

(SHRI ANIL K. CHANDA): I regret to inform you, Sir, that a serious explosion took place yesterday in the city of Hyderabad, as a result of which five persons lost their lives. On "behalf of the Government of India I would like to express our deepest sympathies to the bereaved families.

The Chief Secretary to the Government of Andhra Pradesh, the Chief Inspector of Explosives, Nag-pur and the Inspector of Explosives, Madras, as well as the District Magistrate and the Superintendent of Police, Hyderabad, were contacted on phone today to obtain information regarding the explosion that took place in Begum Bazar, Hyderabad City on Sunday, the 13th December, 1959.

It was reported by the District Magistrate that an explosion took place at about 8 A.M. in an old two-storeyed building as a result of which the building cracked and collapsed. The police rushed to the spot immediately along with the Fire Brigade and from the debris, 5 dead bodies were taken out. The five killed were 2 women, 2 men and one child. Seventeen persons were injured by the accident who were rushed to the hospital. The Commissioner of Police has informed the Chief Inspector of Explosives on phone that the injuries are not very serious. Parts of the building which were in a precarious condition and about to collapse were pulled down and the debris is being cleared under the direction of the District Authorities.

Preliminary enquiries made by the Commissioner of Police show that 9 families were residing in this building. The precise cause of the explosion has not yet been ascertained. This will be looked into by the Inspector of Explosives as soon as he reaches Hyderabad. A wireless message was received by the Inspector of Explosives, Madras, in the afternoon of 13th December. The Inspector of Explosives was due to leave for Hyderabad by plane at 11 A.M. today and would be reaching Hyderabad this

afternoon. The Chief Inspector of Explosives is also leaving Nagpur by train this evening and will be reaching Hyderabad tomorrow morning.

According to the Commissioner of Police, a resident of the building was apparently trying to break open a fuse or detonator (generally used for exploding shells) in order to sell metal (usually copper) in the bazar. The fuse contains high explosives which can explode by mere friction alone. It is surmised at this stage that probably the explosion took place as a result of friction while the metal portion was being broken open. The person alleged to have been tampering with the fuse is reported to have been killed in the explosion.

A fuller report is expected to be received soon, when it will be decided whether a more formal enquiry under section 9A of the Explosives Act is required to be held. The information so far received indicates that the detonator was possessed by the person concerned unauthorisedly.

SHRI BHUPESH GUPTA (West Bengal): Sir, before we adjourn, I would invite your attention to rule 218 . .

MR. DEPUTY CHAIRMAN: I will hear you afterwards. The House stands adjourned till 2.30.

The House then adjourned for lunch at five minutes past one of the clock.

The House reassembled after lunch at half past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

**THE KERALA STATE LEGISLA-
TURE (DELEGATION OF POWERS)
BILL, 1959—continued**

SHRI B. N. DATAR: Sir, I was pointing out this morning that this Bill has been brought forward not for the purpose of any particular Bill or Bills but for the purpose of

[Shri B. N. Datar.] authorising the President to make any Acts which he considers necessary and emergent during the President's administration of the Kerala State. My hon. friend, Shri Bhupesh Gupta, wanted to know what the Bills were and wanted to have copies of these Bills. That is entirely, I may point out in all humility, an irrelevant matter. All that we are called upon to do at present is to confer upon the President the power of making laws for the State of Kerala during the President's Rule. Under these circumstances it is entirely for the President to consider what Bills are necessary and which Bills should be passed by him, if authorised by the Parliament, as President's Acts. Therefore, Sir, in this particular matter we are confined only to one question as to whether the President should be authorised to make laws or the legislative powers of the Parliament should be vested in him. That is the only question, and therefore I submit that at this stage it is not necessary to go into the question of any particular Bills. It is a matter for the President to consider.

There is also a further provision, as I have pointed out, that the President will consult a consultative committee consisting of fifteen hon. Members from this House and thirty hon. Members from the other House. There is a further provision which might also be kindly seen, that after the President has passed an Act, it has to be presented to Parliament. That is what I have to point out to the hon. Members of this House. It has been pointed out in clause 3(3):

"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."

Then, in sub-clause (4) a provision has been made that if Parliament considered it necessary, it can modify or cancel the particular Act passed by the President.

So, Sir, you will find that at all stages there is a provision for consultation, first, with the consultative committee, and then the matter has to be placed before Parliament for whatever opinion they may express so far as a particular Bill is concerned. Under these circumstances, as I have pointed out, the purpose of this Bill is a limited one in the sense whether the President should or should not be empowered with the legislative powers which now vest in Parliament since the Proclamation. The legislative body or the Legislative Assembly in Kerala has ceased to function, and the result is that all the legislative powers in respect of the State of Kerala have vested in Parliament. Now, under this Bill, all that is proposed is to vest these powers in the President, and the President will act in accordance with the provisions that have been laid down. Normally, as it has been pointed out, he will consult the consultative committee and then pass such Act or Acts as he considers in the interests of the Kerala State. And thereafter a further provision has been provided by the Act will have to be placed before Parliament for consideration by the hon. Members of both the Houses.

Thus, Sir, I am confluent that in the light of what I have explained so far as the provisions of this Bill are concerned, the Bill will be accepted by this hon. House.

SHRI BHUPESH GUPTA: Sir, before you put the question I want to raise a point of order now that he has finished.

MR. DEPUTY CHAIRMAN: You can raise it afterwards. The Bill must be before the House.

SHRI BHUPESH GUPTA: Whichever you like, Sir.

MR. DEPUTY CHAIRMAN: Points of order can be raised only during the course of business. The House must be seized of the Bill. So, I have to put it before the House.

SHRI V. PRASAD RAO (Andhra Pradesh): The question is, before the motion is put for consideration, he wants to raise it.

MR. DEPUTY CHAIRMAN: No.

The question was proposed.

SHRI BHUPESH GUPTA: Sir, the only point I want to raise is this: First of all I submit, since you have given your ruling that I should come after you have put the motion, that rule 218 of the Rules of Procedure and Conduct of Business says that we may at any time submit a point of order. It does not say at which stage of a particular motion. When I was trying to raise it before you put the motion, the hon. Minister was functioning within the scope of business of the House, business relating to this particular Bill. He was not outside the business of the House. "At any time" therefore may relate to any point of his speech. Anyway, I submit to your direction. I hope, Sir, you will kindly consider this thing. We generally do not raise here points of order as are raised in the other House, rarely we do. But when we raise them, we would expect you to consider them and give your ruling, if you like, or hold it over also. I said, Sir, that we wanted this thing. It is our right and privilege to have the other Bills which are pending before the President. Now, the hon. Minister in the course of his speech said that these powers would also relate to these Bills. These Bills are not the only things. He said . . .

MR. DEPUTY CHAIRMAN: Simply state the point of order. You have to state the point of order.

SHRI BHUPESH GUPTA: The point of order is that the hon. Minister is under an obligation to place before the House the Bills that are pending for assent before the President. I am giving the ground.

MR. DEPUTY CHAIRMAN:- No ground need be given. A point of

order means a breach of some standing order or rule of the House. What is the rule that was been infringed? You have to show the rule and say how it has been infringed.

SHRI BHUPESH GUPTA: This is what I was saying. When we get a Bill which relates to certain other documents . . .

MR. DEPUTY CHAIRMAN: Has it been referred to in the Bill?

SHRI BHUPESH GUPTA: It is not referred to in the Bill. You kindly listen to me. If you do not listen, what can I then say? It is not certainly referred to in the Bill, but the hon. Minister's speech will go in the proceedings . . .

MR. DEPUTY CHAIRMAN: So many things will go in the proceedings.

SHRI BHUPESH GUPTA: We ask him to give us an assurance . . .

MR. DEPUTY CHAIRMAN: As an example he might have quoted.

SHRI BHUPESH GUPTA: It is not an example. In the other House the point was made by him at some length, but I am not quoting the other House.

MR. DEPUTY CHAIRMAN: Here we are not concerned with it. We are not concerned with what transpired in the other House.

SHRI BHUPESH GUPTA: Therefore, he has said that it does not concern only this thing. It concerns other things also. I concede that point. We are not ruling it out. According to what he has said the hon. Minister's statement has to take into account the various Acts. Therefore, we are entitled to have them. Otherwise how can I consider? If that is the factor that is weighing with the Government, we should be apprised of that particular factor, so that we can reflect on whether Parliament should give away its power, whether Parliament should vest its power in the President. The Kerala

[Shri Bhupesh Gupta] Assembly is gone. Only we have the power of legislation. We are giving it to the President. We should be given an opportunity to see as to why we are giving it. If he has certain Bills in mind, then we would like to know what these Bills are and whether they attract the vesting of such power in the President. It is a very relevant thing. Normally it is done. In the other House the Statistical Institute Bill is being discussed, and all the relevant papers, statements of the Prime Minister, and so on, are given in the form of a White Paper or some such thing. Papers are given. Why are these being kept back from us? It is extremely improper; It is for you to judge, Sir.

SHRI P. S. RAJAGOPAL NAIDU (Madras): It is not a point of order.

SHRI BHUPESH GUPTA; Sir, you have put the motion. What can I, do? Otherwise, I would have opposed the consideration. Without relevant material before us, we cannot consider a Bill or give the necessary two or three days' notice. Similarly, we are not in a position to consider the advisability of vesting this power in the President or introduction of consideration of this Bill until we have the relevant material before us.

MR. DEPUTY CHAIRMAN; Under what rule?

SHRI BHUPESH GUPTA; Under every parliamentary practice. It is for you to say, Sir. It is your discretion, I agree. Your opinion is final.

MR. DEPUTY CHAIRMAN: You must tell me what rule has been infringed. So far I have not got any light from you.

SHRI BHUPESH GUPTA; It is a point of wisdom from the Chair on which I rely. It is for your discretion it is parliamentary discretion. You know, Sir, that on various occasions when the administration of

other States was taken over, certain measures, some documents, were placed before us. Now, is this done? Why are not they doing it when they are in possession of them? You ask them.

Another point. You consider that also. I raise it. Now, I would request hon. Members through you not to treat it lightly. Here, we are not concerned with any other Bill, but a Bill which gives powers to the President to legislate for a State; the Constitution provides it, but, on the ground, on the assumption, here it is stated, that Parliament would have no time. How does the Government come to this conclusion? Yes. If it were placed before you . . .

SHRI B. N. DATAR: May I request the hon. Member to dispose of the point of order first before he speaks on its merits?

SHRI BHUPESH GUPTA; I am not speaking on its merits.

SHRI P. S. RAJAGOPAL NAIDU: He has disposed of the point of order himself.

SHRI BHUPESH GUPTA: I have not.

MR. DEPUTY CHAIRMAN: All right, give it.

SHRI BHUPESH GUPTA: Sir, you will see it. Here we have got the power to legislate. We are doing it. Who says there is no time? You have not told us that we have no time. The Business Advisory Committee has not told us. He has not approached us, as far as I know from the members of the Business Advisory Committee. I doubt if the Business Advisory Committee approached the Chairman. How does then the Home Ministry make an assumption that Parliament would not have time? It is arrogating to itself an authority

that is not vested in the Home Ministry. It is prevarication, under false pretences taking the powers of Parliament. Therefore, Sir, here again, I say, you should ask the hon. Minister. The point of order is this. The matter should be discussed with you—Chairman or Deputy Chairman—or the Business Advisory Committee, as to whether we can find time in order to deal with the legislative measures that they have in mind. If we do not find time, I can understand that. They have never approached us. We have not been consulted. The Opposition has not been consulted. You have not been consulted. If you have been consulted, tell us that you have been. Now, this way the Government is functioning. Now, give your ruling in your wisdom, in your calmness, and I shall abide by it.

MR. DEPUTY CHAIRMAN: But there is no point of order raised on which I have to give a ruling. All through the talk, you have not mentioned any point of order.

SHRI BHUPESH GUPTA: Yes, it is a point of order.

MR. DEPUTY CHAIRMAN: All right, you may take it. Mr. Bhupesh Gupta wants the hon. Minister to produce some other Bills which he says he has referred to in his speech in the other House. The present Bill does not mention any Bill about which this legislation is undertaken. This legislation is to empower the President to legislate with the aid of a Consultative Committee when Parliament is not in session or when Parliament has no time to consider any Bills. And Mr. Bhupesh Gupta has not pointed out any point of order or rule of the Standing Orders which has been infringed. And I find that there is no point of order, and he has simply wasted the time of the House.

SHRI BHUPESH GUPTA: Other things, Sir, the motion . . .

MR. DEPUTY CHAIRMAN: The other one also refers to . . .

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SHR. BHUPESH GUPTA: Say something, Sir.

MR. DEPUTY CHAIRMAN: . . . the Statement of Objects and Reasons. He mentioned that the Minister has no business to say that Parliament has no time. Parliament may not have time to consider many important Bills, and may not be in session at the time when a particular legislation is necessary. And he has also stated that on a number of previous occasions Parliament has empowered the President to pass such legislation with the aid of a Consultative Committee. I find that absolutely there is no point of order, and he cannot raise a point of order on what is contained in the Statement of Objects and Reasons. So, I rule out the points of order, and we will go to the discussion. The time allotted for this Bill is one hour. We have already taken half an hour.

Do you want to speak?

SHRI BHUPESH GUPTA: I want to speak on the Bill. What am I here for? Listening to the Minister's speech?

Now, Sir, on two points you have given your rulings. I submit to them, and you have said also in the course of the thing that I have wasted the time of the House. Generally, it is not said when a point of order is raised. In the annals of Parliamentary history and the proceedings of both Houses, many points of order are not allowed.

MR. DEPUTY CHAIRMAN: Come to the speech.

SHRI BHUPESH GUPTA: I am coming to the speech. Therefore, these words, somehow or other, I cannot relish. But they are wisdom from you.

Sir, I accuse the Government of bad faith in this matter. This is the first thing I want to say. They know very well what these measures are meant for. They are hiding from the House, and you have had to give the

[Shri Bhupesh Gupta] ruling under cover that it is not mentioned in the proposed Bill that they are going to use it in regard to the four Bills passed by the Kerala Legislature, pending before them. It is a concealment of fact. In the other House, they have said it. Everybody knows that—this gentleman and the Treasury Benches and the lady also— she is a good lady. That way they won the powers in order to tamper with the four Bills, especially when we have passed them, when we were in the Government of Kerala, under the control of the Government—the Agrarian Relations Bill, the Court Fees Bill, the Agriculturists Debt Relief Bill and the Jenmikan Bill. All these Bills give rights and privileges to the down-trodden and the dignity of life and minimum economic relief to the suffering. The vested interests have played with the dignity of these people. The Treasury Benches now want this Bill in order to arm themselves, so as to amend the Bills in their favour. That is the real thing. Well, Sir, sometimes, cowardice has appeared in the shape of statesman-ship.

Now, Sir, the question involved here is a very important question. I would ask the hon. Members to consider it somewhat in a non-partisan way, forgetting that we belong to certain political parties. I know you belong to the Congress the mighty Party. We belong to a very small party called the Communist Party. But then we come next to you. Therefore, you listen to us, to what we say in this connection. Sir, as I said, Parliament has got the power—the Constitution has given powers to Parliament—to legislate when a Proclamation is issued. Sometimes, the power may be given to the President under the Constitution, I know it. But it is an extraordinary thing to do and more especially when Parliament is in session, and it is all the more extraordinary and reprehensible to do when these powers are sought to be taken with a view to vetoing the legislations of a State

Assembly with regard to matters which fall within the domain of State subjects. Now, Sir, I say 'State subject' advisedly because agrarian matters are a State subject; court fees is a State subject, Jenmikan is a State subject and indebtedness is also a State subject. Therefore, normally it is only the States which have been given power under our Constitution to deal with these matters. Here was the Kerala Assembly. We dealt with such matters there and passed certain legislations almost unanimously. Remember, all these Bills were passed almost unanimously whatever the Congress Party or others might have said. Now, they want to tamper with them. Then again, they want to legislate with regard to the subjects encroaching upon the State's domain. It is a violation of the State's autonomy, violation of the spirit and, if I may say so, in a way, of the letter of the Constitution if you have in mind the Directive Principles. Now, Sir, that is very very important. Therefore, I say it is an attack on the State autonomy. They struck down an elected State Ministry by all kinds of things in July this year. Now, they are proceeding to undo whatever good that Ministry has done for the peasants, for the debtors and so on. This is the position. Their attack is directed to this purpose.

Sir, what is the position now? I make this point. It is an encroachment on the sphere of the State; in other words, on the State autonomy. The second thing is this, and I want to make this very clear. What is the position of this Government? Central intervention took place on what ground? Proclamation was issued on what ground? They did so when we refused to quit office to oblige them with a mid-term election. They said, since they would not get away in order to make possible mid-term elections, we stepped into their shoes, to make arrangements for mid-term elections. That was the thing. In fact, the Prime Minister offered Mr. Nambudiripad that he could himself act in this matter, that is to

say, under the Constitution, he could agree to the mid-term election and could function as a caretaker Government. If you like, some such thing he said that Proclamation would not be necessary . . .

SHRI AKBAR ALI KHAN (Andhra Pradesh): It would have been right if you had accepted it.

SHRI BHUPESH GUPTA: I know that we have not accepted it; we have not obliged you. We do not sit here to oblige the Congress Party, not even the Prime Minister because, Sir, article 174 was there and we did not agree. Then we did not try to oblige Mr. Akbar Ali Khan of Hyderabad, the land of the Nizam . . .

SHRI AKBAR ALI KHAN: I object to it. If he repeats it, I will have . . .

SHRI V. PRASAD RAO: It is the land of the Nizam.

SHRI BHUPESH GUPTA: To that land you belonged and to the other land they belonged.

MR. DEPUTY CHAIRMAN: Come to the Bill.

SHRI BHUPESH GUPTA: I am coming to the Bill.

MR. DEPUTY CHAIRMAN: It is all old story.

SHRI BHUPESH GUPTA: It is not so old; it is a very important story. This Bill is born out of that story. It is not an old story; it is a new story of design and political conspiracy against . . .

MR. DEPUTY CHAIRMAN: We have discussed and rediscussed it.

SHRI BHUPESH GUPTA: I am entitled to have my say and it is my privilege to say. I say this Government is acting in bad faith; there is a new story; it is with a view to wreaking vengeance, so to

say, on Kerala, with power in their hands. It should be a caretaker Government . . .

SHRI AKBAR ALI KHAN: It is all irrelevant to the Bill.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI AKBAR ALI KHAN: My point of order is that those Bills are referred to here. The new question is whether we should give this power to the President.

SHRI BHUPESH GUPTA: We want *status quo*; we do not give this power. That should be and is the constitutional position.

SHRI AKBAR ALI KHAN: My friend . . .

MR. DEPUTY CHAIRMAN: Don't interrupt him.

SHRI BHUPESH GUPTA: Sir, I cannot keep pace with running intelligence.

Now, Sir, does the President need this power? The main thing is that it is a caretaker Government; the position of this Government is that of a caretaker Government whose sole job is to arrange for mid-term elections and maintain *status quo*. That is the constitutional position anywhere in such comparable situations. This is a new point, I think, I am making, because you can never say . . .

SHRI SONUSING DHANSING PATIL (Bombay): Are we to accept the interpretation of the Constitution by our learned friend here? It is his own way of interpreting the Constitution.

SHRI BHUPESH GUPTA: If you had accepted my opinion, you would have shown greater sense in this matter as I have.

MR. DEPUTY CHAIRMAN: Well, caretaker Government.

SHRI BHUPESH GUPTA: Yes, Sir, caretaker Government. You take care of this gentleman, Sir. Now the position of this Government is that of a caretaker Government. Now a caretaker Government does not take upon itself the task of legislation or amending a legislation except in a state of emergency. That is the position. Now it is assumed, it is an accepted principle of parliamentary democracy—it was so under the Government of India Act even during the rule by the British—that a caretaker Government *de facto* functioned; whatever may be its complexion, it did not proceed to , amend the existing laws or to pass new laws. That is the normal behaviour. But they are abandoning it. They are placing themselves as if they were an elected Government; they are exceeding their authority. In any case, Sir, they are not functioning as a caretaker Government; they are functioning as an undertaker Government. I say 'undertaker' because they want to ruin all the good measures that were passed there before by the representatives of the people who were returned to the Legislature through elections, and the Congress Party tried their chance but not with success. That is the attitude of the Congress Party and the Home Ministry there. Therefore I call it an undertaker Government, approaching this measure with the attitude of an undertaker, trying to fulfil the functions of an undertaker.

Then, Sir, there is again another point. I regret very much, Sir, that the assurance given to the people of Kerala and to the country that the Proclamation was only being introduced in order to test public opinion through a mid-term election has not being kept. Now they are trying to violate those promises, do other things and cause damage to the existing legislations.

In this connection, Sir, I want an assurance from the hon. Minister when we the Members of Parliament are being asked to give this power. Now the Government are telling us that Parliament would not have the

time. Why, you have not explained. Do you contemplate very many legislations? Then I can understand. Between now and February do you contemplate very many legislations for which you think that Parliament will not have the time to devote to them? I do not think you have very many legislations in view. Then, of course, you don't have the time; we don't have the time. Then why do you say this thing?

Then with regard to this Bill, Sir, our case is this: What is interesting here is the Agrarian Relations Bill. Eight lakhs of people have signed the documents, the petitions and I believe they are about to be submitted to the President by Mr. A. K. Gopalan and others saying that the President should give his assent to the Bill. They would not implement it, implement one of the greatest agrarian measures passed by the Kerala Legislature, which was none other than implementation of the good promises of the Congress. We took care to study their document, to see that what they had been preaching we should practise at least, and much more even, in a better direction. , Now that has been pending. They are not doing anything about it. On the contrary, when eight lakhs of signed documents, petitions, demand immediate assent to the Bill, Government is under pressure from the other side, and pressure is being brought to bear upon the Government to amend it in the direction of helping those 300 odd landlords as against hundreds of thousands of tenants. That is one thing.

Then, Sir, there is the Public Indebtedness (Amendment) Bill. That Bill seeks to relieve 2,000 families which owe money to 13 bankers of the Travancore-Cochin Bankers Association. We gave relief to them in that Bill. The bankers were trying to evict them in order to realise their money in full. All kinds of harass-ments were going on against them. That measure was passed by a big majority in the erstwhile Legislative Assembly there. It sought to give

relief to the poor debtors up to a limit of Rs. 15,000. Now it was admitted in the other House, Sir, that a deputation of the Travancore-Cochin Bankers Association waited upon the Finance Minister, who admitted it in the other House and gave an assurance to them that the Bill would be amended or that they would look into their interests, render help to these handful of bankers as against these two thousand poor families.

Then there is another, the Bill on Court Fees. We reduced the court fees and we gave some protection to the poor litigants so that they did not have to suffer from the heavy burden of court fees. That is also before this Government.

Similarly there is the Jenmikan Bill pending assent. Now they are taking an antiquated and undemocratic attitude. Now they are being guided in this matter not by their own pledges and assurances and what the people are saying but by some vested interests who are trying to get things in their own way. The hon. Minister could have waited. Why hurry? You could have waited till the election. We are for election; we are not frightened of elections. We have said that we are ready for election. We are ready for the battle and we shall go to the battle. But why this hurry? Now can't you wait for two months and see the results? Leave it to the new Kerala State Assembly to handle this matter as it was the former Assembly that had passed it. That would have been the proper, decent and democratic attitude. But they would not take that attitude. Now the question will be asked how the President can give assent to the pending Bills when article 201 containing his powers does not operate now—it is suspended. That is the question that has been asked. If the President does not have the power to assent to this Bill, we want the President to have the necessary powers to assent to this Bill. And when we raised this point in the other House the Home Minister said that he might

consider another supplementary proclamation so that it would not be difficult for the President to deal with this Bill and give necessary assent. Now we do not know, why, instead of assuming that power of giving assent, they should do this kind of thing with a view to tampering with this Bill. With this, Sir, another point, I think, I should straightaway meet, otherwise the hon. Minister will make a lot of capital out of it. We are in favour of giving the President only, such power as would oblige him to give assent to this Bill or what he does normally when a Bill comes from a State. When a Bill comes from a State, either he gives assent or he rejects it or he makes his recommendations and sends it back to the State Assembly. It had been done in our case also. As you know, Sir, the Education Bill was sent with the recommendations of the President, to the State Assembly and the Kerala Government sponsored necessary amendments to conform to the President's directives. But they did not satisfy our hon. friends there. Anyway, Sir, here something else is envisaged. Here they say: where can I send it? The Kerala Legislature is not there. Where can I send the Bill? Let them tell us whether our Bills are unconstitutional? They dare not say so because they know jolly well that our Bills are very much within the constitution. And if you challenge it, let us challenge it before the Supreme Court and let the constitutionality of the Bills be tested there. Therefore, on the grounds of constitutionality they cannot reject, this Government, and they can reject them on no other grounds also. They can reject them only on political grounds, motivated by the thought of vested interests, whom they want to serve and whose funds are coming to the Kerala election for their electoral purposes. This is the position. Strange thing; shocking thing. Any Parliamentary system would be shocked at this behaviour on the part of the Treasury Bench. They are doing it with impunity. Sir, I protest against the

[Shri Bhupesh Gupta.] entire behaviour of the Government. Somehow or the other they are in a hurry, not merely to gerrymander the election, but to frustrate whatever little good things that we have done lest we again come back to power. In connection with that, let me tell you that should we come back to power, as we expect to, your apple cart will be upset. All these things we shall again amend in favour of the peasants, workers and others. There is no doubt about it. But it is bad taste that Parliament's powers are being robbed by this deliberate design on the part of the Home Ministry, not with a view to enlarging freedom somewhere, but with a view to curtailing it, taking away whatever little relief and assistance the Kerala Legislative Assembly representing the people, by passing an enactment almost unanimously, proposed to give. They slept over all these Bills. Some of these were there for more than one year, but they kept quiet. They slept like Kumbhakama. They woke up only when they thought they would get the power and could do the mischief. It is a story of infamy; it is a story of shame; it is a story of violation of the spirit of the Constitution. Such a thing should be condemned on all hands, by all sections of the people regardless of parties, if we are to build our Parliamentary institution on solid, decent and good foundations. Thank you.

As a protest against the behaviour of the Government, we do not propose to participate in these discussions and leave the House.

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): People have heard you. You must also hear them.

[At this stage Shri Bhupesh Gupta, followed by some other hon. Members, left the House.]

MR. DEPUTY CHAIRMAN: Mr. Madhavan Nair. There are only twenty minutes. You should take only five minutes.

SHRI K. P. MADHAVAN NAIR (Kerala): Mr. Deputy Chairman, Sir, I am sorry that there is only very little time left. In fact, I felt that there would be no need for me to take part in this discussion but I was astonished at the way my friend Las been dealing with this subject. After hearing him, I really do not know whether he wants the Bills, which are pending before the Government for the President's assent, to be brought into force as Acts. He has been saying that there are some Bills pending the assent of the President; they were passed almost unanimously by the Houses there. In that case I fail to understand why he should have any objection to have them now passed in the manner in which the Bill under consideration wants it to be done. If these Bills have been passed unanimously, as he says, the parties there are agreeable to the provisions and there is no reason then why they will not be passed here also in the form in which they have come before the President.

Sir, Shri Bhupesh Gupta has been saying that the present Bill is to authorise the President to modify those pending Bills so that it may suit the few vested interests in Kerala. In another breath he has been saying that election is to be held shortly. I do not know what better safeguard he could have than the coming elections to see that nothing is done which will not be to the good of the majority of the people there. I do not, therefore, know what exactly he means when he says that on the eve of the elections there will be tampering with the good things which they have done while his party was in office. I do not understand what he means by good things—whether it is good to the people at large, or whether it is good to himself and the people belonging to his Party only.

Sir, in this connection I wish only to point out that one of the reasons adduced as to why the Communist Government should not continue in

office was that they were carrying on the Government not in the interest of all the people, but in the interest of a section of the people and that is, in the interest of their Party only. My friend has, more or less come out in a way which supports that point which is seriously against them. If the agrarian legislation, in the form in which it has come over here, is for the good of the people, I am sure nobody who is interested in the Congress Party, will in any way try to upset it. If we do something which will not be to the benefit of the people, the elections are there and the result would naturally follow. I do not, therefore, understand why he should have been using such very strong expressions in condemning the present Bill which has been brought here for the specific purpose of seeing that proper legislation is passed by the President.

Shri Bhupesh Gupta has been mentioning about certain Bills, he has been mentioning about the people who have met this Minister or that Minister, but I cannot understand why he should not have the patience to wait and see the form in which Bills will emerge. I also fail to understand about what tactics he is complaining.

Sir, my friend has been speaking about the election, about the way in which the present Government should function and so on. I do not think anybody would contest that we are anxious to see that the election is held as early as possible. As a matter of fact, it is common knowledge that attempts were made by the leaders of the Party to which my friend belongs to put off the election. Under the circumstances, I cannot find any valid reason to oppose the passing of the Bill. All those who are interested in seeing the beneficent legislation given effect to must be interested in entrusting the President with powers to make the laws which should come into force as early as possible.

As the time at my disposal is short, I do not want to say more. Shri Bhupesh Gupta spoke about the Proclamation, lack of necessity for the Proclamation and things like that. I thought that that matter was once and finally disposed of. Anyway, I do not wish afresh to go into that matter. We had ample time to discuss the matter and Parliament has expressed its opinion unequivocally on that. Now the real test is coming. Whether the Proclamation was justified or not, everybody will have an occasion to see from the result of the forthcoming election. Sir, with these words I support the Bill.

श्री निरंजन सिंह (मध्य प्रदेश) : उप-सभापति महोदय, मैं इस बिल के संबंध में दो तीन बातें कहना चाहता हूँ। पहली बात मैं यह कहना चाहता हूँ कि जुलाई के महीने में केरला में राष्ट्रपति का शासन हुआ था। उसके बाद पार्लियामेंट का एक सेशन हो चुका है और यह दूसरा सेशन चल रहा है। अगर इस बिल की मंशा केवल पार्लियामेंट द्वारा राष्ट्रपति को केरला के सम्बन्ध में कानून बनाने का अधिकार देना है, तो पहले सेशन में इस तरह का बिल क्यों नहीं लाया गया; जो आज यहां पर लाने की आवश्यकता हुई ?

दूसरी चीज मैं माननीय मंत्री जी के समक्ष यह कहना चाहता हूँ कि वे इस बिल के पेज दो के पैराग्राफ चार को पढ़ें तो उसमें यह दिया हुआ है कि अगर पार्लियामेंट किसी तरह कोई सर्वाइनेट लेजिस्लेशन बनायेगी तो वह पार्लियामेंट के सामने आयेगा और सात दिन के भीतर जब तक उस पर बहस नहीं होगी तब तक वह कानून नहीं बनेगा। मेरे कहने का मतलब यह है कि इस सेशन में तो कोई कानून आने वाला नहीं है और पार्लियामेंट का अगला सेशन फरवरी के ही महीने में होगा, यानी इलैक्शन के दौरान में एप्रूव होगा। तो इस तरह का बिल लाने से सरकार का क्या परपज सर्व हो सकता है ? यह बात यकीनन है कि सरकार जो भी बिल यहां पर केरला के

[श्री निरंजन सिंह]

संबंध में लायेगी वह पास करा लेगी। सरकार को इस तरह का ऐक्ट बना लेना चाहिये जिससे जब कभी कोई स्टेट सुपरसीड हो करके उसके अधिकार में आ जाती है, तो वह वहां का एडमिनिस्ट्रेशन चलाने के लिये कानून बना सके। लेकिन इस बिल के पास होने के बाद और ऐक्ट बनने के बाद, इसका कोई उपयोग होने वाला नहीं है, यह बात मैं मानता हूं; क्योंकि इस बिल में यह बात खास तौर पर लिख दी गई है कि फाइनल मंजूरी के लिये पार्लियामेंट के सामने आयेगा। यदि पार्लियामेंट उसे मोडिफाई करे तो वह मान्य हो जायेगा। यदि यह मंशा है कि पार्लियामेंट में केवल बहाना के लिये बता दिया कि जो कुछ हमें करना है वह हम कर लेंगे और उसके बाद जो पार्लियामेंट में अमंडमेंट होगा उसको हम मान लेंगे, तो इससे कोई चीज साफ नहीं होती है। इस लिये बिल के चौथे सब-क्लाज को उड़ा देना चाहिये। इसमें जो प्राविजन रखा गया है उससे गलतफहमी मालूम पड़ती है और केवल न समझने की बात है। इसके अतिरिक्त न इसके स्टेटमेंट आफ आब्जेक्ट्स ऐंड रीजन्स में यह बात है और न मंत्री जी ने अपने भाषण में कुछ कहा है। इस लिये मैं यह कहना चाहता हूं कि यह क्लॉज बेकाम है और इससे सरकार का काम होने वाला नहीं है।

SHRI MULKA GOVINDA REDDY (Mysore): Mr. Deputy Chairman, Sir, I oppose this Bill for the following reasons. It is unfair on the part of the Minister in the Ministry of Home Affairs to come to this House for asking Parliament to delegate the powers which it rightfully has, to the President to promulgate such legislation as the President deems necessary in the case of Kerala.

Sir, the Statement of Objects and Reasons given in this Bill states that "Parliament may not have the time to deal with all legislative measures for the State." Sir, it was understood that under the circumstances the Kerala Ministry was overthrown by

the Presidential Ordinance, midterm elections were going to be held shortly—and we now know that the elections are going to be held in February in Kerala—and, in view of that, it was also understood that during this period no substantive legislation would be undertaken though Parliament had got the power, because that will be an infringement on the powers of the State Legislature and I believe even of the State. In order to adhere to the spirit and letter of the Constitution, it is incumbent on Parliament and the President that no legislation should be undertaken in view of the fact that the elections are going to be held in Kerala very shortly. Sir, when that is the position I am wonder-struck and shocked to hear the Minister in the Ministry of Home Affairs state that the power for legislating for the State of Kerala should be delegated to the President.

Sir, in the same Bill, on page 2, clause (4), it is stated:

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

Sir, in one breath the Minister says that Parliament "may not have the time to deal with all legislative measures for the State"; in another breath, in the clause which has just now been read out, it is stated that the same thing will have to be brought before Parliament for its approval. I really do not understand this contradictory position.

Sir, it is not proper also that we should entrust the President with this onerous responsibility of enacting legislation for the State of Kerala. If

there is such an important measure and if that measure cannot wait until the Kerala Assembly meets after the election, then the Home Minister might bring in a Bill and place it before the House, and Parliament can express its view on its merits and take such decisions as it deems fit to take. Sir, I feel no strong reason to see why such a power, that is inherent in Parliament, should be curtailed and given over to the President. I, therefore, oppose this Bill. Thank you, Sir.

SHRI B. N. DATAR: Mr. Deputy Chaimian, Sir, I should like to reply to a few points made by the three hon. Members against the provisions of this Bill. One contention was that if at all the President desired to have such powers to himself, why were not the powers invoked during the last session? May I point out that the President was not anxious to have some such powers to himself? The Government examined the whole question not only with regard to this Bill that was before them but with regard to the need or otherwise of having such powers delegated to the President during the Presidential Administration. We took all these matters into account. In the Constitution, Article 356(1) (b) makes it very clear. It states:

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

Therefore, the Government considered a number of other questions as to whether Article 201 should be revived and whether it could be revived in respect of the Bills that were before them and all that. That was point number one. Certain difficulties arose because three Bills had been received before the President's proclamation and one Bill was received after the President's proclamation. Under these circumstances, it was considered that the matter was not free from constitutional difficulties and, the second

thing, and more important in this case, was that the President had been carrying on the Administration of the Kerala State and, therefore, the President would have an occasion whenever such an occasion arose, to consider other matters, other Bills, etc. also. That is the reason why it was considered after full examination of the whole question that it would be better and more advisable for the President to have such powers as the President had been given on previous occasions whenever the President had to take over the Administration of a State. Therefore, there was nothing unusual in this.

Sir, an hon. friend just now stated that the President could have recourse to his powers for promulgating an Ordinance. May I point out that there are two difficulties in this? So far as an Ordinance is concerned, it can be only promulgated by the President when Parliament is not in session and secondly, instead of promulgating an Ordinance, is it or is it not more advisable to have a Consultative Committee and for the President to consult that Consultative Committee and then to pass President's Acts? Therefore, Sir, the latter course is naturally more beneficial and to a large extent it is in consonance with the principles of democracy.

Then, my hon. friend, Shri Bhupesh Gupta, made his usual contentions. His speech, may I say, was a political speech, not having any bearings on the provisions of this Bill but was meant for consumption outside to a few friends of his party, if there are any, either in Kerala or elsewhere. Otherwise you must have seen that the impatient manner in which he talked was absolutely unwarranted and, as is usual, in all the cases of his speeches, he not only brought in the Government of India but also the Congress Party as well and he tried also to go behind what this hon'ble House had decided when the promulgation was confirmed. I am not, therefore, *going to* refer to these irre-

[Shri B. N. Datar.] levant and absolutely unfounded matters. All that we are concerned with here is to invest the President with the powers of legislation for the State of Kerala. May I also point out here that there was no question of the violation of State autonomy at all? Now, when the President comes to the conclusion that there is need for a Proclamation and when it is issued, he carries on the administration in the interests of the people of the particular State and in this case, the Kerala State. It was further contended that the President's administration was a caretaker Government. I would agree that to a certain extent it is a caretaker Government but we have to take care of the efficiency of the administration and also of the welfare schemes of the Government. That is the reason why even though, to a certain extent, we might be called, a caretaker Government, the Government or the President, has to carry on the administration in the interests of the people and look after all the welfare schemes and sometimes it might become necessary, even during the short period for the President to have a President's Act for the purpose of furthering the common interests or the public interest of the people at large. That is the reason why these powers are being sought. In any case we are not an 'undertaker Government' at all. I hope the hon. House is aware of what an undertaker means. We are never an undertaker Government at all because we are anxious to establish, as strongly as possible, on the surest foundations, the structure of democracy. We have no Hasire to demolish democracy. That is the reason why we are trying our best to advance the interests of the people at large. For these reasons, may I point out that all that my hon. friend Shri Bhupesh Gupta said has no relevancy at all and therefore in the interests of the common people, the President ought to be invested with the powers of legislation and he would use it whenever it becomes necessary, in consultation with the Consultative Committee.

Lastly, the matter is coming up before the hon. Houses of Parliament. Therefore the requirements that are necessary in such cases have been fully followed and there is no reason why there ought to be any misgivings either about this Bill or about the use of the powers by the President so far as the conferment by both the Houses of Parliament of such powers of legislation is concerned.

SHRI B. D. KHOBARAGADE (Bombay): Will the hon. Minister enlighten the House on what sort of legislations are essential and necessary in the interests of administration and welfare of the people?

SHRI B. N. DATAR: It is not necessary at this stage, under the Constitution, to place everything before the Parliament. It is for the President to consider them, place them before the Consultative Committee, make an Act and then it will come before the Parliament.

SHRI B. D. KHOBARAGADE: I am only asking it so that the Government may prove their *bona fides*.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to confer on the President the power of the Legislature of the State of Kerala to make laws, as passed by the Lok Sabha, be taken into consideration".

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill.

Clauses 2 and 3 were added to the Bill.

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

SHRI B. N. DATAR: Sir, I move:

"That the Bill be passed."

The question was put and the motion was adopted.

THE DOWRY PROHIBITION BILL, 1959

THE MINISTER OF LAW (SHRI A. K. SEN): Sir, I move:

"That the Bill to prohibit the giving or taking of dowry, as passed by the Lok Sabha, be taken into consideration."

Mr. Deputy Chairman, Sir, the Dowry Prohibition Bill, as passed by the Lok Sabha, is now before this House. There have been certain changes made in the Bill as reported by the Joint Select Committee. The House will remember that when the Bill was originally introduced, the definition of 'dowry' rather allowed dowries to the extent of Rs. 2,000. Hon. Members will be good enough to refer to the original Bill as was introduced in the Lok Sabha. Clause 2 of that reads as follows:

"2. In this Act, "dowry" means any property or Valuable security given or agreed to be given to one party to a marriage or to any other person on behalf of such party by the other party to the marriage or by any other person on behalf of such other party either at the marriage or before or after the marriage, as consideration for the betrothal or marriage of the said parties, but does not include—

(i) dower or mahr in the case of persons to whom the Muslim Personal Law (SHARIAT) applies; or

(ii) any presents made at the* time of the marriage to either party to the marriage in the form of ornaments, clothes and other articles not exceeding two thou-

sand rupees in value in the aggregate."

That means, even if dowry was given to the extent of Rs. 2,000, that was not hit by the Bill. The Select Committee introduced certain changes in this definition clause. If hon. Members would be good enough to see the Bill as amended by the Select Committee, they will see that the Select Committee inserted the v/ords. in the second line of clause 2. 'whether directly or indirectly'. That was really introduced as if it were a 'catalexis' but what was originally provided did include anything which was given directly or indirectly but they took away the expression provided in the original clause allowing dowry to the extent of Rs. 2,000. They allowed the expression in favour of persons who were governed by the Muslim Personal Law as regards dower or mahr. When the Bill came up to the Lok Sabha, the further changes made were as follows: If the hon. Members would be good enough to refer to the final shape of the Bill as passed by the Lok Sabha, they will find that certain relevant changes have been introduced, namely, the definition *now* reads as follows:

"'Dowry' means any property or valuable security given or agreed to be given—"

The words 'whether directly or indirectly' will be left out. I personally think that the omission is of little importance because when we say 'given or agreed to be given', it must be given or agreed to be given directly or indirectly . . .

SHRI BHUPESH GUPTA (West Bengal): Why don't you keep it then?

SHRI A. K. SEN: The Lok Sabha deleted it and I can assure the hon. Member that there was no party whip on this.