**12 hrs.**

*RE*: REPORTED STATEMENT OF ATTORNEY-GENERAL BEFORE SUPREME COURT ABOUT AMENDING MAINTENANCE OF INTERNAL SECURITY ACT

*(Interruptions).*

MR. SPEAKER: Order, order. You have already discussed it. There were many motions on that day—adjournment motion, privilege motion, calling attention, and motion under Rule 377. On that day, this was raised also as a privilege motion, and you based that on the newspaper report which was exactly the sade as the lawyer says. On that basis I allowed it. The Minister put the other version. I gave you the choice, whatever statement was there in the paper, that was already before you.

(Interruptions)

MR. SPEAKER: Order, order. I shall call one by one and allow them one or two minutes each.

SHRI JYOTIRMOY BOSU (Diamond Harbour): Sir, the two counsels have given a written statement, addressed to your good self, saying that the Attorney-General did say, "If your Lordships strike down section 17A of the MISA, 5,000 detenus will have to be released forthwith in West Bengal alone and it will create serious difficulties for the Government" and so on. This letter is dated yesterday. "The Government will have the law amended in ten days' time in the light of the arguments that were presented." This makes all the difference, because Mr. Gokhale, while speeking on the adjournment motion, had categorically denied that the Attorney-General had made a submission before the Supreme Court taking it for granted that the Government will amend this Act to suit the conditions, and therefore, he has misled the House, and therefore, it is a fit case and it should be sent to the Privileges Committee, so that Mr. Gokhale, the Attorney-General, and the two advocates belonging to the opposite party, could be heard together and the House should be given the correct information.

SHRI INDRAJIT GUPTA (Alipore): The statement made by the Law Minister during his reply on Monday has now been shown up in a different light in view of the statements made by the two advocates and which they have incorporated, I believe, in a letter addressed to you also.

The version of the newspaper reporter present in the court might be discounted; that is the way we function and I know the newspaper reporter has no chance pitted against the word of such an August personality as the Law Minister. But here are two responsible practising senior advocates of the Supreme Court who were appearing for the detenus in this case and after having read the statement made by the Law Minister in the House they have said: we take full responsibility for stating that the newspaper report was not distorted and what Mr. Niren De actually said was: we will have the law amended in ten days' time. They have stated that they have addressed a letter to you. The note placed by the hon. Minister before the House the other day says:

> "In the circumstances the Attorney-General, on the instructions given to him at the Conference—(namely, the conference he had with the Law Minister)—and in view of the grave consequences that might arise if the Supreme Court gave a judgment immediately over-ruling Gopalan's case, requested for some time, namely, about a week or ten days, and assured the court that the Government would consider the matter in the meantime, including the amendment of the Internal Security Act, if considered necessary."

It is now quite clear that they are now tring to wriggle out of what was stated there, after having committed that indiscretion. Those responsible advocates say: they had stated that

[Shri Indrajit Gupta]

within ten days the Act would be amended and if necessary Parliament would pass it.

Our view is that it is a serious matter, because it affects the liberty of so many citizens. How to get at the truth? You have said: they have given one version and this is another version, how can I decide? Somebody has to decide and truth cannot be the casualty. If the advocates are wrong and are telling an untruth they must be prepared to take the consequences; if the Minister is telling on untruth and misleading the House he must take the consequences. The truth must be got at, and it can only be done if this matter is refered to the Committee of Privileges and they are permitted to go into the matter in depth to make detailed enquiries, take evidence and find out and then come before us with their report. Truth should not be stifled in this way. Those advocates are not irresponsible people.... (*Interruptions*).

MR. SPEAKER: Your motion was on the basis of the newspaper report. Now you are referring to the advocates.

SHRI INDRAJIT GUPTA: I am basing it on the newspaper report and also on the contention of the two advocates.

SHRI SEZHIYAN (Kumbakonam): The other day we had a discussion on the adjournment motion on the failure of the Government. Now this one is a privilege motion for disleading the House. During that discussion itself it was put clearly by me: "The Minister had laid on the Table a note given by Shri Niren De; there is a counter-statement by Prof. Mukherjee. Of course Prof. Mukherjee had not said exactly what had been told to him. But if he is going to rely on that or go by that, I am afraid we should have not only what was told to Prof. Mukherjee but also the version of other persons involved in this because there have been the opposite counsels also, Mr. R. K. Garg and Mr. Gooptu. These two persons should be called. If they cannot come before the bar of this House, the entire matter should go to the privileges committee and the privileges committee should go through all the evidence and give an account of what has happened."

Therefore, Sir, whenever something inconvenient appears in the press—in this case it is significant, not one press but all the papers have published a uniform version—they say we won't accept. Previously also, in Pipelines Inquiry case, they said that what had appeared in the press was not reliable. In this case, we have got every reason to believe that what has appeared in the press is also corroborated by the Counsels who were present there, as also in the note given by Shri Niren De. He omitted what the judges said conveniently in the statement that has been presented to the House.

Therefore, the House may not able to go through all the evidences. I feel that this is a fit case to go to the Committee of Privileges.

श्री जगन्नाथ राव जोशी : (गाजीपुर) : अध्यक्ष महोदय, उस दिन सारा मामला यह था कि Whether anybody can take the Parliament for granted और सदन के सामने माननीय मंत्री महोदय ने जो वक्तव्य दिया उसके विरोध में दो सर्वोच्च न्यायालय के अधिवक्ताओं ने जब खंडन करके आपको भी लिखा है तो बात साफ है कि मंत्री महोदय ने सदन के सामने सही जानकारी नहीं रखी । इसलिये यह साफ विशेषाधिकार का प्रश्न बनता है इसको स्वीकार करने में आपको कौन सी आपत्ति है ? इसको आप विशेषाधिकार समिति को सौंप दीजिये ।

SHRI N. K. P. SALVE (Betul): Mr. Speaker, Sir, in the Opposition, if the opposition thinks that it would not be brow-beaten, they must equally realise that our party could not be brow-beaten either. Let us consider the matter on a rational plane. Sir, on your decision depends an extremely important precedent of the Parliament. The question involved is this: Do we accept the word of the Attorney General and a written report submitted by him and given to the Law Minister and read out by h'm with all the responsibility, or do we listen to the statement made by two lawyers who were interested in expedious delivery of the judgment, as is reported? I do not want to go deep into the matter. But the two lawyers are known to be politicians. Your decision is on a delicate issue. There is a written report of the Attorney General on which the Law Minister, a highly responsible official of the Government of India makes a statement. He has described certain facts of the proceedings in the Supreme Court that referred to here. He is a Member of this House. As against his, if the words of the lawyers are to be taken, hereafter, imagine what will happen in this country? Any person will make a statement, contradicting a statement made in the House. Sometimes the oposition may make such a statement. And they may contradict what is said by the Government or what is said by the Member of this House or what is said by the Minister. And if we start a discussion and a debate on such controversy and refer it to the Privileges Committee, every time that would be the most pernicious, most deleterious and most disastrous precedent that will ever be laid down by this Parliament. (*Interruptions*).

SHRI PILOO MODY (Godhra): Mr. Speaker, Sir, I do not think that Indian jurisprudence has yet separated or segregated one category of people whose word counts for more than another category of citizen. If it happens, then we shall have to take a second look at Indian Democracy and the Indian Parliament. But, as the Constitution stands and as Parliament stands, I find it highly objectionable for an Hon. Member to come and say that just because somebody happens to be so-and-so, a paid employee of the Government of India, and because he happens to be a Member of the House, which incidentally he is as a Law Minister, his word should weigh or count for more than the word of a respected citizen of a country who pays his tax just as equally as others.

SHRI SHYAMNANDAN MISHRA (Begusarai): This issue must be discussed a little more clearly than is sought to be done by the hon. members on the other side or, if I may be permitted to do so, as has been presented to the House by the Chair. The question with which we are garppling is whether the adjournment motion that we discussed two days before does away with the need for bringing a privilege motion or knocks down the basis for a privilege motion to be brought at this stage. The point which the Chair has made to the House is that since the adjournment motion was discussed, the discussion of a privilege motion was precluded. In my respectful submission, this would not be a correct position to take. At that time we did not press for the privilege motion because the rules regarding adjournment motions clearly state that if the adjournment motion is taken up, the privilege motion cannot be taken up simultaneously. During teh course of the discussion, hon. members did make remarks to the effect that issues of contempt and privilege were indeed involved. However, it was only because of the rule with regard to the adjournment motions that we did not take up the matter. There was some justification for the House or for the Chair to think that since the note of the Attorney General which was placed on the Table of the House, the basis for the privilege motion did not arise nor was the basis for the privilege motion strong enough. The news-

[Shri Shyamnandan Mishra]

paper reports were sought to be rebutted by the note of the Attorney General. One could give the Attorney General the benefit of doubt and some amount of credence could be given to what he said in his note. Probably one would be in some difficulty in judging at that stage whether to place more reliance on the Attorney General's note or on the newspaper reports. Now that a new fact has been discovered and other parties concerned have come forward saying that the assurance in question was indeed given to the court, the matter becomes completely different from what it was at the stage of discussion on the adjournment motion.

**श्री शंकर दयाल सिंह** (चतरा) : अध्यक्ष महोदय, मेरा प्वाइंट आफ आर्डर है । मैं जानना चाहता हूं--क्या आपने इस विषय पर कोई डिस्कशन एलाउ किया है ? अगर डिस्कशन एलाउ नहीं किया है तो सारी बात आपके सामने है, सब लोग बोल रहे हैं, इस मामले को आगे न बढ़ाया जाय । मैंने 317 के अन्तर्गत आप को लिखा था और आपने शायद एलाउ भी किया है, इसलिये आप दूसरे विषय को लीजिये ।

**श्री नरेन्द्र कुमार साल्वे** : ये सही बात कह रहे हैं, यह प्रोसीजर का सवाल है ।

MR. SPEAKER: May I request you to have patience and listen?

SHRI SHYAMNANDAN MISHRA: We have now got three versions of the alleged assurance of the Attorney-General to the Supreme Court: 1. The newspaper report; 2. The note of the Attorney-General; 3. The views of the two advocates who had appeared before the Supreme Court. I ask the Chair, what is the way of ascertaining the truth in this matter and whether the truth need be as certained or not. Since the issue relates to the contempt of the House, and the assurance undermines the dignity of the House, it is extremely necessary that the truth in this matter be ascertained. Had the issue been of a smaller nature, we could have ignored it. But since the assurance was given before the Supreme Court which means that the Attorney General wanted to bring the House into ridicule, we have every right to demand that the truth in this matter be ascertained. That can be done only by referring the matter to the Committee of Privileges which can hear evidence and contact all the parties concerned.

PROF. MADHU DANDVATE (Rajapur): I fully agree with the hon Member Shri Salve, that whatever ruling you give on this matter, is going to be the precedent for the future, and a very important precedent. You yourself in your initial remarks said that the subject-matter was already debated and discussed during the adjournment motion. I wish to point out that after the debate and rejection of the adjournment motion, new factors have come up. As was rightly pointed out, two counsels for the detenus have come forward with a statement and they say that they have forwarded a copy to the hon. Speaker so that he may consider it from the point of view of parliamentary democracy. Sir, I would request you to take up this matter as the Speaker of this House. As one hon. Member has rightly said, it is the word of the Attorney-General against that of two members of the bar. I would point out that a very dangerous precedent could be set up if you give premium to the statement that is made by the Attorney-General as against that of the advocates appearing as defence counsel, who have come out with this statement in the name of liberty and freedom. The hon. Minister in his statement has dubbed them as politicians. The Minister who made this statement is a politician and the Members of this House are politicians. To dub these advocates as politically-motivated people and to attribute motives to their statement is very wrong.

Sir, they have made an appeal to you through this statement. Therefore, it is a right issue for privilege and the privilege motion should be admitted.

SHRI DINEN BHATTACHARYYA Serampore): Sir, the two advocates have very categorically stated that Shri Niren De:

> "....did tell the court on March 30, that the Government will have the law amended in ten days' time in the light of the arguments."

They further say:

> "He (Mr. De) was categorical that the law would be amended. It was clear to all of us present in the Court that the law would be amended within ten days in the light of the arguments."

So, here is a fit case to be referred to the privileges Committee. Do not take the onus on yourself, because the Privileges Committee is meant for that.

SHRI JAGANNATH RAO (Chatrapur): In the motion given notice of now, no new factors have been brought in. What the advocates have said has already appeared in the press. There was a full-dress debate on this issue by way of an adjournment motion. In the stame session there cannot be another motion on the same subject. Even though it is given notice of as a privilege motion, the facts are the same—two versions of a case one by the Attorney-General and another by two advocates. It cannot be taken up, under rule 338.

SHRI SAMAR GUHA (Contai): According to the press report, Mr. Gooptu and Mr. Garg have addressed a letter to you. Not only that, they have also issued a statement to the press, contradicting the statement made by the Minister of Law and also by the Attorney-General, Shri Niren De. It is reported that Mr. Garg and Mr. Gooptu have addressed a letter, jointly, to you; first, I want to know whether it is a fact.

Secondly, they have categorically contradicated the statement that has been made by the hon. Minister of Law in an amended form. It has appeared in the Press. They have said it very categorically. What they have said, I do not want to repeat; many Members of Parliament have already quoted it. I want to know from you whether it is possible to verify what he said in the Supreme Court. It must be on record, Sir. It is not a hearsay; it is not a Press report. (*Interruptions*) Mr. Speaker, I want to draw your attention to the point that these two lawyers have contradicted the statement that has been made by the hon. Minister of Law on the floor of the House in an amended from. I want to know whether the statement made by the hon. Minister of Law is correct or whether the contradiction that has been issued by the two lawyers is correct. That can be verified from the record of the Supreme Court. I want to know from you, Sir, as a letter has also been addressed to you by these two lawyers, whether you are going to verify from the record of the Supreme Court if what Mr. Niren De said, as has been reported by the Law Minister here, is correct or not.

SHRI R. S. PANDEY (Rajnandgaon): On a point of order. I would like to have your precise ruling whether we are going to take notice of the statement made outside parliament or whether we are going to take notice of the statement made by the Minister of Law on the floor of the House.

SHRI A. K. M. ISHAQUE (Basirhat): Some members have suggested that parliament should ascertain the truth. I want to know from you when from Parliament has assumed to itself the duty of ascertaining the truth. This function, so far as I know, belongs to a court of law. Parliament never assumes to itself this function.

SHRI VIKRAM MAHAJAN (Kangra): The question now being raised was raised last time when the Adjournment Motion was being discussed.

[Shri Vikram Mahajan]

There are certain practices and procedures which are followed in this House. One of them is this. I am reading Rule 338:

> "A motion shall not raise a question substantially identical with one on which the House has given a decision in the same session."

Now, Sir, what is the issue involved? The issue involved now is the statement of Mr. Niren De in the Supreme Court. This has already been discussed. I humbly submit that you may not permit them to raise this issue again because this will be violation of the practice and procedure of this House.

SHRI S. M. BANERJEE (Kanpur): My point of order is this .....(*Interruptions*)

MR. SPEAKER: Mr. Pandey, please do not get up every time....(*Interruptions*). I have to give the ruling, not they.

SHRI INDRAJIT GUPTA: What Mr. Pandey is saying amounts to this, that only these hon. Members of Parliament sitting inside this Chamber can be relied upon and every citizen outside the Parliament has got no value.

SHRI K. S. CHAVDA (Patan): A very dangerous statement .... (*Interruptions*)

MR. SPEAKER: Please sit down and listen....

SHRI S.M. BANERJEE: My point of order is this. You have observed that because the matter was discussed in the form of an adjournment motion and there had been a threadbare discussion when both the parties expressed their views, you consider that it is also included in that and that no more discussion is necessary and that this cannot be referred to the Privileges Committee.

May I remind you that in this House when certain statements were made by some hon. Members and the Minister challenged it, then a privilege motion against that particular Member for making a wrong allegation against the Minister was moved in this House. I can quote that instance.

In this particular case, after the publication of the press reports and after seeing the observations made by these two Counsels, Shri R. K. Garg and Shri Googtu and they have written to you a letter also wherein they have quoted the exact words which were uttered in the court or at least the observations of Mr. Justice Hegde must have been noted. .... (*Interruptions*).

Sir, now, if there is no privilege against the Law Minister, then there can be a privilege motion against Shri Garg and his friend, Shri Googtu, for distorting the proceedings of the House. Suppose I move a privilege motion against them for distorting the proceedings of the House, will you allow in that case Mr. Garg to come here and explain the whole case himself?

Mr. Garg is as responsible and as honourable as any of the hon. Members of this House, including the Ministers. When Members of this House say something about outsiders, they are protected because they enjoy immunity. What about those outsiders who say something about this House? They are hauled up. (*Interruptions*).

Sir, here, it is a fit case for being sent to the Privileges Committee and I hope you will kindly give your ruling on the basis of the glorious tradition of this House.

MR. SPEAKER: I hope you will kindly.....

SHRI SEZHIYAN: You can consider and give your decision.

SHRI JYOTIRMOY BOSU: In the afternoon, if you like.

MR. SPEAKER: For what reasons?

SHRI JYOTIRMOY BOSU: For sending it to the Privileges Committee.

MR. SPEAKER Why in the afternoon? You will not then hesitate to say I am pressurised and all that. I do not want that....

SHRI SHYAMNANDAN MISHRA: In the case of privilege, the Chair must give a very comprehensive and detailed ruling.

MR. SPEAKER: I will bring you the sequence of the events. You brought motions you brought motions—for adjournment, privilege motions and calling-attention motions.

SHRI JYOTIRMOY BOSU: Did you find time to read them all? Why are you mixing them up?

MR. SPEAKER: Dont talk irresponsibly. Kindly sit down.....(*Interruptions*). If you do not want it, I will proceed to the next item..... (*Interruptions*). You gave four types of Motions the other day, and you based your Motions on the newspaper report. On those Motions I said: There are four of them. What type of Motion would you like to be discussed? Then you said, Adjournment Motion. Then a point of order was raised and I read out the rule on the Adjournment Motion. It was also pointed out by Mr. Mahajan. Then there was the contention which I accepted, because it is provided in the Rules themselves, that Adjournment Motion shall not raise a question of privilege. When I put this to the House, you said, no, no, we will not take it as that, we want Adjournment Motion. So, that matter was discussed. For three hours you had been discussing it. And, the House gave a decision on it.

Today I received the letter from two honourable lawyers. References were made to that letter. Now, I may tell you, I belong to the same profession, I have been practising, I have been teaching. I have all respects for lawyers on this side or that side. The lawyers base that motion on the newspaper report and the Minister contended and said this thing and that thing.

SHRI JYOTIRMOY BOSU: What is this thing and that thing, Sir?

MR. SPEAKER: They did not accept your version; they had their own version. You had your own version. Kindly sit down. So long as it pleases you, you listen with patience. Whenever you find it is not so pleasing to you, you immediately start interrupting. Kindly don't do it.

After quoting the Attorney General, this is what the lawyers have stated—this is on top of page 2. They stated:

> "The newspaper reports referred to in this note are correct and statements attributed to the Attorney-General in the newspaper set out the position absolutely correctly."

Now, that Motion which I allowed, was based on the newspaper report. It is again on the same newspaper report that the lawyers are now basing their claim, which report, they say, is correct. There is no question of saying that the lawyers are right or wrong or that the Attorney General is right or wrong. The basis of the whole discussion was the same newspaper report which these lawyers are quoting now. On that basis the discussion was allowed. The subject-matter was discussed for three hours.

[Mr. Speaker]

The House gave its finding, its decision. An identical matter cannot be discussed now in the House once again. It is an identical matter and therefore, there is no question of raising the same matter in any other form, in any other motion. I am not allowing it.

*(Interruptions)*

MR. SPEAKER: I am not allowing anybody. Papers to be laid on the Table. Shri Ram Niwas Mirdha.

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**12.45 hrs.**

## PAPERS LAID ON THE TABLE

### NOTIFICATIONS UNDER ALL INDIA SERVICES ACT, 1951

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND IN THE DEPARTMENT OF PERSONNEL (SHRI RAM NIWAS MIRDHA): Sir, I beg to lay on the Table a copy each of the following Notifications (Hindi and English versions) under sub-section (2) of section 3 of the All India Services Act, 1951:—

(i) The Indian Forest Service (Probation) Amendment Rules, 1973, published in Notification No. G.S.R. 257 in Gazette of India dated the 17th March, 1973.

(ii) The Indian Administrative Service (Cadre) Amendment Rules, 1973, published in Notification No. G.S.R. 277 in Gezette of India dated the 24th March, 1973.

(iii) The Indian Police Service (Cadre) Amendment Rules, 1973, published in Notification No. G.S.R. 278 in Gazette of India dated the 24th March, 1973.

(iv) The Indian Administrative Service (Recruitment) Amendment Rules, 1973, published in Notification No. G.S.R. 279 in Gezette of India dated the 24th March, 1973.

(v) The Indian Police Service (Recruitment) Amendment Rules 1973, published in Notification No. G.S.R. 280 in Gazette of India dated the 24th March, 1973.

[*Placed in Library. See* No. LT-4707/73.]

### REVIEW AND ANNUAL REPORT, ETC. OF URANIUM CORPORATION OF INDIA LTD., JADUGUDA

SHRI RAM NIWAS MIRDHA: Sir, on behalf of Shri K. C. Pant, I beg to lay on the Table a copy each of the following papers (Hindi and English versions) under sub-section (1) of section 619A of the Companies Act, 1956:—

(1) Review by the Government on the working of the Uranium Corporation of India Limited, Jaduguda, for the year 1971-72.

(2) Annual Report of the Uranium Corporation of India Limited, Jaduguda, for the year 1971-72 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon. [*Placed in Library. See* No. LT-4708/73.]

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**12.46 hrs.**

## RE. REPORTED STATEMENT OF ATTORNEY GENERAL BEFORE SUPREME COURT ABOUT AMENDING MAINTENANCE OF INTERNAL SECURITY ACT—*contd.*

*(Interruptions)*

MR. SPEAKER: May I request you to kindly sit down. I have already given my ruling. I am passing on to the next item. Two Ministers have already laid their papers.

SHRI PILOO MODY: Mr. Speaker, Sir, as far as the subject of the adjournment motion is concerned you