

12.45 hrs.

ELECTION TO COMMITTEE

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION

THE MINISTER OF EDUCATION AND HEALTH AND SOCIAL WELFARE (SHRI B. SHANKARANAND): Sir, I beg to move:

"That in pursuance of clause 1(g) of paragraph 3 of the Ministry of Education Resolution No. F. 16-10/44-E.III, dated the 30th November, 1945, the members of this House do proceed to elect, in such manner as the Speaker may direct, two members from among themselves to serve as members of the All India Council for Technical Education for the term ending on the 31st July, 1982, subject to the other provisions of the said Resolution."

MR. SPEAKER: The question is:

"That in pursuance of clause 1(g) of paragraph 3 of the Ministry of Education Resolution No. F. 16-10/44-E.III, dated the 30th November, 1945, the members of this House do proceed to elect, in such manner as the Speaker may direct, two members from among themselves to serve as members of the All India Council for Technical Education for the term ending on the 31st July, 1982, subject to the other provisions of the said Resolution."

The motion was adopted.

12. 46 hrs.

ESSENTIAL SERVICES MAINTENANCE (ASSAM) BILL*

MR. SPEAKER: Mr. Yogendra Makwana...

SHRI INDRAJIT GUPTA (Basirhat): Sir, I have already written to

you. I wish to oppose it at the introduction stage...

MR. SPEAKER: Let him seek leave of the House to introduce. Then you oppose it.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI YOGENDRA MAKWANA): Sir, I beg to move for leave to introduce a Bill to provide for the maintenance of certain essential services and the normal life of the community in Assam.

MR. SPEAKER: Motion moved:

"That leave be granted to introduce a Bill to provide for the maintenance of certain essential services and the normal life of the community in Assam."

Mr. Indrajit Gupta.

SHRI INDRAJIT GUPTA: Mr. Speaker, Sir, I hope you will bear with me for a few minutes because it is a very serious matter. Normally any such measure, wherever it may be applied and at any time, in any State, is in our view an obnoxious measure and we have always opposed such measures. They have been recently promulgated in many States—in Maharashtra, in Orissa, in Karnataka, and so on. But I am not going into that aspect of it just now.

This 'Essential Services Maintenance', whether it is an Ordinance or a Bill, is, in our view, a Draconian measure which is utilised and misused very often in order to crush the legitimate trade union rights of the working class and to suppress their struggle. But in this particular case, what I have wanted to raise is this. This Ordinance has been in force since 6th April in relation to Assam seeking to prohibit all strikes. Now, today, as you know, on the 26th day

*Published in Gazette of India Extraordinary, Part II section 2, dated 26-6-80.

[Shri Indrajit Gupta]

of June when we are meeting here, a bandh has been called in Assam. I think, the bandh is the crystallisation of all strikes—the general strike and hartals; the bandh throughout Assam has been called today. This has been happening several times, as you know.

Only three or four days ago, the Prime Minister, as quoted in the press, had written a letter on the 21st June to the leaders of the Assam Students' Union in which she has very correctly, in my opinion, emphasized the matter—which we have also raised many times here—that an atmosphere of goodwill and understanding is necessary to arrive at a political settlement, and she has said that it is necessary to get over the hurdles blocking the way to such negotiations. We know that this Assam crisis cannot be settled except through negotiations and settlement. We find again that the Assam Gana Parishad as well as the students have also issued a statement saying that the dialogue can only be a two-way traffic and could not be resumed if the Government continued repressive measures. This is the stand that they have been taking. They do not wish to go for negotiations unless Government withdraws whatever they describe as repressive measures. I am not going into the merits of this argument at all. What I am trying to point out is this. At this very delicate moment when all of us are interested that this movement that is going on there should be called off and that the way should be opened for the possibility of negotiations, why has this Government taken upon itself to come forward just at this moment in order to convert this Ordinance into a Bill and put it on the Statute Book? Certainly, this is a repressive measure. But my point is that it is a useless measure. This Ordinance has been in force already since April. Have they been able to use it to do anything? Nobody is working in Assam. Offices do not do any work. Government, ..

employees do not work. Policemen do not work. Nobody is attending to his duties. What is the use of this Ordinance? It is worse than a scrap of paper. It can be of no use whatsoever. It can only be a sort of a provocation. Don't give a handle to these extremist elements in Assam to say, 'We have been saying that let these repressive measures be withdrawn. Then there can be negotiations.' It is a provocation to them to say, 'No. Now we are going to make an Ordinance into a statute.' This is not the way to carry out the spirit of the letter addressed by the Prime Minister where she says, 'All hurdles to the path of negotiation should be removed' and I expect the government to work in that spirit. The heavens will not fall if this ordinance is not converted into a statute. Nothing will happen because it is in force already in the form of the Ordinance and it has proved to be useless in the conditions prevailing there and you cannot by means of such an Ordinance and statute prevent people from going on strikes and bandhs, organising bandhs.

Therefore, I would request the government not to rush like a bull in a china shop into all these things. They should consider what the situation in the country is and under the provisions of Art. 123 of the Constitution, the President has the power and if he so desires, he can withdraw the ordinance altogether. Either they can advise him to do that or they should hold their peace till that time. There is still time. The provision says that within six weeks of the assembling of the Parliament this ordinance will either lapse if not ratified and if the Parliament so desires it can be put on the statute book. Even that six weeks period is not yet over and there is still some time in hand. Negotiations are being conducted and some way out may be found.

I would ask Mr. Makwana not to just go on in the old routine method

without thinking about the consequences of it at all. This will be nothing but a serious provocation. Therefore, I oppose this at this stage and I appeal to them not to come forward because it is an illadvised and inopportune measure at this stage.

SHRI SOMNATH CHATTERJEE (Jadavpur): I oppose the introduction of this Bill. Not only it is essentially anti-working class but also constitutionally *ultra vires* apart from being unfirely.

We have seen, as Mr. Gupta has just now said, that although the ordinance has been there since the 6th of April 1980, hardly it has had any impact in the situation prevailing there which is now in the control of the extremists. Further, very significantly on the day on which there is a *bandh*, a total Assam *bandh* has been called, this Bill is being introduced when there is still at least three weeks' time left for converting the ordinance into an Act of Parliament.

This is not a measure only to be taken in Assam. Similar ordinances have been issued in respect of Maharashtra and other States where there is no such situation prevailing. In the Statement of Objects and Reasons of this Bill you will kindly see that the only explanation or the so-called justification of this measure is the situation prevailing in Assam. But if that was so, even apart from the question whether it is of any use, this Statement of Objects and Reasons also does not justify the action that is proposed to be taken. Kindly look at the sweeping provisions in this Bill. You will see clause 2(b) (13) wherein power is being sought to be conferred on the Central Government to declare any service as an essential service saying that any service in connection with the affairs of the Union or the State of Assam not being a specified service in any of the foregoing clauses will be an essential service. I cannot think of

any subject under the Sun within the parameters of the Indian Constitution which will not be covered within the ambit of this clause, without any guidelines, without any indications and inbuilt provisions for preventing the discriminatory use of it which has been repeatedly struck down by the Supreme Court in so many matters.

Sir, sub-clause (xiv) also gives unchannelised powers to the Government to declare any service as an essential service. The definition of 'strike' is such that any normal trade union activity can be brought within the net of 'strike'. It is not simply the definition of 'strike' under the Industrial Disputes Act. Kindly see clause (xiv) (c) (ii) which says:

'any other conduct which is likely to result in the cessation of substantial retardation of work in any essential service'.

There is no indication as to the nature of it. Even refusal to work overtime is also to be treated as strike. Sir, this is an undemocratic law and this is going to stifle seriously and totally even normal trade union activity. We have seen that in Assam where the trade union activities, specially, of the Leftist Trade Unions, are being interfered with. There are sustained agitations against the normal trade union activities of the Leftist Trade Unions. In this way you will not be solving the Assam situation. It will be used as a weapon against the Leftist Trade Union Movement in Assam which is gaining strength and this Government is trying to crush it.

I request the Government not to introduce this Bill at this stage. There is still time. We want a negotiated settlement. Our Party has repeatedly said that let us not escalate the deep feelings of the people there. Let there be a dialogue across the table. As the Prime Minister herself suggested—we have also supported that—let a negotiated settlement be brought

[Shri Somnath Chatterjee]

about to solve this which is a political situation. Don't give draconian powers to the officers who have been openly misusing these. It has been admitted on the floor of this House that the officers are supporting that movement; the police are supporting the movement in whose hands the powers will be given. They will pick and choose those trade union workers who are not dancing to their tunes or they will pick and choose those trade union workers who are not accepting their advice.

Therefore, Sir, this is a very sweeping power which is being given to a section of the officers/authorities who may misuse them. Therefore, I request the Government not to do that. It will only escalate their feelings.

PROF. MADHU DANDAVATE (Rajapur): Even suspension of their Assembly will come in.

MR. SPEAKER: Mr. Yadav.

SHRI CHANDRAJEET YADAV (Azamgarh): I want to oppose item No. 18.

MR. SPEAKER: Mr. Makwana:

SHRI YOGENDRA MAKWANA : Sir, I do not understand why the hon. Members are so much agitated on the introduction of this Bill. This is only in the introduction stage. They can speak on this when it comes up before the House for consideration. At that time they could have raised their objections (*Interruptions*) I am not yielding. This is only the introduction stage. At this stage, they should not have objected to that.

Sir, The Ordinance was issued on the 6th April, 1980; and will lapse on 30th July, 1980, that is, after six weeks, after, the Lok Sabha and Rajya Sabha meet. The House met on the 9th June 1980. Therefore, it has become absolutely necessary to bring it before this House. Therefore, I

request the hon. Members not to object this. At the same time I may assure this House that this will not be used as a weapon (*Interruptions*) I do not yield. In view of this situation prevailing in Assam, it has become absolutely necessary—even the Government servants are participating—to introduce this Bill. I request the hon. Members of this august House to allow me to do that. (*Interruptions*).

MR. SPEAKER: The question is:

"That leave be granted to introduce a Bill to provide for the maintenance of certain essential services and the normal life of the community in Assam".

Those in favour will please say 'Aye'.

SEVERAL HON. MEMBERS: 'Aye'.

MR. SPEAKER: Those against will please say 'No'.

SOME HON. MEMBERS: 'No'.

MR. SPEAKER: I think the 'Aye' have it.

SOME HON. MEMBERS: The 'No's have it.

MR. SPEAKER. You want a division.

SOME HON. MEMBERS: Yes.

PROF. MADHU DANDAVATE: When MISA was introduced, the Home Minister assured that it will not be misused.

MR. SPEAKER: Now, Division. Let the Lobby be cleared.

The lobbies have been cleared. The question is:

"That leave be granted to introduce a Bill to provide for the maintenance of certain essential services and the normal life of the community in Assam."

The Lok Sabha divided:

AYES

[Division No. 1

Abbasi, Shri Kazi Jalil
 Ahmed, Shri Kamaluddin
 Ajit Pratap Singh, Shri
 Appalanaidu, Shri S. R. A. S.
 Arakal, Shri Xavier
 Arunachalam, Shri M.
 Azad, Shri Bhagwat Jha
 Bajpai, Dr. Rajendra Kumari
 Banatwalla, Shri G. M.
 Bansi Lal, Shri
 Barot, Shri Maganbhai
 Bhagwan Dev, Shri
 Bhakta, Shri Manoranjan
 Bhatia, Shri R. L.
 Bhole, Shri R. R.
 Bhoje, Shri Reshma Motiram
 Bhuria, Shri Dileep Singh
 Birender Singh Rao, Shri
 Brijendra Pal Singh, Shri
 Chandra Shekhar Singh, Shri
 Chandrakar, Shri Chandu Lal
 Chandrashekarappa, Shri T. V.
 Chavan, Shri S. B.
 Choudhari, Shrimati Usha Prakash
 Daga, Shri Mool Chand
 Dalbir Singh, Shri
 Damor, Shri Somjibhai
 Dennis, Shri N.
 Dhandapani, Shri C. T.
 Dubey, Shri Ramnath
 Ekka, Shri Christopher
 Era Mohan, Shri
 Faleiro, Shri Eduardo
 Fernandes, Shri Oscar
 Gadgil, Shri V. N.
 Gadhavi, Shri Bheravadan K.
 Gaekwad, Shri R. P.
 Gaikwad, Shri Udaysingrao

[13.08 hrs.

Gehlot, Shri Ashok
 Ghorpade, Shri R. Y.
 Gomango, Shri Giridhar
 Gowda, Shri D. M. Putte
 Gulsher Ahmed, Shri
 Hakam Singh, Shri
 Jaideep Singh, Shri
 Jena, Shri Chintamani
 Jitendra Prasad, Shri
 Kandaswamy, Shri M.
 Karma, Shri Laxman
 Khan, Shri Mushir Ahmed
 Kidwai, Shrimati Mohsina
 Krishna Pratap Singh, Shri
 Kuchan, Shri Gangadhar S.
 Kunwar Ram, Shri
 Kusuma Krishna Murthy, Shri
 Laskar, Shri Nihar Ranjan
 Madhuri Singh, Shrimati
 Mahajan, Shri Y. S.
 Mahendra Prasad, Shri
 Mallanna, Shri K.
 Mallu, Shri A. R.
 Mani, Shri K. B. S.
 Mayathevar, Shri K.
 Mishra, Shri Ram Nagina
 Misra, Shri Harinatha
 Misra, Shri Nityananda
 Mohanty, Shri Brajamohan
 More, Shri Ramkrishna
 Mukhopadhyay, Shri Ananda Gopal
 Murthy, Shri M. Rajashekara
 Murugian, Shri S.
 Muttemwar, Shri Vilas
 Muzaffar Hussain, Shri Syed
 Nagaratnam, Shri T.
 Naidu, Shri P. Rajagopal
 Nair, Shri B. K.
 Nayak Shri Mrutyunjaya
 Odedra, Shri Maldevji M.
 Oraon, Shri Kartik

Panday, Shri Kedar
 Parashar, Prof Narain Chand
 Pardhi, Shri Kesharao
 Patel, Shri Ahmed Mohammed
 Patel, Shri Shantubhai
 Patil, Shri A. T.
 Patil, Shri Chandrabhan Athare
 Patil, Shri Shivraj V.
 Patil, Shri Vasantao
 Patil Shri Veerendra
 Pattabhi Rama Rao, Shri S.B.P.
 Penchalaiah, Shri Pasala
 Pilot, Shri Rajesh
 Poojary, Shri Janardhana
 Potdukhe, Shri Shantaram
 Prabhu, Shri R.
 Prasan Kumar, Shri S N.
 Pushpa Devi Singh, Kumari
 Quadri, Shri S. T.
 Rahim, Shri A A .
 Ram, Shri Ramswaroop
 Ranjit Singh, Shri
 Rao, Shri M Nageswara
 Rao, Shri P V Narasimha
 Rath, Shri Rama Chandra
 Rathod, Shri Uttam
 Raut, Shri Bhola
 Reddy, Shri G. Narsimha
 Reddy, Shri K. Vijaya Bhaskara
 Sangma, Shri P. A.
 Satya Deo Singh, Prof.
 Shankaranand, Shri B.
 Shanmugam, Shri P.
 Sharma, Shri Chiranjil Lal
 Sharma, Dr. Shankar Dayal
 Shastri, Shri Dharam Dass
 Shiv Shankar, Shri P.
 Shivendra Bahadur Singh, Shri
 Sidnal, Shri S. B.
 Singaravadiel, Shri S.
 Singh, Shri C.P.N.

Sivaprakasam, Shri D.S.A.
 Soren, Shri Hari Har
 Soundararajan, Shri N.
 Sparrow, Shri R. S.
 Sreenivasa Prasad, Shri V.
 Subba, Shri P. M.
 Subburaman, Shri A.G.
 Sukhadia, Shri Mohan Lal
 Sunder Singh, Shri
 Tapeswar Singh, Shri
 Tayyab Hussain, Shri
 Tewary, Prof K K.
 Thorat, Shri Bhausahab
 Tiwary, Shri Chandra Bhal ~~Mani~~
 Tripathi, Shri R. N
 Uike, Shri Chhote Lal
 Varma, Shri Jai Ram
 Venka'araman Shri R.
 Vijayaraghavan, Shri V S.
 Virbhadra Singh, Shri
 Vyas, Shri Gurdhari Lal
 Yadav, Shri Ram Singh
 Yadav, Shri Subash Chandra
 Yusuf, Shri Mohamed
 Zamul Basher, Shri

NOES

Agarwal, Shri Satish
 Azmi, Dr A U.
 Balan, Shri A K
 Balanandan, Shri E.
 Chakraborty, Shri Satyasadhan
 Chandra Pal Singh, Shri
 Charan Singh, Shri
 Chatterjee, Shri Somnath
 CHAUDHARY, SHRI MOTIBLAL
 Chavan, Shri Yeshwan rao
 Choubey, Shri Narayan
 Choudhury, Shri Saifuddin
 Dandavate. Prof. Madhu
 Dandavate, Shrimati Pramila

Deo, Shri V. Kishore Chandra S.
 Digamber Singh, Shri
 Gayatri Devi, Shrimati
 Ghosh, Shri Niren
 Giri, Shri Sudhir
 Gopalan, Shrimati Suseela
 Goyal, Shri Krishna Kumar
 Gupta, Shri Indrajit
 Halder, Shri Krishna Chandra
 Hannan Mollah, Shri
 Harikesh Bahadur, Shri
 Hasda, Shri Matilal
 Horo, Shri N. E.
 Imbichibava, Shri E. K.
 Indervesh, Swami
 Jagjivan Ram, Shri
 Karan Singh, Dr.
 Kashyap, Shri Jaipal Singh
 Khan, Shri Mahmood Hasan
 Kunhambu, Shri K.
 Lawrence, Shri M. M.
 Madhukar, Shri Kamla Mishra
 Mahaya, Shri Chitta
 Maitra, Shri Sunil
 Mandal, Shri Dhanik Lal
 Mandul, Shri Mukunda
 Mhalgi, Shri R. K.
 Misra, Shri Satyagopal
 Mukherjee, Shri Samar
 Negi, Shri T. S.
 Nihal Singh, Shri
 Pal, Prof. Rup Chand
 Pandit, Dr. Vasant Kumar
 Paswan, Shri Ram Vilas
 Premi, Shri Mangal Ram
 Rahi, Shri Ram Lal
 Rai, Shri M. Ramanna
 Rajan, Shri K. A.

Rajda, Shri Ratansinh
 Ram Kinkar, Shri
 Rasheed Masood, Shri
 Roy, Shri A. K.
 Roy, Dr. Saradish
 Roy Pradhan, Shri Amar
 Saha, Shri Ajit Kumar
 Saini, Shri Manohar Lal
 Saran, Shri Daulat Ram
 Sen, Shri Subodh
 Shajlani, Shri Chandra Pal
 Shakya, Shri Daya Ram
 Shamanna, Shri T. R.
 Shastri, Shri Rajnath Sonkar
 Shastri, Shri Ramavatar
 Shejwalkar, Shri N. K.
 Singh, Shri B. D.
 Sinha, Shri Satyendra Narayan
 Swamy, Dr. Subramaniam
 Thomas, Shri Skariah
 Varma, Shri Ravindra
 Verma, Shri Chandradeo Prasad
 Verma, Shri Raghunath Singh
 Verma, Shri Shiv Sharan
 Yadav, Shri Chandrajit
 Yadav, Shri R. P.

Zainal Abedin, Shri

MR. SPEAKER: The result of the Division is:

Ayes: 145*

Noes: 79

The Ayes have it; the Ayes have it.
 Leave is granted.

The motion was adopted

MR. SPEAKER: Shri Makwana to introduce the Bill.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI YOGENDRA MAKWANA):

Sir, I introduce the Bill.

SHRI NIREN GHOSH (Dum Dum): Mr. Speaker, Sir, I rise on a point of order. I want to draw your attention to rule 367A(2). The Speaker is duty-bound when it comes on the indicator to announce it. Any correction can come only after that and not before. The rule 367A (2) says:

“After the result of the voting appears on the indicator board, the result of the Division shall be announced by the Speaker and it shall not be challenged.”

MR. SPEAKER: You have to read also parts (3) and (4) of the same Rule which say:

“(3) A member who is not able to cast his vote by pressing the button provided for the purpose due to any reason considered sufficient by the Speaker, may, with the permission of the Speaker, have his vote recorded verbally by stating whether he is in favour of or against the motion, before the result of the Division is announced.

(4) If a member finds that he has voted by mistake by pressing the wrong button, he may be allowed to correct his mistake, provided he brings it to the notice of the Speaker before the result of the Division is announced.”

So, it is alright.

The House stands adjourned for one hour to meet at 1420 hours.

The Lok Sabha adjourned for Lunch till twenty minutes past Fourteen of the Clock.

Lok Sabha reassembled after Lunch at twenty-two minutes past Fourteen of the Clock.

[MR. GULSHER AHMED in the Chair]

STATEMENT RE ESSENTIAL SERVICES MAINTENANCE (ASSAM), ORDINANCE

MR. CHAIRMAN: Now, we shall take up item No. 15 of the List of Business. Shri Yogendra Makwana.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS: (SHRI YOGENDRA MAKWANA):

I beg to lay on the Table an explanatory statement (Hindi and English versions) giving reasons for immediate legislation by the Essential Services, Maintenance (Assam) Ordinance, 1980.

NATIONAL COMPANY LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) BILL*.

MR. CHAIRMAN: Next item No. 16 Shri Pranab Kumar Mukherjee.

THE MINISTER OF COMMERCE AND STEEL AND MINES (SHRI PRANAB MUKHERJEE):

I beg to move for leave to introduce a Bill to provide for the acquisition and transfer of the undertakings of Messrs. National Company Limited with a view to securing the proper management of such undertakings so as to subserve the interests of the general public by ensuring the continued manufacture, production and distribution of articles made of jute, which are essential to the needs of the economy of the country and for matters connected therewith or incidental thereto.