

**CALLING ATTENTION TO A MATTER
OF URGENT PUBLIC IMPORTANCE**

Constitutional crisis in Assam arising out of the prorogation Of the Legislative Assembly of Assam and promulgation of an Ordinance by the Governor of Assam for the appropriation of money from the Consolidated Fund of the State.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Now, we take up Calling Attention.

SHRI N. K. P. SALVE (Maharashtra): Sir, I am on a point of order on Calling Attention.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I know.

SHRI MANUBHAI PATEL (Gujarat): Sir, I am on a point of order.

श्री सत्यपाल मलिक (उत्तर प्रदेश) :
श्रीमान्, मेरा व्यवस्था का प्रश्न है।

श्री रामानन्द यादव (बिहार) : मेरा
भी व्यवस्था का प्रश्न है।

SHRI MANUBHAI PATEL; Sir, the other day, some utterances were made in regard to Mrs. Thatcher.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I am sorry. There is no point of order in this.

SHRI MANUBHAI PATEL: You said that you will convey it to the Chairman and he will give a direction. What is the position?

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): This has been conveyed, I do not know,

श्री सत्यपाल मलिक : सदन की मर्यादा भंग हुई है। का फिक्की के चेयरमैन ने यह कहा

है कि सार्वजनिक क्षत्रों के उद्योगों में घाटा इसलिए हो रहा है कि वे (व्यवधान)

उपसमाधक्ष (श्री अरविन्द गणेश कुलकर्णी):
यह कोई पॉइन्ट ऑफ आर्डर नहीं है।

श्री सत्यपाल मलिक : सदन के नेता
ने... (व्यवधान)

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I am sorry, Mr. Malik. There is no point of order in this. Do not bring in extraneous matters. I do not allow the point of order. Nothing goes on record.

श्री सत्यपाल मलिक : (बोलते रहे)
(व्यवधान)

श्री रामानन्द यादव : मेरा प्वाइंट ऑफ
आर्डर नहीं है।

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Then what is that?

श्री रामानन्द यादव : हमारा एक बहुत
महत्वपूर्ण है... (व्यवधान)

SHRI PILOO MODY (Gujarat): Mr. Vice-Chairman, have you also started the business of 'not going on record'? (Interruptions) Have you also started this practice of not allowing the thing to go on record?

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr. Mody, you will have to appreciate that Mr. Malik is raising a point of order on the Federation of India Chamber of Commerce and at present I am seized with the Calling Attention. As soon as I heard him, I said it does not arise.

SHRI PILOO MODY: You have disallowed him, that is all right, but why tamper with the record?

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): If he goes on speaking what can I do?

SHRI PILOO MODY: This business of not allowing it to go on record is not your responsibility. Your responsibility is to disallow it, not to tamper with the record.

Yes, Mr. Yadav, what is your point of order?

SHRI RAM AN AND YADAV. I am not raising a point of order.

हमारा प्वाइंट ऑफ आर्डर नहीं है . . . सुनिये ।

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I did not listen. What is your point of order?

श्री रामानन्द यादव : मैंने जीरो आवर में खड़ा होकर उठाना चाहा, आपने उठाने नहीं दिया । वही मैं जीरो आवर में रट्टेन प्वाइंट उठाना चाहता हूँ । जीरो आवर में यह उठाना चाहता हूँ—बड़ी मेहरबानी हुई आपने कृपा की, समझ दिया ।

आपका ध्यान गया होगा चीफ इलेक्शन कमिश्नर जो देश के हैं मिस्टर शर्मावर उन्होंने भी एक स्टेटमेंट दिया . . . (व्यवधान)

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): It cannot come at this moment.

SHRI RAMANAND YADAV: No, no, you hear me.

SHRI N. K. P. SALVE: My point of order is on this Calling Attention. My submission is that it cannot be discussed in the House in view of rule 238. (Interruptions)

श्री रामानन्द यादव : आप उठाने नहीं देते हैं . . . (व्यवधान) शर्मावर जी ने जो आज स्टेटमेंट दिया है वह बहुत महत्वपूर्ण है सारे देश का ध्यान बंगाल की तरफ चला गया है . . .

(व्यवधान) और वे चाहते हैं जो वे चाहें धरें हो . . . (व्यवधान)

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): No, Mr. Yadav, please sit down. I am seized with the Calling Attention.

श्री रामानन्द यादव : मैंने प्लेट करना चाहते हैं और यह भी चाहते हैं कि विदेशियों का नाम उसमें अंकित किया जाय ।

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): The House is seized with the Calling Attention. This Calling Attention is not concerned with Bengal or anything else and I think the Minister of Parliamentary Affairs..

SHRI N. K. P. SALVE: Sir,... (Interruptions)

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr. Yadav, please sit down. Yes, Mr. Salve please, on the Calling Attention.

SHRI N. K. P. SALVE: Sir, I am entirely on the Calling Attention. Rule 238 and the sub-rule under it prohibit totally and absolutely a discussion which will arise out of the Calling Attention. Rule 238 in terms gives the real picture. Rule in terms reads: That "a member while speaking shall not—

(i) refer to any matter of fact on which a judicial decision is pending;"

With reference to this Calling Attention which refers to a constitutional crisis in Assam arising out of the prorogation of the Legislative Assembly of Assam and promulgation of an Ordinance these are subject matter of two writ petitions before the Supreme Court. The Promulgation of the Assam Appropriation (Vote on Account Ordinance), 1981, is challenged. The constitutional validity of the same has been challenged and *^{ne} prayer is that the writ be issued quashing the notification as ultra vires

Likewise, the prorogation of the Assam Legislative Assembly is also under the challenge of the Supreme Court and the prayer is two-fold, that the Ordinance be struck down as *ultra vires* the article 230 and violative of articles 14, 19 and 180. Now, Sir, we have had far too many matters being discussed here more in breach of this rule than otherwise. Already a delicate... *(Interruptions)* Just listen to me.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Why are you making a noise. *(Interruptions)*

SHRI N. K. P. SALVE: This Member is disgraceful. Just listen to me.

Therefore, the question is the constitutionality of these two enactments which according to the hon. Members who have called the attention to this urgent matter of public importance, that itself is the subject matter of challenge before the Supreme Court. I am saying this with responsibility. This preliminary issue needs to be decided. For the purpose of a decision on the preliminary issue in terms of rule 238, what is needed are only two-fold facts; one is whether as a matter of fact, this is the subject matter of...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Which rule you are mentioning?

SHRI N. K. P. SALVE: Rule 238.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): That you have already mentioned.

SHRI N. K. P. SALVE: The scope of rule 238. What are the requisites in terms of the rule? I am interpreting the rule.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): That is not necessary.

SHRI N. K. P. SALVE: My submission therefore is...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I have understood your point.

SHRI N. K. P. SALVE: I only want to quote one precedent. There is one precedent. In the Lok Sabha, a Calling Attention Motion had been admitted. I am referring to the Lok Sabha debate of 2-3-1981. After it had been admitted, it was pointed out that this happened to be entirely a State subject and excepting Delhi, no other matter falling within the Calling Attention Motion need be referred to. Therefore it was ruled out in the Lok Sabha under rule 238. That is the precedent. After the Calling Attention was admitted...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I have followed you...

SHRI N. K. P. SALVE: Since it was a State subject...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): That is all right.

SHRI N. K. P. SALVE: The motion was about inter-State dacoity and they said that only dacoity in Delhi could be referred to; the rest of it cannot be referred to. But I am referring to it for a different purpose. The Calling Attention had been admitted and when on the floor of the House it was pointed out that it was contrary to or outside the scope of the rules, then its scope was completely abridged. Sir, my submission, therefore, is, since you may like to examine this in detail, you can postpone it. We have no intention of thwarting a discussion on this. But let it be postponed. Let it be admitted if it is found to be within the rules after examining the facts that I have mentioned.

SHRI DINESH GOSWAMI (Assam): Regarding this...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Do you want to reply to this point of order?

SHRI DINESH GOSWAMI: I am speaking on this subject with your permission.

The reference which my learned friend has given has no relevance, because this Parliament has no jurisdiction to discuss a State subject and therefore when it was pointed out, the Lok Sabha Speaker probably in his wisdom ruled that it should not be discussed. This point was raised in the hon. Chairman's Chamber this morning. He was satisfied. The first thing is that the Supreme Court has not yet issued notices in this petition so as to make it *sub judice* between the parties. Simply because a petition is filed, rule 238 is not attracted. Even if rule 238 is attracted, the hon. Chairman told me that since I have to discuss the political propriety, he has permitted it. My submission is that after he has permitted it—even just before he left the Chair, he said that he has permitted it—I do not think we should go into this question at all. I do not want to go into details.

SHRI NARASINGHA PRASAD NANDA (Orissa): Mr. Salve's contention is that a matter which in substance is *sub judice* before a court of law cannot be discussed on the floor of Parliament. That is his contention. My submission to you, Sir, is, firstly, that the so-called writ petitions which were read out by Mr. Salve, have not yet been admitted by the Supreme Court. Merely because petitions have been filed, that would not come within the purview of *sub judice*.

Secondly, Sir, I would submit... Kindly listen to me. Sir, for your benefit and for my benefit...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): No, no, you need not repeat it. I have heard you.

SHRI NARASINGHA PRASAD NANDA: How could you hear me when you were discussing with the Leader of the House?

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): This machine is here; it helps us to hear. You go ahead.

SHRI NARASINGHA PRASAD NANDA: I contest the argument that it is already *sub judice*. Because the petitions have not been admitted, the notices have not been issued to the other parties, therefore it cannot be considered to be *sub judice*.

Secondly, the Chairman has already given permission. The fact that the writ petitions have been filed was already before the Chairman when he admitted this Calling Attention. Rule 238 was also before him even at the stage of admission of the Calling Attention. So this question of being covered by rule 238 was before the Chairman. After taking into consideration the provision contained in Rule 238 the Chairman admitted this Calling-Attention. Thirdly, apart from the question of constitutionality of the respective notifications, the main question here is 'the question of political propriety, the moral consideration. Therefore, these are the three grounds on which I would very respectfully submit that the Calling-Attention Motion should be allowed to be discussed.

SHRI N. K. P. SALVE: You stopped me from interpreting...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Just a moment. Let me hear Mr. Jha's point of order. Yes, Mr. Jha.

श्री शिव चन्द्र झा (बिहार) : उपसभाध्यक्ष महोदय, यहाँ पर यह बात उठाई गई है कि चूँकि यह मामला बजट . . .

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): You make your points straightway.

श्री शिव चन्द्र झा : मेरा यही कहना है कि अतम का मतना बहुत गंभीर है, सुनिएगा ।

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Don't give us a lecture. What is the point of order?

श्री शिव चन्द्र झा : सुनिएगा, उपसभाध्यक्ष महोदय ।

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I am listening all right. But what is your point?

श्री शिव चन्द्र झा : आप, हम को सुन तो लीजिए । आप घबराते लग गए . . .

उपसभाध्यक्ष (श्री अरविन्द गणेश कुलकर्णी) : आप यह शाउट मत करें । प्वाइंट ऑफ आर्डर पर बोलिए ।

श्री शिव चन्द्र झा : इसीलिए अनकांस्टीट्यूशनल यूनियन्स के साथ-साथ परिस्थिति को भद्दा बन रहे हुए जो एक व्यक्ति भूतपूर्व न्यायाधीश हैं उन्होंने फैसला किया है । यह उन का फैसला है इसलिए इस पर विचार होना चाहिए । तो इन को यह बात उठाना इंग्लिवेट है ।

SHRI. N. K. P. SALVE; They have dragged in the name of the Chairman. Just now I pointed out to the Chairman that the Rule says, "...refer to any matter of fact on which a judicial decision is pending". The question of admissibility itself involved the question of judicial decision. Whether Or not Mr. Nanda will admit this, as I pointed out, the rule is with reference to a matter in which a judicial decision is pending and admissibility itself is a question of judicial decision. Therefore, it falls within this rule and to me the Chairman said, in view of this let us postpone, let me examine. The is what he told me. That is why I am urging, we do not want further difficulties to come about.. .

SHRI PILOO MODY; What transpired between you the Chairman does not concern us. The Chairman did not announce anything in the House.

SHRI N. K. P. SALVE; I agree, the Chairman did not announce anything in the House. That is why I did not drag his name. I wanted to raise this matter on the merits.. .

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I understand your point, Mr. Salve. I have taken care of that. The points you have made, I have also discussed with the Chairman, and the Chairman has directed me that the legal aspects of the Calling-Attention or the contents of the matters raised before the various courts, are not going to be discussed, and barring that, other aspects of the Calling-Attention can be allowed^{to} be discussed. And he has allowed me to call Mr. Dinesh Goswami. Now, Mr. Goswami, you call the attention.. .

SHRI N. K. P. SALVE; I am not discussing the ruling. We will abide by the ruling. But we want you to spell out what the area is.. .

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI).-I am sitting here for that.

SHRI N. K. P. SALVE; You spell out what that area is.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): The Chairman must have spelt it out. I am sitting here to coordinate. Mr. Goswami, please.

SHRI DINESH GOSWAMI; Mr. Vice-Chairman, I beg to call the attention of the Minister of Home Affairs to the constitutional crisis in Assam and promulgation of an Ordinance by the Governor of Assam for the appropriation of money from the Consolidated Fund of the State.

श्री एन० के० पी० साहवें : वे जो बोले हैं
बहु मत बोलिगा, उस के बाहर बोलिगा ।

THE MINISTER OF HOME AFFAIRS (GANI ZAIL SINGH): Sir, according to the Government of Assam, the Budget Session of the Assam State Assembly commenced on 19th of March. The Opposition tabled a Motion of No-Confidence against the Ministry. This was discussed and rejected by the House on 24th March by a margin of 53 to 43 with 23 Members abstaining. On 28th March the Assembly took up discussion on Supplementary Demands. On the 31st of March the Vote on Account was passed by the Assembly and the Finance Minister sought leave to introduce the Appropriation Bill relating to Vote on Account in the year 1981-82. 52 Members voted in favour of the introduction of the Bill and 41 against with 18 Members abstaining. The Appropriation Bill was introduced and was taken up for discussion. When the Speaker announced the putting to vote of the Appropriation Bill, disorder ensued. The Speaker adjourned the House for 10 minutes. After the House re-assembled at 8.10 P.M., the Deputy Speaker described the situation unprecedented and adjourned the House *sine die* without taking the sense of the House.

2. Taking into consideration the extraordinary situation the Governor prorogued the House on 31st March and on 1st April issued an Ordinance authorising Appropriation relating to Vote on Account for 1981-82.

3. According to the Government of Assam, two Writ Petitions have been filed by some MLAs in the Supreme Court challenging the constitutional validity of (i) Prorogation of Assam Legislative Assembly, and (ii) the Promulgation of the Assam Appropriation (Vote on Account) Ordinance, 1981 dated 1st April, 1981. The matter is *sub judice*.

SHRI DINESH GOSWAMI: Mr. Vice-Chairman, Sir...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I think, Mr. Goswami, before you proceed, you bear in mind the parameters in which this Calling Attention is to be discussed.

SHRI DINESH GOSWAMI: I will be within those parameters. Mr. Vice-Chairman, firstly, let me point out, with all respect to the ruling that you have given, that in a matter before the House there are no parameters put on the discussion on the ground that certain matters are *sub judice*. This House is not subordinate to a court of law and this House has the right to discuss all matters of political propriety and I know the parameters in which I will keep myself.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Political propriety, agree with you.

SHRI LADLI MOHAN NIGAM (Madhya Pradesh): And moral propriety?

SHRI DINESH GOSWAMI: I know that. I do not want to go into that. I hope you will agree, whether on this side or from that side, that it has involved some of the fundamental questions relating to political propriety and interpretation of the Constitution, the power of the Legislature, the power of the Governor, and so on and so forth. Sir, as you know, Assam was under the President's Rule. And a Ministry was installed by the party which originally could get elected seven Members in the elections and by processes unknown to the democratic process the number was increased to 49. I will not go into that. The hon. Home Minister has said that there was a No Confidence Motion in which the Govern-

[SHRI DINESH GOSWAMI] ment survived by 53 votes to 43 votes. And let us remember that this Government survived because 23 Members of the Left in the Opposition abstained from voting. I will not go into the question about the role of the Left Opposition. But the fact remains that if those 23 Members did not indirectly support the Government by abstaining or would have supported the Opposition while voting against the Government, then the Government would not have survived,

SHRI N. K. P. SALVE; Hypothetical.

SHRI DINESH GOSWAMI; Sir, I will show that it is not hypothetical; it is real. Mr. Salve, please bear with me. On the 28th March, 1981, a Demand for excess Grant was brought. And what was the excess Grant? The excess Grant was to regularise the payment which had already been made for the National Security Act. The amount was spent for expenses connected with the dearness allowances, sitting fees of members of the Advisory Board under the National Security Act, 1980 and allowances to the families of the detenus under the National Security Act and, therefore, this Demand for regularization of the advance was made. I should like this House to bear in mind that it was not on an amount which the Government was going to spend; this was on an amount which the Government had already spent. On that demand two cut-motions—for the benefit of Mr. salve —were brought, one by the Communist Party of India (Marxist) and the other by the Janata Party, and not hypothetically but really, in the House the entire Opposition including the 23 Members who had abstained, said, "We are not going to support the Government on passing this demand". Therefore, those 23 plus 43, totally 66 Members said, "If this demand forms part of the appropriation, we are not going to support", with the result that when the cut-

motion was put to vote the Government side did not ask for a division, and the cut-motion was adopted. When the cut-motion was adopted, the next day, the Appropriation Bill was brought without the demand No. 4. The first thing that I would like to know from the Home Minister is that the Government withdrew that amount and the Law Minister is here—and the House would like to know: You have withdrawn this demand. But the amount which was already spent, is the Finance Minister going to reimburse to the State out of his own pocket? Does the Constitution permit it? Can you withdraw a demand on an amount which you have already spent? How are you going to show it in the accounts of the Government of Assam, the amount of Rs. 50,000 which you have already spent? This amount was shown as withdrawn. When the Appropriation Bill came before the House, the Opposition, the 64 Members asked the Government, that they were not going to support the Government on the issue of the National Security Act, and they would like to know whether they were going to withdraw the National Security Act from Assam, because the attitude towards the Appropriation Bill of the 23 Members who abstained in the voting and indirectly supported, would depend on the attitude of the Government to the National Security Act. They contended that if the Government was not going to pursue the National Security Act, they would take a particular attitude, but if the Government continues with it, they would not like this Government to continue. Therefore, when the House was agitated over the matter, the House was adjourned *sine die* by the Deputy Speaker. This entire matter was seized of by the Assembly at that time. After the House was adjourned, surprisingly, the Governor prorogued the House and issued an ordinance by which this amount was allowed to be appropriated out of the

Consolidated Fund of the State. Let us remember, this is for the first time that in independent India a cut-motion was passed. Sir, I may be permitted to read the Kaul and Shakdher's book:

"The cut-motion is nothing but a censure motion."

The Kaul and Shakdher's book has been taken as an authority in this House.

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"Cut-motions are given by the Members of Opposition only, and the Members of the Government party do not generally give such notices as it will amount to a vote of censure and indirectly no-confidence in the Council of Ministers."

Passing of a cut-motion amounts to no-confidence in the Council of Ministers. But, after all, we have experiences of democratic conventions being thrown overboard. And in spite of the fact that this cut-motion amounted to a vote of censure, a vote of no-confidence, the Government continued to function. Then for the first time in the history of this country and may be in the democratic history of the world an appropriation has been brought by an ordinance. Sir, I would like to know from the Law Minister, as I have said; How do you account for this money which you have spent?

Then the next question which is the basic policy question is: Can the Governor issue an ordinance on appropriation? I am really referring to the functioning of the Legislatures. 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 to provide for the appropriation out of the Consolidated Fund of the State..."

Article 204, clause (3) says:

"Subject to the provisions of article 205 and 206, no money shall be withdrawn from the Consolidated Fund of the State except under appropriation made by law passed in accordance with the provisions of this article."

Parliament and the State Legislatures have taken upon themselves the responsibility under the Constitution, and there are sufficient safeguards that the budgetary provisions are not passed by the Governor. And that is why it has said:

"Subject to the provisions of articles 205 and 206, no money shall be withdrawn from the Consolidated Fund of the State except under appropriation made by law..."

The Law Minister, while replying in the Lok Sabha, said that article 204 does not apply; relying on article 204, sub-article (3) because it says, "subject to the provisions of articles 205 and 206". But may I remind the Law Minister that article 205, sub-article (2), says, "The provisions of articles 202, 203 and 204 shall have effect in relation to any such statement..." Therefore, sub-article (2), in fact, makes articles 204 and 205 applicable in this case, and the Law Minister unfortunately made a completely wrong interpretation of articles 204, 205 and 206, for the sake of his party, denying the legislatures of certain powers which the legislatures have taken upon themselves after sufficient care and caution.

SHRI N. K. P. SALVE: Sir, whether or not there is violation of these articles is precisely the issue before the Supreme Court.

SHRI DINESH GOSWAMI: This is precisely the matter with which the House is concerned. There are two aspects. One is whether there has been a constitutional violation, and

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the other aspect is whether there has been political impropriety. There may not be a constitutional violation but there may be a political impropriety.

SHRI N. K. P. SALVE; Sir, you decide. (Interruptions)

SHRI DINESH GOSWAMI; I am asking the Law Minister. Forget about constitutional violation. Don't you feel—forget about constitutional violation... (Interruptions) I do not go into that question whether there has been a constitutional violation...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): You go to the main point.

SHRI DINESH GOSWAMI; This is the main point. The main point is, when the legislatures have decided under articles 204, 205 and 206, to do certain acts under certain procedures has "the Government, any Government is this country, in relation to Parliament or the legislature, the right to deny the legislature this power and if they are doing so, whether they have not committed any constitutional impropriety. (Time bell rings) Sir, you must give me some time.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I have already given you ten minutes.

SHRI DINESH GOSWAMI; This is an important matter.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): That is all right. (Interruptions)

SHRI DINESH GOSWAMI: The next question which is very important and which I would like to ask is: what is the limitation of the power of a Governor to legislate? (Interruptions) Sir, if the House is to be made a dummy to the entire executive, I do not have anything to say. Sir, we are here to protect the dignity, the honour and the power of

the House. (Interruptions) Mr. Shiv Shankar is performing the dance of Natafaja posing a threat of destruction of the entire judicial system.

SHRI N. K. P. SALVE: What is this? (Interruptions)

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI P. VENKATASUBBAIAH): The parameters which have been set have been violated. (Interruptions)

SHRI DINESH GOSWAMI; If the Minister thinks that I cannot criticise the Law Minister... (Interruptions')

SHRI P. VENKATASUBBAIAH: He is questioning the constitutional validity.

SHRI DINESH GOSWAMI: I am not questioning the constitutional validity.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHIV SHANKAR); Mr. Vice-Chairman, there must be some fairness. The subject is entirely different. And he goes on a different issue.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I am trying to bring him to the issue. Mr. Goswami, please put your questions on the Calling Attention.

SHRI DINESH GOSWAMI; Because the Law Minister said in his reply in the Lok Sabha...

SHRI SHIV SHANKAR: I did not say that.

SHRI DINESH GOSWAMI: Now the question is, what is the power of the Governor or the President? The power of the Governor or of the President to legislate by an Ordinance is a very extraordinary power. And that power is granted only when

Parliament or the Assembly is not in session, in order to meet a very...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr. Goswami, may I request you to confine yourself to the political part?

SHRI DINESH GOSWAMI: This is the political part. What am I discussing except the political part? As if I have not understood it... (*Interruptions;*) Sir, you have from that bench criticised the use of this power by the President. You have criticised the Government for the use of this Ordinance-making power all this time. Mr. Vice-Chairman, you have criticised the Government for this. Is it not political? This is what I am precisely doing.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I am only requesting you to limit yourself to the political part...

SHRI DINESH GOSWAMI: That is what I am doing.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): ... and ask questions.

SHRI DINESH GOSWAMI: This is what I am doing. You have not understood me.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): All right, go ahead.

SHRI DINESH GOSWAMI: What I am saying is about the power of the legislature. The Constitution never contemplated that this power of the legislature to pass legislation will ever be appropriated by the Governor or the President. This is a political question, not a constitutional question. My political question is under what circumstances the Governor has got the right to legislate. The President or the Governor has been given only a limited power to legislate by Ordinance under two

circumstances: (1) the House must not be in session and (2) an extraordinary situation must have arisen where a legislation is necessary to meet the contingency. Will you permit the President to pass an Ordinance when we are sitting here today, when both the Houses are sitting? It is not permitted. It is only to meet an extraordinary circumstance. When the House is in session, can the Governor acquire that power by proroguing the House which the Constitution, by itself, has been denied to the Governor? This is the political question that I am asking.

SHRI N. K. P. SALVE: I am on a question of procedure, Sir. As a result of your ruling, at least it is clear that any question which infringes on the question of the constitutional validity of an act of the Governor or the President would not be asked. There could be a political angle. Assuming there is the power, whether under these circumstances they could have acted or not would be a different question. But what he is saying is—has it ever happened, is it open to them, to the President or the Governor, to exercise that power in terms of the Constitution as they have exercised? Is not this the question? And, if this be the question, does it not squarely fall in your ruling that this will not be allowed by way of a Calling-Attention? The difficulty which you have landed yourself in, unfortunately, is because of the fact that the entire Calling-Attention itself says that it is a constitutional crisis and how can he, on a constitutional crisis, ask questions which would not infringe on the question of constitutional validity of the exercise of those powers? Is not the very exercise of the powers by the two high dignitaries, namely, the President and the Governor, the subject-matter of decision in the Supreme Court? If they have acted

[Shri N. K. P. Salve] properly, within this, then We have no grievance.

SHRI DINESH GOSWAMI: They may have acted constitutionally but improperly. *(Interruptions)*

SHRI N. K. P. SALVE: Let me complete. Whether they have acted properly or improperly is the subject-matter before the Supreme Court and that is why they are going to decide. And how can he reply to your question?

TOE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I have heard you. Just listen to me, Mr. Salve. The House will have to co-operate with me because I requested the Chairman on the very issue which you have raised. The Chairman gave me a directive to proceed with the Calling-Attention Motion. Then, you know, I am in a very difficult position. I would request both sides of the House—the Opposition and the Treasury Benches—that when the Chair has already accepted this for discussion, and when the Chair was again being questioned from both sides, he has again redirected me that this should continue. I am in a very embarrassing position. I understand what you are suggesting and the parameters in which we should limit ourselves. But what I am doing is, I am using political commonsense to limit the discussion. Whatever they want to say and what the Government wants to reply, let us hear and find out. Yes, Mr. Goswami. *(Interruptions)*

SHRI DINESH GOSWAMI: Now, Mr. Salve, don't raise them, please.

SHRI P. VENKATASUBBAIAH: Excellent observations!

SHRI DINESH GOSWAMI: Certain things may be constitutionally good but may be politically not supportable. The Governor may do something as he has the power. Supposing

the Governor has the power to pass an Ordinance and he passes an Ordinance which is anti-people. He has the power to pass it but politically it would be improper. I am not referring to the provision of the Constitution to argue whether it is constitutionally valid or not. I am limiting myself only to political propriety. The question of political propriety is this: The Legislature is supreme in the matter of making laws. We gave that power to a Governor that in an exceptional circumstance, when the House is not in session and a law cannot wait he may do it provided the House will ultimately decide. But my political question is, if the House decides not to pass a law, can the Governor say, "I prorogue the House and I pass that law?" The Governor, by doing it, has acted as "a super legislature which, I think, at no point of time the Constitution-makers had envisaged.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): May I ask the Minister to reply? *(Time bell rings)*

SHRI DINESH GOSWAMI: No, Sir. I have two more questions. Therefore, may I point out that these questions were taken up in the past and the Houses were always very proper to retain these powers to themselves. As you have already rung the bell I would like to know from the Minister, firstly, is there any instance of a cut motion being passed after independent India after the present Constitution came into being? Does the Government feel that the opinion of Kaul and Shakhder that cut motions amount to censure motion and expression of no confidence on the Council of Ministers is wrong? If not, why is that the Government is not resigning? Has there been one instance in Independent India that appropriation has been by ordinance? Has there been one instance in Independent India where the Finance Bill could not be passed and where

the Governor's Address could not be passed? What is the Government's attitude with regard to the amount of Rs. 50,000/- which they have already spent and which the legislature is not going to approve? Is the Finance Minister going to spend it from his own pocket? How does the Government of Assam continue the National Security Act in spite of the fact that they have withdrawn demand no. 4? I would also like to know how

does the Constitution envisage giving super-powers to the Governor? How can he prorogue the House which is already in session and then acquire power which the Constitution did not give him? Don't you think that it is the highest form of political impropriety? The main question is solution of the Assam problem. After all if we do not solve the problem, the

Constitution will be thwarted in Assam and civil liberties will be curtailed. I am deeply interested in the solution of the Assam problem. I am waiting for the day when both the sides will meet in May as has been proclaimed by the hon. Home Minister. I will appeal to you to issue an appeal on behalf of the House to all the concerned, both to the Government and to the leaders of Assam that this time when they meet they should, if necessary, for hours together but hammer out a just solution of the problem so that peace may return to Assam and normalcy may return to the entire north-eastern region. This House has taken sufficient interest in the Assam issue. I believe a balanced approach will be made by both. Though this is out of the context of the Calling Attention, considering the importance of the issue and as I may not have any other occasion to refer to this issue, this session, I would suggest that an appeal from this House may have a great effect on the people of Assam and the agitation leaders and the Governor to solve this problem.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): This is the most important point.

ज्ञानी जैल सिंह : आनरेबल वाइस चेयरमैन साहब, मुझे इस बात का अहसास है कि आप भी फंसे हुए हैं।

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): What is that?

GIANI ZAIL SINGH: I said you are in difficulty.

आप डिफिकल्टी में हैं। इसका दूसरा भाषा में फंसा हुआ कहते हैं। आप संकट में हैं। आप संकट में हैं तो...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Please use words and language which we commonly understand.

ज्ञानी जैल सिंह : मैंने कहा आप फंसे हुए हैं, इसका मतलब कि आप संकट में हैं, इसका मतलब कि आप मुसीबत में हैं, इसका मतलब आपके सामने प्राबलम है।

श्री एन० के० पी० साल्वे : फंसा हुआ मराठी में दूसरा भाषा में रखता है और पंजाबी में दूसरा भाषा में रखता है। इनका मतलब पंजाबी के फंसे हुए से है, आप इसको मराठी वाला फंसे हुए न समझें।

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I am thankful to you because you have paraphrased what you said. Mr. Salve has rightly stated.. Being brought up in Maharashtra what you said means to me that I have been deceived by somebody. I have not been deceived. That full knowledge with JSFIs going to be discussed. You do not worry about that. You only use words which we commonly understand as Members of Parliament. In Panjab you can talk very fluently. We persons here have limited understanding of that language. Now, Please go ahead with your reply.

ज्ञानी जैल सिंह : वाइस चेयरमैन साहब, मैं तो आपके साथ मोहब्बत के नाते, हमदर्दी करने के लिये कह रहा था। आपने दो बार

[श.नी जैल सिंह]

कहा कि मैं डिफिकल्टी में हूँ क्योंकि मुझे चेयरमैन साहब ने कहा है। आपने दुबारा कहा कि मेरी पोजीशन इम्ब्रैसिंग है। इसलिये मैंने सोचा कि मैं आपके साथ हमदर्दी दिखाऊँ। इसलिये मैंने आपके साथ हमदर्दी की। मेरे दोस्त साल्वे जी ने आपको, हमको और अपोजीशन को बचाने की कोशिश की और वे सबका भला चाहते थे। लेकिन उनके प्वाइंट आफ आर्डर को बहुत महत्व नहीं दिया गया, यह आपकी मर्जी की बात थी।

अब गोस्वामी जी जिन बातों पर बोलते रहे वे सब कांस्टीट्यूशनल थीं क्योंकि वे वकील हैं, उन्हीं बातों को उन्होंने किया। मैं तो जूडिशियरी का हाइयेस्ट रिगार्ड करता हूँ। जूडिशियरी के सामने जो भी केस पेश हो गया अगर वह पोलिटिकल भी है तो भी उसको डिसाइड करने का हक जूडिशियरी को ही है और फिर हाइयेस्ट जो हमारी जूडिशियरी है वह सुप्रीम कोर्ट है। यह मामला उसमें चला गया है। परन्तु उन्होंने कहा कि वह एडमिट नहीं हुआ। वह रिजेक्ट भी नहीं हुआ (व्यवधान) अब तक विचाराधीन है। तो यह समझा जाता था कि यह जो उनका कार्लिंग एटेंशन है यह दो प्वाइंट्स पर है। यह दोनों प्वाइंट अदालत में विचाराधीन हैं। मैंने जो अपना स्टेटमेंट दिया था उसमें यह कहा कि यह सबजुडिस है इसलिए न करें खैर अभी गोस्वामी जी के साथ मेरी बहुत हमदर्दी है वे भी एक तरह से फंसे हुए हैं। न तो छोड़ सकते हैं और न कोई और मैटर है। आगे चल कर उन्होंने आनाम की प्राब्लम पर बात की

है। मैं मानता हूँ कि वह पोलिटिकल है लेकिन वह पोलिटिकल नहीं वह तो नेशनल है और तमाम नेशन के साथ इसका ताल्लुक है। इसको सुलझाने के लिए जो पीसफुल और नेगोसियेशन या परसुयेंस का रास्ता है वह अपना रहे हैं और उसी रास्ते से हम सुलझाने की कोशिश करेंगे। शास्त्री जी और गोस्वामी जी दोनों ने इसमामले में हाउस में तो हमारी मदद नहीं की लेकिन प्रेक्टिकली वे इस मामले में मेरे साथ ही नहीं नेशन के साथ हैं। इस मामले को सुलझाने के लिए हमारे मददगार हैं। इसलिए मेरी भी पोजीशन बड़ी डिफिकल्ट है। मैं कड़वा जवाब दे दूँ तो अच्छा नहीं रहेगा। यह कहना कि गवर्नर की पावर है या नहीं, यह कांस्टीट्यूशनल नहीं है तो और क्या कांस्टीट्यूशनल होगा? मैं बता सकता हूँ कि गवर्नर की क्या पावर है, कहाँ वह क्या कर सकता है, कैसे कर सकता है, कौन सा आर्टिकल है जिसके तहत उनको अख्तियार मिलता है। वे कौन सी बातें हैं जिनके लिए सरकार को अख्तियार दिया जा सकता है। अब आप सोचिये। पोलिटिकल बात तो यह है कि जिस गवर्नमेंट के खिलाफ नो कानफिडेंस मोशन आया हो और वह रिजेक्ट हो गया ही तो मेरे दोस्त कहते हैं कि उसमें से 23 मेम्बर थे जो गैर-हाजिर थे। अब अगर होते तो क्या होता? अगर वही वोट सरकार के हक में होते तो फिर क्या होता। आप यह प्रिज्यूम क्यों करते हो कि वह अपोजीशन के साथ जाते। उनमें से हमारे भी तो थे। उनके वोट भी एड होते। अब फिर वे कट मोशन की बात कहते हैं। स्वतंत्र भारत में कभी कट मोशन को पास हो जाने से कोई सरकार गिरी, कोई नहीं गिरी। इसको नो-कॉन्फिडेंस मोशन नहीं समझते। दूसरी बात मैं कहना चाहता हूँ। जो मेजोरिटी से रिजेक्ट हो गया तो हमारी वहाँ की सरकार ने हाइयेस्ट डेमोक्रेटिक प्रिंसिपल को सँट किया वह मान लिया और सर्वसम्मति से उनकी डिमांड जो थी वह प्रवान हो गई।

SHRI HAREKRUSHNA MAL-
LICK (Orissa): The Ministry has to
resign then. (Interruptions)

ज्ञानी जैल सिंह : तो इससे कहाँ
नो-कानफिडेंस आ सकता है। अब इसको
कोई समझा दे। ट्रेजरी बेंचेंज का यह
फर्ज है कि जो मुनासिब बात हो उसको
मान लेना चाहिए और वह मुनासिब
कट मोशन था इसलिए गवर्नमेंट ने
उसको मान लिया। बजाय इसके कि
आप ट्रिब्यून पे करते आप इसको कहते
हैं कि हार गई। अब उन्होंने कहा कि
यह एंटी-पीपल है। यह एंटी-पीपल तो
है ही नहीं। मैं तो मानता हूँ यह
प्रो-पीपल है। एंटी-पीपल आप करवाना
चाहते हैं। आप कहते हैं कि सरकार को
तोड़ दो, यह अनकास्टीट्यूशनल है।
हम कहते हैं कांस्टीट्यूशनल है। मॅजो-
रिटी स सरकार बैठी हुई है और उनके
ऊपर जो चेलेंज किया गया है, वह
सुप्रीम कोर्ट में है। इसलिए मैं बहस नहीं
करता और इसके मेरिट्स और डीमेरिट्स
में जाने के बगैर प्रार्थना करूँगा कि कोई
दलील ऐसी नजर नहीं आती। इसी
सेशन में जो 19 तारीख को शुरू हुआ
और 31 को खत्म हुआ, तीन बार
आसाम की सरकार ने सदन का कान-
फिडेंस जीता। और आपने प्रोपोजल पास
करवाया। अब डिमांड जो थीं वे पास
हो चुकी हैं। अब एप्रोप्रियेशन बिल रह
गया। एप्रोप्रियेशन बिल पास करने से
पहले सम्मान योग्य चेयरमैन साहब अगर
ट्रेजरी बेंचों के पास रूलिंग पार्टी के पास

मैजोरिटी हो और डिप्टी स्पीकर या
स्पीकर का यह मन हो जाय कि चूँकि
आज 31 मार्च है, बजट पास नहीं होगा
तो सरकार गिर जायगी, वह बगैर
हाउस के पूछे हाउस एडजर्न करके चला
जाय तो क्या आप समझेंगे, यह डेमोक्रेसी
है, धोखा नहीं है डेमोक्रेसी के साथ।
उस स्पीकर को चाहिए था—मगर मैं
डिसकस नहीं करता उसने हाऊस एडजर्न
कर दिया। इस तरह से कोई भी सरकार
नहीं चलेगी। अगर ट्रेजरी के बेंचों के
साथ स्पीकर का मेल'जोल नहीं है
सहमति नहीं है या उसकी बात नहीं
मानी जाती, या उसको नाराजगी है या
गुस्सा है, वह एवरप्टली हाऊस एडजर्न
कर दिया करेगा तो फिर गवर्नमेंट कुछ
भी न कर सकेगी। यह कहीं भी नहीं
माना जा सकता है। यह डेमोक्रेटिक उसूलों
के खिलाफ बात है और ये फिर पूछते
हैं यह जो खर्चा है और यह भी कहा कि
वह नेशनल सिक्थोरिटी एक्ट वहाँ से
हटा लिया जायेगा। अब इसके साथ क्या
ताल्लुक है इस बात का। जो सरकार
ने, वहाँ के फाइनेंस मिनिस्टर ने अपनी
प्रोपोजल रखी उसमें जो कोई संशोधन
आया उसने उसको मंजूर कर लिया,
पर एन. एस. एक्ट का इसमें कोई
ताल्लुक नहीं है। अगर सरकार चाहे तो
एन. एस. एक्ट पर अमल करे और न
चाहे तो न भी करे। यह उसकी सरकार
के ऊपर कोई बन्धन नहीं है।

SHRI DINESH GOSWAMI: But the
question is, how are you going to
account for this gfty...? (Interruptions)

ज्ञानी जैल सिंह : अब यही तो मैं
कहता हूँ, गोस्वामी जी को क्या कहें,

[जनी जैल सिंह]

बड़े अच्छे लायर हैं लेकिन कभी-कभी एतबार करके, गोस्वामी नाम है उनका, हमारे देश में स्वामी की बहुत पूजा होती है और फिर ये स्वामी जो हों तो मैं स्वामी जी से कहता हूँ कि यह भी फैसला सुप्रीम कोर्ट में होगा। अगर उनके साथ आपको हमदर्दी है तो भुगतिए, इनकी वकालत करिये लेकिन वहाँ जाकर कर सकते हैं यहाँ नहीं।

SHRI DINESH GOSWAMI: This j, not in the Supreme Court.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr, Minister, do you know whether this aspect has been included in the petition before the Supreme Court?

AN HON. MEMBER: Are you sure?

GANI ZAIL SINGH- Yes.

यह सुप्रीम कोर्ट के फैसले पर तो मैं, जो उसके दायरे में आ गया, उसमें मैं कुछ नहीं कहूँगा और मैं समझता हूँ कि यह मेरी ड्यूटी है, गृह मंत्री के नाते अगर हम इज्जत नहीं करते जुडिशियरी की और उसका सम्मान पूरा नहीं करते तो मैं समझता हूँ कि हम गलती करेंगे, यह ठीक नहीं होगा। मेरी अब भी दरखवास्त है आनरेबल मेम्बर साहिबान से कि इसमें आपके पास और कोई क्वेश्चन नहीं है सिवाय इसके कि यह एक कांस्टीट्यूशनल क्वेश्चन है और कांस्टीट्यूशनल क्वेश्चन के लिए ला मिनिस्टर बैठे हैं। तमाम दिन और दो दिन इसकी बहस करते रहो, फैसला फिर भी नहीं होगा। यहाँ तो फैसला जो होगा सो होगा, पर वहाँ होगा कांस्टीट्यूशन के मुताबिक। इसलिए आप उस फैसले का इंतजार करें, अगर आपको हमदर्दी है तो। और कोई महत्वपूर्ण बात इस हाऊस में डिस्कस कर लें यह मेरी

प्रावर्त्ता है। अगर आनरेबल मेम्बर साहब जिन्होंने यह कॉलिग एटेंशन मोशन दिया उस वक्त भी सोचते तो उनको नहीं देना चाहिए था, मगर वे कहते हैं कि हमको नहीं मालूम था। तो मेरा फर्ज था हम आपको नोटिस में लाते। आपको नोटिस में आ गया। अब मैं तो जानता हूँ कि मुकदमा अदालत में है इसलिए मैं उन बातों का कोई जवाब नहीं दे सकता।

एक आपने और आसाम की प्रब्लम कही। उस आसाम की प्रब्लम में मैं उनसे कहूँगा जो आपके दोस्त हैं वहाँ एजोटेसन के नेता, जिनका केस आप प्लोड करते हैं, हमने उनको कह दिया है कि आ जायें, बात हो गयी है और सेक्रेण्ड बोक आफ म उनका मंजूर है, डेट एण्ड टाईम यह भी आज या कल तक हो जायेगा। अब उनको कहिए कि स्टेटमेंट मत दें, अगर वे स्टेटमेंट द देंगे तो हम स्टेटमेंट दे देंगे, लड़ाई फिर शुरू हो जायेगी। कोई फायदा नहीं है। अगर आप रीयल सेंस में उनकी मदद करना चाहते हैं जिस पर आप आखिरकार जोर देना चाहते हैं तो आप उनसे बात चीत कोजिए, मश्वरा कोजिए उनसे कहिए जब नेगोशियेशन के लिए, टेबुल पर लोग बैठते हैं तो टेबुल की लड़ाई मैदान की लड़ाई नहीं होती है, टेबुल में हर बात को सोचना पड़ता है, जानना पड़ता है, विचारना पड़ता है, गुस्से को खत्म करना पड़ता है, गुस्से को पीना पड़ता है, बुरी भली बातें जो हो गयी हैं उनको भूलना पड़ता है। ये सारी बातें आप उनको समझाईये और जो लोग उन विद्यार्थियों को, दूसरे साथियों को, एजोटेसन के लीडरों को भड़का रहे हैं उनके साथ आपको जरा दिलेरी से लड़ना चाहिए हमारे साथ लड़ने से कोई फायदा नहीं है।

श्री लाडली रोहननिगम : उपसभाध्यक्ष जी, मैं कोई संविधान का पंडित नहीं हूँ जैसे कि मेरे मोहतरिम दोस्त साल्वे जी हैं, लेकिन उनको मुनने के बाद मुझे ऐसा लगा कि हिन्दुस्तान का जो भी संविधान बना है, वह आधारहीन है, उसका कोई आधार है नहीं। अगर वह आधारहीन है, तो फिर ठीक है, उस पर जैसा चाहो इमारत बना लो। उसमें स्वेच्छाचारिता की पूरी गुंजाइश है। मुझे कुछ नहीं कहना है।

लेकिन अगर संविधान का आधार नैतिकता है, समाज उसके साथ जुड़ा हुआ है, परिस्थितियाँ जुड़ी हुई हैं और उन सब को मद्देनजर रख कर हमारे पुर्खों ने यह संविधान बनाया है और अगर मान लिया जाए कि बुनियाद ही खत्म किसी चीज की हो जाए, तो फिर इमारत कैसे खड़ी रखें। मैंने कहा कि संविधान पर बहस नहीं हो रही है, संविधान के मनसूबे क्या हैं, राजनीति में अनैतिकता को बढ़ावा देना था, भीड़ को बढ़ावा देना था कि नैतिकता को बढ़ावा देना था। क्या संविधान ने यह भी सोचा कि इतना दूर तक अधिकार चले जायेंगे लाट साहबों के कि वे जो चाहेंगे, वे कर सकते हैं। मैं नहीं जानता कि उनकी सीमाएं क्या हैं। लेकिन आज की बहस के बाद तो मुझको ऐसा लगता है कि आज हिन्दुस्तान में लाट साहबों को यह हक हासिल हो गया है कि वे सब कुछ करते हैं सिवाए यौनि परिवर्तन के। उनके हाथ में सब अधिकार हैं। वे किसी आदमी को औरत और औरत को आदमी नहीं बना सकते, बाकी सब कर सकते हैं।

एक पहे, अपठित आदमी के ऊपर, एक साधारण मुझ जैसे आदमी के दिमाग पर उसका जो असर हुआ है वह यह है। फिर अब अधिकार का प्रश्न जोड़ दिया है। ठीक है अधिकारों का मसला—उच्चतम अदालत तय करेगी, यह सब ठीक है।

मेरा सिर्फ इतना ही कहना है कि मान लीजिए, कल उपसभाध्यक्ष जी, कि यहां कोई

चीज घाती है, कोई बहस होती है और वह बहस नहीं होती और उसमें शंका है कि पास नहीं होगी और अगर नहीं होने की शंका नजर आए, तो उसके बाद आप यहां से उठ कर जाएं, तो हाउस खत्म हो गया। तो क्या प्रेसीडेंट इस हाऊस इस को प्रोयोग कर देगा। यह कुछ प्रश्न है जो मेरे दिमाग में कौंध रहे हैं। अब हो सकता है कि इस सदन के पटल पर आप जीत जाएं, लेकिन हिन्दुस्तान के संविधान में जो सड़कें चलती हैं, संसद की जो गरिमा है सड़कों पर, वह खंडित हो रही है। यही मुझको सब में बड़ा दुख है।

आप तक कुछ भी दे दीजिए, मुझे कुछ नहीं कहना। आपके पास तर्क हैं बोलने के लिए, बोलते रहें कि कोई माना कि नहीं माना, वह भाग गया। अगर वह भाग गया, तो तत्काल दूसरा आदमी तय कर सकते थे।

खैर सवाल यह है कि अगर हिन्दुस्तान में खजाने का इस तरीके में दुरुपयोग होना शुरू हो जायेगा तो बिना किसी चीज की अनुमति लिये खर्च करें और उसके बाद उस पर मोहर न लगे, तो दूसरा इशारा मुझको नजर आ रहा है। कल हिन्दुस्तान की नौकरशाही इतनी बड़ी स्वेच्छाचारी हो जाएगी कि वह इन सदनों में जो भी आप प्रस्ताव करें, जो भी अनुदान पास करें, जो भी अनुमति दें, उसके अलावा भी कुछ करते चले जाएंगे क्योंकि उसको मालूम है कि उसके रखवाले यहां लाट साहब लोग बैठे हैं।

तो यह दूसरा प्रश्न है उसके साथ जुड़ा हुआ है। इस वास्ते लाट साहब के बारे में तो बहस हो सकती है। लाट साहब तो इस वास्ते मैं कह रहा हूँ, प्रेसीडेंट इस वास्ते कह रहा हूँ कि वह भी संसद का अंग हैं। किसी भी राज्य की विधान परिषद का या वहां की जो प्रजातांत्रिक व्यवस्था है, वह उसका हिस्सा,

[श्री लाडली मोहन निगम]

हुआ करता है लाजमी, जैसे यहां का राष्ट्रपति होता है, तो इसी वास्ते यह कहना कि हम उन चीजों पर बहस ही नहीं कर सकते, मुझे ताज्जुब लगता है। मैं बहुत भरे मन से निवेदन कर रहा हूँ कि यह आज जो हिंदुस्तान में तीस-बत्तीस वर्षों की जवानी में हिंदुस्तान के संविधान की हत्या की गई है जो दुनिया के पुराने से पुराने छह या सात सौ वर्षों में नहीं मिलेगी। इसको कहीं न कहीं लगाम लगानी चाहिए और इस दृष्टि से मैं चाहता था कि इस पर पूरी खुल कर बहस हो। आपने सोमाएँ बांधी।

अब आप किसी कैदी से क्यों उम्मीद कर सकते हैं जिसको हथकड़ियाँ डाल दीं और उसके बाद आप उससे कहते हैं कि तुम स्वतंत्र हो, नैतिकता जैसी कोई चीज नहीं है। जब हमको अधिकार है सड़क पर घूमने का, तो हम घूमेंगे कपड़ा कंधे पर रख कर के आखिर उसकी भी कुछ मर्यादाएँ हैं। उसके लिए मैं तैयार हूँ।

तो, खैर मैं इतना ही अदब के साथ निवेदन करना चाहता हूँ कि जो भी अनैतिक काम हुआ है, उसकी जितनी भी भर्त्सना कर सकूँ, वह मैं कर रहा हूँ। और इस सदन में मैं आज इस बात को दर्ज करना चाहता हूँ कि इस सदन में जहां संविधान को गरिमा को ऊंचा किया जाना चाहिए, वहां आज उसका जंडा झुकाया गया है।

ज्ञानो जल सिंह : चैंयरमैन साहब, नयी बात तो उन्होंने कोई की नहीं। यह कहा है कि यह गैर-वैधानिक है। मैं कहता हूँ कि बिलकुल वैधानिक है। यह गैर-वैधानिक नहीं है। वह कहते हैं कि अनुमति लिए बगैर खर्च नहीं हो सकता था। मैं उन को याद दिलाना चाहता हूँ कि वह खर्च पास हो गए थे, सिर्फ एप्रोप्रिएशन बिल रहता था और एप्रोप्रिएशन बिल जो है

वह ... (व्यवधान) ... यह अपनी-अपनी समझ की बात है। जो आप समझते हैं मैं उस में इतिफाक नहीं करता हूँ और यह जो आपका कहना है कि यहां खुल कर बहस होनी चाहिए मैं इस के लिए तैयार हूँ कि खुल कर बहस होनी चाहिए लेकिन अगर सुप्रीम कोर्ट में वह पेडिंग न हो तो बिलकुल इस बात पर होना चाहिए, और डिमोक्रेटिक रवायात को तोड़ने का हक किसी को नहीं है और न हम तोड़ने देना चाहते। हम तो क्रिटिसिज्म को बेलकम करते हैं ताकि हम कोई गलती न करें, हमें कोई ठीक रास्ता दिखा सके। मगर यह मौका ऐसा नहीं है। आप को বেশक दुख है और आप इसको बर्दाश्त करें या न करें लेकिन हम को उनकी इज्जत, सम्मान और सत्कार मानना ही होगा।

इसके अलावा कोई ऐसा प्रश्न उन्होंने किया नहीं है। मेरी फिर दरखास्त है कि यह रास्ता निकलता नहीं कोई बहस करने का। अब तकलीफ होती है बोलने के लिए। उन की आग को संभालने के लिए तकलीफ होती है। हम जो आज्ञा दें आप भी दे सकते हैं, और मेहरबानी करके हमारे दोस्तों को मेरे मार्फत प्रार्थना पहुंचाएँ—उनको यह कहिए कोई और काम करें। यह हमारा मान्यता वाला हाऊस जो है वह इसी बात पर बन कर रह गया और मैं यह मानता हूँ यह बहुत महत्वपूर्ण सवाल है और इसमें मेम्बरों का पूरा हक है। मगर जो रवायात बन गई हैं हमारे देश की, उस को हमें बरकरार रखना है और इसलिए आज भी हम डिसकस कर सकते हैं। यह मेरी प्रार्थना है।

SHRI KRISHNA CHANDRA PANT (Uttar Pradesh): Sir, I appreciate the concern of the Home Minister to keep the Supreme Court out of the debate. But, I hope, he will agree with me that parliamentary democracy is a very tender plant and it has to be carefully nurtured. And in our system, this Parliament has to watch over the functioning of the Assemblies also, and we have to take note of any extraordinary situation

and see how it has been dealt with in the States as well because every such incident becomes a precedent for the future and traditions and conventions are created and this ultimately strengthens or weakens the fabric of parliamentary democracy. And it is in this light that one has to view this question.

Sir, the first factual question which I would like to ask the Home Minister is this. He said that the authorisation in the Ordinance was for 1981-82 whereas Mr. Goswami said that the Demand was in the Excess Demands for 1980-81. So, is 1980-81 also covered? That is the first point. The second point is that if it is 1980-81, whether the particular Demand which was struck down has also been included or it has been left out. If it has been included, that is a separate matter. But if that Demand pertaining to the National Security Act has been left out, then how will this expenditure already be incurred? This is a serious question because that expenditure has already been incurred and it must be covered somewhere. And how it has to be done is, a matter for him to consider. But this is a question which I would like to raise. The third question is: How does the Home Minister view the passage of a cut motion? Does he regard the cut motions as important enough to be regarded as a censure? Or does he regard that if a cut motion is passed and Government accepts it, then it is no longer a censure? Is that his view? If that is his view, it is a departure from the current thinking on the subject. Therefore, I would like to know his reply on that point.

Now, regarding the other point, i.e., whether there has been any such case so far, any precedent, in which an Appropriation Bill has been passed by an Ordinance, so to speak, what has he to say? The point I would like to make in passing is that this Ordinance will have to be approved by the Assembly. And, therefore, it is always unwise to pass any

tion Bill by an Ordinance because if the Assembly does not approve it in the first place, and for that reason you bring forward an Ordinance, and tomorrow when the Assembly will have to approve that Ordinance, and it again disapproves it, then you are in a worst constitutional muddle than you are today. Therefore, one has to be very sure that what is to be passed by the Assembly is passed by the Assembly in the first place and if the Assembly does not pass it in the first place then the Government would have to pass it by an Ordinance.

Now, regarding the propriety of this matter, I am not going into the constitutional aspect but I am sure that Gyaniji will agree that political propriety is involved in this case and I would put it from a practical angle and ask, why could not the Governor call the Assembly the next day and have it passed? Why prorogue the Assembly? It was adjourned by the Deputy Speaker. Why not call it to meet the next day and have it passed. That obviously would have been the best course, to call the Assembly the next day, or at the earliest, and get it passed. Already the month of March was over. The Ordinance was brought on the 1st of April. The obvious course would have been to call the Assembly and get it passed and if the Government had a majority then this would have been passed and if the Government did not have a majority then the Government could not stay. I think there can be no two opinions on this. Therefore, when a doubt had arisen then the obvious course of action was to remove that doubt but unfortunately what has happened has left a cloud against the Government in a very critical situation in Assam. We are concerned because of the situation in Assam, where the Government has to appear to be fully legitimate. In this particular case doubts have arisen which will weaken the Government in handling the other situation. This is the worst aspect of this particular matter. I would like to know from the Home Minister whether he is going to advise the State Government

[Shri Krishna Chandra Pant]

to call the Assembly at the earliest because now this is the minimum that he can do, ask the Governor to call the Assembly at the earliest. I would like to know whether he will do it. Sir, a question of political morality and propriety is involved in this and Gyaniji has said that if the Speaker adjourns the House suddenly creating a situation, what is to be done?

If a Government finds that it is not in

a majority and if an issue comes before the House and it has attempted to immediately prorogue the House and come with an Ordinance to get the measure passed, for which it did not have a majority, is that not justifying the processes of democracy or Parliament? And, in this case is the suspicion totally unwarranted? I am not, at the moment, going into the question whether it is fully warranted or not. But can he say that it is totally unwarranted? Therefore, Sir, the possibility of foisting manipulations should not be left in such cases and it is in the interests of our democratic structure that the Government should take the earliest opportunity to remove those doubts.

Finally, Sir, the general question has been referred to by Mr. Goswami and it has also been referred to by the Home Minister. I would also like to add my voice to that of Mr. Goswami and the Home Minister himself, that this problem which has been creating so much anguish not only in Assam, but the whole country, be resolved at the "Earliest. I am very glad that a meeting is going to take place in May, towards the middle of May. There are indications that extremists are surfacing. There have been instances of violence, of killing, which we all condemn. Therefore, it is very necessary that this matter should not be allowed to delay any further. There have been reports that 1967 date is a date on which the Government as well as the agitators are generally agreed. If that is so, why should not that be taken as the cut-off date. Some such suggestions have been there. And I sincerely

hope that during this meeting, a final solution will be available.

Sir, the agitation will not solve any problem, and I join myself strongly in the appeal which has been issued by Mr. Goswami that this time both the Government and the agitators resolve to find a final solution to this problem which is creating various kinds of other eddies and currents throughout the country.

ज्ञानी जैल सिंह : वाइस चैयरमैन साहब, आन्तरेवल मेम्बर श्री पंत जी ने बहुत महत्वपूर्ण सवाल उठाये हैं। उन का पहला ख्याल यह है कि पार्लियामेंटरी डेमोक्रेसी में जो इस का दायरा है वह बहुत बड़ा है। वह बेशक अदालत में चले जायें, लेकिन अदालत की इज्जत रखते हुए भी हम इस बात की चर्चा कर सकते हैं। मेरे ख्याल में वह ठीक नहीं है। पार्लियामेंटरी डेमोक्रेसी में, पार्लियामेंट ने खुद ही सुप्रीम कोर्ट और दूसरी अदालतों को जो सम्मान दिया है उस को छीन लें तो यह अच्छा नहीं होगा।

श्री कृष्ण चन्द्र पन्त : यह तो मैंने नहीं कहा।

ज्ञानी जैल सिंह : आप का यह भी ख्याल था बोट आन एकाउंट डिमान्ड नहीं है। कट मोशन आ जाये तो क्या उस को अगर मैं गलती नहीं करता तो आप सुधार देना, क्या आप उसकी सेंसर नहीं समझते? क्या आप उसको नो कांफीडेंस नहीं समझते। तो मैं प्रार्थना करता हूँ कि कोई ऐसी मिसाल हिन्दुस्तान के इतिहास में नहीं है जहाँ कट मोशन मान लिया गया हो और उस को नो कांफीडेंस समझा जाये। उस को सेंसर नहीं समझा जाता।

श्री कृष्ण चन्द्र पन्त : कभी हुआ ही नहीं। हो गया होता तो गवर्नमेंट चली जाती।

ज्ञानी जैल सिंह : कट मोशन पास करने के बाद नहीं, कट मोशन के लिए रेजरी बेंचने ने वोट दिया है, खुद पास करवाया है। यही नहीं, मेजरिटी करवायी। मैंने पहले भी अर्ज किया था चेयरमैन साहब को कि कट मोशन का एडाप्ट करना शुरू से हुआ और सरकार ने उस को खुद किया और उसको मान लिया तो आप कट मोशन को काटने की बात जो पास हो गया उस में कोई वोटिंग नहीं हुई। उस को तो मंजूर कर लिया गया। मैंने पहले भी कहा है और दुबारा कहने के लिए तैयार नहीं हूँ पंत जी का यह ख्याल भी था कि पहले कभी ऐसा आर्डिनेंस नहीं हुआ। मेरा ख्याल है कि मेरे से ज्यादा पन्त जी खुद जानते हैं। उन को बहुत तजुर्बा है। . . .

श्री कृष्ण चन्द्र पन्त : मुझे याद नहीं है।

ज्ञानी जैल सिंह : मुझे भी याद नहीं है, लेकिन मैं देखकर बता दूंगा।

श्री कृष्ण चन्द्र पन्त : इस लिए नहीं हुआ होगा।

ज्ञानी जैल सिंह : लेकिन आप की उम्र भले ही कम हो लेकिन एज पार्लियामेंटेरियन आप को मेरे से ज्यादा तजुर्बा है और सुन में भी रहा हूँ . . .

उपसभाध्यक्ष (श्री अरविद गणेश कुलकर्णी) : आप बड़े काबिल होम मिनिस्टर हैं। आप सही जवाब दे रहे हैं।

Neither you want to take the responsibility nor avoid the responsibility.

ज्ञानी जैल सिंह : का बिलियत का कोई अन्त नहीं और बेवकूफी का भी कोई अन्त नहीं। दुनिया में बहुत लोग ऐसे हैं कि जो बेवकूफी भी करते हैं, लेकिन मेरा अपना विचार है कि हर बड़ा आदमी बड़ी जगह पर बैठने के बाद समझदार नहीं हो जाता और छोटा आदमी पागल नहीं होता। छोटों में भी विजडम होता है, अकल होती है। लेकिन मुझे आप जैसे दोस्तों से, आप यहां के चेयरमैन हैं और आपने मुझे काबिल समझा, काबिल कह दिया, तो दूसरे मैम्बर भी मानेंगे ही . . .

उपसभाध्यक्ष (श्री अरविद गणेश कुलकर्णी) : काबिल नहीं, होशियार क्लेवर।

I mean clever man.

GIANI ZAIL SINGH; You do not say this thing because you have given a good certificate to me. and after that, if you say it, from your tongue it is not good.

SHRI SHRIDHAR WASUDEO DHABE: It is a ruling in his favour.

ज्ञानी जैल सिंह : अब तो आपकी इज्जत का सवाल हो गया, मेरी नहीं। जो बयान आपने दे दिया उसके बाद यह आपकी इज्जत का सवाल हो गया।

पंत जी के प्रति मेरे मन में बड़ी इज्जत है, सत्कार है। मैंने पहले ही अर्ज किया कि उन्होंने कोई इस तरीके से प्रश्न नहीं किए जिससे कोई गुन्जल पैदा हो या उनका कटाक्ष करने का मतलब हो या सरकार को परेशान करने का मतलब हो। वह हमेशा जब भी बात करते हैं तो तामीरी बात करते हैं। कंस्ट्रक्टिव

[ज्ञानी जैल सिंह]

अपोजिशन जिसे कहते हैं, वह पंत जी में है।

उस राज (श्री अरविंद गंगोस कुलकर्णी): पंत बोले तो पार्टी का ही होता है। जो पार्टी रिपोजेंट करती है वह उस में शामिल होता है।

ज्ञानी जैल सिंह: वह शामिल होता है। मैं तो आपको हर बात को मानता हूँ क्योंकि यह तो हमारी ड्यूटी है। पालिटिकल प्रोपरायटी है उसके मुतलिक बहुत कुछ कहा गया है। जब पालिटिकल बात आती है डेमोक्रेसी में, चेयरमैन साहब आप मानेंगे कि इसमें एक बड़ी नुक्स है और वह यह है कि अपने आदमी में कोई कमी भी हो तो पार्टी अपने आदमी को डिपेड करती चली जाती है और मुबालिफ के पास बहुत-सी खूबियाँ हैं। तो उसको भला नहीं कहते क्योंकि भला कहने से लोगों में उसकी इमेज बन जाती है। आपने पता नहीं कैसे कह दिया मुझे। आप भी अपोजिशन के हैं। यह आपको गेटनैस है। यह आमतौर से लोग कहते नहीं हैं। पालिटिकल प्रोपरायटी जहाँ तक है मैं समझता हूँ उसको हमने बिल्कुल भंग नहीं किया है। जो अभी कहा गया गवर्नर के बारे में तो जो गवर्नर के पास अधिकार थे उनको उन्होंने इस्तेमाल किया। क्यों थे, कैसे थे उसके बारे में मैं कुछ नहीं कहूँगा क्योंकि उसका मैदान सुप्रीम कोर्ट के पास चला गया है। इसलिए भी इसकी जरूरत नहीं रही। उन्होंने कहा कि मैं एडवाइज करूँ कि वहाँ को असेम्बली बुलाई जाए। पंत जी का कहना है कि फिर असेम्बली बुला लेते। आप जरा गौर से देखें तो आपको पता लगेगा कि कितना नाजुक मसला है। 31 मार्च की रात के 12 बजे तक यह अधिकार रहते हैं कि बजट पास हो।

बजट तो हुआ लेकिन वह बोट आन एकाउंट था, वह भी सिर्फ 4 महीने के लिये, यह साल का बजट नहीं था। दूसरी बात यह है कि जिस असेम्बली का स्पीकर ने बिना असेम्बली की सलाह लिए, बिना सरकार की सलाह लिए साइना डाई एडजर्न कर दिया हो, उस असेम्बली को यदि दो-तीन दिन में बुलाया जाता तो तीन दिन का खर्चा कैसे किया जाता। गवर्नर के पास कोई और रास्ता नहीं था उन्होंने जो कुछ किया दुस्त किया। मगर मैं एक बात जरूर मानता हूँ। हम एडवाइज करें या न करें लेकिन यह आर्डिनेंस है। यह तो अपनी मियाद के बाद लैप्स हो जाएगा अगर असेम्बली पास नहीं करेगी। या तो असेम्बली को पास करना होगा या ट्रेजरी बेंच के लोगों को अपने घरों को जाना होगा। इसलिए अगर मैं उनको एडवाइज कर भी दूँ तो कोई फायदा नहीं। पंत जी के सेंटोमेंट को मैं कद्र करता हूँ। वह असम की समस्या को मुलजाने के लिए उतना हो ख्याल करते हैं जितना कि हिन्दुस्तान का वफादार सिपाही, वफादार नेता करता। चेयरमैन साहब हमारी इतिहाही कोशिश है हम इसको पार्टी क्वेश्चन बिल्कुल न बनाएं और न बनाना चाहते हैं। अभी भी अपोजिशन पार्टियों के नेताओं से सलाह-मशवरा करके आगे चलते हैं। मुझे इस बात की खुशी है कि बैशक कई बार अपोजिशन पार्टी के नेता कुछ फायदा भी उठाते हैं हमारी मुसीबत का, वह तो कुदरत की बात है लेकिन जब कोई बड़ी बात आ गई तो अपोजिशन वालों ने पूरा साथ दिया है, जैसा कि गुजरात के मामले में। लोक सभा का रेजोलूशन एक सबूत है। हमारी डेमोक्रेसी बहुत कॉर्डियल अटमोस्फियर में चल रही है। यह चलेगी। इस के लिए हम और अपोजिशन वाले दोनों ही जिम्मेवार हैं। मेरी दुआ है, खुदा मेहर करे। जिन लोगों

को मालूम है कि वे ट्रेजरी बेंच पर आ नहीं सकते तो फिर सत्र और संतोष के साथ हमारे साथ कोआपरेट करें ताकि हम मिलकर लोगों की सेवा कर सकें, खिदमत कर सकें। उनको भी क्रेडिट मिलेगा। जनता सब जानती है। लोग सब जानते हैं कि कुर्सी के लिए लड़ते हैं। लेकिन जब काम करेंगे, कंसट्रक्टिव काम करेंगे तो जनता देखेगी और सोचेगी कि इनकी भी बारी आनी चाहिए इनके लिए भी कोई रहम दिली होनी चाहिए।

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Before proceeding further, may I know from hon. Members whether we should continue? There are still four names with me here. Should we take it up after lunch or should we continue it now and conclude?

SHRI SHRIDHAR WASUDEO DHABE: After lunch.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Let me ascertain from the hon. Minister, whether he has time. If he says he does not have

ज्ञानी जैल सिंह : ठीक है लंच बाद ले लोजिये।

उपसभाध्यक्ष (श्री अरविन्द गणेश कुलकर्णी) : इसमें सिर्फ चार ही आदमी बोलने वाले हैं। इसको अभी समाप्त करना चाहें तो अभी भी समाप्त कर सकते हैं।

गृह मंत्रालय में राज्य मंत्री (श्री योगेन्द्र मकवाना) : अभी यहाँ पर श्री अजित कुमार शर्मा नहीं हैं।

उपसभाध्यक्ष (श्री अरविन्द गणेश कुलकर्णी) : श्री विश्व गोस्वामी हैं, श्री भट्टाचार्य नहीं हैं और श्री अजित कुमार शर्मा भी नहीं हैं। दो ही आदमी हैं।

I think we should continue with it. We shall complete and then we can go. Yes, Mr. Biswa Goswami.

SHRI BISWA GOSWAMI (Assam): What has been done in case of Assam is unheard of and unprecedented. Sir, the Assembly has been prorogued in the midst of the session and the Governor did it on the advice of the minority Government installed in Assam. This Government never had majority in the Assembly and it was in power for more than 3 months. It did not face the Assembly and at the last moment, when it had to face the Assembly because the financial year was at a close...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr. Goswami, these points are made already. Come to the new points if you have any.

SHRI BISWA GOSWAMI: I will go to the points. I have just started. The financial year was at a close. So, the Assembly was called and two cut motions were adopted. The Government was defeated on those cut motions and the Appropriation Bill could not be discussed, could not be adopted. Even the Motion of Thanks on Governor's Address was also not adopted. At that time, suddenly, the Governor prorogued the House. Why did the Governor usurp this power of the Assembly, while the Assembly was in session and there was proper environment and also time? The Assembly could have been reassembled, although it was adjourned by the Deputy Speaker, and the business before the Assembly could have been transacted, but it was not done. The Assembly was prorogued only to keep the minority Government in power. So, I would like to know from the hon. Home Minister whether it is not a fact that the Assembly was pro-

[Shri Biswa Goswami] rogued only to keep the minority Government in power; whether this appropriation by an Ordinance by the Governor is not unprecedented and unheard of? (Time *Bell rings*) Sir, I have not taken even two minutes. I am asking questions. You have started ringing the bell right from the time I have started speaking.

श्री शिव चन्द्र झा : श्रीमन्, आप इनका बात सुनिये और इनको समझा दीजिये... (व्यवधान) । यही नियम आपको दूसरो के लिए भी लागू करना चाहिए था। आप उनको अभी बोलने दीजिये... (व्यवधान)

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Please go ahead, Mr. Goswami.

SHRI BISWA GOSWAMI: So, this Assembly was prorogued to keep the minority Government in power. Then, after the defeat of the Government on the cut motions, was it not proper, was it not the moral duty of the Government which professes to be democratic, to resign forthwith? After the defeat on the cut motions, this Government should have resigned forthwith, but the Government did not do it. Then there is this appropriation by Governor. The amounts mentioned in the Appropriation Bill are appropriated by an ordinance, which is unprecedented. Moreover, this Appropriation Bill was being discussed in the Assembly, the discussion had just started in the Assembly, and, therefore, the Appropriation Bill had become the property of the House. How could the Governor take away the powers of the Assembly, the property of the Assembly and pass an Ordinance on the same subject? It has already been mentioned that the amount of Rs. 50,000 has already been spent. That was disapproved by the Assembly. How can that amount be appropriated now?

Then coming to Mrs. Taimur's Government, this is a major irritant. Many things have been said about the sol-

ution of the Assam problem. Even the Home Minister has expressed his willingness to solve the problem through negotiations and discussions. But I would like to say that a major irritant in the solution of the Assam problem is the minority Government of Mrs. Anwara Taimur. What has this Government done? This Government has stopped the eviction of encroachers. They are going to settle the encroachers on the land, thereby regularising the illegal entrants from Bangladesh into Assam. It has already been admitted by the Government in reply to a question that fresh illegal entrants are entering the State.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Now, please conclude.

SHRI BISWA GOSWAMI: I would like to ask the hon. Home Minister if this is a fact that illegal entrants and foreign nationals are still entering the State, and will the Government be prepared to ask the minority Government of Mrs. Anwara Taimur—it has already been proved in the Assembly that she has not got the majority—to resign?

I would also request the Government, as they have promised to start negotiations with the movement leaders, they should conduct these negotiations and solve this vexed problem of the foreign nationals in the State of Assam. With these words, I conclude.

ज्ञानी जैल सिंह : उपसभाध्यक्ष जी, आनरेबल मेम्बर ने कुछ बातें तो वही कहीं जिनका जवाब मैं पहले दे चुका था और उनको दोहराने की जरूरत नहीं। 60 हजार रुपये को राशि के मुत्तलिल्क जो उन्होंने कहा, रिट पेटोशन जो है यह उसमें शामिल है। इसलिये यह प्वाइंट हम डिस्कस नहीं कर सकते, इसकी जरूरत नहीं, चाहे तो आप देख सकते हैं।

एक सत्राल नया उठाया गया है गवर्नर के एड्रेस पर कि उसका ध्वजवाहक प्रस्ताव, उसके थैक्स का रेजोल्यूशन नहीं हुआ। आर्टिकल 176 के मुताबिक वाइस चैयरमैन साहब, चुनाव के बाद असेम्बली के पहले सेशन में और उसके बाद हर साल पहले गवर्नर एड्रेस करेंगे, यह कन्वेंशन बना हुआ है, असेम्बली मोशन आफ थैक्स अडाप्ट करती है, यह परम्परा है। यह कहना कि शुक्रिया का मोशन अडाप्ट न होने से परम्परा की उल्लंघना हुई है, संविधान की उल्लंघना हुई है, यह बात गलत है, मुनासिब नहीं है। क्योंकि आर्टिकल 176 के मुताबिक वहाँ इसका कोई जिक्र नहीं है। एड्रेस तो वे करेंगे, जहाँ दो हाउस हैं दोनों का मिल कर करेंगे और जहाँ एक हाउस है वहाँ यह होगा, पहले दिन, इलेक्शन के बाद, जो पहला सेशन होगा या माली सेशन, बजट सेशन जब शुरू होगा तो वे एड्रेस करेंगे। गवर्नर ने एड्रेस कर दिया। गवर्नर का एड्रेस सुनने के बाद उस पर वोट आफ थैक्स करना है या नहीं यह जरूरी नहीं है। असेम्बली इसको करती अगर अबरेटली एडजर्न न करते, वोट आफ थैक्स का रेजोल्यूशन भी हो सकता था। यह असंगत है, इसका इससे कोई ताल्लुक नहीं है। जब एक असेम्बली में नो-कॉन्फिडेंस मोशन आ जाय और वह मोशन डिफोट हो जाय तो फिर रूलिंग ग्रुप को क्या डर है किसी बात का, वह सब चीजें करवा सकती थी अगर डिप्टी स्पीकर कुछ करते नहीं : उन्होंने यह कर दिया। मेरा ख्याल है कि हाउस के मेम्बरों को चाहिए था कि वे डिप्टी स्पीकर के उस एक्ट को नापसंदगी, गैरमुनासिब और इम्प्रोपर कहकर उसको कंस्टेन कर दें। वह नहीं करते तो मैं नहीं करता। यह बात रूलिंग पार्टी के खिलाफ नहीं जाती है। अल्पसंख्यक सरकार को बचाने के लिये हमने कुछ नहीं किया। और न हम कुछ कर रहे हैं। जब यह सरकार बनी तब भी मैंने पार्लियामेंट में यह कहा था कि जो भी पार्टी अपनी मेजॉरिटी ला कर वहाँ पर सरकार बना सकती है बना

ले। इसमें हमने कभी किसी को नहीं कहा कि कांग्रेस (आई) को सरकार बने। जिस पार्टी का बनतो हा वह बना ले। लेकिन वे स्टर्गेस इकट्ठा कर नहीं सके इसलिए वे नहीं बना सके। उन्होंने सरकार बना ली। अब इसका गैर-वैधानिक तरीके से कोई प्राटेक्शन हम नहीं दे रहे हैं। वैधानिक तौर पर जो प्राटेक्शन के हकदार हैं वह हम दे रहे हैं।

श्री कृष्ण चन्द्र पन्त : डिप्टी स्पीकर किस पार्टी के थे ?

जानो जैल सिंह : यह मुझे पता करना होगा। मुझे पता नहीं है कि वे सो. पो. आई. के थे या किस पार्टी के थे मैं कुछ नहीं कह सकता।

SHRI BUOY KRISHNA HANDI-QUE (Assam); Mr. Vice-Chairman. I want clarification of certain points from the honourable Home Minister. There is some new information. It is quite a news to me that there is a minority Government in Assam. This is quite a news to me. I never knew that. Before I elaborate my points for clarification by the Home Minister, may I state that we had an aide-memoire? For sometime human memory fails and needs brushing up. In 1978 when the Janata Ministry was constituted, it had fifty-three members in a House of 126. And five members who did not belong to the Janata. Party were made to defect on the eve of Ministry formation. With them a Janata Ministry could be formed in Assam. I raise this point as the Congress (I) Ministry has been called a Defectors' Government.

The other point for clarification is this. When a no-confidence motion was tabled by some of the opposition parties, it was lost. Not only that. When the discussion was on, a party which was a signatory to the no-confidence motion, withdrew its support, dissociated itself from the no-confidence motion, and the motion was lost by a margin of ten votes. The op—

[Shri Bijoy Krishna Handique] position could manage to get only forty-three votes. Those who abstained from voting, we do not know their mind. How can we read their minds? When this motion was lost by ten votes, should we take it that the Government was in minority or Government was in majority? It defies all logic and senses. of balance to say that the present Government in Assam is a minority Government? Is it not a verdict of the democratic process, of a parliamentary practice, to which we all, including our critics, are deeply committed? (Time-bell) rings) I need some time. I am the only speaker from this side. There are certain developments in Assam Legislative Assembly of which I was a member for six years. I thought I had a better claim than others to speak on the problem. I am very much concerned with this situation and what is happening in Assam.

Now, is it not a sad day for a democracy to see itself ignored by its self-proclaimed defenders?

Then comes my point for clarification on cut motions. It is not the acceptance of the cut motions by the House to which even members of the

ruling party were a party. Before I elaborate the point I have to refer to certain facts which took place on the floor of the House. I would also like to place before you certain factual inaccuracies on the basis of which these allegations are made. The Government was never defeated on these cut motions. It was accepted without opposition from the House and it is not correct to say that apprehending censure and defeat on cut motions the Government decided to withdraw the motion. In fact, the Government wanted to withdraw the motion earlier since a point of order was raised, the House adjourned for two days till 30th March and it is in view of the ruling was given by the honourable Speaker that the main motion could be withdrawn only after the cut motions were disposed of. The Government decid-

I decided to accept the cut motions and there after withdrew the main motion.

So, Sir, it cannot be said that the Government was censured by the House or that it had lost the confidence Of the House or that it was defeated on a cut motion, (time-bell rings). I need some time.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): You have already taken seven minutes.

SHRI BUOY KRISHNA HANDIQUE: Anyway. I am the only speaker . . .

THE VICE-CHAIRMAN: (SHRI ARVIND GANESH KULKARNI), This is not a debate.

SHRI BUOY KRISHNA HANDIQUE: I know.. I need some clarifications. There is a precedent in Assam Legislative Assembly. Anyway, if you want, I can read this precedent. As we are hard pressed for time. I can refer to it only and ask the hon. Minister to just look it up. It happened in 1970, when the Finance Minister wanted to move the Supplementary Demand No. 60. If the hon. Home Minister refers to that, he will find that there was a precedent in the Assam Legislative Assembly in which the main motion was allowed to be withdrawn. Now the question arises: Does the defeat on the cut motion amount to censure of the Government and is the Government required to resign on that? Sir, I would like to quote Mr. Basu and I will draw the attention of the hon. Home Minister to that. Mr. Basu says: "A token cut is not necessarily the motion of censure. There is no limit to the number of cut motions that may be moved by the same Member to ventilate different specific grievances relating to the same demand and different Members may move similar motions to ventilate different specific demands." Not only that. Under the Rules of Procedure and Conduct of Business of the Assam

Legislative Assembly, there is a rule which is very specific, Rule 145. I won't take the time of the House by reading it. I only refer to this Rule, Rule 145, in the Rules of Procedure and Conduct of Business of the Assam Legislative Assembly.

SHRI NARASINGHA PRASAD NANDA: What does it say, Mr. Handique? We have not read those Rules.

SHRI BUOY KRISHNA HANDIQUE: I am only economizing on time. Let me read it. I have already read out one. "A motion may be moved to reduce the amount in the following ways..." Anyway, this is common.

DR. M. M. S. SIDDHU (Uttar Pradesh) : You read the operative part.

SHRI BUOY KRISHNA HANDIQUE: 'Amount of demand reduced by Rs. 100 in order to ventilate the specific grievance which is within the sphere of the responsibility of the Government of a State—such motions have been known as token cut—and discussion therefore will be confined to a particular grievance in the motion, token cut'. I have already quoted Mr. Basu's views on a token cut.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): That is all right, Mr. Handique. Mr. Minister, please reply.

SHRI BUOY KRISHNA HANDIQUE: No, I have got to speak. *(Interruptions)* I have got to speak. My last point and I conclude. The question of constitutional propriety, constitutional morality has been raised. I do not want to go into the question of constitutional propriety, but I would like to refer to what really happened so that I can place it before the Home Minister.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Everybody has said what has happened. Everything is known.

SHRI BUOY KRISHNA HANDIQUE: I think the facts were not stated here.

AN HON. MEMBER: Is he giving more information to the House?

SHRI BUOY KRISHNA HANDIQUE: I am giving the information so that the Minister may reply.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr. Handique, may I draw your attention...

SHRI BUOY KRISHNA HANDIQUE: I am concluding.

उपसभाध्यक्ष (श्री अरविन्द गणेश कulkर्णी) : अरे भाई छोड़ दो जिए।

श्री लाडली मोहन निगम : आप चालाकी का समर्थन करते हैं या नैतिकता का... (व्यवधान)

SHRI BUOY KRISHNA HANDIQUE: I will speak on the propriety part and then I conclude, Sir. Sir, it gives me pain and also those committed to parliamentary democracy will be pained to know that having failed to defeat the Government on vote-on-account, they resorted to obstruction of the proceedings of the House so that a financial crisis could be created the next day, the 1st April. Does not the hon. Minister think that the Governor acted to avert a financial crisis starting the state in the face?

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): This is quite enough. I am sorry. Mr. Home Minister, you reply.

SHRI BUOY KRISHNA HANDIQUE: I will take two minutes. You have given so much time. Please allow two more minutes.

Sir, the question of propriety ones.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): He does not understand what he is talking.

SHRI NARASINGHA PRASAD NANDA: He is talking about the immoral Government. You should give him some time.

SHRI BUOY KRISHNA HANDI-QUE: Not immoral.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): You come to your point for Heaven's sake.

SHRI BUOY KRISHNA HANDI-QUE: I want a clarification on this point, whether any immoral propriety was involved on the part of the hon. Members who behaved that way obstructed the proceedings and did not allow the appropriation Bill to be passed and did not allow the House to function for which, the Deputy Speaker adjourned the House *sine die*.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Would you now allow the Home Minister to reply?

SHRI BUOY KRISHNA HANDI-QUE: An assurance was given by the hon. Members of the Opposition.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): That is all right.

SHRI DINESH GOSWAMI: With all respect to the hon. Member, I say that we do not normally discuss the conduct of the Members of any other House. We do not cast any reflection on the Members of any other House. That would not be proper. I think that statement should not go. (*Interruptions*)

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): No. That is all right.

SHRI BUOY KRISHNA HANDI-QUE: I want to know whether the House was disrupted.

in Assam

I THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Let the Home Minister reply. Yes, Mr. Home Minister. "*(Interruptions)*" I have got no time for debate here.

SHRI BUOY*KRISHNA HANDI-QUE: I am not entering into a debate. I am asking for a clarification.

SHRI NARASINGHA PRASAD NANDA: His observation regarding the Members of the Assam Legislature should not go on record.

SHRI BUOY KRISHNA HANDI-QUE: I want to know whether the proceedings of the House were disrupted or not. When the proceedings were going on, were they disrupted or not?

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): That is all right. The Home Minister is replying. Please take your seat.

ज्ञानी जैल सिंह : सम्मान योग्य
उपसभाध्यक्ष जी, आनरेबल मेम्बर ने बहुत
खूबसूरत तरीके से और रैलेवेट बातों को लेकर
अच्छी तकरीर की है और मैं उनके साथ
सहमत हूँ ।

श्री दिनेश गोस्वामी: बस खत्म,
और क्या ।

SHRI AMARPROSAD CHAKRA-BORTY (West Bengal): Mr. Vice-Chairman, Sir, though an attempt has been made to take shelter under "*sub judice*", you, as Vice-Chairman have allowed this discussion. I thank, you.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Please go to the question now.

SHRI AMARPROSAD CHAKRA-BORTY: The petition has not been admitted. There is no bar in discussing the Constitutional matters apart from political propriety. May I ask the Home Minister who advised the Governor to prorogue the House?

Under the Constitution, if no advice is given by the Council of Ministers, the Governor cannot prorogue the House on his own whims. Who advised him? That is the first thing. We had this experience. People have this presumption that whenever they do wrong, they do wrong in this way. Only yesterday, Shakhder has said, "We are setting up an independent machinery in West Bengal under Article 356" as if he has become the President of India. Here the Governor is behaving in such a manner as if he is above the Constitution. Under Article 213, Sir, the Governor has power, but that shall be under the advice of the Council of Ministers. But under Articles 203, 204 and 205 there is no scope. It is presumed that the Government has gone. Now under the name of the Speaker, he has adjourned the House. How can he adjourn the House? So he is creating a cloud before us and trying to mislead us. However, be that as it may, let him reply only to this question as to how the House was prorogued. You are only creating some cloud and talking of something. The people must understand that they are out to do any illegality, against the Constitution and in violation of the provisions of the Constitution and also against legal and moral proprieties, in Assam. Second, I only request that the Assam problem should be solved as soon as possible, and the Home Minister must take steps to that effect. I join my voice with the voice of my learned friends so that this problem is solved.

श्री जैल सिंह : वाइस चैयरमैन साहब, आन्तरिक मन्त्र ने एक मोडिफा उठाया है, बाकी जो बातें हैं वह पहले ही चुकी हैं। वह कहते हैं कि गवर्नर को किस ने सलाह दी? उसका जवाब उन्होंने खुद ही दे दिया कि मिनिस्टर ने सलाह दी। तो मिनिस्टर ने जरूर सलाह दी है और मिनिस्टर की सलाह से गवर्नर ने उन्होंने सेशन को प्रोरोग किया।

दूसरे, वह कहते हैं कि इस तरह से हाऊस एडजर्न करके कोई रूलिंग पार्टी फायदा उठा सकती है, तो मुझे अभी अभी पता चला है कि डिपुटी स्पीकर जिसने हाऊस एडजर्न "साइने डाई" करवाया वह सी पी आर के मन्बर हैं।

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr. Home Minister, I think the House desires that the problem of Assam which is a problem of grave importance and a national problem, should be settled, and we all wish you good luck and also request the Assam students to come to the Government for talks and finally settle this problem.

Now, I go to the last item before lunch.

RELEASE OF SHRI JAGDEV SINGH TALWANDI, MEMBER, RAJYA SABHA

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I have to inform Members that I have received the following message dated April 25, 1981, from the Superintendent, Central Jail, New Delhi, regarding release of Shri Jagdev Singh Talwandi, Member, Rajya Sabha:

"Shri Jagdev Singh Talwandi, M.P. Rajya Sabha, has since been released on 25-4-81 on expiry of sentence from Camp Jail. He was convicted to undergo S.I. for 10 days by the court of Shri Jaswant Singh, Metropolitan Magistrate, New Delhi, in FIR 183/81 U/S 118 IPC, PS Parliament Street."

The House stands adjourned up to 2-30 P.M.

The House then adjourned for lunch at forty-eight minutes past one of the clock.