

श्री मधु लिमये : उनके पेश करने के समय में अपनी व्यवस्था उठाऊंगा ।

SHRI SRINIBAS MISRA : On a point of order, Sir.

14.55 hrs.

ESSENTIAL SERVICES MAINTENANCE BILL

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA) : Sir, on behalf of Shri Y. B. Chavan, I beg to move :

“That the Bill to provide for the maintenance of certain essential services and the normal life of the community, be taken into consideration.”

श्री जार्ज फरनेन्डोज (बम्बई दक्षिण) : मेरी व्यवस्था सम्बन्धी आपत्ति है । वह पेश नहीं हो सकता है ।

MR. CHAIRMAN : Let him move it. (*Interruptions*)

SHRI VIDYA CHARAN SHUKLA : May I complete my submission ? I have uttered only the first sentence.

श्री मधु लिमये (मुंगेर) : जी नहीं, भाषण के पहले प्वाइंट आफ आर्डर है ।

SHRI VIDYA CHARAN SHUKLA : May I complete my submission ?

SHRI SRINIBAS MISRA (Cuttack) : It cannot be discussed.

MR. CHAIRMAN : Let it be before the House.

SHRI MADHU LIMAYE : It is before the House now.

SHRI VIDYA CHARAN SHUKLA : I have only uttered the first sentence. I have to complete my speech.

SHRI MADHU LIMAYE : No, no. (*Interruptions*)

The question is that the Bill involving expenditure shall be accompanied by a Financial Memorandum. It is to be seen whether this Bill involves expenditure or not. It is not that who will decide it. It is not the sweet-will of the Minister to say whether it will involve expenditure or not. The provisions of the Bill involve expenditure. Kindly look at the rules. Rule 69 (2) says about expenditure from the Consolidated Fund of India. Rule 69 (2) does not apply. Rule 69 (1) says about the expenditure. I do not know whether the Home Minister in collusion or in consultation with the Food Minister and the Health Minister has devised a mean by which people in jail will go without food or they will take their nutrition from air. We do not know that. But there are the provisions in the Bill which require that the people will be put in Jail. It will involve expenditure. It is more serious that it will not involve expenditure from the Central Fund but it will involve expenditure from the Consolidated Fund of States which we cannot do.

MR. CHAIRMAN : Where is the provision that the expenditure involved will be from the Consolidated Fund of States?

SHRI SRINIBAS MISRA : There are clauses 4 and 5. Clause 4 of the Bill says :

“Any person who commences a strike which is illegal under this Act or goes or remains on, or otherwise takes part in, any such strike shall be punishable with imprisonment for a term which may extend to six months...”

So, these people will go to jail. They must be fed there. Somebody must take them to jail. There must be some conveyance. They must be given some food. It must involve expenditure. Of course, I am conscious of the fact that they cannot say how many people they intend to put in jail. They might put all the persons....

MR. CHAIRMAN : This is the first point. Then, go to the second point.

SHRI SRINIBAS MISRA : I am coming to it.

These are the Rules of the House. This is a salutary provision. If the House is apprised of the expenses that will be incurred, the House may withhold the consent of the Bill. We do not know what expenditure will be involved. I am conscious of the other fact. They will say, "We do not know what will be the expenditure". But that means there will be Financial Memorandum saying, "At present, we do not know how much will be the expenditure".

SHRI VIDYA CHARAN SHUKLA : This point of order will involve more expenditure than the jails.

15 hrs.

SHRI SRINIBAS MISRA : He is not answering to my question. Is this not according to the rule? According to the rule, what is to be there? This matter has been discussed time and again in this House. There have been rulings given asking the Minister to submit the Financial Memorandum. Here, there will be expenditure. A Bill involving expenditure shall be accompanied by a Financial Memorandum. Will you now say that this Bill will not involve expenditure? It is not left to the sweet will or discretion of the Minister to say whether a Bill involves expenditure or not. It will have to be decided by you whether these provisions will involve expenditure or not.....

MR. CHAIRMAN : Which rule are you referring to ?

SHRI SRINIBAS MISRA : Rule 69 (1). This is a Bill which involves expenditure. As soon as this is decided that it involves expenditure, which is a fact, then it should be accompanied by a Financial Memorandum, so that we will have an idea about the expenditure involved. Without the Financial Memorandum there cannot be any discussion.

There is another point also, but I shall come to that later.

श्री मधु लिमये : सभापति महोदय, मैं आपका ध्यान नियम 70 की ओर दिलाना चाहता हूँ, जो इस प्रकार है :

"A Bill involving proposals for the delegation of legislative power shall further be accompanied by a memorandum explaining such proposals and drawing attention to their scope and stating also whether they are of normal or exceptional character".

15 02 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

MR. DEPUTY SPEAKER : I shall give opportunity to all the members to raise their points of order—Mr. Misra is there Mr. Limaye is there and there are some other members also. But what I suggest is this and this would be the proper procedure also. Mr. Misra is the master of procedure. Let the Minister make his motion..... (Interruptions) He has uttered only one sentence; that is not enough; let him make his motion because he will explain so many things.... (Interruptions) He must make his speech.....

श्री रवि राय (पुरी) : मोशन के बाद मिश्र जी को इजाजत दो गई थी ।

श्री जार्ज करनेन्डीज : हमारा यह व्यवस्था का प्रश्न है कि उनका मोशन ही नहीं आ सकता है ।

MR. DEPUTY SPEAKER : I am prepared to listen to everybody. But let him make his motion.

श्री जार्ज करनेन्डीज : बिजिनेस बीफोर दि हाउस यह है कि उनका मोशन आ जाए । व्यवस्था में यही उठाना चाहता हूँ कि वह मोशन आ ही नहीं सकते हैं ।

श्री मधु लिमये : हमारा प्वाइंट आफ

आर्डर खत्म करने के बाद स्पीच होगी।
मोशन तो हो गया है।

SHRI NAMBIAR (Tiruchirapalli) :
There are two varieties of motions.....
(Interruptions)

MR. DEPUTY SPEAKER : I pointed
out on the very first day, but nobody
abides by this rule.....(Interruptions)

श्री रवि राय : मोशन तो हो गया है।

MR. DEPUTY SPEAKER : I have
followed everything that has happened
in the House.

SHRI NAMBIAR : Please hear me,
Sir.....

MR. DEPUTY SPEAKER : Please
resume your seat. I shall give you an
opportunity.....

SHRI NAMBIAR : My submission
is that there is a point of order.....

MR. DEPUTY SPEAKER : I know
everything.

I know everything. I was following the
debate. The question is, what is the practice
that we follow. There are certain serious
objections to this measure on constitutional
grounds or delegation of power or on
financial provisions. Now, all these will
come once a proper motion is made.
He just uttered one sentence.

श्री मधु लिमये : मेरा प्वाइंट आफ
आर्डर आप इसी सदन की प्रक्रिया के बारे
में सुनिए। कच्छ के बारे में सवाल उठा
था.....

श्री शिव नारायण (बस्ती) : चार लाख
कल खर्च हुआ और चार लाख आज खर्च हो
जाएगा इसी में।

श्री मधु लिमये : तब मुझे सिर्फ
प्रस्ताव पढ़ने दिया गया था। मैंने तब बिनती
की थी कि मेरे भाषण के बाद प्वाइंट आफ

आर्डर उठे लेकिन गोविन्द मेनन साहब ने
कहा था कि नहीं मोशन आपने कर दिया
है, अब हमारा प्वाइंट आफ आर्डर आएगा।
उसी तरह मैं कहता हूँ कि जो कल से हो रहा
है, मेरी समझ में नहीं आ रहा है। एक का
चेहरा अच्छा लग रहा है, एक के चेहरे से
नफरत है.....

MR. DEPUTY SPEAKER : This is
not correct. Don't blame the Chair.
Many of us are sitting in this House
for long. Senior Members like Shri
H. N. Mukerjee are there. The practice
that we follow is this.....

श्री मधु लिमये : प्रक्रिया तो सब के
लिए एक रहेगी या नहीं ?

उपाध्यक्ष महोदय : प्रक्रिया एक रहेगी।

Usually, the last sentence will be,
"with these words, I make the motion".
This is the last sentence usually. That is
the practice we follow. On some occasions
if injustice had been done, I do not
know anything about that. What I
suggest is this. Let him fully explain.
You will get an opportunity. (Interruption)
I will give opportunity to everybody.
Shri Madhu Limaye rightly pointed out
some deviation from the usual practice.
But, what I say is this. (Interruption).

SHRI S. M. BANERJEE (Kanpur) :
Our objection is basic. Our point of
order is basic.

Mr. DEPUTY SPEAKER : There are
contradictions on this side.....

SHRI UMANATH (Padakkottai) :
There is no contradiction or consistency
or unanimity. Each one has got his
point of view and his point of order.
Where is the question of unanimity ?

MR. DEPUTY SPEAKER : If Shri
Banerjee's objection is to some item on
the order paper, then, he is within his
right to raise at that stage. But, before
coming to that, it seems, he has begun
his speech. One sentence he has said.

श्री जार्ज फरनेन्डीज : हम तो पेश करने के ही विरुद्ध हैं। अगर भाषण हो गया तब तो यह ज्यादा बड़ा जुल्म हो जाएगा।

MR. DEPUTY SPEAKER : I will go one by one. Mr. C. C. Desai.

SHRI C. C. DESAI (Sabarkantha) : That the motion has been made is a fact. I understand, you have been informed, that the motion has been made.

MR. DEPUTY SPEAKER : Motion is made after a speech.

SHRI LOBO PRABHU (Udipi) : Will my hon. friends enlighten the House as to why they object to this motion? The time of the House is very precious. Taxpayers' money is involved. And yet every day they go on like this.

SHRI UMANATH : The fundamental right of the taxpayers is involved. So, it is not a question of their money only.

SHRI SRINIBAS MISRA : We are entitled to raise point of order as soon as the matter is before the House. In order that the matter should be before the House, the hon. Minister got up and said that he moved. As soon as he has said 'I move', it becomes a matter before the House. So, we can raise points of order.

MR. DEPUTY SPEAKER : The practice that we have been following is this. After the speech normally we allow the point of order to be raised. But if he is insisting, I shall allow him now.

SHRI SEZHIYAN (Kumbakonam) : Yesterday, what happened was this. I am reading out from the proceedings.

SHRI S. M. BANERJEE : 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. Then, Shri S. S. Kothari got up and said 'I beg to move', and then Shri S. M. Banerjee raised his point of order. Shri S. S. Kothari had just said one sentence, and then Shri S. M. Banerjee was allowed to raise his point of order.

MR. DEPUTY--SPEAKER : I know all that.

SHRI S. KUNDU : The hon. Minister has not moved the motion; so, it may be ruled out.

श्री मधु लिमये : उपाध्यक्ष महोदय, आप को याद होगा कि उस दिन की बहस में हम लोग संविधान के मामले में बोल रहे थे और आप ने संविधान के बारे में ही अपना निर्णय दिया है। चूंकि मंत्री यहोदय ने अपना विषयक विचारार्थ पेश कर दिया है इस लिए मैं नियम 70 के अन्तर्गत अपना आक्षेप आपके सामने रखना चाहता हूँ।

नियम 70 इस प्रकार है :

"A Bill involving proposal for the delegation of legislative power shall further be accompanied by a memorandum explaining such proposals and drawing attention to their scope and stating also whether they are of normal or exceptional character".

इस बिल की क्लॉज 2 (1) (ए) (9) में सरकार ने अपने हाथ में इतने ज्यादा अधिकार ले लिये हैं कि सरकार द्वारा यह कहना कि ये साधारण अधिकार हैं, नार्मल अधिकार हैं, असाधारण नहीं हैं, यह इसमें एक विस्कुल झूठ बात बा गई है। इसलिए इसको बदला जाये। सरकार यह कुबूल करे

कि ये असाधारण, एक्स्ट्राडिनरी, अधिकार हैं, ताकि सब लोग सचेत होकर इसकी ओर तवज्जह दें। आप मंत्री महोदय को इसका बुद्धीकरण करने के लिए कहिए। उसके बाद प्रस्ताव पर बहस हो।

MR. DEPUTY SPEAKER : So far as delegation of power is concerned, the hon. Member has referred to clause 2 (1) (a) (ix) which reads thus :

“any other service connected with matters with respect to which Parliament has power to make laws and which the Central Government being of opinion that Strikes therein would prejudicially affect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hardship on the community, may, by notification in the Official Gazette, declare to be an essential service for the purposes of this Act;”.

I must concede this point that according to this rule, the hon. Minister must give some specification regarding the delegation of powers. So, I would request the hon. Minister to clarify the position because that clarification is very necessary.

SHRI VIDYA CHARAN SHUKLA : I shall clarify it.

SHRI SRINIBAS MISRA : Regarding financial memorandum, I have already raised a point of order.

MR. DEPUTY SPEAKER : Let us follow some procedure. I will look into the aspect of the financial memorandum. The hon. Minister also will examine it. The debate will not conclude today. So he will meet the hon. Member's objection raised here.

SHRI SRINIBAS MISRA : Whether they are liable to submit a financial memorandum or not has to be decided.

MR. DEPUTY SPEAKER : I will have to look into it.

SHRI SRINIBAS MISRA : Without a decision on that we cannot proceed.

श्री मधु लिमये : अगर एक आब्जेक्शन ससटेन होता है—मेरा होता है या माननीय सदस्य का होता है,—तो हम आगे क्यों बढ़ें ?

MR. DEPUTY SPEAKER : While making all the other submissions, he will have to deal with this also. Otherwise, on that point Shri Limaye can block the progress of the Bill.

श्री मधु लिमये : मैं अभी ब्लाक कर रहा हूँ।

MR. DEPUTY SPEAKER : Not, now, not like this. I have asked the Minister to consider this point which needs further explanation under the rules.

SHRI UMANATH : Suppose you uphold the point of order raised by Shri Misra, we cannot proceed with the Bill. So till then whatever we have done will be a waste of money.

MR. DEPUTY SPEAKER : It is not a waste. If he can explain away the question of delegation...

SHRI MADHU LIMAYE : Explain, not explain away.

MR. DEPUTY SPEAKER : On the question of financial memorandum, let him get an opportunity while making his broad submission. If the House is not satisfied, within the rules, certainly I will have to look into it. By 'House I mean 'Chair' in this case.

SHRI SHEO NARAIN (Basti) : Are we not Members of this House? We have been standing up and trying to catch your eye. But you are listening only to the other side. Is this the way to conduct proceedings?

MR. DEPUTY SPEAKER : I am prepared to listen. But every member should take it quietly. If Shri Narayana Rao wants to speak, he must come

forward. Otherwise, I cannot follow him.

SHRI SHEO NARAIN : Are the opposition the masters of this House ?

MR. DEPUTY SPEAKER : I will call one by one. Shri Himatsingka.

SHRI S. M. BANERJEE : I will raise my point of order when you call me. But I have now a submission to make.

MR. DEPUTY SPEAKER : Let us go a little quietly.

SHRI SHEO NARAIN : Is this the respect they are showing to the Chair? You have called an hon. Member from this side. But he is not allowed to speak.

MR. DEPUTY SPEAKER : Cannot Shri Banerjee wait for a while?

SHRI S. M. BANERJEE : I want to make a brief submission to you now.

SHRI VIKRAM CHAND MAHAJAN (Chamba) : You have called Shri Himatsingka. But he is not allowed to speak.

MR. DEPUTY SPEAKER : He will be called,

SHRI S. M. BANERJEE : My submission is that two points of order have been raised, one by Shri Misra regarding financial memorandum and another by Shri Limaye. You have referred to the Minister piloting the Bill. But may I quote previous rulings in this House on the subject? When a very important matter is raised by way of a point of order, it has to be disposed of first. Otherwise, what will happen in this case. Suppose the financial memorandum is necessary; suppose you come to the conclusion that it is necessary. Then there is no escape.

MR. DEPUTY SPEAKER : Why does he presume? I will order accordingly.

SHRI S. M. BANERJEE : If you come to the conclusion that financial memorandum is not necessary, but delegation of powers is necessary.....

MR. DEPUTY SPEAKER : On every issue I will apply my mind at the proper time.

SHRI S. M. BANERJEE : I am simply saying that it will be a bad precedent we will be setting, asking some questions and then asking the Minister to reply later. Points of order have been raised by two hon. Members with a specific purpose that the Bill should be dropped, that Bill cannot be proceeded with. The points of order have first to be disposed of. Do not give the Minister time to think over it.

MR. DEPUTY SPEAKER : I have followed him.

As I have said, two points have been raised. Mr. Limaye says that under the Rules of Procedure, and he has quoted the rule, this delegation is something extraordinary. So it needs further clarification, explanation or enumeration of the delegation of power.

SHRI S. KUNDU (Balasore) : So, let us first dispose of that point of order.

MR. DEPUTY SPEAKER : The points of order relate to matters of procedure. One after the other I will dispose of them.

श्री जार्ज फरमेन्टो : अध्यक्ष महोदय, अगर आप ने मधु लिमये के पक्ष में निर्णय दिया तो बिल का क्या होगा ?

MR. DEPUTY SPEAKER : The general debate is there. It has not come to the voting stage. Before that I will give my ruling.

SHRI HIMATSINGKA (Godda) : The point raised by Mr. Limaye is not valid because you will find that there is a memorandum attached to the Bill regarding delegated legislation.

श्री जार्ज फरनेग्जीज : यह समझे ही नहीं हैं।

SHRI S. KUNDU : Does it mean that you are allowing a discussion on his point of order ?

SHRI HIMATSINGKA : Rule 70 says :

“A Bill involving proposals for the delegation of legislative power shall further be accompanied by memorandum explaining such proposals and drawing attention to their scope and stating also whether they are of normal or exceptional character.”

Here there is a memorandum explaining the position.

SHRI S. M. BANERJEE : Kindly read the last part of it.

SHRI HIMATSINGKA : It has explained under what circumstances this power will be used, that the powers are of a normal character. They may not agree, but so far as the Bill is concerned, it has explained it.

MR. DEPUTY SPEAKER : I have already ruled that this is not delegation of a normal character, and I have therefore asked the Minister to explain. How can you leave everything to the executive when the question of the services is concerned ?

SHRI K. NARAYAN RAO (Bobbili) : May I submit one thing ?

MR. DEPUTY SPEAKER : About what ?

SHRI K. NARAYANA RAO : About the Financial Memorandum.

MR. DEPUTY SPEAKER : I am not allowing anything on the Memorandum of Delegated Legislation or the Financial Memorandum. He will resume his seat.

SHRI S. M. BANERJEE : A point of order, Sir.

MR. DEPUTY SPEAKER : What is the point of order ?

SHRI S. M. BANERJEE : He has already moved that the Essential Services Maintenance Bill be taken into consideration. May I invite your kind attention to the preamble. It says a Bill to provide for the maintenance of certain essential services and the normal life of the community. I emphasize ‘the normal life of the community’. But if you read the contents of the Bill and the various clauses of the Bill there is no reference. How an abnormal situation was created because of the ordinance...

MR. DEPUTY SPEAKER : You must bear with me. If you have any amendment, you may say that.

SHRI S. M. BANERJEE : No amendments. This cannot be discussed. That is what I said. These are all very delicate arguments. (*Interruptions*)

SHRI SHEO NARAIN : He is not a law graduate.

SHRI S. M. BANERJEE : I did not say that I am a Law graduate.

The question is to provide for the maintenance of certain essential services and the normal life of the community. The normal life of the community was disrupted because of the ordinance.

There is an Act of this House called Industrial Disputes Act, 1947. It says how the essential services, the public utility services, are to be maintained. Chapter 5, Industrial Disputes Act 1947, page 20, Section 22 (1) says :

‘No person employed in a public utility service shall go on strike in breach of contract :—

(a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of strike specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings."

2 (d) of Section 22 says :

"during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings."

The Government have the power to declare a strike illegal if it is not in the interests of the country. Then they can immediately refer the dispute, as they have very rightly done in the case of insurance employees, for arbitration to a national tribunal. To declare a strike to be illegal there is a provision. When this Act was passed, there were discussions in this very august House by a renowned member of the House, a founder of the Constitution. They realised this: when they were giving the power to the workers, supposing the powers were misused, they cannot say that the community should be disturbed. Then they brought the legislation. Now, what are the punishments as a consequence of an illegal strike ?

MR. DEPUTY--SPEAKER : Does it apply to the Government servants also ? That is what I want to know.

SHRI S. M. BANERJEE : Everybody.

SHRI NAMBIAR ; Yes; to the railway workshops also.

श्री जार्ज फरनेन्डीज : इस में उनका नाम लिया है। रेल्वे, पी० एण्ड० टी० और तमाम कर्मचारियों का नाम लिया है—आप शेड्यूल (1) को पढ़िये।

SHRI S. M. BANERJEE : Then, clause 23 of the Industrial Disputes Act says that no workman who is employed in any industrial establishment shall go on strike in breach of a contract and no employer of any such workmen can declare a lock-out." Now, what are the punishments?

MR. DEPUTY--SPEAKER : Let us keep in mind the Bill that is before us. There is no use in confusing the issue.

SHRI NAMBIAR : Railway workshop is an industrial workshop; the railways are included. It is covered in the Industrial Disputes Act, and the Factories Act. The railway workshops are covered.

SHRI S. M. BANERJEE : It is said that 'essential services' means any service which is declared by law as essential by the Government in power. If you read Schedule I, you will find that all establishments are covered. Now, what are the punishments ? The punishments are the same as those which are consequential to a strike, as when a strike is declared illegal after referring this matter to adjudication under section 10 of the Industrial Disputes Act. You, Sir, put a very correct question. (*Interruption*)

SHRI K. NARAYAN RAO : Clause 8.

MR. DEPUTY SPEAKER : Be brief. We had seven hours at our disposal; we have finished five hours.

SHRI S. M. BANERJEE : I am actually raising three points in support of my contention for the abrogation of this measure. What does the proposed Bill on the floor of the House say? Let me read clause 7 of the Bill which says :

"Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any police officer may arrest without warrant any person who is reasonably suspected of having committed any offence under this Act."

And clause 8 says :

"The provisions of this Act and of any Order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act, 1947; or in any other law for the time being in force."

What is the Government doing, and how is the misuse of powers done?

The preamble says, "to provide for the maintenance of certain essential services and the normal life of the community".

MR. DEPUTY SPEAKER : I have heard sufficiently. There is no point of order. There is no substance in your argument. When the clauses are taken up, he can make his points; not like this.

SHRI S. M. BANERJEE : I have three points. I have to mention all of them now. What is the use of troubling you afterwards? My second point is this : I will not take more than two minutes. If you kindly read the Statement of Objects and Reasons, you will find as follows :

"The Bill seeks to replace the Essential Services Maintenance Ordinance, 1968 by a temporary Act. It has always been the endeavour of Government to provide comprehensive and positive arrangements for the consideration of the legitimate problems and grievances of its employees."

You, in your wisdom, said and it has been quoted in editorials of newspapers and you have been applauded, you have been raised for giving a decision.

Where is the arrangement for the consideration of the legitimate problems and grievances of its employees ?

MR. DEPUTY SPEAKER : While the hon. Minister moves the motion, in his speech, I am expecting that he will give a reply to this about the alternative arrangements.

SHRI S. M. BANERJEE : So, the preamble is wrong and the statement of objects and reasons is wrong. The last clause 9 (2) is absolutely wrong. Clause 9 (1) says,

"The Essential Services Maintenance Ordinance, 1968, is hereby repealed."

Well and good. But sub-clause (2) says :

"Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been

done or taken under this Act, as if this Act had come into force on the 13th day of September, 1968".

May I read out a portion from the stay order issued by the Andhra High Court? It says :

"Petition praying that in the circumstances stated in the affidavit filed therewith, the High Court will be pleased to extend the interim stay granted in on 22-10-68. Petition to direct the respondents herein, viz., 1. The Union of India represented by the Secretary to the Ministry of Home Affairs, Government of India, New Delhi and 2. The State of Andhra Pradesh, represented by the Chief Secretary to the Government of Andhra Pradesh, Hyderabad, not to take any penal proceedings either departmental or criminal against the members of.....etc.

Order : This petition coming on for hearing, upon perusing the petition and the affidavit filed in support thereof and the order of the High Court dated 20-10-68 and made herein and upon hearing the arguments of.....etc., it is ordered that the said advocates for the respondents shall be at liberty to file the counter-affidavit within three weeks from the date of this and that the interim stay already granted by the High Court on 22-10-68 will continue till then".

Yesterday, the Law Minister misguided the House, whether out of ignorance or innocence. When you put a pertinent question to him as to what is before the Andhra High Court, he said, in Andhra a writ against the termination of services under the ordinance is pending.

श्री रवि राय : उन्होंने सदन को गुमराह किया है।

श्री जार्ज करनेन्डीज : उपाध्यक्ष महोदय, व्यवस्था के प्रश्न को हम उठा सकते हैं हम इस विषयक के बारे में स्पष्टीकरण का प्रश्न उठा रहे हैं।

SHRI S. M. BANERJEE : I have already sent it to you.

MR. DEPUTY-SPEAKER : All the representatives were there in the Business Advisory Committee. You knew, you could anticipate, what would be the trouble in the House.

SHRI S. M. BANERJEE : I am just finishing, Sir. If clause 9 (2) is passed, what will happen ? All these orders which have been issued by the Andhra High Court will be nullified and made ineffective ? Are we to pass such a legislation ? Therefore, this cannot be discussed in the House, because it is going to prejudice the cases before the courts.

SHRI SHANTILAL SHAH : (Bombay North West) : I am replying to the point of order.

श्री जार्ज फरनेन्डीज : हम रिप्लाई ला मिनिस्ट से सुनना चाहेंगे ।

MR. DEPUTY-SPEAKER : So far as Mr. Shah is concerned, he was in the Trade Union movement and I want to hear his views.

श्री जार्ज फरनेन्डीज : उपाध्यक्ष महोदय, यह तो हड़ताल तोड़ी मंत्री रहे हैं ।

SHRI S. M. BANERJEE : He was called by the people in Bombay as *dadal*.

श्री जार्ज फरनेन्डीज : इनको सुनने से क्या फायदा होगा ।

SHRI RANDHIR SINGH (Rohtak) : I protest against the use of the word *dadal*.

SHRI NAMBIAR : Why should Mr. Shah replace the Law Minister ? Let the Law Minister do his job.

SHRI RANDHIR SINGH : Mr. Banerjee must withdraw the word *dadal* or he must withdraw from the House.

MR. DEPUTY SPEAKER : Mr. Banerjee, you talk of maintaining decorum in the House. Why should you use such words ?

SHRI RANDHIR SINGH : It must be expunged.

MR. DEPUTY-SPEAKER : You must withdraw this word. We are considering vital issues. Why do you bring in such words ?

SHRI S. M. BANERJEE : I did not call him *dadal*. I said that the people in Bombay call him *dadal*.

श्री जार्ज फरनेन्डीज : बम्बई में जब चव्हाण साहब मुख्य मंत्री थे तो हमने लिख कर दिया था कि यह मालिकों के दलाल हैं ।

MR. DEPUTY-SPEAKER : When we are considering vital issues, why should you prejudice your case by using such language ?

SHRI UMANATH : Yesterday, when the Law Minister went away waving his hand, you did not take exception to that. He also did not explain. If that can be permitted, the use of the word *dadal* is less harmful than that. I was called a liar by Ramakrishna Bajaj and when I raised that issue, the Deputy Prime Minister said that there was nothing wrong in that and the word 'liar' could be used in the sense that he uttered untruth. Why should Mr. Banerjee withdraw this word *dadal* ? He should not withdraw.

MR. DEPUTY-SPEAKER : I appeal to Mr. Banerjee to withdraw that word.

SHRI S. M. BANERJEE : I never meant anything about Mr. Shah. He is as honourable as any Congressman.

MR. DEPUTY-SPEAKER : Whatever you want to say, you say it yourself. Why bring in others ? I take it that you have withdrawn.

SHRI NAMBIAR : What has happened to my privilege motion, which is before the House ?

SHRI SHANTILAL SHAH : I would like to be heard by you and by the House as soon as order is restored. I was referring to Rule 70 which deals with delegated legislation.

MR. DEPUTY--SPEAKER : On this point, as I have said, I have not given any final ruling. Looking at clause 2 (1) (a) (ix), I have said that the Minister concerned will have to explain it further, because this power is broad-based. After listening to him we can have a debate on that. I am postponing that debate for the present.

SHRI SHANTILAL SHAH : I am trying to explain the implications of this Rule. The hon. Minister in charge of the Bill will explain to you whether it is normal or abnormal, I am trying to explain how delegated legislation is being dealt with these days. Delegated legislation is one of the modern legislative drafting techniques.

Almost every law passed by this House specifies something to be done by the executive. It may be of the nature of legislation or it may be of the nature of executive action. This Bill itself has got two types of clauses. Clause 2 (1) (a) (ix) refers to delegated legislation. The other clause, if the Central Government is satisfied that in public interest it is necessary, it may by order prohibit strikes, that is an executive action.

Now, when you come to delegated legislation, what is required to be done is, that the Bill shall contain a note explaining the nature of the legislation and whether it is normal or abnormal. If it is normal, then the House will accept it. If the House thinks that it is abnormal, the House will not delegate that power. When the House is being told "this is what we seek to be delegated to us by executive action", after reading the clause in the Bill and the explanation given in the memorandum, the House has got to decide whether these powers should be delegated or should not be delegated. Therefore, if, as you said, it is abnormal, it is up to the House to refuse it.

MR. DEPUTY SPEAKER : I have not said anything of that nature. I said that it is a type of blanket power. That is the only expression I have used.

SHRI SHANTILAL SHAH : If the House feels that these powers are

abnormal, the House will refuse to delegate these powers. Even if the House gives excessive powers under the delegated legislation, it can be challenged in a court of law.

MR. DEPUTY SPEAKER : The point raised by Shri Banerjee is an important one. Are you replying to that ?

SHRI SHANTILAL SHAH : May I submit about delegated legislation ? I was not referring to right or wrong. The House may come to the conclusion that it is abnormal. I am pointing out what are the instances of normal delegation and abnormal delegation. Whenever there is normal delegation, then the House lays down the guidelines within which the executive has to act.

MR. DEPUTY SPEAKER : I said that some enumeration of it is called for.

SHRI SHANTILAL SHAH : Whether it is there or not the House has to decide.

Then, there are two other ways of delegated legislation. One is what is known as anterior delegation and the other is posterior delegation. Anterior delegation is like this. Government can issue a notification, which is laid before the House, and if it is not amended then it becomes law. That is anticipatory or anterior delegation. What is posterior delegation is this. They issue a notification. It becomes a law. Then it is placed before the House. The House can approve or disapprove of it. If the House disapproves it, it becomes null and void from the beginning.

This is a case where it has been provided that any notification issued under this Act shall be laid on the Table of the House for a period of thirty days and the House can agree or disagree, approve or disapprove. Assuming it is abnormal, to what extent the delegation is proper or necessary the House will decide. The House may see whether it is unusual. Even, then the

House may say that since it is an extraordinary circumstance, we shall agree to it. But it has to be laid before the House for thirty days. Then it may be approved or disapproved. Whether it is normal, or abnormal, proper or improper, it is for the House to decide. Even if the Government says it is normal, we are not bound to agree to it. The House may say it is abnormal and reject it. But that is not done at the stage of introduction. At the stage of consideration of the clauses the Government should explain how it is normal.

श्री जार्ज फरनेन्डीज : रूल 70 भी पढ़ ल माननीय सदस्य । महोदय, मेरा व्यवस्था का प्रश्न है इसलिये समय की बात नहीं आ सकती ।

श्री मधु लिमये : इन्होंने कबूल किया है कि एक्स्ट्राऑर्डिनरी है ।

SHRI S. KUNDU : Sir, I want only two minutes.

MR. DEPUTY-SPEAKER : If they go on raising points of orders for delaying the motion what can I do ?

श्री जार्ज फरनेन्डीज : मैं डिले नहीं करना चाहता हूँ । यह बिल यहां आ ही नहीं सकता । हम तो इसको खत्म करना चाहते हैं ।

SHRI S. KUNDU : Sir, if you hear my point of order, you will agree that I am trying to help in the conduct of business in the House.

MR. DEPUTY-SPEAKER : But there are several others already before you. I will hear them one by one.

SHRI SHANTILAL SHAH : About financial powers, rule 70 refers to expenditure which has to be indicated in the financial memorandum.

MR. DEPUTY-SPEAKER : I have asked you a specific question about Shri Banerjee's point of order. On two points I have already ruled. On that point I have

not yet ruled. I want to dispose of that point. If you have anything to say on the point raised by Shri Banerjee, I can allow you but not on the financial memorandum.

SHRI SHANTILAL SHAH : About the Industrial Disputes Act, the Industrial Disputes Act governs some Government servants but not all. The railway servants or those servants in the Government who come within the definition of industry are covered but all Government servants are not covered by the Industrial Disputes Act.

SHRI GEORGE FERNANDES : Such as ?

SHRI SHANTILAL SHAH : Such as the civil servants or those who are in the Secretariat services. That is the best example one can give.

It is open to this House to say that instead of that Act this Act will apply. This Bill in clause 8 says :—

“The provisions of this Act and of any Order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force”.

That it is to say, by this clause all those laws are superseded and this clause becomes operative. It is for the House to say whether we want to supersede that law or not. We can omit clause 8 if we like when we come to clause-by-clause consideration.

MR. DEPUTY-SPEAKER : Shri Banerjee has raised two or three issues but only one issue is relevant. The other day I had observed that when you ban a strike, some alternative must be provided.

श्री मधु लिमये : मैंने इस पर अमेन्ड-मेंट दिया है, जैसा आपने कहा था, उसी के अनुसार(अव्यवधान).....

MR. DEPUTY-SPEAKER : Therefore I expect the Minister concerned to give an explanation when he moves the motion.

SHRI SHRI CHAND GOYAL (Chandigarh) : The point which has been raised by Shri Shantilal Shah..... (Interruption).

SHRI S. M. BANERJEE : What is your ruling about (b) ?

SHRI SHRI CHAND GOYAL : Shri Shantilal Shah has not realised the implication of delegated legislation.

MR. DEPUTY-SPEAKER : The power of delegated legislation in sub-clause (ix) is so wide that I used the word 'blanket power'. I have said that the Minister should better explain and enumerate it. We will take up this at that stage. At this stage there can be no debate on that. I have also told Shri Shantilal Shah the same thing about delegated legislation. We will consider it later. You may come forward then with a better alternative. Just now I cannot anticipate the hon. Minister.

SHRI SHRI CHAND GOYAL : What I am suggesting at the moment is that we should make use of article 143 of the Constitution, which says :—

"If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration and the Court may, after such hearing.....(Interruption).

MR. DEPUTY-SPEAKER : This is a suggestion. This is not a point of order.

SHRI SHRI CHAND GOYAL : Kindly hear me. You have permitted others for so long.

MR. DEPUTY-SPEAKER : You said that there is some point of order. This is a suggestion. You can pass it when you make a speech, not at this stage.

SHRI S. KUNDU : I draw your attention to clause 2 (ii) which says :

"any railway service or any other transport service for the carriage of passengers or goods by land, water or air". These things are covered by List II which is the State List.

MR. DEPUTY-SPEAKER : It cannot be raised at this stage.

SHRI S. KUNDU : I have never seen a judge giving judgment before hearing the case. What is this ?

MR. DEPUTY SPEAKER : When we take up the clause, we shall consider that objection, not at this stage. I call now Shri Tenneti Viswanatham. The Minister has moved a motion that this Bill be taken into consideration. He has yet to make the speech. If you have any objection on this particular motion, I will hear you.

श्री जार्ज फरनेन्डीज : आप उपाध्यक्ष महोदय, मेरी तरफ नहीं देख रहे हैं। मेरा पटिकुलर आव्जेक्शन है; मैं कबसे खड़ा हो रहा हूँ।

MR. DEPUTY-SPEAKER : If you challenge, I will stop reporting..... (Interruption). Since this morning, I have been observing it everytime Members go on challenging. This is not proper.

श्री जार्ज फरनेन्डीज : मैं बड़ी देर से खड़ा हो रहा हूँ। फिर आप नाराज हो जायेंगे।

MR. DEPUTY-SPEAKER : If you want to pursue a course, you must have patience and perseverance. Shri Viswanatham.

SHRI TENNETI VISWANATHAM (Visakhapatnam) : Sir, I would draw your attention to today's Order Paper. There are two distinct subjects, items (7) and (8).. ..

श्री जार्ज फरनेन्डीज : उपाध्यक्ष महोदय, सा मिनिस्टर फिर जा रहे हैं।... (व्यवधान)...

SHRI NAMBIAR : This is *Ayaram* and *Gayaram*; *Ayaram*, he comes; *Gayaram*, he goes.

MR. DEPUTY--SPEAKER : This is not a proper comment. From this side also, the Members leave the House for tea or something else.

SHRI TENNETI VISWANATHAM : There are two distinct subjects, namely, item (7) and item (8) with an asterisk and a foot-note that they will be discussed together. This thing happened yesterday also. Yesterday, you de-linked item (7) from item (8). Yesterday, we were on item (7). Today you gave the ruling. Now, at 2.20 P. M. today, when I entered the House, the disapproval motion was being discussed and MR. S. S. Kothari was making his speech till 3 O' Clock, a very short speech. That motion was not disposed of. Suddenly, the Minister rose and said, "I move" and then, all these points of orders were raised. But what I want to know is whether this House will make it a permanent practice to have more than one subject at a time. Every time we raise this thing, the point is somehow or other simply explained away...

16 hrs.

MR. DEPUTY--SPEAKER : I will tell you...

SHRI TENNETI VISWANATHAM : Kindly do not give a ruling. Yesterday, for very good reasons, you made a distinction between the motion and the Bill. That motion has not yet been disposed of; only Mr. Kothari has spoken and nobody else has spoken; it has not yet been disposed of; it has not yet been put to the vote of the House by the Chair; it has been neither rejected nor accepted. But, in the meantime, another subject has come. Suppose, another Minister comes and says, for instance Mr. Ramaswamy comes and says, that courts are also involved here and that he be allowed to move his motion also, namely, item 9 of the order paper and that all the motions be discussed together then what will happen? Simply

because an asterisk is put, can more than one subject be discussed? My reason is very strong. Unless that motion is disposed of, we are not on clear grounds at all. If the House rejects Mr. Kothari's motion, then there is a green signal to move this Bill, but if that motion is passed then we cannot take this Bill at all. That is the reason why a healthy rule has been made in all Parliaments that more than one subject cannot be discussed at a time. You know about it more than anybody else, and I am not able to understand why you are submitting to this asterisk procedure.

MR. DEPUTY--SPEAKER : I will explain.

SHRI TENNETI VISWANATHAM : Kindly explain, but do not rule. Unless one subject is disposed of, people in the centre-- I mean those who do not belong to this side or to that side--cannot make up their minds. We are not accustomed to the procedure of having more than one subject at a time. Moreover, here one is contingent on the other; if Mr. Kothari's motion is passed, then this Bill cannot be taken up at all. Therefore, I submit this. Let us have some little understanding. Please give me enlightenment on this and also please give me another chance to explain before you rule it out.

SHRI RANDHIR SINGH : On a point of order. Can an hon. Member demand an explanation from the Chair? He can request for a ruling but cannot demand an explanation. He was saying, "Kindly explain; do not rule".

MR. DEPUTY--SPEAKER : We have been following this practice for long. The motion is disapproval of the Ordinance that was promulgated. The Bill is to enact the same thing. So, the substance is the same. This is one point.

Another thing is this. Yesterday I also pleaded that both the motions be placed before the House, but there was an objection; they said that they wanted to raise the point of order at that stage only on the first motion. So, I do not want to rule in that sense whether this practice is good or bad; I do not want to say anything, but for the

[MR. DEPUTY--SPEAKER]

sake of convenience and saving the time of the House, we have followed it for long.

SHRI TENNETI VISWANATHAM : I will complete my argument. You have been pleased to say how this practice started. The practice was all right; there was no harm, when there were no proceedings pending in the court... (*Interruptions*) But today there is a special problem, and it only proves that our original rule is very good and, therefore, we must stick to the original rule, namely, that two subjects cannot be taken up at the same time. This is my view. I am entirely in your hands.

MR. DEPUTY-SPEAKER : On that point, on the question of *sub judice*, I have already ruled; I have dealt with it exhaustively in my ruling. So far as the question that something is in the High Court or the Supreme Court regarding this Ordinance is concerned, that will not be raised here now because I have already dealt with it exhaustively.

SHRI VIKRAM CHAND MAHAJAN: Three points have been raised. One point is whether the essential services as contemplated by the Bill covers a normal activity. The object of the Bill is to provide for the maintenance of certain essential services and the normal life of the community. What is the essential service and what is the normal life of the community? The normal life of the community is that a community is entitled to normal postal, telegraph and telephone service; a community is entitled to...

MR. DEPUTY--SPEAKER : Please resume your seat. I have overruled Mr. Banerjee's point of order. Do not repeat that. You can raise it during general debate.

SHRI VIKRAM CHAND MAHAJAN: My second point is...

MR. DEPUTY--SPEAKER : Shri Umanath. Please be brief.

SHRI UMANATH : Please rely on our *bona fides*.

MR. DEPUTY--SPEAKER : You are very sincere. Everybody will accept. Whether it is applicable or not that is a different thing.

SHRI UMANATH : My point of order is this. This House has no authority to pass or discuss or adopt any legislation which is beyond the bounds of the constitution. My point is this, namely, this particular legislation, not this clause or that clause, but the whole legislation itself is beyond the bounds of certain articles of the constitution. When I say this, nobody should say, it is for the courts to decide because, we have got every right here.

MR. DEPUTY--SPEAKER : On what ground, you tell me.

SHRI UMANATH : I am on Article 14 of the Constitution. Let me not be misunderstood that I am trying to repeat the same points of order which were raised earlier at the introduction stage. On that, I am not speaking. I am on different point. That point of order was raised with regard to the description between one kind of employees and another kind of employees. I am not on that point of order. Article 14 reads like this :

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." My point is this. This whole legislation, this whole Bill is violative of this particular Article, not just one or two items alone, but this entire legislation. When I go through the history of these Articles, I find that these have been modelled on the basis of the British and the American constitution. Here is the phrase, equal protection of law. What does it mean? This is what it says :

"Equal protection of the laws : As has been already explained, this expression means the right to equal treatment in similar circumstances." They say; right to equal treatment in similar circumstances. This is the ruling

from the United States in one of these cases. There is another one, in which it has been said like this :

"Equal security to everyone in his private rights—It implies not only that the means which the laws afford for such security shall be accessible to them, but that no one shall be subject to any burden or charges than such as are imposed upon all others under like circumstances."

They say, placed under like or similar circumstances. There should not be any law which will treat people differently who are placed under similar circumstances.

This law says that it is meant for the purpose of maintenance of essential services and for normal life of the community, it means, to prevent the strike. According to this, the Government will use this power to declare a particular industry as an essential service, that is, for the purpose of maintaining its uninterrupted functioning. Now, if the industry, which is, declared essential service, is to be uninterrupted, so far as the worker is concerned, it is by strike. It gets disrupted according to them. Then, there is another category placed in the same industry which is declared essential service, namely the employer. That employer can lock out. Thereby he can stop the industry. Now, the industry declared essential under this category contains both these elements namely employer and employee. The employee by his strike can stop the industry. The employer can stop the industry by his lock out. There are umpteen decisions of the Supreme Court. Under the Industrial Disputes Act this matter went up to the Courts. They have declared that lock-out is a weapon which is exactly similar to the strike which the worker is enjoying in the particular industry. So, my point is this. So far as the aim of this Bill is concerned, to protect normal life, both the employer and employee in the industry which is sought to be declared essential and protected, are placed on equal footing.

MR. DEPUTY-SPEAKER : I have followed his point.

SHRI UMANATH : That is why apart from the Supreme Court, the ID Act says

on this matter. When they refer to prohibition, they refer both to the employee and the employer. It says that no employee in a public utility service shall go on strike. Immediately following, it says that no employer carrying on any public utility service shall lock out any of his workmen. Again the terms used are—notice of lock-out or strike. Everywhere the two are used together.

This law seeks to discriminate when both the employer and the employee are placed in similar circumstances. So it is violative of Art. 14. For purpose of maintaining essential services, this law discriminates one section, one element of the industry, against another. That is my point.

MR. DEPUTY-SPEAKER : I have followed him.

SHRI UMANATH : I have not yet completed.

MR. DEPUTY-SPEAKER : All right.

SHRI INDER J. MALHOTRA (Jammu) : But you were so unkind to Shri Mahajan.

SHRI UMANATH : Because he did not raise a point of order.

SHRI VIKRAM CHAND MAHAJAN : Only when this sort of tactics are adopted, you allow them to continue. I sought to raise my point of order. But I was not allowed to complete it. Now he has taken half an hour with his point of order.

SHRI UMANATH : It is not only a question of administration of law, but even the question of the legislation itself. My final point is on that.

There are certain classes which may be classified and legislation brought in. Here is a ruling which says : class legislation discriminating some and favouring others is prohibited; legislation which in carrying out a public purpose is limited in its application is not prohibited if within the sphere of its operation it affects alike all persons similarly situated.

SHRI K. LAKKAPPA (Tumkur): On a point of order.

MR. DEPUTY-SPEAKER: I have first to dispose of the point raised. What Shri Umanath has raised is not a point of order. This is a matter which should and will be decided ultimately at the highest judicial level.

SHRI UMANATH: No.

MR. DEPUTY-SPEAKER: This House is not competent to decide. Whether certain action taken by the executive is in the public interest or the interest of the community or not...

SHRI UMANATH: That is for the citizen, not for this House. The citizen affected by the law, wherever he feels that it is violative of his rights, will seek judicial remedy. But for us, we have every right to discuss and decide this. Yesterday you were canvassing for the supreme right of this House. So far as the citizen is concerned, he has got every right to go to the Supreme Court and canvass that this legislation is violative of his rights. But in this House we are entitled to decide here and now whether it is within the Constitution or not. Why do you want to take away that right from us?

MR. DEPUTY-SPEAKER: As to whether the right of equality before the law has been infringed, as to whether the House agrees with it or not, I cannot anticipate. In case, the House agrees that it is not infringed, it is open to the court to decide on the point. What he has raised is a very nice point, but not a point of order.

SHRI S. M. BANERJEE: I have already tabled a Motion saying that the Attorney-General should be called. I did so this morning.

MR. DEPUTY-SPEAKER: That is a different matter.

SHRI GEORGE FERNANDES

THE MINISTER OF PARLIAMENTARY AFFAIRS AND COMMUNICATIONS (DR. RAM SUBHAG SINGH): We should proceed with the business now. We have already taken more than 3 hours.

श्री जार्ज फर्नेन्डीज : मैं सबसे पहले श्री उमा नाथ ने जो प्रश्न उपस्थित किया है उस पर आपके सामने सुप्रीम कोर्ट के फैसले को ही पेश करना चाहता हूँ यह बतलाने के लिए कि जो विधेयक यहाँ पर आया है वह बिल्कुल गैर कानूनी है। यह फैसला जस्टिस वांचू ने 1966 में दिया है। इसमें कहा गया है :

"It is too late in the day now to stress the basic freedom of an employer to impose any condition which he likes on labour. It is always open to industrial adjudication to consider the conditions of employment of labour and to vary them if it is found necessary unless the employer can justify the extraordinary conditions."

इतना ही मैं बताना चाहता हूँ कि श्री उमा नाथ द्वारा जो प्रश्न उपस्थित किया गया है उसके सम्बन्ध में जब तक कर्मचारियों के एडजुडिकेशन वाले मामले पर सरकार की ओर से इस विधेयक में या इस विधेयक के साथ-साथ कोई भी दूसरी व्यवस्था हम लोगों के सामने नहीं आती है...

MR. DEPUTY-SPEAKER: You give them an opportunity, they will reply.

श्री जार्ज फर्नेन्डीज : मैं बता रहा हूँ। इस वक़्त जो विधेयक है यह जस्टिस वांचू द्वारा दिये गये फैसले के बिल्कुल विपरीत है। मेरी व्यवस्था का प्रश्न संविधान की धारा 350. हमारे नियम 160, 169 और 307 (1) के अन्तर्गत आता है। मैं चाहता हूँ कि बहुत गम्भीरता से इस व्यवस्था पर आप अपना निर्णय दें।

जो विधेयक आज सदन में इस वक्त बहस के लिए आया है.....

MR. DEPUTY-SPEAKER : You are referring to rule 168 ?

SHRI GEORGE FERNANDES : 160.

MR. DEPUTY-SPEAKER : Rule 160 is about scope of petitions. We are not dealing with petitions. I will be very firm here. If you want to raise some extraneous thing and take the time of the House, I will not permit. This is absolutely extraneous.

श्री जार्ज फरनेन्डीज : कैसे एक्सट्रेनियस है। किसी भी विधेयक पर किसी भी नागरिक को अपना मत व्यक्त करने का अधिकार है। अपनी राय व्यक्त करने का अधिकार है। हमको व्यवस्था का प्रश्न उठाने का अधिकार है। कैसे आप इस अधिकार को छीन सकते हैं।

MR. DEPUTY-SPEAKER : I have given ample opportunity to raise every conceivable objection. Now I will call Mr. Shukla.

Mr. Shukla. You will have to stick to your guns. Do not resume your seat.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA) : As long as you are with me, I will go ahead. (*Interruptions*)

MR. DEPUTY-SPEAKER : I will have to take firm action against all of you with the concurrence of the House. This is not the way. I have given full latitude. Mr. Shukla may go ahead. (*Interruptions*)

SHRI VIDYA CHARAN SHUKLA : Various employees' organisations of the Government of India were preparing to organise a general strike on the 19th September.

श्री जार्ज फरनेन्डीज : आप हमें सुनें या नहीं... (व्यवधान) यह नहीं हो सकता

है। यह गलत आप कर रहे हैं... (व्यवधान) यह बिल्कुल गलत काम होगा... (व्यवधान) आप हमारी बात को सुनकर फँसला करें, तब मैं समझ सकता हूँ... (व्यवधान)

SHRI VIDYA CHARAN SHUKLA : A call was given. They called it a token strike, but it was meant to be a total strike, and the total strike was to completely paralyse the life of the community in the country.

श्री जार्ज फरनेन्डीज : आप तमाम नियमों को तोड़ रहे हैं। सभी नियमों को तोड़ कर यह काम आप चला रहे हैं... (व्यवधान) कैसे आप हमारी बात को सुनेंगे ? कोई तरीका होता है सदन में काम चलाने का... (व्यवधान) मर्जी आए तब किसी को बुलायें, यह नहीं हो सकता है... (व्यवधान)

SHRI VIDYA CHARAN SHUKLA : We know that this so-called token strike was a prelude to general strike and then indefinitely the life of the whole community would have been paralysed.

श्री रामसेवक यादव (बाराबंकी) :
 उपाध्यक्ष महोदय.....

श्री जार्ज फरनेन्डीज : कुछ तो निमय होना चाहिये। यह सदन है। यह लोक सभा है। चाहे जैसे अपनी मर्जी से चलायें, यह कैसे हो सकता है (व्यवधान) एक्सट्रे नियस है या नहीं, यह आप पहले से कैसे कह सकते हैं। बात सुन कर ही कह सकते हैं... (व्यवधान) संविधान में दिये गये अधिकारों का मैं प्रयोग कर रहा हूँ (व्यवधान) यह कैसे चल सकता है.....

SHRI VIDYA CHARAN SHUKLA : What happened ? We had no alternative except to negotiate with them. We kept on negotiating till the very last minute. You might remember that these negotiations went on and the Home Minister had a meeting with the employees' representatives in his room in South Block.

[Shri Vidya Charan Shukla]

There I was also present. After that meeting we tried our best to see that somehow we reach some agreement. (Interruptions).

SHRI K. LAKKAPPA : I will not allow the Minister to speak. (Interruptions).

MR. DEPUTY-SPEAKER : Nothing that is said by those members who have defied the chair will go on record for the coming eight days. (Interruptions).

SHRI VIDYA CHARAN SHUKLA : In order to meet the emergency created by the situation the Essential Services Ordinance of 1968 had to be promulgated by the President on September 13. It was not as if we were trying to have an ordinance of this kind or a law of this kind. The hands of the Government were forced by these people who are shouting in the house. We did not want any ordinance of this kind nor did we want any law of this kind. They wanted to indicate as if this ordinance we have brought or the law which I have the privilege to move prevents strike. I want to clarify that this Bill that I have brought forward in this house does not prevent any strike. It is only a permissive provision and it does not prevent the strike *per se*. That is why when a particular service considered essential from the point of community service is..... (Interruptions) threatened by strike..... (Interruptions) There is no need for such kind of excitement. I do not know what is the motive, whether they want really to block this Bill or they have something else in their mind. If they go purely on merits... (Interruptions) there is no such need. (Interruptions) These people who are trying to create an emergency situation in our country are not able to realise the life of the country. We want to give a suitable forum to the Government employees. We are considering to bring forward a law to provide a good, suitable machinery for positive discussion. We want to put this machinery on a statutory basis so that the Government employees have a machinery, so that all their grievances can be discussed between the Government side and the staff side and possible agreement can be achieved.

All these matters which have to be agitated outside the statutory bodies can be now agitated inside the body which we are contemplating to make in our law. It is our intention to bring a Bill of this kind and come before this hon. house for its approval.

I would like to explain some of the clauses. You had asked me to explain the point of order that was raised by the Opposition members and particularly that clause... (Interruptions)

SHRI KAMALNAYAN BAJAJ (Wardha) : We are not able to hear his speech.

MR. DEPUTY-SPEAKER : You resume your seat.

SHRI VIDYA CHARAN SHUKLA : About the point of order raised by Shri Madhu Limaye regarding the delegated legislation, may I, with your permission, clarify the position? I would invite your attention to clause 2, sub-clause (1) and the various sub-clauses under it. All these sub-clauses enumerate the Essential Services. May I read it for the information of this House. Sub-clause (1)(a) enumerates the Essential Services and defines them.

“(a) ‘Essential Service’ means—

- (i) Any postal, telegraph or telephone service;
- (ii) Any railway service or any other transport service for the carriage of passengers or goods by land, water or air;
- (iii) any service connected with the operation or maintenance of aerodromes, or with the operation, repair or maintenance of aircraft;
- (iv) any service connected with the loading, unloading, movement or storage of goods in any port;

- (v) any service connected with the clearance of goods or passengers through the customs or with the prevention of smuggling;
- (vi) any service in any mint or security press;
- (vii) any service in any defence establishment of the Government of India;
- (viii) any service in connection with the affairs of the Union, not being service specified in any of the foregoing sub-clauses.

The point of order raised by Mr. Madhu Limaye is this:

any service in connection with the affairs of the Union, not being a service specified in any of the foregoing subclauses."

And then comes the point on which Shri Madhu Limaye has raised his point of order:

"any other service connected with matters with respect to which Parliament has power to make laws and which the Central Government being of opinion that strikes therein would prejudicially affect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hardship on the community, may, by notification in the Official Gazette, declare to be an essential service for the purpose of this Act;"

Now, I will invite your further attention to sub-clause (2) of clause 2 which says that all such notifications issued under sub-clause (ix) of clause (a) of sub-section (1) shall be laid, as soon as may be, after it is issued before each House of Parliament for the consideration of the House. As you know, this is our procedure: any notification, any paper, which is laid on the Table of the House containing rules can be discussed by Parliament, and Parliament in its wisdom can amend them or approve them and if they do not wish to

discuss them, they can ignore them. But the Parliament has the opportunity to do so.

I will also invite your attention to a judgment given by the Bombay High Court in 1962 in a similar case: S. D. Mittal, V/s Vasudevan. With your permission, I shall quote from the judgment, which clearly puts the mind of the hon. Member to rest as far as this particular matter of Shri Madhu Limaye is concerned.

I quote from AIR 1962 Bombay 53, paragraph 39, at page 64:

"In our view, the President has laid down with sufficient definiteness the legislative policy and that policy is maintenance of certain essential services for the purpose of ensuring normal life of the community. The President is at pains to enumerate Essential Services in Section 2 () (a) (i) to (viii). It cannot be disputed that maintenance of these services is essential for ensuring normal life of the community. After having enumerated these services, the President has in Section 2 (1) (a) (viii) empowered the Central Government to enlarge this list to a certain extent, but again it has to be noticed that it is not left at the sweet will of the executive to include any and every service under this category. It must be such a service that strike therein would prejudicially affect the maintenance of any public utility service or would result in the infliction of grave hardship on the community. A further safeguard is also provided by making it obligatory on the Central Government to place before each House of Parliament the notification issued under this clause. It has then been provided in sub-section (1) of Section 3 that if the Central Government is satisfied that in the public interest it is necessary or expedient so to do, it may, by general or special order, prohibit strikes in any essential service specified in the Order *i. e.* specified in Section 2(1) (a) (i) to (viii). When these provisions are read together it is abundantly clear that the President has not delegated any essential legislative function to the Central Government. The

[Shri Vidya Charan Shukla]

Central Government has to act within the ambit of the legislative policy laid down in the Ordinance. The limits of delegated powers have been specifically stated in the Ordinance. In our judgment, therefore, the Ordinance is not bad on account of excessive delegation of legislative power to the Central Government. The contention raised on behalf of the petitioners by Mr. Singhvi, therefore, also must fail."

This is an identical point that has been raised by Shri Madhu Limaye, and since...

MR. DEPUTY-SPEAKER : What about the financial memorandum ?

SHRI VIDYA CHARAN SHUKLA : I will come to that. I wanted to come one by one. These essential services are enumerated and then certain powers are given and in pursuance of those powers if any notification is issued, that notification comes before the House, and the House has the opportunity to approve of it or disapprove of it. So, no extraordinary powers have been taken by the Government as far as this particular matter is concerned.

So far as the persons who are detained in the prison are concerned, this Bill does not provide for any expenses for their feeding, etc. The provisions for feeding these people who are arrested flow from the Prisons Act, the Jail Manual, etc. which have been passed by the respective State legislatures. The money to be spent on the prisoners will be provided according to the provisions of the Prisons Act, Jail Manual, etc. (*Interruptions*). This Bill does not provide for any feeding of the people who are arrested. It has completely nothing to do with that kind of thing. That is why we did not consider any financial memorandum necessary. We consulted the Law Ministry and we were told that no financial memorandum would be necessary. Therefore, I humbly submit that no financial memorandum is needed in this matter. These are the few points I wanted to make. (*Interruptions*).

This Bill before the House has got nine clauses. May I explain the various provi-

sion of the Bill ? Clause 1 says the duration of this legislation will be five years. As I submitted earlier, it is a temporary and enabling measure. Clause 1 says, it shall be in force for five years.

Clause 2 defines "essential services" and "strike".

Clause 3 defines the functions which have to be performed. Clause 3 actually gives the power to prohibit strikes in certain employments which I have already explained in my main remarks. (*Interruptions*):

SHRI S. M. BANERJEE : What is he saying, Sir ?

SHRI VIDYA CHARAN SHUKLA : You will read that in the proceedings. (*Interruptions*).

Clause 4 deals with the penalties for illegal strikes. It provides for a punishment with imprisonment which may extend to six months, etc. for illegal strikes.

Clause 5 provides penalty for instigation to strike, etc.

Clause 6 provides penalty for giving financial aid to the illegal strike.

Clause 9 is a general Repeal and Saving Clause.

I have described in brief the provisions of the Bill which I have brought before the House. I have attempted to reply to the various points of order that you directed me to reply and clarify. I would request the House to pass this Bill.

MR. DEPUTY-SPEAKER : You have mentioned in your remarks that some alternative scheme is there. (*Interruptions*). May I request you to spell it out further, because that is the main point from this side ? Can you give some outline about the alternative machinery ? That would be beneficial for the discussion here.

SHRI VIDYA CHARAN SHUKLA : Now or in my reply ?

MR. DEPUTY-SPEAKER: Tomorrow you can do that.

SHRI VIDYA CHARAN SHUKLA :
Yes, Sir; tomorrow I will mention it.

MR. DEPUTY-SPEAKER : The motion has been made.

Motion moved :

“That the Bill to provide for the maintenance of certain essential services and the normal life of the community, be taken into consideration.”

SHRI SHRI CHAND GOYAL : I beg to move :

“That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th February, 1969.” (1)

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

“That the Bill be circulated for the purpose of eliciting opinion thereon by the 10th February, 1969.” (2)

SHRI GEORGE FERNANDES : I beg to move :

“That the Bill be circulated for the purpose of eliciting opinion thereon by the 30th March, 1969.” (3)

SHRI S. KUNDU : I beg to move :

“That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th March, 1969.” (7)

SHRI NAMBIAR : I beg to move :

“That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st March, 1967.” (8)

SHRI SHRI CHAND GOYAL : I beg to move :

“That the Bill to provide for the maintenance of certain essential services and the

Shri S. M. Banerjee,
Shri Bibhuti Mishra,
Shri Y. B. Chavan,
Shri Abdul Ghani Dar,
Shri G. S. Dhillon,
Shri Surendranath Dwivedy,
Shri Indrajit Gupta,
Shri Hem Raj,
Shri Kameshwar Singh,
Shri V. Krishnamoorthi,
Shri Vikram Chand Mahajan,
Shri P. Govinda Menon,
Shri Pилоo Mody,
Chaudhary Nitiraj Singh,
Chaudhari Randhir Singh,
Smt. Sushila Rohatgi,
Shri Prakash Vir Shastri,
Shri Sheo Narain,
Shri Vidya Charan Shukla, and
Shri Shri Chand Goyal,
with instructions to report by the first day of the next session.” (9)

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

“That the Bill be circulated for the purpose of eliciting opinion thereon by the 2nd April, 1969.” (148)

MR. DEPUTY-SPEAKER : All these motions along with the resolution are before the House.

SHRI S. KUNDU : You should hear us. You should be fair to us.

MR. DEPUTY-SPEAKER : I can understand that there is stiff opposition to this measure. Upto a limit I permitted discussion on every point raised. Exercising my patience to the utmost degree, I have given the maximum latitude. Even then, when some Members rise on frivolous issues, am I to yield and stall the proceedings of the House? That is not possible. One at a time I am prepared to listen. The respected leaders of Opposition were there in the Business Advisory Committee when the time factor was fixed and they did not raise any objection at that time. There must be some limit.

[Mr. Deputy Speaker]

As I said just now, both the motions and the circulation motions are before the House. The objection can be only to the discussion of these motions; nothing else.

SHRI ANBAZHAGAN (Tiruchenugode): So many points of orders have been raised on the Bill as well as the Resolution. Whether they are frivolous or approvable the fact remains that certain questions or points have been raised. So, they should be taken up and disposed of first. Then only the discussion on the Bill and Resolution can be taken up. Naturally, some hon. Members are frustrated because the points of orders raised by them are not disposed of. I would request you to take up and dispose of those points of orders before allowing the discussion to take place.

MR. DEPUTY-SPEAKER : I would have conceded your point. But remember what is happening here. Even during the presentation of a petition, when a point of order is raised by Shri George Fernandes, which has nothing to do with the petition itself, am I supposed to hear that point of order? Is it not outside the scope of that business? Still, he would not listen. Even in such a situation, I was so patiently hearing every responsible Member and I gave an opportunity to as many hon. Members as I can. Still, there is some method of doing it. I can understand the feelings of the hon. Members. But they should remember one thing, especially the leaders of groups. When we are sitting here, people are watching us, here as well as outside. Are we functioning here with some sense of dignity, decorum and order? Is this the way to function in Parliament? So far I have taken every point into consideration but there is a stage where one breaks and that breaking point has come. I have tried to listen to everyone and I am prepared to listen to everyone in the course of the debate. But if nobody else is prepared to listen, I cannot help it. So, I cannot accommodate any further. The business before the House is the two motions and the circulation motions. I am prepared to hear hon. Members only on that. I am going to call Shri C. C. Desai.

SHRI S. KUNDU : Sir, the earlier points of orders have not been disposed of.

MR. DEPUTY-SPEAKER : So far as that stage is concerned, nothing remains.

SHRI S. KANDAPPAN (Mettur) : You may first dispose of the points of orders.

MR. DEPUTY-SPEAKER : That stage is over. How can you raise a point of order on a matter which is already disposed of? If anybody says something new, I am prepared to listen to it.

SHRI SRINIBAS MISRA : Sir, where is the order by which you disposed of the points of orders? When points of orders are raised, they should be disposed of before the next stage is taken up. How can you say that stage has passed? Unless we get the financial memorandum, we cannot discuss this.

SHRI S. KANDAPPAN : Sir, they are seeking some clarification from the Minister, because they are not satisfied with his answer.

MR. DEPUTY-SPEAKER : Satisfaction or dissatisfaction is not the question. As I explained, the leader of the DMK just now said in all seriousness that it would have been better if I had disposed of the points of orders before taking up the next stage. There were points of orders by Shri Srinibas Misra, Shri Limaye, Shri Umanath, Shri S. M. Banerjee, Shri Goyal and Shri Viswanatham.

Have I not disposed of all the points of order?

SHRI S. M. BANERJEE : You disposed of the majority of the points of order, including the point of order raised by Shri Umanath. We may or may not agree with your ruling.....(Interruption). But there were two points of order on which we have not had any ruling from

you. One was raised by Shri Misra which was about the financial memorandum. The other was raised by Shri Madhu Limaye under rule 70 of the Rules of Procedure with regard to the delegation of powers. You expected some reply from the Minister on that point before you disposed of the point of order by giving your ruling. This House has not heard—it may or may not have heard—the Minister. But we are not concerned with the Minister. The Minister can explain the point of order, but under the rules the ruling has to come from the mouth of the hon. Speaker.

The second point is about your stopping Shri Fernandes. May I request you to consider what he wanted to raise. I was reading those documents. He was not talking of the petition, because the petition is irrelevant. He presented the petition and it has been referred to the Committee. You will circulate it to the Committee. But what is the prayer in the petition? The prayer in the petition is that the Essential Services Maintenance Bill, in view of what the petitioner has said, may be withdrawn or at least be circulated for eliciting public opinion. Shri Fernandes was quoting the ruling. You are always so kind to us but I do not know why when Shri George Fernandes raised that point of order, rather unusually you became angry today.....(*Interruption*).

SHRI RANDHIR SINGH : The hon. Member is incorrigible. I take pity on you.....(*Interruption*).

SHRI S. M. BANERJEE : He is just an apprentice.....(*Interruption*).

MR. DEPUTY-SPEAKER : You should not use language of that type.....(*Interruption*).

SHRI S. M. BANERJEE : Neither you nor we are responsible; Government is responsible for bringing forward this legislation. But in your anger you ruled that nothing said by Shri George Fernandes in this House will be recorded for eight days. People hear Shri George Fernandes with patience. He is hardly irrelevant.

MR. DEPUTY-SPEAKER : About that you can appeal to me later on. I will consider it at the appropriate time, not now.

SHRI S. M. BANERJEE : I request you to give your ruling on those two points of order.

SHRI DATTATRAYA KUNTE (Kolaba) : When the hon. Member, Shri Srinibas Misra, raised his point of order as regards the Bill being presented to this House without a financial memorandum, you were pleased to say that you would hear the hon. Minister in charge of the Bill and after that you would allow us also to have our says. That is how you stifled Shri Shantilal Shah in the midst of his argument. This is one point which has not yet been disposed of. Before that is disposed of if you ask us to consider the motion for circulation and the merits of the Bill, it is something different from what you had promised.

MR. DEPUTY-SPEAKER : I have not forgotten that.

SHRI DATTATRAYA KUNTE : Another point is whether the delegated legislation authority granted to Government under this Bill, if it becomes an Act, is in normal circumstances or not. About it you yourself had doubts. I tried to hear the hon. Minister. Beyond quoting a judgement of the Bombay High Court he has not explained how the latter part of sub-clause (ix) of clause 2 (1) (a) becomes normal circumstances.

I might just mention to you, after having enumerated so many services, there are services which the Minister today does not know whether they will be essential or not. That is his lack of knowledge, lack of imagination and, on the subsequent imagination that might down upon Government, they might issue an Order. What did the Minister say? He said that it will be placed on the Table of the House and that will be there for 40 days. But the clause does not say that it will not come into operation till it is voted

[Shri Dattatraya Kunte]

out which means that action would be taken under that Order. There is a saving clause that anything done under that Order is protected. It is a very dangerous position about which the Minister does not know.

Sir, this reminds me of the Defence of India Act introduced by the Government of India then in 1939. There were only two sections, one was the preamble and the other section allowed Government to make all the rules in the interest of defence of India. This Bill should have been better worded that way. I am not going into the merits of the Bill. I am only saying that these two major points of order regarding Financial Memorandum and delegation of powers should be disposed of first. The Minister said that clause 9 is only a saving clause. I must point out to him that any action taken under the Ordinance, though the Ordinance is repealed, will be taken as if this Act came into force on 13th September, 1968.....

MR. DEPUTY-SPEAKER : Retrospective effect.

SHRI DATTARAYA KUNTE : Then, Sir, even if the Minister writes a postcard worth 10 p. to someone saying that this Act comes into force and all that it is an expenditure. Even if he takes a bit of paper, it is an expenditure. There will be a little expenditure, no doubt, but to say that the Bill, when it becomes an Act, does not involve financial expenditure is really ignorance of the financial business of the Government. Therefore, before the debate starts, these two major points of order should be disposed of.

MR. DEPUTY-SPEAKER : The hon. Member; Mr. S. M. Banerjee, also raised the similar points. You have given more explanation. I have followed you in general terms. Tomorrow everybody will get the text of the speech. I have also suggested to him, about the alternative arrangement he

suggested, to better spell it out, because, simultaneously, it must come before the House. He has agreed. He will spell it out. On these two points only, about the financial memorandum and the delegation of powers, if necessary, I will ask.....
(Interruption)

SHRI SEZHIYAN : You have asked the Minister to spell out the alternative arrangement they have got... (Interruption).

MR. DEPUTY-SPEAKER : He will spell it out tomorrow. That is not the point of order.

SHRI VIDYA CHARAN SHUKLA : I have made my submission regarding these two points which the hon. Members made. They are on record. After you see them; if you think that further explanation is needed, you direct me and I will be glad to give further explanation.

SHRI HARDAYAL DEVGUN (East Delhi) : We have not heard him.

MR. DEPUTY-SPEAKER : It will be circulated.

श्री देवेन सेन : उपाध्यक्ष महोदय, प्रीऐम्बल और बिल दोनों एक दूसरे के होरटाइल हैं इसलिये यह बिल अशुद्ध है।

MR. DEPUTY-SPEAKER : We have gone far ahead.

SHRI DEVAN SEN : The Bill has been introduced.

प्रीऐम्बल में है 'मेन्टेनेन्स आफ दी नार्मल लाइफ आफ दी कम्युनिटी'। और बिल के जरिये से, जो व्यवस्था थी कि इंडस्ट्रियल डिस्प्यूट ऐक्ट में हम लोग नोटिस देकर हड़ताल कर सकते थे, अब वह चीज उठा दी गई और इसको ऐबनार्मल कर दिया गया है। यह नार्मल नहीं रखा गया है। मेरे कहने का अर्थ यह है कि जो चीज नार्मल थी उसको उठा कर यह बिल ऐबनार्मल

सिद्धेशन क्रीट करता है। इसलिये प्रोपोजिबल और बिल दोनों कंटाडिक्टरी है और इसलिये यह बिल अशुद्ध है।

SHRI TENNETI VISWANATHAM :
Yes.

SHRI SRINIBAS MISRA : I am not raising any point of order. Let it be understood that the other points of order that we wanted to raise could not be raised because of the circumstances. Some of them were important points of order.....

MR. DEPUTY-SPEAKER : As I said, I want to follow the practice. I do not go into the merits whether it is right or wrong. I have already said that. You said that I should not just give a ruling. I have only quoted the practice, and I am adhering to it. Beyond that, there is nothing.

MR. DEPUTY-SPEAKER : We do not reopen any issue. There are only two points about which I have already said.

Shri Shantilal Shah rose—

MR. DEPUTY-SPEAKER : You want to say something ?

SHRI SRINIBAS MISRA : I am not reopening. My request to you is that, when different clauses come, before they are taken up, we may be permitted to raise the points of order.

SHRI SHANTILAL SHAH : I wanted to speak on the merits of the Bill.

MR. DEPUTY-SPEAKER : You can speak tomorrow. Now we have to take up another item.

MR. DEPUTY-SPEAKER : That is a different matter. How can I hypothetically say whether you have some point of order under Clause 5 or whatever it is? You have a right to raise a point of order.

16.57 hrs.

MOTION RE: MODIFICATION TO
CIVIL DEFENCE RULES—Contd.

SHRI SRINIBAS MISRA : We will raise all of them. We want your permission to raise them again when the relevant clauses come.

MR. DEPUTY-SPEAKER : Now we take up further consideration of the following motion moved by Shri Srinibas Mishra on the 20th November, 1968, namely:—

SHRI NAMBIAR : About your ruling about not recording the speeches of Mr. Fernandes and Mr. Lakkappa for eight days...

MR. DEPUTY-SPEAKER : I will consider that, but not now. I will consider it.

“This House resolves that in pursuance of section 20 of the Civil Defence Act, 1968, the following modification be made in the Civil Defence Rules, 1968, published in the Gazette of India by Notification No. G. S. R. 1277, dated the 10th July, 1968 and laid on the Table on the 26th July, 1968, namely:—

SHRI TENNETI VISWANATHAM : What has been done to my point of order? I raised a point of order which was very good. What did you do about that ?

In rule 13, after ‘The Central Government’ insert ‘or the State Government.’

MR. DEPUTY-SPEAKER : About two motions being taken up at the same time ?

This House recommends to Rajya Sabha that Rajya Sabha do concur in this resolution.”

Mr. Srinibas Mishra.