

*Essential Services Maintenance
Ordinance, 1968*

Maintenance Bill, 1968

THE MINISTER OF STATE IN THE
MINISTRY OF FINANCE (SHRI K. C.
PANT) : On a point of order, Madam...

SHRI BHUPESH GUPTA : ...
Kindly tell us...

SHRI K. S. CHAVDA (Gujarat) : Madam,
a point of order has been raised.

SHRI K. C. PANT: May I know what is
the subject under discussion. . .

THE DEPUTY CHAIRMAN :
There is nothing now. Let us go back to our
discussion on yesterday's business. . .

SHRI BHUPESH GUPTA : The
Finance Minister will get away. . . .
(*Interruption*) Madam Deputy Chairman, I
demand a commission ' of enquiry into this
matter. Is he prepared for it? There are many
other skeletons in the cupboard, and one after
another they should be brought before the
House in order to establish that the Finance
Minister was partial and advancing the
business of some people...

THE DEPUTY CHAIRMAN : This is
neither the time nor the occasion to raise this
issue. Mr. Thengari.

**I. RESOLUTION SEEKING DIS-
APPROVAL OF THE ESSENTIAL
SERVICES MAINTENANCE
ORDINANCE, 1968 NO. 9 OF 1968)**

**II. THE ESSENTIAL
SERVICES MAINTENANCE BILL,
1968— *contd.***

SHRI GODEY MURAHARI (Uttar
Pradesh) : Madam, I have a point of order on
the Order Paper. The Order Paper says :—

"LEGISLATIVE BUSINESS Bill for
consideration and passing..."

THE DEPUTY CHAIRMAN :
There is a foot-note which says :

"This resolution and the motion for the
consideration of the Essential Services
Maintenance Bill, 1968 (item 1 under
Legislative Business) being discussed
together."

Mr. Thengari is on his feet.

SHRI GODEY MURAHARI : I take
serious objection.. .

THE DEPUTY CHAIRMAN : You
can take objection. But this point has already
been decided.

SHRI GODEY MURAHARI : Yesterday it
was made clear that the two things should not
be taken up together. ..

SOME HON. MEMBERS : No, no.

THE DEPUTY CHAIRMAN : The
foot-note in today's Agenda paper makes it
clear. Mr. Thengari is on his feet. Mr.
Thengari, you will get another ten minutes.

SHRI BHUPESH GUPTA (West Bengal) :
Madam, I move :

"That the decision of the House
yesterday to discuss the two things
together be rescinded."

SOME HON. MEMBERS : No, no.

SHRI BHUPESH GUPTA : Why can I not
move? It is my right. I move:

"That in view of the importance of the
matter and the Constitutional provision the
decision of the House that these two, Bill
and the motion, should be discussed
together be rescinded."

Madam, I have put it before the House.

THE DEPUTY CHAIRMAN : Nothing
more. I think we took a decision and I gave a
ruling yesterday. . .

SHRI BHUPESH GUPTA: A ruling
cannot be given in order to amend the rules...

THE DEPUTY CHAIRMAN :
Nothing more. The discussion must go on.
Mr. Thengari.

SHRI BHUPESH GUPTA : I am
going on. You gave the ruling. That is all
right. But today I am moving a motion.
(*Interruption*) Why can I not move it?

SHRI GODEY MURAHARI: You
put this motion to vote.

SHRI BHUPESH GUPTA: Yesterday the Leader of the House moved his motion to extend the House till 7 o'clock. He can also do it, I am doing it today. Alternatively, I move the motion that the discussion on this be postponed. *(Interruption)* All right. I would not question your ruling. I move :

"That the discussion on this Resolution and the Bill taken together be postponed." Is it not right?

(Interruptions)

THE DEPUTY CHAIRMAN : Order, order . . .

SHRI BHUPESH GUPTA: I am moving it. I am not questioning your ruling of yesterday. But formally I am moving a motion that the discussion, in the House, of the Resolution and the motion on the Bill be postponed. You take the opinion of the House. Yesterday you allowed Mr. Abid Ali to speak.

[Some hon. Members stood up in their seats.]

THE DEPUTY CHAIRMAN : Please take your seat. I am not going to hear all the Members here because I do want to go on with the discussion of this Bill. Yesterday, we wrangled for nearly 4i hours. We hardly discussed the two things. Everything yesterday was clear. Mr. Yajee spoke yesterday. Mr. Thengari was speaking. I want Mr. Thengari to go on.

SHRI GODEY MURAHARI : We are asking for postponement of the discussion. It is a formal motion. Under the rules we are entitled to move.

SHRI BHUPESH GUPTA : You allowed Mr. Abid Ali. What is the rule under which Mr. Abid Ali was allowed to speak?

THE DEPUTY CHAIRMAN : I am not going to allow...

SHRI BHUPESH GUPTA : Who am I to cite the rules. You know the rules by heart.

THE DEPUTY CHAIRMAN : Yesterday, you had a discussion for 41 hours. . .

श्री सुन्दर सिंह भंडारी : (राजस्थान) : श्रीमन्, मेरा एक निवेदन है। अभी आपने कहा कि बिल पर विचार हो और इस आधार पर मुझे शुरू से यह शंका थी कि मेरे मोशन को खटाई में डालने की कोशिश की जा रही है। मैं पहले भी यही कहा कि मेरे मोशन पर विचार करने के लिए अलग से समय निश्चित किया जाय। अगर बिजिनेस एडवाइजरी कमेटी का समय के संबंध में उल्लेख किया जाता है तो बिजिनेस एडवाइजरी कमेटी को रिजोल्यूशन और बिल, इन दोनों के लिए समय बांट देना चाहिये था और जो समय निश्चित किया गया था उसमें से आधा मेरे मोशन के लिए और आधा बिल के लिए बांट देना चाहिए था।

THE DEPUTY CHAIRMAN : I am surprised that Mr. Bhandari is raising this issue all over again when it has been settled, and his Party Member is on his feet. Mr. Thengari.

(Interruption by Shri Bhupesh Gupta)

THE DEPUTY CHAIRMAN : I am not going to listen. Mr. Thengari.

SHRI BHUPESH GUPTA : Madam only last Friday consideration of several Bills was postponed both from the Opposition side and from the Government side. Therefore, there is the rule, Madam . . .

THE DEPUTY CHAIRMAN : Show me the rule.

SHRI BHUPESH GUPTA : ' I am giving it.

(Interruptions)

THE DEPUTY CHAIRMAN : I do not want everyone to get up, please.

SHRI A. P. CHATTERJEE (West Bengal) : Madam, I am moving a motion under rule 230 of the Rules of Procedure. I move :

"That the debate on the motion of Mr. Vidya Charan Shukla be adjourned."

That is my motion under rule 230.

(Interruptions)

SHRI BHUPESH GUPTA: Only the other day, Madam Deputy Chairman, I moved a motion that discussion on the Bill relating to privy purses be postponed.

THE DEPUTY CHAIRMAN : I have got the rule here. Rule 230 deals with dilatory motions. It says :

"(1) At any time after a motion has been made, a member may move that the debate on the motion be adjourned.

(2) If the Chairman is of opinion that a motion for the adjournment of a debate is an abuse of the rules of the Council, he may either forthwith put the question thereon from the Chair or decline to propose the question."

SHRI A. P. CHATTERJEE : Put the question from the Chair.

SHRI BHUPESH GUPTA: Put it from the Chair.

THE DEPUTY CHAIRMAN : I am in a mood to yield to Mr. Bhupesh Gupta and let it be put to the vote. Then, you move your motion.

SHRI BHUPESH GUPTA : Madam, I move :

"That the debate on the Resolution and the Bill be adjourned."

THE DEPUTY CHAIRMAN : The question is :

"That the debate on the Resolution and the Bill be adjourned." [*The House divided.*]

THE DEPUTY CHAIRMAN :
Ayes—26 Noes—74

AYES—26 Abdul Samad, Shri A.K.A. Basu, Shri Chitta Bhadram, Shri M. V. Bhandari, Shri Sundar Singh Chatterjee, Shri A. P. Das, Shri Banka Behary Gowda, Shri U. K. Lakshmana Gupta, Shri Bhupesh Jain, Shri Rattan Lal

Kesavan (Thazhava), Shri Mahavir, Dr. Bhai Menon, Shri Balachandra Murahari, Shri Godey Nair, Shri G. Gopinathan Panda, Shri Brahmananda Pitamber Das, Shri Prem Manohar, Shri Sen Gupta, Shri D. L. Shyamkumari Devi, Shrimati Sinha, Shri Ganga Sharan Sinha, Shri Rewati Kant Somasundaram, Shri G. P. Thengari, Shri D. Varma, Shri Man Singh Varma, Shri Niranjan Villalan, Shri Thillai

NOES—74

Abid Ali, Shri Anand Chand, Shri Anandan, Shri T. V. Annapurna Devi Thimmareddy, Shrimati Baharul Islam, Shri Bhargava, Shri M. P. Bhatt, Shri Nand Kishore Bindumati Devi, Shrimati Bobdey, Shri S. B. Chandra Shekhar, Shri Chatterji, Shri J. C. Chaudhary, Shri Ganeshi Lal Chavda, Shri K. S.

Desai, Shri Suresh J.

Dharia, Shri M. M.

Doogar, Shri R. S.

Gujral, Shri I. K.

Hathi, Shri Jaisukhlal

Jain, Shri A. P.

Kaul, Shri M. N. ^

Kemparaj, Shri B. T.

Khaitan, Shri R. P.

Krishan Kant, Shri

Kulkarni, Shri B. T.

Kurre, Shri Dayaldas

Lalitha (Rajagopalan), Shrimati

Mangladevi Talwar, Dr. (Mrs.)

Mani, Shri A. D.

Maniben Vallabhbbhai Patel, Kumari
Mehta, Shri Om
Mishra, Shri L. N.
Mishra, Shri S. N.
Mitra, Shri P. C.
Nagpure, Shri V. T.
Nandinj Satpathy, Shrimati
Narayanappa, Shri Sanda
Neki Ram, Shri
Panjhazari, Sardar Raghbir Singh
Patil, Shri G. R.
Patra, Shri N.
Purakayastha, Shri M.
Pushpaben Janardanrai Mehta, Shrimati
Puttappa, Shri Patil
Reddy, Shri K. V. Raghunatha
Reddy, Shri N. Sri Rama
Reddy, Shri Nagi
Sahai, Shri Ram
Salig Ram, Dr.
Sanjivayya, Shri D.
Savnekar, Shri B. S.
Seeta Yudhvir, Shrimati
Shah, Shri K. K.
Shanta Vasisht, Kumari
Sherkhan, Shri
Shukla, Shri Chakrapani
Shukla, Shri M. P.
Siddalingaya, Shri T.
Singh, Shri Dalpat
Singh, Shri S. K.
Singh, Shri T. N.
Sinha, Shri B. K. P.
Sinha, Shri Rajendra Pratap
Sukhdev Prasad, Shri
Tankha, Pandit S. S. N.
Tiwary, Pt. Bhawaniprasad
Tripathi, Shri H. V.
Untoo, Shri Gulam Nabi
Upadhyaya, Shri S. D.
Vaishampayan, Shri S. K.
Varma, Shri C. L.
Vidyawati Chaturvedi, Shrimati Villalan,
Shri Thillai Vimal Punjab Deshmukh,
Shrimati Yajee, Shri Sheel Bhadra
Yashoda Reddy, Shrimati

The motion was negatived.

THE DEPUTY CHAIRMAN : Now, Mr. Thengari. You may take 10 minutes.

SHRI D. THENGARI (Uttar Pradesh) : Madam Deputy Chairman, while talking on the Resolution of Mr. Bhandari, I had quoted the verdict of Protestant Churchmen of the United States. Now, inaugurating the I.L.O. Asian Regional Seminar on Personnel Management at Jamshedpur on 23rd October, 1968, Mr P. C. Mathew, Secretary, Ministry of Labour, Government of India, stoutly defended the right of the Government to ban strikes. But even he had to say :

"This ban cannot be construed as an unreasonable invasion of an inviolable right as long as provision is made for an alternative method of settlement of the grievances of the concerned workers, say, through compulsory arbitration. Such compulsory arbitration would bind the State also, unless a Parliament decides otherwise in any specific case."

Madam, you are very well aware that our Joint Consultative Machinery has been qualitatively very much inferior to the Whitley Council machinery of Great Britain, and notwithstanding the existence of the Whitley Council Machinery, it is well known that in Great Britain there is no ban on the right to strike of the Government employees. Recently in Great Britain, the Royal Commission on Trade Unions and Employers' Associations had to go through this whole question and one of its conclusions is as follows :

"... Every individual employee has the legal right to cease to work for his employer on giving whatever notice is required by his contract of employment. The right to strike is, basically, a right to withdraw labour in combination without being subject to the legal consequences of acting in combination which would, in the past, have followed. This situation is now well recognised."

The Ordinance has put our Socialist Government in a very awkward position, so much so that now even the capitalists have come forward with the "holier than thou" attitude, and here is

what Mr. Tata has to say about the Ordinance and about the move of the Government to ban strikes by Government employees :

"It is rather strange that, after years of lip-sympathy in favour of working classes in support of fundamental freedom for the trade union, the Government suddenly refuses to accept the right to strike by Government employees as legitimate. There is abundant evidence both in our national labour laws as also in international conventions of the I.L.O. that, after all efforts at conciliation, mediation, arbitration and adjudication have failed, both the parties to the dispute have a reciprocal right to strike or a lock-out. It is also true that our Government has been party to such labour conventions passed in Geneva and have also, through their action, blessed similar legislations with their moral and legal support."

And again if our objective is to reduce the incidence of strike, then all this should be directed not towards ending the right to strike, but mending the situation under which it is indiscriminately resorted to. As I have already said, it is an irony of fate that Mr. Tata should sermonise to the so-called socialist Government on this point. I am again inclined to refer to one remark by a very sober leader of thought about whom I am sure there is high regard even in the mind of Mr. Yeshwantrao Balwantrao Chavan. He is Mr. V. B. Karnik who in no sense can be described as an irresponsible leader. He has given his opinion in this fashion :

"If workers are free to sell their labour power, they must be free to demand for it a price which they consider fair and reasonable, *i.e.* a fair wage and fair conditions of work, and in case such a fair price is not available, they must also have the freedom to refuse to sell or to withdraw their labour power. If strikes are altogether prohibited, it will be necessary to deny workers the right of organisation as well as freedom of speech, press and assembly. Totalitarian regimes have recognised this and along with the abolition of the right to strike they have also

abolished all other fundamental rights. The abolition is not restricted to workers, it is inevitably extended to the society as a whole. The society then becomes a slave society as distinguished from a free society which has been the aim and aspiration of man throughout the ages."

Madam, we have been opposing this Ordinance on various grounds. We have serious objection to the definition of "strike" in section 2(1)(b) of the Ordinance. Carried to its logical limits, it spells of slavery, forced labour and "begar". Section 2(1)(b) of the Ordinance is, therefore, *ultra vires* Article 23(1) of the Constitution. Any artificial extension of the meaning of "strike" beyond its ordinary and natural meaning is a serious invasion of the fundamental rights guaranteed under the Constitution. The Government cannot altogether ignore the Directive Principles of State Policy and is obliged to give effect to the provisions of Part IV of the Constitution. The artificial extension of the meaning of "strike" is absolutely unjustified and in fact prohibited under Articles 39(a), 42 and 43 of the Constitution. Sub-clause (ii) of clause (b) of sub-section (1) of section 2 of the Ordinance confers on the executive an unchannelised, unguided and arbitrary power which is indefinite in its scope and mischief. Clause (b) of sub-section (4) of section 3 of the Ordinance enables the Government to enact a retro-active criminal law and this is expressly prohibited under Article 20(1) of the Constitution. Section 4 of the Ordinance is also violative of Article 20(1) of the Constitution. The Ordinance is also violative of the rights guaranteed under Article 10(1), (b) and (c) and also Article 19 of the Constitution. The power conferred under the Ordinance is unguided and arbitrary and offends Article 14 of the Constitution by treating differently the workers under the Government from other workers similarly circumstanced without any reasonable basis. Sections 2, 3 and 4 of the Ordinance are more rigorous than those of the general law relating to industrial disputes.

Again, Madam, the provision to exact extra work from the . . .

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SHRI SHEEL BHADRA YAJEE (Bihar): Madam, on a point of information. In the Constitution under the Fundamental Rights where is it written about the right to strike which he is mentioning?

THE DEPUTY CHAIRMAN: Let him continue.

SHRI D. THENGARI: Yes, there is. Even under the law it is guaranteed. There are regulations regarding this right to strike. It is a derived right . . .

(Interruptions)

THE DEPUTY CHAIRMAN : That is his interpretation.

SHRI D. THENGARI: Again, Madam, the provision to exact extra work from the employees contravenes Convention No. 29 of the International Labour Organisation which has been ratified by India in 1964. The reasons for wide and sweeping powers given by this Ordinance are unconvincing. According to the up-to-date information, Madam, under the powers given by the Ordinance only yesterday 14 employees of Telephone Traffic—all from Bangalore—have been arrested on the ground of mere participation in the 'token strike' of 19th September. Similarly, the services of one telephone employee from Gwalior have also been terminated yesterday. That means the Government is vindictive, and the Ordinance has armed the Government with extra and sweeping powers, and all the employees feel themselves insecure under the present conditions. If this Ordinance is incorporated in any Bill, it is but natural that there would be very great resentment. I am sorry to say, Madam, that the Government is under an impression that the alternative is whether strike or no strike. That is not the alternative. The alternative would be strike or revolution, because if the right to strike is denied, then there would be no other alternative but to resort to revolution which is not a very democratic and palatable thing.

Madam, in conclusion I should like to state that such a sweeping power is also not in consonance with the tradition of our country. We have been managing industrial relations in this

country for hundreds of years though under different conditions and various authorities on labour jurisprudence in Bharat Varsh have stated as to how industrial relations could be properly regulated. Here I want to quote from Shukraneeti. He says:

‘अपि राष्ट्रविनाशाय चोराणामेकचित्ता ।
शक्या भवेन्न किं शत्रुनाशाय नृपभृत्ययोः॥’¹

That is, if scoundrels can be united for the sabotage of a nation, why should it not become possible for the State and its employees to stand united for annihilating the enemy of the nation? Then, Shukra proceeds to give five reasons for industrial disputes amongst which inadequate wages is No. 1. So far as the need-based minimum wage is concerned, Shukra states :

‘‘अवश्योपपद्यमाना भूतिर्मध्या प्रकीर्तिता ॥
परिपोष्या भूतिः श्रेष्ठा समानाच्छादनाधिका ॥’¹

That is, wages are termed as "ordinary" if they are adequate to procure the necessities of life. He again says:

‘‘अवश्योपपद्यमानस्य भरणं भूतकादभवेत् ॥
तथा भूतिस्तु संयोज्या तद्योग्या भूतकाय वै ।’

That is, the necessities of life are to be purchased from the amount of wages. The wages of an employee should, therefore, be so determined as to enable him to procure all the necessities of life. He also enjoins :

‘‘न कुर्याद् भूतिलोपं तु तथा भूतिविलंबनम् ।’

That is, wages should never be forfeited, nor their payment withheld or postponed. Ultimately he says that if the Government continues to give low wages to its employees, the Government will have created its own enemies—

‘‘ये भृत्या हीनभूतिकाः शत्रवस्ते स्वयंकृताः ।
परस्य साधकास्ते तु छिद्रकोशप्रज्ञाहराः॥
वाक्पाश्यात् न्यूनभृत्या स्वामी प्रबलदंडतः ॥
भृत्यं प्रशिक्षयेन्नित्यं शत्रुत्वं त्वपमानतः ।’

Low-paid employees are the enemies created by the Government against itself, and therefore, he enjoins—

“भृतिदानेन संतुष्टाः मानेन परिवर्धिताः।
संतुष्टिता मृदुवाचा ये न त्यजंत्यधिपं हि ते॥”

That is, satisfied with adequate wages, promoted honourably, and consoled or cheered up by soft words, the employees would never desert their employer. This is the spirit of the tradition or our Bharat Varsh. Therefore, I urge the Government not to proceed with such arbitrary, dictatorial, totalitarian measures, and to come to terms with its employees and united with the employees serve the nation. Thank you.

THE DEPUTY CHAIRMAN : Mr. Jain, you can speak at 2 o'clock. The House stands adjourned till 2 p.m.

The House then adjourned for lunch at one of the clock.

The House reassembled after lunch at two of the clock, THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) in the Chair.

SHRI A. P. JAIN (Uttar Pradesh): Mr. Vice-Chairman, I will begin with the Resolution of Mr. Bhandari asking for the disapproval of the Ordinance.

SHRI SUNDAR SINGH BHANDARI : Why do you touch both?

SHRI A. P. JAIN : I will completely smash you.

SHRI SUNDAR SINGH BHANDARI : That I am prepared for.

SHRI A. P. JAIN : Now this Ordinance was passed on 14th September. This House met on 18th November. Since 18th November Mr. Bhandari had full one month for moving a Resolution to disapprove the Ordinance. He has made much noise over the question that the two matters are being taken together but why has he been sleeping so long?

SHRI SUNDAR SINGH BHANDARI : Do you know that it is not

my mistake that the Resolution and the Bill are being taken together. It is because the Secretariat here has brought them together. It was 15 days back that I gave notice of it.

SHRI A. P. JAIN : If Mr. Bhandari had been sufficiently vigilant and given the notice of his Resolution in time, this matter would have come before the House on 18th November, but he has himself defaulted and now he is raising a hue and cry—smoke without fire—that this Resolution is being mixed up with the Bill. For his benefit I would like him to understand the law of Ordinance. It is contained in article 123 of the Constitution." From clause 2 of article 123 it is clear that no Ordinance can have force for more than six weeks after the meeting of the Parliament. Mr. Bhandari said that the Government have not brought a motion for the approval of the Ordinance. That is not contemplated by law. All that the law contemplates is that if the Government so chooses, it can withdraw the Ordinance before the expiry of six weeks.

SHRI DAHYABHAI V. PATEL (Gujarat): Has any Ordinance been ever withdrawn?

SHRI A. P. JAIN: Why should it be withdrawn when it is to be enacted into a permanent law? The only option left to the Government was to have withdrawn if they wanted to do so.

SHRI SUNDAR SINGH BHANDARI : The President's Rule in Rajasthan, the Ordinance meant for that purpose, was never brought before the House and it was allowed to lapse.

SHRI A. P. JAIN: I think Mr. Bhandari needs to go back to a law college. He should not mix up an emergency Proclamation with an Ordinance. Ordinance is something different which is governed by article 123. There is no power in this House to extend the life of the Ordinance. It can certainly pass a law but an Ordinance must in any event come to an end after six weeks of the meeting of the House. If the two Houses meet on different dates, then after six weeks from the meeting of the House which

! meets on a later date. That is the law.

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SHRI ARJUN ARORA (Uttar Pradesh) : The Ordinance could have been allowed to lapse by not bringing this Bill.

SHRI A. P. JAIN : But the Government wanted to enact the law whatever may be your opinion.

SHRI ARJUN ARORA: Foolishly ...

SHRI A. P. JAIN : You can express your opinion. Again there is clear provision that the Ordinance shall continue to be in force unless it is disapproved by both the Houses. The House knows that a motion for the disapproval of the Ordinance was brought forth in the Lok Sabha and it was rejected. Assuming that Mr. Bhandari succeeds in getting his Resolution passed, it is of no effect. Yesterday I raised that point and I think very wisely the Deputy Chairman did not give a ruling on it because there could have been only one ruling that the Resolution is out of order. I think the Deputy Chairman did well in giving him a long rope so that he may not have an occasion to say that it was because of technicalities, because of the interpretation of the law—of course we are working according to the law here and the law must be interpreted—that his motion was ruled out. So much for the Ordinance and I think he will be wiser in the future and act more correctly and vigilantly.

I come to the Bill. The Government employees occupy a special position in a democracy. They are above politics and they do not take part in politics. Any breach of this law is bad enough but it becomes more objectionable when Government servants become a pawn in the hands of politicians or become an instrument to further their policies.

SHRI SUNDAR SINGH BHANDARI : How do you know it?

SHRI A. P. JAIN : By facts. You are pleading here.

SHRI SUNDAR SINGH BHANDARI: Only for that? Is it the only conclusive proof of it? Why are you here? You plead for so many things here.

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SHRI A. P. JAIN : The Government employees are different from the industrial workers because if there is a strike in an industrial unit or even in the whole of an industry, it only brings about stoppage of an economic activity but when the whole lot of the Government servants go on strike, the life of the nation is paralysed. Its security is endangered and the society is deprived of essential services for which it has the first right on the Government. We must keep these things in view! when we discuss this question. That does not mean that the Government servants have no right to press their demands in regard to the conditions of service or pay or allowances. But there should be a method in it, and the method should not be one which may paralyse the life of the nation, because our Constitution is based upon the principle that the social order is maintained, that law and order is maintained, that the working of the Government is maintained and that proper facilities are available to the people. And when any action, whether by the Government servants, or by any other people militates against it, I think the Government will be perfectly justified in taking stringent action.

SHRI BRAHMANANDA PANDA
(Orissa): Even by Ordinances?

SHRI A. P. JAIN : Yes, by Ordinances.

SHRI ARJUN ARORA : Mr. Jain is a very ruthless ruler. Ordinances are not law.

SHRI A. P. JAIN : Yes, the people must be ruled according to the law, certainly not ruthlessly.

SHRI CHITTA BASU (West Bengal) : Little Ayub Khan.

(Interruptions)

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Order please.

SHRI A. P. JAIN : Now I submit, Mr. Vice-Chairman, that an alternative machinery, an alternative to strike and an effective alternative must be provided in order to see that proper justice is done to Government employees.

SHRI BALACHANDRA MENON
(Kerala): And the alternative we see is this Bill.

SHRI A. P. JAIN: Have a little patience; I am coming to it. Now yesterday, during the course of his speech the Minister of State for Home Affairs made it clear that the Joint Consultative Machinery is going to be put on a statutory basis . . .

SHRI CHITTA BASU: Does this Bill provide for it?

SHRI A. P. JAIN : ... and that it will be done soon. Further, if I am not wrong, he said that certain matters will be subject to arbitration, that is, certain types of disputes between the Government and its employees will be liable to arbitration.

SHRI ARJUN ARORA: But the Bill does not provide for it.

THE VICE-CHAIRMAN : (SHRI M. P. BHARGAVA): May I request hon. Members to allow Mr. A. P. Jain to proceed uninterrupted? Other hon. Members will have their chance to speak and then they can make out whatever points they want to make out.

SHRI ARJUN ARORA: Pointing out facts of error is a parliamentary privilege. That you cannot take away.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Yes.

SHRI A. P. JAIN : My friends must also try to put up with the unpleasant things—facts as they are—that do not suit them—and allow me to speak.

SHRI ARJUN ARORA: But you must conform to facts.

SHRI A. P. JAIN : You do not understand what the facts are; I am coming to the facts.

SHRI ARJUN ARORA: You do not know the subject itself.

SHRI A. P. JAIN : I know many such persons like you.

SHRI ARJUN ARORA : I know all about you, Mr. Jain, and all that I know about you, that is not very good.

THE VICE CHAIRMAN (SHRI M. P. BHARGAVA): May I request hon. Members not to indulge in cross-talk between themselves? 5—63 R. S./68

SHRI ARJUN ARORA: All that is known.

THE VICE CHAIRMAN (SHRI M. P. BHARGAVA): Please address the Chair.

SHRI A. P. JAIN : Well, Mr. Vice-Chairman. I want to put certain suggestions to the Minister of State for Home Affairs. Firstly, what will be the position with regard to an award given by the arbitrator? When an award is given, I think it should be binding upon the parties, that is, upon the Government as also upon the employees. He did not make it clear.

Now, as you would remember, in this particular dispute another very important question arose, and that question was whether the matter that a certain issue is liable to be subjected to arbitration is by itself arbitrable. Now that is a very important matter because, despite all efforts to define what are the matters that are arbitrable and what are the matters that are not arbitrable, yet, there might be some marginal cases. When it is intended to ban strikes, then there must be a machinery which may do justice to the employees. When there is a dispute between the Government and its employees, there must be a machinery to decide as to whether a matter is arbitrable or not.

SHRI BALACHANDRA MENON: May I ask a question, Sir? Under the Industrial Disputes Act the railway workers, the P. & T. workers and those other workers have got the right to approach the adjudicator, and when under the Industrial Disputes Act he has got that right, the Government cannot in any way refuse adjudication. But here in this case it becomes arbitrable. They can very well place it before Parliament; they may or may not allow it. But in this Bill it takes away that right, and that is exactly where I want you to explain, because you were saying that the Joint Consultative Machinery hereafter gets statutory recognition. Now, if it gets that recognition it does not for that mere fact give me the same right that one section of Government employees has under the Industrial Disputes Act, the right to adjudication.

SHRI A. P. JAIN : I was just coming to that point. I think that when there is a dispute between the Government and its employees as to whether a particular issue is arbitrable or not, then the decision should not lie only with the Government.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA): It will not.

SHRI A. P. JAIN : Either this matter should be referred to arbitration or if the Government have any objection to referring it to arbitration, then the matter must come to this Parliament, because this is the sovereign body and a decision taken by this body will be a national decision. Anyway I am quite clear in my mind . . .

SHRI VIDYA CHARAN SHUKLA : That is what I announced yesterday.

SHRI A. P. JAIN : Well, if it is announced, then it is all right.

SHRI BHUPESH GUPTA : You said you were clear in your mind; come to the clarity.

SHRI A. P. JAIN : Now I am quite clear in my mind that the Government employees, if they are not given the right to strike, they must not only get a fair deal but a generous deal, and they must be given full opportunity to present their case in a constitutional manner so that they get a fair deal. Now what are the matters which led to this strike of the 19th of September? The first question was a need-based minimum wage. Government have accepted it in principle, but the objections of the Government have been two-fold, firstly that this question cannot be considered in an isolated manner only for the Government employees because there are so many other employees whose case is as important for purposes of a need-based wage as that of the Government employees. In fact, their case has been—and I think correctly—that the Government employees are better off than many other sections of workers.

SHRI BALACHANDRA MENON: That is not correct.

SHRI A. P. JAIN : Well, opinions vary. Secondly, there was the question of the resources with the Government.

Now they refused to refer it to arbitration. I think, if they had been a little wiser, a little more circumspect at the time, they would have taken the attitude which the Minister announced yesterday, namely, either refer it to arbitration, or bring it before the House so that the national verdict could have been given thereon. Had it been done so, I think much of the trouble could have been avoided.

The second major demand was full neutralisation of the rise in the cost of living. The Government has not been able to maintain the price level, and the Government employees, particularly of the lower grades, are very hard bit; they have got a good case. But this matter was never discussed in the Joint Consultative Machinery. Later, the Government appointed a committee of three Ministers, the Home Minister, the Finance Minister and the Labour Minister, which invited the representatives of labour to come and discuss this point; but they refused to do so.

Now so far as the third matter was concerned, that is, merger of the dearness allowance into pay, Government was prepared to discuss it and to refer it to arbitration. I think with more accommodation, the strike could have been avoided, but the attitude of the representatives of the Government employees in that they refused to meet that Cabinet Committee to discuss these matters led to an impossible situation. Government showed great forbearance; they went on waiting. Now they are being accused why they went on waiting, why they did not take action earlier. I think Government must show forbearance; Government must show extreme patience. And that they did. They waited even up to one week before the token strike came off. And when it became abundantly clear that not only the token strike was coming but it was also a prelude to an indefinite strike, the Government had no other option except to act and act—I say—as they did in a somewhat radical manner.

SHRI BHUPESH GUPTA: Prelude : to what?

SHRI A. P. JAIN: Prelude to an indefinite strike.

SHRI BHUPESH GUPTA: It is absolutely wrong.

SHRI A. P. JAIN : Now please have a little patience. Government have circulated a paper giving the reasons for the issue of the Ordinance.

SHRI BHUPESH GUPTA : Because the hon. Member is making a speech I do not want to interrupt him because you are an elder statesman; . . .

SHRI A. P. JAIN: You de; I like interruptions.

SHRI BHUPESH GUPTA: . . . aren't you? Therefore tell us from where you got this story that it was a prelude to an indefinite strike, it was a prelude to a deluge or prelude to an eclipse of this planet and all that kind of thing.

SHRI A. P. JAIN : Only have patience.

THE VICE CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Jain, I might tell you that you have taken 22 minutes.

SHRI A. P. JAIN : I will take only three or four minutes more.

SHRI B. K. P. SINHA (Bihar): Let him have some more minutes;" there were so many interruptions.

SHRI ARJUN ARORA : The same amount of time should be given to all.

SHRI A. P. JAIN: The All India Railwaymen's Federation gave a notice of strike from 31st October 1968 and that was to be an indefinite strike. Certain news items appeared in the journals published by the Unions to the effect that the Government's property must be taken hold of and it was absolutely clear that the token strike was only a prelude . . .

SHRI BANKA BEHARY DAS (Orissa): The whole purpose was that if there will be a strike there may be saboteurs and others who may come and try to burn Government property and so they should go and take care of the property. That was the purpose.

SHRI A. P. JAIN: You mean to say that these people could take care of the Government property but the Government cannot take care of its property?

SHRI KESAVAN (THAZHAVA) (Kerala): The trouble is you think you are the public. These employees also form part of the public and it is as much their property also. You think you can make the employees work at the point of bayonets.

SHRI A. P. JAIN: It had become abundantly clear that this token strike was not an isolated act by itself. I believe that the hon. Members of the Opposition, who were behind this strike, have sufficient sense to know that the token strike was not going to achieve anything. Unless it was a prelude to something more drastic they were not going to get anything. I at least give them that amount of commonsense and understanding.

SHRI BHUPESH GUPTA: Sir, we do not want such commonsense.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): You can reject it.

SHRI BHUPESH GUPTA: Why does he say that he is prepared to give us this commonsense?

SHRI A. P. JAIN : Mr. Vice-Chairman, there was a situation, when a set of people sufficiently important and sufficiently large in number—they were only 30 or 40 lakhs as compared to the 50 crores of Indian people—wanted to hold the nation to ransom and the Government had no option except to promulgate this Ordinance and then convert the Ordinance into law. This law will be shortlived and in the next session, that is, the Budget session, Government will bring forward a Bill embodying the assurances given by the Minister of State for Home Affairs and put an end to this law. I am not happy about it but I know circumstances have compelled it.

One last word, Sir. Now Mr. Bhu-pesh Gupta has interrupted me several times. I welcome interruptions; I don't mind them. They give salt to the debate; they give it relish. The interruptions have been quite relevant. May I ask Mr. Bhupesh Gupta before I sit

[Shri A. P. Jain.] down as to what would happen in the USSR or in China if the Government employees there had decided to go on strike *en masse*?

SHRIMATI YASHODA REDDY (Andhra Pradesh): They dare not.

SHRI A. P. JAIN : There strike is forbidden because they say that strike has no place in a communist society as the communist society functions for the benefit of the people. I say the same thing.

SHRI BHUPESH GUPTA: Now I will answer; he has put a question to me.

SHRI A. P. JAIN : Let me complete. I say that where the life of the nation, its working and maintenance of essential services are endangered, where its security is endangered, where the nation's life is in danger of being paralysed, if the choice lies between a section of the people and the nation, then the interests of the nation must have precedence. Therefore I justify both the Ordinance as well as the Bill which the hon. Minister has brought forward.

Thank you.

SHRI BHUPESH GUPTA : Sir, he has asked me a question.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): No, no. Mr. Bhu-pesh Gupta, you know the procedure. Please take note of what he has said and when you get your chance to speak . . .

SHRI BHUPESH GUPTA: Suppose I don't speak?

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Then I shall allow you.

SHRI BHUPESH GUPTA: How do you know that I won't have a heart failure?

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : We do not wish that please.

SHRI BHUPESH GUPTA: How do you know?

THE VICE-CHAIRMAN (SHRI M. j. P. BHARGAVA) : Mr. Bhupesh Gupta, the House is prepared to safeguard and guarantee your heart.

SHRI ABID ALI (Maharashtra): Question.

SHRI BHUPESH GUPTA: I say in the Soviet Union people got more than need-based wage. The worker has the right to strike and . . .

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): That is all right. Mr. Dahyabhai Patel.

SHRI DAHYABHAI V. PATEL: Mr. Vice-Chairman, Sir, I am very unhappy at the unfortunate trend of events since we started discussing this ! Bill. I have been here over ten years now and I do not recall there were ever such unruly scenes as we saw yesterday and my regret is more that they were from this side of the House.

We sympathise with the Government servants. We know that a Government ' cannot work if it does not have the willing cooperation of its loyal servants but perhaps there is a limit to which it can go. Has Government tried to find out whether the limit of the patience of the Government servants has been reached, has been exhausted and therefore some of them may fall a prey to people who will misguide them into going on a strike? I am not against the workers' right to collective bargaining but collective bargaining is something different from the right to strike. A strike can be called only when all other avenues of asserting or representing their case have failed. The strike is practically the last resort, not the first as some people seem to think.

SHRI CHITTA BASU: We agree with him on this.

SHRI DAHYABHAI V. PATEL: And we know, Sir, that there are certain forces in this country, more so outside, that are not very happy at the progress that this country is making. Have they not repeatedly tried to disrupt the progress, the normal life, the industry of this country? Government is also aware of it but Government instead of being a united Government is like a house divided against itself and it cannot make up its mind

as to what has to be done. They try to bolt the stable after the horse has escaped. That is the real trouble, whether it is with regard to what they should do regarding the need of the Government servants or regarding the steps that they should take to maintain the services and law and order. Somehow Government has become so slow, heavy, not sensitive enough to feel the pulse of the people and to realise where it pinches the people. Therefore when they do not take action in time all these things happen. After all it is as much the duty of the Government as also the Government servants to place the needs of the community and of the people first. But when all remedies fail, some of them may be driven to strike. When they are driven to strike, Government should take an attitude which behoves a Government of the people. I regret very much the incidents of Indraprastha Bhavan and elsewhere the Government ran amuck, the Government officers ran amuck. We have the report of responsible people, an ex-Judge and an advocate of the Supreme Court, both judicial people, pointing out what had happened there and the need for a proper judicial enquiry.

SHRI B. K. P. SINHA : Self-appointed Judges.

SHRI DAHYABHAI V. PATEL:
Why did not the Government appoint them? Why had they to be self-appointed? It is because the Government failed in its duty to appoint them. The demand was there for a proper judicial enquiry. Why did not the Government grant it? When the Government failed to grant that enquiry, the people requested these people of eminent judicial knowledge, of eminent knowledge of law, to take over and fill up the gap, the void that Government had left. How did a Government servant lose his life? Is there any answer? Why were loyal Government servants, who went to work, beaten up by the police and armed police went inside when they were sitting in their offices to work? That is something that cannot be understood, and there is no defence for them. That was the justification for the demand for a judicial enquiry and I am surprised that my hon. friend, a person of sober views like Mr. B. K. P. Sinha, with whom I am very often inclined

to agree, should pass such remarks as 'self-appointed'. Why did not Mr. Sinha persuade the Home Minister to set up a judicial enquiry? Then, he would have known how justified this enquiry was. Even their report has justified this enquiry. Government acted in most callous manner and, therefore, the relations between the Government and their servants, instead of improving, instead of the gap between them being bridged, went on deteriorating further. Why does this happen? Government servants normally do not resort to strike. It is true that in this country in industrial towns, in factories, we have a militant section which is always anxious to have a strike. There is a certain section that believes in the theory of classwar, trouble and strike, who want to disrupt the economic life of this country, again and again, at every opportunity, wherever they want. They have done it in the city of Delhi. I have been witness to strike or total strike, attempts to paralyse the life of this country. I have been witness to a scene in this city where red flags have been put up not only by the procession, but also on Government buildings, on the city's buses, as if Delhi had been taken over by China. These are things which do not improve the situation and even in this worst period, the Government servants remained loyal to Government. They did not attempt to strike or did not waver from their duty. It is because Government became apathetic and indifferent to them. Government did not listen to their urgings, again and different to them. Government servants were being crushed on the one hand by the difficulties that they encountered because of high prices, rising prices, and on the other hand by their sense of loyalty. What could they do? You have driven them to the wall. I quite sympathise with the Government servants, though I do not like the way in which they allowed themselves to be carried away into the strike. It is the wrong policies of the Government that have been responsible for this repeatedly.

SHRIMATI SHAKUNTALA PARANJPYE (Nominated): What were they to do?

SHRI DAHYABHAI V. PATEL: That is what I am saying. I am putting the blame fairly and squarely on the

[Shri Dahyabhai V. Patel.]

Home Minister for not taking the situation in hand early enough before it was resorted to and before the workers became desperate. Perhaps they were misguided by desperate leaders into doing this. What was the Government doing to encounter this?

SHRI BRAHMANANDA PANDA:

The Government became more desperate than the workers.

SHRI DAHYABHAI V. PATEL: That is the trouble about it. If Government had taken a hand in it and tried to do something, it would have been better. Every year during the Budget time we have been pointing out, at least from this side, that it is the wrong policies of the Government which are leading to higher and higher prices. Government does not seem to budge or yield. They must make ambitious plans. They must make more and more grandiose plans, even though they cannot succeed in fulfilling them. Even when they called for a Plan holiday, they must insist on writing up paper-plans and, therefore, of imposing a higher taxation, which is one of the root causes of higher prices. Instead of doing this, if the Government were to take a hand in educating the people that the country cannot progress without greater production, that prices will fall only when there is greater production, whether it is industrial or agricultural, things would have been better. I need not repeat it. I was one of the earliest people who drew the attention to what the Government could do about increasing agricultural production. I pointed out the examples of countries that had done it. Government turned a deaf year to that for quite some time. I had recently gone to Manila, to the Philippines, to the Asian Parliamentary Union Meeting, and there I saw what progress the rice research station there had made. It was a total Rockefeller grant that was offered to this country. Prime Minister Nehru said : We have enough rice in our country and so we do not need it. Now, we are buying rice from that research station, we are buying seed from there. It is this wrong and misguided policy that is at the root of our trouble. Whether it is in trade, whether it is in production, we have been misguided. Our guiding policy, instead of being the interests

of this country, has been interests of some of our friends, very doubtful friends, as they have proved to be and yet we got people who do not follow this.

It is time that the Government should take these matters seriously and not be as complacent as they have been. First, they must set their house in order. Are they of one mind inside the Government? I know they are of one mind, that they want to stick to their chairs. That is the unifying factor. But besides that, what is their policy? Are they agreed on their economic policy? Are they agreed on their educational policy? Are they agreed on their political policy? Are they agreed on what should be done for agriculture, what should be done for labour? It is because there is no guiding factor, no driving force in the Government that this house, divided against itself, is sitting on us as a Government. Their only combined objective is they want to stick to their chairs. That has led to this rot and this sorry state of affairs in this country. We have had labour troubles and strikes and we have not been able to evolve a proper way of dealing with them, very largely due to the confused mind of Mr. Gulzarilal Nanda. He claimed a Gandhian approach, but he always wanted to compete with the communists and in that he got derailed several times. Labour legislation of a type that befitted the traditions of our people, that befitted a Gandhian outlook failed to be evolved because of this. It was not a real labour policy. It was a vote policy, and that vote policy failed to bring out a proper labour policy or to educate labour in the proper way. Therefore, we have this confusion.

SHRI BRAHMANANDA PANDA:

They want policy everywhere, nothing else.

SHRI DAHYABHAI V. PATEL: That is what I have pointed out, my friend. Whom are they competing with? This Government does not seem to realise that they are up against many forces, and the major force which is causing so much trouble to them is the menace of Communism. Government does not seem to realise it because outwardly in India they seem

to be divided, but their objective is one, that is, to disrupt, to create confusion, until the time is ready for them to take over, and the actions of the Government are not helping this country. They are certainly helping or making it easier for the process of takeover. These strikes are just a sort of a drill of what is going to come. When they feel strong enough, they are not going to hesitate one minute. What they did in Naxalbari, what they did in gheraos, what has happened in Calcutta for the last two years, are a sort of a drill, and I am surprised that people can defend the action like gherao. I know of several business houses that have closed down and they have no intention to restart their business in Calcutta because of the prevailing situation. Who is going to set it right? Who are going to suffer because of this? Ultimately it is the people of Bengal. Of course the people of India will suffer because so many industries are closed down, so many people will be unemployed, so many factories will remain idle, Bengal has suffered after the partition. Bengal has suffered because of the inflow of refugees for years and years. I do not know whether it has stopped now. It had not stopped seriously till five years ago. In that situation, the large refugee population coming to Bengal and Calcutta, some of them being misguided and not being allowed to go to the refugee centres—where they seem to have now settled down; in spite of that a large number of them are being misguided again and again—this situation is not conducive to proper industrial growth or a proper law and order situation. We have a weak Central Government that is not able to cope with the situation, which is not alert enough. So, the picture that is before us is rather bleak. Government does not seem to realise that all this is we'll guided by foreign powers, particularly the Communist powers, who are not happy at the progress that this country is making. They would like to see India weak, not strong. If India was strong, it would be a potential force in Asia, which would rally round the smaller nations which are afraid of being eaten up by the giant that is in the north of us.

SHRI BHUPESH GUPTA : Are we having a foreign affairs debate? Are we in the midst of it?

SHRI SYED AHMAD (Madhya Pradesh) : Let us ask what the situation is . . .

SHRI BHUPESH GUPTA : Only if you tell us that it is a foreign affairs debate, we can prepare our notes accordingly.

SHRI ABID ALI: He is explaining the treacherous part played by the Communists.

SHRI DAHYABHAI V. PATEL: Did you prepare your notes yesterday when you had one day of obstruction? Who told you about notes when you had one full day of obstruction? Mr. Bhupesh Gupta, you do not need any time and opportunity. I have my views and I am entitled to express them the way I like.

SHRI BHUPESH GUPTA : I cannot question that.

SHRI DAHYABHAI V. PATEL: I know you cannot.

SHRI BHUPESH GUPTA: So you have accepted my earlier motion that the debate on the Essential Services Bill and the Ordinance be postponed. Now it is a foreign affairs debate. Why don't you agree? In practice you accept it.

SHRI ABID ALI: You go away . . .

SHRI DAHYABHAI V. PATEL: This is the only thing that will happen . . .

SHRI BHUPESH GUPTA: So long as Birla keeps his man here I will not go out.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Let him continue.

SHRI ABID ALI: They are traitors and stooges of Russia.

SHRI DAHYABHAI V. PATEL: I have been pointing this out again and again that it is the weak policy of the Government that has led to this, and while it is a question of industrial relations and the strike of the Government servants and the Ordinance, the root cause behind this is very much deeper. It is known all over the world that the Communist strategy is to disrupt

[Shri Dahyabhai V. Patel.]

by every means. Not only they have a separate wing but they have a party wing in the Government. Don't we see it today? Not only they have a wing in Parliament but they have a wing inside the Government. That makes this Government so weak and makes it incapable of taking timely action apart from that what they do in Parliament.

SHRI BHUPESH GUPTA: Therefore, the right thing for you is put your righthand in your rightside pocket to find out whether there is a wing there also.

SHRI DAHYABHAI V. PATEL : Therefore, we have been saying that this country cannot be safe unless the Communist Party, the Party that wants to disrupt this country, is banned. This is a weak Government and therefore it cannot take that action. They have got card holders or former card holders as their Ministers. What better can we expect? Let us hope that the people of this country will realise this, that the people of this country will realise where we are going and teach this Government a lesson. In the meantime we will have to go through this painful process of suffering from a weak Government; in the meantime people in Government service will certainly have to suffer, people in industry will have to suffer, industry will suffer, and we will have a period of rising prices unless this Government is able to make up its mind. I do not see any hope in that direction.

SHRI SYED AHMAD: Do you support the Bill or oppose the Bill?

SHRI DAHYABHAI V. PATEL: We are not supporting or opposing. Our stand is very clear.

SHRI BHUPESH GUPTA : We have an opposition party here which is neither supporting nor opposing. Only one thing they do, that is abuse the Communists.

SHRI ABID ALI: And rightly so.

श्री रेवती कान्त सिंह (बिहार)। श्रीमान् मैं भंडारी जी के प्रस्ताव का समर्थन करने के लिए खड़ा हुआ हूँ . . .

श्री चित्त बसु : यह भी कहिए कि बिल पर भाषण नहीं देना है।

श्री रेवती कान्त सिंह : भंडारी जी के प्रस्ताव के पहले ठेंगड़ी जी ने एक पाइन्ट ऑफ आर्डर उठाया था कि चूंकि यह आर्डिनेंस दिल्ली हाई कोर्ट में और विभिन्न कोर्टों में पेंडिंग है, चैलेंज हो चुका है, इसलिए मैटर सव-जूडिस है, इस पर बहस न की जाय। अगर वह मान लिया गया होता तो कोई बात नहीं थी, चूंकि वह बहस चलाई गई है, इसलिए मैं खड़ा हुआ हूँ भंडारी जी के प्रस्ताव का समर्थन करने के लिए।

श्री सुन्दर सिंह भंडारी : मैं इस पाइन्ट ऑफ आर्डर को मानने के लिए तैयार था।

श्री रेवती कान्त सिंह : सवाल यह है कि आखिर यह आर्डिनेंस निकाला क्यों गया। इस आर्डिनेंस को निकालने का एकमात्र कारण सरकार बतलाती है कि केन्द्रीय सरकार के कर्मचारियों ने 19 सितम्बर को एक दिन की टोकन स्ट्राइक करने का नोटिस दिया था और उस स्ट्राइक को डील करने के लिए यह आर्डिनेंस निकाला गया। इस पर आने के पहले कि यह आर्डिनेंस है क्या, कैसे आया, मैं चाहूंगा यह बतलाना कि वह स्ट्राइक का नोटिस क्यों दिया गया था और क्यों यह स्ट्राइक हुई 19 सितम्बर को। श्रीमान्, आप जानते हैं कि जब कन्सलटेटिव मर्यादनी बनी थी उस समय यह तय हुआ था कि अगर किसी ऐसे मूद्दे पर, जिस पर सरकार और कर्मचारियों के नुमाइन्दों के बीच सहमति नहीं हो सकेगी तो वैसे मुद्दों को अनिवार्य रूप से पंचायत के सिफुर्द कर दिया जायेगा आप जानते हैं कि जे० सी० एम० में नीडवेस्ट वज और प्रोडस इंडेक्स से डीयरनेस अलाउंस को लिंक करने के मामले पर सहमति नहीं हो सकी और यह स्ट्राइक नोटिस सिर्फ इस बात के लिये दी गई, इस बात के लिये कर्मचारियों को स्ट्राइक करनी पड़ी, कि यह मामला

पंच को सुपुर्द किया जाय। श्रीमन्, बड़ी अजीब बात है। दुनिया में देखा यह गया है कि जब दो पक्षों में, दो देशों में, झगड़ा हो जाता है तब पंच की बात आती है लेकिन हिन्दुस्तान के सरकारी मुलाजिमों को हड़ताल करने पड़ी, लड़ाई करनी पड़ी, पंच की बहाली के लिये और इस सरकार ने पंच की बहाली न करके सरकारी कर्मचारियों को इस पर मजबूर किया कि वे 19 सितम्बर को हड़ताल करे। अगर सरकार ने आबिदेन को मान लिया होता, उस मामले को पंच के सुपुर्द कर दिया होता तो ऐसा न होता लेकिन सरकार ने कहा कि यह मामला पंच को देने के लायक नहीं है। अब सवाल यह उठता है कि एक ओर सरकारी कर्मचारी थे और दूसरी ओर सरकार थी, दो पार्टियां थीं, तो कैसे एक पार्टी कह सकती थी कि यह मामला पंच को देने के लायक नहीं है, इसके लिये भी पंच होना था। तो अगर पंचायत को यह मामला सरकार ने सुपुर्द कर दिया होता तो न हड़ताल होती और न सारा कामकाज ठप्प होता और न इस आर्डिनंस को निकालने की जरूरत पड़ती।

अब मैं आर्डिनंस के ऊपर कहना चाहता हूं। एक तो यह कि जहां सरकार दूसरे तरीकों से स्थिति को सम्हालने से असफल रही वहां उसने आर्डिनंस निकाला मैं पूछना चाहता हूं कि अगर हड़ताल होने वाली थी और हड़ताल हुई तो क्या सरकार के पास दूसरे कानून नहीं थे जिन कानूनों के मातहत कि कार्यवाही की जा सकती थी सेंट्रल गवर्नमेंट इम्प्लाइज के कंफडरेशन की ओर से हड़ताल का नोटिस दिया गया और उस कंफडरेशन में बड़े संगठनों के रूप में रेलवे के, डाक-तार के और रक्षा-विभाग के कर्मचारी शामिल हैं और कुछ दूसरे छोटे छोटे डिपार्टमेंटों के कर्मचारी भी शामिल हैं, तो जहां तक रेलवे का सवाल है और डिफेंस का सवाल है इन विभागों के कर्मचारी इंड-

स्ट्रियल डिसप्यूट्स एक्ट से गाइडेड होते हैं तो अगर वे गैर-कानूनी हड़ताल कर रहे थे तो इंडस्ट्रियल डिसप्यूट्स एक्ट के मुताबिक उनके ऊपर एक्शन लिये जा सकता था। जहां तक पोस्टऑफिस के, डाक-तार के कर्मचारियों का सवाल है उनके लिये सेंट्रल गवर्नमेंट सर्वेंट कंडक्ट रूल्स बने हुये हैं और सेंट्रल गवर्नमेंट सर्वेंट कंडक्ट रूल्स का रूल 4-ए साफ कहता है कि वह हड़ताल नहीं कर सकते हैं और उस कानून के मुताबिक उस रूल के मुताबिक, जो हड़ताल करते हैं उनके ऊपर कार्यवाही की जा सकती है लेकिन सरकार ने नार्मल कानूनों को बालाएँ तक रखकर के इमरजेंसी के नाम पर यह काला आर्डिनंस लाई और काला आर्डिनंस पास कराया।

श्रीमन्, अब यह जो आर्डिनंस पास हुआ उसके बारे में कहना चाहता हूं कि यह आर्डिनंस गैर-कानूनी है क्योंकि हमारे संविधान धारा 13(2) में साफ कहा गया है कि ऐसा कोई कानून नहीं बन सकता है—पालियामेंट भी नहीं बना सकती है और कानून की परिभाषा में आर्डिनंस भी आता है—जो कि संविधान पार्ट 3 में, तीसरे अध्याय में, दिये गये फंडा-मेंटल राइट्स को छीनने वाले हों या उसको एन्जिज करने वाले हों। संविधान के आर्टिकल 19(सी) में हर व्यक्ति को एसोसियेशन बनाने और यूनियन्स बनाने का अधिकार मिला हुआ है और एसोसियेशन बनाने और यूनियन्स बनाने के अधिकार के साथ साथ हड़ताल करने का अधिकार उसमें सन्निहित है और यह आर्डिनंस उस हड़ताल करने के अधिकार को छीन्ता है। इस तरह से यह आर्डिनंस गैर-कानूनी है, असंवैधानिक है। आर्टिकल 23 के मुताबिक किसी को भी फोर्स लेबर के लिये, जबरदस्ती काम के लिये, बाध्य नहीं किया जा सकता। और इस आर्डिनंस के मुताबिक जो कर्मचारी ओवरटाइम ड्यूटी नहीं करना चाहेंगे उनको बाध्य किया जायेगा। फैक्ट्री एक्ट और दूसरे मजदूर

[श्री रेवती कान्त सिंह]

कानूनों के मुताबिक ओवरटाइम इयूटी एक वालेंटरी इयूटी होती है और उसके लिये जबरदस्ती करना फंडामेंटल राइट्स को इनफ्रिज करता है। इसलिए मैं कहता हूँ कि यह आर्डिनेंस कांस्टीट्यूशन के खिलाफ पड़ता है।

इसके साथ साथ आपको यह देख कर आश्चर्य होगा कि इस आर्डिनेंस में है कि कोई व्यक्ति चाहे वह कर्मचारी हो या न हो वह अगर हड़ताल करने वालों को अधिक सहायता देता है या और दूसरी तरह से मदद करता है तो वह भी इस आर्डिनेंस के दायरे में आ जाता है। थोड़ी देर के लिये हम मान लेते हैं कि बाहर के लोग जो ट्रेड यूनियन्स वगैरह में काम करते हैं उनको प्रोहिबिट करने की बात हो सकती है लेकिन आर्डिनेंस के मुताबिक सरकारी कर्मचारी के परिवार के व्यक्ति भी इस आर्डिनेंस की धाराओं के दायरे में आ जाते हैं। जिसके ऊपर आप आर्डिनेंस लागू करते हैं वह अगर गैर-कानूनी हो और वह मुकदमा लड़ता हो तो उसकी बीबी, उसका बाप, उसका भाई उसके मुकदमे की पैरवी भी नहीं कर सकते।

श्रीमन्, आई० एल० ओ० के चार्टर के मुताबिक मजदूरों को कलेक्टिव बारगेनिंग का अधिकार दिया गया है और इस कलेक्टिव बारगेनिंग में हड़ताल करने का अधिकार सन्निहित है लेकिन उसको यह आर्डिनेंस छीनता है। इस लिये तमाम दृष्टियों से यह आर्डिनेंस मजदूर विरोधी ही सिर्फ नहीं है बल्कि संविधान के विरुद्ध भी है।

सब से ज्यादा आश्चर्य इसमें है कि इस आर्डिनेंस में यह है कि जिस दिन यह लागू किया जा रहा है यानी 13 सितम्बर को उसके पहले भी अगर किसी ने हड़ताल किया है तो उस पर भी यह लागू होगा। कोई आर्डर इस तरह से रिट्रास्पेक्टिव ढंग से लागू हो यह बिल्कुल ही गैर-जनताविक है।

श्रीमन्, दूसरी बात मैं यह कहना चाहता हूँ कि इस आर्डिनेंस में किसी भी सर्विस को एसेशियल सर्विस डिक्लेयर कर देने का इतना बड़ा अधिकार सरकार ने अपने हाथ में लिया है कि इस अधिकार का निश्चित रूप से दुरुपयोग होगा।

अब मैं कहना चाहता हूँ कि आर्डिनेंस लागू होने के बाद क्या हुआ। मुझे पता है कि बिहार में सितम्बर 12 तक केन्द्रीय कर्मचारियों की हड़ताल के लिये कोई फिजा नहीं बन पाई थी, ऐसा लग रहा था कि शायद हड़ताल का काल देने वाले लोग असफल हो जायेंगे लेकिन 13 सितम्बर को जिस दिन कि आर्डिनेंस लागू हुआ उस दिन से हड़ताल के लिये वह फिजा बनी कि एक एक दिन में पांच पांच, सात सात, सभाएं होती थीं और सारे बिहार में सरकारी कर्मचारियों की सभाओं का तांता लग गया। अगर यह आर्डिनेंस नहीं जारी किया गया होता और सरकार ने उस एक दिन की टोकन स्ट्राइक को इग्नोर कर दिया होता तो मैं समझता हूँ कि सरकार को ज्यादा सफलता मिलती बजाय इसके कि आर्डिनेंस जारी कर के सरकार ने कर्मचारियों को हड़ताल करने के लिये प्रवोक कर दिया। श्रीमन्, अब मैं इसके साथ साथ आपको दो तीन ऐसे उदाहरण देना चाहता हूँ जिसमें कि इस आर्डिनेंस को एप्लूज किया गया। अभी इन्द्रप्रस्थ भवन कांड के बारे में काफी चर्चा श्री डा. ह्याभाई पटेल ने की है, मैं उसे दुहराना नहीं चाहता हूँ, सिर्फ इतना कहना चाहता हूँ कि आज डायर की आत्मा खुश हो रही होगी कि उसने जलियांवाला बाग में जितना कुछ नहीं किया उससे ज्यादा आजाद हिन्दुस्तान की पुलिस ने, आजाद हिन्दुस्तान की राजधानी में इन्द्रप्रस्थ भवन में किया। श्रीमन्, बिहार में अभी भी सैकड़ों डाक-तार और रेलवे के कर्मचारी सम्पेंड हैं और उनके ऊपर मुकदमे चल रहे हैं। सरकार की ओर से कहा जाता है कि जिसके ऊपर सर्वरसिब

एक्टीविटी का आरोप नहीं होगा तोड़-फोड़ का आरोप नहीं होगा, वैसे लोगों के ऊपर से मुकदमे वापस ले लिये जायेंगे लेकिन मैं वहां देखता हूं, चार्जशीट जो मिली है, उसमें कहीं सबवर्सिव एक्टीविटी नहीं है, कहीं तोड़ फोड़ का शब्द नहीं है, लेकिन फिर भी उन पर मुकदमे चल रहे हैं। मैं आपको बहुत ही आश्चर्यजनक घटना सुनाना चाहता हूं, मैं सरकार का ध्यान खींचना चाहता हूं, पटना से जो अखबार दैनिक "सर्चलाइट" निकलता है उसके 11 सितम्बर के एक समाचार की ओर। मैं पूरा समाचार नहीं पढ़ूंगा, सिर्फ हेडिंग में पढ़े देता हूं "ओफुल टेल आफ फ़ोर फ़ेमिलिज़।" वह क्या फ़ोर फ़ेमिलिज़ का ओफुल टेल है मैं संक्षेप कहना चाहता हूं। पटना में आकाउन्टे जनरल का दफ़्तर है, करीब पचीस तीस आदमी काम करते थे, सब लोगों ने हड़ताल में भाग लिया, कंपलीट स्ट्राइक हुई, लेकिन चार आदमियों को 20 सितम्बर को सस्पेन्ड किया गया। आपने सस्पेन्ड किया ठीक है, आप चार्जशीट देंगे, उसकी इन्वॉयरी होगी, मुझे उसमें कोई डिस्प्यूट नहीं है लेकिन कायदे के मुताबिक सस्पेन्शन के बाद दूसरे दिन से उनको सन्विस्टेन्स अलाउन्स मिलना चाहिये था और यह दिसम्बर महीने का अंत हो रहा है, आज तक उन चारों आदमियों को सन्विस्टेन्स अलाउन्स नहीं दिया जाता है। उस पर तुरंत यह है कि सस्पेन्ड, उनको किया, पटना उनका हेडक्वार्टर फिक्स किया है, लेकिन उनको सन्विस्टेन्स अलाउन्स नहीं दिया जा रहा है और अब कहा जा रहा है तुम्हारा हेडक्वार्टर हो जायेगा रांची। अब दो जगह का इस्टेब्लिशमेंट हो जायेगा, अपना पुराना एस्टेब्लिशमेंट नहीं रहेगा। इस तरह से इस आर्डिनेन्स का मिस्यूज हो गया है। मैं कहना चाहता हूं कि इन्सपाइड आफ दिस ब्लैक आर्डिनेन्स, सरकार फेल कर गई है, असफल हुई है हड़ताल को डील करने में, स्थिति को डील करने में।

मैं समझता हूं भंडारी जी के प्रस्ताव को हम लोगों का मान लेना चाहिए और इस आर्डिनेन्स को डिसएप्रूवज करना चाहिये। इन शब्दों के साथ मैं भंडारी जी के प्रस्ताव का समर्थन करते हुए, आने वाला जो बिल है उस पर मैं समझता हूं अभी वहस नहीं हो रही है, और उसपर अपने बोलने के राइट को रिजर्व करते हुए अपना स्थान ग्रहण करता हूं।

SHRIMATI YASHODA REDDY : Mr. Vice-Chairman, Sir, before I start making my remarks on the Resolution and the Bill, I would just like to say one word about the happenings of yesterday. In fact our Opposition parties did create a disruption to the parliamentary work for five hours, and if they think that by doing that they were championing the cause of the Government servants, I may tell them that they have miserably failed. The only impression that they did give to the people outside was that these handful of people, by sheer force, were trying to create disruption to the parliamentary work. The very fact that they took to this method of force showed that they had no reasonable, justifiable case. This is the only impression which they gave to the people outside and to the people of India.

Sir, coming to the Resolution and the Bill, let me make it very clear that I oppose the Resolution of Mr. Bhandari and . . .

SHRI M. V. BHADRAM (Andhra Pradesh) : And also the Bill.

SHRIMATI YASHODA REDDY : I give my support to the Bill. I will explain why I give my support to the Bill.

Mr. Vice-Chairman, the Lok Sabha approval to the Essential Services Maintenance Bill will not improve the relations between the employees and the Government. Sir, we all know that the Ordinance as well as this Essential Services Maintenance Bill have come as a result of one day's token strike on the 19th September. I do realise that the Ordinance has been defied, and may be, even the law tomorrow may be defied because there are quite a lot of

[Shrimati Yashoda Reddy]

political parties which would like to instigate and misguide the people. But that does not mean that the Ordinance did not have its effect. I entirely disagree with hon. Members in the Opposition when they said that the Ordinance had failed. Certainly, the Ordinance had succeeded and has cut down the number of strikers.

DR. B. N. ANTANI (Gujarat) : What is your test ?

SHRIMATI YASHODA REDDY : The same test on which they base their opinions. I also have my own way of testing and giving my opinion.

SHRI A. D. MANI (Madhya Pradesh) : Do not interrupt a lady.

SHRI BHUPESH GUPTA : We are all equal.

SHRIMATI YASHODA REDDY : Sir, my submission is that the Ordinance was necessary, and this Bill is a necessary follow-up to that Ordinance.

Sir, the whole argument in both the Houses by the Opposition leaders and the Government has been around the right to strike. The Opposition parties were pleased to say that the Government, by this Bill and the Ordinance, has removed the right to strike, the right which is fundamental, which is almost a human right, a right which is given by the Constitution. They have been all pleading as if the right is fundamental. I say, Sir, the whole approach has been absolutely wrong because nowhere, either in the Constitution or in any correct thing, the right to strike is fundamental.

SHRI M. V. BHADRAM : Why did you ban then ?

SHRIMATI YASHODA REDDY : Instead of saying that the right is not fundamental and then thinking of banning the right to strike, I even object to the proposition made by the Government. Why should they go on appeasing ? "We are not preventing them from striking. We are not preventing them from going on strike. We will use it only in emergencies." Why do you adopt this apologetic attitude? The Government should have the right to

ban all strikes, especially in the essential services.

Sir, hon. Members of Parliament from the Opposition have pleaded that in no democratic country the right to strike has been taken away. But they never replied to the question put by Mr. A. P. Jain when he asked what would happen in the Soviet Union or China. There the question of strike will never arise. They do not think on such lines. What happens in a democratic country ? Certainly, the right to strike in essential services has been completely banned. For instance, in America . . .

DR. B. N. ANTANI : Including shootings in the Indraprastha Estate.

SHRI A. D. MANI : When did you become, a labour leader ?

SHRIMATI YASHODA REDDY : I am coming to that. The right to strike as being a fundamental right deserves more than a scrutiny. In America, Sir, my information is that the federal employees are prohibited by law from resorting to strike and this has not led to any weakening of the labour movement there . . .

SHRI ABJD ALI : In Russia they cannot go on strike.

SHRIMATI YASHODA REDDY : It is not for me to comment on Russia or China. In our country unfortunately, not only in this but in most of the issues we bring idealistic, religious, semi-religious things into policy-making. We never have a pragmatic approach to a problem. So my first submission to the Government would be that when you bring such a Bill next time and when you are going to put some of the assurances given in a statutory form, you first decide what are the essential services where you should ban strike. For example, what is strike ? The strike is not a weapon against the Government about which these politicians and the labourers raise so much hue and cry. Strike is a weapon against the nation, against the millions, the women and children who are against this strike. It is not the Government which is held to ransom. It is the nation which is held to ransom. If you want to take some step against

the Government, do take it. But why do you put the whole nation to ransom ? Neither any trade union nor the political parties have a right to go on strike. The most important duty of the Government is to govern. What the society needs is services, and for this the Government must first ensure that the nation will have all the essential services, come what may. That is my first submission.

Then, Sir, yesterday my hon., friend, Mr. Thengari, made a brilliant speech, no doubt about it. But from the beginning to the end he went on quoting opinions, opinions from here and opinions from there. I had a doubt : Did he have a personal opinion at all ? Or is it that he has no opinion ? Is it because he was in sympathy with them that he went on quoting them and could not say something personal ? I have got a great respect for that Member, and certainly it was a very distinguished speech. Ultimately, Sir, he quoted Shukra. Everyone has great respect for Shukra . . .

SHRI D. THENGARI : Sir, how could she read my mind ?

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : There must be some arrangement.

SHRIMATI YASHODA REDDY : That is exactly the trouble. Had I known his mind. I would not have put this question. I said : What did it mean ? Did it mean that he had no opinion and he was entirely agreeing with the opinions he was quoting from the records of the past, vedic times ? He was pleased to end by quoting Shukra. Certainly Shukra is a very eminent man. But when Manu and Shukra laid down laws, they laid down the laws for that particular time. And the hon. Member quoted Shukra only about what the employers should do ; he did not say anything about what the employees should do. Now if we were to follow only Shukra and Manu, I would not be here to speak because Manu said that women should not have any rights.

SHRI B. K. P. SINHA : No, no.

SHRIMATI YASHODA REDDY : Certainly he gave no rights as far as property was concerned. I do not think

even my hon. friend would like to say that as Manu has said, no lady should have any property rights. I hope he will not.

SHRI B. K. P. SINHA : Mr. Vice-Chairman, the hon. lady is under a mistaken impression. Manu writes :

"TO RTTq-q "T*^ XH^ (TW ^I"

SHRI BALACHANDRA MENON : Manu also stated : If you do not pay back my debts, you will be re-born a pig or an ass or a woman..

SHRIMATI YASHODA REDDY : Agreed. So if Manu has said these things, I do not think Mr. Balachandra Menon would like to accept Manu's position . . .

SHRI ARJUN ARORA : She has. repaid everything.

SHRIMATI YASHODA REDDY : I do not want anybody's assurance that I have repaid everything (*Interruptions*) Anyway he agrees with me that we should not rely too much on vedic quotations whether it is Manu or Shukra or X or Y or Z. We have to deal with the problems of the present time in the present set of things. To that extent, Mr. Balachandra Menon has supported me and I am thankful to him. May be Manu would have said "either a woman or a communist" but they did not have communism in those times . . .

SHRI BHUPESH GUPTA : What did she say ? "Either a woman or a communist"? But I never thought a woman would be speaking like this about strikes.

SHRIMATI YASHODA REDDY : That is exactly what Mr. Bhupesh Gupta does always. He comes to conclusions before one says some-thing. I only say that the employees have the right of strike only in certain conditions. About the right to remedy, which is more fundamental, Mr. Bhupesh Gupta does not understand. It is not so much a question of the right to strike. It is a question of the right for remedy when there are certain grievances. These people are not able to argue their case. It is left to the Congress Members to argue their case-. What can we do ?

Essential Services Maintenance Ordinance, 1968

Maintenance Bill, 1968

[Shrimati Yashoda Reddy]

The other point that I would like to mention is that yesterday, in the whole confusion, I think Mr. Balachandra Menon raised a very relevant point . . .

SHRI A. D. MANI : He is always relevant.

SHRIMATI YASHODA REDDY : Yes, in spite of being in that party.. He raised this point of right to remedy. And I am sure even my hon. friend, Mr. Bhupesh Gupta, will agree with me that it is not the right to strike that is important, if he understands my argument correctly . . .

SHRI BHUPESH GUPTA : For the last 16 years I have been trying to understand you, but I only end up by misunderstanding you.

SHRIMATI YASHODA REDDY : I cannot help it. If somebody is deficient, I can only pity. I cannot help him.

SHRI ABID ALI : Floored.

SHRI ARIUN ARORA : How did the lady find out the deficiency of Mr. Bhupesh Gupta ?

SHRIMATI YASHODA REDDY : He has been trying to understand one single individual and he is not able to understand. How is he going to understand the millions of workers and Government employees in the country?

SHRI BHUPESH GUPTA : I do not know, then, who should examine.

SHRI ABID ALI : Arjun Arora.

SHRIMATI YASHODA REDDY: He may leave it to the Government; they are doing it very well. I have got one point and then I will finish my speech . . .

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : And one more minute also.

SHRIMATI YASHODA REDDY : You have given everybody 20 minutes; and for 10 minutes, these people have interrupted me.

Now, the right to remedy is very essential, Sir. I do agree with some of the points made by the Opposition Members, whether it is Mr. Dahyabhai Patel or others. Certainly our Government employees do have a feeling that they need more pay. I sympathise with them. It is not a question of the Government employees only. There are any number of people in India, organised labour as well as unorganised labour, and in agriculture, whose incomes are far below what they need. Now, for a change I would like to agree with Mr. Dahyabhai Patel. He said . . .

SHRI ARJUN ARORA : You agree with him ?

SHRIMATI YASHODA REDDY : Yes. Why should I not ? I agree with anybody who says anything sensible.

Mr. Dahyabhai Patel mentioned production. Production is the most important thing. Now, on the one hand, you want more wages, more money. Where do you get money from ? Certainly it must come from production. Now if there is a strike, it stops production. So if you want your economy to improve, if you want your national income to improve, if you want to earn better wages, then we should not resort to strikes. But that does not mean that the Government employees should not have the right to remedy. So, my submission to the Government is that by legislation they cannot do everything. If they want to keep up good relations, they have to keep the employees contented. By just having a legislation for banning strikes, they will not improve the position. They must have a very constructive approach. And about the assurance given by the hon. Home Minister yesterday, the fact that they have not come up with it now has given rise to doubts in the minds of Members as to when it is going to come. My appeal would be : Bring it as early as possible. Make the J. C. M. a little more broad-based and the provisions of the Industrial Disputes Act where you have given the right of adjudication and arbitration should be there.. But this should not include those few essential services where, I said, strikes will be banned. You please see that the right of adjudication and arbitration is not cut out. Give them

the right to have adjudication or arbitration without delay and without Government intervention. Please satisfy their demands and do not misuse this just because you have it, because I feel, Sir, that for the good running of the Government, both equity and political good sense are needed. So I recommend to the Government: Bring your proposals soon, but ban strikes permanently in certain essential services. Do not give them the right to strike in those services, because I am more interested in the nation than in political groups. Do not delay this measure for arbitration, adjudication and other things. Bring it as soon as possible.

Sir, I do support this Bill for the simple reason that today the conditions in India are such that whatever may be done, there are certain political groups who try to exploit people and I do not want this to be done at the expense of the nation. Thank you very much.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA : Not now.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Mr. Balachandra Menon.

SHRI BALACHANDRA MENON : Mr. Vice-Chairman, Sir, this is rather a winter of our discontent in the sense that this winter has witnessed much more discontent among the workers, among the middle-class employees, among unemployed youth and other sections of our toiling people, thanks to the wrong policies followed by the Government. It is now Christmas week. And it is really painful that in 1968, after one thousand nine hundred and sixty-eight years after the birth of Christ, we should be thinking of crucifying the democratic trade unions and that during the X-mas week. This is what you are trying to. I shall explain how. Now, the whole problem has been created because of the wrong policies the wrong economic policies of the Government. The industrial production has increased by 160 points and the cost of living increased by at least 150 points. But the real wages [a]

behind. I am sure the Labour Minister agrees with me on this. The production increased, the productivity increased and there has been an increase in profits. But there has not been a proportionate increase in wages. The real wages lag behind 1956 position. They are in line with even the 1939 pre-independence period wages. This is exactly why there is discontent. If you will bear with me I shall try to explain some of the policies of the Government which have created this situation. What was the tax increase during these 18 years? The Central taxes increased from 460 crores to 2,720 crores. The State taxes rose from 364 crores to 2,605 crores. The excise duty and sales tax which are mainly on the poor, increased. The Central excise rose from 68 crores to 1,286 crores, an increase of 19 times. The sales tax rose from 54 crores to 514 crores. The foreign debts increased from 33 crores in 1950-51 to 5,666 crores now. Devaluation alone brought about an increase in debts by 1400 crores. The internal debts increased from 2,469 crores to 9,727 crores. This is during the period 1954-68. The supply of money through deficit financing during the period 1954-68 increased from 2,016 crores to 5,050 crores. Unemployment in rural areas increased from 8 millions to 12 millions, in the urban areas from 3 lakhs to 25 lakhs. Nobody has cared to know what is full employment. Nobody knows what is partial employment or concealed unemployment. This is the wonderful picture during the last 18 years

SHRI P. C. MITRA (Bihar) : Why do you not give the number of persons employed?

SHRI BALACHANDRA MENON : There is another point also. I would like to say about land value. In urban areas it has increased by 50 times while in rural areas it has increased by 10 times. This is the position. This is the position of the economy where everything has collapsed. We have helped to increase the strength of the monopolists. You have allowed this country to be a hunting ground for foreign capital. This morning you would have heard that the amount of foreign capital invested in India in private sector is only about 25 crores while the amount that goes out of India is about 40 crores. This is

[Shri Balachandra Menon]

the unfortunate position. No wonder that the worker, the ordinary man, today says, "No, Sir, this is not the method of planning. Something will have to be done. This has to be changed." Sir, during the national movement there was, of course, that unity about which Mr. Dahyabhai Patel mentioned. Mr. Dahyabhai Patel now wonders why it is that unity is not there. It cannot be there because there has been polarisation among the people, because the people are thinking seriously how this economy has to be changed. A large number of democratic people, whether on this side or on that side, have come to seriously think how we are going to change the economy of this country, and in this struggle of the middle-class, the struggle of the students, the struggle of the workers and other toilers, all democratic sections have to join together so that we do not allow the monopolists to have their way, we do not allow the monopolists to thrive; we will have an economy which will be a self-sufficient and self-reliant economy. This is what Gandhiji wanted. Sir, the trade union movement which was founded by Lala Lajpat Rai, that movement which had Pandit Nehru as its President, which had Subhash Chandra Bose as its leader—which had Mr. V. V. Giri, now our Vice-President—as its leader, that movement today stands disrupted, stands beaten down because of your wrong policies. Sir, is it a crime to ask for a wage increase? That is all what the workers ask for. They ask for a minimum wage, a national minimum. Now, I heard there have been arguments that our national per capita income is only about 460 while the worker is asking for a national minimum of Rs. 180 or 200. The national per capita income has increased from 300 to 460 during the last six years. The per capita income then means a family gets about 1800. When a worker gets about 120 or 150 on that basis his per capita monthly income is less than Rs. 30/-. You must understand it. His average annual income is less than Rs. 1500/-. The worker is asking for a wage which will be sufficient to maintain himself and his family. His wage has not increased even on the basis of the increase of our national income.

Sir, after national independence the problem of basic class conflict is assum-

ing an intensified form. The oppression and exploitation of the peasantry by the landed aristocracy, the strangulation of industrial development by both foreign and Indian capital, are not merely national questions. They are social and class questions. You were speaking about the national security. You must also see that to protect the national security, to keep the country as a nation, the working people are satisfied, the basic class is satisfied, its unity is maintained, its demands understood and appreciated because it is they, the majority that maintain you, that maintain the entire economy. They are maintaining the production here. They are giving the wealth here. It is their Labour which you are exploiting. Twenty-five per cent of the surplus they make is eaten up by big monopolists, by money-lenders, rent-receivers. You have failed to restrain their activities. But you want to go against the worker and say, "No, we are not going to give you a wage increase." This position will not be accepted. Let that be very clear.

What are the Government's policies? It has set out to promote the industrialists. It dare not touch the landed interests. It does not seek to mitigate the most tortuous inequalities in incomes. It refrains from interfering with the monopolists—both foreign and Indian—with the merchants, with the moneylenders, the black-marketers and the lood-thieves. It is afraid of antagonising the businessmen. It promises socialism and protects private property . . . (*Interruption*) . . . and is anxious to reconcile the irreconcilable, it attempts to find a compromise between . . .

(*Interruptions.*)

SHRI BHUPESH GUPTA : Mr. Vice-Chairman, the Prime Minister has just now come to the House. Does she make a statement on her experiences in West Bengal? We would like to hear her.

SHRI BALACHANDRA MENON : Dodging its responsibility for making a programme of the economic and social progress, this Government has lost its historical chance to take our country forward from the backwardness, from the slums in which it is. Now there is a great danger. If you do not move immediately, there is the danger of reaction asserting itself. Already all

over the country you can see it. If today we do not strengthen the democratic and socialist base in our country, the danger is reaction and of course though everything is ripe, the conditions are ripe, for a basic transformation, still if the unity of the democratic class and the people will not be there, the change will not take place. It will mean stagnation. It means the society rots. Now it is stinking. It has come to that position. During these days especially during these few months, what have we done? You have brought about the Industrial Security Force Act, you have brought the so-called social control on Banking Companies, by which you have denied the bank workers the right to fight for their demands. To crown all you have brought this Bill and this is the sorriest piece of legislation. I do not think there can be a Bill which is much worse than this. We should realise that from the Trade Disputes Act to the Industrial Disputes Act you have been curbing the rights of the workers. The Bombay Trade Disputes Act allowed certain rights. They were taken away by the Bombay Industrial Relations Bill. Afterwards section 81A of the DIR came by which strikes were banned and that was in a period when the Government felt that there was danger, because the British Government never wanted to allow the national movement to grow, it was then that the D. I. R. during the war period was introduced. Clause 81A was almost on the same basis as the present Industrial Disputes Act. The Industrial Disputes Act banned the strikes, only under two conditions, otherwise in India strikes are not banned, strikes are legal. Only under two conditions they are not allowed— one, when it is a matter before the Conciliation Board and the other, when there is an adjudication. As per Industrial Disputes Act, the Government is compelled to refer a dispute to adjudication. The Railway workers, the P. & T. and most of the other Government employees except the ministerial sections are within the purview of the Industrial Disputes Act. The Government should have referred the dispute to adjudication but they did not do it, they are afraid of their own law, the very law which took away the right from the workers but which at least allowed them the right to take the matter to the court. Now that is also taken away. The Minister comes forward and tells us that he would be 6—63 R.S./68

bringing another Bill. What does the proposed Bill give? He tells us that when the matter is to be taken up by the JCM, and when it is not settled, it will be referred to arbitration. If it is not arbitrable, it will be taken to the Parliament. That is not what the Industrial Disputes Act gave to the workers or even what the Britisher gave. Now you are trying to confuse the people. It is entirely a different thing. That limited right which was given is now taken away. We never accepted adjudication as a right. We considered it to be something forced on us and often we resisted it. Shri Giri, our Vice-President, has been telling that compulsory adjudication or arbitration is public enemy number one of the working people. I accept his stand. When you allow the right of organisation you allow collective bargaining and collective bargaining is guaranteed when you grant the right to strike. The right to strike will not be used always. Only when it is necessary it will be used but unless it is there the demands will never be satisfied by the employers. It has never been satisfied willingly anywhere in the world. When in America the industrial workers demanded an 8-hour day in Chicago, what happened? They were shot down. In Paris, they were shot down but afterwards what happened was in Russia they established their own Government. Afterwards one-third of the world has gone that way. You may hunt him in Malaysia or frighten him in Indonesia but in Cuba he has asserted himself. He will have a Government where there will be no exploitation. You are asking just like the old Asura who asked : 'Where is God? Is he behind that pillar?' The boy told him : 'Yes, Sir, he is by this table, very near you, inside your own rooms, where the peon gets you your file. He is in your car when you are being taken home.' These employees are like the God. The worker is like that mythical Goddess, like Sati who always rises from the ashes. You will have to go to him like a beggar as the Beggar God Siva had to go before Sati.

SHRIMATI YASHODA REDDY r

I want to know whether he has suddenly started believing in God ?

SHRI BALACHANDRA MENON : God is the worker who gives you wealth and all good things in life. That is

*Essential Services Maintenance
Ordinance, 1968*

Maintenance Bill, 1960

[Shri Balachandra Menon] what your Bharathi, the Poet, said when he sang "I salute the worker, I salute the tiller of the soil."

SHRI BHUPESH GUPTA : Some of us believe in Goddesses.

SHRI BALACHANDRA MENON :

The path of reason has never followed a Straight course. You will not see reason. You are prejudiced. I have concrete suggestions to make. Let there be no compulsory arbitration. I tell you this as one who has been long in the trade union movement, as one who has worked a little with our Vice-President when he was our Trade Union leader and for years we have worked together and I was the General Secretary of Madras Trade Union Congress when he was the Vice-President of the AITUC. It was through voluntary arbitration disputes were settled during that period. I again recommend the acceptance of the principle of voluntary arbitration and if the employees refuse to accept it, you can come to Parliament and we will arm you. You can tell them that their strike will be banned if Parliament approves. If the strikes are against the interest of the country, we will be with you. I agree with Shrimati Yashoda Reddy when she said 'Do not take away the rights that are there already under the Industrial Disputes Act' and also when she said that arbitration should be voluntary. I accept it fully. I do not want compulsion to be made. Our workers are patriots. When the country was attacked by Pakistan and China we saw that they rose as one man and they forgot the differences. Everywhere they were prepared for industrial truce. It is these patriotic people whom we are trying to refuse the right to organise. About 10,000 of them are now to be driven out of jobs. You have already charge-sheeted a large number and discharged many. You have denied them the right to agitate for their right under Industrial Disputes Act. Most of the Central Government employees came under the Industrial Disputes Act. You forced this Ordinance on them. Was it fair? You have no faith even in your adjudicator. I am sure the judge would have said : 'Considering the present economy, it may take a few years to reach the national minimum. We will give them a graded increment'. It would have been done and that is the way we could have settled such disputes.

In a capitalist society the workers will strike and that is correct they do so. All sensible people accept the position. This is what Nandaji and Shri Jagjivan Ram said when they held that they would protect the workers right to strike. Pandit Nehru held that view during 1960 strike. Therefore I request even now to do the right thing. In the new JCM you are not prepared to invite the unions which are having majority because they went into action which they considered to be right. You are refusing the representatives in the J. C. M. That is incorrect. Let the JCM be a committee which really represents the workers. Let the JCM discuss the matters and when they are not able to settle, you come to us. If things go bad, Parliament will assert itself. Don't have adjudication which hon. Mr. Giri has said is number one enemy of the workers. It is bound to incite the trade union workers who will resist all compulsion. That is all that I have to say.

SHRI BANKA BEHARY DAS : Mr.

Vice-Chairman, it is really a matter of regret that we are going to discuss a Bill particularly in that year of Gandhiji's centenary. And it is very tragic that, when the Labour Minister is sitting in this House, the Home Minister is piloting a Bill which concerns the working class of this country. It is very tragic because it seems the Labour Ministry is abdicating its own authority over a particular domain which was its own sphere of action; it is just giving the handle to the employer in this country to decide whether the working class will have the right to strike or not. I could have understood if the Labour Minister would have brought some amendment to the Industrial Disputes Act to achieve the same purpose which the union Cabinet and the Congress Party are so much interested in. But the Labour Ministry, instead of trying to protect the cause of the working class of this country, handed over the entire matter to the hands of the Home Ministry which is virtually employer in this case.

[THE VICE-CHAIRMAN (SHRI D. THEN-GARI)
in the Chair]

Mr. Vice-Chairman, Sir, it is a blot on the Statute Book of this country. Sh. the working class of this country achieved this minimum right of trade unionism, the right to strike, after a lot of sacrifice

and dedication to the cause of trade unionism and we don't know how many people had to lay down their lives for achieving this minimum right that the working class throughout the world has achieved. It is an absolutely uncivilised measure, an undemocratic measure, a draconian measure, and if some day the history of this country will be written, then it will be written that after twenty-one years of independence, when the ground was gradually slipping from under the feet of the Government they wanted to take more of powers into their own hands. It has been always the history in this world that, whenever the rulers felt shaky in their positions of power, whenever they felt that the ground was slipping away from under them, they tried to get more of powers through all types of methods, whether democratic or undemocratic it did not matter to them. Here it does not make any difference even if it be democratic, even if the Parliament of this country passes it because, in a democratic institution also, sometimes we have seen that it has been utilised by different persons and parties and classes to take away the very democratic rights that the people of this country have earned..

Mr. Vice-Chairman, Sir, you know very well that Gandhiji, who also pioneered to a certain extent the labour movement of this country, was always not merely in favour of the under privileged; he also always tried to protect and uphold the cause of the labourers. Even if I concede for one minute— though I am not prepared to support the idea—that the Government servants, on September 19, made a mistake, even if it was a mistake from the point of view of the country, even if it was a mistake from the point of view of the economy of the country, even then I will again say just taking advantage of that mistake, the Government has no right to take away such a fundamental right of the working class not only of this country but of the entire world.

Mr. Vice-Chairman, I will say this is a lawless law; simply because Parliament passes this legislation, it does not become law. It is absolutely a law of the jungle; it is a black law that will remain in the Statute Book of this country.

Mr. Vice-Chairman, sometimes it is being argued from the other benches that it is going to be a very temporary measure. The Minister also, in the other House and this House, said it is going to be a temporary measure. But I can say that, when the power is slipping from the foot of this Government, when they are gradually losing popularity among the working class of this country, and the public in general, it is not going to be a temporary law. We know what happened about the Preventive Detention Act in this country.. Was not the assurance given by the late great leaders of this country on the floor of the House that it was going to be a temporary law? But has it been a temporary law? Has not Parliament, every now and then, been pressurized to continue the life of such law so that it continues to be permanent in the Statute Book of this country? So, I am sure, whatever assurances may be given, whatever pious wishes may be aired in this House, it will virtually threaten to become a normal law of this land.

Mr. Vice-Chairman, Sir, in this connection I am reminded of that conservative world leader Sir Winston Churchill. Even during the War when he was trying to release certain detenus in England, he said, "Nothing can be more abhorrent to democracy than to prison a person or keep him in prison because he is unpopular. This is really the test of civilisation." And it was in the context, Sir, when the entire British nation was facing a catastrophic war, when the entire civilisation—in the words of Sir Winston Churchill —was on test. Then also he said, "Though for purposes of emergency we have arrested certain persons, we are going to release them because it is a test of civilisation, because the test does not occur when there is normal life." The test of a nation, the test of an individual, the test of a statesman only comes when there is an emergency situation. I do not know what is the emergency situation in this country. Even taking for granted that there is something like an emergency, if, taking for granted, there is an emergency in the sphere of economy, then it is a product of the wrong policy that the Government of India has been pursuing throughout these years. Even if I concede that there is an emergency, even if I concede that in the interests

[Shri Banka Behary Das]

of public order something has to be done, then I would say that the test of civilisation requires that you should maintain your balance, that you should safeguard all the rights that you have given to the people of this country all the more at the time of emergency.

Mr. Vice-Chairman, I will again say that, if you look at the history of the working class struggle in this country, you will find that the great leaders, including Mr. N. M. Joshi who at that time was virtually the father of the trade union movement in India, had to mobilise the working class of this country, had to pass through so many trials and tribulations to achieve the minimum right to form a trade union in this country so that, even when the Britishers were ruling in this country, we could snatch away from those foreign rulers such a fundamental right. It is not the fundamental right of the citizens only; it is the fundamental right of the entire working class of the whole world. And now we find that after twenty-one years of independence we are going again to snatch away the very fundamental rights that the Britishers surrendered to the working class of this country.. Mr. Vice-Chairman, you know how much sacrifice in sweat, blood and tears has been made by the working class of this country only to get passed such a minimum legislation as the Trade Union Act which provided them a forum and an association, which provided them a basis, a weapon, an instrument for achieving a society in which they have some dignified place. But I am very sorry to say that here, when this measure is being passed by the employer, not by the Labour Ministry, I am very sorry to say that all these sacrifices, all these sweat, blood and tears have been mocked at by the present rulers of this country.

Mr. Vice-Chairman, I will again only refer to certain instances that happened during this strike. Again I am prepared to concede—because the Government and some of the followers of the Government have always said—that because the Government servants did not use their discretion properly they created a problem in the society. Mr. Vice-Chairman. Sir. I will again deal to

those who are in the trade union field—they may belong to the INTUC for some time; they may play a role which is anti-labour in this country—let them not forget that such a statute in the Statute Book of this country is not only going to take away the fundamental right of the working classes who are being organised by the opposition parties in this country, but also from the working classes who have been organised by themselves. Is it not a fact that certain sections of railway labour, is it not a fact that certain Government employees are at the back of the INTUC? But is the INTUC in this country prepared to take away this right and support the Government which is going to take away all the rights that the working class in this country have achieved under their own leadership? I would like that, instead of other Members of the Congress Party supporting this measure, the representatives of the INTUC, who are here in this Rajya Sabha, should come out with carping criticism of this measure and try to protect the interests of the working class even at this late hour. I know that I am appealing to them and the appeal will fall on deaf ears; I know it but I cannot but appeal to them because of this that, when the history of the working class of this country will be written, then it will be written—whether in golden or black letters, I do not know that—the INTUC in this country had been made a party to the nefarious scheme of the Government in snatching away this fundamental right to strike, of the working class of this country. Mr. Vice-Chairman, it is a draconian measure because under the pretext that the Government servants wanted to have a token strike on the 19th of September they are going to take away all the rights from different sectors of the economy. Here, they only give all advantage on all those who are against the working class in this country. If you see what are the essential services, you will find that it is not only the Government employees who have been brought under the noose that the Government of India is wanting to spread, but all the employees who are in the public sector will virtually come under the scope of this measure.

Do you want to extend the public sector so that all those employees in the public sector will come under the mischief of his measure? You find

that not only the Government servants but all the postal, telegraph and telephone employees are being brought under the mischief of this law. The Railway employees who even during the days of the British enjoyed this right are also being brought under the mischief of this measure. The last clause clearly indicates that any service which the Government of India wants to get included could be brought under the mischief of this law. If the Government of India tomorrow feels that mines is an essential service because about the mines they have the right to legislate, mines can also be brought under the mischief of this law. So this measure is not going to affect only the Government employees about whom so much is being talked of. It is not as if only the Government employees who it was claimed from the other side were enjoying better standard of living in comparison to other labour in this country will come under the mischief of this law. Even the other employees who come under the Ministry of Labour can also be brought under the mischief of this measure because the definition of 'essential service' is so wide that any service about which the Government of India can legislate under the Constitution of this country can be brought under this measure and their fundamental right to strike can be snatched away. Even if we agree with the Government that the Government employees should not usually go on strike, is it not the duty of the Government to create a congenial situation where the Government servants will not be compelled to go on strike? That is the only method that all democratic countries in this world have adopted up till now. Take the case of France. We know how major strikes are taking place in France. All the Government employees, all the public sector enterprises including postal, telegraph and other employees—and as we know France has more public enterprises than we have in his so-called socialist country—have gone on strike. Have we not seen that all those employees have gone on strike? But the French Government, even the dictator President De Gaulle, has never thought of snatching away this right of strike from the working class of France but here we find this Government which perhaps is thinking that its days are numbered, that it no more represents the people, that it no more represents the working class of this country, is

wanting to have all the dictatorial powers in its hands so that it may not have to face such troubles anywhere. But I warn the Government that this small statute is not in any way going to deter the Government servants and others from utilising their right of strike. By banning the strike nowhere can you avoid such situations. Wherever conditions of a peaceful society have been established it has not been by banning the strike but by creating conditions both social and economic where the strike becomes redundant. Take the case of England from where we have all learnt these trade union activities since the last century. Even during the war when there was a coalition between the Conservatives and the Labour in that country the working class in that country launched a strike but nobody in England had the courage even to say that the working class in England are unpatriotic or playing into the hands of the Fascist rulers of Germany or France. The Labour Party even though it was in power tolerated the strike and arrived at an amicable settlement. They did not like that even taking advantage of an emergency they should take away this fundamental right of the working class of that country. Take the case of America. I am not going into the conditions that are prevailing in East European countries or in the communist countries. Some arguments have been advanced about them and a reply has also been given by some of my friends here that there is no necessity for a strike in communist countries. I do not agree with that view because it is not a question of necessity for a strike or not because the same argument may be advanced by the Congress Party here; the same argument may be advanced by any capitalist rulers throughout the world that there is no necessity for a strike. The necessity for a strike can be judged when the condition is so congenial that even though the working class has the strike weapon with it, it does not use that weapon either for its own amelioration or for any other purpose.

SHRI A. P. CHATTERJEE : But I may point out that there is no law prohibiting strikes in socialist countries.

SHRI BANKA BEHARY DAS: There is law but I am not entering into that aspect at all.

SHRI A. P. CHATTERJEE : There is no law.

SHRI BANKA BEHARY DAS: I will be very happy but there is law prohibiting strikes I know in communist countries but I am not arguing on that basis. Even if I concede to the position of Mr. Chatterjee ...

SHRI ABID ALI : That is not correct. They cannot go on strike.

SHRI BANKA BEHARY DAS: I do not think there is any need to argue on that. I know there is prohibition on strikes. Even if I concede there is no prohibition on strikes in those countries we can say that they also believe that this strike weapon is fundamental. But I know what has happened in Czechoslovakia; all these things are known to us but I am not going to talk on those matters just now. I am only saying that this right to strike is a fundamental right of the working class and it should be protected, it should be safeguarded. If the country wants to avoid the situation of strike then it should create a congenial atmosphere for the working class that their weapon of strike would be blunted and there will be no necessity for the working people to resort to strike. But has such a condition been created in this country? Can any Congress Member tell us with all their respect for truth and non-violence or whatever it might be that they have created such a condition in the country that the strike weapon is unnecessary? Is it not a fact that the INTUC every now and then has passed resolutions demanding that price stability should be there? Is it also not a fact that the INTUC has on many occasions passed resolutions in favour of strikes and when that is the case why are you trying to take away this right now from an overwhelming section of the population of this country?

Mr. Vice-Chairman, Sir, I will now deal with a few clauses of this Bill. You will find that the definition of 'strike' by the Labour Ministry is something different from the definition of 'strike' by the Home Ministry. I would rather say if you want to prohibit strikes why don't you hand over all powers to

Birlas and Tatas who will legislate for their workers and decide whether their workers should have the right to strike or not? This definition of 'strike' is so wide that in no other country you will find such a definition. It says that strike is any conduct which is likely to result in or results in cessation or substantial retardation of work in any essential service. But the definition of 'strike' is something else when we take the labour code of this country and the definition here is something different. This is a definition which is being given by the employers virtually, that is, the Home Minister. How can the Home Minister legislate for those working class which does not come under his own domain? I know he is the employer so far as the Government servants are concerned and they are governed by his Civil Service Rules. But are the working classes governed by the rules of the Home Ministry? Because you find here any service can be made an essential service just by a notification; they need not even come to Parliament. This is an absolutely wide power. It is a power which can only usher in an era where Hitlers and Mussolinis will rule the country. I am very much astonished that even in this year of Gandhiji's centenary the very fundamental right that Gandhiji tried to achieve for the working classes of this country is being snatched away under the provisions of this Bill by this Government. In this connection I want to remind my friends here that for this meeting of the JCM on December 27-28 they have not invited the All India Railwaymen's Federation, they have not invited the National Federation of Postal and Telegraph Unions and they have not invited the Confederation of the Central Government employees' unions. They may say immediately that the recognition of these unions has been withdrawn. Again I want to appeal to the Government and to the INTUC members. On July 11th when in the Vigyan Bhavan in Delhi the JCM was to meet the members of the staff in that Council met separately in Vigyan Bhavan where the President of the Bihar PCC, who is a very important member in the INTUC, Mr. A. P. Sharma was present and I am told on very reliable authority that he presided over that meeting, the so-called informal meeting. And there he was of the opinion that the JCM should be boycotted because they were not

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going to take up the question regarding reference to arbitration of the demand for a need-based wage. He was a party to it and he was the President in that informal meeting. Under his guidance this decision was taken, though all other representatives of the All India Railway-men's Federation also attended it. Now, can the INTUC, at this juncture, after provoking the workers in this country that the need-based wage question should be referred to arbitration, back out and try to hit the working-class? I would again remind them of it, because I have been told by persons who attended that meeting. The Secretary of the All India Railwaymen's Federation wrote to the Cabinet Secretary, Mr. Joshi, who is also the Chairman of the JCM, on the 6th December about the JCM meeting and the reply was that those unions which participated in the illegal strike will not be invited to that meeting. But I can remind the Government that the declaration of joint intent of JCM was signed by the All India Railwaymen's Federation on the one side and the Government of India, represented by Mr. Joshi, on the other side. I am astounded to note that, though this declaration of joint intent was signed by the Government and the All India Railwaymen's Federation, some of the constituent unions, which did not resort to the strike, have been invited to the JCM meeting which is going to be held on December 27 and 28. There was no agreement between the individual unions, which are constituents of the AIRF, and the Government of India. The nominees of the All India Railwaymen's Federation are not the nominees of the constituent units affiliated to the AIRM. I am astounded to find that even at this time the Government is trying to play hide and seek with the working-class of this country, trying to create a cleavage between the different unions, which are affiliated to the AIRF, between the nominees of the AIRF and the nominee of individual unions. To this special meeting they have been invited. Does it not "show the nefarious intention of the Government of India to create a cleavage in the working-class movement of this country?"

I have no time to say all these things, but I would refer to one thing at least, within one minute. When I am trying to wind up. Again I want to say

it here, though it may not directly concern the Home Ministry. It may concern the Communications Ministry. I have a resolution of the Utkal Journalists' Association here. I am not going to read all that has happened there, but the Government, which wants to curb the working-class movement in this country, has created such a situation that telegrams of journalists to their papers are being withheld and delayed. Here there is a resolution which says that press reports that are sent by the correspondents of the Times of India, Statesman, Hindu and Patriot on the 25th and 26th of last month were withheld by the Communications Ministry. They have made a strong protest to the Press Council and to the Government. Even at this time the Government is not prepared to give this much freedom to the working journalists to exercise their right which we have safeguarded to them in this country. I have no time to deal with it in detail. But this is another instance where the Government of India is trying to muzzle the free voice of this country, whether it is of the working-class or of the press of this country.

With these words, I fully support the Resolution that has been moved by my friend, Mr. Bhandari, and I oppose the consideration motion of the Home Minister, who wants to take away the powers of the working-class of this country and to which the Labour Ministry of this country has been a party.

SHRI ARJUN ARORA : Mr. Vice-Chairman . . .

SHRI D. L. SEN GUPTA (West Bengal) : Do you support the Bill or not?"

SHRI ARJUN ARORA : I support the motion of Mr. Bhandari. I want the Government to know that strikes are never prevented by making laws. Strikes are prevented by creating conditions under which they become unnecessary. The working people never resort to a strike lightly, because resorting to a strike means that the strikers, for the time being, lose their livelihood and they live on wages alone. They have no bank balances to fall back upon. So, they never resort to a strike in a light-hearted manner. They resort to strike only when they feel that no other

[Shri Arjun Arora]

avenue is open to them. Strike has correctly been described by all sections of trade union leadership as the weapon of last resort. When you create conditions or when workers are faced with conditions in which they have no option but to resort to strike, they will resort to strike, irrespective of laws. They are prepared to pay the price of their action and face all possible penalties. There are pockets in this country, for example, Ahmedabad, where strikes are a rare phenomenon. How does it happen that in Ahmedabad strikes are a rare phenomenon? It is because the trade union movement at Ahmedabad is strong and the employees have responded to the strength of the trade union movement at Ahmedabad. The labour there is the highest paid in the country. The textile labour at Ahmedabad is the highest paid in the country. Their dearness allowance is near hundred per cent neutralisation. That is why strikes do not take place there, not because of any laws. Laws in this country are the same. The same laws prevail in Ahmedabad as in Calcutta, but in Calcutta the wage level is the lowest in the country. In Ahmedabad it is the highest in the country. The lower the wages, the more the compulsion and necessity for the workers to resort to strike. So, the Government should learn the lesson that strikes will not be prevented by law. They will only become illegal in the eyes of the changing law. This is all that can be achieved by the Government by proceeding with the Bill. Strikes are prevented by creating conditions in which they become unnecessary. The Ordinance was bad. The Government was faced with a certain situation in which it was well or ill-advised to issue the Ordinance or rather get the Ordinance issued by the President. The Bill and its enactment will be worse. If these powers are necessary, why does the Government want them for three years? If these powers are advisable and socially desirable, why does the Government want them for three years and not for ever? It is because the Government itself does have a sense of doubt about the correctness of its action, correctness of its move. That is why it has come to this House for a law which will prevail for three years. Does the Government think that for three years it will not meet the just demands of the Central

Government employees? That is why it wants the powers for three years. When I say just demands of the employees, I say so with full confidence. The demands of the employees are need-based minimum wages and full neutralisation. No sane person can argue that need-based wages should not be given, and no sane person can argue that full neutralisation of the rise in the cost of living should not take place. When the Central Government employees made these demands, the INTUC and the Federations affiliated to the INTUC were one with the Communist-led trade unions. They both made the same demands; only they charted different courses of action. As far as the demands are concerned, the demands are just the demands are proper, they are reasonable, they are humane, and no section of the trade union movement in the country is opposed to those demands. The Government will have to find avenues of settlement. The Government will have to find methods of accepting those demands. It is, if I may say so, infantile of some people to say that the need-based wages cannot be given to Central Government alone. Sir, it is well known that in this country there is no national law of wages, there is no national policy on wages. During the twentyone years of our independence it has never happened that a national legislation on wages has been brought by Government or even by a private Member. Yet wages have risen, wages in the country have risen substantially. They have risen piecemeal, a beginning is made somewhere. There have been Committees; there have been adjudications; there have been Wage Boards. Each of them has dealt with the problem piecemeal, and as a result of this piecemeal action wages have risen. Wages have risen to a level which, though not satisfactory, is much better than the pre-1947 wages. Every time a beginning was made with one section or the other. So, in this case if we argue that a beginning must be made with the Central Government employees as far as the implementation of the well-accepted concept of need-based minimum wages is concerned, we are on sure grounds. Capacity to pay is no consideration of the working people. Employer's capacity to pay is employer's own responsibility, and his incapacity to pay is employer's own responsibility.

I am fortunate that Mr. Jagjivan Ram is here today. In 1947 as Labour Minister he laid down certain very basic and sound policies, and one of his utterances was that an industry which cannot pay reasonable and fair wages has no right to exist, and it was on this basis that in the Nimbkar Committee of U.P. I scored a march over the employers' representative, and all over U.P. electricity supply workers and textile workers gained a substantial wage increase. Capacity to pay is no concern of working people. Their responsibility is to work, to give the best of their labour. It is the employer's responsibility to find the capacity to pay, to arrange for the capacity to pay. In the case of the Central Government, as far as the employers in the country are concerned, be they State Governments, be they municipalities, be they industrialists, the Central Government has the highest capacity to pay. So, there can be no dispute that the Central Government has the capacity to pay or is in a position to arrange for the necessary funds which will be required to give the working people the need-based minimum wages.

Sir, it is remarkable that Mr. A. P. Jain talked of a strike for an indefinite period. This strike of 19th September was "only a token strike. But there has in the past been a strike of the Central Government employees which was for an indefinite period. That was in July 1960. The Central Government employees resorted to an indefinite strike. That strike failed. But the then Prime Minister, Shri Jawaharlal Nehru, the then Home Minister, Pandit Govind Ballabh Pant, and the then Labour Minister, Shri Gulzarilal Nanda, did not conceive of a Bill like this. They did not find it necessary to take powers to ban strikes. The present Government is composed of people who were in their political life juniors to Pandit Jawaharlal Nehru, Pandit Govind Ballabh Pant and Shri Gulzarilal Nanda.

SHRI BHUPESH GUPTA : Even to Shri Jagjivan Ram.

SHRI ARJUN ARORA : Yes. even to Shri Jagjivan Ram. The present Home Minister, the present Labour Minister and, if I may say so, the present Prime Minister were juniors to the Prime Minister, the Home Minister and the Labour Minister of 1960. In 1960 in

spite of a declared strike for an indefinite period such powers were not thought necessary by the Government. What was done by the Government then was that Pandit Pant in this House—he was then the Leader of the House—declared that the Government would have something akin to the Whitley Council, and the JCM was subsequently born. Faced with an indefinite strike the Government of 1960 adopted a course of conciliation, adopted a course of providing a machinery for joint consultation. What the Government has done today is that in the face of an one-day token strike it has come forward with a Bill to assume powers to ban strikes for three years. I am sure history will not forgive them.

SHRI BHUPESH GUPTA : The hon. Member surely remembers what Shri Jagjivan Ram said.

SHRI ARJUN ARORA : Then, Sir, an hon. Member said that Government servants are expected not to take part in politics. I think that hon. Member forgot the difference between politics and active politics. A Governor, for example, is very much in politics but he is not in active politics. A Minister is in both. Similarly the Government servants are expected to take part in politics but not in active politics. The Government employees still have the right to vote and in exercising their right to vote they do take part in politics. And they must take part in politics. Of course, they do not take part in active politics. They do not address election meetings. Was this strike political, this strike of 19th September? Sir, I feel that it was not, and nobody has said it was political, nobody has adduced any evidence to say that the strike was political. The only argument which has been advanced by a very senior Member and who has held many important offices and who has failed in each of them was—he said—that the strike was political because political parties of today . . .

SHRI BHUPESH GUPTA : Who is that?

SHRI ARJUN ARORA : ... were pleading for the strikers.

SHRI BHUPESH GUPTA : Who is that gentleman?

Essential Services Maintenance Ordinance, 1968

Maintenance Sill, i £68

SHRI ARJUN ARORA : The Government does not plead for the strikers.

The Government does not plead for those people who have lost their jobs, who are about 11,000 in number. If the Government does not, the Opposition has to. Have we reached such a situation of bankruptcy that anything which is advocated by any political party becomes political? For example, there are some political parties which advocate good housing for everybody. Has housing become a political problem?

SHRI BHUPESH GUPTA : Or for that matter, family planning has become a political problem.

SHRI ARJUN ARORA : Family planning has become very much political. It is only political, and badly political at that. If our politics was good, our economy would be sounder, and we will be able to feed more mouths without foreign aid. *(Time bell rings)* One or two more minutes.

Then, Sir, somebody said, . .

SHRI BHUPESH GUPTA: Kindly allow him. He can be given a little more time.

SHRIMATI YASHODA REDDY: Why does he plead for him?

SHRI BHUPESH GUPTA : Because from the Congress Benches one refreshing speech. . .

SHRI ARJUN ARORA : Please do not take my time.

SHRI BHUPESH GUPTA : I would like to give him from my time.

SHRI ARJUN ARORA : I do not want your time.

SHRIMATI YASHODA REDDY: Mr. Bhupesh Gupta, it is highly coloured political backing.

SHRI ARJUN ARORA : Mr. Bhupesh Gupta, I do not want your time. I will avail the time of Mrs. Yashoda Reddy.

Somebody said that Government servants are not like industrial workers. Now, industrial workers have their right to strike, even according to the most conservative people in this country. If

you take away from the Government servants the right which an industrial worker has, the right which any citizen has, you should be able to offer them something as *quid pro quo*. In this case, if the Government were wiser, if the Government were statesmanlike, this very Ordinance would have provided for the banning of strikes on the one hand and for arbitration on the other. Why was the Government not in a position to do so on the 13th or 14th September because even before the 13th or 14th of September, the Government had put itself in the wrong by turning down the employees' demand, the Government servants' demand for, and insistence on, arbitration. Yesterday, Mr. Shukla made a very welcome announcement that arbitration will also be provided for. There is still time for Mr. Shukla to correct the mistake of September, to correct the mistake of the other day, and move an amendment to this Bill saying that wherever the Government bans a strike, it will refer the dispute for arbitration. In Britain, for example, there are two sections of working people who are not allowed to strike. Britain is a free democracy, even according to Mr. Abid Ali. But there are two sections of workers who are not allowed the right to strike, workers engaged in the generation of electricity and those engaged in water supply undertakings. But in their case alone the right adjudication is there. In Britain, there is no machinery for adjudication and arbitration. Collective bargaining is the rule and, if necessary, parties themselves appoint arbitrators. But in the case of electricity supply and water supply workers, there is compulsory arbitration.

Now, compulsory arbitration is not a Communist concept. Compulsory arbitration is a Gandhian concept.

SHRI BALACHANDRA MENON :
We are not for it.

SHRI ARJUN ARORA : We are for it, you are not.

So, if the Government were statesmanlike, they should have provided for both, taking powers to ban strikes and providing for arbitration. There is still time. Mrs. Subhadra. . . I am sorry.

. . Mrs. Yashoda Reddy. Being Arjun, I always think of Subhadra. Mrs.

*Essential Services Maintenance
Ordinance, 1968*

Maintenance Bill, 1968

Yashoda Reddy also said that the Government should provide for arbitration. Mere promise

SHRI BHUPESH GUPTA: You are making a speech like Krishna. Hence you think of Yashoda.

SHRI ARIUN ARORA: But the mere promise to provide for arbitration is not enough.

Sir, I had a lot to say. But it appears that time is always short for me.

Thank you.

SHRI M. V. BHADRAM : Mr. Vice-Chairman, Sir, I rise to support the Resolution moved by Mr. Bhandari. While doing so, I would say that the main contention or the main aspect of the whole thing is the strike, and it is argued that there is no fundamental right, there is no right of strike at all. But I would like to remind some of those Members who do not concede the right of the Government servants to strike of one thing. We in India have accepted collective bargaining which has come to stay. Collective bargaining, without that right of strike being sanctioned, is a myth. There is a Telugu saying—giving a daughter in marriage minus something. . .

SHRIMATI YASHODA REDDY:

An HON. MEMBER: What is that saying?

SHRI M. V. BHADRAM : I do not like to say that. But it means that the bridegroom cannot have married life with the girl. That portion of the body is minus. Except that, the girl is given in marriage. Similarly, without the right to strike, this collective bargaining is a myth. And secondly, it has been recognised in this country—the right to strike even by the Central Government employees. I would like to remind the Members, particularly the Treasury Benches, about the speeches that were made by Pandit Jawaharlal Nehru and Mr. Nanda during the last general strike in 1960 in the Lok Sabha, and the stress was on the negotiating machinery but not on banning the strike. I do not have sufficient time to read out the entire thing.

Then, in India we have the Indian Penal Code. There is a section about offence in the Indian Penal Code. What is that? Breach of contract is an offence under the Indian Penal Code. The relevant provisions in the Indian Penal Code were deleted long back. Sections 590 and 592 were deleted from the Indian Penal Code. It means breach of contract is not an offence. Therefore, the right is not fundamental; it is acquired.

I would say one more thing. In this democratic society the industrialist can refuse to sell his goods if a proper price is not offered to him whereas an industrial worker or an employee in the Central Government cannot refuse to sell his labour power for the price which is not remunerative to him. Therefore, it is a fundamental right, not enshrined in the Constitution, but it is much more fundamental. I have a right to sell my labour for a price which I accept. If the price is not acceptable I have a right to withhold my labour. Similarly, that right is not given by anybody, by Mrs. Yashoda Reddy or by somebody else; it is the inherent right of the worker.

In this connection a reference was made to the Second Pay Commission. There was a proposal by the Government before the Pay Commission to ban strikes. I do not want to read the entire paragraph. Paragraphs 16 and 17, describing the whole thing; clearly refused to ban strike. Their main stress was that if the employees were not to exercise their right, a proper atmosphere and a negotiating machinery should be evolved by the Government. That is the main thing that was said by the Second Pay Commission also. After eight years what has been done? Nothing has been done. Whether a particular issue is arbitrable or not has been left for the Government to decide. Therefore, they refer the issue to arbitration. The Finance Ministry says that there is no power on earth which can arbitrate their action. Therefore, they refuse to refer the thing to arbitration and the whole thing is given up.

Now the Government, having realised the blunder comes forward with the offer of making the J.C.M. statutory. Why is it not done in the Ordinance itself? If it had been in the Ordinance itself, there would have been no strike and the

[Shri M. V. Bhadram]

whole thing would have gone before arbitration. Therefore, a serious omission by the Government itself has landed the whole country into such a situation.

In this connection I would like to point out a very glaring, obnoxious feature of the Ordinance. The service conditions of the Central Government employees are determined, not by the Labour Ministry, but by the pay master and the police, the Home Minister and the Finance Minister. They have joined together and pushed aside the Labour Ministry. Now it is they who will decide what should or what should not be paid to the worker.

Here I would blame the Labour Ministry for abdicating its obligations. There is an unholy alliance between the Finance Ministry, the Home Ministry and the Labour Ministry. And because of this unholy alliance the illegitimate child, that is, the Ordinance, has been produced by these three people. And in this connection the Labour Secretary became the go-between who advocates to ban the strike in Tatanagar. Therefore, the Labour Ministry has played the role of an unholy woman in the unholy alliance which has brought about all these things. And unfortunately the President is compelled to own the illegitimate child by issuing the Ordinance.

Therefore, Mr. Vice-Chairman, under these conditions what is the alternative machinery? If strike is to be avoided there must be the alternative machinery for negotiations. This is conceded, not once but a thousand times, by so many leaders. But the Labour Ministry is indulging in meditation.

SHRIMATI YASHODA REDDY:
 Mahesh Yogi.

SHRI M. V. BHADRAM : If this Ordinance becomes law, there is no need for the Labour Ministry itself; the entire Ministry should be wound up because under this Ordinance everything except the lodging houses and brothels are covered. Even the brothel houses would come under its mischief. Under this Ordinance anything can be declared as essential service, and by an order of Government strike can be declared illegal. Where is then the need for the Labour Ministry to exist?

SHRI BHUPESH GUPTA : They will exist for the corrupt, monopolist class.

THE VICE-CHAIRMAN (SHRI D. THENGARI) : Come to your seat, kindly.

SHRI M. V. BHADRAM : What has been gained in the last twenty years is being undone and unfortunately Mr. Hathi has become a party to this whole thing.

Mr. Abid Ali said that strikes are banned in the Soviet Union and other Communist countries. Probably he does not know that there is no law prohibiting strike in the Communist countries.

SHRI ABID ALI: Yes, no law, only action.

SHRI M. V. BHADRAM: If the demand of the Central Government employees for a need-based wage had been conceded the Central Government employees would not have gone on strike. Similarly, in the Soviet Union and other places the workers get what they deserve and what they want. Therefore, there is no need for any strike.

I would like to tell the hon'ble Members one more instance. In the Philippines, a most advanced country, in all the capitalist countries, as far as labour legislation is concerned, strikebreaking is prohibited. The employer is prohibited to bring workers to break a strike in the Philippines. I would like the Labour Minister to read the entire legislation of the Philippines. Therefore, in all the capitalist countries, whether the right to strike statutorily exists or not, strikes are taking place. Strikes are taking place in Britain. Strikes are taking place in America, in Italy and so many other countries where the entire governmental machinery, sometimes, is paralysed. But nothing is going to happen there. Nothing can happen in a day's token strike. But if you think that the entire services are necessary for the maintenance of so many things in the country why do you not create conditions that they do not go on strike?

Now they say that:

"If the strike had been allowed to take its course with an indefinite strike to follow, the life of the community in large and vital areas would have been paralysed."

This is a blatant lie. It is absurd to say that because of a day's token strike the whole country would have been ruined. I would like to remind some of those people who were not patriotic enough and who never participated in the National Movement of the thirties and forties, when the War broke out, the British Government which was ruling in India at that time, promulgated the Defence of India Ordinance. I was a prisoner in a jail along with Mr. Brahma-nanda Reddy and some of the other Ministers. The same argument was given in support of that legislation to suppress the National Movement in those days. What happened? The Ordinance was not issued for the defence of India. It was issued for the defence of the imperialist interest in India. Similarly, the Essential Services Maintenance Ordinance is not for the maintenance of the essential services. It is directed against the trade union movement as a whole. It is only in the interest of the capitalists from whom they get money for so many things, whose cause they are serving. In the name of the people they deceive the people. In this connection I would like to say that our friend, Mr. Abid Ali, has been a delegate to the I.L.O. several times, where conventions are passed. Now when so many countries in the world have accepted Conventions 89 and 98, we have not got the guts to accept those two Conventions. One is regarding prohibition of forced labour and the other is the right of collective bargaining. So in our wonderful democratic country, about which people say so many things, these two Conventions—about the right of collective bargaining and prohibition of forced labour—have not been accepted. Mr. Vice-Chairman, do you know in whose company our country is? It is in the company of the great democracy of America. These two countries have not ratified these two Conventions. I have got with me the entire publication of the I.L.O., as to which country has accepted and which country has not accepted. Are we worth the name of democracy when we have not accepted collective bargaining and also prohibition of forced labour?

Now during the 1960 strike, some people commented on the strike. Our present Chairman, who was then Governor of Kerala, also commented on the strike :

"Mr. V. V. Giri, Governor of Kerala, pleading for correlation of wages and prices, said here yesterday (July 16) that he was happier as a Minister of Madras in 1939 with a salary of Rs. 500 than now as Governor drawing Rs. 3,000 a month. . . . with a minimum wage of Rs. 77, a railway employee was not able to fulfil his needs, the Governor added."

He was modest and he used mild words. Mr. Asoka Mehta's comment is very pertinent and it is valid even today. He said :

"The Government have arrested thousands of their employees and trade unionists, many of them strangely enough have been detained under the Preventive Detention Act; in spite of the new powers taken to combat the strike, draconian measures have been adopted to meet the strike and a propaganda offensive launched. The Government have deliberately characterised the strike as a challenge to Civil Power."

Now they have said some other thing.

"They surely know that there have been many general strikes in history for specific purposes and which have not been concerned with subversive aims. I cannot understand why such an impasse has been deliberately created. Since when the Indian leaders. . ."

It applies to the present leaders also.

" . . . have adopted the language of 'unconditional surrender'? Is mutual understanding furthered by insisting on the attire of 'sack-cloth and ashes'? If the prevailing conflict is to be resolved and a satisfactory relationship between the employers and employees achieved, it is wise not to blame or threaten, but to seek an understanding. Those who emerge as stronger in a conflict have to take the responsibility of making the friendly gesture first."

Now if the Government think that they have won the battle, it is for them to scrap this entire legislation and come forward with a comprehensive legislation conceding the right of strike and also create such conditions that would make a strike unnecessary. Therefore, I strongly oppose the Ordinance and support the Resolution moved by Mr. Bhandari.

SHRI S. R. VASAVADA (Gujarat) : Mr. Vice-Chairman, Sir, I have heard all the speeches and arguments advanced by my friends in this House from the Opposition benches supporting the Resolution and opposing the Ordinance. I have heard them with an open mind, but I am not convinced. It is now known that we on this side can certainly express our views according to our conviction, without any party ties. And when I am saying here that I am not convinced, I do want to convey that the arguments advanced by my friends on the opposite side have not impressed me at all. I, therefore, am unable to support the Resolution. I fully support the Bill that has been brought forward by the Home Minister. Sir, it has been fully discussed in this House earlier and during the last two days, as to why the Ordinance had become necessary to meet the strike. It was a futile strike on an exaggerated demand—a demand which was not even properly discussed. The leaders were even invited by the Subcommittee of the Cabinet for further negotiations. Even that offer was rejected and a strike was declared. But we are told, Sir, that it was only a token strike, and, we are asked "Were the heavens going to fall?" I say that heavens may not fall in one day's token strike. But let me remind this House that it is such token strikes, such rehearsals as I would call them, that have brought about revolution in various countries after the Second World War. As hon. friend has said these are all tactics to bring about disruption and chaos, and that alone brings about the rule of the dictators and the ruin of democracy. The token strike and all earlier attempts to bring about a strike among the Government employees were nothing but a rehearsal of the parties who are interested in the overthrow of the Government. Overthrow of the Government by democratic means is by all means legitimate, but violence and resort to such measures as calling out a strike by workers are certainly objectionable and Government had no other alternative but to issue the Ordinance, and the necessity was proven. An hon. friend on this side said that the workers were driven to the wall. Where was the wall? The workers were asked to negotiate. They refused to negotiate. They went to the consultative machinery and having returned from there, they declared a token strike. So this necessity continues. Every day

we are told even in this House "We have got the right to strike and we will go on strike." Outside the House also we are told that strike is going to take place; ordinance, law or whatever it is, a strike is going to take place. I do not think that the Government can sit with folded hands in the face of this menace, a menace to the society and to the community at large. The Government also have a duty to perform. They are responsible to (he Parliament. They are responsible to the country at large. I do not think it is possible for any Government to sit silently and not safeguard the interests of the community. Sir, it is for this reason that the Bill has become necessary. It is a temporary Bill.

It has also been pointed out—and I was very amused—that the strikers may be punished. You will ban the strike and the offenders will be punished. But why do you want to punish the abettors? It is a very clear point. The abettor who finances the strike is as guilty as the striker. Of course, an argument was there that on human grounds if I feed the wife of a striker it would not be an offence. But I do not think the Government is going to take that view. The strikers are financed by people who are interested and by parties who are interested on a very large scale, and it is not something which is unknown. It is such financing that is going to be taken objection to by the Bill that is being introduced in the House.

Sir, it has also been pointed out here—I do not know why some Members said that—that collective bargaining has no meaning without the right to strike. But I say that the right of collective bargaining is there. This Bill does not take away the right of collective bargaining. The right of collective bargaining is there arising out of one of the fundamental rights under the Constitution, the freedom of association. As soon as you allow the workers to organise, they have got that right accruing from that freedom of association. Nobody is deprived of that right. That is why the Government has once again revived the Joint Consultative Machinery. The Machinery is open to anybody who believes in collective bargaining, to anybody who believes in not resorting to disruptive strike, to anybody who believes in rendering real

service to the workers. He can certainly go to the Joint Consultative Machinery and by all means negotiate. Negotiations have to be conducted very peacefully, very patiently, and settlements also take place. A large number of settlements are taking place even in the Government machinery also. I do not see anywhere how anybody has been deprived of the right of collective bargaining. Sir, much has been made about the right to strike. It has been called a fundamental right though now enshrined in our Constitution. I am told—at least that is the impression I have gained from one of the honourable speakers—that it is a human right. I do not understand how the right to strike is a human right. In this country where there is vast unemployment, where people are hankering after work, where we are not able to provide work to those who want to work, I say the right to work is a fundamental right. Of course, it is enshrined in our Constitution as a directive Principle. But it should be a fundamental right in the Constitution. It is a human right. But the right to strike can never be considered as a fundamental right. The real right, as I said, Sir, is the right to work. A reference has been made to the INTUC, what the INTUC is doing. What does the INTUC say in this matter? Outside this House, Sir, I represent the INTUC. I have been one of the founders of the INTUC. I have learnt the principles of Mahatma Gandhi about the labour movement, not from anywhere else, but from his own feet, because in his presence I started the labour work, and with full authority I can say that the INTUC believes in. The INTUC does not believe in the right to strike. The INTUC believes in the right to work. The INTUC also believes in the right of the workers to secure justice. If justice is denied, if justice is delayed—the Labour Minister and the Home Minister also should take note of this—if avenues for negotiations are not available, if an arbitration machinery is not available and if the arbitration award is flouted—of course, in certain cases subject to modification by the Parliament, if it is flouted—then, of course, the workers can go on a strike. It was said that Mahatma Gandhi who was an advocate of the workers also believed in the right to strike. I would not like to learn those things from you. Whatever Mahatma Gandhi said, he

put it down on paper. He wrote many books. All his principles are in black and white. He said many times that workers have got to submit to arbitration. So far as workers are concerned, it is a compulsory thing for them. It is not in their interests to go on a strike. Strike no doubt is the last weapon but only if arbitration is not available or if its award is flouted. . .

SHRI ARJUN ARORA : Arbitration was not available in this case also.

SHRI S. R. VASAVADA: I am coming to that. I have already discussed that point the other day. Arbitration was not available. . . (*Interruption*) . . . it could have been decided only after the meeting of the Sub-Committee of the Cabinet. My friend, Shri Arjun Arora, said that there was no occasion to go on strike in Ahmedabad. My primary union is in Ahmedabad. I belong to that union. It was founded by Mahatma Gandhi. In Ahmedabad, in that union the workers have not to go on strike, because there is full neutralisation. But if you say like that, it is putting the cart before the horse. If the workers are getting full neutralisation today in Ahmedabad or in Bombay, it is because arbitration machinery is there, it is because they have not to spend and fritter away their energy on futile strikes. Both in Ahmedabad and Bombay there is an Act, a legislation on the Statute Book, which forbids the workers to go on strike, because arbitration is available and because the trade union workers have been able to put their case very ably to the conviction of the arbitrator. It is for that reason that 100 per cent neutralisation is available not only in Bombay but in Ahmedabad and various other places. Sir, it is with this end in view that this new Bill has come. It is perfectly Gandhian. What does the Bill say? It says, "Please do not go on strike." If the workers still want to go on strike, they are welcome. As somebody said, any worker can withhold his labour. He can resign and go. But that is also what Mahatma Gandhi said. He told the workers that if you feel that you cannot work, or if you do not want to work, by all means you can resign. But the strike is a different matter. Strike is a concerted action. It is a deliberate thing where you are trying to coerce your employer and sometimes you are also

[Shri S. R. Vasavada] putting the whole community to difficulty and to trouble. And therefore, the Bill says, "At least you do not go on strike. Arbitration is available." And what kind of arbitration is it? They must remember that we are now living in a country where there are a number of emergencies. My friend pointed out that there is an economic emergency and I am glad he has conceded that that is so. Having conceded that he said that it is because of the Government's policy. Whatever it may be, if the Government's policy is responsible for that, the Government should also now take action so that there is no further deterioration, so that the production is not curtailed, so that there is no more starvation in the country. And then the emergency on the frontier still remains. In view of all these emergencies, the Government comes forward with a Bill saying "Please do not go on strike". Having done that, at the same time if the Government comes out with an assurance, with a categorical assurance before both the Houses of Parliament that this Bill is a temporary Bill and that immediately another Bill is coming. I am sure that the Government will stick to their word and bring forward a Bill in the next session. What are we promised? We are promised that a Bill providing for an arbitration machinery for settlement of disputes peacefully, is going to come forward. I do not know, with this assurance by the Government, why there should be opposition to the Bill which we are discussing just now.

It has been pointed out here that they want a need-based minimum, minimum wage living wage, less work, better housing etc. A good number of demands are there. We may create demands, we may put them before the workers. We may create hopes in them but shall we not think where all these are to come from? Have we not to take into account what is our capacity to fulfil the demands of the workers? Our capacity can certainly be adjudged by the Parliament and that is why an assurance is there. No doubt the arbitration machinery will be available but if the Government in their wisdom thinks it cannot agree—I do not agree with the Government and it is possible that none of us may agree with the Government but in that case

the Government has to come to this House and both the Houses of Parliament and if they do not agree or if they do not want to implement the award of the arbitrator, they will have to come here for modification. I do not see what harm is going to be done if such an arbitration machinery is agreed to because the country's interest has to be taken into account. National interest has got to be given precedence over any sectarian feelings. Therefore I was saying that the need of the country to-day is not to strike. The need of the country today is not demand and more demands. Pandit Nehru has been quoted—I would say misquoted—and Pandit Nehru did say in 1960, which was also quoted, "Yes, the negotiation machinery will come forward." Pandit Pant also spoke here in the same way and did not the negotiating machinery come? Has not the machinery brought about results also? But we have not the patience to negotiate. Rather I would say that we do not like these negotiations, some of us. Some people do not like settlements. I do not know what other parties are doing in this country but I know one thing about the ideology of the Communists, that these settlements of disputes, industrial peace, contentment of workers, all these do not lead them to their goal. If class-war is going to exist, if it is going to be aggravated and if the workers are more and more discontented then only there will be the last revolution which may ultimately establish a dictatorship of the proletariat. This is their ideology. They are honest about it. I do not attribute any dishonest motive but I must also give utterance to my ideology. I believe in a welfare democratic State, I believe in the contentment of the workers, I believe that to the utmost ability the workers must be paid and therefore if you want to satisfy the workers' demands, what is more needed to-day is industrial peace, higher production and higher productivity. Then alone we will be able to raise the living standards of the workers.

Finally the Home Minister has given an assurance that a Bill is coming. Let me put it very clearly that the meaning of the Bill and the statement he has made is that the spirit of arbitration has been accepted and it is only the drafting that is required. I would therefore urge emphatically the

Government that while this Bill becomes law, if there is any occasion and if there is any demand which cannot be settled by negotiations, then while they may bring the Bill in the next Session, in between, they must adhere to the spirit of the Bill and make arbitration available. If that categorical assurance comes forth and if there is any demand which is not settled and if the workers feel that they have to go on strike, at that time the spirit of the new Bill—the promised Bill—should be adhered to and the arbitration machinery must be made available. In that case I am quite certain that this Bill will be absolutely useless and it is going to be useless after the new Bill is introduced.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) in the Chair.]

SHRI A. P. CHATTERJEE: I was listening with some amount of attention to the speech of Mr. Vasavada who claims to be a labour leader but I found that though Mr. Vasavada was speaking, the voice was not his but was that of the monopolist class and the Birlas. He was talking about Mahatma; i, he was talking about Pandit Nehru and was talking about others but one thing he never talked about. He never talked about the working class who, I think, he has by now completely betrayed and I think his INTUC, which he heads now, is an organisation for breaking the strikes, an organisation for frustrating the movement of the working people and perhaps he wants to make it an organisation of blacklegs too.

SHRI B. K. P. SINHA: As far as I know, the Member is associated with one labour association only—the Bar Association of the Calcutta High Court.

SHRI BHUPESH GUPTA: He is getting much more than the need-based minimum.

SHRI A. P. CHATTERJEE: In any event, I am not going to traverse over the speech of Mr. Vasavada because that was nothing but a speech of platitudes, speech containing certain misquoted observations from Nehru and Mahatma which do not help us in this matter. We are exactly on the question whether the Ordinance was properly promulgated or not. The 7—63 R. S./68.

whole question before us is this, whether the right to strike which has been enjoyed by the workers themselves has been taken away from them or not, including the Government employees. That is the question which has to be decided and settled by the House. It is rather surprising and strange to hear from people on the other side that as far as the right to strike is concerned, there is nothing like the right to strike and the working people can be given the right to strike at the sweet will of the party in power or the Government in power. I am not surprised at this attitude on the part of the Government because after all what can we expect from a Government where the Finance Ministry is headed by an affectionate father, a Finance Ministry which is now a hot-bed of bureaucratic capitalism, where we have found even in answer to questions today on the floor of the House that the Secretary of the Department is purchasing shares in a particular concern, which concern is again owned or directly influenced or controlled by the son of the Finance Minister and not merely that; this Finance Ministry will be trying to get licences expedited for this particular concern in which the son of the Finance Minister has got an interest. I do not know what is it except bureaucratic capitalism. What is bureaucratic capitalism? It is nothing but this that the bureaucrat combines with the capitalists and then a situation arises and that is called the ugly situation of bureaucratic capitalism and we know that this bureaucratic capitalism is a situation which is rearing its ugly head in India and this bureaucratic capitalistic voice has been the voice of Mr. Vasavada and it is this bureaucratic capitalistic influence which is growing and shaping the present statute or the present Ordinance which is the subject-matter of the discussion as far as this House is concerned. Mr. Vice-Chairman. Sir, much has been said about parliamentary democracy and all that. I can tell you, Mr. Vice-Chairman that, as far as parliamentary democracy is concerned, it is not a question of smiling and nodding at each other; parliamentary democracy means something more. I can refer to a land which will be accepted as the land of parliamentary democracy. I am referring to the United Kingdom, and that United Kingdom itself, even in 1920. Mr. Vice-Chairman, when after the Bolshevik Revolution in the Soviet

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Union strikes were stalking the entire length and breadth of the Continent, when there was the question of an imminent revolution of the working class against the established power, even then, the British Government at that time never thought it fool-hardy on their part to be enacting any legislation to ban strikes. They no doubt enacted the Emergency Powers Act, but in the same Emergency Powers Act, it was very clearly stated therein that this Emergency Powers Act should not be regarded as an Act to ban strikes. It was clearly stated in the Emergency Powers Regulations that the working people had a right to strike—and that right to strike was not in any way taken away from the working people. But then, Mr. Vice-Chairman, fools rush in where angels fear to tread. We have found that the bureaucrats and the persons who think that they are wise enough to take away from the working people their right to strike, they bring about these legislations, these legislations which do not mean anything, which are not worth even a scrap of paper, because I can assure you, Mr. Vice-Chairman, well, with whatever fanfare and with whatever gusto this particular legislation is enacted, it will remain a dead letter as far as the Statute Book is concerned. Well, the employees of the Government, whenever they will feel that the Government is not doing justice to them, will go on strike, and there will be no power in the heaven or on earth to prevent them from going on strike, and this particular legislation will not . . .

SHRI K. S. CHAVDA: Will you please tell me whether there is any right to strike for the working class in China or in Russia?

SHRI A. P. CHATTERJEE: Mr. Vice-Chairman, Sir, well, this sort of question merely . . .

SHRI BANKA BEHARY DAS : I do not understand why they want to emulate China or Russia in something which they themselves abhor. I do not understand.

SHRI ABID ALI: It is because there are some here who represent China and Russia.

SHRI A. P. CHATTERJEE: Well, this sort of question only shows the bankruptcy of intellect and intelligence. Of course I have never had any faith in the intellect and intelligence either of Mr. Abid Ali or any friend of his ilk. I have never faith in such intellect and intelligence, but anyway this once more betrays that all intellect and intelligence have taken their leave of persons like Mr. Abid Ali and his ilk.

SHRI ABID ALI: And that has come to you.

SHRI A. P. CHATTERJEE: But anyway, Mr. Vice-Chairman, I am not concerned with what happens in China and Russia, but I can tell the people on the other side who, are raising these questions that, as far as the Soviet Union is concerned and as far as the People's Republic of China is concerned, there is no law banning strikes. I would be enlightened on this question if they can show any law banning strikes. But, Mr. Vice-Chairman, in any event that question is neither here nor there. I am talking about their capitalist paradise itself, and in that capitalist paradise, in Britain, or in America even, well, the Governments, or the ruling powers, have not been fool-hardy enough to bring about a legislation, well, banning strikes. Now I do not know what rash courage or what fool-hardiness has prompted the Government of the day to bring about this legislation. Mr. Vice-Chairman, in Britain for example, almost in the forties, there was a Royal Commission on Labour, and that Royal Commission on Labour, well, gave their well thought out opinion as to what is a living wage, the opinion that a living wage is a wage which can only be arrived at by negotiation between the employers and the employees. And they hot only said that; they also said that as far as the right to strike is concerned, that can never be taken away and, therefore, in the Whitely Councils or whatever Councils had been set up in Britain, in those Councils or in those arbitration bodies there was no question of compulsory arbitration, because compulsory arbitration would mean taking away the right to strike, and the right to strike cannot be taken away. And that is the opinion of the

trade unionists and of the ruling classes even in the capitalist paradise of Britain and of America. Now in this House why actually they are bringing about this legislation? This legislation has been brought about, well because I have heard it said and also if I understood Mr. Vasavada all right, he said there was an attempt at and it was a kind of rehearsal for revolution, Mr. Vice-Chairman. Well, I cannot actually, you cannot really, teach these babies who always get started up, who always start up at the name of revolution even. Now, revolution is a thing which is not brought about by a token strike. And that should have been understood by the hon. Members on the other side who are supporting this Bill and who are supporting this Ordinance. A token strike was not a means, a token strike was not a method through which a revolution was brought about. But it only shows one thing; it shows this that these people are haunted by the spectre of revolution. It only shows another thing also and it is this that the entire administrative machinery is so corrupt, that the entire administrative machinery today is so fragile and corrupt that any small knock is mistaken for a knock of revolution or the shock of revolution, and that is why they are always afraid and they start up in terror and fear, and whenever there is the question of a struggle of the working people, or the question of a struggle of the employees then, immediately they say, well, "Here is revolution." But, Mr. Vice-Chairman, we cannot argue from a position of fear. We are here arguing on the floor of the House as to whether there should be a ban on the right to strike, or not, and that argument cannot proceed from the point of view of those who always dream that revolution is knocking at the door and will take away all the perquisites that they are earning corruptly and illegally every month and every day. We cannot take our cue from that; we cannot take our stand from that position. Now if that position is ruled out, then the question will arise whether there is any reason for bannina the right to strike) or not. Mr. Vice-Chairman, I know that, after all, whatever we say will fall on deaf ears. But even then we have to say this thing because there is the necessity of calling the bluff. The Home Minister had said that this is merely the 8—63 R. S/68.

first act of his drama, and the second act of his drama will come when there will be the other Bill, when there will be the other Bill in which they will bring about the arbitration machinery. Now I can put one question to the Home Minister. Then why could he not wait and make the arbitration board that is going to be there a part of this Bill? I am of course against compulsory arbitration and here I cannot but quote the words of the Royal Commission on Labour set up in one of the capitalist paradises that a living wage is that wage which can be settled by negotiation between the employers and the employees. And negotiations may take the shape of collective bargaining, and collective bargaining may take the shape of strike. Therefore, I am against compulsory arbitration but I am raising this point because the Home Minister said that there will be another act of his eventual drama. And why eventually? After all he does not draft the Bill, he merely gives instructions to the Law Ministry, in which cases why should not the drafter of the Bill have been instructed to put in another section wherein that arbitration machinery could have been also put in here? But then the point is not that; the reason is not that. The reason is not this that they have forgotten; the reason is not this that they are in a hurry and therefore they want to bring the Bill next session. The reason is, as Mr. Arjun Arora has said, that the Ministry was caught in the wrong hole. The mistake was made initially—a drastic and dangerous mistake—at the time, before the 19th September token strike announcement, and the mistake was this that the Ministry did not refer to arbitration the employees' demands though the employees said that the Joint Consultative Machinery had failed to settle the demands of the employees and therefore the demands should be referred to arbitration. The Minister did not agree to that and therefore precipitated a strike. (*Time bell rings.*) I will take some more minutes.

Therefore that precipitated a strike, and after being caught on a wrong foot they therefore cannot talk of arbitration here. And what guarantee is there that the Ministry will bring another Bill in the next session, well providing for arbitration? Well, an assurance is no doubt there. But when the assurance

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is not fulfilled in the body of the present Bill, there is every reason to suspect, there is every reason to believe that the assurance is not worth the name. Moreover, Mr. Vice-Chairman, I am quite sure—and I think that is the only reason behind it—that this Government employees' strike is being sought to be banned for another purpose, political purpose. The Home Ministry always says and Members on the Congress benches say that when we give any support to the Government employees, we do it from the political point of view. I say that the forcing of the strike also is being done from the political point of view. They want to do it; they want to ban a strike because they want to satisfy the monopoly capitalists, because the monopoly capitalists, it is they on whom they rely in fighting the mid-term elections in three or four of the most important States in India, and these monopoly capitalists have given the word of command to this Ministry that if they don't stop the Government employees from striking, they cannot manage their own employees, and therefore, if the Congress, as the ruling party, wants to get funds from them, wants to get assistance from them, then this strike must be banned, the right to strike must be taken away from the Government employees. That is the political motive behind it. They charge us with politics, but I say, Mr. Vice-Chairman, that it is in the whole political document, it is in the whole political legislation that the Ministry is bringing. It is not a question of more production. It is not a question of industrial peace as Mr. Vasavada has said. It is a question of political kow-towing to the monopoly capitalists to whose tune only the Home Ministry and the Finance Ministry are dancing. And in such a dance tune you find that the Minister of Labour is a silent and helpless spectator. Mr. Vice-Chairman, I will now conclude in a few minutes.

SHRI BHUPESH GUPTA: The Minister of Labour is an extra.

SHRI A. P. CHATTERJEE : Yes; an extra. He is one of the also rans. You know, Mr. Vice-Chairman, in racing where say, eleven horses run, the newspapers always give out that the first is so and so, the second is so and so, the third is so and so, and the also

rans so and so. So I think Mr. Hathi by his own actions has come into the class of also rans. And the also ran Minister is helpless; he is a completely helpless spectator of what is happening in the Home Ministry and in the Finance Ministry.

Mr. Vice-Chairman, much has been said that the Constitution does not give any right to strike but what I say is this. The right to strike is a concomitant right to the right of association. What are the working people to do? The right of forming trade union is there. That is in article 19. Can anybody imagine what the working people will do if they cannot do collective bargaining? Will they pick roses in the garden of Mr. Hathi here in Delhi? The trade unions are there for collective bargaining and the method of collective bargaining is this that if you do not give me this wage I do not work for you. And if they do not work for them, that means strike. What is the use of being victim of a phrase or victim of a word called strike? Can't the workers say that they cannot work? Article 23 is there by which forced labour is prohibited. Can't the workers say, 'I won't work for you if you don't pay this much'? When the workers say that they will not work if they are not paid so much that is called collective bargaining and under article 23 of the Constitution forced labour is banned. Mr. Vice-Chairman, it is no use speaking words of wisdom to those who would not care. Therefore what I am submitting is this that this Ordinance and this Bill which seeks to replace the Ordinance, both this Ordinance and the Bill, are measures which are sought to be put on the Statute Book at the dictates of others. They are mere political documents. Secondly, this is an Ordinance which was enacted because they wanted to take away—let us be clear about it and let them also know about it—the right to strike from the Government employees.

Finally, Mr. Vice-Chairman, I also say this that whatever may be done by this Bill and by this Ordinance, the working people will not take it lying down. This Ordinance or this Bill, even if it is passed into law, will be a dead letter. Whenever they find that there is occasion to strike this Bill or this Ordinance will not stand in their way.

SHRI THILLAI VILLALAN (Madras) :
Mr. Vice-Chairman, Sir, I rise to support the Resolution and oppose the Bill, I earnestly solicit the attention of the hon. Minister and I would request him to meet my point because I am going to raise purely a question of law. In his reply I expect the hon. Minister will meet my point.

So far as the Ordinance is concerned I want to say that the Ordinance is void *ab initio*. I will build up my argument step by step. I may be heard fully and without any interruptions. The President has promulgated the Ordinance under article 123 of the Constitution. Under that article an Ordinance can be issued when both the Houses are not in session by the President if the circumstances require such an Ordinance. So an Ordinance can be promulgated by the President under article 123(1). Now I shall read out the relevant portion of this article of the Constitution and this is important. It says :

"(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void."

That means an Ordinance can be issued but only those matters about which Parliament can legislate can be the subject-matter of that Ordinance. My humble submission is this. The provisions in the Ordinance and the Bill are one and the same because the Bill is intended to replace the Ordinance and if I say the provisions in the Ordinance it means the provisions in the Bill also. First of all there are two sets of laws. One is laws which lack legislative competence. For example there are certain laws which cannot be enacted by Parliament. Because there are certain limitations Parliament can enact certain laws but not certain provisions. So there are these two sets of laws and they have been dealt with in Sundararama Iyer's case by Mr. Justice Venkatarama Iyer. I am quoting the relevant portions from his Judgment from the book "The Constitutional Law of India" by Mr. Seervai.

"The following propositions emerge from the cases discussed so far :

(1) There is a distinction between a law unconstitutional for lack of legislative power and a law unconstitutional because violative of provisions

of the Constitution other than those which relate to the distribution of legislative power.

(2) A law which is unconstitutional for lack of legislative competence is void *ab initio* ; a law which is unconstitutional for violation of constitutional limitations is unenforceable as long as it continues to violate constitutional limitations. Such a law, whether pre-Constitution or post-Constitution, is not wholly void if it violates fundamental rights; it is merely eclipsed by the fundamental right and remains as it were in a moribund condition as long as the shadow of fundamental rights falls upon it. When the shadow is removed the law begins to operate *proprio vigore* from the date of such removal unless it is retrospective.

(3) A law void for lack of legislative competence is not revived if legislative power is subsequently given to the legislature which enacted it; a law partly void because of violation of constitutional limitations operates *proprio vigore* when the limitations are removed.

(4) When a Court declares a law to be unconstitutional, that declaration does not repeal or amend the law, for to repeal or amend a law is a legislative and not a judicial function.

(5) The word 'void' in Art. 13(1) and (2) does not mean "repealed", nor is a law declared void under Art. 13(1) or (2) obliterated from the statute book. Such a law is not wholly void but by* the express terms of the article is void only to the extent of its repugnancy to, or contravention of the provisions of Part III relating to fundamental rights.

(6) An important distinction between a legislature lacking legislative competence to enact a law and a legislature which has such competence subject to restrictions on its power is that in the first case the legislature cannot legislate conditionally on the power to legislate being given to it; in the second case it can legislate conditionally on the law taking effect from the time when the limitation on its power is removed."

Six distinctions have been made. My

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first attack on the Ordinance is on the ground that it is void because it exceeds the power given to Parliament. The Ordinance covers matters which are not on the Union List or the Concurrent List. It also encroaches upon matters in the list of the States. Clause 2 (1) (a) says :

"(ii) any railway service or any other transport service for the carriage of passengers or goods by land, water or air."

"Land" means it includes transport which comes under the State Lists. Clause 2 (1) (iv) says:—

"any service connected with the loading, unloading, movement or storage of goods in any port;"

Major ports are under the control of the Central Government and minor ports are under the control of State. So, it exceeds the limit. There is excessive encroachment upon the powers of the State.

Then, Sir, article 13 (1) will show that the Ordinance will come under law.

SHRI BHUPESH GUPTA : Do they understand anything?

SHRI THILLAI VILLALAN : But anyhow I expect them, because we are enacting law.

SHRI P. C. MITRA : Parliament has got power to enact laws.

SHRI THILLAI VILLALAN : I will come to that. Parliament should not enact laws which would be thrown out by the Supreme Court. We should not be a party to that. I expect here so many legal brains in this House, so many retired Judges, so many advocates. They are here. That is why before enacting law, it should be carefully enacted without any loophole. It should not be thrown into the dustbin by the Supreme Court. It should not be thrown on our face, on the legislators here.

SHRI A. P. CHATTERJEE : It will be thrown into the dustbin by the working class.

SHRI THILLAI VILLALAN: Definitely. That will be the result of the Ordinance. The total result will be that the law will be thrown into the dustbin by the entire working-class. Any how, I shall bring the whole absurdity to the notice of this House in enacting the law. Article 13(1) clearly shows that the Ordinance comes under law. Parliament can pass laws, but those laws will not take away the rights guaranteed under Part III or will not abridge the rights guaranteed under Part III of the Constitution. After the Golaknath case the Supreme Court has clearly and categorically stated that you should not pass legislation. Parliament should not pass legislation which will take away the rights guaranteed under Part III of the Constitution. That is why we are discussing Mr. Nath Pai's Bill. Because our hands are tied we are attempting to get powers by enacting some other law, even though it abridges the Fundamental Rights.

My first point is it exceeds the Union List and also the Concurrent List. My second point is that the provisions are all violative of articles which I will enumerate one by one. Take the provision here in clause 2(1) (a) in the Ordinance or in the Bill. You are classifying certain services as essential services. The employees who are in the essential services are precluded or they have been taken away from the other employees. Article 14 says you cannot classify like that. All must be equal before law. You cannot classify a particular class and say, this Act will be applicable only to them and not to others. You cannot do so under article 14. My point is you are separating the Government employees from other employees. You are separating the Central Government employees and the State Government employees. That classification will not do. All must be equal before law. Not only that. Proceeding further, the whole Ordinance and the whole Bill contain provisions which will apply only to the employees. There is no provision for the employer here. If there is a lockout, if there is a lay-off, there must be provision for that also. Article 14 says the employer and the employee must be equal before the eye of law. But by all these provisions you are classifying the employees alone and you are taking the employers under your shade of protection. You have made no provision for

that. It affects the whole Ordinance. It is violative of article 14.

Then, you come to article 19 (1) (a) and 19(1) (e). Article 19(1)(a) guarantees the right of speech and expression. So many hon. Members have discussed the right to strike. Right to strike is a following right. It is an accompanying right. It is a concomitant right. What right has been guaranteed is right of expression, right of speech. That means you can express a thing. That you are being given a right means that I can express my demand by strike. There is no other way. It is a concomitant right. It is an accompanying or following right, a right to strike. When you go into article 19(1) (c), we have been given the right to have associations and unions, trade unions. What is the purpose? When we are having a union, that means that we have been given a right for collective bargaining. How can I express it? Only by the right of strike. That means that had been given. (*Time bell rings.*) I will finish in two or three minutes. So, that right has been given. The Government want to pass this Bill because they say they are not going to use this provision, they do not expect such a situation. They want an Act as a defence, as a big stick to show to the employees: if you go on strike, we have got the Act, you see that. That is why they want it as a defence. For example, take the bull. It does not mean that the bull should not have its horns. It is only for defence. Nature itself has given two horns to the bull. That does not mean that we must remove the horns because it will hit others always.. The right to strike should be taken only like that. So, that has been given. You can say that it is not a fundamental right, but it is a statutory right that has been given and the Ordinance and the Bill are violative of article 19(1).

Then I shall proceed to article 23. If you read article 23, forced labour is definitely banned. You read articles 23, 39(e) and 43 together. Article 23 <1) says:

"Traffic in human beings and be-gar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law".

Article 39(e) says:

"that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength".

Article 43 says that they must give them full enjoyment of leisure. If you read all these things, this has been guaranteed. The provision here in the Bill in clause 2(b) (i) says about refusal to work overtime; that means forced labour. So the provision is violative of articles 23, 39(e) and 43 and also 32.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): That is what I am saying. No overtime.

SHRI THILLAI VILLALAN: So, the Ordinance is void *ab initio* because on the first ground it exceeds the powers of Parliament, and on the second ground all the provisions are violative of the Constitution. So, the Parliament cannot pass such a law. That law is void and they are fighting for a void Ordinance; the Government wants to give it the attire of an Act. They want to put another garb on the Ordinance by saying that this is a Bill.

Further, I want to make one more submission. *Ubi jus ubi remedium*. If there is a right, there must be a remedy. But here the right to strike they are going to deny, but they are not giving the alternative remedy at all. *Vbi jus ubi remedium*. If there is a right, there must be a remedy. That they have not given. But they say: we will consider, we wil] come with a comprehensive Bill afterwards; you can find there the remedy. But what happens to this? If you pass a law without a remedy, it will not be a law at all.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): That will do.

SHRI THILLAI VILLALAN: Only one or two sentences. Democracy is not merely a rule of the majority. It should not be a tyranny of the majority. It must be with the consent of the minority. Simply because we can count the heads and pass the Bill we should not think that the suggestions given by

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the Opposition should not be considered. In that spirit we must consider the suggestions put forward by the Opposition. I am also anxious that the legal position should be considered before passing the Bill.

With these words, I conclude.

SHRI ABID ALI: Sir, what happened yesterday was sufficient proof of the intentions of the hon. Members opposite, that they are only here to use democracy to kill it, to damage it.

SHRI BHUPESH GUPTA: Sir, on a point of order. Can he cast such a preposterous aspersion? We are here functioning under the Constitution on the basis of affirmation or oath taken. How can he say that we are here to kill democracy?

SHRI ABID ALI: I was mentioning their intention and purpose of being here. They are not honest in saying that they believe in democracy or want to popularise democracy or want to strengthen democracy in this country. That is what I was submitting. They have a purpose for coming here, and the purpose is to go on even through this House helping to create chaotic condition's in the country. When one of them was asked in the Central Hall what will be the effect of their behaviour on the people, on the students, on the youth, he said they want the same thing, so that from that chaotic condition something in their favour may materialise. That is a fact which has to be accepted as a fact, and I hope our Government will take note of all that is happening in different parts of the country, in various spheres and act without fear, without accepting the bullyism from that side.

SHRI BHUPESH GUPTA: Bullyism?

SHRI ABID ALI: Bullyism, bullyism. It is quite a parliamentary word.

SHRI BHUPESH GUPTA: What does 'bullyism' means?

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Meaning you can ask him.

SHRI ABID ALI: My submission was that the strike of 19th was part of that game . . «

SHRI B. K. P. SINHA: May I say that bullyism is that kind of activity and psychological state which is derived from and based on the actions of the hon. Member there.

SHRI ABID ALI : And also bullyism covers cowardice.

So, the strike of 19th, as my friend^ Vasavadaji, has said, had nothing to do so far as trade unionism is concerned. They are not interested in helping the workers, either Government workers or others. And so far as the need-based wage is concerned, they are talking of arbitration, arbitration, arbitration, reference to a Pay Commission and all that. The Second Pay Commission has already taken note of this demand. And it said that wages of the size implied in the 15th Indian Labour Conference's recommendation are feasible, economically and financially; that was the question, the demand was feasible. But the Commission say, we have reached the conclusion that it is not so. So, that has already been arbitrated upon, and the Pay Commission has given this recommendation. But they are not interested in that. As Vasavadaji has said, that one-day strike was an attempt, if they failed in it, they Would abuse the Government. If by chance the strike succeeded, the one-day strike would go on to the second day, third day, fourth day; they would go on prolonging and prolonging it up to that end which they have Sr view. But that end will remain only a dream for them. That will never come. Let them know it. They say that the INTUC is there, that it does not work in the interests of the poor man and all that. But is it not a fact that on their own admission they have not objected—we have got two million workers? Their objection was only about a very few number of them. There is the list of our unions on the basis of the agreed procedure adopted for the verification of membership. Their and our lists have been submitted. Their organisations, their unions, object to only about a very small fraction of membership of these two millions. So, we represent these two millions in the workshops, in establishments, which have got about more

than double the number of workers, about 50 lakhs, and they are connected with their families. So, we are the organisation representing about 2i crores of people in this country. It is sufficiently sizeable. And they have not been objecting to that outside. Here they may say anything they like. And my friend has spoken that so far as we are concerned, we stand for the workers and for their good. Certainly these 21 crores of workers will not be with us if we are not their friends. They have been disowned, not we. We work for them, we want hundred percent social justice for them. And it was said that in Ahmedabad the workers do not go on strike. No, it is not correct, although workers are under our influence. It is not that workers are not going on strike. Workers have been going on strike in Bombay where there is hundred per cent neutralisation. In the textile mills under the guidance of these people and their henchmen, both in Ahmedabad and in Bombay, they have been trying to have some cells and they have been organising some strikes. But it has been an utter failure. But our workers' wages have been more than doubled in Ahmedabad and Bombay. What about the unions that they control? Our mills are not so good as some of the mills where they are working. Their mills are better. But the workers there are paid about half the wages. It is very interesting. Their workers are paid half or less than half the wages which our workers in Ahmedabad and Bombay get. And still, Sir, the beauty of it is that in the mills where they work there is loss. But in the mills which are under our guidance, they are making profits, they are working profitably to the extent that for the last working year, our workers in Bombay got bonus to the tune of about Rs. 3 crores. That is the beauty because we organise them on proper lines, we discipline them, we tell them what is good, what is bad, what is national, what is patriotism and what is otherwise, and they listen to us; they are conscious of that. But this is not what is happening in the unions where they work. Our plan is to make the nation strong, to make the people disciplined, to make the country prosperous. Their plan is to make the country poor, to make the workers miserable, so that chaotic conditions may be created in the country and they may perhaps derive political

benefits from them. So, they are responsible I charge them with being responsible for creating this indiscipline in the country, against its economy. I charge them, and that is their plan. And unfortunately, very unfortunately, it is not only from their own brains, they are acting as agents of somebody, which everybody knows. *(Interruptions)* Yesterday, when my friend, Mr. Yajee, mentioned about Subhash Chandra Bose, they said, "Oh! Mr. Yajee . . ." *(Interruptions)* Listen to me. You will have your say. It is my say now. They said, "Mr. Yajee is mentioning about Subhash Chandra Bose sitting on the Congress Benches." But my dear friends . . . *(Interruptions)* Sir, please stop this sort of commentary. Please. Now, Mr. Yajee did not say anything because he was concluding. There was no time for him. But I may remind them: Who was trying to mock at Subhash Chandra Bose? It is these people. When Subhash Chandra Bose was coming with his army of liberation, they called him. "Tojur-o-kukur", dog of Tojo. These are the people who called Netaji the dog of Tojo. You were mocking at him then. Shall we forget it? Shall we allow people to say all this? They come now and say, "Netaji was a great man and that the Congress is not giving him the position which he deserves." But they are the people who called him the dog of Tojo. Let this Government know: You are dealing with this sort of persons. What is your duty? What is happening? Here violence, there violence. What is this strike? This strike was political. This strike was at the instance of their foreign masters. This strike had political purpose. And you have to take it at that level. Why are you on the defensive? Have you done anything wrong to the country? Please. Realise the seriousness of the situation and try to meet it.

SHRI BHUPESH GUPTA: Can he threaten so many Members?

AN HON. MEMBER : At any rate, not you.

SHRI ABID ALI : When we work for the workers, these were the people who put workers into burning cupolas in Dum Dum and Gauhati. They are the people. Everywhere they lifted the workers and put them in burning cupolas. But we were successful in driving

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these people away with the support of the workers, by convincing them that here are your enemies and we are your friends. And they have been driven away from those fields.

So, these are the facts. What are they talking—this Ordinance, that enactment and that Resolution?

Now, Sir, here is the question of the country, here is the question of patriotic people versus the enemies of the country.

It has to be taken on that line and dealt with in that light. It is a challenge from them. At least now the Government should realise that it has to be accepted, and when they do it, the people of the country will be supporting them whole heartedly. They should not dillydally to please sometimes Mr. Kosygin, sometimes this side and sometimes that side. Here I must tell the House that I admire their grit. They do not care for anything. They only care for this, that their selves should grow, their supporters should grow and they should go on telling people "Something is coming to liberate you." That is what they do on the borders. I am telling this because it is necessary even in their country, Russia.

AN HON. MEMBER : Their country?

SHRI ABID ALI: Their father's country. There, on the platform and not on the radio, you may hear them asking the passengers who want to get in to wait and allow passengers to alight first, and asking the alighting passengers to alight quickly. They go on repeating it. Every day, every minute, people are being told like that. It has to be dinned again and again into their ears. Therefore, I may say this to my friends on the Congress benches who hobnob with them. They may talk sweetly to you and sometimes they will put their hand on you and say "My dear so-and-so, your speech was wonderful. You are the only brave man and Gandhiite among these cowards in the Congress. The others do not have the guts." I tell you, my dear friends, when the occasion comes, you will be hanged first, not we, because we are what we are and we are open . . .

SHRI BHUPESH GUPTA : I can assure you that if we come to power, we shall never hang him because after all, we have got lunatic asylums in our country.

SHRI ABID ALI: There is no question of hanging me. If that occasion comes, before that he will be hanged. I am talking to my friends. It was before Hungary, it was before Albania, it was before Czechoslovakia that these people could stand up and claim that. Now they are completely exposed and it has been proved that the Communists are the worst type of imperialists. That has been proved without any iota of doubt. (Interruptions) I would like to mention one thing to Government, about trade unions. I want the Home Minister here to kindly take note of it and communicate to his colleagues concerned. Why did such a large number of persons go on strike in the Post and Telegraphs Department? Has anybody tried to discover the reason? The reason was that about 12 years back, it came as a brainwave of some officer or Minister—I do not know from where that brainwave started—that all unions in the Post and Telegraphs Department should be abolished except one union where although the man concerned was saying that he was independent and he was not a Communist, he was really a stooge of the Communists. Now the Communists are at least honest people. They are very sincere in their purpose. To that extent, they are sincere, I must admit. But those who are fellow-travellers are both Communists and dishonest fellows, liars and people having no courage. That is the difference between a fellow-traveller and a Communist. So he was a fellow-traveller, and he went to the Minister and assured him that he was not a Communist. Accepting his assurance, a realignment of the scheme was made on the basis of which a departmental circular was issued that no union excepting that particular union or federation with which that particular gentleman was associated should deal with the Post and Telegraphs Department. We had a large number of unions. The Government refused to deal with us. The Government refused to read our letters. The Department refused to deal with us. Ultimately it so happened that our unions had to wither away. The result was that there was only one pro-communist federation in the Post and

Telegraphs Department That is why such a large number of workers in the Post and Telegraphs Department went on strike. Why such a large number of people did not go on strike in the Defence establishment? Why such a large number of workers did not go on strike in the railways? It is because we had a sizable following there and they accepted the patriotic lead given by patriotic unions. So Government, having committed this mistake, should be - careful. Please be aware that there are three kinds of people; one who learns without making any loss, another who learns after making some loss' and the third who loses and still does not learn. Now let us know to which category these Ministers belong.

Then, this gentleman, Mr. Bhupesh Gupta stands up always. Has he not been condemned by court for committing contempt of court? The court has delivered the judgment. If any one of us had been dealt with like that, he would shout "Get out from the House. You are no more qualified to be a Member of the House." But he has been nicely dealt with. Then the other day when Shrimati Indira Gandhi was replying to questions about the Andamans, he asked: Is it not a fact the Indian Prime Minister has not visited the Andamans, even after 22 years of independence?" as if the Andamans was not part of India. And when Mrs. Gandhi said "I have been to the Andamans", he does not sit down and does not, as a sportsman, come out smilingly. He does not even do that. Anyway, my request to the Government is: Kindly do not at all be impressed by these speeches because they have roots somewhere else.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Shri D. L. Sen Gupta.

SHRI D. L. SEN GUPTA: Mr. Vice-Chairman, Sir, I have heard with rapt attention the allegations and insinuations . . .

SHRI BHUPESH GUPTA : Mr. Vice-Chairman, he did not say any one thing He had a hand in the C.I.A. funds . . .

SHRI ABID ALI : C.I.A. is Criminal Intelligence Section which is he.

SHRI BHUPESH GUPTA: How can it be "Section" when there is 'A' at the end?

SHRI ABID ALI : Or Communists Intelligence Agency which is he.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Order, please.

SHRI D. L. SEN GUPTA: Mr. Vice-Chairman, Sir, I heard with rapt attention Mr. Vasavada and Mr. A bid Ali. They are not only Members of Parliament, they are also the leaders of the I.N.T.U.C. I wanted to know how I.N.T.U.C. leaders speak. I would like to mention here, Mr. Vice-Chairman, that I have had occasion to know some trade union leaders who were true leaders, and were also the leaders of Mr. Vasavada and Mr. Abid Ali. One such leader is Dr. Suresh Chandra Banerjee, founder President of the I.N.T.U.C. I would like to tell you here one story and thereby I would like to impress upon this House how a true leader should look at the matter. It was some time in 1949 or 1950 that there was a strike notice given by the Calcutta Corporation workers. Dr. Bannerji was the President of the Action Committee. The workers took a strike decision and before they actually went on strike, the Government of West Bengal which was running the Corporation through Mr. S. N. Roy, I.C.S., as the Administrator—he was subsequently the Chief Secretary of West Bengal—managed to prohibit the strike under the Industrial Disputes Act, by referring the dispute to a tribunal before the strike commenced. Mr. Hariharnath Shastri, who is no more and who was a respected leader, was in Calcutta at that time. The late Hariharnath Shastri was negotiating with the Government of West Bengal and Dr. Suresh Bannerji, whether there should be a strike at all and how it could be averted. The problem before the late Shastri was that the INTUC should not take recourse to strike and it should be avoided. But when the strike was decided^ and declared by the workers in a largely attended meeting, Dr. Bannerji tendered his resignation of the then post of the President of I.N.T.U.C. (West Bengal), in the hands of the late Hariharnath Shastri by saying, "If my remaining as President of the State I.N.T.U.C. and my continuance with the INTUC means

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any aspersion on the INTUC itself, then my choice is with the workers. I shall not mind to leave the INTUC. If trade union means anything it means an organisation of the workers. If the workers have taken a decision—and I consider this decision very right—and if the Government by referring the dispute to a tribunal wants to prohibit it, I say it is blackmailing the workers. It is something obnoxious. It is something immoral and I shall not be a party to this action of the Government. I shall have this strike. Come what may." Then what happened? After that the late Hariharnath Shastri told Dr. Bannerji, "If you resign on this issue, then also the INTUC will be in difficulty. You will be a hero, but the INTUC will be in difficulty. So, I would request you, Dr. Bannerji, not to resign." But you see how things came to be solved. The strike which was illegal was launched and continued for nine days and the Government had to promise 20 lakhs of rupees by way of interim relief and after that only the illegal strike was withdrawn. Here was a true labour leader. Here was a true INTUC leader. That character was the character of a leader who was the founder President of I.N.T.U.C. If the cause is just, do not mind whether the strike is legal or illegal. Go ahead, come what may, was his advice. When the cause is just and strike is the only way left strike should be taken recourse to, otherwise not. As a last resort, as a final thing, strike must be encouraged. Strike must be undertaken only when all other means have failed or serious provocation is there or the trade union itself faces a crisis of survival against employers' affront. So, Mr. Vice-Chairman, Sir, I am making a qualifying statement here. I am not in favour of that slogan, "Strike at all costs". I am also against the slogan, "Strike at no cost". So, my submission before the House will be that there should be no banning of the strike. Strike, as we know in the trade union movement, is the last resort. Strike is not the first resort. No trade unionist will encourage strike, if the same could be averted, as it costs the labour and the nation hard. Strike as we know it, the ethics of strike, is that it is the last weapon in the armoury of the labour.¹ That his weapon should not be the first. It is like a nuclear weapon.

Every country is treating it as the last weapon in the armoury. May be as defence, may be as offence also. If anybody uses it as an offence, the whole world will decry it. If anybody uses it as a defence, the whole world will welcome it. So is the position of strike. If the strike is taken as a matter of luxury, I should condemn it. If the strike is taken as the last resort, I only wish that my friends on that side should also welcome it. There is my friend, Mr. Mahitosh Purkayastha of I.N.T.U.C. He is the labour leader of Assam and led many illegal strikes. The INTUC may be proud of its organisation in Assam there is our friend Mr. N. K. Bhatt. He led successful illegal strike in Zawar Mine and Zinc Factory in Rajasthan. He is also a leader of I.N.T.U.C. The INTUC is numerically the biggest organisation, no doubt. But we do not like to go into its numerical strength now. It has its organisation in Ahmedabad, we all admit. It has its organisation in Assam, we all admit. It has its organisation in the collieries of Bihar and West Bengal. It has its organisation in all collieries in India. But if and when the 3 lakh strength of West Bengal INTUC is suggested, I shall not accept it, because the INTUC is a cipher in the State of West Bengal. A large slice of its membership is faked. There is no point in saying that the INTUC has got so much strength and so much strength. If the INTUC is not a fighting organisation, it is because it has no strength. Where it has strength, it is a fighting organisation. In coal industry, I concede, the INTUC is there as a fighting organisation and my friend, Shri Kanti Mehta, was there as its leader. He led many strikes there including illegal strikes. And the strikes were successful. My submission is this. You cannot condemn the strike outright, you must not ban it. If you ban it, what will be the consequences? It causes a provocation the moment you ban it. You cannot stop the strike by banning it. You will only provoke the people. There have been many illegal strikes in our history even after independence. There were sections 22, 23 and 24 of the Industrial Disputes Act by which under certain circumstances strikes were made illegal. But strikes did take place. What happened? Nothing serious happened. Even if there is a punishment of six months' jail or a thousand rupees fine, what does it

matter? What do we care for it. Does anybody? We have had the experience of years in jail. There is nothing in it. Then, what is the remedy for it? Not this type of legislation. Necessity is there to rouse the national consciousness. The Ministers and leaders must show national urgency and austerity and seriousness for the disparity in earnings. You can make the people conscious of their right and of their obligation to the society. Unless you can do that, unless you can provide for an alternative machinery for redress of their grievances, unless you give them a subsistence wage, unless you give them human living, you have no legal or moral right to pass a legislation of this nature. What is the position here? My friends on that side were sermonising that they should not go on strike. True, there should not be a strike for the sake of strike. There are certain political strikes, no doubt, which were politically motivated, where the workers are sometimes forced to go on strike without understanding its consequences. But that is an isolated matter. Here you are making a summary ban on the workers against all strikes. This is not the way. If you make a provision, a *mala fide* strike or a strike for extraneous consideration, not for the advancement of a trade union nor for the workers' legitimate demands, will be illegal, I shall support it conditionally. Provided you make a provision for alternative machinery for getting social justice for the workers and *mala fide* strike which is a fraud on the workers, is made illegal; I have no objection. But you are making a strike absolutely illegal under all circumstances, so far as the so called essential service employees are concerned.

AN HON. MEMBER : What is *mala fide*?

SHRI D. L. SEN GUPTA: When strike, is for extraneous reasons, I shall not give instance, it is not possible to be exhaustive, but I know there are *mala fide* strikes also. The workers' strike must be based on the workers' economic or moral demands. There is no place for *mala fide* strikes in trade union movement. It should not be for sabotage, in the name of the workers' interests. All I want to say is that a particular type of strike can be made illegal on the basis of some facts, but

not this type of blanket banning of all strikes. I warn the Government that this legislation will not be honoured. It will be thrown to the dust-bin because it has no merit, because it is provocative, because it is immoral and because it carries no sense. When I say about the *mala fide* strike, I can give one instance. There are strikes in the country, where we know that the strike will only hasten the days of an industry and the strike will not help the workers to secure their demands. That is a specimen of *mala fide* strike.

SHRI A. P. CHATTERJEE: Who decides that?

SHRI D. L. SEN GUPTA: The workers must be sufficiently intelligent to understand that and the court will decide that on facts.

SHRI A. P. CHATTERJEE: You cannot ban it. The workers will understand.

SHRI D. L. SEN GUPTA: If the workers under somebody's influence are misled but the man who misleads knows it, if I am the Secretary of a Union and I have that grain of sense to understand that this kind of strike is going to result in the collapse of the industry, I am certainly bound for punishment. I have no right to play with the workers' fate in the name of championing the cause of the workers who have not given me the unfettered right to harm anybody and everybody or destroy the national property or cause immense harm to the working classes in any such manner, and put so many mouths to starvation. I have not that right. I must be quite conscious of my obligations. There may be a justified strike, unjustified strike, but no *mala fide* strike. Here lies the border-line to be drawn. I must tell the Government that they must withdraw this Bill and at the same time I may tell my trade union friends that they must be conscious of their social and national rights, as well as their duties and act accordingly.

SHRI NAND KISHORE BHATT (Madhya Pradesh): Mr. Vice-Chairman, Sir, since yesterday, I have been hearing the debate on the Bill with undivided attention. I found that in their zeal to oppose the Bill presented by the Home Minister the entire opposition

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has tried to attack the INTUC. I need not say much about the INTUC because Shri S. R. Vasavada and Shri Abid Ali have spoken at great length about the policies, creeds and ideology of the INTUC. As a humble citizen of this country I would like to recall the state of affairs that immediately prevailed in this country after independence. These people who talk of workers' interests, who talk of the country's interests, these were the very people who were propagating or carrying on a tirade in the country to lowering down the production and the economic progress of the country and were also responsible for spreading a wave of strikes. But for the INTUC I do not know where the country would have gone. It will be left to the historians to evaluate the role of the INTUC in the economic development of the country, but whatever conditions are prevailing in the country today, whatever progress has been made by successive Five Year Plans, it has been because of the sustained industrial peace for which, if I may be permitted to say so, to some extent, credit should go to the INTUC and the vast numbers of millions of workers organised under it.

About the strikes, there have been just and unjust strikes. We will have to see the distinction between normal strike and a strike in the essential services. Trade union activity should normally be allowed. Unfortunately there has been a trend that everybody has been talking of right alone. Nobody—I am referring to my friends on the other side—has tried to talk of duty. Rights and obligations go hand in hand. Only talking of right and forgetting the duty, one does not know where it will lead the workers and the democratic movement of this country. The Government is the custodian of the rights and privileges of the people of this country. Total strikes in essential services no Government worth the name would allow to take place. I remember in 1960 a similar attempt was made and that was a time when an attempt was made to make the strike successful. They wanted the Railways not to run, they wanted the P. & T. not to work, they wanted the Government offices to be closed but what did they get? They wanted,

by creating chaotic conditions in the country, Mr. Chou to come and take charge of Delhi and the Government of India. In this country, its people would not allow such sort of situation to be tolerated and that we precisely the reason why the attempts made by the friends on the other side, particularly the Communists, failed. It was because of the public of this country, it was because of the patriotic workers of this country that that sort of strike did not succeed. Again this time, on 19th September they called it a token strike. With all the information that I have as a trade union worker and as a political worker, I may say in confidence that it was again a rehearsal. They wanted a complete token strike on 19th so that they could work out a plan which they had, to create chaos in December. We are in possession of secret circulars circulated by the Communist Party and there are those who vouchsafe them by their own obstructionist behaviour as was witnessed in the two hours of the Parliament.

SHRI A. P. CHATTERJEE: An allegation has been made that there are certain circulars issued by the Communist Party of India. He cannot refer to them and malign the Party in this fashion and support the Bill without producing those circulars here.

SHRI NAND KISHORE BHATT:

You speak when your turn comes. While introducing the present Bill, the Government has assured to bring another comprehensive Bill which will provide positive measures so that when the workers are in difficulties, we have a statutory machinery to resolve the same . . .

SHRI A. P. CHATTERJEE: Where do you find it in the Bill?

SHRI NAND KISHORE BHATT: Please allow me to finish. The Minister has already stated in his introductory speech and he has also said in the Statement of Objects and Reasons that the thinking in the mind of the Government is that they would like to have powers enough so that the mischief that is being created from time to time can be removed and the Government employees who are very loyal—majority of them are loyal—may stick to their duty. On 19th September a large number of workers were on duty. The P. & T. was the only exception

where the work was not done and the reason has been very well explained by Shri Abid Ali.

Sir, I would like to submit that the Bill by itself is not enough unless the Home Minister comes out with some statutory measures whereunder the Government's servants would be given the assurance that whenever there will be any difficulty, if there is no agreement at the level of the Joint Consultative Machinery, they will be getting arbitration. It has been taught to us by Gandhiji that whenever there is a difference of opinion, it should be resolved by arbitration, and the workers will be perfectly justified to go on strike if negotiations fail and arbitration is not given to them. I understand that the Home Ministry is seriously thinking, and they are coming forward very soon with measures whereunder Government employees will be getting arbitration.

SHRI BHUPESH GUPTA: No, no.

SHRI NAND KISHORE BHATT: Hon. Members on the other side have said much against the Ordinance. Sir, in the situation in which some members of the Joint Consultative Machinery, under the influence of the friends on the other side, tried to create a deadlock, Government was bound to bring in an Ordinance. Sir, as a humble worker I feel that Government in their wisdom might have felt justified to bring in the Ordinance, but that could have been as well as avoided by relying upon the good sense and patriotic devotion to duty of over ninety per cent of employees of Central Government who were equally opposed to the strike move.

SHRI D. L. SEN GUPTA: On a point of order; the Home Minister is crossing the Chair and the speaker.

SHRI SHEEL BHADRA YAJEE: No, no. Why you are so much jealous that the Home Minister sat with Shri Bhupesh Gupta but not with you.

SHRI BHUPESH GUPTA: Let the Home Minister be exonerated; he came to a very excellent quarter.

SHRI ABID ALI: Unfortunate; a very dangerous quarter.

SHRI D. L. SEN GUPTA: Sir, he crosses the floor.

SHRI NAND KISHORE BHATT: Sir, it has been proved that this strike was organised by anti-national and antisocial elements led by the communists and it was politically motivated. These were the people who were at the top and involved all the innocent workers in the strike, with the result that even though partial the strike was there and a large number of workers had been made victims of the strike. In such a situation as this mass strike, Government had to come up with suspensions and dismissals. I would appeal to hon. the Home Minister to deal with all such cases of the victimised and dismissed workers, in a very sympathetic manner because it was not these workers who were responsible for the strike. It was mostly the political adventurers in the trade unions belonging to the other side, who are still moving freely from one place to another. I do not want to name them, but they know it very well, who were at the back of the strike, and they are still moving freely. Sir, I would like to submit that because of their folly, because of their frenzy, honest and innocent and loyal workers should not be put to severity of punishment. I think they have suffered a great deal, and Government would do well to deal with all such cases on humanitarian grounds, and see that all of them are taken back to their jobs.

Sir, I would like to point out that there was a big conspiracy behind this strike. I have before me a bulletin which was circulated by the All-India Postal Employees Union Class III (CHRI and also the General Secretary, Postal III. Sir, they have abetted the workers in their unions to defy law. They gave them slogans. "Don't attend office on 19-9-1968." "Take full charge of Government's property and valuables." "Act-vise. Organise. Mobilise." Sir, under these circumstances what are we to do? Large number of workers came to us but, unfortunately, because of the realignment scheme in the Communications Department, only one union, namely, the National Federation of Posts and Telegraphs Workers, was the sole recognised body, which of course today stands de-recognised because of its own deeds. Workers who came to us, who approached us, who want to organise unions, well, they have been unable to form the

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unions because of this realignment scheme. I am very happy to note that this realignment scheme has been subsequently scrapped by the Government. I hope that the unions that the loyal workers, the patriotic workers, form will be recognised before long, so that the representatives of the workers in these unions can go and participate in the Joint Consultative Machinery and give constructive suggestions.

Sir, Rule 4(a) of the Central Civil Service Conduct Rules says that "no Government servant shall participate in any demonstration or resort to any form of strike in connection with any matter pertaining to his conditions of service." Several penalties are also prescribed under these Rules if the same are violated. These Rules have been there for all these years, but I am sorry to say, Sir, that Government at no time tried to implement these Rules. Government as the custodian of the people of this country has to shed away any complacency. There have been occasions when laws have been defied, and if the laws are defied, Government has to come forward and see that all those who defy the laws are punished. Government has to show firmness in dealing with all these matters. The people of this country are grateful to the Government that at least for the first time they have shown firmness and they have stuck to the announcements and pronouncements they have made, and by that they have earned the gratitude of the people all over.

Sir, in the Industrial Disputes Act there is provision to declare a strike illegal. Government could ban, if it likes, any such strike. For the workers, their strength and real sanction lie in organised strength of their Union. The workers' strength can be judged by their organisation because it is only the strong who would not like to give threats now and then. It is always the weak who come out with empty and vain threats. If the workers are properly organised, they can wait and see the results of all the efforts which they can legitimately make, and that was the guide-line given to us by Mahatma Gandhi. Properly organised works need not be afraid of any forum, and they should continue their efforts to come to a peaceful and amicable settlement. Whenever such settlement fails, they should demand ar-

bitration, and if arbitration is not given, they can go on strike. Sir, I am not going to take much of your time. I will only say one thing that Government should come forward with a categorical assurance that Government employees will get arbitration whenever negotiations fail or when the Joint Consultative Machinery fails to resolve a disputed issue. A great deal has been said about conditions in different countries. I am not here to say what happens in other countries. If this country is to govern itself, if we have to maintain democracy in this country, if we have to protect and safeguard the rights of the citizens of this country, we have to make our own laws. Neither Russia nor America can guide us; we have to go on our own and we have to stand on our own feet. The relations between the Government employees and the Government should be improved. I am sorry to say that the present functioning of the JCM is rather inadequate and needs a lot of improvement.

Sir, I am sure the hon. Home Minister will take due note of the various suggestions that have come from responsible trade union movement, because it is only by taking into consideration all these suggestions that the Government will be able to formulate a decisive policy. Before I close I would like to submit and repeat the demand of organised workers in this country particularly in the public sector and in the Government sector that it is high time that they had the Third Pay Commission. There is a policy that after every ten years in the developing economy the wage structures and service conditions of the Government employees will be re-examined and reviewed having regard to upward trend in the price level. In the present circumstances when the country is faced with external and internal dangers, I would urge the Government to come forward with the announcement of the appointment of a Third Pay Commission. I know that there is the high-powered National Commission on Labour which is taking a comprehensive view of the entire industrial relations and the labour situation in the country but considering the unabated rise in prices of essential commodities Government should take an early decision to appoint the Third Pay Commission.. This is Gandhi Centenary year and I am sure that the Government will take the line bequeathed to us

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by Mahatma Gandhi and come forward with all the measures that they have to bring to give social and economic justice to their employees.

I may say that the country is passing through a very difficult period. Prices are moving higher and it is Government's duty to control the prices and punish all those responsible for artificial and deliberate rise in the prices. And last but not the least I have not forgotten that we have got patriotic workers and we have always to be conscious of that. If the working classes are loyal and patriotic we know in the times of need they will not hesitate to sacrifice any of their interests if the country demands it. So it is the duty of the Government to look after their interests and safeguard and protect them. With these words, Sir, I oppose the Resolution of Shri Bhandari and give my wholehearted support to the Bill presented by the hon. Home Minister.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : I have to tell the House that I had called Mr. Bhupesh Gupta but he did not agree to speak at that time and requested Mr. Balachandra Menon to speak. Now his party's time has been consumed.

SHRI BHUPESH GUPTA : There is no party's time. We never agreed to any time.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : I am prepared to accommodate you if you will take 10 to 15 minutes.

SHRI BHUPESH GUPTA : Never we agreed to any time. It is not a question of my speaking. I can manage. But we never agreed to any time.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Well, I have placed it before the House.

SHRI BHUPESH GUPTA : We told in the Business Advisory Committee that we would not like this to be included in the agenda at all.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Now you can start.

SHRI ABID ALI : Sir, make him understand that you said his party's time and not so far as the Bill is concerned.

SHRI BHUPESH GUPTA : Now, Mr. Vice-Chairman, a few minutes I will take. I would not deal with Mr. Abid Ali's speech because he is a category by himself. As we all know, he is supposed to be a great labour leader and Pandit Jawaharlal Nehru, under that illusion, made him the Deputy Labour Minister. And immediately he found that he was no good and he was delivered back to the Birla.

SHRI ABID ALI : What Birlas? If he mentions that then I also know what to tell him. Should I tell him? Otherwise don't behave like that. You know what I can tell about you, how much of a traitor you have been to this country. It is shameful.

SHRI BHUPESH GUPTA : I am sure Mr. Abid Ali is prosperous materially and otherwise in that company.

(Interruptions.)

SHRI ABID ALI : With a cool head I understand you; that is my difficulty. I know what traitorous part you have played in the past.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Mr. Abid Ali, do not . . .

SHRI ABID ALI : Sir, you make him withdraw that word.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : May I request hon. Members not to indulge in cross talks?

SHRI BHUPESH GUPTA : It seems that instead of senility growing in a frustrated man, insanity is overtaking him.

SHRI ABID ALI : You are foreign countries' stooges.

SHRI BHUPESH GUPTA : Therefore what Mr. Abid Ali says I never take it to be the position.

SHRI ABID ALI : Go to your fatherland.

SHRI BHUPESH GUPTA : But he has to be taken note of because after all CIA has full of affection for him.

SHRI ABID ALI: Communist Intelligence Section—Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA: Now, Mr. Vice-Chairman, I shall begin.

SHRI A. P. CHATTERJEE: On a point of order. Can a Member of this House refer to another Member of this House as a traitor?

SHRI BHUPESH GUPTA : A running dog of American imperialism and CIA can say anything.

(Interruptions.)

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Will you take your seat? May I request Members not to indulge in such kind of remarks but to proceed with the speech?

SHRI A. P. CHATTERJEE : Those words must be expunged.

(Interruptions.)

SHRI ABID ALI: Let it be on record that he is a Communist Intelligence agent in this country.

SHRI BHUPESH GUPTA : I would earnestly request that everything he says should be in the records and if I could convey it to the Press through you they should be reported in the Press because that helps me as nothing else. Now that is all right. What I have said, I have said.

SHRI ABID ALI: How much commission do you get from Russia for that? Sir, he will get commission from Russia and we must know how much he gets.

SHRI JAISUKHLAL HATHI: Let us not indulge in these.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Let us conduct the proceedings in an orderly manner. May I request hon. Members to restrain themselves and hear the speech with patience?

SHRI BHUPESH GUPTA: Now I would urge upon the Home Minister in all seriousness that the chapter should be closed. There are about 12,000 employees who have lost their jobs as a result of the policies and attitude of the Government. I do not know of any

strike in any capitalist country where a single strike, legal or illegal, meant victimisation of as many as 12,000 employees or workers. I must tell you, Mr. Vice-Chairman, that in this respect the present Government have set a world record but a record of which everyone who cherished trade union rights or democracy should be ashamed. Mr. Vice-Chairman, there are many who have been suspended or dismissed simply because they were arrested and put up before a court of law. Yet we live under rule of law in which nobody is to be regarded as guilty unless he is found guilty. In fact, he should be regarded as innocent till he is found guilty. Therefore those people who were arrested are to be treated as not guilty unless they are convicted by a court of law. Even if I take the position of the Government that they have committed some offence, let the courts decide. But even that is not observed here. A large number of employees have been paid off with one month's salary. Many of them, about 4,000 or so, have been paid off simply because certain cases were started against them. That again is wrong. Now I am not going into all these things. I think Mr. Chavan himself at one time was thinking of dividing them into active participants and others and he said that nobody would be victimised for mere participation in the strike. But I may tell you that many even in this category are under suspension or dismissal who according to Mr. Chavan would be regarded as mere absentees or mere participants in the strike. I hope the Home Minister will kindly consider this matter.

I do not wish to cross swords with him over this matter because after all it is the Government which should reconsider the whole situation and bring about an end to this dismal chapter. I would not say let bygones be bygones because it is not possible. In industrial disputes and other disputes of this kind things continue to influence future development and are remembered by people in the different walks of life in different ways. Now, can't I ask for the reinstatement of those who have been dismissed as a result of the Government action? I think it is in the interests of the Government itself. If you have so many people victimised and out of employment do you think the others would remain at their jobs calmly without having any feeling for these people and

would not nurse a grievance on that account? It certainly would not be helpful from the point of view of the administration itself. Therefore even if you want to bring back a climate of normalcy in your administration it is necessary that you adopt a policy which would bring that about and that policy of course is the reinstatement of those people. You will be surprised, Mr. Vice-Chairman, that here in Delhi—I am reading from a document circulated to the Congress members by the Congress Party—646 out of 850 have lost their jobs. Do you think that the administration can go on? You may replace some of them but those who remain will always have their grievances and there won't be efficiency as you seem to think. I think the hon. Minister should consider this. We are now at the end of this session. We have discussed and debated this matter. We have expressed our opinions strongly as others also have expressed their opinions strongly. All kinds of motives have been imputed and we too on our part have made charges against the Government. As we are nearing the end of this session it is necessary to impress upon the Government that there is no need for pursuing the line of mass victimisation on a scale such as this. I ask Mr. Chavan because he is the only one who can deliver the goods in this matter and if he takes a more reasonable attitude, a more sympathetic attitude and shows foresight and other good considerations I think this problem can be solved. That will not solve other problems. The future problems of demands and disputes we have to tackle.

Now, as far as the strike is concerned, the Ordinance was itself most objectionable from every point of view, from the constitutional point of view, from the legal point of view, from the moral point of view. From the constitutional point of view it was objectionable and reprehensible indeed inasmuch as it sought to negate the corollaries to the Fundamental Rights enshrined in article 23 and article 19 of the Constitution. Now, by the Ordinance you really amended the Constitution and the Presidential power was in a way used to amend the Fundamental Rights or at any rate what flows from the Fundamental Rights under our Constitution. This, in itself, was most objectionable. Now, what is the use of recognising the right to strike

and you suddenly bring another law, behind the back of Parliament, to negate that right? I should like to know it from the hon. Ministers and others. This double-standard cannot go on. On the one hand, you acknowledge some rights. Rights are meant to be exercised, when the situation demands. Otherwise, there is no meaning in either accepting a right or granting a right. When you give some right to take away some right, we presume that in a given social condition, such rights are to be respected and maintained with a view to bringing about a self-adjustment of the society through the exercise of rights when it becomes necessary. Now, you take away that right. This is exactly how some people behaved in the past. The British sometimes behaved like that and I may tell you that even the Congress Government in Bombay, before independence, in 1937, brought forward a black Bill in order to curb that right, which was resisted by many people in the country. After independence, the Congress tried to curb the rights of the workers to strike. Later on, even in the context of the Industrial Disputes Act, attempts were made drastically to curb this right. Therefore, the history of the Congress rule, if I may say so, is one of intermittent effort to restrict and curb the right to strike by the working-class and of the working people. Today it has reached an ugly culmination in the present Bill and it reached the Ordinance earlier. I may tell you that the right to collective bargaining is not only a Fundamental Right under our Constitution. Ever since the dawn of the working-class movement a century and a half back, even at the time of Bismarck and others, in the middle of the last century, this right of collective bargaining has come to be asserted, time and again, in history. For this right workers in the West had fought and died. For this right the American workers had fought and died. For this right workers in Japan and in all other parts of the world had fought and died and it is through such sacrifices and sanctified by the blood of the working people that the right to strike and the right of collective bargaining has come to be accepted even in the capitalist society, which is based on social injustice and exploitation. Because of that we have accepted it in our country and it is in that outlook the Constitution also had to respect it in some way. Today you are striking at the right to strike.

[Shri Bhupesh Gupta]

You are striking at the right of collective bargaining, which means that you are striking at the right to strike. This is the law to come. After all collective bargaining loses all its meaning the moment you take away the right to strike. It is because of the right to strike that collective bargaining has been useful in various countries. It is because of the right to strike that collective bargaining sometimes will lead to results and has become acceptable to the working people and also others as well. Minus the right to strike, collective bargaining would be devoid of its very substance which sustains it. You are taking away from the substance of collective bargaining. Therefore, I say it is very wrong. It is highly improper. Now, why are they doing it? They are doing it because they think that the time has come. Here is the calculation of the Government that the workers must be deprived of their cherished rights and the right to collective bargaining is considered to be the first target in that. They have chosen the pretext of the token strike of 19th September. They have made the Government employes the target in order to take away the right of collective bargaining and the right to strike. Mr. Shukla, in his public statement, has made it abundantly clear that the measure which they are proposing now could be applied even in respect of certain other industries, including those in some private sector industries. Now, here is (he beginning). The monopolist class wants the right to be attacked. The Government is attacking the right of the Government employees, inspiring the monopolists to do the same, egging them on in that direction, and it is the massive beginning of a frontal cruel attack on the trade union and democratic right, above all the right of collective bargaining. Therefore, I do not view it merely from that particular angle of the Government and its relations with its employees. It should be viewed in the context of the industrial relations in the country, of the working-class movement and of the growing hostile, intransigent and aggressive attitude of the monopolist class reflected inevitably in a class of society always in the policies of the Government. Mr. Chavan may not be conscious of what he is doing in full, but after all people become conscious and unconscious tools of history. I grant that Mr. Chavan is partly conscious and

partly unconscious. I wish I could give him the benefit of doubt. But I cannot think that such an intelligent man as Mr. Chavan, who did away with Mr. Morarji in the composite Bombay State, should not understand the simple thing that he is attacking the working people. I credit Mr. Chavan with intelligence and common-sense, but unfortunately he has allowed himself to be used absolutely for wrong purposes. Well, I wish his intelligence and talent were used in the same way as he used it in order to break up the bilingual Bombay and create the Maharashtra State. I wish that he had done it that way. But here exactly he is using it for strike-breaking purposes. That is my most important objection. As you know, I never attack personally Mr. Chavan. I do not know how many children Mr. Chavan has. Never I do that and Mr. Chavan will bear it out, because my quarrel with Mr. Chavan is on the political plane. So, I say that there is a very grim beginning. I tell you the working people, Government employees and others, will never bargain their right to strike.

SHRI ABID ALI: Question.

SHRI BHUPESH GUPTA: Never will they surrender their right to strike. Never will they sell their right of collective bargaining. How many times will my friend, Mrs. Yashoda Reddy, get up to interrupt me unsuccessfully?

SHRIMATI YASHODA REDDY : I am not trying to interrupt him. I am trying to help him. May I move a motion that as there are many other Members to speak and Mr. Bhupesh Gupta may take a little more time, we sit for another hour more? I move it.

SHRI BHUPESH GUPTA: Shrimati Yashoda Reddy generally does not disturb me, but why at the fag-end of the debate is she disturbing me?

SHRIMATI YASHODA REDDY: I am trying to help you. It is a small thing.

SHRI BHUPESH GUPTA : You will understand, I think . . .

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr.

Gupta,
will you resume your seat? A suggestion has been made to me that the House be extended by one hour.

SHRI BHUPESH GUPTA: No, no.

(Interruptions.)

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Have I not the right to put what is suggested to me? The House is always its own master. A suggestion has been made. I have to put it to the House. If the House reject it . . .

SHRI BHUPESH GUPTA : Who has made the suggestion?

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA : Mrs. Yashode Reddy. If in their wisdom the House want to sit . . .

SHRI BHUPESH GUPTA: It is seven o'clock.

SHRI SUNDAR SINGH BHANDARI : I have a submission to make.

उपसभापति जी, कल जब पांच बजे के बाद सात बजे तक बैठने का एक फार्मल प्रस्ताव यहां पर आया और उस पर मतदान हुआ तब साथ प्रस्ताव में यह था कि आने वाले चार दिनों तक अर्थात् 27 तारीख तक हम लोग सात बजे तक बैठेंगे। तो क्या यह मैं मान कर चलूँ कि प्रति दिन, प्रति समय उस प्रस्ताव को हमें बदलना है

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Now I am not using my discretion . . .

SHRI BHUPESH GUPTA : Sir, on a point of order. I think we are committing contempt of the House. Yesterday we passed a resolution that the House shall continue until 7 o'clock. It is now one minute past seven. Can you bear with a situation in which there is contempt of the House? I request you not to be a party to a contempt of the House. I urge upon kindly to adjourn the House because it is seven o'clock, because you cannot defy the resolution of the House. No discussion can take place.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): What about you?

SHRI BHUPESH GUPTA: I will continue later.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The House stands adjourned till 11 A.M. on Thursday, the 26th.

The House then adjourned at two minutes past seven of the clock till eleven of the clock on Thursday, the 26th December, 1968.