

gations, and a charge-sheet is being filed in court against two other persons. According to the charge-sheet, the case against Shri Besra is not being prosecuted, since the opinion of the Legal Adviser is that it is not possible to sustain the prosecution in court.

Members of Parliament are accorded special consideration in the matter of allotment of cars on the basis of priority. Any action on the part of an hon. Member which amounts to an abuse of this facility, and which lowers the dignity of this hon. House is deplorable. I sincerely hope that no such lapse will recur.

श्री हुकम चन्द्र कच्छबाय : हम एक बात जानना चाहते हैं कि इन व्यक्तियों का किस पार्टी से सम्बन्ध है ?

MR. DEPUTY-SPEAKER : This discussion is closed. We shall take up the next item.

14.26 hrs.

BUSINESS OF THE HOUSE

THE MINISTER OF PARLIAMENTARY AFFAIRS AND COMMUNICATIONS (DR. RAM SUBHAG SINGH) : Sir, on last Friday I had announced that further discussion on the motion moved by Shri Nath Pai regarding Bihar would be taken up at 6 p.m. on Wednesday, the 27th March, 1968. I have since been informed that Shri Nath Pai would not be in Delhi on that day. The debate on that motion will, therefore, be postponed to a later date which will be notified in due course.

14.26½ hrs.

WEST BENGAL STATE LEGISLATURE (DELEGATION OF POWERS) BILL—contd.

Clause 3—contd.

MR. DEPUTY-SPEAKER : The House will now take up further clause-by-clause consideration of the West Bengal State Legislature (Delegation of Powers) Bill.

SHRI SAMAR GUHA (Contai) : Sir, I want to raise a point of order on the Financial Memorandum.

MR. DEPUTY-SPEAKER : I have disposed of that point of order.

SHRI SAMAR GUHA : This is a new one.

श्री मधु लिमये (मुंगेर) : इस पर मेरा भी एक नया व्यवस्था का प्रश्न है। पहले आप इनको सुन लीजिए।

SHRI SAMAR GUHA : In the Financial Memorandum it has been categorically stated that expenses to be incurred in connection with the meetings of this Consultative Committee would be met from the Consolidated Fund of India. The Finance Memorandum refers only to the expenditure regarding the holding of meetings; no other expenditure. So, if there is any possibility of any kind of expenditure being incurred, it is not incorporated here. So, the financial memorandum is incomplete. They should have added at least the words "expenditure on other items" to complete the statement.

MR. DEPUTY-SPEAKER : As I have observed before I adjourned the House, it would have been better if it had used the term "all other expenses". But expenses concerning the meeting include travelling allowance etc. So, let it stand as it is.

श्री मधु लिमये : असल में उस दिन तीन बातें कही गई थीं। फाइनेशियल मेमोरेन्डम और प्रेसिडेन्ट्स रिफ्लेक्शन, यह दोनों बातें तो आज बुलेटिन में आ गई हैं। इनके अलावा एक चीज और है। जैसे मैं इन बातों को बिल्कुल महत्व नहीं देता लेकिन चूँकि बार-बार कहने पर भी यह नहीं होता है, इसलिए कहना पड़ता है। आप 69(2) देखें :

"(2) Clauses or provisions in Bills involving expenditure from the Consolidated Fund of India shall be printed in thick type or in italics."

एक माननीय सदस्य : आगे भी पढ़िये ।

श्री मधु लिमये : मैं आगे भी पढ़ दूंगा । अध्यक्ष महोदय, आप इजाजत दे सकते हैं । आप इजाजत देना चाहते हैं तो दे दीजिए, मुझे कुछ नहीं कहना है । लेकिन वास्तविक बात यह है कि बार-बार कहने के बाद भी इस तरह की गलती क्यों की जाती है । आप तो मालिक हैं, आप इजाजत दे सकते हैं । उपाध्यक्ष महोदय, अगर आप मेहरवान हों तो आप इजाजत दे सकते हैं कि वह जैसे चाहें दें, लेकिन उन्होंने खुद जैसा नियमों के अनुसार मोटा या तिरछा टाइप होना चाहिए वैसा नहीं किया है । इसका महत्व इसलिये है कि तीन बार कहने पर भी उन्होंने ऐसा नहीं किया है । आखिर ऐसा क्यों है ?

MR. DEPUTY-SPEAKER : For refreshing the memory of the House, I will read out what he said on that day and has raised again today, namely, the proviso to rule 69(2):—

"Provided that where a clause in a Bill involving expenditure is not printed in thick type or in italics, the Speaker may permit the member in charge of the Bill to bring such clauses to the notice of the House."

श्री मधु लिमये : आप भले ही उन को इजाजत दे दीजिये, लेकिन उनकी गलती तो है ही ।

MR. DEPUTY-SPEAKER : Therefore, in future it should be observed. Now I am permitting him to do so.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA): We would have definitely observed that rule....

श्री मधु लिमये : अब मंत्री महोदय स्पष्टीकरण देंगे तो मामला और भी खराब हो जावेगा । यह हर चीज का स्पष्टीकरण दे रहे हैं । उनको कहना चाहिये कि आगे इस तरह की कोई बात नहीं होगी ।

SHRI VIDYA CHARAN SHUKLA : I was only going to point out that because there was no financial memorandum attached to the Bill, the Bill was not printed in italics as was required. Since you ruled that, we have done it and we have to take your permission to mention it before the House which I am doing.

MR. DEPUTY-SPEAKER : Now, Shri Madhu Limaye may move his amendment.

SHRI MADHU LIMAYE : Sir, I move :—

Page 2,—

For lines 9 to 13, substitute—

"Provided that before enacting any Act, the President shall consult a Committee constituted for the purpose, consisting of forty members of the House of the People nominated by the Speaker and twenty members of the Council of States nominated by the Chairman who shall be paid Daily Allowance and Travelling Allowance as are admissible to the members of the Joint Parliamentary Committee."⁽¹¹⁾

इन्होंने कहा है इस विधेयक के सिलसिले में कि जहां तक सम्भव हो राष्ट्रपति जी सलाह लेंगे कानून बनाते समय या दूसरे मामलों में । मैं चाहता हूँ कि जहां तक संभव हो यह शब्द हटा दिये जायें । उस के लिये अनिवार्य कर दिया जाये कि हर मामले में वह सलाह लें । सलाह माने या न माने यह दूसरी बात है ।

दूसरी बात यह कि चूँकि वित्तीय मेमो-रेन्डम और प्रेजिडेंट्स रिक्मेन्डेशन की बात आ ही गई है, इसलिये केरल की सलाहकार समिति के मामले में बिना कानून के आधार के जो किया जाता था उस को हम कानूनी आधार देना चाहते हैं । जिस तरह से केरल कमेटी सदस्यों को भत्ता दिया गया था उसी तरह मेरा खयाल है पश्चिम बंगाल के बारे में कानूनी ढंग से मंत्री महोदय इस को भी मान लें । इस संशोधन पर किसी लम्बे भाषण की जरूरत नहीं है । अलाउंस वगैरह

बढ़ाने की कोई बात नहीं है। जो कुछ पहले केरल की समिति को दिया गया था हम उसी को कानूनी रूप देना चाहते हैं। ज्वार्येंट पार्लियामेन्ट्री को जो दिया जाता है, उतना ही यहां पर भी दिया जाय, उस से ज्यादा नहीं।

श्री दिक्षा चरण शुक्ल : उपाध्यक्ष महोदय, जहां तक इस विधेयक में राष्ट्रपति के इस कमेटी से बिना पूछे काम करने का सम्बन्ध है, मैं आप के द्वारा कहना चाहता हूँ कि वह एक इमर्जेन्सी प्राविजन है। ऐसा हम लोग कभी करते नहीं हैं, अगर कभी ऐसी आवश्यकता पड़ जाये और एक या दो दिन के अन्दर ही हमें कोई काम करना पड़े तो उसके लिये यह प्राविजन रखा गया है। अभी तक इस माननीय सदन के द्वारा जितने भी कानून पास किये गये हैं, उन में इस प्रकार का प्राविजन किया गया था, परन्तु जहां तक मुझे ज्ञान है, इस प्राविजन को अभी तक काम में नहीं लाया गया है कि बिना इस कमेटी से पूछे हुए राष्ट्रपति जी ने कोई भी ऐसा विधेयक पारित किया हो। कभी आवश्यकता पड़ने पर, यानी कभी यदि कोई आपत्कालीन आवश्यकता पड़े और उस वक्त यदि इसको काम में लाना पड़ जाय, इसके लिये इसको रखा गया है। मैं समझता हूँ कि इस को रखने में कोई हर्ज नहीं है, क्योंकि अभी तक जितने बिल पास हुए, उन में इस को रखा गया परन्तु इस का दुरुपयोग किसी भी तरह से नहीं किया गया। यदि एक दिन का भी मौका मिला तो एक दिन का नोटिस दे कर मीटिंग बुलाई गई।

इन सब बातों को देखते हुए अगर यह एनेर्बलिंग क्लॉज रखा जाय तो मैं नहीं समझता कि इस में कोई हर्ज है।

श्री मधु लिमये : दूसरी बात को तो मान लीजिये जो कि अलाउन्सेज के सम्बन्ध में है, नहीं तो लोग ज्यादा अलाउन्सेज देने लगेंगे।

श्री बेबेन सेन (आसनसोल) : उपाध्यक्ष महोदय, मैंने तीन तरमीमें रखी हैं। एक है कि :

Page 2, line 6 से

"whether Parliament is or is not in session".

इस को हटा दिया जाय।

दूसरा है कि :

Page 2, line 10 से

"whether he considers it practicable to do so"

यह भी हटा दिया जाये।

तीसरा है कि :

Page 2, line 12

में 'स्पीकर' के बाद

"among whom shall be included all members who for the time being fill the seats allotted to the State of West Bengal in that House"

को इंसर्ट कर दिया जाये।

मेरी यह तीन तरमीमें हैं। इस के ऊपर मैं कोई लम्बा चौड़ा व्याख्यान नहीं देना चाहता। मैं चाहता हूँ कि मान लिया जाय।

SHRI SRINIBAS MISRA (Cut-tack) : Mr. Deputy-Speaker, Sir, it will be seen that this delegation of powers under the Constitution will also involve making of laws by the President some of which will be money Bills and some ordinary legislation. Whenever the President will legislate regarding money Bills, it will be in violation of the mandate of the Constitution because all money Bills are to be initiated here. So, we cannot by a colourable legislation avoid the mandatory provision of the Constitution, article 109. This could be raised as a point of order, but perhaps the hon. Minister will assure the House that the President will not use his powers for bringing in legislation which will be money Bills. Of

[Shri Srinibas Misra]

course, I examined the West Bengal Budget and there is no proposal for further taxation, but once the President tries to make some law imposing some tax on the people of West Bengal, it will become *ultra vires*. So, we want an assurance from the hon. Minister that the President's powers will not be used for legislating regarding taxation and other things which will make it a money Bill.

Then, I would request the hon. Minister to accept my amendment because the provision here becomes untenable. Sub-clause (4) here says :

"Either House of Parliament may, by resolution passed within thirty days from the date on which the Act has been laid before it".

Now, if on the last day of the session, the Act is laid on the Table of the House and Parliament is not convened within thirty days, how can Parliament modify this Act by notification within thirty days? So, it has to be changed. It must be thirty sittings. That is why I want to change it to thirty sittings; otherwise, we cannot act, and, perhaps, the hon. Minister does not want that Parliament should be without any power of check over the Act.

Then, further on it says :—

"which period may be comprised in one session or in two successive sessions, direct any modifications to be made".

Why only "modification"? Will "modification" also imply and comprise of repeal? Suppose, this House decides that the whole Act be repealed. That power is taken away from this House under this. Why should the Ministry be afraid of this House? They should take it that this House has that power. This House is delegating the power. Has this House not the power to repeal that Act? So, I want to add "repeal or any" before "modification".

Then, it says :—

"Provided that nothing in this sub-section shall affect the validity

of the Act or of any action taken thereunder before it is so amended."

There may be some instances where the House may desire that something which has been done should be rectified with retrospective effect. Why should this power be taken away from this House? So, my amendment No. 6 reads :—

"Either House of Parliament may, by resolution passed within thirty sittings of the House next following the date on which the Act has been laid before it under sub-section (3), which period may be comprised in one session or in successive sessions, direct repeal or any modification to be made in the Act and if the direction to repeal or to make any modification is agreed to by the other House of Parliament before the end of the next succeeding session of that House, the Act shall stand **repealed or amended** according to the modifications proposed in the resolution, as the case may be :

Provided that nothing in this sub-section shall affect the validity of any action taken under the Act before such repeal or amendment unless otherwise expressly provided for in the resolution."

Another thing which has been done through this Bill is that after this House passes a Resolution for modifying the Act, the direction will be given to the President who will modify it by another Act. Why? If this House, as the real repository of the power, can direct the President to make the amendment; as soon as the Resolution is passed, the amendment should take place.

This is the effect of my amendment.

SHRI K. NARAYANA RAO (Bobbili) : About the scope of delegation of powers to the President, Shri Srinibas Misra has raised an objection that, so far as Money Bills are concerned, the power to impose taxes and all such matters cannot be delegated to the President. I would like to draw his attention to article 357 of the Constitution. Article 357 says :

"Where by a Proclamation issued under clause (1) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent—

(a) for Parliament to confer on the President the power of the Legislature of the State...."

I emphasize the words, "the power of the Legislature of the State".

"...the power of the Legislature of the State to make law...."

This means, to make all the law, including laws relating to financial bills.

Now I repeat :

"...it shall be competent for Parliament to confer on the President the power of the Legislature of the State to make laws and...."

And what is more,

"...and to authorise the President to delegate...."

So, this is the position. So far as the power of the Parliament to delegate to the President is concerned, so far as the power of the Parliament to confer on the President the power of the Legislature of the State to make laws is concerned, the Constitution is categorical, unconditional and imperative. So, so far as Mr. Srinibas Misra's objection about delegation of powers regarding Money Bills is concerned, I would say that he has not properly understood the provisions of the Constitution.

SHRI SRINIBAS MISRA : Articles 109 and 357(1)(a) are not contradictory. Both are to be observed. Parliament has the power; I do not challenge that, but I only say about the process of initiation; it should have been initiated in the House.

SHRI K. NARAYANA RAO : I do not know how he got this particular idea. Here it is clear. "The power of the Legislature of the State to

make laws" includes the procedural aspect also; the entire processes are taken. All the powers are taken. Article 109 and the other provisions will equally apply here.

My second point is about 30 sittings and all that. I think, perhaps he is shrinking the very concept, because every day we have two sittings and that means that it will be reduced to 15 days.

Thirdly, about modification and all that, about the power of Parliament to modify, notify and all those things, I can assure Mr. Srinibas Misra that even without an express provision in this particular Bill, the power of Parliament to modify any subordinate legislation is implicit in the very Constitution.

I, therefore, feel that there is not much substance in what Mr. Srinibas Misra has said.

SHRI VIDYA CHARAN SHUKLA : The main purpose of the Bill is to save the time of the Parliament, so that we have not to go into the various State Legislatures, for which we have provided a particular process. If we accept the amendments as suggested by the hon. Member, the entire procedure which has been envisaged in the Bill would be upset. I therefore, do not think that we are in a position to accept any of those amendments.

MR. DEPUTY-SPEAKER : I will now put amendments, 1, 2, 3, 5, 6 and 11, to Clause 3 to the vote of the House.

श्री मधु लिमये : मेरी एमंडमेन्ट पर आप अलग से वोट लीजिये ।

MR. DEPUTY-SPEAKER : Then, I will put amendments, 1, 2, 3, 5 and 6 to the vote of the House.

Amendments Nos. 1, 2, 3, 5 and 6 were put and negatived.

MR. DEPUTY-SPEAKER : Now, Mr. Madhu Limaye's amendment, amendment 11.

श्री मधु लिमये : अगर मेरी एमेन्डमेन्ट को आप मान लें तो वोटिंग की आवश्यकता नहीं पड़ेगी ।

श्री बिष्ठा चरण शुक्ल : मानने की आवश्यकता इसलिए नहीं है क्योंकि अभी तक यह होता रहा है कि मेम्बरजं सैलरी एन्ड एलाउन्सिस एक्ट की जो क्लॉज 4 और सब क्लॉज 1 है उसके अनुसार जो भी मेम्बरजं पार्लिमेन्ट को पैसा दिया जाता है, उस में लिखा हुआ है कि एनी अदर ड्यूटीज । अगर आप समझते हैं कि इस एक्ट को इस काम में नहीं ला सकते हैं तो इस बात को हम एडमिनिस्ट्रेटिव आर्डरजं से रेग्युलेट कर सकते हैं । इस वास्ते में नहीं समझता हूं कि प्राविजन इस तरह का करने की कोई आवश्यकता है । इसलिए मैं नहीं समझता हूं कि इस एमेन्डमेन्ट की कोई जरूरत है ।

MR. DEPUTY-SPEAKER : I will now put Amendment No. 11 to the vote of the House.

Amendment No. 11 was put and negatived

MR. DEPUTY-SPEAKER : The question is :

"That Clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI VIDYA CHARAN SHUKLA :
I move :

"That the Bill be passed."

MR. DEPUTY-SPEAKER : The question is :

"That the Bill be passed."

The motion was adopted.

14.50 hrs.

RESOLUTION RE : PROCLAMATION BY THE PRESIDENT IN RELATION TO THE STATE OF UTTAR PRADESH

**AND
UTTAR PRADESH STATE LEGISLATURE (DELEGATION OF POWERS) BILL**

MR. DEPUTY-SPEAKER : We will now proceed with the Resolution and the Bill relating to Uttar Pradesh.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA) :
On behalf of Shri Y. B. Chavan. I move :

"That the Bill to confer on the President the power of Legislature of the State of Uttar Pradesh to make laws, as passed by Rajya Sabha, be taken into consideration."

MR. DEPUTY-SPEAKER : Motion moved :

"That the Bill to confer on the President the power of Legislature of the State of Uttar Pradesh to make laws, as passed by Rajya Sabha, be taken into consideration."

Now the Bill and the Resolution are before the House. Four hours have been allotted for these. We have exhausted ten minutes.

Now Mr. Jharkhande Rai to continue his speech.

श्री झारखंडे राय (घोसी) : अपनी तकरीर के दौरान मैंने केन्द्रीय कांग्रेसी शासकों पर यह आरोप लगाया था कि उन्होंने राष्ट्रपति का शासन हमारे प्रदेश में जानबूझ कर लागू किया जबकि उसकी कोई जरूरत नहीं थी । चौ० चरण सिंह का इस्तीफा संविद का एक आन्तरिक प्रश्न था । यह संविद को अधिकार था कि वह नए नेता का सर्व-सम्मत चुनाव करके एक विकल्प पेश करती । उसका अबसर न देने के लिए और कांग्रेस के वहां के प्रमुख लोगों को इस बात का