

[Shri Surendranath Dwivedy]

the merits of this particular question. But as regards calling-attention-notice or adjournment motions, you have been following a policy, with the support of almost the whole House as such. I think there are occasions when on technical...

**Mr. Speaker:** If hon. Members desire, I can request them to come to my Chamber. That can be discussed there.

**Shri Surendranath Dwivedy:** I think we should follow the salutary principle which we have so far been following. Whenever there is a matter which is highly important, it should be left to the Speaker to mention it, and if the Members feel exercised, they can raise it in the House with your permission. I think this will be a salutary principle. We accept that decision. By and large, ordinarily, it should not be raised. That is how we have proceeded in the matter. I think this should be followed as a matter of policy.

**Shri S. M. Banerjee (Kanpur):** I have to submit two things, one is about your ruling and the other is about calling-attention-notice and adjournment motions.

I have been pleading in this House that calling-attention-notice are tabled on the basis of some information which has appeared to us of urgent public importance. Your ruling that the arrest of a person other than a Member of the House cannot become a matter of urgent public importance and, therefore, cannot be the subject-matter of a calling-attention-notice is one with which I respectfully disagree, though I bow to it. I say this because today some people may be arrested who are not members of this House. According to the rules of procedure, we feel that it may be a matter of urgent public importance which can be raised through a calling-attention-notice. So, a calling-attention-notice is based on a matter not depending on whether

it relates to the arrest of a particular person or persons who according to us may be very great or important, but depending on whether the matter is one of urgent public importance. And you in your wisdom has to decide whether it is of such importance. So there is a genuine feeling in this House that your ruling will amount to some sort of a curtailment on our right of representing the people of our constituencies and of the country. That will be bad thing.

**Mr. Speaker:** No, no.

**Shri S. M. Banerjee:** As regards the calling attention notice, I welcome the observation you have made. At least you allowed Shri Ranga to explain the point. This is our earnest desire so that it can be decided whether the matter is a Central matter or a State matter. But we are not given an opportunity to do so. You always call us in your Chamber. We have no grouse against it. But I submit opportunity should be given to the Members to prove in this House and argue, if necessary, that the matter is of urgent public importance.

**Mr. Speaker:** It cannot be proved in the House. Shrimati Renu Chakravartty. There is a calling attention notice.

12.14 hrs.

RE. MOTION FOR ADJOURNMENT

**Shri Nath Pai (Rajapur):** Before you pass on the next business, may I make a submission, not on the matter which has been under discussion so far, but on a matter of parallel importance?

**Mr. Speaker:** I would request him to write to me then.

**Shri Nath Pai:** I have written also. I have followed all these directions very scrupulously. I had tabled my adjournment motion. I got your word

that you are not pleased to admit it. Then I wrote to you a letter. I am just claiming.....

**Mr. Speaker:** That is good enough. I have not given him permission to raise the matter in the House.

**Shri Nath Pai:** May I at least be permitted to make a very brief submission?

**Mr. Speaker:** I would just put this to the hon. Member. If we proceed on this basis that I shall have to answer every notice here because every Member has a right to raise it in the House, what will be the result? Today, there were not such a large number. But sometimes I get 30 notices in my Chamber. If 30 Members stand up one after the other and I have to explain and they argue with me as to why I have disallowed it and submit that it must be taken and I should revise my decision here in the House, is that possible to do?

**Shri Nath Pai:** I was not doing that. We have always followed your ruling very scrupulously in this matter.

In the first place, my plea to you is this. Unless you give me permission, I do not want to take you by surprise by mentioning the subject, I will not indulge in those tactics, but certainly the kind of matter I would like to raise in the House by way of an adjournment motion is not one of those innumerable small matters. It is very rarely that we are confronted with a situation like the one that we try to raise.

**Mr. Speaker:** That was about U.P. That cannot be raised. Yesterday I have given a ruling. This is not the earliest opportunity. Yesterday it was raised. (*Interruptions*).

Order, order. Certain consequences have to flow from the decision that was taken there by the legislature or the judiciary afterwards, and if these are being implemented by subsequent

acts, there is nothing new that has arisen. Yesterday, we took a decision and there I gave my ruling. That cannot be raised here. How can I allow it to be raised here again today?

श्री राम सेवक यादव (बाराबंकी) :  
अध्यक्ष महोदय, आज नई बात पैदा हो गयी है ।

**Shri Nath Pai:** May I point out that I was sitting in the House hearing attentively to what was happening here. I did not know that there was an adjournment motion, and by whom it was sought to be moved. You said there was some correspondence between you and another Member. Certainly, the House was not taken into confidence. The admissibility of an adjournment motion was never raised. I never challenge your right to disallow a motion, but at least on an important matter like this, we should speak. I have taken an oath under the Constitution when I became a Member that it will be my principal duty to owe allegiance to the Constitution and see that the work of this House is carried on in accordance with the Constitution. My plea is that in U.P. the Constitution has been brought into disrepute, and it is a matter of such vital importance to all of us. I do not think it is a party matter at all; in U.P. it was not, and here it is not, and in that spirit I want to plead with you and explain why I have tried to raise it.

If you will bear with me for two minutes to make a submission, my whole contention is this, that there is a duty cast on us under the various provisions of the Constitution.

**Mr. Speaker:** If he has any case, he can come and convince me in the Chamber. When I have given a ruling, that stands, and I cannot revise it. Yesterday, I mentioned this matter, not that the Members did not know. I mentioned this matter particularly. Some observations were made by some other Members also. Will he kindly resume his seat?

**Shri Nath Pai:** May I say something—after you have finished?

**Mr. Speaker:** Yesterday, I had mentioned the subject, the issue that was there, and then I had asked certain Members also whether they could show me any provision of the Constitution under which we could take cognizance of this matter. I heard them, and after hearing them, I was satisfied that there was no constitutional provision which gave us power to take up the matter. That has been closed yesterday. So, anything that flows from that is a continuation of that. There is nothing new that has arisen. Therefore, I cannot take it up. If the hon. Member still feels that he has a case to be argued, certainly I would welcome him and request him to come over and explain to me. That is all I can do.

Shri Anthony.

श्री राम सेवक दाव : अध्यक्ष महोदय,  
मेरा एक विवेदन मुन लें ।

अध्यक्ष महोदय : जं कानून की बात है  
उसे मैं पहले मुन लूं ।

**Shri Frank Anthony** (Nominated—Anglo-Indians): With great respect to you, this is a matter of unique significance and of vital importance. Every one of us is agitated by it. Now, the discretion is entirely with the Chair, and the Chair is not bound to blot out an adjournment motion. You are aware of Rule 60.

**Mr. Speaker:** Which rule?

**Shri Frank Anthony:** I am sorry, 56 is the rule. The convention that has been honoured is this. If the matter is of sufficient vital importance, it can be raised. This matter is of unique importance, because many of us feel that at least the Central Government is the final custodian of the Constitution. Here, the whole Constitution is being brought into utter disrepute, and there is some-

thing which is entirely new—an order for the arrest of two members of the judiciary, a matter with which we are directly concerned. Are we going to abdicate our authority in this matter?

**Shri Nath Pai:** You should, therefore, allow us to speak on the admissibility.

**Shri H. P. Chatterjee** (Nabadwip): He has a right to be heard. You are satisfied. We should also be satisfied.

श्री राम सेवक दाव अध्यक्ष  
महोदय, मेरा विवेदन मुन लाजिए ।

**Shri Nath Pai:** Mr. Speaker, I would just request you to bear with me, hardly two minutes. I am sorry to have to say that I did not hear yesterday the text of the adjournment motion being read here; had I heard it I would not have come here seeking to raise the same subject. But there is another important matter; even if it were raised here, subsequent developments have taken place with regard to which we could not sit idle in this House. I read barely half of it yesterday but today...

**Mr. Speaker:** I request him to be brief.

**Shri Nath Pai:** I shall be very brief, Sir. The point is whether the Government of every State is carried out in accordance with the provisions of the Constitution. This is a necessity enjoined upon Parliament when there is a Proclamation of Emergency. My submission is that in the manner that things have taken place in U.P., Government, according to the Constitution, is very much in jeopardy and when that happens, Parliament cannot sit idle.

Article 226 of the Constitution lays down:

Notwithstanding anything in article 32, every High Court shall

have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government, within those territories directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*...."

There is this over-riding provision in the Constitution and the High Court in U.P. tried to discharge its obligations. The U.P. Legislature has interfered with this and therefore, interfered with the provisions of the Constitution.

May I also read out article 211? It is also very important and an over-riding article; it says that the State legislature shall not interfere with the duties of the High Court. Then again, article 21 says that no person shall be deprived of his life or personal liberty except according to procedure established by law. There is no procedure established whereby a citizen by the orders of a legislative assembly can be deprived of his liberty. This is what precisely happened and the High Court under article 226 came to the rescue of the citizen. The U.P. legislature in its misguided enthusiasm about its misguided....

**Mr. Speaker:** Order, order. We cannot pass strictures on the legislatures or the judges; I have heard him. He may resume his seat.

**Shri Nath Pai:** But I have not made the point clear. I read out to you the provisions of the Constitution and I shall now explain how the Constitution is being brought into disrepute and where the responsibility of this Government comes in.

We find that the Governor is responsible to the Union Government; he is the nominee of the Union Government and he was not present when these things took place. The Governor ought to have taken the Speaker of the assembly into confidence, told him the consequences of

the action and seen that the Constitution is carried out....(*Interruptions*.) Why are these people crying? You wanted to know how it was the responsibility of the Union Government and I am showing it. Is not the Governor a nominee of the Union Government to uphold the Constitution there? The Assembly should have been dissolved by the Governor because the Assembly was failing in its duty....(*Interruptions*.)

**Mr. Speaker:** He does not yield and four hon. Members stand up! He may resume his seat.

**Shri Nath Pai:** Sir, I do not want to impose myself and if you do not allow me to continue I shall resume my seat. I have made out a case that the Constitution has been brought to ridicule and the rule of law has been brought to jeopardy....(*Interruptions*.) In view of that, I think the Union Government has failed in issuing the necessary directions to the Governor to see that the Constitution is upheld. In view of this failure, I plead with you that my motion for adjournment be admitted.

श्री राम सेवक यादव : अध्यक्ष महोदय, मेरा एक निवेदन सुन लें...

अध्यक्ष महोदय : उस बात को माननीय सदस्य को दुहराने की जरूरत नहीं है। श्री नाथ पाई ने उसे बड़े अच्छे तरीके से कह दिया है अलबत्ता कोई नई चीज कहना चाहते हों तो थोड़े में कह दें।

श्री राम सेवक यादव : मेरा निवेदन तो आप पहले सुन लें। अभी जैसा कि श्री नाथ पाई ने कहा, उन बातों को मैं अक्षरशः मानता हूँ और उनसे रहमत हूँ। अब जो आपने मुझे से कहा है कि कोई नई बात कहनी ही तो मैं कहूँ तो श्रीमान्, वह नई बात जो पैदा हुई है वह यह है कि इलाहाबाद उच्च न्यायालय की पूरी बेंच ने वहाँ के अध्यक्ष को श्रीर उनके लेजिस्लेचर को वारण्ट न जारी करने का आदेश

[श्री रामसेवक यादव]

दिया है और अगर इस बीच वारण्ट जारी हो गया हो तो उसको तामोल न करने की हिदायत दी है। इलाहाबाद हाईकोर्ट की पूरी बेंच ने तो यह निर्णय दिया है और अन्तरिम निवेधाज्ञा जारी की है और इधर आज हमको सबेरे टेलीफोन से इत्तिला मिली है कि उत्तर प्रदेश विधान सभा के अध्यक्ष ने इसके बाद भी वहाँ वारण्ट जारी कर दिये। नतीजा यह है कि वहाँ की कार्यपालिका और वहाँ की विधायिका दोनों मिल कर, जो उच्च न्यायालय इलाहाबाद का है, जो सर्वोच्च न्यायालय के मातहत है, जो वहाँ की न्याय पालिका है और जो कि केन्द्रीय सरकार के द्वारा कंस्टीट्यूट होती है उनसे जो आदेश दिया, फौसला दिया उसका पालन नहीं हो रहा है। कार्यपालिका का यह कर्तव्य होता है कि न्यायपालिका जो आदेश दे उसका वह अमल में लाये लेकिन ऐसा नहीं हो रहा है। इसलिए मेरा निवेदन है कि वहाँ पर इस समय कोई न्याय व्यवस्था है नहीं। संविधान टूट गया है और एक अराजक स्थिति है...

अध्यक्ष महोदय : अब बैठ जाइये।

श्री राम सेवक यादव : दूसरी बात मुझे यह कहनी है कि श्रीमन्, वहाँ का मन्त्रिमण्डल दो हिस्सों में विभक्त हो गया है...

अध्यक्ष महोदय : अब ऐसी बातों पर हम कैसे जा सकते हैं ?

श्री राम सेवक यादव : संविधान टूट गया है; मन्त्रिमण्डल दो हिस्सों में बट...

अध्यक्ष महोदय : नहीं, बिल्कुल नहीं। जैसा कि माननीय सदस्य ने कहा कि वहाँ का मन्त्रिमण्डल दो हिस्सों में बंटा हुआ है तो इसमें हम क्या कर सकते हैं ? माननीय सदस्य बैठ जायें।

श्री राम सेवक यादव : श्रीमन्, मेरी पूरी बात तो आप सुन लें।

अध्यक्ष महोदय : आप यही बात कहेंगे और मैं इसकी इजाजत नहीं दे सकता। नई बात जो आप ने कहनी थी वह कह ही दी।

श्री राम सेवक यादव : बहुत से लोगो ने भी शायद वही बातें दुहरायी होंगी। मेरी भी बात पूरी सुन लें।

मेरा यह निवेदन है कि जब कार्यपालिका अपने कर्तव्यों को पूरा न करे और न्यायपालिका ने जो आदेश दिया है उसके द्वारा कार्यान्वित न किया जाय तो वह एक गम्भीर मामला हो जाता है। विधायिका, न्यायपालिका और कार्यपालिका यह तीन अंग होते हैं किसी सरकार के और अगर यह तीनों अंग अपनी अपनी जगह पर ठीक ढंग से न चले तो संविधान टूट जाता है। ऐसी स्थिति पैदा हो जाने पर विधान का धारा ३५५ में यह लिखा हुआ है :—

"It shall be 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."

मेरा निवेदन है कि चूंकि न्यायपालिका के अधिकारों में हस्तक्षेप हो रहा है और उसके आदेश को पूरा नहीं किया जा रहा है इसलिए श्रीमन्, उसके आगे जो आर्टिकल ३५६ है उसमें केन्द्र को अधिकार है कि ऐसी स्थिति जब कहीं पर पैदा हो जाय तो प्रेजिडेंट उसमें हस्तक्षेप कर सकेंगे और वहाँ का काम वह स्वयं सम्हाल सकेंगे। इसलिए मेरा निवेदन है कि भारत सरकार और प्रेजिडेंट का कर्तव्य था कि वह देखें कि संविधान के मुताबिक सरकार प्रदेशों में चले और अगर कहीं संविधान टूट गया है तो वहाँ पर उसको हस्तक्षेप करना चाहिए और वहाँ का काम उसे स्वयं सम्हालना चाहिए।

Shri Frank Anthony: Mr. Speaker, Sir, I merely wish to supplement

what my hon. friend Shri Nath Pai has said. First of all, you are well aware that....

**Shri S. S. More (Poona):** Sir, on a point of order. You had given a very definite and almost irrevocable ruling yesterday, and that very ruling is being discussed at length by the hon. Members of the Opposition. There are so many rulings and decisions that the Speaker's rulings shall not be questioned.

**Mr. Speaker:** Yes; they cannot be questioned, but there are new questions that are being raised. Let me hear if there is something new.

**Shri Frank Anthony:** May I make my submission in three parts? There is no question here of our traversing or seeking to resist the exercise of authority by a State legislature. What we say is this: everyone of us is bound by the Constitution; it is sovereign. Look at the Constitution, look at its *prima facie* implications. As Shri Nath Pai says, there is the fullest amplitude of power in the high courts under article 226 to issue orders to any authority *ex facie* (*Interruption*).

**Mr. Speaker:** Order, order.

**Shri Frank Anthony:** My hon. friends, as laymen do not know that any authority means any authority. (*Interruption*).

**Mr. Speaker:** Order, order. In this manner, we shall not be able to achieve anything. When one Member speaks, the others must listen. We will have it, one by one.

**Shri Frank Anthony:** With great respect, I am mentioning the ordinary, grammatical meaning—I am speaking to you who are an ex-judge—and that is, any authority will mean the State legislature also. So far as the Supreme Court is concerned, it would be the Centre. Nobody can question the exercise of these powers

by the Judges, under article 211. When you get an order of arrest being made against two Judges who are exercising their authority, which cannot be questioned in any legislature, then immediately article 355 is attracted. With great respect, I say that this *non possumus* attitude of the Government is understandable. They were bound to go to the President and say that the Constitution has been palpably violated. (*Interruptions*). How can the decision of the High Court be set aside except by following the process of the Constitution? The legislature should have gone up under article 226 to the High Court or failing the High Court, they should have gone on special leave to the Supreme Court. These are the processes of the Constitution.

The Constitution has been palpably violated. We see the possible position of two Judges being subjected to a process of arrest and they will not advise the President under article 355 to say to the legislature, "You must wait; let this matter go to the Supreme Court, failing which I will be obliged to dissolve the legislature". That is the duty of the Government. Otherwise, the whole judiciary is brought into contempt.

**Shri U. M. Trivedi (Mandsaur):** The position is, either the Assembly has exercised jurisdiction not vested in it by law or the Judges have exercised jurisdiction not vested in them by law. In any event, both of these do conflict with the provisions of the Constitution. If they conflict with the provisions of the Constitution, it is the duty of this august House to decide and disentangle this position as to who has violated the principles of the Constitution as laid down. It must be decided here only, because if this Government think that the Judges have acted in a *mala-fide* manner or in a manner not becoming of them.....

**Shri Frank Anthony:** How can they act in a *mala fide* manner?

**Shri U. M. Trivedi:** That is my view.

**Shri Nath Pai:** Is it as bad as saying that the Judges act in a *mala fide* manner and you are allowing it? (*Interruption*).

**Mr. Speaker:** He is not saying that the Judges have acted in a *mala fide* manner. He only says, suppose like that.

**Shri U. M. Trivedi:** Or, if the legislature has acted in a *mala fide* manner, then the duty will still be cast upon this House to take proper action, either by having an Address presented to the House for removal of the Judges or by calling upon the President to dissolve the legislature. In any case, this is a matter which must be considered by this House.

**Mr. Speaker:** We have heard eminent lawyers and I am benefited by their advice.

**Shri Harish Chandra Mathur (Jalore):** Not the Law Minister.

**Mr. Speaker:** I will hear him also.

श्री प्रकाशवीर शारत्री (बिजनौर) :  
अगर ला मिनिस्टर ने पहले चागला साहब  
भी कुछ बन्ना दें, तो बड़ा अच्छा है।

**The Minister of Law (Shri A. K. Sen):** Certainly my colleague is very welcome, but since you have called upon me, Sir, I shall try to discharge my function as ably as I can, though I feel very diffident on an occasion like this. I must frankly say that whatever the merits of this, I have been extremely concerned at the way the person and the dignity of the Judges have been sought to be touched. The matter is pending the consideration of the highest legal authority in the country—the Attorney-General—and I do not wish to say anything which will prejudice the consideration of that. But let me give vent to the expression of the entire judicial conscience of this

country that this country will not easily tolerate any affront to our Judges. I have been very concerned myself, being a lawyer all my life and having tried in my humble way to assist the Parliament in the discharge of its constitutional functions. Whether the Parliament can adjudicate upon this matter or not has to be seen by the Attorney-General.

Secondly, a Judge can only be corrected by a higher court and not by any other authority. The Constitution which we all obey enshrines the judiciary on a very high pedestal. No one, however mighty he may be, can touch that person.

**An Hon. Member:** What about the legislature?

**Shri Iqbal Singh (Ferozepur):** What about the Parliament?

**Shri Thirumala Rao (Kakinada):** May we know whether the Law Minister is explaining the position of the Government or he is giving his personal opinion?

**Shri Nath Pai:** It is the opinion of the Law Minister of India.

**Shri A. K. Sen:** The President will form his opinion after he gets the advice from the Attorney-General. As I have been called upon by you, Sir, I am giving my own opinion.

**Shri Nath Pai:** Do not be deterred by what they say.

**Shri A. K. Sen:** I venture to submit, Sir, that even the Parliament cannot judge our judges, and the judges can only be judged by a higher court. Even the Parliament, if it acts without jurisdiction, the courts can correct it. Many laws passed by the Parliament are declared bad because they had acted without jurisdiction. Similarly, in their administrative capacity if they act without jurisdiction—I do not know whe-

ther they have acted or not, because, as I said, I am not touching on the merits—who will judge whether any authority, any legislature has acted strictly within its own jurisdiction, has acted *bona fide* in the discharge of its functions within its jurisdiction or not? Only the courts will judge it. This country knows no other authority to judge excepting the court.

Therefore, Sir, this is my own view. But I entirely agree with you, with all respect to those hon. Members of the Opposition who have raised this point, that pending consideration of the matter by the Attorney-General and pending the decision of the President in this matter, any discussion in this House will be premature and might prejudice a dispassionate judgment on the matter. This is my view (*Interruptions*).

**Mr. Speaker:** Order, order. I have heard Shri Nath Pai. I have heard others also. I am not allowing anybody now.

**Shri Khadilkar (Khed):** Sir, I rise on a point of clarification.

**Mr. Speaker:** Order, order. I do not require any other advice now.

**Shri Ramanathan Chettiar (Karur):** Sir, I rise to a point of order.

**Mr. Speaker:** No point of order arises out of this.

**Shri Khadilkar:** Sir, I am raising a point of order.

**Mr. Speaker:** Order, order. I hope hon. Members will excuse me. I am not going to allow any further discussion on this at this stage.

**Shri Ramanathan Chettiar:** Sir, you must hear the layman's point of view (*Interruptions*).

**Mr. Speaker:** Order, order. I have heard this side and I have also heard that side. I will not allow any fur-

ther discussion on this. I would request hon. Members to resume their seats.

**Shri Parashar (Shivpuri):** Sir, a constitutional query has been raised here, that the Parliament cannot question.....

**Mr. Speaker:** Order, order. Hon. Member may resume his seat. I am not allowing any hon. Member now.

**Shri Ramanathan Chettiar:** Sir, You must hear the layman's point of view. You have heard eminent lawyers (*Interruptions*).

**Mr. Speaker:** Order, order. I am surprised at this attitude of hon. Members. I am standing for the last so many minutes. I have heard both sides, and still hon. Members are not allowing me to speak.

**Shri Ramanathan Chettiar:** This is a crucial matter concerning the sovereignty of the legislature. It is the sovereignty of the Parliament that is in danger. It is being questioned in the court of law (*Interruptions*).

**Mr. Speaker:** Order, order. He may kindly resume his seat.

**Shri S. M. Banerjee:** Sir, I have a submission to make.

**Mr. Speaker:** No, Sir. I am not going to allow.

**Shri Parashar:** Sir, you have to give us an opportunity.

**Mr. Speaker:** Order, order. When I am not allowing anybody, how can I allow him. He must sit down.

**Shri Khadilkar:** Sir, give me one minute.

**Mr. Speaker:** No, he must sit down.

**Shri Ramanathan Chettiar:** Sir, you must give us an opportunity.

**Mr. Speaker:** Hon. Members would hear me and after that we will decide.

**Shri Khadilkar:** Sir, will you kindly give me one minute?

**Mr. Speaker:** No, Sir.

**Shri Khadilkar:** You asked the Law Minister to give his opinion on this (*Interruptions*).

**Mr. Speaker:** All right then. I will sit down. Nothing shall be recorded now.

\* \* \* \*

**Shri S. M. Banerjee:** Sir, I rise on a point of order.

**Mr. Speaker:** What is the point of order?

**Shri S. M. Banerjee:** It is really not a point of order.

**Mr. Speaker:** Then he might sit down.

**Shri S. M. Banerjee:** Sir, may I point out....

**Mr. Speaker:** Order, order. I request him to sit down. I am not allowing any discussion.

**Shri Nath Pai:** I do not want to raise.....

**Mr. Speaker:** If the House is so disposed, certainly, I will allow all the members to speak. Let the discussion go on a discussion which is useless, fruitless and not capable of bringing any result. If anybody wants to speak, let him speak..... When I am on my legs, members do not allow me to speak. I was on my legs for five or six minutes and in spite of my repeated requests Members did not sit down. Even now members are standing and speaking without being identified.

**Shri Nath Pai:** You are sitting, Sir.

**Mr. Speaker:** But unless he is identified, how can he continue standing? Now, the Law Minister has given his personal opinion.

**Shri S. M. Banerjee:** It is his own opinion (*Interruptions*).

**Mr. Speaker:** Order, order. Will hon. Members resume their seats or not? Otherwise, I have no choice except to adjourn the House.

**Shri R. S. Pandey (Guna):** Sir, on a point of order.

**Mr. Speaker:** Order, order.

**Shri R. S. Pandey:** If you do not agree, I do not want to raise the point of order. It is only if you would like to hear me that I would like to raise the point of order.

**Mr. Speaker:** What is it?

**Shri R. S. Pandey:** My point of order is this. The Law Minister has explained something on this very issue. Later on, he said "this is my personal opinion". I want to know whether he is entitled to explain on the floor of this House his personal opinion as distinct from his capacity as Law Minister. On this very important question, he is entitled to speak on the floor of the House only in his capacity as Law Minister; not in his personal capacity. We are anxious to hear his views as Law Minister and not in his personal capacity.

**Shri Ramanathan Chettiar:** My point of order is this.

**Mr. Speaker:** Is it also a point of order?

**Shri Ramanathan Chettiar:** No. I must also be given an opportunity to explain the view point of a lay man. You have heard eminent lawyers.

**Shri Surendranath Dwivedy (Kendrapara):** Is he supporting or opposing it?

**Shri Ramanathan Chettiar:** There is no question of supporting or opposing. I would like to recall...

श्री बागड़ी (हिलार) : गृह मंत्री जी बँडे हुए हैं उन से पूछ लें ।

**Mr. Speaker:** Order, order. (*Interruptions*) If nobody listens to me, I shall have to adjourn the House. If I am not heard, what can I do. Even those who tell me that my authority is absolute, they do not obey me. That is the tragedy.

**Shri S. M. More:** It is the Opposition members who have started it... (*Interruptions*).

**Shri Surendranath Dwivedy:** Don't say that.

**Mr. Speaker:** It has come from both sides.

**Shri M. L. Dwivedi (Hamirpur):** No senior member has spoken from this side, excepting the Law Minister.

**Mr. Speaker:** The Law Minister has spoken.

**Shri M. L. Dwivedi:** But he has not spoken on behalf of all members on this side of the House (*Interruptions*).

**Mr. Speaker:** Now I must proceed with my own decision. I have heard both sides. I am not giving any opinion about the independence of the judiciary and the sovereignty of the legislature.

**Shri Nath Pai:** We have submitted to you the constitutional position.

**Mr. Speaker:** The Constitution is sovereign. Of course, it is above all. **Even after hearing** all those hon. Members who have spoken, I am not convinced that this Parliament at this stage has any authority to go into the dispute that is going on there. That is what I decided yesterday. **As for the failure of the Government,—** because some hon. Members have said

that the Government must have taken some steps by this time to declare that the constitutional machinery has failed in a State—yesterday it was explained that the Government is trying to get the opinion of the Attorney-General. If the Government wants to satisfy itself by getting that advice, can't we give the Government that much time so that it might satisfy itself about the correct and right position?

**Shri Daji (Indore):** The judges will be arrested in the meanwhile.

**Shri S. M. Banerjee:** The Marshal is going to arrest the judges in U.P.

**Mr. Speaker:** If the Marshal is going, we have no authority to keep the Marshal away.

**Shri Nath Pai:** Has the President no duty to discharge?

**Shri S. M. Banerjee:** If we wait till the advice of the Attorney-General is received.....

**Shri Ramanathan Chettiar:** Sir, you are giving opportunities to members on the other side only.

**Shri S. M. Banerjee:** Sir, may I submit.....

**Mr. Speaker:** I have requested the hon. Member so many times to resume his seat. He always says "Sorry" but there is no effect afterwards.

**Shri S. M. Banerjee:** Sir, I have never done it.

**Mr. Speaker:** So many times he has done it.

**Shri S. M. Banerjee:** If you will ask me, I will go out. I will bow to your ruling.

**Mr. Speaker:** Now the new point that has been raised and brought to my notice is that the warrant of arrest that has been issued has been signed by the Speaker. When the

[Mr. Speaker]

Legislature had taken a decision, how can the Speaker refrain from or refuse to sign that warrant? If this House takes a decision on a particular issue, can I exercise any discretion and say that I will not sign a document which is prepared in pursuance of that decision of the House? So, the Speaker has done nothing wrong in that respect. When it is the order of the House, the Speaker can only execute that order. The decision can be taken only by the House. We need not go into the details. Of course, our judiciary is independent. It is enshrined on a very high pedestal. I have every respect for it. But the Legislature is also sovereign. Now a conflict has arisen between the two which we must somehow resolve. That requires patience on both sides and some discretion. That is what we need at this moment. It is a constitutional crisis. Perhaps, some lacuna might be found in the Constitution itself, because Shri Frank Anthony has now urged that the High Court can issue any writ on any authority. If we stretch it further, it might be said that the High Court can issue a writ to the Supreme Court also, because Supreme Court also comes under the category "any authority". (*Interruptions*) Of course, that is only if the words of the Constitution are taken strictly in their technical sense. So, we have to interpret everything in a just manner so that there might not be any conflict and there is reconciliation between the different provisions of the Constitution.

Government have stated yesterday that they were consulting the Attorney-General, they will get the best opinion that they can and then decide what they should do in this matter. There is nothing new that has arisen now. Therefore, the decision which I gave yesterday that I cannot admit any adjournment motion on this still stands. The second ground of delay also falls to the ground because it was there and we

had discussion yesterday. Whatever has happened afterwards is only a continuation of the previous one.

**Shri Nanda:** A question was raised yesterday as to what the Government was doing or going to do about the matter. I informed the House that we had apprised the Attorney-General of the position as was brought to our notice. The Attorney General said that he would need the proceedings of the Assembly and the copy of the judgment before he applied his mind to it and came to a conclusion. I do not think the House wants that if anybody else has acted in a hurry the Attorney General also should do the same and later on some questions may be raised.

Now, the latest position is that all the necessary documents required by the Attorney General have been obtained from the U.P. Government and the Attorney General is examining the legal questions arising out of this matter particularly with reference to the respective jurisdictions of the High Court and the Legislative Assembly and, further, the question whether it would be appropriate in the circumstances for the President to make a reference to the Supreme Court of India under article 143 of the Constitution. I hope, it will be done very soon; we shall have the opinion very soon.... (*Interruption*).

**Shri Daji:** May I ask a question of the hon. Home Minister?

**Mr. Speaker:** Shrimati Renu Chakravartty.

**Shri Nath Pai:** You said, Sir....

**Mr. Speaker:** I cannot proceed further with that.

**Shri Nath Pai:** You ridiculed us on a point which I want to clarify. This much fairness should be shown to us. You ridiculed us.

**Mr. Speaker:** No.

**Shri Nath Pai:** 'Any authority' does not mean the Supreme Court because the article very clearly says....

**Mr. Speaker:** All right; if that does not mean that, let it remain.

**Shri Surendramath Dwivedy:** May I just suggest that in order to help the Attorney General this part of the proceedings that took place in this House. . . . .

**Mr. Speaker:** I am not allowing any further discussion on this.

**Shri Surendranath Dwivedy:** I am only suggesting that the proceedings of this House so far as they relate to this matter that we have just now discussed may also be sent to the Attorney General so that it may help him.

**Mr. Speaker:** That is a suggestion.

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12.52 hrs.

CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE

JUDGEMENT OF PUNJAB HIGH COURT re: REHABILITATION MINISTRY'S INTERFERENCE IN ADMINISTRATION OF JUSTICE

**Shrimati Renu Chakravartty (Barackpore):** Sir, I call the attention of the Minister of Works, Housing and Rehabilitation to the following matter of urgent public importance and I request that he may make a statement thereon:—

A recent judgment of the Punjab High Court wherein the Chief Justice has made certain observations about Rehabilitation Ministry's interference in the administration of justice by semi-judicial officers at the instance of a Member of Parliament.

**The Minister of Works, Housing and Rehabilitation (Shri Mehr Chand**

**Khanna):** The statement runs into five pages. Will you like me to read it or to place it on the Table?

**Mr. Speaker:** The statement is contained in five foolscap pages. Either we can ask him to lay it on the Table and then at another opportunity I can allow hon. Members to ask questions; meanwhile they may read it...

**Shrimati Renu Chakravartty:** You may take it up tomorrow then.

**Mr. Speaker:** He might lay it on the Table. [*Placed in Library. See No. LT-2569/64.*]

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ARREST OF MEMBER

**Mr. Speaker:** I have to inform the House that I have received the following telegram, dated the 23rd March, 1964, from the Additional District Magistrate, Lucknow:—

"Shri Yuveraj Dutta Singh, Member, Lok Sabha, arrested at Lucknow on March 23rd at 11:15 A.M. for defiance of orders under Section 144, Criminal Procedure Code. He is lodged in Lucknow District Jail."

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12.53 hrs.

CONVICTION OF MEMBER

**Mr. Speaker:** I have to inform the House that I have received the following wireless message, dated the 23rd March, 1964, from the Inspector-General of Police, Hyderabad:—

"Judicial Magistrate, First Class, Cuddapah, convicted Shri Y. Eswara Reddy, Member, Lok Sabha, on the 23rd March, 1964 to one week's simple imprisonment under Sections 143 and 447, Indian Penal Code, under each section, and the sentences to run concurrently."

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