

The Minister of Railways and Transport (Shri L. B. Shastri): I have no objection. The situation in Kharagpur is pretty serious and I shall welcome a debate on that question in the House. If a debate could be held today, I have no objection.

12 Noon

Shri Gadgil (Poona Central): I would suggest two hours instead of one and a half hours because it will have to deal with two things: the situation as it exists today and the avoidance of repetition of such incidents in the future. These are too terrible things to be true, but they are true. I would, therefore, very respectfully urge you, Sir, to allot half an hour more.

Shri S. S. More (Sholapur): May I make a submission, Sir? Before we start the discussion we should be pretty sure about the facts. Will it be possible for the hon. Minister to circulate to us, as early as possible, before we enter on the discussion, the relevant and material facts of the case so that to that extent we can make an economy of time?

Mr. Speaker: Does the hon. Minister propose to make any statement?

Shri L. B. Shastri: If you so desire, Sir, I can give the facts in the beginning before the discussion starts. I shall merely give the facts or read out a statement if you so desire.

Mr. Speaker: Now, we must take up this Bill relating to Travancore-Cochin. Two hours have been allotted for it. Then there is the Income-tax (Amendment) Bill for which an hour has been allotted. Thereafter, we are to take up the working of the Preventive Detention Act. Is it the desire of the House that this discussion should be taken up before the Preventive Detention Act?

Some Hon. Members: Yes. It should be taken up before the Preventive Detention Act.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): So, we will start this discussion at 2-30 p.m. Now, do hon. Members require two hours for this discussion?

Mr. Speaker: We are starting the Travancore-Cochin Bill at 12-00. It will go up to 2-00. Then the Income-tax (Amendment) Bill take one hour.

Shri Satya Narayan Sinha: So, till 3-00 p.m. we are scheduled to go with these two Bills.

Mr. Speaker: Shall we take up the Preventive Detention Act at 3-00 p.m. or shall we take up this discussion at 3-00 p.m.?

Pandit Thakur Das Bhargava (Gurgaon): Let us take up this at 3-00 and then after two hours we shall take up the Preventive Detention Act.

Mr. Speaker: All right. Then this discussion under rule 212 sought to be raised by Shri Feroze Gandhi will be taken up at 3-00 p.m. and will be carried on till.... Is it the desire of the House that two hours must be given for this discussion?

Some Hon. Members: Yes, two hours.

Mr. Speaker: Very well. It will go on from 3 to 5 and thereafter we will take up the Preventive Detention Act for one hour and another four hours on another day.

TRAVANCORE-COCHIN STATE
LEGISLATURE (DELEGATION
OF POWERS) BILL

Mr. Speaker: Shri Datar may proceed.

Shri Datar: Mr. Speaker, Sir, the House is aware that on 23-3-1956 a Proclamation was issued and the President took over the administration of the Travancore-Cochin State. Under this Proclamation, the legislature has been dissolved; but under article 357(1) it is open to Parliament to confer the powers of legislation on the President. In accordance with these provisions, this Bill has been brought forward.

As you are aware, Sir, there is considerable congestion of work in Parliament. When the Travancore-Cochin legislature was dissolved and the President took over the administration of the State there were as many as 23 Bills pending before the State legislature. Out of these reports in respect of 5 Bills had been received from the Select Committees and the Bills were ready for final hearing. So far as 9 Bills were concerned—I am referring to official Bills,

[Shri Datar]

Sir—they were pending before Select Committees. In regard to two Bills, they were taken up and were under consideration when the Assembly was dissolved. Thus, so far as official business was concerned, there were 16 Bills that had to be disposed of, or, in other words, that were to become law. So far as non-official bills were concerned, there were 7 Bills before the Legislative Assembly—3 were pending with the Select Committees and 4 had just been introduced.

Thus the House will find that (16 plus 7) 23 Bills were pending final consideration by the Travancore-Cochin legislature. Out of these, there are certain matters which have to be dealt with immediately because they are of a very urgent nature. Some of them deal with lands. Two Bills have already been referred to the Government of India because they are of a most urgent nature. One is the Travancore-Cochin Irrigation Bill....

Shri Velayudhan (Quilon *cum* Mavelikara-Reserved-Sch. Castes): What is the name of the Bill?

Shri Datar: I am giving that also. If the hon. Member will just wait for a second he will understand everything.

I was just pointing out that recently two Bills have been referred to the Government of India for immediate legislation. One is the Travancore-Cochin Irrigation Bill and the other is the Travancore-Cochin State Aid to Industries Bill.

So far as the Travancore-Cochin Irrigation Bill is concerned, it seeks to integrate existing laws in force in the Travancore and Cochin areas of the State, relating to construction, maintenance and repairs of irrigation works and the conservation and distribution of water for irrigation purposes. It also provides for the levy of betterment tax. So far as this Bill is concerned, it is a matter which has to be attended to immediately.

There were originally two Bills on this subject. The first was called the Travancore-Cochin Irrigation (Levy of Betterment Contribution and Water Cess) Bill, for the levy of betterment charges and the other, the Travancore-Cochin Irrigation Bill for the purpose of integrating the separate irrigation Acts in force in the Travancore and Cochin portions of the State. These two Bills were referred to Select Committees and the committees suggested that the two Bills might be combined into a single Bill. Accordingly, the two Bills reported by

Select Committees were again referred to another Committee and that Committee has submitted a report on the combined Bill.

As I pointed out, so far as these Bills are concerned, they have to be legislated as early as possible.

There are a number of other Bills—as I pointed out earlier—totalling 23. Some of them are of a fairly urgent nature. So, on the one hand there is the question of urgency of legislation in the interests of the citizens of Travancore-Cochin; and, on the other hand, you are aware that the Parliament has put up a long list of business, Bills and other matters which it might not be possible for it to cope with. This House will be rising in another two days and the other House would be rising in three days. Then in the next session also we have got the States Reorganisation Bill. We have also got the discussion on the report of the Planning Commission. Therefore, it is likely that if all the Bills were to come before the House to be considered in the normal manner and then become law, the matter might be delayed on account of these circumstances. It was, therefore, considered necessary that we should have recourse to article 357(1) of the Constitution and confer on the President power to enact the necessary legislation.

So far as the scheme of this Bill is concerned, you will find that two safeguards have been provided for. One is that before the President makes any Act, he will consult an Advisory Committee consisting of ten hon. Members from this House and five hon. Members from the other House. So the normal procedure, that the President has to follow, except where the President thinks that the matter does not brook any delay, would be to consult this advisory body and, after ascertaining their views, to bring in the piece of legislation. The second safeguard is that after the President has promulgated an Act, within a very short period that Act has to be placed before the House. If either of the two Houses makes any changes or amendments in the said Act and if those changes or amendments are accepted by the other House, Lok Sabha or Rajya Sabha as the case may be, then naturally the President has to introduce the amendments in accordance with or in consonance with the joint wishes of the two Houses of the Parliament. Therefore, we find that though the President's rule is being carried on, and though Parliament's authority is always supreme

in view of the existing conditions and circumstances under which it may not be possible for Parliament to rush through the necessary legislation, the provisions contained in this Bill are absolutely essential for carrying on the administration in as beneficial a manner as possible in respect of the people concerned. When the people's welfare is taken into consideration, it would not be proper to hold up the consideration or the passage of the pending Bill. It is for this purpose that the Government have brought forward this Bill.

As I have pointed out, we have introduced two safeguards—one is a preliminary safeguard and the other is the last safeguard. It is always open to the Parliament at all stages, to give its views and the President will follow those views. Under these circumstances, I commend the provisions of this Bill to the acceptance of the House.

Mr. Speaker : Motion moved :

"That the Bill to confer on the President the power of the Legislature of the State of Travancore-Cochin to make laws, be taken into consideration."

Now, there are a number of amendments to clause 3. I would like to ascertain the views of the hon. Members as to how long we will take for finishing this Bill through all stages. I should like to invite their proposals, in view of the fact that 2 hours have been allotted for this Bill. We have spent ten minutes already.

Shri A. M. Thomas (Ernakulam) : One of the amendments is for circulation and there is another amendment that the Bill may be referred to the Select Committee.

Mr. Speaker : Yes; I shall allow them to be moved. But what is the proposal in regard to the time which the House may wish to spend for all the stages of the Bill?

Shri Kamath (Hoshangabad) : One hour for general discussion may be allowed.

Shri A. M. Thomas : 1½ hours may be allowed for general discussion.

Shri A. K. Gopalan (Cannanore) : 1½ hours for general discussion and half an hour for the clauses.

Mr. Speaker : Yes; 1½ hours for general discussion and half an hour for the clauses. Now, who has tabled the amendment for the circulation of the Bill?

Shri N. Sreekantan Nair (Quilon cum Mavelikkara) : I have tabled that amendment. It is amendment No. 1.

Mr. Speaker : Let him move it.

Shri N. Sreekantan Nair : I beg to move :

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th July, 1956."

Mr. Speaker : Amendment moved :

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th July, 1956."

Mr. Speaker : The other amendment is No. 10—given notice of by Shri Velayudhan. But the hon. Member has not given the names of the hon. Members of the Select Committee.

Shri Velayudhan : The names are with me.

Mr. Speaker : Has he ascertained whether they are willing to serve on the Select Committee? Obviously, his amendment falls through.

Shri Velayudhan : No, Sir. On that ground it should not fall through.

Mr. Speaker : He must ascertain whether those Members are willing to serve on the Select Committee. Let him give the names and verify whether they are willing to serve on the Select Committee.

Shri Velayudhan : Yes, Sir. I will mention the names while making the motion.

Mr. Speaker : The hon. Member will verify his list. If any Member does not agree, he might put in some other Member's name—a Member who might agree to serve on the Select Committee. I will treat his amendment as moved after that.

Now, how many hon. Members would like to speak?—There are 11 Members standing. Then the hon. Minister would like to reply. All this will have to be done within the space of one and a half hours. So, I will allow five to ten minutes for each Member. Shri Gopalan will speak now.

Shri A. K. Gopalan : I oppose this Bill. This Bill is known as the Travancore-Cochin State Legislature (Delegation of Powers) Bill, 1956. As there is no time, I won't go into the conditions in which the declaration of emergency

[**Shri A. K. Gopalan**]

was made and the President's proclamation was issued and power was taken over by Parliament. I only wish to say that it was the first undemocratic action that was carried out. After that, today, when Parliament has the power to exercise the legislative powers of the State legislature of Travancore-Cochin, this Bill provides under Article 357(1) of the Constitution and asks for the power to be given to the President so that he may whenever he considers it practicable, consult a committee and then have the power, to enact the laws. The reason is said to be that Parliament has no time and so this power must be given to the President. I will deal with that aspect afterwards.

There are three provisions in this Bill. One is that whether Parliament is in session or not, the President has the power to enact laws. The second provision is that for enacting any such law, as the Home Minister has said just now, if the President so thinks, he may consult the committee. If he does not think that there must be consultation, then, even if there is a committee, he can enact laws on his own authority. The third provision is this, and the Home Minister has just now referred to that provision also. Within seven days, the law enacted by the President will be placed before Parliament and Parliament, if it thinks it is necessary, may make some modification. But one thing the Minister has not said, and that is, any action taken within those seven days cannot be questioned and that action will be valid. The action taken on the President's enactment will be valid as if a Bill has been enacted. Whatever it is, right or wrong, whether it is for the benefit of the people or not, whether there are some clauses in the enactment which will go against the people or not, when once it is enacted and if within seven days action has been taken under that enactment, that action cannot be questioned. The Minister said that Parliament may make some modifications. But then, those actions already taken may not be modifications suggested by Parliament. So, while Parliament is given the power to make some modifications, at the same time, the power of Parliament is taken away, because within those seven days the Government can do anything and that cannot be questioned. These are the provisions in the Bill.

Unfortunately there have been some precedents as far as this delegation of

powers is concerned. There is not enough time to go into those matters now. I had been reading the debates in relation to the delegation of powers in regard to Punjab, where Pandit Thakur Das Bhargava and others had taken part and they had very strongly opposed that measure in 1951. Then the power was taken over by the President and that power was given to the Governor. In 1953, power was taken by the President in regard to the laws in PEPSU. But there was a committee for consultation. That was an improvement on what was done in 1950. In Andhra, a similar thing was done. Unfortunately, there have been these precedents. But my request is, let not any such precedent be made again, because, times are changing. When there is a Parliament and when the Parliament is in session, let the Parliament see that those powers that are given to it—the powers of law-making for the people of Travancore-Cochin State—are exercised by Parliament. Let not the powers be taken away by the President when the Parliament is in session. So, as far as this Bill in 1956 is concerned. I say, let the precedents that had been followed before not be taken recourse to, because, we are seeing today that there are so many changes taking place. We are going towards a socialist pattern of society. We say it is an experiment in democracy and so, if the Parliament has no time, that is not the reason why this Bill should be brought forward.

The second point is this. It is one of principle. What is proposed by this Bill is, the law-making powers which had been vested in Parliament should be delegated to the President and the President should be given the power, and he may constitute a committee and consult it if he so decides. The implications of this Bill are formidable and the Bill contains some questions of principle. Under the Constitution, the passing of laws in democratic States must be the prerogative of Parliament and when Parliament is in session, it is only Parliament that should undertake the legislation. There is no need to seek power for making legislation otherwise except for the purpose of having absolute powers for the administration of the State through the bureaucracy. I will show that. We say that we have a Parliament elected on adult franchise. We say that this is a great experiment in democratic institutions. But, here, everything is denied to the people of Travancore-Cochin.

Let us analyse what is now happening in Travancore-Cochin? After the Government had been taken over by the President, there is a representative of the President, an Adviser there who is carrying on the work. We have seen that all the powers have been given to the Collector, though there are panchayats and local bodies. Labour, Medical, Education, all these things are under the control of the Collectors. There is the Labour Commissioner. The other day when a question was asked, about a strike, it was not the Labour department or the Labour Commissioner that was dealing with the question; it was the Collector. The bureaucracy has tightened. Even this morning, there was reference about Travancore-Cochin. When Parliament has taken over authority, we put questions: not very difficult questions. Even in ordinary times, we ask questions about Travancore-Cochin: not because we have taken over power. Answers are given. Now, there was a question whether there was any strike in a college. No answer was given. There was another question as to how many colleges were affiliated to the Travancore University. No answer is forthcoming. After 15 days, the answer is given, we are asking for information; information is being collected. Is there no Director of Public Instruction. Even then, we know what would Department there? The Adviser is there. Will it not be possible within 10 days to get this information as to how many colleges are affiliated? There are records. Are there facilities for having phone messages? There was a lock out of 20,000 workers. Even the papers say that. It is said that the strike was declared illegal and the factories were opened. But, when we ask a question in Parliament it is said, we are asking for information. There is something very wrong about it. Even simple information as to how many colleges are affiliated is not got. I want to know, under these circumstances, what will happen to the people of Travancore-Cochin. The people of Travancore-Cochin are the most educated people in the whole of India. There is about 60 per cent. literacy there. They are today under the rule of the Adviser. The Members of the Assembly there have no voice. The Assembly has been dissolved for the people of Travancore-Cochin, they have to depend on Parliament for everything. Questions are put here and I do not want to say anything, as you yourself made some observations

to the Ministers. If in 10 days Government could not get a simple information, then, something should be done about it.

In this Bill, we are asked to give the whole power to the President. Let the President Constitute a Committee so that it may go into all matters. Formerly it was said that the Parliament is there, Parliament can question anything and legislate. Even when there is power for Parliament, we see what is happening. We are not able to get answers. What will happen if all the power is taken away? I do not know what the constitutional position is. Can the President enact non-official Bills and Resolutions? After this Bill is passed, is the Parliament in a position to take up non-official Bills and Resolutions? The President can enact a Bill. But, the President cannot take up Non-official Bills and Resolutions. As far as the people of Travancore-Cochin are concerned, their right of moving non-official Bills and Resolutions is there. They have the right of asking questions. Under this Bill, I want to know from the Home Minister whether these powers are taken away. I want an answer from the Home Minister. If that is also taken away, as far as democracy is concerned, there is nothing left for the people of Travancore-Cochin for some months. From our experience in Travancore-Cochin after the Proclamation, and from our experience in Parliament even today in regard to questions, I do not know what will happen to the people of Travancore-Cochin even if this power is taken away from Parliament.

Look at the indifference and negligence of the administration. The President's rule has been enforced. It is the legitimate right of the people of Travancore-Cochin to have justice done to them. That justice can be done to them only if we have the right of putting questions here and discussing matters of importance in the form of non-official Bills and Resolutions, and in other forms. It is said that Parliament has no time. I say the hon. Members of this House will not grudge sitting for 4 or 5 days as far as the Travancore-Cochin Bills are concerned. I have got a copy of the Bills. There are 24 official Bills and 7 non-official Bills. In respect of some Bills, only the third reading remains. As far as the T.C. Compensation for tenants Improvement Bill is concerned, that was introduced on 7th August, 1954. The report of the Select

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Committee was presented on 5th October 1955. Clause 2 was under consideration. All the other clauses were passed. As far as the Restriction of Ownership and Possession of Land Bill was concerned, it was introduced on 7th August 1954 and it was referred to the Select Committee on 4-2-55. The Special Rights in Land Abolition Bill was introduced on 7-8-1954 and it was referred to the Select Committee on 19-3-55. The T.C. Perumpattadar Bill was introduced on 7-8-1954 and it was referred to the Select Committee on 1-2-55. As regards the T.C. Irrigation Bill, the report of the Select Committee was presented on 10-10-55. The second reading of the Bill was completed on 2-3-56 and only the third reading is left. If we get copies of all the discussions, it will be easy for Parliament to discuss these Bills in 4 or 5 days. When the Proclamation came up before this House, it was said that the Parliament is here there are not only people from Travancore-Cochin, but people from the whole of India who will see that the rights of the people of Travancore-Cochin are safe. Now we say we have no time. We are asking the President, don't give us power, take away this power because we want to go away, we have no time to sit. I am sure if the opinion of the Members here is asked, no Member will say, we do not want to sit. Let the Home Minister ask the Members. I am sure, the Members will say, if it is question of 4 or 5 days, we will sit, because here is a question of taking away the rights of not one individual but a part of the country where the rights are being taken away for several months, six or seven.

It is said that there will be a Committee. What are the functions of the Committee? It is specifically stated in the Bill that if the President so chooses, he may consult it. There is nothing to indicate when the President will consult the Committee. If the President thinks that he should consult the Committee on certain occasions, he will consult. Not only that. Look at the clause. It says:

"Every Act enacted by the President under sub-section (2) shall, as soon as may be after enactment, be laid before each House of Parliament.

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

Provided that nothing in this sub-section shall affect the validity of the Act or any action taken thereunder before it is so amended."

You can amend it after seven days. But, the President has the right to see that the Act is implemented before seven days. After implementation, it is placed before Parliament. Parliament can amend. It is said, hereafter we will carry out your amendments, but whatever is done before that, cannot be questioned. The Act may be implemented. Suppose there is a land legislation in which something is said about eviction, and then some action is taken after the Bill is passed and it gives you the right of possession or something like that. If within seven days some action like that is taken that cannot be questioned. I say if this power is not taken away from Parliament for making modifications, something good will be done to the people. Therefore I oppose the Bill on principle. We have done it before two or three times, but in the present situation it is not advisable to have it. Power must not be curtailed just because it comes to a question of time, some hours or days.

About the committee I do not say anything now. I shall make my remarks when the amendments come.

As I pointed out neglect and indifference is shown in the administration there. Now, non-official resolutions and Bills cannot be sponsored if this Bill is passed. If this is the functioning of democracy, I have only to say God save democracy and nothing else.

Mr. Speaker : I will now call Shri Sreekantan Nair who has moved for circulation and then Shri Velayudhan who wants to refer the Bill to a Select Committee and thereafter give chance to the other hon. Members. In the meanwhile Shri Velayudhan may give the names.

Shri Velayudhan : I have already given the names.

Shri N. Sreekantan Nair : The arguments advanced by the Deputy Minister were not very convincing.

First of all, you know in our State we are not very happy about the imposition of President's rule; whatever may be the arguments advanced by the interested parties, the fact looms large that the Congress was not in a majority in that State, they were allowed to make good and somehow managed to continue to be in power for some time through a coalition. There was for the first time in the history of India in any State an Opposition party saddled in power for a short time. Its life was cut short. Once again a coalition Ministry of the Congress came, and that had to be liquidated. So, the position in that State is quite distinct and different from the three States where President's rule had been imposed in the past. This difference must be considered by the House and also its reactions and impacts on any legislative measures that we adopt.

Had the legislature of Travancore-Cochin been functioning today, those Bills which are intended to be moved here certainly would have been moved and passed there on much more progress lines that would be passed either in this House or by the President. I say "either in this House" because we all know that where the Congress has a vast majority they can push through any measure they want. But in that State it would have been impossible. The Bill that is to be passed now and the Bill that would have been passed two months back or would be passed after President's rule is over would be entirely on different lines. That is one aspect of the question.

Another aspect of the question is that the Bills which are to be passed now are only temporary measures. They have only a life-time of a maximum of one year after the termination of President's rule. So, to bring in temporary measures on questions of vital importance like land legislation will be very risky, especially when you know that Travancore-Cochin is a problem State. We have got special problems regarding land which cannot be understood by not only the Administrator but by most people in the North.

I may cite an example. There is a land panel composed of the General Secretary of the Congress who is a Member of this House and several other eminent men. They have laid down that an income of Rs. 1,600 should be the basis for a family holding. But that criterion cannot be followed in our State.

If that is imposed, there would be great possibilities of corruption involved in assessing the income of the property. Further, every family has been divided now in anticipation of such Bills, and there are as many portions as there are members. I do not think there will be any land in Travancore-Cochin which could be distributed to the land-hungry peasants if we follow the Rs. 1,600 income-limit. In that State we have to follow the land policy of Kashmir in fixing a physical limit on total area, giving due consideration to the fertility of the soil. The maximum that we can fix in our State will be 20 acres where it is not fertile and 10 to 12 acres in other cases. Such a Bill will not be passed in this House. It cannot be brought before the House. There will be a hue and cry. The Bill that has been presented in the State Legislature was naturally held up because the Planning Commission said it did not correspond with their ideas. The commission does not understand the special problems facing the State. That is why I contend that any land-reform Bill passed by the President would have to be scrapped when the State Legislature is reconstituted.

[MR. DEPUTY-SPEAKER *in the Chair*]

There will be a demand from the landed interests to retain the basic provisions of the President's enactments when the next Government comes to power. You are inviting all sorts of complications, by legislating such temporary measures.

There are only two important Bills. One is for the levy of betterment tax by the Government. It can wait for a few months. I do not see any difficulty in that. The other is in regard to State aid to industries. The industrialists naturally may clamour, but how far it is going to benefit the workers, I must say, is also a problem. I am fundamentally opposed to the private sector being encouraged like this. Apart from that, there is no harm if this is put off for some time. This House can go into the question and study the two Bills in a very short time. But as for delegating the powers to the President the issues involved in it are very serious. We have no time to consult our constituents. So, the Bill may at least be circulated to the people of Travancore-Cochin so that their opinion may be received before the meeting of the next session of Parliament.

[Shri N. Sreekantan Nair]

As regards the provisions of the Bill also, there is a very serious danger that it will be impossible to change any provisions of the Bill that is passed here, because it must be within seven days, and to ask this House to put off other very important business and to take up the Travancore-Cochin Bill will be unfair. Even if it is possible, scant attention will be paid to it, especially when it is a Bill sponsored by the Ministry of Home Affairs with the backing of the President. When it comes before the House, I do not know whether we will even get a chance to suggest an amendment. Suppose the President's enactment is laid before the House, during the discussion of some important business. It becomes urgently necessary to rush through a Bill like the States Reorganisation Bill within the specified time; so that there would not be any time to consider the State affairs. Further, certain provisions in the Bill may be very objectionable to the people of the State, say, for instance, the question of eviction. Thousands of families may be evicted in a few days. We want that provision to be amended; we bring it before the House; the House will have to put off all other business to consider it. At least that much they will have to do, though that would be very inconvenient. Even then, we know what would be the result. In the end all the defects in the Bill will be retained because there is a great majority for Congress in this House. It has not been there in the State, it will not be there in the future. So, this legislation is going to harm us definitely and deliberately. Therefore I oppose this motion.

Even the constitution of the committee is so contemplated that there will be only 10 Members from the twelve Members in this House from Travancore-Cochin. What is the meaning of it? When all the Members have the backing of the people who elected them, why only ten out of twelve from this House and five out of six from the other House should be selected? Who is to be left out and who is to be chosen and why should such people be left out. But suppose we are all included in the committee. Then we will get the odium of having been parties to imposing unwarranted policies on the people, and we have no right to put in a Minute of dissent, nothing of the sort. It is not a committee of this House. So, we go there, blabber something and the will declare

that they had the support of the committee. Such a kind of mockery of democracy should not be committed.

Shri Velayudhan : I have tabled an amendment seeking to refer this Bill to a Select Committee. I have already passed on the names of the Members who are to be on the Select Committee.

Shri Damodara Menon (Kozhikode) : Is it not necessary to read the names?

Shri Kamath : It is a mere formality.

Mr. Deputy-Speaker : The names should be read. May I know whether all those Members have given their consent?

Shri Velayudhan : I have consulted all those Members. They are Shri Nambari, Shri V. P. Nayar, Shri T. B. Vittal Rao, Shri Kamath, Shri S. S. More, Shri Boovaraghadasamy and Shri N. Sreekantan Nair.

Mr. Deputy-Speaker : But the motion should be moved formally.

Shri Velayudhan : I have given the names already.

Mr. Deputy-Speaker : We have got it. But the hon. Member also should move the amendment formally.

Shri Velayudhan : I beg to move :

"That the Bill be referred to a Select Committee consisting of Shri N. Sreekantan Nair, Shri K. Ananda Nambari, Shri V. P. Nayar, Shri H. V. Kamath, Shri T. B. Vittal Rao, Shri S. S. More, Shri V. Boovaraghadasamy, and the Mover, with instructions to report by...."

In regard to the date, there is a difficulty. I had originally given the date as 28th. But today happens to be 28th.

Mr. Deputy-Speaker : It may be left to the Chair to change it.

Shri Velayudhan : When I had tabled this amendment, I had given this date as this business was to come earlier.

Mr. Deputy-Speaker : Now, does the hon. Member want to modify or alter that date?

Shri Velayudhan : No, I do not want to modify it. (Interruptions)

Mr. Deputy-Speaker : That is all right. The hon. Member says that he does not want to alter the date. So, why should hon. Members object?

Shri Velayudhan : I am not very particular about modifying it; for it may be out of order.

Shri M. S. Gurupadaswamy (Mysore): It is out of order.

Mr. Deputy-Speaker : The hon. Member might modify the amendment in the form he desires, and then the House would see whether it is out of order or not.

Shri Velayudhan : I beg to move:

"That the Bill be referred to a Select Committee consisting of Shri N. Sreekantan Nair, Shri K. Ananda Nambiar, Shri V. P. Nayar, Shri H. V. Kamath, Shri T. B. Vittal Rao, Shri S. S. More, Shri V. Boovaraghansamy, and the Mover, with instructions to report by the 30th May 1956."

An Hon. Member : Is that all? There are only about seven or eight Members on the Select Committee.

Shri Velayudhan : If there is a huge majority, the whole thing will look like a farce.

Shri A. M. Thomas : It is a mockery.

Shri Velayudhan : The hon. Member Shri A. M. Thomas may think that it is a mockery. But this Parliament itself is a mockery, as far as we are concerned.

Mr. Deputy-Speaker : The hon. Member may go on to say what he wants to say.

Amendment moved :

"That the Bill be referred to a Select Committee consisting of Shri N. Sreekantan Nair, Shri K. Ananda Nambiar, Shri V. P. Nayar, Shri H. V. Kamath, Shri T. B. Vittal Rao, Shri S. S. More, Shri V. Boovaraghansamy, and the Mover, with instructions to report by the 30th May 1956."

Shri Velayudhan : At the outset, I would like to say that this is a very important Bill which has been brought before this House by the Treasury Bench for approval. There is a saying in our language that when a murder is committed, more murders will have to be committed by the murderer to justify the first murder. In the same way, the Treasury Benches which were responsible for murdering democracy in Travancore-Cochin where we had the most democratic people in India, are now bringing forward further legislation to justify their first undemocratic action.

I am very sorry to say that this is a measure which not only we on this side of the House will oppose, but which I feel the whole House should oppose, because it practically tarnishes the fair name of parliamentary democracy itself. The Treasury Benches may say that they have got some important legislations to put through, and that is why they have brought forward this Bill. Of course, there were so many Bills pending in the Travancore-Cochin Legislature, which were very useful and important. But I am sorry to say that though we have been sitting here for the last one and a half months, not a single Bill has even been introduced in this House, even though we had enough time to put through some legislation.

The Minister was saying that there are important Bills in regard to land reform. I do not know whether he has included in the list the Bill that was pending before the Select Committee in Travancore-Cochin regarding the fixation of ceilings on land-holdings. I do not think that that Bill will be brought forward before this Parliament, because not only the majority of the Members here but even the Congress Members from the Travancore-Cochin State are definitely opposed to any kind of ceiling on the lands.

Shri Achuthan (Crangannur): Wherefrom has the hon. Member got this information?

Shri Velayudhan : The hon. Member may not personally agree to that, but he shall have to accept the decision of the Congress Party and of Parliament itself. I know that the Congress Party are never going to bring forward any land legislation here, not only for the Travancore-Cochin State but for the whole of India, because only the other day, the Prime Minister himself has evaded this important issue completely. Therefore, I am sure that no land legislation is going to be brought before this House by way of a motion for approval of the Presidential Acts.

Another very important point that I would like to mention is that this is a fantastic piece of legislation. The routine of a parliamentary system of democracy is that when parliament is in session, a Bill should be brought forward before it before any legislation is enacted. That is practically the ABC of parliamentary democracy in every democratic country. But here we are following a peculiar type of democracy tinged with a kind of dictatorship. Otherwise, there would

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be no point in bringing forward this kind of measure.

In regard to the committees to be constituted, Government are peculiarly and curiously enough silent or vague as to whether the members thereof will be confined to the State of Travancore-Cochin or whether they will be drawn from the other States also. I do not know how they are going to constitute these committees, because they are curiously vague in this as in other matters. My own feeling is that a committee of this nature will only be a show—I am not at all satisfied with it—because it will not be able to reinstate a legislature or restore parliamentary democracy in my State. We have pleaded time and again that the legislature should be restored, even though it has been dissolved by the President's order, but our pleading has been in vain. The committee that will be constituted will only be a show, and it will afford only a forum where the people of that State can express what they feel through their representatives in Parliament.

But I should tell you that that is not going to satisfy the people of Travancore-Cochin. They will never be satisfied with it. They will be satisfied only if there is restoration of responsible government in that State. So, a legislation of this character is not going to be acceptable to the people of Travancore-Cochin.

You may bring forward any kind of ordinances, and you may keep the Travancore-Cochin State under President's rule even after the elections are over. But I should tell you that the people of that State will never support that sort of move on the part of the Centre.

In regard to representation of Scheduled Castes' interests, I do not know whether Government are interested in ensuring that or not. But it is my opinion that practically a kind of political birth-control has been given to democracy in that State. Therefore, I wonder whether Government will think of the various minority interests at all, even while they are going to have a sham committee or a sham advisory council. When we were enacting the legislation regarding the Delimitation Commission last time, I found that there was not a single representative of the Scheduled Caste or Scheduled Tribe interests from

that State, even though all the other interests had been represented. I do not know whether Government will follow the same dictum now also, when they are going to have a new set-up.

With regard to the functions of the advisory council also, Government are very vague. We do not know whether the advisory council will be consulted only in regard to legislation or even in regard to other matters relating to the whole administration of the State. From what we find in the clause, it appears that this advisory council will be consulted only on matters of legislation. I do not know whether that is the main intention of Government. In the past we had passed similar legislations like this, when the PEPSU and Andhra questions had come up before us. There also I was told that there were some advisory councils functioning. Those councils were called not only in connection with enactment of legislation but also for discussing other matters. Whether that policy will be followed in this case or not, I do not know. I see the Minister shaking his head. I do not know whether it is for 'yes' or 'no'; it is for 'no' because from that side always comes 'no'. Whatever it is, we are not having much hope in the Government.

Mr. Deputy-Speaker : It is very dangerous to interpret signals in the House.

Shri Velayudhan : I know. That is why I mentioned that it is very dangerous to see signals also on the other side.

Mr. Deputy-Speaker : Do not take account of signals.

Shri Velayudhan : Yes.

What I feel is that this legislation is totally unacceptable to the people of Travancore-Cochin. Some other Member may think that it is a piece of benevolent legislation because so many Bills are pending and they must be passed. But I should like to know whether any progressive legislation will be included even by the President. That is not going to happen. Take, for example the land legislation which has been pending for the last three years in the legislature of that State. That they are not going to bring into effect. There will be some kind of sham legislation, some kind of formal legislation, and for this they are going to murder democracy here—they have already murdered it in that State.

Shri A. M. Thomas : I support the motion that has been moved by the hon. Minister and oppose the motion for reference to a Select Committee moved by Shri Velayudhan.

A motion for reference to Select Committee is moved by a Member who agrees with the principle of the Bill. I know from the speech of Shri Velayudhan that he does not accept the principle of the Bill. Yet he has moved for reference of the Bill to a Select Committee.

Shri Velayudhan : I said that— even if it comes.

Shri A. M. Thomas : That apart, it has been a regular feature of the debate when similar legislation has come before the House that criticism is made that something undemocratic and reprehensible is being done. The propriety, advisability and desirability of having such a measure has been debated when the Constituent Assembly passed article 357 of the Constitution. Subsequently, three Bills, relating to the Punjab, PEPSU and Andhra, came up for discussion on the floor of the House. It would appear that the speech of Shri A. K. Gopalan indicates that an unconstitutional step is going to be resorted to by the Government.

Shri N. Sreekantha Nair : Only an immoral step.

Shri A. M. Thomas : In the Constituent Assembly, Shri Kamath opposed the provision in articles 356 and 357. He ultimately made a plea to the House. He said :

"I appeal to the House to deliberate coolly, earnestly, seriously, deeply and dispassionately concerning this provision."

After all this cool, deliberate, dispassionate, earnest and serious consideration, the Constituent Assembly in its wisdom enacted articles 356 and 357.

Shri Kamath : It was not my fault that it did so.

Shri A. M. Thomas : Whatever it be.

I would also like to refer this House to another aspect of the debate in the Constituent Assembly. These two articles were debated simultaneously and although some Members were opposed, very seriously opposed, to the imposition of President's rule in any State under circumstances mentioned in article 356—I am referring to some Members including Shri Kamath. However the

second step was not seriously disputed by the Constituent Assembly Members, namely once the President has assumed control, whether Parliament should delegate the legislative powers to the President. That aspect has been specifically referred to by Dr. Ambedkar when he moved for consideration of those articles. He said :

"The second suggestion which article 278—that was the number of the draft article—makes is this : that originally the authority and powers of the legislature were exercisable only by Parliament. It is now provided that this authority may be exercisable by anybody to whom Parliament may delegate its authority. It may be too much of a burden on Parliament to have factual and *de facto* possession of legislative powers of the provincial legislatures which may be suspended, because Parliament may have already so much work that it may not be possible for it to deal with legislation necessary for the provinces whose legislature has been suspended under the Proclamation. In order, therefore, to facilitate legislation, it is now provided that Parliament may authorise under certain conditions and terms and restraints some other authority to carry on the legislation".

This argument of the then Law Minister, Dr. Ambedkar has not been controverted in the Constituent Assembly. I mention this only to indicate that once there has been imposition of President's rule, the next step automatically has to follow.

Shri Raghavachari (Penukonda) : Must follow.

Shri A. M. Thomas : That has been our experience also with regard to the Punjab, PEPSU and Andhra. I wish to bring one fact to the notice of the House, namely, that the present form in which the Bill has been brought forward is the result of successive discussions on the same subject-matter on as many as three previous occasions. I submit the provisions in the Bill represent a compromise, and the shape it has taken is a model one.

Shri A. K. Gopalan, who initiated the discussion on this motion, said that Pandit Thakur Das Bhargava opposed these provisions during the time the Bill relating to the Punjab was discussed on the floor of the House. There has been a notable difference in the Punjab Bill as

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originally introduced in respect of all the powers contemplated under article 357(1) (a). It was intended to delegate the entire powers to the President according to the Bill and it was further authorised that the President in his turn may delegate the power to some other executive authority.

Shri Achuthan : There is an amendment by Shri Vallatharas.

Shri A. M. Thomas : There were some objectionable features to which Pandit Thakur Das Bhargava rightly raised his voice, and wanted some safeguards. The safeguards were forthcoming during the discussion on the Bill itself.

Mr. Deputy-Speaker : The hon. Member's time is up. The Speaker has put down a limit of five minutes.

Shri Kamath : Five to nine minutes.

Shri A. M. Thomas : Shri A. K. Gopalan spoke for about half an hour. I should be given at least some more time to answer all the points.

Mr. Deputy-Speaker : I am sure the hon. Member does not want to follow the footsteps of Shri A. K. Gopalan.

Shri A. M. Thomas : Anyhow, I will just hurry up.

The present Bill has also been modelled in the light of the experience gained by the Ministry in connection with the Bills regarding Punjab, PEPSU and Andhra. So I do not want to refer further to that aspect at all.

Shri A. K. Gopalan and Shri N. Sreekanth Nair referred to the fact that now we are giving extraordinary powers to the President not only when the House is not sitting but even when the House is in session. That argument would have been good if we were not delegating the powers of legislation. When an Ordinance is promulgated, the President is not acting under power of delegation. It can be done only when the House is not in session and it has to come before this House within a particular time. So that the argument on the provision with regard to the ordinance-making power cannot be made applicable to this case at all.

Two safeguards have been provided in this Bill. One is that before passing any measure, a Committee of ten Members from this House and five Members from the other House would be consulted. I have tabled an amendment to this provision. I want that all the

Members from Travancore-Cochin in this House as well as in the other House may be included in that Committee. The provision about ten Members from this House and five Members from the other House rose in this way: with regard to PEPSU, there were only five Members representing that State in this House.

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In regard to Andhra too the number of Members from that area was large. But in the case of Travancore-Cochin, I would say there must be a provision to enable the Speaker to have all the Members belonging to Travancore-Cochin from this House as well as from the other House on this Committee.

Then there has to be another safeguard. Even if we pass this legislation, it is open to this House to modify it within a particular period. If there is any objectionable feature as has been pointed out by some of the Members here, it can certainly be modified and if the House agrees, the President would enact a further Act providing for that modification. I would say that in the particular circumstances of my State this Bill is absolutely necessary.

The Home Minister referred to one Bill, namely, the Irrigation Bill which it is absolutely necessary to be passed. In his Budget speech the Finance Minister of Travancore-Cochin said: "Revenue however been taken for a revenue of Rs. 50 lakhs from betterment levy for which the necessary legislation is already pending before the House." It is a budget which this House passed and the necessary money to the extent of Rs. 50 lakhs has to come from betterment. So, it is absolutely necessary that they should find a place in the statute-book of Travancore-Cochin as early as possible. My hon. friend Shri Sreekanth Nair said that we can wait for three or four months. How could then the budget estimates be justified? Then estimates has not taken credit for any there is another Bill, namely, State Aid to Industries Bill. For lack of provision as found therein, it has not been possible for several industrialists, and particularly small scale industrialists, to take advantage of the aid that is being given by the Centre as well as by the State.

Mr. Deputy-Speaker : The hon. Member must conclude now.

Shri A. M. Thomas : I shall conclude in two minutes.

My hon. friend Mr. Velayudhan was in fact making an insinuation when he said that the Bill fixing a ceiling on land would never come up before this House. The ceiling Bill and some other Bill, the Verumpattam Bill, were being considered by a Select Committee. The majority of the members of that Committee were non-Congress members, so that the Congress cannot in any way be blamed for delaying that Bill. We would only be too anxious to see....

Shri Velayudhan : Will the Bill be coming here or not?

Shri A. M. Thomas : That matter has to be considered by the Advisory Committee.

There is another measure known as the "stay of Eviction of Tenants Act" according to which eviction of tenants in that State is being stayed for about six months or one year. The necessary Bills have to be passed as early as possible and if it is to be passed according to the convenience of this House, I feel thousands of tenants in my State would be without any remedy and they would have to quite their holdings.

As many Bills as possible, especially those which have been reported on by the Select Committee and those which are pending before Select Committees, have to be taken up by the Advisory Committee and the necessary enactments wherever possible will have to be passed by the President and that will be only to the benefit of the People.

Shri Vallatharas (Pudukkottai) : I support the Bill and I go a step further. Ideas which were obtaining some years back need revision and as a matter of fact some progress must be made. The Republican Constitution of India contains provisions in such a manner that though the department of administration and legislation are kept separate, in conditions when a merger of the two is expected, certain sensible provisions are provided.

I studied very carefully the debates in 1949 over articles 352 and 360. Mr. Kamath was the hero of the occasion and gave his studied views. After seeing all these views, I am convinced that sticking to old views will not be beneficial to us. The six years of the working of the Constitution has given us some intelligent appreciation of its working. Here in India we have got a democratic system; it is no use expecting that the President will grow into an autocrat or a dictator if we give him certain powers. When an emergency

arises the President is given full powers to assume not only the administration but also the defence of the country. It is only in small cases where the legislature in a State is unable to function, in spite of the fact that the legislation may be very intelligent and capable, that the President is given the power to administer the State and the power of legislation is entrusted to Parliament. But Parliament is not an ordinary institution. In recent years the work of Parliament has increased; its scope has increased; the complexity of the problem has increased. All these were anticipated by Dr. Ambedkar and many other Members who were taking interest in the debate in 1949. Now, where has this Parliament the leisure to devote its time to so many things?

Now clause (1) (a) of article 357 specifically says that the President can be conferred with the powers of making legislation by Parliament. Parliament in its turn can delegate these powers, whenever it considers it necessary, to whomever it likes. It is not a question of unconditional delegation. Each situation may deserve the attention of this Parliament as to whether power should be delegated to the President to legislate or not. Of course we can decide and if we do not like we need not delegate. When the President is delegated the power it follows that he can delegate the power to some competent persons.

An hon. Member pointed out that the President may give it to a revenue inspector or some police constable. Such fantastic things cannot happen now. We have a strong hold over everybody taking part in the administration. The Constitution is a seamless web of discretion and action irrespective of the fact that the various sections of administration are kept separate. Only in cases of emergency do we see the unity that is existing among us. Only in case of great distress do we see the earnestness with which we want to join together and get out of it. We have seen great progress during the last many years. Now, I have not submitted my amendment in any spirit of luxurious irresponsibility. Nowadays so many States go out of normal existence; so many States may also come up; but it does not mean that the entire structure of the Constitution is blown up by one State being placed under the regime of an Adviser.

The President's office has also become more complicated. He has got so many duties to be attended to, in res-

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pect of twenty-eight States, foreign affairs, defence, etc., that I do not think that the President's Department will be able to manage all these without expanding his staff. In some cases if the President thinks that he can relieve himself of this burden of legislation and supervision, he may delegate it to his Adviser or Rajpramukh. The safeguard for that in our republican democratic system of Government is that everything done by anybody comes to be approved by Parliament in the end. So, Parliament can approve a legislation if it is made by the President or by the persons to whom authority has been delegated and there is no danger of any law coming into force without the knowledge of Parliament. Under these circumstances, I have submitted amendments to the effect that the President may be given the powers of delegation also.

There is a provision in the Bill that even before Parliament has considered it, an Act enunciated by the President will come into force. I submit that that provision is not a conducive one. In an emergency atmosphere, no further emergency can arise in the locality. So, whenever an ordinary law has to be enacted, it has to come leisurely. As a matter of fact, the Bill has to be prepared and it has to be submitted to the President. He may have the final word on it, whether it is proper to be enacted or not. That must be approved by Parliament; and, if it is not approved, none of the provisions can come into force. To give absolute and uncontrolled validity to the provisions of the Act, even before Parliament has considered it would have far-reaching consequences.

My amendment is to the effect that whatever Act may be passed by the President or in pursuance of the delegation given to any other person, that must be approved by Parliament and until so approved, it cannot have any validity at all. Subject to this, the conferment of powers on the President need not be viewed with suspicion or even with any kind of reservation.

Ordinarily, the Constitution has empowered Parliament to delegate its powers to the President. In the present scheme of things, it is not as if the President can enact any law even without consulting the Ministers or without consulting anybody else. On the other hand, he will be too careful because if any mistake is committed in the period

of emergency, then, it will be an occasion for the opposite side to create unfavourable public opinion.

Under these circumstances, I submit that the Bill has to be accepted. But, I would say that the Government should be more resourceful and adventurous in this matter, that ordinarily, the power of delegation must also follow, whenever the power is conferred on the President to legislate.

The committee suggested is too very small. It will consist of 10 plus 5 or 15 members. We have 500 Members here and another 250 Members in Rajya Sabha have to sit in consultation over the matter. So, the numerical strength should be more and that is why I have suggested the number 30, 20 from this House and 10 from the other House. And, it shall be a convention or the declaration of Government that the committee shall be consulted in any circumstances. The President may agree or differ from them; that is a different thing altogether, but consultation must be imperative and the numerical strength shall be increased.

I have seen an amendment that a certain number of Members of Travancore-Cochin should be on the committee. This kind of sectional, provincial or territorial attitude should not be taken. There may be emergencies in different places and Government should have consideration for the entire country. We in this House cannot discriminate between Members. It is not proper that predominance should be given to Members of a particular State. No distinction should be made and there should be a general distribution of the seats among Members from the various States and the committee must be representative of this country. Whenever it declares a certain thing, it must be the opinion of the entire Parliament.

Shri Achuthan : I am glad that the Home Ministry has come forward with this Bill so that, within a few months of the taking over of the administration by the President, there may be reforms there in the State. When the administration was taken over by the President, there were a number of Bills pending before the State Legislature. During the last Assembly in Travancore-Cochin, as was pointed out by the hon. Minister, there were a number of Bills pending and some of them had been sent to the Select Committee and, in certain cases, reports had also been submitted.

Shri Gopalan may take objection to the principle of articles 356 and 357 of the Constitution. There is no other go for this Parliament. It is not only for Travancore-Cochin but for the whole of India. The Parliament has got to delegate power to some competent authority. Otherwise, there would be no sense of proportion. If we say that the Parliament would not value all these things with a sense of proportion, then where is the necessity for any other Legislature? The whole year can be taken up for the work in Parliament. We can be here throughout the year. That is not expected of us. In certain emergency cases—that was what happened in the Punjab, PEPSU and Andhra—it takes up the question and gives the consent. There is nothing unconstitutional or undemocratic in giving powers to the President. The President has not the sole power in this matter. There are provisions to show that first of all he must consult the committee of the Members of Parliament. Afterwards, if both Houses take a different view and some resolutions are passed then, those measures should be amended. Necessarily, the President is compelled to see that they are so amended. On principle, I accept all matters being done so in that particular state of affairs and I do not at all oppose the Bill.

Coming to the provisions actually, I do not know whether there is any necessity for having the words, 'whenever he considers it practicable to do so'. In this case, we are likely to have this President's rule for a few months. We expect that by March 1957, there will be a new Legislature and the powers will be taken over by the majority party in the State concerned. Only for these 9 months, we are giving this power. During these 9 months, Parliament will be sitting in August-September, and November-December and also in February-March. I think, we should not say, 'whenever he considers it practicable. It will raise some doubts in the minds of some Members as to whether that provision is at all necessary. I understand that it is to see that some contingency is covered. There is little scope for that contingency.

Moreover, when a committee is constituted, it must be of the whole of the Members of the State. Suppose this particular measure or Bill is going to be enacted in the Travancore-Cochin Legislature, the whole of the Members would take part in it. So also, in a similar way,

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with regard to Parliament, all the Members of that particular State should form the committee. If the President does not agree with the views of the Committee and he has got views of his own, and if that becomes a law, then it comes before the whole Parliament. Both Houses of Parliament consider it and if they come to the conclusion that such and such a change should be introduced in that law, it has to be introduced. Subsequently also there is this check of the whole Parliament taking seisin of it.

Shri V. P. Nayar (Chirayinkil): How can the Parliament take up the case because the wording is, 'Parliament may'? At the final stage?

Shri Achuthan: Generally, if there is a view taken by Parliament, necessarily, Government will act accordingly.

In Travancore-Cochin there are a number of land laws. Shri Velayudhan said that the present Congress party has not done anything. I ask, where from did he get this information. For the past 13 or 15 years, the Congress party has been there both in Travancore and in Cochin. They have taken many decisions which other States have not taken.

Shri Velayudhan: Fifteen years?

Shri Achuthan: More than 13 years. Shri Velayudhan cannot blame the Congress party.

Shri Velayudhan: When are we going....

Mr. Deputy-Speaker: Now, let the hon. Member proceed; he has to finish his speech by 1-20.

Shri Achuthan: When the Kerala State comes into being, we may have to change the committee. Some members may have to go out of it and some other members will have to come from Malabar side. In these circumstances, if the schedule is kept up, after October when the Kerala State is formed, we formed, we may have to change the members so that the members of the whole of the Kerala State will be there.

I have got an amendment also which has some bearing on clause 3. When the clauses are taken up, I shall move

[**Shri Achuthan**] my amendments at that time. Let me say in a general way that there is a sense of propriety, and there is a sense of duty, in doing this. I wholeheartedly support it.

Shri Datar : My task has been considerably lightened because some hon. Members have answered the questions raised by my hon. friend, Shri Gopalan. Shri Thomas has answered a number of points, and my hon. friend, Shri Vallatharas, has shown how what has been done is only the proper thing under the present circumstances.

It was contended that this Bill is an undemocratic one in the sense that the President is being given certain powers and Parliament is being deprived of them. That is not correct. As I pointed out already, there are a number of Bills which we have actually taken in hand. I might assure the House that we are scanning all these 23 Bills and we shall try to enact as many of them as possible because it is absolutely essential that further progressive legislation should be made and it is necessary to carry on the administration in as progressive a manner as possible.

An hon. friend raised the point as to what is to happen regarding the non-official Bills that were pending before the Travancore-Cochin Legislature. So far as the scope of the present Bill is concerned, it is for the President, with the authority to be vested in him, to make laws, and the President's choice is not confined only to the official Acts or Bills of the then Travancore-Cochin Government, but the President would scan also all private or non-official Members' Bills as well as the official Bills.

Shri A. M. Thomas : And other measures also if necessary.

Shri Datar : Yes, any further measures also. The President's powers are not limited.

Shri A. K. Gopalan : What I wanted to know was only this, namely, whether here in the Parliament we can bring in non-official Bill or resolution concerning Travancore-Cochin State.

Shri Datar : We shall surely look into this matter. I might also point out to the hon. Members that Government are going to accept an amendment moved by Shri Thomas regarding the number of the members who will form the advisory committee. It would be possible

for us to take in almost all the Members from Travancore-Cochin, but we do desire that there should be Members from the other States on this committee, because other States have to be interested in Travancore-Cochin, which is one of the most important parts of India. Secondly, whatever is done by the President is under the authority of Parliament, which ultimately has powers to legislate for all the States taken together on the subjects that have been assigned to it, or on the subjects that might go under the President's rule as in the present case. Therefore, I would point out to this House that there is nothing undemocratic here and there is no murder of democracy, as my friend, Shri Velayudhan put it. I wish he had not used such unrestrained expressions about what Parliament is doing. We are carrying on in as democratic a manner as possible. Under the circumstances, I am not going to accept any motion for referring this Bill to a Select Committee, or any other delaying motion. Even with regard to that, you will find that the hon. Member, Shri Velayudhan, has not been fair even to the Government. Perhaps he has been advised by some friend of his in this matter, but he ought to have been fair to the other party, namely, the Government, who are most concerned in this matter.

Shri V. P. Nayar : He has copied it after them.

Mr. Deputy-Speaker : Will the Government Members give their consent to it?

Shri Datar : If an hon. Member wants to bring a proper motion before the House, he ought to put it in as proper and fair a manner as possible so as to enthuse the other party as well.

Pandit Thakur Das Bhargava (Gurgaon) : Look at his sacrifice, for he has not included his own name in the list of member's of the Select Committee which he read out.

Shri Datar : "The mover" is there. I wish he had bestowed more thought on this.

So far as this measure is concerned, it is a necessary measure, and as Shri Vallatharas pointed out, it is absolutely essential. I may point out to my friend, Shri Gopalan, that there is no object on the part of the Government to deprive Parliament of its authority, and that is the reason why we have put in two safeguards.

There is also another point which may kindly be noted. Under article 357 of the Constitution, it is open to Parliament to delegate its authority of legislation to the President and also to empower the President to delegate his powers to somebody else. We have not taken any such authority. All that is absolutely required only has been asked for here. Therefore, I would submit to the House that there is no desire to take powers in an autocratic manner.

Certain other matters which are not directly concerned with the question of the delegation of powers were also adverted to by certain hon. Members. I might point out to the hon. Members that so far as this Bill is concerned, the President's rule has been received very well in spite of what hon. Members might say here and there. The President's rule has been received very well and has been welcomed.

Shri V. P. Nayar : Did they take a Gallup poll (*Interruption*).

Mr. Deputy-Speaker : Let the hon. Minister proceed without interruptions.

Shri Datar : If certain criticisms have been made, the reply to those criticisms has also to be heard.

Shri Velayudhan : Let them call for an election to find out this. I challenge his statement.

Shri Datar : I repeat that the President's rule in Travancore-Cochin has been welcomed by the people.

Shri Kamath : By the Congress.

Shri Datar : And it has made very good improvement even in the tone of the administration (*Interruption*).

Mr. Deputy-Speaker : There is difference of opinion; let it be there.

Shri A. M. Thomas : May I raise a point of order? It has often been the habit of my hon. friend to beat on the table in front of him. Is it open to any hon. Member to make such noise by beating on the table?

Shri A. K. Gopalan : Can the Home Minister give an answer to this point? Even when notice has been given for 15 days for certain questions, the answers do not come. What is the reason for that? That is the popularity of the State.

Mr. Deputy-Speaker : I have first to answer the point of order raised, though it is not strictly a point of order, but the hon. Member wants to know whether it is permissible here in this House to

thump the tables and do other things. This is not a very good habit, but habits do die hard and we have to suffer them many a time. It is not advisable to continue that or indulge in that. But we cannot say that it is absolutely prohibited. Sometimes one is impelled by his own habits, even without his consciousness, and that can be excused.

Shri V. P. Nayar : Your ruling is that it is not unparliamentary.

Shri Datar : So far as the question raised by Shri Gopalan is concerned, it is a matter with which I am not concerned, but I shall make enquiries as to what the position is. Sometimes it is difficult to collect information in time. Whenever questions are received by the different Ministries . . .

Shri A. K. Gopalan : When there is a University, there is a Director of Public Instruction and cannot he or his department get within 10 days the reply to the question as to how many colleges are affiliated to the University? The Minister says that it takes some time to get that information.

Shri Datar : Let not the difficulty of Government on one point be generalised and let not general conclusions be drawn on that basis.

Shri A. K. Gopalan : Not one, but several.

Shri Datar : I would point out to the hon. Member that so far as this Bill is concerned, we have used the same wording, and in fact we have made improvements, on the Bill in connection with the Punjab. There the power was going to be taken by the President and it could be further delegated by the President. It may be found that on three occasions such a Bill was passed so far as Punjab, Andhra and PEPSU were concerned. In all these cases when laws had to be made, Government always acted on the advice of the members of the advisory committee. (*Interruptions*.) Let the hon. Members hear me. We have heard them patiently, let them not be irritated over the reply to one question.

Here also I would assure this House that as far as possible, except when the exigencies or the urgency of a situation require it, we shall always consult the members of the advisory committee and also take into account the views of the dissolved Travancore-Cochin legislative assembly and the views of the select committee there. In the circumstances, I submit that all the points that have been

[**Shri Datar**]

raised have been answered and therefore, I submit that the motion may be adopted.

Mr. Deputy-Speaker : I shall put the amendment of Shri Sreekantan Nair to the vote of the House.

The question is :

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th July 1956."

The motion was negatived.

Mr. Deputy-Speaker : I shall put Shri Velayudhan's amendment to vote.

Pandit Thakur Das Bhargava : May I raise a point of order ? Shri Sreekantan Nair moved an amendment that the Bill be circulated. But in Shri Velayudhan's amendment also, his name appears. I presume his consent was never taken. He could not be a party to both.

Mr. Deputy-Speaker : It is best known to Shri Sreekantan Nair. One hon. Member says that he has got his consent. The hon. Member does not deny. We can only accept the word of one hon. Member when it is not changed by any other hon. Member. So, we shall have to accept it.

Pandit Thakur Das Bhargava : It is not affirmed also by Shri Sreekantan Nair.

Mr. Deputy-Speaker : I do not think that I should put it to him.

The question is :

"That the Bill be referred to a Select Committee consisting of Shri N. Sreekantan Nair, Shri K. Ananda Nambiar, Shri V. P. Nayar, Shri H. V. Kamath, Shri T. B. Vittal Rao, Shri S. S. More, Shri V. Boovaraghavan and the Mover, with instructions to report by the 30th May 1956."

The motion was negatived.

Mr. Deputy-Speaker : The question is :

"That the Bill to confer on the President the power of the Legislature of the State of Travancore-Cochin to make laws, be taken into consideration."

The motion was adopted.

Clause 2—(Definition)

Shri Kamath : All the amendments to the clauses may be taken together.

Mr. Deputy-Speaker : That would be better. They will be treated as moved and taken together. There are a large number of speakers and I could not accommodate all of them in the general discussion. So, hon. Members should exercise some restraint on the time—not exceeding five minutes.

Shri Vallatharas : May I make a submission ? I have given an amendment No. 22 for substituting "twenty members" for ten members and another amendment No. 23 for substituting "ten members" for "five members". They may be taken up separately. The rest of them may go together.

Shri V. P. Nayar : I oppose this Bill. If you see and examine my amendments, you will see why I do so. I have given in these amendments the basis of a scheme and if the amendments are accepted you will understand it. I have chosen to object to the Bill due to this reason.

Mr. Deputy-Speaker : The House has passed this motion that the Bill be taken into consideration and has proceeded to clause-by-clause discussion. Exception could have been taken then. When we have decided that all the clauses be taken together and also the amendments, it is not fair now to say that you oppose the Bill. It is not in our competence now to say. It may be said in the third reading stage. Now, we are dealing with clauses.

There is one other matter to which my attention has just now been invited. There is no amendment to clause 2. So, I shall put clause 2 to the vote of the House. The amendments are all to clause 3.

The question is :

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

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

Shri A. M. Thomas : 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 consisting of the Minister for Home

Affairs, Government of India and the Members of both Houses of Parliament from Travancore-Cochin. The Minister for Home Affairs shall be the Chairman of such Committee."

Shri Kamath : I beg to move :

Page 1,

line 17, *omit* "whenever he considers it practicable to do so".

Shri V. P. Nayar : I beg to move :

Page 1,

line 18, *for* "ten members" *substitute*:

"all members of the House from the Travancore-Cochin State and Malabar District of the Madras State and one third their number of members from other States."

Shri Kamath : I beg to move :

Page 2,

for as soon as may be line 2—
after enactment" *substitute* :

"within three days from the date of enactment of an Act, or, if an Act is enacted when Parliament is not in session, within three days from the date of commencement of the session immediately following the enactment of the Act."

Shri V. P. Nayar : I beg to move:

Page 2,

line 3, *add* at the end :

"In such cases the Parliament shall discuss the enactment in the same Session in which the enactment has been so laid before it, provided one third the number of members from Travancore-Cochin State in the House demand a discussion in writing."

Provided that all important enactments affecting land reforms, civil liberties, taxation, working conditions of labour, shall not be passed unless the majority of the members of the committee has concurred."

Shri Kamath : I beg to move :

Page 2,

line 9—

after "before it" *insert* "or in the subsequent Session".

Shri V. P. Nayar : I beg to move :

Page 2,

after line 12, *add* :

"(5) Nothing in this Act shall be deemed to confer any power on the President of India in enacting any measure which will enhance the tax or land revenue, payable by a person whose income is less than Rs. 3,000/- a year."

Shri Achuthan : I beg to move :

Page 1,

line 17—

Omit "whenever he considers it practicable to do so".

Shri V. P. Nayar : I beg to move:

Page 1,

line 17,—
after "to do so" *insert* "himself"

Shri Achuthan : I beg to move :

Page 1,

lines 18 to 20—

for "consisting of ten members of the House of the People nominated by the Speaker and five members of the Council of States nominated by the Chairman" *substitute* :

"consisting of all members of both Houses of Parliament from Travancore-Cochin State"

Shri N. Sreekantan Nair : I beg to move :

Page 1,—

(i) line 18,

for "ten members" *substitute*
"twelve members" and

(ii) line 19,

for "five members" *substitute* "six Member's"

Shri Achuthan : I beg to move :

Page 2,

line 9—

after "before it" *insert* "or the Session succeeding"

Shri Velsyudhan : I beg to move :

Page 1,

line 19—

[**Shri Velayudhan]**

after "Speaker" insert :

"which shall include representatives of the Scheduled Castes and Scheduled Tribes of the State."

Shri Vallatharas : I beg to move:

(i) Page 1—

for lines 8 to 11, substitute :

"3. (1) The President is hereby conferred with the power of the Legislature of the State of Travancore-Cochin to make laws, which has been declared by the Proclamation to be exercisable by or under the authority of the Parliament and is also authorised to delegate his powers of making laws to any person whom he may deem fit and competent with conditions, if any needed, imposed on the person upon whom the powers have been so delegated."

(ii) Page 1,

line 12—

after "President" insert :

"or the person upon whom the powers have been delegated by the President"

Shri C. R. Iyyunni (Trichur) : I beg to move :

(i) Page 1,

lines 13 to 15—

for "enact as a President's Act a Bill containing such provisions as he considers necessary" substitute :

"enact any law in respect of any matter which appears to him to be necessary in the interest of the State."

(ii) Page 1—

for lines 16 to 20, substitute :

"Provided that before enacting any such Act, the President shall consult a committee consisting of twelve members of Lok Sabha and six members of Rajya Sabha representing the Travancore-Cochin State in Parliament, except when he considers the enactment to be so emergent that consultation may be dispensed with without detriment to the interest of the State."

Shri Vallatharas : I beg to move :

(i) Page 1,

line 16—

after "President" insert :

"or the person upon whom the powers have been delegated by the President"

(ii) Page 1,

line 18—

for "ten members" substitute :
"twenty members"

(iii) Page 1,

line 19—

for "five members" substitute :
"ten members"

(iv) Page 2,

line 1—

after "President" insert :

"or the person upon whom the powers have been delegated by the President"

(v) Page 2,

line 5—

for "seven days" substitute :
"fifteen days"

Shri C. R. Iyyunni : I beg to move :

Page 2,

line 5—

for "seven days" substitute :
"fourteen days"

Shri Kamath : I beg to move :

Page 2,

line 9—

after "before it" insert "or in the Session immediately following".

Shri C. R. Iyyunni : I beg to move :

Page 2,

line 9—

after "before it" insert "or the succeeding Session"

Shri Vallatharas : I beg to move :

Page 2—

for lines 11 and 12, substitute :

"Provided that nothing in the Act shall be valid and enforceable unless the two Houses of the Parliament have considered the Act under this sub-section."

Shri A. M. Thomas : I beg to move:

(1) Page 1—

line 17—

omit "whenever he considers it practicable to do so"

(2) Page 1—

(i) line 18,

for "ten members" substitute :

(ii) line 19,

for "five members" substitute :

"seven members"

Mr. Deputy-Speaker : These amendments are before the House.

Shri V. P. Nayar : If the provisions of my amendments are examined it will be found that they refer to the scope and functioning of the committee and that they restrict the powers of the President. I am strengthened in this amendment by an interpretation of Maxwell which is not out of place here. I have said that the President himself should exercise those powers. It is a very important question. I do not want to go into the fundamental principles. He says that wherever the power is delegated by the Parliament—that is the power to legislate and that is a discretionary power—the exercise of that power within the limits of discretion will not be open to challenge in a court of law. Maxwell reproduces this from Lord Tagerton's judgment. I fail to understand this. We are giving a blank cheque to the President. There are no fetters and it is completely left to his discretion. We cannot at all impugn his acts. They may be right or wrong or something which we do not like. So long as it does not offend the Fundamental Rights enshrined in the Constitution, there is no legal remedy.

Why have we given these amendments? We know what the administration is. We do not want the President to exercise this power. As Pandit Bhargava rightly pointed out during the famous debate in 1951, though the President purports to act in his name, he never acts by himself. I do not have the time now to elaborate it. You, Sir, also took part in the debate. When the President delivers his Presidential Address,

one cannot take it that it has come from the President himself. I have given an amendment substituting the word 'himself' I want that the President should not exercise the power in the manner in which it has been exercised so far for the simple reason which I shall presently give.

President's rule in Travancore-Cochin is exercised through one or two representatives called advisers. We happen to know what is the case with regard to that State for the last 1½ months. In this session, after the 1st of May, I myself put seventeen questions out of which twelve questions were on that State. The answer has been "Information not available". What are these questions? They are simple questions. One is : "How many cases are pending in regard to security proceedings?" These cases go before the first class magistrates courts and they are accessible by telegrams. I gave notice; ten days after comes the reply : Information is collected."

There was another question about an ayurvedic college. The Speaker was kind enough to remark this morning that this should not be the attitude. There is a college half a furlong from the secretariat; it has a telephone. The question was so simple : "Is there a strike?". The hon. Deputy Minister says : "No information." She said that they had sent a telegram and were sending reminder telegrams. This is the President's Rule which is supposed to be very impartial. There has been a tourist advisory committee and another committee appointed. The President's representative there has been going about saying that his administration was very impartial and will not be based on political considerations. But I say—and I say with full sense of responsibility—that the President's Advisor there has been functioning as a stooge of a political party—I do not want to name that party. It was only the other day that Shri Abid Ali gave out some figures about the registration of various trade unions. There a Committee has been appointed for fixing the minimum wage, consisting of 12 members representing capital and 12 members representing labour. I was shocked to find that the INTUC which has a membership far less than the AITUC, according to the figures given by Shri Abid Ali, has been given 9 out of 12 seats, while the AITUC has been given only 2 seats and the UTUC which has a verified membership of more than 12,000 has been

[**Shri V. P. Nayari**]

given one seat. The AITUC has a membership of more than 20,000, according to the figures of Shri Abid Ali, and the INTUC has only 2,000 members. Then, what about the representation in the Tourist Advisory Committee? Not even a single member from any of the opposition parties has been taken in. Is he an impartial man? Is this the man through whom the President will work? Is this the man who will get authority delegated from the President through the Bill which we are now passing?

I should say that there has been the grossest neglect on the part of the Home Ministry, not merely in regard to these problems, but also in regard to many other things. The Home Minister can simply get up and say: "I have verified. The President's Rule is very popular in Travancore-Cochin". Sir, I challenge his statement. Let him come to Travancore-Cochin and let him ask the people when we Members from Travancore-Cochin are present. Let him see them whether at least one per cent. of the people choose to have the President's Rule.

Sir, this has become a very bad thing and the only way of controlling that will be by limiting the powers. I do not want the President to exercise any power. I am not prepared to give a blank cheque to the President so that he can exercise his will, his discretion in any manner he likes. I want that this House should set up a Committee. I also want that when the President acts under this particular (Delegation of Power) Bill, he shall act himself. He shall not delegate powers to anybody else. When he acts he must take the opinion of majority of the members of the committee which I want that the House should set up.

Then I want to tell the hon. Minister another thing, though he may not take it up very seriously. The people of Travancore-Cochin thought that when once the President's rule was enforced and when once this Parliament had the right to go into the questions relating to Travancore-Cochin, even a mere whisper in this House would cause a tremor in the administration of the Travancore-Cochin State. But that has proved otherwise. Even a thunder in this House does not mean anything to the Advisor. He has been going about and telling the people who wait upon him to tell their grievances: "Why do you come to me. You have got 12 Members in the Parliament,

why don't you go to them?" Sir, is this the way we have to be treated? What is our problem? For years and for decades our people have been fighting against the bureaucratic set-up. The administration has been carried on by corrupt, crafty and every other sort of people. That has not been eradicated. There is no time even given by this Parliament which has denied the right of a democratic set-up, to discuss the future of 93 lakhs of people.

I understand that the Advisor—it has been reported in the Press—has started negotiations for arrangement of water facilities. Who asked him to do that? Did he have a mandate from the Government of India? Is he to decide whether we should give water to Tamil Nad? We shall very gladly do it provided it will not harm us. We are always willing to give water which we have in plenty. In such matters, I submit, the Home Minister must understand that we are not prepared to agree and we shall resist it if it comes to that. This is not the way of delegating powers, and we shall not be a party to this, unless the Home Minister agrees that this delegation of powers will be confined to the President acting by himself and not acting through any of his officers. Otherwise, we are not prepared to give, as is desired now, a very broad power so that the President can act through his advisors.

Shri Kamath: Mr. Deputy-Speaker, considering the circumstances in which the Proclamation has been issued by the President, which was opposed by all sections of the House on this side, and considering the manner in which this clause (3) has been drafted and brought before the House, I have no hesitation in opposing this, clause (3), the main clause of this Bill.

Sir, this Bill is a sequel to the Proclamation, which not merely slaughtered democracy in Travancore-Cochin, but also provided for the future liquidation of the M.L.A.'s of the Malabar District of Madras State. In that respect, this Bill stands on an entirely different footing from the other Proclamations issued and Bills passed in the case of Punjab, PEPSU and Andhra. This is the only Proclamation which has provided for the future extinction, for the liquidation of an entire set of M.L.A.'s for no fault of their own who will go out of parliamentary existence on the appointed date.

I would like three of my amendments to be treated as moved: amendments numbers 3, 5—I am not moving amendment No. 8—and amendment No. 27.

Mr. Deputy-Speaker : I will request hon. Members who have got their amendments to this clause to send in chits showing the numbers of amendments they would like to be treated as moved.

Shri V. P. Nayar : All amendments are to be treated as moved.

Mr. Deputy-Speaker : Just now we were listening to one hon. Member saying that he does not want one of his amendments to be moved. But earlier, all amendments have been treated as moved.

Shri Kamath : In the Statement of Objects and Reasons it is said that for want of time for this House to consider the various Bills relating to Travancore-Cochin, this Bill has been brought before this House for consideration and passing. This is a sad state of affairs. I have no hesitation in stressing this aspect of the matter, and requesting my hon. colleagues that in the interests of Travancore-Cochin, where in spite of a large majority of the Members of the Assembly being prepared to shoulder the responsibility of the Government the President issued a Proclamation, they should allot at least half an hour every day in the next session to discuss the affairs of Travancore-Cochin. I am sure the Members here will be in agreement with that. In the next session, for half an hour every day we should not mind sitting and discussing matters of Travancore-Cochin.

I want to point out to you, Sir, and to the House, the state of affairs that prevails in Travancore-Cochin. I will point out only one instance. For want of time I cannot give many instances. But Parliament has time enough to take cognizance of a serious matter. Recently a cycle was advertised to be auctioned. It was a 9 year old cycle.

Shri A. M. Thomas : That was referred to by Shri V. P. Nayar.

Shri Kamath : I am giving the answer that I received. The original price of the cycle was Rs. 160-8-0. Sir, I would say that this sort of bargain between a

State Government and some newspapers is pernicious. The answer of the Ministry is to this effect:

"The State Transport Department entered into a reciprocal arrangement with the managements of certain newspapers."

The names of the newspapers are: *The Hindu*, *The Indian Express*, *The Kaumudi*, *The Malayala Rajyam*, *The Malayala Manorama* and *the Prabhatham*.

"....by which copies of newspapers are carried free in the departmental buses to different places in the State where the Department is operating services. The managements of the newspapers in their turn publish all advertisements relating to the Department free of cost and also give the Department a subsidy."

A subsidy is also given to the State Transport Department.

"The advertisement referred to in the question has therefore been published free of cost. The question of the continuance of this arrangement is under examination."

This is a very discriminatory, an entirely uncalled for and unwanted sort of bargain by the Transport Department with six newspapers in and outside the State. This state of things will go on unless Parliament exercises effective supervision over the affairs of Travancore-Cochin and also the Government's proposed legislation with regard to Travancore-Cochin.

Therefore, my amendment No. 3 seeks to omit a wholly uncalled for, unjustified provision, the words "whenever he considers it practicable to do so." What is meant by this? What does the Minister mean by this "practicable to do so"? In the first place, you have completely taken over all the powers. You have liquidated democracy in Travancore-Cochin. Now, you say that the President shall, whenever he considers it practicable to do so, consult the committee. I say that it must be mandatory, obligatory, for the President to consult this committee in all legislative matters before he enacts an Act.

[**Shri Kamath**]

I would even request at this late hour that the suggestion contained in another amendment—I think it was supported by my friend Shri Thomas also—namely, that all leaders of the various parties in the old Assembly, that is the Assembly that has now been dissolved—must be associated with the committee that is now proposed. As it is, the committee is to consist of some Members of this House and of the Rajya Sabha. I think there were five parties there in all in the old Travancore-Cochin Assembly. They must be associated with this committee so that the committee will be representative of Travancore-Cochin. There will be some Members of this House, some Members of the Rajya Sabha plus the leaders of the parties in that Assembly, the Praja-Socialist party, the Communist party, the Congress party, the R.S.P. and the K.S.P. Those leaders must all be members of this committee. Then I think it will be some sort of amends or expiation or *prayashitta* for the sin, the crime, that has been committed in Travancore-Cochin by the Government.

Mr. Deputy-Speaker : The hon. Member must finish soon, say, in half a minute.

Shri Kamath : I shall finish soon. The others have spoken before, but I have not spoken.

The next amendment of mine refers to the legislation coming before Parliament. My friend Shri Gopalan fell into a trivial or a slight error when he said that the Bill will be modified or rather can be modified by Parliament within seven days after its enactment by the President. Well, if that were so, that would have been fairly good. But here, there is no provision regarding the time within which the legislation must be laid before Parliament. The President may enact a Bill tomorrow and he may lay it before Parliament 'as soon as may be after enactment', which means it may be 15 days or one month or two months. Nobody knows. Therefore, my amendment says that within 30 days from the date of enactment of an Act, or, if an Act is enacted when Parliament is not in session, within three days from the date of commencement of the session immediately following the enactment of the Act, the enactment must be laid before Parliament. Then it will have some meaning and some validity. Otherwise, the existing provision will fail in its desired objective.

My last amendment to this clause is amendment No. 27. It seeks to empower Parliament to modify the enactment of the President either in the very session in which it is laid before it or, if the session comes to a close, within a few days after its enactment, then in the next session. Supposing, an Act is laid before Parliament today or tomorrow, and then Parliament does not have time to consider it and adjourns. In such circumstances, Parliament must have the power to bring up the enactment in the next session and modify it if necessary.

If these amendments of mine are accepted, I am hopeful that this Bill would work in the interests of the people very considerably, though even then it may not make sufficient amends for the liquidation of democracy in that State.

Pandit Thakur Das Bhargava : My amendment is No. 30. I am glad that it appears to be the same as that given by Shri Kamath as No. 3. My submission is this. So far as this murder of democracy, etc., is concerned, we have heard too much of it and I would say that all those things which had been said here need not have been said. Since we have already passed the Bill concerning the proclamation and the demands for grants for this State, all those points are irrelevant at this stage to my mind.

I am happy to find that I whole heartedly supported these articles when they were enacted. I have now seen my speeches made then. I then said that I congratulated the Steering Committee on the able and adroit manner in which they proposed to enact those articles. After so many years of experience since then, I feel still that I did the right thing in supporting that measure. That was the only right thing that could be done in the circumstances. But that is an old story.

Let me now come to the present Bill. The only question is,—after having appointed a committee,—whether consultation with the committee should remain discretionary on the part of the President or better the Government or not. My submission is, so far as this committee is concerned, the committee is constituted only for a certain purpose in connection with the enactment to be passed by the President. We cannot, here, in Parliament consider all those Acts and Bills because we have not got the time. That is the only consideration.

that has weighed with us to suggest a committee. Otherwise, it is the prerogative and the duty of Parliament to enact these laws. Parliament is the only body which really supersedes the legislature of that State. So, Parliament should not give up its power. Ordinarily, if we had time, we would not have allowed the Executive Government to exercise those powers which are now proposed to be given to the President. Even now, we do not find sufficient time for the proper work of Parliament itself. So, the work that has now come up will be a superimposed work on Parliament and therefore the President is being authorised to look into those affairs. Therefore, my hon. friend the mover of the Bill is quite right in asking Parliament to delegate its powers to the President. He himself rightly pointed out that this power is of an exceptional nature. So far as the latter part of article 357 (2) is concerned, some Members wanted that the President should be given much more powers than even the Government have thought of, meaning thereby that the President should be authorised also to further delegate these powers to some other person. That has not been done and rightly so. Even Shri Vallatharas went to the extent of suggesting the grant of those powers of delegation to the President. The House has not gone to that extent. The Government are not going to that extent and so the question does not arise.

But having given these powers to the Government, I am absolutely anxious that the Government should not bring in any measure, without consulting this committee which the Government themselves in their wisdom propose to bring into existence. The hon. Minister must be able to give an assurance that in no case will he depart from the principle that the committee must be consulted. I think we will have to stick to this amendment, because, as a matter of fact, when Parliament divests itself of some of its powers, the right at least to be consulted must in fairness be insisted upon. The Government may or may not accept the suggestions or decisions of the committee, but if the committee is appointed and if it is not consulted, it is no good. I cannot think of any circumstances in which the committee will not be consulted. The committee has to be consulted. If the House is not in session, the President has got the powers of making an ordinance. He has got the double-power, so to say, because

the power of the Governor is also vested in him. He has got the power of making an ordinance if the House is not sitting. When the Parliament cannot find time, it is necessary that the President should consult this committee which has been proposed to be appointed. I cannot conceive of any circumstances in which it will not be possible for the committee to meet and give its suggestions. When there is an emergency, an ordinance is passed. If there is no emergency, they should consult the committee. Can you say that because the President has got powers of ordinance, he need not consult the committee when legislation has to be passed in respect of that State. Do you mean to say that the members will have no time and they will be sitting in their houses? We cannot be a party to such a proposition. So far as the Government is concerned, the Government must consult the committee. On previous occasions, they say that the power has not been abused and there has been no difficulty. I am not going to give that certificate to any Government whatsoever. There has been good use and there has been abuse of such powers also presently. I need not refer to it in detail. There has been a departure in some cases. All that I am anxious to see is that there should be no departure in future. In all cases the Government should consult this body. What is lost by consultation, after all? When the Government have themselves the power to enact any measure and if the measure is wrong, it can come again before us by resolution.

Now, I do not agree with Shri Kamath when he wants to substitute another provision in the place of "as soon as may be after enactment." At present, the law is that the enactment should be placed before the House as soon as may be. My friend is quite right in saying that the Government may abuse the power, and may lay it after 15 days. I have no such apprehension, because when we look to the Bill, it appears that the Government itself wants that within seven days of the enactment being placed on the Table of the House, the modification must be made. So far as Punjab was concerned, they made certain laws and we moved some resolutions. Ultimately, the resolutions were not pressed. That is of course a different matter. But we had recourse to these provisions.

Shri Kamath: Three days is the maximum period that I have suggested.

Pandit Thakur Das Bhargava : Yes ; it is the maximum according to the amendment. But if the House is not in Session can it be done. The Government for their own reputation's sake, must place the enactment as soon as possible on the Table of the House. It is not necessary to think that the Government will take more than the required number of days to place it on the Table. Again, within seven days, modifications could be made. This was the case previously and I do not think that any alteration is necessary.

So far as the extension of the number of members of committee is concerned, I think an amendment of my hon. friend Shri Thomas will be moved in proper time, asking for the enlargement of the number of members of the committee. I am happy that the hon. mover of the Bill himself has said that he is going to accept it. What I am anxious is that these words should be omitted —“so far as practicable” — or the hon. Minister must give us an assurance that in every possible occasion this Committee will be consulted. The members share the responsibility of enactment with the members and so it is good for the Government also. I think these words should be omitted or an assurance given that the committee will be consulted in all cases.

2 P.M.

Mr. Deputy-Speaker : I seek the guidance of the House. We have exceeded the time that we had allowed for this Bill. It is two o'clock now. The next Bill, the Income-tax (Amendment) Bill, has been allotted one hour. I find that there are no amendments at all regarding it. If the House agrees, we may take 15 minutes from the time for that Bill.

Pandit Thakur Das Bhargava : May I suggest, Sir, that practically that is a non-controversial Bill. There is no amendment. We may not take one hour for it. Some more time may be given to this Bill.

Shri Feroze Gandhi (Pratappgarh Distt.—West, *cum* Rae Bareli Distt.—East) : Half an hour can be made available.

Mr. Deputy-Speaker : That is what I am putting to the House. If the House agrees, we may take some more time for this Bill.

Shri Feroze Gandhi : Half an hour may be given.

Shri C. R. Iyyunni : There are three amendments that I have tabled. The first is not a very serious one. The wording may be “enact any law in respect of any matter which appears to him to be necessary in the interest of the State”. That is only a verbal alteration. I do not press it very seriously.

There is another amendment regarding proviso which reads as follows :

“Provided that before enacting any such Act, the President shall consult a committee consisting of twelve members of Lok Sabha and six members of Rajya Sabha representing the Travancore-Cochin State in Parliament, except when he considers the enactment to be so emergent that consultation may be dispensed with without detriment to the interest of the State.”

In the Bill provision was made to say that the committee may be consulted only to a certain extent, as far as possible. What I say is that the President must exercise his discretion in such a way that he must come to the conclusion that the emergency of the matter is of such a nature that it is not possible to consult the committee at all. As everybody knows, these things are done not directly by the President, but by a certain deputy of his. He makes a suggestion that it is so important and so on. Automatically, the consultation with the committee will be stopped. I say that the President himself must spend some thought over it and come to the conclusion that there is an emergency and in the emergency, it is not possible for the President to consult the committee. Probably, the members of the committee may be spread all over the country and it may not be possible for him to consult the committee. I beg to submit that in the normal circumstances, he will always consult the committee. It is only when an emergent situation has cropped up that he will dispense with it.

There is another amendment with regard to the number of days. After the Bill has been passed by the President, according to the present provision, only seven days are allowed. I beg to submit that seven days is too small a period for the Members of Parliament to find out what exactly are the implications. Therefore, I say that the time of 7 days may be extended to 14 days. Even with 14 days, it may not be possible for the Members to go into the details and come

to conclusions. There is also one matter which the other Members have referred to. If it is not possible for Parliament to come to a conclusion in one sitting, it may be taken up at the next session of Parliament.

The most important thing that I wish to stress is that all the Members of Parliament representing Travancore-Cochin must be consulted. Now, the law that is passed will apply to Travancore-Cochin alone. After the 2nd of October, that is going to be merged with the new Kerala State. The law passed will not apply to them. At that time, the Members in the rest of the portions must be brought into this committee. As a matter of fact, there were 117 or 118 members in the legislature there. They are being replaced by 18 members. I have no objection to a few more people being added as suggested by Shri Kamath. But, it is absolutely necessary that all the Members coming from that State must be members of that committee, so that we may give the proper advice to the President. If a smaller number of people are taken up, one may come from one side and another from another side and they may not be able to give a correct idea with regard to the conditions existing in the various parts. Therefore, our earnest wish is that all the Members of Parliament coming from that State must be included in the committee and there must be a definite decision by the President that there is an emergency and so the committee could not be consulted.

Shri Mathew (Kottayam): I should have thought it not useful at all to go back to the same old basic or fundamental question of the justification of the President's rule. Repeated assertions have been made from the Opposition benches that the President's rule is not welcome to the people. It seems to me that the truth may be stated in a very simple form. The situation which made it necessary for the President to take charge of the administration is in a way deplorable. None of us regards it as desirable. But, when the situation was there, the wisest thing in the circumstances was that the President should take over the administration. A very simple analogy struck me. I do not wish to fall ill. But, if I do fall ill and if I do not recover immediately, I would like to go to a good hospital. If anybody asks me "do you like going as an in-patient to hospital," the answer is an emphatic No. I do not want to fall ill; I do not want to go to a hospital. But, if I fall ill, I do want to go to the hospital.

tal. That is almost an exact analogy. What has happened in the State? There was no party strong enough to form a Ministry. That was deplorable. But, in that situation, the most obvious, reasonable and wise thing was that the President should take over the administration.

With regard to the quality of the Adviser's regime which has only just commenced, several friends in the Opposition parties made very adverse comments. I would only suggest caution before we rush to conclusions. It was pointed out as an instance that so many questions have not been answered on the floor of the House or they have been answered almost invariably—not quite invariably—in the form, "information is being collected." An instance given was a question that I had put. There has been a slight unconscious misrepresentation. My question was not whether there was a strike in the Ayurvedic college. That, every one knows. I asked for the circumstances which led up to the strike. It is not so easy to give an answer to that question in a very off-hand manner—all the circumstances which led up to the strike.

Shri Velayudhan: For two years that strike has been continuing.

Shri A. M. Thomas: That is all the more reason why it takes time.

Shri Mathew: No, It has not been going for two years. This strike has been there for a few months. It is not so easy to answer the question giving all the circumstances that have led up to the strike, as to answer a question whether there is a strike or not.

Shri V. P. Nayar: May I interrupt? This does not require collection of information from all Taluk cutcheries. Is it not available in the secretariat?

Shri Mathew: Nevertheless, it may be a complicated situation. I know that the students put forward certain demands which are not obviously very reasonable. The reactions of the University, and the Government, all these must form part of a satisfactory answer. That is not like answering a question whether there was a strike or not. It has been unduly simplified and almost made ridiculous, unconsciously or partly consciously, as our friends realise now or realised even when they made those comments.

Again, it has been said with regard to the committees that have been recently formed, that they are all very lopsided committees. Here also we should

[**Shri Mathew**]

look at the facts a little more carefully. I was attending the State Planning Advisory Board last week for the first time after the Adviser took charge. I know that on that Board all the parties are properly represented. There is a very prominent representative of the Communist Party and the same is true of all other parties. I do admit that Board was constituted even before the Adviser took charge, but the same might be true perhaps of some of the other committees referred to here. Though formally they might have been announced only after the Adviser took charge, I have some inkling or suspicion that some of those committees might have been practically formed before the Adviser took charge.

I am sure the Members of the Opposition as well as Members on this side would wish a really successful regime in our State under the Adviser, in the interests of the total population of the country as a whole.

I want to say one word with regard to the composition of the committee envisaged in the Bill. It seems to me that it is but reasonable that all the Members from the Travancore-Cochin State should be represented on it as also some Members from other States, nominated by the Speaker of the House and the Chairman of the Rajya Sabha respectively. The mere enlargement of numbers is not quite adequate unless the hon. Home Minister gives us a practical assurance that all the Members from Travancore-Cochin State will be included. It should be specifically provided in the Bill or at least an assurance given by the Minister.

It has been said that it should be obligatory on the part of the President to consult this committee. The wording is "whenever practicable". The only question is whether there may not be circumstances which would make it impracticable. I do not want to give an explicit answer to that, but I hope the Home Minister will find it possible to give an assurance that it is honestly meant and that unless it is impracticable in a given situation, this committee would be consulted, so that there may be practical agreement on this point.

Shri A. M. Thomas : I just want to move my amendments 2 and 31. There was a joint amendment standing in the name of myself and Pandit Thakur Das Bhargava.

Mr. Deputy-Speaker : Let me make it clear that the rules require that when an amendment stands in the names of more than one Member, only the Speaker can select who will move it, or if it is moved, only one of them can move it; all the others can support it. It cannot be moved again and again.

Shri A. M. Thomas : I am only supporting it. I do not know if the Home Minister would be inclined to accept amendment 2 or 31.

Shri Datar : I am accepting 31.

Shri A. M. Thomas : If he accepts amendment 31, my request to him is this. He has sensed the opinion of the Members who have spoken on the subject, namely that all the Members from Travancore-Cochin should be included in the committee as also some others. So that, the 12 Members from Travancore-Cochin in this House and the six Members in the other House, in all 18 Members, should be included and the Home Minister should see that none of them is omitted. Having regard to the nature of the legislation, these Members are in a position to judge its significance, its propriety and its urgency, so that it is not fair to leave out anybody, and the legislation being of local importance it is necessary that all the Members should be included.

Shri Sreekanth Nair was saying that having regard to the nature of the legislation, the Members coming from other States would not understand it. That is all the more reason why only Members from that State should consider the advisability of the any prospective legislation and not President take up the time of this House.

I do not hold any brief for the Adviser, but I find there is a deliberate attempt in this House by some Members to condemn the Adviser's regime in advance. Shri Mathew has really cautioned us that we should not jump to conclusions. I may state one or two instances in my knowledge. There was a conference to formulate opinions on the S.R.C. Bill. The Adviser invited also leaders of parties other than Congress, the Communist Party, the P.S.P., the R.S.P. and the K.S.P. for consultations. The Congress was in a minority in that Conference and still it is said that the Adviser is acting as a stooge of the Congress Party.

With regard to the meeting of the Planning Board of the State my friend Shri Mathew has just explained that the

Adviser had invited all the leaders of the Opposition groups in the dissolved assembly. So, it is not fair to make such allegations.

Shri V. P. Nayar : But what do you say about the two committees which I mentioned?

Shri A. K. Gopalan : I support amendment 3, as also amendment 4 which I have moved along with Shri V. P. Nayar.

I have moved this amendment because it must represent Parliament and not only Travancore-Cochin State, because Parliament means not only Travancore-Cochin but other States also. But all the Members of Travancore-Cochin must be there. I have not mentioned Malabar because I belong to it. In October or November another drama is going to be enacted, a more serious drama, when Kerala State will be formed. Some Members of Malabar in the Madras Assembly will be asked to go away but there will be no dissolution of the Madras Assembly. What will be their future, and what will be their functions? Since the Assembly to which they belong is not dissolved, their membership is not gone. Will there be another separate Assembly to be formed when President's rule is terminated. Will there be a small Assembly of 21 Members who have lost their seats in the Madras Assembly? I do not know. At least those Members should be on this Committee as also Members of Parliament from Malabar. I would like the hon. Home Minister to tell us today if possible as to what will happen to the Malabar Members in the Madras Assembly.

Shri Datar : I would not like to go into the larger questions that have been raised by my friends.

Shri V. P. Nayar : Why?

Shri Datar : Because so far as the present committee is concerned, it is a parliamentary committee. It is a committee consisting of the Members of this House and the other House and not others to advise the Government. Government would be consulting them whenever necessary.

My hon. friend Pandit Thakur Das Bhargava contended that the words "wherever he considers it practicable to do so" should be omitted. I would point out to this House that on all the three occasions whenever there was President's rule, there was no abuse of power at all. The words are whenever practicable,

not when the President considers it necessary. It imports certain difficulties. It is quite likely that if a meeting of this committee is to be called, the hon. Members who would be the Members of this committee would be at a very great distance, and in some cases, it would not be possible to call a meeting with ten days. That is the reason why the expression 'practicable' has been put in.

Shri Kamath : But the Joint Committee on the States Reorganisation Bill is meeting even in Simla.

Shri Datar : If in the course of the administration of the State, it becomes necessary, it becomes urgent to enact a law immediately, say within a week, then it might be difficult, and it might be impracticable to call a meeting of any such committee. But I want to assure my hon. friend Pandit Thakur Das Bhargava and others that as far as possible, no resort would be taken to this reservation, and we shall be consulting the members of the advisory committee, except where it becomes impracticable to do so.

In all these cases, the House has to trust the President, and the President being a constitutional head acts on the advice of Government. It has been suggested by Shri V. P. Nayar that the President should act more or less in his personal capacity, and he himself should look into all these matters. But the scheme of the Constitution is that the President is the constitutional head, and he acts on the advice of Government. Therefore, it would not be proper to place any other burden on the President than what he can bear as the constitutional head of the Union.

Shri V. P. Nayar : Where is it stated in the Constitution?

Shri Datar : Then, it was said that the other parties also should be consulted. I would not like to go into the other very interesting point that has been raised as to how the Adviser's regime has been going on in that State, because that point has been answered by Shri A. M. Thomas. But I would like to point out that the Adviser has been consulting, whenever such consultations become necessary, the heads of all the parties, and therefore, it would be entirely wrong to say that he is the stooge of this party or that party.

I would not like to read the extract, but I would invite the attention of my hon. friend to what has been stated in

[**Shri Datar**]

the *Hindustan Standard* of the 25th inst. where a correspondent who had gone there and had found out the conditions for himself, has written that the President's rule has not only been welcomed there, but it has introduced improvements all round, and the officials and non-officials have always found the President and his Adviser carrying out their duties in an extremely satisfactory manner. (*Interruptions*).

Shri Velayudhan : Was he not a guest of Government?

Shri V. P. Nayar : On a point of order....

Shri Datar : There is no point of order in what I am saying.

Shri V. P. Nayar : That is not for you to say. It is for the Chair to say.

Mr. Deputy-Speaker : Let us hear the point of order, and listen to what the hon. Member has to say. Is this the way in which the fight should be settled among the Members? At least I have got to be taken into confidence.

Shri V. P. Nayar : I have abundant confidence in you. It is for you, Sir, to say whether there is a point of order or not. It is not open to Shri Datar to say that.

Mr. Deputy-Speaker : I am here in the Chair, and if the hon. Member had addressed me directly, all these difficulties would not have arisen.

Shri V. P. Nayar : The Minister has quoted a certain newspaper report, and he puts it in as a plea that the Adviser's regime has been popular. Is it not necessary that he should also quote from local dailies and paper reports wherein paper representatives and leaders have written against this rule. Should not the House be taken into confidence on those things also?

Mr. Deputy-Speaker : There is no point of order in this. When one hon. Member is arguing, he has to support his case. If another hon. Member has got different reports, he can quote them when he is speaking. The hon. Member, Shri V. P. Nayar could have quoted them when he was speaking. If he has not done so, then he could quote them if he has subsequent opportunities. But where is the point of order? There is no point of order at all. The Minister may proceed with his speech now.

Shri Datar : I was replying to the point made by Shri V. P. Nayar that the Adviser's regime has not been welcomed there, and I was saying that the admi-

nistration has shown very great improvement, and it has been welcomed in all circles.

Shri A. K. Gopalan : When we send you the paper-cuttings, you will know what the position is.

Shri Datar : This is what has been stated in this very important and responsible paper. (*Interruptions*).

An Hon. Member : Who said so?

Shri Datar : Then, my hon. friends had stated something about thunders and tremors. We are accustomed to all these tremors and thunders. Sometimes, these tremors and thunders are what may be called a storm in the tea-cup, or perhaps something less than that. Therefore, the velocity of all these has to be understood, or rather the absence of velocity of all these has to be understood. It would not be proper to bring in these expressions which are more or less in an extravagant manner. We should try to be extremely responsible. As far as we are concerned, we are responsive to the views of the Opposition. Whenever any difficulty has been pointed out, or any grievance has been raised, we look into the matter. I promise hon. Members that if any particular grievance is brought to my notice, and I find that there is substance in it, then I shall look into the matter. But merely because certain allegations are made, and certain extravagant statements are made, I submit that we shall not yield either to tremors or to thunders or to anything else.

Shri Kamath : Wait till the next elections.

Shri Velayudhan : Will you yield to democracy?

Shri Datar : I would like to point out one more thing, and that is that Government are going to accept two amendments, firstly amendment No. 31 so far as the enlargement of the membership of the advisory committee is concerned, and secondly amendment No. 15 by Shri Achuthan.

Shri Vallatharas : I have suggested a membership of thirty. Why should not the Minister accept that?

Shri Datar : Thirty would be a very large number.

Mr. Deputy-Speaker : Now, the Minister is telling us how far he is prepared to go, and what amendments he is prepared to accept.

Shri Datar : In fact, I am told that on all the other occasions, we had accepted a membership of only ten plus.

five. But here, with a view to accommodating all the Members from Travancore-Cochin, we have raised the membership, and we are anxious that the Members from other States also should take interest in the affairs of Travancore-Cochin. That is the reason why we are accepting the amendment according to which 14 Members will be from this House, and 7 will be from the other House, so that at least 2 Members from this House, and one from the other House would be from a State other than Travancore-Cochin. That is very necessary, because when this question is before us, it is a matter of national interest and not merely of the interests of a particular State.

Mr. Deputy-Speaker : I shall now put the amendments to vote. It has been conveyed to me by Shri Vallatharas that amendments Nos. 22 and 23....

Shri Vallatharas : I am not pressing.

Mr. Deputy-Speaker : Does the hon. Member want to withdraw?

Shri Vallatharas : Yes.

Mr. Deputy-Speaker : Has the hon. Member leave of the House to withdraw his amendments?

Several Hon. Members : Yes.

The Amendments were by leave withdrawn

Mr. Deputy-Speaker : First, I shall put amendments Nos. 31 and 15, which have been accepted by Government.

The question is :

Page 1,

- (i) line 18, for "ten members" substitute : "fourteen members"; and
- (ii) line 19, for "five members" substitute : "seven members".

The motion was adopted.

Mr. Deputy-Speaker : The question is :

Page 2,

line 9, after "before it" insert : "or the Session succeeding".

The motion was adopted.

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Mr. Deputy-Speaker : The question is:

Page 1, line 17,

omit "whenever he considers it practicable to do so".

Those in favour may say 'Aye'.

Some Hon. Members : 'Aye'.

Mr. Deputy-Speaker : Those against may say 'No'.

Several Hon. Members : 'No'.

Mr. Deputy-Speaker : The 'Noes' have it, the 'Ayes'....

Shri Kamath : The 'Ayes' have it.

Mr. Deputy-Speaker : In that case, I am ordering the division bell to be rung.

Shri V. P. Nayar : It is not yet 2-30 p.m.

Mr. Deputy-Speaker : It is about 2-30 p.m. now.

I shall put amendment No. 3 to the vote of the House.

The question is :

Page 1,

line 17—

omit "whenever he considers it practicable to do so."

Those in favour of this motion will kindly say 'Aye'.

Some Hon. Members : 'Aye'.

Mr. Deputy-Speaker : Those against the motion will kindly say 'No'.

Several Hon. Members : 'No'.

Mr. Deputy-Speaker : The 'Noes' have it; the 'Ayes' have it.

Shri Kamath : The 'Ayes' have it.

On a point of order, Sir. In consonance with the practice which has been growing in the House for the last two or three weeks, when a division was claimed by the Opposition, the Speaker has always been pleased to grant a regular division, when the matter involved was a matter of importance or of principle. Here it is a matter of principle in so far as parliamentary rights are being interfered with or tampered with. Members are appointed to Parliamentary Committee according to this Bill, and it is provided in this Bill that the Committee will not be consulted on every occasion. If this is not a matter of principle, I do not know what else

[Shri Kamath]

can be. I would therefore earnestly request you to see that the voting on amendment No. 3 to clause 3 should be decided by a regular division and not by Members merely rising in their seats.

Mr. Deputy-Speaker: Does the hon. Member concede that it is in the power of the Chair to decide whether the division should be by going to the Lobby or by other means?

Shri Kamath: The rules empower you to do so. What can I do?

Shri H. N. Mukerjee (Calcutta North-East): My submission is that irrespective of the importance or otherwise of the subject-matter concerned, it may be necessary to have a record of the way in which voting was done because at least the Opposition might want to have it known to the country as to who voted in which way. If we just stand in our seats, we know what is going to happen, because you will find an overwhelming majority on the other side also standing, and those who are opposing this amendment will not have their names recorded. It is very necessary from the point of view of the Travancore-Cochin electorate to find out who exactly voted in what way. So I would request you to take this point into consideration.

Mr. Deputy-Speaker: The reason, that the hon. Member has given, goaded me exactly to proceed like that, because, as he himself said, he is sure of what is going to happen. Also because we were hard-pressed for time, I thought I could resort to this device, as we are rather trespassing into the time allotted for other business. That was my point. But if the hon. Member wants that the names should be recorded, I think that is in my power. I can call out the names and those names will be recorded.

Shri S. S. More (Sholapur): May I suggest that the course that you propose to follow will consume a larger amount of time than the expeditious procedure of a regular division?

Some Hon. Members: No, no.

Mr. Deputy-Speaker: Those who are in favour of the amendment will kindly rise in their seats. Their names will be recorded.

Shri H. N. Mukerjee: What of those who oppose the amendment?

Mr. Deputy-Speaker: I would appeal to hon. Members not to insist on that, because we are wasting, in my opinion, much of the time of the House. It would be of no use.

Shri S. S. More: How are we to know who voted against it?

Mr. Deputy-Speaker: Those hon. Members who are in favour of the amendment will kindly rise in their seats—I find 26 hon. Members are in favour of the amendment.

Shri V. P. Nayar: What about the names?

Mr. Deputy-Speaker: I have promised that the names will be recorded. Now those in favour may please rise in their seats. The following are the 26 hon. Members who are in favour of the amendment

Shri H. N. Mukerjee, Shri A. K. Gopalan, Shri N. C. Chatterjee, Shri S. S. More, Shri V. P. Nayar, Shri Sadhan Gupta, Shri Kamath, Shri Sarangadhar Das, Babu Ramnarayan Singh, Shri Nambiar, Shrimati Renu Chakravarty, Shri M. S. Gurupadaswamy, Shri Velayudhan, Shri T. B. Vital Rao, Shri N. Sreekanth Nair, Shri Gadilingana Gowd, Shri C. R. Chowdary, Shri N. B. Chowdhury, Shri Vallatharas, Shri Ramji Verma, Shri Rishang Keishing, Shri P. R. Rao, Shri Tushar Chatterjee, Shri Biren Dutt, Shri Dasaratha Deb and Shri V. Missir.

Those who are against the motion will kindly rise in their seats—I find an overwhelming majority against the motion.

The motion was negatived.

Shri Kamath: On a point of order, again, Sir. Under the amended rule 385, count should be taken of both the 'Ayes' and the 'Noes'.

Mr. Deputy-Speaker: That is when a regular division, by going to the Lobby, is there.

Shri Kamath: May I read out the rule?

"Provided that if in the opinion of the Speaker, the division is unnecessarily claimed, he may ask the Members who are for 'Aye' and those for 'No' respectively to rise in their places, and on a count being taken declare the determination of the House."

A count has to be taken. It has not been taken. Count has not been taken of those who are opposed to the amendment.

Mr. Deputy-Speaker : I have relaxed the rule. In such cases, it clearly says, the names of Members shall not be recorded. I have allowed the names of those who were 'for' it to go on record. That is rather a relaxation that was not required.

So, I have to declare that this amendment is lost.

Shri Kamath : The 'Noes' have not been counted.

Mr. Deputy-Speaker : Now, I will put all the other amendments to vote.

The question is:

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 consisting of the Minister for Home Affairs, Government of India and the Members of both Houses of Parliament from Travancore-Cochin. The Minister for Home Affairs shall be the Chairman of such Committee."

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 1,

line 18—

for "ten members" substitute:

"all members of the House from the Travancore-Cochin State and Malabar District of the Madras State and one third their number of members from other State."

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 2,

line 2—

for "as soon as may be after enactment" substitute.

"within three days from the date of enactment of an Act, or, if an Act is enacted when Parliament is not in session, within three days from the date of commencement

of the session immediately following the enactment of the Act."

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 2,

line 3—

add at the end:

"In such cases the Parliament shall discuss the enactment in the same session in which the enactment has been so laid before it, provided one third the number of members from Travancore-Cochin State in the House demand a discussion in writing.

Provided that all important enactments affecting land reforms, civil liberties, taxation, working conditions of labour, shall not be passed unless the majority of the members of the committee has concurred."

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 2,

line 9—

after "before it" insert "or in the subsequent Session."

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 2—

after line 12 add:

"(5) Nothing in this Act shall be deemed to confer any power on the President of India in enacting any measure which will enhance the tax or land revenue, payable by a person whose income is less than Rs. 3,000 a year."

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 1,

line 17—

omit "whenever he considers it practicable to do so".

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 1,

line 17—

[**Mr. Deputy Speaker**]

after "to do so" insert "himself".

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 1,

lines 18 to 20—

for "consisting of ten members of the House of the People nominated by the Speaker and five members of the Council of States nominated by the Chairman" *substitute* :

"consisting of all members of both Houses of Parliament from Travancore-Cochin State."

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 1—

(i) line 18,

for "ten members" *substitute* : "twelve members"; and

(ii) line 19,

for "ten members" *substitute* : "six members"

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 1,

line 19—

after "Speaker" *insert* :

"which shall include representatives of the Scheduled Castes and Scheduled Tribes of the State."

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 1—

for lines 8 to 11, *substitute* :

"3. (1) The President is hereby conferred with the power of the Legislature of the State of Travancore-Cochin to make laws, which has been declared by the Proclamation to be exercisable by or under the authority of the Parliament and is also authorised to delegate his powers of making laws to any person whom he may deem fit and competent with conditions, if any needed, imposed on the person upon whom the powers have been so delegated."

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 1,

line 12—

after "President" *insert* :

"or the person upon whom the powers have been delegated by the President"

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 1,

lines 13 to 15—

for "enact as a President's Act a Bill containing such provisions as he considers necessary" *substitute* :

"enact any law in respect of any matter which appears to him to be necessary in the interest of the State."

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 1—

for lines 16 to 20, *substitute* :

"Provided that before enacting any such Act, the President shall consult a committee consisting of twelve members of Lok Sabha and six members of Rajya Sabha representing the Travancore-Cochin State in Parliament, except when he considers the enactment to be so emergent that consultation may be dispensed with without detriment to the interest of the State."

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 1,

line 16—

after "President" *insert* :

"or the person upon whom the powers have been delegated by the President".

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 2,

line 1—

after "President" *insert* :

"or the person upon whom the powers have been delegated by the President"

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 2,

line 5—

for "seven days" substitute :
"fifteen days".

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 2,

line 5—

for "seven days" substitute :
"fourteen days"

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 2,

line 9—

after "before it" insert "or in the Session immediately following".

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 2,

line 9—

after "before it" insert "or the succeeding Session"

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 2—

for lines 11 and 12, substitute :

"Provided that nothing in the Act shall be valid and enforceable unless the two Houses of the Parliament have considered the Act under this sub-section."

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 1,

line 17—

omit "whenever he considers it practicable to do so".

The motion was negatived.

Mr. Deputy-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 Datar : I beg to move :

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

Mr. Deputy-Speaker : The question is :

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

The motion was adopted.

INDIAN INCOME-TAX (AMENDMENT) BILL

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah) : I beg to move :

That the Bill further to amend the Indian Income-tax Act, 1922, be taken into consideration."

This is a very short and simple measure. The purpose is to remedy the difficulty created by the decision of the Supreme Court in a recent case to the effect that an order passed by the Central Board of Revenue and the Commissioner of Income-tax under section 5 (7A) transferring the case of an assessee in general terms without reference to any particular year and without limitation as to the time is beyond the competence of those authorities and, therefore, invalid.

The difficulty will be appreciated if I briefly explain the basis on which the jurisdiction for making assessments etc. under the Income-tax Act is conferred on Income-tax officers. Under section 5 (2), the Central Government appoints Commissioners of Income-tax and they exercise their functions in the jurisdictions determined by the Central Board of Revenue. Section 5 (5) enables the Commissioner of Income-tax in his turn to allocate the work in his charge among the income-tax officers dividing the work area-wise or income-wise or person-wise. It often becomes necessary, in the ordinary course of administration of the Income-tax department, to transfer cases from one income-tax officer to another either in the same Commissioner's charge or outside.