

police to disperse the unlawful and violent assembly by using tear-gas. This resulted in the demonstrators falling back for a while. They, however, returned in large numbers and resumed throwing stones and other missiles at the police. Tear-gas had to be used again until the demonstrators finally withdrew and stopped throwing missiles. Throughout this violent demonstration, the police acted with commendable restraint. 86 officers and men on duty including the Deputy Commissioner, the Deputy Inspector-General of Police and the Superintendent of Police and the Additional District Magistrate received injuries. In all 61 demonstrators were arrested. It is apparent that the demonstrators had planned in advance to use force and to attack police personnel on duty. This is evident, from the large quantities of boulders, stones, brickbats and other missiles that were used by the demonstrators and the plentiful supplies of water that were kept ready by them to counteract the effect of tear-gas. I am sure that all sections of the House will join me in condemning such acts of violence and hooliganism. Cases have been registered against the demonstrators and are under investigation.

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12.16½ hrs.

STATEMENT RE: DISCUSSIONS
BETWEEN THE CENTRAL GOVERNMENT AND GOVERNMENT
OF WEST BENGAL REGARDING
TRANSFER OF BERUBARI TO
PAKISTAN

Mr. Speaker: The hon. Prime Minister.

Shri Nath Pai (Rajapur): On a point of order. When the House was discussing the admissibility of an adjournment motion relating to Berubari, you were pleased to remark:

"Under the Constitution, this House is not entitled to go into the kind of advice that is given by the Ministers to the President".

Article 74(2) of the Constitution reads like this . . .

Mr. Speaker: What is the point he wants to make?

Shri Nath Pai: I am adumbrating it.

Mr. Speaker: Let him hear me. Then I will allow him to raise his point. I have ruled—and it is part of the Rules now—that a point of order must relate to a matter which is immediately before the House. A point of order does not arise, as I have been saying, in a vacuum. Nobody is entitled to raise a point of order in this House unless the matter is such that if the point of order were accepted by me, no further proceedings relating to that matter could go on. I said something that day. He can move me to consider this matter. I will hear both sides and if there is a point of law arising and requiring further elucidation, I will certainly hear them. But so far as this is concerned, it is an independent matter. It might have arisen somewhere. A statement might have been made, but it has nothing to do with Berubari.

Therefore, he can write to me that there is such and such point to be discussed on the floor of the House concerning which I should revise my decision regarding a particular matter which is raised by way of a point of order and so on. It can be brought to my notice. Then I will also come prepared.

Shri Nath Pai: The reason why I did not raise it then is that it required a study of the matter.

Mr. Speaker: It also requires study on my part.

Shri Nath Pai: This is the first opportunity after Friday to raise it. I was only going to adumbrate it; I was not going to demand a ruling immediately.

Mr. Speaker: All that I am saying is this. He does not want to state anything before the House without studying. I hope he does not expect me to give answers without studying.

Shri Nath Pai: I am only adumbrating by point.

Mr. Speaker: He must have written to me and I would have come prepared. Now I will take notice of it. As early as possible he can write to me and I shall look into the matter. If it requires revision, I shall certainly do so.

Shri Hem Barua (Gauhati): On a point of clarification . . .

Mr. Speaker: Order, order. He will also write to me.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): Mr. Speaker, two or three days ago, when the House was meeting last, the question of Berubari came up, and I promised to make a statement in regard to the various matters which had been referred to. The way this question came up here and the way it has been brought up by the West Bengal Government and the West Bengal Assembly has been in regard primarily to certain legal approaches and legal issues. I shall endeavour to deal with those matters. I fear I may have to seek your indulgence and the indulgence of the House for some time in order to do so.

12.19 hrs.

[**MR. DEPUTY-SPEAKER** in the Chair.]

When a State Government and a State Assembly express their opinion challenging the legality of some step that we have taken, it is only right that we should give full thought to it and give a considered reply. Therefore, I have to deal with this matter at some slight length.

The issue of Berubari, apart from the pure merits, has various questions of legality involved—how far we have acted in pursuance of the Supreme Court's advice, and further, how far the reference made by the President in this matter to West Bengal was the correct method or not. The West Bengal Assembly and the Government

have challenged that reference and I shall come to that later.

As regards the pure legality of it, the West Bengal Legislative Assembly has passed a resolution moved by the Chief Minister of the State expressing the opinion that the Acquired Territories Merger Bill 1960, which was referred by the President to the State Legislature under the proviso to article 3 of the Constitution for expressing its opinion thereon is invalid and unconstitutional. The resolution sets out the grounds on which the State Legislative Assembly has formed its opinion. I shall deal with those grounds.

May I add that as I thought that many hon. Members might like to refresh their memory about the Supreme Court's advice on this matter, I have had it printed and sent this morning enough copies for supply to all the Members so that, when the House would be considering it here, it is available to all the Members (*Some hon. Members: We have not got it.*) I know that. The House had begun sitting when it arrived. But it is available to all the Members.

In order to examine the points raised by the West Bengal State Legislative Assembly regarding the validity and the constitutionality of the aforesaid Bill, it would be helpful to recapitulate, at the outset, the events leading to the proposed legislation. With a view to remove causes of tension and establish peaceful conditions along the Indo-Pakistan border areas, the Prime Ministers of Pakistan and India discussed various Indo-Pakistan border problems in September, 1958, as a result of which an agreement was arrived at between India and Pakistan on the 10th September, 1958 relating to 10 items. Certain other outstanding disputes and doubts were also settled later by two other agreements, one dated 23rd October, 1959 and the other dated 11th January, 1960. The agreements dated the 10th September, 1958 and the 23rd