

[Shri Chandra Shekhar]

whether, if the Government after having made a promise before the House do not fulfil the promise during the session period, there is any way open for the Members to press for having the Government's view or not.

THE DEPUTY CHAIRMAN: If the Government have given any assurance that they would make any statement before the end of this session, then the Government should certainly come forward and make the statement. Now We go on to the next item. Mr. Bhupesh Gupta.

श्री राजनारायण : माननीया, ज्यादा अच्छा होगा कि आप 2 बजे उनका बयान यहाँ करा दें।

उपसभापति : 2 बजे कुछ नहीं होगा।

श्री राजनारायण : क्या आप चाहती हैं कि सारे देश में आग लग जाय तब आप बयान करा देंगी। मैं आपसे निवेदन कर रहा हूँ कि आप सरकार को निर्देश करें कि 2 बजे यहाँ पर सरकार का बयान हो उत्तर प्रदेश के अध्यापकों के बारे में।

उपसभापति : नहीं जी, आज कुछ नहीं होगा।

श्री राजनारायण : कल होगा ?

उपसभापति : कल की कल देखेंगे।

I. RESOLUTION SEEKING DISAPPROVAL OF THE ESSENTIAL SERVICES MAINTENANCE ORDINANCE, 1968 (No. 9 of 1968)

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

SHRI BHUPESH GUPTA (West Bengal): Madam Deputy Chairman, before the House adjourned on the last day I was speaking on this measure and the Ordinance with special reference to the right of collective bargaining and the right to strike. Now I should like to draw the attention of the House to what Shri Jagjivan Ram said. Inaugurating the JCM Shri Jagjivan Ram said:

"I will protect every such right of mine and resist the slightest danger of its being injured, abridged or

restricted from any side, though I might not have to exercise it throughout my whole life. Similarly the right to strike of the working class has to be preserved and protected."

This is what Shri Jagjivan Ram said. We are only asking here that what Shri Jagjivan Ram said should be respected, namely, the right to strike should be preserved and protected. I know my esteemed lawyer friends may argue that under our Constitution there is no right to strike. Had we the right to strike, . .

THE DEPUTY CHAIRMAN : I think it is a wrong practice to go behind the Chairman's chair. Really the parliamentary practice and courtesy are that if any Member wants to go to the other side, he should go right round. I am sorry I have to draw the attention of the hon. Members to this.

SHRI BHUPESH GUPTA: Madam, We are living in the days of shortcuts. What can we do?

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श्री राजनारायण (उत्तर प्रदेश) : चेयर और वक्ता के बीच से किसी को नहीं आना चाहिये हम पूरा चक्कर लगा कर वहाँ से आये हैं।

SHRI BHUPESH GUPTA: It is good to see my friend, Mr Rajnarain, in the Treasury Benches.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Has he joined the Treasury Benches?

SHRI BHUPESH GUPTA : He seems to be in wrong quarters where one should not go, especially one from the opposition.

As I was speaking about the right to strike, it is not clearly stated in our Constitution that a workar has a right to strike. Were it so, we would not be discussing this. We would have gone to the Supreme Court and would have sought the remedy. Perhaps the Government itself would not have behaved in the manner in which it did. It is not clearly stated in express

terms in the Chapter that deals with fundamental rights but the significance of the fundamental rights is to be translated in the context of our life today, the realities of our socio-economic existence. One must concede that the worker has a right to strike. In our Fundamental rights Chapter you have a provision against forced labour. Nobody can force me to give labour. That is my fundamental right. If that is so, as a corollary to this my right to withhold my labour also follows. Why then should I be denied my right to withhold my labour if I think that I have a certain grievance to be met, if I think I am being treated in a particular manner which is inimical to my interest and also to the interest of the country?

Now, here the Government is creating a situation when practically the right to strike, which is a vital factor of our economy, would be wiped away. This is a serious assault on the working people and on the cherished right of the working people. It is not a question of arbitration. Arbitration or no arbitration, compulsory or otherwise, we are not going to accept it; the working people can never be expected to give up the right of strike. Where and how the right should be exercised is a matter of detail. It is for the workers to decide, and it will also be decided in the light of the situation in which the workers find themselves. Are you to take away that right? That is the question. This Government has decided to attack that right. The Chairman of our Party and the General Secretary of our All India Trade Union Congress made it amply clear in a speech in the other House that the working people would never surrender their right to strike, compulsory arbitration or no arbitration. Well, we stand by that position. This is the position which has been taken by the working people all over the country. And we know that there have been forces, inimical forces, which have sought to suppress this right with consequences which are not at all in the interest of developing the society, or a progressive

society in the context of the Western countries.

Therefore, I say, do not go in that way.

Madam, now the Government has realised—it is quite clear—that they have failed in the economic sphere. The failure has been announced yesterday in the Press when we were told that we would have to go by the Annual Plan rather than by a comprehensive Five Year Plan. They have given a burial to the Plan which they once started and thought they would carry forward. And this failure in the planning sector is only an evidence of the greater and deeper failure in the entire economic life. A bankrupt Government has gone wild. That is why they are bringing forward measures of this kind. Hence, we would strongly oppose this measure. Now, you have failed in your economic planning, you have failed to give the workers a fair deal and you have failed to hold the price line. As a matter of fact, the need-based minimum wage demand is one which even this cursed Government is not in a position to repudiate in principle. If the need-based minimum wage demand is a just demand which you cannot repudiate, it is your duty to meet this demand. Should you fail to meet this demand for any reason, it is your duty to explain to the nation as to why you have failed. You have to take the nation into confidence instead of trying to suppress the working people. If the need-based minimum wage demand had been accepted, then the workers would have been getting, at the lowest level at least, Rs. 125 more per month than they are receiving now. In fact, their wage level, in real terms, has not gone up at all. This is the position today. When you accept the demand, meet the demand instead of trying to bring forward this measure.

We are told that this measure will be for three years. Utter nonsense. We were told in 1952 that the Preventive Detention Act would be there on the Statute Book for three years,

[Shri Bhupesh Gupta] and now we are living with the Preventive Detention Act. Many years have passed. Am I to believe after that experience that this Government is going to honour its own word? It is a Government incapable of honouring even its own assurance to the House. Such a Government cannot possibly be relied upon in this matter. Anyhow, I would not like a measure of this kind even for a single moment or a split of a second to disgrace and defile the Statute Book of this country, to make further inroads into Constitutional guarantees and safeguards, to make a mockery—as we understand—of the principles and purposes of the fundamental rights. I would not like it. That is our position. Here I need not go into this aspect of the matter now because we will have ample opportunities to speak, when the amendments come and when the Third Reading comes.

I should like to invite . . . Will the hon. Minister kindly listen to me rather than talking to the Education Minister because I know how the Home Minister treats the Education Minister in other matters.

SHRI A. D. MANI (Madhya Pradesh): How?

SHRI BHUPESH GUPTA: Rabindranath Tagore, in one of his articles 'Kabyer Upekhsita', gives a description of Urmila in the Ramayana. Education Minister—is he safe? He is neglected by the power that be in the Cabinet and he has only to stand on the side-lines of the administration. He is not so chaste, not so pure or serene as Urmila. But the status is the same in that particular set-up.

I would like to invite the attention of the Government to this circular. The Home Ministry issued a circular No. 13/9(S)/68 SPB dated 21-9-1968 as to how these matters should be handled:—

"Criminal prosecution under the provisions of the Ordinance or any other law should not be launched for mere absence on the 19th September."

This is the position of the Government in September. What is happening now? People who were just absent they are now being prosecuted by this Government. Hon. Members should know this thing that the circular is not being implemented. On the contrary, influence is brought to bear upon the Kerala Government, directly and indirectly, or pressure is being created—I need not go into that—not to withdraw the prosecutions. And when the Kerala Government—we have seen—goes to the court of law asking for the withdrawal of the prosecutions, some people get up and object to it, and the withdrawal is not allowed. This has happened. I think, Madam, the trial is on.

Finally, before I sit down, I should like to ask the Government to consider my suggestion which I have repeatedly made and I shall continue to make, that the chapter of victimisation should end. There should not be any victimisation. With Mr. Chavan, there are other names, I do not quarrel over those names. But the fact remains that 12,000 Central Government employees have lost their jobs, they have been thrown into the street and their families are facing starvation and misery. That is the position. We call it victimisation. You call it whatever you like. But you cannot obscure the outstanding fact that so many people are out of job. Madam Deputy Chairman, I say that many of the cases are going to fail. There is actually no evidence. One has only to go to the court in the jail where a shamiana has been put up in order to start the proceedings and you will find the police without any evidence. And out of the 8,000 cases, 7,000 cases are confined to Delhi, Haryana, Punjab and Rajasthan. Now, these cases should be withdrawn. Practically all these cases could be withdrawn, well, even in the light of the circular of the Central Government because after all most of them are not guilty. Even according to them, for nothing but absence, the police have arrested them. This is number one. Secondly, they should be taken back. Even the Prime Minister said at a meeting that individual cases

would be gone into. Well, the individuals have approached the authorities but nothing is being done by the various departments and by the Government. I should like to know why. Therefore, it is not a question of my petty bargaining with the Government. Once again, before the session ends, I sincerely and earnestly feel—and I hope that some of my friends in the Congress Party at least will lend their voice to this demand—that this victimisation would be ended and that these people would be taken back. Finally, Madam, Unions have been derecognised. They should be given back the recognition. If you do not restore recognition of the Unions which they had been enjoying so long, you will be creating only ground for trouble, conflicts and clashes and it would make the smooth running of the administration more difficult.

THE DEPUTY CHAIRMAN: That will do.

SHRI BHUPESH GUPTA: Why, for example, the P. and T. Federation should not be recognised when it commands the confidence of an overwhelming majority of the P. and T. employees? And why should the other employees' Unions also not be recognised? These are some of the demands.

(Time Bell rings.)

THE DEPUTY CHAIRMAN : That will do. I am calling Mr. Setalvad.

SHRI BHUPESH GUPTA: You have been ringing the bell. AU right. Therefore, I will speak on the amendments and other things later.

THE DEPUTY CHAIRMAN: Mr. Setalvad.

SHRI BHUPESH GUPTA: Therefore, the suggestions which I have given should be seriously considered, and I should like to have some kind of statement which would give us an assurance that the Government would move in a better direction than it is doing at present.

SHRI M. C. SETALVAD (Nominated): Madam Deputy Chairman, may I make a brief intervention and try to project the point of view, not of any particular party, but the point of view of the ordinary citizen on this matter. Here are citizens faced with the collapse of the essential services. In the circumstances, in my view it becomes duty of the Government to maintain these essential services for the benefit of the citizen. It is not to be treated as a political question as it seems to have been treated by all parties. So far as I can see it is a question of maintaining and carrying on the Government and that should be the true and due concern of every citizen. If a Government, in order to maintain the essential services, have to take away the right to strike it is bound to do so in order to carry on the elementary duties of maintaining Government and the essential services.

Madam, much has been said about the right to strike. It may be a very heterodox view, but in my view the right to strike never was a fundamental right, and even as an ordinary right of labour it is outdated and a right which should not be exercised at this time of the development of our society. It was all right in those days when employers could not be regulated, when there was no legislation for adjudication of the workers demands and they were without any remedy unless they forced acceptance of their demands by coercion, by strike and going away from work. Today we have accepted by legislation the principle of adjudication between labour and employer, as much between the Government as an employer and labour as the private employer and labour, and if we have accepted that principle there is no reason why we should not ban altogether strikes firstly, perhaps, in essential services and later in other fields also substituting for it a quick and impartial method of adjudication. If I have a fundamental right. I can enforce it by going to a court of law. I do not decry labour's rights; I fully sympathise with its difficulties in these days when prices have risen high. But

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if he has any rights, he should have like an ordinary citizen, automatically the right to go to a tribunal without the intervention of the Government and have his rights adjudicated upon within a specified time-limit, may be, two or three or four months, and by a proper and impartial tribunal. If that were so, the employee could stand on a par with the ordinary citizen and he should have no ground to complain at all. On the one hand he loses his right to strike but this is substituted by a proper right to get his demand automatically adjudicated within a specified time-limit . . .

SHRI A. D. MANI: But it is not there.

SHRI M. C. SETALVAD: That should, in my opinion, be provided. It should be provided as early as possible; it should not take months and years. Immediately a charter of demands is issued, it should come to the Registrar of the already nominated tribunal or the advertised tribunal. That tribunal will thus be seized of it and like an ordinary court of law it will summon the parties and reach a decision, say, within two or three or four months and the matter will end. That is the civilised way of dealing with these matters instead of thinking of strikes. That is my submission.

SHRI BHUPESH GUPTA : But the way the Bill deliberates is not the civilised way. What do you say about the Bill itself?

SHRI M. C. SETALVAD : I have already said in my speech that there should be an alternative.

SHRI BHUPESH GUPTA : Though I may not agree with all that you have said, will you please teach them some civilised methods?

SHRI M. M. DHARIA (Maharashtra): Before I come out with my other arguments, I do agree with honourable Mr. Setalvad when he made the demand for a tribunal. But is Mr. Setalvad not aware that today there is no such tribunal . . .

SHRI BHUPESH GUPTA: Generally we want to listen to you. Therefore, come nearer the microphone, please.

THE DEPUTY CHAIRMAN: He is quite audible.

SHRI M. M. DHARIA : So, Madam, when that tribunal is not in existence today, and if the Government has come out with this sort of measure, will Mr. Setalvad, under the circumstances, not suggest to the Government that if at all the Government wants such a measure it should be necessarily accompanied by compulsory arbitration or a tribunal. I was listening to the honourable Member very patiently and I thought that he would make the demand . . .

SHRI M. C. SETALVAD: I started with ft.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA): A measure which Mr. Setalvad suggested is coming.

SHRI ARJUN ARORA (Uttar Pradesh) : When?

SHRI VIDYA CHARAN SHUKLA: As soon as we can bring it.

TH7 DEPUTY CHAIRMAN : What is "as soon as"?

SHRI VIDYA CHARAN SHUKLA: That I will say during my reply.

SHRI M. M. DHARIA : Madam Deputy Chairman, I am really sorry to say that it is most unfortunate on the part of the Government to have brought this measure in a half-hearted and haphazard way. If the Government intended to bring that measure, they could have drafted the Bill that way including the right of the worker to go to the tribunal. Then I would have perhaps appreciated their gesture. But why is it not done I have not understood.

Madam, I have gone through the whole article 123 of the Constitution.

At the most the present Ordinance might have collapsed. Had there been such an occasion when the Parliament is not in session, the Government was not prevented from requesting the President to promulgate a similar Ordinance. Therefore, when this right was with the Government, what was the need of bringing such a haphazard Bill I have not yet followed. The hon'ble Minister will kindly excuse me but I feel that this will unnecessarily agitate matters; it is rubbing on the wrong side.

Madam, while I was listening to the debate in the House, I felt that one section, while trying to protect democratic rights in this country and democracy in this country, was forgetting that we have also accepted socialism in the country, and the other section while trying to have the socialist rights was forgetting that we have accepted democracy in this country.

Madam, as far as the unfortunate strike of the 19th September is concerned, I have already expressed my views. I feel that the trade unions and their advisers have committed an indecent haste. There was no need of such a strike. I agree with my friend, Mr. Arjun Arora, when he said that this was not a political strike. But how can we forget that those who inspired the strike had ulterior motives and their motives were politically-motivated? It may not be in the minds of the employees to have a political strike, but there were leaders who were interested in some ulterior motives. Is it not a fact that elections were pending and they wanted to utilise the whole opportunity for themselves? Even when we look at the teachers' strike we find the same thing.

SHRI BHUPESH GUPTA: You need not speak near the microphone.

THE DEPUTY CHAIRMAN: You carry on.

SHRI M. M. DHARIA: I am not here to oppose the trade union rights of workers. Whether it is a fundamental right or not,—it may not have been embodied in the Constitution as a fundamental right—I am one of those who

believe that this right of workers is a fundamental right. But at the same time I am not prepared to forget my country, my nation. Now is it not a fact, having regard to the serious critical situation through which we have been passing, that a time has come for introspection? Why should not leaders of the Opposition parties, leaders of the Government and leaders of the trade unions sit together and reach an agreement that for the next 10 years there shall neither be a strike nor a lock-out in this country? Without production, without all possible acceleration of production, it will not be possible in this country to provide the needs of the common man. But at the same time, I would like to say this to the Government. Yesterday there was a question regarding the neutralisation of the rise in the cost of living by way of increased dearness allowance and basic pay and it was immediately said "It is not possible." Then there was a question about stagnation and the hon. Finance Minister said: Well, that is all right if they have reached the maximum. From where can the Government pay? I would like to warn the Government that if the Government are not prepared to put a ceiling on the high incomes, if the Government are prepared to have that ceiling both on urban and also on rural properties, they have no moral right to say "What has happened has happened; if things have stagnated, they will remain stagnated." How could that be said? This demand for a national basic minimum is a demand which is embodied in this Constitution. Our Directive Principles are very clear. And that demand is based on these Directive Principles. I fail to understand why the Government should not take that socialistic view for the implementation of the social objectives in this country? Unfortunately, it has so happened in this country that the whole trade union movement has grown not in a natural way. It is the political parties which have inspired the trade union movement in this country. For a particular time it was a free movement.

[Shri M. M. Dharia]

But to-day we find there is the Congress-sponsored INTUC. Why ? Because the Congress had its own ideology and the Congress felt that only with INTUC it will be possible to maintain industrial peace. It is from the same point of view that the Communist Party has sponsored their own union, the P.S.P. and the S.S.P, are having their own union, and the Jan Sangh also have sponsored their own union

SHRI BHUPESH GUPTA: The AITUC was a common organisation before 1946 where we all worked together. It is some Congressmen who held a meeting in Birla House in Bombay in 1945 or 46 and decided to break away from the AITUC and start the INTUC.

SHRI M. M. DHARIA: Madam Deputy Chairman, it is for this reason that I said that a particular time in this country there was a healthy trade union movement. My friend may not have heard me properly. I said that at a particular time there was a healthy trade union movement in this country. But afterwards, particularly after independence, we find that the political parties are behind this trade union movement and they are trying to exploit the trade union movement for their political purposes, including my party. *(Interruption)* Including my party, I say that.

SHRI BHUPESH GUPTA: You split the AITUC.

SHRI M. M. DHARIA : Therefore, Madam Deputy Chairman, I would like to have a proper introspection of the whole scheme. Is it not time that we should sit together and consider why there should not be only one union for one industry ? Why should political leaders be allowed to be officebearers in the trade unions ? Why should not employees be allowed to have their own office-bearers ? I make a demand to-day that there should be only one union for one industry.

SHRI BHUPESH GUPTA: How many unions are you connected with ?

SHRI M. M. DHARIA: I am prepared to forego all those unions. Madam, my submission is that we should have a free trade union movement in this country and from that point of view, the present political domination over these trade unions shall have to go. It is in this context that I would like to urge that there should be only one union in one industry. The office-bearers of such unions should be elected by the employees out of the employees. There should be an independent election machinery for the election of these office-bearers. I know many times offices are also misused. So in order to maintain its free character, I suggest that there should be a free election machinery for the purpose of election of office-bearers of these unions. Then, Madam, I suggest, let us have a tripartite agreement so that there will not be any strike or lock-out in the next 10 years, including in the Government. If there are demands from employees and if a settlement across the table is not possible, the dispute should necessarily go for compulsory arbitration or to a tribunal. And the award given by the tribunal or by the arbitrator should be binding. If at all the award is to be amended, it is not the Government but it should be the Parliament so far as Central Affairs are concerned, and the State legislatures so far as the State affairs are concerned, who should amend that award. Is the Government prepared to come forward with such a scheme ? Instead of thinking from a dispassionate angle and in the interests of the country, to-day unfortunately we are trying to muddle all this trade union movement with political motivations. That is the main trouble. Now regarding the strike of the 19th September, is it not a fact that a threat was given by the Railway federation that they will have a permanent strike after two months ?

SHRI M. V. BHADRAM (Andhra Pradesh) : No, no, absolutely incorrect.

SHRI M. M. DHARIA: It is in the resolution.

SHRI BHUPESH GUPTA: Where, where ?

SHRI M. M. DHARIA: I have mentioned all those in my last speech here. Is it not a fact that some of the leaders had said "In case the Government does not accept your demands, do not bother, go ahead. We shall see that this Parliament does not function" ? Was this not said by some of the leaders ? I have got the quotations and cuttings . . .

SHRI BHUPESH GUPTA : You must name the leaders if you say that, because the very fact that we allowed Parliament to function shows that we never said it.

SHRI M. M. DHARIA : I am coming to it. (*Interruptions*) What can I do when there are so many interruptions ? Now, Madam Deputy Chairman, is it also not a fact that in the journal of P and T, it was stated—of course, it was not their intention; I have talked with those leaders—that on the 19th September they should "take possession of the property that is. Government property...

SHRI BHUPESH GUPTA: Only to look after it.

(*Interruption*)

SHRI M. M. DHARIA: Madam Deputy Chairman, I have talked with those leaders; they are my friends and their intention was to take care of it, not to take possession. I know that. But unfortunately it was so printed that it could be interpreted in a different way . . .

SHRI BHUPESH GUPTA : No, Mr. Dharia, you are distorting. Your smiles are fascinating, I agree; but even that does not entitle you to distort things.

SHRI M. M. DHARIA: Let me be frank. I stand for a just cause. I stand for justice. Here I have said that it was most unfortunate that Government has come forward with such a measure. It should have come up with a comprehensive measure including the provision for a tribunal. Bui

at the same time, this exploitation of the trade unions by the political parties is equally condemnable. I must say to my friends that it is not that Parliament functions at the pleasure of the Opposition parties. Parliament functions of its own. They tried their level best to suffocate the House, but they could not do it . . .

SHRI BHUPESH GUPTA: I may tell you that many a Congress Member approached us and told us "Allow the Parliament to function. Otherwise, We shall lose our daily allowance." We agreed to it. 1 P.M.

Madam Deputy Chairman, I would like to urge upon this House today, while the country is passing through a very serious stage why all of us should not consider from a dispassionate point of view in the interests of the country, in the interests of the working classes, in the interests of our social objectives. . . (*Interruption*)..... and it is in this context, on the eve of the new year, may I appeal to this Government that there are thousands of employees who are thrown out of employment because of this strike of 19th September ? There are many who are suspended. There are thousands who are discharged. There are many who are being prosecuted. I can understand the Government prosecuting those who have indulged in violence. The Government should go ahead in prosecuting such culprits and should see that such anti-social and anti-national elements are properly brought to book. But so far as the others are concerned, in spite of the fact that they might have participated in the strike, I am here to appeal to the Government that the Government should have a generous heart and should see that all those employees are taken back into the Government service.

Madam Deputy Chairman, on the eve of the new year, if we want to create a new atmosphere in this country, I feel that this step of the Government will go a long way in establishing the industrial peace that we intend to have. And my last submission,

[Shri Bhupesh Gupta]

Madam, is regarding the attitude and the approach. Madam, should we not realise that after independence the bureaucracy should not rule ? If we want to rule this country, it will not be with such measures and with such laws that the country could be ruled. The country in a democratic set-up is ruled according to the urges of the people, and if the urges of the people are to be respected, I feel that the employees, whether in the Government service or otherwise, they shall have to be taken into confidence. Let this Government adopt that path. I feel at present the path followed is not the right path. Thank you.

THE DEPUTY CHAIRMAN: Mrs. Shakuntala Paranjpye will speak at 2 O'clock. The House stands adjourned till 2 P.M.

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

The House reassembled after lunch at two of the clock. THE DEPUTY CHAIRMAN in the Chair.

SHRIMATI SHAKUNTALA PARANJPYE (Nominated) : Madam, I consider and see that it is the Home Ministry which is piloting this Bill, I really feel very much amazed because any Resolution about a strike ought to come from the Labour Ministry. Why is the Home Minister piloting this Bill both in the other House and this House ? Is it because we have come to a Police Raj or is it the harbinger of things to come that everything is going to be managed by the Home Ministry ? To-day we are discussing the Bill as well as the Resolution by Mr. Bhandari. When I read the synopsis of the debate, I was struck by the point made by Mr. Jain as to why Mr. Bhandari did not move this Resolution earlier and then perhaps the Bill could have been avoided. I accordingly asked Mr. Bhandari why it was that it was not introduced before. The story he told me—and he will tell it again

himself—is that he had sent the Resolution earlier before the Session began, tabled it on 18th and I believe it was to have come on 5th December but somehow something went wrong.

SHRI SUNDAR SINGH BHANDARI (Rajasthan): To correct you, Madam, this is the Parliamentary Bulletin Part II, dated 5th December, 1968 and there is the Statutory Resolution seeking disapproval of the Essential Services Maintenance Ordinance, 1968 standing in my name. It was admitted by the Chairman even as early as 5th December.

SHRIMATI SHAKUNTALA PARANJPYE: It was admitted on 5th December but it had to wait all this time and even now the Resolution on the Agenda comes after the Bill. I do not think that is altogether right.

SHRI VIDYA CHARAN SHUKLA : It has come before.

SHRI SUNDAR SINGH BHANDARI : It has been mercilessly joined together with the Bill.

SHRIMATI SHAKUNTALA PARANJPYE: The Government promises in this Bill to institute a Consultative Committee to settle the disputes between the employees and the Government. Many Members have made the point and I do not like to repeat it but I have to say, why was not that provision made in the Bill itself ? Why was it not embodied in the structure of the Bill ? It is no use making promises and very often promises by the Government are vain promises. They promise one thing.

PANDIT S. S. N. TANKHA (Uttar Pradesh) : It was later promised by the Home Minister.

SHRIMATI SHAKUNTALA PARANJPYE: It could have been added and brought in by an amendment. Several times the Government does bring in things by amendments but it has not been done but the people are losing faith with the Government's promises. It had promised the

princes their Privy Purse. It wants to go back on it. It has promised to remove the Preventive Detention but it is still with us. Therefore these promises amount practically to nothing. It has been said and even many Members from the other side of the House have conceded that the Government would not agree to arbitration. Several proposals were made by the union leaders to the Government but they were not agreeable to accept any of them. The Home Minister had said that the Labour Commission could not be the adjudicator as well. That was proposed by the Joint Action Committee and it was not accepted. They made several proposals and none of them was acceptable to the Government. Therefore since there was no machinery by which an agreement can be reached between the employees and the employers, which is the Government in this particular case, what else could the workers do but go on strike? I know some people on the other side have said that it is the political leaders who are trying to make capital and who have come into the picture. That may be the case but if the Government had been effective and if the Government had governed well, I do not think any political party would have been so effective as they seem to be to-day. The question of the need-based minimum wage was the first demand of the workers and there is a terrible lot of confusion as to whether it was referred to the Labour Commission or not. It has been said it is certainly not being given but it is denied arbitration. I would like to know, if it was not an arbitrable point, why did they spend so many months discussing it? They should have said at the beginning, "This is not an arbitrable matter and so let us pass on" but for months they went on discussing about it. So it must come in somewhere. I am going to read something from the letter that Mr. Peter Alvares wrote to the Prime Minister and he says:

"On the 7th May 1965, the then Union Home Minister had assured that the Government would give up

its discriminatory powers to refuse arbitration on a subject where compulsory arbitration is admissible under the Scheme. Again while dealing with strikes he had stated that on certain specific important issues like salaries, hours of work and leave, the matter could be referred to compulsory arbitration. Thus the Central Government Employees' Organisations accepted the Scheme of Joint Consultation and Compulsory Arbitration under a complete understanding that compulsory arbitration would be available to settle the dispute about minimum remuneration and the wages of the Central Government employees. You will, therefore, appreciate that now by refusing arbitration on the issue of minimum wage and revision of pay structure, the Government has gone back on its earlier assurance." I can quote a lot from this but I know my time is limited and I am not going to do so very much more. The Prime Minister said that this was not arbitrable but it is just saying 'yes' and 'no' and that does not amount to much. Again I want to quote from the little pamphlet:

"Even a proposal by the JCA to wait till the National Commission on Labour gives its report provided the Govt, made a commitment here and now to refer the demands to arbitration as soon as the Commission finalised its report and also provided that an interim relief on basic wage was granted immediately was not acceptable to the Government." They made several attempts to come to an agreement with the Government but I am very sorry to say that the Government was just adamant and would not yield to anything. Then many Members on this side of the House have maintained that strikes are permissible in many other progressive countries. So it is no use saying that strikes should be completely banned and it is not the right of the workers. Somebody who can work, who has the right to work naturally, has the right to demand whatever he wants for his work.

[Shrimati Shakuntala Paranjpye]

Now the point is about the excesses committed by the police in dealing with the strike. Madam, it was a harrowing tale to read about the excesses committed by the police and therefore I would like to ask the Government about them. The Pathankot incident has been compared to the Jallianwala Bagh incident, which is really something which I just hate to consider. Then again, the man who was partially shot—who was shot at a meeting—and who was taken home by his friends, the police followed him to that house and shot him again to see that he died on the spot. Madam, this is something which is really a black spot on the administration. Still the Government refuses to have a judicial enquiry. That is what I would like to know, would like to know why the Government is refusing a judicial enquiry. The workers who went on strike are being taken to court. All right. Then why not the police who committed these excesses? Why have two yard-sticks for dealing with the offences committed by the employees and the police in connection with the strike? In fact, the police offences were far far worse than those committed by the workers. Therefore, Madam, I feel that the Government is really at fault for the state of things that we see ourselves in today. Inequalities are mounting. Government cannot control corruption and Government cannot control black market. On the one hand Government is very much in the hands of big monopolists, and I think, at times it seems to be hand in glove with the communists. I am not a politician, Madam, but I cannot help seeing things; I cannot help reading things and I cannot help listening to things, and this is the conclusion I have come to that they are trying to run with the hare and hunt with the hound. Where are you going? The Government I mean. Even in this incident of the strike, when Mr. S. M. Joshi wrote to the Prime Minister—before the strike came off—and said that he wanted to talk to her about the fourth-coming strike, the Prime Minister re-

fused him audience. But the next day she called a leader of the Communist Party to meet her and talk about things. Why is it? Is our Government not wanting to see and meet people belonging to sober parties, people who want to put the real socialist point of view, not the communist social point of view?

SHRI BHUPESH GUPTA: What is the communist social point of view? Tell me.

SHRIMATI PARANJPYE : I shall tell you later, not now, time is short.

THE DEPUTY CHAIRMAN: You must wind up now.

SHRIMATI PARANJPYE : When reading the debate on the subject in the Lower House I was struck by Acharya Kripa-lani's speech. He had thrown new light on the subject. He had said that strike by labourers, by workers in factories and so on, was a different matter, that when they went on strike there was something to fall back upon, that they had a plot of land on the yield on which they could get along at least few a time, that they might have wives who might be earning, sons who might be earning or daughters who might be earning. So when they went out of work they were not absolutely going to the wall, but with the white-collar employees, Madam, it was unfortunately a case of the whole family going to the wall and the whole family being put to starvation, which is an unfortunate thing. And I think the Government ought to consider the condition of these employees in a very very generous and kindly manner. It is still time to take back all the workers, to take back all the employees, and institute immediately a machinery wherewith disputes will be settled and matters will not come to such a pass.

Now I must talk about another thing to which none of the Members in the Lower House or this House have paid attention, or even will pay attention,

and about which I am absolutely worried and frustrated, Madam. We are talking about the demands of the workers.

SHRI M. M. DHARIA: We are with you.

SHRIMATI SHAKUNTALA PARANJYPE : I know many people are with me but they won't give expression to their thoughts—that is my woe; that is my sorry tale, Madam.

Now the need-based minimum wage, the real wage, the neutralisation of the wage, etc., what do they amount to? They amount to a wage which will support a family. Now, Madam, if a family is not going to be planned and limited, I want to ask everybody, how on earth are you going to meet this demand, because...

SHRI BANKA BEHARY DAS (Orissa) : I hope you will not control strikes. We are hundred per cent, with you but don't control strikes.

SHRIMATI SHAKUNTALA PARANJYPE: They all expect that strikes will go on. But it will be very difficult to get your demands accepted unless you have taken also the norm of a small family into consideration.

SHRI SUNDAR SINGH BHANDARI : The Bill ought to have been piloted by the Health Ministry.

SHRIMATI SHAKUNTALA PARANJYPE : I have lived in Australia for three years, Madam, and I know the conditions there. There, there is shortage of man-power and there the workers can get almost any demand that they put forward. There, the employers, be they Government, or be they private, they stand in dread of strikes. But here it is not the case. Here, if people go on strikes, they will go abegging because they are starving as a result of the strike.

You have rung the bell twice and so I do not want to take more time. I beseech all Members—I know, many Members agree with me; they think that it is necessary to limit and plan the families, but I beg of them to give their thought and their agreement and expression on the floor of this House—3—64 RS/68

when they are considering other measures also, not only on this occasion—on the subject of family planning, on how necessary it is for our country. Thank you.

THE DEPUTY CHAIRMAN: Shri Balkrishna Gupta. I think from now on Members would get just ten minutes each. We must finish this quickly. Mr. Balkrishna Gupta.

श्री बालकृष्ण गुप्त (बिहार) : उपसभापति महोदया, यह बिल इस वक्त हिन्दुस्तान के इतिहास में सिर्फ लेबर को दबाने के लिए और ट्रेड यूनियनज्म को खत्म करने के लिए लागू किया गया है। यह जो तीसरे और चौथे दर्जे के सरकारी कर्मचारी हैं, जो अत्यन्त त्रस्त हैं, अत्यन्त दुखी हैं, जिनको खाना, कपड़ा पूरा नहीं मिलता है, उनको दबाने के लिए बड़े व्यूरोक्रेट, बड़े मंत्री सब इकट्ठे हो गए हैं और इस बिल के द्वारा उन्होंने अपनी सरकार की जड़ में खूद कुल्हाड़ी मार ली है। 13 हजार कर्मचारी तो बर्खास्त किए गए हैं और बहुतसों पर मुकदमा चलाया गया है। स्ट्राइक करने का जो हर लेबर को फंडामेंटल राइट है, जो डेढ़ सौ वर्षों से प्रगतिशील विचारों के लोग कहते आए हैं उसको आज इस हिन्दुस्तान में दमन करके नष्ट किया जा रहा है। यह सरकार अपना नकाब उतार चुकी है और अब वह धन-पतियों, बड़े व्यूरोक्रेटों और बड़े मंत्रियों की एक गोष्ठी मात्र बन कर रह गई है। मैं क्या कहूँ, मेरे आसाम के एक दोस्त लिखते हैं कि बरोनी में कुछ आदमियों की जानें ले ली गई है और अभी तक उनको कुछ मुआवजा नहीं मिला है। पठानकोट में, बीकानेर में, यानी सारे हिन्दुस्तान में गोली चलाई गई है, गांहाटी में चली है, जगह जगह चली है, इन्द्रप्रस्थ भवन में भी चली है और आज उनके आंसू पोंछने के बजाय, उनको वापस काम देने के बजाय, उल्टे उनके ऊपर एक नए तरह का रोलेट बिल लादा जा रहा है, जो छोटे कर्मचारियों को हमेशा के लिए सरकार से अलग कर देगा। जो कहते हैं कि हम वामपन्थी हैं और दक्षिणपन्थी हैं, वह कुछ

[श्री बालकृष्ण गुप्त]

नहीं है, लेकिन यह सरकार जो काम कर रही है वह मानव-विरोधी काम है, यह ह्यूमेन राइट्स के खिलाफ काम है और यह गरीब जनता जो हिन्दुस्तान की 55 करोड़ है उसके ऊपर खुला आक्रमण है। यह आक्रमण, यह तीन वर्ष के लिए लाना और कहना कि हम दूसरा बिल ला रहे हैं जिसमें पंचायत में मामला जा सके, जिसमें आरबीट्रेशन हो सके, यह बहाना मात्र है। जब प्रिवेंटिव डिटेन्शन यहां आया तो कहा गया था कि यह थोड़े दिनों के लिए है, इमरजेंसी की चीज है, लेकिन आज हरएक के ऊपर वह लागू है और हर कांग्रेस-विरोधी के सिर पर उस प्रिवेंटिव डिटेन्शन की तलवार लटक रही है। कहीं जरा भी असंतोष होता है तो प्रिवेंटिव डिटेन्शन में राजनीतिक कार्यकर्ता गिरफ्तार कर लिए जाते हैं। और उनकी कोई सुनवाई नहीं होती। यह किस तरह का जनतंत्र है? मैं जहां कहीं जाता हूं वहां लोग बात करते हैं कि जनतंत्र मिट रहा है लेकिन जनतंत्र को खुद ही सरकार मिटा रही है और नानाशाही के काले कानून पास कर रही है। सोवियट यूनियन में या चीन में स्ट्राइक इस तरह से वर्जित है जिस तरह से यह सरकार कर रही है, फासिज्म और कम्युनिज्म के भीतर इस तरह के काले कानून निकाल कर के जनतंत्र की जड़ों पर कुठाराघात करना बहुत बरी चीज है। हम लोग मानते आये हैं कि लेबर के पास कुछ नहीं है, जिसके लिये कार्ल मार्क्स ने कहा था कि अपनी जंजीरे तोड़ने के सिवाय उसके पास कुछ नहीं बचा है, और अब उसके अपनी मेहनत करने का, विद्रोह करने का अधिकार भी छीना जा रहा है तो वह किसकी तरफ देखे, किस से आशा करे, जब कि चीजों के दाम दसगुने और बीसगुने बढ़ते जा रहे हैं और मुद्रास्फीत के कारण रोजाना नये नये करों का बोझा पड़ रहा है और चीजों के दाम बढ़ते जा रहे हैं तो इस महंगाई में सौ रुपया या दो सौ रुपया पाने वाला जिसके पांच या सात बच्चे हों वह क्या करे। जिसके लिये फेमिली प्लानिंग सिर्फ एक ही बात रह गई हो और जहां बच्चोंको पैदा करने पर

रोक लगाने की तरफ कोई ध्यान न दिया गया हो तो वह कैसे गुजारा कर सकता है। या तो सरकारी कर्मचारियों का कम्पल्सरी स्टेरिलाइजेशन कर दिया जाय ताकि वह इस तनख्वाह में रह सके नहीं तो वह कैसे अपने बीबी बच्चों और भाई भतीजों को रोटी भी दे सकता है।

यह सब देख कर के तो मैं बहुत दुखी हो जाता हूं कि हिन्दुस्तान में यह हो क्या रहा है। रोजाना नये नये काले कानून पास किये जा रहे हैं और वह भी छोटे छोटे लोगों पर, गरीबों पर, जिनको डा० राममनोहर लोहिया तीन आना रोज वाला कहा करते थे उन पर नये नये आक्रमण यह कांग्रेसी सरकार कर रही है। तो यह कानूनो आक्रमण कब तक चलेगा क्योंकि जनता के असंतोष को कानूनों से नहीं दबाया जा सकता है। इन्होंने बहुत से काले काले कानून भर रखे हैं और अब लोक सभा में फंडामेंटल राइट्स छीनने के लिये भी कांग्रेस सरकार श्री नाथ पाई के साथ मिल कर के कदम उठा रही है। यह सब देख कर के मुझे दंग रहा जाना पड़ता है।

श्री शीलभद्र याजी (बिहार) : आप क्या वकालत कर रहे हैं? वह तो आपकी पार्टी के हैं।

श्री बालकृष्ण गुप्त : जरूर करेंगे। मुनिये। फंडामेंटल राइट्स छीनने के लिये भी षडयंत्र रचा जा रहा है।

(Time bell rings)

मैं आपसे कहता हूं कि आप इस को वापस लीजिये और इन हजारों आदमियों को जिनको आपने बरखास्त किया है उनको सम्मानपूर्वक अपने स्थानों पर बैठाइये और उनकी तनख्वाहों में इतनी वृद्धि कीजिये कि वह खा पी सकें, कपड़ा पहन सकें और कुछ मामूली मकानों में भी रह सकें, अपने बच्चों को म्युनिसिपल स्कूलों में भी भेज सकें क्योंकि ये जो पब्लिक स्कूल हैं वे तो मंत्रियों, सेठों और बड़े बड़े व्यक्तियों के लिये हैं। जब तक हिन्दुस्तान में एक तरह के स्कूल नहीं होंगे, एक तरह की सब चीजें नहीं होंगी तब तक कैसे चलेगा। यह कानून बड़ा ही गन्दा

कानून है, बड़ा ही बीमत्स कानून है, बड़ा ही जन-विरोधी कानून है। इस कानून को लाकर के कांग्रेस ने अपना नकाब उतार कर अपना कान्ना चेहरा साफ प्रकट कर दिया है कि वह मजदूर-विरोधी है, वह किसान-विरोधी है और छोटे लोगों की विरोधी है।

SHRI U. K. LAKSHMANA GOWDA (Mysore) : Madam Deputy Chairman, I rise to oppose this Bill and support the Resolution of Mr. Bhandari. Mr. Bhandari in his speech has very clearly made out that it was on very flimsy grounds that the Ordinance was promulgated when the token strike took place. I also agree with him when he says that there was no necessity to have promulgated this Ordinance on the eve of the token strike because it was only the Government's understanding that this was a prelude to a general strike. I agree with him when he says that even if it was the case that a general strike was to have come about at the end of December there was ample time for the Government to have come before Parliament and taken the necessary measures.

Madam, it is really strange that a Government which calls itself a socialist Government and which in the past has rushed to come out with a large number of labour legislations as soon as ratifications of ILO Charters or Conventions are announced should have come with this measure. We found in India that labour legislations came out much faster than in many developing countries. Of course their implementation is a different matter which I leave to my trade union friends to explain. What happened in other countries is the labour legislations came in slowly and they were implemented and adhered to but here they brought them up so fast probably with an eye on the ballot box because the employers were less in number than the workmen and the workmen could provide them with more votes. But when it came to the question of applying them to themselves the Government felt rather shaky. Madam, it is common knowledge whenever industrial disputes or strikes arise in the

private sector the Government comes out with profuse advice about negotiations, arbitration, conciliation and Mr. Gulzarilal Nanda's famous code of discipline is applied. The employers are advised that there could be no lock-out, that the workers had the right to strike and the right of collective bargaining but when it comes to themselves they feel shaky about it and they rush to come out with a weapon which only the Government has, that is, promulgation of an Ordinance. And now they are coming out with a Bill to replace that Ordinance.

And what about the provisions of this Bill ?

This Bill, which has come out from this socialist Government which always states that it stands for the workers, has certain clauses which, as many of my friends around here have already argued, encroach on the fundamental rights of the workers. I am not in favour of strikes either by Government employees or by employees of the public or private sector but we must see that contented workers should be there, that security should be there, and that speedy arrangements should be available for conciliation, for adjudication. As our revered friend, Mr. Setalvad, has stated until an alternative machinery is provided for the settlement of disputes and strikes by Government employees or by private or public sector undertakings, the banning of strikes altogether is not the proper way. We all want quick settlement of disputes. What has happened in the past ? As I said so many legislations have been brought but in spite of all these, adjudications have been rather slow. Take the case of the Wage Boards which have sat for years before they could arrive at a unanimous recommendation or even a majority recommendation and there has been so much of delay in the implementation of the recommendations of the Wage Boards—which are not unanimous—by the Government. Naturally such delays result in the workers losing confidence, whether they are in the industries or in the Government.

Now, Madam, the Home Minister has stated that he is bringing about a Bill which will make the Joint Consultative Machinery a statutory one and then provide for compulsory arbitration. I am not very much in favour of compulsory arbitration; arbitration should be voluntary but whatever it is, arbitration is to be provided for and then in case no agreement is reached even there Parliament will be apprised about it. This is a very good idea but I would like to ask why this could not have been introduced in this Bill itself. It would have saved so much of controversy and heat both in this House and in the other House as well. Even now it is not too late and I request the Home Minister to consider putting into this Bill whatever proposals he hopes to put forward later. They say this is a temporary measure and this is for three years. I do not know what prevents this temporary measure becoming a permanent one. This has more arbitrary powers than is necessary for controlling industrial relations. I feel that the definition of "essential service" is such that it could be extended to anything, any industry, any establishment or any service. I was listening to Mr. Dharia's speech. He made certain points. I am certainly one with him so far as reducing the multiplicity of unions and providing one union for each industry is concerned. I should say that it should be followed by a criterion for the recognition of unions, which should be on the basis of a secret ballot of all the members of the establishment. If that is not done, how do we recognise a union, a single union for each industry? Then, he said that the union should be free from political influence. That is true. But as things stand today, particularly in regard to the unions of unskilled workers, it is always not easy to find people of ability to manage the unions. So, my suggestion is that progressively the influence of outsiders in the unions should be reduced. To start with we can prescribe a certain percentage, say, 25 per cent, of the office-bearers could be from outsiders. I think that

is a reasonable one. We cannot do away with it straightway, however much we may dislike the influence of political parties in the trade union movement.

So far as the Bill is concerned, I find that the clause relating to overtime work actually infringes on the worker's right. In the case of private industry, overtime work is accepted only on a voluntary basis and if a worker refuses, he cannot be forced to work overtime. Then, he is paid double the wages and in the case of plantation labour, it is one and a half times. Here without anything in this Bill, any person can be forced to work overtime, whether he likes it or not, in spite of the fact that the number of hours of overtime work for a week has been prescribed in general labour legislations.

So, I am not in favour of accepting this Bill and I oppose it. The Government should think of a measure by which they can enlist the support of their staff and see that security and confidence are provided for them and that they are kept contented. Otherwise, it is not possible to enforce loyalty and efficiency by Ordinances and such measures for all time to come.

Before I close I would like to repeat what many Members have said, viz., a lenient treatment for the people who are under prosecution under the Ordinance. So far as private industries are concerned, the Government always suggest reinstatement with back-wages. Here, whatever it is, I would like to tell them that they must consider reinstating all the people, except those who were involved in any criminal offence.

Thank you.

SHRI CHITTA BASU (West Bengal) :
Madam, I rise to oppose the Bill and support the Resolution moved by our friend, Mr. Bhandari. I have listened very carefully to the speeches of my hon. friends sitting opposite, particularly when they supported the

measure which the Government propose. In the course of the debate certain pleas have been made by them in support of this measure. Those pleas are as follows. They have made out that the measure is of a temporary nature, that the Bill does not militate against the provisions of the Constitution, that the Bill does not take away the right to strike by workers, that the Bill's object is simply to meet certain extraordinary situation arising out of the strike by the Central Government employees or the employees of any other essential service. I still hold that the pleas made by our friends opposite are not at all tenable. My endeavour would be to deal with them point by point.

As far as the question of the temporary nature of the Bill is concerned, as a matter of principle I would like to submit that, if a measure is not in conformity with the basic principle which we value much, the question of its temporary nature or permanent nature should not weigh with any of us. Since it is not in conformity with the basic principles, I am opposed to it. even for a moment, even for a second.

Again, assuming for the sake of argument that it is a temporary measure, may I ask the hon. Minister whether there has been any occasion for Parliament to repeal any Act which it enacted temporarily ? I think this Parliament has no record of repealing any Act. Of course, it is initially suggested that the measure is of a temporary nature. Only a few days ago, you will remember. Madam, I referred to the PD Act. The PD Act was also enacted for a temporary period to meet an extraordinary situation, but it still remains permanently on the Statute Book of our country. In this case, although the hon. Minister may say that it is a measure of a temporary nature, I am afraid it will ever find a place on the Statute Book, as my experience shows.

Regarding the point of extraordinary situation and the need to meet it, it has been pointed out by many and I

also mention that if an extraordinary situation arises, the Government has got the constitutional power, under article 123, to come out with an Ordinance. In that case there is no question of having a permanent measure of this nature falling upon the workmen as a whole. You may agree with me and the hon. Labour Minister may agree with me, if the Government is very much serious about the maintenance of essential services and meet the situation arising out of the strike in essential services, or public utility services, the Government is still armed with powers under the provisions of the Industrial Disputes Act to meet such a situation. Then, what is the need to come forward with a draco-nian measure as this Bill ? My point still remains that it militates against the provisions of the Constitution. I shall not discuss much on the constitutional aspect of it because it has been dealt with by many other friends. But I am convinced that the provisions of the Bill in clauses 4, 5 and 6 impose an unreasonable restriction on the rights of the citizen guaranteed under article 19(1)(a), (b) and (c). Again, clause 3(1) of the Bill confers unbridled authority to arbitrarily declare any service as essential which is deemed to be essential by the Government. That being the case, it militates against the provisions of the Constitution. As a matter of fact, Madam. I have also submitted during the earlier part when the matter was taken up that it definitely violates article 23 of the Constitution which bans forced labour. Madam, I want to bring to your kind notice the question of the right to strike. I do not say the right to strike is a fundamental right but the right to strike is a derivative right, because when the Constitution confers on the citizens the right to form unions, the right to form associations, and also the right of collective bargaining ; the right of collective bargaining becomes useless, becomes ineffective, becomes infructuous if the right to strike is taken away. In this connection I only want to quote a certain portion of Pandit Jawaharlal Nehru's speech by whose name many

[Shri Chitta Basu] of you, many of the Members sitting there, swear day in and day out, in season and out of season. What was the opinion of Pandit Jawaharlal Nehru regarding the strike itself? I quote from Shri Nehru's speech :

"Strike has been an old and well recognised weapon of industrial labour to better their condition. But I would earnestly suggest that the time has come when other methods should be evolved for the benefit of labour if we are to avoid strikes and lock-outs."

Even Pandit Jawaharlal Nehru did recognise the well-established norm of resorting to strike for the betterment of the condition of the working men.

In this connection I would also like to make a humble submission. Some hon. friends have referred to the name of Netaji as if he was opposed to strike in the trade union movement. As a matter of fact you would remember that Netaji was once the President of the All India Trade Union Congress. He was not only the President of the All India Trade Union Congress championing the causes of the down-trodden and the working class people of our country but he led so many strikes himself as in the case of the Tata employees. Therefore, it is unfair, it is unjust, it is unfortunate, to drag down his name when we discuss this particular question as if Netaji was anti-working class. I repudiate it with all the force at my command.

SHRI SHEEL BHADRA YAJEE : You are quoting the name of Netaji but you never saw the face of Netaji and worked under him.

SHRI CHITTA BASU: Do not disturb me. I quote from my own authority.

SHRI SHEEL BHADRA YAJEE: Listen to me. In *Indian Struggle*

SHRI CHITTA BASU: What does he want?

SHRI SHEEL BHADRA YAJEE: You take your seat. In *Indian Struggle* Netaji wrote that after independence when Congress comes to power, and adopts socialism as its creed, strikes in the private sector and public sector should be banned but a joint consultative machinery should be established.

SHRI CHITTA BASU : No. Anyway unfortunate, unfair and unpardonable to bring in the name of Netaji in this dirty affair.

SHRI SHEEL BHADRA YAJEE: I can show you.

SHRI CHITTA BASU: Now I come to the other portion. It has been suggested by many hon. friends that when you are going to deny us the right to strike, you are also at the same time denying us the right to remedy. It has been very ably mentioned by the hon. Member, Shri Setalvad, that we must have the right to remedy. In this connection, Madam Deputy Chairman, I also refer to a particular portion of the speech of Mr. Gulzarilal Nanda. Mr. Gulzarilal Nanda may go down the drain of history but I stand here to say that he was the man who could understand the real problem of labour unrest at the time of the 1960 Central Government employees' strike. I refer to a particular portion of his speech delivered in the Lok Sabha at that time.

THE DEPUTY CHAIRMAN: You have not so much time.

SHRI CHITTA BASU: I am not speaking irrelevantly.

THE DEPUTY CHAIRMAN: There are other speakers. I am giving you two or three minutes more.

SHRI CHITTA BASU : I could have finished by this time had there been no interruptions.

THE DEPUTY CHAIRMAN: I am giving you another three minutes.

SHRI CHITTA BASU : Five minutes. Shri Guizarilal Nanda said in 1960:

"We are not going to ban strikes. We are going to make them superfluous. I do not know whether he agrees. Even now we can ban strikes. There is the Industrial Disputes Act under which when we refer a case for adjudication strike becomes illegal. So illegality is not a new concept. The stress is not on banning the strike. The stress is on a machinery to be provided so that disputes will be (resolved by mutual understanding."

The2-efore this particular Bill we are considering and the particular Ordinance we are disapproving are a clear violation, a departure from the accepted principle of industrial relations, accepted by Mahatma Gandhi, as you may say, or enunciated in so many words, by Shri Guizarilal Nanda. Unless there is a provision for arbitration, unless there is a scope for the Central Government or any Government staff to get their rightful demands adjudicated upon, I think he has got no moral right, he has got no constitutional right, he has got no right to take away the right to strike.

Therefore. Madam, my humble submission is this. The Government today is laying more stress upon annihilating the trade union movement, laying mare stress upon taking away the democratic right of the people earned by struggles spread over decades, and is less interested about settlement of their disputes.

Before concluding, I would only say that there is a political motive behind it. As the Government, as it is run by the bourgeoisie or the landlords, is relying on foreign imperialists, they cannot but become autocrats ; as the people become restive for the preservation of their rights and for the fulfilment of their hopes and aspirations, they cannot but become autocratic. I do not know where that position would lead to. But I can say history is with us, justice is with us. In spite of so

many draconian laws, in spite of so many repressive measures, we on this side of the House along with the millions of the working men will fight you back and win a victory.

SHRI A. D. MANI: Madam, I am unable to support the Bill in its present form. If there had been substantial modifications of certain clauses making strikes in the interests of public order being banned, I might have supported the Bill.

SHRI B. K. P. SINHA (Bihar) : Give your amendment.

SHRI A. D. MANI : Madam, I would like to explain that under the Bill as it stands "public interest" means anything which the Government regards as public interest. For example, in the interests of stepping up production in one of the public sector units or factories Government may ban a strike. I think when once you accept the trade union movement as the basis for labour movement in the country, it is unfair to put restrictions on the right of labour to go on strike.

SHRI AKBAR ALI KHAN : Even in essential services ?

SHRI A. D. MANI : I am coming to that. Government has been encouraging workers to go on strike in the private sector industries. They have set up double standards. When the newspapers' strike was on, they said that the matter should be referred to arbitration. But when it comes to a question of need-based wages, they say this is not arbitrable. The Government always follows a double standard in regard to these matters.

Madam, my hon. friend, Mr. Akbar Ali Khan, raised a question whether there should be strikes in what are called essential services. I would have liked the Bill to deal with two classes of Government servants. Essential services should have been more strictly defined than has been done under the Bill. For example, any person who is in charge of wireless

[Shri A. D. Mani]

operation or communications performs an essential service; that person should be put on the same footing as members of the Army and" Navy under the Army or Navy Act. But there are 20 lakh workers who are engaged in avocations which may be called more or less commercial. The P. and T. Department cannot be regarded purely as a Government Department, it is a Commercial Department. And when a person works in the P. and T. Department, he cannot be denied the right of strike which obtains in private employment. If a man happens to do the same kind of work, I feel . . .

SHRI BALACHANDRA MENON (Kerala) : Even now he comes under the Industrial Disputes Act.

SHRI A. D. MANI: I am coming to that. Even now, as my friend, Mr. Balachandra Menon, pointed out, he comes under the Industrial Disputes Act. Now, what I would have liked the Government to do is to apply the Industrial Disputes Act to the points at issue between them and the Government. If, for example, the question of need-based minimum wage had been referred to industrial adjudication and if the presiding Judge had been given instructions by the High Court that the adjudication should be completed within a month or two, that would have fully satisfied the point of view of the workers. But that was not done. The Government say that they called the workers to arbitration. But I understand from Mr. S. M. Joshi himself that Mr. Peter Alvares was knocking at the door of the Government for starting negotiations on this issue and the Government did not respond to his overtures for negotiations.

Clause 3 of the Bill says—

"If the Central Government is satisfied that in the public interest it is necessary or expedient to do so, it may, by general or special Order, prohibit strikes in any essential service specified in the Order."

According to my amendment, only in the interest of public order can the

Government ban strikes. The idea that I have before me is this. By public order I mean this : if a strike takes a violent turn, then apply the provisions in full and bring out any Ordinance because we cannot have any kind of violence either in the private sector or in the public sector. If that had been done, it would have been more in consonance with the professions of the Government that they are pursuing the goal of socialism in the country. But, unfortunately, this was not done. Under clause 3(1) it is said—

"If the Central Government is satisfied that in the public interest . . ."

Public interest may mean anything. This completely takes away the right which belongs to the workers and which is enjoyed by a large number of people in private employment.

A question has been raised whether the workers have got the right to strike, and an extreme legal position has been taken by my hon. friend, Mr. Setalvad, this morning when he said that a Government servant or anybody has not got the right to strike, that it is not a fundamental right. But freedom of association means collective bargaining and strikes flow from collective bargaining. Perhaps if the Government had stated that the Government servants should not form trade unions, that would have been a different matter. But that stand has not been taken by the Government.

I would like to make one final submission. A number of us feel that the recent strike of September 19 could have been avoided if leaders of political parties waiting anxiously for improving their chances at the mid-term poll had not been connected with Government servants' unions. If that can be done under the fundamental rights, I would like a ban to be placed against outsiders being associated with the Government servants' unions. It would enable the Government servants to approach the adjudicating machinery for redress of grievances. This was

not done and we had a most unfortunate strike which was put down with draconian severity.

Only one ward, Madam. This is Gandhi Centenary Year. Even condemned prisoners have been let go at some stage. I would ask the Government, in the name of Gandhiji and in the name of Gandhi Centenary Year, to withdraw all the cases of suspension which are now in force and allow Government servants to come back to their duty. Let bygones be bygones. This we expect. We owe it to Mahatma Gandhi. I hope the Government would respond to our appeal.

THE DEPUTY CHAIRMAN: Mr. Bhandari will reply.

श्री सुन्दर सिंह भंडारी : मुझे बिल पर भी बोलने का अधिकार है . . .

I
THE DEPUTY CHAIRMAN: On both. That decision is not to be discussed.

श्री सुन्दर सिंह भंडारी : मैं आपकी आज्ञा को शिरोधार्य करते हुये फिर से आपसे निवेदन करना चाहूंगा कि जब मैं शुरू में इस प्रस्ताव को प्रस्तुत करने के लिये खड़ा हुआ था उस समय बिल सदन के सामने नहीं था। इस वजह से आपने प्वाइंट्स आफ आर्डर किसी पर भी अलाऊ किये होंगे, लेकिन मैं अगर इस बिल पर बोलता तो किसी प्रकार से उसको वैधानिक संगति प्राप्त नहीं होती। इस कारण अब मैं इस बिल का विरोध करने खड़ा हुआ हूँ।

श्री विद्या चरण शुक्ल : जवाब आपका बाद में होगा।

THE DEPUTY CHAIRMAN: He can speak on either. He has to reply. That is all.

श्री सुन्दर सिंह भंडारी : अगर आप मेरे अधिकार को न मानें तो यह आप की मर्जी की बात है।

THE DEPUTY CHAIRMAN: I have called him to give the reply.

श्री सुन्दर सिंह भंडारी : मुझे बिल पर बोलने का अधिकार इस प्रथम वाचन के समय है। अगर . . .

THE DEPUTY CHAIRMAN: I have called you to reply to the debate on your Resolution, and if you want, also to speak on the Bill.

श्री सुन्दर सिंह भंडारी : मैं बिल का विरोध करने के लिये खड़ा हुआ हूँ। मैंने पहले भी निवेदन किया था कि यह बिल इस समय लाया जा रहा है यह बिल जहाँ एक तरफ बाबन्दी लगाने की बात करता है वहाँ पर साथ साथ लोगों की मांगों का परिमार्जन करने के लिये जो व्यवस्था होनी चाहिये उसके सम्बन्ध में यह बिल मौन है। जैसा कि आज भी माननीय सदस्य श्री सीतलबाइ जी ने बताया कि अब तक इस सम्बन्ध में कठिनाइयों के निवारण के लिये कोई व्यवस्था न हो और आटोमेटिक व्यवस्था का इसमें से निर्माण न होता हो तब तक यह बिल आक्टिविटीज की भावनाओं से ही प्रेरित माना जायेगा। इसी कारण यह बिल इस समय आना नहीं चाहिये था और अगर सरकार किसी ऐसी व्यवस्था के बारे में निर्णय नहीं कर पाई है तो उसे इस तरह के बिल को लाने के बारे में जल्दबाजी नहीं करनी चाहिये थी क्योंकि यह कर्मचारियों का प्रश्न, उनका वेतन, उनका महंगाई भत्ता और उनकी बाकी मांगें, ये नई नहीं हैं, पुरानी हैं और इस बिल पर विचार करने के पहले भी सरकार और कर्मचारियों के बीच में काफी मसले उठे हैं। आवश्यकता इस बात की थी कि इस बिल का निर्माण करते समय ही सरकार उस मशीनरी का भी समावेश इसमें करने का प्रयत्न करती। सरकार ने जो बिल के अन्दर उद्देश्य दे रखे हैं उनमें तो उन्होंने कम से कम यह संकेत किया है कि वे एक दूसरी व्यवस्था इसके साथ लागू करेंगे, लेकिन बिल की वादी में इस व्यवस्था का कोई उल्लेख नहीं है। मेरा यह निवेदन है कि जो स्टेटमेंट सरकार ने इस बिल को लाने के सम्बन्ध में दिया, उस स्टेटमेंट में जिस भावना का उन्होंने प्रकटीकरण किया है, यह बिल भी जब तक उस संपूर्ण भावना का समावेश न करता तब तक यह अधूरा रहेगा, और इस अधूरे

[श्री सुंदरसिंह भंडारी]
विधेयक का समर्थन इस सदन में नहीं किया जा सकता।

मिनिमम नीड वेम्ड वेज मांग की गई है और आज भी जो लेबर कमीशन के सामने मसला खड़ा है मैं यह जानना चाहूंगा कि लेबर कमीशन के सामने यह सवाल स्पष्ट रूप से विचारार्थ है क्या? अगर यह विचारार्थ है तो बात समझ में आ सकती है और कर्मचारियों से कहा जा सकता है कि कम से कम लेबर कमीशन इस प्रश्न पर विचार कर रहा है। लेकिन यह प्रश्न अगर उनके भी विचारार्थ नहीं है तो अंततः गत्वा इसको आविट्रेशन के लिये जाना पड़ेगा। मंत्री महोदय ने एक आश्वासन दिया है कि ऐसे आविट्रेशन की वे व्यवस्था करेंगे। लेकिन कम से कम तीन वर्ष तक जब तक यह बिल लागू रखने की वे मंशा बताते हैं सरकार के इस वचन को कोई वैधानिक स्वीकृति, सरकार के ऊपर कोई पाबन्दी इस सिद्धांत को लागू करने 3 P.M. को इसमें नहीं लगती। अभी तक जो रवैया इनने वर्षों तक रहा है वह यही है कि अनेक चीजों का वचन सरकार की तरफ से दिया गया लेकिन वे कार्यान्वित नहीं हुई। जब इस बिल को लोकसभा में पेश किया गया तब मंशा 5 वर्ष की थी, आपत्तियों के बाद आपने अब 3 वर्ष कर दी है। यह बात तो ठीक है कि आप कह सकते हैं कि तीन वर्ष के बाद यह बिल समाप्त हो जायगा, परन्तु सरकार इस तीन वर्ष की मियाद में वृद्धि नहीं करेगी, इसकी क्या गारन्टी है? इस तरह से यह एक निगेटिव मेजर है। कोई पोजिटिव व्यवस्था के बिना आज जिसको तीन वर्ष के लिए चालू रखने का अधिकार मांगा जा रहा है वह आगे भी बढ़ाई जा सकेगी।

इस बिल के सम्बन्ध में प्रस्तावक महोदय ने एक बात रखने की कोशिश की। क्लॉज 2 के सबक्लॉज 9 के अंतर्गत सरकार किसी भी सर्विस को एसेंशियल सर्विस घोषित कर देगी तो पार्लियामेंट के सामने उसको एप्रूव कराएगी। इस बिल में यह व्यवस्था नहीं है कि अगर पार्लियामेंट

ने उसको डिसएप्रूव किया, पार्लियामेंट ने उसको मोडीफाई किया तो उसका क्या होगा। मैं यहां पर केवल कम्पेरीजन के लिए ध्यान दिलाना चाहता हूँ कि आर्डिनेन्स में इस बात की गुंजाइश रखी गई थी कि सदन चाहे तो उसको एप्रूव करे, उसको मोडीफाई करे या डिसएप्रूव करे और अगर मोडीफाई किया गया तो उसने मोडीफाई फार्म में ही यह एसेंशियल सर्विस का नोटिफिकेशन लागू रहेगा। यह बिल इस मामले में चुप है और इस तरह से यह बात मान कर चली जा रही है कि केवल सदन के सामने उस आर्डर को लाया भी गया तो हमारे सामने कोई दूसरी गुंजाइश नहीं होगी सिवाय इसके कि हम उसको एप्रूव करें। कहा गया कि सरकार की नीति आरबीट्रेरीनेस नहीं है, सरकार पार्लियामेंट के सामने आएगी तो पार्लियामेंट के सामने केवल अंगूठा लगवाने के लिए आना चाहती है, पार्लियामेंट को उसको मोडीफाई करने का अधिकार इस बिल के अन्दर नहीं देना चाहती।

मैं यहां पर मंत्री जी का ध्यान एक और बात की ओर भी दिलाना चाहूंगा। मैं सब क्लॉज (4) (बी) को 'either' 'or' को हटा कर एक सीधी सी भाषा के साथ पढ़ना चाहूंगा और वह यह है:—

"Any strike commenced before the issue of the order by persons employed in any such service shall be illegal."

मैं समझता हूँ कि मैं मिसकोट नहीं कर रहा हूँ, मैंने केवल 'either' 'or' हटाया है 'either' 'or' हटाने के बाद क्लॉज की भाषा बनती है:—

"Any strike commenced before the issue of the order by persons employed in any such service shall be illegal."

मैं माननीय सदस्यों के विचारार्थ एक प्रपोजीशन रखना चाहूंगा। इस क्लॉज 2 के अन्तर्गत एसेंशियल सर्विसेज की जो 8 धाराएं दी हुई हैं उनकी बात मैं नहीं करता, वे तो एसेंशियल सर्विसेज हैं, नवीं धारा में एसेंशियल सर्विस घोषित

करने का सरकार को अधिकार है। आज जो सर्विसेज एमेंशियल सर्विसेज घोषित नहीं की गई हैं उनमें हड़ताल शुरू हो जाती है। हड़ताल शुरू होने के बाद भी सरकार उसको एमेंशियल सर्विसेज घोषित कर सकती है और घोषित करते ही आर्डर भी दे सकती है कि अब जो सर्विसेज एमेंशियल सर्विसेज घोषित कर दी गई उसकी हड़ताल इललीगल होगी। यह आर्डर उस प्रकार की हड़ताल को जो पहले से जारी हो गई है उसको भी इललीगल घोषित करवाएगा और उस हड़ताल में भाग लेने वाले कर्मचारियों को इस कानून के अंतर्गत सजावार घोषित करवाया जा सकता है। मैं चाहूंगा कि मंत्री महोदय संविधान की उम्र धारा को देखें जिसको मैंने उस दिन कोट किया था कि उम्र व्यक्ति को उस जुर्म के लिए सजा न दी जाय जिस दिन उसने क्राइम कमिट किया उस दिन वह (क्राइम) जुर्म की सजा में नहीं था। आपने यहां पर सब क्लॉज (4) (बी) के अन्तर्गत दिया है—

"Any strike commenced before the issue of the order by persons employed in any such service shall be illegal."

और सेक्शन 4 के अन्तर्गत दिया है—

"Any person who commence a strike which is illegal under this Act shall be punishable . . ."

यह तो उसको सजा उस काम के लिए दी जायेगी जो बाद में एमेंशियल सर्विसेज घोषित करने के बाद, आर्डर के मानहानि बैंक डेट में, रेट्रोस्पेक्टिव एफेक्ट के आधार पर, उसके माथे पर जुर्म लगाने की बात होगी। मैं चाहूंगा कि इस सम्बन्ध में मंत्री महोदय जरूर स्पष्टीकरण दें।

मैं माननीय सदस्य श्री बसावड़ा जी के एक विचार का यहां उल्लेख करना चाहता हूँ। जब उन्होंने फाइनेंसियल एसिस्टेंस की बात कही थी, यह कहते समय उन्होंने यह मद्दिखा जरूर व्यक्त की कि उस हड़ताल पर गए हुए व्यक्ति के कुटुम्ब के पालन के लिए दी जाने वाली आर्थिक सहायता पर या हड़ताल के सम्बन्ध में गिरफ्तार व्यक्ति की वकालत या लीगल एसिस्टेंस के लिए

दी जाने वाली सहायता पर यह कानून थोड़े ही लागू होगा, यह कानून तो और मतलबों के लिए है, लेकिन यह अब इसमें से निकल कैसे गया? मैं इसके साथ ही उल्लेख करना चाहूंगा अनलाफुल एक्टिविटीज बिल का। जब हम उस पर विचार कर रहे थे सेलेक्ट कमेटी में तो एक आपत्ति उठी थी कि अनलाफुल एक्टिविटीज के अन्तर्गत पकड़े गए व्यक्ति के मकान की तलाशी और कुर्की लेने समय कम से कम उसके घर के बर्तन, पहनने के कपड़े और घर की चीजें न कुर्क की जायें और होम मिनिस्टर ने अपने उस डाक में इसका सेविंग क्लॉज डाला। मैं बसावड़ा जी से पूछना चाहता हूँ कि उन्होंने जो ह्यूमेन एप्रोच की बात कही है वह ह्यूमेनिज्म हमारे और आपके बीच में ही तो नहीं रह जायगा या कानून और स्टेट्यूट बुक पर भी जायगा स्टेट्यूट बुक पर जानि के बाद इस प्रकार से दी जाने वाली सहायता इस परिभाषा में सम्मिलित होगी या नहीं होगी? अगर नहीं करवाना चाहते हैं तो फिर सरकार को इस तरह से दी जाने वाली किसी सहायता और इस तरह से दी जाने वाले लीगल एसिस्टेंस के बारे में एक सेविंग क्लॉज डालना चाहिए। अगर वह क्लॉज नहीं डाला गया तो बसावड़ा जी जो चाहते हैं कि जिस काम के लिए इस कानून का उपयोग न किया जाय और इस तरह की सहायता करने वाले लोगों को भी इस कानून के अन्दर एसिस्टेंस और एवेंटमेंट के चार्ज में फंसा कर उनको भी सजावार न बनाया जाय उसके लिए यह जरूरी है कि इस कानून के अंतर्गत इस तरह का सेविंग क्लॉज डाला जाय।

इसलिए मैं चाहूंगा कि इन सब बातों का विचार किया जाय। जब तक 'रेट्रोस्पेक्टिव एफेक्ट' या 'बिफोर' वाली धारा है तब तक तो यह सारा बिल आरबीट्ररी है। दूसरी संज्ञा इसको नहीं दी जा सकती।

कल एक बारीक-छ्वाली का परिचय दिया गया कि बिल में स्ट्राइक्स को ब्रेन करने की बात नहीं कही गई है। किसी सर्विसेज को एमेंशियल सर्विसेज

[श्री सुंदर सिंह भंडारी]

घोषित करने की बात है और एसेंशियल सर्विस घोषित करने के बाद वहाँ पर स्ट्राइक्स को इल्लीगल घोषित करने की बात है नहीं। स्ट्राइक बन करने की बात नहीं है। मैं समझता हूँ कि बाल की खाल हम सब लोग उतार सकते हैं, लेकिन इसका नतीजा क्या निकलता है। एसेंशियल सर्विस हमने घोषित कर दी, स्ट्राइक को हमने इल्लीगल घोषित कर दिया, तो फिर हमने कौन सा अधिकार उनके लिए सुरक्षित रखा अगर हम यह कहते हैं कि हमने स्ट्राइक करने को बंद नहीं किया। आप यह कह सकते हैं कि हमने चोरी पर पाबन्दी थोड़े ही लगाई है, चोरी करने वालों के लिए केवल सजा की व्यवस्था की है, उसे चोरी करने से रोका थोड़े ही है। यही उदाहरण कहीं पर इसके साथ भी तो लागू नहीं होगा ?

जैसा कि सदस्यों ने मांग की है, एसेंशियल सर्विसेज की परिभाषा को आप अधिक स्पष्ट करिए। और एसेंशियल सर्विसेज एक्ट को हमेशा के लिये चालू रखना उसी तरह से होगा जैसे कि देश में इमरजेंसी के बारे में पिछले दिनों में एक हवा पंदा कर दी गई थी कि जिसके कारण इमरजेंसी की सीरियसनेस समाप्त हो गई थी भलेही इमरजेंसी उस समय लागू रही हो। इमरजेंसी को वर्षों तक बढ़ाते चले जायें, उसकी कोई हद न रखें तो इमरजेंसी के रहते हुए इमरजेंसी के अधिनियम का मखौल बनने लगा था उसी प्रकार से एसेंशियल सर्विसेज के बारे में, इसेंशियल सर्विसेज की परिभाषा का, मखौल न बनने दीजिये।

जैसा कि मंत्री जी ने उस दिन भी बताया इस सब क्लॉज 9 के अन्तर्गत ऐसी पब्लिक अंडरटेकिंग्स और ऐसी प्राइवेट अंडरटेकिंग्स भी आ सकती है जो कि इंडस्ट्रियल डिसप्यूट्स एक्ट के अन्तर्गत रेगुलेट होती हैं, क्योंकि इस बिल में कहीं भी यह नहीं है कि इंडस्ट्रियल डिसप्यूट्स एक्ट के अन्तर्गत जो सर्विसेज आती हैं उनको इसमें एग्जेंशन रहेगा और उसकी सारी व्यवस्था को इस कानून के आ

जाने के बाद बाई-पास नहीं कर दिया जायगा। अर्थात् एक बिल्कुल ब्लैकट अधिकार इस कानून के मातहत आप लेने की कोशिश कर रहे हैं। सारा ट्रेड-यूनियनिज्म, आज तक इम्प्लायर और इम्प्लोई के जितने सम्बन्ध रहे हैं, इन सब को एक प्रकार से खत्म कर के इस एक ब्लैकट एक्ट के आधार पर रेगुलेट करना चाहते हैं। इस एक्ट के अन्तर्गत केवल एक ही बात करनी है कि किसी भी सर्विस के लिये एक आर्डर निकाल कर उसको इसेंशियल सर्विस घोषित कर देना है और कम से कम 40 दिन तक उस पर कोई पाबन्दी नहीं है। इसमें यह है : "Whether it is one session or two sessions comprising 30 days." अब हम यह भी सोच लें कि हमारा जो आटम सेशन होता है वह तो 20 दिन के लिये ही होता है। तो अगर उस सेशन के पहले कोई आर्डर निकाला गया और आटम सेशन 20 दिन का रहा तो दूसरे सेशन के पहले दिन तक आटोमेटिकली वह टेबिल पर ले नहीं होगा और दो सेशनों के बीच में छः महीने का मार्जिन हो सकता है।

श्री महावीर प्रसाद भार्गव (उत्तर प्रदेश) :
आटम सेशन तो छः या सात हफ्ते का होता है।

SHRI SUNDAR SINGH BHANDARI: I mean September session. I am prepared to accept my mistake.

सितम्बर का सेशन ही अगर बीस दिन का रहेगा तो यहां 30 दिन का मार्जिन है और अगर एक सेशन में तीस दिन से कम है तो दूसरे सेशन तक उसको टाल सकते हैं, उसको 30वें दिन तक हटा देंगे और इस तरह से अगले सेशन में उसको रखेंगे। तो इस कारण से आर्बिट्रेरीनेस के लिये उसे महीनों तक टाले रख कर लोगों को इल्लीगल एक्टिविटीज में पकड़ने और सजा देने और उनको जेल में डालने का आपके पास अधिकार है। आप पालियामेंट को बड़ी आसानी से बाई-पास कर सकते हैं और पालियामेंट के सामने आने के जो पहले चाहे कर सकते हैं।

जैसा कि मेरे रेजोल्यूशन के साथ, मेरे स्टेटुटरी रेजोल्यूशन के साथ हुआ और जैन

साहब को मेरे ऊपर आक्षेप लगाने का अधिकार प्राप्त हो गया कि मैं अपने अधिकारों के बारे में सचेत नहीं रहा, मैं सावधान नहीं रहा। मैं केवल उनको याद दिलाना चाहूंगा कि सरकार का यह नोटिफिकेशन 20 नवम्बर को इस हाउस की टेबिल पर रखा गया है, 20 नवम्बर के पहले राज्य-सभा की टेबिल पर यह नहीं रखा गया है। मैंने अनियत दिन वाला प्रस्ताव बहुत पहले दे दिया था उस बारे में और यह उसी आर्डर पेपर में प्रबलिश हुआ है जब कि जैन साहब ने नागा विद्रोहियों की समस्या के बारे में प्रस्ताव दिया था वह छपा है, उसी दिन मेरी भी 19 सितम्बर की हड़ताल के बारे में नोटिफिकेशन था। स्टैट्यूटरी रेजोल्यूशन भी 5 दिसम्बर को चैयरमैन साहब के द्वारा एप्रूव हो कर सरकुलेट कर दिया गया था। अब मुझे मालूम नहीं, 5 दिसम्बर को एप्रूव हो जाने के बाद भी हाउस में वह विचारार्थ आता ही इसके लिये वह मुझे कोई तरकीब सिखा दें तो मैं उनकी शांति स्वीकार कर लूँ, क्योंकि रेगुलर प्रोमीजर में जितना हो सकता था वह मैं कर चुका। उस दिन लोक सभा भी सेशन में थी और राज्य सभा भी सेशन में थी। मैं नहीं जानता कि मेरे इस रेजोल्यूशन को खटाई में डाल कर जैन साहब को मेरे ऊपर आक्षेप लगाने का मौका किसने प्रदान कराया? और यह क्यों आक्षेप लगवाया गया कि मेरे रेजोल्यूशन पर विचार करना इन्फ्रक्चुअम है क्योंकि राज्य सभा इस आर्डिनेन्स को डिस-एप्रूव भी कर देती है तो जब तक कि लोक सभा भी इसे डिस-एप्रूव नहीं करती तब तक उसको कोई वैलिडिटी नहीं है। लेकिन मैं कहना चाहूंगा कि इसमें मेरी कोई गलती नहीं है, कहीं ऐसा न हो कि जैन साहब ने मिल कर ही मेरे प्रस्ताव को खटाई में डलवाया हो ना वह इसके लिये अपनी जिम्मेदारी स्वीकार कर लें।

लेकिन मैं इतना जरूर कहूंगा कि यह आर्डिनेन्स तो और भी खतरनाक है क्योंकि बिल के अन्दर लेजिस्लेशन के मुद्दाव के अनुसार सरकार ने जो मंशोधन स्वीकार किये उसको पार्लियामेंट

के सामने लाना लाजमी बना दिया है। लेकिन सरकार के लिये आर्डिनेन्स के अन्तर्गत तो यह जरूरी नहीं था कि वह उसको कब लाती। अब मैं आर्डिनेन्स की धारा 2(2) को पढ़ता हूँ :—

"Every notification issued under subclause (ix) of clause (a) of subsection (1) shall be laid, as soon as may be, after it is issued before each House of Parliament, while it is in session for a total period of 30 days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the notification, or both Houses agree that the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under or by

अर्थात् अगर हम सदन में ला कर उसको डिस-एप्रूव भी कर देते तो भी कुछ नहीं होता। इस बिल में तो फर्स्ट डे आफ दि सेशन की बात है लेकिन आर्डिनेन्स में वह भी नहीं था। आर्डिनेन्स में तो 30 दिन के अन्दर जब कि पार्लियामेंट सेशन में हो तब रखना था, वह 30 दिन चाहे दो सेशन मिला कर हो या एक सेशन हो, किसी भी दिन वह रस्म-अदायगी करनी थी कि उसको टेबिल आफ दि हाउस पर रख दिया जाय। उसके बाद अगर वह डिस-एप्रूव भी हो जाय तो आपने एक और अधिकार ले रखा था कि उस गलत आर्डर के आधार पर जिसको इमेशियल सर्विस घोषित नहीं करना चाहिये था उसको कर के भी उस पर आपने कितने भी जुल्म ढा दिये हों, कुछ भी कर दिया हो, किसी को कुछ भी सजा दे दी हो, किसी की सर्विस को टर्मिनेट कर दिया हो, उसको डिस-एप्रूव करने के बाद भी हमारे हाथ बंधे हुये थे कि पहले क्या हुआ उन सब गलत कामों के बारे में हम किसी तरह का आक्षेप नहीं लगा सकते थे क्योंकि आपने इस आर्डिनेन्स

virtue of that notification."

[श्री सुंदर सिंह भंडारी]

में ही कह दिया था कि किसी भी प्रकार में shall be without prejudice to the validity of anything previously done under or by virtue of that notification. %\

कोई चर्चा नहीं हो सकेगी। मैं समझता हूँ कि इससे ज्यादा आर्टिटेरिन्स किसी भी आर्डिनेंस में नहीं हो सकती।

(Time bell rings.)

महोदया, जैसा कि मैंने शुरू में कहा कि मैं बहुत आभारी हूँ। सदन के माननीय सदस्यों का जिन्होंने मेरे प्रस्ताव पर विचार प्रकट किया और लगभग सभी लोगों ने इस बात को स्वीकार किया है कि उस अवसर पर कोई ऐसा कारण नहीं था कि यह आर्डिनेंस जारी किया जाता। टोकन स्ट्राइक थी और लम्बी अगर होनी थी तो 31 दिसम्बर को होनी थी। जैसा कि वसावड़ा साहब ने कहा कि यह तो रिहर्सल था तो अगर रिहर्सलों पर आर्डिनेंस निकालने लग गये तो फिर क्या कहा जाय। मैं मानता हूँ कि 19 तारीख को हड़ताल हुई और अगर 19 तारीख की हड़ताल के सफल होने के बाद फिर 20 तारीख को भी इनडिफिनिट पीरियड के लिये हड़ताल बढ़ती तो उसी समय आर्डिनेंस निकालने का अधिकार आपको एक मिनट में था, आप उसी समय तात्कालिक रूप से आर्डिनेंस लागू कर के वे सब कदम उठा सकते थे जो कि आर्डिनेंस के अन्तर्गत आवश्यक होते।

उस समय अगर वह एक इन्डिफिनिट स्ट्राइक में टन हो सकता, अगर वह रिहर्सल आगे बढ़ने वाला था, तो आगे बढ़ सकने की संभावना लेकर फिर अगर आप आर्डिनेंस जारी करते तो मैं उसका समर्थन करने के लिये तैयार हो जाता। फिर आप कहें, देश के अंदर ऐसी अनेक इमरजेंसी हैं, पैदा होती है और हो सकती है। अगर आप समझते हैं कि आपका सरकारी तंत्र किसी इमरजेंसी को शार्टेस्ट पामिबल नोटिस पर डील करने की ताकत नहीं रखता, तो इमरजेंसी पावर लेने का भी कोई अधिकार आपको नहीं है। आप उसी समय तत्काल ही, जैसे ही परि-

स्थिति डेवलप होनी इन्डिफिनिटेस की तरफ जाने की, यदि उसका कोई भी संकेत प्राप्त होता, आप आर्डिनेंस जारी करके वह अधिकार लेते।

मुझे दुःख है कि यहां पर जो आक्षेप किया गया है वह तो ऐसे तत्वों को साथ जोड़ कर, ला कर, आक्षेप किया गया है जो हड़ताल के नाम पर नहीं बल्कि दूसरे आधारों पर देश के अंदर अराजकता है, देश के अंदर हिंसा है, या देश के अंदर अप्रजातांत्रिक मनोवृत्तियां हैं—आप मानों एक नियम बनाना चाहते हैं सारे देश के अंदर। माफ करियेगा, सांप को दूध पिला कर और किसी भी मोके पर किसी वाजिब बात को होने यह नहीं देना, यह किसी भी तरह देश के इन्टरेस्ट में नहीं होगा। इससे तो जो वाजिब हथियार हैं अपनी मांगों को रखने के, उनको मनवाने के, कलेक्टिव बार्गेनिंग के साथ साथ हड़ताल जोड़ कर अपनी बात मनवाने का, वह सब हथियार लंगड़े हो जायेंगे। अगर कारण तोड़ फोड़ करने-वाले तत्व हैं तो उसका इलाज इस तरह से हड़ताल के मामले को डील करने से नहीं होगा, उसका इलाज दूसरी जगह ढूँढना होगा, इसके लिये सरकार की सारी नीतियों को स्ट्रीमलाइन करना होगा, उसके लिये हड़ताल के अतिरिक्त, देश की राज्यों की नीतियों को उन शक्तियों के साथ निपटने के लिये कठोरता का आचरण करना पड़ेगा लेकिन आप उन शक्तियों को संभाल नहीं पा रहे हैं।

श्री अजित प्रसाद जैन का तर्क अजीब था कि मैं जो यह आर्डिनेंस को निरस्त करने को प्रस्ताव रख रहा हूँ या अनेक सरकारी कर्मचारियों की दलील इस सदन में रख रहा हूँ, इसी को उन्होंने मान लिया कि हड़ताल के राजनैतिक कारण बन बये, मानो यह राजनैतिक हड़ताल बन गई। मैं नहीं मानता जैन साहब इन सदनों के प्रतिनिधित्व को क्या मान कर चलते हैं। अगर हम देश के विभिन्न अंगों में, मेक्शन अफ सोस इटी में, चाहे वह मजदूर हो चहे वह कर्म-

चारी हो, चाहे वह किसान हो, उनकी तकलीफों को हम यहां नहीं कहेंगे, उनके प्रति सरकार ने जो अन्याय किया है, उनके साथ हाइड्रैन्डनेस बरती है, अगर उसको हम यहां नहीं कहेंगे और अगर संवैधानिक अधिकारों का सरकार दुरुपयोग करती है, चाहे वह आर्डिनेन्स के कारण ही क्यों न हो, तो हम उन सवालों को यहां नहीं उठाएंगे तो फिर हमने बाकी के सब फोरम्स बंद कर रखे हैं। अगर पार्लियामेंट में इन सवालों को उठाने से पोलिटिक्स बीच में आ जाता है तो मालूम नहीं जैन साहब भी अपने आप को किसी पोलिटिकल पार्टी से संबंधित मानने के लिये तैयार हैं कि नहीं। आज अगर उनका विरोध है तो मैं यहीं कहूंगा कि यह विरोध भी केवल पोलिटिकल है, यह ईमानदारी का कांस्टीट्यूशन-लिज्म का विरोध नहीं है। जब सरकार अपने वैधानिक अधिकारों का दुरुपयोग करेगी तो वह सारे सवाल यहां पर उठेंगे और सब तरह की दृष्टि से उठेंगे। मंत्री महोदय भी उसी स्ट्रेन में बोले कि "19 तारीख की हड़ताल पर हम आर्डिनेन्स नहीं लगाते अगर उसमें पोलिटिक्स नहीं लायी जाती।" तब तो मुश्किल यह है कि इस देश के अंदर ऐसी कोई घटनाएं न घटें और सारी राजनैतिक पार्टियां पेंशन लेकर घर बैठ जायें और फिर मंत्री महोदय सबसे पहले रिटायर हों। राजनैतिक पार्टियां जब इस देश के अंदर हैं और राजनैतिक पार्टियां इन सारे प्रश्नों से भी या इन सारे मूवमेंट्स से भी, चाहे वह ट्रेड यूनियननिज्म हो चाहे कर्मचारियों की यूनियन्स हों, संबंधित हैं तो राजनैतिक सवाल भी उठेंगे।

मैं इस सिद्धान्त को मानता हूँ (Time bell rings)

कि ट्रेड यूनियन मूवमेंट, कर्मचारियों का संगठन चाहे वह सरकारी क्षेत्रों के हों या निजी क्षेत्रों के हों, इनमें राजनैतिक दलों के प्रोजेक्शन्स नहीं आने चाहियें या स्वतंत्र रूप से ट्रेड यूनियननिज्म का सिद्धान्त इस देश में डेवलप हो। परन्तु उसमें भी हड़ताल तो होगी, उसमें भी क्लेक्टिव बागिंग तो होगी, उसमें भी कांसिलियेशन के लिये मजबूरी की स्थितियां निर्माण की जायेंगी और अगर सरकार उन मांगों को

ठुकराने की कोशिश करेगी तो ट्रेड यूनियनों के द्वारा चुने हुए प्रतिनिधि ही इस सदन में उस प्रश्न को उठाएँ यह पाबंदी नहीं रहेगी, फिर राजनैतिक दलों के लोग भी उस लड़ाई को अपनी लड़ाई बनाकर कम से कम इस बात के लिये इस सदन में आयेंगे कि उन यूनियन्स के प्रति न्याय किया जाय, उनकी मांगों को स्वीकार किया जाय, एक ऐसी मशीनरी इबाल्व की जाय कि जिसके कारण लोगों को हड़ताल पर जाने का अवसर प्राप्त न हो। मैं यह मानता हूँ कि हड़ताल पर आसानी से कोई जाना नहीं चाहता और मैं श्री अर्जुन अरोड़ा का आभारी हूँ कि उन्होंने स्वयं ट्रेड यूनियन वर्कर होकर इस बात को अनुभव किया है कि कर्मचारी हड़ताल को कम से कम पहले पग के रूप में उठाने को कभी तैयार नहीं होता। जब हड़ताल के लिये फैसला लेना होता है, जब हड़ताल के लिये वह स्थिति निर्माण होती है, तो सरकार उसके पीछे की, उन सारी पूर्व घटनाओं को नजरअन्दाज करके सारी चीजों पर परदा डाले नहीं रह सकती, केवल यह कह कर कि पोलिटिकली मोटिवेटेड थे। इसका मतलब तो यह हुआ कि 19 तारीख को हड़ताल के पहले सरकार के साथ वर्षों तक सरकार के प्रतिनिधियों (Time bell rings.) से विभिन्न लेवल्स पर जो बातचीत हुई...

THE DEPUTY CHAIRMAN: You have taken 35 minutes. Please wind up.

SHRI SUNDAR SINGH BHANDARI: Whatever it is, I shall try to finish...

SHRI BHUPESH GUPTA: ... in about an hour more.

श्री सुन्दर सिंह भंडारी : तो इतना सारा इतिहास उसके पीछे है और उस इतिहास के कारण जब आर्डिनेशन के लिये सदन में पहले भी कई बार पिछले सत्रों में चर्चाएं हुईं तो जब सरकार आर्डिनेशन के लिये जाने को भी तैयार नहीं हुई—लोग कहते हैं उस 19 तारीख की हड़ताल से हो क्या गया? यह हो गया कि आप कम से कम इस सदन में यह बात मानने के लिये

[श्री सुन्दर सिंह भंडारी]

मजबूर हो गये कि आबिट्रेशन की मशीनरी का प्रपोजल हमारे विचाराधीन है—तो वह चीज कहलवाने के लिये और मनवाने के लिये लोगों को हड़ताल करनी पड़ी, उनको बड़ी हड़ताल पर जाना पड़ा, हजारों लोगों को अपनी नौकरियों से हाथ धोना पड़ा, उनकी नौकरियां टर्मिनेट हुई, उनको "पे आफ" किया गया और आज ऐसे लोग जिन्होंने कि धारा 144 का भी उल्लंघन नहीं किया था...

श्री महाबीर प्रसाद भार्गव : दोस्तों की मेहरबानी हो गई है उन पर ।

श्री सुन्दर सिंह भंडारी : अगर अब वास्तव में आप उन दोस्तों से उनको बचाना चाहते हैं तो अधिक होशियारी रखनी होगी ।

श्री महाबीर प्रसाद भार्गव : आप वचा लीजिये ।

श्री सुन्दर सिंह भंडारी : आपकी बुद्धि को भी इस दाव पर लगाना चाहता हूं कि अगर इस तरह से दोस्तों की बात को बीच में लाकर उन्हीं का रुतबा आप बढ़ाना चाहते हैं, छोटी से छोटी बात का स्वाभाविक विचार करने के बाद और हर कदम को कांफ्लिकटेड करके उन थोड़े लोगोंकी शराहत को ही सारी समस्या की जड़ बनाकर और उमी का सारी समस्या का रूप देना चाहते हैं, तो मैं यह कहूंगा You are giving the devil more than its due. जरूरत से ज्यादा आप उसको महत्व दे रहे हैं । सारे सरकारी कर्मचारियों की अपनी एक मांग रही, उनका एक केस रहा है, वह इसी बात के लिये आग्रह करता रहा कि आप इस सवाल को आबिट्रेशन के लिये देना मंजूर कर लीजिए । मुझे पूरा विश्वास है कि आबिट्रेशन को देने के लिये तैयार हो जाते तो हड़ताल पर न जाते । वह चीज उस समय आपकी राय में गलत थी तो आज उस प्रपोजल पर विचार करने के लिये आप क्यों तैयार हो रहे हैं स्ट्रेट्युटरी व्यवस्था लाने के लिये, क्यों इस बात पर मंजूरी कर रहे हैं ? यह चीज आप 19 ता० की हड़ताल के पहले क्यों नहीं कर सकते थे । उस समय में और

आज में ऐसी कौन सी नयी चीज घट गई है ? लेकिन आपने यह अनुभव कर लिया कि 19 तारीख की हड़ताल के पहले उसको ठुकराकर और आडिनेंस की कुल्हाड़ी उनके गर्दन पर लटकाकर आप उन्हें हड़ताल पर जाने से नहीं रोक सके । आप इस सारी चीज के बारे में जिस को आप कहते हैं कि पोलराइजेशन हो जाता, पोस्ट एंड टेलिग्राफ की हालत क्या कह रही है ! कितनी चिट्ठियां, कितनी मन चिट्ठियों का पता नहीं, आज किस के भाग्य का फैसला देख रही है और उनका आज तक भी पता नहीं है । इस तरह से कितने दिनों तक सारी मशीनरी डिसलोकेट रही और हड़ताल में तो इस तरह की बातें होती ही रहती हैं । लेकिन आज आप जिस बात को स्वीकार कर रहे हैं कि एसेनसियल सर्विस में हम हड़ताल को रोकेंगे मगर इसके साथ ही साथ दूसरी व्यवस्था भी देंगे ।

इसजिण मैं चाहूंगा और जैसा कि श्री वसावड़ा जी ने कहा कि सरकार कम से कम इस बात का आश्वासन देगी कि जबतक कानून नहीं बनता है तबतक वह जो वचन दे रही है उसको लागू करेगी । मैं इसकी दूसरी तरफ जाना चाहूंगा कि जबतक स्ट्रेट्युटरी आबिट्रेशन की व्यवस्था न बन जाय तबतक किसी भी सर्विस को एसेनसियल सर्विस मत घोषित करिये । यह एक कोरोलेरी है और मैं कोई दूसरी चीज नहीं कह रहा हूं, लेकिन मैं यह चाहूंगा कि जबतक आप स्ट्रेट्युटरी आबिट्रेशन की व्यवस्था नहीं कर लेते तबतक आप को अपने वचन पर पाबन्द रहना चाहिये और जो आश्वासन, जो कंसीडरेशन की बात आप सदन के सामने कह रहे हैं उसको पूरी तरह से निभाइये और तबतक सर्विसेज को एसेनसियल सर्विस घोषित मत करिये । ये दोनों चीजें एक साथ ही लागू हो सकती हैं ।

आज आप बहुमत के आधार पर सदन में इस बिल को स्वीकार करा लेंगे । लेकिन मैं राष्ट्रपति जी से यह निवेदन करना चाहूंगा, आपके द्वारा, कि इस बिल को मंजूरी तबतक न दी जाय जबतक आबिट्रेशन की मशीनरी की स्कीम उनके पास न आ जाय और वह जनता के सामने

प्रकाशित न कर दी जाये। सरकार के लिए यह एक मारल ओब्लिंगेशन है कि वह इस आर्बिट्रेशन की मशीनरी को स्वीकार करे और जब तक वह इस मशीनरी को स्वीकार नहीं करती है तबतक इस बिल को मंजूरी के लिए विद हेल्ड कर दिया जाय। यह कह कर मैं सभी माननीय सदस्यों का आभारी हूँ जिन्होंने इस बिल को निरस्त करने के लिए मेरे प्रस्ताव का सम्पूर्ण रूप से समर्थन किया है।

SHRI VIDYA CHARAN SHUKLA: Madam. I thank the Members who have taken part in the discussion on my motion for consideration of this Bill. The main point which most of the Members have made is regarding the positive arrangements that we have announced that we are going to make for settlement of disputes and differences of opinion between the Government and its employees. I have in a broad way indicated the lines on which we wish to bring forth a measure before this hon. House to put that kind of a machinery on a permanent and statutory basis. Some Members asked whether the arbitration award given by the Board of Arbitrators will be binding on both the parties. Yes, it would be. That would be of course under the overriding authority of Parliament. As a matter of fact even under the present JCM there is a Board of Arbitration which is headed by the ex-Chief Justice of India and that award given by it is binding on the Government and on the staff side. It is only on grounds of national economy and public service that the award of the Board of Arbitration can be amended.

SHRI BHUPESH GUPTA: You have given a broad indication but have you now accepted that need-based minimum demand is arbitrable and can go for arbitration?

SHRI VIDYA CHARAN SHUKLA: Our stand on the matter has been made clear and our stand remains the same. There has been no change on that. I wish to point out here that this has been the thinking of the Government right from the beginning. We do not 4-64 R. S./68

want to take away any kind of right or impose any kind of restriction without granting alternative forums where the grievances of the employees can be properly discussed and redressed.

SHRI BHUPESH GUPTA: You have given a broad indication of what you have in your mind by way of elucidation. All that I ask is have you now come to the conclusion that the demands such as the demand for a need-based minimum wage can now be sent to arbitration? Have you accepted it in principle?

SHRI B. K. P. SINHA: It is for the Government as a whole to say.

SHRI VIDYA CHARAN SHUKLA: The House and each Member knows what is our stand on this and I need not waste my own time in going into the same ground again and again. I was tracing the history. Hon. Mr. Arora mentioned that in the time of Pandit Pant and Pandit Nehru a strike of this kind—not this kind but it was an indefinite strike—took place and at that time no such Bill was brought forward by the Government but he conveniently omitted to mention that an Ordinance of this type was even then promulgated when Pandit Nehru was the Prime Minister and Pandit Pant was the¹ Home Minister. It was allowed to lapse. At that time even we had thought that we should have some sort of machinery which would give a forum to the Government employees to agitate their grievances and in that forum the staff side and the Government side could sit together and talk about the matter and settled the disputes according to the procedure laid down. It was also the intention at that time that the provision about strike as it was mentioned in the Ordinance plus this permanent machinery would be put on a statutory basis. Later on it was decided otherwise. In my opinion—I do not want to comment on the previous decision—if that decision or the thinking that was prevailing then had gone through and even the right of strike plus this machinery had these difficulties that we face to-day been put on a statutory basis, then all would not have arisen probably but at

[Shri Vidya Charan Shukla] that time the decision was taken not to enact a Bill of this kind and not to have a machinery on a statutory basis. Instead a decision was taken to have a voluntary machinery and in pursuance of that, the JCMs were set up and they started functioning and the JCMs were not on a statutory basis. It is a fact that if the JCMs had worked according to the Government's idea or if the JCMs were allowed to function in the proper manner, then even this kind of difficulty that we are facing would not have arisen but it is unfortunate that certain people took to their mind to disrupt the work of the JCMs and when the JCMs were stalled, then all kinds of difficulties began to arise. We have had the experience of the JCMs for the last 8 or 9 years and the many difficulties and now we have come to the conclusion that we must put both these things on a statutory basis so that there would be no difficulty, as far as the public services are concerned, and whatever chance the political elements have at present to enter the Government employees' minds and their sphere and influence them politically, that kind of influence is no longer permitted and we have an effective machinery in which all the grievances that the Government servants feel from time to time or the difficulty they may have could be brought forth and could be properly settled. I was asked how this JCM would work. It would work more or less on similar lines to the present JCMs. We wish to improve on it so that it becomes more effective and it becomes a little more difficult for people to disrupt its working. I have already mentioned that most of the matters that may arise before the Joint Consultative Machinery would be of such a nature which could be referred to arbitration that is, to the board of arbitrators and, therefore, suppose an award is given and that award could not be accepted, then it would be incumbent on the Government to bring forward that particular award of the board of arbitrators and also state the reasons why the Government could not accept it, bring that all before Parliament, and

only with the overriding authority of Parliament matters could be decided ; Government on its own would not have the power to arbitrarily either accept or reject the award given by the arbitrators.

SHRI BHUPESH GUPTA: Need-based minimum wage will not be there, according to you.

SHRI VIDYA CHARAN SHUKLA: Madam, Mr. Bhupesh Gupta is worried about the need-based minimum wage and all that. I would say that in case a particular dispute or a particular issue could not be referred to the board of arbitrators, according to the new scheme that we are proposing Government will be compelled to bring forward that particular matter also before Parliament giving reasons why it had not been possible for them to refer that matter to the board of arbitrators. Then Parliament will have the chance to debate it and also give its directions to the Government. And it goes without saying that all the directions which Parliament chooses to give, Government will have to follow all those directions.

SHRI AKBAR ALI KHAN: That is an improvement.

SHRI VIDYA CHARAN SHUKLA: Some hon. Members asked me, Madam, what was the Government doing for all this time. I have already indicated that we first tried to prevent the strike among Government employees, and we also tried to settle the disputes by voluntary methods. Having failed to do so, now we have started thinking on lines of putting the JCM on a statutory basis—and our experience so far has not been very happy. We started with the presumption that the associations of the Government employees will only argue on the merits of a case, that they will not be having any kind of political considerations, any kind of political influence on them. But I am sorry to say that our expectations were belied ; we did not succeed in keeping the political influence out of these staff associations. And unfortunately because of these political interferences in the matters of

of the Essential Services
Maintenance Ordinance, 1968

Maintenance Bill, 1968

Government employees the present necessity arose. Otherwise, the voluntary method that we had devised earlier would definitely have succeeded.

Many hon. Members from this side and that side have pleaded for a sympathetic approach. I have already indicated that the Government's approach to its employees is very sympathetic. (Interruptions). In support thereof no more proof is needed than this that most of the notices of dismissal or discharge from service, that were issued in pursuance of the law, were withdrawn by the Government, and whatever cases are going on now, in those cases also, wherever we find that there has been only technical violation of the law, sympathetic attitude could be taken. It is not that Government wants to punish the employees also for technical offences, or wants to throw out as large a number of employees as possible.

SHRI BANKA BEHARY DAS: It was not clear ; what do you mean by 'technical violation' ? In the case of those who participated in the strike and did not resort to any violent action, are you not to consider those cases as cases of technical violation of the law and withdraw the cases against them or the punishments awarded to them?

SHRI VIDYA CHARAN SHUKLA: Madam, it is not our policy to withdraw any case ; it is not a question of withdrawal but (Interruptions) we are going to take a very sympathetic and lenient view of those people who were involved in cases which involved only technical violation of the law.

SHRI BANKA BEHARY DAS: Define what is 'technical violation' ?

SHRI VIDYA CHARAN SHUKLA: Madam, I do not think, at this stage, it is either necessary or possible for me to define what it is, because all these matters are sub *judice* before courts of law, and I am not going to say anything further than this.

SHRI SUNDAR SINGH BHANDARI: You can withdraw the cases.

SHRI VIDYA CHARAN SHUKLA: I Madam, I was saying that our attitude towards Government employees is one of sympathy. We know that Government employees, by and large, are very patriotic people, and in spite of all the attempts to mislead them, only a small section of them went on strike, and most of them, the bulk of Government employees refused to side with the instigators, and once they knew that the Government had ordered them or had requested them not to go on strike and these provisions were being made, they chose to abide by the law rather than violate the law by being misled by those people who were urging them to go on strike.

Madam, we have several times before this House referred to the problems that our employees are facing and, as I said, our attitude has been one of sympathy ; we want to settle their disputes. We know that there are real difficulties for the Government employees. The difficulties and the troubles that the Government employees are facing, they are not imaginary, they are real difficulties. But we have to solve these within our own resources, within our own means. We cannot just go by the theoretical angles of this case. We have to see how far we can do. what is our capacity to do and to what extent we can do without damaging the national interests. And that is why, Madam, we want to take our time and see that these things are properly solved.

Now, it has been stated several times that these matters including the matter of a national minimum wage referred to, are before the National Labour Commission. We have said it.

SHRI BHUPESH GUPTA: Not a 'national minimum wage' but a 'need-based minimum wage'.

SHRI VIDYA CHARAN SHUKLA: No, no, what is before the Labour Commission is a national minimum wage ; that is the issue before the National Labour Commission, and, Madam, we are awaiting the report of the National Labour Commission. And as soon as the report is received, then only we can

[Shri Vidya Charan Shukla] consider the demand that was raised by Mr. Nand Kishore Bhatt, that a third pay commission should be appointed. Now, until the report of the National Labour Commission is received by us, we are not in a position to even consider these matters. After the report is received and We have been able to study that report, then we shall determine what can be done about that matter.

Mr. Vasavada, who is a veteran trade union leader, also asked me a question, and he asked whether I would be prepared to give an assurance here that we shall at least follow the spirit of the measures that we are going to bring forward later on before this House. I am very happy and I am very willing to give the assurance that we shall follow the spirit of the legislation that we want to bring forward in this House later on, and I am not at all hesitant in giving that assurance because we want to do it as early as possible, and I hope that before that Bill is brought forward in this House and till that Bill is passed by this honourable House, it would not be necessary for us to invoke the provisions of the Bill which is presently under consideration by this honourable House. What I am saying is that if we have the opportunity and we can follow the scheme that we have thought of, we will be able to bring the Bill before this honourable House in a very short time. But here again I would say that hon. Members should not mistrust the Government. They should not have any doubts about the *bona Sides* or the desire of the Government to fulfil an assurance which is given with all responsibility on the floor of the House.

Hon. Member. Mr. Arjun Arora, said that because the present Bill is going to be valid for three years, it itself proves that Government itself doubts the utility of this Bill. I would ask the hon. Member to seriously study the matters and not speak in a light-hearted manner in this House. It has been stated in my speech when I was moving the motion for consideration that this

Bill has been brought forward as a temporary measure mainly because we wish to replace it by a more comprehensive measure later on, which will include both sides of the case, and I have said it not only here but also in the other House. But still the hon. Member gets up and tries to say that the Government itself doubts the validity or the usefulness of this Bill because it has been made valid for three years. This really shows how lightly the hon. Members are taking this very serious matter.

SHRI BHUPESH GUPTA: You mean how lightly hon. Members are taking the hypocrisy of the Government.

SHRI VIDYA CHARAN SHUKLA: Well, Madam, Mr. Bhupesh Gupta is incorrigible. I do not wish to comment upon whatever he says ; because nothing affects him, he will go on saying whatever he thinks proper, and since he is not affected by what we say, we are not also very much affected by what he says. Otherwise it would have become impossible to function in this House if we take him seriously.

SHRI BHUPESH GUPTA: If I had been affected by what he says I would have been a Congressman and if he had been affected by what we say he would have been here. It is simple.

SHRI B. K. P. SINHA: May I tell the hon. Minister not to worry about what Mr. Bhupesh Gupta says but to go ahead with the speech because Shri Bhupesh Gupta is like the village school-master of Goldsmith who though vanquished would argue still.

SHRI VIDYA CHARAN SHUKLA: Madam, I had explained the point that Mr. Bhandari again raised in his reply. He was referring to clause 3(4) (b) and he made a general point about this matter that any strike declared or commenced, whether before or after the issue of the Order, by persons employed in any such service shall be illegal. His point was that this gives power to Government to punish the striker with retrospective effect. But I had made it clear that no person who takes part in

the strike could be punished for anything done by him before the issue of the notification. I am quite clear in my mind about that and that is the intention with which we had put this provision in the Bill. He also mentioned about the notifications that may be issued under sub-clause (ix) of clause 2(a) of sub-section (1) of clause 2. There also I had indicated that any such notification or the rules that would be made would be laid before Parliament and unless they are approved by Parliament within forty days of their being so laid they would lose their effect. We have made it in that positive way rather than merely laying them on the Table of the House and waiting for the Members either to object to them or raise discussions about them. This provision means that the Government will have to bring forward a specific resolution seeking the approval of the House and only if the House approves it, it will go forward; otherwise not.

Madam, I have already covered most of the points that the hon. Members have raised and I hope having regard to the clarification I have given the House will give its approval to this Bill.

SHRI BALACHANDRA MENON: The present Industrial Disputes Act clearly defines what is a public utility concern and all workers except the ministerial section or clerks come under it and there is machinery there. Why don't we follow that and why should we take on something more? And why was it that the Government refused to accept after the negotiations fell through? When the Labour Commissioner had already discussed with all the parties, why did not the Government follow the law and refer the matter to adjudication?

THE DEPUTY CHAIRMAN: That will do.

SHRI BALACHANDRA MENON: Why did you not follow the present law?

THE DEPUTY CHAIRMAN: You have said that; don't repeat yourself.

SHRI PITAMBER DAS (Uttar Pradesh): The life of this Bill, as the Bill says, is to expire after three years, that is, on the eve of the 1972 general elections. I would like to know from the Minister whether it is mere coincidence or is it deliberate that the life of the Bill expires just on the eve of the next Parliament elections?

SHRI D. L. SEN GUPTA (West Bengal): May I know from the Minister when he says that so long as alternative provision is not being made for arbitration on the grievances of the workmen this legislation will not be given effect to or no action will be taken on the basis of this legislation, why does not he then withdraw this legislation and bring a comprehensive Bill? That is my point.

SHRI VIDYA CHARAN SHUKLA: Madam, there is definitely a difference between industrial workers and Government employees. Whereas industrial workers are governed by the rules of their own contract, Government employees are governed by the statutory rules in so far as their terms of service, conditions, pay and all those things are concerned. That is why it is not possible to apply the Industrial Disputes Act to this matter.

About the interesting point raised by Mr. Pitamber Das I may tell the House that it is not our wish to let this Bill remain on the Statute Book for three years. We would like to replace it by the comprehensive measure much earlier. This is only an outside limit that has been provided here.

SHRI D. L. SEN GUPTA: What about my point? Madam, my point has not been answered.

THE DEPUTY CHAIRMAN: I think your point has been answered earlier. Now I shall put the Resolution to vote.

The question is:

"That this House disapproves the Essential Services Maintenance Ordinance, 1968 (No. 9 of 1968) promulgated by the President on the 13th September, 1968."

The House divided.

THE DEPUTY CHAIRMAN: Ayes—
19; Noes—78.

AYES—19 Barbora,
Shri G. Basu, Shri Chitta Bhadram,
Shri M. V. Bhandari, Shri Sundar
Singh Das, Shri Banka Behary Gupta,
Shri Bhupesh Mahavir, Dr. Bhai
Menon, Shri Balachandra Misra, Shri
Lokanath Moideen, Shri Ka j a
Murahari, Shri Godey Pitamber Das,
Shri Sen Gupta, Shri D. L.,
Shakuntala Paranjpye, Shrimati
Shejwalkar, Shri N. K. Sinha, Shri
Rewati Kant Thengari, Shri D.
Varma, Shri Niranjana Villalan, Shri
Thillai.

NOES—78 Abraham, Shri
P. Alva, Shri Joachim Bhargava, Shri M.
P. Bhatt, Shri Nand Kishore Chandra
Shekhar, Shri Chandrasekhar, Dr. S.
Chavda, Shri K. S. Chetia, Shri P. Dass,
Shri Mahabir Dharia, Shri M. M. Doogar,
Shri R. S. Gilbert, Shri A. C. Gujral, Shri
I. K. Gurupada Swamy, Shri M. S. Hathi,
Shri Jaisukhlal Hussain, Shri Syed
Jahanara Jaipal Singh, Shrimati Jain, Shri
A. P. Kaul, Shri B. K. Kemparaj, Shri B.
T. Khaitan, Shri R. P. Khan, Shri Akbar
Ali Kollur, Shri M. L.

Krishan Kant, Shri Kulkarni, Shri B. T.
Kurre, Shri Dayaldas Lalitha (Rajagopalan),
Shrimati Mallikarjunudu, Shri K. P.
Mangladevi Talwar, Dr. (Mrs.) Maniben
Vallabhbbhai Patel, Kumari Mehta, Shri Om
Mishra, Shri S. N. Mitra, Shri P. C.
Mohammad, Chaudhary A. Muhammad
Ishaque, Shri Nandini Satpathy, Shrimati
Narayan, Shri M. D. Narayanappa, Shri
Sanda Patra, Shri N. Pattanayak, Shri B. C.
Phulrenu Guha, Dr. Shrimati Punnaiah, Shri
Kota Pushpaben Janardanrai Mehta. Shri-
mati Puttappa, Shri Patil Reddy, Shri K. V.
Raghunatha Reddy, Shri M. Srimvasa
Reddy, Shri Nagi Rizaq Ram, Shri Salig
Ram, Dr Sangma, Shri E. M. Sanjivayya,
Shri D. Satyavati Dang, Shrimati Savnekar,
Shri B. S. Seeta Yudhvair, Shrimati Sen, Dr.
Triguna Shah, Shri K. K. Shanta Vasisht,
Kumari Sherkhan, Shri Shukla, Shri M. P.
Singh, Shri Bhupindei Singh, Shri Dalpat
Sinha, Shri Awadheshwar Prasad Sinha, Shri
B. K. P. Sinha, Shri R. B. Sinha, Shri
Rajendra Pratap Sukhdev Prasad. Shri
Tankha, Pandit S. S. N. Tiwary, Pt.
Bhawaniprasad Tripathi, Shri H. V.

Untoo, Shri Gulam Nabl
Usha Barthakur, Shrimati
Vaishampayan, Shri S. K.
Varma, Shri C. L.
Vasavada, Shri S. R.
Vero, Shri M.
Vidyawati Chaturvedi, Shrimati
Vimal Punjab Deshmukh, Shrimati
Yajee, Shri Sheel Bhandra

4 P.M.

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That the Bill to provide for the maintenance of certain essential services and the normal life of the community, as passed by the Lok Sabha, be taken into consideration."

The House divided.

THE DEPUTY CHAIRMAN: Ayes—79
; Noes—18.

AYES—79 Abraham,
Shri P. Alva, Shri Joachim Bhargava,
Shri ML P. Bhatt, Shri Nand Kishore
Chandra Shekhar, Shri Chandrasekhar,
Dr. S-Chavda, Shri K. S. Chetia, Shri
P. Dass, Shri Mahabir Dharia, Shri M.
M. Doogar, Shri R. S. Gilbert, Shri A.
C. Gujral, Shri I. K. Gurupadaswamy,
Shri M. S. Hathi, Shri Jaisukhlal
Hussain, Shri Syed Jahanara Jaipal
Singh, Shrimati Jain, Shri A. P. Kaul,
Shri B. K. Kemparaj, Shri B. T.
Khaitan, Shri R. P. Khan, Shri Akbar
All Kollur, Shri M. L. Krishan Kant,
Shri Kulkarni, Shri B. T.

Kurre, Shri Dayaldas Lalitha
(Rajagopalan), Shrimati
Mallikarjunudu, Shri K. P. Mangladevi
Talwar, Dr. (Mrs.) Mani, Shri A. D.
Maniben Vallabhbhai Patel, Kumari Mehta,
Shri Om Mishra, Shri S. N. Mitra, Shri P.
C. Mohammad, Chaudhary A. Muhammad
Ishaque, Shri Nandini Satpathy, Shrimati
Narayan, Shri M. D. Narayanappa. Shri
Sanda. Patra, Shri N. Pattanayak, Shri B. C.
Phulrenu Guha, Dr. Shrimati Punnaiah. Shri
Kota Pushpaben Janardanrai Mehta, Shri-
mati
Puttappa, Shri Patil Reddy, Shri K. V.
Raghunatha Reddy, Shri M. Srinivasa
Reddy, Shri Nagi Rizaq Ram, Shri Salig
Ram, Dr. Sangma, Shri E. M. Sanjivayya,
Shri D. Satyavati Dang, Shrimati Savnekar,
Shri B. S. Seeta Yudhvair, Shrimati Sen, Dr.
Triguna Shah, Shri K. K. Shanta Vasisht,
Kumari Sher Khan, Shri Shukla, Shri M. P.
Singh, Shri Bhupinder Singh, Shri Dalpat
Sinha, Shri Awadheshwar Prasad Sinha,
Shri B. K. P. Sinha, Shri Ganga Sharan
Sinha, Shri R. B. Sinha, Shri Rajendra
Pratap Sukhdev Prasad, Shri Tankha, Pandit
S. S. N. Tiwary, Pt. Bhawaniprasad
Tripathi, Shri H. V.

TJntoo, Shri Gulam Nabi
Usha Barthakur, Shrimati
Vaishampayan, Shri S. K.
Varma, Shri C. L.
Vasavada, Shri S. R.
Vero, Shri M.
Vidyawati Chaturvedi, Shrimati
Vimal Punjab Deshmukh, Shrimati
Yajee. Shri Sheel Bhadra

NOES—18 Barbora,
Shri G. Basu, Shri Chitta Bhadram,
Shri M. V. Bhandari, Shri Sundar
Singh Das. Shri Banka Behary -flupta,
Shri Bhupesh Mahavir, Dr. Bhai
Menon, Shri Balachandra Moideen,
Shri Kaja Murahari, Shri Godey
Pitambar Das, Shri Sen Gupta, Shri D.
L. Shankuntala Paranjpye, Shrimati
Shejwalkar, Shri N. K. Sinha, Shri
Rewati Kant Thengari, Shri D. Varma,
Shri Niranjana Villalan. Shri Thillai.

The iiiiotion was adopted.

SHRI BHUPESH GUPTA: I have a suggestion to make. Because of this kind of voting, people do not know exactly who have voted against it. Therefore, I suggest that the names of all those who have voted for or against should be published in a Gazette Extraordinary and also issued to the press.

SHRI AWADHESHWAR PRASAD SINHA (Bihar): The photograph of Shri Bhupesh GuDta should also be published.

THE DEPUTY CHAIRMAN: Now. let us carry on. We shall take up the clause-by-clause consideration of the Bill.

Clause 2—Definitions

SHRI M. V. BHADRAM : Madam, I move :

12. "That at page 2, for lines 4 to 113, the following be substituted, namely: —

'(a) "essential service" means any public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 and specified in the First Schedule thereto ;'."

(The amendment also stood in the names of Shri D. L. Sen Gupta, Shri Chitta Basu and Shri Bhupesh Gupta).

SHRI BALACHANDRA MENON: Madam, I move:

13. "That at page 2, for lines 21 to 23, the following be substituted, namely: —

'(viii) any other service which both Houses of Parliament may decide from time "to time by a majority of not less than three-fourths of the total membership of each House to be an essential service for the purposes of this Act'."

<The amendment also stood in the names of Shri M. V. Bhadram and Shri Bhiipesh Gupta).

SHRI D. THENGARI (Uttar Pradesh): Madam, I move:

14. "That at page 2, for lines 21 to 23, the following be substituted. namely: —

'(viii) any other service which both Houses of Parliament may de-tide from time to time by a majority of not less than seven-eighths of the total membership of each House to be an essential service for the purposes of this Act'."

SHRI CHITTA BASU: Madam, I move:

17. "That at page 2, lines 24 to 33 be deleted."

of the Essential Services
Maintenance Ordinance, 1968

Maintenance Bill, 1968

(The amendment also stood in the names of Shri D. L. Sen Gupta and Shri T. V. Anandan).

18. "That at page 2, after line 33, the following be inserted, namely: —

'(aa) "lock-out" means the closing of a place of employment or the suspension of work by the employer or the refusal by the employer to continue to employ all the persons already employed by him'."

(The amendment also stood in the names of Shri D. L. Sen Gupta and Shri Thillai Villalan).

SHRI THILLAI VILLALAN (Madras): Madam, I move:

19. "That at page 2, line 38, after the word 'employment' the words 'even after the Central Government consents to refer the dispute to arbitration' be inserted."

SHRI BALACHANDRA MENON: Madam, I move:

20. "That at page 2, lines 38-39, the words 'and includes' be deleted."

(The amendment also stood in the names of Shri M. V. Bhadram, Shri D. Thengari, Shri Banka Behary Das and Shri Bhupesh Gupta).

SHRI THILLAI VILLALAN: Madam. I move:

21. "That at page 2, line 40, alter the word 'overtime' the words 'when the employee physically and mentally capable of doing the same in the circumstances and not in violation of any provision contained in the Factories Act, 1948, regarding the times of work' be inserted."

SHRI CHITTA BASU: Madam, I move:

22. "That at page 2, lines 40 and 41 be deleted."

(The amendment also stood in the names of Shri D.L., Sen Gupta, Shri T.

V. Anandan, Shri Balachandra Menon, Shri M. V. Bhadram, Shri D. Thengari, Shri A. D. Mani, Shri Banka Behary Das and Shri Bhupesh Gupta).

SHRI BALACHANDRA MENON: Madam, I move:

23. "That at page 3, lines 1 to 3 be deleted."

(The amendment also stood in the names of Shri Af. V. Bhadram, Shri D. Thengari, Shri Chitta Basu, Shri D. L. Sen Gupta, Shri Banka Behary Das and Shri Bhupesh Gupta).

SHRI THILLAI VILLALAN: Madam, I move:

24. "That at page 3, line 1, for the brackets, letters and words '(ii) any other conduct which' the words 'but excludes any method adopted for peaceful bargaining or to counteract natural or mechanical defects even though it' be substituted."

SHRI BANKA BEHARY DAS: Madam, I move:

26. "That at page 3, for lines 4 to 12, the following be substituted, namely: —

'(2) Every notification issued under sub-clause (ix) of clause (a) of subsection (1) shall be approved by each House of Parliament before it comes into operation'."

SHRI CHITTA BASU: Madam. I move:

27. "That at page 3, for lines 4 to 15, the following be substituted, namely: —

'(2) Every notification issued under sub-clause (ix) of clause (a) of subsection (1) shall be approved by each House of Parliament by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting ; and any notification not so approved shall be deemed to have been annulled from the date of making of such notification'."

(The amendment also stood in the name of Shri D. L. Sen Gupta.)

SHRI BALACHANDRA MENON:
Madam, I move:

28. "That at page 3, for lines 4 to 15, the following be substituted, namely:—

'(2) No notification shall be issued unless it is approved by a majority of three-fourths of the total membership of each House of Parliament.' "

(The amendment also stood in the names of Shri M. V. Bhadram and Shri Bhupesh Gupta).

SHRI D. THENGARI: Madam. I move :

29. "That at page 3, for lines 4 to 15, the following be substituted, namely:—

'(2) No notification shall be issued unless it is approved by a majority of seven-eighths of the total membership of each House of Parliament' *

SHRI BANKA BEHARY DAS: Ma. dam.
I move:

30. "That at page 3, lines 13 to 15 be deleted."

(The amendment also stood in the name of Shri J. P. Yadav.)

SHRI BANKA BEHARY DAS: Madam, I move:

87. "That at page 2, line 14, after the word 'any' the word 'major' be inserted."

The questions were proposed.

SHRI M. V. BHADRAM: Madam, regarding clause 2 of the Bill there are two obnoxious features Clause 2(a) (viii) and (ix) gives unlimited powers to the Government to declare any service, which is not enumerated in subclauses (i) to (vii) as an essential service, about which Parliament can make law. That can also be declared an essential service. That power has been taken by the Government in this Bill.

The second obnoxious feature is in regard to sub-clause (b) (i) and (b) (ii). Sub-clause (b)(i) deals with compulsory overtime. Under the Factories Act the regular hours of a factory worker are limited to 48 hours a week or nine hours a day and in any case the spread-over is not more than 10½ hours a day. There also the employer is given the right to take overtime on certain conditions. The overtime should be paid double the normal rate of wages. Under the Factories Act it is not compulsory. It is also not a strike if a worker refuses to work overtime. Under what are called the Standing Orders, it may be a case of indiscipline, but it is not a strike under the provisions of the Factories Act. Therefore, this particular sub-clause offends the provisions of the Factories Act.

In this connection, I would like to draw the attention of the House to clause 8, which says that notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act, what is contained in this Bill should override it. Therefore, whereas the entire Industrial Disputes Act is taken out of the purview of the services that are enumerated here, the Factories Act is not taken out of the purview of this Bill. Therefore, the provisions of the Factories Act should prevail. This Bill offends against the existing law, that is the Factories Act.

Secondly, sweeping powers are taken by the Government to declare any service essential service. Here I would like to draw an analogy in the Industrial Disputes Act. That Act defines what is public utility service. It is mentioned there. Services like the telephone, telegraph, railways and certain other things are enumerated, and certain other services have also been mentioned in the Schedule I to the Industrial Disputes Act. The powers of the executive are limited in the Act itself. They cannot go beyond section 2(n) and also the services mentioned in Schedule I to the Act. But here they can declare anything. Parliament can legislate regulating the service conditions of the bidi workers in the entire

country because it is in the Concurrent List. Therefore, the Government will be given powers to declare even service in the biri industry also public utility service. Parliament is also competent to make legislation about the service conditions in lodging houses and restaurants. Therefore, the executive can declare the service in the lodging houses to be an essential service. Therefore, it is very obnoxious. Sweeping powers they want to take and want to declare anything on the face of the earth as essential service. This is horrible. The executive cannot be vested with so many powers. It should be limited. My amendment reads:

" 'essential service' means any public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 and specified in the First Schedule thereto".

My second amendment seeks to delete clause 2(l)(b)(i) and (ii) because the provisions are conflicting with the provisions of the Factories Act.

SHRI BALACHANDRA MENON: My main objection is that this definition is very loose. When we try to curb the right of certain sections of workers in the interests of public utility, we must be in a position to say definitely which are the industries which should be considered public utility concerns. It was done in the Industrial Disputes Act. Here what we are told is that the Government can from time to time exercise its mind and decide. Can there be a more loose formulation than that? that is what it says in sub-clause (ix) of clause 2(1). I would say you should be clear about what you want. No bureaucrat, no Minister should decide anything for us. It should be decided by Parliament and Parliament must be clear about it. In this wide definition Government will bring in anyone because it says "infliction of grave hardship on the community". Just think of it—grave hardship on the community. If tomorrow all the workers in the drugs manufacturing industry decide that they are going on strike, then what happens? It is a

grave hardship to the entire community. It is such sweeping and wide power given to the bureaucrats, given to the Ministry, that it will knock at the very foundation of our trade union movement, and it will be very dangerous. Therefore, I appeal to you to be very clear about your definition. You accept the definition as given in the Industrial Disputes Act.

Another thing I want to point out is that this exercising of the mind should be by Parliament and not by any bureaucrat. What should be the public utility concern or essential service must be decided by Parliament. Here you say essential service but do not define what. It should be clear. When in the Industrial Disputes Act they thought about it, they knew fully well that they were curtailing. Therefore they said that these are the industries. That is what you should do. Some of these clauses may very well violate even the rights given to the States because there is the State List and most of them may come in there. For example, I do not know whether transport service, bus or lorry service may not come in. It is also an essential service.

AN HON. MEMBER: It will come.

SHRI BALACHANDRA MENON*: So it will create more problems. When that is so, issues which are settled by the States will also be taken up by you.

Then I want to point out that in the case of overtime you must be very clear, or when a worker works overtime, you tell him you can work only for so much overtime and nothing more. The understanding is to discourage overtime. Always as far as possible in the interests of public-health, in the interests of the workers' health it is absolutely necessary that there should be no overtime, and if I am prepared to work overtime, I come and tell you I am prepared. When once I agree, it becomes a condition of service. Till then it can never be a condition of service. According to you.

[Shri Balachandra Menon]

refusal to work overtime means a cessation of work. Can you just imagine that? You want workers to work 16 or 18 hours. This violates article 23 of the Constitution. This violates the understanding of the ILO conventions. I would therefore request you not to impress this overtime which is really stupid, which will make you a laughing stock all over the world. You must understand that overtime is something voluntarily accepted by the workers, and once voluntarily accepted it becomes a condition of service, not otherwise. Therefore, I request that this sub-clause must be removed. It is against all international understanding, all trade union understanding.

SHRI D. THENGARI: My amendment No. 14 reads as follows:—

"That at page 2, for lines 21 to 23, the following be substituted, namely:—

'(viii) any other service which both Houses of Parliament may decide from time to time by a majority of not less than seven-eighths of the total membership of each House to be an essential service

THE DEPUTY CHAIRMAN: Are you reading it? It is not necessary. They have been circulated.

SHRI D. THENGARI: Here the point is that essential service should be declared by a vote in Parliament. That authority should not be given to the Government, that is, to bureaucrats. Secondly, there is the question of overtime. As I referred to it in my speech also, India has ratified the ILO convention which enjoins that there should be no exacting of work against the wishes of the employees. It is against overtime work, and this working of overtime has been legislated upon. We are opposed to it because it is against the spirit of our Constitution as well as the convention of the ILO. Then whenever any notification is to be issued, it should be issued with the prior consent, prior approval of both Houses of Parliament. Not that

Parliament or both the Houses should be confronted with a *fait accompli* that already the Government has issued the notification and only the Houses have to endorse it. For this reason I have given this amendment.

SHRI CHITTA BASU: Madam, I have got a number of amendments on clause 2—Nos. 8, 12, 17, 18, 22, 23 and 27.

THE DEPUTY CHAIRMAN: You have to speak on all.

SHRI BHUPESH GUPTA: I find some hon. Members not speaking on all their amendments . . .

SHRI CHITTA BASU: I will speak on all. Madam, in my amendment No. 12 I have suggested—

"That at page 2, for lines 4 to 33, the following be substituted, namely:—

'(a) "essential service" means any public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 and specified in the First Schedule thereto; "

The purpose of this amendment is this. Essential service or public utility service has been defined in the Industrial Disputes Act. But under the provisions of this Bill, it has been suggested to include certain other things which are not covered by the Industrial Disputes Act. My contention is this that the Industrial Disputes Act, a labour legislation, after taking into account all the facets of industrial relations, has properly defined what is called essential service or public utility service. Therefore there is no necessity of further defining it or including further items in the matter of that particular aspect which has already been done under the Industrial Disputes Act. I feel that the definition given there is more than sufficient. But here the intention of the Government comes in. Why do the Government want to broaden it? Their only object is to bring within the purview or mischief of the Act all those ser-

vices which are not, in fact, essential. I will come to it later on.

My next amendment is to delete at page 2, lines 24 to 33. Why? It appears from these lines that the Government proposes to include those industries or concerns which are distantly or incidentally related to essential service. As for example, a particular factory in the public sector or in the private sector has produced something which is related to any essential service. Under the provisions of this Bill, a strike in that particular factory or particular unit, which does not ordinarily come within the definition of essential service, will be taken to be an essential service. Then the mischief of the Act will be broadened further and my apprehension is that all the working men in any factory or in any industry will be brought under the mischief of this Bill because essential services may be related with other branches of production or other units of production; essential services cannot be limited simply to a particular industry or a particular service. Therefore, it is an omnibus section which would include all the working men in any essential service; any factory or any particular unit, whether it is under the public sector or the private sector, may be indirectly or directly connected with some essential service. Therefore, this section is very dangerous, it is very pernicious, and it is aimed at annihilating and suppressing the trade union movement as a whole.

Then, my third amendment is for a new clause to be inserted; I have suggested that 'lock-out' is also to be included here. Because the definition of 'strike' has been included, I suggest that the definition of 'lock-out' also should be inserted here because subsequently you have given an amendment to bring 'lock-out' also under the purview of "this Act. Therefore, I have simply given notice of this amendment defining 'lock-out' as it appears in the Industrial Disputes Act.

I have got another amendment also; that is about clause 2(b). It is a very

important one. As a matter of fact, I have raised it earlier also, that that is not constitutional. This militates against the Constitution itself, it also militates against the Charter of the ILO. That is, it forces a workman in the essential services to work overtime although he is not bound by any law in the land to do overtime job, without his consent or on his own volition. As a matter of fact, there is a constitutional provision banning forced labour. This particular clause—"refusal to work overtime where such work is necessary for the maintenance of any essential service"—is nothing but forced labour. Now, under the Factories Act, provision for overtime is there, and for the overtime work they are paid double the amount, and that is also on the basis of their consent. Here it has been suggested in this provision of the Bill that every worker in an essential service shall be required to work overtime even if he gives no consent for working overtime. This is nothing but slavery, this is nothing but imposing forced labour which is banned by the Constitution and which, I think, a civilised country like ours cannot accept.

THE DEPUTY CHAIRMAN: That will do.

SHRI CHITTA BASU: I have got another amendment also.

THE DEPUTY CHAIRMAN: There are others who want to speak.

SHRI CHITTA BASU: But I have got another amendment.

THE DEPUTY CHAIRMAN: Yours is not the only name on the amendment; there are other names running with it.

SHRI CHITTA BASU: But I have got another amendment.

SHRI BHUPESH GUPTA: I would like to hear what the hon. Member has to say.

THE DEPUTY CHAIRMAN: You do not want to speak?

SHRI BHUPESH GUPTA: I will be speaking also.

THE DEPUTY CHAIRMAN: Just now you said that you wanted to hear him.

SHRI BHUPESH GUPTA: I wanted to hear so that I could know what to speak.

SHRI CHITTA BASU: Again, you will find that under the purview of this, substantial retardation of work has also taken place. If there is go-slow or something beyond the control of the worker which has resulted in the retardation of the work, then he will be punishable under the provision of this Act.

Therefore, my whole objection is that it is so omnibus in character, it is so pernicious in its object, the intention is so bad that it will be used against the entire working class who wants to fight against the employer, particularly the Government.

Now, I have got another amendment wherein I have suggested that the Government is to make a Notification, and that Notification should be approved by both Houses of Parliament by two-thirds of the members of the House present and voting, because I cannot allow the Government to use this arbitrary authority in a frivolous manner. The Government wants an arbitrary authority with the Central Government, that is, the Home Minister. Whenever he is pleased to notify he will be issuing a notification and the issue of that notification will bring a very large section of our population, a very large section of our citizens under the mischief of this legislation. Therefore, there should be sufficient check . . .

THE DEPUTY CHAIRMAN: You should be brief. There are so many wanting to speak.

SHRI CHITTA BASU: ... so that this arbitrary power is not misused by the Government, particularly the Home Ministry. Therefore, I have suggested in my amendment that every notification should be placed before both the Houses of Parliament and it should

be ratified by two-thirds of the Members of the Houses present and voting.

THE DEPUTY CHAIRMAN: That will do.

SHRI CHITTA BASU: That will be a safeguard against the apprehension we harbour. Therefore, I think the Government would do well if they accept all these amendments.

THE DEPUTY CHAIRMAN: Mr. Sen Gupta, you want to speak on all the amendments.

SHRI D. L. SEN GUPTA: Yes, Madam. I shall be very brief.

SHRI BHUPESH GUPTA: Speak on the legal aspect.

SHRI AKBAR ALI KHAN: It seems Mr. Gupta is a constant adviser to everybody.

SHRI BHUPESH GUPTA: I am an ordinary Member. He being a lawyer, I am just asking him to explain the legal aspect in addition to what he has to say.

THE DEPUTY CHAIRMAN: Everybody is not in need of his advice.

SHRI B. K. P. SINHA: Madam, he will address on the legal aspect while Mr. Bhupesh Gupta will address on the illegal aspect.

SHRI D. L. SEN GUPTA: Madam Deputy Chairman, the House is in a very jolly mood. Now we are putting in two hours as overtime every day because of something that we did on the first day. I should say this is by itself victimisation. Anyway, let us see what contribution we can make. . .

SHRI CHITTA BASU: And if you do not put in overtime you will be penalised by the Act.

SHRI D. L. SEN GUPTA: Madam, it is a peculiar Bill because nowhere the words "essential services" are defined though the Bill is named "The Essential Services Maintenance Bill".

That is why in order to save the Government from being charged for a serious lacuna I have suggested a definition of "essential services" in my amendment Nos. 12, 17, 18, 22 and 27 to clause 2. Now the language of the definition, as provided in section 2(n) of the Industrial Disputes Act, 1947, is as follows : —

" 'public utility service' means— (i) any railway service;

(ii) any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends;

(iii) any postal, telegraph or telephone service;

(iv) any industry which supplies power, light or water to the public;

(v) any system of public conservancy or sanitation;

(vi) any industry specified in the First Schedule which the appropriate Government may, if satisfied that public emergency or public interest so requires, by notification in the Official Gazette, declare to be a public utility service for the purposes of this Act, for such period as may be specified in the notification;

Provided that the period so specified shall not, in the first instance, exceed six months but may, by a like notification, be extended from time to time, by any period not exceeding six months, at any one time if in the opinion of the appropriate Government public emergency or public interest requires such extension;"

I am not reading out the industries specified in the First Schedule. The Government, if necessary, can declare all of them to be public utility services. Now if the term "essential services" is defined in clause 2(a) of the Bill in this way, I think the Government will be in

a position to convey what they really mean.

Now, Madam Deputy Chairman, you will be pleased to appreciate that under section 22 of the Industrial Disputes Act no person employed in a public utility service shall go on strike without fulfilling some conditions and whenever I give a strike notice, at once there will be constitutional proceedings. That is the provision in law. And during the pendency of the constitutional proceedings no union can go on strike. That is the position. Therefore, there is no chance of any workman going on strike if it is a public utility concern. If that meaning is given to "essential services", I think that may serve the purpose here also.

Now what are the industries of the Government? They are the postal, telegraph or telephone service, and any industry which supplies power, light or water to the public and the defence industries. But they do not come under section 2(n) of the Industrial Disputes Act. So in 1947 when the Industrial Disputes Bill was considered and when the Government wanted to prohibit strike in any public utility service, defence was not considered to be a public utility service unless the Government thought it to be so. That is one aspect of the amendment.

Another aspect of the amendment is this. We are opposed to forced labour which is prohibited in our Constitution also by a specific article, article 23. Now here, in clause 2 of the Bill you not only prohibit strike, you make overtime work compulsory without any time-limit and without paying any remuneration. That is most barbarous. There is no limit here in this piece of legislation as to the extent of over time. The employer can ask a worker to put in 8 hours, 10 hours or even 12 hours—there is no limit. This is absurd. You want a man to work loyally, faithfully for an unlimited number of hours without any remuneration. We have suggested that for all sorts of overtime work there should be overtime wage

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and there should not be any compulsion. We have suggested the delegation of the provision. Unless the offer to pay overtime is there, the portion must be deleted.

SHRI THILLAI VILLALAN: I have got four amendments, Nos. 18, 19, 21 and 24. By clause 18 I am trying to include the definition of "lock-out" because there must be equal treatment for both the employer and the employee. Both must be equal before the eye of the law. So I want to bring "lock-outs" within the purview of this Bill. Therefore, the definition of the word "lock-out" is necessary, and by the insertion of sub-clause (aa) I have defined the word "lock-out".

Then I have introduced my amendment No. 19. The definition of "strike" has been given as "cessation of work by refusal to work by an employee". But there is no mention about the circumstances under which the employee says that he will not work. Therefore, my amendment seeks to insert "even after the Central Government consents to refer the dispute to arbitration" after the word "employment". If this amendment is accepted the definition will be complete. Therefore, that amendment may be accepted.

Now, my amendment No. 21 seeks to amend clause 2(1) (b)(i), refusal to work overtime. Overtime has also been described. If an employee refuses to work overtime it will also be considered as strike. That is the definition. It is illegal, forced labour, pure and simple. It is exploitation of human labour against the will of the employee. So this provision will be violative of article 23.

So I want that the position of the employee should be cleared in the Bill itself. That is why by my amendment No. 21 I want to make the provision read like this:

"refusal to work overtime when the employee is physically and mentally capable of doing the same in the circumstances and not in viola-

tion of any provision contained in the Factories Act, 1948, regarding the times of work."

Then by my amendment No. 24, I want to include this sentence in the same clause—so that refusal by an employee to work overtime will not be considered as strike:

"but excludes any method adopted for peaceful bargaining or to counteract natural or mechanical defects even though it is likely to result in or results in cessation or substantial retardation of work in any essential service."

By these four amendments I want to make the definitions complete. So my amendments may be accepted.

SHRI BANKA BEHARY DAS: Madam Deputy Chairman, I think when the Minister was replying, he was under some illusion or delusion, because he confused the entire issue. The Labour Minister is here and if he had heard his speech, he would have seen that the Home Minister said in relation to this Bill that there is difference between Government servants and industrial labour. How I wish this difference had been reflected in this Bill? Is there any difference between Government servants and industrial labour as far as this Bill is concerned? What is the definition of "essential service"? They might have taken advantage of the token strike of the Central Government employees, but taking advantage of that, they have brought in, so to say, a large number of public sector industries which are virtually employer of industrial labour. So he should not differentiate in that way and try to create an impression as if he is trying to continue the same facilities that the industrial labour was enjoying under common law and he is only taking away those facilities from the Government servants. You will find in the definition itself "mint and security press" has been brought in. Now is that not a factory? Are they not industrial labour? I am astonished, the Labour Minister is going away at this stage. He is not trying to protect his own labour. As regards mint and

security press, they are 100 per cent industrial labour. The proprietor may be the Government of India, or somewhere the proprietor may be somebody else. Take the case of ports. Whom are they going to touch by this legislation? Those who are loading or unloading or are connected with movement or storage of goods? It means a coolie in a port is coming under the purview of this Bill. So how is he going to differentiate? Is he going to say that a coolie who is working in the Bombay Port or in the Calcutta Port or in the Madras Port is a Government servant? Is that Government service? It is absolutely not Government service. He may be working in a public sector industry. If this dangerous idea comes to the Home Ministry that they will touch all this industrial labour, which will come under public sector industry, then I think the capitalists of this country will be most happy because they will think, here is a Home Minister, here is a Government, who are trying to give all the facilities to us because they are more interested in keeping themselves in power, whatever be the purpose.

SHRI CHITTA BASU: Are the capitalists happy to day?

SHRI BANKA BEHARY DAS: I am just putting it as an argument. Here, industrial labour in most of the public sector industries, under the name of essential services, will be brought under the mischief of this Bill, and strikes there will be banned. And you know what will be the consequences. Many of the Government servants are already suffering. So these two are absolutely two different things. I realise the difficulty of the Home Minister and the confusion in his mind, because he is not dealing with labour, the working classes...

SHRI BHUPESH GUPTA: The mischief, political is in his mind.

SHRI BANKA BEHARY DAS: I am just appealing to him at this stage that if he is under confusion, at least he can consult his neighbour, the Labour Minister, who will tell him that this

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is industrial labour and this is not Government service. Take, for instance, the Pay Commission. Can you say that the port labour are getting the benefits according to the Central Government Pay Commission's award? Most of the workers are not getting the benefit and they have sometimes their own wage boards. So these two are absolutely different. We must discriminate between Government servants, who are called civil service men, who are governed by the Government Servants' Conduct Rules, and others who are in the industrial services, who are industrial labour and who are not connected with the civil service. They are coming under public sector. So we should not confuse at all between the public sector industry and its civil service. And because of this confusion, I think this Bill has been hatched and it is being piloted by the Home Minister. There is no answer to this. It is a patent fact.

Then I would come to the amendments which have been moved. Take the case of the definition of "essential service" in clause 2(1) (a) (iv): "any service connected with the loading unloading, movement or storage of goods in any port." Madam Deputy Chairman, you please see the Seventh Schedule in the Constitution which gives the Union List about which the Central Government can legislate. What does it say about ports? Item 27 says:

"Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation and the constitution and powers of port authorities therein."

So leaving aside the industrial service point of view, even if the scope of this Bill is taken into consideration, they have the power to legislate about subjects mentioned in the Union List; but the Union List has confined itself to major ports. Here in this Bill, they have said "... any service connected with loading, unloading, movement or storage of goods in any port." That means they are taking power to legislate about minor ports which are

within the scope of the State Governments.

SHRI B. K. P. SINHA: Under what item of the State List?

SHRI BANKA BEHARY DAS: Let us not go to other aspects. I am concerned with this aspect about the Union List. I can understand if you legislate about the Union List. But you are trying to take away the powers which are primarily with the States.

Madam Deputy Chairman, we should not confuse that in India labour legislation is also in the Concurrent List. Then does it mean that they will legislate about all fields? The functions are clearly denned and I am not going into i-hat because there is not much time. Madam Deputy Chairman, I am astonished at the definition of "strike". Do you mean to say that the definition of "strike" in labour legislations will be different from the definition of "strike" in legislations relating to Government service? Can we have two definitions when we are all governed under one Constitution? And what is the definition here? The definition of "strike" here includes refusal to do overtime work and anything which will result in retardation of work. Madam Deputy Chairman, I will say that every establishment, whether it is civil service or industrial labour, will be virtually converted into a detention camp, by this legislation. In overtime work there is a certain amount of voluntary co-operation from the working class. That has been the system up till now. Once you force them to do overtime work, then they virtually become serfs. You do not treat the working classes as dignified citizens of the country. Every establishment will become a detention camp, or slave labour camp. Madam Deputy Chairman, take the case of the report of the Railway Accidents Committee. In that report, the Committee has said that in India a certain amount of accidents are caused by technical failures. But many of the failures are because they are forced to do overtime. That has been the report of the Railway Accidents Commission. They are forced to work

overtime. We are creating conditions under which there will be accidents, problems, troubles and all those things. And therefore, Madam Deputy Chairman, besides my amendment which I gave, ultimately I say if the Government decides that certain services should be declared as essential services and that strike should be banned, then, let that notification first come to Parliament. If it is approved here, then it will operate. This is the minimum thing I am going to ask. That is my amendment. They are in power. By a majority they can do it. They can utilise their power provided they come to Parliament with the notification. If they do not come with the Ordinance to Parliament, then that should not operate. At least give this much concession. Let all those notifications come before Parliament and let them be accepted by Parliament. Only then they will operate.

SHRI BHUPESH GUPTA: Madam Deputy Chairman, I shall speak on the clauses. I shall give an opinion on the amendments. I shall speak on my amendment. These are the three stages. But I shall speak very briefly.

First of all, I must say that one casualty in this entire episode is the Labour Minister. He is a great casualty. When Mr. Hathi was going away, my friend there asked him to stay on. Even so, he has gone away because he has realised now that he has no locus *standi* in this matter which relates to industrial disputes, strikes and so on. Well, Mr. Hathi is, I am told, a full rank Cabinet Minister. But now in labour matters he is being thoroughly dislodged step by step. So he has gone away. Now . . .

SHRI B. K. P. SINHA: Are you the Manthara of the Opposition, what Manthara was to Ayodhya's Ram and Dasaratha?

SHRI BHUPESH GUPTA: I do not know definitely. Now, you see the honourable Member should realise that the Home Ministry is poaching into the domain of the Labour Ministry. It has made a big inroad into it

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already. So, with regard to this definition I say that some Deputy Secretary of the Home Ministry or somebody there must have defined this thing. And Mr. Hathi had not even been consulted as to how it should be defined. Such is the state of affairs. First of all, I should like to say that these lines, 24 to S'S on page 2, should also be deleted. They should be deleted for the simple reason that they enlarge the area of operation of this Bill. It does not merely confine to the Government employees, clerical or otherwise as we understand it. Everybody can now be affected. As you know, in India today we have a large number of Government employees, employees in the public undertakings, etc. and all of them will be covered. All of them will come under the mischief of this Bill. Therefore, this particular portion, lines 24 to 33, should be deleted. What does my friend, Mr. Shukla, think we are? Does he think that we are adolescents, all of us here? He says the Bill is for three years but it will go earlier. Then, why do you not say the Bill is for six months?

(Interruption)

SHRI SHEEL BHADRA YAJEE: Provided you behave properly.

SHRI BHUPESH GUPTA: At least one adolescent is here in this House also—Mr. Yajee.

Now, the position is this. For three years this is there. It will take time to make some measures. . . (Inter-ruption) Meanwhile they seek to intimidate large sections of the workers. This is what we take serious exception to. That is why my friend has asked for the deletion of these lines. And Mr. Shukla in a public statement made it very clear how it could not be extended . . .

SHRI VIDYA CHARAN SHUKLA: As far as this period of three years is concerned, this clause does not cover the period for which this Bill will be in operation. That is in clause 1—about the period of the Bill. You need not discuss that clause now.

THE DEPUTY CHAIRMAN: Which clause are you speaking on?

SHRI BHUPESH GUPTA: I am speaking on Mr. Hathi and Mr. Shukla. I am speaking on a particular line on page 2—in clause 2, lines 24-33 on page 2. How can I conceive all these things, much less discuss them without keeping these gentlemen in mind? As far as this thing, the period of this Bill, is concerned, I wanted to point out what exactly you mean, your intentions. They are very important. And that is why I gave it as an example. Now you see here—

'Any other service connected with matters with respect to which . . .'

I think English should be corrected here somehow or other—

" . . . Parliament ^has power to make laws and which the Central Government being of opinion that strikes therein would prejudicially affect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hardship on the community, may, by notification in the Official Gazette, declare to be an essential service for the purposes of this Act;"

This is what you should consider. Under the pretext of making some legislation they are now assuming far wider powers than they ever contemplated a few months before. This is absolutely wrong when the Industrial Disputes Act is there. Why are you not going by the Industrial Disputes Act? What happened to it now? Now you are trying to amend really the Industrial Disputes Act without bringing in a proper amending Bill to the Industrial Disputes Act. You are touching certain industrial undertakings which should normally come within the ambit of the Industrial Disputes Act, and you are trying to legislate, to cover in this all the provisions of the Industrial Disputes Act. Is it fair? Is it fair?

[Shri Bhupesh Gupta] I ask you. In the Industrial Disputes Act when a thing goes to a tribunal, then strike becomes illegal. Anyway, they are not supposed to go on strike. That provision is already there. Now, here you are taking it upon yourself, without at the same time undertaking the obligation which is provided for under the Industrial Disputes Act, to declare a strike illegal. This is what you are going to do. So you want to have the best of both the things. I think it is absolutely wrong.

Madam Deputy Chairman, let me now come to "strike", the definition of "strike", as to what it means. "Strike" means the cessation of work by a body of persons employed in any essential service. "Cessation of work", what do you mean by this? It does not define how many. Suppose ten people say that we could not come to work because we had difficulty in arriving at the office. Would it be considered as "cessation of work"? I do not know if any care has been taken to define "cessation of work". How are you going to define it? The mere fact that I was not present in the office at a given hour or the fact that I was absent on a particular day of strike, does not mean that I come within the definition of this. It does not mean that I have gone on strike. Necessarily it does not mean it. Now, somebody has to prove it. I am speaking from the legal angle of it. You should not define "cessation of work" in this manner. I think here again this thing will lead to all kinds of confusion and oppression as far as the workers and the employees are concerned.

5 P.M. The Bill
says:

"refusal to work overtime where such work is necessary for the maintenance of any essential service;"

It is making fun of the Constitution which provides that nobody shall be made to undergo forced labour. Forced labour is guaranteed against in our Constitution and here it is provided this way. I should be free to accept

overtime work or not. The fact that you are ready to pay me does not mean that I can be compelled to do overtime work. If I do not do so, I do not get the money and if I do I am entitled to overtime wage. Here you are even providing for this kind of overtime. That is wrong again.

Then Mr. Balachandra Menon has given an amendment saying:

"any other service which both Houses of Parliament may decide from time to time by a majority of not less than three-fourths of the total membership of each House to be an essential service for the purposes of this Act."

I share this view. Why should you alone decide? You talk about Parliament. Leave it to three-fourth majority. Why go by simple majority to decide which industry you should now hit with a view to suppressing the workers? If you think it is in the national interest, it follows that the overwhelming majority would be in favour of supporting you. On the one hand, you say that you are leaving things in the hands of Parliament and on the other when a suggestion is made to provide for a certain specified majority, you do not accept it. That only shows that you are interested in using steamroller of your brute majority to getaway with your measures. That certainly is not the manner in which one should function with national pretensions. Therefore this amendment should be accepted.

Mr. Chitta Basu has given the definition of lock-out.

SHRI B. T. KEMPARAJ (Mysore): My hon. friend has used the words 'brute majority'. The word "brute" is unparliamentary. That should be expunged.

THE DEPUTY CHAIRMAN: You cannot say every word is unparliamentary.

SHRI BHUPESH GUPTA: My friend has not taken part in the discussion and so allow him to make one

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unintelligent remark. I think the first thing to be locked out in the country is the Government of India. If anyone is to be locked out, it is the Government but we cannot do it. There can be no compensation. There is another amendment by Mr. Basu regarding notification. He says :

"Every notification issued under sub-clause (ix) of clause (a) of subsection (1) shall be approved by each House of Parliament by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House. . ."

He: he has provided for a procedure akin to what is provided for when you amend the Constitution and it should be accepted. They say that the notification will come and the House will have a chance. Again they rely on their majority. Mr. Shah is nodding his head and I do not know whether he is in agreement. He always nods his head in the wrong way. So I say that this damned thing is so atrocious . . .

SHRI DAHYABHAI V. PATEL (Gujarat): The 'damned thing' is unparliamentary.

SHRI BHUPESH GUPTA: It is not unparliamentary. It is atrocious. Do you think that I feel like speaking *on* it? It stinks. Still it is the limit of our endurance that we are speaking because of our public duty over an atrocious filthy, stinking document like the *one* which has been handed to us. I ask the House to accept all the amendments my friends have tabled and at least make it a little better.

SHRI VIDYA CHARAN SHUKLA: Various Members, who have spoken, have made five or six points and I will refer to them, rather than the amendments moved by the Members. One point made was that any service could be declared as essential under the powers taken under this Bill. This is true but this is subject to the approval of Parliament and nobody could

take Parliament for granted. We could not even take our party for granted and we had to convince our party members that what we are doing is justified and correct.

SHRI BHUPESH GUPTA: You did not convince your party and you even threatened Mr. Dharia.

SHRI VIDYA CHARAN SHUKLA : We value the opinion of our party members very much and that is to say, in this Bill we have provided that Parliament will have to finally approve any service we declare as essential. The judgment has to be taken . . .
(Interruptions)

SHRI CHITTA BASU: He cannot mislead the House.

SHRI VIDYA CHARAN SHUKLA: There is no point in saying that the Government could act in any way. Some Members talked about forced labour and they have been saying all kinds of things. It seems they have not read the Bill properly. It does not say that overtime labour can be forced on a person without payment of wages. It becomes forced labour if you take labour without compensation for it. If any particular service is declared to be essential and it is ratified by Parliament to be so, then if somebody has to work in that service for overtime in the interest of the community and the nation or national defence, then it will have to be done but we shall pay the money which is due to him. There is no question of taking work and not paying money. There is no question of any forced labour or begar and whatever points the Members made have no force in them.

Several Members—and particularly Mr. Das—made a point and asked 'Why not the I. D. Act be applied?' They asked: 'What is the difference between the Government employees and the industrial workers.' There is a difference between the two as I explained in the reply during the first reading. Whereas an industrial employee is governed by the terms of the contract, the Government employees

[Shri Vidya Charan Shukla] are governed by statutory rules and other things which do not apply to the industrial workers. There is no question of applying the I.D. Act to the Government employees because the Government employees, by no stretch of imagination, can be taken as industrial workers. Madam, another point that was made by some hon. Members was about the ratification of these notifications by a two-thirds majority. Now it is known to everybody that a two-thirds majority is only used for constitutional amendments. Among many things even the very existence of the Government depends on a simple majority, Madam. So there is no question of using a two-thirds majority for a simple notification. These are funny amendments that are moved by Members.

SHRI BHUPESH GUPTA: What do you mean by 'funny'?

SHRI VIDYA CHARAN SHUKLA: This is my opinion about the amendments. (Interruptions) I am not yielding. This is my opinion about the amendments. I am not yielding to interruptions.

Mr. Banka Behary Das comes and says there is some confusion in my mind about this matter. Is a coolie a Government servant, it is asked? He should have been a little more vigilant when this Bill was being discussed. I have never said that this Bill applies only to Government employees. It also applies—this is very clear; I have said so in my introductory speech; it would also apply to such other essential services which are necessary to maintain the community life in the country (Interruptions) like oil refineries, for instance, power houses, and many other things which might be under private control also; there would be many other things like that. Even if all those concerns are under private control, if their proper functioning is absolutely essential to man the public services and community life in the country, they will of course come under this. That is why I say that it is no confusion, and if at all there is

any confusion, it seems to be in the hon. Member's mind when he thinks that this Bill only applies to Government employees and nobody else. So he should correct his confusion about this matter.

(Interruptions)

The other point that was made about the notification. A notification comes into force after it has been ratified by Parliament. Now every hon. Member knows that there might be a contingency where in the national interests a notification might have to be issued to protect the functioning of the community, the proper functioning of the national life. At that time Parliament may not be in session. So you cannot wait, in a contingency like that, for Parliament to meet and ratify the notification, and you cannot take the stand that it should come into force only after its ratification by Parliament. But then these are the amendments pointing to that direction, and I do not know how and in what manner they have been brought forward here. I am not attributing any motives but I only say that such amendments, on the face of it, are absurd.

SHRI BHUPESH GUPTA: On a point of order; how are they absurd?

SHRI VIDYA CHARAN SHUKLA: These are my views, Madam.

THE DEPUTY CHAIRMAN: Let him continue.

SHRI BHUPESH GUPTA: On a point of order. Will you kindly yield?

THE DEPUTY CHAIRMAN: No, no, let him continue. What point of order can you have here?

SHRI VIDYA CHARAN SHUKLA: Don't be smitten so much.

THE DEPUTY CHAIRMAN: Don't be sensitive.

SHRI VIDYA CHARAN SHUKLA: Madam, he should also have some tolerance. He should not only criticise people; he should also be able to hear criticism.

SHRI BHUPESH GUPTA: Why should he say 'absurd'? Meet the argument.

SHRI VIDYA CHARAN SHUKLA: In my opinion it is absurd. I am giving only my opinion; I am not giving your opinion. *{Interruptions}*

One hon. Member was saying about the definition of strike, was saying that we are going to have two definitions of strike, one definition under the Industrial Disputes Act and another definition under this Bill. Now, if he carefully reads, it is the same in the Industrial Disputes Act and this Bill. Instead of having two sub-clauses we have just clarified the definitions in one. That is about all that we have done; we have done nothing more than that-

In view of what I have said, none of these amendments moved by hon. Members are acceptable to me.

SHRI D. L. SEN GUPTA: I want one clarification.

THE DEPUTY CHAIRMAN: Now that will do. After the Minister has replied there can be no more explanation by the Minister.

SHRI D. L. SEN GUPTA: One clarification I want. This is my right.

THE DEPUTY CHAIRMAN: Not after the Minister has given all the explanations. No.

SHRI D. L. SEN GUPTA: Why can't I ask?

THE DEPUTY CHAIRMAN: You cannot ask.

SHRI D. L. SEN GUPTA: This is my right.

THE DEPUTY CHAIRMAN: You cannot now. This is not the procedure.

SHRI D. L. SEN GUPTA: I have a right. He has made a statement which is not correct.

THE DEPUTY CHAIRMAN: We have had the debate. Now it is the stage of amendments. After the Minister's reply nothing arises. I shall now put the amendments to vote. I suppose all of you want to press your amendments.

SHRI BHUPESH GUPTA : Yes, put them separately because they are different.

THE DEPUTY CHAIRMAN: Yes. The question is:

12. "That at page 2, for lines 4 to 33, the following be substituted, namely: —

'(a) "essential service" means any public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 and, specified in the First Schedule thereto;'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

13. "That; at page 2, for lines 21 to 23, the following be substituted, namely: —

'(viii) any other service which both Houses of Parliament may decide from time to time by a majority of not less than three-fourths of the total membership of each House to be an essential service for the purposes of this Act'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

14. "that at page 2, for lines 21 to 23, the following be substituted, namely: —

'(viii) any other service which both Houses of Parliament may decide from time to time by a majority of not less than seven-eighths of the total membership of each House to be an essential service for the purposes of this Act;'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

17. "That at page 2, lines 24 to 33 be deleted."

The motion was negated.

THE DEPUTY CHAIRMAN: The question is:

18. "That at page 2, after line 33, the following be inserted, namely: —

'(aa) "lock-out" means the closing of a place of employment or the suspension of work by the employer or the refusal by the employer to continue to employ all the persons already employed by him.' "

The motion was negated.

THE DEPUTY CHAIRMAN: The question is—

19. "That at page 2, line 38, after the word 'employment' the words 'and after the Central Government consents to refer the dispute to arbitration' be inserted."

The motion was negated.

THE DEPUTY CHAIRMAN: The question is—

20. "That at page 2, lines 38-39, the words 'and includes', be deleted."

The motion was negated.

THE DEPUTY CHAIRMAN: The question is:

21. "That at page 2, line 40, after the word 'overtime' the words 'when the employee physically and mentally capable of doing the same in the circumstances and not in violation of any provision contained in the Factories Act, 1948, regarding the times of work' be inserted."

The motion was negated.

THE DEPUTY CHAIRMAN: The question is:

22. "That at page 2, lines 40 and 41 be deleted."

The motion was negated.

THE DEPUTY CHAIRMAN: The question is—

23. "That at page 3, lines 1 to 3 be deleted."

The motion was negated.

THE DEPUTY CHAIRMAN: The question is:

24. "That at page 3, line 1, for the brackets, letters and words '(ii) any other conduct which' the words 'but excludes any method adopted for peaceful bargaining or to counteract natural or mechanical defects even though it' be substituted."

The motion was negated.

THE DEPUTY CHAIRMAN: The question is:

26. "That at page 3, for lines 4 to 12, the following be substituted, namely: —

'(2) Every notification issued under sub-clause (ix) of clause (a) of sub-section (1) shall be approved by each House of Parliament before it comes into operation.' "

The motion was negated.

THE DEPUTY CHAIRMAN: The question is:

27. "That at page 3, for lines 4 to 15, the following be substituted, namely: —

'(2) Every notification issued under sub-clause (ix) of clause (a) of sub-section (1) shall be approved by each House of Parliament by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting; and any notification not so approved

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shall be deemed to have been annulled from the date of making of such notification."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

28. "That at page 3, for lines 4 to 15, the following be substituted, namely: —

'(2) No Notification shall be issued unless it is approved by a majority of three-fourths of the total membership of each House of Parliament."

The motion was negatived.

THE DEPUTY CHAIRMAN: The Question is:

29. "That at page 3, for lines 4 to 15, the following be substituted, namely : —

'(2) No notification shall be issued unless it is approved by a majority of seven-eighths of the total membership of each House of Parliament."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

30. "That at page 3, lines 13 to 15 be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

87. "That at page 2, line 14, after the word 'any' the -word 'major' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 2 stand part of the Bill."

The House divided

THE DEPUTY CHAIRMAN: Ayes— 71; Noes—18.

AYES—71

Abid Ali, Shri
Alva, Shri Joachim
Bhargava, Shri M. P.
Bhatt, Shri Nand Kishore
Chandra Shekhar, Shri
Chandrasekhar, Dr. S.
Chavda, Shri K. S.
Chetia, Shri P.
Dharia, Shri M. M.
Doogar, Shri R. S.
Gilbert, Shri A- C.
Gujral, Shri I. K.
Gurupada Swamy, Shri M. S.
Hathi, Shri Jaisukhlal
Jahanara Jaipal Singh, Shrimati
Jain, Shri A. P.
Kaul, Shri B. K.
Kemparaj, Shri B. T.
Khaitan, Shri R. P.
Khan, Shri Akbar Ali
Kollur, Shri M. L.
Krishan Kant, Shri
Kurre, Shri Dayaldas
Lalitha Rajagopalan, Shrimati
Mallikarjunudu, Shri K. P.
Mangladevi Talwar, Dr. (Mrs.)
Maniben Vallabhbhai Patel.
Kumari Mehta, Shri Om Mirdha;
Shri Ram Niwas Mishra, Shri S. N.
Mitra, Shri P. C. Mohammad,
Chaudhary A. Nagpure, Shri V. T.
Nandini Satpathy, Shrimati
Narayanappa, Shri Sanda Pande, Shri
C. D. Patra, Shri N. Pattanayak, Shri
B. C. Phulrenu Guha, Dr. Shrimati
Punnaiah, Shri Kota

Pushpaben Janardanrai Mehta,
 Shrimati Puttappa, Shri Palil Reddy,
 Shri M. Srinivasa Reddy, Shri Nagi
 Rizaq Ram, Shri Salig Ram, Dr. Samuel,
 Shri M. H. Sangma, Shri E. M.
 Sanjivayya, Shri D. Satyavati Dang,
 Shrimati Savnekar, Shri B. S. Sen, Dr.
 Triguna Shah, Shri K. K. Shanta Vasisht,
 Kumari Sherkhan, Shri Shukla, Shri M.
 P. Shingh, Shri Dalpat Sinha, Shri
 Awadheshwar Prasad Sinha, Shri B. K.
 P. Sinha, Shri R. B. Sinha, Shri Rajendra
 Pratap Tankha, Pandit S. S. N. Tiwary,
 Pt. Bhawaniprasad Tripathi, Shri H. V.
 Untoo, Shri Gulam Nahi Usha
 Barthakur, Shrimati Vaishampayen, Shri
 S. K. Varma, Shri C. L. Vidyawati
 Chaturvedi, Shrimati Vimal Punjab
 Deshmukh, Shrimati Yajee, Shri Sheel
 Bhadra

NOES—18

Barbora, Shri G. Basu, Shri Chitta
 Bhadram, Shri M. V. Bhandari, Shri
 Sundar Singh Das, Shri Banka Behary
 Gowda, Shri U. K. Lakshmana Gupta,
 Shri Bhupesh Jha, Shri R. N. Mahavir,
 Dr. Bhai Menon, Shri Balachandra

Reddy, Shri Yella
 Sen Gupta, Shri D. L.
 Shakuntala Paranjype, Shrimati
 Shejwalkar, Shri N. K.
 Sinha, Shri Rewati Kant
 Thengari, Shri D.
 Varma, Shri Niranjan
 Villalan, Shri Thillai
The motion was adopted.
Clause 2 was added to the Bill

Clause 3—Power to Prohibit strikes in
Certain Employments

SHRI THILLAI VILLALAN: Ma-
 dam, I move :

32. "That at page 3, line 16, after the
 word 'satisfied' the words 'after referring the
 dispute to arbitration as a bilateral move' be
 inserted."

48. "That at page 3, line 25, for the
 words 'for any period not exceeding six
 months' the words 'by a month at a time and
 not more than three times in total' be substi-
 tuted."

49. "That at page 3, line 25, for the
 words 'six months' the words 'two months'
 be substituted."

SHRI BALACHANDRA MENON:
 Madam, I move:

34. "That at page 3, for lines 16 to 19,
 the following to substituted, namely: —

'3. (1) If the Central Government, after
 referring a dispute to arbitration by
 mutual consent, feels that in the public
 interest it is necessary or expedient so to
 do it may, by a general or special Order,
 prohibit strikes in any essential service
 specified in that Order'."

(The amendment also stood in the name
 of Shri Bhupesh Gupta)

39. "That at page 3, after line 19, the
 following proviso be inserted, namely: —

'Provided that no order prohibiting a
 strike in any essential ser-

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vice shall be issued unless it is approved by a majority of the three-fourths of the total membership of each House at Parliament.' "

(The amendment also stood in the names of Shri M. V. Bhadram and Shri Bhupesh Gupta)

41. "That at page 3, for lines 20 to 22, the following be substituted, namely : —

'(3) An Order made under subsection (1) shall be published in the Gazette of India, in Official Gazettes of all the States, and also in all the English newspapers and the newspapers in all regional languages.' "

(The amendment also stood in the names of Shri M. V. Bhadram and Shri Bhupesh Gupta)

43. "That at page 3, for lines 23 to 26, the following be substituted, namely: —

"(3) An Order made under subsection (1) shall be enforced for one month only, but it can be extended for further period si, one month at a time if approved by both Houses of Parliament by a resolution adopted in each House by a majority of three-fourths of the total membership of that House."

(The amendment also stood in the name of Shri Bhupesh Gupta)

52. "That at page 3, line 29, for the words 'go or remain on' the word 'commence' be substituted."

(The amendment also stood in the name of Shri M. V. Bhadram and Shri Bhupesh Gupta)

54. "That at page 3, line 30, the words 'whether before or' be deleted."

(The amendment also stood in the names of Shri M. V. Bhadram, Shri D. Thengari, Shri Thillai Villalan and Shri Bhupesh Gupta)

SHRI D. THENGARI: Madam, I move:

35. "That at page 3, for lines 16 to 19, the following be substituted, namely: —

35. "That at page 3, for lines 16 to after referring a dispute to arbitration by mutual consent, feels that in the public interest it is necessary or expedient so to do, it may, by a general or special Order, prohibit strike in any essential service specified in the Order:

Provided that no Order prohibiting the strike in any essential service shall be issued unless the same is approved by both Houses of Parliament by a resolution adopted in each House by a majority of seven-eighths of the total membership of that House:

Provided further that an Order issued when Parliament is not in session shall cease to operate unless it has been approved by resolutions of both Houses of Parliament at the commencement of the immediately subsequent session."

44. "That at page 3, for lines 23 to 26, the following be substituted, namely: —

'(3) An Order made under subsection (1) shall be enforced for one week only, but it can be extended for further periods, one week at a time, if approved by both Houses of Parliament by a resolution adopted in each House by a majority of seven-eighths of the total membership of that House.' "

53. "That at page 3, line 29, the words 'or remain' be deleted."

SHRI CHITTA BASU: Madam, I move—

36. "That at page 3, for lines 16 to 19, the following be substituted, namely: —

% (I) If the Central Government is satisfied that in the public

[Shri D. Thengari]

interest, it is necessary or expedient so to do, it may, by general or special Order, prohibit lock-out, closure, retrenchments, or lay-offs in any essential service specified in the Order.' "

(The amendment also stood in the names of Shri D. L. Sen Gupta and Shri Thillai Villalan)

37. "That at page 3, line 17, after the words 'it may' the words 'on the failure of conciliation proceedings of the disputes or dispute concerned' be inserted."

(The amendment also stood in the name of Shri D. L. Sen Gupta)

46. "That at page 3—

(i) in line 24, for the words 'six months' the words 'one month' be substituted; and

(ii) in line 25, for the words 'six months' the words 'one month' be substituted."

(The amendment also stood in the name of Shri D. L. Sen Gupta)

SHRI BANKA BEHARY DAS: Madam, I move:

38 "That at page 3, lines 17 to 19, for the words 'by general or special Order, prohibit strikes in any essential service specified in the Order' the words 'by a resolution passed in both Houses of Parliament, prohibit strike in any essential service specified therein for a period not extending more than two months' be substituted."

42. "That at page 3, lines 20 to 26 be deleted."

The questions were proposed.

SHRI THILLAI VILLALAN: Madam Deputy Chairman, by my amendments I want clause 3(1) to read as follows:

"If the Central Government is satisfied after referring the dispute to arbitration as a bilateral move

that in the public interest it is necessary or expedient so to do, it may by general or special Order, prohibit lock-out, closure, retrenchments or lay-offs in any essential service specified in the Order."

And I want clause 3(3) to be like this:

"An Order made under sub-section (1) shall be in force for six months only but the Central Government may, by a like Order, extend it by a month at a time and not more than three times in total if it is satisfied that in the public interest it is necessary or expedient so to do."

Now so far as the first part is concerned, power is given to declare a strike as illegal but as has already been mentioned by many Members in this Bill there is no provision for any remedial machinery and I would like to make clear by my amendment that before declaring a strike as illegal the dispute must be referred to arbitration. The hon. Minister has stated that this is only a temporary measure and this will be on the Statute Book without its provisions being invoked. He has also said that they will bring a comprehensive Bill within a short time. A temporary period does not mean six months or one year and my amendment is instead of saying not exceeding six months we should say by a month at a time and not more than three times in total. That is, the total period will be limited to three months. This being a temporary measure my suggestion is this period should not be six months but it must be only three months. With these words I move my amendments.

SHRI BALACHANDRA MENON: This is the most mischievous piece of legislation, and especially this clause. This is really a fascist piece of legislation. Here you do not provide for any alternative machinery. The Minister comes and tells us that there will be something later. If he had provided here the machinery which he is thinking of having later that would have been good but as it is there is nothing here. The result is you ban the strike

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and at the same time there is no other remedy. For banning the strike only the Central Government has to get satisfied; Parliament need not be taken into confidence. You come to Parliament after the notification is issued. Some bureaucrat decides that the strike is illegal; some bureaucrat decides that in such and such industry there should be no strike and that is to be accepted. We are only here to rubber-stamp the whole thing. I have suggested another clause which should be substituted for the existing provision in clause 3(1) and my amendment reads:

"If the Central Government, after referring a dispute to arbitration by mutual consent, feels that in the public interest it is necessary or expedient so to do it may, by a general or special order, prohibit strikes in any essential service specified in that order."

This is what I have said. The basis of our trade union policy will have to be laid down now. Are we to ban strikes altogether or do you want mutual consultation? If the parties agree that there is a dispute and the matter must be settled they go to an arbitrator. Arbitration should be voluntary because compulsory arbitration is a contradiction in terms. I, therefore, say the parties should agree that the matter be referred to arbitration. When the matter is before arbitration if a strike goes on or if there is a strike in one place or if somebody instigates a strike, that can be prohibited. I want the Labour Minister and the Home Minister to understand that strikes can be settled only through mutual negotiations, when the parties mutually agree to arbitration. If the parties do not agree to arbitration you are at perfect liberty to come to the House, get Parliament's approval to declare the strike illegal, by two-thirds majority or whatever it is. You must have full confidence in the House.

The next thing I want to point out is that the order must be published not only in the Gazette of India but it

should be published in all the State Gazettes also because the workers are scattered all over India, and they should know. The idea of notification is that the workers should know. So it should be published not only in the Central and State Gazettes but should also be published in all the newspapers in English and in all regional languages.

Then I have suggested that it should be only for a period of one month. It should not be in force for more than one month and after every month unless Parliament approves of it you cannot extend it. When rights are taken away, it should be only for brief periods.

This provision where you say—

"any strike declared or commenced, whether before or after the issue of the order, by persons employed in any such service shall be illegal."

is most important. Now, you have decided that the strike is illegal. At a certain period before that the strike *has* already commenced. How can there be a guilty mind? When I commenced my strike, you have not considered it illegal at that period. Why should this sentence be in this way? I have given notice of the strike and I have gone on strike. You have declared the strike illegal only afterwards. I cannot be held responsible for any illegality. When I commenced the strike, it was completely legal at that period. That is why I say that this clause should be removed. What I would suggest is only when the strike has been declared illegal, after the commencement of the strike, only on the day the strike has been declared illegal, it comes into effect, not before. Otherwise, even though I have participated in a strike before it was declared illegal, you will take action against me, which is wrong. Therefore, I say that it should also be removed. There cannot be a retrospective guilt.

SHRI D. THENGARI: Madam, my amendments are against giving sweeping powers to the Government regarding prohibition of strikes. Before any

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order prohibiting a strike is issued, I have suggested that there should be a pre-condition imposed. The dispute should have already been referred to arbitration by mutual consent and Parliament's approval must be sought at the earliest opportunity. If Parliament is in session each House by a majority of seven-eighths should pass or should consent to such an order. If it is not in session, there should be approval at the earliest opportunity in the immediately subsequent session. I think unless this restraining power of Parliament is accepted and unless, in principle, arbitration by mutual consent is made a pre-condition, this particular clause is going to confer upon Government unrestrained, totalitarian, dictatorial powers.

Secondly, I have suggested in clause 3(3) that an order shall be enforced for one week instead of six months. It can be extended for a further period of one week at a time. This is a power which should be used very sparingly and, therefore, I have suggested one week instead of six months.

Thirdly, sub-clause (4) authorises the Government to give retrospective effect to the order issued. Now, this is unfair, unjust and unprecedented. When a man does a particular act, which is legal, and subsequently an order is passed which gives retrospective effect making it illegal, it is something unjustified. Therefore, such retrospective effect should not be given and that power should not be conferred upon the Government. These amendments I am moving.

SHRI D. L. SEN GUPTA: Madam, I move my amendments Nos. 36, 37 and 46. Clause 3 is really the clause by which any strike can be declared illegal. So far as essential services are concerned, they are covered by clause 2. Having described that, Government assumes power under clause 3. It is very much regretted that the Minister of State for Home Affairs tried to oversimplify the position by saying that item No. (ix) of clause 2 (1) will not be effective unless Parliament

gives its sanction. I shall, therefore, peak on clause 2 first. Clause 3 can not be argued without reference to clause 2. Clauses 2 and 3 have to be read together. In clause 2(2) what is provided? It provides that every notification issued under sub-clause (ix) of clause (a) of sub-section (1) shall be laid before each House of Parliament immediately after it is made. You issue the notification. First, the mischief is done under this notification. All the relevant services are made essential services. Then I say:—

"... if it is in session and on the first day of the commencement of the next session of the House if it is not in session, and shall cease to operate at the expiration of forty days..."

Where is it said that this notification will not be effective, unless Parliament gives sanction for it? After doing the mischief it says that it shall cease to operate after forty days if it is not approved by Parliament. It says here:—

"... forty days from the date of its being so laid or from the re-assembly of Parliament, as the case may be, unless before the expiration of that period a resolution approving the issue of the notification is passed by both Houses of Parliament."

Up to forty days you take unfettered authority. Up to forty days the strike shall remain prohibited. After forty days only it will lapse, until the meantime Parliament approves it. So, it is misleading the House to say that it will have no effect unless Parliament sanctions it. It will have effect for thirty days or forty days as the case may be. In view of this I want a clarification. What is my amendment? My amendment is this: there should not be any notification prohibiting a strike unless you find that there was a failure of conciliation proceedings. There should be conciliation efforts. Only when conciliation fails, the question of issuing a notification arises.

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My other amendment is:— That

at page 3,—

(i) in line 24, for the words "six months" the words "one month" be substituted; and

(ii) in line 25, for the words "six months" the words "one month" be substituted.

'Six months' is too long a period. It should be short. We are seriously against it and we are not prepared to give a period of six months for any of these notifications.

SHRI CHITTA BASU: I have three amendments, viz., 36, 37 and 46. I will speak on amendment No. 37 first. I feel, and the hon. Minister will also agree with me that the majority of the Members of this House have expressed the opinion, that there should be a conciliation machinery for the settlement of the dispute or disputes between an employer and employee. My amendment is only to give effect to the feeling which has been expressed by all the Members who have taken part in this debate. In this matter, I also quoted the opinion of the previous leaders of the Government. So, when the Government comes forward with this Bill, it should also incorporate the establishment of compulsory arbitration in the Bill itself. If arbitration or conciliation fails, only then the Government may prohibit strikes in that essential service.

I have got also another amendment by which I have sought to insert another clause. That is No. 36:

"If the Central Government is satisfied that in the public interest, it is necessary or expedient so to do, it may, by general or special order, prohibit lock-out, closure, retrenchments, or lay-offs in any essential service specified in the order."

It has got some importance of its own, because, Madam, we have also heard that many Members and Parliament itself have expressed the opinion that we cannot afford to allow these em-

ployees to take such steps which hinder the production of the country. Therefore, in the interests of stepping up the production of the country, the Central Government employees or the employees engaged in essential services or otherwise should not take resort to strike. Madam, you should also know that production is hampered by the employers taking resort to lockout, retrenchment or closure sometimes on flimsy grounds. As far as my State of West Bengal is concerned, a large number of factories have been closed on flimsy grounds, by declaring lock-out on flimsy grounds. When the Government is allowed to ban the strikes, in their own words, in the interests of production, in the interests of the community, in the interests of the country, then they should also declare illegal lock-out, retrenchment and layoff so that the production may not be hampered. This is my second amendment.

My third amendment is, as Mr. Sen Gupta has said, we do not want to support the basic principle of this Bill; therefore, we do not want that the order should be in force for six months which may be extended by another six months if the Government considers it necessary. I feel that if the Government are very sincere, if they have got a bona fide intention, then this order should not be in force for more than one month, and if they feel so, they can extend it only by another month. It should not be extended for over a year as is contemplated in the Bill.

Again, Madam, I also support the amendment suggesting that there should not be any retrospective effect of a particular provision of the Act. As I had mentioned earlier, it is *ultra vires* the Constitution; it militates against article 20 of the Constitution of our country. Therefore, it should delete particularly the words "whether before or" in (b) of clause 3(4).

These are my amendments.

THE DEPUTY CHAIRMAN: Mr. Banka Behary Das.

SHRI BHUPESH GUPTA: Madam Deputy Chairman . . .

THE DEPUTY CHAIRMAN: I have called Mr. Das.

SHRI BANKA BEHARY DAS: If he speaks, I have no objection.

THE DEPUTY CHAIRMAN: One of you need not speak.

SHRI BANKA BEHARY DAS: The arguments might be different so that the Home Minister will be convinced. His arguments are very strong. That is the only difference between Mr. Bhupesh Gupta and myself. Madam Deputy Chairman, really the issue is very important for us because in clause 2 we have only defined what is essential service. Even if clause 2 stands and clause 3 is deleted, our purpose will be served. That is why we want to oppose this clause 3 completely. But if the Government want to have the satisfaction and pleasure of having some power so that they can ban strikes in any service, we want to give some concession to them even if that is a sadistic pleasure they want to have because they will have wide powers to ban strikes everywhere without even referring to Parliament. It was wrong on the part of the Home Minister to say that he must carry his own party with him and then only he can carry Parliament. That is not the position. The question does not arise whether he carries his own party or not. The only question is whether he carries Parliament with him or not. As regards clause 2(I)(a)(ix), the scope of Parliament comes in. The order that will be passed to ban strikes in different establishments, which are not covered within the first eight items, that order will be placed before Parliament. About all other services there is no necessity according to this law for that order to be placed before Parliament. He can do it. The Cabinet can decide, the Home Minister can decide that they can ban a strike in all those establishments for six months without coming to Parliament; they can further ban a strike for six months more; they can go on like that. There

is no question of taking into confidence either Parliament or the Congress Party. Therefore, by this wide power he is going to take he wants to have the pleasure of ruling this country like a dictator by banning strikes. He need not consult the Labour Minister. The Labour Minister who is primarily concerned with strikes, industrial relations and trade unions need not be consulted at all.

Madam Deputy Chairman, you will be astonished to know that though in the Concurrent List there is the subject of trade unions and industrial relations, yet the Labour Minister is not dealing with it. I would have been very happy if the Labour Minister intervened for protecting the interests of the working class and gave us some assurance. I do not know, but until now he has entirely left the matter in the hands of the Home Minister who is virtually the employer in most of those services. Madam, it seems that the situation is very conspiratorial. Whenever the question of working class comes, we look to the Labour Minister. When the question of conciliation or arbitration comes, we go to the Labour Minister. But here the Labour Minister has been completely elbowed out from the picture, and he only nods his head and supports the Home Minister because the Home Minister happens to be the employer in those services. That is why if he wants to have the pleasure of banning the strike everywhere and pose himself that he is dictator of the country and can rule with all dictatorial powers, I am prepared to give him power for two months. My amendment is to delete sub-clause (2), delete sub-clause (3), and only in sub-clause (1) to give the power for two months. You will have the pleasure and satisfaction, and I have another argument also because there has been some assurance, and that assurance has misled the Congress Members in this House. The assurance was that in the coming session he would bring a Bill about the machinery that is to be evolved for settlement of disputes by reference to

arbitration. This Bill will come into operation on January 1st, the great New Year, but I am giving time till the end of February when Parliament would be already in session and if he can satisfy his own party Members within those twenty days in February and pass a comprehensive Bill where the strike ban will be there and arbitration will be there, at least he will give that much satisfaction to the Congress Members who, with that hope, are trying to support this measure. I am now requesting the Home Minister at least to accept this amendment and have the pleasure of having the power of banning strikes, but to bring a comprehensive measure so that he can satisfy at least his own party Members. With these words I commend the amendment to the Home Minister.

SHRI M. V. BHADRAM: Clause 3 is considered to be the heart of the entire Bill which is being taken away by the Home Minister, which was originally protected by the Labour Minister, which protection he is now abdicating. In the Industrial Disputes Act section 3 deals with reference of disputes. In section 10(3) it says: "Where an industrial dispute has been referred to a Board, Labour Court, Tribunal or National Tribunal under this section, the appropriate Government may by order prohibit the continuance of a strike or lock-out in connection with such a dispute which may be in existence on the date of reference". This is the crux of the whole thing. It means that only after reference the Government acquires the power to prohibit the strike. But in this Bill even without any reference of any dispute to any Tribunal, the Government takes the right to ban a strike. The Minister of State for Home Affairs has accepted, has conceded, that industrial workers are also covered under the mischief of this Bill. Therefore, those industrial workers who are now covered by the Industrial Disputes Act cannot be de-prived of their right to strike without referring the issue to an Industrial

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Tribunal. The same workers till yesterday were enjoying that right and they are now being deprived of that. If that amendment is incorporated— "after reference to the Tribunal the strike can be prohibited"—if the essence of section 10(3) of the Industrial Disputes Act is incorporated in clause 3(1) of the Bill, that will satisfy the entire employees of the Central Government.

Secondly, about the prohibitory order, the Government says that they can prohibit strikes. But according to clause 2(2) the order should be placed before Parliament and Parliament should approve of it. That means the Notification declaring a particular service to be an essential service should be approved by Parliament. The Executive, in the case of clause 2(1)(a), items (i) to (viii), need not come to Parliament. Only in the case of sub-clause (ix) has the Government to come to Parliament. But in these eight cases, the Government—that means the Home Secretary—can issue an order. Further, sub-clause (2) of clause 3 says that "It shall be published in such manner as the Central Government considers best calculated to bring it to the notice of the persons affected by the Order." But according to clause (2)(1)(a)(ix), it should be published in the Gazette of India. There that obligation is also not on the Government of India. It need not be published in the Gazette. It can just be pasted on the notice-board. There is some Standing Order that if a worker refuses to take a charge-sheet, it can be pasted on the notice-board and it would be taken that it has been served on him. Similarly, now the Government would say that they would put up a notice-board prohibiting the strike and that would mean that the strike is over.

(*Shri Bhupesh Gupta stood up.*) THE DEPUTY CHAIRMAN: Mr. Gupta, you must make Mr. Bhadram sit down. Why do you stand up? Mr. Bhadram, I think you have nothing more to say. Yes, Mr. Bhupesh Gupta.

SHRI M. V. BHADRAM: No, Madam, I have got another amendment.

In sub-clause (4) there are two things. Sub-clause (4)(a) says—

"no person employed in any essential service to which the Order relates shall go or remain on strike;"

That means, he shall not continue the strike which has already been commenced. But sub-clause (b) says—

"any strike declared or commenced whether before or after the issue of the Order, by persons employed in any such service shall be illegal."

That means, the strike has been declared illegal today, that is, the 26th December—the strike which has commenced already—and all the provisions in clauses 4, 5 and 6 will be applicable in this case. This is a piece of legislation which is using penal provisions with retrospective effect. It is prohibited under the provisions of the Constitution of India.

THE DEPUTY CHAIRMAN: Mr. Bhupesh Gupta. Please be brief. For once, I can ask you to be brief.

SHRI BHUPESH GUPTA: Madam, I am opposed to this particular clause (3) because I am against giving any power to the Government to prohibit strike. I do not think we can make any improvement because we are in principle opposed to investing the Government with this power to ban strike. And this is, as I have said, the most atrocious of all the clauses in an atrocious Bill. Therefore, our opposition would be a stiff opposition. But we know that we cannot succeed in getting it deleted.

Now, this brings out the mentality of this Government. What is that mentality? The anti-labour and cynical mentality of this Government. You have seen it. Tomorrow or perhaps the day after tomorrow we will be ending the session. Now, during the entire period we have not succeeded in getting the Government to announce whether they are going to have an investigation . . .

SHRI BANKA BEHARY DAS: Government even do not allow us to have the Christmas mood when they are having all these oppressive laws.

THE DEPUTY CHAIRMAN: I think you are in a splendid mood today.

SHRI BHUPESH GUPTA: The position is this. During these six weeks or so—or more than a month or five weeks—we have been waiting for this Government to come and tell us, in deference to the direction of the Chair, when they are going to appoint a Commission of Inquiry into the Birla affairs. Up to now they have not done it. The Birlas are employers; so are they. When it comes to the Employers' Club, the employer, the Government, behaves in a very very cowardly and timid manner. When it comes to the workers, it wants power to ban strikes. Here is the contrast. Now, the power will be misused by them. First of all, when it is not used, it is a constant intimidation and provocation against the workers and the employees. Therefore, please do not think that the mischief and harm of this measure lies only where it is used. The very fact that this is going to be put on the statute Book is in itself an attack on the working people because everyone trying to exercise his legitimate right of either collective bargaining or strike would be up against the constant threat contained in this particular provision of the Bill. Therefore, this in itself is serious.

Madam Deputy Chairman, I need not shoot Mr. Dharia or you or anybody. If I have a revolver in my hand and then I ask you to behave in a particular manner, it means that I am intimidating you, it means that I am pressurising you to bow to my dictations and so on. This is a gangster method. Today I know it for a fact that some people in the Cabinet—ignoring Mr. Hathi, of course, and many other Ministers—some people in the kitchen Cabinet—I mean the chief cooks and others who may be making dishes—they have decided that they¹ must proceed to a stage when they must have legislative powers to ban

strikes. Madam Deputy Chairman, for 21 years since independence we have been living without a measure of this kind which empowers the Government to ban strikes. Nothing had happened to justify this thing. What happened to invoke a measure of this kind or a proposed measure of this kind? Token strike? Token strikes have taken place earlier also. Even more serious strikes have taken place. Then you never thought, many people never thought, even this Government or the people who constitute such a Government as this Congress Government never thought, of bringing forward a measure of this kind. Then why, after 21 years of independence, when we are supposed to be stronger, when our democracy is supposed to be stronger, are we in need of this measure?

It is because the monopolist class has told them to have this measure, to begin with. Suppress the Government employees and Government workers. And then it will be extended to other fields. This is their life. Please see the conspiracy behind it. Step by step the Government is implementing this class conspiracy, a conspiracy hatched between them and the Birlas and others at the political level on the one hand, and at the economic level on the other. It is because of an unholy alliance between these rulers here—rulers who matter—and the capitalists, the big elements, that we are having a measure of this kind.

Madam Deputy Chairman, so it has to be strongly opposed. There is a way perhaps. Well, it is a bad thing we have got. But this Government is getting more and more exposed. I am sure that in February when the midterm poll takes place, the Government employees and other workers living at least in those four States where the mid-term election will take place, will take note of this measure and exercise their democratic right in order to help others to scrap it. 6 P.M.

SHRI M. P. SHUKLA (Uttar Pradesh): All political propaganda.

SHRI BHUPESH GUPTA : It is not political propaganda. Undoubtedly it is the bounden duty of every voter in the country . .

THE DEPUTY CHAIRMAN: Please wind up.

SHRI BHUPESH GUPTA . . . specially the Government employees to see that this Congress is defeated in every single State, Bengal, Uttar Pradesh, Bihar and Punjab. If we can deal such blows and defeat the Congress . . .

THE DEPUTY CHAIRMAN: That will do.

SHRI BHUPESH GUPTA: ... in the coming mid-term election we would be in a better position during the Budget Session to ask this Government to behave in a better way . . .

(Time bell rings.)

THE DEPUTY CHAIRMAN: That is all. Please wind up.

SOME HON. MEMBERS : All politics.

SHRI BHUPESH GUPTA: It is not politics. It is democracy. Madam Deputy Chairman, it is not politics. You will be passing this measure with the aid of your coloured, politically-motivated Congress votes which are at the beck and call of the monopolists . . .

THE DEPUTY CHAIRMAN: That will do. Now let Mr. Shukla answer. You must wind up.

SHRI BHUPESH GUPTA: I am finishing. He said Pandit Jawaharlal Nehru also did it. Yes. Who says that Pandit Jawaharlal Nehru did everything good? We are not one of those who would say that even Pandit Jawaharlal Nehru did not think that a measure of this kind should be passed in Parliament. Mr. Nehru was taller than all of you put together and even if you put a ladder on top of you all, you cannot reach his heights. Such was Pandit Jawaharlal Nehru. Such

[Shri Bhupesh Gupta]

was the man in size. He never thought of proceeding with such a measure, but the pygmies of this Government, who basked in the sunshine of Pandit Jawaharlal Nehru, who waited on his pleasure, they have now come here and ask us to pass this measure because they are absolutely bankrupt, afraid of their own employees, afraid of any just cause. They have no sense of values. Whatever their democratic pretensions, having failed in the economic field and in the political field, they are now discarding them one after another. . .

THE DEPUTY CHAIRMAN: That will do, Mr. Gupta. Please sit down.

SHRI BHUPESH GUPTA: ... I will appeal to the hon'ble Members opposite who are sitting in the Congress Benches to see what a thing they have done to you. These Treasury Benches by their acts of omission and commission have put them in a position that some of them cannot even show up their face when they go to their States. . .

THE DEPUTY CHAIRMAN: No more. That will do. Please take your seat.

SHRI BHUPESH GUPTA: Our Prime Minister goes to Calcutta to tell the people that socialism will come. This is how she proposes to bring socialism, a person heading a Government which does not know to look after its own employees, a Government which persecutes its own employees and treats them as criminals and dismisses them from service. Such a Government is not worthy of the title of a Government. Such a Government is not a civilised Government. Such a Government is not suited for any parliamentary democracy but is suited for authoritarian and fascist regime. . .

THE DEPUTY CHAIRMAN: That will do, Mr. Gupta.

SHRI BHUPESH GUPTA: ... It is no use for the Prime Minister to go

to Calcutta and tell the people there why she is in favour of democracy and that the United Front is against democracy. If we come to power, as I am sure we shall, in Bengal. . .

SOME HON. MEMBERS : No, no.

SHRI BHUPESH GUPTA : ... I may tell you that nobody can prevent the United Front winning in West Bengal. When we come to power there we know how to deal with such legislations . . .

THE DEPUTY CHAIRMAN: I know what you are talking about. Now please sit down. You are not on the Third Reading.

SHRI BHUPESH GUPTA: Do you think my armoury is exhausted. . .

THE DEPUTY CHAIRMAN: I am calling Mr. Shukla.

SHRI BHUPESH GUPTA : Why are you calling Mr. Shukla? Call Mr. Hathi. I am surprised that in the entire debate Mr. Hathi, the Leader of the House, supposed to be the Labour Minister, has not spoken a word. What kind of Labour Minister are you, Mr. Hathi, I should like to know from you.

THE DEPUTY CHAIRMAN: You can finish now.

SHRI BHUPESH GUPTA: Mr. Hathi, can you not go on a hunger strike for a while in front of your Prime Minister and tell her that the Labour portfolio must be respected, that matters relating to labour must belong to you and not snatched away from you by the Home Ministry. Mr. Hathi, you can go on a hunger strike for a hundred days.

THE DEPUTY CHAIRMAN: That is all right. Now take your seat.

SHRI BHUPESH GUPTA: Madam, so I say ? am very sorry for Mr. Hathi. He does not realise how he is being insulted and how he is being made a laughing-stock in the country. The Labour Minister of the country has been made a joker of the Cabinet. Why

are you accepting that role, Mr. Hathi? I strongly oppose this heinous clause which is anti-working class, anti-democratic, inspired by the monopolist class in so far as the Congress Party is concerned which is also paid by the monopolists because the Congress Party is receiving money from Birlas and others for the mid-term elections.

SHRI VIDYA CHARAN SHUKLA: Madam Deputy Chairman, most of the hon'ble Members opposite who spoke on the measure have repeated the arguments and I will not take the time of the House in saying anything about it. I just want to say one or two things about what Mr. Bhupesh Gupta has said. He has, as usual, made insinuations which I strongly repudiate all of them.

Madam, he has shown that he is a weak man, that he can criticise others but he cannot tolerate any criticism of himself. For instance, if I say anything about him he will jump up and try to interrupt. (*Interruption by Shri Bhupesh Gupta*) Therefore, I would not like to criticise him.

Madam, we have a lot of strength and we can bear whatever he says without in the least getting excited. But if you say a word against him he will jump up and try to prevent you from speaking. (*Interruption by Shri Bhupesh Gupta.*) He has unlimited capacity for irrelevance. He can talk any amount of irrelevance. He said his armoury is not exhausted. Madam, we are also prepared to reply to his irrelevance. He can talk all the time but he does not expect any reply. And nobody who wants to conduct Parliamentary business seriously should try to reply to him; otherwise he will get lost in all kinds of irrelevant details here and there. Therefore, I do not want to say anything about all that except this that the hon'ble Labour Minister has been fully a party to the Government decision as a Cabinet Minister. . .

SHRI BHUPESH GUPTA: I dispute it.

SHRI VIDYA CHARAN SHUKLA: . . . Madam, he is again getting up. He will get up and interrupt when he does not like anything. I dispute in the presence of the Labour Minister all that he has said about him. Let me say that the hon'ble Labour Minister is a party to all the Government decision over this provision and whatever I am saying here I am saying on his behalf and on behalf of the Government.

THE DEPUTY CHAIRMAN: Out of 25 amendments, 17 have been moved. I am sure they will all be pressed. Do I have the permission of the movers of the amendments to put all the amendments to vote together?

SOME HON. MEMBERS: No, no.

THE DEPUTY CHAIRMAN: I will put them separately.

SHRI BHUPESH GUPTA: Separately. Otherwise how can I vote? I may like one amendment and I may not like another.

THE DEPUTY CHAIRMAN: All right. Now please take your seat and have rest. The question is :

32. "That at page 3, line 16, after the word 'satisfied' the words 'after referring the dispute to arbitration as a bilateral move' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is :

34. "That at page 3, for lines 16. to 19, the following be substituted, namely: —

'3. (1) If the Central Government after referring a dispute to arbitration by mutual consent, feels that in the public interest it is necessary or expedient so to do it may, by a general or special Order, prohibit strikes in any es-sential service specified in ihat Order.'"

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is :

35. "That at page 3, for lines 16 to 19, the following be substituted, namely: —

'3. (1) If the Central Government, after referring a dispute to arbitration by mutual consent, feels that in the public interest it is necessary or expedient so to do, it may, by a general or special Order, prohibit strike in any essential service specified in the Order:

Provided that no Order prohibiting the strike in any essential service shall be issued unless the same is approved by both Houses of Parliament by a resolution adopted in each House by a majority of seven-eighths of the total membership of that House:

Provided further that an Order issued when Parliament is not in session shall cease to operate unless it has been approved by resolutions of both Houses of Parliament at the commencement of the immediately subsequent session.' "

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is :

36. "That at page 3, for lines 16 to 19, the following be substituted, namely: —

'3 (1) If the Central Government is satisfied that in the public interest, it is necessary or expedient so to do, it may, by general or special Order, prohibit lock-out, closure, retrenchments, or lay-offs in any essential service specified in the Order.' "

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is :

37. "That at page 3, line 17, after the words 'it may' the words 'on

the failure of conciliation proceedings of the disputes or dispute concerned' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

38. "That at page 3, lines 17 to 19, for the words 'by general or special Order, prohibit strikes in any essential service specified in the Order' the words 'by a resolution passed in both Houses of Parliament, prohibit strike in any essential service specified therein for a period not extending more than two months' be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

39. "That at page 3, after line 19, the following proviso be inserted, namely: —

'Provided that no order prohibiting a strike in any essential service shall be issued unless it is approved by a majority of the three-fourths of the total membership of each House of Parliament.' "

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

41. "That at page 3, for lines 20 to 22, the following be substituted, namely: —

'(3) An Order made under subsection (1) shall be published in the Gazette of India, in Official Gazettes of all the States, and also in all the English newspapers and the newspapers in all regional languages.' "

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

42. "That at page 3, lines 20 to 26 be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The I
question is:

43. "That at page 3, for lines 23 to 26,
the following be substituted, namely: —

'(3) An Order made under subsection
(1) shall be enforced for one month
only, but it can be extended for further
periods, one month at a time if
approved by both Houses of Parliament
by a resolution adopted in each House
by a majority of three-fourths of the
total membership of that House.' "

The motion was negatived.

THE DEPUTY CHAIRMAN : The
question is:

44. "That at page 3, for lines 23 to 26,
the following be substituted, namely: —

'(3) An Order made under subsection
(1) shall be enforced for one week
only, but it can be extended for further
periods, one week at a time, if
approved by both Houses of Parliament
by a resolution adopted in each House
by a majority of seven-eighths of the
total membership of that House.' "

The motion was negatived. THE DEPUTY
CHAIRMAN: The question is:

46. "That at page 3,—

(i) in line 24, for the words 'six
months' the words 'one month' be
substituted; and

(ii) in line 25, for the words 'six
months' the words 'one month' be
substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN : The
question is :

48. "That at page 3, line 25, for the
words 'for any period not exceeding six
months' the words 'by a month at a time
and not more than three times in total' be
substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The
question is:

49. "That at page 3, line 25, for the
words 'six months' the words 'two months'
be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The
question is:

52. "That at page 3, line 29, for the
words 'go or remain on' the word
'commence' be substituted.

The motion was negatived.

THE DEPUTY CHAIRMAN: The
question is:

53. "That at page 3, line 29, the
words 'or remain' be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The
question is:

54. "That at page 3, line 30, the
words 'whether before or' be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The
question is:

"That clause 3 stand part of the Bill."

The House divided:

THE DEPUTY CHAIRMAN: Ayes—
67; Noes—16.

AYES—67 Abid

Ali, Shri Alva, Shri Joachim
Bhargava, Shri M. P. Chandra
Shekhar, Shri Chandrasekhar, Dr.
S. Chavda, Shri K. S. Chetia,
Shri P. Desai, Shri Suresh J.
Dharia, Shri M. M. Dikshit, Shri
Umashankar Doogar, Shri R. S.
Gilbert, Shri A. C. Gujral, Shri I.
K.

Gurupada Swamy, Shri M. S.
Hathi, Shri Jaisukhlal
Kaul, Shri B. K.
Kemparaj, Shri B. T.
Khaitan, Shri R. P.
Khan, Shri Akbar Ali
Kollur, Shri M. L.
Krishan Kant, Shri
Kulkarni, Shri B. T.
Lalitha (Rajagopalan), Shrimati
Madani, Shri M. Asad
Mallikarjunudu, Shri K. P.
Mangladevi Talwar, Dr. (Mrs.)
Maniben Vallabhbbhai Patel,
Kumari
Mehta, Shri Om
Mishra, Shri S. N.
Mitra, Shri P. C.
Mohammad, Chaudhary A.
Nandini Satpathy, Shrimati
Narayanappa, Shri Sanda
Pande, Shri C. D.
Patra, Shri N.
Pattanayak, Shri B. C.
Phulrenu Guha, Dr. Shrimati
Punnaiah, Shri Kota
Pushpaben Janardanrai Mehta, Shrimati
Puttappa, Shri Patil
Reddy, Shri K. V. Raghunatha
Reddy, Shri Nagi
Rizag Ram, Shri
Salig Ram, Dr.
Samuel, Shri M. H.
Sangma, Shri E. M.
Sanjivayya, Shri D.
Satyavati Dang, Shrimati
Savnekar, Shri B. S.
Sen, Dr. Triguna
Shah, Shri K. K.
Shanta Vasisht, Kumari
Sherkhan, Shri
Shukla, Shri M. P.
Singh, Shri Dalpat
Sinha, Shri Awadheshwar Prasad
Sinha, Shri B. K. P.

Sinha, Shri R. B.
Sinha, Shri Rajendra Pratap
Tankha, Pandit S. S. N.
Tiwary, Pt. Bhawaniprasad
Tripathi, Shri H. V.
Untoo, Shri Gulam Nabi
Vaishampayan, Shri S. K.
Varma, Shri C. L.
Vidyawati Chaturvedi, Shrimati
Yajee, Shri Sheel Bhadra

NOES.—16 Barbora,
Shri G. Basu, Shri Chitta Bhadram,
Shri M. V. Bhandari, Shri Sundar
Singh Das, Shri Banka Behary Gowda,
Shri U. K. Lakshmana: Gupta, Shri
Balkrishna Gupta, Shri Bhupesh Jha,
Shri R. N. Menon, Shri Balachandra
Reddy, Shri Yella Sen Gupta, Shri D.
L. Shankuntala Paranjpye, Shrimati
Sinha, Shri Rewati Kant Thengari, Shri
D. Villalan, Shri Thillai *The motion
was adopted.*

*Clause 3 was added to the Bill-Clause 4—
Penalty for illegal strikes*

SHRI THILLAI VILLALAN:
Madam, I beg to move:

56. "That at page 3, for the existing
clause 4, the following be substituted,
namely:—

'4. Any person who intentionally
commences a strike which is declared to
be illegal under this Act or goes or
voluntarily remains on any such strike
shall be punishable with imprisonment
for a term which may extend to one
month or with fine which may extend to
ten rupees, or with both :

Provided that a Government servant
punished undeT this section shall not be
liable for any

other punishment under the Central Government Servants' Conduct Rules."

SHRI CHITTA BASU: Madam, I beg to move:

57. "That at page 3,—

(i) in line 33, after the word 'strike' the words 'or lock-out' be inserted; and

(ii) in line 35, after the word 'strike' the words 'or lock-out' be inserted."

(The amendment also stood in the name of Shri D. L. Sen Gupta)

SHRI BALACHANDRA MENON: Madam, I beg to move:

58. "That at page 3, lines 34-35 the words 'or goes or remains on, or otherwise takes part in, any such strike' be deleted."

(The amendment also stood in the names of Shri M. V. Bhadrar, Shri D. Thengari, Shri Arjun Arora and Shri Bhupesh Gupta.)

59. "That at page 3, line 36, for the words 'six months' and 'two hundred' the words 'one month' and 'five', respectively, be substituted."

(The amendment also stood in the name of Shri Arjun Arora.)

SHRI CHITTA BASU: Madam, I beg to move:

6(1. "That at page 3,—

(i) in line 36, for the word 'months' the word 'days' be substituted; and

(ii) in line 36, the word 'hundred' be deleted".

(The amendment also stood in the name of Shri D. L. Sen Gupta.)

SHRI D. THENGARI: Madam, I beg to move:

62. "That at page 3,—

(i) in line 36 for the words 'six months' the words 'six days' be substituted.

(ii) in lines 36-37, for the words 'two hundred rupees' the words 'one rupee' be substituted."

SHRI BANKA BEHARY DAS: Madam, I beg to move:

63. "That at page 3,—

(i) in line 36, for the words 'six months' the words 'one day' be substituted; and

(ii) in lines 36-37, for the words 'two hundred rupees' the words 'one rupee' be substituted."

The questions were proposed.

SHRI BHUPESH GUPTA: Madam Deputy Chairman, you go with all our sympathy.

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

SHRI THILLAI VILLALAN : Mr. Vice-Chairman, Sir, by clause 4, participation in an illegal strike has been made a criminal offence. For a criminal offence, intention must be proved, and also there must be provision for safeguarding the innocent participants without intention. So I want clause 4 to be replaced by my amendment which is as follows:

"Any person who intentionally commences a strike which is declared to be illegal under this Act or goes or voluntarily remains on any such strike shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to ten rupees, or with both."

Now a person should not be punished twice for the same offence. For that purpose, I have added a proviso—

"Provided that a Government servant punished under this section shall not be liable for any other punishment under the Central Government Servants' Conduct Rules."

[Shri Thillai Villalan]

Mr. Vice-Chairman, Sir, if you want to make participation in a strike a penal offence, then you must prove that it was done with intention. The intention must be proved. That is why I have mentioned the word "intentionally." Now there are two sections of employees in any strike: those who voluntarily and intentionally join the strike and those who join a strike but without intention. We must safeguard the interests of the persons who join a strike without intention. Further there should not be double jeopardy; i.e. a person should not be punished for the same offence twice. So my amendments should be accepted for these reasons.

SHRI CHITTA BASU: Mr. Vice-Chairman, Sir, this is a clause which provides for a penal measure. That is, "any person who commences a strike which is illegal under this Act or goes or remains on, or otherwise takes part in, any such strike shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both."

Mr. Vice-Chairman, I am thoroughly opposed to this kind of Act, not to speak of the penal measures incorporated in this Bill. In one of my amendments, I have suggested that the words "months" be deleted. That is, if the Government is very much determined to punish the employees, then it may extend to six months, or with fine can give only for the satisfaction of the Minister of State for Home Affairs. He appears to be demanding his pound of flesh and I will concede 6 days' imprisonment for violation of this Act. Mr. Vice-Chairman, you know if the workers go on strike, they go on strike for better conditions of life and a need-based minimum wage. Therefore, they cannot be punished with fine of a big sum of money. It is proposed in this Bill that for participation in such a strike or for violation of this Act, they will be punished with a fine up to Rs. 200. The workers are very poor and as they are fighting for increase of em-

oluments, they can be fined only Rs. 200, think if the Government wants to punish them at all, that punishment should not exceed a small sum. Then, Mr. Vice-Chairman, I have got a very important amendment in this regard—that lock-out should also be brought within the purview of this Act. As I have said earlier, if the Government's intention is simply to punish the employees, if the Government's intention is simply to prohibit the strike of the workers, then it will be partisan, it will be something which is unjustified. Therefore, the lock-out, the retrenchment and the lay-off should also be brought under the purview of this Act. If they want really to prove that they are equally concerned about the enemies of production, about the enemies of the people, about the enemies of the nation, as I have said earlier, all those people who on flimsy grounds declare lockouts, who on flimsy grounds resort to retrenchment, who on flimsy grounds take recourse to lay-off thereby jeopardising the interests of the nation, jeopardising the interests of the community, they should not be allowed to go unpunished. May I know from the honourable Minister why they are so much partisan, why they are so much anti-working class, why they are not antimonopolist, why they are not anti-capitalist, why they are not anti-bureaucrat for whose fault production cannot be continued? Therefore, in this Bill a provision to ban lock-outs, a provision to prohibit retrenchment, a provision to prohibit lay-off, should also be included, and then it will become more or less acceptable to me because it will punish both.

SHRI BALACHANDRA MENON: Sir, I am against this provision. I am selling my labour power. I have got a right to refuse it, may I suffer because of my refusal. On that day I will not get my wages. You have got perfect liberty to kick me out of employment. But then, you want to put me inside the jail. That means there is a punishment twice. If under inhuman conditions I cannot work, I have got a right to say so. Who are

you to tell me that I should go and work? You speak about the necessity for good industrial relations, but you forget the right of workers. That is the difficulty. And that is the difficulty in the whole legislation. The class and the country will have to be seen together. This democratic class which is going to save you, which is going to save this country, its rights will have to be protected. You refuse to do it. You think only in terms of the nation without the worker, without the peasant, without the middle class. What nation is it then? So, if I find that the conditions of work are inhuman, *it I* find that the overtime of 14 hours, 13 hours or 12 hours, cannot be acceptable to me, I refuse *my* labour during that period. How can you come and say, "No, no, you will have to work?" This is something which I cannot accept. Therefore, I suggest that in this case the provision should be for a very very nominal punishment, Re. 1 or Rs. 2 or anything like that, because it is a question of my losing that day's wages. Most of the workers are on daily wages. Some of them are monthly-rated people. What more do you want to do? Refuse payment for my no work. That is what you can do. To a worker who is starving the maximum that you can do is, take away from him his wages for that day and nothing more. That is the punishment you can give him. After all, what has he done? He has just asked for a higher wage. If he goes on strike, he loses his wages on that day. Is that punishment not enough? I, therefore, suggest that in such cases you cannot impose Rs. 200 fine and also six months inside the jail. Here is a worker who is contributing so much for our country by his work, who has learnt a great deal about the industry, and you want him to be idle for six months in a jail. His skill and experience are required here to maintain and further production. He must be told that he is wrong if he is wrong. That attitude which you are prepared to show to students, that attitude which you are prepared to show to the other middle class people, why do you not show that to

the worker also? Do you think that he is the one man who can be ordered about? That period is past. Today he cannot be ordered about. It is his labour which you are buying, and for that he has got a right to say, "I must have so much for the only commodity that I have to sell. I must have so much money." Has he not got that right? And when he asks that, you come and tell him, "No, it cannot be given and in the interests of the nation you have to work." Wonderful conception of the nation and its needs—no Sir, these inhuman conditions cannot be allowed. Therefore, I would suggest that you delete this clause and you impose only this punishment that he loses his wages for that day, and no imprisonment because imprisonment means you are trying to be callous, imprisonment means you are becoming anti-people, imprisonment means you are becoming anti-human, imprisonment means the worker is kept idle. That is dangerous to the country. Therefore, I suggest that this clause must be removed.

SHRI D. THENGARI: Sir, I am opposed to this clause and I am suggesting certain amendments. In the first place, as I have said earlier, it would be unfair, unjust and illegal to give retrospective effect to any order issued by the Government. Secondly, the wording of this clause is very vague. "Any person who commences a strike which is illegal under this Act or goes or remains on, or otherwise takes part in . . ." which means that the whole clause can be construed in any way favourable to the Government. And thirdly, since I am opposed to the very issuing of an order prohibiting strikes, as a matter of fact, I am not convinced that for going on strike anybody should be punished; but now that there is a legislation and some punishment or other is to be imposed, I have suggested through my amendment that the period of six months of punishment be reduced to one week and a fine of Rs. 200/- to Re. 1/-. I am quite aware that the honourable Minister of State is going to say that this is absurd. Certainly this is absurd. I agree

*of the Essential Services
Maintenance Ordinance, 1960*

(Shri D. Thengari]

with him. But I also remind him that the absurdity of our amendment is only the effect of the absurdity of the original clause. So, the absurdity of our amendment flows from the absurdity of the original clause. If the original absurdity is removed, following it the incidental absurdity will not have any justification for its existence.

SHRI D. L. SEN GUPTA: Mr. Vice-Chairman, Sir, amendment No. 57 is practically lost now because of amendment No. 36 having been lost earlier. Amendment 57 is in consequence and is related to amendment 36. Hence I do not press it. Now, another amendment in my name is No. 60 where I have suggested a much lesser punishment than what is provided. Mr. Vice-Chairman, you kindly appreciate my reasoning for suggesting a lesser punishment. You see the definition of "strike". For commencing or continuing an illegal strike this punishment of six months' imprisonment and a fine of Rs. 200 is imposed. But what is this "strike"? "Strike" connotes within its ambit refusal to work overtime where such work is necessary for "the maintenance of any essential service. As you know, Sir, in the Government service there is no overtime benefit, and this Bill also does not provide for any overtime rate. So, a worker has not the liberty to say, "I refuse to work overtime." and that would mean a "strike" within the meaning of this Bill. Another thing is this. What else does "strike" mean? It means, "Any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service." If there is a fall in the volume of work, it can be for thousand and one reasons. Does it also mean a strike? For all such things a man is to be punished by six months' jail and Rs. 200 fine. I am shocked when I see that all these clauses are passed and all these amendments are being rejected and the Congress Bench, having a brute majority, does not appreciate what mischief is being played. It is a pointer to the trade unions in this

Maintenance Bill, 1968

country. If there was one strong trade union organisation, it could successfully tear it to pieces and tell the Government: 'We will challenge it'. Unfortunately the trade union movement is very weak in this country. That is why we see a legislation of this kind here; that is why we see anti-labour judgments by the Supreme Court; that is why you see not only this but various other retrograde steps being taken by the Labour Ministry even by introducing labour legislations. In this connection, I am on a very vital point. You will appreciate that you are not only defining 'strike' and 'essential services' and taking the power to issue any notification but you are also providing what punishment these people will get. Now in Government service you know that when a man is convicted, he loses his service. You are threatening not only with imprisonment but also with termination of service. Do you think the trade union will take it lying down? It may for some time but it will be a challenge which will be accepted very soon.

SHRI M. V. BHADRAM: This clause deals with the penalty for participating in illegal strikes. I have been in the trade union field for the last 18 years but to me the drafting of the entire clause does not make any sense. It is drafted in such a bad way. It says: 'Any person who commences a strike which is illegal under this Act or goes or remains on or otherwise takes part ...' I can understand from my experience of the last 30 years that one can go on strike and remain that means when the commenced strike is there one can remain in a strike which has commenced earlier— but what does he mean by 'goes on'? It does not make any sense at all. I do not know if it makes any sense to the Government. Then it says: 'otherwise takes part' and what it means I do not know. We have known workers participating in the strike or continue in the strike or otherwise takes part in it. Here the difficulty arises. When the matter goes to a court, whether it is the Supreme Court or the High Court,

the courts are not going to be guided by the speeches made here or the explanations given by the Home Minister or the Law Minister. The Act is interpreted by the language in the Act. Commences a strike' may be interpreted in one way, 'goes on strike' will be interpreted in another way and 'remains on' may be interpreted in another way and also 'otherwise take part' may cover anything. Therefore my amendment says :

"That at page 3, lines 34-35, the words 'or goes or remains on, or otherwise takes part in, any such strike' be deleted."

Then only it makes some sense.

SHRI BHUPESH GUPTA: This is a provision for punishment for what they call illegal strikes and it provides that they should be given a maximum of 6 months' jail plus a fine of Rs. 200. This is a provision which anyone would see that it is too much but my objection is that to go on strike is no crime at all and therefore no punishment whatsoever is warranted. We know how this particular provision is going to be used. It will be used in a harsh manner against the Government employees or public servants. We have recently the example of a particular State—Kerala—where we see that some people do not want to withdraw the cases when the State authorities want the withdrawal of the cases. Unfortunately we have a magistracy in this country which is very much dependent on the executive. In fact it is linked up with the executive. It fulfils certain functions of the Government. The magistracy in our country has also executive functions. The judiciary is not that way separated from the executive. Naturally they will implement this measure only against the Government servants who are brought within the mischief of this particular measure. So I am opposed to it from that angle also.

Here again the Government is now telling the employees that they will be punished with 6 months' imprisonment should they exercise their right

to strike. Only if the Government thinks that the strike is illegal, they will be liable to be punished when they exercise the right to strike. I am surprised that our Minister does not think it is necessary to reply to what I say. May I tell him one thing since he said it? Do you think that I speak here to convince you? Mr. Vice-Chairman, you have been here and you know that I do not sneak to convince the Treasury Benches but it is the forum. You may not be convinced here but some of you are convinced outside. I have a better view of Members than they have about themselves.

KUMARI SHANTA VASISHT : You may not be convinced yourself of your views.

SHRI BHUPESH GUPTA: The hon. Lady Member says that I shall not be able to convince myself. Then she should be happy.

SHRI M. P. SHUKLA: Do you really speak with your heart?

SHRI BHUPESH GUPTA: My heart is not in Mr. Chavan's bag. Mr. Shukla said something. They are so arrogant —the Government. I am not blaming him personally. He is personally quite affable. My quarrel with him is not on a personal plane at all. He is quite a handsome young man budding, and he is good in his own way. The point is, these people they are arrogant. The Government has become arrogant. When we say things they brush off by some argument or the other. So when I speak, I do not speak to impress on the Members of the kitchen Cabinet or halfmembers of the kitchen Cabinet. I am not at all speaking for them. Here is the national Parliament. We exchange opinions. We cross swords over such matters. We express divergent views for the nation and Members to note, for the country to note, for the electorate to note. This is why we speak. If it were that I am called upon here to speak to Ministers only, then I would have retired from this Parliament because I do not think I can ever make any sense to them. I am quite

[Shri Bhupesh Gupta] conscious of that, may be it is my failure. I am quite conscious of that. So why should Mr. Shukla take that view that he will not be affected by me or I will not be affected by him? This is not the issue. We are discussing here and you meet our arguments. You may not like us. When I say Mr. Hathi had not been consulted I would like Mr. Hathi to get up and say that before it was finalised the draft was sent to him and he made amendments and he was given ample time to do so. Then I can understand it. Who is Mr. Shukla to speak for Mr. Hathi who is a full Cabinet Minister and who is here? It does not mean that he is not a party. He is very much of a party. He is a member of the Cabinet and we know and you know how this blessed Cabinet functions. You know, Mr. Vice-Chairman, how this blessed Cabinet is functioning—every one is a lord by himself. Notes are prepared and sent to the Prime Minister for final approval. A file is passed on. A Cabinet meeting is called; ritual takes place and the bosses get up and speak. Others say 'yes' and things are passed. This is not the way . . .

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Bhupesh Gupta, let us confine ourselves to the amendment.

SHRI BHUPESH GUPTA: Yes it is an amendment.

Now this is not the way because, if Mr. Hathi had been given a chance to apply his mind to it, we would have had a better clause than the one we have got. That is why I am saying that the Cabinet's functioning should be like this, that over this matter Mr. Hathi should take the initiative, he should initiate discussion, he should prepare notes, he should make suggestions, and others should discuss and consult him. It is not for Mr. Chavan, I should say. Would Mr. Morarji Desai ever allow anything relating to his Finance Ministry to be settled by Mr. Hathi, or by Mr. Shukla? Never he will allow. But they are taking advantage of Mr. Hathi, the Leader

of our House. Therefore I am rising in protection of certain principles, not individuals. Mr. Vice-Chairman, this is how the Cabinet is functioning and I would not have said all this but for what I have said just now. Every Government employee knows how Mr. Hathi had been neglected in this matter. Well, everybody knows. I am not pleading for Mr. Hathi. I am only showing how irresponsibly the Cabinet functions, and the cabinet functions at the Secretariat level. These are decorations.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Bhupesh Gupta, I thought you would put argument to be met by Mr. Shukla.

SHRI BHUPESH GUPTA: He never met the argument. I am not . . .

THE VICE-CHAIRMAN: These are extraneous matters.

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, therefore Mr. Shukla should answer it properly when he has made this point. Well, when I bring things, you do not listen to them. Every day I bring something about Mr. Morarji Desai, and you don't listen to it. I may bring something more during the Budget Session. Still you would not listen, I know. That is the position. Here also I have made this thing I say all this because it is really an industrial measure, a measure relating to industrial relations. That is what I say. It is not the Preventive Detention Act, or it is not an administrative Act. It is not the Service Conduct Rules. Go through the clauses of this Bill including the punishment clause. They all relate to matters which come within the domain of the Ministry of Labour, not the Ministry of Home Affairs. *(Time bell rings)* Therefore I oppose this thing. And Mr. Shukla, may I tell him; he may ignore me because he has the majority, I know; he can ignore me. Certainly he can ignore me in whatever manner he likes, but he cannot ignore the people of India, or the people outside. They would like to know what he has to say. Mr. Vice-Chairman, I may tell you; I

addressed many rallies in connection with this strike. It was my duty to do so. Do you think we shall go to sleep when you will beat up Government employees, persecute them and hound them out? No. It is the duty of Members of Parliament belonging to all parties to take positions over a public matter. We are not here only to speak. Therefore we knew how the Government employees felt; the one feeling they had was that the Labour Minister had been completely ignored. This I say because . . .

(Interruptions)

SHRI JAISUKHLAL HATHI: Now you say on the amendments.

SHRI BHUPESH GUPTA: Don't say such things now, Mr. Hathi. You need not say anything. They have made you the mute observer. Keep dumb here also. Don't say anything.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Now let us hear what Mr. Shukla has to say.

SHRI BHUPESH GUPTA: Cabinet has made you the mute spectator of everything, Mr. Hathi. You don't need my protection, I know.

SHRI JAISUKHLAL HATHI: Speak on the amendments please.

SHRI BHUPESH GUPTA: No; you don't need it, I know. You are a Cabinet Minister.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Leave him alone. He will take care of himself.

SHRI BHUPESH GUPTA: He has taken care of himself, do you think so?

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Well, leave him alone; speak on the amendments.

SHRI BHUPESH GUPTA: If you think so, Mr. Vice-Chairman, you are quite right. But the trouble is nobody thinks so, nobody thinks that he has taken care of himself—may be due to his goodness. And what is the use of that article in the 'Statesman' writ-

ten on the importance of being Mr. Hathi? When his unimportance is established every day, what is the use of having such things written in the 'Statesman'? Therefore I say, Mr. Vice-Chairman . . .

(Time bell rings.)

Mr. Shukla, I feel sorry for Mr. Shukla . . .

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Now let us hear him. Do not feel sorry for him; let us hear him.

SHRI BHUPESH GUPTA: Just a minute. Let me say about him, and these are the occasions when I can speak about him. He is an affable man, you see, but since he has gone to the Home Ministry, I find a change is coming upon him gradually. He perhaps is not conscious of it. Those who become wayward or take to evil methods or evil ways of life do not understand that they are falling into bad ways, and he also does not understand. Perhaps he is not conscious, and as a colleague of his it is my duty to advise him to redeem himself before it is too late, and therefore I say. . .

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): That will do, Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA: You have seen that Mr. Chavan is not present here. Why Mr. Chavan is not present here? He walked from that side and came and sat here—a good place he came to no doubt—only to tell me "Finish this Bill quickly." You see, he is interested in having it passed somehow; that is all. Is that all? I know them, we all know . . .

SHRI LOKANATH MISRA : He does not, want to take the blame on himself; he has put it on the shoulders of Mr. Shukla

(Interruptions')

SHRI BHUPESH GUPTA: Mr. Chavan is guilty of character assassination has assassinated his character,

[Shri Bhupesh Gupta] Mr. Shukla's character. This is what I feel. (Interruptions) Therefore, I say you are quite right. I thought Mr. Chavan would have come and faced the music here.

So, Mr. Vice-Chairman, I oppose this thing and it is a very harsh punishment provided for. I should like to have some measure against the monopolists, which provides for six months' jail for them, at least six months. Many of them admirably qualify for life transportation. Yet, nothing is provided for. But workers, yes, they must go to jail if they exercise their right of collective bargaining, but collective theft, collective profiteering, collective speculation, all permitted under the Congress *Raj*. Well, now we would like to hear what he has to say. Let him speak to the nation, not to me, I am very unimportant.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Well, he is speaking to the nation. Mr. Shukla.

SHRI VIDYA CHARAN SHUKLA: Mr. Vice-Chairman, the other hon. Members except Mr. Bhupesh Gupta spoke relevantly on the amendments they moved, and he should be able to listen to what I say now.

SHRI BHUPESH GUPTA: Is Mr. Shukla relevant in making this reference to me?

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): He is analysing the speeches and points.

(Interruptions)

SHRI VIDYA CHARAN SHUKLA: As far as the amendments are concerned, Mr. Vice-Chairman, Sir, I am not able to accept any of those amendments. But in what Mr. Bhupesh Gupta said now one or two matters need some clarification. He has expressed profuse sympathies for our Labour Minister. Now here it is all misplaced, and it is not necessary because, at every stage of the negotiations with the Government employees, at every stage of framing this Bill,

we have had the benefit of his guidance and his advice in this matter, and this particular matter which has come before this House.

SHRI BANKA BEHARY DAS: He was under duress.

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

SHRI VIDYA CHARAN SHUKLA : Mr. Vice-Chairman, Mr. Hathi has been the guiding factor as far as our policy is concerned, and this is particularly so because this matter is not anti-labour, it is not anti-Government-employees. It is actually to prevent unholy influence on them, or to prevent them being misdirected or misguided. Sir, I do not want to go into any personal comments; he is free to do. He is a senior Member and we all respect him, and we can say we have given him the licence and the licence permits him to do anything. So I would not. . . (Interruptions) So I will not take objection to whatever he says because we all know how to take all that. Only one thing I will say. He said that we cannot ignore the people. I only say that you cannot any longer mislead them.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

56. "That at page 3, for the existing clause 4, the following be substituted, namely:—

'4. Any person who intentionally commences a strike which is declared to be illegal under this Act or goes or voluntarily remains on any such strike shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to ten rupees, or with both:

Provided that a Government Servant punished under this section shall not be liable for any other punishment under the Central Government Servants' Conduct Rules."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

57. "That at page 3—

(i) in line 33, after the Word 'strike' the words 'or lock-out' be inserted; and

(ii) in line 35, after the word 'strike' the words 'or lock-out' be inserted."

The motion was negated.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

58. "That at page 3, line 34-35, the words 'or goes or remains on, or otherwise takes part in, any such strike' be deleted."

The motion was negated-

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

59. "That at page 3, line 36, for the words 'six months' and 'two hundred' the words 'one month' and 'five', respectively, be substituted.

The motion was negated.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

60. "That at page 3,—

(i) in line 36, for the word 'months' the word 'days' be substituted ; and

(ii) in line 36, for the word 'hundred' be deleted."

The motion was negated.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

62. "That at page 3 —

(i) in line 36, for the words 'six months' the words 'one week' be substituted; and

(ii) in lines 36-37, for the words "two hundred rupees" the words "one rupee" be substituted."

The motion was negated.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

63. "That at page 3,—

(i) in line 36, for the words 'six months' the words 'one day' be substituted; and

(ii) in lines 36-37, for the words 'two hundred rupees' the words 'one rupee' be substituted."

The motion was negated.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

"That clause 4 stand part of the Bill."

The House divided.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Ayes—63; Noes. 15.

AYES—63

Abid Ali, Shri

Chandra Shekhar, Shri

Chandrasekhar, Dr. S.

Chavda, Shri K. S.

Chetia, Shri P.

Desai, Shri Suresh J.

Dharia, Shri M. M.

Dikshit, Shri Umashankar

Doogar, Shri R. S.

Gilbert, Shri A. C.

Gujral, Shri I. K.

Gurupada Swamy. Shri. M. S-

Hathi, Shri Jaisukhlal

Kaul, Shri B. K.

Kemparaj, Shri B. T.

Khaitan, Shri R. P.

Khan, Shri Akbar Ali

Kollur, Shri M. L.

Krishan Kant, Shri

Kulkarni, Shri B. T.

Lalitha (Rajagopalan), Shrimati

Madani, Shri M. Asad

Mallikarjunudu, Shri K. P.

Mangladevi Talwar, Dr. (Mrs.)

Maniben Vallabhbbhai Patel, Kumari

Mehta, Shri Om

Mishra, Shri S. N..

Mitra, Shri P. C.

Mohammad, Chaudhary A.
 Nandini Satpathy, Shrimati
 Narayanappa, Shri Sanda
 Patra, Shri N.
 Pattanayak, Shri B. C.
 Phulrenu Guha, Dr. Shrimati
 Punnaiah, Shri Kota
 Pushpaben Janardanrai Mehta, Shrimati
 Puttappa, Shri Patil
 Reddy, Shri K. V. Raghunatha
 Reddy, Shri Nagi
 Rizaq Ram, Shri
 Salig Ram, Dr.
 Samuel, Shri M. H.
 Sangma, Shri E. M.
 Sanjivayya, Shri D.
 Satyavati Dang, Shrimati
 Savnekar, Shri B. S.
 Sen, Dr. Triguna
 Shah, Shri K. K.
 Sherkhan, Shri
 Shukla, Shri M. P.
 Singh, Shri Dalpat
 Sinha, Shri Awadheshwar Prasad
 Sinha, Shri B. K. P.
 Sinha, Shri R. B.
 Sinha, Shri Rajendra Pratap
 Tankha, Pandit S. S. N.
 Tiwary, Pt. Bhawaniprasad
 Tripathi, Shri H. V.
 Untoo, Shri Gulam Nabi
 Vaishampayan, Shri S. K.
 Varma, Shri C. L.
 Vidyawati Chaturvedi, Shrimati
 Yajee, Shri Sheel Bhadra

NOES—15

Barbora, Shri G. Basu, Shri Chitta
 Bhadram, Shri M. V. Bhandari, Shri
 Sundar Singh Das, Shri Banka Behary
 Gowda, Shri U. K. Lakshmana

Gupta, Shri Balkrishna Gupta, Shri
 Bhupesh Menon, Shri Balachandra
 Murahari, Shri Godey Sen Gupta, Shri
 D. L. Shakuntala Paranjpye, Shrimati
 Sinha, Shri Rewati Kant Thengari, Shri
 D. Villalan, Shri Thillai

The motion was adopted.

Clause 4 was added to the Bill.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Before we go to clause 5, I want to ask the House about the future programme.

SHRI BHUPESH GUPTA : That subject We shall take up at five minutes to seven.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : There are only seven or eight minutes now.

SHRI I. K. GUJRAL: As the hon. House would have noticed we have still to pass this Bill. Some clauses and the third reading still remain. We have also to pass and return some Appropriation Bills to the Lok Sabha. In the circumstances we suggest that the House might sit day after tomorrow also.

SHRI BHUPESH GUPTA: First of all, I would like to get this clear. Why were not the Appropriation Bills brought here before ?

SHRI JAISUKHLAL HATHI: They had not been passed by the Lok Sabha.

SHRI BHUPESH GUPTA: The Appropriation Bills are much more important than this thing.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Mr. Bhupesh Gupta, you know the procedure. Unless it is passed by the Lok Sabha it cannot be taken up.

SHRI BHUPESH GUPTA: It had been passed by the Lok Sabha.

SHRI BHUPESH GUPTA : You don't know. Under the rules we have to come the third reading.

SHRI ABID ALI: What rules ?

SHRI BHUPESH GUPTA: Therefore no question of guillotine arises at all. Mr. Vice-Chairman, you see this is their attitude. What we are doing in this House is nonsense to them.

SHRI ABID ALI: I said what the Communists are doing is nonsense.

SHRI BHUPESH GUPTA : You have said it here ?

SHRI ABID ALI : A hundred times.

SHRI BHUPESH GUPTA : Well, a greater nonsense has not been uttered on the floor of the House. I will leave it at that.

But now, M.r. Vice-Chairman, you adjourn; it is seven o'clock.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : Well, as the House is not in a mood to take a decision today, we will take a decision tomorrow.

SHRI LOKANATH MISRA : Let us have it today.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : The House stands adjourned till 11.00 A.M. tomorrow.

The House then adjourned at seven of the clock till eleven of the clock on Friday, the 27th December, 1968.