

श्री शीलभद्र याजी : जजों को कांग्रेस कमेटियां नहीं नियुक्त करती हैं ।

श्री विमलकुमार बनारालालजी चौरङ्गिया : श्री याजी के इन्टरप्शन का जवाब नहीं है । मैं नहीं समझता कि वे कोई नई चीज कह रहे हैं । वे तो एक ही डन्डे से हांके जाने वाले आदमी हैं । मैं जरा खुलामे से बतलाऊंगा कि जजों की नियुक्ति किस प्रकार की जाती है । जजों की नियुक्ति चीफ मिनिस्ट्रों के एडवाइस पर की जाती है । चीफ मिनिस्टर को मंत्रिमंडल के सदस्य इस बारे में एडवाइस करते हैं और मंत्रिमंडल को एडवाइस करने वाले लिटिल लिटिल नेहरू, लिटिल लिटिल गान्धीज होते हैं । ये लोग कहते हैं कि हमारे डिस्ट्रिक्ट के अमुक-अमुक आदमी को इस जगह में एपाइंट किया जाना चाहिये । इस तरह से लोएस्ट लेवल से लेकर हाइएस्ट लेवल तक यह चेन बनी हुई है जो जजों की नियुक्ति के बारे में एडवाइस कर सकती है और इसमें से मंत्रिमंडल और शासन के लोग हट नहीं सकते हैं । इसलिये हम सब बातों को देखते हुये यह अत्यन्त आवश्यक है कि श्री भूपेश गुप्त ने जो संशोधन इस सम्बन्ध में रखा है उसको स्वीकार कर लिया जाना चाहिये और राष्ट्रपति जी को इस बारे में सब अधिकार दे दिये जाने चाहिये । मैं माननीय मंत्री जी से प्रार्थना करूंगा कि वे इस बात से सहमत होंगे और इस बात को मान कर वे डेमोक्रेसी के सिद्धांत को ही विकसित करेंगे । हमें इस देश में जनतन्त्र की पद्धति को विकसित करना है और इसके लिये जो भी अच्छे संशोधन हों, उन्हें हमें स्वीकार करना चाहिये । इसलिये मुझे आशा है कि माननीय मंत्री जी इस संशोधन को स्वीकार करेंगे । इन शब्दों के साथ मैं आशा करता हूं कि मैंने इस बिल में श्री गुप्त जी के संशोधन के बारे में जो विचार व्यक्त किये हैं उस पर मंत्रिमंडल अवश्य विचार करेगा ।

## ANNOUNCEMENT RE. ALLOCATION OF TIME FOR GOVERNMENT BUSINESS

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): I have to inform Members that the Business Advisory Committee at its meeting held today has recommended the allocation of time as follows for Government and other business during the remaining part of the current session:—

### Time allotted

1. The Hindu Adoptions and Maintenance (Amendment) Bill, 1962 30 minutes  
(In addition to the time already taken)
2. The Appropriation (Railways) No. 5 Bill, 1962 1 hour
3. The Electricity (Supply) Amendment Bill, 1962 1 hour
4. The Companies (Amendment) Bill, 1962 1 hour
5. The Foreigners Law (Application and Amendment) Bill, 1962 1 hour
6. The Metal Tokens (Amendment) Bill, 1962 30 minutes
7. The Petroleum Pipelines (Acquisition of Right of user in Land) Bill, 1962 30 minutes
8. The Appropriation Bill, relating to the Supplementary Demands for Grants (General) for 1962-63 1 hour
9. The Defence of India Bill, 1962 3 hours  
30 minutes
10. The Customs Bill, 1962 2 hours
11. The Pondicherry (Administration) Bill, 1962 30 minutes
12. The Indian Tariff (Amendment) Bill, 1962 30 minutes
13. The Warehousing Corporation Bill, 1962 1 hour
14. The State Associated Banks (Miscellaneous Provisions) Bill, 1962 30 minutes
15. The Delhi Motor Vehicle Taxation Bill, 1962 30 minutes
16. The Manipur Sales of Motor Spirits and Lubricants Taxation Bill, 1962 30 minutes

	Time allotted
17. The Gift-tax (Amendment) Bill, 1962	1 hour
18. The Workmen's Compensation (Amendment) Bill, 1962	1 hour
19. The All-India Services (Amendment) Bill, 1962,	1 hour
20. Motion regarding measures for maintaining prices of essential commodities at reasonable levels	2 hours

The Committee also recommended that Friday, November 23, 1962, at present allotted for Private Members' business may be allotted for transaction of Government business.

The Committee further recommended that in order to be able to complete the business by November 23, 1962, the House may curtail or dispense with the lunch hour and sit beyond 5 p.m. as and when necessary.

The House stands adjourned till 2.30 P.M.

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

The House reassembled after lunch at half-past two of the clock, THE DEPUTY CHAIRMAN in the Chair.

#### THE CONSTITUTION (AMENDMENT) BILL, 1961 (TO AMEND ARTICLES 74, 123, 124, 217 AND THE SECOND SCHEDULE)—continued.

SHRI K. SANTHANAM (Madras): Madam Deputy Chairman, the desire to define precisely the relations between the President, the Cabinet and Parliament is not unreasonable. Many of us in the Constituent Assembly approached this question from that point of view, but after a prolonged discussion we found that under the British system of Cabinet government, it was not possible to define

this relation precisely. If we wanted to define that relation precisely we would have had to adopt the Presidential system, where the executive, the legislative and the judicial powers are more or less wholly separated. My friend, Mr. Bhupesh Gupta, has raised the question of the relation between the President and the Cabinet. If he had thought a little deeper, he would have found that the relations between the Cabinet and Parliament are no less important and no less difficult and delicate than those between the President and the Cabinet. Under the Indian Constitution, the President has a dual role, one is that of a constitutional head and the other that of a guardian of the Constitution. It is as a constitutional head he functions ordinarily. Normally whenever there is a majority party and a Cabinet having the support of that party, the President's function is more or less to advise informally, but to accept the decisions of Parliament and the Government. But even in normal times extraordinary situations may arise when the President may have to come down and say: "I shall not accept your advice and I will take all the consequences, including that of impeachment." For instance, suppose a Government simply because it has got a two-thirds majority resolves to abolish Part III—Fundamental Rights. What is the President as the guardian of the Constitution to do? I think it is his business to advise the Government that it should not do it, it should not misuse its temporary majority for such a vital destruction, as it were, of the Constitution. And I think he will be entitled to tell the Cabinet: "You can go and impeach me, I am not going to agree to it." He may refuse to agree to it and dissolve Parliament and leave it to the people to decide. To say that he must even in such a case simply put his signature, that is, Cabinet advice shall be absolutely binding, will mean that the Constitution will be absolutely at the mercy of a wavering executive. Then, again, let us conceive of a situation where the Cabinet is