

NOES

Bhattacharyya, Shri Jagadish
Bosu, Shri Jyotirmoy
Chavda, Shri K. S.
Dandavate, Prof. Madhu
Dutta, Shri Biren
George, Shri Varkey
Haider, Shri Krishna Chandra
Huda, Shri Noorul
Mavalankar, Shri P. G.
Mehta, Shri P. M.
Mishra, Shri Shyamnandan
Misra, Shri Jageshwar
Parmar, Shri Bhaljibhai
Patel, Kumari Maniben
Ramkanwar, Shri
Sen, Shri Robin
Sezhiyan, Shri

MR. SPEAKER The result of the division is:

Ayes: 140; Noes: 17.

The motion was adopted.

SHRI SWARAN SINGH: I introduce the Bill.

SUPPLEMENTARY DEMANDS FOR GRANTS (GENERAL), 1974-75—
Contd.

MR. SPEAKER: The other day, I saw the objections raised by hon. Members about certain expenditure of the previous year. I think that is a subject matter for Excess Grants. I hope the hon. Minister will come forward with the Excess Demands for Grants.

We adjourn now to meet again at 3 P.M.

14.20 hrs.

The Lok Sabha adjourned for Lunch till Fifteen of the Clock.

The Lok Sabha re-assembled after Lunch at five minutes past fifteen of the Clock.

[MR. DEPUTY-SPEAKER in the Chair]

SUPPLEMENTARY DEMANDS FOR GRANTS (GENERAL), 1974-75—
Contd.

MR. DEPUTY-SPEAKER: We resume discussion, on the Supplementary Demands for Grants in respect of the Budget (General) for the year 1974-75, along with the cut motions moved.

Shri Ganesh to finish his speech.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI K. R. GANESH): In the course of discussions on the First Supplementary Demands for Grants 1974-75 in Lok Sabha on Saturday, the 31st August, 1974, Shri Era Sezhiyan raised a point of order in regard to Constitutional propriety of regularisation, by way of Supplementary Demands for Grants, of expenditure incurred in the previous year by obtaining advance from the Contingency Fund in that previous year. S/Shri Madhu Limaye and S. M. Banerjee also supported the point of order raised by Shri Era Sezhiyan and sought a ruling from the Chair.

As I understand, Sir, the main issues raised by the hon. Members were—

- (i) Supplementary Demands for Grants come within the purview of clause (a) of article

*The following Members also recorded their votes:—

AYES: Shri Kartik Oraon.

NOES: Shri Shiv Shanker Prasad Yadav.

115(1) of the Constitution, which specifically refers to "current financial year"; and

- (ii) Consequently, expenditure incurred, without due appropriation, in a particular year, if sought to be regularised in the following year, has to take the form of Excess Demands for Grants, coming within the scope of clause (b) of article 115(1) of the Constitution.

It is the contention of the hon. Member that of the four items of expenditure met by obtaining advances from the Contingency Fund which are proposed to be regularised through this batch of Supplementary Demands for Grants, the item at (b) in Demand No. 48 on page 11, having been incurred by obtaining an advance from the Contingency Fund on 13th March, 1974, i.e. during the financial year 1973-74, is not an item which can appropriately come within the scope of Supplementary Demands for Grants in 1974-75 within the purview of clause (a) of article 115(1) and ought to have come before the House in the form of Demand for Excess Grants relating to the year 1973-74.

It appears to me that there is some misunderstanding in the minds of some hon. Members with regard to the provisions in the Constitution relating to Contingency Fund and Excess Expenditure. Article 267(1) of the Constitution envisages establishment of the Contingency Fund in the nature of an imprest to be placed at the disposal of President to enable advances to be made by him for the purpose of meeting unforeseen expenditure pending authorisation of such expenditure by Parliament under article 115 or 116. Article 115 of the Constitution has two parts, namely, clause (a) dealing with Supplementary or additional expenditure required to be in-

curred during the current year and clause (b) which deals with money spent during a financial year in excess of the authorised appropriation granted for a year. Items of Contingency Fund advance cannot and do not come under the provisions of clause (b) of article 115 relating to excess expenditure.

There are three forms in which expenditure is incurred, namely,—

- (a) Annual Demands for Grants voted by Parliament and expenditure from the Consolidated Fund of India authorised through Appropriation Act;
- (b) Grants for supplementary or additional expenditure authorised in the course of the year as contemplated under article 115(a). Here also, the appropriation is from out of the Consolidated Fund; and
- (c) Expenditure incurred from advances taken from the Contingency Fund of India which is to be regularised as required by Constitution by obtaining Supplementary Grants. The Supplementary Grants in such cases are also covered by appropriation from the Consolidated Fund of India.

Any expenditure incurred by Government which does not fall in any of the three forms is excess expenditure.

As you are aware, Sir, we have, as in British pattern, a well established procedure for regularisation of excess expenditure. I would like to invite attention to British procedure on Excess Grants described on page 747 of the Seventeenth Edition of May's Parliamentary Practices. As in Britain, the excess expenditure, if any, incurred are reorted upon by the Comptroller and Auditor General in his Report, which, after it has been laid before Parliament is examined at length by Public Accounts Committee. It is only

[Shri K. R. Ganesh]

after the Committee, after examination, submits its Report recommending regularisation of excess expenditure that the Demands for Excess Grants are presented to the House for voting and the connected Appropriation (Excess Grants) Act passed by both Houses of Parliament. In Britain, according to May, this is done by about March of the following year. Here, to cite an example, the excess expenditure incurred from the Consolidated Fund of India in Civil Departments in 1969-70 was reported upon by the Comptroller and Auditor General in March 1971. The excesses disclosed in the Report of the Comptroller and Auditor General were examined by the Public Accounts Committee, under the distinguished Chairmanship of my hon friend Shri Era Se/hyan and the Report of the Committee recommending regularisation of the excess expenditure, was presented to the House in December 1971, whereupon, the Demands for Excess Grants in respect of 1969-70 were presented to this House in March, 1972.

I would specially bring to the notice of Hon Members that these expenditures, reported upon by the Comptroller and Auditor General examined by the Public Accounts Committee and recommended for regularisation through Demands for Excess Grants, did not include expenditure of the order of Rs 110 lakhs, comprising four items incurred towards the end of 1969-70, not from the Consolidated Fund of India but by obtaining advances from the Contingency Fund. The additional expenditure so incurred by obtaining advances from the Contingency Fund in March 1970 was regularised by obtaining Supplementary Grants in the next financial year in August, 1970.

I presume the distinction between excess expenditure and expenditure incurred from advances from Contingency

Fund is now clear. The only point which remains to be clarified is the propriety of including the items relating to previous year in the Supplementary Demands presented this year. There is nothing either in article 267(1) of the Constitution or in the Contingency Fund of India Act 1950 to bar regularisation of items of Contingency Fund advances relating to previous year by obtaining supplementary grant in the subsequent year. By its very nature, an advance from the Contingency Fund is made to meet unforeseen expenditure—may be, unforeseen even at the time when the last batch of a year's Supplementary Demands for Grants is presented to the House. The need for making an advance may arise on any day, including the last day of the financial year and this happened on several occasions. For instance of the four items of advances from the Contingency Fund made towards the end of 1969-70 about which I referred to earlier, two were made on the 31st March 1970 one on the 30th March 1970 and the other on the 26th March, 1970—all the four being made after the presentation of the last batch of Supplementary Demands for Grants for 1969-70. Once it is conceded that the expenditure incurred by obtaining Contingency Fund advance is different from 'Excess', it would follow that it has to be regularised by obtaining supplementary grant either in the same year or in the subsequent year depending on the circumstances.

There is thus, little substance in the point of order raised by my friends and I submit Sir, that it may be ruled out.

MR DEPUTY-SPEAKER In the first place I must say it is not possible for me to digest the mass of material and references given by the hon minister. It is a rather technical question relating to finances and obviously he has come fully prepared, which he should do Day before yesterday, when this

point was raised, he, I think very wisely and discreetly, postponed giving an answer to the point, because he himself was not quite sure about it and he wanted to look into the matter closely and get the briefing from his department, which was only natural and normal. Today he has come with a fairly long explanatory statement, which is welcome. On the other hand, on this matter for me to say that I have digested everything that he has said also would not be fair. I am not being humble, but I think any person sitting in this Chair, unless he himself had been the Comptroller and Auditor-General for years together, for whom it is meat and fish, any other person will find it difficult to comprehend so soon.

SHRI MADHU LIMAYE (Banka): Meat and fish have become expensive.

MR. DEPUTY-SPEAKER: Literally, yes; figuratively, they are not. So, I do not know how to settle this matter, if I open it again for discussion, then it is this way or that way. Shri Sezhiyan had raised this and, obviously, after hearing the Minister, he might have certain other things to say. In that case, it becomes another debate and it becomes very difficult. Then, ultimately, the whole matter has to be decided by the Chair.

Now, in this respect, my task has been made very much easier because the Speaker before leaving the Chair this morning, this afternoon rather, before recess, had made some observations on this. Obviously he must have had a copy of Shri Ganesh's statement. He must have studied the statement in his chamber; I do not know. He has made certain observations which amount almost to a ruling.

SHRI S. M. BANERJEE (Kanpur): When was it made?

MR. DEPUTY-SPEAKER: In this House just before its adjournment. The difficulty is that you never put your ear phone. At that time you

should have put your ear phone. This is what the Speaker said: . . . this has been given to me by the Table just now—

"The other day I saw the objections raised by hon. Members about certain expenditure of the previous year. I think that is a subject matter for the excess grants. I hope the hon. Minister will come forward with an excess Demands for Grants.

We adjourn now to meet again at 3 p.m."

So, I think we should not go back. No more argument is necessary, although there may be arguments this way or that way. When the Speaker has said this is an excess demand, then clause (b) of article 115 is attracted, which reads as follows:

"(1) The President shall—

.....(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year"

—it does not say from which fund, whether it is the Consolidated Fund or Contingency Fund; it only says if money has been spent in excess—

"cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause to be presented to the House of the People a demand for such excess, as the case may be."

The Speaker's ruling attracts this provision of the Constitution. It follows that the Government will have to come with another excess demand and should take this out from the present supplementary demands. I am not going into the details. If we go by the Speaker's ruling, as we should, then it

[Mr. Deputy-Speaker]

needs a closer look. Demand No. 48 is a clear case to me, about 50 and 51, I do not know; it has to be looked into; so also Demand No. 53 has to be looked into very carefully. And if these are to be taken out, then I do not know how do we proceed.

SHRI MADHU LIMAYE These are charged items. They are not votable. They should be taken out. Minus these items, the Demands should be put to the vote of the House. The Appropriation Bill should be withdrawn

MR DEPUTY-SPEAKER. We have to deal with these things in a very responsible way because it involves money.

I would, again, say that the hon Members of this House have done a very great service to this House and also to this nation. This House is the watch-dog of everything Money is the most important thing You are doing your duty for which I am very grateful. The nation has to be grateful to you all for doing your duty Nothing can be taken for granted This House cannot be taken for granted by anybody Anybody anywhere having to do with the administration of this country will commit a very grave mistake if he takes this House for granted There are hon Members, very hard working and very watchful. It takes a lot of pains, a lot of work, to go into all these details I really admire them.

We have to deal with these things in a responsible way. To say that we must take these out and pass the rest, I think, we will be doing it in a little hurry and in a little irresponsible way. We have to have a close look at them. A lot of clerical work has to be done I really do not know what to do. I would like the hon Minister to enlighten me on this as to how we proceed in the matter.

SHRI K. R. GANESH Sir as you said, since the Speaker has given a

ruling, there is nothing else for me to say as far as the merits of the points raised by Shri Sezhiyan and others are concerned.

I have very extensively tried to put the view that we in the Ministry of Finance have on this question. It was our firm opinion that these do not constitute Excess Demands. I am here to abide by the Speaker's ruling. But, I think, it is also necessary for me to just re-state the position that as far as we in the Ministry of Finance are concerned, we feel that these are not Excess Demands, that article 115 applies to the Consolidated Fund of India

SHRI S. M. BANERJEE Sir I rise on a point of order

MR DEPUTY-SPEAKER Let him finish I will allow you later on

SHRI K R GANESH As you rightly indicated, these are very delicate financial matters and delicate financial matters have got to be gone into depth and these delicate financial matters have also an integrated approach to various problems Though the Speaker's ruling has got to be accepted by the House, I think it is also necessary that the points that I have tried to put this has been a very long statement and I will try to summarise it

SHRI S M BANERJEE On a point of order, Sir

After hearing all of us, Shri Sezhiyan, Shri Limaye and myself--our arguments were practically the same--the Speaker in his own wisdom has given a particular ruling and you have read out the ruling, after giving a full hearing to Shri Ganesh. The Finance Department may do whatever they like After all, we are guided by the ruling given by the Speaker All of us are supposed to abide by it

The only course left for the hon. Minister is to separate these Excess Demands. He should bring another

list of Supplementary Demands It is a question of printing only Excess Demands should be brought separately Let us not have a discussion again But to pass a thing knowing fully well that these are Excess Demands by no stretch of imagination they can come under these Supplementary Demands how can we possibly become a part of them?

My submission is that you Sir, direct the hon Minister to bring two things separately one Supplementary Demand for 1973-74 and other Excess Demands for 1973-74

MR DEPUTY-SPEAKER I think we cannot do anything except go by the Speaker's ruling I am just making a suggestion for the consideration of the hon members that in view of the Speaker's ruling the Government should sort it out with the Speaker and after sorting it out with him, the Minister may come again with new Supplementary Demands and a new Appropriation Bill He will have to convince the Speaker in view of his ruling Therefore I do not think we can proceed in the matter

श्री मधु लिमये उपाध्यक्ष महोदय में
प्रस्ताव करना चाहता हूँ अन्तर क्रम 340
(व्यवधान)

We should postpone the discussion on this

MR DEPUTY-SPEAKER I have already said that in view of the Speaker's ruling the Government should sort it out with the Speaker convince the Speaker which are the excess grants to be taken out and come with the new Demands and new Appropriation Bill

Then we go on to the next item

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI K RAGHU-RAMIAH)

This morning I was not here Did the Speaker give a ruling on this?

MR DEPUTY SPEAKER Yes, I will read it out again

SHRI MADHU LIMAYE It is not necessary (Interruptions)

MR DEPUTY-SPEAKER I am not changing anything. Do not get excited I am just clarifying the position for the benefit of my good friend, Mr. Raghu Ramiah because he is the Minister of Parliamentary Affairs and he has special responsibilities he is very hard working he has to run here there and everywhere He was not here at the beginning Naturally he is entitled to hear I will read out what the Speaker has ruled before leaving the Chair

'The other day I saw the objections raised by hon members about certain expenditure of the previous year I think that is a subject-matter for excess grants I hope the hon Minister will come forward with Excess Demands for Grants'

In view of that the best thing is to sort out with the Speaker and come with one Supplementary Demands, and another Excess Demands for Grants two Appropriation Bills, one for Supplementary Demands and another for Excess Demands That has to be sorted out Even Excess Demands have to be discussed separately

SHRI K R GANESH These are delicate financial matters Let there be a discussion Since the text of the ruling itself is before you I cannot challenge it But I distinctly remember that when the Speaker left—if this ruling had been there then there was no question of my going through the motion—when the Speaker left he asked me to put forward the view of the Ministry and then the House adjourned for Lunch This was the impression that I got Of course you

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have now read out the recorded version, the text itself. But at that time everything was done in a hurry and he left. None of us could hear each and every word of what he had said. But I distinctly got the impression that the Speaker wanted me to satisfy the House. This is, I might submit in all fairness to the House, what has actually happened, and then he suddenly left and because I got the impression that he indicated that I have to satisfy whether these are Excess Grants or not. (Interruptions) Just I am submitting. There is nothing going to be lost by thrashing out the whole thing. I did not go for lunch. I sat here to see once again all the books which I have collected, to satisfy the Speaker that these are not Excess Grants. If that was the ruling, then I would not have been foolish enough even to lose my lunch.

MR. DEPUTY SPEAKER I will tell you. I must say that when I came here, I was also under the impression that the Speaker had asked you to answer the points of Shri Sezhiyan and that is why I called you and you have made a statement, but half way through or when you were about to finish the statement, the Table brought me this piece of paper in order to tell me that this is already what the Speaker has decided.

I will tell you what happened. The whole morning was in confusion. You saw me there, I came here and I thought he asked me to come and relieve him and I had to stand there half a minute and I went back, and then the Speaker said something and adjourned the House. This is on record and we cannot go back. (Interruptions) We have to go by the record.

We might have all impressions like the seven blind men and the elephant, one telling that it is trunk of a tree, another says that it is like a wall, like that. But the only thing on which if

has to be decided is the authentic document supplied to me from the Table from the reporters. We cannot do anything else.

SHRI K. R. GANESH: May I make another suggestion? Since these items which are there on which there has been objection and on which one has to establish whether they are Excess Demands or otherwise ... (Interruptions).

MR. DEPUTY SPEAKER: Why are you impatient? Let him clarify.

SHRI K. R. GANESH: Since this is not a charged item and in any case, it is not to be voted.

MR. DEPUTY SPEAKER: That is no question. It is very clear. Even if it is not to be voted, nothing prevents it to be discussed.

"So much of the estimates that relate to expenditure charged upon the Consolidated Fund of India shall not be submitted to the vote of Parliament. But nothing in this clause shall be construed as preventing a discussion in either House of Parliament of any of the estimates."

It may not be voted, but the House can discuss. Therefore I do not know how to get out of it.

SHRI K. R. GANESH: One way could be that those items on which there is a difference and on which the Speaker has given a ruling, those items could be taken out from the Appropriation Bill and the rest of the Appropriation Bill passed.

MR. DEPUTY SPEAKER: There I do not know, because the Speaker's ruling is very vague. He has not pointed out to any particular items in his ruling. He is only accepting the fact that there are Excess Demands, but what are those Demands, he has not said. Therefore, he has directed the Minister to come forward with an Excess Demand. But what are the Excess Demands, how can one decide it here? One has

to go into the demands very very carefully. Therefore, the whole matter has to be sorted out with the Speaker.

I am sorry. We now take up the next item.

SHRI MADHU LIMAYE: Now, this is finished.

SHRI K. RAGHU RAMAIAH: Nothing is finished. This is only adjourned till tomorrow.

SHRI MADHU LIMAYE: You cannot decide that.

SHRI K. RAGHU RAMAIAH: The Chair has said that we have to sort it out with the hon. Speaker. Let it be postponed till tomorrow.

MR. DEPUTY SPEAKER: We will take up the next item—Supplementary Demands for Grants for Gujarat.

SHRI S. M. BANERJEE: After Gujarat, Sir, we are having Pondicherry. In Pondicherry also, it is full of Excess Grants.

MR. DEPUTY SPEAKER: When we come to Pondicherry we shall be in Pondicherry.

SHRI MADHU LIMAYE: You may please direct him to correct all Demands.

SHRI SEZHIYAN (Kumbakonam): There is a point of order in Gujarat Demands. There are many items for which expenditure has been made in the previous year. But this is included in the Demands for Grants, 1974-75. Take Roman (i), Para 2 is there relating to Supplementary Demands for Grants. It says:

... "The Supplementary Demands for Grants for expenditure from the Consolidated Fund of Gujarat included in this volume, which is the first instalment.."

SHRI K. R. GANESH: Excuse me for interrupting you. May I submit that because of this ruling of the Speaker which is there, which we have to

accept, in Gujarat as well as in Pondicherry, the same problem will come.

MR. DEPUTY SPEAKER: Will it mean, in Pondicherry also?

SHRI K. R. GANESH: Yes, Sir.

MR. DEPUTY SPEAKER: All right. We skip over those items. (Interruptions).

Order please. We take up Demands for Railways.

AN HON. MEMBER: The Railway Minister is not here...

MR. DEPUTY SPEAKER: Let us understand very clearly that, accepting the Speaker's ruling, the Minister says, he is aware that there are elements like that in Gujarat, in Pondicherry Demands. And also, all these things must be sorted out together in order to save the time of the House, which, I think, is very reasonable....

So, now we take up the Demands for Railways. The Minister is not here. Then we take up the Oil Industry (Development) Bill. Mr. D. K. Borooah is not here.

THE MINISTER OF STATE IN THE MINISTRY OF PETROLEUM AND CHEMICALS (SHRI SHAHNAWAZ KHAN): I am here..

SHRI S. M. BANERJEE: About the subject matter of Railways, Sir....

MR. DEPUTY SPEAKER: We are skipping over.

SHRI S. M. BANERJEE: The Minister may not be here. Mr. Madhu Limaye is here.

MR. DEPUTY SPEAKER: The Minister of Finance cannot speak on behalf of the Minister of Railways.

SHRI S. M. BANERJEE: It is not necessary that the Minister has to initiate the discussion. It is left to the Members to initiate the discussion. Then reply will be given by the Minister of Railways.

MR. DEPUTY SPEAKER: There have been occasions in this House when I have had to adjourn the House for five minutes or so because the Minister concerned with the matter under discussion could not be present. And therefore I do not want to break from that tradition to discuss anything where the Minister in charge is not there. Of course it is not his fault because nobody could anticipate that we would reach this item so quickly. It is not his fault. And therefore, we postpone discussion on this.

15.40 hrs.

OIL INDUSTRY (DEVELOPMENT) BILL—Contd

MR. DEPUTY SPEAKER: How we come to the famous secret Bill, of Shri D. K. Borooah and I do not know whether we should.... (Interruption) Mr. Shahnawaz Khan, a bulky man, a prominent man is there; why don't you see him

SHRI P. G. MAVALANKAR (Ahmedabad): How did he know that it will come at this stage?

MR. DEPUTY SPEAKER: Any Minister can take it up, it does not matter. I was only going to say, this is a famous and secret Bill and I do not know whether we shall discuss it in secrecy or we shall discuss it with our tongues in our cheeks or in whichever way you put it. I think we can take it up and discuss this....

SHRI S. M. BANERJEE (Kanpur): Before that, let us have quorum. Sir.

MR. DEPUTY SPEAKER: Now, the quorum is there. Now, Mr. Shahnawaz Khan.

THE MINISTER OF STATE IN THE MINISTRY OF PETROLEUM AND CHEMICALS (SHRI SHAHNAWAZ KHAN): Sir, on behalf of Shri D. K. Borooah, I beg to move:

"That the Bill to provide for the establishment of a Board for the development of oil industry and for that purpose to levy a duty of excise on crude oil and natural gas and for matters connected therewith, be taken into consideration."

श्री मधु लिवये (वाका) : उपाध्यक्ष महोदय, मैं जानना चाहता हूँ कि क्या बरूआ जी ने आपको लिखकर दिया था कि उन की जगह पर यह बोलेंगे ?

MR. DEPUTY SPEAKER: I have understood what you said. We see the difficulty. The difficulty with me sometimes is that I have not only sympathy but also empathy; empathy goes much more than sympathy. We can read into the mind of a Member. It is a fact that Shri Borooah has not written to me. But, having regard to the exigencies of the situation in the House, I have exercised my residuary powers to allow the Minister of State to initiate the discussion.

SHRI S. M. BANERJEE: If you read it again you will find that it is a further consideration of the motion moved by Shri Borooah. He has already moved it and so, it is a continuing matter.

MR. DEPUTY SPEAKER: I think he only moved it. I do not know whether he has made a speech. But, still, if he wants to enlighten this House by speaking on it. I think, we should welcome it.

THE MINISTER OF PETROLEUM AND CHEMICALS (SHRI D. K. BOROAH): Sir, it was a very innocuous Bill.

MR. DEPUTY SPEAKER: If it is innocuous, why do you call it 'Secret'. Secret is an unusual thing.

SHRI D. K. BOROAH: It is innocuous in the sense that it only wants to impose a cess of Rs. 60.