

wanted the new Parliament to be called on the 15th March. The Government has rejected it. The Government can reject and in certain matters they can advise.

MR. DEPUTY CHAIRMAN: Have you any reply, Dr. Keskar?

'SHRI BHUPESH GUPTA: The Government can certainly advise. I would ask him only to write to the Election Commission giving a kind of advice. Whether they abide by the advice or not is a different matter.

DR. B. V. KESKAR: Let me answer one point. The point is, I think it is better—I have two suggestions to make—that Mr. Gupta might see the film himself. Secondly, whatever he has said, we have produced it on behalf of the Election Commission and it would be advisable for him to take up with the Election Commission all the grievances that he has regarding the matter. Lastly, whatever he has to convey, if he gives it, I will convey to the Election Commission.

SHRI BHUPESH GUPTA: Thank you very much. Let this be done. Let him convey and I will approach them . . .

AN HON MEMBER: I want to ask a question . . .

MR. DEPUTY CHAIRMAN; No.

SHRI BHUPESH GUPTA; I want to hear him Sir . . .

MR. DEPUTY CHAIRMAN: It is for me to allow or not to allow.

**ANNOUNCEMENT
FROM THE CHAIR *RE* RESULT OF
VOTING ON THE AMENDMENT TO
CLAUSE 3 OF THE CONSTITUTION
(ELEVENTH AMENDMENT) BILL,
1961**

MR. DEPUTY CHAIRMAN: On Tuesday, the 12th instant when the House divided on the amendment moved by Shri R. P. Sinha to clause 3 of the Constitution (Eleventh

Amendment) Bill, 1961, many Members stood up and represented that they had not correctly understood the proposition before the House and had not, therefore, been able to record their votes properly. Some Members pointed out that they had not voted at all; some Members stated that they had voted for the amendment by mistake; and one Member represented that he had voted *against* the amendment instead of *for* it. I permitted those Members to give their names and their names were accordingly recorded and taken into account for the purpose of declaring the decision of the House. The decision as announced was.

Ayes .. 25 Noes ..

134

On checking up with the photo stat copy of the division list, it is found that 10 Members whose names had been recorded as stated above had in fact taken part in the voting and their names are included among the "Ayes" list. What these Members had requested was only to correct their mistake and transfer their names 'from the "Ayes" list to the "Noes" list. In announcing the result of the division, although the names of those ten Members were included in the "Noes", they were not excluded from the "Ayes". One Member who had voted with the "Noes" by mistake but who wanted to correct his mistake was also included in the "Ayes" list at the time of announcing the decision. His name had not also been taken out of the list of "Noes".

Under sub-rule (5) of rule 214A of the Rajya Sabha Rules, if a Member finds that he has voted by mistake by pressing the wrong button, he can bring the matter to the notice of the Chair before the result of the division is announced and would be allowed to correct his mistake.

It will thus appear that there was an error in the announcement of figures of the Division. The House has al-

[Mr. Deputy Chairman.] ready taken a decision on the amendment and this error has absolutely no effect on it. However, I consider that the correct position should be on record.

I have accordingly directed necessary corrections to be made in the records of the House of December 12, 1961. *The result of the voting as so corrected will be:

. Ayes .. 15

Noes .. 134

SHRI BHUPESH GUPTA (West Bengal): Sir, on a point of order. I have a submission to make.

DR. R. B. GOUR (Andhra Pradesh): Before the division result is announced you should make the announcement, not afterwards.

SHRI BHUPESH GUPTA: This is a very unprecedented procedure. It is unprecedented, whether it is right or wrong. I have a submission to make. Now according to your ruling What happens? Some people had voted. Their votes were rightly recorded on the authorised voting machine that is there. It is not disputed that they were wrongly recorded. They were rightly recorded. You declared the results of the voting and accordingly the particular amendment was disposed of on that voting and that was correctly voted as far as voting was concerned.

SHRI SONUSING DHANSING PATIL (Maharashtra): On a point of order.

SHRI BHUPESH GUPTA: There cannot be a point of order on a point of order. Let me finish . . .

SHRI SONUSING DHANSING PATIL: I demand my right. There cannot be a point of order on the Chairman's ruling.

SHRI BHUPESH GUPTA: The Secretary will kindly advise him regarding the rules. With regard to voting . . .

(Interruption.)

*See cols 2096 2099, Rajya Sabha Debates, Vol. XXXVI, No. 12.

SHRI 'SONUSING DHANSING PATIL: The hon. Member . . .

MR. DEPUTY CHAIRMAN; **Let** him finish.

SHRI BHUPESH GUPTA: No need to get upset. I am not now questioning "your motive or any such thing. I only draw the attention of hon. Members of the House to certain things which have taken place. The voting was done and the votes were recorded. They were rightly recorded so far as the voting was concerned, pressing the buttons and all that. It is not as if one Member pressed the "Noes" button and the result was recorded as "Ayes". In such a case a correction would have been necessary. But there was no such mistake and on the basis of that voting the result was declared. Some Members evidently represented to you immediately after. They could not have represented to you before. They must have represented to you immediately after the recording was done, that they had not understood and so on. They made the representation to you after it was over. And now they want to have it rectified.

SHRI AKBAR ALI KHAN (Andhra Pradesh): You yourself said that it was all confusion.

MR. DEPUTY CHAIRMAN: What is your point of order?

SHRI BHUPESH GUPTA: Let me develop the argument, Sir. You have given a very iserious ruling here and it may go down in the history of our parliamentary proceedings. Therefore, I would ask you to reflect on it and give second thoughts to it.

MR. DEPUTY CHAIRMAN: Yes.

SHRI BHUPESH GUPTA: The position is like this. Assuming—I am giving an analogy—there was a "No confidence motion" against the Government, that the voting took place and the Government had fallen. After that, some Members come

and say, "Though we voted in a particular way, we have now cleared our mind. Due to confusion we had voted that way." Will that mean reviving the Government and all proceedings, the no-confidence motion and all that, being treated null and void? It cannot happen. May's *Parliamentary Practice* should be gone through. Even one vote, whatever be the confusion, if it is there, it stands. It cannot be rectified. In the Bengal Assembly, under the British, an occasion arose when after having got the Government down, somebody who had voted against the Government on the no-confidence motion, wanted to say he had voted in confusion. But it was not accepted. This is a serious thing that you are doing, Sir. You are declaring something null and void. It is not null and void as far as those fifteen votes are concerned. You should, therefore, maintain your position. The Constitution (Amendment) Bill has been passed and now if you give this ruling what will happen in the Supreme Court? If somebody goes to the Supreme Court and challenges that part of the Constitution on the basis of your ruling, that this Constitution (Amendment) Bill, the eleventh one, I think, was not properly passed, what will happen? There will be difficulty. In fact, you are opening the flood gates to litigation. In the Supreme Court, if somebody files a petition after the electoral college is formed, that the voting on the Bill was not all right, that this Constitution (Amendment) Bill was not properly passed, what will happen? I submit, therefore, that this is a serious matter.

MR. DEPUTY CHAIRMAN: Have you finished?

SHRI BHUPESH GUPTA: You should try to listen to the opposite argument, Sir.

MR. DEPUTY CHAIRMAN: I am listening to you.

SHRI BHUPESH GUPTA: Sir I know that in the House of Commons over such a matter the discussion goes on the whole day, and you want to finish it in five minutes. Do it; we are certainly wiser.

SHRIMATI T. NALLAMUTHU RAMAMURTI (Madras): There was no change in the Members' minds. It may have been a mechanical error.

SHRI BHUPESH GUPTA: Not a mechanical error. I may inform Shrimati Nallamuthu Ramamurti that it was not a mechanical error. If it were a mechanical mistake, then it would be absolutely right to rectify that mechanical mistake. If a Member says that he pressed for "NOES" and the machine recorded "AYES", then it would be very right to rectify that error or mistake. That mechanical recording is wrong and it should be set right. That is quite different. I maintain that the voting was rightly recorded and after the voting somebody went and told the Chair that due to confusion he had voted wrongly.

SHRI AKBAR ALI KHAN: At that very moment they said that there was confusion, and that there was wrong voting.

SHRI BHUPESH GUPTA: But that confusion was over. Sometimes it happens. But at what time did this happen? The question of time is there. I want a list of those Members and I want to know at what time they represented and in what manner. Assuming they were under confusion, they should have retracted their position according to the parliamentary procedure. Therefore, I would request you, Sir, and say that nothing would be lost if you keep this thing till the next session. Discuss it and then give your ruling. The Constitution (Amendment) Bill has been passed. We have passed it. Here it is only a question of a few votes. Please do not create a precedent in parliamentary procedure in this manner. You give fresh thought to it. Keep it till the next session,

[Shri Bhupesh Gupta.]

And if you think it should be rectified in that manner, consult May's *Parliamentary Practice* and other practices and do it. But for heaven's sake, do not rectify anything now and let us not make a mistake which cannot be remedied.

SHRI N. SRI RAMA REDDY (Mysore): Does the hon. Member believe in heaven?

SHRI BHUPESH GUPTA: Well, I believe in you and so I believe in heaven. As I said, Sir, there is nothing lost now. This is only to satisfy fifteen people. It is only to make fifteen people safe in the Congress Party, because they voted against their Whip, perhaps. Whatever it is, I maintain that they voted conscientiously and clearly then, and it is an after-thought on their part to say that they voted in confusion. What is this thing? Prove it. Let it go to the Committee of Privileges. Every Member who says he voted in confusion should be cross-examined by me to see if he really voted in confusion or really voted in good faith. I say, it was an afterthought to say that on that occasion they voted in confusion. Here, the confusion is an imported idea. It is a clear after-thought. It is an attempt to adjust the parliamentary proceedings to the requirements of the Congress Party.

SHRI AKBAR ALI KHAN: You yourself said you were confused. You see the minutes of our proceedings. You said you were confused.

SHRIMATI JAHANARA JAIPAL SINGH (Bihar): There is considerable point in what Mr. Bhupesh Gupta says, Sir. Why did it take them three days to find out that there was confusion?

SHRI BHUPESH GUPTA: Therefore, my suggestion is that you please revise your ruling. Nothing is lost in wisdom. Wisdom can be wiser still. You pause, think and revise your judgment. That is my submission. Otherwise, it would be

creating a precedent the consequences of which nobody can say. It will be a very serious position. If you cannot do anything now, I would request you to wait till the next session. Have talks in your chamber. Let us produce documents and precedents and then in the light of what we say, you should consider the matter and give your mature judgement, your still maturer judgment, I would say, with all respect to the Chair. That is what I say. Let us not create a precedent of this kind today. If you create it, create it after cool deliberation.

SHRI ROHIT M. DAVE (Gujarat): Mr. Deputy Chairman, I am afraid I will have to request you in all humility to consider whether it is not possible to change your ruling even at this stage. I would like to refresh your memory regarding what actually happened on that day. Sir, on that day there was voting according to the mechanical procedure. After that voting was over, some of the Members complained that instead of voting on the "Noes" side they had, by mistake, voted On the "Ayes" side. They also demanded that there should be fresh voting or that their votes should be recorded as "Noes". At that stage we requested you to let us know under what rule fresh voting could take place. After that, you were pleased to give your ruling to the effect that only those whose votes were not recorded because of any mechanical defect could now get their votes recorded. After that stage was over, you actually declared the result of the voting on that day and we passed on to further business.

May I respectfully invite your attention to Rule 214-B(5) of our Rules of Procedure and Conduct of Business, where it has been definitely stated:

"If a member finds that he has voted by mistake in the wrong Lobby, he may be allowed to correct his mistake provided he brings it to the notice of the Chairman before the result of the division is announced."

Now, Sir, here they drew your attention to the fact but you were pleased to rule at that time that only those whose votes were not recorded because of certain mechanical defects should record their votes and you were at that time pleased not to allow any change as far as the "Ayes" and "Noes" were concerned. Clearly, you were satisfied at that time and this particular objection that is now coming was not accepted by you. I may also request you to look at sub-rule (3) of Rule 214-B in which it has "been stated that the result of a division shall be announced by the Chairman and it shall not be challenged. It definitely means that once "the result has been announced, that announcement is final and nothing can be done as far as changing of that announcement is concerned.

Now, the only question that remains is whether the Chair can correct its own announcement later on or not. In our Rules of Procedure I do not think there is the slightest reference to the Chair desiring to change its own announcement later on.

So, I have to submit three things. Firstly, at that time you were pleased not to entertain the argument of those who had stated that they had recorded their votes by mistake because you definitely gave a ruling to the effect that only those whose votes had not been recorded because of mechanical defects should have their votes recorded. Therefore, it is perfectly clear that you had at that time given a clear ruling. After that clear ruling was given, actually those whose votes had not been recorded got their votes recorded. Those who were seeking to get their votes changed because they had voted by mistake were not allowed to change their votes at that time. After that tellers came to you and gave the actual result. After the result was given, you announced the result. Once the announcement has already been made, it is difficult for us to appreciate how at this stage this particular announcement could be changed. This is a very serious matter and if certain powers are assumed

by the Chair which are not definitely given under the Rules of Procedure, it might happen that we might sometimes request you to assume certain powers not definitely given under the rules and then it will be difficult for you to choose between the ruling party and the opposition party, and to accede to the request of one party and reject the request of another party might involve the Chair in party politics unwittingly, unconsciously, and without meaning it. Therefore, I request you that it is desirable that the Chair should follow the rules strictly and if there is no power given to the Chair—on the other hand by implication it has been definitely stated that that power does not exist with the Chair—the Chair should be very chary in assuming that power because in that case either the ruling party might request you to assume that power or the opposition party might request you to assume that power and the Chair would be definitely embarrassed as a result of these various requests. It is because of the dignity of the Chair and because of the fact that not only should the Chair be impartial but should also seem and look impartial in all matters concerning the House that I have to request you to reconsider your ruling if it is possible even at this stage.

SHRI K. SANTHANAM: While I have much sympathy with the arguments of Mr. Dave, I would like to point out to him that in any case the record is wrong because those people who had already voted had again given their names as having not voted and, therefore, their votes have been recorded twice and we cannot allow a wrong record to exist and so the record has to be rectified. It may be rectified one way or the other; I am not going to discuss that but Mr. Dave is wrong in saying that a wrong record which includes double voting by Members should be allowed to stand as the proper record. Therefore, Sir, it is a question of how to make the record right.

SHRI JASWANT SINGH (Rajasthan¹): Sir, on behalf of my Group I want to associate myself only with*

[Shri Jaswaat Singh.] what has been stated by Mr. Gupta and Mr. Dave. The argument advanced by my friend, Mr. Santhanam, does not convince me in this way. What would have happened if votes were taken by raising hands? If votes had been taken by raising hands and if some Members through confusion or by mistake or without understanding the issue voted wrongly and the result was announced, they could not go back on what they had done. If there was any mistake in mechanical recording, they could represent at that moment and it could be corrected. But there was no mechanical mistake as far as mechanical voting was concerned. They should have represented to you before the result was announced and some of the Members did represent which was overruled by you. On their submission you have reconsidered and similarly it can be reconsidered again when we submit to you respectfully that its consequence* for the future may be very serious and we want to avoid the Chair being placed in an embarrassing position. Therefore, once it has been decided and once the result has been declared by the Chair, it should not so lightly be reconsidered. Therefore, we feel that the voting has taken place and they have voted with full understanding and yet after second thoughts they want to change it. They should not be allowed to change it. There would be no wrong recording as stated by Mr. Santhanam because the record is there.

SHRI K. SANTHANAM: My hon. friend did not understand the position. They stood up and said that they had not voted and their votes were recorded for the second time and thus the total has increased by 15. The total number is more than the number of Members present. How can such a wrong record go in the proceedings?

SHRI A. D. MANI (Madhya Pradesh): I should like to associate myself with what has been said by Members on this tide about the rul-

ing and with very great respect to you, Sir, I would request you to defer the placing of the ruling in our books until the matter is investigated by the Committee of Privileges. There are one or two arguments which were advanced by my hon. friend, Mr. Santhanam. He said that we could not allow a wrong voting to go on record, particularly when the total number had increased.

SHRI K. SANTHANAM: Not wrong voting, but double voting.

SHRI A. D. MANI: Yes, double voting. In that case the votes which were orally declared should be excluded and the original votes as they were seen on this panel alone should be recorded. You could exclude the votes which were declared orally. In any case nobody objected at the time of the declaration of the result of the division that they would not accept it. The time and the opportunity for lodging an objection was then. If any Member had then said, "Please do not allow any Division List now because the voting was wrong", that could have been understood. Now, three days afterwards the vote is changed. This is perhaps the only instance in all history when the vote has been changed three days afterwards.

The other argument that was advanced was that the mechanical instrument was not functioning properly. I saw the voting very carefully in all the divisions. The mechanical instrument was working well! Is there any report from the engineer in charge that the mechanical instrument was not working? If there is a report of that kind, it should be presented to the House. If the engineer had said that the thing was not working, one could have understood. He has not said that; it is only some Members who say that the instrument was not working properly. What happened was that they pressed the wrong button and they have got to pay the penalty of their votes being recorded wrongly. Now, to go and change the whole thing, would be

creating an unfortunate precedent and as my hon. friend, Mr. Bhupesh Gupta said, it might lead also to unsavoury litigation. We want to avoid that. I would suggest, therefore, that this matter should be referred to the Committee of Privileges before the House records its decisions. All these matters, whether the instrument was working properly or not, would have to be investigated by the Committee of Privileges and I would humbly and earnestly request you, Sir, to defer recording your ruling.

DR. R. B. GOUR: Mr. Deputy Chairman, I have got only one small submission to make. Every hon. Member has the right according to the rules to make a representation to you that his vote has been wrongly recorded and you are absolutely within your powers to either recall a vote or to correct that particular vote. What I submit is that once you have announced the results of the division, no representation should be entertained. Even if it were made earlier, the announcement of the division result cannot be changed. You could have done it before the announcement of the result of the division. Now, that you have announced the result, the whole thing has gone on record. In fact, that particular amendment of the Constitution has already gone on the Statute Book. Therefore, now the result cannot be changed. That is what I have to say. That could have been done before the announcement.

MR. DEPUTY CHAIRMAN: Do you want double voting to remain on record?

DR. R. B. GOUR: You should have deferred the announcement of the result for proper recording of the votes. After that has been announced, it cannot be changed now.

SHRI AKBAR ALI KHAN: Mr. Deputy Chairman, Dr. Raj Bahadur Gour was not present on that occasion, but, of course, Mr. Mani was present. Let me remind my friends there that there were many protests. Representation was made to the Chair that

there was confusion. My friend sitting next to me, Mr. Deogirikar, a very senior Member thought that he was voting against the amendment of my friend. Mr. Rajendra Pratap Sinha. So, it was a genuine confusion and this matter was brought to your notice at that very minute. That is one thing.

SHRI A. D. MANI: But nobody objected to the declaration of the division results.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI AKBAR ALI KHAN: Representation was made that there had been a wrong recording of vote. Notwithstanding that I agree with what my friend, Mr. Dave, said, that you gave a decision. Now, I would like to know from my friends, when a ruling has been given or a decision has been given and when certain facts which are definitely incorrect or wrong are brought to light, is it not open to the Chair to correct it? If an opportunity is given, I can argue that case better. Even in the British Parliament when matters and facts were brought to the notice of the Chair, the rulings have changed. So, I say that my friends have not shown any rule showing that once a ruling has been given it can never be changed.

DR. R. B. GOUR: This is no ruling. It is the announcement of results.

SHRI AKBAR ALI KHAN: Whatever it is, as it has been argued why you should change the ruling, I submit that the ruling was given on such facts as were brought to light. For instance, my friend, Mr. Bhupesh Gupta, said that there was confusion and notwithstanding the whip the Party members voted against it. Then, Mr. Sinha said 'No, no. There was no confusion. Notwithstanding the whip certain Members went against the whip and gave their votes.' These two contradictory statements by two leaders representing the two Parties themselves establish the fact that there was confusion. I would submit

[Shri Akbar Ali Khan.] that there is nothing wrong in your reconsidering the matter when very strong and salient facts are brought to your notice. I submit that the ruling that you have given has been given after full and serious thought.

SHRI BHUPESH GUPTA: I submit ...

MR. DEPUTY CHAIRMAN: No more. You have had your say.

SHRI BHUPESH GUPTA: No. about ■double voting I want to say . . .

MR. DEPUTY CHAIRMAN: Order, ■order. Please sit down. You cannot make two speeches on the same thing.

SHRI BHUPESH GUPTA: No . . .

MR. DEPUTY CHAIRMAN: You cannot make two speeches on the same point. Order, order.

SHRI M. GOVINDA REDDY (My--sore): Mr. Deputy Chairman, Member's voting right is a fundamental right here. If a Member votes wrongly or if his intention is miscarried, then, the Member has every right to get it corrected. I suppose Members on the opposite side do admit that.

DR. R. B. GOUR: Can you change the result announced?

SHRI M. GOVINDA REDDY: As far as the carrying of that amendment was concerned, now whether we stick to the old position or whether the position is according to what you have been pleased to state today, it does not alter at all the position. The amendment was negatived. It is not a question of the particular amendment. The constitutional position with regard to the amendment cannot be questioned at all. It is negatived whether we take that position or whether we take this position. Now, the only thing is, Mr. Bhupesh Gupta was pleased to say that somebody may go to the supreme Court and

question it. Nobody can go to Supreme Court because even according to their position there is no question of the amendment having been passed. Now, the only question to be determined is when Members have voted wrongly under a wrong presumption or owing to the confusion prevailing in the House, whether they have the right to get their votes corrected or not. Now, as the House knows, when the amendment was to be voted and a voice vote was taken, hon. Members on the opposite side wanted a division and it was on that question that you took time. And then you asked for Members who were voting "Ayes" for the amendment to stand up in their seats. Then, the vote was taken. But they were not satisfied with that and, therefore, they wanted a division itself. Then it was put to a division. Then, if the question had been put to the House Members would have understood the position of voting. Immediately after that the question was not put and the vote was taken. There the confusion lay. And, therefore, there was, in my opinion, genuine ground for Members who have voted wrongly—and it is not correct and it is not graceful to the Members—to say that their vote should not be recorded in a wrong manner. Therefore, they have appealed to you to correct their votes. I do not see any reason why our hon. Members opposite should object to the announcement which you have now made. It is a sacred right of a Member to get his vote corrected. Hon. Members cannot deny that confusion prevailed in the House, that Members did not know exactly what the question was that was voted upon. Therefore, your pronouncement, in my opinion, is correct. There is no point of order.

SHRI SATYACHARAN (Uttar Pradesh) : Mr. Deputy Chairman, I heard the opinions and especially the arguments advanced by hon. Members on the other side. I must confess that it did not convince me. I must say from my own experience that I was a little bit confused about the

issue and that is why probably I was a little bit late in pressing the button. It was later on that I asked the Deputy Chairman to get my vote registered. So, the issue to which I pay more attention in the matter of precedents; I do not know what precedent is going to be wrong. If the vote has been wrongly registered, and it is going to be rectified, that is a healthy procedure. The hon. Member spoke about the British Parliament. I do not know what exactly he means. But here I may say that we have a right to evolve our own traditions and if there is anything which militates against this procedure, as we have here, I would rather say that we must stick to our own, because we are convinced that the errors that we have committed can be rectified. I think there could not be a healthier procedure than this. Therefore, the ruling that you have given, the procedure that you have adopted, is perfectly correct and commensurate with parliamentary traditions here or elsewhere.

SHRI T. R. DEOGIRIKAR (Maharashtra): Sir, I was one of the victims that day. It was declared that the amendment was lost. And to my surprise I found, when the votes were being taken, that I wrongly voted with Mr. Bhupesh Gupta. I would have never done it in my life. Therefore, your ruling is perfectly correct and it should be rectified.

MR. DEPUTY CHAIRMAN: I think that will do.

SHRI BHUPESH GUPTA: Sir, on a point of order . . .

MR. DEPUTY CHAIRMAN: Order, order. You cannot make another speech now.

SHRI BHUPESH GUPTA: This is not a question of speaking at all.

MR. DEPUTY CHAIRMAN: You cannot make two speeches.

SHRI BHUPESH GUPTA: Where is it said? On a point of order. You must state that rule.

MR. DEPUTY CHAIRMAN: I do not allow it.

(Interruptions)

SHRI BHUPESH GUPTA: You may not allow it, but tell us under which rule you are doing it.

MR. DEPUTY CHAIRMAN: Dr. Kunzru.

(Interruptions)

SHRI BHUPESH GUPTA: I want to protect the dignity of the Chair and we shall co-operate with you, but under which rule. . .

MR. DEPUTY CHAIRMAN: You cannot make another speech now. That is the convention of the House. Order, order.

SHRI BHUPESH GUPTA: Finally, listen to me. When a discussion on a point of order is raised, if certain points are raised, the person who rises on a point of order can. . .

MR. DEPUTY CHAIRMAN: You have no right of reply. Order, order. Please sit down.

AN HON. MEMBER: Please sit down.

SHRI BHUPESH GUPTA: Who is that saying "sit down"?

MR. DEPUTY CHAIRMAN: You have already stated your point of order.

SHRI BHUPESH GUPTA: I have another point to make.

MR. DEPUTY CHAIRMAN: I cannot allow. Please obey the Chair.

SHRI BHUPESH GUPTA: This is the last day. I am standing on firm ground over this matter. You must realise that I cannot always be treated like that.

MR. DEPUTY CHAIRMAN: You cannot make two speeches. Dr. Kunzru.

PANDIT HRIDAY NATH KUNZRU: (Uttar Pradesh): The question is this. What happened the other day may be the result of a mistake on the part of some Members of the Congress Party, but we have to abide by the rules, and it is said here in rule 214-A(5):

"If a member finds that he has voted by mistake by pressing the wrong button, he may be allowed to correct his mistake provided he brings it to the notice of the Chairman before the result of the division is announced."

The result of the division was announced twice that day, and no one brought it to the notice of the Chair before the result of the division was announced that he had made a mistake.

SOME HON. MEMBERS: That is not the case.

MR. DEPUTY CHAIRMAN: They did.

PANDIT HRIDAY NATH KUNZRU: The only thing is that the result of the division should not have been announced, but once the result is announced, I cannot see how the result can be changed now. The Opposition has lost, it does not matter what the number of votes cast for it is, but it is of importance that in a matter like this we should adhere to the rules. The rule is quite clear, and the result of the division was announced. Even if some Members communicated the thing to you earlier, you announced the result of the division, and three or four days after that I do not think that it would be proper to change the result. That Congress Party will not gain by the addition of a few votes. The Opposition will not lose if the total number of votes cast for it is reduced by 10 or 12. But it is a question of propriety, of adherence to the rules laid down for us, and I do not

think that it is desirable at this time that the result of the division should be changed. It would in my opinion be setting a very bad precedent to change the result of the division now.

SHRI BHUPESH GUPTA: I want the Leader of the House . . .

MR. DEPUTY CHAIRMAN: Order, order.

SHRI T. R. DEOGIRIKAR: Sir, I want to explain . . .

MR. DEPUTY CHAIRMAN: No further explanation.

SHRI BHUPESH GUPTA: We want to hear the Leader of the House. The voters in this House do not lose anything but the propriety.

SHRI K. MADHAVA MENON (Kerala): Sir, on one matter we are-all agreed that We did not accept the count shown on the board. That was not accepted by us, that is clear, because some Members came and told you immediately that they had voted wrongly, and in the case of some of them, one or two, the machine did not work and so their votes had not been recorded. So, before you announced the result, some Members came and told you that they had voted wrongly, and they wanted to-correct it. And some Members told you that the machine did not work. You have corrected accordingly, and nothing more has been done. You have corrected the figures in the photostat copy which is not correct, which has not been accepted. You have corrected in the case of those who have voted "Ayes" instead of "Noes". That is all that has been done. Nothing else has been done.

SHRI KRISHAN DUTT (Jammu and Kashmir): Sir, I was one of the victims of the mistake, and you know, Sir, that at that very moment I wanted to correct my mistake. But at that time the ruling given was that Members whose votes had been recorded could not correct their mistakes. By that misconception I could not get my

mistake corrected at that time. I voted against the amendment. I want that to go down in the record.

Sam M. P. BHARGAVA (Uttar Pradesh): Sir, I wholeheartedly support what Pandit Kunzru has said. Rules have to be adhered to. At the same time the point at issue is how to rectify the record. What you announced that day should go in the debates as such, and to rectify the records a footnote may be given that "some ten Members came to me"—their names may be given—"and they represented like this. I allow that this may be recorded like this". The double voting should go and the record should be straightened.

SHRI N. SRI RAMA REDDY: Sir, I was one of those victims who pressed the wrong button, and almost instantly I stood up and brought it to the notice of the Chair. The record on the photostat copy is not the announcement of the Chair. It is only a record. If there was a wrong record, I had a right to represent to the Chair and get my vote recorded correctly, which I have done. Therefore, I represent to the Chair that the ruling given by the Chair is very correct and it should be adhered to.

SHRI B. K. P. SINHA (Bihar): Sir, after hearing Pandit Kunzru I am inclined to share his view. There must be some finality at some stage. What is that stage? That stage, the final stage, is the stage of announcement. Before the announcement is made a Member can represent and get his mistake rectified by the Chair. There is a purpose behind this rule because, if there is no finality at that stage, then even after the votes are announced, after the voting is recorded, there may be intense lobbying and canvassing to go and tell the Chair that he voted wrongly. It would introduce impurity in our parliamentary life. Therefore, I propose to stand by what Pandit Kunzru has said.

श्री राम सहाय (मध्य प्रदेश) : उपसभा-पति महोदय, मैं उस दिन बहुत केयरफुली देख रहा था कि वोटिंग किस तरह से हो रही है। मुझे इस बात का बहुत अच्छी तरह से ध्यान है कि कुछ मੈम्बर्स ने गलत बटन दबाया। खुद मेरे पास एक जिम्मेदार मेम्बर ने गलत बटन दबाया। पहले जब आपने आवाज दी थी और उस वक्त लोगों ने जैसा अपना मत प्रगट किया था, उसके बाद उनसे बटन दबाने में गलती हो गई। इसके साथ साथ यह भी बिल्कुल फैक्ट है कि जिन लोगों ने बटन गलत दबाये थे, वे उसी वक्त खड़े हुए थे। जिस वक्त उन्होंने गामने नक्शा देखा तो नक्शा देखने के बाद उसी वक्त वे खड़े हुए। मुझे इस बात का खयाल नहीं है कि आपने अनाउंसमेंट किया था या नहीं किया था, लेकिन यह फैक्ट है कि जैसे उनको गलती मानूँ हुई, उसी वक्त उन्होंने खड़े हो कर आपसे कहा। जिन्होंने आवाज 'हाँ' में दी थी या 'ना' में दी थी, वे अपने वोट को बदलवाना नहीं चाहते थे, बल्कि बटन को दबाने में जो उन्होंने गलती की थी उसको उन्होंने आपके सामने रखा था। कुंजरू साहब ने जो रूल बताया वह ठीक है, लेकिन इसमें कोई ऐसा सवाल ही नहीं है। इसलिए मैं समझता हूँ कि जो प्रोसीडिंग्स यहां चली हैं, उनमें किसी तरह की गलती नहीं हुई है। तो मेरे खयाल में जा डिजिजन आपने दिया है वह मुनासिब है।

SHRI J. N. KAUSHAL (Punjab): Mr. Deputy Chairman, Sir, I have with very great respect heard the views which have been expressed on both sides of the House.

DR. R. B. GOUR: Do not speak as a lawyer, speak as a judge.

SHRI J. N. KAUSHAL: I do not want gratuitous advice.

I

SHRI BHUPESH GUPTA: You want advice which is paid for.

SHRI J. N. KAUSHAL: My submission is that the view which Dr. Kunzru has propounded seems to be highly technical or rather even beyond that. Nobody is questioning that the proper occasion for bringing something to the notice of the Chair is when the vote is recorded. Well, everybody knows what happened that day. Nobody can deny this. It is also admitted that wrong votes were recorded in confusion. Now you considered that matter and since the result of the voting was not going to matter this side or that side, probably this point prevailed with you and you said: All right, it does not matter, we will announce the result as it was. But, Sir, may I know why the House is so insistent on getting a wrong thing recorded? Every authority has an inherent right to correct something which is wrong, unless there is some bar in the rules. These are all enabling rules. There is no rule which says that once a ruling has been given or once an announcement has been made which is wrong, that can never be rectified. I have some experience as to how laws are administered. Sir, this right has never been denied to any authority which administers the law to always say, 'Well, there was a mistake'. If we want to perpetuate a mistake in this case, then that mistake is not going to affect the result one way or the other. I do not know why Members of the Opposition are trying to take this stand which is, I would say, hypertechnical. The position is that certain hon. Members want their votes to be correctly recorded and the Chair feels that they have a right to get their votes correctly recorded. I do not know what prevents the Chair from doing this. The rule which Dr. Kunzru is bringing to the notice of the House has no relevance to what happened that day. Therefore, Sir, my submission would be this. Some Members say that a very wrong precedent is being set up or something is going to happen. Well, I do not see how any such thing is going to happen. On the other hand, Sir, the basic thing is that we do not

want any wrong thing to go on record.

MR. DEPUTY CHAIRMAN: Is it your opinion, Dr. Kunzru, that same-thing which has wrongly been recorded should remain on record?

(Interruptions)

SHRI BHUPESH GUPTA: Sir, I do not understand one thing. I want to know . . .

SHRI GANGA SHARAN SINHA (Bihar): Sir, there is one thing which I would like to know. Under what authority can you entertain or consider any complaint regarding the voting after the announcement of the result? I want to know the specific authority under which you can exercise this power.

MR. DEPUTY CHAIRMAN: There is no complaint. I am only anxious that something which has been wrongly recorded should be correctly recorded.

SHRI K. MADHAVA MENON: The complaint was there before the results were announced.

SHRI GANGA SHARAN SINHA: Sir, you overruled all those complaints, and after the announcement you cannot entertain any other complaint. .

MR. DEPUTY CHAIRMAN: I am not entertaining any complaint. Now what is sought to be done is only to correct something which has been wrongly recorded. According to the rule read by Mr. Dave and also referred to, 'by Mr. Akbar Ali Khan, every Member has got a right to bring it to the notice of the Chair if there is any wrong voting and that wrong voting can be corrected. Some names were given but we had to verify them from the photostat copy which came to us only the next day. We could not verify them before that

SHRI GANGA SHARAN SINHA: Sir, that authority is limited by the wording 'before the announcement of the result'.

MR. DEPUTY CHAIRMAN: The record has to be corrected.

SHRI BHUPESH GUPTA: Sir, it has been stated that there was double voting. There was no double voting.

MR. DEPUTY CHAIRMAN: We find from the record that ten Members whose votes have been recorded on the photostat copies also gave their names that they had not voted.

SHRI BHUPESH GUPTA: Here, Sir, it is not a question of double voting.

MR. DEPUTY CHAIRMAN: But there cannot be ten votes more.

SHRI BHUPESH GUPTA: Suppose, Sir, I vote for "Ayes" and then I come and tell you, "No, it was out of confusion. I wanted to vote for 'Noes' and all that". Then in that case before you announce the result, certainly you can correct *my* vote. But after you have announced the result the matter is set at rest. After that stage it cannot be reopened.

MR. DEPUTY CHAIRMAN: Nobody's vote is being taken away, whether it be for "Noes" or for "Ayes". But we find that there has been double voting in the case of ten Members. Therefore, the only thing sought to be *done* is to correct the position so that there is no wrong recording.

SHRI BHUPESH GUPTA: Is it your contention that your recording machine did not correctly note or record how they voted?

MR. DEPUTY CHAIRMAN: That is what they represented. Here is a rule which says:

"If a member finds that he was voted by mistake *by pressing* the wrong button, he may be allowed to correct his mistake provided he I

brings it to the notice of the Chairman before the result of the division is announced."

And it was brought to my notice.

SHRI BHUPESH GUPTA: I am conceding that point that it was brought to your notice at that time. But at that time you did give consideration to this matter.

MR. DEPUTY CHAIRMAN: I could not, because the photostat copy was not before me.

SHRI BHUPESH GUPTA: Sir, the photostat copy has recorded correctly. What they now say is at variance with the manner in which they voted. Now they want to revise it.

MR. DEPUTY CHAIRMAN: Nobody wants it to be revised. I am only anxious that the record should be correct. Nobody's vote, whether it is for "Ayes" or for "Noes" is being taken away.

SHRI BHUPESH GUPTA: Suppose, Sir, you were in the House of Commons and we had voted like this and suppose it was a "no confidence" motion against the Government and the vote was on our side in this way. The Government would have fallen. Would it have been open to you, as the Speaker of the House of Commons, to declare after three days "No, Government has not fallen, because some Members voted in confusion. Therefore, the 'no confidence' motion is not carried and the Government is restored."?

MR. DEPUTY CHAIRMAN: That is a hypothetical question.

SHRI BHUPESH GUPTA: It is an analogy, Sir.

(Interruptions.) MR. DEPUTY CHAIRMAN: Order, order.

SHRI SATYACHARAN: Sir, I move for closure. We have had enough discussion. We have got other impor--tant business.

MR. DEPUTY CHAIRMAN: Rule :214 A (5) read by Mr. Dave says:

"If a member finds that he has voted by mistake by pressing the wrong button, he 'may' be allowed to correct his mistake provided he 'brings it to the notice of the Chairman before the result of the division is announced."

On the day on which the votes were recorded several Members represented that they had made wrong voting and, therefore, their vote was recorded by voice. This could not be checked up with the photostat copy which came to the Office only the next day. And I find that ten persons have voted -twice. What is now sought to be done is only to correct the records in consonance with the photostat copy, and nobody's vote is taken away either for "Ayes" or for "Noes". I find that there is no point of order and the ruling given is correct.

SHRI GANGA SHARAN SINHA: "Sir, in protest against this ruling we walk out.

SHRI ROHIT M. DAVE: A wrong precedent is created.

SHRI BHUPESH GUPTA: Sir, we do not accept that ruling. Therefore, -we also walk out in protest.

MR. DEPUTY CHAIRMAN: You "cannot protest.

(At this stage some Hon. Members left the House.)

12 NOON

BESOLUTION RE SETTING UP OF A PERMANENT MINORITIES COMMISSION—continued.

MR. DEPUTY CHAIRMAN: I find from the records that Mr. Bhupesh Gupta has moved his Resolution. So if any of the Members wants to speak on the Resolution, he can do so, after

I place the Resolution before the House.

The question was proposed.

श्री पी० ना० राजभोज (महाराष्ट्र):

उपसभापति महोदय, राष्ट्रीय एकता और तादात्म्य की आज जितनी आवश्यकता है उतनी मिर्फ आजादी प्राप्त करने के पहले ही थी क्योंकि पंचवार्षिक आयोजना को सफल कर के हमारा उद्देश्य केवल आर्थिक तथा औद्योगिक प्रगति का पहिया ही मजबूत करना नहीं है, किन्तु चीन के आक्रमण को रोकने के लिये तथा पुर्तगाली सत्ता से मुकाबला करने के लिये सरकार के हाथ मजबूत कर के उसके पीछे एकता से खड़े रहने की आज आवश्यकता है और इस दृष्टि से मैं श्री भूपेश गुप्ता के इस प्रस्ताव की तरफ देखता हूँ। इस प्रस्ताव का उद्देश्य तो ठीक है किन्तु प्रश्न यह है कि माइनोरिटी कमिशन नियुक्त कर के वह प्रश्न हल होगा या नहीं ?

हमारे भारत में शुरू से ही ऐसी बात हुई है कि यहां अनेक प्रकार की माइनोरिटीज हैं। आर्थिक, धार्मिक, सांस्कृतिक तथा सामाजिक कारणों से ऐसा हुआ है। और यह बात माननी ही पड़ेगी कि इसमें से ही भाषावाद, सम्प्रदायवाद, जमातवाद तथा जातीयवाद पैदा होते हैं और हुए हैं। इसलिए हमें यह देखना होगा कि क्या श्री भूपेश गुप्ता की जो सूचना है, क्या वह सूचना माइनोरिटीज के प्रश्न को हल कर सकती है या नहीं ? भाषायी माइनोरिटीज के लिए हमने संविधान के मुताबिक भाषायी अल्पसंख्यकों का संरक्षण करने के लिए एक कमिशनर नियुक्त किया है और उसकी दो रिपोर्टें आ चुकी हैं। भाषायी मामले को लेकर आसाम में जो दंगे हुए वे अब खत्म हो रहे हैं। उससे जो दो भाषायी गुटों में बैर-भाव पैदा हुआ था वह मिट रहा है। मुख्य मंत्रियों की परिषद् में तथा नेशनल इन्टीग्रेशन कान्फरेन्स में इस प्रश्न पर विचार हो चुका है। उसके बारे में मुख्य मंत्रियों की परिषद् ने कहा है कि :