

✓ 12.10 hrs.

✓ **HOUSE OF THE PEOPLE (EXTENSION OF DURATION) AMENDMENT BILL\***✓ **THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE):** I beg to move:

✓ "That leave be granted to introduce a Bill to provide for the further extension of the duration of the present House of the People".

✓ **SHRI SEZHIYAN (Kumbakonam):** Mr. Speaker, Sir, I rise to strongly oppose the introduction of this Bill to extend the life of the House of the People. The basis for the functioning of the Parliamentary democracy is that the Members of the ruling party as well as other Members of the House should go before the people once within a limited period to take their verdict on their past performance and the future programmes. Without such verdict of the people, this becomes, whatever name that is given, despotism. Without the consent of the people, without responding to the people's wishes, if we allow ourselves to go on prolonging the life of the House of the People every time, it becomes the very negation of the Constitution and of all that this Parliament has been created for. They have been saying that Parliament is supreme but the Parliament is not supreme enough to make membership a permanent thing. We have been calling ourselves Members of Parliament but probably, in course of time, we may be called, "Members permanent" just like the life peers in the UK, we will become life members. We will go up to the ridiculous end, if we allow the present bill to be passed, and give

ourselves an unlimited number of extensions, an unlimited period for our memberships here.

There are two checks that we can think of in a parliamentary democracy viz. the popular will and the verdict of the judiciary. The present Emergency provisions have been so amended that you take away the purview of the courts. At least why don't you subject yourself to the purview of the people; and go to the people for a verdict on your past performance and your future programmes? To postpone the elections is to deny the people of the only opportunity to have a check on this government. When you remove the checks and balances, either from the people or from any other sources, there is nothing to deter this government and this Parliament to perpetuate themselves for all time to come. When you claim supremacy of Parliament, I take it that you claim it to do some good to the people, not to perpetuate yourselves, and to make this House a permanent jeopardy to the functioning of Parliament any democracy.

I feel that in a parliamentary democracy, the Government should function under restraints exercised by the people. The Government should be responsible and responsive to the people. The people's wishes, expressed either in public forums or in the Press or in the public polls—whatever that may be—should be available to the representatives of the government, to correct themselves whenever there is an aberration. When that channel is closed, the only channel available is to go back to the people and ask for their verdict and opinion. For this purpose, the only method available is election. That itself is sought to be postponed. I do not know for how

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\*Published in Gazette of India Extraordinary, Part II, section 2, dated 3-11-1976.

many years they are going to postpone it. Next year they can come again. It has been mentioned in the Statement of Objects and Reasons in a cryptic way:

"... and the fact that the conditions which led to the extension of the duration of the present House of the People by one year also continue to prevail...."

The same dictum can be put again and again; and they can present a carbon copy of this included in the future legislations; and thus negate the very essence of democracy. Unless we are free to criticise without fear and to change the government without violence, no parliamentary democracy can function. In regard to the first part, you have been completely successful in nullifying it. In regard to the second, you are trying to seek to achieve it by postponing the elections. On this basis, therefore, I feel that this bill will go down as a black bill on the functioning of parliamentary democracy in the country. On the merits of the bill, I am totally opposed to it. It is a negation. The idea is not to see who wins. Probably you may continue to win and I may lose. Who wins is not the criterion. The point is whether people will have an opportunity to decide one way or the other. Otherwise no parliamentary democracy can function. You can give it any other name, but not parliamentary democracy.

Regarding the constitutionality, this bill has not been drafted as per the provisions of the Constitution. Of course there is a provision in the Constitution for the extension of the life of Parliament in times of Emergency. Article 83 (2) reads thus:

"The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the House;

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate."

The main core of this is: "not exceeding one year at a time". This was done when they brought in the original bill in February 1976. Under it they took extension by one year. What are they doing now? They are not bringing another Bill. This is not a second Bill, but a Bill amending the earlier Act in which they want to change the words "one year" into "two years", which is against the express provision of the Constitution viz., article 83(2) which says:

"Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by law for a period not exceeding one year...."

Therefore, the way in which they are trying to do this is not only improper and immoral, but also illegal if they put it in the present form.

Basu's Commentary on article 83 at page 505 of Vol. II says the same thing:

- "(1) In normal times Parliament shall have no power to extend its own life,
- (2) Each Act of extension shall not provide for more than one year of extension."

So, instead of amending the earlier Act, if they want, they can bring another Bill which will be in consonance with article 83(2). My wish is that you allow the people to decide, but if you are going to insist on your immoral act, then at least be constitutional! You can bring a second Bill of extension, but not amend the earlier Act.

[Shri Sezhiyan]

Then, the Statement of Objects and Reasons says:

"The duration of the present House of the People which was extended for a period of one year by the House of the People (Extension of Duration) Act, 1976, is due to expire on the 18th March, 1977."

I do not know from where they got this date 18th March, because that is not correct. Article 83(2) says: "five years from the date appointed for its first meeting". The first meeting is not the date on which Members assemble to take oath, but the date on which the President addresses the two Houses of Parliament. In 1971, the Members met on 19th March, 1971 but for fixing the date, we have to see article 87(1) which says:

"At the commencement of the first session after each general election to the House of the People and at the commencement of the first session of each year the President shall address both House of Parliament assembled together and inform Parliament of the causes of its summons."

Therefore, Parliament really commences only when the President addresses it, not on the date when Members take oath. I can quote Basu's Commentary on this also.

✓ SHRI S. A. SHAMIM (Srinagar): What difference does it make if it is two days more or less?

✓ SHRI SEZHIYAN: That is the way in which Government is functioning. They do not know the provisions of the Constitution.

✓ SHRI S. A. SHAMIM: They are not functioning.

✓ SHRI SEZHIYAN: On page 505, it says:

"The first meeting of the House takes place on the day on which the opening address under Article 86(a)

is delivered and not on any earlier day on which Members were summoned to take their oath for the session is not open and no public business can be transacted in the House until the opening address is made."

Then there is a footnote also referring to a judgment of Orissa High Court in Saradhkar Suparkar vs. Speaker of Orissa Legislative Assembly (AIR 1952, Orissa 234).

You are trying in a hurry to bring this kind of Bill. You are more keen to amend the Constitution, but you are not reading the provisions of the Constitution and digesting them. History is being made in a very wrong way by introducing half-baked and improper legislations. This is the most improper Bill that can be passed by this Parliament. We are extending its life through extraordinary measures. The extraordinary powers available should have been used for a better purpose and for a better occasion.

✓ SHRI SAMAR MUKHERJEE (Howrah): I stand to oppose this Bill because the apprehension has come true. There is a talk that the House will be extended for another one year. There were also talks that it may be extended up to 9 years or 10 years. Now the people have started joking why it should not be for life-long and why the Members should not be given the right even to nominate their inheritors. So, a great vested interest has developed. We have already assured the ex-M.Ps. that they will enjoy their pension while they are alive.

Now, the present Members, after their retirement, are guaranteed pension. So, there is no need of thinking of the people outside. It is a total violation of the principle of democracy. When the situation is changing rapidly, there is an urgency to consult the people, to seek their opinion and verdict. Democracy means that the people

should be the real sovereign to decide the character of the Government and the basic policies of the country. But here in the name of sovereignty of the Parliament, the party in majority, though representing the minority of the voters, try to stabilise their privileged position by taking advantage of the emergency. Why is it necessary to consult the people? Why is there the principle of voting after 4 or 5 years in all the democracies? It is due to the fact that the people have got the right to judge their performance during the period for which they got mandate of the people.

Now, this Parliament which has already lost the mandate, is using their authority to extend the term of the House by one year and to stabilise their position. This is total violation of the principle of democracy and subversion of the right of the sovereignty of the people. The statement of Objects and Reasons says that having regard to the continued operation of the two proclamations of emergency and the fact that the conditions which led to the extension of the duration of the present House of the people by one year also continue to prevail, it is felt that it will not be in the larger interests of the country to have general elections to the House before its present term expires. That means that not only are you extending the life of the House, but you are refusing to go to the people—because, in the meantime, the people have had experience of your promises and your performance for six years. You are afraid to go to them to seek their verdict. It is quite clear from the Objects and Reasons that you are not prepared to revoke the emergency and you want to stabilise it. You have created a situation in the country wherein emergency becomes the normal functioning of life and where extraordinary powers are given under MISA and DIR etc., where the authority of the court is subverted and where the Executive and the Bureaucracy is strengthened to the

utmost point. This is what has become the 'normal condition' in the country.

Just now, during the Calling Attention motion Shri Ramavtar Shastri told the Finance Minister 'you will have to face confrontation because discontent is growing among the employees'. And what is Mr. Subramaniam's reply? He refused to face these employees and asked the Labour Leaders to convince the employees so that they extend their support to the Government. So, you fear facing the employees. During the emergency, what is happening in the industrial belt? Factory after factory is being closed and there have been lay-offs, lock-outs and heavy work-loads, and repression is going on in the industrial belt.

There is impounding of wages...

✓ MR. SPEAKER: I don't think you need go into all that.

✓ SHRI SAMAR MUKHERJEE: I was just explaining how the emergency is being used. Now, I want a reply from the Government to this question. Do you think that the thousands of workers who are without jobs are going to vote in favour of the ruling party?

✓ MR. SPEAKER: What you are saying may be important or urgent, but the scope of this is limited.

✓ SHRI SAMAR MUKHERJEE: All right, it can be dealt with tomorrow.

Now, I have only one more thing to say. A news item appeared in the month of August that Mr. K. K. Birla who returned from Europe met the Press and made a remark that the multi-national corporations which are being invited to invest in India are convinced that the climate in India today is most favourable for the investment of big business money because the trade-union movement has been

[Shri Samār Mukherjee]

completely crushed and the entire opposition in Parliament has been suppressed. So, they will get profits unhindered as this Government is giving concession after concession to the monopolists. That is why Mr. Birla has said that the emergency has created this situation:

"In a get-together of business luminaries Shri Krishna Kumar Birla waxed eloquent about the gains of emergency. He has invited the British big business to come and see for themselves so that the misconceptions existing in certain circles are removed."

So, it is quite clear at whose behest this emergency is being maintained and being stabilised. So, by this Bill the monopolies are being strengthened and democracy is butchered at the altar of the interests of big monopolists. That is why the suppression of common man is absolutely essential and that is why the life of this Parliament is being extended and I fear it will be extended in future also...

✓ SHRI S. A. SHAMIM (Srinagar): Let us hope so.

✓ SHRI SAMAR MUKHERJEE: So, in the interests of democracy I request this government not to introduce this Bill and withdraw it and go and face the masses. Have courage, go and face the masses and seek their verdict. I read the Prime Minister saying publicly that if they go to the electorate, they will have a sweeping victory. The other day Mr. Gokhale also said that they will have a sweeping victory. Then why are you afraid to go and get the mandate and come here with a much bigger majority? Then, only you can claim that you believe in democracy. Otherwise, this is sheer hypocrisy and a mockery and butchery of democracy.

✓ THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): I have had occasion to speak about this, though briefly, when I made a statement in this House

last week, speaking about the business of the Government, to bring a Bill for the extension of the period of the House in this session of Parliament. As you have rightly pointed out just now, it is better to be within limits permissible so far as the present stage of introduction is concerned. But even then excepting some so-called constitutional points to which my friend, Mr. Sezhiyan, referred, no constitutional point was made by anyone else. But I cannot help being amused and I am sure the whole country will be amused when these advocates of democracy who have shown their complete contempt for democracy whenever they had all the freedoms seek to champion the cause of democracy. Sometimes we are reminded that this is somewhat similar to as they say, 'Satan quoting the Bible.' I am not saying anything about my friend. It is a way of putting it. He is a very good man. What I am saying is that when people who have demonstrated by their actions that they have had no faith in democracy and every opportunity that came their way was used by them to finish democracy in this country, are to-day talking so loudly about democracy and telling us what democracy should be. In a way, of course, it is part of the freedom of this country that they should be allowed to say so and they are being allowed to say so. But these are matters about which I am quite sure many others will speak as indeed Mr. Indrajit Gupta spoke the other day as he was entitled to and he will speak tomorrow also. So I will reserve this question for a fuller and appropriate answer when that stage comes.

Therefore, please permit me to come to the real point which can be raised at this stage and that is about the constitutional invalidity as alleged of this Bill. But my friend very conveniently ignored to refer to the earlier part of clause 2 of the Bill itself, while he read all the remaining clauses—which says that the duration of the present House of the people which was extended for a period of one year by the House of the People (Extension of

Duration) Act, 1976, is hereby extended for a further period of one year. Then in view of the fact that there is in force an existing Act passed last year and in view of the present Bill which is an extension of that Act, that Act has to remain until a new Act takes its place. All that you do is, by legislative device, not in substance extending the period at a time for more than one year; and it is made clear that it is at a time only for a period of one year. He was right in pointing out in the proviso such a limitation that Parliament cannot extend it for more than one year at a time. That is exactly what is being done so far as the present Bill is concerned. So, I submit that there is no question of any Constitutional invalidity on that ground.

I was trying to understand his second point. I think he meant—why 18th March? He referred to Article 87. Article 87 is not relevant for this purpose at all. The relevant Article is 83(2). It is stated therein:

"The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the House."

Therefore, it is really the date of the first meeting from which the period of five years is to be extended. That is why I mentioned 18th March.

\*Moved with the recommendation of the President.

It is true there is another obligation that at the commencement of each Session the President shall address the House.

Therefore, there is nothing wrong in the provision in the Bill. It is in terms of 83(2) and also in terms of the proviso which enables Parliament to extend the period.

MR. SPEAKER: The question is:

✓ "That leave be granted to introduce a Bill to provide for the further extension of the duration of the present House of the People."

✓ The motion was adopted.

SHRI H. R. GOKHALE: I introduce the Bill.

12.37 hrs.

✓ SUPPLEMENTARY DEMAND\* FOR GRANT (RAILWAYS) 1976-77 AND DEMANDS\* FOR EXCESS GRANTS (RAILWAYS), 1974-75 ✓

MR. SPEAKER: The House will now take up discussion and voting on the Supplementary Demand for Grant in respect of the Budget (Railways) for 1976-77.

The House will also take up discussion and voting on the Demands for Excess Grants in respect of the Budget (Railways) for 1974-75.

The time allotted is 2 hours.

Motion moved:

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