

[श्री अरुण वर्मा]

किया कि "दिल्ली हिन्दुस्थान स्टैंडर्ड" को जो इजाजत दी गई, वह एक गलती थी। मत: क्या उस गलती को सुधारने के लिए कोई कदम उठाने का विचार किया जा रहा है ?

डा० क्लेसकर : परमिशन दी गई, उस को गलती तो मैं ने नहीं कहा। मैं ने कहा कि वह एक अपवाद है !

12:05 hrs.

TRIPURA LAND REVENUE AND LAND REFORMS BILL*

The Minister of State in the Ministry of Home Affairs (Shri Datar): On behalf of Shri G. B. Pant, I beg to move for leave to introduce a Bill to consolidate and amend the law relating to land revenue in the Union territory of Tripura and to provide for the acquisition of estates and for certain other measures of land reform.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to consolidate and amend the law relating to land revenue in the Union territory of Tripura and to provide for the acquisition of estates and for certain other measures of land reform."

The motion was adopted.

Shri Datar: I introduce the Bill.

12:06 hrs.

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

Mr. Speaker: The House will now proceed with the further consideration of the following motion moved

by Shri B. N. 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."

With the extension of time by half an hour, the total time allotted was 2 hours 30 minutes out of which only 22 minutes remain. It is agreed that half an hour should be set apart for clause by clause consideration. Shri V. P. Nayar was in possession of the House. He has already taken 8 minutes. I will give him four minutes more. The hon. Member is capable of condensing all his remarks within that time.

Shri V. P. Nayar (Quilon): That is true, Sir. But, I have more points of a fundamental nature to raise.

Mr. Speaker: All right; he will take 7 more minutes.

Shri V. P. Nayar: Sir, yesterday as the House rose, I was trying to establish that neither the Mover nor any of the supporters had established any case as regards the necessity for the Bill.

If you read the Statement of Objects and Reasons, as also the speech which the hon. Minister made at the time of moving the Bill, you will find that this is nothing but a subterfuge. The hon. Minister has not cared to take the House into confidence. He has not placed all his cards on the Table.

12:08 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

In arguing out his case, he has conveniently forgotten that some Members in this House have some sense left in them. If you read the Statement of Objects and Reasons, you will find that the hon. Minister states, "Such legislative measures as may be

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necessary for the State can be taken up". I would ask him to state what are such legislative measures. Can't he tell the House that there are the measures which are necessary? You will remember that the President took over the administration of Kerala some four months ago. For all these four months, it has never been found necessary. If it was found necessary, the way was open to the hon. Minister to introduce a Bill.

He talks much about Parliament having no time. I would ask in all humility whether the hon. Minister, before he brought forward this measure, ever cared to consult either the Speaker or the Business Advisory Committee. How can he say that Parliament will have no time when we are here. The Minister says that because Parliament will have no time, he wants us to delegate the powers to the President. This is something which is very serious. I think the hon. Minister had no business to write like that in the Statement of Objects and Reasons. I can understand if he had taken the view of the Speaker or the view of the Business Advisory Committee and found it that there was no possibility to get some two hours or three hours for such Bills. Not having done so, coming to the House and saying that it will not be possible for Parliament to discuss them, according to me, should be taken very serious note of.

What is his contention? What is the point on which he wants us to give powers? He says, it would appear that the proper course is for Parliament to delegate this power. Surprisingly, we find there is a departure from what was followed last time when the State of Travancore-Cochin had President's Rule. Then we found that only Members from the Kerala State as it was later on constituted—because the States Reorganisation Committee had decided and the new State had not been formed—those members who represented the seats

from the State of Travancore-Cochin and the remaining seats of Kerala alone constituted the Advisory Committee. What is the necessity to enlarge this committee to 35? The hon. Minister himself contradicts what he had said earlier. As he was speaking, he said:

"Because all these questions that arise are not necessarily confined in their import only to Kerala. There are broader questions, question about land legislation....."

—he has let the cat out of the bag; land legislation is what he wants to amend—

".....questions about a number of other matters, where the other Members of Parliament would like to interest themselves and to tender proper advice to the President."

In all humility I ask; if the hon. Minister thinks that the other sections of the House will be interested, how is it that the Speaker can nominate 35 people and they and they alone can have interest? That is exactly the reason why I want such matters to be discussed in the House. To that he is not agreeable.

Whatever he may say, the reason, the design, the malicious intention, is obvious, because last time when the administration of the State of Travancore-Cochin was taken over, the representatives from that State gave the Congress Party here a majority. What is the position today? Out of 18 Members, every one knows ten people belong to the Communist Party. Therefore he has found out a very ingenious argument that other sections of the House are also possibly interested and therefore we must enlarge the committee. I can see no other reason except the fact that today if the membership of the consultative committee is confined to Members from Kerala, there will be a

[Shri V. P. Nayar]

clear majority for the Communist Party and it would be rather awkward, and when the majority decision of the consultative committee is taken, the President may not like to depart from it. What does the President do? The hon. Prime Minister has stated once or twice before that although the President acts, he does not act on his individual responsibility; he acts on the advice of the Home Minister. If that is so, what is the necessity for all this? This is not the procedure.

If the Bills were properly introduced and if during the course of the session it is not found possible to take them up for discussion, one could have understood the hon. Minister coming on the last day and getting such a Bill passed. Here, four months they have waited in vain; for four months they have had nothing to report to Parliament about the necessity to amend any existing law. For four months they never thought of one single piece of legislation, which was necessary for the State of Kerala in the interests of the entire country as is now sought to be made out, to be brought before us, and now he says there are only two months. The session will go up to the 20th or 22nd of this month. Afterwards, within a period of two months there will be elections. Within these two months unless the President modifies certain enactments he would have us believe that the heavens would fall on the State of Kerala. Nothing of the kind at all. Where is the necessity for this within these two months when for four months they did not find the necessity, and even when they bring this legislation today, not a single specific instance about the necessity to change any provision of any enactment has been brought before us, and he wants blanket powers to be given. I object to it; not merely do I object to it, I strongly protest against such behaviour on the part of Government, because we are not here to be told that for four months they have

conveniently slept over the matter and today they have suddenly woken up and found that some measure of emergency may arise in the future and the President must be armed with this power.

The reason is very obvious. We all know that the Government of India wants to tinker with some of the Bills which have been passed by the Kerala legislature. It is obvious also because, though inadvertently, the hon. Minister has specifically referred only to land legislation. He has not referred to the Court Fees Act, he has not referred to the Agricultural Indebtedness Relief Act, no other Bill has been referred to. He has referred specifically to the question of land legislation, and we know what the policies of the Government will be.

But I give this warning, that if the land legislation is touched, the millions of people of Kerala will not tolerate it. We will have our Government soon, and we will certainly take the earliest opportunity to undo harm that may be done if it is the intention of the hon. Minister to bring forward any amendment which the people will not take to.

The hon. Member from there said that Bills have been passed with a narrow majority, but is it envisaged in any provision that a Bill, in order to get the assent of the President, should have such and such a majority? It is only in the case of an amendment of the Constitution that such a thing is provided. Any Bill which has a majority of a House which is constituted according to law must naturally go to the President and the President must assent. But here these are Bills which were passed long before the hon. Member and friends over here thought of the Vimochana Samiti. These were Bills before the President, and at the time the Proclamation was discussed and

immediately before the Home Minister made his reply, I had specifically pointed out that because article 201 had not been included, it would create some trouble, and then the Home Minister, not Shri Datar, but Shri Pant himself, gave me the assurance that the matter would be looked into and if necessary—the words are—“a supplementary Proclamation will be issued”. Where is the supplementary Proclamation? Without issuing that supplementary Proclamation, and after having held up all the Bills pending before the President, now to come before the House and say that this is necessary is, according to me, showing the maximum quantum of discourtesy to this House, and I think all sections will join with me in requesting the hon. Minister not to pursue this Bill.

I am also surprised at the lot of misplaced enthusiasm which has been manifested by friends of the Praja Socialist Party on whatever happened in Kerala, and at not one of them getting up today to oppose this abnoxious legislation.

The Minister of State in the Ministry of Home Affairs (Shri Datar): Except the two hon. Members opposite, all others have supported the provisions of this Bill.

Shri Narayanankutty Menon (Mukandapuram): I am sorry you are wrong. Three.

Shri Datar: All right, let it be three.

Mr. Deputy-Speaker: When only a few Members have spoken this argument should not be used, because then I shall have to see that I accommodate larger number of Members. When he said two had opposed it, the voice came that three had opposed and two supported it.

Shri Narayanankutty Menon: So, the Bill goes.

Mr. Deputy-Speaker: When there is limited time, this cannot be a test, because if others had been accommodated, we do not know what would have happened.

Shri Datar: Two points were mainly raised by the hon. Members. One was that the principle of provincial autonomy was being wrongly interfered with, and the second was that article 201 of the Constitution has been purposely abrogated and is not sought to be revived for ulterior purposes. My hon. friend Shri Menon went to the extent of saying that it was a sinister move.

I may point out that all along, on the numerous occasions whenever the President had to take over, article 201 had been abrogated. It is not only now that it is not being sought to be revived, but it is a natural corollary to the dissolution of a State Legislative Assembly. Under the circumstances, nothing new has been done so far as the present Bill is concerned.

Shri V. P. Nayar: May I ask why the Home Minister then said a supplementary Proclamation might be issued if it was found necessary?

Shri Datar: If the hon. Member will have some patience, I shall reply to all the questions.

Shri V. P. Nayar: I have ample patience.

Shri Datar: I did not interfere with him. Let him kindly follow what I say. I shall try to reply to all the points that my hon. friend has raised. (Interruptions).

Mr. Deputy-Speaker: Should I ask him to sit down now?

Shri Narayanankutty Menon: He takes it in a very bad spirit, this interference.

Mr. Deputy-Speaker: No no. That is not good spirit that has been coming from here.

Shri Datar: I wish to point out that on all the previous occasions like the present one, article 201 was abrogated when the President took over the administration of a State, and that was in consonance with the principle that when a Legislative Assembly is dissolved, naturally there can be no question of retaining the powers under article 201 to the President. That was the reason why in this particular case also when the Proclamation was issued naturally article 201 could not remain in operation.

My hon. friend contended that the Home Minister stated that this question would be considered. I reiterate what he stated. He pointed out that if it became necessary, the question of issuing a supplementary Proclamation would be looked into not that he stated that article 201 would necessarily be revived. Let the matter be understood very clearly.

We found that there were certain Bills which had been received from the former Ministry in Kerala; three Bills had already been received, and subsequently, one more Bill also was received after the Proclamation. Within a few days after the Proclamation, the question came up before Parliament. We had to consider the question whether it would be merely sufficient to revive article 201 and consider the question of granting consent or withholding consent. Under article 201, the President is not bound to give his assent, as my hon. friend pointed out; under this article, it is open to the President either to grant assent or to refer the Bill back to the State legislature. So, it is not that as a matter of course, the President is bound to give his assent whenever the Bills are referred to him by the Governor of a State.

Here, in this case, further events had happened and that should be taken into account. When the President took over the administration of the Kerala State, he became, on be-

half of Parliament, responsible for the whole administration of the Kerala State. Under these circumstances, the powers as well as the responsibilities of the President are far larger than would be the case if only article 201 is to be considered.

Shri A. K. Gopalan (Kasergod): On a point of clarification....

Shri Datar: Any clarifications might be asked for afterwards. First, let me finish my speech.

I was pointing out that a number of Bills had been received. The Speaker has already ruled that it is not necessary to go into the merits of the various Bills at this stage, because it would be open to the President to place certain Bills before the consultative committee that has been provided for in this Bill. Therefore, I shall not be going into the details or the merits of the various Bills to which my hon. friends have drawn pointed attention. May I, however, point out in a general way that in respect of one, certain definite proposals had been made by the Planning Commission, and they were not carried out? In respect of another Bill, the Reserve Bank of India who had to be consulted had made certain suggestions, which also will have to be considered with the respect that it deserves. Under these circumstances, when the President himself was the administering authority on behalf of the Kerala State, then he had to look at those Bills from a larger angle of vision, and, therefore, it was considered that instead of having the powers revived under article 201, it would be better to have a proper scrutiny of all these Bills, because now, the President was seized of the power of the whole administration, and the Parliament had the legislative authority in this respect. Then, it was considered that besides these four Bills that were there, there might be other Bills also.

Last time, we found, as I mentioned in my opening speech, that it was very

difficult to get time for the passing of certain Bills; with the greatest difficulty, we could carry through two Bills in both the Houses of Parliament. Under these circumstances, is a matter which is to be fully noted, that Parliament might find it very difficult to deal with individual pieces of legislation, so far as a particular State is concerned. That is the reason why the present Bill has been brought forward. May I assure the hon. Members of this House that the provisions of all the Bills will be looked into very carefully, and only when it is found that any changes are necessary, will the Bills with the changes introduced therein be placed before consultative committee.

My hon. friend opposite was not happy at the fact that the Members from other States also would be on this consultative committee. May I point out here that Kerala is now under the President's rule, and it is the responsibility of the whole Parliament and not merely the hon. Members from Kerala, to see to it that the administration is carried on properly, and to see to it that proper legislation is passed?

Shri V. P. Nayar: My hon. friend made a mistake then in 1956.

Shri Datar: May I further point out that on a number of previous occasions, except one or two, this had been the practice that was followed, namely to have Members from other States also on the consultative committee.

My hon. friend on this side of the House contended, and he took rather a technical view, that the formation of a consultative committee was unconstitutional. I may point out that it is not unconstitutional at all. In fact, when the Constitution does not say anything particularly, it was open to the President or the Government not to have asked for the formation of a consultative committee, but Government are anxious to interest the Mem-

bers of Parliament in the various pieces of legislation that they desire to carry through. So, I may inform my hon. friend that this is a practice which is not against the provisions of the Constitution, and that practice is being followed almost in every case, it has been followed in the present case also, namely the practice of having not only a consultative committee, but a consultative committee having all the Kerala Members in both Houses of Parliament on it, plus some hon. Members from the other States also. That is because, as I have stated, certain Bills are of a very important character, and we have to take into account the views of the Planning Commission, and the views of the Reserve Bank, amongst others. It was only under these circumstances that it was considered proper that on the consultative committee that has been provided for there ought to be Members from other States as well. Let not the hon. Members from Kerala think that they alone are interested in the welfare of the Kerala State. All of us, at the all-India level, and all the hon. Members of this House are interested as vitally in the development and welfare of the Kerala State, as those to whom my hon. friend Shri V. P. Nayar has made a reference.

Therefore, I may point out that what has been done is that a perfectly proper procedure has been followed by us. Therefore, so far as this Bill is concerned, we need not go into the larger questions, because this has now been hallowed by convention. Parliament has given such powers to the President on previous occasions, and we have maintained to a large extent the desire of the President to have a proper consultation with the hon. Members; that is possible through the consultative committee.

Lastly, we have further made a provision that after the President issues his Acts, wherever he considers necessary, after consulting the consultative committee, they will have to be placed before Parliament; and if Parliament

[Shri Datar]

makes any changes, then, naturally, the President will accept those changes.

Then, my hon. friend made certain observations which were needlessly vehement, though they had absolutely nothing to do either with the merits of this case or relevancy to this particular Bill. May I point out that the authority of the State Legislature will not be taken away at all? Under the Constitution, you will see that whenever the President passes any Act for that particular area, it remains in force only for one year after the President's powers have been withdrawn. When the new legislature of the Kerala State comes into being, it would be perfectly open to them to pass such pieces of legislation as they are concerned with. But, so far as the present position is concerned, it is our duty not merely to consider the present Bills that we have, but also to conceive of possibilities that other matters of an urgent nature calling for emergent legislation might arise. The President's rule will have to go on for some months more. We are anxious to have elections as early as possible, but there is no knowing that the need for an emergent legislation may or may not arise there, because the administration is there, and certain questions may arise. Therefore, general powers have been taken, not special powers for these Bills only.

My hon. friends are obsessed may I say, with the idea that this Bill has been brought forward solely for the purpose of dealing with.

Shri Narayanankutty Menon: May I ask for clarification of one position? The hon. Minister stated that 'We are anxious to have elections as far as possible'.

Shri Datar: No, I said 'as early as possible'.

Shri Narayanankutty Menon: No, the hon. Minister said 'as far as possible'.

Shri Datar: I said 'as early as possible'.

Shri Narayanankutty Menon: Let the hon. Minister accept the correction.

Shri Datar: As early as possible. Elections are going to be held as early as possible.

Shri V. P. Nayar: Now we accept the correction.

Shri Datar: In fact, they are anxious to postpone it by at least some months. Some hon. Members of Parliament saw me when I was at Trivandrum and they desired that the elections should not be held—as now scheduled. In fact, they were anxious to postpone it for at least a month or two. So the desire for postponement is on their part, whatever the reason may be—I am not here concerned with the reason. We are anxious to hold the elections as early as possible, and I repeat that the elections will be held as early as possible. But still inasmuch as the President's administration is there, certain questions are likely to arise which would call for immediate legislation. That is the reason why this Bill has been brought forward.

Shri Narayanankutty Menon: We can assure the hon. Minister that we are not anxious to postpone the elections. If we had been anxious to postpone the elections, we would have voted yesterday against the Constitution (Eighth Amendment) Bill and postponed the elections for six months.

Shri Datar: I would not say anything about what happened yesterday. We know what the hon. Member and his friends did. We know how they voted. I am not here to enter into that question because it is irrelevant to my purpose. Let him only consider what they did and whether the purpose they had in view was accomplished. Let them consider it in cooler moments. That is all I can say.

So far as the present Bill is concerned, we are anxious to consider not only these four Bills but other matters also, if and when they arise during the President's administration. It is for these reasons that this particular Bill has been brought forward. Let not hon. Members think that there is anything either sinister or ulterior about this. It is a perfectly normal and natural form of procedure. We did not bring forward such a Bill during last Session because we were considering as to what should be done.

After all, as the House is aware, after the President took over, we had to bring conditions down to normalcy. That has to be noted. Here hon. Members have pointed out how conditions were improving. At the other end, we had to take every step to see that the conditions improved. Here we had to consult a number of concerned Ministries. We had to consult the Planning Commission, the Reserve Bank of India and others. That was the reason why no steps could be taken during the last session of Parliament for action on the lines that has now been proposed in this Bill.

I would again submit that this Bill is brought forward only with the desire to facilitate the passing of necessary legislation as early as possible after consulting the Consultative Committee.

Shri A. K. Gopalan: Under article 201 of the Constitution, has the President got any right to make changes in the Bill?

Shri Datar: All these questions will be considered by the President.

Shri A. K. Gopalan: I want to know whether under article 201 the President has got the right to make changes and alterations in the Bill himself or whether he has got the right only to make some recommendations.

Shri Datar: That is a question of interpretation of the Constitution.

Shri A. K. Gopalan: What is the hon. Minister's interpretation of it?

Shri Datar: We have certain powers under article 201...

Mr. Deputy-Speaker: He should not ask for interpretation. He should put his own construction, whatever he feels.

Shri A. K. Gopalan: What is the construction that the hon. Minister puts on the article?

Mr. Deputy-Speaker: It cannot be of any material assistance or advantage to the hon. Member, even if he gives it.

Shri A. K. Gopalan: According to me, under article 201, the President has no right to make changes in the Bill.

Mr. Deputy-Speaker: He can hold his view.

Shri V. P. Nayar: There cannot be any other view.

Mr. Deputy-Speaker: There are always two views.

Shri V. P. Nayar: It cannot be. Article 201 is so specific.

Mr. Deputy-Speaker: Then why should he ask the hon. Minister?

Shri V. P. Nayar: Because he is avoiding the issue.

Mr. Deputy-Speaker: If he is sure that it is specific, then no question arises.

Shri V. P. Nayar: He avoids it.

Mr. Deputy-Speaker: The question is:

"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".

The motion was adopted.

Mr. Deputy-Speaker: Clause 2 has no amendments.

The question is:

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3— (Conferment on the President of the power of the State Legislature to make laws)

Shri B. C. Kamble (Kopargaon): I rise to a point of order. I raised it at the consideration stage, but the Speaker was pleased to say that unless I wanted to oppose the motion for consideration of the Bill, I could raise it at the time the relevant clause was under consideration.

There are two points. One is that the provision contained in sub-clause (2) of clause 3 goes beyond the authority of the Proclamation. Here power is to be delegated. That is all right. But the Parliament can delegate the power which it has. Parliament cannot delegate a power which it has not, that is to say, Parliament cannot make a law when it is not in session. Parliament cannot enact when it is not in session. Therefore, the power to delegate the power to make any laws when Parliament is not in session is not within the competence of this House. Therefore, I am raising this in the form of a point of order.

Mr. Deputy-Speaker: The power of Parliament to enact legislation is there even when it is not in session. The power is there. Whether it can be exercised during that time on account of its not being in session, is a different thing. But the power is not taken away by the Constitution or any other thing, when it is not in session. It can make laws at any moment. The duration or interval between two sessions cannot deprive Parliament of this power.

Shri B. C. Kamble: My point is: When it is not in session, can Parliament make any law? My submission is that only when Parliament assembles and sits and there is a session, then alone can Parliament make a law; otherwise, Parliament cannot make a law. I am not saying with regard to the interval; there may be interval or there may not be interval. Parliament may go on sitting continuously. That is quite a different thing. But Parliament can make laws only when it is in session.

Mr. Deputy-Speaker: When the hon. Member is asleep, he loses the power of writing. But that does not mean that after he gets up, he cannot write.

Shri B. C. Kamble: That is not it. Can Parliament make a law when Parliament is not in session? That is my point.

Shri Narayanankutty Menon: The point is clear.

Mr. Deputy-Speaker: Let him conclude.

Shri B. C. Kamble: I submit that Parliament cannot confer power upon the President or delegate power to the President to make laws when Parliament is not in session. Therefore, only when Parliament is in session, during that period, the President can through that authority make any laws as suggested in the Bill. I have tabled an amendment to the effect that only when Parliament is in session, the President should be authorised to make laws. My amendment No. is 13. It says:

"for 'whether Parliament is or is not in session' substitute 'when Parliament is in session'.

This is one point of order.

Another point which I want to raise has really already been stated. But I would make a further submission. A Proclamation is issued in two contingencies or for two purposes. One is if there is a failure of the machinery. The second is, maintenance of

the form of the Constitution. Under article 357, under which this Bill has come before this House, there is a specific procedure prescribed whereby Parliament can delegate the power to the President or authorise the President to delegate the power to some other authority or that authority may delegate that power which is conferred on or delegated to it, to some other authority. These are the things envisaged. That is to say, during the Proclamation a particular procedure has been prescribed under article 357. This article forbids any other procedure, namely even the constitution of a Committee, may be of the Members of this House, may be of any other House. Therefore the procedure which is prescribed under this particular article must alone be followed.

Now a Proclamation is issued and the Ministry is dismissed. Why? Because of two reasons. One is there is failure of the machinery and the other is that the form of the Constitution should be maintained. It is a serious matter. You have got to maintain the form. You cannot say that there has been a practice. The practice was against this very article.

I submit that if there had been a practice or precedent, it was against the article—357. Therefore, I have tabled an amendment to that effect. The form should be maintained. The procedure followed should be 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. Therefore, it is mandatory and obligatory on the Government and they cannot go against the provisions of this article.

These are the points on which I expect your ruling.

Shri Narayanankutty Menon: I will speak strictly on the point of order and not on the merits of the

Bill. I think that point of order cannot stand as far as the interpretation of that article is concerned because the legislative power of the Parliament is there when it is sitting and when it is not sitting the legislative power is in the form of the power of the President to issue Ordinances. Therefore, no specific authorisation is necessary so far as the President is concerned.

Mr. Deputy-Speaker: The power is there; but it cannot be exercised.

Shri Narayanankutty Menon: It can be exercised by means of an Ordinance. There is no necessity in this Bill to confer a separate power on the President when Parliament is not sitting.

Shri B. C. Kamble: I invite your attention specifically to article 357(c). There is specific mention of 'when the Parliament is not in session'. It reads:

"For the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the State pending the sanction of such expenditure by Parliament."

That is to say, the only contingency expected by the framers of the Constitution during the period when the Parliament is not in session is with regard to the sanctioning of expenditure. So far as that provision is concerned only that power could be exercised. That appears to be the intention of the framers of the Constitution.

Pandit Thakur Das Bhargava (Hissar): I am rather surprised at the point of order raised by my hon. friend. According to article 356, the result of the Proclamation is to declare:

"that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;"

(Pandit Thakur Das Bhargava)

So, Parliament is substituted for the State Legislature so far as legislative authority is concerned. You will find from article 357, that—

“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,....”

If the Parliament confers that power of the State Legislature on the President to make laws, then the question is whether that Legislature itself could make laws whether the Parliament is in session or not. Suppose the Parliament is not in session. The Legislature of the State has the power. It can make laws. That power is conferred on the President. The question whether Parliament is in session or not does not arise.

My hon. friend has referred to article 357(c) and says that the power of the President during the period when Parliament is not in session will be only to sanction expenditure from the Consolidated Fund of the State. It is not specifically said so.

My submission is that the entire powers of the State Legislature are given to Parliament and the Parliament is asked to give that power to the President. Then the President can certainly make laws whether Parliament is in session or not. So this point does not arise. We give the entire powers to the President and therefore he is competent to make any law if he feels so. Therefore, to my mind, the two points of order raised by my hon. friend are of no validity at all.

Shri C. E. Pattabhi Raman (Kumbakonam): May I point out that the

inherent powers of Parliament are always there. We are now dealing with the emergency provisions. Clause (1) of article 357 very clearly says:

“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...”

I will leave it there. And then, it says—

“(b) for Parliament, or for the President or other authority in whom such power to make laws is vested under sub-clause (a), to make laws conferring powers and imposing duties....”
and, thirdly,

“for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the State pending the sanction of such expenditure by Parliament.”

Then, clause (2), it says:

“Any law made in exercise of the power of the Legislature of the State by Parliament or the President or other authority referred to in sub-clause (a) of clause (1) which Parliament or the President or such authority would not, but for the issue of a Proclamation under article 356 have been competent to make shall, to the extent of the incompetency, cease to have effect.”

It is the inherent power and article 357 provides for it.

Shri Datar: May I point out that there is no substance in the points of order raised by my hon. friend. Under article 356(b) what happens is this. When a Proclamation is issued the President declares that the power of the Legislature of the State shall be exercisable by or under the authority of Parliament. Then, subsequently, the Proclamation is approved by Parliament. When this Proclamation was approved by Parliament during the last session it meant that the authority of the State vested in Parliament. Now, Parliament can legislate at any time it pleases. It would not be correct for my hon. friend to state that Parliament's powers are only during the session of Parliament. The powers are there for all time and it would be open to Parliament to meet if necessary in a special session and pass any legislation. Under these circumstances what is relevant in this particular case is article 357 (i) (a).

My hon. friend made some confusion between administrative powers of the President and the expenditure to be incurred by him from the Consolidated Fund to which 357(c) refers. That is, naturally, a different matter.

Here, in this Bill, we are considering the question of conferring on the President the legislative powers of the State which are vested in Parliament. Under article 357 (i) (a) it is clear that it shall be competent for Parliament to confer on the President the power of the Legislature of the State to make laws. This is what is being done; and for this purpose this Bill is being brought forward.

Mr. Deputy-Speaker: I need not go into great details about this. It has been made clear that we are not conferring powers on the President to make laws and he can delegate that power to whatever authority he likes with certain conditions also if he thinks fit.

Two questions have been raised by the hon. Member. One is that

Parliament itself has not got that power to legislate when it is not in session and, therefore, it cannot delegate that power.

I interrupted him at that time also and said I cannot agree with this, that when the Parliament is not in session the powers that it has are taken away from it. It has got those powers; only it cannot exercise them because it is not in session. But rather it becomes all the more necessary. Because of its not being in session and it cannot exercise its powers, therefore, it wants to delegate them to some authority so that they might be exercised during that period when Parliament itself cannot exercise it. It is not that the powers are taken away. The Parliament can exercise these legislative powers any time it likes. Therefore, I cannot agree with him so far as the first point is concerned.

Shri B. C. Kamble: May I say one word? Suppose the powers are not delegated to the President and that the powers of the Kerala State Legislature are to be exercised by this Parliament. If the Parliament is not in session, can it make any law?

Mr. Deputy-Speaker: It can always make laws. If it considers that a legislation is urgent and necessary and if it is not in session, a special session can be convened. Because it does not want to do that and it does not like to come in session at that moment for a particular urgent legislation, it has given powers to the President so that during that period he may exercise those powers. It is very clear to me at least and I do not think there is any ambiguity or confusion about it.

The second point the hon. Member raised is this. The Parliament may have adopted that practice and constituted advisory bodies to advise the President to enact legislation. But it has no authority and it is *ultra vires*. Even if it has been done in the past, that does not mean that there is

[Mr. Deputy-Speaker]

any sanctity about it. We should decide independently. That is what he says. This House has taken decisions so many times and it thinks that it is according to the Constitution. It has not been set aside by any competent court. The Chair has always left this question to the vote of the House. The Members should have the constitutionality of a particular thing also in their view when they exercise their votes and the House has exercised that vote on this particular question two or three times, I suppose, and has given its opinion. Even otherwise, I feel that the phraseology that is in this article makes it very clear that the President has got ample authority, when this authority is delegated to him, to exercise it under any conditions. Whenever he thinks it fit he will take that advice but how he acts when that advice is given is a different matter altogether. I think there is no force so far as these two points of order are concerned. Now, we can proceed with the further amendments.

Shri Narayanankutty Menon: Sir, I move amendments Nos. 3, 4, 5, 6, 7, 8, 9, 10, and 11.

Mr. Deputy-Speaker: I am doubtful about amendment No. 3, whether it would really be in order. Would he kindly explain, when he makes his speech, how this would be in order?

Shri Narayanankutty Menon: I am not likely to argue it; I am likely to agree with you as far as admissibility of that particular amendment is concerned.

Shri V. Eacharan (Palghat): Amendment Nos. 4 and 5 are not in your name.

Shri Narayanankutty Menon: I move my amendments Nos. 3, and 6 to 11.

Mr. Deputy-Speaker: Is 13 also moved?

Shri B. C. Kamble: In view of your ruling, I am not moving 13 or 14.

Mr. Deputy-Speaker: So, the amendments to be moved are only 3, 6, 7, 8, 9, 10 and 11.

Shri Narayanankutty Menon: I beg to move

Page 1,—

after line 11, add—

"Provided that the President shall exercise only such powers as are conferred upon him under article 201 of the Constitution in respect of Bills passed by the dissolved Kerala State Legislative Assembly and reserved by the Governor of that State for the assent of the President"

(3).

Page 1, line 16,—

omit "whenever he considers it practicable to do so". (6).

Page 1, line 18,—

for "thirty" substitute "eighteen". (7).

Page 2, line 3,—

for "fifteen" substitute "nine". (8). (8).

Page 2,—

after line 6, add—

"Provided further that any recommendation made by a majority of members of the said committee shall be binding on the President." (9).

Page 2,—

after line 16, add—

"Provided that the President shall get the opinion of the committee mentioned in sub-clause (2) for any such modifications, before an amending Act is enacted by the President." (10).

Page 2,—

omit lines 17 and 18. (11).

In reply to the first reading on this Bill, the hon. Minister did not give

any satisfactory explanation as to why he could not bring forward an amendment to the original Resolution passed by this House on the 20th of August, 1959 restoring the powers of the President under article 201. Yesterday, I have pointed out that it is about 1½-2 years since certain Bills had been reserved for the assent of the President and till now it seems the Government had not made up its mind as to what amendments are to be introduced to these Bills. He is not even prepared to tell the House as to which are the Bills which require certain amendments, what are the amendments and why the amendments are necessary. Therefore, in principle, we wish to move all these amendments to restrict his powers in the way it is laid down in the Constitution. My amendment No. 3 is only to provide for this. Article 357 says certain restrictions are possible when delegating these powers. The paramount power is exercised by Parliament; it is given power to delegate that power to the President. Yesterday, Shri Naldurgkar was speaking. When a sovereign power is given to the principal and the principal is given the power to delegate these powers with or without restriction, it is the inherent power of the principal to have certain restrictions placed if he so chooses. I maintain that Parliament as the sovereign authority has got the power to restrict the power given to the President. We are not faced with a fait accompli. It is not that the Parliament has got to delegate the powers in toto or not at all. So, when this House, as the principal in this delegation, delegates its powers, it can always place a restriction in the usage of that power saying that the President shall exercise that power only in such and such way.

Mr. Deputy-Speaker: If he intended like that, he ought to have put these conditions.

Shri Narayanankutty Menon: Instead of repeating the powers described under article 201, I have simply mentioned article No. 201. The only intention is that in the use of

the delegated power, the President is restricted in such a manner as mentioned by me; he can exercise the powers that are conferred upon him under article 201.

Certain Bills have been sent to the President for assent. A very disturbing news has appeared in the Press and I wish that the hon. Member who is absent today could contradict it. A delegation of the Travancore-Cochin bankers headed by one of my hon. friends sitting opposite, in the Congress Party, coming from Kerala saw the Finance Minister and the Finance Minister assured him that the interest of the banks will be looked after and necessary amendments in the Bill will be introduced.

Shri Maniyangadan (Kottayam): Is he any of the Members sitting here now?

Shri Narayanankutty Menon: I will name the hon. Member. It is Shri George Thomas Kottukapally. I wish he could deny that news which appeared in Kerala and in Delhi also. The Travancore-Cochin Bankers' Association is,—it is well-known—against the provisions of the Agricultural Debt Relief Act as amended by that legislation. When Shri Maniyangadan spoke, he said that he did not know what changes the President would make. There is one particular clause which gives benefit to the debtors of the banks. The benefit of the Bill is given up to a sum of Rs. 15,000. We fail to understand what amendment could the President make to that Bill without destroying the benefits to those who are debtors to the banks there.

13 hrs.

Sir, our only object in moving this amendment is this. We stand on behalf of the large number of debtors in the State of Kerala who owe money to the bankers who are members of the Travancore-Cochin Banking Association. We feel that if eight instalments are given to these debtors to pay back to the bankers, the bankers will not lose anything and at the same time, these thousands of debtors who owe money to the bankers and who are just on

[Shri Narayanankutty Menon]
the point of being evicted out of their lands will get some time to pay back their debts. Therefore, we stand principle that the President should not exercise the powers except as has been prescribed in article 201 of the Constitution.

Regarding the other amendments, amendments Nos. 6 to 11, I shall put forward my arguments together in order to save time.

Mr. Deputy-Speaker: I would like the hon. Member to make it more clear whether the Parliament can put any restrictions on the President so far as article 357 is concerned?

Shri Narayanankutty Menon: My submission is that article 357 is a provision whereby the Parliament is given authority to delegate its power. The Parliament is a sovereign body. As long as no qualifications or restrictions are placed in article 357 itself, this sovereign body has got exceptional power to delegate its power to some other body or individual. That authority of delegation is not qualified or restricted by any other usage in article 357. I, therefore, maintain as a principle under the common law and constitutional law that it can always impose restrictions and always prescribe or limit the manner in which the power should be exercised by the agent.

As I said, Sir, I shall put forward my arguments for all the other amendments together. My hon. friend pointed out that the entire Parliament is interested in the welfare of the people of the State of Kerala. I am thankful. We are aware that hon. Members from all sections in the House are very much interested in the welfare of the people of Kerala. The people of Kerala have got a very good taste of that interest in their welfare from 31st July, 1959 onwards. I do not want to go into the details. My only point was this, that I fully agree with hon. Members from all parties in this House and from all States that if they come in an advisory committee

they can make very good contributions and that will only be contributory to the welfare of the people of the State.

But I stand on one principle which I have enunciated yesterday. Even though the Parliament is a sovereign body its powers are restricted under the Constitution regarding certain subjects where exclusive power of legislation is given to the representatives of a particular State. That is the essence of the principle of provincial autonomy. It is also agreed that if the President has to intervene in a State in case of an emergency that period will have to be treated as a period of emergency and no decision will be taken by the President which would have far-reaching repercussions on the subjects that are mentioned in the Schedule giving the list of subjects which are exclusively State subjects.

My hon. friend pointed out that even if the President exercises this power and makes some amendments after one year of the President's Rule that power lapses. I agree. We are not afraid that you are going to make laws perpetually for Kerala. It is impossible. If there would have been any power on earth which enabled you to make a law which would just bind the people of Kerala in perpetuity you would have made it very easily. But you have no such powers to make such laws. Here, in this case, when you are making a law and that law will be in force for one year after the President's Rule lapses in Kerala, you can do irreparable damage to the people of Kerala.

I will point out one instance. Take for example the Agriculture Debt Relief Bill. Today many suits are pending. The suits of debtors in ordinary cases except in the case of debts of bankers have been stayed by the court because of the original Act. When this Bill was passed the bankers very well knew that it would go to the Central Government and the Central Government would take some time even if the Communist Party continued to be in

power for a long time. They, therefore, took advantage of this and in 99 per cent of the cases they have filed suits for eviction and fore-closure of mortgages to the banks. At this moment, Sir, thousands of families are on the point of eviction. In the Finance Minister's statement the other day it was said that they will bring amendments. If amendments are not brought and the measures are delayed these families will be thrown on the public road. If, therefore, by the amendments made by the President in exercise of his powers the benefits that are given to the debtors are taken away that would do an irreparable damage and even if our party is returned to power it will not be possible to amend this damage because all the families evicted today because of their debts to the bankers will remain on the public roads and the Legislature will be completely powerless to give retrospective effect to the legislation.

I, therefore, submit that the argument that it is only for one year and then the thing will come to Parliament will not stand because the Parliament will be powerless. There is provision in the Act whereby it gives complete moratorium to whatever the President has done irrespective of the fact that the Parliament can change that law and there is also the Kerala Legislature. Irreparable damage can, therefore, be done which neither this House nor the State Legislature can mend. Therefore, we oppose this.

One point more, and that is regarding the constitution of the committee. Even in constituting a committee which is advisory in character they are not prepared to say in the Bill that in all cases at least consultation will be there, because a clause is added that wherever the President considers it possible he may do it. It may be possible for the President and it may also be not convenient for him to consult this committee. We do not want that clause. Make it binding on the President, that the President before enacting any new legis-

lation or amending any existing legislation should consult the committee. Make it incumbent and mandatory upon the President that he shall consult the consultative committee.

Mr. Deputy-Speaker: I think the same intention must be there, though it is not expressed in these terms. The intention must be that in all cases where legislation is going to be enacted the committee would be consulted.

Pandit Thakur Das Bhargava: In fact, such an amendment was moved on a previous occasion and ultimately the Government said that in all cases, except in cases where it is not practicable, they will consult the committee.

Shri Narayanankutty Menon: My only desire is that what happened in the previous case, that convention should be applied in this case also. That is the only motive of this amendment. It may not be possible. It is not the case of the President issuing an Ordinance. Make this consultation mandatory upon the President because there is no urgency.

Regarding the constitution of the committee we have nothing against hon. Members coming from other States. Practice and convention was mentioned. Last time when the President's Rule was introduced in Kerala a committee was constituted in which no Member outside Kerala was included except the hon. Minister. Why? It is clear that then the Congress had a brute majority as far as Members from Kerala were concerned and, therefore, this necessity of having Members from other States and thus exercising the sovereign authority of Parliament and responsibility did not arise at that time. This time it is very well understood that if only Members from Kerala are taken the Communist Party has got an absolute majority in this committee and it will be a little embarrassing, even though decisions and recommendations are not mandatory, for the President to reject the recommendations made by

[Shri Narayanankutty Menon] this committee. Therefore, with a very ulterior motive that the political and policy decisions of the Congress should be imposed on the people of Kerala, which did not elect a majority of Members from the Congress either to the Parliament or to the State Legislature, this Bill has been brought. We, therefore, oppose this and commend to the Government that it is not a question of provincialism, it is not a question of parochialism, it is a question of upholding the principle of provincial autonomy and leaving to the representatives of Kerala to mind their own business and take decision on subjects specifically put in the Schedule of the Constitution relating to State subjects. I do not find any objection to that. I agree with the hon. Minister that conventions form part and parcel of the Constitution and they should be upheld. Here, last time, the committee was constituted of Members from Kerala alone. Our only desire is, do as you have done last time. What is the harm in it?

Therefore, if the hon. Minister is prepared to accept two of my propositions I will withdraw all my other amendments. The first proposal is that the committee should be composed of members of Parliament from Kerala alone. The second proposal is that the recommendations of the Committee should be binding upon the President. If these two are accepted by the hon. Minister, we are prepared to accept the legislation in full subject to these two amendments. I would say the hon. Minister owes a duty not only to this House but also to the people of Kerala to tell them what is the difficulty in accepting these two propositions. Leave the matter to the Members of Kerala. The President would then be advised and then the President can legislate. In the absence of cogent, coherent and reasonable explanation to this we can come to only one conclusion. That the Parliament and the party in power today want to use the brute majority that they have got here to override the desires of the people of Kerala and

see that certain amendments to serve the interests of the really publicly advertised vested interests in Kerala like the bankers and the landlords should be imposed upon the heads of the people of Kerala. That is the only conclusion we can come to.

Reference was made by the hon. Home Minister yesterday that certain representations have been made. One of the representations is from the Travancore-Cochin Bankers' Association. Certainly the Congress party cannot ignore them because the Congress party, if they want to have a liberation struggle by having the election, cannot ignore that association. The Travancore-Cochin Bankers' Association cannot, therefore, be ignored by them. The second representation is from the Kerala Landlords' Association which consists of about 325 members. They have made a representation. The Congress Party cannot ignore them because what has been jettisoned from the general furore is this type of people, the bankers and the landlords. How could the Congress afford to ignore them?

My only point is, in order to cater to the interests of the landlords of Kerala—320 in number,—in order to cater to the interests of a few bankers of Travancore-Cochin let not the Government just use their majority in this House and the extraordinary power that they have got through the President's proclamation to override the interests of the people of Kerala. Let the Government accept these two reasonable amendments. Let them form a committee consisting of members from Kerala alone and let them make the recommendations of the committee binding on the President. Then we will be with the Government.

As my hon. friend Shri Maniyangadan said, we are for giving powers to the President for legislation on these matters, and the legislation is urgent. All these four Bills should be assented to immediately because irreparable damage has been done. Therefore, I support the hon. Home Minister subject to this, namely, he must be

prepared to accept these two amendments. If he accepts them we are with the hon. Home Minister in passing this legislation.

Mr. Deputy-Speaker: The hon. Minister.

Pandit Thakur Das Bhargava
rose—

Mr. Deputy-Speaker: We have very little time. Anyway, Pandit Thakur Das Bhargava may speak; I request him to be very brief.

Pandit Thakur Das Bhargava: I am very sorry that I have to oppose the amendments of my hon. friend. In the first place, he has imposed two conditions. One of the conditions is that only the members from Kerala should be associated with the consultative committee. But he has himself said that he is not opposed to the inclusion of other States. But he has made this condition, which means that the legislative assembly which has been dissolved as a result of the proclamation should be revived in the shape of these persons belonging to his party. After all, according to the proclamation, the entire Parliament is seized of the power which that legislative assembly had. Now, my hon. friend wants to take away the power of Parliament as well as the right of the other members of States. What he affirms in principle, he denies in practice.

When Parliament is today the real authority in the land so far as legislation is concerned, I think these two amendments take away the power of Parliament as well as the power of the members from other States. I think it is very unjust and it is very wrong. At the same time, it shows that the hon. Members on that side have got no confidence in Parliament as a whole or in the members from other States.

Shri V. P. Nayar: We object to what the hon. Member is saying. It was our case that the whole Parliament should discuss it and that

power should not be delegated.

Pandit Thakur Das Bhargava: They want to go against the Constitution. When article 357 has been enacted in the Constitution, how can they say that the power should not be vested in the President? We have to see to the provisions of the Constitution. What they suggest really goes to the root of the matter and it is not justified.

Mr. Deputy-Speaker: When it is argued that the Government is going to pass it by a brute majority of its own party, then, because of that, the hon. Member is opposing that stand.

Shri V. P. Nayar: It would appear that we are not keen at all in having the matters relating to legislation discussed in this House. Our main case was that the whole Parliament should discuss it.

Mr. Deputy-Speaker: That has been argued.

Pandit Thakur Das Bhargava: The result of the proclamation is that all the legislative powers have been vested in Parliament. Those powers which had been vested in the legislature have been taken over by Parliament. They want to see that this is not done! On the contrary, they want to see that instead of Parliament doing it, only a few members belonging to the Communist party should deal with the matter and should have the right to say whether the Bills are right or wrong.

The second condition that my hon. friend has imposed is this: the decision of the consultative committee should be binding upon the Government. They do not want an advisory body. They want that the decision of the committee, which should consist only of members from Kerala, should be binding on the Government. I think that is a very grotesque and ludicrous position.

Shri V. P. Nayar: It was like that in 1956. The hon. Members on the

[Shri V. P. Nayar]

other side did not raise any objection then.

Mr. Deputy-Speaker: But the decisions were not binding.

Pandit Thakur Das Bhargava: The decision was never binding even then. Even at that time, an effort was made by this House to see that the President did not get all the powers. The provisions contained in the Bill on that occasion were enacted at my instance. So far as Punjab was concerned, when those powers were taken away and were sought to be vested in the President, I pleaded that certain powers should continue to vest in Parliament. Therefore, we are not here giving all the powers to the President. We then wanted that the Parliament should discharge its duty. It was in accordance with our wish that the powers were conferred.

I cannot understand my hon. friend is blowing hot and cold at the same time. First of all, hon. Members from the other side say that previously this was not done and so this does not follow any precedent. Now, my hon. friend himself said that there was a precedent for Kerala and that that precedent should be repeated here. In my submission, the right course is this. Even after the President has enacted a measure, even then, the Members of Parliament have got the power, under sub-clause (4) of clause 3 of the Bill, to make any modifications that they like.

Then again, my hon. friend raised another point. He said that in these three or four Bills that are now awaiting the assent of the President, some provisions have been made which, according to him, are meant for the benefit of certain classes in Kerala and that they should remain in the Bills. In this way, he went to the length of saying that article 201 should continue to be applied. I cannot understand this. When the powers of the legislature are taken away, and

when the Parliament enacts a certain law for the State, and when it goes to the President, and powers have been given to the President under the proclamation, how is it possible to revive the old thing? It cannot be revived.

At the same time, it is idle to say that when a law has not been made in the State, the Parliament is not called upon to make a law for that State. Again, even if a law is there, Parliament can repeal that law. At the same time, when making a law for the State, Parliament is fully seized of the entire circumstances and also seized of the power of the legislature there. How can it be suggested that the legislative measures which are to be assented to by the President, and which have not yet become law, should remain sacrosanct, as it were, and the subject-matter of these measures cannot be touched? It is true that the State Legislature has made certain laws but the Bills have not been assented to by the President. If it comes within the jurisdiction of Parliament, and if Parliament confers the powers on the President, the President shall enact a law, but the whole thing is subject to any modification and change that the Parliament may make. The entire thing will come before us. We shall see what is proper. So, I cannot understand why and how they have the temerity to insist here that only such portions of the measure, as are consistent with what has already been enacted by the legislature, should be given assent to. That means to say that the Parliament has not got the power which indeed has been given to it under article 356! I say that this is not fair. It is not right to say that, and it is not right to raise such an objection and say that the power of Parliament also is to be taken away in that way. They cannot insist that what has been done by the legislature, whether it is right or wrong, should be adopted as it is and be incorporated in the form of an Act.

Sir, I oppose all these amendments.

Shri Maniyangadan: My hon. friend was saying that under article 357, the powers to be delegated to the President by the present Bill should be limited and they should be so limited as to be in accord with article 201. I cannot understand that. The present Bill is intended to delegate some powers to President; and article 201 vests some powers in the President. It is not those powers which are intended now to be vested in the President. Only those powers which are vested in Parliament by the proclamation are now sought to be vested in President; that is to say, the legislative powers of the Kerala State are now vested in Parliament. For the sake of expediency and other reasons already stated, it is now proposed that those powers, that is, powers of legislation, are to be transferred or delegated to the President. There is no meaning in saying that it should be limited to article 201, which deals with the powers of the President to give assent to Bills. If he finds that some Bills should not be given assent to, there is a prescribed procedure and ultimately it comes to the legislative powers, and those legislative powers are now delegated. There is no meaning in continuing article 357 in the Constitution if the arguments advanced by the other side are accepted.

Another point made by them was the sinister motive of the Congress party...

Shri Narayanankutty Menon: The restriction applies only to the Bills that are reserved. Regarding future Bills, Parliament is not limited by my amendment.

Shri Maniyangadan: As my time is limited, I will not go into that. They said that we have the sinister motive to utilize the brute majority. But, if the Kerala members alone are included, they will have a brute

majority. So, what they want is that their brute majority in Parliament should be utilized against the interests of the people. I repeat, against the interests of the people

Then they were saying that several representations have been made and that it was reported in the papers that one MP was leading a delegation of bankers. I have no knowledge of it and hitherto no such delegation has come to Delhi, led by a Member of Parliament. I do not know whether any delegations have come at all. Of course, several representations have been made. Then, as I said yesterday: why should one be afraid of a delegation of bankers? The Congress party, if I have understood the policies of the party correctly, will pay heed to representations made by any section of the people, whether it be of bankers, or labourers, or any other section of the people, unlike the Communist Party which will pay attention to only what has been said by people of their own following. That is not the policy of the Congress, and I think the policy that we are now adopting is the correct policy. We must pay heed to representations made by all the sections of the people, they must be attended to and the best policy adopted. If any delegation comes of bankers, or debtors, or planters, that must be given the respect that is due to it, and the policy to be adopted should be in the best interests of the country at large.

As regards the bankers' representation, the Home Minister was good enough to say that certain objections have been raised by the Reserve Bank. It is not the interests of a few bankers that are affected by this measure. The banking industry in Kerala is doing a lot of service to the country and if there is an objection from the Reserve Bank, having in view the other factors, it should be paid heed to. My submission is that it will vitally affect the interests of the country at large and not of a few bankers. So, if any objections are made and the Government is

[Shri Maniyangadan]

paying attention to them as a matter of policy, it should not be said that a few bankers' interests are to be safeguarded and that is why the Government is now going out of its way to bring forward this Bill. This is in the interests of the country, the economic situation of the country. It should be noted that a large section of the people will be affected if the banking industry in Kerala is destroyed.

I do not know what the amendments are, and whether they will be to the Agrarian Relations Act or the Debtors' Act. Also, the amendments proposed by the President may or may not be accepted; I do not know. It will come to the committee, and we can discuss it. If the opinion of the committee is not heeded to by the President and he passes a legislation, then again there is a provision made in the Bill to amend it by proper means. The President's Act will not be in force for more than a year after the State Legislature comes into being. Also, after the election the State Legislature can bring in proper amendments, if they want to. So, there is nothing wrong in this legislation.

Out of the 45 members of the committee, 30 will be nominated by the Speaker from this House, and 15 will be nominated by the Chairman of the Rajya Sabha. My friends on the other side were saying that some sinister motives are behind it, it will not be done properly, the brute majority of the Congress party will be brought in and all that. I do not know whether the Speaker will be acting with any sinister motive. The Speaker will, with due regard to the interests of the House and having regard to the parties and groups represented here, nominate 30 members, out of which 18 members will be from Kerala. It is too much to say that there is some sinister motive behind this provision in the Bill. The Speaker in his discretion, having due

regard to the interests of the country . . .

Shri Narayanankutty Menon: We did not mean anything against the Speaker, because the powers of the Speaker are barred.

Shri Maniyangadan: They did not mean, but ultimately that is the result. They say that they did not mean it; but they never say what they mean. That is the unfortunate thing. Now I do not want to go into details.

Shri Datar: I should like to be brief, because some of the points have already been answered by other hon. Members. But I should like to draw your attention to article 357 of the Constitution, and if it is properly interpreted, it will show—I am reading the article now—

“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 . . .”

This has been done already. Therefore, all the powers of the local legislature, the totality of all the powers, have now been vesting in Parliament. Now, what has been vested is to be further given over, or delegated, to the President, and therefore, we say:

“it shall be competent—

(a) for Parliament to confer on the President the power of the Legislature of the State to make laws . . .”

Thus, it will be found that whatever authority Parliament has derived by the proclamation has to be further delegated to the President, without circumscribing the powers in any way. Now, before the Constituent Assembly there was the question as to whether any conditions should be imposed at

all. I would request hon. Members to read the article further, where it says:

"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;"

Thus, we come to the position that all the powers of the State Legislature have to be vested in Parliament, and all these powers of the Legislature, if it so pleases the Parliament, shall be delegated to the President. It is only when there is a further delegation by the President to somebody else that certain conditions can be put in. Therefore, I would submit, so far as the power of delegation to the President is concerned, it cannot be circumscribed by any conditions; the totality of powers have to be transferred, or delegated, to the President. Now, if this is taken into account, I am afraid my hon. friend's amendment No. 3 is not at all in order, because what he says there is:

"Provided that the President shall exercise only such powers as are conferred upon him under article 201"

That means, the totality of powers is going to be reduced to only such powers as the President ordinarily has under article 201. Article 201 is an entirely different article, which contemplates different circumstances. As I have already pointed out, this Bill has not been brought forward only for the purpose of dealing with those four Bills. This will apply to any Bill that the President may think it necessary to consider and enact into a President's Act. Therefore, my submission is that this amendment No. 3 is not in accordance with what I have read to you from article 357(1)(a).

So far as the other amendments are concerned, there are two points. One point is that the membership of the consultative committee has to be, according to them, confined only to

the Members of Parliament from Kerala in the two Houses. That is not the proper course. Especially, when Parliament has been invested with authority, the Committee ought to have full representative capacity and that capacity has to go to the President. Further, he desired that the powers of the President should be circumscribed by the majority vote of the Consultative Committee. So far as this is concerned, it defeats the very purpose for which the Consultative Committee is appointed. The Committee has to be consulted and ultimately, it is not merely the privilege of the President, but the obligation of the President to Parliament to make such Acts as he considers proper.

Lastly, on two or three occasions, even when the Travancore-Cochin Administration was taken, there were certain members from other States who were on the Consultative Committee—not only from Travancore-Cochin but from other States.

Shri Narayanankutty Menon: All from Kerala.

Shri Datar: In two other States, the same principle was followed. Therefore, what has now been done is, all the Members from Kerala have to be taken; they are not to be excluded. In addition, I say that Parliament has also to be reflected in this Committee and certain other Members from other States have to be taken. Therefore, I would not accept any of the points that the hon. Member has made in this respect.

Mr. Deputy-Speaker: I am of the view that amendment No. 3 is not in order. The hon. Member who moved it takes shelter under article 201. But, article 201 only applies in normal circumstances when no Proclamation has been issued and the State legislature is functioning normally. Then it is that a Bill is sent on and the procedural restrictions are there that the Bill might be scrutinised and the procedure laid down in article 201 might be followed. **Shri Narayanankutty**

[Mr. Deputy-Speaker]

Menon argued that he does not mean that article 201 should be restored even in these circumstances. He says that this is a sovereign Parliament and because it has authority to delegate powers to the President, the sovereign authority can do it wholly or in part and it might impose certain restrictions also when it is delegating it. That is what I could understand.

As has been just now argued by the Home Minister, if we look to the wording of the article 357(1)(a) it says that it shall be competent for Parliament to confer on the President the power of the legislature of the State to make laws. This is what has to be delegated and not particularly any function, one or two, to scrutinise one law or the other. We are going to delegate the power of the legislature of the State. Therefore, in my opinion, it would not be possible for us to put any restriction or to say that these conditions that are laid down in article 201 would also be in force when we are delegating this power. I cannot agree with the hon. Member and therefore, I think, amendment No. 3 would be out of order. There are the other amendments Nos. 6, 7, 8, 9, 10 and 11. I will put them to the vote of the House.

Shri Narayanankutty Menon: Putting all the amendments together, Sir?

Mr. Deputy-Speaker: If he wants that they should be put separately, I have no objection. As he desires; I have no objection.

Shri Narayanankutty Menon: Yes; all together.

Mr. Deputy-Speaker: Or if he wants any particular amendment to be put separately, I have no objection.

Shri Narayanankutty Menon: The only practical difficulty is that that amendment cannot be separately pressed for division.

Mr. Deputy-Speaker: He can say which amendment he wants to be put separately. I will put it separately.

Shri Narayanankutty Menon: I wish amendment No. 10 be put separately.

Mr. Deputy-Speaker: I shall now put amendments Nos. 6, 7, 8, 9 and 11.

The amendments Nos. 6, 7, 8, 9 and 11 were put and negatived.

Mr. Deputy-Speaker: The question is:

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after line 16, add—

"Provided that the President shall get the opinion of the committee mentioned in sub-clause (2) for any such modifications, before an amending Act is enacted by the President." (10).

Mr. Deputy-Speaker: The 'Noes' have it.

Shri Narayanankutty Menon: The 'Ayes' have it. Two 'Noes' and Three 'Ayes'.

Mr. Deputy-Speaker: Always there is such a difference. I will put it at 2-30. We shall now take up the next item. Unless this is disposed of, we cannot proceed.

13.34 hrs.

*DEMANDS FOR SUPPLEMENTARY GRANTS (KERALA), 1959-60

Mr. Deputy-Speaker: There are thirteen Supplementary demands in all, three of them namely 15, 40 and 42 are Charged and ten are votable. There are nine cut motions three of which are out of order which we will consider just now.

*Moved with the recommendation of the President.