

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

The Minister of Home Affairs and States (Dr. Katju): I beg to move:

"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 will have noticed from the Statement of Objects and Reasons that we have followed closely the precedent of 1951 when the President assumed the superintendence of the Punjab State and this House enacted a law to enable him to delegate authority. In this particular case, the proposal is very simple namely, instead of coming to Parliament for every single Bill which relates to this State and thus occupy the time of the House at interminable length, the President would enact legislation and then, the Act passed by the President would be laid on the Table of the House as soon as may be—that means what it says; that is to say, without the least possible delay—and the House would be provided with an opportunity of discussing that measure. If both the Houses of Parliament carry out any modification, the President's Act would be modified to that extent. I submit that this is a matter of some urgency because the Administrator there has several pieces of legislation which are of importance, dealing with agrarian matters, and other administrative matters, and if they were to be placed before the House, it will take a long time. We want to have them passed early. There may be pieces of legislation after the House has risen within a few weeks and this Bill would come to function.

1 P.M

Notices of seven amendments have been given. The House will take them into consideration. Some doubts have been expressed, namely, that there may be delay in placing the President's Act on the Table of the House. As I said just now, I do not propose that there should be any delay. And the Government would provide time for almost immediate consideration after the placing of the Bill before the House.

Mr. Deputy-Speaker: Motion moved:

"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."

Sardar Hukam Singh (Kapurthala—Bhatinda): I wish we could have got

some details of the legislation that is proposed to be undertaken by the President so that we could have formed some idea whether really Parliament could not devote such time as is required for the passing of that legislation.

The hon. Minister has, in his opening remarks, observed that this is a very formal Bill. Really not only is it formal, it is very short and sweet, but the implications that it contains are formidable and some questions of principle also are involved. We have been given a precedent, that in the case of Punjab, when the President took over the administration, we had a similar Bill. But I may be permitted to point out that the circumstances that were present then are not existing now. At that time at least we made the allegation—and we make it even now—that elections were coming and for that purpose, to win the elections, it was considered that the Legislature or the Government that was in power at that time, though it was a Congress Government, was not competent enough to carry the masses with them and win those elections, and so that Assembly was dissolved and that legislation, which was a vote-catching scheme, had to be gone through. The ordinary course of putting it before Parliament was not adopted, but the powers were conferred on the Government. Even now we have that difference. We have accused—at least the Members on this side—that the proclamation that has been made and the circumstances in which that has been made are not very clear and clean. We have accused, and even now we do accuse, that all these things have been brought about to create an atmosphere where the Congress can win; and we have made certain allegations and those have been repudiated by the other side that that is not their intention.

We were told when this was being discussed by the hon. Minister that the President's rule—I am reading from the debates of the 12th March, 1953:

"The President's rule is not going to be a sort of permanent thing. We do not want it. If the Delimitation Commission had not been in between, we might have had an election in four months. But now the Delimitation Commission is functioning and under the Parliamentary statute we cannot have a re-election or a General Election till the Commission reports. That may be a matter of months. But we want to let the people take over the manage-

ment of their own affairs and in the course of six months hand over to you a purified administration so that people could go about in a sense of security and work in their villages. And they can undergo the pangs of a General Election completely in a free and unfettered manner."

People have looked forward to that promise, that it would be fulfilled. The maximum period that was envisaged in that statement was six months. Again, in another place we were told that what the Government was anxious about was that this administration should improve, there should be stability in the services and security—they might feel that they are secure and nothing peculiar or nothing more would be done during this period which is only transitional. Now without telling us what that legislation is which is pending or which is up their sleeves, which they want to bring, a Bill has been brought forward that the powers be conferred on the President. By the Proclamation, the President made a declaration that these powers would be exercisable by Parliament. Now in our turn, we are asked to confer the same powers back on the President, on the plea that Parliament may not find time to take up that legislation. If we were told what that legislation is, how much time it is really to take, what questions this Bill is likely to involve, etc., then perhaps Parliament might have an opportunity to judge for themselves which of the Bills can wait until the Assembly is restored, and people have their choice to have legislation through their own representatives; and what legislation is so important that it cannot wait till that time comes when the Government is restored to their own real representatives. Those facts have not been given to us, and on this plea, I do not think there is sufficient justification, for us to hand over those powers of legislation to the President. When I say that, I am reminded of an old story when an old woman approached a Moghul Emperor, and told him that she had been unfairly treated in a remote corner of the country, and the Emperor told her that that was too far from his capital.....

Pandit Thakur Das Bhargava (Gurgaon): He was Subuktagin.

Sardar Hukam Singh: Maybe, I stand corrected.

Dr. Katju: You better give another story, not of an old woman.

Dr. S. P. Mookerjee (Calcutta South-East): Of an old man.

Sardar Hukam Singh: The Emperor told her that it was too far from his capital, and so he could not look to that business, or grant her justice. The old woman immediately came out and said 'Why keep that part under your realm, if you are not prepared or competent to deal with such a remote corner. Give it up, and leave it for others'. If Parliament has no time to deal with this legislation, and cannot devote even a day or two, over this PEPHU business, then why should we have assumed those powers, and taken it up on ourselves saying that we shall manage it? At that time, we were told by the hon. Minister that it would not be left neglected, and would be looked, after by Parliament, by both the Houses, that are very vigilant, and are to check everything that is placed before them. But, now simply by a summary procedure, a brief Bill or an innocent Bill is brought forward by which we are told we should hand over those powers to the President.

In clause 3 (2) we find:

"In the exercise of the said power, the President may, from time to time, whether Parliament is or is not in session, enact as a President's Act a Bill containing such provisions as he considers necessary."

Whether Parliament is or is not in session, the powers are to be conferred on the President. Even article 123 which confers Ordinance-making powers on the President provides that that can be done only when Parliament is not in session. Here we are authorising the President. It could be understood if it had been done when Parliament was not in session and if the legislation was necessary and urgent. But Parliament is in session and without taking Parliament into confidence, the President passes an enactment and it becomes law immediately. And the only safeguard that is provided, which I mean to say is no safeguard at all, is in clause 3 sub-clauses (3) and (4):

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

"Either House of Parliament may, by resolution passed within seven days from the date on which the Act has been laid before it under sub-section (3), direct any modifications to be made in the Act and if the modifications are agreed to by the other

[Sardar Hukam Singh]

House of Parliament during the session in which the Act has been so laid before it, such modifications shall be given effect to by the President by enacting an amending Act under sub-section (2)."

Now, it looks all right, that it would after all be placed before the Houses of Parliament. But as a precedent has already been cited, I can also count upon the same precedent—the experience that we gained when this procedure was adopted in respect of Punjab. Though we could convince the hon. Minister that the legislation that was being undertaken was defective, though the Ministers at that time could not explain the reasonableness or the feasibility of certain provisions in that Act, because they had been adopted, because they had already become law and because they were in operation, therefore, nobody was prepared to consider them in a manner that would be most suitable under the circumstances. Nobody was prepared to interfere with the legislation that had been adopted. Here it is not a case of any Bill coming before Parliament and it being considered by the Members. It becomes law and takes effect immediately that a Bill is enacted by the President, and then afterwards we are told that if we, both Houses of Parliament, propose any amendments, then it would be by some amending Bill that the same legislation would be enacted. But our experience shows that at that time it is not effective. Parliament cannot have any power to influence that legislation that had already been adopted at that time.

There are two amendments proposed here. One is by my hon. friend, Mr. Hiren Mukerjee, that there should be a Committee of ten persons and they should be taken into confidence when any Bill is to be formulated. The other is by my hon. friend, Pandit Thakur Das Bhargava, that at least those Members who belong to that area of PEPSU may be taken into confidence before legislation is enacted. I do feel that so far as Panditji's amendment is concerned, some such amendment ought to be adopted and Members should have an opportunity. If the previous proposal that I put forward—because I oppose the Bill altogether—is not accepted. I do not want that it should be given over to the President. The precedent of Pun-

jab should not hold at all, because I have said already we had fears that that was done under special circumstances because the Congress wanted to win the elections and there were certain agrarian reforms that it wanted to rush through. It would not be disclosing any confidence or any secret when I say that they were placed before a Committee of Members of Parliament, we discussed it also—and Panditji was there—and then certainly we were told that it would not be taken up as that was an important piece of legislation. But subsequently, I can say now on the floor of the House, the Member in charge told me personally that he could not resist, that there was great pressure and that that was going to be passed; and therefore, if I wanted I could join and get credit; otherwise, it would be done in spite of my opposition.

Ch. Ranbir Singh (Rohtak): You agreed.

Sardar Hukam Singh: I also joined to take some part of the credit. I agreed there, because I was told that the elections were coming and I would be left behind and the Congress was going to win. Therefore, that legislation was passed. So what I mean to say is.....

An Hon. Member: That is a slur.

Sardar Hukam Singh: I have many slurs.

I want to say that that should not be taken as a precedent because it was done under peculiar circumstances. This cannot be a plea that Parliament has no time to pass that legislation.

Mr. Deputy-Speaker: Is the hon. Member likely to take some more time?

Sardar Hukam Singh: Certainly.

Mr. Deputy-Speaker: Then the House will now stand adjourned.....

Pandit Thakur Das Bhargava: May I know, Sir, whether tomorrow.....

Mr. Deputy-Speaker: This will be taken up tomorrow before other work is taken up after questions.

The House then adjourned till a Quarter Past Eight of the Clock on Thursday, the 30th April, 1953.