

12.15 hrs.

ORISSA LEGISLATIVE ASSEMBLY  
(EXTENSION OF DURATION)  
Bill—Contd).

**Mr. Speaker:** The House will now take up further consideration of the following motion moved by Shri G. S. Pathak on the 12th May, 1966, namely:—

"That the Bill to provide for the extension of the duration of the present Legislative Assembly of the State of Orissa, be taken into consideration."

Shri G. S. Pathak to continue his reply to the debate (*Interruption*). Order, order. I have always to request that those who want to go away may do that silently.

**Shri Nath Pal (Rajapur):** Why this Napoleonic posture on the part of the Law Minister?

**The Minister of Law (Shri G. S. Pathak):** I can do like this; what is wrong with this?

**Shri Hari Vishnu Kamath (Hoshangabad):** We know his capacity; he can do so many things. But why should he do them?

**Shri Hem Barua (Gauhati):** That is a threatening pose. (*Interruption*). We are afraid.

**Mr. Speaker:** Order, order. If one rides in the air, what can happen? Shri Pathak may start his speech.

**Shri G. S. Pathak:** Mr. Speaker, Sir, three views were expressed in this House. One is, supporting the Bill, and those who have supported the Bill have given very cogent reasons. I will come to those reasons immediately. The other view is that elections should be held before the general elections of February, 1967. The third view is that President's rule should be had, and there should be no election whatsoever.

The reasons why this Bill had to be brought have been clearly put forward in the course of this debate. The duration of the Assembly terminates on the 20th August. The next general elections are going to take place in the month of February, 1967.

**Shri Hari Vishnu Kamath:** If all goes well.

**Shri G. S. Pathak:** This gap is that of about six months. The question is whether it will be advisable to have two elections, one for the Assembly now and the other for the Parliament in the month of February, 1967. A heavy burden upon the administrative machinery will result. Inconvenience will be caused to the electorate. Duplication of expenditure will be caused not only to the candidates, not only to the parties but also to the Government.

**Shri Surendranath Dwivedy (Kendrapara):** What happened in 1961?

**Shri G. S. Pathak:** If he will wait a little, I will mention about 1961 also. The impression that has been created on one's mind after hearing the debate is that some of the parties in the Opposition also do not desire that there should be an election, if I have correctly heard what my hon. friend Shri Dwivedy has said, Shri Trivedi has said—

**Shri Hari Vishnu Kamath:** Chaturvedi. (*Interruption*).

**Shri G. S. Pathak:** And Shri Kamath.

**Shri Hari Vishnu Kamath:** I did not speak on this.

**Shri G. S. Pathak:** If my impression is correct, they accept the position that general elections for the Assembly are not feasible. They accept the position that it will involve unnecessary expenditure if we are going to have one general election for the Assembly and another general election for Parliament in 1967. Therefore, the position is incontrovertible

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and the facts cannot be disputed, that there will be inconvenience caused to the electorate; there will be unnecessary expenditure involved if you have two elections, as has been urged by the Swatantra party. Therefore, the question of having two general elections should be dismissed from consideration altogether.

Then we have the alternative which has been put forward by my hon. friend Shri Dwivedy, and it is this: we should have President's rule, and he has asked me to consider it as his advice. If he considers it himself again, I hope he will agree that this is a very dangerous proposal.

**Shri Surendranath Dwivedy:** Not more dangerous than extending the life of the Assembly.

**Shri G. S. Pathak:** Under the Constitution, certain conditions must exist before you can have President's rule. The President must be satisfied that it is not possible to carry on the government in accordance with the Constitution; otherwise, he cannot make a proclamation under Article 356. Also, it is the duty of the Union to ensure that the Government in every State is carried on in accordance with the Constitution. If the Union finds that the power belongs to the Union to have the term of this Assembly extended and it is in accordance with the Constitution that the government should be carried on which the Assembly functioning in the State, it is the duty of the Government to have the Assembly continued and see that the government in the State is carried on in accordance with the Constitution. The Constitution requires that there must be a Legislature in every State. That is the normal rule. Knowing that, if Mr. Dwivedy's argument is to be accepted, the result would be that, the Government should first create a situation in which it can be said that the government cannot be carried on in accordance with the Constitution.

**Shri Surendranath Dwivedy:** The situation is there; there is complete break-down of administration.

**Shri G. S. Pathak:** How can that situation be created? First create that situation and then say, have President's rule. He wants the Government to create that situation.

**Shri Hari Vishnu Kamath:** We will create it.

**Shri G. S. Pathak:** Then the Government must see that the Constitution is observed and the Government is carried on in accordance with it. This will be the absurd result, if I may say so with all respect, to which we will be driven if we contemplate President's rule in the State. There is an Assembly existing. Parliament has the power to extend the duration of the legislature. There will be an elected legislature functioning. Mr. Dwivedy wants President's rule so that the elected legislature may not function and a situation should be created in which article 356 should be applied. This is something which is amazing, if I may say so with all respect.

**Shri Surendranath Dwivedy:** I have also said that it will be a very good convention if 6 months before the general elections, the ministry resigns on that ground, I said, instead of extending the life of the Legislature, you can also consider whether the ministry should not resign.

**Shri G. S. Pathak:** The ministry cannot resign so long as the ministry, which is responsible to the legislature, enjoys its confidence.

**Shrimati Renu Chakravartty (Barackpore):** Do you remember what happened in Kerala?

**Shri G. S. Pathak:** Yes; when President's rule was introduced in Kerala, it was said that there was death of democracy. I am sure if President's rule is introduced in Orissa, there

will be Members who will oppose it. I know that also.

**Shri S. Kandappan** (Tiruchengode): Sir, I want to seek one clarification. For passing this Bill the Government has taken recourse to the emergency provisions in the Constitution. . .

**Mr. Speaker:** Order, order. The hon. Minister is not yielding.

**Shri G. S. Pathak:** Look at the practical aspect of this question also, apart from the constitutional aspect. It will need some time before the President's rule can be introduced in the State. The change-over from the State Government to the President's rule would need some time. Now there are only just a few months left, and if we introduce President's rule, we will have all kinds of criticism against the President's rule as a substitute for a rule by the government working in an elected legislative assembly, it is difficult to beat a suggestion like this in lack of utter cogency and reason (*Interruption*).

So far as presidential rule of 1961 is concerned, it will be well to bear in mind that on 25th February, 1961 presidential rule was introduced in Orissa. At that time the question was whether legislative assembly elections should be held. The Government agreed. There was no emergency. There was no question of a legislative assembly functioning. The Government agreed, and there were parties concerned which also agreed that there should be elections and that there should be legislative assembly instead of President's rule. The Government did accept the proposal in favour of elections because the Government rightly thought that the presidential rule should be discontinued and popular government should be introduced by means of elections and by means of a legislative assembly. The position was the reverse of what you find today. The Government wants that the legislative assembly should continue there. Then also the Government wanted that a

legislative assembly should come in. Therefore, that instance of 1961 bears no analogy whatsoever to the present position. The present position is that the legislative assembly will continue. The Government is a popular government and for a few months that government continues.

One thing more I would like the House to remember. When you find that there is drought, there are famine conditions and there is trouble, as pointed out by some hon. Members of this House, is it better that the official machinery, which should be concerned with the question of giving relief to the people, should be entrusted with the work of administration of elections, should be entrusted with the work of having polls and setting in motion the entire electoral machinery.

**Shri Surendranath Dwivedy:** Are you going to postpone the elections in 1967?

**Shri G. S. Pathak:** I am also meeting the other argument that there should be elections just now. Yours was not the only speech in this House (*Interruption*). The people themselves who, according to the Opposition, are suffering on account of famine and drought, will be put to this trouble twice. It is not an easy thing to go to the polls to have elections going on. It will be saving trouble to the electorate themselves in this period of difficulty if you have only one election in the month of February 1967.

**Shri Hari Vishnu Kamath:** It is a novel argument.

**Shri G. S. Pathak:** The novel argument is having elections with six months twice. The novel argument is having President's rule when you can have a popular Assembly.

**Shri Hari Vishnu Kamath:** Very unpopular.

**Shri G. S. Pathak:** Shri S. M. Banerjee—

**Shri S. M. Banerjee** (Kanpur):  
Yes.

**Shri G. S. Pathak:** I want his attention now.

**Shri Hari Vishnu Kamath:** He is having the roll call.

**Shri G. S. Pathak:** He said that this Bill has been introduced and the Government wants that this Bill should be passed because otherwise there would be an election and in the election the Congress Party will lose. This is wishful thinking. In six months' time the position would not be changed. All the parties including the Congress Party have to face each other and this could not be a possible motive at all.

**Shri S. M. Banerjee:** By that time many voters will die of starvation.

**Shri G. S. Pathak:** Then I want Shrimati Renu Chakravartty's attention.

**Shri Hari Vishnu Kamath:** You are taking them one by one.

**Shri G. S. Pathak:** She mentioned the elections after the general war in England.

**Shri Hari Vishnu Kamath:** What do you mean by "general war"? You mean, the world war.

**Shri G. S. Pathak:** All right, world war. May I ask if after the world war there was any attack on England or there were any forces like the Chinese forces poised to attack on the borders, if they had any borders with them? How can you liken the conditions which are prevailing in India today with the conditions which prevailed in England after the war? There was an enemy who had succumbed completely and there was no danger to the territory of England at that time.

**Shrimati Renu Chakravartty:** Do you mean to say that till the Chinese are there, we shall not have any

general election at all? Next year also they will be there.

**Shri G. S. Pathak:** I am not talking of the elections.

**Shrimati Renu Chakravartty:** What is it then?

**Shri G. S. Pathak:** I am talking about your likening the Indian conditions today with the English conditions after the war. I have already given my reasons.

**Shri Hari Vishnu Kamath:** Sir, can you appreciate all this?

**Mr. Speaker:** I do appreciate everything that is said on either side.

**Shri Hari Vishnu Kamath:** All right then.

**Shri G. S. Pathak:** Shri Dwivedy put me the question, if emergency is lifted tomorrow, what would happen. If the emergency is lifted tomorrow and this Bill is passed, the result will be that the Assembly shall continue for six months after the termination of the emergency. If the emergency is lifted within one or two months, we will get to the month of January and February 1967. That is my answer. He expressly wanted me to answer that.

**Shri Surendranath Dwivedy:** So, the emergency will not be lifted for two or three months. Is that your suggestion?

**Shri G. S. Pathak:** You consider your President's rule argument, whether that is possible.

**Shri Hari Vishnu Kamath:** His computation is wrong. Six months will go up to December only.

**Shri G. S. Pathak:** Now I should not detain the House any longer.

**Shri Surendranath Dwivedy:** You have delivered yourself.

**Shri G. S. Pathak:** Yes.

I submit that the motion for consideration of the Bill should be passed and the amendment for circulation should be rejected.

**Shri S. Kandappan** rose—

**Mr. Speaker:** He will have an opportunity. The question is:

"That the Bill to provide for the extension....."

**Shri S. M. Banerjee:** The motion for circulation should be put first.

**Mr. Speaker:** Is there a circulation motion also?

**Shri Surendranath Dwivedy:** He has not argued against circulation.

**Shri G. S. Pathak:** This will be argued after the motion for consideration is carried. But then this will be rejected here.

**Mr. Speaker:** No, no. The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 17th May, 1966."

**Shri S. M. Banerjee:** Only for two days. Even that he does not accept.

**Mr. Speaker:** Does it stand to reason?

**Shri S. M. Banerjee:** I can call some people for evidence.

**Mr. Speaker:** That is not circulation.

**Shri S. M. Banerjee:** Then, I can correct it to "the first day of the next session".

**Mr. Speaker:** Now no correction is needed. On the face of it looks something that is not reasonable. Does he want me to put it? The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 17th May, 1966."

The motion was negatived.

**Mr. Speaker:** The question is:

"That the Bill to provide for the extension of the duration of the present Legislative Assembly of the State of Orissa, be taken into consideration."

The motion was adopted.

**Clause 2—(Extension of duration of the present Orissa Legislative Assembly).**

**Mr. Speaker:** Now we shall take up clause-by-clause consideration of the Bill. Are there any amendments?

**Shri G. S. Pathak:** Yes, Sir; there are two amendments of Government.

**Mr. Speaker:** The question is:

"That amendments 2 and 3 be accepted by the House."

**Shri Surendranath Dwivedy:** He has not moved them, Sir.

**Mr. Speaker:** He stood up.

**Shri G. S. Pathak:** Sir, I move:

(i) Page 1, line 10,—

for "for a period of one year" substitute—

"up to the 1st day of March, 1967". (2).

(ii) Page 2, line 2,—

for "expiration of the said period of one year" substitute—

"1st day of March, 1967". (3)

The need for the amendments has arisen for the reason...

**Shri S. M. Banerjee:** That we have followed.

**Shri G. S. Pathak:** Under section 15 of the Representation of the People Act notice which has to be issued for a general election should be issued not earlier than six months prior to the election. Therefore, if one year is the period by which the life of the Assembly is extended, the result will be that the notice for the general election as well as the notice for

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election both for Parliament and the Assembly could not be simultaneous. That is the reason why this amendment has been moved so that they may be simultaneous. Therefore, instead of "August", we have "March" in this amendment.

**Shri Hari Vishnu Kamath:** Mr. Speaker, I have tried to listen carefully to the law Minister but I could not follow him when he said that under the election law notice for holding general elections has to be given six months ahead. I am not aware of any such provision in the election law maybe I am ignorant of that particular provision.

Secondly, a little earlier he made a certain computation. As Minister of Law, I suppose, he might not be quite ready with his arithmetical computation.

**Shri G. S. Pathak:** I have to forget my law to come to your level.

**Shri Hari Vishnu Kamath:** Law has been superimposed on figures and mathematics perhaps. He said that if the emergency is lifted next month, in June, the expiry of the six months' period after the emergency will take us to February. How can June take us to February after six months? I think, six months after June will be December.

**Mr. Speaker:** Shri Kamath is counting from one month and the Minister is counting from one month or so.

**Shri Hari Vishnu Kamath:** If it is "or so", it should not be so vague; it should be clarified.

**Mr. Speaker:** There was difference only on the point of computation.

**Shri S. Kandappan:** The hon. Minister is not agreeing to the proposition that there should be President's rule there. He argued that the conditions prevailing in Orissa are not such which warrant a Proclamation of President's rule. But, I think, he would do fair enough to concede...

**Mr. Speaker:** That we have just now passed.

**Shri S. Kandappan:** Just a minute, Sir.

I think, he would be fair enough to concede that even this Bill, which has been drafted depending upon the emergency provisions of the Constitution, is not in the spirit in which it is intended. So, I would ask the Minister whether he does not consider it the lesser evil of the two, that it is better to have President's rule there instead of extending the life of this Assembly.

**Mr. Speaker:** That answer he has given.

**Shri Hari Vishnu Kamath:** But he has not answered the point of six months' notice for general elections. He is searching for it.

**Shri G. S. Pathak:** Section 15 of the Representation of People Act say:

"Provided that where a general election is held otherwise than on the dissolution of the existing Legislative Assembly, no such notification shall be issued at any time earlier than six months prior to the date on which the duration of that Assembly would expire under the provisions of clause 1 of article 172."

I want the period of extension to be lessened. Why should there be any objection to that? If one year is the period to which the life is extended, the result will be that the duration will continue till the 20th August, 1967. Now, six months prior to that no notice for election can be issued. Therefore, no notice for election can be issued prior to February, 1967. In order to make the two elections, that is, elections to the Assembly and the Parliament simultaneous, notices have to be issued in January and for that reason this period is being curtailed. That is the purpose of the amendments.

## Bill

**Shri Hari Vishnu Kamath:** It says, "otherwise than on the dissolution". What does it mean?

**Mr. Speaker:** That does not make material difference.

**Shri Hari Vishnu Kamath:** It does.

**Mr. Speaker:** The question is:

(i) Page 1. line 10,—

for "for a period of one year" substitute "up to the 1st day of March, 1967". (2)

(ii) Page 2, line 2,—

for "expiration of the said period of one year" substitute—"1st day of March, 1967".

*The motion was adopted.*

**Mr. Speaker:** The question is:

"That clause 2, as amended, stand part of the Bill".

*The motion was adopted.*

*Clause 2, as amended, was added to the Bill.*

**Mr. Speaker:** The question is:

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

*The motion was adopted.*

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

**Shri G. S. Pathak:** I move:

"That the Bill, as amended, be passed".

**Mr. Speaker:** The question is:

"That the Bill, as amended, be passed".

*The motion was adopted.*

12.41 hrs.

MOTION RE: STATEMENT OF HOME MINISTER ON REORGANISATION OF THE PRESENT STATE OF PUNJAB—contd.

**Mr. Speaker:** The House will now take up further consideration of the following motion moved by Shri Prakash Vir Shastri on the 12th May, 1966, namely:—

"That this House takes note of the statement made in the House by the Minister of Home Affairs on the 18th April, 1966 regarding the reorganisation of the present State of Punjab."

**Shri Gajraj Singh Rao** may continue his speech.

**Shri Hari Vishnu Kamath** (Hoshangabad): How much time remains?

**Mr. Speaker:** Out of 3 hours, 1 hour and 30 minutes have been spent and 1 hour and 30 minutes remain.

**Shri Hari Vishnu Kamath:** When will the Minister reply?

**Mr. Speaker:** How long will the Minister take?

**The Minister of Home Affairs** (Shri Nanda): About 15 minutes.

श्री गजराज सिंह राव (गुड़गांव) : अध्यक्ष महोदय, मैं पिछले दिन यह प्रश्न कर रहा था कि हरियाणा की तमाम पार्टिया, बिली सिहाज कौम व मिसलत और तमाम पब्लिकमेन ने इस स्टेटमेंट का स्वागत किया और आज करते हैं। हर स्टेट पर पार्लियामेन्टरी कमेटी की फाईंडिंग का स्वागत किया गया, और इसका सबूत यह है कि शायद ही किसी भी पब्लिकमेन की या किसी भी पब्लिक प्रेस की आवाज हरियाणा के खिलाफ उठी हो। सारे एम० पी० भी, चाहे वह प्रपोजिशन के हों या इस तरफ के इस चीज के हक में हैं। इस से ज्यादा किसी और सबूत की जरूरत इस बारे में नहीं है।