

Tyres, tubes and spare parts are sold in blackmarket and remoulded tyres are fitted to the ST buses which are run on the roads.

Sir, there should be a compact Act about the condition of roads, condition of vehicles, viz. buses and other vehicles, there should be an agency for strictly monitoring the maintenance of roads, vehicles and other public conveyances in the Road transport system.

Lastly, Sir, I request and I demand through this hon. House that an enquiry must be urgently held under the Commissions of Enquiry Act by a Judge of the High Court. It should be a fact-finding committee and should punish all the guilty connected with this tragic accident. All the guilty concerned, whether they are in the B & C Department or in the S.T. Department, all those criminals who are involved in corrupt practices should be properly punished. Thank you, Sir.

**Sales tax reliefs and concessions
announced by Governor of Tamil
Nadu**

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Yes, Mr. Aladi Aruna.

SHRI V. NARAYANASAMY (Pondicherry): Mr. Vice-Chairman, Sir, I am on a point of order.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): All right, what is your point of order?

SHRI V. NARAYANASAMY: Sir, my point of order is that the hon. Member has given notice to raise an issue relating to the conduct of the Governor of Tamil Nadu.

AN HON. MEMBER: How do you know?

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): It has been allowed by the Deputy Chairman. You kindly allow him to speak.

SHRI V. NARAYANASAMY: Sir, he is criticising the functioning of the Governor. You kindly hear me. (Interruptions)

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): It has been allowed by the Deputy Chairman. Please sit down.

SHR ALADI ARUNA alias V. ARUNACHALAM (Tamil Nadu): Mr. Vice-Chairman, Sir, I am thankful to you for giving me an opportunity to raise an important issue. Sir, the package of measures announced by the Governor of Tamil Nadu, Mr. Alexander, yesterday, is highly arbitrary; objectionable and unconstitutional. The package of measures includes sales tax reliefs, concession in power supply, incentive by way of providing financial support to the needy units. Sir, the Governor has announced total abolition of sales tax in respect of industries in the small scale sector. He has reduced the sales tax on electronic goods from 8 per cent to 2 per cent. and tax on 2-wheelers also from 8 per cent to 4 per cent. The tax reduction and concessions announced by the Governor result in a loss of revenue to the Government to the extent of Rs. 15 crores.

Mr. Vice-Chairman, Sir, I am not against the measures announced by the Governor. But I totally oppose the method adopted by the Governor. As per our Constitution, Governor has no right to take any independent decision regarding the policy matters of the State Government. He is constitutionally obliged to act in accordance with the aid and advice of the Ministry. When a State is under the President's rule the role of the popular Government or the Cabinet is taken over by the Centre or the Central Cabinet and not by the Governor. That being so,

[Shri Aladi Aruna alias V. Arunachalam]

whatever measures the Governor wanted to take, he should have forwarded the proposals to the Centre and they should have been placed before this august House. This announcement by the Governor is Highly unconstitutional.

Then, Sir, another important issue is that when Parliament is in session, it must be taken into confidence. But what the Governor has done is that instead of forwarding the proposals to the Central Government, he has met the press and announced to the public that effect to the measures announced by him will be given immediately. Therefore, I appeal to the Government, kindly clarify whether the Government has a right to take independent decisions regarding the policy matters of the State. Is it not the responsibility of the Government to inform these matters to Parliament and then to the press.

Then, Sir, this Governor has come from Kerala. But he acts like the Alexander from Greece.

SHRI V. NARAYANASAMY: Therefore I raise the point of order.

SHRI ALADI ARUNA alias V. ARUNACHALAM: He is acting like an Alexander and he is taking arbitrary decisions. (*Interruptions*)

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Don't raise the question of conduct of the Governor.

SHRI ALADI ARUNA alias V. ARUNACHALAM: All right, I will put it the other way. My point is, why has he been allowed to take independent decision on policy matters? I demand that these measures—since these have not been approved either by Parliament or the Central Cabinet—should be suspended till the approval of Parliament is obtained. With these words, I conclude.

SHRI ATAL BIHARI VAJPAYEE (Madhya Pradesh): I demand recall of the Governor; I am within my

rights to do so. He deserves to be recalled.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): There are five or six Members who want to speak on this. So I allow everybody.

SHRI K. MOHANAN (Kerala): I have known Mr. Alazendar better than anybody else, because he is from my village. I know him very well. He is always a tool to topple popularly elected governments—a tool of the Prime Minister's office. Everybody knows it. But I am not going into all those details.

Sir, this relief package to Tamil Nadu industry is not a simple package scheme for the industry. This is a mini budget. It involves crores and crores of rupees. It is not just in a package form for the industries. Now, exemption from sales-tax to the Maruti car is there. What is this? Article 356(a), (b), (c) is there; I am not reading all this from the Constitution. What is the power of a Governor when the State is under the Central rule? He is acting as an agent of the Central Government, and it is very clearly stated here: "(a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or any body or authority in the State other than the Legislature of the State; (b) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;". So only 'under the authority of Parliament' the Governor should have acted. Not only that. Parliament is in session... (*Interruptions*). I am not mentioning the name of the Governor. But it is given in article 356...

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): You have already said it.

SHRI K. MOHANAN: So, the Governor has no such power. Without presenting these suggestions to Par-

liament and without a discussion here, he has no power to take a decision and declare such concessions.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI M. M. JACOB): Of course, I also had the opportunity of practising as a Sales-tax practitioner...

SHRI LAL K. ADVANI (*Madhya Pradesh*): Is he replying?

SHRI M. M. JACOB: I am giving my opinion.

SHRI LAL K. ADVANI: Is he replying on behalf of the Government?

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: Is he intervening?

SHRI M. M. JACOB: I am giving my opinion. It is a delegated power...

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: It has to be under the advice of the Cabinet.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): I have allowed him to speak.

SHRI M. M. JACOB: I only wanted to clarify any anomaly or misunderstanding. The Governor has the executive authority under section 17 of the Sales Tax Act of Tamil Nadu. It is a delegated power. If it is a question of enhancing the tax rate, he has no power but to reduce it, even when the Assembly is in session, Governor has the power, because it is the delegated executive power... (*Interruptions*)

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: No, that is with the advice of the Cabinet. Our Tewariji has the right, not the Governor. Let me correct him.

SHRI M. S. GURUPADASWAMY (*Karnataka*): Mr. Vice-Chairman, Sir, may I, at the outset, draw the
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attention of the House to the fact that recently a Consultative Committee of Members of Parliament was constituted in respect of Tamil Nadu?

SHRI LAL K. ADVANI: About to be constituted.

SHRI M. S. GURUPADASWAMY: It is about to be constituted. Therefore, I thought that such matters would await and would be referred to the Consultative Committee of Parliament. It was not done. Now, my colleague has raised a Constitutional issue. Let me say this. I myself, am not very sure of the Constitutional position in this regard. But it is a case where one of the two views can be taken. The question is whether the Governor, under the existing arrangement, has the competence, the power, to alter the scheme of taxation in Tamil Nadu. There has been misappreciation of the Constitutional provisions in this regard in certain quarters. Therefore, this requires clarification and correct understanding. I do not want to venture into the question whether what the Governor has done is right or wrong. No. But I think, before the Governor decided upon the changes in taxation, he should have consulted the Centre. The Attorney-General should also have been approached in this matter. I am of the view that it is a sort of a case where one can have different viewpoints. If you go through sub-clauses (a), (b) and (c) of clause (1) of article 356, it is not very clear whether the Governor is competent to make changes in the taxation system in Tamil Nadu. It is not very clear at all. There is also a provision in article 356 that incidental changes can be made but we do not know what incidental changes have been made so far. Parliament is not aware of this. In view of this, may I say that a study has to be made whether the Governor is competent, has got the power, under the Constitution, under article 356? Government should come forward with a statement in this regard.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Mr. Advani. Only one minute please.

SHRI LAL K. ADVANI: Mr. Vice-Chairman, Sir, I thought the House would have been grateful to Mr. Aladi Aruna for having drawn its attention to a matter which, I think, is far more serious and substantial than to be dealt with only through a Special Mention. I am not going to blame the Governor here. But he has been ill-advised and for political purposes.

There are two aspects to this problem. One is,—the attention of the House was drawn to it by Mr. Mohanan—under article 356, when there is President's Rule in a State, the authority of the State Assembly passes to Parliament. It now vests in us. It was, therefore, that on the 29th March, this Parliament, both Houses, passed the Budget of Tamil Nadu. We passed the Budget here after discussing all the implications of revenue; how much sales-tax would accrue etc. If any changes are to be made in the Budget, the authority certainly vests in the Central Government to make changes. But suppose for instance, Mr. N. D. Tiwari as Finance Minister or Mr. Ajit Panja or Mr. Faleiro, any of these dealing with the Finance portfolio had gone and made an announcement in Madras that "we remove all the sale tax" while Parliament is in session, they will be hauled up in Parliament for breach of privilege. It is certainly constructive breach of privilege. At the most of the Parliament were to take a charitable view then we say that "you have committed a breach of privilege, you should not have made the announcement out of the House, you should have made the announcement in the House." Mr. Alexander is only a mouthpiece of the Central Government. He has no other authority than is vested in the Central Government and he makes an announcement, saying that Rs. 14 crores of tax revenues are no longer to be levied from you though the Parliament may have decided otherwise. Has he the authority to do it?

Now, Mr. Vice-Chairman, there are two aspects. Firstly, by this constructive contempt of Parliament Mr. Alexander is guilty, though he has been ill-advised; I do not hold him responsible directly because I think this is a political electoral move. It is aimed at influencing the electorate of Tamil Nadu. Though the growing maturity has ensured that these things do not take effect and they have no influence on the electorate in course of time, I am more concerned with another distressing effect. (*Interruptions*). I am mentioning this because I am more concerned with the second aspect of the problem. I am concerned with the effect because I have here with me the Sarkaria Commission Report that devotes an entire chapter... (*Interruptions*). I am not going to quote it. Mere mention of the Sarkaria Commission report should not make you think that I am going to quote it chapter and verse. I am only pointing out that there is a demand that the Governor's office be abolished and the principal reason for this demand is that Governors are being abused by the Central Government, the office of Governor is being devalued and denigrated by this kind of political abuse. This is what concerns me more.

Therefore, I would say that this matter should not rest with the special mention. There should be a formal debate on it. I am certainly going to give a privilege motion that Mr. Alexander has been guilty of making this announcement while Parliament is in session, even though Parliament has passed a budget saying that this is going to be the accounting for this year.

PROF. C. LAKSHMANNA (Andhra Pradesh): Mr. Vice-Chairman, Sir, the constitutional issue which is involved in the announcement made by the Governor of Tamil Nadu has already been raised.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Raise some new point.

PROF. C. LAKSHMANNA: Even when the Union Finance Minister had

to come out with certain modifications in the Finance Bill, like doing away with certain aspects of section 44AC, the minimum maintenance allowance, etc., he came before the Parliament because Parliament was in session. If that is the case, I would like to emphasize that the Governor should have all the more been careful, especially when the Parliament is in session and when the Budget is being approved by Parliament, to make such an announcement. Since he has already made the announcement, there are only two alternatives. Either he should make amends for what he has done, or the Parliament, which is having control over him because Parliament is represented by the Central Government and he is the representative of the Central Government, will have the right to adopt such a move by which his action could be objected to or censured. At this stage, I suggest the Governor should come forward with an apology to the Parliament or the Parliament will be forced even to go to the extent of recalling such a Governor who has been flouting the directives of the Central Government. I would like to emphasize only this.

श्री चतुरानन मिश्र (बिहार) : उप-सभाध्यक्ष जी, कस्टीट्यूशनल पोजीशन पर कई माननीय सदस्यों ने कहा है, जिससे मैं सहमत हूँ। मेरे लिहाज से राज्यपाल का जो पद है, वह समस्याओं को सुलझाने के लिए है, उलझाने के लिए नहीं है और न ही संकट पैदा करने के लिए है। जो कुछ अभी राज्यपाल ने वहाँ किया है, वह एक पार्टी के पोलिटिकल एजेंट की तरह किया है। यह अत्यंत ही अनुचित है, खास करके एक संवेदनशील क्षेत्र में, एक सेंसेटिव एरिया में इस तरह की हरकत को सरकार को रोकना चाहिए। मैं रूलिंग पार्टी से भी अनुरोध करूँगा कि उसको नैरो पार्टिज़न आऊटलुक में नहीं ले कर के, जो इस देश की एक गहरी समस्या है, उसको देखते हुए राज्यपाल को वहाँ से हटा दें और जो उन्होंने उल्लंघन किया है, इसके लिए यह सरकार पर है कि वह खुद इसे सदन में रखे कि इस तरह का गलत काम किया है।

SHRI A. G. KULKARNI (Maharashtra) : Sir, at the outset, I would like to say that I do not find how what has been mentioned in this Special Mention by our colleagues with support from various friends, can be politicised. One view was expressed by Mr. Advani, that the elections are coming and all those things. Actually the industry is groaning under various constraints and perhaps this might have been the view of the Governor, I do not know exactly. Under article 356, as it stands, it is the Parliament which has to take a decision. Very recently we passed the Budget. I would request through you, Sir, the leader of the House to tell us of what nature the announcement made by the Governor is. Whether it flouts any of the constitutional aspects, as mentioned by various friends. I am not aware of that, but as the Constitution says it is the Parliament which has to take a view. So, I request through you Sir, the Leader of the House that a view should be expressed on behalf of the Government.

THE LEADER OF THE HOUSE (SHRI NARAYAN DATT TIWARI) :

Sir, with great respect to the distinguished Members and the leaders who have spoken on this subject, I may humbly submit that *prima facie* there does not seem to have been any breach of privilege or any breach of the constitutional powers by the Governor. Sir, I have had the privilege of serving in a State Legislature for more than 28 years and I have been a student of parliamentary history and constitutional history. I have seen many President's rules and I have read about it. There have been periods when the President's rule was extended for more than one year. In Punjab, for example, in an unfortunate and tragic situation we have had a very long period of President's rule. Now if we limit and prescribe the powers of governance of any Governor under the Constitution in a President's rule, if you fetter it in one State, it will be fettered in other

[Shri Narayan Datt Tiwari]

States also. There are many examples in my State of Uttar Pradesh also. When it was put under President's rule in 1968-69 and our distinguished Governor Mr. Gopal Reddy, was there, the budget had to be authenticated from here. And there are so many matters—for example, a small relief to some rural people, some remission of land revenue—which are executive matters within the governance and powers of the State Government. Of course the basic decisions, I mean, should lie, as far as budgetary matters are concerned, with the Parliament. And we have done our duty. In my speech I had mentioned about the activities for which a decision was to be taken by the State Government. My speech itself was broad enough to indicate those areas within which the State Government was to take its own decisions within its executive powers.

I would very humbly submit, I am thankful for what has been said, but I think that Dr. Alexander is a very well known administrator, it is not a question of benefiting any particular political party. The whole State will benefit out of industrialisation of Tamil Nadu. So it is not a question of any partisan political ends; it is to benefit all sections of the population.

SHRI ALADI ARUNA alias V. ARUNACHALAM: **

SHRI V. NARAYANASAMY: **

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Now it ends. The matter is over. Nothing will go on record.

(Interruptions)

[At this stage, some hon. Members left the Chamber]

SHRI NARAYAN DATT TIWARI: Sir, I may read out what I said in my budget speech for Tamil Nadu. It is towards the end of page 2:

**Not recorded.

"We are aware of the various problems being faced by large medium and small industries in the State. These problems will be considered on a priority basis and solutions found as soon as possible. Special attention will be given for the rehabilitation and strengthening of small scale and medium industries. In particular, the problems of the sick units in the small scale sector will receive prompt attention of the Government and every effort will be made to arrange integrated assistance to such units. Steps will also be taken to create the right climate for promoting new investments, accelerating the pace of industrial growth and expansion of employment opportunities in the State."

SHRI A. G. KULKARNI: What else remains there? I do not understand.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): The Minister is very capable.

SHRI NARAYAN DATT TIWARI: Sir, whatever the Governor has done is within the parameters of the speech.

... (Interruptions) ...

SHRI A. G. KULKARNI: It is all politics... (Interruptions) ...

SHRI M. PALANIYANDI (Tamil Nadu): Last year the Industries Department had given a letter of intent for 125 industries and the previous Government had not issued licences. It was in such a way that the previous Government was running the industries. At least, this Governor has done something.

THE FINANCE BILL, 1988—contd.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): There are many Members to speak on the Finance Bill. So, if the House permits, we shall skip the lunch hour and continue the debate.