

under the Khadi and Village Industries Act (No. 61 of 1956) and consultation with the Union Public Service Commission is not mandatory under the provisions of the said Act in respect of the appointments under the former Commission. The Union Public Service Commission was, therefore, not consulted when the employees of the All India Khadi and Village Industries Board were taken over by the Khadi and Village Industries Commission on 1st April 1957.

STATEMENT RE: APPOINTMENT OF A COMMISSION OF ENQUIRY RE: EMOLUMENTS AND CONDITIONS OF SERVICE OF CENTRAL GOVERNMENT EMPLOYEES

The Minister of Finance (Shri T. T. Krishnamachari): Mr Speaker, Sir, on Friday, the 19th July, Government indicated that they were considering the question of instituting an enquiry, *inter alia*, into the structure of emoluments and the conditions of service of the Central Government employees Government have now reached a decision on this matter. It is proposed to appoint a Commission of Enquiry to go into this and other related questions.

Mr. Justice Jagannadha Das, Judge of the Supreme Court, has kindly agreed to be the Chairman of the Commission. He will be assisted by four other members whose names I expect to be able to announce shortly.

The terms of reference to guide the work of the Commission are as follows:—

The Commission shall

(i) examine the principles which should govern the structure of emolument and conditions of service of the Central Government employees;

(ii) consider and recommend what changes in the structure of emoluments and conditions of service of different

classes of Central Government employees are desirable and feasible, keeping in mind the consideration mentioned in para 2 below; and

(iii) recommend in particular the extent to which benefits of the Central Government employees can be given in the shape of amenities and facilities.

2. In making its recommendations, the Commission will take into account the historical background, the economic conditions in the country and the implications and requirements of developmental planning and also the disparities in the standard of remuneration and conditions of service of the Central Government employees on the one hand and of the employees of the State Governments, local bodies and aided institutions on the other, and other relevant factors

ESSENTIAL SERVICES MAINTENANCE BILL*

The Minister of Home Affairs (Pandit G. B. Pant): Sir, I beg to move for leave to introduce a Bill to provide for the maintenance of certain essential services and the normal life of the community.

Shri Sadhan Gupta (Calcutta-East): I oppose this, Sir.

Several Hon. Members: We oppose this

Mr. Speaker: Hon. Members might have waited till I put the question, and then opposed it. As it is, I do not know what is it that they are opposing.

I will put it before the House and then they can oppose. Otherwise, what is it that they are opposing?

The question is:

“That leave be granted to introduce a Bill to provide for the maintenance of certain essential services and the normal life of the community.”

Several Hon. Members: We oppose it.

Mr. Speaker: Now, the hon Home Minister will make a brief statement and I will call upon the leader of the Communist group to make his statement

Shri Naushir Bharucha (East Khandedh) I am rising to points of order on the introduction of the Bill itself

I am raising five points Under Rule 72, it is open to anybody to object to the introduction of the Bill if the Bill initiates legislation outside the legislative competence of the Parliament My submission, therefore, is this. Whether the Bill does not initiate legislation outside the legislative competence of the Parliament in that it renders nugatory or illusory the fundamental right under article 19(c), the right to form associations or unions and under article 19(g) the right to practice any profession, or to carry on any occupation? This is the first point

The second point is whether it offends the provisions of article 14 namely, the denial to certain employees of Government equal protection of laws within the territory of India

Thirdly, whether sub-clause (2) of clause 2 of the Bill does not, in substance, invest the Government with the Ordinance making powers in the guise of notifications, thus encroaching upon the Ordinance-making powers of the President and amending the Constitution by the backdoor

Fourthly, whether sub-clause (4) of clause 3 of the Bill does not contravene article 20(1) by creating a new criminal offence with retrospective effect

Fifthly, whether clause 6 of the Bill inflicting punishment for an offence created as stated above does not also violate article 20(1) of the Constitution

With your permission, Sir, I shall briefly amplify these points

Mr Speaker: The hon Member said enough

Shri Naushir Bharucha: May I elucidate the points, Sir? Some points may not be apparent at first sight or thought and they require elucidation For instance, I have referred to article 14 and I have got to show how equality of protection is denied

Mr. Speaker: If I have doubts I will ask the hon Member I have no doubt regarding the matter raised by him He refers to article 14 for the purpose of stating that there shall not be discrimination

Shri Naushir Bharucha: There are implications in it I want to point out in what respect there is discrimination

First, I say that denying the right to form unions is obvious in the sense that it renders unions impotent and makes them incapable of fulfilling their objects and that it strikes a blow at the fundamental right which says that citizens have the right to form associations and unions

It is true that this right is subject to reasonable restriction in the interests of the public, but the Bill seeks not to place restrictions but an outright prohibition on strike Reasonable restrictions for instance, could be that the strikers shall not take out processions and limitations of such nature A complete prohibition is outside the scope of the Constitution and I, therefore submit that it violates article 19(c)

Coming to article 19(g), it is also violated because if I have got a right to carry on a trade or following a vocation, I have equally the right not to do it by means of strikes or in other ways That right is violated also

Coming to the fact that this Bill also defeats article 14, it would be seen that it is made applicable to certain categories of government employees, mentioned in clause 2 It does not apply to all government employees Certain categories of government employees only are discriminated against in that they come within the mischief of the Bill but it does not, for instance, bring within its mischief the Atomic Energy Department, the Diplomatic Services,

Government Hospitals, Reserve Bank employees and so forth. It is really very funny that it brings within its mischief employees employed in the Mint but not the employees employed in the Issue Department of the Reserve Bank. Therefore, what I submit is that between government employees performing the same duty, there is invidious distinction created by the Bill. Thus, there is no equal protection of law between similar categories of government servants. It is conceivable that certain discrimination is permissible under article 14 provided that the classification is very rationally based. As I pointed out, there is no rational basis of classification of government servants for the simple reason that the 'essential services' are so defined—the definition is made so elastic—that it will include anything and every union which gives a notice to go on strike

Coming to the fact that under sub-clause (2) of clause 2, the Bill encroaches upon the Ordinance-making right of the President. You will see that under article 123, the President has powers to issue Ordinances. Sub-clause (2) of clause 2 of the Bill definitely invests Government, in substance, with Ordinance-making powers. The language of article 123 is bodily lifted from the Constitution and transplanted into the Bill. Such power is called under the Bill by the name of notification. Such a camouflage cannot really conceal its real character, namely, the Bill is really giving an Ordinance-making power. This is an encroachment upon the powers of issuing Ordinances of the President who alone is empowered under the Constitution to issue ordinances. This, I submit is also a backdoor amendment of the Constitution. If the framers of the Constitution had thought it fit to invest Government with Ordinance-making powers, they would have done so. But in so far as they have not done so, I submit, this is nothing short of amending the Constitution by the backdoor.

Coming to sub-clause (4) of clause 3, the very strange thing is that it makes strikes illegal whether commenced before or after a particular order is promulgated. If, for instance, today I advise the P. & T. Workers' Union to go on strike and a week later the order is promulgated, then, the strike becomes illegal from its inception. Therefore, a criminal offence is created with retrospective effect. Article 20(1) lays down that no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence. Therefore, it clearly seeks to go behind this particular clause in that it says that somebody shall be convicted of an offence for violation of a law not in force at the time of the commission of the act when such offence was not there. Therefore, it is a clear violation.

Coming to clause 6, this clause provides punishment. Again article 20(1)—the latter part—says that no person shall be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence. Therefore, not even a day's penalty of simple imprisonment can be prescribed, let alone a year's imprisonment that has been prescribed here.

The point I am making is this. The Constitution follows a very salutary principle. What today is not an offence shall not be created an offence with retrospective effect by an order of the Government and no subject of the State shall be made liable to any penal provisions by virtue of such an order. For all these reasons, I submit that the Bill transgresses the legislative competence of Parliament and therefore, under rule 72 I oppose it at the introduction stage.

Shri Narayanankutty Menon (Mukundapuram): Sir, I also want to raise another point of order in support of it but for a different reason. The Bill violates article 14 of the Constitution inasmuch as clause 10 of the Bill affects the rights of the industrial labour. If any industry is declared as essential under the Industrial Disputes Act the

[Shri Narayanankutty Menon]

workers automatically get a right for their grievances to be referred to a tribunal. That is a statutory obligation. There is the other provision of this Bill affecting the old provision contained in the Industrial Disputes Act which has already been passed by this Parliament. The right that is granted to the employees under the Industrial Disputes Act is taken away in respect of the Central Government employees alone. So, there is a *prima facie* discrimination between the Central Government employees and others.

Mr. Speaker: Is it said in the Industrial Disputes Act that any union of workers can strike? Is there a clause to that effect?

Shri Narayanankutty Menon: There is no such provision. The provision is that if a particular industry is declared essential, there is an automatic obligation on the Government to refer the disputes pending to a tribunal. That right is taken away here. So, there is *prima facie* discrimination under article 14 of the Constitution.

The Minister of Law (Shri A. K. Sen): Mr. Speaker, I am afraid the points raised regarding the validity of this Bill have no basis. Firstly, the first point raised is that this Bill contravenes article 19 (g) and (c) of the Constitution. There is some confusion from which the hon. Member appears to be suffering. The right to strike is not a Fundamental Right. The right to form associations is a Fundamental Right. They are subject to reasonable restrictions. I would be surprised if any Court of law would deem the restriction imposed on any association to strike in relation to essential services which vitally affect the lives of the people and would regard such a restriction as unreasonable. It is most reasonable that when the whole nation's life is threatened by strikes which seek to paralyse the essential services on which life depends there should be such restrictions. It cannot be regarded unreasonable if the Government proposes measures to limit those threats or

curb those threats by making strikes illegal in services considered essential.

Shri Nath Pal (Rajapur): It is the Bill that is threatening the very basis of the democratic rights of our life... (Interruptions.)

Shri A. K. Sen: We are not concerned with democratic rights. We are concerned with Fundamental Rights.. (Interruptions.)

Mr. Speaker: Order, order. The hon. Members should know that I allowed the hon. Member to take a long time and go one point after another on the several items and points of orders. I allowed him full opportunity. Nobody interrupted from this side and if anybody tried to, I would have asked them not to do so. Then what for is this interruption? The hon. Members come here for the purpose of convincing one another by cogent arguments and I allow all opportunity for that. Another hon. Member also spoke from this side. He wanted to bring another point of order and I allowed him to do so. Nobody else wanted to participate from this side further. So, I called the hon. Law Minister and he is trying to explain the various points that have been raised. Then why this interruption now? Is it so that I may not hear the hon. Minister and the House also may get confused over this matter?

Shri A. K. Sen: The objection was that it contravenes Fundamental Rights—not democratic rights. What it means is not known really.

Sir, I was answering the point that it did not contravene any Fundamental Right whatsoever.

The attack has also been levelled on the ground that the Bill contravenes article 14 of the Constitution. Every legislation, it is now recognised, must necessarily proceed on classification. It cannot *per se* apply to every man since men are situated in different stations in different categories and by the very nature of their very occupations they belong to different classes. If we classify the services and say that some are essential

for the life of the community, what is wrong: It is essential to shape the economy of any country and it is a very rational classification. We regard certain services as vitally necessary for maintaining the life of the community and it is on that rational basis that the Bill has proceeded and categorises certain services as essential; otherwise it may be made essential by notification of the President if they are deemed essential for the sustenance of the community life of the country. On that rational distinction certain limitations have been imposed on the unions proposing to strike. I submit that there is no force in the contention that the Bill contravenes article 14.

The next reference was to article 20. It prohibits any legislation which seeks to create offences with retrospective effect. If we take the penal provision of the Bill in clause 4 you will find that it operates prospectively. Clause 3 is not a penal provision at all. It only makes the strike illegal as on a particular day. The penal provision is contained in clause 4 which is entirely prospective from the moment the strike becomes illegal in a particular service. Any man who knowingly or otherwise takes part in that strike would be deemed to have committed an offence under the Act. The same is the case with clauses 5 and 6. I cannot imagine how any construction can regard the offences created by these sections as anything but prospective. If we give retrospective effect, to that extent it would be bad but that question does not arise because clauses 4, 5 and 6 have been made only prospective.

The next attack of Shri Bharucha is on the ground that we have really incorporated article 123 bodily in this Bill. It is not a quotation of article 123. Such a provision is necessary in such emergency legislations namely to confer residuary powers in the executive. It is a very familiar provision. It is necessary to confer

powers on the executive to meet emergency so that what is not an essential service today, by change of circumstances it might be so tomorrow, and then the executive may not be left at large groping for powers to meet the situation before the country is paralysed. Therefore, Sir, this is a piece of delegated legislation the like of which occurs not only in this country but in the very home of the separation of legislative and executive powers, in America, where vast powers have been delegated to the executive similar to those contained here, and courts have uniformly upheld such legislations where principles are laid down. The principles are the essence of legislative powers they are indicated by the Parliament whereas the actual execution is left to the Executive.

The next attack comes from the hon. Member, Shri Narayanankutty Menon. The attack is on the ground that differential treatment has been accorded so far as certain government services are concerned, as under the Industrial Disputes Act, as also under the proposed Bill. You will appreciate, Sir, that the proposed Bill repeals the provision of any other law or makes them repugnant, so far as the situation which is sought to be covered by the Bill is concerned. That is the very last clause of the Bill which says:

"The provisions of this Act, and of any order issued thereunder, shall have effect, notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act of 1947, or in any other law for the time being in force."

That means, that it is felt by the Parliament, if the Bill is made into an Act, that the provisions contained in the Industrial Disputes Act to meet emergencies occurring in essential services would not be enough for the purpose of keeping them alive, and fresh powers are therefore sought to be taken under the Act. There is no doubt whatsoever. Once the Bill is

[Shri A. K. Sen]

passed into an Act, essential services covered by the Act will be governed by this Act alone and not by any other Act, which, to that extent, stands repealed.

Therefore, my submission is that there is nothing in the points of order raised by the hon. Members and, Sir, you may be pleased to grant leave for the introduction of the Bill.

Mr. Speaker: I will put the motion to the vote of the House.

Shri Tangamani (Madurai): Sir, may I just seek one clarification? The hon. Minister said that according to the Constitution there is no right given for going on strikes, but in the Constitution itself there is no prohibition of strike as such.

Mr. Speaker: It cannot, therefore, be a fundamental right

Shri Tangamani: Another point is, where labour relations are concerned there is the Industrial Disputes Act. The Industrial Disputes Act only places restrictions on certain industries which are declared as public utility services. Where they are declared as public utility services, there is an obligation on the part of the employees to give a notice under section 14, but when the notice is given under section 14 there is an obligation on the part of the Government to do certain acts. That is the restriction which is contemplated under the Industrial Disputes Act, and it is in line with the spirit of the Constitution itself.

Now, the hon. Law Minister starts on the promise that there is no fundamental right to go on strike. Therefore, any strike, whether in a public utility service or non-public utility service, can be declared as illegal.

Shri Narayanankutty Menon: Sir, I would like to seek some clarification from you. The hon. Member, Shri Naushir Bharucha raised five points of order.

Mr. Speaker: Order, order. How many times can I allow one hon. Member to speak on this?

Shri Narayanankutty Menon: I have some doubts. At that time I was not allowed to raise another point.

Mr. Speaker: Order, order. I am not going to allow the hon. Member to speak for a second time. One hon. Member cannot have a number of chances to speak on the same subject.

Shri S. A. Dange (Bombay City-Central): May I just ask one thing, if not a point of order or on a point of order ...

Mr. Speaker: A point of order was raised and I allowed hon. Members to discuss that matter. I only said that I cannot give a second chance to one hon. Member.

Shri S. A. Dange: On the same question I want to seek some clarification. I want to seek clarification on this question of fundamental right to strike, since this has been raised. The right to strike in fundamental definitions means the right to withhold one's own labour power for being utilised or for being sold. This is the simple meaning of right to strike. I hire my services, I refuse to hire my services. Is this a fundamental right guaranteed or not? I would say, it is, because the Constitution says, and it is also accepted as a matter of principle, that in our country there is no.....

Mr. Speaker: Does "strike" mean resignation from service?

Shri S. A. Dange: Here it is said: "strike means either to refuse to continue to work or to accept employment." Now, forcing me to accept a certain employment is against my fundamental right. I cannot be brought under operations of the rules of serfdom. To compel a man to accept a certain employment against his will is serfdom, and serfdom is ruled out under the fundamental rights of the

Constitution, under article 19 itself. I can practice any trade, any profession or any business. At a time I might be a textile worker or a government servant. If I refuse to continue with that trade, I say it is my fundamental right not to continue with my employment. Is this right demed, I should like to know from the hon. Minister for Law and also from others.

Shri A. K. Sen: Then the right to declare a lock-out is also a fundamental right.

Shri P. C. Bose (Dhanbad): Fundamental rights are for the individual. Strike is a concerted action.

Shri S. A. Dange: I am prepared to allow him the right to lock-out and have the right to strike.

Shri Radhelal Vyas (Ujjain): Sir, I rise on a point of order. My point is this. On previous occasions, the late Speaker and you yourself, Sir, have ruled a number of times that whenever there is a piece of legislation before the House the Chair would refuse to give a ruling on points raised on the ground that the particular piece of legislation is *ultra vires* of the Constitution, if it is *ultra vires* of the Constitution it is for the Parliament to reject that piece of legislation, and that the Chair will not take the function of the Supreme Court or High Courts. These observations were made on a number of occasions by the Chair. I would, therefore, request you, Sir, to rule out the points of order raised, and it should be left to the House or the proper judicial authority to give interpretations.

Mr. Speaker: I have heard enough.

Shri Sadhan Gupta: May I reply this point of order?

Mr. Speaker: It is not necessary.

Shri S. A. Dange: May I know whether the Law Minister stands by his offer to take the right of lock-out and give the right to strike?

Shri A. K. Sen: I did not make any offer; I only asked....

Shri S. A. Dange: You withdraw it, that is good.

Pandit G. B. Pant: Even you and he cannot make a new Constitution here.

Shri S. A. Dange: That we will.

Mr. Speaker: Order, order. Though the point of order raised does object to the jurisdiction of this House or competence of this House to proceed with this legislation, hon. Members will kindly read the proviso to rule 72. In the earlier portion of the rule it is said:

"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."

I was about to do so, after I heard from the hon. Member on this side and the hon. Minister. But, objection was raised in the form of a point of order, and that is covered by the proviso which reads:

"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."

I do not treat this as a point of order but an objection raised that this House is not competent to go against the Constitution unless the Constitution itself is amended. I allowed a full discussion and not a formal statement on the point. I allowed the hon. Member who rose on a point of order and then I allowed others also to support or oppose him. Now I will put the question straight to the vote of the House under the proviso to rule 72.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the maintenance of certain essential services and the normal life of the community."

The Lok Sabha divided: Ayes: 174; Noes: 47.

Division No. 7]

AYES

11.42 hrs

Abdul Lateef, Shri
 Achar, Shri
 Agarwal, Shri
 Ajit Singh, Shri
 Ambalam, Shri Subblah
 Arumugham, Shri R S
 Atchamamba, Dr
 Ayyakannu, Shri
 Azad, Maulana
 Bahadur Singh, Shri
 Banerji, Shri P B
 Bhangu Thakur, Shri
 Barman, Shri
 Barupal, Shri P L
 Basappa, Shri
 Bhagat, Shri B R
 Bhakt Darshan, Shri
 Bbergava, Pandit Thakur Das
 Bholi Sardar, Shri
 Bidari, Shri
 Birba Singh, Shri
 Borooah, Shri P C
 Bose, Shri P C
 Brahm Perakash, Ch
 Brajeshwar Prasad, Shri
 Chanda, Shri Anil K
 Chandak, Shri
 Chandra Shanker, Shri
 Chaturvedi, Shri
 Chettiar, Shri R Ramanathan
 Chaudhry, Shri C L
 Daljit Singh, Shri
 Dasappa, Shri
 Das, Shri K K
 Das, Shri Ramdhan
 Das, Shri Shree Narayan
 Datar, Shri
 Deb, Shri N M
 Dindod, Shri
 Dinesh Singh, Shri
 Dube, Shri Mulchand
 Dwivedi, Shri M L
 Bleyaperumal, Shri
 Gaekwad, Shri Gatesingh Rao
 Ganapathy, Shri
 Gandhi, Shri Feroze
 Gandhi, Shri M M
 Gautam, Shri C D
 Gounder, Shri K. P
 Hathi, Shri
 Hazarika, Shri J N
 Hukam Singh, Sardar
 Jagjivan Ram, Shri
 Jain, Shri A P
 Jangde, Shri
 Jedhe, Shri
 Jinachandran, Shri
 Jogendra Singh, Sardar

Josh, Shri A C
 Joshi, Shrimati Subhadra
 Jyotsna, Pandit J P
 Kale, Shrimati A
 Kanakassaba, Shri
 Karmarker, Shri
 Kashwal, Shri
 Kayal, Shri P N
 Khadiwala, Shri
 Khan, Shri Osman Ali
 Khan, Shri Sadath Ali
 Khump, Shri
 Kripalam, Shrimati Sucheta
 Krishna Chandra, Shri
 Krishnamachari, Shri T T
 Lachhu Ram, Shri
 Lahiri, Shri
 Lal, Shri R S
 Laxmi Bai, Shrimati
 Mafida Ahmed, Shrimati
 Majitha, Sardar
 Maiti, Shri N B
 Malviya, Shri K B
 Mansen, Shri
 Mandal, Shri J
 Mandal, Dr Pashupati
 Mehta, Shri B G
 Mehta, Shri J R
 Munimata, Shrimati
 Mishra, Shri L N
 Mishra, Shri M P
 Mohideen, Shri Gulam
 Morarka, Shri
 Murthy, Shri B S
 Nadar, Shri P T
 Naidu, Shri Govindarajulu
 Nanjappa, Shri
 Narayanasamy, Shri R
 Nayak, Shri Mohan
 Nehru, Shri Jawaharlal
 Nehru, Shrimati Uma
 Oza, Shri
 Padam Dev, Shri
 Pahadia, Shri
 Pandey, Shri K. N
 Parmar, Shri Y S
 Patel, Shrimati Maniben
 Patel, Shri Rajeshwar
 Pillai, Shri Thanu
 Prabhakar, Shri Naval
 Redha Raman, Shri
 Raghuraj Sahai, Shri
 Raghunath Singh, Shri
 Raj Bahadur, Shri
 Ramakrishnan, Shri
 Raman, Shri Pattabhi
 Ramanand Shastri Swami
 Ramananda Tirtha, Swami

Ramaswami, Shri S V
 Ramaswamy, Shri K S
 Rameshwar Rao, Shri
 Rampure, Shri M
 Ram Subhag Singh, Dr
 Ranbir Singh, Ch
 Rane, Shri
 Ranga, Shri
 Rangarao, Shri
 Rao, Shri Rajagopala
 Rao, Shri R J
 Ray, Shrimati Renuka
 Reddy, Shri K C
 Reddy, Shri Ramakrishna
 Reddy, Shri Viswanatha
 Sahnorabai, Shrimati
 Salam, Shri Abdul
 Samanta, Shri S C
 Sanganna, Shri
 Sankarapandian, Shri
 Sarhadi, Shri A S
 Satyabhama Devi, Shrimati
 Satyanarayana, Shri
 Scindia, Shrimati Vijaya Raj.
 Selku, Shri
 Sen, Shri A K
 Shah, Shrimati Jayaben
 Shah, Shri Manabendra
 Shakuntala Devi, Shrimati
 Shankaraya, Shri
 Sharma, Shri D C
 Shastri, Shri Lal Bahadur
 Shivnanjappa, Shri
 Shobha Ram, Shri
 Siddiah, Shri
 Singh, Shri D N
 Singh, Shri H P
 Singh, Shri M N
 Sinha, Shri Jhulan
 Sinha, Shri Satyendra Narayan
 Subramanyam, Shri F
 Sultan, Shrimati Mumoons
 Sumat Prasad, Shri
 Swaran Singh, Sardar
 Tewari, Shri Dwarikanath
 Thummalah, Shri
 Thomas, Shri A M.
 Tiwari, Shri Babu Lal
 Tiwari, Shri R S
 Tiwary, Pandit D N,
 Tyagi, Shri
 Uke, Shri
 Upadhyaya, Shri Shiva Dutt
 Vedakumari, Kumari M
 Viswanath Prasad, Sh
 Vyas, Shri R C
 Wadiwa, Shri
 Wilson, Shri J N.

NOES

Amjad Ali, Shri
 Asar, Shri
 Banerjee, Shri Pramathanath
 Barua, Shri Hem
 Bharucha, Shri Naushir
 Bri Narayan "Brijesh", Pandit
 Chakravarty, Sarumati Renu
 Chandramani Kalo, Shri
 Dange, Shri S. A.
 Dasartha Deb, Shri
 Dasgupta, Shri
 Dige, Shri
 Dwivedy, Shri Surendranath
 Oakwad, Shri B K
 Ghosal, Shri
 Gopalan, Shri A K

Gorey, Shri
 Gupta, Shri Sadhan
 Iyer, Shri Esawara
 Jadhav, Shri
 Kamble, Shri B. C.
 Kar, Shri Prabhat
 Katti, Shri D. A.
 Kodiyar, Shri
 Kumaran, Shri
 Mahagonkar, Shri
 Manay, Shri
 Mattin, Shri
 Menon, Dr. K. B.
 Menon, Shri Narayanankutty
 Mohan Swarup, Shri
 More, Shri

Mullick, Shri B. C.
 Naik, Shri Vasudevan
 Nayar, Shri V. P.
 Parulekar, Shri
 Parvathi Krishnan, Shrimati
 Patil, Shri Nana
 Pillai, Shri Anthony
 Punnoose, Shri
 Rao, Shri T. B. Vittal
 Singh, Shri L. Achaw
 Sugandhi, Shri
 Tangamani, Shri
 Vajpayee, Shri
 Verma, Shri Ramji
 Warrior, Shri

The motion was adopted.

Pandit G. B. Pant: I introduce the Bill

Mr. Speaker: The House will now resume further discussion of the Demands for Grants relating to the Ministry of Transport and Communications. Out of 9 hours allotted for the demands of this Ministry, about 1½ hours have already been availed of and 7½ hours now remain.

The list of selected cut motions have already been circulated to the Members. I shall treat those cut motions as moved subject to their being otherwise admissible.

Pandit G. B. Pant: The further stages of the Essential Services Maintenance Bill may be taken up on Monday, so that the Bill may be accepted or rejected by the House on that day.

Mr. Speaker: The hon. Minister wants that the further stages of the Bill may be taken up on Monday. It may be started on Monday with full discussion.

Shri Naushir Bharucha: For how many days it will proceed?

Mr. Speaker: I shall call an emergent meeting of the Business Advisory Committee. Normally, I do not think it will take more than five hours or, say four hours. (*Interruptions*) Let us see as it progresses.

Shri Jaipal Singh (Ranchi West Reserved—Sch. Tribes): The allocation of hours should be decided first by the Business Advisory Committee. We cannot just tentatively indicate the number of hours until it has gone to the Committee and come back to the House.

Mr. Speaker: It is not obligatory on us to ask for the advice of the Business Advisory Committee provided the House would like to spend as much time as it wants. But I want to call a meeting of the Business Advisory Committee inasmuch as there is a difference of opinion as to how much time has to be allotted for this. We shall have an emergent meeting this evening and then fix up this matter. Notice in the usual course will be given for the next stage, and even today, though it has been informally said in this House, I will certainly receive notice for consideration of the Bill. We will have an emergent meeting.

Shri Parulekar (Thana): There will be no time for us to table amendments.

Mr. Speaker: I shall ask the office to see that it is open till tomorrow evening. The amendments may be tabled before tomorrow evening.

Shri Surendranath Dwivedy (Kendrapara): We could take it up on

[Shri Surendranath Dwivedy]

Tuesday and not on Monday. The hours may be fixed later.

Mr. Speaker: I am afraid the strike is scheduled to start on the 8th. It might take some time. Therefore, I shall waive all notice. All amendments may be tabled. The Notice Office will be open throughout tomorrow as a special case. The hon. Members can give amendments till tomorrow evening, say, till 5 O'clock in the evening. So, it will be taken up for discussion on Monday.

Pandit G. B. Pant: The discussion will be finished on that day, because, the Bill....

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): It is definitely the Government's request that the discussion will be finished on Monday and that the view we will take up at the Business Advisory Committee, and we can agree to no other understanding. (*Interruptions*)

Shri Tangamani: How much time we can get for this Bill—before knowing that, we cannot decide that a particular Bill will be over in three hours.

Shri Sadhan Gupta (Calcutta East) It is objectionable.

Shri Tangamani: It is disrespect to the House.

Shri Jawaharlal Nehru: I think there is some misapprehension about the functions of the Business Advisory Committee. It is an Advisory Committee. It does not overrule the House. In this case, we have no objection how long it takes. But it must, according to the submission of the Government, end on Monday. They can sit till 6,7,8,9 or 10 O'clock at night. (*Interruptions*)

An Hon. Member: We protest against it

Mr. Speaker: There is nothing to protest. We have been getting on quite in an orderly way.

An Hon. Member: The House cannot be ordered about like this.

Mr. Speaker: It is open to the House to accept it or reject it. According to the strike notice, the strike is intended to be started on the 8th.

Some hon. Members: It was given long ago.

Mr. Speaker: Therefore, we shall consider the time. It is open to any hon. Member....

Shri Morarka (Jhunjhunu): Let the House decide the time.

Mr. Speaker: It will decide.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): The House has every right to decide the issue of time.

Mr. Speaker: If the House itself wants to decide it now....

Some hon. Members: Yes, yes.

Mr. Speaker: After all, the Business Advisory Committee's report has to be accepted by the House. If, independently, the House wants to decide it, I have no objection.

Shri Tangamani: It is possible to fix it up as 15 minutes. We can decide it in 15 minutes.

Shrimati Renu Chakravartty (Barrhat): We shall take it as a precedent for future action. Up till now, on no occasion, has any allocation of time been made by this House without first going to the Business Advisory Committee. Generally in the Business Advisory Committee, it has always been possible to come to an agreed decision. If we are going to throw it overboard, we shall take this as a precedent and we will say that every time, the allocation of time should be made here by the House itself.

Some Hon. Members: No, no.

Shri Satya Narayan Sinha: We accept it.

Shri S. A. Dango: I might say that all this would be avoided by some politeness on either side. If politeness were to be given up just because there is a strike notice that creates a bad atmosphere. Otherwise, all this is unnecessary. If you want to continue you could have continued. But if you go on using language of dictatorship, there is an answer to dictatorship also (*Interruptions*). Don't be guided by votes.

Shri Ranga (Tenali): The hon. Leader of the House only said that the Government submits, that is a submission to the House (*Interruptions*).

Mr. Speaker: There are cases where even when it was possible for the Business Advisory Committee to meet and even when the committee had time to meet the House itself took them up and allotted time.

So far as this matter is concerned, the Speaker has been taking the sense of the House so far without even putting it to the vote of the House. We find a desire on the part of the Government to see that it is finished that day. We may sit for 6 hours or 7 hours, on occasions we have sat even till 9 O'clock. Therefore any reasonable length of time can be asked. I will see whether there has been sufficient debate on this matter, because it is an important matter, and we will try to close it that day by sitting longer hours if necessary. Therefore let us proceed with it. The only intention is that we shall finish it that day, however long it may be necessary to sit. Let the House go on with the discussion, I am not going to avoid discussion. I will give ample opportunity for the expression of all shades of opinion. Therefore, let there be a full and fair debate.

Shri Surendranath Dwivedy: You will realise that this Bill was circu-

lated to us only this morning. We have other business of the House to attend to and if you do not give us even one day more to go through the Bill and give our amendments it is just like saying discuss it here and now.

Mr. Speaker: It is only on account of the urgency of the Bill and there is also one full day intervening tomorrow, Sunday.

Shri M. R. Masani (Ranchi-East): The Rajya Sabha is not sitting now. May I know what is the use of rushing this Bill through in this manner? In any case, it cannot be enacted before the Rajya Sabha meets. It cannot be erected before the 8th.

Pandit G. B. Pant: We will take such measures as are necessary in order to be able to implement the provisions of this Bill at the proper time even though the Rajya Sabha may not be sitting.

Shri M. R. Masani: Then you could have just passed an ordinance, why come to the House?

Pandit G. B. Pant: If you want me to be more frank, I can tell you that there are provisions in the Constitution which will enable us to act according to a Bill that may be passed by this House, when the Rajya Sabha is not sitting.

Shri Narayanankutty Menon: When the Essential Commodities Bill was introduced in this House on 29th May, 1957, there was no notice given to the House and when we raised the objection, you were pleased to rule that hereafter such a sort of thing shall not happen. Even one month has not passed since you gave that direction that such sort of hasty legislation shall not be introduced and the normal time allowed under the rules shall be given for submitting amendments, etc.

Mr. Speaker: I am not contravening what I said that day. All that I said was even before the introduction of the Bill, copies of the Bill must be available to Members, for the purpose

[Mr. Speaker]

of their voting one way or the other. They have been made available and hon. Members have looked into them, made an elaborate study and raised many points of order. There has been a good deal of discussion also. In the one day that is available, let us proceed with this work. I was not in favour and I am not in favour of allowing any ordinance to be passed without the notice of this House or when the House is sitting. Therefore, I insisted and my predecessor also insisted that an ordinance shall not be passed during the session when the House is sitting without consulting it. I do not think any hon. Member would like that when we are sitting, without taking our opinion, an ordinance should be passed over our heads. I only want an opportunity to be given to the Government to come to this House with a Bill; it is for the House to reject it or accept it. If the other House is not sitting it is for the Government to take whatever steps they think fit. I want that this House should have an opportunity of discussing this matter. When the House is sitting, I do not want an ordinance to be passed about a matter over which this House has jurisdiction and with respect to which this House's opinion can be asked. Therefore, I advised the Home Minister to bring a Bill instead of issuing an ordinance, and he has done it accordingly.

Shri Sadhan Gupta: There cannot be an ordinance when the House is sitting.

Mr. Speaker: This House's opinion will be given on the Bill. I am not going to discuss this further. There are precedents. The Bill is before the House and the Bill will be considered in the second stage and all other stages on Monday. It has been already said that the House will sit as long as is necessary on that day to dispose of all the stages of the Bill.

An Hon. Member: We must have two days.

Mr. Speaker: I have taken the general sense of the House. The only

objection can be for the purpose of fixing up time. The Leader of the House is willing and I am sure the House is willing to sit as long as is necessary to dispose of this Bill. I will allow a reasonable debate on this Bill and all the stages of the Bill will be taken up on Monday. (*Interruptions*).

Shri Nath Pai: Heavens are not going to crash if we have two days...

Mr. Speaker: We shall sit the whole night if necessary.

Shri Surendranath Dwivedy: No no; that is no consolation for us.

Shri Jaipal Singh: In order to have more time, we may do away with the Question Hour on Monday.

Shri Surendranath Dwivedy: As a protest, we are walking out of this House.

(At this stage Shri Surendranath Dwivedy and some hon. Members left the House)

Raja Mahendra Pratap (Mathura): An impression should not be created that these people meaning who were walking out are for justice, Government is for injustice and all these people meaning Congressmen are supporting injustice. This impression should not be created in this House and before the world. We are all for justice. We want peace in the world; we want peace in this House.

(Raja Mahendra Pratap then left the House)

DEMANDS FOR GRANTS—*contd.*

MINISTRY OF TRANSPORT AND COMMUNICATIONS—*contd.*

Mr. Speaker: The House will now proceed with the further consideration of the Demands for Grants relating to the Ministry of Transport and Communications.

The following are the selected cut motions relating to various Demands under the Ministry of Transport and Communications which have been indicated by the Members to be moved: