

14.55 hrs.

[Mr. Deputy-Speaker in the Chair]

Secondly, the tax system may be made simple and uniform. If you want to treat the country as a whole as only one unit for road development, then the tax system should also be uniform and simple. For that purpose, I would only like to say that let there be only customs duty, fuel duty and excise or sales tax and there should be no double duty on spare parts; let there be only one duty and not multiple duties as are being collected at present on spare parts.

For the next ten years, I would say that there be a ceiling indicating that not more than 25 per cent of the operating cost will consist of the tax element. At present, tax element is upto 45 per cent of operating cost, but it should be reduced to 25 per cent, and at least for the next ten years, let this 25 per cent be accepted.

The third thing which I would like the hon. Minister to accept is that let him not bring in the tax element in the fees imposed. Let the fees remain really fees, the fees should not be made a cover to collect taxes. So, the licence fee should be very low.

I would also urge the hon. Minister to earmark a portion of the general revenues of the Central Government for road development. For road development, not only tax collected from roads, but taxes collected in the general revenues should also be earmarked, because it yields external economies. So, a certain portion of the general revenues should be earmarked for development of roads, and whatever is collected by way of taxes on road transport should be earmarked for improvement and maintenance of roads.

Then, I would submit that let there be one tax-collecting authority. Let us have one tax-collecting authority all over the country. When the taxes are collected, in this manner, they can be distributed in some way. We should follow the same pattern as we are following in the federal tax system; let a formula for division be accepted under which equal weights may be given to (1) population, (2) mileage of roads, (3) number of vehicles registered,

and (4) the shortfall in the development of roads in the area.

I would also ask the hon. Minister to reduce the tax on diesel oil. There is a recommendation in this report for the establishment of various statutory bodies. Our administration is already top-heavy. I would, therefore, urge that no more bodies be set up; let there be only one body, and let there be a review body after ten years which will go into its working, because the problems and their solutions in this regard are known to us, and, therefore, let there be no further delay on this matter.

Since the railways are a public commercial undertaking, the road vehicles and road transport should be kept under private enterprise and should work on a competitive basis so that it will act as a check and thereby contribute to the improvement in the efficiency of the railways. This principle also must be accepted by the Government.

14.58 hrs.

STATEMENT RE : PUNJAB HIGH COURT JUDGMENT OF PUNJAB APPROPRIATION ACTS, 1968

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : I had promised the Speaker to make some statement on Punjab.

It is learnt that the High Court of Punjab has held that the Punjab Appropriation Acts of 1968 were *ultra vires* the Constitution and hence not valid. It is also learnt that the Government of Punjab have moved the High Court of Punjab to grant a stay and that the request is being heard by the High Court.

I am awaiting further information from the State Government.

SHRI NATH PAI (Rajapur) : I had given notice precisely because we had got information, and the subject arose only because of the notice that I had given this morning, which was read out to the House by the Speaker.

I would like to make one or two submissions to you in this connection. The Government of India bear a very serious

responsibility for the unprecedented constitutional crisis that has arisen in Punjab. This is not the first time that this issue is being raised in this House. I would like to draw your attention to what transpired on the 2nd April, 1968. When the matter was raised by way of a calling-attention-notice, Shri Y. B. Chavan was warned by us about the grave consequences that might follow if he tried to use his very rare skill for condoning what the Governor had done, and this was what we had said and this was what had transpired.

I am quoting from the proceedings of the House dated the 2nd April, 1968.

"SHRI Y. B. CHAVAN : First of all, there is no question of the Governor being dismissed because it is not true that he is acting in an unconstitutional manner".

Then, I told him this. This is what appears in the proceedings :

"SHRI NATH PAI : The Chandigarh High Court will decide it".

SHRI MADHU LIMAYE (Monghyr) : It has.

SHRI NATH PAI : Then, this was what I had said :

"The matter is pending before the Chandigarh High Court, and let them decide it".

Then the Home Minister said :

"Even on that matter, I am giving my view. He may or he may not accept it".

15 hrs.

We then said and argued in detailed how the whole procedure adopted by the Governor of Punjab is a fraud on the Constitution of India. This is a strong term. I know it. But it is no less than a former Chief Justice now appearing on behalf of the plaintiffs who has used this term. It is Shri Chagla, former Chief Justice of Bombay, who has used this term, that it is a fraud on the Constitution.

Let me make these submissions. In the first place, we are told that the House is likely to adjourn today. I do not know

how the constitutional crisis in Punjab can be met if Parliament is not in session. Let him not anticipate that the High Court may grant stay. The Supreme Court in view of the unanimous judgment of the Punjab High Court, may confirm and uphold it. Then the crisis will be perpetuated. Has he given serious consideration about this possibility? The goings-on in Punjab do not have even a remote resemblance to legality and constitutionality. Unless Parliament is in session, I do not know how it is going to be tackled. I am as tired as anybody else, perhaps a little tired, but I would like to warn him about the danger that is lurking. If our reading of the Constitution is correct: as events have proved so, what has happened in Punjab is wrong *ultra vires* and a fraud on the Constitution. The High Court today has held that it is wrong, *ultra vires* and invalid

SHRI R. D. BHANDARE (Bombay Central) : A full debate is going on ?

SHRI NATH PAI : That is the only thing he is capable of—make a meaningless, irrelevant interjection when a serious point is being raised.

MR. DEPUTY-SPEAKER : At this stage, whatever information he has the Minister has given.

SHRI R. D. BHANDARE : There is no motion before the House.

SHRI NATH PAI : I have moved for adjournment of the debate under rule 349.

SHRI R. D. BHANDARE : Has he moved it ?

SHRI NATH PAI : I do not give a copy to him. I need not. I do not propose to answer him.

MR. DEPUTY-SPEAKER : He is perfectly within his right to make the observation he did. He is pointing out certain contingencies that might arise after this, but as the Home Minister has already said, they have approached the High Court for a stay. Till we hear something as to whether the stay is granted or not, the natural consequence is...

SHRI NATH PAI : He cannot anticipate. We must think of all possibilities. *(Interruptions).*

Prof. Bhandare is upset by my retort. I am very sorry. I would welcome his co-operation in this.

I am saying : let us look at the issue in its proper perspective. This is an unprecedented crisis of unusual dimensions. I hope you will agree with me there. I am saying that the crisis can be mastered by one authority, that is, Parliament. It may be necessary to dismiss the Governor. That is my submission. A Presidential Proclamation will have to be issued. It will have to be ratified.

I do not know if Shri Chavan has given consideration to these various possibilities. There are several possibilities. I do not say that what I think or what my colleagues here think are the only possibilities. But normally as it has happened, we have been proved right. I think we will be proved right in the Delhi High Court also with regard to the writ petition concerning Kutch. But confining myself on this occasion only to the issue involved in this I would say this.

MR. DEPUTY-SPEAKER : He has a right to say it. He had forewarned Government.

SHRI NATH PAI : You were in the Chair then. We had said that what happened in Punjab is a fraud and a violation of the Constitution. There is a basic responsibility on Shri Chavan, because he had said that he was only placing facts as were given to him and I was entitled to my views. He had taken a very correct stand on the basis of the facts stated by him. But in the light of the facts as now disclosed, a very grave responsibility rests on him.

I want to ask him : is he applying his mind to the grave crisis that has arisen ? How does he propose to master it ? Normally, the demand would have been, since we have been proved right and Shri Chavan, proved wrong, as wrong as wrong can be, that he should be good enough to resign. But I do not repeat that hackneyed demand because it is likely to be not honoured, and I never do things which are dishonoured.

But as a man of honour he should non-the less bear this in mind while replying to me further. How does he propose to meet the constitutional crisis if Parliament is not in session ? Secondly, I ask whether, at this late stage, taking into consideration the complete vindication of our stand and rejection of the stand taken by the Governor, he as the Home Minister of India will show necessary vision and courage to summarily dismiss the Governor who has been held guilty by the full bench of the Punjab High Court as a man who has violated the Constitution ?

श्री नथु लिंगये : उस दिन मैं ने जो जो कहा, वह सही निकला। हम इस मामले में सरकार की और आपकी मदद करना चाहते हैं।

MR. DEPUTY-SPEAKER : Mr. Nath Pai is a constitutional lawyer ; there are other eminent constitutional lawyers also. There are two possibilities. Every time you cannot be cocksure about your interpretation of the Constitution. Therefore, on the question of the rightness or wrongness of the interpretation, to that extent, I am ready to say that what you say is correct.

SHRI NATH PAI : The court is right. I never claim omniscience. This is an accident that the Court has corroborated our statements.

SOME HON. MEMBERS *rose.*

MR. DEPUTY-SPEAKER : We will see. If necessary I shall call you. The hon. Home Minister.

SHRI Y. B. CHAVAN : My duty is always to report facts.

Even at that time, I reported the facts as I was advised. I do not want to step into the shoes of the Punjab High Court and anticipate things. These are great men here and they can say anything. Even now I say I do not want to anticipate things. Government will have to act as things develop. But he is unnecessarily raising the issue of the dismissal of the Governor, This question does not arise.

SHRI NATH PAI : Dismiss the Ministry.

SHRI Y. B. CHAVAN : I cannot anticipate anything now. As I said, the High Court judgment is there; they have applied for stay. The stay is heard by the High Court just now. How can I anticipate a decision? I do not want to rush into giving my views. But they are free to do so because they are prophets.

SHRI NATH PAI : Be graceful enough to admit that the High Court has agreed with us on this occasion. You should have been graceful enough to admit that.

SHRI Y. B. CHAVAN : Where is the question of admitting anything? It is a fact. I have nothing more to say..... (Interruptions).

श्री मधु लक्ष्मण : इन्होंने रपट दी है लेकिन आज पार्लमेंट की बैठक स्थगित हो रही है, उसके बाद मौका नहीं मिलेगा। पार्लमेंट के अधिकारों के बारे में हम बोलना चाहते हैं।

MR. DEPUTY-SPEAKER : He has given all the information in his possession.

SHRIMATI NIRLEP KAUR (Sangrur): The question of Punjab has again come up here.....

SHRI VIKRAM CHAND MAHAJAN (Chamba) : On a point of order. Rule 372 says that a statement may be made by a Minister on a matter of public importance with the consent of the Speaker, but no question shall be asked at the time the statement is made.

MR. DEPUTY-SPEAKER : I know that rule. I permitted a question because he wanted to seek further clarification and the House is scheduled to adjourn today. Therefore, I permitted him.

I would abide by the rule. No more questions now, because whatever information he has, he has placed it on the Table of the House.

SHRI NATH PAI : What about my motion? (Interruption).

MR. DEPUTY-SPEAKER : I have not admitted his Adjournment Motion. (Interruption). Mr. Nath Pai, the question of Adjournment Motion does not arise.

SHRI NATH PAI : You have disallowed it? You never said it. I had given notice,

MR. DEPUTY-SPEAKER : To be very frank, I do not know whether it was an Adjournment Motion. You gave some information. I have permitted the questions because the matter was very serious. On that plea only, I permitted some questions. Strictly speaking no question need be put.

SHRIMATI NIRLEP KAUR : This is in regard to Punjab, and I request you to listen to me for a couple of minutes. I would not make a long speech, and you know I am not a lawyer. So, you don't get worried about that. We cannot speak after the statement of the Minister. But I would like to mention that he is not acting as the Home Minister. He is only acting as a messenger here. He gives us messages and we have more information than his delivered messages. The Home Minister says that he is going to the Supreme Court.

SHRI Y. B. CHAVAN : No. I didn't say so. (Interruption).

SHRIMATI NIRLEP KAUR : They are asking for a stay order.

MR. DEPUTY-SPEAKER : Only for stay. Not for appeal.

SHRIMATI NIRLEP KAUR : My point is, if they can go to the Supreme Court, the Supreme Court can only stay the proceedings. In my opinion, the Governor cannot validate the Appropriation Bill which has been unanimously held by the High Court to be nullity. The question is whether the stay, if granted by the Supreme Court, can validate the Appropriation Bill which has been invalidated by the High Court. Can it validate the Appropriation Bill till the time of the final

[Shrimati Nirlep Kaur]

disposal of the case in the Supreme Court ? If they take another three months, what is going to happen ?

MR. DEPUTY-SPEAKER : The hon. Lady Member will realise that all the subsequent stages would be taken into consideration by the Home Minister.

SHRI NATH PAI : We also have responsibility.

श्री कंबर लाल गुप्त (दिल्ली सदर) : अभी तक जो रूपया मिस्टेप्रोप्रियेट किया है उस का क्या होगा यह एक सवाल है ?

SHRIMATI NIRLEP KAUR : I am only saying, speaking from my short, past experience in the House, that we do not try to defend democracy. Here we only defend ourselves, and so probably he will again defend himself. I would only suggest that this Ministry in Punjab should be dismissed. President's rule should be there and it should pass our budget, and then a mid-term election should follow.

MR. DEPUTY-SPEAKER : That is a suggestion for future action.

श्री मधु लिमये : उपाध्यक्ष महोदय, आप जरा मेहरबानी करके मेरी बात सुन लीजिये। आज अगर सदन स्थगित न होना होता तो मैं सवाल नहीं पूछता। थोड़ी देर के लिये यह मान लिया जाय कि गवर्नमेंट को हाई कोर्ट से स्टे आर्डर नहीं प्राप्त होता तो क्या स्थिति होगी ? बजट जो पास किया गया बिनियोग बिल वगैरह जो पास किया गया वह सब गैर-कानूनी है। पंजाब सरकार खर्चा नहीं चला पायेगी तो वह बाद में राष्ट्रपति शासन जारी करेंगे लेकिन राष्ट्रपति को भी बजट और ऐप्रोप्रियेशन बिल पास करने का अधिकार नहीं होगा और मैं चाहूँगा कि 357 को इस सिलसिले में देखा जाय बाकी मुझे कुछ नहीं कहना है...

SHRI R. D. BHANDARE : Is it a discussion in a vacuum, on a hypothetical question ?

श्री मधु लिमये : यह लोक सभा की आज बैठक स्थगित होने के बाद कौन बुलायेगा ? उपाध्यक्ष महोदय, मैं धारा 357 (1) पढ़ देना चाहता हूँ :

"Where by a Proclamation issued under clause (1) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent—

(a) for Parliament to confer on the President the power of the Legislature of the State to make laws,—"

जब तक यह अधिकार पार्लियामेंट राष्ट्रपति को नहीं देती है और हाई कोर्ट अगर स्टे आर्डर नहीं देता है तो ऐसी स्थिति उत्पन्न हो जायेगी कि पंजाब की सरकार राष्ट्रपति शासन जारी करने के बाद भी चल नहीं पायेगी। इसलिए मैं गृह मन्त्री जी से कहूँगा कि आज सात बजे सदन स्थगित होने से पहले इस पहलू पर वह सोचें और राष्ट्रपति शासन जारी करके इस तरीके का बजट और बिल राष्ट्रपति को अधिकार देने का आज ही वह पास करें। जरूरी हो तो रात के नौ बजे तक हम इसके लिए बैठ सकते हैं। यही मेरी उनसे विनती है।

SHRI NATH PAI : You have informed me, Sir, that you are not allowing my adjournment motion. Under rule 340, as soon as I got the information, I gave a proper motion. I submit to you Sir, that even if the stay order is granted—it is a big 'if'—it will apply only to execution. The illegality is not removed. The stay order, if obtained, will stop further execution, but the illegality is not undone. Therefore, what is the budgetary sanction ? Government itself has become null and void there. Let not Mr. Chavan say that it is hypothetical.

MR. DEPUTY-SPEAKER : It is a serious constitutional crisis. If stay is granted.....

SHRI NATH PAI : Even then the fact of illegality is not removed.

MR. DEPUTY-SPEAKER : You said "If stay is granted." You also should not anticipate. (*Interruptions*).

श्री कंबर लाल गुप्त : जब पंजाब हाई कोर्ट ने यह फैसला कर दिया कि वह ऐप्रोप्रियेशन बिल गैर-कानूनी था तो वह उसके गैर-कानूनी होने का फैसला हो चुका है और जब तक अदालत दुबारा उसे नहीं बदलती है तब तक वह गैर-कानूनी बना रहता है। आज इस समय वह गैर-कानूनी है। अब कांस्टीट्यूशनल फ्राइसिस इस बात की हो गयी कि अभी तक पहले जो खर्चा हुआ वह गैर-कानूनी खर्चा हुआ और जब कि आज पार्लियामेंट का सेशन चल रहा है तो राष्ट्रपति के लिए भी कोई चीज जारी करना, आर्डिनंस आदि जारी करना भी गलत होगा। अब हाईकोर्ट स्टे आर्डर दे या न दे यह कोई रिलेवेंट बात नहीं है। हाईकोर्ट फैसला कर चुका है। होम मिनिस्टर को चाहिये कि जो पहले खर्चा हो चुका है और उसके बाद जो खर्चा होने वाला है उसको अगर ठीक करना है, कानूनी शकल देनी है तो उन्हें सदन के सामने आवश्यक लेजिस्लेशन लेकर आज ही आना चाहिए। जब कि सदन चल रहा है। अगर आज यह सदन के सामने नहीं आता है और सदन आज स्वर्गित हो जाता है और वह यह सोचें कि हाईकोर्ट कल स्टे आर्डर दे देगा या नहीं दे देगा तो वह रिलेवेंट नहीं होगा और राष्ट्रपति के अध्यादेश से भी करना गलत होगा और गैर कानूनी होगा जबकि आज सदन यहाँ चल रहा है। इसलिये मैं आपके जरिये होम मिनिस्टर साहब से प्रार्थना करूंगा कि उन्हें जो कुछ भी करना हो वह उन्हें आज इस सदन के बैठे हुए कर लेना चाहिये क्योंकि सदन के सामने यह चीज स्पष्ट आ गई है कि हाईकोर्ट ने ऐप्रोप्रियेशन बिल गैर कानूनी कर दिया। अब यह कि हाई कोर्ट स्टे आर्डर ग्रांट करेगा या नहीं करेगा या सुप्रीम कोर्ट में अपील करने पर क्या होगा उससे इसका कोई मतलब नहीं है। आज जबकि यह सदन अभी चल रहा है सदन से ऐप्रोप्रियेशन बिल को रेगुलराइज करने

के लिए आवश्यक आज्ञा व अनुमति लेनी चाहिये या वह जो भी आर्डिनंस लाना चाहते हैं या डिस्मिस करना चाहते हैं, मिड टर्म पोल करना चाहते हैं गरज जो भी चीज सरकार उस बारे में करना चाहती है उसे इस सदन की स्वीकृति के लिए आज ही ले आना चाहिए। अगर कल आप यहाँ आर्डिनंस करेंगे फिर उसको रेगुलराइज करेंगे तो यह गैर-कानूनी होगा। इसलिये मेरी आपके जरिये से प्रार्थना है कि होम मिनिस्टर इसके बारे में अपना स्पष्टीकरण दें।

MR. DEPUTY-SPEAKER: Certain constitutional confusion is likely to be created. I think he will take note of it.

श्री कंबर लाल गुप्त : उपाध्यक्ष महोदय, मैंने जो सवाल उठाया है उसका जवाब तो दिया जाना चाहिये।

SHRI K. NARAYANA RAO (Bobbili): Sir, the judgment has been given and Shri Nath Pai has somewhat rightly stated that *prima facie* there is an element of illegality attached to the Governor's order. But the moment the Supreme Court admits and stays the order the tinge of the illegality to a great extent is reduced. Why I say that is, according to constitutional law and also judicial interpretations every act of public authority is to be taken to be *bona fide*, legal and authentic. The moment the Supreme Court admits and issues a stay order there are competing claims for the legality because the original legality and assumption and presumption of the executive authority would be once again revived.

MR. DEPUTY-SPEAKER : All these consequences of this decision will be taken into consideration. All complications also would be taken into consideration.

SHRI K. NARAYANA RAO : Sir, my submission is that you cannot anticipate things and discuss. We should wait for the consequences.

SHRI NATH PAI : Sir, under rule 340 I beg to move ;

[Shri Nath Pai]

"That the House do adjourn the debate on the motion moved by Dr. V. K. R. V. Rao and discuss the constitutional crisis created by the judgment of the Punjab High Court."

श्री मधु लिमये : उपाध्यक्ष महोदय, इसको आप अस्वीकार नहीं कर सकते हैं। यह पार्लियामेंट के अधिकार का सवाल है।

SHRI NATH PAI : Sir, Rule 340 says :

"At any time after a motion has been made, a member may move that the debate on the motion be adjourned."

A motion has been made by Dr. V. K. R. V. Rao.

MR. DEPUTY-SPEAKER : But when you make that motion you cannot forget rule 341 which says :

"If the Speaker is of opinion that a motion for the adjournment of a debate is an abuse of the rules of the House..."

SHRI NATH PAI : Is this an abuse of the rule ?

MR. DEPUTY-SPEAKER : I am not saying that. I do not think you have moved it light-heartedly. I allowed only a few questions, being the last day, but now Members are going too far. I think all the consequences that are likely to follow have been brought to the notice of the Home Minister. I am also confident, because we are adjourning today, if he feels that it is necessary, he will come before the House before we adjourn.

श्री मधु लिमये : यह उनके ऊपर छोड़ने का सवाल नहीं है।

श्री अटल बिहारी वाजपेयी : इस सदन की, कार्रवाई तब तक चलती रहेगी जब तक गृह मंत्री वक्तव्य नहीं देते। यह उसके बाद ही स्थगित होगी।

श्री अटल बिहारी वाजपेयी (बलरामपुर) : दुःखद है कि महोदय, मेरी आप से प्रार्थना है कि

श्री नाथ पाई ने जो प्रस्ताव दिया है आप उस पर विचार करें। उसका एक पहलू और है कि पंजाब में जो संवैधानिक संकटा पैदा हो गया है इस सदन को उस पर विचार करने का मौका मिलेगा या नहीं। अध्यक्ष महोदय ने कहा था कि इस बारे में सदन को मौका दिया जायेगा। जब गृह मंत्री वक्तव्य देंगे तब उनके वक्तव्य पर चर्चा होगी। यह जो इतना बड़ा संकट पैदा हो गया है क्या सदन में उस पर बिना चर्चा हुये आप सदन की बैठक स्थगित कर देंगे ? यह नहीं हो सकता।

MR. DEPUTY-SPEAKER : I recognise it is a grave situation. Constitutionally speaking, it is a grave matter. I do recognise that. But, at this stage..... (Interruptions).

श्री अटल बिहारी वाजपेयी : यह उन्होंने पैदा किया है।

श्री रवि राय (पुरी) : आप बहस के लिये इजाजत दीजिये।

MR. DEPUTY-SPEAKER : No, I do not permit that.

SHRI DATTATRAYA KUNTE (Koloba) : Taking the statement that the Home Minister has made, what has he said? That they are moving the High Court of Punjab to grant them a stay order. They have not yet thought of, or have not moved the Supreme Court as regard the legality of the Punjab High Court judgment. Therefore, at this stage, as far as we are concerned, we know that the Punjab High Court has said that the Ordinance issued by the Governor is *ultra vires*, that his signature on the Appropriation Bill does not validate the Appropriation Act. If the High Court decision is that the Ordinance is *ultra vires*, they might move that the execution of that order might be stayed. They have not yet moved the Supreme Court. So, even if the execution of the order is stayed, the decision of the Punjab High Court that the Ordinance is illegal still stands. The House is concerned only with that. Because if you refuse

to these debates, the Home Minister has said that the Punjab Governor has acted rightly. The proceedings are here. He was not simply reporting; he was participating in the discussion and giving his own opinion. Under these circumstances, when the House is seized of the matter and we are on the last day of the session to say "he has made the statement; let us wait" is not proper. Since a motion for adjournment is moved, it ought to be given precedence. If the Government is not prepared to answer the issue, it is just their ill luck. But the Chair cannot take sides; that is all I have to say.

MR. DEPUTY-SPEAKER : Shri Kunte should realise that I am not taking sides at all. I have stated the constitutional position. It is not correct to say that I am taking sides.

SHRI DATTATRAYA KUNTE : I said that the Chair cannot take sides; not that the Chair is taking sides.

SHRI BAL RAJ MADHOK (South Delhi) : When the Punjab question came in the House—perhaps you were in the Chair—I warned the Home Minister that it will lead to very dangerous and serious consequences. He took it so lightly because he never cared for the opinion of the House. He went in a slipshod way. Now the High Court has given its judgment and it has definitely declared that the Appropriation Bill was *ultra vires* and, therefore, today there is no budget in Punjab. The stay order can only postpone the execution of the judgment; it cannot make it illegal. This is the last day of the session. If the House is not in session, Government will carry on the business by Ordinance. It should not be permitted. Let the House be extended. We cannot allow the House to adjourn and thus enable the Government to carry on the work by Ordinance.

MR. DEPUTY-SPEAKER : Even on the request for the extension of the session, you have to give them some time to consider the proposal.

SHRI H. N. MUKERJEE (Calcutta) : It is not a question of extending the House. It is a question of the House deciding its own proper course of conduct. It so happens that on the last day of the

session, as we all know, we are confronted with this constitutional crisis. It so happens that there are many technical complexities into which I do not propose to go, because this is not the time for that. But I cannot imagine Parliament adjourning without discussing this whole matter, since a notice has already been given in regard to it by Shri Nath Pai.

I cannot just conceive of Parliament functioning in this fashion. Even if I had the highest respect for the ability of Shri Chavan to deal with this kind of a thing politically as well as constitutionally—I have not, but even if I had—I could not, as a Parliament, leave to him the decision in regard to this matter.

You, Sir, have been pleased to observe that the Home Minister is very generous and is taking note of whatever is being said by Shri Gupta and whoever else he might be. But that does not satisfy me as a Member of Parliament. As a very humble Member of Parliament I would expect that the whole House, which is, the embodiment of the sovereignty of the country, should not just pack up and go when this terrible problem is hanging fire.

Therefore there must be a decision at a level, which means at the Speaker's level, which is not contingent upon good favour or ill favour of the Government of the day because the Government has already shown its ineptitude in so many different fashions. Therefore I cannot conceive of Parliament merely sitting down and sulking away, tomorrow every one of us packing off. I cannot imagine it happening. I would like, therefore, some kind of an authoritative statement to come from you or the Speaker who, I hope, would be coming very soon so that we know that we are going to have some discussion. We cannot adjourn *sine die* before we have a discussion.

SHRI SHIVAJIRAO S. DESHMUKH (Parbhani) : Sir, my point of order relates to the motion moved by Shri Nath Pai because ordinarily the Rules of Procedure and Conduct of Business of this House require that for all motions there has to be a written notice delivered to the Notice Office 24 hours prior to the moving of the motion.

SHRI MADHU LIMAYE (Monghyr) : यह नियम 340 में है।

SHRI SHIVAJIRAO S. DESHMUKH : This is a general, overriding rule. It can not be held in abeyance unless the Speaker in his discretion says that he waives the provision and allows the motion to be moved. So, not only should the Speaker give the finding that the hon. Member is *bona fide* using this right of adjournment but further the Speakers should waive the rule requiring written notice of 24 hours. As long as this is not done, I do not think the motion is in order and can be debated further.

MR. DEPUTY-SPEAKER : I permitted him. I have not taken the adjournment motion as such nor have I admitted this plea under rule 340. But, as many hon. Members pointed out, if the House were to adjourn in the face of a crisis of this nature and leave the decision just to the executive, it would be failing in its duty. On that point I am absolutely clear... (*Interruptions*). I have followed what you said. But I cannot just now take a definite decision. You must give sufficient time to the executive to consider all consequences that are likely to follow and all the pleadings now made. This is my personal view.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND COMMUNICATIONS (DR. RAMSUBHAG SINGH) : You are in the Chair... (*Interruption*)

SHRI BAL RAJ MADHOK : It is the view of the Chair, not your personal view... (*Interruption*).

SHRI VIKRAM CHAND MAHAJAN (Chamba) : Sir, kindly turn to rule 57, which deals with motions of adjournment.

MR. DEPUTY-SPEAKER : Excuse me, you have not followed the proceedings. I have not allowed the adjournment motion that he has given. Under rule 340 he has pleaded that the House do stand adjourned now... (*Interruption*)

SHRI VIKRAM CHAND MAHAJAN : Sir, before I finish my point of order..... (*Interruption*)

MR. DEPUTY-SPEAKER . I am following meticulously the proceedings from the procedural point of view. The

adjournment notice that he had given first was a different matter. I said that I had not taken notice of it. Under rule 340, adjournment of the debate on a specific issue of importance, he has asked the Chair to admit it.

SHRI VIKRAM CHAND MAHAJAN : Kindly permit me to read it, Rule 340 and Rule 57 both. Kindly read first Rule 340.

MR. DEPUTY-SPEAKER : It is with me.

SHRI VIKRAM CHAND MAHAJAN : This is the Rule which Mr. Nath Pal has read. Now, Rule 341 reads :

"If the Speaker is of opinion that a motion for adjournment....."

Then, kindly turn to Rule 57 which reads :

"Notice of an adjournment motion shall be given....."

There is a clear distinction... (*Interruption*)

MR. DEPUTY-SPEAKER : If you study the Rules very carefully, you will realise that this Rule does not apply on this occasion. Rules 340 and 341 are totally different.

SHRI VIKRAM CHAND MAHAJAN : Rule 340 is subject to Rule 57.

SHRI A. K. SEN (Calcutta-North-West) : Sir, we are all agreed that it is a serious situation. There cannot be two opinions about it. This is not the first time that a State Act has been struck down by the High Court. Normally, when a State Act is struck down, either the Legislature re-passes it or, if the Legislature is not in session, the Governor may pass an Ordinance under article 213. The Appropriation Bill being of a vital nature, many of us have had serious misgivings about the way it was rushed through and we had our doubts at that time about the constitutional validity of the Governor's signing the Bill without the Bill being authenticated by the Speaker. But whatever may be the ground which has weighed with the High Court, the fact is that the Act has been held to be void.

There are only two ways out. It is a concern primarily of the State of Punjab which is not still under the President's Rule. So, there are only two ways out, either to recall the legislature and have the Appropriation Bill passed and, in the meantime, pass an Ordinance by the Governor, such provisions as the Governor may think fit should be immediately implemented and the rest of it may be left to the legislature. If the legislature cannot pass it, it will be a first-class constitution crisis.

SHRI NATH PAI : It is already there

SHRI A. K. SEN : If the legislature cannot pass it, then, certainly, it will be a matter of concern also of Parliament. But, primarily, now, I should imagine that it will be a concern of the State of Punjab, its legislature and its Government.

MR. DEPUTY-SPEAKER : On one point I would like to have your opinion. A very valid point has been raised, that when we are adjourning today, a certain constitutional development of serious magnitude has taken place, and I would like to know your opinion. You are also not certain whether that legislature would authenticate what was done before or pass it out. You are not certain also. The plea is that this House should get an opportunity to discuss the situation and come to a decision looking to the serious nature of the consequences that are likely to follow. That is the plea made from this side.

SHRI A. K. SEN : As I said, there cannot be two opinions about the seriousness of the position. But the question is the remedy or the way in which the Government possibly will try to solve it.

SHRI VIRENDRAKMMAR SHAH : The question is whether the House should discuss it or not.

SHRI A. K. SEN : It cannot be forecast immediately. The Home Minister may make a statement. *(Interruption)*

SHRI R. D. BHANDARE : On a point of order, Sir,

MR. DEPUTY-SPEAKER : Under what Rule ?

SHRI R. D. BHANDARE : Under Rule 341.

MR. DEPUTY-SPEAKER : I have read it.

SHRI R. D. BHANDARE : Sir, first of all, when Mr. Nath Pai wanted to move an adjournment in accordance with the notice given by him, you said that there is no question of adjournment motion. Then, the motion was made under Rule 340 for adjourning the debate on the motion which is already moved. Therefore, what is the consequence if such a motion is moved. The consequence is considered under Rule 341. It reads :

"If the Speaker is of opinion that a motion for the adjournment of a debate is an abuse of the rules of the House, he may either forthwith put the question thereon or decline to propose the question."

Therefore, the discussion is in a vacuum; it was not called for.....

MR. DEPUTY-SPEAKER ; It is an abuse of this rule.....

15.40 hrs.

[Mr. Speaker in the Chair]

SHRI BAL RAJ MADHOK : This applause by those members is most condemnable...*(Interruptions)*

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, कांग्रेस के सदस्य तालियां बजा रहे हैं, क्योंकि वे समझते हैं कि आप उन्हें कठिनाई में से निकालेंगे ।

श्री मधु लिवये : यह बर्दाश्त नहीं किया जा सकता है । अध्यक्ष महोदय, उन्होंने आप का स्वागत नहीं किया है । आप नरसतफहमी में न रहिये ।

SHRI NATH PAI : They deliberately applauded to show that they have no faith in the Deputy-Speaker. This is the grossest misbehaviour that we have ever seen. This is being discourteous to the Deputy-Speaker...

MR. SPEAKER : I don't think so.

SHRI NATH PAI : It was meant to be discourteous to the Deputy-Speaker...

MR. SPEAKER : I don't think so... (Interruptions)

DR. RAM SUBHAG SINGH : That did not mean anything... (Interruptions)

MR. SPEAKER : Now, let me hear Mr. Bhandare.

SHRI KANWAR LAL GUPTA : It was an insult to the Deputy-Speaker. It was not a welcome to you.

आप रोज़ आते हैं। क्या उन्होंने कभी क्लैप किया है ?

MR. SPEAKER : Now let us hear Mr. Bhandare.

SHRI UMANATH : When the Deputy-Speaker comes, they do not applaud... (Interruptions)

SHRI BAL RAJ MADHOK : The way in which they have behaved is most condemnable.

MR. SPEAKER : Dr. Ram Subhag Singh has already said that it did not mean anything... (Interruptions) He has said it... (Interruptions)

श्री कंवर लाल गुप्त : डा० राम सुभग सिंह ने खुद क्लैप किया है।

DR. RAM SUBHAG SINGH : I did not clap ; I was writing something here.

SHRI D. N. TIWARY (Gopalganj) : There was an objection to that clap. I want to give an explanation for that. Today is the last day. We were waiting for you to come and adjourn the House.

SHRI R. D. BHANDARE : There is a sequence or a reason to raise a point of order. I have raised this point of order under rule 341. The reason is that there was already a motion before the House which was under discussion. Before that motion could be put to the vote or discussed,

the Home Minister made a statement... (Interruptions)

AN. HON. MEMBER : Why ?

SHRI R. D. BHANDARE : He made a statement in pursuance of your direction. In the morning you were kind enough to say that the Home Minister would make a statement regarding the crisis which has arisen out of a decision given by the High Court. In pursuance of your direction, he made a statement, and then a debate started.....

श्री मधु लिमये : चर्चा नहीं चली।

SHRI R. D. BHANDARE : There was a debate for an hour or so on nothing... (Interruptions) Mr. Nath Pai moved a motion that the House be adjourned under rule 340.....

SHRI NATH PAI : I moved that the debate be adjourned and not the House.

SHRI R. D. BHANDARE : He moved that the debate on the motion be adjourned... (Interruptions)

SHRI H. N. MUKERJEE (Calcutta North East) : I suggest that you ask the Deputy-Speaker to tell you what happened.. (Interruptions)

MR. SPEAKER : May I request the Deputy-Speaker to state the facts ?

SHRI R. D. BHANDARE : Let me complete, Sir. I will complete in a minute.

If a debate is to be adjourned under rule 340 then there are two ways open to the Chair, if the Chair thinks that it must be put to the vote or it should decline it in toto. There has been a debate for an hour or so on the question that the debate be adjourned. There was a debate for an hour on a motion that the debate may adjourn. Therefore, Sir, I pray that you should determine the point yourself.

SHRI KHADILKAR (Khed) : Mr. Speaker, Sir, after Shri R. K. Amin finished his speech on the Road Transport Taxation Enquiry Committee Report that was under discussion, the Home Minister gave some information to the House regarding

Punjab and after he gave the information Mr. Nath Pai get up referring to the seriousness of the constitutional crisis and issues involved. He made a plea, he also submitted his motion, a regular motion of adjournment when pleading this morning. He has submitted that. I told him I have not seen it and I am permitting a question because the matter is very serious. One after another, Mr. Nath Pai—if I mistake not, Mr. Kanwar Lal Gupta—and so many others put questions and I permitted them, because normally after a statement we do not allow, but this is a case of constitutional crisis and all that. That is Why I expressed this, that on this occasion I cannot shut out members from seeking further clarification on this very important issue. This is what happened. Then latter on, Mr. Nath Pai, when I said that the present motion may be taken notice of, moved under Rule 340, for adjournment of the debate. That I knew and I said I do not want to read out fully, because if I were to consider that this is an abuse of the rule, under 341 I would have shut him out. But as I first observed, and I still maintain what I said just before, I cannot think, I cannot say that this was an abuse of this rule 340 for moving of adjournment of the House; he was within his right. Several points were raised on this issue and the main plea was, and that was more or less made from the opposition side, and some members also raised it from the other side, even Shri Shivajirao Deshmukh.....

AN. HON. MEMBER : Shri A. K. Sen also.

SHRI KHADILKAR : Several points were raised as to what would be the consequence of this crisis, some ways should be found, should it be left to the executive and all that. That was the point raised. Even if stay is granted, assuming stay is granted it does not make for the validity of the earlier action and the legality is not restored with respect to the action of the Government. The stay is of execution. These are very serious points which were raised again. Then, without saying anything about the other aspects I said that this is a question which should be considered by the Government.

श्री मधु लिमये : अध्यक्ष महोदय, हमारी विन्ता क्या है, वह मैं संक्षेप में बताना चाहता हूँ। आपको संविधान के दो-तीन अनुच्छेदों को देखना पड़ेगा। इसमें श्री अशोक सेन की बात का जवाब भी आ जायेगा। उन्होंने कहा कि गवर्नर आर्डिनेंस जारी कर बजट पास करे। वह नहीं हो सकता है। अनुच्छेद 202 (1) इस प्रकार है :

"The Governor shall in respect of every financial year cause to be laid before the House or Houses of the Legislature of the State a statement of the estimated receipts and expenditure of the State for that year, in this part referred to as the 'annual financial statement'."

गवर्नर को केवल सीमित अधिकार है कि वह मन्त्री मंडल को, सरकार को आदेश दें कि विधान सभा के सामने एनुअल फाइनेन्शियल स्टेटमेंट (बजट) रखे। आप देखिये कि यह अधिकार विधान सभा का है, गवर्नर का नहीं है। —

"(203) (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of a State shall not be submitted to the vote of the Legislative Assembly, but nothing in this clause shall be construed as preventing the discussion in the Legislature of any of those estimates".

यानी गवर्नर को तनखाह बगैरह पर वोट की जरूरत नहीं है। 203 (2) को देखिये—

"(2) So much of the said estimates as relates other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein."

203 (3) को भी देखिये—

"(3) No demand for a grant shall be made except on the recommendation of the Governor".

[श्री मधु लिमये]

अध्यक्ष महोदय, अत्र 204 को देखिये, यह भी बहुत गम्भीर है—

"204. As soon as may be after the grants under article 203 have been made by the Assembly, shall be introduced a Bill provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet...

अध्यक्ष महोदय' इसका मतलब है कि अनुदानों की मांगों पर जब तक विधान सभा की मोहर नहीं लगती है, एप्रोप्रियेशन बिल कोई पेश भी नहीं कर सकता है, जब मांगें पास हो जायेंगी, तभी एप्रोप्रियेशन बिल आ सकता है। इसका मतलब है कि गवर्नर को बाकी सारी चीजों के बारे में आर्डिनेन्स निकालने का अधिकार है, लेकिन डिमान्ड्स फोर ग्रान्ट्स आर्डिनेन्स के जरिये कतई पास नहीं हो सकती है।

अत्र 357 को देखिये— मैंने जो शुरू में कहा था कि अगर एप्रोप्रियेशन गैर कानूनी हो जाता है, तो पंजाब सरकार कोई खर्चा नहीं कर सकती है। तो अब चारा क्या रहेगा? 357 में यह लिखा है कि प्रेजिडेन्शियल प्रोक्लामेशन्स के बाद यह किया जायगा। अब प्रेजिडेन्शियल प्रोक्लामेशन्स वह करेंगे और जैसा कि कुछ हफ्तों में उसको मान्यता प्राप्त करानी होगी, वह अगले सत्र में करायेंगे। लेकिन मेरा सवाल यह है कि प्रेजिडेन्ट को राज्य विधान सभा के अधिकार देने का अधिकार पार्लियामेंट को है। पार्लियामेंट को डिमान्ड फोर ग्रान्ट्स पास करने का अधिकार है, लेकिन पार्लियामेंट 357 (1) में कानून बनाने के अधिकारों को राष्ट्रपति को दे सकती है आप 357 (1) को देखिये—

"357. (1) Where by a Proclamation issued under clause (1) of article 356..."

SHRI K. NARAYANA RAO : It is not a constitutional discourse now. (Interruptions)

श्री मधु लिमये : आपको झुकल नहीं है, तो आप बैठिये। मैं क्या करूँ।

SOME HON. MEMBERS : Shri Madhu Limaye should withdraw those words.

श्री मधु लिमये : आप कैसे उदण्डता से बोल सकते हैं। इन्होंने कहा कि कांस्टीट्यूशनल डिस्कोर्स दे रहे हैं। क्या वह मेरा अपमान नहीं कर रहे हैं ?

MR. SPEAKER : I think he only said that constitutional points were being raised...

श्री मधु लिमये : वह वापस लें तो मैं वापस लूँगा। वह कटाक्ष कर रहे थे, उन्होंने कहा कि मैं डिस्कोर्स दे रहा हूँ। मैं डिस्कोर्स नहीं दे रहा हूँ, मैं प्वाइन्ट ऑफ़ आर्डर कर रहा हूँ। वह वापस लेंगे तो मैं वापिस लूँगा।

SHRI K. NARAYANA RAO : I only asked whether it was a constitutional discourse.

श्री मधु लिमये : उन्होंने वापस लिया तो मैंने भी वापस लिया।

SHRI K. NARAYANA RAO : I have said nothing wrong. What is there for me to withdraw? I only asked whether it was a constitutional discourse.

MR. SPEAKER : Anyhow, he has withdrawn those words. So, let it be closed now.

श्री मधु लिमये : अध्यक्ष महोदय, मैं कह रहा था—

"Where by a Proclamation issued under clause (1) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent—

(a) for Parliament to confer on the President the power of the Legislature of the State to make laws..."

हम लोगों के कानून बनाने के बाद प्रेजिडेंट अनुदानों की मांगों को लोक सभा के द्वारा मन्ज़ूर किये जाने के बाद एप्रोप्रियेशन एक्ट भी प्रसारित कर सकते हैं, लेकिन जब तक यह अधिकार हम नहीं देंगे, बड़ा संवैधानिक संकट उत्पन्न ही जायेगा। हम यह नहीं कह सकते हैं कि हमारी सारी बातें बराबर हैं; यह उद्दण्डता हम में नहीं है, लेकिन यह एक गम्भीर मामला है। वृत्ति आज पार्लियामेंट स्थगित होने जा रही है, इसलिये हम चाहते हैं कि इसके बारे में खुलासा होना चाहिये।

SHRI RANGA (Srikakulam) : I am glad that the Deputy-Speaker, when he was in the Chair, had held that it is not an abuse of our privileges or of rule 340 under which this question was sought to be discussed here after seeking adjournment of the other debate that was going on. We are grateful to you for giving us an opportunity of having this preliminary discussion.

At this stage what I would like to say is not in connection with the legal side of it but the political aspect. This House has been in session for the past three months. Suddenly this eruption has taken place. Are we to understand that you and all of us would co-operate in this and say that we adjourn, leaving everything to be done by the executive as they like without any opportunity for this House to advise Government, criticise them or condemn them or even co-operate with them? That point has got to be considered by you as well as the House.

You were good enough yesterday or the day before to say that, if necessary—you were not actually inclined that the session should be extended till tomorrow—if necessary the House might even meet on the 11th. Now we are on the eve of the 11th. Would it not be advisable that you be good enough to have patience with us and help us to meet...

MR. SPEAKER : What does he propose ?

SHRI RANGA : ...tomorrow to discuss this matter, while the earlier discussions may be carried on today ?

MR. SPEAKER : He is discussing it now.

SHRI RANGA : I am placing this for your sympathetic and serious consideration. It a very serious matter. The ex-Law Minister also concedes it. The only solution he was prepared to offer to us is a kind of *apaddharma*—we will send it back to the Governor or the President and on the advice of the Home Minister and the Prime Minister it would be sent back to the earlier legislature so that they may consider it with the co-operation of the Speaker. We know what relations exist between the Speaker and that House. If by any chance, that Legislative Assembly is not able to pass these Appropriation Bills as presented to them and as had been certified by the Governor, I suppose, on the authority of the President and House Minister, if that Legislative Assembly were to refuse to do that, then it would be for the Union Government and the President and all these people to confabulate among themselves and decide upon some solution. What that solution is he was not good enough to detail to us or advise us about.

Therefore, this is a very serious matter, fraught with many consequences, and as to the detailed manner in which it could be visualised, it is not possible to do so here and how : it is not possible for us immediately to think about it or advise Government on or even to place our views before you.

Therefore, I seriously suggest that you be good enough to give an opportunity to this House to discuss this matter in as much detail as we possibly can tomorrow.

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, पंजाब में जो संवैधानिक संकट उत्पन्न हो गया है, केन्द्र सरकार इसकी जिम्मेदारी से नहीं बच सकती। जब इस सदन में पंजाब के विषय पर चर्चा हो रही थी, हम लोगों ने चेतावनी दी थी कि अगर यह मामला बाद में कोर्ट में उठाया गया और कोर्ट का फैसला पंजाब सरकार के खिलाफ और राज्यपाल के आचरण के खिलाफ हुआ तो पंजाब सरकार के लिये विधायी संकट पैदा हो जायेगा। लेकिन

[श्री अटल बिहारी वाजपेयी]

उम समय गृह मंत्री महोदय इससे सहमत नहीं हुए. लेकिन आज यह शंका सत्य सिद्ध हो गई है। प्रश्न यह है कि अब क्या किया जाय। अनेक सुझाव दिये गये हैं। मैं आपके विचार के लिये संविधान के अनुच्छेद 360 की ओर सदन का ध्यान खींचना चाहता हूँ।

"If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or any part of the territory thereof is threatened, he may by a Proclamation make a declaration to that effect."

16.00 hrs.

संविधान में एक इनरजेन्सी की स्थिति है और दूसरी फाइनैशियल इमरजेन्सी घोषित करने की स्थिति है। पंजाब में जो कुछ हो रहा है उससे वित्तीय संकट पैदा हो गया है और उसका निराकरण 360 का उपयोग करके किया जा सकता है। केन्द्रीय सरकार पंजाब में फाइनैशियल इमरजेन्सी घोषित कर सकती है। अब राज्यपाल को अधिकार नहीं है कि वे अनुदान की मांगें स्वीकार करें। वह संविधान के प्रतिकूल होगा। मुझे विश्वास है कि गृह मंत्री इस सम्बन्ध में जल्दी निर्णय लेंगे। जब तक वह निर्णय नहीं हो जाता तब तक सदन को स्थगित नहीं किया जाना चाहिये। वह निर्णय हमारे सामने आ जाये, सदन उसको पुष्ट करे, सदन उससे संतुष्ट हो जाये तभी इस सदन की कार्यवाही स्थगित हो सकती है।

SHRI H. N. MUKERJEE : I need not take full advantage of the political discomfiture of the Government which has happened. I shall repeat to you what I said to the Deputy-Speaker.

A very serious crisis has arisen in the Punjab; there are very serious technical complexities arising therefrom. All that we have heard so far is that the Government through its legal advisers is going to look after them. We have seen enough of the legal advisers of the Government

departments. That is why I am very deeply concerned. We adjourn this afternoon, which means we go back home. When our people ask us "what did you do about Punjab, is not Punjab part of India, was not the Parliament of India looking after the things happening in Punjab?" Shall we say "we were back because the Home Minister was not ready, anyhow our job was over and it cannot be done?" I feel that it is very necessary that some way out should be found by you primarily...

MR. SPEAKER : What is the way out? You give your suggestion.

SHRI H. N. MUKERJEE : The House is always ready and willing to be behind whatever you do in regard to this kind of matter.

MR. SPEAKER : What about the Assembly in Punjab.

SHRI H. N. MUKERJEE : I know all these things could be discussed if Parliament is in session.

MR. SPEAKER : But, the Assembly is there; it is no use extending our session.

SHRI RANGA : It is kept in suspense.

MR. SPEAKER : It is in full force.

SHRI SESHIAN (Kumbakonam) : The judgment given by the Punjab High Court gives rise to a very serious constitutional crisis. It is a mere academic point to discuss what should have been done. The judgment given by the High Court has invalidated the signature appended by the Governor. The Governor is an instrument of the Central Government. Therefore, to that extent, the Central Government should be held responsible for whatever has happened there. The solution cannot be given at the spur of the moment. Parliament, as Prof. Ranga told us, cannot wash away its hands off Punjab. We should not adjourn today. I should discuss the question in all detail, because once the signature appended by the Governor to a Bill was

properly certified by the Speaker, is invalidated, the entire appropriation will become misappropriation.

SHRI UMANATH : The crucial question is : whether as per the original programme we should adjourn and thus allow the constitutional crisis to be solved according to the whims and fancies of the executive, namely, the Government of India and allow them to take a decision on their own and face further consequences and then face the Parliament with a fait accompli when Parliament meets at its next session, or whether we continue the session till tomorrow to see what should be done in the present situation so that the Government could take a decision on the basis of that. Either this or the other. My opinion is that we should not allow the Government to take a decision on their own and face Parliament with a fait accompli after creating chaos.

I am giving the reason. The reason for that is, allowing the Government to take the decision, and then Parliament had to express its opinion, that was the one adopted earlier on the Punjab question itself. The Government took the position and then the signature was appended and they did those things on their own and then we could express our opinion. Now, the High Court decision's implication is that that was wrong. So, now, when they say that the Government's doing it was wrong when the High Court says that—again, leaving it to the same government to do another thing is wrong on the basis of the High Court decision. This time we should not allow it to the executive entirely. The Parliament should discuss the ways and means and on the basis of it we should take a decision.

SHRI NATH PAI : Mr. Deputy-Speaker, this morning, as soon as I got the first information that the Punjab High Court by a unanimous judgment had invalidated and declared *ultra vires* the Appropriation Bill, I wrote to you and then sought your permission under rule 340, or, if you please, under rule 376. This was a fact not known to the Deputy-Speaker, but if I recall the proceedings properly, you were good enough, after reading my letter to you, to ask the Home Minister to make a statement. I remember that we were

told that he would make a statement at 6 or 6.30 and now it is a little unfair that at 3.30, he comes and proceeds to make a statement. It was by accident that I and my colleagues happen to be here. The whole issue might have been stifled by a slight change—a sleight of hand. I am sorry to use the expression. But you should have this convention that those who are concerned with a motion are warned that the Government is going to make a statement with regard to that. The whole thing would have been killed by his having anticipated by a few hours contrary to the assurance given here. This is my first protest.

Sir, you will recall—and I do not want to repeat what we told you—that this issue was raised in this House on three occasions. On the 2nd April, this is what took place in the House and this is what has now transpired. Mr. Chavan said in reply to our question, "First of all, there is no question of dismissal of the Governor because it is not true that he is acting in an unconstitutional manner." This is what Mr. Chavan said ; he gave a certificate to the Governor, that the Governor is acting in a correct manner, in a constitutional manner. I submitted to Mr Chavan, through you, "The Chandigarh High Court will decide it." Then Mr. Chavan replied to me, "Even on that matter I am giving my view. In my view, the Governor is acting correctly." We submitted then that let the High Court at Chandigarh decide. Now, the High Court has decided the matter and in its decision it has upheld every submission that we then made. This decision does not absolve Mr. Chavan of his constitutional responsibility. He owes a responsibility in this whole affair because he condoned, he upheld, he sustained and at certain stages he encouraged the goings-on in Chandigarh at that time. He did say all the time, and he did of course take the position, I have seen the sentences. I do not know if he adheres to what he has said, but I have gone through the proceedings on the three occasions ; he did take the position that "I am only conveying facts." This is how he will try to disarm the House by striking a posture of innocence that "I am only conveying the facts." But later on he used to take a partisan attitude by defending every single action. I think I am quoting him fairly. You

[Shri Nath Pail]

began by saying that you are giving the facts. But then you proceeded always by defending whatever you have done.

Sir, I would appeal to you to accept my motion. We move it under rule 340. It is not an abuse of that rule, because never was there an occasion when rule 340 was put to such a proper use as on this occasion as we are now attempting today.

Why do I invite the responsibility of the Government of India? You and earlier the Law Minister, said that there is a State Assembly there. This question you were asking, to my colleagues, when they were submitting. May I say in the first place that the Assembly in our humble opinion has been stifled and nullified by the Government there which is afraid of calling the Assembly in session. The Chief Minister of that State who hardly represents anybody except 17 defectors, is avoiding calling the Assembly and he is not likely to call it. What do we do in a case like that? That is the question which Shri A. K. Sen also raised. Sir, our responsibility is very clear. I will read to you article 355 of the Constitution. It says :

"It shall be duty the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution."

According to the decision of the High Court, the constitutional framework in Punjab has broken down completely. It is the responsibility of the Union Government and therefore of Parliament to ensure that the Government there at every stage is carried on in accordance with the provisions of the Constitution. You will agree, Sir, that after the judgment of the High Court of Punjab, there is no constitutionality or legality with regard to any act that that Government will be doing.

MR. SPEAKER : Does he mean to say that we circumvent the Assembly there which is in existence ?

SHRI NATH PAI : So far as the

validity of the expenditure is concerned, I will read two articles and leave it to the judgment of the House and to you. The ex-Law Minister was not quite correct in advising the House that the Governor can sanction grants. Articles 201, 202 and 203 have been read out.

SHRI A. K. SEN : I said, Appropriation Bills.

SHRI NATH PAI : I know he has been very closely associated with the fate of this petition in the Chandigarh High Court and his position here will not be materially different from what it was there. I will cite article 256 to drive home the point that we are entitled to discuss it and Mr. Chavan has a responsibility to us :

"The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose."

Therefore, the course for us is very clear. The Government of India will have to dismiss that State Ministry, dissolve the State Assembly, order fresh mid-term elections and give to the people of Punjab what has been denied to them since this unwanted ministry seized power there by strange methods and the ladder type of democracy has been imposed on that State. We are about to adjourn today. That point has been eloquently submitted to you by Prof. Ranga, Prof. Mukerjee, Shri Vajpayee and Shri Limaye. This is an issue on which our responsibility is very clearly established. You should, therefore, be pleased to admit my motion and allow the House to discuss it by adjourning the debate on Dr. Rao's motion.

SHRI KRISHNA KUMAR CHATTERJI (Howrah) : Although the High Court decision has created a crisis, the citation of certain articles of the Constitution has further confused the constitutional issue. We must not forget that the Punjab legislature is not dissolved. It is very much alive ; as you yourself pointed out. The

High Court is not the highest legal authority in this country. There is something like our Supreme Court, which has differed from High Court decisions in the past. We should not confuse the constitutional issue by bringing in political considerations. Prof. Ranga pointed out that there is a political aspect also. I feel it is not proper to utilise the political aspects of the matter now. This is a very serious matter. If we postpone the debate on Dr. Rao's motion and allow certain other motions to be discussed on the Punjab crisis, I do not think it will be proper.

SHRI Y. B. CHAVAN : Sir, I would like to give a further piece of information which I received when the debate was going on. It is an unconfirmed report but I thought I should give it to the House. My information is that the application for stay has been refused but they have given them leave or a certificate to appeal to the Supreme Court.

AN HON. MEMBER : It is still worse.

SHRI Y. B. CHAVAN : I am not saying it is better or worse, I am only giving another piece of information.

SHRI MADHU LIMAYE : Post office Chavan.

SHRI Y. B. CHAVAN : My hon. friends take very convenient positions. Whenever State legislatures are in existence and State Governments are functioning the duty of the Home Minister should be that of a postmaster. You should accept this position. There is nothing wrong about it. The Government is functioning as long as the state legislature is either not suspended or dissolved. The presumption is that the State legislature is functioning. Let us not say that the Home Minister is functioning as a postmaster. He is in such cases merely to be a postmaster. There is nothing wrong. That is the constitutional position of the Home Minister. You should support it in the name of the autonomy of the States.

I entirely concede that this is certainly a very serious constitutional position. This is a constitutional crisis. There is no doubt about it. I am expected to anticipate things. I can only assure this hon.

House that we will certainly very carefully and seriously consider the situation as it is developing.

Hon. Members are free to make suggestions. Unfortunately, I am not in that position to make suggestions here.

श्री मधु लिमये : इधर आ जाइये ।

SHRI Y. B. CHAVAN : If I come that side then you would not be able to ask me that question. Then there is no question of any dialogue between you and me. As I said, there is a constitutional crisis. Two or three alternatives appear to be there. Firstly, the Chief Minister can advise the Governor to call the legislature and get the whole thing corrected. Secondly, they can go to the Supreme Court and try to get the decision reserved or accept the consequences of the decision. The third alternative which is also conceivable is that the Governor also takes note of the Constitutional and makes a report about the constitutional position to the Central Government, to the President. These are the only three alternatives we can see. I do not know which alternative will materialise ultimately. I do not think we should presume a certain situation. Certainly, this House has got all the responsibility to consider, examine and express its views on everything. I cannot naturally restrict any function of this House. I would certainly like to expand it if I can. At the same time we cannot presume that a certain alternative has materialised and act on that basis. Most of the suggestions made by hon. Members are on the presumption that the third alternative has emerged. I do not think this will emerge. In order to be constitutional it is much better not to anticipate things in constitutional matters because that will be another indirect or subtle form of fraud on the Constitution. I do not want to take a decision on that basis.

I would like to make a reference to what Shri Nath Pai said, that I took certain decisions. I remember what I said that day. Shri Nath Pai was presuming that Government of India acted at the time when the Ordinance was issued or the Act was passed. It is again a fabrication of certain new facts. The Ordinance was issued on the advice of the State Govern-

[Shri Y. B. Chavan]

ment there by the Governor. It was not the Government of India which did those things.

Then, how can we be held responsible for this? Again, one hon. Member made a very wrong statement about it.

SHRI NATH PAI : I said that you almost acquiesced in it. You almost appeared to defend it. I never said that you fabricated it.

SHRI Y. B. CHAVAN : I am coming to that. I have not read and verified it. If I remember aright, what I said was this. I have not defended the Ordinance or the Act. What I was defending was the act of the Governor in accepting the advice of the Government. I said that was constitutional.

श्री मधु लिमये : नहीं, नहीं। यह नहीं कहा।

SHRI NATH PAI : It is not true. If he is acting in an unconstitutional manner the courts will decide it.

SHRI Y. B. CHAVAN : I was then defending the Governor. I was not defending the Government. These are two different things. I was not defending the Government; I was defending the Governor.

SHRI NATH PAI : That is hair-splitting.

SHRI Y. B. CHAVAN : As long as the Governor accepts the advice of the Government, he is constitutional. And if the advice given by the Government is unconstitutional, the Governor is not responsible for this. These are two different positions. If the hon. Members do not see the difference between these two positions, it is not my fault. My only point that day was this; I was not defending the Government or the Act; all I was saying was that the Governor was completely constitutional in accepting the advice of the Government. If that advice ultimately proved to be unconstitutional, it is not the Governor's responsibility.

Hon. Members claim knowledge of Constitution so much that they anticipate the decisions of the High Court. If any other Member makes any comment, they say they are ignorant. But they do not understand the basic distinction between these two constitutional positions.

श्री मधु लिमये : मुझे इस पर ऐतराज है। उन्होंने पहले कहा था हम को।

SHRI Y. B. CHAVAN : I would like to assure Shri Limaye that we admire his parliamentary skill. If we want to function in a parliamentary democracy, we certainly concede your intelligence; but if there is unwillingness to concede intelligence on others, it is complete arrogance, which certainly cannot be accepted..... (Interruptions).

श्री मधु लिमये : उन्होंने मुझे ताना मारा था। मैंने पहले नहीं कहा था। उन्होंने कटाक्ष किया था।

SHRI NATH PAI : We are not discussing arrogance; we are discussing the Punjab High Court judgment. He is sidetracking it cleverly.

श्री मधु लिमये : कटाक्ष उन्होंने किया था, हमने नहीं किया था।

SHRI RANGA : When my hon. friend questioned the intelligence of another hon. friend, he was good enough to accept my advice and the advice of everybody and he was generous enough to withdraw his words. At that moment I found him to be most extraordinary and unusual. Because generally he is like Vigneshwara. He does not express any emotion. But on this occasion we caught him red-handed. Then he said "No, no". Now he is committing the same blunder. Let him withdraw that.

SHRI Y. B. CHAVAN : I am not committing any blunder.

Let us come back to the points; let us come back to Punjab. I very well understand the anxiety of this hon. House and we should take serious notice of this dis-

ussion. I say that with all the sincerity and all the responsibility at my command. I would like to assure this hon. House that the Government will certainly urgently and sincerely and carefully consider all the constitutional aspects, and the political issues involved also, as and when those questions have to be considered, in course of time. I cannot say what will be done when. Even if we discuss it tomorrow, possibly I may not be in a position to say anything about it.

SHRI RANGA : We are suggesting tomorrow because we also need time to think about it.

SHRI Y. B. CHAVAN : What I am saying is even if we meet tomorrow and discuss it, I may not be in a position to say much about this matter. Therefore, I do not think anything would be lost in leaving this matter to the calmer consideration either of the Legislature of Punjab, or the Supreme Court, or ultimately on the advice the Governor in this matter may tender to the President.

MR. SPEAKER : The question of the House sitting tomorrow is, after all, a small matter. I do not mind it, if it is necessary. I am at the disposal of the House. I am not in a hurry to run away. But the one point which should be borne in mind by everybody, including Shri Nath Pai, is that the State Legislature is there, as sovereign as ourselves. It is not in suspension or hanging. It is there. Only, the Chief Minister might not have called it... (*Interruptions*). Now, I am on my legs. You must allow me to have my say. The State Legislature is there anyway, until the Assembly is dissolved or President's Rule is imposed. So, I think Parliament will have to give a chance to the State Assembly to meet. The Governor must immediately summon the Assembly.

If the Assembly fails to function—the government may be there or may not be there; it is not our concern; the Assembly will take care of it, whether this government should continue or some other government should come—the Assembly must assert itself now whatever may happen.

The Supreme Court also is there and if permission is given for appeal,

naturally tomorrow they are going to file an appeal in the Supreme Court.

SHRI NATH PAI : Parliament is not preventing the Assembly; it is the local government which is preventing it. Will Shri Chavan give the undertaking that the Assembly will be called ?

MR. SPEAKER : As I said in the Speakers' Conference, if the Government blocks the meeting of the Assembly, the Assembly must assert itself. A Minister cannot say that he will lock up the door and go away; nor can the Speaker say that. Anyway, when the Assembly is still there and has full authority, how are we seized of the matter ? We are competent, no doubt. To discuss anything happening anywhere in India this august Parliament is competent, but the Assembly is still there to be seized of the matter. They must meet tomorrow, or the day after, in a day or two, and take note of the situation. They must be as excited as we are here. We consider this as a serious matter and they must consider it much more serious. After all, it is a constitutional crisis about which all parties must be concerned ; it is not a matter of parties or of opposition and government. The Assembly must meet. They have the competence to resolve it. They can either throw out the Government or ratify the Appropriation Bill. What they will do is their business, but they are competent to take charge of it. Meanwhile, the Government is also thinking of going to the Supreme Court and all that.

It is not a question of meeting tomorrow. What after all, is one day more ? It does not matter. But what is it that we can discuss when the Assembly is competent to be seized of the matter ? That is exactly my difficulty. I have not been able to understand that point. If you want to discuss, we can straightaway talk about it if the House agrees. If any suggestions are to be given by you, I will have absolutely no objection. If the House agrees, non-official business can be postponed and we can talk for an hour about this. I do not mind it. It is not the question of time. If it is your desire that we should discuss it, we can discuss it here and now and postpone the non-official business. I have absolutely no

[Mr. Speaker]

objection, but personally I feel that this is not the time because it is not the question of Punjab alone. Tomorrow it may happen somewhere else that a decision of the Government or of the Assembly may be reversed by the court and when the Assembly is there, is Parliament going to take up the discussion? The Assembly must be made to function.

SHRI NATH PAI : That is the only point we want to be assured of. I fully agree with you. We will submit to your guidance in this matter. We would not like to press this matter since you make this plea, but is Shri Chavan, the Home Minister, prepared to assure what you promise categorically that the Assembly will be allowed to discharge its duty and that the fate of the Government will be decided on the floor of the House? He has the power under article 355... (*Interruption*).

MR. SPEAKER : Let us not go back to shouting. It is a very important point. The Assembly must meet. The Assembly is the authority. I have been holding this view from the beginning. It is a federal Constitution; the Assembly is autonomous and is the most powerful thing there. If somebody blocks the meeting of the Assembly, I think there must be some constitutional provision somewhere to make the Assembly meet. The Home Minister may examine and look into this aspect of it.

SHRI NATH PAI : Under article 355 he can ask the Government (*Interruption*).

MR. SPEAKER : I am sure, the Home Minister knows about article 355.

SHRI NATH PAI : He knows the Constitution as well as I do; sometimes better. We are prepared to respect your plea fully as we always do, but what about his response to your plea that the Assembly must meet? He is observing a very strange silence.

MR. SPEAKER : I do not think it makes any difference to the Home Minister whether the Assembly meets or not.

SHRI BAL RAJ MADHOK : The position in Punjab today is that the Chief Minister refuses to call the Assembly. When the Assembly was called, it was not allowed to function. If this thing continues in Punjab, should we sit silent here? He should give an assurance that the Assembly will be allowed to function.

SHRI Y. B. CHAVAN : The hon. Member said that I should give a guarantee of calling the Assembly. How can I give it? But certainly I subscribe to your view that in this matter the State Legislature is supreme.

SHRI NATH PAI : It should be called immediately.

SHRI RANGA : It should be convened immediately.

SHRI Y. B. CHAVAN : Yes, I feel. But how can I give an assurance?

SHRI ATAL BIHARI VAJPAYEE : He dare not.

SHRI Y. B. CHAVAN : I cannot.

MR. SPEAKER : All of us are agreed that the State Assembly must meet. To the extent the Home Minister can help, they must accept it.

We shall now take up the non-official business.

श्री प्रदल बिहारी वाजपेयी : प्रिविलेज मोशन का क्या हुआ ?

MR. SPEAKER : मैं दूंगा ! अभी समय है । I will take a little more time. I am here throughout the day.

16.31 hrs.

ARREST OF MEMBER
(Shri Onkar Lal Berwa)

MR. SPEAKER : I have to inform the House that I have received the following communication dated the 10th May,