claiming that they were sick and accordingly refrained from discharging their normal duties. The agitation started at Basin Bridge, Arkonam, Tondiarpet and Madras Area and gradually spread to broad-gauge portion of Madras, Guntakal and Olavakkot Divisions. Subsequently, all Divisions of the Southern Railway were affected in varying degrees. Out of a total sanctioned strength of about 7000 staff, the number of employees on strike varied from 1057 on 10.5.70 to 3161 on 14.5.70. This caused considerable disruption to traffic and though the Railway maintained most of the main line mail and express trains with the aid of the loyal section of the Running staff, most of the passenger trains and goods trains had to be drastically curtailed.

On the 11th May 1970, after two days of consideration, the Southern Railway Administration issued a notice calling upon all employees, who had resorted to stoppage of work, to resume duty by 12.00 hours on 12 5-70 failing which they would be treated as on illegal strike.

A large number of employees, however, remained away from duty. I held a meeting with the representatives of the recognised unions, *viz.* S/Shri T. V. Anandan, M. P., and K. H. Kulkarni, General Secretary, representing the N. F. I. R., and Shri Priya Gupta, General Secretary of A. I. R. F. Both the recognised Federations stated that the demands put forward by these employees had already been put forward by them and were in the process of negotiation. They were also in agreement with the policies followed by the Ministry of Railways of not recognising sectional and category-wise associations. Shri J. M. Biswas. M. P. and a few others met the Deputy Minister for Railways and pointed out that they would endeavour to bring the staff back to duty if they could be given an assurance that the earlier assurances given by the Ministers would be implemented in full. They were given such an assurance in writing by the Deputy Minister for Railways.

Subsequently, the Chief Minister of Tamil Nadu was contacted by me and I brought to his notice the trouble and loss that has been entailed by the disruption to traffic and requested him for assistance in our endeavour to restore normal conditions. Appreciating our stand, the Chief Minister issued an appeal to the staff asking them to resume work and assuring them of his good offices in settling the dispute. Consequent on this appeal, the leaders of the striking employees met the Chief Minister and decided to withdraw their agitation with effect from the after noon of 15th May, 1970. I have arranged to meet some of these employees today in the afternoon to ascertain their view point and their grievances.

The demands put forward by these employees have varied from time to time but 9 demands have been listed in the Tamil pamphlet brought out by them and in their earlier resolutions. The main demand appears to relate to an alleged failure to implement an earlier assurance in connection with the agitation in July 1968. I am told that all assurances given earlier have been implemented, but when approached by Sarvashri K. Ananda Nambiar, J. M. Biswas and T. V. Anandan I undertook to review the position and fulfil any commitment that remained unfulfilled.

With regret I have to report that on this Section alone the Indian Railways have incurred a loss of approximately one crore.

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13.08 hrs.

STATEMENT RE : STRIKE BY DOCK WORKERS AT MADRAS PORT

MR. SPEAKER : He may lay it on the Table.

THE MINISTER OF LABOUR AND REHABILITATION (SHRI D. SANJIVAYYA) : I lay the statement on the Table.

Statement

I am happy to inform the House that the strike by the workers under the Dock Labour Board, Madras and the workers of the Food Corporation of India in Madras Port which had commenced on April, 30, 1970, has been called off with effect from Saturday, May 16, 1970.

———

13.09 hrs.

CONSTITUTION (TWENTY-FOURTH AMENDMENT) BILL, 1970

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : Sir, I beg to

[Shri Y. B. Chavan]

move for leave to introduce a Bill further to amend the Constitution of India.

MR. SPEAKER ; Motion moved :

"That leave be granted to introduce a Bill further to amend the Constitution of India."

SHRI KANWAR LAL GUPTA (Delhi Sader) : It will take a long time. We may take it up after lunch.

श्री यशपाल सिंह (देहरादून) : मैं कहना चाहता हूँ कि इंट्रोड्यूस हो भी सकता है कि नहीं ।

श्री रवि राय (पुरी) : अध्यक्ष महोदय, इस को अभी लिया जाय ।

SHRI RANGA (Srikakulam) : We cannot finish it now. You can take it up after lunch.

THE MINISTER OF LAW AND SOCIAL WELFARE (SHRI GOVINDA MENON) : This is a motion to introduce a Bill. By convention it is adopted without any discussion.

MR. SPEAKER : That is the normal practice. But if objection is raised about legal competence I have to allow that. I hope we can dispose of it in a few minutes... (*Interruption*).

श्री रवि राय : हम लोगों का भी सबमिशन है ।...(**व्यवधान**)

SHRI P. K. DEO (Kalahandi) : Sir, I rise to...(*Interruptions*).

MR. SPEAKER : The hon. Member has got the right to speak. I have permitted him...(*Interruptions*).

SHRI P. K. DEO : Sir, you bring the House to order so that I can speak.

श्री शिवचन्द्र झा (मधुबनी) : मेरा व्यवस्था का प्रश्न है । किसी विधेयक के इंट्रोडक्शन स्टेज पर आप जानते हैं कि हम लोग अगर उस का विरोध करना चाहते हैं तो आप को लिख कर देते हैं । मैं जानना चाहता हूँ कि क्या माननीय सदस्य ने लिखित रूप में आप को दिया है ?

अध्यक्ष महोदय : आप को यकीन दिलाता हूँ कि सबसे पहले लिखा हुआ आया है । जिन मेम्बर्स का पहले लिखा हुआ आया है उनको इजाजत दूंगा ।

SHRI RANGA : Why not you adjourn now and take it up after lunch ?

श्री इसहाक सम्भली (अमरोहा) : जो पर्सन इंटरेस्टेड है वह कैसे बोल सकते हैं ?

श्री अटल विहारी वाजपेयी (बलरामपुर): आप जानते हैं कि यह विवाद का विषय है । इस पर काफी चर्चा चलेगी । जो विधेयक का विरोध कर रहे हैं वह भी और समर्थन वाले भी बोल सकते हैं । मेरी समझ में नहीं आता कि जल्दी क्या है ? फिर लंच आवर रखने का कोई मतलब ही नहीं है ।

MR. SPEAKER : Either I will have to dispense with the lunch hour or have it after this is over.

SOME HON. MEMBERS : No lunch.

SHRI BAL RAJ MADHOK (South Delhi) : This is a very important measure. What is the hurry about its introduction ? Why should we forego the lunch ? It is wrong. The rules of the House provide that the House should adjourn for lunch at 1 O'Clock and meet again.

SHRI PILOO MODY (Godhra) : What Shri Bal Raj Madhok has said is quite correct. Whenever the lunch hour is dispensed with, it is by prior agreement. It should not be done arbitrarily to suit the convenience of the government.

MR. SPEAKER : I have been doing it a number of times to suit you also.

SHRI RANGA : We are not asking for a regular adjournment...(*Interruptions*).

SHRI K. LAKKAPPA (Tumkur) : The hon'ble Member, Shri P. K. Deo, is a privy purse holder and, therefore, he is a beneficiary. Is it open for such a Member to raise objection against the introduction of this Bill ?

MR. SPEAKER : As a Member he has got full right to speak. This is no point of order.

SHRI P. K. DEO (Kalahandi) : Sir, under Rule 72 of the Rules of Procedure and Conduct of Business, I oppose the introduction of this Bill. I being one of the original signatories to the bilateral convenant which forms the very basis of unification of India and of this Constitution I deem it my duty to oppose this Bill. Though to me any unilateral abrogation of a bilateral contract is a flagrant breach of faith in the words of Sardar Patel, I will not go into the merits at this state but confine my observation to the legislative competence of this House. The proviso to Rule 72 says : "If the legislative competence of the House is questioned then the Speaker may permit a full discussion thereon." So, I request you to arrange a full discussion on this subject.

Firstly, these covenants and agreements form the very basis of the Constitution. They are the foundations of the Constitution. So, it is not open to the legal, legislative competence of the House to challenge the foundations of the Constitution. It is only another Constituent Assembly which can go into this question.

Secondly it is a Bill the first of its kind in the long legislative history of this House, including the Lok Sabha, the Provisional Parliament and the Central Legislative Assembly, which cannot go to the court for its judicial interpretation. Though the Bill deletes Articles 291, 362, 366(22) of the Constitution it conveniently avoids deletion of such clauses which do not suit the ruling Party, that is, Article 363 and proviso of Article 131 of the Constitution. Though all the relevant Articles dealing with the institution of rulerships, convenants, agreements and so on are deleted, the retention of Article 363 and proviso of Article 131 of the Constitution is not only redundant but it is deliberate, thereby making the desired mischief. What is the mischief ? Article 363 bars the jurisdiction of the courts including the Supreme Court in regard to adjudicating in respect of any dispute that may arise out of treaties, covenants, engagements, etc Article 131 deals with the original jurisdiction of the Supreme Court. The proviso of Article 131 also bars such dispute to be justiciable in the Supreme Court.

So, if you go through the Constituent Assembly debates on this Article you will find that jurisdiction of the courts has been barred lest somebody might challenge the very integration of the erstwhile Indian States and might lead to the *status quo ante* and the process of disintegration might start. But, nowhere in the Constituent Assembly such a contingency was visualised that the Government being a contracting party will go against its plighted word. So, the purport of the Bill is to deny a section of this country's citizens access to the court of justice, right to justice which is the basis of all civil assurances, which is the foremost of all social expectations. Dental of such a right would be an abomination as repugnant to the law as to the conscience.

I take a leaf from British Constitutional history. I would like to refer to the famous Magna Catra, the first Bill of Rights of the British people, of 1215. I quote from Wade and Phillips, Constitutional Law :—

> "The famous clauses which laid it down that no man should be punished except by the judgement of his peers or the law of the land and that to none should justice be denied".

Here in India in 1975 we retain an article in the Constitution which bars certain sections of our citizens from going to the court of justice. Is it not and anachronism to deny certain sections of the people access to the court ?

It infringes article 14 of the Constitution. Let us see what article 14 of the Constitution says Article 14 of the Constitution says :—

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

It will be a sad day for the country and its parliamentary democracy if rights, interests and guarantees of minorities, whether linguistic, or ethnic or cultural or functional however, microscopic they may be, are taken away by an executive fiat or are steamrolled by the brute majority of the House, by sheer force of numbers and they are denied the right to challenge any unlawful law and have to reconcile to fate, and the judicial courts become silent spectators

[Shri P. K. Deo]

to the rape of fundamental rights. It will be a sad day if arithmetical permutations and combinations and mathematical computation of numbers are going to decide the destiny of the people of this country.

India is still a democracy and not a totalitarian State. Are we to be reduced to second-class citizens, for we will have no access to the courts of law? I have not come here to beg but to appeal to all minorities to be vigilant and conscious for the preservation of their rights and democratic values and not to succumb to the brute majority. After all, the law of the jungle, might is right, is not to prevail in this country.

Even a criminal has a right to be heard in the law courts ..(*Interruption*).

MR. SPEAKER : Order, order.

SHRI P. K. DEO : The Bill, as it stadds, denies the aggrieved party the most rudimentary of the rudimentary rights, that is, the right to justice and contravenes article 14 of the Constitution. So, it is beyond the legislative competence of the House.

Secondly, we learn that the concerned parties submitted a memorandum to the President to refer the matter to the Supreme Court for opinion under article 143(2) of the Constitution. The Constitution-makers anticipated this contingency.

This is what article 363 days :

> "Notwithstanding anything in this Constitution but subject to the provisions of article 143, neither the Supreme Court nor any other court shall have jurisdiction in any dispute arising out of...etc., etc.
>
> ...or in any dispute in respect of any right accruing under or any liability . "

Article 363 has itself laid down the avenues of justice. The exclusion of ordinary jurisdiction of courts was made expressly subject to the advisory opinion of the Supreme Court under article 143, sub-clause (2). Now, here is the interpretation which says :

> "It is a well-established principle in the interpretation of statutes, more specially, constitutional statues, that when in one article another article is mentioned, then the specific provision of the latter article, and the object of invoking them, must be given the fullest respect. But when, as in the present case, an article goes so far as to bar the inherent right of the citizen to obtain redress from a court of law then any provision within it which surmounts the bar assumes the force of a constitutional requirement. It becomes a jural imperative."

The public opinion has been gathering momentum in this regard. The supremacy of the judiciary is the sheet-anchor of India's democracy. Even a Communist Member like Mr. Bhupesh Gupta has lately introduced a Bill...

SHRI S. M. BANERJEE (Kanpur) : He has withdrawn it. (*Interruption*).

SHRI P. K. DEO : Bill No. 11 of 1970 in the Rajya Sabha which says :

> "When not less than 1/10th of the membership of Parliament make a representation to the President to refer any Bill to the Supreme Court for opinion under article 143, the President shall refer ".

Even a Communist Member like Mr. Bhupesh Gupta wants that in a controversial matter, the President should take the Supreme Court's opinion. You see how our friends here are shouting. (*Interruptions*).

MR. SPEAKER : Order, order. May I request all of you not to interrupt him? Let him make his speech. Have some patience.

SHRI ATAL BIHARI VAJPAYEE (Balrampur) : Hunger and anger go together.

SHRI P. K. DEO : Here, more than 70 Members of the Congress (R) Party including the leaders of the Swgntra Party, the Jana Sangh and the B K. D. have written to the Prime Minister to refer the matter to the Supreme Court for opinion.

SHRI RABI RAY (Puri) : Who are they ? You give their names (*Interruption*).

SHRI P. K. DEO : But uptill now, we have not heard any final word from the President on the memorandum.

After the Bill is introduced and the House is seized of the Bill, any reference at a later stage will create a condition of confrontation between the highest judiciary and the supreme legislature.

SHRI SURENDRANATH DWIVEDY (Kendrapara) : It is a general debate on the consideration motion of the Bill or is he opposing the principle of it ? (*Interruptions*).

SHRI P. K. DEO : I am not yielding. The situation of confrontation has to be avoided.

So, as the opinion of the Supreme Court has not yet been obtained before the introduction of the Bill and the doors of Justice have been slammed at the later stage and as the verdict of the House is to be decided on the arithmetical majority, it cannot be the last word on the subject.

Its introduction, according to Supreme Court's opinion, is repugnant to all canons of jurisdiction and beyond the legislative competence of the House. It contravenes the property right under Art. 291. Sir, privy purse creates a right to certain property payment of which (*Interruptions*).

अध्यक्ष महोदय : आप लोग क्यों बार-बार रुकावट पैदा कर रहे हैं ।

SHRI P. K. DEO : It contravenes the property right under Art. 291. The privy purse is a certain property the payment of which is charged to the Consolidated Fund of India. It is not subject to the vote of Parliament like various public debts. These are not *ex grat a* grants. The liability to pay and the right to receive the privy purse are expressly guaranteed by agreement and covenants. It is a property under Art. 19(1)(f) and 31(1). Art. 31(2) says that no property shall be acquired save for a public purpose and save by authority of law ...(*Interruptions*)...which provides for compensation.

In this regard I would like to draw your attention to the Address of the President of India to Parliament. There, on page 13, he has categorically stated :

> "It is, however, our intention to make certain transitional arrengement so that the former rulers can adjust themslves to the changed circumstances."

The Home Minister addressed individual letters to all the rulers seeking their co-operation and goodwill...(*Interruptions*) ... Though the Home Minister hints about alternative financial arrangements and the President has mentioned about them—the Home Minister called it 'transitional arrangements' ; I deliberately use the word 'transitional arrangements' because it has been mentioned by the Home Minister himself—there is no such provision in this Bill. The Home Minister desires to... (**व्यवधान**)

अध्यक्ष महोदय : अगर आप बार-बार इंटरप्शन्स को रिपीट करेंगे तो मेरे लिये कोई चारा नहीं रहेगा सिवा इस के मैं हाउस ऐडजर्न कर दूं । मैं इस वक्त अनप्लेजेन्टनेस नहीं चाहता ।

SHRI SHEO NARAIN (Basti) : Sir, you either control the House or adjourn the House. (*Interruptions*).

MR. SPEAKER : If you go on like this wasting the time of the House. I will have to adjourn the House.

This is the advice given by Shri Sheo Narain. (*Interruption*)

SHRI PILOO MODY (Godhra) : Can you at all hear his argument, Sir ? (*Interruption*)

MR. SPEAKER : I an so sorry ; if you go on like this, I have no alternative but to adjourn the House for lunch. We will meet at 2-30 P. M.

13.32 hrs.

The Lok Sabha adjourned for lunch till thirty minutes past Fourteen of the Clock

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The Lok Sabha re-assembled after lunch at thirty-two minutes past Fourteen of the clock.

[Mr. Speaker *in the Chair.*]

CONSTITUTION (TWENTY FOURTH AMENDMENT) BILL, 1970—*Contd.*

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : Before we begin, I have a submission to make. My submission is that this debate—I should say discussion—is likely to take a little more time. There is another debate—debate on Telengana—which is fixed at 3 '0' clock which may have to be postponed. So, I am making a submission that this item should be finished first, and whenever we finish this debate, then we may take up the debate on Telengana.

AN HON. MEMBER : I think it is a very good idea to finish this.

SHRI M. R MASANI (Rajkot) : I do not see any reason why the order of business should be changed in this manner.

MR SPEAKER : This was fixed before the lunch. Unless we finish this, how can I take up that item ? It is not a debate that is going on. But, these are the few constitutional objections which have to be discussed before leave is granted.

SHRI PILOO MODY : I believe that the Prime Minister wants to have negotiations with the princes in any case. If that is so, I do not see the purpose of introducing this Bill.

MR. SPEAKER : Shri Deo had enough of time. He wanted fifteen minutes but he went beyond fifteen minutes.

Kindly conclude within two or three minutes.

SHRI P. K. DEO : I was speaking regarding the Home Minister's letter to the concerned party regarding the transitional alliance. It means the Home Minister wants to decide by an executive fiat He can stop it at any time if it is so needed when these persons do not tow the line of the party in power or they follow different political persuations.

So, the cat has been out of the bag, and the *male fide* motive of Government as evident from what came out the other day from the Prime Minister's camp is now clear, namely to declare it as an office of profit, so that these persons should be debarred from contesting the elections. That is the sole purpose of it. So, they want to bar their entry into the legislature, because they want to penalise these persons for their growing popularity or for their patriotism. I do not find any justification in that argument.

This Bill does not enumerate any public purpose. The Bill says that it is incompatible with on egalitarian society. The concept of egalitarian society is a political ideology..

MR. SPEAKER : So far as the discussion of the merits is concerned, that is not permissible now. The hon. Member can only raise constitutional or legal objections against its introduction.

SHRI P. K. DEO : I am contesting it under article 13 (2) of the Constitution, because the Bill does not enumerate any public purpose, nor does it contemplate any compensation to be paid by authority of law. The so-called co-operation for settlement is sought at the point of revolver, that is, by the introduction of this unconstitutional, illegal and immoral Bill. It is an expropriatory measure, and it affects the Fundamental Rights enshrined in article 19(1) (f) and article 31(1) of the Constitution.

Though I do not challenge the power of the House to amend the other articles of the Constitution under article 368 it should be subject to article 13( ) of the Constitution. Let us now see what article 13(2) says : It says :

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

There is the famous *Golaknath versus The State of Punjab* case which has placed Fundamental Rights outside the amending process, and so long as the judgment holds the field, this Parliament will have no power to amend Part III of the Constitution so as to abridge or take away the Fundamental

Rights enshrined therein. So, Shri Nath Pai tried to bring forward his Bill to undo all the good that had been done in that judgment but it has been pending since the last so many years.

MR. SPEAKER : Is privy purse a Fundamental Right ?

SHRI P. K. DEO : At that time, Dr. Lohia was there in the S. S. P. and therefore, they opposed Shri Nath Pai's Bill. Now, Dr. Lohia is not there. I do not know whether there is any consistency in the thinking of the SSP. So, they now go the whole hog to support that measure.

My most important point is that this Bill is a money Bill under article 110(1) (b) So, there should be a financial memorandum attached to the Bill and also the recommendation of the President. The recommendation of the President has already been sought... (*Laughter*) There is nothing to laugh about here. The President's recommendation has already been sought and intimated to your Secretariat, Sir, on the 15th of this month. But where is the financial memorandum ? If there is no financial memorandum, at least the quantum of compensation or the principle under which the quantum has to be distributed should be there. It should have been consistent with the sentiment expressed by the President in his Address on the opening day of this Lok Sabha There is absolutely no mention of the financial memorandum. In the absence of the financial memorandum, this House cannot look at this Bill. So, there is no question of introduction of this Bill...

SHRI S. M. BANERJEE : Let us pass this Bill without looking at it.

SHRI P. K. DEO : Now, I come to the moral and ethical points ..

MR. SPEAKER : There is no question of moral or ethical points now. It is only constitutional points which he can raise now.

SHRI P. K. DEO : That is the only thing which India has to be proud of. If India has anything to claim which contributed to the advancement of the world, it is the moral and ethical values. Here the honour of the country is involved. Here in this Bill India's pledged word is sought to be broken at convenience like a pie-crust. Then what will become of the credibility of the nation inside and outside ?

Taking all these factors into account, I most respectfully submit that so long as art. 13(2) remains part of the Constitution, we cannot invoke art. 368 of the Constitution as the Bill patently takes away and abridges the fundamental rights. So it is beyond the legislative competence of the House. So when such a question arises, I draw your attention to the rules of procedure and conduct of business which provide for a full discussion This cannot be disposed of by one or two speeches. When legislative competence is challenged, it provides for a full discussion. I hope you will rise to the occasion like your predecessor, Shri Mavalankar, and also Sardar Hukam Singh who give his famous ruling on my point of order when I placed some secret document of the Government on the Table I hope you will allow a full discussion and not allow this to be throttled by the brute majority of the House.

MR. SPEAKER : There no need for my ruling.

SHRI P. K. DEO : We are barred from taking the matter to the court at a later stage when the Bill becomes law. When we are denied the right of reference to the Supreme Court for advisory opinion, I think you should not allow the introduction of the Bill but ask Government to go to the Supreme Court under art. 143(2) prior to its introduction and get their opinion.

श्री यशपाल सिंह (देहरादून) : अध्यक्ष महोदय, एक आइडेंटिकल बिल पहले से चल रहा है जार्ज फरनेन्डीज़ साहब का, उस के रहते हुए दूसरा आइडेंटिकल बिल नहीं आ सकता । रूल नं० 67 में...

SHRI SURENDRANATH DWIVEDY : On a point of order. So far as we have understood the rules, at the introduction stage, if there is any objection, you will only select one member to speak...

SOME HON. MEMBERS : No, no.

SHRI SURENDRANATH DWIVEDY : .. in opposition and then the Minister in charge will reply. There may be many objection but you will give the floor only to one member to oppose. But if you are allowing a general discussion on the ground that legislative competence has been questioned, I have nothing to say. But the question is whether you are allowing a general debate and anybody who gives a slip will be called.

MR. SPEAKER : I made it very clear at the beginning that only legal or constitutional points can be raised concerning competence. As for discussion of the merits, this is not the stage for it.

SHRI KANWAR LAL GUPTA (Delhi Sadar) : No. Under the rules, one member can take objection even on the merits of the Bill. You permit at least one member to do that.

SHRI SEZHIYAN (Kumbakonam) : Shri Dwivedy has raised a pertinent point. If you allow opposition to be raised on the grounds of legislative competence or otherwise, a general discussion should be allowed. But if it is a general opposition, only one member is allowed to oppose and the Minister in charge will reply and there it ends.

MR. SPEAKER : I made it very clear. This is provided by the rules. We cannot discuss the merits at this stage ; one can only object on other grounds.

SHRI SURENDRANATH DWIVEDY : I am sorry I could not make myself clear. As has been very clearly stated by Shri Sezhiyan again, there are two points involved: If it is a general opposition, as you say, we cannot go into the merits ; only general points can be made If Shri Deo has done that, that is the end of the matter, because in that case you could choose only one member who will make his speech. If you are permitting him under the proviso to rule 72 to challenge the legislative competence of the House, then you can permit a general debate. I, therefore, wanted to know from you whether you have permitted objection to the legislative competence of the House to be raised or general opposition to the Bill.

MR. SPEAKER : He saw me personally also, and he assured me that his speech would be confined purely to the legislative competence of this House. I kept on watching, he has trespassed into other fields also, and I had to invite his attention to it.

SHRI P. K. DEO : At the same time I was challenging the legislative competence of the House under rule 72. If you see anything irrelevant in my speech, you can delete it, I do not mind.

SHRI KANWAR LAL GUPTA : The position is not what you say. Rule 72 says :

> "If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may, without further debate, put the question.
>
> 'Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker may permit a full discussion thereon."

इस का मतलब यह हुआ कि एक मेम्बर यानी इन्होंने अपोज कर दिया, इसके बाद और मेम्बर इसकी मैरिट के ऊपर भी इसको अपोज कर सकते हैं। इन्होंने मेरिट के ऊपर अपोज नहीं किया। यह केवल लेजिस्लेटिव काम्पीटेंस पर बोले हैं।

MR. SPEAKER : You can see his speech. It has turned out to be a sort of general speech, not confined to the bounds of legal competence.

श्री कंवर लाल गुप्त : यह आप खुद कह रहे थे कि यह लेजिस्लेटिव काम्पीटेंस के ऊपर बोल रहे हैं। इसलिए आप किसी एक मेम्बर को और कहिए जो इसकी मेरिट पर बोल सके।

अध्यक्ष महोदय : आप उनकी स्पीच देख लीजिए।

SHRI BAL RAJ MADHOK : That way you could have prevented him also from speaking. That is not the question.

श्री मधु लिमये (मुंगेर) : कांस्टीट्यूशनल ऐस्पेक्ट पर हम लोग भी बोलेंगे ; मन्त्री महोदय उसके बाद बोलेंगे ।

अध्यक्ष महोदय : इसमें कोई झगड़े वाली बात तो है नहीं...

श्री कंवर लाल गुप्त : हरएक पार्टी इस पर अपनी राय रखना चाहती है, इस पर आप को रोकना नहीं चाहिए । कम से कम हरएक पार्टी के एक-एक मेम्बर को बोलने का मौका देना चाहिए ।

MR. SPEAKER : To save time, if the Members want to speak, they may take one or two minutes.

श्री यशपाल सिंह (देहरादून) : रूल 67 के मातहत दो आइडेंटिकल बिल पार्लियामेंट में नहीं रह सकते । जार्ज फरनेन्डीज साहब का बिल पहले से चल रहा है । वह भी इसी नेचर का है । जब तक वह बिल पेंडिंग पड़ा हुआ है तब तक गृह मन्त्री दूसरा बिल इस पर पेश नहीं कर सकते ।

इसके अलावा जनता से कोई किसी तरह की इजाजत नहीं ली गई । जनता का फैसला इन रूलिंग चीफ्स के हक में है । जो राजा महाराजा चाहे जनसंघ से खड़ा हो गया, जीत कर आ गया, चाहे कांग्रेस से खड़ा हो गया, कामयाब होकर आ गया, चाहे पी. एस. पी. से खड़ा हो गया, जीत कर आ गया, इंडिपेंडेंट खड़ा हो गया तो वहां से जीत कर आ गया । उसने पराजय नहीं खाई । जनता का फैसला इसलिये रूलिंग चीफ्स के हक में है । तो आज सबसे पहले मेरी प्रधान मन्त्री से दरख्वास्त है कि इस तरह का बिल रखने से पहले जनता से यह राय जानी जावे, जनता बतलाए कि यह लाया जाय या न लाया जाय । या भारत के अन्दर इस तरह का एलेक्शन कराया जाय, प्रिवी पर्स के प्वाइंट पर एलेक्शन हो और उस के बाद आप यह बिल लाएं तब आपको अधिकार है । लेकिन वह तो देश के लोगों को बहका कर के सस्ती लीडरशिप हासिल करने का प्रयास है । यह सरदार पटेल के वादे के साथ गद्दारी की जा रही है । कोई भी नैतिक स्तर का मनुष्य इसको पसन्द नहीं कर सकता है । हम अपने कांस्टीट्यूशन के लिए वफादार हैं । समाजवाद बाद में है, पहले हमारा कांस्टीट्यूशन है । 4 लाख 72 हजार रुपया कोई ऐसा नहीं है जिसके पीछे कि हम इनको भूखा मार दें । एक पूरी रेस का सवाल है । भारत के लिए लड़ने वाली मार्शल रेस के लोग यह हैं जिनको मिटाया जा रहा है । मेरी दरख्वास्त है कि जब तक जार्ज फरनेन्डीज साहब का बिल है तब तक गृह मंत्री को इस बिल को रखने की इजाजत न दी जाय । सिक्किम और भूटान जिन्होंने दस्तखत करने से इंकार कर दिया था उनको यू एन ओ में सीट दिलवाई जा रही है और इन लोगों ने जिन्होंने सब कुछ त्याग दिया था, इनको घर से बाहर किया जा रहा है । यह हमारे नेशनलिज्म के खिलाफ है । मेरी दरख्वास्त यह है कि आप खुद अपने डिस्क्रीशन का इस्तेमाल करके गृह मन्त्री को रोक दें ताकि यह बिल यहां न आ सके, वरना यह सरदार पटेल के वचनों के साथ गद्दारी होगी, महात्मा गांधी की आत्मा के साथ विश्वासघात होगा और इससे हमारी नैतिकता पीछे पड़ जायगी ।

SHRI BAL RAJ MADHOK (South Delhi) : Mr. Speaker Sir, (*Interruptions*) I am one of those who would like the princes to renounce their privy purses and privileges and dynastic rights voluntarily and I am also one of those who would like the Prime Minister to renounce her anachronistic rights in this country. But the question is not whether there are dynastic rights or not but whether this is an issue on which so much hullabalo should be made is neither a major political issue nor a major economic issue. It is purely a diversionary tactics and it is being brought forward only for the purpose of diverting people's attention from more important issues...(*Interruptions*)

SHRI R. D. BHANDARE (Bombay Central) : On a point of order. The speaker should confine himself to rule 72. Why is he speaking on extraneous matters which are not germane to the discussion, matters which fall outside the scope of rule 72 ? How can you allow him to speak on other matters now ?

SHRI BAL RAJ MADHOK : I have nothing to learn about relevance from Mr. Bhandare who is known for his irrelevance... (*Interruption.*)

MR. SPEAKER : He is inviting my attention to rule 72 which is a very relevant rule. I request you to be relevant and not discuss the point of order he has raised.

SHRI BAL RAJ MADHOK : I have been strictly relevant. In the first place the time of this House which is very valuable and which could be used for so many important things is being wasted by bringing this kind of a Bill. My objection is twofold; moral and legal. On the moral plane...

SHRI SURENDRANATH DWIVEDY : Can moral things be discussed now ?

SHRI BAL RAJ MADHOK : This Government had been signatory to treaties, covenants and agreements such as the Tashkent agreement, Nehru Liaquat Ali pact, etc. Similarly, these agreements were arrived at between this Government and the rulers of erestwhile and the prince by States. They constituted 47 per cent of our territory and contained 37 per cent of the total population of this country. I had the misfortune or good fortune of being born in a princely State. In 1947 when Pakistan invaded Kashmir, if the rules of Kashmir had not signed the instrument of accession, neither myself nor Dr. Karan Singh would have been here today ; we would have been killed or living somewhere else. You are in Kashmir because of that instrument of accession and you took this matter up with the United Nations only because of that. Flouting covenants and agreements therefore is neither morally correct nor is it in the vital national interest of the country.

Secondly, on the constitutional point, the Constitution was made at the time when Sardar Patel was the Home Minister and the State Minister. According to the agreement with the princely States, they had been given the right to have their own constituent assemblies and to frame their constitution. Therefore, this Constitution could not be adopted till Sardar Patel made a declaration in 1949 in consultation with and with the consent of the princes that "we forego the right of having separate Constitutions" the only exception was Kashmir. It was only then that this Constitution was adopted. Therefore, the princes and the princely States are constituent parts ; they were responsible for bringing this Constitution and the Constituent Assembly into being. Now for this Parliament to go against those things, which were almost the basis on which the Constitution was made, goes against the very basic fundamentals of the Constitutions. That means, breaking the Constitution. This Parliament has no right to do it.

According to article 291, of the Constitution the payment made to the princes—the privy purses—is made out of the Consolidated Fund of India just as the salaries of the Judges of the Supreme Court are paid. It is not votable in this House. Now this House wants to take the law into its own hands and pass a law to stop those payments. This goes against the Constitution and is not legal.

Therefore, the legal competence of this House to pass this Bill is questionable. That is why it was suggested by many of us that the President should refer the matter to the Supreme Court and get their opinion so that no complications are created later on. But I am sorry to say this matter was not referred to the Supreme Court. And, these people are denied, under the Constitution, the chance to go to the Supreme Court for getting justice in this matter. Therefore, it becomes very much wrong and unjust. This Government always talks of minorities and their rights because it wants to get their votes. They perhaps think the princes have no votes. Of course, I have no sympathy for the princes, because they went on all their fours and cringed before the present Queen Emperor of India. They deserve this fate but the question is whether this Parliament is competent to pass this law. (*Interruptions*).

MR. SPEAKER : I am calling only those who gave their names before the Bill was introduced, not the other names which came later on.

SHRI N. K. P. SALVE (Betul) : Rule 72 is absolutely clear. It says :

"If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion may, without further debate, put the question :

Provided that where a motion is opposed, on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker may permit a full discussion thereon."

This rule should be followed.

MR. SPEAKER : The practice we have been following is in case such objections are raised, those names always came earlier.

SHRI M. R. MASANI : Sir, the ruling you have just given needs re-thinking. The rule does not require that the names must be given in advance. The proviso is very clear. The Bill has been opposed by Mr. Madhok and Mr. Deo on the ground of legislative competence. Once that is done, a full debate becomes possible and you will have to allow it.

MR. SPEAKER : The practice we have been following is, only those members are allowed who have sent me their names in advance.

SHRI BAL RAJ MADHOK : Therefore, I have my doubts whether this House is not competent to pass it. I would submit that the Government should refer the matter to the Supreme Court for its opinion. Only after that, this matter should be brought here.

Thirdly, according to this Bill, the privy purse is being abolished and then the princes are going to be given some compensation. Therefore, it involves some financial expenditure Yet, there is no financial memorandum attached to this Bill. From that point of view also, this Bill is objectionable. I, therefore, submit that this Bill should not be allowed to be introduced in this House. *(Interruptions)*.

15.00 hrs.

श्री शिव चन्द्र झा (मधुबनी) : अध्यक्ष महोदय, इस देश की 50 करोड़ जनता—कुछ लोग जो पर्टब्ड हैं उनको छोड़कर इस विधेयक का आज स्वागत करती है।...(व्यवधान)...

दूसरी बात यह है कि मन्त्री महोदय का यह कर्तव्य हो जाता है कि वे इस सदन को बतायें कि इतनी देरी से इस विधेयक को क्यों ला रहे हैं। एक कहावत है—देर आयद, दुरुस्त आयद—लेकिन सारा देश जानना चाहता है कि इस हुकूमत की तरफ से देरी क्यों हुई इस विधेयक को लाने में।

तीसरी बात यह है कि सरकार इस विधेयक के जरिए से आर्टिकिल 366, क्लाज (22) को अमेंड करना चाहती है उस सम्बन्ध में मैं आपका ध्यान आर्टिकिल 363 (2) (बी) की ओर ले जाना चाहता हूं :

"Ruler' includes the Prince, Chief or other person recognised before such commencement by His Majesty or the Government of the Dominion of India as the Ruler of any Indian State."

इस क्लाज को भी डिलीट करने की बात यहां पर क्यों नहीं लिखी गई क्योंकि फिर यह सुपर-फ्लुस हो जाता है जबकि आप आर्टिकिल 291, 362 और 363 को डिलीट कर देते हैं शायद ये बाद में कुछ खुराफात करें, इसमें कुछ काम्प्लीकेशन्स आ सकती हैं इसलिए अच्छा होता कि आप इसके साथ में ही 363 (2) (बी) को भी डिलीट कर देते। यह बहुत ही जरूरी है कांस्टीट्यूशनली—मैं उसकी तफसील में जाना नहीं चाहता हूं।

आखिरी बात यह है कि कांस्टीट्यूशन में धाराओं को डिलीट करने से रास्ता साफ़ हो जाता है लेकिन जो प्रिविलिजेज हैं, हकीकत में जिनको ये एन्ज्वाय करते हैं उनके लिए भी एक एक करके विधेयक लाना चाहिए। कोडिफिकेशन से या कानून के जरिए, उसको आप कब लायेंगे यह हम जानना चाहते हैं। इन शब्दों के साथ एक बार फिर हिन्दुस्तान की 50 करोड़ जनता की तरफ से मैं इसका स्वागत करता हूं।

श्री मधु लिमये : अध्यक्ष महोदय, मैं जो मुद्दे उठाये गए हैं उनका जवाब दूंगा और एक बात और कहना चाहूँगा। राज्य सभा में पिछले शीतकालीन सत्र में एक प्रस्ताव पास हुआ था। मैं इस सदन से जानना चाहता हूँ और प्रधान मन्त्री से भी कि क्या उस प्रस्ताव का पालन आपने किया है ? वह प्रस्ताव श्री बंका बिहारी दास के द्वारा रखा गया था। राज्य सभा का यह प्रस्ताव एक लाइन का ही है।...(**व्यवधान**) ...मैं रूल जानता हूं, पिछले सत्र का मैं कौट कर सकता हूँ। वह इस प्रकार से है :

> "This House is of opinion that Government should take all legal and other steps for the abolition of privy purse and privileges of ex-rulers before the presentation of the general budget in the forthcoming February session of Parliament."

यह राज्य सभा का प्रस्ताव है। उस दिन आपने मेरी बात को काटने का प्रयास किया। यह प्रस्ताव पास हुआ है और दूसरे सदन ने आपको यह आदेश दिया था कि साधारण बजट पेश करने के पहले आप सारे कानूनी काम को पूरा करें। लेकिन इस सत्र के अन्त में आप केवल विधेयक पेश करने का काम करते हैं। आपकी जो टाल-मटोल की नीति है उसकी इससे अधिक निन्दा हो नहीं सकती है। ...(**व्यवधान**)... मैं इसका विरोध नहीं कर रहा हूँ। विलम्ब से सही, लेकिन एक कदम तो आगे बढ़ा।

जो संवैधानिक आपत्तियां यहां पर उठाई गई हैं, मुझे ऐसा लगता है कि वे बिल्कुल बेबुनियाद हैं। इन्होंने गोरखनाथ केस का हवाला दिया लेकिन उस केस में 6 बनाम 5 के बहुमत से यह कहा गया है कि संविधान के तीसरे हिस्से में जो बुनियादी अधिकार हैं उनको छीनने या संकुचित करने का अधिकार पार्लमेन्ट को नहीं है लेकिन बाकी संविधान की जितनी धारायें हैं उनमें से किसी भी धारा को बदलने का अधिकार—जो प्रक्रिया संविधान में बताई गई है उसके अनुसार—इस पार्लमेन्ट को है। इसलिए इनकी बात बिल्कुल बेबुनियाद है। इन्होंने यह कहा कि 363 धारा को काट देना चाहिए ताकि सुप्रीम कोर्ट में जा सकें। जब इनका यह कहना है कि इसमें प्रीवी पर्स सम्पत्ति का अधिकार है और सम्पत्ति के अधिकार का हनन होता है तो संविधान की 32वीं धारा में ये लोग जा सकते हैं। इसमें सुप्रीम कोर्ट के पास एडवाइजरी ओपीनियन के लिये जाने की जरूरत नहीं है। लेकिन मेरी राय में यह सम्पत्ति का अधिकार नहीं है और ये अदालत में जायेंगे तो हार होगी। लेकिन वे जा सकते हैं, उनके लिए रास्ता खुला हुआ है।

इसमें दो तीन आक्षेप उठाये गए हैं। एक तो यह कि जार्ज फरनेन्डीज का बिल उसी तरह का था इसलिए यह नया बिल नहीं आ सकता है। लेकिन जार्ज फरनेन्डीज के बिल और इनके बिल में बुनियादी फर्क है। 363 धारा का इनके इसमें कोई उल्लेख नहीं है इसलिए यह अलग विधेयक है। इसलिए इसको पेश करने में कोई एतराज नहीं होना चाहिए।

यह वित्तीय बिल है या नहीं, इसके बारे में भी गलत बातें रखी गई हैं।...(**व्यवधान**)... मैं इस बिल का समर्थन करता हूं इसलिये उनकी बातों को काटने का मुझे अधिकार है। मैंने सरकार की निन्दा भी की है कि इसको लाने में बिलम्ब किया गया जबकि राज्य सभा ने सरकार को यह आदेश दिया था कि इस सारे काम को बजट के पहले ही पूरा करना चाहिए। मेरा कहना यह है कि यह वित्तीय बिल बिल्कुल नहीं है और कंसालिडेटेड फंड के बारे में जो उन्होंने कहा वह बेमतलब है। संविधान की धाराओं में आप देखेंगे तो प्रीवी पर्सेज का उसमें उल्लेख नहीं है। पेमेंट दिया जाता है, यह बात सही है लेकिन वह चार्जेज नहीं हैं। इसलिए इनके सारे आक्षेप बेमतलब हैं। आप तत्काल इसके ऊपर वोट कराने का काम कीजिये।

THE MINISTER OF LAW AND SOCIAL WELFARE (SHRI GOVINDA MENON) : Mr. Speaker, I shall speak only on the legislative competence because under the relevant rule that is the only thing which is to be discussed at this stage. Sir, this is a simple Bill.

In the speech made to the joint Houses of Parliament on 20th February, 1970 the President said :

> "The concept of Rulership, with privy purses and special privileges unrelated to any current functions and social purposes, is incompatible with an egalitarian social order."
>
> Government have, therefore, decided to abolish the privy purses and privileges of the rulers of former Indian States, and legislation will be introduced to give effect to this decision."

It is in pursuance of this statement made by the President on the 20th February to Members of this House and of the other House that the Home Minister has brought forward this Bill.

SHRI UMANATH (Pudukkottai) : On 18th May !

SHRI GOVINDA MENON : This Bill will fall under article 117 of the Constitution and not under article 110, because it has not only money provisions, which are there, and, so, it cannot be introduced in the Rajya Sabha. That is why it is being introduced here.

Legislative competence of the House is being questioned. I am not at all surprised that the first Member, Shri Deo, questioned it, because it affects him. But I am surprised that the leader of another party, Shri Madhok, should question the competency and sovereignty of this House in order to placate a few hundred privy purse holders.

The object of this law is to put an end to privy purses.

SHRI PILOO MODY : Parliament certainly has no right to pass this... (*Interruptions*).

SHRI GOVINDA MENON : The object of this Bill is to terminate the concept of rulership and to end the payment of privy purses. That is the social philosophy which the Government and large sections of this House have accepted. Today to say that this Parliament has no power under article 368 to delete three articles of the Constitution, namely, articles 291, 362 and 366 (22), is really to plead for half a dozen people and condemn the sovereign powers of this House.

SHRI PILOO MODY : Absolute nonsense.

SHRI GOVINDA MENON : This House has been asserting its right to amend the Constitution and, as a result, the First, Fourth and Seventeenth Amendments of the Constitution were passed by us. It was accepted by the Supreme Court that this House had the power to do so but in the latest case in 1967, in the *Golak Nath* case, the Supreme Court by a majority of six to five said that articles on rights provided for in Part III of the Constitution shall not be taken away and abridged.

This is the first time I hear a Member of Parliament denying the existence of the right to amend the Constitution falling outside the sweep of Part III of the Constitution. It is really an insult to this Parliament (*Interruption*). for any Member of Parliament to say...(*Interruption*) that this House has no power to amend the Constitution. Looking solely at legislative competence, this much is enough.

Sir, there is a well-known rule or convention that in Parliament nobody will speak on matters in which his personal interest is concerned When I heard Shri Deo's speech containing all sorts of irrelevancies, I admired the relevancy of that rule. I would request Members in this House, including the Members belonging to the Swatantra Party and the Jana Sangh to leave the question of fighting on privy purses to the rulers and assume for themselves the role of Members of Parliament interested in securing the rights and privileges of Parliament...(*Interruption*).

SHRI BAL RAJ MADHOK : We are better Members than you are. We are not betraying Parliament ; we are not betraying the Constitution ; we are not betraying the liberty of the people. You are betraying the liberty of the country and the Constitution of the country. And you talk about it ! You betrayed our Constitution.

SHRI PILOO MODY : Is he there to advise the Swatantra Party as to what we should do ?

SHRI GOVINDA MENON : It should be the privilege of the Members of this House to stand for the rights and privileges of Parliament and not for the privy purses and privileges of a few princes. It is a sorry spectacle to see that there are a few Members in this House for whom the rights and privileges of the Parliament are not so important as the privileges of a few princes. I would like to put it to those Members of this House who object to this legislation as to whether they would have an egalitarian society in this country by revolution or by legislation. The Government today stands for an egalitarian system of society and the Government hope that by processes of legislation, taxation and administrative ones that goal will be achieved. This is what the President has stated in his Address on 20th February '70. There is absolutely no substance in the contention that there is no legislative competence in introducing, discussing and passing this Bill.

MR SPEAKER : I have no doubt that the Parliament is fully competent. Now, the question is ..

SHRI KANWAR LAL GUPTA : I rise on a point of order *(Interruptions)*

MR. SPEAKER : The question is :

"That leave be granted to introduce a Bill further to amend the Constitution of India"

Those who are in favour may please say "Aye".

SEVERAL HON. MEMBERS : Aye.

MR. SPEAKER : Those against may please say, "No".

SOME HON. MEMBERS : No.

MR. SPEAKER : The 'Ayes" have it : the 'Ayes" have it. The leave is granted.

The motion was adopted.

SHRI Y. B. CHAVAN : I introduce the Bill.

15.17 hrs.

RESOLUTION RE : RAILWAY CONVENTION COMMITTEE

THE MINISTER OF RAILWAYS (SHRI NANDA) : I beg to move :

"That this House do resolve that the membership of the Parliamentary Committee appointed in pursuance of a resolution adopted by Lok Sabha on 28.11.1968 to review the rate of dividend which is at present payable by the Railway Undertaking to General Revenues as well as other ancillary matters in connection with the Railway Finance *vis-a-vis* the General Finance and make recommendations thereon, be increased by 4 more members of this House to be nominated by the Speaker."

श्री अटल बिहारी वाजपेयी (बलरामपुर) : अध्यक्ष महोदय, इस पर मुझे कुछ कहना है। रेल मन्त्री ने जो प्रस्ताव रखा है उसके अनुसार रेलवे कनवेंशन कमेटी के मेम्बरों की संख्या बढ़ाने की बात कही गयी है। यह कमेटी नयी नहीं बनी हैं। यह कमेटी पहले बन चुकी है और काम कर रही है। इस कमेटी की बैठकें हो चुकी हैं। मैं यह समझने में असमर्थ हूँ कि इस कमेटी के मेम्बर क्यों बढ़ाये जा रहे हैं ? और रेल मन्त्री ने मेम्बर बढ़ाने का कोई कारण नहीं दिया है। यह पहला मौका नहीं है जब रेलवे कन्वेंशन कमेटी बनी है। और अध्यक्ष महोदय, सदस्यों की नियुक्ति आप के द्वारा होती है। क्या रेल मन्त्री ने आप को इस बारे में बताया है कि सदस्यों की संख्या बढ़ाना जरूरी है ?

अध्यक्ष महोदय : यह तो उन की अपनी बात है।

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, यह कैसे बढ़ा सकते हैं ? यह रिजोल्यूशन नहीं ला सकते हैं। इन्होंने कोई कारण नहीं दिया मेम्बरों की सदस्य संख्या बढ़ाने का।