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MR. N. SANJIVA REDDY'S TRUTH

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A CRIMONY can never be absent from any debate as to the wisdom or propriety of the dissolution of Parliament. As that great authority, Sir Arthur Berriedale Keith, remarked, "No exercise of royal power is more important than that of dissolution of Parliament, because it affects the power in the State which makes and unmakes ministries." What has invested such extreme bitterness in the current debate on the dissolution of the Lok Sabha on August 22 by President Neelam Sanjiva Reddy are not the usual issues of legality, propriety or wisdom of the action but the very genuine feeling, not confined to the ranks of the Janata Party, not only that Mr. Reddy has been unfair, not only that he was set against their party, but that he has not scrupled to tell a lie.

Its President, Mr. Chandra Shekhar's wild chatter about impeachment of the President should not deflect one from facing this crucial issue nor should the simulated anger at the demand fool any body. Where were the protectors of the President's dignity and, indeed, of his person when the Janata(S) President, the ridiculous Mr. Raj Narain, threatened to gherao him if he did not ask Mr. Charan Singh to form a government? Impeachment is a legal remedy. Threat of gherao is incitement to a criminal offence.

The issue is as simple as it is inescapable and consequential—Who is telling the truth about the meeting at 11 a.m. on August 22 between Mr. Reddy, on the one hand, and Mr. Jagjivan Ram and Mr. Chandra Shekhar, on the other? Their version was recorded immediately after the meeting in a letter of the same date addressed to Mr. Reddy and later in the day in a joint statement to the press. Two days thereafter Mr. Reddy contested the correctness of that version but has studiously refrained from giving his own version of the conversation. Mr. Atal Behari Vajpayee has demanded that Mr. Reddy should give an explanation to the public about his conduct and also publish the correspondence between him and the various party leaders relating to the formation of the government.

The episode raises three important issues. First, is the President bound to speak and to explain? Secondly, in the event of his refusal to do so, what are the norms for appreciation of the available evidence?

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Lastly, in the light of those norms, what conclusion does the evidence yield?

The first issue presents no difficulty. An elected President of a Republic who swears that he would "preserve, protect and defend the Constitution and the law" is at all times accountable to the people for the proper discharge of his duties and not during the proceedings of impeachment alone. That is an extreme remedy to be resorted to in the last resort for extreme wrongs. It is hardly arguable that it gives the President immunity from accountability to the people for lesser wrongs and lapses.

Significantly, while the Constitution forbids Parliament from discussing the conduct of a Judge of the Supreme Court or even of a High Court except upon a motion for presenting an address to the President for his removal (Art. 121), it places no such restriction on the discussion of the conduct of the President himself. He can be censured even without a motion for impeachment. Only a substantial motion of censure is necessary. Doubtless, impeachment alone can remove the President from office, but he can be censured by Parliament without seeking to remove him.

Rashtrapati Bhavan cannot ward off anxious inquiries and pointed criticisms from the public by issuing laconic communiques or brief announcements of the kind which emanate from Buckingham Palace, especially when its incumbent has no inhibitions against giving interviews or delivering speeches on controversial political questions. His interview to the 1978 Republic Day number of the pro-CPI weekly *Link* ranged wide on Centre-State relations, Kashmir's "special status", the language problem and the like. On June 28, 1978, addressing members of both Houses of the Andhra Pradesh Legislature in Hyderabad, Mr. Sanjiva Reddy held forth at considerable length on the political situation and even ventured to prescribe for the country a three party system—Congress, Janata and Communist. What did that imply? A reunion of the CPI and CPI(M) and of the two Congress? Undoubtedly, for he explicitly deplored the splitting up of political parties.

The point is not whether the recipe was unsound but whether it is any business of the incumbent of Rashtrapati Bhavan to be prescribing it. At any rate, a President who so readily descends into the political arena cannot plead the constraints of high office when he is called to account for his actions.

The Governor-General of Australia, Sir John Kerr, felt obliged to issue a statement immediately on November 10, 1975 explaining his action in dismissing Mr. Gough Whitlam from the office of Prime Minister because he could not obtain a vote on supply from the Senate and yet refused to advise dissolution of the House of Representatives. Sir John's statement contained, both, a statement of the facts as he saw them and his understanding of the legal position. It also disclosed a keen awareness of

his duty to explain his conduct to the people—"I have given careful consideration to the constitutional crisis and have made some decisions which I wish to explain." He referred to the legal opinion he had received in support of his action. On November 19 he published the text of the opinion for all to read. Our Mr. Reddy refuses to explain or even to publish the correspondence with the leaders, as Lord Wanell and other Viceroys used to. Is an elected President of a Republic less accountable to the people than a nominated representative of the British Crown, the Governor-General?

Be it remembered that the Constitution empowers the President to call for information from the Prime Minister (Art. 78), ask the Council of Ministers to reconsider a decision (Art. 74), address either or both Houses of Parliament and "for that purpose to require the attendance of members" (Art. 86). This is different from the special address at the commencement of the first session of Parliament each year (Art. 87). And he can send messages to Parliament. Clearly, the Constitution does not impose on the President a vow of silence. Nor does it ordain volubility. Mr. Reddy, as we have noted, adopts either extreme as it suits him in violation in each case of the proprieties and obligations of his office.

His duty to speak up and explain his conduct on August 22 is, therefore, inescapable. This brings us to the second issue, the norms by which we evaluate the evidence. Let us take in the President's favour the very strictest norms, the ones which the highest court in the land would adopt. Fortunately, we have a judgment of the Supreme Court on this point which bears also on the issue of the duty to explain. It is in *C. S. Rowjee v. The State of Andhra Pradesh*, decided on January 29, 1964 (AIR 1964 S.C. 962).

The facts were simple. Certain motor transport operators challenged, by a writ petition, the validity of certain schemes framed under the Motor Vehicles Act, 1939, nationalising the motor transport in their particular area on the ground that the State Road Transport Corporation had framed the schemes not because of their opinion formed under the Act but on the direction of the Chief Minister of the State, Mr. N. Sanjiva Reddy, and that the Chief Minister was motivated by extraneous considerations, namely, to strike at his political opponents who worked either against himself or his friends supporters and relations in the elections in February 1962. The petitioners gave all the facts in support of their allegations in their affidavits, but there was no denial by the Chief Minister or any one else who could speak on personal knowledge. The Court was therefore "constrained to hold that the allegations that the Chief Minister was motivated by bias and personal ill-will against the appellants stood un-rebutted."

First, the Court pointed out, the motive would be "a matter of probabilities and of the inference to be drawn by the Court from all the circumstances on which no direct evidence can be adduced." This is so in the present case, too.

After referring to the frequency of allegations of improper motives, the Supreme Court made these important observations: "It has become the duty of the Court to scrutinise these allegations with care so as to avoid being in any manner influenced by them, in cases where they have no foundation in fact. In this task which is thus cast on the courts it would conduce to a more satisfactory disposal and consideration of them, if those against whom allegations are made came forward to place before the Court either their denials or their version of the matter, so that the Court may be in a position to judge as to whether the onus that lies upon those who make allegations of mala fides on the part of authorities of the status of those with which this appeal is concerned, have discharged their burden of proving it. In the absence of such affidavits or of materials placed before the Court by these authorities, the Court is left to judge of the veracity of the allegations merely on tests of probability with nothing more substantial by way of answer."

For "Court" read "the nation" and you have a clear statement of our predicament today. For then, as now, Mr. Reddy refused to account for his deed. He did not file an affidavit in reply but got one filed by the State's Home Secretary expressly on his instructions. The Court refused to take any notice of "this second-hand denial by the Chief Minister." In 1979 he has not designed to issue even a second-hand explanation. We have no option but to follow the course which the Supreme Court adopted and arrive at a similar conclusion.

A bald denial is no substitute for the explanation that is called for when specific charges are made. Upto March-April 1962 a consideration of all the relevant factors had led the autonomous State Road Transport Corporation to nationalise bus services in some districts. Kurnool was not among them. Chief Minister Reddy holds, admittedly, a conference with the Corporation's officials on April 19, 1962. On May 4 the Corporation includes Kurnool District — but not entirely. The eastern part where the bus operators were his supporters was exculded. Only the western part where the operators were his political opponents was singled out for nationalisation. The Court considered "the element of time and the sequence of dates" besides other evidence and upheld the charge of mala fides. This is quite apart from the fact that "allegations with particularity and detail" were made and not denied specifically. To repeat a bald denial is no substitute for the explanation that is called for when specific allegations are made.

In the present case Mr. Jagjivan Ram and Mr. Chandra Shekhar set out their version immediately after their meeting with Mr. Reddy on August 22. All we have from him is a bald and belated denial on August 24 in his letter to Mr. Ram. Involved here is something far more important than nationalisation of bus services. It is the life of a Lok Sabha elected two years ago and the credibility of the President of India. Applying the tests laid down by the Supreme Court, what is the conclusion any fair-minded person can arrive at?

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Mr. Reddy is all too aware of public disquiet at his actions and of his duty to explain but has sought to avoid it (a) by fervent protestations of innocence and reliance "on the dictates of his conscience" at Tirupati on September 2 and (b) by accusing Mr. Jagjivan Ram of telling a lie.

The first is a blatant evasion and should be ignored as such. Invocations of "conscience", the almighty and to "the verdict of history" are used as convenient pretexts by those who refuse to account to their fellow mortals. The second is a blatant insult which should prompt the people to persist in the demand for a positive explanation. For, either Mr. Reddy is telling a lie or Mr. Ram is. This brings us to the last issue — given the President's undoubted duty to explain and the accepted norms of testing evidence in the absence of an explanation from the person accused of mala fides, Mr. Reddy, what is the proper conclusion to draw from the available evidence ?

The evidence is this : Immediately after meeting Mr. Reddy on August 22, Mr. Jagjivan Ram wrote a letter to him in which he recorded the substance of their discussions — that Mr. Reddy "would still take some time to consider the questions involved" and would be prepared to wait for a communication from Mr. Jagjivan Ram "giving details" of his support.

It may be recalled that in his letters of August 20 and August 21 he had staked his claim to form a government on the strength of his being the leader of the opposition who, he asserted, commanded a majority in the Lok Sabha and which he was prepared to prove "on the floor of the House". He relented on August 22 by promising to submit a list of supporters "by this evening".

As Mr. Vijay Sanghi reported in *Sunday* (of August 26), "both Babuji and Chandrashekhar were surprised. The President did not seem to convince either of them about what he said. Thinking aloud on their return from the President, they both agreed on their impressions of how the President's mind was working. Nonetheless, they proceeded with Mr. Reddy's suggestion and asked the Party office to draw up the list. Meanwhile, they had also decided to pen down their conversation with the President and send the transcript to him for his confirmation. While the conversation was being typed out, Babuji received the news, within 50 minutes of his return from Rashtrapati Bhavan, that the 'President had dissolved the House. Charan Singh would continue to be the caretaker Prime Minister.'" (italics mine)

The letter was sent and later in the day both Mr. Jagjivan Ram and Mr. Chandra Shekhar issued a statement repeating their version and, indeed, recording out their discussion with the President in great detail.

The President's communique of August 22 was altogether silent on what transpired between him and these two interlocutors on August 22. On August 25 he sent to Mr. Jagjivan Ram a letter dated August 24 which said, "Your letter is not a correct record of our conversation earlier in the day as you yourself are aware." One who accuses another of telling

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a lie acquires a stricter duty of telling the whole truth himself. Silence in such a case is culpable.

But there is one admitted, uncontroverted fact which provides the clue — the meeting took place on the invitation of the President. Against the background of the events, the reasons for his summoning Mr. Jagjivan Ram could not be very many. Was it to inform him that he was dissolving the Lok Sabha, as he did almost minutes after the meeting ended? If this were so, Mr. Reddy would have said as much publicly and immediately that very day and certainly in his reply of August 24. The summons then was clearly to ask Mr. Jagjivan Ram for details in support of his claim. Here again, there are two possibilities. One is that Mr. Reddy told him at the end that he was unconvinced, with the rider that he was going to dissolve the House. But if it were so Mr. Reddy would have rushed to retort immediately on receipt of Mr. Ram's letter that he had falsified the record for he had been told plainly enough that his claim had been rejected and the House would be dissolved.

This leaves us with the inescapable conclusion that Mr. Reddy called Mr. Ram for a make-believe session of consultations but was bowled over when Mr. Ram relented from his earlier stand and offered to demonstrate support in writing as well as in the House. *Mr. Reddy knew this was more than likely.* He could hardly refuse to allow him time, but he realised that if he did so, Mr. Jagjivan Ram, being what he is, might more likely than not prove his claim — and foil Mr. Reddy's plans for dissolution. Mr. Reddy did the devious thing — agree to grant time and dissolve the House immediately. He is to be pitied for his predicament and for his embarrassed silence. The nation can only deplore such low cunning in such high places.

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