

SPEECH OF THIRU M. APPAVU, HON'BLE SPEAKER of
TAMILNADU LEGISLATIVE ASSEMBLY ON
RESPONSIBILITY OF PRESIDING OFFICERS TOWARDS
CONSTITUTION, HOUSE AND PEOPLE

Respected Hon'ble Speaker, Lok Sabha,
Respected Hon'ble Deputy-Chairman, Rajya Sabha,
Hon'ble Speaker, Himachal Pradesh,
Hon'ble Speakers and Hon'ble Deputy Speakers from various
States
Hon'ble Chairman and Vice-Chairman from Various Councils,
Secretary Generals and Secretaries from various State
Legislatures, and other dignitaries on and off the dias,

Vanakkam.

At the outset, I thank you for the opportunity to address this august gathering and I thank whole heartedly our Hon'ble Chief Minister Thiru. M.K. Stalin for having given me an opportunity to serve as Hon'ble Speaker.

I stand before you as the Presiding officer of Tamilnadu Legislative Assembly and it is a great personal honour and privilege to have been elected as the Speaker of the historic Tamil Nadu Legislative Assembly during its centenary year.

Tamilnadu Legislative Assembly has a great Luminous history. In 1921 the first elected Legislature of the then State of Madras, the Madras Legislative Council was established. After elections, the Justice Party, the precursor of the present ruling party, the Dravidia Munnetra Kazhagam, formed the first Government. From then till now, the Legislative Assembly in

our great State has been the voice of the voiceless, legislating and enacting policy for not only development but also to uphold social justice. In the recent centenary year celebrations, the Hon. President of India took part and after unveiling the portrait of Hon'ble Former Chief Minister of Tamil Nadu Late Dr. Kalam M. Karunanidhi, a thirteen time member of the Assembly, spoke of the importance of the Legislature to our constitutional democracy. The late Dr. Kalam had said once that the Legislature is like a mirror to the executive branch. The mirror reflects not only the beauty but also the flaws. Similarly, the Legislature should not only laud the good work of the Government but also criticize it when it falls short.

The life blood of Parliamentary Democracy is the Legislature. The people, who are the ultimate sovereign, have enacted for themselves a Constitution, which is a living document. The spirit of the Constitution is that the people are the ultimate masters and every authority and functionary under the Constitution is expected to act within its delineated sphere, with utmost responsibility, morality to aid and fulfil the wishes and will of the People. The will of the People is reflected by the elected Legislatures. The Legislature is the institution through which the Executive Government draws its legitimacy. As a corollary, the Legislature's duty is not only to enact laws and policy but also to act as checks and balance to the executive. Lately, it is deeply distressing to note that some Governments have taken the Legislatures for granted. Some

Governments in this country are treating the Legislatures as a post box, rushing Bills without debates and not permitting debates and questions, thereby reducing the legislatures to a rubber seal. Such conduct of a Legislature destroys the edifice of the legislative branch and turns the polity into a Presidential system of governance. The cornerstone of the legislative branch is to offer a forum for Members to express their views freely and frankly. Thanthai Periyar, the father of the Dravidian movement said that Legislatures should not be an institution of authority but an institution of social welfare. Therefore, it is in that spirit that Legislatures should function.

The Presiding Officer of the Legislature is the constitutional and ceremonial head of the House. The Speaker, as the Presiding Officer not only controls and regulates the House but is the embodiment of the dignity and decorum in the House. The Speaker must therefore perform his duty with a conscientious and judicious approach while presiding over the forum so that all political parties are able to question the Government through the House. India's first Prime Minister Pandit JawaharLal Nehru said that in a parliamentary democracy, the Presiding Officer represents the dignity and the freedom of the House and because the House represents the country, the Presiding Officer in a way becomes the symbol of the country's freedom and liberty.

The Speaker is vested with tremendous power under our Constitution and equally shoulders enormous responsibilities.

The Speaker enforces the Rules and maintains order and decorum in the House and is accountable for all the events of the Assembly. The Speaker is also the final arbiter of all proceedings and disputes in the House. Therefore it is imperative that in his or her functioning the Speaker should be independent, impartial and non-partisan. The Chief Minister of my State, Hon'ble Thiru M.K. Stalin, welcoming me after I was elected as Speaker said on the floor of the Assembly that the Speaker is equally for both the Treasury and Opposition Benches.

The Speaker performs constitutional functions. Therefore, he should act fairly, reasonably and without arbitrariness in decision making. His sole aim should be to uphold democracy and keep the dignity of the House, in tune with the principles laid down in the Constitution. The Speaker should endeavour to give full freedom of speech and expression to the Members as it is their privilege conferred by the Constitution. Needless to say, the Members of Opposition require to be protected more than the members in the Treasury Benches, particularly in Assemblies with a large majority for the ruling party. The primary role of the opposition being to question the government, and the adversarial system being a cornerstone of democracy, debates can sometimes get heated. The opposition members, to vent their genuine grievances can sometimes indulge in sloganeering or rushing to the well of the House, which often results in pandemonium in the House. The Speaker

has to permit the opposition to have a voice, but at the same time, Speakers should ensure that Members who disrupt the House, who act in a manner that lowers the dignity of the House must be dealt with firmly, so that the public faith in the institution is not shaken. Free and frank discussions on matters of importance should be encouraged for the formulation of sound policies in the interest of citizens. Even a lone dissenting voice must be heard with due respect and patience and it should not be drowned in the din of uproarious majority. Functioning on the basis of Majoritarianism without any constitutional observance is dangerous to the democracy. Consensus is more important in a majority rule. At the same time, Speakers must remember the cost of disruptions to the House and wastage of sessions. The cost is not only failure to transact business but huge cost to the public exchequer. Therefore, it is the tax payer who loses when the House does not function.

As I said before, the Presiding Officer is the ultimate arbiter and interpreter of the Rules for the functioning of the House. His decisions are final and binding and ordinarily cannot be questioned or challenged before the constitutional courts. Earlier, the Courts used to refuse to even review the decisions of the Presiding Officers in matters pertaining to the conduct of the House. However, as we all know, recently, the Courts have started exercising judicial review over the decisions of the Presiding Officers in matters of conduct of the proceedings of

the House. The Courts justify such interference by holding that the Speaker has acted "arbitrarily or in an unconstitutional manner". Thus, a very heavy responsibility is cast on the Presiding Officers to ensure that the independent and sovereign functions of the Legislature are guided in accordance with the Constitution so that the Judicial branch is not called upon to test the decisions of the Speakers.

Presiding Officers are not only the guardians of the dignity and privileges of the House but by their independence, impartiality and acumen, oil the wheels of daily business in the House and promote acceptance by political parties of healthy conventions which are the necessary ingredients of democracy. In our Tamil Nadu Legislative Assembly all the Demands for Grants are discussed and passed. Though I have to follow the proportional representation system to hear the Members' voice in the House, all the party MLAs are insisting to take part in daily discussions in the House. Due to time constraint, it leads to a problem for the Presiding Officer to allow them in a single day. That is another challenge. It is the Presiding Officer's job to enforce the Rules of Procedure adopted by the Legislative Assembly and also to follow established conventions which are designed to achieve the objects of the House. The practice of Speakers being bound by convention is recognized by Common Law and is a practice inherited from the Westminster system of Parliamentary procedure.

At this juncture, I wish to address an important issue facing State Legislatures at the moment. When a Bill is passed by majority and sent for the assent of the Governor, the Governors sometimes sit over the Bill without giving his assent or returning the Bill for an indefinite period, even though the Constitution requires it to be done "as soon as possible". Another problem we see is that where a Bill requires to be reserved for the consideration of the Hon'ble President, the Governors are taking months together to reserve the Bills for the assent of the Hon'ble President, even though they are bound to do so immediately. This erodes the authority of the Legislatures. The Governors, though heads the State Executive, are appointed by the Union Government. Therefore, when they stall the assent to a Bill, they are virtually overruling the will of the People of the State. We have to work together to set a binding time frame within which Bills have to be assented to, returned or reserved for the consideration of the Hon'ble President of India by the Hon'ble Governors.

There is one more important Constitutional issue I wish to raise for the consideration of this August gathering. When a Bill passed by the State is reserved for the consideration of the Hon'ble President, and if the Hon'ble President withholds the assent and returns the Bill, should not the Hon'ble President give reasons for such return? How else will the House that enacted the Bill know what is the real impediment in withholding the assent? Since the House reflects the will of the people, withholding of assent to a Bill amounts to rejection of

the will of the people of that State. Therefore, are not the people entitled to know atleast the reason for which the Bill was not assented to? If the House knows the reasons, may be they can enact another Bill, correcting the shortfalls that caused the Hon'ble President to withhold the assent.

The last topic I wish to address this August gathering is on the powers conferred by the 10th Schedule of the Constitution of India. As we all know, the Speaker acts as a Tribunal when hearing petitions for disqualification of members under the anti-defection law. Lately, the decisions of the Speakers under 10th Schedule have become the subject matter of many cases before the High Courts and Supreme Court of India. This is of grave concern to the Legislative Branch. The Courts are interfering because the Speakers are either not acting in time to exercise the powers under 10th Schedule or are doing so in contravention of law. There is no time limit prescribed under 10th Schedule to complete the enquiry by the Presiding officers and therefore the intention and object of 10th Schedule disqualification proceedings itself becomes otiose and redundant, if the Speaker does not act in time. It has become commonplace for Speakers to drag out disqualification proceedings till the end of the term of the House, thereby making them infructuous. I am only highlighting this issue to call upon the powers that be to step in and break the institutional deadlocks for an effective adjudication of 10th Schedule matters.

Today we are in a world where information spreads within seconds. The people are watching every move, every word uttered inside the Legislatures. The voters are keen to know whether their problems are being discussed by their representatives. The world is watching how Governments and oppositions are behaving inside the House. When we are looking to develop the country with foreign investment, we must present to the world, a system of governance that is clean, transparent and robust. The buck stops with the Speaker when it comes to the Legislature. Therefore, it is in our hands to lead and guide our Legislatures on the path of rule of law. We must embrace new technologies to connect the people to the Houses and throw open the functioning of the House to public scrutiny, for sunlight is the best disinfectant.

Our nation can grow and achieve the desired goals, only if the democratic institutions in all the States and Union Territories function independently as per the tone and tenor of our constitution.

Before concluding my speech, I would like to congratulate the Organisers for the excellent arrangements made.

Wishing the Conference a grand success. Thank you.

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