

[Shri Koya]

'urban area' in which Panchayats having a population of 10,000 and above are included, as far as my State is concerned, the whole State will perhaps be covered by that.

Another point that I want to bring to the notice of the hon. Finance Minister, is about some of the difficulties faced by the people who are coming from Burma, because of certain restrictions by the Finance Ministry. They were allowed in the past to bring some Indian currency. People were coming via Calcutta and they used to spend the money to meet their travelling expenses from Calcutta, to Madras and other places.

Mr. Deputy-Speaker: The hon. Member may continue his speech tomorrow. The House has to take up Private Members' business.

15.30 hrs.

CRIMINAL LAW AMENDMENT
BILL* (by Shrimati Lakshmikanthamma)

Shrimati Lakshmikanthamma (Khammam): I beg to move for leave to introduce a Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898."

The motion was adopted.

Shrimati Lakshmikanthamma: I introduce the Bill.

15.31 hrs.

CONSTITUTION (AMENDMENT)
BILL*

(Amendment of article 368 by

Shri Hari Vishnu Kamath)

Shri Hari Vishnu Kamath (Hoshangabad): Mr. Deputy-Speaker, I beg to move for leave to introduce a Bill further to amend the Constitution of India.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

Shri Hari Vishnu Kamath: I introduce the Bill.

15.32 hrs.

CONSTITUTION (AMENDMENT)
BILL—contd.

(Insertion of new article 155A and amendment of article 167 by

Shri Tika Ram Paliwal)

Mr. Deputy-Speaker: The House will now take up the further consideration of the following motion moved by Shri Tika Ram Paliwal on the 5th April, 1963:

"That the Bill further to amend the Constitution of India be taken into consideration."

Shri Hajarnavis.

Shri Hari Vishnu Kamath (Hoshangabad): The discussion is over and the Minister is to reply?

Mr. Deputy-Speaker: Only 33 minutes are left. He wanted to have some time.

Shri Hari Vishnu Kamath: Half an hour?

The Minister of State in the Ministry of Home Affairs (Shri Hajarnavis): Mr. Deputy-Speaker, I acknowledge the deep debt of gratitude which I owe to the hon. Mover of this Bill, for, the discussion of this Bill has enabled us to examine certain fundamental assumptions and premises which form the basis of our constitutional structure. I will also express my gratitude and appreciation for the wide support which I have received in support of the view that I am going to express on behalf of the Government.

As I have already said, it is often necessary to go back to the fundamentals. For, where a doctrine develops and scaffolding is piled on scaffolding and we are far removed from the place from where we started, it often is a distinct advantage if we go back to the fundamentals from which we started and examine them and find out whether they are still valid, find out whether the structure on which the whole scaffolding rests is still safe, and is still.....

Shri Hari Vishnu Kamath: Foundation itself.

Shri Hajarnavis: I would not call the structure at the bottom of the scaffolding the foundation.

....still secure. That must be examined. Often coming back to the fundamentals re-vitalises the deductions which we derive from the fundamentals.

What, then, are the assumptions of the Constitution? I would suggest for the consideration of the House that there are four pillars of the Constitution, four cardinal principles on which the Constitution rests. First, the common sovereignty of India; second, responsibility of the Government of

India to protect this country from external aggression and grave internal disturbance; third, responsibility of the executive to the legislature both at the Centre and at the States; and fourth, rule of law. Having given the best consideration and having listened carefully and attentively to all the arguments which fell from the hon. the Mover of this Bill, I must say, I regret, to say, that his Bill violates every single principle which I regard as vital to our Constitution.

Before I come to the Bill which is very short—though it is short, it has very wide repercussions—I will start with the provisions of the Constitution which are likely to be affected if the amendment of the hon. the Mover is accepted. First of all, we have division of both legislative power and executive power between the Centre and the States. Enumeration of the powers is given in article 246 of the Constitution. Whereas certain powers are said to be contained in the Union List and the others in the State List, the remaining are in the Concurrent List. From that division we go to article 73 of the Constitution which says that the executive power of the Centre is coterminous with legislative authority. If we consult article 162, we find that the executive power of the State extends to the subjects which are committed to the legislative competence of the State legislature and secondly, it also extends to subjects under the Concurrent List which power itself is subject to the law made by Parliament in that behalf. That is to say, if nothing is known, if nothing is expressed, then, the power remains vested in the executive at the State. Otherwise, Parliament may withdraw that power and vest it within itself. That is the scheme. That scheme is intended to be disturbed by this Bill.

Shri Hari Vishnu Kamath: May I ask how Parliament will withdraw without amending the Constitution?

Shri Hajarnavis: I shall not be interrupted.

Shri Hari Vishnu Kamath: It is not interruption. You should clarify yourself.

Shri Hajarnavis: I believe the hon. Member is provided with a copy of the Constitution. He may read it.

Shri Hari Vishnu Kamath: Parliament should amend. How can it withdraw? However, go on in your own way.

Shri Hajarnavis: I will certainly go on. What I said was that the executive power of the State in respect of a matter in the Concurrent List, if nothing is known, if nothing is expressed, vests in the State unless Parliament withdraws it. Parliament, if it is vested in the State executive, by an amendment of the ordinary law—it does not require any constitutional amendment whatever—by an ordinary amendment of the law, may re-invest that power in the Central executive. That is article 162.

Then, we come to article 155. A new article 155A is intended to be introduced:

“Having regard to the circumstances obtaining in a State, the President may, along with the warrant appointing a Governor or at any time after the appointment of a Governor, issue an ‘Instrument of Instructions’ to him containing directives in general or specific terms regarding the carrying on of Government and the conduct of Government business in that State.”

I do not think it is excessively precise. All that the President has to do is to issue an Instrument of instructions and write whatever he intends to write, indicate as to what is to be included and what is to be excluded, containing a directive in general or specific terms—it may be perfectly general; no limitation of any kind. After that is done, that Instrument of instruction issues. Clause 2 says:

“Notwithstanding.....

Mr. Deputy-Speaker: Order, order; The hon. Minister must sit down (Shrimati Tarkeshwari Sinha): Not Shri Hajarnavis.

Shri Hajarnavis: “Notwithstanding anything contained in this Constitution, a Governor, whenever he feels it necessary, may act in his discretion and take such steps as he deems proper to give effect to the Directives contained in the ‘Instrument of Instructions’.

That is to say, first of all, unlimited executive power is given to the Governor. Apparently, I assume that this means that the sphere is the same as the sphere of the State executive. That power having been given, he has been further given authority to override the whole of his Government, formed by the elected representatives of the people. Thirdly, that authority he has got to exercise on his own responsibility. He is not responsible to the legislature. If this was not clear, it has been made clear in clause 3:

“The Governor shall be the sole judge as to the scope of the Directives contained in the ‘Instrument of Instructions’.”

Lest it be said that there was any suggestion that this authority with which the Governor is to be endowed is to be exercised under the President or under the authority of the President or subject to the control of the President, the proviso makes clear the extent of his obligation to the President. The proviso reads thus:

“Provided that all cases in which the Governor acts at his discretion shall be reported by him to the President.”

So, only a report has to be made. As to what the President is to do after he receives the report, no one knows.

Then, coming back now to the four propositions which I submitted for the

consideration of the House, the first thing is that here we are constituting an authority which is not responsible either to the State or to the Centre, an absolutely irresponsible authority. I am not the only person who is making that observation. My hon. friend Shri Harish Chandra Mathur has already alluded to it; in a very thoughtful and thought-provoking speech, he has said 'To whom is this Governor going to be responsible?' Therefore, we create a thoroughly irresponsible authority. He owes no allegiance or no responsibility to the Central Legislature and acts independently of it. And then, to the President all that he owes is making of a report, and after the receipt of the report, as I have already said, the President will probably file it in his record and keep it there, and after he considers the report, I believe, if he thinks that the Governor is not acting in a very satisfactory manner, he may get rid of him. That is all probably that can be done.

The assumption in all this is that if there is an elected executive, that is irresponsible, and that is subject to pressures, as I understood the hon. Mover's observations when he moved the Bill for consideration. But this particular individual will be such a paragon of virtues, and he will not be a human being subject to bias, subject to his own inclinations, and he will not be subject to making any mistakes, but he will be so chosen that his administrative action will meet with the approval of everybody. But if it does not meet with the approval of anyone, there is no forum in which his action could be called into account.

I have always understood, and I understand that that is the complaint of the hon. Mover also, that power corrupts. But the further corollary to that is that absolute power corrupts absolutely. So, finding or his observation being, that the power which has been constitutionally entrusted to the elected Ministers may be misused

even though they are responsible to the Legislature and to public criticism, he thinks still that if an irresponsible authority is created, then that power or that authority shall be exercised in a most responsible manner. On what basis and on what logic he bases his deduction, I, for one have not been able to follow. But that is not the lesson of history. We have seen the cases of despotic rulers. The mere fact that there is no check on them, the mere fact that they are not called to account by any elected representative, the mere fact that they have no members of the Assembly whom they ought to please in order to maintain their position, has not enabled them in all cases to do what the people regard as right. It has not met with the approval of any right-minded people at all.

Therefore, his solution that the executive must be relieved of any checks or of any responsibility to an elected legislature in order that the administration may be improved, in my opinion, is based on entirely an erroneous assumption.

Then, secondly, in clause 3, what does he say? Suppose once a decision has been taken by the Council of Ministers; there is provision under article 167 of the Constitution that if the Governor receives the report of any action, any executive action, taken by a Minister, he has the power, of course acting in his discretion, to refer it back to the Council of Ministers, and in the Council of Ministers it will be considered, and such action as the Council of Ministers thinks proper will be taken. Here the suggestion of the hon. Member 'or to submit for reconsideration of the Council any matter in which a decision has been taken by the Council'. He says further that after such consideration or reconsideration as the case may be, with special reference to any points to which the Governor may have referred, the matter shall be resubmitted to the Governor who may give assent or may act in discretion under clause 2 of article 155A or may reserve it

[Shri Hajarnavis]

for a direction from the President. I do not know how it will work. If he has the power under the first clause to act in his discretion, if he himself will be capable of making a decision which will be carried out, when he will himself be able to direct what executive action may be taken in a particular case, I do not know what function the proposed clause (c) of article 167 is intended to perform. For, after all, if he has got the power, if the President has already given him a wide authority to interfere as he likes, I do not know why he should also be invested with a power to seek instructions from the President. I do not see how the two powers can be worked simultaneously, because there is no classification suggested, and there is no indication in the two clauses about the class of cases in which the first authority shall be exercised, and the class of cases in which the second authority shall be exercised.

As I said earlier, the first proposition which I submitted for the consideration of this House is that there ought to be the common sovereignty of India which has been upheld in a judicial pronouncement of a strong Bench of the Supreme Court in a recent case where a claim was set up on behalf of a State that the State was sovereign in respect of a matter which was committed to its charge; the Supreme Court completely negated this proposition and said as follows. I shall read out from the judgment....

Shri Paliwal (Hindaun): Nobody disputes it.

Shri Hajarnavis: All right. If that is so, why has the hon. Mover not made this Governor, this authority whom he intends to create subordinate to the President? Of course, I will agree with him if he says that the answer to that is that he derives authority from the President.

Shri Paliwal: Yes.

Shri Hajarnavis: But that is no answer, because the two things are different; the President cannot have no authority to control how it is exercised. He will not get the authority till the President has given it. But after the President has given it to him, the manner of its exercise....

Shri Paliwal: He has to report every action.

Shri Hajarnavis: I have already said that mere reporting does not mean authority to cancel that action or supersede that action, if the President disagrees with him.

Shri Paliwal: The President can dismiss him.

Shri Hajarnavis: Then, the second proposition that I submitted for the consideration of the House is that it is the Government of India which has to bear overall responsibility for the whole of this territory, to protect it from external aggression and grave internal disturbance. But, subject to that, there shall always be provincial autonomy, and there must be provincial autonomy. I shall not repeat what has fallen from a most respectable Member of this House, Dr. M. S. Aney. He has already stated: 'If you do not like provincial autonomy, if you think that provincial autonomy has not worked well, then, surely, come forward with a straight amending Bill trying to abolish the States altogether'. But this sort of an indirect attempt to interfere with the provincial autonomy when the States exist is an insidious attempt to undermine the fundamentals of the Constitution. If you want to demolish provincial autonomy, say so. But it is obvious that such a proposition will never be entertained. In a country which is so vast as this where we have different languages, it is our experience that with the best will in the world we are not able even to complete the legislative business we contemplate. The other day we heard a

complaint from Shri Kamath that we had not come forward with the legislative programme on which we had set our heart. That is because we are pressed for time.

Shri Hari Vishnu Kamath: It is not a question of time. It is Government's very bad planning of business. Let him not revert to that. The Minister of Parliamentary Affairs has already replied to that.

Shri Hajarnavis: I have my own views and I am entitled to them. The point I am making is that our own responsibilities are so great that we have to sit long hours everyday. Though we sit for the major part of the year, we find it difficult to pay adequate attention to each measure before the House and to finish our business in time. If in addition we are going to be entrusted with the responsibilities which each State legislature discharges, then what business Parliament can transact can better be imagined than described. I do not think anyone who is serious about working the democratic institutions effectively would dare to suggest that the matters which are now being discussed and disposed of by State legislatures should come up here. For instance, how many members should constitute a particular municipal committee? Is it a matter which can be discussed here in this House?

The integration of this country is a fact which has existed through the centuries. It will persist. Though empires have come and empires have gone, this country has remained.

Shri Prabhat Kar (Hooghly): It will remain.

Shri Hajarnavis: It will remain.

Shri Paliwal: That way every country has remained.

Shri Hajarnavis: It will certainly remain. As industrial integration progresses, we are coming nearer and nearer. When an electric grid of one

part becomes connected with a grid from the other part, there is nothing which can put this country asunder. That is bound to happen.

If that is so, the subjects which are given to the State legislatures are subjects which can only be disposed of in the best possible manner locally. Take, for instance, education. Problems arise in connection with primary or secondary education in each part of India. Is it seriously suggested by the hon. Mover that this House should address itself to those questions, whatever differences of opinion he may have with the local legislatures?

Then I come to the third thing which I suggested. Here I am grateful to Dr. M. S. Aney because he, within his very short speech, put this point with great force, namely, that this Bill is a revolt against the concept of democracy. If you make the Governor an irresponsible authority, you have expressed a distrust in the democratic processes. So far as I am concerned, so far as this Government is concerned, we are completely committed to the great principle of parliamentary responsibility. Whether it is in the States or it is in the Centre, the executive shall not derive any authority unless it be in pursuance of a law made by the legislature. It will not spend any money unless it has been voted by the legislature.

I will recall something which happened about two years ago. A question arose as to whether a vote of grant could be by an ordinance. A view was propounded that it would be a law made in pursuance of the ordinance making authority; such a law is a law.

But this Government took the view that any law which invests Government with the power to spend money must have the support of the legislature. Unless the legislature votes the money, the executive will not be able to get it, will not be able to draw it. That is a dogma of our

[Shri Hajarnavis]

political life and we are not going to compromise on it, whatever may happen.

Shri Hari Vishnu Kamath: Not dogma. That is rather unsavoury. Better say a 'principle'.

Shri Indrajit Gupta (Calcutta South-West): Let him not be dogmatic.

Shri Paliwal: He means that.

Shri Hari Vishnu Kamath: I hope so.

Shri Hajarnavis: Therefore, we resolutely oppose any attempt anywhere by which any authority is sought to be created, by which any power is sought to be located, in which there is no responsibility to Parliament.

There is often a talk of creating an independent person. Independent of whom? As I read the Constitution, understand it and interpret it, basically the responsibility of every authority to the elected representatives must be there, if democracy is to function properly. Take the judiciary. It is absolutely independent. Once a Judge is appointed, he continues till he reaches a certain age. He discharges the great responsibilities entrusted to him without fear, without favour. But even so, in certain circumstances, he is liable to be removed by a vote of this House. Similar is the case of the Election Commission. He is thoroughly an independent authority. But he is also liable to be removed in the same manner. Judges of the Supreme Court are also liable to be removed likewise.

Therefore, I view with apprehension, and resist with all the strength at my command, any suggestion that here under our authority we should create, erect or introduce some authority which Parliament will not ultimately be able to call to account. It is on this principle that I object to this Bill.

Fourthly, I have already said that the Constitution enshrines the principle of the rule of law. Under article 256, the State Government has been entrusted with the responsibility to see that due compliance is shown to the existing laws both of the States as well as of Parliament. If any authority does not act in accordance with the law or acts in excess of it, power is given under article 226 by which the authority remiss in discharge of its statutory duty will be called upon by a writ of *mandamus* to discharge that authority; if it acts in excess of a law, then the High Court will certainly restrain it. Here we give an authority under the proposed article 155A to the President to give any authority that he chooses to the Governor to act in any manner he chooses, in which the authority is not defined, in which his responsibility is negated. I submit, it goes completely counter to the accepted principle of rule of law.

I know the intention and sentiments behind this Bill. But if we are dissatisfied with the present position, if we want to remove the present shortcomings, the remedy does not lie in getting rid of the democratic Constitution. We have got to live with that democratic Constitution in order that it may become better and better. We have got to see its imperfections, and to remove them. That is the essence of the democratic process. As we live through it, even though we discover its shortcomings, we are constantly improving, building up conventions, rising to a higher political level and certainly developing higher political ideas. Therefore, I submit that the remedy is not to demolish the Constitution or remove the responsibility from the elected representatives, but to give them more authority. That being so, I oppose the Bill.

16 hrs.

Mr. Deputy-Speaker: Shri Paliwal. He has got only three minutes.

Shri Paliwal: How can I reply within three minutes?

Shri Hari Vishnu Kamath: He may be given a fair chance.

Shri Paliwal: This is a very important Bill, and I must have some time.

Mr. Deputy-Speaker: What does he want to do with the Bill? He is opposed to it.

Shri Paliwal: Never mind that. I should explain my point of view.

Mr. Deputy-Speaker: He can take two minutes more.

Shri Paliwal: At least 15 minutes should be given to me.

Shri Hari Vishnu Kamath: Ten minutes may be given.

Shri Paliwal: To begin with, I beg to submit that I accept the amendment moved by my hon. friend Shri Sidheshwar Prasad. I accept that amendment in the hope that Government will, even at this late stage....

Mr. Deputy-Speaker: Does the hon. Minister accept any of the amendments?

Shri Hajarnavis: No, Sir.

Shri Paliwal: ...will give it a second thought and at least agree to its circulation, because even for Governments I do not think it is very unusual to give a second thought to important matters.

I must confess that I have been completely taken by surprise by the arguments that my hon. friend has advanced. I would have appreciated it if he had simply stated that for certain understandable reasons Government are not prepared at this stage to agree to this Bill, and that they might consider the matter in future and bring some alternative measures. That I could have understood, but the way in which he has dealt with the whole thing and has described it has completely taken me by surprise.

My hon. friend says that I am seeking to make the Governor an absolute authority, absolutely irresponsible, responsible to none, he will become a despot so to say. Such words falling from the lips of a Minister of the Home Ministry is something strange.

From the very nature of things, the Governor is appointed by the President on the advice of the Home Ministry. The Instrument of Instructions sought to be provided here is to be issued by the President on the advice of the Home Ministry. The Home Minister is responsible to this House, and the Governor is in every case responsible to the Home Ministry. I cannot understand his argument that the Governor will be a despot who is irresponsible and that once the Instrument of Instructions is issued, there is no control over him. The very fact that he has to report all his actions to the President implies that the Home Ministry has to be satisfied that the action taken by the Governor under the Instrument is correct, and if they feel that he has in some way acted wrongly or used his discretion in a wrong way, they can ask him to rectify it.

Shri Hajarnavis: Under what provision?

Shri Paliwal: For that my hon. friend could have suggested an amendment. He can suggest an amendment that the Instrument of Instructions can be revoked. I am prepared to accept such an amendment even now. I am prepared to give such an amendment on my own behalf, if he is prepared to face facts.

If he had said that the administration in the States is running so smoothly that there is no necessity for such an amendment, I would have appreciated it, though I would not have been fully convinced by it, but he has chosen a different line of argument which is absolutely unintelligible to me at least. Had it come from somebody else, from someone other than the hon. Minister, I would not have been so much surprised.

[Shri Paliwal]

Anyway, there have been two main attacks on this amendment. The first is that it militates against our democratic set-up or State autonomy is a I submit that our State autonomy is a limited autonomy, that we are not a federation? Ours is not a federal Constitution. For this, I have only to refer to the debate that took place in the Constituent Assembly on clause 1, article 1 of this Constitution.

Article 1 says:

"India, that is Bharat, shall be a Union of States."

When the Constituent Assembly was considering this article, several amendments were moved to bring into it the idea of a federal constitution. I may refer particularly to two amendments, one moved by Prof. K. T. Shah and the other by Shri Mahboob Ali Khan. Prof. K. T. Shah moved that in clause 1, article 1, after the words "shall be", the words "secular, federal, socialist" be inserted. The Constituent Assembly rejected this amendment. Shri Mahboob Ali Khan moved that in clause 1, article 1, for the word "Union", the word "Federation" be substituted. He wanted this article to read:

"India, that is Bharat, shall be a Federation of States."

This amendment was also rejected.

This is what Dr. Ambedkar had to say during the course of the debate on this. He said:

"Though the country and the people may be divided into different States for convenience of administration, the country is one integral whole, its people a single people living under a single imperium derived from a single source."

We ourselves can also see. Are there any characteristics of a federal constitution here? The first thing in

a federation is that there are certain sovereign States which agree to federate. Here, there were no sovereign States. This Constitution itself created these States. No States existed before this Constitution.

Then, in a federation the residuary powers always rest with the States. Here, the residuary powers rest with the Centre.

Shri Hajarnavis: It is not so. May I remind the hon. Member of article X of the American Constitution wherein the residuary powers are with the States?

Shri Paliwal: My hon. friend has referred to the American Constitution. I shall also refer to it. In a federal constitution, there are two citizenships generally, Central citizenship and State citizenship, as in the case of America. Here, there are no two citizenships, but only one.

I have no time to dilate on it, otherwise I could convince any man of ordinary intelligence that from every point of view ours is not a federal constitution.

Mr. Deputy-Speaker: Anyway, it is not necessary for the purpose of this Bill.

Shri Hari Vishnu Kamath: Ordinary intelligence is not necessary?

Mr. Deputy-Speaker: He was saying whether it was a federal or a union constitution.

Shri Hajarnavis: I hope Mr. Kamath qualifies for that description.

Shri Hari Vishnu Kamath: I do not know; it all depends on you. He is replying to you.

Shri Paliwal: After all this discussion about the federal or unitary form of Government, it is said that it is against democracy. I pointed out in the beginning that I am not introducing any new principle in the Constitution. The principle of discretionary power is already there. Had it been

against democracy, why should the Constitution contain that element already. Under article 163 the Governor is given certain discretionary powers under the Constitution. My friend has made such a big show of abhorrence against any discretionary powers to the Governor. I would refer him to the amending Bill which this House passed as late as 1956. He has made such a virtue of elected responsibility. I am referring to article 371 where it says that the President may by order..... Instead of the words 'instrument of instructions', the words here are 'by order'. I am willing to substitute my wording 'by order' if it suits him. It reads as follows;

"Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Bombay provide for any special responsibility of the Governor for....."

It provides for the special responsibility of the Governor. I am only asking that these powers for the Governor should be given at the discretion of the Home Ministry with a view to check the maladministration. What for are these powers given here? The powers are for establishing separate development boards for Vidarbha, Marathwada and the rest of Maharashtra, Saurashtra and Kutch and the rest of Gujarat with the provision that a report on the working of each of these boards will be placed each year before the State Legislative Assembly. It also refers to equitable allocation of funds for developmental expenditure over the said areas subject to the requirements of the State as a whole. Mark the word 'equitable'. It is significant. It refers further to an equitable arrangement providing adequate facilities for technical education and vocational training, and adequate opportunities for employment in services under the control of the State Government, in respect of all the said areas, subject to the requirements of the State as a whole.

What are we to think of this elected responsibility in this case. The responsibility is altogether divested and given to the Government. Why? Because under certain circumstances it was felt that the responsibility will not be discharged satisfactorily. This amending Bill was moved by our eminent and respected leader of this country, the late Pandit Govind Ballabh Pant and was accepted by this House. There was an amendment to this clause moved by Shri N. C. Chatterjee. The amendment of Shri N. C. Chatterjee was to the effect that in the place of the words "The President may, by order," the words "Parliament may, by law, provide" may be substituted. The amendment was rejected.

Mr. Deputy-Speaker: He must close now. He has already taken 15 minutes.

Shri Paliwal: I have not been able to reply to all the points.

Mr. Deputy-Speaker: The other hon. Members are waiting. Time is allotted to each Bill. We have exceeded the time by seven minutes.

Shri Paliwal: I hope, in the end, the Government will consider it seriously. It is not necessary that whatever comes from the non-official side should be considered as wrong. I am sure that today, or tomorrow, they will find it necessary to bring some measure of this nature before the House. Especially in view of the pending amendment to article 311, I thought this would inspire confidence even among the services if some such powers are reserved for the Governor to safeguard the interests and the morale of the services which is going down and which is being deliberately undermined in some of the States, as it happened in Kerala.

Mr. Deputy-Speaker: What about the Bill? Do you want the motion to be put to the vote?

Shri Paliwal: I have no other option except to withdraw it. It is no use. *(Interruption).*

Mr. Deputy-Speaker: There are two amendments. Amendment No. 1 is by Shri Sidheshwar Prasad. He is not here.

Shri Paliwal: I have accepted the amendment already.

Mr. Deputy-Speaker: Still, I have to put it to the vote. He may accept it but the House may not accept it. I shall now put the amendment of Shri Sidheshwar Prasad to the vote. The questions is:

“The Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1963.”
(1).

The motion was negatived.

Mr. Deputy-Speaker: The other amendment is barred.

Now, has Shri Paliwal the leave of the House to withdraw his Bill?

Several Hon. Members: Yes.

The Bill was, by leave, withdrawn.

16.17 hrs.

MINES (AMENDMENT) BILL

(Amendment of sections 12, 64, 66, 67, 70, 72C and 73) by Shri S. C. Samanta.

Mr. Deputy-Speaker: The House will now take up the Mines (Amendment) Bill. One hour and a half has been set apart for this. Shri S. C. Samanta,

Shri S. C. Samanta (Tamilk): Mr. Deputy-Speaker, Sir, I beg to move:

“That the Bill further to amend the Mines Act, 1952 be taken into consideration.”

I seek to amend sections 12, 64, 66, 67, 70, 72C and 73 of the Mines Act, 1952. I must express at the beginning that this is not a new measure. I have given the reasons, in the Statement of Objects and Reasons, which actuated me to bring this piece of legislation. It appears from the report about the working of the penal provisions of the Mines Act, 1952, that the courts have generally taken a very lenient view of the offences under the Act. Consequently, the enactment has not had the desired effect. Hence, these provisions have been proposed for prescribing the minimum sentence.

16.19 hrs.

[DR. SAROJINI MAHISHI *in the Chair*]

Opportunity has also been taken to amend section 12 of the Act so as to provide that the Mining Board meets at least twice a year and takes decisions speedily.

This is a thing which was expressed by the hon. Minister, Shri Nanda, while he moved for the amendment of the Mines Act in 1959. While he was moving and while he was replying to the Members of this House who were so viceferous against the increase in penalty, any increase in the fines and other things, they protested—he was adamant, and he put forward so many reasons for the proposals he brought before the House.

In the course of his speech, he said:

“Having observed the working of the Act, i.e., the Mines Act, and the outcome of the prosecutions according to the Act, has been felt that considering the serious nature of the risks involved and the stakes of a large number of workers engaged in the industry, it is very necessary that the sanctions should be strengthened—sanctions for more penalties.”

You will be astonished to hear that at that time the penalties were proposed to be increased two-fold and