

tion. Really speaking, it was unpreparedness on the part of the Minister that he did not visualise or imagine that this could be a supplementary question. Now because of the fault of the hon. Minister, why should the right of any hon. Member be taken away? That day if he had come prepared and if he had given the reply, then the Member would have had a chance to put supplementaries...

MR. DEPUTY CHAIRMAN: I do not agree with your observations. (*Interruptions*) Shri Gargi Shankar Mishra.

SHRI GARGI SHANKAR MISHRA: I have laid the papers.

SHRI MANUBHAI PATEL: What is your ruling?

MR. DEPUTY CHAIRMAN: I said, I do not agree with your observation. Shri R. C. Rath.

**Report and Accounts (1981-82) of the Hindustan Insecticides Limited, New Delhi and related papers**

SHRI GARGI SHANKAR MISHRA: Sir, on behalf of Shri R. C. Rath, I beg to lay on the Table—

I. A copy each (in English and Hindi) of the following papers under sub-section (1) of section 619A of the Companies Act, 1956:—

(i) Twenty-eighth Annual Report and Accounts of the Hindustan Insecticides Limited, New Delhi, for the year 1981-82, together with the Auditors' Report on the Accounts and the comments of the Comptroller and Auditor General of India thereon.

(ii) Review by Government on the working of the Company.

II. Statement by Government giving reasons for the delay in laying the Report mentioned at I above.

[Placed in Library. See No. LT-5931/83 for I and II.]

SHRI ERA SEZHIYAN: Sir, Mr. V. N. Gadgil has laid some notification on the Table. The Minister of Communications is very communicative with the House on imposing more levies. I want to know whether in the notification which he laid on the Table today he has put further levies on the people.

SHRI V. N. GADGIL: Sir, it is a notification which they should welcome because it provides that if a wireless set is not used for one year, then the licence fee will be refunded.

SHRI SADASHIV BAGAITKAR (Maharashtra): Sir some notifications are tabled surreptitiously. (*Interruptions*)

MR. DEPUTY CHAIRMAN: Shri Dalbir Singh.

**Notification of the Ministry of Energy (Department of Coal)**

THE MINISTER OF STATE IN THE DEPARTMENT OF COAL IN THE MINISTRY OF ENERGY (SHRI DALBIR SINGH): Sir, I beg to lay on the Table, under sub-section (3) of Section 6 of the Coal Mines (Conservation and Development) Act, 1974, a copy (in English and Hindi) of the Ministry of Energy (Department of Coal), Notification S. O. No. 95 (E), dated the 8th February, 1983. [Placed in Library. See No. LT-5933/83].

MR. DEPUTY CHAIRMAN: Now I take up item 6.

SHRI LAL K. ADVANI (Madhya Pradesh): On a point of order.

SHRI R. RAMAKRISHNAN (Tamil Nadu): On a point of order.

SHRI SURESH KALMADI (Maharashtra): On a point of order.

SHRI A. G. KULKARNI: On a point of order.

(Interruptions)

श्री लडली मोहन निगम (मध्य प्रदेश) : मेरा व्यवस्था का प्रश्न है...

MR. DEPUTY CHAIRMAN: I have not allowed anybody. Mr. Nigam you cannot start speaking unless I call you. Please take your seat.

SHRI LADLI MOHAN NIGAM: \*

MR. DEPUTY CHAIRMAN: I have not called you. He will not go on record.

SHRI LADLI MOHAN NIGAM: \*

श्री उपसभापति : आप कृपा कर के बैठ जाइये । बहुत से लोगों ने पोइन्ट आफ आर्डर किये हैं ।

So many people have given their names I will call them one by one, party-wise-not more than one from a party. So choose yourself. The BJP has given two names....

SHRI JASWANT SINGH (Rajasthan): I would like to seek clarifications.

MR. DEPUTY CHAIRMAN: I will not allow clarifications. I will call one Member from a party.

SHRI JASWANT SINGH: Please hear me. (Interruptions).

SHRI SURESH KALMADI: Point of order cannot be party-wise (Interruptions).

SHRI MANUBHAI PATEL: Sir, this is a question of procedure, and point of order cannot be made party-wise.

MR. DEPUTY CHAIRMAN: Mr. Manubhai Patel, there has to be some way to limit the debate. We cannot go on hearing every Member. Then the whole day will be taken on this

and you will repeat the same arguments.

SHRI SADASHIV BAGAITKAR: Sir, point of order is not a discussion. Any Member who wants to raise it can speak.

SHRI SURESH KALMADI: You cannot change the rules of the House.

MR. DEPUTY CHAIRMAN: A point of order cannot be turned into a discussion. (Interruptions).

SHRI P. RAMAMURTI: Sir, the point is, two Members of the same party might have given notice of a point of order, but one Member may raise one point of order and another Member may raise another point of order. How do you foresee that both Members will be raising the same point of order, when you say that one party will be given one opportunity? This is not the procedure. I may raise one point of order, and a Member of my party may raise another point of order on the same issue. Therefore, you cannot do it party-wise. But if you find them repeating the same thing, you can stop it.

MR. DEPUTY CHAIRMAN: If that thing should apply, then other Members will have to be stopped even if they belong to some other party. If they are going to repeat the same argument that has been raised by one Member, then they cannot be allowed to speak even if they belong to other parties.

SHRI P. RAMAMURTI: He can raise another point of order.

श्री उपसभापति : यहां हर एक को मौका चाहिए उसी बात को दोहराने को ।

श्री लाल कृष्ण आडवाणी : आप सुनेंगे तो पता लगेगा कि दूसरी बात कह रहे हैं

Mr. Deputy Chairman, in item 6 of the Order Paper today it is listed that Shri Nihar Ranjan Laskar would lay on the Table a copy of the Assam

\*Not recorded.

Executive Magistrates (Temporary Powers) Act, 1983 enacted by the President. It is not enacted by Parliament, it is enacted by the President. It is something different from an Ordinance—an Ordinance has to be brought to the House for approval. It is a special enactment by the President under the Assam State Legislature (Delegation of Powers) Act which we passed last year and about the constitutional validity of it and legal validity of it people have doubts whether Parliament can at all delegate such authority to the President. That is a different matter. But I would like to draw the attention to Section 3 of this Act whereunder this particular Executive Magistrates Act has been enacted by the President. It says that in the exercise of the said power the President may, from time to time, whether Parliament is or is not in Session, enact as a President's Act a Bill containing such provisions as he considers necessary. Thereafter, there is a proviso which says: "Provided that before enacting any such Act, the President shall whenever he considers practicable to do so, consult a committee constituted for the purpose consisting of 30 Members of the House of the People nominated by the Speaker and 15 Members of the Council of States nominated by the Chairman." It happens that I am a member of this committee. It happens that my colleague, Shri Ramamurti, is a member of this committee. It happens that Shri Dinesh Goswami is a member of this committee; many of us are members. Therefore, if this Bill had been brought to us, we would have pointed out to the Government that this is a violation of Article 50 of the Constitution—Directive Principles—which requires separation of the legislature from the judiciary. They may not have agreed to it. But I would think that in this situation when Parliament is exercising control over Assam, when there is no elected representation in Assam, when there is no elected representation even now—the Government that has been constituted is a phoney Government; it has no

validity; that is a different matter—the important point is that in this particular case, Parliament has been deliberately bypassed, the Consultative Committee has not been consulted, and an Act has been passed by the President which is violative of the Constitution. I am sure that Mr. Laskar will draw my attention to the reasons for the enactment. I would read out: The reason stated is that in view of the urgency of the matter it is not practicable to consult the Consultative Committee of Parliament on Assam Legislation constituted under the proviso. Now, this is just a statement to fulfil the formality that it is not practicable. But I notice that the date on which this particular Executive Magistrates Act has been passed by the President or enacted by the President is 29th January, 1983. Now, during the month of January or during the month of December, there was nothing whatsoever which prevented the Government from convening a meeting of the Consultative Committee, asking us that this is what we want to do. During the entire year once only this Committee met for some minor matters and this was an important matter and this important matter has been enacted by the President, meaning the Government, by the Government, without taking the Consultative Committee of Parliament into confidence and completely bypassing it. It has been my submission that for the last three years repeatedly, whether it is taxation, whether it is law-making, the present executive is deliberately subverting the authority of Parliament. I regard this as one more instance whereby the executive is undermining the authority of Parliament and bypassing it even though there is a specific statute, which is mandatory—it says 'shall'—though there is a saving clause which says 'if it is not practicable', but that saving clause is intended to be invoked in very exceptional circumstances. And then the Government should tell us why it was not practicable. Merely saying that it was not practicable is not sufficient.

So, on two grounds, namely, one, that this flouts the Directive Principles of the Constitution, that is, article 50 which requires separation of judiciary from executive, and secondly, that it disregards and undermines the authority of Parliament, I protest against laying of this paper on the Table.

I would like the Chairman, as custodian of the authority of Parliament, to intervene and admonish the Government in this regard.

श्री लाडली मोहन निगम : मैं यह चाहता था कि जब हमारा सदन का सत्र चल रहा हो उस समय कम से कम नोटिफिकेशन नहीं होना चाहिये। एक रोज पहले तक नोटिफिकेशन निकालने की परम्परा होने लगी है। जब हम ऐसा पाते हैं तब मुझे बहुत पीडा होती है। अगर आप इंडिया गेट से खड़े होकर दिल्ली को देखने की कोशिश करें तो सब से ऊपर राष्ट्रपति महोदय का झंडा लहराता है और उसके नीचे दोनों तरफ निगाह जाती है तो दोनों ओर नीकरशाही बँठी है और उसके नीचे पार्लियामेंट में हम बैठे हैं। यह अंग्रेजी की जहनियत हो सकती है लेकिन आपकी जहनियत नहीं हो सकती। सबसे नीचे बैठे पार्लियामेंट के सदस्य, उसके ऊपर एक्जीक्यूटिव और उसके ऊपर राष्ट्रपति मेरे विचार में दुनिया में कहीं भी ऐसा नहीं होता। मैं इस वास्ते निवेदन करना चाहता हूँ अगर यही व्यवस्था, जो अंग्रेजों के जमाने की थी कि पार्लियामेंट सब से नीचे उसी को कायम करेंगे तो मुझे कुछ नहीं कहना है वरना कम से कम आप कोई व्यवस्था दीजिए। अगर आप कोई व्यवस्था नहीं

देते तो इससे सावित हो जायेगा कि देश की पार्लियामेंट नीकरशाही की हुकूमत के नीचे है।

SHRI P. RAMAMURTI: After all this legislation was passed empowering the President to make some enactments even without consulting the mandatory consultative committee, I do say that certain circumstances might arise when the consultative committee could not be convened. After all certain amount of time must have been taken by the Government for the purpose of thinking over this legislation. It cannot come suddenly from the Heavens in a minute. The Government must have taken some time to think about it and then to come to the conclusion and then to draft the legislation and send it to the President for his signature. The Government has to do all these things. The Asiad was over on the 5th December and the date of this enactment is the 29th January. Between these dates why was it not possible for the Government to convene a meeting of this committee? I cannot understand it. It is a deliberate attempt to bypass Parliament. All right. It has not come before the committee. At least now will you give the Parliament an opportunity to discuss the whole thing?

SHRI LAL K. ADVANI: The President's rule will be withdrawn and the Parliament will be deprived of that opportunity.

SHRI P. RAMAMURTI: The President's rule is not there and a legislature has been set up there and therefore Parliament does not come in. That is a technical point. And they may advance that technical argument, namely, that the President's rule has been withdrawn, a legislature has been set up constitutionally and, therefore, it is not open to Parliament to discuss the whole question. Technically they are cor-

rect. But it is very unfair to do this without telling us why it has not been possible for them to convene the meeting of the committee. Unfortunately it has been my lot to be on this committee. I do not know why I have agreed to be there. It is very unfortunate that we have not met. It is a non-functioning body. I would request the Government to give up this practice unless it is absolutely essential. You could have sent a telegram and we would have come to attend the meeting. Without giving any reason why it was not possible for the Government to call a meeting of the consultative committee for fifty days, you are now flouting the authority of Parliament.

**SHRI SURESH KALMADI:** Sir, my point of order is...

**SHRI JASWANT SINGH:** Sir, I have not been called.

**MR. DEPUTY CHAIRMAN:** Please wait. (Interruptions). Please sit down.

**SHRI JASWANT SINGH:** If you request me, I will sit down. But I have not been called. (Interruptions).

**MR. DEPUTY CHAIRMAN:** Just wait. I will call you. In that case, you should not have asked Mr. Advani to speak first. I will call you. You just wait for your turn. At least let me follow some procedure. I have not disallowed you. Yes, Mr. Kalmadi.

**SHRI SURESH KALMADI:** Sir, my point of order is on two things.

**MR. DEPUTY CHAIRMAN:** Please do not repeat the things.

**SHRI SURESH KALMADI:** No, Sir. It won't be a repetition. They are two different things. There was a discussion on the Akali issue and, at that time, the Government made a statement that after the talks were over, they would come back with a statement as to what the discussions were and what announcements were to be made. But, unfortunately, the

Prime Minister made an announcement, not inside Parliament, but outside Parliament. (Interruptions).

**MR. DEPUTY CHAIRMAN:** Mr. Kalmadi, this is not the point of order. This is not the subject now and this is not a point of order. I will not allow you. (Interruptions). Let it not be recorded.

**SHRI SURESH KALMADI:** \*

**MR. DEPUTY CHAIRMAN:** What is your next point of order?

**SHRI SURESH KALMADI:** My second point of order is this: The Finance Ministry has surreptitiously brought in five notifications. (Interruptions).

**MR. DEPUTY CHAIRMAN:** Let this not be recorded. This is not the issue now. Let it not be recorded. (Interruptions).

**SHRI SURESH KALMADI:** \*

**MR. DEPUTY CHAIRMAN:** Mr. Kalmadi, you do not follow what goes on in the House. Yes, Mr. Satya Pal Malik.

श्री सत्यपाल मलिक (सत्तर प्रदेश) : श्रीमन्, मेरा निवेदन यह है कि इस मामले पर अभी आडवाणी जी ने जो कुछ कहा उससे सहमत होते हुए मैं शुरू में यह कहना चाहता हूँ कि इसमें मैं बहुत टेक्नीकैलिटी दिखाने की तरफ आपका ध्यान नहीं दिलाऊंगा, लेकिन आप इस बात को नोट कर लें और इस पर मैं आपकी व्यवस्था चाहता हूँ कि जो कन्सलटेटिव कमेटीज की व्यवस्था है, उसकी कुछ प्रक्रियाएं हैं। कन्सलटेटिव कमेटीज इस दृष्टि से बनाई गई थी कि पार्लियामेंट के सेशन में रहने पर क्योंकि सारे चीजें पार्लियामेंट में डिसकस नहीं हो पाती हैं, इसलिए कन्सलटेटिव कमेटीज से मश्वरा लिया जाय। इस मामले में भी और दीगर मामलों में भी पार्लियामेंट की

\*Not recorded.

जो शक्ति है उसका जिस तरह से क्षय हुआ है वह आप देख रहे हैं। जिस तरह से आर्डिनैन्स और एक्जीक्यूटिव आर्डर्स जारी हो जाते हैं और उनमें कन्सल्टेटिव कमेटीज से मशिवरा नहीं लिया जाता है, यह आपने देख लिया है। इस मामले में भी यही हुआ है। मैं प्रश्न यह उठाना चाहता हूँ कि आप इस बात को देखें कि आसाम के मामले में पार्लियामेंट को बुला कर कांस्टिट्यूशनल एमेंडमेंट हो सकता था, मैं इसमें इस वक्त नहीं जाता कि इसके लिए कौन राजी था और कौन राजी नहीं था, लेकिन हम तो राजी थे, लेकिन कन्सल्टेटिव कमेटी को पूछा जा सकता था। इस संबंध में मेरा निवेदन यह है कि यह कोई तकनीकी मामला नहीं है, इसमें नीयत इन्वोल्व है। दूसरा मुद्दा आज यह आसाम का है। आज आसाम के मामले में हुआ। पहले डाक-तार के मामले में हो चुका है। उसके पहले पेट्रोलियम पदार्थों के दाम बढ़ाने के बारे में हो चुका है। मुझे अफसोस यह है कि किसी भी मामले पर हम आपकी जो रूलिंग एक्सपेक्ट करते थे कि चेयर इनको डांटेगी, वह किसी मामले में भी नहीं हुआ। इसलिए हम अपनी तकलीफ आपके सामने जाहिर करना चाहते हैं कि चेयर ने किसी भी मामले में जिसमें नीयत का मामला इन्वोल्व हो, यह नहीं कहा कि यह गलत नीयत है और किसी भी मामले में आपने इनको नहीं डांटा।

MR. DEPUTY CHAIRMAN: Yes, Mr. Jaswant Singh.

SHRI JASWANT SINGH: Knowing how much of a sticker you are for rules, especially when it comes to the Opposition benches, I would be satisfied if you do me the courtesy of hearing me....

MR. DEPUTY CHAIRMAN: Yes, at least this courtesy I have shown

and it does not require any comment. Make your points now.

SHRI JASWANT SINGH: Yes, I am coming to the point. (*Interruptions*).

MR. DEPUTY CHAIRMAN: I am only sorry that your leader gave his name first and I had to call him. You are accusing me. (*Interruptions*). You see, he is making so much of accusation. I will not allow that. (*Interruptions*).

SHRI ERA SEZHIYAN: I think he is only complimenting you. (*Interruptions*).

MR. DEPUTY CHAIRMAN: It is not a compliment. What sort of a compliment it is, I do not know. Yes, Mr. Jaswant Singh, you make your points now.

SHRI JASWANT SINGH: Yes, Sir. The situation is unprecedented and I hope the Treasury benches, the luminaries on the Treasury benches, will not allow their thinking to be limited on mere technicalities. (*Interruptions*).

वहां पर कुत्ते लाशों को खा रहे हैं...  
(व्यवधान)

MR. DEPUTY CHAIRMAN: That is a different matter. You come to the point.

SHRI JASWANT SINGH: I am coming to the point.

MR. DEPUTY CHAIRMAN: Mr. Advani has made the point and let that not be repeated. (*Interruptions*). If you want, you bring it in some other form. (*Interruptions*). आप अपना प्वाइंट कहिये।

डॉ० भाई महाबोर (मध्य प्रदेश) .  
वे प्वाइंट ही तो बता रहे हैं...  
(व्यवधान)

श्री उपसभापति : फिर आप लाशों .... (व्यवधान) । आप अपना प्वाइंट कहिये... (व्यवधान)

SHRI JASWANT SINGH: Now, under Section 3, Parliament delegated certain powers.

MR. DEPUTY CHAIRMAN: This has been said by others. Do not repeat it.

SHRI JASWANT SINGH: You see, the delegation of powers was a reposing of confidence and trust. This reposing of confidence and trust was after taking into account certain exceptional circumstances. Therefore, the delegation of powers was limited to the State of Assam. As the recipient of that trust and confidence, the President, the Executive Head of State, therefore, enacts—it has not been promulgated as my esteemed colleague has said—he enacts a law. Under the Executive Magistrate (Temporary Powers) Act, which is an extinguishing of the distinction between the Executive and the Judiciary, on account of which my esteemed colleague has suffered and was imprisoned in Gauhati—I visited him in Gauhati; he is a Member of this House and he will have to say what he has to say... (*Interruptions*)

MR. DEPUTY CHAIRMAN: That point has been covered. I do not want repetition of the same point. (*Interruptions*) Let him make a new point.

SHRI JASWANT SINGH: Under the delegated powers, when the Executive Magistrate (Temporary Powers) Act comes into being, there is a provision that within 30 days of this enactment, this enactment shall be brought before Parliament so that we can modify it. (*Interruptions*) Parliament was convened on the 18th. I have already moved amendments. There is a provision that within 30 days it should come up for discussion. Now, here, by cheap trickery, when the Parliament meets on the 18th, you bring this and lay this on the Table of the House on the 28th—after 11 days of the meeting of Parliament. What kind of tric-

kery is this? That is why there is a relevance to what I said:

कुत्ते लाशों को खा रहे हैं ।

Now, I want an assurance from the Government, Mr. Deputy Chairman. Another trickery is being played because the President's rule is being revoked.

SHRI MANUBHAI PATEL already been revoked.

SHRI JASWANT SINGH: Therefore, you cannot discuss this act. We delegated these powers in trust and in confidence, and by cheap trickery you deprive Parliament of the right to discuss because you have extinguished... (*Interruptions*) What sort of situation is this? (*Time bell rings*)

SHRI MANUBHAI PATEL: Was this relevant or not? (*Interruptions*).

SHRI P. RAMAMURTI: You will not have the courage to direct the Government. After all, there is mandatory provision. That must be respected. You should chide them. But you don't have that courage. (*Interruptions*).

SHRI DINESH GOSWAMI (Assam): Mr. Deputy Chairman, Sir, I feel that by this act, by passing this Act, the President has violated the oath that he took. Article 50 of the Constitution says:

"The State shall take steps to separate the judiciary from the executive in the public services of the State."

And that is a Directive Principle of State Policy. (*Interruptions*) The fundamental question to which we must address ourselves is that when a particular State follows the Directive Principles of State Policy and separates the judiciary from the executive, can the President, without consulting Parliament or the Consultative Committee enact a law which

is contrary to the Directive Principles of State Policy? Under the delegation of powers, he can undoubtedly pass laws. But have we delegated the power to this extent that he will make a law, thereby unmaking a Directive Principle? This is a fundamental question to which we must address ourselves. Does this delegation of power go to such an extent that the President can pass a law contrary to the letter and spirit of the Constitution? Therefore, my first submission will be that now this Parliament delegated this power to this extent that the President, without consulting the Parliament or the Consultative Committee, acquired the power so much that he could pass a law thereby frustrating Article 50.

The second point to which I wanted to draw your attention is that in the reasons of the Enactment—of course, I am not going into the other reasons, other submissions which have been made—it was stated: "For dealing effectively with the extraordinary situation prevailing in the State of Assam, it is considered necessary to amend the Code in its application for a period of three months, to entrust the trial of petty offences and offences having a bearing on peace and public tranquility to the Executive Magistrates." But, under Section 3(1), you will find that the entire power of remand of cases was given to the Executive Magistrates: "Notwithstanding anything to the contrary contained in the Code, the Executive Magistrate may, in addition to the Judicial Magistrate, exercise powers of remand under Section 167 of the Code." May I point out that during the last one month or so, almost all cases are referred only to the Executive Magistrates even when the Judicial Magistrates were there without work because the reasons are, "that the machinery for the administration of justice which is already under severe pressure of work may not be able to cope with the situation." Sir, I know

for myself and I was a victim because when we the Members of the High Court Bar Association took out a procession we were hauled up for violation of Section 144. And normally speaking, even for a very ordinary person, the bail amount is Rs. 100 or Rs. 200. But in spite of the fact that the Judicial Magistrates were lying idle on that particular day in Gauhati, the case was given to an Executive Magistrate and the Executive Magistrate allowed us to go on bail on conditions of Rs. 10,000 and another security of Rs. 10,000.

SOME HON. MEMBERS: Shame, shame.

SHRI DINESH GOSWAMI: And we said that we are not going on bail. The matter went to the High Court and the High Court ordered that the order of the Executive Magistrate was illegal and unjust. On the next day, women from the age of 7 to the age of 70 were put in a compound of that Jhalakbari thana, and they were kept there for 12 hours upto night. And when they were brought before the Executive Magistrate, the Executive Magistrate passed an order refusing them bail. Again we had to move the Gauhati High Court in the night and the High Court said that this order is absolutely illegal. Therefore, the entire act was done *mala fide*, and I am sorry to say that the highest name of the President has been brought into it. I submit, Sir, that this has completely eroded the confidence of the people in the Parliament and it has, in my respectful submission, unfortunately, drawn also the President into a controversy that he has acted in a manner which is not in conformity with the Constitution of India.

SHRI SHIVA CHANDRA JHA: (Bihar): Sir, on a point of order.

SHRI SADASHIV BAGAIKAR: Sir, before the hon. Minister replies, I would only bring to your notice that in Bombay criminals were named as Special Executive Magistrates, and the matter went to the High Court.



MR. DEPUTY CHAIRMAN: That is a different matter.

SHRI SADASHIV BAGAITKAR: You have such type of men. There is no bar. You can have anybody, even criminals.

SHRI LAL K. ADVANI: Sir, I have been in Assam for the last five days. There is absolute anarchy there. (Interruptions)

SHRI P. RAMAMURTI: Are you asking the Minister to reply?

MR. DEPUTY CHAIRMAN: He will reply.

(Interruptions)

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI NIHAR RANJAN LASKAR): I am answering. What do you want?

(Interruptions)

श्री लालजी मोहन निगम: आप सुन लीजिये (अवधान) आप इतिहास बना देंगे (अवधान)

SHRI SURESH KALMADI: What can he say? We do not want to hear him.

श्री शिव चन्द्र झा: मेरा प्वाइंट आफ आर्डर है। (अवधान)

श्री उपसभापति: मंत्री जी से सुन लीजिये पहले (अवधान)

श्री शिव चन्द्र झा: मेरा इसी पर प्वाइंट आफ आर्डर है (अवधान) तुन तो लें पहले। इसी से सम्बन्धित है मेरा प्वाइंट आफ आर्डर (अवधान)।

श्री उपसभापति: अच्छा, कहिये।

श्री शिव चन्द्र झा: मेरा प्वाइंट आफ आर्डर यह है। आप देख रहे हैं कि यह सरकार का एक घण्टा बन गया है। (अवधान) इग्नोर कर के बैकडोर से काम करने का हो गया है (अवधान)

पिछले दो तीन दिन से हम लोग बठा रहे हैं यहाँ। आसाम के मामले में हुस्तक्षेप किया है, जब हाउस की बैठक चल रही है तो फर्स्ट प्रेसेंस तो यह होना चाहिये था कि उनको यहाँ पहुँचे लाना चाहिये... (अवधान) सेकेंड प्रेसेंस यह होता है (अवधान) आप तो कम से कम सुनिये। आप तो नियमों को झपटने में लगे हुए हैं। कंसलटेटिव कमेटी में... (अवधान)

श्री उपसभापति: यह सारी बात सा जी आ गयी है। आप कोई नयी बात नहीं कह रहे हैं।

श्री शिव चन्द्र झा: क्लीयर कट हो। इस तरह का धंधा आने वाले दिनों में न करें... (अवधान) आप सदन की गरिमा को बचायें और नियमों का पालन करें; नियमों का उल्लंघन न करें, यह सरकार न करे। हम ऐसे क्लीयर कट आपके कुछ आदेश चाहते हैं, निर्णय चाहते हैं।

(Interruptions)

SHRI SUSHIL CHAND MOHUNTA (Haryana): Sir, only two points. certain papers of a very important nature which had to be laid on the Table of the House have actually bypassed the provisions of certain laws. Why has it been done? In regard to Assam they had to be laid on the Table. (Interruptions).

MR. DEPUTY CHAIRMAN: That point has been stated by Mr. Jaswant Singh.

SHRI SUSHIL CHAND MOHUNTA: What I am trying to say is that once it is realised that these papers should be laid on the Table, apart from the illegality of the order, the question is what prevented the Government from placing these papers on the Table of the House on the 18th. That is my question.

श्री उपसभापति : यह जसवंत सिंह जी ने कह दिया । आप कोई नयी बात नहीं कर रहे हैं । उसी बात को दोहराने में समय लगता है... (व्यवधान) उनका जवाब सुनियेगा तभी पता चलेगा... (व्यवधान) इनकी बात नहीं सुनियेगा... (व्यवधान)

SHRI NIHAR RANJAN LASKAR:  
Sir, two points have been raised...  
(Interruptions)

MR. DEPUTY CHAIRMAN: Three points. Why was it not laid on the first day? Then two more points.

SHRI NIHAR RANJAN LASKAR:  
Why Assam Proclamation has been revoked and when the State Assembly is functioning, why has it been laid here?

SOME HON. MEMBERS: No, no.  
(Interruptions).

SHRI SADASHIV BAGAITKAR:  
Is the Minister not in a position to understand our question. We never raised this.

MR. DEPUTY CHAIRMAN: The questions asked are: why was it not laid on the 18th, why was it delayed by 11 days? And then two points raised by Mr. Advani.

SHRI NIHAR RANJAN LASKAR:  
Sir, so far as the first point is concerned, the Consultative Committee was not consulted before the enactment of this law. Sir, as it is there is nothing wrong and there is nothing unconstitutional in it. As my friend, Mr. Advani has said, we have delegated the power to the President and the President can enact the law and there is a provision 'as far as practicable' he will consult the Consultative Committee. So, Sir...  
(Interruptions).

SHRI MANUBHAI PATEL: Why was it not laid on the 18th?

SHRI NIHAR RANJAN LASKAR:  
In view of the urgency of the matter...

श्री उपसभापति : सुन तो लीजिए । आप उनको सुनेंगे भी नहीं, बीच में कुलकर्णी जी एक बात उनके मुंह से निकली और खड़े हो गए... पहले सुनियेगा तो एक बात कही आप खड़े हो गये ।

SHRI NIHAR RANJAN LASKAR:  
Sir, in view of the urgency of the matter it was not practicable to consult the Consultative Committee of Parliament on Assam Legislation constituted under the proviso to sub-section (2) of section 3 of the Assam State Legislature (Delegation of Powers) Act, 1982. The measure is accordingly being enacted without reference to the Consultative Committee. Everybody knows the situation in Assam...

SHRI DINESH GOSWAMI: The situation was extremely normal for the poll. (Interruptions).

श्री उपसभापति : आप बैठ जाइये, उनकी बात सुनना नहीं चाहते हैं... क्या आप की बात सुनूँ उनको बैठा दूँ ? खत्म हुई बात

SHRI DINESH GOSWAMI: He has said that the situation was extremely normal for a democratic poll in Assam.

MR. DEPUTY CHAIRMAN: Mr. Dinesh Goswami, you have to hear him first. Let him finish first. (Interruptions).

SHRI NIHAR RANJAN LASKAR:  
Under the circumstances it was most urgent that this enactment may be enacted and therefore there was no time to consult the Consultative Committee and it has been done under the proviso of the Act itself. This is the first question. About the second point, of course, President's

Rule has been revoked and we are just fulfilling the statutory obligation... (Interruptions).

**SHRI SADASHIV BAGAITKAR:** Sir, has he answered your point? We are in your hands. Are you satisfied? (Interruptions).

**MR. DEPUTY CHAIRMAN:** Please take your seats. I think the Minister should have laid the papers when the House met on the 18th. There was no difficulty.

**SHRI NIHAR RANJAN LASKAR:** I am laying it now.

**The Assam Executive Magistrates (Temporary Powers) Act, 1983 (No. 1 of 1983) enacted by the President**

**SHRI NIHAR RANJAN LASKAR:** Sir, I beg to lay on the Table, under sub-section (3) of section 3 of the Assam State Legislature (Delegation of Powers) Act, 1982, a copy (in English and Hindi) of the Assam Executive Magistrates (Temporary Powers) Act, 1983 (No. 1 of 1983) enacted by the President. [Placed in Library. See No. LT-5906/83].

**MR. DEPUTY CHAIRMAN:** These should have been laid at the earliest possible opportunity. So far as the other two points are concerned, the law gives power to the President to enact in accordance with the law. That law is there. So, I think the Government has done it in accordance with the provisions of that Act.

**SHRI P. RAMAMURTI:** We are not satisfied with the answer given by the Minister. He has not made out any point as to why it was not possible to convene the Consultative Committee, beyond reading the Act. We know the Act; he need not teach us about it. This is a matter which has been agitated during the entire national movement. Right from the beginning of the national movement, we have been asking for separation of judiciary from the executive; it is not new, and whereas the State has done that, the executive has reversed

that process. I am not bothered about the constitutional provisions, the Directive Principles, as a person who has participated in the national movement from 1921. I want to point out that this is a reversal of the cherished desire of the national movement by the executive, by a stroke of pen. Therefore, in order to protest against this reversal of the process which has been taking place right from the beginning of the national movement, we want to walk out. This is not the way.

(At this stage, some hon. Members, left the Chamber)

### PROCLAMATION UNDER ARTICLE 356 OF THE CONSTITUTION, REVOKING THE PRESIDENT'S RULE IN THE STATE OF ASSAM

**THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI NIHAR RANJAN LASKAR):** Sir, I beg to lay on the Table a copy (In English and Hindi) of the Proclamation [G.S.R. No. 110 (E)] issued by the President, under clause (2) of article 356 of the Constitution on February 27, 1983, revoking the Proclamation made by him on March 19, 1982 in relation to the State of Assam, under Clause (3) of article 356 of the Constitution. [Placed in Library. See No. LT-5918/83]

### RE. POSTPONEMENT OF CALLING ATTENTION MOTION

**MR. DEPUTY CHAIRMAN:** Calling Attention which was to be taken up today, has been postponed to some other day.

**SHRI R. RAMAKRISHNAN (Tamil Nadu):** Sir, it is a matter of urgent public importance which you were kind enough to admit and notice to this Calling Attention was given on Saturday itself. This morning I