

I Shri P. Govinda Menon.]

Public Service Commission is treated as part of civil service. 4 P.M.

Under the 1935 Act, 'in India it was open to the Governor-General to give sanction to the members of the P.S.Cs. to accept Offices after their term. Under the Constitution to-day it is an absolute prohibition. It is also doubtful whether it would be correct to provide that the Government may give them permission to accept employment under the Government.

These conflicting considerations are there and therefore, the Government thought that the matter should be looked into but at the same time there is a difficulty to-day. It cannot be passed to-day in this House. I think when Mr. Pillai referred to the absence of a quorum, what he had in mind was the absence of the required number of persons to pass an amendment to the Constitution. More than 50 per cent, of the Members have to be present and a two-thirds majority of those present has to vote for the Bill. That is not possible today. Some Members suggested to me that it is possible to refer it to a Select Committee for which special quorum is not necessary. There again there is another difficulty. I am told that the mover of the Bill is likely to retire from the Rajya Sabha in the course of a few weeks. I am sure that he will come back and I hope that he would; but then the provision in the Rule is that the mover of the Bill, the Member in charge of the Bill, shall present or pilot the Bill after the Select Committee report is presented. That being the situation, I would suggest that the Member should withdraw the Bill on the present occasion and we can have a discussion on a future more auspicious occasion.

SHRI S. S. MARISWAMY (Madras) : I wish to have a clarification from the Minister. The hon. Minister took some time to explain to us

and say that these rules were provided in the Constitution and if it is the rule, it is all right, but why not have an exception made for special cases when the services are required by the State?

SHRI BHUPESH GUPTA: No, no.

SHRI P. GOVINDA MENON: How can I make it to-day? It can be done only if the Bill is considered and for that there is no opportunity now. That is why I requested the Member to withdraw.

SHRI S. S. MARISWAMY: It is difficult because it is moved by the Member. If the Government takes up the matter and moves it itself, there will be no difficulty.

SHRI P. GOVINDA MENON: But the Government has not done it. You know the difficulty to get an amendment of the Constitution passed now.

SHRI J. SIVASHANMUGAM PILLAI: I beg leave of the House to withdraw the Bill.

*The Bill was, by leave of the House, withdrawn.*

### THE CONSTITUTION (AMENDMENT) BILL, 1966

*(to amend article 101)*

SHRI A. D. MANI (Madhya Pradesh) : Sir, I move:

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

Mr. Vice-Chairman, the Bill is a very short one in terms of wordage and the Statement of Objects and Reasons has very clearly spelled out the ideas behind this Bill. I gave notice of this Bill two years ago when my friend Mr. Tariq, who is not in the Chamber now, was appointed a Minister in Kashmir when he was a Member of this House. I had also in mind at that time the

appointment of Mr. Jaipal Singh as I a Member of the Cabinet in Bihar ! when he continued to be a Member of the Lok Sabha. I was very glad that Mr. Tariq was a Minister in Kashmir and I told him that I was giving notice of this Bill because of what had happened in his case and what has happened in other cases in the past. Recently there has been one more case where we had the spectacle of finding Mr. Mandal, a Member of the other House and also a Member of the Cabinet for a short period in Bihar. I think that all these appointments, with due respect to those who have held these positions, is a fraud on the Constitution. Our Constitution-makers spent a good deal of time in drafting what is called, the most compendious Constitution in the whole world. So many points of view were urgently and earnestly canvassed in the sittings of the Constituent Assembly but somehow it escaped the attention of the Constitution-makers that a situation may arise when somebody may be drafted on to a State Cabinet under the provisions of the Constitution while he is still a Member of either House of Parliament here. The provision of the Constitution which permits the 'appointment of a person as a Minister for a period of six months before he gets himself duly elected is derived from British parliamentary experience. In Britain, constitutional usage has evolved through the centuries and it has passed during the reign of the Sovereigns when Members had been drafted on to ministerial office from outside the House of Commons and they were given the opportunity of seeking an election to the House of Commons within a period of six months. This has not been laid down by any Statute of Parliament but it has been derived from usage which later has been sanctified by the Representations of the People Act in the U.K. I feel that these parliamentary conventions do not hold good in the current conditions of India. We are going through a very tumultuous phase of State

politics and it is quite possible, taking advantage of the Legislative Councils, which are functioning in the States—many of which are not performing any useful function at all, excepting duplicating speeches made on the floor of the Vidhaya Sabha—it may be possible that a person may be nominated as a Member of the State Legislative Council and be made a Minister.

I want to put forward one broad proposition that no person shall be appointed as a Minister unless he is an elected Member of the Legislature. This fundamental change in the Constitution is called for because we do not want party pressures to be built up in such a way that a person can be appointed as a Minister and then he may try to find a seat for himself in the State Legislature. In Britain, party discipline is so strong that if the Leader of the Party asks a Member to resign, he is very happy to resign and he very often willingly resigns but in India, considering the very cost of the elections which we have to face—and these elections are far more costly than the elections in the U. K.—I think it is unfair for any leader of a party to ask a Member to resign and make way for a Minister who has been appointed and who has to fulfil the Constitutional requirement of getting a seat for himself within a period of six months.

So, the first proposition I would like the hon. Law Minister to consider is that we should amend even that part of the Constitution; though that is not strictly relevant to the provisions of the Bill which I am moving but it arises from the Bill and I feel that this should be done. I do not know whether we should utilise at all the nomination procedure for getting any person appointed as a member of the Cabinet, utilising the State Legislative Councils for this purpose. I think we should set up a broad precedent that no

(.Shri A. D. Mani.)

person shall be appointed a Minister unless he has come through an election in some form or other. Even if he is a Member of the Upper House of the Legislature, I do not mind his being chosen for a Ministerial post—if he has come through a process of election. Mr. C. Raja-gopalachari was a Nominated Member of the Legislative Council many years ago, the Legislative Council of Madras, and was appointed as Chief Minister. And the hon. Mr. Morarji Desai was also nominated to the Legislative Council before he became Chief Minister of the then State of Bombay.

SHRI M. N. KAUL (Nominated): Do you accept these propositions?

SHRI A. D. MANI: These are not very happy propositions at all, and I am putting forward the proposition that no person, in the conditions in which we find ourselves today, when proper constitutional usage has not taken such deep roots as in England, we should allow no person, who comes on a nominated basis, to occupy any Ministerial position.

Sir, in regard to article 101 which this Bill seeks to amend, the position in other countries is that double membership is completely avoided. In the United Kingdom, where only the Peers can sit in the House of Lords, the question does not arise. In the case of the Irish Peers who do not have a position in the House of Lords, they may be Members of the House of Commons; but they are there in their personal capacity, not because they are Peers. And in the United Kingdom a Peer is disqualified if he is elected to the House of Commons. The House is aware that Sir Alec Douglas Home had to give up his peerage, and he gave up his Earldom of twelve generations for sitting in the House of Commons for a brief period as the British Prime Minister. In Australia, section 43 of the Australian Constitution Act says:

"A member of either house of Parliament shall be incapable of being chosen or of sitting as a member of the other house."

What does it mean? That constitution is quite clear and has in mind that a member cannot have dual allegiance, that he must be a member of one legislature alone and not of two legislatures at the same time.

In Canada "A senator shall not be capable of being elected or of sitting or voting as a member of the House of Commons." This is also the Canadian practice.

In Eire, under the constitution "no person may be at the same time a member of both Houses of the Oireachtas, and, if any person who is already a member of either House becomes a member of the other House, he shall forthwith be deemed to have vacated his first seat."

I am mentioning, all these cases just to show that it has been accepted by all constitution-makers that dual membership of any two houses is incompatible with the allegiance which a member is expected to have to the house to which he is elected.

In Japan, under the constitution "No person shall be permitted to be a member of both houses simultaneously."

In the French Republic, article 24<sup>1</sup> of the French Constitution, 1946, was similar to that of article 48 of the Japanese Constitution. Under this Constitution, this matter was left to be regulated by law.

Sir, there is a very significant provision in the Ceylon Constitution. Under section 13(1) of the Ceylon (Constitution) Order in Council, 1948 "A senator shall be disqualified for being elected or appointed or for sitting or voting as member of the House of Representatives." It is not only voting as a member but sitting as a member too.

Sir, very often a person is appointed as a Minister without a seat in either House of a Legislature of a State, and yet, as a Minister, he appears in the Legislature to explain Government's policy. Even this is prohibited in Ceylon.

In view of what has happened, the time has come for Government to seriously consider amending the articles of the Constitution to provide for this disqualification, namely, that "If a person is appointed a Member of the Council of Ministers in a State, he is automatically deemed to have vacated the seat which he is holding in another legislature ^,e-where. I think it is only fair 'hat this thing should be done, because it is not proper for a person to have one foot in one camp and another foot elsewhere so that, when that person is defeated elsewhere, does not get a seat there, he can still be certain that he can hold the original seat to which he had been elected.

Sir, I mentioned the cases of my friends, Mr. Jaipal Singh and Mr. Tariq in Particular. I want to make it clear that both of them happen to be very good personal friends of mine and there is ' no personal motive at all in my bringing forward this Bill. Mr. Jaipal ' Singh and I had the honour of working as members of the Press Commission about sixteen years ago, and my hon. friend, Mr. Tariq, is one of those with whom I collaborated in many public affairs. In fact, I had toM Mr. Tariq that I was going to bring forward this Bill because of what happened in this case.

I hope that the Law Minister would not take the stand that the Constitution need not be amended. When once this fraud on the Constitution has been practised, it is time that we took note of it and tried to amend it. I was trying to find out whether this amendment could be secured by any suitable provision in the Representation of the People Act.

But when article 101 stipulates and the subsequent articles stipulate the disqualifications of a Member, it is only appropriate that the provision has got to be made in the Constitution itself, and it is with that purpose that this Constitution (Amendment) Bill has been brought forward.

I am sure that all sections of this House will approve of the object of this Bill, because what it seeks to do is not to create any political problem, but to shut a lacuna in our constitutional arrangement, so that the kind of thing that has happened in Bihar and in Kashmir may not happen again. I hope that Members of the House would give their consent to this Bill. I do not know what the fate of this Bill would be because, as the Law Minister pointed out, the necessary quorum is required for passing this Bill. But even if he says that this is a Bill which commends itself to the Government also, it will be a very substantial advance, and it is likely that the Bill may come up later on during the Session, and we may try to get the quorum necessary under the Constitution for passing this Bill. I hope that this Bill would be adopted by all Members here without any dissenting voice because what I am seeking to do by this Bill is to establish 3 very sound constitutional principles that there shall be no dual membership of legislatures for any purpose whatsoever so that the kind of things that have happened in the recent past may not happen again.

*The question was proposed.*

THE MINISTER OF LAW (SHRI P. GOVINDA MENON): Why not have this on another day?

SHRI BHUPESH GUPTA (West Bengal): Today we have started it.

SHRI A. D. MANI: We are having it today and it may continue.

SHRI BHUPESH GUPTA: I -ise to support this Bill and I am grateful to the hon. Member because he has given us a chance to touch upon a rather sordid subject taking into account the Congress practice specially in the recent years.

I do not see as to why there should be double membership continuing for any period when a Member has been elected to one of the Houses of Parliament here—this House or the other House—and to an Assembly or Council somewhere else. Why should double membership continue for even & single day? The hon. mover, of course, has been guided in this matter by the fact that some became Ministers elsewhere and yet continued for some time to be Members of Parliament. Now, in every single case the guilty party is the Congress. The hon. mover may have his affection for Mr. Jaipal Singh. He may have collaborated with Mr. Tariq. He may have many other connections with the Congress. But the fact remains tort it is the Congress Party which has been doing this kind of thing. Now he referred to the case of Mr. Raja-gopalachari in 1952. I am very giad that he reminded us of what happened there after the First General Elections in which the Congress in the then composite State of Madras secured only 150 seats out of, if I remember aright, 357 seats. Thereby it was reduced to a minority party there. Although it was the single largest party, it was not the majority party. And then you know how the Congress Party started manoeuvring instead of letting the non-Congress combination—I believe at that time it was led by Shri Prakasam—to form a government. But then the Congress Party found that it was not quite competent to bring in the requisite skill for manoeuvring and so they went to Shri Rajagopalachari, the ex-Governor-General of India, and requested him to become the leader of the Congress Party there and to head a Congress minority Ministry. That

is how Shri Rajagopalachari was brought in and formed a government.

SHRI S. S. MARISWAMY < Madras): Not only Congressmen but all the independents also joined in requesting him.

SHRI BHUPESH GUPTA: Anyway, you are better informed on the subject. The fact remains that Shri Rajagopalachari—now the leader of the Swatantra Party—came to their relief and led the relief squad and he led the relief operations in the sense that he came and formed a government there. He was not even a Member of that House at that time. It was thought he would be elected later on. He formed a Congress Ministry in Madras, That was the beginning of it all' as far as this proposition goes.

Then what happened? Here recently they took my hon. friend Shri Tariq from here. He was a Member of Rajya Sabha and I do not know why he went to Kashmir to become a Minister. He became a Minister, but even there he did not become a 100 per cent. Minister. He became, so to say, a 75 per cent Minister, i.e. he was a Minister of State. He was already a Member of Rajya Sabha and he became a Minister In Kashmir. Later on he was dropped like a hot potato and I do not know what his fate will be when he retires next <month. Now, that much about Mr. Tariq.

Next take the case of Shri Jaipal Singh, the great sportsman. The Congress Party was in trouble in Bihar because of a variety of reasons and it was at that time interested in winning a section of the Jarkhand Party. So immediately a ministership was offered to Shri Jaipal Singh and Shri Jaipal Singh become a Minister in Bihar and retained his membership of the Lok Sabha.

SHRI M. P. BHARGAVA (Uttar Pradesh): If Mr. Bhupesh Gupta will

permit me for a moment, I would like to draw the attention of the House that the hon. Member in charge of the Bill is not present in the House.

SHRI BHUPESH GUPTA: The hon. Member in charge of the Bill had asked me to go on, as he has some important thing to do outside. You see, the Member in charge of the Bill sits along with people who are quite competent to tackle the subject even in his absence.

SHRI M. P. BHARGAVA: Should he not be here?

SHRI BHUPESH GUPTA: As far as your Ministers are concerned, whether they are present or absent it makes no difference whatsoever. Anyway, he is here now.

SHRI A. D. MANI: I am sorry. I am here, Sir.

SHRI BHUPESH GUPTA: He is now here. Well, as I was saying, to win the Jarkhand Party, Shri Jaipal Singh was taken in as a Minister. Not only that but Mrs. Jaipal Singh was also made a Minister.

AN HON. MEMBER: She is a Minister here.

SHRI BHUPESH GUPTA: Mr. Jaipal Singh, a Member of the other House became a Minister elsewhere without being a Member of that House. That was a wonderful thing. The purpose was, as I said, somehow or other to win over sections of the Jarkhand Party. Even that did not save the Congress and so the Congress was defeated in the last general elections. Now they have again returned to the same old game and we suddenly see that a Soshit Dal has appeared.

SHRI ARJUN ARORA (Uttar Pradesh): It was the S.V.D. which played the game with the great SSP led by my learned friend Shri Rajnarain. They made Mr. B. P. Mandal a Minister while he was a Member of the Lok Sabha and he remained there *tor*

five months and twenty-nine days.

SHRI BHUPESH GUPTA: I am not concerned with that marriage at the moment.

SHRI ARJUN ARORA: My hon. friend may not be concerned, but the party supported by my hon. friend's party, the SVD in Bihar, they did it. What was done in the case of Shri Jaipal Singh was done by the SVD again in the year 1967.

श्री राजनारायण: इस देश में एस० एस० पी० एक शानदार पार्टी है और मैं यह कहना चाहता हूँ कि हम श्री बिन्देश्वरी प्रसाद मंडल को जानते हैं। इस समय डा० लोहिया जी नहीं हैं। उस समय डा० लोहिया जी ने उनसे कहा था कि तुम लोक सभा के लिए चुने गये हो, इसलिए तुम यहां आओ, तुम वहां पर नहीं रह सकते हो। लेकिन कांग्रेस पार्टी के चपरगड्ढुओं ने और दूसरे लोगों ने डा० लोहिया जी को इसके लिए मनाया और उनके पास आये और कहने लगे कि उनको वहां पर रहने दिया जाय। (Interruption) डा० लोहिया जी ने कहा कि खबरदार जब तक श्री मंडल का वहां से इस्तीफा नहीं हो जाता तब तक कोई बिहार का मिनिस्टर हमारे कमरे में न आये। इस पर कांग्रेस के लोगों ने उन्हें लालच दिया और कहा कि कोई हर्ज नहीं है अगर एस० एस० पी० तुम्हें टिकट नहीं देगा तो हम दे देंगे। लेकिन एस० एस० पी० ही एक पार्टी थी, जिसने कहा था कि हम तुम्हें कौंसिल में सीट नहीं देंगे चाहे तुम पार्टी में रहो या न रहो, चाहे तुम सरकार में रहो या न रहो। हमारी पार्टी सिद्धान्त के लिए है, सरकार के लिए नहीं है। इसलिए हमने जिसको अपनी पार्टी से निकाल दिया; क्योंकि कोई व्यक्ति सरकार के लिए नहीं है और सिद्धान्त के लिए हमने उनको निकाल दिया। जिसे हमने थूका उसे ही आपने चाट दिया और फिर उसी को आपने

श्री राजनारायण]  
 चीफ मिनिस्टर बना दिया। ( Interruption) जब हमारा मोका आयेगा तो हम इस चीज के बारे में डिटेल्स बतलावेंगे।

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, I am very glad my hon. friend Shri Rajnarain has given us some information. I may add to it a little. I also had talks with Dr. Lohia. He is not here. In fact, he is no more with us. But I must say to his credit that never did he reconcile himself to it. He told me one day—I still remember it—"Bindeshwari Prasad Mandal is a traitor. He must resign or I shall treat him as a traitor." And every time I talked to Dr. Lohia, I could feel his sense of abhorrence and indignation against that kind of behaviour on the part of Mr. Mandal even when he had not formed his Soshit Dal, even when he was still a member of the SSP. I must say that to the credit of the late Dr. Lohia. He did not want men like him in his camp. Mr. Arjun Arora knows it very well, though he may not like to agree with me now, but the S.S.P. might, because they never compromise against principles and they never accepted Shri Bindeshwari Prasad Mandal to continue in their camp and certainly Dr. Lohia knew it and his close associates here know that. And who corrupted Mr. Bindeshwari? I would like to know that from Mr. Arjun Arora.

SHRI ARJUN ARORA: He was already corrupt.

SHRI BHUPESH GUPTA: No, no. You are such corrupt people that you even want to corrupt people who are already corrupt. You think they are not sufficiently corrupt and so you want to corrupt them further and hence the emergency of the Soshit Dal sponsored by K. B. Sahai and backed by the money owned by Mr. K. B. Sahai. The Soshit Dal was created by them. And now you see What this Soshit Dal is doing. They

are abolishing a particular measure that the Coalition Government passed in Bihar. They had abolished land revenue *pn* certain <sup>1</sup>lands and now the Soshit Dal is restoring it. That is what is being done by the Soshit Dal there. So you see, here also the Congress Party started corruption. They did it because they wanted to topple the Bihar Ministry, the Coalition or United Front Ministry there. And they relied on undependable, careerist, opportunist elements like B. P. Mandal who became a renegade from his party, betrayed his election pledges and sold his conscience and himself to the Congress Party and to Mr. K. B. Sahai. And what is more? The Congress Party accepted him as the leader of the Soshit Dal-Congress alliance. These are the people who teach us morals and tell us that the SSP brought in Bindeshwari Prasad Mandal. Now he would not listen to it. That is the trouble with my friend. They accepted him as the leader of the alliance of the Congress and Soshit Dal. Although the Congress Party is a big party in the Bihar Assembly and Soshit Dal has got only about 17 members or so, these people sitting opposite accepted as their leader a renegade of a 17-man Party and they have the temerity to tell us that Bindeshwari Prasad Mandal was a responsible member of the Socialist Party.

SHRI ARJUN ARORA: They have got 39 members and 41 Ministers.

THE VICE-CHAIRMAN (SHRI RAM NIWAS MIRDHA): Now you can come back to the Bill.

SHRI BHUPESH GUPTA: This Is the Bill. This gentleman continued for six months as Minister and also as Member of Lok Sabha despite the fact that the leadership of the Party asked him to come to Lok Sabha to which he had been elected. He did so in league with the Congress Party, under the instigation of the Congress Party, having been corrupted by the.-

Congress Party. Then what happened? They wanted to make him the Chief Minister even without his being a member of the Council. Then they got him nominated or some such tiling and he is now a member of the Council and has been made the Chief Minister. Meanwhile a stop-gap Chief Minister appeared. What is his name? I forget now. It was so manipulated that till the time Mr. Bindeshwari Prasad Mandal was found a seat in the Upper House somebody will be a stepney Chief Minister.

**श्री भोटे मुराहरि : (उत्तर प्रदेश) :**  
**एक दिन का सुलतान ।**

SHRI BHUPESH GUPTA: It was done and now Mr. Bindeshwari Prasad Mandal by the grace of the Congress Party, through downright corruption and treachery, happens to be the Chief Minister of the Bihar Government. Now that is why I think this matter should be considered. Mr. Mani has done, witri-out perphaps knowing it, a great service to the country.

SHRI A. D. MANI: I knew it very well.

SHRI BHUPESH GUPTA: I am always afraid when you will become a Minister. I am always looking out for it because I find somehow or other the Treasury Benches have an attraction for Mr. Mani.

SHRI A. D. MANI: They also like me.

SHRI BHUPESH GUPTA: I am sure they like you and they would like to kidnap you. But we hope that you shall not be kidnapped from these Benches into their Benches. Because who goes into a sinking boat except the absolutely wretched elements in the political life? We know Mr. P. C. Ghosh and some others also went in but where are they now? We know where they will be. Therefore I am sure, you, being a cleverer person and more worldly wise in politics, know surely how the business is go-

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ing on there and naturally I expect that you will not join them.

So here it was done and the Congress Party has supported all kinds of corruption. Parliamentary institutions and the Constitution have become for them devices for somehow or other clinging on to power directly or indirectly—directly where they can and indirectly where they must. Therefore in Bihar today they made that gentleman, whose conduct comes very much within the scope of this Bill, the leader of the Congress-Soshit Dal alliance and the Congress Party is behind him. Yet the Congress Party would not come out there to share the responsibility of Government. They would not form the Government themselves; neither would they join the coalition Ministry. They have got as shiJcand a renegade to run the Bihar Administration and the Bihar Government is doing the puppetry of the Congress Party which is behind the scene. So there is some point in what Mr. Mani says and this arrangement should not be allowed to continue.

Mr. Vice-Chariman, as far as the Upper House is concerned, I think the Upper Houses should be abolished.

SHRI A. D. MANI: Excepting Rajya Sabha.

SHRI BHUPESH GUPTA: I am more and more coming to the conclusion that perhaps this House also should go because I will tell you why. *{Interruptions.}* I know that we shall all be casualties but institutions are not meant to serve us; we are supposed to serve the institutions. What does it matter if Mr. Arjun Arora or if some of us disappear from the scene? There will be others to take the place. Here you see how they are using the Council everywhere. Wherever there is a Council the Congress Party has been manipulating and using the Council for conspiratorial purposes, for defying the electorates verdict, for committing fraud on the Constitution, for insulting and humiliating the Speaker



[Shri Bhupesh Gupta.] and for indulging in political corruption of all kinds. We have the example of West Bengal; we have the example of Bihar. And what is more when the Congress get defeated in the general election and fail to get majority in the lower Houses they continue to have a majority in certain cases in the Upper Houses which they utilise for creating all kinds of confusion and difficult situations for the majority party or for the group of parties in charge of the Government. Therefore I say the time has come for us to reconsider whether we should have them. In our view the Upper Houses should go. I say so because no useful purpose is served. For example, I sometimes feel if it is not better to have a Lok Sabha if you like of 700 or 750 members so that constituencies are made smaller and more direct representation given instead of having two Houses of 750 or 760 members because we are now only just dittoing. There was a time when this<sup>1</sup> House used to assert itself under certain conditions but nowadays I find that this House is losing that character gradually because of certain political developments. In the first place the Congress Party enjoys here a much larger majority than in the other House where actually is the test of popular support behind the various measures. SHRI A. D. MANI: May I interrupt him for a moment? The hon. Member is one of our oldest Members and he knows very well that this House, more than the other, has brought certain important matters to the forum of Parliament. But for us there would have been no enquiry into the Kairon case. Why should he belittle the work of this Chamber?

SHRI BHUPESH GUPTA: It was not the voice of the House that brought it out; it was the voice of the individuals that brought it out. If it be so, let us be in the other House. I am not saying, abolish this right now. Let us consider this question— I am not saying that this House

has not made any contribution. Certainly it has but nowadays I find with the kind of hammering that goes on, with the kind of banging of the table that goes on in high quarters, we do not know where we are now. We find that even some of the rights that we acquired in the last fifteen or sixteen years are being taken away and the Congress Party people are submitting to it. Dr. Radhakrishnan and Dr. *Yakub Hussain* had created certain traditions in this House and one by one everything is being taken away. I do not know who is taking away or how it is being taken away. That is not my point here. We have been asking questions in the old days too. Never had it occurred to anybody in the days of Dr. Radhakrishnan that there should be some limit to a particular question, some limit to supplementaries and so on. Never it arose at that time. Does it mean that at that time we were not pursuing the questions. Does it mean that people were not asking questions then? Does it mean that the Question Hour was . . .

SHRI A. D. MANI: I want to correct him. May I ask the Member whether it is not a fact that when Dr. Radhakrishnan was the hon. Chairman of this House, he gave five minutes to each question and sometimes he asked Mr. Bhupesh Gupta to sit down like a student and he sat down as a humble student?

SHRI BHUPESH GUPTA: Mr. Mani, I have been a little longer here than you are. The day Dr. Radhakrishnan entered here, I also came here. Since then, somehow or other, I have continued. There was a way of handling

it. Dr. Radhakrishnan sometimes allowed many supplementaries depending on the nature of the question. You can go through the proceedings here. Now, everything has changed. I know Mr. Mani. I understand his difficulty. He is an independent. He will ever remain an independent, because no Party will adopt him.

SHRI A. D. MANI: Do not say that.

SHRI BHUPESH GUPTA: Swatantra Party will adopt you. You do it. I stand corrected by him. The Swatantra Party will adopt him, but I do not know. Our esteemed friend, Mr. Dahyabhai Patel, has not spoken on the subject as far as this is concerned, but anyway he thinks that he is eligible for the Swatantra Party. Now, what do you see? At that time many things happened that way and it was more lively. Today we find as if something of a—well, I do not say it—as if we are in the midst of somehow or other a sort of drill. A sort of drill has started. Now, what is the use of having this House? Strange things are happening and we cannot discuss things. Yet, Dr. Radhakrishnan—I must say to his credit—allowed such matters to be specifically discussed in this House. We now trail behind the Lok Sabha.

Take, for example, I am surprised how we are getting habituated to the usurpation of our rights and privileges. Before the emergency, there was a type of grouping of questions. Every Minister was called upon to answer oral questions twice a week. Grouping was done in this manner. The Prime Minister, the Home Minister and every Minister would come twice a week to answer questions. At the time of emergency, they<sup>1</sup> said: because the Ministers would be busy with emergency matters the grouping should be changed in order that Ministers could come only once a week to answer questions and not twice. They would be expected to deal with urgent emergency matters in their offices. We all agreed. Now, even after the emergency has gone—the story is very old, five years old—the same grouping remains, i.e., the Ministers come here only once a week to answer questions rather than twice a week as it used to be from 1952 to 1962. It is the end of parliamentary democracy when you gradually get habituated to the usurpation of your rights and privileges.

There are many other things which I can cite. Some amendments had taken place in the Rules of Procedure

of the House, no doubt, but nowadays we cannot do many things here unless, of course, we are prepared to create scenes. Thank God, we have got our friend, Mr. Ramarain, here, to look after that aspect of the matter. Otherwise, we would have been in a very difficult situation. Some people ask why Mr. Rajnarain creates trouble like that. *(Interruption)*. I say, the way they are running parliamentary institutions we need not one but perhaps more Rajnarains in this House. I agree. They are trying to divide the two of us all the time, but we have teamwork. I have my own way of doing things and he has his own. Together, I believe, we make a team. We make a guerilla squad here in Parliament. *(Interruptions)*. In this House, this question should be discussed as far as this business is concerned.

You should make up your mind from where you want to contest and to which House you wish to come. Mr. Bindeshwari Prasad Mandal contested a seat for Lok Sabha. He wanted to come to Lok Sabha. Perhaps at that time the gentleman did not have the mental courage to think in terms of Government. When he found the Congress gentlemen divided, he forced the Samyukta Socialist Party—an excellent party in Bihar and in many ways a fighting party—to accept him as a Cabinet member. It was a kind of blackmail. I must tell Mr. Rajnarain that if any Communist Party member had done this kind of blackmailing, as Mr. B. P. Mandal did with Dr. Lohia or the Samyukta Socialist Party, we would have expelled him straightway. We have also sent Ministers to various Governments. If he shows a tendency to become a Minister, before the Party has decided it, we go against him. We do not contemplate proposing his name for joining a government. Unfortunately our friends were so generous in Bihar. But I think they have learnt from it. It was therefore that Dr. Lohia was full of hatred for him. That man should have been expelled when he defied the central leadership. He should have been expelled then.

[Shri Bhupesh Gupta.]

and there from the party. That was ' the time to expel him and put him out of harm's way and probably he was not creating certain scenes at that time. Perhaps we were in a better situation to handle him at that time, rather than allow him to enter into a conspiracy with the Congress Party to strike a blow, to stab us in the back, as he has done now.

Mr. Tariq is an hon. Member who went there. He liked to become a Minister. When Mr. Tariq felt that some day he should also become a Minister, he went to Jammu and Kashmir. I do not blame him. After all, human beings have all got their weakness. Who does not like to be a Minister among the Congress Party, for example? Therefore, he went there. He thought perhaps that he was lost there. It was a personal weakness on his part. It is a good thing perhaps in a way, that he went there.

As far as Mr. Jaipal Singh is concerned, he is an opportunist, I must say, with all respect to Mr. Jaipal Singh, because, on the one hand, he was lighting the Congress here vehemently. On the other hand, he was having discussions and negotiations with the Congress Party in Bihar in order to be included in the Cabinet. I think that is not right. He was also a Member of Lok Sabha. The double role was not good at all. As far as Mr. B. P. Mandal is concerned, it is a scandalous case. It is a shame and a dishonour. The more we think of that man the more we feel ashamed of him. It is a disgrace to Mr. Mandal. It is a caricature in public life, a monstrosity parading as the Chief Minister of a State. He is an ugly pimple in the entire constitutional set-up of the country, one who had sold himself, who had betrayed his party, who had broken faith with the electorate. Everything is done and the Congress Party has allowed him to continue as a member, in defiance of all norms of democracy, of the other House! Therefore, I think there should be some disqualification

in such a situation and it is necessary that we provide for it in our Constitution rather than in the Representation of the People Act. I say this because it will be necessary to guard against this kind of thing. Now, you will ask: Does not defection take place in your favour? I say 'Yes'. Defections have taken place, not from one side only, but from both sides, but then there are defections and defections. If, for example, Mr. Gujral defects and joins better company, that would be a defection in public interest.

AN HON. MEMBER: Which company?

SHRI BHUPESH GUPTA: Our company. It will be a defection in public interest. If, for example, in the Legislative Assembly under the British somebody had defected from the British side and joined the opposition, that would have been a progressive defection, defection in public interest. Defection at that time we would have certainly described as in national interest and we would have welcomed the defection. In fact, Chittaranjan Das in the Bengal Council at that time tried to bring about such defection in order to harass the British. It was a good thing. Nobody questioned at that time. But if there is defection from this side—take, for example, my friend, Mr. Murahari; he will never do it; he would rather die than do that; I have great faith in him; suppose he defects from this side to that side as Mr. Chandra Shekhar or Mr. R. P. Sinha has defect, ed, that is a retrograde defection, defection against public interest, defection against democracy, defection to strengthen the forces of reaction or monopoly power of the Congress. Therefore, these are of negative significance, these defections.

SHRI ARJUN ARORA: Mr. Chandra Shekhar has not strengthened reaction. He has strengthened the left wing.

SHRI BHUPESH GUPTA: Left wing in the Congress, I do not say very much about it because that is not my

subject. Mr. Arora, you think you are a left wing in the Congress . . .

SHRI ARJUN ARORA: You are a rightist in the Communist movement.

SHRI BHUPESH GUPTA: Whatever it is, I am where I am.

SHRI DAHYABHAI V. PATEL (Gujarat): Run with the hare and hunt with the hound.

SHRI BHUPESH GUPTA: I do not know what they are. My friend says, they run with the hare and hunt with the hound. But the trouble is, many of these friends have lost the capacity either to run or to hunt. That is the difficulty. Therefore, with all respect, I would not use that figure of speech here or this metaphor here, because they do not have the capacity of doing either. Therefore, what I say is, in all cases of defections the electorate should have the right to recall the Member and ask him to seek re-election. I am ready for it. That should apply to all parties. No matter who defects, the electorate, the constituency, should have the right to ask him to resign and force him to seek re-election if he wants to sit in the House. That should be done. No harm. They would go to the people and take their opinion and verdict instead of doing the horse-trading here.

Mr. Vice-Chairman, I think we should apply our minds to this problem of defections. But please understand it that the instability which has arisen today is not because of defections. Defections are only a symptom of the political uncertainty and instability inherent in the situation which has arisen today as a result of the fast disintegration of the Congress Party and its moral and political decay. That you must understand. You must not confuse the symptom with the disease itself. Defection is the symptom. Disease lies somewhere else. Therefore, you see what kind of thing they are doing. The Congress Party today is the instigator of

defections. They tell us that you people are defecting from this side or that side. They say that we have got such people on our side. But who has done it on a large scale with a view to bolstering reaction against the verdict of the electorate, in order to throttle parliamentary democracy and strengthen the position of reaction? Who has done it? The Congress Party in Punjab, Shri Gill sits there because of the double dealing and treachery of the Congress Party.

SARDAR RAGHBIR SINGH PANJHAZARI (Punjab): No, no. Not in Punjab .

SHRI BHUPESH GUPTA: It is the most insidious wire-pulling.

SARDAR RAGHBIR SINGH PANJHAZARI: Of Bengal you can say that.

SHRI BHUPESH GUPTA: That is why Shri Gill sits there. But these men of the Congress Party do not form the Government there. They have kept up Shri Gill. The biggest party is there, but it has not the moral courage to come and say, "We will form the Government". Therefore, they allow themselves to be prostituted in the interests of the monied classes and put out such people there as Shri Gill and so on, defectors and traitors, in order to serve the cause of reaction.

In Bihar, they have done the same thing. Seventeen people they got hold of after a lot of money having been spent. As I said before, I repeat now that Mr. Sudhansu does not belong to the opposition. He is still a member of the Congress Party in Bihar. He was Speaker of the Bihar Assembly, Congress Party Speaker. He has made a public statement which appeared in the Bihar papers and other papers that the Congress Party had done the greatest disservice to parliamentary democracy by indulging in corruption, by indulging in such matters.

SHRI P. C. MITRA (Bihar): It was your Communist miaftac, Shri Indra-

[Shri P. C. Mitra.]

dey Sinha, who was defeated in election, who was taken as Minister in the Bihar Ministry of the United Front.

SHRI BHUPESH GUPTA: My friend says, the Communists were defeated. Who was defeated? We sent two Ministers to Bihar, one Indradev Sinha, a member of the Legislative Council, and another Shri Chandrashekhar . . .

SHRI P. C. MITRA: It is the other way. He was put up as a candidate in the Assembly general election, and he was defeated.

SHRI BHUPESH GUPTA: How many of you will remain here?

SHRI P. C. MITRA: He also stood for the general election for an M.L.A. seat and he was defeated, but he was taken in as Minister. Do not talk of morals.

SHRI BHUPESH GUPTA: My friend thinks that he can meet my point by an exhibition, somewhat hysterical, of his irrelevance, but you cannot meet my point.

SHRI G. MURAHARI: Also ignorance.

SHRI BHUPESH GUPTA: I always yield. I admire your \_ interruptions. That gives me a chance of hitting you. You criticise us for having sent, if you like, a member of the Legislative Council to the Cabinet as Minister. You criticise. In fact, I am asking you to abolish the Bihar Legislative Council. Mr. Indradev Sinha will not be there as a member if it is abolished and he will not be a member of the Cabinet. You cannot put forward this argument when you are not ready to consider the proposal for abolition of the Bihar Legislative Council or for that matter other Legislative Councils. When we were in the coalition Ministry in Punjab, we recommended the abolition of the Punjab

Legislative Council, the Upper House. Therefore, I am not here at the moment dealing with that subject. You can have your views. You can say that no one who is not a member of the Lower House directly elected should be a member of the Cabinet. But then Shrimati Indira Gandhi would have to come here to apologise for having committed that sin.

SHRI G. H. VALIMOHMED MOMIN (Gujarat): Where is the sin? She was a Member of the Rajya Sabha. She can take that up under the Constitution.

SHRI BHUPESH GUPTA: Whether Shrimati Gandhi enters by the front door or by the backdoor . . .

सरदार रघुबीर सिंह पंजहजारी : आप मारेलिटी की बात करते हैं। इस हाउस के दो मेम्बरों जनरल इलेक्शन में हारे, नेमली मिस्टर संजीवैया और मिस्टर टी० एन० सिंह और वह आज कैबिनेट में आपको दिखाई नहीं देते, लेकिन फिर आपके असेम्बली की सीट पर जो हारे उनको आपने मिनिस्टर बनाया, यह आपका स्टैंड है ?

SHRI BHUPESH GUPTA: My esteemed friend is a lovable person but more in the Central Hall than perhaps here. Why don't you mention Mr. A. P. Jain, the whole bunch of defeated Congress candidates made Governors, not only Rajya Sabha Members? What about them? Oh! you are making them Chairmen of the various Committees?

5 P.M.

THE VICE-CHAIRMAN (SHRI RAM NIWAS MIRDHA): You have finished?

SHRI BHUPESH GUPTA: I have not finished.

THE DEPUTY MINISTER IN THE MINISTRY OF LAW (SHRI MOHAMMAD YUNUS SALEEM): Sir, the hon. Member is supporting the Resolution but his speech is beside the point -Mr. Vice-chairman, you will be pleased to see that this

Bill is to seek some amendment of article 101 of the Constitution. The learned mover is expected to throw some light on the wisdom behind this amendment sought to be introduced on the floor of this House. We are not interested in the doctrine of defection, whether defection should be allowed or should not be allowed or whether it should be permitted or it should not be permitted. And what happened in other Legislatures or what happened in other States is not the question here. Therefore, may I request you to ask the learned speaker to confine himself ...

SHRI G. MURAHARI: He has just entered the House. He has absolutely no right to comment on the speech of Mr. Bhupesh Gupta. He has not been in the House, he has come here just five minutes back.

SHRI BHUPESH GUPTA: I would ask Mr. Murahari not to be uncharitable to our friend there. He is a new occupant of the Treasury Benches and naturally, he cannot be expected always to be present here or to become relevant or to understand what I am saying.

SHRI MOHAMMAD YUNUS SALEEM: I have brought it to the notice of the Vice-Chairman, I did not address you. It is for the Chair to say whether your speech is relevant or irrelevant. To my mind, it is a most irrelevant speech.

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, he is saying that the hon. mover is moving the Resolution. I am not the mover; neither ...

SHRI MOHAMMAD YUNUS SALEEM: I know that.

THE VICE-CHAIRMAN (SHRI RAM NIWAS MIRDHA): Please resume your seat.

SHRI BHUPESH GUPTA: Do not blame him. So, I continue the next day?

THE VICE-CHAIRMAN (SHRI RAM NIWAS MIRDHA): Yes.

#### THE KUTCH AWARD DOCUMENT

THE MINISTER OF STATE IN THE DEPARTMENTS OF PARLIAMENTARY AFFAIRS AND COMMUNICATIONS (SHRI I. K. GUJRAL): Sir, with your permission, on behalf of the Prime Minister, I beg to lay on the Table of the House the introductory and concluding chapters of the Award of the International Tribunal on Kutch which the Government of India have received from the Tribunal in Geneva. Perhaps, Members might like to ask for the circulation of it. I might add that the Award is being printed and I think by Sunday night or by Monday, we will be in a position to hand over the document to the Secretariat for circulation to the Members also.

THE VICE-CHAIRMAN (SHRI RAM NIWAS MIRDHA) The House stands adjourned till 11.00 A.M. on Tuesday.

The House then adjourned at four minutes past five of the clock till eleven of the clock on Tuesday, the 27th February, 1968.