

List of Business—we want to be posted correctly with the business of tomorrow—shows Questions first, and the second item is, straightaway the Motion by the Minister of External Affairs. Usually, the List of Business which arrives one day ahead, shows that after Questions, the business not concluded on the previous day would be taken up. Does it mean that irrespective of whether today's business is completed or not, this motion will have priority?

Mr. Speaker: If anything is left out in today's business, that will be taken up later?

APPROPRIATION (NO. 5) BILL

The Minister of Finance (Shri T. T. Krishnamachari): I beg to move*

"That the Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1964-65, be taken into consideration."

Mr. Speaker: The question is:

"That the Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1964-65, be taken into consideration."

The motion was adopted.

Mr. Speaker: The question is:

"That Clauses 1, 2, 3, the Schedule, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clauses 1, 2, 3, the Schedule, the Enacting Formula and the Title were added to the Bill.

Shri T. T. Krishnamachari: I beg to move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

KERALA STATE LEGISLATURE
 (DELEGATION OF POWERS) BILL

Mr. Speaker: We take up further consideration of the following motion moved by Shri Hathi on the 23rd September, 1964, 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."

No time was allotted.

Shri Hari Vishnu Kamath (Hoshangabad): Three hours at least.

Mr. Speaker: I will see.

Shri Warior (Trichur): Since we have discussed the situation which has given rise to this Bill, I do not want to expatiate on it.

Clause 3 of the Bill has a proviso which 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"

I hope Government will not follow in practice literally what is said here, and that at least in respect of major legislation concerning the State, this committee, consisting of Members of Parliament from Kerala in both the Houses, will be consulted. That is my request.

*Moved with the recommendation of the President.

[Shri Warior].

Though this President's rule is intended only for about four months before the elections in February, 1965, there are so many matters likely to come up, and we have only one session of Parliament, the winter session, intervening. Hence, when there is no session of Parliament, it is very essential that this committee should be consulted on legislation, because amendments will come only much later, and by that time effect is given to the enactment already made by the President.

In this committee, only Members of Parliament from both the Houses belonging to Kerala are taken. I wish the amendment moved by Shri Basumatari and others is accepted by the Government. It is the responsibility of Parliament as a whole, but not of the Members of Kerala alone. So, a wider committee is necessary, so that the entire Parliament feels that what is happening in that State is their responsibility, and not only of a few Members coming from that State.

Politically, it has become a problem State now. Elections are coming, and it is run by the Central Government now through its Advisers. Hence, in these elections, more people will be interested. Other States also have an interest to see that the elections are free and fair. In the circumstances, it is necessary, I think, that more Members from both the Houses of Parliament should have a say in matters concerning the State, and especially in conducting fair elections. Hence, I think the amendment of Shri Basumatari must be accepted by Government.

Shri Nath Pai (Rajpur): As one listens to Shri Hathi labouring to reply to the different points raised in the House, one is impressed, I must concede it to him, a little by his sincerity and honesty, though, of course, his reply does not prove quite adequate to the expectations which we entertain, and this is something which

I cannot afford to say about most of his colleagues that they make a very sincere, honest and deliberate effort to meet all our points.

You Sir, were pleased to direct that he reply to a particular point. It is not just for the sake of raising it that I venture to raise. I would like him to make a very candid reply, because, the issue that we are discussing is of wider significance and has wider implications, and we must never lose sight . . .

The Minister of State in the Ministry of Home Affairs (Shri Hathi): You mean Dhebar's visit?

Shri Nath Pai: Yes. We must never lose sight of the wider perspective in which we want to operate, that is, that we should never allow, consciously or unwittingly or inadvertently, the withering of our faith in democratic functioning in this country.

There is another question which is germane to the discussion. We have heard in a very vague way that the Government of India is determined to continue with the emergency in the country though we have never heard one convincing argument as to what they want to do with the emergency powers that have been conferred on them. Kerala is a case in point. Under article 353 of the Constitution, had the Government been aware of the powers or the armoury of powers which are at their disposal, perhaps what transpired later on would have been avoided. This article gives the power:

"Notwithstanding anything in this Constitution, the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised;"

Before they took shelter under article 356, perhaps it was possible for

the Government to use the powers which were available to them under article 353 to direct the State Government to carry on the administration in a manner whereby the people's faith in the Constitution and in democracy would not be undermined and torpedoed as it happened there. They could have directed Mr. Sankar's Ministry that these charges coming from a section of the legislature need to be looked into, but what the people would feel and the nation as a whole would feel as non-partisan is converted into a party affair. These charges and complaints ought to have been looked into by the Union Government; if it is claimed that it is taking the recommendations of the Santhanam Committee seriously and earnestly, it ought to have done. One thing is open to it. Under those recommendations, whenever a charge is made against a Minister, by 10 members of the legislature, if the Minister happens to be a State Minister, and by 10 Members of Parliament if the Minister is a Minister in the Union Government, then the Government is called upon to see if there is a *prima facie* case, and if there is a *prima facie* case or not, whether a *prima facie* case exists or not, is not to be decided by the Chief Minister or the Prime Minister who belongs to the same party, but by a panel which has to be created by the President. Here is a formula made available by the Committee which we find is highly satisfactory. Government pledges loyalty to the formula; it always assures us that it wants to implement the recommendations of the Santhanam Committee, but when it comes to face that, to really give it a trial, somehow it shirks the responsibility. That was one aspect of it.

The second is that the Government should have used the directive powers which were available. I would like to ask why Shri Nanda goes on clinging pathetically to the powers which the emergency has conferred

on him. I am reminded here of the drowning man who will not part away with his miserable belongings even when he has no longer any use for them, but only because of his greed for things. We are not seeing how Shri Nanda is using the emergency powers for the purpose for which they were conferred by Parliament on him. On the last occasion, when the House discussed the continuance of the emergency, we had asked, "Are you going to put them to the use for which we conferred powers on you, and if not, for what purpose are they being kept there?" It only makes a mockery of the emergency and of the Constitution, because here was a case in Kerala where the powers could have been used and what has happened could have been prevented if the Government (a) knew what the powers available to them were, and (b) was serious about the emergency in force in this country.

I want to make one or two other proposals also. I do not think, in spite of his being very sincere, he really grasped what was being suggested to him. He is a very intelligent man; none-the-less, I am making this submission, and I hope he will not misunderstand. He normally does not and I plead with him that he does not. He tried to bring in the realm of Constitutional discussion what was submitted to him as practical, feasible step that could be taken. I think he was patently unfair; once again Shri Khadilkar manages to be absent at the crucial moment; Shri Khadilkar, at a very later stage performed that very rare thing—I would not use the word 'trick' because it may not be quite parliamentary, but he somehow wriggled out of the impossible position in which he landed himself the previous day. He had advocated not as a party government in this country but the imposition of one-party rule, and for that, he ought to have given a very categorical assurance to this House that he does not contemplate in any form, in any way, one-party rule in this country.

An Hon. Member: Coalition government.

Shri Nath Pai: It was something dangerous which he was advocating but very skilfully Shri Khadilkar, coming to the House the next day, and during the remaining part of his speech, deviated completely: I know Shri Lal Bahadur Shastri does not know how to deviate, and it is only a thing which Shri H. N. Mukerjee knows. But Shri Khadilkar departed, deviated, from his original line and then took shelter that he wanted a national government. It is a very serious matter. There is a section, a school, in the ruling party which is being converted, seeing the growing danger to its power, to this kind of philosophy of one-party rule.

Mr. Speaker, with your very wide experience of the Constitutions and of democracy not only in this country but throughout the world, you know that one-party rule is a contradiction in terms; one-party rule and democracy never go together. We want not an academic discussion:—whether this party, confronted with a growing challenge to its authority, is contemplating in terms of following the example of Nkrumahs,—we want to know. Shri Khadilkar was equivocal. If you do not want to be landed once again in the stalemate and the impasse which seems to be chronic in Kerala, some new fresh thinking has got to be done.

I have indicated very clearly my opposition to the united front, and not only with the party of Shri Mukerjee but with all the party's ideology, programme, appraisal, and values of life, I disagree. I have said it frankly and boldly. I wish they would do the same thing. Even then, after doing this, there may not be a solution to the problem of Kerala. Kerala may once again be faced with the problem of having a suitable government for the people of Kerala.

What are the Government thinking of, and what are they going to do?

I have read in today's newspapers that in the Trichur district, (the Congress party leadership has come out, clamourously asking for some kind of understanding, alliance, with the Muslim League, and they have given those miserable accounts of how many votes they will be able to get. We want replies to these kinds of things and not constitutional quibbling. Once again, are you going to fall in that trap which is the only method you seem to have evolved after 17 years of functioning? Somehow, when the election comes, it is not the values and long-term interests of the country that should count, but grabbing more and more votes and some more seats! These are the questions germane and more vital than the technicalities and procedural matters that I want Shri Hathi to note.

Today's *Statesman* tells us that the Trichur district Congress party has called on Shri Kamaraj to forgive the so-called opposition which the late Prime Minister had, communal organisations like the Muslim League and to come to terms with the Muslim League. Mr. Namboodiripad has been saying the same thing, and I think if I am not completely misinformed—though not openly but behind subterfuge and facade Shri Mukerjee also wants—though not directly or openly—to do it.

Shri Warrior: From Shri Nath Pai's party, Mr. K. C. Menon was advocating something, and Shri Nath Pai was dissociating from it. Why all these extraneous matters should be brought here?

Shri Nath Pai: It is not at all extraneous. This is an honest testament of our faith because in Kerala we are all on test. I never repeat myself, but I may repeat that our basic tenets are: are we prepared to barter our faith for the loves and fishes That is the challenge to us. I have always taken the stand that I would like to be defeated rather than barter away my faith or compromise with

what I regard as essential things of my life, my values, my faith. I would like the Congress to tell us categorically about this.

I have got a practical suggestion. If this stalemate is to be broken, new thinking will have to be done, and that requires courage. Face the electorate with your Plan and your programme and your record and let the Kerala people give the verdict on your record and our record. I want that my party does the same thing. If that does not do well, I have still the courage of saying that I disagree and I am prepared to take the consequences where my faith is involved. I would like the others to say the same thing and try to prove at least sometimes that the country is above the party. I would like them to think in this direction and it can be an experimental trial, an approach, to this.

The Minister yesterday referred to the point that the President is advised by the Kerala MPs in matters pertaining to Kerala. That is with regard to legislation. But there is an executive in Kerala. The Governor will be ruling Kerala for the next six months at least and we hope that they will assure us, as Shri Kamath has asked Shri Hathi, that the schedule of elections will be strictly adhered to and no excuses will be found. Because, Mr. Speaker, once again there are voices in the Kerala Congress—one such voice was raised in the House—that the elections can be postponed, could be postponed and should be postponed. I hope they will not fall into this temptation.

Pending the elections, may I know whether they would not give some consideration to an idea which another of his colleague, Mr. T. T. Krishnamachari, at least when he is informally sitting with us, tries to brush with us, the idea of creation of standing committees for different Ministries? Not those kind of consultative committees, whose counsel hardly

anybody cares for, which are degenerating into a big farce under the facade of which Parliament is being deluded into believing that Parliament is being really consulted in the day-to-day administration of the different departments. I would plead with you, Mr. Speaker, that you also lend your weighty support to this idea that the 18 M.P.s. who represent Kerala in this House could be associated with the different departments, because we do not have a State Legislature. It is novel, but the idea should be weighed whether we should leave it to the different Secretaries to rule a highly articulate people like the Keralites for six months, without any representative Government, when we have 18 chosen representatives. Could not Government, as an experiment, attempt to create standing committees in Kerala for the different Ministries?

It is not enough that in legislative matters the M.P.s. will be consulted. But I would like that they are consulted regularly and their advice becomes something not just for the sake of being recorded in minutes and to be pigeon-holed later on, but to be taken seriously and implemented. I would like to know whether that will not be a pattern for Kerala. This is a question which we should not shirk and avoid, but face boldly. Once again if the pattern of division of votes comes into play, what is going to be the role of the Congress Party and his Government? Once again shall we have those alliances and combinations or shall we try to create a new pattern of seeing that the maximum consensus of the people as reflected in the election is given a voice in carrying out the administration? I would like him to address himself in a bold and courageous manner to these vital questions.

Mr. Dhebar is blatantly going on violating the standards of democracy. The hon. Minister is smiling. Is it a matter for smile? I would like to quote—in today's paper there is a reference to the Chairman of the

[Shri Nath Pai]

Khadi Commission. I am not saying this in a disparaging way or to denigrate or embarrass Mr. Dhebar. I am far more concerned with all of us jointly trying to find a solution. May I conclude, Sir, by saying that this is for me not an exercise in parliamentary rhetoric and eloquence. This is something far more serious. I would plead with him that all of us should try and approach this question as a pointer to the future, as a challenge to all of us, forgetting our petty loyalty to the party and meet it with the necessary degree of vision, which goes beyond the interests of the party. I hope, Sir, Mr. Hathi at least will make an effort in this direction.

Shri Maniyangadan (Kottayam): Sir, for the last two days, this House has been discussing Kerala in all its various aspects. I must confess that it was with a certain amount of shame and agony that I had listened to certain proposals made in this House. Certain experiments are suggested. Various proposals, which violently deviate from the Constitution itself, have been proposed. I was not worried by the fall of the Ministry, but now I feel very much worried regarding the approach we make to the question. I only wish to say that this approach should be based on certain fundamental values. We must maintain certain standards and democratic values. Unless that is done, there is no possibility of finding a solution which will be stable.

Mr. Nath Pai referred to party matters and he wanted the Minister to reply as to what attitude the Congress will take in the next elections. I believe the Minister would not take upon himself the responsibility of stating what the Congress would be doing in the elections.

Shri Nath Pai: Why are you preventing him?

Shri Maniyangadan: I am a Congressman and I have my own indi-

vidual opinion. I have certain political views. Mr. Nath Pai himself was saying in his individual capacity what his party is doing there. From today's paper he read about the Trichur representation. He did not read the statement of Mr. Viswambaram, his party leader.

Shri Nath Pai: Have I not made my position very clear? Is there any ambiguity?

Shri Maniyangadan: He deviates from the policy of his party and asks the Congress to state its attitude. Mr. Viswambaram, his party leader in Kerala, has stated that the leftist alliance is likely to be a success. Their own leaders are going about saying that in order to defeat the Congress, all the opposition parties must pool their forces. Even Mr. Chandrasekar, and their All-India Chairman, have made this statement. Mr. Nath Pai has his own views about the party and he has said that he is prepared to face the consequences. As regards the Congress, the Congress President and other responsible people belonging to the Congress have made statements that they have decided to contest the election on their own. Of course, it is a political affair. There may be certain further developments. I cannot say now what things are going to happen. The Congress President is there. One of the members of the Working Committee is there. Shri U. N. Dhebar is a member of the Congress Working Committee. He attends all the Working Committee meetings and all the AICC meetings.

Shri Nath Pai: Is he a part-time Chairman of the Commission?

Shri Maniyangadan: He happens to be the Chairman of the Khadi Commission . . .

Shri Nath Pai: How does it happen to be? Did it fall on him from the skies? He had chosen to be Chairman.

Bill

Shri Maniyangadan: He is a member of the Working Committee of the Congress and that entitles him to go into the organisational affairs.

Shri Nath Pai: Mr. Speaker, it is a serious matter.

Mr. Speaker: How can I stop him?

Shri Hari Vishnu Kamath: We want a ruling on the point whether the legal position is correct.

Mr. Speaker: He is entitled to his own view.

Shri Nath Pai: Is he entitled to an erroneous view, such a perversion of law?

Mr. Speaker: According to him, it may be erroneous. According to others, it may be correct. He is expressing his own opinion.

Shri Maniyangadan: The Chairman of the Khadi Commission is a non-official. He has certain functions as the Chairman of that body. But as a non-official, as a citizen, he has certain other rights. He has the fullest right to take part in active politics. For the last several years, he was doing that.

Shri Nath Pai: He is completely misinformed. Only last year he became Chairman of the Commission.

Shri Maniyangadan: He has not gone there to do propaganda; he has gone there for certain organisational matters. Even if he has gone there for propaganda work, I am sure there could be no objection for that. That is my view. Mr. Nath Pai and the SSP may differ from that, but that is a different thing.

As regards the state of affairs in Kerala, yesterday also the Minister was asked to state whether an enquiry is going to be made against the various allegations. I am not going into the allegations. But I may bring it to the notice of Government that the situation there is surcharged with emotion, with prejudice . . .

Shri Warrior: Would there be a mass upsurge also there?

Shri Maniyangadan: I do not know whether there will be a mass upsurge. But if my friend would create one, I would like to see that. He had seen the effect of mass upsurge. His party tried to create a mass upsurge.

My hon. friend Shri Kappen referred yesterday to the jeep march from Kasaragod to Trivandrum. Shri Gopalan was leading the march. He said there was going to be a big mass upsurge. They tried on several occasions to create a mass upsurge, but all the time they failed.

13.00 hrs.

The present atmosphere there, whether the charges are true or not, is very vicious. According to me the atmosphere has to be cleared. Personally speaking, I would request the Government that after studying the question thoroughly an enquiry should be conducted into the charges levelled against certain officers, for example, the I.G., the Chief Minister there, and if there is any other charge against any other ex-Minister that also must be enquired into. That is my personal feeling. Then only the atmosphere would be cleared. Otherwise this vicious atmosphere will continue and a democratic election itself would be impossible. That is the actual position. So I would request that an enquiry should be conducted. That is my personal view. I do not know whether my hon. friend Shri Warrior is supporting it. I say it behoves the Government. When some of the allegations, especially the allegations that were levelled here now by Shri Warrior, when those allegations were sought to be enquired into by the Prime Minister, certain people objected to that. But those very same people now demand that an enquiry should be conducted into those things. And some of those people are very much respected by me. So, in order to clear that atmosphere it is better

[Shri Maniyangadan]

that an enquiry is conducted. That is my position.

Now, as regards the alliance in 1959 and all that, and the mass upsurge referred to now by Shri Warier, that alliance between the different parties was based on certain principles, they had certain aims. The main, and perhaps the only aim was to see that democracy is preserved, that a democratic government is brought into being. It was not for sharing power. If the only object of anybody or any party or any individual was to get into power, that was a wrong approach; any alliance which was based merely on that was wrong. There is no doubt about it. After all, I admit, it is of course the politician in Kerala that is responsible for the present state of affairs. Well, Sir, after that to come here and say, "you approach the problem with sympathy or with love and affection", I think there is not much need for such an appeal. I am reminded of a story narrated here by the late Prime Minister on some occasion. That is, a boy out of anger murdered both his father and mother. And when he was hauled up for murder in the court, he pleaded for mercy saying that he was an orphan! That sort of approach, I think, is not going to be of any use to anybody.

Shri Nath Pai: The story was interesting, Sir, but we do not see the relevance.

Dr. L. M. Singhvi (Jodhpur): Sir, while the political matrix which gave birth to this proclamation deserves deep analysis and study, the constitutional aspects of the legislative powers, I think, should not be relegated to the background. It is of considerable importance for us, Sir, to interpret the provisions of article 356 of the Constitution and those of article 357 with clarity and with reference to the intentions of the founding fathers.

Bill

It appears that the Government has persuaded itself to press into service the provisions of article 357 which say that "whereby 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 for Parliament to confer on the President the power of the Legislature of the State to make laws, and to authorise the President to delegate, subject to such conditions as he may think fit to impose, the powers so conferred to any other authority to be specified by him in that behalf."

We must clearly understand that while the provisions of article 357 are enabling and should be brought into operation only in exceptional circumstances, the provisions of article 356 are the really governing provisions in such a situation such as we are confronted with today. What does article 356 enjoin upon us? Article 356 simply says that "if the President, on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation"—in sub-clause (b) it says—"declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament."

My submission is that under the present situation it was not at all necessary to go any further than the invocation of article 356(1)(b), that is, to declare that the powers of the Legislature of the State would be exercised by Parliament, and it was not necessary therefore to invoke the powers under article 357 to enable the President to legislate and, as a matter of fact, to further sub-delegate his powers to any official or person that he may deem fit.

My objection is also based on a question of principle, and that is that the delegation is to be countenanced only when it becomes absolutely necessary and unavoidable. Sub-delegation is not to be countenanced at all if it is avoidable. In this case what we are faced with is this, that this Parliament would authorise the President to enact such laws as he may deem fit, and indeed the powers that we are proceeding to vest in the President of India may be further delegated to various other functionaries and officials. I do not think it is quite democratic, and I do not think that there are any special circumstances or exigencies which warrant the pressing into service of the provisions of article 357 of the Constitution, where the intention and the meaning of article 356 is clear and where the powers conferred by article 356 are quite adequate to meet the exigencies of the situation.

I would also like to raise the question of clause 3, sub-clause (4) of the Bill before us. This provision relates to the laying on the Table of this House and the other House the various modifications in the Act or any other legislative enactment to be made by the President. My submission is that this provision is not in accordance with the recommendations made by the Committee on Subordinate Legislation of this House, and that recommendation, I submit, should have been respected in its spirit and letter by the Government at the time of drafting this piece of legislation. My submission is that sub-clause (4) of clause 3 actually defeats the very mechanics of laying enactments on the Table of the House, because it 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 succeed-

ing, such modifications shall be given effect to by the President by enacting an amending Act under sub-section (2)."

In the first place it is not right, it is not proper, to lay this limit of seven days on any modification to be moved or placed for the consideration of this House in the various enactments that may be made by the President under the powers vested in him. My submission is that even the Statement of Objects and Reasons is very unimpressive and unconvincing when it says that "such legislative measures as may be necessary for the State can be taken up by Parliament only by postponing its business; and even then, it is likely that Parliament may not have time to deal with all legislative measures for the State." The suggestion is that for lack of time the Parliament would not be willing to comply with its constitutional obligations under article 356(1)(b). This is not a convincing reason at all, and if a reason had to be found it had to be a special reason to persuade us to endorse the Bill as it is placed before us. It appears that shortage of time with Parliament is too much with the Minister and not so much with us. After all, the Parliament has certain obligations under the Constitution, under article 356. At no time has the Parliament indicated that it would not have time to deal with legislative business in a particular State which happens to be under a proclamation under article 356.

With these observations and submissions, Sir, I close, in the hope that the Minister will take note of the various submissions I have just now made.

Shri Koya (Kozikode): Sir, I want to say only a few words on this Bill. Different Members belonging to different parties have given *post mortem* reports of the late Kerala Ministry, and I do not think they will agree on the responsibility for the ending of the democratic rule there.

Let us now face the facts as they are. There is now no elected representative government in Kerala. In

[Shri Koya]

an enlightened and educated State like Kerala it would be very difficult to proceed without popular participation, without consulting the popular representatives there. Therefore, while supporting the Bill, I would request the Home Ministry to take immediate steps to see that the elected representatives of that State in Parliament are consulted on the day-to-day problems of Kerala, especially with regard to the food problem in Kerala. I am now told, during a telephonic conversation with friends at home, that the food situation there has taken a very serious turn. There is no rice available in any of the important cities in Kerala. It is a very serious problem that we are facing. An adviser's regime, a President's rule, without popular participation to give proper advice and consultation, would find it very difficult to face a situation like this. People are very much perturbed and panicky. Most of the godowns in the cities like Calicut are empty now. I would, therefore, request the Home Ministry to see that immediate steps are taken to have popular participation. They must take the advice and have consultation with the Members of Parliament from that State as early as possible.

Shri Hathi: Mr. Speaker, Sir, Shri Nath Pai had raised a point yesterday and he was also pleased to say that I could reply to it during the course of this debate when we take up the Bill. He has raised an important point, I quite appreciate it. His point is that Shri Dhebar is the Chairman of the Khadi Commission and he asked whether it was proper for him to take part in politics especially when he is the chairman of a statutory board. You, Sir, know that this Parliament has been always alert as to the standard, the conduct and the role which people could play and act if they are government servants in a State or in the Government of India. They cannot be members of a legislature also. Shri Dhebar was a

Member of Parliament. When he took up the office as Chairman of the Khadi Commission he was not disqualified from being a member. The Prevention of Disqualification of Members Act exempted this post. He could have been a Member of Parliament, and I know that he resigned not because he was disqualified to be a Member of Parliament but he thought that he could not do justice to the other work as well as to the Parliament. Supposing he had been a Member of Parliament and also the Chairman of the Khadi Commission, which he was permitted to be, could he have been blamed for or prevented from taking part in politics? As Shri Nath Pai or anyone of us can take part in politics, he could have also taken part in politics. Therefore, under the Act this post is exempted. He could as well be a Member of Parliament or a member of a legislature. Once he can be a Member of Parliament, he can take part in politics. This is the explanation. Unfortunately, Shri Nath Pai is not here otherwise, I think, I would have convinced him.

The second point he raised was as to why the Government did not issue directions under article 353. Article 353 is restricted to issuing directions. The wordings are quite different and the scope of these two provisions are equally different. In 353 the wording is:

"...the executive power of the Union shall extend to the giving of directions to any State..."

Here it is not a question of issuing executive directions. Article 356 says:

"If the President, on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution . . ."

The situation that arose in Kerala was that the Governor was satisfied

that the government of the State could not be carried on according to the provisions of the Constitution. It was not a case of issuing directions to the government on the execution of certain policies. This was a fundamental question. When the legislature passed a vote of no-confidence against the government of the State, the government could not be run in accordance with the provisions of the Constitution. Therefore, the question of issuing directions does not come in.

The third point that Shri Nath Pai raised was about some experiment. Yesterday, when Shri Khadiolkar and Shri Ranga suggested certain experiments he said, we are not going to make experiments. Here he wants Kerala to be a laboratory for experiments.

Shri Nath Pai: No, no.

Shri Hathi: I thought you were not here—I am glad you have come.

Shri Nath Pai: Therefore, you were about to make wrong statements.

Shri Hathi: When I made my first submission you were not here. One thing I may say, I may not be as intelligent as my hon. friend, but I would always be sincere and I would say what I believe and what I know.

Shri Nath Pai: I readily concede that.

Shri Hathi: When I was explaining your point about Shri Dhebar you were not here.

Sir, I was on his third point. He said, let us have some method of having committees for different ministries so that these Members could be consulted. I think it is a suggestion, but I do not know how far that could be practical. Even otherwise we have got some committees in one form or the other. Any way we are going to have a committee and that committee is only for the purpose of legislation. I quite

appreciate his point. When the Members of Parliament are here and if the problems of Kerala are to be discussed, it would be advisable, as Shri Nath Pai thinks, to discuss them with them. But I can assure him one thing, that I will be prepared to meet the Members of Kerala any time they want and discuss all the questions with them, because ultimately it will be the Home Ministry that will be responsible. Then I will take the question with the different ministries concerned. But I cannot at the present time give any assurance....

Shri Nath Pai: But you will examine it.

Shri Hathi: That is a different matter. Unless I am definite about it I will not give any assurance.

With that limitation I speak. But so far as I am concerned and so far as the Home Ministry is concerned, I will meet the hon. Members from Kerala as often as they want to on all subjects or on any subject. Really, what we want is this. After all, this is for some period only and we want to govern it as best as we can in the interests of the State. Therefore, if hon. Members experience any difficulty or if they have to make suggestions, I on my part will be ready and willing to receive all suggestions and to meet them. That is the most I can say here.

Then, the third thing he said was about the elections and the stand which the Congress will take vis-a-vis other parties. This is really a matter for the organisation, but he must have read the reports in the press only recently that the Congress President himself has said that we shall stand on our own legs. This is what he has said. Therefore, he does not want a reply from me, that is, when the President of the organisation has stated it and it must have come to his notice also. But when we are discussing this Bill and when we are discussing the provisions of

[Shri Hathi]

this Bill, naturally other subjects can come in, in a wider aspect as he said. But whether the Congress will come into power or whether the Communists will come into power, whether the PSP will come into power or whether the Muslim League will come into power or whether two or three parties will join to oust another party, all these things are matters which do not really come in so far as this Bill is concerned.

Then, Shri Warior's suggestion was that instead of this committee which has been mentioned in clause 3(2), the amendment suggested by some hon. Members may be accepted. When we come to that I shall express what I have to say on that.

As regards action under the Santhanam Committee's report, only yesterday we had about 20 minutes given to this question and I replied that about 21 recommendations had been accepted wholly or partly and implemented; about 38 were accepted and partly implemented, while others were under consideration. On this question of the recommendations which, if I remember aright, number 105 to 108, I said that so far as the question of the ministers is concerned, the Home Minister and the Prime Minister made a statement and the Home Minister also said what line of action the Government wants to follow. But we have not yet finally accepted that recommendation because there is again the question of appointing the panel; then comes the question of Speaker and Chairman also. We have not yet finally considered those recommendations. I do not think Shri Nath Pai expects Government to implement a recommendation or take action upon a recommendation of a committee report which has not yet been considered by the Government. It can only be if the Government had accepted that recommendation. If there was a question of implementation of those recommendations, I would have understood Shri Nath Pai's suggestion.

Shri Nath Pai: The report was submitted in February. It is eight months that you have had.

Shri Hathi: He may blame us for the delay; but we have not yet accepted that recommendation and, as I said, it is under consideration. Therefore, implementation of that recommendation does not come in. This is the only point that I would like to bring to his notice.

Now I come to Dr. Singhvi's point. He said that article 356 (1) (b), which says:—

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

would have been sufficient. He said that this would have been enough and it was not necessary to proceed under article 357, that is, for Parliament to confer on the President the power of legislation. Yesterday when I was discussing about the Proclamation, while moving it I also explained the reasons and the circumstances and said that all laws will have to be passed by Parliament. That would mean that it will have to function as the legislature of the State. The work of Parliament, as Dr. Singhvi knows, is already heavy. He said that it was heavy only for the Ministers and not for the Members.

Dr. L. M. Singhvi: It may be heavy; but this is a constitutional obligation cast upon us and we cannot shirk it mainly because of that.

Shri Hathi: When the question was discussed at the time of framing the Constitution itself, it was considered and therefore it was that this specific provision was made. In the past this has been so in all cases and it is not only necessary but also practical; otherwise, the whole House will have to devote its time on legislation of Kerala only and we may not have time....

Shri Warrior: How many pieces of legislation might come?

Shri Hathi: It may come. But this is the only practical way. I think, it is proper that the provision of article 357 of the Constitution is sought to be invoked.

Then he said about the seven days' period. He said that it was too short. If it is passed by Parliament after a great delay then perhaps it would not have the effect, if an Act is enacted today and after three months you either accept it or modify it, supposing that this House wanted to modify it. After all, this Bill was introduced the day before and today we are passing it. Therefore, I think, it is in the interest of the State that it should not be delayed too long.

As regards the other point, I have seen the other legislations also of 1960. It is the same provision which I find there.

Dr. L. M. Singhvi: The point I had raised was that there was a specific recommendation regarding the model clause in respect of legislation which was subordinate legislation made by a committee of this House and accepted by the Government of India. Why should then a departure be made from this? When there is a model clause governing subordinate legislation and in respect of laying on the Table all legislation which is subordinate, that should be followed uniformly in all enactments.

Shri Hathi: That is all I have to say.

Mr. 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. Speaker: The House shall now take up clause-by-clause consideration of the Bill. The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 6— (Conferment on the President of the power of the State Legislature to make laws).

Shri S. C. Samanta (Tamiuk): Sir, I beg to move:—

Page 1,—

for lines 16 to 20, substitute:

"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—

- (a) thirty members of the House of the People nominated by the Speaker among whom shall be included all members who for the time being fill the seats allotted to the State of Kerala in that House; and
- (b) fifteen members of the Council of States nominated by the Chairman among whom shall be included all members who for the time being fill the seats allotted to the state of Kerala in that House."

While moving this amendment I am reminded of the discussion which took place in this House on the 25th April, 1961 about the Orissa State Legislature (Delegation of Powers) Bill, 1961, in which one hon. friend, Dr. Samantsinhar, pressed that the number of Members that was allotted in the Bill should be increased. He suggested 20 from this House and 16 from the other House including all the Members of Parliament from Orissa in both Houses.

[Shri S. C. Samanta]

At that time also, the Government thought that 15 Members would do, ten from this House and 5 from the other House. But the House objected to it, and ultimately 14 Members from this House and 7 from the other House were taken.

Mr. Speaker: Would not a committee of 45 Members be unwieldy?

Shri S. C. Samanta: I am putting forward this proposal before Government. Now, Government have come forward with the proposal that all the Members of Parliament from Kerala State would be there.....

Mr. Speaker: How many Members are there from Kerala in this House and in the other House?

Shri S. C. Samanta: 18 in this House and 9 in the other House. So, in all, 27 would be already there.

But I would like to place before this House this fact that in addition to the Members belonging to the State concerned, who are taken on this committee, there should be some other Members also who will dispassionately help Government in doing the work. So, we have suggested that the number should be increased to 30 from this House and 15 from the other House.

Mr. Speaker: What is the attitude of Government?

Shri Maniyangadan: This was the provision in the old Act of 1959 also.

Shri Hathi: I am inclined to accept this.

Mr. Speaker: If it was done earlier in 1959, there should be no objection to it, and I suppose the Members are agreed on that.

The question is:

Page 1,—

for line 16 to 20, substitute:

"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—

(a) thirty members of the House of the People nominated by the Speaker among whom shall be included all members who for the time being fill the seats allotted to the State of Kerala in that House; and

(b) fifteen members of the Council of States nominated by the Chairman among whom shall be included all members who for the time being fill the seats allotted to the State of Kerala in that House".

The motion was adopted.

Mr. Speaker: The question is:

"That clause 3, as amended, stand part of the Bill".

The motion was adopted.

Clause 3, as amended, was added to the Bill.

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

Shri Hathi: I beg to move:

"That the Bill, as amended, be passed".

Mr. Speaker: The question is:

"That the Bill, as amended, be passed".

The motion was adopted.