

15.41 hrs.

TAMIL NADU STATE LEGISLATURE
 (DELEGATION OF POWERS) BILL,

TAMIL NADU AGRICULTURAL SERVICE
 COOPERATIVE SOCIETIES
 (APPOINTMENT OF SPECIAL OFFI-
 CERS) AMENDMENT BILL

AND

TAMIL NADU COOPERATIVE SOCIE-
 TIES (APPOINTMENT OF SPECIAL
 OFFICERS) AMENDMENT BILL

[English]

MR. CHAIRMAN: We will go to the next items i.e. items No.9 and 10. Shri Buta Singh.

THE MINISTER OF HOME AFFAIRS
 (S.BUTA SINGH): I beg to move:

"That the Bill to confer on the President the power of the Legislature of the State of Tamil Nadu to make laws, as passed by Rajya Sabha, be taken into consideration."

Madam Chairman, the House is aware that the proclamation dated 30th January, 1988 made by the President under article 356 of the Constitution in relation to the State of Tamil Nadu, *inter alia* provides that the power of the State Legislature shall be exercisable by or under the authority of Parliament.

15.42 hrs.

[SHRI N. VENKATA RATNAM *in the
 Chair*]

Under article 357(1) (a) of the Constitution, it is permissible for Parliament to confer on the President the power of the

Legislature of the State to make laws and to authorise him to delegate, subject to such conditions as he may think fit to impose, the power so conferred to any other authority specified by him in that behalf. The Bill, therefore, seeks to confer on the President the power of the State Legislature to make laws in respect of the State. It has been the normal practice to undertake such legislation in relation to the State under the President's rule and the Present Bill is on the usual lines. Provision has been made in the Bill for the constitution of a Consultative Committee, consisting of 60 Members of Parliament (40 Members from Lok Sabha and 20 Members from Rajya Sabha) in this regard. Provision has also been made to empower Parliament to direct modification in the laws made by the President, if considered necessary. The Bill was passed by the Rajya Sabha on 29th March, 1988.

I request the hon. House to approve the legislation proposal before it.

MR. CHAIRMAN :Shri Bhajan Lal

THE MINISTER OF AGRICULTURE
 (SHRI BHAJAN LAL): I beg to move:

"That the Bill further to amend the Tamil Nadu Agricultural Service Cooperative Societies (Appointment of Special Officers) Act, 1986, as passed by Rajya Sabha, be taken into consideration."

I beg to move:

"That the Bill further to amend the Tamil Nadu Cooperative Societies (Appointment of Special Officers) Act, 1976, as passed by Rajya Sabha, be taken into consideration."

[Translation]

These are two small Bills and I would like to

[Shri Bhajan Lal]

draw your attention towards the motive behind these Bills. You are aware that there is President's rule in Tamil Nadu, therefore, these Bills could not be introduced in the State Legislature. The period of the first Bill has already expired on 27th March, 1988, and we want to extend it for another 6 months so that the elections may be held there during this period.

The same is the case with the second Bill, where even after passing of 11 years and 10 months no election has been held. We also want to extend the period of this Bill for another 6 months so that we may hold the elections during this period and run the democratic system properly and smoothly.

So, this is the purpose of introducing these Bills. I, therefore, request the House to extend the period of these Bills for another 6 months so that the elections may be completed there during this period.

[English]

MR. CHAIRMAN : Motions moved:

"That the Bill to confer on the President the power of the Legislature of the State of Tamil Nadu to make laws, as passed by Rajya Sabha, be taken into consideration."

"That the Bill further to amend the Tamil Nadu Agricultural Service Cooperative Societies (Appointment of Special Officers) Act, 1986 as passed by Rajya Sabha, be taken into consideration."

"That the Bill further to amend the Tamil Nadu Cooperative Societies (Appointment of Special Officers) Act, 1976 as passed by Rajya Sabha, be taken into

consideration."

[Translation]

*SHRI S. THANGARAJU (Perambalur)
Mr. Chairman, Sir, my first amendment relates to the Committee of Parliament you propose to constitute.

[English]

MR. CHAIRMAN: Not amendment. You speak on the motion for consideration. Amendments come later.

[Translation]

*SHRI S. THANGARAJU: You are conferring powers on the President because there is no State Legislature. You are giving him blanket powers. On the other hand, you also propose that the President shall consult the Committee of Parliament whenever he considers it practicable. My amendment proposes that the consultation should be compulsory.

(English)

MR. CHAIRMAN: Mr. Thangaraju, you speak on the Bill, not on the amendments. Amendments come at a later stage. You speak on the Bill.

[Translation]

*SHRI S. THANGARAJU: Yes, I am speaking on the Bill.

My second and third amendments relate to the composition of the Committee. As I had already stated there is no legislature in the State. There are no elected members in the Assembly. However, members of Parliament elected from the State of Tamil Nadu

are here. The voice of the people is supreme law. People are supreme law makers through their representatives in the legislatures. Therefore, while constituting the committee you must necessarily include all the members of Parliament from Tamil Nadu in the Committee. You must also include the members of Parliament belonging to other States who are interested in the development of the State.

Let me on this occasion request the Govt. to make arrangements for early elections in the State, paving way for the installation of a popular Govt. Only an elected Govt. will deliver the goods. Only it can help democracy thrive in the State. More and more powers should not be vested in the President. Such an exercise is not democratic. I once again request that elections to the State Assembly must be conducted at an early date.

[English]

SHRI SAIFUDDIN CHOWDHARY (Katwa): Sir, I want to emphasise only one point. In a democracy, it is unfortunate that the President's rule is imposed on a State and the legislature is dissolved there and you are taking upon yourself the power to make laws which is the duty of the State Government there and their elected representatives. I am not going into the details of how things developed in Tamil Nadu but the real question that is now coming in the minds of all the people who love democracy and, particularly the people of Tamil Nadu, is how you are going to initiate a process that will quickly culminate in the holding of elections for the legislature there. That is very important. We want to see that the elections there are not delayed. Very soon, the elected representatives should be assigned with the task of running the State Government and not to run the Government there from the Centre as what you are doing now. The very motive, I must call, is not a fair motive. What

you are doing now is that you are trying to use this President's Rule to enhance the prospects of your party, as opposed to the possibilities of others who can naturally come back to power. This creates grave apprehensions in the minds of the people that by adopting different methods—maybe by dubious methods - unless you see that you have a fair chance to win you may not be willing to initiate the process for elections. Now, one thing the Central Government must understand is that anything may happen. Anything may be done by different Groups of AIADMK or others. But the people of Tamil Nadu are democracy-loving people. They are awaiting that date as to when they would be again entitled to cast their votes for electing a popular Government. That should be done without any delay and here I want a categorical reply from the Home Minister. What action you are taking in that regard for holding of elections? There may be so many paraphernalia that has to be undertaken before announcement of the elections. Have these things been properly taken up?

SHRI SOMNATH CHATTERJEE (Bolpur): Including astrology.

S.BUTA SINGH: Even a Marxist believes in astrology. (Interruptions)

SHRI SOMNATH CHATTERJEE: I do not. I know you believe in that. I am reminding you of that. (Interruptions)

SHRI SAIFUDDIN CHOWDHARY: I am not going into the tit-bits of the Bill that has come before this House. But I only want a very categorical assurance from the hon. Minister that the announcement of the elections will not be delayed and installation of a popular Government will be done very soon.

With these words I oppose this Bill.
 Thank you, very much,

S.BUTA SINGH: Are you supporting the Bill?

SHRI SAIFUDDIN CHOWDHARY: Opposing the Bill.

S.BUTA SINGH: Mr. Chairman, Sir, as you know, the measure that has been introduced and passed by the other House is very simple and enabling. In the past also...

SHRI SOMNATH CHATTERJEE: Everything is enabling. Even, Emergency law is enabling (*Interruptions*)

S.BUTA SINGH: The Government is very keen that elections should be held as soon as possible. The process is on. The revision of electoral rolls is at an advanced stage. The process has already started, as a matter of fact physically on the grounds...

SHRI SAIFUDDIN CHOWDHARY: Physically?

S.BUTA SINGH: That, you have to activate... (*Interruptions*)

We have already taken up with the Election Commission and the Chief Election Commissioner has informed that a programme for intensive revision of electoral rolls has been drawn up. He has also informed that the electoral rolls are expected to be published in the month of May and that exercise is monitored so as to be possible to hold elections by the end of June 1988. This is how, tentatively, the process is being set in motion. Definitely, the Governor will consult all the political parties there before holding an election. Consensus will be arrived at. It is a normal thing. But this Bill itself is a democratic Bill. It is not all that rigid. The President has been empowered to pass the legislation and within 30 days this House and the other House are competent to either suggest modifications or adopt them or even

to cancel them. So, this is, as a matter of fact, to bring all those measures within the jurisdiction of this august House. It is a democratic step. It should have been welcomed by my friend, who happens to belong to a progressive party. I can assure him that we are not at all interested in promoting the chances of our party through the Governor's rule. Our party is the very popular one among the masses of this country.

And the people of this country have proved that the Congress Party is the only party which holds the units of this country. Therefore, it is wrong to say that we are trying to promote our political interest through the Governor. Governor is a man of integrity in Tamil Nadu. He is one of our most eminent administrators. Therefore. (*Interruptions*)

SHRI SAIFUDDIN CHOWDHARY: Why a particular emphasis on Tamil Nadu Governor?

S.BUTA SINGH: Why not. We are proud of such an eminent citizen who are serving our great nation.

SHRI SAIFUDDIN CHOWDHARY: Every Governor should be a man of integrity. (*Interruptions*)

S.BUTA SINGH: I tell you under the Constitution, Governor has to do his functions. Nobody can interfere. (*Interruptions*)

SHRI SAIFUDDIN CHOWDHARY: Whatever the Sarkaria Commission has said that you have not followed. That is why, you have been compelled to say that. (*Interruptions*)

S. BUTA SINGH: Sarkaria Commission's Report is bound to come to this House. We will hear your valuable opinion on that. We will stand benefited from the contribution of the Marxist Party when the

Commission's Report comes to this House.

I am afraid the Hon. Member Shri Thangaraju has already spoken on his amendment. His amendment is too rigid. He should have more faith in the people of India. We are proud of people of Tamil Nadu. But he should be proud of the rest of the country also. You should have some faith in the people of India as you have allegiance on the people of Tamil Nadu. They are Indians first. Therefore, his amendment is too rigid. We have made it possible in this august House that Members from Tamil Nadu plus, if there is a shortage and the Hon. Speaker wants to nominate other Members from other States on the Consultative Committee of Tamil Nadu, there should not be any objection. Let it not be that rigid. I think, I have already replied to the amendment of my friend Mr. Thangaraju and I hope. (*Interruptions*)

SHRI SAIFUDDIN CHOWDHARY: Meeting of the Committee never takes place.

S. BUTA SINGH: It will. Let it be constituted first. (*Interruptions*)

SHRI SAIFUDDIN CHOWDHARY: Regarding Punjab, you constituted Committee but it never met. I am a member of that Committee. It never met. (*Interruptions*)

S. BUTA SINGH: Saifuddin Sahib, first let this Committee come into being. I am seeking permission of this House to constitute this Committee. Let it be constituted. We will hold the meeting. We will take you to Madras and serve you idly, dosa and every niceties. Therefore, as soon as this Committee is constituted, in case it is necessary, we will hold an immediate meeting. Therefore, Members will get full opportunity to participate on various measures that the Governor or the President may like to initiate for the betterment of the people of Tamil Nadu. With these few words, I request the House to

approve this Bill unanimously since it is a measure which will benefit the people of Tamil Nadu.

MR. CHAIRMAN: I shall now put the Motion to the Vote of the House.

The question is:

"That the bill to confer on the President the power of the Legislature of the State of Tamil Nadu to make laws, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted

MR. CHAIRMAN: Now we take up clause by clause consideration.

There are no amendments to clause 2..

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted

Clause 2 was added to the Bill

Clause 3

Conferment on the President of the Power of the State Legislative making Laws

MR. CHAIRMAN: Now we take up Clause 3.

SHRI S. THANGARAJU (Perambur) : I beg to move:

Page 2, line 2,-

Omit "whenever he considers it practicable to do so,"(1)

Page 2, lines 3 to 5,-

[Sh. S. Thangaraju]

for "consisting of forty members of the House of the People nominated by the Speaker and twenty members of the Council of the States nominated by the Chairman".

Substitute -

"Consisting of such number of members of both Houses of Parliament nominated by the Speaker or the Chairman, as the case may be" (2)

Page 2,-

after line 5, insert-

"Provided further that all the members from the State of Tamil Nadu elected or nominated, as the case may be, to both Houses of Parliament shall necessarily be represented in the Committee so constituted."(3)

Under the Bill, it is found that whenever the President considers it practicable to do so, he can consult any committee that it is not advisable. The committee should be consulted everywhere then and there to make any legislature in respect of Tamil Nadu. This amendment may kindly be adopted.

My second and third amendments provide that a Committee should be constructive one. It can discharge its duties properly if the representation of all Tamil Nadu Lok Sabha MPs as well as Rajya Sabha MPs is there in that Committee. There is no limitation. There should be no limitation. Forty Members from Lok Sabha and twenty Members from Rajya Sabha limitation should also be avoided and this amendment should also be taken into account.

16.00 hrs.

S. BUTA SINGH: I have already replied

to the contentions made in these amendments. I told that they are only rigidly put provisions and we are quite liberal. We have left options open. Members of this august House belonging to other States should also be associated with these consultative committees. I am afraid it is not possible for me to accommodate the Hon. Member. He should also see reason why the Members belonging to other States could not be associated with the consultative committee on Tamil Nadu. Therefore, I request him to withdraw the amendments.

MR. CHAIRMAN: Does the Hon. Member withdraw his amendments?

SHRI S. THANGARAJU: No Sir. I stick to my amendments.

MR. CHAIRMAN: I shall now put the amendments moved by Shri S. Thangaraju to the vote of the House.

Amendments Nos. 1 to 3 were put and negatived.

MR. CHAIRMAN: The question is:

"That Clause 3 stand part of the Bill"

The motion was adopted.

Clause 3 was added to the Bill

MR. CHAIRMAN: The question is:

"That clause 1, the Enacting formula and the long title stand of the Bill."

The motion was adopted.

Clause 1, the Enacting Formula and the long Title were added to the Bill

S. BUTA SINGH: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: Motion moved:

"That the Bill be passed."

SHRI SOMNATH CHATTERJEE (Bolpur): Mr. Chairman Sir, I know that our terrorised Home Minister - he says that he is terrorised because about Punjab he is totally terrorised, he cannot do anything there—has not spoken a word as to why the President's Act will be passed. He has not touched it at all. I know, Constitution provides for conferring power on the President to pass laws avoiding the legislature. Now, the State legislature is not there. They have gulped it down. So far as the Parliament is concerned, he wants to by-pass it. Now what they want to do is to have executive legislation. Like passing an ordinance, an executive legislation will be there.

Therefore, Sardar Buta Singh will now draft the laws - if he can at all do it himself - and then that will be passed. The President will sign and that becomes the law so far as Tamil Nadu is concerned. There is no question of even that advisory committee or consultative committee being given an opportunity - they may be given an opportunity or may not be given an opportunity to consider the Bill.

Kindly see sub-section (3) of Clause 3. It says:

"Every Act enacted by the President under sub-section (2) shall, as soon as may be after enactment, be laid before each House of Parliament."

It is a very enigmatic expression "as soon as may be after enactment". How soon it will be after that, nobody knows.

We have a very long session which shall be sitting upto middle of May. If there is any such law which is so urgent and which is required to be passed for Tamil Nadu or any

new law is to be enacted, why can't they come before the House, satisfy the Parliament and then have it enacted?

Now, after enactment what is given? Within 30 days either House of the Parliament may pass a resolution regarding that law. If such a resolution is moved then the House has to devote time for that purpose. Therefore, I cannot understand why this avoiding the Parliament for the purpose of passing laws even for Tamil Nadu.

Sir, I am against the principle of executive legislation. As he himself said this is an enabling provision. It was not obligatory on the part of Government to come with this Bill. They could have avoided it altogether but they want to avoid any discussion, any comment and any criticism in Parliament. Executive legislation should be taken recourse to when there is no way out. If you see Article 120 (0) which confers power of passing an Ordinance it says when it is absolutely necessary and the President has to be satisfied about immediate necessity of enacting a law when the Parliament is not in Session. Then you can promulgate an Ordinance. When the House is in Session and will be in Session for another month and a half what is the necessity of circumventing the Parliament. On principle this is wrong. When according to him by the end of June elections would be held then why are you taking this power of the House when the House is sitting till May? If you have contemplated any law then bring it here. Let us see whether we filibuster it or not.

Sir, no word has been spoken about the necessity of arming themselves with the power of executive legislation. Therefore, on principle it should not be adopted and the hon. Minister at least - though on a rare occasion - should show some respect for democratic principles in this country.

S. BUTA SINGH: Mr. Chairman, Sir, I

[S. Buta Singh]

cannot match in eloquence with my hon'ble friend, Shri Somnath Chatterjee. He is capable of building the arguments in the air and destroying the same by himself. There is no necessity of this filibuster here in this House. I think the hon. Member himself knows pretty well that this is permissible under the Constitution. Nothing extra-Constitutional is being taken. Therefore, the hon. Member should not have laboured so hard. I thought he would reserve his energy for more difficult Constitutional tasks that he has to perform in this august House. The hon. Member also says why we are coming to the House for this legislation as if we are trying to steal away the powers of this House for some ulterior motive. It is far from being true. As you know the hon'ble House itself has a busy schedule and we do not want to burden this House for things which could ordinarily be taken care of. Now my colleague Shri Bhajan Lal will be coming before this House with ordinary Cooperative Societies Acts. Two of them will be passed now. Similarly, the State Government has mentioned many other measures in which they will require the legislative powers in day-to-day functioning.

SHRI C MADHAV REDDI(Adilabad): Why do you want us to pass this Bill when we have given the powers to the President?

S.BUTA SINGH: I am sorry your friend should have been satisfied. I am faced with an Opposition which says you should do something and the other says why are you doing it. (*Interruptions*).

The hon. Member must know that it is the State administration which has to create situation, to give us the utility, what are the things that they require. As soon as the things are known, we will come to this august House. Therefore, I can't think out that till the end of the President's Rule, what will happen. It is for the State administration to advise us. These are the things that they

may require during this period. Up to May, this august House is sitting. After that, from May to the end of June, if everything goes well, there will be at least one month, where will we go? That's precisely why we are seeking this power under the Constitution so that we could do the things.

SHRI SOMNATH CHATTERJEE: Will the hon. Minister give a commitment that after the end of May, he will not pass any President's Act?

S.BUTA SINGH: How can I bind myself? The situation might arise in the State. It is running affair.

SHRI SOMNATH CHATTERJEE: Till the middle of May, you can come to the House.

S.BUTA SINGH: Yes, as my colleague is just now coming.

SHRI SOMNATH CHATTERJEE: For future laws.

S.BUTA SINGH: As soon as something comes, naturally at the first opportunity, we will come before this august House. Also, in this very Bill, it is provided that within 30 days of enactment, this House has the authority to go over it. They can reject it. They can modify it. They can improve it. There is nothing extra-constitutional or beyond the scope of the Constitution that I am trying to seek for the President in Tamil Nadu. It is perfectly in order. If the hon. Member wants me, I can read the instances in his own State. Twice in '70 and '71 ...

SHRI SOMNATH CHATTERJEE : I never used the word 'unconstitutional'. I said you are trying to take a recourse to executive legislation. So long as this House is sitting, why should you take that? That's what I am saying.

S. BUTA SINGH: Perfectly provided for in the Constitution.

SHRI SOMNATH CHATTERJEE: Everything is provided. Emergency is provided. (Interruptions).

S. BUTA SINGH: Why are you creating this innocuous thing with the emergency? You are always concerned... (Interruptions) That's why I said, he should reserve his energy for certain serious things. These are normal. The average State, average province will need such powers. That's why he should not be abnormal today at least.

In view of the otherwise busy schedule of this august House, it may not be possible for Parliament to deal with various legislative measures that may be necessary in respect of the State of Tamil Nadu. There may be particular difficulty if a situation arises which may call for emergent legislation. Also, the need for legislation may be necessary when parliament is not in session.

These are the contingencies for which we are trying to seek the power from this august House. I can assure the hon. Member that the State administration will use these measures for the purposes precisely mentioned.

Also, the hon. Member said, before enacting what are you doing?

The Bill provides that before enacting any law for the State of Tamil Nadu, the President shall, whenever he considers it practicable to do so, consult the Committee constituted for the purpose, which will be a Committee of this august House.

Similarly after enactment, Clause 3 of the proposed Bill makes provision for Parliamentary control over the legislation enacted by the President. Either House of the Parliament may, by resolution passed within 30

days from the date on which an Act enacted by the President (in the exercise of his delegated powers) is placed before it, direct that modifications may be made in the Act. If the modifications are agreed to by the other House also, they shall be given effect to by the President by enacting an Amendment Act. It will thus be seen that the delegation to the President will not be absolute and that the essence of Parliamentary control will still be there, even after this Bill has been passed.

This is the extent to which we go. We are more democratic than, you think, you are. Therefore, I think the hon. Member has shown his constitutional capacity which is established. We don't deny that you are a constitutional expert.

SHRI SOMNATH CHATTERJEE: No, no, I am not an expert.

S. BUTA SINGH: Therefore, in the national interest and in the interest of Tamil Nadu people, I think, the hon. Member will agree with me and pass the Bill unanimously.

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

MR. CHAIRMAN: Now we take up the next bill. The question is:

"That the Bill further to amend the Tamil Nadu Agricultural Service Cooperative Societies (Appointment of Special Officers) Act, 1986, as passed by Rajya Sabha be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: The House will take up Clause-by-Clause consideration of the

The motion was adopted.

Bill. The question is:

Clause 2 was added to the Bill.

"That Clauses 2 and 3 stand part of the Bill."

MR. CHAIRMAN: The question is:

The motion was adopted.

"That Clause 1, Enacting Formula and the Long Title stand part of the Bill".

Clauses 2 and 3 were added to the Bill.

The motion was adopted.

MR. CHAIRMAN: The question is:

Clause 1, Enacting Formula and the Long Title were added to the Bill.

"The Clause 1, Enacting Formula and the Long Title stand part of the Bill."

SHRI BHAJAN LAL: I beg to move:

The motion was adopted.

"That the bill be passed."

Clause 1, Enacting Formula and the long Title were added to the Bill

MR. CHAIRMAN: The question is:

" That the Bill be passed."

SHRI BHAJAN LAL: I beg to move:

The motion was adopted.

"That the bill be passed."

16.18 hrs.

MR. CHAIRMAN: The question is:

DEMANDS FOR GRANTS 1988-89—
CONTD

"That the Bill be passed."

The motion was adopted.

Ministry of Energy

MR. CHAIRMAN: The question is :

[English]

That the Bill further to amend the Tamil Nadu Cooperative Societies (Appointment of Special Officers) Act, 1976, as passed by Rajya Sabha, be taken into consideration."

MR. CHAIRMAN: Now, we will take up discussion and voting on Demands Nos. 19—21 relating to the Ministry of Energy for which six hours have been allotted.

The motion was adopted.

MR. CHAIRMAN: The House will now take up Clause-by-Clause consideration of the Bill. The question is:

Hon. Members present in the House whose out motions to the Demands for Grants have been circulated may, if they desire to move their cut motions, send slips to the Table within 15 minutes indicating the serial numbers of the cut motions they would like to move. Those cut motions only will be treated as moved.

"The Clause 2 stand part of the Bill."