to the National Flag. In the light of the report of the Court of Inquiry, the Government of Mysore were informed of the Central Government's view that the cadets were guilty of indiscipline and had set a bad example and that under the scheme of the NCC Act and Rules, appropriate action may be taken against the concerned cadets in consultation with the educational authorities. The majority of the cadets had, however, tendered an unconditional apology.

CORRECTION OF ANSWER TO UNSTARRED QUESTION NO. 3117 DT. 7-8-1968 CONCERNING AN ARTICLE PUBLISHED IN THE 'OBSERVER' REGARDING NAGA REBELLION.

THE MINISTER OF STATE IN THE MINISTRY OF EXTERNAL AFFAIRS (SHRI B. R. BHAGAT) : In my reply to parts (a) and (b) of Unstarred Question No. 3117 given in the Lok Sabha on 7-8-1968, I had stated as below :

"(a) and (b). Yes, sir."

An inadvertent typographical error makes it necessary to revise the answer to that part of that Question as under:

"(a) Yes, Sir.

(b) Government have no information in this matter."

12.14 hrs.

CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE

SUPREME COURT JUDGMENT ON PUNJAB APPROPRIATON ACCOUNTS—*contd.*

THE MINISTER OF LAW (SHRI GOVINDA MENON) : Sir, I understand that a copy of the judgment has been circulated. My statement is rather long. If you agree I will place it on the Table, or if the House desires I will read some portion of it.

MR. SPEAKER : He may place it on the Table.

SHRI GOVINDA MENON : Sir, I lay it on the Table.

STATEMENT

Statement regarding the Judgment of the Supreme Court in the case relating to the validity of the Punjab Appropriation Acts

1. The unanimous judgment of the Supreme Court given by five Judges on July 30, 1968 regarding the Punjab Appropriation Acts, 1968 is of great significance from the point of view *inter alia* of powers of a Presiding Officer of a Legislature. I will briefly recall the main events which led to the Supreme Court decision.

2. The Legislative Assembly of Punjab was summoned to meet on February 22, 1968. The Annual Financial Statement was discussed on March 4, 5 and 6. On the last day, a Resolution was moved expressing no-confidence in the Speaker. The House granted leave and then adjourned itself to the following day.

3. When the meeting commenced next day, one of the members raised a point of order that there was a contravention of article 179(c) of the Constitution in moving the Resolution. The Speaker declared the motion of no-confidence to be unconstitutional and deemed to have not been moved at all. Another Resolution was then moved which led to rowdy scenes. The Speaker purporting to act under rule 105 adjourned the Assembly for two months.

4. A political crisis then arose. The budget had to be adopted before March 31, 1968 but the House stood adjourned to May 6, 1968. No expenditure in the State could, therefore, be made from April 1, 1968. In order to overcome this unprecedented situation, the Governor prorogued the Assembly on March 11, 1968 under article 174(2)(a) of the Constitution. On March 13, 1968, the Governor promulgated the Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance, 1968. On March 14, 1968 the Governor summoned the Legislative Assembly under Article 174 fixing March 18, 1968 for its sitting. He further sent a message under article 175(2) directing the Assembly to consider the Punjab Appropriation Bills, Demands for Grants and other financial business.

5. The Legislative Assembly met on March 18. After about three hours' discussion on a point of order raised by the Leader of the Opposition the

Speaker gave a ruling that the order of the Governor summoning the House to meet on March 18 was "illegal, unconstitutional and void" and that the Ordinance promulgated by him on March 13 was also "null and void". He then re-affirmed his earlier ruling given on March 7 adjourning the House for two months and left the House. This adjournment was in direct violation of Section 3 of the Ordinance which provided that the sitting of either House of the Legislature shall not be adjourned without the consent of that House until conclusion of financial business.

6. The House continued to sit as directed by the Ordinance with the Deputy Speaker in the Chair and transacted its business. Two Appropriation Bills and other financial demands were passed by the House. The Bills were then transmitted to the Legislative Council certified by the Deputy Speaker that they were Money Bills. An objection was raised that the certificate under article 199(4) must be signed by the Speaker of the Legislative Assembly. This was overruled by the Chairman and the Bills were passed by the Legislative Council. They were then placed before the Governor with another certificate by the Deputy Speaker and the Governor signified his assent.

7. Two writ petitions were then filed in the High Cuort.

8. A Full Bench of the High Court unanimously held that the prorogation and the re-summoning of the Legislature were regular and legal, but that the ruling given by the Speaker on March 18 made the subsequent proceedings in the House illegal and that the Appropriation Acts were unconstitutional. The majority held that only the Speaker and not the Deputy Speaker was entitled to certify a Money Bill and the certification having been made by the Deputy Speaker was not valid. Section 3 of the Ordinance was declared by the majority as unconstitutional and invalid.

9. The Supreme Court in appeal set aside the judgment of the High Court and ordered the dismissal of the writ petition with costs. Issues decided by the Supreme Court are briefly summarised below.

10. The most important question dealt with by the Supreme Court relates to the ruling of the Speaker adjourning the House on March 18, 1968. In the Speaker's opinion the order proroguing the House on March 11 was illegal and void and hence the Governor had no power to re-summon the House on March 14, when it stood adjourned for two months under rule 105. The Speaker was further of the opinion that the Legislature was prorogued on March 18 and not on March 11. The Supreme Court held that the Legislature was prorogued not on March 18 but on March 11 and that the re-summoning of the Legislature on March 14 was a step in the right direction. It set up once again the democratic machinery in the State which had been rudely disturbed by the action of the Speaker. Knowing that it would ordinarily take much time to finish the Financial Business, that time was short and attempt would be made to delay matters, the ordinance created a law which Art. 209 enables to be enacted for the speedy disposal of financial business. The matters were, therefore, left in the hands of the Legislature with the only restriction that the Legislature would not adjourn except when the House by a majority desired it. This respected the democratic right of the Legislature but put down the vagaries of action calculated to delay the business. The measure was eminently healthy and as it was also legal and the Assembly was bound by the law thus enacted.

11. The Supreme Court then dealt with the powers of the Speaker regarding point of order. Points order regarding point of orders. Points of order can only be raised in relation to the interpretation and enforcement of the rules and the interpretation of the articles of the Constitution regulating the business of the House and the question to be decided by the Speaker must be within his cognisance [rule 112(1)]. The finality

of the Speaker's ruling applies subject to this condition [rule 112(3)]. The exact point of order before the Speaker concerned the validity of the Ordinance. According to the Supreme Court the Speaker did not confine his ruling to matters within his cognisance, but asserted himself against the Ordinance which was a law binding on him. If the Ordinance was to be disapproved that can only be done by passing a Resolution under article 213(2)(a). Instead of adopting this course the Speaker proceeded to nullify the Ordinance by a ruling which he was not competent to give and hence his ruling was not only not final but completely null and void and of no effect.

12. The Supreme Court further held that the continuance of the proceedings by the Deputy Speaker was valid and effective and hence the financial business transacted before the Assembly under his chairmanship had legal foundation.

13. On the question of the validity of the certificate issued by the Deputy Speaker under article 199(4) the Supreme Court took the view that the provisions of that article were directory and not mandatory and hence the certificate given by the Deputy Speaker in the circumstances of the case was effective and cannot be questioned in view of the provisions of article 212(1) of the Constitution. The Court accordingly held that the two Appropriation Bills were, therefore, duly certified by the Speaker.

14. In the end for the reasons aforesaid the Supreme Court unanimously allowed the appeals, set aside the judgment of the High Court and ordered the dismissal of the petitions with costs.

15. The Government of India trust that in view of the authoritative judgment of the Supreme Court in the Punjab case controversies about the functions and powers of the Presiding Officers of the Legislatures would be set at rest.

श्री मधु लिमये (मुंगेर) : अध्यक्ष महोदय, असल में आप ध्यान आकर्षण नोटिस के विषय को देखिये । हम उन से यह नहीं चाहते थे कि वह संक्षेप में बतलायें कि सुप्रीम कोर्ट ने क्या किया । हम उन से यह अपेक्षा करते थे कि सुप्रीम कोर्ट के द्वारा जिन सवालों पर निर्णय किया गया है, और उन में से एक महत्वपूर्ण सवाल आप के अधिकारों के बारे में है, उन के मुतल्लिक मंत्री महोदय अपनी प्रतिक्रिया बतलायें । उन्होंने अपने जवाब के अंन्तिम अनुच्छेद में कहा है कि :

"The Government of India trust that in view of the authoritative judgment of the Supreme Court in the Punjab case controversies about the functions and powers of the Presiding Officers of the Legislatures would be set at rest."

यानी उल्टी बात हुई है । वह कह रहे हैं कि विवाद खत्म हो गया । लेकिन मुझे तो ऐसे लगता है कि यह विवाद इस जजमैंट के बाद शुरू हो गया है । मैंने भी भूत काल में इस विवाद में दिलचस्पी ली है, और मैं आप का ध्यान केशव सिंह के बारे में सुप्रीम कोर्ट की जो ऐडवाइजरी ओपीनियन है उस में पूरी तरह से न जाते हुए, केवल एक वाक्य की ओर दिलाना चाहता हूं, जिस को लेकर काफी विवाद हुआ था । उसके बारे में तरह तरह की रायें आई थीं । गजेंद्र गडकर साहब की जो ओपीनियन है उस में वह साफ लिखते हैं कि :

"Article 211(1) seems to make possible for a citizen to call in question in the appropriate court of law the validity of any proceedings inside the legislative chamber, if his case is that the said proceedings suffer not from mere irregularity of procedure but from an illegality. If the impugned procedure is illegal and unconstitutional, it would be open to be scrutinised in a court of law though such scrutiny is prohibited if the complaint against the

[श्री मधु लिमये]

procedure is no more than this that the procedure was irregular."

अब सुप्रीम कोर्ट के जजमेंट में सभापतियों के फैसलों के बारे में यह शब्द आते हैं कि :

"But can't his ruling (the Speaker's ruling) be called into question? Our answer is in the affirmative."

आगे भी बहुत सी बातें हैं, लेकिन मैं उन में नहीं जाना चाहता ।

MR. SPEAKER: You cannot deal with it so lightly.

श्री मधु लिमये : इसीलिये आप 193 के अन्दर इस पर बहस का मौका दीजिये ।

MR. SPEAKER: I cannot say anything now. There is so much of work pending before the House.

श्री मधु लिमये : ठीक है, अगले सत्र में हो, इस में कोई बात नहीं है । मेरा सवाल सिर्फ यह है कि कानून मंत्री ने इन फैसलों के बारे में जो नतीजे निकाले हैं क्या वह सत्य है? यदि सत्य है तो उन के बारे में उन की क्या प्रतिक्रिया है, इससे वह सदन को अवगत करायें ।

SHRI GOVINDA MENON: I have thought about this matter. What the Supreme Court has said and what was read out by the learned Member now is with respect to the opinion of the Speaker of the Punjab Assembly regarding the constitutionality of a piece of law. On that I think the Supreme Court has now pronounced that it is not the function of a Speaker to pronounce upon the constitutionality of any law. In this case the question turned upon the point whether the Ordinance issued by the Governor of Punjab was legal or not. If it was valid law, then all that happened later in the Assembly could be justified. The Supreme Court said that this is valid law and it is not the function of the Speaker to pronounce upon the validity of the law. In this connection, may I draw your attention to what you have yourself said, presiding over the Conference of Presiding Officers? Sir, you have stated there :

"The Speaker does not give rulings on legal issues. His function is to decide points of order which relate to the interpretation of Rules of Procedure and Articles of the Constitution relating to procedure. In all other cases he leaves the matter to be decided by the House."

Now, all that the Supreme Court said in this matter was that it was not open to the Speaker to say that that Ordinance was illegal. It was binding on him and binding on the House.

श्री मधु लिमये : अध्यक्ष महोदय, मेरे प्रश्न का उत्तर नहीं दिया गया ।

MR. SPEAKER: But it is too complicated a question. I do not think you can solve this question so easily. Now, Shri D. N. Patodia is not here. Shri Tyagi.

श्री ओम प्रकाश त्यागी (मोरादाबाद) : सुप्रीम कोर्ट का जो आर्डर है उसने एक बड़ी समस्या देश के सामने उपस्थित कर दी है और वह यह है कि प्रजातन्त्र का जो स्वरूप है, उसके जिस स्वरूप को हम अब तक इस देश में मानते चले आये थे, वह अब संकट में आ गया है । प्रशासन, न्याय और लैजिस्लेचर के ऊपर गवर्नर को ला कर खड़ा कर दिया गया है और इससे मैं समझता हूं कि समस्त समस्यायें जटिल बन कर खड़ी हो जायेंगी । दूसरी समस्या इस देश में यह बन कर खड़ी हो गई है कि अगर स्पीकर के आर्डर, उसकी रूलिंग्ज फाइनल नहीं है तो अब तक जितनी रूलिंग्ज चाहे पार्लियामेंट में, चाहे प्रान्तीय असैम्बलियों में दी गई हैं सब बेकार हो जाती हैं, उनकी कोई कीमत नहीं रह जाती है । इस वास्ते सरकार के सामने यह प्रश्न है कि गवर्नर की पावर्ज फाइनल हैं या लैजिस्लेचर की और स्पीकर की ? इन दोनों में डिमार्केशन आप को करना होगा । सुप्रीम कोर्ट की जजमेंट ने एक चीज ला कर आपके सामने उपस्थित

की है कि सरकार को गवर्नर की पावर्ज और स्पीकर की पावर्ज को क्लेरिफाई कर देना चाहिये ताकि भविष्य में पंजाब जैसी स्थिति दूसरे किसी स्थान पर उत्पन्न न हो और देश में प्रजातन्त्र सुरक्षित रह सके। मैं जानना चाहता हूं कि क्या सरकार ने इस दिशा में कोई विचार किया है ?

MR. SPEAKER : I do not think Government can do that business of clarifying the powers of the Speakers. I wonder if Government can do that.

SHRI GOVINDA MENON : Anyhow, that question does not arise from this judgment. What I would say is that the Governor's rulings are final with respect to matters which are under his jurisdiction and the rulings of the Speakers are final with respect to matters which come under them.

श्री हुक्म चंद कछवाय (उज्जैन) : मैं सरकार का ध्यान 18 मार्च को उन घटनाओं की ओर दिलाना चाहता हूं जो कि विधान सभा के अन्दर हुई थीं जब कि कुछ पुलिस के अफसर सादी वर्दी में वहां घुस गए थे और उन्होंने सदस्यों के साथ मारपीट की थी, धक्कम धक्का किया था, हुल्लड़बाजी की थी। मैं जानना चाहता हूं कि इस प्रकार की घटनाओं का होना कहां तक ठीक है और कहां तक सरकार इसको ठीक मानती है ?

SHRI GOVINDA MENON : Sir, I am to be asked about the Supreme Court judgment.

श्री कंवर लाल गुप्त (दिल्ली सदर) : मैं यह मान कर चलता हूं कि पंजाब असेम्बली के स्पीकर ने अपनी पावर्ज को एक्सीड किया कुछ मामलों में। लेकिन जो सुप्रीम कोर्ट का जजमेंट है इसके भी फार रीचिंग कंसिक्वेंसिस हैं और इसके इम्पलिकेशंज भी बहुत गहरे हैं। मैं सुप्रीम कोर्ट की जजमेंट को क्रिटिसाइज करना नहीं चाहता हूं और वैसा करना ठीक भी नहीं है। उन्होंने एक प्रेक्टिकल कंसिड्रेशन को सामने रखा है। लेकिन एक चीज है। जैसा मधु लिमये जी ने कहा है कि क्या स्पीकर की रूलिंग फाइनल है, यह एक सवाल है। जैसे इस में यह कहा गया है कि स्पीकर ने एडजर्न कर दिया था हाउस को 18 मार्च को। आया उसका यह रूलिंग वैलिड था या ठीक था या वाइंडिंग था या नहीं था ? उसके बाद गवर्नर ने उसको फिर बुलाया था। अब एक तरह से गवर्नर अगर वहां के रूल्ज आफ प्रोसीजर को—

MR. SPEAKER : You are discussing the legality of it and all that. I do not think the Minister can answer it.

श्री कंवर लाल गुप्त : मेरा कहना यह है कि इस जजमेंट से गवर्नर को बहुत ज्यादा पावर्ज मिल गई हैं और एक तरह से इसका मौका मिल गया है कि अगर कोई केन्द्रीय सरकार कल को गवर्नर की इंस्टीटयूशन को मिसयूज करना चाहे तो वह वैसा भी कर सकती है। इस चीज का खयाल रखते हुए क्या सरकार जो इस जजमेंट की इम्पलिकेशंज हैं उनको ठीक तरह से जांचने के लिये कोई एक्सपर्ट कमेटी बिठायेगी जो यह मालूम करे कि इन जजमेंट की बैकग्राउंड में हमारे विधान में क्या तरमीम की जानी चाहिये ?

SHRI GOVINDA MENON : With respect to the Governor's powers all that the Supreme Court judgment has said is that the Governor has got a power to prorogue the House under article 174. The Supreme Court has also said that the Governor can issue an Ordinance under article 213 when the Houses are not in session. These are non-controversial matters and are laid down in the Constitution. I do not think any expert committee is to look into this matter.

12.24 hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

THIRTY-SIXTH REPORT

SHRI R. K. KHADILKAR (Khed): Sir, I beg to present the Thirty-sixth Report of the Committee on Private Members' Bills and Resolutions.