

श्री एस० एम० जोशी (पूना) : मुझे अर्जुन सिंह भदौरिया के बारे में यह कहना है कि उन के ऊपर जो मुकदमा चलाया जा रहा है वह टुकूमत की तरफ से चलाया जा रहा है तथा उन पर दफा 307 का आरोप लगाया गया है। मैंने वहां जाकर स्वयं देखा है और मंत्री महोदय को भी पत्र लिखा है, मुझे दफा 307 का कोई कारण दिखाई नहीं देता है, लेकिन फिर भी उनकी जमानत को रिजैक्ट कर रहे हैं। जब पार्लियामेंट चल रही है तो टुकूमत को उनके यहां आने में दखल नहीं देना चाहिये।

श्री जार्ज फरनेडीज : इस में पडयन्त है। अर्जुन सिंह भदौरिया का उत्तर प्रदेश के चुनाव के कारण बन्द कर रखा है और मधु लिमये को डम लिये बन्द कर रखा है कि लोक सभा का अधिवेशन चल रहा है और बिहार में मध्यावधि चुनाव होने वाला है। हमारे दोनों लीडरों के खिलाफ यह पडयन्त है, उन को यहां पर लाया जाय।

श्री गुणानन्द ठाकुर (सहरसा) : अध्यक्ष, महोदय, आप जानते हैं कि लख्खी सराय में बार-बार रेल दुर्घटनायें होती हैं, उस के सम्बन्ध में उन्होंने कई बार रेल मंत्री महोदय को लिखा और जांच की मांग की। लख्खी-सराय स्टेशन की बनावट इस प्रकार की है कि वहां पर दुर्घटनायें स्वाभाविक रूप से हो सकती हैं। बिहार की सरकार ने भी इस के लिये सिफारिश की थी, लेकिन उस पर कोई ध्यान नहीं दिया गया। अब मधु लिमये जी को संसद के अधिवेशन में भाग नहीं लेने दिया जा रहा है, सरकार ने उन को बन्द कर रखा है। वहां पर राष्ट्रपति का शासन है, इस लिये चव्हाण साहब का कर्तव्य था कि वह इस की जांच कराते
(व्यवधान)

बिहार के भूतपूर्व मंत्री श्री कपिल सिंह देव और बहुत से विधायकों को भी बन्द कर रखा

है ताकि वे लोग बिहार के मध्यावधि चुनाव में काम न कर सकें।
(व्यवधान)

12.38 Hrs.

CENTRAL INDUSTRIAL SECURITY FORCE BILL—Contd.

MR. SPEAKER : Order please. Now we will take up further discussion on the Central Industrial Security Force Bill. The point is this. For this Bill we had allotted 5 hours. Originally we allotted 2 hours, but the time was increased in the Business Advisory Committee from 2 to 3 hours, 3 to 4 hours, and again 4 to 5 hours. Now, already, in the general discussion itself we have taken 3 hours. 2 hours were given for the general discussion. We have taken 3 hours and 5 minutes. And for the Clauses, 2 hours were allotted.

SHRI SURENDRANATH DWIVEDY (Kendrapara) : Point of order took lot of time.

SHRI S. M. BANERJEE (Kanpur) : You may please give one more hour, Sir.

MR. SPEAKER : We have already lost one hour. I wish to bring this to the notice of hon. Members. It is not that relevant points should not be brought up before the House. Surely, they must be brought up, and even if it means one hour more, that extra time has to be given. But the only thing is that the points that we talk about should be relevant ones.

May I say that the general discussion may continue for one more hour? We have already taken one extra hour for this. The parties have already spoken...

SHRI LOBO PRABHU (Udipi) : Not yet.

MR. SPEAKER : Those who have not spoken will be speaking.

I would like to make one more announcement and that is regarding the half-an-hour discussion scheduled for this evening on Kachhathivu... The Prime Minister of Ceylon is coming here in a few days' time and perhaps our Government also will dis-

cuss with them about this matter. This is not the appropriate time to have this discussion. Let the Prime Minister of Ceylon come and go. Afterwards, we shall have the half-an-hour discussion. I am not cancelling it but only postponing it. After the Prime Minister of Ceylon will have left India, we shall take up that discussion, and perhaps Government also will be in a better position to give us information.

SOME HON. MEMBERS : All right.

SHRI SURENDRANATH DWIVEDY : I am totally opposed to this Bill. Not only is the time inopportune but it is unnecessary in the present circumstances.

12.41 HRS.

[MR. DEPUTY-SPEAKER *in the Chair*]

This has been discussed in the Joint Committee and in the House and I did not think that Government have put forward a convincing case on the need for a Bill of this nature.

I would like to know from Government first of all whether the public undertakings themselves felt the need for such a Bill and whether there was a demand by the public sector undertakings all over the country that they must have a separate security force to safeguard and protect the public sector undertakings. So far as I know there has been no such demand. Even those who appeared before the Joint Committee had stated that if the existing watch and ward organisation had been strengthened and reinforced it would have served the purpose.

This Bill raises very fundamental questions regarding the rights of the States. I do not know whether this Government has decided to encroach upon the rights of the States in dubious ways. Sir, you have been connected with the labour movement and you are aware of the great difficulty that has been experienced in regard to labour relations in these public undertakings. While the undertaking belongs to the Centre, the labour relations are dealt with by the State Governments. There has been a demand by the trade unions themselves that in order to obviate this difficulty it would be much better if the labour relations in these public undertakings could also be administered by the Centre, but

that has not been agreed to; neither the States have agreed nor has the Centre taken any initiative in this matter. If the labour relations are taken over by the Centre, then probably the present difficulties would have been removed to a very great extent. Or Government could have come forward with certain proposals about what regulations or rules should prevail where the States and the Centre do not agree. But they have not found any way to solve these difficulties so far.

What does the Central security force mean? It will be a Central island in the State. This security force will function within the precincts of the public sector undertakings. They will be given arbitrary rights even to arrest persons inside the factory. As you know, whenever there is any difficulty—this happens not in public sector undertakings but in the private sector undertakings—they use ruffians and goondas and all sorts of undesirable elements to suppress the legitimate trade union movement, and all sorts of charges are made.

After all, the security force is a watch and ward force. The watch and ward force exists even now in the public sector undertakings. We have often seen clashes between the police forces of the Centre and the State police forces. I am told that in Kashmir where we have the police force drawn over from all States, functioning under the direction of the Centre, recently when there was some trouble in Srinagar.

SHRI HEM BARUA (Mangaldai) : In Assam also.

SHRI SURENDRANATH DWIVEDY : My hon. friend says that in Assam also there have been clashes between these two forces. Not only were there ordinary clashes, but I am told that there were even firings, and the Central police force fired on the State police and there were some killings too.

At the present moment, we know that the border security force is with the Centre. If we have the Central industrial security force in all the States where there are public sector undertakings, then I am afraid that there are bound to be clashes. After all, what is the State police for? The State police is always available to any public sector undertaking whenever there is

[Shri Surendranath Dwivedy]

any trouble. I would like to know whether there has been any occasion even in the non-Congress States where any State Government did not come forward to help the public sector undertaking when there was any trouble. If there had been any single instance where such a thing had happened, then there would have been some case. But so far as I know there has been no such occasion at all so far. So, why does the Centre want to encroach upon the rights of the States? Law and order is the exclusive right of the State, and the Centre has no right whatsoever. So, this Bill will really be an encroachment.

If the Centre feels the need for a Bill of this nature because they are making plans to establish more and more industries in different places, then let them amend the Constitution. Let us amend the Constitution to provide that wherever the Centre establishes any industries it will be their exclusive right to function in any manner they like and the State would have no say in the matter, even if it relates to law and order. I can understand if the Centre does so by a regular amendment of the Constitution. But to do this in this dubious manner creates some conflicts. They will not be able to bring about peaceful conditions in the public sector industries by this method. The management will always use this industrial security force against the legitimate trade union activities.

I would like to know why Government did not take any measures to strengthen and widen the scope of functioning of the existing watch and ward organisation in the different industrial undertakings. What has really happened is that the watch and ward organisation has failed and it has failed because of the recruitment policy followed in this regard. Actually the watch and ward people have not been properly trained. They are not equal to the job. It would have been more proper if they had been given some training and some scheme had been drawn up for that purpose. I think that would have served the purpose very well.

In this connection, I would also like to mention that so far as we see there are trade union rivalries also. There is a machinery how to determine the representative character of a particular union. But

what we find is that where a majority of the labourers support a trade union that is never recognised, because some extraneous reasons are brought into the picture. So, the machinery that exists in this regard is very defective.

It is defective because of another reason also namely that this is to be determined by the State Government through a process of verification, and they do not follow any definite method or principle for that purpose. It is left to the whims of the State Government. If they do not favour a particular union all that they do is to say that, that union does not enjoy the majority support. The result is that there is constant trouble, because the majority union does not get recognition while the minority union is recognised.

SHRI R. D. BHANDARE (Bombay Central) : He can agitate that point in another forum.

SHRI SURENDRANATH DWIVEDY : If the purpose is to bring about peaceful conditions for the proper functioning of the public undertakings, then that purpose would have been served in a different manner than by bringing in more conflicts into the whole picture.

Therefore, I am opposed to this Bill. I am opposed because, as I have said already, it encroaches upon the rights of the States. I would like to know whether even the Congress Ministries in the States have agreed to this proposal of the Central Government to have a separate force for the management protection of the Central public undertakings. Did the initiative come from any of the States, even any of the Congress-governed States? No. This is a very serious matter. I would like to ask whether even during the emergency period from 1962 to 1965 and even upto 1967 end, there has been any single incident anywhere resulting in trouble in any public undertaking where such a Force was necessary.

Therefore, let us not create more trouble. Let us not unwittingly create a dangerous situation. I really do not know what is the intention behind this Bill. If the intention is good, I think even at this stage they can withdraw the Bill. Let us not proceed further. There is already tension between Centre and States. We have

to evolve some procedure to get out of the difficulty. We just cannot ignore this aspect. The stress and strain we are encountering now was not there before for various reasons. Now that some non-Congress State Governments have come on the scene, they want to have—and it is their legitimate right to have—all the powers at least given in the Constitution, let alone the other difficulties which require to be solved later. Some day or the other, because of this tension, things may take a serious turn. I would like this Parliament even during this session, if possible, to have some time to discuss very important matter. It will not in any way harm anybody, neither the running of this public undertakings, nor the Central Government as a whole—because there is no question of any law and order problem or disorder in any of the public undertakings requiring the use of this Force—if this Bill is withdrawn. Let us not proceed further. There will be proper time for this discussion. Let Government again refer the matter to the public undertakings and the State Governments and ask whether the State police is not adequate to cope with this problem whenever it arises.

Therefore, I am opposed to this Bill. If Government do not withdraw the Bill, I would appeal to all Members to throw it out.

SHRI BEDABRATA BARUA (Kaliabor) : It is not a very pleasant thing to support by itself any extension of the coercive power of the State. But I would also admit that a new point has been raised by Shri Dwivedy that the 'presence' of the Centre in the States may itself lead to a certain amount of provocation. But in spite of all that has been said up to now, the question remains that when it is considered as a provocation or when such tensions exist, it is itself a sign of a malady, a disease, a lack of understanding that has threatened to develop in the country of which we have to be aware.

The real question is whether public properties are safe. That has to be considered before we consider the more constitutional questions of Centre-State relations and the rights of the Centre as well as of the States.

On this question, I think every patriotic Indian would agree that recent tendencies in the country are not those one could be happy about. There is a tendency in State politics to consider the State as the whipping boy and to bring about a situation where Central property happens to be the target of mob violence. Certainly we have not built up our public enterprises to let them be the helpless victims, in terms of material resources and all that, of the misdirected wrath of misinformed people. The whole question, therefore, boils down to finding out whether there has been a real danger to public enterprises.

I submit the danger is real. With the growth of public enterprises and with the new type of situation that has developed today, not only the danger exists but the protection that has been accorded to them has not been sufficient. It has not been adequately protected. So, on this question of protection, any step, however haltingly taken by the Centre, must be examined and suggestions given by the House for its proper implementation.

Pericles, in his oration to the Athenians, boasted, prided on the functioning of democracy. He said : "We are the people who do not believe in the people being forced to obey the law; because all of us obey the law, because we are self-disciplined, we do not believe in force, and the Government does not react by force because the people invite the law of the Government by direct obedience." Every definition of democracy to this day has always been that the law has been obeyed, and because it has been obeyed, there has been no necessity to extend the power of the police. In fact, if the law has been obeyed by the citizenry in the way we would like in a democracy, possibly there would have been a withering away of the police force because it would not be necessary, the police would have no functions, but that is an ideal state of affairs that does not exist, and we have to face the realities of the situation. There is growing public enterprise and public violence. This is the basic reality we have to face it.

The Bill, however, does not really deserve so much condemnation, because its objective has been stated in Clause 10 as under :

[Shri Bedabrata Barua]

"to protect and safeguard the industrial undertakings owned by the Central Government together with such other installations as are specified by that Government to be vital for the carrying on of work in those undertakings, situate within the local limits of his jurisdiction;"

So, this is a very limited objective, the right of self-defence being given to public enterprises, which under the Criminal Procedure Code and Indian Penal Code has already been given to every private citizen, and is already being enjoyed, as was pointed out in the House, by private enterprise also. It may possibly become wider if the threat exists in a wider way. So, this by itself does not mean much. So, leaving personal allergies aside, it has not really extended the functions of the State force, but only in regard to the defence of the public enterprises as such. Also, the Railway Protection Force had existed and such other forces had existed as already stated.

So far as the legal question is concerned, the Attorney General had given his opinion, and if we are to function constitutionally, the Supreme Court has to give its opinion later, and in Parliament we have to abide by this position that once the Attorney General has given his opinion that it is constitutional, we have no reason whatsoever to feel that it is not so provided we really have any respect for the authorities whom we are legally required to consult. Law and order is an essential function of a sovereign State, and India being a sovereign State, it has that function of law and order. Though in the constitutional division of powers it is mainly in the State sphere, it is the function of a sovereign State and there can be no quarrel about it. It has been given under emergency powers and all that, and it has been made clear that ultimately the Centre has a certain direct responsibility regarding law and order, a concomitant of the State force which can never be denied, it must be asserted if the situation so demands it.

In Clause 13 it has been very clearly stated :

"...without unnecessary delay, make over the person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him

to be taken to the nearest police station together with a report of the circumstances occasioning the arrest."

13.00 HRS.

So, actually, he has to be produced before the magistrate, subject to the local laws. So, it is not a law and order function. The magistracy has not been affected. It has been further clarified by Clause 14 that whenever any matter outside the public enterprise is concerned or within the enterprise where the State Government is interested, the consent of the State Government is necessary. The Centre will have to consult the Government of the State. In view of this it is only just a procedural legislation. It wants to give certain powers to apprehend an offender. Section 11 and 12 have made it very clear. Of course, there it has been provided that a search can be made and a person can be arrested. It is also very clear that a man can be kept in police custody or any custody for not more than 24 hours. That is the usual limit. So I do not think law and order, power, authority or the function of the State is in any way affected. We have a proverb in Assamese that a 'lota' is stolen step by step until it crosses the fencing. I sincerely believe that the States will be able to maintain law and order and they will discharge their function because that appears to be the only way out of the situation in which we really require more trust in the local people, in the people who form part of the federation, that is, India. At the same time it has also to be admitted that there has to be a federal force and even in the United States there is a federal police. If you want to make any sense of the Federation, then the federal presence must also be felt in every part of India.

13.02 HRS.

The Lok Sabha adjourned for lunch till Fourteen of the clock.

The Lok Sabha re-assembled after lunch at seven minutes past fourteen of the clock.

[MR. DEPUTY-SPEAKER in the Chair.]

CENTRAL INDUSTRIAL SECURITY
FORCE BILL—Contd.

MR. DEPUTY-SPEAKER : Shri Lobo Prabhu.

SHRI LOBO PRABHU (Udipi) : Sir, I was associated with the wrecking of the last Bill of the Home Ministry. I would like now to be associated with saving the next Bill of the Home Ministry, which all other parties are trying to wreck. I am not changing my stand, but I am following certain important principles, which I may disclose.

Firstly, any Bill introduced in this House must be within its competence and legal. The Speaker gave a ruling that the question of law might be left to the Supreme Court. I may mention, this House is a supreme body, which is or should be self-sufficient in the knowledge of law. In fact, there is no profession more heavily represented in this House than the legal profession. Should we then abdicate our right to consider a Bill in all its legal implications, on the presumption that there is a Supreme Court waiting for some one to have the money, patience and purpose to more it?

MR. DEPUTY-SPEAKER : What I said was this. If there were a *prima facie* case where we could say that here is a contravention of the field of authority of the State Governments as indicated by Lists I and II, then we could certainly say here and now that the Bill is *ultra vires* or it goes beyond our legislative competence. But the question is so subtle. The line of demarcation between the authority of the State and the Centre is so subtle. The line is so delicate and so subtle that it is very difficult to demarcate it. Even recognising the talent of all the lawyers here, it would be extremely difficult for us and rather dangerous for us if we were to take upon ourselves the right to determine this demarcation. That was the only thing which I said. I was not saying that the House was not competent to discuss. Surely, this House is supreme. But the question of constitution interpretation of some points is also a very important one.

SHRI LOBO PRABHU : I am grateful to you for the explanation. But that does not remove my request that this House should consider this Bill in all its legal implications before it passes on the subject to the Supreme Court. Therefore, I lent my support—although I disagree so much with my friends on the left to the proposal that the Bill should be a subject of the

opinion of the Attorney-General. And I repeat that. That was my first point.

The second point is that what wrecks the Bill is the obduracy of the Home Ministry to consider the amendments made. Here is a very important issue. This House is a co-operative body. This side of the House has something to contribute. If it comes to this that every amendment is refused to any Bill that is introduced, then what is the purpose of this procedure at all. The other day the Home Minister had to retrace his steps; if only he had agreed to accept some amendments, if he had agreed to accept the amendment that sweepers should not be described as they were, there would not have been any necessity for the reference of the Bill to a Select Committee. I would like to say not only in respect of this Bill but also in respect of all other Bills that the Home Minister should appreciate the role and purpose of the Opposition which has to contribute as much to the legislation as the staff which Government employ to draft these Bills. If the Ministers themselves drafted the Bills or at any rate gave more thought to them, one could accept them, but it remains for somebody in their offices, frequently officers without sufficient training, and without that sense of competence in drafting which was very much present in the older days. The present Bills are full of mistakes. I would say that this is an important issue between the Opposition and the Government that the amendments as such should be considered and should be properly voted upon instead of being subjected to fluctuating Members who come and are summoned for that purpose.

SHRI INDRAJIT GUPTA (Alipore) : Is my hon. friend suggesting that Ministers can draft the Bills better?

SHRI LOBO PRABHU : I am not suggesting that Ministers can draft better, but I presume they can apply their minds just as we apply our minds to a subject which is only treated in an official way.

Now, I come to my third point which is relevant to this Bill. I have considered every Bill and I have considered every question and I have considered everything that I have said in this House from the angle point of view of the common man or the public. If we cannot serve by this

[Shri Lobo Prabhu]

Bill or by any Bill the public then I think we are not serving the purpose for which we are elected. I am saying this to my friends on the Left who come here and oppose certain Bills because they affect certain sections. Ultimately they will be judged not by the favours, temporary favours, they have done to some sections but by what they have done for the whole people. So, let us consider this Bill from the point of view of the whole people.

I am now going to proceed to remove three misconceptions which have misled our friends. I am sure my good friend...

SHRI PILOO MODY (Godhra) : He is using the word loosely !

SHRI LOBO PRABHU : They are all my good friends. I shall convince my good friend Shri Indrajit Gupta by sweet reasonableness, and I shall convince him that this Bill is as necessary or perhaps more necessary for them than it is for Government. I am going to ask of him three separate questions which I would like him to reply to.

SHRI INDRAJIT GUPTA : I am not a Minister. Why should he ask questions of me ?

SHRI LOBO PRABHU : The first question is this. Is this House prepared to protect the property of Government? If this House is not prepared to protect the property of Government, is there anyone in this House who would like to be party to the destruction of that property? It is perhaps true that there are some, but I am glad to say, not many who want to destroy property. I am sure they would not destroy industrial property because industrial property provides employment to them. The point was made here and they are aware of it that Government had suffered a loss of Rs. 8 crores in the Durgapur factory....

DR. RANEN SEN (Barasat) : Rs. 80 lakhs.

SHRI LOBO PRABHU : It may be that his amendment may be right.

SHRI INDRAJIT GUPTA : One zero more or less makes no difference.

SHRI LOBO PRABHU : Yes, it may be a difference of just one zero. The factory suffered a loss of Rs. 80 lakhs, and they have themselves realised that it has affected them. They have ex-

plained that the shut down has affected the workers of their union because this loss was caused by the INTUC. If they are prepared to condemn the INTUC for the damage done to that property, and the damage done to the employment opportunities, why are they opposed to the simple purpose of this Bill to protect the property? and protect industrial potential which employs them? That is a question which they must answer.

I shall go a little further. This Bill is not going far enough. This Bill must protect all industrial property which provides employment. If it does not protect industrial property it does not protect employment. This is a fact which I would like to emphasise.

I have proposed an amendment to that effect, and I do hope I shall convince my good friends to the extent of their supporting that amendment that the Bill should be extended to industrial property even in the private sector because industrial property is the potential for employment.

SHRI V. KRISHNAMOORTHY (Cuddalore) : He believes in the Orissa Chief Minister that we should protect private industries also.

SHRI LOBO PRABHU : My time is limited. If my hon. friend has any questions or he wants to make a speech he can do so later.

SHRI V. KRISHNAMOORTHY : He is entering into an argument.

SHRI LOBO PRABHU : My time is limited. Let him not take away my time. He can have his time to speak later.

SHRI CHINTAMANI PANIGRAHI: (Bhubaneswar) : Shri Lobo Prabhu should look at the Chair and speak so that the Opposition Members may not look at him.

SHRI LOBO PRABHU My next question to my good friends—I am not looking at them now—is this. Are they in favour of sabotaging, sabotage? That is the question. This Bill provides only for cognizable offences relating to property of Government. It does not specifically provide, and I would like that also to be provided, against damage or destruction to property. Is there any one here or in this country who loves it and who will say

that he is for sabotage? That is the simple question that I would like my good friends to answer. I would like my friends to show us any one provision in the Bill which goes beyond that. I would say that the Bill is incomplete. It simply refers to cognizable offences, and it does not refer as such to damage and destruction of property. I would suggest to the hon. Member that instead of the word 'cognizable offences' which might excite some suspicion in the minds of my hon. friends who are in the habit of committing other cognizable offences that the words used may be 'damage and destruction to public property'. At least that is the purpose of the Bill. If that is done it will lull the suspicions of our friends that they are being assailed under this Bill.

If the answer is that they are not against sabotage and they are not against damage and destruction to property, then my second question will remain unanswered.

My third question is this. Is this Bill against trade unions? This has been commented upon in many of the minutes of dissent. But I would like to know whether it is in the interests of trade unions to support sabotage and whether it is fair to assume that the whole lot of trade unions are full of members who are saboteurs. There are only a few saboteurs, and it is these saboteurs that give a bad name to the trade unions. My hon. friends should be the first to support this Bill because they will thereby remove the bad elements from the trade union movement. This is a very vital point that this Bill is not against those who are good members of trade unions but is against those who are its real enemies because they destroy the potential of employment.

And I would like to say that no question of solidarity of a union is implied when the Bill is only against the saboteurs who are the enemies of the State.

So, these are the three questions which I would ask my hon. friends to answer.

MR. DEPUTY-SPEAKER: The hon. Member's time is up. He must conclude now.

SHRI LOBO PRABHU: You have taken away three minutes of my time already. We started at seven minutes past two. I am entitled to have 25 minutes.

MR. DEPUTY-SPEAKER: We have already extended our time. Five hours is not only for the general discussion.

SHRI LOBO PRABHU: That is not my fault.

MR. DEPUTY-SPEAKER: Only two hours were allowed for the general discussion. Even then we have extended it by one hour. And so you are expected to finish in ten to twelve minutes.

Are you not participating in the clause-by-clause discussion? There are five hours of which two hours are for general discussion. You must remember that.

SHRI LOBO PRABHU: Let me know how many hours have been fixed of which these two hours will be for the general debate. I suppose four hours will be for the general debate.

MR. DEPUTY-SPEAKER: No, no. We have allotted two hours only for the general discussion. We have already spent this.

SHRI LOBO PRABHU: I am not concerned with what has been spent. What is the total time allotted to my party? Twenty-five minutes out of six hours have been allotted to us. I am entitled to speak for 25 minutes.

MR. DEPUTY-SPEAKER: Three hours are at our disposal after extension because Shri Banerjee wanted an extension by one hour. In three hours, we shall now finish the general debate. And then comes the clause-by-clause consideration and the Third Reading of the Bill.

SHRI LOBO PRABHU: Please give me four minutes more and I shall finish after dealing with the more important aspects of the Bill.

Now, I am coming to the constitutional position on which, I regret to note that there has been a great ignorance of the law. The position is this. We have to examine the Constitution; the Constitution provides that in the State List; Item I is Public Order and Item II is Police. Item I, Public Order is not at all concerned in

[Shri Lobo Prabhu]

the watch and ward of one's own property. Public Order has a certain meaning and there is nothing about public order which is sought to be dealt with by this Bill and would like my friends to show what provision it attracts, namely, the reservations for the State sector.

About the police, the word 'police' is not used anywhere in this Bill. My very ingenious friend, Shri George Fernandes referred to the application of laws made on defection of this force. Any law can be borrowed by any party without becoming a subject of the police or other organisation for which it was originally intended. Otherwise, there is no reference to the police or their duties in this Bill at all.

I would like to clarify further and I do hope you will give me time. Firstly, the police have roughly four kinds of duties—first is the protective duty; second is the preventive duty; third is the duty for investigation and fourth is the duty for prosecution.

SHRI S. M. BANERJEE (Kanpur) : Fifth is the destructive duty.

SHRI LOBO PRABHU : Sir, we are now concerned only with the protective duty. In this protective duty, do you think that because another body is giving protection to property, the police powers are anywhere to be affected? If you will look after your own property, are you reducing the duties to the police? You are not impinging on them or on the other duties like prevention, prosecution and investigation. So, this confusion that the power of the police is in a way affected by this force is wrong. I would now come to the Concurrent List. But before that, I would like to point out that Item 32 property of the Central Government is assigned to the Central List. Item 90 gives legal powers on any subject in the Central List. And therefore item 90 gives some semblance of the protective powers which are being used.

I am now coming to the Concurrent List where the law of criminal procedure and security are provided. These are all legal issues. We have so many legal friends. So, instead of indulging in generalisations they should meet these particular points. Shri Srinibas Misra

could do so. And if we have still any doubt, let us invite the Attorney-General and hear his views.

On the question of entrenching on the powers of the State, unfortunately, there has been a lot of talk but the precise provision of the law has never been read. The precise provision of the law is not only for defence of property but that a private citizen has the right to arrest whenever a non-bailable and cognizable offence has been committed in his view. The relevant section is 59. So, the power which this body will exercise is no more than the power which anybody of us has already got to prevent a cognizable offence. Therefore, on the one hand, there is no question of entrenching on the State powers when the powers exercised are those of an individual. That disposes of the argument that the State powers are being entrenched upon; that disposes of the argument that a force is being created which will reduce the powers of the police. The police powers do not cancel or absorb the powers of the individual. That is a point which has to be considered carefully.

SHRI SURENDRANATH DWIVEDY : Would the State police have jurisdiction in the public sector enterprises or not?

SHRI LOBO PRABHU : As far as railway property is concerned, the power of the State police is co-terminous with the jurisdiction of the railway police. It is a very important point that Shri Dwivedy has raised, whether the State police will have power over a factory. It has all the powers. The powers given by this Bill are only in respect of preventing an offence against the property of the Government. There is no question of entrenching upon other powers of the State police; there is no question of entrenching upon the powers of the State. A lot of misunderstanding has been caused because the simple provision of the law has not been appreciated. I would like my hon. friends to read Section 59 of the Code of Criminal Procedure, which says :

"Any private person may arrest any person who, in his view, commits, a non-bailable and cognizable offence and shall, without avoidable delay, make over any person so arrested to the police officer."

It is up to those who oppose this Bill to show that there is any provision in this Bill which goes beyond this.

SHRIMATI TARKESHWARI SINHA : (Barh). Mr. Deputy-Speaker, Sir, the hon. Member who preceded me has explained the legality of the whole provision. So, I do not want to touch these points again. But I would like to submit that the need for this Bill has been felt and it has been brought because of the experience for the last 20 years. The loss to Government property because of hooliganism and arson has been colossal and that is why there has been the need for bringing this kind of a Bill for securing the property belonging to the public sector. Our experience has been that, apart from the loss which the railways have been incurring during the course of their operation, as whenever any incident occurs the train is detained, the glass panes are broken and engines are burnt, resulting in loss amounting to lakhs of rupees every year. Apart from this, the loss suffered by the plants in the public sector due to sabotage arson and subversion is so substantial that there is certainly a need for bringing this kind of a Bill.

The hon. Member, Shri Dwivedy, who asked me a question, is himself aware of the things that are happening. It is a different thing that his party may not support this Bill for political reasons.

SHRI SURENDRANATH DWIVEDY: There are no political reasons.

SHRIMATI TARKESHWARI SINHA: If he looks at this Bill objectively and on its merits, he will himself concede the necessity for it because the subversion that is going on in this country is like an iceberg. What is visible is much less than what is not visible. Therefore there is need not only to provide security to this property but also to provide protection needed for industrial growth.

There is not a single industry in the public sector which has not suffered at one time or another because of this. Even now in Durgapur or Bhilai, for example, it is the experience of people who are there that if the manufactured items are kept in the open, they are loaded into trucks, taken to big markets and sold in the open

market. There is no restriction or check. There is only one guard whose capacity is not such as to provide protection against a big gang which is operating.

Apart from subversion that takes place in industrial units, there is a big racket going on—taking away Government property, selling it in the black market and minting money like anything. It has been an open thing. The House would be very much interested in knowing the amount of pilferage that is taking place in the Hindustan steel plants and in the Heavy Engineering plant at Ranchi. I know that things have not been allowed even to reach the destination. Before things have reached their destination, they have been pilfered and there is no security provided against this.

Whatever we may say about the State Governments, the State Government has not taken adequate interest. For argument's sake the State Governments can say that they are in a position to protect their own property worth crores and crores of rupees and ask why they cannot protect the property belonging to the Central Government; but the fact is that it is not so. The experience is that the State Governments have not provided adequate protection, with the result that the Central industrial units or the public sector projects have been nobody's children.

What has happened to the LIC Organisation? In Calcutta the officers were held to ransom and nobody was there to provide any protection. I happen to be the president of the Class I Officers' Association and I get complaints every day that a peon has hit an officer or that, a particular officer has been locked up. This is the kind of thing that is happening and nobody can do anything about it because there is no protection.

That is why there was this need. It is not with great pleasure that this Bill is being brought forward. It is out of sheer necessity. Shri Dwivedy may oppose it on principle, but certainly he cannot deny the need for providing more protection than is actually available today. That is a must.

The Joint Committee has improved this Bill in certain respects and I commend the improvements made by the Com-

[Shrimati Tarkeshwari Sinha]

But I am not quite sure whether this Bill is going to provide the protection which the Government thinks it will provide. Because there should be complete co-ordination between the State Governments and the Government of India in the implementation of this Bill if it becomes an Act.

Though this Bill is not concerned with the railways and the protection to railway property is guided by another Act, it is well known fact that in spite of law there has been great amount of pilferage and loss. Apart from the losses that the railways have incurred because of looting and arson which probably amount to more than a crore of rupees, the total loss of railway property in 1965-66 only due to pilferage and theft comes to Rs. 22,04,592. This is the loss only due to pilferage and theft and it is really an underestimate but I go by the figures that have been provided in their reports. It is gross under estimate. Because when we travel by railways we find that lights, fans, electric bulbs, switches—everything is pilfered and hardly any protection is available so that all these things could be kept intact.

SHRI INDRAJIT GUPTA : It is worst in Bihar.

SHRIMATI TARKESHWARI SINHA: It is very much worse in Bihar. Therefore, there is much more need for the enactment in Bihar. My friends have lot of friends in Bihar who probably do not get guided by hon. Member's noble intentions. They might be getting initial coaching from hon. Members sitting on the right like Mr. Indrajit Gupta—I wish they could also appreciate the decency of Mr. Indrajit Gupta—but they do not observe the rules of the game go much beyond that.

The hon. Member sitting on the right, Dr. Sen, said that the losses in Durgapur were to the tune of Rs. 8 lakhs. It is a gross under-statement. The figure of Rs. 17 lakhs has been given by the management itself. The losses have been much more. But if you really take the losses on account of the loss in the working days, the losses will be much more. Not only the lock-outs and strikes are not maintained peacefully but the first effort invariably is how to break things, how to really sabotage things. I am sorry to say that

my friends sitting on the right are not able to control the Frankenstein that they create very easily. They always plead about the rights of the trade unions. If one-tenth of the obligations could have been taught to them, if one-tenth of the obligations could have been nursed in them, I think, this country would have, certainly, seen better days than it is seeing today. They do not realise that.

Today, the Congress Party is ruling at the Centre. The situation today is that in the States there are other Governments who have been ruling in the States. They do not realise that the Government, to whichever party it may belong, cannot be run unless and until the propriety of law and order is maintained intact and its fibres are maintained intact. Otherwise, no Government worth its name can really exist in this country. This is not only applicable to the rights of the trade unions vis-a-vis the political parties but this is applicable to the basic existence of the administrative system in this country.

Sir, I was in Kerala the other day when Mr. Namboodripad had entered into a big controversy with the Central Government. Many things were said by him. What he said might be considered. There is also a need for reconsideration of certain points that he raised. I do not deny that. But what was the attitude of the Kerala Government? The attitude of the Kerala Government was that they had no interest in the Central services. I was in Trivandrum. I saw with my own eyes that there was no interest shown by the State authorities in the Central Government undertakings or the Central service units. It is a fact that the people of Kerala were not so provocative and, therefore, the peace was not disturbed to the extent it was expected. The credit cannot go Mr. Namboodripad or to the Communist Party. But the credit has to go to the people of Kerala who were not provoked and they did not break the peace there. The Government of Kerala that in spite of provocations, they Kerala was a zero. The State Government was not doing anything. I saw with my own eyes that at the Central Post-Office in Trivandrum, not a single policeman was there guarding the property. Thanks to the demonstrators there that the demonstrators were peaceful and they were

not obstructing anything. Otherwise, if the Marxists would have done anything, the whole property and the entire services would have been at the mercy of the hooligans and goondas. Generally, the political parties start a thing and, after it grows into a Frankenstein, they run away. That is always the situation. That is why, I feel, this Bill is a necessity.

There is only one thing that I would like to mention and that is that in clause 9, the right to appeal has not been granted. When any other serviceman has the right to appeal, why should this be denied to these people? The right to appeal to the Supreme Court should be granted to them. The right to file a writ which is available to every Government servant should be given to them.

Lastly, I would like to submit that clause 14 has to be looked into again. Though to my mind there is no ambiguity in this clause, it is a fact that it can be interpreted in various ways and, I think, clause 14 needs to be a little more clearly clarified.

With these words, I thank you for giving me an opportunity.

SHRI INDRAJIT GUPTA (Alipore). Mr. Deputy-Speaker, Sir, I think, the Congress Party by this time should really make up its mind as to what it considers to be the purpose of this Bill because I find contradictory voices speaking from the other side and quite a good bit of confusion. The hon. Minister, you will remember, when he was speaking at the beginning, went out of his way to appeal to the Opposition not to see more into this Bill than there is, and the point which he was emphasizing over and over again was that it was nothing but a sort of an arrangement for streamlining the existing watch and ward organisation. This is what he said. He said that they want to make the existing watch and ward organisation more efficient as there is a lot of deficiency in respect of selection, recruitment, training and so on, and that the object of this Bill is really to put the whole thing on a much more effective basis. That, I can understand. That could be done even without bringing this Bill at all. Nobody was preventing the rules governing recruitment, training and so on of the watch and

ward from being changed or the Centre taking a hand in the training of watch and ward. I can understand that. But I do not understand why this Bill is required if it is nothing more than that. Many hon. members who have spoken from the Congress Party have really made it quite clear that they think that this is something more, and that is the real thing. The cat is being let out of the bag. Even Shrimati Tarkeshwari Sinha, when she was speaking, by indirect references made it clear that in cases of labour disputes, in cases of agitation by the employees, a situation might arise where this Force would have to be used. Therefore, I would like to know clearly from the Minister when he replies whether it is the intention of the Government or not that this Central Industrial Security Force should be at the disposal of the Managing Directors of various concerns if they consider it necessary in their discretion to use this Force to suppress normal trade union agitations and workers' agitations. He must reply to that question because he knows very well that a number of trade union representatives belonging to different trade unions of different affiliations who appeared to give evidence before the Joint Committee were unanimous on this point that they felt the deepest apprehension that this was creating a new kind of instrument of suppression which would be put in the hands of the Managing Directors to use as they want. There is no safeguard against that at all. Mr. Lobo Prabhu said something about honest trade unions, bad trade unions, and all that. But may I know who is going to be the judge of all that?

I want to point out that this is not a question of legal quibbling, but it is a question of the attitude which is being displayed towards trade unions and towards labour questions by the people who are running the public sector undertakings. I want to give an example and then you will understand why we feel apprehensive about it. As I said, it is a question of the attitude. For example, in this recent Central Government employees' strike, I can understand the Government or a Minister taking up the position that because they had declared the strike illegal by a certain Ordinance, these trade unions which had embarked on the strike had committed an illegal act in terms of the

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Ordinance and, therefore, they propose to take action against them. This can be their stand; I follow. But you see the kind of attitude, the kind of language, the kind of outlook that is being displayed by them. I have a copy of the letter written by the Railway Minister who is, I must say, normally speaking, a mild-mannered man; I find him to be a mild-mannered man and a very polite man. But here is the letter written by him, signed by him at least—Shri C. M. Poonacha—which he had addressed to all the General Managers of the various Railways on the morrow of the strike, congratulating them on having successfully broken the strike and passed through what he considers to be a very severe trial. This is the language used there :

“Under your leadership...”

He is telling the General Managers.

“Under your leadership, your officers have displayed a great sense of duty and withstood all inconveniences in resisting the attempts of the extremist elements to disrupt train services.”

This is not a question of sabotage. Trade unions, when they decide to go on strike in the Railways, are referred to here as ‘extremist elements’, and for this matter he is congratulating the General Managers. As a result of this, what happens? The General Manager is further inspired by the message which has come to him from Rail Bhavan, and the General Manager of the South-Eastern Railway issues then a printed circular or an appeal, whatever you would like to call it, to the Railwaymen under him, and there, he goes one step further. He says :

“You should not allow your service to be distracted by the noises that a microscopic group of perpetual malcontents is now and then trying to make.”

This is the outlook of the General Manager towards trade unions which were recognised trade unions up to the 19th of September. The reference is to ‘noises by a microscopic group of perpetual malcontents’. Now, Sir, one of the General Managers will tomorrow be appointed as Managing Director of a steel plant, of a public sector undertaking. I fail to under-

stand how a managing director who had this kind of attitude towards the trade union will be a neutral person in case of industrial disputes. In case of labour dispute, that type of managing director will be the last man to be neutral. He is one of the parties to the dispute, how can he be neutral with this attitude towards the trade unions, Sir? He will use the power given to him to terrorise, to intimidate and harass the workers. That is why we are convinced that this method is going to be used for this purpose alright. Mrs. Sinha referred to this and also Mr. Lobo Prabhu referred to it. But how are this Government going to convince us that they are really serious about protecting these plants against sabotage? —That is what I would really like to know. References have been made to Durgapur incidents over and over again and hon. Members should know what has happened. I would like to remind Mrs. Sinha that it is not the friends on the right of her who indulged in these things, but it is really the friends sitting on her benches who indulged in these things. It is the INTUC which indulged in all these things. Everybody knows that. It has appeared in the press. It is this union which has indulged in a particular form of strike which resulted in damage to the cooling pipes of the rolling mills resulting in a damage which would cost them 17 lakhs or 18 lakhs, whatever the figure may be. It is they who indulged in all these things. But what has happened, Sir? There are these various unions of the Central Government employees which have been de-recognised within 24 hours, on the allegation that they had participated in an illegal strike; and therefore they must have their recognition withdrawn. All right. But why do you have double standards? Why do you adopt double-standards? Because, it is the union of Shri Atulya Ghosh, patronised by Shri Atulya Ghosh. It is that INTUC union which had been carrying on illegal strike, as a result of which damage had been caused to the rolling mills. Several lakhs of rupees have been spent to repair these things. But it is a recognised union and continues to be a recognised union.

SHRI JUGAL MONDAL (Uluberia) : Under what basis have you got the information about sabotage and expenditure

involved in repairing the plant? It is not a question of sabotage.

SHRI INDRAJIT GUPTA . I am not yielding.... (Interruption)

SHRI C. K. BHATTACHARYYA (Raiganj) : You don't hesitate to intervene even with the Minister... You go on intervening. Even when the Prime Minister spoke, you intervened.

SHRI INDRAJIT GUPTA : I know, the shoe pinches you. That is why you say that.

DR. RANEN SEN : As soon as the name of Shri Atulya Ghosh is mentioned, why should these gentlemen get up? That is the real trouble.

SHRI C. K. BHATTACHARYYA: What did the hon. Member do when the Prime Minister spoke that day?

SHRI INDRAJIT GUPTA : I am going to make yet another charge, and it is this. At that meeting or conference of the INTUC union at Durgapur, when the decision to strike was taken, the Deputy Prime Minister of this Government was present as a guest. He is used to giving us a lot of sermons on this and that here, but not a single word fell from his lips at that time. These gentlemen, after the damage to the plant, came running to Delhi. The news was in the papers that they had some interviews with the Deputy Prime Minister and the Home Minister and that was all. Nothing more happened about it. Why these double standards? In the face of this how are we expected to believe that they are serious about checking sabotage?

My question is very simple. Protection against what? I want to know whether it is protection against pilferage, because that is not the experience of the railways or of the ports; the experience of the ports and the railways is that the activities of the protection forces there which have been specially set up have led, if anything, to a growth or extension of pilferage and not to bringing it down. Is this Bill against sabotage? Well, the record of this Government does not show that they are at all serious about it. Is it for protection against communal disturbances inside the plants? Please remember that the genesis of this Bill dates back to 1964 when there was another Home Minister and a wave of

horrible riots and communal disturbances had taken place at Jamshedpur, Rourkela and other places and we were told at that time that this was the object of this Bill. Now, we do not hear about that at all. On the other hand, more recently we have seen in another public sector undertaking at Hatia that communal disturbances had taken place and neither the central industrial security force nor even the military forces that were called could put a check to them.

We must be clear in our minds about what we are out to do. What do we want to do? I am not going into the legal aspects because there is no time. But I would only say that it is a very sad state of affairs, that at a time when the political map of the country has changed and is changing very fast and at a time when all sorts of political thinkers in this country are discussing how the federal character of the Constitution should be strengthened, the Home Minister every day in public statements and speeches outside and even while addressing the Governors' conference a day or two ago has been harping on the opposite theme that the Centre must be strengthened at all costs at the expense of the States because the political map of the country is changing. I think that that is a very sad state of affairs.

I shall also point out how much they respect the opinion of the Attorney-General. I was a Member of the Joint Committee and the Attorney-General appeared before us. On matters which are covered by clauses 10 and 11 of the Bill we had grave doubts because the phrase used is not only the undertakings owned by the Central Government but other installations also which may be vital for the working of the undertakings and they wanted to cover those installations also. We had raised the question before the Attorney-General, and with your permission I would like to read out what Shri Daphthary had said. This was what what he had said :

"If you ask me, some further definition or limitation is required to make it more precise than it is at present."

Then, he says :

"I suppose one must keep in mind that it will have precious little use by having a strong force to protect my

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factory and prevent its being interfered with if the power supply or water supply or whatever it is, is left at the mercy of some one... So, in order to make this effective some method must be devised whereby what is essential for the Government undertakings should also be covered."

Otherwise, it can be stretched to any extent. We had raised this point here because there may be some components for a particular industry which are being made by some firm outside. By some stretch of imagination they may also be brought within the purview of this measure. He said :

"This requires more precise definition".

He was asked by Shri Y. B. Chavan :

"Do you want any direct amendment in the Act or under the rules?"

to which he replied :

"You might have an amendment of the Act. Rules would not do by themselves."

This was the opinion expressed before the Joint Committee by no less a person than the Attorney-General. That is the respect that they show to the opinion expressed by the Attorney-General.

Now, I shall show you from another part of the proceedings where I had raised the question regarding the territorial jurisdiction of this force that it should extend only to the compound or the premises of the factory. What does the term 'premises of the factory' mean? The factory may have a wall around it. Outside the wall there may be a township. Many of these new public undertakings have big townships around them. Where does it extend? We wanted that to be made precise. For that too, the Attorney-General has said that it should be defined, because there may be a wall and there may be somebody standing on the road outside the wall who may throw something over the wall into the factory; there may be a township also. He said that these things required definition. But nothing has been done. It has been left vague as it was before so that it may be used for any purpose whatsoever.

I would say in conclusion that there is no doubt that dual authority is being set up because there is a whole pattern behind it. We have seen in Calcutta that even the border security force which has got a specific purpose and a specific object of depending the borders was on the streets of Calcutta at the time of the disturbances. There is also the Central Reserve Police and there is now going to be the Central Industrial Security Force. This is all part of a pattern. More and more, they are trying to set up para-armed forces. It is not a watch and ward force. The statement of objects and reasons makes it quite clear. It is a para-military organisation which will be equipped with wireless sets, with transport, with arms—everything. It is there in the statement of objects and reasons.

So what they are trying to do is to set up a dual authority. Even Shri P. C. Sen, former Chief Minister of West Bengal—we had those documents before us in the Joint Committee—went on record objecting to this and saying that it would lead to a grave encroachment on the State's powers. The Government of Mysore, which is a Congress Government, objected to it. The Government of Andhra Pradesh, I think, objected to it.

They are all recorded here. It is not as if only non-Congress States objected to it. Not at all. This is a very serious matter. At the moment, we are quite convinced that it is only going to be used as an instrument of repression against the trade unions and we are putting a very dangerous weapon in the hands of the managing directors who are gentlemen of such a type who regard anything, even a normal trade union dispute, as something which requires to be crushed. I have quoted enough to show what their mentality is. Therefore, we are opposed to this Bill lock, stock and barrel.

SHRI R. D. BHANDARE (Bombay Central) : So far as the first point, that this Industrial Security Force Bill will interfere with the rights of trade unions is concerned, I think the fear is based simply on doubts and apprehensions, because there seems no ground whatsoever for entertaining them. I do not know how industrial

relations could be altered by such a piece of legislation. It is suggested that the managing director or management may use this force as an instrument to suppress the labour organisations having extreme leftist ideologies. That, again, is based on an apprehension. That point must be cleared.

SHRI INDRAJIT GUPTA : Let the Minister make it clear.

SHRI R. D. BHANDARE . I asked the question of Shri Dwivedy as to how industrial relations could be altered, how laws dealing with labour would be changed by such a piece of legislation. But that is not the point I am going to deal with. I am going to deal with a point which is exercising your mind, whether such a law will not encroach and trample upon the legislative powers of the States. It is quite clear that this has been the point agitating your mind. My submission is that first we have to go to cl. 10(b), a point dealing with the object or purpose of the Bill.

"To protect and safeguard the industrial undertakings....."

Not all undertakings; it is qualified undertakings—

"together with such other installations as are specified by that Government to be vital for the carrying on of work in those undertakings...."

So it is for the Central Government to specify as to which are the industries and installations along with the industry required to be safeguarded and protected. No other undertaking or installation will be covered by this bill.

15. Hrs.

SHRI NAMBIAR (Tirucherappalli) : Is it a very difficult thing to specify ?

SHRI R. D. BHANDARE : I am dealing with the point of encroachment on the powers of the State. For that purpose I am explaining this point, that specifying is required.

In the proviso also, again specifying is required by the Central Government that a particular industry is so vital that it requires protection. Unless the Central Government specifies and seeks the consent of the State Government, this law will not be made applicable to the industry that may be in a particular State.

SOME HON. MEMBERS : No, no.

SHRI INDRAJIT GUPTA : What are called connected installations do not require the State Government's consent.

SHRI R. D. BHANDARE : I am not dealing with that point. I am dealing with the first point, ...

SHRI S. M. BANERJEE : The point should be connected with something.

SHRI R. D. BHANDARE that unless the Central Government specifies that a particular installation requires to be protected as vital, this law will not be made applicable. This law will not be made applicable unless the consent of the State Government is obtained.

SHRI NAMBIAR : In which case ?

SHRI S. KANDAPPAN (Mettur) : Where is the provision ?

SHRI R. D. BHANDARE : I hope I have made the point clear.

MR. DEPUTY-SPEAKER : I am following you, but the time is limited. When we deal with the clause, you will have further time.

SHRI R. D. BHANDARE : Unless consent is obtained from the State Government, this law will not be applicable to the State at all. Is there any provision for giving consent ? You, Mr. Deputy-Speaker, raised this question on the previous day.

MR. DEPUTY-SPEAKER : It was about jurisdiction.

SHRI R. D. BHANDARE : I am talking of jurisdiction. You have not been satisfied, and you again raised the same point this morning. The question of consent is there. What is the scheme of our Constitution ? What is the scheme of this Bill in Clause 10 ? The scheme of Clause 10 is that so far as the undertaking which is in the State jurisdiction is concerned, this law will not be made applicable unless consent of that State is sought. So, previous consent is required, and the consent is based on specifying an undertaking by the Central Government if it comes to the conclusion that it requires to be protected. Is there any provision in the Constitution for giving of consent ? I am not going to deal with this elaborately, but I will refer to article 249. It is absolutely neces-

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sary at times for the Central Government to pass a law which deals with matters which may not be within its own purview or precincts. It may be in the State List, but if the Central Government comes to the conclusion that it is absolutely necessary, then by a resolution of the Council of States it can make a law. I am dealing simply with the element of consent, and whether the element of consent has to be taken into consideration under the Constitution, and for that limited purpose I mention article 249.

Now, Sir, Art. 252, deals with the specific element of consent. I may read the article itself—Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State. Unless consent is expressed to the passing of resolution by the States...

MR. DEPUTY-SPEAKER : May I point out that this is likely to raise further controversy. It will come when we consider the Bill clause by clause. So I would suggest to you to be brief now.

SHRI R. D. BHANDARE : The instrument by which the consent of the States would be obtained is the resolution by the legislature of a State. Now the same point has been dealt with in article 3. But the wordings are different. When any boundary is to be changed or altered of any State, then the President will obtain the consent or the view of the legislature of the State and the view is expressed through a resolution by the State legislature. Here also consent is expressed through a piece of resolution by the legislature. So it is not a far-fetched thing. 'By consent' means that when a particular industry is specified by the Central Government as vital, the matter is sent to the States and the State in order to express its consent must pass a resolution through the legislature. That is the scheme. Therefore we should not be frightened that it will be struck down by the judiciary.

श्री देवेन सेन (आसनसोल) : उपाध्यक्ष महोदय, मैं इस सेंट्रल इंडस्ट्रियल सिक्योरिटी फोर्स बिल का विरोध करता हूँ। इस बिल के आरम्भ में यह दिया हुआ है :

To provide for the constitution and regulation of a Force called the Central

Industrial Security Force for the better protection and security of certain industrial undertakings.

सर्टेन इंडस्ट्रियल अंडरटेकिंग्स के बेंटर प्रोटेक्शन और सिक्योरिटी का सुचारू रूप से बन्दोबस्त करने के हेतु यह बिल लाया गया है। लेकिन मैं इस को नहीं मानता हूँ क्योंकि इस बिल के अन्दर कोई ऐसा सैंक्शन नहीं है जिसमें कि इंडस्ट्रियल अंडरटेकिंग्स के बेंटर प्रोटेक्शन और सिक्योरिटी का सुचारू रूप से बन्दोबस्त करने की बात कही गयी हो। केवल बिल में तीन सैंक्शंस अर्थात् सैंक्शंस 7, 11 और 12 इस से सम्बन्धित है। क्लॉज नम्बर 7 में कहा गया है कि इस फोर्स की सुपरिनटेण्डेंस सेंट्रल गवर्नमेंट में वेस्ट करेगी और सब्जेक्ट देयरटू इस फोर्स का गेडमिनिस्ट्रेशन इंस्पेक्टर जनरल में वेस्ट करेगा। इस फोर्स के ऊपर किसी राज्य सरकार का कोई अधिकार नहीं रहेगा। मैं मिनिस्टर साहब से पूछना चाहूंगा कि बिल में कहाँ ऐसा कहा गया है कि इस फोर्स के ऊपर राज्य सरकार का अधिकार रहेगा? क्लॉज नम्बर 7 का लास्ट सेंटेंस देखिये। मैं उसे पढ़ कर सुनाता हूँ :

"Discharge his functions under the general supervision, direction and control of the Managing Director of that undertaking."

इस में मैनेजिंग डाइरेक्टर के सुपरविजन, डाइरेक्शन और कंट्रोल की बात कही गयी है लेकिन राज्य राज्य सरकार का अधिकार कहाँ से आता है यह हमें बतलाया जाय।

क्लॉज नम्बर 11 में पावर टु एर्रेस्ट विद्-आऊट वारंट का जिक्र है जबकि क्लॉज 12 में पावर टु सर्च विद्-आऊट वारंट का जिक्र किया गया है। अब मेरा कहना है कि यह पावर टु एर्रेस्ट विद्-आऊट वारंट या पावर टु सर्च विद्-आऊट वारंट यह चीज संविधान के खिलाफ है। संविधान की धारा 21 में कहा गया है :

"No person shall be deprived of his life or personal liberty except according to procedure established by law."

जाहिर है कि विद्वाऊट ऐनी वारंट फ़ोम ए मजिस्ट्रेट और ऐनी एथारिटी किसी को गिरफ्तार करना संविधान के खिलाफ़ होता है। संविधान की धारा 22(2) में यह कहा गया है :

“Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest.”

अगर कोई गिरफ्तार हो तो 24 घंटे के भीतर भीतर उसे किसी मजिस्ट्रेट के सामने प्रोड्यूस करना पड़ेगा। संविधान में स्पष्ट रूप में विद्वाऊट 24 घंटे का उल्लेख है उस में यह विद्वाऊट अननसैसरी डिले वाली चीज नहीं है क्योंकि यह विद्वाऊट अननसैसरी डिले वाली चीज अगर रक्खी जाती है तो वह 24 घंटे हो सकते हैं, 30 घंटे हो सकते हैं, 60 घंटे हो सकते हैं और 7 दिन भी हो सकते हैं।

मैं कहता हूँ कि यह बिल संविधान के खिलाफ़ है। लेकिन जिस एक बात पर मैं जोर देना चाहता हूँ वह यह कि शायद मंत्री महोदय का यह इशारा है कि मजदूर हड़ताल के जरिये से जो सेवाटेज करते हैं उस को रोकने के लिये यह बिल लाया गया है। ऐसा कहा भी गया है। मैं पूछना चाहता हूँ कि सेवाटेज के जरिये में हिन्दुस्तान में सरकार का कितना नुकसान हुआ है ? रेलवे है, पोस्ट एंड डाक है, शिपिंग है, जिनमें भी केन्द्रीय सरकार के एस्टैब्लिशमेंट्स हैं उन में सेवाटेज के जरिये से सरकार का कितना नुकसान हुआ और मार्लिकों तथा मनेजर के सेवाटेज के जरिये में कितना नुकसान हुआ ? पांडे कमेटी की रिपोर्ट में है कि दुर्गापुर में 14 करोड़ रुपयों का नुकसान हुआ एक वर्ष में। मैंने देखा है कि हिन्दुस्तान स्टील लिमिटेड में पिछले दस वर्षों में 1200 करोड़ रुपयों का नुकसान हुआ। यानी केन्द्रीय सरकार के हर एक प्रतिष्ठान में नुकसान हुआ है सिवा हिन्दुस्तान केबल्स और हिन्दुस्तान टेलिफिल्म में। सेवाटेज करता है मनेजमेंट क्योंकि मनेजमेंट की भरती होती

है बड़े-बड़े पूजीपतियों के इशारों पर और कैपिटलिस्ट्स के इशारों पर ताकि केन्द्रीय सरकार के पब्लिक सेक्टर न चल पायें। इस देश की यह परम्परा है कि हिन्दुस्तान में पब्लिक सेक्टर चल नहीं सकता, प्राइवेट सेक्टर उन से ज्यादा अच्छे चलते हैं और प्राइवेट सेक्टर में ज्यादा मुनाफा होता है, यह साबित करने के लिये यह सब चीजें सजेस्ट की जा रही हैं।

इस बिल का उद्देश्य हर एक राज्य में प्रतिद्वन्दिता और प्रतिस्पर्धा के आधार पर एक पुलिस का नेटवर्क कायम करना है। इस का उद्देश्य है राज्य सरकारों की पावर को खत्म करना। राज्य सरकारों की पावर को बढ़ाने का उद्देश्य नहीं है। आज हिन्दुस्तान में केन्द्रीय सरकार और राज्य सरकारों के क्या रिश्ते होंगे इस को लेकर बहुत चर्चा चल रही है। केन्द्रीय सरकार पहले में यह बिल ला कर तय कर लेती है कि वह किसी की बात नहीं मानेगी। अगर जरूरत होगी तो वह जो उस की फोर्स रखेगी उस के जरिये से राज्य सरकार की फोर्स को बेकार कर के काम अपने काम को चलायेंगे। मिलिटरी तो है ही उन के हाथ में, लेकिन मिलिटरी के जरिये में वह काम को नहीं चलाना चाहते क्योंकि मिलिटरी तो बहार की लड़ाई के लिये होती है। केन्द्रीय सरकार की फोर्स जायेगी तो मिल जायेगी मनेजमेंट से। मनेजमेंट के माताहत उस का रहना बहुत खतरनाक है।

मैंने पिछले तीन वर्षों में एक बिल भी ऐसा नहीं देखा जो मजदूरों के हक में हो। तालाब बनने के लिये, रिट्रेचमेंट रोकने के लिये या डी० ए० को स्थिर रखने के लिये एक बिल भी नहीं लाया गया लेकिन यहाँ पर पिछले दो महीनों में तीन ऐसे बिल लाये गये जिन में जनता को बड़ा नुकसान पहुँचा। अंग्रेस्त महीने में गोलड कंट्रोल बिल लाया गया जिस के जरिये 25 लाख अर्टिजन्स की रोज़ी का साधन छीन लिया गया। अगर हर एक आदिमी

[श्री बेबेन सेन]

के परिवार में पांच पांच सदस्य भी हों तो आज एक करोड़ आदमी भूखों मर रहे हैं। उस के बाद बैंकिंग रेगुलेशन बिल आया उस के क्लॉज 36 के जिरये से बैंक के लोगों को हड़ताल करने का हक नहीं रखा गया। अब यह बिल आया है जिस में बिना किसी वारण्ट के आदिमियों को अरेस्ट किया जा सकेगा और लोगों को तंग किया जा सकेगा।

मैं इस बिल का विरोध करता हूँ और कहता हूँ कि हिन्दुस्तान में मजदूरों के खिलाफ इस को लाया गया है। हमारे देश की सरकार यह चाहती है कि जितना भी हो सके मजदूरों को सताओ। कोई भी काम मजदूरों के हक में सरकार की तरफ से कभी नहीं हुआ। इस बिल को वापस ले लिया जाना चाहिये।

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA) : Sir, in the beginning many members belonging to the opposition expressed doubts about the constitutional validity of this Bill and the legislative competence of this House to pass it. I would briefly quote the opinion of the Attorney General given before the Joint Committee and not quoted by hon. members opposite :

"It is wrong to interpret an item in one List as being limited by an item in the other List. Each is capable of being exploited to the full. You are well aware of this that you have to look at the substance. Courts have gone to this length. They say that if the penal substance is something which falls within the list, it may be that here and there are provisions which impinge upon some items in the other list, but that cannot be helped provided they are necessary and ancillary and auxiliary items."

He goes on further and says :

"When I look at certain other legislations, e.g., the Customs Act, I find there the power of search, the power of arrest and handing over to the police is exactly the same and objection has been taken, but it has failed. And this has been stat-

ed that the insertion of these powers does not make these people 'police'. Therefore you are not impinging on the other list. This is not merely my opinion, but it happens to be happily the opinion of the court."

This is the opinion of the Attorney General on the constitutional validity of this provision.

I would like to mention that in the light of the opinions given by the Attorney General and the views expressed by various hon. members of the Joint Committee, we did make some amendments in the clauses on which the Attorney General had commented, viz., clauses 10, 11 and 14, so as to remove whatever little doubts or objections there might have been that the field belonging to the States was being encroached upon by this Bill. Even as it was there was hardly anything objectionable. But even if there was any doubt, we were anxious to remove it, so that when this force is constituted, it would not encroach even slightly on the fields reserved by the Constitution for the State Governments.

In the original Bill, clause 10 contained a provision that,

"The force may be required to guard such other installations as are specified by the Government or by any other officer empowered by the Government in that behalf."

There were two objections to this. First was that there should be no power under this Act to delegate such authority to specify the installations to be guarded by the force. The second objection was that there might be ancillary installations attached with the Government of India property, which may not belong to Government of India, but may belong to private parties or to the State Government. We amended this clause to remove both the lacunae. Firstly we took away the power which was sought to be given to the officer for specifying the installations. Secondly, to avoid any difficulty in future, we added a proviso to the effect that before installations which are not owned or controlled by the Central Government are notified, the consent of the concerned State Government shall be obtained. This clearly proves that our intention is not to encroach on any of the authority of the State Government.

The power to Bhilai Steel Plant is supplied by a power house which is owned by the Madhya Pradesh Electricity Board. Now, that installation is not owned by Central Government. But it is very vital in running the Bhilai Steel Plant. In case the industrial security force is to be posted in that area for protection of Korba Thermal Power Station, consent of the State Government shall be necessary before any force can be sent there. This is an illustration which I wish to give and this is a particular thing on which the Attorney General commented which the hon. Member, Shri Gupta quoted. But, he did not come forward to say that in view of those comments that we have amended this clause. There was some doubt about clause 11 also under which the power to arrest without warrant was specified. Here also we felt that it was necessary to define it better and restrict the power to arrest without warrant only for cognizable offences and delete the non-cognizable offences. All those cognizable offences relate only to the property belonging to Central Government. This also we have clarified. In this way, we have also amended clause 11 to specify that any arrests can come only if there is a cognizable offence committed in relation to the property of the Central Government. So, this thing has been put in this clause 11 now by the Select Committee and it is also beyond any shadow of doubt that no action can be taken which will impinge upon the State police.

The third amendment which was made by the Select Committee is in Clause 14 where a provision has been added similar to clause 10. The State Government's consent is necessary for this amendment before a request for deputation of this force can be accepted for an installation or for an industrial undertaking which is not owned by the Central Government but which is owned by the State Government or by other persons. For that, the consent of the State Government would be necessary.

These are the three main amendments that have been made by the Joint Committee in this Bill. And I dare say that.

श्री बेबेन सेन : राज्य सरकार की इस फोर्स पर पावर कहाँ रहेगी, यह बताइये ।

SHRI VIDYA CHARAN SHUKLA : And after these amendments are made therein, whatever doubt there might be in the minds of the people would not be there.

Then, Mr. Gupta has asked me a question whether this force will be used to suppress the trade union activities. I want to emphatically say 'no'. Our intention is not to use this force to suppress any legitimate trade union activities.

SHRI INDRAJIT GUPTA : You will give it to the Managing Director to discharge.

SHRI VIDYA CHARAN SHUKLA : I will explain about that also.

At the request of the Managing Director, the force will be sent to guard installations in the same way as watch and ward would do. The functions of this force are not police functions. It has been clarified that the functions of the force are clearly that of watch and ward.

श्री ओम प्रकाश त्यागी (मुरादाबाद) : वाच ऐण्ड वार्ड नाम क्यों नहीं रखते, मिन्कोरिटी फोर्स नाम क्यों रखते हैं ?

श्री विद्या-चरण शुक्ल : यदि आपको नाम से ही तकलीफ है तो उसके बारे में सोचा जा सकता है । नाम से कुछ फर्क नहीं पड़ता । आप कट्टेस देखिये !

Mr. Deputy Speaker. I was trying to explain what protection we have taken to see that this force is not misused by the General Managers of the Industrial Undertakings. Here, I would read out the provision which has been objected to by various hon. Members about the power of the members of this force to make a search and arrest a person without warrant. Sir, it has been clarified earlier. But, I wish to repeat it again that this power which has been given to the members of this force is no more and no better than the power given to the private individuals—private citizens—under the Code of Criminal Procedure in clause 59. With your permission, Sir, I would like to quote section 59(1) of the Code of Criminal Procedure :

"Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence, or any

[Shri Vidya Charan Shukla] proclaimed offender and, without unnecessary delay, shall make over any person so arrested to a police officer."

Further it says :

"or in the absence of the police officer to take such a person, cause such a person to be taken, to the nearest police station."

If the hon. Members take the trouble of reading the Bill, they will find exactly the same provision has been incorporated there. The powers which have been given to the members of this force are available even to the private citizens of this country. This force will probably have this power even without this provision being there.

SHRI NAMBIAR : Then, why do you arm them if it is there ?

SHRI VIDYA CHARAN SHUKLA : Only to protect them from violent people.

SHRI NAMBIAR : Who are the violent people ?

SHRI VIDYA CHARAN SHUKLA : You know who are the violent people.

SHRI NAMBIAR : The cat is out of the bag.

SHRI VIDYA CHARAN SHUKLA : Another objection raised by many hon. Member is that this is a police force in a cloak, that the police force which is being put in various industrial undertakings will take away the police functions of the State Government. I can quote from various authorities to prove that this is not a police force at all; it is only a well-regulated, well-trained and well-equipped watch and ward force which will be organised on an all-India basis. Secondly, if you analyse their functions you will see that all those functions which have been specified are the functions which normally the watch and ward people do; no other extra function has been given to them.

I will give one instance which might, perhaps, satisfy Shri Nambiar, because he is a person who is never satisfied by our assurance. If you hear me without any bias, perhaps you will be able to appreciate the point. Here the provision is that when an offender is apprehended and arrested by a

member of this force, he has to be taken to the nearest police station and handed over to the police for further action. No power has been given to the members of this force to detain any person, produce him in a court of law or proceed against him in the manner in which the police force will normally do; nothing of that sort. Then, their jurisdiction is limited to the industrial undertaking owned by the Central Government.

A question was asked why this function is not being delegated to the police force of the State Government. It is precisely for the reason that it is a non-police function, it is a watch and ward function. All that we are doing is to constitute a watch and ward organisation to protect the industrial undertakings of the Central Government. If it were a police function, then it would have been quite normal for us to request the State Government concerned to give us the police force and ask that force to guard our installations. But we do not want a police force, either Central or State, simply for the sake of watch and ward work unless, of course, there is some emergency. In the normal course, we would like this work to be done by well-regulated, well-trained and well-equipped watch and ward and not by the police force.

SHRI INDRAJIT GUPTA : Suppose the Managing Director of an industrial plant requires some assistance. Will he be expected to call this force or the police force of the State Government ?

SHRI VIDYA CHARAN SHUKLA : If the Managing Director requires any assistance of protecting his installation, the protection work will be done by this force. But if there are law and order problems, he will definitely have to call the State police force to maintain law and order and deal with law and order matters. This force, I can assure Shri Indrajit Gupta, is not meant for law and order duty, either inside the plant or outside the plant. It is only meant to do watch and ward duty; nothing else.

SHRI NAMBIAR : If it is watch and ward, it must be there all the time. You cannot remove completely the present watch and ward and create a vacuum. This force will be quartered outside and will come in only when it is called. So, the watch and ward has got to be there for formal work.

SHRI VIDYA CHARAN SHUKLA : I clarified it in my opening speech that when this force is constituted, there will be no watch and ward. It is not as if both the watch and ward and this force will work hand in hand. This will be the only force in the industrial plant. There will be no separate watch and ward over and above this force.

SHRI INDRAJIT GUPTA : It will be permanently posted there ?

SHRI VIDYA CHARAN SHUKLA : Yes.

SHRI INDRAJIT GUPTA : This is not what the Bill says. It says the Managing Director will requisition their help. That means it is not a permanent watch and ward force.

श्री ओम प्रकाश त्यागी : सरकार परमनिंट वाच एंड वार्ड को ट्रेनिंग क्यों नहीं देती है ? सरकार एक्स्ट्रा स्टाफ को क्यों रखना चाहती है ?

SHRI VIDYA CHARAN SHUKLA : May I say that all these things are not put in the laws to be made ? These are executive functions which are left to the Government to regulate. The intention here is to put this force as a watch and ward force and there will be no separate watch and ward. If this was the misunderstanding on which there was opposition to this force, I am clarifying this and there should be no opposition to this matter now.

Shri Tyagi is saying that if this is going to do watch and ward duties, why not give better training to the watch and ward staff. This is what we are trying to do. The Bill means to take up the present watch and ward staff, assimilate them as far as possible in this force and give them better standardised training and equipment so that the watch and ward, which is at present haphazardly recruited without any standard, whose training and equipment are different, will all be standardized.

श्री ओम प्रकाश त्यागी : डबल वाच एंड वार्ड हो जायेगा : एक परमनिंट और एक टेम्पोरेरी ।

श्री विद्या चरण शुक्ल : डबल नहीं होगा । जो आज का वाच एंड वार्ड स्टाफ है, उसी

से लोग इस में ले लिये जायेंगे और उन को ट्रेनिंग दी जायेगी, उन को एक्विपमेंट दिया जायेगा और उन को उसी काम में लगाया जायेगा, जो कि आज का वाच एंड वार्ड कर रहा है । उस के अलावा कोई दूसरा वाच एंड वार्ड नहीं होगा ।

श्री इन्द्रजीत गुप्ता : मंत्री महोदय जो कुछ कह रहे हैं, वह क्लाज 14 के बिल्कुल खिलाफ है । क्लाज 14 में बिल्कुल दूसरी बात लिखी हुई है ।

श्री विद्या चरण शुक्ल : खिलाफ नहीं है, बिल्कुल वहीं है, जो हमारा इरादा है ।

श्री ओम प्रकाश त्यागी : इस में लिखा है कि जब आवश्यकता पड़ेगी, तब इस स्पेशल फ़ोर्स को बुलाया जायेगा ।

SHRI VIDYA CHARAN SHUKLA : Shri Surendranath Dwivedy asked about the need for this force and how this idea entered Government's mind. He wanted to know why this kind of a force should be required. I would invite the attention of this House and of the hon. Member to the report of Justice Mukherjee into the causes of fire in the Heavy Engineering project in Ranchi.

SHRI INDRAJIT GUPTA : That was also done by the INTUC.

SHRI VIDYA CHARAN SHUKLA : In his report, I think, in paragraph 102, he has stressed the need for such a central force, a well regulated, well trained and well equipped force, for doing duty in public undertakings. Even to commonsense it appeals that, instead of having a haphazard watch and ward, ill-trained and ill-equipped, we should have a force of this kind. This is the only intention in the Government's mind and the only reason why this force is being brought into being. I can assure hon. Members that it is not the intention of the Central Government to impinge even to the slightest extent upon the States' authority to do any work or job which is normally done by the State's police force. This will not be a police force; this will be a watch and ward force which will do purely watch and ward jobs and not jobs which the State police will do now or in the future.

In view of these clarifications I hope hon. Members will support this measure.

MR. DEPUTY-SPEAKER : The question is :

SHRI NAMBIAR : I want to seek some clarification.

MR. DEPUTY-SPEAKER : Later on, not at this stage. We have exceeded the time. During clause-by-clause consideration we will have ample opportunity.

श्री ओम प्रकाश त्यागी : उपाध्यक्ष महोदय, मैं स्पष्टीकरण चाहता हूँ। इस क्लॉज में कोई एमेंडमेंट ही नहीं है।

Division No. 71

MR. DEPUTY-SPEAKER : Even then you will have a right to raise it. We have exceeded the time limit.

The question is :

"That the Bill to provide for the constitution and regulation of a Force called the Central Industrial Security Force for the better protection and security of certain industrial undertakings, as passed by Rajya Sabha, be taken into consideration."

The Lok Sabha divided

AYES

15.38 hrs.

Ahirwar, Shri Nathu Ram

Amat, Shri D.

Ankineedu, Shri

Arumugam, Shri R. S.

Bajpai, Shri Vidya Dhar

Barua, Shri Bedabrata

Bhandare, Shri R. D.

Bhattacharyya, Shri C. K.

Dass, Shri C.

Desai, Shri Morarji

Deshmukh, Shri B. D.

Dinesh Singh, Shri

Dixit, Shri G. C.

Gandhi, Shrimati Indira

Gupta, Shri Lakhan Lal

Jadhav, Shri V. N.

Kamble, Shri

Kamala Kumari, Kumari

Kasture, Shri A. S.

Katham, Shri B. N.

Khanna, Shri P. K.

Krishna, Shri M. R.

Kureel, Shri B. N.

Laskar, Shri N. R.

Lobo Prabhu, Shri

Mahadeva Prasad, Dr.

Majhi, Shri Mahendra

Mandal, Shri Yamuna Prasad

Meena, Shri Meetha Lal

Mehta, Shri Ashoka

Minimata Agam Das Guru, Shrimati

Mishra, Shri G. S.

Mondal, Shri Jugal

Nahata, Shri Amrit

Naidu, Shri Chengalraya

Panigrahi, Shri Chintamani

Pant, Shri K. C.

Parmar, Shri Bhaljibhai

Partap Singh, Shri

Parthasarathy, Shri

Patil, Shri S. D.

Poonacha, Shri C. M.

Prasad, Shri Y. A.

Radhabai, Shrimati B.

Raghu Ramaiah, Shri

Raj Deo Singh, Shri

Raju, Shri D. B.

Ram, Shri T.

Ram Dhani Das, Shri

Ram Subhag Singh, Dr.

Ram Swarup, Shri

Rane, Shri

Rao, Shri K. Narayana

Rao, Shri Rameshwar

Rao, Shri Thirumala

Rao, Shri V. Narasimha

Reddy, Shri Ganga

Reddy, Shri P. Antony

Roy, Shri Bishwanath

Sadhu Ram, Shri

Sambasivam, Shri

Sanji Rupji, Shri

Sankata Prasad, Dr.

Sen, Shri Dwaipayan

Sen, Shri P. G.

Sethuraman, Shri N.

Shambhu Nath, Shri

Sharma, Shri Nawal Kishore
 Shashi Bhushan, Shri
 Shastri, Shri Biswamurayan
 Sheo Narain, Shri
 Shinkre, Shri
 Shukla, Shri Vidya Charan
 Siddayya, Shri
 Siddheshwar Prasad, Shri

Adichan, Shri P. C.
 Ahmed, Shri J.
 Banerjee, Shri S. M.
 Bhagaban Das, Shri
 Biswas, Shri J. M.
 Brij Bhushan Lal, Shri
 Chakrapani, Shri C. K.
 Chandra Shekhar Singh, Shri
 Chauhan, Shri Bharat Singh
 Dar, Shri Abdul Ghani
 Devgun, Shri Hardayal
 Dwivedy, Shri Surendranath
 Esthose, Shri P. P.
 Fernandes, Shri George
 Gopalrao, Shri P.
 Gowda, Shri M. H.
 Goyal, Shri Shri Chand
 Gaha, Shri Samar
 Gupta, Shri Indrajit
 Halder, Shri K.
 Jha, Shri Shiva Chandra
 Joshi, Shri Jagannath Rao
 Kalita, Shri Dhireswar
 Kamalanathan, Shri
 Kameshwar Singh, Shri
 Kandappan, Shri S.
 Krishnamoorthi, Shri V.
 Kundu, Shri S.

Singh, Shri D. N.
 Sinha, Shrimati Tarkeshwari
 Snatak, Shri Nar Deo
 So'anki, Shri S. M.
 Sunder Lal, Shri
 Verma, Shri Balgovind
 Yadab, Shri N. P.
 Yadav, Shri Chandra Jeet

NOES

Majti, Shri S. N.
 Maran, Shri Murasoli
 Mayavan, Shri
 Meghachandra, Shri M.
 Menon, Shri Vishwanatha
 Misra, Shri Srinibas
 Mukerjee, Shri H. N.
 Nair, Shri N. Sreekantan
 Nair, Shri Vasudevan
 Nambiar, Shri
 Paswan, Shri Kedar
 Patil, Shri N. R.
 Puri, Dr. Surya Prakash
 Ramamurti, Shri P.
 Ray, Shri Rabi
 Samanta, Shri S. C.
 Satya Narain Singh, Shri
 Sen, Shri Deven
 Sen, Dr. Ranen
 Shah, Shri T. P.
 Sivasankaran, Shri
 Somasundaram, Shri S. D.
 Sondhi, Shri M. L.
 Thakur, Shri Gunanand
 Tyagi, Shri O. P.
 Umanath, Shri
 Viswambharan, Shri P.
 Yadav, Shri Jageshwar

MR. DEPUTY-SPEAKER : The result* of the Division is : Ayes—83; Noes—56.

The Motion was adopted.

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

Clause 2 —(Definitions)

SHRI LOBO PRABHU : I beg to move: Page 2, line 9,—

for "may be regulated by Parliament by law".

substitute "may be so declared by Government" (2)

AYES : Shri B. Anganappa.

*The following Members also recorded their votes :—

Page 2, line 30,—

omit "First Schedule to the" (3)

Sir, one does not associate anything but law with Parliament and the words in question, even if they may have been introduced after consulting the Attorney-General are confusing. Therefore, I propose, where any undertaking engaged in any other industry or in any trade, business or service is included in "industrial undertaking", it should be by an order of Government because this is not a matter for which Government can come all the time

NOES : Shri S. S. Kothari.

[Shri Lobo Prabhu]

before Parliament and get a law passed. So, my amendment is a very simple one and I do hope the Minister will accept it.

SHRI VIDYA CHARAN SHUKLA : The purpose of this amendment is that undertakings which do not belong to the Central Government and which belong to the private parties should also be entitled for protection by the Force. As I have already explained in my earlier speech, we do not wish to provide this Force for anything which is not the property of the Central Government. In regard to the private industrial undertakings which are situated in the States, the responsibility for protection lies on the State Government. Since that is the responsibility of the State Government, we do wish to include that in our responsibility. Therefore, I am not in a position to accept the amendment.

MR. DEPUTY-SPEAKER : I shall now put amendments 2 and 3, moved by Shri Lobo Prabhu, to the vote of the House.

Amendments Nos. 2 and 3 were put and negatived.

MR. DEPUTY-SPEAKER : The question is :

"That Clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—(Constitution of the Force)

MR. DEPUTY-SPEAKER : There are amendments by Shri Lobo Prabhu, Shri Nambiar, Shri Tyagi, Shri C. K. Bhattacharyya and Shri Abdul Ghani Dar. Are they moving? Amendment No. 46 is the same as 4.

SHRI LOBO PRABHU : I beg to move :

Page 3, line 4,—

omit "owned by that Government"
(4)

SHRI NAMBIAR : I beg to move :

Page 3, line 2,—

after "Government" insert—

"under the direct supervision of the State Government where the headquarters is situate" (22)

Page 3, line 7,—

add at the end—

"and the recruitment shall be done by the State Government" (23)

SHRI OM PRAKASH TYAGI : I beg to move :

Page 3, line 3,—

after "of" insert "Central" (45)

SHRI C. K. BHATTACHARYYA : I beg to move :

Page 3,—

for lines 5 to 7, substitute—

"(2) The Force shall be constituted in such manner and shall consist of such number of supervisory officers and members of Force as may be prescribed.

(3) The supervisory officers and numbers of the Force shall receive such pay and other remuneration, as may be Prescribed." (47)

SHRI ABDUL GHANI DAR (Gurgaon) : I beg to move :

Page 3,—

for lines 5 to 7, substitute—

"(2) The Force shall be arranged in such manner and shall consist of such number of supervisory officers and members of Force as may be authorised.

(3) The supervisory officers and members of the Force shall receive such pay and other remuneration, as may be prescribed." (57)

SHRI LOBO PRABHU : Before I proceed to this amendment, may I say that when I raise an amendment and make a specific point, I do expect a reply to that point and not a generalisation about what government stands for? I had pointed out that there was no meaning in the expression, "by Parliament by law" and that it was better to substitute it by "an order of the Government" whether it is with the consent of the State Government or not. You have already put the amendment to

the vote of the House and it has been negated. Out of respect for the dignity and the capacity of this House, I do hope that I would get an answer which will relate to what I said and not what the Minister has in mind.

I am now coming to this amendment which is that the words 'owned by that Government' may be omitted. A little earlier I had raised the point that all properties must be protected because property gives employment, property produces things which are required for the people. (Interruptions) I have already explained to my Leftist friends that industrial properties are very important because they provide employment, and anyone who destroys property, whether it belongs to Government or the private sector, is destroying the potential of employment, is destroying the sources of production. That is my first argument. The Force should be available not only to the public sector undertakings but also to the private sector as long as it is an industrial undertaking.

The Government has restricted itself to Schedule I of the Industrial Resolution. That means that they only want a particular property to be protected—that which is included in that schedule. All government property and industrial property deserve to be protected. Therefore, this particular amendment that we wipe out the words 'owned by that Government' is very important.

One more point in this connection is this. Any private citizen under the Police regulations can ask for the Police help provided there is a case for it. There is no difference between this position and that position. If a private enterprise finds that it is in need of this help it can ask for it; it should be in a position to ask for it and it should obtain it in the interest of the industry, in the interest of labour.

SHRI NAMBIAR : I strongly oppose the proposal made by Shri Lobo Prabhu. Unfortunately he is sitting on this side of the House. What he wants is that this power should be extended to the private industry also as if this country is now being governed in a vacuum, as if there is no police force now and everything is in a vacuum and so, Mr. Lobo Prabhu wants his friends

in the industry to have some force coming from the sky, so that some help is rendered. What is Mr. Lobo Prabhu thinking? I cannot understand this. This is ridiculous and it should be thrown out. They will throw it out because they are not so foolish as he is. Here is my amendment. . . .

SHRI LOBO PRABHU : May I rise on a point of order? The word 'foolish' in this connection is not quite parliamentary. He is competent to criticise me intelligently. . . .

SHRI NAMBIAR : I withdraw it because I cannot think that it is so for himself. My submission is this. If there is to be a security force to supplement the strength of the force that is at present there to protect the installations of the Central and State Governments or industrial undertakings or any private industry, whatever it is, we can grant them as security force. That is the scheme which I have put forward. Therefore I have made my amendment which I request the hon. Minister to accept and it can fit into his scheme. Therefore, Sir, you will see the correctness of my amendment. The correctness of my amendment will be clear if I read the clause. The clause says :

"There shall be constituted and maintained by the Central Govt. a Force to be called the Central Industrial security Force for the better protection and security of industrial undertakings owned by that Government."

This is the scheme at present. I agree to the scheme provided he accepts my amendment, amendment No. 22 which says :

"Page 3, line 2.—

after "Government" insert—

"under the direct supervision of the State Government where the headquarters is situate"

That means, Sir, that a force can be raised in each State which will help the Central or State undertaking, whatever it is, to protect itself, but the point is this, that that particular force must be under the control of the State Government. That is my point. The State Government can utilise this force for their protection. This is my amendment. So, I would like that they accept the amendment namely, 'under the direct supervision of the State Government where the headquarters is situate.'

[Shri Nambiar]

Also, Sir, I have got another amendment, amendment No. 23, for sub-clause (2) of clause 3. Clause 3 sub-clause (2) says like this :

"The Force shall be constituted in such manner, shall consist of such number of supervisory officers and members of the Force who shall receive such pay and other remuneration as may be prescribed."

To that I have made an amendment saying:

"and the recruitment shall be done by the State Government".

The recruitment should be done by the State Government. The Force is to be controlled by the State Government. That is my submission, Sir.

Before clause-by-clause consideration was taken up the hon. Minister said that this security force will be a force which will be functioning in each undertaking as a watch and ward force. This is what he says. These forces throughout the whole of India—wherever they are—will be controlled by an Inspector-General of Police who will give the job assignment to these people. That is what he says. If that is the purpose for which you want the force, we are agreeable; but what we say is this, that that force must be recruited and controlled by the State Government. You may keep it in each State. The Pay may be given by the Central Government. I have no objection. The State Governments have no money. We have no objection for that. But our objection is this : you cannot have a central force, recruited by the Centre,

15.47 Hrs.

[SHRI R. D. BHANDARE *in the Chair*]

kept by the Centre, to be sent to each State, whenever the General Manager wants, according to clause 14, to defend or protect certain things. You give him the power of police, to search and arrest. That means, you are ignoring the fact that there is a State Government existing, that it has got a force, a police force. On the other hand you want to have a parallel force, kept in each State, or whatever it is, without the consent and without the consultation with the State Government. For instance, Sir, during the 19th September strike, the Central Government sent Central

Reserve Police Forces to Kerala. One morning these persons were dumping themselves in the soil of Kerala...

MR. CHAIRMAN : That was a different situation altogether. Here the force will be with the consent of the State...

SHRI NAMBIAR : No consent, Sir. There is no consent at all. Unfortunately you have got that feeling. It is my turn to convince you.

SHRI SAMBASIVAM (Nagapattinam) : There is only one soil, the Indian soil. There is no such thing as Kerala soil.

SHRI NAMBAIR : That is a phrase. I think my hon. friend will not misunderstand the meaning of that phrase. While you were speaking, you tried to convince the Deputy-Speaker.

MR. CHAIRMAN : I am of that opinion—I have an open mind.

SHRI NAMBIAR : Now it is my turn to convince you. I request you to understand the position. Here the consent of the State Government is not at all sought for use of the force to protect Central installations; consent is sought only when installations of the State Government connected with the Central Installations are to be protected by this force. Therefore, my submission is that the right of the State Governments should not be usurped. You should not create a situation in the country wherein the people of a State feel that the Central Government have usurped the right of the State Government. In such circumstances, you will have voluntary co-operation, friendship and unity.

You are talking of emotional integration? What is emotional integration? How can you have it when you send the CRP to Kerala without the Chief Minister asking for it. That force just came there. We asked the Chief Minister. He said 'I do not know'. He was asked, 'What for are they here?' He replied, 'I do not know'. 'What is their work?' 'I do not know'. He knew nothing about it.

Similarly, the Central Government will be sending the Industrial Security Force to all industrial concerns and they will do whatever they like. There will be a perpetual quarrel between the Central Government and the State Governments.

In these circumstances, what the Central Government must do is to bring about unity from below, unity of hearts, not unity by force, by *danda*. But they are trying to bring it about by *danda*, as they did on the 19th September in Indraprastha Bhavan, Pathankot and elsewhere. This cannot go on all the time. If you use *danda* on a glass vessel, it will break into pieces. If *danda* is used to bring about unity, the unity will be broken into pieces. So they must get the willing co-operation of the States. That is the reason why State Governments have objected to the Bill; otherwise, they would not have objected to it. Even Congress Governments objected to this Bill. Therefore, you must think twice before passing a Bill of this type. That is why I am saying: at least improve the Bill to create a feeling of satisfaction in the States. I am doing so by means of my amendments Nos. 22 and 23. This will create confidence in the State Governments that the Force will function with their consent and not otherwise.

SHRI C. K. BHATTACHARYYA : My amendment No. 47 is to cl. 3(2). This amendment does not intend substantially to alter what is there. But the entire clause appears to me to be defective in construction and, if I may say it with apologies, grammatically incorrect. I tried to put it in one sentence as it was there and found it could not be expressed unless the whole thing was split up into two sentences. Kindly see the clause.

"The force shall be constituted in such manner, shall consist of such number of supervisory officers and members of the force who shall receive such pay and other remuneration as may be prescribed".

There should be an 'and' between 'The Force shall be constituted in such manner' and 'shall consist of such number of supervisory officers.....'. Here in the clause as it is, that is omitted. Unless that "and" is put, the sentence is defective.

SHRI NAMBIAR : Not only the sentence, the entire scheme is defective.

SHRI C. K. BHATTACHARYYA : For the time being I am concerned with the sentence. But the "and" was not put there

under the impression that the next item, "who shall receive such pay and other remuneration as may be prescribed" could be regarded as a separate sentence by itself, but that is not so. That is a subordinate clause related to the principal clause.

15.55 Hrs.

[MR. SPEAKER in the Chair]

In the original Bill as it was introduced in the Rajya Sabha, it read like this :

"The Force shall be constituted in such manner, shall consist of such number of supervisory officers and members of the Force, and shall receive such pay and other remuneration as may be prescribed."

There were three clauses. It must have struck the members of the Joint Committee that this sentence was not clear in meaning, because though the first two clauses, viz., "The Force shall be constituted in such manner," and "shall consist of such number of supervisory officers and members of the Force" have a meaning, the third clause, "the Force shall receive such pay and other remuneration as may be prescribed" has no meaning. Therefore, what the Joint Committee did was to remove the "and" and put in "who". With this alteration the sentence carried some sense, but it became defective in another way. The intention was to relate "as may be prescribed" to "The Force shall be constituted in such manner," and also to relate it to "the Force shall consist of such number of supervisory officers", but actually it relates only to the subordinate clause "the Force shall receive such pay and other remuneration" and not to the other two clauses. So, this will be a totally defective clause, and unless it is changed in the way I have suggested, I believe we ought not to pass this clause.

SHRI NAMBIAR : This is reasonable. This may be accepted. People should not think after reading it that we are so incompetent to understand simple English.

श्री ओम प्रकाश त्यागी : अध्यक्ष महोदय, इस पर मेरा अमेण्डमेन्ट यह है, मैं भी बोलना चाहता हूँ ।

MR. SPEAKER : We shall go to the floods now.