

tures are consulted. It may be that the Constitution-makers did not foresee such a contingency,—that just on the eve of the reorganisation of the States, a State Legislature will go out of existence. It may be that they have not made provision for that. The remedy is either an amendment of the Constitution or postponement of the change till the Travancore elections are over and the Legislature begins to function. It is clearly against the Constitution to alter the boundaries of the Travancore-Cochin State without giving the people of the State an opportunity to express their views on it.

Shri A. M. Thomas (Ernakulam) : On a point of order, Sir. It is not open to the hon. Member to raise this objection because the proclamation that we have adopted on the 29th March, suspends this particular article in relation to Travancore-Cochin.

Shri Velayudhan (Quilon cum Mavelikkara—Reserved—Sch. Castes) : I have got a point.

Mr. Speaker : I am not going to allow that.

Shri Velayudhan : Sir, only one point. . . .

Mr. Speaker : I won't allow. Under the rules, I am bound only to hear the hon. Member who raises the objection, that is, who opposes the introduction.

Pandit G. B. Pant : The objection raised by Shri Kelappan has no validity in law. When the proclamation was issued, the proviso to article 3 of the Constitution, which requires a reference to be made to the State concerned, was, I think, suspended. So, that is not applicable. But, apart from that, the powers of the Legislature have vested in Parliament and it can deal with all matters which would otherwise have come within the purview of the State Legislature. There can be no exception in the case of the reorganisation of the States. Suppose a State cannot function under circumstances which are beyond the control of anybody, when we, all of us, may be unanimous about the incapacity or the inability of the State to function under particular circumstances, and the remedy lies in adjusting the boundaries, then, certainly, it will be open to Parliament to exercise the authority vested in it for changing the boundaries because the powers of the State Legislature will

also be, in that case, vested in Parliament.

Besides, literally speaking, the Bill was referred to the Travancore-Cochin Legislature on the 16th of last month when it was functioning. So, 30 days have passed since it was referred. Whatever might be the difficulties which have stood in the way of its submitting its views to us, it does not affect the legal position. The provisions of article 3 have been carried out. Even if that article were alive, even if those objections were still binding, nobody can raise the objection on the ground that there had been no compliance with the provisions of that article.

Shri Kamath (Hoshangabad) : In letter only and not in spirit.

Pandit G. B. Pant : I think you are concerned more with the letter than the spirit.

Shri Velayudhan : I accept the contention of the Home Minister. The whole powers of the Legislature have devolved on the President and, directly or indirectly, they devolve on the Parliament. It was reported in the papers that certain decisions were taken, regarding the boundaries of the Travancore-Cochin State, by the Adviser there and they were sent here. My contention is that they must be discussed here in Parliament and thereafter only this Bill can be taken.

Mr. Speaker : It will be discussed on this Bill.

The question is :

“That leave be granted to introduce a Bill to provide for the reorganisation of the States of India and for matters connected therewith.”

The motion was adopted.

Pandit G. B. Pant : I introduce* the Bill.

CONSTITUTION (SIXTH AMENDMENT) BILL

The Minister of Home Affairs (Pandit G. B. Pant) : Sir, I beg to move for leave to withdraw the Bill further to amend the Constitution of India.

This Bill was introduced during the last session. It sought to amend certain provisions relating to High Courts, High Court Judges, executive powers

* Introduced with the recommendation of the President.

[Pandit G. B. Pant]
of the Union and the States and certain entries in the lists....

Shri Vallatharas (Pudukkottai): Sir, I oppose....

Mr. Speaker: Let the motion be made.

Shri Vallatharas: At this stage, even before the motion is made....

Mr. Speaker: I will take it only afterwards.

Pandit G. B. Pant: We were not able to consider the provisions of that Bill, which was introduced last session. Now, certain amendments have to be made in the Constitution in order to implement the provisions contained in the States Reorganisation Bill. Some of the amendments relate to the same matters to which the Bill I am seeking to withdraw refers. There are also other matters which are allied therewith. So, it will be convenient for Parliament and it will save the time of the House if the consolidated Bill containing these provisions is placed before the House. It will, I think, suit every hon. Member and will at the same time, enable us to conduct our affairs with greater regard to economy of time.

So, I propose that this Bill be withdrawn.

Mr. Speaker: Motion moved:

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

Shri U. M. Trivedi (Chittor): I oppose the motion for leave.

Shri Vallatharas: I have a point of order to raise on this. I think the entire wish of this Parliament is to expedite the progress of this Bill, but at the same time we have to maintain ourselves within the precincts which the Constitution lays down and the Rules of Procedure lay down. Referring to rule 147 of the Rules of Procedure, the conditions under which a Bill can be withdrawn are stated:

"(a) the legislative proposal contained in the Bill is to be dropped;"

Now there is no question of dropping the provisions of the Bill.

"(b) the Bill is to be replaced subsequently by a new Bill which substantially alters the provisions contained therein;"

I refer to the ten sections which are put in the Sixth Amendment Bill and they are embodied word by word in the Ninth Amendment Bill. So, there is no question of substantially altering the provisions to any extent. If such leave is granted, no further motion shall be made with reference to the Bill. Suppose the Bill is allowed to be withdrawn, then hereafter no reference to any of the provisions of the Bill will be allowed to be made in the course of the discussion. Considering all these, the Government's surmise is that they have given three reasons for applying for leave for withdrawal of the Bill. One is that it would be more convenient to Parliament; it would appreciably save time; thirdly, it facilitates the early ratification by the State Legislatures. There are not covered by rule 147. Under these circumstances, it is not correct to change the provisions or tone of rule 147. My submission is that this motion is totally out of order and no leave can be applied for to withdraw the Bill.

Shri Raghavachari (Penukonda): My friend has taken much of the wind out of the sail and I only wish to submit this. I expect that when a withdrawal motion comes from the Government on an important Bill of this kind, it must certainly conform itself to the rules laid down. The Government have taken the trouble of circulating an explanatory memorandum to us. I read and re-read it. But unfortunately I find that the reasons given there do not at all come either under the first part or the second part of rule 147. If it does not come under those two parts, so long as the rule stands, it is not open to permit a withdrawal.

The only other point that may possibly be urged is that it is for the convenience of the House and the saving of the time of the House. I am perfectly conscious that such a thing could have resulted and the same thing could have been achieved by introducing a Bill not covering those clauses but only covering the additional clauses and the two Bills might have been considered together. The time of the House would have been saved in that case. So, under the intended convenience of saving the time of the House we cannot go against the existing rules and permit a withdrawal. As my friend has already pointed out, it also leads to awkwardness of the argument that the very clauses which have been in the Bill to be withdrawn cannot be referred

to at all subsequently. You might remember last time when another Bill came to be introduced, you did direct that in the case of Bills that are to replace the Bills to be withdrawn, a copy may be circulated to the Members a day previously so that they may examine whether any of the provisions of the new Bill alter the provisions of the old Bill.

My point is that some time ago in this session you were pleased to direct the Government to circulate a copy of the Bill that they intend to introduce in place of the one that is to be withdrawn. That direction has not been conformed to.

Shri K. K. Basu (Diamond Harbour): Flouted.

Shri Raghavachari: We are not in a position to say which of the provisions of the new Bill really alter or affect the other provisions. Therefore, the whole thing seems to have been done in the name of saving of time and hurry, and not in conformity with the Rules of Procedure or your directions and rulings already given.

One other point. I was surprised to find that the revised Order Paper circulated today has been upset totally. Anything is taken up and anything is introduced in the House. In the revised list of business supplied to us, you will find that the first item is withdrawal of the Bill. Every other thing has gone on and this has come as the third or the fourth item. That is only by the way. It is not a matter of substance, but the real substance is that the withdrawal cannot be permitted and the motion is certainly out of order.

Shri U. M. Trivedi: I want to . . .

Mr. Speaker: Anything new? We are only considering the points.

Shri U. M. Trivedi: I want to lay emphasis on a particular point.

Mr. Speaker: What is it?

Shri U. M. Trivedi: The explanation that has been supplied to us is not at all in conformity with what is laid down in rule 147. An explanation which can fit in with this provision is a valid explanation. We have not got before us the amendment which is subsequently to come. We do not know whether it is going to alter the provisions of the present Bill or not. It has

not been supplied to us and so we have not reached a stage when that Bill could be introduced. Otherwise, we could raise the objection that it is substantially the same measure. That is not before the House and so we could not argue about that point.

But in an unequivocal language today I heard the hon. Minister to say that the same provisions are introduced in the other Bill. If the words used are "same provisions", then I very respectfully submit that such a Bill cannot be introduced at all in this House in this session. That is why I say that he should say that it is something different or new. But he has not said so. He has said "same provisions". If he has said that the same provisions are there, the whole thing is struck by the provisions of rule 147 of our Rules of Procedure. Therefore, I say that this leave cannot be granted.

Pandit G. B. Pant: The new Bill does contain some of the provisions contained in the old Bill, but it is entirely on a different pattern. It is related to the new States that will be formed. The High Courts will be of a different type. The State Legislatures will be formed on a different basis. The whole thing has undergone a change, though some of the provisions may be continued, because substantially the High Courts will be there, but will be High Courts of the different States. It will be necessary in any case to change the entire outline of the old Bill so as to fit it in with the scheme that has now become necessary in consequence of the provisions of the States Reorganisation Bill. This Bill is different from that. It contains many provisions and even those provisions are in a different setting and substantially of a different character. Besides, there is nothing to prevent anybody from withdrawing a Bill. The withdrawal in certain circumstances may be desirable; in others it may not be. The reasons that I have given have not been questioned by anybody, that is, that it would conduce to the convenience of the House and would save the time of the House. So, it is desirable that in the interest of the House itself, this Bill may be withdrawn and replaced by another Bill. There is nothing to fetter the authority of the House and it can always take a sensible view of the thing and deal with the matter in a manner which will ultimately be for the benefit and advantage of

[Pandit G. B. Pant]

the House. That is really the main criterion which should guide the House in reaching any decision.

Shri Kamath (Hoshangabad): The hon. Minister has now made a statement which is substantially different from the memorandum of reasons circulated to us. (*Interruptions.*) He was saying that a sensible view should be taken and all that sort of thing.

Pandit G. B. Pant: That must have appeared to you very unreasonable.

Shri Kamath: You will have to learn sense from the opposition too. I would submit that, so far as Constitution Amending Bills are concerned, the rules must be rigorously enforced. I am amazed that the hon. Home Minister, an experienced Parliamentarian, should make such statements here.... you are otherwise engaged, Sir, I shall await your pleasure.

Mr. Speaker: The hon. Member need not think that, unless I look at him, I would not be able to follow what he says.

Shri Kamath: I submit that the Home Minister has said that the new Bill which will be introduced later on differs substantially from the present one which is to be withdrawn. We are not in a position to judge the matter at all. Therefore, I would earnestly request that this matter may be held over till we are in a position to get copies of the new Bill sought to be introduced. Then only will the House be in a position to give leave to the Home Minister to withdraw this Bill, and fresh leave to introduce the new Bill. I would, therefore, urge that the matter be held over till the copies of the Bill are supplied to us so that we may examine the matter whether it differs substantially or is the same, as stated in the memorandum. The Home Minister has now made a substantially different statement. This is not the way to deal with this matter. This is not a deal to be trifled with. I would, therefore, submit that, in the interest of the supremacy of Parliament which, we are all sure, you are anxious to uphold, you would consider this. (*Interruptions.*)

Mr. Speaker: The hon. Member need not appeal to sentiments but speak on the point.

Shri Kamath: I referred to the supremacy of Parliament. Is it a mere sentiment?

Mr. Speaker: When we are on this question whether leave ought to be granted or not, leave is being opposed on account of certain provisions under rule 147. The hon. Member, Shri Kamath, has said that the Bill is not before the House and therefore, he is not able to judge. That is one point. That is all right. But going further and saying so many other things—I think it is unnecessary. That is a brief point that we have to consider.

The point is this. Rightly or wrongly, rule 147 has been framed which says that leave can be granted only under certain circumstances. I do not consider that this leave comes under rule 147; rule 147 does not permit such a course. It says that the Member in charge of a Bill may at any stage of the Bill move for leave to withdraw the Bill on the ground that the legislative proposal contained in the Bill is to be dropped. There is absolutely no proposal to drop the proposal. The latter portion of rule 147 reads like this:

“(b) the Bill is to be replaced subsequently by a new Bill which substantially alters the provisions contained therein.”

Is it the contention of the hon. Minister that it substantially alters the provisions? Is it the view of the hon. Minister?

Pandit G. B. Pant: I say that the entire scheme of the Bill has undergone a change. (*Interruptions.*)

Mr. Speaker: Am I to allow the hon. Members to speak simultaneously? Why cannot they be a little patient? I have heard them. Much of the argument and continuity is lost by these interruptions.

Pandit G. B. Pant: The whole thing has to be considered in the new set-up. The High Courts will now be constituted for States which will be different from the old States. Similarly, the legislature will be of a different type. So, there is a situation which is almost abnormal. In these circumstances, in order to save the time of the House and to carry out the business conveniently, it is desirable that the this Bill be withdrawn and replaced by another Bill which deals with similar provisions and which will cover the entire ground. There is nothing to fetter the authority of this House to do so. Withdrawal of a Bill, provided it is in

the interests of the House and conducive to the convenience of the House, is, I think, desirable under any circumstances.

Shri Raghavachari : The statement which the Minister has circulated to us is entirely different.

Mr. Speaker : How many times have I to allow the hon. Members? The hon. Member is a well-known Parliamentarian. It is the privilege of the hon. Member who is in charge of the Bill to speak in the end, replying to various questions. Even if a Minister intervenes, he can have another chance to answer in the end. Now once again the hon. Member rises to speak. How long can this go on like this? I am not going to allow the hon. Members. The point may be very interesting. I will do what I can to the best of my light. There must be an end to this.

So far as this matter is concerned, so long as rule 147 stands there and so long as this new Bill carries to a large extent references to the previous provisions, I am afraid that leave to withdraw the Bill cannot be granted under rule 147.

Sometime back, I had said that even at the introduction stage, copies of the Bill which are sought to be introduced here, should be available to all hon. Members. (*An Hon. Member: Where?*) In the Notice Office and in the Central hall. Copies are always available. I have got copies here. Any hon. Member who has received notice of leave to introduce a Bill—if it is on the agenda or in the Order Paper—may go and take a copy. He can take a copy and compare it with the previous one and find out whether it is a substantially different one or not. This objection is unfortunately brought up again and again without the hon. Members taking the trouble. Copies are always available, even at the time of introduction of a Bill, so as to enable the hon. Members to see whether leave ought to be granted to introduce the Bill or not. It is three months ago or in the last session that I said that I would make copies available and they are available. I do not want the House to blindly vote in favour of any particular Bill.

Shri S. V. Ramaswamy (Salem) : It is a breach of privilege if it is circulated before it is introduced here.

Mr. Speaker : It is not a breach. It is not circulated also.

It is kept there and whoever wants a copy can take a copy.

Shri S. V. Ramaswamy : It will still be a breach of privilege.

Mr. Speaker : It will not be a breach of privilege.

But, here, even the hon. Minister who has given notice of that Bill, wants to withdraw the Bill. Naturally that is one of the two courses open. If the House which has taken possession of the Bill is not willing to give leave, then what happens? It is not open to any other hon. Member to take it up and pursue it; the rules do not provide for that and no other hon. Member can give notice of it and proceed with it.

Therefore, so far as this matter is concerned, somehow this rule 147 restricts the scope. It is not as if we are tied down by rules. Wherever there is a wrong, there is a remedy. Wherever there is a difficulty, there is always a remedy. We can understand that no Member can be forced against his will to go from stage to stage. He may keep quiet.

Now, therefore, I will exercise the right given to me under rule 401. (*Interruptions.*) It is only intended for such contingencies. It reads :

"401. All matters not specifically provided in these rules and all questions relating to the detailed working of these rules shall be regulated in such manner as the Speaker may from time to time direct."

In view of the peculiar situation that has arisen, I direct that the provisions of rule 147 shall not debar the motion being made here. I shall now put it to the House.

Shri K. K. Basu : In rule 147, it is specifically provided for against such withdrawal.

Shri Kamath : Sir, I would request you kindly to read the rule again. It says clearly and explicitly "all matters not specifically provided in the Rules". In this case there is a specific provision and, therefore, how can you invoke this rule relating to residuary powers?

Shri A. M. Thomas (Ernakulam) : I suggest, what ought to have been done is for the Government to move for suspension of this Rule.

Mr. Speaker: Here the situation is one where detailed provisions are necessary. In view of the changed circumstances the provisions of the previous Bill alone are not adequate to deal with the altered circumstances arising out of the reorganisation of States. Therefore, some other provisions have also to be included. There is no meaning in spending the time of this House with this Bill, then a second Bill and so on. Under the circumstances, a detailed provision is wanting under rule 147. I now supply that detailed provision. I will now put the motion to the vote of the House.

The question is :

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

Those in favour will please say 'Aye'.

Several Hon. Members: "Aye".

Mr. Speaker: Those against will please say 'No'.

Some Hon. Members: The 'Noes' have it.

Mr. Speaker: I think the 'Ayes' have it. The motion is adopted.

Some hon. Members: The Noes have it.

Mr. Speaker: All right. I am not going to allow a division on this matter. I have heard by voice.

Shri K. K. Basu: We want a division on this question.

Mr. Speaker: There is no huge principle involved in this. I can understand if there is any question of principle. I have never refused to allow a division, even though the voices might not be many, where a matter of principle is involved and, for the present and also for the future, it must be notified that there was a body of opinion, however small, against a particular principle that has been enunciated. I can understand if such a thing is the case here. I have always rung the bell and allowed hon. Members not merely to stand up in their seats, but to go and record their names in the lobby. Now, I ask the hon. Members to consider in all seriousness whether this matter involves a matter of policy where I must order a division. Therefore, I would now request hon. Members to rise in their seats. Even that may be dis-

pensed with in this case. It is unnecessary because we are only on a small thing. If they are, however, very anxious that the number at least of those who oppose must be recorded I would request them to stand up in their seats.

Shri U. M. Trivedi: Sir, we would have very readily agreed even to stand in our seats. There is not much principle involved in this, as you say. The principle involved is this. You have interpreted a particular residuary provision notwithstanding a specific provision of the Constitution that, where our Rules are silent, the Rules of the House of Commons will apply. It, therefore, stands to reason, whether or not we agree with this principle, whether the residuary provisions...

Mr. Speaker: Very well. Hon. Members will kindly rise in their seats.

Shri U. M. Trivedi: We want a division, Sir.

Mr. Speaker: I am not going to allow a division on this.

Shri Kamath: Then we have no alternative but walk out in protest, Sir.

Dr. Lanka Sundaram (Visakhapatnam): May I make a submission, Sir?

Shri Kamath: If you allow a division, Sir, we shall sit here.

Dr. Lanka Sundaram: Sir, your ruling is rather important. First you sustained Rule 147. That is the substance of your ruling. Then you quoted the Rule relating to residuary powers and waived the other one. Now when a division is wanted I think it can be given.

Mr. Speaker: On what? The division is not on my ruling?

Dr. Lanka Sundaram: No, Sir, not on your ruling, but on the motion.

Mr. Speaker: Now, let us proceed. Those hon. Members who are against the motion will kindly rise in their seats.

Some Hon. Members: No, no. We are not going to stand.

Mr. Speaker: Then I will have to declare that leave is granted.

The motion was adopted.

(At this stage Shri Kamath left the House.)

An Hon. Member: Nobody else.