

RAJYA SABHA

*Tuesday, the 1st March, 1977/the 10th
Phalguna, 1898 (Saka)*

The House met at eleven of the clock, Mr. Deputy Chairman in the Chair.

PROCLAMATIONS UNDER ARTICLE 356 OF THE CONSTITUTION

MR. DEPUTY CHAIRMAN: Mr. Om Mehta.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS, DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS AND DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI OM MEHTA): Sir, I beg to lay on the Table—

I. A copy each (in English and Hindi) of the following papers—

- (i) Proclamation [GSR No. 923(E)], issued by the President on December 16, 1976, under article 356 of the Constitution, in relation to the State of Orissa, under clause (3) of the said article.
- (ii) Order [GSR No. 924(E)], dated December 16, 1976, made by the President under sub-clause (i) of clause (c) of the above Proclamation.
- (iii) Report of the Governor of Orissa, dated December 13, 1976 to the President recommending the issue of the Proclamation. [Placed in the Library. For (i) to (iii) See No. LT-11592/77].

II. A copy each (in English and Hindi) of the following papers, under clause (3) of article 356 of the Constitution:—

- (i) Proclamation [GSR. No. 944(E)], issued by the President on December 24, 1976, under clause (2) of article 356 of the Constitution, revoking the Proclamation made by him on March 12, 1976, in relation to the State

of Gujarat. [Placed in the Library, See No. LT-11593/].

- (ii) Proclamation [GSR No. 957(E)], issued by the President on December 29, 1976, under clause (2) of article 356 of the Constitution, revoking the Proclamation made by him on December 16, 1976, in relation to the State of Orissa. [Placed in the Library, See No. LT-11594/77].

SHRI BHUPESH GUPTA (West Bengal): Sir, on a point of order. The first item is, Mr. Om Mehta wants to lay on the Table of the House....

MR. DEPUTY CHAIRMAN: It has already been laid.

SHRI BHUPESH GUPTA: No, no. In regard to the first item, the Constitution at requirements has not been fulfilled, according to me. I will presently give my arguments. There is the laying on the Table of the House certain papers, namely, one Proclamation under article 356 about the President's rule in Orissa and another Proclamation revoking after a certain date the President's rule there. The intention of article 356, its provision, is this that this should be laid on the Table of the House in certain circumstances discussions are also allowed and approval is required. But here you will say that it is not necessary because the Proclamation has been revoked. But this House and the other House have followed a procedure, namely, when a Proclamation of this kind is laid, there is also at the same time a copy of the Governor's Report which necessitated the Proclamation. We do not have such a Report given to us or circulated along with the papers yesterday or this morning.

MR. DEPUTY CHAIRMAN: Yes. It is said....

SHRI BHUPESH GUPTA: Kindly listen. You should have a little patience. Democracy should have a little patience, because we have paid enough. No more.

Here, the constitutional provision is this—"when the State Government cannot be carried on in accordance with the provisions of the Constitution". This is the main, fundamental and essential requirement of the Proclamation. We do not know, Sir, whether it is a fact that there was any constitutional breakdown in Orissa or whether it is a fact that, according to official information, the Government of the State could not be carried on according to the provisions of the Constitution. What we find, on the other hand, is that this step was taken as if our Constitution is the Constitution of the ruling party. When the ruling party found it difficult to replace one Chief Minister by another Chief Minister belonging to their party, they took the device of employing or using the Constitution for this purpose. I should like to know...

MR. DEPUTY CHAIRMAN: Mr. Bhupesh Gupta, you have raised the objection.

SHRI BHUPESH GUPTA: I have not raised it; let me raise it. How do I raise it unless you allow me to?

MR. DEPUTY CHAIRMAN: I have allowed you.

SHRI BHUPESH GUPTA: It is not a question of speaking; it is giving arguments. Let me develop my point. Do you want here also....

MR. DEPUTY CHAIRMAN: If you want to....

SHRI BHUPESH GUPTA: I want to give arguments. The nation should hear the arguments that are given. I should give the arguments.

MR. DEPUTY CHAIRMAN: First of all, you should listen to me also. You listen. You must also have some patience. You have been advising me to have patience. I have had enough patience. You also have patience.

The Proclamation has already been laid on the Table. Even so, I allowed

you to raise whatever objection you had. You spoke for five minutes. But you cannot go on making a speech on that.

SHRI BHUPESH GUPTA: I have been making a speech. You can rule it out. That privilege you can use. Here, it is the privilege of the House to have the Governor's Report....

MR. DEPUTY CHAIRMAN: I want to point out....

SHRI BHUPESH GUPTA: I am not objecting to its being laid on the Table of the House. That is not my objection. We want to know....

MR. DEPUTY CHAIRMAN: Among other papers it also says....

SHRI BHUPESH GUPTA: You do not want to listen. When the Chief Minister resigns, he is asked to carry on till another leader is elected. In this case, no such step was taken. Our information from papers and otherwise is that the Chief Minister was asked to resign and that the Proclamation would come in within 15 minutes. The resignation took place. All right, the resignation took place, but then it was the duty of the Governor to ask her to carry on the Government till the Congress Party or the party in power had elected a new leader. These rules had been followed always. Here it was not done. In order to facilitate the election in the Legislature by the Congress Party, the Proclamation was issued and then the election took place. After that the Proclamation was revoked. If this is not playing with the Constitution, what else it is I should like to know. Is the Constitution meant for facilitating the conduct of the internal affairs of this or that party or the ruling party, or is it to be observed for maintaining certain standards? This was not observed here. So, we should like to know what the Government has to say through the Governor's Report. I know it for a fact, that the Governor was of the view that there has not been any breakdown of the Constitution. Yet

the President's rule came in just because some people here wanted it. If you want to change the Ministry depending upon the internal party affairs....

MR. DEPUTY CHAIRMAN: Now, papers to be laid on the Table.

SHRI BHUPESH GUPTA: Mr. Om Mehta, you should give us necessary information and the material of the Governor, etc. Violation of the Constitution had taken place. Our Constitution is not for auction or for the benefit of the ruling party.

(Interruptions.)

MR. DEPUTY CHAIRMAN: Papers to be laid.

SHRI LAL K. ADVANI (Gujarat): On a point of order. I do not propose to make a speech. I have always been brief. I would merely like to say that this is the case where not only the House is to be informed but it has a right to discuss the issue. In this case, first of all, the President's Rule in Orissa was imposed and then it was revoked. So, the Government has not merely to report to us. I would say that in this case also, as has been done earlier, article 356 has been grossly abused for partisan purposes. But my point of order is that, now that a special session of the Rajya Sabha has been convened to discuss the issues of Tamil Nadu and Nagaland for the extension of President's rule there. I see no reason why the Government should not have taken this House into confidence and moved a motion in respect of a discussion on the imposition of the President's rule in Orissa and revocation of the same. Even now I would through you like to appeal to the Government to give this House an opportunity to discuss the events in Orissa which are a disgrace and shame for the ruling party to have abused these provisions for partisan ends.

SHRI OM MEHTA: Sir, I strongly refute the charges of abuse of any authority or power, or that we have

misused the power and I would like to say here that whatever the Governor's Report, it has been laid on the Table of the House and if the Members have the patience, they can go through it and see what he has said therein.

SHRI KRISHAN KANT (Haryana): Sir...

MR. DEPUTY CHAIRMAN: Papers to be laid on the Table of the House.

PAPERS LAID ON THE TABLE

Statement showing the Bills Passed by the Houses of Parliament during the Ninety-eighth Session of the Rajya Sabha and Assented to by the President

SECRETARY-GENERAL: Sir, I beg to lay on the Table a statement (in English and Hindi) showing the Bills passed by the Houses of Parliament during the Ninety-eighth Session of the Rajya Sabha and assented to by the President:—

1. The House of the People (Extension of Duration) Amendment Bill, 1976.
2. The Appropriation (Railways) No. 4 Bill, 1976.
3. The Appropriation (Railways) No. 5 Bill, 1976.
4. The Appropriation (No. 7) Bill, 1976.
5. The Gujarat Appropriation (No. 3) Bill, 1976.
6. The Pondicherry Appropriation (No. 4) Bill, 1976.
7. The Electricity (Supply) Amendment Bill, 1976.
8. The Constitution (Forty-second Amendment) Bill, 1976.