

Shri Nath Pal: You can at least try.

Shri Hathi: No question of trying. I shall reply to Mr. Nath Pal also.

Shri Warrior referred to corruption charges. Really, I do not want to mention all that has happened in Kerala during the communist regime and the present regime. So far as the charges levelled against the last Ministry are concerned, those charges had been looked into by the late Prime Minister himself.

Shri Hanumanthaiya: May I appeal to him not to bring in the name of the late Prime Minister, because, someone will rebut and it would bring the late Prime Minister's name into question. Once and for all, let them not take protection under the name of the late Prime Minister. I appeal to them not to take umbrage under his name.

Shri Hathi: It has been looked into. These charges had been looked into.

Shri Ranga: And the result is this. It was only looked into. Had it been properly and satisfactorily looked into, it would not have resulted in the way it has resulted now.

Shri Umanath: The reference was to the latest assurance given in Kerala namely, that those charges would be gone into. That reference may be replied to.

Shri Hathi: What I said was that there were charges levelled against Shri Sankar, and those charges were looked into, and nothing. . . .

Shri Nath Pal: Shri Patil assured the dissidents when he went on the pacification mission that if they would vote with the Government the charges would be looked into. Those charges seem to be more valid if they vote against the Government!

Shri Hathi: I do not know; I have no information as to what transpired there between them and Shri Patil. I

do not know. (Interruptions). So far as I am concerned and so far as I know, the charges that were levelled against him were looked into. That is all that I can say.

Shri Ranga: Right up to the day of their resignation, whatever charges there were, let them be looked into. What is the use of invoking Jawaharlalji's name, because he committed so many blunders and one of them is this. (Interruption).

Mr. Speaker: It is better that I put the question now. The question is:

"That this House approves the Proclamation issued by the President on the 10th September, 1964, under article 356 of the Constitution in relation to the State of Kerala."

The motion was adopted.

श्री नाथपाई : स्पीकर साहब ने आपसे कहा था कि जब इस मुद्दे पर आएंगे तो हमारे सवालों का जवाब देंगे ।

16.53 hrs.

KERALA STATE LEGISLATURE
(DELEGATION OF POWERS) BILL

The Minister of State in the Ministry of Home Affairs (Shri Hathi): I beg to move:

"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."

This is a Bill which follows the proclamation issued by the President on the 10th September, 1964 and which the House has just now approved under article 356 of the Constitution. Article 357(1) of the Constitution provides that the powers may be exercised by the President, but for that pur-

[Shri Hathil]

pose, the Parliament has by law to confer on the President the power of the legislature of the State to make laws. It is therefore that this Bill is brought forward.

As hon. Members will see, this Bill contains only three clauses, and the operative or the important clause is clause 3 with sub-clauses (1), (2), (3) and (4). Sub-clause (1) of clause 3 says as follows:

"The power of the Legislature of the State of Kerala to make laws, which has been declared by the Proclamation to be exercisable by or under the authority of Parliament, is hereby conferred on the President."

Sub-clause (2) of clause (3) says:

"In the exercise of the said power, the President may, from time to time, whether Parliament is or is not in session, enact as a President's Act a Bill containing such provisions as he considers necessary."

This provision authorises the President to enact laws for Kerala. This is because otherwise all the Bills would have to be passed by the Parliament itself and perhaps that would not be possible. Not only is it provided like this, but generally this has been the practice also.

The other clause says:

"Provided that before enacting any such Act, the President shall, whenever he considers it practicable to do so, consult a committee constituted for the purpose consisting of all the members of the House of the People and the Council of States who for the time being fill the seats allotted to the State of Kerala in the two Houses."

That means that all the representatives of the State will form a committee, so that the President may have the benefit of the advice of that committee.

Shri Bade (Khargone): Why the words "whenever he considers it practicable to do so"? This was not there in the previous Acts.

Shri Hathil: Those words were there; there is no change. There is an amendment to this clause which goes a bit further. The amendment wants more Members of Parliament to be associated with this. I think on different occasions, more Members were associated and perhaps we might consider that amendment.

Sub-clause (4) says:

"Either House of Parliament may, by resolution passed within seven days from the date on which the Act has been laid before it under sub-section (3), direct any modifications to be made in the Act, and, if the modifications are agreed to by the other House of Parliament during the session in which the Act has been so laid before it or the session succeeding, such modifications shall be given effect to by the President by enacting an amending Act under sub-section (2)."

It means that any law passed by the President as above would be subject to Parliament's final decision. If either House of Parliament makes a modification in the Act within seven days from the date on which it is laid before it and if the other House agrees to the modification, the Act will be modified to that effect. Therefore, it is not an absolute power in the sense that Parliament has the right to modify it. This is the general formula which has been adopted in other similar legislations we have passed. So, there is nothing new in this Bill. This was done in 1959 and also when Orissa and PEPUSU came under President's rule.

This is a Bill with only three clauses and it empowers the President to make laws for Kerala. I commend this Bill to the House.

Mr. Speaker: Motion moved:

"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."

Shri Ranga (Chittoor) Sir, it is a foregone conclusion that once President's rule comes in, we have got to have a Bill like this. But everything depends upon how the President is expected to use his powers. As everyone knows, President means in actual practice the Home Ministry here, the Governor there and the civil service. Unless the civil service plays its role and is enabled to play its role in an impartial manner, we cannot be quite sure that in the months to come things would not be arranged and done only to benefit the erstwhile ruling party and the ruling party in the rest of India.

17 hrs.

Earlier, on several other occasions, suggestions were made that under such circumstances at least the senior civilian officers at the district level and at the secretariat level, as many of them as possible, should be those who would be drafted from other places and local people would not be allowed to play the role that they have been playing, in order to ensure impartiality of administration—efficient administration also—and, secondly, in order to prepare the State to face the next elections and see that impartial, just and decent conditions for elections come to be created.

I do not wish to be taken to be making any wild allegations, but it was a well known fact, at the time that when these elections were held, when preparations were made for elections and when actual elections

came to be held under similar circumstances in Kerala as well as in Orissa, the local administration which was then in being along with the Governor acting not merely as a constitutional head but also as an administrative head did weight the scales in favour of the ruling party. I do not want opportunity to be given even for such allegations to be made, not to speak of actually those people behaving in that partial, unjust and undemocratic manner.

Sir, from what has fallen from the lips of Shri Hathi, it is quite clear that the ruling party has more or less made up its mind to do its best to come back again in power and they cannot think in terms of themselves remaining in the Opposition and giving an opportunity to another party to come into power freely, and justly. Therefore, there is every risk of the Presidential regime being misused or exploited in the interests of the ruling party, unless—Gandhian conscience comes to prevail and work in their hearts and influence their heads and make them behave much better than what they have been doing till now during all these years.

Therefore, I wish to warn the Government once again, either they make up their mind in favour of a new political approach or they should do all that lies within their power to ensure impartial administration. To be able to do that, they should free the local administration from the pressure of local officers and invoke the aid of officers from other States. At the time of elections let them see that the Gonda election scandal is not repeated. Let them see that the electioneering that was responsible for Shri Pratap Singh being returned to the legislature is not repeated. Let them see that the usual type of Congress electioneering that goes on in the whole of India as a result of which although they have been able to get only a minority of votes they were able to come here in such a huge and overwhelming majority is not

[Shri Ranga]

repeated. Sir, these and many other things are there to spoil the escutcheon of the Congress, to destroy their reputation. I do not know whether I would be justified in hoping that they would behave any better than they have behaved in the past. Let us hope that with all this talk of anti-corruption, coming as it does from such a senior Member as Shri Nanda,

they will turn a new leaf and behave a little better than what they have done so far.

17.06 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, September 24, 1964/Asvina 2, 1886 (Saka).