

*Symbols in Tamil Nadu
bye-election*

18 Hrs

There is an impression that if a tax is levied, it means that we are against that industry or occupation or that group of people. This is an erroneous idea, because even though people may be doing something worth-while, they would still have to contribute to helping those who are much worse off than they are.

It is strange that people are against taxes, at the same time, they want more to be done for different sections, for example, for the unemployed. The basic solution to this problem lies in expanded investments all along the line. Employment is a function of economic growth. Private investment on its own has failed to ignite the spark of growth in recent years, which is why, in this year's budget, we have purposely provided for nearly 20 per cent increase in public outlay, and have specially planned certain projects which would be biased towards the creation of employment opportunities. I do admit that this marks only a small beginning, and much has to be done before we can catch up with the backlog.

But we must have certain logic in our remarks. If we want more employment we must also accept the imperative need for additional resources. It is not easy to evolve a fiscal system which will, at all points of time, satisfy all sections of the community. But our objective in this year's budget was stated clearly—we must combine the fiscal imperatives of growth with the needs for the maximum social objective achievable in the short period. Also some amendments have been moved, which will make the fiscal proposals more rational and purposive. The proposals are now before the House; they do not represent all that we would like to do but what is possible in a given situation and in particular circumstances.

SHRI CHENGALRAYA NAIDU :
Why don't you withdraw the fertiliser tax?

SHRI J. N. HAZARIKA (Dibrugarh) :
May I ask a question? The export duty on tea was withdrawn and the excise duty on tea differs from zone to zone. There are five zones. But there is a little discrimination with regard to the rates of excise duty on tea. It is not only on loose tea but on quality tea. Therefore, certain zones will have to be competing internally with some difficulties, whereas the others will be

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getting more benefit. Will that discription be removed at the appropriate time?

MR. SPEAKER : There is a discussion coming on clause-by-clause consideration. At that time, these things may be asked. There is enough time for that. Now, the question is :

“That the Bill to give effect to the financial proposals of the Central Government for the financial year 1970-71, be taken into consideration.”

The motion was adopted.

18.04½ hrs.

BUSINESS ADVISORY COMMITTEE

FORTY-NINTH REPORT

**THE MINISTER OF PARLIAMEN-
TARY, AFFAIRS, AND SHIPPING AND
TRANSPORT (SHRI RAGHU RAMAIAH) :**
I beg to present the Forty-ninth Report of the Business Advisory Committee.

18.05 hrs.

**STATEMENT RE. BYE-ELECTION IN
CHERAN MAHADEVI ASSEMBLY
CONSTITUENCY OF TAMIL NADU**

**THE MINISTER OF LAW AND
SOCIAL WELFARE (SHRI GOVINDA
MENON) :** Sir, I took sometime to get some information as to the question on which my friend Dr. Ram Subhag Singh wanted a statement. On a writ petition in the Madras High Court filed by Mr. Kakkana, the judge ordered the Election Commissioner:

“Not to issue directions to the Chief Electoral Officer or to the Returning Officer, Cheranmahadevi Assembly constituency, not to allot symbol of bullocks with yoke unless, meanwhile, the decision is taken under paragraph 15 of the notification issued under rule 5 of the Conduct of Election Rules made under the Representation of the People Act 43 of 1951.”

The Chief Election Commissioner is now going on with the judicial enquiry under para 15 of the notification issued under rule 5 of the Conduct of Election Rules. Since

[Shri Govinda Menon]

he found it impossible to expedite the decision before the 4th May, he decided to fix a date later and to expedite the enquiry immediately.

DR. RAM SUBHAG SINGH (Buxar) :

What was there to go into ? It was a clear instruction of the High Court and it should have been complied with by the Chief Election Commission, rather than putting off the matter, because this clearly indicates that something wrong has been done to the constituency and this has been done with a view to making infructuous the interim order of the High Court. (*Interruptions*)

SHRI GOVINDA MENON : I agree by implication it is a direction to the Chief Election Commissioner to expedite the enquiry before the election takes place. (*Interruptions*).

DR. RAM SUBHAG SINGH : There is nothing to enquiry because there are clear instructions of the High Court and that must be complied with by the Chief Election Commissioner.

SHRI GOVINDA MENON : It is an opinion on the court's order. (*Interruptions*)

MR. SPEAKER : There is no need for a regular debate on this.

SHRI SHANTILAL SHAH (Bombay-North-West) : I would like to place some facts before the House. The Election Commission has fixed 13th of this month for further examination of witnesses. On behalf of one party, only one witness has been examined and there are many more. On behalf of the other party, a list of witnesses is still to be submitted. All I can say is that this enquiry will not be over before the end of June. It cannot be finished in a short time. Therefore, to say that the Election Commissioner hopes to finish this early and therefore he has postponed the election is a misinformation given to the House.

SHRI N. DANDEKER (Jamnagar) :

I have no interest in this particular matter except only from the point of view of ascertaining the facts and secondly to see whether in view of the facts what the Election Commission has done is right. From the facts given by the Minister of Law, I do not get really the totality of the facts. Therefore, I

will take a little of the time of the House to explain what I think are the facts. Nearly two months ago, when the same matter was in issue, the Colachel Assembly bye-election was going to be fought and I understand these people went to the High Court. The High Court said, "No ; the election procedure is on and your application about all this cannot be entertained." It was quite right and proper. Then, regarding the Cheranmahadevi bye-election, the Election Commissioner having already communicated the time-table, but before having issued a notification, these people went to the High Court, and quite rightly, because the High Court would otherwise, in accordance with its earlier orders, not have entertained the matter. This is where the trouble now begins. Apparently, by an interim order or interim injunction, or whatever you might like to call it, the High Court has said to the Election Commission "you will not issue any order to the returning officer, or to the chief electoral officer, not to issue the election symbol to this or that party." Earlier Election Commission had issued a tentative programme of elections. Having issued the tentative programme of elections, having got this order of the High Court, the Election Commission suddenly discovers that it is going to take a long time before it finishes all this enquiry and, therefore, it decided to cancel the whole election that was going to be held. There seems to be something peculiar about this. That is all that I can say on the facts I have got.

SHRI SHRI CHAND GOYAL (Chandigarh) : The relevant provisions which guide the issuance of a notification and the fixation of the election programme are given in the Representation of the People Act. Section 30 of the Representation of the People Act, 1951 says :

"As soon as the notification calling upon constituency to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint the last date for making nominations which shall be the seventh day after the date of publication of the first mentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday."

I want to point out that under section 30 the notification was issued. Then, section 31 of the same Act says:

"On the issue of a notification under section 30 the Returning Officer shall give public notice of the intended election in such form and manner as may be prescribed, inviting nomination of the candidates for such election and specifying the places at which the nomination papers are to be delivered."

Then, section 39 says:

"As soon as the notification calling upon the elected member or members of the Legislative Assembly of a State or the members of the electoral college of the Union Territory to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint the date...."

My submission is that a notification having been issued.....(Interruptions) I am referring to the notification calling upon the constituency to hold the elections. That notification having been issued, there was no other way out except following the provisions of section 31 and 39. This is the submission which I wish to make.

The provisions which guide the allotment of symbols is given in the Conduct of Election Rules. Rule 5 says:

"The Election Commission shall, by notification in the Gazette of India and in the Official Gazette of each State, specify the symbols that may be chosen by the candidates at the election in the Parliamentary or Assembly constituencies....."

Sir, you are very well aware that the Election Commission has subsequently issued this order which is known as the Election Symbols Reservation and Allotment Order, 1948..... (interruptions)

MR. SPEAKER : I allowed him to ask for a clarification but he has started making a long speech.

SHRI SHRI CHAND GOYAL : I must make my point. Section 8 of this Orders says :

"A candidate set up by a national party at any election in any constituency in India shall choose and shall be allotted the symbol allotted for that party and no other symbol."

Then, the order dated 4th January 1969 says:

"In pursuance of paragraph 17 of the Election Symbols Reservation and allotment Order...hereby specifies the national parties and the symbols respectively."

Sir, the symbol of bullocks with a yoke has been allotted to Congress, Party. My respectful submission would be—unless there is a change—the Party on this side of of the House is the official Congress and is entitled to the symbol of bullocks with a yoke. The Returning Officer has no authority to make a change in the election programme.

SHRI GOVINDA MENON : I completely agree with the proposition raised by Mr. Goyal depending upon Section 30 of the Representation of People Act, but the notification calling the election in the State constituency has not been issued.

DR. RAM SUBHAG SINGH : Here is a letter No. 100/18/LA/8/70 dated 27th April and this letter says, issue of notification—4th May; last date for making nominations 11th May; date for scrutiny of complete nomination—12th May; last date for withdrawal of candidature—14th May, etc. So, the Law Minister is trying to mislead the House as a conspiracy to see that the order of the Madras High Court should be nullified.

SHRI GOVINDA MENON : This was the tentative programme. After we saw the interim orders of the Madras High Court the notification was not issued.

18·17 hrs.

FINANCE BILL 1970—contd.

Class 2—(Income-tax)

MR. SPEAKER : We shall now take up the clauses. What are the amendments to clause 2?