

Lastly, Sir, in respect of all these cut motions, I would only submit that there is absolutely no substance in them.

Mr. Deputy-Speaker: Am I required to put any cut motion separately?

Some Hon. Members: No, Sir.

Mr. Deputy Speaker: I shall put all the cut motions together except No. 9 which is out of order.

All the cut motions were put and negatived.

Mr. Deputy-Speaker: The question is:

"That the respective supplementary sums not exceeding the amounts shown in the third column of the Order Paper be granted to the President out of the Consolidated Fund of the State of Kerala to defray the charges which will come in course of payment during the year ending the 31st day of March, 1960 in respect of the following Demands entered in the second column thereof:

Demands Nos. II, XIV, XV, XVIII, XIX, XXVI, XXXI, XXXIV, XXXV, XXXVIII."

The motion was adopted.

Division No. 5]

emerjee, Shri S. M.
 hakravarty, Shrimati Reau
 lopalan, Shri A. K.
 Kar, Shri Prabh
 Kodiyon, Shri

Kumaran Shri M. K.
 Meters, Shri
 Menon, Shri Narayanankutty
 Mukerjee, Shri H. N.
 Nayar, Shri V. P.

Abdu' Lateef, Shri
 Achir, Shri
 Agarwal, Shri Masakbhai
 Arumugam, Shri R. S.
 Arumugham, Shri S. R.
 Bahmiki, Shri
 Banerjee, Shri P.E.
 Basappa, Shri P.L.
 Basappa, Shri

Besumsteri, Shri
 Bhakt Dasran, Shri
 Bhargava, Pandit Thakur Das
 Bhaskar, Shri
 Bhogji Bhai, Shri
 Bist, Shri J. B. S.
 Brahaswar Prasad, Shri
 Chandak, Shri

NOES

Fanigrahi, Shri
 Parvati Krihnan, Shrimati
 Reddy, Shri Nagi
 Sardar, Shri Bholi

Chettier, Shri Ramanathan
 Choudi Lal, Shri
 Dasappa, Shri
 Datar, Shri
 Deb, Shri N. M.
 Desai, Shri Morarji
 Dube, Shri Mulchand
 FACHUR, Shri

14.40 hrs.

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

Mr. Deputy-Speaker: Now, we take up amendment No. 10 to clause 3 of the Kerala State Legislature (Delegation of Powers) Bill. This amendment has to be voted upon now.

The question is:

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).

Hon. Members should get ready. I am calling a division by the automatic machine.

The Lok Sabha divided.

Shri Brajeswar Prasad (Gaya): I wanted to press the 'Noes' button, but by mistake I pressed the 'Ayes' button.

Mr. Deputy-Speaker: What is the hon. Member's division number?

Shri Brajeswar Prasad: 317.

Mr. Deputy-Speaker: All right. The result is as follows:

Ayes 14; Noes 101.

[14 46 hrs

Gonapathy, Shri
 Gupta, Shri Ram Krishna
 Hajarnavis, Shri
 Jia-Chandrasek, Shri
 Kedaris, Shri C. M.
 Khawaja, Shri Jamil
 Khedkar, Dr. G. B.
 Kirtalya, Shri
 Krishna, Shri M. R.
 Masida Ahmed, Shrimati
 Mithotra, Shri Indir J.
 Maniyargadan, Shri
 Masuriya Din, Shri
 Mathur Shri Harish Chandra
 Matin, Qazi
 Mehta, Shrimati Krishna
 Melkote, Dr.
 Misra, Shri R. D.
 Misra, Shri R. R.
 Mohiteen, Shri Gulam
 Morsaka, Shri
 Murmu, Shri Priks
 Neir, Shri Kuttikrishnan
 Nellikoya, Shri
 Nasiridin, Shri
 Narayanasamy, Shri R.

Nathwani, Shri
 Negi, Shri Net Ram
 Oza, Shri
 Pahadia, Shri
 Palchoudhuri, Shrimati Ha
 Pangarkar, Shri
 Parmar, Shri Deen Bandhu
 Patel, Shri N. N.
 Patel, Shri Rameshwar
 Pattabhi Raman, Shri C. R.
 Prabhakar, Shri Naval
 Raghbir Sahai, Shri
 Raj Bahadur, Shri
 Rau Garib, Shri
 Ram Shankar Lal, Shri
 Ramaswamy, Shri K. S.
 Ramaswamy, Shri P.
 Ramani, Shri S. N.
 Rane, Shri
 Rangaroo, Shri
 Rao, Shri Thirumala
 Reddy, Shri Viswanatha
 Roy, Shri Bishwanath
 Sadhu Ram, Shri
 Sabu, Shri Rameshwar
 Saigal, Sardar A. S.

Seshadi, Shri Ajit Singh
 Setyabhaara Devi, Shrimati
 Sen, Shri A. K.
 Shankaraya Shri
 Sharma, Shri D. C.
 Sharma, Shri R. C.
 Shree Nara, an Das, Shri
 Siddanajappa, Shri
 Siddiah, Shri
 Singh, Shri Birbal
 Singh, Shri H. P.
 Singi, Shri K. N.
 Sinha, Shri Aniradha
 Sinha, Shri Satyendra Narayan
 Somani, Shri
 Subramanyam, Shri T.
 Suresh Prasad, Shri
 Tariq, Shri A. M.
 Thirumiah, Shri
 Tula Ram, Shri
 Wike, Shri
 Upadhyay, Pandit Munishwar
 Datt.
 Vyas, Shri R. C.
 Wazlik, Shri Balkrishna

The motion was negatived.

Mr. Deputy-Speaker: The question is:

... t clause 3 stand part of the

The motion was adopted.

Clause 3 was added to the Bill.

Clause 1, the Enacting Formula and the long Title were added to the Bill.

Shri Datar: I beg to move:

"That the Bill be passed".

Mr. Deputy-Speaker: Motion moved:

"That the Bill be passed".

Shri A. K. Gopalan: Mr. Deputy-Speaker, Sir, I want to oppose the Bill. I want only a few minutes because I want only to show how the assent has to be restricted under articles 200 and 201 and also to show that the object of the Bill is to make certain changes. There are two parts, that is to say, there are two responsibilities given to the Presi-

dent. One is to give assent to the Bills that are already there and the other is to make new legislation. As far as new legislation is concerned, certainly, there is no question of any emergency. As far as the assent is concerned, it has been said that it is only an interpretation and that the Governor or the President has got power to make certain changes. I want to say that according to article 200 and article 201, first, the Governor has got the right to give assent to the Bill or send it back. The proviso to article 200 says:

"...the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom."

He can do it only on one condition. The condition is:

"Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in

the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill."

Mr. Deputy-Speaker: I do not want to interrupt the hon. Member, but I may point out that all these aspects have already been pointed out.

Shri A. K. Gopalan: What I want to say is this. The Kerala Government that was functioning there had a certain policy which was different from the policy of the Congress which is the ruling party in other States. It has been said during the course of speeches here that the Planning Commission wants to make certain recommendations. Is it because that the Planning Commission wants to make a change that the President now wants to make some changes in the Bills that are awaiting his assent? That is what I want to know. If that is so, then it is certainly an attack on provincial autonomy. Even if recommendations are made by the Governor or the President, the State Government has got the power to accept the amendment or reject the amendment or again send back the Bill. It is only in cases where the Bill goes against the Constitution—it is only in one case—that there can be any change made. What was clear from the speech made by the Home Minister is this. The Bills have been lying with them for two years without any consideration as to whether any one of them could be given assent to or not. After that period, instead of resorting to the powers given under article 201, delegation of power is being given. In the speeches it is definitely said that the object is to make certain changes. The nature of the changes is also very clear from the speeches made. The bankers have made representations and the landlords have made some representations, and those changes are sought to be made. It is certainly because of this that the Kerala Government made this legislation. They did not want to see that the

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bankers are helped against those debtors who are there. So, if today a legislation is made and it is not sent to the State Government, after understanding what is the policy of the State Government, it means that the object of this delegation of power is certainly to attack the right of the State Assembly and to see that whatever policies they followed, or wanted to follow, as far as the Agrarian Relations Bill and the Debt Relief Bill are concerned, are set at naught. This Government does not want to see that those policies are there and they want to attack those legislations.

Of course, the President can give assent or withhold assents. But, then, the President has to send it back to the State Legislature and they can say either "we accept it" or "we do not accept it". A State legislature has passed certain legislation, and that legislature is not there now. So, if it is felt necessary to make some changes, and not to give assent to it, then I say: wait for the elections; after the elections, the State legislature can have its say, and they can accept the recommendation or reject the recommendation. That is all what we want.

There is absolutely no emergency. Even if there is an emergency, it is now for the Government to decide when the elections are to be held. If there is any emergency, they can have the elections by January or even earlier. So, it is not a question of emergency. In the name of emergency certain powers are taken by the Government, and the object of that is to by-pass article 201. As far as provincial autonomy is concerned, it is a stab in the back. Provincial autonomy and the right of the State Assembly are thrown to the winds.

Kindly read articles 200 and 201. It is not my interpretation. If I can understand English correctly, it is definitely stated that the Governor can give assent to the Bills, and there is only one clause in which it is

[Shri A. K. Gopalan]

stated that if it goes against the Constitution, or the powers of the High Court, it shall be reserved for the consideration of the President. If any such changes are made, we have no objection to their being reserved for the consideration of the President, because nobody can go against the Constitution. If it is not against the Constitution and if the State Assembly is interested in making certain changes in the law to help the labour against the landlord, or debtors against the bankers, the President should give assent to those Bills. He should not withhold assent to those Bills. There is no point in now coming and saying that "some emergency may come; give us all the powers so that we can make any change in the laws that we consider necessary". The Planning Commission may make recommendations. But are they binding on the State Legislature?

The State legislature has made certain legislation according to its own desire, in the interests of the people. The Planning Commission may make recommendations, but they may reject them. Now, without knowing whether the State Legislature will accept them or reject, arbitrarily this is being done, and some changes are being made by the President, saying there is an emergency. Even if this Bill is passed and they want certain changes to be made in the Bills, certainly the assent should not be withheld. Let it be sent to the legislature and let the opinion of the State Legislature taken. If that is not done, certainly it is attacking provincial autonomy and provincial autonomy will then become a mockery. When the State Legislature has passed something and you want to change it, you do not ask them whether they will accept the amendment.

So, I oppose this Bill. I have understood from the speeches that the object of this Bill is to make certain changes that the Congress party think the Communist Party in Kerala will not accept. So, in the interim period

they want to impose it on the people of Kerala, and also on the Legislature that was functioning there before it was dismissed. I say: if you want to make certain changes, wait for some time; or else, give assent to those Bills immediately, and respect the opinion of the State Assembly. It is for this reason that I oppose this Bill.

Shri Datar: I have already replied to all the points that my hon. friend has raised. Only incidentally he stated that some of the Bills passed by the State Legislature were pending before the President for one year, or a year and a half. That is entirely wrong. May I point out here that only when one Bill was received last year we immediately pointed out to them that that particular Bill has a bearing upon another Bill which they were considering? And we stated that as soon as the latter Bill was received by the President, both the Bills will be duly considered. That is exactly what has happened, and there is no delay, much less inordinate delay, so far as the examination of these Bills by the President is concerned.

Mr. Deputy-Speaker: The question is:

"That the Bill be passed"

The motion was adopted.

Shri A. K. Gopalan: We do not want to take part in the proceedings, because we know that it is an undemocratic procedure which has been adopted. So, we are withdrawing from the House.

(Shri A. K. Gopalan and certain other hon. Members then left the House)

14.57 hrs.

LEGAL PRACTITIONERS BILL.

The Minister of Law (Shri A. K. Sen): Mr. Deputy-Speaker, I beg to move that the Bill to amend and consolidate the law relating to legal prac-