

**Mr. President :** They were distributed to Members yesterday evening when we were sitting in the House.

**Shri T. T. Krishnamachari :** (Madras: General): Mr. President, Sir, the amendments to articles 59, 62, 141, 175 and 13 would mean reopening the articles already passed. May I suggest that the permission of the House be taken ?

**Mr. President :** Does the House give leave to reopen these articles ?

**Honourable Members :** Yes.

**Shri T. T. Krishnamachari :** Sir, I move:

“That for sub-clause (b) of clause (1) of article 59, the following sub-clause be substituted :—

‘(b) in all cases where the punishment or sentence is for an offence under any law relating to a matter to which executive power of the Union extends’.”

Sub-clause (b) of the original article 59, which relates to the powers of the President to grant pardons, reads thus :—

“(b) in all cases where the punishment or sentence is for an offence under any law relating to a matter with respect to which Parliament has, and the Legislature of the State in which the offence is committed has not, power to make laws.”

This means that the concurrent field would be left in a very nebulous position. In article 60 it is provided that in matters where Parliament so decides the executive power of the Union will extend to the States in respect of subjects falling within the concurrent field. This position will be left nebulous. Therefore the amendment seeks to remedy that defect, making the power of the President to grant pardon to extend to all matters to which the executive power of the Union extends.

There will have to be a consequential amendment in regard to article 141 where the power of pardon is given to the President, which I shall move presently if this amendment is approved by the House.

**The Honourable Shri K. Santhanam :** Sir, I have tabled an amendment to this. I could not send it earlier.

I move :

“That in amendment No. 445 of List XX, in the proposed sub-clause (b) of clause (1) of article 59, after the words ‘offence under any law’ the words ‘made by Parliament’ be inserted.”

I understand the purpose of amendment No. 445, but it goes much wider than its intention, because the executive power of the Union extends not only to laws made by Parliament but also to some of the laws made by the legislature of a State. For instance, in articles 234 and 234A which deal with the giving of directions, the executive power of the Union extends to some laws made by the Legislature of a State. Yesterday, in the matter of financial, emergency, we have provided that the executive power of the Union extends to matters relating to money Bills and financial matters. We do not want that in the case of offences under laws made by a State Legislature the right of pardon should accrue to the President. Therefore I want to limit it to offences under any law by Parliament. The point is when Parliament makes any law under the Concurrent List and gives executive power to the Union Executive then the power of pardon should be with

**Shri H. V. Kamath:** (C. P. & Berar: General): May I suggest that for the word “after” which Mr. Santhanam suggests, the word “from” would be more appropriate? “After” is not correct.

**The Honourable Shri K. Santhanam:** “From” may mean that for the first six months he should be member and afterwards if he ceases to be member he may continue to be minister. That is the lacuna which we are trying to fill up.

**Shri T. T. Krishnamachari :** There is only one point I would like to mention in respect of Mr. Santhanam’s amendment. His amendment is practically the same, except for a minor difference, namely, in a position where a person is a Minister who after having been elected duly and later on during four or five months after the original election some irregularity is found in the election and the election is set aside. Mr. Santhanam’s amendment would not cover such a case. So I would suggest that we should err on the safe side and that the House should accept the amendment moved by me.

**The Honourable Shri K. Santhanam:** I do not press my amendment.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. President :** Then I put No. 446. The question is :

“That in clause (5) of article 62, for the words ‘who from the date of his appointment is, for a period of six consecutive months, not a member’ the words ‘who for any period of six consecutive months is not a member be substituted.’”

The amendment was adopted.

#### Article 147

**Shri T. T. Krishnamachari:** I move No. 447, which reads thus:

“That in article 141, for the words ‘with respect to which the Legislature of the State has power to make laws.’ the words ‘to which the executive power of the State extends’ be substituted.”

I have already explained the position while moving amendment No. 445 which the House was good enough to accept. This merely seeks to remedy the position so far as the Governor’s powers of granting pardon are concerned.

**Mr. President :** The question is ;

“That in article 141, for the words ‘with respect to which the Legislature of the State has power to make laws’ the words ‘to which’ executive power of the State extends’ be substituted.”

The motion was adopted.

#### Article 175

**Shri T. T. Krishnamachari :** Sir, I move:

“That to article 175 the following proviso be added—

‘Provided further that the Governor shall not assent to, but shall reserve for consideration of the President any Bill which in the opinion of the Governor would, if it law, to derogate from the powers of the High Court as to endanger the position which that court is by this Constitution designed to fill’.”

The reason why we have to bring in this amendment at this stage is this. An amendment had been tabled by Dr. Ambedkar—No. 3406 of Volume II of amendments to amendments—seeking to recast the 4th Schedule, which the House has now decided to drop. and therefore Dr. Ambedkar could not move it. In that amendment. in clause (7) provision had been made in regard to the substance of the proviso which I have now moved. If the 4th Schedule had been there, this amendment would not have been necessary. At the time we considered article 175 we were not quite sure whether the 4th Schedule will be a part of the Constitution or not. That is my explanation for bringing forward this amendment.