

DEMAND No. 119—PURCHASE OF FOOD-
GRAINS

"That a supplementary sum not exceeding Rs. 36,00,00,000 be granted to the President to defray the charges which will come in course of payment during the year ending the 31st day of March, 1961, in respect of Demand No. 119 'Purchase of Foodgrains'."

DEMAND No. 124—CAPITAL OUTLAY ON
MULTI-PURPOSE RIVER SCHEMES

"That a supplementary sum not exceeding Rs. 1,000 be granted to the President to defray the charges which will come in course of payment during the year ending the 31st day of March, 1961, in respect of Demand No. 124 'Capital Outlay on Multi-purpose River Schemes'."

15.08 hrs.

INDIAN INCOME-TAX (AMEND-
MENT) BILL*

(AMENDMENT OF SECTION 2) by Shri C.
K. Bhattacharya.

Mr. Deputy-Speaker: Shri Narayan-an kuttu Menon and Shri Kesava are absent. Shri C. K. Bhattacharya.

Shri C. K. Bhattacharya (West Dinajpur): I beg to move for leave to introduce a Bill further to amend the Indian Income-tax Act, 1922.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Income-tax Act, 1922".

The motion was adopted.

Shri C. K. Bahattacharya: I introduce† the Bill.

15.09 hrs.

CODE OF CRIMINAL PROCEDURE
(AMENDMENT) BILL—contd.

(AMENDMENT OF SECTIONS 107, 129, 144
AND INSERTION OF NEW SECTION 131A)
by Shri Tangamani.

Mr. Deputy-Speaker: The House will now resume further discussion of the following motion moved by Shri Tangamani on the 23rd December, 1960:—

"That the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration".

Out of 2 hours allotted for the discussion of the Bill, 1 hour and 40 minutes have already been availed of on the 23rd December 1960, and 20 minutes are now available. Shri Sadhan Gupta had to continue. But as he is absent, his speech will be deemed to have concluded. The hon. Minister.

Shri Naldurgkar (Osmanabad): I want to speak for five minutes.

Mr. Deputy-Speaker: I have already called the hon. Minister. Only 20 minutes are available and that would be taken up by the hon. Minister and the hon. Mover.

The Minister of State in the Ministry of Home Affairs (Shri Datar): Mr. Deputy-Speaker, this is a matter which is often coming up before this House and the other House. On an earlier occasion, a similar Bill, perhaps wider in extent, had been brought forward in this House for deleting certain sections. In the other House also, a similar but naturally abortive attempt was made. Now we have got another Bill dealing with almost the same sections of the preventive portion of the Criminal Procedure Code.

So far as this matter is concerned I may point out that the preventive

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†Introduced with the recommendation of the President.

detention sections, naturally, have to deal with the prevention of offences. What is ordinarily necessary is that the law and order authorities have to take preventive measures before the offences are actually committed. If this is taken into account you will find that in these sections, sections 107 and 144 and similar provisions, proper safeguards have been duly introduced.

One of the objects of the hon. sponsor of this Bill is to make a distinction between a citizen and a citizen. For that purpose a very catchy expression has been used. I would invite the attention of the hon. House to the manner in which a certain distinction is sought to be introduced between citizens and citizens.

We are told here that whenever there is any 'lawful agitation'—I am referring to clause 2—whenever there is a 'lawful agitation'—it is a small mercy that the hon. Member has agreed to keep the word 'lawful', action should not be taken. The effect of this expression is entirely taken away by the other portions. He refers to—

"lawful agitation, movement or effort for the redress of grievances of workers, peasants, middle class employees, traders, businessmen or any other sections of the community."

Shri Tangamani (Madurai): What is wrong in this?

Shri Datar: This sort of distinction or classification is unknown to the Constitution.

Shri Braj Raj Singh (Ferozabad): But it is qualified by 'lawful'.

Shri Datar: The hon. Member may please wait. Article 14 of the Constitution deals with the question of granting equal protection before law.

15.13 hrs.

(SHRI JAGANATHA RAO in the Chair).

In this case they have mentioned certain types of classifications and

they desire to split society into certain types or categories. That, in my opinion, is a preliminary objection—whether such categories could be validly recognised under article 14 of the Constitution. (*Interruption*).

Then it is further stated, 'any agitation, movement or effort'. Before I deal with these I would like to invite the attention of the hon. House to certain pre-requisites before action is taken either under section 107 or under other sections. I would first invite the attention of the House to the provisions of section 107.

"Whenever any person is likely to commit a breach of the peace or disturb public tranquility...."

These two expressions should be very carefully noted. No action can be taken either under section 107 or under section 131 unless public security is manifestly in danger. In section 144, a similar expression has been used—either with regard to the person or with regard to certain property. Therefore, the essential pre-requisite for the bringing into operation any of these sections is that certain types of contemplated activity are likely to endanger public security or to disturb public tranquility.

It may also be noted that in so far as some of these sections are concerned, they are judicial in nature, in the sense that it is open to the parties to take this matter to the highest court in the State.

For example, whenever a wrong order is passed either under section 107 or under section 144 or others, a lawful remedy has been provided. But, so far as the criterion for taking action under these sections is concerned, it cannot depend upon the nature of the agitation. So far as the magistrates and others are concerned, they have to deal with the question of the imperilment or otherwise of the law and order situation. That is the

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essential pre-requisite for any action under the preventive sections of the Code of Criminal Procedure. If law and order has to be properly protected, no attempt should be made to dilute this essential pre-requisite

I would very briefly make a reference to the manner in which such an attempt has made. It is stated that 'no such proceeding shall be taken against any person in respect of any of his action or contemplated action connected with any lawful agitation'. The word 'lawful' itself has not been defined. Supposing a person or an association desires to carry on certain activities. The question is not whether that particular activity is legitimate or lawful, but whether its results are likely to be. The law and order authorities should be invested with powers to take action with a view to prevent a worsening or deterioration of the situation. That is the first and most important thing before the magistrates or others who have to deal with it.

I can understand the word 'lawful' in any Act dealing with civil rights. But, here, so far as the magistrate is concerned, he has to deal with certain aspects of the matter bearing on the possible worsening of the law and order situation. That is the most important point. Therefore, it would be extremely embarrassing for a magistrate who has to take action or decision under section 144 on the spur of the moment if he has to go nicely into all these questions and see whether something that has been done is lawful etc.

In this Statement of Objects and Reasons my hon. friend has contended that during the British administration these sections were abused. It is true that these sections were abused. But then the persons who carried on such agitation in spite of these sections took all the risk. But, here, the hon. Member wants that certain

so-called agitation should be carried on without necessarily taking the risk.

These are sections which are absolutely essential for the maintenance of law and order and it would be entirely irrelevant to bring in the British administration or to see certain motives therein. So far as the provisions of the law are concerned, they are perfectly all right. If they are abused, the administrative Government can take action. Judicially the High Court or other courts can certainly taken action.

Shri Braj Raj Singh: Why should you be afraid of agitation if you are acting rightly?

Shri Datar: If one has to carry on an agitation he must be lawful or otherwise he must be ready to take the consequences. He cannot ask for the deletion of these sections altogether.

Shri Braj Raj Singh: They are undemocratic.

Shri Datar: Let there be no running commentary, Sir. If he has got any questions to ask I am prepared to answer at the end. Then you will find that the second proviso that he has proposed in clause 2 takes away the whole force.

"Provided further that no bona-fide worker. . . ."

This again has to be found out by the poor magistrate. Now, a man may be a *bona fide* worker but still a misguided worker. A man may act with the best of intentions but he is also likely to be misguided.

Shri Braj Raj Singh: That applies to you and to us both.

Shri Datar: The interest of the society is higher than the personal liberty of such a misguided person.

That is the reason why action has to be taken. The section here says:

"...unless such person has been actually apprehended in an act of commission of a criminal offence."

'Actual apprehension' is not a matter dealt with by the sections of the Act. My hon. friend has brought in the commission of an actual offence; here we are dealing with the prevention of an offence. When a criminal offence has been committed, the arm of the law is long enough. Here our objective is to prevent the commission of such an offence. There is some confusion of thought so far as the original section and the proviso is concerned. Perhaps the proviso takes away the powers of the original section.

Clause 3 of this Bill wants the addition of these words "and if there are reasonable grounds for apprehending positive and immediate danger of loss of human lives". The question is whether it is essential at all. It has always been accepted that a magistrate should have the authority to consider the whole matter carefully and then take action. If there is anything wrong on his part, the Government should try to pull him up administratively and if the action is taken to the court of law, judicially also.

Shri Tangamani: By that time the damage would have been done and the armed forces would have taken the action that is expected of them.

Shri Datar: I would not like to be unfair to my hon. friends but these words—"reasonable grounds for apprehending..."—have been introduced with a view, as I said, to dilute the provisions of the law. Then again it refers to 'positive and immediate danger of loss of human lives'. Unfortunately, there are anti-social elements here and there and they have done the greatest damage to Government and other property; whenever there is any likelihood of a danger or risk to property, then the preventive sections ought to be brought in-

to operation. But my hon. friend is entirely silent about property. It is rather unfair.

An Hon. Member: Property is not mentioned in the original section.

Shri Datar: Then again, sub-clause (b) reads: "...Provided that recourse to such use of armed forces shall not be taken...". In other words, the presumption is that a man has to act under the law and a proper exercise of the discretion has got to be vested in him as an officer in charge of the maintenance of law and order. That is sought to be taken away more or less and it says here that action shall not be taken 'unless the Magistrate is reasonably satisfied'. Even under the present provisions, he has to satisfy himself that it is necessary to take action on account of the worsening situation. It says here that he should be reasonably satisfied that the police is not in fact in a position to restore order. Apart from other objections, the Armed Forces are called in only at the last moment, when it is found that the police would not be in a position to control the situation effectively and in time. They are not being called in as a matter of course or as a matter of pleasure but only when it becomes absolutely essential.

There is also a second proviso which says that resort to the use of armed forces shall not be made with a view to suppressing movements or agitations. This is a larger question. A magistrate does not deal with the suppression of movements; he is concerned with the maintenance of law and order and the stability of society. The hon. Member is taking us away from these. It speaks about 'suppressing movements'; here the word 'lawful' is not used. Then the hon. Member has shown some small mercy and communal disturbances have been exempted from the scope of this section. When the hon. Member introduced a Bill, I believe, in 1958, possibly he was not aware that there were other movements of an equally dangerous type. Take for instance, the

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linguistic movements or other movements also; they are equally prone to danger and disturb public tranquility. But my hon. friend has made a reference only to communal disturbances; he has left out of account all the others. Whatever might be the cause of a disturbance, disturbance of public tranquility by itself is an evil and it is to be provided against. So, I would not like this sort of discrimination to be made between communal disturbances and other disturbances. Then proceeding further the same category of people are mentioned: "...workers, employees, peasants, or any other sections of the people having organised themselves to solve their problems in a collective manner". Peaceful association is allowed under the Constitution; peaceful, constitutional association is not ruled out. But if an organisation is a danger to society itself, whatever be its objectives, that fact has to be taken into account. I am not speaking against organisation at all. The right of organisation is common to all the citizens of India without any discrimination of the kind as the hon. Member has made. "...Organise themselves to solve their problems in a collective manner".... these are all not very simple.

Shri Braj Raj Singh: That is too constitutional.

Shri Datar: The problems have to be solved in a constitutional manner. They cannot themselves solve the problems: It is the Parliament that can solve the problems. It is the Government which can solve the problems, subject to the control of Parliament.

Shri Braj Raj Singh: That is not the Gandhian way.

Shri Datar: The State Governments can solve the problems subject to the control of their legislatures. My hon. friend needlessly has brought in Gandhiji's name. If he felt that any action was essential on his part, he took the lead and took the consequences..... (Interruptions.)

Shri Braj Raj Singh: We are not afraid of the consequences.

Shri Datar: Suppose, there is, for instance, an organisation with potentialities of certain dangers. Then, in that case, it ought to be open to the law and order authorities to take action. It would be open to him or to her or the authorities concerned to take the consequences. Here the question is whether the interests of the society are supreme or whether any persons or parties or sections of the people should be allowed to organise themselves with these possibly dangerous potentialities. That point should be kindly noted. After all, as I have stated, the interests of the society and the interests of the stability of society are absolutely essential. It is much more so in a welfare State.

A new section is sought to be introduced. In all cases, whenever armed forces have been called, then within three days, a committee has to be appointed. That committee should consist of not less than nine members, of whom three shall be Members of Parliament and others will have to be high court judges. I may submit with due deference to my hon. friend that this is a highly impracticable proposition. If any such provisions are introduced, the effect will be just the reverse of what the hon. Member has in view as I shall point out just now. All orders under section 144 have to remain in force generally for two months. Subsequently they may be extended when necessary.

Shri Tangamani: This section does not deal with section 144. This deals with cases where the magistrate calls for the armed forces. I want the Central Government and particularly Parliament to take cognizance of such cases. That is the purpose.

Shri Datar: My hon. friend is treading upon another difficulty in his way to which also I shall be making a reference. I was pointing out that it

would not be practicable to have such a committee in every case, wherever the armed forces have been called. It is a question, as I have stated, of the exercise of proper discretion on the spot. If this discretion has been used, then a further question arises as to whether it has been rightly used or wrongly used and also whether it was bona fide, mala fide or over-excessive. All these circumstances have to be duly taken into account. If, as a matter of course, a committee has got to be appointed, the hon. Member will agree with me when I say that it will have results which are not in the contemplation of the hon. Member at all. It will demoralise the officers altogether. That also should be noted.

Shri Braj Singh: It is very good.

Shri Datar: It is not very good; it is very bad for society. So far as the officers are concerned, if an act has always to be on their shoulders, naturally difficulties will arise.

Shri Braj Raj Singh: I do not like to interrupt the hon. Minister's speech. But may I just remind him of his sermons which he preached just earlier, namely, that one should be prepared to reap the consequences of one's actions?

Shri Datar: My hon. friend is more anxious to interrupt than to get an elucidation. I was going to point out the present position. The present position is that a magistrate has been given proper discretionary powers. He has to use the powers in the interests of maintaining law and order and for the purpose of preventing such breaches of the peace. If he uses the powers wrongly, then Government have powers—and they have exercised their powers in proper cases—for calling him to order. So, a committee is not necessary. Such a committee would be impracticable, and it would be unnecessary, because, even now, administratively, Government are entitled to take action, and the State Governments—because this measure deals more with the State Governments—have taken such action in proper cases.

In section 144, my hon. friend seeks to introduce some provisions which are startling, apart from their being impracticable. He has stated that no order under this section should be served on any person engaged in picketing. So far as picketing is concerned, to a certain extent, it has been already dealt with under the Industrial Disputes Act. Therein, certain strikes have been made legal and certain strikes illegal. When strikes are declared to be illegal, then they cannot be financed also under sections 22 to 24. Picketing as such, apart from legal strikes, is not recognised as a right.

Shri Muhammed Elias (Howrah): What does the Government do when the employers commit irregularities or declare the lock-outs as illegal? The Government may declare the lock-outs as illegal.

Shri Datar: The employers also are entitled to some protection in proper cases. Let not my hon. friend introduce a new element which I have not envisaged. But employers also are citizens. If employers commit wrongs, they are also liable to undergo the process of law. In making the classification, my hon. friend has left out certain categories of persons and that shows which way the wind moves in the mind of my hon. Member's party. (*Interruption*). The section which is now suggested says that no order shall be served on any person engaged in picketing in pursuance of a strike. So far as strike is concerned, I have already pointed out the difficulties by making a reference to the existing position.

Shri Surendranath Dwivedy (Kendrapara): May I seek just a clarification?

Shri Datar: He can after it after I have finished. I am not going to give any clarification when I am speaking. I am not yielding.

Shri Braj Raj Singh: The hon. Minister was very kind in the beginning!

Shri Datar: Under the Industrial Disputes Act, what the hon. Member wants to do is to side-track the issue, and bring in the matter here in the form of an amendment to section 144.

The amendment reads as follows:

"Provided that no order under this section shall be served on any person engaged in picketing in pursuance of a strike, or in respect of any meeting or procession by any section of the people engaged in lawfully ventilating the grievances and/or sponsoring their demands".

In this proviso, my hon. friend has completely forgotten the underlying principles under which action has to be taken by Government in proper cases. Merely because it is called picketing, one should not forget the dangers. It has got dangerous possibilities. It should also be noted. Such expressions as "picketing", when used, might have dangerous consequences and the result would be far from satisfactory.

Shri Muhammed Elias: Why should it be dangerous if the employers take the black-leggers to workshops to break the legal strike and how would it be dangerous if the workers stop it?

Shri Datar: I am not yielding. I am proceeding to the next proviso which says:

"Provided that no order under this section shall be directed to any person or any section of the community or the public generally with a view to preventing or obstructing, in any manner or form, the ventilation of grievances of the people or any section thereof;"

Here again, the expression which the hon. Member has introduced is fraught with grave danger. If we have got a grievance, sometimes, the grievance is likely to be fanciful, is likely to be wrong and is likely to be inequitable.

All the same, we are told pre-emptorily by this proviso that ventilation of grievances should not be prevented. What is the grievance according to the hon. Member, and what is the grievance of the persons who are carrying on certain activities which may not be lawful? The proviso speaks of "ventilation of grievances of the people or any section thereof".

Now, I come to the last section which deals with Parliament also. The section reads like this:

"Provided further that no such order shall be directed in respect of the vicinity of Parliament or State Legislatures or Territorial Councils where it may be necessary for citizens to proceed to voice their grievances or make an effort to be personally heard by the Legislators."

You are aware of an occasion during the last session when it became very difficult to carry on the work of Parliament and the hon. Speaker was emphatic that not merely orders under Section 144 should be passed, but something more should be done to prevent the obstruction of work by hon. Members of Parliament or by legislators in the State Legislatures.

I would not like to go into the theoretical question. After all, all hon. Members of Parliament are legislators and have to do certain work under the Constitution. But the hearing of grievances by legislators can be done at places apart from the premises for proximity of Parliament. We, Members of Parliament are doing a very import work of national reconstruction and therefore such a work has to be carried on in a peaceful climate and undisturbed atmosphere. That is why this question raised by the hon. Member is not only irrelevant, but is fraught with dangerous consequences. Agitators would like to come into Parliament itself.

Shri Muhammed Elias: If they cannot meet the Ministers outside, they have to come here.

Shri Datar: Hon. Members of Parliament are always approachable to people. We are also humbly approachable to people at any time. But the work of Parliament is supreme and has to be carried on in a peaceful and undisturbed atmosphere. Therefore, I submit that this is an entirely wrong view.

The last clause says:

"No order under this section shall remain in force for more than forty-eight hours from the making thereof; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the State Government with the consent of the High Court of Judicature, by notification in the Official Gazette, otherwise directs."

Imagine the great distances in India. Imagine, if such a section is unfortunately inserted, what great difficulties would be created either in the Kanyakumari District or Kamrup District. Within 48 hours perhaps in some cases, they may not be able to approach the higher authorities also. Also, here an entirely unknown principle has been introduced. The High Court has to deal with judicial matters, Government have to deal with executive matters including the preservation of law and order. That is entirely a matter for the executive and if any officer under the Government of India or State Government goes wrong, then the Members of Parliament or State Legislatures can pull him up; they can even pull the Ministry out of office. These are essential rights, but you cannot say that in respect of executive matters, we must take the consent of the High Court. Their functions are entirely different. High Courts are entitled to all our respect, but they have to decide judicial questions. Here we have to deal with executive questions, for which

we are answerable to Parliament and the State Governments are answerable to the State Legislatures. So, the Bill purports to introduce a point, which is entirely wrong.

Lastly, I would submit that the Criminal Procedure Code is in the concurrent List; it is not in the Union List. So far as the Concurrent List is concerned, as I have said here a number of times, we follow the practice of consulting the State Governments. The operation of this Act concerns more the State Governments. We deal only with a few territories. We do not directly deal with large territories, like the State Governments are doing. So, unless we generally obtain the consent or concurrence of the State Governments, we do not bring in any legislation for amending the laws in the Concurrent List, because ultimately whatever we do has to be administered by the State Governments sometimes under very delicate circumstances. That also should be taken into account.

Under these circumstances, I request my hon. friend not to press this Bill.

Shri Muhammed Elias: Your suggestions lead to Ayub Khan's dictatorship.

Shri Datar: We are governed by law; we are answerable to you, hon. Members of Parliament.

Shri Tangamani: Sir, when I spoke on the motion for taking this Bill into consideration, I read out the entire Statement of Objects and Reasons. But I find that the hon. Minister who intervened chose not to read that portion of the Statement which is operative portion. I have said there:

"Sections 107, 129, 131 and 144 have been frequently invoked to curtail democratic rights and liberties, to intimidate the people and suppress their movement for the redress of their legitimate grievances."

[Shri Tangamani]

I have not said that these preventive sections will have to be deleted. All that I have said is, certain safeguards may be added on to these preventive sections. Almost all the five Members who spoke supported the spirit of this Bill and they also felt that a suitable amendment is now called for.

Section 107 was modified as early as 1923. If the Minister chooses to go through my speech on the 23rd December, he will see that I have also quoted from the 1923 debates. When ever there was a likelihood of breach of the peace the Magistrate had the right immediately to issue a notice demanding any person to show cause why action should not be started against him. In other words, the Magistrate on his own without any test can immediately proceed with the action. So, even in that debate, they felt that a suitable amendment was necessary, viz.,

"The magistrate, if in his opinion there is sufficient ground for proceeding, may ..." etc.

That amendment was adopted. I would refer the hon. Minister to the debates which took place in 1923. So, in 1923 because a magistrate chose to take certain action against an important political leader and keep him detained when he was proceeding to Calcutta, the House felt that there must be certain safeguards and today, after nearly 40 years, the sentiment which was expressed by the then Law Member is now being expressed by the Minister of Home Affairs and in much stronger terms. I am really surprised at it.

Shri Surendranath Dwivedy: Do you mean to say that there is no change after the Congress Government have come?

Shri Tangamani: What I am surprised at is, that in the year of 1923 they were prepared to accept certain amendments. Today when a number of hon. Members felt that a certain

amendment is necessary the Government is not at all prepared to consider it. So, I do not want to put it in much stronger terms except to say that this Bill which was brought in this House and the other House was not for the deletion of sections 107 or 144. About section 107 the hon. Minister was pointing out that there is equal protection of law as provided under article 14. I would like to point out that even trade union was considered to be a combination against the employers. It is in those days of 1833 when there was a Combination Act in England when anything done or combined against employer was penalised. In 1923 the Madras High Court felt that the Buckingham and Carnatic Mill workers who joined those who ultimately went to strike, they had conspired to overthrow or cause loss to the employer. That was the feeling prevailing then and the Trade Union Act was passed, which is against the Combination Act.

Shri Datar: I was referring to the Act of 1947.

Shri Tangamani: I am coming to the Act of 1947. With respect I would like to say that the hon. Minister has not been properly advised about the Act of 1947. That Act nowhere defines picketing. It does not even prevent strikes in certain industries. All that it lays down is the condition that you can go on strike only after giving due notice. The strike is not banned. There is absolutely no mention about picketing. I would like the hon. Minister to go through the Act. He will find that the word "picketing" does not exist there. The Industrial Disputes Act takes away the Combination Act and the principle which he is now adumbrating by referring to article 14. I believe I have said enough about this particular provision.

Coming to sections 129 and 131, you will remember in this House in the year 1958 there were two occasions when the question of military intervention in the strike was raised and

the hon. Speaker was pleased to direct that under the Criminal Procedure Code a magistrate has got every right to summon armed forces. Section 129 authorises the magistrate under certain circumstances to summon, to send for the commander and then the armed forces. The Parliament is absolutely helpless to question whether this calling of the armed forces was justified or not. That is why by clauses 3 and 4, I wanted to invoke the power of Parliament. Whenever the armed forces have been called, certain action has followed. Immediately a committee must be set up and that committee has to submit a report to Parliament so that Parliament will know whether the calling of troops was justified. Now the troops are called at the discretion of the magistrate. We feel that Parliament must be in a position to decide whether it is justified or not. Because, it is not every day that troops are called.

When the troops were called to suppress a strike I think it was the hon. Prime Minister himself who stated that the troops were called in Jamshedpur because the properties had to be protected. Promptly it was retorted by Shri Dange that the properties of the Jamshedpur Iron and Steel factory are not dispersed all over the streets of Jamshedpur. Because, the troops were found parading all the streets, terrorising the workers. So, the whole point is that troops should not be called in to suppress a strike, which has been accepted under the Industrial Disputes Act as a legal strike. That was the limited purpose.

If the hon. Minister had referred to the issues which were raised, I have stated that in the year 1958 in June troops were called in. But the troops did not go and open fire. They created such a terror and then allowed the State police to open fire and kill six people. That happened in Madras. When I referred to these two incidents I really wanted that certain safeguards should be put and that this House should be taken into confidence when troops are called. If the troops

are called and nothing happens, we are satisfied. When the troops are called and there is a loss of human life, naturally we are alarmed; naturally, we are agitated. Instead of having a judicial enquiry to go into this firing what I have stated is: let a committee of Members of Parliament or anybody else go into this and report to this House.

There was a mention about collective negotiation. The question of international relations is one of collective negotiation. The whole question of industrial relations is a question of collective negotiations. When once you combine into a body you get some strength. Instead of opening a fire with your strength you are able to command certain influence and get certain other things. That is the object of collective bargaining. That is why I have used the term "in a collective manner". He was using a counterpoise with some other word.

I was also surprised about the arguments on *bona fides*. He must also give credit to me that I do not want exception to be made in all cases. When violence is let loose, and it can be let loose generally on caste and religion, nobody is in a position to control it. The hon. Minister also knows that when communal passions are roused, when casteism is raised in certain parts of the country there is a lot of violence. So, when communal passions are roused, nobody is in a position to control it. Therefore, I say that in such cases violence will be justified for restoring law and order. That point, instead of meeting with the appreciation of the hon. Minister, has met with certain disapproval. I do not want to use any caustic remarks as he has done today.

I have only one more point. Clause 5 of my Bill deals with section 144. Have I at any time stated that there should not be any imposition of section 144? No. All that I have said is when an order is passed—I have said *ex parte* order must have a limited scope; it is also mentioned in my

[Shri Datar]

Bill—in the first instance it should be for a period of 48 hours. Let him say that it should be for a period of seven days. Why should we have an outer limit of two months, which I am opposing? If it is to be extended beyond two days or, if he chooses, beyond seven days, then there must be sufficient reasons. If there are sufficient reasons, as I have already mentioned, like danger to human life, danger to property, if such things are there, then I concede there can be an extension. But if on the report of a police officer or a report of any other officer an *ex parte* order is to be issued, the matter is no longer in the hands of the executive and it must go to an impartial person. That is why I have suggested the State Government. I am not saying that every issue must come to the Central Government. If you see the wording of my clause carefully, I said the State Government must come into the picture and that the High Court, the judiciary, must come into the picture and then if they are satisfied, then and then only the order can be extended.

16 hrs.

That was the purpose. So, as I have stated, because these four sections have been used for suppressing legitimate and lawful agitations and for suppressing even political parties, modifications and safeguards are necessary. That is the limited purpose with which the Bill has been brought before the House.

I am really happy to see that five or six hon. Members who participated in this debate have welcomed it except the hon. Minister who chose to play some other tune.

Mr. Chairman: I shall now put the motion to the vote of the House.

Shri Braj Raj Singh: Sir, at least when the motion is put to the vote of the House there must be quorum.

Mr. Chairman: There is quorum. Anyway, I am having the bell rung. Now there is quorum.

The question is:

“That the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration.”

The motion was negatived.

16.04 hrs.

ARREST OF MEMBER

Mr. Chairman: Before we proceed with the next item of business, I have a brief announcement to make.

I have to inform the House that at 1.50 P.M. today the Speaker received the following telegram from Bombay dated the 24th February, 1961 (the name of the sender not stated in the telegram):

“Shri Prabhu Narain Singh, Member, Lok Sabha, courted arrest defying Police Commissioner’s prohibitory orders banning processions and unlawful assemblies to Raj Bhavan on 23rd instant at 7.40. P.M. Details follow. Refused to go on bail on his personal bond.”

Shri Braj Raj Singh (Firozabad): The name of the sender is not there?

Mr. Chairman: It has perhaps been mutilated in the course of transmission of the telegram. We will know when we receive the confirmation copy.

16.05 hrs.

HINDU MARRIAGE (AMENDMENT) BILL

(AMENDMENT OF SECTION 23)
by Shri Ajit Singh Sarhadi:

Mr. Chairman: We shall now proceed with the next item on the Order Paper. Shri Subiman Ghose..Absent. Shri Ajit Singh Sarhadi,

Shri Ajit Singh Sarhadi (Ludhiana): Mr. Chairman, Sir, I beg to move:

That the Bill to amend the Hindu Marriage Act, 1955 be taken into consideration.