THE MINISTER OF DEFENCE (SHRI SWARAN SINGH) : (a) No, Sir. The Controller of Defence Accounts (Pensions) Allahabad, recently made certain deductions from the special family pensions of widows whose children have been given scholarships by the Government, while studying at the Lawrence School, Military Schools and Sainik Schools. This was done under a misunderstanding ; instructions have already been issued to the Controller of Defence Accounts (Pensions) to restore the family pensions in full and refund the deductions already made, if any.

(b) and (c). This is under consideration.

12.07 hrs.

CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE

Refusal of the Sub-Registrar of Udhampur in Jammu and Kashmir to register the land Purchased by the President of India for the Posts and Telegraphs Department.

श्री महन्त दिग्विजय नाथ (गोरखपुर) : अध्यक्ष महोदय, मैं अविलम्बनीय लोक महत्व के निम्नलिखित विषय की ओर गृह-कार्य मन्त्री का ध्यान दिलाता हूँ और प्रार्थना करता हूं कि वह इस बारे में एक वक्तव्य दें :

"भारत के राष्ट्रपति द्वारा डाक तथा तार विभाग के लिए खरीदी गई भूमि को जम्मू तथा काश्मीर में उधमपुर के सब-रजिस्ट्रार द्वारा यह दलील देकर रजिस्टर करने से इन्कार कि राष्ट्रपति जम्मू तथा काश्मीर के नागरिक नहीं हैं।"

SHRI D. C. SHARMA (Gurdaspur) : On a point of order. There are some names which occur again and again in call-attention. I am not referring to Shri Mahant Digvijai Nath, who is my Guru. The fact of the matter is that you should also lay down rule that a person will get his chance in call-attention only once a month, so that the others also can have a chance. There are 'haves' and 'have-nots and I belong to the category of 'have-nots'. Therefore, you should do something in the matter so that the others also get a chance. (*Interruptions*)

SHRI BAL RAJ MADHOK (South Delhi) : Try your luck again.

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : Sir, Under clause (2) of article 256 of the Constitution of India, the State of Jammu and Kashmir shall if so required by the Union, acquire or requisition property on behalf, and at the expense, of the Union. The State Government have been making available to the Central Government Departments land required by them and no difficulty has been reported in this matter. In the particular case to which the calling attention notice refers, the Posts and Telegraphs Department felt that purchase of land would be quicker than acquistition. They negotiated the purchase of 9 kanals of land in Udhampur for costructing staff quarters. When the Divisional Engineer presented the sale deed to the Sub-Registrar, he said that the sale deed should not be registered by him as he had no authority in law which allowed the sale of land to a non-state subject. The Sub-Registrar told the Divisional Engineer, P & T, that if he could get a ruling from the State Government, the Sub-Registrar would have no objection to the registration of the sale deed. The Divisional Engineer explained the position to the Deputy Commissioner who has submitted a report to the State Government and the matter is understood to be before them. We shall examine the position further in consultation with the State Government.

श्री प्रकाशवीर शास्त्री (हापुड़) : राज्य सरकार को डिसमिस करो । वहां राष्ट्रपति शासन लागू होना चाहिये ।

श्री महन्त दिग्विजय नाथ : अखबारों से पता चला था कि हम लोग एक तरीके से काश्मीर में विदेशी हैं । अब तो यह भी पता चल रहा है कि जो वहां अल्पसंख्यक हैं उनको निकालने के प्रयत्न चल रहे हैं । शेख अब्दुल्ला वहां जा कर विभाजन का प्रश्न उपस्थित कर रहे हैं । वह अरशाद साहब से भोज के अवसर पर मिले भी हैं । हमारे राष्ट्रपति जी इस देश के

एक प्रतीक हैं । मैं जानना चाहता हूं कि काश्मीर राज्य में भूमि प्राप्त करने के मार्ग में कौन सी कानूनी बाधायें हैं और क्या इस संविधान के अनुकूल है कि भारत का कोई भी प्रदेश इस प्रकार का कानून अपने क्षेत्र में जारी रखे ?

SHRI Y. B. CHAVAN : The constitutional position and the legal position is there. I cannot help that position. But there is also the compulsion that if the State Government is asked to meet the requirements of land, they have to acquire it uuder the Constitution ; it will be an obligation on them to do that. So far, that is being done, and, therefore, there was no difficulty so far.

In this particular case, as we know direct purchases were negotiated without the authority or the help of the State Government. Therfore, a doubt has arisen, and that is why the matter is being taken up with the State Government.

SHRI HEM BARUA (Mangaldai) : Although the Indian Government have spent about Rs. 200 crores for the betterment of the people of Jammu and Kashmir, Mr. Beg describes it as bribery. Although Jammu and Kashmir has acceded to the Indian Union, Sheikh Abdullah calls that forcible occupation by India. Although our troops bled themselves to death, defending Jammu and Kashmir from the attack of the Pakistanis in 1947, he has said that this accession is only provisional. I do not understand this. Did our boys who fought and died there die provisionaly ? They did not die provisionally...

MR. SPEAKER : The hon. Member is going to entirely different questions. This calling-attention-notice relates only to the purchase of land. He may put his question on that.

SHRI HEM BARUA : Whatever that might be, Jammu and Kashmir occupies a very peculiar position ; you will agree with me Sir, that in the Indian Constitution and in the Indian Union, Jammu and Kashmir occupies a very peculiar position which you and I cannot understand.

MR. SPEAKER : How does Sheikh Abdulla come in here ? The calling-attention-notice relates to purchase of land in Kashmir. But he is talking of Sheikh Abdullah, accession and all that. We are not discussing the whole of Kashmir now. Let him put his question on the purchase of land there.

SHRI HEM BARUA : The most unkindest cut of all is this that even the jurisdiction of the President of the Indian Republic does not extend to the State of Jammu and Kashmir because he does not happen to be a citizen of Jammu and Kashmir. This is the position. In the context of that, and in view of these anomalies occurring and coming up from time to time and disturbing our relations, may I know whether Government have considered it desirable by now to abrogate article 370 of the Constitution and make Jammu and Kashmir a truly integral part of India as any other State is ?

SHRI Y. B. CHAVAN : That is the hon. Member's view. We know all about it. Aritcle 370 and its scope has been a matter for discussion for many times on the floor of this House. But that very article was used to expand the scope of the other article of the Constitution. I am not holding any particular view here or expressing any particular view in this matter. But if we are refeering to this particular case, it arises out of a certain peculiar leval position. It is not a political position, but it is a legal position, because our Constitution itself saves certain laws of Kashmir. This is the position, and certainly we shall have to think about alternatives to remove this oddity. I personally feel that it is some sort of oddity which will have to be removed. This can be done only by amendment of certain laws and that can be done in concurrence with the Jammu and Kashmir Government.

SHRI HEM BARUA : What the Home Minister has said only expresses the helplessness of the Government...

SHRI Y. B. CHAVAN : No, no.

SHRI HEM BARUA : ... and that is why things are allowed to continue like that. Why should he not amend the Constitution ? He is a right-thing person and he should do it.

श्री कंवर लाल गुप्त (दिल्ली सदर) : अभी मंत्री महोदय ने बताया है कि स्टेट गवर्नमेंट के अ. खरीद सकते हैं, सीधे नहीं खरीद सकते हैं। यह एक बहुत खतरनाक बात है। गवर्नमेंट के अलावा कोई भी भारत का जो नागरिक है वह खरीद नहीं सकता है, इसकी बैकग्राउंड को आप देखें। 1927 में जब यहां पर महाराजा की सरकार थी उस समय उन्होंने एक कानून बनाया था। डा० करण सिंह को शायद यह याद ही होगा। जम्मू काश्मीर में जो 1885 से पहले रहते थे केवल उन्हीं लोगों को वहां की सर्विसिस में लिये जाने के बारे में कानून बनाया गया था और जमीन खरीदने का अधिकार भी उन्हीं को दिया गया था। इस तरह के कानून जब हमारे देश में राजे महाराजे हुआ करते थे, चाहे वे हैदराबाद के हों, पटियाला के हों राजस्थान के हों, उन्होंने बनाये थे। लेकिन आजादी मिलने के बाद, 1947 के बाद बाकी सब जगह तो इस तरह के कानून खत्म हो गए क्योंकि ये देश की एकता के विरुद्ध पड़ते थे लेकिन दुख की बात यह है कि यहां इस कानून को खत्म नहीं किया गया। मेरे पास यह जम्मू काश्मीर की कांस्टीट्यूशन है। इस में आर्टिकल 6 के अन्दर ये कहते हैं :

Article 6 of the Jammu and Kashmir Constitution reads thus :

"6 (1) Every person who is, or is deemed to be, a citizen of India under the provisions of the Constitution of India shall be permanent resident of the State, if on the fourteenth day of May, 1954—

(a) he was a State Subject of Class I or of Class II ; or

(b) having lawfully acquired immovable property in the State, he has been ordinarily resident in the State for not less than ten years prior to that date."

एक सब क्लाज़ तीन इसके बाद यह है :

"In this section, the expression 'State Subject of Class I or of Class II' shall have the same meaning as in Notification No. I-L/84 dated the twentieth April, 1927, read with State Notification No. 13/IL dated the twenty-seventh June, 1932.

7. Unless the context otherwise requires, all references in any existing law to hereditary State Subjects or to State Subject of Class I or of Class II or of Class III shall be construed as references to permanent residents of the State."

कहने का मतलब यह है कि इस स्टेट के अन्दर वही पुरानी परम्परा चल रही है। यहां तीन प्रकार के सिटिज़न हैं, फर्स्ट क्लास के, सैकिंड क्लास के और थर्ड क्लास के। यह एक बहुत ही अजीब बात है। मैं समझता हूं कि यह हमारे विधान की स्पिरिट के भी खिलाफ है। जब हम सब शिव सेना को खत्म करने की बात करते हैं जबकि वह महाराष्ट्र में महाराष्ट्रियंज़ की बात करती है, जब कि हम असम में जो लचेत सेना है, उसको कंडैम करते हैं......

MR. SPEAKER : Will he kindly come to the question now ?

श्री कंवर लाल गुप्त : देश की एकता के खिलाफ यह जो प्राविजन है, क्या इसको खत्म नहीं किया जा सकता है। अभी हाल ही में जो जनरल इलैकशन हुए थे उनमें वहां क्या हुआ ? करीब 25 लाख लोग इस तरह के हैं जो कि वहां कई सालों से रहते आ रहे हैं। उन्होंने पार्लियामेंट के लिए जो उम्मीदवार खड़े हुए उनके लिए तो वोट किया लेकिन स्टेट असैम्बली के लिए जो खड़े हुए उन के लिए वोट करने से उनको वंचित किया गया क्योंकि वे वहां के सिटिजन नहीं माने गए......

SHRI INDRAJIT GUPTA (Alipore) : How does it arise out of the calling-attention-notice ?

श्री कंवर लाल गुप्त : देश की इंटैग्रेटी के खिलाफ तथा देश के विधान की स्पिरिट के खिलाफ जो प्राविजंज हैं क्या उनको खत्म किया जायेगा। क्या आर्टिकल 370 को भी खत्म

आप करेंगे ताकी देश के बाकि भागों की तरह से काश्मीर भी एक भाग भारत का बन सके ? अगर अभी इसको आप नहीं कर सकते हैं तो क्या इस प्रकार का जो क्लासिफिकेशन है, क्लास फर्स्ट, क्लास सैकिंड और क्लास थर्ड के जो सिटिजन एक हैं उन के बारे में आप क्या कुछ करेंगे ताकि सब सिटिजन एक ही प्रकार के हों ? भारत का नागरिक जैसे सभी प्रान्तों का नागरिक है उसी प्रकार से क्या उमको आप जम्मू काश्मीर का भी नागरिक मानेंगे ताकि देश की यूनिटी की और देश की डिफेंस की रक्षा हो सके ? क्या इस प्रकार का कोई कदम सरकार उठायेगी ?

MR. SPEAKER : Before he answers, I would like to say that it is a very important question he has raised. I entirely agree. But this is a call attention notice. He has surveyed the whole Constitution. of Jammu and Kashmir. If in putting a supplementary in which he raises an important point of course, he takes so long and ranges over so many matters, it only deprives other Members of their time to put a question.

SHRI Y. B. CHAVAN : The hon. Member's learned exposition of the J & K Constitution was very interesting.

MR. SPEAKER : I do not think we are discussing that now.

SHRI Y. B. CHAVAN : We are not. The limited question here was whether the Central Government can go and directly purchase land in that area. A certain doubt has been raised based on the legal and constitutional position as interpreted, which is, as I said, an odd position. Therefore, the only way out in this particular case is either to take the help of the State Government to acquire the land or—there are two or the three alternatives in this—to amend the present position. These are matters for examination. This is also a matter for consultation with the J & K Government because such an amendment will require the concurrence of the State Government.

SHRI KANWAR LAL GUPTA : What about first class, second class and third class citizens there ?

श्री यशवन्त सिंह कुशवाह (भिंड) : क्या मन्त्री महोदय यह बताने की कृपा करेंगे कि महामहिम राष्ट्रपति जी के नाम से संचार विभाग के लिए यह भूमि अधिग्रहण करने का काम किस अधिकारी को सौंपा गया था; क्या उस अधिकारी को उस भूमि को प्राप्त करने के कानूनी तरीके की जानकारी थी या नहीं; अगर थी, तो उस ने उस तरीके से केन्द्रीय सरकार और प्रदेश सरकार के सहयोग से उस भूमि का अर्जन क्यों नहीं किया, जिससे यह अप्रतिष्ठाकारक स्थिति निर्मित न होती ? अगर उस ने कानूनी तरीके का पालन न कर के यह गलती की है, तो उस के विरुद्ध क्या कार्यवाही की जायेगी ? क्या यह सही है कि कुछ पूंजीपतियों को उद्योग स्थापित करने के लिए वहां पर जमीन प्राप्त करने की अनुमति दे दी गई, लेकिन राष्ट्रपति के नाम से जमीन देने से इन्कार कर दिया गया ?

SHRI Y. B. CHAVAN : This has nothing to do with the subjective attitude of any officer in this matter. The Divisional Engineer of P & T felt that it would be a quicker process to directly negotiate purchase of the land. That was why he tried to do it. But the other man felt that he had no legal authority. It was a *bona fide* doubt. Therefore, the matter has been referred to the State Government.

SHRI SHIVAJI RAO S. DESHMUKH (Parbhani) : On a point of order. This call attention notice has been admitted by the Speaker to be taken up in this House. This very fact proves the right of the President of India to present a sale deed and get the transfer of the property recorded.

MR. SPEAKER : What is his point of order ? He is discussing the merits.

SHRI SHIVAJI RAO S. DESHMUKH: I am discussing the point of order only. This concerns the right of the President to present a sale deed and get it registered under the Indian Registration Act which

[Shri Shivaji Rao S. Deshmukh]

is a Central Act. That is also why the Speaker's Secretariat has admitted the motion. Now because it is questioned by some Deputy Commissioner somewhere, does it mean that it becomes a State subject altogether? It is the sovereign right of this House and the Central Government to enforce Central Acts throughout the territory of India. When this is questioned, the Speaker's Secretariat also has to come to our aid.

MR. SPEAKER : There is no point of order.

श्री बलराज मधोक : अध्यक्ष महोदय, अभी मन्त्री महोदय ने कहा है कि कुछ लीगल डिफीकल्टीज़ हैं।

Here is our Constitution of India, art. 1 of which says :

> "The States and the territories thereof shall be as specified in the First Schedule".

And in the First Schedule is included Jammu and Kashmir.

Every Indian citizen has certain fundamental rights.

MR. SPEAKER : We are not discussing all this now.

SHRI BALRAJ MADHOK : It is relevant. Article 370, to which referrence has been made, is a transitional provision. It has been there for the past 20 years. I want to know how long this sovereign Parliament is to be debarred from exercising any claim or authority over Jammu and Kashmir merely because of this transitory provision.

MR. SPEAKER : He can take steps to do what he thinks proper at a later stage. There is no point of order.

श्री प्रकाशवीर शास्त्री : अध्यक्ष महोदय, अब तक आप के इस आसन और पद की यह परम्परा रही है कि अगर सरकार का कोई मंत्री किसी प्रश्न का सही उत्तर न दे रहा हो, या तोड़-मारोड़ कर उत्तर दे रहा हो, तो आप उस को इस बात के लिए विवश करते हैं कि वह सही उत्तर दे कर सदन को, और देश को, संतुष्ट करे। जब राष्ट्रपति को जम्मू-काश्मीर की गवर्नमेंट को भंग करने का अधिकार है, जब वह जम्मू-काश्मीर में राष्ट्रपति-शासन स्थापित कर सकते हैं, तो क्या उन को यह अधिकार नहीं है कि वह जम्मू-काश्मीर में कोई जमीन खरीद सकें? मेरा निवेदन है कि आप अपने अधिकारों का उपयोग करके इस प्रश्न का संतोषजनक उत्तर दिलायें।

MR. SPEAKER : There is not point of order. He only wanted to ask a question. Shri S. S. Deshmukh started and got us into all this trouble.

SHRI SHIVAJI RAO S. DESHMUKH: You could give your opinion.

MR. SPEAKER : You have done very well ! Thank you.

12.25 hrs.

RE QUESTION ON PRIVILEGE

श्री मधु लिमये : (मुंगेर) : अध्यक्ष महोदय, मैं नियम 225 के तहत विशेषाधिकार के बारे में एक वक्तव्य देना चाहता हूं।

MR. SPEAKER : The privilege motion has not yet been admitted. Only I would like to hear him.

श्री मधु लिमये : मैं संक्षेप में कुछ तथ्य आप के सामने रखना चाहता हूं। उन को सुन कर आप इस बारे में फैसला कर सकते हैं।

अप्रैल, 1967 में दिल्ली में पुलिस वालों का एक आन्दोलन चला था। उस सिलसिले में कई पुलिस वालों को सेवा से बरतरफ किया गया और उन पर मुकदमे चलाए गए। आज भी वे मुकदमे चल रहे हैं। एक प्रश्न के जवाब में सरकार के द्वारा यह कहा गया कि इन मुकदमों पर इस वक्त चौदह, पंद्रह, हज़ार रुपया मासिक खर्च हो रहा है।