

MR. SPEAKER: I am referring to certain things. This is a parliamentary etiquette.

(Interruptions)

MR. SPEAKER: In the Handbook on page 87 under Parliamentary Etiquette, it is mentioned:

"Members should not wear any badge in the House."

श्री रामावतार झास्त्री : प्रधान मंत्री जी ने कहा कि किसी ने औबजेक्ट नहीं किया, यह गलत बात है।

(Interruptions)

MR. SPEAKER: We shall consider what a badge is.

(Interruptions)

SHRI JYOTIRMOY BOSU: On a point of order under Direction 2 of Yours. Let the book be put before you properly flagged. The question is that you have called Mr. Vajpayee on the issue of laying of a paper. Your Direction says that the pending adjournment motion on 20 per cent price rise on steel, Rs. 20/- per tonne price rise on coal... (Interruptions)

MR. SPEAKER: Here again I would like to quote from the conventions:

"As a convention adjournment motions are not taken up on the day of the President's Address. Notices received for that day are treated as notices for the next sitting."

SHRI JYOTIRMOY BOSU: I hope you will realise and understand that conventions cannot supersede the written rules. If there is any inconsistency, you should have approached the Rules Committee for a change, because the adjournment motion should have priority over everything else. This kisan rally at the cost of the people... (Interruptions)

RE. CERTAIN ORDINANCES TO BE LAID ON THE TABLE

श्री अटल बिहारी वाजपेयी (नई दिल्ली) : अध्यक्ष महोदय, ससद्-कार्य मंत्री सदन के पटल पर उन अध्यादेशों की प्रतियां रखने जा रहे हैं,..... (व्यवधान) रख दिया है?

MR. SPEAKER: You have to object to it.

श्री अटल बिहारी वाजपेयी : यह कार्यवाही नियमों के खिलाफ है।

We want to object to their laying on the Table.

MR. SPEAKER: You have to speak against it.

SHRI GEORGE FERNANDES (Muzaffarpur): We have given notice that we want to oppose the laying of those papers on the Table.

MR. SPEAKER: You raise objection. Then I will comment on it.

SHRI GEORGE FERNANDES: Our notice is to oppose the laying of the paper as such. We are assuming that the paper has not been laid. Are we correct in assuming that the paper has not been laid?

श्री अटल बिहारी वाजपेयी : "अध्यक्ष महोदय, जब संसद् का अधिवेशन होता है, तो सत्रावसान के दौरान जो अध्यादेश जारी किये जाते हैं, हमारे सामने उनका मामला आता है। लोक सभा के पिछले सत्र में भी यह प्रश्न उठाया गया था। आपने स्वयं कहा था कि इस तरह से अध्यादेश जारी करना ठीक नहीं है। विधान मंडलों के अध्यक्षों की बैठक में आपके भाषण की जो रिपोर्ट समाचार-पत्रों में छपी है, उस में भी आपने इस बात की दोहराया कि सरकार आर्डिनेंस

[श्री अटल बिहारी वाजपेयी]

के जरिये राज्य करने की जिस प्रक्रिया का विकास कर रही है, वह प्रक्रिया संसद् की गरिमा और उसकी प्रभुसत्ता को बलशाली बनाने वाली नहीं है।

यह बड़ी विचित्र बात है कि 9 तारीख को समन इश्यु हुआ और इस समय जो तीन अध्यादेश सभा-पटल पर रखे जाने वाले हैं, वे तीनों अध्यादेश समन इश्यु होने के बाद जारी किये गये—एक 12 जनवरी को, दूसरा 21 जनवरी को और तीसरा 31 जनवरी को। इनमें कोई अध्यादेश ऐसा नहीं है, जिसको संसद् की बैठक तक के लिए रोका नहीं जा सकता था।

इन में एक अध्यादेश गुस्कारों के बारे में है। केवल एक व्यक्ति के चुनाव को सरल बनाने के लिए, सम्बंध बनाने के लिए, यह अध्यादेश जारी किया गया था। क्या यह अध्यादेश जारी करने के अधिकार का दुरुपयोग नहीं है ?

जहां तक बांडूज का सवाल है, संसद् के अधिवेशन के प्रारम्भ होने के दिन 5 बजे या 6 बजे, जब तक सदन की बैठक होती है, मंत्री महोदय इस सम्बन्ध में ऐलान कर सकते थे। यह काले धन को सफेद करने की चेष्टा की जा रही है। मेरे मित्र, श्री वसंत साठे, यहां बैठे हुए हैं। पब्लिक एकाउंटस् कमिटी की 123वीं रिपोर्ट में श्री वसंत साठे—

THE MINISTER OF COMMUNICATIONS (SHRI C. M. STEPHEN): He is going into the merits. He can raise objection only to the laying on the Table; not on the merits.

श्री अटल बिहारी वाजपेयी : पब्लिक एकाउंटस् कमिटी की जो 123वीं रिपोर्ट

है श्री वसंत साठे उस के भागीदार हैं, उस में उन के हस्ताक्षर हैं कि इस तरह से काले धन को सफेद बनाने के तरीके नहीं अपनाये जाने चाहिए। लेकिन वे तरीके अपनाये जा रहे हैं।

एल० आई० सी० के बारे में सुप्रीम कोर्ट के फैसले को ताक में रखने के लिए और कर्मचारियों के साथ किये गए समझौते को भंग करने के लिए अध्यादेश जारी किया गया है।

अध्यक्ष महोदय, आप जो बात बाहर कहते हैं और जो सदन में कहते हैं उस को जरा सरकार से मनवाने की कोशिश कीजिये। मैं बाहर की रैली की बात नहीं कर रहा हूं मगर यह जो आर्डिनेंस का रेला चल रहा है यह आपत्तिजनक है।

SHRI GEORGE FERNANDES: I shall confine myself to the Ordinance on black money. I would like to raise a couple of constitutional points because, in my view, it is not merely whether the Ordinance was issued at a certain point of time, but the basic question is whether the Government could promulgate Ordinance that is primarily against the Constitution.

(Interruptions)

I am on the point that an un-constitutional document cannot be laid on the Table of the House by the Minister of the Government.

THE MINISTER OF HEALTH AND FAMILY WELFARE (SHRI B. SHANKARANAND): Under what rule?

SHRI GEORGE FERNANDES: Under the Constitution. (Interruptions) I would request you to listen to me.

We have all taken an oath under Schedule III. If the hon. Members on the other side of the House have forgotten their oath I would like to remind them of the oath that they have taken. Every one has taken an oath

to uphold this Constitution. (*Interruptions*) This House proceeds on the basis of the Constitution and if there is an open defiance of the Constitution and a law has been enacted through an Ordinance which is primarily unconstitutional, that law by virtue of the fact that they have enacted it in an unconstitutional manner, cannot be laid on the Table of the House.

MR. SPEAKER: It will come before the House.

SHRI GEORGE FERNANDES: There are three constitutional points that I want to take up. Firstly, the very enactment of the Ordinance itself.....

SHRI C. M. STEPHEN: He is going into the merits.

SHRI GEORGE FERNANDES: I am not going into the merits. (*Interruptions*)

SHRI C. M. STEPHEN: Is he on a point of order.

SHRI GEORGE FERNANDES: I am already on a point of order. How can there be a point of order on a point of order? I am on a point of order under the Constitution.

SHRI C. M. STEPHEN: Is he on a point of order?

SHRI GEORGE FERNANDES: I have taken an oath by this Constitution.

SHRI C. M. STEPHEN: Is he on a point of order?

SHRI GEORGE FERNANDES: I have taken an oath to stand by this Constitution and if there is defiance of the Constitution by the Government, I would approach the House.

MR. SPEAKER: I have to listen to the point of order.

SHRI GEORGE FERNANDES: I am on a point of order arising out of the Constitution. Here there is no Motion before the House. I am on a point of order. I am making a submission on the point of order.

MR. SPEAKER: You are making a submission. He is on a point of order.

SHRI GEORGE FERNANDES: I am making a submission on the point of order. I am opposing the laying of these papers on the point of order under the Constitution.

SHRI C. M. STEPHEN: Let him carry on.

SHRI GEORGE FERNANDES: Thank you. It takes a little time, but Shri Stephen always understands these things. It takes time.

MR. SPEAKER: Please confine yourself to the arguments against the laying of these papers.

PROF. MADHU DANDAVATE (Rajpur): You refer to convention, but Cabinet Ministers do not raise any point of order.

MR. SPEAKER: I have seen them raising points of order.

SHRI GEORGE FERNANDES: My first point is under Article 292.

"The executive power of the Union extends to borrowing upon the security of the Consolidated Fund of India within such limits, if any, as may, from time to time be fixed by law and to the giving of guarantees within such limits, if any, as may be so fixed."

SHRI C. M. STEPHEN: What are you discussing now? (*Interruptions*) Unless the matter is on the Table, what are you discussing?

SHRI GEORGE FERNANDES: I am not going to be bullied by this man. He always tries to bully the House. He should not be allowed to bully..... (*Interruptions*).

MR. SPEAKER: Mr. George, please confine yourself.....

SHRI SATYASADHAN CHAKRA-BORTY: I am on a point of order.

He is still wearing the badge.

(Interruptions)

13 hrs.

MR. SPEAKER: He might not be knowing it.

MR. JYOTIRMOY BOSU: He should be asked to rise in his seat and display the badge. (Interruptions)

MR. SPEAKER: He has removed it.

The hon. Members will kindly remove the badges. Why do you want to do it? It should not be done.

You are not supposed to wear any badges.

SHRI EDUARDO FALEIRO (Mormugao): On a point of order, Sir. Two years ago or thereabout, there was another kisan rally. At that time, I was sitting there and Shri Mani Ram Bagri came with a badge. ... (Interruptions)

MR. SPEAKER: Now, we have said and explained that as a matter of tradition and as a matter of etiquette...

SHRI EDUARDO FALEIRO: But the tradition has not always been obeyed.

MR. SPEAKER: It is in the Handbook. It is for all the members to carry out.

SHRI EDUARDO FALEIRO: We cannot have two standards. (Interruptions)

श्री मनीराम बागड़ी (हिसार): अध्यक्ष जी, अभी माननीय सदस्य ने मेरा जिक्र किया है।

MR. SPEAKER: There is nothing that he has raised.

मैंने सुना नहीं है।

श्री मनीराम बागड़ी: उन्होंने मेरे बारे में कहा है....

अध्यक्ष महोदय: नहीं, ऐसी कोई बात नहीं है।

श्री मनीराम बागड़ी: उन्होंने कहा था कि मनीराम बागड़ी किसान रैली के समय पर यहाँ बैज लगाकर आए थे।

अध्यक्ष महोदय: वह तो पुरानी बात है। (व्यवधान)

श्री जगपाल सिंह (हरिद्वार): अध्यक्ष महोदय, आपके बार-बार कहने के बावजूद यहाँ पर कुछ सदस्य बैज लगाए हुए हैं—इस से बड़ी अवमानना की बात और क्या हो सकती है।

MR. SPEAKER: Nobody should wear the badge.

DR. SUBRAMANIAM SWAMY (Bombay North East): The "badge" includes roses also?

अध्यक्ष महोदय: कहिए तो आपके पास भेज दें।

SHRI GEORGE FERNANDES: The first point that I would like to make is that the powers of the Union are restricted under article 292. It puts a very definite restriction on the amount that the Government can raise as loans. There is something very definitive about this particular article, article 292, of the Constitution, and when the Government has now decided to go in for these Bonds, the 'Black Money Bonds', there is no restriction at all placed on the total amount of money that is going to be raised under

these Bonds that are called 'Black Money Bonds, 1981'. In other words, you are today committing the Government to a debt charge about which you are not clear. Article 292 requires that you should be very definite, very clear, on the total amount of loans that you want to raise. You have the power to raise loans, but you must be very clear as to the amount of money that you are going to raise. You have no clarity about it; you are very unspecific about it. Therefore, there is clear breach of article 292 of the Constitution.

The second point I want to make is under article 270 of the Constitution. Article 270 concerns taxes; it reads:

"Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided in clause (2)."

I shall not read Clause (2); it is not necessary for me to read that, though it is important. The point, however, is that all income-tax levies which the Government of India collects have to be shared—there is a mandatory provision that they have to be shared—with the State Governments. What the Black Money Bonds are trying to do is collecting moneys that go beyond ... (interruptions) Sir, I need your attention. They are most welcome to repudiate what I am saying; they are most welcome to say that the Constitution is not important....

MR. SPEAKER: The Constitution is very much important.

SHRI GEORGE FERNANDES: Under article 270 if the States are to get a share of the income-tax levies and if the Black Money Bonds today are creating a situation where income-tax is not going to be collected but the money that was not paid as income-tax is going to be collected by the Government of India under these

Black Money Bonds—for whatever purpose; its purpose may be totally political or totally personal; I am not concerned about that—when that money comes to the Government of India treasury, the States are going to be denied their share—as article 270 requires the Government to give them a share of their taxes.

The third point I want to make is on the Ordinance itself. Article 123 gives to the President the power to promulgate Ordinances during recess of Parliament. My hon. colleague, Shri Vajpayee, has referred to this point. But I would like to read this article which has just one sentence:

"123.(1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require."

I do not know how the Finance Minister and how this Government gave advice to the President to promulgate this Ordinance and how they could convince anybody that a sudden situation arose and immediate action was necessary, that circumstances suddenly existed for that kind of immediate action. Black Money has been in circulation, and hon. Members, who are not only sitting on the Treasury Benches but also sitting in the Cabinet, have made certain very profound statements on this, and at the end of it all, if they give this kind of advice to the President, there is a further breach of the Constitution.

As a Member who has taken oath to uphold this Constitution, my submission is that this paper cannot be laid on the Table of the House and I oppose laying of this paper on the Table of the House.

श्री राम विलासवासवान (हाजीपुर):
अध्यक्ष महोदय, श्री श्री जार्ज फर्नांडीस
श्रीर वाजपेयी जी ने इस सम्बन्ध में

[श्री राम विलास पासवान]

काफी बातें कहीं और मैं भी कहने वाला था कि आपके निर्देश के बावजूद जब पार्लियामेंट का सेशन खुलने वाला था और जब आपके द्वारा सम्मन कर दिया गया था तथा राष्ट्रपति के द्वारा भी, तो इस बीच में कोई ऐसा विषय नहीं था, जिसको आप आर्डिनेंस के जरिए लावें और पार्लियामेंट में पेश करें।

अध्यक्ष जी, आपको याद होगा हम लोग हमेशा कहते हैं कि इस सरकार की नीति और नीयत, दोनों में तालमेल है नहीं। सरकार की नीति कुछ और है और नीयत कुछ और है और एक समय आयेगा जब यह आर्डिनेंस इस बात को साबित करेगा कि जो एक्जुअल टैक्स-पेअर्स हैं, जो हाई कोर्ट के जजेज हैं, सरकारी कर्मचारी हैं, जो ईमानदारी से सरकार को पैसा देते हैं—वे इसके बारे में क्या सोचते हैं, आप उन से पूछिए—इस बारे में उस के दिल पर क्या गुजरती है? कभी हाजी मस्तान और बखिया ने कहा था—इस तरह का जो काम आप कर रहे हैं—सब अपने पार्टी इन्टरेस्ट और व्यक्तिगत इन्टरेस्ट में कर रहे हैं और एक प्रकार से देश की अर्थव्यवस्था को चौपट करने जा रहे हैं।

इसलिए मैं कहना चाहता हूँ कि यह असंवैधानिक है, आपकी मान्यता के विपरीत है और आज तक जो आप की परम्परा रही है उस के विपरीत है। इसलिए मैं इस का विरोध करता हूँ।

MR. SPEAKER: I have looked into the matter. . . .

SHRI JYOTIRMOY BOSU: I want to be educated by you. Now my friend has spoken. Under what rule you have allowed an ordinance to be opposed when a statutory resolution

opposing it is already there? Kindly educate me, Sir. Only the introduction of a Bill can be opposed if there is legislative incompetence, but laying of paper or ordinance cannot be opposed. Under what Rule, Sir?

MR. SPEAKER: I will call you—being a very good ally. I have looked into the matter. My distinguished predecessors have made observations in regard to these matters from time to time in the past. I have also checked up and in the past also ordinances have been promulgated by the President for the purpose of levying taxes or duties.

Government has already indicated its intention to bring forward Bills for replacing these ordinances. The Members can very well raise the points when the relevant Bills are taken up for consideration in the House.

There is, however, no objection to the laying of these Ordinances on the Table of the House to-day

(Interruptions)

SHRI JYOTIRMOY BOSU: You have read from a written note. That was prepared before you heard them.

MR. SPEAKER: I have certain notes with me, but I know what I am doing. I have consulted everything and I was going through all these things.

श्री धनिक लाल मंडल (झंझारपुर) : आप ने तो इतना भी नहीं कहा कि यह गलत काम हो रहा है. . . .

श्री राम विलास पासवान : कम से कम इतना अवश्य कहिए कि यह गलत हो रहा है।

MR. SPEAKER: I have already said what I said. Last time I said and this time also I have said.