

SHRI VIDYACHARAN SHUKLA:  
The reply need not be given at this time.

SHRI LAL K. ADVANI: The whole thing seems to be a farce. He is not ready even to reply to the debate.

SHRI VIDYACHARAN SHUKLA: It is not a farce. If we do not act according to your wishes, it become a farce.

[Translation]

SHRI LAL K. ADVANI (Gandhi Nagar): Please give the reply. If the intention is to pass it, then pass it. Please ask for voting on it. Let the hon. members play the game of Answer the points, which the hon. Members have raised.

[English]

MR. SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

*The motion was adopted.*

SHRI VIDYACHARAN SHUKLA: Sir, I introduce the Bill.

15.05 hrs.

MANIPUR MUNICIPALITIES BILL\*

[English]

THE MINISTER OF URBAN DEVELOPMENT (SHRIMATI SHEILA KAUL): Mr. Speaker, Sir, I beg to move

for leave to introduce a Bill to provide for constitution and organisation of municipalities in the Urban areas of Manipur and for matters connected therewith and incidental thereto.

MR. SPEAKER: Motion moved:

"That leave be granted to introduce a Bill to provide for constitution and organisation of municipalities in the Urban areas of Manipur and for matters connected therewith and incidental thereto.

[Translation]

SHRI MOHAN SINGH (Deoria): Mr. Speaker, Sir, this Government is showing utter disregard for the House at every step. There can be no such big glaring example of blatant disregard. The House was prorogued only for a few hours. The House was prorogued for a few hours to issue the ordinance. Three ordinances were issued during this short period of prorogation. We had received the information and we had given notices of questions also. There can be no other big misuse of the provision of the Constitution than that the House was first prorogued and then summoned in such a way. Article 123 says that if at any time, except when both the Houses of the Parliament are in session, hon. President is satisfied that circumstances exist which render it necessary for him to take immediate action he may promulgate the ordinance. If these three ordinances were not promulgated Government would not have stopped functioning at all... (Interruptions)

MR. SPEAKER: It was a Constitutional requirement.

SHRI MOHAN SINGH (Deoria): It is all right that it was a constitutional requirement and the House was prorogued for a few hours, saying that ordinances are to be brought. What was the hurry to bring these ordinances? Sir, the by elections in the country for the Lok Sabha were to be held on 26th, the Government was to convey a message that an amendment has been brought regarding the municipal committees and it will be implemented throughout the country... *(Interruptions)*

MR. SPEAKER: Please listen to me. As per the provisions of the Constitution all these ordinances have to be passed before a particular date and if it is not done then it will be a breach of Constitution... *(Interruptions)*

SHRI MOHAN SINGH (Deoria): Sir, these could be presented in the House in the shape of a Bill. Therefore, it is a disgrace of the House. I think that running the Government in such a way through the chain of such ordinances is just like playing with the Constitution and the Government has dragged your Ministry and your office also in it. You should give them the directives that the permission will not be granted to run the Government in such a blind and unnecessary manner through the ordinances. When an hon. Member of opposition speaks in such a manner you become more sensitive but in this case this Government is playing with the Constitution, therefore, my submission to you is that you should give them the instructions not to do it again... *(Interruptions)* ... They should learn to honour the House... *(Interruptions)*...

SHRI NITISH KUMAR (Barh): Mr. Speaker, Sir, you have rightly asserted that it was a Constitutional requirement.

While the Government might be aware of this practice that the House should not have been prorogued, rather it should have been continued while a discussion was going on; but the Government did not take any care. The budget session lasted for such a long period and the Government was aware of the essential formalities to be completed as per the Constitution. Under those circumstances, when the session was going on, the Bill could have been brought and in the meantime the Constitutional requirements could have been completed, but the way the Government functions, none had such an idea in mind and secretariat also fixed the date of putting up the questions and the date of ballots and the hon. Members also submitted their questions. The Members had to submit notices of question again. Thus, we had to undergo a lot of difficulties. All of a sudden, it occurred to their mind that to fulfil the requirements of the Constitution, prorogation of this House is necessary. Therefore, in the end, the House was prorogued for some time. Again the house was summoned. In this way, there were many complexities. Even, your office and the whole Secretariat had agreed to this view that the hon. Members had to put double efforts and submit notices of questions again. The Government should be admonished for creating such a situation. You have a right to admonish us but we fear if the Government would work in a responsible manner or not. In a way, this House is being run by a Hon. Minister of the Government. Nobody knows how the Department of Parliamentary Affairs is functioning? Today, such a strange things are happening that even the hon. Minister of Parliamentary Affairs is making a statement on behalf of the other party. He talks to the Members of other parties and gives a statement on their behalf. He is enjoying the right to speak on

[Shri Nitish Kumar]

behalf of the whole country and the Government. This is the way the Government is functioning. Therefore, I would request you that the Government should be admonished for this act and such kind of a practice should be criticised

SHRI LAL. K. ADVANI (Gandhinagar): Mr. Speaker, Sir, this issue was also raised today morning. The hon. Home Minister had then told that he would apprise the House about his compulsion under which the ordinance had to be issued. He further said that he did not know if such a situation would arise. It has been said that had the House not been prorogued, there would have been a Constitutional crisis. The hon. Home Minister is not present here at the moment. However, nobody has replied on behalf of the Government as to why it became necessary to issue an ordinance.

Mr. Speaker, Sir, I remember that on this subject, an historical correspondence took place between Shri Mavlankar and Pandit Nehru. Perhaps no other Constitution of any country of the world has such a provision wherein the powers of the Parliament under certain circumstances have been vested in the Executive.

[English]

"Ordinance-making is a kind of an exceptional provision in the Indian Constitution, a parallel of which does not obtain, not to my knowledge, in other Constitutions, generally democratic."

[Translation]

Therefore, initially when this chain of introduction of ordinances started,

Sh. Mavlankar was not pleased and he wrote a letter to Pandit Nehru. I would like to quote a few lines of this letter. Once on 25th November, 1950 Shri Mavlankar wrote to Pandit Nehru:—

[English]

"The procedure of the promulgation of Ordinances is inherently undemocratic. Whether an Ordinance is justifiable or not, the issue of a large number of Ordinances has psychologically a bad effect. The people carry an impression that Government is carried on by Ordinances. The House carries a sense of being ignored and the Central Secretariat perhaps gets into the habit of slackness etc."

[Translation]

It purports that—Parliament is made to feel like a rubber stamp.

Shri Mavlankar stressed this point. On one occasion, he even refused to prorogue the House to make Pt. Nehru agree to his point. He made it clear that he would not prorogue the House because after prorogation, the Government immediately issues an ordinance. Sir, this time the Government, through you, have prorogued the House by openly violating the convention. The convention is that the prorogation follows after the adjournment of the House *sine-die*.

[English]

When the House is adjourned only for a specific date, as it was adjourned on the 13th May to meet again on 13th of June, there was no adjournment *sine die* and, therefore, there could have been

no prorogation. At least, that was the convention. They persuaded you. They came to you. It will be a constitutional crisis if you do not prorogue it and, therefore, you recommended to the President that it be prorogued. We have met the President in this connection, protested to him, pointed out that it is without precedent, it is against precedent.

[Translation]

But when today it is being introduced here, I think that:—

[English]

Minimum that is required is that this Government must be admonished.

[Translation]

Though, no ordinance can be a solution of any negligence on the part of the Government, yet there are many ordinances about which the Government had full knowledge that these ordinances should become a law before 31st May. In this regard, a Bill should have been introduced in the House and it should have been discussed thereadbare. They should have said that if such and such Bills were not passed before 31st May, a constitutional crisis would crop up. The House was even ready to sit on 14-15, after Saturday and Sunday but at that time it did not occur to the Government. It was because T.N. Seshan was reigning their mind. It resulted in issuance of ordinances which would be ratified on the basis of majority. However, being a custodian of this House, you have a responsibility also. Shri Mavlankar had created such a precedent during the Prime Ministership of Pandit Nehru that nobody dare to speak before him. While protecting the rights of the Parliament,

he admonished the Government. However, the word 'admonition' has not been used here. Once he knew that the Government is going on its own way, he refused to prorogue the House. It happened before my eyes. It was after then that the practice of issuing ordinances halted to some extent. Therefore, we urge that you should take due notice of it. Though the Government has not been able to convince us but at least, it should convince you that why could not it bring these ordinances before 13 May? What were the circumstances under which they had to resort to such step? I would like to say that what was the Government doing on 13th May when there were six Ministers of State for Parliamentary Affairs? Earlier, there was a tradition that there will be three Ministers in-charge of Parliamentary Affairs. They used to be two from this House and one from the other House. But, today there are six Ministers. Despite this, the Parliamentary Affairs are being run in this way. They introduced this Ordinance in the same manner which Shri Mavlankar had termed as inherently undemocratic procedure. I think it should not be pushed through on the basis of majority. Hence, it is very essential to censure the Government on this occasion.

[English]

MR. SPEAKER: I want, perhaps, one explanation from you on this. If there is a question of breach of Constitution and adjustment of the procedure, which one should we accept?

SHRI LAL K. ADVANI: I accept that. Therefore, I do not protest against your allowing them. I am saying about the failure. There was nothing between 13th May which made them to do this. It is their indifference. It is their laxity. It is their lack of awareness.

[Translation]

SHRI CHARNDRAJEET YADAV (Azamgarh): Mr. Speaker, Sir, it is a very serious matter. You have raised another question that if there is a breach of Constitution or the provisions of the Constitution are violated then who will go by its provisions? It is true that there is a breach of the Constitution but it becomes our primary duty to safeguard the Constitution as well as its provisions. There are now two opinions that why did this situation arise? As Shri Advani has said, the serious question is that the Government was not woken up to this issue. Sir, my objection is that if the Government was not woken up to the issue and continued to show laxity and lower the dignity of this House or the Constitution due to its negligence, it is not a good sign. I think, we must go into these two aspects. It is surprising that when a meeting was called, which was attended by the Ministers also, and the dates of the session were decided, the Government did not know then that such a situation would arise and it will have to fulfil its constitutional obligation. In addition to Parliamentary Department, there are two or three other departments. However, the concerned departments were supposed to fulfil their responsibilities, but they did not do so. Rather, the House was put into a difficult situation and it was forced to be prorogued against the established convention. In this episode, besides yourself, the hon. President was also involved and parliamentary conventions were broken. It is a very serious matter and you should give your ruling on this... (Interruptions)

MR. SPEAKER: If I ask you another question, you people will advise me from there itself.

SHRI CHANDRA JEET YADAV: We give you advice. How do we know that this Government is functioning in a responsible manner?

MR. SPEAKER: Not one but two Members have said this.

SHRI CHANDRA JEET YADAV: The people in the Government have a basic responsibility to run the Government according to the Rule of the Law and the Constitution. If they go in a different way, they should accept their responsibility. It had been better, if the hon. Home Minister would have made a statement. He could have at least sought an apology that it is a mistake on their part. In such a situation, we would not have become an obstacle. But the dignity demands that the Government should seek an apology and assure that such mistake will not be repeated in the future. Sir, Keeping in view the dignity of this House, you should get it done.

[English]

THE MINISTER OF HOME AFFAIRS (SHRI S.B. CHAVAN): May I intervene in this matter? I can understand the feelings of the hon. Members that there are certain very sacred traditions of this House. But conditions were such that we had hardly any option because of the information which we got from Punjab. Actually, when the Punjab Act was amended, it was not applicable to Chandigarh. It was to be made applicable thereafter in consonance with the provisions of the Constitution. In case of Delhi also, we never had elections in the NDMC. For the first time, it was discussed at considerable length whether some kind of a democratic set up was possible or not. And ultimately, it was decided that it would not be possible as it would

create lots of problems. That is why, it came at such a time when both the Houses were adjourned. There was no other option left to Government. That is why, in order to be in consonance with the provisions of the Constitution, we wanted to have this before 31st May, 1994. That was the last limit which was laid down and that is why, this prayer had to be made. I cannot possibly say that hereafter such an occasion will not arise. If I say that then you may say, "you had given the assurance that you will not come before the House." So if any such situation, which is beyond the control of the Government, were to come all of a sudden, then we have to sometimes concede to such things. So far as this incident is concerned, at least I have no doubt in saying that we should have taken more than enough care to see that we were within the time limit. But we could not do that. In fact, I really feel that we should have avoided this.

SHRI CHANDRA JEET YADAV:  
Union Territories come under you. You should have known it.

MR. SPEAKER: I think, the Government appears to have taken note of the feelings of the Members. It is always better to avoid such an awkward situation. We expect and hope that that would be done in future.

[Translation]

SHRI NITISH KUMAR: You have spoken in a soft language.

[English]

MR. SPEAKER: Even with harsh words, you are not controllable.

The suggestion is:

"That leave be granted to introduce a Bill to provide for constitution and organisation of municipalities in the Urban areas of Manipur and for matters connected therewith and incidental thereto."

*The Motion was adopted.*

SHRIMATI SHEILA KAUL: I introduce the Bill.

15.24 hrs.

EXPLANATORY STATEMENT  
GIVING REASONS FOR  
IMMEDIATE LEGISLATION BY  
THE MANIPUR MUNICIPALITIES  
ORDINANCE

[English]

THE MINISTER OF URBAN DEVELOPMENT (SHRIMATI SHEILA KAUL): I beg to lay on the Table an Explanatory statement (Hindi and English versions) giving reasons for immediate legislation by the Manipur Municipalities Ordinance, 1994.

15.24 1/2 hrs.

PUNJAB MUNICIPAL  
CORPORATION LAW  
(EXTENSION TO CHANDIGARH)  
BILL

[English]

THE MINISTER OF HOME AFFAIRS (SHRI S.B. CHAVAN): I beg to