

SHRI M. C. CHAGLA: Madam, I will be tied up with the Passport Bill here and at 5 o'clock there is a half-an-hour discussion in the Lok Sabha.

SHRI BHUPESH GUPTA: The Passport Bill is not coming, rest assured.

SHRI M. C. CHAGLA: Mr. Bhupesh Gupta has threatened to oppose it vehemently and therefore I have to be here.

SHRI BHUPESH GUPTA: It is not coming up today. Now we are to discuss the Industrial Security Force Bill. If you do not want to discuss it I have no objection.

SHRI M. C. CHAGLA: I thought the Industrial Security Force Bill is finished.

SHRI BHUPESH GUPTA: No, we have only started consideration of the motion to refer it to a Select Committee. We have only just started. Therefore, you can rest assured, Mr. Chagla, that it will not come up today. I can understand if you are under that impression, you are quite right but you can rest assured that the Passport Bill is not coming up today. Therefore you can take leave of us.

SHRI M. C. CHAGLA: Madam, may I proceed on that assumption?

THE DEPUTY CHAIRMAN: That is what Mr. Bhupesh Gupta feels.

THE CENTRAL INDUSTRIAL SECURITY FORCE BILL, 1966—contd.

SHRI M. V. BHADRAM (Andhra Pradesh): Madam Deputy Chairman, this Bill seeks to provide for the constitution and regulation of a Force called the Central Industrial Security Force for the protection and security of Central industrial undertakings. In the statement of Objects and Reasons it is stated that the existing watch and

ward staff of the various Central industrial undertakings is illequipped and not properly trained and so a properly trained Force armed with suitable powers is necessary to safeguard the industrial undertakings, and this Bill may apply to the public sector also. Madam, this Bill appears to be so innocent but it contains many dangerous provisions. The Bill is not meant only for the Central industrial undertakings owned by the Central Government as is stated in the Statement of Objects and Reasons. Though clause 3 says that this Force is for the better protection and security of industrial undertakings owned by the Central Government, clause 14 extends this to the industrial undertakings in the public sector and by clause 2(1) (c) this is made applicable to both Central and State undertakings. Under clause 10(b) it goes even beyond the scope of the Central and State undertakings; it may include private undertakings also. I shall read out clause 10(b):

“(b) to protect and safeguard the industrial undertakings owned by the Central Government together with such other installations as are specified by that Government or any other officer empowered by the Government in that behalf, to be vital for the carrying on of work in those undertakings, situate within the local limits of his jurisdiction.”

Suppose the working of a Central industrial undertaking is dependent on another installation, that installation is also covered by the provisions of this Bill. Therefore there are four categories of undertakings proposed to be covered by this measure. One is Central industrial undertakings owned by the Central Government; the other is the public sector undertakings, the third is State Government undertakings and the fourth one is such installations which are declared necessary for the carrying on the work of the other undertakings.

We were told that the Railway Protection Force was constituted in 1957;

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this is another Force, then the third one and it may go on and on like that. It is said that this Bill gives only such powers which any ordinary citizen of India possesses, that is the right to arrest another person. I do not know how many citizens are conscious of that right and how many are exercising that right. If everybody exercised that right I do not know where we will stand; even for cognisable offences it is not as if everybody exercises that right

In this connection I would like to mention that every industrial undertaking has its own watch and ward staff and their main function is to protect the property and security of the undertaking. If any theft takes place the watch and ward people get hold of the thief and hand him over to the police. If the intention of this Bill is only to give such powers, then there is no necessity for this Bill at all but there is something more serious in the Bill. Clause 11 of the Bill says that any superior officer or member of the Force may, without any order from a Magistrate and without a warrant, arrest any person against whom any reasonable suspicion exists. So even on a mere suspicion one can be arrested. We seriously object to this provision because a Trade Union President or Secretary who happens to be an employee in the undertaking and who is not liked by the Managing Director can be arrested and handed over to the police and they can always say they had reasonable suspicion. It also says that they can arrest any person found taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking such precautions with a view to committing theft. Again it is only mere suspicion or just belief. In the Statement of Objects and Reasons it is said that it is the superior officers who will be empowered to arrest but in the provisions of the Bill it is said any member of the Force can make the arrest. Again clause 12 gives power

to search anybody without a warrant. Frankly I do not understand the real necessity for this Bill at all. The real intention of the Bill is, as we apprehend, to attack the trade union activities and also to use this Force during the period of strikes. The other day when the transport employees strike was going on for 12 days in Andhra Pradesh the policemen were used to break up the strike; they were used as drivers to run the vehicles. So we naturally apprehend this Force will be used to break up the legal strikes and the power that is given to the worker under a statute is being taken away by this. I may for instance point out how the Railway Protection Force is being used. In the Report of the Railway Board for 1965-66 on page 8 it is said:

'In the last few years the State police have been indenting increasingly on the Railway Protection Force. During the years under review the Railway Protection Force extended assistance to the State Governments on their request and assisted the State police in Kerala and West Bengal and Bihar in meeting the situations caused by agitations, hartals and bandhs.'

So this Railway Protection Force has been used to meet such situations arising out of bandhs, etc. Wherever such things occurred whether in Kerala or West Bengal or Bihar the Railway Protection Force has been used. Similarly there is every reason to believe—and we also have the bitter experience of how the D.I.R. has been used not only against political opposition but also against trade unions—that the provisions of this Bill also will be used against lawful trade union activities.

Now coming to the public sector undertakings you know how they are managed in the country. The Managing Directors or the Chairmen of the Board of Directors, most of them, come from a class known as fossilised I.C.S. or I.A.S., who have developed an arrogant attitude. Many of them

do not know anything about the industry they are put in charge. There used to be these feudal landlords and now these industrial lords are coming up. They are independent in their own respective spheres and if this power of the State and the private police is also given to them, we do not know what will happen. Only the other day Mr Lokanath Misra said that there will be a State within a State. Every Central undertaking or State undertaking will become autonomous by itself with the power of managing the entire show and with a police force to arrest people. This is a very dangerous thing. If this Bill in its present shape comes law, it will be an end of the industrial harmony in all the public sector undertakings. It is said that property has to be protected. Yes, the property of every public sector undertaking should be protected—but by whom, from whom and against whom? What is this protection? One is against theft and the other is against sabotage. During the last eight years since the Railway Protection Force has been created we have been spending Rs 11.66 crores on the security department of the Railway Board. How far have we achieved this object? I may quote the figures from the Railway Board's Reports and the Railway Budget. The year when the Railway Protection Force was constituted was 1957-58 and the loss of railway property due to thefts was Rs 14,90,801. In 1964-65 it was Rs 19,11,841. In 1965-66 it was Rs 17,66,594. Pilferage during 1957-58 was Rs 1,78,437, during 1964-65, Rs 3,06,136 and during 1965-66 was Rs 4,37,998. The total loss due to theft and pilferage in 1957-58 was Rs 16,69,234 and during 1965-66 was Rs 22,04,592. In spite of our spending Rs 11.66 crores on the security forces on the Railways, the loss of property due to theft and pilferage has gone up from Rs 16-odd lakhs to Rs 22 lakhs. So, these Forces could not prevent thefts on the Railways. Similarly, these Forces also which are going to be created are not going to solve the problem of theft in indus-

trial undertakings. Why? The first reason is we, as a nation, thanks to the twenty years of Congress rule, have deteriorated in our character. Unless our character improves, unless we are going to improve the moral fabric of our people, thefts are not going to be stopped. If a theft is committed by a managing director, it is not a theft. If it is done by an ordinary worker or an outsider, it is theft and he will be locked up. I will give you an instance. The managing director of a company from my place swindled property of the company to the tune of Rs 50,000. He built his own bungalow, which he still owns. Nothing happened against him, no corruption charges and no penal action, because he was indispensable to the factory or undertaking. So, the Government could not do anything. If people in high positions are not touched, how are you going to improve the moral fabric? I may also quote another instance. I deal with port labour where I find smuggling is going on on a big scale where officers are involved. A particular officer, who is the head of the department, used his subordinate for smuggling foreign liquor bottles. This went on and day this subordinate was caught red-handed. He was fined by the customs department. Now what punishment did the department give him? It was enervated. I reported the matter to the Home Ministry and the Transport Ministry. The Transport Ministry—what shall I say—had the cheek to tell me that the Chairman of the Port Trust was satisfied that the censure punishment was enough. This is the way in which they are tackling the officers who were indulging in smuggling and corruption. How can you expect the moral fabric of the ordinary person or the ordinary citizen to improve, how are you going to stop these thefts? You are not going to stop these thefts and corruption by merely passing this Bill here.

The second thing is sabotage. I think the other day Mr Akbar Ali Khan mentioned the sabotage in Ran-

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chi Probably I do not know whether he is aware of the report of the committee which went into the cause of the sabotage. The committee came to the conclusion that the sabotage was due to two factions in the management, not due to anybody else. What action has been taken against those people who were responsible for the sabotage? Similarly, the other day

SHRI AKBAR ALI KHAN That particular committee has recommended that in addition to the watch and ward, there should be a regularly trained security force

SHRI M V BHADRAM I am coming to that aspect. Fire took place in the Rajasthan atomic plant. Even the Minister could not say was due to sabotage that the fire took place in the atomic power plant. So, in how many cases has sabotage been established? You will pardon my saying it, if the sabotage is from outside, then it can be protected cent per cent. The industry can be protected. I have my own experience. During October and November last when the agitation for a steel plant took place in my State, in my town of Visakhapatnam not even a bolt was tampered with in any industry. The industrial worker himself protected the industry because he was conscious of the fact that if the factory was damaged he would be unemployed the following day. So, he himself stood guard against sabotage. On the other hand if the sabotage is by the worker, no amount of police force or military force can stop it. Therefore, my point is the conscience of the worker should be roused to such an extent that he would protect his own industry, instead of resorting to such methods. This Bill is a slur on their moral character. You only abuse the industrial worker and other people. Therefore as I have said, this Bill is not going to solve the problem of theft or protection of the property of

industries. It may satisfy the powers-that-be.

In this connection how much money are you going to spend? According to the Financial Memorandum attached to the Bill, at the initial stage, we are going to spend Rs 155 crores for seven battalions. The recurring expenditure comes to Rs 118 crores. There will be four or five battalions. So, Rs 4 or Rs 5 crores we are going to spend on these forces. We are spending Rs 11.66 crores on the Railway Protection Force. Probably we may have to spend that much amount on these forces and we may achieve no result. Therefore, my solution to this problem is in all the industries the co-operation of the trade unions should be sought in the proper way. If the worker's conscience is roused, he will protect his own industry from theft, etc. There are many cases where the workers have responded so generously. A call to the workers, particularly in this respect, is necessary. That will be the proper forum, but not this Bill. I, therefore, oppose this Bill in its present form. If the Government at all want to have any force strengthen the existing watch and ward, as it is being done on the Railways. Give them special training and better training in all these. Instead of spending so many crores on the additional forces, train the existing watch and ward and rouse the conscience of the worker to meet the situation.

Thank you

SHRI T V ANANDAN (Madras) Madam Deputy Chairman, much water has flowed under the bridge since the Bill was introduced. I do not find myself in agreement with what has been said by the hon. Members opposite who are doubting everything the Government comes forward to do. Although I belong to the Congress Party let the hon. Members not mistake me if I say I have first-class information of how the Protection Force is functioning. At the time of

introduction of the Protection Force there were also protests like this. Many trade unions doubted that it would be employed against the trade union movement itself. But it is now proved that it is not so. They do not interfere with the legitimate, constitutional trade union activities.

SHRI BHUPESH GUPTA He has first-class information. We have air-conditioned information.

SHRI T. V. ANANDAN Madam, they will have all kinds of information. We have only truth and non-violence to be placed before you. Madam, I will have to point out one thing here. The objects and reasons enumerated here are quite good. Finally they say that the Force will primarily be responsible for the watch and ward of industrial undertakings owned by the Central Government. It is a fact. But what becomes of those watch and ward staff who are already in the employment of the industry? On the Railways an option was given to the watch and ward staff whether they are willing to undergo training under the Protection Force or they would like to be absorbed in the normal categories of the Railways. So here also an option must be given to the watch and ward staff, to those who are willing to come under this semi-military organisation or otherwise. If that is done, I think the retrenchment problem of the watch and ward staff will be solved.

We go to the clauses dealing with the functions of the Force, where powers of arrest and search without warrant have been given to superior officers under specified circumstances, as per clauses 11, 12 and 13. Clause 11(1)(a) says

"Any person who has been concerned in an offence relating to any industrial undertaking referred to in clause (b) or clause (c) of section 10 punishable with imprisonment", etc.

What does clause 10 say? It says at (b)

"to protect and safeguard the industrial undertakings owned by the Central Government together with such other installations as are specified by that Government" etc.,

(c) to protect and safeguard such other industrial undertakings and installations for the protection" etc.

Madam, in clause 11(1)(a) it says, "any person who has been concerned in an offence" and it refers to clause 10(a) and (b). There the offence is not very clearly defined. What sort of offence is it? It is in vague terms. In clause 11(1)(a) it is said "who has been concerned in an offence relating to any industrial undertaking" whereas in clause 10(a), (b), (c) and (d) the offence is not so categorically classified or pronounced to give no room for doubt for any officer to arrest anybody. So, Madam, I think a clarification is very essential so as to remove the doubts created by the hon. Members of the other side.

Then it says in clause 11(2) 'If any person is found trespassing on the premises'—it is good, it is clarified. What the offence is under this Act is very well clarified. Under (2) if any person is found trespassing, it is an offence they say. If anybody is suspected of trespassing on the installation of a public sector undertaking under doubtful circumstances, he can be arrested. But in the other foregoing clauses it is not so clear. In the Security Force they are after all human beings, and prejudices are taking every shape in the country today because of the democratic system of Government that we have given to our people for the last twenty years. Every political party wants its own suzerainty in this country, to rule the country also. But here a sepoy or a Security Force member, whether he be an Inspector or Commissioner or Assistant Security Force Officer, can

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also be prejudiced. Therefore, the Bill should provide very categorically what kind of offence it is for enabling him to arrest. However, this Bill is going to be referred to the Select Committee, and the Committee should take note of it. It also says about powers to search without warrant.

"Whenever any superior officer or any member of the Force not below the prescribed rank, has reason to believe that any such offence as is referred to in section 11 has been or is being committed and that a search warrant cannot be obtained without affording the offender an opportunity of escaping or of concealing evidence of the offence, he may detain the offender and search his person" etc.

Madam, this I think takes away the individual fundamental right given to everybody in this country. I think a search warrant means, as has been very well stated by the friends opposite, an honest man can be suspected because of prejudice. A real trade unionist whether he believes in the Gandhian philosophy or the Communist philosophy or the new philosophy introduced by the SSP, can also be suspected. I think, Madam, anybody can be suspected by the management or the powers that be. They can instruct the Security Force Officer to arrest a good trade union leader who is very influential in the sector. So, Madam, all these points must be very well defined before this Bill is made into an Act.

One more point that I want to point out here, Madam. A clause must also be introduced here that under section 22 of Industrial Disputes Act constitutional agitations, legal strikes and demonstrations should not be interfered with at all. Unless that guarantee is given, I think, as our other friends suspect it may give room for doubt because, as you know, all the States are not governed today by the party in power. There are non-Congress Governments also which

withdraw the State's right to interfere with trade union disturbances as for instance West Bengal—I think this morning's paper says that that Government have realised it and they have withdrawn that order. So Madam, when this Bill takes shape in the order that we expect, the right should be very clearly defined that for legal, constitutional and justifiable actions of a trade union the Security Force should not interfere, unless it turns into violence and destruction of public property. The Government is of opinion that the property of the public must be safeguarded, and with that hope I think the Government has come forward with this Bill because Government today realises that the entire property in this country belongs to the public and it must be safeguarded whether the Congress Party is in power or not. The Congress Party realises and feels that the property should be safeguarded if the other parties in course of time do take over charge, the entire thing should be in order and run on behalf of and for the welfare of the society which we all today represent. Thank you.

THE DEPUTY CHAIRMAN Mr Chitta Basu

I hope that Members will not mind a little restraint on time.

SHRI CHITTA BASU (West Bengal) Why?

THE DEPUTY CHAIRMAN I am just seeking your co-operation because we were given one day, we must finish it soon.

SHRI CHITTA BASU Madam Deputy Chairman we are discussing a very important Bill and I think the Government should take note of the aspects on which many trade union leaders have expressed their opinion. I rise to oppose the motion for referring the Bill to a Joint Committee and I want to express in this House the reasons for my opposing that motion.

The object of the Bill, as is known, is to ensure the better protection of the industrial undertakings of the Government of India as well as of the States. So far as the object is concerned, there cannot be two opinions, particularly because the public undertakings are national properties, their assets are national assets. Therefore, there cannot be two opinions as to the necessity for properly ensuring the security of these national assets and their property. Moreover, we are also to see that the public sector is not only expanded but it will have to be expanded to such a position whereby it may have a commanding height to regulate or to govern or to completely predominate over the private sector also. Therefore, it is all the more important; since we feel that the public sector will be expanded, the necessity of ensuring its security becomes all the more important.

But we object particularly to the method of ensuring that security. The Government propose to set up a Central Industrial Security Force which, we feel, will be of a para-military type, and that may be used against the legal and legitimate trade-union movement. Not only that. Madam, you may understand—particularly at the present moment, we can ensure the proper security of the assets of the Central undertakings if we can cultivate or inculcate the idea of oneness and of involvement of the workers about the security. If you go into the working of the Central industrial undertakings or the State Government's industrial undertakings, you will note that the working of those undertakings are not satisfactory and that their efficiency has to be improved. But how can we improve the efficiency? The efficiency of the Central undertakings or the State undertakings can only be ensured if co-operation is obtained from the side of the workers. Now, what we find is that most of the Government undertakings are running with a top-heavy administration. If the Government is really serious and

sincere about ensuring better security for the national assets and properties, they should embark upon the programme of democratisation of the administration of the undertakings, and in that process of democratisation, the workers should be given their due share, they should be associated with the administration and they should have a sense of involvement and oneness in the industry itself. But from the way in which this Bill has been framed, it cannot serve the purpose of securing the unstinted support of the workers because this type of a Central Security Force will not bring about cordial relations between the employer and the employee, it will not bring about tranquillity and peace, but it will unleash the force of disorder, the force of chaos, and the force of constant friction and conflict between the management and the workers. Therefore, if we are really serious about ensuring their proper security, the entire outlook has to be changed from the point of view of involving the workmen in the administration of the concern itself.

Madam, you will agree with me that if the workers are to be involved in the administration, they should be proper trade-union rights. You will be astonished to see that the legal trade union rights that the workers of the other industries are today enjoying are going to be taken away from the Central Industrial Security Force which they propose to set up; they are being denied certain human democratic rights. In this Bill, Madam, you will find—the hon. Minister will agree with me—that the proposed Force will have no democratic rights. Kindly look at clauses 19 and 20 of the Bill. Clause 19 says:

“The Police (Incitement to Disaffection) Act, 1922, shall apply to members of the Force as it applies to members of a police force.”

Clause 20 says:

“Nothing contained in the Payment of Wages Act, 1936, or the

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Industrial Disputes Act, 1947, or the Factories Act, 1948, or any corresponding law relating to investigation and settlement of industrial disputes in force in a State shall apply to members of the Force."

That means that they are also being denied of their democratic and human rights to have the benefits of the laws of the land as is the case in regard to other sections of workers. Why are they being isolated from the other working masses? Not only that. In this way, this central Security Force is being created as a Force of coercion, as a Force of intimidation, as a Force which may be used as and when a particular management wants to destroy the legal legitimate trade union movement. Therefore, I say that if we are really serious and sincere about bringing about a new relationship between the workers engaged in Government undertakings and the management, the approach has to be changed; the approach should not be of coercion, the approach should not be of imposition of force, the approach should not be an approach of intimidation. The whole concept of the Bill is based on that. You would agree with me, Madam, that if the workers are discontented, if they do not feel the sense of involvement in the industry, no amount of force can quell that discontent, no amount of force can quell their restiveness. Therefore, what is necessary for ensuring the security of the central Government undertakings is to bring about radical changes in their attitude towards the workers, which hopelessly lacks in this Bill. Therefore, this Bill cannot fulfil the purpose for which it is being proposed. No useful purpose will be served by this Bill, particularly when the security of the Central undertakings is concerned.

Madam, our Government is always saying that it is short of funds. This

Government cannot provide for the increase of dearness allowance for the State Government employees, this Government cannot provide special grants or aid for the drought and famine-affected people, this Government and this Home Ministry cannot arrange for proper funds for the housing of Delhi police personnel, which problem, they say, they are seized of. But now this Government comes out with the proposal of spending one crore and fiftyfive thousand rupees to have another set of police force purposefully with the object of crushing the legal trade union movement. Not only for that purpose, as I said, this Force can be used not only for the Government of India undertakings but for the State Government undertakings also. Madam, maintenance of law and order, maintenance of peace or tranquillity, or the regulation of employee-employer relation within the State as State subjects. Why should the Central Government Industrial Security Force be deployed for maintaining law and order or ensuring security in the undertakings not belonging to the Government of India? Therefore, Madam, it amounts to interference with a subject which is the responsibility of the State Governments.

Before concluding, I should say that the Bill is anti-democratic. It smacks of interference with the States. It also goes against the democratic and fundamental rights of the personnel of the Force itself and, therefore, it is inhuman. Madam, I am opposed to the motion for referring this Bill to the Joint Select Committee. I plead for withdrawing the Bill. It should not be on the Statute Book of our country, because it is a slur on our democratic ideas, on our democratic sentiments.

With these words I appeal that the Bill be withdrawn.

श्री बी० एन० मंडल (बिहार) : मंडल डिप्टी चेयरमैन, जो यह बिल अभी इस सदन के सामने है, इसको पुर स्थापित करने के समय कोई विशेष कारण बतलाना चाहिये था कि अभी जो व्यवस्था पब्लिक अंडरटेकिंग में या गवर्नमेंट अंडरटेकिंग में चल रही है, उस व्यवस्था में ऐसी कौन सी गड़बड़ी आई है जिस गड़बड़ी की वजह से नया कानून बनाने की जरूरत हुई, मगर ऐसा कोई विशेष कारण नहीं बतलाया गया था। ऐसा कारण बतलाना चाहिये था कि चोरी बेसी होती है या कोई इस ढंग की बात होती है जिसमें अभी का जो इन्तजाम है वह इन्तजाम ठीक काम नहीं कर रहा है, इस लिये बेंटर इन्तजाम की जरूरत है जिस से यह गड़बड़ी रुक सकती है। लेकिन इस प्रकार की कोई बात इस बिल के पुर-स्थापित करने के समय नहीं कही गई है। इस लिये मैं चाहता हूँ कि सरकार इस बिल को वापस ले ले।

इस बिल का विरोध मैं इसलिये भी करता हूँ कि चूँकि जो बात कही गई है इस बिल में सीक्योरिटी फोर्स के बारे में वे बातें पुलिस फोर्स और पब्लिक आर्डर के सम्बन्ध में हैं लेकिन अभी पुलिस डिपार्टमेंट और पब्लिक आर्डर दोनों बातें स्टेट गवर्नमेंट के लिये संविधान में रिजर्व कर दी है। मालूम पड़ता है कि इन दोनों बातों के बारे में अब सेंट्रल गवर्नमेंट खुद अपना प्रबन्ध करना चाहती है, कुछ ऐसी बात मालूम पड़ती है इस बिल के जरिये। संविधान के सेक्शन ७३ के दूसरी लिस्ट के आइटम एक और दो नम्बर में कहा गया है कि पब्लिक आर्डर और पुलिस, यह स्टेट गवर्नमेंट के इन्तजाम में रहेगा लेकिन इस बिल में जिस सीक्योरिटी फोर्स को सरकार खड़ा करना चाहती है, उसको वह काम देना चाहती है जिस काम को सम्बन्ध है पब्लिक आर्डर से और पुलिस के काम से। इसका मतलब यह हुआ कि स्टेट गवर्नमेंट्स जो पुलिस की व्यवस्था या

पब्लिक आर्डर की व्यवस्था कर रही है, उस व्यवस्था में सेंट्रल गवर्नमेंट दखल देना चाहती है इस बिल के जरिये जो कि नहीं होना चाहिये क्योंकि कही भी जो जनतंत्र चलता है उस जनतंत्र में एक चैक बैलेस रखने की जरूरत पड़ती है। हमारा जो संविधान है उसमें भी चैक एंड बैलेन्स की व्यवस्था है। सब से पहले जो जनता के अधिकार हैं वह संविधान के जरिये दो जगह केन्द्र और राज्य में बांट दिये गये हैं। फिर भी जितना अधिकार है उसको कुछ तो लेजिस्लेचर के जिम्मे कर दिया गया है, कुछ जूडिशियल के जिम्मे कर दिया गया है, कुछ एक्जीक्यूटिव के जिम्मे कर दिया गया है और उससे भी अलग एक व्यवस्था आडिट वगैरह के बारे में कर दी गई है। इसका मतलब यह है कि जनता के जो अधिकार हैं संविधान के अनुसार उन अधिकारों को अलग अलग महकमों में बांट दिया गया है। इस तरह से चैक एंड बैलेन्स की व्यवस्था संविधान के जरिये की गई है अब जो यह बिल आया है इसमें वह जो चैक एंड बैलेन्स की व्यवस्था की कल्पना संविधान के जरिये की गई है उसको उलटपलट कर दिया गया है। इसलिये मैं इस बिल का विरोध करता हूँ।

ऐसा भी मालूम पड़ता है कि अब जो स्थिति आ गई है उस स्थिति में जो पहले बात थी कि केन्द्र में जिस पार्टी के हाथ में शासन होता था उसी पार्टी के हाथ में राज्यों में भी शासन होता था, अब उस बात में गड़बड़ी आ रही है और इस बिल से ऐसा मालूम होता है कि जो स्टेट पुलिस है, उन स्टेट पुलिस के पैरलल कोई एक दूसरी पुलिस सेंट्रल गवर्नमेंट कायम कर रही है जो करना किसी भी हालत में अच्छा नहीं है।

दूसरी बात यह है कि इस बिल में जो यह सीक्योरिटी फोर्स कायम हो रही है यह

[श्री बी० एन० मंडल]

सीक्योरिटी फोर्स, जो पब्लिक अंडरटेकिंग्स है या जो सेंट्रल गवर्नमेंट को अंडरटेकिंग्स है, उन अंडरटेकिंग्स में जो मजदूर काम करते हैं और उन मजदूरों के लिये जो अब सविस की व्यवस्था है या उनकी जो पे वगैरह इन सब की वजह से जब वे आंदोलन करेंगे या जो वहाँ के मैनेजिंग डाइरेक्टर या जो बड़े अफसर उम मैनेजमेंट के अन्दर होंगे उनकी मनमानी के खिलाफ अगर मजदूर कभी आवाज उठावेंगे तो उनको दबाने के लिये, इस्तेमाल किया जायगा। इस लिये मैं समझता हूँ कि जो हिन्दुस्तान में जनतंत्र कायम है, उम जनतंत्र में कोई भी आदमी कोई काम कर सकता है, कोई आदमी खेन जोत सकता है, कोई आदमी मजदूरी कर सकता है, कोई आदमी प्राइवेट फर्म में काम कर सकता है, कोई आदमी किसी पब्लिक सेक्टर में काम कर सकता है या जहाँ हो वहाँ कर सकता है, कोई राष्ट्रपति का काम कर सकता है, कोई प्राइम मिनिस्टर का काम कर सकता है या कोई कहीं काम कर सकता है। इन सारे कामों की जरूरत है देश को चलाने के लिये, समाज को चलाने के लिये और समाज को चलाने के लिये जो हक दिया गया है सविधान में उसके मुताबिक सारा काम चलना चाहिये। लेकिन आज चाहे पब्लिक सेक्टर हो, चाहे प्राइवेट सेक्टर हो, इन सब जगहों में जिम ढग से काम चल रहा है, वह सविधान की आत्मा के अनुरूप नहीं चल रहा है। ऐसी हालत में सविधान की स्प्रिट के मुताबिक अगर कोई आदमी अपना जीवन बिताना चाहें और उसमें अगर कोई बाधा उत्पन्न हो और उम बाधा के विरोध में अगर वह अपनी आवाज को उठाता है या आन्दोलन करता है और उम आन्दोलन को दबाने के लिये अगर कोई इन्जाम किया जाता है, तो मैं उमको गलत समझता हूँ। इसमें यह भी मालूम पड़ता है कि जो प्राविजन इसमें दिया गया है उमके अनुसार वहाँ पर काम करने वालों को जब चाहे तब निकाला

जा सकता है। निकालने के पहले ऐसी व्यवस्था होनी चाहिये कि उनसे एक्सप्लेनेशन पूछा जाये, लेकिन ऐसी कोई व्यवस्था इसमें नहीं है। अपील की व्यवस्था। इस ढग से हम समझते हैं कि जो बात हो रहा है वह सारी बात ऐसी है कि हिन्दुस्तान में सही ढग से कोई बात नहीं चले और उसके लिये अगर कोई आन्दोलन हो, तो उम आन्दोलन को दबाने के लिये एक षडयंत्र खड़ा किया जा रहा है।

दूसरी बात यह है कि जो यह सीक्योरिटी फोर्स कायम हो रही है यह सीक्योरिटी फोर्स सेंट्रल गवर्नमेंट के अन्दर रहेगी और इसके लिए खर्च भी करना पड़ेगा और वह पब्लिक सेक्टर की अंडरटेकिंग्स की जो इनकम है उस पर लादा जायेगा। आज देश की जो हालत है उसमें हर चीज की कीमत बढ़ गई और उस कीमत को बढ़ाने के लिये यह नई चीज की गई है। इसलिए इन सारी बातों को देखते हुए मैं समझता हूँ कि इस बिल को सरकार को वापस ले लेना चाहिए।

इसके अन्दर संवैधानिक गड़बड़ी के बारे में हाउस में पहले भी कहा गया है। कुछ लोगों का कहना है कि अगर संवैधानिक गड़बड़ी इम विधेयक में है, तो उसके बारे में अभी कुछ बोलने की जरूरत नहीं है। जब कानून पार हो जायेगा सब लॉ कोर्ट में उसको चैलेंज कर सकते हैं ? यह भी कहा जाता है कि इस हाउस को देखने का अधिकार नहीं है। यह भी कहा गया है कि जब कि यह बिल इंट्रोड्यूड किया जा चुका है उस तरह की आपत्ति नहीं लाई जा सकती है। मेरा कहना यह है कि कोई कानून बनाने के पहले इन सारी बातों को देखने की जरूरत है क्योंकि जो काम यहाँ पर हम लोग कर रहे हैं, वह इसलिए कर रहे हैं कि उससे जो हम जो काम करना चाहते हैं वह जल्दी में जल्दी हो उमको लागू करने के समय गड़बड़ी न हो। अगर यह डिफेक्ट रहेगा तो गड़बड़ी हो सकती है। हो सकता है कि फिर उम गड़बड़ी को दूर करने के लिए आना पड़े या हो सकता है

कि नया कानून बनाने की जरूरत हो फिर से नया खर्चा करना पड़ेगा, नई परेशानी होगी। मेरा यह भी कहना है कि किसी भी स्टेज में—चाहे इंट्रोडक्शन के पहले या इंट्रोडक्शन के बाद—पाम होने के पहले किसी भी समय संवैधानिक आब्जेक्शन लिया जा सकता है, कानून बनाने के बाद भी उसमें आब्जेक्शन लिया जा सकता है। इसलिए जहां तक संविधानिक आपत्ति का मवाल है, वह किसी भी समय ली जा सकती है। इसलिए यह व्यवस्था हो सकती है कि अगर कोई गड़बड़ी कानून की मालूम पड़ तो इस लेजिस्लेचर का एक मेम्बर जो एडवोकेट जनरल भी है—वे पार्लियामेंटरी मेम्बर समझे जाते हैं—उसकी राय ली जानी चाहिए। वह व्यवस्था भी नहीं की गई है। एक दूसरी व्यवस्था संविधान में है कि अगर इस ढंग की गड़बड़ी हो, किसी कानून के बारे में कोई साफ बात नहीं मालूम पड़ती हो, तो राष्ट्रपति को खबर दे और राष्ट्रपति के जरिये सुप्रीम कोर्ट की राय ली जाय। जब संविधान के अन्दर इस तरह की व्यवस्था है तो वह क्यों की नहीं जाती, यह बात मेरी समझ में नहीं आती है।

SHRI VIDYA CHARAN SHUKLA: May I make a submission, Madam? The Business Advisory Committee originally fixed one day for discussion on this Motion. Now we have decided that this Bill will go to the Select Committee and after the Select Committee's report is presented to this House, the House will have again a chance of debating and passing this Bill. May I request the hon. Members of this House, through you, that we may try to finish it by 5 o'clock to-day?

श्री राजनारायण आन ए पाइन्ट आफ आर्डर, मैडम। कोरम नहीं है।

उपसभापति : कोरम नहीं है ?

सरदार रघुवीर सिंह पंजहजारी : पहले से कोरम है।

श्री राजनारायण कितने का कोरम होता है, पंजहजारी साहब ?

सरदार रघुवीर सिंह पंजहजारी : 23 का।

THE DEPUTY CHAIRMAN: Mr. Rajnarain, you have not seen behind you. There is quorum in the House. Mr. Kesavan.

SHRI KESAVAN (THAZHAVA) (Kerala): Madam, the last day when discussion was going on, several Members of this House questioned the competency of this House to consider this Bill because they said it was opposed to the provisions of the Constitution. Mr. Sinha, a Congress Member on the other side, also raised the very same question and asked that the Attorney-General should be asked to explain the Constitutional position. After that, while replying, the Law Minister did not say anything in reply to that. I submit that this Bill is opposed to the provisions of the Constitution. Of course, the Bill is styled as 'Security Force Bill'. But a reading of the Bill will clearly go to show that the promoters of the Bill intend to organise a parallel police force with wider powers. The other day, the Law Minister said that any citizen has got the right to arrest any person. To-day, the mover of the Bill, the Minister, also said the same thing. If there is a cognisable case, any citizen can arrest the offender if no member of the police is present. But a citizen, if he makes an arrest, does so on his own responsibility and he will be held liable both criminally and also for damages, if the arrest is not warranted. Under the provisions of the Criminal Procedure Code, a police officer or any member of the police force, if he makes an arrest, is certainly exonerated from all liabilities if he does the act *bona fide*. In this Bill also, the very same provision is included. Any member of the Security Force, if he makes an arrest, is exonerated from all liabilities. But no private citizen gets such a right. So, Madam, the statement made by the Law Min-

[Shri Kesavan (Thazhava)]

ister yesterday and also by Mr. Chavan to-day, does not in any way help the position—that any citizen can arrest a person who has committed an offence and the very same power alone is given to the members of the Security Force; it is not.

Then under the Constitution, Public Order and Police are two items vested in the States. Only the States have power with regard to those matters. If we consider those matters, certainly we will be usurping the powers vested in the States and we will be going against the provisions of the Constitution. Certain hon. Members on the other side felt that we have got the right. They also said that to safeguard the Central industrial undertakings, a Security Force is necessary. But what I have to submit is that the labourers who work in the Central industrial undertakings and also their leaders are the persons who are more interested in the welfare of the public sector. The persons who oppose this public sector, in fact, are the promoters of this Bill. The workers and their leaders will never cause sabotage in such undertakings. Because of their cry, and as a result of the agitations carried on by them, at least some consideration is shown in that direction. So to say that they will cause sabotage, is just an impossibility. But the managers who are appointed there to safeguard the interests of these industrial undertakings really sabotage in various ways. They appoint the people, their people's people and the Minister's people in those undertakings and they destroyed everything and cause loss or damage to the undertakings. They want to see that the public sector undertakings run at a loss. So they do all these things. Really the workers and their leaders are not causing sabotage; it is stated that it is for the purpose of preventing thefts and mischief within the precincts of the undertakings that these Forces are constituted but no power

on earth can stop these thefts. From the times of the Adam and Eve thefts are going on and they will continue. For preventing thefts no such Force is necessary. We can appoint some ex-servicemen, retired Policemen, etc. They are trained hands and that is enough. The watch and ward people who are there can do this if they are vigilant enough. In our parts, in Kerala, we appoint gurchas because they are very vigilant and they will be watching throughout the night to see whether anything is going on. So that can be done.

In the past 20 years, what was going on in this Government? They were sabotaging the national prosperity and unity and they have sabotaged the public sector and they have done all this mischief. Now they want to create this new Force with extraordinary powers which even the Britishers did not dream of giving to the police. By investing all these powers on this Force they want to create a Force even in the States against the powers vested in the State Governments and with a view to defeating the labourers. From the speeches made here I find that the labourers and their leaders are taken as anti-social elements. In certain speeches I heard they used the expression anti-social. What is meant by that? What is the intention of making such an expression? 'Anti-social' according to them, are those who believed in socialism. Those who are opposed to socialism must say that the labourers and their leaders are anti-social elements and so they say like that. Nobody in these days can expect the labour to behave in that way. Nobody can bring the labourers in the category of slaves. That is not possible. To safeguard the interests of the public sector the Central Government need appoint only efficient ex-servicemen, retired police officers and such others and also appoint as Managers and Managing Directors only those who

are honest and who believe in public undertakings and who will promote the interests of the public sector undertakings, not the enemies of socialism. If that is done, everything will be all right.

THE DEPUTY CHAIRMAN: Mr. Mitra. I think we have finished one day that was allotted to this Bill. There are many names here. If you feel that we should now close . . .

SHRI BHUPESH GUPTA: No. There should be a reasonable and fair debate on a motion like this. It cannot be hustled through. We have only begun.

THE DEPUTY CHAIRMAN: We are not hustling through. It is my opinion and an impartial opinion. You may express your opinion. The general convention has been that those who have been put on the Select Committee do not speak at this stage because they can speak after they have served in the Committee.

SHRI BHUPESH GUPTA: Then we change the list.

THE DEPUTY CHAIRMAN: Then I shall give everybody 10 minutes.

SHRI BHUPESH GUPTA: No, I shall require one hour. We are not going to speak for 10 minutes only, over such a controversial measure. If that is your contention then change the names but as you know in the I. D. Act . . .

श्री राजनारयण इस पर तो बहुत लम्बी बहस में जाना होगा; क्योंकि जो सेलेक्ट कमेटी में सदस्य हैं उन्हें तो बोलना चाहिये कि हम इन कमेटी में क्यों जा रहे हैं।

उपसभापति : मैं तो कंवेन्शन की बात करती हूँ।

श्री राजनारयण : कंवेन्शन है तो गलत है।

THE DEPUTY CHAIRMAN: If you want to throw the Rules of Procedure in the dust-bin, that is your work-out. I am appealing to you as a parliamentarian.

श्री राजनारयण : देखा जयें कि मंत्री जी मूव करते हैं कि इसको ज्वाइंट सेलेक्ट कमेटी में भेजा जाये और अब मंत्री जी का भी नाम ज्वाइंट सेलेक्ट कमेटी में रहेगा तो अगर यह कंवेन्शन है तो मंत्री भी नहीं बोलेगा।

उपसभापति : मंत्री तो एक घंटा नहीं बोलेगा।

श्री राजनारयण : मगर सेलेक्ट कमेटी में जिनका नाम हो उनका पूरा अख्तियार है कि वह अपने मन का इजहार करें कि सेलेक्ट कमेटी में इसका क्यों जाना जरूरी है, वह अपने प्वाइंट को रखें, हम अपने प्वाइंट को रखें।

THE DEPUTY CHAIRMAN: I am appealing to you. I understand you but I am only talking of the conventions of this House. Mr. Gupta is aware of the conventions of this House.

SHRI BHUPESH GUPTA: I am aware of many instances when Members proposed for the Select Committee have spoken.

THE DEPUTY CHAIRMAN: We shall try to put a limit to come within the time . . .

SHRI BHUPESH GUPTA: You are again confusing. Time-limit has nothing to do with convention.

THE DEPUTY CHAIRMAN: The time allotted is . . .

SHRI BHUPESH GUPTA: Yes. We are aggrieved that this is a serious matter and the very fact that the Government had changed its mind for taking it to the Select Committee shows that the matter is serious. There should be fair and free discussion and parliamentary convention demands it.

SHRI P. C. MITRA (Bihar): Madam Deputy Chairman, I rise to support the motion moved by the Minister for referring the Bill to the Select Committee. I am afraid that there has been much misunderstanding about the scope of the Bill. At the same time if the Government had, at the outset clearly stated what led the Government to bring this Bill, then perhaps the Opposition also would have fully cooperated with the provisions of the Bill. The Statement of Objects and Reasons is so innocuous that there is hardly any scope for taking objection but in certain provisions of the Bill there are some matters to which some Congress members even have taken exception and I am afraid their objection has some basis. I would first state what led the Government to bring forward this Bill. Every Member of the House is aware that there were repeated fires in the Heavy Engineering Corporation and after the second big fire in which about Rs. 45 lakhs worth of machinery was destroyed the Government appointed a former High Court Judge—Shri B. Mukerjee—to enquire into the fire that occurred in Ranchi on 29th January 1964. Mr. Mukerjee submitted a report and made many recommendations to the Government. In the course of his recommendations on page 100 he has said:

"Leaving security in the hands of the various undertakings is, in my opinion, fraught with many dangers. The experience has shown, I believe, sufficiently clearly that sabotage was a growing menace in respect of these undertakings . . .

"The amount of money which has already been spent on these Undertakings and the amount which will henceforward be spent cannot brook any vacillation in this matter. I believe that as days go by and these Public Undertakings come into production, they are likely to raise jealousies in some of our neighbours—this would pose an additional Security problem.

On a consideration of the various matters relevant to this question, I think that it was necessary to raise a 'Central Security Force' which should be recruited from all over India. This force should be trained at a Central Establishment by specialists, and these trained forces should, thereafter, be deployed for duty in the various Undertakings according to their needs. This Security Force should remain for the purpose of appointments, promotions and discipline under the control of the Central Organisation. This scheme would, according to my opinion, also hold good for the Fire Fighting Services which were, in essence, a part of the Security Services."

I am glad that the hon. Minister, in his speech while moving the Bill, has said that the Fire Fighting Services will also be included in this Force.

In another place Mr. Mukerji has said regarding security arrangements of the Heavy Machine Building Plant of the Heavy Engineering Corporation:

"There was no training given to the Security Guards though Major Mayne" (the Chief Security Officer) "stated that some training was given to them. The Security Guards, that I examined, deposed before me, without exception, that they had been given no training."

This showed that the Security Guards were appointed there without any training. And Government is now going to provide all the Undertakings with trained Security Guards. Of course an objection was raised and it was asked why the State undertakings also should be asked to accept this Force. But there is a provision in the Bill clearly stating that only those Undertakings which will ask for these guards will be provided the guards and that no undertaking will be forced to accept these guards. But I think, Madam, that at least all the Central Undertakings should come

under this Security Force Bill, and should be compelled to accept these Security Guards as it was proved that, after this inquiry also there was again a fire and later on a person was apprehended there and from his statement some persons were arrested and a case—a conspiracy case—is now going on at Ranchi of course after two years of Police investigation. This shows that these trained Security Guards were necessary. But Government failed in its duty to provide them trained guards beforehand. Also it is strange that Government did not learn by experience and though Mr. Mukherjee, a former Judge, who inquired into the matter and sent us a report, had made trenchant criticism against the Chief Security Officer, Major Mayne he is still there, though some other officers have been transferred or given other jobs or have been relieved of their duties, this Chief Security Officer is still there in the same position although, again, everybody thinks that he is good for nothing, and due to his weakness and favouritism some wrong persons had been recruited as Security Guards, even persons who had been previously convicted had been appointed and that therefore repeated sabotage or fire could not be stopped there.

Then I must say that drafting of the Bill was not good. Government spokesman have said in support of this Bill that as every citizen has got the right to arrest a person under certain circumstances these security forces also be given such powers. But that right goes further here, in clauses 11, 12 and 13, in its application to this Security Force. It says in clause 11 that a member of the Force may, "without any order from a Magistrate and without a warrant," arrest any person, etc. Why have you put in these words here? You could simply say that such offenders could be apprehended and searched, but when you put it that "without any order from a Magistrate and without a warrant" you can arrest

or search a person then certainly it has got scope for creating some suspicion. Therefore it seems to me that clauses 11, 12 and 13 could be put together and it could be said that if there was reason to believe that a person was going to do some harm to the property of the undertakings then he could be arrested, and the details need not be mentioned here whether he was stealing the property, or concealing his presence with a view to committing theft of or damage to property etc. At the same time the alleged thief of suspicious character should be taken to the police station as early as possible. All these details should not be there, such as 'punishable with imprisonment for a term exceeding six months or against whom a reasonable suspicion exists of his having been so concerned' etc. in clause 11. The provisions as they are, seem to be too wide and I think that the Select Committee will go through these provisions and make the necessary amendments where necessary. Of course the object of the Bill is very good but the objectives of the Bill could be attained without making so many provisions of a wide nature.

Besides, these security guards should not get immunity for whatever they do. Now a citizen has got the right to arrest an offender under certain circumstances but then if he wrongfully arrests a person, then he is liable to damage. In the same way, if now the Government has come for a new police force it must state the position clearly. If it is only a Security Force, just like the watch and ward force and a trained one, then this Security Force should not be given this protection by this protection for doing anything according to them, in good faith? Why if they did this and that in good faith then they will not be answerable to anybody? These things should not be there.

[Shri P S Mitra:]

With these words I support reference of the Bill to the Select Committee

THE DEPUTY CHAIRMAN Mr Mallikarjunudu Please make your remarks very briefly.

SHRI K P MALLIKARJUNUDU (Andhra Pradesh) Madam Deputy Chairman in the beginning I had no intention of speaking, but as some of the Members raised some constitutional questions I was impelled to say a few words. From the speeches of the hon Members on the constitutional aspect of the matter I find two lines of contention. One is that Parliament is not competent to legislate on a matter like this. Another line of argument is that, even though it is legally competent, it violates certain provisions of the Constitution.

I would like to confine myself to the constitutional aspect of the matter and I do not want to deal with the merits of the Bill. The first question is whether Parliament has the legislative competence in this matter. That is the first question raised by the opposition Members. In this connection they stated that the subject is really "Public Order" or 'Police' which is a State subject, on which the State Legislature alone is competent to legislate, and not the Parliament. In that connection I would like to say that the Centre is competent and the States are not competent. That is my primary position in this matter.

Madam Deputy Chairman, you are aware that our Constitution is a federal one and among federal constitutions there are two types. One is the Canadian model and the other is the Australian model. So far as the Canadian model of constitution is concerned the Centre is made strong. So far as the Australian type is concerned the States have been given certain special powers. Our Constitution-makers thought it fit to adopt the Canadian model, thus making the Centre strong and not weak. That is the underlying position of our Constitution, based as it is on the Canadian model.

Madam Deputy Chairman, you are aware that in the Canadian type of Constitution the residuary powers are vested in the Centre. Similarly our Constitution also vested the residuary powers in the Centre by article 248. Apart from that, if you analyse and examine the entries in the Lists, that is to say, the Union List, the Concurrent List, the State List, you will clearly find that there is entry 97 in the Union List of the Seventh Schedule. If permitted I will invite your attention to this entry which runs as follows:

9. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists."

If we look at article 248 which vests the residuary powers in the Centre, we find that it reads as follows:

'248 (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists."

That being the case we have to examine whether this Bill violates any of the entries in the State List. It has been suggested that entries 1 and 2, namely Public Order and Police, are in the State List and as such Parliament has no power to legislate. That is the gravamen of the contention put forward by the Members of the Opposition. Whether this Bill deals with the Police or not is the question. Our friends wanted to argue that because this Bill vests certain security forces with the power to arrest, and search, it must be deemed to be dealing with Police. I wish to argue that that is not the correct position. Madam Deputy Chairman, you know that there are many Central laws, to give one example, the Indian Opium Act, where certain powers have been given to certain officers not being in the Police. These officers have got the

power to search, to seize and to arrest. Such powers have been conferred upon officers not being police officers. This has been done in various Central Acts. I am a criminal lawyer and I know a bit of criminal law. I have dealt with many cases where the courts have held that they are not police officers. That being the case, is it possible to argue that this Bill by creating a force which is vested with the power to search, seize and arrest, will tantamount to creating a police force. Will it constitute the police within the meaning of the term 'police' mentioned in List II? In my humble opinion, if you want a particular force to be a police force, you have to see whether it is vested with the powers of investigation. The mere conferment of power to search, seize or arrest does not make a force a police force. What really matters and what really constitutes it into a police force is the conferment of powers of investigation on that force. If no powers of investigation are conferred, simply because there is the power to arrest would not constitute it into a police force. That is my humble opinion and that is my contention.

Of course, there is entry 1 in the State List which speaks of public order. I submit that the subject with which this Bill deals does not come under "public order." Public order is mentioned in sections 144 and 145 and other sections of the Cr. P. C. and when there is breach of the public peace then the State Government comes in with its powers. But so far as the provisions of this Bill are concerned, there is no question of any police or public order, which come under the meaning of entries 1 and 2 of the State List.

The hon. Law Minister the other day stated that it may come under entry 32 of the Union List. I agree with him. But even if for the sake of argument it is held that it does not come within the purview of entry 32, I would like to submit that it is a clear case of residuary power. It is clear that it comes within the ambit of the resi-

duary power vested in the Centre by virtue of article 248 of our Constitution and entry 97 of the Union List in the Seventh Schedule. That being the case I have no doubt in my mind that this Bill does not cover any subject within the exclusive competence of the State Legislature. On the other hand it is covered by entry 32 of the Union List if not by the residuary power vested in the Centre. Therefore, so far as the legislative competence aspect of the matter is concerned, I have absolutely no doubt in my mind that Parliament is competent to legislate.

The second aspect of the matter is whether it violates certain provisions of our Constitution. Shri Rajnarain mentioned articles 14, 22 and so on. His points have been replied to and I do not want, and I do not think it is necessary for me, to reply to his points. There is absolutely no doubt that those articles are not violated. As for article 14, there is no discrimination so far as arrest is concerned. There is absolutely no violation of any article of the Constitution. I do not want to take more time because there is not much time and I would only like to submit that either from the point of view of legislative competence or from the point of view of its not being consistent with the Constitution, this Bill cannot be challenged. It is perfectly constitutional and it cannot be challenged on the ground of unconstitutionality. That is my submission.

SHRI BHUPESH GUPTA: Let him develop that point.

SHRI K. P. MALLIKARJUNUDU: I have no time.

SHRI BHUPESH GUPTA: You have time.

SHRI K. P. MALLIKARJUNUDU: As I submitted at the very beginning of my speech I do not want to go into the merits of this measure and I confined myself now to the constitutional aspect of the matter. With these words I conclude my remarks.

श्री राजनारायण : यह विधेयक हमारे बार बार के अनुनय वित्त के पश्चात् भी माननीय मंत्री जी ने प्रवर समिति में ले जाने का प्रस्ताव प्रस्तुत किया है। सशोगवश मेरा भी नाम उसमें है। इसीलिये मैं अब अपना कर्तव्य समझता हूँ कि आप को आज्ञा से मदन के सम्मानित सदस्यों की सेवा में अपनी भावनाओं को व्यक्त कर दूँ।

मुझे बहुत ही पीड़ा के साथ कहना पड़ता है कि अंग्रेजा साम्राज्यवादी शासन को समाप्त करने के लिये जो कुछ भी हमने किया और जो कुछ भी राष्ट्रपिता महात्मा गांधी के नेतृत्व में सोखा, इस विधेयक को लाकर के ऐसा लगना है कि माननीय मंत्री जी ने सब का भुला दिया। मैं कभी कल्पना ही नहीं कर सकता था कि ऐसा काला विधेयक, ऐसा अधिनायक-शाही से सराबोर विधेयक, जनतंत्रीय व्यवस्था में राष्ट्रपिता महात्मा गांधी के नेतृत्व में पला हुआ शासन लाने का दुस्साहम करेगा। मैं जिस दृष्टिकोण से इन वक्त देखता हूँ उसमें स्पष्ट कहना चाहता हूँ कि यह विधेयक जनतंत्र का मखोल है। जनतंत्र है क्या? प्रथम दिन जब इस सदन में चर्चा चली तो जनतंत्र का व्याख्या सदन के सम्मानित सदस्यों ने की थी। उस अवसर पर हमारे मित्र धारिया साहब नहीं थे। मैं आज ईमानदारी के साथ मदन के सम्मानित सदस्यों को बुद्धि को चुनौती देना चाहता हूँ कि जरा वे अपने मस्तिष्क से पूछें कि क्या यह विधेयक जनतंत्र का द्योतक है, जनतंत्र में सत्ता केन्द्रित होती है या विकेन्द्रित होती है। अगर जनतंत्र में सत्ता केन्द्रित होती होती माननीय धर मंत्री श्री चव्हाण साहब में मैं कहूँ कि वे जनतंत्र का नाम न लें। वह व्यवस्था जनतंत्र की है ही नहीं जिस में सत्ता का केन्द्रोत्करण हो। फिर अधिनायकशाही किसे कहेंगे तानाशाही किसे कहेंगे, डिक्टेटर-शिप किसे कहेंगे। एक बड़ा भारी प्रश्न आज दर्शन का राजनीति के सामने उपस्थित है। डेलीगेशन और डिस्ट्रिब्यूशन। सत्ता का

डेलीगेशन हो, सत्ता को दूसरों के सुपुर्द किया जाय या सत्ता का बटवारा किया जाय। मैं अदब के साथ कहना चाहूँगा कि चव्हाण साहब नये नहीं हैं। मैं यहाँ पर यह धृष्टता नहीं करना चाहता था कि उनको यह अहसास हो कि मैं उनको राजनैतिक शास्त्र पढ़ाना चाहता हूँ या पढ़ा रहा हूँ। मैं समझता हूँ कि वे जानते हैं मगर सब से बड़ी दुर्बलता हमारे भारतवर्ष के लोगों में यह आ गई है कि जितना जानते हैं, उसके विपरीत कर्म करते रहते हैं। यह मेरा प्रश्न नहीं है। जरा इस पर गंभीरता के साथ विचार होना चाहिए। कर्म क्या है। नित्यप्रति हम दुहाई देते हैं और प्राचीन काल में, हजारों वर्षों से हमारे देश में यह दर्शन चला आ रहा है कि यह जगत मिथ्या है और ब्रह्मणीक सत्य है। जहाँ हम और चव्हाण साहब रह रहे हैं वह असत्य है। ऐसा लगता है कि शायद चव्हाण साहब अपनी इस व्यवस्था में यह मानने लगे हैं कि वे असत्य हैं और जिस के बारे में दर्शन में लिखा है कि सत्य वह है जहाँ कोई जा ही नहीं सकता, शायद अब वे इसका छोड़ना चाहते हैं और उधर जाने की कोशिश कर रहे हैं। अगर जगत मिथ्या है और ब्रह्मणीक सत्य है, तो मैं आप के द्वारा जानना चाहता हूँ कि माननीय चव्हाण साहब आज उस मस्तिष्क की द्विआपूर्ण गति में पहुँच तो नहीं गये हैं। वरना मैं जानता हूँ कि चव्हाण साहब जिस परम्परा में पले हैं उसमें ऐसा विधेयक वे हर्गिज हर्गिज न लाते। भारतवर्ष में हम बहुतों का जानते हैं, जैसे महात्मा गांधी ने जिस को बहुत बड़ा विद्वान माना था और जिन्होंने हिन्दुत्व दर्शन लिखा है, वे रामदास गौड़ अपने जीवन के अन्तिम दिनों में भूत की पूजा करने लगे थे। इसी प्रकार माननीय सम्पूर्णतन्त्रज अपनी जीवन के अन्तिम दिनों में भूत का पूजा करने लगे हैं। भारत के दर्शन में, भारत की राजनीति में जिन्होंने मूलरूप से कुछ चीजें दो हैं, अन्तर्गत गत्वा जाते जाते जब अन्तिम दिन आन चगना है तो वे भूतप्रेत की पूजा करने लगते हैं। तो मैं विनम्रता के साथ निवेदन करूँगा कि चव्हाण

साहब, आप भूत को पूजा मत करिये। इस विधेयक को अगर लाते हैं चट्टाण साहब तो निश्चित रूप से यह भूत की पूजा होगा और मृत्यु, वर्तमान और जो तत्परूप में विद्यमान है उसकी पूजा नहीं होगा। हमारे माननीय मित्र ने सविधान में दिये गये अधिकारों के उल्लंघन के सम्बन्ध में कहा कि शायद नहीं होता। क्यों नहीं होता। निजी उद्योग चलेगा और सार्वजनिक उद्योग चलेगा। सार्वजनिक उद्योग जिम को आदर्श माना जाता है, उसकी सुरक्षा के लिये माननीय चट्टाण साहब आवश्यक समझते हैं कि एक विशेष पुलिस फोर्स बनाया जाय क्योंकि बिना उस विशेष पुलिस फोर्स का बनाये हुये आज केन्द्र सरकार द्वारा संचालित उद्योग धन्धे नहीं चला पा रहे हैं, तो मैं जानना चाहता हूँ कि फिर जो निजी नियंत्रण में उद्योगधन्धे हैं उनके लिये इन तरह के पुलिस फोर्स की आवश्यकता क्या नहीं होगी। सविधान के 14 अनुच्छेद में जो विधि के सामने समता का अधिकार दिया गया है, उसकी पूर्ति इस बिल में होती है। मैं कहना चाहता हूँ कि नहीं होती है, उसका उल्लंघन हो रहा है। फिर मुझे अफसोस के साथ कहना पड़ता है कि ऐसा विधेयक ला कर के क्या केन्द्र और राज्य के सम्बन्ध को कटु नहीं बनाया जा रहा है। निश्चित रूप से कटु बनाया जा रहा है। मैं उत्तर प्रदेश की राजधानी, लखनऊ में दो दिन थोड़े थोड़े घंटों के लिये था और वहाँ के जितने मंत्रियों से मेरी बातचीत हुई, वे सभी इस विधेयक को देख कर के आतंकित हैं। जब से इस सरकार ने गैरकाग्रेसी राज्यों में गैरकाग्रेसी सरकारों को देखा है शीघ्रता के साथ और दृढ़ता के साथ काम करते हुये, तब से केन्द्र उनके अधिकारों का अपहरण करने में सर्वग्रासी मनोवृत्ति से अग्रसर हो रहा है। मैं चाहता हूँ कि चट्टाण साहब अब भी इस विधेयक को वापस ले लें। ऐसा करके चाहे वे केन्द्र के मुख्य मंत्री हों, चाहे बिहार के मुख्य मंत्री या उद्योग मंत्री हों, चाहे उत्तर प्रदेश के उद्योग मंत्री हों, चाहे और किसी राज्य के उद्योग मंत्री हों, उनको ठंडी मांस लेने दें और चट्टाण साहब इस बात की घोषणा

कर दें कि वे इस विधेयक को वापस ले रहे हैं क्योंकि वे सारी बातें समझ गये हैं।

माननीया, अब मैं यह देखता हूँ कि अगर केन्द्रीय उद्योग धन्धे के लिये विशेष पुलिस की आवश्यकता है, तो वह दिन दूर नहीं है जब चट्टाण साहब को केन्द्रीय मंत्रियों के लिये विशेष पुलिस की आवश्यकता की अनुभूति होगी। मैं पूछना चाहता हूँ कि आज तक देश में मजदूरों के लिये एक राष्ट्रीय ट्रिब्यूनल क्यों नहीं बना जब कि हम ने बराबर इस पर जोर दिया है। आज भी विभिन्न राज्यों में जहाँ जहाँ कि देश के पैमाने पर उद्योगधन्धे चल रहे हैं और जिन राज्यों में वे निहित हैं, उन्हीं राज्यों की लेबर कोर्ट, उन्हीं राज्यों के श्रमिक कानून उन पर लागू हैं। यही आज का परम्परा और व्यवस्था है। फिर क्यों यह सरकार एक केन्द्रीय पुलिस की शक्ति चाहती है। वही केन्द्रीय पुलिस की शक्ति उत्तर प्रदेश में जाय, वही केन्द्रीय पुलिस की शक्ति बिहार में जाय, वही केन्द्रीय पुलिस की शक्ति बंगाल में जाय, वही केन्द्रीय पुलिस की शक्ति केरल में जाय, इसके पहले इस सरकार को एक केन्द्रीय इंडस्ट्रियल ट्रिब्यूनल की स्थापना करनी चाहिये। देश के पैमाने के जो उद्योगधन्धे हैं, चाहे वह एल० आई० सी० हों, चाहे वह जीवन बीमा निगम का कोई स्वरूप हो, उसके लिये जब सरकार के मामले कोई बात आती है तो सरकार कहती है कि यह मामला तो उत्तर प्रदेश की गवर्नमेंट में सम्बन्धित है, इसलिये वहाँ के लेबर लाज लागू होंगे या महाराष्ट्र से सम्बन्धित है इसलिये महाराष्ट्र के लेबर लाज लागू होंगे। केन्द्र द्वारा संचालित उद्योगधन्धे हों या इन्हीं को दूसरी डेफिनेशन में राज्य सरकारों के कानून के मानहत चलने वाले उद्योगधन्धे हों, कारपोरेशन के ज़रिए चलने वाले उद्योगधन्धे हों उसके लिए एक केन्द्रीय पुलिस फोर्स चार करोड़ रुपए की लागत में यहाँ पर रहे। मैनेजर को कितनी जबरदस्त पावर हो जायेगी। जो वहाँ का मैनेजिंग

[श्री राजनारायण]

डाइरेक्टर होगा, जो भी नाम उसमें लिखा हुआ है, वह जब चाहे किसी को पकड़वा ले, जिसको चाहे रिफूतार करवा ले। जब से यह विधेयक आया है, मैं सोचने लगा हूँ कि जब मैं कहीं जा भी पाऊंगा, चूर्ण में जा पाऊंगा या नहीं, कहीं भी जा पाऊंगा क्योंकि मैनेजर तो हमारी अभिवृत्ति मात्र से खतरा समझेगा। इतनी वाइड पावर दी हुई है। कहां चला गया विधेयक ?

एक माननीय सदस्य : जबानी बताइए।

श्री राजनारायण : जबानी तो याद हो है। इनका वाइड पावर दी गई है कि हम कुछ कह नहीं सकते कि उद्योग-धन्धों की सुरक्षा के लिए जो भी अचेत समझेगा पुलिस का अफसर या पुलिस का सबान कोई भी काम कर सकता है। इतनी पावर दुनिया के जनतंत्र में किसी को है ? शायद खुदा या ईश्वर में भी नहीं यदि वह कहीं विद्यमान है, जिनकी इनको दी गई है। इसलिए मैं कत्तना चाहता हूँ कि गोरखपुर में जाइए, गोरखपुर में केन्द्र की फटिलाइजर फैक्ट्री है। वहां पर मैनेजर कहेगा चत्तान साहब ने कि अपना पुलिस फार्म भेज दीजिए। वहां की हमारी सारा यूनिट ठप्प हो जायगी। एक तरफ तो फोर्ट्रेड-यूनियनिज्म की बात करते हैं, दूसरी तरफ फोर्ट्रेड यूनिट को दबाने के लिए, उनका दमन करने के लिए इस तरह का विधेयक लाते हैं। क्या यह उद्योग-धन्धों में पुलिस राज की स्थापना नहीं करने जा रहे हैं ?

श्री महेश्वर नाथ कौल : यह बताइए कि इंडस्ट्रियल प्रोमिसम के बाहर भी यह फोर्म क्या कोई एक्शन ले सकते हैं ?

श्री राजनारायण : विन्कुल।

श्री महेश्वर नाथ कौल : यह बड़ा इम्पार-टेन्ट पॉइंट है। मैं चाहता हूँ कि आप तत्काल में ब्रालिए। इंडस्ट्रियल प्रोमिसम के बाहर...
(Interruptions)

श्री राजनारायण : कौल साहब कहते हैं तो बहुत समय कर कहते हैं, काल साहब लाकसभा के मेम्बरों रहे बुरे हैं।

श्री महेश्वर नाथ कौल : मैं तो आपकी स्पीच को फॉलो कर रहा था।

श्री राजनारायण : आप बहुत ठक फॉलो कर रहे हैं।

श्री अकबर अली खान : ये हथेला आपको फाला करते हैं।

SHRI RAJNARAIN: It says:

"Duties of members of the Force.
10. It shall be the duty of every superior officer and member of the Force—

(a) promptly to obey and execute all orders lawfully issued to him by his superior authority;

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

SHRI AKBAR ALI KHAN: Jurisdiction?

SHRI RAJNARAIN: We are sufferers. We know it. Just hear me:

"(c) to protect and safeguard such other industrial undertakings and installations for the protection and security of which he is deputed under section 14;"

Clause 11 says:

"(1) Any superior officer or member of the Force may, without any order from a Magistrate and without a warrant, arrest—

(a) any person who has been concerned in an offence relating to any industrial undertaking referred to in clause (b) or clause

(b) of section 10 punishable with imprisonment for a term exceeding six months, or against whom a reasonable suspicion exists of his having been so concerned;”.

इतनी बाइंड पावर ...

श्री महेश्वर नाथ कौल : यह प्रेमिसेस के अन्दर आया है। सको सेलेक्ट कमेटी में सफा कर दीजिएगा।

श्री शीलभद्र याजी (बिहार) : चोर की दाढ़ी में तिनके वाली बात क्यों करते हैं ?

श्री राजनारायण : सुन लीजिये।

श्री महेश्वर नाथ कौल : इसमें बहम की गुंजाइश नहीं है। यह प्रेमिसेस के अन्दर आपरेट करेगी।

श्री राजनारायण : जग सुनिए, प्रेमिसेस के अन्दर क्या आपरेट करेगी। यह सदन है, मान लीजिए यह फैंक्ट्री है, मैं फैंक्ट्री का मजदूर हूँ, मैं क्वार्टर से आ रहा हूँ और फाटक पर पिकेटिंग कर रहा हूँ, क्या इस कानून के अन्दर मुझे गिरफ्तार नहीं किया जा सकता ?

(Interruption)

यह कानूनी मामला है, इस सदन में मंत्री जी का बयान और कानून का प्रावीजन दोनों दो अर्थ रखते हैं।

श्री शीलभद्र याजी (बिहार) : प्रोटक्शन है।

श्री राजनारायण : इस कानून में कहीं प्रोटक्शन नहीं है। प्रोक्शन जहाँ है तहाँ हम हैं, उसका प्रोटक्शन हम लेंगे इसके अन्दर, लेकिन इस कानून में प्रोटक्शन नहीं है। इस कानून में इतनी पावर दे दी गई है कि मेरुगार्ड इंडस्ट्रियल अन्डरटेकिंग्स का करने के लिए जो भी उचित समझेगा वह करेगा, जो उसके जूरिसडिक्शन के अन्दर हैं, जो अन्डरटेकिंग्स उसके जूरिसडिक्शन के अन्दर हैं।

श्री शीलभद्र याजी : आप क्यों घबड़ाते हैं ?

श्री राजनारायण : क्या हम लोग यहाँ बच्चों की तरह बात करें, यह संभव है। श्री शीलभद्र याजी को समझना चाहिए कि यह टाकिंग शाप नहीं है।

श्री महावीर प्रसाद शुक्ल (उत्तर प्रदेश) : आप इसे टाकिंग शाप बना रहे हैं।

श्री शीलभद्र याजी : आप समय बर्बाद कर रहे हैं।

श्री राजनारायण : मेरा निवेदन है कि माननीय मंत्री इसका ख्याल करेंगे। जैसा कौल साहब बार बार कहते हैं, ठीक है, इसका भेज दे सलेक्ट कमेटी में, वहाँ यह बिलयर हो जायेगा, मगर मैं जानना चाहता हूँ—

‘Procedure to be followed after arrest.’—

माननीय कौल साहब और इस सदन के दूसरे सदस्य भी पढ़ें—

“13. Any superior officer or member of the Force making an arrest under this Act, shall, without unnecessary delay, make over the person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him to be taken to the nearest police station together with a report of the circumstances occasioning the arrest.”

यह 13 है। वह हमको पुर्लिम अफसर के पास ले जायगा। इसके बाद क्या होगा इसके बारे में ‘नथिंग मेन्शनड’ (Interruption). धीरे-धीरे चलिए। देख लिया जाय क्रिमिनल प्रावीजर कोड। अफमोस के साथ मुझे कहना पड़ता है चह्दाण साहब से कि आप अंग्रेजी साम्राज्यवादी शक्ति के पदचिन्हों पर क्यों चलना चाहते हैं। यानी यह सरकार बिल्कुल नक्ली है, नगली। बिल्कुल नकल कर रही है। जिस चीज को हमारे संविधान ने तिलाजलि दी, जिस चीज को जनतंत्र ने तिलाजलि दी उसको यह सरकार यहाँ पर ला रही है। एक एक सेन्टेन्स, एक एक वाक्य मिला लीजिए,

[श्री राजन. । रा.]

मक्षिका स्थाने मक्षिका, जो सी० आर० पी० सी० में लिखा हुआ है वही सन्टेन्स उठा कर माननीय मंत्री जी के लीगल एडवाइजर ने कह दिया कि इस बिल में डाल दो। 59 सी० आर० पी० सी० का पढ़ रहा हूँ। एक सन्टेन्स भी भिन्न है ?

श्री महेश्वर नाथ शील : यह तो ड्राफ्टिंग में होता ही है।

श्री महाबीर प्रसाद शुक्ल : वह तो पहले में लागू है।

श्री राजनारायण : शुक्ल जी यह तर्हीन नहीं है।

श्री महाबीर प्रसाद शुक्ल : यह राज्य सभा है।

श्री राजनारायण : मैं जानता हूँ आप वकील हैं, वकालत करते होंगे तो तर्हीन में करते होंगे, हम हाई कोर्ट में, सुप्रीम कोर्ट में वकालत करने वाले हैं। मैं यह कहना चाहता हूँ।

श्री टी० पांडे (उत्तर प्रदेश) : लाइसेन्स कहा है वकालत का ?

श्री शालभद्र याजी : लाइसेन्स मागते हैं प्रापर्टी का नाट करने के लिए, वह नहीं देना चाहते।

श्री राजनारायण : माननीया, मेरा निवेदन यह है कि हमारे मविधान ने निश्चित रूप से हमको बता दिया नागरिक सुरक्षा का अधिकार देने हुए कि हमारी गिरफ्तारी कैसे हो और हमका गिरफ्तार होने के बाद जो गिरफ्तार करने वाला अधिकारी है वह कहा ले जायेगा। अब चह्वाण साहब यह तर्क है तो हमको उनकी वृद्धि पर तरस आयेगा...

5 P.M.

तरस है कि चह्वाण साहब ने जो संविधान में जो सी० आर० पी० सी० में 59 और

54 पर है उसको काट दिया है, उसको बिल्कुल अलग कर दिया है। अब यहां पर बहाम्ना नहीं लिया जा सकता कि चूंकि सी० आर० पी० सी० में किसी को अधिकार दे रखा था कि किसी पुलिस आफिसर वा पुलिस स्टेशन पर ले जा कर हाजिर करे, यह बिल्कुल गलत है। हमारी गिरफ्तारी के बाद किसी को कोई राइट नहीं कि नीयरेस्ट मजिस्ट्रेट के पास न ले जाये।

SHRI AKBAR ALI KHAN: May I move that we take up the Half-an-hour Discussion after we finish this?

THE DEPUTY CHAIRMAN: He is finishing it.

श्री राजनारायण : माननीया, देखिए अभी हमको 17, 18 प्वाइट पढ़ने हैं और हमारे ये जो प्वाइट हैं ये किसी तरह से इररेलेवेट नहीं हैं। मैं चाहता हूँ कि जितने लीगल एडवाइजर्स सरकार के हैं, जो इनको पढ़ने की क्षमता रखने वाले हैं, वे इसको देखें। अब जो शेड्यूल्ड बिजनेस है पांच बजे के बाद आधे घंटे के डिस्कशन का वह ले लिया जाय, पुलिस के बारे में जो है उसको ले लिया जाये।

SHRI BHUPESH GUPTA: We arranged accordingly the Half-an-hour Discussion. We will put questions and go home. This is according to the business. I think this will be convenient for the Treasury Benches.

THE DEPUTY CHAIRMAN: Half-an-hour Discussion should be within its limit. Just half an hour.

HALF-AN-HOUR DISCUSSION RE. POINTS ARISING OUT OF ANSWERS TO STARRED QUESTIONS NOS 96 AND 105 RELATING TO DEMANDS OF DELHI POLICEMEN

श्री राजनारायण (उत्तर प्रदेश) : माननीया, 1958 में...