

SHRI D. P. KARMAKAR: I should like to say that I associate myself fully with what *my* hon. friend Dr. Radha Kumud Mookerjee said, that ultimately production is the principal thing to be looked after. I also agree in principle that the labour interests should also be looked after. I accept the principle. (*Interruption.*) I should like to abide by the ruling of the Chair.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

#### ANNOUNCEMENT BY THE DEPUTY CHAIRMAN

MR. DEPUTY CHAIRMAN: The Business Advisory Committee met today to consider the programme of Legislative Business pending before the Council during the remaining part of the current session.

The Committee agreed to the time table as indicated hereafter for the discussion of the following Bills:

<i>Name of the Bill</i>	<i>Date and Time</i>
1. The Patiala and East Punjab States Union Legislature (Delegation of Powers) Bill, 1953 (Consideration and passing).	12th May 11.15 A.M. to 1.15 P.M. (2 hrs.)
2. The Delhi Road Transport Authority (Amendment) Bill, 1953 (Consideration and passing).	13th May 9.15 A.M. to 9.45 A.M. (30 min.)
3. The Air Corporations Bill, 1953 (Consideration and passing).	13th May 9.45 A.M. to 1.15 P.M. 14th May After question time up to 1.15 P.M. (8 hrs.)
4. The Tea Bill, 1953 (Consideration and passing).	14th May 5.45 P.M. to 8 P.M. 15th May 8.15 A.M. to 12 noon (6 hrs.)
5. The Vindhya Pradesh Legislative Assembly Prevention of Disqualification Bill, 1953 (Consideration and passing).	15th May 12 NOON to 1.15 P.M. 16th May 8.15 A.M. to 10 A.M. (3 hrs.)
6. The Special Marriage Bill, 1952.	16th May 10 A.M. to 1.15 P.M. (3½ hrs.)
7. The Hindu Marriage and Divorce Bill, 1952. (Reference to Joint Select Committee).	

This programme contemplates an afternoon sitting of the Council from 5 P.M. to 8 P.M. on the 14th May.

SHRI K. B. LALL: These two Bills will be referred to Select Committee on the 16th?

MR. DEPUTY CHAIRMAN: Joint Select Committee.

SHRI K. B. LALL: Will the motion for reference to Joint Select Committee be concluded on the 16th?

MR. DEPUTY CHAIRMAN: We will see about that.

#### THE PATIALA AND EAST PUNJAB STATES UNION LEGISLATURE (DELEGATION OF POWERS) BILL, 1953

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU) : Mr. Deputy Chairman, 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, as passed by the House of the People, be taken into consideration."

Sir, as you have just announced that only two hours have been set apart for the consideration and passing of this Bill, I do not want to take up, as I would have liked to do, a good deal of time in recommending this Bill to the attention and consideration of the House. It is a very short measure. We discussed the other day the whole question of the President's rule in PEPSU. The pros and cons of it were discussed at length and ultimately the House approved of

the action taken by the President. The Constitution requires that a Proclamation should issue and in that Proclamation there should be something said about the law-making powers, and the Proclamation says that the President shall exercise the legislative powers of the State Legislature to be exercised by Parliament. Those are the words of the Proclamation. Now, the Constitution further says that it is open to Parliament to delegate to the President its legislative powers. It goes a little further: it says that not only may the President have these powers delegated to him, but it is open to the President to delegate these powers further to some body nominated by him—what we call in the law courts, power of delegation by the delegate—something unusual.

Now, this question was discussed at length in 1951. This House was not then in existence. We had the Provisional Parliament in existence and the question arose. When the President assumed superintendence in the State of Punjab, the question arose as to what was to be done. A Bill was brought before the Provisional Parliament in which there was what I might say a straight delegation by Parliament of powers to the President. There was a good deal of discussion about it and it was said that Parliament should exercise its own authority to legislate. Then a formula was evolved, namely, that the President should take action in the first instance. It was thought that the President would, before he took action, consult local opinion, from his judgment upon a consideration of the entire materials placed before him by the Administrator, and so on and so forth; and when the President has taken that action, the laws passed by the President should be laid on the Table of the House—at that time there was only one House, the Provisional Parliament—and it would be open to Parliament, if they wanted to disapprove any provision or to suggest any modification of any particular provision of any of the President's

Acts, to say so, and if that was passed, then the President was bound to give effect to the modifications suggested by Parliament. Now we have got two Houses and following precedent, we suggest in sub-clause (3) of clause 3 of this Bill, that "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." It was suggested that "as soon as may be" was a bit too indefinite and that the President might take weeks to lay the Act on the Table of the House. I then gave an assurance that so far as we were concerned, we would be only too happy to lay the Act on the Table of the House within two or three days. Then comes sub-clause (4):

"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 modification....."  
and so on.

SHRI C. G. K. REDDY (Mysore): If I may interrupt for a minute, it is quite all right saying that it should be passed within seven days from the date on which the Act has been laid before it. But does the hon. Home Minister know that in both Houses there is a rule requiring 15 days' notice for resolutions? This is going to be in the form of a resolution. There is a rule requiring 15 days' notice for resolutions. How does he expect private Members to bring a resolution if they are circumscribed by the Act in this manner?

DR. K. N. KATJU: So far as this matter is concerned, it is a matter of detail, and I think personally that it could be straightened out by modifying the Rules of Business. In so far as this matter is concerned, there should be no difficulty whatsoever.

This was, as I said, the formula evolved in order to give Parliament, full opportunity of exercising its legislative powers and legislative control over the legislation of that State

[Dr. K. N. Katju.] in regard to which the President may feel compelled to take over superintendence. The reason was very clear, namely, that Parliament has got very onerous responsibilities; all Members know that legislative business is very heavy. Besides, knowledge of details relating to any particular State is naturally lacking. Anyway, when this Bill was before the other House, it was suggested that it might be desirable, so far as it was practicable, that the President might consult Members elected from that particular State in either House of Parliament who would be presumably acquainted with the local conditions and local circumstances and whose advice might be helpful, that so far as was practicable, the President through his Adviser might consult those people before the Act was finalised. I was happy to accept that but then we thought that the proper way of putting it would be to ask the hon. Speaker and the hon. Chairman of this House to nominate ten Members from that House and five Members from this House to make a Committee and as the hon. Members would see from the amendment that was carried, it was said:

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

I do not want in any way to restrict the discretion of the Chairman or the discretion of the Speaker in nominating Members to this Committee. Their discretion is undoubted. But what we had in mind was that Members who would be particularly acquainted with the local conditions, very likely their names would occur to the Speaker and the Chairman first, so that they might be able to give their useful advice. Of course I know that we represent the

whole of India and every member is supposed to know and very often is called upon to exercise judgments over Bills which affect all the States of India and therefore has equal knowledge of the conditions. But in these matters the State Legislature deals particularly with State matters and the opinion of the local Members might be more helpful. Now that was the reason why this was inserted. And now with this insertion Parliament has taken all possible care to see that the local opinion is consulted and Parliament comes in in the initial stage through a committee nominated by Parliament and at a later stage the full House, the whole House, has got the opportunity of expressing its opinion through its own resolutions. Now that would seem to me to be the most satisfactory solution. In PEPSU, Sir, the need is very urgent. I do not want to go into the whole history of the matter. Hon Members would have seen that the Adviser has been there for two months and he has been trying to do a good job and he has succeeded. But there is some legislation pending—some legislation which was under consideration by the previous Ministry, some legislation which had been passed by the local Legislature but which could not be enacted and which was awaiting the President's assent and some legislation which had been put before the local Legislature in the form of a Bill which had been subsequently considered by the Committee of the Planning Commission and therefore we are awaiting the passing of this Bill so that the President may enact, as soon as may be, three or four very urgent measures.

SHRI C. G. K. REDDY: What, are those three or four urgent measures?

DR. K. N. KATJU: I have got the names here. There are two or three agrarian measures..... There are five out of which two deal with agrarian matters. One is the PEPSU Abolition of Ala Milkayat Rights Bill. The other is the PEPSU Occupancy Tenants' Rights Bill. The third is the PEPSU Tenancy Bill. The fourth is

the Dramatic Performances Act. This is really putting an ordinance in the legislative shape. And the last is the Police (Incitement of Disaffection) Act, 1952. Now I may say at once that notices of some amendments had occasionally been given for their consideration. But with all due respect I would say that the amendments would really stultify the whole Bill itself. One amendment says; "Provided that the President shall not legislate...." Now this covers the whole field. You do not say so but you cover the whole field. You can as well say "Throw out the Bill". Now, I want to assure the House that when I accepted that amendment, I accepted it in a reasonable sense. I would consult the hon. Members; I would ask the Adviser to consult the hon. Members of the Committee on every conceivable occasion but there may arise some emergent measures where it may not be practicable to do so and where we may not consult them. But I can assure the House that non-consultation will be an exception—a very rare exception—and consultation will be the normal rule.

And then it is said "in consultation -with the leaders of political parties and groups, as the case may be". Now, Sir, that is a reflection on the Speaker and Chairman which I do hope that the House will not share.

SHRI C. G. K. REDDY: That is not a reflection

DR. K. N. KATJU: When the Speaker and the Chairman exercise their power of nomination, they take all circumstances into consideration and act in a discreet manner. That is the whole thing. I do not want to take more than my due share of the two hours and I accordingly move.

MR. DEPUTY CHAIRMAN: 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, as passed by the

House of the People, be taken into consideration."

PRINCIPAL DEVAPRASAD GHOSH (West Bengal): Mr. Deputy Chairman, I hope the hon. States Minister will admit that the circumstances which led to the present state of things were anything other than happy. There were certain troublesome developments in the PEPSU State which led to the suspension of the Constitution there, to the dissolution of the popularly elected Assembly, and to the taking up of emergency powers by the President. I do not want to go into those details now; for those details are now part and parcel of past history, and there is no use, as the English adage says, crying over spilt milk. But I should think that attempts should be made to restore the normal state of things as early as possible, i.e. to say, to take steps to see that the general elections in the PEPSU State may take place as early as may be convenient. In this connection, I have one or two suggestions to offer, which I hope the Minister will take in the spirit in which they are offered.

I understand that the elections are sought to be postponed—at least I suppose so—for about six months on the ground that the Delimitation Commission is hardly likely to finish its labours and submit its report before November of this year. In that matter I have one suggestion to make. I do not quite understand why the Delimitation Commission's recommendations have to be awaited to order a general election there in PEPSU, because the constituencies are already there. According to the present state of arrangements, I suppose there is nothing inherently wrong or nothing constitutionally improper if the general elections are held as early as practicable even on the present constituencies as they are delimited. The hon. States Minister said the other day, while discussing the PEPSU Appropriation Bill, that there were—I do not exactly remember the number—some 32 by-elections pending, a sort of miniature general

[Principal Devaprasad Ghosh] election, as many people had been unseated as a result of the election petitions and all that. Now if those by-elections had been allowed to take place, *i.e.* to say, if the dissolution of this Assembly had not been ordered, then I presume that the elections would have taken place on the constituencies as they are today, and I do not see any inherent constitutional objection to our having the general elections in the 60-Member Legislature—that is the total number of Members, I understand—ordered on the constituencies as they are now. Of course, I speak subject to correction. If there is anything constitutionally improper, that is another thing; but I do not think there is any constitutional bar. If that be so, then we need not wait for the labours of the Delimitation Commission to be completed in another six months' time before the general elections are ordered. That is my suggestion No. 1.

My next suggestion is that this 'delimitation' business for such a small State as of PEPSU need not take so very long. I understand—and if my information is correct, I shall be glad — if the Delimitation Commission has been asked to take up the question of PEPSU constituencies first. If that be so, now that we are in the middle of May, I should think a month or two should suffice to complete the delimitation of the constituencies and the boundaries in the PEPSU State, so that elections may very easily be ordered to take place before September. However I am not particularly anxious about the date, but the main point is that this extraordinary and abnormal state of things should not be allowed to continue for a day longer than is absolutely necessary. In this connection, one finds a sort of complacency in the States Minister about the present arrangement which seems to be rather unfortunate. He said the other day and he also repeated it today that an Adviser has been appointed. We all know that. The Adviser is supposed to be doing

an excellent job of work, about which there may be a difference of opinion. Anyway, it is clear to all and I am sure to the Ministry concerned also that the Adviser's rule is no substitute for popular rule. Of course it may be that the powers that be really, in their heart of hearts feel that the democratic set-up is an unmitigated nuisance—but of course, they do not like to express this in public—so that the longer this election business is postponed, the longer the setting of a popular Assembly is postponed, the better for them. Of course, as an 18th century English poet said,

For forms of administration, let fools  
contest;

Whate'er is best administered is best.

If that be their view. I have nothing more to say, but still the accepted shibboleth is that good government is no substitute for self-government, so that even if the Adviser administers the affairs of this unfortunate-P.E.P.S.U. State in the best manner imaginable, it is after all only good government, may be very good government, very excellent government, but it is no substitute for self-government or popular government. I should therefore think that no avoidable delay should be allowed to take place in ordering general elections in P.E.P.S.U. State. As to this particular Bill, however, not much need be said. It is only a consequential Bill, when the President has taken over himself by proclamation, the powers of the Government in P.E.P.S.U., naturally Parliament has to confer on the President the authority to exercise on its behalf the powers of the State Legislature. I am glad that in clause 3 a proviso has been added that the President shall, whenever it is practicable to do so, consult a Committee constituted for the purpose consisting of Members of both the Houses of Parliament. It is a step in the right direction. I have nothing more to say. I have only to repeat what I have already

stated, first that general elections may be ordered in PEPSU on the present constituencies as they are, without waiting for the Delimitation Commission to complete its report and secondly, if that is improper or if there is any legal bar, then the Delimitation Commission be asked to take up the PEPSU question first and complete its labours as early as possible.

LT.-COL. J. S. MANN (PEPSU): Mr. Deputy Chairman, I welcome this Bill and congratulate the Government on bringing this measure and asking the President to make such laws as are needed for the PEPSU State. Sir, these laws should have been enforced much earlier, but somehow, they have remained postponed for certain reasons and certain difficulties in the State. I personally would request the Government to take up the question of these laws as early as possible. There are, however, many things, which are not mentioned in this Bill, for instance, land revenue in PEPSU varies from place to place. It is so heavy in certain places and so light in others, that it is amazing, how this revenue is collected from people in different places. There are lands which have been evacuated by the Muslims and which have now been allotted to the refugees from the West Punjab, but these people have so far not been given the blessing of the full possession of their lands. It is only a quasi-permanent allotment. These people who have been allotted these lands, have not been given bullocks or any other facilities of cultivation. Here, I would sincerely request that a special law should be enacted to make this allotment of the land to the refugees permanent and also to give them bullocks and other facilities of cultivation. Besides, I would further request that the Tenancy Law should not be enforced on such lands which have been evacuated by Muslims and now allotted to refugees from West Pakistan on a quasi-permanent system till such time that they are made permanent owners and are in a position to culti-

vate it themselves. Sir, as regards my friend, he has already spoken on the election business. Good government is no substitute for a popular government. This Delimitation Commission has been appointed, as the present Government wanted to have as much time as possible in order to bring in the type of people they desired most. I would request that the Government should not try to bring in certain favoured individuals in power, but they should leave this to the choice of the public. I would submit that in the Punjab, it was a terrible state of affairs, when the President took over the administration. The Governor at that time did not participate in any of the groups, nor did he favour any group or individual. He did whatever he could for the good of the people of the Province and the response from the people of the State is an open secret. I would suggest that the President and the Government should instruct their Adviser to do the maximum good to the public and he should make the present Government or the President's rule a popular one, so that the public likes it.

Now that India is free, everybody should have the freedom to vote and act according to his/her own wishes. It can only be done if you give the people all the facilities that are possible. I have another suggestion in this respect, viz., the decontrol has been effected in almost every province, whereas in PEPSU, under the President's rule, the people are still groaning under the control system. The decontrol should have been given effect to at a very early stage. Now, the cultivator or the kisan or the tenant, whosoever is producing anything, has to bring his produce in the market under the control system, whereas in the neighbouring *mandies* in the Punjab, everybody is free to take his grain anywhere, so that he can fetch a better price. In PEPSU, there is no such permission and the people are still bound by the enforced control regulations and have to bring their grains to the restricted *mandies*

[Lt.-Col. J. S. Mann.] I would request that immediate action be taken for the decontrol of the foodgrain and kisans should be allowed to take their produce to any market, where they can fetch a better price. If control is not lifted they would be obliged to sell their produce in the restricted mandies and get whatever price they can in order to pay the land revenue within the stipulated period of a month or so. And if the decontrol is effected afterwards, the benefit would not go to the cultivator but to the *banias* or the businessmen. We, very much regret this situation and we would very much dislike this action of the Government, if the control is lifted after a month or so. This will not make the Government popular amongst the kisans and on the contrary, it stands to be bated. I think that the Government should be well advised to lift the control immediately and allow these people to take their grains wherever they wish for selling at a better price.

The other thing that I would like to add is the dire need for a University in PEPSU. The people there are extremely anxious to have a University. Whereas in the U.P. and also at other places, there are Universities in all big towns and there are so many other places where Universities have been opened in recent years. It is a pity that in PEPSU a University is not being allowed to be established and the people there cast reflections on this Government that they are particularly.....

MR. DEPUTY CHAIRMAN: This Bill is limited in its scope. It is only an interim measure. You confine yourself to the Bill. Universities etc. are permanent measures. The elected legislature in PEPSU will take care of it.

LT.-COL. J. S. MANN: This is what I am saying. You please.....

MR. DEPUTY CHAIRMAN: This is just to provide for the interregnum.

THE DEPUTY MINISTER FOR  
HOME AFFAIRS (SHRI B. N.  
DATAR): All this has been answered  
already.

MR. DEPUTY CHAIRMAN: You confine yourself to the Bill.

LT.-COL. J. S. MANN: As regards the Delimitation Committee and the elections, I would join with my hon. friend here that the Government should take early steps to have the elections and let the people state their views in the legislature and it would have been best, had the Government given the opportunity of making these very laws to the people of the State. They should have enacted their own laws rather than their being enforced upon them. Had the elections been held, the people of the State would have already enacted their own laws. Now, as it is, I would request the Government through you that they should eliminate the Delimitation Committee and arrange for holding of the elections as early as possible, preferably before December this year and let these people have a chance of making their own laws and making their homes as best as they can possibly do.

SHRI KARTAR SINGH (PEPSU): Mr. Deputy Chairman, Sir, so far as the present Bill goes, I am glad that it has been brought up before Parliament. There is absolutely no difference between any party in this matter — between myself and my hon. friend opposite from PEPSU as he has also just now stated that the Agrarian Bills should be passed. In fact this should have been passed long ago and it is for that that the Bill is being passed and I fully associate myself with my hon. friend with the necessity of legislation. A point was made about the food policy and the necessity of decontrol. Every day lost in not bringing the food policy in line with that of the Punjab will mean loss to the peasants. In this matter I fully associate myself with my hon. friend who spoke last. Rather some 3 days back Sardar Joginder Singh, myself and other Members of Parliament, both of this House and the other House, belonging to PEPSU and some top leaders belonging to PEPSU and also other leaders of the various parties had made a joint statement requesting

the Central Government to drop controls on foodgrains in PEPSU. A statement appearing in the 'Tribune' of yesterday was given by Sardar Gian Singh Rarewala where he has also demanded this thing. So my submission is that this is a very serious matter and the delay of one day means the loss of thousands of rupees to the poor cultivators in PEPSU. It is a loss of at least Rs. 2 per maund in this season when the cultivators take their foodgrains to the markets for being sold there and any delay in the matter would mean encouraging blackmarket and encouraging smuggling in this area. We all know PEPSU is bounded on all sides by the districts of Punjab. On the Bhetinda side we have got Hissar and Ferozepore and on the Kapurthala side it is surrounded by Punjab. What would happen if this continued? It would mean that the cultivators would somehow sell the foodgrains from PEPSU in the PUNJAB markets and it will be a great loss to the people of PEPSU. A formal request has already been made to the hon. Home Minister some three days back and I submit that immediate action should be taken in this matter.

With regard to the other matters I have simply to address the House on one point as there is no difference of opinion between any section of this House that there should be agrarian reforms in the State and necessary Bills should immediately be brought up and enacted under the President's rule. I had heard for 3 days, the speeches made in the other House with a view to see what was the point that was made out with regard to this Bill and from the speeches that I had heard in that House I can safely say that.....

SHRI M. S. RANAWAT (Rajasthan): Are you replying to the speeches made in the other House?

SHRI KARTAR SINGH: No. I can safely say that there is no difference of opinion about the present Bill being passed. Of course suggestions were made by different parties on the

point that before enactments, we must know what the situation is and when the hon. Home Minister told the House that such and such Bills were contemplated to be passed at present, then the suggestion was also made that the Members from PEPSU at least must know the details of those legislation and Pandit Thakurdas Bhargava moved an amendment that the Members from PEPSU must be taken into confidence with regard to the legislations that are going to be introduced. To this the hon. Home Minister readily agreed and a proviso to clause (2) of section 3 of the Bill was added. It provided for the consultation of a committee of 15 persons of both Houses of Parliament before enacting any such Act. My submission is that after that, there is absolutely no difference of opinion anywhere. In this House my hon. friend from PEPSU has already agreed to this Bill being passed. So after all that was said in this House by hon. Members from the opposite side, we can say that there is absolutely no difference of opinion that the President should be given the powers to enact the laws for the State of PEPSU.

With regard to the urgency of the measures that are intended to be introduced, there is also no difference of opinion. As regards the general elections also there is only one opinion and that is that these elections should take place as early as possible. We all know that the President assumed powers with a few main objects. One of them was to eradicate corruption from the State officials and to have an honest and efficient administration. We also wanted to restore the law and order position there. Powers were also assumed with a view to introducing urgent agrarian reforms in that State. The improvement of law and order position and the introduction of agrarian reform have to go hand in hand. The one materially affects the other. There can be law and order only if there are these agrarian reforms and if the introduction of these reforms is delayed then there is danger that the



[Shri K. artar Singh.] situation of law and order in the State of PEPSU might deteriorate. We know that the Administrator had gone into the interior of the State and met ail sections of the people. He had given them a definite assurance particularly to the tenants, that they should pay up their land revenues, that they should clear off all arrears of land revenue and he also gave them the assurance that in a short time they will be getting the necessary agrarian reforms. The result is that the tenants who would not formerly pay the land revenue for the last so many years, 'tenants who had such heavy arrears of land revenue, for a very long time, they, we are told, have paid up their dues. This has resulted from the assurance given by the Administrator who is in charge of the Government there. That being so, there is no reason why there should be any delay, not even of a single day in the introduction of agrarian reforms. The point was made in Ifce other House that there is no great hurry in this matter and they asked, "Why not wait for a little more?" But, my submission is no, we should not wait even for a single day. The matter is very urgent.

Sir, I have got here copies of two statements by two persons of the Rarewala Ministry. This Rarewala Ministry was set up on the 22nd of April 19'52. Within four days of that, that is to say, on the 26th of April, an Agrarian Reforms Committee was set up in PEPSU with Sardar Dara Singh as its Chairman. They had to deal with this question of reforms. Then in July of the same year, that is to say, within three months, the report was got ready and it was submitted to the Government. I have got a copy of that report here with me, Sir. The Committee consisted of 9 members out of whom 2 were Biswadars, 2 from the Scheduled Castes, 1 Congressman and one a Communist and there were three others. The Biswadar members of the Committee were of the view that the accumulated rent arrears should first of all be collected from the tenants and

paid to the Biswadars and that if there was to be any change in the law, and if they were to be deprived of a part of their property, they should be adequately compensated and the basis of compensation to be given to them should be on the market price of the land. So three members on that Committee demanded by a dissenting note everything for the Biswadars and said the tenants should not be given any facilities. Chaudhuri Inder Singh appended another dissenting note that proper legislation in favour of the tenants should be introduced and that arrears of rents should not be collected from the tenants. Sir, the House will be pleased to note that in this Committee of nine members, as many as seven belonged to the United Front Party. One was a Congressman, one a Communist. Out of the seven members. Sardar Dara Singh and Chaudhury Inder Singh who differed from the Biswadars believed that the tenants should be given every facility and the legislation should be introduced soon.

Then a Bill which we are now going to have, for the abolition of Biswa-dari from the President I mean PEPSU Occupancy Tenants (Vesting of Proprietary Rights) Bill, 1952 was actually introduced in the Assembly there in November 1952, the PEPSU Assembly met in November and again in December. But we know there was a fluid state of things as far as the United Front Party was concerned. That Darty did not pass the Bill —the piece of legislation that we are now going to have under the Presi-i dent's regime. We all know that in December after discussion of the no-confidence motion, the party dispersed. All these things happened because the United Front Party was comDosed of various elements, including the Biswadars who dominated, and who said that they would not support the Government if they passed the Bill. The result was that though assurances were given by the ministerial party that these measures would be passed but due to

the attitude taken up by the Biswa-dars, the Bill could not be passed in the Assembly 12 NOON.

Sir, with a view to show to the House who was responsible for this delay in the matter of these Bills, I have got here a copy of the speech of Sardar Dara Singh. I have also got a copy of a speech by Chowdhury Inder Singh—both of whom were Ministers there. Both had made statements in April 1953. One statement was made on 13th April 1953 by Sardar Dara Singh and it shows how these agrarian reforms were opposed by the Rarewala group in the United Front Party. Sardar Dara Singh in his speech at Shri Dam Dama Sahib on the 13th April 1953 observed "The corner stone for the formation of the United Front Party was the abolition of the Biswadari system and this was unanimously included in the 24 point programme of the party. But Sardar Gyan Singh Rarewala and his com-panion Biswadars tried to put off to give it a practical shape." Continuing Sardar Dara Singh said "Sardar Gyan Singh only delivered speeches regarding the abolition of the Biswadari system but he had blotted the face of the United Front Party by not putting it into practice." So we have got here the statement of a person who was a Minister in that Ministry and was the Chairman of the Committee that set up for the introduction of agrarian reforms in that State. He says "we were trying—myself and Chaudhury Inder Singh,—the Minister in charge of the Bill that was introduced up to the last time to see that this matter should be given the first preference but we found that Sardar Gyan Singh Rarewala and his Biswadari friends in the Assembly would not allow us to do so". Chaudhury Inder Singh, in his minute of dissent—which is with me—has also said that this Committee was set up to see that Biswadari is not an end in itself in PEPSU but we find that most of the Members want to take back what has already been given to the tenants in the State. So, my special submission is that (whenever

General Elections take place I do not mind that) these agrarian reforms should be immediately introduced and the Bill that are pending should be enacted by the President. I have gone through these Bills as they were introduced in the PEPSU Assembly and I have got a copy of some of them and they should be enacted at an early date. Delegation of powers to the President is all the more necessary in the case of PEPSU. After all any enactment made by the President is to last only for a certain time. The life of that Act would be one year when the Proclamation ceases to exist but then within that period when the Assembly is set up, it can modify or annul the legislation enacted by the President. Powers have been given to the State Legislature that when it comes into being, it has got full powers to annul the Acts passed by the President. Now in this particular case, once the Bills are enacted by the President as a President's Act the result would be whether the Rarewala party comes into power out of the next General Elections or any other party, whether it is the National Front Party which, after Sardar Dara Singh group and Chaudhury Inder Singh having been eliminated, consists purely of Biswadars and their agents or any other party for the matter of that, once we have a guidance from this place, once Acts are passed making the tenants full owners, giving them their full rights, then my submission is, that it would be very difficult for that Assembly to go back over what has been done during this period by the President. I quite agree with my hon. friend from PEPSU that this Legislation was long due and the agrarian reforms should be introduced in the State at an early date. We from PEPSU know what Bills are going to be passed and also the details. I support the motion that this Bill should be passed.

SHRI B. GUPTA (West Bengal): Mr. Deputy Chairman, the other day, in the course of the debate, the hon. Home Minister had to say that the

[Shri B. Gupta.] imposition of the President's rule should be considered a negation of democracy. I entirely agree with him. I do not know if he exactly used those words but it was to this effect he made his observations. Now, Sir, it is a sad commentary on the state of our public affairs that we have had to resort to the President's Rule, suspending the normal Constitutional process so soon after the General Elections. Sir, the doings of the Congress Party and of the Rarewala Group in the State of PEPSU doubtless constitute a very Interesting but at the same time disgusting story. Sir, we know that the scramble for power between these two groups has been going on in that particular State for a number of months. No attempt was made by the Party in power or by its leaders to resolve the crisis in a manner which would be regarded democratic. On the contrary, there ensued a regular competition between the forces of the Congress on the one hand and those of the forces of the Rarewala group on the other. Nobody cared for the interests of the people, for the establishment of a democratic system of administration, for legal reforms or for agricultural improvement or for democratic rights and liberties. They left the people absolutely out of account. The fight went on behind the scene; a palace revolution was sought to be effected and the result was that the Party that was ruling there, I mean the Rarewala Party, had to quit. Nobody will shed tears for the Party that has gone out of the administrative position nor will any one have any hope at the prospect of the coming into power of the Congress Party; for, the Congress Party too offers no real solution of the crises.

Now, Sir, during this period of the President's Rule, we find that the Adviser or those people who surround him, have not cared to eliminate the forces of disorder: the forces of disorder are undoubtedly constituted by the Biswadars and the feudal elements. The Rajpramukh there is an institution which should not exist

even for a moment. In fact, Sir, the State of PEPSU was an artificial creation, a creation which became necessary because of certain political reasons that did not relate to the interests of the masses of the people. I would not go into the story but in the period during which the President's Rule has been in operation, we find attempts made and steps taken to take away lands from the peasants and give them back to the landlords. Now, the hon. Home Minister would perhaps say that the lands were obtained by illegal methods; that lands were obtained by forceful methods. We do not know of such things; lands were obtained by the peasants who should get the lands. Now, if one has to understand the constitutional position by looking at the Rajpramukh and his vested interest, one would find himself in great difficulty. In those areas we know repression and exploitation had been going on for a long time. With the change of the circumstances certainly the peasants took a little initiative to look after their interests rather than wait on the pleasures of the people like the Administrator. Lands that belong to the tiller came into the possession of the tiller and now we find that the Administrator has directed his officers to divest the tenants of the lands which they got. That would perhaps be considered restoration of law and order. We know, Sir, it is the order of the princes: it is the order of the feudal lords and Biswadars in whom our administrators are now interested. But certainly this kind of order-making will not improve the situation at all. Then again we find that scant regard has been shown towards democratic rights and liberties. The hon. Home Minister looks as if he was making out a police case for continuing the policy of recession, and for continuing the policy of stifling the democratic rights and liberties in that particular State. Now this sort of argument may work in a parliamentary debate but to the awakened people of India who love their freedom, who know how to safeguard their interests, speeches such as these

and argumentations such as these will only cause resentment and discontent. With that mentality the Administrator's rule is being carried out. We do not know where we shall eventually land. Now we are promised of an early election in PEPSU. The point is who is going to prepare for the\* election. Are you going to safeguard the liberties and rights which are pre-requisites for a free and fair election? We do not see any indication of such things. After all the administration of that particular State still remains,—as had been admitted by the members of the other side of the House,—in the hands of the Biswadars and their favourite—the police. As far as we can understand from the speeches made from the other side of the House, the police had not become Caesar's wife either. Now in such a situation we have every reason to apprehend that there will be a lot of gerrymandering in the field of elections. There will be all sorts of malpractices with a view to frustrating elections, with a view to frustrate free and fair elections, which is required in that particular State. Now administration by these delegated powers is abominable to democratic conscience. Such things are not ordinarily resorted to and when these are resorted to, there must be very much justification. They must be used for improving the situation, for avoiding corruption, for broadening democratic processes and for creating the ground for it. If it was so in this case one can understand it. But we find that the President's rule today is turning out to be a rule of those very people who are responsible for the muddle in PEPSU, I mean the administration that exists there. The President does not rule by going there. He takes the power and these powers are in fact delegated to somebody else who carries on the administration in his name. And therefore if the President assumes the powers it should become his duty to see that the administration has been remodelled and changed with a view to doing the right sort of thing. The

President takes the power in one hand and nurses the same old administration there with the other. That is inconsistent; that is wrong; that is improper and I think that sort of thing will not take the PEPSU people very far and will offer any solution to the problem. Therefore I do not know whether these suggestions will reach the President and whether they would be taken as constructive suggestions. Because when we make even constructive suggestions they are thought to be destructive just because we want to destroy certain things that have caused suffering and oppression in our country. To an extent we want to destroy, destroy the present system of feudalism but certainly we want to support such land reforms which would enable the peasant to get his land, which would make the people of PEPSU contented and happy. Now I do not know whether the President's rule or those who care to rule the State in his name will listen to us. But if at all they care to listen to our voice, then it becomes necessary for them to immediately overhaul the entire administration without waiting for the election. It is quite openly known in the State of PEPSU as to who is responsible for the corrupt administration. The names and members of such people are well known to the high-ups in the administration in New Delhi and steps can be taken to remove such people from important positions.' It is a very simple thing. You require only certain administrative orders, and nothing else. Then, Sir, the police officers who have been helpful to the Biswadars and such elements should be removed from positions, should be dismissed from positions, and replaced by people who are good and who do not commit such unholy acts. Then, all kinds of evictions from the land should be stopped immediately and the Adviser or the Administrator who is ruling the State in the name of the President should be advised to lay off the peasants and not bother about restoring lands to the Biswadars and the landlords. The

[Shri B. Gupta.] and belongs to the peasant. Today if you do not allow them to remain in the hands of the peasants, the peasants will know how to get them in their hands. And that is a certain process which no amount of frowning, no amount of police pressure, no amount of witch-making will stop. Therefore, Sir, the Adviser should be properly advised from New Delhi. And if we may bring our influence to bear upon the President, he should be advised immediately to take steps so that this kind of persecution of the peasantry stops immediately.

Now, Sir, when you talk about PEPSU, we always hear about dacoits and people like that. Undoubtedly, PEPSU has won a certain amount of notoriety in matters like dacoity. But one has to find out who these dacoits are, where they spring from, where they get their inspiration from, who finances them, who provides them the wherewithal, which is the law that protects them. All these things become very important and material when you deal with the problem of dacoity in PEPSU. Sir, we find that very important men in high positions are known to have sheltered dacoits. Somebody said that the dacoits were not found in their own houses. Naturally, Sir, dacoits are not sheltered in the drawing rooms, by these persons giving them shelter but in some other houses. Even when such houses were found where the dacoits had been sheltered no steps were taken to put an end to such acts. We understand that in a way the administration of the State has been made over to the dacoits or to the patrons of the dacoits. If you look into the affairs of many of these States you will find that the patrons of the dacoits lie precisely in those very quarters where you recruit your Rajpramukh. That is the truth that you have to face today. It is not merely a question of one Bhudat. The Bhupats are the creation of the Rajpramukhs of the Congress regime. Therefore, Sir, if you have to stoo dacoity, if you have to call the dacoits to account, it becomes necessary

to call the Rajpramukh in PEPSU to account and the people who surround him. After all, the Princely order is made of dacoits and bandits and all such people who create disorders in the country. Our Adviser has been ill advised not to touch them. In fact, he retains them and the Rajpramukh in PEPSU remains in position, and the Congress regime is not in the least bothered about it. That only proves that the Congress Rulers who want to get things done there, to get things done a little better there, do not possess the elementary *bona fides* of a person who intends to do the right sort of thing. The hon. Home Minister the other day told us that the Constitution prevents him from doing anything about the Rajpramukhs. Well, whenever it is a question of Rajpramukhs, whenever it is a question of zamindari, whenever it is a question of the British, the Constitution always comes in the way, but when it is a question of striking at the people, when it is a question of arresting and detaining without trial, when it is a question of manipulating constituencies for getting the better of the elections for the party in power, the Constitution does not come in the way and the brute majority of the Congress is instantly mobilised to get the Constitution changed. We would tell the hon. Members on the other side that the Rajpramukh is there not because of the Constitution; the Rajpramukh is there because of the constitution of your unholy politics. When you change that politics, you will see the Constitution changes itself and the Rajpramukh disappears into the kingdom of the shades. Such is the line you should adopt. The hon. Home Minister says that if we do away with the Rajpramukh, there will be a Governor. Thank him, he did not say there would be a Mughal Badshah! Who says there should be a Governor? Who wants to replace the Rajpramukh by a Governor? After all, the hon. Home Minister had *beet*, a Governor, and probably he has not outlived his past. Therefore, he doeft not see that there are oossibilities of getting things done in a much better

way. There are ways of getting the Rajpramukh out of harm's way without having a Governor to take his place. We know what the Home Minister says may be a good police court argument, but certainly such argument does not behove the hon. Home Minister when he tries to trot it out here in Parliament. Therefore, we want that PEPSU should eliminate this institution, this fountainhead of all corruption and degeneracy in that particular State. It is time they did it. Until they do so, there will be no choice, as I have always said, between the devil and the deep sea and the people would certainly find out a way by methods that are democratic but will not be quite so palatable to the party in power or to the Rarewala Ministry.

SHRI K. S. HEGDE (Madras): I thought you were friends of the Rarewala Ministry. In PEPSU you proved to be the support of the Rarewala Ministry. And now you are decrying it!

SHRI B. GUPTA: We did not support the Rarewala Ministry, as I have told you.

SHRI T. S. PATTABIRAMAN (Madras): You put the Rarewala Ministry in power.

SHRI B. GUPTA: We are supporting neither. We did not want the Rarewala Ministry.

SHRI T. S. PATTABIRAMAN: Read the past history of PEPSU.

SHRI B. GUPTA: I can't hear the hon. Member.

SHRI T. S. PATTABIRAMAN: The hon. Member will not hear anything unpalatable.

SHRI B. GUPTA: This is a perversion of truth. I know there are people, Mr. Deputy Chairman, who believe in trading in perversion. I am not going to deal with such customers. But I can tell you, Mr.

41 CSD

Deputy Chairman, that the Communist Party never supported the Rarewala Ministry as such. We may have supported certain measures just now—we have supported a Bill here.

SHRI T. S. PATTABIRAMAN: You voted for the confidence motion.

SHRI B. GUPTA: You take it from us. (Interruption.)

MR. DEPUTY CHAIRMAN: Please look at the clock. The hon. Member should be brief.

SHRI B. GUPTA: You kindly take it from me that we did not support the Rarewala Ministry. We did not want any such Ministry. The Rarewala Ministry is a reactionary Ministry in the same way as the Rajagopalachari Ministry is a reactionary Ministry. Let there be elections—immediate elections. We do not know when they are going to hold elections in PEPSU. "As early as possible." That expression has conveniently become so elastic for the Congress regime that one never knows when that time will come to hold elections. Therefore, there should be a definite time limit within which elections must be held. A new body should be created which will ensure fair and free elections. All parties should be represented on such a body so that there may not be gerrymandering or malpractices with regard to elections. These steps should be taken. At the same time the Administrator should abandon the Rarewala path that he is pursuing and should choose some other path in the interests not only of the people of PEPSU but of the people of India. Delegated legislation of this sort is already a damnation of the democracy. Let it not be made worse by doing things that are against the people, that go against the very grain of democratic institution. That would only help the reaction that has been entrenched there: whether it be the Congress or the Rarewala element.

MR. DEPUTY CHAIRMAN: Mr. Naidu.

SHRI H. P. SAKSENA (Uttar Pradesh) : If you permit me, Sir, I can prove to Mr. Gupta that I can shout louder.

MR. DEPUTY CHAIRMAN: I have already called upon Mr. Naidu to speak.

SHRI RAJAGOPAL NAIDU (Madras): Mr. Deputy Chairman, Parliament, as we all know, is a composite body consisting of the President and the two Houses of Parliament, namely the Council of States and the House of the People. Now, by enacting a legislation of this sort it would mean. Sir, that the various components of the Parliament would be broken up—the two components *viz.*, the House of the People and the Council of States delegating powers to the President. Sir, if we go through article 79, it says:

"There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People."

MR. DEPUTY CHAIRMAN: Is this the point of order?

SHRI RAJAGOPAL NAIDU: No, it is not a point of order.

MR. DEPUTY CHAIRMAN: The relevant article is 357. Please read it.

SHRI RAJAGOPAL NAIDU: I am coming to that, Sir. While under the 1935 Act, section 93, the executive and the legislative powers of a State could be assumed by the Governor himself acting in his discretion .....

MR. DEPUTY CHAIRMAN: Why go to the 1935 Act? Please come to the Constitution. There is no time *to go into* the past history.

SHRI RAJAGOPAL NAIDU: The Constitution provides, Sir, for the assumption of the executive powers

of the State by the President, of course, acting on the advice of the Ministers though it is open to the Parliament. Sir, under the provisions of article 357 to delegate its powers.....

MR. DEPUTY CHAIRMAN: We are now concerned only with article 357.

SHRI RAJAGOPAL NAIDU: Yes, Sir.....to delegate its powers to the President and to authorise the President to sub-delegate its powers..... Now what I am feeling about the whole thing is that while under article 357 the delegation of the powers by the Parliament is unconditional. I find, Sir, that certain powers are reserved by the Parliament and the delegation is not absolutely unconditional. What I mean to say is that under article 357 we find it is said:

".....it shall be competent—

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

Now what we find in sub-clauses (3) and (4) of the present Bill is this: While the Parliament has delegated its powers to the President, we find that 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. Now the whole question is, Sir, this. When under article 357 the delegation is absolutely unconditional, can any condition be imposed upon the President to lay down the laws that are so enacted by him for the purpose of review on the part of the Parliament? Under sub-clause (4) the Parliament can certainly review. There is absolutely no provision anywhere in the Constitution; even under article 357(1), as has been pointed out by you, Sir, there is absolutely no power anywhere conferred in the

Constitution upon the Parliament to review the action so taken by President.

MR. DEPUTY CHAIRMAN: Please read 359(3).

SHRI RAJAGOPAL NAIDU: I am coming to that. Sir, the Parliament can reserve some powers. Article 357(1)(a) clearly says that:

".....it shall be competent—

(a) for Parliament to confer on the President the power of the Legislature of the State to make laws, and to authorise the President to delegate, subject to such conditions as he may think fit to impose, the power so conferred to any other authority....."

In my own view, I submit that the powers that are conferred on the President to enact laws are absolutely unconditional. The powers of the President to sub-delegate his powers would certainly be conditional. That would be my interpretation of the article. In my view, even the proviso to clause (3) is beyond the scope of the legislative powers of this House. We find it provided here that—

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

Even that proviso is not mandatory. It says, "except where it is not practicable to do so". It is as good as having no such proviso at all.

Then, coming to the other provisions in the Constitution, viz. 359, it only deals with the suspension of enforcement of the rights conferred by Part III during emergencies. I

may submit that under 357 any legislation (brought under it is purely consequential. In 356(1) (b), it is said, "declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament". 357 says, "Where by a Proclamation issued under clause (i) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament." This is purely consequential, and I may once again submit that the delegation should be absolutely unconditional. Any condition that the President should lay, as soon as an enactment is made, a copy on the table of both the Houses of Parliament and that it shall be open to Parliament to modify those laws made by the President would certainly be unlawful. We find that in article 357(2) there is a provision which clearly says that the temporary laws made under article 357(1)(a) may be continued or repealed by Act of the appropriate Legislature after it is revived. Absolute powers are given to the State Legislature, and any power that is conditional would certainly be beyond the scope of the legislative powers of the Parliament. It is only that that I wanted to mention. I may particularly invite the attention of this House to a similar Act made in the year 1951, the Punjab State Legislature (Delegation of Powers) Act, 1951. There also, there is no such proviso as we are here I adding to clause 3 that the President should consult a Consultative Committee. Consultation with this Committee is absolutely left to the discretion of the President. It is only executive powers that can be vested in the President and the legislative powers will have to be vested in Parliament. Now, we are enacting a legislation even taking away the legislative powers of the Parliament and vesting them in the President. The President can only act under the directions of the executive. The President cannot act by himself. Delegating executive as well as legislative powers to the President means



[Shri Rajagopal Naidu.] that we are only delegating the entire power to the executive once again.

SHRI B. N. DATAR: Mr. Deputy Chairman, at the outside I have to thank all the hon. Members of this House for the way in which they have welcomed the provisions of this Bill. I know that there are one or two Members who have made certain comments to which I wish to give a reply in due course, i\*Ut I am happy that all the sections of the House including some Members from the Opposition have appreciated the necessity for such a measure, ana have blessed it. Therefore I thank all the Members including the Members of the Opposition.

Sir, a contention was put forward— that is a usual contention in which usual platitudes are used viz., that this Bill is a negation of all democracy and that we are throwing to the winds the great doctrine that good government is no substitute for self-government. I would submit in this connection in all humility thai what those friends had in mind was the former foreign Government ana also the taking away of administration by the Governors under Section 93 of the Government of India Act of 1935. Now you will lind that so far as the present Constitution is concerned, though on account of certain emergent circumstances, it has become necessary or it might become necessary in other cases for the President to assume rule, still the President is acting according to the Constitution and as far as possible, in consultation with the Members of the two Houses of Legislature. Now in this connection an objection was raised by my friend the hon. Rajagopal Naidu that certain provisions of this Bill are inconsistent. I would point out to him that so far as the action in this case for the proclamation was concerned, it was taken under article 356. So far as article 356 is concerned it makes out two pro-

visions. One is that immediately it is open to the President, as in the present cases, to assume all executive authority including the authority of the Government in PEPSU as also the authority of the Rajpramukh there. So far as the legislative powers are concerned, it is for the President to, as required under r. rticle 356 (1)(b), declare that the powers of the Legislature of the State shall be exercisable by or under the authority of, Parliament. So this was done by the Proclamation. Then in pursuance of declaration made by the President, the present Bill has been brought forward and that Bill is under article 357(1) (a) according to which it is competent for Parliament to confer on the President the powers of the Legislature. Therefore, you will see that so far as either the provisions of the Constitution or the acts of the President in this case are concerned, they are perfectly in accord with the principles of democracy to the extent that they can be exercised in an emergency. After all it is not necessarily a good act for the President to intervene except when there tare strong circumstances which require it and therefore when the President found that the Constitution would not be worked, he had to act. You are aware of the history of the PEPSU Government or the Ministry during the last 10 or 12 months. We know how difficulties arose. We also know how the Ministry could not carry on the work even though there was need for immediate and urgent reforms. The Government could not carry on and Members could very easily cross the floor and the moment a Member crossed the floor he became a Minister. Unfortunately a number of things have happened which are ifatal to the exercise of democracy. So, under the circums lances, when the President found that he hnd to assume power in the larger interests of India as a whole and in the interest of good and efficient Government of PEPSU, then naturally, he had to take power and all that has been done has already been approved of by the Parliament by a special Resolution.

Therefore, it would be entirely wrong to say that here we are acting on the negation of all acts of democracy. Let us make it very clear that the Acts that are being undertaken, the legislation that is placed before you are all in fulfilment of the principles of democracy for which we are all working.

Then a number of suggestions were made so far as the Adviser's regime is concerned.

SHRI RAJAGOPAL NAIDU: Sir, can delegation be conditional? That is the simple point.

SHRI B. N. DATAR: I am coming to that point now. So far as I question is concerned, there is no question of conditional delegation at all in this case. It is open to the President subject to the final authority of Parliament, to act as he chooses, to consult such persons as he likes. Here in this case what has been done is to set up a Parliamentary Committee and that I submit is towards the fulfilment of the democratic Constitution.

Sir, you will find that when this Bill was under discussion in the other House a motion was made by the Members of the other side, I mean the Members of the Opposition. In fact it was a Member of the Communist Party who made it and that motion, with certain modifications, has been accepted by Government. It is not a case of placing certain restrictions on the President. It is a question of making the Act of the President as near to democracy and as far away from personal rule as possible, consistent with his obligations. Therefore, I submit that so far as the point raised by my hon. friend Shri Rajagopal Naidu is concerned, it has no substance in it.

SHRI RAJAGOPAL NAIDU: But whatever you do must be constitutional.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI B. N. DATAR: Then I would like to deal briefly with the other points raised. It was contended that the Adviser's regime was an autocratic regime. On the one hand we are told that the Adviser's regime should be brought to an end as early as possible. On the other hand we are also asked to bring about a number of reforms. In such cases we have to find out the exact scope, functions and limits of the Adviser's regime. Now, an adviser's regime under the present democratic set-up or constitution is not exactly a care-taker government. A caretaker government is one which should take care of the thing for the time being, it has to maintain the *status quo* and it has to quit as early as possible. My submission is that in this particular case the Adviser's Regime is higher than a care-taker government but naturally it is lower than a popular government or a popular ministry. The carrying out of the usual duties is not enough. There are various things to be done, in the conditions in which such a regime has to be resorted to. You know, Sir, that the state of things there was far from satisfactory when we had to resort to this Adviser's Regime. The Adviser has to restore law and order. He has also to carry out the whole administration in such a way that the confidence of the people is restored in the administration of the Government. And then the Adviser has also to act in such a way that the efficiency of the administration is restored and impartiality is always maintained. There are also certain problems of a very urgent nature. When the Rarewala Government was in power, they had—or even before that they had—certain measures of a very urgent nature considered, so far as the agrarian reforms were concerned. As the House is aware, a committee or rather some committees were appointed. The reports of the committees had been received and it was the duty of that Ministry to have given effect to the recommendations made therein—the Venkatachari Committee—as early as possible. But on

[Shri B. N. Datar.] account of party feuds and on account of the controversies that arose, that ministry could not work in the way it ought to have worked. And then they had recourse to certain pieces of legislation which could not be accepted as satisfactory, by the President: under the President's Rule. Only one Bill was passed through the Assembly and when it came here as it has to under the Constitution, it was found that it contained a number of highly objectionable provisions!. And then ensued long discussions and that measure could not be carried out at all.

Similarly also, there were two or three Bills which were ready but which were not so as they were introduced in the PEPSU Legislature. There were also certain measures in respect of which Bills ought to have been drafted but were not drafted at all. I am pointing out all these circumstances to show that in this particular case the functions of an Administrator are greater and, therefore, certain recourse to legislative measures is to be taken absolutely immediately. Sir, five Bills have been pointed out; there are certain others also.

Now, so far as the administrative side was concerned, two Central Bills had not been introduced or made applicable to this Part B State. Their need was felt extremely and has been felt by the Administrator and, therefore, Bills have to be passed immediately so far as these two Bills are concerned. Then there are three Bills which are delayed and they deal with agrarian reforms which are, I may point out, of an entirely acceptable character so far as all the parties are concerned. Those Bills have to be carried through and the reforms given effect to as early as possible. Then, there are certain other Bills which have to be drafted and which have also to be made into law as early as possible.

For all these local acts,—however valuable they might be, however

urgent they might be, is it possible for Parliament to go into these cases in detail? That is the reason, Sir, why under article 357 it has been laid down that Parliament might delegate its legislative authority to the President. It was considered absolutely essential that the time of the two Houses should not be taken with these local problems. Two correctives have been suggested for the powers proposed to be given to the President to legislate. We have got two safeguards or correctives: one is that before the President's Act is passed and promulgated, the President has to consult a Parliamentary Committee consisting of five Members from this House and ten Members from the other House. That itself constitutes a great safeguard. That itself is a measure of great and popular kind. After the Bill has been scrutinised and the President frames the Act, the Act is published and is laid on the Table of the House. It is open to the two Houses together to pass resolutions suggesting certain modifications and the moment such a resolution has been passed, those modifications are binding on the President. Therefore, Sir, you will find that in these cases the power to legislate has been absolutely essential so far as the President is concerned and, therefore., by this Bill powers are being given to the President under article 357(1).

Then, I would not deal with the other numerous points to which a reference was made.

PRINCIPAL DEVAPRASAD GHOSH (West Bengal): When are the General Elections coming on?

SHRI B. N. DATAR: That is exactly what I am coming to and my hon. friend need not anticipate.

Now, Sir so far as these two or three points are concerned, they are not directly germane to the Bill that we have before us. All the same on behalf of the Government of India

I am prepared to give such information as it is useful and as will satisfy this House as much as possible.

So far as the question of general elections is concerned, the House is aware, Sir, that the position there is highly peculiar. The House consists of 60 Members there, if my memory is correct and then a very large number of the legislators have already been unseated and with regard to others, cases are pending before the Election Tribunal and under these circumstances, apart from the question of legality, the question of propriety has also to be considered. Assuming for the sake of argument that we should hold bye-elections, now the holding of the bye-election itself would be so stupendous that it would almost amount to the holding of general elections. I would assure this House that the general elections would be held as early as possible.

AN HON. MEMBER: Hear, hear.

SHRI B. N. DATAR: A friend took objection to the use of "as early as possible", and so I am going to give an indication of a fair measure of time within which this will be done. Now so far as the present advice to the State Ministry is concerned, we are told that the question of delimitation in PEPSU has been undertaken or will be immediately undertaken by the Delimitation Committee and their recommendations will be received by the States Ministry by the 15th August 1953. Then according to the usual rules, Sir, we shall have to call for objections and after the objections are received and after the report has been finalised then naturally we have to undertake certain preliminary steps by way of preparation of the electoral roll and preparation of other materials for holding elections in as good an atmosphere as possible and I would also assure this House that all attempts are being made to hold the elections during this year and this before December 1953 unless something exceptional is going to happen.

PRINCIPAL DEVAPRASAD GHOSH. May I interrupt the hon. Minister and ask—Is it possible to hold the election on the present electoral rolls and with the present constituencies? Is there any bar?

SHRI B. N. DATAR: I have answered that question. This larger question of delimitation has been undertaken. I understand my friend suggests that we should hold general elections on the basis of the present constituencies. Now when the constituencies themselves have undergone certain changes, when we have got certain census figures which make certain departures from the position till now accepted by us, then would it or would it not be better to wait for about 4 or 5 months .....

MR. DEPUTY CHAIRMAN: It is imperative under the Constitution.

SHRI B. N. DATAR: That is what I wanted to know from the States Ministry and I am thankful to you, Sir, for this information that as per our Constitution we cannot hold general elections at once.

I again revert to the point that general elections would be held as early as possible because something was said by my friend Shri Gupta .....

SHRI B. RATH (Orissa): When the Minister assures about the general elections being held by the end of this year, does he forget the 1950 Peoples Representation Act about the preparation of the electoral rules and the time that is taken.

SHRI B. N. DATAR: Yes, yes. all these things will be taken into consideration.

Then, Sir, I may point out to this House that 11 seats have been already declared vacant by the election tribunal. Also 13 election petitions were pending at the time the President's rule was promulgated. Therefore I would only assure this House that the elections would be held as early as possible.

[Shri B. N. Datar.] as possible. Government have no desire to continue for an indefinite period the Adviser's rule. They want to bring it to an end as early as possible and to see that general elections are held in an entirely free atmosphere. I would assure this House also that so far as the administration is concerned, though we have a party Government in the sense that we have party ministries, still, so far as the administration is concerned, I would convey this assurance to this House that the administration is always and would always be non-party and therefore the Adviser's regime would so work that it introduces efficiency and carries on the general elections in as impartial and efficient a manner as possible. Therefore Members need have no misgivings at all.

AN HON. MEMBER: Hear, hear.

SHRI B. N. DATAR: I may point out only one circumstance to my friend Mr. B. Gupta. His friends were always, before the last general elections were held, complaining that the Congress was manipulating for power and that they were holding the elections in a way which would be far from satisfactory and which according to him would almost be dishonest. But all those charges have entirely

' ' found to be wrong and it is a matter of pride to India that the general elections on such a large scale were held without violence or without any trouble and in an atmosphere .....

SHRI B. GUPTA: You had your elections while people like me were in jail.

SHRI B. N. DATAR: .....of complete impartiality. If unfortunately my learned friend was in jail, I am sorry, but there were other learned friends of the Opposition and they themselves have acknowledged with gratitude the *fact* that the general elections were held, in spite of the stupendous scale, in an absolutely impartial manner. And the whole thing has been a matter of wonder to the world. I would therefore assure the House that elections

in PEPSU also would be held *on* the same principles. The elections will be held in an independent atmosphere and will be absolutely impartial. With these words, I request that we accept this Bill.

MR. DEPUTY CHAIRMAN: That question is:

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

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take clause by clause consideration.

Clause 2 was added to the Bill.

MR. DEPUTY CHAIRMAN: Clause 3 — Mr. Rath, are you moving your amendments?

SHRI B. RATH: Yes, Sir.

MR. DEPUTY CHAIRMAN: I will read the amendments to the House.

SHRI B. RATH: I have to say something on them, Sir.

MR. DEPUTY CHAIRMAN: After I read the amendments. Amendment moved:

"1. That in clause 3 of the Bill, *to* sub-clause (1) the following proviso be added, namely:—

'Provided that the President shall not legislate on such matters involving payment of compensation, levy or enhancement or modification of rates, rents or taxes or imposing restrictions *on* the right of association or imposing restriction or restrictions amounting to prohibition of cultural activity by any body or group of persons,'"

"2. That in the proviso to subclause (2) of clause 3 of the Bill—

(i) the words 'except where it is not practicable so to do' be deleted, and

(ii) after the word 'Speaker' and after the word 'Chairman' the following words be inserted, namely:-

'in consultation with the leaders of political parties and groups as the case may be.' "

The amendments and the clause are under discussion.

SHRI B. RATH: Sir, in moving the amendments, I have three things in view. Firstly, although the Constitution empowers the House to delegate its power and although the Constitution empowers under article 356 Government to take over the administration of a State in cases of failure of State machinery, but still the articles of the Constitution are not wide enough and as such it imposes a restriction even when the power is taken over by the Parliament. It restricts that the Proclamation according to 356 shall not be for a period of more than six months. It also further restricts that no legislation undertaken by Parliament can be in effect for a period of more than one year. These provisions simply show that whatever legislations are undertaken either by Parliament or by the President when authorised by Parliament will be of such nature that they will not be of far-reaching consequences. Now, Sir, while putting forth these amendments. I say that this Parliament can interfere and we are interfering today because the administration that was there was found to be incompetent. But along with that all possible attempts should have been made to see that the elections there are held quickly and the election machinery is run at a quicker pace than the rate at which it is being done now. For the interim period. Government should have seen that only such legislations are undertaken as are needed to maintain the *status*

41 C. S. D.

*quo* in that State. But I find, Sir, that all the Bills that have been mentioned by the hon. the Home Minister are of far-reaching consequences. I would have accepted the Registration if the hon. Minister had made some provision of a temporary nature in order to give relief to the poor peasants in the State by way of stopping the collection of arrears of rent or by way of postponement of the oppression that is being practised by the Biswedars and the richer sections of the community in that State on the poor people. But, instead, what is the Government going to do? It is to bring in some land reform measures, about which also we do not know much. We know there was a Bill which proposed that a certain amount of compensation should be given to the Biswedars. That Bill was discussed, and the Congress people there tried to be very progressive: they said, it must be one pice per rupee. And the Rarewala Ministry wanted to outwit the Congress by saying that it should be one pie per rupee.

SHRI KARTAR SINGH: The Communist Party also said that it should be one pie per rupee. All three parties joined.

SHRI B. RATH: We accepted one pie per rupee. But what happened? Did the President pass such a legislation? No. Now the legislation is going to be brought forward by the Home Ministry. It will be a President's Act, under which I believe the President is not going to accept the decision of the Congress Party to pay one pice per rupee, nor is he going to provide that no compensation shall be given for abolition of Biswedari rights. That means, he is going to.....

MR. DEPUTY CHAIRMAN: The hon. Member's comments are premature. He should wait till the legislation comes before Parliament.

PROF. G. RANGA (Madras): The proposal of one-pice compensation !? certainly irresponsible

SHRI B. RATH: Again, about some Dramatic Bill which has been mentioned, an Ordinance was brought, but that Ordinance had to be kept in abeyance by an order of the State Government because there was so much agitation against it. Taking advantage of the position, they are going to re-vive that Ordinance and to make it into an Act. Certain measures are going to be taken in the name of the President by the Home Ministry before the elections which will have far-reaching consequences. The Bills are not there. The hon. Minister gave the names of five Bills. He should have placed these Bills and we could have seen whether such Bills are necessary or not and some comments would have been made.

About the other amendment, all that I have to say is that the Advisory Committee is being set up, and since there will be only 15 members in the Advisory Committee, it is but natural that the President should consult this Advisory Committee whenever any legislation comes up. Legislation is not a matter of a few hours. It is on the anvil for some time, and they deliberate over it, and then they draft the Bill and then it is enacted. There is sufficient time for the Ministry to consult this body. I do not want any exceptions to this general rule. That is why I move my second amendment.

Thirdly our Law Minister wanted to be very legal in his temperament and wanted to uphold the prestige of the Chair in this House as well as in the other House. When my third amendment came, we anticipated objection on the ground that it was practically a reflection on the Chair.

MR. DEPUTY CHAIRMAN: There is no question of anticipation.

SHRI B. RATH: I submit that while the Speaker or the Chairman has the right to nominate, in order to help him to arrive at a correct decision, leaders of the different parties should be consulted as to who should be nominated to this advisory body.

That is why I have moved my amendment and the Home Minister who is a Law Court practitioner should not have tried to twist the language merely to see something which is never the intention of this amendment.

THE DEPUTY MINISTER FOR HOME AFFAIRS (SHRI B. N. DATAR): Sir, I oppose all these amendments. If we were to accept the first proviso, it practically places restrictions on the powers of the President. Secondly, I am not going to enter into the question of the merits of the case, but so far as compensation is concerned, that is a matter of all-India policy and therefore it is open to the Parliament to come to a proper policy. In our Constitution we have got article 31 and according to that article if compensation has to be given, it has to be given at a reasonable figure and for the information of my friends I would point out that what the PEPSU Assembly had done was that they proposed compensation in such a way that the total compensation payable in respect of say 36,000 acres came to about 40 rupees. So that was the princely compensation that was proposed by a Legislature which happily is not now in vogue. *(Interruption).*

Now so far as the two Bills were concerned—those two Acts, namely the Dramatic Performances Act and the other Act—they have been prevailing in India since 1872 and in the very Part A State, namely Orissa to which my hon. friend belongs, this very Act is still in vogue and therefore it would be extremely wrong not to restrict it.

So far as the second provision is concerned, I may point out that the House or the Houses are not always in session and therefore the words have been put in "except where it is not practicable so to do". And the States Ministry has already given an assurance that as far as possible and to the utmost lengths, we shall place all the Bills before the Parliamentary Committee.

Then, so far as the last amendment is concerned, it is really a reflection upon the Speaker and the Chairman.

SHRI B. RATH: Question.

SHRI B. N. DATAR: They will always take into account the views of the different sections in the House and they will nominate Members properly. Therefore, the Government will not accept any of these amendments.

MR. DEPUTY CHAIRMAN: The question is:

"That in clause 3 of the Bill, to sub-clause (1) the following proviso be added, namely:—

'Provided that the President shall not legislate on such matters involving payment of compensation, levy or enhancement or modification of rates, rents or taxes or imposing restrictions on the right of association or imposing restriction or restrictions amounting to prohibition of cultural activity by any body or group of persons.'

The motion was negatived.

MR. DEPUTY CHAIRMAN: Now 1 shall put to vote the next amendment.

The question is:

"That in the proviso to sub-clause (2) of clause 3 of the Bill—

(i) the words 'except where it is not practicable so to do' be deleted; and

(ii) after the word 'Speaker' and after the word 'Chairman' the following words be inserted, name" ly:—

'in consultation with the leaders of political parties and groups ~z the case may be.' "

The motion was negatived.

MR. DEPUTY CHAIRMAN: 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 Title and the Enacting Formula were added to the Bill.

SHRI B. N. DATAR. Sir, I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN. The question is:

"That the Bill be passed."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 8-15 A.M tomorrow.

The Council then adjourned till a quarter past eight of the clock on Wednesday, the 13th May 1953.