

here just now, stated that the Court was going pronounce something at 4.30 p.m. and therefore he delayed it.

The hon. the Minister for Parliamentary Affairs this morning-it bears repetition suggested that by 5 o'clock, the Government will have a position, fully thought-out strategy, a fully thought-out approach of how to meet this constitutional impasse that has been created in the country. If all that the Government wanted to say was that they were going to await the judgment of the various courts of the land, it did not require that the House be treated on this fashion. And in the morning, what was to be said about the court's deciding it? Courts are going to decide not because the Government had asked them to decide. Courts will decide because it is the duty of the courts to decide. They will decide it in due time. We are not going to determine when the court decides. Is it the suggestion of the Government that outside of the decision of the courts, the Government has no viewpoint on the most unprecedented constitutional impasse that has been created? And if that is the position of the Government, then it is highly unsatisfactory. What is doubly unsatisfactory is the manner in which the entire House has been treated because in the morning it was suggested by the Minister for Parliamentary Affairs that they would come forward with a fully thought-out position of the government. This is a a hoax that has been played not only on this House but on the country. And certainly to me, it is nout acceptable. And I appeal to you, that given the gravity of the situation, the unprecedented nature of the challenge that the republic faces, this is no way for the Government to treat it. And I appeal to you, in whatever fashion you decide, to please, for the sake of the Parliament, find a better way than this kind of response from the Government.

17.45 hrs.

RE: STATEMENT BY MINISTER

Explaining the steps being taken by the Union of India to resowe the dead lock created by the order dated 2nd August, 1933 of the Chief Election Commissioner of India.

SHRI SOMNATH CHATTERJEE (Bolpur): I cannot but protest very strongly against the cavalier attitude in which the Government is taking up this matter. They seem to take the Hcuse for granted in almost an attitude of flippancy in a very serious matter of the constitutional crisis. This is the way, how the Government behaves. We have not been told whether the Government has gone to court. Government has nothing to do with the proceedings so far. Therefore, the Government will just wait in the side, in the wings to find out what is happening in the court as a mere spectator. This House, this sovereign House of the country will sit quietly for the purpose of their finding out what the court said, at what point of time, nobody knows, and the entire constitutional process in this country, the electoral process in the country has come to a halt. An whatever the Supreme Court, the hon. Supreme Court may decide, I do not wish to say anything on that. Supposing, it decides that the Election Comrmissioner has powers to postpone the elections indefinitely, will this country be satisfied with that? Will this House be satisfied with that? I am asking this with all solemnity. Mere ascretainment of the quantum of jurisdiction or the extent of jurisdiction of the Election Commissioner under the present law, under the present constitution position does not satisfy the needs of the hour. The question is, whether there will be elections or not, whether the Rajya Sabha should be fully constituted or not, whether the Assembly should be fully constituted or not, whether the legislative council should be constituted or not, whether the voters will have the right

[Sh. Somnath Chatterjee]

to franchise or nout. These are the basic issues in this country. What has happened to these? Then, what was the *tamaha* going on in your Chamber yesterday? Why were we called yesterday? What was the necessity of the leadersmeeting? And we came out of the meeting thinking that there was almost a consensue. (*Interruptions*).

You substitute any word you like.

MR. SPEAKER: I think, the senior Member himself will withdraw it.

SHRI SOMNATH CHATTERJEE: Very well, if you say so. A ceremony was going on, an empty ceremony was going on in the Speazker's Chamber in the presence of the Prime Minister. Why did he ask for suggestions from us? Why did he participate in the discussions that we had if they were only waiting for the court's decision? This is the way, the house is being treated, the country is being treated. We cannot but most strongly condemn the inactivity on the part of the Government, the bankruptcy on the part of the Government. Sir, I cannot but express our suspicion that the Government wanted his elections to be stopped.

They know that their results will be disastrous. Therefore, I now see that either they are collaborating or they are colluding with the Election Commission. If the Government cannot react to this, the House, as the custodian of the Constitutional Rights, and the rights of the people of this country, must wake up and do something. We request that a proper approach should be taken in this matter.

SHRI CHANDRA JEET YADAV (Azamgarh): Sir, I want to say something on this: Sir, our party treats this crisis as an unprecedented democratic crisis and also as a Constitutional crisis. And we are very

disappointed, highly disappointed, that when such a serious crisis has arisen, the Government is taking it in a very casual manner and the Government gives this scope that the Government itself is a party to it. That was the doubt and apprehension which was expressed here. Now, we are confirmed by this fact that the Government is in collusion; the Government does not think that this is the proper time for the ruling party to hold elections, and, therefore, the Government is not doing anything.

The Chief Election Commissioner who is responsible for creating this Constitutional and democratic crisis, was prompt enough to seek the remedy from the Supreme Court. But, the Government did not think it proper to go to the Supreme Court against that most undemocratic decision of the Chief Election Commissioner. Therefore, Sir, what we were expecting at the least is that this Government should have gone to the Supreme Court to seek immediate remedy for this Constitutional crisis.

Sir, we were given to undersetand about another thing. We are grateful to you that when the Government was sitting just quiet and paralysed, you took some initiative; seeing the importance and gravity of the situation, you took the initiative and called for a meeting. We are very grateful to you for your intervention; your initiative must be appreciated.

Sir, what we demand for the solution of this Constitutional crisis immediately is that this Government should come forth with a Constitutional Amendment. We demand for a multi-party member Election Commission, at least, a three-member Election Commission, with equal status-not that there should not be a Chief Election Commissioner-and also, the Chairmanship of the Election Commission should be by rotation every year. And then, the appointment of the Election Commiissioner

should not be left to the Government. We have seen, how whimsical people have been appointed and how they have created this Constitutional deadlock. Therefore, this is a high time and we demand that a Constitutional Amendment should be brought, a methodology should be adopted so that an impartial person, an outstanding person should be given this Authority. And, the Chief Justice of India, the Speaker of Lok Sabha and the Chairman of Rajya Sabha should recommend the names and they should be the members of the Election Commission.

We condemn the attitude of the Government, and we again, request through you, that the Government should not take it lightly. Tomorrow, the Government must call for a meeting of all parties. (*Interruptions*).

SOME HON. MEMBERSE: Why tomourrow? It should be called now only.

SHRI SOMNATH CHATTERJEE: Let a decision be taken today itself.

SHRI CHANDRA JEET YADAV: Sorry. I agree that the meeting should be called now itself. This is an important discussion which is going on and I would not like this discussion to be discontinued. Earlier, Sir, you were kind enough; you may, again, take the initiative, if the Government is not able to do it.

MR. SPEAKER: No, no.

SHRI CHANDRA JEET YADAV: Why not, Sir? This is a crisis where our democratic process and our democratic structure is at stake.

MR. SPEAKER: Members on both the sides are quite capable to handle this situation by themselves.

SHRI CHANDRA JEET YADAV: What is the capability, Sir? Are you seeing any

capability on that side? Is it the way of demonstrating one's capability? (*Interruptions*).

SHRI SOMNATH CHATTERJEE: Sir, we feel let down by the attitude of this Government.

SHRI CHANDRA JEET YADAV: After this debate is over, you please call this meeting Sir.

SHRI SOMMATH CHATTERJEE: Once the Government has accepted the Attorney Generals opinion as you have categorically stated just now, what stands in your way of at least forming a multi-member election commission?

[*Translation*]

SHRI SURYA NARAYAN YADAV (Sahasra): Mr. Speaker, Sir, I will not take much time of the House. Some learned hon. Members had opposed the decision taken by the Election Commission, but it had no effect. Therefore, I am afraid that in India, the democracy is being attacked in the same way as is being done in Pakistan. The democracy in Pakistan has become a thing of mockery and that is what is going to happen in India also. Sir, we should be vigilant because now similar things are happening here also. It is a murder of democracy. You are also following the same way and spoiling every thing.

[*English*]

SHRI VISHWANATH PRATAP SINGH (FATEHEPUR): Mr. Speaker Sir, we are aghast at the statement of the hon. Law Minister. After the concern expressed by the House yesterday, after the expectation that was created today by the Government itself and after the serious consultations that took place in your Chamber, the statement that has come today is something that has totally

[Sh. V.P. Singh]

shocked us and certainly, I am sure, has disappointed you also. It confirms what I had said in this House that this Government has declared a lockout on governance itself. It is no surprise Sir. The highest executive is expected to decide and decide when the country is in the deepest crisis. That is what is expected of the executive. But what can we expect when here we witnessed in the Ramaswami's case the Prime Minister along with the whole governing party press the abstention button? Basically this is the character of the government in matters of crises—that is to press the abstention button. Here today also it has done the same.. Here today also it has done the same.

Now there is a constitutional deadlock. The Attorney General was called. He has given the opinion. The government had all the time to consult. Finally what has come out is that they are hiding behind a court litigation in which they themselves are not a party. If they had any earnestness about the court, then they ought to have become a party right today to to put their points of view before the court and come out with a decision.

SHRI H.R. BHARADWAJ: We are a party. We joined on the same night.

SHRI VISHWANATH PRATAP SINGH: Anyway, we do not know what your position is.

SHRI H.R. BHARADWAJ: You are wrongly stating the facts; I must correct you.

SHRI VISHWANATH PRATAP SINGH: In such matters when democracy itself is at stake, they are taking recourse to drift along with litigations; when it is decided the we will comes out with a solution. There come a time when political will will have to be exercised before the nation. If they had preceived it, as all of us did it in the House

yesterday, when the country is in difficulty they would have seized it as the moment to exercise the political will. With almost all the leaders- I am not to refer to what transpired in your Chamber—certainly there was a unanimity even in the House that the process of elections in a democracy cannot be held up even for a minute, what to say wait till the end of the litigation. Are we giving a signal that this can be stopped had we sit in this House representing ninety crore people quietly saying that your authority can be compromised and we will sit quietly?

Even for a second, we cannot allow it. Therefore, it is time today, not to wait for litigation. If that is held up, to exercise political will, we are here; we extend all support and cooperation, we said, "On this matter, we are all one," But, sometimes like in a fused bulb, trying to put a high voltage to get light all of us together we joined you.

*So, I have not much to say, Yesterday, in many of our minds, Mr, Seshan, the Chief Election Commissioner was in the dock, Well, I do not argue. Today, the Government is in the dock, after this statement. It has condemned itself, what to say of taking the issue not seriously? It is not taking itself seriously. That is of coming up with a solution when such deadlock comes.

I think, Sir, today—after the concern has been expressed—the Prime Minister himself should come and explain the position as to what they are going to do. And here, we are going to sit in the night and take the country out of the deadlock, We are here to do it.

[Translation]

SHRI ATAL BIHARI VAJPAYEE (Lucknow): Mr. Speaker, Sir, you might remember that in the noon when we had raised this matter and asked the Government to give a statement in this regard, shri Vidya

Charan Shukla had said that some new developments had taken place. He was expecting some further developments and was of the view that Government should be given some time. The Government begged time till 5.00 p.m. Shri Shukla is not present. Shri Bhardwajji is sitting here. The statement made by the Government does not give indication of any new development. the matter is sub judice. We knew that the people have taken The matter is in the court. The Election Commission has taken the matter to the court. What is Government doing? Shri Bhardwaj ji has just now said that they are also joining. Mr. Speaker, Sir, will the Government not take any initiative in this regard?

Mr. Speaker, Sir, we had suggested to send for the Attorney General. I had thanked you in the morning for summoning the Attorney General in the House to express his opinion. However we would like to have discussion on the views expressed by him. The Government has accepted his views in toto but for us, it would be difficult to do so. We cannot held the Election Commission guilty in all the matters. We cannot consider it an ally or subsidiary to the Government. After the formation of the Constitution, the Election Commission has emerged as an independent body. It is entrusted with the duty of holding free and fair elections. Elections should be held in a very unbiased manner. After all, India is the largest democratic country in the world. Newly democratic countries of the world come to see the election process in India. I don't know what impression they might be having to see the deadlock between the Government and the Election Commission.

Mr. Speaker, Sir, the second initiative was also suggested by the opposition. Advaniji had suggested to convene a meeting of all parties. All parties were invited and some suggestions were given in the meeting. The Government assured to consider the

suggestions.. How far the Government has considered these suggestions? Can the Government enlighten us about its stand in this regard?

Mr. Speaker, Sir, the constitution was amended in 1988. The Election Commission was empowered to discipline the staff. I was going through the proceedings. The Government already has given such powers to the Commission. That is why the Election commission refers to the constitution and law time and again. At that time, Shri Shankaranandji was the Minister of Law. shri Advaniji had indicated it in brief. I would like to place before the House the two quotations from the speech made by Shri Shankaranand. I am quoting:-

[English]

"As the hon. Members are aware, the Election Commission is dependent on the machinery of the State Government concerned both in respect of the work of preparation, revision and correction of the electoral rolls and actual process and the work in connection with the actual conduct of elections. The staff involved in the election work function under the superintendence, direction and control of the election Commission. It has now been found necessary that they should also be accountable to the Election Commission for their action. The amendments have been proposed to ensure that such staff shall be subject to the discipline of the Election Commission when they are drafted for election work."

[Translation]

The Attorney General has stated that though it can have disciplinary control yet it is not a disciplinary authority. But I was surprised to go through the speech of Shri Shankaranand. Shri Saankaranand has stated that it will be a disciplinary authority. I

[Sh. Atal Bihari Vajpayee]

before the House.

am quoting him:

[*Translation*]

[*English*]

SHRI RABI RAY (Kendrapada): Mr.

"Thus, the State Government employees are subject to dual control, one by the State Government concerned in respect of the regular work and another by the Election Commission in respect of the election work. It is, therefore, felt necessary that the disciplinary control over the State Government staff in respect of work relating to election should be vested in the Election Commission."

Speaker, Sir, you did the right thing that day and immediately convened a meeting of leaders on our request in which the hon. Prime Minister was also present. Today, I would like to put forward one thing before you. In what way the Parliament should react on the mental bankruptcy of the government? Being the Speaker of the House, you are the custodian of its rights. The pride and dignity of our parliamentary democracy for which we are known throughout the world, and we claim of having a mature democracy, has come under cloud in the present regime.

It is for you to see further.

Today the issue before us in that since our's is a Parliamentary democracy, the elections are its integral part. The Government does not know when the elections will be held and the Election commissioner has stated that elections will not be held till December.

[*English*]

"An amendment, therefore, has been proposed that such staff would be deemed to be on deputation to the election Commission so that they are brought under its disciplinary authority."

I would like to make a request. I did so that day also and you had accepted it. I would like to request the hon. Members of Congress party to forget for a while that they belong to the Congress. Should the Parliament be a mute spectator on the present position of the Government or should it take some step? The manner in which the Parliament and democracy have been attacked by the Government, presents a serious situation. It appears to me that it is for the first time that such a state of emergency has emerged since the enforcement of the Constitution on January 26, 1950.

[*Translation*]

It is not merely a matter of discipline. Therefore, I have requested you to give the House an opportunity to have discussion on what the Attorney General has stated. This matter is not confined to this House only, it is being discussed throughout the country and abroad.

Please allot some time. Tomorrow is Friday. I do not think we shall get time for discussion tomorrow. But in the next week, but this be the first item for discussion in the House so that we may express our views clearly in the House.

We do not appreciate such attack on democracy by the Government. It is not possible even in the British House of Commons. In such a situation you yourself can imagine. I strongly support the suggestion given by Shri Vishwanath Pratap Singh. We

[*English*]

MR. SPEAKER: I think, you should sit for more time to dispose of the business

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will not budge from the House until this issue is resolved properly. That day we had stated this to you also. The hon. Minister of Parliamentary Affairs and Prime Minister are also not present here. The Leader of the House should have solved it after knowing the ideas of all the hon. Members. He has not come here deliberately. He had promised a coordinated statement after going through all the documents within 2-3 days. We trusted him.

[English]

He has failed as the Leader of the House; he has failed singularly and so, the House should take note of it.

[Translation]

He is the Leader of the House and responsible to it. But he has failed in fulfilling his responsibilities. I would not like to speak much otherwise I will be blamed of speaking too much. The Leader of the House should be summoned here. The hon. Members have expressed their view in the House. He should have heard their views. We want to know the reaction. He might be thinking that the Cabinet Minister can reply regarding the solution of the crisis. But he cannot do so. He is not empowered to do so. We, therefore, expect that the Leader of the House will come here. Sir, you can do at least this much. The Leader of the House should come before the House is adjourned. He should express his opinion before the House, so that the House could take further action. Parliamentary Democracy has been questioned. If you do nothing to remove this question mark, you can very well imagine its consequences. Since you are the speaker of the House, we would like to request you to resolve this crisis. If the dignity of the House is questioned, your honour can also be questioned. What should we do? You should guide us. (Interruptions).

[English]

SHRI SOMNATH CHATTERJEE: Sir, you have to provide guidance in a matter of constitutional crisis.

MR. SPEAKER: Speaker is the first servant of the House.

[Translation]

SHRI RBI RAY: You had taken initiative after eliciting the opinion of the House. I would like to request you again to take the initiative. Please call in the Leader of the House. We want to hear his views in this regard. I want to say only this much.

[English]

SHRI SOBHANADREESWARA RAO UADDE (UIJAYAWADA): Mr. Speaker, Sir, I thank for giving me an opportunity to speak. I rise to express the serious disappointment felt by our party over the statement made by the hon. Minister, Mr. Bhardwaj, Sir, you will recollect that in the morning, the Minister for Parliamentary Affairs, Mr. U.C. Shukla categorically assured that before making a statement on this subject at 5 PM today, he will have the views of different political parties by holding consultations.

MR. SPEAKER: Do not recollect all these things. It is not necessary now.

SHRI SOBHANADREESWARA RAO UADDE: But no consultations have been made and a mole has been made out of the mountain just now. It appears that the Government has, in collusion with the Chief Election commissioner, out of fear to face the elections, come to this state of affairs, Sir, the democratic rights of crores of people of this country cannot be kept in the hands and in the authority of a single individual, at his whims and fancies.

[Sh. Rabi Ray]

that point.

So Sir, we demand that this Government should immediately come forward with a proposal to increase the number of Election Commissioners so that we can have multi-member Election Commission to take care of such a situation. Some whimsical fancies of a single Chief Election Commissioner cannot take away the constitutional rights of the entire citizens of the country. (Interruptions).

MR. SPEAKER: If you say that you endorse the views that would be more that sufficient.

SHRI SOBHANADREESWARA UADDE: Thank you very much for allowing me to speak.

SHRI P.G.NARAYANAN (GOBICHETTIPALAYAM): After hearing the clear legal opinion of the Attorney General yesterday, the Government need not wait for the disposal of the court cases. The delay clearly shows that the Government has no intention of breaking the present deadlock created by the Election Commission. It also shows the deliberate plan of the Government to delay the election process in collusion with the Election Commissioner. So, this kind of irresponsible behaviour of the Government has to be condemned. The only way out is that the Government must come forward with a proposal to impeach the Election Commission.

SHRI GUMAN MAL LODHA (Pali): Hon. Speaker Sir, I just want to clarify a point. One of the hon. Members has stated that we require a constitutional amendment. Sir, under Article 324(2), all that we require is a Presidential order for the purpose of appointing more than one Election Commissioner.

MR. SPEAKER: There is no doubt on

SHRI GUMAN MAL LODHA: I say this because it has been stated here that we require a constitutional amendment to have a multi-member Election commission. My point is that the necessary provision is already there. Article 324 (2) says:

"The Election commission shall consist of the Chief Election commissioner and such number of other Election commissioners, if any as the President may from time to time fix....."

So, more than one Election Commissioner can be appointed and the Chief Election commissioner can be in a minority....(Interruptions) This can be done very easily just with a Presidential Order.

Secondly, I want to say that the Government in the past, when they thought it fit, did go in for an appeal so as to obtain a stay. For the purpose of staying the implementation of the Jabalpur High Court's judgment, Government went in for an appeal and obtained a stay order. But today, on this occasion the Government is not approaching the Supreme Court for staying the operation of the order of the Election Commissioner. If the operation of the order of the Election Commissioner is stayed, the problem is solved. But the Government has not made any serious effort about it till now.

Thirdly, I want to say just one word and I am done. Our senior leader has already stated that the opinion of the Attorney General, so far as the supremacy of the Election Commissioner is concerned, is not correct. The Attorney General has undermined the status of the Election Commissioner. Article 324 (6) very clearly states that the Government is bound to provide the requisite staff to the Election Commission.....

MR. SPEAKER: There is scope for discussion on that and we will organise discussion. Please conclude now.

SHRI GUMAN MAL LODHA: It is very necessary that such powers are vested in the Election Commission for the purpose of ensuing free, fair and impartial elections. When elections in Punjab are postponed, one particular party says it is good. When Tripura elections are postponed, then the ruling party in West Bengal says it is good. But if elections are postponed elsewhere, then they think that it is the other way. Sir, law cannot be different for different occasions, depending on the interests of each individual party. Therefore, I want to say that the supremacy of the Election Commission should always be maintained.

At the same time, the Election Commission has overstepped. Therefore, Government of India should immediately move the Supreme Court for the purpose of staying the operation of the order of the election Commission. Then, things can be sorted out.

SHRI CHITTA BASU (BARASAT): Sir, the statement from the side of the Government is evasive. It is frustrating and disappointing. We straightway condemn this kind of callous attitude of the Government, when the country is facing a grave constitutional crisis. The Government, instead of relying on the proceedings of the court, which will be time consuming, should immediately take executive measures. This can be done by appointing a multi-member Election Commission and it may show us the way to escape from the crisis.

SHRI BHOGENDRA JHA (MADHUBANI): Mr. Speaker, Sir, I would not like to repeat what my friends have stated here. I simply support what they have stated.

Sir, the composition of the Election Commission itself is not *subjudice*. On that point, there is no case in any court. Tomorrow itself, Sir, by suspending the rules, if you enact a law or issue a Notification that there will be a three-Member commission. In that case, if necessary, the Parliament will co-operate. On those points which are not *subjudice*, you can start implementing those points from tomorrow itself.

Regarding this order of the Election Commission, let the government approach the Supreme Court tomorrow.

These things can be done and that will save time. Let the court decide on the points that are *subjudice* and the rest of the points the Government can decide and the Parliament will co-operate.

[Translation]

SHRI NITISH KUMAR (Barh): The House is expressing its concern and discussing for the last three days on the situation arising out of postponing of all elections in the country and the deadlock arisen there from. Earlier when it was discussed, you had convened the meeting at your level and representations of all the parties attended it. Yesterday, you called in the Attorney General and today a historic statement has come from Shri Bhardwaj. It is a statement which does not have anything new. All have already discussed it and others also have put forward their views. This opinion of the Attorney General is wrong that the Election Commission will become a subsidiary body. The question is that what steps are being taken in this regard by the Government? It seems to me that the Government is lingering it on deliberately.

The whole House, the entire opposition as well as the office of the hon. Speaker are being used for blackmailing a Constitutional authority.

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Minister on Steps taken to
MR. SPEAKER: No, it is not so.

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resolve the dead lock 504
created by the order of the C.E.C.

SHRI NITISH KUMAR: I feel so.

[English]

MR. SPEAKER: Both of you are quite capable. You are that capable of solving the problem.

[Translation]

SHRI NITISH KUMAR: You have taken initiative on this issue. Yesterday, when the Attorney General of India after giving the reply had gone I asked a question on this issue and you had said that it would be solved through consensus. Today we all are here and want to complete the discussion but it is said that the statement will be made. You are trying to kill enthusiasm of the people on this issue by delaying the issue and if you want so, the country will accept this situation too. Today, a peculiar situation is prevailing in the country and the Government is also functioning in a peculiar fashion. The country is prepared to tolerate every type of situation as it has tolerated Ayodhya incident. You were not here then. The Minister of parliamentary Affairs has said that all the seven Members have been included in the Congress, they had applied for it individually. They are making fun of the Tenth Schedule. Election Commission is misusing its powers. On issue of making the statement, the Minister of Parliamentary Affairs is saying that he has not got the translation of the statement. (Interruptions)

Mr. Speaker, Sir, I would like to know whether the translation has been done or not? Sir, we are giving you the hint. (Interruptions)

The entire House, the Opposition and even your Chair as well as the rules and the constitution of India too are being taken in a casual way, which could not be tolerated. Mr.

Speaker Sir, till date we have been obeying you but now it seems that it will not be possible for us to obey you. You please resolve this deadlock. I am unable to understand the proposal of making a multi-member Election Commission. What will be the powers of this Commission, and how the powers of the Election Commission will be defined? All this should be clearly explained, otherwise it will be difficult for the opposition to cooperate.

(Interruptions)

SHRI MOHAN SINGH (Deoria): Sir, I would like to get an information, Mr. Speaker, Sir, through you, I would like to know from the Government whether the prime Minister or anyone from the Government of India has taken initiative or is it the responsibility of to safeguard the interests of all the Constitutional organisations after the emergence of this deadlock? Will the Prime Minister of India discuss it with the Election Commissioner.....(Interruptions).

[English]

MR. SPEAKER: That is not to be mentioned here. The President's name will not be mentioned here.

[Translations]

SHRI MOHAN SINGH: Sir, I would like to know whether the Prime Minister or the Government of India has discussed it at any stage?

[English]

SHRI NIRMAL KANTI CHATTERJEE (DUMDUM): Yesterday, when you had mentioned about this statement there were some expressions of discontent. You admonished. If you would remember, by saying that a very workable solution is emerging, have patience.

The first thing that I expect of you is to indicate to us whether you do think that this statement is upto to your expectation.

MR. SPEAKER: What kind of a speech you are making? You are making a speech on the Speaker.

SHRI NIRMAL KANTI CHATTERJEE: I am not making a speech on the Speaker.

SHRI VISHWANATH PRATAP SINGH (FATEHPUR): You should rather refrain from doing so.

SHRI NIRMAL KANTI CHATTERJEE: It is in a sense because you are the one who is representing the House, therefore, what I am saying is that instead of a summed up statement, I am mentioning to you to sum it up for the House.

MR. SPEAKER: I will do that.

SHRI NIRMAL KANTI CHATTERJEE: The second thing is, the question was as has been indicated by almost all of us, 'why do we go from here'. That is the issue.

I fully appreciate it and I was trying to understand what the Leader of the Opposition is saying, that it can be an issue of discussion. But while discussing that issue, what is going to happen to the rest of the country? May I ask whether or not the Parliamentary system should be allowed to function in its full sovereignty; whether or not the ultimate sovereignty, ultimately sovereign, that is the people, be allowed to exercise their rights? I therefore, pose the question, 'why do we go from here?'

Suggest to you that the first step that the House, through you, should be allowed to take is the until and unless the Prime Minister comes here, assures us and indicates to us that this is the executive decision they are going to take, the

continuance of passing of Government Bills becomes meaningless. If there is no Government functioning, what is the meaning of passing Bills and handing over the power to the Government? Therefore, Sir, I want that you may kindly call the Prime Minister to give this decision and till then let there be no Government Business in the House. That is all I have to say.

THE MINISTER OF WATER RESOURCES AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VIDYACHARAN SHUKLA): Mr. Speaker Sir, in the morning I had stated.....(Interruptions).

MR. SPEAKER: Mr. Acharia, you will please not interrupt. Now when I call out the name saying Mr. Acharia you will not interrupt, it is nameing. You please understand that.

SHRI VIDYACHARAN SHUKLA: Sir, in the morning I had stated that we will come up with a statement indicating the position of the Government in this discussion. Throughout the day we had consulted various authorities and experts in this matter. The matter is coming up for hearing in the Supreme Court tomorrow. The Government is going to present its viewpoint in the Supreme Court in this matter. We have come to the conclusion that since the Supreme Court of India is going to hear this matter in its entirety, therefore, we will also present our viewpoint to the Supreme Court.

We will try and see that this matter is so resolved that it does not create any conflict between the Parliament, the Executive and the Election Commission. For this purpose, we are continuing our consultations with various authorities concerned and we hope that by the time the hearing starts tomorrow in the Supreme Court, we will be able to come to a conclusion and present our viewpoint before the Court. The Supreme Court is seized of the matter and the Government of India will also be represented at this hearing.

[Sh. Vidyacharan Shukla]

We would like to present our viewpoint in such a manner that it satisfies the broad spectrum of opinion of this House. We had the benefit of the opinion of all hon. Members and all hon. Leaders of Opposition and we will bear this in our mind while we present our case in the Supreme Court.

SHRI GUMAN MAL LODHA: Why do you not pray for a stay of the order?

MR. SPEAKER: I earnestly request you not to interrupt me when I am saying these things.

I do think that all sides are aware of the dimensions and importance of the problem and are keen to solve it. The matter is really complicated and constitutional. There is substance in the points put forth by both sides. The matter should be discussed in the House in a proper manner. Therefore, we should take a very responsible, balanced view and not at the spur of the moment, or as a reaction to something which has happened. We should, as we always have been doing, rise to the occasion and solve the problem. Parliament solves the problem; it does not create confrontation or problems. The matter is not only judicial—let us understand that the matter is not only judicial—it is executive, as well as legislative also. Through the judiciary, as quickly as possible, the problem should be got solved, if it can be. At the same time, the Executive also should try to solve it by means which are available to it and are constitutional. It should not be left only to the judiciary. If the problem is not solved in time, in an acceptable manner and in a constitutional manner, the Legislature may solve it in a manner which can be done as per the Constitution and acceptable to all.

SHRI RAM VILAS PASWAN (ROSERA): After that, what is the reaction of the Government?

SHRI VISHWANATH PRATAP SINGH: We are very grateful to you for your very lucid pronouncement and you have judged the issue in its entirety. We are grateful to you for what you have expressed. There is only one thing. Certainly, the Government is going to the Court tomorrow, but certainly not without making up its mind. I am sure that the Government has made up its mind on what it is going to say to the Court tomorrow. Is it not fair that, when everyone has expressed his views in the House, we share the mind of the Government on what they are going to say tomorrow? That cannot be a secret matter.

SHRI VIDYACHARAN SHUKLA: The Attorney-General has given his opinion and we have said in the statement that we have accepted the view expressed by the Attorney-General of India.

MR. SPEAKER: On that point there can be different views. The Attorney-General has expressed his views and it is a learned and constitutional interpretation of the constitution which may or may not be acceptable to all sides. It can be discussed also. That is a different issue.

SHRI VIDYACHARAN SHUKLA: Sir, I agree to the proposition which you are saying. But what I am stating here for the consideration of the House is that the position—constitutional, legal and legislative position—as explained by the Attorney General of India, has been accepted by the Government. And that is the basis on which we are going to approach the Court tomorrow. *(Interruptions)*.

[Translation]

SHRI ATAL BIHARI VAJPAYEE: Could it be taken for granted that in the Supreme Court tomorrow the Government is going to urge the Court to set aside for the orders of the Chief Election Commissioner? Will the

Government seek stay in the court against the orders of the Commissioner?

SHRI VIDYACHARAN SHUKLA: Yes, we will urge for the stay order and I hope that we would get it.

[English]

SHRI RAM VILAS PASWAN: What about the constitutional remedy? (Interruptions).

MR. SPEAKER: We have the remedy. Now the problem is complicated and constitutional. And yet, you all in this House are quite capable of solving it in manner which will maintain the dignity of the Election Commission, the Government, the Judiciary as well as the Legislature.

SHRI CHANDRAJEET YADAY: Sir, we accept it.

18.39 hrs

DISCUSSION UNDER RULE 193

SOCIO-ECONOMIC CRITERIA FOR EXCLUSION OF "CREAMY LAYER" FROM "OTHER BACKWARD CLASSES"- CONTD.

MR. SPEAKER: Shri Vishwanath Pratap Singh to Speak.

[Translation]

SHRI VISHWANATH PRATAP SINGH (Fatehpur): Mr. hon. Speaker, Sir, today we are discussing the Mandal Commission report. I am grateful to the hon. Members who have made suggestions in this regard. I am very happy today, that after a long time in this House, my proposal for implementation of Mandal Commission report has got all round support. This announcement was made by me a long time back from the chair of the

Prime Minister. This support has come very late but I am happy that this proposal has been supported by everyone. For this proposal, I and my party were were labled as casteist and traitors. Now I come to the point as time allocated to me is less and this discussion can be lengthy. Regarding the question of creamy layer, I would like to say that for the last thousands of years the creamy layer of the society has been enjoying all the facilities at the cost of backward people. (Interruptions).

Today there is need to work for the welfare of backwards. (Interruptions)

SHRI SITARAM KESARI: Today's question of creamy layer is beneficial for backwards.

SHRI VISHWANATH PRATAP SINGH: Then it will be good for prosperity of the country. Regarding the issue of creamy layer I would like to say that there has been reservation for SC/ST in our country and no economic or any other criterion has been imposed. Even then approximately half a century has passed, the quota of reserve vacancies is still incomplete, when they are not able to compete in simple race, why are you forcing them to participate in hurdle race. First of all, you should ensure that they compete in the simple race. You should ensure that the quota is filled completely. Our experience of fifty years tells that quota of reserve vacancies for SC/ST has not been fulfilled. About half of India is backward. If the creamy layer of backward classes has been so thick then it would not have constituted only four per cent in the Government services. Thus it is clear that this policy is impracticable. I had suggested that there should be district recruitment for ten years and when the quota of 27% is filled, after that these criteria should have been imposed. It is very funny that before filling the required quota, a class of people is being removed from it by enacting laws. My friend has rightly criticised the