

THE ORPHANAGES AND WIDOWS'
HOMES BILL, 1954

SHRI K. B. LALL (Bihar): Sir, I beg leave to introduce a Bill to provide for the better control and supervision of orphanages and widows' homes in India.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill to provide for the better control and supervision of orphanages and widows' homes in India."

The motion was adopted.

SHRI K. B. LALL: Sir, I introduce the Bill.

THE CONSTITUTION (FOURTH
AMENDMENT) BILL, 1954

SHRI S. BANERJEE (West Bengal): Sir, I beg leave to introduce a Bill further to amend the Constitution of India.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

THE MINISTER FOR PARLIAMENTARY AFFAIRS (SHRI SATYA NARAYAN SINHA): Sir, I have to make one submission. Unlike our friends in the other House, we do not want to break the convention by objecting when the Bill is introduced. But I would like to make it clear that at the proper time Government will oppose this Bill.

MR. CHAIRMAN: That is merely an observation.

SHRI B. GUPTA (West Bengal): But was there any necessity to make an announcement in advance?

MR. CHAIRMAN: Sometimes you do.

SHRI S. BANERJEE: Unwarranted.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

The motion was adopted.

SHRI S. BANERJEE: Sir, I introduce the Bill.

THE ANDHRA STATE LEGISLA-
TURE (DELEGATION OF
POWERS) BILL, 1954

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU): Sir, I beg to move:

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

SHRI B. GUPTA (West Bengal): Sir, I rise on a point of order.

We got copies of this Bill as passed by the Lok Sabha only this morning and it is not possible for us until we have had enough time to think over this Bill as it has emerged from the Lok Sabha to advance any amendments that we may like to advance. It appears from the List of Business that the Government want to have this Bill not only to be taken into consideration but also to be passed during this day. So practically we have got no time even to prepare our amendments. I have this morning speedily prepared some amendments as best as I could. But this is not a good convention, even if the Bill is a brief one and according to Government a non-controversial one. We do not think it is a non-controversial one, especially Members on this side of the House and the opposition to the Bill is known to the members of the Government. Therefore, the convention should be that some time should be given to us. I would request

you, Sir, to give a ruling so that we may have a little more time to prepare ourselves on the Bill and tell the Government to stay its hands till we are prepared. There is no hurry in this matter and the Bill is undoubtedly a controversial one. That is all the more reason why we should be given more time.

DR K N KATJU Sir, my hon friend is a very wise man. He knows as much about this Bill as I believe he would after about 5 or 6 weeks or 5 or 6 months. It is a very short Bill and it is merely a consequential one. The House having approved of the Proclamation issued by the President, everyone knows that under articles 356 and 357 of the Constitution, Parliament will have to pass a legislation of this description so that all legislative business may not be held up. The reason for urgency is this. As was stated by me on the previous occasion also, the Ministry, while the Andhra State Legislature was not in session, were compelled by the exigencies of public service to promulgate certain Ordinances. The Governor of Andhra State promulgated these Ordinances—some seven or eight in number—and they are due to expire within a few days—in four or five days. So by the 9th of December the necessary legislation must be enacted. If it is decided to keep those Ordinances going it is necessary to put them in the shape of an Act. It is therefore urgently necessary that this House should be pleased to take this up. You may declare, Sir, that this particular precedent is not to be taken for action in future. But having regard to the urgency of the matter—and I say again that it is a pure formality—the House may be pleased to take this into consideration and if it approves of the Bill, pass it today, so that the necessary legislation may be undertaken at once. That is the reason. And there is nothing really important in the Bill. I may add at once that this is the third time that the President has had to assume to

himself powers of a State Government—Punjab, then PEPSU and now Andhra. This Bill follows the precedents laid down in the previous two Acts.

SHRI B GUPTA Sir, I oppose the hon Home Minister's statement. He has sought to mislead the Chair, because it does not follow from articles 356 and 357 of the Constitution that after the Proclamation has been approved, the powers should be delegated to the President. These powers may be retained in the hands of Parliament, instead of being delegated to the President. Therefore, it is not correct to say that the President should immediately be vested with the power. We can consider the Ordinances that have been promulgated and give the usual sanction if we think that they deserve sanction, under the provisions of the Constitution.

MR. CHAIRMAN Well yesterday evening the Vice-Chairman announced here that this matter would be taken up this morning. The original Bill was in the hands of hon. Members two days ago and the amendments which were passed by the Lok Sabha were circulated only last night. It is quite true. But this will not be a precedent as Dr Katju has assured the House. There is that point also that Mr Gupta has already sent in some amendments to this Bill. That is to say, he has had time to consider the amended Bill as it came to us from the Lok Sabha and draft some amendments for the consideration of this House. So without making this a precedent, in view of the urgency of the matter, as explained by Dr Katju, the matter may be taken up now.

DR K N KATJU Mr Chairman, I have practically said what I have to say in moving this Bill, in the few observations that I made a few minutes ago.

This Bill is purely a consequential one. It is necessitated and indicated by articles 356 and 357 of the Constitution. If no such Bill is

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brought in, then all legislation can only be passed by Parliament. Parliament, you know Sir, is labouring under great difficulties. There is all-India legislation of enormous importance waiting and we have got a congested list, and if we were to take up local legislations of the different States about which the President feels compelled to promulgate Proclamations, then the result will be that we will never be able to get through the work.

Please remember that you are not entrusting the President with a clean slate upon which to write whatever he likes. The Bill provides that the President may promulgate an Act which would be called the President's Act; the power that you now give to him is that he may promulgate those Acts which the State Legislature was competent to enact. Having done that, the President is bound to lay those Acts on the Table of both the Houses of Parliament and it is open to any Member of Parliament of either House to say to the President by resolution that a particular section of a certain Act or a certain Act itself is wrong and that he should modify it or add to it or alter it in any way that he likes. If this resolution is carried, then the President is bound to act according to the wishes of either House of Parliament by issuing a new enactment so that the supremacy of Parliament is safeguarded. Ultimately, it is the will of Parliament that prevails. What is really taken away is what you may call the spade work. The President is left to anticipate the wishes of Parliament; in so far as the anticipation is right and correct, the work is taken away from the shoulders of Parliament and Parliament is relieved of the drudgery; if the President is not correct in his anticipation of the wishes of Parliament, then Parliament steps in and, in so far as the President's anticipations were wrong, the mischief is remedied. This is number one. This point has been made quite clear in the Bill itself as it has emerged from the Lok Sabha. Seven days are allowed

—after laying such Acts on the Table of the House—for a Member of either House to bring forward a resolution in regard to the objectionable sections. If a resolution is carried in one House then it comes to the other House and the mischief is put right.

As I said, Sir, there were two precedents, that of Punjab and PEPSU. In Punjab, the only limitation was this matter of resolutions for the purpose of alterations. In the Pepsu resolution, which was passed in 1953, it was provided that there should be a consultative committee, a sort of advisory committee, and the Act said that the President, before passing this Act, shall consult the committee of which there will be ten Members nominated by the Speaker and five by you—these fifteen Members would form the consultative committee—so that the President may have the advantage of knowing what the Members might think about a particular Act and he may, if he thinks fit, benefit by their advice. In this particular case the necessity for such a Committee was not much probably; as I said the other day, the President is practically forming a caretaker Government; the present very firm intention is to have general elections in Andhra Desh round about the middle of February and I hope that the elections would be concluded by the end of February or, let us say, by the beginning of March, and that it will be possible for a Ministry to take over the administration by the middle of March. The necessity for immediate legislation has been created by those Ordinances to which I referred earlier. After the necessary legislation to cover those Ordinances has been undertaken, so far as I can see, there will be no need for further legislation during the remaining two or three months, but no one can say anything with certainty; there may arise some necessity for immediate legislation. Therefore, in the Bill, as it has now emerged through the Lok Sabha, it is provided that there shall be a consultative committee on the lines of the PEPSU Act.

but the provision is a bit different in that the consultative committee shall begin to function only after the 20th of December so that the President may act quickly with reference to the Ordinances within the next three or four days; if he is called upon to pass any Acts after the 20th December 1954, then the President shall, so far as it may be practicable, take the advice of the consultative committee and take advantage from the counsel given by that committee.

That being so, I respectfully submit that every aspect of case has been properly considered and that the Bill can be passed—and should be passed—without any difficulty. That is my submission, Sir, and I move accordingly.

Mr. CHAIRMAN: Motion moved:

“That the Bill to confer on the President the power of the Andhra State Legislature to make laws, as passed by the Lok Sabha, be taken into consideration.”

PROF. G. RANGA (Andhra): Mr. Chairman, it is not necessary for me to go into the whole gamut of arguments that were advanced, for and against the proclamation that was recently issued because it has been discussed at length in both the Houses of Parliament and the Resolution moved by Government has been passed. As the hon. Home Minister has said, this Bill is only a consequential result of that Resolution but, taking the Bill as it is, I would like, first of all, Sir, to enter my protest against the procedure decided upon by Government in the implementation of the Resolution passed by Parliament. I think it is not a good thing really for the Government and for the President, as the head of it, to think of saving Parliament from the drudgery of having to scrutinise such legislation as may come to be found necessary, in such cases as this, when and where the Local Legislature is not functioning and the Governor has taken charge of the administration. It would be a different matter if my hon. friend and the Government were to argue that in

such a special situation, as there are those ordinances which are likely to expire in a few days, it may not be reasonable to expect Parliament to pore over those pieces of legislation and that Parliament should be willing to give the power to the President to pass those Acts subject to the proviso already mentioned by my hon. friend in regard to safeguards, that is, either House of Parliament is free to move a resolution within seven days of such Acts being placed on the Table, either to annul or amend any one of those pieces of legislation. But to seek to extend this and to make this a general power to be given under similar circumstances, circumstances when the Governor is obliged to take over charge of the administration of any one of these States, and to extend it to any and every subject over a particular period when the Legislature in that particular State is not in being—just to give a sort of a blanket order as it were to the President and, through him, to the executive Government here at the Centre to pass any legislation that they like and then provide for such pieces of legislation being placed on the Table of the Houses for Members to take objection to—is really abrogating, first of all, the powers, privileges and responsibilities of Parliament, and secondly to take upon the executive itself what I would like to call an unenviable responsibility; this might even be styled as encroaching upon the functions of Parliament and arrogating to themselves too much of power. Not being satisfied with the executive authority that has come to vest upon them through the Governor and through the President they also want to go ahead and to take upon themselves the legislative responsibility. Therefore, Sir, on that score I find it difficult to agree with my hon. friend, Dr. Katju.

Having said that, Sir, I wish to come to the other point in regard to which he has made two observations, that is, the appointment of a consultative committee of 15 members con-

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sisting of 10 from the other House and 5 from this House. It has had some history, as he himself says. There was a precedent there in the PEPSU legislation. Therefore he would like to have it here. He did not evidently—if I had followed the proceedings in the other House correctly—think of it in the beginning. The hon. Minister wanted to have the privilege of consulting anyone hailing from Andhra he liked at any time that he liked, to the extent that he wanted and then coming to his own final decisions or conclusions. But on pressure brought to bear upon the Government in the other House, they saw the wisdom of going back to the precedent that according to them was established by PEPSU legislation and therefore they have agreed to appoint this committee. I wish to congratulate them on that decision, that concession, the small concession that they have made to the wishes of Parliament, but at the same time, Sir, my hon. friend has said here that the President would certainly be glad to consult concerned Members of Parliament so far as practicable. I would like to know the significance of that particular phrase. Whenever any piece of legislation is contemplated by the President under the provisions of this Bill, one would have thought that this committee of 15 would always be consulted before he came to any decision. But, instead of that, my hon. friend now, having made one concession in agreeing to the appointment of a committee of 15, now tries to whittle down the effect of that concession by introducing this particular phrase. I do not think it is really reasonable on the part of the Government to do this and I wish to protest against this and I hope my hon. friend would be good enough later on to drop this interpolation or this additional suggestion or whatever it is or the second thought that he has developed now and place it before this House and then see to it that this committee would necessarily be consulted every time that any piece of legislation comes to be made by the President on the advice

of my hon. friend and his colleagues in this Government.

Thirdly, Sir, I do hope, as my hon. friend hopes, that there would be no further need for any additional legislation in addition to these six ordinances that they have now, before the General Elections are held and the next Assembly takes charge of the legislative work as well as the administrative work of that State. But there is no guarantee. The Governor anyhow can carry on if he wishes to, for six months, I suppose, in the first instance.

DR. K. N. KATJU: Yes, six months.

PROF. G. RANGA: Now during that long period further need may arise for further legislation, and in that case necessarily it would be wrong on the part of Parliament to leave so much power in the hands of this Ministry not only to have all legislation, prepare it and get it passed by the President but also to get all this thing done without either convening this committee or consulting such members as they deem it fit to consult with and thus do whatever they like. There is very grave danger in this and I would like the Government to give their best possible consideration to this possibility and avoid it and therefore I do hope that there would be no scope at all, first of all for any postponement of the dates that they have provisionally fixed for the holding of the election in Andhra and secondly that they would certainly give up this suggestion of 'so far as possible', this obnoxious phrase according to me, and then give the assurance to this House that this committee of 15 would certainly be there available, would be made use of or would be consulted before any further legislation is thought of.

Now coming to these Ordinances, there is one Ordinance in which the masses of Andhra, the peasants are specially interested, the Ordinance

which seeks to protect certain sections at least.

MR. CHAIRMAN: We are not discussing the Ordinances now.

PROF. G. RANGA: I am not going into that. I was referring to one of the Ordinances which seeks to protect certain sections—at least what are known as Inamdari peasants' rights.

SHRI KISHEN CHAND (Hyderabad): On a point of order, Sir. It is on the basis of these Ordinances that this legislation is being placed and unless we go into the nature of the Ordinances how can we discuss this Bill?

MR. CHAIRMAN: Ordinances? This measure is consequential on the approval of the Proclamation. It is only to account for the urgency of it that he mentioned the names of the Ordinances.

SHRI B. GUPTA: We would like to discuss the Ordinances also and then give expression to our opinions regarding this measure.

PROF. G. RANGA: There is the question of urgency itself; I am coming to that. I am not going to discuss all the Ordinances here in this House. Now one of these ordinances was introduced in order to protect certain sections of the Inamdari raiyats. Inamdari raiyats as a whole were not satisfied with this Ordinance and therefore some of them had gone on a *Satyagraha*. They wanted that this legislation should be made applicable to all those things that had happened since 1947. The then Government did not agree with them immediately, but on the other hand they said they had already sent out the text of the Ordinance to the President for his approval and as soon as it came back to them they would certainly make the necessary alteration in it and then proclaim it and in that way they gave an assurance to the people that

that Ordinance would be suitably amended so that the date from which it would be coming into effect would be advanced right upto 1947, would be taken back to 1947, so that all those peasants who came to be evacuated from 1947 would be reinstated again in possession of their own lands.

Then, Sir, a regular *Satyagraha* campaign was going on. The leader of one of the political parties, P.S.P., was arrested and various others too. Hundreds of them were there in jail. Then there were certain negotiations between the Congress Party and the Socialist Party and others who were engaged in that *Satyagraha*. Then a point arose that if the Congress Party gave that assurance that 1947 would be accepted, the *Satyagraha* would be withdrawn. The Provincial Congress Committee meeting in its executive as well as in its general body gave that assurance and on that, Sir, the *Satyagraha* campaign was withdrawn. But unfortunately or fortunately, whatever it is, later various other developments had taken place. That Ministry which was there in power, one month after that I think, for another month after that, did not give effect to it, and now all these things have happened and there is no Ministry there in that State. Therefore it is for the President and also the Government behind the President which would have to advise him to consider about the urgency of this particular point. We want that they should give effect to this assurance given in those days by the then ruling party, by the then Ministers, that this date of 1947 would be adopted and accepted and would be introduced into the ordinance. Since they are going to extend this ordinance, as they have to, would it not be advisable and would it not be desirable for this Government to advise the President to so amend that ordinance anyhow as to give effect to the assurances that were given? That is the only point that I wanted to make in regard to one of these ordinances.

Bill

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The other point is, one would like to oppose a Bill like this but my hon. friend has fortified his hands by coming to this House with this plea of urgency. I am myself very keen on this ordinance as I have said, and therefore I do not want that the ordinance should lapse, I do not want any lacuna to be created by the ordinances lapsing and then thereafter my hon friend having to prepare a legislation, bringing it up to this House and getting it passed and all the rest of it. Therefore although I am inclined to oppose the Bill on the usual constitutional grounds, I am not prepared to oppose it today but I would like my hon friend to take into consideration the points that I have already made

SHRI B GUPTA Sir, we have heard the little speech that has been made by the hon the Home Minister in order to explain that this Bill is only a consequential measure. I do not see how it is a consequential measure when there is another course open to the Government, namely, to keep the power of legislation in the hands of Parliament itself. Sir, today there is a report in the newspaper that a former Congressman has committed suicide in Delhi because he thought that he had no means of livelihood. What he did, he may say was consequential to his unemployment. But there was another consequential step open to him, that is, he could struggle for life against the powers and see that he finds a job, and finds a living to continue on this earth. But nothing of that sort, he took the other 'consequential' step. I suppose that Dr Katju is also interested in moving towards that direction of consequential step—the step of suicide. Now, Sir we are for life, we are not for suicide. A Proclamation has been proclaimed in Andhra State and we have discussed the circumstances which led to the Proclamation. Our opinions vary radically because we do not think it is either a non-controversial matter or that it is something on which the

public do not have very strong grounds to complain

Sir, having committed that original sin—the sin has been committed—what does he do? He says, I have installed the gubernatorial rule in Andhra under the Proclamation and the President's powers, as you know, would be delegated to the Governor and the Governor and his team of bureaucrats and officials will continue to function as the masters of Andhra for the time being. As far as the constitutional side is concerned, it is they who will become the masters of Andhra for some time to come. Sir, I think it was absolutely unnecessary. Here is this Parliament and it is sitting. Parliament could have retained this power under article 356 instead of conferring such powers on the President.

Now, the argument that Dr Katju has advanced against this proposition is simply wonderful. He has shown compassion for this Parliament. We are so much overworked and he would not like to give us further trouble. He wants us to go home in peace and wants us to have enough leisure. If he were so full of compassion for the hon gentlemen of Parliament, he would have found it wise not to bring forward his Preventive Detention Bill and to save some time on that score. He would also not waste the time of Parliament by pressing that atrocious legislation called the Criminal Procedure Code (Amendment) Bill. Dr Katju has had his chances, his opportunities, to give better expression of his compassion to the fatigued members of Parliament, Sir. As far as liberty is concerned, democratic rights are concerned, constitutional propriety is concerned, Parliamentary convention and good manners are concerned, we are prepared to sit here as long as it may be necessary. That is what we would like to tell hon Members on that side of the House.

I am told, Sir, they are progressing towards socialism. Sir, socialism

requires a little bit of drudgery. You will have to protect the rights of the people and see that no mischief is done and see that the representatives of the people continue to function as the representatives of the people and do not go to bed by delegating their powers to some executive heads. Dr. Katju would not like that sort of thing, because he believes in democracy by proclamation; he does not believe in democracy by free and fair election, by Parliamentary participation and by maintaining Parliamentary conventions. Parliament is a sore point in his whole life. He neither can swallow it, nor can he digest it. He has come to that position. He would have been very happy if there had been no Parliament. He would have had some kind of a Grand Council where the dictates of the Government would go unchallenged

SHRI T. S. PATTABIRAMAN (Madras): Like Soviet Russia.

SHRI B. GUPTA: Is that an Andhra Kesari speaking? (*Interruptions*) Oh, you are Tamil Nad Kesari? I thought it was an Andhra Kesari because there are quite a few little Andhra Kesaris there with tails between their legs.

So let us not have this kind of argument that it is because of the need to save Parliament from drudgery that you are investing the President with the powers of legislation which Parliament itself could exercise. Such arguments are—I would not say it here but if I were speaking outside I would have said—silly arguments; but Parliament consists of hon. gentlemen and we should use honourable language—absurd arguments, fatuous arguments. A person of his stature should not come out with such arguments. He should take it up with some other arguments.

Sir, we object to it in point of principle. The Constitution has made two provisions, Sir. One is that the

power should be given to the President. An alternative provision is also there to the effect that it can be retained in the hands of Parliament. Here is a case in which I think that Parliament as a matter of principle should not consider the proposal for delegating this power to the President. Why? Because, after all, the manner in which the Andhra legislature has been dissolved, the manner in which the constitutional machinery there has put in suspension, is something which nobody can justify. Sir, we heard all kinds of arguments but we know for certain that the constitutional machinery did not fail to function there at all. Only the Congress Government failed to function there and the Congress machinery, rusty as it is, failed to function and that machinery toppled over at every step, every day. We know there were other people there, there were other parties, there were leaders in the Opposition.

MR. CHAIRMAN: Mr Bhupesh Gupta, that is over now. The Proclamation has been issued. Let us deal with the consequential sin, not the original.

SHRI B. GUPTA: As I mentioned, Sir, it was not necessary. He should have come to make amends for the original sin. He does not possess that frame of mind at all. He says, "I have done one wrong, empower me to do another wrong. Give me absolute powers for some time." He wants to invest the President with law-making powers which normally belong to the Legislature. Why is that so, may I ask? We are supposed to have caught up the idea from some books some 80 or 90 years ago. Somebody is telling that here and there in season and out of season. I can tell you, Sir, that we do not rely on such books alone but we rely on such things as these. Here is a case, a live issue to the people of Andhra, a live problem to the people of Andhra. Here we rely on what is the desire of the Andhra people. What is their demand? Firstly they did not want

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that this Assembly should go. They wanted that the Government machinery should be allowed to function properly. They did not want their legislative powers to be taken away in this fashion. This is what they demand today.

Now, that demand is absolutely rejected by the Government. I think that it will create a very bad precedent. There have been two other precedents that we know of—one in the case of Punjab and another in the case of Pepsu. I think the time has come when we must make a break from such things. Here was an occasion to make such a break and it was open to the Government to give a better account of itself by saying at least that we retain the powers in the hands of Parliament. Now, Dr. Katju would say that the provisions that have been made will leave certain authority to Parliament ultimately.

Parliament has the power to support or oppose the measures that the President may take. Well, Sir, then we can say that once in five years we shall meet and during that period the Governors and others will pass laws. We shall meet only either to support or oppose the measures taken by them. Dr. Katju might get up and say that Parliament has got absolute powers, sovereign powers. That is a kind of absentee sovereignty and we do not like inoperative sovereign powers. They believe, in absentee landlordism and now in the concept of absentee democracy in Parliament. We are opposed to it. We want to be very much present. We want to function very much currently, that is to say, when the matters are being discussed. We want to sit and discuss. We do not want to go to bed. The people have not elected us for that. This is no good argument. Imagine other countries. Would they behave like that? Would they say that Parliament has given certain powers to the King? "Let the King function and the House of Commons will look into his actions at such and

such an appointed time and after a certain interval." They never do so. Would the French Parliament accept such a provision that the powers be given in the hands of the President, Parliament coming into the picture only after the event? They will never do that. The President has got powers in the United States of America—that is a different matter. But even there during the session of the Congress, such things are not conceived of. Therefore, it goes against all democratic traditions. They are democratic traditions of bourgeoisie. Therefore, we say that actually it is curtailing the sovereign powers of the Parliament and it is an intrusion on its sovereignty by the back door. The Congress rulers do not believe in confronting an issue by the front door. They have developed a supreme knack for intruding upon our liberties by the back door. Dr. Katju is a wonderful past master in that. Here again we find a wonderful example of his performance. Let him tell us that Parliament is not necessary, that the President can run the administration of Andhra State. I can understand it. But he says something entirely different, he says to give him the powers. Sir, we believe that the executive should not be invested with the powers of the legislature. The executive should be given only what belongs to it. Especially when the legislature is there in the country to function, when Parliament is there it is all the more reprehensible that the executive should be invested with such powers. There is no need for it.

Sir, about Ordinances Prof. Ranga has spoken and I do not wish to speak on them. But at the same time I would like to tell him that we wanted to hear something about the Ordinances from the Government. Dr. Katju has made out that he should be given this power rather the President should be given this power, so that certain Ordinances do not lapse. That is the main point in his case. It should have been his duty in that case to apprise us of the Ordinances which

have made matters so urgent. We do not know anything about them. The Ordinances have not been laid before us. He has not even spoken about them and as far as we know all the Ordinances are not good. In fact, there is an Ordinance which, I believe, postponed the district board elections for six months. This postponement is by no means democratic. There is an Ordinance which imposes a surcharge on bus fares. That again is an anti-people Ordinance—it cannot be in the interests of the people. Some of the Ordinances are certainly anti-people and they have to be looked into, if at all the Parliament is interested. We are not told anything about these Ordinances. All we know is that certain Ordinances are there—they were passed on the advice of a Ministry which is discredited. Now they are in a very bad mess. To save them even the Prime Minister spoke all sorts of things in the Ram-lila grounds. We want to know something about these Ordinances. We do not have the slightest faith in that Ministry which advised on these Ordinances. We would like to state whether the President should be given powers in order to keep these Ordinances alive or whether, while giving powers to the President, we have something to advise him in a different way. We are given no opportunity to give our views and Dr. Katju has been treating us like that for three years and I hope when he goes to the Defence Ministry he will develop.....

MR. CHAIRMAN: Order, order.

(Time bell rings.)

SHRI B. GUPTA: There is no time-limit. As you know, Sir, they will not speak.

MR. CHAIRMAN: But the Minister must have time to reply to your points.

SHRI B. GUPTA: Please do not ring the bell.

MR. CHAIRMAN: Please wind up.

SHRI B. GUPTA: Therefore, the Ordinances should have been discussed here. They are not irrelevant. They should have been discussed here and Dr. Katju has given us an assurance that he hopes that it will not be necessary to pass any other legislation. He hopes so many things. When they are good hopes, they are belied, when they are bad hopes, they materialise. Therefore, as far as his hopes are concerned, when he hopes something, we apprehend. That is why we cannot put much trust in that kind of hope. We apprehend, on the contrary, that these executive powers—the law-making powers in the hands of the executive—may be utilised for imposing more burdens on the people of Andhra.

We are not children. We will not be pacified by such kinds of hopes and assurances on the part of the Minister. Sir, this is a Bill which again shows all the bad sides of the Constitution; all the good sides of the Constitution, if at all, they reject. Otherwise, article 357 would have told them that you could keep the powers in the hands of Parliament. The Minister said the elections will be held about the middle of February. Our Parliament is functioning. Our session will continue till the end of December. We again meet in February. Only in January we shall not be here. Therefore, Parliament is available in session during the interim period or the extraordinary period in Andhra. They do not like it as far as elections are concerned. They want to retain the power absolutely in the executive's hands. He did not talk about the caretaker Government when he spoke on the Proclamation. Today he says it will be a caretaker Government. I say it will be an undertaker government—an undertaker government of democracy. It will not be a caretaker government. When we asked him about an all-parties caretaker government, he said 'no'; today he comes and tells us—having got this power—that they will function as a caretaker government. Now, the caretaker government has become accept-

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table to him within a matter of three or four days,—confident of all the arbitrary powers that he is going to snatch from us. We do not go in for such kind of undertaker government. It will be an undertaker government, as we shall see, exclusively of the discredited Congress. Sir, I know that for these reasons the people will oppose this. If they had read the newspaper reports—every newspaper which believes in democracy and even supports generally the Congress party—they would have seen that they have said that this course was not necessary for Andhra. Today what will they say? Having done this mischief, the Government is again investing this power in the President. This will undermine the people's faith—if they are interested in keeping the people's faith, in the Constitution. They will interpret like this. The Government is interested in the Constitution only if it becomes necessary to grind its own axe. That is what they will conclude.

Now, I have tabled certain amendments and I hope hon. Members will kindly consider these amendments. I entirely agree with Prof. Ranga when he questioned the constitutional propriety of this Bill.

MR. CHAIRMAN. Mr. Gupta, you will please talk at the time of the amendments.

SHRI B. GUPTA: I support him—but I cannot share his views when he supports generally this Bill.

PROF. G. RANGA: Not generally, exceptionally.

SHRI B. GUPTA: I think he suffers from certain disabilities. Sir, Prof. Ranga is a very learned and honourable man, and he should know that this is not a consequential measure. By no stretch of imagination it could be considered as a consequential measure. I have read the Constitution very carefully. I do not

find anywhere suggested that it should be described as a consequential measure. It is not certainly crossing the t's and dotting the i's here and there after a step has been taken. It is a very serious step. It stands on its own merits; and it should fall if it is not acceptable to our democratic ideas. And that is what I am saying.

Sir, in conclusion, I would like to say that they are going to have these powers in their hands. The majority has been fully mobilised there, and I have absolutely no doubt in my mind that it is going to happen, and this Bill will become the law of the land. But here, yet on another occasion, this Parliament is treated in an undemocratic manner by the Government. This measure is an undemocratic measure. The Government could have avoided this situation, but they did not do it. Since the Andhra people had many grievances, the Government could have said in this Parliament "Yes, some wrong has been done, but we shall try to listen to your grievances, we shall try to appreciate them; it is you who have to decide as to who should rule the State of Andhra; we the people's representatives here in Parliament shall retain the legislative powers in our hands and we shall look after your vital and legitimate interests." But we have not been given that honour, we have not been given that opportunity by the Government. It is the Government which has brought disgrace to us. And, if every time, the name of Parliament is associated with such executive flats, with such executive measures, with such undemocratic, unconventional and unparliamentary measures, I think the prestige of this Parliament, of which they talk so glibly, would certainly be ruined. I hope the hon. Minister will, even at this late hour, take back this atrocious measure and leave unto Parliament what belongs to Parliament until the Andhra people take the reins of administration in their hands.

SHRI T. S. PATTABIRAMAN: Mr. Chairman, my friend Mr. Bhupesh

Gupta could have saved much of his lungs if he had read the Bill.

SHRI B. GUPTA: I have read the Bill. You are going .

SHRI T. S. PATTABIRAMAN: No interruption, Sir, most unfortunately he has waxed eloquent over democracy which he found missing in the Bill. And fortunately it is there, but it did not catch his eye. Sir, the Bill is a most democratic one in conformity with the greatest democratic principles that have been embodied in our Constitution. It is certainly a consequential measure. When the President's rule has been inaugurated in Andhra, the Legislature will have to function in one form or another. And in Andhra, it has become more urgent, because six Ordinances are going to lapse very soon, and some method must be found in order to see that the Ordinances that were promulgated under the advice of a popular Ministry are made as laws and put on the Statute Book.

Sir, if they go into the history of the Constitution, my friends will find that the present article 357 of the Constitution gives great scope for the enactment of laws by the President. Sir, previously, during the period when the 1935 Act was in force, section 93 was applicable, and according to that, the Governor of a Province took the power to legislate, and he was all in all; there was no democracy then, and my friends did not protest at that time. And today, Sir, there is an improvement in the Constitution, and the power to decide whether a certain Act or a certain Bill is good for the people of a certain State or not has been vested in the people's representatives, I mean the Members of Parliament. I would like to draw the attention of the hon Members to sub-clause (3) of clause 3 of the Bill. It states as follows:

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

Even then, Sir, Parliament has not abdicated its responsibility of revising it, reviewing it or rejecting it. That has been provided for in sub-clause (4) of clause 3 of the Bill. My learned friend, Mr. Bhupesh Gupta, will do well to read it, and read it again and again till he gets the idea clearly.

[**THE VICE-CHAIRMAN (SHRI V. K. DHAGE)** in the Chair.]

Sir, sub-clause (4) states as follows:—

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

Sir, the President's rule is rather very unwelcome. I know that. But the people have to take the consequences in their hands. There is no use blaming the Government here. The democratic principle has been well laid down, and Parliament has still got the control over the law that is going to be enacted by the President in the name of the State Legislature. Parliament, if it so desires, can still say that the law should be withdrawn or amended or even rejected. It has got the full powers. It is rather misleading to say that Parliament is going to abdicate its responsibility in the enactment of laws for the State of Andhra. Sir, I would not like to deal much with the other problem, but the urgency is there, as has been pointed out by the Home Minister. There are six Ordinances that are to be given effect to, and they are very important ones: they affect the lives and interests of the people of Andhra. I am very happy to see that the Communist leader is opposing the

Bill

[Shri T. S. Pattabiraman]
provision to give these powers to the President for the enactment of such laws, because he knows full well that if the Ordinances are to be given effect to his own case with the people will not carry conviction

SHRI V. VENKATARAMAN (Andhra) Which are those Ordinances?

SHRI T. S. PATTABIRAMAN Sir, the hon Member should know that Andhra has been separated from us, and if he wants, I can tell him all the clauses of the Ordinances. But I think he can better come to the lobby and take a dictation from me. I do not want to waste time here. I know, Sir, that certain things have been done by the Andhra Ministry which are not favourable to the Opposition parties including the Krishika Lok Party, to which the hon Member belongs. The activities of those people against the Congress regime have been marked by the people. And after all, they should not glut over their victory; it was a one-vote victory, which could have been any way. (Interruptions.) I am not prepared to yield to the hon. Member. Sir, I do not want any interruptions. But if my friends are willing to take anything back, then, of course I do not mind it.

THE VICE-CHAIRMAN (SHRI V. K. DHAGE) The hon Member may just wait for one minute. Mr Satya Narayan Sinha will lay certain papers on the Table.

REPORT OF JOINT COMMITTEE
OF THE HOUSES ON THE
UNTOUCHABILITY (OFFENCES)
BILL, 1954

THE MINISTER FOR PARLIAMENTARY AFFAIRS (SHRI SATYA NARAYAN SINHA): Sir, with your permission, on behalf of Dr. Kailas Nath Katju, I beg to lay on the Table a copy of the Report of the

Joint Committee of the Houses on the Bill to prescribe punishment for the practice of untouchability or the enforcement of any disability arising therefrom

THE ANDHRA STATE LEGISLATURE
(DELEGATION OF POWERS)
BILL, 1954—continued

SHRI T. S. PATTABIRAMAN: Sir, certain agrarian reforms have been effected there, and also by an executive order, they have made a very generous attempt to solve the land problem, and also to relieve the burden of the ryots.

12 Noon

People who pay less than Rs 10 as kist have been covered by the executive order, and many such good actions have been done by the former regime, but the other parties joined together on a particular issue to oust the Ministry. Today many ordinances which have been promulgated for the well-being of the people, for the benefit of the people, because the tiller of the soil has been guaranteed the right to his land, require immediate ratification before the 10th of this month. That is the urgency of this measure. In saying this, I would like to point out that the activities of some of the parties there had been very unhealthy, and as a result, this situation has arisen. Today, hon Members of the Opposition are criticising the President's rule, but they must remember that it is a consequence of their own actions. They did not allow popular democratic government to function there. They did not allow any popular measures to be undertaken. In order to prevent the popular Ministry from doing it, the various parties joined together, forgetting their political affiliations, forgetting their political convictions, sunk all their differences, and passed a vote of no-confidence against the Congress Government of Andhra. The Communist Party thinks that in the next election they will be able to come out with flying