

[Shri Kanhaiyalal D Vaidya]

भी पता चलता है कि वहा शासन मे काफी प्रगति हुई है और प्रगति के चिन्ह है और इसी कारण मे उन्होने चुनाव कराने के लिये निश्चित तारीखे घोषित कर दी है। यदि प्रगति नही होती और शान्ति स्थापित नही होती, तो वहा चुनाव कराने की घोषणा अभी नही होती इसलिये मे समझता हू कि यह बिल स्वागत करने की चीज है और इन शब्दों के साथ मे इसका समर्थन करता हू।

[For English translation, see Appendix VI, Annexure No. 155]

SHRI M C SHAH Sir, I thought that at this stage it was not proper for Members to object to the demand which has already been passed. I found that two Members from that side had welcomed this provision for elections and nobody asked for any particulars. I had all those particulars and I would have gladly supplied all those particulars but nobody demanded them. I feel that Members opposite and my friend Mr Manjuran also must be happy that we are holding elections soon, in March, and he ought to have congratulated the States Ministry or the Home Ministry for holding elections very early as was promised by the Prime Minister. Now, at the third reading he is asking for those items. He knows that in a democratic set up and with adult suffrage, we have to provide for polling booths, the staff have to be provided with salaries, their dearness allowances, travelling allowances the printing charges the conveyance and so many other things have to be provided for. Therefore, there cannot be a break up here now when we are considering the Bill at its third reading. I feel that the objections raised now are not proper and that the House should throw them out and return the Bill to the House.

MR DEPUTY CHAIRMAN: The question is.

"That the Bill be returned."

The motion was adopted.

6 PM

HALF-AN-HOUR DISCUSSION RE TRAVANCORE-COCHIN MINISTRY

SHRI M MANJURAN (Travancore-Cochin) Mr Deputy Chairman, on 10th December, in reply to Starred Question No 238, the Minister for States informed the Council that there was some agitation in Travancore-Cochin regarding the continuance of the Ministry there by parties opposed to it. He also informed us that he had not tendered any advice to the Ministry or the Rajpramukh there, but later, confronted by supplementaries, he had to admit that he had said at Ernakulam on the 1st November 1953 that he had not only given his consent but also his full support to the continuance of the Ministry. On a question by Mr C G K Reddy he informed us that he had consultations with the Travancore-Cochin State Ministers and that he had advised them to go ahead.

The disturbing conflicts or discrepancies in these statements are fraught with serious consequences on an issue of such a vital nature. I crave your indulgence to present you the background of it chronologically. After the last general elections, the Congress could secure only 44 seats in the Travancore-Cochin Legislative Assembly consisting of 108 members. Although initially they were diffident to accept office, owing probably to higher persuasions they did accept office and nominated one Anglo-Indian member to swell their strength. Later they found that it was not possible to work with that precarious minority and made a coalition with the Tamil Nad Congress Party of nine members. Thus their total strength came to 54 in a House of 109. This coalition was destined to be terminated with the break-down of the negotiations between the leaders of the Indian National Congress and the Tamil Nad Congress in Delhi and it really broke

down. No sooner was the news flashed than the Chief Minister of Travancore-Cochin and the Finance Minister came to New Delhi. Newspaper reports had it that they met the States Minister more than once and had consultations with him. On his return to the State, the Chief Minister, Mr. A. J. John, informed the Press that he had instructions from the Centre for action in case of defection of the Tamil Nad Congress Party. And on the 15th September the Tamil Nad Congress member on the Council of Ministers resigned. The Assembly was summoned for the 21st September and on the 22nd September Mr. A. J. John, the Chief Minister moved a motion of confidence. It was debated the next day and was lost by 56 votes to 51. Immediately after the defeat of the confidence motion he repaired to the Rajpramukh and advised him to dissolve the Legislative Assembly, and it was dissolved on the night of the 23rd September.

Now, I have to ask the States Minister through you, Sir, whether Mr. A. J. John had not relayed the same advice, tendered by the States Minister, to the Rajpramukh. If that were the case, we cannot understand the contention that the Central Government had not interfered in the affairs of the Travancore-Cochin ministerial crisis. They have definitely interfered. The vote of confidence was not occasioned by any serious rift over a matter of public policy. The Ministry neither resigned nor gave a chance for the Opposition to form a Ministry in spite of the Leader of the Opposition writing to the Rajpramukh and informing every one publicly that he was prepared, and that he had the necessary support, to form a Ministry.

Those were the circumstances under which the constitutional crisis in Travancore-Cochin has taken place. Several are the intriguing points arising out of this. The Ministry in Travancore-Cochin did not know what to do. That was why, as soon as the news of the defection of the Tamil Nad Congress Party was made known

to them, they hurried to Delhi and had consultations with the States Minister. It was at the instance of, and on the advice tendered by, the States Minister that they thought of continuing the Ministry. It was not according to any constitutional provisions. They were not sure of their ground. They were rather overwhelmed by the circumstances that were enveloping around them.

Sir, the States Minister in the course of his various replies has stated that he had advised the Travancore-Cochin Ministry, that he had given them the consent to continue and further he had also promised to give them their support. That I take it, Sir, is a threat. I know the States Minister has the right to advise the Travancore-Cochin Ministry under article 371 of the Indian Constitution; I am not objecting to it. He can give his consent, because he has got the authority and he can also promise his support because this great nation of India has got a large army, naval and air strength and he can make use of all these to support his Ministry against the people of Travancore-Cochin. I am not questioning that. But I am questioning one other thing. Had he the right above this Parliament, to surpass the authority of this Parliament, and advise the Travancore-Cochin Ministry in this matter? He has to account for that if he had tendered advice. And if he wanted to conceal it from us, had he the right to do that? That is the question that is paramount to me. Before us, the devotees in this sanctuary of human rights and before this very country the States Minister was anxious to keep all this knowledge away from us. What prompted him to do this? And later when he was caught red-handed, when he had to admit on his own that he had given advice, he had given consent and he had also promised them support, he threatened us saying that he would go on giving the same advice if a situation did arise again. That was too much to be palatable. Between his initial denial and his later swearing he tore the child of Indian democracy

[SHRI M MANJURAN]
to pieces. He, a disciple of the great Mahatma, the follower of the system of *satyagraha* and truth, had no business to conceal this from us. Never has been truth so much misrepresented, never has been dishonesty more manifest nor has a Minister conducted himself more lightly and that too in this temple of democracy. Here was a conspiracy entered into between the States Minister of the Union Government and the Ministers of a State Government, and against whom? Against the people of that State. They were conspiring to continue a Government which had lost the support of the Legislature, which had been voted out of office, and yet the States Minister said there were precedents and that that was the only constitutional practice that could be adopted. Constitutional practices had been growing up for centuries, but for this particular practice there is no precedent in the annals of human history, I should say. Never has such a thing happened. And then before us he has got the audacity to come and indulge in falsity only to escape the final indictment. It was his purpose to hide these nefarious transactions and he calls upon us and future to pronounce a verdict on this question.

SHRI H P SAKSENA (Uttar Pradesh) On a point of order, Sir, are 'caught red-handed' and 'nefarious' parliamentary expressions?

THE DEPUTY MINISTER FOR LABOUR (SHRI ABID ALI) Falsity and dishonesty (*Interruptions*)

SHRI M MANJURAN I have heard the Prime Minister of the Indian Government use the word 'lie' to the Opposition. It is nothing unparliamentary to state facts.

MR DEPUTY CHAIRMAN Order, order. You must use dignified language. And I have to tell you that five Members have given notice of their intention to speak and there must be sufficient time for the hon. Minister also.

SHRI M MANJURAN Sir I am closing.

I have only to refer to certain aspects of the Constitution. To certain questions raised by Prof. Ranga he said that he did not want long arguments. I immediately understood that judgment was yet to come, it was only in the argument stage. Here the Indian Constitution article 356 says:

"If the President, on receipt of a report from the Governor or Rajpramukh of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on."

SHRI K S HEGDE (Madras) Is resignation recognised under the article of the Constitution?

SHRI M MANJURAN

"in accordance with the provisions of this Constitution, the President may by Proclamation—
(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 Rajpramukh, as the case may be, or anybody or authority in the State other than the Legislature of the State",
and in (b), it is specifically given

"declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament"

Why did he shirk all these, because all that happened in Travancore-Cochin would have been brought within the sphere of the criticism of Parliament.

There is no representative institution there when the representative institution fails, that is, when the Legislative Assembly was dissolved, what right had the Ministry to continue? Under article 164(2) of the Constitution it has been laid down that "the Council of Ministers shall be collectively responsible to the Legislative Assembly". Now, to whom are they responsible, except to themselves? Is it in the Constitution is it inherent in the Constitution that the Ministry can

govern the country when the Legislature is not there? The Indian Constitution is the only Constitution where, an article like 356 lays down clearly Centre's taking over. That is not to be taken very lightly. There were lengthy debates on this article in the Constituent Assembly and on the peculiar circumstances prevailing in India. Here, Sir, the constitutional breakdown has happened and instead of applying section 356 directly, the States Minister goes on tendering advice privately and proclaiming support publicly. That is not the way the Constitution is to be treated. Here is a direct provision for it; you have to apply fully the provisions of the Constitution. Sir, I would not refer to the other points for want of time.

MR. DEPUTY CHAIRMAN: You should give time for the hon. Minister to answer.

SHRI M. MANJURAN: How can a Council of Ministers continue for six months when there is no Assembly, even if you stretch the meaning of article 164(4) to the utmost? Sir, I would read a remarkable passage from no less an authority than Edmund Burke speaking on June 14, 1784; and then, we will see how other democrats support him.

"It is a contrivance full of danger for Ministers to set up the representative and constituent bodies of the Commons of this Kingdom as two separate and distinct powers, formed to counterpoise each other, leaving the preference in the hands of secret advisers of the crown. In such a situation, these advisers will have it in their choice to resort to the one or the other, as may best suit the purposes of their sinister ambition. The whole can end in nothing else than the destruction of the dearest rights and liberties of the nation. If there must be another mode of conveying the collective sense of the people to the throne than that by the House of Commons, it ought to be fixed and defined, and its authority ought to be

settled: it ought not to exist in so precarious and dependent a state as that Ministers should have it in their power, at their own mere pleasure, to acknowledge it with respect or to reject it with scorn. It is the undoubted prerogative of the Crown to dissolve Parliament; but it is, of all the trusts vested in His Majesty, the most critical and delicate, and that in which this House has the most reason to require, not only the good faith, but the favour of the Crown. We are to inquire and to accuse; and the objects of our inquiry and charge will be for the most part persons of wealth, power and extensive connections....."

Then he goes on to say that if dissolution of Parliament rested on the unilateral advice tendered by the Prime Minister the House of Commons would become a mere appendage of Administration.

MR. DEPUTY CHAIRMAN: Mr. Manjuran, don't you want to hear the Minister? There are five Members to speak.

SHRI M. MANJURAN: Sir, one minute.....

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU): I have no objection to my hon. friend going on till half-past six.....

(Interruptions.)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI V. K. DHAGE (Hyderabad): We are willing to sit. Would the hon. Minister be willing to continue after 6-30?

MR. DEPUTY CHAIRMAN: Please resume your seat. This is only a half-an-hour discussion.....

SHRI M. MANJURAN: "It was necessary....."

DR. K. N. KATJU: What are you reading?

SHRI M. MANJURAN: I have no time to explain. I am reading certain passages from Forsey's book called "Dissolution of Parliament". I shall pass on the book to you:

"It was necessary that there should be some great question of public policy at issue before a dissolution could properly be asked for. It is not considered a legitimate exercise of the prerogative to dissolve simply for the purpose of strengthening a party which has lost its majority in the House."

Then:

"Every Prime Minister advising dissolution will assure the Governor that the step is essential in the interests of the country. Implicit reliance on such assurances would simply put a premium on overweening self-confidence or political brazenness".

Lastly:

"Peel, Russell and Gladstone declared in the clearest terms that a Cabinet defeated in the House is not entitled to dissolution unless there is some great question of public policy at issue".

SHRI V. K. DHAGE: I would like to know one thing. Under this Constitution where a confidence motion sought by the Ministry has failed, what is the import of the collective responsibility to the Legislature? Whether it should resign or not?

DR. K. N. KATJU: Whose responsibility?

SHRI V. K. DHAGE: Collective responsibility to the Legislature.

SHRI RAJAGOPAL NAIDU (Madras): My only point is this. In what way could not the Government be carried on with the majority of 56 members as against 51?

SHRI K. C. GEORGE (Travancore-Cochin): Is the hon. Minister aware that a large section of the people of

Travancore-Cochin feels that the continuance of the present Ministry would make a fair and free election impossible under the present conditions and lakhs of people have signed a memorandum to this effect to be presented to the Rajpramukh of Travancore-Cochin and the President of India?

SHRI ABDUL RAZAK (Travancore-Cochin): Will the Minister for States be pleased to state:

(a) When the Assembly of Travancore-Cochin was dissolved at midnight on the 23rd September last as an immediate consequence of its refusal to vote confidence in the Congress Ministry then functioning, what prevented the States Ministry from advising the President to take over the Administration under article 356 and to vest the same in Parliament?

(b) What is the legal and constitutional justification for the preservation in office of a discredited team of Ministers in that State? If the answer is democratic precedents set up in the United Kingdom, will it be possible for the States Minister to cite one single instance in the whole history of the British House of Commons, where a Ministry asked for a vote of confidence, and having lost it, still continued in office?

(c)

MR. DEPUTY CHAIRMAN: You are putting three questions. I will not allow any more. Mr. Kishen Chand.

SHRI KISHEN CHAND (Hyderabad): Mr. Deputy Chairman, in view of the fact that Travancore-Cochin is a Part B State and the hon. Minister for States could advise the Ministry of Travancore-Cochin, I would like to know from the hon. Minister whether, in view of the common practice in the United Kingdom, which we follow in the absence of any written law to that effect, when Parliament or the Legislature is dissolved, it is not the bounden duty of the Ministry in power to hold the elections within one month, and when it has been the practice in the United Kingdom for the last two centuries, why such an advice was not

given to the Travancore-Cochin Legislature and a similar procedure adopted there?

DR. K. N. KATJU: Mr. Deputy Chairman, I do not propose at this late hour to notice every kind of insinuation that has been made against me by the mover of the discussion. My hon. friend probably forgot that the Ministers from different States who come to Delhi, come in various capacities. Sometimes, they come to consult the Prime Minister. Sometimes they come to consult the President of the Indian National Congress. I am a Congressman and something may be asked or there might be something about which I may be consulted. So far as the reference to the States Ministry is concerned, we received no communication formally as to what was going to happen. There was no question of issuing of any directive under article 371 because there was no formal approach. I was asked as a lawyer—people say that I know some law—as to what could be done, and I said that my view was—my view may be completely wrong, but that was my view.....

SHRI M. S. RANAWAT (Rajasthan): Do you still do Chamber practice?

DR. K. N. KATJU: Either you allow me to go on or you allow me to stop. I am perfectly willing.

MR. DEPUTY CHAIRMAN: Let there be no interruption.

DR. K. N. KATJU: Otherwise time will expire and at half past six I will go away. Now I was asked as to what could or could not be done. I said that whenever a motion of no confidence is carried, the question is always before the Ministry to go to the King or to the Rajpramukh or to the Governor or to the President and say, "Here is our resignation; we cannot carry on."

SHRI ABDUL RAZAK: But did they offer the resignation?

MR. DEPUTY CHAIRMAN: Order, order.

DR. K. N. KATJU: Either my hon. friend is not prepared to understand... (Interruption.) I really object to this. Really it is not fair to me. You do not hear and then you say.....

MR. DEPUTY CHAIRMAN: Order, order.

DR. K. N. KATJU: So I said, "Here are the two possible contingencies. One contingency is to accept and resign. The other contingency is not to accept and advise the King or the President or whoever that may be, to dissolve the House. I think these are the two contingencies. And if you think that your House is divided into different groups, and if you think that the people of the Travancore-Cochin State should be given an opportunity of saying in whom they have got the confidence, then they ought to say so."

And the immediate cause of this crisis arose because 11 members from Cape Comorin on another issue—please remember—which has nothing to do with the government of the people so far as I understood it, said that they wanted to have a Tamil Congress Committee. They were not allowed to do so. They said they wanted to go over to Madras and things like that and they withdrew their support from the Travancore-Cochin Government. On that issue, they went away, and when the question of this motion of no-confidence came, they voted against the Government. So, I said, "If you think that the people are with you and the Members of the Legislature are not truly reflecting the views of the people, you can advise the Rajpramukh to dissolve the Assembly." That is my understanding of the law. I may be hopelessly wrong, but I still maintain that position and I have maintained that position throughout.

SHRI K. S. HEGDE: Was it also the view of Professor Coupland?

DR. K. N. KATJU: I have reached a stage when I look to myself and not to others. The question was put to me. "Is it not the British practice to hold

[Dr. K. N. Katju.] elections immediately within a month?" To be quite frank with you and to be quite frank with the House, this aspect of the matter did not concern me at that time. There was one great hindrance. The Delimitation Commission was functioning. You remember that in PEPSU, because of the resignation of the Ministry and other things, the President had to intervene, and I was myself most anxious at that time to have new elections. I would have liked to have the elections within three months or four months. I said so probably in this House as also in the other House. I was then told that the Delimitation Commission having started its operation, no general elections could possibly be held till the Delimitation Commission had finished its work. Now, the same contingency was there here. We have two things. In the first place, there is the statutory provision that there must be a new Parliament or new Legislature within six months, and there was this thing when the Legislature was dissolved there. By reason of the Delimitation Commission having started its operation, the elections could not be held till the Delimitation Commission had finished its work. We came here and we spoke to the Election Commission about it or whoever the authority may be. We requested the Delimitation Commission to pick up this Travancore-Cochin work in their agenda of business and to get on with that and hasten the proceedings. They have now done it. I think the electoral roll was published only on the 15th December, about five or six days ago. There has been no delay and the elections will take place in February. With all profound respect, I have not been able to understand this storm in the tea cup. It is said that I should have issued a directive. I was not asked to do so. Even if I had been asked, I would not have issued it, because in spite of all this discussion and all this agitation in the newspapers and on public platforms—constitutional pandits have been cited beginning from Edmund Burke—I am still of the opinion that the course of action

adopted by the Travancore-Cochin Ministry was absolutely right, right in constitution, as a matter of law, as a matter of politics and as a matter of expediency also, where you have political parties like this: 44 Congress, 42 Communists, 11—I do not know which party I would call it—Party A, 12 Party B, 6 Party C. It is absolutely desirable that people should have their government. It is not a question of a hundred or a hundred and twenty Members trying to settle affairs for themselves: "You ten go there and form a government; or you fifteen go there and form another government or you twenty go elsewhere and form a third government."

In a place like this it is desirable that the people of the State should be given an opportunity to consider this matter. The general elections took place two years ago.....

SHRI S. MAHANTY (Orissa): Why not President's rule as you did in PEPSU?

DR. K. N. KATJU: I will answer that. They will have now an opportunity of pronouncing as to what they think of this particular party. I am astonished at the question; "Why not the President's rule?" When President intervened in PEPSU, there was a regular furore or protest from everybody on those benches.....

(Interruptions.)

SHRI S. MAHANTY: This is not the answer. I crave your protection.

DR. K. N. KATJU: When the President intervened in PEPSU, there was a strong protest. When the President does not intervene here and leaves it at least to the 44 representatives of the people to manage, there is protest.....

SHRI K. S. HEGDE: Fifty-one.

DR. K. N. KATJU:..... there is strong protest. I will answer one question before we rise and with some certainty. Some said that the elections may not be fair and unfettered. On that I say that this remark is not

justified. There is the Chief Election Commissioner and I am sure that he will do his duty and you may take it from me that so far as my powers extend, and so far as my influence extends, I shall see to it that the election is absolutely fair, unfettered and completely free.

(Interruptions.)

SHRI ABDUL RAZAK: How could you do it when there is a Minister in charge for the conduct of elections?

SHRI K. C. GEORGE: May I know from the Minister whether he is aware of the background that is created by the Government with the help of the police to turn the tide in their favour?

SHRI K. S. HEGDE: That is an imagination by you.

SHRI M. MANJURAN: There was shooting.....

(Interruptions.)

MR. DEPUTY CHAIRMAN: One at a time.

DR. K. N. KATJU: May I say, there is a habit growing in this House—I don't happen to be a Member but of course I may say—for many gentlemen to try to speak at one and the same time and if a Minister—poor fellow—is there, he must be given some chance. Suppose a Ministry is in power and the general election comes on, you don't want the Ministry to walk out, you don't want the President to take over.

SHRI K. C. GEORGE: Here is a circumstance when the people have voted against it.

DR. K. N. KATJU: The people did not vote against the Ministry. It is the 52 or 45 who voted against the Government and the question at the general elections will be whether the gentlemen who voted against the Ministry in

the Legislature truly reflected the views of the people, in the opinion of the people. That is a trial. If you win, so much the better. I will come and congratulate you.

(Interruptions.)

SHRI M. MANJURAN: About elections I never said anything.

SHRI V. K. DHAGE: My question has not been replied to. What is the import or connotation that you give to.....

DR. K. N. KATJU: Will you repeat the question?

SHRI V. K. DHAGE: What is the import of the words "collective responsibility to the Legislature", when a confidence motion sought by the Ministry has been defeated?

DR. K. N. KATJU: I really don't understand the question.

SHRI ABDUL RAZAK: You cannot understand.

DR. K. N. KATJU: 'Collective responsibility' is the responsibility of the Ministers. I really don't understand the question.

SHRI V. K. DHAGE: Of the Ministry to the Legislature.

DR. K. N. KATJU: I quite agree that when the Legislature does not pass a vote of confidence or passes a positive vote of no-confidence, then so far as the House is concerned, the matter is settled in that particular House. Then it is for the Chief Minister to consider, for the Cabinet to consider whether they can have a better deal from the people at large.

That is the point. It is not a question of collective responsibility or of no-confidence at all.

AN HON. MEMBER: They are afraid of the elections.

DR. K. N. KATJU: Yes, I really do not know why they are afraid of a general election.

SHRI M. MANJURAN: The dissolution itself was wrong under those circumstances.

DR. K. N. KATJU: But the thing is done.

SHRI M. MANJURAN: That is no excuse, for other people also can come and do it.

MR. DEPUTY CHAIRMAN: Order, order. We cannot go on like this. The hon. Minister will finish his remarks. The time is up. Have you finished?

DR. K. N. KATJU: Yes.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 1 30 P.M. tomorrow.

The Council then adjourned till half past one of the clock on Wednesday, the 23rd December 1953.