

juries to two of them proved fatal. The condition of one is still serious while another has rallied round and is considered to be out of danger. The remaining persons suffered minor injuries. Of all the injured workmen, 16 have since been discharged from the hospital, leaving only six who are still undergoing treatment.

There is no damage to any structure of the Power House or the Dam. Painting work is proceeding normally.

A Committee consisting of the Director, Construction and Plant Designs, Bhakra Dam and two executive engineers is conducting an enquiry into the cause of the accident. Compensation will be paid to the families of the deceased and injured workmen at double the amounts admissible under the Workmen's Compensation Act.

I share with the House our deep concern on the unfortunate happening leading to the loss of two lives and injuries to others. The General Manager, Bhakra Dam, has been asked to convey our deep sympathies to the persons involved in the accident and the bereaved families.

12-05 hrs.

PAPERS LAID ON THE TABLE

ANNUAL REPORT OF DVC AND AUDIT REPORT THEREON FOR THE YEAR 1959-60

The Deputy Minister of Irrigation and Power (Shri Hathi): On behalf of Hafiz Mohammed Ibrahim, I beg to lay on the Table a copy of Annual Report of the Damodar Valley Corporation and Audit Report thereon for the year 1959-60 under sub-section (5) of section 45 of the Damodar Valley Corporation Act, 1948. [Placed in Library. See No. LT-2880/61].

NOTIFICATION UNDER EMPLOYEES' PROVIDENT FUNDS ACT

The Deputy Minister of Labour (Shri Abid Ali): I beg to lay on the Table a copy of Notification No. GSR. 535 dated the 15th April, 1961, making

certain amendment to Schedule I of the Employees' Provident Funds Act, 1952, under sub-section (2) of section 7 of the said Act. [placed in Library, See No. LT-2881/61].

12.06 hrs.

STATEMENT RE: DEMANDS FOR EXCESS GRANTS (GENERAL), 1958-59

The Deputy Minister of Railways (Shri Shahnawaz Khan): On behalf of Shri Jagjivan Ram, I beg to present a statement showing the Demands for Excess Grants in respect of the Budget (Railways) for 1958-59.

12.06½ hrs.

JOINT COMMITTEE ON OFFICES OF PROFIT

THIRD REPORT

Shri C. R. Pattabhi Raman (Kumbakonam): I beg to present the Third Report of the Joint Committee on Offices of Profit.

12.07 hrs.

ORISSA STATE LEGISLATURE (DELEGATION OF POWERS) BILL

The Minister of State in the Ministry of Home Affairs (Shri Datar): I beg to move:

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

As the House is aware, the President issued a Proclamation on 25th February, 1961, under which the administration of the State of Orissa was taken over by the President. As the natural corollary to it, the legislative powers of the State Legislative Assembly have been vested in Parliament. Now, oftentimes, questions arise either when the Parliament is in session or when it is not in session, to have certain Acts passed as early as

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possible. It is for this purpose that this Bill has been brought forward, to delegate the powers of legislation on behalf of the Parliament, to the President.

In this connection, we have been following precedents in a number of earlier cases. On four or five occasions, whenever the President had taken over the administration of certain States, the power of delegation was given over to him. I may also point out in this connection that the President generally consults a committee which has to be formed in this respect. Reference has been made to such a committee in the proviso to clause 3(2) which says :

“Provided that before enacting any such Act, the President shall whenever he considers it practicable to do so, consult a committee constituted for the purpose consisting of fourteen members of the House of the People nominated by the Speaker and seven members of the Council of State nominated by the Chairman”.

Therefore, though normally the powers are delegated to the President, still except when the matter is of a very urgent nature, the President would consult a consultative committee as provided for in the above proviso. Whenever such Bills are passed and the President makes an Act after consulting such a committee, it is open to Parliament to go into the matter, if they so desire. This has also been provided for in sub-clause (4) of clause 3 where it is stated :

“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 House of Parliament during the session in which the Act has been so laid before it or the session succeeding,

such modifications shall be given effect to by the President by enacting an amending Act under sub-section (2)”.

You are aware that when the president had to take over the administration of the Orissa State, there were certain Bills pending before the State Legislative Assembly. In fact, the House is already aware that the budget session of the Orissa Assembly had been called, but within four or five days, the Ministry there resigned and the President had to take over the administration. From the information at our disposal, there were certain Bills that would have been considered by the Assembly had it remained in power and had functioned in the normal course. The five Bills, to which reference has been made by me, were the Orissa Zila Parishad Amendment Bill 1961, the Orissa Merged Territories Petition Writers (Continuance of Licences) Amendment Bill 1961, the Orissa House Rent Control Amendment Bill 1961, the Orissa Sales Tax Amendment Bill 1961 and the Orissa Taxation of Goods carried by Roads and Inland Waterways Bill 1960.

In respect of two of these Bills, as the Legislative Assembly was not in session, the Government had to issue Ordinances. So far as I know, the period of these Ordinance has lapsed in each case. Therefore, if it becomes absolutely necessary, the question will have to be considered whether it would not be advisable to have what is known as the President's Act. So these are the matters which will have to be considered by the President in consultation with the consultative committee.

Secondly, when the administration is with the President, oftentimes occasions arise when certain Acts have to be immediately passed. For that purpose also, the President has to be given the necessary powers. Normally, what the President will be doing

## (Delegation of Powers) Bill

is what he will consult the consultative committee and then after taking into account their views, he will have a President's Act. But when it becomes impracticable to do so, when the matter is highly urgent then as an exceptional measure, the President might have a President's Act. But in all cases, as per provision already made in the Bill, the matter has to be placed before Parliament and it will be within the right of Parliament to make such amendments as both Houses of Parliament desire.

In this connection, as the House is aware, the elections are going to be held in June 1961 in the State. This Bill has been brought forward by way of abundant caution. If it becomes necessary at all in the course of the next few weeks, the President's Act will have to be passed in the interest, and for the welfare, of the people of Orissa. Then only will necessary action be taken. Otherwise, let us hope that after the elections we shall have a stable government to carry on the administration of the State. As soon as it is possible, the President will relinquish charge and the State Ministry will take over the administration. Therefore, many occasions might not arise for having a President's Act. All the same, it is not known what particular things happen, whether any urgent matter may arise before the President for the purpose of having a President's Act. It is only for this purpose that this Bill has been brought forward. It has been passed by the other House and I am confident that this hon. House also will give its approval to the provisions of this Bill.

My hon. friend, Shri Chintamani Panigarhi, has tabled three amendments. May I point out that it is very difficult to accept these amendments because they are to a large extent impracticable. In his first amendment, he suggests that in clause 3(2), line 13, for the words 'whether Parliament is or is not in session' the words 'when Parliament is in session' be substituted. May I point out that

Parliament will be rising after about two weeks and there would be a considerable period when it will not be in session. But still an urgent occasion might arise for the President to have a President's Act. If, for example, the President's powers are to be curbed in the manner suggested by the hon. Member, it would be very difficult during the intervening period to have a President's Act, even though otherwise on merits such an Act would be absolutely necessary and advisable. That is the reason why this particular amendments does not fit in with the present Bill.

The next amendment is, may I say, more propagandist in nature. Recently we have seen that the party to which the hon. Member belongs has been bringing forward certain amendments almost cast in the same wording. In this case, it is interesting to note that a similar offer is being made to Parliament. Certain catch-words are also being used. It says:

"Provided that no such Bill shall be enacted as a President's Act as seeks to impose taxes or any other levies on the people or seeks to restrict, in any manner, the civil liberties and democratic rights of the citizens."

So far as these expressions are concerned, I have already stated that they are more propagandist than having any reference to the conditions. The President as the constitutional Head of the State will certainly not do anything that will affect the civil rights of the people or the democratic rights of the citizens, except what is necessary under the Constitution in the light of the conditions obtaining. Therefore, any such restriction would be hardly proper and the expressions used unnecessarily create a sense of suspicion about the *bona fides* of the administration that has to be carried on. I, therefore, would not like to have such an amendment passed for the simple reason that it contains an uncalled for insinuation.

Lastly, he wants to have these words 'whenever he considers it practicable

[Shri Datar]

to do so' dropped altogether. Normally, it will be the duty of the President to consult a Consultative Committee appointed under the proviso except where there are any difficulties. We are taking into account the events as they arise suddenly. It may be that under some circumstances it becomes difficult for the President; it may not be practicable for the President to call a meeting of the Consultative Committee. But, all the same, the convention that we have been following is that whenever it is possible, even, if necessary, at short notice, a meeting of the Consultative Committee is called. We consult hon. Members regarding the Bills that are to be made into law by the President. After giving full consideration to the views of the committee, the Bill is passed into a President's Act. It would not, therefore, be practicable to put down any such restrictions as the hon. Member desires us to do. I would submit to the hon. House that the Bill as it has emerged from the other House might kindly be considered by this hon. House.

Incidentally, I might also mention that when this Bill was placed before the other House, the original proposal was to have a Consultative Committee of 15 members, 10 members from this House and 5 members from the other House. But, inasmuch as the President's administration is on behalf of the Parliament and inasmuch as it is quite likely that hon. Members from other areas also might take interest in the work of the Consultative Committee, Government, of their own accord increased the number to 14 from the Lok Sabha and 7 from the Rajya Sabha so that we shall have a fairly representative Consultative Committee which can give us the views not only of Orissa but of other areas also, especially when they are concerned with it and when they take on active interest in this matter. Because, as I have stated, the President's administration is on behalf of the hon. Houses of Parliament.

I commend this Bill to the hon. House.

**Mr. Speaker:** Motion moved:

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

**Shri Chintamani Panigrahi (Puri):**  
Mr. Speaker, Sir, I have the following amendments:

Page 1, line 13,—

for "whether Parliament is or is not in session" substitute—"when Parliament is in session". (1).

Page 1, after line 15, insert—

"Provided that no such Bill shall be enacted as a President's Act as seeks to impose taxes or any other levies on the people or seeks to restrict, in any manner, the civil liberties and democratic rights of the citizens." (2).

Page 1, line 17,—

omit "whenever he considers it practicable to do so". (3).

These amendments were not approved by the hon. Minister but I hope the House might approve of them.

I was listening to the speech made by the hon. Minister, Shri Datar. I thought when the President took over power it meant that Parliament would be really asked to exercise its legislative power in relation to the State of Orissa. But it seems to me that the Home Minister and the Home Ministry have really acted in a most complacent manner so far as Orissa Administration is concerned, since the enforcement of the President's rule in that State.

In all cases in which President's rule has been promulgated—in 5 or 6 cases before Orissa, in a similar way the measures to delegate powers to the President to act on behalf of Parliament have been brought forward before the House. I would request the hon. Minister to look into the time gap in all those cases and

the time gap in the case of Orissa. Here the President's rule was enforced on 25th February, and now it is going to be the end of April. This Bill itself was passed by the Rajya Sabha in March and till then the hon. Minister has not been able to come forward with this Bill; nor has the advisory committee been formed by now.

The hon. Minister just now stated that there were 5 important Bills before the Orissa Legislature when it was dissolved. In view of that I now feel that the Bill which the hon. Minister has just placed before the House has lost all its importance and necessity by now. The hon. Minister himself has stated that Orissa is going to have an election in June—the 2nd of June. Even the date has been fixed. Was it at all necessary at this moment to bring forward this Bill when there is hardly one month and the hon. Minister himself admits that there is no necessity and it may not be necessary to have any President's Act? When the Minister himself feels that this is not necessary, I submit that the Minister was quite complacent and has moved this Bill in a completely half-hearted manner, knowing fully well that the Bill has no meaning, no substance and it is not necessary. This is how he has given importance to the democratic right of the people which has been invested in Parliament. On the other hand, he accuses me that I have moved these amendments for propaganda. Well, the people of the country can judge who is working in a more propagandist way—either the Minister or myself?

When the Orissa Legislature was going to be dissolved, the Governor, while addressing the Legislature, informed the Orissa Legislative Assembly that the Orissa Zila Parishad (Amendment) Bill, 1961, the Orissa House Rent Control (Amendment) Bill, 1961 and the three other important Bills which the hon. Minister just

now mentioned were to be passed by the Orissa Legislature. There were also three other very important Bills which the Governor himself indicated in his Address. One was the Orissa Agricultural University Bill. Also, the Irrigation Act had been passed by the Orissa Legislature but the rules under the Irrigation Act were to be passed by the Legislature itself. That is very important because under the Orissa Irrigation Act, in almost all the districts, the State Government was going to levy, as already notified in the Gazette, a compulsory irrigation tax ranging from Rs. 6 per acre to Rs. 33 per acre. But the Legislature had no time to consider the rules; and neither was Parliament given an opportunity to deliberate over this. I submit that these two Bills, the Orissa Zila Parishad (Amendment) Bill and the Orissa House Rent Control (Amendment) Bill were necessary to be considered by Parliament. The Governor promulgated Ordinances for these Bills and the Ordinances have expired.

The Budget Session of Parliament began from February and now it is going to sit up to the 5th May. During all this long Session of 3 months, there was time enough for the Government of India to at least bring these two Bills and the Orissa Agricultural University Bill in this House and this House had time enough—and also opportunity—to discuss those Bills.

In the Statement of Objects and Reasons it has been stated that—

“Such legislative measures as may be necessary for the State can be taken up by Parliament only by postponing its business, and even then, it is likely that Parliament may not have the time to deal with all legislative measures for the State.”

We do not say that the Parliament should legislate all the Bills for the State of Orissa. There are some important Bills such as the Orissa Zila Parishad (Amendment) Bill, the

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Orissa House Rent Control (Amendment) Bill, Orissa Agricultural University Bill and the Land Reforms Bill. The Planning Commission gave certain suggestions to the Orissa coalition Ministry in respect of Orissa Land Reforms Bill. The coalition Ministry however assured the Government of India, the Planning Commission and the Home Ministry that those suggestions would be included in the Orissa Land Reforms Bill but they were not actually included in the Act. But the Home Ministry suggested to the President to give assent to that Bill and so it became an Act, though the recommendations of the Planning Commission so vital to the Orissa peasantry have not been included. Clause 46 of the Land Reforms Act has to be amended. If during the last three or four months Parliament could not afford to devote some time to deliberate upon important legislation which vitally affect the people of Orissa, then what is the meaning in claiming that, the Presidents' rule is democratic, because the President will exercise his powers on behalf of Parliament? They say that the Governor's rule is different from the Governor's rule of the old days. From the 25th February, 1961 there has been the President's rule and virtually it is the officers who are rulling. Parliament does not come into the picture at all. I do not know whether even Shri Datar is consulted: if Shri Datar is consulted we may say that we are consulted. From my knowledge of things done there during the last three months, I do not think that Shri Datar is consulted at all. Even the rates of irrigation tax had been notified in the Orissa Gazette. It was necessary under the Orissa Irrigation Act that complaints if any should be heard. Who has complained? We do not know anything about it: nor does the Parliament know anything. When the Home Ministry decided to have a consultative committee or an advisory committee, it was necessary that the committee should have been formed by this time, if not in February or March. What-

ever important legislation was going to be enacted, at least the advisory committee, if not the House, should have time to advise. But I think there is not so much need now. In June there is going to be the election and the hon. Minister should not therefore take the trouble of asking us to approve of this Bill. So, it is better if the House rejects this Bill. I do not know if the hon. Minister thinks that the situation in Orissa is such today that the Congress or any other party will not come in a majority in June elections. I do not know whether he has any such report with him; otherwise he need not have come forward with this Bill. Looking to the interest of the people of Orissa and the way things were happening during the last three months, I feel that it is not necessary that Parliament should vest the President with all these powers. Therefore, I request the hon. Minister to take back this Bill. There is no necessity for it now, if you try to enforce it and you ask us to approve of this Bill, I would request you to accept at least my amendments.

**Dr. Samantsinhar (Bhubaneswar):**  
Sir, I welcome this Bill, though it has come very late. When the Proclamation of the President regarding the Orissa State was considered by the House, the hon. Home Minister assured us that he would very soon bring forward a Bill for the administration of the Orissa State by the representatives of the people. The Proclamation was issued on the 25th February and the President took over charge of the State. Since then two months have passed and I do not understand why the Ministry did not bring this Bill earlier. However, better late than never. I welcome this Bill. I do not know why this number has been fixed at 21. There are twenty members in this Sabha and 7 in the other House, Rajya Sabha from Orissa. The number should have been at least thirty so that all these representatives from Orissa could have been taken in this advisory committee. Not only that, the hon.

Minister has said that other hon. Members from other States who are interested in Orissa would be taken in the committee. Hence in view of that, the number should have been at least 35.

In this connection, I would like to draw your kind attention to a constitutional anomaly which had been created in Orisa. I also gave a Calling Attention notice under Rule 197, when the hon. Speaker of the Orissa Legislative Assembly had been removed from his office. Mr. Speaker, you were pleased to reject this notice. While saying this, I quote the provisions of the Constitution. The second proviso to article 179 mentions:

"Provided further that, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution."

So, it is a clear directive in the Constitution and I do not understand how the Ministry could advise the President to remove the hon. Speaker from the office.

**Shri Datar:** This question does not arise out of the present Bill.

**Dr. Samantsinhar:** That is right.

**Mr. Speaker:** What is the article?

**Dr. Samantsinhar:** 179.

**Mr. Speaker:** But it does not arise out of this Bill.

**Dr. Samantsinhar:** This Bill is according to the Proclamation of the President. I am speaking on that. However, that question may be considered.

I hope this advisory committee will be formed soon and the legislative measures that are to be taken would be done immediately. We know actually that there is a lot of trouble in the bureaucratic form of Government and the people are not satisfied. But I cannot recommend the amendments

moved by Shri Panigrahi. I oppose the amendments and in saying so, I fully welcome this Bill and I hope the hon. House will pass this Bill.

**Shri Jaganatha Rao (Koraput):** Sir, I welcome this measure. It is highly necessary that Parliament should delegate these powers to legislate to the President in an emergency of this kind. My hon. friend Shri Panigrahi has said that the elections to the Orissa State assembly are going to be held in the first week of June and so there is no necessity for a delegated legislation of this nature. Elections may take place in the first week of June. But a new Government cannot be formed earlier than the 1st of July. That means there are two months—May and June. There are some pending pieces of legislation which have to be passed by the President. Some ordinances were issued by the Governor and they have lapsed, and it is for the President to pass the Acts to legalise or regularise those matters which are the subject-matter of ordinances. I know the Orissa Zila Parishad Ordinance was issued by the Governor; it has lapsed. So, unless an Act is passed by the President immediately, the zila parishads which have been constituted all over the State of Orissa would become illegal.

**Shri Chintamani Panigrahi:** Let the measure be brought here.

**Shri Jaganatha Rao:** I will come to that. So, there are some similar pieces of legislation which have to be immediately passed. The power has to be given to the President to legislate, whether Parliament is in session or otherwise.

It was also said that this measure is not democratic or constitutional. I would refer my hon. friends to article 357 of the Constitution which envisages a delegation of this kind. If the President passes an Act, of course the life of the Act so passed by the President will be one year. So, my hon. friend, Shri Chintamani Panigrahi, is not correct in saying that there is no

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necessity or need to pass this legislation. As the hon. Minister pointed out, there are five important pieces of legislation which are pending. Certainly, there are some more. One piece of legislation was indeed referred to by my hon. friend, and that is the Orissa Land Reforms Act. Therefore, when we take into consideration all these pending matters which are vital to the interests of the people of the State, the President has to be clothed with this power so that he can pass the necessary legislation in time.

My hon. friend Shri Chintamoni Panigrahi also said that this Bill has lost all its importance. I fail to understand his argument. The Bill is all the more necessary and important because of the fact that it is going to be there for a minimum of two months before the new Orissa Legislative Assembly comes into existence.

My hon. friend also referred to the Objects and Reasons mentioned in the Bill. He said that it is stated in the Objects and Reasons that Parliament may not find time to pass legislation concerning the State of Orissa but that the Government, if it really wanted to do so, could come forward with the necessary Bills to be passed by Parliament. My submission is this: as we know, we have only a few days ago completed the budget demands and besides that, there are number of pending legislative measures which have to be gone through and passed. The programme of this House is very crowded and this House may not find time to go into all those matters which are pending in respect of Orissa. Of course, the House may take up such measures if it has time; and the President may come forward with any measure here and then it is open to the House to propose any amendment as is provided in the Bill. So, the right of the House to question any clause or any provision in regard to the legislative measures is not taken away.

Then, regarding the advisory committee that is going to be formed, the number is fixed at 21. Dr. Samantsinhar said that there are 20 Members from Orissa in this House and 10 Members from Orissa in the other House. He said that all of them should be members of this committee. I fail to understand his point, and I feel that there is no reason in his argument. It is not necessary that all the Members here representing the Orissa State should be members of this committee. The committee is not going to be a legislature. This committee is only an advisory committee to advise the President on important matters or on matters which may be referred to it by the President for advice. In fact, some Members from other States also can be appointed to this committee. For instance, when we had an advisory committee for Kerala, I was a member of that committee. I think that all the Members from Kerala were not members of that committee. So, there is no point in saying that representation on this committee should be made larger. So, there is nothing in the Bill which can be opposed. The amendments of my hon. friend Shri Chintamoni Panigrahi have really no force, much less any reason or logic, behind them. I refer especially to amendment No. 2 which speaks of some democratic right and civil liberties of the citizens being taken away! It has absolutely no meaning because no legislation passed by the President or Parliament would take away the civil rights or the democratic rights of the people.

**Shri Warior (Trichur):** Is the hon. Member sure that all the Kerala M.Ps. were not on the advisory committee?

**Shri Jaganatha Rao:** If I remember aright, all of them were not members of this committee.

**Shri Warior:** They were members of this committee; all of them.

**Shri Jaganatha Rao:** I referred to the period 1960.



**Mr. Speaker:** What is the harm if six or seven more are added? Why should any Member feel that there is a discrimination made against him?

**The Minister of Home Affairs (Shri Lal Bahadur Shastri):** The only point is, the committee will become an unwieldy body. In these States, it is a smaller number. But take, for instance, Utar Pradesh. Of course, I hope no President's rule would be introduced there. But suppose it happens like that, then we will have a very big body, a very big committee, if all the Members from that State are to be included. So, that should not be the precedent. But it would be better to have as many representatives as possible. In fact, we have increased the number, when the Bill was being considered there in the Rajya Sabha.

**Shri Chintamani Panigrahi:** In respect of Kerala, all the Members representing the State were included.

**Shri Jaganatha Rao:** I may mention that all the Members from all the parties need not be represented. Supposing we are seven Members from the Congress Party in Orissa, all the seven need not be represented; all the seven need not be members of the committee. Members from other parties may also be taken; for instance, a Communist Member. Shri Chintamani Panigrahi could be a member of the committee; another Member from the Ganatantra Parishad may also be included.

**Dr. Samantsinhar:** What is the harm in taking all the Members?

**Shri Jaganatha Rao:** There is no harm in omitting one or the other. There is no harm either way.

**Shri Achar (Mangalore):** The committee must reflect this House. That must be the point of view which should be taken into consideration.

**Shri Jaganatha Rao:** Suppose, 14 may be representative in character;

then all the parties could be represented. But I would like to say that it is not the numerical strength that should matter. It is the representative capacity of this House that is more important. So by and large, there is nothing controversial in this Bill, and I support the Bill wholeheartedly.

**Shri Achar:** Mr. Speaker, Sir, I support the Bill and oppose the amendments from the other side. I would like to raise a short but a very important point in regard to the question of the consultative committee. The Bill says that Members from the Lok Sabha should be nominated by the Speaker to the consultative committee. When I am pointing out this aspect, let it not for a moment be thought that I am not having the fullest confidence in the Speaker, or in you, Sir, personally. It is not from that point of view that I am raising this point. But I feel that power being given to the Speaker or anybody else to nominate members to the consultative committee is not in consonance with or in accordance with the spirit of the Constitution. Once the President takes it up, it means that this Parliament comes into the picture, and the President only acts through the advice of the party in power. So, so far as the consultative committee is concerned, as I pointed out a few minutes ago while Shri Jaganatha Rao was speaking, it must completely reflect this House. It is the Parliament that rules Orissa now. If that is so, if the President is given the powers, normally it means the power of the party which is in power. It is the party which is governing the whole country now that is taking up the administration of Orissa also. Thought the President is there, constitutionally he acts on the advice of the Cabinet. If that is so, the consultative committee also, which has to be formed now, must completely reflect this House. It must be the mirror of this House.

It is not a question of having the Members from Orissa State or any

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other State, on the committee. As it is now, it is not also the Orissa Government of old. The whole responsibility is on Parliament now. We are responsible for it, that is, the party in power. If that is so, the consultative committee also must completely reflect this House. So, I would submit that nomination would not be proper. It must be election.

Of course, so far as I know, the Speaker is above any party contentions. In fact, the Speaker is above all parties and a convention that even the election of the Speaker should not be contested must be followed. I hope that such a convention will be accepted in due course in this country also. All the same, so far as the Speaker is concerned, he is above parties. He has no party affiliation and it will be very awkward for him—I would go to the extent of saying it—to nominate Members to any consultative committee. It will be also against the spirit of the Constitution, because, so far as the responsibility of the Government is concerned, it is the Parliament, reflected by the party in power. My submission is that, if this House is to be reflected, it must be only by election. The consultative committee should be elected by this House and there should be no nomination. So far as the present Bill is concerned, it may not be of much practical value, because elections are coming in June. During this transition period, some important legislation may or may not come, but as a precedent, with all respect I would submit, without any reflection on the Chair or the Speaker, that the principle of nomination by itself is wrong.

We have plenty of experience of nomination under the British Government in the earlier days. Of course, such things do not come in now, but I know how it can be abused. You know, for example, when a certain person was Chief Minister of Madras, there were certain nominations to the taluk boards and district boards and nominations were given because a

certain sum was donated to the ruling party. It was openly mentioned. I am just giving this example to show how nomination is often abused. There is no scope for that so far as the Speaker or anybody is concerned. But all the same, is it proper to have nomination in principle?

If we take the Constitution, everywhere the spirit is against nomination. Of course, I have not sent any amendment to this Bill nor do I urge that, but I want Government to consider this aspect of the question from the point of view of setting up a good precedent. This may be for 2 months only and I do not mind. But this principle must be adopted by the Government and nomination must be avoided everywhere as far as possible.

With these words, I support the Bill.

**Shri Warlor:** Nomination itself is made from the elected Members.

**Mr. Speaker:** There is the question of choice from among the Members here. But because all of them are not there, the Speaker has to pick and choose from them. Shri Achar's point is, why should it be left to the Speaker and why not the House itself do it on the principle of proportional representation?

**Shri Warior:** The point is, since the nomination itself is made from the elected Members and not from anybody outside, if this imputation is brought in that some elected Members can be discriminated against some others, I do not think that is proper.

**Mr. Speaker:** He may or may not agree with Shri Achar, but his point is, I may just nominate Members only from the Congress Party.

**Shri Achar:** Or entirely from the Communist Party.

**Shri Chintamoni Panigrahi:** I am the only one Communist Member from Orissa and so Shri Achar should not be afraid.

**Mr. Speaker:** Hon. Members must appreciate Shri Achar's point. They may or may not agree with him. They may think it is not necessary, but he says committees like the Estimates Committee and the Public Accounts Committee are all elected by the House and the various groups have got opportunities in proportion to their strength. The whole House is reflected if the election takes place to the committee on the principle of single transferable vote by proportional representation.

**Shri Lal Bahadur Shastri:** There are two or three points. More or less, it is an advisory body and the President has to function in the light of the advice given by this committee. So, it is not a statutory body. Therefore, it is not absolutely necessary that there should be election held in this House. Secondly, the interests of the various sections of the House are entirely safe in your hands and you will naturally like to give adequate representation to different sections.

Thirdly, since President's rule has been introduced in Orissa, it is essential that as many Members of Orissa should be represented on this committee as possible. If you leave it to election, one does not know what will happen. Besides Orissa Members, more Members from other States may be elected. Therefore, it is better that is left in your hands to give more representation to the Members of Orissa and of course, to give some representation to others also.

I should like to make it clear that we do want that not only the Members from Orissa should be represented on this committee, but Members from other States should also be nominated. As Shri Achar said, it should really reflect this House, the Parliament. Therefore, besides the Orissa Members, Members from different States also may be represented. You can keep all these things in view and constitute the advisory committee. Under these circumstances, I hope Shri Achar will not like to press his objection.

**Shri Achar:** I have not given any amendment; I only made a suggestion.

**Mr. Speaker:** What about the Members from the Rajya Sabha? There are 7 Members from Rajya Sabha and 14 Members from here. How many Members are there in Rajya Sabha from Orissa?

**Shri Chintamani Panigrahi:** 10. Here the number from Orissa is 20.

**Mr. Speaker:** The proportion is the same—14 and 7.

**Shri Chintamani Panigrahi:** The hon. Minister gave the hint that other Members also can be represented.

**Mr. Speaker:** Proportionally there also it will come. Out of 14, you can have 10 Members from Orissa and 4 from other States. It can be likewise there also, in the Rajya Sabha. It is only a suggestion.

The question is:

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

*The motion was adopted.*

**Clause 2— (Definition)**

**Mr. Speaker:** There are no amendments to clause 2.

The question is:

"That clause 2 stand part of the Bill."

*The motion was adopted.*

**Clause 3— (Conferment on the President of the power of the State Legislature)**

**Shri Chintamani Panigrahi:** I move all the three amendment Nos. 1, 2 and 3, I beg to move:

[Shri Chintamani Panigrahi]

Page 1, line 13, for "whether Parliament is or is not in session" substitute "when Parliament is in session." (1)

Page 1, after line 15, insert—

"Provided that no such Bill shall be enacted as a President's Act as seeks to impose taxes or any other levies on the people or seeks to restrict, in any manner the civil liberties and democratic rights of the citizens." (2)

Page 1, line 17, omit "whenever he considers it practicable to do so". (3)

I have explained these amendments already in my speech.

**Mr. Speaker:** I will put all these amendments Nos. 1, 2 and 3 to the vote of the House.

Amendment Nos. 1; 2 and 3 were put and negatived.

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

"That clause 3 stand part of the Bill."

*The motion was adopted.*

*Clause 3 was added to the Bill.*

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

**Shri Datar:** I beg to move:

"That the Bill be passed."

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

"That the Bill be passed."

*The motion was adopted.*

13 hrs.

**MEDICINAL AND TOILET PREPARATIONS (EXCISE DUTIES) AMENDMENT BILL**

**The Deputy Minister of Finance (Shri B. R. Bhagat):** Sir, on behalf of Shri Morarji Desai, I beg to move:

"that the Bill to amend the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, be taken into consideration."

Sir, as the hon. Members are aware, Parliament enacted a legislation entitled the Standards of Weights and Measures Act, 1956, for establishing standards of weights and measures based on the metric system. In accordance with the provisions of this enactment, the metric units are being progressively adopted in the country. It is also proposed to extend the provisions of the Standards of Weights and Measures Act, 1956 to the alcohol industry. Consequently, the rates of duty prescribed in the existing Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 in terms of rupees and annas per gallon in respect of medicinal and toilet preparations containing alcohol have to be replaced by rates of duty in terms of rupees and naye paise per litre, which will be the new unit of measurement of alcohol.

It is also proposed to take this opportunity to remove certain anomalies in the rates of duty prescribed for toilet preparations containing alcohol. At present, those toilet preparations containing alcohol which are capable of being consumed as ordinary alcoholic beverages are liable to duty at the rate of Rs. 17/8 per gallon of the strength of London proof spirit, and others are subject to duty at the rate of Rs. 5 per gallon of the strength of London proof spirit. There is hardly any justification for such differential tariff. Apart from this, the prevailing rates of duty are comparatively low. As hon. Members are aware, although the