

ding and for other reasons. Every complaint has to be examined by the High Court if it is made by an individual and not through the Advocate General. This will take away a lot of time of the High Courts, which are already over-worked and there are lots of arrears. So this was done to regulate it.

I have nothing more to add and I once again thank the hon. member for supporting the Bill.

MR. CHAIRMAN: The question is.

"That the Bill to amend the Contempt of Courts Act, 1971, as passed by Rajya Sabha be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: Now, I shall take up clause by clause consideration. Since there are no amendments, I will put to the vote all the clauses together. The question is:

"That clause 2, clause 1, Enacting Formula and the Title stand part of the Bill"

The motion was adopted.

Clause 2, clause 1, Enacting formula and the Title were added to the Bill

SHRI BEDABRATA BARUA: I beg to move:

"That the Bill be passed"

MR CHAIRMAN The question is:

"That the Bill be passed"

The motion was adopted

12.15 hrs.

### GUJARAT STATE LEGISLATURE (DELEGATION OF POWERS) BILL

THE DEPUTY MINISTER IN THE  
MINISTRY OF HOME AFFAIRS  
(SHRI F. H. MOHSIN): Sir, I beg  
to move:

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

Sir, the House is aware that the Proclamation dated 12th March, 1976, made by the President under article 356 of the Constitution in relation to the State of Gujarat provides *inter alia* that the powers of the State Legislature shall be exercised by or under the authority of Parliament. However, in view of the otherwise busy schedule of business of the two Houses, it would be difficult for Parliament to deal with the various legislative measures that may be necessary in respect of the State. It would be even more difficult in situations requiring emergent legislation. 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 States which came 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 51 Members of Parliament (34 from Lok Sabha and 17 from Rajya Sabha) in this regard. Provision has also been made to empower Parliament to direct modifications in the law made by the President, if considered necessary.

I request this hon House to accept the legislative proposal before it

\*Moved with the recommendation of the resident.

SHRI BIREN DUTTA (Tripura West): At the outset, I would like to say that the step to topple non-Congress Governments in the States was taken because of the extreme desire of the ruling Congress to have their party rule in all the States. In Tamil Nadu they have dissolved the Assembly but here in Gujarat they were expecting some elements to cross the floor and come to the Congress and that is why they have not dissolved the legislature there. This was done just to keep the Congress Party in power there. Take the case of Tripura. In the last Budget session, your Party was going to be in minority but all of a sudden, all opposition MLAs including leaders of Opposition parties had been arrested under MISA and that is how the Congress Government was survived there and it is still continuing. If no elected Government can be formed in Gujarat, why not dissolve the Assembly as you have done in Tamil Nadu? Why are you keeping the MLAs under detention in Tripura to keep your Government functioning there? That is the most abnoxious think which has now been done by the Centre in relation to those State Governments where there is a chance of opposition coming into power. The speeches of the Prime Minister in the case of Tamil Nadu and Gujarat showed that she was no longer interested in Janata Front Governments and the President was going to take over the administration. These things are now continuing. In the circumstances, what are the prospects of opposition Governments in India?

What are the prospects for fighting elections, with a democratic spirit and through the constitutional process, with a view to attain power i.e. by the mechanism of elections to the legislative assembly or even to Parliament? You can see what had happened in Uttar Pradesh. When the President's rule comes in, this legislation will no doubt be necessary; but

before giving any consent to this—we have opposed that ordinance itself—I must say this. Since you declare that by bringing in this emergency you are defending democracy and that you are fighting fascism, I must ask whether this was the process of demanding democracy and of fighting fascism. I think that it is not good for the future of democracy. As such, I demand that elections should be held in Gujarat immediately.

SHRI C. K. CHANDRAPPA (Tallicherry): I rise only to point out one thing to the Minister, for his consideration. This bill has been necessitated, as we all know, because Gujarat today is under President's rule; and now, legislative powers will be conferred on the President. In the bill, it is said:

"Provided that before enacting any such Act, the President shall, wherever he considers it practicable to do so, consult a Committee constituted....."

I do not know why the Government have included the words, "whenever he considers it practicable". We think that the Government and the President should consult the committee before the latter enacts any legislation. Otherwise, I think that the very idea of having a consultative committee—and its very purpose—will be defeated, i.e. if the committee is treated in that fashion and it is kept as a mere ornament I don't think that it is a very good idea. When you constitute a committee consisting of responsible Members of Parliament and others, I think that that committee should be given some power, especially when Gujarat to-day is under President's rule and when the Government often says that it is deeply interested in getting the people's involvement in implementing the 20-Point Economic Programme and other programmes for the welfare of the people in that State.

If President enacts a legislation and the committee remains an ornament, there is no need, I think, for having the committee. What does it mean? It means that you will leave the entire administration in the hands of bureaucracy; because after all, the President, Mr. Fakhruddin Ali Ahmed is not going to sit and study the whole thing. It will be done by the bureaucracy; and they will pass it on to the Governor; and it will then come to the President and the President will sign. The committee will remain ignorant of all those things. I could move an amendment; but I would like to request the Government to accept our proposal and accept an amendment to that effect. This is all that I would say.

One word about what my marxist friend was saying. I was really surprised and shocked to hear him. It was always said by the CPM that they are not in favour of the Janata Front of Gujarat. They did not consider it a revolutionary combination of people or a democratic set-up. But today they are shedding tears for that Government. This is the third time I am hearing them saying within a week that the Gujarat Government have gone. It is a good thing that Government have gone. . . (Interruptions). It shows the conditions in our country are not favourable for unprincipled coalition, a coalition with no programme, a coalition which follows anti-people activities. It had a pro-landlord programme and so it collapsed. The exist of that Government was a welcome development in that State. I hope the Government will consider these proposals.

**SHRI HARI KISHORE SINGH** (Pupri): Sir, I am thankful to you for giving me this opportunity to say something on this vital question. This is the time for retrospection why this Gujarat experiment has failed. What has happened in that State is a very lamentable affair. I am not one of

those who relish the idea of the fall of an elected Government. I think it is a sad thing that one after another the elected Governments in Gujarat have fallen. But, we must also see how this has happened. That is why I say that this is the time for retrospection. We should review the whole gamut of the situation which led to the fall of the Patel Ministry.

Sir, you will recall, and the House will recall, that when the agitation for toppling down of the Chimanbhai Patel Ministry was being conducted, our friends in the opposition were very much relishing the situation. At that time they should have thought of the fact that if lawlessness is encouraged today, it might have repercussions tomorrow, and it will vitiate not only the present atmosphere but would have effects on the future political life of the country as well. The atmosphere created, the methods employed to topple the Ministry, and furthermore the methods adopted to bring about the dissolution of the Assembly, are a very sad commentary on the political life of our country. I think those who indulge in this have to subject themselves to a very serious retrospection today and think whether that step to bring down the elected Assembly by force, forcing the Members of the Assembly to resign, coercing the Assembly Members to submit their resignation, whether that was the right step. I think that method should be condemned, criticised, and once for all it should be decided what steps should be taken even in a situation, where the Assembly or the elected Government goes against the declared policies and programmes on which it had come into power.

In this context, I would like to remind the House of the methods adopted by Shri Morarji Desai, whom all of us hold in great respect, how he forced an election on Gujarat when it was in a very difficult situation, by

[Shri Hari Kishore Singh]

undertaking a fast, and all of us had appealed to the Government at that time to save his life by holding the elections, and the elections were held. Although it should not have agreed to his demand, on humanitarian grounds as a special case, just to save the life of a freedom fighter, Government agreed to hold elections in June, which is a very difficult period for this purpose.

I do not know whether my friends opposite consider resorting to hunger strike for holding elections as Gandhian, as democratic and parliamentary. Whatever it is the life of Morarji Desai was saved and we were glad at that time, but when the elections were held, all of a sudden, all kinds of elements came together to form an alliance called the Janata Front. I am glad that the CPM was not part of the Janata Front, but the CPM seems to have sympathy for the Front because the Front was a strategy evolved by the rightist and reactionary elements in the country for undermining the position of the Congress. And because it was likely to undermine the position of the Congress, the CPM was happy, but now they are sorry that that Government has fallen.

That Government, as has been rightly pointed out by my hon. friend Shri Chandrapan has fallen because of inner contradictions. That kind of combination cannot last in this country because the whole tone and temper of the country is something different from what the Janata Front represented.

President's rule was imposed by the Centre after the Ministry had resigned, that must not be forgotten, and the Ministry resigned because it had developed inner contradictions, because the Janata Front consisted of many opportunistic elements and some of them started defecting

So, this is also time for us to reflect how far the politics of defection

should be allowed, because if the politics of defection goes on, no healthy parliamentary activity is possible. So, defectors should have no place in the body politics of this country. Defectors should not be encouraged in any way, and I would request this House to make its views known on this issue emphatically, decisively and conclusively that defectors must not have any place in the parliamentary and political life of our country. (Interruptions). There is no place in the Congress for defectors. We will not admit them, we have not admitted. We will admit members from the Congress organisation, not from the Jana Sangh.

MR. CHAIRMAN: He says only the return of the prodigal is allowed.

SHRI HARI KISHORE SINGH: The other problem I would like to point out is what kind of relationship there should be between the Centre and the State, what kind of policy should be adopted by the Centre when a State goes against the declared national objectives and policies. After the formation of the Janata Front Government headed by Mr. Patel, a very difficult situation arose in this country and we had the emergency.

After the emergency was proclaimed, after a few months, it seemed that Gujarat became a sanctuary of all the political delinquencies from all over the country. If a situation emerges that a State Government gives protection to those elements who are considered undesirable or anti-social by other State Governments, then what should the Centre do? Shall the Centre remain a silent spectator of the situation or has it to take some steps in order to rectify the situation? It is for this House to ponder over it. I do not say anything about acts of omissions or commissions of the Patel Ministry. I think he deserves congratulations for accepting and honouring

the verdict of the Assembly, because we have seen in this country that in many States where the majority of the Government was reduced in the Assembly, they had acted by the option of adjourning of the House. Now, he did not do it. I hope he will take that into account in future and just for undermining the position of the Congress Party, just for the hatred of the Congress Party, would not initiate or would not try to follow his great leaders in maintaining opportunist alliances like the Janata Front.

With these words, I support it.

**SHRI K. S. CHAVDA (Patan):** Mr. Chairman, Sir, a consultative Committee consisting of Members of both the Houses Lok Sabha as well as Rajya Sabha, is going to be constituted immediately after passing this Bill into an Act. I would like to give a few suggestions for the immediate consideration of the Government and this Committee.

An atmosphere of terror and fear is created in the State of Gujarat during this President's Rule. Some Members of the Assembly belonging to the Janata Front are threatened that if they do not defect from the Janata Front, taken they will be put behind the bars either under MISA or under DIR. This type of atmosphere should be stopped and Government should take immediate action to stop this type of things in the State of Gujarat.

A large number of Government employees are being transferred after the President's Rule. I can understand due to administrative convenience some transfer is made, but not to a large extent. This transfer of Government employees should also be stopped immediately.

My third point is that those political workers and MLAs who are put behind the bars under MISA or DIR should be released immediately. There is no violence or anything of the kind

in the State of Gujarat. (Interruptions).

**SOME HON. MEMBERS:** How many political workers and MLAs are put behind the bars?

**SHRI K. S. CHAVDA:** Government can tell the figure, because it is they who are knowing about these things; it is not that we or the people of Gujarat or of the country are knowing about these things. It is for Mr. Mohsin to tell the House about the figure regarding the political detenus in the State of Gujarat immediately after and during the President's Rule.

The construction works of roads and bridges which are going on should be speeded up so that the transport facilities can be maintained.

All these things should be done immediately. These are the points which I wanted to bring to the notice of the hon. Minister.

**THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI F. H. MOHSIN):** Mr. Chairman, Sir, I am thankful to the hon. Members who have taken part in this debate. The first speaker, Shri Biren Dutta, has spoken about things which are not very relevant to this Bill. This is only meant to delegate the powers of Parliament to the President...

**MR. CHAIRMAN:** You may reply only to the relevant points.

**SHRI F. H. MOHSIN:** Since you have allowed him to speak all that which has gone on record, please allow me also to say something about that.

The hon. Member, Shri Biren Dutta, asked a question as to why the Tamil Nadu Assembly was dissolved and why the Gujarat Assembly kept alive. He was accusing that it was only with a view to getting some Members defected and again forming a Government in Gujarat....

**SHRI SAMAR MUKHERJEE** (Howrah): It is true.

**SHRI F. H. MOHSIN**: But the situations in both the States are quite different. As regards the Tamil Nadu Assembly, they went to elections five years back and the term of the Assembly was to expire very shortly.

**SHRI K. S. CHAVDA**: You should have gone in for elections.

**SHRI F. H. MOHSIN**: Even if the Tamil Nadu Assembly had not been dissolved, that would not have survived long. The term was going to expire very shortly. Then, the question was raised as to why it was dissolved. Let me tell the House that already there was a campaign going on by the then Government of Tamil Nadu, the DMK Government, to create a law and order situation in the whole of the State of Tamil Nadu. They were raising some emotional issues and arousing the sentiments of the people there, thereby creating disorder in the whole State. They were doing all that because they know that they would not be elected again to rule the State. So, they were rousing the sentiments and emotions of the people on narrow parochial and such other issues, thereby creating a situation which would have been difficult to control. We had the information about it. If the action were delayed any further, the situation would have become worse and a violent situation would have erupted in Tamil Nadu. That was why we had to take a very timely action.

Now, the action which was taken has been approved by the people of Tamil Nadu by the very sight when the Prime Minister visited the State. Even now the voices are raised all over Tamil Nadu approving the timely intervention of the President by having the President's Rule there.

What about Gujarat? We have not done anything to throw away the Government there, the so-called Janta

Front Government which is not a janta front at all. It was a front of reactionary and fascist elements...

**SHRI K. S. CHAVDA**: No, no, it is wrong. (Interruptions) You have got some such people in your party there. Take a person like me. I am not a reactionary. (Interruptions).

**SHRI F. H. MOHSIN**: In Tamil Nadu, the DMK Government survived for nine years, but the Government in Gujarat could not survive beyond nine months. There seems to be something in the figure 'nine,' one survived for nine years and the other survived for nine months. I myself never imagined it at that time: when this Government was formed in Gujarat by the heterogeneous elements with nothing in common among them, with no common ideologies and no common programmes, I never thought that it would survive even for nine days. Could you imagine that the Government of the so-called 'progressive elements' as Mr Chavda puts it, would last even that long? He calls himself a 'progressive element', combining himself with Jana Sangh and the RSS elements. Is there anything common among them? If they say 'we have got common ideologies' I can understand it, but there is nothing in common among them. With all the inherent contradictions about the Janata Front, there only one common objective, and that common objective was to see that the Congress did not come into power. That was the only common objective among all the heterogeneous elements which came together to form a Government. I can tell you that had we wanted to form a Government, we could have done it; but we did not want to sacrifice our ideologies. When Mr. Chinmanbhai Patel was in power, you alleged so much corruption against him, but you had no hesitation in embracing him soon after the elections in order to get power. So, what is the policy and what is the

ideology and what is the principle behind it? We did not want to embrace him. If we had been prepared to combine with them, we could have formed the Government. But we were not in a hurry to form a Government and we did not want power. Of course, it stood even beyond my expectations....

SHRI K. S. CHAVDA: Will you reply to one point?

SHRI F. H. MOHSIN: will reply to all the points; please have patience.

So, with all these inherent contradiction within the so-called Janata Front, it was destined to fall though it survived so long as nine months. Normally, one expects a child after nine months; but even after nine months; you could not deliver the child—it was only an abortion.

So, as I was saying, we were not in a hurry to form a Government by hook or by crook. You have no faith in the 20-point programme; you have no faith in the economic programme and you have no faith in democracy. But we were not in a hurry to form a Government since we were sure of the support of like-minded people and like minded Parties. We have faith in the 20-point programme; we have faith in the economic development of the State. Otherwise, if we had wanted to form a Government, we could have formed it and we would not have allowed the Janata Front to come to power at all. But we have got great regard for democratic principles and so we allowed you to do so and we allowed you to function till such time as the Government itself fell due to its own defects. We have have not felled it; it has fallen itself.

The Chief Minister has voluntarily resigned, and it is President's rule now.

SHRI BIREN DUTTA: What about Tripura; you sent all the opposition people to jail.

SHRI F. H. MOHSIN: We will discuss about when we come to Tripura.

Shri Chavda said that we were threatening the members of Gujarat legislature that either they should defect, or they would be got arrested. I strongly refute these allegations.

SHRI K. S. CHAVDA: I have been to my constituency and it is a fact.

SHRI F. H. MOHSIN: It is not a fact. I get information from all over the country, it is not correct. It at all, they must have been arrested for some specific offence or for threatening to create a violent situation which may be a threat to public order or it may be some other ground. Nobody is arrested for his political views.

MR. CHAIRMAN: Just now Shri Chavda said that one of the Members in his constituency was told that if he defected, he would be made a Minister. Probably, he is confusing that with MISA.

SHRI F. H. MOHSIN: We do not induce anybody by promising Ministership, and we do not threaten either. I have said, we are not in a hurry to form the Government there. There is no question of inducement of money or offering ministership etc. These allegations are strongly refuted. We do not want any body to defect. In fact, the anti-Defection Bill is before the House.

SHRI K. S. CHAVDA: Why don't you pass it?

**SHRI F. H. MOHSIN** : It is a Government Bill. That would show Government's intention. It is before the Select Committee I think, you are also a Member of the Select Committee.

**SHRI K. S. CHAVDA** : I am not a Member

**SHRI F. H. MOHSIN** : CPM members are there. It is in the hands of the Committee. We are more eager to see that defections should not take place. We do not want any defections. But if a person changes his outlook and repents for his previous misconduct, and adopts himself to the ideologies which we have and changes his heart, in that case, we can think of his admission, but no defections.

Shri Chavda said about the transfer of officers. It was the JF Government that made transfers in a very huge case. More than 500 sub-inspectors were transferred by Janta Front Government under pressure and even medical officers were not spared. They are innocent creatures. Large scale transfers were effected. I do not know the present situation. They may be undoing what the JF Government did at that time. It was the JF Government which made all these transfers.

Shri Chandrapan mentioned about the Consultative Committee and its powers. He wanted more powers to be given to the Consultative Committees. The character of the Consultative Committee cannot be changed overnight. Many times this has been raised in this House that these Committees should have more powers than given today. It would not be desirable to have this kind of Consultative Committees with elaborate and formal rules of procedure. Usually, as my friend knows, legislative measures are brought before the Consultative Committee as and when it is possible, but in an emergent situation, action is taken like the ordinan-

ces which have already been issued. For your information, I might say that so many legislative measures have to be enacted as Presidents Acts, which were very urgent in nature.

They were very urgent in nature—Bombay Motor Vehicles Tax Bill, Gujarat Second Amendment Bill, Bombay Motor Spirit Taxation Bill, Gujarat Sales Tax Bill, Bombay Electricity Duty Bill, Gujarat Education Cess Bill, Gujarat Sales Tax, Profession, Trade, Training and Employment Bill, etc. So those measures have to become Acts before 1-4-76. In an emergent situation like this it is not possible to bring all of them before the Consultative Committee. The nature of the Consultative Committee cannot be changed which has to be consulted after the Bill is enacted. Anyway, if any Act is passed by the President under his delegated authority, the Parliament has always got the power to get it amended by bringing a motion in the House. That power of the Parliament is not lost. Clause 3 of the Bill states that within a particular period, any Member can move a motion amending any provision so that the Parliamentary control even then remains. It does not go away even when we delegate the power to the President. That power is not lost.

So, I commend again this Bill for the acceptance of the House.

**MR. CHAIRMAN** : Now, the question is :

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

*The motion was adopted.*

**MR. CHAIRMAN** : There are no amendments. I will put the clauses to vote.



Now, the question is :

"That clauses 2, 3 and 1, the Enacting Formula and the Title stand part of the Bill."

*The motion was adopted.*

*Clauses 2, 3, and 1, the Enacting Formula and the Title were added to the Bill.*

SHRI F. M. MOHSIN : I beg to move :

"That the Bill be passed."

MR. CHAIRMAN : The question is :

"That the Bill be passed."

*The motion was adopted.*

12.58 hrs.

KERALA LEGISLATIVE ASSEMBLY  
 (EXTENSION OF DURATION)  
 AMENDMENT BILL

THE DEPUTY MINISTER IN THE  
 MINISTRY OF LAW, JUSTICE AND  
 COMPANY AFFAIRS (SHRI BEDA-  
 BRATA BARUA) : I beg to move :

"That the Bill to provide for the extension of the duration of the Legislative Assembly of the State of Kerala and to amend the Kerala Legislative Assembly (Extension of Duration) Act, 1975, as passed by Rajya Sabha, be taken into consideration."

12.50 hrs.

[MR. DEPUTY SPEAKER in the Chair]

When the duration of the Kerala Legislative Assembly was extended for a period of six months by the Kerala Legislative Assembly (Extension of Duration) Act, 1975, the two proclamations issued by the President on the 3rd December, 1971 and the 25th June, 1975 were in operation. The General Elections to

the House of the People as well as to the Legislative Assembly of Tamil Nadu were due to be held in February-March, 1976. The situation has changed since then. The duration of the House of the People has been extended for a period of one year. The Legislative Assembly of Tamil Nadu has been dissolved and the State has come under President's Rule. Besides, the two Proclamations referred to earlier continue to be in operation. In all these circumstances, it is considered not feasible to hold general election to the Legislative Assembly of Kerala before the expiry of its present term, namely, the 21st April, 1976. It is accordingly proposed that the duration of the Legislative Assembly of Kerala be extended for a further period of six months from the 22nd April, 1976. The Bill seeks to achieve this purpose.

I commend the Bill for the consideration of the House.

MR. DEPUTY-SPEAKER: Motion moved :

"That the Bill to provide for the extension of the duration of the Legislative Assembly of the State of Kerala and to amend the Kerala Legislative Assembly (Extension of Duration) Act, 1975, as passed by Rajya Sabha, be taken into consideration."

SHRI A. K. GOPALAN (Palghat) : I have just now heard the reasons for extending the term of the Kerala Legislative Assembly. And that was that the Tamil Nadu Legislative Assembly was dissolved, so, naturally, the Kerala Legislative Assembly also must be extended. Tamil Nadu legislature was dissolved. That itself was the end of democracy. So, they did one foolish thing. This had already been discussed here. I do not want to go into the details. Could they not wait for one month and have the election in order to see the will