Constitution, providing for the election of the President being valid even though all the seats are not filled up.

Now it seems that there is an apprehension in the minds of some hon. Members, particularly in the mind of Shri Narasimhan, who has tabled an amendment, that there is a possibility of the President being elected even though only a minority of the members may be elected; in fact, before the majority of the seats are filled up. It is certainly a theoretical possibility though practically it is impossible to

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conceive that the Chief Election Commissioner would be calling for the election of the President without all the seats being filled up except those which cannot be filled up because of climatic or other reasons. The hon. Member has tabled an amendment, limiting the vacancy to a figure not exceeding two per cent. Two per cent would come to only ten seats in this Parliament. If that apprehension really finds favour with the House, Government is quite prepared to consider an amendment, limiting that vacancy to not exceeding, let us say, it five per cent. Government is prepared to consider it.

Shri Narasimhan (Krishnagiri): It is safer.

Shri A. K. Sen: I have personally no apprehension because, though that theoretical possibility is there, if any Chief Election Commissioner calls for the presidential election before the majority of seats are filled up, he will not be there any more. Let us leave it to common sense.

Shri Tyagi (Dehra Dun): But the President will be there all right.

Shri A. K. Sen: The President is there to correct this; that is quite true. The theoretical possibility is there, but how far this apprehension would be a reality, it is very difficult to conceive. In that case, we might add a proviso like the one suggested by Shri Narasimhan. If the opposition really feels that their apprehension is real and that there is a theoretical possibility of the presidential election being called before the majority of the seats are filled up,—as I said, there is a theoretical possibility though in reality it will never happen—Government is prepared to have this proviso. But if the opposition does not feel any such apprehension, we may proceed with the Bill. I am quite open to have any change if the opposition

demands, because, so far as the majority party is concerned, their members are quite satisfied with the present provision and they do not consider that this theoretical possibility is anything more than theoretical.

Shri Narasimhan: They would be satisfied with this amendment.

Shri A. K. Sen: Naturally.

Shri Narasimhan: A majority of the seats will have to be filled before the elections.

Shri A. K. Sen: We cannot provide for everything in the Constitution. We have to leave these things for conventions.

Shri Hem Raj (Kangra): Even the majority party is having some objection against this provision.

Shri Tyagi: May I point out one thing to the Law Minister? In the Constitution itself it is mentioned that the election of the Vice-President shall be made in the joint sitting of both Houses. Now, about the sittings of the House there is one provision that either House shall have the power to act notwithstanding any vacancy in the membership thereof, provided the quorum is there. So, the fact that there are some vacancies in the House at a particular time shall not affect the power of voting of the House. Therefore, there is no question of fixation of any percentage. The only condition is that the House must have quorum. So long as the quorum is there, the vacancies do not matter. The Law Minister can very well use the same expression here. If the electoral college consists of people who are duly elected and it has quorum then it will be a sitting of the House.

Shri A. K. Sen: I am quite prepared to accept an amendment, limiting the vacancy to five per cent.

Shri Tyagi: I think that will do. Let it be accepted.

Shri A. K. Sen: We shall table an amendment to the amendment of Shri Narasimhan to give effect to this, in which case, clause 3 will read as follows:

"The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him provided that the number of such vacancies does not exceed five per cent of the electoral college."

Shri Tyagi: Of the strength of the electoral college.

Shri Narasimhan: My amendment reads like this.

Shri A. K. Sen: We shall put in that amendment. I have only indicated what the form will be.

So, these are my statements. This is a non-controversial measure and I would beg of the House to adopt it without much objection.

Mr. Speaker: What about the election of the Speaker?

Shri A. K. Sen: Let us not anticipate any difficulty in regard to that. In this case this difficulty has arisen because it was challenged in the Supreme Court.

Mr. Speaker: Only one difficulty occurs to me. For election to the office of the President or the Vice-President anybody who is competent can stand. He need not be a Member of Parliament. Is it not that for Presidentship or Vice-Presidentship anybody can stand? Therefore even a person who is not elected as a Member of Parliament from Himachal Pradesh and wants to be a prospective candidate for the office of President or Vice-President, he can stand notwithstanding the fact that he is not a Member either of this House or of the other House. But if he wants to stand for election as Speaker, he must be a

Member of this House. Is that not so? Therefore perpetually people from Himachal Pradesh would be debarred from becoming Speakers, whereas it is not so with respect to their becoming the President or the Vice-President. In the absence of the Speaker and the Deputy-Speaker the President can appoint somebody to carry on their duties. For how long?

Shri Amjad Ali (Dhubri): Only for one day.

Mr. Speaker: Nowhere it is said 'only for one day'.

Shri Tyagi: I think the election of the Speaker alone should be postponed until the elections to Parliament were complete.

Mr. Speaker: It will mean postponing for a month.

Shri Tyagi: It does not matter. The Deputy-Speaker can carry on.

Shri A. K. Sen: There is no difficulty. Article 93 of the Constitution itself provides for it. It reads:

"The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be."

If it is felt that there should be a Speaker drawn from Himachal Pradesh or from other areas, we can withhold the election for a month or for two months and allow the proceedings to be conducted through another officer.

Mr. Speaker: If the Speaker is not elected, he might say he would like to become the Deputy-Speaker only.

If the Deputy-Speaker's place is kept vacant for him, he might say, "Why should I not stand for election as Speaker?" In the absence of a

[Mr. Speaker]

Speaker, how can there be a Deputy-Speaker?

Shri A. K. Sen: No, Sir, If you take article 93, you will find that the election of both the Speaker and the Deputy-Speaker would be held as soon as may be after the elections. So long as this election of both the Speaker and the Deputy-Speaker is not held, the House shall choose another Member to be the Speaker or Deputy-Speaker. That means that until this election of the Speaker and the Deputy-Speaker takes place, anybody can be chosen for this interim period to act either as the Speaker or as the Deputy-Speaker.

Shri Tyagi: In that case completion of all the elections is called for and a permanent Speaker can be elected unless the elections are over.

Shri A. K. Sen: It may be if the House so chooses.

Shri Naushir Bharucha (East Khandedh): There is no provision for a provisional Speaker.

Mr. Speaker: There is no provision. Whether it is the first election or the second election, he is always permanent. Once a Speaker is elected there is no provisional Speaker.

Shri A. K. Sen: I am not saying 'once a Speaker is elected'. What I am saying is that there is no provision to say that the Speaker or the Deputy-Speaker is to be elected immediately. It only says 'as soon as may be'. During the interim period.....

Shri Tyagi: I do not want to embarrass the Chair, but the Speaker is generally formally re-elected. There is no question of Himachal Pradesh here. You are the Speaker and you come next time also.

Mr. Speaker: The hon. Member is making light of the question.

Shri A. K. Sen: It is not such an easy point.

Shri Tyagi: There is an old convention.

Shri A. K. Sen: What I am saying is that after the election, the question of having an interim Speaker arises.

Mr. Speaker: No; it cannot be. He is not an interim Speaker. Once the office of the Speaker is vacant, as often as it becomes vacant, the Speaker may be elected and he continues for five years.

Shri A. K. Sen: Until the Speaker is elected, the question of having an interim Speaker arises.

Mr. Speaker: Here it says that the President shall appoint somebody until the Speaker is elected.

Shri A. K. Sen: That is what I am saying.

Shri Narasimhan: It says 'appoint a Member'. Therefore that right is lost to them.

Shri A. K. Sen: You will find that until the election takes place there is no vacuum. The election may take place after the elections.

Mr. Speaker: The President must appoint someone and possibly he can go on until a Speaker is elected formally.

Shri Narasimhan: The right to be appointed as Speaker *pro tem* is probably lost to them.

Shri A. K. Sen: I do not know what the difficulty is. Perhaps I have not made myself clear. What I was saying is that the Constitution does not say that the Speaker is to be elected immediately, before the completion of all the elections. Until the election is held the proceedings will be conducted.....

Mr. Speaker: Article 93 says:

“The House of the People shall, as soon as may be.....”

Shri A. K. Sen: Article 95 provides for the vacuum.

Mr. Speaker: Article 95 reads:

“While office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the House of the People as the President may appoint for the purpose.”

The President appoints one Member before the election of the Speaker and he would continue for a month or for two months until Himachal Pradesh elections are over.

Shri A. K. Sen: If that is the desire. Himachal Pradesh is not debarred. That must be so. In such a huge country elections cannot be held simultaneously. What else is the answer? You cannot have the elections when the whole place is covered with snow and ice and people cannot move about.

Shri Hem Raj: There is an instance. In 1951 the elections in Himachal Pradesh were held in September and the elections in the rest of the country were held in February—March 1952. Then all the Members partook in the election of the Speaker and the Deputy-Speaker.

Shri Narasimhan: So Himachal Pradesh elections should come before others.

Shri A. K. Sen: Unless the Lok Sabha is dissolved, how can the elections be conducted?

Shri Hem Raj: They were held. There is an instance.

Shri A. K. Sen: It must have been a casual vacancy. This is absolutely

inevitable. As I was telling you, they are not barred.

Mr. Speaker: True. The person who is appointed by the President can continue to be the Speaker.

Shri Supakar (Sambalpur): How can he? The only way out seems to be not to summon the Parliament till all the elections are completed.

Mr. Speaker: No. Under article 95 somebody is appointed by the President on the first day and he acts as the Speaker. Here it only says ‘as soon as may be’. That means that it may be after the Himachal Pradesh elections are completed.

Shri A. K. Sen: If the House thinks that it should wait till Himachal Pradesh representatives have come, it will wait; if it thinks it should not it will not.

Mr. Speaker: It is not necessary.

Shri Tangamani: In the matter of the election of the Speaker the House of the People is supreme. That is not a matter which can be raised in the Supreme Court or any other court. There is no provision for that. The provision is also to the effect that if the Speaker or Deputy-Speaker wants to resign, he does not send his resignation to the President; he sends it only to the House. My point of order is a different one altogether.

Mr. Speaker: I shall put the motion to the House and then he may raise his point of order.

Shri Tangamani: I want to raise it before it is put.

Mr. Speaker: Just a minute. What is pointed out to me in answer to my query is this. The point I raised was that it is open to anybody in Himachal Pradesh to stand as Speaker; therefore there will be an inconvenience perpetually to the Himachal Pradesh people who will be prevented from standing for the election of Speaker.

[Mr. Speaker]

Then the only thing is to postpone the election of the Speaker until such time as the Himachal Pradesh elections are over—there is nothing irregular also or, if the House otherwise desires, it can do so at any time. It won't be an illegality, because it is not an election that way. It is only a motion of the House. And under Article 100(2) "Either House of Parliament shall have power to act notwithstanding any vacancy in the membership thereof". It is only a question of propriety, it is not a question of illegality.

Very well. What is Shri Tangamani's point of order?

Shri Tangamani: I raise this point of order on both the points to which amendment is sought.

Shri A. K. Sen: Is he opposing the motion?

Shri Tangamani: I shall formulate my point of order.

Mr. Speaker: This is not the time for that.

Shri Tangamani: The first point is that it is out of order, because....

Mr. Speaker: If it is a question of raising a point of order against my putting the motion itself, that is another matter. But if the hon. Member addresses it to the amendments that may be moved, then when I allow the amendments to be moved immediately before I put them to the House, he can raise the point of order. I am not allowing any amendment.

Shri Tangamani: Sir, I am referring to the amending Bill itself. My submission is this....

Shri A. K. Sen: Sir, may I answer the point of order after he has made it, because I have some appointment at the Prime Minister's place for which I am already late? And I would like to answer the point of order myself.

Mr. Speaker: The point of order may be brief.

Shri A. K. Sen: Shri Tangamani: always raises a good point of order.

Mr. Speaker: If the hon. Minister gives him a certificate, then he cannot answer the point of order.

Shri Tangamani: The attempt to restrict the powers of the Supreme Court is contrary to what has been provided under article 71(1).

Mr. Speaker: Let him state the point of order.

Shri Tangamani: Article 71 confers upon the Supreme Court original jurisdiction in addition to what has been conferred upon the Supreme Court by article 131. Article 131 says:

"Subject to the provision of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute—

(a) between the Government of India and one or more States; or

(b) between the Government of India and any State or States on one side and one or more other States on the other; or

(c) between two or more States" etc.

That is an exclusive original jurisdiction conferred upon the Supreme Court. Now, by article 71(1) another original jurisdiction is conferred upon the Supreme Court. Article 71(1) says:

"All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final."

Sub-clauses (2) and (3) of the article are safety clauses. The second part says that if any decision has been arrived at which may invalidate the election of the President then it will not operate retrospectively, and the third one confers upon Parliament power to regulate any matter relating to or connected with the election of the President.

As you are aware, article 324(1) provides for the election of the President and the Vice-President. The article says:

"The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution . . . shall be vested in a Commission (referred to in this Constitution as the Election Commission)."

The person or the body that conducts the election is the Election Commission. And when this election has taken place, it is exclusively provided that when doubts arise the matter will be referred to the Supreme Court. Doubts did arise, as has been mentioned in one case, viz. Khare versus Election Commission which is reported in 57 Supreme Court Report, 1081.

Mr. Speaker: What have they said?

Shri Tangamani: They referred to this point, and they expressed no opinion on this point as it was not necessary to do so. The very point was raised there.

Having given, in a written Constitution, power to the Supreme Court to deal with the election of the President and Vice-President, and they will not deal with it in a—for want of a better word, may I say—cavalier manner but will consider all aspects of it. . . .

Mr. Speaker: I have heard him, Does the hon. Member mean to say that it is not open to this House, by way of a Constitutional amendment, to restrict the powers of the Supreme Court?

Shri Tangamani: I am coming to that. Here the Supreme Court is given some powers.

Mr. Speaker: No, we do not want to give.

Shri Tangamani: I was reading article 71(1). It will be *ultra vires* of the Constitution now if we are seeking to amend the very basis of it. We can certainly amend and throw out the Constitution, that is another point. But if we are seeking to amend certain provision in article 71, that article expressly provides . . .

Mr. Speaker: We are amending the Constitution itself. Is it not open to the House to say that the Supreme Court shall have no jurisdiction regarding any elections with respect to the office of President or Vice-President?

Shri Tangamani: It will be open: if we say that we shall delete article 71 itself, that is understandable. But when the Supreme Court is given powers. . . .

Mr. Speaker: Yes, I have heard him on this point. What is his other point?

Shri Tangamani: The second point is on the question of the office of the Vice-President. I will not go into details and shall state the point as concisely as possible. When this question of the office of Vice-President was discussed in the Constituent Assembly, Dr. Ambedkar said:

"The President is head of the State and his power extends to both administration by the Centre as well as the States. Consequently it is necessary that in his

[Shri Tangamani]

election, not only M.Ps. should play their part but the Members of the State Legislatures should also have a voice. But when we come to the Vice-President his normal functions are to preside over the Council of States. It is only on a rare occasion, and that to for a temporary period, that he may be called upon to assume the duties of the President. That being so, it does not seem necessary that the Members of the State Legislatures should also be invited to take part in the election of the Vice-President."

There is a purpose in calling for a joint meeting of Parliament. After all, Lok Sabha is supreme. We have certain rules and regulations as to a joint meeting of both Houses of Parliament. The Lok Sabha will elect the Speaker. In the joint session the Speaker will preside. Then the election is conducted. That point has been mentioned by many speakers at that particular time. After all the Vice-President, except on certain occasion, is only—may I say for want of a better description—a Speaker of the other House. He is being elected by both the Houses.

What is sought to be done is to try to equate the Vice-President with the President, and to have an electoral college. It is an electoral college of the two Houses. I can understand if it is an electoral college where the election has to be held by ballot papers being sent by post and where every Member of the State Legislature has to participate. Differences have been made out between elections in the United States.....

Mr. Speaker: Hon. Member knows that a point of order has only to be stated. If I have any doubts I will hear him. I have no doubt in this. It is only a question of propriety. There is nothing else here, no question of legality.

Shri Tangamani: I will only refer to the article without reading it . . .

Mr. Speaker: There is no purpose.
14 hrs.

Shri Tangamani: . . . article 66 which deals with the election of the Vice-President and article 55 which deals with the election of the President. A reading of these will show the difference between the two things. Now, to convert this election by a Joint Session into an electoral college in the same manner presupposes that even without the Speaker being elected, even without both the Houses being convened jointly, the election of the Vice-President will take place. Unfortunately or fortunately for us, we have never had this election. There has never been a contest. If there is going to be a contest, it is going to be again an electoral college and instead of both the Houses meeting and the Speaker presiding and this election being conducted. That was the position which was visualised by the Constitution makers. That is sought to be taken away. It goes into the very root of the matter. The amendment is not just trying to correct irregularities. In only mentioning some people who may not come there, they are trying to take away the very basis of the elections of Vice-President itself.

Mr. Speaker: I have heard both the points of order. One relates to the election of the President. The clause that is sought to be added to article 71 as clause (4) is in the nature of a proviso:

"The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him."

We are amending the Constitution itself. If it is a separate Act of Parliament, we cannot take away the

powers conferred on the Supreme Court under article 71(1). Shri Tangamani agrees that we are entitled to remove sub-clause (1) altogether. This is short of that. Instead of doing away with the jurisdiction of the Supreme Court wholly, we say, so far as this matter is concerned, it shall not look into the irregularity or throw any doubts upon it and it would not be called upon to hear any doubt. I do not see any point of order whatever may be the propriety of continuing it. On the other hand, this seems to be a proper one.

Coming to Vice-President, the hon. Member wants to have the privilege of a Joint Session to elect the Vice-President. That is not a matter of point of order. Possibly, at that time, it was felt that inasmuch as he discharges those duties, those people must come here. Even there, there is no point of order. We are amending the Constitution.

I will place the motion before the House.

Motion moved:

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

I find there are two amendments tabled. Shri Vajpayee: absent.

Shri Aurobindo Ghosal (Uluberia): There is another amendment, No. 3.

Shri Tangamani: This is Consideration motion.

Shri Bal Raj Madhok (New Delhi): Mr. Speaker, this is a Bill to amend the provision of the Constitution relating to the election of the President and the Vice-President, which has been necessitated by the fact that elections are held at a time when they cannot be completed in some parts of the country, particularly, the snow-bound Himachal Pradesh.

14:04 hrs.

[SHRI JAGANATHA RAO in the Chair]

That is a genuine difficulty. But my submission is, why should we amend the Constitution for that? Why not have such a date for the elections when the elections for the whole country can be completed at the same time? After all, there is nothing binding that the election should be held in February or March, when, some parts of the country are snow-bound. My submission in connection with this Bill is that instead of amending the Constitution, we can shift the date for election. For example, there is the month of September in which elections can be held all over the country. That is a very good time both for Himachal Pradesh and other places. Therefore, I do not see any need for amending the Constitution. In fact, we have been amending the Constitution so often that the sanctity of this organic law of the country is being undermined. Therefore, I am opposed to this Bill. Particularly, the need for it is not great. The purpose that is sought to be achieved can be achieved by the shifting of the dates of election by some two or three months.

Secondly, clause 3, it is said, "vacancy for whatever reason." I would like the hon. Minister to see that that is a very vague clause—vacancy for whatever reason. They may not have conducted elections in some other States also. Some other things may have happened. We must be specific, if the Constitution is to be amended at all. I am personally opposed to the amendment of the Constitution at all. If the Constitution is to be amended at all, this clause is very vague. We should lay down specifically in cases where election cannot be completed because of the weather. We should also keep this in mind that this is not a question of Himachal Pradesh only. Today, we have six Members from the Jammu and Kashmir State. They are not elected. It is very unfortunate. It is a constitutional anomaly in this

[Shri Balraj Madhok]

country that Members from the Jammu and Kashmir State who come to the Lok Sabha are not elected by the people there. They are, in a way, nominated by the ruling party after the Assembly elections are completed. In Kashmir, we know, the Assembly elections will not be held in February, because Kashmir will be snow-bound as Himachal Pradesh. Elections in the Jammu and Kashmir State may be held some time in April. When that Assembly is constituted, it may sit and it may elect Members to the Lok Sabha. Once these Members come to the Lok Sabha, they are as good Members of the Lok Sabha as anybody else. They have as much right to take part in the election of the President. In that case, you have to take into consideration not only the four Members from Himachal Pradesh or the one Member from Kulu and Kangra, you have to take into consideration the six Members from the Jammu and Kashmir State also. If an amendment is needed in the Constitution, it is in respect of article 370 which has given special status to the Jammu and Kashmir State by which the people of that State do not have the constitutional right to send representatives to the Lok Sabha. My submission is that there is no need for this amendment. If the amendment is to be made at all, it should be made very specific, for only those vacancies which result from death—soon after the election, somebody dies or resigns—or which result because of the fact that elections cannot be held in some particular areas, and also particular reference in this Bill should be made to the Jammu and Kashmir State also. I think the time has come when the separate status for the Jammu and Kashmir State in respect of elections to the Lok Sabha is removed and, as the people of that State have been demanding very often, the Members from that State should be elected directly to the Lok Sabha as in the case of other States. That should also be provided if the amendment is to be

made. It should be made for all those areas which are snow-bound in February and March and therefore, the elections cannot be held on that account, for the election of the President and Vice-President. This is needed only if you are bent upon amending the Constitution. I personally am opposed to the amendment at all. There is no need for it. We should not amend the Constitution for small flimsy things. We can change the date of the elections in such a way that elections can be held in the country after some months.

Shri Hem Raj: Mr. Chairman, the Constitution Amendment Bill which has been brought forward before this House at this fag end of this Parliament is proving to be very unconstitutional so far as the rights of Himalayan constituencies are concerned. This Bill is going to take away some constitutional, legal, fundamental rights which are vouchsafed to the Himalayan constituencies. Because, the Members who hail from the Himalayan constituencies, whether of the Punjab or whether of Himachal Pradesh, are as good Members of this hon. House as the other Members are, and by this amendment of the Constitution, this hon. House will be depriving the Members hailing from those constituencies of a certain right which they themselves enjoy. Therefore, I say that this right which was given to the Members of this House from the Himalayan region should not be taken away. Formerly, in the last election, especially my election took place in the month of June-July and I came over to Delhi on the 27th or 29th of July. I took my seat here in the month of July. By that time, the election of the President and the Vice-President had already taken place, and likewise, the election of the Speaker and the Deputy-Speaker also had taken place.

So, I had moved for consideration here a private Member's Bill; that had secured the ballot and that was

discussed also here. There, I had suggested one remedy, but that was not accepted by the House. All the same, some remarks were made, and certain suggestions were thrown out in this House that instead of accepting that amending Bill of mine, some better method might be found to hold the elections earlier. The suggestion that was made here was that the elections to the House of the People and to the Vidhan Sabha from those constituencies may be held in the month of September, some four or five or six months ahead of the elections in the rest of the country.

But, now, what is going to happen as a result of the present Constitution (eleventh Amendment) Bill? The result will be that we shall be deprived of taking part in the election of the President and the Vice-President as well as of the Speaker and the Deputy-Speaker. At the time when my Bill was discussed here, the Deputy Law Minister had given an undertaking to the following effect:

"Which exactly would be the best method of achieving the object is a matter to which we are giving the greatest possible consideration and we hope before the next elections we shall come to the House with a solution of the problem."

What is the solution to the problem, which he has now brought forward? Instead of inserting an enabling clause, he has put in a disabling clause, so far as we are concerned. By that disabling clause, he is depriving us, not for once only—we would not have grudged that—but permanently. That is why I say that he is depriving us of the constitutional right which was granted to us by the Constitution, by this amendment of the Constitution.

The Deputy Minister of Law (Shri Hajarnavis): My hon. friend is not right in saying that they are going to be permanently deprived, or the people of any other region, from taking part in the Presidential elections. So

far as the next ensuing election is concerned, the Election Commission are quite hopeful of finishing the elections in Himachal Pradesh before the Presidential election would take place.

Shri Hem Raj: My point is this. Formerly, it was only the Members from Himachal Pradesh and myself, who were disenfranchised. Now, the jurisdiction of the Election Commission is being extended to Jammu and Kashmir also; so, the Ladakh area also will come within their jurisdiction. Consequently, those people also will be disenfranchised.

If this amendment is made, then what will be the condition of the people from Himachal Pradesh or the Punjab Hills or Ladakh? Already, there is great dissatisfaction so far as my area is concerned. That area is a border area. That area has been neglected and has remained undeveloped for such a long time. There is frustration that Government are not spending as much money as the Chinese are doing on their border areas. And what is the propaganda that the communists are doing there? The communists are already creating dissatisfaction there. If a legislation like this is passed, then both the Indian communists on our border as well as the Chinese communists on the other side will use this as a handle against Government themselves, and the people will feel frustrated and dissatisfied more and more.

I may quote just one instance, in this connection. In the 1952 elections, the people of Lahaul and Spiti could not vote, and there was a hue and cry, and consequently, an agitation was started then that they did not belong to India but they formed part of the Mongoloid tribe or the Tibetans. That was the agitation that was started at Kulu. It was with very great efforts that that agitation was stopped. It was only after an advisory council was formed there, consisting of the Members from those areas, that

[Shri Hem Raj]

those people could be won over to India.

At the present moment, so far as my areas are concerned, they are the main military recruiting centres for the Indian Army. If this legislation will come to the knowledge of those Dogra *jawans*, then they will certainly feel dissatisfied that their rights, which were vouchsafed to them under the Constitution are being taken away by this House.

Shri Hajarnavis: May I ask one question of the hon. Member? He has suggested that the elections should be held on the 1st of September. I have no doubt that that is a very convenient date, so far as the four constituencies in Himachal Pradesh are concerned. But, so far as my State is concerned, or so far as Bengal is concerned, there can be no elections in that month; probably what is true of West Bengal or Maharashtra may also be true of your own State, Sir.

Shri Narasimhan: Because of rain.

Shri Hajarnavis: Is it the proposal of my hon. friend that the votes of these four Members are more important than those of 496 other Members?

Shri Hem Raj: There is no question of four votes here. The question is where a certain right is granted to every Member of this House, it is sought to be taken away. Does the House want that out of the five hundred odd Members, only 496 Members should enjoy a certain right, and that very right which is granted to those Members should be taken away from the four or six or eight Members who come from these snow-bound constituencies?

Shri Narasimhan: And continuously.

Shri Hem Raj: And that right is being taken away not only for one election but permanently. That is my objection. At the present moment,

the ruling party may think that it has got a majority. But a time can arrive when the parties may be equally balanced when even one vote may count; at that time, whichever party may be the ruling party would have to consider whether those eight Members are necessary or not, whether it be for the election of the Speaker or the Deputy-Speaker, or it be for the election of the President or the Vice-President. When the parties are equally balanced with 250 or so on each side, then the ruling party can come to know what the importance of these eight Members is, who hail from the Himalayan constituencies, either of Punjab or of Himachal Pradesh.

I submit that this way of depriving the Himalayan constituencies of this constitutional right is very much resented by the people of those areas. Under article 14 of the Constitution, everybody is equal before law, and there should be equal protection of laws for all the citizens. But, here, what are you doing? Here, you are going to discriminate between one Member and another Member. So, it is a clear case of discrimination between the Members hailing from the other parts of India and the Members coming from the Himalayan parts which remain snow-bound.

Shri Hajarnavis: The discrimination is made by nature, not by man.

Shri Hem Raj: If it is a discrimination made by nature or by geography, then you can hold the elections in those constituencies much earlier, as the Deputy Law Minister had remarked on the earlier occasion. In 1951-52 elections, what happened was this. In the Himachal Pradesh constituencies,—not in my area, because in my area they did not hold the elections in September—in 1951, they held the elections in September; so far as my area was concerned, in 1952, the elections were held only in the month of February or March. But then, the Lahaul and Spiti people could not vote, and because they could not vote

they started an agitation that they did not belong to India but they formed part of Tibet or China, and, therefore, they should go to Tibet or China, that was the agitation that was started in Kulu, as I have said earlier. Therefore, I say that such an opportunity should not be afforded to those people next time so that this kind of dissatisfaction may not prevail in the border areas. In the border areas, you require a contented people, you require a people who are developed, whose communications are developed, and who are properly fed. The people in these areas are very poor people. If instead of developing them, they are going to be deprived of certain rights which are granted to them under the Constitution, it will not create a good impression either in India or outside.

Therefore, I am going to make three suggestions for Government's consideration. Firstly, let us hold the elections in these constituencies in the months of September or October, when there is no snow there, that is, well ahead of elections in the rest of the country. The second suggestion is that as they are nominating Members for certain territories like Dadra and Nagar Haveli and NEFA, they can nominate Members for these constituencies. My third suggestion is that the date for the election of the President and Vice-President can be extended. If we are going to change the Constitution, why not amend it in another way? Under the Constitution, the first President was elected on the 13th May. Therefore, his term expires on the 12th May. So the election must take place before that date. Why not amend the Constitution to make it June or July? That will be an enabling measure, whereas the proposed amendment is a disabling measure, depriving certain Members of their rights permanently.

So long as the election to the Lok Sabha and the election of the President are co-terminus—both have a term of five years—this disability for the Members from the Himalayan

constituencies will persist permanently. This will create a sort of frustration in those areas which will be detrimental to the interests of India. Therefore, I request Government to devise some other method by which they can keep our rights intact as well as have the elections in a proper and methodical way.

Shri Amjad Ali: I have patiently heard the hon. Member opposite who comes from Kangra and the grievance that he voiced. I should not say that the provisions of article 14 of the Constitution need be invoked for this, but it is certain that this is going to be a permanent feature or is going to result in a permanent injury to a certain section of people living in certain areas of the sub-Himalayan ranges.

During the last ten years, the Constitution has undergone 10 amendments. The Constitution of India has been played with. It is being changed too frequently. Too frequent changes of the Constitution take away the sanctity of the Constitution itself. Why play with it? Whenever they find that it does not suit their purpose, whenever they find that there is something in it which would not agree with what they are doing, they want to change the Constitution. We have seen any number of instances. Again the Constitution is being amended for the eleventh time and by this permanent injury is sought to be inflicted on a particular section of people. I think the hon. Member was justified in making a grievance of this nature.

Sometime ago this particular point was raised before the Supreme Court of India, and for reasons best known to the Court, they have not given any decision nor any opinion on this. In article 71(1), it is specifically stated:

"All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final".

[Shri Amjad Ali]

This particular clause was put in with a particular purpose. If there is any doubt or anomaly or proposition worth going into, the Supreme Court have got powers. But in this case, the Court did not express any opinion on it. It is for the Supreme Court to say why they did not do so. But as a matter of fact, the power is given their. The Constitution-makers must have had a good reason for putting in this particular clause (1) in article 71 of the Constitution, giving the Supreme Court power to deal with this matter.

Now a fourth clause is sought to be added to article 71. By this tinkering, no good purpose is going to be served. The proposed clause says:

"The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him".

The vacancy may arise for whatever reason. This drafting by itself seems to be very clumsy. It has been sought to be set right by the Law Minister by his good gesture in accepting an amendment tabled by an hon. Member opposite. The Minister says that the reason which they envisage is that the House may not be duly constituted by then, and that is the only reason. But there may be other reasons. My hon. friend, Shri Aurobindo Ghosal has pointed out in his amendment that it may be due to death, resignation and so on. This is an omnibus clause which is going to be incorporated into the Constitution, leaving the whole thing very vague.

As it is, they say that it is proposed to amend article 71 so as to make it clear that the election of the President or the Vice-President cannot be challenged on the ground of any vacancy for any reason in the appropriate electoral college. Persons who are otherwise entitled to vote in the

election of the President and Vice-President will be deprived of their right by this process. This will lead to frustration, and this will become a permanent feature when the Constitution is amended to this effect. I hope the point would be very well looked into by the Law Minister.

Shri Hajarnavis: May I suggest that it is not going to be a permanent feature? It does not expressly apply to Himachal Pradesh. All that the Bill seeks to do is to avert a challenge to the presidential election because a vacancy occurs in the electoral college. And that is bound to occur for various reasons including snow in Himachal Pradesh when the election takes place.

Shri Supakar: Mr. Chairman, the previous speakers Shri Bal Raj Madhok and Shri Hem Raj made certain important points on the amendment to the Constitution. I feel, Sir, that there is a good deal in what they said and their points are very reasonable. The point is, is it desirable that before all the Members are elected the President and the Vice-President should be elected? Naturally, the Members who are elected from Himachal Pradesh after the election of the President and the Vice-President have a reasonable grievance. To avoid this feeling I think the elections should be so staggered that election from the Himachal Pradesh and from other parts of the country takes place before the election of the President and Vice-President takes place.

Shri Hajarnavis: That is what exactly we are trying to do at present. How can Lok Sabha be dissolved in parts? That is our difficulty.

Shri Supakar: I am coming to that point. That point was also made by the Law Minister.

Sir, the Law Minister and the Deputy Minister of Law say that the

dissolution of the Lok Sabha takes place by the end of March and this year it is taking place, as was declared by the hon. the Prime Minister, on the 1st or second of April. When the dissolution takes place on the 1st of April . . .

Mr Chairman: On the 31st March.

Shri Supakar: Yes, on the 31st March. Before that the election to the Lok Sabha from the different constituencies takes place in the month of Jauuary and Fenruary, taking into consideration the procedure of filing of nomination paper, voting and all that. The law is that no notification for election should be made before six months of the dissolution of Parliament. We could as well change that prvision in the representation of the People Act to provide for such special cases where it is not possible to hold a particular election within a period of six months before the date of dissolution of Parliament. Instead of changing the Constitution, my submission is that we could have made certain alterations in the Representation of the People Act and that would have served the purpose. I do not say that the Government or the Election Commission should be given the power to hold any or all elections at any time they choose before the dissolution of Parliament. What I mean to say is that where, for very special reasons like the snow-bound nature of a particular constituency, it is not possible to do so, it could be provided that in those cases only the six-month rule should be given a go-by and in all other cases the election should take place immediately before the dissolution of Parliament by the end of March. If that could have been done, it would not have been necessary to amend the Constitution, as it is being done today.

Sir, the next question which is a very vital question is clause 3 of this Bill which says:

"The election of a person as President or Vice-president shall

not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him."

It may be said that because we are a sovereign body we have the right and the authority to amend the Constitution. But how far it is proper from the point of view of propriety is doubtful. Clause (1) of article 71 says:

"All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final."

Clause (3) of the same article says:

"Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President."

I feel that this amendment could have been obviated by providing an amendment to the Representation of the People Act. It is true, as Mr. Amjad Ali pointed out, that frequent amendments to the Constitution makes a bad impression on the people and we must protest against such amendments, we feel that this could easily have been done by amendment to the other Act, instead of tinkering with the Constitution as is being done.

श्री शि० न० रामूल (महासू) :

सभापति महोदय, यह कांस्टीट्यूशन अमेन्डमेंट बिल जोकि इस हाउस के सामने गौर करने के लिये उपस्थित है उस से गवर्नमेंट का मुद्दा यह मालूम होता है कि अगर कहीं १, २ कैंजुएल वैकेंसीज हो जायें तो उन की वजह से प्रेसीडेंट या वाइस प्रेसीडेंट का एलेक्शन स्थगित न हो और गवर्नमेंट अपनी इस मंशा को पूरा करने के लिये इस अमेन्डमेंट बिल को लाई है। यूं तो मैं भी सहमत

[श्री सि० न० राजीव]

कि इस किस्म की कँजुएल बैंकेंसीज होने की वजह से एलेक्शन न रोके जायें और इस हद तक यह प्रमेंडमेंट कुछ रीजनेबल मालूम हो सकता है। लेकिन जैसेकि इस बिल के क्लॉज ३ की भाषा है कि The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him, तो इस का तो मतलब यह हो सकता है कि स्नो बाउंड एरियाज की जो पार्लियामेंटरी कांस्टीट्यूंसीज हैं, अगर इस का बिलकुल क्लैरीफिकेशन न हो जाय, तो वह हमेशा के लिए प्रेसीडेंट और वाइस प्रेसीडेंट के एलेक्शन के लिए डिबार हो जाती हैं। इस के अलावा चूंकि वे इलेक्शन न होने की वजह से हाउस में सम्मिलित नहीं हो सकते हैं, इसलिए वे स्पीकर और डिप्टी स्पीकर के इलेक्शन में हिस्सा लेने से भी वंचित हो जाते हैं। इस के बारे में सभी माननीय सदस्यों ने तफ़्सील के साथ बयान दिये हैं।

डिप्टी ला मिनिस्टर साहब ने फ़रमाया कि एक दो मेम्बरों की गैर-हाज़िरी की वजह से प्रेज़िडेंट और वाइस-प्रेज़िडेंट का इलेक्शन नहीं रुक सकता। यह तो मैं मानने के लिये तैयार हूँ। लेकिन किसी एक यूनिट के, जोकि एक सैपरेट यूनिट है, तमाम के तमाम मेम्बरान डी-फ़ैक्टाइज हैं, अपने कांस्टीट्यूशनल राइट्स से महकूम हों, यह मेरी समझ में नहीं आता है। उन के राइट्स को सुरक्षित रखा जाना चाहिए।

इस वजह से ला मिनिस्टर साहब से मेरा निवेदन है कि अगर यह प्रमेंडमेंट लाना ज़रूरी हो, तो उस में यह प्राविजन ज़रूर हो कि अगर किसी खास कुदरती रुकावट की वजह से किसी इलाके में इलेक्शन न हो सकते हों, तो वे इस तारीफ़ में न आयें।

उस इलाके के नुमायंदों का शामिल होना ज़रूरी है।

जैसाकि माननीय सदस्य, श्री हेम राज, ने कहा है कि १९५१ में भारतवर्ष की दूसरी स्टेट्स में इलेक्शन होने से पहले ही हिमाचल प्रदेश में इलेक्शन हो चुके थे। इसलिये या तो तमाम भारतवर्ष के इलेक्शन से पहले ही सितम्बर-अक्टूबर में स्नो बाउंड एरियाज में इलेक्शन हो जायें, ताकि वहां से चुने गये मेम्बर प्रेज़िडेंट वगैरह की इलेक्शन में सम्मिलित हो सकें और अगर किसी वजह से वहां पर इलेक्शन पहले न हों सकें और बाद में हों, तो जब तक वहां से पार्लियामेंट के मेम्बर इलेक्ट हो कर हाउस में शामिल न हो जायें, तब तक प्रेज़िडेंट वगैरह के इलेक्शन नहीं होने चाहियें।

अगर उन इलाकों के लोगों का इस किस्म का राइट बरकरार नहीं रखा जाता है, तो, मैं समझता हूँ, उन को जायज रीवेस हो सकती है और वहां पर इस वजह से जो रीपरकशन होंगे, वे अच्छे साबित नहीं हो सकते।

यही दो तीन पायंट हैं, जिन का तमाम मेम्बर साहबान ने जिक्र किया है। इसलिये मैं ज्यादा विस्तार में न जाते हुए ला मिनिस्टर साहब से निवेदन करूंगा कि स्नो बाउंड एरियाज के या उन एरियाज के, जहां किन्हीं कुदरती वजूहात से ठीक समय पर इलेक्शन न हो सकें, लोगों के राइट्स को सुरक्षित रखा जाय। अगर किसी स्टेट में एक दो मेम्बरों की गैर-हाज़िरी की वजह से यह तरकीब लाना ज़रूरी हो, तब तो उस में कोई एतराज नहीं हो सकता है, लेकिन एक परमिनेंट तरीके से एक पूरे यूनिट को डीबार कर देना और उस के राइट्स से उस को वंचित कर देना उचित नहीं होगा। मैं गवर्नमेंट और ला मिनिस्टर साहब

से प्रार्थना करूंगा कि वे इस बात की तरफ़ खास तौर से ध्यान दें ।

पंडित ठकुर दास भाग्यंभ (हिसार) : जनाब चेयरमैन साहब, जो सवाल इस वक्त सदन के सामने है, वह निहायत ही जरूरी सवाल है और यह पहला मौका नहीं है कि जब यह सवाल यहाँ पर आया है । इस से पहले भी यह सवाल चन्द मर्तबा सदन के सामने आ चुका है ।

मैं इस सिलसिले में लीगल क्विबल्ड में नहीं जाना चाहता और न ही कांस्टीट्यूशन के आर्टिकल ७१ पर तबसरा करना चाहता हूँ । मोटी बात यह है कि क्या यह जायज़ है कि सारे कंट्री के लिए एक कांस्टीट्यूशन बना कर हम ने सारे देश को जो राइट दिया है, जोकि मोस्ट इम्पॉर्टेंट है, किसी एक इलाके को उस राइट से महरूम कर दिया जाये । मेम्बर बनने का राइट बहुत अहम है, लेकिन स्पीकर या डिप्टी स्पीकर बनने का राइट भी किसी तरह से कम नहीं है और इसी तरह से स्पीकर या डिप्टी स्पीकर के इलैक्शन में हिस्सा लेने का राइट भी किसी तरह से कम नहीं है । इस बिल को पास करने का मतलब यह होगा कि जिस इलाके के नुमायंदे चुनाव न होने की वजह से हाउस में शामिल नहीं हो सकेंगे, उन को कहा जायगा कि तुम ऐसे पिछड़े हुए इलाके के हो कि तुम को इस इम्पॉर्टेंट राइट से महरूम कर दिया गया है और तुम्हारे सारे इलाके में से कोई भी कभी भी स्पीकर या डिप्टी स्पीकर नहीं बन सकता । मैं अर्ज करना चाहता हूँ कि इस तरह कांस्टीट्यूशनल राइट्स के साथ, राइट आफ़ वोटिंग के साथ खेलना वाजिब नहीं है । सारे हाउस के लिए यह मुनासिब नहीं है कि एक इलाके को कहा जाये कि तुम्हारे यहाँ इलैक्शन ऐसे वक्त पर होगा—हालांकि वह किसी और मुनासिब वक्त पर भी हो सकता है—कि तुम स्पीकर और डिप्टी

स्पीकर के इलैक्शन में हिस्सा लेने से वंचित रह जाओगे ।

मैं भी पहले अर्ज कर चुका हूँ और श्री हेम राज भी कह चुके हैं कि इस सिलसिले में कुछ तरकीबें हैं, जिन को अर्च्छी तरह से देखा जा सकता है । इलाज मौजूद है । अगर इस का कोई इलाज मौजूद न हो, तो यह सवाल पैदा हो सकता है । लेकिन उस तरफ़ कोई ध्यान नहीं दिया गया है ।

यह कहा गया है कि बहुत से कांस्टीट्यूशनल में यह प्राविजन मौजूद है कि एक दो मेम्बरों की ग्रैर-हाज़िरी की वजह से किसी हाउस का इलैक्शन बन्द नहीं किया जाता है, या वह हाउस इलीगल नहीं बन जाता है । लेकिन यहाँ पर एक दो वैकेंसीज का सवाल नहीं है । यहाँ पर तो जान-बूझ कर एक सारे इलाके को उस के राइट आफ़ वोटिंग से महरूम किया जा रहा है । वैकेंसी के मायने तो ये हैं कि अनफ़ार्टुनेटली किसी एक मेम्बर की डैय हो जाये और वहाँ पर वार्ड-इलैक्शन न हो सके । वह तो मैं समझ सकता हूँ । लेकिन एक तमाम इलाके के लोगों के कांस्टीट्यूशनल राइट्स को कांस्टीट्यूशन के जरिये छीनना उन के डुकूक पर बड़ा भारी डाका है । मैं इस बारे में ज्यादा स्ट्रॉंग वर्ड्स इस्तेमाल नहीं करना चाहता, लेकिन मैं इस बात को इन्वैनिमिटी से नहीं देख सकता कि किसी एक इलाके को उस के कांस्टीट्यूशनल राइट्स से वंचित कर दिया जाये ।

इस सिलसिले में दो बड़े सीधे तरीके हैं । उन में से एक को क्यों नहीं माना जाता है ? एक तरीका तो यह है कि उन इलाकों में इलैक्शन ऐसे वक्त पर किये जायें कि वे मेम्बरान आ कर प्रेज़िडेंट और स्पीकर के इलैक्शन में शामिल हो सकें, यानी यह इलैक्शन तब किया जाये, जबकि उन इलाकों समेत सारे कंट्री का इलैक्शन हो चुके ।

[पंडित ठाकुर दास भार्गव]

दूसरा तरीका यह है कि उन इलाकों के इलैक्शन को इस तरह टाइम किया जाये कि वहाँ के इलैक्शन कंट्री के दूसरे हिस्सों से पहले हो जायें और वहाँ के मेम्बर अपने हुकूक को इस्तेमाल कर सकें ।

जो भी तरीका अस्तित्थार किया जाये, उन को उन के राइट्स से महरूम करना हरगिब जायज नहीं है और वह हमारे बेसिक उसूलों के बरखिलाफ़ है, जोकि हमारे कांस्टीट्यूशन के आर्टिकल १४ में मौजूद हैं । यह कहा जा सकता है कि बोटिंग का राइट और इलैक्ट्रल राइट कांस्टीट्यूशन में दर्ज फंडामेंटल राइट्स में शामिल नहीं किया गया है । कांस्टीट्यूट्र असेम्बली में मैं ने इस बात की कोशिश की थी कि इन राइट्स को फंडामेंटल राइट्स में शामिल कर लिया जाये, लेकिन ऐसा न करने का मतलब यह नहीं है कि ये राइट्स फंडामेंटल राइट्स नहीं रहे । मैं यह अर्ज करना चाहता हूँ कि बोटिंग के राइट और इलैक्शन में हिस्सा लेने के राइट से ज्यादा कोई फंडामेंटल राइट नहीं है । यह एक बेसिक राइट है । इस राइट से किसी आदमी को डिप्राइव करना जायज नहीं है, कुजा सारे इलाके को महरूम करना उस के इस सेक्रिड राइट से । इसलिये मैं समझता हूँ कि कांस्टीट्यूशन के इस अमेंडमेंट को मन्जूर नहीं करना चाहिये । अगर हम ने इस उसूल को मान लिया, तो मालूम नहीं आईदा हम कहां पहुंचेंगे । इसलिये मैं इस अमेंडमेंट के हक में नहीं हूँ । मैं सारे कंट्री, ला मिनिस्टर साहब और गवर्नमेंट से यह अर्ज कर कर्हंगा कि इस मामले को लाइटली नहीं देखना चाहिए । यह उन इलाकों के लोगों के राइट्स के साथ खेलना है और उन को उन के हुकूक से महरूम करना है । जो दो तरकीबें मैं ने अभी अर्ज की हैं, उन में से एक को मान लेना चाहिये ।

पिछली दफा जब यह सवाल उठा था, तो ला मिनिस्टर साहब ने फरमाया था कि हम देखेंगे कि इलैक्शन को इस तरह टाइम किया जाये कि वे लोग अपने हुकूक से महरूम न हों । यह जरूरी है कि ऐसा तरीका अस्तित्थार किया जाये कि वे लोग अपने इस राइट से महरूम न हों । इस बिल को पास करना ईविल में ऐक्वेस करना है, उस को कनडोन करना है, उस पीबीशन को परपैट्ट करना है कि वे न प्रैजिडेंट और न स्पीकर के इलैक्शन में हिस्सा ले सकें ।

14-48 hrs

[MR. DEPUTY-SPEAKER in the Chair]

यहां पर यह कहने की जरूरत नहीं है कि किसी भी असेम्बली या पार्लिमेंट में स्पीकर या डिप्टी स्पीकर क्या हिस्सा अदा करता है । स्पीकर और डिप्टी स्पीकर किसी भी असेम्बली की जान होते हैं । वे चाहे जिस तरह किसी डिस्कशन को तोड़ मरोड़ सकते हैं, चाहे जिस तरह हमारे राइट्स को रेगुलेट कर सकते हैं । किसी भी इलाके को स्पीकर और डिप्टी स्पीकर को इलैक्ट करने और उस इलैक्शन में हिस्सा लेने के बेसिक राइट से महरूम करना जायज नहीं है । हम सारी दुनिया में लैक्चरों में यह कहते फिरते हैं कि देखो, हमारे यहां कोई भी इन्सान हिन्दुस्तान का प्रेसिडेंट या स्पीकर बन सकता है । बातें तो हन ऐसी करते हैं, लेकिन जब उन बातों को प्रैक्टिस में लाने का मौका आता है, तो हम ऐसा कानून बनाते हैं, जिस के जरिये हम किसी इलाके को जान-बूझ कर हमेशा के लिये उस के फंडामेंटल राइट्स से महरूम कर देते हैं । अगर कोई वैकेंसी हो और उसको फिल न किया जा सके, तो वह मजबूरी है और उस मजबूरी को मैं समझ सकता हूँ । लेकिन इस तरीके से एक

इलाके के लोगों को हमेशा के लिये उन के फंडामेंटल राइट्स से महरूम करना जायज और दुरुस्त नहीं है। हम लिये यह गार टी दो जावे कि हिमाचल प्रदेश व पंजाब के बर्फानो इलाकों में इन्वैक्शन ऐसे किया जायेगा कि वह इस हक से महरूम न होंगे।

Shri Easwara Iyer (Trivandrum):
It is undeniable that any proposed amendment to the Constitution has to be taken very seriously, but I do not subscribe to the view that when practical difficulties face us, we should flinch from finding an amendment to the Constitution. So, the principal question before us is whether the proposed constitutional amendment is necessary.

Here we are dealing with the election of the President and the Vice-President. It is a matter of serious importance which need not be stressed by me. I consider one of the basic principles of the Constitution is the election to the House of the People and the various Legislative Assemblies of States.

If I may refer the hon. Law Minister of article 326 of the Constitution, he will find that the golden principle of adult franchise has been embodied there:

"The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage;

The golden principle is that every representative in our democracy shall be elected by the will of the people on the basis of adult suffrage. That is enshrined in our Constitution. From that we derive this, regarding the highest office in our country, regarding the President, that the election shall be by the elected representatives. In other words, every elected representative, be he from the Legislative Assembly or be he from the House of the People, has got a voice in the selection of the President. He

will have his voice in the selection of the Vice-President. If articles 54 and 66 provide for the election of the President and Vice-President. I take it, it is an indirect means of expressing the will of the people by their elected representatives.

The fact that Himachal Pradesh may be snow-bound so that we may exclude the voice of the Himachal Pradesh people in regard to the election of the President or the Vice-President, goes contrary to the very fundamentals of our Constitution. Tinkering with the Constitution is a thing which is very dangerous.

The Supreme Court of India might not have expressed their opinion in 1957 S.C.R. 1081; that is Mr. Khare's case. But we will have to understand what is the basic principle underlying the elections to the House of the People or the elections to the Legislative Assemblies in order to arrive at a decision as to whether the President could be elected in the absence of the elected representatives of the Himachal Pradesh.

Quite apart from the drafting absurdity of this piece of legislation, which I am presently coming to, I cannot see eye to eye with the proposition that because Himachal Pradesh is bound to become snow-bound, or some parts of Punjab also, the choice of the President or the Vice-President should be left to the majority of the House of the People and the Legislative Assemblies. Supposing there are floods in some States or the elections have to be postponed for some other reason. We are going to hold elections in Kashmir State also. Should we deny the constitutional right of every elected member of the House of the people, who, in turn, represents the voice of the people by means of adult franchise, which has been envisaged in our Constitution, by tinkering with the Constitution and saying that the President and the Vice-President may be chosen in the absence of these elected representatives? We shall not make a mockery of our Con-

[Shri Easwara Iyer]

stitution by saying that the President or the Vice-President shall be elected by some members at their own sweet will and pleasure. Whether it is snow-bound or whether it is the rainy season or whether it is a case of the climate not being conducive enough for the elections to be held, I should say that every citizen of India who is represented by a member here must have his voice heard when the election of the President or the Vice-President is taken up.

Shri Hajarnavis: May I ask a question without interrupting the hon. Member? Supposing, after the elections are held and people from different parts of the country are represented, an elected representative resigns, should the election of the President be postponed?

Shri Easwara Iyer: The hon. Minister should have a little more patience. I would have come to that position also. I had that certainly in my mind.

Shri Hajarnavis: This Bill does not in terms apply to Himachal Pradesh or any other Pradesh. It prescribes merely for a vacancy.....

Shri Easwara Iyer: May I draw the attention of the hon. Minister to the 'Notes on Clauses' supplied by him? Let him bear with me. It says in the last paragraph:—

"It is possible that elections to the two Houses may not always be completed before a President or a Vice-President is elected."

I think I know English. Otherwise, you might not have written your intentions:

"When the notification for the election of the President was issued, elections in certain snow-bound areas in the North had not been completed."

Shri Hajarnavis: Even this time the Election Commission expects to com-

plete the elections before the President is elected.

Mr. Deputy-Speaker: It is all past history. Last time it happened like that. Now, arrangements have been made that even those elections might be completed before the election of the President takes place.

Shri Easwara Iyer: I am at that question.

Shri Tyagi: Could it not be possible for the Election Commission to hold the elections even much earlier than the General Elections, much in advance? The elected representatives may take their seats when the next Parliament comes.

Mr. Deputy-Speaker: Even then the Law Minister says that this provision shall have to be made. Supposing a member from the Rajya Sabha seeks election to the Lok Sabha. As soon as he is elected he shall have to resign from the other place. Such things will continue. Some member may die or resign. Therefore, this provision is necessary.

Shri Easwara Iyer: I am not dealing with a contingency—of what happened before. What is the proposed amendment now? It says:

"The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him".

Supposing in some State the Election Commission thinks that the elections have to be postponed. Whether the election of the President or the Vice-President would come within the mischief of this amendment is a matter for the consideration of this House.

If the elected representative of a particular State is not there and the proposed amendment is carried

through, then it will also come as a vacancy arising in a particular electoral college.

We are at this basic question. I am not at the question whether we have got difficulties to face. In fact, in the case of elections to this House we have got difficulties to face. In fact, we have to prepare a general electoral roll for the entire country. Supposing tomorrow the Election Commission wants an amendment to article 325 and says that in view of the fact that the machinery in a certain State is a delaying one, we may carry on with the old electoral roll. What is this high office of President envisaged in our Constitution? We go about saying that the Constitution is sacrosanct. If the Constitution is such that the office of the President is not an ornament and the President is an elected representative of the elected members of the House of the People and the Legislative Assemblies, I cannot for one moment think that just because there is no election in some States we can go on with the election of the President and still call that President to be the representative of the people. As long as this Constitution is there, it is for us to see that the elections to the House of the People and all the legislative assemblies in all the States and in all the places must be held in order to facilitate the election of the President. It is not an ornamental provision that the Vice-President should be elected by a joint sitting of both the Houses, the House of the People and the Council of States; it is not mere formal provision. That provision has been introduced after careful deliberation. Why should we now tinker with it? No reason has been advanced for that.

15 hrs.

The amendment now proposed reads as follows:

"The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason

among the members of the electoral college electing him".

If I understand the draft here correctly, it means that the existence of more than one vacancies in the electoral college will not affect the election. How is it? The Law Minister can as well put in an amendment saying that the President shall be nominated by the House of the People. We want the President to be the representative of the people in the sense in which the Constitution has put forward and I cannot certainly see eye to eye with these amendments. Going back into the very basis of the Constitution, we have, as in a chain, first provided for election to the House of the People and the legislative assemblies by means of adult suffrage. It will be going against the very basis of adult suffrage if we adopt this amendment which means that the election of President and Vice-President will stand irrespective of the question whether the will of the people has been represented.

Shri Narasimhan: I submit that the Bill as it is drafted is not quite happy.

Mr. Deputy-Speaker: The hon. Member is not happy or the Bill is not happy?

Shri Narasimhan: I am sorry if I had made a mistake. The Bill as it is drafted is not happily worded. The Law Minister himself at the outset stated that theoretically according to the Bill as it is now it was capable of allowing the elections of the President and Vice-President while the majority of the electoral college was vacant. That is to say, if more than fifty per cent. of the electoral college is vacant, still the election of the President and Vice-President can take place. That will not be a creditable situation and we should not have a draft of this nature. That made me move an amendment putting a limit on the vacancies. There will at least be some safeguard if the two per cent. limit was put. The Law Minister who examined the matter thought that two

[Shri Narasimhan]

per cent. was too low and that was made five per cent. That was the burden of his speech when he moved for the consideration of this Bill... (*Interruptions*).

Mr. Deputy-Speaker: If there is a controversy among the Members on this side, it can be resolved somewhere else.

Shri Narasimhan: The Law Minister's approach was like this. But when we adopt a Constitution or an amendment to it, we should not imagine that the composition of the bodies that are responsible for things at the present moment, that is, the Lok Sabha, the Election Commission, the executive, etc. would remain as it is at present, permanently. If it is an ordinary law, certainly it is a different matter and rule making powers are vested with the Government or the House can rectify matters. But the basic law of the country should endure many things. As a result of the Supreme Court judgment a certain fear has come in that the election of the President or Vice-President may be invalidated and an attempt has been made to rectify it. But in order to avoid one danger, we are getting into another pitfall. Therefore, I say that drafting is not good. I do not object to the idea of validating the presidential election and indemnifying that election against casual vacancies. But indemnifying it in a legal manner when the vacancy is more than fifty per cent. of the electoral college is not good. I do not think that it was the object of the Government when the Bill was drafted and brought forward here. So, they should come with a better Bill. I do request the Government to think deeply in the matter. No doubt the Law Minister has come out with an assurance. But let him think further in the matter.

Shri A. K. Sen: What I said was that if the Opposition thought that it was necessary they could move an amendment... (*Interruptions*).

Shri Narasimhan: I have not said anything contrary to his view.....

Mr. Deputy-Speaker: It should not be left to the Opposition alone but it should be open to the Congress Members also.

Shri A. K. Sen: It is really a concession to the Opposition but they have not moved any amendment.

Shri Ranga: Simply because the Opposition has not given notice of an amendment and the other side thought it fit to do so, is that the reason why it should not be accepted?

Mr. Deputy-Speaker: He is further conceding a privilege to the Opposition. Let them come up with some amendments and he is prepared to agree to them.

Shri Ranga: You have given us only 2½ hours for this Bill and my hon. friend was good enough to give notice of that amendment. Would he be prevented from supporting that amendment?

Mr. Deputy-Speaker: Nobody has asked him to do that.

Shri Ranga: The Law Minister now gives the impression that because it has come from his side, he is not prepared to consider that.

Shri A. K. Sen: I am very happy to see Shri Ranga taking our side.

Shri Tyagi: He is coming nearer us now.

Shri Ranga: That is, when you are right.

Mr. Deputy-Speaker: Let us hear the hon. Member who was speaking now.

Shri Narasimhan: Therefore, another important thing which is missing is, we are not aware of the actual wording of the Supreme Court's judgement which has moved the Government to take this measure. Does the Supreme Court's judgement really create any trouble, or, is it only a vague fear?

Mr. Deputy-Speaker: I thought that the Supreme Court has not given any clear judgement on that.

Shri A. K. Sen: They have just mentioned it.

Shri Narasimhan: If really the Supreme Court has not felt any difficulty or cast any doubt, then there was no necessity at all for a Bill of this nature. This Bill, which is brought forward to avoid one kind of danger will probably land us, as admitted by the Law Minister himself by his expression "theoretical possibility", in another pitfall. That is not a happy situation. So, I appeal to the Government to take great care and utilise better drafting assistance in all these matters.

श्री अजरराज सिंह : (फिरोजाबाद) : उपाध्यक्ष महोदय, इस विधेयक के उद्देश्यों में, जैसा अभी कानून मंत्री महोदय ने बताया है, सिर्फ यह नहीं आता है कि कोई सदस्य महोदय अपने पद से इस्तीफा दे दें तो उनकी जगह खाली होने को शकल में भी राष्ट्रपति और उप राष्ट्रपति के चुनाव हो सकते हैं, वरन्, इसमें जो शब्द लिखे गये हैं वे तो यहां तक जाते हैं कि यदि असेम्बली या लोकसभा के चुनाव न हो पायें, और यहां तक कि अगर बहुमत सदस्यों का ऐसा हो जो न चुन पाये, तो भी प्रेसीडेंट और वाइस प्रेसीडेंट के चुनाव हो सकते हैं। मैं समझता हूँ कि शायद कानून मंत्री महोदय का उद्देश्य ऐसा नहीं, और उद्देश्य ऐसा नहीं है और भाषा से यह प्रकट होता है तो मैं सिर्फ इतना ही कह सकता हूँ कि हमारे आज के मंत्री और उनके अधिकांश इतने लापरवाह हो गये हैं कि वे यह तक नहीं जानते कि जो शब्द वे लिख रहे हैं उनका क्या अर्थ होगा।

आखिर सदन के सामने जो बिल आता है उसका मसविदा बहुत होशियारी के साथ बनाना चाहिये। यह न हो कि उनका उद्देश्य तो कुछ है और शब्दों से अर्थ कुछ

और निकलता है। और आज कानून मंत्री महोदय का यह कहना कि इस तरह का कोई संशोधन विरोधी दल के सदस्यों की ओर से आना चाहिये, मैं समझता हूँ उचित नहीं है। सरकार को इसी उद्देश्य के लिये इन कुत्सियों पर बिठाया गया है, और जब वह दिन पर दिन ऐसी गलतियां करती है कि ऐसे मसविदे पेश किये जाते हैं जिनमें उनका अपना अर्थ नहीं निकलता, तो मैं समझता हूँ कि यह सकार के लिये बहुत पुरी बात है और यह सरकार की ऐसी आलोचना है जो कोई करना नहीं चाहेगा, लेकिन दुर्भाग्यवश करनी पड़ती है।

इस सब से मैं एक ही नतीजे पर पहुंचता हूँ कि सरकार के लोग अब अपने कार्य को कर्तव्य की शकल में नहीं ले रहे हैं, उसको बहुत ही ध्यान पूर्वक नहीं ले रहे हैं, और नतीजा यह होता है कि इस तरह की गलतियां हो जाती हैं। अभी तो हिमाचल प्रदेश की तरफ ही ध्यान आकर्षित किया गया है कि हिमाचल प्रदेश में कुछ ऐसे स्थान हैं जहां बर्फ पड़ती है इस लिये चुनाव नहीं हो सकता जिसकी वजह से हमें संविधान में ऐसी कानूनी व्यवस्था करनी चाहिये कि उनके बिना भी हम राष्ट्रपति और उप राष्ट्रपति के चुनाव कर सकें। लेकिन मैं पूछता हूँ कि आज नहीं तो कल जम्मू और कश्मीर की जनता भी लोक सभा के सदस्यों को चुनेगी और जो स्थिति हिमाचल प्रदेश के बारे में है वहीं कल से जम्मू और कश्मीर के कुछ हिस्सों के बारे में जरूर होगी। वहां पर भी कुछ सदस्य चुने जा सकेंगे। नतीजा यह होगा कि काफी सदस्य ऐसे हो सकते हैं जो इस अवधि के अन्दर न चुने जा सकें और उनके बिना चुन ही हम प्रेसीडेंट और वाइस प्रेसीडेंट का चुनाव कर लें। मैं नम्र निवेदन करना चाहता हूँ कि यह संविधान के सम्पूर्ण सिद्धांतों के खिलाफ है, जो हमने पढ़ति अपनायी है, जनतंत्र पद्धति, उसकी व्यवस्थाओं के खिलाफ है। कोई व्यक्ति जिसको हम अधि-

[श्री ब्रजराज सिंह]

कार देते हैं इत उच्च पद के लिये उसके न होने पर हम चुनाव कर लें यह उचित नहीं है। सरकार का तरफ से जो यह बिल लाया गया है कि राष्ट्रपति और उपराष्ट्रपति के चुनाव होने के समय तक कुछ सदस्यों के चुनाव नहीं होने पायेंगे इसलिये हम संविधान में संशोधन कर लें, मैं समझता हूँ कि यह उचित नहीं है। कोई न कोई ऐसा तरीका निकाला जाना चाहिये कि राष्ट्रपति और उन राष्ट्रपति के चुनाव से पहले सम्पूर्ण सदस्यों के चुनाव हो जायें।

कानून उपमंत्री कहते हैं कि कोई सदस्य इस्तेफा दे दे तब क्या होगा। ऐसे अन्वय हो सकते हैं, लेकिन कानून की भाषा इस तरह की नहीं होनी चाहिये। और मैं समझता हूँ कि कानून उप मंत्री महोदय का मंशा यह नहीं है कि अगर कोई लोग इस्तीफा दे दें तो उस स्थिति में इन सिद्धांतों को लागू किया जायेगा। उनका साफ मंशा है कि क्योंकि हिमाचल प्रदेश में चुनाव नहीं पूरे हो सकेंगे और देश के और कुछ हिस्से हो सकते हैं जिनमें उस समय तक चुनाव न हो सकें, उस अवस्था में भी राष्ट्रपति और उप राष्ट्रपति के चुनाव किये जाने चाहिये। मैं समझता हूँ कि संविधान को इतने हलके तौर से संशोधित नहीं किया जाना चाहिये। संविधान हमारे लिये एक पवित्र वस्तु है और उसका इन सब चीजों के लिये संशोधन करना गलत है।

हमें इन्वेकशन कमीशन को प्रभावित कराना चाहिये कि जो अवधि निर्धारित की हुई है उसमें राष्ट्रपति और उपराष्ट्रपति के चुनाव के पहले सम्पूर्ण देश में सदस्यों के चुनाव पूरे हो जाने चाहियें। मैं नहीं समझता कि इन छोटी बातों के लिये संविधान में संशोधन करना आवश्यक है।

मैं अन्त में कानून मंत्री जी का ध्यान इस चीज की तरफ भी आकर्षित करूँगा

कि जब वह फंस जाते हैं तो कुछ प्रस्तावों को वापस भी ले लेते हैं जैसे कि अभी कुछ दिन पूर्व वह पब्लिक ग्रैंडरटेनिंग्स का प्रस्ताव वापस ले चुके हैं और उस पर बहस नहीं होने दी। मैं समझता हूँ कि वह इत दिल को भी वापस ले लेंगे और संविधान में कोई संशोधन नहीं करेंगे। और जो अधिकार सरकार को इस समय प्राप्त हैं उनसे ही वह चुनावों की व्यवस्था करेंगे। चूँकि देश के हर नागरिक को अपनी राय प्रकट करने का अधिकार है इस लिये हर एक नागरिक को जो चुना जा सकता है उसे राष्ट्रपति और उपराष्ट्रपति के चुनाव में हिस्सा लेने का अधिकार होना चाहिये।

उपाध्यक्ष महोदय : श्री त्यागी।

वही दलीलें बार बार दुहराई जा रही हैं जो कि पहले दी जा चुकी हैं। इसलिये इस पर अब जो कुछ कहना हो वह मुक्तसिर में ही होगा चाहिये

Shri Tyagi: Mr. Deputy-Speaker, Sir, I do not think there is much departure from the previous constitutional requirement in respect of the States. The only contingency that may arise is that a seat may be vacant in the case of the election of the President. All members of legislative assemblies of the various States are also voters. In their case, leaving apart Himachal Pradesh, suppose there is a vacancy in the State legislative assemblies for reasons of death, resignation, etc., that will have to be covered. This Bill makes it quite clear.

Shri Hem Raj: That is already covered by another article of the Constitution.

Shri Tyagi: This does not go further. The Bill says:

"The election of a person as President or Vice-President shall not be called in question on the

ground of the existence of any vacancy for whatever reason—

It does not refer only to Himachal Pradesh—

“among members of the electoral college electing him.”

Therefore, it makes it only foolproof. At present also, there may be a vacancy in certain parts of the country in the matter of the election of the President, in respect of the legislative assembly members. Some members are not elected to the legislative assemblies for some reason or other. Therefore, this is only a clarification. It does not do any wrong and no constitutional excess is committed, so to say. Under these circumstances, it is only a pure clarification of what has happened.

There was one guarantee in the Constitution. That is:

“Either House of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.”

So, a vacancy was also provided for in the normal working of the Houses of Parliament. But if there was a vacancy the Parliament was not in any way barred from sitting or acting. In the matter of elections, both the Houses were to meet. But when it is said like that, it is implied that the Houses must meet with some quorum. There was some requirement in respect of quorum. The House cannot meet unless its quorum is full. So, that provision was there.

The only thing which I think is defective to some extent is that a vacancy does not mean a single vacancy. There may be many vacancies. Vacancies are sometimes to such an extent that even the quorum is not full! That is also legally covered by

the provisions, although such a contingency will never arise. Therefore, the provision which my hon. friend has already accepted, namely, five per cent. of the strength should be there, may be accepted.

Shri A. K. Sen: Not accepted; it may be moved.

Shri Tyagi: It does not in any way do any harm to the spirit or the sense of the Act. Why not make it foolproof altogether so that a vacancy may not mean any kind of vacancy? Let there be no chance for criticisms. If the position is that the amendment which may be moved by the Opposition would be accepted, I can tell you this from this side.

Mr. Deputy-Speaker: The Law Minister wants rather to bind the Opposition so that he might be able to say that it was at their instance and they might not object to the amending measure.

Shri Tyagi: Once they demand it, that means their commitment is there. So, they can be fully accommodated without doing any harm to the spirit of this Bill. I would, therefore, suggest that the hon. Law Minister may kindly accept that amendment. Otherwise, there is no departure from the Constitution that I can find in this.

Shri Ranga: Mr. Deputy-Speaker, Sir, many of the points have already been cleared by our friends. First of all, I would like to preface my remarks by saying that I would like the Law Minister to be good enough to give his due consideration to the amendment proposed by my hon. friend, Shri Narasimhan and also that additional amendment which the Minister is credited to be in favour of. Regarding the point made by the Law Minister that he would have liked to give consideration provided the amendment came from the opposition.....

Shri Tyagi: He is the son of the main opposition.

Shri Ranga: I would plead guilty on behalf of the opposition that we were not quick enough to give notice of such an amendment. Since Shri Narasimhan has already given notice of it, I express my gratitude to him and I would like the Law Minister to consider it as if it has come from one of us on the side of the opposition.

This point only makes it very clear how necessary it is for the Government to take the opposition here in the House and if possible the legal luminaries all over India through their Bar Councils into their confidence and consult them before drafting such Bills for amendment of the Constitution. The Constitution is such an important thing and it ought to be treated as a sacred thing also. I am sure on that the Law Minister agrees with me. Therefore, amendment of the Constitution ought not to be thought of in a light-hearted manner nor should it be taken up too frequently. An amendment to the Constitution should be considered only after a tremendous lot of discussion among the lawyers themselves through their Bar Councils and afterwards among the political parties in the country. I would like the Government hereafter at least to be specially careful in regard to such matters and see that adequate consideration is given and adequate time and notice is also given for the discussion of the need for such amendment. After they are formulated by the Law Ministry, opportunity must be given to the Bar Councils, the High Court and the Supreme Court also to express their opinions in an unofficial manner, so that the Law Ministry would be able to take advantage of all that, revise their amendment if necessary, and afterwards bring it before this House.

It is because such precautions had not been taken on earlier occasions that a number of amendments came to be made in our Constitution, to several of which we in the Swatantra Party take special objection and we are trying also...

Mr. Deputy-Speaker: All those amendments are not open here at this moment.

Shri Ranga: I am trying, speaking for myself, to go to the people at the time of elections and persuade them to give us the necessary franchise and the necessary support and sanction to set right some of these amendments and see to it that....

Mr. Deputy-Speaker: Does he require any sanction or permission here?

Shri Ranga: Is it wrong for me to give notice to this House? Surely, it is not wrong on my part; I am going to tell the people.

Mr. Deputy-Speaker: We are not discussing the old amendments that have taken place during the past 10 years in the Constitution.

Shri Ranga: I am not questioning what you have said. But I suppose I have not said anything out of order.

Mr. Deputy-Speaker: I said it was not relevant.

Shri Ranga: But it is not out of order; thank you very much.

These amendments run into a few lines only and in formulating these few lines, an additional amendment has become necessary. What does it show? It shows that the Law Ministry is not as careful as it ought to be and secondly that the Government has not taken the trouble to give that much important consideration as is demanded by the Constitution itself. Thirdly, it also shows that if only the Government had taken care to consult, as I have already suggested, the concerned political parties and also the organisations which make a speciality of studying these constitutional and legal problems, surely it would have been possible for the Government to have taken advantage of their wisdom and suggestions and to have come to this House with a better amendment.

We are discussing the question of elections and the time has come when we will have to be presented with the necessary amending Bill to the Constitution in regard to the powers of the President and the Vice-President. Some time ago, there was some discussion in one of the Houses of Parliament on a Private Member's Bill, which sought to deal with the powers of the President. Some of us also are anxious that the President's position should be made clearer than it has been made and his powers should also be increased in such a manner that it would be possible for him to ensure an impartial, non-political, non-partisan and clean administration in our country.

I hope the Government to come hereafter will give sufficient consideration to these points, place its proposals before the country first of all and thereafter bring forward a well-considered Bill for suitably amending the Constitution.

सरदार अ० सि० सद्गल (जंजगीर):

उपाध्यक्ष महोदय, इस कांस्टीट्यूट अमेंडमेंट बिल के जरिये हम अपने संविधान के आर्टिकल ६६ और ७१ को तरमीम करने जा रहे हैं।

जहां तक अपने भारतीय संविधान में तरमीम करने का सवाल है आप देखेंगे कि जब से यह लागू हुआ है हमने आवश्यकता पड़ने पर इसमें कई दफा संशोधन किया है और इसको बदला है। अपने संविधान को इतनी जल्दी बदलना कहां तक वाजिब है या गैर-वाजिब यह मैं ठीक तरीके से नहीं कह सकता लेकिन इतना अवश्य कहूंगा कि हर वक्त कानून को बदलते रहना कुछ ठीक नहीं जाता है

आर्टिकल ६६ जिसको हम बदल रहे हैं उसके अनुसार अभी तक पार्लियामेंट के दोनों हाउसेज की ज्वाइंट सिटिंग में मेम्बर्स वाइस प्रेसीडेंट का चुनाव करते थे। अब उस के बजाय हम यह कहते जा रहे हैं कि यह

ज्वाइंट सिटिंग नहीं होनी चाहिये और वाइस प्रेसीडेंट के चुनाव के वास्ते पार्लियामेंट के दोनों हाउसेज के मेम्बर्स को लेकर एक एलेक्टोरल कालिज बनना चाहिये और वाइस प्रेसीडेंट का चुनाव वह एलेक्टोरल कालिज करे।

कांस्टीट्यूशन के आर्टिकल ५४ के बमोजब प्रेसीडेंट का चुनाव पार्लियामेंट के दोनों हाउसेज के एलेक्टड मेम्बर और लेजिसलेटिव असेम्बलीज के मेम्बर्स का एलेक्टोरल कालिज करता है। अब यह हो सकता है कि हिमाचल प्रदेश, पंजाब के कुछ हिस्से में और जम्मू तथा कश्मीर में अर्थात् स्नो बाऊंड एरियाज में प्रेसीडेंट या वाइस प्रेसीडेंट के एलेक्शन से पहले पार्लियामेंटरी एलेक्शन समाप्त न हो पायें यह दिक्कत पैदा सकती है और आयोगी और इसी को मद्देनजर रखते हुये कांस्टीट्यूशन के आर्टिकल ७१ को हम अमेंड कर रहे हैं।

डा० खरे का केस जो कि सुप्रीम कोर्ट में गया वह इसी आधार पर ले जाया गया था कि बैलिड प्रेसीडेंटल एलेक्शन के लिये यह जरूरी है कि पार्लियामेंट के दोनों हाउसेज के तमाम चुनाव प्रेसीडेंट का चुनाव होने से पहले खत्म हो जायें।

"In Narayan Bhaskar Khare vs. the Election Commission of India, 1957, S.C.R. 1081, a point was made that for a valid election of the President, all elections to the two Houses of Parliament should be completed before the date of the Presidential election, as otherwise some members would have been denied the right to take part in the election. But the Supreme Court expressed no opinion on the point as it was not necessary to do so."

इस से यह प्रकट है कि सुप्रीम कोर्ट ने इस पॉइंट पर अपनी राय देना जरूरी नहीं समझा और इस सदन पर छोड़ दिया कि वह

[शुद्धार प्र० सि० सहगल]

इस बारे में फैसला करे। मेरा ख्याल है कि उनके सामने शायद यह बात रही होगी कि प्रेसीडेंट और वाइस प्रेसीडेंट का जो चुनाव होगा, उस को हम कहीं चैलेंज भी कर सकते। मैं समझता हूँ कि हमारा जो इलैक्ट्रल कालेज बनेगा, उस में इस बात का तसफिया कर लिया जाये कि प्रेजिडेंट और वाइस-प्रेसिडेंट का इन्वेकशन कैसे किया जाये।

कांस्टीट्यूशन का आर्टिकल ७१(३)

इस प्रकार है —

"Subject to the provisions of this Constitution. Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President."

अर्थात् इस सदन को इस बात का अधिकार है कि वह प्रेसीडेंट या वाइस प्रेसीडेंट के इन्वेकशन के बारे में किसी भी बात की व्यवस्था कर सकता है और उसमें परिवर्तन कर सकता है। इस परिस्थिति में इस बिल के द्वारा जो तरमिम सामने लाई गई है, वह वक्त को देखते हुए ठीक है। लेकिन मैं ला मिनिस्टर साहब से प्रार्थना करूँगा कि वह इस तरह से संविधान को जल्दी जल्दी बदलने के स्थान पर ठंडे दिमाग से यह सोचें कि हमने इनमें कौन कौन सी तरमिम करनी है और उन सब को एक वक्त पर ही ले आयें, बनिस्वत इस के कि छोटी छोटी तरमिमों को ला कर इस हाउस के सामने रखा जाये।

श्री अजराम सिंह : इन का दिमाग जाड़ों में भी गर्म है।

श्री भक्त दर्शन (गढ़वाल) : उपाध्यक्ष महोदय, मैं भी एक मिनट के लिये बोलना माहता हूँ।

Shri Tangamani: Mr. Deputy-Speaker, Sir, I would like to say a word about the unwisdom and impropriety of Government's asking for frequent amendments of the Constitution in the manner that has now become familiar.

We shall never stand in the way of such amendments as are necessary for fulfilling the country's fundamental objectives stated so beautifully in the Preamble to the Constitution. We have repeatedly shown this in our stand in this House on this matter. If the Supreme Court has made any observation or the Supreme Court has come out with a decision which warrants an amendment of the Constitution we can very well understand that position. In the notes on clauses also they have said that even in Khare's case the Supreme Court has simply referred to this and they have not mentioned this as an important point. But an amendment of this sort must not be very lightly and frivolously undertaken.

Here I would like to say with due respect to the Law Minister that the Law Ministry has often been found in this House to move in a manner that is inept and unconvincing. Only the other day, over the issue of a Standing Committee for Public Undertakings the Law Minister was caught napping, for quite obviously he had not applied his mind to certain implications which occurred at once to the hon. Speaker, whether what has been done by the Estimates Committee could be done by a committee of both the Houses. Many alert Members of this House also pointed it out. Today we were told that this question of having a joint committee has been completely shelved. That only shows the attitude of this Ministry in this House. I do not wish to rub in this point, but over a constitutional amendment of this nature, I surely expect the Law Ministry to mind its steps more carefully. Even

at the time of the first reading when I rose to a point of order the Law Minister was quick enough to say that he was prepared to accept certain amendments. He is coming with an amendment to a certain constitutional provision and he should have come after mature consideration. To treat this House so lightly is something to which I take very serious objection.

The makers of the Constitution had their own reasons for framing articles 66 and 71 in the way that they did. I shall refer to this in some little detail later on. But let me say that article 71 deliberately vests in the Supreme Court the right to inquire into all doubts and disputes relative to the election of the President or Vice-President and make decisions that are to be final. In this light manner the power that has been vested in the Supreme Court is sought to be taken away.

I submit in all seriousness that this is an important issue. We have a written Constitution. Necessarily, the highest judiciary, the Supreme Court, will have to interpret it whenever there are doubts and difficulties.

An Hon. Member: Sir, there is some conference going on.

Mr. Deputy-Speaker: Order, order.

Shri Tangamani: I was referring to the indifference of the Law Minister, and we find that other Ministers are also behaving in the same way.

Mr. Deputy-Speaker: But they should realise that the hon. Minister for Parliamentary Affairs has some very special privilege (*Interruption*). Order, order. Now, I feel that some other Members are also taking up this attitude as is taken by the hon. Minister.

Shri Tangamani: Now, as I have already mentioned, under article 71, the highest judiciary in this country is given these original powers which

they enjoyed exclusively and in no case did we go to a Supreme Court for setting aside a particular election. When the Supreme Court is vested with this power to set aside the election of President or Vice-President, is it proper even to restrict it with 'ifs' and 'buts' or to control the powers of the Supreme Court? I can very well understand if the hon. Member has come forward with an amendment for deleting article 71 itself. Article 71(1) gives these exclusive powers, 71(2) says that even if the election is set aside it will not be with retrospective effect, 71(3) says that the Parliament has got powers to order and frame rules for these elections. Having done these, by having 71(4) you want to say that the Supreme Court shall not go beyond a certain thing. That, I submit, has never been the intention of the framers of the Constitution. I admit that this House is supreme and we can make amendments, but in making amendments of this nature we should be very careful. That is my submission. Now, to ask us to approve of steps depriving the Supreme Court of its right and making questions relating to the election of the President or Vice-President immutable and unchallengeable and supra-legal is too tall an order.

The question is about the Vice-President. The Vice-President is now elected by members of both the Houses of Parliament and not by an electoral college. The concept of electoral college is sought to be introduced here. As many hon. Members have pointed out, the President is elected by an electoral college consisting of the Parliament and also the legislative assemblies (*interruption*).

Mr. Deputy-Speaker: Order, order. I do appreciate that the attendance inside just at present is a forced one, but we should realise that it is not Central Hall.

Shri Tangamani: Unlike the President, the Vice-President has very few powers and his substantive job is to preside over the Rajya Sabha. We now happen to have a great man as our Vice-President who, in his own right, plays a large role; he adorns whatever he touches. But the office of the Vice-President has been placed by the Constitution in a certain context. I am reminded of a saying in the United States in this regard. It seems there was an American family, where one of the sons had gone to sea and the other had become Vice-President—neither had been heard of since! Anyway, in the parliamentary context, the Speaker of Lok Sabha is a much more important person, the symbol of the power of the people's elected representatives. Why the election of the Vice-President should be put in a special category is not particularly intelligible.

A joint meeting of both the Houses is to elect the Vice-President according to article 66 of the Constitution. The joint meeting presupposes the Speaker presiding naturally, this means that the election of the Speaker precedes the joint meeting. This is only fair. Now, Sir, the Speaker is elected when the whole House meets. That is provided in article 93. I believe that some four members are elected from Himachal Pradesh. Suppose one member from Himachal Pradesh wants to become Speaker. He is welcome to do so. The hon. Speaker or hon. Deputy-Speaker can be from Himachal Pradesh.

Mr. Deputy-Speaker: The Deputy-Speaker may be left out.

Shri Tangamani: I am speaking strictly on a constitutional basis. Unlike Canada and the United States, a convention has grown as in U.K. that the seat of the Speaker will not be contested by other parties. So, by that convention, the Speaker will continue to be the Speaker. If that is the position, the Speaker may come and stand from a constituency, say in Himachal Pradesh. It is not a theoret-

tical point. I am visualising a position where we want X as Speaker or Y as Deputy-Speaker from Himachal Pradesh.

Mr. Deputy-Speaker: Why should the hon. Member worry about that?

Shri Tangamani: The hon. Speaker has already mentioned that we represent the whole of this country. It is not as if we raise questions only about our own constituency. This is not like a municipality where we represent our own areas, or a State Legislature where we represent our constituency. Here we represent the whole country. I may say in all seriousness that this particular point was raised when this article was discussed. It is certainly a natural right; still, it is a fundamental right. Why does the Government mismanage matters? Why cannot the election be held earlier than the expiry of the fifth year? Why should the Parliament be dissolved after March? Why should we not dissolve Parliament in November or December? Why should the elections not be held in January so that all these preliminaries are carried out? That is being done in England. It may be that in this view I am with the leaders of some other parties. Now, if the Parliament is dissolved, then there will not be the Ministers and others and the elections will be held strictly under the leadership of the President. That situation may arise and we can get over the constitutional difficulty in that manner. We cannot have the cake and eat it too. We will not dissolve the Parliament till the end of March or April and, at the same time, we would like to take away the powers of the Supreme Court. That, I submit, is not a very laudable proposition at all. I find that the Government is in a difficulty; it is not for us in the opposition always to pull the Government chestnut out of the fire. I do not know how we can agree to the Law Minister coming up with such an amendment. With these words, I submit that the two amendments sought to be introduced in the Con-

stitution by this Constitution (Eleventh Amendment) Bill are not at all welcome and I oppose them.

Shri A. K. Sen: Mr. Deputy-Speaker, I have listened to all the speeches with attention and care, but I am really surprised and a little pained with some of the remarks, especially those coming from Shri Braj Raj Singh and Shri Tangamani. A simple straightforward amendment of the Constitution, necessitated by the very nature of our working and the difficulties which such working has revealed, has been attached on the ground that this has been brought up without mature deliberation in a haphazard manner, and as a part of the general process of amending the Constitution light-heartedly. This matter has been given a good deal of thought. It will be seen that the first time the challenge was made with reference to article 66 in 1957 when the case of Dr. Khare came up for decision before the Supreme Court. We had examined the matter carefully, the Attorney-General has gone into it, the Prime Minister personally and the President himself have gone into it and, after seeing all the difficulties, it was thought that this amendment was absolutely necessary, and that is why we have introduced the amendment before the election of the President and the Vice-President after the general elections.

As you will notice, in the amendment we say:

"In article 66 of the Constitution, in clause (1), for the words 'members of both Houses of Parliament assembled at a joint meeting', the words 'members of an electoral college consisting of the members of both Houses of Parliament' shall be substituted."

This is necessary because, first of all, naturally, all the elections cannot be completed before the election of the Vice-President. Secondly, even if there was one single resignation, that will make the election impossible, and

that is why the second amendment becomes necessary by inserting clause 4, a separate clause. Shri Tangamani says that clause 4 takes away the jurisdiction of the Supreme Court. I do not see how. All that it says is that it shall not be challenged on the ground that there is a vacancy. But that does not take away the jurisdiction of the Supreme Court or any other court. It can be challenged on other grounds, except this specific ground that there is one single member not elected, or one single member has resigned and, therefore, the election is bad. Only that chance will not be available for challenge as a ground for challenge. But that is quite different from taking away the jurisdiction of the court.

Shri Tangamani: In spite of that, the Supreme Court may decide it otherwise, if you leave it to the Supreme Court.

Shri A. K. Sen: What I was endeavouring to point out was that the absence of one ground for challenge is quite different from want of jurisdiction for the courts. The jurisdiction is there. The only difference is that one of the grounds which was so long available for challenge would not be available henceforward. That is why I am saying that there is a little confusion of thought on this matter when the attack was made that we are trying to curb the jurisdiction of the Supreme Court. Of course, it is true in the sense that the litigants will henceforth not be able to challenge the election of the Vice-President only on the ground that one member was not elected or one member had resigned.

With regard to the indication that I gave at the very beginning that it was felt by the opposition that there was ever this possibility of the election of the President or the Vice-President being carried out without even half of the electoral college being elected, I said that should this theoretical apprehension appear to be real, I would be prepared to consider

[Shri A. K. Sen]

any amendment which may be moved by the opposition. It was an excellent argument of Shri Ranga when he said "I shall not move an amendment but you accept the amendment of one of your own party." The Government, in order to show its flexibility of approach, wanted the opposition to come forward with an amendment. If the opposition has not accepted this responsibility, I am sorry for it. They cannot put the blame on us for that. The reason why we did not put any limit on the vacancy is because supposing some members take it on their head that all of them will resign, at least more than two per cent of the electoral college, to prevent the election of the President or the Vice-President, what will happen? That theoretical possibility is equally there. So, by means of this very process the election of the President or the Vice-President can be stalled for a long time or for all time to come. The amendment refers to two per cent of the electoral college. Two per cent of the present 500 members of this House will mean 10 members. Two per cent of the members of the other House will not mean many members. So, if the requisite number of members coming from the opposition resign just before the presidential election, they can stall the election of the President. We shall be without a President. That is the possibility which I quietly explained to Shri Narasimhan. When the charge is made that we introduce a thing without thinking, it is sometimes profitable to ponder that the amendments possibly are introduced without thinking of what the consequences will be.

This is a simple formal amendment, as I said. We have consulted all the persons who are concerned with this including the Attorney-General. It has become absolutely necessary. The Chief Election Commissioner himself feels that this would be absolutely necessary.

Some point was made about bad drafting device. I do not know what other drafting device was possible.

Somebody said about bad drafting. I would like him to produce a better draft. I will accept it because the draft is the language which expresses the mind. If there was a better language, I would be the first man to accept it. It is no use criticising the draft without producing a better one.

These are my submissions.

Shri Easwara Iyer: They took three years to produce this draft.

Mr. Deputy-Speaker: The question is:

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

We have to divide because a statutory majority is required. Let the lobbies be cleared. . . Order, order. I hope every hon. Member is in his own proper seat. He must recollect how the machine is to be worked. Both the hands are to be applied to the buttons. Before I call the division, I think all hon. Members will be ready. They are familiar with the working of the machine. They need not be reminded. Mistakes might not be corrected, but any wrong working of the machine will certainly be looked after.

Shri Tyagi: Shall we press the buttons in advance?

Mr. Deputy-Speaker: Yes; they might put their hands in advance on the two buttons.

15.56 hrs.

[MR. SPEAKER in the Chair]

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Sir, the time specified was 4 o'clock.

Mr. Speaker: Hon. Members want to continue the debate, is it?

Some Hon. Members: No, Sir.

Shri Braj Raj Singh: We want the division to take place immediately.

Mr. Speaker: The House stands adjourned to meet again at 4 o'clock.

15.57 hrs.

The Lok Sabha then adjourned and re-assembled at Sixteen hours.

[MR. SPEAKER *in the Chair.*]

Mr. Speaker: Let the Lobbies be cleared.

The question is:

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

I am going to order a division—
Division.

The Lok Sabha divided.

Mr. Speaker: Are there any hon. Members who for want of time could not vote?

Shri Satyanarayan Sinha: I wanted to vote 'Aye'.

Shri T. B. Vittal Rao (Khammam): The Deputy-Speaker had ruled that no mistakes will be corrected, but only if the machine goes wrong it will be done.

Mr. Speaker: Rules are made for us. It is a very precious right that any hon. Member exercises. Normally, on prior occasions, I used to stop for some time so that hon. Members might adjust their hands and be ready, lest they should make any mistakes. But this time, because we adjourned and re-assembled, hurriedly I called division. I am not going to take advantage of it. I understand the Prime Minister also did not vote.

Division No. 2]

Abdur Rahman, Maulana
Achar, Shri
Agadi, Shri
Agarwal, Shri Manakbhai
Ajit Singh, Shri
Alva, Shri Joachim
Anjanappa, Shri
Ashanna, Shri
Asthana, Shri Lila Dhar
and Singh, Shri

AYES

Badan Singh, Ch.
Bahadur Singh, Shri
Bakliwal, Shri
Balmiki, Shri
Banerji, Shri P. B.
Banerji, Dr. R.
Bengubi Thakur, Shri
Barman, Shri
Barupal Shri, P. L.
Basappa, Shri

[16.06 hrs.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): I did; but I was suddenly taken unawares by the machine stopping.

Shri Tyagi: His vote is there, Sir. Some one else must have recorded the vote for him then!

Mr. Speaker: He pressed the button all right, but he was under the impression that it did not work.

Any other hon. Members?

The Minister of Defence (Shri Krishna Menon): I did not press the button.

An Hon. Member: Why did he not?

Shri Tyagi: He is at perfect liberty.

Shri Rami Reddy (Cuddapah): I voted for "Noes" by mistake; I wanted to vote for "Ayes".

Shri Satyanarayana (Parvathipuram—Reserved—Sch. Tribes): I recorded my vote for "Ayes", but the machine was not working.

Shri M. C. Jain (Kaithal): My vote has been wrongly recorded; I wanted to vote for "Ayes".

Shri Ganpat Sahai (Sultanpur—U.P.) rose—

Shri S. M. Banerjee (Kanpur): Sir, he is a new Member and he did not know how to operate the machine.

Mr. Speaker: How does he want to vote?

Shri Ganpat Sahai: For "Ayes".

Basumtari, Shri
Bhagat, Shri B. R.
Bhagavati, Shri
Bhakt Darshan, Shri
Bhargava, Pandit Thakur Das
Bhatkar, Shri
Bhattacharya, Shri C. K.
Bidari, Shri
Birbal Singh, Shri
Birendra Bahadur Singhji, Shri

AYES—contd

- Bist, Shri J. B. S.
 Biswas, Shri Bholanath
 Brahm Prakash, Ch.
 Brajeshwar Prasad, Shri
 Chanda, Shri Anil K.
 Chandak, Shri
 Chandra Shankar Shri
 Chaturvedi, Shri
 Chettiar, Shri Ramanathan
 Chuni Lal, Shri
 Daljit Singh, Shri
 Damani, Shri
 Damar, Shri
 Das, Shri N. T.
 Desappa, Shri
 Datar, Shri
 Desai, Shri Morarji
 Deshmukh, Shri K. G.
 Dinesh Singh, Shri
 Dube, Shri Mulchand
 Dublith, Shri
 Dwivedi, Shri M. L.
 Eacharan, Shri V.
 Bring, Shri D.
- Garkwad, Shri Fatesinrao
 Ganpat Sahu, Shri
 Ganga Devi, Shrimati
 Ganpati Ram, Shri
 Gautam, Shri C. D.
 Ghosh, Shri Atulya
 Ghosh, Shri M. K.
 Govind Das, Dr.
 Guha, Shri A. C.
 Gupta, Shri Ram Krishan
 Hajarnavis, Shri
 Harvani, Shri Ansar
 Hansda, Shri Subodh
 Hathi, Shri
 Heda, Shri
 Hem Raj, Shri
 Hukam Singh, Sardar
 Iqbal Singh, Sardar
 Jagjivan Ram, Shri
 Jain, Shri M. C.
 Jamir, Shri Chubatoehi
 Jangde, Shri
 Jedhe, Shri G. K.
 Jhunjhunwala, Shri
 Jinachandran, Shri
 Jogendra Sen, Shri
 Joshi, Shri A. C.
 Joshi, Shri Liladhar
 Jyotishi, Pandit J. P.
 Kalika Singh, Shri
 Kanakasabai, Shri
 Karmarkar, Shri
 Kasi Ram, Shri V.
 Kedaria, Shri C. M.
 Kesar Kumari, Shrimati
 Keshava Shri
 Keskar, Dr.
- Khan, Shri Osman
 Khan Shri Shehnawaz
 Khwaja, Shri Jamal
 Kiledar, Shri R. S.
 Kistaiya, Shri
 Krishna Chandra, Shri
 Krishnappa, Shri M. V.
 Kureel, Shri B. N.
 Lachhi Ram, Shri
 Lachman Singh, Shri
 Lahiri, Shri
 Laxmi Bai, Shrimati
 Mafida Ahmed, Shrimati
 Maiti, Shri N. B.
 Majithia, Sardar
 Malaviya, Shri K. D.
 Malhotra, Shri Inder J.
 Malliah, Shri U. S.
 Mallik, Shri D. C.
 Malavia, Shri K. B.
 Mandal, Shri J.
 Maniyangan, Shri
 Manjula Devi, Shrimati
 Masuriya Din, Shri
 Mathur, Shri Harish Chandra
 Mehdi, Shri S. A.
 Mehta, Shri B. G.
 Mehta, Shrimati Krishna
 Melkote, Dr.
 Menon, Shri Krishna
 Minimata, Shrimati
 Mishra, Shri Bibhuti
 Mishra, Shri L. N.
 Mishra, Shri M. P.
 Mishra, Shri S. N.
 Mishra, Shri B. D.
 Mohammad Akbar, Shaikh
 Mohiuddin, Shri
 Morarka, Shri
 Muniswamy, Shri N. R.
 Murmu, Shri Paika
 Murty, Shri M. S.
 Musafir, Giani G. S.
 Nair, Shri C. K.
 Nair, Shri Kuttikrishnan
 Naldungkar, Shri
 Nanda, Shri
 Nanjappa, Shri
 Narasimhan, Shri
 Narayanasamy, Shri R.
 Naskar, Shri P. S.
 Nathwani, Shri
 Nayak, Shri Mohan
 Nayar, Dr. Sushila
 Nehru, Shri Jawaharlal
 Nehru, Shrimati Uma
 Newai, Shri
 Onkar Lal, Shri
 Oza, Shri
 Padam Dev, Shri
 Pahadia, Shri
 Palchoudhuri, Shrimati Ita
- Pandey, Shri K. N.
 Panna Lal, Shri
 Patel, Sushri Maniben
 Patel, Shri N. N.
 Patel, Shri Rajeshwar
 Patil, Shri S. K.
 Pillai, Shri Thanu
 Prabhakar, Shri Naval
 Radha Mohan Singh, Shri
 Radha Raman, Shri
 Raghuraj Sahai, Shri
 Raghuramaiah, Shri
 Raj, Shrimati Sahodrabai
 Raj Bahadur, Shri
 Raju, Shri D. S.
 Ram Saran, Shri
 Ram Shankar Lal, Shri
 Ram Subhag Singh, Dr.
 Ramananda Tirtha, Swami
 Ramaswamy, Shri S. V.
 Ramaul, Shri S. N.
 Ramdhani Das, Shri
 Ramesh Parsad Singh, Shri
 Rampure, Shri M.
 Ranbir Singh, Ch.
 Rane, Shri
 Rangarao, Shri
 Rao, Shri Hanmanth
 Rao, Shri Jaganatha
 Rao, Shri Rameshwar
 Raut, Shri Bhola
 Ray, Shrimati Renuka
 Reddy, Shri Bali
 Reddy, Shri K. C.
 Reddy, Shri Rami
 Roy, Shri Bishwanath
 Rup Narain, Shri
 Sadhu Ram, Shri
 Sahu, Shri Bhagabat
 Sahu, Shri Rameshwar
 Saigal, Sardar A. S.
 Samanta, Shri S. C.
 Samantsinhar, Dr.
 Sanji Rupji, Shri
 Serbadi, Shri Ajit Singh
 Satish Chandra, Shri
 Satyabhama Devi, Shrimati
 Satyanarayana, Shri
 Sen, Shri A. K.
 Sen, Shri P. G.
 Shah, Shrimati Jayaben
 Shah, Shri Manabendra
 Shah Shri Manubhai
 Shakuntala Devi, Shrimati
 Shankaraiya, Shri
 Sharma, Shri D. C.
 Sharma, Pandit K. C.
 Sharma, Shri R. C.
 Shastri, Shri Lal Bahadur
 Shastri, Swami Ramanand
 Shivananjappa, Shri
 Shobha Ram, Shri

AYES—contd.

Shree Narayan Das, Shri	Sinha, Shrimati Tarkeshwari	Thomas, Shri A. M.
Siddananjappa, Shri	Snatak, Shri Nardeo	Tiwari, Shri R. S.
Siddish, Shri	Somani, Shri	Tiwari, Pandit D. N.
Singh, Shri C. Saran	Sonavane, Shri	Tula Ram, Shri
Singh, Shri D. N.	Subberayan, Dr. P.	Tyagi, Shri
Singh, Shri D. P.	Subramanyam, Shri T.	Uike, Shri
Singh, Shri H. P.	Sumat Prasad, Shri	Umrao Singh Shri,
Singh, Shri K. N.	Sunder Lal, Shri	Upadhyaya, Shri Shiv Datt
Singh, Shri M. N.	Surya Prasad, Shri	Varma, Shri B. B.
Singh, Shri R. P.	Swami, Shri V. N.	Varma, Shri M. L.
Sinha, Shri Anirudh	Swaran Singh, Sardar	Vedakumari, Kumari M.
Sinha, Shri B. P.	Syed Mahmud, Dr.	Venkatasubbaiah, Shri
Sinha, Shri Gejendra Prasad	Tahir, Shri Mohammed	Viswanath Prasad, Shri
Sinha, Shri Jhulan	Tantia, Shri Rameshwar	Vyas, Shri R. C.
Sinha, Shri K. P.	Tariq, Shri A. M.	Vyas, Shri Radhclal
Sinha, Shri Sarangdhara	Tewari, Shri Dwarikanath	Wilson, Shri J. N.
Sinha, Shri Satya Narayan	Thimmiah, Shri	Wodeyar, Shri

NOES

Amjad Ali, Shri	Kodiyan, Shri	Ranga, Shri
Awasthi, Shri Jagdish	Kumbhar, Shri	Rao, Shri T. B. Vittal
Banerjee, Shri S. M.	Majhi, Shri R. C.	Saksena, Shri S. L.
Barua, Shri Hem	Matin, Qazi	Sampath, Shri
Bharucha, Shri Naushir	Menon, Dr. K. B.	Singh, Shri L. Achaw
Braj Raj Singh, Shri	Mukerjee, Shri H. N.	Sugandhi, Shri
Das Gupta, Shri B.	Pandey Shri Sarju	Supakar, Shri
Deb, Shri P. G.	Panigrahi, Shri Chintamoni	Tangamani, Shri
Godsora, Shri S. C.	Parvathi Krishnan, Shrimati	Thakote, Shri M. B.
Iyer, Shri Eeswara	Pillai, Shri Anthony	Verma, Shri Ramji
Jaiपाल Singh, Shri	Rajendra Singh, Shri	Yajnik, Shri
Kar, Shri Prabhat	Ram Garib, Shri	

Mr. Speaker: The result of the division is as follows:

Ayes: 266.

Noes: 35.

The motion is 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 adopted.

Mr. Speaker: Now we proceed to the clause-by-clause consideration. Is any hon. Member moving any amendment?

Shri Aurobindo Ghosal: I wish to move my amendment.

I beg to move:

Page 1, line 13,—

for "for whatever reason"
substitute—

"due to delay in election in snow-bound areas or due to

death, resignation or retirement." (3)

Mr. Speaker: He has already spoken about it. Amendments do not require that kind of majority. So I will put it to the vote of the House.

The question is:

Page 1, line 13,—

for "for whatever reason" substitute—

"due to delay in election in snow-bound areas or due to death, resignation or retirement." (3)

The motion was negatived.

Mr. Speaker: All the amendments have been disposed of. I will now put clauses 2 and 3 to the vote of the House, together. The question is:

"That clauses 2 and 3 stand part of the Bill."

Let the lobbies be cleared.

Mr. Speaker: Does any hon. Member want me to put clauses 2 and 3 separately?

Some Hon. Members: They can be put together.

Mr. Speaker: With the consent of the House, I am going to put clauses 2 and 3 together to the vote of the House. Before I call Division, hon. Members will apply themselves. I suppose there would be no difficulty.

Shrimati Renu Chakravartty (Basirhat): No mistakes.

Shri Tangamani: Clause 2 may be put separately and clause 3 separately. Clause 2 deals with the electoral college. Clause 3 deals with powers of the Supreme Court.

Mr. Speaker: Unless there is agreement on this, I am bound to put clause by clause separately.

The question is:

"That clause 2 stand part of the Bill."

The Lok Sabha divided.

Ch. Brahm Prakash (Delhi Sadar): My vote is not recorded. I am for 'Ayes'.

The Deputy Minister of Works, Housing and Supply (Shri Anil K. Chanda): My vote has not been recorded. I am for 'Ayes'.

Mr. Speaker: Did he record?

Shri Anil K Chanda: I did press the button for 'Ayes'. It is not recorded at all.

Shri M. L. Varma (Udaipur): "Ayes".

Mr. Speaker: Is it recorded wrongly? Plus one.

Shri H. N. Mukerjee (Calcutta Central): How can a machine make a mistake? It cannot, It is a human mistake.

Mr. Speaker: The hon. Member need not get angry. If there are mistakes, I will correct.

Shri H. N. Mukerjee: There is a limit to humour: not at the expense of the machine.

Shri Tyagi: For the future, we may establish a convention that a Member must suffer his mistake. This cannot go on for ever.

Mr. Speaker: I am not showing any indulgence which has not been the practice in this House. Ever since I came, I have always been noting, before 1947 also, hon. Members went into one lobby instead of going into the other. Some of them went into the 'Noes' Lobby when they had to go to the 'Ayes' Lobby. If that is a mistake, that can be corrected. This is a mistake which can be much more corrected.

Shri H. N. Mukerjee: This is a foolproof system. Before this system was introduced, the Secretariat sent out circulars explaining how the machine is to be operated. Every time a Division is taken, the Chair explains that you have to keep alert. If this is the standard of alertness which Members of Parliament including Ministers show, the sooner we wind up the shop the better.

श्री उमराव सिंह (घोसी) : मेरी मशीन में काम नहीं किया। मैं "आइज" पर बोट देना चाहता हूँ।

Mr. Speaker: Plus one. for 'Ayes'.

Shri Aurobindo Ghosal: Not recorded. For "Noes".

Mr. Speaker: Has he recorded "Ayes"?

Shri Aurobindo Ghosal: Not recorded at all.

Mr. Speaker: Plus one for 'Noes'.

Shri Ram Krishan Gupta (Mahendragarh): My machine is not working. For "Ayes".

श्रीमती सहोदरा बाई राय (सागर-रहित अनुसूचित जातियां) : मैं "आइज" के लिये बोट डालना चाहती हूँ। इस लिये मेरा बोट हरे रंग का होना चाहिये पीले रंग का नहीं।

Division No. 3]

AYES

16.17 hrs.

Abdur Rahman, Maulana	Gautam, Shri C. D.	Mehta, Shrimati Krishna
Achar, Shri	Ghosh, Shri Atulya	Melkote, Dr.
Agadi, Shri	Ghosh, Shri M. K.	Menon, Shri Krishna
Agarwal, Shri Manakbbai	Govind Das, Dr.	Minimista, Shrimati
Ajit Singh, Shri	Guha, Shri A. C.	Mishra, Shri Bibbuti
Alva, Shri Joachim	Gupta, Shri Ram Krishan	Mishra, Shri L. N.
Anjanappa, Shri	Hajarnavis, Shri	Mishra, Shri M. P.
Ashanna, Shri	Harvani, Shri Anser	Mishra, Shri S. N.
Asthana, Shri Lile Dhar	Hansda, Shri Subodh	Misra, Shri B. D.
Babunath Singh, Shri:	Hathi, Shri	Mohammad Akbar, Shaikh
Badan Singh, Ch.	Heda, Shri	Mohiuddin, Shri
Bahadur Singh, Shri	Hem Raj, Shri	Morarka, Shri
Bakliwal, Shri	Hukam Singh, Sardar	Muniswamy, Shri N. R.
Balmiki, Shri	Iqbal Singh, Sardar	Murmu, Shri Paika
Banerji, Shri P. B.	Jagjivan Ram, Shri	Murty, Shri B. S.
Banerji, Dr. R.	Jain Shri M. C.	Murty, Shri M. S.
Bangshi Thakur, Shri	Jamir, Shri Chubatoshi	Musafir, Giani G. S.
Barman, Shri	Jangde, Shri	Nair, Shri C. K.
Barupal, Shri P. L.	Jedhe, Shri G. K.	Nair, Shri Kuttikrishnan
Basappa, Shri	Jhunihunwala, Shri	Naldurgkar, Shri
Basumatari, Shri	Jinachandran, Shri	Nanda, Shri
Bhagat, Shri B. R.	Jogendra Sen, Shri	Nanjappa, Shri
Bhagavati, Shri	Joshi, Shri A. C.	Narasimhan, Shri
Bhakt Darshan, Shri	Joshi, Shri Liladhar	Narasaynaswamy, Shri R.
Bhargava, Pandit Thakur Das	Jyotishi, Pandit J. P.	Naskar, Shri P. S.
Bhatkar, Shri	Kanakasabai, Shri	Nathwani, Shri
Bhattacharya, Shri C. K.	Karmarkar, Shri	Nayak, Shri Mohan
Bhogil Bhai, Shri	Kasi Ram, Shri V.	Nayar, Dr. Sushila
Bidari, Shri	Kedaria, Shri C. M.	Nehru, Shri Jawaharlal
Birbal Singh, Shri	Kesar Kumari, Shrimati	Nehru, Shrimati Uma
Birendra Bahadur Singbji, Shri	Keshava Shri	Neswi, Shri
Bist, Shri J. B. S.	Keskar, Dr.	Onkar Lal, Shri
Biswas, Shri Bholenath	Khan, Shri Osman Ali	Oza, Shri
Brahm Prakash, Ch.	Khan, Shri Shahnewaz	Padam Dev, Shri
Brajeshwar Prasad, Shri	Khawaja, Shri Jamal	Pahadia, Shri
Chanda, Shri Anil K.	Kiledar, Shri R. S.	Palchoudhuri, Shrimati Ila
Chandak, Shri	Kistaiya, Shri	Pandey, Shri K. N.
Chandra Shankar, Shri	Krishna Chandra, Shri	Panna Lal, Shri
Chaturvedi, Shri	Krishnappa, Shri M. V.	Patel, Susbri Maniben
Chettiar, Shri Ramanathan	Kureel, Shri B. N.	Patel, Shri N. N.
Chuni Lal Shri	Lachi Ram, Shri	Patel, Shri Rajeshwar
Daljit Singh, Shri	Lachhman Singh, Shri	Patil, Shri S. K.
Damani, Shri	Lahiri, Shri	Pillai, Shri Thanu
Damar, Shri	Laxmi Bai, Shrimati	Prabhakar, Shri Naval
Das, Shri N. T.	Mafida Ahmed, Shrimati	Radha Mohan Sigh, Shri
Dasappa, Shri	Maiti, Shri N. B.	Radhe Raman Shri
Dasar, Shri	Majithia, Sardar	Raghubir Sahai, Shri
Desai, Shri Morarji	Malaviya, Shri K. D.	Raghuramaiah, Shri
Dehankuk, Shri K. G.	Malhotra, Shri Inder J.	Rai, Shrimati Sahodrabai
Dehankuk, Dr. P. S.	Malliah, Shri U. S.	Raj Bahadur, Shri
Dinesh Singh, Shri	Malik, Shri D. C.	Raju, Shri D. S.
Dube, Shri Mulchand	Malvia, Shri K. B.	Ram Saram, Shri
Dubliash, Shri	Mandal Shri J.	Ram Shankar Lal, Shri
Dwivedi, Shri M. L.	Maniyangadan, Shri	Ram Subhag Singh, Dr.
Becharan, Shri V.	Manjula Devi, Shrimati	Ramananda Tirtha, Swami
Ering, Shri D.	Masuriya Din, Shri	Ramaswamy, Shri S. V.
Geekwad, Shri Fatesinhrao	Mathur, Shri Hariash Chandra	Remaui, Shri S. N.
Geeta Devi, Shrimati	Mehdi, Shri S. A.	Ramdhani Des, Shri
Ganpati Ram, Shri	Mehta, Shri B. G.	Ramesh Prasad Singh, Shri

AYES—Contd.

Kempure, Shri M.
Ranbir Singh Ch.
Rane, Shri
Rangarao, Shri
Rao, Shri Henmanth
Rao, Shri Jaganatha
Rao, Shri Rameshwar
Raut, Shri Bhola
Ray, Shrimati Renuka
Reddy, Shri Bali
Reddy, Shri K. C.
Reddy, Shri Rami
Roy Shri Bishwanath
Rup Narain, Shri
Sedhu Ram, Shri
Sahu, Shri Bhageshat
Sahu, Shri Rameshwar
Saigal, Sardar A. S.
Samanta, Shri S. C.
Samantsinhar, Dr.
Sanji Rupji, Shri
Sarhadi, Shri Ajit Singh
Satish Chandra, Shri
Satyabhama Devi, Shrimati
Satyanarayana, Shri
Sen, Shri A. K.
Sen, Shri P. G.
Shah, Shrimati Jayaben
Shah, Shri Manabendra
Shah, Shri Manubhai

Shakuntala Devi, Shrimati
Shankaraiya, Shri
Sharma, Shri D. C.
Sharma, Pandit K. C.
Sharma, Shri R. C.
Shastri, Shri Lal Bahadur
Shastri, Swami Ramanand
Shivananjappa, Shri
Shobha Ram, Shri
Shree Narayan Das, Shri
Siddananjappa, Shri
Siddiah, Shri
Singh, Shri C. Saran
Singh, Shri D. N.
Singh, Shri D. P.
Singh, Shri H. P.
Singh, Shri K. N.
Singh, Shri M. N.
Singh, Shri R. P.
Sinha, Shri Anirudh
Sinha, Shri B. P.
Sinha, Shri Gajendra Prasad
Sinha, Shri Jhulan
Sinha, Shri K. P.
Sinha Shri Sarangdhara
Sinha, Shri Stayanarayan
Sinha, Shrimati Tarkeshwari
Snatak, Shri Nardeo
Somani, Shri
Sonavane, Shri

Subarayan, Dr. P.
Subramanyam, Shri T.
Suman Prasad, Shri
Sunder Lal, Shri
Surya Prasad, Shri
Swami, Shri V. N.
Swaran Singh Sardar
Syed Mahmud, Dr.
Tabir, Shri Mohammed
Tantia, Shri Remeshwar
Tariq, Shri A. M.
Tewari, Shri Dwarikanath
Thimmaiah, Shri
Thomas, Shri A. M.
Tiwari, Shri R. S.
Tiwari, Pandit D. N.
Tula Ram, Shri
Tyagi, Shri
Uike, Shri
Umrao Singh, Shri
Upadhyaya, Shri Shiva Datt
Varma, Shri B. B.
Varma, Shri M. L.
Vedakumari, Kumari M.
Venkatasubbaiah, Shri
Vishwanath Prasad, Shri
Vyas, Shri R. C.
Vyas, Shri Radhelal
Wilson, Shri J. N.
Wodeyar, Shri

NOES

Amjad Ali, Shri
Awasthi, Shri Jagdish
Banerjee, Shri S. M.
Barua, Shri Hem
Bharucha, Shri Neushir
Braj Raj Singh, Shri
Chakravarty, Shrimati Renu
Das Gupta, Shri B.
Deb, Shri P. G.
Ghosal, Shri Aurobindo
Godsora, Shri S. C.
Iyer, Shri Baswara

Kar, Shri Prabhat
Kodiyan, Shri
Kumbhar, Shri
Majhi, Shri R. C.
Matin, Qazi
Menon, Dr. K. B.
Mukerjee, Shri H. N.
Pandey, Shri Sarju
Panigrahi, Shri Chintamani
Parvathi Krishnan, Shrimati
Pillai, Shri Anthony
Rajendra Singh, Shri

Ram Garib, Shri
Ranga, Shri
Reo, Shri T. B. Vittal
Saksena, Shri S. L.
Sampath, Shri
Singh, Shri L. Achaw
Sugandhi, Shri
Supakar, Shri
Tangamani, Shri
Thakore, Shri M. B.
Yajnik, Shri

Mr. Speaker: The result of the Division is as follows:

Ayes: 268; Noes 35.

The Ayes have it. The motion is 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 adopted.

Clause 2 was added to the Bill.

My Speaker: I shall now put clause 3 to vote.

The question is:

"That clause 3 stand part of the Bill".

The Lok Sabha divided.

श्री रा० स० तिवारी (खजुराहो) :
मर्शन काम नहीं कर रही है, मैं "आइज"
के लिये वोट डालना चाहता हूँ।

श्रीमती सहोबरा बाई राय (सागर)
रक्षित अनुचित जातियाँ) : मैं भी "आइज"
कहना चाहती हूँ।

Shri Birendra Bhadur Singhji (Raipur): I wanted to vote for 'Ayes'.

Shri M. L. Varma. My vote has not

been recorded.

Shri Damani: My vote also has not been recorded.

Division No. 4]

AYES

[16·22 hrs.

Abdur Rahman, Maulana
Achar, Shri
Agadi, Shri
Agarwal, Shri Manakbhai
Ajit Singh, Shri
Alva, Shri Joahim
Anjanappa, Shri
Ashanna, Shri
Athana, Shri Lila Dhar
Babunath Singh, Shri
Badan Singh, Ch.
Bahadur Singh, Shri
Bakliwal Shri
Banerji Shri P. B.
Banerji, Dr. R.
Bangahi Thakur, Shri
Barman, Shri
Barupal, Shri P. L.
Basappa, Shri
Basumatari Shri
Bhagat, Shri B. R.
Bhagavati, Shri
Bhakt Darshan, Shri
Bhargava, Pandit Thakur Das
Bhatkar, Shri
Bhattacharya, Shri C. K.
Bhogji Bhai, Shri
Bldari, Shri
Birbal Singh, Shri
Birendra Bahadur Singhji, Shri
Bist, Shri J. B. S.
Biswas, Shri Bholanath
Brahm Prakash Ch.
Brajeshwar Prasad, Shri
Chanda, Shri Anil K.
Chandak, Shri
Chandra Shankar, Shri
Chaturvedi, Shri
Chettiar, Shri Ramanathan
Chuni Lal, Shri
Daljit Singh, Shri
Damani, Shri
Damar, Shri
Das, Shri N. T.
Dasappa, Shri
Datar, Shri
Desai, Shri Morarji
Deshmukh, Shri K. G.
Deshmukh Dr^s P. S.
Dinesh Sigh, Shri
Dube, Shri Mulchand
Dubliash, Shri
Dwivedi, Shri M. L.
Eacharan, Shri V.

Ering, Shri D.
Gackwad, Shri Fatesinhrao
Ganpat Sahai, Shri
Ganga Devi, Shrimati
Ganpati Ram, Shri
Gautam, Shri C. D.
Ghosh, Shri Atulya
Ghosh, Shri M. K.
Govind Dass, Dr.
Guha, Shri A. C.
Gupta, Shri Ram Krishna
Hajarnaavis, Shri
Harvani, Shri Ansar
Hansda, Shri Subodh
Hathi, Shri
Heda, Shri
Hem Raj, Shri
Hukam Singh, Sardar
Iqbal Singh, Sardar
Jagjivan Ram, Shri
Jain, Shri M. C.
Jamir Shri Chubstoahi
Jangde, Shri
Jedhe, Shri G. K.
Jhunhunwala, Shri
Jinachandran, Shri
Jogendra Sen, Shri
Joshi, Shri A. C.
Joshi, Shri Liladhar
Jyotishi, Pandit J. P.
Kalika Singh, Shri
Kanakasbai, Shri
Karmarkar, Shri
Karni Singhji, Shri
Kasi Ram, Shri V.
Kedaria, Shri C. M.
Kesar Kumari, Shrimati
Keshava, Shri
Keskar, Dr.
Khadiikar, Shri
Khan, Shri Osman Ali
Khan, Shri Shahnawaz
Khawaja, Shri Jamal
Kiledar, Shri R. S.
Kistaiya, Shri
Kriahna Chandra, Shri
Krishnappa, Shri M. V.
Kureel, Shri B. N
Lacht i Ram, Shri
Lachman Singh, Shri
Lahiri, Shri
Laxmi Bai, Shrimati
Mafida Ahmed, Shrimati
Maiti, Shri N. B.

Majithia, Sardar
Malaviya, Shri K. D.
Malhotra, Shri Inder J.
Malliah, Shri U. S.
Mallik, Shri D. C.
Malvia, Shri K. B.
Mandal, Shri J.
Maniyangadan, Shri
Manjula Devi, Shrimati
Masuriya Din, Shri
Mathur, Shri Harish Chandra
Mehdi, Shri S. A.
Mehta, Shri B. G.
Mehta, Shrimati Krishna
Melkote, Dr.
Menon, Shri Krishna
Minimata, Shrimati
Mishra Shri Bibhuti
Mishra, Shri L. N.
Mishra, Shri M. P.
Mishra, Shri S. N.
Misra, Shri B. D.
Mohammad A
Mohiuddin, Shri
Morarka, Shri
Muniawamy, Shri N. R.
Murmu, Shri Paika
Murthy, Shri B. S.
Murty, Shri M. S.
Musafir Gian G. S.
Nair, Shri C. K.
Nair, Shri Kuttikrishnan
Naldurgkar, Shri
Nanda, Shri
Nanjappa, Shri
Narasimhan, Shri
Narayanasaamy, Shri R.
Naskar, Shri P. S.
Nathwani, Shri
Nayak, Shri Mohan
Nayar. Dr. Sushila
Nehru, Shri Jawaharlal
Nehru, Shrimati Uma
Neswi, Shri
Onkar Lal, Shri
Oza, Shri
Padam Dev, Shri
Pahadia, Shri
Palchoudhuri, Shrimati Ila
Pandey, Shri K. N.
Panna Lal, Shri
Patel, Sushri Maniben
Patel, Shri N. N.
Patel, Shri Rajeshwar

AYES—contd.

Patil, Shri S. K.
 Pillai, Shri Thanu
 Prabhakar, Shri Naval
 Radha Moban Singh, Shri
 Radha Raman, Shri
 Raghubir Sahai, Shri
 Raghuramaiah, Shri
 Rai, Shrimati Sahodrabai
 Raj Bahadur, Shri
 Raju, Shri D. S.
 Ram Saran, Shri
 Ram Shankar Lal, Shri
 Ram Subhag Singh, Dr.
 Ramananda Tirtha, Swami
 Ramaswamy, Shri S. V.
 Ramaul, Shri S. N.
 Ramdhani Das, Shri
 Ramah Prasad Singh, Shri
 Rampure, Shri M.
 Ranbir Singh Ch.
 Rane, Shri
 Ranga Rao, Shri
 Rao, Shri Hanmanth
 Rao, Shri Jaganatha
 Rao, Shri Rameshwar
 Raut, Shri Bhola
 Ray, Shrimati Renuka
 Reddy, Shri Bali
 Reddy, Shri K. C.
 Reddy, Shri Rami
 Roy, Shri Bishwanath
 Rup Narsin Shri
 Sadhu Ram, Shri
 Sahu, Shri Bhagat
 Sahu, Shri Rameshwar
 Saigal Sarjar A. S.
 Samanta, Shri S. C.

Samantsinhar, Dr.
 Sanji Rupji, Shri
 Sarhadi, Shri Ajit Singh
 Satiah Chandra, Shri
 Satyabhama Devi, Shrimati
 Satyanarayana, Shri
 Sen, Shri A. K.
 Sen, Shri P. G.
 Shah, Shrimati Jayaben
 Shah, Shri Manabendra
 Shah, Shri Manubhai
 Shakuntala Devi, Shrimati
 Shankaraiya, Shri
 Sharma, Shri D. C.
 Sharma, Pandit K. C.
 Sharma, Shri R. C.
 Shastri, Shri Lal Bahadur
 Shastri, Swami Ramanand
 Shivananjappa, Shri
 Shobha Ram, Shri
 Shree Nareyan Das, Shri
 Siddananjappa, Shri
 Siddiah, Shri
 Singh, Shri C. Saran
 Singh, Shri D. N.
 Singh, Shri D. P.
 Singh, Shri H. P.
 Singh, Shri K. N.
 Singh, Shri M. N.
 Singh, Shri R. P.
 Sinha, Shri Anirudh
 Sinha, Shri B. P.
 Sinha Shri Gajendra Prasad
 Sinha, Shri Jhulan
 Sinha, Shri K. P.
 Sinha, Shri Sarangdhara

Sinha, Shri Satyanarayan
 Sinha, Shrimati Tarakeshwari
 Sntak, Shri Nardeo
 Somani Shri
 Sonavane, Shri
 Subbarayan, Dr. P.
 Subramanyam, Shri T.
 Sumat Prasad, Shri
 Sunder Lal Shri
 Surya Prasad, Shri
 Swami, Shri V. N.
 Swaran, Singh, Sardar
 Syed Mahmud, Dr.
 Tahir, Shri Mohammed
 Tantia, Shri Rameshwar
 Tariq, Shri A. M.
 Tewari, Shri Dwarikanath
 Thimmeiah, Shri
 Thomas, Shri A. M.
 Tiwari, Shri R. S.
 Tiwari, Pandit D. N.
 Tula Ram, Shri
 Tyagi, Shri
 Uike, Shri
 Umrao Singh, Shri
 Upadhyaya, Shri Shiva Datt
 Varma, Shri B. B.
 Varma, Shri M. L.
 Vedakumari, Kumari M.
 Venkatasubbaiah, Shri
 Viswanath Prasad, Shri
 Vyas, Shri R. C.
 Vyas, Shri Radhelal
 Wilson, Shri J. N.
 Wodeyar, Shri

NOES

Amjad Ali, Shri
 Awasthi, Shri Jagdish
 Banerjee, Shri S. M.
 Barua, Shri Hem
 Bharucha, Shri Naushir
 Braj Raj Singh, Shri
 Chakravarty Shrimati Renu
 Das Gupta Shri B.
 Deb, Shri P. G.
 Godsoa, Shri S. C.
 Iyer, Shri Easwara
 Jaipal Singh, Shri
 Kar, Shri Prabhat

Kodiyan Shri
 Kumbhar, Shri
 Majhi Shri R. C.
 Matin, Qazi
 Menon Dr. K. B.
 Mukerjee, Shri H. N.
 Nath Pai, Shri
 Pandey, Shri Sarju
 Panigrahi, Shri Chintamoni
 Parvathi Krishna, Shrimati
 Pillai, Shri Anthony
 Rajendra Singh, Shri

Ram Garib, Shri
 Ranga, Shri
 Rao, Shri T. B. Vittal
 Saksena, Shri S. L.
 Sampath, Shri
 Singh, Shri L. Achaw
 Supakar, Shri
 Tangamani, Shri
 Thakore, Shri M. B.
 Verma, Shri Ramji
 Yajnik, Shri

Mr. Speaker: The result of the division is as follows:

Ayes: 269.

Noes: 37.

The 'Ayes' have it. The motion is 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. Clause 3 stands part of the Bill.

The motion was adopted.

Clause 3 was added to the Bill.

Mr. Speaker: The question is:

The Lok Sabha divided.

"That clause 1, the Enacting Formula and the Title stand Part of the Bill.

The motion was adopted.

Clause 1, the Enacting formula and the title were added to the Bill.

Shri A. K. Sen: I beg to move:

"That the Bill be passed".

Mr. Speaker: Need I clear the Lobby once again?

Several Hon. Members: No.

Mr. Speaker: The question is:

"That the Bill be passed".

Shri Ulke (Mandla—Reserved—Sch. Tribes): I wanted to vote for 'Ayes'. My vote has not been recorded.

Shri M. B. Thakore (Patan): I wanted to vote for 'Noes'. But my vote not been recorded.

Shri Sampath (Namakkal): The total number is increasing every time.

Mr. Speaker: That is because there were two abstentions indicated originally. And those hon. Members have since been changing one side or the other.

Division No: 5]

AYES

16.26 hrs.

Abdur Rabman, Maulana.
Achar, Shri
Agadi, Shri
Agarwal, Shri Manakbhai,
Ajit Singh, Shri
Alva, Shri Joachim
Anjanappa, Shri
Bshanna, Shri
Bethana, Shri Lila Dhar
Aabunath Singh, Shri
Aadan Singh, Ch.
Bahadur Singh, Shri
Bakliwal Shri
Banerji, Shri P. B.
Banerji, Dr. R.
Bangshi Thakur, Shri
Barman, Shri
Barupal, Shri P. L.
Basappa, Shri
Basumatari, Shri
Bhagat, Shri B. R.
Bhagavati, Shri
Bhakt Darshan, Shri
Bhargava, Pandit Thakur Das
Bhatkar, Shri
Bhattacharya, Shri C. K.
Bhogji, Bhai, Shri
Bidari, Shri
Birbal Singh, Shri
Birendra Bahadur Singhii, Shri
Bist, Shri J. B. S.
Biswas, Shri Bholanath
Brahm Prakesh, Ch.
Brajeshwar Prasad, Shri
Brijnaryan "Brajesh" Pandit
Chanda, Shri Anil K.
Chandak, Shri
Chandra Shankara Shri
Chaturvedi, Shri

Chettiar, Shri Ramanathan
Chuni Lal, Shri
Daljit Singh, Shri
Damani Shri
Damar, Shri
Das, Shri N. T.
Dasappa, Shri
Datar, Shri
Desai, Shri Morarji,
Deshmukh, Shri K. G.
Deshmukh Dr. P. S.
Dinesh Singh, Shri
Dube, Shri Mulchand
Dubliish, Shri
Dwivedi, Shri M. L.
Eacharan, Shri V.
Erang, Shri D.
Gaekwad, Shri Fatesinhrao
Ganga Devi Shrimati
Ganpat Sahai, Shri
Ganapati, Ram, Shri
Geutem, Shri C. D.
Ghosh, Shri Astulya
Ghosh, Shri M. K.
Gobind Das, Dr.
Guha, Shri A. C.
Gupta, Shri Ramkrishna
Hajarnavis, Shri
Harvani, Shri Anser
Hansda, Shri Subodh
Hathi, Shri
Heda, Shri
Hem Raj, Shri
Hukum Singh, Sardar
Iqbal Singh, Sardar
Jaggiwan Ram, Shri
Jain, Shri M. C.
Jasimir Shri Chubatoshi
Jangde, Shri

Jedhe, Shri G. K.
Jhunjhunwala, Shri
Jinchandran, Shri
Jogendra Sen, Shri
Joshi, Shri A. C.
Joshi, Shri Liladhar
Jyotishi, Pandit J. P.
Kalika Singh, Shri
Kanakasabai, Shri
Karmarker, Shri
Kasi Ram, Shri V.
Kedaria, Shri C. M.
Kesar Kumari, Shrimati
Keshva, Shri
Kesar, Dr.
Khadilkar, Shri
Khan, Shri Osman Ali
Khan, Shri Shahnawaz
Khawaja, Shri Jamal
Kiledar, Shri R. S.
Kistiya, Shri
Krishna Chandra, Shri
Krishnappa, Shri M. V.
Kurel, Shri B. N.
Lachhi Ram, Shri
Lachman Singh, Shri
Lahiri, Shri
Laxmi Bai, Shrimati
Mafida Ahmed, Shrimati
Maiti, Shri, N.B.
Majithia, Sardar
Malaviya, Shri K. D.
Malhotra Shri Inder J.
Majliah, Shri U. S.
Malik, Shri D. C.
Malvia, Shri K. B.
Mandal, Shri J.
Maniyangaden, Shri
Manjula Devi, Shrimati

Masuriya Din, Shri
 Matbur, Shri Harish Chandra
 Mehdi, Shri S. A.
 Mehta, Shri B. G.
 Mehta, Shrimati Krishna
 Melkote, Dr.
 Menon, Shri Krishna
 Minimata, Shrimati
 Mishra, Shri Bibhuti
 Mishra, Shri L. N.
 Mishra, Shri M. P.
 Mishra, Shri S. N.
 Mishra, Shri B. D.
 Mohammad Akbar Shalkh
 Mohiuddin, Shri
 Morarka, Shri
 Muniswamy, Shri N. R.
 Murmu, Shri Paika
 Murthy, Shri .B .S.
 Murthy, Shri M. S.
 Musafir, Giani G. S.
 Nair, Shri C. K.
 Nair, Shri Kuttikrishnan
 Naldurgkar, Shri
 Nanda, Shri
 Naniappa, Shri
 Narasimhan, Shri
 Narayanasamy, Shri R.
 Naskar, Shri P. S.
 Nathwani, Shri
 Nayek, Shri Mohan
 Nayar, Dr. Sushila
 Nehru, Shri Jawaharlal
 Nehru, Shrimati, Uma
 Neewi, Shri
 Onkar Lal, Shri
 Oza, Shri
 Padem Dev, Shri
 Pahadia, Shri
 Palchoudhuri, Shrimati Ila
 Pandey, Shri K. N.
 Panna Lal, Shri
 Patel, Sushri Maniben
 Patel, Shri N. N.
 Patel, Shri Rajeshwar
 Patil, Shri S. K.
 Pilla, Shri Thanu
 Prabhakar, Shri Naval
 Radha Mohan Singh, Shri
 Radha Raman, Shri
 Raghbir Sabai, Shri

Raghuramiah, Shri
 Rai, Shrimti Sahodrabai
 Raj Bahadur, Shri
 Reju, Shri D. S.
 Ram Saran, Shri
 Ram Shankar Lal, Shri
 Ram Subhag Singh, Dr.
 Ramananda Tirtha, Swami,
 Ramaswamy, Shri S. V.
 Ramaul, Shri S. N.
 Ramdhani Das, Shri
 Ramesh Prasad Singh, Shri
 Rampure, Shri M.
 Ranbir Singh, Chaudhari
 Rane, Shri
 Rangarao, Shri
 Rao, Shri Hanmanth
 Rao, Shri Jaganatha
 Rao Shri Rameshwar
 Raut, Shri Bhola
 Ray, Shrimti Renuka
 Reddy, Shri Bali
 Reddy, Shri K. C.
 Reddy, Shri Rami
 Roy, Shri Bishwanath
 Rup Narain, Shri
 Sadhu Ram, Shri
 Sahu, Shri Bhagabat
 Sahu, Shri Ramshwar
 Sigal, Sadar A .S.
 Samanta, Shri S. C.
 Samantsinhar, Dr.
 Sanji, Rupji, Shri
 Sarhadi, Shri Ajit Singh
 Satish Chandra Shri
 Satyabhama Devi, Shrim
 Satyanarayana, Shri
 Sen, Shri A.K.
 Sen, Shri P. G.
 Shah, Shrimati Jayaben
 Shah, Shri Manabendra
 Shah, Shri Manubhai
 Shakuntala Devi, Shrimti
 Shankaraiya, Shri
 Sharma, Shri D. C.
 Sharma, Pandit K. C.
 Sharma, Shri R. C.
 Shastri, Shri Lal Bahadur
 Shastri, Swami Ramanend
 Shivananjappa, Shri
 Shobha Ram, Shri

ree Narayan Das, Shri
 Siddananajappa, Shri
 Siddiah, Shri
 Singh, Shri C. Saran
 Singh, Shri D. N.
 Singh, Shri D. P.
 Singh, Shri H. P.
 Singh, Shri K. N.
 Singh, Shri M. N.
 Singh, Shri R. P.
 Sinha, Shri Anirudh
 Sinha, Shri B. P.
 Sinha, Shri Gajendra Prasad
 Sinha, Shri Jhulan
 Sinha, Shri K. P.
 Sinha, Shri Sarangdhara
 Sinha Shri Satyanarayan
 Sinha, Shrimati Tarkeshwari
 Snatak, Shri Nardeo
 Somani, Shri
 Sonavane, Shri
 Subbarayan, Dr. P.
 Subramanyam, Shri T.
 Sumat Prasad Shri
 Sunder Lal, Shri
 Surya Prasad Shri
 Swami, Shri V. N.
 Swaran Singh, Sardar
 Syed Mahmud, Dr.
 Tabir, Shri Mohammed
 Tantis, Shri Rameshwar
 Tariq, Shri A. M.
 Tewari, Shri Dwarikanath
 Thimmaiah, Shri
 Thomas, Shri A. M.
 Tiwari, Shri R. S.
 Tiwri, Pandit D. N.
 Tula Ram, Shri
 Tyagi Shri
 Ujke, Shri
 Umrao Singh, Shri
 Upadhyaya Shri Sihva Datt
 Varma, Shri B. B.
 Varma, Shri M. L.
 Vedakumari, Kumari, M.
 Venkatasubbaiah, Shri
 Viswanath Prasad, Shri
 Vyas, Shri R. C.
 Vyas, Shri Radhelal
 Wilson, Shri J. N.
 Wodeyar, Shri

NOES

Aamjad Ali, Shri
 Awasthi, Shri Jagdish
 Banerjee, Shri S. M.
 Barua, Shri Hem
 Bharucha, Shri Naushir
 Braj Raj Singh, Shri
 Chakravartty, Shrimati Renu
 Das Gupta, Shri B.

Deb, Shri P. G.
 Ghoshal, Shri Aurobindo
 Godsora, Shri S. C.
 Iyer, Shri Esswara
 Jaipal Singh, Shri
 Kar, Shri Prabhat
 Kodiyan Shri
 Kumbhar, Shri

Majhi, Shri R. C.
 Matin, Qazi
 Menon, Dr. K. B.
 Mukherjee, Shri H. N.
 Pandey, Shri Sarju
 Panigrahi, Shri Chintamani
 parvathi Krishnan, Shrimati
 Pillai, Shri Anthony

Rajendra Singh, Shri
 Ram Gehib, Shri
 Ranga, Shri
 Rao, Shri T. B. Vittal

Saksena, Shri S. L.
 Sampath, Shri
 Singh, Shri L. Achaw
 Sugandhi, Shri

Supakar, Shri
 Tangamani, Shri
 Thakore, Shri M.B.
 Yajnik, Shri

Mr. Speaker: The result of the division is as follows.

Ayes: 269;

Noes: 36.

The 'Ayes' have it. The motion is 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 adopted.

16-24 hrs.

BUSINESS OF THE HOUSE

Mr. Speaker: Now, the House will take up the next item.

The Minister of Parliamentary Affairs (Shri Satyanarayan Sinha): I would suggest that the unfinished Supplementary Demands for Grants may be taken up first, and after they are disposed of, the discussion on the Kalinga Airlines may be taken up.

Shri Nath Pal (Rajapur): That would not be proper. The normal custom is that when an important matter is scheduled at 4 p.m., that should be taken up.

Mr. Speaker: The discussion on the Kalinga Airlines will not have to go to the other House, but the Supplementary Demands will have to go to the other House. After all, there is no harm.....

Shri T. B. Vittal Rao (Khammam): The other House is sitting till the 15th instant.

Shri Nath Pal: We only brought to your notice the procedure.

Shri Naushir Bharucha (East Khandesh): In understand that one hon.

Member was told that Supplementary Demands for Grants would not be taken up now, and, so, he has gone away. He wanted to speak on the Supplementary Demands.

Mr. Speaker: No hon. Member is entitled to go away under the impression that the Supplementary Demands would not come up.

Shri H. N. Mukerjee: (Calcutta Central): I am submitting that when a matter is specially fixed, we should adhere to it. Because the Constitution Amendment Bill was set as the first legislative item in the morning today, I do not see why we should have waited till 4 p.m. after the Deputy-Speaker had asked for the division of the Lobby; we waited till 4 p.m. because you, Sir, had happened to say in the morning that at 4 p.m. the division would be conducted, though we attach a certain importance to what is specially fixed. In the High Court and elsewhere we do so. Here, a matter has been specially fixed, and hon. Members are willing to speak on it. And hon. Members who would naturally want to speak on the Supplementary Demands are not here. It is no good merely saying that they have to be here all the time. Nobody can be here all the time. The ruling party with a majority of two hundred and more can get only 260 Members with difficulty, after whipping everybody. It is no good merely saying that Opposition Members should be here to speak on the Supplementary Demands.

Shri Nath Pal: There is some way of guidance for us. The validity of the Order Paper which is issued under your authority and instruction will cease to exist if we find that the agenda is tampered and changed as it suits Government. So, I would submit that we should stick to the schedule.