

[Dr. Ram Subhag Singh]

duty to take note of anything that happens here in the House and to convey it to the proper quarters.

14.18 hrs.

INDIAN RAILWAYS (AMENDMENT) BILL—contd.

Clause 2— contd.

MR. DEPUTY-SPEAKER: The House will now take up further clause-by-clause consideration of the Indian Railways (Amendment) Bill. We were on clause 2.

श्री मधु लिमये (मुंनेर) : उपाध्यक्ष महोदय, मैंने इस भारतीय रेलवे (संशोधन) विधेयक के क्लॉज 2 पर दो संशोधन दिये हैं। पहला संशोधन है कि रेलवे ऐक्ट में जो नया खंड जोड़ा जा रहा है 100ए और 100बी, इन दोनों को खत्म किया जाये। यह संशोधन मैं इसलिए रख रहा हूँ कि 100ए और 100 बी को लेकर नागरिकों के जो बुनियादी अधिकार हैं और रेल कर्मचारियों के जो बुनियादी अधिकार हैं उन के ऊपर कुठारपात होगा।

संविधान की दफा 19 में सब लोगों को ए० बी० सी० प्रादि में जो बुनियादी अधिकार प्रदान किये गये हैं उन में बी० और सी० की धोर प्राप देखिये। बी० में है टु एसेम्बल पीसबली विद्घाऊट धार्म्स और सी में है टु फीर्म प्रसोसियेन्स और यूनिवर्स। मेरा कहना यह है कि इस धारा के कारण दोनों बुनियादी अधिकारों पर घाक्रमण होता है और इसलिए मैं इस का विरोध करना चाहता हूँ। मंत्री महोदय बतलायें कि प्राक्किर फिन लोगों के हित में यह सुझाव उन्होंने अपने इस संशोधन विधेयक में रक्खा है? सार्वजनिक हित में और जनता के हित में हो वह एक बात होती है लेकिन अगर वह सिर्फ सरकार के हित में इस बात को

रखते हैं तो इस का विरोध करना हमारा कर्तव्य हो जाता है। यह जो वर्तमान रेलवे ऐक्ट है उस में इस सरकार को इतने व्यापक अधिकार हैं कि नये अधिकारों की कोई आवश्यकता नहीं है। प्राप रेलवे ऐक्ट की धारा 100 को देखिये। उस में कहा गया है कि :

"If a railway servant is in a state of intoxication while on duty, he shall be punished with fine which may extend to Rs. 50 or where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon the railway, with imprisonment for a term which may extend to one year or with fine or with both."

जब इस धारा में इस के लिये प्रबन्ध किया गया है तब मेरी समझ में नहीं आता है कि 100 (ए) और 100 (बी) की जरूरत क्या थी। प्रागे देखिये कि जो रेलों के हुकमों का उल्लंघन करेगा और किसी भी पैसेन्जर की जान को खतरा पहुंचायेगा उस के बारे में धारा 101 में इन्तजाम किया गया है। जब सार्वजनिक हित की रक्षा वर्तमान रेलवे कानून के अन्दर है तब यह नये अधिकार सरकार अपने पास क्यों लेना चाहती है?

जहां एक 100 (बी) का सवाल है, रेलवे कर्मचारियों के साथ दूसरे नागरिकों को भी घसीटा है। इस में क्या कहा है?

Tampering with signal, etc.

लेकिन इस के बारे में रेलवे ऐक्ट की जो धारायें 126, 127 और 128 हैं उन को देखिये। तब फिर नया अधिकार क्यों? (अध्यापक) बी जोबो प्रभु को याद होगा कि जब इलकम टैक्स का मामला था या तब उन्होंने एक बलीज का इस्तेमाल किया था कि जब सारे अधिकार हैं तब नवैह

अधिकार क्यों ? मैं पूछना चाहता हूँ कि आखिर सरकार नये अधिकार क्यों प्राप्त करना चाहती है ? मैं अनावश्यक अधिकारों का विरोध इसलिये कर रहा हूँ कि उन का दुरुपयोग किया जाता है । 100 (ए) और 100 (बी) में उन को जो अधिकार मिलेंगे उन में नये जुर्मों को उत्पन्न किया गया है और उन जुर्मों के बारे में धारा 3 में लिखा गया है । इस में रेलवे ऐक्ट की जो धारा 181 है उस में परिवर्तन किया गया है और उस में कोशिश यह की गई है कि 100 (ए) और 100 (बी) के जो जुर्म हैं उन को कामिन्जेबल बनाया जाय और पुलिस को बिना वारण्ट गिरफ्तार करने का अधिकार दिया जा रहा है ।

रेलवे मंत्री (श्री जे० मु० पुनाचा) : वह 100 में है ।

श्री मधु लिमये : आप इममें भी दे रहे हैं । क्या मंत्री महोदय कभी 151 में गिरफ्तार हुए हैं ?

एक माननीय सदस्य : नहीं नहीं ।

श्री मधु लिमये : नहीं हुए हैं तो मेरे दर्द को मंत्री महोदय समझ लें । मैं पचासों बार 151 में गिरफ्तार किया गया हूँ । अब की बार भी 151 में गिरफ्तार किया गया था ।

श्री रमधीर सिंह (रोहतक) : कोई प्रादमी 151 में गिरफ्तार नहीं होगा (श्रवण-धाम)

श्री मधु लिमये : मैं यह कह रहा था कि धारा 3 का नतीजा यह होगा कि यह जो नये जुर्म उत्पन्न किये गये हैं उन को कामिन्जेबल बनाया जायेगा, और जब जुर्म कामिन्जेबल बन जाता है तब पुलिस को बिना वारण्ट गिरफ्तार करने तथा पकड़ने का अधिकार मिल जाता है, जिस का नकार भी हो चका है पिछली बीस दिनों में ।

मुझे पता नहीं है कि श्री मुल्ता बर्दा दे या नहीं, जोकि जज रह चुके हैं, लेकिन श्री एन० सी० चटर्जी साहब हैं । वह भी भूतपूर्व जज हैं । इन जजों ने सी० धार० पी० सी० की धारा 151 में पुलिस को ज. बिना वारण्ट गिरफ्तार करने का अधिकार दिया गया है उस के बारे में कहा है कि यह स्पेशल पावर है, एक्सेप्शनल पावर है । यह भी कहा है कि यह इमर्जेंसी पावर है । मैं जानना चाहता हूँ कि आज कौन सी इमर्जेंसी है ? कौन से एक्सेप्शनल सर्कम्स्टान्सेज आज हैं और किस चीज को ले कर इस तरह के नये जुर्मों का निर्माण किया जा रहा है ? पुलिस को बिना वारण्ट गिरफ्तार करने या पकड़ने का जो अधिकार दिया जाता है इस में हमारे मौलिक अधिकारों पर आक्रमण हो रहा है ।

मैं आप से निवेदन करता हूँ कि इस तरह का कानून पास करने की कोई आवश्यकता नहीं है । इस में एक ही अच्छी बात है, जिस के ऊपर मैं बाद में आने वाला हूँ और वह है खण्ड 5 में ।

The Indian Railways Amendment Ordinance, 1968 is hereby repealed.

केवल यह वाक्य इस विधेयक में प्रच्छा है । उनका आप इस्तेमाल कीजिये । उन को रहने दीजिये बाकी को एक वम खत्म कीजिये । धर्मा धारा 151 दफा में पहली गिरफ्तार हो कर जेल में रह कर तथा सारा कुछ भोग कर आइये तब मैं मानूँगा कि आप यह कानून रखने के लिये योग्य व्यक्ति हैं । जब तक आप दूसरों के दर्द को नहीं समझेंगे आप यह नहीं समझेंगे कि आप यह प्रमानुष कानून बनाने जा रहे हैं । इसलिये मैं इसका डट कर विरोध करना चाहता हूँ और आप से निवेदन करना चाहता हूँ आप हवारी बाल को जाने और इस तरह के नये कामिन्जेबल प्राक्लेश धाप तैयार न करें । जो रेलवे ऐक्ट है उस में कानूनी अधिकार बाध की है ।

[श्री मधु लिमये]

कोई इमर्जेन्सी नहीं है, कोई संकटकालीन स्थिति नहीं है। इस को मंत्री महोदय वापस ले बर्ना हम को इस को खत्म करना पड़ेगा।

श्री प्रोम प्रकाश त्यागी (मुरादाबाद) :  
उपाध्यक्ष महोदय, आज इस देश में गरीब जनता और मजदूर दोनों शोषण और शासन के शिकार बने हुए हैं और उनके हित का प्रश्न सब से प्रमुख है। उन बेचारों को एम्प्लॉयट किया जा रहा है और सताया जा रहा है, उनको फुटबाल की तरह चारों तरफ उछाला जा रहा है। मैं इस बिल के प्रन्दर भी वही स्थिति देखता हूँ। मैं सरकार की ईमानदारी का समर्थन करता हूँ कि वह आज एक विशेष खतरे को सामने रख कर इस बिल को लाना चाहती है। मैं उसकी भावना का समर्थन करता हूँ कि इस देश में कुछ इस प्रकार के तत्व हैं जो शोषित लोगों को, जो पिसे हुए हैं, गिरे हुए हैं, असहाय हैं, विवशता का, कमजोरी का और असहायता का अनुचित लाभ उठा कर अपने विशेष उद्देश्य की ओर बढ़ना चाहते हैं, जिन का विश्वास प्रजातन्त्र में नहीं है, जिनका विश्वास यह है कि :

"The power comes through the barrel of gun."

७६ इस देश में इन बेचारे शोषित लोगों को भड़का कर हिंसात्मक प्रवृत्तियों की ओर डकेलना चाहते हैं। आज देश में ऐसी स्थिति है, और मैं समझता हूँ कि इसी को दृष्टि में रख कर मंत्री महोदय ने इस बिल को यहां रखने की चेष्टा की है।

इस बिल के द्वारा मंत्री महोदय ने एक बहुत बड़ा अन्याय मजदूरों के साथ किया है। यह भी सत्य है कि इस देश में गरीब मजदूर पिसे रहते हैं, उछ की मेहनत का, उसके बटिम परिष्कार का फल उसको नहीं मिल रहा है। अगर वह नहीं मिलेगा तो उसको एम्प्लॉयट

करने वाले लोग किसी न किसी रूप में उसका शोषण करेंगे। इस बिल में मंत्री महोदय ने यह रखा है कि जो लोग अपनी ड्यूटी को छोड़ते हैं उन पर यह लागू होगा। यह मुख्यतः हिंसात्मक कार्यों के सम्बन्ध में होगा, लेकिन मैं एक प्रश्न पूछना चाहता हूँ कि जो शोषित हैं, लेकिन शोषण के साथ लड़ना चाहते हैं, उनके साथ क्या अन्याय नहीं हो रहा है? जिसके बीबी बच्चे मरते हैं, और सरकार उनकी सुननी नहीं है, वह किस रूप में अपनी शिकायत लेकर सरकार तक पहुंचेंगे जब कि आपने रेलवे ऐक्ट में उसके अधिकार छीन लिये हैं। वह हिंसात्मक ढंग से अपने प्रीवान्सेज प्रदर्शित कर सके यह अधिकार उसको मिलना ही चाहिये। आप इस ऐक्ट के अनुसार वह अधिकार उनसे छीन रहे हैं। ऐसी बात नहीं है कि वह ड्यूटी छोड़ कर जाता है। लेकिन अगर वह लीगल स्ट्राइक करता है और अपने प्रीवान्सेज को सरकार के सामने बहरे कानों तक पहुंचाने के लिये स्ट्राइक का सहारा लेता है तो आप उसको इसकी इजाजत क्यों नहीं देते। इस क्लॉज के द्वारा यानी 100 (ए) और 100 (बी) द्वारा यह अधिकार उससे छीन लिया गया है। अगर आपको इनको छीनना है तो मैं एक बात आपको संकेत के रूप में कहना चाहता हूँ। अगर आपने मजदूरों और शोषित लोगों को अपने कष्टों को प्रदर्शित करने के अधिकार से और हिंसात्मक तरीके से करने के अधिकार से, चाहे वह स्ट्राइक हो या कोई भी हो, छीनने की कोशिश की या उस पर प्रतिबन्ध लगाने की कोशिश की तो उसके दूसरे परिणाम निकलेंगे। आपको मैं संकेत के रूप में कहना चाहता हूँ कि आपने इस विधेयक को जो हिंसात्मक रूप में पेश किया है, जो हिंसा का अन्त हिंसा में ही होता है और न आखिर वह क्रिष्ण रूप में निकले। अगर मजदूरों को अपने शीर्सेलिंग को प्रदर्शित करने का एक क्रायुन में आपने नहीं दिया तो इसके और नतीजे भी निकल सकते हैं।

कल मंत्री महोदय ने कहा था कि हमने मजदूरों के लिये ट्रिब्यूनल बनाया है। मैं मंत्री महोदय की सूचना के लिये कहना चाहता हूँ कि वह सब ठोंग है, वह सब झामा है। वहाँ कुछ नहीं होता है। आज मजदूर पैसे जा रहे हैं, उनकी कोई सुनवाई नहीं होनी है। अगर ट्रिब्यूनल है और वहाँ उनके प्रीवेंसिस को सुना जाता, लोगों के कष्टों की सुनवाई की जाती तो फिर मैं कहना चाहता हूँ कि वे शर्म में स्ट्राइक का सवाल ही पैदा नहीं होता था। मैं मंत्री महोदय का एग्जोरिस देना चाहता हूँ कि मुट्ठी भर लोग ही हैं जो कि विदेशों के इमारे पर, यहाँ पर खूनी क्रान्ति या अन्य प्रकार की क्रान्ति की बात करते हैं। 99 प्रतिशत मजदूर आज भी देशभक्त हैं और वे इस प्रकार का कोई इरादा नहीं रखते हैं। परन्तु जब वे विवश हो जाते हैं, और जब वे अपनी गरीबी से तंग आ जाते हैं, जब महंगाई बढ़ती जाती है, लेकिन उनकी कोई सुनवाई नहीं होती है, तब वैसी प्रवस्था में वे मजदूर होकर इस तरह के काम करते हैं, स्ट्राइक इत्यादि करते हैं।

उपाध्यक्ष महोदय, आप चाहते हैं कि मैं जल्दी खत्म करूँ। मैं एक प्रश्न करना चाहता हूँ और चाहता हूँ कि मंत्री महोदय उसका उत्तर दें। आपने इस क्लाइम में कहा है कि अगर कोई इ्यूटी छोड़ जाता है या इस तरह का कोई काम करता है तो उसको दो साल की सजा होगी। उसके साथ ही आपने (बी) में लिखा है कि कोई अगर आबस्ट्रक्शन पैदा करता है रेलों को चलने में तो उसको भी सजा होगी। लेकिन आप देखें कि कितने लोगों के द्वारा आजकल रेलगाड़ियाँ रोकी जाती हैं। रोज या हर तीसरे दिन रेलें रोकी जाती हैं रेलवेमन के द्वारा नहीं, रेल कर्मचारियों के द्वारा नहीं बल्कि विद्यार्थियों के द्वारा, स्कूल और कालेज के विद्यार्थियों के द्वारा। अगर कोई साठी डंडा लेकर आ जायें और ऐसे पाजल लोगों के सामने से रेल का इंजन गुजरकर अगर इंजन छोड़ कर जान जाए तो आप

क्या करेंगे? इसको क्या आप इ्यूटी छोड़ना कहेंगे। ऐसी अगर भीड़ आ जाए तो मंत्री महोदय आप भी वहाँ से भाग जायेंगे। इस प्रकार की खतरनाक भीड़ अगर आ जाए तो वैसी प्रवस्था में रेल कर्मचारी क्या करे? उसे छोड़ कर भागना ही तो पड़ेगा। इस तरह के जो एक्सट्राभाइंडरी सरकमस्टांसिस हैं उनको आपने छोड़ दिया है। अगर कोई कर्मचारी इन सरकमस्टांसिस में इ्यूटी छोड़ कर भागता है तो इस बिल में आपने उसके लिए कोई गुंजाइश नहीं रखी है।

फिर एक बात और है। आपके कानून के अनुसार स्ट्राइक लीगल है और वह अपने प्रीवेंसिस को प्रकट करने के लिये स्ट्राइक करता है तब उसको तो इ्यूटी छोड़ना नहीं माना जा सकता है। इस सब चीज को ध्यान में रखते हुए मैंने इस क्लाइम में एक संशोधन रखा है जो इस प्रकार है :

"Provided that there is no extraordinary situation before him to do so and he is legally authorised to do so in order to ventilate his grievances".

इसको मानने से यह विधेयक पूर्ण हो जाता है। मैं इस चीज का समर्थन करता हूँ कि कोई अगर जान बसर इस प्रकार का कार्य करता है तो उस पर प्रतिबन्ध लगाना चाहिये, डेलीब्रेटली ऐसा करता है तो उसे ऐसा नहीं करना चाहिये।

अन्त में एक बात और मैं कहना चाहता हूँ। हमारे यहाँ प्रजातन्त्र है। इस प्रजातन्त्र में अगर आपने गरीबों की आवाज को उठने से रोका तो इस देश में प्रजातन्त्र की हत्या हो जाएगी, सिंहात्मक प्रवृत्तियों को बल मिलेगा और शर्यतकारियों के हाथ मजबूत होंगे और इस देश में जल्दी रेवोल्यूशन हो जाएगा। मैं प्रार्थना करता हूँ कि इस पर आप गम्भीरतापूर्वक विचार कीजिये और इसको सही रूप में हमारे सामने प्रस्तुत कीजिये।

इन कानूनों के साथ मैं इसका विरोध करता हूँ।

**SHRI INDRAJIT GUPTA** (Alipore): I wish that half the concern, which is being shown by certain Members of this House about the alleged plight of the travelling public in the event of a railway strike taking place, was displayed last year when the owners of the big collieries not only threatened but actually stopped the supply of coal to the railways with the demand that unless the price of coal was put up they would not supply any more coal. That was a strike, if I may say so, by the colliery-owners against the railways. The hon. Minister knows very well that as a result of that a large number of trains in various parts of the country had to be cancelled. No doubt, passengers were put to a lot of inconvenience for that too, but never did we hear anything then about the plight of the passengers or the wickedness of these colliery-owners nor was any Ordinance issued against that nor were any steps taken against them.

**SHRI C. M. POONACHA**: The same thing did happen when the firemen went on strike. There was cancellation of trains and the travelling public were inconvenienced.

**SHRI INDRAJIT GUPTA**: Firemen, of course; but not colliery-owners.

In 1960 when on the last occasion there was a strike by Central Government employees—and may I remind you that it was not a one-day token strike but a call for continuous strike—an Ordinance was issued very similar to the present Essential Services Maintenance Ordinance, but once that strike was over that Ordinance was repealed—of course, Pandit Nehru was the Prime Minister at that time—and no attempt was made as is being made this time to put it permanently on the statute book.

What is the reason for this difference, may I know? Is it that this time there have been numerous cases of

running staff abandoning trains in the middle of the line somewhere and disappearing? You have not been able to quote a single case, let alone many cases. Not one single case has been quoted. The only difference is that over these few years the vindictive and anti-labour attitude of the Government has increased ten-fold. The sole reason for persisting in converting these Ordinances into permanent laws is that they know that if the Ordinances are repealed, the numerous prosecutions and court cases, which have been launched against thousands of Central Government employees, including railwaymen, on the ground that they have violated the Ordinances, will automatically go by default. It is only in order to prosecute, persecute, harass and victimise them through the medium of police and court cases that they are persisting with this measure.

The net upshot of this, whether you like it or not, is that there is a permanent and blanket ban being put on the right of railway employees ever to go on strike under any circumstances. That is what it means. I want the hon. Minister to please tell us when he replies whether such a draconian provision exists in any other country which is supposed to be run by this kind of parliamentary form of government. Railway strikes take place elsewhere also. We are reading about them in the papers every day. Two or three months ago there was three-week long go-slow by British railwaymen under the leadership of the National Union of Railwaymen in Great Britain. That lasted for three weeks and it was reported in all the press. A number of trains had to be cancelled and, no doubt, there are passengers in Great Britain also who were put to inconvenience. We have never heard of an Ordinance or arrests or firing—nothing of the kind. What happens there we would like to know.

Yesterday he quoted something from Shri Peter Alvarez, a circular

or something. I am sure that the Ministry and the Railway Board have also seen—unfortunately, I have not that copy with me here because it is an old document—the circular issued by the same All India Railwaymen's Federation on the eve of this strike of the 19th September specifying directions to the running staff as to what they should do if at 6 o'clock in the morning of the 19th September they happened to be running a train somewhere in the middle of the line. They were not told that they were to stop the train there and abandon it wherever it may be in the middle of the jungle or the desert and walk off. There was a specific direction given there that they were to take that train to the next nearest station, (Shri J. B. Kripalani: Maybe, a flag station.) whatever that station may be, and then only they could leave. A lot of tears have been shed as if something terrible has been done and people are abandoning trains in the middle of the line and going away. No such thing has occurred. What happens in Japan? What happens in Great Britain? What happens in France? What happens there when railway strikes take place and go on for weeks together? Therefore, I must say that this is an extra-ordinary provision.

Then, they say it is all due to the fact that he may abandon his duty in the middle of the line somewhere. Is he entitled, according to the Minister, to go on strike if he is not actually running the train? Suppose his duty hours have not commenced, the train has not yet left the station of origin from where the train is to leave—the train is still standing there; there is still some time to leave—and a strike takes place as a result of which the train cannot leave the original station because no running staff is available to man it. Is he allowed to go on strike? Will they be allowed to go on strike? They are not abandoning the train in the middle of the line somewhere. This puts

a blanket ban on everybody that you cannot go on strike.

What happened in Pathankot? There, all the trouble which took place, firing and killing of the people, beating the workers, beating up women, etc., happened before any train left Pathankot. The first train which was due to leave in the morning, 6.30 A.M. or some such time, would not leave because no running staff came to run it. As a result of that, the police went on rampage, shot down the workers, beat up the women and all that. How does it come within that? This means in no circumstances they are to be allowed the right to strike.

When the recognition is given to a railway union, according to the rules framed by this same Government, it is said, before going on a strike, you must take a strike ballot and, after the strike ballot, if the majority is in favour of the strike, you must serve a notice of strike—so many days notice must be given. etc. etc. Everything is being just put into the waste paper basket. This is no longer necessary. You cannot have a ballot now; you cannot serve a strike notice; you cannot do anything. You are not to go on strike in any circumstances whatsoever. That is the meaning of this Ordinance which is sought to be replaced by an Act.

I suggest that this is something fantastic and unprecedented. Such a measure has never been taken in any country before. This is simply for the sake of pursuing court prosecutions and harassing these people. They should not be so petty-minded, mean-minded and it is a repressive attitude they are adopting. I have moved my amendments. I do not want to take more time of the House. I oppose it. They should withdraw it and repeal the Ordinance completely.

MR. DEPUTY SPEAKER: The hon. Minister.

SOME HON MEMBERS rose—

MR. DEPUTY-SPEAKER: Let us finish the clause-by-clause consideration.

SHRI RANDHIR SINGH: Sir, is the word 'mean-minded' parliamentary? I want your ruling on that.

SHRI INDRAJIT GUPTA: I said petty-minded.... (Interruptions)

SHRI RANDHIR SINGH: You said mean-minded. This is an abuse. There cannot be a more abusive language than this.

MR. DEPUTY-SPEAKER: You may say it is an abuse. It is not unparliamentary.

SHRI RANDHIR SINGH: It is strange! The word 'mean-minded' is not unparliamentary?

MR. DEPUTY-SPEAKER: Now I have permitted only those who have moved their amendments. I am not permitting those who could not do it or those who want to speak on amendments because we have already exceeded the time-limit.

श्री मधु लिमये : उपाध्यक्ष महोदय, मधुकी माननीय सदस्यों ने इस क्लॉज पर बोलना है ।

श्री जार्ज करनेगीब : उपाध्यक्ष महोदय, मेरे संशोधन हैं ।

MR. DEPUTY-SPEAKER: I am saying about Clause 2. I have permitted only those who have moved their amendments.

SHRI KANWAR LAL GUPTA: I want to speak on this Clause. This is a very important Clause. (Interruptions)

MR. DEPUTY-SPEAKER: I cannot allow a debate on this clause. We have already exceeded the time-limit.

SHRI SITARAM KESRI (Katihar): Yesterday, you had made a commitment in the House that you would

allow me to move the amendments. So, I request you to please allow me now.

MR. DEPUTY-SPEAKER: Let us finish the clause-by-clause consideration. If I permit you, then Mr. Kanwar Lal Gupta is wanting to speak and there will be so many others.

SHRI SITARAM KESRI: Please listen to me, Sir . . .

MR. DEPUTY-SPEAKER: Already we have exceeded the time-limit. I will permit you at the final stage .

SHRI SITARAM KESRI: Please hear me, Sir.... (Interruptions)

MR. DEPUTY-SPEAKER: Your amendment to this Clause is not there . . .

SHRI SITARAM KESRI: It is there.

MR. DEPUTY-SPEAKER: Mr. Kalita has not moved; Mr. Jha has not moved. So many members were absent at that time. Therefore, please resume your seat; please co-operate with the Chair.

SHRI SITARAM KESRI: This is a very important Bill. I am the President of the North Frontier Railwaymen Union. I must be given an opportunity to speak here. I have to say many things.... (Interruptions)

MR. DEPUTY-SPEAKER: You will get an opportunity. Please resume your seat. As I said, let us finish clause-by-clause consideration. I have given chances to those who have moved their amendments. To those who have not moved amendments, I shall try to give an opportunity at the final stage. Mr. Kesri, if I permit you now, I will have to permit five others. I will give you an opportunity later... (Interruptions)

SHRI DHIRESWAR KALITA (Gauhati): I have moved my amendment.

MR. DEPUTY-SPEAKER: I am sorry. Yes; your amendment is there. I will permit you only one minute.

श्री जाजं करनेन्दीश : उपाध्यक्ष महोदय, मेरे छः संशोधन हैं ।

MR. DEPUTY-SPEAKER: Have you moved them?

श्री जाजं करनेन्दीश : मैंने पेश किये हैं ।

MR. DEPUTY-SPEAKER: I will permit only one or two minutes.

श्री झोंकार लाल बेरवा (कोटा) मैंने भी संशोधन पेश किये हैं ।

MR. DEPUTY-SPEAKER: You were not here when amendments were being moved.

Mr. Kalita You should be very brief.

SHRI DHIRESWAR KALITA: Yesterday, the hon. Minister, Shri C. M. Poonacha, made a political speech as if the whole of India was going on a revolution on the 19th September. He based his arguments only on this as if on the 19th September there was to be a revolution or something like that. That was not the point. In the statement that has been laid on 11th November, 1968, it has been stated:

"In the context of the strike which was threatened on 19th September, 1968 by certain organisations of Central Government employees, including a section of railway servants, large scale incidence of concerted action, as mentioned above, was apprehended . . ."

MR. DEPUTY-SPEAKER: Please confine your remarks to your amendment. This is not a general debate. You may speak only about your amendment.

SHRI DHIRESWAR KALITA: I am coming to that.

Yesterday he made a political speech. He did not deal with this subject at all as to why this enactment was necessary. This penal provision which he has moved to amend the Indian Railways Act is not at all necessary because there are other measures like Unlawful Activities Act, Preventive Detention Act, Central Industrial Security Force Bill, and then in all the States there is the maintenance of Public Order measure. Sections 151 and 154 of the Cr. P.C. and all other Acts of the Government of India are there. In spite of these things, this Government wants more powers. If you want to go on enacting all these penal provisions in India, where will democracy stand? You are torpedoing the whole democratic movement in India. You are responsible for that. You have not said a single word for need-based minimum wage. You have not met a single demand. You have not removed a single grievance . . .

MR. DEPUTY-SPEAKER: You may please come to your amendment. I will not permit general discussion now.

SHRI DHIRESWAR KALITA: Let me give one example in Assam. In Gauhati the railway headquarters acted in collaboration with the Government of Assam through the Assam Public Maintenance Act. The Railway headquarters have been declared a protected area. There, all workers have to carry their identity cards within 200 yards of that area. Nobody can hold a meeting. No five persons can go together. Even a marriage celebration cannot take place in that area. Mrs. Sucheta Kripalani raised this point day before yesterday. The hon. Minister has not replied at all. These things are taking place, Sir.

MR. DEPUTY-SPEAKER: Your time is up. You are not referring to your amendment. I will not permit a general discussion. No, please. You may refer to your amendment and make your suggestion.



**SHRI DHIRESWAR KALITA:** In view of all these things, Sir, my submission is this, that the amendment which he has brought today for the consideration of this House is not at all necessary. So, my submission is that my amendment should be accepted by the Hon'ble Minister and he should withdraw his amending Bill.

श्री जार्ज करमेश्वर : अध्यक्ष महोदय, मेरी छः तरमीमें हैं जिनके समर्थन में मैं यहाँ बड़ा हूँ। इस विधेयक पर जो कुछ कहना था वह तो हम कह चुके हैं। मेरी तरमीम इस प्रकार है कि जहाँ दो वर्ष की सजा की बात है वहाँ तीन महीने की की जाये, जहाँ 5 सौ रुपये जुर्माने की बात है वहाँ 50 रुपये किया जाय और प्राये 100(ए) के अन्त में यह लिखा जाये :

"Provided that if the Railway servant abandons his duty in pursuance of the notice of strike served by a trade union, the provision of this section shall not apply."

प्रब इस विधेयक पर जब बहम चली तो गाड़ी लाइन पर कहीं छोड़ कर जाने वाली बात आई कि किन्हीं दो स्टेशनों के बीच में गाड़ी छोड़ कर चला जाता हो तो हजारों मुसाफिरों का क्या होगा इस तरह की बात रेल मंत्री ने या अन्य लोगों ने यहाँ पर उठाई। एक चीज हम लोग बराबर कहते आए और बार-बार कहते आए कि अमल में यह विधेयक कोई रेल का माल मत्ता बचाने के लिए या ऐसे किसी काम के लिए नहीं है क्योंकि उसके लिए तो इंडियन रेलवे ऐक्ट है और दूसरे जो पीनल लेजिस्लेशन हिन्दुस्तान के है वह काफी है। इस विधेयक का एक ही मकसद है—कर्मचारियों का हड़ताल का जो बुनियादी अधिकार है उसको छीन लेना। अगर सरकार में ईमानदारी हो, सचमुच सरकार आई० एल० प्रो० के कन्वेंशन को मानती हो, कन्वेंशन 85 और कन्वेंशन 105 आई० एल० प्रो० के जिस आई० एल० प्रो० की भारत सरकार

फाउंडर मेम्बर है और गर्बिंग बाडी का परमानेंट मेम्बर है, उस आई० एल० प्रो० के कन्वेंशनों को मानती हो तो यह मेरी जो तरमीम है जिसमें मैंने यह कहा है कि अगर कोई रेल कर्मचारी बेमतलब ही गाड़ी छोड़ कर चला जाए, कहीं कोई शराब पी कर आए, प्रायम में अगड़े की वजह से कहे कि मैं नहीं काम करूँगा या किसी अफसर ने कोई बात उम को मुनाई और झगडा करके हट गया तो वहाँ मैं लागू करने में नहीं रोक रहा हूँ। लेकिन अगर वह हड़ताल का नोटिस देता है उसकी यनियन हड़ताल का नोटिस देती है बाकायदा जो हिन्दुस्तान के कानून हैं इंडस्ट्रियल डिस्प्यूट्स ऐक्ट और इंडियन ट्रेड यूनियन ऐक्ट तथा मजदूर सम्बन्धी जो दूसरे ऐक्ट हैं, उन कानूनों के अन्तर्गत और आई० एल० प्रो० के कन्वेंशन के अन्तर्गत वह हड़ताल का नोटिस देता है तो फिर वह नोटिस गलत है, बराबर है, उसको इंडस्ट्रियल डिस्प्यूट्स ऐक्ट के मानहत तय करेंगे।

उपाध्यक्ष महोदय, शायद इस हड़ताल को बिठाने में प्रापका भी हाथ था जो एयर इंडिया के इंजीनियरों की थी, उन में मे 8 झाडवरो को अभी एक एक महीने की सजा हो रही है, अगले हफ्ते वह जेला जा रहे है। इंडस्ट्रियल डिस्प्यूट्स ऐक्ट में उनके ऊपर मुकदमा चलाया गया था, बम्बई में और वहाँ में उनको जेल हो चुकी है जिस हड़ताल को बिठाने में प्रापका भी हाथ रहा है। तो मैं यह बता रहा हूँ कि अगर कोई भी कर्मचारी गैर-कानूनी काम करते हों तो उनके लिए प्रापके पास आज कानून है, कायदे हैं। इंडियन रेलवे ऐक्ट में इस संशोधन को जो मंत्री महोदय यहाँ पर ला चुके हैं और जो मेरी राय में और इस सदन की तमाम लोगों की राय से हड़ताल पर रोक लगाने वाला कानून है, इस में मैं यह कहना चाहता हूँ, यह यह अधिकार जो कर्मचारियों का है, हड़ताल पर जाने का उस अधिकार को इस विधेयक के द्वारा नहीं छीनना चाहिए और इसलिए...

(अध्यक्षान) . . . . . मेरे छः संशोधन हैं ।  
बो मिनट में मैं खत्म करूंगा । इसलिए मैं  
मंत्री महोदय की और सरकार की इस बारे  
में ईमानदारी की राय चाहता हूँ, मैं चाहता हूँ  
कि सरकार कुछ ईमानदारी का बर्ताव करे  
और कर्मचारियों का जो बुनियादी अधिकार  
हड़ताल का है उस पर कोई भी रोक लगाने  
का काम न करे ।

जो दूसरा हिस्सा है संशोधन का कि कोई  
गलत काम किसी ने किया और उनका  
रुकने में आ गया तो उसको दो साल की  
सजा दी जाये, उन के बारे में मैं पुनाचा  
साहब से पूछना चाहता हूँ कि आपके रेल  
मन्त्री होने के बाद और आप मे पहले एस०  
के० पाटिल के जमाने में कितनी रेलें  
दुर्घटनाएँ हुईं, ऐक्सीडेंट्स कमेटी ने ज च  
करने के बाद कितनी ही दुर्घटनाओं के बारे  
में कहा कि रेल की जो व्यवस्था है, उसने  
जो गलतियाँ हैं उसके कारण यह दुर्घटनाएँ  
हो रही हैं, उस के कारण यह करोड़ों रुपये का  
नुकसान होता है, करोड़ों रुपये की चोरियाँ होती  
हैं और पता नहीं क्या-क्या नुकसान होता है,  
उसमें कोई सजा देने की बात नहीं है ।  
किसी रेलवे बोर्ड के मेम्बर को, किसी रेल  
के जनरल मैनेजर को या चीफ इंजीनियर  
को अब तक किसी ने जेल भेजा, यह हमने  
नहीं पढ़ा है । आज ही सुबह के अखबारों में  
हम लोगों ने पढ़ा कि 662 करोड़ रुपये का  
इनकम टैक्स बाकी है हिन्दुस्तान के पूंजी-  
पतियों के ऊपर और उन लोगों को जेल भेजने  
की कोई व्यवस्था सरकार नहीं करती है  
लेकिन एक कर्मचारी अगर हड़ताल करने की  
बात कहे, कानूनी नोटिस देकर तो उसको  
दो वर्ष की सजा देने का यहां जो विधेयक  
आया है यह ठीक नहीं है । इसलिए मैं चाहता  
हूँ कि मेरे संशोधन को सरकार माने और  
सजा को कम करे ।

15.00 hrs.

अगले जो तीन संशोधन हैं 100 (बी)  
व उनके ऊपर मुझे कुछ दूसरे तर्क देने हैं ।  
2453 (ai) LSD—7.

100(ए) है कर्मचारियों के लिए और  
100(बी) कर्मचारियों के लिए नहीं बल्कि  
कोई भी मामूली नागरिक है, उसका भी  
अधिकार छीनने के लिए है । कल यहां पर  
बहुत बहस छिड़ी सत्याग्रह और दुराग्रह की  
बात रखी लेकिन सत्याग्रह करने का अधिकार  
ये छीन रहे हैं या गांधी जी ने किस तरह का  
सत्याग्रह करने को कहा था और आज सत्या-  
ग्रह के बारे में क्या रुख है इस पर मैं कोई  
बहस नहीं करना चाहता । मुझे एक ही चीज  
कहनी है कि अगर मुझे रेलवे में जो सुविधा  
मिलनी चाहिए वह नहीं मिलती है, मैं एक  
सदस्य हूँ, एक सदस्य होने के नाते या एक  
साधारण नागरिक के नाते मैं पूछता हूँ कि  
जब मैं रेलगाड़ी में बैठता हूँ और मुझे वह  
सुविधाएँ नहीं मिलती हैं, मैं गाड़ी को ब्रेक  
खींच कर रोक लेता हूँ और कहता हूँ कि  
गाड़ी नहीं जायेगी जब तक कि गाड़ी में पानी  
नहीं होगा, बिजली नहीं होगी, पंखा नहीं  
चलेगा तो क्या आप मुझ को दो साल के लिए  
जेल भेज देंगे ?

मन्त्री महोदय से मैं यही कहना चाहता  
हूँ कि एक तो आप मुझे सुविधा नहीं देंगे,  
यदि मैंने सुविधा की मांग की या हिन्दुस्तान  
के किसी भी नागरिक ने सुविधा की मांग की  
जो कि उसका हक है तो उसके लिये दो साल  
की जेल और 500 रु० जुर्माने की बात आप  
रखने जा रहे हैं । इसीलिये मेरा यह संशोधन  
है कि सजा दो साल की जगह तीन महीने  
कीजिये और जुर्माना 500 रु० की जगह  
50 रु० कीजिये तथा 100 (बी) के बाद यह  
श्रीवाजी जोड़िये—

"Provided that this section shall  
not apply to any acts done in pur-  
suance of a demand for better am-  
enities to railway servants or pas-  
sengers".

रेल मन्त्री मेरी इन अमेण्डमेन्ट्स को  
स्वीकार करें तथा अपनी सरकार की ईमान-  
दारी यहां पर जाहिर करें ।

श्री श्रीकार लाल बेरवा : उपाध्यक्ष महोदय मैंने जो संशोधन दिये हैं, आप मुझे उन पर बोलने के लिए एक मिनट का समय दीजिये... (व्यवधान)...

श्री हुकम चन्द कछवाय (उज्जैन) : एक मिनट बोल लेने दीजिये, इसमें आपको क्या आपत्ति है।

MR. DEPUTY-SPEAKER: If I allow him now, I will have to allow several others. I will give him an opportunity at the final stage.

श्री श्रीकार लाल बेरवा : यह बिल कर्मचारियों के अधिकारों को कुचलने के लिये लाया गया है। अधिकारी उस को कहेंगे कि तुम 18 घण्टे तक सर्विस करो, 24 घण्टे तक सर्विस करो... (व्यवधान)...

MR. DEPUTY-SPEAKER: No. Nothing that he says will go on record.

श्री श्रीकार लाल बेरवा :

THE MINISTER OF RAILWAYS (SHRI C. M. POONACHA): I will confine myself to the amendments that have been tabled and moved to cl. 2.

श्री श्रीकार लाल बेरवा उपाध्यक्ष महोदय, मेरे साथ अन्याय हुआ है, मैं इसके विरोध में सदन से वाक-प्राउट करता हूँ।

(Shri Onkarlal Berwa then left the House)

SHRI C. M. POONACHA: There are several amendments moved. Shri Fernandes's amendments suggest lowering of the penalty for the offence. Shri Viswanath Pandey's amendment is for enhancement of the penalty. Shri Lobo Prabhu's amendment seeks to substitute the word 'abstain' in place of 'abandon'. Shri Kundu's and Shri Tyagi's amendments as well as Shri Kalita's amendment suggests that

if one abandons the train in connection with a legitimate demand concerning his grievance, in such an emergency or contingency, he should not be liable to punishment under the Bill. I will take these one by one.

SHRI OM PRAKASH TYAGI: Or is forced to do that.

SHRI C. M. POONACHA: Yes, Suppose a riot takes place. He may have to leave the train and seek his own safety. In such a circumstance, he should not come under the mischief of this Bill. That is his suggestion.

As regards Shri Lobo Prabhu's amendment, it attempts to enlarge the scope of the Bill. We do not want to enlarge the scope of this legislation under the term 'abstain'. Very many things would come under it. I would like to make it specific to the word "abandon". Only abandonment would be considered an offence under the proposed Bill. So, I do not accept his amendment. Such abstaining from duty can be taken care of by the disciplinary rules and I do not propose to introduce the word "abstain" here and extend the scope of the Bill as suggested by my hon. friend.

Regarding punishment Shri Fernandes has suggested that it should be lowered to three months or Rs. 50 while the other friend has suggested that it should be five years and Rs. 1000. I think what we have suggested is reasonable and I am not prepared to accept those amendments.

The question has been raised whether the right of the railway servant to represent his grievances in a positive manner, may be by way of collective bargaining, should be completely taken away. That point has been forcibly placed before the House. I might submit that over and above the rights, the fundamental rights that we

all enjoy as citizens of India, there are certain reasonable restrictions placed on us, certain obligations placed on us. There cannot be only rights without any obligations. Reasonable restrictions have been placed even on the fundamental rights of an individual. This cannot be disputed. There is something which is superior to my own individual right, and it is the community's, the society's essential requirement in relation to its prosperity, its day-to-day life. For the society's day-to-day life requirements I have got to shed a part of my fundamental rights if necessary.

**SHRI MADHU LIMAYE:** No.

**SHRI C. M. POONACHA:** Article 19 clearly stipulates that. Article 19 is absolutely clear on that.

**SHRI MADHU LIMAYE:** Reasonable restrictions.

**SHRI GEORGE FERNANDES:** Are you prepared to refer it to the I.L.O.?

**SHRI C. M. POONACHA:** I am not yielding.

There is something much higher than what I consider to be my individual right, and that is the security of the nation, the well being of the nation, the orderliness of the nation, the orderliness of the society, and for that there can be reasonable restrictions placed on my individual right. There is absolutely no doubt about it. These things have been made clear in the Constitution itself, and therefore, I submit that what is attempted to be done here is not to curtail the rights of the railwaymen as such, but to qualify such rights for the well-being of the country, the essential requirements of the society and also the orderliness of running the railways. Therefore, I am not accepting the amendments.

**श्री आर्बं करनेजीब :** अगर आप में हिम्मत है तो इसे आई० एम० प्रो० के पास रेफर कीजिये ।

**SHRI INDERJIT GUPTA:** I want to know whether under this Bill it will be possible under any circumstances for railwaymen to go on a legal strike. Can they go on a legal strike once this Bill is passed?

**SHRI S. KUNDU:** Reasonable restrictions can never take away the right to strike.

**SHRI C. M. POONACHA:** I have nothing to explain on this point.

**श्री मधु लिमये :** मेरा व्यवस्था का प्रश्न है । व्यवस्था यह है कि बहस और विवाद का जो आधार है उसको ही ये समाप्त करने जा रहे हैं । हमने जब कहा कि मौलिक अधिकारों पर यह आक्रमण है और कई लोगों ने सफाई के साथ इस बात को रखा तो उन्होंने कहा कि मैं जवाब दूंगा । उन्होंने कहा कि संविधान में यह साफ है और उन्होंने संविधान का हवाला भी दिया । मैं आपके सामने 19वीं धारा रखना चाहता हूँ जिसके बारे में मैंने कहा था कि इन अधिकारों पर आक्रमण हुआ है :

To assemble peaceably and without arms. To form associations or unions.

अब आप सब क्लाज (3) और (4) को भी देखिए :

"Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause."

यही बात क्लाज (4) में भी कही गई है, रीजनेबल रेस्ट्रिक्शन यानी विवेकपूर्ण नियंत्रण सबाल यह उठाया गया कि इस बिल के पास होने के बावजूद कानून बनाने के अधिकार पर

[श्री मधु लिमये]

केवल नियन्त्रण नहीं, केवल मर्यादा नहीं, बल्कि उसका बिल्कुल खात्मा ही किया जा रहा है। इसीलिए हम बार-बार कह रहे हैं कि आप हमको बताइये। अभी श्री इन्द्रजीत गुप्ता ने ठीक ही कहा कि इस बिल के पास होने के बाद क्या कोई ऐसी स्थिति भी हो सकती है, कोई ऐसी सूरत उत्पन्न हो सकती है जिसमें कि कानूनी हड़ताल की सम्भावना होगी। अगर इस तरह की किसी स्थिति की यह कल्पना भी नहीं कर सकते हैं तो फिर उसका यह साफ मतलब हुआ कि यह रीजनेबिल रेस्ट्रिक्शन नहीं है बल्कि यह तो खात्मा करना हुआ। उपाध्यक्ष महोदय, आप स्वयं वकील रह चुके हैं और कानून के पंडित हैं आप भी इन दोनों में फर्क समझते होंगे, एक तो अधिकार पर रोक या मर्यादा लगाना और दूसरे उसको समाप्त करना।

अब मन्त्री जी कहते हैं कि मैं जवाब नहीं दूंगा तो फिर हम भी इस बिल को पास नहीं होने देंगे।

MR. DEPUTY-SPEAKER: The question is very fundamental here. Now there is no question of any fundamental right to strike.

SHRI K. NARAYANA RAO rose—

MR. DEPUTY-SPEAKER: Please resume your seat. This is a point of order on which I am replying to him. There is no question of fundamental right to strike. That is very clear from the enumeration here given in Article 19. But a question was put whether it amounts to total ban or a reasonable restriction on the activity. That is the only point raised on the question of reasonable restriction. I am not competent ultimately to decide. Reasonable restriction has been defined by the Supreme Court on various occasions. But I would like this clarification from you whether it is so. I do not know.

SHRI NARAYANA RAO (Bobbili): Mr. Deputy Speaker, Sir.

MR. DEPUTY-SPEAKER: Please resume your seat. (Interruptions)

I cannot decide this issue. But an impression is given by your reply. That question is there. Does it mean that completely within the legal limits, whatever the conditions, a strike would not be possible after passing this law? That was the question. I want a clarification from the Minister. (Interruption).

SHRI K. NARAYANA RAO rose—

MR. DEPUTY-SPEAKER: If I permit him, I will have to permit others also on this side. It is not possible. I am not going to decide what is reasonable restriction. He has raised a point and I have permitted it. Do you want a debate on this? I do not want a debate. (Interruption) Mr. Narayana Rao, I have repeatedly said that I will not allow it. Please resume your seat. When I am standing, you cannot stand. I will not permit it. This sort of thing will not do. Please resume your seat. Am I to throw this point of order open for debate here? Then it will take time. As I have said, on the question of reasonable restriction, neither this House nor the Chair is in a position to give a final verdict. It will have to be determined by the Supreme Court.

श्री मधु लिमये: नहीं, नहीं, आप कर सकते हैं।

MR. DEPUTY-SPEAKER: No, no. Please resume your seat. This is not possible. Mr. Limaye, you will bear with me that the question of reasonable restriction as it is stated in sub-clauses (3) and (4), while allowing some fundamental rights, has been determined.

श्री एस० एम० जोशी (पूना): इसमें तो पूरा अधिकार हो छीन लिया गया है, रीजनेबिल का सवाल ही नहीं रहता।

MR. DEPUTY-SPEAKER: Thereafter, on that point, this House is not competent to decide, nor the Chair. Even if I decide it one way or the other, it is not a final verdict.

श्री कंबर लाल गुप्त : भ्रगर प्राइमा फेसी हो तो ठीक है ।

MR. DEPUTY-SPEAKER: I have asked for a clarification, and then let us see. Beyond that, I cannot ask.

SHRI RANDHIR SINGH: rose—

MR. DEPUTY-SPEAKER: If I allow him, then I will have to listen to the other side also. (Interruption) All right. You go on.

SHRI K. NARAYANA RAO: You cannot dismiss this point within a couple of minutes like this.

श्री रणधीर सिंह : डिप्टी स्पीकर महोदय, यह एक बहुत साफ बात है । मिनिस्टर साहब की तरफ से एक बात कही गई कि पब्लिक इन्टरेस्ट में, कम्युनिटी के इन्टरेस्ट में... (इवधान)...

MR. DEPUTY-SPEAKER: Mr. Randhir Singh, are you arguing about the point raised?

SHRI RANDHIR SINGH: I am giving my own argument.

MR. DEPUTY-SPEAKER: That is true, but on that point only.

श्री रणधीर सिंह : कांस्टीट्यूशन में फंडामेंटल राइट्स में, एक नहीं 6-7 धाराओं में यह जिक्र है कि भ्रगर पब्लिक इन्टरेस्ट में, पब्लिक पर्पज के लिए किसी के राइट पर थोड़ा बहुत रेस्ट्रिक्शन भी हो जाए, चाहे वह राइट किसी मजदूर का हो या किसी किसान का हो, तो वह हों सकता है । पब्लिक इन्टरेस्ट में किसी के राइट्स का कंट्रोलमेंट हो सकता है । यह धारा 19 में है और धारा 31 में भी है जहाँ पर कि पब्लिक पर्पोजेज के लिए जमीनें एक्वायर की जाती हैं । डिफेंस के पर्पज के लिए या रेलवे, नहर या और किसी पब्लिक पर्पज के लिए किसान की जमीन, चाहे किसान न भी चाहता हो, एक्वायर की जाती है । उसी तरह से यहाँ पर भी कम्युनिटी

का सवाल है, सोशल लाइफ का सवाल है, कन्ट्री और नेशन का सवाल है । तो मेरा कहना यह है कि जब नेशन की लाइफ या कम्युनिटी की लाइफ कम हो रही हो और जब नेशनल इन्टरेस्ट और पब्लिक पर्पज की यह डिमाण्ड हो और उससे किसी के राइट्स पर टैम्पोरेरीली या फार स्पेसिफिक टाइम रेस्ट्रिक्शन भी लगता हो तो वह भी कांस्टीट्यूशन की तहत वैलीड है । इसलिए मैं इस बिल को सपोर्ट करता हूँ ।

श्री कंबर लाल गुप्त : इस प्वाइन्ट पर हमको भी प्राप सुनें ।

MR. DEPUTY-SPEAKER: I will call you.

SHRI K. NARAYANA RAO: Mr. Deputy-Speaker, Sir, yesterday you held and today also you have observed that the right to strike cannot be called up from article 19. There are also the rulings of the Supreme Court in a series of cases which I can quote. For instance, in Kameswar Prasad versus the State, the decision was given roundabout 1962 or 1963, wherein they have clearly laid down that the right to strike is not a fundamental right guaranteed under article 19, because they have the right of association.

Coming to the present instance, once you have ruled and once the Supreme Court has ruled, the question whether the restriction on the right to strike is reasonable or not does not arise.

So far as the right of association is concerned, there is absolutely no infringement on this right, unless the trade unions accept that destruction of railway property is one of the grade union activities. The Bill does not purport to take away and it does not restrict the right of association. In

[Shri K. Narayana Rao]

the light of these submissions, any discussion under article 19 will be totally irrelevant.

**MR. DEPUTY-SPEAKER:** I have already stated that whether the restriction is reasonable or not has been defined by the Supreme Court in various cases and neither this House nor the Chair is competent to decide that finally. The main question is whether this enactment is tantamount to a complete ban on the strike. That is the limited question which has been posed.

**SHRI INDRAJIT GUPTA:** Let the minister give his opinion whether it is possible for any legal strike to take place at all after this Bill is passed.

श्री कंबर लाल गुप्त : उपाध्यक्ष महोदय, मुझे एक ही बात कहनी है कि अगर यह प्राइमाफेसी कैस है जिसमें कांस्टीट्यूशन का वायलेशन हो सकता है तो उस का नाटिव यह चेयर ले सकती है। अगर प्राइमाफेसी कैस यह कांस्टीट्यूशन का है या नहीं है इसको जानने के लिये यह जरूरी है कि आया जो शिथिक आप पास करने जा रहे हैं इसके पास होने के बाद क्या स्ट्राइक कमप्लीटली बैन हो जायेगी। आप कोई स्थिति बता दीजिये जिसमें मान नौजिये सरकार कुछ भी गलती करती है, कितने ऐनट्रीम तक जायेगी। क्या किसी भी स्थिति के अन्दर ये सब कर्मचारी स्ट्राइक कर सकते हैं? यह सवाल है। अगर वह कर सकते हैं किसी भी हालत में, 100 में से 99 में नहीं कर सकते हैं और एक में कर सकते हैं तो भी ठीक है। या बिल्कुल कमप्लीट टोटल बैन स्ट्राइक पर लगाया है। इस क्लैरोफिकेशन के बाद चेयर को यह फ्रीला करने में आसानी होगी कि आया यह प्राइमाफेसी कैस कांस्टीट्यूशन के खिलाफ है या नहीं।

मेरा कहना यह है कि अगर टोटल बैन स्ट्राइक के ऊपर है तो यह प्राइमाफेसी कैस कांस्टीट्यूशन के खिलाफ है क्योंकि कांस्टी-

ट्यूशन के अन्दर फंडामेंटल राइट्स में जायज लोगों के खिलाफ स्ट्राइक का अधिकार बिना हुआ है। और अगर यह ब्लैक बैन नहीं है तब यह रोजनेबिल रेस्ट्रिक्शन होगी वह कोर्ट तय करेगी। तो यह बताना जरूरी है कि आया यह ब्लैक बैन भी है या नहीं है? अगर नहीं है तो किन हालात में कर्मचारी स्ट्राइक कर सकते हैं? कोई एक प्राथ स्थिति बता दीजिये। और अगर नहीं कर सकते किसी भी हालत में तो यह। ब्लैक बैन है।

**SHRI S. M. BANERJEE:** When this Bill came up for discussion, some of us raised certain constitutional points and we said that the fundamental rights of some citizens, who are railway employees, are being curtailed by this legislation. We moved a motion on which you, in your wisdom, did not give a ruling and the House rejected it by a majority.

This question has been raised by the minister himself. He says this Draconian legislation places only a reasonable restriction. All the Trade Unions in the country are registered under the Indian Trade Union Act of 1926. If it is necessary to form a Trade Union, then that Union should be registered under this particular Act of 1926. Then, if I belong to the Trade Union registered under this Act, I have the right to go on strike; though it may not be a fundamental right under Article 19 of the Constitution. I agree with you there. But still I have the right to go on strike under the piece of legislation which is also a creation of this House. According to the constitution of my Union or organisation, there is a provision which the Government of India accepted that ballot should be taken because in some cases majority of workers may not agree. Unless 75 per cent of the workers vote in favour of strike, there shall not be a strike and the strike should be called off.

Now, the question arises whether this is a reasonable restriction or not. My hon. friend. Shri Indrajit Gupta, raised a very pertinent question because a fear is lurking in the minds of Railway employees that there is going to be a total ban on their right to strike. When the Joint Consultative machinery came—All India Railwaymen's Federation was a party to it and they signed a letter of intent also—and when the question arose whether they will be allowed to go on strike, whether the right to strike is abjured, whether it is taken away, we were assured by the then Home Minister, Shri Nanda, and also the Labour Minister that it was not so. They said: "we want to declare the strike as superfluous by mutual agreement, that is by signing a letter of intent by both the parties and we want to declare strike as superfluous by referring all matters to adjudication or arbitration." That is why people were not joining the J.C.M. They had the fear that their right to strike which they acquired after 100 years of fight with capitalistic system would be lost. Now, the hon. Minister should clearly state the position. This point of order raised by Shri Madhu Limaye is perfectly justified. You should not give a ruling on this constitutional point. We wanted somebody to advise. We wanted the Attorney General to come.

MR. DEPUTY-SPEAKER: That is over.

SHRI S. M. BANERJEE: They did not also agree for a reference to the Supreme Court. It is all the more necessary for the Minister to state clearly, in clear terms whether there is going to be a blanket ban on strikes; even in the case of registered or recognised union and even when due notice of 14 days is given after taking the strike ballot, whether they will not be allowed to strike. There is no such Ordinance in the country. Under the Industrial Disputes Act, after taking the strike ballot, if they give 14 days notice, whether they will be

allowed to go on strike or not, the hon. Minister should inform us clearly.

श्री ज्ञान करनेच्छीव : उपाध्यक्ष महोदय,  
श्री मधु लिमये जी ने जो प्रश्न उपस्थित किया है उसका समर्थन करते हुए मैं दो बातें आपके सामने रखना चाहता हूँ।

एक तो आपने यह बात उठायी है कि क्या सदन को अधिकार है कि यह कानून संविधान के खिलाफ़ जाता है या नहीं, यह तय करने का। एक तो हमारा संविधान है और दूसरे हमारे नियम हैं। नियम के अन्तर अगर कोई गलती करे, जैसे कल माननीय केसरी जी यहाँ नहीं थे अपना संशोधन पेश करने के लिये तो आपने आज उनको संशोधन पेश करने की इजाजत नहीं दी यहाँ पर। माननीय श्रीकार लाल बेरबा कल नहीं थे अपना संशोधन पेश करने के लिये तो आज आपने उनको इजाजत नहीं दी। क्यों? क्योंकि नियमों का पालन आप करना चाहते हैं और कराना चाहते हैं। नियम यहाँ पर माना जाय इस बात को भी मद्देनजर रख कर आप उनका पालन करते हैं। तब अगर संविधान में ऐसी कोई धारा हो तो यह कहली है कि सरकार को या हुकूमत को यह अधिकार नहीं है कि वह संविधान के खिलाफ़ कोई भी कानून बनाये तो क्या उस अधिकार को भी अमल में लाने का बेयर को अधिकार नहीं है? इसलिये उपाध्यक्ष महोदय, मैं आपका ध्यान धारा 13 की ओर आकर्षित करना चाहता हूँ: "Laws inconsistent with or in derogation of fundamental rights." कंस्टीट्यूटन राइट है इस बारे में कोई



[श्री जार्ज फानेण्डीज]

बहस नहीं है। फंडामेंटल राइट है यह हिन्दुस्तान की भदालतें तय कर चुकी हैं। अगर आप 13 (2) पढ़िये तो देखेंगे कि इसमें यह लिखा हुआ है :

"The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void."

अब उपाध्यक्ष महोदय, मेरा यह आग्रह है कि इस पर कोई जल्दबाजी न की जाये। यह एक बहुत महत्वपूर्ण प्रश्न है। लाखों कर्मचारियों के बुनियादी अधिकारों को छीन लेने की बात यहां पर हो रही है। श्री इन्द्रजीत गुप्त और श्री मधु लिमये ने जो प्रश्न उठाये उन प्रश्नों के उत्तर मंत्री महोदय यहां नहीं दे सकते हैं हालांकि कई सलाहकार उनके पीछे बैठे हुए हैं। इसलिए मैं चाहता हूँ कि आप इस मामले पर अत्यन्त गम्भीरता के साथ गौर करें और इस को देखें कि आपके यहां सदन के अन्दर बैठे हुए हिन्दुस्तान के लाखों कर्मचारियों का वह बुनियादी अधिकार जो कि संविधान ने उन्हें दिया हुआ है वह उनसे न छीना जाय। इस पर फौसला देने में अगर समय लगता हो तो समय ले लिया जाय लेकिन मैं चाहूंगा कि 13(2) का सही और ठीक इंटरप्रेटेशन आप के जरिए आना चाहिए और जैसे यह नियमों का पालन करने का आपका अधिकार है वैसे ही संविधान के पालन करने का भी आपका जो अधिकार है उसे भी आप ठीक तरीके से पालन कराइये।

दूसरी बात मैं धारा 14 के बारे में कहना चाहूंगा। जब श्री लोबो प्रभु यहां पर बोले और कई सदस्यों ने कहा कि राईट टु स्ट्राइक इज नोट ए फंडामेंटल राइट तो मैं इस बात को नहीं मानता हूँ लेकिन तर्क के लिए एक सज के लिए यह बात स्वीकार भी कर ली जाय तो मेरा कहना है कि आप आर्टिकल 14 को

उठा कर देख लीजिये। आर्टिकल 14 क्या कहता है? वह इक्वलिटी बिफोर द लॉ की बात कहता है। इसलिए मैं मंत्री महोदय से और खास तौर से आप से इस बारे में ध्यान देने के लिये निवेदन करूंगा। चूंकि आप इस सदन के अधिकारों की और संविधान की सुरक्षा करने वाले हैं इसलिये मैं आर्टिकल 14 की और विशेष रूप से आप का ध्यान आकर्षित करना चाहता हूँ।

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

अब मयाल यह उठता है कि यह विधेयक अगर यहां इस रूप में पास होता है और इस के द्वारा हिन्दुस्तान के मजदूर वर्ग का और रेल कर्मचारियों का जो हड़ताल करने का अधिकार है उस को छीना जाता हो तो इंडस्ट्रियल डिस्प्यूट एक्ट के अन्तर्गत जो उन को अधिकार प्राप्त है उस अधिकार से श्रमिकों को अगर वंचित किया जाता तो और एक क्षण के लिये यदि हम ऐसा मान भी लें कि हड़ताल का अधिकार यह बुनियादी अधिकार नहीं है, फंडामेंटल राइट नहीं है तो भी इंडस्ट्रियल डिस्प्यूट्स एक्ट में श्रमिकों को जो अधिकार मिला हुआ है उस अधिकार से अगर आप उन को वंचित करने जाते हैं तो आर्टिकल 14 यह इक्वलिटी बिफोर द लॉ वहां पर आयेगा। फंडामेंटल, प्रिंसिपल का जो पार्ट 3 है उस पार्ट 3 के खिलाफ जा कर यहां इस तरह का विधेयक लाने का सरकार को अधिकार नहीं है।

श्री मधु लिमये : उपाध्यक्ष महोदय, मुझे खुशी है कि कानून मंत्री इस सदन में आ गये हैं। मैं कानून की बारीकी में नहीं जाना चाहता हूँ। आप ने स्वयं इस बात को स्वीकार किया है कि अगर प्राइमफेसी में यह बात साबित कर दू कि यह कानून बुनियादी अधिकारों से टकराता है तो उस पर स्पीकर को

फैसला करने का अवश्य अधिकार है। यह मैं लेजिस्लेटिव कौन्सिल का सवाल उठा रहा हूँ और जैसा मैं ने कहा प्राइमफेसी अगर हो तो स्पीकर को उस पर फैसला करने का जरूर अधिकार है।

इस बहस के दौरान एक सवाल यह उठाया गया और जिस पर आप को सोचना है कि क्या हड़ताल करने का अधिकार बुनियादी या मौलिक अधिकार है? नम्बर 2 यह कि क्या इस विधेयक के कारण यह अधिकार चाहे वह मौलिक हो या कानूनी हो उसे क्या छीना जा रहा है? इन को आप के सामने साबित करना पड़ेगा कि अधिकार है लेकिन वह नियमित या नियंत्रित किया गया है। इस का जवाब उन्हें देना चाहिए कि कनां फनां स्थिति में कर सकते हैं। एक भां उदाहरण यदि वह दे सकें तो मैं मान लूंगा कि यह नियंत्रित या नियमित करने का प्रयास है खत्म करने का प्रयास नहीं है।

अभी मेरे पास संविधान नहीं है आप संविधान की धारा 12 खोल कर देखिये। मैं ने प्रारम्भ में जो सवाल उठाया था वह 13 को ले कर उठाया था। 13(2) इस प्रकार है:

"The State shall not make any law which takes away or abridges the rights conferred by this Part",

means, fundamental rights.

आर्टिकल 12 में स्टेट को डेफिनिशन में यह दिया हुआ है:

"In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament".

स्टेट की परिभाषा में राज्य की परिभाषा में पार्लियामेंट आती है तो अब मैं यह सवाल उठा रहा हूँ कि चूंकि संविधान की धारा 12 के अन्तर्गत राज्य की व्याख्या में पार्लियामेंट आती है और मैं पार्लियामेंट की लेजिस्लेटिव कौन्सिल का सवाल उठा रहा हूँ जिस पर कि

आप को फैसला करना है। वह सवाल यह है कि क्या यह कानून जो कि आप बनाने जा रहे हैं यह संविधान की धारा 13 और 14, इन्क्लिटी बिफोर दी ला और प्रोटैक्शन आफ दि लाज से टकराता है या नहीं?

एक माननीय सदस्य: यह सुप्रीम कोर्ट का काम है।

श्री बसु लिखते: प्राइमफेसी होने पर यह इन का अधिकार है इसलिये पार्लियामेंट की लेजिस्लेटिव कौन्सिल का सवाल दो चीजों को ले कर मैं कम से कम उठा सकता हूँ साधारण तौर से, जैसे दूसरी भी चीजें हैं। क्या पार्लियामेंट साधारण तौर पर यूनियन लिस्ट और कौन्सिल लिस्ट में जा कर कोई कानून बनाने जा रही है? इंडस्ट्रियल मिक्यारिटी फोर्स विधेयक जब यहां आया था तो यह सवाल उठाया गया था। मैं उस समय जेल में था। सवाल यह उठाया गया था यूनियन लिस्ट का और कौन्सिल लिस्ट का। उस में भी लेजिस्लेटिव कौन्सिल का सवाल आता है दूसरे फंडामेंटल राइट्स को ले कर सवाल आता है। उस वक्त फंडामेंटल राइट्स को ले कर संविधान की धारा 12, 13 और 14 को लेकर मैं यह सवाल उठा रहा हूँ। लेजिस्लेटिव कौन्सिल का भी इस में सवाल है और आप को उस बारे में फैसला करना है।

मैं आखिर में श्री बसु की संविधान सम्बन्धी कामेंटरी की पुस्तक में से 613 पेज का हवाला देना चाहूंगा। उस में पहले प्रमरीका की प्रोजेक्शन बतलाई गई है और करीब करीब हिन्दुस्तान में बैसी ही है। ऐसा उस में कहा गया है। उस में उन्होंने ने यह कहा है:

"The right to strike work collectively to vindicate legitimate grievances would follow from the right of collective bargaining.

But "because of its more serious impact upon the public interest",

[श्री मधु लिमये]

the right to strike "is more vulnerable to regulation than the right to organize and select representatives for lawful purposes of collective bargaining which this Court has characterised as a 'fundamental right'." "

कलेक्टिव बारगेनिंग का अधिकार मौलिक अधिकार माना गया है और राइट टू काम एसोसिएशन से निकलता है। लेकिन हड़ताल करने के अधिकार के बारे में उन्होंने ने कहा है कि चूंकि समाज के ऊपर इस का प्रभाव होगा इस लिये . . . . .

"It is more vulnerable to regulation . . . .

रेगुलेशन एंड बालिशन नहीं, और उन्होंने इस के बारे में यह कहा है कि :

"In India, it may be expected that similar views will be taken. Thus, a right to strike, subject to reasonable restrictions, may be inferred from the right of association as well as the right not to work . . .

प्राफेशन वाला जो अधिकार है

"...which is included in the freedom of profession."

क्या डिमिशन दे दिया है उस को जरा बह देख ले ।

SHRI S. A. DANGE (Bombay Central South): Mr. Deputy-Speaker, Sir, in addition to all that has been said, I would request you to give consideration, while giving your ruling, to one more provision in the Constitution. This Ordinance bans my right to strike. Supposing the right is not there except by implication, assuming there is no right to strike, there is my right to offer my labour or to withdraw my labour.

SHRI MADHU LIMAYE: That is a fundamental right.

SHRI S. A. DANGE: That is a fundamental right. Whether you call it strike or do not call it strike, I have a right to offer my labour or not to offer my labour. Secondly, I offer labour, accept service, under certain conditions . . . (Interruptions). You cannot alter the service conditions without my consent. So, there is a contract in certain factories and here it is service conditions. My right is there to withdraw my labour when I want. Thirdly, you cannot impose on me compulsory labour. When I want to withdraw my labour, if you say, "No, you shall not withdraw it", I want to know whether this will not come under article 23(1) and (2).

SHRI RANDHIR SINGH: When you say, it is a contract, the matter ends. (Interruptions).

SHRI S. A. DANGE: Article 23(1) says:

"Traffic in human beings and *begar* and other similar forms of forced labour . . . ."

When I do not want to give my labour and when you impose it by Ordinance, it becomes a forced labour and 'forced labour and *begar*' are prohibited and any contravention of the provision shall be an offence. You please consider whether this applies here.

Then, in sub-section (2), there is a proviso:

"Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination . . . ."

Now, I claim protection under this 'discrimination'. The railway servant is being discriminated against as a class in comparison to other classes of employees. Therefore, it comes under "on grounds only of religion, race, caste or class or any of them". So, he is trying to impose *begar* or compulsory labour.

MR. DEPUTY SPEAKER: The Law Minister.

SOME HON. MEMBERS rose—(Interruptions).

MR. DEPUTY SPEAKER: I am not permitting. The Law Minister is here. I want to call him.

SHRI K. NARAYANA RAO: Mr. Deputy-Speaker, Sir....

MR. DEPUTY-SPEAKER: I permitted him once. I want to call the Law Minister. Does he want to carry on the debate like this? If necessary, I will call him.

SHRI J. M. BISWAS (Bankura): We want to hear the Railway Minister and the Law Minister . . . (Interruptions).

MR. DEPUTY-SPEAKER: Now nothing will go on record. I will call the Law Minister and the Railway Minister. None-else will speak. (Interruptions)\*.

SHRI THIRUMALA RAO (Kakinada): I am not making any submission. I just want to point this out. You have given ample time to the Opposition members to expound the case from several points of view quoting not only Indian law but also American law. Mr. Dange has also given his arguments. Mr. K. Narayana Rao claims to be a knowledgeable person in law on behalf of our Party. I would, therefore, request you to give him two or three minutes to rebutt all those arguments. . . (Interruption).

MR. DEPUTY-SPEAKER: May I now have the permission of the House to speak? Before I call the Law Minister, I would like to say this. Mr. Thirumala Rao has raised a question. When Mr. Randhir Singh wanted to say something—I know he makes a contribution on such points—and when Mr. Narayana Rao wanted to speak, I gave them an opportunity because at that time the Law Minister was not here to enlighten the House. Because

the issue had been raised from this side, I first restricted it to that point, to the remarks made by Shri Limaye; I did not throw it open for a general debate, and when it was thrown open to debate, I gave them permission. I have heard Mr. Narayana Rao. The Law Minister represents the Treasury Benches so far as this side is concerned. Therefore, I would not extend this discussion. We have already taken a long time. I know, there are several lawyers here who would come forward if I throw it open, but that is not possible because we have already taken such a long time.

Now, the hon. Law Minister. If he wants to know the background, I will sum it up in two minutes.

THE MINISTER OF LAW (SHRI GOVINDA MENON): I know . . . (Interruptions).

SHRI THIRUMALA RAO: I hope you are not laying down a permanent dictum that members of the Congress Party have no right to intervene on important matters when Ministers are present.

MR. DEPUTY-SPEAKER: This is very unfair.

SHRI GOVINDA MENON: The question raised being a question of law, of Constitutional law, which is rather difficult, I would request the House to bear with me if I explain the matter slowly. The question is whether there is a Fundamental Right to go on strike . . .

MR. DEPUTY-SPEAKER: Excuse me. This has been decided. There is no Fundamental Right. I have already ruled that. The basic question is this. There is an apprehension expressed from this side that the present measure is likely to take away the right to strike; strike means with all reasonable restrictions under our general scheme of things regarding labour policy. That is the only question . . . (Interruptions).

\*Not recorded.

**SHRI GOVINDA MENON:** I am thankful to you for this. You have already held that there is no Fundamental Right to go on strike . . .

**SHRI MADHU LIMAYE:** Who has held?

**SHRI GOVINDA MENON:** That is the ruling given . . . (*Interruption*). If the matter is still doubted, my learned friends here need not go to the American Constitution or American law because we are governed by the Supreme Court . . . The Supreme Court has said as follows:

It is only necessary to add that the rule, in so far as it prohibits a strike, cannot be struck down since there is no fundamental right to resort to strike.'

This is laid down by the constitution bench of the Supreme Court. This appears in AIR 1962, Supreme Court, page 1172, Column 2, para 20. If there is a fundamental right, it has to be enumerated as such in Part III of the Constitution. Nothing which is not enumerated in Part III of the Constitution can be a fundamental right. You cannot invoke fundamental right in a case where there is a written constitution apart from what is contained therein. Often this is referred to and my hon. friend Mr. Dange referred to Article 23 and I am sure you won't think there is anything in it. Now, what is it that has been sought to be enacted? In Clause 2 of this Bill there are two provisions, 100A and 100B which is sought to be enacted. 100A reads:

If a railway servant, when on duty, is entrusted with any responsibility connected with the running of a train, rail-car or any other rolling-stock from one station or place to another station or place, and he abandons his duty before reaching such station or place . . .'

That is 100A. I do not want to read the whole thing. 100B says:

'If a railway servant, when on duty or otherwise, or any other person obstructs or causes to be obstructed or attempts to obstruct any train, rail-car or other rolling-stock upon a railway, by squatting, picketing, keeping without authority . . . ' etc. etc.

Now, the question is, if this sovereign Parliament of this country wants to enact a provision preventing a railway servant from leaving hundreds of people riding in a train mid-way between two stations, is there anything wrong inherent in this law? They should be able to point out . . .

**SHRI S. M. BANERJEE:** Call the Attorney-General.

**SHRI GOVINDA MENON:** They should be able to point out some provisions in Part III of the Constitution, that is, the chapter on Fundamental Rights which prohibits it. The position is this that this Parliament can legislate, can enact any law on any subject entered in List I of the 7th schedule provided there is no bar created by one or the other Articles in Part III. The legislative power of this Parliament is supreme with respect to subjects contained in List I of the 7th schedule provided there is no bar created by one or the other of the Articles in Part III. (*Interruption*). Article 14 refers to equality, it embodies rule of equality. Now, it is well known that Article 14 enables legislature to classify. It is not as if one rule will apply to all sorts of people. The rule of equality will apply to persons within a certain class. It is open to this House to classify servants into certain categories and categorise railway servants as those who are in the position referred to in 100A or 100B. This is well-known rule of classification. Therefore, article 14 will not apply.

श्री जार्ज करमेश्वरः प्राटिकल 14  
बोल रहे हैं या 22 52 बोल रहे हैं ?

**SERI GOVINDA MENON:** This request by the opposition whenever any question of law arises that the Attorney General should be called is of no use. Because it is well known that you sitting in the Chair or this House by a majority do not decide questions of law. There is an indication as to what should be done in situations like this and it is in rule 72.

**MR. DEPUTY-SPEAKER:** I have already said that.

**SERI GOVINDA MENON:** If a question relating to legal or legislative competency is raised, you will sometimes allow a discussion on the point. But the Chair will not decide the question. Where is the room for anxiety? If sections 100A and 100B are unconstitutional, you just go to the Supreme Court. The next day it will be struck down.

Government here do not bring forward laws in a lighthearted spirit.

**MR. DEPUTY-SPEAKER:** I have pinpointed the issue. I have already ruled on competency. A specific question was raised and I put it to the Railway Minister bearing in mind the apprehension in the minds of some hon. Members. This is an amendment of the Indian Railways Act which is already in force. The question was whether after this amendments, the right to strike, within the limits, as it is available to the working class in this country, is taken away by the imposition of a blanket ban or not. I asked him if that was the position. If that position is cleared, the question is answered. I am very clear in my mind that this is an amendment to the existing Railways Act and there is no other purpose behind it.

**SERI GOVINDA MENON:** The right to strike is not taken away. What is taken away is what is prohibited in these two sections.

**SERI S. KUNDU:** What does he mean?

**SHRI KANWAR LAL GUPTA:** What is this, Sir?

**SERI GOVINDA MENON:** A driver shall not leave the train midway between two stations etc., moving trains should not be stopped . . . (Interruptions).

**MR. DEPUTY-SPEAKER:** The reply is very clear. Shri Indrajit Gupta had put the question pointedly. I was also concerned about it. There was an apprehension which he forcefully expressed that if we passed this legislation, there would come into force a blanket ban on the right to strike. Now the Law Minister has made it clear that there is no such intention nor object in this Bill from which one could infer that there is an attempt to put a total ban on strikes.

**SHRI S. KUNDU:** Even indirectly it must not be there. Otherwise, it will be a colourable piece of legislation and will be hit out by the Constitution.

**MR. DEPUTY-SPEAKER:** Does Shri Poonacha agree with the explanation?

**SHRI J. M. BISWAS:** He has not said anything.

**MR. DEPUTY-SPEAKER:** He will say it. Another point was raised. . .

**SHRI S. KUNDU:** The right given by one legislation cannot be taken away by another.

**MR. DEPUTY-SPEAKER:** There is another point—the right to strike. By implication, with certain reasonable restrictions imposed by legislation by this House, this has assumed the proportions of a fundamental right; because of the social policies we pursue, it has assumed that significance. Beyond that—I have ruled—it is not a fundamental right. That is very clear. Now the Minister will complete his reply and then we will put it to vote and dispose of it.

**SHRI C. M. POONACHA:** I have completed my reply. I have answered all points. I agree with the hon. Law Minister's observations. There is nothing more to be added.

16 hrs.

**MR. DEPUTY-SPEAKER:** I am putting all amendments together.

**SHRI KANWAR LAL GUPTA:** All amendments separately. There should be division on every amendment.

श्री कान्वर लाल गुप्ता : मेरे एमेंडमेंट्स व्यपक हैं ।

**SHRI S. KUNDU:** My amendment may be put separately.

**SHRI J. M. BISWAS:** It is 4 O' Clock now.

**MR. DEPUTY-SPEAKER:** I am extending the time by ten minutes. I will put two amendments, those of Shri Limaye and Shri Kundu, separately.

The question is:

Page 2, line 3,—

after "servant" insert—

"except in case of a token strike or a strike as the case may be." (1).

The Lok Sabha divided:

[16.06 hrs.

**Division No. 15]**

**AYES**

Adichan, Shri P. C.  
 Badrudduja, Shri  
 Banerjee, Shri S. M.  
 Behera, Shri Baidhar  
 Berwa, Shri Onkar Lal  
 Bharti, Shri Maharaj  
 Singh  
 Biswas, Shri J. M.  
 Dange, Shri S. A.  
 Daschowdhury, Shri B.K.  
 Dwivedy, Shri Surendra-  
 Nath  
 Fernandes, Shri George  
 Gopalan, Shri A. K.  
 Gopalan, Shrimati  
 Sushila  
 Gowda, Shri M. H.  
 Goyal, Shri Shri Chand  
 Gupta, Shri Indrajit  
 Gupta, Shri Kanwar Lal  
 Haldar, Shri K.  
 Jena, Shri D. D.  
 Jha, Shri Bhogendra  
 Jharkhande Rai, Shri  
 Joshi, Shri Jagannath  
 Rao  
 Joshi, Shri S. M.

Kachwai, Shri Hukam  
 Chand  
 Kalita, Shri Dhireswar  
 Kameshwar Singh, Shri  
 Karnj Singh, Dr.  
 Khan, Shri Latafat Ali  
 Kuchelar, Shri G.  
 Kundu, Shri S.  
 Limaye, Shri Madhu  
 Molahu Prasad, Shri  
 Mukerjee, Shri H. N.  
 Pandey, Shri Sarjoo  
 Paswan, Shri Kedar  
 Patel, Shri J. H.  
 Patil, Shri N. R.  
 Ram Charan, Shri  
 Samanta, Shri S. C.  
 Sambhali, Shri Ishaq  
 Satya Narain Singh, Shri  
 Sen, Shri Deven  
 Shastri, Shri Ramavtar  
 Suraj Bhan, Shri  
 Vidyarthi Shri R. S.  
 Yadav, Shri Jageshwar

**NOES**

Ahirwar, Shri Nathu  
 Ram  
 Ahmed, Shri F. A.

Arumugam, Shri R. S.  
 Awadesh Chandra Singh,  
 Shri

<b>Bejaj, Shri Kamalnayan</b>	<b>Pahadia, Shri Jagannath</b>
<b>Barua, Shri Bedabrata</b>	<b>Pandey, Shri Vishwa</b>
<b>Barupal, Shri P. L.</b>	<b>Nath</b>
<b>Baswant, Shri</b>	<b>Pant, Shri K. C.</b>
<b>Bhagat, Shri B. R.</b>	<b>Paokai Haokip, Shri</b>
<b>Bhandare, Shri R. D.</b>	<b>Parmar, Shri Bhaljibhai</b>
<b>Bohra, Shri Onkarlal</b>	<b>Parthasarathy, Shri</b>
<b>Chanda, Shri Anil K.</b>	<b>Patel, Shri N. N.</b>
<b>Chanda, Shrimati</b>	<b>Patil, Shri Anantrao</b>
<b>Jyotsna</b>	<b>Patil, Shri Deorao</b>
<b>Chaturvedi, Shri R. L.</b>	<b>Patil, Shri T. A.</b>
<b>Chaudhary, Shri Nitiraj</b>	<b>Poonacha, Shri C. M.</b>
<b>Singh</b>	<b>Pramanik, Shri J. N.</b>
<b>Chavan, Shri D. R.</b>	<b>Radhabai, Shrimati B.</b>
<b>Chaudhury, Shri</b>	<b>Raghu Ramaiah, Shri</b>
<b>Valmiki</b>	<b>Rajasekharan, Shri</b>
<b>Dalbir Singh, Shri</b>	<b>Raju, Dr. D. S.</b>
<b>Dass, Shri C.</b>	<b>Ram Dhan, Shri</b>
<b>Desai, Shri Morarji</b>	<b>Ram Dhani Das, Shri</b>
<b>Deshmukh, Shri B. D.</b>	<b>Ram Subhag Singh Dr.</b>
<b>D. Gvijai Nath, Shri</b>	<b>Ram Swarup, Shri</b>
<b>Mahant</b>	<b>Rana, Shri M. B.</b>
<b>Dixit, Shri G. C.</b>	<b>Randhir Singh, Shri</b>
<b>Dwivedi, Shri Nagesh-</b>	<b>Rao, Dr. K. L.</b>
<b>war</b>	<b>Rao, Shri K. Narayana</b>
<b>Ganga Devi, Shrimati</b>	<b>Rao, Shri Muthyal</b>
<b>Hanumanthaiya, Shri</b>	<b>Rao, Shri Thirumala</b>
<b>Jadhav, Shri V. N.</b>	<b>Rao, Dr. V. K. R. V.</b>
<b>Jagjiwan Ram, Shri</b>	<b>Reddi, Shri G. S.</b>
<b>Kamble, Shri</b>	<b>Reddy, Shri P. Antony</b>
<b>Koran Singh, Dr.</b>	<b>Reddy, Shrimati Sudha</b>
<b>Kasture, Shri A. S.</b>	<b>V.</b>
<b>Kesri, Shri Sitaram</b>	<b>Rohatgi, Shrimati</b>
<b>Khan, Shri M. A.</b>	<b>Sushila</b>
<b>Kinder Lal, Shri</b>	<b>Roy, Shri Bishwanath</b>
<b>Kripalani, Shrimati</b>	<b>Sadhu Ram, Shri</b>
<b>Sucheta</b>	<b>Saha, Dr. S. K.</b>
<b>Krishnan, Shri G. Y.</b>	<b>Saigal, Shri A. S.</b>
<b>Kureel, Shri B. N.</b>	<b>Sambasivam, Shri</b>
<b>Laskar, Shri N. R.</b>	<b>Sanghi, Shri N. K.</b>
<b>Maharaj Singh, Shri</b>	<b>Sankata Prasad, Dr</b>
<b>Masuriya Din, Shri</b>	<b>Sarma, Shri A. T.</b>
<b>Mehta, Shri Asoka</b>	<b>Sayyad Ali, Shri</b>
<b>Mehta, Shri P. M.</b>	<b>Sen, Shri P. G.</b>
<b>Menon, Shri Govinda</b>	<b>Shambhu Nath, Shri</b>
<b>Minimata Agam Dass</b>	<b>Shankaranand, Shri B.</b>
<b>Guru, Shrimati</b>	<b>Sharma, Shri Naval</b>
<b>Mirza, Shri Bakar Ali</b>	<b>Kishore</b>
<b>Mishra, Shri Bibhuti</b>	<b>Shastri, Shri Ramanand</b>
<b>Mishra, Shri G. S.</b>	<b>Sheo Narain, Shri</b>
<b>Mohinder Kaur, Shrimati</b>	<b>Sheth, Shri T. M.</b>
<b>Mrityunjay Prasad, Shri</b>	<b>Shinde, Shri Annasahib</b>
<b>Mukerjee, Shrimati</b>	<b>Shiv Chandika Prasad,</b>
<b>Sharda</b>	<b>Shri</b>
<b>Murthy, Shri B. S.</b>	<b>Shukla, Shri Vidya</b>
<b>Nahata, Shri Amrit</b>	<b>Charan</b>
<b>Naidu, Shri Chengalroya</b>	<b>Siddayya, Shri</b>



Singh, Shri D. N.  
Sinha, Shri Mudrika  
Snatak, Shri Nar Deo  
Solanki, Shri S. M.  
Supakar, Shri Sradhakar  
Swaran Singh, Shri  
Tiwary, Shri D. N.

Tiwary, Shri K. N.  
Uikey, Shri M. G.  
Veerappa, Shri  
Ramachandra  
Verma, Shri Balgovind  
Virbhadra Singh, Shri

MR. DEPUTY SPEAKER: The result\* of the Division is: Ayes 46; Noes 116.

*The motion was negatived.*

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

SHRI S. M. BANERJEE: I rise on a point of order, Sir.

MR. DEPUTY SPEAKER: Not now. (*Interruptions*) I have given you ample opportunity. In the process of Division I will not accept anything.

SHRI S. M. BANERJEE: I only want to say about the procedure. (*Interruption*).

MR. DEPUTY SPEAKER: On the voting?

SHRI S. M. BANERJEE: On the voting, Sir. (*Interruptions*)

MR. DEPUTY SPEAKER: About the procedure if you have anything to say, I am prepared to hear but not on any other point. If there is any irregularity you can point out.

SHRI S. M. BANERJEE: I would like to know from you any rule which debars a member to ask for division on his amendment.

MR. DEPUTY SPEAKER: I have

conceded that immediately to Mr. Kundu.

SHRI S. M. BANERJEE: We want every amendment to be put to vote.

MR. DEPUTY SPEAKER: I am ready. (*Interruptions*) You are entitled to request the Chair to put your amendment, if there is any. (*Interruptions*).

SHRI S. M. BANERJEE: Amendments have been moved. Once the amendments have been moved and the House is seized of the amendments, unless that amendment is withdrawn, I have got every right to ask for Division.

SHRI SHRI CHAND GOYAL: Mr. Deputy Speaker, Sir.

MR. DEPUTY SPEAKER: No please. I will now put Mr. Kalita's amendment to vote. The question is:

"Page 2,—

after line 6, insert—

'Provided that no action shall be taken against a railway servant if he for the purpose of ventilating his grievances and high-lighting genuine demands of a general nature stops a train or train.' (9).

**AYES**

*The Lok Sabha divided:*

**Division No. 16]**

**[16.15 hours.**

Adichan, Shri P. C.  
Badrudduja, Shri  
Banerjee, Shri S. M.  
Behera, Shri Baidhar  
Berwa, Shri Onkar Lal  
Bharti, Shri Maharaj  
Singh  
Biswas, Shri J. M.  
Dange, Shri S. A.  
Daschowdhury, Shri  
B. K.

Devgun, Shri Hardayal  
Dwivedy, Shri Surendra-  
nath  
Fernandes, Shri George  
Gopalan, Shri A. K.  
Gowda, Shri M. H.  
Goyal, Shri Shri Chand  
Gupta, Shri Indrajit  
Gupta, Shri Kanwar Lal  
Haldar, Shri K.  
Jha, Shri Bhogendra

\*The following Members also recorded their votes:

**AYES:** Sarwashri M. Meghachandra Beni Shanker Sharma, S. S. Kothari and Shri Gopal Saboo.

**NOES:** Sarwashri Ahmad Aga, Siddheshwar Prasad, Chandra Jeet Yadav, Shashi Bhushan, Shingde, and Shrimati Tara Sapre.

Jharkhande Rai, Shri  
 Joshi, Shri S. M.  
 Kachwai, Shri Hukam  
 Chand  
 Kalita, Shri Dhireswar  
 Kameshwar Singh, Shri  
 Khan, Shri Latafat Ali  
 Kothari, Shri S. S.  
 Kuchelar, Shri G.  
 Kundu, Shri S.  
 Limaye, Shri Madhu  
 Meghachandra, Shri M.  
 Molahu Prasad, Shri  
 Mukerjee, Shri H. N.

Onkar Singh, Shri  
 Pandey, Shri Sarjoo  
 Paswan, Shri Kedar  
 Patel, Shri J. H.  
 Patil, Shri N. R.  
 Ram Charan, Shri  
 Sambhali, Shri Ishaq  
 Satya Narain Singh, Shri  
 Sharma, Shri Beni  
 Shanker  
 Shastri, Shri Ramavatar  
 Suraj Bhan, Shri  
 Vidyarthi, Shri R. S.  
 Yadav, Shri Jagoshwar

## NOES

Ahirwar, Shri Nathu  
 Aga, Shri Ahmad  
 Arumugam, Shri R. S.  
 Bajaj, Shri Kamalnayan  
 Barua, Shri Bedabrata  
 Barupal, Shri P. L.  
 Baswant, Shri  
 Bhagat, Shri B. R.  
 Bhandare, Shri R. D.  
 Bhargava, Shri B. N.  
 Chanda, Shri Anil K.  
 Chanda, Shrimati  
 Jyotsna  
 Chandrika Prasad, Shri  
 Chaturvedi, Shri R. L.  
 Chaudhary, Shri Nitiraj  
 Singh  
 Chavan, Shri D. R.  
 Chavan, Shri Y. B.  
 Choudhary, Shri Valmiki  
 Dalbir Singh, Shri  
 Dass, Shri C.  
 Desai, Shri Morarji  
 Deshmukh, Shri B. D.  
 Digvijai Nath, Shri  
 Mahant  
 Dixit, Shri G. C.  
 Dwivedi, Shri Nageshwar  
 Ganga Devi, Shrimati  
 Gautam, Shri C. D.  
 Hanumanthaiya, Shri  
 Jadhav, Shri V. N.  
 Jagjiwan Ram, Shri  
 Kamble, Shri  
 Karan Singh, Dr.  
 Kasture, Shri A. S.  
 Kesri, Shri Sitaram  
 Khan, Shri M. A.  
 Khanna, Shri P. K.  
 Kinder Lal, Shri

Kripalani, Shrimati  
 Sucheta  
 Kureel, Shri B. N.  
 Laskar, Shri N. R.  
 Laxmi Bai, Shrimati  
 Maharaj Singh, Shri  
 Masuriya Din, Shri  
 Mehta, Shri Asoka  
 Mehta, Shri P. M.  
 Menon, Shri Govinda  
 Minimata Agam Dass  
 Guru, Shrimati  
 Mirza, Shri Bakar Ali  
 Mishra, Shri Bibnuti  
 Mishra, Shri G. S.  
 Mohinder Kaur, Shrimati  
 Murthy, Shri B. S.  
 Nahata, Shri Amrit  
 Naidu, Shri Chengalraya  
 Pahadia, Shri Jagannath  
 Pandey, Shri Vishwa  
 Nath  
 Pant, Shri K. C.  
 Paokai Haokip, Shri  
 Parmar, Shri Bhaljibhai  
 Parthasarathy, Shri  
 Patel, Shri N. N.  
 Patil, Shri Anant Rao  
 Patil, Shri Deorao  
 Patil, Shri T. A.  
 Poonacha, Shri C. M.  
 Pramanik, Shri J. N.  
 Radhabai, Shrimati B.  
 Raghu Ramalah, Shri  
 Rajasekharan, Shri  
 Raju, Dr. D. S.  
 Ram, Shri T.  
 Ram Dhan, Shri  
 Ram Dhan Das, Shri  
 Ram Swarup, Shri  
 Rana, Shri M. B.

Randhir Singh, Shri  
 Rao, Dr. K. L.  
 Rao, Shri K. Narayana  
 Rao, Shri Muthyal  
 Rao, Shri Thirumala  
 Rao, Dr. V. K. R. V.  
 Reddi, Shri G. S.  
 Reddy, Shri P. Antony  
 Reddy, Shrimati Sudha  
 V.  
 Rohatgi, Shrimati  
 Shushila  
 Roy, Shri Bishwanath  
 Sadhu Ram, Shri  
 Saha, Dr. S. K.  
 Saigal, Shri A. S.  
 Saleem, Shri M. Y.  
 Sambasivam, Shri  
 Sanghi, Shri N. K.  
 Sankata Prasad, Dr  
 Sant Bux Singh, Shri  
 Sapre, Shrimati Tara  
 Sarma, Shri A. T.  
 Sayyad Ali, Shri  
 Sen, Shri P. G.  
 Shambhu Nath, Shri  
 Shankaranad, Shri B.  
 Sharma, Shri  
 Naval Kishore  
 Shashi Bhushan, Shri

Shastri, Shri  
 Biswanarayan  
 Shastri, Shri Ramanand  
 Sheo Narain, Shri  
 Sheth, Shri T. M.  
 Shinde, Shri Annasahib  
 Shinkre, Shri  
 Shiv Chandika Prasad,  
 Shri  
 Shukla, Shri Vidya  
 Charan  
 Siddayya, Shri  
 Siddheshwar Prasad  
 Shri  
 Singh, Shri D. N.  
 Sinha, Shri Mudrika  
 Snatak, Shri Nar Deo  
 Solanki, Shri S. M.  
 Supakar, Shri Sradhakar  
 Swaran Singh, Shri  
 Tiwary, Shri D. N.  
 Tiwary, Shri K. N.  
 Ukey, Shri M. G.  
 Veerappa, Shri  
 Ramachandra  
 Verma, Shri Balgovind  
 Virbhadra Singh, Shri  
 Yadav, Shri Chandra  
 Jeet

MR. DEPUTY-SPEAKER: The result\* of the Division is: Ayes: 45; Noes: 125.

*The motion was negatived.*

MR. DEPUTY-SPEAKER: Now, amendment Nos. 10 and 11 of Shri Indrajit Gupta.

SHRI INDRAJIT GUPTA: I am pressing them.

SHRI SURENDRANATH DWIVEDI (Kendrapara): The other amendments may be taken up tomorrow. Let us start the discussion on the drought. We will have to sit till 10 O'clock, I am afraid, at this rate. (Interruption) There are 65 amendments, and if a division is challenged for every amendment, I think we will have to sit up to 10 O'clock. The drought situation has to be discussed. I think if the rest of the amendments are postponed to tomorrow,

it will be all right. (Interruption).

SOME HON. MEMBERS: No.

MR. DEPUTY-SPEAKER: The question is:

Page 2, after line 6, insert—

“Provided that a railway servant shall not be held guilty of abandoning his duty after the train, rail-car or rolling-stock has reached the station or place up to which he was entrusted with the responsibility of running it and if, at the said station or place there is no authorised railway servant on duty to receive the train, rail-car or rolling-stock at the time of arrival.” (10)

Page 2, omit lines 7 to 14. (11).

*The Lok Sabha divided:*

\*The following Members also recorded their votes:

AYES: Sargvashri Deven Sen, Jagan nath Rao Joshi and D. D. Jena.

NOES: Shri Devinder Singh.

## Division No. 17]

## AYES

Adichan, Shri P. C.  
 Badrudduja, Shri  
 Banerjee, Shri S. M.  
 Behera, Shri Baldhar  
 Berwa, Shri Onkar Lal  
 Bharti, Shri Maharaj  
 Singh  
 Biswas, Shri J. M.  
 Dange, Shri S. A.  
 Daschowdhury, Shri  
 B. K.  
 Dwivedy, Shri Surendra-  
 nath  
 Fernandes, Shri George  
 Goyal, Shri Shri Chand  
 Gupta, Shri Indrajit  
 Gupta, Shri Kanwar Lal  
 Haldar, Shri K.  
 Jena, Shri D. D.  
 Jha, Shri Bhogendra  
 Jharkhande Rai, Shri  
 Joshi, Shri Jaggannath  
 Rao  
 Joshi, Shri S. M.

Kachwal, Shri Hukam  
 Chand  
 Kalita, Shri Dhireswar  
 Kameshwar Singh, Shri  
 Khan, Shri Latafat Ali  
 Kothari, Shri S. S.  
 Kuchelar, Shri G.  
 Kundu, Shri S.  
 Limaye, Shri Madhu  
 Meghachandra, Shri M.  
 Molahu Prasad, Shri  
 Mukerjee, Shri H. N.  
 Onkar Singh, Shri  
 Pandey, Shri Sarjoo  
 Paswan, Shri Kedar  
 Patel, Shri J. H.  
 Patil, Shri N. R.  
 Ram Charan, Shri  
 Sambhali, Shri Ishaq  
 Satya Narain Singh, Shri  
 Sen, Shri Deven  
 Sharma, Shri Ram Avtar  
 Suraj Bhan, Shri  
 Vidyarthi, Shri R. S.  
 Yadav, Shri Jageshwar

## NOES

Ahirwar, Shri Nathu  
 Ram  
 Aga, Shri Ahmad  
 Arumugam, Shri R. S.  
 Awadesh Chandra Singh,  
 Shri  
 Azad, Shri Bhagwat Jha  
 Bajaj, Shri Kamalnayan  
 Barua, Shri Bedabrata  
 Barupal, Shri P. L.  
 Baswant, Shri  
 Bhagat, Shri B. R.  
 Bhandare, Shri R. D.  
 Bhargava, Shri B. N.  
 Bharti, Shri Maharaj  
 Singh  
 Chanda, Shri Anil K.  
 Chanda, Shrimati  
 Jyotsna  
 Chandrika Prasad, Shri  
 Chaturvedi, Shri R. L.  
 Chaudhary, Shri Nitiraj  
 Singh  
 Chavan Shri D. R.  
 Chavan, Shri Y. B.  
 Choudhary, Shri  
 Valmiki  
 Dalbir Singh, Shri  
 Dass, Shri C.

Desai, Shri Morarji  
 Deshmukh, Shri B. D.  
 Deshmukh, Shri K. G.  
 Devinder Singh, Shri  
 Digvijai Nath, Shri  
 Mahant  
 Dixit, Shri G. C.  
 Dwivedi, Shri  
 Nageshwar  
 Ganga Devi, Shrimati  
 Gautam, Shri C. D.  
 Jadhav, Shri V. N.  
 Jagjiwan Ram, Shri  
 Kamalanathan, Shri  
 Kamble, Shri  
 Karan Singh, Dr.  
 Kasture, Shri A. S.  
 Kesri, Shri Sitaram  
 Khan, Shri M. A.  
 Khanna, Shri P. K.  
 Kinder Lal, Shri  
 Kripalani, Shrimati  
 Sucheta  
 Kureel, Shri B. N.  
 Laskar, Shri N. R.  
 Laxmi Bai, Shrimati  
 Masuria Din, Shri  
 Mehta, Shri Asok  
 Mehta, Shri P. M.

Menon, Shri Govinda	Rohatgi, Shrimati
Minimata, Shrimati	Sushila
Agam Dass Guru	Roy, Shri Bishwanath
Mirza, Shri Bakar Ali	Sadhu Ram, Shri
Mishra, Shri Bibhuti	Saha, Dr. S. K.
Mishra, Shri G. S.	Saigal, Shri A. S.
Mohinder Kaur, Shrimati	Saleem, Shri M. Yunus
Mrityunjay Prasad, Shri	Sankata Prasad, Dr.
Mudrika Singh, Shri	Sapre, Shrimati Tara
Murthi, Shri B. S.	Sarma, Shri A. T.
Nahata, Shri Amrit	Sayyad Ali, Shri
Naidu, Shri Chengalraya	Sen. Shri P. G.
Pahadia, Shri Jagannath	Sambhu Nath, Shri
Pandey, Shri Vishwa	Shankaranand, Shri
Nath	Sharma, Shri Naval-
Pant, Shri K. C.	kishore
Paokai Haokip, Shri	Shastri, Shri B. N.
Parmar, Shri D. R.	Shastri, Shri Ramanand
Parthasarathy, Shri	Sheo Narain, Shri
Patel, Shri N. N.	Sheth, Shri T. M.
Patil, Shri Anantrao	Shinde, Shri Annasahib
Patil, Shri Deorao	Shinkre, Shri
Patil, Shri T. A.	Shiv Chandika Prasad,
Poonacha, Shri C. M.	Shri
Pramanik, Shri J. N.	Shukla, Shri Vidya
Radhabai, Shrimati B.	Charan
Raghu Ramalah, Shri	Siddayya, Shri
Raj Deo Singh, Shri	Siddeshwar Prasad,
Rajasekharan, Shri	Shri
Ram, Shri T.	Singh, Shri D. N.
Ram Dhan, Shri	Snatak. Shri Nar Deo
Ram Dhani Das, Shri	Solanki, Shri S. M.
Ram Subhag Singh. Dr.	Supakar, Shri Sradhakar
Ram Swarup. Shri	Swaran Singh, Shri
Rana, Shri M. B.	Tiwary, Shri K. N.
Randhir Singh, Shri	Ulkey, Shri M. G.
Rao, Dr. K. L.	Veerappa, Shri
Rao, Shri K. Narayana	Ramachandra
Rao, Shri Muthyal	Verma, Shri Balgovind
Rao, Dr. V. K. R. V.	Virbhadra Singh, Shri
Reddi, Shri G. S.	Yadav, Shri Chandra
Reddy, Shrimati P.	Jeet
Antony Sudha V.	

\*MR. DEPUTY-SPEAKER: The result\* of the Division is:

Ayes: 44; Noes: 125.

*The motion was negatived.*

MR. DEPUTY-SPEAKER: I will now put Mr. Kalita's amendment No.

12. The question is:

Page 2,—

after line 14, insert—

"Provided that any railway servant or any other person who obstructs or causes to be obstructed any train in furtherance of demands of general nature, such railway servant or any other such person shall not be punished."  
(12)

*The Lok Sabha divided:*

\*The following Members also recorded their votes:

AYES: Shri Hardayal Devgun.

NOES: Sarvashri Onkarlal Bohra, D. N. Tiwary and Shashi Bhushan. Dr. D. S. Raju.

## Division No. 18]

## AYES

[16.24 hrs.

Adichan, Shri P. C.  
 Badrudduja, Shri  
 Banerjee, Shri S. M.  
 Behera, Shri Baidhar  
 Berwa, Shri Onkar Lal  
 Bharti, Shri Maharaj  
 Singh  
 Biswas, Shri J. M.  
 Dange, Shri S. A.  
 Daschowdhury, Shri  
 B. K.  
 Deiveehan, Shri  
 Devgun, Shri Hardayal  
 Dwivedy, Shri Surendra-  
 nath  
 Fernandes, Shri George  
 Gopalan, Shri A. K.  
 Gopalan, Shrimati  
 Suseela  
 Gowda, Shri M. H.  
 Goyal, Shri Shri Chand  
 Gupta, Shri Indrajit  
 Halidar, Shri K.  
 Jena, Shri D. D.  
 Jha, Shri Bhogendra  
 Jharkhande Rai, Shri

Joshi, Shri Jagannath  
 Rao  
 Joshi, Shri S. M.  
 Kachwai, Shri Hukam  
 Chand  
 Kalita, Shri Dhireswar  
 Kameshwar Singh, Shri  
 Khan, Shri Latafat Ali  
 Kothari, Shri S. S.  
 Kuchelar, Shri G.  
 Kundu, Shri S.  
 Limaye, Shri Madhu  
 Meghachandra, Shri M.  
 Molahu Prasad, Shri  
 Mukerjee, Shri H. N.  
 Onkar Singh, Shri  
 Pandey, Shri Sarjoo  
 Paswan, Shri Kedar  
 Patel, Shri J. H.  
 Patil, Shri N. R.  
 Ram Charan, Shri  
 Sambhali, Shri Ishaq  
 Satya Narain Singh, Shri  
 Sen, Shri Deven  
 Shastri, Shri Ramavatar  
 Vidyarthi, Shri R. S.  
 Yadav, Shri Jageshwar

## NOES

Ahirwar, Shri Nathu  
 Ram  
 Aga, Shri Ahmad  
 Arumugam, Shri R. S.  
 Awadesh Chandra Singh,  
 Shri  
 Azad, Shri Bhagwat Jha  
 Bajaj, Shri Kannaalnayan  
 Bajpaj, Shri Vidya Dhar  
 Barua, Shri Bedabrata  
 Barupal, Shri P. L.  
 Baswant, Shri  
 Bhagat, Shri B. R.  
 Bhandare, Shri R. D.  
 Bhargava, Shri B. N.  
 Bohra, Shri Onkarlal  
 Chanda, Shri Anil K.  
 Chanda, Shrimati  
 Jyotsna  
 Chandrika Prasad, Shri  
 Chaturvedi, Shri R. L.  
 Chaudhary, Shri Nitiraj  
 Singh  
 Chavan, Shri D. R.  
 Chavan, Shri Y. B.  
 Choudhary, Shri Valmiki  
 Dalbir Singh, Shri

Dass, Shri C.  
 Desai, Shri Morarji  
 Deshmukh, Shri B. D.  
 Deshmukh, Shri K. G.  
 Devinder Singh, Shri  
 Digvijai Nath, Shri  
 Mahant  
 Dixit, Shri G. C.  
 Dwivedi, Shri  
 Nageshwar  
 Gautam, Shri C. D.  
 Hanumanthaiya, Shri  
 Jadhav, Shri V. N.  
 Jagiwan Ram, Shri  
 Jamna Lal, Shri  
 Kamble, Shri  
 Karan Singh, Dr.  
 Kasture, Shri A. S.  
 Kesri, Shri Sitaram  
 Khan, Shri M. A.  
 Khanna, Shri P. K.  
 Kinder Lal, Shri  
 Kripalani, Shrimati  
 Sucheta  
 Kureel, Shri B. N.  
 Laskar, Shri N. R.  
 Laxmi Bai, Shrinati

Maharaj Singh, Shri  
 Masuriya Din, Shri  
 Mehta, Shri Asoka  
 Mehta, Shri P. M.  
 Menon, Shri Govinda  
 Minimata Agam Dasa  
 Guru, Shrimati  
 Mirza, Shri Bakar Ali  
 Mishra, Shri Bibhuti  
 Mishra, Shri G. S.  
 Mohinder Kaur, Shrimati  
 Mrityunjay Prasad, Shri  
 Murthy, Shri B. S.  
 Nahata, Shri Amrit  
 Pahadia, Shri Jagannath  
 Pandey, Shri Vishwa  
 Nath  
 Paokai Haokip, Shri  
 Parmar, Shri Bhaljibhai  
 Parthasarathy, Shri  
 Patel, Shri N. N.  
 Patil, Shri Anantrao  
 Patil, Shri Deorao  
 Patil, Shri T. A.  
 Poonacha, Shri C. M.  
 Radhabai, Shrimati B.  
 Raghu Ramaiah, Shri  
 Raj Deo Singh, Shri  
 Raju, Dr. D. S.  
 Ram, Shri T.  
 Ram Dhan, Shri  
 Ram Dhani Das, Shri  
 Ram Subhag Singh, Dr.  
 Ram Swarup, Shri  
 Rana, Shri M. B.  
 Randhir Singh, Shri  
 Rao, Dr. K. L.  
 Rao, Shri K. Narayana  
 Rao, Shri Muthyal  
 Rao, Shri Thirumala  
 Rao, Dr. V. K. R. V.  
 Reddi, Shri G. S.  
 Reddy, Shri P. Antony  
 Reddy, Shrimati  
 Sudha V.  
 Rohatgi, Shrimati  
 Sushila

Roy, Shri Bishwanath  
 Sadhu Ram, Shri  
 Saha, Dr. S. K.  
 Saigal, Shri A. S.  
 Saleem, Shri M. Y.  
 Sambasivam, Shri  
 Sanghi, Shri N. K.  
 Sankata Prasad, Dr.  
 Sapre, Shrimati Tara  
 Sarma, Shri A. T.  
 Sayyad Ali, Shri  
 Sen, Shri P. G.  
 Shambhu Nath, Shri  
 Shankaranand, Shri B.  
 Sharma, Shri Naval  
 Kishore  
 Shashi Bhushan, Shri  
 Shastri, Shri  
 Biswanarayan  
 Shastri, Shri Ramanand  
 Sheo Narain, Shri  
 Sheth, Shri T. M.  
 Shinde, Shri Annasahib  
 Shinkre, Shri  
 Siddeshwar Prasad, Shri  
 Shukla, Shri Vidya  
 Charan  
 Siddayya, Shri  
 Siddheshwar Prasad,  
 Singh, Shri D. N.  
 Sinha, Shri Mudrika  
 Snatak, Shri Nar Deo  
 Solanki, Shri S. M.  
 Supakar, Shri Sradhakar  
 Swaran Singh, Shri  
 Tiwary, Shri D. N.  
 Tiwary, Shri K. N.  
 Uikay, Shri M. G.  
 Veerappa, Shri  
 Ramachandra  
 Verma, Shri Balgovind  
 Virbhadra Singh, Shri  
 Yadav, Shri Chandra  
 Jeet

MR. DEPUTY SPEAKER: The result\* of the Division is:

Ayes 47;

Noes 128 plus 1—129

The motion was negatived.

MR. DEPUTY SPEAKER: Now, I am putting Amendments No. 15, 16

and 17 of Shri George Fernandes together.

SHRI GEORGE FERNANDES: Not together. One by one they may be put to the vote of the House.

SHRI SURENDRANATH DWIVEDY: They should be put one by one.

The following Members also recorded their votes:

Notes: Sarvashri M. Sudarsanam and Chengalraya Naidu.

I may vote in favour of one and against another.

MR. DEPUTY SPEAKER: Let the lobbies be cleared.

I want to point out one thing. In this House I have to look at the propriety, observance of rules, everything. One of the rules in the Rules, of Procedure reads:

"Provided that, if in the opinion of the Speaker, the Division is unnecessarily claimed, he may ask the members who are for 'Aye' and those for 'No' respectively to rise in their places and, on a count being taken, he may declare the determination of the House. In such a case, the names of the voters shall not be recorded."

I never wanted to apply it. Now, after the present voting is over, I am going to apply this procedure.

SHRI SURENDRANATH DWIVEDY: Sir, if you want to apply that procedure, it is your business and we have nothing to say. But, then, you have to give us time by ringing the bell each time. As will be seen, the number of Members opposing the Bill is increasing after every division. There are some members who are still outside. They should be given an opportunity to come and vote for each amendment.

SHRI S. M. BANERJEE: Sir, you are the custodian of the rights of this House and you are supreme. We know it. But here the difficulty is that the ruling party do not want anything to be discussed. They want to steam-roller everything.

MR. DEPUTY-SPEAKER: I do not think it is a fair statement. Originally, the BAC allotted three hours for this Bill. We have already spent nearly nine hours. So, how could you

say that a full opportunity was not given for the Debate? Is it proper to say that? Again, I have said that if we finish the clause-by-clause consideration today, I will give him an opportunity tomorrow during the third reading.

SHRI S. M. BANERJEE: Let us finish this voting tomorrow. Why this hurry? Are we adjourning *sine die* tomorrow?

MR. DEPUTY-SPEAKER: We have to follow certain procedure in this matter. I have provided enough opportunities to members. I have given them not only 6 hours but more than 8 hours. Therefore, there is no question of not discussing it.

SHRI S. M. BANERJEE: Sir, it can be continued tomorrow.

श्री जार्ज करमगंडीब : इसकी एमरजेन्सी क्या है ?

श्री कंचरलाल गुप्ता : हम आप से वायदा करते हैं कि कल इस को पांच मिनट में खत्म कर देंगे, आप इसका वोटिंग कल करा लीजिये ।

MR. DEPUTY-SPEAKER: Let us finish this clause today; not all the clauses. The next clause we will take up tomorrow. I hope hon. Members are agreeable to that. So, I will now put all the other amendments to clause 2 to the vote of the House.

*Amendments Nos. 15 to 17, 21 to 24, 30 to 34, 36, 64 and 65 were put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

"That clause 2 stand part of the Bill".

*The Lok Sabha divided:*

[16.31 hrs.

Bajpai, Shri Vidya Dhar  
Barua, Shri Bedabrata  
Barupal, Shri P. L.  
Baswant, Shri  
Bhagat, Shri B. R.  
Bhandare, Shri R. D.  
Bhargava, Shri B. N.  
Bohra, Shri Onkarlal

AYES

Division No. 19]

Ahirwar, Shri Nathu  
Ram  
Aga, Shri Ahmad  
Arumugam, Shri R. S.  
Azad, Shri Bhagwat Jha  
Bajaj, Shri Kamalayan



Chanda, Shri Anil K.  
 Chanda, Shrimati  
 Jyotsna  
 Chandrika Prasad, Shri  
 Chaturvedi, Shri R. L.  
 Chaudhary, Shri Nitiraj  
 Singh  
 Chavan, Shri D. R.  
 Chavan, Shri Y. B.  
 Dalbir Singh, Shri  
 Dass, Shri C.  
 Desai, Shri Morarji  
 Deshmukh, Shri B. D.  
 Devinder Singh, Shri  
 Dixit, Shri G. C.  
 Gautam, Shri C. D.  
 Gosh, Shri P. K.  
 \*Gupta, Shri Indajit  
 Hanumanthaiya, Shri  
 Jadhav, Shri V. N.  
 Jagjiwan Ram, Shri  
 \*Jha, Shri Bhogendra  
 \*Jharkhande Rai, Shri  
 Kachwai, Shri Hukam  
 Chand  
 Kamble, Shri  
 Karan Singh, Dr.  
 Kasture, Shri A. S.  
 Kesri, Shri Sitaram  
 Kinder Lal, Shri  
 Kripalani, Shrimati  
 Sucheta  
 Krishna, Shri M. R.  
 \*Kundu, Shri S.  
 Kureel, Shri B. N.  
 Laxmi Bai, Shrimati  
 Maharaj Singh, Shri  
 Masuriya Din, Shri  
 Mehta, Shri Asoka  
 Mehta, Shri P. M.  
 Menon, Shri Govinda  
 Minimata Agam Dass  
 Guru, Shrimati  
 Mirza, Shri Bakar Ali  
 Mishra, Shri Bibhuti  
 Mishra, Shri G. S.  
 Mohinder Kaur, Shrimati  
 Mrityunjay Prasad, Shri  
 Murthy, Shri B. S.  
 Nahata, Shri Amrit  
 Naidu, Shri Chengal-  
 raya  
 Pahadia, Shri Jagannath  
 Pandey, Shri Vishwa  
 Nath  
 Paokel Haokip, Shri  
 Parmar, Shri Bhaljibhai

Parthasarathy, Shri  
 Patel, Shri N. N.  
 Patil, Shri Anant Rao  
 Patil, Shri Deorao  
 Patil, Shri T. A.  
 Poonacha, Shri C. M.  
 Pramanik, Shri J. N.  
 Radhabai, Shrimati B.  
 Raghu Ramaiah, Shri  
 Rajasekharan, Shri  
 Raju, Dr D. S.  
 Ram, Shri T.  
 Ram Dhan, Shri  
 Ram Dhanj Das, Shri  
 Ram Sewak, Shri  
 Ram Subhag Singh, Dr  
 Ram Swarup, Shri  
 Rana, Shri M. B.  
 Rao, Dr. K. L.  
 Rao, Shri K. Narayana  
 Rao, Shri Muthyal  
 Rao, Shri Thurumala  
 Rao, Dr. V. K. R. V.  
 Reddi, Shri G. S.  
 Rohatgi, Shrimati  
 Sushila  
 Roy, Shri Bishwanath  
 Sadhu Ram, Shri  
 Saha, Dr. S. K.  
 Saigal, Shri A. S.  
 Saleem, Shri M. Y.  
 Sambasivam, Shri  
 Sankata Prasad, Dr.  
 Sapre, Shrimati Tara  
 Sarma, Shri A. T.  
 Satya Narain Singh, Shri  
 Sayyad Ali, Shri  
 Sen, Shri P. G.  
 Sethi, Shri P. C.  
 Shankaranand, Shri R.  
 Shashji Bhushan, Shri  
 Shastri, Shri Bisvanara-  
 yan  
 Sheo Narain Shri  
 Shinde, Shri Annasaheb  
 Shiv Chandika Prasad,  
 Shri  
 Shukla, Shri Vidya  
 Charan  
 Siddayya, Shri  
 Siddheshwar Prasad,  
 Shri  
 Singh, Shri D. N.  
 Snatak, Shri Nar Deo  
 Solanki, Shri S. M.  
 Sudarsanam, Shri M.  
 Supakar, Shri Sradhakar

\*Wrongly voted for 'Ayes'.

Swaran Singh, Shri  
Tiwary, Shri D. N.  
Tiwary, Shri K. N.  
Uikey, Shri M. G.

Veerappa, Shri  
Ramachandra  
Verma, Shri Balgovind  
Virbhadra Singh Sar.

NOES

Adichan, Shri P. C.  
Badrudduja, Shri  
Banerjee, Shri S. M.  
Behera, Shri Baidhar  
Bharti, Shri Maharaj  
Singh  
Dange, Shri S. A.  
Devgun, Shri Hardayal  
Dwivedy, Shri Surendra-  
Nath  
Fernandes, Shri George  
Gopalan, Shri A. K.  
Gopalan, Shrimati  
Suseela

Gowda, Shri M. H.  
Gupta, Shri Kanwar Lal  
Haldar, Shri K.  
Joshi, Shri Jagannath  
Rao  
Joshi, Shri S. M.  
Khan, Shri Lafat Ali  
Khanna, Shri P. K.  
Kothari, Shri S. S.

Kuchelar, Shri G.  
Laskar, Shri N. R.  
Limaye, Shri Madhu  
Meghachandra, Shri M.  
Molahu Prasad, Shri  
Mukerjee, Shri H. N.  
Onkar Singh, Shri  
Pandey, Shri Sarjoo  
Paswan, Shri Kedar  
Patel, Shri J. H.  
Ram Charan, Shri  
Reddy, Shri P. Antony  
Samanta, Shri S. C.  
Sambhali, Shri Ishaq  
Sen, Shri Deven  
Sezhiyan, Shri  
Shastri, Shri  
Ramawatar  
Shinkre, Shri  
\*Sinha, Shri Mudika  
Suraj Bhan, Shri  
Vidyarthi, Shri R. S.  
Yadav, Shri Jageshwar

MR. DEPUTY-SPEAKER: The result of the division is: Ayes: 122; Noes: 41.

The motion was adopted.

Clause 2 was added to the Bill.

MR. DEPUTY-SPEAKER: We shall take up the other clauses tomorrow.

SHRI S. M. BANERJEE: We thank you very much, Sir.

16.21 hrs.

MOTION RE: DROUGHT CONDITIONS

THE MINISTER OF FOOD AND AGRICULTURE (SHRI JAGJWAN RAM): Sir, I beg to move:

"That the statement laid on the Table by the Minister of Food

\*Wrongly voted for 'NOES'

†The following Members who recorded their votes:

AYES: Sarvasbri Rameshwar Rao, Nageshwar Dwivedi, P. Antony Reddy, Awadesh Chandra Singh, Ramanand Shastri, Randhir Singh, Shambhu Nath, Valmikij Chaudhary, Shrimati Sudha V. Reddy, Mudrika Sinha and P. K. Khanna.

NOES: Sarvasbri J. M. Biswas, Dhirsvar Kalita, Kameshwar Singh, Shri Chand Goyal, Indrajit Gupta, Bhogendra Jha, S. Kundu, and Jhar-khande Raf

and Agriculture on the 18th November, 1968 regarding drought conditions in the country, be taken into consideration."

I do not want to say anything at this stage.

MR. DEPUTY-SPEAKER: Motion moved:

"That the statement laid on the Table by the Minister of Food and Agriculture on the 18th November, 1968 regarding drought conditions in the country, be taken into consideration."

SHRI GEORGE FERNANDES (Bombay South): I beg to move:

That for the original motion, the following be substituted, namely:—

"This House, having considered the statement laid on the