

DEMAND NO. 106—SECRETARIAT OF THE
VICE-PRESIDENT

"That a sum not exceeding Rs. 3,70,000 on Revenue Account be granted to the President to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1975, in respect of 'Secretariat of the Vice-President'".

18.10 hrs.

STATEMENT RE: PRESIDENTIAL ELECTIONS

MR. SPEAKER: Now the statement by the Law Minister.

SHRI SEZHIYAN (Kumbakonam): On a point of order. Has the Minister the right to make a statement in the House like this without its being put on the order paper?

MR. SPEAKER: The other day we had arranged that, at least two hours before, the Minister would intimate his intention to make a statement. Sometimes the circumstances are such that he must make a statement even without that much notice.

श्री मधलिमये (वांका): इसके बारे में उस दिन सांग की थी कि आर्डर पेपर पर आना चाहिए, यह कोई इमर्जेन्सी का मामला नहीं है। उसी दिन मैंने कहा था कि इसको आर्डर पेपर पर रखा जाये। आप इस को कल लें तो मुझे कोई एतराज नहीं है।

श्री अटल बिहारी वाजपेयी (ग्वालियर): ऐसा मामला क्वेश्चन आवर के बाद आना चाहिए, 6 बजे के बाद नहीं।

श्री मधु लिमये: मैंने तो एस्पेसिफिकली कहा था कि 6 बजे इस तरह हमला नहीं होना चाहिए।

MR. SPEAKER: Proper notice was given. Two hours, notice was given. A Minister can make a statement at any time. In spite of that, we agreed that he would give notice.

SHRI H. N. MUKERJEE (Calcutta—North-East): It is a matter which goes to the root of the parliamentary procedure. (Interruptions) should we not have the courtesy of being intimated early enough?

MR. SPEAKER: It was intimated early enough.

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): We have got practical difficulties in making ministerial statements. Suppose a decision is taken by the Government during the course of the day and if we do not make a statement and something appears in the press the next day, then the members would point out that we did not take the House into confidence.

MR. SPEAKER: Yes. If the Minister does not make the statement today and something appears tomorrow in the press, then you will all come out saying that he did not take the House into confidence. What the members wanted was his statement, and when he has come to make it, what is the difficulty about it?

SHRI H. N. MUKERJEE: I wish to make a very serious submission. The point is that the Lok Sabha is being converted into a non-existent institution. We have stultified ourselves by guillotining everything.. (Interruptions).

MR. SPEAKER: Guillotining is done as a matter of procedure.

SHRI H. N. MUKERJEE:....We have the exhibition of the Lok Sabha being treated in this cavalier fashion by the Government. If the Minister of Parliamentary Affairs cannot arrange the programme better, he should not be where he is.

MR. SPEAKER: Mr. Samar Guha.

SHRI JYOTIRMOY BOSU (Diamond Harbour): Sir, we have come prepared.... (Interruptions).

MR. SPEAKER: I have not called you, Mr. Jyotirmoy Bosu. I have called Mr. Samar Guha. This gentleman is holding the House to ransom. Some remedy should be found. How long can we tolerate this? I have used the word 'Gentleman' for you in spite of my wishes otherwise.....(Interruptions).

SHRI JYOTIRMOY BOSU: I will call you, 'Hon. Gentleman'.

MR. SPEAKER: You do not know with what a heavy heart I have used it.

SHRI PILOO MODY (Godhra): Had you preferred to call him as an 'Hon. Member', then you would not have had to go through all this pain, because an 'Hon. Member' does not have to be a gentleman;

MR. SPEAKER: I stand guided by you, Mr. Piloo Mody. You will use this word 'honourable' for the Speaker also; in this sense!

SHRI SAMAR GUHA (Contai): I wanted to draw your attention that just now in your wisdom you said that for some special reason you have allowed the hon. Minister to make the statement. Now, the Minister of Parliamentary Affairs also said something very significant. He made a significant point and said that if something appears in the Press tomorrow, the House should not take it otherwise. It immediately creates an impression in us that already the Law Minister has made some kind of a statement to the Press..

MR. SPEAKER: Not at all.

SHRI SAMAR GUHA:....Only just to forestall our criticism about that, he is going to make this statement and that is what is occurring to me.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): This House is aware that the term of office of the present President of India expires on the 24th August, 1974.

Under Article 62(1) of the Constitution an election to fill a vacancy caused by the expiration of the term of office of the President is required to be completed before the expiry of the term. This House is also aware that the Gujarat State Legislative Assembly was dissolved on the 15th day of March 1974.

A question has been raised as to whether election to the office of the President can be held notwithstanding the dissolution of the Gujarat State Assembly.

The Government is *prima facie* of the view that on a true and correct interpretation of articles 54, 55, 56, 62 and 71 of the Constitution, the electoral college consists only of the elected members of such of the Legislative Assemblies of the States as are in existence at or before the expiry of the term of office of the President. However, a contrary view has been expressed both inside and outside this House.

Questions of far-reaching importance have arisen as to the composition of the electoral college where Legislative Assemblies of one or more States stand dissolved and in view of the fact that a question of great public importance has arisen, the Government has decided to recommend to the President to obtain the opinion of the Supreme Court under article 143 of the Constitution....

SHRI MADHU LIMAYE: Very good.

SHRI H. R. GOKHALE:.....as regards the true and correct interpretation of articles 54, 62, 71 and the other relevant provisions of the Constitution so far as they concern the election of the President to fill up the vacancy caused by the expiration of the term of office of the President.

SHRI PILOO MODY:**

MR. SPEAKER: It will not go on record.