

12.11½ hrs.

LEAVE OF ABSENCE FROM THE SITTINGS OF THE HOUSE

Mr. Speaker: The Committee on Absence of Members from the Sittings of the House in their Third Report have recommended that leave of absence be granted to the following members for the periods indicated against each:—

- (1) Shrimati Lalita Rajya Laxmi
- (2) Shri Lal Shyam Shah
- (3) Shri U. Muthuramalinga Thevar
- (4) Shri Panampilli Govinda Menon
- (5) Shri Babunath Singh
- (6) Shri Era Sezhiyan
- (7) Shri Yeshwantrao Martand Rao Mukne
- (8) Shri T. Abdul Wahid
- (9) Shri Ramchandra Ulaka

6th August to 7th September, 1962.
(Second Session)

6th August to 4th September, 1962.
(Second Session)

6th August to 7th September, 1962.
(Second Session)

13th August to 31st August, 1962.
(Second Session)

6th August to 7th September, 1962.
(Second Session)

6th August to 7th September, 1962.
(Second Session)

6th August to 7th September, 1962.
(Second Session)

8th November, 1962 to end of session.

(Third Session)

8th November to 22nd November, 1962.

(Third Session)

I take it that the House agrees with the recommendations of the Committee.

Several Hon. Members: Yes.

Mr. Speaker: The Members will be informed accordingly.

12.13 hrs.

PONDICHERRY (ADMINISTRATION) BILL

Mr. Speaker: The House will now take up the Pondicherry. (Administration) Bill. The hon. Prime Minister.

Shri Jawaharlal Nehru rose—

Shri Ranga (Chittoor): Sir, is there no other hon. Minister? Is it necessary for him to move this?

Shri Hari Vishnu Kamath (Hoshangabad): He should be relieved of this by one of his Ministers. The other hon. Ministers should relieve him of the burden of such things.

Mr. Speaker: That is for the other Ministers.

Shri Hari Vishnu Kamath: The hon. Minister of State is there.

The Prime Minister and Minister of External Affairs and Minister of Atomic Energy (Shri Jawaharlal Nehru): I shall move the motion. Then my colleague will carry on.

Sir, I beg to move:*

"That the Bill to provide for the administration of Pondicherry and for matters connected therewith, be taken into consideration."

I introduced this Bill the other day. It is a very simple measure. The House knows the past history of Pondicherry and how in November, 1954, the French establishments of Pondicherry, Karaikal and Yanam were vested in the Government of India following an agreement between the Governments of India and France. The two Governments entered into a treaty in 1956 ceding full sovereignty over these territories to India. This treaty was to come into force on its ratification. The Instruments of ratification were exchanged on the 16th August, 1962. Accordingly, with

Moved with the recommendation of the President.

*2189(Ai) LS—4.

[Shri Jawaharlal Nehru]

effect from that date, these establishments have become a part of the Indian Union. In order to specify these former French establishments in the Union Territory called Pondicherry and to amend article 240 of the Constitution, to confer powers on the President to make regulations for their peace, progress and good government, the Constitution XIV Amendment Bill, 1962, was passed by both Houses during the last session. This Bill has not yet secured the assent of the President as it has to be ratified by the State Legislatures previously. Until this Bill becomes law, no Regulation can be promulgated in respect of Pondicherry under article 240 of the Constitution. It was, therefore, found necessary to provide for the continuance of the existing laws and officers, to take power to extend appropriate Indian enactments to the Union Territory and to provide for the extension of the jurisdiction of the High Court of Madras over Pondicherry as the powers of the courts of France over the courts in Pondicherry ceased with effect from 18th August, 1962. As Parliament was not in session, the Pondicherry (Administration) Ordinance of 1962 was promulgated by the President on 6th November, 1962. As required under article 123(2) of the Constitution, the Pondicherry (Administration) Bill is now being moved in order to replace the said Ordinance.

This is a relatively simple Bill. Section 3: the existing officers and institutions during the *de facto* period are to continue to exercise the same functions as before in the interests of smooth administration. Section 4: after the *de facto* agreement, effective from 1st November, 1954, the administration of Pondicherry was carried on by the Government of India on the basis of the then existing laws. However, Indian laws considered essential were extended to the territory under the Foreigners Jurisdiction Act. It is considered that all the laws as existed prior to the 16th August, 1962 should

be validated. Sections 5 and 6: these sections are based on the Treaty of Cession which was signed by the Governments of India and France in 1956 and has already been ratified. Section 7: this section ensures the continuance of the existing taxes. Section 8: the Government of India has taken power to extend to Pondicherry such enactments as are in force in a State at the date of the notification. I need not say much about these specific matters. It is seen that they are very relevant and almost obvious such as extension of jurisdiction of the High Court of Madras to Pondicherry. The complicated French judicial system now ceases to exist.

Shri Ranga: Ceases to exist?

Shri Jawaharlal Nehru: Not entirely; I mean to say locally. It is cut off from France. Appeals will go to the High Court. That is all I have to say at this stage.

Mr. Speaker: Motion moved:

"That the Bill to provide for the administration of Pondicherry and for matters connected therewith, be taken into consideration."

Shri Ranga: I am happy to associate myself with the Prime Minister in supporting this Bill. I wish to take this opportunity to congratulate the people of Pondicherry upon their achievement along with the people of India on the *de jure* recognition of their freedom and their merger with India. This great achievement stands to the credit of the French people. The French people who have been accused by the Chinese Government as being one of the imperialist powers have set indeed an excellent example to the Communist powers in transferring power in such a peaceful manner to India. I am also glad that the Prime Minister has been far-sighted enough to agree with the demand made by the people of Pondicherry that their special institutions

which have been brought into existence through their association with France for such a long time would and should be respected and certain privileges which they have been enjoying would also continue to be given to them. They have developed a peculiar culture of their own during the course of their co-operation with France. Our Prime Minister has already given them the assurance that not only will their cultural institutions be respected and strengthened but that their special legal systems also would be continued and respected.

I think it is a good thing on the part of India to have recognised their special entity and to have assured them even though they are merged with the rest of India and with all the people of India, whatever they consider to be their special achievement and their development during the course of their association with France would be respected and would be protected. I hope that they would be able to get all the co-operation that they desire and deserve from the local Governments also.

Shri Hari Vishnu Kamath (Hoshan-gabad): Since the 28th of May, 1956, when the *de facto* transfer of these French enclaves in India took place by a treaty of cession with the Government of India, the House and the nation have waited long and expectantly for this day when the *de jure* transfer also would take place by a ratification of the treaty by the French Government. Due to various factors, the most important of which perhaps was the frequent political upsets inside France, that day was long in coming. And we are glad today that though this is an *ad interim* piece of legislation in regard to the Pondicherry State, this Bill has been brought before the House, and we welcome it.

We look forward further, in the near future, to that day when there will be a further integration of this

Union Territory and this area with the rest of India, and when the elected representatives of Pondicherry will take their seats and take their place along with us in the Lok Sabha. We hope that that will happen in the very near future.

Before I conclude, may I ask the hon. Minister to clarify or to throw light on one or two obscurities that present themselves to me: in this Bill and in the explanatory statement with regard to the Ordinance? The explanatory statement says:

"The Constitution (Fourteenth Amendment) Bill was passed by both Houses of Parliament during the last session."

I think that that was at the fag end of the session, I believe, on the 6th or the 7th of September, or at any rate, in the first week of September. Then, the statement says:

"This Bill has not yet been ratified....."

That is to say, it has not yet secured the assent of the President after having been ratified by not less than one-half of the State Legislatures. Until that happens, no regulation could be promulgated under article 240. May I know whether action has been taken already to forward that Bill to the State Legislatures, and if so, how many, if at all, of the State Legislatures have taken action thereon, and whether they have initiated any move in their respective legislatures for the ratification of this Bill passed by Parliament during the last session?

Then, there is a rather difficult and somewhat incomprehensible point in this explanatory statement. In the last paragraph of the statement it is stated that:

"As the powers of the courts in France over the courts in Pondicherry ceased with effect from 16th August, 1962...."

[Shri Hari Vishnu Kamath]

And the very next sentence is:

As Parliament was not in session....

That is what comes soon after. The concatenation is rather curious. The statement says that the jurisdiction of the courts in France over the courts in Pondicherry ceased from 16th August, 1962, and in the very next sentence it says that Parliament was not in session, the antecedent date being 16th August, 1962.

Parliament was in session, as far as I remember, till the 7th September. I do not know whether there were some legal difficulties in the way of making a move in this matter before Parliament soon after the jurisdiction of the French courts ceased over Pondicherry. From 16th August to 7th September, Government could have moved expeditiously—it rarely does. But it could have got initiated some move. It could have told us about it even when the Constitution Amendment Bill was moved for consideration here. We were told nothing about this matter; nothing was conveyed to us that the French courts' jurisdiction had ceased, there were some difficulties and they were examining the matter in the Law Ministry and therefore, the House would wait patiently for this day. Therefore, I would request the Minister, if he can—I do not know who will reply, he or she—to tell us today about it.

The Minister of State in the Ministry of External Affairs (Shrimati Lakshmi Menon): She.

Mr. Speaker: 'He' includes 'she'.

Shri Hari Vishnu Kamath: Then I will modify my statement and say 'he'. Let him tell us as to why no action was initiated in Parliament soon after the 16th August and why it had to wait till this day.

One word more, and I have done. When the Constitution (Fourteenth Amendment) Bill was passed in the

last session, we were given to understand that it was only an enabling measure. Is the Minister in a position to tell us today—to make a statement on this matter—as to when the formal and necessary Bills in respect of the other territories, with reference to which the Bill was passed, will also be brought before the House?

श्री बड़े (खारगोन): अध्यक्ष महोदय, यह जो पांडिचेरी बिल शासन ने रखा है उसके सम्बन्ध में मेरा कोई गंभीर विरोध नहीं है। यहां पर यह भी बतलाया गया है कि चूंकि यह डिफिकल्टी थी कि यह स्टेटों से रेटिफाई नहीं हो सका है इस लिये यहां बिल रखा गया है।

मैं इस सम्बन्ध में यह कहना चाहता हूं कि चूंकि इसमें मद्रास हाई कोर्ट को जूरिस्टिक्शन पांडिचेरी के कोर्टों पर दिया गया है इसलिये शंका होती है कि क्या इस पांडिचेरी को मद्रास स्टेट में मिलाया जायेगा। मद्रास हाई कोर्ट को जूरिस्टिक्शन दिये जाने से ऐसी आशंका होती है कि शायद पांडिचेरी को मद्रास में शामिल किया जायेगा। मैं जानना चाहता हूं कि शासन का विचार ऐसा है या इसको सेंट्रली ऐडमिनिस्टर्ड ही रखना है।

इसके साथ एक और प्राविजन है, वह यह है कि :

"For the purpose of facilitating the application of any law in relation to Pondicherry, any court or other authority may construe any such law in such manner not affecting the substance, as may be necessary or proper to adapt it to the matter before the court or other authority."

"The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law in force in Pondicherry."

अभी यहां ऐसा कहा गया कि जो पांडिचेरी के लाज और रूस थे उनके खिलाफ यहां कुछ नहीं किया जा रहा है, उनको कायम रखा जा रहा है। इस बलाज से ऐसा मालम होता है कि चूंकि मद्रास हाई कोर्ट को जूरिजिडिक्शन दे दिया गया है इसलिये अगर पांडिचेरी के लाज के विरुद्ध कोई चीज होती है तो मद्रास हाई कोर्ट अपनी तरह से कंस्ट्र कर सकता है। भले ही प्राइम मिनिस्टर साहब ने कहा है कि पांडिचेरी के लाज के विरुद्ध कुछ नहीं किया जायेगा लेकिन शंका होती है कि पांडिचेरी के लाज के विरोध में भी हाई कोर्ट अपना जजमेंट दे सकता है या रूस फ्रेम कर सकता है। इसके साथ ही इसमें आगे कहा गया है :

"If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make any such provisions as appear to it to be necessary or expedient for removing the difficulty."

यानी यह हाउस सेंट्रल गवर्नमेंट को यह पावर देता है कि किसी भी कठिनाई को दूर करने के लिए या इस ऐक्ट के प्रावीजन्स को अमल में लाने के लिए सरकार कोई रूल बना सकती है। मेरे विचार से यह बहुत ज्यादा वाइड पावर है।

इसी प्रकार मैं कहना चाहता हूं कि इसको सेंट्रली एडमिनिस्टर्ड रखने में सेंट्रल गवर्नमेंट को करीब दो करोड़ का घाटा होगा। इसके फाइनेंशल मैमोरेण्डम में कहा गया है ;

"In the current year's budget, the revenue of these Establishments has been estimated at Rs. 2.31 crores and their expenditure at Rs. 4.45 crores."

इसलिए मेरा सुझाव है कि जिस प्रकार इसकी कोर्टस् को मद्रास हाई कोर्ट के

अंडर कर दिया गया है वैसे ही इसको किसी स्टेट में मिलाने का निर्णय शीघ्र लिया जाए

इन शब्दों के साथ मैं इस बिल का समर्थन करता हूं।

Shri Joachim Alva (Kanara): While supporting this Bill, I must say that the irony of history is very strange in this case that when we are having a Bill on Pondicherry and it is being incorporated into the Indian Union, the Chinese are firing guns inside our borders.

Two years ago when the Bill for incorporating Daman and Diu was passed in this House, I said that I hoped the time would soon come when Goa would become a part and parcel of India. And Goa fell like a ripe apple in the garden of the motherland, though we had to wait for a long time exhibiting extraordinary patience and non-violence, and that paid us well indeed, and it was a triumph of non-violence wherein Goa was concerned.

Last year, at this time, we moved and passed a Bill with great acclamation about Goa. Hardly did we dream that within 12 months we would have to stand up to the guns of a great neighbour, who has greater strength than the French or even the British or the Dutch or any one else, or the Portuguese, that had come into this land. And today we pass this Bill with great acclamation in our own hearts, forgetting that France held out so long on these tiny enclaves.

I remember many years ago, about 20 years ago, I was in Calicut, and I saw a little flag on hardly 5 or 10 square feet of land, and they said that was the flag of the French nation,—that was the territory of France, this bit of ground belonged to France, because Mahe is next-door! Yet we had to respect it. We are a people known for respecting tradition, for respecting others' traditions, culture and monuments. We have not laid our unholy hand on any monuments

[Shri Joachim Alva]

or trampled on the culture of other people. We are very proud of it, and we still preserve them. We shall also at the same time preserve our liberty and independence.

Chandranagore came to us by an unanimous vote, and today indeed it is the triumph of patience wherein France is concerned. We had to wait, we had to put up with many irritable factors. We had to deny our active sympathy to our friends, the Algerians who were mowed down by France. I shall not say anything more, but our friends in the West Asia, in the UAR, Morocco, Tunis, in Iraq and everywhere misunderstood us when we sat silent on the question of Algeria in the sense we did not recognise the Provisional Government of Algeria.

Now France has ceded this territory to us. France had its own troubles. France is a great republic, and it has always been convulsed by revolutions, until De Gaulle came and took a firm hand. He is one of the great warriors, one of the noblest warriors of the last war, who was forced out of his own land, but he saw that liberty came. They have recently rushed into enormous difficulties of their own which have ended with the presidential elections. My esteemed friend Shri Kamath asked why this House was not informed. Perhaps he was not aware of the susceptibilities of the givers who are to give and the Law Ministry which had to hammer out the measures on their anvil.

Shri Hari Vishnu Kamath: He has not followed the point I made.

Shri Joachim Alva: I shall say no more, but we are happy that the French and the Portuguese, and above all the British, have gracefully withdrawn from our land, but we have to wrestle with a bigger and more oppressive enemy, an enemy who was our friend for thousands of years and who has spurned down our friendship. We shall concede every support

to this measure in regard to Pondicherry, it has been a triumph of patience, and we do hope and pray that there will be a triumph of spirit and resolution in dealing with the enemy outside.

Shrimati Lakshmi Menon: I am grateful to the speakers for extending their support to this Bill.

It is a very simple measure, which is meant to regularise the provisions of the ordinance.

I do not want to go into details, because the details are very clearly stated in the Bill, but I would like to answer one or two points raised by the speakers.

The question was raised as to what has happened to the constitutional amendment, and whether the State legislatures have ratified it. The following State legislatures have already ratified it: Kerala, Rajasthan, Madras, Jammu and Kashmir, and Uttar Pradesh. Three more States should ratify it before it can receive the President's assent.

The presumption of an hon. Member that the extension of the jurisdiction of the Madras High Court is preliminary to the integration of Pondicherry into Madras is not correct. In the case of Goa, the Bombay High Court is the appellate court as it was the nearest. In the case of Pondicherry, the nearest High Court is Madras. Hon. Members would recall that the system of making appeals directly to France had continued after the treaty of cession and it entailed a great deal of difficulties for the appellants. Therefore, it was decided to make this provision. The position now is that the decision of the High Court in Madras would be final.

There has been a demand from various quarters for the extension of various agrarian and labour laws to Pondicherry and they could not be extended under the existing system

till the Constitution Amendment Bill is ratified and Pondicherry constitutionally becomes an integral part of India. It is in order to facilitate the extension of these laws that this Bill has been brought forward. I am grateful to the House for giving its support.

Shri Hari Vishnu Kamath: I asked why during the interregnum between the 16th August and 7th September no move was made during the three weeks or more?

Shrimati Lakshmi Menon: The final draft had to be finalised only after consulting the French representatives and others and that explains the delay.

Mr. Speaker: The question is:

"That the Bill to provide for the administration of Pondicherry and for matters connected therewith be taken into consideration."

The motion was adopted.

Mr. Speaker: There are no amendments. I shall put all the clauses of the Bill together.

Shri Hari Vishnu Kamath: There is no time to give amendments also. This was announced last evening at 5 O'clock. Only then it was announced that this Bill would be taken up first.

Mr. Speaker: Wherever there has been such a case the hon. Member has been pointing it out and asking for waiver of it. This time he has not asked it.

Shri Hari Vishnu Kamath: May I submit that this was announced last evening at 5 O'clock.

Mr. Speaker: He could have asked me if he had to bring in any amendment.

Shri Hari Vishnu Kamath: Yesterday I gave it too late.

Mr. Speaker: If yesterday was late, today also must be late.

Mr. Speaker: The question is:

"That clauses 1 to 20, Enacting Formula and the Long Title stand part of the Bill."

The motion was adopted.

Clauses 1 to 20, Enacting Formula and the Long Title were added to the Bill.

Shrimati Lakshmi Menon: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

12.38 hrs.

BUSINESS OF THE HOUSE

Shri Hari Vishnu Kamath (Hoshangabad): Before we proceed to the next Bill, may I request you to make it a definite practice in this House that whenever the business is re-arranged we should get at least 24 hours notice if not more. Yesterday we got less than 12 hours notice.

Mr. Speaker: There has been some difficulty experienced by the hon. Members and I could not overcome it because the other House had no business at all till we sent them something. They had nothing to sit on the 23rd and that was the difficulty experienced at the last moment and I had no remedy.