

317 Statutory Resolution
seeking Approval of Proclamation
in relation to the State of Assam

[25 AUG. 1981] The Budget ^Assam; 318
1981-82 The Assam Appro-
priation Bill, 1981

MR. DEPUTY CHAIRMAN: What can be done if the Notification was issued today only. The Notification was issued today and he asked for my permission and I have permitted him. Therefore, he is laying the paper on the Table and there is no harm. You can see the paper tomorrow. Now, we go on to the Resolution,

I. STATUTORY RESOLUTION SEEKING
APPROVAL OF THE PROCLAMATION
UNDER ARTICLE 356 OF THE
CONSTITUTION IN RELATION TO THE
STATE OF ASSAM

n. THE BUDGET (ASSAM) 1981-82--
GENERAL DISCUSSION ..

in. THE ASSAM APPROPRIATION BILL
1981

MR. DEPUTY CHAIRMAN: Now, we go on to the Resolution.

SHRI DINESH GOSWAMI
(Assam): Mr. Deputy Chairman, Sir, under this order paper you are taking up the Statutory Resolution and the Assam Budget together. So far as taking up of the Resolution is concerned, I have no preliminary objections. But, so far as the Budget is concerned, I have got some points of order to make. Therefore, will you take up these points of order at this stage or after the Minister moves the Resolution? I think you are taking up the Statutory Resolution and the Budget together.

MR. DEPUTY CHAIRMAN: Let the Minister move it.

SHRI ERA SEZHIYAN (Tamil Nadu):
Sir, we are going to discuss all the three together and I have a technical objection to the moving - of this one for consideration at this stage.

MR. DEPUTY CHAIRMAN: Mr. Goswami, you want to raise an objection with regard to the Resolution?

SHRI DINESH GOSWAMI: No, Sir. My objection is with regard to the Assam Budget.

SHRI NAGESHWAR PRASAD SHAHI (Uttar Pradesh): It is with regard to the Budget, I think.

SHRI DINESH GOSWAMI: I am raising an objection with regard to the Budget.

MR. DEPUTY CHAIRMAN: That is why I say that when I call the other Minister, you raise your objection. Yes, Mr. Home Minister.

THE MINISTER OF HOME AFFAIRS
(GIANJAIL SINGH): Sir, I beg to move the following Resolution:—

"That this House approves the Proclamation issued by the President on the 30th June, 1981, under article 356 of the Constitution, in relation to the State of Assam."

Sir, Shrimati Anwara Taimur, the Chief Minister of Assam, submitted the resignation of her Ministry to the Governor of Assam on June 28, 1981. In his report to the President, dated the 29th June 1981, copies of which were laid on the Table of the Lok Sabha and of the Rajya Sabha on the 17th August, 1981 and the 18th August, 1981 respectively, the Governor recommended the issue of Proclamation under article 356 of the Constitution. He also recommended that the State Assembly may be kept under suspended animation. The political situation in Assam is still fluid. Accordingly, no Ministry may be able to assume office by 31st August, 1981, by which time the present Proclamation will expire unless approved by a Resolution of both Houses of Parliament. I would therefore, request the House to accord its approval to the Proclamation issued by the President on the 30th June, 1981, in relation to the State of Assam.

MR. DEPUTY CHAIRMAN: We shall take up all the three items, the Resolution, the Assam Budget and the Assam Appropriation Bill, together.

319 Statutory Resolution [RAJYA SABHA]
seeking Approval of Proclamation
in relation to the State of Assam

The Budget (Assam) 320
 1981-82 *The Assam Appropriation Bill, 1981*

SHRI DINESH GOSWAMI: I have got a technical objection to that.

THE MINISTER OF STATE IN
 THE MINISTRY OF FINANCE
 (SHRI SAWAI SINGH SISODIA):
 Let me move.

Sir, I beg to move;

"That the Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Assam for the services of the financial year 1981-82, as passed by the Lok Sabha, be taken into consideration."

The Bill arises out of Rs. 152.39 crore charged on the Consolidated Fund of the State of Assam and Rs. 409.37 crores voted by the State Assembly on 31st March, 1981 and the Lok Sabha on 24th August, 1981. After the demands 'on account' were voted by the State Assembly, the connected Appropriation Bill could not be passed before its prorogation by the Governor of Assam and the State Government was placed in funds by the Governor by issue of an Ordinance authorising expenditure up to 31st July, 1981. After the State was brought under President's rule on 30th June, 1981, the President, in pursuance of provisions of article 357(1) (c) of the Constitution, authorised further expenditure beyond July, 1981, pending sanction by Parliament. The Appropriation Bill includes all these amounts.

The State Budget provides for gross revenue expenditure of Rs. 409.97 crores and capital expenditure of Rs. 251.79 crores. The Revenue receipts including share of Central taxes and duties and Central grants, are estimated at Rs. 367.47 crores, while the capital receipts comprising borrowings and loan recoveries are placed at Rs. 244.54 crores. The overall deficit for the current year, after taking into account the effect of transactions on Capital and Public Account, will be Rs. 19.04 crores. The

State Government will be considering measures to reduce the deficit to the maximum extent possible.

Assam continues to enjoy the status of special category of State in allocation of Central assistance for the State Plans. The Annual Plan for 1981-82 envisages a financial outlay of Rs. 210 crores, of which Central assistance will be Rs. 159.10 crores. The Budget also provides for Centrally sponsored and Central Sector Plan schemes, including Brahmaputra Flood control, Rural Water Supply, National Rival Employment Schemes and NEC projects amounting to, in all, about Rs. 42 crores.

I would not burden the House with further details as these are already given in the Budget documents circulated to hon. Members.

Sir, I move.

The questions were proposed.

MR. DEPUTY CHAIRMAN: I have to inform the House that President's recommendation under article 207(3) of the Constitution, read with Proclamation, dated 30th June, 1981 issued under article 356 of the Constitution, for consideration of the Rajya Sabha, of the Assam Appropriation Bill, 1981, as passed by the Lok Sabha, has been received from the Finance Minister today, the 25th August, 1981. The recommendation was made by the President on the 24th August, 1981.

SHRI ERA SEZHIYAN. Sir, while considering it, I want to bring before you and before the House some serious constitutional anomalies. They constitute very serious violations of the constitutional provisions, and also financial procedures in consideration of the Budget as presented by the hon. Minister and the Appropriation Bill moved by him, I will be very brief. While going into the merit of this one I want to invite your attention to the budget papers

circulated to us wherein it has been stated that;

"Though the demands 'on account' for four months were voted I- by the State Assembly, the connected Appropriation Bill could not be passed before its prorogation by the Governor of Assam on 31st March, 1981. The State Government had thereafter to be placed in funds by the Governor by issue of an Ordinance authorising expenditure for a period of four months (1st April to 31st July, 1981)." ; : .,- ^

Therefore, Sir, it is presumed from this statement given to us that the ordinance has been issued by the Governor to withdraw certain amounts. I do not know about the amounts which have been withdrawn and spent. But in this process, the Legislature has not been taken into account. The Vote on Account has been passed, but the Appropriation Bill has not been passed by the House. As per the provisions of the - Constitution no amount can be withdrawn without due process as envisaged in the Constitution. It has not been followed. This is a very serious violation of the Constitution. It is also very undemocratic. This House being the Council of State, we should be more vigilant than the Lok Sabha itself in order to see that the prerogatives of the State Legislatures are not taken away by the Governor by an ordinance. In this connection I can invite the attention of the House to the situation which arose in 1974 when the State Assembly of the Union Territory of Pondicherry was dissolved. There was an order by the President to take away Rs. 5 crores out of the Consolidated Fund of the Union Territory of Pondicherry even though the House was seized of the matter. The Legislature was not consulted and Rs. 5 crores were taken. I objected to this. The Chair also upheld my contention. Later on, I went to the court because the Law Minister challenged me. I went to the High Court of Madras. The

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Madras High Court, in their judgement dated the 29th January 1975, their Lordships have held as follows:

"We are, therefore, of the opinion that the impugned Order being undoubtedly inconsistent with the provisions of the Act relating to the procedure and the manner in which moneys could be withdrawn and appropriated from the Consolidated Fund of the Union Territory of Pondicherry, was invalid whatever compulsory circumstances might have existed to make it

Whatever compulsory circumstances, might have existed, you cannot violate the Constitution. The State Assembly has not been functioning. Then all the functions come to Parliament and the Parliament decides in which form the amount could be withdrawn. Therefore, to that extent, the ordinance is unconstitutional and undemocratic.

My second point is that the ordinance that has been issued should have been placed on the Table of the House under article 213(3) of the Constitution. Article 213 deals with the power of the Governor to promulgate ordinances during the recess of the Legislature. The article says:

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

Article 213(2) says:

"An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance—

(a) shall be laid before the Legislative Assembly of the State, or where there is the Legislative Council in the State,

[Shri Sezhiyan]

before both the Houses, and shall cease to operate at the expiration Of ..." and fion on.

So, my point is, Sir, as the Ordinance was issued by the Governor when the Legislature was not in session, it should have been laid at the first opportunity before the State Legislature. Now, Sir, by the Presidential Order issued on the 30th June, the powers and the functions of the State

Legislature have been transferred to the Parliament. Therefore, in the absence of the next session of the Legislature, the next session of this House has been there. Therefore, that

— Ordinance should have been placed before both the Houses. And it has not been done. They have not done it so far. There is one more thing, Sir. If you see the Presidential order issued on the 30th June, there it is said that the operation of the foUow-

ing provisions of the Constitution in relation to the State shall hereby

- stand suspended. The President has got the power to suspend the operation of certain provisions of the Constitution. If you see the suspended articles of the Constitution, article 213 also figures in that. It says that the proviso to clause (i) and proviso to clause (3) of article 213 are not in operation during the President's Rule. Proviso to article 213(1) and proviso to article 213(3) have been suspended but not sub clause (2) of article 213. Sub-clause (2) of article 213 is the thing which I have mentioned and it says that an Ordinance shall be laid before the Legislative Assembly. And now it should have been laid before this Parliament which they have not done. Therefore, this constitutional provi-

- sion has not been fulfilled and it has been violated. Without that one,

- they could not go this one.

Sir, there is one more thing and I will be brief. I think, the Government will give a suitable answer to this point. Sir, we have got this Assam Appropriation Bill. Sir, I am going on the assumption that they have taken two amounts on the Vote

on Account because that Ordinance is not before me or before the House. I do not know the contents. I presume that it is a Vote on Account because in the Bill that has been given to as it has been stated; "From and out of the Consolidated Fund of the State of Assam there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of sums specified in column (3) of the Schedule to the Assam Appropriation (Vote-on-Account) Ordinance, 1981.]" That means, the Governor has taken not only some amounts but he has taken some amounts as "Vote on Account" because nowhere in the Constitution it has been stated that the Vote on Account or the Appropriation of this can be done by an Ordinance, least of all in this one. If you accept that theory that both the Parliament and the Assembly can be prorogued and the President and the Governor by themselves can withdraw the amounts from the Consolidated Fund, the only thing that this House has got is that without the permission of the House no amount can be taken out of the Consolidated Fund, no amount can be collected by way of tax without the sanction of both the Houses. This is one point, the bed-rock on which the entire parliamentary system rests. Even if that is going to be chipped off, I do not know what is left of the parliamentary democracy itself. Therefore, Sir, if you see the Bill, it includes the sum described as the Assam Appropriation (Vote on Account) Ordinance, 1981. The amount said to have been drawn by the President of India by the order of 27th July, 1981 has not been mentioned. But, Sir, there is laid on the Table of the House a copy of the Memorandum of the Presidential Order of 18th August. And, therefore, I have been able to go through that one. And the President has withdrawn about Rs. 110 crores or so. But we do not know as to how much of amount has been withdrawn by the other one. I

waat to know particularly about this Cne.
Both these amounts have been .

taken as Vote on Accounts to meet t Uie ordinary course of expenses in the absence of the regular Appropriation. Apart from that one, there is a specific provision that whenever they take amounts on vote on account there is an assurance that none of the amounts should be spent for any new services or new instrunici;1.3 of service. I want a categorical answer from the Ministry that none of the amounts withdrawn either by the Ordinance of the Governor or by the President have been spent for any

: new services. Let thsm be very careful in giving an answer to that. Other wise, if I catch them on a smgle new Item, that will be a gross violation of the financial procedures and the Constitutional propriety.

SHRI DINESH GOSWAMI: Sir, there are two points involved. Firstly, Mr. Eia Sezhiyan has stated the Governor hag no power to promulgate an Ordinance.

MR. DEPUTY CHAIRMAN: Plea.se go
on.

SHRI DINESH GOSWAMI: But, It Sir', you must listen. It is not a debate.

Because of the paucity of time, I am not dwelling on this point. My point is different. My point is that the Assam Governor by an order authorised expenditure of certain amounts through an Appropriation Ordinance. This Appi-opriation Oirli-nance dealt with the period up to Slst of July 1981, and an Ordinance is also a law unless the Government takes the stand that the appropriation is invalid, which the Govern-j ment has not taken up till now. So. in the field there is a valid legislation and the appropriation is a valid piece of law, and under ai-ticle 213 if you please look to the Presidential Proclamation under this Proclamation in clause (3) it has been stated:

Any reference in the Constitution to the Governor shall in relation to the said State be constituted as reference the President and any refeience therein to the Legislature of the State or a House thereof, shall, insofar as it relates to the functions and powers thereof bei construed, unless in the context otherwise, required, reference to Parliament and any particular reference to article 213, to the GovernCT and the Legislature of the State or Houses thereof shall be construed as reference to the President and ParUament. Therefore, the Presidential Proclamation has stated that any reference to the Governor under the Constitution under article 213, or to the State Legislature, will be construed as a reference to the Pi-esident of india and the Parliament. Therefore, whenever the word State Legislature occurs in article 213, the Parliament is to be substituted. So, under the article the Government has a manda-toiy responsibility to place this Ordinance before the House under article 213. And, unless this Ordinance is placed, we cannot discuss the Appropriation Bill.

But I have got a second point. My second point is that there is already an Ordinance which is a piece of legislation. How can we legislate on the same matter in which there is another piece of legislation? And, I may draw your attention that this particular question came up for discussion in nn earlier case in 1961. In 1961 the Govei-nor of Orissa issued an Oi'dinance appropriating certain amounts and the same amount was included in an Appropriation Bill on the next day in the House moved by the Finance Minister Shri Morarji Desai and, Sir I will now draw your attention to it because it is a very important question to the Speaker's ruling and others ruling. B have placed before you this particular ruling. You may please look to the discussion in the Orissa Appropriation Bill Of March 10, 1961. I have

[Shri Dinesh Goswami] not got the page. But I have marked

The Minister of Finance, Shri ; Morarji Desai: I beg to move for leave to introduce a Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund for the State of Orissa for services of the financial year 1960-61. What happened was that the Governor had already issued an Ordinance for the amount. Mr. Narayana Kutty Menon: Before you put the motion to the House, may I submit that yesterday I raised a point of order regarding this particular Bill which is the subject-matter of the grants passed yesterday by the House and the hon. Deputy Speaker, who was in the Chair, was pleased to rule that as a matter of custom, the Chair does not take the responsibility of deciding whether particular measures are constitutional or unconstitutional. At this stage, when the Finance Minister is asking leave of the House for the Appropriation Bill which is a statute in itself I make an appeal to him that in the name of propriety we should not be a party for legislating in a very anomalous way and, therefore, before moving the motion to pass this particular Bill, the Government should consider advising the Governor to withdraw the Ordinance that he has promulgated the other day. Otherwise, according to all canons of constitutional propriety the Governor has exercised this power purported to be given to him under the Constitution to pass an Ordinance. The Ordinance is on the statute book and on that very Ordinance that is being placed on the Table of the House under article 213 of the Constitution, independently a parliamentary legislation is sought to be passed. This is the very same point which I am raising today.

"Therefore, in the name of constitutional propriety, the Governor should be advised to withdraw the

Ordinance and the Government should consider, apart from all questions of prestige because this is a matter concerning every section of the House, that there should not be an anomalous position, as far as constitutional legislation is concerned. Therefore, I make an earnest appeal to him that let him not make this House a party..."

"SHRI NAUSHIR BHARUCHA: About the point of order, may I just clarify the position?

MR. SPEAKER: Was it not issued before the Proclamation?

SHRI BHARUCHA: I am told that the Ordinance was passed after the President assumed charge of the administration of the State.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI DATAR): Sir, this question was raised yesterday and I informed the House that the Government has been seized of the matter. They are considering the question as to whether the Ordinance requires any withdrawal by the Governor or whether it has to be placed on the Table of the House."

Sir, I may point out at this stage - - that the Government took the position that Ordinance was unconstitutional. Unfortunately today a different position is sought to be taken. We are considering the matter.

SHRI NARAYANA KUTTY ME
NON: Government can take its own
time to consider the matter. My point is that it should not press for the passing of the Appropriation Bill till a decision is taken on the Ordinance.

SHRI DATAR: Yesterday, this question was decided. The hon. Deputy Speaker not only allowed the discussion to go on..."

This is now the Speaker's turn. This is very vital.

"MR. SPEAKER: The point is, that we have to pass legislation with respect to matter on which there is already a piece of legislation. The Ordinance is as much a piece of legislation as legislation passed by this House. The only difference is that the Governor of a State is one of the organs of the State Legislature. The Governor and the two Houses constitute the State legislature and in the absence of a session of the legislature; the Governor is as much competent as a legislature to pass legislation, that is. Ordinance. That Ordinance is law. Now, was that Ordinance passed before the Proclamation or after it?"

Sim DATAR: It was passed before that,—

..

MR. SPEAKER: Then it is a piece of legislation. It is law...."

This is the Speaker's ruling.

MR. SPEAKER:So far as this matter is concerned, now the whole administration of the State has passed into the hands of the President. Yesterday the Supplementary Demands were passed but unless there is the imprimature on it, that is unless an Appropriation Bill is passed, not a pie can be drawn. Merely because the Supplementary Demands have been passed, the hon. Finance Minister cannot pay the money. . . Now we are faced with two things. Firstly, there is an Act passed by a competent authority allowing appropriation and, secondly, we are now trying to do the same. This is an anomalous position. The other day it was said that this Ordinance was felt to be void. If it is void, why do you not withdraw it? What is the difficulty? Are we to decide here whether it is void or not? Hon. Law Minister's opinion is there. Once when we have assumed charge, so far as this matter is concerned, this Par-

liament is the Orissa Legislative Assembly. ..."

Therefore, this Parliament today is Assam Legislative Assembly.

"The President is substitute for the Governor. Why do Government not withdraw the Ordinance? It is rather a ticklish matter. It is true, as the Hon. Deputy Speaker said yesterday, that in such matters we do not decide, but in a glaring matter of this kind when there are two Acts with respect to the same subject and both are competent authorities, are we to go on passing legislation yesterday there, today here and tomorrow somewhere else? I am really surprised at this."

THE MINISTER OF COMMERCE AND INDUSTRY AND HOME AFFAIRS (SHRI LAL BAHADUR SHASTRI): Sir, I am sorry that it has not been possible to take a final decision in this matter till this morning. In fact, we have been considering over this matter. The Law Ministry is specially looking into this. Every moment we are expecting their advice on this matter in regard to both these points, namely, whether the Ordinance should be placed on the Table of the House. These are the two points which the Home Ministry itself has raised. They are being considered. I think it will be possible for us to come to a final decision today before the House rises."

Now, this is important.

"MR. SPEAKER: Let this matter stand over till Monday then. I only want to avoid the House doing the same thing which has been done already. If it is right, we do not have jurisdiction. If it is wrong, we will have jurisdiction. We ought not to stultify ourselves." C,

MR. DEPUTY CHAIRMAN: Is the Ordinance still in force?

SHRI DINESH GOSWAMI: Yes, so long as it has not been placed in the

Assembly. It will lapse only
1 InterTuptions).

MR. DEPUTY CHAIRMAN: Let him
reply. Let me know from him. If he is not able
to explain, then, you can say.

SHRI SAWAISINGH SISODIA;
This is the main point for considera
tion. *

SHRI DINESH GOSWAMI: The
Ordinance lapses within six weeks of the
convening of the Assembly. And when it is
Parliament, within six weeks of the convening
of Parliament. Six weeks have not elapsed.
Six weeks of the convening of Parliament
have not elapsed. What does article 213(2)
say:

"An Ordinance promulgated under this
article shall have the same force and effect, as
an Act of the Legislature of the State....

SHRI P. RAMAMURTI (Tamil Nadu): Sir,
you hear others also before you hear the
Secretary-General (*Interruptions*).

SHRI DINESH GOSWAMI: I am not
interested merely because it is • As3am. It has
further ramifications. "The Ordinance-making
power is an extraordinary power given to the
GbvBFHor. The only safeguard is the
safeguard laid down in article 213(2) which
says that it should be placed before the
Legislature so that the Legislature May discuss
it and, if necessary, disapprove it. Article 213
(2) says:

"An Ordinance promulgated under this
article shall have the same force and effect
ag an Act of the Legislature of the State
assented to by the Governor...."

Here, the President has said 'fca* where the
word 'Legislative Assema bly' occurs, substitute
the word 'Par- i • liament'. Article 213(2) says:

but every such Ordinance, '

(a) shall be laid before the Le-gislative
Assembly .of the State, or where there is a
Legislative Council in the State, before both
the Houses, and shall cease to operate at the
expiration of six weeks from the reassembly
oi the Legisla-tvjre,..." In this case, it should
be placed before both the Houses and shall cease
to operate at the expiration of six week
from the convening of Parliament. Here, the
Legislature will be Parliament. We
assembled on the 17th August. Six weeks
have not-elapsed. Hence, the Ordinance has
not lapsed. The Ordinance is a valid pieCg of
legislation. When there is a valid piece Of
legislation by way of an Ordinance, until it is
withdrawn, how can We pasg a Bill on the same
subject? May I point out, in this connection,
the case which I referred to?

MR. DEPUTY CHAIRMAN: Mr.
Goswami, before you proceed further, let me
tell you that this Ordinance provided only for
payment during the period of four monthg
beginning ^n the first day of April, 1981.
Hence, it expires on 31st July. But if you
gay..

SHRI DINESH GOSWAMI- No. No.
Ordinance expircg until it is replaced...
(*Interruptions*).

MR. DEPUTY CHAIRMAN: Mr.
Goswami, please hear me first. The
Ordinance provided 'for withdrawal of a sum
of money for the four months period, that is,
up to 31st July. Hence, the Ordinance lapsed
on that date.

SHRI DINESH GOSWAMI. I am comin,g
to that. Are yOU giving the executive power
to legislate for the inter-Session period
without tha approval of Parliament? This haJ
never been the case.

MR. DEPUTY CHAIRMAN: Mr. Goswami,
please do not be in a hurry. .,

SHRI DINESH GOSWAMI; Let m«
'conclude. I have understood yout point. I
will -pfeply.

MR. DEPUTY CHAIRMAN: You have said that the Ordinance will not lapse and that it is still valid today when the Bill is being considered. You have given the analogy in the case of Orissa.

SHRI DINESH GOSWAMI. Sir, I have understood your point. I will submit that by the Ordinance, the Government disbursed money till the 31st July, 1981. The first question is that this Ordinance has the effect of law because the amount has been spent, the amount has already been spent under the law. How can we legislate on the same law? Is it the case of the Governor that this amount has been spent illegally? They have already spent this amount under the law. If the Government had brought forward an Appropriation Bill, (Interruption). So, there should not be any interruptions. This is a very serious matter, I would have understood if the Government had brought forward an Appropriation Bill for the period from 1st August, 1981, saying that so far as the period up to 31st July, 1981, is concerned, there is an Ordinance and we place this Ordinance before the House. Then there will be no objection. They can bring an Appropriation Bill from the 1st August, 1981. They can place this Ordinance and say that for the period up to 31st July, 1981...

MR. DEPUTY CHAIRMAN: You are building up...

SHRI DINESH GOSWAMI: I am not building up any new thing.

MR. DEPUTY CHAIRMAN: You are not to the point because the Ordinance cannot live for ever. It has to be enacted and followed by a law. If it is not done, naturally the Ordinance will lapse.

SHRI DINESH GOSWAMI: It must be placed...

MR. DEPUTY CHAIRMAN: The Ordinance cannot be alive always un-

less it is approved by the House (Interruptions)

SHRI DINESH GOSWAMI: Under article 213, an Ordinance, irrespective of the period, must be placed before the House and I may disapprove that Ordinance.

MR. DEPUTY CHAIRMAN: That is a different matter. (Interruptions).

SHRI DINESH GOSWAMI: Let them place the Ordinance.

SHRI P. RAMAMURTI: Will you kindly permit me... (Interruptions).

MR. DEPUTY CHAIRMAN: In the Orissa case the Ordinance was existing on the day when the Bill was introduced and here the Ordinance

has lapsed. That is the point.

SHRI DINESH GOSWAMI: Under article 213 of the Constitution, irrespective of the period for which an Ordinance is promulgated, the Ordinance is to be placed in the House because the executive has not been given the overriding power to legislate even for a short period without scrutiny of Parliament. Therefore, if it is placed on the floor of the Parliament and supposing we disapprove it, then it will not be a valid piece of legislation. So long as it is not disapproved, it is a valid piece of legislation. Already, amounts have been spent on the basis of a valid piece of legislation. We are asked to approve the same amount which has already been approved by a valid piece of legislation. Let us take another case. Supposing there was a law dealing with certain offences after 31st July, 1981. Can we pass in this House another law dealing with the same period, simply because 31st July has expired? I put another question. Supposing under that Ordinance Rs. 100 has been earmarked and spent for a particular purpose. This amount of Rs. 100 has been spent on the basis of the Ordinance which is a valid piece of legislation. Can we

[Shri Dinesh Goswami] pass Rs. 200 under the Appropriation Bill which we have before us today? We cannot in an occupied field of legislation... *Interruptions*. I submit, let them place it. (*Interruptions*). It is a very vital question because a power is being taken... (*Interruptions*).

MR, DEPUTY CHAIRMAN; The point is clear.

SHRI DINESH GOSWAMI; It is a very important point,

•' (Jittering) "■^""*

श्री लाडली सोहन निधम : (मध्य प्रदेश) : सब को कहने दीजिए ।

MR. DEPUTY CHAIRMAN; He has raised the point of order. (*Interruptions*). So, let us hear the Minister, let Us see what he has to say.

SHRI P. RAMAMURTI: I am not going to repeat the same thing, I do not repeat the same thing or the same arguments that the other people have given. I am putting it from a different angle. "

श्री नरसिंह प्रसाद नन्द (उड़ीसा) : मुन तो लोजिये, किताब हाथ में रखी हुई है ।

श्री उपसभापति : किताब तो बहुत सी हाथ में है ।

श्री नरसिंह प्रसाद नन्द : अब बंद कर दे अगर नहीं सुनना चाहते हैं ।

श्री उपसभापति : सुनना चाहते हैं, लेकिन प्वाइंट ऑफ ऑर्डर रोज हुआ है... (स्थगना)

श्री नरसिंह प्रसाद नन्द : जो जैन साहब न कहा है... (स्थगना)

श्री उपसभापति : जो जैन साहब ने कहा है, उसको रिपोर्ट करते हैं, तां... (स्थगना)

श्री नरसिंह प्रसाद नन्द : उसकी सही करने की बात नहीं है... (स्थगना)

•SHRI NARASINGHA PRASAD NANDA; I will raise a new point.

(*Interruptions*)

•SHRI DINESH GOSWAMI: I have brought the Ordinance before me. The Ordinance does not specify any period. I have got the Ordinance before me. (*Interruptions*). It says; The Assam Appropriation (Vote on Account) Ordinance 1981 to provide for the withdrawal of certain sum from and out of the Consolidated Fund of the State of Assam to the services of a part of the financial year, ending on the 31st day Of March 1982. They have not mentioned... (*Interruptions*). Part can go up to November. I have got a copy of the Ordinance here, (*Interruptions*)....., ^

SHRI R, RAMAKRISHNAN: (Tamil Nadu); You place it now and solve the problem,

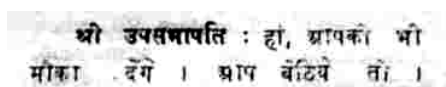
MR. DEPUTY CHAIRMAN: That is why I say, let us hear the Minister what he has to say; then you can say if any point is left. TV : "

•SHRI P. RAMAMURTI; Will you give me an opportunity after him?

MR. DEPUTY CHAIRMAN: That would be better.

SHRI P. RAMAMURTI: So after him I will speak.

श्री नरसिंह प्रसाद नन्द : हमको भी बोलने दीजिये । हमको भी इजाजत देग क्या ?



(*Interruptions*) Just a moment, Mr. Goswami. Please hear me. You see the Assam Ordinance No. 1 of 1981, para 2, in which it is stated—I am reading just the last two lines:

"...in the course of payment during the period of four months beginning on the first day of April, 1981 in respect of services..." e^C-

So it is four months. Let the Minister reply to the objection raised by Mr. Sezhiyan.

* SHRI SAWAISINGH SISODIA: Hon. Shri Sezhiyan and Goswami have raised similar points of order, (*Interruptions*) Mr. Sezhiyan has given the example of Pondicherry Assembly which, was in existence. Therefore, that example is not applicable to the Assam case. Mr. Goswami has also referred to...

SHRI ERA SEZHIYAN; It was dissolved.

SHRI SAWAI SINGH SISODIA: No, it was in existence. In Orissa also, the period had expired and before that there was another Ordinance. The most important question is, both the hon. Members have referred to article 213 and they are insisting that the Ordinance should be placed before the Legislature and if the legislature is not in existence, it should be placed before both the Houses of Parliament. Sir, you have rightly pointed out, the Ordinance says—a copy of the Ordinance is in my hands—

"...in the course of payment during the period of four months beginning on the first day of April, 1981, in respect of the services specified in column (2) of the Schedule".

It means the Ordinance expired on 31st July, 1981. Therefore, the question does not arise when the Ordinance was not in force. Where is it necessary? It ceased on 31st July, 1981; therefore, when the Ordinance has ceased and it is not in force, it is not necessary at all. Article 13 does not help in any way the argument of both my friends. It does not support their argument. If there is time left, if there is a determined time in the Ordinance and more time is left, then, of course, it is necessary. In this case, the Ordinance expired on 31st July, 1981 and the Houses have met from 17th August, 1981. Therefore, it is not necessary to place copies of the Ordinance on the Tables of the Houses. A copy of the Assam Ordinance has already been kept in Parliament Library. (*Interruptions*) Sir, I want to point out the factual position that the Government has taken all the precautions. Even though the Ordinance was not in force...

(*Interruption is*)

SHRI ARVIND GANESH KULKARNI (Maharashtra): Parliament and Parliament Library are the same thing?

SHRI SAWAISINGH SISODIA; It was placed there so that the hon. Members can see for information. It was for the information of the hon. Members, so that they can see very well that the Ordinance was only for four months. The Ordinance was only for a four-month period and that period has expired. The copy was there and if they had taken the trouble of seeing it, they would have found that the period had expired and they might not have raised this argument. Sir, this argument has been repeatedly put before the House and I would say that whenever there is a weak case the arguments are repeated and wrong references are made. I would put it to the hon. Deputy Chairman as well as the hon. House that because it is clearly false—

[Shri Sawaisingh Sisodia]

fore the HouSg that the Ordinance has lapsed on 31st July 1981, it v-rs not necessariy and, according to article 213 (1) (c) Of the Constitution tins is not applicable at all. The Govern ment has not committed any ille,gal act. The Appropriation Bill is in order and the points of order raised by them are not supported by any fact or any law whatsoever. "

SHRI P. RAMAMURTI: There is a vefy important question, sir, tJie hon. Minister forgetg that the Con-.stitutioj^ does not give legislative powers to thg Executive and the .Governor is acting in hig capacity as the executive since the Assembly was not sitting!. Otherwise they would have left it and brought a new Ap-propriation Bill jor thg entire period. Why wag it? Because on the 31st March the Assembly was proro.gued .by him at midnight and since no jnoney could be spent frona the Ex-ichequer they had to promulgate that Ordinance. Now, when the Assembly has not been dissolved, you should have placed * beforeg the Assembly. The Assembly has been dissolved just now, It was then suspended...

SHRI ERA SEZHIYAN. Animated suspension.

SHRI P. RAMAMURTI- Towards the end of June they convened the Assembly. :

MR. DEPUTY CHAIRMAN; That point has already been covered.

SHRI p. RAMAMURTI: No, it is not covered. You don't want to hear at all- You just want to pressurise us. He never raised that point. I am raising it. Normally, Parliament would not have taken it because the Assembly was there. The Assembly was only prorogued and therefore it would have come before the Assembly before the beginning of July, Unfortunately the Assembly was dissolved, proro,gued or kept in suspension on the 23rd or 24th on the re-ignatiim pf the Chief Minister. At

that time Parliament was not sitting 1 and we did not haVg the opportunity to say anything. Therefore, Sir, when the Assembly ig under suspension, Parliament gets the power. Therefore, when Parliament got the Power, it was their business to convene Parliament immediately and place the Ordinance and ask Ug to approve or disapprove it. They did neitlier. They kept quiet and now they call us and ask Us to legislate. Either you say it is not a legislation or, if it jg not a legislation, you cannot ask us to legislate on that. It is a meaningless thing. , You cannot eat the cake and have it too. You gay it i;3 a valid legislation. If it is a piece of valid legislation, where is the need for Ug to le;gislate on that? There is no need for Ug t« legislate. You can't have it both ways. If you say it is necessary for Parliament to approve and pass that legislation, in that case the Ordinance must be placed here and we must be given an opportunity to disapprtive it. That is the first point. And the second point is, this is a total negation of Parliament's powers, of the Legislature's powers. For the first .time we have heard that the Governor legislates and passes an Ordinance.

SHRI BIPINPAL DAS (Assam); On a point of order. I want to draw the attention of Shri Raunamurti to Article 168 of the Constitution:

"(1) For every State there s^all be a Legislature which shall consist Of the Governor, and..."

SHRI P. RAMAMURTI: I know

SHRI BIPINPAL DAS; Two Houses in gom© Stateg and one House in other States. In the absence of the Legislature, the Governor can function as the Legislature and, therefore, he has the power of issuing an Ordi- . nance.

SHRI P. RAMAMURTI; I just want to point out that he ij carrying coal to New Castles- K the Governor has that absolute power of legislation,

'..here was no need... *{Interruptions}* please listen. Don't interrupt. If the Governor has got that absolute power, there was no need for article 213 whereunder the Governor's Ordinance

ance has got to be approved. So he has not got that power. Let him understand that. When the Assembly is dissolved, when the Assembly was kept in suspension, we come into the picture, meaning within six weeks it must be placed before us. *(Interruptions)* We did not get it.

SHRI BIPINPAL DAS: Sir, again, he is wrong. Parliament does not necessarily come into the picture immediately. There is time gap.

SHRI P. RAMAMURTI. The moment the Assembly is suspended, we come into the picture. We are the Assembly. *(Interruptions)*

SHRI BIPINPAL DAS: Even the school child knows it.

SHRI P. RAMAMURTI. We also know something. Don't think that you alone are a wise man; If that is so, why are you asking us to pass a legislation, why do you ask us to appropriate the amount that has already been spent? If you are so sure of your ground, you withdraw that portion from the Bill. Why do you ask us to approve the money that has already been spent?

SHRI BIPINPAL DAS: The time-bar is given in the Constitution. That is why we had to come...

SHRI P. RAMAMURTI. Secondly, from the 1st of August, 1981 there was no valid piece of legislation for spending a single pie from the Consolidated Fund of India or of the State of Assam. There was no valid legislation whatsoever and they are asking us to legislate on something that has already been spent. This is something extraordinary. You should have called Parliament in session and put before it. All that I would say is I would like the Chairman to consider

very serious points; these are not ordinary points. The Chairman himself must consider these. We do not want a ruling from you. You do not take the responsibility. These are very serious points which we are posing. The rights of Parliament are being impaired and the Governor takes into his hands all the powers. Therefore, we want a ruling.

SHRI NARASINGHA PRASAD NANDA: Sir, I will raise a totally different point "from the ones raised by Mr. Era Sezhiyan, Mr. Dinesh Goswami and Mr. Ramamurti. Sir, according to my understanding of the provisions of the Constitution, the Governor has no power to draw money by an Ordinance.

MR. DEPUTY CHAIRMAN: That has already been covered.

SHRI NARASINGHA PRASAD NANDA: Kindly listen to me. *(Interruptions)* Why don't you listen to me? *(Interruptions)* Sir, if you kindly read article 213 of the Constitution and article 357 of the Constitution, you will find that there is a marked difference between the two articles. Article 357(1)(c) is very specific: "for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the State pending the sanction of such expenditure by Parliament". Therefore, if the promulgation has been issued under article 356 of the Constitution, in exercise of the powers conferred under article 357(1)(c) when the House of the People is not in session, it can't authorise expenditure from the Consolidated Fund of the State. You do not find a similar provision under article 213. Article 213 relates only to making other kinds of legislation, other than financial legislation. I would also refer you to the debates of the Constituent Assembly. When this was being debated on the floor of the Constituent Assembly, these points were made sufficiently clear by the founding fathers. Now we have in-

[Shri Narasingha Prasad Nanda]

troduced this discussion, We have tried to introduce the discussion when the situation has arisen. If we go on playing with the Constitution like this, as and when it suits our purpose. We introduce a new element which was not there in the Constitution, then I would.. [Time-bell rings] Please let me formulate my question. Mr. Deputy Chairman, on my point I would require you to rule specifically whether...

SHRI JAGDISH PRASAD MATHUR (Uttar Pradesh): Let the Chairman give the ruling.

SHRI NARASINGHA PRASAD NANDA: When the Deputy Chairman is occupying the Chair, I think he has to do it. Now, the point on which I want to have a ruling from the Chair is whether Article 213 and Article 357(1) (c) are same or similar or the power given to the President is specific. While Article 213 is silent on the question of authorisation of expenditure.. I

SHRI BIPINPAL DAS: Mr. Nanda, where is it said in the Constitution that when the legislature is not in session, the Governor has no power to pass a legislation on financial matters? Please read. The provision is before me. Therefore, there is no such provision as you are arguing. The provision here is a blanket provision- "If the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require." This is a blanket provision.

SHRI NARASINGHA PRASAD NANDA: No, no. That is the point I am making. Therefore, I want the Chair to rule and I will certainly be bound by the Chair's ruling. The question is whether Article 213 authorises the Governor of a State to authorise expenditure as the President is authorised under article

357(1)(c). Please give me your ruling. On this point.

SHRI ERA SEZHIYAN; Mr. D. Deputy Chairman, there are two important aspects. One is whether the Governor has got the blanket power. There is a Constitutional provision. What the honourable Member who preceded me said is quite all right. "The Governor may..." It has been restricted. If you read Article 213(2), that is an important one,—"An Ordinance promulgated under this Article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor but every such Ordinance—(a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses..." Suppose it is disapproved, then it goes off. The blanket power is not there. If six weeks expire, then it lapses. The ban in the Constitution depends upon the period of this action of the legislature. We are approving the action of the Governor, not the legislature. Suppose an Ordinance says, you pay Rs. 100 crores, and Rs. 100 crores have already been paid. Do you mean to say that the Ordinance having fulfilled the mission, is no longer valid? Therefore, you should go by the Constitution.

Secondly, the honourable Minister said that he has already placed a copy of the Ordinance in the Library. The Constitution does not say that it should be placed in the Library. The Constitution says that it should be laid before the House. Laying a copy of it in the library is not provided for.

SHRI RAJENDRA SINGH ISHWAR SINGH (Madhya Pradesh): Mr. Deputy Chairman, a reference has been made to Article 357, That merely refers to when President's rule has been imposed. We are here concerned with the effect of Article 213 with reference to the Ordinance that

was introduced by the Governor. As I has been mentioned by the Minister here, the power to withdraw money expired at the end of July. Thereafter, it becomes absolutely necessary that there should be a fresh legislation to empower withdrawal of money. Accordingly, the present Bill has been moved. The objections that have been raised do not have any validity. It appears that perhaps it was not realised that the power to withdraw money was restricted to 21st July only. I would not say that the Ordinance has either lapsed or become infructuous. The Ordinance was good for the period for which it was valid. Thereafter it becomes absolutely necessary that there should be a fresh legislation authorising withdrawal and expenditure of money.

MR. DEPUTY CHAIRMAN: Certain objections have been taken... (*Interruptions*). Shri Dinesh Goswami has referred to the ruling of the hon'ble the Speaker and his observations on March 10, 1961. He referred to the hon'ble the Speaker's ruling in detail, I need not go into those things.

Replying to Shri Era Sezhiyan and Shri Nanda I would like to say that the Governor had this right to issue ordinance. The hon'ble the Speaker had held this in the case when the Orissa Appropriation Bill was before Parliament. He said and I would quote: "The Governor and the two Houses constitute the State legislature and in the absence of the session of the State legislature, the Governor is as much competent as the legislature to pass legislation, that is, Ordinance". That concludes the whole matter there.

Secondly, so far as placing of the Ordinance on the Table of the House is concerned, because it related to an earlier period, it was not relevant on the date on which the House met. Therefore, it was not necessary to lay it on the Table of the House.

Thirdly, the Ordinance was for four months and the period terminated on July 31, 1981. Therefore, the President issued an order under article 357(1) (c). The Ordinance was for incorporating the vote on account the demands in respect of which there already voted by the Assembly. But the Appropriation Bill in respect thereof could not be passed. That is the point. After the prorogation of the Assembly, the Governor promulgated the Ordinance. The amount of vote on account appropriated in the Ordinance is included in this Appropriation Bill now for the whole year. Therefore, the House has full control on the previous money and also the future money that is going to be spent by the Government. Therefore, I cannot say that the power of Parliament has been eroded on the basis of which the objections have been raised. Therefore, I think the objections do not merit attention.

SHRI P. RAMAMURTI: Why don't you refer it to the Chairman?

MR. DEPUTY CHAIRMAN: Mr. Ramamurti, being a senior Parliamentarian you should not make such remarks. A person sitting on the Chair is competent to make observations, therefore, I rule out the points of order.

SHRI P. RAMAMURTI: With all respect, I only wanted the Chairman, who had occupied the position of Judge of the Supreme Court, to give the ruling because he will be in a better position to interpret Constitution than yourself.

MR. DEPUTY CHAIRMAN: Certainly he is in a better position. But the person occupying the Chair cannot be prevented from making his observation.

SHRI P. RAMAMURTI: You should not have taken this responsibility.

MR. DEPUTY CHAIRMAN: The motions have been moved. We have

teen allotted three hours for the discussion of these three Motions.

श्री नगेश्वर प्रसाद शाही : श्रीमान्, यह कल होगा, आज नहीं होगा ... (अवधान)

संसदीय कार्य विभाग से राज्य मंत्री (श्री सोनाराम केसरी) : आपकी भावनाओं हम सम्मान करने के लिये तैयार हैं। कल कालिंग एटेंशन न हो और स्पेशल मेशन न हो और ठीक 12 बजे आप इसको शुरू कर दें ... (अवधान) आप कल के लिये कालिंग एटेंशन और स्पेशल मेशन मत रखिये।

MR. DEPUTY CHAIRMAN: Let us sit for a little time more.

श्री नगेश्वर प्रसाद शाही : अभी हमारे माननीय मंत्री जी ने जो कुछ कहा है, हम लोग उनकी बातों का आदर करते हैं हमारा उद्देश्य सरकारी विधेयकों को पास करना है, उनको रोकना नहीं है और ढिले करना भी नहीं है। चूंकि यह बहुत बड़ा महत्वपूर्ण विषय है और इस पर चेयर का आदेश हो गया, इसलिये वह हमें शिरोधार्य है। लेकिन इससे पूरी तरह से संतोष नहीं है, यह बात मैं साफ कहना चाहता हूं। अभी साढ़े पांच बज चुके हैं। तीन घंटों का इसके लिये समय दिया गया है। इसलिये मेरा निवेदन है कि इसको हम कल ले लें और कल को थोड़ा स्पेशल मेशन बगैरह को कम करके इसको ले लें।

MR. DEPUTY CHAIRMAN: Let us sit upto 7 o'clock.

कल भी हम काफी देर तक बैठेंगे।

श्री नगेश्वर प्रसाद शाही : अभी साढ़े पांच हो गये हैं। इसको हम कल को ले और

कल ही खत्म कर दें।

श्री सीताराम केसरी : हम आपकी बात को मान लेते हैं। कल आप कालिंग अटेंशन और स्पेशल मेशन छोड़ दीजिये और 12 बजे से शुरू कर दीजिये।

SHRI P. RAMAMURTI: Sir, with all respect to you... (Interruptions).

SHRI RAMAKRISHNA HEGDE (Karnataka): Sir, this is a very important matter. (Interruptions).

SHRI P. RAMAMURTI: Sir, with all respect to you, Sir... (Interruptions).

श्री अरविन्द गणेश कुसकर्णी : कल ले लीजिये। (अवधान)

श्री नगेश्वर प्रसाद शाही : हमारे मंत्री जी इसके लिये तैयार हैं।

SHRI P. RAMAMURTI: Sir, with all respect to you, we want to reopen this issue. (Interruptions).

MR. DEPUTY CHAIRMAN: Mr. Nanda, please start the discussion.

SHRI P. RAMAMURTI: No, Sir. With all respect to you, Sir, we want to reopen this question when the Chairman occupies the Chair and we want to have his ruling. He may overrule you also. So, we want to reopen this question. We cannot allow the discussion now and we are going to reopen this question. This is a very important matter. (Interruptions).

MR. DEPUTY CHAIRMAN: You can claim that right. You may do whatever you want to do. But let us proceed with the Bill now. (Interruptions). ■ -«

SHRI P. RAMAMURTI: I do not want to do it.

MR. DEPUTY CHAIRMAN: You may not want it. (Interruptions).

SHRI P. RAMAMURTI: We do not want to do it. Once you have taken this position, we want to reopen this question.

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MR. DEPUTY CHAIRMAN: Mr. Ramamurti, what I have said is clear.

" My observation is open to question.

It may be open to question. But let us

"^ proceed with the discussion now. Yes,

• Mr. Nanda. (Interruptions). Yes, Mr. Nanda.

∴AH

SHRI JAGDISH PRASAD MATHUR: We must reopen it. (Interruptions). We cannot start the discussion now. (Interruptions). Once we begin the discussion, then it becomes final.

SHRI RAMAKRISHNA HEGDE: Sir, this is a very serious matter. A constitutional question has been raised. So, please allow us to reopen it. (Interruptions).

MR. DEPUTY CHAIRMAN: I do not mind it, But let us start the discussion.

SHRI JAGDISH PRASAD MATHUR: If we begin the discussion now, it means that it is final.

MR. DEPUTY CHAIRMAN: If you want to reopen the question, you may do it and I do not mind. But let us start the discussion. Mr. Nanda, will
^ please speak now? (Interruptions).

श्री नगेश्वर प्रसाद शाही : श्रीमन् हमारे मंत्री जी इसके लिये तैयार हैं।

MR. DEPUTY CHAIRMAN: No; I am not going to do it. Yes, Mr. Nanda.

श्री सीताराम केसरी : अभी आप 6 बजे तक कर दीजिये। उसके बाद कल भी आप कर सकते हैं। कालिग अटेंशन

और स्पेशल मेशन कल न रखिये, नहीं तो आज खत्म कर दीजिये।

श्री नगेश्वर प्रसाद शाही : हम लोग इस पर तैयार हैं कि कल दो घंटे और बैठेंगे। स्पेशल मेशन आप कम कर दीजिये। लेकिन कल शुरू कीजिये इसको आप।

SHRI V. GOPALSAMY (Tamil Nadu): Why should we be deprived of that discussion?

(बयवधान)

श्री उपसभापति : आप बैठिये। थोड़ी देर बैठिये। अभी 5.30 बजे हैं। (बयवधान) .. आप मत बोलिये औरों को बोलने दीजिये। Nandaji, please start the discussion. (Interruptions).

SHRI RAMAKRISHNA HEGDE: Sir, this is a very important matter. (Interruptions).

MR. DEPUTY CHAIRMAN: All right. Mr. Bipinpal Das.

SHRI BIPINPAL DAS: You want me to start? (Interruptions).

MR. DEPUTY CHAIRMAN: Yes. (Interruptions).

SOME HON. MEMBERS: No, no. (Interruptions). This cannot go. We all walk out. (Interruptions).

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

श्री नगेश्वर प्रसाद शाही : क्योंकि आप अपोजीशन से कोअपरेशन नहीं चाहते हैं, इसलिये हम बाक आउट कर रहे हैं।

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

MR. DEPUTY CHAIRMAN: It is not for me to say. You can ask the Government to do that. (Interruptions).

SHRI DINESH GOSWAMI: Sir, on an important debate like the debate on Assam, I expected that the Chair

[Shri Dinesh Goswami]

would respond to the views of the Opposition. You have not responded. On the contrary, you have started the debate on the Assam Budget and the Assam Proclamation and it is only on the basis of the views of only one party without listening to the views of the other parties. This is wrong and, therefore, I walk out.

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

SHRI RAJENDRA SINGH ISHWAR SINGH: Sir, I think the Opposition parties have walked out for the simple reason that they do not want to start the discussion.

SHRI R. RAMAKRISHNAN: Not all. We are here and the discussion has already started.

SHRI V. GOPALSAMY: We are "here.

SHRI RAJENDRA SINGH ISHWAR SINGH: Very good.

MR. DEPUTY CHAIRMAN: Yes. Mr. Bipinpal Das .

SHRI BIPINPAL DAS: Mr. Deputy Chairman, Sir, I will be very brief.

The Budget is before us. I do not want to say anything on the promulgation of the President's rule. It is very clear. The circumstances were such that there was no other way but to promulgate the President's rule and keep the Assembly under animated suspension. I need not dilate upon it. It is known to everybody.

The Budget is before us. It is a deficit budget. Assam has always been suffering from deficit budgets, only because it is a very backward State, economically speaking. Not much development has taken place and, therefore, there is not much scope for mobilisation of resources. Nineteen crores of rupees as deficit is not a "small amount, go far as this State is concerned.

Now, Sir, it is a matter of regret that in spite of so much of natural resources available to the State, development has not taken place. Two things are very important for the development of this area, not only Assam but the entire north-eastern region. Two items are very important. One is transport; the other is power. And Members of Parliament from that area have been shouting about it for a long time. But things were not moving. Only now I am happy to say that the Government has taken very serious steps to make a move further. For example, the four hundred mile long river Brahmaputra have only one bridge. Now the Government has decided to have four bridges. We were shouting for a broad-gauge line only up to Gauhati. Now the Government has agreed that this line will be further extended in a course of time up to Dibrugarh and Tinsukia. It is a very good development. I am happy to note that the new Governor of Assam has announced on the Independence Day that not only the existing line up to Tinsukia and Dibrugarh will be converted into a broad gauge line but a new railway line will also pass through more important areas like Silghat, Gola-ghat and Jorhat, so on and so forth in thickly populated areas of the State heart-line of the State if I may put it.* These are good developments that have taken place. We hope that Government will go forward in taking further steps in the matter of economic development.

Sir, paper mills are coming up. I may point out that in Assam we can have enough of paper mills, because we have enough of raw material for them. We can have sugar mills. We can have industries based on natural gas. We can have industries based on petroleum. Now we are going to have one petro-chemical complex. But I am sorry to point out that natural gas is being burnt, is being wasted, for years and years and years, for nothing, except that a little is being used in a fertilizer plant and near about some electrical plants. Now, this can be

utilised for the purpose of not only producing fertilisers but also production of power.

So far as power is concerned, north-eastern region is very important from the point of view of hydel power. The hydel potential of the entire region is about 12,000 MW, which is nearly one-third of the total hydel potential of the whole country. And if properly developed, not only it will help to develop the entire area industrially but we can sell electricity to Bangladesh, to Nepal, to Bhutan and other areas. And, therefore, I would like to emphasise upon the need for developing hydel power at a greater speed in that region.

The Kajiili project is now under construction. But I am very sorry to say that the progress is very, very slow. The target date is going on changing. Sometimes they, say it will be ready by 1982, sometime it is 1983 and now it is 1984. The work is going on at a very slow pace. It should be expedited.

I would like to emphasize two points about industries in this area, about the industrial development of this area. One, we should emphasize upon the medium and small-scale industries. Large-scale industry will come up like the petro-chemical complex. But that is different. Generally speaking, if you want to industrialise the entire area, then we should emphasize upon the small and medium-scale industries. And, normally, industries should be based on the locally available raw materials, because transport is a very big problem. If you want to carry raw materials from outside the region, it will be very difficult. Therefore, it should be based on the locally available raw materials.

Sir, Brahmaputra is a big problem. We have discussed it so many times. This year we have had tremendous, terrible floods and a huge destruction of crops and loss of life, loss of cattle, so on and so forth. Sir, I have been shouting in this House that you cannot solve the problem of Brahmaputra

in one year or in five years. Five years are not enough. Sir, some American experts were invited by the Government of India some years ago to advise the Government on how to control Brahmaputra river. The American experts are reported to have been given in writing to the Government of India, after seeing the whole thing, saying that they had learnt the technique of taming and controlling rivers, but they did not know how to control and tame seas. The breadth of the river at one point is 12 miles. Therefore, it is a very serious problem. Erosion problem is there. Flood problem is there. Also, such a huge source of power is not being utilized for developmental purposes. I suggested long ago with Dr. Rao was the Minister and when Mr. K. C. Pant was the Minister to have a 25-year plan only for Brahmaputra. You cannot do it in five years. Dr. Rao said it! would need 500 crores of rupees. Shri K. C. Pant said that Rs. 800 crores would be needed. Now, perhaps it will cost between 1000 crores and 1500 crores. We cannot spend that much money immediately. Please try to spend it in 25 years and tame Brahmaputra so that we are not only able to control floods, but also develop power and irrigation sources. So many things can be done. There are various ways by which rivers can be controlled. I do not want to go into that. I insist that you should have a 25-year plan for Brahmaputra.

I am very happy that negotiations are going on between the Government and the Leaders of the Assam agitation on the issue of foreign nationals. I must congratulate the Prime Minister and the Government of India that they have shown tremendous amount of patience and perseverance. People say that they are going on talking and talking and nothing is happening. I am not of that view. You have to talk. The problem is not so simple. It is a very complicated and complex problem. It is an old problem. You cannot solve it in one day or during the course of one discussion. Therefore, the approach adopted by the Government towards finding a solution

[Shri Bipinpal Dais]

of this problem is really laudable. I must congratulate the Government for that. It is absolutely clear that the Government is very sincere and very serious about finding a peaceful solution of this problem. I must also say that the agitation leaders have also of late shown a great deal of sincerity and seriousness in arriving at a peaceful solution to this problem. I said earlier and I repeat that no problem can be solved by the method of agitation. No treaty can be signed without negotiations. Even the movement leaders have realised it. No problem can be solved through agitation. It can be done only through peaceful negotiations. Therefore, the negotiations are going on. It is a very encouraging thing. So far as I am concerned, so, the negotiation must go on. It is very clear. Any one side cannot say that it must have everything. This kind of attitude would be wrong and I am happy that both the sides are now showing signs of accommodation, adjustability and so on. I am very happy I know it and I must put it on record. Both the sides are moving forward as far as my information goes. Ultimately, there must be some kind of compromise. Adamant attitude will not help at all if one wants to find a peaceful solution.

There are difficulties on both sides. The people have their own feelings and sentiments. Their leaders led a very big agitation. They cannot now suddenly do something which will not be acceptable to the people to whom they made promises. This is their difficulty. The Government has hundreds of difficulties. These are not simple things. There may be one lakh or two lakhs or three lakhs of foreign nationals. Whatever may be the number of foreign nationals, to unsettle them, to remove them from one place to another place is not a very simple thing. Economically it is difficult, administratively it is difficult. And it may have terrible social repercussions, may be even international repercussions, who knows. Therefore,

, we must try to appreciate the difficulties of both the sides. In spite of that, if both the sides have shown a tendency, a desire, a willingness to move forward towards narrowing the gap between them, bridging the gap between them, that itself is a sign of progress. I am happy about that. Sir, I am an optimist. I am absolutely sure, given a little more time, more patience and more, perseverance, I think, the Government will be able to come to some settlement with the agitation leaders. The agitation leaders also know the realistic situation today. Sir, one can write down any kind of solution on paper. But no idealistic solution will help us. The solution must be realistic, must be practicable and must be such as can be implemented on the ground. What is the use of signing an agreement which cannot be implemented? The Government can easily come to an agreement and say, "All right, we will accept this and that," an agreement which cannot be implemented at all! and which may take even 20 years or 30 years or 100 years and nobody knows. Therefore, we must try to find a solution which is realistic, which is practicable, which can be worked out on the ground and which is within the bounds of the Constitution and the laws, national commitments and international obligations. All these parameters are there and there are also human considerations. Within these parameters we will have to find a solution. The things are going on slowly and therefore the people are generally tired. And they say, what is going on all the time. But, Sir, I am not so tired. I think, the problem is complex and difficult. I am very hopeful that ultimately some solution will be found out very soon.

Finally, Sir, I would only say one thing. I would appeal to all political parties, I would appeal to the entire press in the country and I would appeal to all the Members of Parliament that let us adopt one attitude. There is no hard and fast solution to this problem. Nobody can just produce a solution out of his pocket. If the two sides are carrying on the negotiations.

They have not broken the negotiations. Let us adopt one attitude.. Whatever solution the Government and the leaders of the agitation arrive at, whatever settlement they arrive at, whatever solution they ultimately arrive at, we shall accept it and we shall not quarrel. There is no use our saying, "No, no. What is this? This is not good. That is better. You should do this thing and that thing." There is no use saying all this. Only those who are negotiating know what the difficulties are. And, therefore, our attitude should be only a constructive attitude that we should support whatever settlement is ultimately arrived at between the Government and the leaders of the agitation. Thank you, very much. Sir.

SHRI V. GOPALSAMY. Mr. Deputy Chairirman, Sir, I am grateful to you for giving me this opportunity.

Sir, we are not in a jubilant mood to discuss this Assam problem and alio the Budget of Assam under the high domes of this Parliament House. We would have been glad if this discussion had taken place in the Assembly of Assam. So, let us hope that the discussion next year would take place in the Assembly of Assam itself.

Sir, at the outset, i would like to extend my warmest compliments and congratulations to the Central Government which has shown exemplary patience and commendable understanding of this serious problem of Assam. Sir, Assam is the gate-way to the North-Eastern region of the country. Sir, the entire north-eastern region is in turmoil. Nagaland is the latest outburst of the region and the developments which have taken place recently in the neighbouring country, Bangladesh, are so alarming and are also a matter of concern to India. The Generals who were very loyal to the Pakistan Army and who were repatriated from Pakistan, they have taken the reigns of the Bangladesh Army now. That is the latest development in Bangladesh. So, the events which take place in Assam, in the north-

east, ape the concern of not only the people of Assam or the north-east but they 'are also the concern of all the Indians. So the events which take place in Assam reverberate throughout the length and breadth of this country from Agartala to Amritsar and from Srinagar to Cape Comorin. Sir, many painful events took place in Assam. Though violent activities were shipped up by some extremist elements and officers like late Mr. Parthasarthy, an officer of very superior capacity and finest quality, were killed, even then the Central Government never lost its balance on this issue. So, whatever happens in Assam, the Central Government does not believe in the barrel of the gun or in the bayonets of the police. It has got immense faith in the negotiating table. That is why the negotiations are still going on. Sir, that the State of Assam is very backward economically, I agree. It is very backward and it should be uplifted from its backwardness. For that I am glad that the Central Government has now decided to set up at Bongaigaon a petro-chemical complex at a cost of Rs. 300 crores, and I also there are proposals under serious consideration to start hydel projects and also jute mills. These things are heartening to note. Then, what are the bottlenecks in the way of coming to a final settlement? Mr. Bipinpal Das correctly stated that both sides are willing to come to a final conclusion. Then what are the bottlenecks? It seems, Sir, the agitation leaders have agreed to this point that all those who entered Assam before 1961 should automatically be granted citizenship and the Government of India has on its part agrees to deport from Assam all those who infiltrated into the State after 1971. Then, where is the problem? The dispute remains on the status of infiltrators who come to the State between 1961 and 1971.

Sir, I fully agree with the apprehension of Assamese that they would be swamped by outsiders economically and culturally. They may lose

[Shri V. Gopalsamy] their ethnic identity. But, at the same time we cannot brush aside another factor, i.e., the genuine fear of the minorities in the State. The interests of the minorities should be protected. On this occasion, I remember the words of great Pandit Jawaharlal Nehru when he intervened in a debate in the year 1961 on Jaijguage riots in Assam when he stated that some of the Indians have become refugees in our own homeland. These are the words of great Pandit Jawaharlal Nehru. This problem is a gignatic human problem. So, they say, these people should be deported. But where? Which state is prepared to take them? I ask, can you send them back to Bangladesh? We know the provisions of the agreement which was reached between Mrs. Indira Gandhi and the late Sheikh Mujibur Rehman. The specific provision was that Bangladesh would not be responsible for those who were in India before March 25, 1971; Bangladesh would not be responsible for them. But, Sir, between 1961 and 1971 people have fled from Bangladesh to India, Hindus in the year 1964 when riots took place in Bangladesh several thousand- Hindus, hundreds and thousands of persons fled into India from Bangladesh. What would be their fate? I ask this question. Can we throw them into the Bay of Bengal? So this problem should be approached from a humanitarian angle by the leaders of the All Assam Students Union and also All Assam Gana Sangram Parishad. Sir, anyhow, difference have been narrowed down to a considerable extent on the Government side as also the agitation leaders side. Adamant attitude would not help. As a citizen of India. I would like to appeal to the leaders of the All Assam Students Union and also All Assam Gana Sangram Parishad and also other groups to give up the rigid approach, the adamant attitude, because the Central Government is rightly willing for a final solution and also is very eagerly trying to find a meeting

ground to solve the differences. It is right time for the leaders of the agitation of Assam to solve the problem, on a negotiating table itself. I hope both the parties will succeed in their attempt and I hope and wish the problem of Assam would be settled and the day will be celebrated throughout the country.

J. THE MINISTER OF STATE IN ; THE MINISTRY OF HOME AFFAIRS AND IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI P. VENKATASUBBAIAH): Sir the Resolution and the Budget of India Assam were before this House. This has been discussed in the Lok Sabha also. Sir, two hon. Members have made brilliant speeches with regard to the issues that confront Assam today. My friend, Shri Bipinpal Das and Shri Gopalsamy have put the entire matter in a correct perspective. I am highly thankful to them for having complimented the Government of India and the Prime Minister for the patience the Government has shown all these days to find an amicable solution to resolve the Assam tangle to the satisfaction of everyone.

Sir, of late, negotiations are being carried on. Only a few days back it has been postponed for further discussion and Shri Gopalsamy has very succinctly put the entire issue before this House, and the matter had also been raised in the other House that the Opposition has not been taken into confidence. Sir, it is not correct. The Opposition has been taken into confidence from time to time. As a matter of fact, this Assam problem is a baby that has been thrown by the Janata Government into the lap of this Government. The Prime Minister, soon after she assumed office immediately called for a meeting of all the Opposition leaders and discussed this problem threadbare and has tried her best to arrive at a consensus with regard to identification of the problem and also identification of the foreigners, from time to time the Home Minister has also

called meetings of all the Opposition , leaders and discussed with them the demands that have been put forward

by the AH Assam Students Union and All Assam Gan-a Sangram Pari-shad in connection with the steps that are to be taken to strengthen the border and also to see that no ^filtrators come from Bangladesh to lis country and also the manner in

^which citizenship has'to be conferred and various other problems, have been considered. I am very happy to announce in the House that many of those issues that have been raised, have been solved and the Govern ment is taking effective steps to strengthen the border and to increase the security forces • ■ and 6 P.M. tribunals are being set up. An far as the question of citi zenship right is concerned, this is also being taken up by the Government.

The other matters which have been mentioned are being very carefully gone into and on this occasion, I would like to assure the House that this problem will be solved and the character, the culture and the language of the people of Assam will be protected. At the same time, the genuine grievances arid demands of the minorities, both linguistic and religious minorities, will always be kept in mind and this problem will be settled to the satisfaction of one and all. May I also assure hon. Members that at the appropriate time, the Governmenl would certainly take into confidence the opposition leaders and we hope, an amicable settlement will be found.

As far as the question of economic development is concerned, a Committee has been constituted, which is called the Ministers' Committee, under the Chairmanship of my colleague, Shri Makwana, to go into the various economic problems of the North-Eastern Region in general and Assam in particular. From the Budget presented by my friend, Mr. Sisodia, it will be seen that considerable attention is being given to the

development of Assam and i hope, this auguat House will give Its approval for the Resolution ag well as the Budget. •- •- ;,-^-

SHRI U. R. KRISHNAN (Tamil Nadu); Sir, our Minister has cleverly evaded the question about the agreement entered into between the late Mujibur Rehman and our Prime Minister. He has not even touched this point whether they are going to honour it or not.

SHRI P. VENKATASJBBAIAH: Tile Nehru-Liaquat Pact, the Indira-Mujibur Rehman Agreement, international commitments, national obligations, Constitution, all these things are being talcen into consideration. I thought, I should not reiterate these things. These are very much before the Government when negotiations, discussions are taking place.

SHRI SAWAISINGH SISODIA: Sir, i am very much thankful to both the hon. Members, Shri Bipinpal Das and Shri Gopalsamy, who have taken the trouble not only to support the Appropriation Bill and the Budget of Assam, but they have also drawn the attention of the Government to the developmental problems of Assam, specially, in regard to transport and power. My friend, Mr. Bipinpal Das has dwelt at length the position in regard to transport and power in that State. I can only say at this stage 'that Assam continues to enjoy the special category status in the ailoca-tion of Central assistance. The Government of India has not neglected the developmental activities ot ' Assam. But it is due to geographic cal and historical reasons and background that the developmental problems could not be solved earlier. There are many reasons for this. But I would like to mention that in this I Budget, Rs. 210 crores have beeli [provided as Plan outlay for 1981-82. I Out of this. Central assistance is Rs. 159.10 crores. Therefore, Sir, the Government of India is giving the

[Shri Sawaisingh Sisodia]

special assistance which is required for the development of Assam.

As far as the issue of foreign nationals is concerned the Government is very serious and sincere in finding a solution and I hope, the day is not far off when a suitable solution acceptable to all concerned will be found and this problem will be solved.

The Assam Appropriation Bill provides for expenditure for the full year and Parliament's approval is required to validate the expenditure incurred under the Assam Government's Ordinance as also the Presidential authorisation for the expenditure for the rest of the year. Therefore, Sir, I would request the House to accept this Appropriation Bill and return the Bill.

MR. DEPUTY CHAIRMAN: Now, I will put the Resolution moved by Giani Zail Singh to vote. The question is: .

That this House approves the proclamation issued by the President on the 30th June, 1981, under article 356 of the Constitution, in relation to the State of Assam."

The motion was adopted,

"MR. DEPUTY CHAIRMAN: I shall now put the motion for the

lation ox the J'.issam Appropriation Bill to vote. The question is:

"That the Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Assam for the seivices of the financial year 1981-82, as passed by the Lo'-Sabha, be taken into consider[^]tion."

vThe motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 and 3 and the Schedule tvere added to the Bill.

Clause 1, the Enactiig Formula and the Title were added to the Bill,

SHRI SAWAI SINGH SISODIA: Sir, I move:

That the Bill be returned."

The question was P"t ct«d ^"e '>no~ tion was adopted.

**श्री उपसभापति : श्रव सदन को कार्य-
वाही कल प्रातः 11 बजे तक के लिए स्थगित
की जाती है ।**

The House then adjourned at six minutes past six of - the clock ill eleven of the clock on Wednesday, the 26th August, 1981.