

**The Fertiliser (Movement Control)
(Third Amendment) Order, 1975**

SHRI PRABHUDAS PATEL : Sir, I beg to lay on the Table, under sub-section (6) of Section 3 of the Essential Commodities Act, 1955, a copy (in English and Hindi) of the Ministry of Agriculture and Irrigation (Department of Agriculture) Notification S.O. No. 392(E), dated the 28th July, 1975, publishing the Fertiliser (Movement Control) (Third Amendment) Order, 1975. [Placed in Library. *See* No. LT-9934/75]

I. Levy of Fees (Customs Documents) Amendment Regulations, 1975 and related paper.

II. Ministry of Finance (Department of Revenue and Insurance) Notification

THE DEPUTY MINISTER IN THE MINISTRY OF FINANCE (SHRIMATI SUSHILA ROHATGI): Sir, I beg to lay on the Table, under section 159 of the Customs Act, 1962, a copy (in English and Hindi) of the Ministry of Finance (Department of Revenue and Insurance) Notification G.S.R. No. 409(E), dated the 2nd August, 1975, publishing the Levy of Fees (Customs Documents) Amendment Regulations, 1975, together with an Explanatory Memorandum thereon. [Placed in Library. *See* No. LT-9931/75]

I also beg to lay a copy (in English and Hindi) of the Ministry of Finance (Department of Revenue and Insurance) Notification No. 178/75. Central Excises dated the 8th August, 1975. [Placed in Library. *See* No. LT-9940/75]

The Delhi Urban Art Commission (Terms and Conditions of Service) Amendment Rules, 1975

SHRI DALBIR SINGH : Sir, I beg to lay on the Table, under sub-section (3) of Section 26 of the Delhi Urban Art Commission Act, 1973, a copy (in English and Hindi) of the Ministry of Works and Housing Notification G.S.R. No. 925, dated the 26th July 1975, publishing the Delhi Urban Art Commission (Terms and

Conditions of Service) Amendment Rules, 1975. [Placed in Library. *See* No. LT-9936/75]

Ministry of Labour Notification

THE DEPUTY MINISTER IN THE MINISTRY OF LABOUR (SHRI BALGOVIND VERMA): Sir, I beg to lay on the Table a copy (in English and Hindi) of the Ministry of Labour Notification G.S.R. No. 421(E), dated the 22nd July, 1975, publishing a corrigendum to Government Notification G.S.R. No. 297(E), dated the 27th May, 1975. [Placed in Library. *See* No. LT-9937/75]

LEAVE OF ABSENCE TO SHRI RAJNARAIN

MR. CHAIRMAN : I have to inform Members that a letter dated the 2nd August, 1975, has been received from Shri Rajnarain, the relevant extract of which is as follows :—

"You are already aware that I am under detention since 26-6-75. At present I am lodged in Tihar Jail.

My absence from the House may kindly be excused till I am under detention. Kindly read out my letter for the leave of absence and I may be obliged by granting the leave."

Is it the pleasure of the House that permission be granted to Shri Rajnarain for remaining absent from the meetings of the House during the 93rd Session of the Hajya Sabha ?

(No. hon. Member dissented) MR. CHAIRMAN : Permission to remain absent is granted.

MR. CHAIRMAN : Mr. Om Mehta will say something before I take up the next item.

ANNOUNCEMENT RE. SITTING ON SATURDAY, 9TH AUGUST, 1975

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS, DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS AND DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI OM METHA): Sir I

will only say that I am coming with a request for a last extension of this Session. The last time I did not say that it was the last extension. Now, this is the last extension of this Session and I hope that you, Sir, and the House will permit us to sit tomorrow when we are going to have a Constitution (Amendment Bill which will be introduced tomorrow and also passed tomorrow.

SHRI BHUPESH GUPTA (West Bengal) : He said 'last', but the word 'last' is so elastic that one does not know how far it should be expanded. I wish to make one or two observations. We have no objection, I believe, to sitting tomorrow if there is an important Bill or something to be brought forward and yet we are not very clear as to what is being brought forward. Now, Sir, we can guess something, but why should I share my secrets with you when you are so submissively silent over this matter ? iS"ow, Sir, one or two things I should like to say and tomorrow also I will be here. I think the business should be planned a little better and it does appear that the mind is not properly made up. The mind is in the process of being made up and Bills are coming as we are speaking. Some of us are accustomed to such speeches that as we go on speaking ideas come up....

MR. CHAIRMAN : You are more responsible for it since you have suggested so many things.

SHRI BHUPESH GUPTA : You should not bring the Bills as we are speaking, as ideas are coming out and we are giving tongue to the ideas. This is how it looks. I think the fact that a section of the opposition is not there should not be taken for granted. I am not blaming Mr. Om Mehta because he is very considerate to this side of the House. I am not saying that he is considerate to me individually or to my group, but generally he has been very considerate, but certain political factors have arisen and estrangement has developed amongst us. This is beside the point here, but I think such matters should be discussed. You, Sir, have some experience. It should not look that there

is no 'this side of the House' after some sections have gone out. This is what I say. Of course, you have not asked anybody to boycott the House. If somebody has boycotted this House it is his responsibility. Or if any group has gone out of the House it is their responsibility, Sir. But it should not look as if things can now go on like that. The institutional functioning should be there. There should be some formal aspect of consultation with the Opposition whoever they are. The Republicans are there. The A.D.M.K. is there. We are there. Some independents are there. Certainly, they can be consulted by you in matters of arrangement of the business so that we know what it is. I am sure you will be meeting again this month. For what shall we be meeting, how the business will be transacted we must have a clear idea of the programme, broadly speaking, that we are going to take up.

I reserve my observations with regard to the Constitution Amendment problems.

Finally, Sir, I think you must have been noticing how things are being reported in the papers. The fact that some people have said wrong or things not desirable to be reported does not mean that what others are saying should not be reported even if they are desirable from this side or that side of the House. This question should be gone into. Some of the important things should go to the press so that people know what we have said. So, these are problems to be looked mtc. Sir, because of urgency of this Session and Emergency and various other considerations and factors we have submitted this time—please note it—but this should not be made a precedent. How does it look ? We are the major Opposition here for the present but not a word of ours is appearing in the press. Not a word of ours is allowed to appear in the press. Sir, what have we done, what crimes have we committed before you, before the House and before the country that we should not be treated on par with others ? I should like to know. I am not talking about them. There are Private Members there.

[Shri Bhupesh Gupta] They have also a right to speak. Sir, as I said, you are the presiding officer of the House. We are fighting to strengthen, renovate, radicalise, vitalise democracy. And, surely, in such matters we will fight, in such confrontation, with the forces subversive of democracy. They should not be silenced, certainly not in Parliament. You have not silenced. But the country does not know anything. They will know tomorrow what Mr. Gokhale said about the Bill. They know what he said about the other Constitution Amendment Bill. But they would not know what we have said although we only supported that Bill. Is it fair ? Is it just ? Is it equitable ? Does it conform to any standards ? Perhaps you think that if you allow things to be published like that others will get publicity also. What of that ? That question we can discuss in another context in some other way. I would ask the hon'ble Members opposite and the Treasury Benches in all humility that it is very necessary for Parliament to speak up and speak up in the idiom in which we have been speaking it during the last few days. The country wants to hear us, hear you and others. Let them not feel that in emergency Parliament is not functioning. Now why should the B.B.C. tell what we have said ? Why should the B.B.C. tell what Mr. Dharia is saying? The B.B.C. does not tell what Mr. Inderjit Gupta was saying. We should know what certain elements are saying. We should know what Members on that side and on this side are saying. The All India Radio does not broadcast it.

Sir, the All India Radio is not under the control of monopoly owners or under the control of some people who are distorters. The All India Radio certainly can broadcast the speeches made by hon'ble Members opposite and by us in the international interest also. What is wrong there ? I can understand that you cannot give equal publicity to everybody. But you should have a differential approach. Sir, I do hope that you are adjourning, perhaps, tomorrow *sine die*. This problem should be gone into. It should not look as if the Indian Parlia-

ment is silent. That is what they are I making the world look. It appears only the Ministers are speaking here and nobody else is speaking. And when they see one or two people speaking they speak as if to denounce Parliament because that suits them. So you should consider this-matter.

Sir, many people have asked me, "Mr. Gupta, you have been 23 years in Parliament. How do you reconcile to this ?" I also ask myself this question. During these 23 years we have seen many things. We are passing through an extremely critical time and great challenges. Certain-things will have priority while others will have to wait. Naturally, we cannot insist on everything that we did in the past. Naturally, we are passing through a great challenge. Therefore, I understand that thing. Within the framework of the change, within the framework of the broad policy, within the framework of the compulsions of the struggle that we are waging, it is very, very necessary to give the democratic voice a full play, an unhindered play. Sir, this is very, very essential in the country. You cannot fight the rightist forces by silencing a voice such as ours. On the contrary, Parliament has its functions, has its role to play not only by passing amendment, not only by giving publicity to Ministers' speeches which should be given, I think, it should also play its role by making the collective views known not only in voting but in other things also as to what we are saying, what we propose to do, in what direction we want to go, what we like the Government to do, how we like things to be amended or not amended. These are matters of vital publicity today and they need to be known to the people so that we can associate intellectuals of our country with the stand that we have taken. I do hope you will intervene in the interest of the House, as the custodian of our rights and liberties here in this regard and from the point of privileges to ensure that such things are properly done.

MR. CHAIRMAN : I have already brought the view of Shri Bhupesh Gupta and others to the notice of Shri Om Mehta,

I hope he will take them into consideration today. Now let us take up Bill for Introduction.

**THE PHARMACY (AMENDMENT)
BILL, 1975**

THE DEPUTY MINISTER IN THE MINISTRY OF HEALTH AND FAMILY PLANNING (SHRI A. K. M. ISHAQUE): Sir, I beg to move for leave to introduce a Bill further to amend the Pharmacy Act, 1948.

The question was put and the motion was adopted^

SHRI A. K. M. ISHAQUE : Sir, I introduce the Bill.

**THE CONSTITUTION (FORTIETH
AMENDMENT) BILL, 1975**

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE) : Mr. Chairman, Sir, I move:

"That the Bill further to amend the Constitution of India, as passed by the Lok Sabha, be taken into consideration."

Sir, Hon'ble Members are familiar with the provisions of article 71 of the Constitution, which relates to matters as to the election of a President or Vice-President. This article provides for two things, namely, (1) disputes arising out of their election shall be decided by the Supreme Court, and (2) that matters relating to their election be regulated by a Parliamentary law. Parliament has enacted laws on the subject. The time has now come for reviewing whether a change is needed as regards the forum for determining matters relating to their election. Hon'ble Members are aware that neither the President nor the Vice-President is answerable to courts of law for anything done in the exercise of their powers while in office. It is, therefore, appropriate that issues relating to their election should also be placed beyond the jurisdiction of courts. Accordingly, a provision has been made in the Bill to the effect that issues relating to

their election should be determined by an authority or body created by a Parliamentary law. Consistently with the provision creating a separate forum other than the Supreme Court for the resolution of disputes relating to their election, a clause has been inserted to the effect that the validity of any law creating the new forum or the decision of such forum shall not be called in question in any court of law. We now come to the offices of Prime Minister and Speaker.' From the point of view of the high offices they hold, their position is in no way different. At present the validity of an election to either House of Parliament of a person holding the office of Prime Minister or Speaker is governed by the provisions of the Representation of the People Act, 1951. Under Article 329 of the Constitution, their election can be questioned by way of an election petition presented to such authority as is provided for in a Parliamentary law. Now section 80A of the Representation of the People Act, 1951, provides that the High Court has jurisdiction to try an election petition. The proposal is to amend the Constitution to provide that no election to either House of Parliament of a person holding the office of Prime Minister or Speaker shall be called in question except before such authority or body as may be provided for by a Parliamentary law. With this end in view, a special provision has been made in the new proposed article 329A for resolving disputes arising out of election to Parliament of a person holding the high office of Speaker or Prime Minister. Here again, we have made a provision that the validity of the law creating the new forum or the decision of any authority or body constituted under such a law shall not be called in question in any court.

Opportunity is being taken to include certain laws, Central as well as State, in the Ninth Schedule to give them the protection of article 31B and remove any uncertainty about their validity. As hon. Members will recall, we resorted to article 31B in the past whenever we found that the validity of progressive legislation was challenged in courts. The last Constitutional amendment was made in 1974. We