

**THE CONSTITUTION (AMENDMENT)  
BILL, 1973**

(To insert new Articles 23A, 235 and 23C)

SHRI DWIJENDRALAL SEN GUPTA (West Bengal) : Sir, I move for leave to introduce a Bill further to amend the Constitution of India.

*The question was put and the motion was adopted.*

SHRI DWIJENDRALAL SEN GUPTA : Sir, I introduce the Bill.

**THE SUPREME COURT (USE OF  
TAPE RECORDER FOR RECORDING  
PROCEEDINGS) BILL, 1973**

SHRI DWIJENDRALAL SEN GUPTA (West Bengal) : Sir, I move for leave to introduce a Bill to provide for the use of Tape Recorders for recording the proceedings of the Supreme Court.

*The question was put and the motion was adopted.*

SHRI DWIJENDRALAL SEN GUPTA : Sir, I introduce the Bill.

**THE CONSTITUTION (AMENDMENT)  
BILL, 1973**

(To amend Article 1)

SHRI SITARAM JAIPURIA (Uttar Pradesh) : Sir, I move for leave to introduce a Bill further to amend the Constitution of India.

*The question was put and the motion was adopted.*

SHRI SITARAM JAIPURIA : Sir, I introduce the Bill.

MR. DEPUTY CHAIRMAN : The House stands adjourned till 2-30 P.M.

The House then adjourned for lunch at three minutes past one of the clock.

-----

The House reassemble after lunch at half past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

**THE CONSTITUTION (AMENDMENT)  
BILL, 1969—contd.**

(To amend Article 174) MR. DEPUTY CHAIRMAN : Last time the Minister had intervened in the debate. So now ...

SHRI J.P. YADAV (Bihar) : Sir, I want to speak.

SHRI RANBIR SINGH (Haryana) : Mr. Jaipuria should reply now.

MR. DEPUTY CHAIRMAN : But some Members want to speak.

SHRI PITAMBER DAS (Uttar Pradesh) : Let them speak.

MR. DEPUTY CHAIRMAN : Normally it is not done, but now we can show some indulgence. Yes, Mr. Yadav.

श्री जगदम्बी प्रसाद यादव : माननीय उपसभापति महोदय, जब सरकार के अपने मन की बात आती है, तब तो वह संविधान में संशोधन उपस्थित करती है, लेकिन जो सरकार के विपरीत बात होती है या संविधान का दुरुपयोग किया जाता है, वहाँ पर सरकार सचेत होकर उस पर कोई कार्यवाही नहीं करती है। महोदय, जैपुरिया जी जो यह संशोधन विधेयक लाए हैं, मैं उससे एक शब्द और आगे बढ़ कर कहना चाहता हूँ कि आज अत्यावश्यक कह कर काम चलाने की जो सरकार की प्रवृत्ति चल पड़ी है, वह प्रवृत्ति वाध्य करती है कि राज्य सभा का सदन लगातार सेशन में रहना चाहिए, जिससे सरकार का कोई काम रुकने की गड़बड़ी न हो।

श्रीमन्, अभी मैं बिहार की स्थिति देख रहा था। बिहार सरकार ने 6 महीने की अवधि में बिहार विधान सभा का सत्र बुलाने से पहले दर्जनों नहीं सैंकड़ों आर्डिनेन्स पारित किए। विधान निर्माताओं ने जो 6 महीने की अधिकतम अवधि दो सत्रों के बीच रखी थी, उस अवधि का अब दुरुपयोग किया जा रहा है। वह मैक्सिमम अवधि है 6 महीने की जो रखी थी, इसलिए कि शायद चुनाव हो या राष्ट्र पर कोई आफत आ जाए, लेकिन आज सिर्फ इसलिए कि कांग्रेसी

[श्री जगदम्बी प्रसाद यादव]

सरकार बनी रहे, वह 6 महीने तक तालमेल बिठाती रहे, जैसा कि आपने देखा कि उड़ीसा की सरकार तालमेल बिठाती रही और जैसे ही सदन की पुकार हुई वैसे ही सरकार गद्दी छोड़ कर भाग उठी। अब आश्चर्यजनक बात यह हो रही है कि यहाँ का राष्ट्रपति राज्यपाल या गृह-मंत्रालय निर्णय नहीं करेगा कि उड़ीसा में दूसरा शासन बनने का चान्स है या नहीं, बल्कि कांग्रेस का अध्यक्ष निर्णय करता है कि चुनाव होगा या दूसरा शासन कायम होगा। श्रीमन्, यह तथ्य सब के सामने आने के समान चमकता हुआ है कि नन्दिनी सरकार इस्तीफा देने के लिए बाध्य हो गई, उसकी वजह इससे साबित होती है कि कल राज्य सभा के चुनाव में विरोधी को 77 मत मिले और कांग्रेसी को 60। यह विरोधियों के इस दावे का कि हम मैजारिटी में हैं, हम सरकार बना सकते हैं, इसका सबसे बड़ा सबूत है और मुझे विश्वास है कि राष्ट्रपति महोदय और गृह मंत्रालय के पास जो राज्यपाल महोदय का प्रति-वेदन आएगा, उसमें एक बार विरोधियों को सरकार बनाने की अनुमति दी जाएगी और ऐसी अनुमति इसलिए भी आवश्यक है कि इस विधेयक का जो मंशा है वह इस तरह की गड़बड़ियों को समाप्त करने में सहायता भी देगा। जिस सरकार का बहुमत नहीं रहेगा, वह प्रगट भी हो जायेगा और दूसरे सरकार का दुरुपयोग करने का जो मंशा है, उसको भी यह विधेयक रोकेगा। सरकार इस बिल को समर्थन ही न दे, बल्कि अगर मुझ से पूछा जाए तो मैं कहूंगा कि सरकार का पार्लियामेंट डेमोक्रेसी का जो भाग है यानी राज्य सभा का यह सदन बराबर कार्यवाही में लगा रहना चाहिए, जिससे सरकार की मनचाहे आर्डिनेन्स जारी करने की प्रवृत्ति पर अंकुश लगे और प्रजातंत्री पद्धति कायम रहे।

विधान निर्माताओं की कल्पना थी कि प्रजातंत्र सही रूप में कायम रहे। उन्हें यह पता नहीं था कि यह शासन आगे चल कर संविधान को तोड़-मरोड़ेगा, अपने अनकूल प्रयोग करेगा। उनकी इच्छा थी कि सचमुच में देश में धीरे-धीरे प्रजातंत्र विकसित हो, परन्तु आज विकसित क्या हुआ है। आप देखेंगे कि संविधान में जो निर्देश दिये गये थे, उनमें से एक भी चीज को सरकार ने पूरा नहीं किया।

जहाँ पर कहा गया था कि गो-हत्या बंद की जाए, जहाँ पर कहा गया था कि 6 से 11 वर्ष तक के बालकों की शिक्षा अनिवार्य हो, जहाँ पर कहा गया था कि यहाँ एक कल्याणकारी राज्य की स्थापना होगी, जिसमें सभी का भला होगा, सभी के कल्याण की व्यवस्था होगी, उन तमाम निर्देशों की सरकार को जरा भी परवाह नहीं है, उनके लिए उस के कानों में जूँ भी नहीं रेंगती और आज तो सरकार गोली और पुलिस के सहारे देश में चल रही है। उचित मांगों की बात सरकार से करना तो मानों कोई पार्लियामेंटरी डेमोक्रेसी की बात है ही नहीं। सरकार किसी बात को उस समय तक नहीं मानती जब तक कि उस के लिए कोई आन्दोलन न किया जाए और वह आंदोलन भी उग्र रूप न धारण कर ले और जब कोई आंदोलन उग्र रूप प्रगट होता है तो सरकार चाहती है कि पहले शान्ति स्थापित हो जाए उसके बाद उस विषय में सरकार कुछ विचार करेगी और शान्ति स्थापित होने के बाद भी अगर कोई शान्ति से उस पर विचार करना चाहे तो सरकार उस के लिए भी तैयार नहीं है। कभी-कभी सौ, सौ पार्लियामेंट के मेम्बर किसी मंत्री के विरुद्ध जाँच के लिए याचिकाएँ देते हैं, लेकिन तब भी उस के विरुद्ध जाँच नहीं होती जब कि यह व्यवस्था की गयी

थी कि कोई भी सार्वजनिक नेता या कार्यकर्ता अगर किसी सार्वजनिक पद पर रह कर अपने पद का दुरुपयोग करता है तो उसको रोकने की व्यवस्था होगी। लेकिन उस संबंध में न तो आज तक लोकपाल नियुक्त हुए और न ही लोक आयुक्त नियुक्त किये गये और इस तरह के सुधार वाली कोई बात भी तो सरकार नहीं कर पाती है और न उसके लिए कोई मंशा ही प्रकट करती है कि जिससे लोगों को सचमुच पार्लियामेंटरी डेमोक्रेसी में भरोसा और विश्वास बढ़े। आज पार्लियामेंटरी डेमोक्रेसी के नाम पर निरंकुश शासन है और इसीलिए डेमोक्रेसी पर लोगों का अविश्वास बढ़ता जा रहा है। स्टेट असेम्बली 6 महीने बाद ही बैठने का नाम लेती है, लेकिन आज कल तो लोक सभा और राज्य सभा के सत्र के दिन भी कम होते चले आ रहे हैं। एक सप्ताह पिछली बार कम हुआ और सरकारी दल का मंशा यह प्रगट हो रहा है कि सत्र के दिन जो भी हैं, उनको धीरे-धीरे कम किया जाए। कहीं यहाँ की स्थिति भी उनकी जैसी न हो जाए, जैसे राज्यों में वे 6 महीने तक विधान सभा का सत्र नहीं बुलाते वैसे यहाँ भी संसद् का सत्र 6 महीने तक बुलाना टाला न जाए। इसलिए सरकार इस बिल की मंशा को समझे और पार्लियामेंट और विधान सभाओं को कम से कम दिनों में बुला कर लोकमत तो अपने विश्वास में लेने का प्रयास करती रहे। श्रीमन्, आज इस पार्लियामेंटरी डेमोक्रेसी की एक खामी लोगों के सामने प्रगट हुई है। डेमोक्रेसी में सरकार सदन में बैठ कर चलती है, लेकिन आज उस के कारण जो मंहगाई और गरीबी देश में मुंह बाये खड़ी है, उसका निराकरण यह सरकार नहीं कर पा रही है। इसी तरह से कमजोर और घ्रष्ट शासन के चलते घ्रष्टाचार का दिनों दिन बोल वाला होता जा रहा

6—1341 RSS/72

है। आज ऐसा लगता है कि सरकार न तो बेकारी को ही मिटा सकती है और न ही भुखमरी को ही मिटा सकती है और घ्रष्टाचार को मिटाने के लिए तो वह कुछ सोचती नहीं वरन् उसको बढ़ाने में यह सरकार कुछ सहायक हो रही है। आज तो यह भी भरोसा नहीं है कि सरकार में रहने वाले मंत्री भी देश भक्त हैं या नहीं हैं। आज जो कांड समाचारपत्रों में आया है, वह सचमुच देश के लोगों को चौंका देने के लिए काफी है। आज मंत्रियों के सर्टिफिकेट मिलते हैं, संसद् के सदस्यों के सर्टिफिकेट मिलते हैं, पाक जासूसों के पास जिसके सहारे वह हमारे सुरक्षा के संस्थानों और स्थलों में घूम कर अध्ययन करते हैं और हमारे देश के दुष्मनों को उसकी सूचनाएँ देने हैं।

MR. DEPUTY CHAIRMAN : This subject is going to be taken on Monday when you can raise these things.

श्री जगदम्बी प्रसाद यादव : श्री मन्, इसलिए सदन की मर्यादा बनी रहे। इसके लिए आवश्यक है कि सदन निर्यामत रूप से बैठता रहे और इसलिए मेरा आग्रह है कि सरकार इस प्रकार की व्यवस्था करे कि राज्यों तथा केन्द्रों में कहीं भी लेजिस्लेचर्स 6 महीने की अवधि का अंतर अपने सत्रों में न रखें और जल्दी से जल्दी पार्लियामेंटरी डेमोक्रेसी की रक्षा के लिए अपनी विधान सभाओं को बुलाया करे।

MR. DEPUTY CHAIRMAN : Yes, Mr. Bhupesh Gupta, if you want to speak you can speak.

SHRI BHUPESH GUPTA (West Bengal) : Since you have called me, I will speak.

MR. DEPUTY CHAIRMAN : Take as little time as possible.

SHRI BHUPESH GUPTA : I have got my Bills also.

MR. DEPUTY CHAIRMAN : That is I why I say, take as little time as possible.

SHRI BHUPESH GUPTA : Sir, I entirely support this Bill and "the, proposal that the Assembly should meet not later than six month\*.

Sir, there is a tendency in the country, in some quarters, to postpone the meetings of the Assembly as long as possible. Now, Sir, we cannot do without the meeting of the Assembly. If that were possible, some Chief Ministers would like to do that. But it is not possible to ignore it altogether. Therefore, I think that there should be some regularity. Now, Sir, I want to make one or two points in this connection. It should not be left to the whims of the Chief Ministers of the States to decide as to when the Assembly should meet. As far as the particular dates are concerned, well, there may be some discretion, that is, the exact date on which the Assembly should be summoned. But there should be a clear understanding, just as we have here in Parliament, that there should be a minimum number of sittings every year and then roughly about the time when each session would take place. For example, in the beginning of the year, there should be the Budget-session and in the middle of the year, there should be another session...

SHRI PITAMBER DAS : Monsoon session.

SHRI BHUPESH GUPTA : Whether you call it the monsoon session or some, other session, another session must be there. Then, towards the end of the year there should be one more session. These sessions should be so phased that they can conveniently be summoned and people have a chance of playing their part. But this is not being done. We have come across instances where the requests by the Opposition parties to the Chief Ministers or to the Governors, for that matter, these are only technical requests—that the Assembly should be summoned have gone unheeded. Here, of course, in Parliament we know when we are going to meet though we may not know the exact date. That also we know beforehand. We know when the Budget session will meet, when the monsoon session will start and when the winter session will begin. We know it more or less informally ahead of the Government notification as to when they are going

to meet. This is not so at all in the case of the State Legislative Assemblies. In fact, people do not know when the sessions will be called or whether the sessions will be called at all. Well, this anomaly should go and there should not be two types of system.

Now, Sir, I have an experience, for example. In West Bengal, recently, only last year, our group demanded that the Assembly should meet to discuss the situation at the end of the year. Unfortunately, the Chief Minister did not see eye to eye with us. I am not blaming him at all. He has got his convenience. But it should not be left to an individual's choice, whether it is an ordinary man or a Chief Minister or somebody else. There should be certain standards, guiding rules, with regard to the convening or summoning of the Assembly so that nobody can bypass them or, call an Assembly session at convenience. Therefore, Sir, this is a very good proposal. My friend, Shri Jaipuria, is developing some affection for this kind of democratic functioning and I am only happy about it.

SHRI SITARAM JAIPURIA (Uttar Pradesh) : Thank You.

SHRI BHUPESH GUPTA : I hope his Board of Directors will also regularly meet and would meet even more regularly than the Assembly because they have to transact their business.

Sir, in this connection, I think we should have a second look at many of the things relating to the functioning of our Legislatures. This is not the only thing that needs our attention, but there are aspects also. Now, there was a Committee on Defections which gave a report and which related to some aspects of the functioning of the Legislature. Now, Sir, this has been completely ignored though it was submitted in 1969. I was a member of that Committee and the other Members included the Union Home Minister—at that time Mr. Chavan was the Chairman—the Union Law Minister, the Parliamentary Affairs Minister, Mr. Venkatasubbiah, a Congress MP, whose resolution in the other House led to the appointment of this Committee and many others.

Mr. Ranga was there. Mr. P. Ramamurthy was there. Mr. Madhu Liroaye was there. Mr. Dwivedy, Mr. Bairaj

Madhok, Mr. Anbazhagan, DMK, Mr. N.C. Chatterjee, Dr. Kami Singh, Mr. Raghuvir Singh, Mr. C.K. Daphtary, Mr. M.C. Setalvad, Mr. Jaya Prakash Narayan and Mr. Mohan Kumara-mangalam were there. Many of them, including Mr. Mohan Kumaramangalam, were not Members of Parliament at that time. This Committee gave its report..

SHRI PITAMBER DAS : When?

SHRI BHUPESH GUPTA : In 1969. Your Jan Sangh member was also there. Mr. Balraj Madhok was there. There was a Sub-Committee of lawyers who gave legal advice and so on. It was in 1969. Now it is 1973. A consensus was arrived by the representatives of various political parties and some eminent public men. The Government should have given serious attention to this report. Today we have this business of defections going on in the country. If the report had been implemented, every body defecting now would have lost his seat or would have to go in for another election. Defections would not have been so easy as it is now. Now, that was not implemented.

There are other suggestions that there should be some relation to the size of the Council of Ministers and the size of the Assembly or Parliament. There was a consensus of opinion that in the case of bicameral legislature it should be 11 % of the total membership of the legislature and in the case of uni-cameral legislature, where there is one House, the number should be 10%, subject to a maximum, according to me, of 30. But Mr. Jaya Prakash Narayan suggested that the maximum ceiling should be 50.

Now, whatever it is, the Congress Party was also committed to it. Mr. Chavan himself was the Chairman. They do not remember this report now. I do not know today they may be remembering it, specially the recommendation relating to defections. But it depends on how the traffic goes. If it is *Aya Ram* on your side, you forget the report. If it is *Gaya Ram* from your side, you remember the report. Now you will be surprised to know that Mr. Chavan as the Chairman accepted that the State Council of Ministers should not be more than 10%, but in the case of Parlia-

ment he was not accepting it because at that time the Central Council of Ministers exceeded that number. He said that he was prepared to accept this in the case of State Assemblies, including the Congress majority State Assemblies, but he was not prepared to accept this ceiling, this proportion, in the case of Parliament...

MR. DEPUTY CHAIRMAN : Mr. Bhupesh Gupta, all these points will arise in your next Bill...

SHRI BHUPESH GUPTA : This relates to the functioning of the Assemblies. I will come to that. So I think that some provision should be made. Normally, there should be a convention. But who cares for conventions nowadays? Therefore, it is better to do it in writing in the Constitution, so that nobody can bypass what normally should be done. Therefore, I support the suggestion that there should be at least one meeting within a period of six months and more or less the time should be known so that it is not left ambiguous as to when the Assembly is to meet and it should not be left to the pleasures and fears of the Chief Minister of the State to advise the Governor as to when he should summon the Assembly.

SHRI LOKANATH MISRA (Orissa) : Mr. Deputy Chairman, Sir, I rise to support Mr. Sitaram Jaipuria's Bill. The figures given by Mr. Sitaram Jaipuria in his opening speech are revealing. I am thankful to him that he has taken all the trouble of collecting this information which would have probably gone unheeded otherwise.

SHRI BHUPESH GUPTA : Shri Sitaram Jaipuria is a very able collector, Being an independent Member, he collects more Rajya Sabha votes than any party man.

SHRI SITARAM JAIPURIA : Thank you for the compliment. I got more votes than you got.

SHRI LOKANATH MISRA : He says he got more votes than you got. He is endorsing your statement.

SHRI BHUPESH GUPTA : [ We are told that when Rajya Sabha elections take place, Mr. Sitaram Jaipuria is seen arriving at Lucknow with a number of suitcases. One does not know what they contain.

MR. DEPUTY CHAIRMAN : Don't become too curious.

SHRI SITARAM JAIPURIA : Some of the suitcases were handed over to me by you to be handed over to someone else. I do not know the contents myself.

SHRI BHUPESH GUPTA : If I get hold of one of your suitcases, I should be a richer man.

SHRI SITARAM JAIPURIA : I will send all my suitcases to you.

SHRI LOKANATH MISRA : My information is that if Mr. Bhupesh Gupta had got hold of one of your many suitcases, he would not have used it in favour of Mr. Sitaram Jaipuria. He would have used it in favour of those who are his fellow travellers and the people belonging to his party.

SHRI PITAMBER DAS : Does Mr. Bhupesh Gupta feel interested in the suitcases or in the contents of the suitcases?

SHRI BHUPESH GUPTA : Since the question has been asked, I would say that the contents are hidden in the suitcases and I am interested in both. But I am not interested in Rajya Sabha elections that way.

SHRI SITARAM JAIPURIA : You want old wine in new bottle or new wine in old bottle.

MR. DEPUTY CHAIRMAN : You may consider handing over one of your suitcases to him.

SHRI SITARAM JAIPURIA : Never mind. Only if I had any as alleged by Mr. Gupta.

SHRI LOKANATH MISRA : In his opening remarks, Mr. Sitaram Jaipuria has given figures relating to the number of days for which the different Assemblies of the States have met. When I went through these figures, I was astounded to find that Haryana tops the list. I would have been even more unhappy if Orissa had done it. But I am unhappy because Haryana which is adjacent to Delhi, has been committing

this blunder all the time. On some 3 P.M. occasions they have met only for two days and then adjourned for 11 months and some days—may be 29 days. Because the constitutional obligation is that they have to meet once in six months, they have met only for two days in between, and between this 13-day Budget session and the next 13-day Budget session there was a gap of 11 months and 28 days or 29 days ----- for the information of Chaudhuri Ranbir Singh.

SHRI RANBIR SINGH : I was a number of that House.

SHRI LOKANATH MISRA : It is all the more worse that you have been a member and you have been a party to all that.

SHRI RANBIR SINGH : I have participated there in much more than many other friends whose duty it was to check the Government.

SHRI LOKANATH MISRA : That does not put you in an advantageous position over others.

*(Interruptions)*

MR. DEPUTY CHAIRMAN : You please continue with your speech. He will be more interested in the other Bill.

SHRI LOKANATH MISRA : The figures show that the Assembly, on some occasions, has met only for two days. I do not know what they had debated within these two days.

SHRI PITAMBER DAS : They debated whether they should continue to sit or not.

SHRI LOKANATH MISRA : In a democracy the Opposition is as much important as the Government. If that principle is accepted, then the corollary is that there should be more of communication between the Opposition and the Government, the forum being either the Assembly or Parliament. But in the Haryana Assembly, to my surprise, there has absolutely been no communication between the Opposition and the Government. I do not know whether the Chief Minister of that State feels that there is an Opposition at all. Of late I saw in the newspapers that the Opposition leader has been thrown out of his position. I do not know

how that has cam; into being, but I read in the papers that he has been asked to surrender his bungalow, the place where he was staying, and he was thrown out of it by the officials of the Government.

SHRI RANBIR SINGH : When one does *not* enjoy the confidence of the required membership of the Opposition, naturally he will have to go.

SHRI LOKANATH MISRA : Those things are widely known in the country. Mr. Ranbir Singh may add to his own knowledge by the principles and theories which are handed down to him by the Chief Minister of Haryana----- he may add to his wisdom by those—but let him not try to add to the wisdom of the Members of this House by the theories that have been enunciated by his Chief Minister.

*(Interruptions)*

He says he knows better than his Chief Minister. The other day when he spoke on some other matter, I suggested to the Law Minister that Mr. Ranbir Singh should be chosen as one of our advocates in the World Court. I can only suggest to the •• \*

SHRI RANBIR SINGH : Why are you retreating?

SHRI LOKANATH MISRA : I am not retreating; I am only going a step further. Sir, if he can be sent anywhere outside this House as an advocate, let him be sent.

SHRI RANBIR SINGH : I will air ways remain with you in the House.

MR. DEPUTY CHAIRMAN : You please come to your point.

SHRI LOKANATH MISRA : Therefore, I was feeling that the kind of amendment that Mr. Sitaram Jaipuria has suggested would, at least, enforce on the Government of each State an obligation which is not there now and which is being taken advantage of by the Chief Ministers. If there is a constitutional obligation that they have to meet more often, once in three months, then naturally they will have to face the Assembly. Whatever resentment there may be in the State among the

people would be ventilated on the floor of the House. The people would thus be pacified. It would have a much greater sobering effect on the people if the grievances of the people are ventilated on the floor of the House. They would feel at least half redressed. But if there is no forum for ventilation, naturally they have to go to the streets for ventilation of their grievances. If there is a constitutional forum available, then their representatives would use that forum and there would be a sobering effect on the people as a whole.

The way the Haryana Chief Minister, Mr. Bansi Lai, has functioned would not give that ventilating forum at all to the Opposition, nor to the people. Therefore, the passions rise high in some States.

*(Interruptions)*

MR. DEUTY CHAIRMAN : Let him continue with his speech. I can't allow such commentaries.

SHRI LOKANATH MISRA : Or else let him finish about the praise of the Haryana Chief Minister.

MR. DEPUTY CHAIRMAN : You please carry on.

SHRI LOKANATH MISRA : In other States, you would find, Sir, the position is nothing better. The only exception I find here is U.P. which has a gap of about three months and twenty four days. Even though it is a State with Congress Chief Minister and the Congress Ministry, I am happy that that Chief Minister has some respect for democratic institutions and democratic traditions. But so far as other States are concerned, it gives me an impression that Mr. Sitaram Jaipuria's Bill is very justified. I do not have the figures here for Tamil Nadu nor do I have the figures for Orissa either. Orissa could not have sent the figure because the first time they met in the House in the Assembly they met with a casualty. They did not dare meet the Opposition on the floor of the House. After the new Congress government came in, they never dared to face the Assembly. All the same they had to meet the constitutional requirements and, therefore, the Assembly was summoned. We know what is the fate of the Government there. If

[Shri Lokanath Misra]

Assemblies are summoned earlier, apart from the ventilation of (he grievances of the people and a better communication between the Government and the Opposition, the strength of the Government would also be tested. There would always be a chance for testing the strength. Unless there is such a test under a benign Central Government, there is I would say, a possibilin of a minority Congress Government being given shelter in the States.

So, I would support very strongly Mr. Sitaram Jaipuria's Bill that there should not be a gap of more than three months between the two sessions.

Thank you.

SHRI SITARAM JAIPURIA : Sir, I am grateful to the hon. Members who have participated in this discussion on an important but a very simple piece of legislation that I have proposed. I am particularly happy and encouraged to find that every one present here including Mr. Moh-sin has agreed with the spirit of the Bill though I am also conscious of the fact that anything coming from this side will not be readily acceptable to the Government and they will not be prepared to make it a part of the enactment. In fact I remember some years ago—it was the second year of my being a Member of Parliament—I had been to Nepal and I had then mentiond that instead of calling it India Aid Mission we should call *it* India Co-operation Mission. It was turned down though they agreed with spirit of it and after some years when it was found that that word was not very welcome in Nepal they changed the expression to Co-operation Mission. So based on such past experience I am not surprised when the hon. Minister says that he agrees with the spirit of the Bill that I have moved. I am particulary grateful to some of the Members who have wholeheartedly supported the Bill not only during the last day of the last session but also in this session, especially Lokanathji, Bhupeshji, Yadavji, Nawal Kishoreji, Mr. Mariswamy, Mr. Balachandra Menon and others. They all felt that this was necessary for the preservation of democracy. As I mentioned earlier this is a very simple Bill and the purpose of this Bill is to democratise the functioning of the State legislatures which are otherwise composed

of democratic forces. If democracy is to survive in India, everyone of us who vouches for it, who is keen for it, should strengthen the functioning of democratic institutions and there is no other way but to see that this Bill is accepted. In fact, Mr. Mohsin also agreed that the Assembly should not be bypassed and he himself mentioned that the Assemblies should meet as often as is necessary. But I do not agree with him when he said—I think Mr. Chandrasekharan also said that—the amendment of Mr. K. T. Shah which was moved earlier in the Constituent Assembly for reducing the period from six months to three months was rejected by the Constituent Assembly and therefore this should not be done. I am glad that after 25 years of working of the Constitution we are considering the same thing now. If you consider the circumstances in which the Constituent Assembly met, how within a limited time they had to discuss and decide various things because we had to have a stable system of administration we had to hurry up many of the things, you will understand the real position. History itself will prove that after this Constitution was adopted by us a number of amendments have been moved by the ruling party itself. If everything that the Constituent Assembly had done were so sacrosanct that it could not be changed, then I personally feel that there was no justification for the Treasury Benches and the Government to have moved so-many amendments to the Constitution one after another. Therefore taking shelter behind something that happened 25 years ago to oppose this measure, Mr. Deputy Chairman, will not be the right thing to do. In fact the Government's own amendments of the Constitution for bringing about socialist development of the country have been the subject-matter of debate and discussion by judicial and legal luminaries and so this plea does not hold good. Again, we know/ that time is sometimes a healing effect but not always because when I moved this Bill in 1969 I knew that the Members of the Congress benches were very happy that such a Bill had been moved because in many of the State Assemblies they did not have absolute majority and if something of this nature was there it would help them considerably and they would get more opportunities to highlight the situation. Today things have



changed and I find (hat the Congress benches are not in favour of this but the Opposition members who are today in the position in which the Congress was at that in some places are supporting this Bill .Sir, as rightly mentioned by Mr. Mohsin there are a number of conventions in Parliament. In Parliament we have the Budget session, monsoon session, autumn session and winter session in the same way conventions should be there for the Assemblies also. So either through direction from here or through persuasion and discussion with the Chief Ministers, it should be established that there will be so many sessions of the Assemblies also. That is all what was intended by this. I only wanted that the attention of the State legislatures should be drawn to "the feelings prevailing in the country. The purpose of an Assembly is not only to instal a Ministry or Ministers or to pass the Appropriation Bill in order to allow us to draw our pay or to make several other payments for which commitments have been made. The purpose of an Assembly, among other things, is that it must be able to educate the people on the diffeient socio-economic issues that are prevailing in the country or that may come up tomorrow. It should also be able to create a moral force by taking the people into confidence. How do we take the people into confidence? A lot of violence is there all over and I feel that if Assembly sessions are held more often, then violence and tension will certainly be reduced. It may be asked, how ? It is because the people will be busy discussing the matters in the State Legislatures and it will enable the People and the general public to highlight their difficulties through their representatives and not resort to all sorts of violent methods. I may mention something about Ordinances. Ordinances have become a common feature. We have seen that even a day before Parliament was to meet, an Ordinance was issued. By no stretch of imagination can it be described as a healthy democratic practice to be inculcated. Moreover, I find that the Members of the Opposition particularly now find very little time to air their views, whether it is in Parliament or in other places. The time given to them is very little and the Government Bills and other Bills take a very large share of the time of the House with the result that there is

a certain amount of frustration and a feeling of uncomfortableness in the minds of the Opposition Members. I would earnestly say that if the Assembly sessions are made longer, and more often, it will give them a better feeling and it will enable them to place their points of view. After all, the Assembly is the forum for debating many issues, whether economic, social or moral and the complete involvement and participation of the people is a 'must' in order to make democracy function smoothly. Most of our ills, if I may say so, arise from the fact that once a person has been elected to the Assembly, he starts behaving in an autocratic manner. They forget their promises and commitments made to the people by whom they were elected. Committees are treated in a patronising manner by the ruling party and by the persons in power rather than allow them to air their views openly in the Assembly or in Parliament. This would be possible only if there are regular sittings. It is something like a flower. Flowers can be used at the time of birth or at the time of marriage. The same flower is also used at the time of funeral. The State Assemblies can be very good for highlighting and establishing healthy democratic practices. In the same way, the Assemblies, If their attention is not properly focused, it might create discontentment among the general public and the people might lose faith in the democratic processes The hon. Minister has mentioned in his reply that he would give proper guidelines to the State Governments. When the Chairman of the State Legislatures meet at the Speaker's Conference, they might utilise the opportunity to mention these points. The Chief Ministers conferences are also being held regularly and their attention also may be drawn to this. Moreover, they should establish healthy conventions in the different Legislatures, so that people may have only their goodness at heart.

Finally, I would suggest to the hon. Minister that the proceedings of this debate should be circulated to the Chief Ministers and the State Legislatures, so that it may be brought to their attention and healthy conventions established. I am convinced that if a referendum is taken all over the country, the points that I have highlighted

[Shri Sitaram Jaipuria]

here will gain the support of the public at large. As I mentioned earlier, I know...

SHRI BHUPESH GUPTA : You have made a very interesting suggestion that the proceedings should be circulated, first of all, to the Chief Ministers. Now, would you co-operate in this ? Just as you distribute on the New Year's Day fruit baskets, you can circulate the proceedings with the fruit baskets. I think it will have a better chance of being read by them.

SHRI SITARAM JAIPURIA : But I do not have any suitcases to give you or anybody else.

SHRI BHUPESH GUPTA : I do not need the proceedings anyhow.

MR. DEPUTY CHAIRMAN : But there is a danger of the fruit being consumed and the proceedings being left unread.

SHRI SITARAM JAIPURIA : As I have mentioned earlier, what it contains is more important; it is like a lady's bathing-suit which at times reveals what is apparent but conceals what is vital. I have no intention of putting it that way but I do hope that the hon. Minister will ensure that this Bill which has been duly supported and endorsed by a large number of Members here receives the support of the Chief Ministers and that healthy traditions and conventions are laid down.

MR. DEPUTY CHAIRMAN : You want to press the Bill ?

SHRI BHUPESH GUPTA : Otherwise, it will be rejected.

SHRI SITARAM JAIPURIA : Well, it has been mentioned that it is going to be rejected. Therefore, I think it is better that I withdraw it gracefully.

MR. DEPUTY CHAIRMAN : You seek the leave of the House to withdraw the Bill ?

SHRI SITARAM JAIPURIA : Yes.

*The Bill was, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN : Next Bill, Shri Thillai Villalan. He is not here. Shri Dwinjedralal Sen Gupta. He is also not here. Then, Shri Bhupesh Gupta.

## THE CONSTITUTION (AMENDMENT) BILL, 1970

*(To amend Articles 74 and 163)*

SHRI BHUPESH GUPTA (West Bengal) : Mr. Deputy Chairman, Sir, I move. That the Bill further to amend the Constitution of India be taken into consideration.

This Bill proposes to amend articles 74 and 163.

Sir, the two provisions laid down relate to the Council of Ministers in the case of the State Assembly and also in the case of Parliament. Now, this matter has been engaging our attention for a long time and I think this was also taken up by the Committee on Defections. As you know, Sir, the committee on Defections to which I have just made a reference was asked to go into these questions also. I would like to read out the relevant portions relating to these provisions of the Constitution from their Report :—

"Limiting the size of the Council of Ministers.

"21. As articles 75 and 164 of the Constitution are at present worded there is no limit on the number of Ministers that the Prime Minister/Chief Minister may advise the President/Governor to appoint to the Council of Ministers. In view of the significant part played by the offer or denial of Ministerships in political defections, there was unanimous agreement in the Committee that limiting the size of the Council of Ministers might not only act as a damper on potential defects, but might enable the Prime Minister/Chief Minister to resist pressure's which he might otherwise be unable to withstand. There was also agreement that the size of the Cabinet should have some relation to the size of the legislature.

"22. The formula before the committee was that the size of the Council of Ministers should not exceed 10 per cent of the strength of the Lower House in the case of unicameral, and 11 per cent of the strength of the Lower House in the case of bicameral legislatures; in regard to States and Union Territories where the strength of the legislature was below 100, size of