

ACC. No. 22/5/.....
Dated 25/11/2014

**THE
PARLIAMENTARY DEBATES**

**(Part II—Proceedings other than Questions and Answers)
OFFICIAL REPORT**

5405

HOUSE OF THE PEOPLE

Thursday 30th April, 1953

*The House met at a Quarter Past
Eight of the Clock.*

[**MR. DEPUTY-SPEAKER** in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

8-50 A.M.

LEAVE OF ABSENCE

Mr. Deputy-Speaker: I have to inform the hon. Members that I have received the following letter from Dr. Satyaban Roy:-

"On account of my health having suddenly taken a bad turn I have been advised by my doctors not to proceed to Delhi now. Please allow me an extension of the period of leave up till the end of the present session."

On the 19th March, 1953 Dr. Satyaban Roy was granted leave of absence from the sittings of the House upto the end of the third week of April.

Is it the pleasure of the House that permission be granted to Dr. Satyaban Roy for remaining absent from all meetings of the House till the end of the present session.

Leave was granted.

ELECTION TO COMMITTEE

Mr. Deputy-Speaker: I have to inform the House that the following Members have been elected to serve
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on the Indian Central Tobacco Committee:—

1. Shri Kotha Raghuramaiah.
2. Shri Rameshwar Sahu.

PAPERS LAID ON THE TABLE

**BUDGET STATEMENT OF DELHI STATE
ELECTRICITY BOARD**

The Deputy Minister of Irrigation and Power (Shri Hathi): I beg to lay on the Table a copy of Statement of estimated capital and revenue receipts and expenditure of the Delhi State Electricity Board for the year 1953-54 under sub-section (3) of section 61 of the Electricity (Supply) Act, 1948. [Placed in Library. See No. 39/53]

AIR CORPORATIONS BILL

**PRESENTATION OF REPORT OF SELECT
COMMITTEE**

Shri C. D. Pande (Naini Tal Distt. cum Almora Distt.—South West cum Bareilly Distt.—North): In the absence of the Chairman, I beg to present the Report of the Select Committee on the Bill to provide for the establishment of Air Corporations, to facilitate the acquisition by the Air Corporations of undertakings belonging to certain existing air companies and generally to make further and better provisions for the operation of air transport services.

**PATIALA AND EAST PUNJAB
STATES UNION LEGISLATURE
(DELEGATION OF POWERS) BILL.**

Mr. Deputy-Speaker: Now, further consideration of the motion moved by Dr. Ka'ju on the 29th April, 1953.

Sardar Hukam Singh (Kapurthala-Bhatinda): When the House rose yesterday, I was trying to make out a case that no reasons have been

[Sardar Hukam Singh]

given in the speech of our hon. Home Minister why our Parliament should adopt this Bill. I was complaining that no details have been given by which Parliament could decide whether we can spare the time to undertake the legislation that was proposed to be passed. Even this much was not known whether the legislation that was contemplated was of such an importance that it could not wait till the new Assembly was formed. We had not been told this much also, how long it would take for the Government or the President to order fresh elections in that State, which period might be taken into consideration in judging whether the legislation that was proposed could wait till that time or not. Even this much was not stated to us whether the legislation that was in hand or was contemplated was the only one that had been undertaken or was intended to be passed, and had been proposed by the old Assembly when the then Government was in power, or something new has been adopted, and proposed by the Adviser who has gone there and he finds it necessary in the interests of the State. All these facts, if they had been placed before the House may have enabled the House to form an opinion whether really this is the proper legislation and we should adopt it and whether Parliament cannot find time to take up that legislation itself. I also stressed this point that sub-clause (3) of clause 3 would not be of any avail when the legislation has already been enacted and it is in force and I also cited the same precedent that when this was the case so far as the Punjab was concerned, we found difficulty and there was a natural reluctance and hesitation in taking up and passing any amendments at that time. Parliament would be confronted with a fact established and naturally, there will be disinclination to make any amendments or any modifications.

9 A.M.

Now, today, I come to the second point: President's power to legislate. Of course, I need not say that the President has no separate department of legislation of his own. It is only the Executive that would advise him to pass that legislation. It might be the Home Minister or the Minister of States or the Executive collectively or even a Secretary that might propose and the legislation passed by the President. It would be an Act in force before anybody learns what it contains and what effect it would have upon the general masses.

because no representative shall have any opportunity to look into it before it becomes law, no opinion would be invited, and no opportunity would be afforded to any person to scrutinise it. Such being the case, my complaint is that we would be creating a bad precedent and an unwholesome convention if we pursue this method. Already the hon. Home Minister told us that the course adopted in the case of the Punjab was being followed even now and if we follow that convention or precedent, whatever we might be pleased to call this, it would add another precedent to the one we have already and if and when any contingency arises later in the case of any other State, perhaps the present Home Minister or whoever the successor may be who comes into his shoes, might be armed with two precedents that already Government have adopted this course. Therefore, in future cases as well this would be done. For that fear, I am of the opinion that we should not add to the precedent that is already there and Parliament should not divest itself of the powers that it has and should not delegate this authority back to the President.

This discussion in Parliament that is allowed, is not permitted only for this purpose that the representatives that are collected here, who come from different places and have different views should have an opportunity of discussing that legislation and proposing amendments. It has a different aspect as well. We have to educate the country as well. The discussion that takes place here is followed by the whole country outside and they come to know what is happening. What I really feel is that the maxim that was formed long ago, that ignorance of law is no excuse, can hold good only if that discussion is allowed in the legislature. If that is shut out, in my opinion, this should be reversed; ignorance of law should be an excuse and nobody should be punished because if the common man does not have an opportunity and does not know what that law is, how could it affect him? Certainly he should not be held guilty if he is ignorant of that. We have to educate the masses also. The method that we are now going to adopt would deprive the masses of that opportunity that they would normally have of learning what is contained in the legislation and giving their reactions as well. On that account also I beg to submit that Parliament should not delegate this power to the President.

I mentioned yesterday that when the Proclamation was being discussed here, our Home Minister made it very clear that as soon as the Delimitation Committee finishes its work, proper general elections will take place, that the main anxiety of the Government was the maintenance of law and order and that was the only hurdle that was to be crossed. In his estimation, if there were no Delimitation Commission, the work would have been finished in four months, and Government would have ordered General Elections, but now that the Delimitation Commission is to perform its functions, that might take six months. But the public are apprehensive of how the Delimitation Commission has started its work. When this was an emergency that had arisen and special powers had been taken by the President, it was meet and proper that the Delimitation Commission should have started straight with this Province. But we were surprised to find that instead of taking up its work in PEPSU the Delimitation Commission started just at the farthest end, at the other end of the country. Bombay was the first State where the Commission started its work. It could not be understood what urgency was there to take up the delimitation work in Bombay first and ignore PEPSU which needed that work to be finished first of all. That created many apprehensions in the minds of the people and they were suspicious whether the Government was honest at all in their professions when they said that the General Elections would be held as soon as possible.

Then even in respect of this Delimitation Commission's work we have been promised that that might be finished within six months and thereafter we might have the General Elections, but certain press reports have appeared that the delimitation work and the revision of rolls might be completed by the end of this year. That created another suspicion, but then there was a subsequent report that now it is expected that that would be finished two months earlier. Whether that period of 31st December was fixed by the Government itself, and whether the coming nearer by two months gives any credit is beside the point. In both cases, whether it is finished by 31st December or whether it is brought nearer by two months and is finished by 31st October, it does not make much difference. The promises were that the Government would see that the Elections took place within six months, but now the reports, if they are correct,

if there is any substance in them, indicate that the revision of rolls might take so much time.

So far as rolls are concerned, it will be interesting to note that the last Government that has been ousted completed the rolls, and had the revision also done in the beginning of this year. That was done just recently, and there was no need for taking up the preparation of the rolls and revision again except that double expenditure would be involved. There was no sense in taking up the preparation of the rolls again, and revising them.

So, my submission is that if the Government is really committed to the promises made by them on the day when the discussion on the proclamation was taking place, if they stand by those assurances and are honest and sincere in their professions, then they should see that this General Election takes place as soon as possible, within six months according to their own commitment, or even earlier than that. If that is not done, the apprehensions of the people will certainly be confirmed that there is something else in Government's mind, and not the desire to bring about a stable Government in office as early as possible.

Now, I will sum up and say that no case has been made out for this Bill to be passed. There is no urgency. We have not been told what Bills are pending, whether it is the only legislation that was pending before the last Assembly which has to be passed, or whether, in view of the assurance given to us that the administration was taken over in the interests of security and stability and to restore confidence in the services and to give a purer administration to the people, the Adviser sent there has thought of certain legislation which would subserve these interests that were in mind when the administration was taken over. Unless that is known, Parliament is not in a position to give its verdict as it is intended to be given because it is indicated in the Statement of Objects and Reasons that Parliament has no time to spare for such legislation that is necessary to be passed and that the power should be delegated to the President.

With these remarks I oppose this legislation.

Dr. S. P. Mookerjee (Calcutta South-East): May I ask a question of the hon Minister? The previous speaker has rightly asked what

[Dr. S. P. Mookerjee]

exactly are the plans of Government—how many Bills are now ready which Government desires to pass, or whether some Bills are under preparation? If we can have some idea, then the debate may follow a realistic turn.

The Minister of Home Affairs And States (Dr. Katju): We have some Bills in draft ready to be promulgated, and as for future legislation, we cannot exist in a vacuum. Nobody can say what may or may not be necessary. Bills which are immediately in hand are:—I am using, Sir, the abbreviation which I dislike myself—

1. The PEPSU Ala Milklat rights Bill (i.e. superior rights in land)
2. The PEPSU Occupancy Tenants (Vesting of Proprietary Rights) Bill.
3. The PEPSU Tenancy And Agricultural Lands Bill.
4. The Dramatic Performances Bill, and
5. The Police (Incitement to Disaffection) Bill.

Dr. S. P. Mookerjee: Is that part of the Dramatic Performance Bill?

Dr. Katju: It is the next point. You are putting it in a jocular way, but it is very necessary. You treat it sometimes as a dramatic performance. I know. We have a dramatic performance acted every day in the streets of Delhi.

Dr. S. P. Mookerjee: It is due to the Home Minister.

Shri Chattopadhyaya (Vijayavada): It is theatrical, not dramatic.

Dr. Katju: This thing is of vital importance and necessary for the maintenance of law and order and promoting security in the State.

Shri K. K. Basu (Diamond Harbour): May I know whether any of these Bills were pending before the Legislature when it was superseded, or whether they were drafted afterwards?

Dr. Katju: The drafting has been in hand for many months and months.

Shri K. K. Basu: Were they introduced and pending before the Legislature when it was superseded?

Sardar Hukam Singh: They had been introduced. Copies had been sent to the Central Government, and a discussion was taking place with

the Planning Commission for two days, and permission had been given, and only two days after, the Legislature was superseded.

Dr. Katju: That is a point of additional sanction which the hon. Member, Sardar Hukam Singh, requires.

पंडित ठाकुर दास भागंब (गुड़गांव) :

जनाब डिप्टी स्पीकर साहब, इस बिल में जो चन्द एक दफात (धाराएं) हैं तकरीबन उन्हीं बिलों के समान हैं जो पहले पंजाब के मुताल्लिक बनाये गये थे। उस वक़्त भी जब कि पंजाब का बिल इस हाउस में आया तो इस हाउस ने पालियामेंट के यह डेलीगेशन ग्राफ पावर्स के हकूक प्रसीडेंट साहब को दे दिये जायें यानी किसी एक शख्स को दिये जायें इसकी बड़ी सख्त मुखालफत की थी और उस वक़्त के होम मिनिस्टर के अल्फ़ाज़ में, मेरे अल्फ़ाज़ में नहीं, मैं ने उस बारे में एक बहुत बड़ी और लम्बी चौड़ी तकरीर की थी। मैं उस तकरीर को आज यहां पर दुहराना नहीं चाहता, लेकिन मैं निहायत अदब से अर्ज करना चाहता हूँ कि मेरी एप्रोच इस सत्राल की तरफ बिल्कुल वही है जो उस वक़्त थी जब कि पंजाब का मामला इस हाउस के सामने पेश आया।

जनाबवाला, दफा ३५६ जिसकी हू से किसी भी स्टेट गवर्नमेंट (राज्य सरकार) के लेजिस्लेचर (विधान मंडल) को और वहां की एक्जीक्यूटिव एथारिटी (कार्यपालिका) को सुपरसीड किया जाता है, यह एक निहायत ही ड्रैस्टिक (कठोर) चीज़ है जिसको कोई शख्स भी पसन्द नहीं करता और मैं जानता हूँ कि इसको हमारी सेंट्रल गवर्नमेंट (केन्द्रीय सरकार) भी पसन्द नहीं करती। अभी मेरे लायक दोस्त सरदार हुकम सिंह साहिब ने कुछ खदशात (अशंकाएं) हाउस के सामने जाहिर किये और कहा कि लोग तरह तरह के शुबह करने लगे हैं कि गवर्नमेंट ग्राफ इंडिया किसी खास गरज से इस अर्ज को लम्बा करना चाहती

है कि जिसके जरिये उनके ऐसे वसीय (व्यापक) आखिरीतयात पेप्सू पर बने रहें।

मैं भ्रदब से भ्रर्ज करना चाहता हूँ कि मुझे इस किस्म का कोई शुबहा नहीं है और मैं नहीं जानना कि कोई गवर्नमेंट, खुसूसन (विशेषतः) हमारी सेन्ट्रल गवर्नमेंट, कभी इन किस्म का रवैया अत्यार कर सकती है; या उस के दिल में व भी ऐसी बात आ सकती है कि एक ऐसी स्टेट पर, जैसी कि पेप्सू है, बेजा तौर पर अपना कब्जा कायम रखे। वहां से सेन्ट्रल गवर्नमेंट कोई खिराज नहीं लेती, कोई किसी किस्म का माली फायदा नहीं उठाती। इस लिये कोई वजह नहीं है कि मेरे लायक दोस्त खुद भी एक तरीके से अपना शुबाह जाहिर करें। ग्राम तौर पर जब तक कि गवर्नमेंट बेजा तौर पर अपने अस्त्यार नहीं बरतती, लोग चाहते हैं कि वे खुद अपने ऊपर हुकूमत करें। यह एक जायज चीज है और इसी जायज चीज को हासिल करने के वास्ते देश के अन्दर स्वराज्य हुआ है और सेल्फगवर्नमेंट (स्वशासन) कायम हुई है। इस लिये जब सही या गलत वहां के लोग या भास पास के आदमी यह महसूस करते हैं कि सेन्ट्रल गवर्नमेंट की हुकूमत वहां जारी रहना एक ह्यूमिलिएशन (अपमान) है तो मैं भी उस का हिस्सेदार हूँ। लेकिन ताहम में एक मिनट के वास्ते भी खयाल नहीं कर सकता कि हमारी सेन्ट्रल गवर्नमेंट, इस वजह से कि उस के अस्त्यारात वहां बने रहे, इस को पसन्द करेगी कि उस की हुकूमत के अर्से को लम्बा कर दिया जाय। उन को सिवा सरदर्दी के और कुछ मोल लेना नहीं है और उस के रास्ते में बीसों तरह की मुश्किलात पेश आती हैं। जब इस हाउस के अन्दर हम को तमाम भाल इंडिया लेजिस्लेशन (अखिल भारतीय विधानों का निर्माण) करने हैं, उस वक्त हमारे सामने यह सवाल आता है कि एक ऐसी चीज पर जिस पर कि ग्राम तौर से हमारा वक्त खर्च नहीं होना चाहिये था, हम वक्त खर्च कर रहे हैं।

साथ ही जब कि प्रोक्लामेशन (उद्घोषणा) हो चुका, जब यह हाउस अपनी जिम्मेदारी को महसूस करता है, जब कि जेरे दफा ३५६ प्रोक्लामेशन जारी हो चुका, आज कानून की दफा ३५६ की रू से इस हाउस को अस्त्यार है कि पेप्सू के वास्ते कानून बनाये, जब वे ताकतें जो स्टेट लेजिस्लेचर को थीं दफा ३५६ की रू से इस हाउस के अन्दर आ गईं ह तो इस हाउस को यह देखना है कि वह उन फरायज को किस तरह से भ्रदा करे जो उस के जिम्मे दफा ३५६ के मातहत आयद हो गये हैं। जनाब, दफा ३५६ के अल्फाज इस तौर पर हैं, मैं सिर्फ वह हिस्सा पढ़ूंगा जो इस हाउस के मुताल्लिक है :

“The President may by Proclamation declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament.”

इस के मान यह है कि आज जब तक यह बिल पास न हो, यह ताकत सिर्फ इस हाउस के अन्दर है, सिर्फ ताकत ही नहीं बल्कि इस हाउस की जिम्मेदारी है कि वहां के कुल कवानीन वह खुद बनावे। इस अनुच्छेद के साथ ही एक और जिम्नी अनुच्छेद है जो दफा ३५७ है जिस के अन्दर हाउस को अस्त्यार है कि अगर यह पार्लियामेंट चाहे तो अपने अस्त्यारात प्रेजिडेन्ट साहब को दे दें या खुद रख ले या और किसी को, अगर जरूरत हो तो दे दें जो इन अस्त्यारात को पूरी तौर से यहां पर बरते। मैं भ्रदब से भ्रर्ज करना चाहता हूँ, और उस वक्त भी मैं ने हाउस के सामने भ्रर्ज करने की कोशिश की थी जब कि पंजाब का बिल पेश था कि यह एक ऐबनार्मल (असाधारण) चीज है कि अपने अस्त्यारात को किसी और बाढी (निकाय) को दे दिया जाय। नार्मल चीज तो यह है कि हाउस जिस ने जिम्मेदारी ली है वह अपने अस्त्यारात खुद बरते। अगर हाउस के पास वक्त नहीं है तो उस ने पहले

[पंडित ठाकुर दास भागव]

क्यों नहीं सोचा कि किसी स्टेट के प्रस्तुत करने वाले अपने जिम्मे लेना मुनासिब है या नहीं ? जब प्रस्तुत करने वाले हैं तो एक रूटीन की तौर पर हम को हाजिर अपने प्रस्तुतकारों के साथ प्रेजिडेंट साहब हों या गवर्नर साहब हों किसी को नहीं देने चाहियें। और हमें अपने आप अपनी जिम्मेदारी और फरायज को अदा करना चाहिये। चुनावों में ने उस भौके पर, आखीर में थर्ड रीडिंग के वक्त, हाउस की खिदमत में यह प्रजें किया था :

"Therefore I would like the House to consider, and I would at least like it to have it on record as my personal opinion, that in future if any such contingency arises, we should see that recourse to Article 357 is not resorted to, because it is in an abnormal thing."

में अदब से प्रजें करना चाहता हूँ कि मैं लोथ (असहमत) हूँ कि इस हाउस के प्रस्तुत-कारों किसी और प्रचारिटी (प्राधिकारी) को दिये जायें और हम अपने पूरे फरायज अदा न कर सकें। अभी डा० मुकूर्जी के एक सवाल के जवाब में हमारे होम मिनिस्टर (गृह-मंत्री) साहब ने एक लिस्ट (सूची) बताई है कि वे कितने बिल यहां ला कर पास करना चाहते हैं। मैं चाहता हूँ कि इस हाउस के अन्दर उन पर एक हफ्ते से ज्यादा न लगे ; क्योंकि चन्द तो ऐसे कानून हैं जो पंजाब प्राविन्स के लिये बनाये जा चुके हैं, उन में ज्यादा टाइम नहीं लगेगा। लेकिन जो पुलिस (इन्साइटमेंट टू डिसअफेक्शन) वाला बिल है उस का काउन्टरपार्ट (प्रतिरूप) हम पंजाब में तैयार कर चुके हैं और उसी जमाने में कर चुके हैं जब कि वहां पर कान्स्टिट्यूशन (संविधान) सस्पेन्डेड (निलम्बित) था। उस में भी ज्यादा टाइम नहीं लगना चाहिये। लेकिन चूंकि यह हाउस हमेशा अपने फर्ज खूबी के साथ अदा करता है इसलिये मैं समझता हूँ कि इस पर भी वह

मुनासिब तौर पर अमल करेगा। मैं प्रजें करना चाहता हूँ कि मुनासिब तो यह होता कि हम अपने फरायज को खुद अदा करते।

इस जिम्न में मुझे एक बात और प्रजें करनी है और मैं ने उस वक्त भी प्रजें किया था जब पंजाब का मामला पेश था कि पेश्वर इस के कि ये प्रस्तुतकारों हम किसी दूसरी प्रचारिटी को दें हम को यह देखना है कि प्रथा उस प्रचारिटी ने जिस को हम यह प्रस्तुत करने चाहते हैं खुद पहले कैसे अमल किया।

जनाबवाला, जेरे दफा ३५५ सेन्ट्रल गवर्नमेंट का यह फर्ज है कि यह देखे कि अगर कोई भी स्टेट गवर्नमेंट कान्स्टिट्यूशन के मुताबिक काम नहीं करती तो उस को डाइरेक्शन्स (निवेश) दे दे, उस की इमदाद कर दे क्योंकि जब गवर्नमेंट की जिम्मेदारी है कि हर एक स्टेट 'इन एकाडेन्स विद दि प्रोविजन्स आफ दिस कान्स्टिट्यूशन' (इस-संविधान के उपबन्धों के अनुसार) काम करे तो उस का हक है कि उस स्टेट के कान्स्टिट्यूशन के अनुसार अमल करवाये। इसी के साथ उस की जिम्मेदारी है कि देखे कि हर एक स्टेट में कान्स्टिट्यूशन के मुताबिक अमल होता है या नहीं। मुझे वह दिन याद है जब मैं ने अखबारों में पढ़ा कि हमारे होम मिनिस्टर साहब पेप्सू तशरीफ ले गये, एक गांव का मुआयना किया और वहां जा कर देखा कि वहां की एग्जिक्यूटिव पावर (कार्यपालिका सत्ता) तकरीबन खत्म हो गई है। वहां के किसान लगान व मालयाना नहीं अदा करते, वहां पर ला एंड आर्डर (विधि तथा व्यवस्था) ऐसा नहीं था जिस की वह खूब पसन्द करते। लेकिन इस के बाद महीनों तक मैं ने नहीं देखा कि कभी गवर्नमेंट ने जरा तिनका भी हिलाया हो कि उन हालात को बन्द कर दिया जाय। मैं जानता हूँ और

इस हाउस में भी शिकायत की गई थी कि हमारी सेंट्रल गवर्नमेंट ने वहां पर जबरिया ला ऐंड आर्डर कायम किया है। यह भी मैं जानता हूँ कि सेंट्रल गवर्नमेंट किसी दूसरी स्टेट के अस्तित्वों को लेना पसन्द नहीं करती और उस को मौका देती है कि वह किसी तरह अपने को रिफार्म (सुधार) कर ले। लेकिन मैं अदब से अर्ज करना चाहता हूँ कि इन चीजों का नतीजा यह होता है कि इस नरमी की वजह से खराब से खराब बाकयान रू नमा हो जाते हैं। इस वास्ते मैं अर्ज कहता हूँ कि पेप्सू के बारे में ला ऐंड आर्डर की शिकायत भाज की नहीं, मैं बहुत असें से सुनता आया हूँ। मैं तो ऐसे इलाके का रहने वाला हूँ जिस की हूँ पेप्सू से मिली हैं और हमारे ताल्लुकात भी पेप्सू के साथ बहुत हैं, इस वास्ते जब कभी वहां ला ऐंड आर्डर की हालत खराब होती है फौरन मुझे खबर मिलती है, इतना आती है मैं वह बाकाल नहीं बतलाना चाहता जो जाती तौर पर मैं जानता हूँ और जो मेरे साथ अमल में आये और जिन की रूते मेरे दिल में कोई शुबाह नहीं है कि जहां तक पेप्सू के ला ऐंड आर्डर का सवाल है वह बिल्कुल ठीक नहीं है और आप की कोशिश ऐसी होनी चाहिये जिस से वह ठीक हो सकें। इसी में सब का फायदा है। जब तक पेप्सू खुशहाल है हम पंजाब में बड़े अमन से हैं। हमारे साथी प्रॉविंस में अगर जरा भी खराबी हो तो उसका डाइरेक्ट (सीधा) असर हम लोगों पर भी पड़ता है। इस वास्ते मैं पेप्सू के बैलफेयर (कल्याण) में इतना इंटरेस्टेड हूँ जितना कि अपने पंजाब के बैलफेयर में या अपने दूसरे नजदीक के सूबों के बैलफेयर में।

मैं अर्ज करना चाहता हूँ कि इस नुकते-क्याल से मुझे शिकायत है कि जिस वक्त लोगों ने अपनी पार्टी बाजी की वजह से फलोर क्रास करना शुरू कर दिया था उस वक्त से पहले इह गवर्नमेंट की तबज्जह उन हालात की तरफ

नहीं हुई, जो कि लोगों को तकलीफ दे रहे थे। भटिंडा में किडनेपिंग (अपहरण) के केसेज होते हैं एक लड़के को पकड़ कर ले जाया जाता है, लेकिन उसकी कोई सुनवाई नहीं होती है और वह रेनसम के बगैर नहीं छूटता है। मैं अदब से अर्ज करना चाहता हूँ कि अगर हमारी सेंट्रल गवर्नमेंट चाहती है कि हमारी डिप्रीजिटी (लोकतंत्र) ठीक हालत में कायम रहे तो उसको चाहिये कि जो हमारे बड़े मिनिस्टर साहिबान हैं उनको अपने फरायज से सुबुकदोश (मुक्त) कर दें, जिसके अन्दर मैं नाम लूंगा मौलाना आजाद साहब का और डाक्टर काटजू साहब का इन दोनों को अपनी मौजूदा ड्यूटीज से सुबुकदोश कर दिया जाय और इनको इससे बड़ी ड्यूटीज दी जाय। ये हमारे बड़े बुजुर्ग हैं और बड़े तजरबाकार हैं। इन्होंने दुनिया देखी है और लोगों की तबीयतों से बाकिफ हैं। इन दोनों को मिनिस्टर नहीं बल्कि सुपर मिनिस्टर बनाया जाय। इनको मिनिस्टर विदाउट पोर्ट फोलियो (विभागहीनमंत्री) बनाया जाय और उनको यह काम दिया जाय कि हिन्दुस्तान की जितनी स्टेट्स हैं उनके ऊपर वाच रखें और देखें कि उनके अन्दर

डा० एम० बी० खरे (गवालियर) :
उनको महात्मा बना दिया जाय !

पंडित ठाकुर दास भागंब : मैं चाहता हूँ कि हमारे डाक्टर खरे साहब को भी उसी श्रेणी में रखा जाय। वे भी हमारे पुराने बुजुर्ग हैं। मैं चाहता हूँ कि जैसे पुराने जमाने में गवर्नमेंट के ऊपर सप्त ऋषि हुमा करते थे जो जंगल में तपस्या करते थे लेकिन उन से ऐडमिनिस्ट्रेशन (प्रशासन) के मामले में राय ली जाती थी। डाक्टर खरे और बाब को डाक्टर मुकजी और सरदार हुकम सिंह भी उसी जुमरे में शामिल हों। मैं मुस्लिफ स्टेट्स में जाता हूँ। मैं अभी राजस्थान से हो कर आया हूँ। मुझे डर है कि कहीं कल

[पंडित ठाहुर दास भागंब]

आपको राजस्थान के साथ भी वही वाक्या-पेश न आये जो कि पंजाब और पेप्सू के साथ पेश आया है। मैं अर्ज करना चाहता हूँ कि लोगों में दुश्मनियाँ हैं, इलाकों में दुश्मनियाँ हैं, स्टेट्स की बाऊंडरीज (सीमाओं) के बारे में झगड़े हैं। पंजाब के अन्दर हिन्दी स्पीकिंग (हिन्दी भाषी) और नान हिन्दी स्पीकिंग (अहिन्दी-भाषी) का झगड़ा चला आता है, राजस्थान में जैपुर और जोधपुर का झगड़ा चला आता है, और मुस्तलिफ इलाकों में इस तरह से और झगड़े हैं। अगर ज़रा रवा-दारी से काम लिया जाय तो हमारे ये बुजुर्ग इन झगड़ों को खत्म कर सकते हैं। बजाय इस के कि वे यहां पर काम करें उनको वहां पर काम करना चाहिए। और इस काम के लिए कोई मुआवजे की ज़रूरत नहीं है। अब वक्त आ गया है कि ये बतौर सन्यासी के काम करें और इस तरह से हमारे देश की सेवा करें मुझे वह दिन याद है जब कि मैं ने यहां आसाम के मुताल्लिक कहा था। यहां पर बीस मिनिस्टर साहिबान के तंशरीफ रखते हुए भी आसाम में कई लाख आदमी पाकिस्तान से हमारी जानकारी के बगैर घुस आये। और हमारे सामने एक समस्या पैदा हो गई। इसी तरह से दूसरे प्रांतिसेज में ऐसी सूरतें पैदा हो रही हैं और ऐसी मुश्किलत पेश आ रही हैं जिनका हल लोकली (स्थानीय रूप में) करना मुश्किल है। लेकिन अगर वहां पर कोई आल इंडिया स्टेट्समैन या हमारे मिनिस्टर साहिबान में से कोई बाइस्लितियार हो कर जाय तो उन झगड़ों का फैसला करा सकता है। नहीं तो मुझे डर है कि ऐसी बहुत सी ताकतें मौजूद हैं और वे बढ़ती जा रही हैं जिन की रू से ऐसी खराबियाँ पैदा हो सकती हैं जिनका फिर मुकाबला करना मुश्किल होगा।

आप मुझे माफ करेंगे। मैं अपने मज़मून से ज़रा एक तरफ चला गया। तो मैं यह अर्ज

कर रहा था कि मैं इस बात का मुस्तलिफ हूँ कि जो ताकत हम को ३५६ दफा के ज़रिये हासिल है वह हम किसी और को मुंतकिल (हस्तान्तरित) करे और अगर हम मुंतकिल करें भी तो हमको चाहिए कि इस तरह से करें कि जिस देर का ज़िकर अभी हमारे होम मिनिस्टर साहब ने फरमाया वह देर न हो। जब पंजाब का मामला यहां पर पेश था उस वक्त मैं ने चन्द एक तज्जाबीज पेश की थीं और मैं उनको फिर दोहराना चाहता हूँ। आखिर इस पार्लियामेंट का यह फर्ज है कि जहां तक पेप्सू के लिए कानून बनाने का सवाल है वह इस फर्ज को भ्रदा करे। अगर हम चाहते हैं हम अपने इन फरायज को किसी दूसरे के सुपुर्द कर दें तो भी हम उस फर्ज से सुबकदोश नहीं हो सकते जब तक कि जो कुछ किया जाय उस पर हम अपनी मुहर न लगा दें। संविधान ने एक खास जिम्मेदारी इस हाउस को दी है और उस जिम्मेदारी को डिस्चार्ज (पूरा) करना इस हाउस का फर्ज हो जाता है। इस वास्ते में उस तज्जाबीज को अर्ज करना चाहता हूँ जो कि मैं ने पंजाब के मामले में पेश की थी। और वह यह है कि अगर प्राज वहां का लैजिस्लेचर सुपरसीड हो चुका है तो आज उसका काम सेन्ट्रल लैजिस्लेचर करे क्योंकि यहां भी उसी फ्रेंचाइज से मेम्बरान आये हैं और उसी इलाके से आये हैं और वहां के हालात को अच्छी तरह से जानते हैं। अगर हाउस (राज्य परिषद्) में भी ऐसे मेम्बरान मौजूद हैं। इसके लिये उच्च वक्त कहा गया था कि अगर सारा हाउस पेप्सू के बारे में क्रिटिसिज्म (आलोचना) करे तो यह ठीक नहीं होगा क्योंकि बहुत से ऐसे मेम्बरान हैं जिनको वहां के पूरे वाक्यात मालूम नहीं हो सकते। यह किसी हद तक दुस्त है। गोक बहुत से मेम्बर साहिबान के लिये मैं यह अर्ज कर सकता हूँ कि वे बहुत वाइड अबेक (जागरूक) हैं

और जब वे लोग सारे हिन्दुस्तान के लिये लैजिस्लेट कर (विधान बना) सकते हैं तो कोई वजह नहीं है कि वह पेंसू के वास्ते न कर सकें। लेकिन इस आर्ग्यूमेंट (तर्क) को अगर मान भी लिया जाय तो भी मैं भ्रदब से अर्ज करना चाहता हूँ कि पार्लियामेंट अपने फ़र्ज को पूरा तो नहीं लेकिन बड़ी हद तक भ्रदा करेगी अगर पार्लियामेंट के उन मेम्बरान की, जो दोनों हाउसेज में उस इलाके से आये हैं, उन सारे के सारे क़ानूनों को बनाने में सलाह ले ली जाय जो कि पेंसू के लिये बनाये जायें। मैं सलाह का लफ़्ज़ जान बूझ कर इस्तेमाल करता हूँ। मैं चाहता हूँ कि उनकी मर्जी से ऐसा किया जाय लेकिन मैं मर्जी का लफ़्ज़ नहीं रखना चाहता और उसकी वजह साफ़ है। वह यह है कि जब प्रेसीडेंट साहब ने सारे ऐडमिनिस्ट्रेशन के इस्तिथारात ले लिये हैं तो बहुत से ऐसे वाक़यात हो सकते हैं जो अरजेंट (आशु सम्पाद्य) हों और उस वक़्त इन लोगों को बुलाना मुश्किल हो सकता है और उन से सलाह लेना नामुमकिन हो सकता है। इस लिये ऐसे ऐबनोर्मल (असाधारण) हालात में मैं यह अनाउंस करना चाहता हूँ कि खुद प्रेज़िडेंट साहब अगर उन से मशिवरा किये हुये हुक़म जारी कर सकते हैं लेकिन नारमली (साधारणतः) उन अथारिटीज़ (प्राधिकारियों) से मिल कर और उन से सलाह करके क़ानून पास होने चाहियें, खुसूसन वह क़ानून जो अपनी नौयत से लोगों की लाइफ़ (जीवन) को टच (प्रभावित) करते हैं। वे क़ानून जो कि लैंड रिफ़ार्म (भूमिसुधार) से ताल्लुक रखते हैं उन के मुताल्लिक प्रेज़िडेंट (राष्ट्रपति) साहब को यह ज़िम्मेवारी नहीं लेनी चाहिये कि वे अपनी ज़िम्मेवारी पर, सिर्फ़ आफ़िशियेल्डम (अफ़सरों) की ज़िम्मेवारी पर, ऐसे क़ानून को आफ़िज़ कर दें। मैं जानता हूँ कि जब एक बार एक क़ानून पेश हो जाता है और पास हो

जाता है तो उसको तबदील कराना कितना मुश्किल हो जाता है। मुझे इसका तजुर्बा है। जब शुरू में पंजाब का मामला पेश हुआ तो हमको कहा गया कि गवर्नर को पूरे इस्तिथारात दे दो। हम ने उस की सलत मुताल्लिकत की और गवर्नमेंट ने बड़ी मेहरबानी करके एक कम्प्रोमाइज़ साल्यूशन (मध्य मार्ग) पेश किया जिस से इस हाउस की भी हक़ रहा और प्रेसीडेंट साहब को भी हक़ रहा। लेकिन उस वक़्त मैं ने देखा कि जो क़ानून एक दफ़ा प्रेसीडेंट साहब के नाम से पास हो गया फिर उस को माडीफ़ाई (रूपभेद) करना निहायत मुश्किल हो गया। मुझे मालूम है कि हमने कई क़ानूनों में माडीफ़िकेशन भी किया लेकिन होम मिनिस्टर साहब को मेहरबानी से किया। जहां उन की मेहरबानी नहीं हुई वहां पर हम फेल (असफल) हो गये। क्योंकि जब एक क़ानून पास हो जाता है तो उसके माडीफ़िकेशन का बरडन आफ़ प्रूफ़ (सिद्ध करने का भार) उन लोगों पर हो जाता है जो उसके बख़िलाफ़ कहना चाहते हैं। जब क़ानून हाउस में पेश होता है वह ठीक वक़्त होता है कि जब भ्रदमी अपने असर से उसमें कोई तबदीली करा सकता है। चुनावे जब पंजाब के मुताल्लिक क़ानून पास हुआ उसके बारे में मुझे याद है कि हमारे होम मिनिस्टर साहब ने बड़ी मेहरबानी से यह तरमीम मानी कि जब यह क़ानून वापस जायगा उस पर यह नहीं कहा जायगा कि इस पर प्रेसीडेंट की मुहर है या यह कि हमारे लायक़ होम मिनिस्टर ने ऐसा हुक़म सादिर कर दिया है तो उसको सेंक्रेटी (पवित्रता) दी जाय। यह उन की मेहरबानी थी। लेकिन मैं ने यह महसूस किया कि हाउस में जो क़ानून एक दफ़ा पास हो जाता है उसको, चाहे हम कितनी ही अच्छी आबजैक्ट (उद्देश्य) रखें, तबदील कराना मुश्किल होता है। इस वास्ते मैं हाउस की ख़िदमत में भ्रदब से अर्ज करना चाहता हूँ कि पेशतर इस के कि कोई क़ानून

[पंडित ठाकुरदास भार्गव]

नाफिज़ हो इस पार्लियामेंट को अपना फ़र्ज़ इस तरह अदा करना चाहिये कि कम से कम उन साहिबान की एक कमेटी से, जो पैप्सू के नुमायन्दे हैं—दोनों हाउसेज़ में,—प्रेसीडेंट साहब सलाह कर लें और उसके बाद उस क़ानून को नाफिज़ करें। मैं जानता हूँ कि सलाह आईडिंग (बाध्यकारी) नहीं होती लेकिन तो भी उसका असर होता है। पिछली दफ़ा भी जब पुराने होम मिनिस्टर साहब ने पंजाब के मुताल्लिक क़ानून नाफिज़ करना चाहा तो हम बहुत से मेम्बरों को बुलाकर हम से सलाह की। मैं उस हिस्ट्री में नहीं जाना चाहता कि उस वक़्त क्या हुआ लेकिन मैं अदब से अर्ज़ करना चाहता हूँ कि यह विदाउट प्रिसिडेंट (अपूर्व बात) नहीं है और उस वक़्त भी बावजूद इस के कि हम ने क़ानून में इस चीज़ को दाखिल नहीं किया था तो भी होम मिनिस्टर साहब ने मेहरबानी करके हम को बुलाया और हमारी राय पूछी और बड़ी देर तक हमने मशविरा किया। मैं चाहता हूँ कि अब यह हक़ लीगल बेसिस (विधिरूप आधार) पर हो, मेहरबानी पर न हो, और इन लोगों से पेशतर इस के कि कोई क़ानून पास हो सलाह ले ली जाये। यह मैं एक सुझाव पेश करना चाहता हूँ।

मैं अगर चाहता तो पार्लियामेंट के इस हक़ के लिये इस सजेशन से भी सख्त सुझाव पेश कर सकता था। लेकिन मैं ने जान बूझ कर ऐसा सुझाव रखा है कि जिस को मानने में गवर्नमेंट को किसी तरह की तकलीफ़ न हो, क्योंकि मैं जानता हूँ कि मिल जुल कर बिना स्ट्रेन (तनाव) के जो चीज़ की जा सके वह ठीक होती है। मुझे शुबाह नहीं कि हमारे होम मिनिस्टर साहब मेरी इस दरखास्त पर और फ़रमावेंगे। इसी वैन में हमारे सरदार हुसम सिंह साहब का भी ज़्याला था और पहले भी पंजाब के मेम्बरान ने इसी क्रिस्म के सजेशन्स

किये थे। उस वक़्त हम इन सजेशन्स को नहीं मनवा सके, क्योंकि उस वक़्त गवर्नर साहब को सारे अस्तियारात देना मखसूस था और गवर्नमेंट ने इतना ही समझा कि हम को क़ानून बनाने में शरीफ़ कर लिया जाय और मौक़ा दिया जाय। अब वक़्त आ गया है कि इस के मुताल्लिक महज़ प्रेसीडेंट ही जिम्मेवार न रहें। मैं अर्ज़ करना चाहता हूँ कि यह दफ़ा ३५६ और ३५७ का निहायत दक्क़ मसला है। जो हालात अब हुए हैं और आयन्दा हों, उन में हरगिज़ किसी वक़्त प्रेसीडेंट साहब ही का यह अस्तियार न हो। आज इस का ही बुरा नतीजा है कि ३५६ के होते हुए भी ३५७ की कार्रवाई शुरू कर दी जाती है, वरना यह ३५६ का लाज़मी नतीजा नहीं है। आज भी क़ानून को रू से हर प्राइवेट मेम्बर (गैर-सरकारी सदस्य) को हक़ हासिल है कि इस हाउस में जो चाहे क़ानून ले आवे, बावजूद इस के कि यह बिल पास हो जायेगा। इसी तरह से रिज़ोल्यूशन (संकल्प) का, ऐडजोर्नमेंट मोशन (स्पगन प्रस्ताव) का, ये सारे हक़ हाउस के मेम्बरान को हासिल हैं और इन को वह ऐक्सरसाइज़ (प्रयुक्त) कर सकते हैं। पैप्सू के बारे में यह सारे चैक्स (अवरोध) और सेफ़गाइंड्स (रक्षण कवच) आज भी मौजूद हैं। हम चाहते हैं कि यह फ़र्दर सेफ़गाइंड और ले लें ताकि कोई यह न कह सके कि गवर्नमेंट ने एटो-क्रेटीकली (स्वेच्छाचार से) इस तरह से गवर्नमेंट कर ली। आखिर ये लोग भी उन लोगों के रिप्रेज़ेंटेटिव हैं, ये तमाम जो मेम्बर पैप्सू से आये हैं, ये वहाँ के बराबर के रिप्रेज़ेंटेटिव हैं और बराबर हक़ रखते हैं क़ानून बनाने का, वहाँ के वास्ते भी और यहाँ के लिये भी। इस लिये मैं अर्ज़ करता हूँ कि जहाँ तक इस तरमीम का सवाल है मुझे उम्मीद है कि हमारे होम निमिस्टर साहब इस पर गौर फ़रमावेंगे।

में एक बात और अर्ज कर दूँ, पेश्वर इस के कि मैं अपनी जगह लूँ। वह, यह है कि यह जरूरी है कि जो कानून बने उस के ऊपर रिवीजन (पुनरीक्षण) का हक, रिब्यू (पुन-बिलोकन) का हक, रिजोल्यूशन के जरिये यह कानून हम को देता है। लेकिन वह दर असल इफैक्टिव (प्रभावी) होना चाहिये। मैं नहीं चाहता कि वह बराए नाम कागज पर हो। वह इफैक्टिव हक होना चाहिये। लेकिन मैं आगे जाता हूँ। इस बिल के अन्दर यह प्रावीजन (उपबन्ध) है कि अगर दोनों हाउस की रजामन्दी एक ही सेशन (सत्र) में हासिल न की जाय तो फिर उस सूरत में न कोई हक रिवीजन का किया जा सकता है और न रिब्यू का किया जा सकता है। इस सेशन का इस कानून में सरीह मतलब यह है। मैं इस के बरखिलाफ़ यह चाहता हूँ कि गवर्नमेंट जो खुद जिम्मेवारी लेती है ऐसे कानून बनाने की। क्योंकि प्रेसीडेंट के माने हैं 'गवर्नमेंट आफ़ दी डे' (तत्कालीन सरकार), तो उस का यह फ़र्ज है कि उस कानून पर रिब्यू करने का जो हक उन्होंने दिया है वह इफैक्टिव तौर पर दिया जाय और यह जरूरी है कि जब एक हाउस से उस के मतालिक रिजोल्यूशन पास हो तो उसी सेशन के अन्दर सात दिन के अन्दर दूसरे हाउस को मौक़ा दिया जाय उस पर बहस करे, का और उस से ऐग्री करने (सहमत होने) का या डिसऐग्री करने (असहमत होने) का। यह नहीं होना चाहिये कि सेशन खत्म हो जाय और फिर फ़ायदा उठाया जाय यह कह कर कि चूंकि इस सेशन में दोनों हाउसों नहीं मिल सके इस लिये माडीफ़िकेशन नहीं हो सका। यह इस सैजिस्लेशन पर ब्लाट (धम्बा) होगा अगर ऐसी सूरत पैदा हो। यह दुस्त नहीं है। अगर हम चाहते हैं कि यह हक दिया जाय तो उस की आप गारंटी करें। मैंने इस नीयत से एक और अर्जमेंट (संशोधन) भेजा है।

मुझे उम्मीद है कि गवर्नमेंट की यह नीयत नहीं हो सकती कि वह कहे कि इस बिल से तो

माडीफ़िकेशन का हक है और दूसरे हाथ से उस को ले ले। यह गवर्नमेंट की नीयत नहीं हो सकती। लेकिन यह तभी इफैक्टिव हो सकता है जब कानून में हमारे होम मिनिस्टर साहब इस बात को कबूल कर लें कि गवर्नमेंट यह इन्तज़ाम करेगी कि दोनों हाउसों उसी सेशन में मिल सकें, अपनी राय जाहिर कर सकें और माडीफ़ाई कर सकें। मैं चाहता हूँ कि ये सेफ़गार्ड्स हों। लेकिन ताहम फिर भी मेरा पार्लियामेंटरी आबज़ेक्शन नहीं जाता, क्योंकि असली हक मैं समझता हूँ कि पार्लियामेंट का है। यह पार्लियामेंट का फ़र्ज है कि वह अपने आप इन कानूनों को बनावे और वहाँ के वास्ते नाफ़िज़ करे। लेकिन अगर हाउस की राय में और गवर्नमेंट की राय में यह चीज़ ऐसी हो कि जो नाफ़ाबिले अमल हो, तो जो सैफ़िड बेंस्ट (सर्वोत्तम से अगली अच्छी) चीज़ मैं समझता हूँ वह यह है कि इन सेफ़गार्ड्स को कानून में इनकारपोरेट (समाविष्ट) किया जाय जिस से पार्लियामेंट पूरे तौर पर नहीं तो कम से कम पार्लियामेंट (आंशिक) तरीक़े से तो ऐसा कर सके और जो कानून बनें वे किसी हद तक रिप्रेज़ेंटेटिव (प्रतिनिधियों) को मुहर लगायें बिना ऐसे न बनें कि लोग यह समझें कि जिस मामले के वास्ते इस क़दर देश ने कुरबानी की है, डिमांडेसी हासिल करने के वास्ते, उस डिमांडेसी को बिल्कुल एक नये तरीक़े से नज़र-अन्दाज़ नहीं किया गया।

श्री चिमारिया (महेन्द्रगढ़) : उपाध्यक्ष महोदय, मैं आप का आभारी हूँ कि आप ने मुझे मौक़ा दिया। पेंसू एक अजीब इलाक़ा है और उस में अजीब भावमी बसते हैं। (हसी) हंसिये मत, ज़रा सुन लीजिये। यही बातें आप को बतलाऊंगा, ज़रा तसल्ली रखिये।

एक माननीय सदस्य : आगे आ जाइये।

श्री चिमारिया : यहाँ से ही सारी जगह आबाज पहुंच जायगी, बल्कि वहाँ पर कमांडिय जगह है।

[श्री चिनारिया]

तो, हां, पैप्सू एक अजीब इलाका है, अजीब आदमी उस में बसते हैं और अजीब काम करते हैं। यह है लफ्ज इंडियन नेशनल कांग्रेस के ईसीडेंट के, जो कि उन्होंने हैदराबाद सेशन (अधिवेशन) में कहे और ये बिल्कुल सब लफ्ज हैं। आज भी एक अजीब कानून इस हाउस में पेश हुआ है, हां एक अजीब कानून है। अजीब हालात में अजीब जगह के लिये अजीब कानून ही हुआ करते हैं। अभी मेरे दोस्त सरदार हुक्म सिंह साहब ने आज भी और कल भी कुछ बातें कहीं और पंडित भार्गव ने भी कुछ बातें कही हैं। वैसे तो मुझे मालूम नहीं कि डाक्टर काटजू के पास कौन सी डाक्टरी की डिग्री है, लेकिन मैं समझता हूँ कि पैप्सू के मर्ज की तशखीस में वह सही डाक्टर साबित हुए हैं और इसी लिये पहला जो नुस्खा उन्होंने बरता उस ने कुछ काम दिया। अब यह दूसरा नुस्खा बरत रहे हैं। मेरे ख्याल में यह ज्यादा कारभामद होगा। लेकिन मैं यह समझता हूँ कि अभी भी यह नुस्खा हलका है और उन्होंने खुद भी यह कहा है। लेकिन अभी भी हमारे देश में सरदार हुक्म सिंह साहब के लिये सब कुछ ठीक है, आल इज वेल मान दी वेस्टर्न फ्रंट, क्योंकि "मोतियां वाली, प्रजा सारी मुखी है", ये ही शब्द शायद वे सुनते हैं, क्योंकि राजाओं के पास बैठते हैं, और इसी लिये उन्हें सब कुछ ठीक दिखाई देता है। मुझ से पूछिये कि वहां क्या हालत है। मैं उस इलाके से आया हूँ कि जो रजवाड़ाशाही का कालोनी (उपनिवेश) रहा है और जो अभी भी फ़िरकादारी का शिकारगाह है। अभी पिछले दिनों आपने देखा वहां क्या हालत थी। भंस, थोड़े और कितनी और चीजें बिकती हैं। देश के अन्दर जानबर तो बिकते हैं लेकिन आदमी नहीं बिका करते। लेकिन वहां आदमी क्या, एम० ऐल० ए० बिके हैं पिछले दिनों में। और आप चाहते हैं, सरदार हुक्म

सिंह साहब कि अब भी वहां आनन् फ़ानन् में इलैक्शन (निर्वाचन) कर के बैसी ही हुकूमत वहां कायम कर दी जाय। क्या कभी बिक्री के टट्टू, स्टेबल (स्थायी) गवर्नमेंट (शासन) कायम कर सकते हैं, आप इस बात को ज़रा सोचिये। आप पहले हालात ऐसे पढ़ा कीजिये कि ये बिक्री के टट्टू न जायें, बिकने वाले आदमी वहां न जायें, बल्कि सही आदमी, पब्लिक (जनता) के सही नुमायन्दे, वहां जायें। मैं यही चाहता हूँ। मैं यह नहीं चाहता कि इज़ेशन में कोई देर की जाये। लेकिन मैं यह ज़रूर चाहता हूँ कि हालात ऐसे बना दिये जायें कि सही नुमायन्दे वहां जा सकें।

अब मैं खुद डाक्टर तो नहीं, लेकिन डाक्टरों के चरणों में थोड़ा रहा हूँ तो कम्पाउंडर की हैसियत समझ लीजिये : तो मैं थोड़ी सी तशखीस बता देता हूँ कि वहां क्या मर्ज है और तभी मालूम होगा कि इस के लिये अरजेंसी (जल्दी) की ज़रूरत क्यों है। मैं सरदार साहब को बताऊँ कि अरजेंसी क्यों है। अभी शायद वह यहां दिल्ली की ठंडी जगह में बैठे हैं या कपूरथला में बैठते हैं इस लिये महसूस नहीं उन को होता कि वहां क्या होता है। लेकिन जहां रोज़ डाके पड़ते हैं, औरतें जहां बाहर नहीं जा सकतीं, किसी की मजाल नहीं कि पैसा ले कर चला जाये, या किसान बैल ले कर खेत में चला जाये, जब वहां ऐसी हालत हो तो आप समझते हैं कि अभी ज़रूरत नहीं है, अभी कोई अरजेंसी नहीं है। कौन से हालात वहां पैदा हो गये हैं यह मैं आप को बताता हूँ।

सन् १९४७ में ब्रिटिश इम्पीरियलिज्म (साम्राज्यवाद) ख़त्म हुआ और ज़रूरी था कि उसके पाये-स्तून (आधार-स्तम्भ) जो रजवाड़े शाहियां थीं वे भी ख़त्म हों और वह काम हिन्दुस्तान के लौह-पुरुष सरदार पटेल को सुपुर्द किया गया और उन्होंने ने किस खूबी

से, किस अक्लमंदी से और किस तदब्धुर (बुद्धि-मत्ता) से भ्रान्त फ्रानन में तमाम काम कर दिया। लेकिन एक कमी थी उन में, चाहे कुछ भी हो वह होना उन में स्वाभाविक था, नेचुरल था, वह नान-वायलेंट (अहिंसक) थे और नान वायलेंट के साथ उनको दया आ गई और खत्म करते करते पूरा बार नहीं मारा और थोड़ी सी कसर रजवाड़ेशाही को खत्म करने में छोड़ दी और यह राजप्रमुखों की प्रथा कायम कर दी। वही राजप्रमुख आज हमें कहते हैं कि हमारे बायदे हैं उनके साथ, लेकिन उन को मालूम होना चाहिये कि डेमोक्रेसी में बायदे पीपुल (जनता) किया करते हैं इंडिविजुएल्स (व्यक्ति) नहीं किया करते हैं। चाहे कोई कितना ही बड़ा आदमी क्यों न हो, उसका बायदा डेमोक्रेसी में नहीं चलता। आज पीपुल्स की यूनाइटेड (संयुक्त) आवाज यह है कि राजप्रमुखों की डेमोक्रेसी के युग में जरूरत नहीं है और यह तमाम चीजें अजायबघर में भेज देने के लायक हैं। और अगर वे वहां हो-हल्ला मचाते हैं और अपने को जानवर समझते हैं तो उनको चिड़ियाघर में भेज दीजिये, लेकिन अगर वे वहां भी चुपचाप नहीं रह सकते तो मेरे स्थान में पागलखाने के सिवाय उनके लिये और कोई जगह नहीं है।

यह सब से बड़ी कमी और नुक्स है जो यह छोटे छोटे कानून पूरा नहीं कर सकेंगे। अभी क्या क्या बातें वहां पर पैदा हुईं। उस के साथ साम्प्रदायिकता ने भी वहां घर कर लिया। पंजाब में साम्प्रदायिकता खत्म हो गई, क्योंकि अकेली थी। काश्मीर में रजवाड़े-शाही बाकी थी, खत्म हो गई, क्योंकि वह अकेली थी। लेकिन पेप्सू में रजवाड़ेशाही खत्म नहीं हो सकी क्योंकि वह अकेली नहीं थी और चाहे आप कितने ही कानून बना डालिये जब तक इन दो चीजों का गठबन्धन है और उन के साथ दूसरी शक्तियां भी मिल रही हैं, जब तक इनका खात्मा नहीं होगा, तब तक सही नुमा-

यन्दे आप की असेम्बली में नहीं जा सकेंगे और तब तक सही हालात पैदा नहीं हो सकेंगे। छः महीने नहीं, छः साल भी लग जायें तब भी कोई परबाह नहीं, लेकिन यह जरूरी है कि रजवाड़ेशाही को खत्म किया जाये। पेप्सू एक्साइज स्टेट (आबकारी राज्य) है। जहां पर शराब पब्लिक और सर्विसेज में खूब चलती है और अगर उस स्टेट की आमदनी को देखा जाय तो पता लगेगा कि कुल आमदनी का ४० फीसदी पेप्सू में शराब की आमदनी से आता है। उस स्टेट के लिये कैसे आप उम्मीद करते हैं कि वहां सही नुमायन्दे असेम्बली में जा सकेंगे। जहां पर राज-प्रमुख २० लाख रुपया मुफ्त में सरकारी खजाने से लेता हो। आप बायदे की कहते हो, कि राजप्रमुख से हमारा बायदा हो गया। सरदार पटेल ने किया होगा, लेकिन बायदा एकतरफा नहीं चला करता। उनका भी फर्ज था कि वे पालिटिक्स (राजनीति) में कोई हिस्सा न लें। लेकिन यह सरीहन कहा जा सकता है कि राजप्रमुख पालिटिक्स में हिस्सा लेते हैं और वहां रजवाड़ेशाही ने साम्प्रदायिकता से गठजोड़ करके डेमोक्रेसी को खत्म करने की कोशिश की हुई है। हमें इस रजवाड़ेशाही और साम्प्रदायिकता दोनों को खत्म करना होगा। आज कीजिये, कल कीजिये या परसों कीजिये, लेकिन करना जरूर है। अक्लमंद आदमी इन को करने में देर नहीं लगाते हैं, डीले आदमी इनको करने में कुछ देर किया करते हैं।

एक माननीय सदस्य : डाक्टर काटजू
जंगल में बैठने के लायक हैं।

श्री बिहारिया : खैर मैं तो नहीं समझता कि अभी वे जंगल में बैठने के लायक हैं, जिस तरह कि मेरे दोस्त पंडित भार्गव ने कह दिया कि वे जंगल में बैठने के काबिल हो गये हैं। खैर, मुझे एक दो जरूरी बातें कह लेने दीजिये।

[श्री चिमारिया]

रजवाड़ेशाही खत्म करते करते हम पंजाब की पांच रियासतों को मिलाकर एक यूनियन बनाने लगे थे। महाराजा पटियाला अपने आप को एक बड़ी रियासत का शासक समझते थे, और वे इस यूनियन से अलग रहना चाहते थे। खैर, दबाव से कहिये, किसी तरह से, वे भी मान गये और छः रियासतों को मिला कर एक यह यूनियन बना दी गई। पंजाब अलग एक छोटा सा प्रान्त रह गया था उसके अन्दर अंगर इस को मिला दिया जाता तो अच्छा सोहना पंजाब बन जाता। अब भी मेरे दोस्त पंजाबी स्पीकिंग (भाषी) सूबा करके उसको छोटा पंजाब बनाना चाहते हैं। चाहिये तो यह था कि पंजाब और पटियाला यूनियन को एक में मिलाया जाता, क्योंकि दोनों में बहुत समानता है। वहाँ पर जमीन पर राजाओं की झाला मिल्कियत होती थी। अभी एक क़ानून का ज़िक्र आया, राजा अपने नाम जमीन लिख लेता है। झाला मिल्कियत और तमाम पाबन्दियां टेनेन्ट्स पर प्रायद करता है, जिन्होंने कि जमीन को तोड़ा, सबियों से काएत की और उसको खरखेज बनाया उसकी कोई हैसियत नहीं और राजा ही जमीन का असली मालिक हो जाता है।

Dr. N. B. Khare: On a point of order. Can all this be said in the House?

Shri Nambiar (Mayuram): Oh, yes.

Shri Punnoose (Alleppey): This is the place to speak all this.

Mr. Deputy-Speaker: The hon. Member is referring to the need for the President's rule. He is also saying that the President should have powers with respect to the items in the present Bill and also generally. We ought not to use language which is unparliamentary or undignified or irrelevant.

Shri Nambiar: It is not undignified.

Mr. Deputy-Speaker: If objection is taken, then the hon. Member need not

use that language. He can advance other arguments.

Shri Chinaria: I referred only to land tenure and how the lands were acquired. We will have to have Bills for this purpose and for this same purpose we are giving powers to the President. Therefore, excuse me, Sir, if I say that I am not irrelevant.

Mr. Deputy-Speaker: I am not going to allow this. There must be a sense of decency and decorum. I was considering whether the question of the conduct of the Rajpramukh can be discussed here at all. We are not entering into personal discussions, nor is the Rajpramukh a person who can be discussed so far as this matter is concerned. That resolution was over already, when exception was taken as to whether the Rajpramukh ought to be entrusted with the management or some other person should be appointed. We are at present discussing the President's rule; whether the President should enact the laws or we, as Parliament, must pass laws ourselves from time to time. The whole thing is irrelevant. This must be expunged.

Dr. N. B. Khare: You must thank me for bringing this to your notice.

Mr. Deputy-Speaker: Any portion of the speech which seeks to cast aspersions on the head of the State and says that he was induced by immoral means like this ought to be deleted.

Dr. S. P. Mookerjee: But it is not the head of the State alone. The hon. Member was also saying that people in that area were acting in that disgraceful manner. It does not affect the Rajpramukh alone but it affects the moral standard of our people there also.

Mr. Deputy-Speaker: If it involves and casts aspersions upon the community as a whole. I will not allow that portion.

Dr. Katju: I should like to enter my strong protest against any observations made against any Rajpramukh or for that matter, against any man who is not here to defend himself. It is grossly improper, no matter from which side it comes.

We are not here to listen to personal allegations, personal observations, personal reflections of any kind whatsoever. Mostly they are unfounded—absolutely.

* * Expunged as ordered by the Chair.

Shri Punnoose: I have to make a submission. I am not very much acquainted with Parliamentary practice and rules. But it must be admitted that we cannot discuss the question of Patiala or PEPUSU without reference to Rajpramukh, because he is all powerful there.

Dr. Katju: On a point of order, Mr. Deputy Speaker. We have got the PEPUSU Budget which is coming shortly. We are now discussing a short Bill as to whether the President should or should not have the power. The Rajpramukh does not come into the picture at all in this Bill.

Mr. Deputy-Speaker: I rule out all the portions relating to the Rajpramukh, for this reason that this Bill mainly concerns itself with the fact whether Parliament should enact law, or power should be given to the President to enact law. The Rajpramukh does not come into the picture at all. When we come to other measures, like the Land Tenure Bill, etc. we shall see how far they are relevant, but I think even there it will not be relevant. It is a hypothetical issue over which I am not in a position to give a ruling now. So far as this matter is concerned, any reference to the Rajpramukh is absolutely unwarranted and irrelevant.

Shri K. K. Basu: Of course, if any indecent or unparliamentary remarks are made, you are certainly within your powers to expunge it. But the hon. the Home Minister said that we cannot mention the names of individuals who are not in the House to defend themselves. It has to be conceded that even the President has to work through his machinery and in referring to the machinery, we certainly have to point out individuals also. If any such reference is derogatory or indecent, they may be expunged. But that we cannot even refer to individuals who are not here is a proposition which I suppose is not correct.

Mr. Deputy-Speaker: There is no general ban against reference to any person here. If the matter is relevant and relates to an individual, it may be referred.

Another point that was mentioned by the hon. Home Minister was that aspersions ought not to be cast in the House against a person who is not here to defend himself.

So far as the first point is concerned any reference to the Rajpramukh in this Bill is absolutely unnecessary, irrelevant and uncalled for. So far

as the casting of aspersions is concerned, I will not allow it. Under these circumstances, I expunge those portions.

I am not giving any general ruling.

Shri Chinaria: I am being misunderstood. I have said nothing against the Rajpramukh. I have narrated historical facts—old facts—nothing against the Rajpramukh.

Mr. Deputy-Speaker: Historical or otherwise I have ruled they are irrelevant and cast aspersions on the Rajpramukh. On these grounds, those portions will be expunged. They will not be reported by the Press as well.

श्री चिनारिया : यह हालात थे कि जिन्होंने एक अजीब लैंड टिन्योर (भूमि व्यवस्था) कायम कर दिया और ६४ लाख एकड़ जमीन में से करीब एक तिहाई जमीन पर यानी बीस बाईस लाख एकड़ जमीन पर ऐसे टेनेन्ट्स रह गये जिन को कि हर वक्त किसी न किसी बहाने से लैंड लाईस (जमींदार) एजेक्ट (बेदखल) करते रहते थे और अब भी कर रहे हैं। इन हालात में जब रजवाड़ाशाही और जागीरदार तमाम के तमाम और साथ ही हमारे दोस्त कम्युनिस्ट भाई भी शोर मचाने के लिये मिल कर कुछ ऐस हालात बना देते हैं कि कोई कानून नहीं रहता। अब उस लाकानूनी को खत्म करने के लिये जरूरी है कि उन टेनेन्ट्स को रिलीफ (सहायता) दी जाय और जल्दी से जल्दी दी जाय। आज नहीं, कितने ही दिनों से, सन् १९०० के पहले से ये भगड़े चले आते हैं। कितनी जगहें ऐसी हैं कि दस, दस, पंद्रह पंद्रह साल से कोई लगान या बटाई किसी मालिक को नहीं दी गई और कितने ही टेनेन्ट्स ऐसे हैं जिनको बिना किसी गुनाह के लैंड लाईस हर साल निकालते रहते हैं। वे अपने घरों से अपनी जमीनों से निकल कर दर बंदर फिरते रहते हैं इससे यह नतीजा निकलता है कि डाके, कुर्ताने-खून और सूट मार हर जगह होती रहती है। आज इस चीज को खत्म करना चाहिये। लेकिन लैंड टेनेन्सी

[श्री चिनारिया]

एक्ट से या किसी और एक्ट से मैं नहीं समझता कि सही हालात पैदा हो सकेंगे जिस से कि सही तौर से एलेक्शन्स (निर्वाचन) हो सकें। अभी सरदार हुक्म सिंह पूछते थे कि क्या क्या लेजिस्लेशन (विधान) बनाये जायेंगे। मैं उन को बताऊँ कि पिछले साल से पेप्सू में डिमाक्रेटिक गवर्नमेंट कायम है, डिमाक्रेटिक इंस्टीट्यूशन (लोकतंत्रीय संस्था) लेजिस्लेटिव एसेम्बली (विधान-सभा) कायम है, लेकिन साल भर के अन्दर सिर्फ २४ दिन वह एसेम्बली मीट कर (समवेत हो) सकी। यह तो काम है जो कि इस डिमाक्रेटिक इंस्टीट्यूशन ने किया है।

सरदार हुक्म सिंह : २४ दिन तो किया, कांग्रेस ने तो एक भी दिन नहीं किया।

10 A.M.

श्री चिनारिया : यहां कांग्रेस-बे कांग्रेस का सवाल नहीं है। यह सारे का सारा सवाल डिमाक्रेटिक इंस्टीट्यूशन का है जिस ने साल में सिर्फ २४ दिन काम किया। और फिर उस ने कितने कानून पास किये? जितने पास करने थे उन में से एक या दो तो बमुश्किल तमाम चलते चलते पास किये। इसलिये कि अगर कल चुनाव में कामयाबी न पा सके तो दूसरी पार्टी का नाम न हो। अगर कांग्रेस पावर में आ गई तो उसका नाम होगा, इसलिये लैंड यूटिलाइजेशन और ग्रामा र्मिन्कियत के कानून तो चलते चलते उस ने पास किये। और कोई कानून उन्होंने पास नहीं किया। इस के लिये हिंद सरकार ने १९-५-५० के रेज्योलूशन के जरिये एक एग्जिक्यूटिव रिफार्म्स कमेटी बनाई जिस के चेअरमैन श्री वेन्कटचार थे। फिर पेप्सू सरकार ने भी एक कमेटी बनाई जिस के चेअरमैन दारा सिंह थे। दोनों की रिपोर्टें शायद हो चुकी हैं और उन के

आधार पर जो कानून बनाये गये थे उन कानूनों की तफसील यह है। PEPSU Utilisation of Lands Bill, PEPSU Requisition and Acquisition of Immoveable Property Bill, Reclamation of Land Bill, Land Acquisition Bill, Tenancy of Agricultural Lands Bill, Agricultural Lands Limitations on Ownership Bill, Ala Milklat Bill, Superior Rights Bill, Tenancy Temporary Provisions Amendment Bill. इतने कानून जो वहां इंटीड्यूस हो चुके थे लेकिन वह डिमाक्रेटिक इंस्टीट्यूशन उन्हें पास करने का समय नहीं निकाल सकी। और आज यह उम्मीद की जाती है कि एक दम से सारी चीजों को कर दिया जाये। मैं कहता हूँ कि जब तक टेनेन्ट्स को रिलीफ पहुंचाने की जरूरत है और कोई आउटसाइड (बाहरी) एजेंसी को चाहे पार्लियामेंट को या राष्ट्रपति को भरख्यार देकर जल्द से जल्द उसे नहीं किया जायगा तब तक वे हालात नहीं पैदा हो सकते हैं जो कि सरदार साहब चाहते हैं और जो कि तमाम देश के अमन के लिये, तमाम देश की उन्नति के लिये और तमाम देश के फायदे और बेहतरी के लिये जरूरी हैं। आप इस हिस्से के अन्दर फाइव इंच प्लैन (पंच वर्षीय योजना) लागू कर रहे हैं, करोड़ों रुपये उस पर खर्च कर रहे हैं लेकिन जहां इतनी लाकानूनी और इतने के आपस के तफरकात हैं वहां कोई काम नहीं हो सकता है चाहे आप कितना ही रुपया बरबाद कीजिये। इसलिये जरूरत है कि पहले उन हालात को ठीक करने के लिये यह कानून पास किया जाये और उस के बाद जितने भी कानून जरूरी हों वे पास किये जायें ताकि वहां पर अमन कायम हो सके। यह चीज है जो कि जरूरी है। अगर इस को सुनकर भी सरदार साहब महसूस नहीं करते और कोई रेमेडी (इलाज) नहीं मालूम करते तो लाचारी है। अगर इतनी बातों को सुनकर भी सरदार साहब वही बातें कहते

हैं तब तो मेरे स्थान में वह रोगी के साथी नहीं बल्कि रोग के साथी हैं। लेकिन मैं यह बता दू कि रोग इतना बढ़ गया है कि रोगी ज्यादा दिन जिन्दा नहीं रह सकता है और रोगी मर गया तो रोग भी साथ ही साथ खत्म हो जायगा। अगर आपने सामन्त-शाही और साम्प्रदायिकता के दोनों रोगों को खत्म नहीं किया तो हमारी हालत कभी भी दुस्त नहीं हो सकेगी।

मुझे इतना ही कहना था और इतना कह कर मैं आप से क्षमा चाहता हूँ।

Dr. S. P. Mookerjee: The object of this Bill is not to reopen the discussion on the need for introducing President's rule in PEPSU. That matter is closed. Many of us opposed that Resolution, but the House has taken a decision. Now the object of this Bill is only to delegate the Power of Parliament to the President for the purpose of legislation. It would be better if we confine our discussion only to that point.

This matter came up before this House when a similar Bill was moved by Mr. Rajagopalachari who was then the Minister in charge, while dealing with Punjab. His original proposal was not only to delegate the power of the Parliament to the President but also to authorise the President to delegate his power of legislation to the Governor. As my friend Pandit Thakur Das Bhargava has reminded the House, at that time a discussion took place in which Members belonging to all sides participated and expressed their grave concern at the drastic nature of that provision, so much so that Government had to modify the stand first taken by them. On the next day Shri Rajagopalachari came before the House and withdrew that particular sub-clause of the then Bill, which provided for sub-delegation of power by the President to the Governor.

Even with regard to the exercise of legislative power by the President he was prepared to accept a formula, namely, that after the Bill had been passed by the President it would be placed before Parliament at the next session and by means of a resolution Parliament could modify any of the provisions in that Bill. A similar provision has found its place in the present Bill also.

But we oppose this Bill on the ground that we are not satisfied that

there is any ground for delegation of the power of Parliament to the President at all. There is an obvious difference between Section 93 under the old Government of India Act which contemplated suspension of the Constitution in particular Provinces and the provisions in our present Constitution. As was put by Mr. Rajagopalachari on the previous occasion, our present Constitution does not contemplate suspension of democracy. This is how he put it, that this is not the same as the picture under section 93 of the old Government of India Act by which provincial autonomy was substituted arbitrarily by Governor's rule. Here there is no desire to take away the responsibility of Government under democracy. In other words, the picture that we contemplate is somewhat like this. The Government of India steps into the shoes of the State Government and the Government of India is responsible to this Parliament. In executive matters, therefore, it is the Central Government which remains in temporary charge. With regard to finance, control of Parliament continues. With regard to the High Court, even the Government of India or Parliament cannot supersede the High Court. The judiciary continues. Control over finance continues through Parliament. With regard to legislative matters, normally Parliament should function as the legislative authority, but the Constitution gave Parliament the power to delegate its legislative power to the President. That, in brief, is the structure that the Constitution has provided for under such exceptional circumstances. But when we raised this question last time that it was not desirable that we should take away this power of Parliament and we wanted to know from the then Home Minister what were the special reasons why he wanted to do so and whether the intention was to pass legislative measures on a large scale, he came out with his reply. It is worth being repeated to the House now. The question put to him was "What is the policy of the Government? Are they going to take up all and sundry legislation and push it through under the authority proposed to be got from this Bill, or are they going to work as care-takers only for the time being?". "That is a question which I should answer and I am glad to answer. It is not the intention of Government to take up all legislation simply because they have authority for a summary process and go on with every kind of thing simply for the sake of making laws. What they have to take is only that

[Dr. S. P. Mookerjee]

which is most urgent and most necessary either from the point of view of the present emergency or from the point of view of any emergency that may arise in the Province. Their intention is only to take up absolutely essential legislation." And then he stated: "But if they"—the measures—"are controversial and are likely, so to say, to forestall the legitimate activities of a popular Ministry, I promise that such things will not be tackled and it is not a pleasure for Government to tackle such things. We shall only deal with necessary things. It is impossible to leave a gap."

Now, a certain fundamental principle was accepted by the Government on that occasion, that only very necessary and essential pieces of legislation will be undertaken under this emergency power. Therefore earlier today I put a question to the hon. Minister enquiring what his plans were. He has come with a list of several Bills. And he quite rightly pointed out that it was not possible to indicate what is going to happen in the future. Some of these measures which he just now cited are important. I am not doubting their importance. I am not doubting even their urgency. But some of them may be of a controversial nature, and rightly so. I am not saying that these Bills should not be passed into law. I had occasion to visit PEPSU for a very short while sometime ago and I think that perhaps if some of these measures were enacted it may create a better situation, not for law and order alone but for creating a more stabilised condition in that part of India. So I am not opposing for a moment the justification for bringing forth such legislation. There may be difference of opinion with regard to the provisions of the Bills—which we have not seen. But my point is this that the responsibility for passing such laws should not be undertaken by the executive authority. Why cannot this Parliament be trusted to consider these matters during the current session? I make this offer on behalf of the Members sitting on the Opposition that we will be quite prepared to sit for extra days, or three hours extra sittings in the evening for two or three days. Let us agree to take two or three days for the purpose of considering these measures. The Business Advisory Committee under your chairmanship, Sir, can lay down an agreed programme. But this is a fundamental point. Parliament should not delegate its powers to the President unless the circumstances are very exceptional in nature. It is not a question of the Opposition's right: it is a question of the right of the House,

and I would very strongly urge Members sitting on the other side not to look at it from a party point of view. This is the prerogative of Parliament. Under the Constitution the passing of laws in a democratic State must be the prerogative of Parliament. Maybe the President has the Ordinance-making power when Parliament is not in session. But normally speaking, when Parliament is in session, this body and this body alone must undertake legislation. There is nothing that they need be afraid of. They have a more comfortable majority than is necessary for passing the Bills. Any Bill will be passed into law. The Opposition cannot obstruct. Then why should Government proceed with such a measure as this? It is this mentality which we disapprove of. I am not raising the circumstances under which President's rule has been promulgated. It has been closed for the time being. In connection with the Budget some of the points may be raised. But that is totally irrelevant so far as this narrow issue is concerned, narrow in extent but of high constitutional value.

I would therefore appeal to my friend to drop this Bill. It is not a corollary to the promulgation of President's rule at all. The resolution which was amended, when Dr. Katju moved his proposal, at the instance of Pandit Bhargava, makes it clear that the powers of the Legislature of PEPSU shall be exercisable by or under the authority of Parliament, making certain incidental and consequential provisions detailed in the Proclamation. So the House, on the recommendation of the Minister himself, only on the 12th March last adopted the resolution that the legislative powers of PEPSU are being transferred to this House. Why alter it now? You have the power. I am not saying the House cannot do so. It has the power under the Constitution to do so. But I consider it totally unnecessary and in order to establish healthy democratic precedents the Minister should withdraw this Bill, sit down with representatives of the Opposition Groups, fix up a programme, tell us how many Bills he wants to get passed so that Parliament can discharge the duties normally entrusted to this body. That is the point which I would like to place before the House.

श्री बल्लू राय शास्त्री (ज़िला भाजमगढ़—
पूर्व व जिला बलिया—पश्चिम) : उपाध्यक्ष
महोदय, मंत्री मेरे मित्र श्यामा प्रसाद मुखर्जी
ने जो प्रश्न उठाया है वह एक महत्व का

प्रश्न है। इस में संदेह नहीं कि जो बात उन्होंने कही उस की दृष्टि से अग्रर संभव होता तो पार्लियामेंट को ही उन तमाम विधानों के बनाने का अधिकार अपने हाथ में ले लेना चाहिये। लेकिन जैसा कि इस विधेयक के 'स्टेटमेंट आफ् आबजैक्ट्स एंड रीजन्स' (उद्देश्यों तथा कारणों का विवरण) में बहुत सफाई के साथ लिखा गया है कि पार्लियामेंट अपने इस वर्तमान सत्र में उन महत्वपूर्ण प्रश्नों को ले नहीं सकती. . . . *

Dr. S. P. Mookerjee: Why?

श्री अलगू राय शास्त्री : इसलिये नहीं ले सकती कि काफी दिनों से पार्लियामेंट का यह सत्र चल रहा है और बहुत से महत्वपूर्ण प्रश्न वहां पेप्सू के बारे में, जिन के संबंध में विधियां बननी हैं, ऐसे हैं कि जिनको टाला नहीं जा सकता। लैंड रिफार्म (भूमि सुधार) के प्रश्न हैं और दूसरे प्रश्न हैं, उनको लेकर पार्लियामेंट स्वयं आज बैठ जाय तो वह एक नियत समय में उनको पूरा नहीं कर सकती। अब इस सत्र का विस्तार करना भी बहुत कठिन है। तो, न तो सत्र बढ़ाया जा सकता है और न उन महत्वपूर्ण प्रश्नों को इस बीच में जल्दी जल्दी में हम पास कर सकते हैं, उन के संबंध में विधेयक बना सकते हैं। न उस काम को टाला जा सकता है और न उस काम को यहां पर पूरा किया जा सकता है। यह मुख्य कठिनाई है जिस के कारण यह विधेयक यहां आया। अग्रर पार्लियामेंट के लिये यह अवैधानिक होता कि अपने अधिकार को, अपनी पावर को, अपनी शक्ति को किसी को सुपुर्द कर सके तो अलबत्ता यह प्रश्न उठ सकता था। जो कांस्टीट्यूशन ऐक्ट (संविधान) का अनुच्छेद ३५६ है उस में जहां इस प्रकार का प्रोक्लेशन इश्यू (उद्घोषणा जारी) करने का अधिकार राष्ट्रपति को दिया गया है, प्रेसीडेंट आफ इंडिया को दिया गया है, वहां अनुच्छेद ३५७ के खंड (१) के उप-खंड (क), (ख)

तथा (ग) में भी इस तरह का प्रावीजन (उपबन्ध) इसलिये रखा गया था कि इस तरह की आवश्यकता हो सकती थी। अब यहां प्रोक्लेशन आया। उस के बारे में इस पार्लियामेंट ने अपने प्रस्ताव द्वारा उसको स्वीकार किया। अब आवश्यकताओं से ही विश्व होकर, कि जिन आवश्यकताओं को दृष्टि में रखकर हम ने ३५७ (१) और उस के उपखंड (क), (ख) तथा (ग) इत्यादि बनाये हैं, उन से लाभ उठाकर हम यह अधिकार प्रेसीडेंट को दे रहे हैं कि वह कानून बनाने की कार्यवाही पर अपना अधिकार रखें और उस अधिकार के अनुसार आवश्यक कानून बनायें। तो में समझता हूं कि अब यह प्रश्न उठाना कि पार्लियामेंट स्वयं दो दो तीन तीन घंटे और बैठकर और अधिक समय दे कर इस काम को करे, तो वह जल्दी का काम होगा। और एक मुहावरा है कि "जल्दी का काम शैतान का"। यह कोई अनपार्लियामेंटरी (असंसदीय) प्रयोग नहीं है, बल्कि एक ग्रामीण मुहावरा है कि जल्दी का काम शैतान का होता है। तो जल्दी में कानून नहीं बनाये जा सकते। उन पर पूरा मस्तिष्क लगाने की आवश्यकता होती है कि कहीं उन में ऐसी बातें न आ जायें जो कि आक्षेप की हों। कहीं ऐसा न हो कि पहले तो बनाएं और बाद में जाकर उन को बिगाड़ना पड़े। सोच समझकर इसलिये कानून बनाना पड़ता है।

सुचिन्त्यं चोक्तम्, सुविचार्यं यत्कृतम् ।

सुदीर्घं कालेऽपि न याति विप्रियाम् ॥

तो जल्दी जल्दी में एक चीज पास करें तो उस से पार्लियामेंट द्वारा यह अधिकार ऐक्सर-साइज (प्रयोग) नहीं होगा, बल्कि पार्लियामेंट को यह एक तरह से धक्का लगेगा, क्योंकि आगे चलकर ला-कोर्ट्स (न्यायालयों) में

श्री के० के० बसु: पालियामेंट को पावर कहाँ है ?

श्री अलगू राय शास्त्री: पालियामेंट को पावर ३५७ में दी गयी है कि अपने अधिकार को प्रेसीडेंट को सुपुर्द कर सके। यह एक बड़ा भारी मौलिक अधिकार है जो हमने समझ बूझकर प्रेसीडेंट को दिया है जिससे कि ठीक सोच विचार कर, कूल-माइंडेडनेस (ठंडे दिमाग) से जो रिफार्म्स वहाँ करने हैं उन के लिये आवश्यक कानून वह बना सके। अगर जल्दबाजी में हम कोई काम करेंगे तो वह बिगड़ जायगा।

इस वास्ते में श्यामाप्रसाद जी के इस सुझाव का समर्थन नहीं कर सकता कि पार्लियामेंट स्वयं कुछ समय दे कर इन कानूनों को बना दे। लेकिन मैं यह जरूर चाहता हूँ कि ये कानून अविलम्ब बनने चाहिये। लैंड रिफार्म को हम रोक नहीं सकते, क्योंकि जमीन ही प्राइमरी (प्रधानतः) उत्पादन का स्थान है। जितनी चीजें हम पैदा कर सकते हैं उन की जननी भूमि है। तो भूमि के संबंध में जनता का अधिकार न हो, यदि उसके जोतने बोनो वालों को उस पर अधिकार न मिले, तो उत्पादन रुकता है और उस में बाधा पड़ती है। इसलिये उस संबंध के कानून को हम क्षण भर भी रोक नहीं सकते। अब पालियामेंट के पास उन कानूनों को बनाने के लिये समय नहीं और उनका बनाना अनिवार्य है। तो हम दोनों काम नहीं कर सकते। इसलिये जैसा कि इस विधेयक के आबजैक्ट्स एंड रीज़न्स के बयान में दिया हुआ है उस के अनुसार हम ३५७ (१) के मुताबिक जो कि कांस्टीट्यूशन में प्रोवाइडेड (उपबन्धित) हैं, उस के अनुसार हम अपना यह अधिकार, विधि विधान बनाने का, प्रेसीडेंट को सुपुर्द कर देते हैं। ऐसा करना ही पालियामेंट के लिये गौरव की बात है, क्योंकि वह कोई

अवैधानिक काम नहीं कर रही है, कोई जल्दी का काम नहीं कर रही है। प्रोक्लेशन के संबंध में संसद् प्रस्ताव पास कर चुकी है। उस के बाद यह दूसरी सीढ़ी है। अनुच्छेद ३५६ के अन्दर प्रोक्लेशन और ३५७ के उप-खंड (क), (ख) तथा (ग) आदि के अनुसार इस प्रकार का लैजिस्लेटिव अधिकार प्रेसीडेंट को देना, यह दोनों गौरवपूर्ण कार्य हैं। इसके अन्दर कोई नहीं कह सकता कि पालियामेंट ने अपने उत्तरदायित्व को पूर्ण रूपेण नहीं निभाया। पेंसू में स्थिति ऐसी थी कि जो वहाँ गवर्नमेंट थी उस को हटाकर राष्ट्रपति को, प्रेसीडेंट को, पावर अपने हाथ में लेनी पड़ी। बाद में पालियामेंट ने उसको उचित माना और अब उसके संबंध में जो कानून बनने हैं उन को अगर हम स्वयं बनायें तो यह जल्दबाजी का काम होगा और जल्दबाजी का काम ठीक नहीं होता। इसलिये प्रेसीडेंट को, राष्ट्रपति को, यह काम सुपुर्द कर देना चाहिये।

इन शब्दों के साथ मैं श्यामाप्रसाद जी के उस सुझाव का विरोध करता हूँ और इस बात का अनुरोध करता हूँ कि यह हाउस इस विधेयक को इस के अविकल रूप में स्वीकार करे और इस में एक क्षण का भी विलम्ब न करे।

Mr. Deputy-Speaker: Lala Achint Ram.

Some Hon. Members rose—

Mr. Deputy-Speaker: I will give preference to people who come from PEPSU or near about PEPSU. Then I will come to others.

Shri Raghavachari (Penukonda): This is a matter which affects the powers of the House.

Mr. Deputy-Speaker: I am only trying to give preference to those Members who come from PEPSU or near about. I am not excluding others.

Shri Algu Rai Shastri: Those who talk sense and reason.

लाला अचिन्त राम (हिसार): माननीय अध्यक्ष जी, हमारे सामने यह एक जरूरी बिल है। मैं इस को मामूली बिल नहीं कहता।

इस का संबंध एक प्रदेश की इतनी बड़ी जनता के साथ है। खास तौर पर आज जो बिल आप ले रहे हैं वह महत्व का है, इस कारण कि यह एक तरीके से जो डिमोक्रेसी है, प्रजातन्त्र है, उस से विरुद्ध जा रहा है, हम तमाम ताकत प्रेसीडेंट के हवाले कर रहे हैं। इसलिये भी इसकी खास अहमियत है। लेकिन मैं समझता हूँ कि खास बातें खास हालात के अन्दर करनी पड़ती हैं। पेंसू की जो हालत थी, जब लेजिस्लेटिव एसेम्बली (विधान-सभा) वहाँ काम करती थी, उस वक्त वहाँ ला एंड गार्डर (विधि तथा व्यवस्था) की हालत बहुत बुरी थी। यह कोई छिपी हुई बात नहीं है, इस को तमाम दुनिया जानती है कि कैसे वहाँ डाके पड़ते थे, कैसे प्रौरतों की अस्मत् खतरे में थी। इसी तरह की और बातें थीं। इन तमाम हालात के कारण ला एंड गार्डर भी वहाँ पर कायम नहीं था। इन तमाम बातों का ख्याल करके मैं समझता हूँ कि प्रेसीडेंट (राष्ट्रपति) का प्रोक्लेमेशन (उद्घोषणा) आया और तीन महीने पहिले वह चीज इस पार्लियामेंट के सामने पेश हुई। उस वक्त दलायल क्या दी गई? जो दलायल दी गई, उन में दो जबरदस्त थीं। पहली यह थी कि वहाँ पर ला एंड गार्डर नहीं था। इस बात की जरूरत थी कि वहाँ पर ला एंड गार्डर स्थापित किया जाये। एक और दूसरी दलील भी दी गई, वह यह कि वहाँ के लैजिस्लेचर को कायम हुये एक साल हो गया। इस एक साल के अरसे के अन्दर जो वहाँ की गरीब जनता थी उस की हालत को ठीक करने के लिये, उस के फायदे के लिये जो लेंड रिफार्म का बिल (भूमि सुधार का विधेयक) था वह पास नहीं हो सका। वहाँ पर जो ज़मींदारी के ऐग्रेरियन साज (कृषि संबंधी विधियाँ) थे, वे पास नहीं हो सके। मैं हैरान था कि प्रोक्लेमेशन करने के वक्त जो ज़रा सी छोटी बात मालूम पड़ती है उस को भी दर्ज किया गया। यह छोटी बात है कि फलां कानून वहाँ

पर पास नहीं किया गया, यह क्या कारण था, क्या बजह थी, कि जिसके लिये जो वहाँ की हुकूमत थी उस को हटा दिया जाय। लेकिन नहीं। प्रेसीडेंट साहब ने, गवर्नमेंट आफ इंडिया ने महसूस किया कि यह जो कानून है, यह जनता के हित के लिये बहुत जरूरी है। अगर वहाँ की गवर्नमेंट ने इस कानून को पास नहीं किया तो उन्होंने अपने बड़े भारी फ़ज़ से कोताही (उपेक्षा) की है।

इस चीज़ को पार्लियामेंट के सामने लाया गया और मैंने भी और मैं समझता हूँ कि हाउस ने महसूस किया कि आज की गवर्नमेंट में, पहली गवर्नमेंट तो रही नहीं, इस वास्ते यह और भी जरूरी समझा गया कि वहाँ पेंसू में अगर राष्ट्रपति का शासन लागू होता है, तो यह गलती की बात नहीं है, इस वास्ते पार्लियामेंट ने इसको क़बूल किया। आज हमारे सामने एक बिल आता है, मैं इस बात के हक में हूँ कि प्रेसीडेंट साहब को पावर्स दी जायें, प्रेसीडेंट साहब को पावर दिये वगैर काम नहीं चल सकता। अब पार्लियामेंट का सेशन (सत्र) खत्म होने जा रहा है और अगर इस तीन महीनों के बीच में कोई क़ानून बनाने की जरूरत हो, तो इस वास्ते जरूरी हो जाता है कि प्रेसीडेंट साहब को उसके लिये पावर्स दी जायें, लेकिन मैं चाहता यह हूँ कि हम इस तरीके से न चलें कि जिससे लोगों के सामने हम रिडीकुलस (हास्यास्पद) मालूम हों। आखिर आप ने जो वहाँ की गवर्नमेंट को सस्पेंड (निलम्बित) किया, और प्रेसीडेंट रुल बनाया वह किस वास्ते कि वह गवर्नमेंट एक साल के अन्दर ३६५ दिन के अन्दर जरूरी क़ानून पास नहीं कर सकी, तो कल अगर आप से कोई सवाल करता है कि जनाब आप बतलाइये कि आपने साठ दिन में क्या किया तो आप क्या जवाब देंगे। वहाँ की गवर्नमेंट ने ठीक है एक साल के अन्दर

[लाला अचिन्त राम]

कुछ नहीं किया, लेकिन आप बतलाइये आप ने साठ दिन के अन्दर क्या किया, आप कहेंगे--"हमें वहां पर बड़े जरूरी काम करने थे" एग्ज़ेरियन रिफार्मर्स की बिना पर आपने वहां की गवर्नमेंट को सस्पेंड किया था । आप उसको किया जाना बहुत जरूरी समझते थे, लेकिन अगर वाकई आप उनको जरूरी समझते होते तो उनको यहां पर लाते । यह ठीक है कि आप को पचास बातें यहां लानी थीं, लेकिन अगर आप सब एक साथ नहीं ला सकते थे तो कम अज़ कम एक लाते, दो लाते या चार लाते । उस हालत में हम वहां की पबलिक पर अच्छा और माकूल इम्प्रेसन (प्रभाव) डाल सकते थे । तीन महीने तो हम बिल्कुल चुप रहे, एक भी लेजिस्लेशन नहीं लाये और जब पार्लियामेंट खत्म हो रही है तब आप कहते हैं कि हमें इन कामों को एडजोर्न (स्थगित) करना पड़ेगा, पोस्टपोन करना पड़ेगा, तो यह आपका कहना पबलिक पर अच्छा इम्प्रेसन नहीं डालने वाला है । मैं इस बात के हक में हूँ कि प्रेसीडेंट साहब को पावर (शक्ति) दी जानी चाहिये, लेकिन फरवरी, मार्च और अप्रैल इन तीन महीनों में हम जरूरी लेजिस्लेशन भी न पास कर सके और हम तीन महीने में कुछ नहीं कर पाये । मैं समझता हूँ कि यह पोजीशन (स्थिति) रेडीकुलस (हास्यास्पद) है और मैं इसका अच्छा और मनासिब नहीं समझता ।

श्री अलगू राय शास्त्री : पिछले तीन महीनों में पार्लियामेंट और बहुत आवश्यक काम कर रही थी ।

लाला अचिन्त राम : मालूम पड़ता है आप ने मेरी तक्रार को ध्यान से नहीं सुना । मेरा यह कहना है कि आपने यह तो पेन्स के आदमियों को कहा कि आपके वहां एग्ज़ेरियन रिफार्मर्स बहुत आवश्यक हैं, और अब यह उन से कहना कि चूँकि हमें

दूसरे आवश्यक काम करने थे, इसलिये हम उस काम को पोस्टपोन (स्थगित) कर रहे हैं, उससे उन लोगों पर यह इम्प्रेसन पड़ता है कि उनका काम इतना आवश्यक नहीं था जितने आवश्यक काम यहां पार्लियामेंट में चल रहे थे । मेरे ख्याल से वह गलत बात है । यह तो समझ में आ सकता है कि आप जितने सारे सुधार काननों में करने हों, वे यहां आवश्यक कामों में लगे रहने के कारण न कर पाये हों, लेकिन कम से कम वह काम जिसके लिये आपने एलान किया और जिस एग्ज़ेरियन रिफार्मर्स की बिना पर आपने तमाम चीज को सस्पेंड किया, उसको तो जरूर ही पास किया जाता । जहां आपने साठ दिन खर्च किये वहां तीन दिन इसको पास करने में और सफ़्त कीजिये । यह इम्प्रेसन न क्रीएट (पैदा) होने दीजिये कि उनकी कुछ पवार्ह नहीं की गयी, तीन महीने में हम ने कुछ भी उनके लिए काम नहीं किया । मैं समझता हूँ कि कल हमें फिर पबलिक में जाना है, एलेक्शन (निर्वाचन) लड़ना है, इसलिये यह जरूरी हो जाता है कि हम एग्ज़ेरियन रिफार्मर्स को जल्द अज़ जल्द करें, क्योंकि हम पबलिक की नुकताचीनी का क्या जवाब देंगे कि क्या हम इतने बिजी (ब्यस्त) थे कि जिस हेतु हमने २६ सूबों में से एक की मशीनरी सस्पेंड कर दी, बावजूद सब्त मुखालफत के, हमने आवश्यक भूमि सुधार अभी तक नहीं करे । जहां तक उन स्टेट (राज्य) के कांस्टीट्यूशन (संविधान) को सस्पेंड करने का ताल्लुक है, मैं उससे पूरी तरह सहमत हूँ । जिस स्टेट में भी ठीक तरह वहां की गवर्नमेंट काम न चला रही हो उसको हटा देना ठीक है, चाहे वह किसी पार्टी की गवर्नमेंट क्यों न हो और एक जगह हमने कांग्रेस गवर्नमेंट को जो ठीक तरह काम नहीं कर रही थी, हटा दिया । इस संबंध में हमारे

बोनाफाइड्स तो ठीक हैं और हमारी नीयत भी बिल्कुल साफ़ है, लेकिन नीयत की सफ़ाई का सबूत भी हमारी तरफ़ से दिया जाना चाहिये। तीन महीने के लिये तो हमने पार्लियामेंट को पावर्स दीं, और अब तीन महीने के बाद हम वह पावर्स उससे वापिस ले कर प्रेसीडेंट साहब को देने जा रहे हैं। तीन महीने पार्लियामेंट ने बिना कुछ सुधार किये खामख्वाह गुज़ार दिये और उस के लिए आपकी तरफ़ से यह दलील आना कि वक्त नहीं है, मैं समझता हूँ कि वह कोई बहुत मज़बूत और पायेदार दलील नहीं है। क्योंकि आपने फरमाया है कि प्रेसीडेंट साहब जो क़ानून बनायेंगे वे क़ानून फिर पार्लियामेंट के सामने आयेंगे और पार्लियामेंट फिर भी तो उनको पास करने में अपना वक्त लगायेगी, इसलिये कोई वज़ह नहीं मालूम पड़ती कि वह उस ज़रूरी काम को करने में अभी धूपना वक्त क्यों न लगाये और क्यों आप उसको पोस्टपोन करते हैं। पहले पार्लियामेंट का मौजूदा सेशन आठ मई को समाप्त होने वाला था, अब वह सात आठ दिन के लिये और एक्सटेंड कर (बढ़ा) दिया गया है तो मैं नहीं समझता कि इस ज़रूरी काम को करने के लिये हम को १५ मई को १७ मई करने में क्या अड़चन है। जिन दिनों पार्लियामेंट सेशन में न हो, उन दिनों के लिये प्रेसीडेंट को क़ानून बनाने की पावर्स देना, एक समझ में आने वाली चीज़ है और मैं उसको समझ सकता हूँ, लेकिन ऐसा न करके पार्लियामेंट जब कि सेशन में हो तब इस तरह की पावर्स प्रेसीडेंट को दे देना, मेरी राय में पार्लियामेंट की एक थोड़ी सी हेटी है और माकल बात नहीं मालूम पड़ती।

श्री अलगू राय शास्त्री : वह तमाम क़ानून जो इस अर्स में प्रेसीडेंट पास करेगा, वह पार्लियामेंट के सामने मंजूरी के लिये आयेंगे।

लाला अचिन्त राम : आप मेरी बात नहीं समझे। मेरा कहना यह है कि पार्लियामेंट इन-सेशन (सत्रासीन) है इसलिये जो ज़रूरी क़ानून हैं जैसे एग्ज़ेरियन रिफ़ार्म का उसको पार्लियामेंट को पास करना चाहिये। इसका यह मतलब नहीं कि मैं प्रेसीडेंट को यह पावर्स देने के हक़ में नहीं हूँ। इसके अलावा बहुत सारे मामले हो सकते हैं जिनको पार्लियामेंट डील नहीं कर (निबटा नहीं) सकती है। इस तीन महीने के अन्दर बहुत से ऐसे मामले पैदा हो सकते हैं जिनको प्रेसीडेंट को डील करना पड़े, लेकिन ऐसे मामले को, जो ज़रूर किया जाना चाहिये, उसको पार्लियामेंट जब इन-सेशन है, वह डील क्यों न करे? "Whether Parliament is or is not in session". (चाहे संसद् सत्रासीन हो या न हो) मैं समझता हूँ कि यह चीज़ अच्छी नहीं मालूम पड़ती। कम से कम एग्ज़ेरियन रिफ़ार्मम जिनके लिये आपने वहाँ का कांस्टीट्यूशन सस्पेंड किया, वह तो आपको करना ही चाहिये ताकि यह साबित हो सके कि आपकी नीयत साफ़ थी और आपने जो एक्शन लिया (कार्यवाही की) वह जस्टीफ़ाइड (औचित्यपूर्ण सिद्ध) हो सके। लेकिन अगर हम ऐसा नहीं करते तो हमारा स्टैंड इनकंसिस्टेंट (असंगत) होगा और हम पैप्सू में जाकर मुंह नहीं दिखा सकेंगे।

It does not matter, because it will put you in the right form; otherwise, it will put you in the wrong.

मैं अर्ज करना चाहता हूँ कि आप प्रेसीडेंट को पावर्स दें, लेकिन जैसा कि पंडित ठाकुर दास भागव ने अमंडमेंट (संशोधन) दिया है कि पैप्सू के जो यहाँ पर नुमायन्दे हैं, उन से सलाह की जाय, तो मैं बतलाऊँ कि पैप्सू और पंजाब आपस में इंटरवूनेन (सम्बद्ध) हैं। कपूरथला, फगवाड़ा और महेन्द्रगढ़, और जालंधर ये आपस में मिले हुये हैं और

[लाला अचिन्त राम]

उनकी हर बात का असर हम पर पड़ता है और हमारा असर उन पर पड़ता है, इसलिये मैं कहूंगा कि जो कांस्टीट्यूशनल ऐडवाइज़र (सांविधानिक मंत्रणाकार) बनें उन में पेप्सू और पंजाब के पार्लियामेंट के मेम्बर्स (संसत्सदस्य) हों। दूसरे यह बहुत जरूरी है कि पार्लियामेंट के अन्दर एग्ज़ेरियन रिफ़ार्म्स को जरूर पास किया जाय। तीसरे आप भले ही प्रेसीडेंट को पावर्स दीजिये, लेकिन यह जो पंजाब और पेप्सू के मेम्बर्स को लेकर एक ऐडवाइज़री कमेटी बनाने का सुझाव है जो प्रेसीडेंट को मशवरा दे सके, यह बहुत जरूरी है और इसको गवर्नमेंट को जरूर मंजूर करना चाहिए, क्योंकि गलती हर एक से होना संभव है और प्रेसीडेंट और गवर्नमेंट चाहे कितने ही लायक क्यों न हों, दोनों से गलती हो सकती है इसलिये यह सुझाव मंजूर किया जाना चाहिये। इसका फायदा यह होगा कि गवर्नमेंट इस गलती से बच जायगी कि किसी आदमी ने हमें यह बात सुनाई नहीं थी। अब यह कह सकेंगे कि मशवरे से बात हुई। इस तरह आपकी पोजीशन मजबूत होगी। आप पब्लिक का फ़ायदा कर सकेंगे।

Mr. Deputy-Speaker: The House will kindly remember that when the original programme was settled, one day was allotted for PEPSU (Delegation of Powers) Bill. Yesterday we spent about 19 minutes. Of course, we will have to close this,—we will assume by 1 O' Clock,—I mean, all the stages of the Bill. Some of the hon. Members here are interested in retaining the powers of Parliament, I understand it, though they may not come from Pepsu proper. They would like to say whether Parliament should delegate or not delegate.

Shri Namdhari (Fazilka-Sirsa): You may give five minutes each.

Mr. Deputy-Speaker: That can be done. Now, at what time shall we close this consideration and begin clause by clause consideration? There are about six amendments to Clause 3. Shall we take it up at 11.30 or 12 O' Clock?

Some Hon. Members: 12 O' Clock.

Mr. Deputy-Speaker: And then the third reading must be finished by 1 O'Clock. We will finish all the amendments. The consideration stage will be over by 12 O' Clock.

Then, may I submit to the House that already a number of speakers have spoken on a number of points, but the short point is whether we should delegate the powers or not, and whether Parliament should find some time or not; whether, when Parliament is in session, the power should be delegated. These are some of the salient points that have been raised. Therefore, hon. Members, with a view to bring pointed attention to these points, may give any reasons which have not already been set forth. Therefore, may I allow ten minutes to each hon. Member?

Now, Shri Musafir.

Shri Punnoose: Sir, if you call from this side also people with more intimate knowledge will be able to enlighten us when they speak.

گھائی جی - ایس - مسافر (امرتسر):

سہا پتی جی - جیسا کہ آپ کا فرمانا ہے - میں سمجھتا ہوں کہ یہ بحث ویسے بھی یہاں تک ہی محدود رہی چاہئے اور وقت بھی بہت تھوڑا ہے - اس لئے میں بغیر کوئی اور تمبھلی بات کے اپنی یہ رائے دیتا ہوں کہ اس وقت اس بل کو یہاں اگر اسی شکل میں پاس کر دیا جائے تو بھی اس میں کوئی ہرج نہیں ہے - یہ پنجاب کا معاملہ جب ہمارے سامنے آیا تھا تو اس وقت بھی یہاں کچھ دیریں ہوئیں تھیں - ہمارا آپس میں متبہید تھا اور میری اس وقت بھی یہ رائے تھی اور بعد میں تجربہ نے ثابت کیا کہ میری رائے تھیک تھی - کیونکہ جو اس وقت چوریزینڈلمٹ صاحب نے پنجاب کے متعلق اچھی طرح سوچ سمجھ کر جو

ہیں - ہم شاید ان سے بھی کچھ زیادہ آگے ہو کر اس بات کی تائید کریں کہ یہ سنسٹھا ختم ہو - مگر یہاں پر اس بات پر زیادہ بحث کرنے کی ضرورت نہیں ہے - اس لئے میں ادھر ادھر کی باتوں کے کہے بغیر اس بات پر زیادہ زور دیتا ہوں کہ جو تھاکر داس جی کی ترمیم ہے وہ مان لی جائے اور پیپسو اور پنجاب کے ممبروں کے مشورے سے کوئی بل ریڈیٹنگ صاحب پاس کر دیں تو اس میں کوئی ہرج نہیں ہے وقت بھی بچ جائے گا اور کام بھی آسانی سے ہو جائے گا -

ان الفاظ کے ساتھ میں اس کے متعلق ایسے خیال کا اظہار کرتا ہوں -

(English translation of the above speech)

Giani G. S. Musafir: Mr. Chairman, I agree with you that the debate should be confined to this limit. As time is very short, I would just state my opinion without any kind of introduction that it would be all right even if this Bill is passed here in its present form. Some speeches were also made here at the time when the matter of Punjab came up before us. At that time also I expressed the same opinion and later on events proved that I was right, because the tenancy laws enacted at the time by the President after careful consideration were much better than the laws in force in the Punjab previously. Regarding the amendments, I am in favour of the amendment put forward by Pandit Thakur Das Bhargava and seconded by L. Achint Ram. I would have no objection if PEPSU members are consulted and the Punjab members are also associated with it. There would be no harm if the President passes a Bill after consulting them. It would save time and our purpose will also be achieved.

L. Achint Ram has said that people would accuse us of assuming a power and then transferring it to the President. Whenever a higher body assumes any powers. It does so for the purpose of sharing them. As these

بل پاس کئے تھے وہ ان بلوں سے بہت اچھے تھے جو بل پہلے پنجاب میں پاس ہو چکے تھے - مگر ایک بات پر میں اپنی رائے کا اظہار کرتا ہوں - بلڈت تھاکر داس جی نے جو تجویز پیش کی ہے اور لالہ اچنت رام جی نے جس کی تائید کی ہے میں اس کے حق میں ہوں - یہ دونوں باتیں اس حالت میں تھیک ہو جاتی ہیں کہ اگر پیپسو کے ممبران سے مشورہ کر لیا جائے اور اگر پنجاب کے ممبر بھی ساتھ میں ملا لئے جائیں تو بھی مجھے کوئی اعتراض نہیں - ان سے مشورہ کرنے کے بعد کوئی بل پارلیامینٹ میں آنا ہے اور آنا چاہئے - تو اس میں کوئی ہرج نہیں ہے - وقت بھی بچ جائے گا اور کام بھی ہو جائے گا - لالہ اچنت رام جی نے فرمایا ہے کہ لوگ ہمیں یہ کہیں گے کہ ہم نے ایک طاقت لی اور پھر اسے ریڈیٹنگ صاحب کے سپرد کر دیا - کوئی بھی ہائر بازی جب کوئی طاقت لیتی ہے تو اسی لئے لیتی ہے کہ اپنی اس شکتی کو بانٹ دے - اور جب ان بلوں کو دوبارہ یہاں آہی جانا ہے تو وہ اعتراض بھی ختم ہو جاتا ہے اور ہمارا کام بھی ہو جاتا ہے - دوسری جو باتیں ہیں یعنی اس طرح کی باتیں کہ یہ راجپرکھ وغیرہ کی سنسٹھا کے ختم کرنے کا جو سوال ہے جب یہ پارلیامینٹ میں آئے گا تو مہرا خیال ہے کہ ہمارے کمیونسٹ ممبر جو اکثر اس بات پر زور دیتے

[Giani G. S. Musafir]

Bills would come before us again, no objection remains and our purpose is served.

As regards the question of abolishing the institution of Rajpramukhs, I may say that when this question comes up before Parliament, we would perhaps go a step further than our Communist friends in demanding that this institution be abolished. But at this juncture there is no need to discuss it at length.

I would, therefore urge that Pandit Thakur Das Bhargava's amendment should be accepted and it would be proper if the President passes a Bill with the consultation of the members from PEPSU and Punjab.

Shri Punnoose: I rise to oppose this Bill. It is mainly on three grounds that we oppose it. Firstly, this Government is going away from its professions of democratic objectives in Pepsu by bringing this Bill. Secondly, the record of the President's rule during this short while in PEPSU is not one that is likely to create confidence either among the people in PEPSU or in this House. And thirdly, as a result of this Bill you will be handing over 35 lakhs of people to the tender mercies of a corrupt bureaucracy headed by a befitting Rajpramukh. These are the grounds on which we oppose the Bill.

May I remind the House of the speech made by the hon. Home Minister when he came for the sanction of the House for suspending the Constitution in PEPSU. On the 12th March, he made that great speech in which he wanted us to believe that this Parliament will be responsible for every little thing in PEPSU. When some hon. Members said that it was setting up autocracy in PEPSU, when we raised doubts with regard to the wisdom of suspending the Constitution in PEPSU, the Home Minister was almost upset. He appeared to be scandalised. He rose up, and with a ring of sincerity which he is always capable of bringing up whenever he moves against the people, told us that as a result of that measure the people of PEPSU were going to have a better deal; that instead of the small Legislature of 60 or 65 Members, they would have the benefit of the protection of this great House of nearly 500 Members; that in the place of the small Legislature of PEPSU with limited powers they would have the advantage of being represented, and having their problems discussed, by this sovereign

Parliament. And, Sir, permit me to quote a few sentences from his speech. He told us:

"Do you mean to say that any one in these Benches is anxious to add to his responsibilities? There is plenty to do. Please remember it is not as if the president is becoming an autocrat. What happens to this. Up till now, no question could have been put on law and order or any State matters. I could have easily said it has nothing to do with me, go to the PEPSU legislature. Now, every Minister of the Government here becomes responsible to this House, to every one of you, to answer questions. It is not as if there is no responsibility and there is no body to look after the PEPSU people, and the Government of India or the President can do whatever he likes."

Well, Sir, now I am aware that there will still be occasions to put some starred questions. I am aware that there is still room for giving notice of a half an hour discussion. But the running of the Government of a State through Starred Questions and half an hour debates is a novel practice in democracy. While looking into the relation of this Home Ministry vis-a-vis the PEPSU Government, I am reminded of the story of the Camel and the Arab. The camel went to the Arab's tent, put the smallest part of its body in...

Shri K. K. Basu (Diamond Harbour): Nose.

Shri Punnoose: ... and when the Arab asked "why should you do it" it said: "It is so cold. Just for some warmth". It slowly pushed its way in saying 'It is very cold outside'. Then happened what is happening now in PEPSU. This camel of the Home Ministry poked its nose in PEPSU saying 'I am coming to you, to give you the warmth of democracy' while the camel of the story said openly that it wanted to warm itself. Today the place is made too hot for the people of PEPSU.

I will cite certain arguments which the hon. Home Minister placed before the House. We on this side were saying that Constitution should not be suspended there, because it would mean the denial of democracy, and we also said 'You are going to hand over the people of PEPSU to corrupt officials, and you are going to sup-

press the people's movement, and launch an offensive on the movement of the kisans and other toiling people there." The hon. Home Minister declared three intentions—the first he said 'Decency of public life', or in other words, the creation of conditions conducive to free and fair elections....

Mr. Deputy-Speaker: Are we going into the general reasons for taking over the PEPSU administration?

Shri Punnoose: Before you give your ruling, let me make my submission. I shall just explain my difficulty. The hon. Home Minister wants this Bill to be passed, and then comes to the Parliament now and then for ratification of the President's Acts. My contention is that by doing so, this Parliament will be handing over the people of PEPSU to a corrupt bureaucracy, and to a Rajpramukh about whom we have great suspicions, and for whom we have great dislike.

Mr. Deputy-Speaker: We are not concerned with the administration of PEPSU now. The question is whether the powers of legislation ought to be handed over to the President, or must be exercised directly by the representatives of PEPSU, and other representatives of the people here, from all over India. That is the simple point here. Hon. Members may reserve their reference to administration, until we take up the PEPSU Budget. The simple point here is one of legislation, and let us dispose of it as early as possible.

Shri Punnoose: The point is this. If the legislative power is given to the President, normally the House has to ratify his Acts. What I want to say is that unless the popular will is associated in the exercise of the legislative function of the President, the danger is that the President will have to act on the advice of the States Ministry, a machinery which as one hon. Member described, cannot serve the people. That is the way we are trying to argue.

Mr. Deputy-Speaker: I am afraid the hon. Member does not follow the full implications of this. In the case of any legislation, whether it is directly passed by this House, or passed by the President and sent to this House for ratification, all the local officers and others will be consulted, and as a safeguard, this Parliament can always sit on it, and look into it. Now the point is whether the President should pass the legislation, and then send it to Parliament for ratifica-

tion or modification, or whether in the first instance itself, the Parliament itself should pass it. In either case, when a Bill is introduced, does the hon. Member think that even if it is introduced in Parliament, the local officers and others will not be consulted about it? The simple point is whether the President should be given the legislative powers or not. All other matters relating to administration will not be relevant for the purpose of this discussion. The question whether the President should first pass the Bill, and then send it to this House for ratification or modification, or whether the Parliament should do it, irrespective of considerations of leisure, and other things, is all that can be touched upon now. Hon. Members will kindly confine themselves to this short point.

Shri Punnoose: I could have readily supported this Bill, provided the Ministry had during these few weeks taken certain steps to give us an assurance that they are proceeding on the right lines.

Mr. Deputy-Speaker: The question of administration is one thing, that of legislation another. Let us assume, for argument's sake, that the administration is not being carried on properly; we cannot go into the details of it. The point now under consideration is whether legislation should in the first instance be done by Parliament or by the President.

Shri Punnoose: I do not want to go into the details, but I hope I have got the right to tell the Parliament not to hand over these powers to the President. That is my simple point. Then, the hon. Minister told us something with regard to the officials. I am told that in PEPSU now, there is only one I.C.S. officer from outside. The whole lot of officers that was there before is still in the Government, and the hon. Home Minister himself enlightened us with regard to these officers. He said...

Mr. Deputy-Speaker: I am afraid the hon. Member does not appreciate my difficulty. We are not entering into the administration now, as to whether the I.C.S. officers have been kept there, or whether the original set-up is continuing.

The simple point is whether legislation should be done by the President or not. So far as the administration is concerned, even assuming that the legislation is absolutely perfect, and we pass it here, occasions will be there when the corrupt officials have

[Mr. Deputy-Speaker]

to administer it. That is an inescapable thing. That is a different matter altogether. It is not relevant for the purpose of discussing whether the Parliament should have the power to legislate or whether it should delegate it to the President. The manner in which the administrative officials implement the legislation, is not relevant for the present discussion. The goodness or badness of the administration is not relevant. I personally feel that the hon. Member cannot go on deadening with this point.

Shri Punnoose: May I seek a clarification, Sir? The President is going to enact certain legislations. It is my difficulty—and I want to place it before the House—that he is going to be advised by...

Mr. Deputy-Speaker: He will always be advised in the matter of legislation.

Shri Punnoose: In the matter of legislation?

Mr. Deputy-Speaker: In the case of any legislation that is brought forward by any hon. Minister here, he will always be advised by the local officers. If it relates to a port, then the concerned Port Trust or Port Authorities will be consulted about it. In the case of import and export legislation, those persons who are in charge of the import and export control will have to be consulted. Similarly in the case of any legislation, the officers in charge of that particular department will be consulted. The others involved will also be consulted, and ultimately the opinion of the House is also taken. So, the question of consultation with local officers, and the carrying out of the legislation through the executive agency of the local officers is inescapable, whether the President passes the legislation, or whether the Parliament passes the legislation. That is an independent matter altogether, which may be reserved for the PEPSU Budget. Let us, therefore, confine ourselves to the short point under discussion.

I think the hon. Member has nothing more to say on this point. I propose to call the hon. Minister at 11-30 A.M. as he has to reply to the various points that have been raised.

Shri K. K. Basu: One day was fixed for it, I think.

Mr. Deputy-Speaker: Where was the hon. Member when I explained the position? One day has been fixed for it. The debate started, and we spent

about 19 minutes on it. The entire Bill will have to be disposed of by 1 P.M. The consideration stage will be over at 12 noon, and the clause by clause discussion will start at 12 noon. Before that, the hon. Minister must have some twenty or thirty minutes to reply to the points raised. And I intend calling him at 11-30 A.M.

Shri Punnoose: The hon. Minister read out a list of the Bills which the Government are intending to legislate very soon in PEPSU. That has made the situation more dangerous in our eyes. For instance, there is the Bill seeking to abolish the superior ownership rights. In order to appreciate the text of this Bill, you can just refer to the report of the Government committee on agrarian reforms in PEPSU, on page 20 of which it is stated:

"The total area under the Ruler's superior rights amounted to 490,392 acres in Faridkot, and to 174,563 acres in Nalagarn... Inferior land owners are liable to pay a cess of $1\frac{1}{4}$ to 10 per cent. of the land revenue, in addition to the land revenue. Over an area of 4,008 acres their dues take the form of fixed payments in cash. Of the total area of 36,023 acres, no rent is at present paid in respect of 5,454 acres, and rent exceeds one anna per rupee of land revenue only in respect of 2,298 acres."

I want to stress that the legislation that is contemplated is an important piece of legislation, and is likely to affect lakhs and lakhs of people. I remember the hon. Home Minister repeatedly saying that their Govt. in PEPSU is only a care-taker Government. He repeatedly used that phrase. It is rather amazing that a 'caretaker Government' intends going into such sweeping legislation.

And may I bring to your notice another question connected with this, Sir? This Abolition of Superior Ownership Rights Bill was passed in December 1952 without division in the PEPSU Assembly. The compensation was originally placed at 8 times the land revenue. The Congress party in the PEPSU legislature became progressive and moved for one pice per rupee of land revenue; then the United Front became more progressive and reduced it to 1 pie per rupee of land revenue. It was sent up to the President for approval. He refused assent. And when this point

was stressed in the Council of States, the hon. the Finance Minister stood up and said that the President did not deny approval. The fact was that the Bill was refused approval and it was sent back. And then the present Bill of which the Home Minister was pleased to say is going to give 5 times the land revenue to the Biswedars. Well as against one pie, this Government which is going with a mission of democracy in PEPSU, which is going to give freedom and food to the people of PEPSU, is going to pay 5 times the land revenue! The PEPSU legislature had adopted a Bill by which one pie per rupee was to be given as compensation. This is the type of Government that they are going to have and it is for that that they want this Parliament to 'rubber-seal' whatever they bring here.

Then there is the PEPSU Tenancy Act.....

Mr. Deputy-Speaker: We are not going into details.

Shri Punnoose: These things have been mentioned by the Ministers here and it is for these that they want.....

Mr. Deputy-Speaker: In answer to a question, he said these were all the pieces of legislation which the Government were going to undertake. There will be time enough for hon. Members to discuss these matters when these pieces of legislation will be placed before the House. I allowed reference to one by way of illustration to show that they are important things. That is enough. Going into details of every other legislation is not quite relevant.

Shri Punnoose: These are not details.

Mr. Deputy-Speaker: We have heard enough of one piece of legislation.

Shri Punnoose: For example, the Minister said that he was going to bring about.....

Mr. Deputy-Speaker: Anyhow, the hon. Member's time is up.

Shri Punnoose: Let me have one minute more, Sir. He said that he was going to bring into effect a law—the Dramatic Performance Act. This was a piece of legislation which was on the Statute Book for some time. In the teeth of the opposition of the people, the Ministry of PEPSU almost kept it dead and issued a notification by which it was made ineffective. Now the hon. Home Minister and his Government are going there with the

declaration of democracy and trying to stifle even the ordinary performance of dramas.

So, we oppose this Bill. Its motives are pernicious and its effects on the people of PEPSU will be much more pernicious. It is a reign of terror which he has set up in PEPSU (*Interruptions*). Yes, I say this because hundreds of villages are surrounded by barbed wires with one exit and nobody is allowed (*Interruption*.) This is the condition and this Parliament will think twice before.....

Mr. Deputy-Speaker: I am afraid the hon. Member must conclude. **Dr. Satyawadi.**

Shri Namdhari: I come from a border constituency and I should be given time to speak.

Pandit K. C. Sharma (Meerut Distt. —South) rose—

Mr. Deputy-Speaker: He comes from that area.

Shri Bansal (Jhajjar-Rewari): I come from the area which is on the border.

३१० सत्यवादी (करनाल-रक्षित-अनु-सूचित जातियाँ) : उपाध्यक्ष महोदय, मुझे इस बिल में दिलचस्पी है, इसलिए कि मेरा हल्का पेंसू के साथ लगता है और दूसरे यह कि मैं खुद पेंसू के इलाके में रहता हूँ। सबाल मुस्तसर सा है कि हम प्रेसीडेंट को क़ानून बनाने का अस्तियार दें या न दें। जाहिर है कि खास हालात में ऐसा किया जा रहा है। जिन क़वानीन के मुताल्लिक़ अानरेबिल, मिनिस्टर (माननीय मंत्री) ने अग्री ज़िक्र किया है, हम सब जानते हैं कि वे पहले ही बहुत देर से घोवरइयू (विलम्बित) हैं। लोग उन के मुन्तज़िर हैं। बिजनेस कमेटी (कार्य संचालन समिति) ने जो प्रोग्राम हमारे सामने रखा है, जाहिर है कि बाकी के जो दिन इस इजलास के हैं, और उस में हमारे सामने जो एजण्डा है, वह सब का सब महत्व का है और जरूरी है। तो या तो वह सफर करे (रह जाये) या यह। हम सब महसूस करते हैं कि उसे सफर नहीं करना चाहिये। तो में समझता हूँ कि जो खास बात यहाँ है वह यह है कि

[डा० सत्यवादी]

जो क़ानून प्रैसीडेंट को बनाने हैं उन को पार्लिया-
मेंट के सामने आना है। तो जो दरमियानी
अरसा इस में लगेगा वह महीना, दो महीना
हो, या कुछ इस से ज्यादा समय इस में लग
सकता है। इस का एक और भी पहलू है।
वह यह कि न सिर्फ वे क़वानीन हमारे सामने
आवेंगे, बल्कि उन के साथ उन पर अमल
करने के सिलसिले में जो तजुर्बा होगा वह
तजुर्बा भी हमारे सामने आवेगा। उस तजुर्बे
की रोशनी में हम उन क़वानीन पर ज्यादा
अच्छी तरह से और कर सकेंगे।

बिनारिया जी ने अभी यह बात कही थी
कि आनरेबिल डाक्टर काटजू ने पैप्सू के मरीज़
के लिये जो नुस्खा तजवीज़ किया है वह अच्छा
है। उस के साथ ही साथ पैप्सू के मरीज़ की
जो हालत बयान की थी उस को सामने रख
कर इस बात की अहमियत और बढ़ जाती है
कि हम जल्दी से जल्दी इस क़ानून को पास
करें और इस नुस्खे को वहां इस्तेमाल होने दें।
हम इस बहस में ज्यादा वक्त लेंगे तो अन्देशा
है कि वहां के मरीज़ की हालत और ज्यादा
नाज़ुक हो जाय जैसा कि फ़ारसी के किसी कवि
ने कहा है कि :

تا تریاقی از عرق آورده شود-

ساز گزیده مرده شود!

(तातरयाक अज़ इराक़ आवुर्दा शवद,
मार गुज़ीदा मुर्दा शवद)

इसलिए ज़रूरी है कि हम इस काम में
जल्दी करें और कोई बहुत ज्यादा इस पर
बहस करने की ऐसी ज़रूरत नज़र नहीं आती।
मुझे तो एक बात और कहना है कि न सिर्फ
यह क़ानून जल्दी से हम इस तरह से पास कर के
यह अस्तित्दार प्रैसीडेंट साहब को दें, बल्कि
इस से आगे यह भी देखें कि वे क़वानीन जब
वहां लागू हों तो उन पर इसी तेज़ी से, बल्कि
और भी ज्यादा तेज़ी से अमल किया जाय।

पटियाले की एक बात बहुत मशहूर है कि
वहां आग लगने पर छः महीने के बाद उस के
बुझाने की इजाज़त दी गई थी। शायद यह कोई
पुरानी बात हो, या ऐसी बात हो जो लोगों ने
बना ली हो। लेकिन मुझे तो ऐसी बातों का
इल्म है कि वहां मशीनरी इस तरह से काम
करती है कि क़ानून बनने पर भी क़ानून लागू
होने में कितना वक्त लगता है और उन पर
किस तरह से अमल होता है। यह शायद सन्
१९४२ की बात है कि एक फरमाने शाही
जारी हुआ था और उस में यह कहा गया था
कि रियासत पटियाला में जिस क़दर नज़ूल
की ज़मीन है वह नज़ूल की पुरानी हिदायत ख़त्म
कर दी जाये और जहां जहां वह नज़ूल की
जमीनें जिस तरह से हैं उसी हालत में उन्हें छोड़
दिया जाय। मेरा ख़याल है कि उस फरमाने
शाही पर आज तक भी अमल नहीं हुआ,
क्योंकि मैं कोहिस्तान के ज़िले में रहता हूं,
वहां मुझे इस तरह की नज़ूल की ज़मीनों का
इल्म है कि वे उसी तरह से पड़ी हुई हैं और वह
फरमाने शाही भी उसी तरह से है। मैं एक
और मिसाल आप के सामने रखता हूं कि जहां
में रूढ़ता हूं वहां ज़मीन का एक छोटा सा
टुकड़ा है, जिस पर दो छोटे मकान बने हुए हैं,
कच्चे। उसका मालिया कोई चार आने बतता
है। संवत् १९५५ में उस टुकड़े के मुताल्लिक
एक शिकायत सरकार में हुई, और उस नज़ूल
की तहकीकात शुरू हुई।

[SHRI PATASKAR in the Chair]

यह संवत् ५५ की बात है, जिसे इक्कीस
बाईस वर्ष हो जाते हैं। लगभग पन्द्रह वर्ष तक
वह तहकीकात इसी तरह से लटकी रही और
उस सिलसिले में कोई कार्यवाही नहीं होने दी
गई। मुझे उस सिलसिले में मालूम हुआ,
मैंने उस में दिलचस्पी ली और जाकर अफ़सरों
से मिला तो तहसीलदार साहब ने मुझे
फाइल देखकर बतलाया कि इस में एक, दो

गवाहियों की जरूरत है, वे गवाह भ्रगर आ जायें और पेश हो जायें, तो उस के बाद यह मामला खत्म हो जायगा। यह अब से छः साल पहले की बात है। वे दो गवाह वहां पेश कर दिये गये और यह मालूम हुआ कि अब इस हफ्ते में शायद मुकदमा खत्म हो जायगा, लेकिन बदकिस्मती कि वह तहसील-दार उसी दिन वहां से तबदील हो गये और मुकदमे की कार्यवाही मुकम्मिल हो जाने पर, और छः साल बीत जाने पर भी उस पर आखिरी फंसला भ्रदालत ने नहीं लिखा। अब से कोई छः महीने की बात है कि मैं ने अपने बुजुर्ग सरदार हुसैनसिंह से इस सिलसिले में थोड़ी सी इमदाद चाही और उन्होंने बड़ी इनायत फरमाई। फिर मैं जाकर वहां डी० सी० से मिला, उन्होंने भी मेरे ऊपर बड़ी मेहरबानी की और भ्रहलकारों को बुलवाकर डांटा डपटा कि यह सब क्यों हो रहा है। और मैं आप की इत्तिला के लिये भ्रजं करूं कि उसके बाद उन्होंने फिर मुझे कहा कि वह तो जो होना था हो गया, अब आप उन को मशविरा दें कि दुबारा एक गवाह ले आयें और तब यह बात खत्म हो जायगी।

पिछले सितम्बर की बात है कि वे दो गवाह गुजार दिये गये, लेकिन वह मुकदमा खत्म नहीं हुआ और उसी तरह से लटका हुआ है। २३ साल इस मुकदमे को चलते हुए हो गये। मुझे एक दूसरे मुकदमे का इल्म है कि नालागढ़ रियासत में तक्ररीबन बत्तीस तैंतीस साल से लटका चला आता है। अभी दो, चार रोज की बात है कि नालागढ़ के एक दोस्त और भ्रहलकार को स्मोल सेविंग स्कीम (छोटी बचत योजना) के सिलसिले में कोई मुलाजमत दी गई। उन के तनख्वाह और डियरनेस भ्रलाउन्स (महंगाई भत्ते) की कुछ बात थी। वह बेचारे मेरे पास आये और कहने लगे कि इस से सम्बन्धित कागजात पेप्सू वाले सेंटर में भ्रजेते हैं, और भ्रज चार,

पांच साल से उन को बराबर दौड़ाया जा रहा है। इसलिए मैं कहना चाहता हूं कि सिर्फ कानून को जल्दी पास कर देने से ही काम नहीं चलेगा। जरूरत इस बात की होगी कि हम यह देखें कि उस कानून पर भ्रमल भी होता है या नहीं, कानून तो भ्रज से पहले भी वहां पास होते रहे हैं और सिर्फ यही नहीं बल्कि फरमाने शाही भी वहां जारी होते रहे हैं जिस की भ्रहमियत को हम समझ सकते हैं कि उस जमाने में उस की कितनी कीमत थी। लेकिन जब सन् '४१ और '४२ के फरमाने शाही पर सन् '५२ और '५३ तक भ्रमल नहीं हो रहा है तो देखना यह होगा कि वह सारी की सारी मशीनरी जो वहां बँठी हुई है, उस तमाम मशीन के जंग भ्रालूद कल-पुर्जे भ्रज भी उसी तरह से लगे हुए हैं, तो हमें इन चीजों पर नजर रखनी होगी। इस बात से मुझे इत्तिफाक है और जैसा कि भ्रभी पंडित ठाकुर दास भागव और शानी जी ने फरमाया, पंजाब के मामले में जिस तरह से भ्रज ने किया था, यहां भी यह बात बड़ी आसानी के साथ हो सकती है कि पंजाब और पेप्सू के वे लोग जो वहां के हालात से वाकिफ हैं और इंटरस्टेड हैं, उन से उस मामले में और भ्रमनोभ्रमान कायम करने के सिलसिले में मशविरा ले लेना चाहिये। मैं पेप्सू पर प्रैंसीडेंट का भ्रधिकार हो जाने के बाद और जब यहां उस सम्बन्ध में हमारे सामने बात आई, उस के बाद पेप्सू के उस इलाके में जहां मैं रहता हूं, घूमा हूं, वहां के जिम्मेदार लोगों से बातें कीं और मैंने ऐसा महसूस किया है कि भ्रम जनता ने इस नये इन्तजाम का हार्दिक स्वागत किया है। इस के पहले उन के गले पर जो फंदा था, वह गिरफ्त कुछ ढीली हो गई है और जनता को इस से कुछ संतोष पहुंचा है। जब हम हालात को देखते हैं और भ्रमनोभ्रमान के इन्तजाम के मामले को देखते हैं तो हम पाते हैं कि इस नये इन्तजाम में हालात में काफ़ी तरक्की हुई है, ऐसा पब्लिक महसूस करती है। लोग

[डा० सत्यवादी]

पहले से काफ़ी मुतमईन हैं और वे मुंतज़िर हैं उन क़वानीन के लिये जो बहुत दिन से पास होने बाक़ी हैं, जैसे भूमि सुधार और हरिजन सम्बन्धी क़ानून। उन के सम्बन्ध में पेप्सू बजट के मौक़े पर मैं आप का ध्यान दिलाऊंगा। बहरहाल मैं और अधिक न कहकर सिर्फ़ यह कहना चाहूंगा कि जो पेप्सू और पंजाब के नुमायन्दे हैं उन से मसविदा करके आप वहाँ का इन्तज़ाम चलायें और जो ज़रूरी क़वानीन हैं उन को शीघ्र से शीघ्र पास करें। इन अलक़ाज़ के साथ मैं इस क़ानून की ताईद करता हूँ।

श्री सारंगधर दास (डेनकनाल—पश्चिम कटक) : श्रीमान्, सभापति जी, डाक्टर श्यामाप्रसाद मुखर्जी ने अपने भाषण में जो सुझाव दिये हैं मैं उनको जोर के साथ ताईद करता हूँ और उन्होंने इस सम्बन्ध में पार्लियामेंट के मेम्बरों की जो जिम्मेवारी बतलायी है, उस के लिए मैं उन को धन्यवाद देता हूँ। हमारे मुक़्त में और समाज में यह एक रिवाज़ है कि हमारे ऊपर जो लोग हैं वे सब काम करें, हम कुछ न करें और हम कोई जिम्मेवारी न लें। ऐसी बात शास्त्री जी (अलगू राय) के मुख से आई कि प्रेसीडेंट सब से बड़ा है, अनिरपेक्ष है, उन के हाथ में हमारी जो जिम्मेवारी है, उस को हम सौंप दें और ऐसा करना हमारे लिए गौरवमय बात होगी। मैं इस बात की मुख़ालफ़त करता हूँ। इस तरह की बात करना ठीक नहीं है। एक तरफ़ तो आप कहते हैं कि सब को आपरेट करो सहयोग करो; तो सहयोग होगा कैसे, मत्थे में कुछ इल्म रख कर उसको लागू करने से ही तो होगा। आप पार्लियामेंट की जो जिम्मेवारी है उस का खो देना चाहते हैं और इस को गौरवमय काम कहते हैं। यह बड़े ताज़्जुब की बात है और मैं इस की मुख़ालफ़त करता हूँ। शास्त्री जी ने कहा कि अभी हम रात को बैठकर पेप्सू के

लिए क़ानून बनायें, यह जल्दबाज़ी का काम होगा, यह नहीं है। अभी होम मिनिस्टर साहब ने मार्च महीने में जब पेप्सू के कांस्टीट्यूशन को सस्पेंड किया तो हम ने उस का विरोध किया और मुख़ालफ़त की, लेकिन हमारा विरोध होते हुए भी कांग्रेस ने अपनी बिग मैजोरिटी (भारी बहुमत) से उस को पास करा लिया। तब से दो महीने हो गये और इस असेंबली के अन्दर पेप्सू के लिए कोई लैजिस्लेशन नहीं आया, कोई क़ानून नहीं पास कराये गये। अब जब सेशन ख़त्म होने जा रहा है, तब यह बात आती है कि पार्लियामेंट के ऊपर जो जिम्मेदारी इस सम्बन्ध में है, उस जिम्मेदारी और अधिकार को हम प्रेसीडेंट को सौंप दें और प्रेसीडेंट पार्लियामेंट के नान-सेशन-डेज़ (सत्र न हों उन दिनों) में उस का काम चलायें। मैं कहता हूँ कि जल्दबाज़ी यह है, और मैं कहना चाहता हूँ कि शास्त्री जी, जल्दबाज़ी यह है, जो एक मर्त्तबा पार्लियामेंट को अधिकार सौंप जाते हैं और इस दो महीने के असेंबली में जो ज़रूरी क़ानून थे, वे पार्लियामेंट द्वारा बनवाये जा सकते थे, लेकिन ऐसा न किया जा कर अब सारे अधिकार पार्लियामेंट से छीन कर प्रेसीडेंट के हाथ में दिये जा रहे हैं। मैं कहता हूँ कि यह शरकार की जल्दबाज़ी है और धोकाबाज़ी है और पार्लियामेंट के जो पांच सौ मेम्बरान हैं उन की जो अक्ल है और ज्ञान है, उस का लाभ उठा कर जो क़ानून बन सकेंगे, वैसे क़ानून चाहे प्रेसीडेंट हों अथवा उन के अफ़सरान हों, नहीं तैयार कर सकेंगे।

यह है डिमांडेरी की जिम्मेदारी। हम इस को छोड़ना नहीं चाहते हैं। मैं पार्लियामेंट के मेम्बरान से, चाहे वे कांग्रेस के हों या किसी दूसरे दल के हों, सब से यह अर्ज़ करता हूँ कि आप सब अपनी जिम्मेदारी को महसूस करें और यह जो बिल होम मिनिस्टर साहब लाये

हो उस को फेंक दें। तभी आप 'टू टू थोर साल्ट' हो सकेंगे। और जो एलेक्टोरेट (निर्वाचक-गण) के वोट ले कर आये हैं उस की जिम्मेवारी को धरा कर सकेंगे।

मैं इतना ही कह कर आप को धन्यवाद देता हूँ।

Shri Ranjit Singh (Sangrur): This Bill when passed will empower the President to make laws for PEPSU. This power is being sought for arresting certain tendencies in that State. Bills of this kind are not so important, and yet at the same time they are important in a certain way. They are not important, because the lands are already in the possession of the tenants, who do not pay any rent to the Government or any share to the landowners. So, it is only a matter of convenience. These Bills can be passed after waiting for some months. They can be kept in abeyance. If Government feel that certain Bills are very necessary for running the Government there, then they should be passed in consultation with a Committee consisting of Members of both the Houses representing PEPSU. If Parliament can find the time and pass such Bills, it will be very good; but if that is not possible, then only important and urgent Bills should be taken up. It is expected that in the next few months elections will be held in PEPSU and the PEPSU Assembly would be functioning. These Bills should be left to be passed after the elections, because during the elections certain promises would have been made and if these Bills are passed by Parliament now, there would be no opportunity for the State Assembly to see whether the promises have been stuck to and fulfilled. With these few words, I resume my seat.

श्री अलगू राय शास्त्री : अभी जो स्पीच आप की हुई और पंडित ठाकुर दास भार्गव ने भी ऐसी बात कही है और एक मित्र ने उधर से भी कहा है पर मैं नहीं समझता कि जो लेजिस्लेटिव पावर (विधायनी शक्ति) है उस को हम प्रेजिडेंट को तो अनुच्छेद ३५७ (१) के अनुसार ट्रान्सफर (हस्तांतरित) कर सकते हैं। लेकिन इस तरह की कोई

एडवाइजरी कमेटी (मंत्रणा समिति) हो कोई टेरिटीरियल कमेटी (प्रादेशिक समिति) हो उस के कंसल्टेशन (परामर्श) से कानून बनाने का अधिकार देने का हक पार्लियामेंट को किस अनुच्छेद के अनुसार है, यह मैं नहीं जानता। मैं इस पर कुछ प्रकाश चाहता हूँ और जानना चाहता हूँ कि पार्लियामेंट कुछ कर सकती है या नहीं।

श्री बंसल : यह प्रश्न उस समय उठाया जब एमेंडमेंटस (संशोधन) आये।

Mr. Chairman: We are now at the consideration stage. When the amendment comes up, I shall decide whether it should be allowed or not.

Shri Namdhari: I congratulate the Home Minister for introducing this Bill. It is an out-and-out help to the poor masses of PEPSU. The opposition speeches were most irrelevant and evasive. The Bill is in full consistency with the Constitution. The Constitution provides for this action in extraordinary circumstances. Now that such circumstances are there we must do it. In not passing this Bill, we would be doing a very great disservice to the PEPSU people in delaying matters. Our Rashtrapati occupies a post than which there is none else higher. He is above party. He is above everything. He has got separate flag. He is the custodian of every individual Indian and the people of all States. I was wondering what was the necessity for introducing this Bill at the fag-end of this session. The only reason was that the suspension of the Constitution in PEPSU came during the present session, and not before. So, when our parliamentary programme was drawn up, this could not be provided for. It came in the middle. That is why no further time could be spared. The enlightened gentlemen opposite suggested sitting in the evening. I accept their noble wishes, but there are certain parties who are professional propagandists. They exploit even a quarrel between a husband and a wife, not to talk of this.

Shri K. K. Basu: There is no chance now.

Shri Namdhari: When the allowances Bill was being discussed, they

[Shri Namdhari]

said: "We will take only Rs. 10; why are you taking Rs. 40?" Up till now, not one of them has accepted Rs. 10. So, the hon. gentleman who made some remarks must have heard them from the whispers of somebody behind him. The real point is that they want to see us, Congressmen, run about here and there. We are responsible for running the Government and the hon. gentlemen opposite only want us to extend the session up to June, so that we may suffer the summer heat. They want to create a situation to lit the fire and the dogs run way. That is their policy.

I do not want anybody except the President to run the PEPHU Government. We have changed the administration. One of the finest men has been sent there. Several good things have been done. Certain things have no doubt come to my notice which were not right, but I do not blame the administration. It is the fault of people who belong to the locality and who have local differences amongst themselves. They mislead the administrators and make them commit mistakes.

So, I suggest that the Bill should be accepted unadulterated and unconditionally. It is according to the Constitution. If one has ten cars, and they comprise Rolls Royce, Chevrolet, Ford etc. and if all other cars are busy, can anybody say, "Do not touch the Rolls Royce." It is absolutely wrong. When any resolution is presented by the Chair, in the public meeting even, it is never opposed.

Shri K. K. Basu: But the President has not moved any here.

Shri Namdhari: Our Rashtrapati is the President of the Indian nation. He is the highest dignitary. If his power is challenged in this way, there is no democracy left. Our Constitution provides for these powers, and it will be a national insult if we do not keep the dignity of Rashtrapati.

Shri Raghavachari (Penukonda): I am opposed to this Bill for the reason that it seeks to make over the powers of Parliament to the President in the matter of legislation. We know that as a matter of practice, when the President has to rule, it means the Government of the day rules. When it refers to a State the administration of which is vested in the President because of the suspension of the democratic machinery there, it ultimately resolves itself into

legislation which is recommended by local officers there as essential. Thus delegation of power of this Parliament to the President and the President functioning on the advice of the Government which Government acts on the advice of the particular officers in the locality, ultimately resolves itself into a rule of the bureaucratic machinery. This is a point which has to be very carefully thought of.

When the suspension of the Constitution was brought up, a statement was made by the hon. the Home Minister—which was quoted by one of my friends here—that the entire responsibility is shifted on to the Parliament consisting of people from all parts of the country and so on. Now on the ground that this Parliament does not find time or has not sufficient time, you are asked to delegate the powers to the President. Do we really save the time of the House? (An hon. member: Never, never). Every piece of legislation must again be brought for the examination of this House. The time of the House is certainly bound to be taken up again. The question is whether its time should be taken up before the legislation is passed or after it is passed. I also find a very queer turning of the tables in this matter. I do not know whether constitutionally it is correct or not. But still to my sense of decency it looks revolting. It is this. The President as the highest personage in the country has vested in him by the Constitution the power of assenting or not assenting to a particular legislation and his is the last word. So every piece of legislation has to obtain his assent. Now the proposal is that the President will pass a piece of legislation and the matter of assenting or dissenting, or criticising is given to the Parliament. In the process of this criticism very many unpleasant things may have to be said. So, it looks that the President will be dragged from his august position and his actions will be discussed adversely almost every day.

So, we are not likely to save the time of the House. It is only a question of today or tomorrow. And we are not likely really to administer according to the principles of democracy. It would be converting democracy into a kind of farce through bureaucratic rule. I for one feel that this Parliament cannot be expected to part with its powers of legislating to the President,—which in fact ultimately is exercised by the bureaucracy only.

Then again, some instances were given of subjects which require immediate legislation. It mostly resolves itself into a question of land policy. The Government, even the Planning Commission, has not been able to come to any decision about the land policy. It makes a statement of all ideals and leaves it there to be decided by local legislatures or by the States. Now a kind of land policy in this particular State is to be rushed through the agency of the President's delegated powers. To my mind such legislation in any democracy has to be initiated only by the popular chosen representatives. Therefore, even on that account the business is not of such a formal nature as to be rushed through.

The Bill contemplated that even when the Parliament is in session the President will exercise his delegated power. There is no justification for such powers to be given. Even as it is when the House is not in session, the President can take recourse to rule by ordinances. But the matter is bound to come before the House when it is in session, and can then be discussed by this House. Thus administration can go on without any inconvenience. Therefore, there is really no need to seek for this delegation of powers except it be for the purpose of having absolute powers for the administration of the State by the bureaucracy.

Dr. Katju: I confess that I did not anticipate any lengthy discussion on this, what I thought was, a non-contentious measure. This question had been discussed two years ago under similar circumstances and after a full discussion a Bill had been evolved which on the one hand gave full scope to the intention of the Constitution-makers and, on the other hand, also gave full opportunity to Parliament to look into every legislation that might be enacted by the President.

All sorts of things have been said during the course of the discussion of democracy and that popularly elected legislature in the State itself should have an opportunity to discuss this matter. I think the answer was really given by my hon. friend, Shri Algu Rai Shastri, to the argument advanced by the hon. Member from Calcutta, Dr. Mookerjee. The Constitution-makers were fully alive to this fact when the President intervenes, or feels compelled to intervene, under Article 356, to dissolve the legislature, then the question will immediately arise as to which should be the legislating authority. There

was Parliament on the one hand and there was the President on the other. As was pointed out, I think that it will be safe to assume that the Constitution framers thought quite clearly what is really obvious that this Parliament burdened as it is with enormous problems relating to the whole of India as such would not find it possible to deal with detailed legislation required for States and, therefore, they went out of their way, as Mr. Algu Rai Shastri pointed out, to devote almost half a page to this situation—that the President may do this, may do that, and please remember, that Parliament may not merely invest the President with the authority of legislating, but it may go further and invest the President with authority to delegate his legislating power to somebody else. That was what was attempted to be done, as I understood, in the original Bill that was brought in 1951 in regard to Punjab. There was great discussion about it and that particular clause relating to the delegation of power by the President was dropped and further a formula was evolved by which a Bill enacted by the President was to be laid before the House so that the House may—please consider this—if it thought fit, within seven days, discuss the policy underlying the Bill, may discuss any particular provision and express its opinion on it. They are two vitally different matters. Undertaking legislation in the normal way, going through the first reading, the second reading and the third reading, going into all the clauses, that is one thing. The other thing is that you place an enacted legislation before the House and ask the House "Do you approve of it?" If you do not approve of it, say so. If you dislike the whole of it, scrap it. If you dislike any particular provision of it, say so, we will deal with it" and there is an end of the matter. That will be disposed of in a day, perhaps in two hours or one hour. That is what Parliament in its wisdom evolved in 1951. And I respectfully submit that the House should not depart from the precedent then established. It is not a dangerous precedent because, as I said, it carries out the intentions of the Constitution-makers. It is not as if this particular Government is doing deliberately something in order to further anything. Please remember that as long as the President is functioning there even in his administrative capacity he is under the control of Parliament from day to day. In the matter of administration questions can be put and Parliament may express its own opinion, appro-

[Dr. Katju]

bation or disapprobation on anything which the President does. When the President passes a certain piece of legislation, what is called the President's Act, what does he do? There is an Adviser or there is an Administrator appointed, an independent individual. He asks the Adviser to let him have a report on the entire facts of the situation. Local opinion is consulted. The President applies his mind to it and after consulting local opinion the thing is done.

I entirely agree that the President's assumption of superintendence under article 356 is for a temporary period and, as my distinguished predecessor said in 1951, there would never be any desire on the part of the President to intervene and to take upon himself the burden of enacting very contentious legislations and to cover the entire field of legislation. What is the chief motive for undertaking superintendence? The House would remember the chief reason is this. The opening words of article 356 are: "If.....a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution". When that arises the President intervenes. Now, that state of affairs may last for four months, may last for a year or for a longer period. I believe the maximum period is three years. Now, it all depends, and if that particular state is going to last for a very short period, two or three months, then no President, no Government would think of embarking upon a series of important legislation or tackling very contentious problems. But where the period is a long one, then you cannot remain in a vacuum. You have got to undertake the necessary legislation.

Now, I am thankful to Dr. Mookerjee for pointing this out and to the Deputy-Speaker for pointing out that we are not concerned now with the conditions which compelled the President to intervene. We had a very full discussion on it. The law and order situation was definitely bad. As a matter of fact it was said over and over again that the Central Government had been a bit too slow and that they ought to have intervened much earlier. Anyway, PEPSU was in the news, always, from day to day.

Shri Punnoose: Sir, on a point of order. There was a ruling that the reasons for or against the taking over of the power by the President be not discussed under this Bill. And now

the hon. Minister is stating the reasons why the Constitution was suspended and the President took over the power.

Mr. Chairman: There is no point of order in this.

Dr. Katju: PEPSU was in the news. The law and order condition was bad and we have got to restore it. I do not want to go further into the matter because we have got the PEPSU Budget discussion almost following upon this and I imagine in the general discussion many views will be expressed. But one thing is quite clear. Even my hon. friend Sardar Hukam Singh will not care to deny it. That is, during the last two months, from the 6th March right up to 30th April, somehow or other PEPSU has disappeared from the banner lines of the newspapers. There is no dacoity there and if there are dacoits they are being shot down.

Sardar Hukam Singh: I will deny that tomorrow.

Dr. Katju: You better consult before you do that.

The legislation which will be undertaken is legislation of the utmost importance, particularly with a view to promote stability. Somebody said well, leave it to the coming Government to decide. I think my hon. friend Sardar Lal Singh was very frank about it. He said it might create a good impression. The argument was: why create a good impression for the President or this Government, leave it to the coming State Government to have the laurels of all this beneficial legislation, you do not reap the reward yourself. But the difficulty is this that the two things are inter-mixed. The rent and revenue laws and the agrarian situation have been full of trouble. I do not want to go into the whole ground again. It was something almost incredible, and some legislation has to be undertaken. In reply to a question as to what was the most emergent legislation I gave some information. Take for instance the first one, the PEPSU Abolition of Ala Milkia Rights Bill. As was pointed out by an hon. friend there it was passed as far back as December 1952. It was reserved for the assent of the President because it attracted the provisions of article 31 of the Constitution. The compensation which was proposed to be given—would this House believe it—was exactly five rupees. And the legal advice was

that this was an eye-wash and the Bill would not stand. We took legal advice, and the proposal now is to pay compensation five times the Government revenue. And the total sum which would be involved is roughly somewhere about Rs. 40 to 50 thousand. That is about all.

Then there were two other Bills which are of great consequence. These are the PEPSU Occupancy Tenants Vesting of Property Rights Bill and the PEPSU Agricultural Lands Bill. These were forwarded by the late Government of the State for our approval in 1952, in the month of November. They were discussed here and sent back. The House knows there were topsy-turvy conditions in that State Legislature, and they were not proceeded with, they had no time. The result was they remained pending. In February there was again a discussion about it in the Planning Commission and the Bills are ready—the necessary drafts.

Then somebody referred to the Dramatic Performances Bill. There serious objection was taken as they failed to understand. It may be it was directed against any particular party. I do not know or it may be that it was intended to prohibit dramatic performance of a very objectionable nature. Anyway, an Ordinance was issued. That Ordinance has expired and the Adviser is of opinion that it is desirable that it should be enacted.

The last is about the Police Incitement to Disaffection Act of 1922. Now that is intended to be amended and it is a piece of very necessary legislation. For obvious purposes it is needless to go into this. Any attempt to infiltrate into the police ranks and to prevent them from discharging their duties impartially and efficiently is to be condemned not only in PEPSU but throughout India and that is the object of the Bill.

Now, I come back to the constitutional point. So far as the Constitution stands, the Constitution-makers were definitely of the opinion as is obvious from article 357 that the normal course for Parliament would be to delegate powers to the President and not go further to empower the President to delegate those very powers to somebody else but, as I said, in this Bill the position of following the precedent of 1951 has been altered. The House is familiar with the procedure that the Bill should be laid before either House of Parliament so that Parliament may have an

opportunity of knowing as to what has been done and expressing its views upon it. I respectfully submit that that particular provision or that particular procedure safeguards entirely the supremacy of Parliament and gives complete opportunity to the Parliament to know as to what is going on and to express its own views upon it.

Then there was another point of view with which I have sympathy, viz., the elected members in the local legislature are 'gone' when the local legislature is withdrawn. This is not applicable to PEPSU. It may be of some general force. We have got hon. Members here, elected Members sitting in the House of the People. Members also are elected to the other House and they may be expected to know the local conditions and a prior consultation with them, whenever practicable, may be of advantage. That is how I understand this thing. When the Bill is laid before Parliament, then all the 499 Members of the House here stand on an equal footing. Everyone is entitled to express his own views, no matter where the Bill comes from and which particular State it deals with but it was said that before the President takes action while the Bill is in the making, he is bound to consult everybody. It is desirable that he should consult local opinion and the opinion expressed by Members of Parliament should be of particular value. With this I am entirely in sympathy. When that amendment is moved, I propose to accept it with slight modifications. The slight modification is this. It is only an advisory thing that they should be consulted before, but a situation may arise where such consultation may not be practicable. Therefore, I want to make it clear. Dr. Mookerjee said that such consultation took place even in 1951. My distinguished predecessor had consulted hon. Members and there should be no harm if we put that down in the Bill itself.

Then it was suggested that we should go further. My suggestion is that that may not be a very convenient procedure to adopt. We bring in this previous consultation wherever practicable with the Members of that State—because on larger grounds, PEPSU, Bengal, Bihar, anywhere, does not matter—on the ground that they are elected from that State, and they may be expected to give local advice, to express the wishes of the local people. I would appeal to my hon. friend, Mr. Achint Ram not to complicate the issue.

Lala Achint Ram: Not complicating. Last time in the matter of Punjab, people from PEPSU were also invited.

Sardar Hukam Singh: I was from Punjab then.

Dr. Kaifu: That was an informal matter. When we are proceeding in a more formal manner, I think it would be desirable to confine this prior consultation wherever practicable with the elected Members of this House and the other House.

Then there is another matter which has been referred to and that is really a matter of procedure. The Bill is to be laid on the Table as soon as it is enacted. Now somebody said that when the House is in session, you might delay for 20 days. Speaking on behalf of the Government, I should like to assure the House that there should be no delay whatsoever. If the Bill is enacted today, I would like to place it on the Table of the House within 3 days, as soon as I get printed copies. There is not the slightest desire in any way of trying to avoid the judgment of this House on any Bill.

Then comes the other question namely that if this House or the other House expresses its disapproval or wants to modify any particular provision, then it can do so within 7 days. The discussion must be within 7 days and the two Houses must be unanimous. Now I submit the procedure about that is to be decided not by an Act of Parliament but by the Speaker and the Chairman of the respective Houses. I should like to leave it to the Speaker and the Chairman to revise or add to the standing orders, standing Rules of Business as to what is to be done when under this particular Act something happens or any particular modification is approved of by one House, as to how it is to be sent to the other House and what is to be done. etc.

That brings me to another question which was put to me in a very rhetorical manner repeatedly by my friend Sardar Hukam Singh. It is not really germane to the topic but inasmuch as he repeated it about half a dozen times saying that his bosom was full of suspicion—I do not know which other Members referred to it—about the general election which is going to take place and he read some portions of my speeches. Not that I am trying to get out of that, but please remember one thing. Elections are under the control of Parliament exercised through the Election Commission.

We cannot dictate to the Election Commission. I may inform hon. Members that when the previous Government, the State Government, was functioning, there was a certain time-table laid down about the revision of the electoral rolls and the previous Government had itself proposed or agreed to have this publication in the month of January 1954. I am personally anxious that this President's rule should not last one day longer than necessary. Then we had this matter revised and I am now informed that the Election Commission has said that this publication may take place in November. As to what is to happen after November, that is entirely within the discretion of the Election Commission itself. I can assure the House that there is not the least desire on my part, on the part of any member of the Government to continue to be in charge of PEPSU affairs for one day longer than necessary. So far as this administration is concerned, we do not worry as to which particular party comes into power. I am a Congress man. When I go there as a Congress man, I can say that as far as administrative matters are concerned, we want safe administration proper administration, we want to advance the security of the State, tranquillity in the State and we want to put down impurity in the State. That is our chief ambition. We want to see also absolutely free and unfettered elections. You may take it from me,—perhaps, I am repeating it for the 10th time—we want to assure every elector in the PEPSU that he should go and record his vote free of any influence, either Congress or Democratic Front, or United Front, or Left Front or the Communist Party or any party. We will see to it that he goes and acts in an unfettered manner, free from all bias. Whichever Government comes into power, they will act accordingly.

I submit this is all that is necessary. I do not want to add anything further. I should like to make a further suggestion, that I welcome all assistance from the Members of Parliament coming from the PEPSU. They may take this as a standing invitation from me to come to me at any time and tender me any advice and bring to my notice any particular thing that is happening there. I might inform the House that we have selected one of the best officers that was available to us and I think it is proper on this occasion that I should pay a tribute to him that he has worked during the last seven weeks with diligence, with industry,

with efficiency, and so far as my information goes, he has won general approval for the way in which he has administered the affairs of the State, and particularly he has restored law and order in this very much disturbed State.

Sardar Hukam Singh: One second, Sir, if I may be permitted to ask a question.

Shri Aigu Rai Shastri: The Question-hour is over.

Mr. Chairman: Perhaps, he wants some information.

Sardar Hukam Singh: I was accused that I repeated for the sixth time my suspicion. The hon. Minister said that he has repeated his assurance 7 times. (Some hon. Members: Ten times). The reference was to the general elections. We are told that the last Government fixed the

date as January 1954 for the publication of the rolls. So far as I understand the revision of rolls takes place every year. For 1953 that has been done and election could be proceeded with without waiting any further. That date, January 1954, was for the next year. That question does not arise. Perhaps, there is some misunderstanding or I am not rightly informed.

[MR. DEPUTY-SPEAKER in the Chair]

Mr. Deputy-Speaker: The question is:

"That the Bill to confer on the President the power of the Legislature of the State of Patiala and East Punjab States Union to make laws, be taken into consideration."

The House divided: Ayes, 186; Noes, 49.

AYES

Division No. 7]

Abdus Sattar, Shri
Achal Singh, Seth
Achint Ram, Lala
Achuthan, Shri
Akarpuri, Sardar
Alva, Shri Joachim
Asthana, Shri
Balakrishnan, Shri
Balasubramanian, Shri
Bansal, Shri
Barman, Shri
Barupal, Shri P. L.
Basappa, Shri
Bhagat, Shri B. R.
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur Das
Bhatkar, Shri
Bhatt, Shri C.
Bheekha Bhai, Shri
Bidari, Shri
Borooh, Shri
Bose, Shri P. C.
Brajeshwar Prasad, Shri
Buragohain, Shri
Chandrasekhar, Shrimati
Chaturvedi, Shri
Chaudhary, Shri G. L.
Chettiar, Shri Nagappa
Chinaria, Shri
Chowdhuri, Shri M. Shaffee
Damar, Shri
Das, Dr. M. M.
Das, Shri B. K.
Das, Shri K. K.
Das, Shri Ram Dhani
Das, Shri Ramnanda

Datar, Shri
Deb, Shri S. C.
Deshmukh, Shri C. D.
Deshpande, Shri G. H.
Dholakia, Shri
Digambar Singh, Shri
Dube, Shri Mulchand
Dube, Shri U. S.
Dubey, Shri R. G.
Dwivedi, Shri D. P.
Dwivedi, Shri M. L.

Ebenazer, Dr.
Eleyaperumal, Shri
Gadgil, Shri
Gandhi, Shri Ferose
Gandhi, Shri M. M.
Ganga Devi, Shrimati
Ganpati Ram, Shri
Garg, Shri R. P.
Ghulam Qader, Shri
Gounder, Shri K. S.
Guha, Shri A. C.
Gupte, Shri Badshah

Hari Mohan, Dr.
Hazarika, Shri J. N.

Ibrahim, Shri
Iyyani, Shri E.
Iyyunni, Shri C. R.

Jagjivan Ram, Shri
Jajware, Shri
Jatav-vir, Dr.
Jena, Shri K. C.
Jethan, Shri
Jha, Shri Bhagwat
Jhunjhunwala, Shri

12 Noon

Joshi, Shri Jethalal
Joshi, Shri N. L.
Joshi, Shrimati Subhadra
Jwala Prashad, Shri
Kajrolkar, Shri
Kakkan, Shri
Kale, Shrimati A.
Kamble, Shri
Kasliwal, Shri
Katham, Shri
Katju, Dr.
Keskar, Dr.
Krishna Chandra, Shri
Krishnamachari, Shri T. T.
Kureel, Shri B. N.
Kureel, Shri P. L.

Lal, Shri R. S.
Lallanji, Shri
Laskar, Prof.
Lingam, Shri N. M.
Lotan Ram, Shri

Mahodaya, Shri
Mahtab, Shri
Maitra, Pandit L. K.
Majhi, Shri R. C.
Majithia, Sardar
Malviya, Shri K. D.
Malliah, Shri U. S.
Malviya, Shri Motilal
Mandel, Dr. P.

Masuoqi, Maulana
Mathew, Prof.
Mehta, Shri Balwant Sinha
Mishra, Prof. S. N.
Mishra, Shri Lokenath
Mishra, Shri M. P.
Mohd. Akbar, Shri

Mohiuddin, Shri
Muchaki Kosa, Shri
Mukne, Shri Y. M.
Musafir, Giani G. S.
Muthukrishnan, Shri
Namdhari, Shri
Narasimhan, Shri C. R.
Natawadkar, Shri
Neswi, Shri
Nijalingappa, Shri
Pannalal, Shri
Pant, Shri D. D.
Parekh, Dr. J. N.
Parmar, Shri R. B.
Pataskar, Shri
Patel, Shri B. K.
Patel, Shri Rajeshwar
Patel, Shrimati Maniben
Patil, Shri Shankargauda
Pawar, Shri V. P.
Pillai, Shri Thanu
Prabhakar, Shri N.
Raj Bahadur, Shri
Raghubir Sahai, Shri
Raghubir Singh, Ch.
Raghunath Singh, Shri

Ram Saran, Prof.
Ram Subhag, Singh Dr.
Ramaswamy, Shri P.
Rane, Shri
Reddy, Shri Janardhan
Reddy, Shri Viswanatha
Sahu, Shri Bhagbat
Sahu, Shri Rameshwar
Saksena, Shri Mohanlal
Samanta, Shri S. C.
Sanganna, Shri
Sankarapandian, Shri
Sarmah, Shri
Satish Chandra, Shri
Sen, Shri P. G.
Sen, Shrimati Sushama
Shahnawaz Khan, Shri
Sharma, Pandit Balkrishna
Sharma, Prof. D. C.
Sharma, Shri R. C.
Shastri, Shri Algu Rai
Shukla, Pandit B.
Siddananappa, Shri
Singh, Shri D. N.
Singh, Shri Babunath
Singh, Shri H. P.

Singh, Shri L. J.
Singh, Shri T. N.
Singhal, Shri S. C.
Sinha, Dr. S. N.
Sinha, Shri G. P.
Sinha, Shri K. P.
Sinha, Shri N. P.
Sinhasan Singh, Shri
Sodhia, Shri K. C.
Somana, Shri N.
Suresh Chandra, Dr.
Swaminadhan, Shrimati Anamu
Syed Ahmed, Shri
Telkikar, Shri
Thimmaiah, Shri
Thomas, Shri A. M.
Tudu, Shri B. L.
Uikey, Shri
Upadhyay, Shri S. D.
Vaishnav, Shri H. G.
Varma, Shri B. B.
Varma, Shri B. R.
Vidyalankar, Shri A. N.
Vyas, Shri Radhelal
Wilson, Shri J. N.
Wodeyar, Shri

NOES

Ajit Singh, Shri
Bahadur Singh, Shri
Basu, Shri K. K.
Biren Dutt, Shri
Boovaraghasamy, Shri
Buchhikotaiah, Shri
Chatterjea, Shri Tushar
Chattopadhyaya, Shri
Chaudhuri, Shri T. K.
Chowdary, Shri C. R.
Das, Shri Sarangadhar
Doraswamy, Shri
Gidwani, Shri
Giridhari Bhoi, Shri
Gurupadaswamy, Shri M. S.
Hukam Singh, Sardar

Kelappan, Shri
Krishna, Shri M. R.
Krishnaswami, Dr.
Lal Singh, Sardar
Mahata, Shri B.
Majhi, Shri Chaitan
Mascarene, Kumari Annie
Menon, Shri Damodara
Missir, Shri V.
More, Shri S. S.
Mukerjee, Shri H. N.
Muniswamy, Shri
Murthy, Shri B. S.
Nambiar, Shri
Nanadas, Shri
Narasimham, Shri S. V. L.
Punnoose, Shri

Rajabhoj, Shri P. N.
Raghavachari, Shri
Ramaswami, Shri M. D.
Randaman Singh, Shri
Ranjit Singh, Shri
Reddi, Shri Ramachandra
Rishang Keishing, Shri
Shakuntala, Shrimati
Shastri, Shri B. D.
Singh, Shri R. N.
Soren, Shri
Swami, Shri Sivamurthi
Swamy, Shri N. R. M.
Vallatharas, Shri
Veceraswamy, Shri
Waghmare, Shri

The motion was adopted.

Mr. Deputy-Speaker: There are no amendments to clause 2.

Clause 2 was added to the Bill.

Clause 3.—(Conferment of the power of the State Legislature).

पंडित ठाकुरदास भार्गव : जनाब डिप्टी स्पीकर साहब, इस ऐ मेम्बरेंट के बारे में बहुत बहस हो चुकी है, और बड़ी मेहरबानी फरमा कर हमारे गेम मिनिस्टर साहब ने उस के उसूल का कुबूल फरमा लिया है कि प्रेसिडेंट साहब जो अपना कानून नाफिज करें वह इस

हाउस के मेम्बरान की राय से और उन से मसिबरा कर के करें। अब सवाल यह रह जाता है कि आया सिर्फ पेप्सु के मेम्बरान से मसिबरा किया जाय या दूसरे साहबान से भी किया जाय। अभी एक ऐमेन्डमेन्ट (संशोधन) मेरे दोस्त श्री बन्सल ने हाउस में भेजा है जिस का मंशा यह है कि इस्ट पंजाब के मेम्बरान को भी शामिल कर लिया जाय उस को मेरे दोस्त लाला अचिन्त राम जी ने भी पसन्द किया है। लेकिन यह देखा है

कि अगर ईस्ट पंजाब वालों को शामिल कर लिया जाय तो हिमाचल प्रदेश वालों को, राजस्थान वालों को और दूसरे आस पास के लोगों को क्यों न शामिल किया जाय। यह बात मेरी समझ में नहीं आती कि जो बिल्कुल उन के पास के इलाके हैं उन को इस से क्यों महरूम (वंचित) किया जाय।

Shri Bansal: On a point of order, Sir? Is it not necessary that the Member who has given an amendment to the original amendment should be allowed to move that amendment, and explain his point of view, before the Member who is moving the original amendment can explain the significance of his amendment?

Mr. Deputy-Speaker: First of all, the person who has tabled the original amendment is asked to move it and thereafter, any further amendments can be moved to that amendment.

Shri Punnoose: Rule 107 of the Rules of Procedure reads:

".....If an amendment has been proposed to an amendment, the original amendment shall not be withdrawn until the amendment proposed to it has been disposed of."

Mr. Deputy-Speaker: It is not a question of withdrawal now. (*Interruptions.*) The other amendment hangs on to this.

पंडित ठाकूर दास भार्गव : मैं पुरुष साहब की मेहरबानी का बहुत मशकूर हूँ जिन्होंने मेरी वकालत की है। लेकिन मैं यह अर्ज करना चाहता था कि दरअसल जब सारे ऐमेन्डमेन्ट्स (संशोधन) हाउस के सामने हों तो जो शरूट ऐमेन्डमेन्ट मूव (प्रस्तावित) करता है उसे अख्तियार है कि वह पहले उस पर अपनी राय का इजहार करे।

चुनावे में अर्ज कर रहा था कि चूंकि मेरे लायक दोस्त ने सारी बात नहीं सुनी इसलिए वह यह प्वाइन्ट आफ आर्डर रोज कर (उठा) रहे हैं। बरना वह उस बात को पसन्द करते जो कि मैं

पेश कर रहा हूँ। मैं अर्ज कर रहा था कि चूंकि दफ़ा ३५६ के प्रोक्लेशन की रू से सारा अख्तियार पार्लियामेंट को होता है और पार्लियामेंट की तरफ से एक ताकत प्रेजिडेंट साहब को दी जा रही है तो इस ताकत के देने के बावजूद भी पार्लियामेंट यह हक रखती है कि वह जिस तरह से चाहे अपने फर्ज को अदा करे। और उस को शकल यह है कि पार्लियामेंट की किसी कमेटी के साथ मशविरा कर लिया जाय। लेकिन इस के लिये यह कहना कि पार्लियामेंट के उस इलाके के और ईस्ट पंजाब के मेम्बरान से ही मशविरा कर लिया जाय यह दुस्त और वाजिब नहीं है।

मुझ को जब यह मशविरा मिला कि मैं अपनी धोरीजिनल अमेन्डमेन्ट को इस तरह से मोल्ड करूँ कि जिस के अन्दर सारी पार्लियामेंट का, सारे हिन्दुस्तान का हक शामिल हो, तो मैं ने इस को पसन्द किया और इस चीज को मंजर किया। तो मैं इस मशविरा का फ़ायदा उठा कर आपकी इजाजत से अपनी तरमीम को इन अलफ़ाज में पेश करना चाहता हूँ। जो उसूल मेरा है वह तो कायम है, लेकिन उस के एक छोटे से हिस्से में मैं तरमीम करना चाहता हूँ। मेरी तरमीम का असल मक़सद यह है कि पार्लियामेंट के दोनों हाउसों (सदनों) के १५ अदमियों की एक कमेटी हो, उन को प्रेजिडेंट साहब नामिनेट कर दें और उस के मशविरा के बाद कानून सादिर किया जाय। ऐसी सूरतों में जब कि ऐसा मशविरा नामुमकिन हो या इम्प्रीक्टि-केबल हो, उस सूरत में मैं यह नहीं चाहता कि प्रेजिडेंट साहब जरूरी काम को न कर सकें। अपने इन अलफ़ाज के साथ मैं जनाब की इजाजत से अपनी अमेन्डमेन्ट पेश करना चाहता हूँ। उस अमेन्डमेन्ट को अब मैं पेश कर रहा हूँ।

[पंडित ठाकुर दास भार्गव]

I beg to move:

In page 1, line 14, after 'necessary' add:

"In consultation with the Committee consisting of 15 Members from both the Houses of Parliament to be nominated by the President, except in cases where such prior consultation is not practicable".

जो दूसरी अमंडमेंट में पेश करना चाहता हूँ वह यह है। I beg to move:

In page 1, lines 21 and 22, omit—

"during the session in which the Act has been so laid before it"

Also I beg to move:

In page 1, line 22,

after "modifications" inter—

"after their being placed within seven days of such direction before the other House for consideration".

Mr. Deputy-Speaker: Is the President to nominate for both the Houses, or the Speaker for this House, and the Chairman for the other House?

Pandit Thakur Das Bhargava: The President may nominate for both the Houses. According to Article 357 we are conferring the power to make laws on the President. We do not want to detract from that power now, and therefore we want to give that power to the President himself.

Mr. Deputy-Speaker: It is three days in the order paper.

Pandit Thakur Das Bhargava: In order to make it practical, I want to make it seven days, with your permission.

An Hon. Member: How can it be allowed?

पंडित ठाकुर दास भार्गव : मैं अर्ज करना चाहता हूँ कि जो असली मसूदा हमारा है वह इतना ही है कि ऐसा न हो कि इस सिलसिले में हाउस का सेशन खत्म हो जाय और कोई माडीफिकेशन जो एक हाउस ने की हो, वह भी बेअसर रह जाय। चुनावे हमारे होम मिनिस्टर साहब ने इन अलफ्राज में यह अर्थोरेस दिया है कि ज्योंही यह कानून बनेगा उसी वक्त हाउस में रखा जायगा और वह ऐसा न होने देंगे कि उस सेशन में दूसरे हाउस

में उस का कंसीडरेशन (विचार) न हो। मैं उम्मीद करता हूँ इस की पाबन्दी की जायगी और कोई शिकायत का मौका नहीं मिलेगा। मैं ने जान बूझ कर तीन का सात किया है, इसलिये कि ऐसा मौका नहीं होगा कि इन दिनों की ज्यादाती से हम इन कानूनों के बारे में अपने हक को एक्सरसाइज (प्रयोग) न कर सकें। इस अमंडमेंट का रीग्रल (असली) असर यह होगा कि जो हक हमें मिला है उस का हम इस्तेमाल कर सकें।

Shri Raghunath Singh (Banaras Distt.—Central): Sir, what about my amendments Nos. 2 and 3?

Mr. Deputy-Speaker: I shall put this formally before the House. Amendment moved:

In page 1, line 14 after 'necessary' add:

"In consultation with the Committee consisting of 15 Members from both the Houses of Parliament to be nominated by the President except in cases where such prior consultation is not practicable".

Shri S. S. More (Sholapur): There is that word 'practicable'.

Mr. Deputy-Speaker: Yes. He may enact a law as he considers necessary in consultation etc. etc.

Shri Pataskar (Jalgaon): May I make an observation on this?

Mr. Deputy-Speaker: First of all, those hon. Members who have tabled amendments.

Shri Pataskar: I am not going to speak on the merits of the amendment.

Mr. Deputy-Speaker: Let me place the amendments. First of all amendment to the amendment. Later there will be a general discussion. Now Pandit Thakur Das Bhargava's amendment No. 5 is:

In page 1, lines 21 and 22 omit—

"during the session in which the Act has been so laid before it".

Dr. Katju: You will take it up separately, Sir.

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): Each amendment can be disposed of.

Mr. Deputy-Speaker: Yes. This amendment is covered by the other amendment.

Pandit Thakur Das Bhargava: Sir, I have moved both 5 and 6 because they are parts of the same amendment, though they are numbered separately.

Mr. Deputy-Speaker: Government want these amendments to be taken up separately before we go to the other point.

Shri K. K. Basu: We have an amendment, Sir.

Mr. Deputy-Speaker: First of all, let me dispose of amendment to amendment.

Dr. Katju: May I move an amendment to that Sir? Here we are dealing with the Houses of Parliament and the position of the Speaker and the Chairman has to be respected. I suggest that the better form will be:

"After consulting with a Committee composed of ten members....."

Mr. Deputy-Speaker: Why not "in consultation with a Committee.....?"

Dr. Katju: "After consulting a Committee composed of 10 members of the House of the People to be nominated by the Speaker and 5 members of the Council of States to be nominated by the Chairman wherever such consultation is practicable".

Shri S. S. More: Will it be a permanent Committee or whenever it is thought necessary a Committee would be composed for that purpose?

Shri T. T. Krishnamachari: The Committee will be permanent.

Dr. Katju: Yes, the Committee will be permanent.

Shri S. S. More: But the amendment that has been suggested by the Home Minister does not make that sense clear, whether the Committee would be permanent.

Mr. Deputy-Speaker: 'wherever such consultation is practicable'.

Dr. Katju: Yes, 'wherever such consultation is practicable'.

Shri S. S. More: That is, whenever he 'considers it necessary to appoint a Committee'.

Dr. Katju: No, no. The idea is that it is going to be a permanent Committee. 'After consulting a Committee composed of 10 members of the House of the People nominated by the Speaker and 5 members of the Council of States nominated by the Chairman, whenever such consultation is practicable'.

Shri K. K. Basu: The point is whether it would be left to the President to decide whether there should be consultation or not. Normally, consultation should be there; if an emergency arose should we forgo that right? I think the form of Pandit Thakur Das Bhargava's amendment should be adopted.

Shri Pataskar: May I offer a few comments. The question is whether the amendment now proposed is itself inconsistent with Article 357.

Mr. Deputy-Speaker: What exactly is the amendment before we throw it out? I am only asking the Minister whether this expression 'wherever practicable'.....

Shri B. S. Murthy (Eluru): Order, order.

Mr. Deputy-Speaker: The hon. Member need not arrogate to himself my powers.

'Wherever such consultation is practicable' seems to be more restrictive than 'except in cases where such prior consultation is not practicable'. That is, ordinarily consultation must take place.

Dr. Katju: Then 'except in cases where such consultation is not practicable'.

Shri S. S. More: Let us have the final form, Sir.

Mr. Deputy-Speaker: Yes. The Home Minister's amendment to the amendment is this:

For amendment No. 1(2) moved by Pandit Thakur Das Bhargava substitute:

In page 1, line 14, after "necessary" add:

"In consultation with a Committee consisting of 10 members of the House of the People to be nominated by the Speaker and 5 members of the Council of States to be nominated by the Chairman, except in cases where such prior consultation is not practicable".

Shri S. S. More: That is all right.

Shri Algu Raj Shastri: This amendment is out of order.

Mr. Deputy-Speaker: I will ask Mr. Pataskar.

श्री अलगू राय शास्त्री : श्रीमान् , जब पाटस्कर साहब चेंबर में (पीठासीन) थे, तब मैंने एक प्वाइंट आफ आर्डर (औचित्य प्रश्न) उठाया था और उस वक्त उन्होंने कहा था कि जब यह अमेंडमेंट आयेगा तब उस समय व उस के सम्बन्ध में अपना निर्णय देंगे।

Mr. Deputy-Speaker: Who raised this point of order earlier?

Shri Algu Raj Shastri: I raised it.

Shri Pataskar: I will speak afterwards.

श्री अलगू राय शास्त्री : प्वाइन्ट आफ आर्डर यह है कि दफा ३५७ (१) में जो लेजिस्लेटिव पावर्स (विधायी शक्ति) प्रेजीडेंट को डेलीगेट करने का अधिकार पार्लियामेंट ने लिया, उसका वर्णन उप-खंड (क) में है और उस में यह कहा गया है :

"It shall be competent—(a) for Parliament to confer on the President the power of the Legislature of the State to make laws, and to authorise the President to delegate, subject to such conditions as he may think fit to impose, the power so conferred to any other authority to be specified by him in that behalf."

इसके अनुसार पार्लियामेंट को सिर्फ यह अधिकार है कि वह कानून बनाने का अधिकार प्रेजीडेंट को दे दे और उस को यह भी अधिकार दे दे कि वह उस अधिकार को जिस एथारिटी (प्राधिकारी) के द्वारा चाहे पूरा करावे, यह काम प्रेजीडेंट का है, यह काम पार्लियामेंट का नहीं कि वह एक संसद कमेटी की तरह या एक ऐड-वाइजरी कमेटी की तरह से एक कमेटी

उस के ऊपर मढ़ दे। हाँ, अगर प्रेजीडेंट को अधिकार देते हैं तो कांस्टीट्यूशन के अनुसार ही दे सकते हैं और कांस्टीट्यूशन ने जो सीमायें निर्धारित की हैं, उन्हीं सीमाओं के अन्तर्गत वह अधिकार हम दे सकते हैं। यह नहीं हो सकता कि पार्लियामेंट आज कांस्टीट्यूशन के शब्दों से बाहर जा कर अपने मनमाने ढंग से नये नये प्रावधानों के साथ यह पावर उस को दे दे। चुनांवे यहां पर जो अधिकार कांस्टीट्यूशन पार्लियामेंट को देने के लिये मंजूर करता है, उसके बाहर हम जाते हैं, प्रेजीडेंट के अधिकारों को सीमित करते हैं और एक प्रकार से उसके अधिकार पर ऐसा प्रतिबन्ध लगाते हैं जिस की कल्पना कांस्टीट्यूशन ने नहीं की थी इसलिए मैं समझता हूँ कि यह पूरा का पूरा संशोधन अवैधानिक है और इस को हटा देना चाहिये।

Shri Pataskar: Sir, I will try to explain it a little, with your permission.

Shri Algu Raj Shastri: He will put it in English.

Mr. Deputy-Speaker: I have followed the Hindi.

Shri Pataskar: I may make it clear that I am in entire sympathy with the object. But the question is...

Mr. Deputy-Speaker: The hon. Member is raising a point of order?

Shri Pataskar: Yes. The question is, is it consistent with the provisions in the Constitution to impose such a condition?

Now, Sir, before I turn to Article 357, I would refer to Article 356 which deals with provisions in case of failure of the constitutional machinery in a State—as has happened in this case and a Proclamation has been issued. Then Article 357 lays down:

"Where by a Proclamation issued under clause (1) of Article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament....."

This has been done in this case. 'It shall be competent'. Now, what is competent for the Parliament to do as laid down in clause (a)? It is competent for Parliament to confer on the President the power of the Legislature of the State to make laws. Further, it is competent for this House to authorise the President to delegate. They may also authorise the President to delegate his powers of making laws. That can be made subject to such conditions as he may think fit to impose.

When we come to the next question, namely, 'authorising the President to delegate, such delegation may be made subject to such conditions as 'he may think fit to impose'.

Mr. Deputy-Speaker: We are not going to do that.

Shri Pataskar: We are not going to do that. So far as clause (a) of Article 357 is concerned, I think, the President, having assumed powers under Article 356, it could not have been the intention of the Constitution makers to say that while conferring this power on the President, it should make it conditional. To my mind sub-clause (a) does not warrant that.

Mr. Deputy-Speaker: Cannot this happen? The Parliament might say that on revenue matters alone the President may make laws; it can restrict the powers of the President in regard to legislation. Does it mean either wholly or not at all?

Shri Pataskar: It is clear to my mind. If Parliament confers the powers of the Legislature of the State on the President, it may confer it wholly or not confer it.

Mr. Deputy-Speaker: Can it not confer wholly or in part?

Shri Pataskar: The question of wholly or in part does not arise. We have to look not only to Article 357, but we have to look to it in the context of Article 356.

Mr. Deputy-Speaker: Cannot the Parliament say, 'this is an important subject; so far as this is concerned, it shall not be done by the President and Parliament alone can do it'? Likewise, can it not say to the President, 'You must associate with you, or consult, so-and-so'? The power to confer the whole includes the power to confer partially.

Shri Pataskar: Therefore, I said that Article 357 should be considered as coming after 356 and it is a special

provision that when the constitutional machinery has failed, the President assumes all powers to himself. Then, we say that Parliament can confer on the President the power of the Legislature of the State to make laws. I do not think, that looking to the nature of the provisions in Articles 356 and 357, the framers of the Constitution ever intended that in all such matters the power should be restricted. Reasoning by analogy, I think, is not always correct. Of course, I am in sympathy with the idea underlying the proposed amendment. Government or the hon. Home Minister—may consult anybody he likes. The question is whether it would be proper for the House to confer such powers on the President with restriction.

Shri T. T. Krishnamachari: Sir, I think my hon. friend has missed the point slightly, because under Article 356(1) (b), what the President can do is to declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament. That is very clear. The President's proclamation not only gives him Executive powers of the State but also confers, at the same time, the legislative powers on Parliament. To that extent, the powers of the State stand suspended.

Then comes the other question. I will tell the House how it arose. We felt at that time that Parliament would be over-loaded with such a lot of work in doing legislative work for the State, that there must be some kind of delegation to the President, so that in matters which are not very important, the President may deal with them. The whole idea of delegation to the President is to relieve Parliament of the responsibility of having to legislate in this House and to save the time of Parliament which would be necessary in cases when the administration of a State is taken up. With that background then, what you pointed out, Sir, is quite correct. The Parliament may say that in such and such matters the President can legislate and in certain other matters the power of legislation will be reserved for Parliament. It is in the same way as a principal conferring powers upon his agent. So far as the legislative authority is concerned, the President is only an agent of Parliament and nothing else. Therefore, it is wrong to say that Parliament cannot reserve to itself some portion of the power and hand over some other powers to the President.

Then, the other question that arises is this. Having conferred the power

[Shri T. T. Krishnamachari]

to the President, can it be fettered in any manner? That is a matter, Sir, on which, certainly, both sides of the question can be argued. The best way to do it, Sir, is to get an undertaking from my hon. colleague that, as far as possible, excepting in an emergency, the Committee that is now sought to be set up will be consulted. But, otherwise, care has to be taken that you do not make it an obligation on the part of the President to consult the Committee. The obligation is accepted morally by my colleague, but legally the thing should not be put in in so many words. In fact my hon. colleague means the same thing, except with some variation of the last sentence in which you have changed the negative form into positive form. So long as we do not say that only members of PEPSU shall be in the Committee—I think it is not right to say that only a section of Parliament shall be there—though in effect the Speaker will perhaps only nominate those people who are interested in PEPSU—and that is why we have suggested nomination by the Speaker and the Chairman of the Council of States. People who are interested may be Members from PEPSU and there might be other persons, say from the Punjab. If there is a direction to the President or the Speaker or the Chairman of the Council of States to nominate people only from that area it will not look very proper. I think the effect of what my hon. friend Pandit Thakur Das Bhargava wants to achieve will be achieved by the amendment moved by my colleague and I do not think it worth while labouring on a point which is made fairly clear that when the Parliament concedes power to the President, it can also concede a part of the power and keep the rest of it to itself.

Pandit Thakur Das Bhargava: I wish to make a submission, Sir, since objection has been taken to my amendment. So far as Article 357 goes, the words in that are clear. So far as the conferment of powers is concerned, it is almost absolute. We have never said that this Committee will be anything but an Advisory body. So far as law-making power is concerned, it is absolutely given. The President would make laws but we say that he would consult a Committee of 15. Such a provision does not derogate from the conferment of powers. It is only a direction which we have asked the President to comply with.

Now, Sir, I am surprised to hear that where a principal has got the power to delegate, the delegation must be entire. It can be partial; it can be conditional also, though, in this case, the question of conditional delegation does not arise. Because the delegation is absolute, only a direction is given in respect of a subordinate matter. My humble submission is, that if it is taken that the House has got full powers to delegate, then the House has got the power to delegate partially also and also attach to it certain conditions. To my mind, the conferment of powers under Article 357 is not so sacrosanct that it must be given only wholly or not at all. This is the meaning of the words. After all the delegation of power is not obligatory. I should think it is not even normal. Under Article 356, the House has got the entire power and it is within the discretion of the House to exercise its powers under Article 357 or not. My submission is that the proposition which my hon. friend has propounded seems to me to be without foundation.

Mr. Deputy-Speaker: I have heard enough about this. The transfer of the power of the Parliament to make laws, by which the power is given away to the President need not be absolute. It may be qualified also. The whole includes the part. Further, in this case, the power of the President, when it is delegated to him, is not sought to be shared with others under this amendment. It is only 'in consultation'. It is advisory. Therefore, if the power is distributed between the President and any particular Committee of this House, then there might be some difficulty. That matter will have to be considered later. I am not expressing any opinion on that point.

It is only advisory. Therefore...

Shri Lokenath Mishra (Puri): May I raise a point of order, Sir?

Mr. Deputy-Speaker: No further points of order. Therefore, I do not find that there is something objectionable in this. It is quite in order.

Shri Lokenath Mishra: My point was this, Sir, that as you just now said, the whole includes the part, but this amendment says that the part includes the whole. The legislative responsibility belongs to the Parliament and Parliament is indivisible. By this amendment, we authorise the Speaker to nominate another body to be consulted and this body is a part and not the whole of the Parliament.

The Constitution makes the Parliament indivisible whereas this amendment makes it divisible and supposes that part includes the whole.

Mr. Deputy-Speaker: Some objection of this kind could have been plausibly raised if the original amendment as tabled by Pandit Thakur Das Bhargava had been moved and Members could have said that the members chosen should be Members in this House who represent PEPSU, and a kind of discrimination is being exercised. But I am not deciding that matter at all, and it does not arise at all. The power of the Speaker and the Chairman is only to this limited extent of both of them joining together to form a committee. Such a committee will certainly represent the Parliament, and once again, it is only for the purpose of consultation. There are five Members from PEPSU in this House and ten persons can be nominated. Thus, the selection will not be confined only to Members from PEPSU but it will be spread over all sections of the House, so that the opinion of the various parties in the House may be reflected. It will be a small representative committee of the House. Likewise, five Members from the other House will be representatives of that House. Both the Houses represented in this way will ultimately represent the Parliament. They will be in a position to give advice to the President. After all, it is in an advisory capacity. I do not think that there is any force in this point of order. It does not make any discrimination or entrust in the hands of the Speaker the power to nominate persons of his own choice. I shall read the amendment now in its final shape. Of course, it is subject to the acceptance of the House, and I have put it negatively instead of positively. It reads thus:—

“Provided that before enacting any such Act, the President shall, except where it is not practicable so to do, consult a committee constituted for the purpose consisting of ten Members of the House of the People nominated by the Speaker and five Members of the Council of States nominated by the Chairman.”

An Hon. Member: Should the restriction about PEPSU Members not be there?

Mr. Deputy-Speaker: It is only for the purpose of consultation, and there are ten Members. I do not think that the restriction need be specifically incorporated. It is unnecessary.

श्री अलगू राय शास्त्री : डिप्टी स्पीकर महोदय, आपने क्लॉक की ओर उनके

बाद कुछ कहना तो मुनासिब नहीं है लेकिन मैं

श्री के० क० बसु : हम जोगों को मोका नहीं मिला है आप बैठ जाइये ।

श्री अलगू राय शास्त्री : मैं एक मिन्ट में कह दूंगा । इस में सन्देह नहीं है कि जिस माडी माइड फार्म (परिवर्तिता रूप) में यह अमेंडमेंट आया है उसमें संप का जहर तो नहीं है लेकिन शकल उसकी सां की अब भी बनी रहती है और उसमें वह डॉ जो प्रेजिडेंट को अधिकार देने का एक्सोल्सूट (पूर्ण) अधिकार देने का है वह थोड़ा माडीफाइड सा हो जाता है ।

Shri K. K. Basu: As you have observed, our whole idea is that in this consultative committee, every section of the House should have an opportunity to express its views. That is why we feel that the consent of the House should be taken in regard to the names. After all the House of the People is seized of the matter. Now that the power is being given to the Speaker and the Chairman, it is not right for us to contest that position, but I hope Sir you will appreciate our point of view that in making the nominations, all the points of view in the Parliament should have a chance.

Mr. Deputy-Speaker: Certainly.

Shri Bansal: What about the amendment I had given to the original amendment?

Mr. Deputy-Speaker: It was not to this one; so, it will not be taken up. The question is.

For amendment No. 1(2) moved by Pandit Thakur Das Bhargava, substitute:

“In page 1, after line, insert—

“Provided that before enacting any such Act, the President shall, except where it is not practicable so to do, consult a committee constituted for the purpose consisting of ten Members of the House of the People nominated by the Speaker and five Members of the Council of States nominated by the Chairman.”

The motion was adopted.

Mr. Deputy-Speaker: Is the hon. Minister accepting amendments 5 and 6?

Dr. Katju: As I said, it is a matter of procedure to be regulated by the Speaker and the Chairman. I do not personally see any reason for that amendment.

Pandit Thakur Das Bhargava: My fear is that according to the present provision it may be that the matter may be debated in one House and it may never come up before the other. If that session is over the matter may not come and the whole of this provision may become absolutely ineffectual. What is the use of making a provision unless it is ensured that both the Houses shall consider the matter and decide in that very session. Otherwise the whole effect of the provision will be gone. I would rather like that some provision were made that the matter is placed before both the Houses in the very session.

The hon. Home Minister was pleased when he was replying to accept the principle which I had submitted and I hope he is accepting it now. The difficulty will be that we will be deprived of our rights if the thing is not done in that session. If he can ensure me of this, I am prepared to withdraw my amendment.

Mr. Deputy-Speaker: Did it not work in practice in the case of the Punjab State?

Pandit Thakur Das Bhargava: At that time there was only one House and the question did not arise.

Dr. Katju: As I have already said it is a matter for the Chairman and the Speaker to modify the Rules of Business after the passing of this Bill. For instance, they may lay down that both Houses may discuss a particular Bill simultaneously and if either House passes any modification, then it should be sent within two or three days to the other House. Something may have to be altered, or changed, or brought in or added to the Rules of Business. I suggest we may leave it at that.

Pandit Thakur Das Bhargava: How can we regulate the rules of the other House; we are not competent to do that?

Dr. Katju: We can leave it to the Chairman and the Speaker to regulate it by Rules of Business

Pandit Thakur Das Bhargava: Unless it provided in the Bill itself, I do not see how our rights will be

secured. I do not see any reason why we should not pass these amendments, because it will ensure us. . . .

Dr. Katju: I shall see to it that something is done.

Pandit Thakur Das Bhargava: If the hon. Minister gives me an undertaking, I have no objection.

Mr. Deputy-Speaker: The solution is easy. Government ought not to ask the other House to prorogue until the matter is disposed of there.

Dr. Katju: If a business has to be done, it will be done.

Pandit Thakur Das Bhargava: In view of the assurance, I am not pressing my amendment.

Mr. Deputy-Speaker: The question is—

“That clause 3, as amended, stand part of the Bill.”

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Katju: I beg to move:

“That the Bill, as amended, be passed.”

Mr. Deputy-Speaker: Motion moved:

“That the Bill, as amended, be passed.”

Kumari Annie Mascarene (Trivandrum): I oppose this Bill wholly. I oppose every clause. I oppose this Bill because it is a violation of the theory of the Separation of powers, the fundamental principles of modern political science, on which is raised the structure of our political institutions which can be traced back to the days of Aristotle.

I oppose this Bill as an encroachment on the sovereign rights of this House to legislate on behalf of the people of India and on behalf of the people of the States as occasion demands. I oppose this Bill as a consummate measure of the majority party in power to ride rough-shod over the rights and liberties of the people of PEPSU and East Punjab, rights vested in them by virtue of the Constitution. I oppose this Bill as a tyrannical act of the brute majority over a minority of people in PEPSU for the simple reason that they are

holding fast to their convictions. The majority party forgets the fact that the most may err as grossly as the few. The majority party quotes articles from the Constitution as sometimes the devil quotes the scripture. The majority party in power thinks that we a small minority here, can be ridden rough-shod over and this Bill could be passed. Sir, this House had been the grave of many an imperial power. The very ground under their feet had cracked many a time to swallow many a majority party, and many a sceptre and crown had tumbled down to be swallowed into its abysmal depths. This Bill is sure to be carried, and with it will be carried the contempt of those of us who differ from the majority party the contempt of the people of PEPSU against those so-called custodians of democracy who just made them believe that they are standing for liberties, and resolved to constitute a Republic of India on the principles of justice, equality and fraternity. They believed them and today what is happening?

My important point on this subject is that by this Bill we delegate power to the President with power to sub-delegate.

Mr. Deputy-Speaker: No sub-delegation power is given.

Kumari Annie Mascarene: I withdraw that. Legislative and executive powers are thus vested in the same hands. "When the legislative and executive powers become vested in the same person or body of persons", says Montesque, "there can be no liberty". "Whenever the right of making and enforcing a law becomes vested in the same man or one and the same body of men, there can be no public liberty" says Blackstone. "The accumulation of all powers in one and the same hand, whether hereditary, self-appointed or elected, may justly be pronounced the very definition of tyranny" say James Maddison. There are hundreds of quotations I can give, but the time will not allow me. But I wish to point out that the American States before they adopted the Federal Constitution in 1787 accepted, as their first principle, complete separation of the powers. To quote a British precedent, the Crown has got the common law prerogative of legislating for the Colonies.

Mr. Anson in his Law and Custom of the Constitution says that "this power is lost when once representative institutions have been granted to the colonies." History and precedents are not wanting in examples all over

the world to prove that this Act is a negation of the federal character of the country's polity.

I do not wish to go into those details that brought about this emergency legislation because we have already dealt with it. I wish to point out to the mover of this Bill....

Shri B. S. Murthy: Home Minister.

Kumari Annie Mascarene:...that the Statement of Objects and Reasons given in this Bill does not justify this Bill at all. The Parliament is still in session. An emergent situation requires extraordinary sittings of Parliament. Is it the first time that an emergent situation has arisen in the history of the world? The sittings of Parliament have been extended, the time of Parliament had been extended to suit emergent situations. Like the long Parliament, the short Parliament, the Septennial Act and the war time Parliaments of America and Europe which sat for long to consider emergent situations and Dr. Katju says that in India there is no such necessity when the so-called emergent situation arises. He says that the legislative measures can be taken up by Parliament by postponing its other business and even then it is likely that Parliament may not have time to deal with all legislative measures. Have you ever heard any where in Democracy that when there is no time for Parliament to sit, they delegate their powers to the executive authorities? Is this democracy?

Shri Namblar: That is why it is not democracy.

Kumari Annie Mascarene: This is to deny the Members of their own party their right to sit here and legislate. I oppose this measure. On this side we cannot agree with these fantastic notions of Dr. Katju and his colleagues and we sympathise with the people of PEPSU. If you look back into their history, you will see that the people of PEPSU played a unique part in the struggle and to speak the least, their maharaja for his nationalistic views, had to die behind the prison bars at Kodaikanal. I am a witness to that. This emergent situation had arisen in PEPSU. It has arisen in my own State and I remember just a year before the election, I wrote to Dr. Rajendra Prasad saying that "here is an emergent situation, if you want to win the next elections, kindly take this emergent situation." I was in the Congress then.

Several Hon. Members: Oh, Oh!

Kumari Annie Mascarene: He did not listen to this. (*Interruptions*)

Corruption was there in the State.

An Hon. Member: The cat is out of the bag.

Kumari Annie Mascarene: I am not disowning it. I did it with the best of intentions. (*Interruptions*)

They are taking it on themselves on the ground that it is a popular Government. They are going to legislate land reform. We here have been crying for land reforms for the last so many months. They have yet to do it. Today they are very anxious to have land reforms in PEPUSU. For what reason? It is all a show. I would like to recommend a preamble for this act "Whereas it is expedient...

Mr. Deputy-Speaker: The amendment has not yet been moved.

Kumari Annie Mascarene: I am just putting it before the House. Let this Act be passed with a preamble "Whereas it is expedient for the success of the Congress administration and to retain power in Congress hands, be it enacted as follows."

Shri K. K. Basu: It is gratifying to note that even our unresponsive Home Minister was prevailed upon to accept a minor amendment which would give a faint popular touch to this arbitrary legislation that we are going to pass in a few minutes time.

I would like to emphasise this point that when this particular provision was made in the Constitution, the paramount power of the Parliament was never thought to be taken away and delegated to anybody in our country. We know that under our Constitution, the President is a sort of a titular head and he has to act on the advice of his Ministers. True, there is a provision that even after the Proclamation when the legislative powers are taken over by the Parliament as a whole. Parliament on its part, if it so chooses can delegate certain powers. We know very well that our President would have to work on the advice of the States Ministry. The Minister of States, when he sponsored the legislation, has not made out a case wherein we can say, he has justified such a delegation. This argument that there is dearth of time, and Parliament cannot sit for more than certain hours, is not acceptable. Even this, I would have accepted if the Minister of States came forward to say that on very minor things where it is not necessary for the Parliament to go into

details, the President may be authorised to legislate. But, in important things like the Land Reforms Bill, law and order, in which when Parliament is in seizin of the whole matter, it is incumbent on it to sit in judgment and decide for itself, which is necessary for the interests of the people of PEPUSU and the whole country, and it is not bound to authorise the President. If you read the debates in the Constituent Assembly, you will find that when the provisions were embodied in the Constitution, we had in our mind the provisions of section 93 of the Government of India Act, 1935. There, power was given to the Governor to act in his own discretion. Therefore, the Constitution makers deliberately did not give legislative power to the President to act in his own discretion. They only wanted, for the sake of carrying on the work, that certain powers may be given, if the situation so warrants, to the President who has to work on the advice of the States Ministry. Therefore, on the basis of the case that has been put forward we are of opinion that there is no case wherein Parliament should be asked to delegate this power to the President.

The precedent of the Punjab is not correct. It was, I should say, under a Parliament which was elected for a specific purpose, for a limited period, under a very limited franchise. Unfortunately, we have now a Parliament elected on the adult franchise which we call a great experiment in democratic institutions. Why immediately within a year should we delegate our power? One of the main grounds given is that Parliament cannot sit and decide because it is busy with some other legislation. If the hon. Home Minister had come forward with his Bill on Land reforms, the Business Advisory Committee would discuss the matter and we could deal with the Bill in two sittings. We have discussed the Light House Bill and other minor Bills in a short time. We would have discussed these points, and would have taken this pending PEPUSU legislation for discussing and passing.

The hon. Home Minister gave us an example in reply to a point on the Land reforms Bill, about the Ala Milkayat Bill, about the superior right of the landlord. Though it was passed in December 1952, the States Ministry did not advise the President to give his assent to it. As a matter of fact, after the Proclamation, they advised the President to send it back with the note that it offends article

31, 31(1) and 31 (2) of the Constitution. The article, as amended, provides that there can be legislation which provides for extinction of right. You cannot say that because the compensation that was given was so meagre, it will offend the compensation clause. The article provides a distinction that there may be cases where our legislators may think that it is not necessary that compensation should be given. These grounds cannot warrant in such important legislations, such important power in the Parliament being delegated to the President.

Time does not permit me to go into the details; I would have very much liked to go into detail. The functions of the House are to be exercised through the set up which, according to the Mover himself on the previous occasion,—I will not refer to the details—was responsible for the breakdown of the constitutional machinery in the PEPSU. The same organisation is to be there, except for one or two changes. The Government have not come forward with facts where they could say, we have completely overhauled the machinery which was responsible for the breakdown of the constitutional machinery, we want further power and unless it is given, it is very difficult for us to improve upon the situation that was there before the Proclamation was made. Therefore we request the hon. Members not to be carried away by narrow party feeling and their zeal for the maintenance of their party in power.

The occasion has come when we have got to decide whether we are going to maintain the democratic principle which the Constitution-makers have enunciated. We feel that if even for the sake of the smooth running of the administration such delegation was necessary, it should have been restricted to very minor things, but such an over-all delegation is dangerous for the democratic institution about which our hon. Members try to propound views now and then. No case has been made, and no facts have been given, to justify this action. With these few words, I oppose the Bill.

Shri Pataskar: I will take only two minutes.

I do not feel very happy about the ultimate form in which the Bill is being passed for the simple reason that under Article 356 if it becomes impossible for the Constitution to function, in a State the power should be taken over by the President, and there

is a declaration which has already been made in this case that those powers of the Legislature of the State will be exercised by our Parliament. I can understand that this Parliament should exercise all those powers, and I can also understand if these powers are given to the President if it is for a short period, as is provided under Article 357 but I cannot understand how we are laying down a good precedent by saying that those powers are going to be shared by the President with a certain other body to be constituted.

Pandit Thakur Das Bhargava: That is not so.

Shri Pataskar: Though the Opposition Members might feel now that it is some concession, I would like to take a different view, because it might lull us into the belief that the President is not doing it under Article 356 of his own accord, but in consultation with some other body chosen by us. It might lull people into a false sense of security.

Shri Anu Rai Shastri: Quite so.

Shri Pataskar: I am going only into the merits of this question from a Constitutional point of view. I maintain that so far as the situation is concerned, what was contemplated and laid down was that if the Constitution in a certain State is suspended on account of various reasons and a proclamation is issued, then the powers must ordinarily vest only in this House, and it is only in exceptional cases if it is found to be for a temporary period that it may be necessary for the President to take over for the purpose of promulgating some law etc., and that was the basis on which this Bill was introduced. You may give the power to the President to do so, but now a precedent is being laid ultimately in this Bill that he will exercise it, sharing his power with somebody else. I agree with the view that as far as possible Parliament itself should legislate, but if that becomes difficult—there may be so many difficulties; the House may not be in session or there may be other administrative reasons—then for a temporary period the powers may be given to the President, but to make him share those powers in whatever form with others—with a body of 15 people, 10 from this House and 5 from the other—though my friends in the Opposition may take a different view, I am sure it will lull people into a false sense of security. I am sure we are today laying down a precedent which to my mind is not consistent with the princi-

[Shri Pataskar]

ples of the Constitution, and therefore, I at least do not approve of the form which ultimately the Bill has taken.

श्री अलगू राय शास्त्री : पाटस्कर
साहब के एक २ शब्द का मैं समर्थन
करता हूँ।

Dr. Katju: The discussion has been more or less of a constitutional nature, and it has been suggested that when powers are delegated to the President, then they should be of an absolute nature. One side has argued that there should be no delegation at all. On the other side, it is suggested that if once you delegate, well, you delegate for all time and for good, and there should be no attempt to go back upon that delegation. Now I suggest that so far as this argument is concerned, that there should be no delegation at all, and that Parliament should always keep in its hands this power to make legislation, that has been dealt with at length, during the previous debate, and also by what was said by my hon. colleague Shri T. T. Krishnamachari, who had something to do with this, having been a member of the Committee which drafted the Constitution. The Constitution makers thought that it was quite impossible for Parliament to undertake legislation on each and every point, whenever President intervened under Article 356.

On the other matter, namely that if you delegate once, the delegation should be without reservation, it seems to me that that particular provision was really entered into by the device that was adopted in 1951. The device that I refer to is the obligation on the President to lay the Act enacted by him before either House of Parliament—at that time, there was only one House of Parliament. There was the further obligation that if the House either disapproved of the Act, or disapproved of any particular provision of the Act, and suggested any modification, then it was made obligatory on the President to give effect to such modifications by enacting an amending Act. This presupposes that while the President was being given with one hand legislative powers, and power was being delegated to him, Parliament was anxious that, after that power has been exercised, Parliament should have an opportunity of seeing and judging for itself on the merits, whether the power had been exercised in an equitable and proper manner. Whatever it was, it

was open to Parliament either to repeal the Act within seven days or to suggest modification and the President was bound to give effect to that modification.

Shri Pataskar: That was after the power was exercised by the President.

Dr. Katju: If you once delegate, it is no good saying 'We delegate now, but we can nullify the Act within seven days.' I can understand hon. Members saying 'Here are the representatives of Parliament, Parliament has got absolute power, but it cannot legislate for the States, and therefore Parliament says to the President 'You enact for the States', but if in the same breath you say 'Whatever you do, you place it before us for our approval, and we can signify our approval or disapproval or ask you to carry out a particular modification,' then that is an encroachment upon the so-called obligation. What has been done today is of a minor nature. The history is quite plain.

Shri Algu Rai Shastri: Howsoever minor it may be, it changes the nature of the delegation. The delegation is partial and conditioned.

Dr. Katju: What has been done today is that Parliament or this House has in its wisdom said that before the President enacts a particular Act, he should consult somebody. In the Constitution, there are various provisions where prior consultation is indicated. For instance, take the appointment of a judge. That is entirely within the powers of the President. But the Constitution says that before he appoints A or B, he should consult so-and-so. This is purely, what we may call, an advisory capacity. This does not interfere with the delegation. The final power as I understand it, is of the President to begin with, subject to the approval or disapproval of Parliament indicated by subsequent modifications directed by Parliament.

The amendment that was carried out is that you also indicate that there should be prior consultation with a Committee nominated by so-and-so. We know the history, and my hon. friend Pandit Thakur Das Bhargava, suggested that inasmuch as Members of PEPUSU were elected Members and knew the needs of the people there, it might be advisable to consult them beforehand. This House has in its wisdom stated that that might involve some discrimination between one Member and another Member of the House.

Shri Pataskar: Are we not doing it even now?

Dr. Katju: On the Constitutional point that has been raised, there has been really no encroachment upon the provisions of Article 357 of the Constitution.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

Pandit Thakur Das Bhargava: Before you adjourn the House, may I crave your indulgence to kindly allow me to bring to your notice a matter of great importance involving as it does, the dignity of the Speaker of this House. I understand from the papers of today that certain statements and remarks, including some remarks by the hon. Law Minister, were made in the other House, which are in my humble opinion, thoroughly unjustifiable and inconsistent with the dignity of the Speaker. I propose to bring a motion in respect of the same before this House tomorrow. I request that

I may be allowed to bring this matter before this House just after the Question Hour is over. I would further respectfully beg of you to kindly direct the hon. the Law Minister to be present in this House then because this matter relates to what he said in his speech also.

Mr. Deputy-Speaker: After Pandit Thakur Das Bhargava brought this to my notice, I sent for the proceedings of the other House. *Prima facie* they cast reflections upon the Speaker, in regard to his certificate about the nature of a Bill. The surprise is that the hon. the Law Minister himself should have made that statement. Soon after the Question Hour tomorrow, this matter may be brought up. I request the hon. the Law Minister to be present here.

The House will now stand adjourned till 8.15 A.M. tomorrow.

The House then adjourned till a Quarter Past Eight of the Clock on Friday, the 1st May, 1953.