

[**जार्ज फरनेन्डीज**]

जहां आप दो को पांच करना चाहते हैं, मैं कहता हूँ कि दो को दो हो रखिये। ओरिजनल स्टीक रखना अच्छा है, बनिस्वत अज्ञानी के।

श्री कृष्ण चन्द्र पंत : जरा आप अपना अमेन्डमेन्ट पढ़िये।

श्री जार्ज फरनेन्डीज : मेरा अमेन्डमेन्ट ठीक है।

SHRI K. C. PANT : Since he has raised the issue, may I point out what his amendment says ?

Amendment No. 31 says :
 "for 'five' substitute 'two'."

The other amendments are as follows :

"for 'three' substitute 'one' "
 "for 'persons' substitute 'a person'."

You just read that...

श्री जार्ज फरनेन्डीज : पढ़िये न, इस को पूरा पढ़ दीजिये। उपाध्यक्ष महोदय, आप इस पर रुलिंग दीजिये, यह मेरा प्वाइन्ट आफ़ आर्डर है। मंत्री महोदय कह रहे हैं कि मेरी जो तरमीम है—वह सदन को गुमराह करने वाली बात चला रहा है—उस से डिप्टी गवर्नर आफ़ दी रिज़र्व बैंक, सरकार के प्रतिनिधि सब खत्म हो जाते हैं, सिर्फ़ दो लोग रह जाते हैं—उपाध्यक्ष महोदय, मैं आप से इस पर रुलिंग चाहता हूँ। मेरी अमेन्डमेन्ट यह है—
 पेज 5, लाइन 30—

SHRI K. C. PANT : May I cut this Debate short? This will only take the time of the House. Whatever his amendment is, I am not going to accept it. That should satisfy you.

श्री जार्ज फरनेन्डीज : वह दूसरी बात है। उस समय आप बोलें कि मैं जो कानून है, उस को बदलना चाहता हूँ।

MR. DEPUTY-SPEAKER : He is paying compliments to your originality. That compliment you may take. There is a Government amendment—amend-

ment No. 28, to Clause 5. I will put this to the vote of the House.

The question is :

Page 5, line 36,—

after "banking" insert—"insurance," (28)

The motion was adopted.

MR. DEPUTY-SPEAKER : Shall I put all the other amendments together to the vote of the House ?

SHRI D. N. PATODIA : Kindly put my amendment No. 37 separately to the vote of the House.

MR. DEPUTY-SPEAKER : All right. I will put amendment No. 37 to the vote of the House.

Amendment No. 37 was put and negatived.

MR. DEPUTY-SPEAKER : I shall now put the other amendments to the vote of the House.

Amendments Nos. 11 to 13, 15, 18, 31 to 34 were put and negatived.

MR. DEPUTY-SPEAKER : The question is :

"That Clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

MR. DEPUTY-SPEAKER : Now we have to take up another item on the Agenda.

16.34 HRS.

MOTION RE : MODIFICATION TO CIVIL DEFENCE RULES

SHRI K. NARAYANA RAO (Bobbili) : I have a point of order to make, Sir. Shri Srinibas Mishra's motion reads as follows :

"This House resolves that in pursuance of section 20 of the Civil Defence Act, 1968, the following modification be made in the Civil Defence Rules, 1968, published in

the Gazette of India by Notification No. G.S.R. 1277, dated the 10th July, 1968 and laid on the Table on the 26th July, 1968."

Obviously this has been moved on the strength of Section 20 of the Act. Presently I am going to read Section 20 of the Act. It is a very legalistic matter and I request you to give your individual attention to this matter. Section 20 of the Civil Defence Act says this :

"Every rule and every regulation made by the Central Government under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of 30 days which may comprise one session or in successive sessions;

"If before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modifications in the rule or regulation or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be. . . . any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation".

I want your ruling on this very important point. To begin with, it is my contention that if any change is to be brought about in a rule laid on the Table in the last session, it ought to have been brought in that session itself.

SHRI SRINIBAS MISRA (Cuttack) : He did not understand what he himself read out.

MR. DEPUTY-SPEAKER : To save time, I would draw his attention to the provision 'or the session immediately following'.

SHRI K. NARAYANA RAO : I am coming to that. Let me state the consequence. This was laid on the Table on 26-7-68. The last session ended on 30-8-68. By the end of the last session, the required statutory period of 30 days expired. You must give

meaning to the words 'in the session in which it has been placed or in the session immediately following'. It is a question of construction. It is up to you to agree with my construction or not. But let me state my case clearly. The first point is that this should be on the Table for a total period of 30 days and that may be in one session or two. Here two situations are contemplated. If the total period of 30 days expires in one session, the modification sought must be done in that session. If the period falls within two sessions, the possibility of modification being done in the second session will also be there. But there are canons of construction in regard to this matter. We have to consider the larger and the smaller, the longer and the shorter. If the longer is to be meant for all situations, the mention of shorter will be superfluous. Therefore, in the particular scheme of things, you must give meaning to the words 'in which it is so laid'. If the 30 days had expired in the last session, the required modification had to be brought about in that session. . .

MR. DEPUTY-SPEAKER : To save time, I will say this. During the last session, notice was given. But it could not be brought on the order paper. That is all. You are giving a restrictive meaning which you want to place on this construction. It is not permissible. Therefore, he is fully entitled to bring it now. I do not want to give a ruling on the restrictive meaning you want to place on this provision at this juncture. I am not called upon to do so, because he had already brought it forward last session.

SHRI K. NARAYANA RAO : Whether he brought it forward in the last session is not relevant. The point is that the period lapsed. You cannot tag it on to this session. I am not concerned about it, whether he brought it forward last session or not. What I want to say is that it does not make any difference to my point, and it is not relevant for its consideration. Therefore, let us forget about last session.

MR. DEPUTY-SPEAKER : The interpretation you are putting on the first part of section 20 is very restrictive

[Mr. Deputy Speaker] meaning. It is not warranted by the rest of the section.

SHRI K. NARAYANA RAO : My submission is that they have been stated in the alternative. If the longer period is meant to cover all institutions, the mention of the shorter period in the alternative will be superfluous. It can be simply said that it can be brought before the expiry of a session succeeding a previous session in which the rules were laid.

SHRI S. KUNDU (Balasore) : Can there be a point of order on the ruling of the Deputy Speaker ?

MR. DEPUTY-SPEAKER : I gave him full latitude because he wanted to say something on section 20, that it is restrictive in its nature. Second thing 'Immediately after the next session', it is also a permissible expression. Therefore, I do not see that there is any irregularity. (*Interruptions*) I have given by ruling (*Interruptions*). Please resume your seat, Mr. Narayana Rao.

SHRI SRINIBAS MISRA : I beg to move :

"This House resolves that in pursuance of section 20 of the Civil Defence Act, 1968, the following modification be made in the Civil Defence Rules, 1968, published in the Gazette of India by Notification No. G.S.R. 1277, dated the 10th July, 1968, and laid on the Table on the 26th July, 1968, namely :—

in rule 13, after 'The Central Government' insert 'or the State Government'.

This House recommends to Rajya Sabha that Rajya Sabha do concur in this resolution."

MR. DEPUTY-SPEAKER : Motion moved :

"This House resolves that in pursuance of section 20 of the Civil Defence Act, 1968, the following modification be made in the Civil Defence Rules, 1968, published in the Gazette of India by Notification No. G.S.R. 1277, dated the 10th

July, 1968, and laid on the Table on the 26th July, 1968, namely :—
in rule 13, after 'The Central Government' insert 'or the State Government'.

This House recommends to Rajya Sabha that Rajya Sabha do concur in this resolution."

SHRI SRINIBAS MISRA : Before speaking anything I would first of all question repeat the platitude that the Centre is nowhere without the States. No civil defence work by the Centre will be of any avail without the help and co-operation of the States. Some time there is no point that the Centre can think of dissociating the States from the civil defence activities. I think it was not intentional. My first point is that perhaps this Commission was a slip and accidental. Here, before coming to the Act itself it was passed and it received assent on 24th May, 1968. It is an Act for preparation and creating of civil defence forces for civil defence. 'Civil defence' has been defined as 'preparation against any hostile attack'. That is section 2(a). 'Hostile act' has been defined as 'it means any attack by any person or body of persons whether during any war, external aggression, internal disturbances or otherwise'. So here this civil defence force has been formed not only against external aggression but also against internal disturbance. That means so far as internal disturbance also is concerned this civil defence is being organized. The scheme of this Act is in Section 3. The Central Government has taken powers to make rules for various things. Sub-section (1) provides for orders with regard to the matters specified therein, which may be made by the State Government. Then Chapter III, Sec. 4 says that the State Government may constitute or the State Government will constitute a civil defence force. Then as per sub-section (2), the State Government may for the purposes of co-ordinating the activities, appoint controllers. Then section 5: "The State Government may appoint as members of the Corps persons who are fit". Section 7: "All members of the Corps when dismissed will appeal to the State Government."

Section 8 : (2) : "The State Government or the Controller may call out a member of the Corps." Then sub-section (3) : "The Central Government may make in this behalf any member of the Corps of any State..." Then, section 9 : "The Central Government may make regulations." Section 17 : "The State Government may by notification direct all or any of the powers which may be exercised by it to be exercised by others." That means the power of delegation is given to the State Government and the State Government may delegate its powers.

Under this, the Central Government has made certain rules and in these rules, they want to regulate and make rules for the civil defence under section 3. Here also, rule 2 says, "The Central Government or the State Government may by order provide..." screening of lighting, etc. Then rule 3 speaks of measures for dealing with the outbreak of fire: the Central Government or the State Government may by order make provision for requiring the owner or occupier to take certain steps."

MR. DEPUTY-SPEAKER : First of all, I would like to know whether it was by oversight.

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI K. S. RAMASWAMY) : No, Sir.

SHRI SRINIBAS MISRA : So, it was deliberate. I am justified in bringing this thing to your notice. Then, rule 4 says, "The Central Government or the State Government may by order, regarding camouflage..." etc. Rule 5 says : "The Central Government or the State Government may order by" and so on. It is with reference to the keeping of dangerous articles or substances. So, everywhere, the Central Government or the State Government will make orders and make rules to give directions. But strangely enough, in rules 12 and 13, somehow, as the hon. Deputy Minister now agrees, deliberately, the State Government has been

kept out of this civil defence. Rule 12 says that the Central Government "may with a view to ensuring protection regarding major ports" and so on. Although there is scope for objecting to this, I did not want to object to this because major port is the concern of the Centre. That comes within the purview of the central administration, and therefore, I did not want to take objection, but regarding rule 13, the "Central Government may by order require the owner, manager or agent of any mine or occupier or manager of any factory, to make within such period as may be specified in the order, a report in writing stating the measures which he has taken or is taking or is proposing to take to secure the due functioning of the mine or the factory, the safety of the person or the property thereof and in the vicinity thereof in the event of the outbreak of fire whether caused by accident or otherwise."

Then, section (b) says, "...to take within such period as may be specified in the order and as may be so justified if measures, the taking of which is in the opinion of the Central Government necessary for the aforesaid purposes." Here, as you know, there are mines which are State subjects. There are some minor metals which are specified as Central subjects and some which come under the State subject. Then, about factories. The State Government has its own factories of which they are the owners. There are private factories in the States and there are public sector factories in the States, which are under the jurisdiction of the State Government. There are, of course, some factories in some States which are public undertakings belonging to the Central Government. But why should the State Government be suspected so far as factories and mines are concerned? It is because they are lucrative concerns? Does it not engender a suspicion in the minds of the public that there is something fishy about it? I thought it was accidental, but now the minister says it was deliberately done. That is why it raises a suspicion that they have some further interest in keeping out the State Governments.

MR. DEPUTY-SPEAKER : The point is whether it is consistent with the parent Act under which the rules have been made. Please deal with that.

SHRI S. KUNDU : That is an important point you have made, as you sometime do.

MR. DEPUTY-SPEAKER : This whole House is concerned with it. It is not a question of party.

SHRI SRINIBAS MISRA : I have read out the relevant sections of the Act. The purpose is to keep fires out. The Central Government at Delhi will be so much interested in a factory somewhere in Kerala or Madras or NEFA? If the Central Government does not do anything, is it not better that the State Government is given the authority to take some action? Why do you suspect the State Governments? This question is being raised time and again in this House. Somehow this Cabinet have got some suspicion towards some State Governments after the 1967 elections, in which they fared not too well. This suspicion is being strengthened by such actions which are declared to be deliberate. What thought did they give to it. Was it the thought of civil defence which was foremost in their mind or was it the thought of keeping States out or the thought of money flowing out from factories and mines? How can they say that the Central Government here at Delhi is more competent to take safety measures against fires in mines and factories than the State Governments which is there on the spot?

I have read the relevant sections of the Act. Central Government cannot by rules go against the spirit of the Act and keep the State Governments out of civil defence measures. The clause giving the rule-making power says :

"The Central Government may, for securing civil defence, by notification make rules providing for all or any of the following matters" etc.

While making rules, the State Government, which is really the established authority of civil defence corps, should not be kept out of directing mines and

factories, which are within its territory. This is inconsistent with the spirit of the Constitution. The minister says, it is deliberate. If they go on deliberately putting strain on the constitution and the mandate of the legislature, we know what we should think of them and what is the real purpose.

With these words, I commend my motion to the House for its acceptance.

श्री रवि राय (पुरी) : उपाध्यक्ष महोदय, मैं मिश्र जी को धन्यवाद देता हूँ कि वह इतनी मेहनत करके सिविल डिफेंस रूल्स में जो गलतियाँ की गई हैं उन को सुधारने के लिए अपना यह प्रस्ताव आज सदन के सामने लाये हैं।

आजकल जिस प्रकार सरकार के द्वारा नियम और कानून आदि पाम करवाये जा रहे हैं उन में मुझे सरकार का इरादा कुछ खराब जान पड़ता है। अभी कल ही आप सब जानते हैं कि केन्द्रीय सरकार ने इस सदन में सेंट्रल इंडस्ट्रियल मिक्योरिटी फोर्स बिल पाम करवाया है और मंत्रिधन के चलते राज्य सरकार को जो पावर्स दी जाती हैं, फंडरल कांस्टीट्यूशन के नाते जो पावर्स राज्य सरकारों को प्राप्त होती हैं उन्हें इस ने इस तरह से हड़प लिया है। आज भी केन्द्रीय सरकार की वही चेष्टा सिविल डिफेंस रूल्स में दिखाई पड़ती है। इस सम्बन्ध में श्री मिश्र ने बड़ी सफाई से समझाया है कि सरकार किस तरीके से राज्य सरकारों को प्राप्त पावर्स को हड़पना चाहती है। खुद मिश्र जी ने आप के सामने बतलाया कि सिविल डिफेंस का मतलब विदेशी हमले के खिलाफ साधारण जनता का समर्थन प्राप्त करना होता है और साधारण जनता के समर्थन में ही उसका कामयाबी के साथ मुकाबला भी किया जा सकता है। जो ऐक्ट है उस ऐक्ट से यह चोख साफ जाहिर है कि राज्य सरकार के चलते साधारण जनता के समर्थन की जरूरत है। जहाँ तक इन रूल्स का सम्बन्ध है आप जानते हैं कि यह एक साधारण निबन्ध है कि जो रूलज संविधान और मौलिक एक्ट

के खिलाफ जाते हैं वह रूल्स असंवैधानिक हो जाते हैं, गैरकानूनी हो जाते हैं। मेरी राय में सिविल डिफेंस का 13 नवम्बर का रूल इस दृष्टि से असंवैधानिक है और मिश्र जी ने रूल 13 में जो संशोधन का प्रस्ताव किया है वह उचित है और सरकार को उसे मानना चाहिए।

आप देखेंगे कि रूल नम्बर 4 जो कि कैम्प-फ्लेज से सम्बन्धित है उस में सेंट्रल गवर्नमेन्ट और राज्य सरकार दोनों का नाम है लेकिन जिस प्रकार रूल 13 की शब्दावली है उस से इस बात की पुष्टि होती है कि केन्द्रीय सरकार राज्य सरकार के संवैधानिक अधिकार को हड़पना चाहती है और इसलिए उस में से राज्य सरकार के नाम हटा दिया गया है और रूल 13 में सिर्फ केन्द्रीय सरकार का जिक्र है उस में राज्य सरकार का नामोनिशान भी नहीं है। आप जानते हैं कि जो फ़ैक्टोरीज़ और माइंस जगह जगह पर चलती हैं उन में कहीं कहीं राज्य सरकार की तरफ से भी पब्लिक सैफ्टर इंडस्ट्रीज़ चालू की जाती हैं और उन को राज्य सरकार एक योजना करके पब्लिक सैफ्टर में कुछ इंडस्ट्रीज़ को चलाती हैं और उन माइंस की जिम्मेदारी वह लिये हुए हैं और इसलिए यह रूल नम्बर 13 का जो मौजूदा रूप है वह एक तो संविधान के खिलाफ है दूसरे जो मौलिक एक्ट है उस के खिलाफ है और तीसरी सब से बड़ी चीज़ गौर करने की यह है कि सरकार का इरादा जो चीन और पाकिस्तान के हमले के खिलाफ साधारण जनता का समर्थन पाने का है वह समर्थन इस तरह से उसे प्राप्त होने वाला नहीं है। मैं सदन का ज्यादा समय न लेता हुआ कहना चाहूंगा कि अभी मंत्री महोदय ने जो मिश्र जी को जबाब देते हुए बतलाया कि सरकार न समझ बूझ कर ऐसी शब्दावली रक्खी है, जानबूझ कर ऐसी बडिंग सरकार ने रक्खी है इस तरह का कथन बहुत ही दुर्भाग्यपूर्ण है और मैं आशा करूंगा कि सदन श्री मिश्र ने जो सिविल डिफेंस रूल्स में मॉडिफिकेशन का सुझाव दिया है, रूल 13 में जो संशोधन

का सुझाव दिया है उसे स्वीकार कर ले और उसमें जो खामियां हैं उन को सुधारे।

DR. RANEN SEN (Barasat) : Mr. Deputy-Speaker, while supporting the contention of Shri Misra and Shri Rabi Ray, I want to raise another point. They have dealt with section 13. Take section 12, which deals with the protection of major ports and their environments against fire etc. Bombay port and Calcutta Port are situated more or less inside the city. It is within the jurisdiction of the State Government. Here the section says :

"The Central Government may, with a view to ensuring protection of any major port in any city, town or other places adjoining the port..."

Suppose there is a big fire in the port of Calcutta or Bombay or Madras. It will engulf the whole city. Therefore, it does not remain within the jurisdiction of the port alone; it comes within the jurisdiction of the State Government. Though there is mention of "local authority" here, these cities are not run entirely by the municipalities. They are the headquarters of the State Government. Not only that. If there is a major conflagration in such ports, we know from experience that it can be controlled only by the fire fighting service run, controlled and financed by the State Government. The port authorities cannot afford to keep such a big fire-fighting service as is now kept in the cities of Bombay or Calcutta. Therefore, to say that it becomes the function of the port authorities and the Central Government, in order to ensure protection of major ports and that they will issue an order and all that, I do not know how far it violates the Constitution of India and the authority of the State Governments. Not only that; it creates a double authority which will create all sorts of difficulties in the process of fighting a conflagration and other things inside such a big city. Therefore, rule 13 is a violation of the rights of the State Governments. That way, it is an infringement of the rights of the State Government. Secondly, it creates a situation which is difficult for the port authorities. Thirdly, the purpose is the fire-fighting and the very

[Dr. Ranen Sen]

purpose will be defeated because fight between all these three authorities will ensue. I think, a second look has to be given to these particular rules 12 and 13 also.

17 HRS.

SHRI DATTATRAYA KUNTE (Kolaba) : Mr. Chairman, Sir, I hope the Government will give closer consideration to the point made by Shri Srinibas Misra and other hon. Members who followed him. My hon. friend, Shri Srinibas Misra, was kind enough to say that ports' are a Central subject and he might yield on that point.

SHRI SRINIBAS MISRA : Major ports.

SHRI DATTATRAYA KUNTE : Even then, he will remember that even in the matter of major ports, these ports have to depend on the State Governments in the matter of law and order.

SHRI SRINIBAS MISRA : Law and order only.

SHRI DATTATRAYA KUNTE : I would like to remind the hon. Minister that in the year 1944, I think, when there was a very big explosion in the Bombay Docks, it could not be without the assistance of the local fire-fighting and other units that the thing could be brought under control. Therefore, even in respect of major ports, within the port itself, the port authorities will not be in a position to do all the fire-fighting by themselves. The ports are very vital and also physically connected with the cities nearby. Therefore, to create a separate authority which will look after it and to exclude cities will not do. Naturally, the Minister is not going to accept what Mr. Ranen Sen has said that they are not under the control of the State Governments. Even as regards rule 12, this has got to be considered. As regards rule 13, the factories and other things that are there, I really wished, before all this discussion started, that the Minister concerned should have been sure of the ground

and he should have enlightened the House about it before we could advance our arguments. I would really await the Minister to enlighten the House on that.

MR. DEPUTY-SPEAKER : This House has delegated powers to the Government, to the executive, and if they are not properly exercised, we have got to be watchful and we have to find out whether they have been properly exercised or not within the meaning of the Act. I would like to get some clarification from the Minister concerned. Mr. Kunte also pointed out just now.

SHRI S. KUNDU (Balasore) : I entirely appreciate your intentions. It would be better if the replies to this point also.

I would just bring out another point, a little bit of constitutional crisis which deliberately the Central Government is creating and is trying to obviate all the legislative norms, violating the Constitution. The rules, as the Minister ought to know, cannot go beyond the Act. If he carefully reads the Act, the Act has given a lot of powers to the State Governments to carry out or to follow the different ways as to how the defence of the country should be carried out. Section 4 of the Act says :

"The State Governments should appoint a Director of the Civil Defence..."

But look at the rules. Rule 13 says :

"Protection of factories and mines :

"The Central Government may, by order, require the owner, manager or agent of any mine, or occupier or manager of any factory..."

—to do such and such a thing. If the Director who is appointed by the State Government is asked directly by the Central Government through its Civil Defence agency—at the State level the Director is appointed by the State Government—and if the State Government does not want to co-operate and the Director refuses, then what happens? This is a question which I have to raise. A deliberate anomaly has been created.

Secondly I would raise the Constitutional point. The rules cannot override the Act. Where the Act provides for rules to be drawn up both by the Centre and the States can we say at one place that both the Centre and the States can do and at another place that only the Centre can draw up rules and the States cannot do? The rules have been laid on the Table of the House in pursuance of this Act and it is the duty of this House to see that the rules are properly drawn up according to the spirit of the Constitution. Here, the cat is let out of the bag. Here is an instance which shows how provocative is the Centre. Even when there is no source of conflict, the Central Government goes to the extent of provoking the States; they do not want to give to the States the right which has been enshrined in the Constitution...

MR. DEPUTY-SPEAKER: He may please resume his seat. I will give him an opportunity. Let us first find out from the Government.....

SHRI S. KANDAPPAN *rose—*

SHRI K. NARAYANA RAO *rose—*

MR. DEPUTY-SPEAKER: I will listen to him later. Mr. Kandappan also wants to speak. What I suggest is that we first listen to the Minister. It is not a question of an individual member raising a point. My ruling is very firm. If we have delegated the authority to the executive and if that is not properly exercised, it is the business of this House, including the Chair, to see that it is properly exercised.

The hon. Minister.

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI K. S. RAMASWAMY): Hon. Member, Shri Misra, has said that it has been done intentionally to protect the Central Government's property or the property over which the Central Government has the jurisdiction. It was also said that it is *ultra vires* the Constitution. Rule 13 says...

MR. DEPUTY-SPEAKER: I will just point this out. Under Chapter II, the power of the Central Government to make rules for Civil Defence, there is an enumeration. You will have to

point out to me that 'factories' belong to the Centre. There is nothing in the rule about this; the context does not justify that meaning. So, you will have to show that they belong to the Centre.

SHRI K. S. RAMASWAMY: Rule 13 says, '...mines and factories'. 'Mines' comes under List I—Union List—of the Seventh Schedule...

MR. DEPUTY-SPEAKER: It was pointed out by some hon. Member that some mines are under States.

SHRI K. S. RAMASWAMY: I would draw your attention to item 55 of List I of the Seventh Schedule which says:

"Regulation of labour and safety in mines and oilfields."

AN HON. MEMBER: *Factories?*

SHRI K. S. RAMASWAMY: 'Factories' comes under the Concurrent List. We have got Central Government factories all over—defence factories and so on... (*Interruptions*)

MR. DEPUTY-SPEAKER: You read the Chapter under which you have been authorised to make rules for Civil Defence purposes. You must make the rules in such a manner that your area of operation is within Constitutionally prescribed limits. If you exceed that, how is it that it is within your jurisdiction?

SHRI K. NARAYANA RAO: I shall answer your question...

MR. DEPUTY-SPEAKER: Please resume your seat. I am asking the Minister. He is on his legs.

SHRI K. S. RAMASWAMY: Rule 3 says 'outbreak of fire' that is, whenever a fire occurs... Rule 13 is protection against fire; protecting the factories. The Central Government has to take some action. And that power we have under these rules...

MR. DEPUTY-SPEAKER: Objection is raised on two grounds: Number one, whether it is consistent with the authority given by this House and whether the rules are within the prescribed limits. Number two, in respect of

[Mr. Deputy Speaker]

'factory' or 'mines' it has been pointed out that this has not been specified. That is one thing. The factory may belong to Central Government or undertaking. In regard to mines also, some mines are in the State list. Some are with the Centre. So this rule does not make any meaning....

SHRI SURENDRANATH DWIVEDY (Kendrapara): Whatever brief he has got let him say. Why need not confuse him.

DR. RANEN SEN: Let the hon. Minister not proceed with this. Let this be held over. Let him discuss this with his colleagues and then come prepared and explain.

SHRI K. S. RAMASWAMY: I will explain....

MR. DEPUTY-SPEAKER: Let us have patience....

SHRI K. S. RAMASWAMY: Chapter II, Section (3) of the Act provides this....

MR. DEPUTY-SPEAKER: I have got Chapter II, Section (3) with me.

SHRI K. S. RAMASWAMY: Please see under item (vii) of subsection (o). It says:

"Mines, oilfields, factories or industrial or commercial undertakings generally or any mine, oilfield, factory or industrial or commercial undertaking in particular".

MR. DEPUTY-SPEAKER: That is, section 3(o) (vii)... That is all right. Your authority will extend to that sphere.

SHRI K. S. RAMASWAMY: The rule says:

"The Central Government will have authority to make rules for all or any of the following matters, namely: "

And this comes under that item.

MR. DEPUTY-SPEAKER: I am not disputing that. There is Central Government and State Governments also. You have omitted the word 'State'. Now, the question is, mines may belong to the State....

SHRI K. S. RAMASWAMY: We want uniform rules with regard to Central and State factories. There are various Defence installations. There are very big installations. We want to make arrangement for defence purposes and for protection against fires. We are very much concerned that these installations run continuously, for Defence purposes. Ordnance factories cannot be stopped at any time, Sir.

DR. RANEN SEN: There are Central Government factories and there are State Government factories also... If there is fire what happens?

MR. DEPUTY-SPEAKER: Take Rule 7. Accommodation question is there. You have said 'State'. If you want to specify—Centrally owned factories or public undertakings or Centrally owned mines—I can understand that. But you have made the general rule.

SHRI K. S. RAMASWAMY: Mines come under that.

MR. DEPUTY-SPEAKER: Some mines come under 'State'....

SHRI K. S. RAMASWAMY: But in the constitution it is so.

SHRI K. NARAYANA RAO: All come within the purview of Parliament.

MR. DEPUTY-SPEAKER: Are there no mines under State control?

SHRI K. NARAYANA RAO: It may be private, Central Government, or State Government—all are there.

SHRI K. S. RAMASWAMY: Item 55 clearly declares that regulation of safety in mines and oilfields is a Central responsibility.

MR. DEPUTY-SPEAKER: Factories? At this juncture, we are concerned with civil defence and in that the State must also be made a party with the Centre in execution. If you make a distinction between factories to be protected by the Central Government and others, say it.

SHRI K. S. RAMASWAMY: The very purpose of having the two sections is this. In cases of outbreak

of fire, both are responsible and both are given powers. But for protection against fire in factories, the Central Government have to take certain steps for protecting their own factories, their own industries, their own mines.

MR. DEPUTY-SPEAKER : You must make the position clear because there is a growing suspicion expressed in the House.

SHRI K. S. RAMASWAMY : According to the Constitution, Mines are in the Union List.

MR. DEPUTY-SPEAKER : Mechanical application of certain articles of the Constitution will not serve our purpose. The question is very specific. You have been given authority to make rules under sec. 3. I grant it. While making rules for civil defence, you have in some rules said 'State Government' along with the 'Central Government' and in others you have mentioned only the 'Central Government'. There are factories and mines in the State sector also. So you must a categorical distinction that on some matters regarding protection of factories belonging to the States and also mines in States, this power belongs to the States and the rest belongs to the Centre. Otherwise, now is it possible to interpret this ?

SHRI J. M. BISWAS (Bankaura) : One point is not clear. When has Shri K. Narayana Rao been co-opted as Minister? I have not seen the gazette notification.

MR. DEPUTY-SPEAKER : I am prepared to give him some time. If there is any lapse or extension or omission of authority, he may consult his officers and come forward later. As it is, I find it difficult.

SHRI SURENDRANATH DWIVEDY : Let them consult their legal advisers and come again. Let us not waste time.

MR. DEPUTY-SPEAKER : Shri Narayana Rao wants to speak. He is throwing some new light.

SHRI K. NARAYANA RAO : Let me also be given an opportunity to participate.

There are certain fallacies and certain confusion of thinking. The first is that in every case, in every situation, whenever mention of 'Central Government' is there, the State Government must necessarily be tagged to it. It is not necessary. As has been pointed out, in many places both are mentioned; but that does not mean and cannot mean that invariably wherever the Central Government is mentioned the State Government must also be mentioned.

Coming to the second fallacy, as has been pointed out, in the Constitution itself it has been clearly laid down that mines are within the legislative jurisdiction of Parliament. You have raised a doubt about mines which are in the State sphere. Ownership is different, enjoyment is different and legislative competence is another thing. Even if there is a private sector mine or a State sector mine, Parliament alone is the competent legislative authority in these matters. In this context, what rule 13 says is very important to consider. In this connection and very simple context, Shri Kundu brought in so many things like Centre-State relationship.

What exactly is it? It is very necessary to see the normative order created by the Rule. If we see the Rule, that will throw some light. Rule 13 is primarily supervisory in character. I will just now read Rule 13. (*Interruptions*)

MR. DEPUTY-SPEAKER : I have got it before me.

SHRI K. NARAYANA RAO : Here we have to see whether in this limited context, the State Government is relevant. If it is relevant, then we have to consider such a rejection or non-association. Rule 13 says that the Central Government may, by order, require the owner or manager or agent of any mine or the owner of any factory to submit a report in writing as to what measures they have taken for prevention of fire and all these things. The Central Government can ask from a

[Shri K. Narayana Rao]

mine a report. What is the State-Centre relationship here? What I say is that it is supervisory in our character. It is more a supervisory and disciplinary action. Similarly, to make within such period as may be specified in the order such measures as may be specified, being measures the taking of which is, in the opinion of the Central Government, necessary for the aforesaid purpose. So certain purposes have been mentioned and they are only required to submit a report to the Central Government. As I submitted earlier, factories come within the exclusive jurisdiction of Parliament. It is under the exclusive jurisdiction of Parliament and the Central Government. Similarly the discipline imposed on the factory owner or the manager is to submit to the Union Government periodical report on the measures they have taken. They are the exclusive concern of the Central Government. Such being the case, I do not think there is any reason why the State Government should be associated with these things. Therefore, the non-inclusion of the State Government is not at all a material issue or a substantive issue.

MR. DEPUTY-SPEAKER : I have given the hon. Member full latitude. (*Interruptions*) So far as I am concerned I am not satisfied by the explanation because this Rule has been made under section 3 of the original Act and, as I find, if at all you want to have an independent agency, independent of the State, it must be made very clear. It is not clear at all. So I would suggest that either you consult the Law Minister or do some consultation. But I am not satisfied with the explanation. If you want to take vote, you take it. But this matter should not be determined by vote. This is a constitutional thing.

SHRI K. NARAYANA RAO *rose*—

MR. DEPUTY-SPEAKER : Please resume your seat. I have given my ruling. (*Interruptions*)

SHRI K. S. RAMASWAMY : Sir, I have given you the points. According to the Constitution, the Centre has got powers to make rules with regard to mines and factories.

MR. DEPUTY-SPEAKER : You will have to satisfy the House and satisfy the Chair.

SHRI K. S. RAMASWAMY : That is why I have submitted the position. Secondly, according to the Act, the Central Government is empowered to make rules under section 3 to safeguard a mine or a factory. More than that,—

MR. DEPUTY-SPEAKER : You have missed one point. In making the rules, at some places, you have mentioned the Central Government and the State Government. Here, you have omitted the State Governments, and the contention is, without putting in the State Government, whether you will be able to implement it.

SHRI K. S. RAMASWAMY : Why burden the State Governments with mines?

AN HON. MEMBER : What about factories?

SHRI K. S. RAMASWAMY : You should read the rule. "The Central Government may by order require the owner, manager or agent of any mine or the occupier, or manager of any factory" and so on. Our intention is only to refer to the defence installations, military and-fields, etc. (*Interruption*) At the time of a hostile attack, for the continuous protection of such things, we want some separate, special protection. It is not for all, each and every factory and also not for any private factory.

MR. DEPUTY-SPEAKER : You will have to satisfy the House.

SHRI K. S. RAMASWAMY : When you take all these into consideration, you will find that our intention is to protect our own factories.

MR. DEPUTY-SPEAKER : But the rules do not make it clear. You say that mines are under the Central Government. You are using a general term: factories and mines. How is it possible?

SHRI K. S. RAMASWAMY : The rule, read with the Act, clearly says—

MR. DEPUTY-SPEAKER : I am very sorry. You had better consult your Law Ministry and come. As I said, I am not satisfied with your explanation nor has the House been satisfied. You have to come again with an explanation. I am ready; I do not want to dispose of it might now, but obviously there is some mistake.

SHRI DATTATRAYA KUNTE : I find from what Mr. Ramaswamy said that in rule 12, city, town or village is mentioned; that is not owned by the Central Government anyway. In rule 12, in addition to the ports which are centrally administered, the question of city, village and town comes in. It is very clear that they are outside the jurisdiction of the Central Government. He may contend about a factory. On that point at least there should be a clarification; he should be very clear about it. Let him answer and explain it.

DR. RANEN SEN : The major ports are those in Calcutta, Bombay and Madras. These are inside the cities and the States are there to look after the cities.

MR. DEPUTY-SPEAKER : At least I must be satisfied that this is within the ambit of the delegation of powers and the rules that are framed. If I am not satisfied, then, as I have said, you had better consult the Law officers and come back. I do not just want to throw it out now. We shall proceed with the next item.

SHRI K. S. RAMASWAMY : I have explained the case. We are justified in having this.

MR. DEPUTY-SPEAKER : As I said, neither I nor the House have been satisfied. (*Interruption*) You come afterwards. As it is, I am not satisfied.

SHRI K. S. RAMASWAMY : The rule, as it is, gives enough powers to legislate on mines and factories under section 3 of the Act, and we have framed the rules according to that.

MR. DEPUTY-SPEAKER : On that point, as I have said, either you must satisfy the House or the Chair. If I am satisfied, then I will plead for you.

At the present juncture I am not satisfied with your explanation. You will have to satisfy us on the question of the rule-making power. Otherwise, I would say that this would be a bad precedent in this House; we have never done it before. This is the position which I have to take into account.

SHRI K. S. RAMASWAMY : If your ruling is that you are not satisfied we shall have to come forward again with an explanation. We on this side are satisfied.

MR. DEPUTY-SPEAKER : I am not disposing of it right now. I am keeping it pending.

17.30 Hrs.

HALF-AN-HOUR DISCUSSION
SMALL CAR PROJECT

SHRI HEM BARUA (Mangaldai) : Sir, the question of the production of the low-priced car, variously called as people's car or small car—it has not been called minicar yet—raises certain basic questions in our minds. Does the small car exist? We have been spending time, energy and money over this issue. If a small car exists anywhere, it exists only in the embryo of the ministry concerned or in the embryo of the Planning Commission. It does not exist anywhere else.

During the fifties, the small car was known as the people's car. Now it has undergone only a change in the nomenclature and it is known as small car. The transformation in nomenclature does not carry us very far.

17.32 Hrs.

[SHRI THIRUMALA RAO *in the Chair*]

To call a car that costs Rs. 12,000, as estimated by the minister recently, as people's car is an insult hurled at our people, possible the poorest in the world. This is an anachronism against facts. The number of cars in our country today is only 3 million. Only 1 per cent of the Indian people possess cars, own cars or use cars. What about the other 99 per cent? They do not possess, own or use any car. In this