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Panel of Chairmen :
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2. Smt. D. Indira
3. Sri Baddam Yellareddy
4. Smt. Rani Sundarammani

Secretary : SRI A. SHANKER REDDY,
            B.A., LL.B.,

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OFFICIAL REPORT

Eleventh day of the First Session of the
Andr. Pradesh Legislative Assembly

ANDHRA PRADESH LEGISLATIVE ASSEMBLY

Saturday, the 1st April 1972.

The House met at Four of the Clock.

(Mr. Speaker in the Chair)

JOURNALS OF THE DAY: QUESTIONS AND ANSWERS

S. No 1. Sri S. Satyavati V. Srikishna and V. Lakshman Yams:
Will the hon. Minister for Health and Medical be pleased to state:

(a) the month in which the Entrance Examinations were conducted for the selection of candidates to the M.B. B.S. Course;

(b) whether the results for the same are published;

(c) if not, the reasons for this abnormal delay; and

(d) the probable date by which they are expected to be published?

The Minister for Health and Medical Sri Mohd. Ibrahim Ali Ansari:—(3) The Entrance Test for Andhra area was conducted in the month of December, 1971.

1. Yes Sir.

(c & d) Does not arise.

Sri S. Srikishna (Mangalagiri).—This has become a practice of the Government to delay publication of results and play with the lives of the candidates. Can I say it is due to the callousness on the part of the Government to damage the career of the candidates?

Sri Mohd. Ibrahim Ali Ansari:—We were just waiting for the judgement of the Supreme Court regarding the Backward Classes G. O. The Government went with an appeal to the Supreme Court. Immediately after the judgement, we announced the results.

Sri B. Ratnasabapathi (Rajampet):—May I ask the Minister whether I have heard him correctly that the examinations have been
Sri Mohd. Ibrahim Ali Ansari:—Actually the entrance examination has been proved very successful. Before it was introduced the percentage of passes from 0 to 20 percent, whereas now, according to last year results the maximum passes were between 0 to 5 percent. That shows we are really losing the enterprising students.

Sri C V K. Rao (Kakada):—The Minister and the examination were conducted in December, I do not know the results were published or not. What all the candidates whose results have been published we got admissions? You want clearance from the Regional Committee? What is meant by that?

Sri Mohd. Ibrahim Ali Ansari:—As far as the Andhra area concerned, the Regional Committee has to order in regard to this and it is not the case with the Andhra area.

Sri C V K. Rao:—What is the Regional Committee has to do with the rest?

Sri Mohd. Ibrahim Ali Ansari:—This case is within the purview of the Regional Committee.

Sri V. Sr krvinna:—Every year the careers of the students are adversely affected by the decisions of the Government. Not only this year, it is being repeated every year. Will the Government take proper steps and see the academic career of the students will not be adversely affected by the callous decisions of the Government?

Sri Mohd. Ibrahim Ali Ansari:—I assure the Hon’ble Members that in future there will not be any such delays.

Sri C V K. Rao:—There are some boys who must have paid fees to medical colleges. What about their getting admissions into other
Colles. It's not that the results are published late because it will affect the choice of the boy who are going to guide. So, will the Government take necessary steps?  

Sri M. Md. Ibrahim Ali Ansari: I have already informed that due to unavoidable circumstances that was delayed. Here after they will not be a delay.

Sri D. Venktesam (?Kurnool): Since then there was doubt in conducting the examinations from June onward. Now the time is no necessary for the Government to conduct the entrance examination in the month of December end of June. The same mistake was being committed every year.

Sri M. Md. Ibrahim Ali Ansari: Actually, the results were published in November and December, we have ordered to examine.

Sri D. Venktesam: No Sir.

Mr. Md. Ibrahim Ali Ansari: June examination, the results of the PUC were published in the month of November?

Sri D. Venktesam: No Sir. The results were announced in the month of May itself. So, I am asking the Government why it is repeating the same mistake of conducting the entrance examination in the month of December?

Sri M. Md. Ibrahim Ali Ansari: As I have already submitted the delay was not on the part of the Government but due to the announcement of the results. I assure the members that the loss of a year will be made up, as a day in all they were for the first year course. We will make up, and they will not lose the year.

Sri Syed Hassan (Charminar): I am asking about Telangana side. One way they are taking the students through Entrance Examination. In the other way Science Graduates are taken on merit basis.

Sri M. Md. Ibrahim Ali Ansari: They have also to appear for the Entrance Examination Sir.

Sri M. Narayam Reddy (Bodhan): The results of the Entrance Examination in Andhra Region were published to-day. In so far as the Colleges in Andhra Region is concerned whether parity with regard to the Medical Colleges will be maintained even if the delay is there for the publication of the results.

Sri M. Md. Ibrahim Ali Ansari: Naturally because of the different universities... 
Sri Venka Satyanarayana (Vizianagaram) - He has not properly answered, Mr. (Secy to the Gov.) was telling that the results of the entrance examination were not published as yet. Sri V. Venkata Rao - It is so difficult to a Minister. Sir?

Sri V. Srikumara - The students have joined in different colleges to their studies, because the results are not published as yet. Now if they want to join the Medical college, they will have to forego the fees paid to the other colleges. Whether the Government is prepared to pay compensation for them?

Sri Mohd. Ibrahim Ali Ansari - They had to take a chance.

Sri Syed Hassan - Whether Science graduates are being given admissions to the second year course of the Medical studies or the first year course?

Sri Mohd. Ibrahim Ali Ansari - Only first class graduates are admitted.

Sri Syed Hassan - The B.S.C. Who are first class students were not given admission to the second year.

Sri Mohd. Ibrahim Ali Ansari - Naturally we cannot admit all. But to the extent of the seats available we will take.

Sri Syed Hassan - Is it a fact that seats are still vacant. Will the Hon'ble Minister be pleased to take such of the students who have not been taken yet?

Sri Mohd. Ibrahim Ali Ansari - I don't have the information and it is for the hon. Member.

Sri C. V. K. Rao - What is the rationale in conducting the Entrance Examination when already boys passed their qualifying examination? Whether the Government will do away with this irrational system?

Sri Mohd. Ibrahim Ali Ansari - It is rather a very difficult one. As I have submitted that the Entrance Examination has been very successful. When we are admitting the qualifying examination
Sri K. Rao:—One boy who does not get marks in the qualifying examination may get good marks. And another boy who gets good marks in the qualifying examination, may not get good marks in the Entrance Examination so it is entirely individual. Will the Government take some time to think to take the people of the qualifying examination? What is the point in this Entrance Examination?

Sri Mohd. Ibrahim Ali Ansari:—Any way, I leave it to the Hon. Members, to just think of the selves.

Mr. M. Nugi Reddy (Gurajala):—The Minister has not given any answer, Sir.

Sri P. V. Narasimha Rao:—If any boy ultimately selected for the Medical College has already joined in any other Government College, we will give him a set off.
Sri V. Srikrishna: - Very often in the matter of recruitment or selection of students, the Government is inviting litigation. So, is there any assurance that such things are not repeated?

Sri P.V. Narasimha Rao:—That depends on the litigant.

Sri V. Srikrishna:—The policy of the Government is to invite litigation.

Sri M. Mahbub Ali Ansari:—I will give the break up. At present I don't have.

Sri P. V. Narasimha Rao:—I don't understand what are the assurances they are asking for, Sir. We have been trying to find out the best method, a most fool-proof method of admissions so as to meet this situation. So this is a continuous process. Who can guarantee for the next 2 years there is not going to be any change Sir.

Sri V. Srinivasulu Reddy:—As one year has already been wasted will the Government be pleased to consider to have 5 years term for this batch of students.

Sri P. V. Narasimha Rao:—That experiment is a series of experiment on yourself and myself.
Sri M. Selim Ibrahim Ali Ansari: - I will get the break-up and pass the honor. Mem. r.

Sir. P. Ramachandrapuram: You will kindly pass on that in order to the us.

Sri D. Venkataram: - for the information passed on by the Min. there is 6% to 9% passes in the entrance examination, so I am doubtful whether the entire people who have passed will be all to attend or not because seats are very restricted. Were in the name of you to the college authorities to reserve 25% of seats to the 1st and 2nd classes Sir?

Sri Moh. Ismail Ali Ansari: The O. O. has already been issued.

Sri D. Venkataram: - The G. O. is there but it has not been implemented. Will you please stick on to the G. O. now?

Sri Moh. Ismail Ibrahim Ali Ansari: - As far as Medical College admission, we concerned we are strictly following the G. O. We have admitted the bats.

CUT IN POWER SUPPLY

S. N. G. No. 1-Q (Starred) Sri N. Sreenivasulu Reddy: - Will the hon. Minister for Power be pleased to state:

(a) the reasons for the cut in the supply of power in Andhra Pradesh;

(b) the alternate arrangements made by the Andhra Pradesh State Electricity Board to supply of power without interruption or reduction;

(c) whether the power shortage will not affect industrial production and food production this year?

The Minister for Power (Smt. B. Jayapradha): (a) on account of failure of monsoons this year the reservoir feeding Machikond and Upper Sileru Power Stations has not received sufficient inflow of water due to which the generating capacity of these stations has gone down abnormally.

The neighbouring State are not able to continue even the power supplied previously, on account of failure of monsoon in their areas also and troubles in their Thermal Stations at Ennor, Neyveli, Talcher, etc.

(b) All available generation including the very costly generation of Gas Turbo Sets and Hussainagar power House are pressed into service and efforts are still being made by Board and Government to get some power from other States.

(c) All necessary steps are being taken to see that the food production is not affected and to minimise the effect of power cut on industrial production.
Mr. Speaker:—It must be in a question form. If you begin to make speeches there will be no end. Put a question and cut information.

Smt. B. Jayaprada:—Mr. Speaker, Sir, the other day a meeting of all the officers of the Board was convened and instructions were issued to all the the circles S.E.s concerned to see that there will be no cut for more than 8 hours on any single feeder. So far as agricultural pumpsets and the supply. So far as the supply of power is concerned for electrical pump sets they said between 17 and 24 hours only, there will be cut, not beyond that Sir. To that effect instructions were issued.

Mr. Speaker:—That 8 hours period there is cut. There are 24 hours per day. The other 16 hours you will have power. That is what the Hon'ble Minister says.

Sri C. V. K. Rao:—What is the total period? At least the total period should be 24 hours.

Mr. Speaker:—The other 16 hours there will be power.

Sri C. V. K. Rao:—That is not sufficient Sir.

Mr. Speaker:—That is a different thing.

Sri C. V. K. Rao:—That is not sufficient. One lakh acres of land is being affected. Rs. five crores worth of food production is affected. That is my contention. Will the Minister take some steps Sir. Let her discuss this point with the Agricultural department as well as the Electricity Department. Will she take steps to discuss this matter with the Agricultural Department as well as the Electricity Department so much so the food production is not affected. That is my point.
Short Notice Questions and Answers 1st Apr 1, 1972

The National Minister was pleased to inform the house that due to failure of monsoons the power was cut. To what extent our power generators are able to see that the power is produced? How much power is produced by generator and what is the power that is arranged to purchase from other States.

Smt. B. Jayaprada:—Mr. Speaker Sir, the capacity we have now at present is 510 M. W. and the requirement is for 100 M. W. and the 100 M. W. deficit is there, to what extent Mysore and Tamilnadu Governments were negotiated and still negotiations are there in. Whether they can come forward to help us to minimise this trouble for us...

Sri A. Sreeramulu (Eluru):—This sudden development of failure of monsoon has been there. Did the Government take timely action to supplement our power supply?

Smt. B. Jayaprada:—This is a sudden development. All of a sudden, Mysore has failed to give us supply; we are trying all our means to get this additional power.

Smt. B. Jayaprada:—As I have stated the cut is between 17 and 22 hours. This has led me to assure Sir.

Sri Syed Hassan:—Is the Government aware of the fact that due to power cut in industrial houses retrenchment notices are being given to the employees?

Smt. B. Jayaprada:—I do not have any information.

26—2
Smt. B. Jayaprada:—I said that it is the existing capacity and demand. To subsidize, hitherto we were getting power from Mysore and Tamil Nadu. But now we are not getting that supply. So we are forced to have 25% cut.

Smt. B. Jayaprada:—These are now bought at our no ice. Perhaps we will give necessary instructions.

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Smt. B. Jayaprada:—We could understand the intensity of the problem. We could understand the intensity of the problem. We are awaiting.

Smt. B. Jayaprada:—I require notice, Sir.

Smt. B. Jayaprada:—The cut is only for eight hours. In the remaining sixteen hours, they are utilizing power and it has to be collected.

Sri Syed Hassan:—When instances are brought to the notice of the Minister that re-employment is being effected due to power shortage is the Minister prepared to issue instructions to the industrial houses?

Smt. B. Jayaprada:—Depending on the circumstances and all that, we will discuss the problem and try to minimise it.
Ruling from the Chair on the Privilege Motion:

re: Alleged statement by Sri Mohd. Ismail, President, Pradesh Congress Committee.

MESSAGES FROM THE COUNCIL

re: The Andhra Pradesh Appropriation (Vote on Account, Bill, 1972

Mr. Speaker: I have received the following messages from the Chairman, A.P. Legislative Council:

"In accordance with Rule 13 of the Andhra Pradesh Legislative Council Rules, I return herewith a copy of the Andhra Pradesh Appropriation (Vote on Account) Bill, 1972 (L.A. Bill No. 1 of 1972) which was passed by the Legislative Assembly at its sitting held on 30th March, 1972 and transmitted to the Legislative Council for its recommendation, duly signed by me and state that this House has no recommendation to make to the Legislative Assembly in regard to the said Bill.

re: The Andhra Pradesh Appropriation Bill, 1972

"In accordance with Rule 5 of the Andhra Pradesh Legislative Council Rules, I return herewith a copy of the Andhra Pradesh Appropriation Bill, 1972 (L.A. Bill No. 2 of 1972) which was passed by the Legislative Assembly at its sitting held on 30th March, 1972 and transmitted to the Legislative Council for its recommendation, duly signed by me and state that this House has no recommendation to make to the Legislative Assembly in regard to the said Bill.

re: The Andhra Pradesh Appropriation (No. 2) Bill, 1972

"In accordance with Rule 130 of the Andhra Pradesh Legislative Council Rules, I return herewith a copy of the Andhra Pradesh Appropriation (No. 2) Bill, 1972 (L.A. Bill No. 3 of 1972) which was passed by the Legislative Assembly at its sitting held on 30th March, 1972 and transmitted to the Legislative Council for its recommendation, duly signed by me and state that this House has no recommendation to make to the Legislative Assembly in regard to the said Bill.

ULING FROM THE CHAIR ON THE PRIVILEGE MOTION

re: Alleged statement by Sri Mohd. Ismail, President, Pradesh Congress Committee.

Saiyavari C. V. K. Rao, A. Srinumulu, B. Ratnamabpathy, T. Purushothama Rao and Smt. J. Eshwari Bai, have given notice of a privilege motion dated 22nd March 1972 under Rule 195 of the Rule of Procedure and Conduct of Business, questioning Sri Md. Ismail, President Pradesh Congress Committee, for his alleged statement which appeared in Andhra Prabha, dated 23-2-1972 to the effect that Congress Ministers will be prevented to be accessible to any citizen or citizens and that such an utterance coming from a person holding office like the President of Pradesh Congress Committee would not only amount to preventing public figures in discharging their public duties but also brings them to contempt because they could not be made tools of an agency whatever that may be, in dutifully carrying on that public responsibilities and Sri Md. Ismail by his above utterances was not only holding a threat to people but has committed a breach of privilege of the members of the House which has to be dealt with by this House and the Committee of Privileges."
2. When the matter was taken up in the Assembly on 21st March 1972 for adjudication of, on a reference by Shri Kom. Prabhakar Rao, V. Srikantam, A. Subramanyam Na. B. Ramaiah paty and V. V. Venkuriya, it was observed that the statement made by Mr. Ismail was directed to the Assembly by Shri Kom. Prabhakar Rao, V. Srikantam, A. Subramanyama, B. Ramaiah Paty and V. V. Venkuriya and in the course of speaking the Chief Minister had opposed Congress Members by stating that they were elected as members of the Assembly and hence they would have no access to the Ministers. It was also contended that "members of the House who have been elected opposing those of the Congress Party would not be allowed to see the Ministers.

3. Sri Kom. Prabhakar Rao while opposing the Motion pointed out that the statement was factual and could not be called concern a Member in his capacity as Member of the House and as such there was no breach of privilege of the House. The Chief Minister while opposing the Motion categorically stated that the background of the statement was such that there was no intention of casting any aspersion or preventing any member from discharging his duty and hence no question of privilege could arise.

4. Now the question for consideration is whether the reported statement of Shri Md Ismail amounts to breach of privilege of the Members of the House.

5. May has described "Parliamentary privilege" as "the sum of the peculiar rights enjoyed by each House collectively as constituent part of the High Court of Parliament and by Members of each House individually without which they could not discharge the functions and which exceed those possessed by other bodies or individuals." According to May when "any of these rights and immunities both of the Members individually and of the Assembly in its collective capacity, which are known by the general name of privileges are disregarded or attacked by any individual or authority the office is called a breach of privilege and is punishable under the law of Parliament."

6. In order to constitute a breach of privilege however, a libel upon a Member of Parliament must concern his character or conduct in his capacity as Member of the House and must have based on a matter arising in the actual tran action of the business of the House. Reflections upon members other wise than in his capacity as members do not therefore involve any breach of privilege or contempt of the House.

7. In the House of Commons the governing principle for determining what constitutes a contempt through reflections of the House is that such reflection should relate to the members quo-men bers. A complaint was made by a member on the Report, in the daily Mail of 21st June 1954 of a speech by a member of the House outside the House was held by the Speaker as not involving a prima facie case. The reported remark was that a general election would be an opportunity to get rid of "the crazy tores, the wretched, the
Matter under Rule 341 of the Assembly Rules:  
notice of the House.

I. By view of it is, that hard words used against persons and parties are used, if a necessary, by the law of defamation, and it is only where the House as a whole is affected by the spoken word, that to my mind, a question of privilege arises. In this case, it seem to me, that these offensive epithets are selective in their application, therefore, of the words complained of, I could not really find a prima facie case of breach of privilege.

8. In general, speeches and writings affecting on the House or its Committees or Members constitute a contempt on the principle that such acts tend to obstruct the House in the performance of its functions by diminishing respect due to them. But in the past, on several occasions, it has been considered to be inconsistent with the dignity of the House to take any serious view or taking action which may technically constitute a breach of Privilege or contempt of the House. In the Mathurai case the Committee of Privileges of Lok Sabha observed—"It is not consistent with the dignity of the House to take notice of every such statement which may technically constitute contempt of the House. The House would best consult its dignity if it ignores such improprieties and indiscretions."

9. Now coming to the statement made by Md. Ismail as reported in Andhra Prabha, the relevant portion which reads as follows may be examined as to how it amounts to breach of privilege:

"While warning Samithi Presidents and Sarpanchs who are working against Congress, Mr. Ismail stated in an election meeting at Bapatla that he would not allow these people to come anywhere near Ministers."

Taking into consideration the background and the tenor and also the circumstances under which the statement has been made in an election meeting I feel that the statement will in no way affect the members' course of action in the Assembly. I may add that the members should not be too sensitive or touchy with the publications of such statements, I am of the opinion that it is better that the House would best consult its own dignity by taking no further notice of the matter.

MATTER UNDER RULE 341 OF THE ASSEMBLY RULES  
notice of the House.

Sri C. V. K. Rao:—Before we take up the matters under Rule 341, the other day I brought to your notice the Chief Minister's practice of leaving the House . . .

Mr. Speaker:—Why not we finish Rule 341 matter first.

Sri P. Govardhana Reddy (Munugode):—I have an important matter to bring to the notice of the House, Sir.
Matter under Rule 311 of the Assembly Rules:

Overdraft position

Mr. Speaker: I have asked Mr. C. V. K. Rao to raise the matter under Rule 311. I shall give you a privilege for you to raise it under some other rule.

Mr. C. V. K. Rao: There is an overdraft position in the State and it is first that Government might impose a cut and reduce the personnel in this context. Government has made a position clear in the budget speech that by the end of 73, there is a deficit of Rs. 4.76 crores over and above the same will reach by 1972-73 as per Rs. 11.85 crores. According to the Planning Commission, including the Central assistance for the financial year, the estimated overdraft is Rs. 8.5 crores. That is getting increased to Rs. 92 crores as well. Government admits that it is going to impose a tax of Rs. 10 crores and the Planning Commission has advised economy of Rs. 10 crores. The Government might, while imposing the economy cut, retain its personnel. Already there are 1949 state service temporary appointments, 509 Assistant as I gather, are about 740 in temporary posts and nearly 664 temporary posts are there for non-gazetted technical personnel, and there are about 899 temporary porters and posts of typists, under various Heads of Departments. In the judicial ministerial service, I understand there are now 114 temporary posts. As such, I would like to know whether Government is going to impose retrenchment of temporary personnel or not. I want the Government should not lay its hands on this personnel because the condition of our people is very bad and those who are in service should not be deprived of their means of livelihood. I want the hon. Minister to make a categorical statement that they do not retrench these temporary service people.

The Minister for Finance (Sri A. Bhagwantha Rao): Sir, hon. members are aware that Government of India have desired that the Government of Andhra Pradesh should repay 1% of its overdraft as computed by the Planning Commission, in 1972-73. Also, in order to meet the non-plan gap in our resources in 1972-73 and find some additional resources for the plan, they have suggested a cut of 5% in our non-plan expenditure of 72-73, which computed to yield Rs. 10 crores. In addition we have to realise a little more resources to the extent of Rs. 10 crores and collect arrears of tax and non-tax revenues to the extent of nearly Rs. 2 crores if we are to have a sizeable development plan in 1972-73 without having recourse to authorised overdrafts on the Reserve Bank of India.

Deals as to how to effect an economy of Rs. 10 crores in non-plan expenditure in 1972-73 are still being worked out by the Departments. After they are finalised, Government have to consider and take decisions on them.

Government would endeavour to effect the maximum economy in items of expenditure in non-plan other than staff retrenchment. Also, a critical review of the existing sanctions with regard to their continuance or otherwise will be made, to reduce them as far as possible. No new Posts will be sanctioned unless absolutely necessary. Government hopes to effect the necessary economy in non-plan expenditure in 1972-73 by these measures and would endeavour their best to avoid retrenchment of staff as far as possible.
However as I mentioned earlier the matter is still under consideration at the level of the various Departments and Government are yet to counter and decide on them.

Sri C. V. K. Rao:—Government appear to be indecisive on this. He does not expect that there would be no retrenchment of the personnel already in service. He should follow my speech and give an answer instead of reading out a ready-made speech here. I am an assurance that Government will not retrench the personnel already in service.

Sri Bhagwantha Rao:—I have said that Government would endeavour to effect the maximum economy in items of expenditure in non-plan, other than staff retrenchment...

POINT OF INFORMATION

re: collection of drainage cess in Godavari and Krishna Delta,

The Minister for Medium Irrigation and Law (Sri P. Basa Reddy):—The Matter is still under the consideration of Government. Government have not taken a final decision yet. We hope to take a decision on the 4th or 5th. I shall make a firm statement on the 5th.

BUSINESS OF THE HOUSE

Mr. Speaker:—You give it to me in writing and it will be sent to the Minister. Motions under Rule 341 are not meant for discussion. The question which is put in the form of a motion is answered by the Minister.

Sri C. V. K. Rao:—The other day I raised the question about the Chief Minister not being present in the House.
Mr. Speaker:—After the call-attention motions are disposed of I shall give you time.

Mr. Speaker:—The items included in the Agenda should be given importance first. Let me complete the call-attention motions first.

POINT OF INFORMATION

re. S. S. C. Examinations in Darsi and Podili taluks.

The Minister for Primary and Secondary Education (Sri B. Srirama Murthy):—The District Educational Officer, Ongole, reported on 17-12-71 to the Commissioner for Government Examinations that there was lot of disturbance and public interference at the S.S.C. Public Examination Centres at Darsi and Podili since the last four years and the Public Examinations could not be conducted properly. The D.E.O. has recommended that the students of the Zilla Parishad School at Darsi should appear for the examination at Podili and that students of the Zilla Parishad School at Podili should appear for the examination at Darsi. The D.E.O. was consulted on 11-2-72 to ascertain his views and it was felt that the change of Centres was necessary. On receipt of another representation on 17-7-72, he reiterated the earlier decision that the students of Darsi should appear at Podili Centre and the students of Podili should appear at Darsi Centre.

About 35 students of Darsi will appear at Podili and 94 students of Podili will appear at the Darsi Centre.

The examinations will commence from the 6th of this month. The question papers and other materials have already been despatched to the Centre.

It is not possible at this stage to change centres for examinations at Podili and Darsi.
Mr. Speaker:—Before I call Mr. P. V. Ramana to speak on the Call attention Motion no. 1, I would like to inform the House that the other day I discussed this matter with the leaders of various groups on the procedure I wanted to follow in the matter of call attention motions. We came to an understanding that hereafter we can as well follow the method adopted in the Lok Sabha i.e. when a call attention motion is tabled and is called by the Speaker one of the members listed will simply rise in his seat and then the Speaker will ask the Minister to make the statement. After hearing the statement you can ask any clarification you like. That will be a better method. I hope we shall experiment that from now onwards.

Sri C.V.K. Rao:—What about the other members who have given notice of the Call attention, Sir?

Mr. Speaker:—They can also ask for clarifications.

Sri C.V.K. Rao:—Clarification come after the Minister makes the statement, as to relevancy or irrelevancy of that particular point as to the explanation and the subject-matter of the call attention. Different member give the call attention on the same subject from different angles. Therefore, after the other members also have been given a chance to say in brief, ... then alone the Minister may make the statement and then clarifications may be sought.

Mr. Speaker:—For that, what was thought of was when you give all attention motion you can give more details than you are now giving. If 3 or 4 members give different call attention motions and the Speaker feels that they relate to one and the same subject all the names are clubbed. The call attention motion which is given by the member ... as it is ... will be sent to the Minister. When he makes the statement, naturally he will bear in mind the full details given by the respective members, though their names are clubbed in one call attention.
Sri V. Srikrishna:—Let them make short speeches. ...only on from every party.

Mr. Speaker:—For those call attention matters which were given notice of earlier if you want me to follow the old method, I have no objection.

Mr. N. (Telakuntla):—Yes, as a matter of fact, even those matters which were given notice of earlier if you want me to follow the old method, I have no objection.
Calling attention to matters of urgent public importance:

1st April, 1972.

Accumulation of Jaggery at Anakapalli, Chillies at Guntur and Cotton at Adoni for want of railway wagons.

Speaker: We are circulating that. You can bear that in mind for future call attention matters.

So you want me to follow the old procedure about earlier call attention motions.

Sri M. Narayan Reddy:—Sir, there is only one further improvement I would suggest. When a statement is going to be made by the Minister in reply to a call attention motion, a copy of it may be given to the member who gives the notice of the motion just 5 or 7 minutes before the call attention matter is really called so that based on that, the member can ask clarification. This is the practice we follow in Lok Sabha.

M. Speaker:—We shall examine that separately.

CALLING ATTENTION TO MATTERS OF URGENT PUBLIC IMPORTANCE

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1st April, 1972.

Calling attention to matters of urgent Public Importance:

re: Accumulation of Jaggery at Anakapalli, Chillies at Guntur and cotton at Adoni for want of railway wagons:

The Minister for Marketing (Sri D. Muniswamy) — Speaker, Sir.

Jaggery Market at Anakapalli:—The arrivals of jaggery during the current year session at Anakapalle have been to the tune of 1,07,600 M. Tonnes as against 62,700 M. Tonnes during the previous season. At present there is accumulation of stocks to the tune of 10,000 to 12,000 M. Tonnes with the exporters for being exported to up country markets by rail. Out of the indents for wagons placed by the traders at Anakapalle the Railway authorities have yet to supply 808 wagons. Even though there was no representation from the Traders, the Market Committees, Anakapalle address the Divisional Railway Authority at Vijayawada and Secunderabad by telegram on 15-3-72 for expeditious supply of wagons. The Railway authorities who were contacted personally by the Assistant Director of Marketing Vijayawada have explained the difficulty in meeting the demand of
Calling attention to matters of urgent Public Importance: 1st April, 1972.

re: Accumulation of Jaggery at Anakapalli, chillies at Guntur and cotton at Adoni for want of railway wagons.

wagon supply as due to supply of wagons for movement of essential commodities. They had however, arranged a jaggery special consisting of 6 open bogies to clear off some of the accumulated jaggery at Anakapalli and the same was halted at Samalkot as the Secretary, Jaggery Merchants' Association refused to load jaggery in open wagons on the plea that it may be damaged on the way. The Railway authorities, however, assured the Assistant Director of Marketing, that they will supply 30 covered wagons a day at Anakapalle Railway station.

Chillies Market at Guntur:—The arrivals of dry chillies into Guntur Market during the current season were 17,000 M. Tonnes as against 70,000 M. Tonnes during the last season i.e. from January to March.

As against 143 wagons supplied during 1971 season the Railway authorities have supplied 478 wagons so far this year. The outstanding indents for wagons were reported to be 420 and the Railway authorities have assured to supply 5 wagons a day positively. It is hoped that the accumulation will be cleared during April, 1972. The accumulation of stocks is also attributed to the financial difficulties arising out of the Bank employees' strike.

Cotton Market at Adoni:—It is reported that all the 24 wagons intended by Traders have been supplied from October, 1971 onwards and the traders are able to secure wagons within a week from the date of requisition at Adoni Railway Station. There is hardly any accumulation of stocks of cotton for purposes of export.

The supply of wagons is mainly the responsibility of Railway authorities. The Assistant Director of Marketing are contacting the Railway authorities, for supply of adequate number of wagons to move the Agricultural commodities. Steps are being taken to address the Railway Board to supply more number of wagons to clear of the accumulated stocks of Jaggery and Chillies.

Sri D. Munuswamy:—We will consider the points expressed by the hon. Member and see that more wagons will be got from the railway authorities.
22 1st April, 1972.

Calling attention to matters of urgent public importance:

re: Need for extension of time to Panchayat Samithis to spend monies sanctioned by the Government towards crash programme.

Sri D. Munuswamy:—I have not received any particular information from the Railway Board stating about the number of wagons and from which date they are going to be supplied to lift the accumulated stocks at the market place at Anaka, alli.

re: Need for extension of time to Panchayat Samithis to spend monies sanctioned by the Government towards crash programme.

The Minister for Panchayati Raj (Sri T. Hysagirivchary): The funds sanctioned in the J. O. Ms No. 327, P. R. dated 12-4-71 referred to in the Call Attention Notice do not pertain to the Crash Programme but to the grants given by the Government to the Zilla Parishads and the Panchayat Samithis in Ongole District for taking up developmental activities.

With a view to give a fillip to the Developmental activities in the Panchayat Samithis and Zilla Parishads, Government issued orders in January 1971, permitting the Panchayat Samithis and Zilla Parishads to utilise before 31-3-1972 the lapsed unspent balances of purposive grants lying with them on specified developmental activities which they should have refunded to the Government normally. This permission was subject to a maximum of Rs. 1,0,000 in the case of Panchayat Samithis and Rs. 5,00,000, in the case of Zilla Parishads. The Government have also sanctioned funds to the Panchayat Samithis and Zilla Parishads which are not having the lapsed unspent balances to the extent permitted up to the limit of such shortage. At the time of sanctioning these funds Government have specifically ordered that these funds should be utilised before 31-8-72 positively. This date (i.e. 31-3-72) has been fixed with a view to see that the Panchayat Samithis and Zilla Parishads could undertake the developmental works speedily. These funds were adjusted to them in two instalments. The first instalment was adjusted to the accounts of the respective...
Calling attention to matters of urgent importance:
The need for supply of water for second crop in Godavari and Krishna deltas.

P. R. bodies immediately after the issue of the sanction orders generally during April to June 1971 and the second installment on receipt of the certificates from those bodies to the effect that the funds adjusted towards the first installment were fully spent.

A sum of Rs. 19,88,100/- was sanctioned to the Zilla Parishad Samithis in Ongole District in G.O Ms. No. 327, P. R. dated 12-4-71. This amount was released to them in two installments, first installment in April, 1971 and the second installment in November, 1971 to some samithis and in first week of January, 1972 to the Zilla Parishads and remaining Samithis. According to the existing orders these funds have to be utilised completely by the respective Panchayati Raj bodies by 31-3-1972. There is no proposal with the Government to permit these bodies to spend these funds beyond that date.

Re: Need for supply of water for second crop in Godavari and Krishna deltas.

...
1st April, 1972. Calling attention to matters of urgent Public Importance:

* Need for supply of water for second crop for Godavari and Krishna deltas.

The Minister for Irrigation (Sri P. Nara Reddy):—Mr. Speaker

Sir Due to drought conditions during this year the expected inflows in the river Godavari during the current second crop season have not been fully released with the result the difficulty has been experienced in supplying water to an extent of about 4 Lakh acres for second crop, specially during the month of March. During the month of March the difficulty was being experienced in maintaining the supplies since the inflows of the river were less than anticipated. However, additional supplies to the extent of 1,000 to 1,500 cusecs were secured from the Kinnerasani Reservoir from 19-3-1972 to augment supplies in the Godavari delta. The water level at Dowlaishwaram Anicut has gone up to flood 0.3 and is steady now Consequentially supply to the Godavari Western Delta was suitably increased and the standing crops were saved by giving final wetting except in about 4,000 acres in Guhdugolan section due to scarcity of water in Krishna. Since this section has to get supply water from Eluru Canal under Krishna Barrage. Even this area is being wetted correctly by Godavari Waters. The crop position is successful.

The Members who have given notice have pointed attention to Peeravalli and Vessakoderu locks. These are under the Western Delta and water is now being let out to these two sluices. As regards Krishna Delta the second crop has been raised over an extent of 4 Lakh acres in addition to 5 lakh acres under Nagarjuna Sagar Ayacut. While the cropping position in this area has been good, unfortunately, not only the inflow in this river is far below normal and summer has set in early. During the months of January to March 1972 the short fall in the inflows has been to the magnitude of about 32 M. C.Ft. and this has resulted in the acute situation in the Krishna Delta and in the Nagarjuna Sagar Ayacut. In order to save the crop, the Government of Andhra Pradesh had requested the Chairman, Thungabhadra Board and the Mysore Government to agree to release 3, 500 cusecs from Thungabhadra reservoir for a period of 15 days and this unfortunately has not been acceded to. So, in view of the distress conditions
Calling attention to matters of urgent public importance:

re: Frequent failures in supply of electricity in the State.

now prevailing in the second crop area under the Krishna and Nagarjunasagar Delta, the intervention of the Prime Minister has been sought by our Chief Minister yesterday and written representation has been given. Regarding the specific allegations that some of the P.W. D. officials have been responsible for not given release of water properly and regularly, the matter would be look into Sir; because there was no specific allegation. As such, we would issue necessary instructions to the concerned officer because the Revenue Officer, the Collector would have to take a special action on the illegal or an unauthorised cultivation. However, The Government would take necessary action in this matter.

Sri P. Narasa Reddy:—Now it is not immediately possible. After the Assembly is over, in consultation with the Hon’ble Member I will see to it.

Sri P Narasa Reddy:—The malady is very old. The remedy cannot be so quick, as to relieve it as per the Hon’ble Member’s suggestion. However, I will look into it.

re: Frequent failures in supply of electricity in the State.
Calling attention to matter of urgent public importance:

re: Frequent failures in supply of electricity in the State.

Smt B. Jayaprada:—The main reasons for the deterioration of power position are as follows:

Due to failure of mansoon this year, the reservoir feeding in Machkund and Upper Sileru Power Stations was not receiving sufficient inflow of water, due to which the generating capacity of these stations have gone down abnormally.
Calling attention to matters of urgent public importance:
re: Frequent failures in supply of electricity in the State.

The neighbouring States are not able to continue even the power supply previously, on account of failure of monsoons in their areas as well as troubles in their Thermal stations at Tellicherry, Neveli, etc.

The new generating facilities at Ramagundam B. Station 62.5 M Watts sets have not reached the stage of stabilised operation. Also steering troubles are being encountered, and hence full output could not be obtained. This resulted in a considerable drawal of water from the reservoir of Machkund.

The following steps have been taken by the Government to avert the power crisis. All available generation including the very costly generation of Gas Turbo set and Hussain Sagar Power House are pressed into service and efforts are still being made by the Board and the Government to get some power from other States.

Orissa State is constantly pursued to reduce its share of drawal of power from the jointly-owned and operated power station at Machkund. They have reduced at a peak of about 12 M. Watts and energy of about 2.5 lakhs per day from 29-3-72 by transfer from Berhampur load to Telicherry grid.

Mysore State Electricity Board was requested to supply extra energy of 245 million units. With the interference of Dr. K. L. Rao, Union Minister for Irrigation and Power, the Chairman, Mysore State Electricity Board has agreed to release 30 million units. They are now releasing this energy at the rate of 60 m. ws. subject to the maximum drawal of 6 lakhs per day.

Sri D. Venkatesam:—Mr. Speaker, Sir. What the arrangements are being made, are being read out. The question is regarding the frequent failures.

Mr. Speaker:—Please resume your seat. Let her complete the statement.

Smt. B. Jayaprada:—Kerala Electricity Board has agreed to supply 70 million units. This can be drawn only by our Tamilnad Grid. Tamilnad has given us supply for about a week and then they expressed their inability on account of internal trouble in their system itself. The Tamilnada State Electricity Board has been requested to give transit facilities for the surplus power available with Kerala, over their transmission network. Interstate purchases at Hindupur and Vellore points are being utilised to the available maximum extent.

Restrictions have been imposed to distribute the available energy, by banning the utilisation of power by all low tensional and agricultural consumers, industrially during peak hours. Necessary cuts are also being imposed on high tension and other consumers. The available water at Jallarput reservoir is utilised judiciously, so that the present level of generation, though considerably reduced, would last till the onset of next monsoon. All the steps are being taken to see that the food production is not affected and to minimise the effect in the industrial production.
Mr. Speaker:—You have dealt with the shortage of power. You have not answered and you have not dealt with what the Honourable Member wants to know i.e., about the failures or interruption even during the period when the power is given.

Smt. B. Jayaprada:—To that extent, I received the representations also and necessary instructions were issued to the circles concerned that there shall not be any such interruptions.

Smt. B. Jayaprada:—It is a technical problem I will just call for these technical personnel and discuss with them and see that there will not be any difficulty, Sir.

Sri Syed Hassan:—Is the Government aware of the fact that the residents of old City are the sufferers due to failure of electricity very often since a long time. If so, what steps the Government would contemplate to rectify this complaint?

Smt. B. Jayaprada:—That is a separate question.

Mr. Speaker:—Not only in the old City but in the new City also, the same thing is happening.

POINT OF INFORMATION

re: Release of Water from Tungabhadra Dam Reservoir.

Sri P. V. Narasimha Rao:—The Prime Minister has been appraised of the difficulties that we are confronted with. I understand that the Chairman of the Tungabhadra Board and Dr. K.L. Rao are due to visit Hyderabad to-morrow in this connection and everyone concerned is doing his best to get us some relief. But as the
Pomt of Information: 1st April, 1972.  

Hon. Members know, so far the response of the Mysore Government has not been encouraging. We are still pursuing the matter.

Sri C. V. K. Rao:—Sir, I repeat the same thing. The other day, we have noticed that the hon. Chief Minister absented himself from this House. I have been reading in the Press as well that he is flying to Delhi often. Still, when the House is in Session, he should not leave this House. That creates a very bad precedent. Previously Mr. K. Brahmananda Reddy when he did, he felt sorry and promised that he will not leave the business here. There may be some exchange work. I know the Chief Minister will have many many jobs. But when the House is in session he should respect this House. He is answerable to the House. He should handle this House and clarify whenever situations arise from time to time. On that point, you will be good enough to permit me to raise this when the hon’ble Chief Minister is available. He is luckily available. All the Ministers must be sitting in this House. They had a responsibility to this House when it is in session. They cannot absent themselves. The Chief Minister should bestow on them the responsibility of staying in the House, not one or single man taking of it. This is the point which I raise.

Sri P. V. Narasimha Rao:—As long as the House is in Session, I have requested all my colleagues not to leave headquarters and they have kindly agreed to do so excepting in exceptional cases. We are leaving headquarters when it becomes inevitable. They are not leaving headquarters as far as I know. They are within the precincts of the Legislature, whether it is in this House or the other House. So far as I am concerned, I don’t like leaving headquarters and going anywhere. I can assure the House that only when it became absolutely inevitable I had to leave the Headquarters and then I have taken care to take your permission. After hearing me, when I explained, you have given me permission. My business has not suffered in the House. Not a single portion or item of my business had jeopardised. So, I have taken care. That is all done before I left.

Mr. Speaker:—He said that as far as possible except under unavoidable circumstances he would be present in the House, and he also conveys his desire to his colleagues that they should be present during the sittings. And hope they will strictly observe it.
Point of Information:

re: Whether president of panchayat samithis should resign consequent on their election to the Assembly or Parliament.

Sri Syed Hassan:—We do appreciate the reasons expressed by the Chief Minister for his absence. But I don't agree to the point that he had said that all the business he was responsible for had not suffered. For example, the other day, on 29th specific allegations were mentioned in my speech and the Finance Minister who was deputed by him said that no specific allegations had been made. Therefore he could not reply to those allegations that I have made. This is the specific thing.

Mr. Speaker:—Chief Minister referred to yesterday’s business, i.e. to the business on the day he had to leave to Delhi and not the other thing.

re: Whether Presidents of Panchayat Samithis should resign consequent on their election to the Assembly or Parliament.

Sri C. V. K. Rao:—The other day we were promised that all the papers would be placed on the table and only one paper coming from the Secretary to Panchayatraj Department, is placed. We wanted the advice that were tendered by the Legal Department, as that particular paper also should be placed and also the agency that wanted the clarification. Enquiries are being received; that is what is said. Who made that enquiry? All those papers ought to be placed here, Sir.

Mr. Speaker:—The relevant point is according to the present Act whether the elected members, i.e. the Panchayat Samithi presidents who are now elected as M. L. As should resign or not? Why should we go into clarification of the other papers.

Sri C. V. K. Rao:—There is some relationship. Is there any interest apart from the merit or demerit, for giving a new interpretation to the relevant permissions. Is there any extraneous interest which has come into play for such an order to be issued? That also is a point to be considered. A copy memorandum dated 25-3-72, ought to be placed on the Table of this House. It was not done earlier. It was only done after it had come to our notice. Now we are seized of this thing. It was cyclostyled on 25-3-72. Upto 29th
they have got to resign. That was the case. How did it happen if it is already issued on 25th and how did it happen that just a day before that thing. These are all relevant points where the Government exercised its thought in getting a memo of this type. These are matters which concern this House. Therefore all such papers would serve some purpose in order to stall this Government not to resort to such methods in future.

Sri Ch. Parasurama Naidu:—The Government has promised to further examine the matter and place their views before this House. Let the hon'ble Minister first of all place before this House the view he has again formed in consequence of his trying to know the matter better than yesterday.
Point of Information:

re: Whether president of panchayat samithies should resign consequent on their election to the Assembly or Parliament.

That amended copy is not there. I want another clarification Sir. This G.O. has been issued on 25th, of course some legislators who are elected as samithi presidents have sent their resignation and some have not sent. But I don't know whether resignation is going to be accepted or not. There are some legislators who have not sent their resignation for Panchayat samithi presidency. So are those people eligible to draw their remuneration in the Panchayat Samithis there and as well as the legislator's salary in this House. Now those people who are having the benefit of not sending the resignation to the panchayat samithi membership are now enjoying two rights as Member of the Legislature and as Samithi president there, enjoying very right of the jeep, staff and all amenities there. This also has to be clarified by the Minister, Sir.

Mr. Speaker:—Is it correct or incorrect? That is the first issue.

Sri V. Srikrishna:—It can be interpreted either way sometimes.

Mr. Speaker:—First, let us hear the Government and let us take up that question first. If you are not satisfied and if you express any doubt, then we shall see whether we will have to call for the Advocate-General or if there is no need we close it there.

Sri E. Ayyapu Reddi (Panyam):—From a practical point of view, I learn that almost all the Members of this House who were Samithi Presidents previously have resigned and we are congratulating them for having acted in accordance with spirit of the Act. If there is any single Member who has not resigned, let us persuade him to act in accordance with the spirit of the Act.

Mr. Speaker:—I thought Mr. Ayyapu Reddi would help me; but he is trying to complicate it further.

Sri E. Ayyapu Reddi:—We are not discussing any practical problem. If Members have already resigned, there is no question of regretting because they are acting in accordance with the spirit of the Act.
Point of Information:

re: Whether Presidents of panchayat samithis should resign consequent on their election to the Assembly or Parliament.

Sri V. Srikrishna:—There are some who want to remain as Samithi Presidents even after becoming Members of the Legislative Assembly.

Mr. Speaker:—(To the Minister Sri T. Hayagrivachari) With regard to the papers that we wanted, this office has addressed a letter: “I am directed by the Hon. Speaker to request you to supply 330 roneoed copies of the following immediately for circulation to the Members:

(i) Relevant portions of the Act; and the amending Act, the Andhra Pradesh Panchayat Samithis and Zilla Parishads Act.

(ii) Memorandum No.— dated 23-3-1972.” The second item has been placed. I think the first item has not come.
Point of Information:

re: Whether Presidents of panchayat samithis should resign consequent on their election to the Assembly or Parliament.

be eligible to be elected as President or Vice-President; he shall, however, cease to hold such office unless, within fifteen days from the date of election to such office, he ceases to be a member of either House of the State Legislature, or of Parliament by resignation or otherwise. The President of a panchayat samiti shall also be eligible to be elected as President or Vice-President of a panchayat samiti.

Government are therefore advised that it is not necessary for a person who is holding the office of the Sarpanch of a Gram Panchayat....
Point of Information: 1st April, 1972.

re: Whether Presidents of panchayat samithis should resign consequent on their election to the Assembly or Parliament.

Mr. Speaker:—That opportunity, I will give you. Please refer to the relevant provisions and tell me where the Government has committed a mistake in giving this clarification.

Sri Ch. Parasurama Naidu:—We need not go into other paper, Sir. I have with me Panchayat Samithis Act and the Panchayat Act. I am prepared to show you, Sir, where the Government have gone wrong in the interpretation of the provisions of law as they stand. There are two sections bearing on this matter. I am reading from the Panchayat Samithis and Zilla Parishads Act. Section 4 of the said Act is relevant in this context.

The Deputy Chief Minister (Sri B. V. Subba Reddy).—Before discussion this point, it is proper to have the proceeding of the House when the provision in the Act was under discussion before the House. It was clearly stated then and during the course of the discussion before the Minister as well as Member stated that no person should hold two offices simultaneously, namely the office of a Legislature and that of a sarpanch or Chairman under the Panchayat Raj. The relevant proceeding may be ordered to be brought before the House to find out the intention of the enactment. That was the reason why I said yesterday that there is no provision to ask a person to resign once that person who has been the President of a Panchayat Samithi or a sarpanch has been elected to the State Legislature, or Central Legislature, is a mistakes. It is really unfair on the part of the members to make allegation against the Chief Minister or anybody. I clearly stated that the intention of the Government is that no person could hold two offices simultaneously. We are going to come forward with an amendment.

Sri V. Srikrishna:—I raised a point of order, Sir.

Mr. Speaker:—Let Mr. Krishna speak.

Sri B. V. Subba Reddy:—Whatever has been done by the Government, we are going to get the whole position thoroughly
1st April, 1972.

Point of Information:

re: Whether Presidents of panchayat samithis should resign consequent on their election to the Assembly or Parliament.

examined in consultation with the Advocate-General and come forward before this House with an amendment.

Sri C. V. K. Rao:—I raise a point of order. re we discussing as to the relevancy, and propriety of this memo issued by the Government or are we discussing as to the amendment of the Act. That does not arise. That is an admission on the part of the Government that they erred in issuing this memorandum. If the Deputy Chief Minister says that he would get the position thoroughly examined with regard to the necessity of issuing an amendment, that means he has in a way admitted the impropriety of issuing the memorandum, by the Government. Now at the time, we are discussing about the memorandum—whether there is justification whatsoever; whether Government erred; and if the Government erred what are the steps that are to follow. That is the point. Permit us to discuss on the point whether as the memorandum exists its interpretation is correct or not.

Mr. Speaker:—That is what Sri Parasurama Naidu said he would do. He said he would read out the relevant provisions and convince the House.

Sri Ch. Parasurama Naidu:— the intention of the Government, whatever it be as disclosed in this House by way of proceedings is not relevant for the interpretation of the statute and the provisions of the Act as they exist. In an enactment, the provisions of it as ultimately assented to by the Governor have to be interpreted. A learned lawyer that Sri Subba Reddy is, he should not have forgotten that the proceedings are not relevant and necessary to interpret the provisions of the Act. The sections of the Act are there and I will interpret and convince the House with the aid of the provisions contained in the Act that the memorandum issued by the Government is incorrect and that the provisions, as they stand, warrant the resignation of the legislator.

Mr. Speaker:— You come to the relevant provision.

Sri Ch. Parasurama Naidu:— I invite your kind attention to Section 4 of the Panchayat Samithi and Zilla Parishads Act. Section 4 contemplates three categories of Membership. The first category is laid down in sub-section 1 of sub-clause:

"Every Panchayat Samithi shall consist of the following members, namely:

in the Andhra area, the President of every Panchayat and in the Telangana area, the Sarpanch of every Panchayat and the President of every Town Committee in the Block, ex-officio.

Clauses A and B are merely supplementary to Clause 1. Clause 2 is also supplementary to clause 1. Now we come to clause 3. Clauses 3 and 4, both of them relate to members of the Legislative Assembly and members of the Legislative Council. They are second
category. They become members of the Samithi ex-officio by reason of the fact that they are members of the Legislature. There is a third category of membership, mentioned in clause 5, i.e., persons who are elected by other categories. It is popularly known as co-option election. There are three categories of members in a Panchayat Samithi by reason of its composition under Section 4. Then there is sub-section A-I. This provision does not appear to have been considered by the Government in issuing their memorandum. Sub-section A-I says: No person shall be a member in more than one of the categories specified in sub-section (1). Sub-section A-I is an amendment carried out in March 1968.

Mr. Speaker:—Are you referring to the Amended Act or the old Act?

Sri Ch. Parasurama Naidu:—Amended Act of March 1963. I was a member of the Select Committee at that time.

Mr. Speaker:—Please take the Act as amended up to 27th July 1964. .

Sri Ch. Parasurama Naidu:—Yes. At page 6 of the Amended Act, sub-section 1-A says: "...No person shall be a member in more than one of the categories specified in sub-section (1). A person who is or becomes a member of a Panchayat Samithi in more than one such category shall, by notice in writing signed by him and delivered to the Block Development Officer, within fifteen days from the date of commencement of the Andhra Pradesh Panchayat Samithis and Zilla Parishads (Amendment) Act, 1963 or as the case may be, the date or the later of the dates, on which he so becomes a member, intimate in which one of the said categories i.e. wishes to serve, and thereupon, he shall cease to be the member in the other category or categories.

No person can be a member of the Panchayat Samithi under two categories.

Mr. Speaker:—The category relates to two blocks. If there is a constituency in which there are two blocks, he cannot be a member of two blocks . .

Sri Ch. Parasurama Naidu:—No M.L.A. can become a member of two blocks.

Mr. Speaker:—That is what is stated.

Sri Ch. Parasurama Naidu:—That is separately provided for in sub-section (3).

Sub-section (iii) of Section 4 provides for —the member of the Legislative Assembly of the State representing a constituency which comprises the Block;

Provided that a member of the Legislative Assembly representing a constituency which comprises more than one Block including a portion of any Block, shall be a member of the Panchayat Samithi of only one such Block which he chooses, and he shall have the right to
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re: Whether Presidents of panchayat samithis should resign consequent on their election to the Assembly or Parliament.

speak in, and otherwise to take part in the proceedings of a meeting of any Standing Committee of such Panchayat Samithi, but he shall not be entitled to vote at a meeting of such Standing Committee unless he is also a member of that Committee.

Therefore, this provides for the exercise of the choice by the Legislator to choose the block in which he wants to become a full member because a constituency may consist of more than one block. For instance, I have given my choice for the Parvathipuram Block.

There are three categories under which a person may become a member of a Panchayat Samithi. This provision has been introduced by way of an amendment and the purpose is that a person cannot be a member under two categories.

Mr. Speaker:—"No person shall be a member in more than one of the categories specified in sub-section (1)." what does it specify?

Sri Ch. Parasurama Naidu:—It specifies membership by virtue of being the President or Sarpanch of a Panchayat or a President of a Town Committee or by virtue of a person being a Legislator.

Mr. Speaker:—Please read sub-section (1)...

Sri Ch. Parasurama Naidu:—"Every Panchayat Samithi shall consist of the following members, namely:

(i) in the Andhra area, the president of every Panchayat and in the Telangana area, the sarpanch of every panchayat and the president of every town Committee in the Block ..."

The second category is the Member of the Legislature.

Sri C. V. K. Rao:—Sir, here the point is whether a President of a Samithi can be an M. L. A. after his election as such and continue to be the President of a Samithi. That is the issue. It is not whether an M.L.A. can be a member in two Samithis.

Sri Ch. Parasurama Naidu:—I am fully conscious of what I am saying. There is yet another category, the third category.

Sri E. Ayyapu Reddy:—Sir, it is a well-known principle of interpretation of Statutes that where a vested interest or right—whether in property or other thing—is involved, the language must be clear, specific and unambiguous. That is one of the fundamentals of interpretation. If my learned friend can read from the Act which takes away the right to continue as President of the Samithi, he can say it is wrong.

Sri Ch. Parasurama Naidu:—With full comprehension of the fundamental principles of interpretation and with due respect to my hon. friend Sri E. Ayyapu Reddy, I am interpreting. Clause (iii) lays down the third category. Hence Clause I–A refers to these three categories of the membership. So, when a person is a member of a Samithi by virtue of his belonging to one of the two categories, i.e. by being the president of a Panchayat and therefore ex-officio member of the Samithi or by being a co-opted member, he can be elected as
President of the Samithi. If that person is elected as M L. A. he becomes ex-officio member of the Samithi. Thus he becomes a member of the Samithi in two categories and when he becomes a member in two categories, he has to exercise his choice for either of the two categories. If he chooses the category of Legislator, he has to resign as President of the Samithi. If he resigns his membership as President of Panchayat, there is no ambiguity, and it is a straight proposition. I shall bring to your notice the other provision.

Mr. Speaker:—That is enough

Sri Ch. Parasurama Naidu:—Have I convinced the House?

Mr. Speaker:—I am not convinced.

Sri R. Dasaratharamy Reddy (Alluru):—Mr. Speaker, the only point that is before the House is whether the Legal Department was right in giving an interpretation which is said to be inconsistent with the interpretation given by the same department some time ago. I would submit at the first instance itself, that it is the privilege of a department to give different interpretations at different times not with oblique or improper motives but when it is satisfied that the point raised requires consideration and a departure from a statement already made. This is what is done even in courts of law. When a judgement is given at the instance of a litigant that becomes final if the matter is not pursued in any other courts. Another litigant approaches the same court, and the courts at liberty to correct the judgement already given and give a different judgement. It is the privilege of the court. Similarly, the Law Department also. unless any person is prepared to state that for oblique purpose an improper interpretation has been given in order to suit the convenience of a particular member who has resigned or who is to resign under the provisions of the Act. I would submit that from time to time it would be the privilege of any person to bring before the Government a particular situation and ask the government whether the interpretation given at an earlier point of time was correct or not. And it is open to the Government to reconsider the matter afresh. It may come to the same opinion and say that the earlier opinion is valid. It can also state that the opinion was wrong and what they now have to say is right. Ultimately it may not be right. It may be that High Court might over-rule the same thing. But at the present time what we have to think is whether the interpretation given is sound and proper taking the provisions of the Act into consideration. On that we find in this Act on the one side the intention of the Government might be different. The speeches may be some thing. The effect of these speeches or the intention of the Government—if not brought into legal enactment—then certainly there is a lacuna which requires certain clarification or amendment.

Mr. Speaker will observe that in regard to the Municipalities Act some time back there was a difficulty; whether a Municipal Chairman could continue as a Member of the Legislative Assembly or a Member of the Legislative Council could become the Chairman. There was a difference of opinion as
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Point of Information:

re: Whether Presidents of panchayat samithis should resign consequent on their election to the Assembly or Parliament.

to why that should be allowed when a President of the Panchayat was not allowed. But still on the basis of the law that was enacted, it was held that a Municipal Chairman can fight the election and become a member of the Legislative Assembly and hold both the positions. Therefore the question of propriety or the question of Government view is not at all relevant. All that is relevant now is whether the interpretation given is sound whether this interpretation agrees with the language that is obtained in the enactment, whether this interpretation has been given at the instance of the Chief Minister or whatever it is for the purposes of convenience, is a different matter. I would submit that on the language it is very clear, whatever might be the intention. It is one sided. The section clearly says:

"Provided further that the member of either House, of the State Legislature, or of Parliament, who is a member of the Panchayat Samiti specified in any of the clauses other than clauses (iii) and (iv) of sub-section (1) of section 4, shall be eligible to be elected as president or vice-president; he shall however cease to hold such office unless, within fifteen days from the date of election to such office, he ceases to be a member of either House."

Therefore the converse position, vice versa as to what should happen in other position is not here. The intention of the legislature might have been different. The speeches made on the occasion might be embracing both the situations but the language as finally given in the enactment is clear enough to state that the present position that is advanced is absolutely sound. It may be that tomorrow the Advocate General or the High Court might take a different view. But that is different. That is what is happening every day in courts of law. The High Court gives a judgement which may be set aside by the Supreme Court. The Supreme Court overrules its own judgement. That is the privilege of every institution which is enjoined with this power.

For the present my submission would be that the interpretation given by the Law Department appears to be consistent with the language that is employed though inconsistent with the intention of the legislature or the intention of the authors of the enactment.

Mr. Speaker:—I am satisfied with that. Have you followed what Mr. Parasuram Naidu said? He has referred to some section.

Sri R. Dasaratharani Reddi:—That point is that a member of the legislature can be a member—a full member of the Panchayat Samithi. Supposing his constituency embraces more than one Samithi. Then he has got an option. We can become a full member of one samithi while he can participate in the proceedings of the other samithi without having a right to vote.

Mr. Speaker:—Not that. He has referred to some categories or category or some thing. You take page 6 of the Act and go through Sec. (1-A). That is what Mr. Parasuram Naidu referred to.
Sri R. Dasaratha Rami Reddi:—It reads like this:—

"No person shall be a member in more than one of the categories specified in sub-section (1). A person who is or becomes a member of a Panchayati Samiti in more than one such category shall by notice in writing signed by him and delivered to the Block Development Officer within fifteen days from the date or commencement of the Andhra Pradesh Panchayat Samithis and Zilla Parishads (Amendment) Act, 1963 or as the case may be, the date or the later of the dates, or which he so becomes a member, intimate in which one of the said categories he wishes to serve, and thereupon, he shall cease to be the member in the other category or categories."

That is the same thing as a member being elected from two constituencies to the Assembly. How is it different?

Mr. Speaker:—You then go to sub-section (1).

Sri R. Dasaratha Rami Reddi:—It says:—(1) Every Panchayat Samiti shall consist of the following members, namely:—

(i) in the Andhra area, the president of every Panchayat and in the Telangana area, the sarpanch of every Panchayat and the president of every town committee in the Block, ex-officio:—

Provided that—

(a) not with standing any thing in the relevant law for the time being in force in the State relating to panchayats and town municipalities, if any president or sarpanch of a Panchayat or a president of a Town Committee refuses to be a member of the Panchayat Samiti or resigns such membership or otherwise ceases to be such member, he shall, with effect from the date of such refusal, resignation or cessation, cease to be the president or sarpanch of the panchayat or the president of the Town Committee as the case may be; and the person who succeeds him in such office shall be the member of the Panchayat Samiti in his place:

(b) in the case of a superseded or a dissolved panchayat or Town Committee, the District Collector shall nominate a person residing in the area within the jurisdiction of such panchayat or town committee to be . . . .

(This does not apply)

(iii) "the member of the Legislative Assembly of the State representing a constituency which comprises the Block;"

So if a member of the Legislative constituency comprises more than a block or portions of more then one block, then he has to choose. He can select and he can become a full member with right to participate and vote in the proceedings of the Panchayat samithi whereas he has got a legal right to attend the proceedings of the other bodies and advice them and speak there without having a right to vote.

Sri Ch. Parasurama Naidu:—Section 1-A contemplates the categories of membership mentioned in sub-section (1), Sir, and above
that there is an explanation: "Provided that a member specified in clause (iii) or (iv) shall not be entitled to contest for the office of the President or Vice-President upto and including 30th June 1934." So far as a legislature member of the panchayat samiti is concerned he was barred from contesting for the office of the President. That is clear. The only possibility of a person becoming the president of the Panchayat Samiti is by virtue of his being a member of the Samiti under the categories 1 and 3. When such a person later on becomes a legislator what is to be done is to be viewed by reading together these clauses (1) (a) and section 7 also. Even in section 7 it is clearly laid down:—

"Provided that a member nominated under clause (b) of the proviso to clause (i), or under clause (ii) or a member specified in clause (iii) or clause (iv) of sub-section (1) of section 4 shall not be elected as President or vice-President.

Then the proviso which is quoted by this memoranda is:—

"Provided further that the member of either House, of the State Legislature, or of parliament, who is a member of the Panchayat Samiti specified in any of the clauses other than clauses (iii) and (iv) of sub-section (1) of section 4, shall be eligible to be elected as President or vice-President; he shall ... Here, the member contemplated is probably other than a member by reason of being a legislator. If that person is elected Samiti President, it is a different thing. You kindly see a person who was elected Samiti President as a legislator. He will have to resign his membership within 15 days. So there is that period of grace of 15 days. If that person happens to be a legislator and also gets elected as a president of the samithi within 15 days, which is the grace period, he has to resign. He has been given option under this clause. He can either retain the presidentship of the samithi or he can retain the legislatorship. Either of the two he can choose. That is only for that special contengency, 15 days' grace within which it may happen that an election may have been posted and in that election he may have been elected. During this interim period he can be both a legislator and ex-officio member by reason of that and also ex-officio member by reason of his being a member in the categories 1 and 2. During that period he had been given a special privilege of becoming the president of the samithi. When once he becomes the president of the samithi, he chooses between the two and exercises his option in another 15 days. This does not give any sanction therefore, to a person who had become a legislator to continue for all time.

Mr. Speaker:—Let us close this matter at this stage. I will go to the next item.

Sri Ch. Parasurama Naidu:—What is the position Sir? Let it be postponed and the Advocate-General consulted, Sir.

Mr. Speaker:—Government is going to consult the Advocate General if they have any doubt in the matter.
Point of Information: 1st April, 1972.

Whether Presidents of panchayat samithis should resign consequent on their election to the Assembly or Parliament.

Sri Ch. Parasurama Naidu:—When is it going to be placed before the House, Sir, within this session.

Mr. Speaker:—There is nothing wrong if members have raised certain doubts. You can get it further examined.

Sri P. V. Narasimha Rao:—We will consult the Advocate-General. There is no difficulty. We don't really feel the need to consult the Advocate-General because the legal position as read from the Act happens to be quite clear, whatever the intention of the legislature then might have been. But when members want that it should be further referred to the Advocate-General, there is no difficulty in doing it. The only difficulty is whether the Advocate-General is available in Hyderabad now, or is he engaged in the Waters' dispute tribunal work; I do not know. Subject to that we are prepared, Sir.

Mr. Speaker:—If it is possible, get his opinion before the 7th of this month. As soon as you get his opinion, you can convey that to the House.

Sri Ch. Parasurama Naidu:—It is better we discuss it on the 8th.

Mr. Speaker:—If there is need for a discussion, in what form we can discuss that is a different matter. You have given certain interpretation. Then you wanted the Government to refer the matter to the Advocate-General and get is opinion for which the hon' Chief Minister has agreed.
1st April, 1972.

Point of Information:

re: Whether Presidents of panchayat samithis should resign consequent on their election to the Assembly or Parliament.

Sri D. Venkatesam:—There is no time now. Therefore we request the Government to refer to the G. A. D. (Elections).

Mr. Speaker:—That is not a confidential paper. If it is there certainly Government will find out.

Sri D. Venkatesam:—Suppose I hold the office as a legislator and Panchayat Samithi President. Am I eligible to draw the salary at both the places and enjoy?

Sri P. Basi Reddy:—A Legislator can hold the office of Panchayat Samithi President because it cannot be considered to be an office of profit.

Mr. Speaker:—So, he is eligible to draw the salary at both the places, is it?

Sri P. Basi Reddy:—That is not salary. It is an allowance. The Supreme Court has given a decision that the office of Panchayat Samithi President cannot be called an office of profit under the Representation of peoples Act.

Mr. Speaker:—Therefore, such person is eligible to draw as Legislator his salary and as Samithi President, his allowance, is it?

Sri P. Basi Reddy:—Yes.

Sri P. V. Narasimha Rao:—I have not contradicted any body. I only said that since the members want that it should be referred to the Advocate-General, we are prepared to do so.
Point of Information: 1st April, 1972.

re: Whether Presidents of panchayat samithis should resign consequent on their election to the Assembly or Parliament.

It is absolutely unnecessary.

Mr. Speaker:—The Panchayathi Raj Minister will find out why do you presume? I am not going to allow any further discussion only after getting the opinion of the Advocate-General if you still have any doubt I will allot some time.

Smt. J. Eswari Bai:—(Interruption)

Mr. Speaker:—Please resume your seat. As soon as the Chief Minister or the Panchayathi Raj Minister gets the information of the Advocate-General, they will convey it to the House and then if there is need for further clarification, I will certain by permit.

Sri D. Venkatesham:—Some M. L. As. have already submitted the resignations to the Panchayat Samithi Presidentship.

Mr. Speaker:—What is there? Voluntarily anybody can resign.

Sri D. Venkatesham:—When there is no provision to that effect, why should they resign? Because it is not mentioned anywhere in the Act, they have resigned as per this Memo. In this connection, there is nowhere stated that the M. L. A. should resign for the Ponchayat Samithi Presidentship. Knowingly or unknowingly.
Government Resolutions:

re: Election of representatives of the Assembly to serve on certain Railway Zonal Consultative Committees.

A wrong order has been passed on to the people. They have sent the resignations later on. Therefore, where is the necessity?

Sri P. V. Narasimha Rao:—On this point we need not discuss now. There are provisions regarding resignation and acceptance. We will act according to those provisions.

Mr. Speaker:—Who said they should resign? Let us go into the point that whether the Minister has stated that they should resign, and on that they have resigned. Then only your question will arise. Now let me go to the Government Bills.

GOVERNMENT BILLS

THE GAJAPATHINAGARAM TALUK AND ONGOLE DISTRICT (FORMATION) AMENDMENT BILL, 1972

Sri P. V. Narasimha Rao:—Sir, I beg to move:

"That leave be granted to introduce the Gajapathinagaram Taluk and Ongole District (Formation) Amendment Bill, 1972."

Mr. Speaker:—Motion moved.

Mr. Speaker:—The question is:

"That leave be granted to introduce the Gajapathinagaram Taluk and Ongole District (Formation) Amendment Bill, 1972."

The motion was adopted.

THE PUBLIC WAKFS (EXTENSION OF LIMITATION) (ANDHRA PRADESH) AMENDMENT BILL, 1972

Sri Mohd. Ibrahim Ali Ansari:—Sir, I beg to move:

"That leave be granted to introduce the Public Wakfs (Extension of Limitation (Andhra Pradesh) Amendment Bill, 1972."

Mr. Speaker:—Motion moved.

Mr. Speaker:—The question is:

"That leave be granted to introduce the Public Wakfs (Extension of Limitation (Andhra Pradesh) Amendment Bill, 1972."

The motion was adopted.

GOVERNMENT RESOLUTIONS

re: Election of representatives of the Assembly to serve on certain Railway Zonal Consultative Committees

Sri B. V. Subba Reddy:—Sir, I beg to move:

(a) "That as the South Eastern Railway administration have requested the Government to communicate the name of one representative of the Eastern Railway (Waltair Division) to be reconstituted from 1-1-1972, the Assembly do recommend to the Government to
Government Resolutions: 1st April, 1972.

re: Election of representatives of the Assembly to serve on certain Railway Zonal Consultative Committee.

communicate to the General Manager, South Eastern Railway, the name of the Member elected by the Assembly to serve on the Committee aforesaid for the period upto 31-12-73.

(b) "The South Central Railway Administration have requested the Government to communicate the name of one representative for each of the Divisional Railway Users' Consultative Committee of Vijayawada, Secunderabad and Hubli of South Central Railway. The Districts in Andhra Pradesh covered by these Divisions are as follows:


Secunderabad Division: All the Revenue Districts in Telangana area.

Hubli Division: Kurnool District and Ananthapur District.

The Assembly do recommend to the Government to communicate to the General Manager, South Central Railway, the names of Members elected by the Assembly to serve on the Committees aforesaid for the period upto 31-12-1973."

(c) "That as the Southern Railway Administration requested the Government to communicate the name of the Representative of the A.P. Legislature to serve on the Divisional Railway Users' Consultative Committee, Guntakal Division, to be re-constituted for a period of two years from 1-1-1972 to 31-12-1973, the Assembly do recommend to the Government to communicate the General Manager, South Central Railway the name of the member elected by this Assembly to serve on the aforesaid Committee for the period upto 31-12-73."

(d) "That as the South Central Railway Administration have requested the Government to communicate the name of one representative of the Andhra Pradesh Legislature for the Zonal Railway Users' Consultative Committee of South Central Railway, to be re-constituted from 1-4-72, the Assembly do recommend to the Government to communicate to the General Manager, South Central Railway, the name of the Member elected by the Assembly to serve on the Committee aforesaid for the period from 1-4-72 to 31-3-74."

(e) "That as the Southern Railway Administration have requested the Government to communicate the name of one Representative of the Andhra Pradesh Legislature for the Zonal Railway Users' Consultative Committee of Southern Railway to be reconstituted from 1-4-72, the Assembly do recommend to the Government to communicate to the General Manager, Southern Railway, the name of the member elected by the Assembly to serve on the Committee aforesaid for the period from 1-4 72 to 31-8-1974."
Mr. Speaker:—Resolutions moved.

I am to announce to the House that the nominations for elections of candidates to serve on the various Railway Zonal Consultative Committees will be received till 12:00 p.m. on 4-4-72. If the number of nominations exceed the number of posts to be filled in, poll will be taken and the election will be by ordinary method of election and not according to the principle of proportional representation by means of a single transferable vote.

Now, I request the Chief Minister to move the Government Resolution.

re: RATIFICATION OF CONSTITUTION (TWENTY-FIFTH AMENDMENT) BILL, 1971

Sri P. V. Narasimha Rao:—I place before the House under Art. 368 Sir, certain amending laws, laws amending the Constitution. They are to be ratified, by the Legislatures. For instance the proviso says that if such amendment seeks to make any change in Arts. 34, 55, 78, 162, 241, Chapter IV of Part V, Chapter V of Part VI or Chapter I of Part XI or any of the Lists in the Seventh Schedule, or the representation of the States in Parliament or the provisions of this Article...

In this Bill we are also introducing another new Article 31 (c). In that Article we are saying something, which precludes jurisdiction of certain courts, which was available before. Therefore, for this, we have to get it ratified by way of abundant caution. The Central Government has requested the State Legislatures to get it ratified. There may be two opinions. But abundant caution lies in getting it ratified. That is why, we have come before this House.
Government Resolutions:


Mr. Speaker:—That was only a resolution.

Mr. Speaker:—That is a different matter.

Sri B. Ratnasahapatru:—I am not a Lawyer, Sir. Do you think it is necessary?

Sri P.V. Narasimha Rao:—It is necessary.

Mr. Speaker:—That is in your hands. Without discussing much, you can pass.

Sri P. V. Narasimha Rao:—Sir, I beg to move:

“That this House ratifies the amendments to the Constitution of India falling within the purview of the proviso to clause (2) of Article 368 thereof, proposed to be made by the Constitution (Twenty-fifth Amendment) Bill, 1971, as passed by the two Houses of Parliament”.

Mr. Speaker:—Motion moved.
ప్రపంచాంగా జరుగుతుంది లేదా అత్యంత జరుగుతుంది కన్నా తాప్యం ఉంటూ అంతపూర్వం సంపాదించిన విశేషాలకు విస్తృతం ప్రతిష్ఠలో మిగలిన దినం నిర్ణయించారు.

ప్రతి దినం ప్రపంచాంగా జరుగుతుంది లేదా అపూర్వం జరుగుతుంది కన్నా తాప్యం ఉంటూ అంతపూర్వం సంపాదించిన విశేషాలకు విస్తృతం ప్రతిష్ఠలో మిగలిన దినం నిర్ణయించారు.

(Sri B. Yella Reddy in the Chair)

Mr. Chairman:—I am to announce to the House that the amendments to the resolution ratifying the Constitution (Twenty-fifth Amendment) Bill, 1971 will be received upto 9 00 a.m. on Monday the 3rd April, 1972.
The constituent Assembly has not only refrained to put a seal of finality and inviolability of the Constitution but also realised the importance of giving the people the right to amend the Constitution.
Parliament shall make suitable laws for the maintenance of health and fitness for work of all citizens, securing of a living wage for every worker, the protection of motherhood welfare of children and the economic consequences of old age, infirmity and unemployment.
The organisation of economic life must conform to the principles of justice, to the end that it may secure a decent standard of living.

The State shall safeguard the interests of Industrial Workers and shall secure for them, by suitable legislation and in other ways, a living wage, healthy conditions of work, limited hours of labour, suitable machinery for the settlement of disputes between employers and workmen, and protection against the economic consequences of old age, sickness and unemployment.
1st April, 1972.

Government Resolutions:


...
1st April, 1972.  


Sri E. Ayyapu Reddy:—Sir, I support this resolution. The 24th and the 25th amendments of the Constitution witnessed the greatest debate in the constitutional history of India. Lot of heat and passions were generated. Eminent jurists and judges also participated in this debate. The present 25th amendment consists of

(a) to freedom of speech and expression;
(b) to assemble peaceably and without arms;
(c) to form associations or unions;
(d) to move freely throughout the territory of India;
(e) to reside and settle in any part of the territory of India;
(f) to acquire, hold and dispose of property; and
(g) to practise any profession or to carry on any occupation, trade or business.

Sri E. Ayyapu Reddy:—Sir, I support this resolution. The 24th and the 25th amendments of the Constitution witnessed the greatest debate in the constitutional history of India. Lot of heat and passions were generated. Eminent jurists and judges also participated in this debate. The present 25th amendment consists of
three portions. The first portion, as is well known, is nothing but a reiteration of the fourth amendment of the Constitution, i.e., on account of the decision of the Supreme Court in the Bank Nationalisation Case wherein it is held that compensation is justiciable and that it is not open to Parliament to fix compensation and that any compensation fixed by Parliament or any legislature can be subject to debate and discussion in a court of law. When the Bank Nationalisation Case resulted in such a decision, naturally it indirectly overruled the fourth amendment. The first portion of this Bill is to restore back the fourth amendment.

Now, prior to this there was an obstacle which was created by the Golaknath case; but Golaknath's case went to the extreme extent of saying that fundamental rights cannot be abridged or amended by Parliament. That, of course, resulted in great debate and discussion, and very many views were expressed about the sanctity of that judgment. But it is agreed throughout the country, with a few exceptions here and there, that fundamental rights are not immutable, they are not immortal, they are not absolute, and any generation of persons, however wise they may be, cannot create a law which will be binding on the succeeding generations or for eternity. Of course, we have seen in the historic process what was a right yesterday ceases to be a right tomorrow. Only to give a simple quotation in Roman Law, owning of a slave or purchasing a slave was considered to be a right of a Partician and it was considered by them as a fundamental right also. Therefore, in the process of civilization we have witnessed many rights which were considered to be very divine giving way and falling down and also considered to be obsolete and obstructive in progress, so that when the principle laid down in Golaknath's case was over-ruled by the 24th amendment no tears were shed in any quarter. But, coming to the 25th amendment and in its present form so far as the present replacement of the word 'compensation' by the word 'amount' is concerned, not much of controversy was generated. Even eminent persons supported it although it is not in accordance with the first principles enunciated in our Constitution. In fact, Sir, the first amendment to the Constitution was envisaged even in 1951 by the provisional Parliament and that was necessitated on account of the fact that when the zamindaris, jagirdaries and estates were abolished they resorted to Article 31 and appealed to the Supreme Court saying that their rights could not be taken away. That necessitated the provisional Parliament to come forward with the first amendment to Articles 31-A and 31-B. The Supreme Court even in 1951 upheld the constitutional validity of Articles 31-A and 31-B. But, subsequently after the Seventeenth amendment, what happened was, in Golaknath's case it was held that the fundamental rights could not be abridged. But, by the fourth amendment to the Constitution, compensation it was held, was not justiciable in a court of law. But, after the Bank Nationalization Case when the Supreme Court held that it is justiciable, then the twenty-fifth amendment has been necessitated. Therefore, with regard to the first two parts of the amendment bill are concerned, there is absolutely no difficulty and it has received the full support of the overwhelming majority of jurists also. It is however the latter part that has been subjected to great controversy. The latter part which according to the statement
of the Chief Minister necessitates ratification by the House under Article 368, reads like this:

"Even Sri Gokhale, the Law Minister, stated that this is a really revolutionary change because for the first time it is trying to give precedence and primacy to the directive principles enshrined in Article 31-B and C over the fundamental rights, i.e., fundamental rights created in Articles 14, 19 and 31 shall yield to the directive principles enshrined in Article 39-B and C." That means the first part of Article 31 does not touch the new article. Even with regard to this also, of course, there have been legal objections, some well-reasoned objections from very eminent jurists and even by the Law Commission saying that the entire Article 19 should not be abridged because Article 19 gives seven freedoms and they did not want that all the seven freedoms enshrined in Art. 19 to yield to Articles 31-B and C. They conceded that Article 19 (f) and (g) can be subject to the directive principles enshrined in Article 31-B and C. But the latter portion of it, 'no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy.' This, of course, has been opposed in many quarters; this has been considered to be an erosion of the jurisdiction of the courts. In fact, it has been held or canvassed that it is a direct attack on the judiciary and that it takes away authority and the right of a citizen to approach the judiciary incase where these rights are over-looked or trampled upon. Even in the Chapter under Fundamental Rights, we have to remember that Article 32 gives the right to a citizen to approach the Supreme Court for the enforcement of his fundamental rights. That also has been made a fundamental right the right of a citizen to approach a High Court or the Supreme Court under Art. 226 or under Art. 32 of the Constitution.

This portion of the Bill has been criticised in clear terms. An eminent jurist like Chagla, in the Rajya Sabha, accused the Law Minister, saying that he (the Law Minister) who is himself a lawyer, and also an ex-Judge was performing the obsequies and delivering the funeral oration for democracy. A balanced man like Frank Anthony found fault with Mr. Gokhale for having brought such a provision into effect. Even Mr. Seetalwad who supported the bill in general did not lend support to the latter part of the Bill. The Law Commission which the Government of India consulted which generally agreed with the principles envisaged in the 25th Amendment did not lend its support to the latter part of it.

Now, Sir, it is well known that judicial review is the only check over either excessive executive act or over clutching of jurisdiction by the legislature. Even our Constitution envisages that Parliament as well as the Legislatures in the States have to act within the spheres restricted under the Constitution. The Constitution has created three lists: one is the State List; the other is the Central List; and the third is the concurrent list. If a particular legislature or Parliament trespasses into the domain of the other, the only institution which could correct it is the Judiciary. Where the Legislature goes out of its bound, the then only place where it could be corrected is the judiciary. That is a well-known fact and a well-accepted
principle in all democratic societies. Review by judicial process of either executive acts or of legislative acts has been well accepted in the United Kingdom, in the United States of America and in all the other civilized democracies.

The only question here is whether by precluding judicial review under this Article, we are endangering the enjoyment of Fundamental Rights by the citizen or we are leading to totalitarianism or we are giving up the principles of democracy. Mr. Gokhale has answered that in a very peculiar way, though it has been very clearly and explicitly stated in the Article that if a particular enactment recites that it has to enforce directive principles under Article 39 (b) and (c), the Court shall not go into that question, into the question of its validity. Sri Gokhale in spite of that, stated:

“Sir, I said that we are not in a position to agree with this because I think it is beyond doubt that however weighty our declaration, however tight the provision excluding the intervening of a court in the matter, the courts of law are not so helpless. The Courts themselves have held that if it is a fraud, if the legislation is colourable, if it is established that there is no nexus whatsoever, they can strike down the legislation; whether there is a declaration or not.”

Thus, in spite of a particular piece of legislation containing a declaration if it is fraud, if it is a colourable legislation, if there is no nexus between what is contained in the enactment and the Directive Principles, according to him, in spite of the clear and unequivocal language, the court can strike down.

But unfortunately, Sir, this view of his has not been shared by many other eminent jurists, because, when the Constitution expressly prohibits a Court from going into the question whether a particular piece of legislation is in accordance with the Directive Principles or not, if it carries a label that it is doing so, whether, in spite of such clear prohibition, the Court can strike it down or not is debatable and is a mute point. His view has not been accepted by many jurists like Sri Setalvad, Sri Chagla and even the Law Commission. Therefore, this is bound to come for decision and judicial interpretation.

The next point is, whether this part of the provision is likely to be abused. I am speaking academically. Even in Appropriation Bill, the State Legislature can say: “this is for the purpose of carrying out the Directive Principles enshrined in Article 39, i.e., economic distribution, prevention of concentration of wealth to the common detriment, etc. If we make a careful reading of Article 39 (b) and (c), it is clear that provision does not envisage that there should be social control or that there will be State control. All that has been stated there is that the State policy should not result in the concentration of wealth and means of production to the common detriment. If Article 39 (b) and (c) is to be interpreted by capitalists or supporters of capitalism, they, simply say, ‘this will not result in common detriment. Therefore, what we do is perfectly justified.’ The Directive Principle adumbrated in Article 89 (b) and (c) is couched in such a language it cannot be said that it carries with it the germs of socialism. All that is stated is common good and common benefit, which are paramount, and concentration of
wealth has to be avoided. It is not explicitly stated that it must be for the purpose of distributing wealth between citizen and citizen or for ushering in equality, in terms of a socialistic pattern of society. Whatever it may be, if a piece of legislation declares that it is for the purpose of carrying out the Directive Principles contained in Articles 39(b) and (c), then that legislation cannot be questioned. Such a situation will lead to dangerous results. Suppose a reactionary group has seized power in a small State. It can very well make use of the present Amendment for looting the entire treasury. They cannot only say compensation, just compensation, generous compensation, but can even add solacium of 30% or 50% and at the same time they can get away from it by saying 'we are doing it for the purpose of carrying out the principles enshrined under Article 39(b) and (c)'. Then, we are helpless. The reply of the learned Minister to such a situation might be 'We must have faith in our own people. If such reactionary Government comes, it will be wiped out and removed in the next General Elections'. It is all there. But meanwhile, in the interregnum period, the poor people have to live helplessly witnessing the reactionaries making use of or misusing or abusing this very same provision. There is that danger and that danger cannot be ruled out. It may be possible now to say that there will not be such a possibility but nobody can say what type of Governments will come—whether it be in small States or larger states, and what time and with what political or social philosophies. That is why I submit judicial review has always been considered a healthy necessity in all democracies.

In that view, Sir, it has to be seen whether this particular provision relating to the exclusion of judicial review is going to adversely affect or is going to quicken the pace of socialistic progress. If it does and if the prevention of judicial review helps in the amelioration and quick process of progress, then it should be a welcome measure. I personally feel that this Amendment was the result of the irritation which the Government constantly received by the Courts entertaining applications and granting interim stays, especially in the Bank Nationalisation Case, where the Government was in a hurry to usher into certain progressive measures, they were being questioned and the process was being halted, and it was that irritation that has been made explicit by Shri Gokhale himself as well as Sri Kumaramangalam in their speeches when they said that we should not allow the judiciary to go into political matters. At the same time we cannot judge things or make laws considering the personalities involved in the present judiciary or the present set-up of the judiciary. We have to look into the future also. In that view, I think we may have to reconsider this provision and at some time or there we have to delete the provision prohibiting judicial review of these Courts. Otherwise, judicial precedents will be established where inspite of the provision there will be again judicial review and on the ground that there is colourable legislation the judiciary might be inclined to declare it to be unconstitutional.

7.50 p.m. (The House then adjourned till Half-Past Eight of the Clock on Monday, the 3rd April 1972).