

(Shri Satya Narain Sinha).

Ministers during the various Seasons of Second Lok Sabha:

- (i) Supplementary Statement II—Twelfth Session, 1960. [See Appendix II, annexure No. 72].
- (ii) Supplementary Statement VI—Eleventh Session, 1960. [See Appendix II, annexure No. 73].
- (iii) Supplementary Statement XI—Tenth Session, 1960. [See Appendix II, annexure No. 74].
- (iv) Supplementary Statement XIV—Ninth Session, 1959. [See Appendix II, annexure No. 75].
- (v) Supplementary Statement XVI—Eighth Session, 1959. [See Appendix II, annexure No. 76].
- (vi) Supplementary Statement XXIV—Fifth Session, 1958. [See Appendix II, annexure No. 77].
- (vii) Supplementary Statement XXXV—Fourth Session, 1958. [See Appendix II, annexure No. 78].

12.17 hrs.

BUSINESS OF THE HOUSE

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): With your permission, Sir, I rise to announce that Government Business in this House during the week commencing 13th March, 1961 will consist of:—

- (1) Further discussion and voting on the Demands for Grants (Railways) for 1961-62.
- (2) Consideration and passing of:

The Railway Passenger Fares (Repeal) Bill, 1961.

The Insurance (Amendment) Bill, 1961.

The Medicinal and Toilet Preparations (Excise Duties) Amendment Bill, 1961.

- (3) General Discussion on General Budget for 1961-62, from 14th March onwards.
- (4) Submission of Demands on Account (General) for 1961-62 to the Vote of the House.
- (5) Discussion and voting of Demands for Grants in respect of the—
Ministry of Education.
Ministry of Health.

12.18 hrs.

ORISSA APPROPRIATION BILL

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 of the State of Orissa for the services of the financial year 1960-61.

Shri Narayanankutty Menon (Muk-andapuram): 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 then 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 this 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, Government should consider advising the Governor to withdraw the Ordinance that he has promulgated. Otherwise, according to all canons of constitutional propriety, the Governor has exercised his power purported to be given to him under the Constitution to pass an Ordinance, that Ordinance is on the statute book, and that very Ordinance, without being placed on Table of this House under article 213 of the Constitution, independently a parliamentary legislation is sought to be passed. 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 a constitutional legislation is concerned. Therefore, I make an earnest appeal to him that let him not make this House a party for this anomalous legislation and let him advise the Governor now to withdraw the Ordinance, and after get this Appropriation Bill passed so that there should be constitutional conformity, as far as this particular Appropriation Bill is concerned. I hope that the hon. Finance Minister will take it in all seriousness and get this Bill passed only after the withdrawal of the Ordinance.

Shri Chintamani Panigrahi rose—

Shri Naushir Bharucha (East Khadesh): Sir, about the point of order may I just clarify the position? The Ordinance, I understand, was passed after the President had assumed charge of the administration of the State. Therefore, the Governor had no right whatsoever to pass such an Ordinance and the Ordinance is bad ab initio. In the eyes of law such an Ordinance never exists. Therefore, there is nothing in law which the Governor can withdraw.

Mr. Speaker: Was it not issued before the Proclamation?

Shri Naushir Bharucha: I am old that the Ordinance was passed after the President assumed charge of the administration of the State.

Mr. Speaker: No.

Shri Chintamani Panigrahi (Puri): It was issued on the 23rd February.

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 have 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. We are considering the matter and as soon as a decision is reached I shall inform the House.

Shri Narayanankutty Menon: 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 but the Supplementary Demands have also been passed.

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's 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?

Shri Datar: It was passed before that. It had been passed on the 23rd February.

Mr. Speaker: Then it is a piece of legislation. It is law. 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, that is, he cannot appropriate. Therefore this is the proper time when this matter must come up before the House.

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? The hon. Law Minister's opinion is there. Once when we have assumed charge, so far as this matter is concerned, this Parliament is the Orissa Legislative Assembly. The President is substituted 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 has to be withdrawn and 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.

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.

Shri Lal Bahadur Shastri: The introduction of the Bill may be allowed.

Shri Braj Raj Singh (Ferozabad): How can that be allowed?

Mr. Speaker: This matter shall stand over till Monday.

12.26 hrs.

APPROPRIATION (RAILWAYS) BILL

The Deputy Minister of Railways (Shri Shahnawaz Khan): Sir, on behalf of Shri Jagjivan Ram, I beg to move*:

"That the Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1960-61 for the purposes of Railways, be taken into consideration."

Mr. Speaker: The question is:

The hon. Member will kindly resume his seat.

*Moved with the recommendation of the President.