

be brought in the correct form. Meanwhile, we will take up the next item on the agenda.

SHRI MADHU LIMAYE : He must withdraw the Bill.

15.53 hrs.

WEST BENGAL LEGISLATIVE
COUNCIL (ABOLITION) BILL*

THE MINISTER OF LAW AND SOCIAL WELFARE (SHRI GOVINDA MENON) : I beg to move for leave to introduce a Bill to provide for the abolition of the Legislative Council of the State of West Bengal and for matters supplemental, incidental and consequential thereto.

MR. SPEAKER : Motion moved :

"That leave be granted to introduce a Bill to provide for the abolition of the Legislative Council of the State of West Bengal and for matters supplemental, incidental and consequential thereto."

SHRI M. R. MASANI (Rajkot) : On a point of order, I have to point out that the introduction of the Bill is not consistent with the rules.

SHRI SHRINIBAS MISRA (Cuttack) : Is he a senior member ?

MR. SPEAKER : He wrote to me earlier about it and I have called him. The hon. Member is getting up just now.

SHRI SRINIBAS MISRA : He wants to oppose it, but I want...

MR. SPEAKER : I have allowed him. It is my privilege. He cannot question it.

SHRI M. R. MASANI : The procedure lays down the sequence of events. The second proviso to rule 74 clearly provides that unless a Bill has been made

available to members at least two days before it is sought to be introduced, introduction cannot be allowed, if any member objects. It says that introduction cannot be allowed if any Member opposes it. The words are :

"...any member may object to any such motion being made unless copies of the Bill have been so made available for two days before the day on which the motion is made, and such objection shall prevail, unless the Speaker allows the motion to be made."

The position is very clear that unless you, Mr. Speaker, in your discretion over rule my objection, the objection of a single Member is mandatory and shall prevail. I should appeal to you to allow the rules to prevail because the Memorandum submitted by the Law Ministry makes out no case whatsoever for urgency in this matter. What it says is that there was only one week left before the adjournment of both the Houses and arrangements had of necessity to be made for the introduction of the Bill on an urgent basis. "May I ask the Law Minister," Why? What is urgent about abolishing the Second Chamber in West Bengal? What will happen if it is not abolished now, but the abolishing Bill is passed by Parliament in the Monsoon session?" This Memorandum gives no reply whatsoever. All it says is: "Because it is urgent, please do not raise this point". I am sorry I cannot cooperate with the Law Minister.

This is a highly controversial Bill and it seeks to do away with the Second Chamber in a State. The Constitution says very clearly that this Parliament may do so or may not do so. We are not bound to follow the wishes of any State Assembly just because it passes a resolution. Finally we in our discretion have to decide whether we should do so or not. Quite frankly, some of us here would like a little more time to consider this Bill and to determine our attitude to it. After all this may form a precedent for other States and it may ultimately form a precedent for an amend-

[Shri M.R. Masani]

ment that the Upper House, the Rajya Sabha, also be abolished. There are many persons who believe a Second Chamber is a good thing, many of us believe that a revising chamber is a good thing... (*Interruptions.*) The Rajya Sabha can be abolished by an amendment of the Constitution. I am opposing this move to waive the rules now because there may be a case for keeping a second chamber.

If there is any State where a revising body is necessary today, it is the State of West Bengal because there a group of people who got only 43 per cent. of the popular vote have obtained a fictitious majority in the Legislative Assembly. Are we to allow a transient, fictitious majority to legislate the abolition of the other Chamber which may act as a revising chamber? All I am saying is that there is no need to hustle us like this. Let the Bill be introduced in the Monsoon session and we shall consider it and the House by a majority can come to its decision on the merits of the Bill.

SHRI SRINIBAS MISRA : This is a Bill under article for the removal or abolition of the legislative council and that article presupposes that the legislative assembly will pass the Bill by two-thirds majority of the members present and voting and by a majority of the members. Here we have been supplied a resolution of the Legislative Assembly of West Bengal and it says that the legislative Council of that State be abolished. We have no knowledge, so far as this House is concerned, except from the papers, whether it was passed by two-thirds majority or by a simple majority, (*Interruption*) I am not going to depend on information which is being given by the hon. Members here. The Ministry should have given us the information either in a note or in a memorandum. This resolution does not say anything. This is my first point.

16 hrs.

The second point is, they have come up with a memorandum for permission of the Speaker for waiving Direction 19B. There is a so another Direction, 19A. Direction Nos. 19A and 19B are two different things. 19A speaks

that notice of at least seven, days should first be given. That is the first item; the second item is, the circulation will have to be there for at least two days. When was the notice given? The notice of the Bill was given on the 10th. So, he is entitled to move for introduction on the 17th. How can he move it today? Direction No. 19A says,;

"A Minister desiring to move for leave to introduce a Bill shall give notice in writing of his intention to do so."

Then, it says :

"The period of notice of a motion for leave to introduce a Bill under this direction shall be seven days unless the Speaker allows the motion to be made at shorter notice."

I am on 19A. Has there been any memorandum or application to the Speaker for waiving this Direction 19A? They have come up with 19B and not with 19A. Under 19B, it will be circulated for at least two days. For that, the memorandum is there. Whether the House will allow it or not is another matter. But in respect of 19A, why should direction be waived? This Direction is for seven days' notice. You will find that this is signed on the 9th by the Minister. On the 16th, he can come with a motion for leave to introduce the Bill. He can do it only on the 16th.

MR. SPEAKER : That is the same point which has already been made by Mr. Masani.

SHRI SRINIBAS MISRA : That is under 19 B. Mr. Masani was challenging it in respect of 19 B : that we must have two days. I am not on that. I am on 19 A. The constitutional question is this. How are we to know whether it has been passed by two-thirds majority or by a simple majority? That information has not been supplied. The resolution should show us something about it.

SHBI S. M. BANERJEE (Kanpur) : At the very outset, I should like to congratulate the Government of the State of West Bengal for having taken a decision like that. Some objections have been raised by Mr. Masani,

and he has read out certain things—seven days have not been given and two days' circulation must be there, and all that. We all know that the Direction of the speaker is there. We have to stick to that Direction.

Just previous to this, there was another Bill wherein no objection was raised by anyone including Mr. Masani, as to whether it must be 2 days or 7 days or Direction 19 A or Direction 19 B. No such points were raised at that time because we were apprehensive that there may be no President Shri Nath Pai also mentioned it, but other Members did not and Mr. Masani was a silent spectator of the whole thing, because he wanted to support it. That is a different matter.

But here, it has been mentioned very clearly. In the memorandum under Direction 19 B, it has been made clear that the State Government, in a separate communication, desired that the Bill be enacted in the current session of Parliament. According to that desire, the Central Government has come up with the steps. We have discussed this in the Business Advisory Committee, and you were kind enough to suggest to the Minister of Parliamentary Affairs that if it was possible, feasible or desirable, this should come up in the House. At the introduction stage, time could be allotted and a long discussion can take place, Mr. Masani can mention in the House whether the Council should be abolished or not. We are not discussing the abolition of the Rajya Sabha. I know the Punjab Government has also taken a decision to abolish the Legislative Council, and Mr. Goyal may raise that issue why Punjab was not included. I am told the Punjab Government papers have not reached the Central Government.

Sir, this decision has been taken by the West Bengal Government. Mr. Masani says, the UF has got a fictitious majority there having secured only 43 per cent of the votes. If that is so, here the entire Congress majority is fictitious. If you have a system of proportional representation as in France, some other party would have been in power here. Mr. Masani's party would have in power here, Mr. Masani's party would not have come into power anywhere.

Whether it is fictitious or not, the UF Government is in power in West Bengal, where there is no Swatantra Party representative either in the Upper House or in the Lower House. I submit that this Bill must be passed.

SHRI PILOO MODY (Godhra) : You have given an assurance that you will not waive the rules.

MR. SPEAKER : that was a Constitution Amendment Bill.

श्री मधु लिमये (मुंगेर) : अध्यक्ष महोदय, मैं इस बिल का समर्थन करता हूँ और मैं सरकार से एक खुलासा चाहता हूँ कि जैसा कि इन्होंने कहा है कि :

“The State Government in a separate communication desired that the Bill be enacted in the current session of Parliament. Accordingly, action was taken for the introduction of the Bill...”

तो क्या यह इस बात का आश्वासन दे रहे हैं कि 16 तारीख के पहले इस को हम पास करें। अगर यह आश्वासन दे रहे हैं तो मैं विरोध नहीं करूंगा। लेकिन लोगों को बेवकूफ बनाने के लिए अगर केवल इसको इंट्रोड्यूस कर देते हैं और बाद में इसको लटकाने रखते हैं तो फिर आप के निर्देशों को स्थगित रखने का क्या अर्थ है, मेरी समझ में नहीं आता। इसलिये मैं सरकार से साफ आश्वासन चाहता हूँ कि अगर 16 तारीख तक इसको प्राथमिकता देकर आप पारित करने की बात सोच रहे हैं तो ठीक है, फिर हम आपका साथ देंगे।

SHRI GOVINDA MENON : That is our intention.

श्री बलराज मधोक (दक्षिण दिल्ली) : मैं श्री मसानी के पॉइंट आफ आर्डर का समर्थन करता हूँ। भारतीय जनसंघ इस बात के पक्ष में है कि अपर हाउस को हटा दिया जाय। परन्तु इसके बारे में इतनी जल्दबाजी की जरूरत नहीं

[श्री बरलाज मधोक]

है। अगर अगले सेशन में यह बिल आये तो भी कोई हेवनस फ़ाल नहीं कर जायगा। पंजाब के अन्दर भी इस प्रकार का एक प्रस्ताव पास हो चुका है। और मैं चाहूँगा कि एक तो सदन को मौका मिले कि इस बिल पर विचार कर सकें और दूसरे अगले सेशन में बिल लायें जिस के अन्दर पंजाब का भी जिक्र हो। और हो सकता है कि कोई और विधान सभा इस बीच में इस तरह का प्रस्ताव पास कर दे। तो सब के लिए इकट्ठा बिल लायें। इसलिये जो बात श्री मसानी ने कही है मैं उस का समर्थन करता हूँ।

SHRI SAMAR GUHA (Contal) : Sir, I welcome the move taken by the UF Government in West Bengal. Mr. Masani said it has got a fictitious majority, having secured only 43 per cent of votes. But when this resolution was put before the Legislative Council, not a single member opposed it. It was a unanimous resolution supported by everybody in the House, whether he belonged to the Congress, U.F., PSP or any other party. There is no necessity on behalf of the Government to give us information whether the Bill as passed with two-third majority, as it is stated in the Statement of Objects and Reasons :

"The Legislative Assembly of the State of West Bengal has passed a resolution, in terms of article 169 of the Constitution for the Legislative Council of the State."

West Bengal has given bold lead to the whole of India in abolishing the Upper House, which is a white elephant. I am in favour of having a second House not only here but in all the States, provided they are constituted on the basis of representation of functional democracy.

SHRI GOVINDA MENON : Sir, as you know, I had requested that the rules regarding sufficiency of notice may be waived and you have been pleased to allow me to have this on the agenda. The reason why it is sought to be passed in this session is this. As soon as the West Bengal Assembly passed this Resolution unanims-

ly under the provisions of article 169, a question was raised in this House and the members of the opposition practically extracted an undertaking from me that I will introduce this Bill in this very session. Moreover, the concerned Minister of West Bengal came to us and represented that they would like to see that it is passed soon because otherwise it would lead to an inconvenient situation. The elections to the Upper House are to take place now and if the elections take place, to tell them two months later that they are out of it will be a very inconvenient situation.

Shri Masani raised the question whether a fleeting majority in State Assembly could do away with second chambers and should Parliament accede to it so easily. If he reads article 169 he will see that it can be recreated. If another Assembly, where the majority is of a different party, thinks that they should have a second chamber, it can be done.

Very many times questions are raised in this House why the Central Government and Parliament are not according to the points of view put forward before the Centre by the State Governments. In this case, since the West Bengal Assembly passed this unanimously, the Government here thought that it is our duty to respond to this unanimous demand of the elected members of the West Bengal Assembly. Therefore, Sir, I seek your leave to introduce this Bill.

MR. SPEAKER : The moment this Resolution was passed unanimously by the State Assembly, it was raised here on the floor of the House, I do not remember by whom.

SHRI GOVINDA MENON : Shri Indrajit Gupta raised it and I gave an undertaking to bring forward the necessary legislation.

MR. SPEAKER : Apart from what happened on the floor of the House, in the meetings of the Business Advisory Committee it was persistently demanded that this legislation must be passed during this session. When such a demand was made, I said "I will not block it, if it comes ; but, then Government must come forward with a Bill ; otherwise, I cannot help it". Our

friends in the Business Advisory Committee went on pressing for this legislation on two occasions. That is to say, for the last 15 to 20 days this issue is before us. It is not a surprise spring on the House. Since the West Bengal Assembly and Council have passed the Resolution for the abolition of the Council, why should we block it if they want its abolition. That was my thinking in giving this leave for introduction and since I have given leave it is there in the agenda now. I do not think any serious objection has been taken to this. Only, an assurance has been demanded by Shri Madhu Limaye that it should be passed this session.

SHRI GOVINDA MENON : It will be done.

MR. SPEAKER : It should not take more than a couple of hours because it is a unanimous decision of the State Assembly.

THE MINISTER OF PARLIAMENTARY AFFAIRS, AND SHIPPING AND TRANSPORT (SHRI RAGHU RAMIAH) : It depends on the availability of time.

MR. SPEAKER : We shall see if you can provide time for this. Now I will put it to the vote. The question is :

"That leave be granted to introduce a Bill to provide for the abolition of the Legislative Council of the State of West Bengal and for matters supplemental, incidental and consequential thereto."

The motion was adopted.

SHRI GOVINDA MENON : Sir, I introduce the Bill.

16.15 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]
COMPANIES (AMENDMENT) BILL-Contd.

MR. DEPUTY-SPEAKER : Shri Sezhiyan to continue his speech.

SHRI SEZHIYAN (Kumba Konam) : Mr. Deputy-Speaker, Sir, yesterday, I was speaking on the Bill which seeks to ban the company donations to political parties and also to abolish the managing agency system...

SHRI M. R. MASANI (Rajkot) : Will you kindly tell us when the Minister is going to reply to the debate, today or on Thursday ?

MR. DEPUTY-SPEAKER : We have got still 2 hours and 35 minutes. He will be called, say, at about 5-30 P.M. Let the general discussion be concluded today.

SHRI M. R. MASANI : Why not allow the Minister to reply on Thursday ?

MR. DEPUTY-SPEAKER : Let us finish today at least the general discussion. There is pressure of time.

THE MINISTER OF INDUSTRIAL DEVELOPMENT, INTERNAL TRADE AND COMPANY AFFAIRS (SHRI F. A. AHMED) : If you call me before 5-30 P.M., I have no objection.

MR. DEPUTY-SPEAKER : We have got 2 hours and 35 minutes. One hour is for clause-by-clause consideration. So, one hour and 35 minutes remain for general discussion. I will call a few Members to speak. It must be concluded today.

SHRI F. A. AHMED : Before 5-30 P.M. if you call me...

MR. DEPUTY-SPEAKER : In that case, you reply on the next day.

SHRI F. A. AHMED : That is all right.

SHRI M. R. MASANI : Why don't we close the debate today and the Minister can reply to the debate on Thursday ?

MR. DEPUTY-SPEAKER : It is all right.

SHRI D. N. PATODIA (Jalore) : So, the clause-by-clause consideration will come up on Thursday after the Minister replies.

MR. DEPUTY-SPEAKER : Yes.