

(Eighth Amendment) Bill

Shri S. A. Mehdi (Rampur) rose—

15.55 hrs.

Shri Dasaratha Deb (Tripura): I wanted to vote for the Ayes.

Mr. Speaker: What is the hon. Member's Division number?

Shri Dasaratha Deb: My division number is 525. I wanted to vote for the 'Ayes'.

श्री सु० हि० रहमान (प्रमरोहा) :  
यह बर्क नहीं कर रहा है। मेरा डिविज़न  
नम्बर २२१ है :

[شری ایم-الحج-رحمان : یہ ووک

نہیں کر رہا ہے ممبرا ڈویژن نمبر ۲۲۱ ہے -]

Dr. M. S. Aney (Nagpur): My division number is 36. My vote has not been recorded. I wanted to vote for the 'Ayes'.

Shri S. A. Mehdi: My division number is 55. I wanted to vote for the 'Ayes'.

Mr. Speaker: That means four more for the 'Ayes'. The result of the division is:—

Ayes—285\*

Noes—4.

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

The motion was adopted. /

Shri G. B. Pant: With the omission of clause 2, there will be no restriction on the number of persons who could be nominated.

KERALA STATE LEGISLATURE  
(DELEGATION OF POWERS)  
BILL—contd.

Mr. Speaker: The House will now take up further consideration of the following motion moved by Shri Datar on the 27th November, 1959, namely,—

"That the Bill to confer on the President the power of the Legislature of the State of Kerala to make laws, be taken into consideration."

Two hours were allotted for this Bill. Shri Datar.

Shri Narayanankutty Menon (Mukandapuram): I had already started.

The Minister of State in the Ministry of Home Affairs (Shri Datar): How much time is left now?

Mr. Speaker: Two hours in all were allotted for this. Half an hour has already been spent. 1½ hours now remain.

Shri Narayanankutty Menon: Sir, you almost agreed on that day to give half an hour more.

Mr. Speaker: All right. May I know the allocation of the time for the second stage?

Shri Narayanankutty Menon: Half an hour is enough.

\*The figure was corrected as 284, vide Debates dated 4-12-1959, col. 3427.

Mr. Speaker: That makes two and a half hours. Half an hour has already been taken. We will then need two more hours. That means we go up to six o'clock. Is the House willing to sit till six o'clock?

An Hon. Member: No, Sir, not after the Constitution Amendment Bill.

Mr. Speaker: It appears that hon. Members from Kerala want half an hour more. I agree with them. Half an hour has already been spent the other day. We have two hours more, out of which we will have half an hour for clause by clause consideration and for the third reading. There is one and a half hour for further discussion. Shri Narayanankutty Menon.

Shri Narayanankutty Menon: Mr. Speaker, Sir, the other day I was submitting about the constitutional impropriety of coming with such a piece of legislation delegating the powers of this House to the President when elections are already being held. I want to submit only one thing. The other day the hon. Home Minister said, when I moved my amendment to circulate this Bill, that he could not make any sense out of that amendment. I agree with the hon. Home Minister because as far as the Government is concerned, they want to pass this piece of legislation and invest the President with the power of legislating with a specific purpose of introducing amendments as advised by the Central Government to the Bills that are already pending here and which were passed almost with unanimous support of the Kerala legislature. So I agree with the hon. Home Minister that he cannot see any sense in that amendment. But so far as we are concerned, we can only see sense in the amendment. We should prevent such sort of legislation being passed by this House because we consider that the passage of this legislation with the avowed object that has already been stated by the hon. Home Minister when introducing this Bill, would be an affront upon the provincial autonomy and the

rights of the Kerala legislature and the people of Kerala to decide their own future.

When the motion for approving the Presidential Proclamation came before this House, the hon. Prime Minister assured this House that the President intervened in the State to meet only an emergency and that it was the desire of the Central Government to have elections as soon as possible. A convention has been established that the President will not take measures of far-reaching interest and that the status quo will be maintained.

Mr. Speaker: The hon. Member has already taken 20 minutes.

Shri Narayanankutty Menon: If you see the proceedings you will find that I have taken only two or three minutes. The procedural wrangle came in between. I may take only five minutes more.

Therefore I may submit that measure should not be allowed at this time specially because the object of bringing in this legislation is to bring in amendments to the existing Bills. The Janmikaran Abolition Bill had been pending before the Government for two years. The Indebted Agriculturists Relief Bill had been pending for one and a half years. The Court Fees Amendment Bill had been pending for 1½ years. The Agrarian Relations Bill had been sent in June. It took about two years for the Central Government to consider all these four Bills and now the President wants to introduce his own amendments. I ask, if the Government is honest enough in their intention to pass these Bills giving benefits to the people of Kerala, let them bring an amending Resolution restoring the powers under article 211 to the President. It was quite obvious that they do not want these Bills. Without telling the House what are the reasonable objections to the clauses, they want to have a blanket power for themselves so that the President could make the amendments.

16 hrs.

When the first discussion came up, you, Sir, put a pertinent suggestion that even if the President makes the amendments, they come back to the House for ratification and therefore, there is no trouble. Immediately after that, the Home Minister said that the purpose of the Bill will be defeated if it is delayed till 28th of February. A Bill takes 10 days to be passed in the Rajya Sabha and it takes five days for Presidential assent. The Constitutional committee will take one month for consultation and for the President to introduce the amendments. When the President introduces the amendments, the elections will be over and whatever damage is done to the intentions of the Kerala legislature, we cannot make good by the time the Kerala legislature comes into being.

I submit that so far as the Jenmikaran Bill is concerned, no amendments are necessary. Let the Government and the Congress party say that it is against the people and it is against their own resolution. They cannot point out one single instance where they want to amend the Jenmikaran Bill.

Then, I come to the Court Fees Amendment Bill. This is a simple Bill whereby Harijans and workers who have not got money to pay court fees, are exempted from payment of court fees. Another thing is, an additional court fee is levied from the litigants who can afford to pay to give gratuity and provident fund to lawyers who are deserving. These are the two clauses in the Bill which has been approved by the Planning Commission and also by the Government of India policy. Today, if you want to amend the Bills, you are amending a Bill to deprive the Harijans of the benefits given by the Bill under which the Harijans could go to court without court fees. Therefore, a benefit that has been conferred on the Harijans, you want to take away. Secondly, the workers, if they want to get their wages by going to a court of law, are exempted from payment of court fees. You want to deprive the workers of

this benefit. There are a large number of lawyers whose tenure of service and security is never protected. The Kerala Government took it for granted that it is incumbent upon them to bring a legislation whereby some protection could be given to a large number of lawyers. The hon. Home Minister should tell this House, are the Government here against giving relief to Harijans, are the Government here against giving relief to workers in going to court, are the Government here against lawyers who really deserve some help. Therefore, the Government cannot say to day that they are for amending these Bills.

As regards another Bill, there are thousands of people who clamour in the State today that agriculturists are really in difficulty today. An amendment has been introduced as regards debt relief and debts up to Rs. 15,000 have been included where the debt is to the bank. Even the Congress party in the legislature did not bring in any amendment and the Bill was passed almost unanimously. It was sent to the Central Government. As admitted today, the Travancore Cochin Bankers Association came and saw the Finance Minister nine months back. It came in the papers that without consulting anybody, the hon. Finance Minister gave an assurance to the bankers of Travancore Cochin that this particular clause which gives benefit to 2000 families, whose property and life is in danger, would be amended according to the wishes of a few bankers in the State. On the one side, there are two thousand families who have got the benefit of the Bill, whose properties are to be taken away by the banks in execution and eviction. On the other side, there are 13 bankers of Travancore Cochin whose interest this Government is going to secure because the Government is going to accept the representation made by the Travancore Cochin bankers and effect amendment. That is what the hon. Home Minister said.

My point is, as admitted, this legislation is for the sole purpose of intro-

[Shri Narayanankutty Menon]

dubbing all these amendments. Every one of the amendments is anti-people, is against the interests of the toiling masses of the Kerala State. We agree that because of the brute majority that the Congress party has got in this House, they got the Resolution passed approving the Presidential Proclamation, which is an affront to provincial autonomy. Now we are to agree that we cannot protest against that. While that was passed here, a solemn assurance was given by the Prime Minister that the basis of our Constitution would be maintained, namely that in an emergency the status quo would be maintained, that policies and legislative measures which would have far-reaching effect would not be undertaken during President's rule, that they would wait for the Kerala legislature to be formed for expressing the will of the people. That is now certainly being tampered with. We will not be a party to this tampering with the interests of the people of Kerala, because 99 per cent of the people of Kerala are in support of the four Bills that are pending.

So, I make this earnest appeal to the Government and to the Home Minister. Have some respect for the wishes of the people of the State, even though insulted many a time. Let this insult be not continued hereafter. Let the wishes of the people even though the smallest of the 14 States, be respected for the time being. Let the powers of the President under article 201 be restored to him, and if the President has got any constitutional objection, let him refer the matter to the Supreme Court where it can be decided. If you have any basic policy objection, if you think it comes within the purview of the Central subjects and is not a State subject, then tell the House that it is so. But you cannot say that. The only object is to delay the passage of the Agrarian Relations Bill.

Today these people are day-dreaming that in the coming elections their party will be returned and that all the

benefit that has accrued to the people of Kerala by the four legislative measures can be nullified, but they see a bit careful because they are not now very definite about their party and their allies coming to power. Therefore they have brought this as a safeguarding measure. They think: lest the Communist Party comes to power again, let us safeguard our own interests, let us use this presidential power that we have got and amend all this legislation so that irreparable damage may be done to these Bills.

The other day you were kind enough to suggest that when an amendment was passed the House would have an opportunity to discuss it and there would be no harm, but with regard to that I may submit that it is not like that. The Bill contains a provision that the amendments will take effect immediately and this House here or the Kerala legislature will have no power to invalidate it with retrospective effect, so that pending the passing of the Agrarian Relations Bill and the Agricultural Indebtedness Relief Bill, every day bankers are taking action and 2,000 families are suffering.

I appeal to the hon. Minister. Let him shed politics for some time. Let him be human to the people of Kerala. Let him decide to restore the powers to the President under article 201 as it was done in the case of Andhra Pradesh in 1954 and in PEPSU in 1953. I do not find any reason why Kerala should be discriminated against except the fact that the previous Government there passed legislation which was for the people which is opposed by certain sections or groups whose interests the Congress Party is trying to safeguard here today. They can use their power and majority in this House today to nullify these legislations, but let them remember that the people of the State, under our Constitution, have got the right to assert themselves, they can stand up to such things in this country. They cannot

be insulted more. It will be too late to change when the day of reckoning comes. Let not the whole basis and crux of the Constitution be decided by means of this action. That is the only appeal I have to make.

Shri A. K. Gopalan (Kasergod): I oppose this Bill not because the President is given certain powers to legislate when there is an emergency. I oppose the Bill because I find there is no emergency. Also, the facts and circumstances show that it is discriminatory.

I want, first of all, to ask the Home Minister why, in the Proclamation that was laid on the Table of the House the powers of the President under article 201 were taken away. There were four Bills passed by the Kerala Assembly and one had been with the President for more than a year, and yet in the Proclamation, the power of the President to assent to or reject the Bill was taken away. I want to know why that power was taken away. It might have been taken away because the President might perhaps been advised or he might have thought that there was no question of giving assent to the Bills or suggesting modifications or rejecting the Bills let things continue as they were, so that when the new Assembly comes into existence, it can deal with it. Or else, what was the reason for taking it away? Along with the power under other articles, the power under article 201 which gives the right to the President to assent to or reject the pending Bills was also taken away. I want to point out here that before the Bill was passed the other day. I approached the Minister and told him that something must be done then and there to see that that power was not taken away. While replying to a question that was asked here on this subject, the Home Minister replied that certainly he would look into it and see that some resolution was placed before the House so that the power of assent was assumed again and the

Bills reserved for the consideration of the President could be taken up again.

But, now, we find that another Bill has been brought forward before this House. This Bill seeks to give power to the President to enact new legislation, assuming to himself the powers of the Kerala Legislative Assembly. So, we find that first of all, the power to give assent to the Bills was taken away when the Proclamation was issued, and after two months now, we find that a Bill has been brought forward before the House seeking to give power to the President to enact new legislation. I want to know the reason for this. Is there any emergency in the State of Kerala today? If there is an emergency, which warrants the passing of a new legislation, then there could be no objection; if it is the position that the people of Kerala or at least certain sections of the people of Kerala would be put to trouble, if the new legislation is not there, then there could be no objection to it. But before new legislation is enacted, we want to know what has happened to the Bills already pending before the President for his assent.

When I read the speech of the hon. Minister, I found that the object of this Bill was only to make changes in the Bills pending before the President. I would submit that that is an attack on provincial autonomy. The Kerala Legislature has passed unanimously certain pieces of legislation; they have been before the President for his consideration and assent; the President has got a right either to assent to the Bills or to withhold his assent on the ground that some provisions of the Bill are against the Constitution. The President could also suggest modifications, or send those Bills to the Supreme Court to ascertain their opinion on whether any of the provisions of the Bill are against the Constitution. That has not been done.

As far as the Jenmukaran Bill is concerned, I want to know whether the President or the Home Ministry has examined it and found anything in it which goes against the Constitu-

[Shri A. K. Gopalan]

tion. As far as the power to legislate is concerned, they have got power to legislate within the four corners of the Constitution. The President has to see whether there is anything in the Bill which is against the Constitution, and if he finds any, he has to send the Bill back to the legislature for reconsideration in the light of the fact that such and such clauses are against the Constitution, and, therefore, he is not in a position to give his assent thereto. That is the responsibility of the President under article 201.

Instead of such a thing being done, we find that a new Bill is being brought forward to give power to the President to enact new legislation. At the same time, however, nothing is said about the pending Bills. However much we might object to this Bill, this Bill will be passed. But nothing has been said as to whether the first thing that will be done by the President will be to look into the old Bills and give his assent thereto, before he enacts new legislation.

Then hon. Minister has stated that the object of this Bill is not to give assent to the Bills already pending, but to make certain changes in the Bills; certain representations had been made by certain sections of the people that certain changes should be made, and, therefore, some changes are to be made. I want to know who are the people who have made these representations, and what changes have been suggested and what changes are going to be made. Are changes going to be made in all the Bills pending before the President for his assent or only in certain Bills?

If it is a question of representation as far as the Agrarian Relations Bill is concerned, about 5 lakh peasants have already signed a memorandum and that is going to be presented to the President within the next one week. I have written a letter to the President requesting for an interview to present this memorandum. In Kerala, they want that the Agrarian Relations Bill that is pending before

the President for assent should be given assent to immediately. Because of the delay in giving assent to the Bill, the peasants are suffering.

Suppose there are certain representations. Is it because there are certain representations that the Home Ministry wants to make some changes? Changes can be made only in a Bill which contains clauses which are against the Constitution. Here three things are done. Firstly, when the Bill giving effect to the Proclamation was placed before this House, they never thought that the power to give assent to Bills should be taken. I do not think it was because of carelessness. This power was not taken because of their intention on that there was no question of assent arising. It could be said that the power under article 201 of the Constitution is taken away; now the President is powerless and nothing can be done. But that was exactly what was pointed out on that very same day here. It was said that this power should be taken by the President immediately so that the Bills pending before him could be examined. 15 days after that, 11 Members of Parliament presented a memorandum to the President about the Agrarian Relations Bill and other Bills requesting him to see that as far as article 201 of the Constitution was concerned, some notification might be issued taking this power to himself. That was not done. But the Bill that is before the House today seeks to confer power on the President to make new laws for the State of Kerala.

The most important thing today is that there are certain Bills pending before the President for the last one year. If the President thinks that there is any clause in any Bill which is against the Constitution, according to the procedure followed earlier, he could take action in consulting the legal opinion. Otherwise, immediately assent has to be given. But that has not been done.

So we think that this Bill is an attack on provincial autonomy, because the Kerala Assembly had unanimously passed certain pieces of legislation and no action has been taken on them. After one or two months, according to Government, there will be elections in the State. I do not know whether the elections will be postponed. But there is no necessity for any emergent legislation. So they can wait. If any changes are to be made, recommendations can be made to the new legislature and they can make the changes. When the legislature was there, nothing was done. No assent was given nor any recommendation made suggesting changes. Now that the legislature is not there, we are told that some power must be given to the President to legislate for the State. This only means that there is an attack on provincial autonomy.

Even now, there is an opportunity. Within two months, the new Assembly of Kerala will be elected and will meet. There is no emergency there justifying the taking of the power to make new laws for the State. If this power is taken now, it will certainly be an attack on provincial autonomy. I think that should not be done.

I say again that there is no urgency for new legislation as far as Kerala is concerned. What is important is that certain Bills are already pending before the President. These Bills had been passed unanimously by the Assembly there. So the first thing to see is whether power should be taken under article 201 to examine those Bills and give assent to them. If there is any doubt about the constitutionality of any provision in those Bills, the procedure followed previously could be followed. We request that this should be done.

I do not want to explain further. My hon. friend, Shri Narayanankutty Menon, has explained about every Bill that was sent to the President for assent. Every Bill which has been sent for assent is important. If there is any emergency today, it is to see

that those Bills which are pending before the President are given assent to. As far as the peasants are concerned, as far as the other sections of the people who are affected by the 4 Bills are concerned, the emergency today is to immediately give assent. If there is some emergency at some time then, certainly, delegation of power can be given.

I oppose this and protest that there is no emergency for new legislation when the President has not given assent to any of the important Bills which are very important so far as the people are concerned. Now power is taken not to give assent to these Bills but to make some changes in the Bills. It is certainly very wrong.

I know even if we protest this Bill will be passed. So, I request the Home Minister to see that when the Bill is passed, at least first things are taken first. Let assent be given to the Bills. Taking into consideration the emergency that was there for the last 1½ years as far as certain Bills were concerned, let assent be given to them without making any changes. Certainly, changes can be made if any of the clauses go against the Constitution. Simply because certain representations have been made by some sections of the people a change cannot be made. If any changes are to be made they are to be made by the newly elected Assembly. If any modification is necessary, that power should not be taken by the President.

That is all I have to say.

श्री ० रजनीर सिंह (रोहतक) : मैं इस विधेयक का स्वागत करने के लिये खड़ा हुआ हूँ। और जैसे कि कम्युनिस्ट साधियों ने कहा कि वे चाहते हैं कि लैण्ड रिफार्म जल्दी से जल्दी लागू हों तो मैं उनके साथ इसमें सहमत हूँ और मैं भी यह नहीं चाहता कि वे किसी भी कारण से चाहे वह प्रसेस्वली न होने के कारण हो या दूसरी प्रसेस्वली के आने में कृि देर है इसलिये उसमें देर की

[श्री० रणवीर सिंह]

जाय। मैं नहीं चाहता कि दूसरी असेम्बली के आने तक की उसमें देरी की जाय। उसके बारे में जो उन्होंने भन्देशा जाहिर किया वह तो मेरी तो समझ में नहीं आया कि उस कथन के पछे कौनसा डर है? कई दफा तो उन्होंने इस बिना पर आपत्ति प्रकट की कि शायद भगले चुनाव के अन्दर उनकी पार्टी मैजॉरिटी में न आये और दूसरी पार्टी मैजॉरिटी में आ जाय। अगर वह आपत्ति है तो भी मैं समझता हूँ कि इस बिल का पास करना उनके हित की बात है क्योंकि मेरा ख्याल है कि इस सदन की उस कमेट्री के अन्दर उनका खासा रिप्रेजेंटेटिव कैरेक्टर होगा जो कि शायद वहाँ न हो। लेकिन अगर उनका यह ख्याल हो कि वहाँ पर उनके मैजॉरिटी आयेगी तो फिर मेरी समझ में नहीं आया कि वे आपत्ति क्यों कर रहे हैं? अगर २-ढाई महीने के लिये कोई ऐसा बात है तो मुझे पूरा विश्वास है कि राष्ट्रपति मंजूरी देते हुए कानून के अन्दर कोई ऐसा मैटारियल चेंज नहीं करेंगे जिसकी कि जरूरत न हो। असबत्ता जैसा कि श्री गोपालन ने कहा संविधान की धारा के खिलाफ यदि कोई बात की जाती है तो उसकी जल्दी से जल्दी तबदीली करने की आवश्यकता है।

इसके अलावा इस बीच में हकूमत करने के सिलसिले में राष्ट्रपति को जो जरूरत दिखाई दे और कानून में कोई तबदीली करना आवश्यक जान पड़े अथवा कोई नया कानून आना जरूरी महसूस हो तो वह जल्दी से जल्दी पास किया जाना चाहिए क्योंकि वह केन्द्रीय सरकार की जिम्मेदारी है जिसने कि वहाँ राज्य के खराब हालात को देखते हुए वहाँ की असेम्बली को भंग किया। उनकी मंशा वहाँ के हालात को खराब करने की नहीं हो सकती बल्कि केरल के हालात को सही और दुस्तूर करने की उनकी दिली मंशा थी और आज भी है। मेरी राय में तो अब बिल को पहले आना चाहिए या और

मेरी तो समझ में नहीं आ पाया कि कम्युनिस्ट साथी इसका विरोध क्यों कर रहे हैं? यह तो उनके मफाद की बात है। मैं यह बीच नहीं मानता कि जो कांग्रेस सरकार यहाँ पदार्थ है वह किसी खास एलीमेंट को सपोर्ट करना चाहती है। वह किसी खास एलिमेंट को या किसी जगह के किसी खास एकोनामिक हित को सपोर्ट करने के लिए नहीं है। कांग्रेस पार्टी का एक मैनिफैस्टो है और वह सारे देश के लिए है और उस नुकतेनिगाह से अगर वह संविधान के अनुकूल हो तो उन्हें तबदील करने का पूरा हक है। मैं समझता हूँ कि इसमें प्राबिन्शियल आटोनमी के भंग का खवाल नहीं है क्योंकि दो, तीन या चार महीने के बाद जब नई असेम्बली चुन कर आयगी और अगर वह इस या किसी कानून को रिपील करना मुनासिब ख्याल करेगी तो वह उसको रिपील कर सकती है, स्टेट का जो भी कानून होगा उसको वह रिपील कर सकती है अथवा उसमें जो भी वह जरूरी समझ तबदीली कर सकती है और मैं तो नहीं समझता कि इसमें कौन सी ऐसी बात आ गई जिसकी कि वजह से मेरे उधर के भाई यह समझ रहे हैं कि इससे कोई प्राबिन्शियल आटोनमी के ऊपर घात आने वाली है। मुझे पूरा विश्वास है कि जिस किसी कानून की आज जरूरत नहीं होगी उस कानून को लाने की जल्दी नहीं की जायगी। मैं समझता हूँ कि जैसे कि पंजाब के अन्दर और पंजु के अन्दर जब कि वहाँ पर राष्ट्रपति का राज्य लागू हुआ तो उस दौरान में केन्द्र की ओर से कोई भी अहम कानून जिसकी कि जरूरत नहीं थी उसको राष्ट्रपति राज्य के दौरान पास नहीं किया गया और वह आज भी पास नहीं किया जायगा, ऐसा मेरा पूरा विश्वास है और उन्हें जो आशंका है और उनके दिमाग में जो एक डर की भावना काम कर रही है वह शायद इस डर के कारण है कि आगले चुनावों में हम हारें या जीते, इस एच पंच के कारण है।



मेरे कई भाई समझते हैं कि यह जो केरल का कर्ज का कानूनी मसौदा है यह साम्य उनका सब से अच्छा हो तो मैं उनसे कहना चाहता हूँ कि पंजाब के भन्दर कर्ज का कानून जो २०, २५ साल पहले बना था वह भाष के उनके कानूनी मसौदे से कहीं भाये का कानून था। इसलिए यह नहीं समझ लेना चाहिए कि जो कायदे कानून केरल की साम्यवादी सरकार द्वारा बनाये गये थे वह सारे के सारे प्रोग्रेसिव हैं और बाकी देश के भन्दर कोई प्रोग्रेसिव ला ही नहीं है। ऐसा नहीं समझ लेना चाहिए कि उनके भलावा कोई प्रोग्रेसिव खयाल रखता ही नहीं है। इसके बारे में तो मैं चाहूंगा कि वे उनके साथ जो उच्च हमारे विरोध में बैठते हैं, मसानी साहब से पूछें और दूसरे स्वतंत्र पार्टी वालों से पूछें कि भाया प्रोग्रेसिव हम लोग हैं या नहीं जो कि हमारे खिलाफ गिला करते हैं और उनको यह मालूम हो जाना चाहिए कि हमारे मसानी साहब और दूसरे उनके साथी इसीलिये स्वतंत्र पार्टी में सम्मिलित हुए हैं कि हम बहुत ज्यादा प्रोग्रेसिव हो गये हैं और हमारा विरोध करने के लिए ही उन्होंने इस नई स्वतंत्र पार्टी की स्थापना कर डाली है। इसलिए हमारे कन्वुनिस्ट भाइयों को तो इस बात की जरा भी आशंका नहीं होनी चाहिए और शिकयत नहीं होनी चाहिए कि हमारा दल किसी खास एकोनामिक हित के लिए इस कानून में तबदीली करना चाहता है। सही बात तो यह है कि संविधान की किसी धारा को यदि कोई मस्विदा भंग करता है भले ही वह सर्वसम्मति से पास किया हो भयवा कोई ऐसा बिल पास किया हो जो कि संविधान के विपरीत जाता हो तो उसमें तबदीली की जायगी और मैं समझता हूँ कि इसमें किसी को कोई शिकयत नहीं होनी चाहिए। भले ही कोई सरकार भयवा असेम्बली सर्वसम्मति से कोई प्रस्ताव या कानून पास कर दे इस किम्ब का कि पार्लियामेंट का जो अधिकार है वह छीन लिया जाय तो

वह छीना तो नहीं जा सकता है भले ही इस तरह का प्रस्ताव सर्वसम्मति से पास किया हुआ हो भयवा रीजॉरिटी से। मैं नहीं समझता कि मेरे उन कन्वुनिस्ट भाइयों ने जो यहां पर डर और आशंका प्रकट की है उसके लिए कोई यहां कारण है। मैं तो समझता हूँ कि यह उनके हित में है कि जल्दी से जल्दी यह कानून पास हो ताकि लैंड रिफॉर्म उस स्टेट के भन्दर जल्दी से जल्दी लागू हो सकें।

Shri Maniyangadan (Kottayam):  
 Sir, the other side is opposing the Bill vehemently, mainly of the ground that the President may interfere with some of the Bills which the dissolved Kerala Assembly passed. Article 201 of the Constitution was vetoed by the Proclamation and if I remember right, it was done during the previous Proclamations also. There was nothing new in what was done here. It is true that four Bills are pending before the President for his assent. Now the Communist Party seems to feel that these Bills should not be touched by anybody. Either they should be assented to in that form itself or nothing should be done. That seems to be their stand. Now, I may be permitted to submit that are making all demands to postpone the elections in Kerala. They were saying that the rights of the agricultural labourers in Kuttanad will be affected even if the elections are held in January or February and therefore the elections must be postponed upto the end of April. If the elections are not held till the end of April, and the President while considering some of the Bills passed by the Assembly feels that they should not be assented to without some modifications, what should be done? That is the point which we have to look into.

They were speaking about some representations which have been made regarding the Debt Relief Bill. I know that representations have been made by various sections. The debtors want that the Bill should be assented to as early as possible.

16.31 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

**Shri V. P. Nayar (Quilon):** What will happen if there is no President's Proclamation?

**Shri Maniyangadan:** The President cannot now, as the original Proclamation stands, give assent to a Bill if he wants to give assent to it only after making some modifications. There is, therefore, no alternative but to pass this Bill.

**Shri V. P. Nayar:** May I interrupt the hon Member? If there was no President's Rule in Kerala, could the President have modified any of the Bills? He can either give assent to a Bill or throw it out.

**Shri Maniyangadan:** He could have then sent back the Bill to the State Legislature. He can now send back those Bills to the Parliament. But the question is whether this Parliament will find time to pass all those Bills. It is even now finding it very difficult to carry on with the programmes which it already has. It is, therefore, necessary that something must be done.

I was referring to the Debt Relief Act. There are representations by debtors themselves, who are vitally affected, that the Bill should be given assent to early. But there are certain provisions in the Bill which I am sure the President would like to modify. I may be wrong, but if the President feels that certain provisions should not be allowed to remain in the law and the Bill concerned cannot be given assent to without modification of those provisions, the interests of poor persons will be very seriously affected. If the law is to be enacted so as to give relief to those poor persons who want relief and if some amendments are to be carried out in the Bill concerned according to the President after mature consideration, in that case the President must be given powers now vested in the Par-

liament so that the Bill as amended could be given assent to. That is the only alternative that is possible.

Why should we wait till the elections are over? It may be that the elections are held after two months or, as is the desire of the Communist Party, it may be postponed for a few months.

**Shri Narayanankutty Menon:** No, no; the Communist Party did not desire any postponement of elections upto April. The Communist Party wanted the elections to be held either in January or in March.

**Mr. Deputy-Speaker:** He is only discussing it hypothetically.

**Shri Maniyangadan:** They know very well that it is not possible to conduct elections in January. Let it be in January or April, that is all what they say. I do not dispute with them on that point.

Therefore, in the present circumstances, if the Bills as passed by the State Legislature—I do not want to go into the details of the Bills; I know there are so many absurd provisions in some of the Bills which in spite of the united opposition by all the opposition parties they passed by a majority of one or two—are to be given assent to after deletion of certain provisions so that they may be given effect to immediately, what else is the method?

**Shri A. K. Gopalan:** I would like to have one clarification from the hon. Member. Does he want that certain changes should be made in all these Bills?

**Mr. Deputy-Speaker:** He says that the President might consider it necessary.

**Shri Narayanankutty Menon:** We want to know whether hon. Member and his party are making suggestions to the President to make amendments.

**Mr. Deputy-Speaker:** He is not saying that; he is not going into the contents of the Bill.

**Shri Maniyangadan:** I know there are certain provisions in the Bills which ought to be amended. I hold that view, but this is not the time for me to discuss all those points.

**Shri V. P. Nayar:** We shall hear you.

**Shri Maniyangadan:** I am not here to satisfy my hon. friends there.

**Mr. Deputy-Speaker:** Hon. Members on this side of the House desire that the hon. Member might commit himself to certain things!

**Shri V. P. Nayar:** As regards the powers to be given to the President, should not the hon. Member be able to mention at least one item? I request him, and I beg of him, to mention at least one.

**Shri Maniyangadan:** The day of reckoning is coming, as Shri Narayanankutty Menon said. Let us wait for it. What I want is, this measure should be passed as early as possible. They know that the Bills passed by the legislature may not be given assent to. They can blame the President or the Congress party and say that these powers are not necessary. Certain Bills have already been passed and let us see what the effect of those measures will be on the electorate. The elections are going to come. We are prepared to face the electorate and they also are prepared to face the electorate. Why should they want to put hurdles in the way so that nothing could be done?

**Shri A. K. Gopalan:** We say "Give assent to the Bills".

**Shri Maniyangadan:** I say the Bills should be assented to by the President only if he deems them proper. If the Bills are not proper, he will not give assent to them. But there are certain provisions in certain Bills which should be immediately given

effect to. So, to get over the difficulty, this power is now being vested in the President. If the other party feels that they are the custodians of the rights of the people there, well, I do not want to go into past history; since the elections are coming, we can see. They were mentioning about the Congress and their alliance. I may say that they are also having a wonderful alliance with independents.

**Shri A. K. Gopalan:** Let us discuss the Bill, Sir. It is not a question of alliance. The hon. Speaker also said that we must confine ourselves to the provisions of the Bill.

**Mr. Deputy-Speaker:** Yes; the provisions alone need be discussed.

**Dr. M. S. Aney (Nagpur):** May I put a question? Does the hon. Member consider that their opposition is part of the election campaign?

**Shri Maniyangadan:** I definitely hold that view. Speaking about provincial autonomy, they said that they are jealous of guarding the interests of the State and provincial autonomy. We know what happened in Kerala. We know what is happening even now. Provincial autonomy is not affected there.

**Shri V. P. Nayar:** No, Sir.

**Mr. Deputy-Speaker:** Order, order. No challenges need be made.

**Shri Maniyangadan:** I am prepared to accept that challenge.

**Mr. Deputy-Speaker:** I am not prepared to accept that challenge!

**Shri Narayanankutty Menon:** We are not challenging that party.

**Mr. Deputy-Speaker:** Then he is challenging me!

**Shri Narayanankutty Menon:** We are not challenging anybody.

**Shri Maniyangadan:** My complaint on the other hand, is that it is rather

[Shri Maniyangadan.]

late now when the Bill is being introduced. The Bill ought to have been introduced in Parliament earlier, because, as I mentioned already, the Debt Relief Act requires immediate attention. There are certain debtors who are very vitally affected because of certain amendments. It is not the original Bill that was passed that is now pending. It was assented to by the President. Some amendments were subsequently made and it is the amended Bill that is now pending before the President. Of course, some interests might have represented; some other bodies might have represented; several representations might have been brought up before the President. The President might have gone into the legal and constitutional aspects. After considering all these things, I cannot agree with my hon. friend that only if there is a constitutional difficulty can the President refuse to give assent. According to the other party, the only provision is, we should refer the matter to the Supreme Court. There are other remedies provided in the Constitution. The President can refuse to give his assent to a Bill on grounds other than constitutional. Even on matters of policy he may differ and send back the Bill to the legislature or whichever body is competent to deal with the measure. The powers are sought to be vested with the President so that the interests of the people may be taken into consideration by the President in giving assent to the Bills passed by the legislature.

There are certain Bills pending before the legislature and there are certain things which may arise when the Parliament is not in session. Even if Parliament is in session, there may be certain things arising. So, there is no harm in vesting the President with the powers that are intended to be given to him through this Bill. My submission is that this Bill should be passed as early as possible.

Shri Naldurgkar (Osmanabad): I support this Bill. At the very outset

I may state that article 357 does not deal with emergency. It speaks of the competency of Parliament. Some arguments have been advanced by some of the Members, and those arguments relate to article 201. As far as the introduction of this Bill is concerned, I respectfully submit that those arguments are irrelevant. Because, as far as the circumstances for the proclamation under article 356 of the Constitution are concerned, the time for discussion of that is already over. Under article 357 there are certain circumstances in which the President can be vested with the powers of the State Legislature. Suppose there is pressure of work in Parliament, or the Parliament is not in session. For example, after the 22nd of December, the work of Parliament will be suspended upto the subsequent session. During that period, suppose there is urgent necessity for some legislation. Therefore, under article 357, it is quite essential that those powers of the State Legislature should be vested with the President. As far as the powers under article 357 are concerned, the arguments raised by some of the hon. Members have no relevancy at all. The powers under article 201 are quite distinct from those under article 357. During the period after the proclamation the powers under article 201 are suspended.

Then, the proclamation issued under article 356 has no retrospective effect; it is only prospective. So, if there are some Bills passed by the Kerala Legislature before the date of the proclamation, certainly the President has full power, according to his discretion, either to assent to those Bills or not. Therefore, that matter cannot be taken into consideration when vesting power under article 357 is considered. Therefore, those arguments that have been advanced by some of the hon. Members of the communist party, which relate to the question of the period of emergency, cannot be taken into consideration at this time. It relates only to the competency of Parliament. It

speaks of the competency of Parliament when there is great pressure of work. In the circumstances, it is quite justifiable that those powers should be vested in the President.

While supporting the Bill, I want to draw the attention of the hon. Minister to some of the provisions of this Bill. I find that those provisions are unconstitutional. Powers that are to be vested in the President under article 357 are absolute powers. Those powers cannot be restricted; no restriction can be placed on those powers. I will refer to the relevant portion of that article, which reads:

"Where by a Proclamation issued under clause (1) 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, 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 to be specified by him in that behalf;"

**The Deputy Minister of Food and Agriculture (Shri A. M. Thomas):** The words "subject to such conditions" are there.

**Shri Naldurgkar:** Subject to such conditions which the President thinks essential.

**Shri A. M. Thomas:** Which Parliament think essential.

**Shri Naldurgkar:** I will read it again.

"...the President to delegate, subject to such conditions..."

That is, it is the President who is to

delegate. When the President wants to delegate the powers he can impose certain restrictions upon the persons on whom the power is to be delegated. The first part is—

"...for Parliament to confer on the President the power of the Legislature of the State to make laws,....."

Those powers are quite absolute powers. They are unrestricted powers. No restrictions can be imposed. But when the President wants to delegate that power to another authority, he can impose certain restrictions upon that authority. These two provisions are quite distinct. They are quite separate. They cannot be amalgamated together.

Therefore with great respect I submit that as far as the Proviso to sub-clause (2) of clause (3) is concerned, there is no provision in the Constitution that there shall be any consultative committee and that the President should consult and then pass those laws or give assent to those laws. I am of the opinion that there is no constitutional provision for such consultation. Therefore as far as the constitution of the committee under this Bill is concerned, I request the hon. Minister to look to the constitutional provisions because those provisions are rather being mandatory. It says—

"Provided that before enacting any such Act,..."

I am reading clause 3, proviso to sub-clause (2).

"Provided that before enacting any such Act, the President shall, whenever he considers it practicable to do so, consult a committee..."

This means that the President is not authorised to enact any law or to pass any legislation without consultation with the committee. I think as far as these restrictions on the power of the President are concerned, they are quite

[Shri Naldurgkar]

unconstitutional and even the constitution of the committee is unconstitutional.

Therefore I request the hon. Minister, as far as this provision is concerned, to look to the provisions of this Act, because under article 357(1) (a) there are two distinct provisions. Delegated legislation is looked with reprobation by judicial decisions. When the President wants to delegate that power to any authority, in such cases he can impose restrictions upon him. But as far as the President's powers are concerned, those powers are absolute. Therefore I am of the opinion . . . . .

**Shri Narayanankutty Menon:** May I interrupt the hon. Member? If the power is given by the principal to the agent in any statute, is not the principal entitled to impose restrictions in delegating that?

**Shri Naldurgkar:** If those powers are delegated powers and if the law says that such restrictions should be imposed, no doubt those restrictions shall be reasonable. But if the law delegates the power upon certain authority then no restriction should be placed and any restriction placed upon that authority will be unconstitutional and illegal.

**Shri Narayanankutty Menon:** It is not stated in article 357.

**Shri Naldurgkar:** Therefore I am of the opinion that as far as the provisions of the Bills that are pending and assented to by the President are concerned, that matter cannot be brought into question in so far as the consideration of this Bill is concerned. If the President considers it reasonable, he according to his discretion may give assent to those Bills, already passed before the Proclamation under article 356. Therefore the President's discretion cannot be called to question as far as this Bill is concerned. Therefore my suggestion to the hon. Minister is to consider as

unconstitutional this provision of this Bill. I support this Bill. This Bill is very essential. Some of the objections that have been raised on behalf of some hon. Members are based on special individual interests or party interests. Therefore those interests may not be taken into consideration in this case. I support this Bill.

**Shri V. P. Nayar:** He was saying that some hon. Members were prompted by individual interest.

**Shri Narayanankutty Menon:** We do not come under any provision of the Bill.

**Mr. Deputy-Speaker:** He is not referring to these hon. Members. The other day, Shri S. A. Dange said beautifully that he would not pick up a cap in order to fit on his head.

**Shri V. Eacharan (Palghat):** Sir, I am thankful to the hon. Home Minister for the sympathy and interest which he has shown in the affairs of the Kerala State. After the introduction of the President's Rule, the law and order situation has far improved and the State is quite normal. There were lot of disturbances in the State. Now, all troubles are over and the State is working in a normal condition.

My hon. friend Shri Narayanankutty Menon has moved an amendment to circulate the Bill for public opinion.

**Shri Narayanankutty Menon:** That has been ruled out of order.

**Shri V. P. Nayar:** He cannot say anything on that.

**Shri V. Eacharan:** I am not saying on that. This is only a Bill to invest power on the President to make the necessary laws for Kerala and not to prevent the legislation passed by the previous Kerala Ministry or the proposals put forward by that Ministry. Our friends are simply saying that this Bill or the Committee formed under the provisions of this Bill will prevent the progressive legislation passed by

the previous Kerala Government or the legislature, or make some amendment, that is not necessary. If the President is satisfied with the laws passed by the Kerala Government or legislature, he will give his assent. There is no necessity to refer them to the Committee or seek the advice of the Committee. This Committee is to advise the President on future legislation.

My hon. friend Shri Narayanankutty Menon said that some bankers made a representation to the Finance Minister and two thousand families will be in trouble. Any man can make a representation and that would be considered by the Minister in the appropriate way. That does not mean that because the bankers made some representation, it will ruin 2000 families. All this is said so that an impression may be created upon the people that the Congress is harming the interests of the Kerala people, especially the bank employees. The bank employees have got a fear that they are not getting a proper treatment under the Banking Companies Act. An Enquiry Commission found that the banks in Kerala are not in a financially sound condition, that a number of banks were feeding the agriculturists and they must be exempted from certain provisions. That is why they have been put in a separate position. That does not mean that any representation made by somebody will harm the interests of the bank employees or the people in Kerala.

The State administration is improving. I have to mention one thing here.

**Shri V. P. Nayar:** If the administration has improved, why not have President's rule permanently?

**Shri V. Eacharan:** I am not for extension of the President's rule. The present conditions are much better than what we had some months ago.

In Kerala, there is a department working for Harijan welfare. That department has made a lot of confusion in the work and misused the funds.

**Shri Narayanankutty Menon:** When I began to refer to the conditions in Kerala, the hon. Speaker said that I should confine myself to these legislative powers alone and any reference to the conditions in Kerala was ruled out by the hon. Speaker. He began to speak about Harijan welfare. I have got a thousand things to say about that.

**Shri V. Eacharan:** That is directly under the Home Ministry. They have got to take note of all these things. It is only for that purpose I am referring to this. The Harijans in Kerala have a lot of grievances against that department.

**Mr. Deputy-Speaker:** It is better he confines himself to the Bill itself.

**Shri V. Eacharan:** I support the Bill. There is no need for the apprehension that the passing of this Bill would harm the interests of the people of Kerala or prevent any legislative measures passed by the previous Kerala Government. I support the Bill once again.

**Shri V. P. Nayar:** Mr. Deputy-Speaker, I did not originally intend to participate in this debate. But, after having heard my hon. friends on the other side, I think I should be failing in my duty if I did not answer some of the points.

A contention is raised that Parliament will have possibly no time to discuss the various amendments. If that were so, I should think that the President or the Home Ministry is considering not one or two amendments here and there, but very substantial amendments. Unless such amendments as are in contemplation are of a highly controversial nature, I do not know why Parliament should take such a long time.

[Shri V. P. Nayar]

Then, it contradicts itself, because even if the President were to enact or make certain changes in the existing laws, they have necessarily to come before Parliament. If the hon. Member who raised that plea were to read the last but one clause of the Bill, he will find that notwithstanding any changes which are made by the President, such changes will have to be ratified by a resolution. Is it his case that Parliament should pass a resolution without a discussion?

**Shri Maniyangadan:** So, there is no harm in delegating the powers.

**Shri V. P. Nayar:** I will come to that.

Is it his case that only for discussing the . . .

**Shri Maniyangadan:** That is exactly the reason why I said the Bills need not brought before Parliament immediately.

**Shri V. P. Nayar:** So, in any event, as the Bill now stands, a discussion in Parliament cannot be avoided, and unless it is the intention of the Government to bring forward highly controversial measures, I do not know why Government should think that Parliament's time will be taken up.

What is Parliament's time? Are we not responsible for what is happening in Kerala? Is it not this Parliament which delegated the power, and was it the making of the Kerala Government itself? Every one in this House has a responsibility. Parliament as a whole has a responsibility for the administration of the State. You are discussing every sort of Bill in this House, and if it is a Bill relating to a matter of vital importance for the State of Kerala, do you mean to say

that Parliament will have no time to discuss it? Could any argument be more trash than this? We are sitting here till the 22nd or 23rd of this month. Can we not find one Saturday for discussing the changes? Can we not find one or two hours every day? Whenever there is any necessity we are sitting one hour more than scheduled, as we did on several occasions even during this discussion. Are we to take it that such amendments as are to be brought will take days and days? We have discussed in this House Bills with 50 and even 100 clauses within two or three hours because mostly they were of a non-controversial nature, and what little controversies there are can be discussed in a little time.

**Shri Narasimhan (Krishnagiri):** Can I put a question?

**Shri V. P. Nayar:** Not one, any number.

**Shri Narasimhan:** Supposing the matter is left to a smaller body, is there not the advantage that that smaller body will discuss it more thoroughly than a larger body in a hurry?

**Shri V. P. Nayar:** I am perfectly agreeable to that suggestion provided that recommendation of the smaller body . . .

**Shri Nalburgkar:** What is the intention of article 357 of the Constitution?

**Shri V. P. Nayar:** Not two interruptions at a time.

If the recommendations of that body are accepted, if there is a mandatory



provision to that effect, I am certainly at one with the hon. Member. Are you prepared to do it? That is the simple question.

Here, what are the powers given to the committee? It is only a consultative committee. I have functioned once in such a consultative committee. It is all for the purposes of precedent. Even the Home Minister does not come there. The Deputy Home Minister comes there. We have some coffee, we have some consultation, then they go their way, we go our way. This is called consultation. Is the hon. Minister prepared to have the provision suitably amended?

**Shri Narayanankutty Menon:** The amendment is there.

**Shri V. P. Nayar:** Is he prepared to accept the amendment that the consultative committee's opinion shall prevail on the President. So long as they are reticent to accept such an amendment, it shows that the purpose behind this is very sinister. I am forced to use this word, because what is it they are saying now?

For months these Bills were pending, as was ably pointed out by my hon. friend Shri Menon. One day the Central Government awakes to a sense of responsibility for Kerala. I am reminded of Kumbakarna who was sleeping for six months continuously, and one day when he was awake, he would keep on doing the maximum destruction. The Central Government is like that. For months they were sleeping over the Bills which were sent. It was not a snap vote majority in the case of any Bill, I challenge the hon. Member to show that. In the Government which existed in the State before the Communist Party took over, there were instances after instances when Bills were passed with snap votes.

**Shri Maniyangadan:** I never used that word. I said by a majority of one or two. Not more than that.

**Shri V. P. Nayar:** I think that would be sufficient. You mention one instance . . .

**Mr. Deputy-Speaker:** Order, order. Let the hon. Member be allowed to continue.

17 hrs.

**Shri V. P. Nayar:** Within their own party in the Opposition in Kerala, there were dissensions, one group supporting certain provisions in the Bill, another group opposing certain provisions in the Bill. Are we to be blamed for that? It is a very simple question. I am asking my hon. friend Shri Maniyangadan who does not seem to know the history of his own party in that State, whether they were unanimous in regard to any of these provisions . . .

**Shri Maniyangadan:** In several of them.

**Shri V. P. Nayar:** Is it such provisions . . .

**Shri Maniyangadan:** Not only my party, but all the Opposition parties.

**Mr. Deputy-Speaker:** Order, order. Why should there be a mutual discussion now? Let the debate go on. When the hon. Members go to their State, they might have a scuffle there, but not here.

**Shri Narayanankutty Menon:** Certainly not. We do not want any scuffle.

**Shri V. P. Nayar:** I am only submitting that the argument that some of the provisions of these Bills were passed with a narrow majority cannot hold good, because, in the past, it has been the practice of the government which was in power before the government led by the Communist Party came into power . . .

**Mr. Deputy-Speaker:** The hon. Member might advance his arguments, but he wants reaction at once from the other side.

**Shri V. P. Nayar:** Certainly not. I know they would not react to anything containing an iota of sense.

**Mr. Deputy-Speaker:** Why should he go to such extremes? First, he used one word 'sinister', then, he used another word 'trash', and now, he is using the words 'iota of sense'. They are not in good taste.

**Shri V. P. Nayar:** I think you have known me for seven years very well. I am not in the habit of using one wrong word, unless it be the lack of knowledge of English. I suppose I use . . . . .

**Mr. Deputy-Speaker:** I do not say that they are wrong words, I know they are used advisedly, but they are not desirable words.

**Shri V. P. Nayar:** Where we have to use strong words, a soft word will not result in the same purpose.

**Shri Datar:** Is the word 'sinister' soft, according to my hon. friend?  
§.

**Shri Narayanankutty Menon:** The hon. Home Minister used that word yesterday.

**Mr. Deputy-Speaker:** The hon. Member Shri V. P. Nayar might continue tomorrow.

17.02 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, December 2, 1959/Agrahayana 11, 1881 (Saka).*