

the Bill introduced in Parliament seeking to withdraw the exemption of excise duty on hand made detergent products in the larger interest of country's indigenous economic growth. As the matter is quite serious, I call upon the Government to take immediate action.

- (vii) Extending the same benefits to the Educational and Vocational Guidance Counsellors working in various Government Schools in Delhi as are provided to all other categories of teachers employed in Government Schools

SHRI K.J. ABBASI (Domariaganj) : Sir, various benefits like enhancement of age to 60 years, selection grade, stagnation increments, medical allowance etc., have been granted to all categories of teachers working in the Government schools in Delhi. The benefits have not, so far, been given to the Educational and Vocational Guidance Counsellors working in the same schools. The E.V.G. Counsellors, in addition to guidance work, also take regular periods in schools like other categories of teachers. They are very much involved in the process of teaching.

Since these benefits have also been granted to Librarians and Laboratory Assistants, who are not engaged to teaching process, there is no justification in excluding the E.V.G. Counsellors working in the same schools.

I request the hon. Education Minister to kindly look into the matter and rectify the gross injustice done to the Counsellors.

- (viii) Incentives to protection staff employed in Archaeological Survey of India to stop pilferage of archaeological relics

SHRI DIGVIJAY SINH (Surendranagar) : Sir, encroachment of properties owned by the Archaeological Survey of India and the pilferage of archaeological relics has assumed alarming proportions. Considering the meagre emolument received by the protection staff, giving incentives

is the only solution. Reply to my Unstarred Question No. 344, dated the 14th August, 1985 totally denies any such incentives and therefore the need to evolve giving such special facilities.

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13.04 hrs.

ESSENTIAL SERVICES MAINTENANCE (AMENDMENT) BILL-Contd.

[English]

MR. DEPUTY-SPEAKER : Shri Indrajit Gupta—not present.

Shri Haroobhai Mehta.

SHRI HANNAN MOLLAH (Uluberia) : Sir, all the hon. Members have gone for Lunch because they thought that the Bill would be taken up after 2 p.m.

MR. DEPUTY-SPEAKER : Even the subject may come to an end at any time. How can we say that ? We cannot predict that it will come only at 2 p.m.

SHRI HANNAN MOLLAH : Between 1 & 2 is the Lunch Hour.

MR. DEPUTY-SPEAKER : That is why, I asked the House about dispensing with Lunch Hour. Everybody agreed. Nobody dissented to it. Therefore, there is no point in asking for now. Now, we are to continue the discussion on this Bill.

SHRI HAROOBHAI MEHTA (Ahmedabad) : Sir, the extension of the life of Essential Services Maintenance Act, 1981 is hardly a matter of pleasure for me and I am sure that the same must be the feeling of the hon. Minister who piloted the Bill. However, we come across situations in which certain measures not quite suited to our liking have got to be pursued. Undoubtedly, the provisions contained in the Essential Services Maintenance Act (ESMA) are drastic to some extent.

13.05 hrs.

[SHRIMATI BASAVA RAJESHWARI *in the Chair*]

[Shri Haroobhai Mehta]

I might have been as vocal as many friends to plead for the cessation of the operation of such an Act had it not been that of late, the strikes of employees have assumed a character which can hardly be considered patriotic. Take, for example, certain strikes in public sector, motivated not by any genuine trade union objectives but resorted to in order to weaken public sector at the instance of certain foreign agencies which would not countenance India marching towards self-reliance and which, therefore, thought that weakening of public sector is a sure way to obstruct the course of such march of India. Take also the strikes launched by trade unions whose decision-making bodies are controlled by the upper-caste orthodoxy around the demands to abolish reservations or rosters. Such strikes would run counter to our basic Constitutional tenets and in the context of trade union activities, the same would run counter to the interests of the weaker sections among the employees. Would any one with a conscious trade union mind, think that such strikes are conducive to legitimate trade unionism or are in the interest of the society as a whole ? I am happy that my good friend Mr. Indrajit Gupta stated that he does not support such strikes. These types of strikes not only divide the trade union front but also divide the society.

What can be the patriotic reaction against such strikes ? Can we call such activity an exercise of fundamental right of workers ?

Coming to the plea on the basis of fundamental right of workers, I must most humbly point out that the Supreme Court has ruled in All India Bank Employees Union case (1962) that the fundamental right under Article 19(1)(c) does not include in its sweep the right to strike. One may or may not agree with the formulation of the Supreme Court. But this is the law of the land. I am

conscious of the fact that workers resent against this situation especially when seen in juxtaposition with the conclusion of the Supreme Court in Exelwear case (1978) that the right to close down a going industrial unit is a part of the fundamental right of the employer guaranteed by Article 19(1)(g) as held by the Supreme Court. We have to put up with this situation until altered.

If the Supreme Court has held that there is no fundamental right of workers to go on strike, that does not end the matter. I would quote a higher social authority in favour of the workers, that is Mahatma Gandhiji who wrote in Yong India of 6-10-1920 that the right to resort to strike is an inherent right which a worker may exercise for securing justice.

I may point out that Ahmedabad city has the singular distinction of having its textile workers strike of February-March, 1918 actively and closely led and guided by Mahatma Gandhiji himself. It has, however, to be borne in mind that Gandhiji did not advocate strikes in public utilities Mahatma Gandhiji wrote to this effect in the Harijan, of 21st April 446 at the time of sweepers' strike in Bombay.

So far as essential services and public sector are concerned all of us should put our heads together in order to find out how a new trade union culture can be developed under which workers can have their grievances sorted out through bilateral agreements, arbitration/adjudication and, if necessary, through struggles without impairing the working of essential services in public sector establishments.

Of course, adopting such a course on the part of workers unilaterally would be an exercise in self-effacement. The management must also develop a new climate. Bureaucratic and often feudal approaches, seen in some public sector managements should be shunned. There should be constant readiness and understanding about the grievances of the workmen. Workmen should be given full immunity against victimisation for

legitimate trade union activities. Arbitrary terminations should be given a go-by. Disputes, collective as well as individual, should be quickly resolved through bilateral settlements and when the same is not possible, through arbitration/adjudication. Sometimes we find that labour authorities are reluctant even in the matter of making references for adjudication under Section 10 of the I.D. Act. You can imagine what could be the plight of workers when even adjudication is not available to them for years. Many friends know, as a matter of fact, what happened when the Supreme Court pronounced in Safdarjung case that industrial disputes channels under I.D. Act would not be available to hospital workers. Next day, there were red flags hoisted on the gates of the hospital.

Our industrial adjudication machinery is working at a snail's pace. Think of a case of arbitrary termination which comes to be decided even in favour of workmen but, at the end of a decade ! What would be happening to the family of the workmen in the meanwhile ?

I would like to draw the attention of the Minister of Home Affairs to the situation that often public sector managements do not accept the awards of the adjudication machinery. They go on challenging them in the High Courts and in the Supreme Court and in the process tiring out the workers to settle the case by accepting something less than due. This approach of the management cannot inspire a proper trade union culture aimed at protecting and strengthening the essential services in public sector without compromising the interests of workers.

However, while drawing the picture of ESMA, one need not always apply the black brush. There are some redeeming features in the Act. Section 4 insists that even the dismissal on the ground of commencing or instigation of a strike should be in accordance with normal provisions.

Sections 8 and 9 empower the Government to prohibit lockouts and lay-offs in circumstances similar to those pertaining to strikes.

I would like to urge the hon. Minister in this connection that the Government should activate the administration to implement vigorously the provisions contained in Sections 8 and 9.

In this connection, I take the liberty to suggest that the Government may seriously consider whether it is feasible to set up a sort of Advisory Board for post-facto consideration of declarations under Sections 3, 8 and 9. Such an Advisory Board may consist of representatives of the Government—Home Ministry and Labour Ministry—workers and the managements. This will remove the sting from the Act and lend an assurance to workers and managements alike about justification of such declarations. After all, when even smugglers are entitled to have their cases examined by an Advisory Board under COFEPOSA as required by Article 22 of the Constitution, why should not workers employed in essential services as a class be entitled to have the declarations regarding strikes, lockouts or lay-offs examined by an Advisory Board ? Such a course will strengthen the hands of the Government in justifying the declarations and eliminate any scope of an apprehension about any possible arbitrariness in these matters.

With these words, I consider it to be my duty to support the Bill.

[*Translation*]

SHRI DAMODAR PANDEY (Hazaribagh) : We are not happy to support this Bill but at times the circumstances compel us to do so. We fail to understand as to why such a Bill has been brought forward and why we are supporting it. Our hon. friends sitting opposite, some of whom are active trade unionists, have said certain things about this Bill which in fact they should not have said. There was also some mis-statement which needed to be clarified. It has been said that people joined hands to launch strike in the coal industry and even the legitimate demands of the workers were not accepted and that was why they had to resort to strike thrice. Will

[**Shri Damodar Pandey]**

these leaders tell us in all sincerity whether this strike had been launched in support of the demands of the workers or to show their process? All these leaders had given a slogan during this strike. This slogan was not in any way related to the demands of the workers. This slogan aimed at securing adequate berth for these leaders in the committee that had been formed to consider these demands, in an important industry like coal mines. If the strike is resorted to for achieving their selfish ends at the cost of the interests of the workers, it is indeed a very sorry state of affairs and cannot be justified in any way. They also said that the strike took place despite opposition by INTUC. I represent INTUC and work with coal workers. I know it for certain that these leaders had been strongly condemned by the coal workers. They gave a call for strike at the national level thrice but every time as many as 80 per cent workers reported for work. This shows how successful they were.

SHRI INDRAJIT GUPTA (Basirhat) : Then there is no need for bringing forward this law. Your INTUC is quite sufficient to meet the situation.

SHRI DAMODAR PANDEY : You can very well visualise why this law has been brought forward. INTUC is a recognised union. Over 60,000 coal workers work in the Singreni Colliery. In this Colliery alone, they resorted to strike for as many as 440 times in a year of 365 days. Now the question is why they resorted to strike so many times. After the signing of the agreement, they raised certain most unjustified demands. If wages were fixed at certain places they demanded some additional facilities on pain of strike. If in an industry, workers strike work 440 times in 365 days, no Government can function smoothly and nobody will be able to put up with such a situation. If this is the way of meeting with a situation... (*Interruptions*)... but when the law was enforced, no strike took place thereafter ..

SHRI INDRAJIT GUPTA : All your laws are useless.

SHRI DAMODAR PANDEY : This shows that you need law for regulating your day to day activities. If you are made responsible for certain things then is it not your responsibility to see as to when strike should be resorted to and when it should not be resorted to?

SHRI INDRAJIT GUPTA : It is only you people who understand it ; we do not understand it.

SHRI DAMODAR PANDEY : I am giving an example ; you look into it.

SHRI INDRAJIT GUPTA : I know you have given a wrong example.

SHRI DAMODAR PANDEY : If you had realised your responsibility, then the hon. Home Minister would not have felt the necessity of bringing forward such a law.

SHRI INDRAJIT GUPTA : If strike takes place 440 times in 365 days in a coal mine then it means either your law is useless or there is no need of it. You need no law to break the strike ... (*Interruptions*)...

SHRI DAMODAR PANDEY : I am telling you how you people broke the law. You resorted to strike 440 times in a year and the day the law was enforced, the strike was withdrawn. As such, such a law is very useful and relevant. By your action you have proved that such a law was very necessary. We also at times take recourse to strike but we do so only when it is very necessary. Strike should not be resorted to only for the purpose of strike. I do not consider it a wise step.

You formed a National Campaign Committee and raised slogans of 'Bharat

Bandh' and 'Udyog Bandh'. But have you ever realised that there are industries in private sector also and exploitation takes place in private sector as well? Your National Campaign Committee puts pressure only for public sector. What was the reason therefor? ...(*Interruptions*)...

SHRI INDRAJIT GUPTA : Who told you that? Please check your record.

SHRI DAMODAR PANDEY : I know it and I am speaking only on that basis. Such things are not resorted to only to protect the rights of the trade unions and the workers. This shows how sectarian your view is. You think that trade union is meant only for putting pressure on the public sector and your aim is to add to the difficulties of the public sector. Have you ever realised wherein lies the solution of this problem? The major portion of the public funds is invested in the public sector. You also pay taxes. The amount realised by Government from the people in the form of taxes has been invested in the public sector. As such, there is need to run public sector along smooth lines. But there are people who want to weaken the public sector. Where people choose to resort to strikes on trivial matters, Government has no alternative but to bring forward such laws. As such you people compelled Government to bring forward such a legislation. You kindly think over this matter.

Mr. Chairman, Sir, people do not seem to realise that the essential services must be run smoothly so that we continue to get our daily requirements of life. Nobody would like the essential services to be disturbed in any way. It is not that the people managing the services are above board or do not commit any mistake. At times it is only because of their mistakes that strikes are resorted to. Therefore, effective steps should be taken to remove the grievances of the workers so that they may not have to strike work. The grievances of the workers should be referred to Voluntary

Arbitration. Their grievances need not be referred to Compulsory Arbitration as it takes a lot of time...

[*English!*]

SHRI AMAL DATTA (Diamond Harbour): May I point out, Sir that there is no quorum in the House.

THE MINISTER OF HOME AFFAIRS (SHRI S. B. CHAVAN) : It is the convention not to raise the question of quorum during lunch hour.

SHRI BASUDEB ACHARIA : We were not consulted about dispensing with the lunch hour.

MR. CHAIRMAN : The House had been taken into confidence only then the lunch hour was suspended. The bell is being rung —

Now there is quorum. The hon. Member, Shri Damodar Pandey, may continue.

[*Translation*]

SHRI DAMODAR PANDEY : I was suggesting that when you feel that the strikes should not be resorted to in such of the industries as have direct relationship with our social and personnel life, then we would have to take effective steps for the redressal of the grievances of the workers.

At such places, Government has laid down a procedure for grievance setting. This should be followed in right earnest and where such procedure has not been laid down, this should be laid down. Where mutual such grievances are not settled by discussions Government should not refer them to the tribunal. These grievances should be referred to the Compulsory Arbitration. This will eliminate chances for strike.

[English]

DR. DATTA SAMANT (Bombay South Central). I oppose the Bill to amend the Essential Services Maintenance Act, 1981, tooth and nail. The Government has come forward with this Amendment Bill of 1981 which has been in existence for the last four years without mentioning anything as to how far it is going to be beneficial to the country. The provisions of this Act are not at all for the benefit for the workmen. On the other hand, the Government wants to continue this Act for another five years. I do not know what is the approach of the Government towards the working class. The present policy of the Government is to give a lot of encouragement to the employers by way of tax concessions, concessions in import and exports, concessions in excise duties, delicensing, etc. The textile owners are allowed to change their production pattern, that is, production of cotton goods to other products. All these concessions have been given. I would like to ask the Government: are you going to protect the interests of the workmen whose percentage works out to 30 or 40 of the total population of this country? What are the provisions made in these present Act to safeguard the interest of the workers? I am putting this question to the Government as well as the hon. Members sitting on the Treasury benches. Let them mention a single benefit. What is the share of the workmen in the profit earned by the employers? There may be more courses to decide the share of the workers. But there is no law to decide the share of the employers' profits by the workers. Fifty percent of the workmen in this country are casual labours, contract labours or 'badli' labours. There are casual labours in the Railways and other public sector undertakings. You are neglecting the working class. About 80,000 factories are closed all over the country and Rs. 3000 crores are blocked up.

Another point is that the sickness in the industry is the creation of the mill owners. They mismanage their mills and the workers are deprived of their wages and provident fund and they are thrown

out of job. What are you going to do for those owners who are making crores rupees by indulging in fraudulent activities and because of these activities the economy of the country is very much affected? What provisions have you made for helping the poor workers? In the law there is a provision that on account of natural calamity like non-supply of electric supply to the factories, they can be allowed lay-offs, etc. Therefore, the owners of the factories are not paying the electric bills. M/s. W.G. Force & Co., are manufacturing products for Defence and they too have not paid the electric bills amounting to Rs. 40 crores. In this way the liability is accruing. Sir, the hon. Minister is aware that M/s. Amar Dye-chem is located in Ambarnath and they have also not paid the electric bills for a very huge amount. M/s. Sarabhai Chemicals who are already in the black-list of the Government have also not paid the electric bills. The company has not paid the electric bills and therefore their factory is closed and about 2000 workers are out of job. In this way the workers are put to lot of difficulties.

Sir, in Bombay alone about 20 factories are closed because of non-payment of electric bills by the owners. For running the machines in the factories furnace oil is required, but it has not been procured by the owners. In these factories the employers have declared lay-offs and the provident fund and other benefits that are due to the workers have not been paid to the workers. About 30,000 workers are affected and they are without any job. What is the Government's policy for these jobless workers? What are they going to do for them? You are not going to do anything for the working class of this country because the industrialists are engaged in collecting black-money. On the other side, you are banning strikes by workers. Fifty per cent workers of this country are casual labourers and contract labourers. What are their rights? But what severe punishments you are giving them! Without warrants or anything like that, the police officer can arrest anybody. You are not bothered about smugglers or

others engaged in similar activities. But you are providing summary trial for such types of provisions, I know that you have not used these provisions to a certain extent, but I must say that the Government has been acting against the interests of the working class in this country.

It is most unfortunate that the working class in this country is neglecting their voting rights of the time of elections. That is why, you may be getting votes because of your personal charisma. If you go to Faridabad industrial area, you will find that fifty per cent of the working class people are temporary, casual labourers. They may be voting for you; I have no grudge for that. But does anybody feel happy to keep the postal or telegraph departments or the railways closed? I do not think so. Any party or trade union sensible leader is not happy to have the agitation going on and keep such type of services closed. But what is the provision for the workers' grievances to be solved?

Take for example, the Mazagaon Dock at Bombay. The Government is now reducing the D.A. to 1.65 per cent; they are forcing this on twelve thousand workers. It is a Government undertaking. You are reducing the D.A. which they have been getting for the last 40 years. And you are going to issue a GR for that. Now, discussions on the LIC charter of demands are going on. The Government is forcing them to accept the ceiling of Rs. 3500/- on salary, and if they do not accept that, you are going to issue a GR. On the one hand, you are just forcing the workmen to accept conditions like reducing their D.A., and on the other hand, you are not bothered for casual contract and badli workers. And if they go on strike, without warrant, the police officer can arrest them and put behind the bar for six months. The time has come when the Government must think in terms of welfare of the workers.

You may be in power by big majority, but if the Government is going to neglect the working class of this country in such

a manner, the workers will revolt one day against the type of things that are going on.

As against all this, you are encouraging industrialists to indulge in all sorts of things. These people who had committed frauds at places like Ambarnath, Bombay are being given loans and they are starting their industries somewhere also in Madhya Pradesh and other places. How are you going to see that this does not happen? The same employers, who had committed frauds at one place are being encouraged at other places. The same party, Congress (I) Government is there in Madhya Pradesh, Maharashtra or Gujarat, but what have you done to check such types of mal-practices? You are giving all types of loans to these employers. But on the other hands, you are bringing this type of Bills to put restrictions on the workers. In Gujarat some agitation had been going on. About five hundred people were arrested and dismissed to create some pressure and put more force on the workers. All these things are going on.

I, therefore, appeal to the Government to correct the employers and industrialists of this country. In my opinion, more than the agriculture, the country is going in for industrialisation in a big way. You must put behind the bar those people who are responsible for economic frauds and are depriving Government of crores of rupees.

The working class of this country has become very sensible and they are not happy to go on strike. I know their sentiments. I have got lakhs of workers in my unions. If the number of workers is less than twenty in any establishment, according to the existing provisions of law, they cannot have any union. Because of this provision, workers in thirty per cent of the industries and small establishment cannot form a union. And you are not implementing the Shops Establishment Act in this country. Minimum Wages Act is not being implemented in this country.

On the one hand, you are not prepared

[Dr. Datta Samant]

to protect the interests of the working class and you are forcing them to go on strike, and if they go on strike, you are going to put them behind the bar. Various industries are covered under this in the name of Essential Services. Government can notify any industry any time as they deem fit for this purpose. Even the State Governments have got the power. You have brought within the purview of this legislation various establishments of the Central Government, and while I am not supporting that, but why bring in the private employers and the small industries. Whatever I talk, I know, the Government is not going to accept, but you may consider my suggestion that this law should not be extended to private people, who are dealing in certain things. And therefore, once again I oppose tooth and nail such type of Amendments. It is insulting to the working class, what the Treasury Benches or the ruling party are doing. Therefore, the working class in this country will never tolerate such type of pressures on them. Definitely, I again appeal to the Government to withdraw it, otherwise, we have to oppose it on the roads with agitations.

[Translation]

*SHRI G.S. BASAVARAJU (Tumkur): Madam Chairman, I welcome this Amendment Bill of the Maintenance of essential services Act 1981 brought by our hon. Minister. While supporting the Bill, I would like to express my views as to how this Bill enables increase in production and improves the economy of our country. Many hon Members have already spoken on this Bill and hence I would be very brief. There is modernisation and industrialisation all over the country. At this juncture it is very essential that each and every individual contributes his best for the development of the nation. But unfortunately we see the workers here and there going on strike leading to the closure of industry. Dedicated service is not there to the expected level. Selfish attitude has become more important. During the year 1971 there were agitations and strikes by Indian Telephone Industries and Hindustan Aeronautics

Limited of Bangalore. Even after 10 years of these strikes the after-effects are still there. This hinders the progress of the country. Behind all these agitations and strikes there are some political forces which had led to the closure of factories for several months. Several such instances have taken place in Hindustan Machine Tools and Indian Telephone Industries in Bangalore. MICO Industries company is another important industrial unit in Bangalore which produces world famous equipments like spark plugs, single cylinder pumps multicylinder pumps etc. etc. The workers in this factory were not knowing anything about strikes and lock out. It was earning huge profits and lot of foreign exchanges. But now there are several unions. Groupism has resulted in clashes conflicts and stabbing incidents. The Management is asking the employees to take premature retirement.

There will be strikes even for petty and frivolous reasons and this results in lock out. Such incidents are taking place in Railways, telephone department and in Transport Department. If a conductor is suspended on some serious charges against him immediately there would be strike of employees. To tackle such situations and to improve production it is necessary to have such a Bill. My friend Shri Indrajit Gupta while speaking on the Bill, referred to the conditions and facilities of industrial workers. I would like to remind him that the working condition of industrial workers has improved very well in our country. When we had gone to Taskent in U.S.S.R. on a visit we enquired about the working conditions in the industrial sector. There are about 12,000 workers in the Jinning Factory and they are getting the same salary which they were getting in the year 1948. The other facilities also remain the same. But there the workers work with great dedication. Nation's goals are very important to those workers. They sacrifice for the country. On the other hand here in our country we see some elements infusing an element of non-cooperation. In I.T.I., Bangalore many costly machines and other equipments were destroyed. The present Bill

*The speech was originally delivered in Kannada.

will curb such incidents. Hence I welcome the Bill and congratulate the hon. Home Minister for bringing this legislation Mahatma Gandhiji, Father of our nation preached and practiced peaceful methods. We cannot encourage non-violent methods. There should be an end to all kinds of strikes and agitations. We are finding disturbing situations in sectors like water supply, electricity boards also. Such a situation should not be allowed to continue. Even for an insignificant cause and for a meagre amount of bonus, the employees want to go on strike. This is not at all correct. For example in Japan, if the workers want to express their dissatisfaction they put on a badge, but they continue to work. The production never suffers there under any circumstances. Here in our country we should see that production goes up without any hurdle. There should not be lock out of any industry. The worker can have consultations about their grievances but they cannot resort to agitation and destruction of private and public properties. It is imperative for us to welcome this nice Bill. This will not at all come in the way of the fundamental rights of the citizens. It also does not come in the way of workers' facilities like housing, food, clothing etc. In fact it enthuses unity and strengthens our integrity. Therefore once again I welcome this Bill and with these words I conclude my speech.

[English]

SHRI THAMPAN THOMAS (Mavelikara): This Act will stand in the way of the increase in production in our country. Unless Government takes the working class into confidence, no results will come in the matter of production. Merely by your compelling a worker to produce, he is not going to produce. Unless you take him into confidence, and give him his due share and also give him such service conditions by which he can exist and work, he is not going to give you results. These compelling laws will in no way give any leverage for progress. This is only a retrograde law, a law by which you want to suppress the working class, by which the bureaucrats want to sit on the heads of the working class who

really contribute their blood, and toil for the country. The Government is giving arbitrary powers to these bureaucrats who have to implement this law. There is no restriction, in the various clauses or parts of the law, to ensure its proper application, when it is implemented.

Recently, I had an experience regarding the implementation of this law, in a small godown where about 100 workers are working. This happened when a particular officer, a District Collector in Quilon wanted to take a particular quantity of rice from a particular lot and favour a person. Then the workers objected. Immediately, the Collector invoked the clauses of the Essential Services Maintenance Act. He said that the public distribution system was being obstructed by the workers. He arrested them under ESMA. They were arrested and produced in the court. How this arbitrary power given to the various executives and bureaucrats are misused—this is a clear example to indicate it. I was directly involved in that case. I wanted to talk about this matter with the authorities of the Food Corporation and settle it. I had a talk with the Food Corporation authorities. Before I went there, people had been arrested under ESMA, and taken to the court. Therefore, the whole State went on strike. People in all the godowns of the Food Corporation in the entire State of Kerala went on strike, because of the Collector invoking ESMA that day. I was going to talk with the officers of the Food Corporation in Trivandrum. When I left Cochin to talk to them, the Collector invoked ESMA saying that these workers had obstructed the distribution of these things to the public, whereas the workers had wanted another lot to be distributed, instead of this lot. They were speaking about some dispute regarding rice.

I said this only to point out a case where the bureaucrats had misused this law. Is there any safeguard in this Act to deal with such things? If the question, viz. how this Act has been used earlier by and large is studied, it will be seen that it has been used only against the working class in this country.

[Shri Thampan Thomas]

What is the basic approach of our industrial law ? The basic industrial law in this country is that of collective bargaining. You are not going to give a worker his right merely by his coming, by himself, and asking for it. The dictum of collective bargaining is an accepted one. That is a fundamental principle of our industrial law. The very jurisprudence says that. So, they will have no bargain collectively. When they have to bargain collectively, they have to join together, they have to see that they get it. If you are not giving it, then the Constitution provides, then the industrial law provides, that they can go on strike. But now, by virtue of this Act, such strikes are, at the discretion of the Government or high authorities, declared illegal and as those violating ESMA. Then they say that those things come under the Essential Services Maintenance Ordinance. These various provisions in this Act directly cut the root of the collective bargaining. These hit the fundamental rights of the working class in this country. This is the discretion given to the various authorities including any industry as the government deem fit within the purview of the Act, giving them the maximum right, and therefore it is being misused. This is against the interest of the working class.

If you analyse our past experience you will find that the country's progress is retarded not on account of strikes by the working class in this country but because of certain other facts. Most of the factories are closed not because of the strikes but because of the mismanagement of the employers. Has government taken any action against any management for not running a factory on account of mismanagement ? What is happening in Dalmia Nagar now ? About 20,000 workers are in the streets. There was a report in the Press that the ladies in that area had to sell themselves for their livelihood. What have you done against Dalmia ? They could not run the factory there. The workers are for a long time in the streets. Could you invoke ESMA against them ? When these workers bargain for their wages, you invoke the

provisions of ESMA and put them under imprisonment. It goes very much against the fundamental jurisprudence of our criminal law. The onus of proof under ESMA is on the person who is accused. The presumption is that he is guilty. If a Collector says that a worker has violated ESMA, he is produced before the court. It is not bailable. He has to go to jail unless otherwise the presiding officer is satisfied that it is wrong. Why so much power is vested on both ? Therefore, the various provisions contained in this Act are in fact against the fundamental principles of our laws, against the working laws, and also our experience is that it is not to prohibit a strike or to avoid a strike but to have only a dictatorial rule in the country by the interested persons; and by and large what you are giving is you are giving the power to the bureaucrats to the persons who are controlling this affair, the maximum power in this Act, and they misuse it. Therefore, I oppose this Act by all means and request you to withdraw this amendment.

SHRI AMAR ROYPRADHAN (Cooch Behar) : Mr. Chairman ESMA, we had discussed a few years back for a long time, and we are very much opposed to this Bill, though my friends on the opposite side, Congress I MPs today, are not so much vocal, at least, they are supporting this Bill. May I know from the hon. Minister through you whether this really for the essential services or for the employers' services. They are entirely for the employers' services. I request the hon. Minister to re-name it as employers' services Maintenance Bill. In this very Bill why are they asking for extending the life of this Act by another four or five years ? Those who are with the working classes, we people, must see that this Act is dead this very hour, or very minute. It should not be lengthened even for a single second.

AN HON. MEMBER : Even for a second ?

SHRI AMAR ROYPRADHAN : Yes, I do not want it to be alive even for a minute, because this is an anti-working classes Bill. It is an anti-labour Bill. It is a Draconian Bill. Through this Bill—we

have discussed this earlier also—the Government wanted to curtail the rights of the working classes, the rights which they have acquired which mean the right to unite, the right to organise, the right to collective bargaining and the right to strike. And they want to curtail all these rights of the working classes.

Madam Chairman, through you I would like to request the hon. Home Minister to read the pages of the history. These rights were given to the working class people of India, not by your grace, not by the grace of the Home Minister or the grace of the Prime Minister, but it is the working class people who had shed their blood and sacrificed their lives and acquired these rights. Definitely you are on the side of the employers

AN HON. MEMBER : I do not understand.

SHRI AMAR ROYPRADHAN : You will not be able to understand it.

This Bill will be helpful to the Police people because when this Bill becomes an Act, the Police will be able to work according to their sweet will, they will be able to arrest and put the workers behind the bars.

May I know one thing ? In these Objects and Reasons you did not mention it. But you have mentioned only "The experience in the working of the Act during the last four years has shown that it is most useful and effective." Madam Chairman, the first thing is, I like to protest—and protest vehemently—because it is the West Bengal Government who have never applied this ESMA in West Bengal though the hon. Home Minister a few days back said it ; with full responsibility I can challenge that the West Bengal Government have never used this Act in West Bengal, at least.

One thing, may I ask from the Home Minister ? What is the net result in his own State, Maharashtra ? There have been strikes and other things there where there

is scope for ESMA. How many days have been lost ? How many workers have been on strike ? How many lay-offs were there ? How many closures were there ? It is certainly more than that in West Bengal !

AN HON. MEMBER : Because of the opposition .

SHRI AMAR ROYPRADHAN : No. Certainly not. Because of you people. You have not been developing any favourable conditions for the middle classes.

MR. CHAIRMAN : You please address the Chair.

SHRI AMAR ROYPRADHAN : Yes, I am addressing the Chair. Regarding the observations made, may I ask through you, the hon. Home Minister, whether he knows what the condition of another working class people is, those who are not organised ? Does he know the condition of those who are the unorganised sections of society, those agricultural labourers whose strength is 2.5 crores and with their families it comes to 10 crores ? Have you applied this ESMA on the landlords, kulaks, in any case ? You will find not a single case. It is in your own interest, in the interest of the employers, mill-owners, etc. So we are very much opposed to it and we oppose it tooth and nail.

SHRI AMAL DATTA (Diamond Harbour) : This Bill which seeks to increase the life of this draconian measure, which was all along opposed by the democratic people of the country, by another five years, should be thoroughly condemned. This is against the Fundamental Rights enshrined in Chapter 3 of the Constitution which give liberty to the person, freedom of association and all kinds of freedoms. But all these are now being taken away by this Bill. It is also against the Directive Principles of the Constitution which, among other things, assure the workers fair wages, security in employment, etc. All these will remain empty words as they are not able to go on strike to get their rights implemented. There is no question of

[Shri Amal Datta]

collective bargaining if the people on the one side cannot go on strike. This is a fundamental principle of labour law. Naturally these Directive Principles have become nugatory by virtue of this law so far as it applies to labour.

The expectations which were aroused by the Government by their thumping majority, all are being belied now. Everyday we find that new measures are being enacted which are taking away the rights of the workers and the people.

This law would have lapsed on 23 September. But now this is going to be implemented for another period of five years. This Government could have relied on its strength and left it to die and taken appropriate measures if an occasion arose.

Why this particular Act is now being sought to be extended is that because, they say, that the situation still remains the same. How is it that the situation which, according to them, compelled them to enact this law in 1981, remains the same? The production has increased in this country. We have got a stock of foodgrains of 30 million tonnes which the Chairman of FCI says will be about 40 million tonnes soon. And he says that it will have to be destroyed unless quickly distributed to the people. Why? Is it because we have too much to eat?

No, it is because people do not have the purchasing power. Similarly, we have got the coal stock at the pitheads of the order of more than 30 million tonnes. Why? Because the people do not have the purchasing power.

14.00 hrs.

Whenever we produce one million or half a million tonne more steel than seven or eight million tonnes which is the normal production, there is a glut in the market. Why? Because people do not have purchasing power. Why they do not have purchasing power? Because there is no equality of bargaining power with

the workers. They cannot bargain. They cannot go on strike even for fifteen days though they have got the power to do so because they are so down and out. They cannot remain out of employment, they cannot remain without wages. Even then the Government thinks it necessary to bring such a Draconian measure to outlaw all strikes whenever they want. This is totally an arbitrary measure. This is against all democratic principles. This is against the Constitution and this is against all promises which the Government makes from time to time. What happens when the employer does not pay bonus, when the employer refuses to pay gratuity, when a worker, on retirement, does not get his provident fund? This is what is happening in the jute industry. I am told that more than Rs. 60 crores are due from the employers by way of provident fund. What is the Government doing about it? I have asked the Regional Provident Fund Commissioner. He says they have gone to the court and the court has asked them to pay in instalments but they are not paying the instalments. So, they do not do anything more to see that the employers pay; they do not put the employers behind the bars under this kind of a law. There they are applying only the ordinary Law by which the court can give relief to the employer. But when it comes to the workmen, the ordinary law does not suffice. They have to bring such measures to see that they obey the instructions. It is not for increasing production. Increasing production for what purpose? For just letting these goods perish? That should not be the objective. It is just to satisfy their own whims and caprices that the Central Government as an employer, its officers as the employers and the managers, as the custodians of the rights and interests of the employers' class as a whole, is extending the "life" of this Draconian measure. We oppose it wholeheartedly.

THE MINISTER OF HOME AFFAIRS (SHRI S.B. CHAVAN): Madam Chairman, the provisions of the Essential Services Maintenance Act are proposed to be extended by a period of five years and that was the only thing on which, in fact, I would have liked the reaction of all the hon. Members who are present in the

House. Unfortunately, so many things have been said as if this measure is being brought before the House for the first time. This Act was passed in the year 1981 and the period is going to be over by 23rd of next month. That is why this measure has come before the House that we want this provision to be extended by another five years. Before we took the decision of extending the period of this measure, we consulted the administrative ministries, we consulted the respective State Governments. Barring two or three, I must say that all the State Governments wanted extension of the provisions of Essential Service Maintenance Act for another five years. (Interruption).

SHRI INDRAJIT GUPTA : They are all your governments.

SHRI S.B. CHAVAN : I do not want to go into the question whether the State Governments belonging to other parties also have accepted... (Interruption).

MR. CHAIRMAN : Please don't disturb him. Let him reply... (Interruptions).

SHRI AMAL DATTA : You are very facile in saying that West Bengal has invoked ESMA... (Interruptions).

MR. CHAIRMAN : Let him give the reply.

SHRI S.B. CHAVAN : I think I am going to reply to that point. If the hon. Members are interested in finding out as to which are the State Governments which do not subscribe to the Congress ideology and have given their support for extending the period of the Act, I would like to mention without any fear of contradiction because I have in writing with me. Andhra Pradesh has requested for extending the provisions of the Act not only by five years but permanently, if I may bring this matter to the notice of the House. There are other State Governments also. Even Karnataka Government also, which does not belong to Congress, knows the practical difficulties. If these provisions are not available to them, what difficulties

it can create, they are aware of the same, and that is why both the State Governments—of course, there are other, State Governments also which have supported this measure—have requested that the provisions of this Act should be extended for another five years.

I have been surprised at the way the entire thing has been put by some of the hon. Members. I cannot possibly say that hon. Members have not gone through the provisions of the Bill. They have gone through the provisions of the Bill and they know it for certain that it is not violative of any of the provisions which are contained in the Industrial Disputes Act. There are certain things which, in fact, are more than what the Industrial Disputes Act contains. Is it really that all the industrial relations machinery is going to be set at naught? Is it their honest opinion that the machinery which is set up under the Industrial Disputes Act is not going to be available hereafter for settling any of the disputes? If that is your impression, then it is not correct. That is the only thing that I would like to bring to your notice that all the provisions of the Industrial Disputes Act for conciliation and adjudication, every step which you otherwise would have taken under the Industrial Disputes Act, are still available.

SHRI BASUDEB ACHARIA : When you can declare any industry as an essential service,...

MR. CHAIRMAN : Please do not interrupt in the middle.

SHRI BASUDEB ACHARIA : After you declare an industry as an essential service...

MR. CHAIRMAN : Please do not disturb. Resume your seat.

SHRI S.B. CHAVAN : I have heard you with rapt attention. You kindly bear with me and after I have finished my reply if you have any points and if the Chair permits, I am prepared to clarify those points.

[Shri S.B. Chavan]

If it is borne out by facts that the industrial relations machinery is available and as a last resort if we do not succeed in settling the issue, then only the provisions of the Essential Services Act can be invoked, not otherwise.

DR. DATTA SAMANT : It is not mentioned there in the Act.

SHRI S.B. CHAVAN : Mr. Datta Samant, I know you do not believe in this at all because on the floor of the House you have said that even if we got this passed, you are going to oppose on the streets.

DR. DATTA SAMANT : Ultimately the working class has to fight on the street.

MR. CHAIRMAN : No disturbance please.

SHRI S.B. CHAVAN : Ultimately, if you believe in this kind of a thing, I do not think there is any scope in a democratic set up in this House at least. In this House we are trying to convince each other, but if you are going to threaten by saying that ultimately you will fight the battle on the street, you are free to do it. I cannot possibly say that you cannot do it.

14.08 hrs.

[**MR. DEPUTY SPEAKER** in the Chair]

DR. DATTA SAMANT : What you are saying is not there in the Act that it will be used as a last resort.

SHRI S.B. CHAVAN : It is so.

DR. DATTA SAMANT : That may be an understanding, but it is not mentioned there.

SHRI S.B. CHAVAN : Please go through the provisions of the Act first. Then you will understand that all the

industrial relations machinery is available and as a last resort the essential Services Maintenance Act can be invoked.

Madam, there are two or three other points.....

SHRI PRIYA RANJAN DAS MUNSI (Howrah) : Madam is not in the Chair.

MR. DEPUTY SPEAKER : You have to address me.

SHRI S.B. CHAVAN : Mr. Deputy-Speaker, Sir. I was looking at the paper. I did not know that you have taken your seat.

Another point which, in fact, has been stated by a large number of hon. Members is that we have been one of the signatories to the ILO Convention; this cuts at the very root of the concept of collective bargaining and there is hardly any freedom of association of freedom of speech and other things. It is what the hon. Members have stated here. I think on both the aspects, I can assure that collective bargaining still continues. When I say that Essential Services Act can be invoked only as a last resort, it clearly means this: try to your level best at the negotiating table, try to make full use of the provisions of the Industrial Disputes Act; but instead of going on a strike and holding the entire community to ransom, if it can be settled at that level, we land good, otherwise there is no other way left but to invoke the provisions of the Act. So, to the extent this is not contrary to the ILO contention, this is also not contrary to the fundamental right. I don't think that anybody can claim that. That is why it was agitated in the Supreme Court. Supreme Court gave a very unequivocal and a very clear ruling on this. They said that this is not a fundamental right of any of the workers. You cannot say that going on a strike is my fundamental right; nobody can stop me from going on a strike. This cuts at the very root of certain principles or certain rights which have been enjoined. Whether it is fundamental right or not is a matter which was referred to the court and the

court has given a very clear ruling that this does not go at the root of denying any fundamental right.

There was another issue which hon. Members raised. That was about giving protection to some of the workers who are engaged in the private sector. I don't think that we are trying to cover the entire private sector, by the provisions of this Act. So long as the production of private sector has any linkage with either defence or security measures or any services which are considered essential, only those areas are being covered. All the private sector is not proposed to be covered under the provisions of this Act. So wherever such conditions are prevailing, in fact, they will have to try at the Management level some kind of an amicable solution. But by no stretch of imagination should we create conditions by which the entire community at large should be made to suffer.

A point was made by hon. Member Shri Indrajit Gupta that powers have been given to all the police officers and their ranks have not been mentioned. So these powers can possibly be misused. I can well understand the apprehension expressed by him and that is why while issuing the guidelines we will take care to see that powers need to be exercised only by officers of particular rank and not below the rank of a particular officer ..

SHRI INDRAJIT GUPTA : Why don't you put it in the Act ?

SHRI S.B. CHAVAN : I don't think that it is necessary to put under the Act because there might be conditions in which some provisions may be required. Guidelines certainly we can issue. Officers of a particular rank will be able to do it.

Then there is one point on which I would like to clarify the position. There seems to be some misunderstanding about invoking provisions of ESMA in West Bengal to which I had referred to. If hon. Members were to go through section 3 of the Act they will find that powers under this Act can be used only by the

Central Government. So, the ESMA was invoked not by the West Bengal Government though in Farakka barrage where this happened (*Interruption*) What is it ? I would like you to understand. If there is any misunderstanding I cannot help it. Powers under this Act can be used only by the Central Government under Section 3, powers which have been delegated or restricted to power sector and holding of elections to either State Assemblies or Parliament. These are the two issues on which the powers have been delegated to the State Governments. But there are 4 States where the powers have not been delegated. West Bengal happens to be one of these 4 States. So the question of invoking provisions of ESMA by West Bengal Government cannot by any stretch of imagination... (*Interruption*). This was total misunderstanding and that is why I am clarifying the position.

SHRI BASUDEB ACHARIYA : You said that West Bengal has invoked ESMA.

SHRI S.B. CHAVAN : West Bengal.....

SHRI BASUDEB ACHARIA : "West Bengal has invoked ESMA"—That is what is there in the proceedings.

SHRI S B. CHAVAN : If the West Bengal Government has not been delegated the power, I don't know how this kind of interpretation can be made.

SHRI BASUDEB ACHARIA : We know that. You say that West Bengal also invoked ESMA. 'West Bengal' means West Bengal Government, not 'in West Bengal' those powers are involved.

AN HON. MEMBER : By Central Government.

SHRI BASUDEB ACHARIA : By Central Government. You go through the proceedings.

SHRI S.B. CHAVAN : Hon. Member, are you not prepared to accept what I say now, or are you going to insist on saying, 'No, no, this is what you said' ?

AN HON. MEMBER : Why do you mislead the House ?

SHRI S.B. CHAVAN : There is no question of misleading the House.

(*Interruptions*)

SHRI BASUDEB ACHARIA : You said on that day that West Bengal also invoked ESMA.

(*Interruptions*)

SHRI S.B. CHAVAN : I think this was what I wanted to explain. I think I have done my best to explain to the hon. Members as to how things stand in West Bengal. There are three or four States where the powers have not been delegated, and that is why there is no question of any... (*Interruptions*)

SHRI BASUDEB ACHARIA : You said the West Bengal State Government invoked the provisions of ESMA.

SHRI S.B. CHAVAN : I think if the hon. Members are interested, I can quote the figures, I need not go into all those details.

(*Interruptions*)

SHRI H.A. DORA : What are the other States ?

SHRI S.B. CHAVAN : Most of the State Governments have their own Essential Services Maintenance Acts also. This is the General Act and under the Central Act it is only the Central Government who can possibly invoke the powers under this Act.

This is all that I wanted to explain. I would request the House to pass this Bill.

MR. DEPUTY SPEAKER : If the House agrees, I shall put all the amendments to the motion for consideration together to the vote of the House.

SOME HON. MEMBERS : No. They should be put one by one.

MR. DEPUTY SPEAKER : If you want, we can put one by one, but we can put all of them together.

SHRI BASUDEB ACHARIYA : Sir, I want that my amendment be put separately. You did not allow me to speak on my amendment.

MR. DEPUTY SPEAKER : He already spoke.

SHRI BASUDEB ACHARIA : Not on my amendment.

(*Interruptions*)

MR. DEPUTY SPEAKER : Then do you want division ?

SHRI BASUDEB ACHARIA : Yes.

MR. DEPUTY SPEAKER : The question is :

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th September 1985."

Let the lobbies be cleared—

MR. DEPUTY-SPEAKER : Now, the Lobbies have been cleared. The question is :

That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th September, 1985.

The Lok Sabha divided.

NOES :

DIVISION No. 1

14.26 hrs.

A YES :

Acharia, Shri Basudeb

Barman, Shri Palas

Basu, Shri Anil

Datta, Shri Amal

Ghosh Goswami, Shrimati Bibha

Gupta, Shri Indrajit

Hannan Mollah, Shri

Hansda, Shri Matilal

Iyer, Shri V.S. Krishna

Mahata, Shri Chitta

Malik, Shri Purna Chandra

Masudal Hossain, Shri Syed

Mukherjee, Shrimati Geeta

Pathak, Shri Ananda

Rao, Shri A.J.V.B. Maheswara

Roypradhan, Shri Amar

Saha, Shri Ajit Kumar

Saha, Shri Gadadhar

Samant, Dr. Datta

Thota, Shri Gopal Krishna

Tulsiram, Shri V.

Yadav, Shri Vijoy Kumar

Zainal Abedin, Shri

Ahmad, Shri Sarfaraz

Akhtar Hasan, Shri

Azad Shri Ghulam Nabi

Baghel, Shri Pratap Singh

Bairagi, Shri Balkavi

Banerjee, Kumari Mamata

Bhagat, Shri H.K.L.

Bharat Singh, Shri

Bhardwaj, Shri Parasram

Bhoi, Dr. Krupasindhu

Birinder Singh, Shri

Charles, Shri A.

Chavan, Shri S.B.

Dalwai, Shri Hussain

Das Munsi, Shri Priya Ranjan

Dennis, Shri N.

Desai, Shri B.V.

Dhariwal, Shri Shanti

Dighe, Shri Sharad

Digvijay Singh, Shri

Ghosal, Shri Debi

Gomango, Shri Giridhar

Guha, Shrimati Phulrenu

Jagan Nath Prasad, Shri

Jain, Shri Nihal Singh

Jain, Shri Virdhi Chander

Jangde, Shri Khelan Ram

Jitendra Prasada, Shri

Jitendra Singh, Shri	Pant, Shri K.C.
Jujhar Singh, Shri	Pardhi, Shri Keshaorao
Kamla Kumari, Kumari	Patel, Shri Ahmed M.
Khan, Shri Arif Mohammed	Patel, Shri C.D.
Khan, Shri Aslam Sher	Patel, Shri Ram Pujan
Khan, Shri Mohd. Ayub	Patil, Shri H.B.
Konyak, Shri Chingwang	Patil, Shri Shivraj V.
Krishna Singh, Shri	Panwar, Shri Satyanarayan
Kuchan, Shri Gangadhar S.	Pilot, Shri Rajesh
Kumaramangalam, Shri P.R.	Pradhani, Shri K.
Kurien, Prof. P.J.	Purohit, Shri Banwari Lal
Mallick, Shri Lakshman	Pushpa Devi, Kumari
Mane, Shri Murlidhar	Qureshi, Shri Aziz
Manorma Singh, Shrimati	Rai, Shri I. Rama
Mehta, Shri Haroobhai	Rai, Shri Raj Kumar
Mishra, Shri G.S.	Rajeswari, Shrimati Basava
Mishra, Dr. Prabhat Kumar	Rajbans, Dr. G.S.
Mishra, Shri Uma Kant	Ram, Shri Ram Ratan
Mehanty, Shri Brajamohan	Ram, Shri Ramswaroop
Murthy, Shri M.V. Chandrashekara	Rana Vir Singh, Shri
Mushran, Shri Ajay	Rao, Shri P.V. Narasimha
Naik, Shri Shantaram	Rao, Shri V. Krishna
Naikar, Shri D K.	Rath, Shri Somnath
Neekhara, Shri Rameshwar	Rathod, Shri Uttam
Oraon, Shrimati Sumati	Ravani, Shri Navin
Pande, Shri Raj Mangal	Rawat, Shri Harish
Pandey, Shri Damodar	*Reddy, Shri B.N.
Panika, Shri Ram Pyare	Sethi, Shri Ananta Prasad

* Wrongly voted for NOES

Shailesh, Dr. B.L.
 Shanmugam, Shri A.C.
 Shanti Devi, Shrimati
 Shastri, Shri Hari Krishna
 Shervani, Shri Saleem I.
 Shivendra Bahadur Singh, Shri
 Siddiq, Shri Hafiz Mohd.
 Soren, Shri Harihar
 Sultanpuri, Shri K.D.
 Suman, Shri R.P.
 Swami Prasad Singh, Shri
 Swell, Shri G.G.
 Tewary, Prof. K.K.
 Thakur, Shri C.P.
 Thomas, Prof. K.V.
 Thungon, Shri P.K.
 Tombi Singh, Shri N.
 Tripathi, Dr. Chandra Shekhar
 Vairale, Shri Madhusudan
 Vanakar, Shri Punam Chand Mithabhai
 Venkatesan, Shri P.R.S.
 Verma, Dr. C.S.
 Vir Sen, Shri
 Vyas, Shri Girdhari Lal
 Wasnik, Shri Mukul

Yadav, Shri Shyam Lal
 Yadava, Shri D.P.
 Zainul Basher, Shri

MR. DEPUTY SPEAKER : Subject to correction** the result of the Division is :

AYES : 23
NOES : 112

The Motion was negatived.

MR. DEPUTY-SPEAKER : Now, I will put Amendment No. 2 moved by Shri Basudab Acharia to the vote of the House. The question is :

That the Bill further to amend Essential Services Maintenance Act, 1981, be referred to a Joint Committee of the Houses consisting of 15 members, 10 from this House, namely :—

- (1) Shri Ajoy Biswas
- (2) Shri S.B. Chavan
- (3) Shri Saifuddin Chowdhary
- (4) Prof. Madhu Dandavate
- (5) Shri Indrajit Gupta
- (6) Shrimati. Geeta Mukherjee
- (7) Shri C. Madhav Reddy
- (8) Shri Ajit Kumar Saha
- (9) Shri K.P. Unnikrishnan ; and
- (10) Shri Basudeb Acharia

** The following Members also recorded their votes :

AYES : Sarvashri N.V.N. Somu, N. Venkata Ratnam, Dr. Sudhir Roy, Shri S.M. Guraddi and Shri B.N. Reddy.
NOES : Sarvashri J. Chokka Rao, Prakash V. Patil, Gurudas Kamat, S.G. Gholap, Kammodial Jatav, Sukh Ram, Jai Prakash Agarwal, Manvendra Singh, G.S. Basavaraju, Dr. K.G. Adiyodi, Shri P.A. Anthony, Prof. Meijinglung Kamson and Shri Manku Ram Sodi.

and 5 from Rajya Sabha ;

that in order to constitute a sitting of the Joint Committee the quorum shall be one third of the total number of members of the Joint Committee ;

that the Committee shall make a report to this House by the 15th September, 1985 ;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make ; and

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 5 members to be appointed by Rajya Sabha to the Joint Committee. (2)

Let the Lobbies be cleared —

Now, the Lobbies have been cleared.
The question is :

That the Bill further to amend Essential Services Maintenance Act, 1981, be referred to a Joint Committee of the Houses consisting of 15 members, 10 from this House, namely :—

- (1) Shri Ajoy Biswas
- (2) Shri S.B. Chavan
- (3) Shri Saifuddin Chowdhary
- (4) Prof. Madhu Dandavate
- (5) Shri Indrajit Gupta
- (6) Shrimati Geeta Mukherjee
- (7) Shri C. Madhava Reddy
- (8) Shri Ajit Kumar Saha
- (9) Shri K.P. Unnikrishnan; and
- (10) Shri Basudeb Acharia

and 5 from Rajya Sabha ;

That in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee ;

that the Committee shall make a report to this House by the 15th September, 1985 :

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make ; and

That this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 5 members to be appointed by Rajya Sabha to the Joint Committee. (2)

The Lok Sabha divided.

DIVISION NO. 2

14.32 hrs.

A YES :

Acharia, Shri Basudeb

Barman, Shri Palas

Basu, Shri Anil

Dandavate, Prof. Madhu

Datta, Shri Amal

Dora, Shri H.A.

Ghosh Goswami, Shrimati Bibha

Gupta, Shri Indrajit

Guraddi, Shri S.M.

Hannan Mollah, Shri

Hansda, Shri Matilal

Iyer, Shri V.S. Krishna	Chokka Rao, Shri J.
Mahata, Shri Chitta	Dalwai, Shri Hussain
Malik, Shri Purna Chandra	Das Munsi, Shri Priya Ranjan
Masudal Hossain, Shri Syed	Dennis, Shri N.
Pathak, Shri Ananda	Desai, Shri B.V.
Raju, Shri Anand Gajapathi	Dhariwal, Shri Shanti
Rao, Shri A.J.V.B. Maheswara	Dighe, Shri Sharad
Ratnam, Shri N. Venkata	Digvijay Singh, Shri
Roy, Dr. Sudhir	Ganga Ram, Shri
Roypradhan, Shri Amar	Gholap, Shri S.G.
Saha, Shri Ajit Kumar	Ghosal, Shri Debi
Saha, Shri Gadadhar	Gomango, Shri Giridhar
Thota, Shri Gopal Krishna	Guha, Shrimati Phulrenu
Tulsirman, Shri V.	Jain, Shri Nihal Singh
Yadav, Shri Vijoy Kumar	Jain, Shri Virdhi Chander
Zainal Abedin, Shri	Jangde, Shri Khelan Ram

NOES :

Azad, Shri Ghulam Nabi	Jitendra Prasada, Shri
Baghel, Shri Pratap Singh	Jujhar Singh, Shri
Bairagi, Shri Balkavi	Kamat, Shri Gurudas
Banerjee, Kumari Mamata	Kamla Kumari, Kumari
Bhagat, Shri H.K.L.	Kamson, Prof. Meijnlung
Bharat Singh, Shri	Khan, Shri Ariff Mohammad
Bhardwaj, Shri Parasram	Khan, Shri Aslam Sher
Bhoi, Dr. Krupasindhu	Khan, Shri Mohd. Ayub
Bhosale, Shri Prataprao B.	Konyak, Shri Chingwang
Birinder Singh, Shri	Krishna Singh, Shri
Charles, Shri A.	Kuchan, Shri Gangadhar S.
Chavan, Shri S.B.	Kumaramangalam, Shri P.R.

Kurien, Prof. P.J.	Panwar, Shri Satyanarayan
Lowang, Shri Wangpha	Pilot, Shri Rajesh
Mallick, Shri Lakshman	Pradbani, Shri K.
Mane, Shri Murlidhar	Purohit, Shri Banwari Lal
Manvendra Singh, Shri	Pushpa Devi, Kumari
Mehta, Shri Haroobhai	Qureshi, Shri Aziz
Mishra, Shri G.S.	Rai, Shri I. Rama
Mishra, Dr. Prabhat Kumar	Rai, Shri Raj Kumar
Mishra, Shri Uma Kant	Rajhans, Dr. G.S.
Mohanty, Shri Brajamohan	Ram, Shri Ram Ratan
Murthy, Shri M.V. Chandrashekara	Ram, Shri Ramswaroop
Murugaiah, Shri A.R.	Rana Vir Singh, Shri
Naik, Shri Shantaram	Rao, Shri J. Vehgala
Naikar, Shri D.K.	Rao Shri P.V. Narasimha
Narayanan, Shri K.R.	Rath, Shri Somnath
Neekhara, Shri Rameshwar	Redhod, Shri Uttam
Oraon, Shrimati Sumati	Ravani, Shri Navin
Pande, Shri Raj Mangal	Rawat, Shri Harish
Pandey, Shri Damodar	**Reddy, Shri K. Ramachandra
Pandey, Shri Madan	Sethi, Shri Ananta Prasad
Panika, Shri Ram Pyare	Shanmugam, Shri A.C.
Pant, Shri K.C.	Shanti Devi, Shrimati
Pardhi, Shri Keshavrao	Shastri, Shri Hari Krishna
Patel, Shri Ahmed M.	Shervani, Shri Saleem I.
Patel, Shri C.D.	Shivendra Bahadur Singh, Shri
Patel, Shri Ram Pujan	Siddiq, Shri Hafiz Mohd.
Patil, Shri H.B.	Sodi, Shri Mankuram
Patil, Shri Prakash V.	Soren, Shri Harihar
Patil, Shri Shivraj V.	Sultanpuri, Shri K.D.

Suman, Shri R.P.

is as follows :

Swami Prasad Singh, Shri

AYES : 27

Swell, Shri G.G.

NOES : 120

Tewary, Prof. K.K.

The Motion was negatived.

Thara Devi, Kumari D.K.

MR. DEPUTY SPEAKER : I will now put Shri Satyagopal Mishra's amendment No. 3 to the vote of the House.

Thomas, Prof. K.V.

The amendment (No. 3) was put and negatived.

Thungon, Shri P.K.

MR. DEPUTY SPEAKER : The question is :

Tilakdhari Singh, Shri

"That the Bill to amend the Essential Services Maintenance Act, 1981, be taken into consideration."

Tombi Singh, Shri N.

The motion was adopted.

Tripathi, Dr. Chandra Shekhar

MR. DEPUTY SPEAKER : The House will now take up clause by clause consideration of the Bill.

Vairale, Shri Madhusudan

The question is :

Vanakar, Shri Punam Chand Mithabhai

"That Clause 2 stand part of the Bill."

Venkatesan, Shri P.R.S.

The motion was adopted.

Verma, Dr. C.S.

Clause 2 was added to the Bill.

Vir Sen, Shri

Clause 1, Enacting Formula and Title were added to the Bill.

Vyas, Shri Girdhari Lal

SHRI S.B. CHAVAN : Sir, I beg to move :

Wasnik, Shri Mukul

"That the Bill be passed."

Vadav, Shri Shyam Lal

MR. DEPUTY SPEAKER : Subject to correction**, the result of the Division

Yadava, Shri Bal Ram Singh

Yadava, Shri D.P.

Zainul Basher, Shri

**The following Members also recorded their votes :

AYES : Dr. Datta Samant, Shri N.V.N. Somu, Shri C. Madhav Reddy, Shrimati Geeta Mukherjee, Shri Ajoy Biswas, Shri B.N. Reddy and Shri K. Ramachandra Reddy.

NOES : Shrimati Manorma Singh, Sarvashri Jagannath Prasad, Kammodilal Jatav, Dr. B.L. Shailesh, Sarvashri Akhtar Hasan, Jai Prakash Agarwal, Jitendra Singh, Dr. C.P. Thakur, Sarvashri V. Krishna Rao, Ajay Mushran, Sarfraz Ahmad, Shrimati Basava Rajeshwari, Shri G.S. Basavaraju, Dr. K.G. Adiyodi and Shri P.A. Anthony.

MR. DEPUTY SPEAKER : Motion moved :

"That the Bill be passed."

Now Division. Let the lobbies be cleared.

The Lobbies have been cleared. I will now put the Bill to the vote of the House. The question is :

"That the Bill be passed."

The Lok Sabha Divided.

DIVISION NO. 3

14.39 hrs

A YES :

Adiyodi, Dr. K.G.

Agarwal, Shri Jai Prakash

Ahmad, Shri Sarfaraz

Akhtar Hasan, Shri

Ansari, Shri Abdul Hannam

Anthony, Shri P.A.

Azad, Shri Ghulam Nabi

Baghel, Shri Pratap Singh

Bairagi, Shri Balkavi

Banerjee, Kumari Mamata

Bhagat, Shri H.K.L.

Bharat Singh, Shri

Bhardwaj, Shri Parasram

Bhoi, Dr. Krupasindhu

Birinder Singh, Shri

Charles, Shri A.

Chavan, Shri S.B.

Chokka Rao, Shri J.

Dalwai, Shri Hussain

Das Munsi, Shri Priya Ranjan

Dennis, Shri N.

Dhariwal, Shri Shanti

Dighe, Shri Sharad

Dora, Shri H.A.

Faleiro, Shri Eduardo

Gholap, Shri S.G.

Ghosal, Shri Debi

Gomango, Shri Giridhar

Guha, Shrimati Phulrenu

Guraddi, Shri S.M.

**Hannan Mollah, Shri

Jagan Nath Prasad, Shri

Jain, Shri Nihal Singh

Jain, Shri Virdhi Chander

Jangde, Shri Khelan Ram

Jatav, Shri Kammodilal

Jena, Shri Chintamani

Jitendra Prasada, Shri

Jitendra Singh, Shri

Jujhar Singh, Shri

Kamat, Shri Gurudas

Kamla Kumari, Kumari

Kamson, Prof. Meijinlung

Khan, Shri Aslam Sher

Khan, Shri Mohd. Ayub

Konyak, Shri Chingwang	Patil, Shri H.B.
Krishna Singh, Shri	Patil, Shri Prakash V.
Kuchan, Shri Gangadhar S.	Patil, Shri Shivraj V.
Kumaramangalam, Shri P.R.	Panwar, Shri Satyanarayan
Kurien, Prof. P.J.	Pilot, Shri Rajesh
Mane, Shri Murlidhar	Pradhani, Shri K.
Manorma Singh, Shrimati	Pushpa Devi, Kumari
Manvendra Singh, Shri	Qureshi, Shri Aziz
Mehta, Shri Haroobhai	Rai, Shri I. Rama
Mishra, Shri G.S.	Rai, Shri Raj Kumar
Mishra, Dr. Prabhat Kamar	Rajeswari, Shrimati Basava
Mishra, Shri Uma Kant	Rajhans, Dr. G.S.
Mohanty, Shri Brajamohan	Ram, Shri Ram Ratan
Murthy, Shri M.V. Chandrashekara	Ram, Shri Ramswaroop
Murugaiah, Shri A.R.	Rana Vir Singh, Shri
Mushran, Shri Ajay	Rao, Shri J. Vengala
Naik Shri Shantaram	Rao, Shri P.V. Narasimha
Naikar, Shri D.K.	Rath, Shri Somnath
Neekhara, Shri Rameshwar	Rathod, Shri Uttam
Pande, Shri Raj Mangal	Raut, Shri Bhola
Pandey, Shri Damodar	Ravani, Shri Navin
Pandey, Shri Madan	Rawat, Shri Harish
Panika, Shri Ram Pyare	Sethi, Shri Ananta Prasad
Pant, Shri K.C.	Shanmugam, Shri A.C.
Parashar, Prof. Narsin Chand	Shanti Devi, Shrimati
Pardhi, Shri Keshaorao	Shastri, Shri Hari Krishna
Patel, Shri Ahmed M.	Shivendra Bahadur Singh, Shri
Patel, Shri C.D.	Siddiq, Shri Hafiz Mohd.
Patel, Shri Ram Pujan	Sodi, Shri Mankuram
	Soren, Shri Harihar

Sultanpuri, Shri K.D.	Biswas, Shri Ajoy
Suman, Shri R.P.	Dandavate, Prof. Madhu
Swami Prasad Singh, Shri	Das, Shri R.P.
Swell, Shri G.G.	Datta, Shri Amal
Tewary, Prof. K.K.	**Ganga Ram, Shri
Thakur, Shri C.P.	Ghosh Goswami, Shrimati Bibha
Thara Devi, Kumari D.K.,	Gupta, Shri Indrajit
Thomas, Prof. K.V.	Hansda, Shri Matilal
Thota, Shri Gopal Krishna	Iyer, Shri V.S. Krishna
Thungon, Shri P.K.	Jhansi Lakshmi, Shrimati N.P.
Tomar, Shrimati Usha Rani	Mahata, Shri Chitta
Tombi Singh, Shri N.	Malik, Shri Purna Chandra
Tripathi, Dr. Chandra Shekhar	Masudal Hossain, Shri Syed
Vairale, Shri Madhusudan	Mukherjee, Shrimati Geeta
Vanakar, Shri Punam Chand Mithabhai	**Narayanan, Shri K.R.
Venkatesan, Shri P.R.S.	Pathak, Shri Ananda
Verma, Dr. C.S.	Raju, Shri Anand Gajapathi
Vir Sen, Shri	Rao, Shri A.J.V.B. Maheswara
Vyas, Shri Girdhari Lal	Ratnam, Shri N. Venkata
Wasnik, Shri Mukul	Reddy, Shri B.N.
Yadav, Shri Shyam Lal	Reddy, Shri K. Ramachandra
Yadava, Shri Bal Ram Singh	Reddy, Shri P. Manik
Yadava, Shri D.P.	Roy, Dr. Sudhir

NOES :

Acharia, Shri Basudeb	Saha, Shri Ajit Kumar
Barman, Shri Palas	Saha, Shri Gadadhar
Basu, Shri Anil	Samant, Dr. Datta
Bhoopathy, Shri G.	Tulsiram, Shri V.

**Wrongly voted for NOES.

Yadav, Shri Vijoy Kumar

Zainal Abedin, Shri

MR. DEPUTY SPEAKER : Subject to correction**, the result of the Division is as follows :

AYES : 127

NOES : 34

The motion was adopted.

14.39 hrs.

(Dr. Datta Samant and Some other hon. Members then left the House).

14 40 hrs.

STATUTORY RESOLUTION
RE : ESSENTIAL SERVICES
MAINTENANCE ACT, 1981

[English]

THE MINISTER OF STATE IN THE MINISTRY OF SCIENCE AND TECHNOLOGY AND IN THE DEPARTMENTS OF OCEAN DEVELOPMENT, ATOMIC ENERGY, SPACE AND ELECTRONICS (SHRI SHIVRAJ V. PATIL) : I beg to move the following Resolution :—

"That in pursuance of sub-section (2) of section 2 of the Essential Services Maintenance Act, 1981 (40 of 1981), this House approves the notification of the Government of India in the Ministry of Home Affairs No .S.O. 595(E), dated August 8, 1985 published in the

Gazette of India Extraordinary, Part-II, Section 3, sub-section (ii) dated August 8, 1985, declaring 'Uranium Industry' as essential service from the date of issue of the notification, which was laid on the Table of Lok Sabha on August 14, 1985."

Sir, Uranium Corporation of India Ltd. (UCIL), a Public Sector Undertaking under the administrative control of the Atomic Energy Department was incorporated in October, 1967. The Corporation is engaged in mining and milling of Uranium Ore for the production of Uranium Concentrates, Copper Concentrates, Molybdenum Concentrates and Megnatite. Uranium Concentrate is required for production of uranium which is required as a fuel for the Nuclear Power Programme of the country. The Corporation at present operates as Uranium Mining and Milling Unit at Jaduguda in the Singhbhum district of Bihar.

In view of the strategic nature of the operation of Uranium Corporation of India Ltd., its promises have been declared as 'prohibited area', both under the Atomic Energy Act, 1962 and the Indian Official Secrets Act, 1923. The service in uranium industry is also being declared as Public Utility Service from time to time under the provisions of the Industrial Disputes Act, 1947.

As mentioned earlier, the Jaduguda Mines of Uranium Corporation of India Ltd. are at present the only source for the basic raw material required for production of fuel for the Nuclear Power Programme of the country and it is essential that the mining and milling activities are kept working at all times so that the fuel for the Nuclear Power Reactors of the country is available at all times. Apart from the Power

** The following Members also recorded their votes :

AYES : Sarvashri Laxman Mallick, Zainul Basher, B.L. Purohit, Saleem I. Shervani, Dr. B.L. Shailesh, Sarvashri Prataprao B. Bhosle, Wangpha Lowang, Prakash Chandra, V. Krishna Rao, Shrimati Sumati Oraon, Shri G.S. Basavaraju, Shri K.R. Narayanan and Shri Ganga Ram.

NOES : Sarvashri N.V.N. Somu, C. Madhav Reddi, Dr. G. Vijaya Rama Rao and Shri Hanno Mollah.