

श्री रवि राय : कोई वायर पुलिंग नहीं होना चाहिये ।

SHRI ANNASAHIB SHINDE : I have conceded the point that appointments in the Food Corporation should be strictly on merit and that should be the only criterion for selection.

SHRI S. KANDAPPAN : You are avoiding the question of retrenchment.

SHRI ANNASAHIB SHINDE : I do not want to say anything which may not be correct. I have gone into the telegram which is from Tanjore of Madras I have no immediate information. I will try to get the information, but I have explained the broad approach of the Government. As a result of this transfer of the employees of the Food Department the intention is not to retrench the employees of the Food Corporation who have been directly recruited.

I have already explained the position.

श्री रवि राय : भविष्य में भी नहीं करेंगे ? .. (व्यवधान) ...

SHRI ANNASAHIB SHINDE : I am sorry to say—because I have explained this point. (Interruptions). The employees are being transferred along with their work. Therefore, as a result of transfer.....

MR. DEPUTY-SPEAKER : How much more time will the hon. Minister take ?

SHRI ANNASAHIB SHINDE : I will take about 7 or 8 minutes more.

MR. DEPUTY SPEAKER : He may then continue after lunch.

RE. BUSINESS OF THE HOUSE

MR. DEPUTY-SPEAKER : At the request of Shri Madhu Limaye and Shri Fernandes, the discussion under Rule 193 has been deferred.

13 hrs.

The Lok Sabha adjourned for Lunch
till Fourteen of the Clock

The Lok Sabha then re-assembled after Lunch at five minutes past Fourteen of the Clock.

[SHRI R. D. BHANDARE in the Chair]

FOOD CORPORATION (AMENDMENT) BILL—Contd.

MR. CHAIRMAN : The hon. minister may continue.

श्री जार्ज फरनेन्डीज (बम्बई दक्षिण) : सभापति महोदय, अभी इस सदन के अन्दर जो विधेयक आने वाला है उस के सिलसिले में व्यवस्था सम्बन्धी प्रश्न उठाना चाहता हूँ..

सभापति महोदय : उसके आने के बाद आप अपनी व्यवस्था को बात सुनाइयेगा ।

श्री जार्ज फरनेन्डीज : आप पहले मेरी बात सुन तो लीजिये । मेरी इस सदन के कामकाज के बारे में एक बहुत ही बड़ी तकलीफ है.....

सभापति महोदय : वाद में रखियेगा ।

श्री जार्ज फरनेन्डीज : आप एक मिनट केवल मेरी बात सुन लें क्योंकि अगर अभी आप नहीं सुनते हैं तो वह बाद में बेमतलब हो जायगी ।

आज सुबह बम्बई के मजदूरों के संगठनों की ओर से एक पेटिशन मराठी भाषा में मैंने लोकसभा सचिवालय के दफ्तर में दी है । जिसको कि मुझे सदन में पेश करना है लेकिन दफ्तर मुझे यह कह करके कि उसके हिन्दी अथवा अंग्रेजी अनुवाद के बिना अनुमति नहीं दी जा सकती है । उसको पेश करने की इजाजत नहीं दे रहा है ।

SHRI ANNASAHIB SHINDE : Sir, I have already satisfied hon. members in regard to the important matters raised by them. Various figures have been mentioned about the number of directly recruited employees of the Food Corporation as 3000 and above. The number is not so big. There are only about 2300 direct recruits and out of them, category 3-quality inspectors—form the bulk. There

should not be any difficulty about them, because that staff was originally short with the Food Department. As far as their prospects are concerned, I do not think there would be any difficulty.

Though not directly concerned with the Bill, a point was made about political appointments, specially the Chairman. The Chairman who has been appointed now, Shri Shah Nawaz Khan, belongs to a minority community. That is not a point on which there should be any criticism. In fact, we should be proud of that. Even then, we have taken the decision on merits. He is a patriot of long standing.

AN HON. MEMBER : A defeated candidate.

SHRI ANNASAHIB SHINDE : that does not mean that he is not a competent person. He has had long ministerial experience. He is a patriot of INA fame. He is a person who devotes himself to his work. While he was Chairman of the National Seeds Corporation, he did outstanding work. I would not have touched on this but for the criticism made by a number of hon. members.

The Food Corporation is one of the very important organisations, which has been designed to protect the interests of both the producers and the consumers. The food problem has been with us for the last 30 to 40 years. You know what happened during the British regime in 1943, when lakhs of people died of starvation, because there was no public sector agency.

At that time, a commission was appointed to go into the question of the causes of the famine etc. Even at that time, the commission of inquiry had suggested that unless Government were in a position to effectively intervene with a public sector agency, it would not be possible for the Government of India to handle the food situation properly. Our experience in 1966-67 also has indicated that we were able to overcome a very difficult situation because the Food Corporation of India was there.

What I am trying to suggest is that the

good-will of all the hon. Members is necessary so that we can develop the Food Corporation as a very powerful instrument to serve the interests of our country and the interests of the producers and the consumers. I hope, therefore, that hon. Members will have a sympathetic approach towards this Bill.

As far as the present Bill is concerned, I am glad that a number of Members, especially like Shri N. Sreekantan Nair have expressed the view that for the first time Government have come forward with a progressive legislation. I hope that with this sentiment, all hon. Members will co-operate and see that the Bill is passed as early as possible.

SHRI N. SREEKANTAN NAIR (Quilon) : He has not said anything about the disciplinary action to which I had referred.

SHRI ANNASAHIB SHINDE : That will come up when the amendments are taken up.

MR. CHAIRMAN : Now, I shall put Shri Deven Sens' motion for circulation of the Bill to vote.

The question is :

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th February, 1969." (15)

The motion was negatived.

SHRI VISHWANATH PANDEY : I seek leave of the House to withdraw amendment No. 26.

Amendment No. 26 was by the leave withdrawn

MR. CHAIRMAN : The question is :

"That the Bill to amend the Food Corporations Acts, 1964 and to declare the Central Government as the appropriate Government under the Industrial Disputes Act, 1947 in relation to the Food Corporation of India, be taken into consideration."

The motion was adopted.

Clause 2—(Insertion of new section 12.A)

MR. CHAIRMAN : Now, we shall take up the clauses. First, we shall take up clause 2. Hon. Members who have amendments and want to move them may do so now.

SHRI ANNASAHIB SHINDE : I beg to move :

Page 2, —

for lines 9 to 11, substitute—

“Provided that no order under this sub-section shall be made in relation to any officer or employee in such Department or office who has, in respect of the proposal of the Central Government to transfer such officer or employee to the Corporation, intimated within such time as may be specified in this behalf by that Government, his intention of not becoming an employee of the Corporation.” (3)

Page 2, line 35,—

for “the retirement or” substitute—

“the leave, provident fund, retirement or” (4)

Page 2, line 38,—

for “the provident fund or” substitute

“the leave, provident fund or” (5)

Page 3, lines 31 and 32,—

for “as may be prescribed” substitute—

“as may be specified in the regulations made by the Corporation under this Act”. (6)

SHRI DEVEN SEN (Asansol) : I beg to move :

Page 2, lines 5 and 6,—

for “any of the officers or employees” substitute—

“all the officers and employees”. (7)

Page 2, —

after line 11, insert—

“(1 A) All the officers and employees transferred to the Corporation under sub-section (1) shall be deemed to have been declared permanent before their transfer.” (9)

Page 2,—

for lines 12 to 16, substitute—

“(2) Notwithstanding anything contained in section (1) the Central Government shall not transfer but absorb in an equivalent post in any of the Departments of the Central Government, an officer or employee serving in the Department of Food or any of its subordinate or attached offices, who in writing expresses his desire not to be transferred to the Food Corporation.” (10)

Page 2, line 19,—

omit “cease to be an employee of the Central Government and” (11)

Page 2,—

after line 27, insert—

“Provided that the Corporation shall not make any rules and regulations which may render the conditions of service of such employees in any way or at any time less favourable than the conditions of service applicable to officers and employees of comparable status under the Central Government :

Provided further that notwithstanding transfer to the Corporation, all the aforesaid officers and employees shall continue to enjoy such of the facilities as were available to them before the said transfer by virtue of their service under the Central Government.” (12)

Page 4,—

omit lines 12 to 15. (13)

Page 4,—

after line 15, insert—

“Provided that an appeal shall lie to a board of appeal comprising the Home

Secretary, the Labour Secretary and the Food Secretary of the Central Government against any order of dismissal or removal or reduction in rank." (14)

Page 4,—

after line 26, insert—

"12B. (1) Notwithstanding anything contained in section 12 A the Corporation shall within a period of six months from the date of passing of the Food Corporation (Amendment) Act, 1968, make regulations or amend its existing regulations to provide for safeguarding the interests of the sections of the employees other than those covered by sub-section (1) of section 12A as regards their security of tenure, seniority and promotion.

(2) On their transfer to the Corporation, the employees referred to in sub-section (1) of section 12A shall be treated on par with the other section of the employees in all respects." (19)

SHRI VISHWA NATH PANDEY (Salempur) : I beg to move :

Page 2, line 29,—

for "six" substitute—

"three". (21)

Page 4,—

after line 26, insert—

"12B. (1) Notwithstanding anything contained in section 12A the Corporation shall within a period of three months from the date of passing the Food Corporations (Amendment) Act, 1968 amend its existing regulations to provide for safeguarding the interests of the sections of the employees other than those covered by sub-section (1) of section 12A, as regards their security of tenure, seniority and promotion." (22)

SHRI LOBO PRABHU : I beg to move :

Page 3,—

after line 5, insert—

"Provided further that for making the staff permanent, the staff of the Corporation and that transferred to it shall be treated separately and shall be made permanent on the previous ratio of permanent to temporary in each cadre." (27)

Page 4,—

omit lines 7 to 20. (28)

Page 4, line 21,—

for "Nothing" substitute—

"Subject to sub-section (4), nothing". (29)

SHRI DEVEN SEN ; I beg to move :

Page 2, lines 7 and 8,—

for "or any of its subordinate or attached offices and engaged in the performance of those functions" substitute—

"under the Directorate General of Food dealing with those functions which under Section 13 are functions of the Corporation". (30)

Page 2, line 24,—

after "remuneration" insert—

"continuity of service," (32)

Page 2,—

after line 27, insert—

"Provided that in the absence of an equivalent grade in the Corporation any officer or employee of the Department of Food shall be fixed in the next higher grade in the Corporation :

Provided further that every officer or employee transferred to the Corporation by the Central Government shall be considered for promotion to a post not lower than the one to which he would have been promoted by the Government, but for his absorption in the Corporation." (33)

Page 3;

after 26, insert

“Provided further that for the purpose of fixation of pay the officers and employees transferred to the corporation in each region shall be deemed to have been transferred from the date the first programme of transfer commenced in that region: Provided also that *inter se* seniority of the officers and employees transferred by the Central Government to the Food Corporation of India shall remain unchanged irrespective of the date or dates of their transfer to the Corporation.” (34)

Page 4, line 2,

add at the end

“Duly carried out under the rules made by the President of India from time to time which would have governed him as an officer or employee of the Central Government” (35)

SHRI TENNETI VISWANATHAN
(Vishakhapatnam) : Sir, I beg to move :

Page 2,

after line 27, insert—

“Provided that in the event of any retrenchment of employees of the Corporation or the winding up of the Corporation it shall be the responsibility of the Central Government to absorb these Central Food employees either in the Food Department, if revived or in any other Department under the Government of India, without adversely affecting their continuity of service, pay, pension, rights and other condition of service and in such an event the period of service rendered in the Food Department as well as the Food Corporation of India of an officer or an employee shall be deemed to be in service rendered under the Central Government for all purposes :

Provided also that the Corporation shall not make any rules and regulation which may render the conditions of service of such employees in any way or at any time less favourable than the

conditions of service applicable to officers and employees of comparable status under the Central Government :

Provided also that notwithstanding transfer to the Corporation all the aforesaid officers and employees shall continue to enjoy such of the facilities as were available to them before the said transfer by virtue of their service under the Central Government.

(3A) For the purpose of fixation of Pay, the officers and employees transferred to the Corporation in each region shall be deemed to have been transferred from the date the first programme of transfer commenced in that region and the pay of every such officer or employee shall be fixed nationally as from that date.

(3B) In fixing the seniority of any officer or employee transferred from the Department of Food *vis-a-vis* the staff employed, by the Food Corporation of India from other sources the period of continuous service rendered in the Department of Food in a grade which may be equated with a grade in the Food Corporation of India shall be treated as service in that equivalent grade in the Corporation.” (44)

SHRI SHINKRE (Panjim) : I beg to move :—

Page 2, line 11,—

for “1966” substitute “1965” (47)

Page 4,—

after line 26, insert—

“12 B. (1) Notwithstanding anything contained in section 12 A the Corporation shall within a period of six months from the date of passing the Food Corporations (Amendment) Act, 1968 make regulations to provide for safeguarding the interests of the sections of the employees other than those covered by sub-section (1) of section 12 A as regards their security of tenure, seniority and promotion.

(2) On their transfer to the Corporation, the employees, referred to in sub-section (1) of Section 12 A shall be treated at par with the other section of the employees in

all respects other than those covered by section 12 A and the regulations made under sub-section (1)." (48)

SHRI N. SREEKANTAN NAIR : I beg to move :—

Page 4,—

for lines 18 to 26, substitute—

"Inquiry as is referred to in sub-section (5), an appeal may be made to the Secretary to the Department of Food and his decision shall be final." (61)

SHRI P. VISWAMBHARAN (Trivendram) : I beg to move ;

Page 4,—

after line 26, insert—

"12 B. Notwithstanding anything contained in section 12 A, the Corporation shall within a period of six months from the date of passing of the Food Corporations (Amendment) Act, 1968 make regulations or amend its existing regulations to provide for safeguarding the interests of the sections of employees other than those covered by sub-section (1) of section 12 A as regards their security of tenure, seniority and promotion." (62)

SHRI TENNETI VISWANATHAM : I beg to move :

Page 4, -

after line 26, insert—

"Provided, however, that direct recruits and transferees shall be treated in the same way as direct recruits and promotees are treated in Government Departments (which permit direct recruitment) in the matter of fixing seniority." (65)

SHRI CHANDRIKA PRASAD (Ballia) : I beg to move :

Page 4,—

after line 26, insert—

"12 B. (1) Notwithstanding anything contained in section 12 A the Corporation

shall within a period of six months from the date of passing the Food Corporations (Amendment) Act, 1968 make regulations or amend its existing regulations to provide for safeguarding the interests of the sections of the employees other than those covered by sub-section (1) of section 12 A as regards their security of tenure, seniority and promotion.

(2) On their transfer to the Corporation the employees, referred to in sub-section (1) of section 12 A shall be treated at par with the other section of the employees in all respects other than those covered by section 12 A and the regulations made under sub-section (1)." (64)

SHRI DHIRESWAR KALITA (Gauhati) : I beg to move :

Page 3,—

after line 5, insert—

"Provided further that while making the staff permanent, the staff transferred by virtue of section 12 A above and the directly recruited staff shall be treated separately and in so far as the former are concerned only such staff as were permanent as on 31st December, 1964 shall be considered as permanent in the Corporation as from 1st January, 1965 while the directly recruited staff shall be confirmed as per Corporation Rules and Regulations." (66)

Page 4,—

after line 26, insert—

"(8) In the case of retrenchment as a result of shrinkage of business in the Corporation, the directly recruited employees shall not be retrenched so long as all the staff covered by sections 12 A are transferred and accommodated in other Departments of the Government of India.

(9) In the event of the Corporation being wound up, all its employees, including the directly recruited employees shall be absorbed in the Government of India." (67)

श्री बेबेन सेन (आसनसोल) : सभापति महोदय, मेरी पहली एमेंडमेंट सात नम्बर की है। इसमें मैंने कहा है :

Page 2, lines 5 and 6, for 'any of the officers of employees' substitute 'all the officers and employees'.

यानी एक एक इंडिविजुअल को ट्रांसफर किया जाएगा, थोड़ा-थोड़ा करके और थोड़ी-थोड़ी तादाद में ट्रांसफर किया जायेगा। इससे दिक्कत पैदा होगी जैसे अभी पैदा हुई है। जो ट्रांसफर हो कर आयेंगे, उनकी सीनियारिटी इत्यादि को लेकर झगड़ा पैदा होगा। इसलिए मैंने कहा है एनी आफ दि आफिसर्स आर एम्प्लायोज के स्थान पर आठ दि आफिसर्स एंड एम्प्लायोज रख दिया जाए। एनी एम्प्लायोज आर आफिसर्स लिखने का कोई मतलब नहीं है।

एमेंडमेंट नम्बर आठ सरकार ने मंजूर कर ली है, इसलिए मैं उसके बारे में कुछ नहीं कहना चाहता हूँ।

MR. CHAIRMAN : Is the hon. Minister accepting amendment No. 8 ?

SHRI ANNASAHIB SHINDE : I have moved an amendment which incorporates in itself the amendment which has been tabled by my hon. friend.

श्री बेबेन सेन : मेरी नौ नम्बर की जो तरमीम है उसका मश्रा यह है कि जो एम्प्लायी ट्रांसफर होकर आएगा, उसको पहले से ही परमानेंट हुआ समझा जाएगा, ट्रांसफर के पहले ही यह समझा जाएगा कि वह परमानेंट था। आने के बाद यह झगड़ा ही नहीं रहेगा कि तुम परमानेंट थे या नहीं थे। इसकी छानबीन ही करने की नीबत नहीं आएगी और न ही छंटनी करने की नीबत आएगी। इस तकलीफ से बचने के लिए ही मैंने यह एमेंडमेंट दी है कि उसको पहले से ही परमानेंट डिक्लेयर कर दिया जाए।

मेरी दस नम्बर की जो एमेंडमेंट है उसकी ओर अब मैं आपका ध्यान खींचना चाहता हूँ। मैंने इस में यह चाहा है कि अगर कोई कर्मचारी खाद्य विभाग को लिखित रूप में यह सूचना दे दे कि मैं ट्रांसफर नहीं होना चाहता हूँ तो उसको ट्रांसफर नहीं किया जायेगा और उसको सरकार किसी न किसी जगह पर एन्जाब कर लेगी। हम लोग किसी को मजबूर नहीं करना चाहते हैं कि तुम को जाना ही पड़ेगा कारपोरेशन में। हम उनको फ्रीडम देना चाहते हैं जाने की। अगर वे जाना चाहते हैं तो जायें और अगर नहीं जाना चाहते हैं तो न जायें लेकिन उनकी नौकरी सुरक्षित रहेगी।

जहां तक मेरी ग्यारह नम्बर की एमेंडमेंट का सम्बन्ध है, मंत्री महोदय ने सबेरे जो एक्सप्लेनेशन दिया है उससे हम सन्तुष्ट नहीं हैं। यह इस प्रकार है :

Page 2, line 19, omit 'cease to be an employee of the Central Government and'.

आपने कहा है कि एक बार वह कारपोरेशन में चला जाएगा तो वह सेंट्रल गवर्नमेंट का एम्प्लायी नहीं रहेगा। हमारी दिक्कत यह है कि अगर कारपोरेशन का एम्प्लायी उसको मान लिया जाएगा तो सेंट्रल गवर्नमेंट के एम्प्लायोज को जो सुविधायें प्राप्त होती हैं, जैसे पेंशन की है या एड्युकेशनल एलाउंसिस की हैं या और दूसरी हैं, ये सब कारपोरेशन के एम्प्लायी बनने के बाद उनको प्राप्त होंगी या नहीं, इसको इस बिन्दु में स्पष्ट रूप से लिखा नहीं गया है। मंत्री महोदय ने कहा तो है कि ये सब उनको मिल जाएंगी। लेकिन इस तरह की ब्लैकट एश्योरेंस का कोई मतलब नहीं होता है। बिल में यह सब चीज होनी चाहिये। अगर बिल में आ जाए तो हम मंजूर कर लेंगे।

जहाँ तक एमेंडमेंट बहार का सम्बन्ध है, वह इस प्रकार से है :

Page 2, after line 27, insert :

"Provided that the Corporation shall not make any rules and regulations which may render the conditions of service of such employees in any way or at any time less favourable than the conditions of service applicable to officers and employees of comparable status under the Central Government."

क्लाज 12 ए (3) में कहा गया है :

to be governed by the regulations made by the Corporation under this Act.

लेकिन हम लोग चाहते हैं कि इस बात की स्पष्ट रूप से व्यवस्था होनी चाहिये कि उन रेगुलेशन्स के जरिये से उन कर्मचारियों को ट्रांसफर से पहले की मेवा-शर्तों में किसी प्रकार का प्रतिकूल परिवर्तन न किया जाये। इसलिए मैंने सशोधन संख्या 12 में यह प्रोवाइजो रखा है :

"Provided further that notwithstanding transfer to the Corporation, all the aforesaid officers and employees shall continue to enjoy such of the facilities as were available to them before the said transfer by virtue of their service under the Central Government."

उन लोगों को सेंट्रल गवर्नमेंट के एम्प्लाइज होने के नाते हार्जिसिंग, विडो पेन्शन और दूसरी बहुत सी सुविधायें प्राप्त हैं। आज सब सरकारी दफ्तरों में डिक्टेटरशिप चल रही है। हो सकता है कि कार्पोरेशन अपने रेगुलेशन्ज बनाये और उन कर्मचारियों से कहे कि अब वे सुविधायें उन्हें नहीं मिलेगी; यदि वे रहना चाहें, तो उन्हें वना वापिस चले जायें। इसलिए उन लोगों के हितों की हिफाजत के लिए यह संशोधन रखा गया है।

सब-क्लाज (5) (बी) (iii) में कहा गया है :

It shall not apply

"to an officer or employee who, after transfer to the Corporation, is appointed

to a higher post under the Corporation in response to an open advertisement and in competition with outsiders."

संशोधन संख्या 13 के द्वारा मैं चाहता हूँ कि इन लाइनों को ओमिट कर दिया जाये। इस सब-क्लाज का अर्थ यह है कि जो हक दूसरों को प्राप्त है, वह उन लोगों को प्राप्त नहीं होगा, जो कि ट्रांसफर के बाद कार्पोरेशन में ऊँचे पद पर नियुक्त हो गये हैं। मैं इसको बहुत बड़ा अन्याय समझता हूँ और चाहता हूँ कि इस प्राविजन को हटा दिया जाये।

श्री विश्वनाथ पाण्डेय (सलेमपुर) :
सभापति महोदय, फूड कार्पोरेशन्स एक्ट, 1964 में जो नया सेक्शन 12 ए जोड़ा जा रहा है, उसमें उन कर्मचारियों की तन्स्वाह, सीनियारिटी, प्रोमोशन और पेन्शन आदि सेवा-शर्तों के संरक्षण के लिए प्रावधान किया गया है, जो कि केन्द्रीय स्टाफ मंत्रालय या उस के किसी विभाग से स्टाफ निगम में आये हुए है। लेकिन जो कर्मचारी सीधे स्टाफ निगम के द्वारा नियुक्त किये गये हैं, इसमें उनको छोड़ दिया गया है। मैं समझता हूँ कि प्रजातन्त्र में इस प्रकार का विभेद करना मुनासिब नहीं है। जो कर्मचारी केन्द्रीय स्टाफ मंत्रालय या किसी अन्य विभाग से आये हैं, उनकी संख्या करीब 18,000 है और जिन कर्मचारियों की नियुक्ति सीधे स्टाफ निगम के द्वारा हुई है, उनकी संख्या 3,000 के करीब है और वे विशेष योग्यता रखते हैं। मैं चाहता हूँ कि उन लोगों की नोकरी, तन्स्वाह, सीनियारिटी, प्रोमोशन और पेन्शन आदि के संरक्षण के लिए व्यवस्था होनी चाहिए और इस लिए मैंने संशोधन संख्या 22 के द्वारा एक नया सेक्शन 12 बी जोड़ने का सुझाव दिया है। मुझे आशा है कि मंत्री महोदय मेरे इस संशोधन को स्वीकार कर लेंगे या इस बात पर प्रकाश डालेंगे कि किस प्रकार उन लोगों की तन्स्वाह, सीनियारिटी आदि को संरक्षण दिया जायेगा।

SHRI LOBO PRABHU (Udipi) : Sir, I have to admire the Minister for his spirit of optimism (SHRI ANNASAHIB SHINDE ; I hope, you are not a pessimist) in respect of the difficulties in settling this very large staff of 20,000 members. I would like him to understand the complexities because as a Minister his role is a very clear one but when Government servants and others of a lower order are concerned, things are not as easy and require to be understood.

Under this particular Bill no less than six new classes are being created in respect of the Food Department employees. Firstly, there are those who are recruited after 1965. They are excluded from employment. Secondly, you have the class of those who elect for the Food Department scales of pay and pension. Thirdly, you have those who elect for the Corporation's scales of pay and retirement. Fourthly, you have got a class of people who have been transferred in advance of others and have been promoted. There is a provision for them. Fifthly and sixthly, you have got this very large class of those who are permanent and who are not permanent.

I made an enquiry from the Secretary of the Ministry as to what proportion—I did not say, what numbers—is permanent and what proportion is not permanent. He was not able to give me a reply. These factors are very important because you are dealing with six classes.

As far as the Food Corporation employees are concerned, there are two classes—those who have been confirmed after one year of service and those who have not been confirmed after one year of service.

These categories are relevant when at least three situations arise. First is the situation of retrenchment. It is no use pretending that there will be no retrenchment. My hon. friend, Shri Kandappan, has already mentioned a telegram that he has received. There cannot be the slightest doubt that because duplication exists a number of people will have to be retrenched.

A question was raised about the workload. The fact remains that sooner or later, whether the Minister is so pessimistic about it that we shall have scarcity for ever there are a lot of people who think that the food problem can be solved if left to itself and he himself emphasizes all the time that we have had a break through in agriculture, we have increased irrigation and our food production must rise. To that extent the food problem must shrink and the staff will be surplus. When this is the position and retrenchment is an actual fact, what are you going to do ?

There are people in the Food Department who are not permanent even after 16 years of service and there are people in the Food Corporation who are permanent even after two years of service. When retrenchment arises, will the Minister tell me whether he is going to retrench first those who are not permanent for 16 years in the Food Department or those who are permanent only after two years' service in the Food Corporation ? What is the relative priority he is giving to these two classes ? I can bring out other classes, but to make it simple let him here and now say whether the total period of service in the Food Department will be considered or whether the question will be only whether such-and-such a person is permanent or not.

Take the question of promotion. The same problem arises here. Permanent men have a right over those who are not confirmed. What is going to happen ? Is the Food Corporation man with three years' service to have a right of promotion over someone with 16 to 18 years' service in the Food Department ?

Then again there is a question of their qualifications for the various posts. They have fixed a little higher qualifications for the Food Corporation. What is going to happen to the right of promotion of those who do not satisfy these qualifications ? Will those who normally would have been promoted to their own vacancies in the Food Ministry not be promoted now ?

Considering all these, I had made what

I had considered a very necessary amendment, to leave things as they are. No doubt, my good friends here have been pressing for the amalgamation of the two time and again, but they did not consider these complexities. There was no harm in leaving the Food Department official in the Corporation as on deputation.

But you have left it there. I am not pressing that now. All I am saying is that you treat the two categories as separate in respect of retrenchment and promotion. Don't mix them up. You fix the ratio of permanent and non-permanent as it is. It is not a difficult thing. If you don't do, you will have to face so many difficulties and so many complications. All the time, these officials will be spending time in equation of posts and in disposing of writs against orders passed by Government. I have no doubt that there will be intervention from the courts because it is very easy to file a writ that the rights of certain persons have been affected. So, you please consider it very carefully. Even if you are amalgamating the two cadres, keep them separately.

Now, I come to another amendment which relates to certain provisions which I have not been able to understand. You provide that where the authorities cannot find enough evidence, they may record as such and dismiss an employee. This is clearly against article 311. This is against all ethics. When you have no evidence, you dismiss an employee. This provision should go because the benefit of your doubt should go to the employee and not to Government.

Then, I do not see why an officer who has been appointed to a higher post should be exempt from this procedure. That is something which I am not able to understand. You may please explain that further.

My last amendment is in respect of secretariat staff. The hon. Minister said that they were doing the work of policy and they would not be involved and in this particular transfer, they would have no work in the Food Corporation. I would like him to please read that clause very carefully which says.

".....members of the Central Secretariat service or any other service or a person on deputation to the Department....."

They are not in the Secretariat; they are on deputation to the Department. They have a certain work in the Department and that work is now transferred to the Food Corporation. I have suggested an amendment that you allow an option of remaining on the Food Department's scale or on the Government scale. These officers should be allowed the right to join the Food Corporation. The hon. Minister's presumption is not correct to say that they are dealing only with policy.

MR. CHAIRMAN : Shri Kalita.

SHRI DEVAN SEN : Sir, I want to speak on my amendment Nos. 32, 33, 34 and 35.

MR. CHAIRMAN : I told you to speak on all amendments.

SHRI DEVAN SEN : It was difficult to point out the relevant amendments and to speak on them at that time. These are important amendments. I want to speak on them.

MR. CHAIRMAN : All right; I will call you after him.

SHRI DHIRESWAR KALITA (Gauhati) : I agree with Mr. Lobo Prabhu. All amendments which we have moved are regarding employment security to the employees. If their employment security is assured in this enactment itself, we shall withdraw all the amendments. Yesterday he was also, categorically questioned about the direct recruits. Today, he has assured that nearly 2,300 direct recruits are there and they will not be retrenched immediately. But we do not find this guarantee in the Act. That is why we have moved these amendments. Your oral assurance will not do. Although we agree that the Bill should be passed, there should be a certain minimum guarantee in the Act itself to the employees who have been working for years together. I hope the hon. Minister will agree while he assures the House that their services will

[Shri Dhireswar Kalita]

not be rendered surplus and that their services will be kept in tact. Why should not that be put in the Act itself ?

Therefore, I would request the hon. Minister to accept my amendments on Pages 3 and 4.

श्री देवेन सेन : मैं अपने अमेंडमेंट नं० 32 को पेश करता हूँ। इसमें है कि पन्ना 2 लाइन 24 पर जहाँ पर रेस्युनरेशन है वहाँ उसके बाद कांटीन्यूइटी आफ सर्विस लिखा जाय। इस बिल में हर एक जगह पर लोअर, वेजेज वर्गैरह का जिक्र किया गया है लेकिन कहीं पर कांटीन्यूइटी आफ सर्विस का जिक्र नहीं है और हम लोगों के दिल में शक है कि कांटीन्यूइटी आफ सर्विस नहीं रहेगी। इसलिए उसकी हिफाजत करने के लिए यह मेरा छोटा सा अमेंडमेंट है।

अमेंडमेंट नम्बर 33 भी ऐसा ही हिफाजत के लिए।

Page 2,

after line 27, insert

“Provided that in the absence of an equivalent grade in the Corporation any officer or employee of the Department of Food shall be fixed in the next higher grade in the Corporation :”

मैंने देखा कि अभी जो ग्रेड्स आए खाद्य विभाग के और कारपोरेशन के वह मिलते जुलते नहीं हैं। कहीं तलब ज्यादा है, कहीं ग्रेड दूसरा है। इसलिए मेरी तरमीम है कि अगर ट्रांसफर किया जायगा और प्रमोशन का बफ आएगा तो इक्विवैलेंट ग्रेड में उसको बैठाना पड़ेगा। वह नीचे न चला जाय। जूनियर गोडाउन कीपर के लिए ऐसा किया गया। जूनियर गोडाउन कीपर जो है वह कारपोरेशन में जायगा तो नीचे के ग्रेड में उसको रखा गया है। इसका एक प्राविजो और है कि :

“Provided further that every officer or employee transferred to the Corporation by the Central Government shall be considered for promotion to a post not lower than the one to which he would have been promoted by the Government, but for his absorption in the Corporation.”

इसका मतलब साफ है। इसको एक्स-प्लेन करने की जरूरत नहीं है।

तरमीम नम्बर 34 इस प्रकार है :

Page 3,

after line 26, insert

“Provided further that for the purpose of fixation of pay the officers and employees transferred to the Corporation in each region shall be deemed to have been transferred from the date the first programme of transfer commenced in that region :”

यह तरमीम बहुत महत्वपूर्ण है। ऐसा होता है आज एक आदमी का ट्रांसफर हुआ और वह वहाँ पर जूनियर है। कारपोरेशन में आकर वह सीनियर हो जायगा और उस के बाद जो ट्रांसफर होकर आएगा वह खाद्य विभाग में यद्यपि सीनियर था लेकिन यहाँ आकर जूनियर हो जायगा। उस की तलब भी कम हो सकती है क्योंकि कारपोरेशन में इन्क्रोमेंट है 10 रुपये साल और खाद्य विभाग में इन्क्रोमेंट है 3 रुपये साल। इसलिए इसकी भी हिफाजत होनी चाहिए। और दूसरा है :

“Provided also that *inter se* seniority of the officers and employees transferred by the Central Government to the Food Corporation of India shall remain unchanged irrespective of the date or dates of their transfer to the Corporation.”

चूँकि एक दिन एक आदमी ट्रांसफर हो जाता है और दूसरा रह जाता है, तो सब की सीनियरिटी को लेकर बहुत झगड़ा होगा। इसलिए हमें उसकी हिफाजत करनी चाहिए।

मेरा लास्ट अमेंडमेंट है 35 नम्बर का ।
यह इस प्रकार है :

Page 4, line 2;

That is to say, "evidence adduced during such inquiry",

and at the end—

"duly carried out under the rules made by the President of India from time to time which would have governed him as an officer or employee of the Central Government."

इसका मतलब भी साफ है । मैं ज्यादा खुलासा करना नहीं चाहता ।

श्री चंद्रिका प्रसाद (बलिया) : सभापति जी, इस बिल में धारा 12 (ए) के अन्दर 18 हजार कर्मचारियों के हितों की रक्षा तो की गई है लेकिन जो खाद्य निगम बना उस में रिक्त हुए तीन हजार के करीब कर्मचारी जो हैं उनके बारे में इसमें कोई जिक्र नहीं किया गया है । उनकी पेंशन, उनकी सीनियारिटी, उनका प्रमोशन आदि और अगर खाद्य निगम बंद हो तो वह बेचारे सड़क पर न फेंक दिये जायं इसका आशवासन होना चाहिए । तो उन 18 हजार के साथ इन 3 हजार की रक्षा करनी चाहिए । इनकी रक्षा करने के लिए मेरा अमेंडमेंट 12 (बी) (1) और 12 (बी) (2) है । हम चाहते हैं कि इसको स्वीकार किया जाय ।

SHRI TENNETI VISWANATHAM (Visakhapatnam) : There are two amendments standing in my name. One is amendment No. 44 and the other is amendment No. 65. They all relate to conditions of service of those officers or employees who are transferred from the Department to the Food Corporation. The second amendment relates to the position as between the direct recruits and those who are taken there on transfer. So many amendments have come because of the following. In the Statement of Objects and Reasons it is said :

"In doing so, care has been taken to ensure that the pay, pension and other conditions of service are not, as far as possible, adversely affected on account of such transfer."

This pious wish has been written into the Statement of Objects and Reasons.

Now, the difficulty has arisen because they have not said that all the rules which apply to the Government servants will apply to these people who are transferred from the Food Department to the Corporation on the ground that they are servants of the Corporation. Instead of that, they said, in the original Act, that certain rules and certain conditions of service will be laid down. Therefore, for the redemption of that promise, after some years, they have come now with this Bill; but here, instead of making the rule clear, they have simply provided for some "conditions" and they have not provided for other "conditions"; and what really happens is this : When they gave a number of conditions and omitted certain other conditions by implication it means that the other conditions are denied. That is why these apprehensions have arisen. The Minister thinks that they are misapprehensions.

In drafting this Bill, if simplicity was observed there would not have been scope for this kind of apprehension or misapprehension. Now, Sir, I am not one of those who believe that this kind of white elephant called the Food Corporation will remain for ever. This is an unnecessary thing in normal times. It is an unnecessary burden this country is bearing.

There are many of our friends who think as to why the distribution of food-stuffs should be done through the Government agency knowing full well how Government is functioning in other public sectors. But that apart.

Sir, overnight what has happened? They have transferred Rs. 10 crores to the Food Corporation. From that day, these Rs. 10 crores bear interest at 7½%. The overhead charges cost another 4½%; that is, 11 to 12% is the extra burden on the consumer in this country, apart from other kinds of

expenditure which may be incurred. This 11 to 12% of money is an unnecessary burden on this country; whether there is scarcity of food or whether there is plenty of food, it is certainly an unnecessary burden. That is so, but as long as it is there, the evil is there, we have got to see that the evil is not very much burdensome to all those who are affected by it and among those people who are affected are these government servants. If the Minister is pleased to look into my amendment No. 44, he will see the reasonableness of my plea. He was very categorical when he said that they are not going to be wound up. When we asked, 'What will happen, supposing the Corporation is wound up,' he said "What will happen? Nothing will happen; they will be re-employed." What will happen to all those benefits which they have secured and the long-term service which they have rendered? He simply said, they will be "re-employed" and some provision will be made. That is what he said.

It is very nebulous. People who have served years and years in Government and who are transferred to this Corporation are not given any hopes as to the benefits they will have and the terminal benefits which they should have on retirement, but it is said that if the office is wound up, they will be treated like any others in the same category for the purpose of re-employment elsewhere in Government. This is a very unsatisfactory position and I would request the Minister to think over it.

The second thing is that all of us are anxious—and the Minister also is—to see that the conditions of service of these transferees do not suffer in any way because of their transfer to the Corporation. This is all the gist of all the amendments and, the speeches made yesterday also. What is wanted is that this should be statutorily guaranteed. But the present wording of the provisions in this Bill does not afford that guarantee. If the Minister looks into these amendments and accepts them, so much the better. Otherwise, he had redraft them to his own liking and see that a specific provision is made that while drawing up regulations the Corporation shall not impose any

conditions which will make the conditions of service of the transferees unfavourable or less favourable than what they are, and that as between direct recruits and the people who are transferred to the Corporation, the same rules which apply in other departments in the case of direct recruits would apply here also. Direct recruits should get neither more nor less than what they got in other departments wherever there is direct recruitment. All that the transferees demand is: As a matter of policy, you have created this Corporation and now you are transferring us there, with or without our will; but please see that the conditions which you impose on us will not be less favourable than what they were prior to the transfer. But here the provision in sub Cl. 3 is:

"...and become an employee of the Corporation with such designation as the Corporation may determine and shall, subject to the provisions of sub-sections (4), (5) and (6), be governed by the regulations made by the Corporation under this Act as respects remuneration..."

This does not confer a statutory guarantee that the conditions to be imposed will not be less favourable than what they are at present. All that is wanted that this should be spelled out in the Bill itself, instead of leaving it to the Corporation. These Corporations have become tyrants. The moment a Corporation is created, it develops a new kind of independence like son-in-law and says the next day, 'we are autonomous and independent; we will recruit whomsoever we like on whatever conditions we like; nothing doing about ensuring continuity of conditions of service to government servants in our employ.' They may appoint as a regional manager a person whom they like. He may be somebody's friend in the Corporation. Then the poor Ministers are made to answer here by the Secretary that it is an autonomous department.

What is autonomous about it? The word 'autonomous' is not used in any of the laws passed by Parliament. They are all subject to certain limitations. But an atmosphere is created, an aura is spread or built round these corporations

and all people, including Ministers, are made to believe that they are autonomous and they can do what they like. When we talk of ensuring a certain set of conditions of service for the employees, the Minister simply says it will be subject to such regulations as they may make and all these will be looked after. In his speech he agrees that this will be done, but why does he not make the provision in the Bill itself?

This is the gist of all the amendments. I hope the Minister will give careful consideration to them, and instead of brushing them a side, incorporate the substance of the amendments in the Bill. Government servants are all perturbed because of this transfer to a new house called this new Corporation. We do not know whether it will be made permanent or not and at what point of time it will assume what kind of autonomy it may choose. These are our apprehensions and the Minister should do the needful to allay them.

श्री शिकरे (पंजिम) : सभापति जी, मैंने जो अमेंडमेंट पेश किया है वह बहुत अर्थपूर्ण है इसलिये कि उससे ब्यक्त होता है अविश्वास कम से कम तीन हजार कर्मचारियों का जो आज फूड कारपोरेशन में काम करते हैं। बात यह होती है कि जब हम कोई कोरपोरेशन और पब्लिक अन्डरटैकिंग स्थापित करते हैं तो अविश्वास पैदा होता है जनता में और वह सोचती है कि आगे क्या होगा, जैसे कि कारपोरेशन स्थापन होने के बाद तीन हजार कर्मचारी फूड कारपोरेशन के, सोचते हैं कि क्या होगा उनका आगे। बात यह है कि पिछले समय में हमेशा ऐसा हुआ है कि जब कभी हम कोई समस्या सुलझाने का प्रयत्न करते हैं तो बुनियादी समस्या का तो हल होता नहीं, लेकिन उससे 10 नई उप-समस्यायें उत्पन्न हो जाती हैं। इसलिये जब इस विधेयक में फूड कारपोरेशन के कर्मचारियों के लिये शाश्वती नहीं रही, ऐसा दिखाया गया, तब वे प्रयत्न करने लगे कि उनको इस विधेयक में शाश्वती मिले,

कोई सब-सेक्शन डालने के बाद। तो मैं मंत्री जी से कहूंगा कि जो अविश्वास निर्माण होता है कर्मचारियों में, जनता में, उसको नष्ट करने के लिये मेरा जो संशोधन है उस को स्वीकार करें। मैं यहाँ स्पष्ट करना चाहूंगा कि उस अमेंडमेंट से जो अविश्वास प्रकट किया जाता है, यह तो मैं नहीं कहूंगा कि मंत्री जी का जो उद्देश्य है, उनकी जो कार्य पद्धति है, उसके बारे में होगा। लेकिन ऐसा होता है कि सरकारी जो यंत्रणा, मशीनरी रहती है उस पर अविश्वास रहता है और उस वजह से कर्मचारियों की शाश्वती नहीं मिलती है।

14-51 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

SHRI N. SREEKANTAN NAIR (Quilon) : I cannot understand Mr. Lobo Prabhu's amendment and his insistence on keeping the two categories of employees separate. There are only 2,300 on the one said while there are 20,000 on the other. I do not want anybody to be sent away, but if anybody is to be sent away "last come first go" should be the principle.

MR. DEPUTY SPEAKER : I am sorry the hon. Member was not present. He specifically mentioned your point while replying.

SHRI N. SREEKANTAN NAIR : He wants the deputationists to be treated contrary to this principle. I raised that question yesterday, but the Minister did not reply to it. The question of deputationists is a very complex question. They have been taken from the Centre and from the States. The Minister combines all these persons into one group, the so called Secretariat. People from the Secretariat who are sent as Directors are outside the purview of this Bill and of the Corporation, but people who have been sent on deputation get much higher emoluments and rank in the Corporation. So, let us once and for all end this business of deputation.

[SHRI N. SREEKANTAN NAIR]

Let them decide whether they want to continue in the Corporation or in the Central or State Government as the case may be. Let them make a choice and let it be final.

Coming to my amendment, it is against all laws and all the constitutional provisions to punish some body without giving him a hearing. Sub-clause (5) reads :

"No officers or other employee transferred by an order made under Sub-section (1),

(a) shall be dismissed or removed by an authority subordinate to that competent to make a similar or equivalent appointment under the Corporation as may be prescribed;

(b) shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity.."

That is fair, but Sub-clause (6) says ;

"If, in respect of any such officer or employee as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in sub-section (5), the decision thereon of the authority empowered to dismiss or remove him or to reduce him in rank shall be final."

This is a statutory provision. Yesterday the Minister was saying that rules would be made, but rules cannot be made to go counter to the Statute. Here is a provision which will be struck down by any court.

Nobody can be punished in this country without being given a hearing. If he is not given a hearing and the officer who is empowered to dismiss him says,—'You cannot be given an opportunity', that will not stand in a court of law. Let us not go into the question of legality. It is immoral. So, there must be some other appellate authority. I suggested that the Secretary of the Ministry of Food may hear the appeal because I wanted to take

it out of the purview of the Corporation. If it is a question of denying justice or punish him without an opportunity..

MR. DEPUTY SPEAKER : Do you mean to say that the rights given under Art. 311 of the Constitution have been denied ?

SHRI N. SREEKANTAN NAIR : Yes, Sir. He could be dismissed without being given a hearing and the decision of the officer who is to dismiss him, whether he can be given a reasonable hearing or a reasonable possibility of giving him a hearing, is final. He is the prosecutor and executor and he is also the Judge. There is no question of even an appeal. There must be an appeal. Let the appeal be outside the limits of the Corporation. The Secretary of the Ministry may be the appellate authority because it is an action of the Corporation and it is a question of dismissal, a fundamental right of the employee. I do not want the Minister to be the appellate authority because there may come a time when there is no Minister. Let the bureaucrat enjoy that power, but let there be an authority outside the scope of the Corporation.

SHRI K. NARAYANA RAO (Bobbri): I want to point out...

MR. DEPUTY SPEAKER : If I keep it open for debate, many hon. Members would rise. We have already exhausted the time. I cannot allow.

The hon. Minister has exhaustively covered at the consideration stage. would request him to be very brief and to the point.

SHRI ANNASAHIB SHINDE : I am thankful to you for your suggestion. I would myself like to be very brief.

Important points have been raised by Shri Lobo Prabhu and Shri Sreekantan Nair that some of the provisions, especially sub-section (b) of clause 5 are against the provisions of the Constitution. I am really surprised that both the hon. Members who are very learned

members should raise this point which is without any substance because if the hon Members kindly look in to the provisions of Article 311 of the Constitution, they will find the same provisions reproduced in this section. Exception has been taken to a provision wherein it has been said :

"Where the authority empowered to dismiss or remove an officer or employee or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry."

Shri Lobo Prabhu has taken objection to this provision. May I draw his attention that this is nothing but the same clause reproduced from Article 311 of the Constitution. In Article 311 of the Constitution—I shall not go into other clauses—it is said :

"Where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or"

That means the same provision which is part of the Article 311 has been reproduced in this clause. It is not inconsistent with the provisions of the Corporation.

Shri Sreekantan Nair argued in respect of clause 6 which reads :

"If, in respect of any such officers or employee as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in sub-section (5), the decision thereon of the authority empowered to dismiss or remove him or to reduce him in rank shall be final."

15 hrs.

Again, I would like to draw your kind attention to sub-clause (3) of article 311 wherein it says :

"If, in respect of any such person as aforesaid, a question arises whether

it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final."

So, it is nothing but reproduction of the clause as given in article 311. The Government has been careful enough to examine all these provisions in consultation with the Ministry of Law and all the constitutional aspects have been looked into.

SHRI N. SREEKANTAN NAIR : In every clause, there is provision for appeal in the other case, but here there is nothing of the sort.

MR. DEPUTY-SPEAKER : Article 311 provides two opportunities. The hon. Minister has said that more or less two opportunities have been provided for in this clause. Beyond that, what do the hon. Members want ?

SHRI S. M. BANERJEE : Yesterday, when I was speaking on the Bill, what I said was that there are certain rules and regulations to be followed according to the Central Government (Classification, Control and Appeal) Rules. These are based on the substance and spirit of article 311. There was a controversy in the House itself, when only one opportunity was given, when Shri A. K. Sen was the Law Minister. Ultimately, the entire thing was discussed and two opportunities were given. I would like to know from the hon. Minister if the same rules govern the service conditions in the matter. Then that should be omitted.

SHRI N. SREEKANTAN NAIR : I can give several instances; I have not brought them with me. Dismissals of Government servants have been quashed by the high courts and the Supreme Court on the ground that they were invalid.

MR. DEPUTY-SPEAKER : I know of several cases which went to the Supreme Court and the decisions were definitely in favour of all those who had suffered

[Mr. Deputy Speaker]

at the hands of the Government. Here, the question that has been raised is, will they be governed by the same service rules as the other Government servants or would they be different. On that, the House got to be satisfied.

SHRI ANNASAHIB SHINDE : The service rules are framed by the Food Corporation of India but the principle has been accepted; the basic constitutional protection which was there for the Government employee would be available even after transfer.

MR. DEPUTY-SPEAKER : Now, the House must be satisfied.

श्री बेबेन सेन : मैं यह जानना चाहता हूँ कि मंत्री महोदय से कि कर्मचारियों की कन्ट्रिब्यूटरी आफ सविस् की हिफाजत के बारे में बिल में कहाँ पर दिया हुआ है ?

SHRI ANNASAHIB SHINDE : I have already made it clear, but I shall repeat it because the hon. Member is insisting on that. Why have we come forward with this Bill ? Originally the services were to be transferred by executive order, but many hon. Members, representatives of the employees and members, of trade unions raised the objection that the transfers should be statutorily governed and there should be statutory provision for providing the transfer and the executive order may not satisfy the employees, and that is why we have come with the provisions of this Bill. So, the intention of the Bill is that the continuance of their service would be there.

Shri Tenneti Vaiswanatham raised a point in his amendment which says :

“Provided also that the Corporation shall not make any rules and regulations which may render the conditions of service of such employees in any way or at any time less favourable than the conditions of service applicable to officers and employees of comparable status under the Central Government...”

We fail to appreciate why the hon.

Member is insisting on this, because we have given the option. After transfer of service, if the employees of the Food Department want to avail themselves of the existing rules etc. in regard to scales of pay, retirement benefits and a number of other things, they have the option. The option has been provided. The Government have gone a step forward in saying this : not only can they avail themselves if they desire the facilities and benefits extended by the Food Corporation of India but if they want to continue with the existing benefits, it is entirely at their discretion. And, therefore, there is no point in saying that nothing inconsistent should be provided. This amendment, to my mind, is superfluous, and I do not agree at all with the hon. Member.

SHRI TENNETI VISWANATHAM : He says, these people have got the option and therefore, they would not be worse off. But where is the provision which says that the conditions will not be less favourable than those that were available to them before the transfer ? He may not accept the amendment but after a time, he will be obliged to do it.

MR. DEPUTY SPEAKER : He has given an assurance on an earlier occasion when Mr. Sreekantan Nair and Mr. Lobo Prabhu had raised the point whether they would get the same protection as provided under article 311. He said, the rules will be framed accordingly so that that protection would be available. He had made it clear that once he opts out and joins the Corporation service, that option is final. Then he will be governed by those service rules which will be based on the service rules for other Government servants.

SHRI K. NARAYANA RAO : How is it possible, Sir ?

MR. DEPUTY-SPEAKER : He has given that assurance and I am prepared to accept it.

SHRI TENNETI VISWANATHAM : You have summarised what he said. Our difficulty is, hereafter in the Food Corporation, there will be two sets of

conditions of service—one man drawing Rs. X plus Rs. 2 and another drawing only Rs. X, one man having some kind of benefits and another man having another kind of benefits. Does the minister think that this will lead to peace in the services ?

Secondly, he has said that having opted out, they can be secure. But where is the provision in the Act which says that they will not be worse off. In the Statement of Objects and Reasons it is written, but why is it not written in the provisions of the Bill that their conditions in no way shall be less favourable than what they were before ? So far as article 311 is concerned, it only applies to dismissals and appeal. There are other conditions of service and benefits which the employees would have been enjoying for years and years like continuity of service. Where is the obligation upon the corporation under this Bill to see that those conditions do not become less favourable ? We have got an assurance all right. If assurances are law and if I am the Chief Justice of India, I will act upon them.

श्री हेबेन सेन : उपाध्यक्ष महोदय, मन्त्री महोदय के जबाब देने से पहले में आपका ध्यान धारा 45 की ओर आकर्षित करना चाहता हूँ। इसमें कहा गया है कि एग्जोरेन्सेज का कोई महत्व नहीं होता है। ... (व्यवधान) ... आर धारा 45 (3) को देखने की कृपा करें जिसमें कहा गया है ... (व्यवधान) ...

MR. DEPUTY-SPEAKER : An assurance given to this House has equal validity. Has the minister anything to add ?

SHRI ANNASAHIB SHINDE : No, Sir.

Mr. DEPUTY-SPEAKER : I will now put Government amendments Nos. 3, 4, 5, and 6 to clause 2.

The question is :

Page 2,—

for lines 9 to 11, substitute—

“Provided that no order under this subsection shall be made in relation to any

officer or employee in such Department or office who has, in respect of the proposal of the Central Government to transfer such officer or employee to the Corporation, intimated within such time as may be specified in this behalf by that Government, his intention of not becoming an employee of the Corporation.” (3)

Page 2, line 35,—

for “the retirement or” substitute—

“The leave, provident fund, retirement or” (4)

Page 2, line 38,—

for “The provident fund or” substitute—

“The leave, provident fund or” (5)

Page 3, lines 31 and 32,—

for “as may be prescribed” substitute—

“As may be specified in the regulations made by the Corporation under this Act.” (6)

The motion was adopted.

MR. DEPUTY-SPEAKER : I will now put all the other amendments to vote.

Amendments Nos. 7, 9 to 14, 19, 21, 22, 27 to 30, 32 to 35, 44, 47, 48, 61, 62 and 64 to 67, were put and negatived.

MR. DEPUTY-SPEAKER The question is :

“That clause 2, as amended, stand part of the Bill.”

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 (Short Title)

Amendment made :

Page 1, line 4, for ‘1967’

substitute ‘1968’. (2)

(SHRI ANNASAHIB SHINDE)

MR. DEPUTY SPEAKER : The question is :

[Mr. Deputy-Speaker]

'That clause 1, as amended, stand part of the Bill'.

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

Amendment made :

Page 1, line 1, for 'Eighteenth' substitute 'Nineteenth'. (1)

(SHRI ANNASAHIB SHINDE)

MR. DEPUTY SPEAKER : The question is :

"That Enacting Formula, as amended, stand part of the Bill".

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

SHRI ANNASAHIB SHINDE : 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.

15-12 hrs.

STATUTORY RESOLUTION RE :
DISAPPROVAL OF ESSENTIAL
SERVICES (MAINTENANCE)
ORDINANCE

SHRI S. M. BANERJEE (Kanpur) :
On a point of order.

MR. DEPUTY SPEAKER : But there is no business before the House. Let Shri S. S. Kothari move his resolution. Then, I shall give him an opportunity to raise his point of order.

SHRI S. M. BANERJEE : My point of order is that this motion cannot be discussed.

MR. DEPUTY SPEAKER ; If that is the point, I shall consider. First, let Shri S. S. Kothari move his motion; let him get up and say that he moves it. Then, he can raise the point of order.

SHRI S. S. KOTHARI (Mandsaur) : I beg to move :

"This House disapproves of the Essential Services Maintenance Ordinance, 1968 (Ordinance No. 9 of 1968) promulgated by the President on the 13th September, 1968".

SHRI S. M. BANERJEE : I am sure that this resolution has been moved under article 123 of the Constitution. It has been admitted by you or by the Speaker under rule 184. Article 123 reads thus :

"(1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require".

Then, there is a provision to the effect that every such Ordinance shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the reassembly of Parliament and so on.

This ordinance was passed by the back-door and it has now been brought before this House and laid on the Table. I have no objection to that. Shri S. S. Kothari, Shri George Fernanades, Shri Joytirmoy Basu and myself in our wisdom have tabled a resolution seeking to disapprove of the ordinance. That resolution can only be admitted under rule 184 which reads thus :

"Save in so far as is otherwise provided in the Constitution or in these rules, no discussion on a matter of general public interest shall take place except on a motion made with the consent of the Speaker".

You have given your consent. That is why this has been admitted. Then it was decided to allot time for this in the Business Advisory Committee. Ultimately it has come up here. Now, Government are