

[Shri Nawal Kishore]

of the Public Accounts Committee contained in their 79th Report (Fifth Lok Sabha) on Paragraphs relating to Railway operation, Expenditure etc included in the Report of the Comptroller and Auditor General of India for the year 1970-71—(Union Government * Railways)

(7) Hundred and Seventh Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 84th Report (Fifth Lok Sabha) on paragraph 71 of the Report of the Comptroller and Auditor General for the year 1969-70—Central Government (Civil)-relating to Department of Cooperation

(8) Hundred and Eighth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 92nd Report (Fifth Lok Sabha) on the Audit Report (Defence Services) 1970-71

(9) Hundred and Ninth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 77th Report (Fifth Lok Sabha) on paragraphs relating to Financial Results and Earnings, of the Railways, included in the Report of the Comptroller and Auditor General of India for the year 1970-71—Union Government (Railways)

(10) Hundred and Tenth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 76th Report (Fifth Lok Sabha) on the Report of the C & A G (Civil) for the year 1969-70 relating to the Ministry of Home Affairs and Report of the C & A G (Civil) for the year 1970-71 relating to the Ministries of Home Affairs Information and Broadcasting and Department of Agriculture and Appropriation Accounts (Civil) 1970-71 relating to the Department of Agriculture

(11) Hundred and Fourteenth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 89th Report (Fifth Lok Sabha) on Review of the implementation by Government of the recommendations of the Committee relating to 'Customs' during 1962-72

(12) Hundred and Sixteenth Report on Chapter III of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil) Revenue Receipts Volume I Indirect Taxes—Sales-Tax Receipts of the Union Territory of Delhi.

(13) Hundred and Seventeenth Report on the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil) relating to Department of Labour, Rehabilitation and Supply

(14) Hundred and Twenty first Report on paragraphs contained in the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government, (Defence Services) relating to Defence Production

(15) Hundred and Twenty-second Report on the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Posts and Telegraphs)

(16) Hundred and Twenty-third Report on paragraphs 44 and 45 of the Report of the Comptroller and Auditor General of India for the year 1971-72—Union Government (Civil), relating to Khadi and Village Industries Commission

(17) Hundred and Twenty-fourth Report on the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil) relating to the Ministry of Health and Family Planning (Department of Health)

(18) Hundred and Twenty-fifth Report on paragraphs contained in the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Defence Services)

PRESIDENTIAL ORDER IN RELATION TO THE UNION TERRITORY OF PONDICHERRY

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI F H MOHSIN) Sir, I beg to lay on the Table a copy (in English and Hindi) of the Ministry of Home Affairs Notification S O No 217 (E) dated the 28th March, 1974, publishing an Order of the President made under section 51 of the Government of Union Territories Act, 1973 in relation to the Union territory of Pondicherry [Placed in Library See No LT 6579/74]

THE BUDGET (PONDICHERRY) 1974-75

MR CHAIRMAN Shri Ganesh

SHRI BHUPESH GUPTA (West Bengal) .

On a point of order

MR. CHAIRMAN On the first there cannot be any objection.

SHRI BHUPESH GUPTA: How can that be? I have an objection. You know very well the circumstances in which the Presidential Order was promulgated. It had been questioned in the other House.

MR CHAIRMAN Which Presidential Order you are speaking on? Are you referring to the one dated 28th March, 1974? Are you objecting to that?

SHRI BHUPESH GUPTA Not that.

MR CHAIRMAN That is what I said. I shall call you. Let me hear him.

SHRI LAL K. ADVANI (Delhi) The Minister of State in the Ministry of Finance is about to lay on the Table of the House a copy of the Ministry of Finance Notification containing the President's Order in regard to the authorisation of certain expenditure out of the Consolidated Fund of the Union Territory of Pondicherry. This issue has been thrashed at length in the other House and even in the Press. All the various legal aspects on this side or that side have been referred to. I do not want to go over the whole ground once again. I would simply like to point out that I do not regard this as an isolated instance of the Government's contempt of this Parliament. I put it in conjunction with its entire attitude during the course of the last several years in which repeatedly the Government has taken recourse to ordinances instead of legislation. It takes recourse to ordinances even in money matters and, in this particular case, Sir, it has gone to the extent of violating all established conventions, of violating even the Constitution and the set procedures of Parliament, so much so that the Government's action invited severe strictures from the Speaker of the Lok Sabha. I have never heard of any Speaker of the Lok Sabha talking in terms of even impeachment of the President and he referred to it and he told the Government not to stand on prestige on this issue and said that this was a very serious matter and he also said

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE) Sir, I do not want to interrupt him now. But I would like to point out one thing. The Speaker did not speak about the impeachment of the President. Since he has mentioned about this, I am pointing out this

SHRI LAL K. ADVANI I have carefully gone through the records in which this has been stated.

SHRI H. R. GOKHALE: Since the Speaker's name has been brought in by him, I want to point out that the Speaker did not speak about the impeachment of the President.

MR CHAIRMAN Mr Advani, the Minister says that the Speaker did not mention about it.

SHRI LAL K. ADVANI Sir, I have gone through the records and I find that this has been mentioned.

MR CHAIRMAN That is all right. Somebody else might have referred to it and not the Speaker.

SHRI LAL K. ADVANI In the records it has been mentioned about the Speaker telling the Government that they should consider this matter carefully in view of the fact that these people here—referring to the Opposition—might think in terms of impeachment of the President and he has said that they might think in terms of removing him as the Speaker of the House. This is what he has said, of course, not justifying anything of that kind. But he regarded the matter as very serious and it was referred to in the context of the impeachment of the President or of his own removal.

Sir, I am sorry to note that after all that has happened, the Government has not come forward with a very unequivocal and categorical statement saying "We have failed but we are in the hands of the House to tell us what to do or how to rectify the defect." They have not done it. After all, Sir, the Opposition Members who raised this issue repeatedly stressed that they did not want to scuttle the functioning of the administration in Pondicherry and they did not want that the Pondicherry administration should come to a standstill. But what they were keen about was that the established convention in respect of financial matters, in respect of appropriation of moneys from the Consolidated Fund of India or of a State or, as in this case the Union Territory of Pondicherry should be regularly followed and this has not been regularly done. Sir, I very carefully read the speech made by the Law Minister both on the 3rd of April and subsequently on the 13th or 15th of April, whatever it is, the substance of which is that the Government

[Shri Lal K Advani]

was faced with a very difficult situation because of the dates and that there was no time and that on the 28th or 29th only the financial statement came to them and they had no time to finalise it and come to the House. 30th and 31st March were holidays and, therefore, they could not come before the Lok Sabha and they could not, as happened in the case of the Orissa Assembly before, summon a meeting of the Rajya Sabha. Apart from these things, Sir, there is no other explanation. All the other things are like a competent lawyer's quibbling with words here and there. But, all things taken together, it would appear that this was not the only question. My humble submission is that the President's Rule or dissolution of the Assembly took place on, March 20 and, after that, up to the 31st March 11 days were there and all necessary action could have been taken during that period and even assuming that they got the report or they got the financial statement on the 29th there was nothing to stop the Government.

SHRI H R GOKHALE Sir, I do not want to interrupt him. But I would like to point out that it was not on the 20th, but on the 28th. It is not '20', but it is '28'. It was on the 28th that the Assembly was dissolved.

SHRI LAL K ADVANI On the 28th?

SHRI H R GOKHALE Yes. On the 28th.

MR CHAIRMAN It is on the 28th, he says.

SHRI LAL K ADVANI Even if it is so, Sir, it is important that they should have come to the House telling that this is the difficulty. I think this action of the Government in issuing the Presidential Order is a violation of the Constitution and it is a contempt of the Parliament in general and it is a contempt of the Rajya Sabha in particular. I say this because Sir, there is a precedent already where, in the case of the Orissa Assembly, when it was dissolved and the financial powers of the Assembly were vested in the Parliament, the Rajya Sabha had been urgently convened specially to pass the Vote on Account. I think that a similar thing should have been done this time, and if there was any difficulty about it the Parliament should have been taken into confidence and the Parliament's advice should have been accepted. That was not done. What has pruned me most is the Government's cavalier attitude. Even after that, it

had got an opportunity to apologize or express any regrets for the folly committed and for the bungle created and for the predicament in which the Parliament was landed. But the Law Minister still insisted that it was legal and constitutional, which I question, Sir.

SHRI BHUPESH GUPTA This matter has constitutional as well as political aspects. It is not a proper explanation on the part of the Government that it did not have the opportunity for this. The fact remains that the Lok Sabha was in session when the Order was promulgated, though our House was not in session. When a suggestion was made that in the event of its requiring sanction of Parliament the Rajya Sabha might be summoned, the Government was not agreeable to that suggestion even. That is to say, the Government's stand was that they would go ahead with the laying of the Presidential Order on the Table of the House.

Sir, as far as the political side is concerned, this ruling party here was responsible for toppling down that Government. Everybody knows it. Had it not been for their desire to placate Mr Kamaraj, they should not have asked their MLAs there to vote, knowing full well that the music had to be faced ultimately by the same party at the Centre. Now it is quite clear that when the proposition was before the leadership of the country or the leadership of the ruling party here, they took the decision somehow or other to please Mr Kamaraj, so that the Syndicate Congress alliance could be consolidated there. Sir, I can understand such steps being taken in this matter. But why in this matter the Central Government or the Prime Minister or the Home Minister or others should not take into account that after they did take the step, as they did, it would create complications in constitutional sphere and might even threaten the functioning of the Pondicherry administration? Now, they should have taken that into account. But nothing was taken into account. They were in such a great hurry in Pondicherry to topple that Government. On the same day, Sir, the Prime Minister was making a speech elsewhere or was telling the Press that she did not believe in toppling Governments. I am not going into this at this moment.

Now, Sir, the Central Government functioning here is in charge of the Constitution and the Central Government advises the President in the matter of promulgation of this kind of Order.

[Shri Bhupesh Gupta]
on making such decrees. When the Parliament is in session, they should have known that this would be questioned by the Parliament, by the Members on both sides, and certainly from the Opposition side. This would create a very bad precedent and this would also show disrespect to the rights and privileges of the Lok Sabha, in financial matters in particular and also to the two Houses of Parliament. All this should have been taken into account. But nothing was taken into account by this Government.

Now, it will only show the cavalier manner in which they prefer to choose certain matters which have serious constitutional implications, leave alone the political aspect of it. Are we to proceed to a stage where we shall have Parliament sitting here and concurrently the Rashtrapati Bhavan issuing Proclamations and Ordinances of this type? I am surprised that our friend, Mr. Law Minister, here—he is a learned lawyer and he had been a judge—summoned his abilities as a lawyer as if in a court of law to argue out a case. He was not holding any brief for anybody. I should have thought that in a matter of this kind he should be concerned with the constitutional proprieties and the constitutional aspect of the matter, and should have spoken on the breach of the Constitution rather than on the basis of the inexpedient, injudicious and hasty action which has been taken by the ruling party for political reasons and expediency of the ruling party here and the Opposition Party in Pondicherry. This is most unfortunate. If we go that way, then I do not know where ultimately we are going to land in matters like that. Therefore, my submission would be not to allow in the first instance, this Order to be laid on the Table of the House. Enough discretion and Parliamentary norms and conventions have been made. It should not be allowed to continue further in this matter by your sanction and permission to lay it on the Table of the House. Secondly, I would request you to pass a stricture against this Government over this matter. Surely you are entitled to give your opinion. It should not be said that whereas the Speaker was very sensitive to this thing, the Chairman of the Rajya Sabha, for reasons understandable or understandable, preferred to remain silent. Let it not be said about you. We are concerned about your credibility in the country also. I do hope some words will be uttered by you as

in admonition, as a caution, as a warning, as a corrective, to this wayward Government in such matters.

श्री राजनारायण (उत्तर प्रदेश) : श्रीमन्, मैं इस प्रश्न के संवैधानिक पहलू पर ही जाऊंगा। श्रीमन्, मुना जाए। श्री भूपेश गुप्त ने जो इस का राजनीतिक पहलू उठाया, उस पर मैं बाद में आऊंगा। श्रीमन्, यह बात जब जाहिर है कि जब लोक सभा बैठे हो तो राष्ट्रपति को अध्यादेश जारी करने का अधिकार नहीं है। सरकार 28 को गिरती है। राष्ट्रपति अध्यादेश जारी करते हैं। लोक सभा इन सेशन है। राज्य सभा की बैठक बुला कर अगर उस के बजट की स्थिति ठीक कर ली गयी होती तो कौन गगन गिर जाना और आकाश उड़ जाता? पृथ्वी धमनी क्या? यहाँ पर हमारे चह्वाण साहब भी मुत्करा रहे हैं गले पर हाथ दे कर और दीक्षित जी भी बैठे हुए हैं और श्रीमन्, कमलापति विपाठी जी भी विराजमान हैं...

श्री सभापति : आप अपनी बात कहिये।

श्री राजनारायण : मैं आप के द्वारा यह जानना चाहता हूँ कि आखिर पुरानी संस्कृति, पुरानी परंपरायें और पुरानी मान्यताएँ कहाँ गयीं?

एक माननीय सदस्य : उम का नमूना तो आप

श्री राजनारायण : तो उसका अनुकरण करो। उधर क्यों बैठे हो, उधर आओ।

श्री सभापति : राजनारायण जी, आप खत्म करिये।

श्री राजनारायण : भूपेश गुप्त जी 25 मिनट बोल गये। अगर मैं बदर की बोली में बोलूँ यानी अंग्रेजी में बोलूँ तो आप बोलने देंगे?

श्री सभापति : भूपेश जी को भी मैंने टोका था।

श्री राजनारायण : अगर मैं अपनी मातृ भाषा में बोलूँ तो आप को उसे समझने में दिक्कत होती है। अफसोस है इस बात पर। यह भारत की ससद् है, इंग्लैंड की संसद नहीं है। अगर भारत की ससद् में भारत की बोली में, भारत की भाषा में बोलने में आप को बुरा लगता है...

श्री सभापति : मुझे बुरा लगता है या मैं समझता नहीं हूँ?

श्री राजनारायण : आप समझते तो हैं लेकिन आप उम समझ का प्रत्यक्षीकरण नहीं होने देते। तो मैं अपनी बात कह रहा हूँ। हम को यह बता दीजिये कि चाहे गोखले साहब कानून मंत्री हो या कोई और हो, हमारा तो निवेदन है कि हमारा जो एक केन्द्र शामिल राज्य है उसकी सरकार गिर गयी अब उसकी सरकार कैसे गिरी? श्री भूपेश गुप्त के कम्युनिस्टी एलाएन्स से गिरी या कामराज के एलाएन्स से गिरी या कांग्रेस पार्टी के एलाएन्स से गिरी, उसका मतलब

[श्री राजनारायण]

अभी यहाँ पर नहीं। आपको इस मसाले पर रोक देना चाहिए था भूपेश गुप्त को। मगर जब आपने भूपेश गुप्त को आज्ञा प्रदान की कि वे इस तरह से बोलते जायें राजनैतिक स्थिति पर, तो मुझे पूरा अधिकार है कि उनकी मान्यता का मैं खण्डन करूँ।

इस वक्त प्रश्न क्या श्री कामराज और श्रीमती इन्दिरा नेहरू गांधी का है? प्रधान मंत्री और कामराज का या कामराज और कांग्रेस का गठबंधन है तो क्या डी०एम०के० किसी गठबंधन में शामिल नहीं है अब इस प्रश्न पर आपने 15 मिनट बलवाया...

श्री सभापति नहीं, नहीं, मैंने नहीं कहा। उन्होंने खुद कहा कि इसका कोई ताल्लुक नहीं है और इस पर नहीं कहेंगे। आप भी वैसा ही कह दीजियेगा।

श्री राजनारायण हा, आप हमें सिखा रहे हैं मैं भूपेश गुप्त की गलत बातों को गलत ढंग से रखूँ।

SHRI BHUPESH GUPTA: Sir, is his point of order on my speech? I yield to his point of order.

श्री राजनारायण हमारा पौडन्ट आफ आर्डर यह है कि हमारे पूर्व जो वक्ता बोल चुके हैं, उनके भाषण में जो गलतियाँ हैं, उनको भी मैं इंगित करूँ। तो मैं आपको इंगित करूँ कि भूपेश गुप्त के पौडन्ट आफ आर्डर का कुछ मतलब है नहीं। सरकार कैसे गिरी इसमें मतलब नहीं है। अब वहाँ का खर्चा कैसे चल रहा है? क्या राष्ट्रपति को संविधान में कोई अधिकार प्राप्त है कि राष्ट्रपति उस अवसर पर कोई अध्यादेश जारी करे, यह हमारा एक प्रश्न है। मुझे विनम्रता के साथ, मादर और सायड, निवेदन करना है श्रीमान, कि आप लोक सभा के अध्यक्ष की व्यवस्था को यहाँ पर न चलायें। राज्य सभा अपने में स्वतंत्र है। राज्य सभा अपनी व्यवस्था कर सकती है। राज्य सभा को सारी बातों को देख कर अच्छी परम्परा के मुताबिक अपनी व्यवस्था चलानी चाहिये। यह जो कदम उठाया है यह भारत के संविधान का अवमान है, भारत की समद का अवमान है, राज्य सभा का अवमान है। और राष्ट्रपति को मैं क्या कहूँ? मैं तो हैरत में पड़ा हुआ हूँ, हमारे पास यह किताब रखी हुई है—हमारे मित्र लोकनाथ मिश्र ने दिया।

श्री लोकनाथ मिश्र (उड़ीसा) कौन सो?

श्री सभापति राजनारायण जी, देखिये अब आप जो रिलेवेंट है उसको कहिये। आप यह सब क्या कहते चले जा रहे हैं?

श्री राजनारायण खैर, मैं उसको थोड़े स्वरूप में कहूँगा। केवल इतना ही कह देना चाहता हूँ (Interruptions) देखिये, "एग्जीमैन" एक बीकली है। (Interruptions)

यानी, राष्ट्रपति महोदय को जिन कामों को देखना है—उनके रिश्तेदार, उनकी डाटर इन ला, कौन कौन जमीन ले रहा है—उसको देखने की तो फुर्सत नहीं है लेकिन इतना गलत आर्डर उन्होंने कर दिया जिससे कि चारों तरफ बावैला मच गया।

MR. CHAIRMAN: No, no. That does not arise.

श्री सुलतान सिंह (हरियाणा) पौडन्ट आफ आर्डर। राष्ट्रपति के कन्डक्ट को डिस्कस नहीं किया जा सकता है इस हाउस में।

(Interruptions)

श्री राजनारायण तो मैं आपसे निवेदन कर रहा हूँ श्रीमन्, आप जरा इस बात को अच्छी तरह से हृदयंगम करें। आप अगर हृदयंगम कर लेंगे तो मैं समझता हूँ सदन भी कर लेगा। गोखले साहब का बयान मैंने अखबारों में पढ़ा। मैं जानना चाहता हूँ, गोखले साहब ने इस्तीफा क्यों दिया? मैं जानना चाहता हूँ, प्रधान मंत्री ने क्यों उन्हें समझाया? मैं जानना चाहता हूँ, प्रधान मंत्री की तरफ से यह सफाई क्यों आई कि गोखले साहब का इस्तीफा नहीं है गोखले साहब अपना दिमाग, अपनी चेतना और कानूनी चेतना जो है, उसके साथ धोका और गद्दारी न करें। यह अपराध है। मैं, श्रीमन्, इसी सिलसिले में।

श्री सभापति अब आप सिलसिला घटे भर तो नहीं चला सकते। दूसरों को भी बुलाना है।

श्री राजनारायण श्रीमन्, मैं आपका आदर करता हूँ चूँकि यहाँ पर पण्डित कमलापति त्रिपाठी बैठे हुए हैं, इसलिये मेरी इच्छा हुई कि मैं इस श्लोक को थोड़ा पढ़ दूँ।

सभा न प्रवेष्टव्या, वक्तव्य वा समजमम।

अङ्गुवन विशुवन वापि नरो भवति किलिवेषी ॥

अच्छा हो कमलापति जी इसका अर्थ कुछ आपका भी समझा दें। श्रीमन्, पहले तो विधान निर्मात्री सभा में जाये नहीं अगर जाये तो सत्य को असत्य से बेधे नहीं। जो सत्य को असत्य से बेधता है वह मनुष्य पापी होता है। मैं श्रीमन्, आपके द्वारा कहना चाहता हूँ कि श्री गोखले, पापी न बनें, संविधान के हथियारे न बनें और कानून के साथ मझौल करने वाले न बनें। जब उन्होंने कहा था मैं इस्तीफा दूँगा, जब उन्होंने कहा था कि राष्ट्रपति को कोई अधिकार नहीं था इस तरह का आदेश जारी करने का, अगर उन्होंने यह बात कही—और सही बात कही थी—तो राष्ट्रपति का इम्पीचमेन्ट होना चाहिये था। अब गोखले साहब अपनी स्थिति से हटते हैं ता मैं नम्रता से उनके चित्त की दुर्बलता है। और नहीं तो उसका परिणाम ये ही भुगतेंगे।

इमलिग श्रीमन्, मेरा विनम्रता के साथ निवेदन है कि आप शुद्धतः और साहस के साथ यह व्यवस्था दें कि मैं आदेश करता हूँ कि संबंधित मंत्री को आज इस विषय को इस सदन में प्रस्तुत नहीं करने दिया जायेगा।

MR. CHAIRMAN: Shri Niren Ghosh.

SHRI NAWAL KISHORE (Uttar Pradesh) Sir.

MR. CHAIRMAN: What Party do you belong to?

SHRI NAWAL KISHORE: Myself?

SHRI RAJNARAIN : He belongs to Kamraj Party.

MR. CHAIRMAN: आजकल पार्टी का मालूम नहीं होता; सीट बदल गई है।

SHRI NIREN GHOSH (West Bengal): It is strange that upon the advice of the Cabinet the President of India should issue an unlawful Proclamation and authorise those payments. The President is supposed to guard the Constitution of India even if the Cabinet goes against the Constitution of India. The President should not have done it. It is very strange and abnormal that the President should do such a thing which will have far reaching consequences in the future. Now, Sir, time and again these things have happened and contempt of Parliament is a regular practice of this Government of India which is headed by Shrimati Indira Gandhi. She has no love for democracy or Parliamentary democracy. She has love only for seeing how she can rule over this party and keep herself at the helm of affairs fair or foul. Sir, I raise the question as to what was there so as not to allow that Ministry to function as a care-taker Ministry so that in due course this Proclamation would be placed before the Lok Sabha and the Rajya Sabha could be summoned for two or three days. Why that Government could not continue as a care-taker Government? But they did not do it because reaction and reaction has come together there. Now, C.P.I. has been left high and dry. My only regret is that they fail to draw proper lessons from this. Anyway, Sir, in this way the real content has been eroded. We were hearing that our country was Parliamentary democracy but suddenly they thought it fit that no canons of Parliamentary democracy were to be observed in India. Even Hitler used to have a sort of facade, elections and all that. This means that you are going to have a one party dictator-

ship in India. That is the thing. That is the danger we are facing. That is why I would appeal to Shri Bhupesh Gupta's Party to draw proper lessons from it.

MR. CHAIRMAN : Mr. Niren Gosh, please talk relevantly.

SHRI NIREN GHOSH: I do not know whether you will do it. It is your duty. You are the Vice-President and the Chairman of the Council of State.

MR. CHAIRMAN : I am glad to know that.

SHRI NIREN GHOSH: You are also a learned lawyer of many year's standing. You have been in the Supreme Court. When you sat in those Benches you delivered your learned speeches on legal things.

Even now the Rajya Sabha should go ahead of the Lok Sabha in this matter and whatever the Speaker has done and ultimately consented to should be undone by you. It should be undone by you. That is your duty. That is what I feel. I would make this appeal to you. As the custodian of the rights and privileges of the Constitution and the Parliament of India, at least a House of the Parliament of India, it is your duty to disallow this order from being placed on the Table of the House.

SHRI S.S. MARISWAMY (Tamil Nadu): sir, the creation of the Pondicherry Ministry was itself a great wonder, Sir, we should call it the tenth wonder of the world. Sir, in a House of 30 Members, the Anna D.M.K. got four seats and with the kind help of Shri Bhupesh Gupta's Party they mustered only 14 seats. How could a Ministry with only 14 members survive in a House of 30? In the very first instance the Governor committed a mistake in allowing them to form a ministry which lasted only 21 day. In the course of those 21 days there used to be a new rhyme coined in Pondicherry as against the old rhyme "An apple a day keeps the doctor away". The new rhyme coined was "A sin a day kept the unholy alliance gay". During the 21 days they committed 21 sins of omission and commission there.

MR. CHAIRMAN: Kindly make our point.

SHRI S S MARISWAMY The entire Pondicherry was taken aback by the performance of the ministry. On the very first day itself, the first sin of omission was that they did not keep the secrecy of the budget and it was shown by opposition members. The ministry had to collapse. Now the matter was taken up in the Lok Sabha and it was discussed threadbare and now, on top of it, a case has been filed in the Madras High Court and it is referred to a full bench. I am told that it is to be taken up in a couple of days, it is now *sub judice*. When the High Court is seized of the matter and since my friend, Mr. Niren Ghosh has said that you are a legal luminary you can give us your verdict whether it is proper on our part to discuss the matter when it is before the court.

MR. CHAIRMAN Only one hon. Member from Congress (O) may please speak.

श्री महावीर त्वागी (उत्तर प्रदेश) मैं यह अनुभव करता हूँ कि विधान को बहुत आघात पहुँचा है और जो कुछ किया उसमें गवर्नमेंट की नीयत कोई खराब नहीं थी, उसकी इंटेंशन कोई बुरी नहीं थी। जो हालात हुए इतनी जल्दी से हुए कि उनको यह करना पड़ा। पर हमारा कर्तव्य है कि हम विधान की रक्षा करने के लिये इस मामले पर प्रोटेस्ट करें। मेरा सल्यूशन यह है, मामूली, सल्यूशन, अगर आप मिनिस्टर नहीं मंजूर करेंगे तो मैं एक बड़े पुराने और मशहूर जेज है, वकीलो का आम तौर से काउन्सिल के हिसाब से बोलने की आदत नहीं होती बल्कि जिस तरफ से फीस मिलती है उस तरफ की बात बोलते हैं। इसलिये वकीलो का उस बात की जरूरत पड़ती है कि कौन से पक्ष को सपोर्ट करें और उनकी काउन्सिल कुछ भी हो, जो जिम्मेदारी वह लेते उनका परा करने हैं। तो मेरे दोस्त ने जिम्मेदारी मानिट्री की ले रखी है, इसलिये उनको पूरा करने की तगफ उनकी तबज्जह है। मैं उसको भी सही मानता हूँ, ठीक है लेकिन इस वक्त एक ही तरीका है ऐसे मौके पर जा विरोधी दल के मैसेम्बर हैं उनके साथ एक कामरेडरी मिस्टर रखते हुए आप सिर्फ इतना कर दें कि मिनिस्टर साहब इस हाउस को इश्योर करें कि आइदा इस किस्म की चीज नहीं होगी, तो मेरी राय है हम इस चीज का मजूर कर दें क्योंकि अगर आइदा के लिये यह प्रामिस कर दें कि सर्कमस्टेंस की मजबूरी में यह हो गया, गवर्नमेंट की इसको रिपोर्ट करने का इंटेंशन नहीं है आइदा तो वह आनरेबल फैमला इस किस्म का हो सकता है। मेरी राय में यह अच्छा सल्यूशन निकल सकता है।

MR. CHAIRMAN: Mr. Lok nath Misra. You are the last speaker.

SHRI LOKANATH MISRA Sir, I am sorry, it is the painful duty of the Opposition to highlight the unconstitutional acts of the Government. I wish this Government had greater respect for the Constitution and for democratic institutions. I am to indicate, Sir, that by the actions of the Government there is absolutely no doubt that the authority of Parliament has been corroded. When they have meant disrespect to Parliament, Sir, it means disrespect to the institutions, to individual Members—whether they belong to the ruling party or to the Opposition—and, Sir, to you as the Presiding Officer of the House.

Sir, it has been stated already that you are the custodian of this House and to some extent you are the custodian of the Constitution also.

SHRI M P SHUKLA (Uttar Pradesh) Every Member is so.

SHRI LOKANATH MISRA Yes, you are right, therefore I expect your kind sympathies when I speak about the wrong actions of the Government. Sir, as I indicated when they are trying to corrode into the authority of Parliament it is the duty of every individual in this House as well as the Presiding Officer to fight against it, to protest against it, whether it is from the highest or from anybody. Therefore, Sir, it is an action which can never be supported. The Rajya Sabha should have been immediately summoned and all endeavours should have been made to pass the Appropriation Bill in the Rajya Sabha and in the Lok Sabha. If it was a holiday that could not be any pretext because even the Lok Sabha Members could have been requested to sit on a holiday and pass it when the Constitution demands it. Therefore it has been sheer negligence on the part of the Government not to have summoned the Rajya Sabha in time to get it passed and to summon the Lok Sabha on the holiday to have it passed there. It has been a definite insult to both Houses of Parliament, to the individual Members and to the Presiding Officer, apart from its being the most unconstitutional thing which has been done by the Government.

SHRI H R GOKHALE I will make only a brief statement because as hon. Members—particularly my friend the hon. Mr. Advani—have rightly said, this question has been so very much thrashed out and discussed threadbare in the other House and outside that a full discussion perhaps may not be necessary. I will

only deal with some of the points which have been raised here by hon. Members and conclude my reply very briefly. As I said in the other House the misapprehension is that the Pondicherry Assembly was dissolved on the 20 ; that is not correct. The Assembly was dissolved on the 28th. Now it is true that on the 29th the Lok Sabha was in session. The Pondicherry Budget, the Financial Statement, etc. which were presented to the Pondicherry Assembly were rushed to Delhi and they reached Delhi at about 12 noon on the 29th. After these papers are received it is not customary to just rubberstamp whatever the Union Territory Administration has done but the usual practice is that these proposals are examined *de novo* by the Union Government and then the proposals . . .

SHRI BHUPESH GUPTA : Here the question arises. Suppose you had done it and then you could have easily said that we are doing it now to meet this exigency and we reserve the right to make some charges if necessary later on. That you could have done.

SHRI H. R. GOKHALE : I will answer that At the moment I am only mentioning the circumstances which I described in the other House as unusual and special circumstances. I am not on the question of legality to which I will come a little later. These were the circumstances in which the Government had to take action. Now everybody seems to assume that whatever has been done is unconstitutional and therefore it is bad. In different circumstances as in Orissa for example where the Assembly had been dissolved well in time in February so that there was time enough to bring the matter before Parliament and have the Budget etc. passed before the end of the year, I would have no hesitation in saying that the Government of India would have adopted that course. Even in this case there is no question of not doing the thing properly if physically and under the circumstances it was possible to follow the proper procedure which was to bring the matter before the House. The only question is whether legally and under the Constitution it was possible to take care of this special situation. As hon. Members know, under article 239A of the Constitution there is provision for special legislation in respect of Union Territories. The Union Territories Act in fact has been passed by virtue of the powers conferred on Parliament under article 239A Hon. Members also know that in respect of such

legislation passed under article 239A, if there is any provision in that legislation which appears or which may in fact be repugnant or contrary to the other provisions of the Constitution, then it would not be regarded as an amendment of the Constitution for the purpose of article 368 and it would not be struck down on that ground. Therefore there are provisions in the Union Territories Act with regard to which if this provision under 239A had not been there it would perhaps have been possible to say that they go against the law or at any rate the spirit of the other provisions of the Constitution particularly in respect of financial matters. But in the face of such a provision where special powers have been given to Parliament to pass a law for the administration of the Union Territories, it cannot be said that it is wrong. That is how this law was passed but that is not to say that under the Union Territories Act also, time permitting it would not have been proper to follow the same procedure or cut namely, to lay the financial statement for the year in advance, then bring the full Budget, then bring if necessary, the Vote on Account and finally the Appropriation Bill itself, but circumstances have been foreseen in that Act wherein if it is not possible to follow all this procedure, under a Presidential Order, acting under section 51 read with section 56 he can for removal of difficulties, pass an order and this is how the order was passed . . .

श्री राजनारायण : अभी माननीय मंत्री जी ने आर्टिकल 239 का जिक्र किया . . .

MR. CHAIRMAN : Let him finish.

श्री राजनारायण : इस बारे में मेरा प्वाइंट आफ ऑर्डर है . . .

श्री सभापति : यह प्वाइंट आफ ऑर्डर उठाने का टाइम नहीं है ।

श्री राजनारायण : प्वाइंट आफ ऑर्डर किसी भी समय उठाया जा सकता है ।

MR. CHAIRMAN : Mr. Rajnarain, this is no point of order.

श्री राजनारायण : मैं आपसे विनम्रतापूर्वक निवेदन कर रहा हूँ कि 239, जिसका कि यहाँ प्रसंगवश जिक्र किया गया है . . .

MR. CHAIRMAN : This is no point of order. It is not justified. Mr. Gokhale, please continue.

श्री राजनारायण : इस भाग के अन्य उपबन्धों के अधीन रहते हुए प्रथम अनुसूची के भाग (ग) में उल्लिखित राज्य

[श्री राजनारायण]

का प्रशामन राष्ट्रपति द्वारा किया जायेगा तथा वह इस बारे में उस मात्रा तक, जितनी कि वह उचित समझे, अपने द्वारा नियुक्त किये जाने वाले प्रशासक द्वारा कार्य करेगा

MR CHAIRMAN Please sit down. This is no point of order.

SHRI H. R. GOKHALE As I said, I have no hesitation in saying that if these special powers were not required to be utilised and if time had been available, certainly the Government would not have utilised the powers under sections 51 and 56 and would have followed the regular procedure under the Union Territories Act. For passing the Budget, etc. so far as the Union Territories are concerned, Parliament really functions as the Assembly of the Union Territory. Therefore, all this procedure applicable for passing the Budget ordinarily, I am quite sure, would have been followed if there had been any legal provision under which action could be taken to meet the special circumstances of the case.

श्री राजनारायण प्रसाधारण क्या है, कृपा करके बताइये ।

MR. CHAIRMAN . No, please sit down. You cannot interrupt like this

SHRI H. R. GOKHALE I said in the other House and I would repeat with great humility that we have not said, nor do we say now, that the Presidential Order is illegal. I entirely agree with the hon. Member on the other side when he said that this order is the subject-matter of challenge by way of a petition in the Madras High Court. It is really *sub judice*. It is not for me to say that it is legal or for somebody else to say that it is not legal. It is really not fair at this stage when the courts themselves are going to examine this question. As far as I know the date which is fixed is tomorrow and I do not know whether actually the Court is going to hear it. That is subject to what the orders of the Court will be. I went into the propriety first and then I went into what we thought was a question of legality. It is an assertion which we have made in the other House and which we make here. I submit that at any rate this is a matter completely *sub judice*. The petition is pending before the hon. Madras High Court and is likely to be heard . . .

SHRI LOKANATH MISRA If he has so much respect to the High Court's decision, let him not lay it. (Interruptions.)

MR CHAIRMAN Now , I cannot allow this. Everyone of you has spoken, but you do not allow anybody else to speak.

श्री राजनारायण माननीय मंत्री जी स्वयं बोल रहे हैं कि यह सब-जुडिस है । इसके कानूनी पक्ष और विपक्ष में मैं नहीं जाना चाहता । मैं इतना कहना चाहता हूँ कि आप हाई कोर्ट का फैसला देख लें और उसके बाद अपना फैसला दें ।

श्री सभापति . आप बैठ जाइये ।

श्री राजनारायण तो क्या यहाँ हम बैठने के लिये आये हैं ।

SHRI H. R. GOKHALE The concluding part which I would like to submit is, as the Presidential Order itself shows, there was never any intention of by passing Parliament. The Presidential Order itself says, 'Pending the sanction by Parliament'. Therefore, the Presidential Order itself, as it were, gave an assurance that as soon as possible the matter would be brought before Parliament. If tomorrow or whenever the appropriation (Vote on Account) Bill is brought before Parliament, it is really consistent with the statement in the Presidential Order itself that it will be brought before Parliament. There never was any intention to by pass Parliament. It is an assurance which I unhesitatingly give. I submit that this is only a question of laying it on the Table.

MR. CHAIRMAN Let me give my ruling.

SHRI MAHAVIR TYAGI Will you give an assurance that such things will not be repeated ?

MR. CHAIRMAN The Chair does not pronounce on the constitutional validity of documents. Moreover, in this case the constitutional validity of this document is *sub judice*. Laying any document on the Table merely means that information is being given to the Members about its contents. Moreover, the document has been referred to in the Bill and it will be a matter which may be referred to in the debate. It has already been laid in the Lok Sabha and has become a public document. I hold that this document will be laid on the Table of the House

श्री राजनारायण श्रीमान्, मैं आपकी व्यवस्था समझा नहीं । कृपा करके समझा दीजिये ।

श्री सभापति : मैं यहाँ समझाने के लिये नहीं हूँ। मैंने व्यवस्था दे दी है।

श्री राजनारायण श्रीमन्, आपने जो कुछ कहा है मुझे समझा दें। क्या मैं यह समझ कि आप यह कह रहे हैं कि इस सदन में गैर कानूनी चीज़ें भी रखी जा सकती हैं? आपकी व्यवस्था यही हुई कि नहीं?

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI K. R. GANESH) Sir, I beg to lay on the Table —

I. A copy (English and Hindi) of the Ministry of Finance Notification S.O. No. 222(E) dated the 29th March, 1974, containing the President's order in regard to the authorisation of certain expenditure out of the Consolidated Fund of the Union territory of Pondicherry

II. A statement (in English and Hindi) of the estimated receipts and expenditure of Union territory of Pondicherry for the year 1974-75

MESSAGES FROM THE LOK SABHA

- 1 Joint Committee on Offices of Profit
- 2 The Pondicherry Appropriation (Vote on Account) Bill, 1974

SECRETARY-GENERAL Sir, I have to report to the House the following messages received from the Lok Sabha signed by the Secretary-General of the Lok Sabha

(1)

"I am directed to inform Rajya Sabha that Lok Sabha at its sitting held on Thursday, the 18th April 1974, adopted the following motion —

"That this House do recommend to Rajya Sabha that Rajya Sabha do elect two members of Rajya Sabha according to the principle of proportional representation by means of the single transferable vote to the Joint Committee on Offices of Profit in the vacancies caused by the retirement of Sarvashri S. A. Khaja Mohideen and Sanda Nayayaappa from Rajya Sabha and do communicate to this House the names of the members so appointed by Rajya Sabha to the Joint Committee"

I am to request that the concurrence of Rajya Sabha in the said motion, and also the names of the members of Rajya Sabha so appointed, may be communicated to this House"

(II)

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith the Pondicherry Appropriation (Vote on Account) Bill, 1974, as passed by Lok Sabha at its sitting held on the 15th April, 1974

The Speaker has certified that this Bill is a Money Bill"

Sir, I lay a copy of the Bill on the Table

MR CHAIRMAN The Pondicherry—Appropriation (Vote on Account) Bill, 1974 and the debate will be taken up tomorrow

STATEMENT RE. INTERIM REPORTS OF THE NATIONAL COMMISSION ON AGRICULTURE

THE MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE (SHRI ANNASAHAB P. SHINDE) Sir, I beg to lay a statement on the three more Interim Reports submitted by the National Commission on Agriculture [Placed in Library See No. LT]

DR. RAMKRIPAL SINHA (Bihar) Sir, what about the time for discussing the Bihar issue?

MR CHAIRMAN I am considering it. Please sit down

RE CORRECTION IN RAJYA SABHA BULLETIN

श्री रवी राय (उड़ीसा) सभापति महादय, एक व्यवस्था का प्रश्न है। यह जो आपका बुलेटिन है मसदाय समाचार भाग 2, राजनारायण जी की गिरफ्तारी के बारे में

श्री सभापति यह अभी नहीं हो सकता। मैं ब्रह्माऊ नहीं करता।

श्री रवी राय इसमें एक गलती है। आप सुधार दे ता ठीक होगा

MR CHAIRMAN The procedure is that you must come to my Chamber

श्री राजनारायण क्यों?

श्री रवी राय सभापति महादय, यह तो एक व्यवस्था का प्रश्न है।

श्री सभापति नहीं।