LOPMENT INTERNAL TRADE AND COMPANY AFFAIRS (SHRI BHANU PRAKASH SINGH) : I beg to lay on the Table a statement showing reasons for delay in laying the reports of (1) Development Council for Inorganic Chemical Industries and (2) Development Council for Heavy Electrical Industries, for the years 1967-68, in pursuance of an assurance given by him on the 22nd April, 1969. [*Placed in Library. See* No. LT – 1170/69].

12.23 hrs.

PRESIDENT (DISCHARGE OF FUNCTIONS) BILL

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : Sir, I beg to move* :

> "That the Bill to provide for the discharge of the functions of the President in certain contingencies, be taken into consideration."

श्री मधु लिमये (मुंघेर) : अध्यक्ष महोदय, जो विधेयक सम्बन्धी बातें हैं, वे तो बहस के दौरान कहीं जायंगी, लेकिन दो-तीन बातें हैं यदि उन के सम्बन्ध में गृह मंत्री महोदय खुलासा करेंगे तो मेरा ख्याल है कि इस मामले पर काफी रोशनी पड़ेगी।

ता० 4 को अखबारों में मैंने पढ़ा कि राष्ट्रपति डा० जाकिर हुसैन की मृत्यु के बाद, जिस को लेकर हम सभी लोगों को बहुत अफ़सोस और दुख है, उपराष्ट्रपति श्री वी० वी० गिरि साहब को शपथ दिलाई गई और अखबारों में जो कुछ आया है, उसके अनुसार उन्होंने निम्न शपथ ली—ऐसा मुझे लगता है—

> "I, V.V. Giri, do swear in the name of God that I will faithfully execute the office of the President."

अध्यक्ष महोदय, हमारे संविधान के अनुसार इस तरह की शपथ लेने की क्या आवश्यकता थी और क्या औचित्य था—यह मेरी समझ में नहीं आ रहा है। क्योंकि हमारे संविधान की धारा 65 में यह बात बिलकुल साफ है कि वी० वी० गिरि साहब राष्ट्रपति के निधन के बाद राष्ट्रपति के नाते काम करने की स्थिति में आये, राष्ट्रपति नहीं बने। हमारे संविधान में उपराष्ट्रपति के बारे में दो बातें कही गई हैं—जब राष्ट्रपति हट जाते हैं, इस्तीफा दे देते हैं या उन का निधन हो जाता है या जब वह विदेश वगैरह जाते हैं तो उपराष्ट्रपति "एक्टिंग एज प्रेजिडेंट" होते हैं। राष्ट्रपति के नाते काम करते हैं, प्रेजिडेंट के फक्शन्ज को डिस्चार्ज करते हैं।

ऐसी हालत में मैं सब से पहले एक सवाल उठाना चाहता हूं—इन्होंने राष्ट्रपति के नाते शपथ क्यों ली ? उस दिन उप-प्रधान मंत्री और काबीना के अन्य मंत्री भी वहां उपस्थित थे, मैंने तस्वीर में देखा है। क्या इस के औचित्य के बारे में उन्होंने एटार्नी जैनरल या कानून मंत्रालय से राय प्राप्त कर ली थी कि इस तरह शपथ लेना उचित था ? क्योंकि एक दफा उपराष्ट्रपति संविधान के प्रति शपथ ले चुके हैं और संविधान में यह लिखा हुआ है कि वे वफादार रहेंगे। जब इस तरह की शपथ पहले ले चुके थे तो वे काम कर सकते थे, इस नई शपथ की कोई आवश्यकता नहीं थी।

दूसरी बात—राष्ट्रपति डा० जाकिर हुसैन के निधन के बाद हमारे इस सदन में कल के कम्पनी बिल को लेकर कुल पांच बिल पास हो चुके हैं—1. फ़ाइनेन्स बिल, 2. स्टेट ड्यूटी बिल, 3. रजिस्ट्रेशन आफ़ बर्थस बिल, 4. यूनियन टैरिटरीज बिल और 5. कल का कम्पनी बिल। इन में से मुझे पता नहीं राज्य सभा ने कितने बिल पास किये हैं, लेकिन एक बिल के बारे में मैं जानता हूं—फाइनेन्स बिल पर वहां चर्चा हुई थी और चर्चा के बाद पास हुआ था और जैसा हमारे संविधान में लिखा हुआ है उन्होंने उसे वापस यहां भेज दिया।

* Moved with the recommendation of the President.

उस के वापस भेजने के बाद जैसा नियम 128 में लिखा हुआ है—

> "(1) When a Bill is passed by the Houses and is in possession of the House the Bill shall be signed in duplicate by the Speaker and presented to the President :
>
> Provided that in the absence of the Speaker from New Delhi, the Secretary may, in case of urgency, authenticate the Bill on behalf of the Speaker.
>
> "(2) One copy of the Bill so assented to by the President shall be preserved for verification and record and shall not be allowed to pass out of the custody of the House without the permission of the Speaker."

इस बिल को निश्चत रूप से सम्मति के लिए, असेन्ट के लिए श्री वी० वी० गिरि साहब के पास भेज दिया गया होगा। मैं जानना चाहता हूँ कि क्या यह बात सही है कि जब आपने नीचे लिखा था कि 'वाइस प्रेजिडेंट एक्टिंग एज् प्रेज़िडेंट" उस को गिरि साहब ने काट करके प्रेज़िडेंट कर दिया ? मैं बहुत गम्भीरतापूर्वक कहना चाहता हूं कि हमारे संविधान के अनुसार बिलकुल ठीक लिखा हुआ था—लेकिन वी० वी० गिरि साहब ने "एक्टिंग एज् प्रेज़िडेंट" काट कर प्रेज़िडेंट लिख दिया। क्या इसके बारे में एटार्नी जैनरल ने कुछ कहा है ? क्या उसने भी यही राय दी है कि वह प्रेजिडेंट नहीं लिख सकते हैं, 'वाइस प्रेज़िडेंट एक्टिंग एज प्रेजिडेंट" लिख सकते हैं

अब मैं आल इण्डिया रेडियो के बारे में कहना चाहता हूँ—

एक माननीय सदस्य : अध्यक्ष महोदय, यह सक्सेशन का बिल है।

श्री मधु लिमये : अध्यक्ष महोदय, एक्स-ट्रेनिअस कैसे हैं ? मैं खत्म कर रहा हूँ। मैंने सुना है कि राष्ट्रपति भवन से आल इण्डिया रेडियो को यह पत्र लिखा गया था कि हमारा उल्लेख "एक्टिंग एज़ प्रेज़िडेंट," के नाम से क्यों होता हैं, प्रेजिडेंट के नाम से होना चाहिए।

अध्यक्ष महोदय, यह संवैधानिक पहलू है। इस पर आप निर्णय दे चुके हैं। एक दफा यह बिल इसी आधार पर वापस हो चुका है, और उसके बाद सही उपाधि, डेजिगनेशन लिख कर आया है। मैं चाहता हूं कि गृह मंत्री महोदय अपने भाषण में इसके बारे में खुलासा करें।

MR. SPEAKER : I only want to say that this has nothing to do with the Bill before the House, which is about succession. Whether the Bill was signed by the Vice-President, President or Shri V. V. Giri is extraneous to the consideration of the present Bill. There is no point in taking time of the House like this. If Shri Kundu wants to raise a point of order regarding this Bill, let me hear it.

SHRI S. KUNDU (Balasore) : I would like to submit that the present Bill is incompatible with the Constitution. Clause 3 of the Bill says :

> "...the Chief Justice of India or, in his absence, the seniormost Judge of the Supreme Court of India available shall discharge the functions of the President until a new President elected..."

My contention is that the Chief Justice cannot be appointed under this Bill to discharge the functions of the President. Article 126 of the Constitution says :

> "When the office of Chief Justice of India is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to preform the duties of his office the duties of the office shall be performed by such one of the other Judges of the Court as

[Shri S. Kundu]

> the President may appoint for the purpose."

Here we have suggested in the Bill that the Chief Justice will be appointed as President. But we have not provided that that person shall case to hold the office of Chief Justice when he becomes the President. The Chief Justice will be functioning as the President and, at the same time, the Chief Justice will be also acting as the Chief Justice of the Supreme court. There should be, automatically, a provision of the Chief Justice. Unless there is a specific provision, there is a vacuum. Here, it says, "or otherwise". We have to specifically make a provision how otherwise.

MR SPEAKER : Now, Shri Nath Pai ; I understand what you say.

SHRI S. KUNDU : Let me finish, Sir.

MR. SPEAKER : We should finish at some stage. There should be some limit. Don't repeat it. It is commonsense.

SHRI S. KUNDU : Commonsense is good as law but not always the law.

MR. SPEAKER : He cannot be both, the Chief Justice and the President ; he cannot function in both the capacities. I can understand that.

Shri Nath Pai.

SHRI S. KUNDU : Unless specifically mentioned.

Secondly, under the Constitution, the President acts on the advice of the Council of Ministers...

MR. SPEAKER : Why don't you argue when the clause comes ? Don't take time now and again then also. There is no point of order. In the name of point of order, you are discussing the merits of the Bill and a particular clause. Will you resume your seat please ? There is no point of order as such. You are going into the merits of the Bill now itself. You are entitled to discuss the merits of the Bill, I have no objection, but at a different stage, not now. Shri Nath Pai.

SHRI NATH PAI (Rajapur) : Sir, before I say something relevant to the Bill I want to bring to your notice a serious difficulty I encountered while proceeding to discharge my duties as a Member in the House. I find one of the Lobbies is crowded with din, turmoil, jostling and pushing. I think, some party, one of the many parties in the House, is holding some elections. Parliament should not be reduced to such an absurdity...(*Interruption*) I must say I am very serious ; I am not ridiculing. We should make an effort to be serious sometime. The Lobby is a part of the House. I want you, Sir, to give us protection and also help us in maintaning order. The kind of jostling, pushing and catching people by the neck, that is going on...(*Interruption*) I am not a wrestler. Sir, you are the custodian of Parliament ; the Lobby is a part of the House.

MR. SPEAKER : The Lobby will be kept free for the Members.

SHRI NATH PAI : Now, Sir, I wrote to you a letter requesting you to direct the Home Minister to supply us a copy of the exact oath that the present incumbent, the Vice-President acting as President took. You just now remarked, and there is great substance in your observation, that we should try to limit ourselves at this stage to only what is pertinent and to discuss the merits of the Bill. That Stage will come latter on. But I want to tell you I have much to say because you have upheld my contention yesterday that the Vice-President must be designated as the Vice-President acting as President of India. None-the-less, all that I have to submit later on in my main submission, this letter from you is very germane to this. Did he utter, "I will faithfully execute the office of the President or I will discharge the functions of the President" ?

Sir, I requested you to direct the Home Minister to give us a copy of the exact oath that was taken by him. In your letter, it says, the Vice-President acting as President has been iufromed. I was not present there ; I do not know the oath taken. The bulletin says, the Vice President acting as President. But did he utter, "I will faithfully execute

the office of the President or discharge the functions of the President" ? There is an alternative given to him. I am not aware which he chose.

MR. SPEAKER : That is all.

SHRI NATH PAI : My second request also remains. I will try to be brief. I appreciate your impatience but kindly try to be a little more tolerant. I also want a copy of the Finance Bill. I want to know how it is signed. Day before yesterday, I Produced for your verification an original copy of the Appropriation Bill, not one but two Appropriation Bill, which are in your custody, one signed by the late Dr. Zakir Husain and another signed by Dr. Kadhakrishan, both Vice-Presidents discharging the functions of President. For my point to be developed, I need your assistance. Nobody can help, Sir, except you. Before I proceed to participate in the debate, you will be pleased to direct the authourities concerned to give me the copies.

SHRI SAMAR GUHA (Contai) : On a point of order. My submission to you is.....

MR. SPEAKER : It is a submission, not a poin of order. What is the point of order ? I think, I will have to be more strict about point of order.

SHRI SAMAR GUHA : The Bill that has been moved in this House is *ultra-vires* of the provisions of the Constitution. This Bill cannot be moved in this way. Only a Constitution (Amendment) Bill can be moved...

MR. SPEAKER : This was argued by Mr. Nath Pai on that day.

MR. SAMAR GUHA : In article 70 it has been clearly mentioned that Parliament may make such provision...

MR. SPEAKER : You are making a speech. There is no point of order. Point of order is raised with reference to Rules of Procedure and not with reference to Constitution. You have a right to argue that this Bill cannot come in this shape and all that. But there is no point of order here...

SHRI SAMAR GUHA : You are the custodian of this House. It contravenes the provision of the Constitution.

MR. SPEAKER : The stage at which you can say all these things is over already. It was withdrawn and again it was introduced. Now the motion has been moved for consideration.

SHRI SAMAR GUHA : It was argued yesterday...

MR. SPEAKER : I do not want you to bring in any arguement now. Please sit down.

SHRI NATH PAI : What about the request to call the Attorney-General ?

MR. SPEAKER : I am coming to that. Mr. Nath Pais, points may be important. But how are they relevant to this Bill ?

श्री मधु लिमये : यह बताने की इजाजत दीजिए—एक मिनट में हम बताते हैं। आप सवाल तो पूछते हैं लेकिन जवाब नहीं देने देते हैं।

MR. SPEAKER : I am on my legs. I am not asking any question. I am giving my dicisions. Questions have been asked. Decisions are being given.

My point is this. The President died on a particular date, and on that date somebody else was sworn in. What was the language of swearing-in, that has nothing to do with this Bill. This Bill is about succession, who should succeed and how he should succeed—ABC, XYZ and all that. What oath the successor should take, what type of language must be used, that is a different point. I entirely agree that that must be clarified—what type of oath must be given to the successor, whether he is 'acting' or 'discharging his duties'. There are so many ticklish questions. We will have to get the opinion of the Attorney-General, Law Secretary and all that, but on a different occasion, not today.

SHRI NATH PAI : What about the request to call the Attorney-General ? I wrote to you.

MR. SPEAKER : Not on this issue.

SHRI NATH PAI : It is an inherent right of this House...

MR. SPEAKER : The Home Minister will reply now.

SHRI S. M. BANERJEE (Kanpur) : They are all potential successors.

MR. SPEAKER : Yes ; every one of us.

SHRI Y. B. CHAVAN : May I begin with one straight explaination...

MR. SPEAKER : You can begin with a reply to the two points raised by Mr. Nath Pai.

SHRI Y. B. CHAVAN : I might incidentally deal with them when I develop.

Mr. Nath Pai has the great art of creating doubts about arguements of others. But this time he has planted a doubt in his own mind and he is trying to confuse himself and others. I will tell him how. The firt point that he raised was about oath. These people are very intelligent people... They are not wrestlers, I am very glad...but they are missing the obvious things. If you see article 60, you will find this:

Article 60 says :

> "Every President and every person acting as President or discharging the functions of the President shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of India or, in his absence, the seniormost Judge of the Supreme Court available, an oath or affirmation in the following form, that is to say—"

In this matter he was acting as President and he has to take oath under Article 60. He was not discharging the functions of the President. He is acting as President. Therefore, this oath was legitimately taken. He wanted the information.

SHRI NATH PAI : Thank you for supplying the information.

SHRI Y. B. CHAVAN : You wanted the information. I have given the information. It is a very legitimate and correct procedure that was followed.

SHRI NATH PAI : That is most germane. Thank you.

SHRI Y. B. CHAVAN : Everything is left to you. What else can I do.

SHRI NATH PAI : You have come determined to get angry.

SHRI Y. B. CHAVAN: I am not angry. I am merely arguing. You are interrupting I am not interrupting. I am legistimetely in the possession of the House. You are interrupting, I am not interrupting. What is the basic purpose of this thing ? Let us come back to the position. Article 70, really speaking, authorises bringing of this Bill. What is art. 70 meant for ? Art. 70 is meant for making provision for the contingecies which are not provided in the Constitution. What are the contingencies that are provided in the Constitution ? One is when a vacancy is caused by the death, resignation or removal, of the President. That time the Vice-Pressdent is supposed to act as President. The other contingency that is provided for also is one when the President is disabled, is not in a position to work. That time the Vice-President can discharge his functions. These are the two things which are provided for in the Constitution. Therefore, we have got three persons, in inverted commas, legal persons. One is the "President" ; one is "Vice-President acting as President" and the third is "Vice-President discharging the functions of the President."

SHRI J. B. KIRPALANI (Guna): When he discharges the fucntion, is he acting or not acting.

SHRI Y. B. CHAVAN : When he discharges the function, he is not acting. That is the constitutional position. What can I do ? Even then in all these three categories, however we designate them in the constitutional frame, the office of President functions. Let us not forget that. This Bill tries to provide for three different types of contingencies. First is when the vacancies of both President and Vice-President occur,

what is to be done about that.

AN HON. MEMBER : Which the makers of the Constitution did not visualise...

SHRI Y. B. CHAVAN : But they did visualise as to when a non-visualised situation arises, what should be done. Our founding father were wiser than what we can think of.

The second contingency that is provided for in this Bill is when the Vice-President, while discharging the functions of the President, dies or resigns or is removed. We have seen a situation that even when there is no vacancy in the Presidentship and when the President is disabled, the Vice-President is discharging his functions. In that case, when he is removed, resigns or dies, some arrangement has to be made. That is the second contingency that is provided for. The third is when the Vice-President either acting as President or while discharging the functions of the President is unable to discharge his functions. In these two cases the third contingency can be contemplated. This Bill provides for certain arrangements to carry on the work of the office of the President. This is really speaking the general scheme of the Act.

In this connection I would like to make one submission. It is popularly called the Succession Bill. According to my light, this is not a Succession Bill. This is to provide for certain arrangement for certain contingencies. While we take the analogy of what happens in America and other places, we have to remember, what they provide for is a regular succession. The elective element and non-elective element can certainly be gone into. These are the two views and these are two legitimate views. I don't say that there is anything wrong about it. Somebody can legitimately say that Speaker can be there. The other view is there that the Chief Justice can be there. Government took a particular view and they took a particular view because this is not a regular succession. We had certain precedents. In the case of Governors the Chief Justices come and take their places. We thought this arrangement would be much better and more convenient.

SHRI SURENDRANATH DWIVEDY (Kendrapara) : Governor is not elected...

SHRI S. KUNDU : From the constitutional point of view it is wrong.

SHRI Y. B. CHAVAN : Your view can be taken. But Government has taken this view. This is not a regular succession as such. That is why it was thought, while making certain arrangements, it is much better to go by certain practices we have followed in case of Governors. Therefore the question of elective element was not considered and contemplated. This is the position. For these two important objections that they have raised, I have these submissions to offer. So, I request the honourable House to consider the Bill as it is.

MR. SPEAKER : Motion moved :

> "That the Bill to provide for the discharge of functions of the President in certain contingencies, be taken into consideration."

SHRI SRIRAJ MEGHRAJJI DHRANADHRA (Surendranagar) : We are to enact a law under Art. 70 of the Constitution to provide for a second person in the line of succession to the Presidency. I rise to support the Government Bill which seeks to fill the lacuna which should have been filled long ago. Indeed there should have been no lacuna in the Constitution.

This is a matter on which I have been long exercised. The proposal put forward by Government, which I support is not, in my view, the best arrangement.

I have in mind a Bill for the separation of the offices of Vice-President and the Chairman, of the Rajya Sabha. I had made this suggestion to the late Pandit Jawaharlal Nehru but he was not then exercised by it. I will not say anything more about this here, except that in a vast country such as ours there is need for a full time office of Vice-President or Pro-President to share and lighten the burdens of the President and to deputise for him in all kinds of duties and contingencies.

[Shri Siraj Meghraj ji]

As to the Chief Justice of India being the second in line of succession, while some cogent things have been said against it in this House, they are not such as to invalidate the proposal of the Government, we already have the precedents in the State that the Chief Justice officiatos for the Gover. nor when the need a.ises.

If we croate a new and different practice and precedent for the Union, the same presumably should sooner or later be followed by the States.

Sir, your office, the office of Speaker, is a key office. How crucial this office can be and how critical a role it is sometimes called upon to play can be seen from our own experience of the events in certain State Legislatures, how majorities change, resulting in the fall and rise of Governments. The central figure in these eventualities is the Speaker. Fortunately such an eventuality has not yet overtaken the Lok Sabha. So we have no immediate experience of it. But we can learn from the experience in the States.

It is important, therefore, not to bring any interference in the office of the Speaker.

The Judiciary, on the other hand, is a stable and a permanent body. If the Chief Justice does briefly officiate as President and it will always be brief--it will in no way impair the judicial branch of Government. As President, he can always reserve Bills for his permanent successor. And as Chief Justice he need not adjudicate in matters arising out of a law enacted by him.

On the other hand, the translation of the Speaker to the Presidency would certainly impair the legislative branch.

Sir I, therefore, support the Bill as a good stop-gap arrangement.

श्री प्रकाशवीर शास्त्री (हापुड़) : अध्यक्ष महोदय, मैं अपनी तीन शंकाओं को प्रमुख रूप से आपके सामने रखना चाहता हूं। मैंने अपना एक संशोधन भी दिया है लेकिन पता नहीं वह मेरा संशोधन क्यों नहीं वितरित किया जा सका ? प्रमुख रूप से मेरे संशोधन की पृष्ठभूमि यह है कि संसद् तीन हिस्सों में विभक्त है, एक लोक सभा, दूसरा राज्य सभा और तीसरा राष्ट्रपति इन तीनों अंगों को मिला कर संसद् बनती है। इस में जुडिशिएरी का या न्यायालय का किसी प्रकार से समावेश नहीं है। इसलिए मेरा पहला तो सुझाव यह है कि अगर किसी समय ऐसी स्थिति आये कि जब राष्ट्रपति न रहें और राष्ट्रपति का स्थान उप-राष्ट्रपति लें तो उप-राष्ट्रपति की जगह यदि खाली हो तो संसद् के इन तीनों भागों में से ही कोई व्यक्ति को लेकर उस स्थान की पूर्ति हो। चाहे उसकी पूर्ति इस रूप में हो कि उपराष्ट्रपति के स्थान पर लोक सभा के अध्यक्ष या राज्य सभा का जो उप-सभापति हो वह उस स्थान को ले या फ़िर राष्ट्रपति ने अपने जिन सहयोगियों को राज्यपाल के रूप में नियुक्त किया है, वरीयता के क्रम में, उन में से किसी व्यक्ति को ले लिया जाय। लेकिन जुडिशियरी के किसी आदमी को लेना संसद् के अधिकारों में हस्तक्षेप करना है क्योंकि संसद उन्हीं तीन भागों में विभक्त है और जुडिशियरी का प्रत्यक्ष या अप्रत्यक्ष रूप से कोई समावेश नहीं है।

दूसरी बात जो मैं विशेष रूप से कहना चाहता हूं वह यह कि जब आप सर्वोच्च न्यायालय के प्रमुख न्यायाधीश को राष्ट्रपति बनायेंगे या उपराष्ट्रपति की शपथ दिलायेंगे तो अब तक की परम्परा यह रही है कि जो व्यक्ति राष्ट्रपति की शपथ लेता है तो सर्वोच्च न्यायालय का प्रमुख न्यायाधीश उनको शपथ दिलाने के लिए आता है। इससे यह बात स्पष्ट हो जाती है कि राष्ट्रपति का पद पृथक है और सर्वोच्च न्यायालय के न्यायाधीश का स्थान पृथक है। लेकिन जब वह स्वयं राष्ट्रपति के रूप में शपथ लेगा तो उनका जो अपने नीचे का न्यायाधीश है वह उस समय प्रमुख न्यायधीश के रूप में प्रमुख न्यायाधीश को राष्ट्रपति के पद की शपथ दिलायेगा जो कि संवैधानिक दृष्टि से बिलकुल

अस्वस्थ परम्परा हो जायगी और इस दृष्टि से भी यह गलत होगा।

तीसरी बात यह है कि हमारे देश की स्थिति इस प्रकार की है कि अब तक जो राज्यपालों की नियुक्ति होती है वह उनको राष्ट्रपति अपने प्रतिनिधि के रूप में नियुक्त करता है। अगर इस विधेयक के रूप में यह बात आती कि उपराष्ट्रपति के हट जाने पर या उपराष्ट्रपति के न रहने पर जो वरीयता के क्रम से या सीन्यारिटी के क्रम से सबसे प्रमुख राज्यपाल होगा वह उपराष्ट्रपति के स्थान को लेगा अगर इस क्रम न रहे तो उससे दूसरी जो वरीयता के क्रम से राज्यपाल होगा वह उस स्थान को लेगा तो संवैधानिक परम्पराओं की रक्षा हो सकती थी लेकिन जुडिशियरी को या न्यायालय को उस बीच में लाकर बिलकुल एक संविधान की भावना के प्रतिकूल काम करना होगा।

एक अन्य बात जो मैं विशेष रूप से कहना चाहता हूं कि उपराष्ट्रपति के इस पद की अब तक आवश्यकता क्यों थी, अब तक उपराष्ट्रपति की आवश्यकता इसलिये थी कि राष्ट्रपति यदि किसी समय न रहे तो उपराष्ट्रपति राष्ट्रपति के कृत्यों का निर्वहन करेंगे इस लिए यह उपराष्ट्रपति का पद बनाया गया था। चूंकि उपराष्ट्रपति के पास कोई और कार्य नहीं था इसलिए उनको राज्य सभा का चेअरमैन भी बना दिया गया ताकि उपराष्ट्रपति केवल मात्र उस समय की प्रतीक्षा में ही न रहे कि जब राष्ट्रपति समाप्त हो जायं उस समय हम अपना कार्य प्रारम्भ करेंगे। इस बीच में उनको कुछ काम भी सौंप दिया जाय और इसके लिए राज्य सभा का सभापति उपराष्ट्रपति को बना दिया जाता है। अब आज की स्थिति क्या है क्योंकि संविधान इस विषय में मौन है? आज भारत इस समय बिना उपराष्ट्रपति के है और राज्य सभा की जो उपसभापति थीं वह राज्य सभा के सभापति का कार्य कर रही हैं। इसका स्पष्ट अभिप्राय यह है कि उपराष्ट्रपति का जो पद था उस की अब तक किसी प्रकार से कोई आवश्यकता विशेष अनुभव नहीं की गई। आज जब आप यह कह रहे हैं कि उपराष्ट्रपति भी यदि न रहें तो जो सर्वोच्च न्यायायलय के प्रमुख न्यायाधीश हैं उन को उस स्थान पर लगाया जाय। मेरा कहना हैं कि इस दृष्टि से तो इस उपराष्ट्रपति के पद को समाप्त ही कर दिया जाय। आज जब हमारे देश में यह परम्पराएं प्रारम्भ हो रही हैं कि विधान परिषदें समाप्त हो रही हैं तो देश के ऊपर अनावश्यक रूप से जो पद रक्खे हुए हैं उनको भी समाप्त कर दिया जाय। क्योंकि उपराष्ट्रपति के न रहने पर जैसे आप न्यायालय से किसी को लेंगे तो उसी तरीके से राज्यपालों में से किसी को ले लें या लोक सभा के अध्यक्ष को ले लें या राज्य सभा के उपसभापति को ले लें और इस तरह उसकी पूर्ति हो सकती है। उपराष्ट्रपति का पद, उसके लिए इतना बड़ा वेतन, इतनी सुविधाएं, इन सब की किसी प्रकार से कोई आवश्यकता नहीं है। इस दृष्टि से यह जो विधेयक है वह बड़ा त्रुटिपूर्ण है। मैं चाहता हूं कि सरकार इन सारी बातों पर विचार करे। इस परम्परा को इस रूप में रक्खे कि उपराष्ट्रपति की यदि कभी आवश्यता हो या राष्ट्रपति का कार्य करने वाला उपराष्ट्रपति भी किसी समय यदि न रहे तो लोक सभा के अध्यक्ष या राज्य सभा के उपसभापति से उसकी पूर्ति की जाय या राज्यपालों में से लेकर पूर्ति की जाय। बहरहाल जो संसद की अपनी एक परिधि है जिसके अन्दर लोक सभा, राज्य सभा और राष्ट्रपति आते हैं, इनके अतिरिक्त और किसी में से इन पदों में से किसी स्थान की पूर्ति न की जाय।

SHRI VIKRAM CHAND MAHAJAN (Chamba) : The present Bill is a very timely one, especially under the present circumstances. Many objections have been raised to the Chief Justice being put in the line of succession.

SHRI NATH PAI : May I know how much time has been allotted for the discussion of this Bill ?

MR. SPEAKER : Let us see.

SHRI NATH PAI : The Business Advisory Committee did not discuss it and did not allot any time for this. So, it is a solutely within your discretion.

MR. SPEAKER : We have 4 hours at disposal. Let us see.

AN HON. MEMBER : So, 4 hours will be available for this Bill.

MR. SPEAKER : The fact that we have four hours does not mean that we should take all the 4 hours for this Bill. We can dispose of it earlier also.

SHRI VIKRAM CHAND MAHAJAN: An objection has been raised that the Chief Justice should not be put in the line of succession. Article 126 of the Constitution was read out in this connection by one hon. Member. Under the Constitution, it was argued that the Chief Justice could not act as President. Article 223 which makes a similar provision in regard to the Chief Justice of the States reads as follows :

> "When the office of Chief Justice of a High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose."

Article 126 contains a similar provision. But we have the constant practice in India that whenever there is a vacancy in the post of a Governor, the Chief Justice of the High Court of the State is made as acting Governor. No objection has so far been raised to that practice. For the first time when a similar provision is being made at the Centre, we find that objections are being raised.

There are equally good alternative suggestions that the speaker of the Lok Sabha or the Governor should be made acting President. One cannot say that they are not equally competent or they are not good alternative suggestions. But when they are five or six good alternatives, Government in their wisdom have thought it better to follow a policy which could create the least amount of displacement For example, if the Speaker of the Lok Sabha is put in the line of succession, then we all know what will happen to Lok Sabha.

SHRI PRAKASH VIR SHASTRI : The Deputy-Speaker is here.

SHRI VIKRAM CHAND MAHAJAN : I am not casting any aspersion on anyone, but we all know what will happen. Then, there will be a vacancy in the office of the Deputy-Speaker, and then there would be another displacement and so on.

When the Chief Justice acts as President, then there is a regular set of Judges who will do the work ; when the Chief Justice goes, the next judge comes in, and if he goes, the next one comes and so on, and thus there is no such thing as displacement of office, and there is no displacement of the work that is going on. So, if the Chief Justice acts as President, there will not be a back-log of work in the Supreme Court, because the others will be there to carry on the work.

A question was raised when he acts as President and passes certain Acts then how later on he will sit in judgment on those very Acts ? My hon. friend who raised that point forgets that it is a settled practice in courts that one does not judge what one does oneself. If he has done something as President, then he will not sit in judgment on it in the court. For example, if he passes an Act, he will not sit in the Supreme Court and sit in judgment on the very Act. Perhaps, some of my hon. friends have raised this point out of ignorance. One hon. Member has asked what type of oath he will take as President, and he has suggested that that should be read out in the House. If only he would have read the Constitution a little more carefully, he would have found that out for himself. But sometimes even angels make slips, and so a human being can also sometimes make a slip here and there.

SHRI NATH PAI : He thinks that judicial knowledge is hereditary ? Let him not have that arrogance.

SHRI VIKRAM CHAND MAHAJAN : I have categorised him as an angel. But he does not want to take the compliment. At least let him have good grace to accept the compliment.

Another objection has been raised on the ground that there are three branches, namely the executive, the judiciary and the legislature.....

MR. SPEAKER : The hon. Member may continue his speech after lunch.

13 hrs.

The Lok Sabha adjourned for Lunch till Fourteen of the Clock.

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The Lok Sabha reassembled after Lunch at Four minutes past Fourteen of the Clock.

[MR. DEPUTY-SPEAKER *in the chair*]

RE. ALLEGED ARREST AND BEATING UP OF DEMONSTRATORS IN FRONT OF PARLIAMENT HOUSE.

SHRI S. M. BENERJEE (Kanpur) : I rise to a point of order. This is a very serious matter. I want that the debate on the particular motion before the House be adjourned to discuse a very serious matter.

As you are aware, unemployed youths, both men and women, have come from verious parts of the country from 15 States. They wanted to knock at the door of this august House to highlight their hunger and starvation. A delegation met the Prime Minister yesterday when they handed over memorandum to her. She gave them a sympathetic hearing and has promised to do something, if there is anything in herh ands.

The point is that they wanted to present a memorandum to the elected representatives of the people. As you know, the tradition in this House has been that people come outside and seek to meet us. You have been a number here since long and you yoursef have addressed many such meetings. In this way they wanted to meet us on this occasion also.

Now, what has happened. Immediately they came in, they have been arrested. I have nothing against the arrest, section 144 is in force. But the entire building has been converted into a concentration camp.

SHRI VIKRAM CHAND MAHAJAN: (Chamba) : For whom ?

SHRI S. M. BANERJEE : For the elected representatives of the people. What is this ? Can they not approach us ? Can they not knock at our door ? Under Sec. 144 they could have been just arrested. But they have been beaten up and manhandled. Our sisters were there. They have also been manhandled.

I wanted to table a call attention or adjournment motion. But because we are adjourning tomorrow, I would request you to kindly ask the Home Minister to make a statement on this very serious matter. After all, the rights and privileges of Members cannot be infringed in this monner. Can we not meet them ? Can they not meet us ? This is the Gandhi Centenary Year. We now dealing with a Bill deciding the succession to the President of this country.

SHRI J. M. BISWAS (Bankaura) : I was personally present on the spot. Let me be heard. I saw people being beaten up.

SHRI INDRAJIT GUPTA (Alipore) : Under sec. 144 they were arrested but they cannot be beaten and manhandled, as they have been.

SHRI BAL RAJ MADHOK (South Delhi): You know we are a sovereign elected Parliament. The people have a right to approach Parliament with their difficulties. The problem of unemployment has assumed very grave proportions The other day, the Prime Minister was good enough to say that they are taking care of it in the Fourth Plan. But we also heard the hon. Labour Minister say this moning that they do not have any data as to whether there is unemployment or not.

Now lakhs of people are unemployed, particularly youngmen and women. They have come here. They have a right to be concer-