

were also made of violations of fundamental rights of freedom of worship.

(c) Government of Arunachal Pradesh have clarified that their freedom of Religion Act, as the very title suggests, allows freedom to practise any faith or religion. It is only conversion from one religion to another by questionable means that they wish to prevent. They have further stated that secularism and religious tolerance is practised in the Union Territory in full measure.

Workers' participation in Management

6045. SHRI M. V. CHANDRASHEKARA MURTHY: Will the Minister of LABOUR be pleased to state:

(a) whether Government are considering to give Statutory support to the scheme for workers' participation in management of industries;

(b) if so, whether this scheme which was under the consideration of Government earlier has not been seriously implemented so far; and

(c) if so, whether Government have now decided to seriously consider ways and means to improve the implementation of the scheme?

THE MINISTER OF STATE IN THE MINISTRY OF LABOUR (SHRI-MATI RAM DULARI SINHA): (a) Yes, Sir.

(b) and (c). Two schemes of workers' participation at shop floor/unit and plant/division levels—one for manufacturing and mining industries and the other for commercial and service organisations in the public sector are already in operation. The Central public sector undertakings have been advised to ensure effective implementation of these schemes. The State Governments have also been requested to ensure that these are implemented in their States by the public, private and co-operative sectors. According to

the available information, many public and private sector undertakings are implementing the schemes.

12 00 hrs.

RE. MOTION FOR ADJOURNMENT REPORTED CONSTITUTIONAL CRISIS IN ASSAM

SOME HON. MEMBERS: Sir, what about our adjournment motion?

PROF. MADHU DANDAVATE (Rajapur): Sir, I want to raise a constitutional point.

MR. SPEAKER: I will call one by one the hon. Members who have given notice. First, I will take up the adjournment motion on which you can raise your constitutional point. Then I would like to listen to the other viewpoint also.

SHRI GEORGE FERNANDES (Muzaffarpur): Sir, are you accepting the adjournment motion?

MR. SPEAKER: I am going to listen and then I shall decide what I have to do. I want to satisfy myself and then I will decide and give my ruling.

SHRI ATAL BIHARI BAJPAYEE (New Delhi): Kindly read out the text of the adjournment motion.

SHRI SATISH AGARWAL (Jaipur): Sir, be kind enough to read out the text of the adjournment motion.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI P. VENKATASUBBAIAH): Sir, this matter came up before the House once and as per the direction then the text of the adjournment motion cannot be read out.

MR. SPEAKER: I am not reading. I am listening.

(Interruptions)**

MR. SPEAKER: What are you doing? Not allowed. Without my permission.

I gave my assurance to the House that I will listen to both points of view for deciding this question of adjournment motion regarding Assam. So, I would first like to call one by one the Members who have given the notice.

PROF. MADHU DANDEBATE: Please read out the motion.

MR. SPEAKER: No. They are going to explain something. Now. Mr. B. D. Singh: I would like you to be precise.

SHRI HARIKESH BAHADUR (Gorakhpur): Sir, I have also given notice under Rule 388. We should also be allowed to explain our viewpoint. *(Interruptions)*.

MR. SPEAKER: No. I have disallowed it.

SHRI ATAL BIHARI BAJPAYEE: Sir, if there is no objection from the Government then you admit it.

MR. SPEAKER: I am going to listen. I am going to listen to both the parties.

PROF. MADHU DANDAVATE: Sir, did they object to it in the Chamber?

MR. SPEAKER: He is objecting here.

SHRI K. P. UNNIKRISHNAN (Badagara): He has only objected to the reading.

MR. SPEAKER: I would like to listen and I want to satisfy myself. *(Interruptions)*

SHRI BIJU PATNAIK (Kendrapara): Only if you reject the adjournment motion you may not read out the motion.

MR. SPEAKER: I will call one by one. There are eight Members. They will refer to it when they speak on

it. When they will say, it will come out. They cannot do it without explaining something.

SHRI BIJU PATNAIK: It is not a personal matter. It is a matter for the whole House.

MR. SPEAKER: They are not going to speak to themselves. They are going to speak on some subject and that is for the whole House.

SHRI BIJU PATNAIK: It must be read out.

(Interruptions)

MR. SPEAKER: Why are you trying to unnecessarily waste the time of the House.

PROF. MADHU DANDAVATE: Please try to understand what we are saying. Since you are going to take the opinion of both sides to make up your mind on the admissibility of the adjournment motion what is the harm in reading it out. What is the harm in reading out the Adjournment Motion?

MR. SPEAKER: He will explain it. Mr. B. D. Singh.

(Interruptions)

MR. SPEAKER: Please sit down. Please don't try to teach me.

SHRI GEORGE FERNANDES: I am on a point of order, under Rule 60 first proviso. It says:

"Provided that where the Speaker has refused his consent under rule 56"

—one might assume you have not made up your mind—

"...or is of opinion that the matter proposed to be discussed is not in order."

There also I am sure you have not made up your mind....

"...he may, if he thinks it necessary read the notice of motion and state the reasons for refusing consent...."

MR. SPEAKER: Who said, I am refusing consent?

SHRI GEORGE FERNANDES: My submission is this. Since you intend making up your mind and since those of us who have given notice have been asked to submit our case, in order that the House may make up its mind, we would like your reading this, so that the House is aware of what the subject matter of the Adjournment Motion.

MR. SPEAKER: It says 'If he thinks it necessary'. I don't think it necessary. I know my duty. I am not to be told. Mr. B. D. Singh. I have called Mr. B. D. Singh.

SHRI K. P. UNNIKRISHNAN: I am on Rule 25. Please read it. I am on a point of order. In the List of Business that has been supplied to us for the day, there are items very clearly mentioned. Now I do not know what is going on at 12 O' clock. I don't know on what issue you have decided to hear. And, I am entitled to know, the House is entitled to know, what the subject of the Adjournment Motion is....

MR. SPEAKER: I have already explained that.

SHRI K. P. UNNIKRISHNAN: May I know what the motion is?

MR. SPEAKER: The Adjournment Motion which Mr. B. D. Singh has given.

(Interruptions)

MR. SPEAKER: Order please. My ruling is, I have over-ruled.

(Interruption)**

MR. SPEAKER: He will explain. I have over-ruled. Nothing is going on record. I have over-ruled.

(Interruption)**

MR. SPEAKER: Please read rule 60, second proviso.

SHRI HARIKESH BAHADUR: Why you have not read Rule 25?

MR. SPEAKER: Please read second proviso of Rule 60.

SHRI V. KISHORE CHANDRA S. DEO: I have a submission to make.

MR. SPEAKER: No submission is allowed. Mr. B. D. Singh, are you saying anything on your Adjournment Motion?

श्री बी. डी. सिंह (फूलपुर) : अध्यक्ष जी, अमम में संवैधानिक संकट पैदा हो गया है। वहाँ को सरकार...

SHRI K. P. UNNIKRISHNAN: Rule 60 is applicable. Am I right?

MR. SPEAKER: Second proviso of Rule 60.

श्री बी. डी. सिंह : अध्यक्ष जी, अमम में...

MR. SPEAKER: I am listening.

(Interruptions)**

MR. SPEAKER: You are not to argue. You are not Speaker. I am the Speaker. I have not allowed it. I have not allowed you. Please sit down.

(Interruptions)**

MR. SPEAKER: Shri B. D. Singh. Nothing else will go on record.

(Interruption)**

श्री बी. डी. सिंह : अध्यक्ष जी मैंने जो नोटिस दिया है वह यह है कि असम में संवैधानिक संकट उत्पन्न हो गया है। पिछली 30 तारीख को कट मोशन पर वहाँ सरकार हार चुकी है। इसके बावजूद कल भी एग्जोप्रिग्रेशन बिल वहाँ नहीं पास हो सका फिर पैसा कहाँ से आगमा खर्च के लिए? इसलिए वहाँ कोई सरकार नहीं रह गई है और जो सरकार वहाँ बन रही है वह वह असंवैधानिक है। इसलिए मैंने कार्यवाही रोक कर सदन में इस बात पर खर्च करने को यांग कौ है।

MR. SPEAKER: Shri Chitta Basu.

SHRI CHITTA BASU (Barasat): Sir, now a Constitutional crisis has

[Shri Chitta Basu]

developed in Assam because of certain events which have taken place there in the meantime.

Sir, first of all, a Government was installed there by defection. It was installed with the hope that the difficult problems of Assam would be solved by that Government. There is no doubt about the fact that the Government had failed to solve the basic issues, particularly the issues relating to the foreign nationals. There, the Assembly was called to meet and the Assembly session was on. But at a certain stage the Government had to face the defeat on the floor of the House. Subsequently the House itself had been adjourned *sine die*. No Finance Bill had been passed and even the Motion of thanks for the Governor's address had also not been adopted. The vote on accounts also had not been passed. I want to know what is the status of the Government. Sir, a situation has arisen that we do not know what is the legality of the Government, how the financial business will be transacted, etc. A Constitutional crisis has developed. What does the Government propose to take in this context to overcome the Constitutional crisis. Government must make a statement. What does the Government propose to do now? How does the Government of Assam function and what is the status of the Legislature? Therefore, I think the Government should make a statement and make the position clear.

SHRI K. MAYATHEVAR (Dindigul): Sir, I have a point of order. According to Article 356 of the Constitution, if there is a failure of constitutional machinery in a State or if any crisis had arisen which necessitated the constitutional break-down in any State, first the President of India should get a report from the Governor of the State. Only on receipt of the report from the Governor, the President should make up his mind as to the future course of action. Here in the case of Assam, there is nothing like the Governor's

report or that sort of thing. Therefore, the House cannot discuss the Assam situation. It is premature to discuss the Assam situation.

SHRI GEORGE FERNANDES: Sir, some of us had given Motion of adjournment yesterday, because it is a total collapse of the constitution in so far as Assam is concerned. Article 204 of the Constitution concerns Appropriation Bills. We know it for a fact that the Assembly had to be adjourned *sine die* yesterday and subsequently prorogued without the appropriation bill being passed and a situation had arisen where an attempt on the part of the Government to get the cut motion defeated was made defeated, and in the process the Government had lost its moral right, if not the legal right, certainly moral right to continue. This point was made yesterday by some of us. In your wisdom you felt that we could not raise this issue. Since then a situation has arisen, as I said, where Article 204 has been completely breached. The Appropriation Bill has not been passed.

MR. SPEAKER: What about Article 213?

SHRI GEORGE FERNANDES: I will come to Article 213. Yesterday, I think, what the Government was trying to do was to get a Vote on Account. The Appropriation Bill was on a Vote of Account, and therefore, Articles 204, 205 and 206 get attracted. It is obvious now, that the State Government has not been able to function in so far as its financial responsibilities and financial commitments are concerned. In fact, between midnight last night and early hours of this morning, when the Governor is supposed to have invoked his powers under Article 213, which you mentioned, whatever expenditure the Government incurred was totally unauthorised. This is because the year ended with midnight last night and I am sure, my friend, Prof. Ranga is conscious of this fact. Between midnight last night and whatever the hour of the morning at which the Governor invoked his

powers under Article 213, there was no sanction for any expenditure that the Government incurred and the fact is that Government do incur expenditure; even when the rest of us are sleeping, the Government keeps functioning and they do incur expenditure.

Now, let us take Article 213, which relates to the power of the Governor to promulgate ordinances during recess of legislature. It says:

"If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such ordinances as the circumstances appear to him to require."

Now, what are the circumstances of the case? The circumstances are that the Government.....

MR. SPEAKER: Who is responsible for that judgement?

SHRI GEORGE FERNANDES: Who is responsible for that is not the issue. There was a Ministry. If you have to find out who is responsible, whosoever installed a Ministry that did not have the support of the majority of the legislators is responsible, and on that, I am sure, the gentlemen sitting opposite—the lady is not present—are responsible. In fact, between the time they installed the Government and till yesterday evening they—each one of them—used every conceivable measure, immoral and illegal to see if they could prop up. The newspapers carried a report that one of the junior Ministers, Mr. Thungon—his name was mentioned—was sitting in the Speaker's Gallery while the House was discussing the Appropriation Bill and the Government was trying to push through its financial business. So, every effort was made. In spite of those efforts, yesterday

evening it was no more possible for the Government to get the Appropriation Bill passed and the Assembly gets prorogued. Thereafter for the Governor to invoke powers under Article 213 is to say the least an assault on the Constitution and what the Constitution signifies and symbolises.

MR. SPEAKER: Who is responsible to me—such ordinances as the circumstances appear to him to require?

SHRI GEORGE FERNANDES: In the first place, the Appropriation Bill was before the House. The House was not able to adopt that Bill. In fact, the House was prorogued primarily because of its incapability to adopt that Bill. So, the central issue apart from the failure of the Constitution, is upholding both the letter and the spirit of the Constitution. What is the spirit of our Constitution? Is Governor's rule the spirit of our Constitution? Or, is the people's legislature taking decisions, people's legislature legislating for the people the spirit of our Constitution? Either we are a republican Constitution, or we are a Governor's Constitution. Therefore, I don't think anybody should seek protection behind the powers which the Governor has, under Article 213, to promulgate ordinances.

In this case, the Governor has certainly misused the powers which are available to him under Article 213. Apart from the Appropriation Bill question, there is one other matter; and you will see it in my notice. In my notice, I have mentioned the fact that this legislature could not even adopt a Motion of Thanks on the Governor's Address. What can be more pitiable than this? The Governor comes and addresses the House. Then you are quoting to me....

MR. SPEAKER: No. I am just getting myself some information.

SHRI GEORGE FERNANDES: So, this is an important point, because the Governor's Address is under this Constitution, viz., under Article 176. Article 176 says:

"(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."

The Governor did it. That Article also says:

"(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."

The Governor comes, addresses the House, makes his points. Under the Rules of Procedure, the Assembly sets apart time. The Motion of Thanks is moved; and the Assembly gets adjourned. The Assembly gets prorogued, with out its being able even to pass a Motion of Thanks to the Governor's Address. Thereafter, for the Governor to invoke the provisions of Article 213—what is left, Sir, of the Constitution? Therefore, my submission is that you must accept our adjournment motion and help us to protect the Constitution of this country—a duty cast on us.

MR. SPEAKER: Mr. Rajnath Sonkar Shastri is not available. Shri Atal Bihari Vajpayee.

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, ऐसा दिखाई देता है कि अमम में एक नई संवैधानिक कहानी लिखी जा रही है। जिस संविधान के अनुसार हम आज तक चले रहे उसे तब पर रज कर अमम में ऐसा प्रयत्न हो रहा है जो गणतंत्र

की जड़ों पर कुठाराघात कर रहा है। दल-बदल के आधार पर बनी हुई सरकार जब राज्यपाल द्वारा सहारा ले कर अमम में बनी, नैतिक अधिकार तो उस को तभी नहीं था, लेकिन अब उसने संवैधानिक अधिकार खो दिया।

मैं जानना चाहता हूँ कि क्या केन्द्र सरकार ने अमम के बारे में वहाँ के राज्यपाल से कोई रिपोर्ट मंगाई है या क्या राज्यपाल ने स्वयं कोई रिपोर्ट भेजी है? अगर रिपोर्ट भेजी है तो उस के बारे में सदन को विश्वास में लिया जाय। लेकिन आर्टिकल 356 के अन्तर्गत केन्द्र सरकार स्वयं यह मूल्यांकन कर सकती है कि क्या सचमुच में अमम में शासन संविधान के अन्तर्गत चल रहा है? एग्जप्रिप्रेशन बिल पास नहीं हुआ, कर्मचारियों को वेतन नहीं मिलेगा

कुछ माननीय सदस्य : मिलेगा।

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, वह कर्मचारी बोल रहे हैं या पार्लियामेंट के मेम्बर बोल रहे हैं?

विधान सभा की बैठक को अचानक स्थगित कर दिया गया। वहाँ के डिप्टी स्पीकर ने भी कहा कि एग्जप्रिप्रिटेड सिचुएशन है। मैं जानना चाहता हूँ कि राज्यपाल महोदय ने जब अध्यादेश जारी किया तो संविधान कहना है कि अध्यादेश उस समय जारी होगा जब विधान सभा की बैठक नहीं होगी, संविधान यह नहीं कहना कि कोई सरकार सदन में गिरने के भय से विधान सभा की बैठक स्थगित कर दे और फिर राज्यपाल से कहें कि जो काम हम विधान सभा में नहीं कर सकते हैं वह आप अपने अधिकार से कर दीजिए.. (अध्यक्ष) . . .

श्री गिरधारी साहू (भा.वा.स.): (भीलवाड़ा):
यह कानूनी मुद्दा है, बाजपेयी जी।

श्री अटल बिहारी बाजपेयी: जी हाँ, लेकिन यह सवाल वे दे रहे हैं जिनका कानून से दूर का भी सम्बन्ध नहीं है। राज्यपाल ने अध्यादेश जारी करने के अपने अधिकार का दुरुपयोग किया है। यह संविधान के साथ मेलबद्ध किया गया है। अगर अध्यादेश जारी नहीं होता तब तो शासन चलने का वहाँ सवाल ही नहीं था लेकिन मेरा निवेदन है कि राज्यपाल महोदय को वापिस बुलाया जाना चाहिए। केन्द्रीय सरकार असम की परिस्थिति में हस्तक्षेप करने में असफल रही है इसलिए हम केन्द्रीय सरकार की निन्दा करना चाहते हैं। ये दिल्ली में बैठकर क्या कर रहे हैं? अभी अभी गृह मंत्री महोदय शिलोंग गए थे, वहाँ दल बदल में बनी हुई सरकार का पीठ अस्थिर कर आए हैं लेकिन अगर सरकार विधान सभा में नहीं टिक सकती तो नई दिल्ली के भरोसे कोई भी सरकार टिकने वाली नहीं है। मेरा निवेदन है कि पार्टी के स्वार्थ के लिए संविधान के साथ मजबूत मत बाँटिए। असम की स्थिति पहले से ही गम्भीर है। अगर ऐसा दिखाई देता है कि कोई सरकार अनैतिक और असंवैधानिक तरीकों से असम पर थोपी जा रही है तो परिस्थिति काबू से बाहर हो जायेगी।

PROF. MADHU DANDAVATE: Mr. Speaker, Sir, when many of us requested you to read the text of the adjournment motion, you said that it is left to us and, therefore, I will follow your direction first and read the text of the adjournment motion. It says as follows:

"The break-down of the Constitution in Assam created by the prorogation of the State Assembly without the passage of Appropriation Bill, the Finance Bill and Vote of Thanks on the Governor's Address and the failure of the Centre to dismiss Assam Ministry

in the event of its refusal to resign."

MR. SPEAKER: Thank you. This is the fourth time this has come now.

PROF. MADHU DANDAVATE: I will always abide by your direction.

MR. SPEAKER: Very nice of you.

PROF. MADHU DANDAVATE: As far as constitutional provisions are concerned, they are absolutely clear. (Interruptions). As my friend, Mr. George Fernandes read only article, I would like to quote the relevant part of it. Article 204(1) says as follows:

"As soon as may be after the grants under article 203 have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet."

So, various items have been given there. It is very clear that if from the Consolidated Fund amounts are to be drawn and the government is to be conducted, it is very necessary that the Appropriation Bill has to be passed in the Assembly, the Finance Bill has to be adopted; and the democratic conventions and norms also demand that the Motion of Thanks to the Governor's Address also has to be accepted. I am sorry to find that not only Article 204 has been violated but Article 213 is being misinterpreted and misused.

From 1947 upto 1981, in the history of parliamentary democracy of India, nowhere Article 213 has been misused. I am shocked and surprised to find that even the Finance Bills are brought within the purview of Article 213. (Interruptions). I think this is another mischief and it is a failure of the Government.

As far as other aspects are concerned, it is very clear. (Interruptions). It is clear that the Governor is expected to send his report whether there is a constitutional deadlock or

[Prof. Madhu Dandavate]

crisis in the State. But on many occasions, I would like to quote the precedents and go on record that—recently when in 9 State Assemblies were dissolved irrespective of the report that was submitted by the Governor of the State concerned—I want to go on record—the Governors of Gujarat and Madhya Pradesh not only sent the reports but publicity made statements that there was no constitutional crisis in the States, there was no failure of law and order machinery. Even then we found that certain steps were taken. And, therefore, we are afraid that the entire constitutional provisions are sought to be misused and certain provisions are violated. (Interruptions). Please rest assured My voice can be louder than the voice of all of you put together.

Therefore, I want to point out to you, that some provisions of the Constitution are violated and certain Articles of the Constitution are being misused and it was the bounded duty of the Centre that these sanctions are protected notwithstanding the fact that the Governor's Report has not arrived, *suo motu*, the Government of India could have taken a decision. On so many occasions they were very keen to see that the President's Rule is imposed and they intervene in the matter. In this case also without even dissolving the Assembly, keeping it in suspended animation it would have been possible to intervene in the matter. They have done it in the past. But it is unfortunate to find that they are refusing to do it. And that is the reason why we have brought this adjournment motion. Let me conclude by saying, why Adjournment Motion is brought and no other notice. In the Speakers' Conference some years back at Srinagar it was accepted that Adjournment Motion has an element of censure in it. And we are interesting in censuring this Government on this issue. Because this is the greatest failure from 1947 to 1981, that is why we wanted an element of censure to be introduced and that is why we have

sought your permission to move the Adjournment Motion. We have got the least doubt that after hearing the valid arguments that the Members of Opposition have put forward—I have got the least doubt that notwithstanding what the Members of the other side will say—you will give the consent to us to seek leave to move the adjournment motion.

श्री राज बालस पासवान : (हाजीपुर) :

अध्यक्ष महोदय, मैं आप के माध्यम से जानना चाहता हूँ—31 मार्च को खत्म हो गया है और आज हम लोग पहली अश्रित, यानी फूल-डे में चल रहे हैं। एग्जिप्रियेशन बिल यहां पास नहीं हुआ और जिन आर्डिनेन्स के सम्बन्ध में यहां चर्चा हुई—उस में एक विन्कल साफ है कि गवर्नर को पावर नहीं है। अब यह प्रेजिडेंट का मामला है, उन पर भी यह एप्लाइ करना है या नहीं, मैं नहीं कह सकता, लेकिन आर्टिकल 123, जब सेशन चलता हो, तो सेशन के बीच में वह भी नहीं कर सकते हैं। वहां पर जिन सरकार का जन्म हुआ था, वह भी इल्लामिन था, सरकार को पैदाइश मल्लत तरीके से का गई था।

अब यह जो कॉन्स्टीचूशनल क्रमिज उत्पन्न हो गया है, एक गलती के बाद दूसरी गलती करने जा रहे हैं—मैं आप के माध्यम से यह जानना चाहता हूँ कि उन सदन को क्यों स्थगित किया गया, इन का साइनेडर स्थगित करना और उन का सन्नाहमान करना, पोलिटिकल—मॉटिवेटेड था, सरकार के बचाने का एक ढंग था। मैं आप के माध्यम से साफ तौर से कहना चाहता हूँ कि वहां का सरकार का डिमिशन किया जाय और डिमिशन करने के बाद जिसकी मैजोरिटी हो उस का सरकार बनाने का मोर्चा दिशा जाय, अपोजिशन को मौका दिया जाय। यह कोई नई परम्परा नहीं

है। इस तरह से काम न किया जाय कि कांस्टीचूशन को आइ में गलत ढंग से कानून को इण्टरप्रेट कर के नई परम्परा शुरू की जाय। इस लिए आप असम के इन मामले का संविधान, हम-श्रेय कीजिए। मैं गृह मंत्री जी, पार्लियामेंट तथा आप से यह भी कहना चाहता हूँ—यदि गलत काम करने में नहीं रोका गया तो हिन्दुस्तान में कांस्टीचूशन की मर्यादा नहीं रह जायगी और जिस को मौका मिलेगा—कांस्टीचूशन को तोड़-मरोड़ कर संसद के मत के लायक गलत इण्टरप्रेट करेगा। इसी लिए हम ने यह कार्य सचिवन प्रस्ताव दिया है, जिस पर आप बहस कराइये।

SHRI R. K. MHALGI (Thane): Sir, my motion by and large is on the lines of Prof. Dandavate's. The provisions of the Rules, Nos. 56, 57, 58 are well observed in respect of the Adjournment Motion. Firstly, it is in regard to a definite matter. There will be no dispute about that. Secondly, it is a matter of public importance. This will also not be disputed. Thirdly, this is a matter of recent occurrence. This cannot also be disputed. This is a case of constitutional crisis, taking into consideration, the special circumstances of the situation, especially the three points, namely, the motion of thanks has not been adopted in the Assam Assembly. Secondly, there is the defeat of the Government in respect of a cut motion regarding the National Security Act. Thirdly, though the vote on account has been passed by 52 votes to 41 votes, the Appropriation Bill has not been introduced at all in the Assembly. Article 204 says:

"As soon as may be after the grants under article 203 have been

made by the Assembly, there shall be introduced a Bill. . . ."

The word is 'shall'. Such a Bill has not been introduced in the Assembly.

MR. SPEAKER: Introduced, but not passed.

SHRI R. K. MHALGI: Yes, it is as good as the same.

The next thing is, the Governor has issued an ordinance. Let this House know what is the exact time of the issuance of that ordinance, because it is only upto 12 O'clock in the night of 31st March that the Assembly has sanctioned the spending of money by the Government. But from the first minute of the next hour, there is no sanction of the Adjournment Motion. Firstly, ment to spend money. According to my information, the issuance of the ordinance was in the early morning of today. What about the period of three or four hours in between?

MR. SPEAKER: That point has been made already. Any fresh point?

SHRI R. K. MHALGI: So, this needs to be explained. Unless it is done, whatever actions have been taken by the Governor of Assam are totally illegal, and absolutely immoral.

MR. SPEAKER: Law Minister.

SHRI SATISH AGARWAL: I have also given an adjournment motion regarding the Constitutional crisis in Assam.

MR. SPEAKER: It was late. It arrived late.

SHRI N. K. SHEJWALKAR: On a point of order, Sir.

MR. SPEAKER: No point or order.

SHRI ATAL BIHAR VAJPAYEE: No other member will be allowed to speak now?

MR. SPEAKER: No.

SHRI N. K. SHEJWALKAR (Gwalior): I want to speak for two minutes only.

MR. SPEAKER: No; I have allowed only members who have given this notice?

SHRI N. K. SHEJWALKAR: What about the Law Minister? This is unjust. I do not shout; I never say anything which is not relevant.

MR. SPEAKER: I cannot.

SHRI N.K.SHEJWALKAR: I want to mention only one constitutional point.

MR. SPEAKER: No, Sir.

SHRI N. K. SHEJWALKAR: I want to mention only one constitutional point. Either you rule that anybody who is not a mover will not speak, to which I agree. . . .

MR. SPEAKER: That is what I said.

SHRI N. K. SHEJWALKAR: But Law Minister is not a mover.

MR. SPEAKER: He is not a mover but he has to reply.

SHRI N. K. SHEJWALKAR: Reply on what basis? Let Home Minister reply.

(Interruptions)

MR. SPEAKER: I am going to force. . . .

(Interruptions)

MR. SPEAKER: Nothing will go on record. He is irrelevant.

(Interruptions)**

MR. SPEAKER: I gave the assurance on the floor of the House that I will hear both points of view and then I will decide. I have given a clear indication and I am not going to retrace my steps.

SHRI JYOTIRMOY BOSU (Diamond Harbour): On a point of order, Sir. Adjournment motion has been given by certain members.

SHRI N. K. SHEJWALKAR: Under what rule he is speaking?

SHRI JYOTIRMOY BOSU: You have been good enough to ask them to explain their stand. They have made out their case that the Government of Assam have forfeited their

right and popular support. That is a different thing. But under what rule you asked the Law Minister to reply? Under what rule? You have heard the petitioners, the movers of the adjournment motion.

MR. SPEAKER: No, no. There is the rule.

SHRI JYOTIRMOY BOSU: That rule does not apply. It is up to you.

MR. SPEAKER: I gave a categorical assurance on the floor of the House that I will hear both the points of view and then give my ruling.

(Interruptions)

SHRI INDRAJIT GUPTA (Bashirhat): If they are opposing it, you must give them an opportunity.

MR. SPEAKER: That is not the point.

(Interruptions)

SHRI INDRAJIT GUPTA: If there is no objection, there is no need to hear them.

MR. SPEAKER: I have to hear the Minister.

SHRI JYOTIRMOY BOSU: No, if there is the requisite number, you have to allow it. . . . (Interruptions)

SHRI INDRAJIT GUPTA: Many times in the past the Government indicated that they have no objection to the adjournment motion being admitted and discussed. In that case, it is not necessary to hear them. They will be able to speak during the debate. Have you ascertained whether they have any objection or not to the adjournment motion? Otherwise, why are you asking them to speak?

MR. SPEAKER: I have called the Law Minister.

(Interruptions)

SHRI INDRAJIT GUPTA: I am asking the Speaker; I am not asking the Law Minister.

MR. SPEAKER: You just listen. I am asking the Law Minister. I gave an assurance. उस वक्त तो किसी ने एतराज नहीं किया, अब कैसे एतराज कर रहे हैं।

SHRI N. K. SHEJWALKAR: Sir, I am raising a point of order under article 207. I am not saying anything about the situation, what is happening in Assam. The simple point is that under article 207....

MR. SPEAKER: No, I am not allowing it.

SHRI N. K. SHEJWALKAR: Bear with me for a minute.

MR. SPEAKER: No, S.r.

SHRI N. K. SHEJWALKAR: I am raising it to have the discussion at a higher level.

MR. SPEAKER: I have already overruled it.

श्री एन० के० शेजवलकर : आप को इजाजत के बगैर मैं कुछ नहीं कहूंगा, लेकिन आर्टीकल 207 में यह है ...

MR. SPEAKER: No.

SHRI N. K. SHEJWALKAR: It is a very important point.

MR. SPEAKER: No, I am not allowing it.

SHRI N. K. SHEJWALKAR: It is unfair.

(Interruptions)

MR. SPEAKER: No. (Interruptions) Are you afraid of him?

SHRI HARIKESH BAHADUR: Sir, I rise on a point of order.

MR. SPEAKER: No.

SHRI HARIKESH BAHADUR: You have to listen to my point of order.

MR. SPEAKER: No, I will not.

SHRI HARIKESH BAHADUR: I want to submit. . . .

MR. SPEAKER: There is no point on this thing.

SHRI HARIKESH BAHADUR: Just one minute. One interpretation.

MR. SPEAKER: No, I do not allow.

SHRI N. K. SHEJWALKAR: The Finance Bill cannot be passed without the recommendation. . .

MR. SPEAKER: Nothing is going on record.

(Interruption)**

MR. SPEAKER: You sit down.

(Interruptions).

MR. SPEAKER: I have to listen to him. I want to be very fair. I have listened to every member

SHRI BIJU PATNAIK: A point of order can be raised by any member at any time. You cannot deny the right of a member. You cannot deny it, if any member of the House has a point of order at any time.

MR. SPEAKER: Nothing should be recorded without my permission.

(Interruption)**

MR. SPEAKER: He is speaking without my permission. I have not permitted him.

*(Interruptions)***

MR. SPEAKER: He is speaking something else. He has not got even my permission.

*(Interruptions)***

MR. SPEAKER: I have overruled it.

*(Interruptions)***

MR. SPEAKER: You did not have my permission.

*(Interruption)***

MR. SPEAKER: I have overruled it.

*(Interruption)***

SHRI BIJU PATNAIK: You cannot take away rights of the Members of this House.

MR. SPEAKER: I have listened to him.

SHRI BIJU PATNAIK: Anybody can raise a point of order and you have to listen to it.

MR. SPEAKER: I have listened to him and I have overruled it.

SHRI ATAL BIHARI VAJAPAYEE: You did not listen.

(Interruptions).

SHRI BAPUSAHEB PARULEKAR (Ratnagiri): Mr. Speaker, Sir, it is a very important point of order. You said that you. . .

(Interruptions).

MR. SPEAKER: Who said?

SHRI BAPUSAHEB PARULEKAR: You said.

MR. SPEAKER: To whom?

(Interruptions).

MR. SPEAKER: I told him that his point of order is overruled.

SHRI BAPUSAHEB PARULEKAR: Sir, it is said in the booklet which has

been circulated here. *(Interruptions).*
Kindly listen.

(Interruptions).

MR. SPEAKER: You have perhaps not heard me. I said 'I have heard him and I have overruled his point of order'. So simple it is.

SHRI BIJUPATNAIK: You said did not want to hear him.

SHRI JYOTIRMOY BOSU: There must be some micro-wave channel between you and him. We did not hear.

(Interruptions).

MR. SPEAKER: I listened to all the Members. He was asking me to permit him to say a few words. I did not allow. So simple it is.

(Interruptions).

MR. SPEAKER: Why are you all speaking at the same time?

SHRI SATYASADHAN CHAKRABORTY (Calcutta South): We are collectively defending our rights.

(Interruptions).

MR. SPEAKER: What do you want to say? Under what rule you want to say?

SHRI K. P. UNNIKRISHNAN: I need not enlighten you. My point of order is always raised under Rule 376.

MR. SPEAKER: It is always heard.
(Interruptions).

SHRI K. P. UNNIKRISHNAN: I have been in this House for quite some time.

MR. SPEAKER: What is it? You let me know.

SHRI K. P. UNNIKRISHNAN: Please do not put this question to me like you put to Members who are not familiar with the rules. Please do not put this question like this.

MR. SPEAKER: Have you got any point of order?

SHRI K. P. UNNIKRISHNAN: There is only one rule. . .

MR. SPEAKER: Have you got any point of order?

SHRI K. P. UNNIKRISHNAN: Please do not have a running argument. Please listen. Rule 376(1) says:

"A point of order shall relate to the interpretation or enforcement of these rules or such articles of the Constitution as regulate the business of the House. . . ."

Now, when you are kind enough to allow us to raise this question, if a Member wants to raise a point of order, it has never been rejected. You may reject it, but you must listen first.

MR. SPEAKER: No. I have overruled it.

SHRI K. P. UNNIKRISHNAN: You have overruled. We are entitled to that courtesy from you that you should listen first.

MR. SPEAKER: But what is the point?

SHRI K. P. UNNIKRISHNAN: You are a creature of the Constitution. You are a creature of these rules. You cannot violate them.

MR. SPEAKER: I am not the only one. You are also responsible for this.

Mr. Parulekar, what do you want to say? Have you got any point of order?

SHRI BAPASAHEB PARULEKAR: Yes.

MR. SPEAKER: What is it?

SHRI BAPUSAHEB PARULEKAR: Sir, it is this. Mr. Harikesh Bahadur wanted to raise a point of order. You said 'No'. I want to invite your attention to this booklet which has been circulated.

MR. SPEAKER: I know.

SHRI BAPUSAHEB PARULEKAR: No, no. I want to bring it to your notice and I want to remind you of this that a point of order is an extraordinary process which, when raised, has the effect of suspending the proceedings before the House. So, no sooner does a Member rise and say that he has a point of order, you have to listen. (Interruptions). The entire busi-

ness is suspended. He has a right to be heard. You cannot curb it.

MR. SPEAKER: I am not curbing it. (Interruptions)

SHRI K. P. UNNIKRISHNAN: We will fight every inch for our rights, every inch, every step. (Interruptions)

MR. SPEAKER: Mr. Shejwalkar, what is your point of order?

SHRI N. K. SHEJWALKAR: Of course, the third point is. . . .

MR. SPEAKER: No, you tell your point of order.

SHRI N. K. SHEJWALKAR: I am on the interpretation of the Constitution provision under Article 207. (Interruptions) Let me complete.

(Interruptions)

MR. SPEAKER: No.

(Interruptions)

MR. SPEAKER: Why are you speaking? Let me listen to him. Why are you trying to interrupt us?

(Interruptions)

SHRI N. K. SHEJWALKAR: You can say 'no' after it. I will sit down immediately. The provision is:—

"A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill"

This is in continuation of Article 204. Both the authorities cannot be the same, the person who is recommending as well as passing the Ordinance. They cannot be together. Therefore, actually the Governor has no power to enact such an Ordinance. This is my point of order. Now you decide whatever you want to. (Interruptions).

MR. SPEAKER: The Bill has been introduced. We will still listen to.. (Interruptions).

MR. SPEAKER: Mr. Venkatasubbiah, have you got any point of order?
(Interruptions).

MR. SPEAKER: For you there is a point of order and for him is it not?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI P. VENKATASUBBAIAH): My point of order is . . . (Interruptions).

A point of order is not a point of privilege. (Interruptions).

MR. SPEAKER: No.

SHRI P. VENKATASUBBAIAH: Unless the Speaker permits him to place the point of order. . . .

MR. SPEAKER: This is what we do.
(Interruptions)

MR. SPEAKER: It is all right. (Interruptions).

SHRI P. VENKATASUBBAIAH: Pleased hear me. (Interruptions). Mr. Unnikrishnan has said whenever a Member raises a point of order, you have to allow him.

MR. SPEAKER: No.

SHRI P. VENKATASUBBAIAH: My question is on a point of order.

MR. SPEAKER: Which rule did you quote?

SHRI P. VENKATASUBBAIAH: Rule 376. (Interruptions)

SHRI GEORGE FERNANDES: Ask him to read the rule. He has not read the rule.

SHRI P. VENKATASUBBAIAH: I have read the rule.

MR. SPEAKER: It is well taken.
(Interruptions)

MR. SPEAKER: Mr. Unnikrishnan, you have to read the rules.
(Interruptions)

MR. SPEAKER: Why should I?

SHRI GEORGE FERNANDES: "Provided that the Speaker may permit a Member to raise a point of order during the interval between the termination of one item of business and the commencement of another. . . ."

MR. SPEAKER: This is what he has said. . . .

(Interruptions)

SHRI GEORGE FERNANDES: Our rights are involved.

MR. SPEAKER: Whatever the rule says, he has pointed out this rule.

(Interruptions)

SHRI GEORGE FERNANDES: It is before this House at the moment. 376(2) says:

"A point of order may be raised in relation to the business before the House at the moment."

That is my right.

If there is no item of business between the two items the Speaker might permit. . . .

MR. SPEAKER: It is with my consent. (Interruptions)

SHRI GEORGE FERNANDES: You have the authority.

MR. SPEAKER: That is what I do.

SHRI GEORGE FERNANDES: First right is mine. This Minister of Parliamentary Affairs has not read the rule.

MR. SPEAKER: He says 'it is not privilege'. It is my consent.

SHRI HARIKESH BAHADUR: I want to draw your attention to Rule 58(iii).

MR. SPEAKER: Please go on.

SHRI HARIKESH BAHADUR: Please see Rule 56 and 58(iii). Rule 56—". . . a motion for an adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance. . . ."

Rule 58(iii)—"the motion shall be restricted to a specific matter of recent occurrence;"

In regard to both these I would like to say that there is violation of the Constitution. Constitutional break down . . .

MR. SPEAKER: What is there about these?

SHRI HARIKESH BAHADUR: Appropriation Bill and so it is. . . .

MR. SPEAKER: How does it come in? Over ruled.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (Shri P. Shiv Shankar): Mr. Speaker, Sir, when I stand before the House. . . .

SHRI SATISH AGARWAL: He is famous in Andhra Pradesh for always arguing hopeless cases and winning them. Why should you allow him?

MR. SPEAKER: He always wins. What is the net result? That comes to some success or not? It is the outcome which matters.

आपकी दोस्ती बनती है, संतोष जी।

SHRI P. SHIV SHANKAR: For once at least I would like to thank him for the left-handed compliment that has been paid to me.

MR. SPEAKER: His right hand was forward

SHRI BAPUSAHEB PARULEKAR: He is always at his best when he has no case.

SHRI P. SHIV SHANKAR: Sir, I have requested you, as contemplated by the second proviso to Sub-rule (1) rule 60, to give me the permission to explain the position of the Government because you are not in full possession of the facts. That is why I sought your kind permission.

Now, the point that has been urged is that there is a constitutional breakdown and it is rather amusing for once at least to hear from the Opposition that the Ministry of a State should be dismissed or that Presidential Rule should be imposed. . . . (Interruptions)

SHRI HARIKESH BAHADUR: We did not say that.

SHRI P. SHIV SHANKAR: I am saying that it is amusing for once at least to hear these expressions from the other side. . . .

SHRI GEORGE FERNANDES: Who has said that?

SHRI P. SHIV SHANKAR: The arguments have been advanced. . . .

SHRI GEORGE FERNANDES: None of us has said that.

SHRI R. K. MHALGI: We want that Government to resign.

SHRI P. SHIV SHANKAR: The motion that has been given requests for the dismissal of the Ministry. I am only trying to rely on their own words. I am reading their own motion.

Before I make my submission on the question whether there is a constitutional breakdown which I would refute, with the little knowledge of law that I have, I would like to explain some facts.

SHRI SOMNATH CHATTERJEE: Little knowledge is dangerous.

SHRI P. SHIV SHANKAR: The House is aware that the Assam legislature met on the 19th March, 1981. A No-Confidence motion was moved which was rejected on the 24th March, 1981 by a majority. I will not go into those facts. What actually happened was that on the 30th March, 1981, the Supplementary Budget was passed. A cut motion related to that was moved and without going into the details. . . .

SHRI N. K. SHEJWALKAR: What is the cut motion?

SHRI P. SHIV SHANKAR: Would you like it? I would certainly read it. I would not mind reading it as long as you like to hear it. That related to Demand No. 4 relating to the expenditure on jails, etc.

AN HON. MEMBER: The National Security Act.

SHRI P. SHIV SHANKAR: If you cannot have the patience to listen to me, it would be very difficult. You give me a chance to explain it.

MR. SPEAKER: Let me get the facts. Why do you interrupt him?

SHRI P. SHIV SHANKAR: I am confident that you will not oppose every word that I will utter.

The Home Minister considering the sentiments expressed by hon. Members

[Shri P. Shiv Shankar]

sought to withdraw the Demand amounting to Rs. 50,000.

SHRI R. K. MHALGI: Is it ever done? *(Interruptions)*

MR. SPEAKER: Again you are speaking unnecessarily?

13.00 hrs.

SHRI P. SHIV SHANKAR: They seem to be incorrigible. The House was adjourned for 10 minutes. The Opposition Members belonging to Janata, Assam Janata and Congress (U) objected to the withdrawal of the demand. The House was adjourned for 10 minutes by Hon. Deputy Speaker as transaction of business became impossible due to disturbance created. After 10 minutes, the House met, but the Hon. Speaker had to adjourn the House again for 10 minutes and finally till 10 AM on 30th March. On 30th March, the Hon. Speaker gave the ruling on point of order raised, to one of the aforesaid Members. Yet the interruptions continued frequently. The House passed the cut motion as the Government side accepted it and did not oppose it. It was a motion.

SHRI RAVINDRA VARMA (Bombay North): What is the document he is reading from? Is it the Governor's report?

MR. SPEAKER: That is what you asked for.

PROF. MADHU DANDAVATE: Is it the Governor's report?

SHRI P. SHIV SHANKAR: You wanted some facts. I am obliging you. If you do not want to be obliged, I will keep quiet. You wanted the facts to be narrated. I am giving the facts from my own notes which I prepared. I have prepared my own notes for the purpose of your knowledge if you would like to be enlightened.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND WORKS AND NARAIN SINGH): He is giving the NARAIN SINGH: He is giving the actual position.

SHRI JYOTIRMOY BOSU: You are a perpetual knowledge-giver.

SHRI P. SHIV SHANKAR: Not to persons like you.

SHRI JYOTIRMOY BOSU: It will amount to carrying coal to New Castle.

SHRI P. SHIV SHANKAR: Yet the interruptions continued. The House passed the cut motion as the Government side accepted it and did not oppose it. It was a motion for a token cut. After passing the cut motions, Demand No. 4 was withdrawn by the Home Minister with the leave of the House and the Appropriation Act excluding this demand was passed during continued interruptions.

The point is this that so far as the Supplementary Budget is concerned, which related to the cut motion, that was passed, even the Appropriation Bill was also passed. Now, so far as our rules are concerned and the rule of the Assam legislature which is also in *pari materia* with the rules that we have, there are three ways of expressing the grievances by a cut motion. One is, representing the disapproval of the policy when the amount of the demand is sought to be reduced to Re. 1 and the second is the economy cut and the third only to ventilate a specific grievance when it is moved that the amount of the demand be reduced by Rs. 100. It is precisely this which ingraind or inhered in the cut motion and it was only to ventilate a specific grievance. Now so far as the Government is concerned, Government wanted to withdraw, but as I said, some of the Hon. Members did not want it to be withdrawn. Therefore, Government decided to adopt it and finally the whole thing was withdrawn.

SHRI BIJU PATNAIK: After being defeated.

SHRI P. SHIV SHANKAR: This is not a case of defeat. Now the point is that in the annals of the parliamentary history, there is no case where in a cut motion of this nature, even if it were

to be adopted by the House, any ministry has resigned. There is nothing of that type. (*Interruptions*) Here, it is not a case of a cut motion being voted. On the contrary, the Government, taking into consideration the sense of the House, adopted the cut motion itself and voted along with that....

SHRI RAVINDRA VARMA: Government adopted the cut motion. That is what he says.

SHRI P. SHIV SHANKAR: They adopted it.

SHRI RAVINDRA VARMA: Can a Government accept a cut motion? Has it ever happened?

SHRI P. SHIV SHANKAR: They adopted it. My Hon. friends may allow me to speak. What is the purpose of your saying (*Interruptions*)

SHRI RAVINDRA VARMA: Did Government adopt the Cut Motion?

SHRI P. SHIV SHANKAR: We can. There are Parliamentary precedents. What is the purpose of your talking like this?

SHRI RAVINDRA VARMA: I am not challenging. I want to know the fact. Did the Government adopt the Cut Motion?

SHRI P. SHIV SHANKAR: I am saying that. I have gone so far as to say that, even if it were to be a case of Cut Motion being voted, there is no precedent in the annals of the Parliamentary history where any Ministry has resigned. I say this with authority. (*Interruptions*)

SHRI BIJU PATNAIK: Is there any precedent anywhere where a Cut Motion has been adopted?

PROF. MADHU DANDAVATE: In Parliament no Cut Motion was ever adopted.

SHRI GEORGE FERNANDES: Minority Governments were never propped up....

ed up.... (*Interruptions*)

SHRI P. SHIV SHANKAR: Mr. Fernandes, I would not like the issues to

be side-tracked. I am on one issue, and you would like to argue the other issue. I can give you instances of Orissa, but I would not like to go into those things now. (*Interruptions*) I am saying categorically that there is no case where a Ministry has resigned. On the contrary, in the present case... (*Interruptions*)....

PROF. MADHU DANDAVATE: I would like to know from the Minister whether in the history of Parliament of India or of any Legislature, any Cut Motion was ever accepted.

SHRI P. SHIV SHANKAR: You will not allow me to say what I want to. Please sit down so that I may say what I want to. (*Interruptions*)

MR. SPEAKER: He is not saying anything wrong.

SHRI BIJU PATNAIK: He is saying that, in the annals of the history of India, no Government has ever resigned....

MR. SPEAKER: If anything is wrong, you can rebut it.

SHRI GEORGE FERNANDES: Sir, I am on a point of order. Here is the Practice and Procedure of Parliament by Kaul and Shakhder. This has been quoted every time. I would like to quote one sentence from this. This is Vol. II, page 603:

"Cut Motions

"During the discussion on the demands for grants, motions can be moved to reduce the amount of a demand. Such a motion is called a 'cut motion'. It is only a form of initiating discussion on the demand, so that the attention of the House is drawn to the matter specified in such a motion. It is not obligatory that discussion should start only on a cut motion, nor does it bestow a right on a member to insist on moving his cut motion. Cut Motions are given by members of the Opposition only and members of the Government party do not give such notices as it will amount to a vote of censure or indirectly 'no-confidence' in the Council of Ministers." (*Interruptions*)

SHRI BIJU PATNAIK: The Law Minister admits that Government has accepted it. Government has accepted a censure on itself!
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MR. SPEAKER: Please sit down now.....

(Interruptions)

MR. SPEAKER: Please let us listen. You are going to prejudice.. (Interruptions) No, no. I have seen that also.

SHRI P. SHIV SHANKAR: Now, it appears that it will be difficult for me to go on replying to each and every point that is raised..(Interruptions)

अध्यक्ष महोदय : आप फिर बोल रहे हैं। अब कोई और बोलता है, तो आपको बड़ी तकलीफ होती है।

SHRI P. SHIV SHANKAR: Mr. Patnaik, of all the persons I really object to your constant interruptions—you were a part of a government which did not come before the House for a day..(Interruptions) You continued for six months. You have the check to speak?..(Interruptions) This is very unfair.

SHRI BIJU PATNAIK: Please address the Chair and not me.

SHRI P. SHIV SHANKAR: I am only addressing you through the Speaker.

Sir, so far as they were concerned, when they were speaking, we, on our side, kept quiet and we listened to them. But when we are trying to explain the situation should they get upset unnecessarily and particularly, a senior Member? They should allow me to speak..(Interruptions)

MR. SPEAKER: Why can't you sit, Sir? Your Minister is speaking.

SHRI P. SHIV SHANKAR: As I was trying to say, the facts in this case are much better than the instance that I myself suggested and I categorically said that there is no such example in the annals of Parliamentary history. Now, Sir, about what had happened yesterday—I would give some facts which I have noted on my own, based on the press statement that has been issued. I just noted down the points and I would like to give the facts. The Assembly..

SHRI RAVINDRA VARMA: Statement issued by whom? He said a statement was issued. Statement issued by whom..(Interruptions)

अध्यक्ष महोदय : आप उन्हें बोलने दोड़िए। उन्हें मुन लीड़िए। आपको पता चल जायेगा कि किसका स्टेटमेंट है। (व्यवधान)

In the circumstances, I will better ask him to explain to me what he has to say. in my Chamber.. (Interruptions) Then, let him speak. Why are you interrupting him? You don't let him speak..(Interruptions)

SHRI RAVINDRA VARMA: I am asking—statement issued by whom?

MR. SPEAKER : He will let us know.

SHRI RAVINDRA VARMA: Sir, I am sorry you are losing your temper. I wanted to ask a legitimate question. He said, 'a Statement was issued'—I want to know by whom?

MR. SPEAKER: You don't let him say anything. That is what it seems to me—that everybody is not keen to listen to anything. Let him say. He will explain whom he is quoting.

SHRI P. SHIV SHANKAR: That is what I said.

MR. SPEAKER: You don't let him speak. I do not get frustrated. I say, Ravindraji, let him do it. That is what I am requesting you. Don't worry about that. Let him say.

SHRI P. SHIV SHANKAR: I said, Sir, that I prepared my own notes. Would they not allow me to speak on the basis of my own notes?..(Interruptions) I said on the basis of the Press Statement that was issued. I prepared my own notes. Language is mine. . .

SOME HON. MEMBERS: Statement issued by whom?

SHRI P. SHIV SHANKAR: Government of Assam, certainly. I assert that.

SHRI JYOTIRMOY BOSU: There is no Government. They have no money. There is no Government in Assam.

SHRI P. SHIV SHANKAR: If they would not like to know the view points to be expressed..(Interruptions) If they are satisfied with their Pyrrhic victory of interruptions, well, I cannot help it.

SHRI GEORGE FERNANDES: We want to help you.

SHRI P. SHIV SHANKAR: You give me a chance. If you would like to speak, do it afterwards. You are entitled to speak but not interrupt me at every sentence or word, like this.

MR. SPEAKER: You may have certain things to say. You must also listen to certain things.

SHRI P. SHIV SHANKAR: Sir, the assembly, during the session yesterday, passed the Vote on Account for the first four months of 1981 with 52 votes for and 41 votes against. The Appropriation Bill relating to Vote on Account had also been introduced.

Following the disorderly scene, the House was adjourned for ten minutes

by the Speaker. However, on re-assembly, the Deputy-Speaker adjourned the House sine die without ascertaining the sense of the House stating that the situation was unprecedented.

SHRI JYOTIRMOY BOSU: It is an aspersion on the Deputy-Speaker.

SHRI P. SHIV SHANKAR: Let me complete the facts. (Interruptions)

SHRI GEORGE FERNANDES: This is the point. That is precisely our case.

SHRI P. SHIV SHANKAR: I will also meet your legal point. He stated that the situation was unprecedented. The Appropriation Bill could not be passed. Even though the Vote on Account has been passed, Assam Finance Bill, 1981 also got held up for the same reason.

Then, it so happened that this matter was considered by the Council of Ministers and the implications also of the Bill not having been passed were also considered. Since the adjournment of the House would lead to grave financial crisis for the Government leading to stoppage of all payments from 1st April, 1981 and would also stand in the way of collection of certain categories of revenues, they requested the Governor of Assam to issue the Ordinance to provide for payment out of the Consolidated Funds of the State to the extent of the earlier Bill agreed to by the House.

The issue of the Ordinance was thus a constitutional necessity. After prorogation, the Governor of Assam promulgated the Assam Appropriation Vote on account Ordinance, 1981. It may be recalled....

SHRI R. K. MHALGI: At what time?

SHRI P. SHIV SHANKAR: In the intervening night of 31st March and 1st of April.

SHRI R. K. MHALGI: We want the exact time. (Interruptions)

SHRI P. SHIV SHANKAR: Sir, as I said, this was a case of Vote on

[Shri P. Shiv Shankar]

Account for the first four months of 1981. The Demands for Grants were passed. So far as the Appropriation Bill is concerned, it was introduced but it could not be passed because of the situation that I explained. Now, the question is: what is the position of law about which a lot has been said by the other side? I am only sorry that many of them have betrayed the ignorance of the provisions of the Constitution.

Sir, in the circumstances and the facts of the case, because this is a Vote on Account, may I, at the very outset state that Article 204 on which they were replying upon for the purpose of arguments does not apply at all. If they would look up Article 204(3), it says 'subject to the provisions of Articles 205 and 206.' Therefore, Article 204 has been made subject to the other Articles of the Constitution, namely, Articles 205 and 206 and the Vote on Account is dealt with under Article 206, Clause 1 of Article 206 reads:

"Notwithstanding anything in the foregoing provisions of this Chapter, the Legislative Assembly of a State shall have power—

(a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 203 for the voting of such grant and the passing of the law in accordance with the provisions of article 204 in relation to that expenditure."

SHRI GEORGE FERNANDES: That is precisely our case.

(Interruptions)

SHRI P. SHIV SHANKAR: Sir, I may have to agree for the comfort of the hon. Member, Mr. George Fernandes, that he might know better law than me but he should allow me to put forth my case. You need not jump when you find a particular word. Give me a chance to explain. (Interruptions) This is only for his

comfort. The point is that Article 206 completely takes away or excludes or eschews procedure that has been provided in Article 204.

SHRI SATISH AGARWAL: Please read sub-clause. (Interruptions)

SHRI P. SHIV SHANKAR: Kindly listen to me. This Article in my submission is a self-contained Article and if it is a case of Vote on Account it has to be within the parameters of this Article. One need not look to Article 204.

SHRI SATISH AGARWAL: What about sub-clause 2?

SHRI P. SHIV SHANKAR: Sir, the position is that an unprecedented situation has been created.... (Interruptions).

SHRI JYOTIRMOY BOSU: Sir I rise on a point of order under Rule 60(1).... (Interruptions)

MR. SPEAKER: Let him finish.

SHRI JYOTIRMOY BOSU: Sir, the proviso to this Rule says:

"Provided further that where the Speaker is not in possession of full facts about the matter mentioned therein, he may before giving or refusing his consent read the notice of the motion and hear from the Minister and/or members concerned a brief statement...."

Sir, is it a brief statement?

MR. SPEAKER: The point of order is over-ruled.

(Interruptions)

SHRI P. SHIV SHANKAR: Sir, an unprecedented situation was created in the House. (Interruptions)

Sir, the position is so far as this Article is concerned, definite procedure has not been provided for the manner in which the Bill should be pushed through. As I said the circumstances were exceptional. Now, the House was prorogued. The question is when there is a consolidated

fund expenditure from which has been voted, could the money be withdrawn without an Appropriation Bill? That is the point. So far as the Consolidated Fund is concerned, the Demands for Grants have been voted.

SHRI BIJU PATNAIK: That makes no difference.

SHRI P. SHIV SHANKAR: So far as Appropriation is concerned, I would like to submit that once the House has been prorogued, the Governor could use the powers under Article 205. I will read out one sentence from *Kaul and Shakhder*. It says:

"An Ordinance for the appropriation of any moneys out of the Consolidated Fund is invalid if the relative Demands for Grants have not been placed before, considered and assented to by Lok Sabha."

If it is a case where the relative Demands for Grants have not been placed and voted by the Lok Sabha then the Ordinance for an appropriation would be illegal. Conversely, it therefore follows that the Ordinance for the appropriation will be valid.

(Interruptions)

MR. SPEAKER: Order, order.

SHRI SATISH AGARWAL: You are interpreting.

SHRI P. SHIV SHANKAR: What else could it be?

MR. SPEAKER: Could it be interpreted without saying anything?

(Interruptions)

MR. SPEAKER: I did not say correct or not. Could it be interpreted without saying anything?

SHRI P. SHIV SHANKAR: I am getting the impression that the hon. Member from Jaipur has started losing grip over law since he became a Member of Parliament. I read a passage which refers to three things. It is an Ordinance for Appropriation. The second part of it says that if the Demands have not been voted by the House, then the Ordinance with re-

ference to Appropriation will be illegal. The natural interpretation based on simple language is what I have already submitted. If the Demands have been voted by the House, an Ordinance could be issued for appropriation. Therefore, I do not find any confusion in the language, unless there is some confusion in the minds of some of the hon. Members sitting opposite. Therefore the position with regard to Article 213 is this. This is a power which has to be exercised in the extraordinary circumstances given these facts, unless they say that these facts do not exist. They can as well say that the ordinance itself is illegal. That is a different issue altogether. In fact, I can go that far, as to bring to the notice of the House a case from Madras High Court as far back as in the year 1950. The House then was prorogued only for the purpose of issuing an ordinance. This was in 1950. It is a reported case. Therefore the position is this. (Interruptions). Then the Law Minister was Dr. Ambedkar. (Interruptions). There is nothing wrong in my submission. I am saying that it happened in 1950. It is a reported case. You can look up for the reference. If you like I will give the reference to you. It is re: Veerabadriah, A.I.R. 1950, Madras, page 253.

SHRI BIJU PATNAIK: Decided on?

SHRI P. SHIV SHANKAR: I am giving you this reference. (Interruptions).

SHRI K. P. UNNIKRISHNAN: He cannot mislead the House.

SHRI GEORGE FERNANDES: That was before the Constitution came into force.

SHRI P. SHIV SHANKAR: You have got a privilege to say anything you like. Now you say 'before the Constitution came into force'. That is your privilege. I always talk rele-

[Shri Shiv Shankar]

vance, not irrelevance.

Now, the point is this.

SHRI SOMNATH CHATTERJEE (Jadavpur): Sir, with your kind permission, I would like to make my submission. If this question is purely to be decided on the interruption of the Constitution, then a fuller debate is necessary because it is a momentous matter.

(Interruptions)

SHRI P. SHIV SHANKAR: I would have completed my submission very briefly but because Mr. Jyotirmoy Bosu wants me to explain all these things... (Interruptions).

SHRI SOMNATH CHATTERJEE: I am not saying that it is wrong. (Interruptions) My only humble submission is if it is to be decided on mere interpretation of the Constitution, there should be a fuller discussion on this because it is a momentous matter. (Interruptions).

SHRI P. SHIV SHANKAR: The whole difficulty has been that if I was allowed to make my submission without interruptions, surely I would have finished my submission. But I am facing constant interruptions. Even when I am citing clear decisions they have started interrupting me. What is it that I can do? Therefore, let them give me a chance to explain the position.

(Interruptions)

SHRI JYOTIRMOY BOSU: Sir, he has been speaking for 45 minutes. His brief submission does not mean that he can speak for 45 minutes. There is no precedent like this. You ask whether there are 50 persons supporting this adjournment motion. Sir, it is your duty to ask us and not allow him to reply. He can say these things in reply to the adjournment motion when the House debates on this. This was never done before in this House. You are doing things which have never been done before.

(Interruptions)

SHRI P. SHIV SHANKAR: There-

fore, my submission is, Sir...

(Interruptions).

MR. SPEAKER: I do not get out of the procedures. I do not break the rules.

SHRI JYOTIRMOY BOSU: Sir, he has said he would make a brief statement. Is it a brief statement? (Interruptions).

MR. SPEAKER: It is because you have not allowed him to speak. Otherwise he would have finished his submission long ago. He would have taken only 7 or 10 minutes at the most. (Interruptions)

MR. SPEAKER: I can sum it up with the and tell you what time he took.

SHRI P. SHIV SHANKAR: In my submission, the power of Article 213 could be legitimately and properly exercised by the Governor which would be completely legal. This is the submission that I thought I could make in so far as this aspect is concerned. One more point about the passing of the vote of thanks has also been raised. Well, I would not like to go into it in detail except to bring to the notice of the House the judgement of the Patna High Court where it was raised.

SHRI SATISH AGARWAL: It has not been raised.

SHRI P. SHIV SHANKAR: It has been raised. (Interruptions) Sir, one of the grounds on which the dismissal of the Ministry is sought is that the Assembly has not voted the Appropriation Bill. I would not like to go into it. (Interruptions).

SHRI K. MAYATHEVAR (Dindigul): You need not refer to the judgements of the High Court and the Supreme Court because Parliament is supreme.

SHRI P. SHIV SHANKAR: What they speak about the Finance Bill is only with reference to the provision in the Sales Tax Act and also the Agricultural Income-tax Act. There are certain States where even with reference to the rates to be fixed, rate has to be fixed under the Finance

Bill. With reference to these two things, that is, Sales tax and the Agricultural Income tax, in the State of Assam, the rates will have to be fixed under the Finance Bill. This is an ordinary legislative process. Merely because it has not been passed by the Assembly it does not mean that an ordinance cannot be issued. Therefore, nothing much turns on the question of Finance Bill which only confines to the rates of sales-tax and agricultural income-tax. Lastly, I would say this much...

SHRI N. K. SHEJWALKAR: What about the point raised by me under Article 207?

SHRI P. SHIV SHANKAR: As regards the point raised by my hon. friend from Gwalior, I may remind him that Article 207 only applies to the Bills and not to Ordinances. The language is very simple; one need not strain the language, and I am sure, my hon. friend understands very well the difference between an ordinance and a Bill. I would only say this much.... (Interruptions)

When once a vote of no-confidence has been rejected, I would submit lastly that the Ministry has every moral, ethical and legal right to continue.

13.37 hrs.

The Lok Sabha then adjourned for Lunch till thirty-five minutes past Fourteen of the Clock.

The Lok Sabha reassembled after Lunch at thirty-seven Minutes past Fourteen of the Clock.

[MR. SPEAKER in the Chair]

RE. MOTION FOR ADJOURNMENT
—Contd.

REPORTED CONSTITUTIONAL CRISIS IN ASSAM.—Contd.

SHRI MADHU DANDAVATE: Good Afternoon, Sir.

MR. SPEAKER: Good afternoon.

Members, I have heard hon. Members Sarvashri B. D. Singh, Chitta Basu, George Fernandes, Atal Bihari Vajpayee, Madhu Dandavate, Ram Vilas Paswan and R. K. Mhalgi as well as the Minister of Law, Justice and Company Affairs.

It would appear from the facts stated in the House that Demands for Grants were passed by the Assam Legislature after discussion, but the Appropriation Bill, which was introduced, was not proceeded with to the stage of passing. The State Legislature was prorogued by the Governor Under Article 174(2) of the Constitution. The Governor has issued an Ordinance under Article 213 of the Constitution Article 213 does not lay down any limitation in respect of Appropriation Bills or Money Bills. The Ordinance in question, therefore, does not contravene the provisions contained in Article 213. I am unable, therefore, to give my consent to the moving of the Adjournment Motion under Rule 56 of the Rules of Procedure of Lok Sabha.

But, having, however, regard to the importance of the subject, it is open to the Members to give Notice for discussion, even though there would be opportunities for discussion on this matter when the Demands for Grants of the Ministry of Home Affairs come up. I am ready to accept that.

PROF. MADHU DANDAVATE: Mr. Speaker, Sir, we respect your ruling; we cannot protest against it. the Government, and, therefore, as But we protest against the action of a protest against the action of the Government we are all walking out.

14.39 hrs.

[Prof. Madhu Dandavate and some other hon. Members then left the House]