

**MR. SPEAKER:** A letter written to the Speaker—the Speaker sees it later whereas it goes to the Press first. This is highly improper. My consent should also have been sought.

**SHRI JYOTIRMOY BOSU:** Arising out of what you are saying. I want to make a pertinent point.

When the court is seized of the matter, can you proceed to legalise something over which the court is sitting in judgment?

**MR. SPEAKER:** I am not sitting over to legalise. You asked what had happened and I am telling you only that. There is no question of anything else.

A subject which does not suit you, you say, should not be raised here as it is before the court. But when it suits you, you even make sub judice matters quite relevant for discussion here.

**SHRI R. S. PANDEY (Rajnand-gam):** With regard to the question of propriety, I would like to say . . .

**MR. SPEAKER:** I would like to request you that when the Speaker calls a meeting, it should be treated on par with other meetings. No undue haste is to be shown in rushing every thing to the press; it is very improper. I am withholding my consent to this Privilege motion in view of the opinion expressed in this House.

1335 hrs.

# **RE. PROROGATION OF LEGISLA-TIVE ASSEMBLY OF BIHAR—Contd.**

श्री प्रमल बिहारी बाजपेयी (बजपेयी):  
असभ की अब तो बिहार का सारना सा  
चाहिये ।

असभ कहेंगे : बिहार बाकों ने बरा  
बिहार उन्होंने असेम्बली ऐवरी कर दी बि  
असभ को एक है । बिहार का बरा  
असभ को है हर में ?

श्री प्रमल बिहारी बाजपेयी . अध्यक्ष जी  
अब एक संवैधानिक सफट रीदा हो गया है ।

**SHRI JYOTIRMOY BOSU (Dia-mond Harbour):** The prorogation of the Assembly by the Governor and adjournment of the Assembly sine die are improper. That Motion of Thanks was not adopted by the House

**MR. SPEAKER:** Parliament has nothing to do with their adjournment or prorogation. This is not a privilege to be referred to in this House.

**SHRI SHYAMNANDAN MISHRA (Begusarai):** Sir, I wish to submit a point of order—it is on this point whether this matter can be considered by this House or not. It is for the honourable Speaker to consider this point and give a ruling. Sir, in 1969, when the Governor of West Bengal skipped over two passages in his Address, the matter was taken up in this House and also fully debated. It is a mandatory provision, it is a constitutional provision that the Governor shall make an Address to 'a' House or to a joint session of 'both' Houses as the case may be. It is a mandatory provision of the Constitution that time shall be allotted for discussion of the matter referred to in the Address. Now, the time had been allotted for the discussion of the matters referred to in the Address and those matters relate to the policies and programmes of the Government both in domestic and international spheres. Mr. C. B. Gupta was Chief Minister of UP in 1967. He resigned when his party was reduced to a minority. Therefore, this Address, in my respectful submission, constitutes the basis on which the opposition can vote off the Government. The Government deliberately brought in a motion in the Bihar Assembly saying that the House should be adjourned. The bell kept on ringing for some time but with the House was adjourned sine die. Then the Governor in his wisdom prorogued the House. That means that what was slated for discussion is now scrubbed

[Shri Shyamnandan Mishra]  
off the slate. So, a constitutional duty imposed on the House, namely, discussion on the Governor's Address has not been fulfilled. It can well be assumed therefore that the Government there had come to forfeit the confidence of the legislature and since they had lost majority in the legislature, they wanted the House to be adjourned. They had approached the Governor to scrub the business off the slate so that it could not be debated further.

It is clearly our duty to deal with this matter and come to some definite conclusion about it. I have already given a precedent about it. May I remind this House that the Calcutta High Court have given a ruling particularly that the Address is very important, that anything before the Address, any proceedings other than this could be considered illegal. That is the sort of primacy that is attached to the Address. In view of all this, I would request you to allot some time for discussion of this highly important constitutional aspect. This is my respectful submission to you. Mr. Speaker.

SHRI JYOTIRMOY BOSU: I want to point out a most important matter.

That is prorogation has been done by the Governor while adjournment sine die has been done by the Speaker of the Assembly and thereby they have failed to adopt the motion of thanks to Governor. As a result, it has collapsed and thereby also, they have forfeited their right to continue in Government. The Government has no right to stay. We do not stretch our hand on that. But, we shall be failing our duty if we do not raise it that the Assembly has failed to adopt the motion of thanks to the Governor.

श्री मधु सिन्हा (बाका) : मजान बज्रत मीमिन है कि क्या इम मदन में इम प्रोरेशन पर बहस हो सकनी है ? अगर चौथी लोक सभा की प्रोसीडिअर को आप निकालेंगे तो आपको पता चलेगा कि पंजाब,

हरियाणा, पश्चिमी बंगाल और मध्य प्रदेश में जब स्पीकर ने सदन को एडजर्न किया था और एक संवैधानिक संकट उत्पन्न हुआ था तब हम लोगों को कार्लिंग एड्रेसन के रूप में या चर्चा के रूप में उस पर बहस करने का मौका मिला था और हमने अपनी बात रखी थी। आप पुराने प्रीसीडेंट्स को देख लें और कल हम को किसी न किसी रूप में इस पर बहस करने का मौका दें।

श्री छटन बिहारी दासनेषी : सदन को तब हम मदन को भी यह देखना है कि प्रदेशों का शासन संविधान की धाराओं के अनुसार चल रहा है या नहीं ? एक अमाधारण परिस्थिति बिहार में पैदा हो गई है। क्या आप सदन में किसी ऐसे दिन की कल्पना कर सकते हैं कि राष्ट्रपति महोदय अभिभाषण दे सरकार की ओर से उस पर धन्यवाद का प्रस्ताव लाया जाए और उस प्रस्ताव को बिना पास किए हुए ही सदन को एडजर्न कर दिया जाए इसको प्रारोपण कर दिया जाए। ऐसी परिस्थिति की जिस की नई दिल्ली में कल्पना भी नहीं की जा सकती है बिहार में घटित हो गई है। संविधान की भावना का उल्लंघन किया जा रहा है। सरकार का वहाँ यह देखना चाहिये था कि जो धन्यवाद का प्रस्ताव रखा गया था वह पास होता। वह पास नहीं हुआ और बैठक स्थगित कर दी गई अनिश्चित काल के लिए। इन्होंने मन में सन्देह पैदा होता है कि सरकार मदन का विश्वास खो चुकी है और अपने पतन के डर से उसने विधान सभा को स्थगित कर दिया है। मैं समझता हूँ कि इन पर आप हमें चर्चा का मौका देंगे।

SHRI VIKRAM MAHAJAN (Kargra): Mr. Speaker, Sir there are two points—firstly, whether Parliament can discuss the conduct or the functioning of the Governor in the Assembly and secondly, is it mandatory that there has to be a vote on this in the State Legislature. These are two basic

points. My humble submission, therefore, is that under the Constitution, it is not mandatory to have a vote on this. Under Art. 176 of the Constitution this is the position. For the benefit of my hon. friends on the Opposition side, I would like to read the provision:

"176(1): At the commencement of (the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year), the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the causes of its summons.

"(2) Provision shall be made by the rules regulating the procedure of the House or either House for the allotment of time for discussion of the matters referred to in such address."

It does not say that it will have to pass a motion of thanks. Therefore, I submit that there is no violation of the mandatory provision in the Constitution. There are occasions when we have discussed a motion in this House, but there is no voting on such a discussion. Therefore, it is not a mandatory provision. In certain discussions, there is voting that is provided for under the Constitution and on certain discussions, there is no voting. Therefore, I submit that it is not necessary to have the Governor's Address passed by the Legislature. There is no mention about this in the Constitution. That is my first submission. Secondly, there is a validly constituted State Legislature still existing in the State and the Governor has exercised his powers under Art. 174, which gives the power to the Governor to prorogue or adjourn the House.

Therefore, I submit the power has been rightly exercised under the Con-

stitution. Hence it is not even proper for this House to discuss what happened or is happening in the State legislatures. Because if you start doing this, other State legislatures will also say that they have the power to discuss the conduct of Parliament on their floors. Therefore, it will be a wrong procedure if you start discussing happenings in State legislatures in Parliament.

SHRI G VISWANATHAN (Wardwash): As far as the legality or competence of this House to discuss these things is concerned, it has been amply proved that we can discuss them. As regards adjourning the House *sine die* and prorogation and art. 176(2), it is absolutely certain that there is a breakdown of the Constitution. What has been done by the Governor as well as the Speaker is not in consonance with the Constitution. I think it is proper for this House to discuss the matter.

SHRI SHYAMNANDAN MISHRA: Fully. Please consider it.

MR. SPEAKER: I have heard you with great interest. The position is like this. The Assembly was adjourned by the Speaker. The relevant question is whether the Speaker, Lok Sabha, can decide that it was an improper use of his authority and, therefore, it should be discussed in Lok Sabha. The second question is this. The Governor prorogued the House. Is the Speaker, Lok Sabha, competent enough to judge whether he had any authority to prorogue or not and then say that we can discuss it here? There is no questioning of his authority to prorogue.

SHRI JYOTIRMOY BOSU: Who has prorogued?

MR. SPEAKER: Do not try to force yourself in this way.

SHRI JYOTIRMOY BOSU: Who has prorogued?

**SHRI SHYAMNANDAN MISHRA:** The Governor prorogued. It was the Cabinet which had advised the Governor to prorogue.

**MR. SPEAKER:** Everything is done in the name of the Governor. The right of prorogation and summoning is with the Governor. The right of adjourning the House is with Speaker of the House. I fail to understand where do we come in the picture. After all, they are masters of their own procedures. Where do we come in? I fail to understand it.

**SHRI SHYAMNANDAN MISHRA:** Constitutional breakdown.

**MR. SPEAKER:** There is no question of Constitutional breakdown.

**SHRI MADHU LIMAYE:** The Governor's conduct can be discussed here

**MR. SPEAKER:** There is a procedure. A report has to be received about constitutional breakdown. It is laid before the House. We cannot do it in this way. I am sorry.

**SHRI SHYAMNANDAN MISHRA:** Is it not imperative for the Address to be discussed for the Motion to be voted upon and then passed? If so, is it being fulfilled?

**MR. SPEAKER:** I am sorry I cannot allow any discussion on this subject.

**SHRI JYOTIRMOY BOSU:** In regard to West Bengal, the Governor's conduct was discussed. It came up here time and time again.

**SHRI PILOO MODY (Godhra):** We are discussing the conduct of the Governor. We are entitled to do it.

**PROF. MADHU DANDAVATE (Rajapur):** The West Bengal Governor's conduct was discussed in this very House.

**SHRI PILOO MODY:** Because it suited you, you discussed it.

**MR. SPEAKER:** I am sorry we have no authority to go into the rulings of the Speaker of a State Assembly, or to the prorogation of the Assembly by the Governor.

**SHRI JYOTIRMOY BOSU:** On a point of order.

**MR. SPEAKER:** I have already dealt with it. I have given my ruling. There is no question of a point of order.

**SHRI JYOTIRMOY BOSU:** We have discussed the conduct of the Governor before, in regard to West Bengal.

**MR. SPEAKER:** That is a different matter.

Papers to be laid on the Table.

13.48 hrs.

#### PAPERS LAID ON THE TABLE

ANNUAL AND AUDIT REPORTS OF CSIR FOR 1970-71 AND A STATEMENT

THE MINISTER OF INDUSTRIAL DEVELOPMENT AND SCIENCE AND TECHNOLOGY (SHRI C. SUBRAMANIAM). I beg to lay on the Table—

(1) A copy of the Annual Report (Hindi and English versions) of the Council of Scientific and Industrial Research for the year 1971, along with the Audited Accounts for the year 1970-71.

(2) A copy of the Audit Report (Hindi and English versions) on the accounts of the Council of Scientific and Industrial Research, New Delhi, for the year 1970-71.

(3) A statement (Hindi and English versions) showing reasons for delay in laying the documents mentioned at (1) and (2) above.

[Placed in Library. See No. LT-8881/74].