

[Shri H. N. Mukerjee]

performance of duty by Members. In this case, it seems, I do not know, I have, however, seen some of the reports that Shri Jyotirmoy Basu showed me, that the Chief Minister had referred to reports being in his possession which could only be based on eavesdropping into the talks with the Members concerned when they were contacting members of the public and trying to elicit essential information. It is a serious matter and that is why the matter should go to the Privileges Committee. That does not mean condemnation of the State Government, if it goes to the Privileges Committee.

MR. SPEAKER: Just now he has said what he had heard from Shri Jyotirmoy Basu. But I have not even heard that. So, I am not in a position to say whether it should or should not go to the Privileges Committee. After all, I have no particular opinions. I shall discuss with Shri Jyotirmoy Basu and find out what the difficulty was, whether it was only some policemen going with him or whether his work was being obstructed. So many things are involved. So, I would not say anything now. We shall see.

12.44 hrs.

RESOLUTION *RE*: ESSENTIAL SERVICES MAINTENANCE ORDINANCE;  
and

ESSENTIAL SERVICES MAINTENANCE BILL—*Contd.*

MR. SPEAKER: The House will now proceed with the further discussion of the following resolution moved by Shri S. S. Kothari on the 10th December, 1968, namely—

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

The House will also take up further consideration of the following motion moved by Shri Vidya Charan Shukla on the 11th December, 1968, namely:—

"That the Bill to provide for the maintenance of certain essential services

and the normal life of the community, be taken into consideration."

We have already taken many hours on this Bill.

SHRI S. M. BANERJEE (Kanpur): May I submit that the Business Advisory Committee met and decided that the time should be 7 hours . . .

MR. SPEAKER: I have heard about it.

SHRI S. M. BANERJEE: I am coming to that. They have allotted four hours or so for the second reading because there are as many as 264 amendments. Apart from that, the hon. Minister in charge of the Bill said that some paper will be circulated or he will make a definite statement about the alternative machinery. That has not yet been circulated to us. We do not know what the alternative machinery is going to be. You can see the proceedings of the House in this regard. The Deputy-Speaker had made it very clear, and everybody knows. Without telling us what the alternative machinery is going to be, the hon. Minister wants us to pass this Bill. We have not received any papers regarding this even in the *dak* today.

The Home Minister and the Minister of State in the Ministry of Home Affairs are both here, and they should make a statement on this. For, we are now told that they want to bring forward some legislation next session and meanwhile this Bill should be passed and the alternative machinery for the redressal of the grievances will follow in the next session. In that case, let this Bill also go over to the next session. Unless that is circulated, this discussion should be adjourned.

**श्री जार्ज फरनेग्डीय (बम्बई दक्षिण) :**

मैं एक बात बतलाना चाहता हूँ। यह उस दिन की प्रोसीडिंग्स है। जिस बात को एस० एम० बैमर्जी साहब ने उठाया उसी सिलसिले में कहना चाहता हूँ। डिप्टी-स्पीकर साहब ने कहा कि आप ग्राहटरेटिव मशीनरी क्या पेश कर रहे हैं तो इस पर यह लेक्चर देने लगे और कहा कि इस के बारे में मैं बोलने वाला हूँ। सारी बहस खत्म होने के बाद डिप्टी-स्पीकर बोले :

"MR. DEPUTY-SPEAKER: You have mentioned in your remarks that some alternative scheme is there. May I request you to spell it out further because that is the main point from this side? Can you give some details about the alternative machinery? That would be beneficial for the discussion here.

SHRI VIDYA CHARAN SHUKLA: Now or in my reply?

MR. DEPUTY-SPEAKER: Tomorrow, you can do that.

SHRI VIDYA CHARAN SHUKLA: Yes, Sir. Tomorrow I will mention it."

अध्यक्ष महोदय, चार टुमारो हो गए; लेकिन अब तक इनकी आल्टरनेटिव मशीनरी हम लोगों के सामने मेन्शन नहीं हुई है। इस-लिए आप तत्काल उनसे कहिए इसके लिए।

दूसरी जो घटना घटी थी वह यह कि सबमिनेट लेजिस्लेशन कमेटी के पास नियमों को भेजा गया था। अब उस कमेटी की रिपोर्ट आई है। मैंने इस पर एक नोटिस दिया है और शायद मधु लिमये जी ने भी दिया है। हम यह चाहते हैं कि उस कमेटी की जो रेकमेंडेशन है जिसमें उन्होंने इस नियम को कुछ संशोधित किया है उस पर यहां बहस होनी चाहिए वरना बहुत ही दिक्कत हो जायगी। मैं समझता हूँ कि नियमों के अनुसार भी उस पर अलग से बहस होना बहुत आवश्यक है।

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA): I was ready, but I was not called upon to do that.

श्री जार्ज करनेन्डीश: हम उस पर बहस चाहते हैं।

MR. SPEAKER: The points raised are no doubt very relevant points. The question is whether the hon. Minister will reply to the point raised about the coming legislation. It is an ordinance which is sought to be replaced by this Bill and naturally perhaps they

will insist on its being passed. Anyway, if Government could give an indication, I shall be very happy.

SHRI S. M. BANERJEE: There is no question of happiness. You must direct them to make that statement.

SHRI UMANATH (Pudukkottai): Because it was an assurance by them.

SHRI JYOTIRMOY BASU (Diamond Harbour): It was an assurance given to the House.

MR. SPEAKER: The report of the Subordinate Legislation Committee is with hon. Members already and it has been circulated to everyone.

श्री जार्ज करनेन्डीश: अध्यक्ष महोदय, हम आपसे उस पर व्यवस्था चाहेंगे।

MR. SPEAKER: When that particular clause comes up, naturally hon. Members could discuss this also.

SHRI S. M. BANERJEE: My only point is this. We have already taken such a long time over this, almost one full day and we discussed it generally, but now the committee has come forward with a specific recommendation for a substitute clause. The recommendation of the Committee is as follows:—

"The Committee accordingly recommend that for sub-clause (2) of clause 2 of the Bill the following may be substituted . . ."

They have suggested a specific amendment in this regard. But the hon. Minister has not brought forward any amendment.

SHRI NARENDRA SINGH MAHIDA (Anand): I have tabled an amendment.

MR. SPEAKER: These things can be discussed when that clause comes up. The hon. Member himself may give some amendment or some others could table the amendment. And we could certainly discuss them.

SHRI VIDYA CHARAN SHUKLA: As far as the question of alternative arrangement is concerned, I have been in readiness to make the statement, but I was not called

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upon to do because other hon. Members were still speaking. As soon as the Chair directs me to make the statement, I shall do so.

As far as the recommendation of the committee on Subordinate Legislation is concerned, it is wrong to say that we are not accepting the recommendation. We have tabled an official amendment accepting in full the recommendation of the committee.

SHRI S. M. BANERJEE: But we have not seen it.

SHRI VIDYA CHARAN SHUKLA: I have given it to the office.

SHRI NARENDRA SINGH MAHIDA: I have tabled an amendment, and it is contained in List No. 24.

SHRI S. M. BANERJEE: I have seen all the amendments up to amendment No. 265. There is no official amendment in this regard so far.

MR. SPEAKER: If it has not yet been circulated, it will be circulated.

The hon. Minister said that he would be prepared to say something in regard to the alternative scheme, if he was directed by the Chair. Now, can he say something about it?

SHRI VIDYA CHARAN SHUKLA: May I do it at two o'clock when the House re-assembles after lunch, so that I could get all the papers and then make a statement?

SHRI S. M. BANERJEE: I have also tabled two amendments.

SHRIMATI SUCHETA KRIPALANI: (Gonda): I have also given notice of an amendment.

MR. SPEAKER: If the amendments are in time, they would be circulated and they would come up. I do not know whether they have been received in time.

SHRIMATI SUCHETA KRIPALANI: They were given in time.

MR. SPEAKER: What I want to suggest

is that at least now we should stick to the schedule of time. The latest schedule is that we should have 3 hours for the clause-by-clause consideration and 1 hour for the third reading. If on every clause and every amendment, hon. Members want to speak, then I do not know how we could accommodate all of them; of course, it is their privilege to speak and nobody can deny that and I accept it. But still we have ourselves put a restriction of 3 hours. It is not a restriction imposed by Government. It is the Business Advisory Committee which has allotted that time. After all, we have spent four days already on this.

SHRI S. M. BANERJEE: When the Deputy-Speaker was in the chair in your absence, we had requested that he could always allot one more hour extra which he had in his sleeves.

MR. SPEAKER: Even now, if it is only one hour more, I shall be very happy and there will be no quarrel about it. I would only say that let us impose that restriction. Even with the Speaker's privilege of extending it by one hour, there should be some finality somewhere.

So, we shall have 3 hours for the clauses and 1 hour for the third reading, with the privilege of the Speaker to extend it by 1 hour.

SHRI S. KUNDU (Balasore): I rise to oppose this Bill. I call this Bill a black and Draconian piece of legislation. At a time when this Bill has been brought forward, we have to take stock of some factors i.e., political, social and economic, those have cropped up in India now.

This Bill has been brought forward in the wake of the 19th September strike. Before we go into this Bill, it is worthwhile to examine the causes and reasons for the 19 September strike. That was mainly a token strike in which the Central Government employees demanded a need-based wage. But to put a lid on that demand, to curb that demand, to put a stop to the organised, non-violent movement of the workers, a Bill of this nature has been brought forward putting a blanket ban on strike.

I would like to pose the problem before you. When there is a large unemployment,

when there is price rise, when there the cost of living is spiralling and starvation has become an everyday affair, would Government try to suppress this organised demand of the teeming millions of this oppressed class by military and police force or would they appreciate that there is something redeeming in this movement and taking advantage of the movement try to bring pressure on those forces which want to throttle the life line of progress and change. I would have been very happy if this movement had been taken as an indication that the workers' rights need to be protected, because without the basic amenities like food, clothing, housing and other things given to the workers, the system would not remain.

It is unfortunate that Government have brought forward this Bill today to completely reverse the policy pursued for the last so many years. With the introduction of this Bill, I see a reversal of the policy Government have been pursuing so far as regards labour relations. When we met the Prime Minister, we told her that this Bill signifies a reversal of Government's labour policy followed so far, as far as the worker's right to strike is concerned.

I would like to go into a little history of this movement. In 1929 through the Indian Trade Disputes Act, the right to strike, the right to have collective bargaining and also lock-out was forbidden and declared illegal. After a lot of struggle, this was reversed and in the Bombay Trade Disputes Act, 1939, voluntary conciliation and voluntary arbitration were conceded to. This was given another legal sanction through the Industrial Disputes Act, 1947. But today in 1968, when this right should have been further codified and protected because Government profess that their object is to safeguard the welfare and wellbeing of the weaker community and as they practice socialism, and ought to have safeguarded the rights of the workers which they realised after a hundred years of struggle; but unfortunately, we find that in this legislation there has been a complete reversal of that policy and there has been a total ban put on strikes.

We have been very much concerned to find out what is the alternative machinery provided. In case a strike is threatened, an Under Secretary of the Government by a

notification can ban the strike, but what is the alternative machinery, what would be the nature of conciliation, the nature of adjudication, the nature of arbitration? Nothing has been provided. Even in capitalist countries like USA and Japan, the right to strike is not taken away as arbitrarily as it has been done here. Therefore, I call this a draconian piece of legislation.

I will read out to you extracts from a working paper of the National Commission on Labour where they point out how even capitalist countries like the USA deal with this problem of strike and what checks they provide when they want to curtail the right of strike for a limited period. It says:

"In the United States industrial relations are largely governed by collective bargaining. Legislation is enacted by the Government to ensure to workers the right to organise and bargain collectively. . .

"State intervention in industrial disputes is limited to actual or threatened strikes and lock-outs which imperil national health or safety. In such cases the President of the United States is empowered to appoint a fact-finding board of inquiry, whose preliminary as well as final reports are made public, to report on the circumstances of the dispute, stand taken by the parties and efforts made by them to settle the dispute subsequent to the appointment of the board. The President can obtain court injunction for restraining strike for a maximum period of 80 days to provide an opportunity to the parties 'to cool off' and enable them reaching a settlement with the assistance of the Federal Conciliation and Mediation Service. If no settlement is reached during the 'first 60 days of this period, provision exists for ascertainment of employees' approval or rejection of employer's last offer through secret ballot to be conducted by the National Labour Relations Board."

These things are there even in capitalist countries. The Government of India have appointed a National Commission on Labour to see to the welfare of labour, but in this Bill they are going to abolish completely the most important right which the workers

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had achieved. Therefore, I accuse this Government of making a reversal of the policy which was being pursued for the last so many years.

It has been said that productivity and wage structure must be connected. There are some people, the vested interests group, who always insist that wage increase must be related to productivity. I think this is an obsolete idea, this is an antiquated idea, which has no relevance to the problems of the developing countries. Even in capitalist countries like Japan and America it has been found that by giving minimum benefits to the workers, productivity goes on increasing. In Japan during the last 10 years with the increase of wages more than eleven times of the workers, productivity has also gone up.

As I informed the House the other day, in Japan as compared with 1965-66 during the last year the average wage has increased by 13.31 per cent, but what is the picture we get in India? In India it is indeed a grim picture, a picture of starvation and suffering. If you go to the dark hovels of the workers, the dungeons in which they live, you will wonder what has happened in these twenty years, where all the so-called rise in the national production and economic growth has led us to. The picture is this. From 1947 to 1955 there was an increase in real wage, but in 1947 the real wage was lower than the real wage in 1939. From 1955 to 1960 the wage was constant and from 1961 to 1968 the wage has shown a downward trend. Today in 1968 the real wage has gone down to 89.8 per cent of what it was in 1961. And the cost of living index, as compared to 1961-62, has gone up to 213. In such circumstances, without granting the basic minimum needs to the worker and without making a reality of the concept of need-based wage, you want to bring a law by which you want to stop the organized labour force which wants to create an impact on this Government to realise its demand.

It is said that by bringing a law you can stop this trend. This is a philosophy, this is a concept which is followed by certain sections of the people having dictatorial trends such as Frankenstein, Hitler and Mark Antony. You cannot stop the organised movement of the poorer sections of the people by force. It is time that you read the

writings on the wall. It is time to find out and evolve a machinery to meet their demands. Economic growth has no meaning unless the condition of the large sections of our people is improved. All the efforts we have put in and the all the money we have put in have gone to the advantage of a few and large number of workers and peasants have remained in dungeon and they remain in unhealthy surroundings. They cannot send their children to schools. 70% of them are illiterate. Now you bring in a legislation to curb their right to strike because you want to protect certain vested interests in the society. Then I tell you that the law will be defied as you know many laws during the British time were defied and defeated by the organized strength of the workers and this law will also be defied.

13 hrs.

*The Lok Sabha adjourned for lunch till  
Fourteen of the Clock.*

*The Lok Sabha re-assembled after lunch  
at five minutes past Fourteen of the Clock.*

[MR. DEPUTY-SPEAKER in the Chair]

STATUTORY RESOLUTION *Re*: ESSENTIAL SERVICES MAINTENANCE ORDINANCE;  
and ESSENTIAL SERVICES MAINTENANCE BILL—*Contd.*

MR. DEPUTY-SPEAKER: Mr. Kundu.

SHRI S. KUNDU: Sir, I was saying that there must be some correlation between the wage policy and the economic growth of the country. Otherwise, whatever be the economic growth, it would not benefit the people. Whenever we have pleaded for a proper wage policy the Government has come out with such reactionary Bills prohibiting organised struggle of the workers and their right to strike. It reminds me of Don Quixote's attack on the wind-mill. Through the police and the army, Government is trying to curb the rights of workers attacking them, forgetting that they cannot continue with this sort of thing for a pretty long time. They will have to concede the due share of the workers, which will also help in the economic growth of the country and productivity.

In Germany, in the Ruhr Valley a survey was conducted by the FAO and they found that by increasing the calorific value of the diet given to celliery workers to about 400, productivity of each person increased to the extent of 10 tons of coal. So, this principle has been accepted everywhere, but in India, whenever a demand is made that the rise in cost of living should be neutralised, Government comes forward with repressive measures. This was exactly what the mediaeval capitalists were doing. Though the modern capitalists have slightly reoriented and changed their ideas but today the Government of India are still thinking in the line of mediaeval capitalism.

I was dealing with the constitutional validity of this Bill, and I had touched upon this point earlier. I had pointed out earlier that the various provisions of this Bill violated the chapter relating to fundamental rights and also other articles in the Constitution. The right to strike and the right to organise are inalienable rights of the workers which cannot be allowed to be whittled down in any circumstances. This inalienable right, the right to live freely, to organise unions and associations unfettered, comes from the very concept of the common law, and this common law has been codified, and the codification is in pursuance of giving a positive and progressive shape to the hopes and aspirations of the people. To organise freely associations and unions, is germane in the concept of collective bargaining which has been accepted as an implement in the hand of the worker by the ILO convention. The logical conclusion of collective bargaining is that you have the right to have an organisation or an association to fight for the principle of collective bargaining, and also the right to work and the right to strike.

It is quite possible that today the Supreme Court may say that the right to strike is not a fundamental right under article 19(1) (c) but in course of time when the society will change and will take a positive direction to give shape to the wills and aspirations of the people then the judges, being also human beings, are bound to interpret it in such a way that the right to association and the right to organisation and the right to form union are fundamental rights. I may point out in this connection the decisions of the

Madhya Bharat High Court in 1956 where they had said that Government had a limited right to prohibit strikes temporarily, but they had accepted it as a principle that the right to strike was a fundamental right. Therefore, it is too late in the day to say that it is not a fundamental right because 1962 *Supreme Court* has said so. You have been seeing that we have been fighting hard to amend the Fundamental Rights Chapter of the Constitution to make it more progressive and to give it a character where we could say in the background of the 62 *Supreme Court* that the right to strike, the right to organise and the right to form unions are fundamental rights and there can be no two opinions about it.

Article 14 of the Constitution has also been referred to. That article guarantees equal protection before the law, and equal rights before the law. This Bill takes away the right to strike but it does not say anything about the right which some of the employers have, namely the right to have lock-outs. So, there is a discrimination on the face of it. This discrimination will be hit by article 14. If this Bill is passed without making the necessary legislative changes in this regard, then I am sure that it will be declared *ultra vires* and it will be thrown out by the judges of the High Courts and the Supreme Court.

Further, absolute power has been given to the officers, the bureaucrats to decide how and under what circumstances a strike would be prohibited. Clause 3(2) reads thus:

"An Order made under sub-section (1) 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."

The word 'best' means arbitrary use of the power. The power will be exercised under this clause against the workers; but the workers will not know the mode by which a service will be declared essential and how it will be declared and how and where a strike will be prohibited which in most cases will be done by a departmental under-secretary's order. This violates the concept of natural justice. These provisions of the Bill will be declared *ultra vires*, because Government have not spelt out under what circumstances

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they will use that power. 'How best?', is not the close preserve of Government. It should be openly known to everybody how and in what circumstances they are going to prohibit strikes.

Therefore, I am confirmed in my view that this is an illegal and unconstitutional piece of legislation which will definitely be thrown out by the High Court and the Supreme Court.

SHRI D. N. TIWARY (Gopalganj): Let it be passed by the House now.

SHRI S. KUNDU: Why will the House pass a measure which will be thrown out in the courts? We have been charged for passing unconstitutional legislation by courts and Law Commission.

The ILO has times without number reiterated that the right to collective bargaining should be protected. At their recent meeting at Tokyo the ILO has reiterated this statement. And they have specially booked those countries or resolved against those countries that have agreed to this principle of collective bargaining but not implemented it. One of those countries is India, where the Government of India professes to practice democratic socialism. They have said in their resolution:

"NOTHING with regret that several Asian governments have either not ratified the Freedom of Association and Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), or having ratified them, have failed to enforce their full implementation, to the detriment of democracy and harmonious development in this region;"

MR. DEPUTY-SPEAKER: The hon. Member should conclude now.

SHRI S. KUNDU: I may take another four or five minutes. It is a question of human rights, and we are in the human rights year.

MR. DEPUTY-SPEAKER: He has already taken 22 minutes.

SHRI S. KUNDU: I shall conclude in two or three minutes.

MR. DEPUTY-SPEAKER: No, he should

conclude now.

SHRI S. KUNDU: They have further said that the Government of India and some other countries had put their seal on the principle of collective bargaining but they had not implemented it. Today, you are seeing how they are going to protect this collective bargaining by putting a blanket ban on strikes which is nothing else but a reversal of the policy followed earlier though in a limited manner.

This reminds me of the 17th or 18th century practice of some imperialist countries where free labour was collected and pushed into and sealed in some sort of boxes known as 'Coffin Ships' and sent to different parts of the USA and Europe. They had no rights for trade unionism. They had right to obey the command, work and die. I have, therefore, to accuse this Government of introducing such "Coffin-Ship" system and making a drastic reversal of policy.

It also reminds me of the Combination Act to which I had referred to once before. It was passed in 1800 in England, and after 20 years of relentless struggle at that, against that Act which forbade the right to form union, the right to strike etc., the Combination Act was repealed. I am sure the day will come when. . .

MR. DEPUTY-SPEAKER: I have given the hon. Member two minutes more twice or thrice. Now, it is becoming impossible for me. He has to conclude now.

SHRI S. KUNDU: Therefore, I say that a physically degenerated nation, a nation which has been deprived of all sense of thinking, a nation which is morally and physically reduced to the status of bestiality cannot protect liberty and cannot maintain democracy. Whether the strike of 19th September was indicative of anything? Let this Government try to understand what for they were struggling, and try to give a positive shape and direction to the will and urges of the starving and toiling millions who want a better society, better living conditions, better opportunity to live freely, to think freely and to live like civilised human beings.

Now I conclude. But if you do not do that and pursue this Bill, you will completely

take away their rights and you will completely shatter their hopes and aspirations. I think this is a great danger as well as challenge.

MR. DEPUTY-SPEAKER: Now it is very difficult for me. You have taken more than 25 minutes. It is impossible for me to give you more time. Now the Minister.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA): The proposal under consideration of Government briefly is to give a statutory basis to the machinery of joint consultation and compulsory arbitration for Central Government employees which at present is non-statutory. Reference to arbitration on matters which are arbitrable will be subject to the over-riding authority of Parliament.

An outline of the proposed arrangements under consideration is given below:—

- (1) The machinery will cover all Central Government employees except those in Class I or II (other than ministerial posts) or those belonging to any Police Force or working in any managerial, administrative or supervisory capacity and drawing emoluments above a certain level;
- (2) The functions of the Joint Councils under the machinery would be:—
  - (a) to promote harmonious relations between the Central Government and its employees;
  - (b) to promote the welfare of the employees;
  - (c) to endeavour to settle any dispute or difference between the Central Government and its employees in respect of matters relating to the conditions of service of employees;
  - (d) to consider and recommend to the Central Government measures for improving the standards and efficiency of work in offices and establishments of the Central Government.

Disputes relating to the conditions of service of employees as respects pay and allowances, weekly hours of work and leave affecting any well-defined section of employees sharing the same service conditions and having a common interest in relation to the subject matter of the dispute would be referred to the Board of Arbitration. In case a dispute is not referred to arbitration, the reasons for not doing so would be placed before the Parliament. Similarly, if it is. . .

SHRI NAMBIAR (Tiruchirappalli): Why refer to it with this 'if' and all that?

MR. DEPUTY-SPEAKER: Please listen patiently.

SHRI VIDYA CHARAN SHUKLA: . . . considered necessary to modify the recommendations of the Board in any case, in the interest of public services or on grounds affecting national economy or social justice, the report of the Board along with the proposed modifications and the reasons therefor would be laid before the Parliament and the latter may make such modifications in the recommendations as it may deem fit.

It is because more comprehensive measures are under examination, that the present Bill to replace the Essential Services Maintenance Ordinance, 1968, is presented here as a temporary law.

SHRI S. M. BANERJEE: Now the cat has come out of the bag.

MR. DEPUTY-SPEAKER: We shall have a debate when we take up clause-by-clause consideration.

SHRI S. M. BANERJEE: I have heard it very carefully. Our submission in the beginning was that this Bill. . .

SHRI R. D. BHANDARE (Bombay Central): Is this the time to have a debate on that?

MR. DEPUTY-SPEAKER: What I suggest is this: Let us give a serious thought to it, and when we come to the clause-by-clause consideration I will give you ample opportunity.

SHRI S. M. BANERJEE: You kindly hear me.



**SHRI R. D. BHANDARE:** This is not the proper time.

**SHRI NARENDRA SINGH MAHIDA:** Under what provision is he allowed to speak?

**MR. DEPUTY-SPEAKER:** Let Members think about it. Do not go into the merits now because nobody has had enough time to ponder over it or to give a considered opinion on it. What I suggest is, when we come to the clause-by-clause consideration, I will give you ample opportunity.

**SHRI S. M. BANERJEE:** Kindly hear me. My point is this. When the entire matter came up in the morning, when we requested the Speaker through points of orders etc., he said that there should be some machinery and our definite impression was that they want to bring in another legislation. In addition to the Essential Services Maintenance Bill and the already existing Industrial Disputes Act, we thought that they are going to embody something in the Bill itself. Now, Shri Shukla has read out the proposal which is under consideration of government, making the joint consultative machinery statutory. I have got that constitution with me. The JCM is already there. We have got the constitution and the letter of intent is there; everybody has signed it. So, unless something is embodied in the Bill itself, how can you possibly act on that?

**MR. DEPUTY-SPEAKER:** I have followed his point. When this matter was raised as point of order by several members of the opposition, almost all, it was felt that unless some alternative remedy is provided. . .

**SHRI S. M. BANERJEE:** In the Bill.

**MR. DEPUTY-SPEAKER:** . . . there will be almost continuous obstruction to the passage of the Bill. Keeping in view our general scheme of social legislation, I suggested that some alternative remedy should be provided. Now the hon. Minister has come forward with a scheme in which he has suggested that the present measure is only a temporary measure. So, what I would suggest is this. If Shri Banerjee is not satisfied with this statement of the hon. Minister, when we come to the clause-by-clause consideration, he is free to move an amendment to incorporate the scheme in the Bill itself by way of a new clause.

**SHRI VIDYA CHARAN SHUKLA:** I do not know how far. . .

**MR. DEPUTY-SPEAKER:** It is for them to plead and it is for the government to accept or not to accept.

**SHRI RANDHIR SINGH (Rohtak):** Sir, what temporary measures do you have for a farmer when his land is taken away?

**SHRI S. M. BANERJEE:** I want to know from the hon. Minister whether he is going to embody this in the Bill.

**MR. DEPUTY-SPEAKER:** On that he has made the point of government very clear.

**SHRI S. M. BANERJEE:** Then why should we worry or bother about a matter which is in the womb of the government?

**MR. DEPUTY-SPEAKER:** I will give him an opportunity to speak on this at the proper time. The statement of the Minister is very clear. He has spelt out that he will bring another comprehensive measure and this is only a temporary measure. That is the position of the government. If he is not satisfied, he is free to move amendments at the proper stage.

**SHRI UMANATH (Pudukkottai):** In the Statement of Objects and Reasons it is clearly stated that it is a temporary measure. Then, what is the new thing the Minister has said by this statement? . . . (*interruptions*)

**MR. DEPUTY-SPEAKER:** At the consideration stage, hon. Members are free to move amendments; not now.

**SHRI DATTATRAYA KUNTE (Kolaba):** I have heard the hon. Minister with patience and attention. But I have my own doubts about the relevance of his statement to the Bill under consideration and that is why I am seeking a clarification from you. He has indicated to us something which is under the consideration of government. As a proverb in Maharashtra goes, one might start building an idol of Ganapathi and ultimately end it with a monkey.

**SHRI S. M. BANERJEE:** That they are doing.

**SHRI DATTATRAYA KUNTE:** I do not know what they are doing. So, "under consideration" does not mean anything. Secondly, has it any place in the Bill under consideration? If it has not, it is merely a statement for whatever it is worth. It has no relation to the Bill. When the hon. Member, Shri Banerjee, raised the point whether this scheme was going to be incorporated in the Bill, I saw the Minister shaking his head in the negative.

Let him make it very clear whether this is going to be a part of the Bill. Then we can understand it, whatever it is.

Then, very useful misuse of the word 'temporary' has been made. It could be for ten years and yet it would be temporary; it could be for five years and yet temporary. Let him say that till that legislation comes within the next three or six months, it will be there. They are not going to take five years to consider that. That is the impression he wants to give to the House. Let him say, "We want this measure to be there on the statute book for six months; we will come within that time with this thing and other things." I can understand that; otherwise, this is misuse of the word 'temporary'. Please permit me to say that.

Also, this is just an *obiter dictum* coming out of the mouth of the Minister of State, not even of the Minister in charge of the department. It will only mislead the House, creating hope which may ever be belied.

**MR. DEPUTY-SPEAKER:** The main question that he has raised is that it is outside the purview of this debate.

**SHRI DWAIPAYAN SEN (Katwa):** Sir, can there be a discussion on a ruling? You have already given your ruling.

**SHRI NARENDRA SINGH MAHIDA:** Sir, we have a committee on subordinate legislation. The moment the rules are laid on the Table of the House, this committee is empowered to look into the rules and make amendments or suggestions to alter them.

**MR. DEPUTY-SPEAKER:** That has nothing to do with this scheme.

**SHRI NARENDRA SINGH MAHIDA:** All these Members are represented on that committee.

**MR. DEPUTY-SPEAKER:** The question is very simple. At one stage of the debate I suggested to Government that it would be in keeping with the general approach to social problems and legislation that they should provide for some alternative remedy. That was the observation I had made and my impression is that in response to that they have come forward with this statement.

**SHRI VIDYA CHARAN SHUKLA:** You suggested that.

**MR. DEPUTY-SPEAKER:** Yes. I never said that that would be forming a part of this Bill. I never said anything like that.

**SHRI UMANATH:** You did not say that this should be a part of this Bill, but you did say that before a basic right of workers to strike is taken away, they have to make some alternative arrangements; which means, before a strike is to be declared illegal the worker, who loses the right to strike, must have some grievance machinery. That was your point. But he has not responded to your point. He has only said that some proposals are under consideration. When this Bill, which gives the right to withdraw the strike so far as the Government is concerned, is passed it will be there unfettered and the question of any machinery is not there. So it is not in response to your suggestion because your suggestion was that before they withdrew the right to strike, they had to do this. He has not responded to that suggestion.

**SHRI LOBO PRABHU (Udipi):** May I point out to my good friends that my amendment already meets that objection that there is no provision in the Bill that the existing law of the Industrial Disputes Act and of the JCM be satisfied before a strike is declared illegal.

**SHRI UMANATH:** He has not accepted that.

**SHRI S. M. BANERJEE:** Where has he said that? Shri Lobo Prabhu is not in the Ministry; he is still in the Swatantra Party.

**SHRI LOBO PRABHU:** I am not in the Ministry; neither do I hope to be nor do I wish to be in the Ministry.

**MR. DEPUTY-SPEAKER:** I have seen your amendment. You intend to provide an alternative machinery in the Bill itself.

**SHRI LOBO PRABHU:** That is my point.

**SHRI S. S. KOTHARI (Mandsaur):** There is a gap between the statment of the Minister and the Bill. My submission is that in the Bill itself, the Government should introduce a small clause saying that a scheme shall be framed under this Bill and that the scheme will be placed before Parliament within two or three months for sanction. That will be a *via media* and will meet the situation.

**श्री एस० एम० जोशी (पूना):** उपाध्यक्ष महोदय, इस विधेयक के उद्देश्यों और कारणों के विवरण में लिखा है: "सरकार का प्रयास सदैव यह रहा है कि वह अपने कर्मचारियों की वैध समस्याओं और शिकायतों पर विचार के लिए व्यापक और सकारात्मक इंतजाम करें।" इस बारे में आपके पूछने पर मंत्री महोदय ने कहा है कि वह कोई कानून लाने जा रहे हैं। सवाल यह है कि जब इस विधेयक के उद्देश्यों और कारणों में किसी "इन्तजाम" का उल्लेख किया गया है, तो उस की व्यवस्था इस विधेयक में ही की जानी चाहिए, वरना उद्देश्यों और कारणों में उसका उल्लेख करने की क्या जरूरत है। सरकार जो कुछ करने जा रही है और जिस इन्तजाम का उल्लेख उद्देश्यों और कारणों में किया गया है, इस विधेयक में उसको कोई स्थान नहीं दिया गया है। जब तक उस इन्तजाम का प्रावधान इस विधेयक में नहीं किया जाता है, तब तक यह विधेयक, अवैध तो मैं नहीं कहता, लेकिन प्रोप्रायटी के खयाल से गलत हो जाता है।

जहां तक एमेंडमेंट का सवाल है, इस बारे में एक एमेंडमेंट हमने भी दिया है, लेकिन जब तक सरकार उसको स्वीकार न कर ले, तब तक हमारा उद्देश्य पूरा नहीं

होता है। मैं श्री कुंटे से भी आगे जा कर यह कहने के लिए तैयार हूं कि क्या मंत्री महोदय यह बता सकते हैं कि वह इतने दिनों में विधेयक ले आयेंगे। सरकार ने हम लोगों को जो आश्वासन दिया है, उसको पूरा करने का एक ही रास्ता हो सकता है कि मंत्री महोदय स्पष्ट करें कि दो महीने या चार महीने में सरकार विधेयक लायेगी। उस विधेयक द्वारा उचित व्यवस्था किये जाने तक इस कानून को लागू किया जाये। जब तक ऐसा नहीं किया जायेगा, आश्वासनों की कोई कीमत नहीं है। हम लोगों ने सरकार के साथ जो एग्रीमेंट किया था, उस पर दो कैबिनेट मिनिस्टर्स ने हस्ताक्षर किये थे। लेकिन उस एग्रीमेंट को भी सरकार ने तोड़ दिया। इस समय जो आश्वासन एक मिनिस्टर फ्राफ़ स्टेट दे रहे हैं, उसकी क्या कीमत है?

**श्री अमृत नाहाटा (बाड़मेर):** उपाध्यक्ष महोदय, मंत्री महोदय ने जो यह आश्वासन दिया है कि एक ऐसी मशीनरी बनाई जायेगी, जिससे सरकारी कर्मचारियों की शिकायतों पर विचार किया जा सके, उसका तो हम स्वागत करते हैं। लेकिन मैं आपके द्वारा मंत्री महोदय से यह निवेदन करना चाहूंगा कि अगर यह बिल कुछ दिन के लिए मुलतवी कर दिया जाये, तो आसमान नहीं फटने वाला है। इस अवधि में सरकार गम्भीरता से अपने इस आश्वासन पर विचार करे और इस बिल में ये सब बातें लाकर सदन के सामने पेश करे। वरना क्या होगा? यह कि इस आश्वासन के प्रति सरकार सीरियस नहीं रहेगी। आश्वासन तो यह भी दिया गया था कि प्रिवी पर्सिज को एबालिश करने का बिल इस अधिवेशन में लाया जायेगा, लेकिन वह नहीं लाया गया है। दो महीने में कोई लम्बा-चौड़ा फर्क नहीं पड़ता है। मंत्री महोदय ने जो सुझाव रखे हैं, उन्हें इस बिल में निहित कर के अगले अधिवेशन में पेश किया जाये।

SHRI S. KUNDU: Sir, you were kind enough to ask the Government to find out some via media, some alternative machinery, to resolve the dispute in case you take away the right of strike. Now, the Government comes forward with a sort of statement. This is not enough. I think, this is a betrayal of their promise that they will evolve some alternative machinery. To me, it appears to be just a caricature of what you and I and many members in this side of the House wanted namely that the Government should evolve some alternative forum to decide issues in case they ban strikes. The most important thing is the right of reference. Once they do not refer the dispute, they will place it before the Parliament. But how it will help? This was what read out. You are also to see the content and the quality of what is being read out.

SHRI S. M. BANERJEE: Let us adjourn the debate today.

MR. DEPUTY-SPEAKER: Let us proceed with the debate.

श्री रणधीर सिंह : उपाध्यक्ष महोदय, एक मिसाल है कि अन्धा बांटे शीरनी, अपनों-अपनों को दे। आप बुरा न मानें। यहां पर यह प्रेसीडेंट लाना कि आप आलटरनेट रेमेडी लायें तो लेजिस्लेशन आयेगा यह गलत बात है। यह कहना कि कोई लेजिस्लेशन तब पास हो या कंसिडर हो जब कि कोई आलटरनेट रेमेडी हो, यह आप करिएगा तो आपको इम्प्लायज जरूर करनी पड़ेगी। अगर मजदूर के लिए यह करिएगा तो किसान के लिए भी करना पड़ेगा . . . (व्यवधान) . . . यहां पर कितने लाख किसान के आए, उनमें इसकी बात नहीं की गई। तो यह नहीं हो सकता कि जहां किसान की बात हो वहां कोई रेमेडी नहीं और मजदूर की बात हो तो वहां रेमेडी की बात लायी जाय। वैसे मुझे खुशी है कि आलटरनेट रेमेडी की बात, डिप्टी स्पीकर महोदय, आपने की, आप इन्क्लाबी डिप्टी स्पीकर हैं, हम आपकी तारीफ किए बगैर नहीं रह सकते। लेकिन एक बात मैं चाहता हूं कि जहां किसान की बात आए वहां भी यह आलटरनेट बात करनी होगी। इतने ला

किसान के यहां आते हैं, ला आफ एक्वीजीशन, ला आफ रिक्वीजीशन, कितने ही ला बन गए, कोई आलटरनेट रेमेडी की बात न चेंबर की तरफ से आई न गवर्नमेंट की तरफ से आई। मैं कहना चाहूंगा कि एक छड़ी से सबको हांकना चाहिए। अगर आलटरनेट रेमेडी आप मानते हैं, बड़ी खुशी की बात है, बड़ी अच्छी बात है। लेकिन यह इनके लिए आप दे रहे हैं तो सबके लिए तलाश करनी पड़ेगी। अगर मैं यह कहना चाहता हूं कि हाउस के सामने कोई बिल आए और आलटरनेट रेमेडी के ऊपर आप उसको रोकें या पोस्टपोन करें, यह बड़ा गलत तरह का प्रेसीडेंट हो जायगा। आप देख लीजिए। मैं आप मालिक हूँ हाऊस के। लेकिन एक बात यह मैं जरूर चाहूंगा कि आलटरनेट रेमेडी देते हैं तो यह स्पेसिफाई किया जाय और किसान का मामला आए या दूकानदार का मामला आए या हरिजन का मामला आए तो वहां भी आपको आलटरनेट रेमेडी देनी पड़ेगी। बिल पास करने के पहले आलटरनेट रेमेडी का एश्योरेंस देना पड़ेगा क्योंकि आज से एक नया प्रेसीडेंट हो गया। मुझे इसकी खुशी है और ला मेकिंग में भी यह एक नया प्रेसीडेंट है।

SHRI NAMBIAR: When the hon. Minister was making his statement, I interrupted to say that the statement was full of 'ifs' and 'buts' and nothing definite. The question arose when there was a ban on the strike of Central Government employees for five years to come, and we said that when that was being done, there must be an alternative, and the alternative was promised. Instead of an alternative, he has given a statement. This is what Mr. Banerjee was saying that it was already in the existing Joint Consultative Machinery. We want some additional amendment to this Bill or something which is equal to that to counter it. This is our submission. The hon. Minister may take time to come with an amendment. We have no objection. Let him bring forward a suitable amendment to the Bill and satisfy us. Otherwise, it is very difficult; all the promises are of no use. This is our specific submission.

MR. DEPUTY-SPEAKER: Some hon. members have made certain submissions. What I have suggested—and again I repeat it—is this. In his reply, perhaps, in response to the suggestions of the hon. members he might indicate something. Therefore, let us conclude this stage of the Bill. When we come to the clause-by-clause consideration, then, at that stage, this would be valid. At the present moment let us proceed with the Bill.

श्री रबी राय (पुरी) : तो आप निर्देश दीजिए, आप उनको कहिए ।

MR. DEPUTY-SPEAKER: It is for him to decide. We have already taken 15 minutes. Let us stop this here.

SHRI DATTATRAYA KUNTE: Under what clause would this offer of promise to do something in the future be relevant? This would be treated as irrelevant.

MR. DEPUTY-SPEAKER: Mr. Kunte has raised the point of relevance. It has certain relevance in the sense that it provides a certain alternative remedy. Whether it should form part of the Bill as suggested by several hon. members or it should be independent of it, it is for the Minister to consider. How am I directly concerned? Now, let us proceed.

SHRI KANWAR LAL GUPTA (Delhi Sadar): Please permit me to make my submission. I will take just one minute.

उपाध्यक्ष जी, मेरा कहना यह है कि यह स्टेटमेंट देकर के मंत्री महोदय ने स्वीकार कर लिया कि जो बिल वह ला रहे हैं वह कितना गलत है और उस गलती को पूरा करने के लिए उन्हें कुछ न कुछ दूसरा बिल लाना चाहिए । लेकिन यह जो एम्प्लॉयर्स है यह भी छाँखों में धूल डालने के बराबर है । इसका कोई मतलब नहीं है । सरकार कई बार एम्प्लॉयर्स दे चुकी है और बदल चुकी है । मेरा कहना यह है कि अगर सरकार को भी न्याय करना है और कर्मचारियों को भी न्याय करना है तो एक दूसरा बिल आना चाहिए और यह बिल सरकार वापस ले ले । जो कुछ एम्प्लॉयर्स वह देना चाहते हैं वह उस बिल में लाकर के

एक दूसरा बिल बना कर वह सदन के सामने लाएं ताकि हम उस पर विचार कर सकें कि आया उसमें कौनसी चीज ठीक है, कौनसी गलत है । जब तक वह पूरी बात तय न कर लें तब तक के लिए यह बिल वापस ले लें और फिर उसे लेकर आएं ।

श्री शिव चंद्र झा (मधुबनी) : उपाध्यक्ष महोदय, आप हम लोगों का ब्याल नहीं करते हैं, कुछ विशेष लोगों को ही बार-बार बुलाते हैं, मैं जानना चाहता हूँ यह क्या किसी की मोनोपली है ? आप कोई नियम लागू करें तो सबके साथ लागू हो । यह बेइन्साफी हो रही है । . . . (व्यवधान) . . .

SHRI TENNETI VISWANATHAM (Visakhapatnam): Sir, a suggestion has come from you that an alternative must be found. And, the Minister said: 'Certainly I will consider it.' And, today, we have been expecting a statement which contains an alternative. I want to know from you, whether you are satisfied with the so-called proposal which is contained in his statement. I am one of those who believe that the Government must be strong. But I equally believe that the Trade Union Movement must also be strong. There must be nothing dubious in this, Sir. There must be no scope, there must be no chance for Government or Trade Union or employers, to have recourse to quibbling and hairsplitting etc. After all we are making a law here, and we should make definite provisions in this regard. We are ready to sit till Twelve O' clock in the night. We have no objection, but let it be definite. We have friends to the left, and friends to the right,—we are in the Centre—we want something definite.

MR. DEPUTY-SPEAKER: It is not a question of my satisfaction. In deference to my suggestion he has come out with a statement. This is one step. It is for the House to decide whether this is enough or any further step is necessary. It is not for the Chair to decide anything about it.

SHRI K. NARAYANA RAO (Bobbili): I shall be brief. It is true, during the course of discussion of this Bill, my hon. friend Mr. Banerjee raised an objection by way of

point of order, and he referred to the objects and said that we do not know what sort of machinery has been contemplated. And then you, in your exclusive wisdom, Sir, asked the hon. Minister to spell out what he is having in mind. He has come out with the statement containing the scheme about the consultative machinery. It is not as though the procedure is worked out in all the details, at this very juncture. This Bill has a history. This is to replace the ordinance and the ordinance has to be replaced within the time allotted. If you don't do it now it lapses. To give the full details of the machinery will take time. Therefore, I would plead with hon. Members to pressurise the Government later. Now they have come out with this scheme in continuation of the objects which have been mentioned in the Bill. Certainly the House is entitled to ask the Minister in the next session and to press for them and also discuss in all its details what the satisfactory machinery should be.

MR. DEPUTY-SPEAKER: This is a constructive suggestion. Let us proceed.

श्री रवि राय : उपाध्यक्ष महोदय, मेरा आपसे अनुरोध है, आपका सजेशन जो आप दिए थे गृह-मंत्री को उसके ऊपर सोशल लेजिस्लेशन की पृष्ठभूमि बताए थे कि क्या विकल्प होना चाहिए। आप इस बात को सोचिये—सरकार पार्लियामेंट में इस बिल को बहुमत के बल पर पास करने जा रही है, अगर हम इस बिल में मजदूरों को कोई वैकल्पिक मशीनरी नहीं देते हैं तो यह सरकार और पार्लियामेंट देश के सामने हास्यास्पद बन जायगी। इसलिये मैं आपसे अर्ज करना चाहता हूँ कि आप इनको हुक्म दीजिये कि ये कैबिनेट की मीटिंग को 15 मिनट के लिये बुलायें और इसके बारे में निर्णय करें, तब तक के लिये आप इस पर बहस को स्थगित कीजिये, हम यहां पर दूसरा विषय ले सकते हैं। आप जानते हैं, उपाध्यक्ष महोदय, आप स्वयं भी इससे सन्तुष्ट नहीं हैं, और यह सदन भी सन्तुष्ट नहीं है, इसलिये आप ऐसा निर्णय ले सकते हैं।

MR. DEPUTY-SPEAKER: It is no question of my satisfaction.

श्री रवि राय : आप इस बिल को दो-तीन घंटे के बाद चार या पांच बजे फिर से ले सकते हैं, तब तक सरकार कोई डेफिनेट चीज लेकर आये और बिल के अन्दर इन्कॉर्पोरेट करे।

MR. DEPUTY-SPEAKER: As I said, we will proceed with the general debate. When we come to clause-by-clause stage-as was suggested from the other side also-some via media must be found. Government will come forward with it and we will consider it.

श्री रवि राय : लेकिन गवर्नमेंट को इसके बारे में आश्वासन देना चाहिये।

MR. DEPUTY-SPEAKER: Now let us proceed.

SHRI SEZHIYAN (Kamba Konam): You in your wisdom said the other day that because the right to strike has been taken away in the Bill under consideration, an alternative arrangement should be made available. That was agreed to by Government also. The Bill as it is, if passed, will come into effect from 13 September. But the alternative arrangement will be available only after two months. My suggestion is that the alternative arrangement should also come into operation from the date of commencement of the operation of the Bill. As this is not being done, the spirit of what you suggested has not been fulfilled.

Shri Narayana Rao has suggested that we should pass this Bill as otherwise the Ordinance, which the Bill replaces, will lapse. Nowhere in the Constitution has it been suggested that an Ordinance should always be replaced by a Bill. All that is said is that the Ordinance will be laid on the Table. I have gone through the relevant provisions and referred to them the other day. There is no obligation cast on Government or on the House that the Bill should be replaced by the Ordinance. The only thing that happens, if it is not so replaced, is that the Ordinance will lapse.

I would repeat my plea that both the Bill and the alternative arrangement contemplated should come into operation from one and the same date. Therefore, the alternative

[Shri Sezhiyan]

arrangement should become part and parcel of the Bill itself.

SHRI S. M. BANERJEE: I have a suggestion. You wanted that the debate should continue. Let it continue till we reach the clauses stage. The hon. Minister said something about an alternative arrangement. Our first reaction is to reject it *in toto*. But still we are prepared to consider it when it is circulated to us.

So my suggestion is that after the consideration stage, the debate should be adjourned till tomorrow. We do not know the implications of the arrangement proposed; we do not know whether they are going to embody it in the Bill. Let Government give a second thought to it; we will also do likewise. Let the Home Minister call a meeting of Opposition members tomorrow morning at 10 and let something concrete be agreed upon. Otherwise, the sole purpose of it will be lost. We do not know what machinery is going to come. We want something concrete and effective to be operative from 13 September. Otherwise, with the Bill only taking effect from that date; what will happen is the punishment of 10,000 employees who are now rotting in the streets.

SHRI RANGA: We have already made our position clear that we do not want the right to strike to be taken away under any circumstances. At the same time, there are social conditions and requirements under which strikes cannot be allowed in certain sectors of our industrial and public activity where public interest is involved. At the same time, even in regard to this, there is considerable force in the objections raised by many of our hon. friends that this kind of blanket powers should not be given to Government, without at the same time giving some alternative opportunity for workers to get their grievances redressed before they are obliged to take to breach of the law or anything like that as would happen if they were to go on a strike in spite of this particular legislation. You were also good enough to make a suggestion to the Government and the Government have come forward with a statement. Under ordinary circumstances I would be glad to accept the assurance of the Government that is given here in the House itself, and expect the Government to come

forward with the necessary legislation next time provided of course they give the additional assurance that till the other Bill is passed they would act as if it had been passed, and thus give the necessary protection to the workers and see that they are not in any way injured, see that the workers would be indemnified in the same way as Government would be indemnified when they exercise some authority without the necessary law. Even that assurance our friends here are not willing to accept in the light of past experience. So, I would strongly suggest to the Government to accept one of the two amendments before the House. One has already been referred to by my hon. friend Shri Lobo Prabhu and he has already spoken on it. His amendment reads thus:

"Provided that no such order shall be passed if the strikers are acting under existing laws, to obtain redress for their grievances."

If Government is not prepared to accept it there is another amendment in the name of Mr. S. M. Banerjee which makes it very clear that if both parties agree to compulsory arbitration, Government should be willing to give that opportunity to the workers before they enforce this law. Either our amendment or Mr. Banerjee's amendment may be considered favourably by the Government. After all, we have got four or five hours to think about this matter. Government can suitably change either of these amendments or put them together and make some sense out of it and come forward with a suitable amendment which the House can accept. We can waive the usual restrictions for moving such an amendment.

Government must be prepared to do either of the two things. Otherwise it would not be proper. I do not want the workers all over India whether they are in Government service or anywhere else to go with the impression, and I am sure the Government also does not want it, that this Government and those of us who do not want strikes to take place in public utility services are dead set against the workers. We are not opposed to the workers. We want to help the workers to live a decent life, to carry on their work in an honourable way under humane conditions, and at the same time we also want the workers to recognise their responsibilities to the community.

MR. DEPUTY-SPEAKER: We will proceed with the debate.

SHRI S. KUNDU: Let him accept the motion that the Bill be referred to a Select Committee.

श्री शिव चन्द्र झा : उपाध्यक्ष महोदय, आप मुझे बोलने का मौका न देकर बेइन्साफी कर रहे हैं। आप एक मिनट के लिये मेरी बात सुनिये।

MR. DEPUTY-SPEAKER: Mr. Fernandes. Please conclude in 15 minutes.

SHRI S. M. BANERJEE: Our time was more than 20 minutes. We have taken only 10 or 11 minutes.

MR. DEPUTY-SPEAKER: This is not proper. Dr. Ram Subhag Singh and others were present when we agreed that in addition to whatever time was spent before, three hours more would be given and that is now coming to an end. Do not rake up that issue.

MR. DEPUTY-SPEAKER: Mr. Fernandes You will get only 15 minutes.

13 hrs.

SHRI S. M. BANERJEE: Every speaker got . . . (Interruptions)

श्री शिव चन्द्र झा : उपाध्यक्ष महोदय, आप कहते हैं कि कलाज बाई कलाज कंसीडरेशन जब होगा उस वक्त इनके स्टेटमेंट के लिये मौका होगा। मैं पूछना चाहता हूँ कि क्या सरकार इसका संशोधन ला रही है?

MR. DEPUTY-SPEAKER: Not now.

श्री जार्ज फरनेन्डीस (बम्बई दलित) : उपाध्यक्ष महोदय, इस विधेयक के सिलसिले में कितनी खराब नीयत है सरकार की यह अभी गये आधे घंटे पहले की बहस से बिल्कुल साफ हो चुका है। जब यह विधेयक 11 तारीख को गृह मंत्री जी ने पेश किया तब अपनी तकरीर के दौरान उन्होंने यह कहा था:

"We want to give a suitable forum to the Government employees. We are considering to bring forward a law to provide a good, suitable machinery for positive discussion. We want to put this machinery on a statutory basis so that Government employees have a machinery, so that all their grievances can be discussed between the Government side and the staff side and possible agreement can be achieved. All these matters which have to be agitated outside the statutory bodies can be now agitated inside the body which we are contemplating to make in our law. It is our intention to bring a Bill of this kind and come before this hon. House for its approval."

यह गृह-मंत्री जी ने इस विधेयक को पेश करते हुए कहा था। लेकिन इन बातों को कहने के बावजूद जब उन्होंने अपनी तकरीर के अन्त में कोई नया सुझाव नहीं रखा तब आपको गृह मंत्री जी से पूछना पड़ा कि जी आश्वासन नये विधेयक या नई व्यवस्था के बारे में आप दे रहे हैं उसके बारे में आप क्या करने जा रहे हो? तब उन्होंने यह कबूल किया था: Tomorrow I will mention it. यह बात थी 11 तारीख की। और 5 दिनों के बाद भी, अगर आज सुबह यहाँ पर अध्यक्ष जी के रहते हुए इस प्रश्न पर बहस नहीं छड़ी जाती तो मुझे कोई उम्मीद नहीं थी कि गृहमंत्री जी अपने नये खयालात को सदन के सामने पेश करते। इसी से इन की नीयत के बारे में शक होता है कि कर्मचारियों के अधिकारों को छीनने के लिये सरकार तैयार है और उनकी तकलीफों को दूर करने के लिये जो व्यवस्था करनी चाहिये वह व्यवस्था करने के लिये सरकार किसी हालत में भी तैयार नहीं है। बरमा आज यह कहना कि हम एकाएक तो आपके सामने आ रहे हैं और आप हमें शाम तक स्पष्टीकरण के लिये कैसे कहते हो, इसकी कोई आवश्यकता ही नहीं थी। मैं मंत्री मंडल से कहूँगा कि आपने 13 सितम्बर को अध्यादेश जारी किया, इसके बाद 19 सितम्बर के बाद 3 महीने के पहले



## [श्री जार्ज फरनेन्डीज]

जब आपका यह निश्चय था कि हमें विधेयक को लाना है, इस अध्यादेश को हिन्दुस्तान के मजदूरों के बीच में एक कानून बनाना है, जब यह आप के दिमाग में बात थी तो अगर आपकी नीयत साफ होती, कर्मचारियों के अधिकारों के बारे में, देश के मजदूरों की परेशानियों के बारे में अगर आपका दिमाग साफ था, तो फिर तीन महीने के समय में जिसमें विधेयक को पेश करने का आपने समय निकाला, इस समय में आप कर्मचारियों के प्रश्नों को हल करने वाली जो व्यवस्था होनी चाहिये उसके बारे में जरूर सोचते। और आज सदन में अभी आपके घंटे पहले खड़े हो कर यह नहीं कहते : Government is still considering. An alternative is under our consideration. इस किस्म की बेमतलब बातें जिनमें कोई तत्व नहीं है, यहां नहीं कहते। इसलिये मैं इस विधेयक का विरोध करते हुए एक बात साफ कहना चाहता हूं, यों तो सभी वक्ताओं ने एक चीज कही है कि सुप्रीम कोर्ट जबकि कोई दूसरी अदालत इस विधेयक को गैर कानूनी विधेयक, संविधान के खिलाफ कानून कह कर हटा देगी, कि अदालतें क्या करेंगी मुझे नहीं मालूम, लेकिन एक बात मैं सरकार से और तमाम लोगों से, जो इस विधेयक के पीछे हैं तथा मूलक का घोषण करने वाले वर्ग के संरक्षण के लिये विधेयक ला रहे हैं, उन्हें बताना चाहता हूं कि अदालतें अपना फैसला चाहे जो करें लेकिन हिन्दुस्तान का मजदूर आन्दोलन आपके इस विधेयक को कटई नहीं मानेगा और हम इस विधेयक को तोड़ेंगे, हथेरी के लिये तोड़ेंगे। अगर कोई हथेरी यह बताता हो कि इसके द्वारा क्या-क्या सजायें आप हमें देने वाले हो, परेमान करने वाले हो, तो मैं बताना चाहता हूं कि यह आदेश आपका पहले से था और कर्मचारियों ने इसके रहते हुए भी 19 सितम्बर को हड़ताल की। इस किस्म के अध्यादेश 1957, 1960 में जारी रहते हुए भी कर्मचारी हड़ताल पर गये। अगर उत्तर प्रदेश के

शिक्षक इस वक्त अध्यादेश के रहते हुए हड़ताल पर जा सकते हैं और सारे समाज तथा सरकार को चुनौती दे सकते हैं, तो अगर आप इस विधेयक के द्वारा भारत के मजदूर आन्दोलन को कुचल डालने की उम्मीद या ख्वाब रखते हैं तो यह कभी पूरा होने वाला नहीं है। यह आप को ध्यान में रखना चाहिये।

एक बात आपको याद दिलाऊं कि हिन्दुस्तान के मजदूर आन्दोलन की पचासवीं साल गिरह है। अजीब साल है यह 1968 का। एक तरफ गांधी शताब्दी, दूसरी तरफ मजदूर आन्दोलन की 50वीं वर्ष गांठ, तीसरी तरफ आइ० एल० ओ० की 50वीं वर्षगांठ, जिसके लिए आप हमेशा कोई-न-कोई बात कहते हो और चौथे संयुक्त राष्ट्र संघ का ह्यूमन राइट्स डेयर आप मना रहे हो जहां जा कर हाल ही में प्रधान मंत्री ने कहा था कि यह साल शांति का साल मनाया जाये। ऐसे अवसर पर सरकार का नंगा स्वरूप सामने आ रहा है। ऐसे पुनीत साल में जिस मजदूर आन्दोलन के साथ भूतपूर्व प्रधान मंत्री श्री जवाहर लाल नेहरू का रिश्ता रहा है, इस दल में बैठे हुए बुजुर्गों का रिश्ता रहा है, नेताजी सुभाष चन्द्र बोस का रिश्ता रहा है, और यह मजदूर आन्दोलन जो अपनी 50वीं वर्षगांठ मना रहा है जिसको 1918 में प्रीवी काउन्सिल में मद्रास लेबर यूनियन ने हड़ताल करने के अधिकार को लिया था, उस अधिकार को यह सरकार छीनने की कोशिश कर रही है। क्या देश तथा सरकार की दुर्दशा का इससे बढ़कर कोई और रूप हो सकता है? कई मसलों पर बहस इस विधेयक को लाने पर और अध्यादेश लाने के वक्त हुई। जब हड़ताल का सिलसिला चला तब प्रधान मंत्री की भी तकरीर हुई, आकाश वाणी से, हमारे के० के० शाह जी यहां बैठे हुए हैं, और जैसा बनर्जी साहब ने कहा कि यह आल इंडिया रेडियो नहीं है बल्कि आल इंडिया रेडियो है, इस मंत्रालय की ओर से एक पर्चा

गृह मंत्री जी के वास्ते निकाला गया और उसको बांटा गया। बिल्कुल झूठे मसले उसमें निकाल कर बांटे गये। इसी प्रकार से 15 अगस्त, 1968 को लाल किले पर खड़े होकर क्या कहा था, प्रधान मंत्री ने इस देश के गरीबों के बारे में, खेत मजदूरों के बारे में, झुग्गी-झोंपड़ियों में रहने वालों के लिये जिससे मालूम होता था कि कितनी परेशान हैं। जानते हैं क्या कहा था:

"I therefore appeal to my brethren, be they workers, teachers or others, to view their demands in the national perspective. We are fully seized of their difficulties. We have every sympathy for them. But let them compare their own difficulties with those of other sections of the community."

यही इन लोगों का तरीका रहा है, शुरू से आखिर तक यही तरीका रहा है कि मांगें भले ही तुम्हारी ठीक हों लेकिन अन्य लोगों के बारे में सोचो। अंग्रेजी की एक कहावत है 'फिजी-शियन्स हील दार्ड सेल्फ'। अब अगर मैं यह कहूँ कि तीन करोड़ के तीन मूर्ति भवन में जाने से पहले हिन्दुस्तान के 40 करोड़ लोगों के बारे में भी सोचा होता जो बेघर हैं, जिसमें तीसरी और चौथी श्रेणी के कर्मचारी भी हैं, तो आप लोगों को खराब लगेगा और आप लोग कहेंगे कि मैं प्रधान मंत्री का अपमान करता हूँ, अगर मैं कहूँ तो आप नहीं मानेंगे लेकिन श्री नटराजन जो कि बाम्बे में "रियलस्ट" अखबार निकालते हैं, उनका यह कहना है कि प्रधान मंत्री ने दक्षिण अमरीका का जो दौरा किया और अब दक्षिण अमरीका के जो नेतागण हिन्दुस्तान का दौरा करने वाले हैं, इन दो दौरों पर, यानी प्रधान मंत्री के बहाने जाने और उन लोगों के यहां प्राने के ऊपर हिन्दुस्तान का पांच करोड़ रुपया खर्च किया जा रहा है। यह बात नटराजन साहब ने गये महीने में अपने 'रियलस्ट' अखबार में लिखी है। अब अगर मैं वह दरखास्त करूँ कि जिस मूलक के मजदूरों, किसानों, खेतहर मजदूरों और झुग्गी-झोंपड़ी वालों की ऐसी

हालत हो तो पहले उनके जीवन की ठीक बनाने का प्रयास करो और फिर बाद में दुनिया को आदर्श बनाने का काम करो, तो शायद यह बात आपको बुरी लगे। . . . (व्यवधान) . . . मैं यह बात कहकर आपका कोई अपमान नहीं कर रहा हूँ।

यहां पर इस बहस के दौरान कई लोगों ने यह बात उठाई कि सरकारी कर्मचारी इस देश में कितना नुकसान करते हैं और हमारे जैसे लोग जो कि मजदूरों का नेतृत्व करते हैं वह कैसे देश की पैदावार को नुकसान पहुंचाते हैं, इसलिए हड़ताल पर रोक लगाने की जरूरत है। इस बात को कहने का यहां पर कई लोगों ने प्रयास किया और सी० सी० बेसाई साहब ने अपनी नाराजगी भी व्यक्त की। लेकिन मैं यह कहना चाहता हूँ कि जिन लोगों को गणित प्यारी है वे जरा हिसाब लगाने का प्रयास करें। मैं सरकार की गणित के अनुसार ही बता रहा हूँ। श्री के० के० शाह के मंत्रालय के अनुसार इस समय हिन्दुस्तान में एक करोड़ लोग बेकार हैं। हमारे स्वर्गीय प्रधान मंत्री, श्री जवाहरलाल नेहरू बोलते थे, भाराम हराम है। लेकिन जब वे बेकार लोग कहते हैं कि हमको काम दो तो वे लोग चुपके से घर में बैठ जाते हैं। मैं भी के० के० शाह साहब से पूछता हूँ कि एक करोड़ इन्सान जो कि हिन्दुस्तान में बेकार हैं—उनके सम्बन्ध में वे अपने मन्त्रालय के सचिवों से पूछें—उन बेकार लोगों के कारण हिन्दुस्तान में हर साल कितने मैन-आवजे का नुकसान होता है। वे इसका हिसाब लगाकर बतायें। मैं आपको बताता हूँ कि हर साल 2400 करोड़ मैन-आवजे का आप इस्तेमाल कीजिए जो कि आज आपकी गलत नीतियों के कारण बेस्ट हो रहा है। आज आप अपनी गलत नीतियों के कारण ही इस बेकारी की बीमारी को बढ़ा रहे हो, सारे हिन्दुस्तान में विषमता को बढ़ा रहे हो। आज आपकी ही गलत नीतियों के कारण हिन्दुस्तान में इतने मैन-वेज बेकार आ रहे हैं। आप जरा उसके बारे में भी सोचिए। . . .

## [श्री जार्ज फरनेन्डीज]

(व्यवधान) . . . मैं अब समाप्त कर रहा हूँ। जब पैसा देने की बात आती है तो सरकार कहती है कि हमारी ताकत नहीं है लेकिन मैं आपको बताता हूँ कि सरकार की क्या ताकत है। चन्द दिन पहले ही इस सदन में भ्रम मन्त्री, पन्तजी बोले थे कि 622 करोड़ रुपया इनकम टैक्स का भ्राना है। . . .

(व्यवधान) . . . आप लोग अखबार पढ़िये। मोरारजी भाई ने भी इस सदन में एक हफ्ता पहिले कहा था कि 622 करोड़ रुपया इनकम टैक्स का बाकी है। . . . (व्यवधान) . . .

श्री एस० आर० रामानी (शोलापुर) : मैं आपसे एक बात पूछना चाहता हूँ कि आप लोगों ने स्ट्राइक्स कराकर इस देश में इतने सप्ताहों में कितने मैन-आवजे का लास किया है? . . . (व्यवधान) . . .

श्री जार्ज फरनेन्डीज : ये भी किसी मिल के मालिक होंगे। मैं इनको भी उत्तर दे रहा हूँ। आप सुनिये, भ्रमन्त्रि भुज क्या कहता है। वह बुद्धिमान ही नेता है, इन्डक का नेता है और गुजरात राज्य के टेक्सटाइल कारपोरेशन का एक सदस्य है। ग्रहमदन्त्रि टेक्सटाइल यूनियन का वह एक नेता है। आप सुनिये :

"Mr. Bhuj told this correspondent at his Kutch chamber of Gandhi Mazdoor Sevalaya that the situation in the textile industry was highly deplorable. 60 mills had closed down rendering 75,000 persons homeless. More than two dozen mills did not pay wages to their workers in time."

जब उनसे यह सवाल पूछा गया :

"Why has such a situation arisen in the textile industry?"

रामानी साहब, जरा आप भी सुनियेगा। आप भी मिल मालिक है और इस किस्म की बदमाशी करते हैं। . . . (व्यवधान) . . .

SHRI SHANTI LAL SHAH (Bombay North-West): Is the word *badmaashi* used by the hon. Member proper?

श्री जार्ज फरनेन्डीज : यह भुज साहिब का कहना है :

"Lack of planning, mismanagement and misappropriation are responsible for this state of affairs."

MR. DEPUTY-SPEAKER : I would advise the hon. Member that whatever arguments he might put forward, he should speak without using rather harsh and abusive language. He can make the same point using simpler terms.

श्री जार्ज फरनेन्डीज : उपाध्यक्ष महोदय, मैं हिन्दी बोलने का प्रयास करता हूँ, उसमें गलतियाँ हो सकती हैं, आप मुझे क्षमा करें। मेरे मन में उनके बारे में कोई भी गलत बात नहीं है। जैसी नीयत उनकी है, वैसी मेरी नहीं है।

उपाध्यक्ष महोदय, जो विधेयक सदन में पेश किया गया है, मैं यह बताना चाहता हूँ कि इनके दल के लोग इन मसलों पर किस तरह से दो जीभ से बोलते हैं। उसके बाद मैं समाप्त कर दूंगा। मेरे पास एक पर्चा है : ए केस आफ एल० आर्डी० सी० ग्राफिसर्स, क्लास वन—फार बेटर पे एन्ड जस्टिस। इसमें लिखा हुआ है कि श्री के० के० शाह जब इनके सदर थे तो इनके लिए चिल्लाते थे। हमारे प्लेटफार्म पर आकर कह चुके हैं कि कैसे समाज में अन्याय होता है। इस बात को बोल चुके हैं। तो जिन सिद्धान्तों को श्री के० के० शाह स्वीकार कर चुके हैं और श्रीमती तारकेश्वरी सिन्हा जिन सिद्धान्तों को स्वीकार कर चुकी हैं, मैं चाहता हूँ कि उन्हीं सिद्धान्तों को सरकारी कर्मचारियों के बारे में भी लागू करो। वे बोलते हैं :

"They have neither followed the principle of vertical relativity within the organisation nor the horizontal relativity, that is, remuneration payable in comparable outside employments in fixing the remuneration of its officers."

## [श्री जार्ज फरनेन्डीज]

तो इनका वह कहना है कि ऊपर के अफसरों और नीचे के कर्मचारियों की एक धंधे में क्या तनख्वाह हो उसको तय करो या एक धंधे में काम करने वाले जो कर्मचारी हैं और दूसरे धंधे में काम करने वाले जो कर्मचारी हैं, उनको अलग-अलग तय करो लेकिन सरकार अपने कर्मचारियों के बारे में कोई सिद्धान्त नहीं मानती है और इस तरह का विधेयक यहां पर लाकर उनके अधिकारों को छीनने का काम कर रही है। . . . (व्यवधान) . . .

मैं अब समाप्त कर रहा हूं। मेरी इच्छा थी कि यहां पर मजूर मंत्री उपस्थित रहते। जब मजदूरों के हकों को समाप्त करने की बात हो रही हो तो फिर वे यहां पर क्यों नहीं आये। मैं आज प्रार्थना करना चाहता हूं कि आई० एल० ओ० की यह पचासवीं वर्ष गांठ है, उन्होंने जो निर्णय लिए हैं उनको पढ़कर बैठ जाऊंगा। आई० एल० ओ० की ओर से एक कमेटी है जिसका नाम है फैक्ट फार्मिंग कमीशन। मेरी सरकार को चुनौती है, शुक्ला साहब, चव्हाण साहब और हाथी साहब को चुनौती है, और सरकार के तमाम लोगों को मेरी चुनौती है कि अगर दम हो तो आई० एल० ओ० से कहो कि वह हिन्दुस्तान में फैक्ट फार्मिंग कमीशन भेजे। फीडम आफ एसोसिएशन और राइट आफ कलेक्टिव बारगेनिंग के बारे में वहां से वह कमीशन आए। मैं आपको बताता हूं कि सन् 64 में वह कमीशन जापान में भेजा गया और सन् 66 में वीस भेजा गया। आज मैं भी मांग करना चाहता हूं कि अगर हिम्मत हो तो येरी इस मांग को कबूल करो। आई० एल० ओ० ने 64 में जो फैसला किया था उसको सुना कर मैं समाप्त कर रहा हूं:

"At its Forty-eighth Session, the Conference adopted a new resolution concerning freedom of association. This resolution requests that certain essential principles contained in the Freedom of Association Convention be included in

the constitution of the ILO, that the machinery for the protection of freedom of association be strengthened and that the whole question be put on the agenda of an early session of the Conference.

It urges all Governments to co-operate fully in strengthening the activities of the ILO in the field of freedom of association and to ratify and apply Freedom of Association and the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1948 (No. 98)."

जिस प्रस्ताव पर मजूर मंत्री ने दस्तखत किये हैं उस प्रस्ताव को सरकार स्वीकार करे। फैक्ट फार्मिंग कमीशन को स्वीकार किया जाय। सरकार अपने इस वर्तमान विधेयक को वापिस ले ले वरना इस देश का मजदूर वर्ग व कर्मचारी वर्ग इसके खिलाफ उठ खड़ा होगा। यह निश्चित जानिये कि इस विधेयक को हम कभी नहीं मानेंगे।

SHRI SHANTILAL SHAH (Bombay North-West): Sir, I rise to oppose the resolution disapproving the ordinance and support the Bill. Before the Joint Consultative Machinery, on which the Government and the employees were represented, three main questions came—need-based wage, merger of D. A. with wages and full neutralisation of the dearness.

Except on the first question, Government was willing to refer the other two to arbitration.

15.22 hrs.

[SHRI R. D. BHANDARE in the Chair]

श्री एस० एम० जोशी : सभापति महोदय, हम लोग जब होम मिनिस्टर साहब से मिलने गये थे तो उस समय वहां श्री बिष्णु-चरण शुक्ल भी थे। मैंने कह दिया था होम मिनिस्टर से कि नीड बेस्ड वेज को अलव्हा रखिये। अभी क्या आप यहां कहने के लिए तैयार हैं कि वह जो फुल न्यूट्रलाइजेशन

[श्री एस० एम० जोशी]

वाला मामला है वह आरबिट्रेबुल है? अगर वह ऐसा कहेंगे तो हम कंसिडर करेंगे लेकिन उसका उन्होंने जवाब नहीं दिया। उन्होंने हाँ नहीं कहा।

SHRI SRINIBAS MISRA (Cuttack): On a point of order, Sir, I would request the speaker to refer to his evidence before the Labour Commission and to be consistent with it.

MR. CHAIRMAN: There is no point of order.

SHRI SHANTILAL SHAH: Regarding Mr Joshi's point, the question of neutralisation of dearness was referred to the Gajendra-gadkar Committee and its recommendation has been implemented by the Government. Now to say that the Government refused to deal with that point is not correct. That was dealt with by Dr. Gajendragadkar as an arbitrator and those recommendations have been implemented. (*Interruption*). For a long time, Mr. Joshi was in good company. Now he is in bad company and this is the result of that.

When these matters came before the JCM, the Chairman said that the first issue of need-based wage was not arbitrable but it is recorded in the minutes that, the Chairman said that the leaders of the trade unions should meet the sub-committee of the Cabinet, consisting of the Finance Minister, the Home Minister and the Labour Minister. But they would not see the sub-committee. Immediately they went out and declared the strike. Can this be called *bona fide negotiations*? Why did they not meet the sub-committee which had full powers to take a decision? In all these debates, here and outside, they have not explained why they refused to meet the sub-committee of the Cabinet.

The question of arbitration was not there at that time. The question then was: Let us negotiate and let us meet. Some trade union leaders however met this committee. I hope that the House will not be carried away or over-impressed by the noise they make here. I represent and I am connected with a trade union which by itself has the

double-membership of all the trade unions taken together.

AN HON. MEMBER: What is that trade union?

SHRI SHANTILAL SHAH: The Indian National Trade Union Congress. Our speciality is that we are national and you are not.

AN HON. MEMBER: That is a tall claim.

SHRI SHANTILAL SHAH: But it is a good claim. (*Interruption*)

When this strike was declared, what was the Government expected to do? The strike was not against the Government. The strike was against the public. The whole public life of this country would have been disrupted; there would have been no railways, no posts and no telegraphs. Even the civilian employees of the defence department were to join. In such a condition, if an emergency or unexpected thing had happened, with all the civilian employees of the Defence Department, Railways and P and T on strike, what would the country do? This was intended to be a rehearsal of something which was to happen subsequently. They had stated publicly that an indefinite strike was coming on the 31st of December and then there would be an indefinite strike all over the Railways. It was very wise of the Government to take precautionary action. If this had not been done, what would have happened? They would have failed in their duty. This was not merely a matter of going on strike. I have here a magazine called POST published by the All India Postal Employees Union, Class III. In their issue of August published in September they say: "Take charge of the Government property and valuables." This Union covered a large section of employees. Will Shri Joshi say that taking possession of all the Government property and taking possession of all the valuables was part of the strike? (*Interruption*). "Take full charge" means take full possession.

SHRI S. M. JOSHI: No.

SHRI SHANTILAL SHAH: If it is not, then let me at least take charge of Shri Joshi's conscience. It was not intended to be a strike.

It was intended to take possession of all Government machinery.

The second point is: What is this need based wage? A lot of hullabaloo is raised about the 15th Labour Conference where the need-based wage concept is said to have been accepted. I was also present and a party to this Conference. I was present when the Resolution was passed. They omit to read a very important proviso at the end of the Resolution. The Resolution itself says that this is an objective which could only be implemented when the economy of the country has the capacity to implement it. It does not say 'today and now'. (*Interruptions*).

SHRI J. M. BISWAS (Bankaura): It should be a disgrace for anybody who has attended the 15th Labour Conference.

SHRI SHANTILAL SHAH: It might be a disgrace. But I had the honour of doing that. It was not one conference. I had attended more conferences.

Now, Shri Fernandes referred to the ILO convention and the recent resolution passed by it. I am sure he has not read the convention of the ILO on freedom of association. I had read it only the other day. That convention does not support his attitude. There is no point in charging the Government. Let them go to the ILO.

I think Shri Fernandes is aware of it. Perhaps, he is not, because he is not a man of study; he is a man of vocabulary.

The ILO Convention on freedom of association has been ratified by India. The ILO constitution provides that if there is any breach of any convention ratified by a country, that question can be taken up by anybody before the International Court at The Hague. If Shri Fernandes has courage, let him take it up before the International Court at the Hague. Then the Government will have to justify its action. There is nothing in the Resolution passed by the ILO which says that a fact-finding commission should be invited by the government to come and say "oh ! we find no breach." We do not want any such certificate. As far as ILO is concerned, we have every right to speak on behalf of labour, because

INTUC is the only body which can represent workers of this country, and no other union controlled by them. Therefore, as a member of the executive committee of that august body which possesses the right to speak on behalf of the Indian labour before the ILO, I am making this statement that the contention of the hon. Member is based on ignorance, lack of study, more of vocabulary than of substance.

SHRI J. M. BISWAS: The time has come for him to be a Minister.

SHRI SHANTILAL SHAH: If I wish to become a Minister, I will not seek his support. He may reserve it for himself. It does not depend upon his mercy or his choice. I am quite happy, contented and proud where I am.

MR. CHAIRMAN: He need not take note of the interruptions.

SHRI SHANTILAL SHAH: Sir, I am much obliged to you.

The other point was about the need-based wage. If a need-based wage is to be paid to government employees, then every citizen of this country will have to carry the burden. It is not merely the ICS officers, not merely the industrialists but even the poor men will have to contribute his share. If a need-based wage requires Rs. 120 per month, that must be the average income of the citizen of this country. Today even in a well-paid industry like cotton textiles pays, apart from dearness allowance, a basic wage of even Rs. 30 a month. Could Shri Joshi mention one instance where the basic wage, apart from dearness allowance, is more than Rs. 50 a month in any industry? Textiles is the highest paid industry in terms of wages. In the textile industry the highest basic wage is given in the city of Bombay, and there it is only Rs. 30. Therefore, if this were to be applied to the whole country. . .

SHRI S. KUNDU: It is a shocking revelation.

SHRI SHANTILAL SHAH: Then he said that so much of uncollected taxes are there. The uncollected taxes will be frittered away in one year. What will you do the next year? Therefore, this is mere quibbling. The real point is this. Can the nation afford to pay this wage?

SHRI J. M. BISWAS: What is the total emolument of the textile workers in Bombay?

SHRI SHANTILAL SHAH: I hope my learned friend will allow me to develop the points the way I like. I hope the House will give him time to present his case also. My learned friend ought to know that I have argued more cases about the wages and dearness allowance of textile workers than some hon. Members sitting here can claim to know. . . (interruptions)

Then I would like to say that the relations between the government and its employees can never be improved as long as it is based on mere threats of strike. This Bill is in a negative form, that they shall not go on strike. It is up to the government to see that their relations with their employees are improved. The JCM, as I see it, is incomplete. It requires to be altered; it requires to be given a better form. I cannot say whether legislative form or executive form may be a proper form. But, as it is, the JCM requires a broader base and better atmosphere for negotiation. Unless that is done, this friction and this exploitation of the poor unknowing workers of the government by those who are always willing and ready to mislead them will continue. So, that is the first thing that the Government ought to do.

Secondly, I would like the government to agree to arbitration in as many cases as possible. Unless a third party sits down between the employer and the workers and says "this is right" or "that is wrong" it is difficult to settle disputes peacefully. To say that we shall have no arbitration will, perhaps, be denial of justice. That is a point which the Government ought to consider. I do not propose to link it with this Bill itself.

The third suggestion which I would like to make is that time is now ripe for a third Pay Commission. Government has had pay commissions in the past; there have been two pay commissions and I would suggest that the Government should seriously consider the appointment of a third pay commission where the terms of service, wages and other conditions of Government employees can be examined by a person of a high judicial status.

If these steps are taken, unfortunately for my hon. friends here, the ground under their

feet will be removed. I believe that Government ought to appoint a pay commission as soon as they can. They must improve and strengthen the Joint Consultative machinery and must be ready to refer to arbitration every issue which comes before them. . . (Interruption).

Only one point remains. Is strike a fundamental right? Strike is not a fundamental right.

AN HON. MEMBER: Why?

SHRI SHANTILAL SHAH: Because it is not there. Read the Chapter on Fundamental Rights. The right to strike is a very important right. It is like the right to vote at an election. Right to vote is a very important right but it is not a fundamental right. Similarly, the right to strike is a very important right which I value very highly. My friends may or may not know that I have negotiated and have led strikes; I have succeeded, I have failed. The right to strike is a right which ought to be held as a right of very high importance but there is no right to strike as a fundamental right.

SHRI S. M. BANERJEE: It is a human right.

SHRI SHANTILAL SHAH: Shri S. M. Banerjee says that it is a human right. I have got here the Universal Declaration of Human Rights which was placed before us the other day. Will he read where in the whole Declaration the right to strike has been mentioned? The only right which has been given in the Universal Declaration of Human Rights is the right to work. . . (Interruption). This right to strike, is not a fundamental right nor is it a human right under the Declaration of which I have got all the articles before me.

I would only say this that even if this Bill is passed, Government should not take the passing of this Bill as a success for itself. Every occasion when the workers are compelled to serve a strike notice is a matter of regret both for the employee and the employer, be it the Government or a private party. If an employer or Government cannot solve the grievance of its men and keep their loyalty to themselves and run the machinery smoothly that Government cannot succeed.

I, therefore, support the Bill. I hope, Government will agree to appoint a pay commission, will set up a good machinery and will agree to arbitration in every case where arbitration is necessary.

SHRI S. M. BANERJEE: On a point of personal explanation. The hon. Member has mentioned the Charter of Human Rights. It was placed before everyone of us. When Shri Bhagat was replying to a question put by my hon. friend, Shri George Fernandes, on human rights, I put the specific question whether human rights also include the right to strike and he said that the right to strike was a human right. It implied that the right to strike was there. It is all in the proceedings.

SHRI SHANTILAL SHAH: It is a drowning man clutching at a straw!

SHRI N. SREEKANTAN NAIR (Quilon): Sir, this is a pernicious Bill which all of us on this side oppose. It is opposed on two grounds. Firstly, it attempts to make the public and the Members of this House believe that its scope is limited to the employees of the Government of India. The scope of the Bill is much wider. Secondly, it has brought through the back door labour legislation where the Labour Ministry has not been consulted because if it is consulted it has got to be placed before the tripartite conference. So, through the back door such legislations are being brought in this House and enacted into laws.

The Banking Amendment Bill was the illegitimate off-spring of the Finance Minister, Shri Morarji Desai, the arch-Gandhian, who took shelter under the Gandhian non-violence to prohibit all trade union activities of the Bank employees. The right of the workers was banned by bringing in a legislation through the back-door by pretending to impose social control over the Banks. That is what he claimed. But the real object and the only object was to strike at the root of the trade union movement of the country including the banking sector.

So also our great Home Minister had brought in another legislation, through the back-door, the Industrial Security Forces Bill which was passed into an Act. Although we opposed it tooth and nail, the brute majority of the Congress carried the day.

In the wake of that, the *Essential Services Maintenance Bill* has come banning strikes *in toto*. This Bill has a very wide scope. It covers not only the Government servants but it covers every section of the working class in the country. Not only does it cover the industries under the administrative control of the Central Government as per the Industrial Disputes Act but also those industries which come under the administrative control of the States. That is where the Bill is *ultra vires* of the Constitution. That question was raised earlier also. Of course, it is for the courts to decide. But let us not have any misconception and misapprehension about the scope of the Bill. Under the Industrial Disputes Act, "appropriate Government" means, in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government or by a railway company, or in relation to an industrial dispute concerning the Employees' State Insurance Corporation, the Indian Airlines and Air-India Corporations, the Agricultural Re-finance Corporation and other Corporations and banking and insurance companies, mines, major ports, etc. etc., the Central Government, and in relation to any other industrial dispute, the State Government.

So, the minerals, the mines, major ports and the Corporations are the subjects which are administered by the Central Government in relation to the Industrial Disputes Act. All the other industries are under the administrative control of the State Governments. Here, in clause 2 of the Bill, "essential service" means—

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

\* \* \* \*

(vi) any service in any mint or security press;"

So, all the services, whether it is by rail or by air or by land are brought under the scheme of the Bill. It also encroaches into industries under the administrative control of the State Governments.

Then, clause 8 says:

"The provisions of this Act and of any Order issued thereunder shall have effect



[Shri N. Sreekantan Nair]

notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force."

By this over-riding clause, the entire scope of the Industrial Disputes Act, the Payment of Wages Act and the powers of the State Governments are taken over by the Central Government. Labour is in Concurrent List. List III of the Seventh Schedule of the Constitution read with the Industrial Disputes Act decides the respective rights of the States and the Central Government in the matter of legislation on labour matters. This Bill covers industries and employees about whom the Central Government has no right to pass a legislation. The Home Minister says that this is only to control the Government employees. But the scope of the Bill is far beyond that. By bringing in this legislation, by one stroke, all the powers of the State Governments, all the machinery of the Industrial Disputes Act to refer the dispute for conciliation or adjudication, are taken away. Therefore, this is a fraudulent measure. It not only curtails the rights of the Government employees but it also strikes right at the root of the trade union movement in this country in every industry, whether public or private. Whenever the Home Minister wants, he can expand the list to involve other categories of workers at his sweet will and pleasure. Therefore, there is no sector in the working class which would not be affected by this enactment. There must be a provision safeguarding their rights one way or the other, and it must be a statutory provision. Now in the case of utility services, strike cannot be declared illegal without referring it for arbitration or adjudication or any other machinery. That right is being taken away by this Bill.

Again, the right of the workers, even of government employees, cannot be protected by any promise given on the floor of the House. That has no legal validity. As a lawyer, you know, Sir, that the talks or promises of the Ministers, however eminent they may be, are not taken into consideration by the courts. The whole thing comes to this. Because of the temporary success that Government have achieved in having suppressed the agitation of the government employees, they think that they can do anything,

and, therefore, they have come forward with this Draconian legislation.

They themselves admit that the demand for a need-based minimum wage is not something exorbitant, is not something unfair. They only say that it cannot be given now. So far as the minimum wage is concerned, our ex-Foreign Minister, Shri M. C. Chagla, has laid down the dictum in 1947 that the industries which cannot pay the minimum wage do not deserve to exist. If that is true in the case of industries, it is all the more true in the case of Government. . .

SHRI LOBO PRABHU: They also don't deserve to exist. . .

SHRI N. SREEKANTAN NAIR: Yes; that is what I say; they also do not deserve to exist if they cannot pay the minimum wage to the workers.

Some of the Congress members are under the impression that we, trade unionists, go against the Government and try to extract much more for government employees than what the ordinary workers in the private sector get. That is an absolutely mistaken notion. The total wages of the lower classes of the government employees, the total wages of even the diploma-holders and degree holders in the government undertakings are far below the dearness allowance alone of the scavengers and sweepers in the private sector undertakings which are adjoining these government undertakings. What have you to say to that? A scavenger or a sweeper in the private sector is getting much more than what a Class IV or Class III government servant—even a diploma or a degree holder in the engineering line, working in a concern like the Hindustan Machine Tools—gets. When I brought this matter to the notice of the hon. Minister, when I highlighted this fact, the hon. Minister of Industries said that they would take away this unit from Kerala. Can a 13-storeyed unit be taken away like this at the sweet will and pleasure of the Minister of Industries? All the workers in the five units in five different States have organized themselves under me into one Federation. Now where is he going to take it? Is he going to take it to Pakistan or China or Arabian Sea? This sort of attitude cannot succeed. You cannot deny the workers their minimum wages, their legitimate minimum wages, and say that Government will

put them down. This will only be a bravado and this cannot work in this country.

The entire approach of this Bill is this. In the name of controlling the government employees, the Bill seeks to take power to encroach into all aspects and all spheres of the trade union movement in this country. I have no objection if they try and succeed. Let them try and succeed. But the overall loss to the nation will be very severe.

My hon. friend was talking about INTUC. How many workers in the INTUC would accept the position that they cannot go on strike in the private industry? I know many of the leaders of the INTUC who attended the Indian Labour Conference in the past. I attended the Madras session and also the other sessions of the Indian Labour Conference. I know, as a matter of fact, that no sector of the working class in this country would take it lying down if their right to strike is taken away. You may perhaps succeed in the case of government employees. But what happened to the handful of drivers in the Railways who insisted that they cannot work more than 14 hours? Here also the question is the same, the question of overtime. You take away their right even to demand payment of overtime wages when they are prepared to do overtime. So, without giving overtime wages the workers are compelled to do the work. They are being compelled to do the work for any length of time. That is what the Bill lays down. According to this Bill the worker is denied even the payment of legitimate overtime wages. In this connection, I would like to ask, what happened to the demand of the Railway workers who went on strike? Government had to concede that working hours should be curtailed. And what happens now, Sir? 50,000 teachers were involved in the U.P. strike; of them, 10,000 teachers have volunteered to go to the jail. The maximum punishment that you can give is to send the workers to jail. These are all middle-class people; they have voluntarily accepted the imprisonment. They are not at all afraid of imprisonment or going to jail. So, don't threaten the workers with penal punishment. They are not afraid of going to jail. If they are hungry, if they are unemployed, they would prefer to go to jail so that they may get some food in the jail rather

than starve outside. Hundreds and thousands of working-class people are prepared to go to jail. I challenge you to disprove this. But you will start beating them up and shooting them down as you have done at Indraprastha and Pathankot. You have shot down hundreds of Government employees. You have disrupted thousands of their hearths and homes. Now, you want in this Bill the provision to curb the rights of the working class movement in other sectors also. I tell you: Come on, follow it up. If this Bill is passed blood will flow in rivulets from all parts of the country. That blood will drown this Home Minister and this Government. The flood of the blood will drown this Home Minister and this Government.

SHRIMATI SHARDA MUKERJEE (Ratnagiri): Mr. Chairman, Sir, this Bill comes in the wake of the 19th September strike. That was a dark and a sad day for the country, a day which has cast long shadows. We can face the bullets of our enemies as we did in the 1965 Indo-Pakistani hostilities. When one is faced with the sorrows of our people and one finds that those sorrows have deep reasons, one can understand why people can be driven to near-madness. Now, Sir, what can the Government do? I would say, the first thing would be, to try to remove the causes which cause sorrow and hardship to the people. Unfortunately, Sir, this cannot be done overnight. There are economic reasons. There are other reasons which cannot be removed suddenly. But, in the meanwhile, it also becomes necessary to control the near-madness. And, that is why, especially after I heard the speech of the hon. Member who has spoken before me, while I appreciate his deep concern for the workers, I would ask: Does he for a moment think that any Government in any country can survive without the same feeling for the workers? So, Sir, I would say that in this hour of great distress—which the whole country is facing—because of our economic difficulties, if, at this time, we were to put our resources together for construction instead of for destruction, we would be able to get out of these difficulties. But, on the other hand, if the trade union movement were to become a movement which is utilised for political ends but not for the improvement of Labour, then, I think, the country will suffer and the workers will also suffer.

[Shrimati Sharda Mukerjee]

Sir, it is the right of any organised group of workers to seek redress of their grievances through a strike, which is direct action.

If they choose to resort to direct action, it must, I would say, be because the usual democratic channels have failed. These are the reasons, apart from the economic reasons, which we must look into. The joint Consultative Machinery, the management or top officers and the workers negotiations, arbitration—as long as these channels are open and there are remedies available, I think the workers would be able to resort to them. It is only when they have their backs to the wall that they are forced to resort to direct action—only when the near madness and sorrow is so deep that there are no remedies available to them for it. It would be our duty to see that we do not push things to a position where remedies are not possible.

This Bill which we are considering, delegates extensive powers to Government and we hope that these powers are always used with great wisdom and great care, because it provides for very heavy penalties, things like arrest without warrant; it overrides the provisions of the Industrial Disputes Act, it sets aside the Cr. P. C. provided 'it is necessary to do so in public interest.' Therefore, great discrimination, discretion and wisdom would have to be used in wielding these powers.

I know there are things to be said on both sides. There is, unfortunately, a situation where the thing called judgment in the case of officers is not always used. What is this quality called judgment? It is a sort of intuitive quality which gives the officer a sort of clue as to what he should do in a certain given situation. I will tell you about it from some experience I have had both as a government officer's wife and as a patron of a government employees' union. Many years ago when I was associated with the Air Force, there was a situation where the airmen said that their conditions of living were not satisfactory; they also said that their education, in many cases, was better than that of the officers. They brought things to a point where they said: "there is no reason why we should salute the officers."

I remember this incident. At that point,

if you had held a stiff rod over their heads, things would have gone to a crises. What we actually did was this: my husband and I went from station to station. This is what my husband told them: 'You and I are the same. But when I wear uniform, and you are also in uniform; you must salute me because you do not do so as an individual. You salute the President of India, the flag of India and India itself.' Therefore, while as individuals we are equal, in uniform, you must remember that the discipline of the force must prevail.'

16 hrs.

This is the sort of condition which arises where a little judgment, a little loosening up averts a strike. One finds, on the other hand, that today many recognised rules which are there in Government are blatantly disobeyed and disregarded by the Officers. The benefits and the perquisites of the officers have gone up, the benefits and perquisites are not available to the staff lower down. Where housing is concerned, education is concerned, medical facilities are concerned, transfers are concerned, very little attention is given to them. There is the case of staff cars. We know that staff cars are only meant for duty, but now it has become a practice and a recognised convention that Government transport, whether it be transport by air or transport by car, is used indiscriminately and there is no check today. I ask you: when I am hungry, when I have no place to live in, when my children cannot be educated the way I think they should be, can I stand back and see this kind to misuse of privilege? These are things which do not require money. They require just an ordinary thing called justice. When you have rules, the rules cannot change because of status. What is wrong is wrong, it does not become right because of status, and I would say humbly that rules are disobeyed and disregarded by the people in the highest appointments and that applies to absolutely the highest people. I know that in the old days there used to be a logbook and a strick record was kept of how staff cars were used. Today that is not done.

Secondly, employees are recruited for a certain purpose, but they are used for something else, for domestic work in officers' houses. I ask you: has a man no sense of

respect and dignity for himself? This does not require money.

Where housing is concerned, not in Delhi because Delhi is 60 per cent Government but in other cities in Housing Boards where accommodation should be given to Government employees, the accommodation is given to other people and therefore Government employees are without accommodation. This is one side.

With equal humility I would submit to my good friends in the Opposition on that just as it is necessary for officers and public servants to respect the law, it is equally necessary for the public to respect the law. I do not think that our trade union leaders always co-operate. Nor I say very humbly that what happened at the A.G.'s office in Kerala was obeying the law. So, unless there is obedience and respect for law both by public servants and by the public I do not think that we can make any headway. I would suggest that the trade union leaders should also give great thought to this. It does them no good, because what would have happened if the strike on the 19th had gone further than it did? We saw what happened in Indraprastha. Do you think that we did not feel as deeply anxious as you did? What would have happened had there been more Indraprasthas? Does it not mean that you have a responsibility to see that more Indraprasthas do not take place? What would be your role if you were in a position of authority? Would your role also not be the same to see that greater damage and danger was not involved so far as the public was concerned?

Indraprastha is a great blot on the country, but as I said earlier, one is driven to near madness when there is panic and that panic can also spread and it can affect the people who have to control the panic just as it affects those who cause the panic.

MR. CHAIRMAN: Kindly conclude.

SHRIMATI SHARDA MUKERJEE: I am concluding, Sir.

All over we are entering into an era of conflict. This conflict is not confined to Government servants alone. There is a revolt

among the students, among the nurses and among the teachers. Last year we saw it among the Police. We got it in the Press also. So, this is a very serious matter. It is a matter which I do not think can be settled by legislation. It is a matter which has become a human problem and the causes are so deep that pure legislation—only laws are not going to solve the situation.

I support Mr. Shantilal Shah who spoke before me that the Government should make a much greater effort at negotiation, at the proper utilisation of the Joint Consultative Machinery and any other democratic process which exists so that the workers do not feel forced to resort to direct action.

SHRI DATTATRAYA KUNTE (Kolaba): Here is a Bill which is trying to put on the statute book what the Government did in connection with the cessation of work by Government employees on 19th September, 1968. That cessation of work on the one side is called a strike for the realisation of the legitimate demand. On the other side, Members like Shri Shantilal Shah, want to suggest that it was not merely an attempt to realise their legitimate demands but also an attempt to take over either property or possession of Government property and other things. Thereby you are trying to suggest that there is an attempt at revolution. I do not know whether the hon. Minister of State for Home subscribes to the view of the hon. Member Shri Shantilal Shah. As far as the aims and objects of the Bill are concerned, he is not very clear about it. Therefore, I presume that he was only trying to meet the strike of the Government servants so that the essential services of the Government may run.

Now something happened on 19th September and to meet that situation action was taken before 19th September by the Government. If Government wanted only to protect all that was done, what is contained in Clause 9 of the Bill could have been as well sufficient. They could have allowed the Ordinance to lapse and there is a proviso which provides that all the action taken should be protected so that they would have met the situation on the 19th September. But the Minister wants to go a step further. He wants to see that such situations may not arise in future. Therefore, at least in the first instance for a period of 5 years he wants to put that ordinance on the statute book as an Act of the realm.

[Shri Dattatraya Kunte]

Now he has not given any reason for this apprehension of his. He has not said how such a situation is developing in the country. He only said that something happened on the 19th September. Therefore in order to see that it may not happen again, this Bill is brought. He wants a statute for a temporary period. It is there for the period of next 5 years. Are such dangerous emergencies going to arise? As far as this point is concerned, I do not know that there is unanimity of thinking in the minds of those who belong to the ruling Party. The hon. Member, Shri Nahata, who interrupted in the statement made by the Minister in the Matter, asked what would the Government like to do in the matter of the consultative machinery; and he said nothing would be lost if for two months or more, this Bill were not in the Statute-Book. Do I take it that what is the mind of the hon. Member like Shri Nahata is also in the mind of the hon. Home Minister, and therefore he is not here to pilot the Bill? I want to pose a very serious question.

**SHRI R. D. BHANDARE:** It is a doubtful question.

**SHRI DATTATRAYA KUNTE:** It might be doubtful, but anyway, it is a question and it is a doubt in my mind. It might be that you might have a clear mind because you might have joined the deliberation. The hon. Shri Nahata said very clearly that the Heavens would not fall if this Bill was not put in the Statute-Book for the next two months or more. It means that there is a thinking in the ruling party itself and therefore, I really want to know what the Home Minister would say about it. The Minister rightly said this morning, very proudly, that there are Chavans in every State, but we have not got Chavan here in this House when we are speaking on this Bill. I do not understand why. Shri Nahata had said it very clearly. I think the hon. Member who spoke before me had also narrated her personal experience and, at the same time, she pointed out that there ought to be a machinery which can deal with these problems.

The question for consideration for us at this moment is whether it is sufficient merely to legalise what was done in the ordinance and put it on the Statute-Book and protect

the action taken and carry on those actions, or is it necessary to put this in the Statute-Book for a period of five years. Further, what is said in the Statement of Objects and Reasons is this:

"It has always been the endeavour of Government to provide comprehensive and positive arrangements for the consideration of the legitimate problems and grievances of its employees."

It has always been their endeavour which they have never been able to fulfil or succeed, because in this very House and outside, years back, promises were made that a machinery on the basis or on the lines of the Whitley Council would be created, thereby meaning that all the legitimate ills, difficulties and problems of the Government employees will be so solved that there will be no grievances which will remain. That is exactly the idea.

As early as 1937, when the Industrial Disputes Bill was first moved in the Bombay Legislative Assembly, Shri Nanda who was then the Parliamentary Secretary there, in support of the Bill stated very clearly that he recognised that a worker will have grievances, and if he has grievances, there must be remedies to redress those grievances, and if such remedies were not provided, naturally, it might happen that he will go on strike. Therefore, let this State create such a machinery that there will be no need for a strike. He further said then, and it was reiterated by the then Chief Minister of Bombay, the late B. G. Kher, that as against the employer, the employee is weak and therefore, the state must come to his succour and protection. Therefore, the intention was to create a machinery where it will not be necessary for the worker to go on strike, and yet a machinery will be there which will solve all his ills. Here is a Government which during all these years has not been able to create that sort of machinery which exists in the United Kingdom, namely, the Whitley Council. Is it the case of the Government that they have created Whitley Councils in this country? No. Shri Shantilal Shah made a reference to the need-based wage, and said that as against the rise in prices, wages will also rise; but why at all a promise was made that the need-based wage will be paid? Was it a mere sop so that the worker will say, "Yes, we are getting the moon some day sometime," or,

was it a very honest statement of Government's intention? The Government's intentions are like promises of a crashing bank. That is what the Minister said this morning. He is making a promise that something is under consideration.

There are two parts of the Bill. One thing is only to legitimatise what has been done in pursuance of what has happened on 19th September. If the Government want to put the other things also on the statute-book, naturally about a hundred days have passed. Somebody said, things cannot be done in a day. Who says it should be done in a day? When this ordinance could be issued, why was not an ordinance issued to give proper remedies to the employees, whatever they may be?

This Bill contains some vague clauses, like clause 2 (ix). The Minister says it is impossible to enumerate all the essential services. He says that it is difficult to lay down all the categories. The case for putting this Bill on the statute-book has not been properly made. There are hon. members like Mr. Nahata, who said that that urgency is not there. I concede that a Government worth its name must govern. But if this Government wants to call itself a people's Government and claims that it is doing the best for its employees, the taste of the pudding is in the eating. Why is the Government not able to convince its employees that it is doing all that? Why should the Home Minister, after prodding from the Chair, after being pushed into that position make a statement in the House which bristles with "buts" and "ifs". If those "buts" and "ifs" are properly read, nothing will remain of what he said this morning which will lead anybody to understand that something is being done. Taking it for granted that one would like the Government machinery to run, let the Government clearly say that the problems of the employees will be solved and there will be no occasion for strike. If that was done, people would agree that in certain circumstances, there need not be any recourse to strike.

I submit that if at all something is to be done, it should be done in proper sequence. Let the Government take its own time for framing a Bill wherein all the essential ser-

vices are properly defined and the categories laid down. The minister should take his time to do that. Emergency is not at the doors. If such an emergency were to arise, the President is there to issue another ordinance. Or, if the House were in session, I can assure him that the House will give all those powers.

16.19 hrs.

[SHRI GADILINGANA GOUD *in the Chair*]

Let him not be frightened because of that. Let him take proper counsel and incorporate into this Bill the *obiter dicta* statement he has made, because he was pushed into that position. So that the workers will know and the Government servants will know, because they had entered the service before this. Some covenant has already been there. Now this will be a new term added to it saying "thou shalt not strike." Even not working over time is strike. The definition of 'strike' is so widened and broadened. When a new condition is being imposed on the employee, let the Government give him that assurance that they will indicate it in this Bill itself. Let both the things come together so that a reasonable employee will understand that there is no reason for him to go on strike and there is no reason for him to refuse to work. Then Government will be in a position to tell the people: All right, this is right, that is wrong. Here the lines are blurred. One does not know what the Government want to do—whether they want to stifle expression of legitimate grievance or whether they want to put down those who are out to seize power. These are the considerations that are before us.

Now, what are the essential services? How are the Government servants to know to which service they belong. Here it is all very vague. This is threatening them and frightening them. Maybe the fear is imaginary. But it must be there which is essential and which is not. There have been certain rulings and on the basis of those rulings the Subordinate Legislation Committee said: All right; this could be done. Now the time has come to revise those rulings. Whatever might have been good in those times may be different now. In the United States of America at one stage under the Segregation Bill the difference between Whites and Blacks

[Shri Dattatraya Kunta]

or Europeans and Negroes was legitimate. Of course they had changed those rulings. Whatever may be the ruling in this House, the time has come that this ruling is changed and things are made more definite and more positive.

Nothing would have been lost if these vague and indefinite clauses were left out and if at all any such services are evolved in future, another ordinance or another legislation could come before the House. Therefore, I believe that whatever be the professed intentions, out of this Bill one gets the impression that Government is wanting to take much more power than is really at all necessary.

**श्री नवल किशोर शर्मा (दौसा) :** सभापति जी, आज इस सत्र के सब से अधिक विवादास्पद विधेयक का समर्थन करने के लिये मैं खड़ा हुआ हूँ। साधारणतः ऐसे विधेयक का समर्थन करना साधारण परिस्थितियों में सम्भव नहीं है। लेकिन जिन परिस्थितियों में हमारा देश गुजर रहा है, जो हालात हमारे देश के अन्दर पैदा हो रहे हैं, उन हालात को देखते हुए, हमें ऐसे किसी कानून की व्यवस्था करनी जरूरी थी, जिसके जरिये से इन सारी गतिविधियों पर जो कि देश की सुरक्षा के लिये खतरा पैदा कर सकती है, नियंत्रण लगाना निहायत जरूरी था। मैं कहना चाहता हूँ कि हमारे देश के अन्दर जो हालत पिछले तीन-चार सालों में पैदा हुए हैं, वे अपने आप में कोई बहुत अच्छे हालात नहीं हैं। देश की आर्थिक और आन्तरिक स्थिति बिगड़ी है, देश की बाहरी इज्जत में कमी हुई और इन सब हालात में जरूरत इस बात की है कि देश में ऐसा एक प्रशासन हो जिस प्रशासन के जरिये से देश के आर्थिक हालात दुरुस्त किये जा सकें, देश की साख बाहर के देशों में बढ़ाई जा सके। उसके लिये जरूरी है कि हमारे देश के अन्दर उत्पादन के सभी साधनों पर निगाह रखी जाय और जो लोग इन उत्पादन के साधनों पर या देश के अन्दर ऐसी व्यवस्था पैदा करना

चाहते हैं जिससे देश का आर्थिक तन्त्र बिगड़ जाय, उन लोगों पर रोक लगाई जाय, भले ही इस रोक का रास्ता कितना ही कटु क्यों न हो, कितना ही हमको ना पसन्द क्यों न हो और भले ही उनसे किन्हीं अधिकारों पर कुठाराघात होता हो, लेकिन फिर भी आखिरकार देश के हित को ध्यान में रखते हुए और अवाम के हित में ऐसे कानून बनाने पड़ते हैं और आगे भी बनाने पड़ेंगे और बनाने भी चाहियें। इसी दृष्टिकोण से जब हम देखते हैं तो हमें इस कानून का स्वागत करना पड़ता है।

जहां तक ट्रेड-यूनियन मूवमेंट का संबंध है, इस में कोई दो रायें नहीं हो सकतीं कि देश के अन्दर पिछले दिनों में ट्रेड-यूनियन मूवमेंट और मजदूरों का आन्दोलन बढ़ा है। लेकिन हमें यह देखना पड़ेगा कि क्या सरकारी कर्मचारियों को भी इसी कानून से गवर्न किया जायगा, जो कि साधारण ट्रेड यूनियनों पर लागू होता है। यह एक बड़े मुद्दे का सवाल है, इस पर हमें विचार करना पड़ेगा कि क्या सारे सरकारी कर्मचारी उसी श्रेणी में और उसी पंक्ति में आते हैं जिसमें कि साधारण मजदूर आते हैं, साधारण कारखानों में काम करने वाले श्रमिक आते हैं? यदि इन दोनों में कोई भेद है तो फिर निश्चित तौर पर हम को सरकारी कर्मचारियों के लिये ऐसी व्यवस्था करनी पड़ेगी जिससे वह सरकार के ढांचे को खतरे में न डाल सकें। नागरिकों के जन-जीवन को तकलीफ पहुंचे या उनको परेशानी हो—ऐसा कोई कार्य वे न कर सकें। मैं कहना चाहता हूँ कि सरकारी कर्मचारियों का हड़ताल पर जाने का यह अधिकार एक एन्सोल्यूट राइट नहीं है। यह एक बड़ा कीमती अधिकार जरूर है, जिसकी रक्षा की जानी चाहिये और सरकारी कर्मचारियों की दिक्कतों को दूर करने के रास्ते में सरकार को आकर उनकी मदद करनी चाहिये और ऐसा कोई रास्ता निकालना चाहिये जिससे उनकी दिक्कतें दूर हों। आखिरकार सरकारी

कर्मचारी भी सरकार के अंग हैं और कोई भी सरकार अपने कर्मचारियों की उपेक्षा नहीं कर सकती। भारत सरकार तो क्या मेरा तो यह कहना है कि एक साधारण मिल-मालिक भी या कोई दूसरा साधारण मालिक भी अपने मजदूरों को बिना खुश रखे उनसे काम नहीं ले सकता। लेकिन उसकी भी मर्यादायें होती हैं। यदि मर्यादाओं के अन्दर सब काम होता है तो ठीक है, लेकिन यदि उस के बाहर काम होता है तो फिर कोई रास्ता बनाना पड़ेगा और ऐसी जगह पर अपनी निगाह रखनी पड़ेगी और उस पर रोक लगानी पड़ेगी। मैं बड़ी नम्रता के साथ कहना चाहता हूँ कि इस देश के सरकारी कर्मचारियों का आन्दोलन बड़ी गलत दिशा में चला जा रहा है। दुर्भाग्य से उनका यह आन्दोलन रोटी और रोजी का आन्दोलन नहीं रहा है, बल्कि यह राजनीतिज्ञों का अखाड़ा बनता जा रहा है और यही सब से बड़ा खतरा हमारे देश के लिये है। इसलिये आज जरूरत इस बात की है कि हम ऐसे लोगों पर जो राजनीति का इस्तेमाल करना चाहते हैं, सरकारी कर्मचारियों के माध्यम से राजनीति खेलना चाहते हैं, उन लोगों पर रोक लगायें। यदि हम इस बात में भूल कर गये और ऐसा रास्ता नहीं अपनाया तो मैं बड़ी नम्रता से कहना चाहता हूँ कि इससे देश को एक बहुत बड़ा खतरा पहुंच सकता है। वह हालात जो बंगाल में हुए, यू० एल० एफ० गवर्नमेन्ट के समय में और नक्सलाइट कम्युनिस्टों की जो हकंते होती जा रही हैं, केरल में और दूसरी जगहों पर, वे हमें इस बात की चेतावनी देते हैं कि सरकार इस बात के लिये जागरूक रहे और इस बात का ध्यान रखे कि कहीं सरकारी कर्मचारियों में भी तो इस तरह की मनोवृत्ति पैदा करने की कोशिश नहीं की जा रही है। इस सन्दर्भ में मैं इस बिल का स्वागत करता हूँ, और सरकार को मुबारकबाद देना चाहता हूँ कि समय रहते उन्होंने एक आर्डिनेन्स ला कर सरकारी कर्मचारियों की हड़ताल पर रोक लगाई। यह अपने आप

में एक बहुत अच्छा काम हुआ। मैं यह भी निवेदन करना चाहता हूँ कि ज्यादा अच्छा होता, यदि सरकार इस कानून के साथ में, जो एक बिल्टरनेटिव और रेमिडी देना चाहती है, वह भी ले कर आती क्योंकि उससे सरकारी कर्मचारियों और दूसरे गरीब लोगों को, जिनकी अपने आप में बहुत परेशानी है, कोई रास्ता मिल जाता। जो लोग आज निराशा के बवण्डर में घूम रहे हैं उन्हें उससे कुछ निजात मिलती। फिर भी मैं कहता हूँ—देर आयद दुष्टत आयद—कोई बात नहीं अगर सरकार इस दिशा में कोई कदम बढ़ाती है और कोई रास्ता निकालती है तो उसका हमें स्वागत करना चाहिये।

यहां पर मैं एक बात और भी कह देना चाहूंगा कि सरकार ने अपनी ओर से जहां तक सरकारी कर्मचारियों की दिक्कतों को हल करने का ताल्लुक था उस दिशा में उसने काफी कुछ किया है। उन्होंने हर तरीके से समझौता करने की कोशिश की लेकिन जैसा हुआ वह सारे सदन को मालूम है और गृह मंत्री महोदय ने इस बारे में अपने वक्तव्य में कहा है कि सरकार की यह कोशिशें नाकामयाब हुईं और हमारे सरकारी कर्मचारी जो उन यूनियंस से प्रभावित थे और जो कि राजनीतिकों के स्वार्थ के वास्ते चलती हैं उनके हाथ में उन्होंने खेलने की कोशिश की। उन्होंने कोशिश की सरकार के काम को 19 तारीख को ठप्प किया जाय। लेकिन सौभाग्य की बात थी कि हमारे दूसरे जो कर्मचारी थे उन्होंने उनका साथ नहीं दिया और नतीजा यह हुआ कि वह उनका सारा का सारा आयोजन असफल हुआ।

मैं इस मौके पर अपने विरोधी भाइयों से यह भी कहना चाहता हूँ कि जब मजदूरों की बात कही जाती है या मजदूरों के खिलाफ कुछ बात कही जाती है तो वह बहुत उत्तेजित होते हैं लेकिन मैं अपने उन दोस्तों से कहना चाहता हूँ कि इस 52 करोड़ के देश में केवल कुछ आर्गनाइज्ड लेबर ही नहीं रहती है या



[श्री नवल किशोर शर्मा]

आर्गेनाइज्ड लेबरर्स ही नहीं रहते हैं। इस देश के अन्दर ऐसे भी 45 करोड़ इंसान हैं जो गांवों के अन्दर बसते हैं, कस्बों के अन्दर बसते हैं, जो किसान और मजदूर हैं और उन किसानों और मजदूरों के लिए अगर मेरे वह भाई कुछ सोचा करें और उस दिशा में इस सदन का कुछ समय व्यतीत किया करें तो ज्यादा अच्छा होगा।

मैं बहुत नम्रता के साथ निवेदन करना चाहूंगा कि मुझे भी उन कर्मचारियों व मजदूरों के साथ सहानुभूति है जिनके साथ कि मेरे वह मित्र सहानुभूति रखते हैं लेकिन साथ ही साथ हम इस देश में ऐसी व्यवस्था करके भी नहीं चल सकते हैं कि हमारे देश के 45 करोड़ इंसानों पर अधिक बोझ पड़ता रहे। आज भी हिन्दुस्तान के गांवों में ऐसे लोग रहते हैं जिनको कि खाने को अन्न नहीं मिलता है, जिनके बच्चों के लिए कपड़े नहीं हैं, जिनके लिए शिक्षा, दीक्षा का कोई इंतजाम नहीं है और जिनके पीने के लिए पानी तक नहीं है। उनके मुकाबले में मैं कहना चाहता हूँ कि इन सरकारी मुलाजिमों की हालत बहुत अच्छी है, उनके मुकाबले काफी अच्छी है लेकिन फिर भी आप कहते हैं कि उनको नीड बेस्ड वेज मिलनी चाहिए और उनको न्यूनतम वेतन अवश्य मिलना चाहिए। कहा गया यह सारा का सारा सवाल उन लोगों के बारे में? आखिर इन सब का बोझ हम टेक्सपेयर्स पर पड़ता है और हिन्दुस्तान का हर व्यक्ति डाइरेक्ट या इनडाइरेक्ट टैक्सपेयर है। उनको किसी न किसी तरीके से सरकार को टैक्स के रूप में कुछ न कुछ भुदा करना पड़ता है। इसलिए मैं कहना चाहता हूँ कि 45 करोड़ लोगों के हितों का ध्यान पहले रखना होगा बजाय इसके कि आप एक करोड़ लोगों के हितों के लिए यहां पर वकालत करते रहें और इसलिए वकालत करते रहें कि आपका इसमें राजनीतिक हित है।

मैं बहुत नम्रता से आप से निवेदन करना चाहता हूँ कि आपके और हमारे आदर्श समान हैं। हम चाहते हैं कि हमारा देश उठे, हमारे देश की तरक्की हो लेकिन इस देश की तरक्की करने का रास्ता यह नहीं है कि हम किसी इज्म के चक्कर में पड़ जाय और दूसरे मुल्कों की तरफ चले जाय। अगर आपको इंस्पिरेशन लेना हो तो अपने मुल्क से लीजिये इसके लिए आप बाहर के मुल्कों अथवा लोगों से इंस्पिरेशन लेने की कोशिश मत कीजिये। वह एक खतरनाक चीज है और उससे देश का अहित होगा। इन्हीं शब्दों के साथ मैं इस बिल का पुरजोर शब्दों में समर्थन करता हूँ।

SHRI S. M. BANERJEE (Kanpur): Sir, I rise to oppose this Bill lock, stock and barrel.

SHRI NAMBIAR: Tooth and nail opposition.

SHRI S. M. BANERJEE: When I raised certain points of order, I pointed out that in our country today there is a legislation, called the Industrial Disputes Act, 1947. There are provisions for the strikes to be declared illegal. Is it not a blanket ban on the strikes? If any question, if any matter, is referred to arbitration or adjudication or to a national tribunal, then the strike could be declared illegal.

Only a few days back, the Labour Minister referred to the problems concerning the Life Insurance Corporation employees to arbitration and the net result was that the strike which was to commence on the 5th December, 1968 was deferred.

Here is a piece of legislation which is against the various articles of the Constitution. Unfortunately, the Speaker of this House cannot possibly give judgment on constitutional aspects of it. They can simply recommend it to the President to refer it to the Supreme Court for their opinion.

I am surprised today to find that the amendment of Shri Vidya Charan Shukla has been circulated. But our amendment

suggesting that the Attorney-General should be called to express his opinion on the various provisions of this nefarious or pernicious piece of legislation has not yet been circulated. I also suggested, by another motion, that certain controversial clauses of the Bill or the Bill itself should be recommended to the President to refer it to the Supreme Court for their opinion. Unfortunately, I do not find that in the list of amendments which runs to the tune of 268 amendments.

Then, the hon. Minister, a little while ago, said something about the Joint Consultative Machinery and that they want to make it statutory. I have before me the constitution of the Joint Consultative Machinery. Even under the Industrial Disputes Act, when a question is referred to arbitration or adjudication, the strike can be declared illegal and the penal clauses are, practically, the same as embodied in this piece of legislation.

What did Prime Minister Nehru say when the discussion took place after the 1960 strike? After the speech made by Mr. Nath Pai, that wonderful speech and historic speech in the history of Parliament, Prime Minister Nehru replied by saying:

"I am not suggesting that the strikes should be banned or forbidden because the fact of the matter is that strike is an inevitable concomitant of the capitalist system. If you have capitalists and have employee-employer relations, then you have to have something to protect the employee from the employer's pressures and other things. . ."

". . . But it is no good my saying that and no good my banning this kind of thing unless we can produce an adequate substitute for the settlement of such disputes, controversies that might arise. . . ."

This is what Prime Minister Nehru said when he was replying to the debate which was raised on the 1960 strike. That strike lasted for six days. When Shri Ashoka Mehta intervened in the dispute, it was withdrawn. Even after the general strike, Prime Minister Nehru said that it was not the intention to withdraw the right to strike.

Now, here is the Home Minister or his assistant or deputy, Shri Vidya Charan Shukla, who must have his pound of flesh.

SHRI NAMBIAR: Or the Law Minister who is always lawless!

SHRI S. M. BANERJEE: On the face of the Industrial Disputes Act, 1967, on the face of the Joint Consultative Machinery, where the letter of intent is signed by all the groups, where the strike has been declared as superfluous, what is the necessity of bringing in this piece of legislation.

I may mention for your information that the only purpose of this Bill is contained in clause 9(2) which says:

"Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had come into force on the 13th day of September, 1968."

The whole purpose of this Bill, of this black Bill, which is against the ILO spirit, which is against the spirit of the Constitution, which is against the spirit of human rights, is only this that they want to teach all those employees, who went on strike, a lesson; before the Ordinance lapses, they want to pass this legislation giving it a retrospective effect, so that nobody is spared and everybody is convicted. What is the picture today? 8,000 employees have been suspended and the services of 4,000 temporary employees have been terminated after giving them one month's pay. Suppose Mr. Banerjee is a permanent employee and Shri Umanath is a temporary employee. Both are arrested under clause 5 of the Ordinance or section 188 of the I. P. C., and because Mr. Banerjee is a permanent employee, he is suspended and because Mr. Umanath is a temporary employee, his services are terminated. Even the worst criminal in this country is given an opportunity to defend himself; even the murderer of Gandhiji was given an opportunity to defend himself, but here is the Government which has dismissed 4,000 employees without giving them an opportunity to defend themselves. Is this justice? You do not give them an opportunity to defend themselves, to go before the court of law and plead their innocence!

[Shri S. M. Banerjee]

16.42 hrs.

[MR. SPEAKER *in the Chair*]

It is a summary dismissal that they have resorted to. This can only happen in a fascist State. They want to legalise their illegal acts by passing this Bill and giving it effect from the 13th September, 1968. I ask the hon. Home Minister here and now as to what are the special features of this Bill. This Bill is taking away the right to strike without giving them any machinery. I am sure, Mr. V. C. Shukla or his boss, Shri Y. B. Chavan, will never accept any amendment, either of Mr. Lobo Prabhu or of Mr. Banerjee or of anybody else, because they want this Bill to be passed as it is. The Industrial Disputes Act grants the right to declare a strike illegal, but not before referring the matter to arbitration or to a national tribunal. But here is a legislation which bans strike without giving them any machinery.

Regarding the Companies (Amendment) Bill about donations by companies, when we asked in the House whether, if they are not going to pass it now, they can give a saving clause that anybody who receives donations will be punishable under that Act, they said, 'No'. But now here they want to have a saving clause just to dismiss 4,000 employees and make 8,000 employees to face trial ! My submission is this. This Bill is redundant, is superfluous. When there is the Industrial Disputes Act in this country, where is the necessity for bringing forward such a Bill? There can only be two purposes for having brought forward this Bill: do not give them any right to negotiate, ban the strike, and legalise the government's illegal actions, legalise all the shootings in Pathankot, the murders in Indraprastha, in Gauhati and other places and give it a stamp and say that the President issued the Ordinance and this Parliament has passed this legislation. . . (Interruptions) In Ceylon, a few days back, there was a strike by the Posts and Telegraphs employees, but they have certain strange people in their Cabinet; they did not issue any Ordinance, they tackled the strike, they settled the question of strike, without any Ordinance. What happened in France? What happened in 1926 when all the Central services, including the Rail-

ways, gave a notice and went on a strike? They did not go mad. They thought that there was a cause for it. Even in America when the essential services went on a strike and they wanted to ban the strike, they did not allow it to be done; it was not banned. The Government did not accept the arbitration. They have betrayed the confidence of the employees. If anybody is charged with the charge of being traitors or being anti-national, it is they, who are sitting on those benches. Now, here is Shri Chavan the Shylock of the Twentieth Century. He wants to take the blood out of 8,000 employees; and he has killed 4,000 temporary Government employees.

MR. SPEAKER: The hon. Member must conclude now.

SHRI S. M. BANERJEE: Sir, I thought, the employees will be saved by a Portia in the Cabinet. I hoped there will be some Portia in the Cabinet to serve the interests of the employees. But my hopes have been belied.

I oppose this Bill. This is against the Constitution. Even at this late hour I request the hon. Minister to withdraw this Bill. Otherwise we shall oppose it. We oppose it outside this House and inside this House. We shall go on opposing it every day and every hour.

SHRI K. LAKKAPPA (Tumkur): Sir, will Mr. Chavan take the flesh without taking a drop of blood? (Interruption)

MR. SPEAKER: Kindly resume your seat. As I said, we have exceeded the time limit this time also. I am closing the general discussion. The hon. Minister will reply now.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA): Mr. Speaker, Sir, I wish to thank the hon. Members who have taken part in the Debate on the Motion which I moved in this House.

Sir, many important points have been made by the hon. Members. But, while moving the Resolution, the hon. Member asked a question as to why we did not bring in this Bill when we know that the strike



**SHRI NAMBIAR:** What is the necessity for the Bill now when there is no strike?

**SHRI VIDYA CHARAN SHUKLA:** It has been contended by some hon. members that this Bill takes away the valued right to strike of the employees. I have placed the Bill before the House; I also said in my introductory speech that this Bill does not take away the right to strike *per se*; it does not prohibit strike among government servants. It only gives power to Government to declare certain services as essential. Certain essential services having been mentioned in the Bill, in times of emergency, whenever it is found necessary, a notification could be issued under it so that strike could not take place as it would be illegal.

So by itself the Bill does not take away the right to strike or give that right. The *status quo* remains.

**SHRI NAMBIAR:** Is it an argument? it is only foolery.

**SHRI VIDYA CHARAN SHUKLA:** This is the present position concerning the Bill. I would only again emphasise that this Bill does not take away the right to strike at all. The right remains with them. Only when it is regarded that a strike will disrupt essential services and create trouble in the country, Government would have the power to prohibit it and it could not take place.

**SHRI S. M. BANERJEE:** Without hearing grievances.

**SHRI VIDYA CHARAN SHUKLA:** I had also said in my introductory speech which, unfortunately, I was not able to make clearly because there was so much of interruptions, that we did not only want to provide penalties for strikes when they hurt essential services in emergency times; we also want to provide an alternative machinery. Then the Deputy-Speaker was pleased to ask us to give further details. This morning I had given those details of our thinking, so that the whole matter is balanced.

As for the employees, we do not want to deal with them in a hard-headed or hard-hearted manner. We want to deal with them the fullest sympathy. We know that by and large our employees are patriotic.

They have done very good work during the national emergency. We have no complaints as far as that is concerned. About their patriotism we have no complaint. We do not want to punish them for anything. There is no vindictive attitude as far as the Government is concerned, but we have to guard our employees and our own country against such people who go to any length for their political ends. This is the safeguard that we have to provide. The Government has to take powers in their hands to see that at a time of emergency there is no risk to the conducting of national affairs. With this purpose this Bill has been brought forward. It is not a punitive measure as far as our employees are concerned. It is not a measure which is going to ban strikes *per se*. It is only to safeguard the national security and essential services that we have brought forward this Bill.

**SHRI NAMBIAR:** By issuing a notification you can ban it, and you still say you have not taken the powers.

**SHRI VIDYA CHARAN SHUKLA:** As the hon. House knows, we have moved an amendment. A notification, of course, can be issued under the Act, but when we make rules and also when we name further essential services, these things will have to come before the House. They have to be ratified by the House and only after ratification can we take further action.

It has also been said by several members that we are denying the right of collective bargaining and trade union rights. Here again, there is a little confusion which I would like to clear. I think that the hon. Members who say that trade union rights and the right of collective bargaining are taken away are not right because I think that they are confusing between Government employees and industrial workers.

**SHRI S. M. BANERJEE:** See the definition of industry. Railway is an industry.

**SHRI VIDYA CHARAN SHUKLA:** Government employees are governed by statutory rules. Industrial employees are Governed by the contract that they have with their employers either in the private or public sector. There is an essential difference between the two. They are mixing up the two.

As far as collective bargaining is concerned, it is provided for by the joint consultative machinery. We would like to remove whatever lacunae or weaknesses that might have been there in the joint consultative machinery, and while putting this machinery on a statutory basis we would like to see that a very potent and effective machinery is available to the Government employees to agitate their demands and see that the J. C. M. acts as a very potent instrument of collective bargaining.

SHRI S. M. BANERJEE: After operation you want somebody to produce a baby.

SHRI VIDYA CHARAN SHUKLA: Shri Kundu tried to say that there was some difference of opinion in the Government as far as the necessity of this Bill is concerned that is why the Home Minister was not here to pilot the Bill. I do not know how he got this funny idea into his head. There is no question of any difference of opinion, It is a Bill which has been considered by the Union Cabinet and a decision has been taken, and as the hon. House knows, the entire Government is responsible for this Bill.

As far as the question of improving the pay and service conditions of the Government employees are concerned we are very sympathetic to them. Our negotiations with the representatives who called for the strike will bear this out. We never said that we did not want to discuss their demands. The only question that arise was about arbitrability and on that one point the whole thing broke down. I do not think that was a very good thing to happen because that created great difficulties in the way of those whom probably they wanted to serve and whom we want to see happy.

But still without any thought of what terrible things can happen in future, they recklessly went on their adventure of calling a token strike which was really a total strike. We knew that if they were successful in misleading the employees by taking them for a one day strike and indefinite strike, all the Government establishments would follow and that would have been a catastrophe and no Government worth its salt can allow that kind of situation to develop.

17 hrs

SHRI NAMBIAR: If one day strike is there, what will happen? The Government offices are closed on Sundays. Nothing happens.

SHRI VIDYA CHARAN SHUKLA: Some hon. Members mentioned the tragic incidents that took place in the wake of the attempted strike. We have explained in the House that we are sorry for that with regard to the incident in the Indraprastha Bhavan and Pathankot and other places like that, I do not think anybody wishes for such things. We tried our best to prevent that. But if these things happen, the responsibility is not on the Government alone, those people who were reckless about these things and who did not consider the matter in all its implications, they must also share the blame for these incidents.

SHRI S. M. BANERJEE: A judge should decide that.

SHRI VIDYA CHARAN SHUKLA: I would say that the Bill I have moved is not a vindictive move. It is a move which is going to take away the right to strike. It is not brought forward to take away the right of collective bargaining by the Government employees. It is only to safeguard the national interests in times of emergency that this Bill has been brought forward.

SHRI NAMBIAR: We are not urchins. We know what it is.

SHRI VIDYA CHARAN SHUKLA: And as I have said, it is a temporary measure. When the comprehensive Bill comes we will include both the things. Then we may not renew this measure. For the time being, I think the negotiating machinery which is going to be put on a statutory basis will be approved by the House and if it takes firm roots and things are put in the right order, the need for such a thing will not be there.

SEVERAL HON. MEMBERS *rose.*—

MR. SPEAKER: So many people are getting up to put questions. We have had a long discussion on this for so many hours. Now I will call Mr. Kothari.

SHRI S. S. KOTHARI (Mandsaur): The hon. Minister has tried to argue a weak case in a convincing way but I wonder with how many members he has carried conviction.

SHRI S. M. BANERJEE: None.

SHRI S. S. KOTHARI: We, in the Opposition, have been fighting for a laudable cause, trying to benefit lakhs of workers who are unable to make the two ends meet, who live in a state of semi-poverty constantly and who have difficulties in balancing their budget. May I submit that the hon. Ministers must consider whether they would also not like to see that they experience a glimmer of hope, which would sustain these unfortunate people. There should be reasonable prospects of their lot improving and that after a period of time, they emerge from darkness to light. I should think that it is a sacrosanct cause and the Government and the Ministers must take a humanistic and compassionate view. I would now particularly like to refer to certain sections of the Bill.

Clause 2 has been a controversial clause, and the Committee on Subordinate Legislation, to which this clause was referred, has tried to find a *via media*, but in my opinion, all that they have done is to make a parallel of the procedure which is adopted for ordinances, but then ordinances by themselves constitute legislation by the backdoor. Therefore, the *via media* that has been suggested, that a notification should come into effect and be placed before Parliament and would expire unless it has been approved by Parliament in my opinion, also amounts to backdoor legislation, and is unsatisfactory.

The hon. Minister has made a proposition that the Government is considering to codify or to give statutory recognition to the scheme of joint consultative machinery. I submit that between that proposal of the hon. Minister and between this Bill, there is a gulf, and that gulf has to be bridged. It is absolutely necessary, as most Members in this House feel that the Government should not attempt to take away the right of the employees to strike without providing in the Bill some form of machinery for negotiation, adjudication or arbitration of issues which agitate the employees. The bridge that I would suggest and this is a very important

one is that the Government should provide in the Bill itself that the government shall come forward within a period of three months with a scheme, which shall be subject to sanction of Parliament, and this scheme shall provide the necessary machinery for negotiation, adjudication, and arbitration. If this demand of the House is acceded to, it would not cause much difficulty for the Government. They would get ample time to think and cogitate over the matter and ultimately to arrive at a scheme which would satisfy all sections of the House. That could be adopted later. I do not see what is the necessity for producing another Bill, because this Bill itself has created so much botheration and has taken so much time of the House; I think the expenditure to the nation would be great if another Bill, which the Minister intends to bring forward, is brought before the House; it would besides, create further trouble. Let him, therefore, insert in this Bill a provision for a scheme which he can bring in later and have it sanctioned by Parliament.

I am afraid most of the arguments or most of my points which were made here in my speech while moving the resolution for the disapproval of the ordinance have not been replied to by the hon. Minister. We wonder what sort of emergency there was which had necessitated the issuance of this ordinance. Then, should the emergency last for five years? I do not understand, and I do not know how the Minister can justify these blanket provisions. He says that the right to strike is not being taken away. If you ask any trade union leader or the employees, they would say that the right to strike is definitely being curtailed. May I submit that the period during which this Bill would be effective should be reduced from five years to one year or two years. But why make it a semipermanent measure? It is not, in my opinion, necessary.

May I point out one more aspect of the matter? I had referred to the incidents that had happened. I think all sections of the House agree that the incidents in Indraprastha and the firing in Bikaner, Pathankot and other places were unfortunate. I had urged the hon. Minister to see that a judicial enquiry should be instituted to arrive at correct conclusions. But the Minister has remained a silent in the matter. He has

not even uttered a word about these incidents. previously he said that they are ordering an enquiry into the matter. I think they should have been looked into in a more judicious manner.

Then, I would like to refer to certain other clauses of the Bill. Clause 6 provides that anybody who extends financial support for the strike shall be punishable with imprisonment and fine. If tomorrow, Sir, the family members of an arrested worker come to you for aid and if you give them Rs. 100 to support or sustain themselves and to feed their starving children, perhaps the Government might say the hon. Speaker has also supported it. Lending financial assistance to the sufferers on account of the strike would also be attracted by this measure ! (*Interruption*)

SHRI NAMBIAR: He may be arrested!

SHRI S. S. KOTHARI: The point that I am trying to make is that, on humanitarian grounds also, let not this Bill provide clauses, the implications of which the Government themselves have not thought over properly. They have not considered what it means. Indirectly anybody giving some money to the starving family would be arrested for supporting the strike. That is not fair. That clause should be deleted or there should be a provision that such things shall

not be covered by this clause. Then, if a worker refuses to work overtime, he shall be deemed to have gone on strike! Surely these are things which Government could have easily amended, to render it an equitable measure. Both the public and the Government expect that the Central Government employees should be efficient and productivity should increase. But if an employee has constantly to worry over the balancing of his family budget and meeting the daily needs, do you expect him to bring out the best in himself? Obviously, with these worries in his head, he would not be able to give the output expected of him. Therefore, Government must look into the matter and see how progressively they can give a need-based minimum wage, because it is a legitimate, reasonable and modest demand.

Finally, I would submit that Government should forget the past and open a new chapter. They must adopt a sympathetic attitude towards the employees and cancel all those notices with regard to suspension, termination and other forms of victimisation.

MR. SPEAKER: The question is:

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

*The Lok Sabha divided:*

Division No. 24 ]

AYES

[ 17. 14 hrs.

Abraham, Shri K. M.  
Adichan, Shri P. C.  
Badrudduja, Shri  
Banerjee, Shri S. M.  
Basu, Shri Jyotirmoy  
Biswas, Shri J. M.  
Devgun, Shri Hardayal  
Gopalan, Shri P.  
Gupta, Shri Kanwar Lal  
Jha, Shri Bhogendra  
Jha, Shri Shiva Chandra  
Joshi, Shri S. M.  
Kalita, Shri Dhireswar  
Kamalanathan, Shri  
Kothari, Shri S. S.  
Kunte, Shri Dattatraya  
Lakkappa, Shri K.  
Meghachandra, Shri M.  
Misra, Shri Srinibas

Molahu Prasad, Shri  
Mukerjee, Shri H. N.  
Nambiar, Shri  
Nihal Singh, Shri  
Patel, Shri J. H.  
Patil, Shri N. R.  
Ramani, Shri K.  
Ramji Ram, Shri  
Saboo, Shri Shri Gopal  
Satya Narain Singh, Shri  
Sen, Shri Deven  
Sen, Dr. Ranen  
Sharma, Shri Beni Shanker  
Sondhi, Shri M. L.  
Thakur, Shri Gunanand  
Umanath, Shri  
Vajpayee, Shri Atal Bihar  
Viswambharan, Shri P  
Viswanathan. Shri G



## NOES

Ahirwar, Shri Nathu Ram  
 Azad, Shri Bhagwat Jha  
 Bajpai, Shri Vidya Dhar  
 Barua, Shri Bedabrata  
 Basumatari, Shri  
 Bhagat, Shri B. R.  
 Bhakt Darshan, Shri  
 Bhandare, Shri R. D.  
 Bhattacharyya, Shri C. K.  
 Buta Singh, Shri  
 Chanda, Shrimati Jyotsna  
 Chatterji, Shri Krishna Kumar  
 Chaturvedi, Shri R. L.  
 Chaudhary, Shri Nitiraj Singh  
 Chavan, Shri D. R.  
 Chavan, Shri Y. B.  
 Das, Shri N. T.  
 Dasappa, Shri Tulsidas  
 Dass, Shri C.  
 Desai, Shri Morarji  
 Deshmukh, Shri Shivajirao S.  
 Dhillon, Shri G. S.  
 Ering, Shri D.  
 Ghosh, Shri Parimal  
 Iqbal Singh, Shri  
 Jadhav, Shri V. N.  
 Jaggaiah, Shri K.  
 Jagjiwan Ram, Shri  
 Jamir, Shri S. C.  
 Kedaria, Shri C. M.  
 Kesri, Shri Sitaram  
 Kotoki, Shri Liladhar  
 Kripalani, Shrimati Sucheta  
 Krishna, Shri M. R.  
 Kureel, Shri B. N.  
 Lalit Sen, Shri  
 Laskar, Shri N. R.  
 Laxmi Bai, Shrimati  
 Mahida, Shri Narendra Singh  
 Marandi, Shri  
 Master, Shri Bhola Nath  
 Mehta, Shri Asoka  
 Mehta, Shri P. M.  
 Menon, Shri Govinda  
 Minimata Agam Dass Guru, Shrimati  
 Mirza, Shri Bakar Ali  
 Mishra, Shri Bibhuti  
 Mishra, Shri G. S.  
 Mohammad Yusuf, Shri  
 Mohinder Kaur, Shrimati  
 Murthy Shri B. S.  
 Nahata, Shri Amrit  
 Naidu, Shri Chengalraya  
 Palchaudhuri, Shrimati Ila  
 Pandey, Shri K. N.  
 Pandey, Shri Vishwa Nath  
 Panigrahi, Shri Chintamani

Pant, Shri K. C.  
 Paokai Haokip, Shri  
 Parmar, Shri Bhaljibhai  
 Partap Singh, Shri  
 Parthasarathy, Shri  
 Patil, Shri Deorao  
 Patil, Shri S. B.  
 Patil, Shri S. D.  
 Poonacha, Shri C. M.  
 Pramanik, Shri J. N.  
 Prasad, Shri Y. A.  
 Qureshi, Shri Mohd. Shaffi  
 Radhabai, Shrimati B.  
 Raghu Ramaiah, Shri  
 Raju, Shri D. B.  
 Ram, Shri T.  
 Ram Dhani Das, Shri  
 Ram Subhag Singh, Dr.  
 Ram Swarup, Shri  
 Ramshekhar Prasad Singh, Shri  
 Randhir Singh, Shri  
 Rane, Shri  
 Rao, Shri K. Narayana  
 Rao, Shri Muthyal  
 Rao, Shri J. Ramapathi  
 Rao, Shri Thirumala  
 Rao, Dr. V. K. R. V.  
 Raut, Shri Bhola  
 Reddy, Shri P. Antony  
 Reddy, Shrimati Sudha V.  
 Roy, Shrimati Uma  
 Saha, Dr. S. K.  
 Sambasivam, Shri  
 Sapre, Shrimati Tara  
 Sayyad Ali, Shri  
 Sen, Shri Dwaipayana  
 Sen, Shri P. G.  
 Sethi, Shri P. C.  
 Shah, Shri Shantilal  
 Shambhu Nath, Shri  
 Sharma, Shri Naval Kishore  
 Sheo Narain, Shri  
 Shinkre, Shri  
 Shukla, Shri S. N.  
 Shukla, Shri Vidya Charan  
 Singh, Shri D. N.  
 Sinha, Shrimati Tarkeshwari  
 Snatak, Shri Nar Deo  
 Sudarsanam, Shri M.  
 Supakar, Shri Sradhakar  
 Suryanarayana, Shri K.  
 Swaran Singh, Shri  
 Tiwary, Shri D. N.  
 Tiwary, Shri K. N.  
 Uikey, Shri M. G.  
 Verma, Shri Balgovind  
 Yadav, Shri Chandra Jeet

MR. SPEAKER: The result\* of the division is:

*Ayes:* 38; *Noes:* 114.

*The motion was negatived.*

MR. SPEAKER: There is a large number of amendments for circulation, namely, Nos. 1, 2, 3, 7, 8 and 148. I will now put them to the vote of the House.

*Amendments Nos. 1, 2, 3, 7, 8, & 148 were put and negatived.*

MR. SPEAKER: There is one amendment, No. 9, by Shri Shri chand Goyal for reference to the Select Committee. I will put it to the vote of the House. The question is :

"That the Bill to provide for the maintenance of certain essential services and the normal life of the community, be referred to Select Committee consisting of 20 members, namely:—

- (1) Shri S. M. Banerjee
- (2) Shri Bibhuti Mishra
- (3) Shri Y. B. Chavan

- (4) Shri Abdul Ghani Dar
- (5) Shri G. S. Dhillon
- (6) Shri Surendranath Dwivedy
- (7) Shri Indrajit Gupta
- (8) Shri Hem Raj
- (9) Shri Kameshwar Singh
- (10) Shri V. Krishnamoorthi
- (11) Shri Vikram Chand Mahajan
- (12) Shri P. Govinda Menon
- (13) Shri Piloo Mody
- (14) Chaudhary Nitiraj Singh
- (15) Chaudhuri Randhir Singh
- (16) Smt. Sushila Rohatgi
- (17) Shri Prakash Vir shastri
- (18) Shri Sheo Narain
- (19) Shri Vidya Charan Shukla; and
- (20) Shri Shri Chand Goyal

with instructions to report by the first day of next session."

*The motion was negatived.*

MR. SPEAKER: The question is:

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

*The Lok Sabha divided:*

Division No. 25 ]

AYES

[ 17.20 hrs.

Ahirwar, Shri Nathu Ram  
Azad, Shri Bhagwat Jha  
Bajpai, Shri Vidya Dhar  
Barua, Shri Bedabrata  
Basu, Dr. Maitreyee  
Bhagat, Shri B. R.  
Bhagavati, Shri  
Bhakt Darshan, Shri  
Bhandare, Shri R. D.  
Bhattacharyya, Shri C. K.  
Bhola Nath, Shri  
Buta Singh, Shri  
Chanda, Shrimati Jyotsna  
Chatterji, Shri Krishna Kumar  
Chaturvedi, Shri R. L.  
Chaudhary, Shri Nitiraj Singh  
Chavan, Shri D. R.  
Chavan, Shri Y. B.  
Choudhary, Shri Valmiki  
Das, Shri N. T.  
Dasappa, Shri Tulsidas

Dass, Shri C.  
Desai, Shri Morarji  
Deshmukh, Shri Shivajirao S.  
Devinder Singh, Shri  
Dhillon, Shri G. S.  
Ering, Shri D.  
Ghosh, Shri Parimal  
Himatsingka, Shri  
Iqbal Singh, Shri  
Jadhav, Shri V. N.  
Jaggaiiah, Shri K.  
Jagjiwan Ram, Shri  
Jamir, Shri S. C.  
Kedaria, Shri C. M.  
Kesri, Shri Sitaram  
Kikar Singh, Shri  
Kotoki, Shri Liladhar  
Kripalani, Shrimati Sucheta  
Krishna, Shri M. R.  
Kureel, Shri B. N.

\*The following Members also recorded their votes:—

*AYES:* Sarwashri N. K. Somani and B. K. Daschowdhury.

*NOES:* Shrimati Sharda Mukerjee.

Lalit Sen, Shri  
Laskar, Shri N. R.  
Laxmi Bai, Shrimati  
Mahida, Shri Narendra Singh  
Marandi, Shri  
Mehta, Shri Asoka  
Mehta, Shri P. M.  
Menon, Shri Govinda  
Minimata, Shrimati Agam Dass Guru  
Mirza, Shri Bakar Ali  
Mishra, Shri Bibhuti  
Mishra, Shri G. S.  
Mohammad Yusuf, Shri  
Mohinder Kaur, Shrimati  
Mukerjee, Shrimati Sharda  
Murthy, Shri B. S.  
Nahata, Shri Amrit  
Naidu, Shri Chengalraya  
Palchoudhury, Shrimati Ila  
Pandey, Shri K. N.  
Pandey, Shri Vishwa Nath  
Panigrahi, Shri Chintamani  
Pant, Shri K. C.  
Paokai Haokip, Shri  
Parmar, Shri Bhaljibhai  
Partap Singh, Shri  
Parthasarathy, Shri  
Patil, Shri Deorao  
Patil, Shri S. B.  
Patil, Shri S. D.  
Poonacha, Shri C. M.  
Pramanik, Shri J. N.  
Prasad, Shri Y. A.  
Qureshi, Shri Shaffi  
Radhabai, Shrimati B.  
Raghu Ramaiah, Shri  
Raju, Shri D. B.  
Ram, Shri T.  
Ram Dhani Das, Shri  
Ram Subhag Singh, Dr.  
Ram Swarup, Shri

Abraham, Shri K. M.  
Adichan, Shri P. C.  
Badrudduja, Shri  
Banerjee, Shri S. M.  
Basu, Shri Jyotirmoy  
Biswas, Shri J. M.  
Daschowdhury, Shri B. K.  
Devgun, Shri Hardayal  
Gopalan, Shri P.  
Gupta, Shri Kanwar Lal  
Jha, Shri Bhogendra  
Jha, Shri Shiva Chandra  
Joshi, Shri S. M.  
Kalita, Shri Dhireswar  
Kamalanathan, Shri  
Kothari, Shri S. S.

Ramshekhar Prasad Singh, Shri  
Randhir Singh, Shri  
Rane, Shri  
Rao, Shri K. Narayana  
Rao, Shri Muthyal  
Rao, Shri J. Ramapathi  
Rao, Shri Thirumala  
Rao, Dr. V. K. R. V.  
Raut, Shri Bhola  
Reddy, Shri P. Antony  
Reddy, Shrimati Sudha V.  
Roy, Shrimati Uma  
Saha, Dr. S. K.  
Saigal Shri A. S.  
Sambasivam, Shri  
Sapre, Shrimati Tara  
Sayyad Ali, Shri  
Sen, Shri Dwaipayan  
Sen, Shri P. G.  
Sethi, Shri P. C.  
Shah, Shri Shantilal  
Shambhu Nath, Shri  
Sharma, Naval Kishore  
Sheo Narain, Shri  
Shinkre, Shri  
Shiv Chandika Prasad, Shri  
Shukla, Shri S. N.  
Shukla, Shri Vidya Charan  
Singh, Shri D. N.  
Sinha, Shrimati Tarkeswari  
Snatak, Shri Nar Deo  
Sudarsanam, Shri M.  
Supakar, Shri Sradhakar  
Suryanarayana, Shri K.  
Swaran Singh, Shri  
Tiwary, Shri D. N.  
Tiwary, Shri K. N.  
Uikey, Shri M. G.  
Verma, Shri Balgovind  
Yadav, Shri Chandra Jeet

## NOES

Lakkappa, Shri K.  
Madhok, Shri Bal Raj  
Meghachandra, Shri M.  
Misra, Shri Srinibas  
Molahu Prasad, Shri  
Mukerjee, Shri H. N.  
Nambiar, Shri  
Nihal Singh, Shri  
Patel, Shri J. H.  
Patil, Shri N. R.  
Ramani, Shri K.  
Ramji Ram, Shri  
Saboo, Shri Shri Gopal  
Satya Narain Singh, Shri  
Sen, Shri Deven  
Sen, Dr. Ranen

Sharma, Shri Beni Shanker  
 Somani, Shri N. K.  
 Sondhi, Shri M. L.  
 Sreedharan, Shri A.  
 Thakur, Shri Gunanand  
 Umanath, Shri  
 Vajpayee, Shri Atal Bihari  
 Viswambharan, Shri P.  
 Viswanathan, Shri G.

MR. SPEAKER: The result of the division is:

Ayes	122
Noes	41

*The motion was adopted.*

**Clause 2—(Definitions.)**

MR. SPEAKER: The House will now take up clause 2 of the Essential Services Maintenance Bill. There is a large number of amendments to this clause. Hon. Members present in the House who are desirous of moving their amendments to clause 2 may send slips to the Table within 10 minutes indicating the serial numbers of the amendments they would like to move. They will be treated as moved if they are otherwise admissible.

SHRI P. VISWAMBHARAN (Trevandrum): I beg to move:—

Page 2,—  
*omit* lines 6 to 8. (29)

Page 2,—  
*omit* lines 20 to 32. (30)

Page 2, lines 37 and 38,—  
*omit* "and includes" (31)

Page 2,—  
*omit* lines 39 and 40. (32)

Page 3,—  
*omit* lines 1 to 3. (33)

SHRI KANWAR LAL GUPTA: I beg to move:—

Page 2, *for* lines 26 to 32,—  
*substitute—*

"therein would prejudicially affect defence and security of the country;" (41)

Page 2,—  
*for* lines 37 to 40, *substitute—*

"employed to continue to work or to accept employment." (42)

SHRI LOBO PRABHU: I beg to move:—

Page 2, line 29,—  
*after* "hardship" *insert—*

"disturbance or inconvenience" (48)

Page 2, line 33,—  
*after* "cessation" *insert—*  
 "for reduction of obstruction." (49)

SHRI K. RAMANI (Coimbatore): I beg to move:—

Page 2, line 5,—  
*after* "service" *insert—*  
 "relating to confidential matters of the State" (83)

Page 2, line 7,—  
*for* "passengers or" *substitute—*  
 "strategic" (84)

Page 2, line 11,—  
*after* "aircraft" *insert—*  
 "under the direct control of the Indian Air Force" (85)

Page 2, line 13,—  
*after* "goods" *insert—*  
 "for Indian Armed Personnel under the United Nations Organisation" (86)

Page 2, lines 14 and 15,—  
*for* "with the clearance of goods or passengers through the customs or with the prevention of smuggling"

*substitute—*  
 "with the prevention of smuggling of gold" (87)

Page 2, line 17,—  
*for* "any mint or security press"

*substitute—*  
 "anti corruption branch" (88)

Page 2, line 18,—  
*after* "service" *insert—*  
 "in international border districts" (89)

[Shri B. Ramani]

Page 2,—

for lines 21 and 22, *substitute*—

“Cabinet Secretariat” (90)

for lines 23 to 32, *substitute*—

“(ix) any other service connected with matters with respect to personal security of President and Vice-President;” (91)

Page 2, line 37,—

after “employment” *insert*—

“in spite of Union Government’s readiness to refer the dispute for arbitration” (92)

Page 2, line 39,—

after “overtime” *insert*—

“by class one officials” (93)

SHRI P. GOPALAN (Tellicherry): I beg to move:

Page 2, line 5,—

*add* at the end—

“in the border areas” (96)

Page 2, lines 7 and 8,—

for “passengers or goods by land, water or air”

*substitute*—

“defence materials or strategic goods for troops in times of war” (97)

Page 2, line 10,—

for “aerodromes” *substitute*—

“helicopter” (98)

Page 2, line 11,—

for “Aircraft” *substitute*—

“aircrafts used for air dropping operations in the event of natural calamities” (99)

Page 2, line 13,—

for “goods” *substitute*—

“explosives” (100)

Page 2, line 17,—

for “any mint or security press”,

*substitute*—

“Criminal Investigation Department”. (101)

Page 2, line 19,—

*add* at the end—

“in times of war” (102)

Page 2, lines 20 to 22,—

for “affairs of the Union, not being a service specified in any of the foregoing sub-clauses.” (103)

*substitute*—

“use of highly sophisticated electronic computers”.

Page 2,—

for lines 23 to 32, *substitute*—

“(ix) any other service in which Government has formulated adequate grievance procedure machinery including the provisions of arbitration in consultation with the organisations of employees.” (104)

Pages 2 and 3,—

for lines 33 to 40 and 1 to 3 respectively, *substitute*—

“(b) “strike” means cessation of work without any demand.” (105)

SHRI UMANATH: I beg to move:—

Page 2,—

for lines 5 to 17, *substitute*—

“any service directly connected with the movement of the Defence force.” (113)

Page 2, line 19,—

*add* at the end—

“dealing with operations and manufacture of rockets.” (114)

Page 2,—

for lines 20 to 22, *substitute*—

“(viii) any service connected with the Central Intelligence Bureau.” (115)

Page 2,—

*omit* lines 23 to 32. (116)

Page 2, line 37,—

*omit* “or to accept employment, and” (117)

Page 2,—

for line 38, *substitute*—

“but excludes.” (118)

Page 3,—

for lines 6 to 15, *substitute*—

“and approval of each House sought; if the notification is

not approved by the votes of not less than two-thirds of the number of members present in each House, the notification shall be deemed to have been annulled with effect from the date when it was first issued." (119)

SHRI NAMBIAR: I beg to move:—

Page 2,—

*omit* lines 17 to 32. (160)

Pages 2 and 3,—

*omit* lines 39 and 40 and 1 to 3, respectively. (162)

Page 3,—

*omit* lines 4 to 15. (163)

SHRI SRINIBAS MISHRA (Cuttack):  
I beg to move:—

Page 2, line 37,—

*omit* "or to accept employment," (180)

Page 2, line 40,—

*add* at the end—

"when such overtime work is paid at double the rate of ordinary wages and is not in violation of the provisions of the Factories Act, 1948 regarding working hours." (181)

Page 3,—

*omit* lines 1 to 15. (182)

SHRI J. SHINKRE (Panjim): I beg to move:—

Page 2,—

*for* lines 20 to 22, *substitute*—

"(viii) any service in the State Bank of India and the Reserve Bank of India;" (191)

Page 2, line 40,—

*add* at the end—

"provided that the employee is not asked for doing overtime for more than four hours." (192)

SHRI S. S. KOTHARI: I beg to move:—

Page 2,—

*for* lines 26 to 32, *substitute*—

"therein would prejudicially affect defence and security of the country, may declare to be an essential service for the purposes of this Act;" (209)

SHRI S. KUNDU: I beg to move:—

Page 2, lines 7 and 8,—

*omit* "or goods by land, water or air." (218)

SHRI C. K. BHATTACHARYYA (Raiganj): I beg to move:—

Page 3,—

*after* line 3, *insert*—

"Provided that cessation of work brought about by physical obstruction, intimidation, threat of violence and humiliation shall not be regarded as 'strike'." (222)

SHRI BENI SHANKER SHARMA (Banka): I beg to move:—

Page 2,—

*omit* lines 20 to 22. (234)

Page 2, lines 29 and 30,—

*for* "infliction of grave hardship on" *substitute*—  
"dislocation of the normal life of." (236)

SHRI NARENDRA SINGH MAHIDA (Anand): I beg to move:—

Page 3,—

*for* lines 4 to 15, *substitute*—

"(2) 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 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 from the date of its being laid or from the re-assembly of Parliament, as the case may be, unless before the

[Shri Narendra Singh Mahida]

expiration of that period a resolution approving the issue of the notification is passed by both Houses of Parliament.

EXPLANATION.—Where the Houses of Parliament are summoned to re-assemble on different dates, the period of forty days shall be reckoned from the later of those dates.” (262)

SHRI LOBO PRABHU: Sir, I would like to ask for the forbearance of the House if I set the record right in respect of the legal implications of the Ordinance and the Bill.

17.24 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Though there has been a marathon discussion of the Bill, very ordinary provisions of the law seem to have been ignored by both sides of the House. The issue before this House is not about the right to strike but about the right to redress. I would like to emphasize that this Bill raises the issue about the individual's right to redress and that this is a right which is conceded not only to Government servants but to every individual, that he has a right to ask for redress of a wrong done to him. I would like to point out that both in the Ordinance and now in the Bill Government has ignored this right to redress.

I would like to point out that Government employees fall into two classes—those who are subject to the Industrial Disputes Act and those who are subject to the Joint Consultative Machinery. Employees subject to the Industrial Disputes Act have a right to have their case considered by adjudication. This is a right which Government themselves have brought into contempt because they have always delayed a request for adjudication. In the case of the newspaper industry strike, I had to press for that, after the strike had taken place, not before, and the Government referred the matter to adjudication. In this case, as my hon. friend, Shri S. M. Banerjee emphasized, they had only to refer the matter to adjudication after which the strike was illegal and no Ordinance was necessary. No legislation is necessary

now if Government takes the step of referring it to adjudication.

The hon. Minister made a statement that Government did everything possible to follow the law. I would like to draw his attention to section 14 of the J.C.M. which lays down that the official representatives will take their decision on the spot and not to reserve it for later decision of the Government. This is a very important point. The Government is pleading that it has acted within its own rules and laws. Why did they prevent the official representatives from coming to a decision at once?

I would again draw the attention of the Minister to section 13 that if there is no final agreement, the matter is for compulsory arbitration if so desired by one side. There is no intervention of Government allowed. If there is disagreement, the matter should have gone to arbitration. If it is argued that this was not arbitrable, I would draw the attention of the Minister to section 18 which lists pay and allowance as arbitrable. Is it the contention of the Ministry that the claim for need-based wage is not a claim for pay and allowances? My point is that where there was a right for redress, the Government refused it. The Government themselves brought on the strike. I am not concerned with the right to strike. In fact, I am opposed to the right to strike. I think, this House, the highest legislature in the country, must respect the law. The law has been ignored by the Government.

The same thing is happening in the legislation which is before the House. It is provided in clause 3 that the Government will decide to prohibit strike in any essential service specified in the Order. How can Government do this when there is an existing law, the Industrial Disputes Act which says that the matter is subject to adjudication. No doubt, later they provide that this law will be abrogated. Is it the intention of the Government to have one law which permit adjudication and another one which denies it? This is a very important thing that the Government is bringing in their own laws into contempt like this. I have had an occasion once before to refer you to the state of laws which are thrust on this country. I am glad that Justice Shah, yesterday, drew

the attention of the country to the laws which are ill-concerned, which are ill-drafted and which do not serve their purpose. This is one of their such laws. There is already a provision for strike where the industrial section of the Government servants is concerned. There is already a provision for arbitration where it is not concerned. I would, therefore, ask the Minister to carefully answer these questions to explain why the Government ignore the provisions of the Industrial Disputes Act and not refer the dispute to adjudication. Why the Government ignore the provisions of the J.C.M. and not refer the dispute to arbitration where there is no intervention of Government allowed at all in this machinery? This is a point of law which has not been raised. If they respect the law, if the House wants to set an example of respecting the law—the Law Minister is there—let them answer this point before the Bill is passed.

Having said this—it does not mean I support strikes; my friends will be disappointed in that—having gone so far, I would like to say that today strike is not against an employer. An employer is able to reimburse himself. The strike is against the consumer who pays higher price. The strike is against the general public which is put to inconvenience. In this case, my letter did not reach here for 15 days. You gentlemen owe it that you organised the postal strike. Therefore, we should remember that the strike is against the people and not against the employers. They have no right. On behalf of a few employees, to hold the whole country to hardship, to disturbance and to inconvenience. Therefore, I say that, when the law is exhausted, when the rights are exhausted, strike should be prohibited. This explains my first amendment which strengthens the proposal of the Ministry, namely, that there should be added after "hardship", the words "disturbance or inconvenience". It is not enough to have 'hardship' only as a ground for declaring a strike as unlawful, but 'disturbance'—for instance, when people cannot get their letters properly—and 'inconvenience'—for instance, when taxis are not available—are also hardships which must be prevented, because, it is the people who suffer and not any small section.

Shall I proceed with the rest of the amendments also?

MR. DEPUTY-SPEAKER: only amendments to Clause 2.

SHRI S. M. BANERJEE: I just want to have a clarification. I have tabled two amendments this morning, one asking the Attorney-General to address the House and the other, recommending to the President for referring this question to the Supreme Court. I want to know whether you have given your consent to move them.

MR. DEPUTY-SPEAKER: So far as the amendment about asking the Attorney-General to address the House is concerned, it is perfectly in order. You can move it and it will be put to the vote along with the other amendments. But so far as reference to the Supreme Court is concerned, that is out of order.

SHRI S. M. BANERJEE: I beg to move:

That the Attorney General of India be asked to address the House to clarify some points raised on clause 2(1) (a) (ix) and 2(b) (i) of the Essential Services Maintenance Bill, 1968. (270)

SHRI LOBO PRABHU: I have not yet finished.

My second amendment also strengthens the line of the Government. Not only 'cessation', but 'reduction or obstruction' also should be included within the meaning of strike, in sub-clause (b) of Clause 2. Pen-down strike and slow-down strike are just as bad as people not attending to their work. Further, the Minister will see that, in sub-clause (b), the word 'retardation' is used. Therefore, the words 'for reduction or obstruction' should also occur after the word 'cessation' in line 33, page 2.

I would like to press these amendments subject to my general observations that before a strike is declared illegal, all the existing remedies for redress under the existing law, under the Industrial Disputes Act or J.C.M. or such other legislations as the Minister may bring forward, must be exhausted.



**SHRI NARENDRA SINGH MAHIDA:**

(Anand): I have my amendment, No. 262, on Clause 2.

I was travelling on the 18th September, at night, from Delhi to Lucknow. The driver of that particular train was to go on strike after midnight. Many passengers got down and we requested the driver to take the train to Lucknow and, luckily, the driver agreed to our request. This gave us an insight to the result of strike. I am quite sure, the Opposition members would not speak to the public in the manner in which they are doing here. Then they will get the proper reply. . .

**SHRI UMANATH:** People in thousands attend our meetings.

**SHRI NARENDRA SINGH MAHIDA:**

Very cleverly and purposefully two issues have been mixed up—the general strike and the government employees' strike. They had, somehow or other, persuaded the government servants to join them with the sad result that we have seen. We do not oppose the right to strike, but our opposition is in connection with strike in the essential services. Nobody has the right to drag away the government servants in essential services by sentiments and other allurements and suspend the postal, telegraph, railway or defence services. This is not a party matter. This is a national issue and no Government worth the salt can allow such a situation to develop. On the contrary, I think the Government has been very slow in taking action. On the 13th September when the Government issued the Ordinance, the authorities should have acted. But they allowed the situation to develop for six days and they allowed the strikers to carry up the propaganda in sub-offices. If the Government was strict, before these six days were allowed to lapse, this situation would not have occurred. Lawlessness cannot be tolerated. All workers have a right to strike, I do not object to that. But the strike in Governmental services will paralyse the life of the community and no Government can function. I have every sympathy for the labour classes and for the landless labourers but, the economy of the country has to be understood.

**SHRI S. M. BANERJEE:** You still say, labour class. We are classless. (*Interruption*)

**SHRI NARENDRA SINGH MAHIDA:**

You come to my constituency. You will learn about it. They have been challenging us, Sir. I challenge them. Come and uplift our villages. Then I will join you there. . .

**SHRI UMANATH:** Come to our constituency and live among the villages.

**SHRI NARENDRA SINGH MAHIDA:**

They only talk about landless labourer. Our friends are paid by the Unions and they travel by air and indulge in other luxury. We, who represent the landless labourers and agricultural people, don't get anything. We have to pay from our pocket. We draw not a penny from them. (*Interruption*) I want to say this again, Sir, that the Government have been slow in action. They should have taken steps with strict action soon after the ordinance.

**SHRI SRINIBAS MISRA:** Are the amendments moved?

**MR. DEPUTY-SPEAKER:** Yes. Your amendments have been moved. You may also please send slips to the Table within ten minutes. It is treated as being moved.

**SHRI SRINIBAS MISRA:** During the commotion, you said, I may raise my points at the clause-by-clause stage. So, I want to seek your permission to raise it now.

**MR. DEPUTY-SPEAKER:** Certainly. If you want to raise any point of order regarding certain clauses, you can do it. We are on Clause No. 2.

**SHRI BENI SHANKER SHARMA:** I have an amendment.

**SHRI C. K. BHATTACHARYYA:** I have also an amendment.

**MR. DEPUTY-SPEAKER:** Every amendment is there.

**SHRI SRINIBAS MISRA:** May I continue my point, sir. . .

**SHRI LOBO PRABHU:** Is it necessary to send a slip also?

**MR. DEPUTY-SPEAKER:** Yes, for record.

**SHRI SRINIBAS MISRA:** Sir, there are three points. By definition you cannot change the scope of one word Essential Service. By defining something to be essential, you cannot extend its ordinary scope. When sale was sought to be defined in Sales-tax Act so that Government will be able to extend it the whole thing had to be dropped out. By simply defining essential service to include even the lipstick industry Government has been given power to declare any industry, any concern as essential service. You can't take the power of extending the essential service to concerns which are not essential. There are certain features in this definition which are beyond the scope of List-I and List-III. The House is very much concerned with it. You are concerned as Deputy-Speaker, that the deliberations are proceeding according to procedure and law.

This is both a point of order as well as covers my amendments accordingly. Kindly see the essential services: (i) any postal, telegraph or telephone service; (ii) any railway service or any other transport service for the carriage of passengers or goods by land, water or air. Goods by land, water or air. I am concerned with the first two, land and water. These are mostly State subjects. The only things in which the Centre is concerned are in entries 23, 24 and 25 of Union List. Item 23 deals with highways declared by or under law made by Parliament to be national highways. So any legislation regarding carriage of goods by land must be confined to this entry, transport by road. Item 24 is Shipping and navigation on inland waterways, declared by Parliament by law to be national waterways, as regards mechanically propelled vessels; the rule of the road on such waterways. So they must be national waterways so that they have the power to legislate. Item 25 is Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies. Maritime shipping only can be controlled. But what have they provided? Goods by land and water. It is so very extensive that it encroaches upon the State list.

The next objection is to 1(a) (iv)—any service connected with the loading-unloading, movement or storage of goods in any port.

Any port is not within the purview of the Centre; only major ports. There are minor ports. Why should the Centre encroach upon that right without declaring them to be major ports?

Next is 1 (a) (ix). This is the most controversial portion. It has been stated by the hon. Minister that they are only trying to control the services and action of Central Government employees. It is not so. A reading of the Bill will show that they are not only trying to control and regulate the action of Central Government employees; they are trying to regulate the State Government employees and private employees. When they say 'goods by land and water', they do not say that it is only where government servants are involved. Even private transport companies employ people who can go on strike. This is in such general terms that it can also be applied to them. A strike in a land transport or water transport service can be banned.

Here it says:

"any other service connected with matters with respect to which Parliament has power to make laws and which the Central Government being of opinion "that strikes therein would prejudicially affect, . . ." for the purposes of this Act."

**MR. DEPUTY-SPEAKER:** There is one clause which limits, 'to which Parliament has power to make laws.'

**SHRI VIDYA CHARAN SHUKLA:** That controls the whole thing.

**SHRI SRINIBAS MISRA:** Both of them are together.

**MR. DEPUTY-SPEAKER:** He will have to draw that distinction and say where exactly Parliament is encroaching, if at all, on State sphere.

**SHRI SRINIBAS MISRA:** First of all, this is discriminatory. If you are going to declare one service as essential, why should others of the same category not be so declared? It gives them the power to say that this is essential and the other is not.

[Shri Shrinibas Misra]

I would request you to go through it along with me. It reads:

"Any other service connected with matters with respect to which Parliament has power to make laws. . ."

We can make laws and by definition essential service can be extended to any service even if it is not essential. Parliament has the power to make laws regarding chemicals. So any chemical industry in the private sector or public sector can be declared to be an essential service.

**MR. DEPUTY-SPEAKER:** There is another controlling clause, "service necessary for the life of the community."

**SHRI SRINIBAS MISRA:** The Tata Iron and Steel Company is necessary for the life of the community. The subject matter is iron and steel regarding which Parliament has the power to make laws. In that case the Government will come forward to ban a strike in that company. Under this law they can do it. So, the apprehension is that the door is wide open for discriminatory treatment within the private sector also. One particular unit in a private sector may be protected; another may not be protected. Perhaps the hon. Minister has forgotten this difference. Parliament has the power to make laws regarding anything over which the Centre has power, but that does not mean that it is under the ownership of the Centre.

Secondly, we have power to make laws regarding Central Government employees, but can you legislate regarding the State Government employees? You are taking that power. Have you got the power to abrogate article 309 which gives powers to the Governor of a State under the advice of the State Cabinet to make rules for their service? Have you got the competence to take away that constitutional power? So, my amendment is that the . . . . .

**SHRI KANWAR LAL GUPTA:** There is no question of amendment. It is a point of order.

**SHRI SRINIBAS MISRA:** If I am again permitted, I will speak on the amendment later.

**MR. DEPUTY-SPEAKER:** I do not

want second speech. You can finish here.

You have raised some fundamental issues, that the definition is not very precise, that it is too broad and likely to encroach upon the rights of the States. So your plea is that this is not within the purview of the Parliament to legislate. Now, I will ask the Minister to reply before we go further.

**SHRI VIDYA CHARAN SHUKLA:** The hon. Member has raised some doubts whether this would encroach upon the States' rights. As you very rightly observed, sub clause (ix) actually governs the entire clause and it clearly lays down that this power will be available only in the field where Parliament, has power to make laws. Secondly, in Union territories, matters which relate to the State field normally have to be controlled by the Centre and for such control Parliament has power to make laws.

He also mentioned about discrimination and said that using the powers available under this clause Government can discriminate between one unit and another in the private sector. The private sector is not mentioned in the Bill. If any such other service is declared essential by the Government, the Government has to issue a notification and come before the House for its ratification. Without such ratification it will lapse. As I have already said that is the amendment which we are going to make. In pursuance of the report of the Subordinate Legislation Committee, it is not as if that the Government would have the power to do it after 3 or 4 months. It will come before the House and within 40 days of its coming up before the House, if such notification is not approved or ratified by the House, then there would be no question of taking any action. If any particular strike has been banned in any private sector concern with the approval of this House, then I do not think there should be any objection. The whole scheme of the enactment is put with the acceptance of this amendment. Apart from the services enumerated here, if the strike in any other service in the private sector is banned and if a notification is issued, this will have to come before the House and after the ratification by the House, it will continue or lapse.

**MR. DEPUTY-SPEAKER:** You clarify this point. You issue a notification and you

will come before the House if it is in session. During inter-session period what will happen.

**SHRI VIDYA CHARAN SHUKLA:** As far as that kind of contingency arises, in the interests of public safety and national security, if the Government comes to a decision that strike in a particular establishment has to be banned by issue of a notification, then within 40 days that notification has to be ratified even if the House is not in session. Otherwise such a notification will lapse and all the action under that particular notification will lapse. We are not providing for any wrong action to be continued even after the House disapproves of it. The House will ultimately decide and with the approval of the House only such action can be taken by the Government. There is no arbitration or any discrimination in such matters.

**MR. DEPUTY-SPEAKER:** As I observed at the earlier stage it is very difficult to have a precise definition. Going through all the sub-sections, I am not satisfied. The House also would wish to be satisfied and in that respect I will give an opportunity to those who have still some doubts.

**SHRI DATTATRAYA KUNTE:** The hon. Minister just now said that no action could be taken till the notification is approved by the House.

**SHRI VIDYA CHARAN SHUKLA:** I did not say that. What I said was that even when the House was not in session and some notification was issued and action was taken in pursuance of that notification, the action would not last until the Parliament ratified that notification by the Government. And suppose in a contingency where the House does not in its wisdom ratify a particular notification issued by the Government and laid before the House, then that particular notification lapses. Within 40 days if it not ratified, then any action taken under that notification would be illegal and shall not stand. That is what I said.

**SHRI DATTATRAYA KUNTE:** The Minister tried to clear the position. But all the same, what he tried to tell us just now comes to this that the Government will take action if the House is not in session and then it will come before the House at the next session. The difference between the two

dates and the end of one session and the beginning of the other session can be as much as 6 months. If the Government wants to do that and does not want to call the House, there is no remedy for the member. Then again it will be placed before the House on the first day and then for 39 days it will be in operation. It means that for 179 plus 39 days the Government can act, they can take whatever action they like and then await the displeasure of the House. If this is contemplated, let him not say that he is awaiting the pleasure of the House. He is going to act.

Secondly, as the hon. Member Shri Srinibas Misra pointed out, "any other service connected with matters in respect of which Parliament has power to make laws" does not mean any other service under the Government. "Any other service" is such a wide thing. Therefore, though in the Statement of Objects and Reasons, they are talking of Government servants, the Home Minister is frank to explain the scope of the word "servants" to extend it to servants who are not Government servants.

Then, as was rightly pointed out, let us take the iron and steel industry. The Central Government has the right to make laws for these services. What happens? Therefore, it does not lie in the mouth of the Minister to say that it will not apply to other servants. Let him make it perfectly clear whether he wants to restrict the application of this legislation, when it becomes an Act, only to Government employees or other employees also. Let him make that position very clear. *(Interruption)* That is exactly the difficulty with Shri Narayana Rao. If what he says is the position which the Minister is taking, if Shri Narayana Rao is the Minister, he would have made the position very clear, but it is a question of essential service here. Let the Minister make it clear. In his statement he has again said that it applies to Government servants. That is how I have understood him. If he clarifies that position it is better. If he wants to cover all the employees, Government servants and others also, in "essential service" for which the Parliament is seeking to make a law, then that is another point. It will be discriminatory.

**AN HON. MEMBER:** It will be Central Government employees.

**SHRI DATTATRAYA KUNTE:** As regards water ways, as has been pointed out, there are major ports which are under the control of the Central Government. The medium and minor ports are within the jurisdiction of the State Governments. What would happen in this case?

**SHRI S. M. BANERJEE:** Sir, I want to make one point.

**MR. DEPUTY-SPEAKER:** I had suggested this morning also. Quite apart from the report which is certainly an important one,—and you will get an opportunity—we must have time for debating clause 2 of the Bill. *(Interruption)* What I suggest is, we will take it up separately. The hon. Member has raised certain points on the question of rule-making powers.

**SHRI S. M. BANERJEE:** Not on the rule-making powers. I want to speak on this point of order.

**MR. DEPUTY-SPEAKER:** He has not finished. You will get an opportunity. No second opportunity can be given; it will be a further waste of time. Two or three things have emerged from this. Firstly, it must be made perfectly clear that this would apply to the Central Government servants. Secondly, it must also be made perfectly clear whether it applies to the services which are under the purview of the Central Government. That is the hon. Member's plea.

**SHRI VIDYA CHARAN SHUKLA:** Sir, I just want to suggest a matter of procedure, what you are following here. I submit for your consideration that you may give a chance to as many Members as you want to amplify their points, also hear the viewpoints of mine and others on this side; we might explain the points raised by the hon. Member. And then you may give our final ruling about all the points raised. It should not be that I make some submission, then they controvert, and then again I say something and then again they controvert and so on, which means the debate will go on unendingly. If you can hear them all first and then hear the Government Bench and then if you can give your final ruling, it will be much better.

**MR. DEPUTY-SPEAKER:** Yes; that will save time.

**SHRI DATTATRAYA KUNTE:** He wants the clauses to be considered by us. He has brought forward the clauses. We are moving amendments. It must be understood first.

**SHRI VIDYA CHARAN SHUKLA:** I am on the point of order; not on the clause. I am only submitting about the point of order, not on the clause.

18 hrs.

**MR. DEPUTY-SPEAKER:** He is suggesting, for saving time, that on the same point of order, instead of asking him to intervene in between, after all the points are made from this side, I will ask him to reply and then I will give my ruling.

श्री रणधीर सिंह : इस पायंट ऑफ ऑर्डर की बीमारी का इलाज कीजिए ।

**MR. DEPUTY-SPEAKER:** I was rather pained to read in the papers yesterday that one of the Supreme Court Judges, indirectly, though not directly, has passed some strictures on the way we legislate. We must be very careful. The Law Minister will agree that we must scrutinise everything here. That stricture pertains more to the draftsmen under his department.

**SHRI C. K. BHATTACHARYYA:** The Law Commission also had occasion to observe that Parliament passes undigested legislation.

**SHRI SRINIBAS MISRA:** Sir, no reply has come to my contention about article 309 which says:

“Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services. . .” etc.

Therefore, the State legislature has power to regulate the conditions of service of their servants. What is this Bill if not regulating the conditions of service of some of the servants? We are taking away the power of the State legislature. If a Central Act is passed, the State legislature is deprived of the power of making laws: that will be con-

tradictory to the laws made by Parliament. So, this is directly against article 309. Unless It is specified that this Bill will only operate so far as the Central Government servants and employees of the public sector undertakings under the Central Government are concerned, this will be *ultra vires* of article 309. This is a procedural matter which has to be decided here. It is not a question of fundamental right which courts will decide.

In clause 2 (1) (b) "strike" has been defined. We know that strike has been previously defined and accepted as combined cessation of work. But here it is defined as. . .

MR. DEPUTY-SPEAKER: You have to point out in what terms this House has defined "strike" before.

SHRI LOBO PRABHU: It is competent to define it again.

SHRI SRINIBAS MISRA: Section 2 (u) of the Industrial Disputes Act, 1947 defines "strike" thus:

" 'Strike' means cessation of work by a body of persons employed in any industry acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment".

How has it been defined here? The same language has been used, but in a different context. The Bill reads:

" . . . of any number of persons who are or have been so employed to continue to work or to accept employment, and includes. . . "

Here there is no other clause. So, when read with sub-sections (1) and (2) of (b), it will mean "accept our employment". We are also persons here, any number of persons, not employed. If we are asked to do some work and if we refuse to accept employment, will we be persons who are on strike?

MR. DEPUTY-SPEAKER: That definition refers to industrial establishments. That distinction has been made by the Supreme Court. Government service is not a contract.

You must bear that in mind.

SHRI S. M. BANERJEE: When this Bill becomes an Act, it is going to be made applicable to the whole of the railways and the defence industries. There are three lakhs of employees in the various ordnance factories, Remount and Vehicles Depot, inspectorates and other organisations. They are covered by various Acts of Parliament starting from Factories Act to the Industrial Disputes Act. Then there is the MIG and telegraph workshops. They are all industries and the employees are industrial employees.

SHRI SRINIBAS MISRA: Then, clause (b) (i) reads:

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

As I have already submitted, "essential services" has been widened enough to cover all sorts of industries. The meaning of that term has been widened. Here, in all such industries which will be considered by the Home Minister as essential, people can be compelled to work overtime. Where is the provision, or where is the guarantee that wages will be paid to them for overtime work? Since this Act, when it becomes an Act, shall override the Factories Act, Industrial Disputes Act and so many other Acts, where is the provision for payment of overtime?

SHRI S. M. BANERJEE: It will be *begar*.

SHRI SRINIBAS MISRA: That will be hit by article 23. You do not provide for payment. You compel them to work under the law. Their refusal to work overtime, where such work is necessary for the maintenance of essential services will be treated as strike. See the pernicious character of the legislation. Also, it is a simple blanket legislation, not meant for any emergency or any such thing. If he refuses to work overtime, he is treated as on strike and he will be punished. There is no provision for payment, which is hit by article 23. That article says:

"(1) Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contraven-

[Shri Srinibas Misra]

tion of this provision shall be an offence punishable in accordance with law."

Are we legalising an offence which is declared to be an offence under the Constitution? What are we going to do? Why should they not say here that such a worker will be paid double the ordinary rate of wages under the Factories Act? Even that is not mentioned here. At the same time, it is provided that this Act will over-ride the Factories Act. It says:

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

So, it includes all other laws. Also, take the definition that is given to "law" by the Supreme Court.

All the clauses are hit. Then (ii) says:—

"any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service."

Where is the question of intention here? Here it says "any other conduct". Suppose, I get drunk. Workers are known to have got drunk and you have encouraged it all the same everywhere. In your Congress sessions you are having people opening bars for people to drink. So, there is no wonder that workers do drink sometimes. Or, suppose I get hit while working . . . (Interruption). Suppose, somebody gets injured. If one gets injured, the work is retarded. Or, suppose, it is a bad machine and the worker feels tired to work it; the work gets retarded. Where is the provision for saving them? So, it is a power which does not distinguish between worker and worker; it is highly discriminatory. Persons who will join my party-managed union will not be punished; others will be punished.

Then, the Directive Principles are also sought to be infringed. Although they are not legally binding, still Directive Principles should guide this Government in framing laws. Directive Principles may not be binding

in a court but they are binding so far as making of laws is concerned. Article 39 (b) says:—

"The State shall, in particular, direct its policy towards securing—

that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;"

What has been done here? You are seeking to gag their right of collective bargaining and you have made no provision for their wages for overtime work.

Then, (e) says:—

"That the health and strength of workers, men and women, and the tender age of children"

should be protected.

MR. DEPUTY-SPEAKER: What happens in times of emergency?

SHRI SRINIBAS MISRA: Suppose, Somebody, after working eight hours, finds that his wife is sick or he is mentally demented and he wants to stop work. If you force him to work overtime, his health will be affected.

MR. DEPUTY-SPEAKER: I have followed your argument. Shri Narayana Rao.

SHRI K. NARAYANA RAO (Bobbili): Mr. Deputy-Speaker, with regard to the contention of Shri Misra about article 23, I would draw his attention particularly to clause (2) of article 23 which reads as follows:—

"Nothing in this article shall prevent the State from imposing compulsory service for public purposes."

Shall I repeat it? It reads:—

"Nothing in this article shall prevent the State from imposing compulsory service for public purposes."

This is not even compulsory service. Even in the circumstance that a person is compelled to do some overtime work, he is not

doing it for nothing; he will be paid overtime. In the morning itself we had complained that people have been paid heavily for doing overtime work.

In this context I would like to bring to your notice a very important thing. Under article 309 the Governors and the President have been empowered to make rules and regulations to regulate the conduct of the services. What has the President done under article 309? I refer to the Central Civil Service Conduct Rules, 1964. Therein rule 7 (2) says:—

“No Government servant shall resort to or in any way abet any form of strike in connection with any matter pertaining to his service or the service of any other Government servant.”

Here is a very clear rule. Government servants have already been prohibited from going on strike under this rule. This had been challenged and it was not upheld by the Supreme Court.

What is the importance of this? Suppose this rule had been violated? It attracts only the disciplinary action. It will be dismissed or necessary action may be taken so far as the service conditions are concerned. But whereas the present Bill is concerned, under similar circumstances, it wants to invoke, what are called, the penal clauses. Not only Government servants but any outsider who violates the rule will be covered. Such being the case, article 309 is irrelevant here. Therefore, the legislation is relevant.

Now, coming to the question of the competence of Parliament, I invite your attention to item No. 22 of list-III, Seventh Schedule, which says:

“Trade Unions; industrial and labour disputes.”

With reference to this, the Parliament has the overriding power to regulate it. We must make a distinction.

MR. DEPUTY-SPEAKER: He has mentioned “road transport”. What have you got to say about it? Is it a Concurrent subject?

SHRI K. NARAYANA RAO: I am answering that. A labour dispute arises whether it is road transport or any other thing relating to the industry. It says, trade unions and industrial and a labour disputes.

Coming to what Mr. Kunte has said, of course, I think, so far as the Government servants are concerned, this Bill has been very clear. There is no necessity to confine only to the Central Government services. I invite your attention to clause 2, item (viii) which says:

“any service in connection with the affairs of the Union. . .”

That means, it is comprehensive.

MR. DEPUTY-SPEAKER: I have followed your argument.

SHRI C. K. BHATTACHARYYA: I want to put in just two sentences. When you give your consideration to this matter, you kindly take into consideration those articles of the Constitution which give power to Parliament to legislate on any State matters. For example, I refer you to article 249. There, it is stated that if the Council of States passes a resolution that certain matters are matters of national interest, the Parliament will have the power to legislate on State matters.

MR. DEPUTY-SPEAKER: I have followed you. You have not seen the implications of that suggestion.

SHRI SHANTILAL SHAH: Whether article 23, etc. applies, whether this is a breach of fundamental rights, that does not stop this House from legislating. The Supreme Court will deal with that. Therefore, I will not deal with those arguments. About article 309 where the States have jurisdiction or something which is exclusively for the States, clause 2, item (ix) says:

“ . . . with respect to which Parliament has power to make laws. . . ”

If Parliament has no power to make laws, then the Notification cannot be issued. Therefore, article 309 will not arise here. The Parliament must have power to make laws. Only then, item (ix) will apply. So, that will go.



[Shri Shantilal Shah]

The other point arose about overtime, etc. It is said that the provisions of this Act will prevail notwithstanding anything inconsistent with the Factories Act. The Factories Act and certain rules framed by them do provide for overtime payment. Does this Act say that if overtime work is done, the wages will not be paid? It is not inconsistent. . .

SHRI S. M. BANERJEE: Any other law.

SHRI SHANTILAL SHAH: That is the Factories Act. This law says that you may take your wages but you cannot stop the work? That is the meaning of this law. Therefore, the fear that no overtime will be paid is unfounded. There is nothing inconsistent. Does this apply to the private sector? In my opinion it does. Clause 2 refers to service; it does not refer as to who is the employer and who are the employees. Suppose Government is of the opinion that the work in refineries is an essential service; refineries may be in the public sector and also in the private sector; Government will say that the service in the oil refining industry is an essential service; whether it is in the public sector or in the private sector, it does not matter. As I said, this Clause refers to the service and not as to who the employer is. . .

AN HON. MEMBER: Atomic energy. . .

SHRI SHANTILAL SHAH: I have given an instance where the service may be both in the public sector and in the private sector. In such cases, it will be open to the Government to do it. But whether they should do it in other matters, whether we should delegate that power, it is for the House to decide.

The third point was about the Directive Principles. Why should we quote the Directive Principles here? The hon. Member says that prohibition is not to be cared for. It is also a Directive principle. The Directive Principles are principles which we should have in mind here; I do not think, any of those principles apply here. Whether the Government should be given those powers or not is a matter which the House should decide. In the case of Union Territories, it is clear because they are all in the State list.

In regard to the other matters, it is for the House to decide.

MR. DEPUTY-SPEAKER: The hon. Minister. . .

SHRI S. KUNDU rose—

MR. DEPUTY-SPEAKER: Let me first dispose of the point of order raised by Shri Srinibas Misra.

SHRI VIDYA CHARAN SHUKLA: The point raised by Shri Srinibas Misra is essentially a question of delegation of powers by Parliament. If there is any excessive delegation of power or any extraordinary delegation of power, then the courts can take cognizance of it and strike it down. This matter, under your direction, was considered by a Committee of Parliament and they have ruled that it is not excessive or extraordinary; it is normal delegation.

The other point that was raised by the hon. Member—Mr. Kunte also mentioned it—was whether this particular Bill related to Government of India employees or it related also to the State Government employees and also the private sector employees. My reply to that is that the provisions of this bill do not apply to the State Government employees; they do not affect the State Government employees at all. . . (Interruptions) May I complete my submission? If the hon. members take the trouble of reading sub-clause (ix), they will find that it is clearly stated. . . "to which Parliament has power to make laws. . ." The Parliament does not have the power to make laws regarding State Government employees. As far as the private sector employees are concerned, the point has been very ably explained by Shri Shantilal Shah that this relates only to essential service; he gave the instance of refineries; there are refineries both in the public sector as well as in the private sector; if the refining industry is declared a public utility service or an essential service, then it will definitely apply to them also; it will definitely apply to them also to that extent as long as it has been declared an essential service by Government notification. But, to the State Government employees, it does not apply.

The third point that was raised by Shri Misra was regarding Clause (8), whether it

supersedes the Industrial Disputes Act and things like that. My short answer to that is that it does not; it only affects those Acts to the extent provided in this particular Bill; it does not cancel or supersede the entire Act as such. There are certain things provided here. It will be clear to anybody who reads Clause 8 properly; there can be no scope for any doubt here.

Clause 8 says:

"The provisions of this Act and of any Order issued thereunder shall have effect notwithstanding anything inconsistent therewith. . ."

"Inconsistent therewith" is the material portion which should be noted.

". . . inconsistent therewith contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force."

This is very clear that only if there is contradiction this will be done. Not that all the Acts in their totality are superseded by this law that is before the House.

MR. DEPUTY-SPEAKER: Two issues are raised. In (b) (i), refusal to work over time where such work is necessary for the maintenance of any essential service, is provided for. The next sub-clause says, any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service. . .

SHRI VIDYA CHARAN SHUKLA: I drew your attention to the clause, and this is a special Act. The other one is the general Act which provides for many things. All the other provisions which are not affected will remain as they are. They are not going to be affected in any way. That is what I explained.

MR. DEPUTY-SPEAKER: Let us proceed.

SHRI SRINIBAS MISRA: Look at one proviso. It says: It extends to the whole of India: Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act

relate to Union employees. (*Interruption*) Regarding the States, it applies by implication to State employees also. That is the only meaning. There cannot be any other meaning. It will apply to all States. For Jammu and Kashmir, it will apply to the extent of Union servants.

SHRI VIDYA CHARAN SHUKLA: He is misreading that proviso. It will not apply to the State of Jammu and Kashmir, except as far as it relates to Union employees. Section 9 clearly lays down where it will apply. The State of Jammu and Kashmir is something special. For that, it has to be specifically provided for in this Act. We have to say whether it will apply to that State or not. That is why we have to see that that proviso is there. If the hon. Member wants to say that because that proviso is there, it will apply to all State servants, I will say, you will see the correct position by reading the whole Act. Definitely there is no provision in its application to any State employees anywhere.

AN HON. MEMBER: What about the ruling, Sir ?

MR. DEPUTY-SPEAKER: I will give the ruling tomorrow.

SHRI S. KUNDU: Sir, I rise on a point of order. When I raised it earlier, you suggested that I may raise it at the time of clause-by-clause consideration. I am not going to repeat the points made by my hon. friends. I have some fresh points to make. Let us not be in a hurry. You are accommodative. We are extremely obliged to you.

MR. DEPUTY-SPEAKER: No question of being in a hurry; we must stick to the time-schedule.

SHRI S. KUNDU: Some hon. Members raised the question of prestige of the House outside, before the Law Commission, High courts, Supreme Court and all that. They said, laws should not be made in such a hurry, in such a capricious manner, that it cannot stand the scrutiny of the High Courts or Supreme Court. Therefore even if a little time is spent it is worth spending that time,—let us not be impatient. We are much obliged to you. You have been so indulgent to us.

**SHRI VIDYA CHARAN SHUKLA:** I can only say, we may sit up to 9-0' clock and you may give all the time to the hon. Member (*Interruption*)

**MR. DEPUTY-SPEAKER:** For Clause-by clause consideration three hours are there. Now, it was made perfectly clear. I can extend it by half an hour. But we will restrict our discussion to that time-schedule.

**SHRI S. KUNDU:** My first constitutional point is this. Clause 2 (b) gives the definition of strike. This violates Article 14 which says that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

This point was very ably raised by Shri Umanath when he spoke earlier. What does it say? 'Strike' means. . .

**MR. DEPUTY-SPEAKER:** I have already given my thought to it and given my ruling. It is like 'reasonable restrictions'. The Chair is not competent to decide that.

**SHRI S. KUNDU:** It is not a question of reasonable restrictions; that comes in a different way. When a body of persons employed resort to a strike, this Bill comes in. But if another group of persons or individuals who run the industry cease work, declare a lockout, what is the protection?

**MR. DEPUTY-SPEAKER:** He can continue tomorrow. We shall take up the half-an-hour discussion now.

**SHRI K. RAMANI:** All the time has so far been taken up only in points of order, not on the clause discussion.

**MR. DEPUTY-SPEAKER:** We will come to that.

18.32 hrs.

#### HALF-AN-HOUR DISCUSSION

##### CIRCULAR RAILWAY IN CALCUTTA

**SHRI BENI SHANKER SHARMA (Banka):** Through the medium of this discussion, I want to focus the attention of this House in general and the Government in

particular to the most vexed problem of traffic congestion in Calcutta.

[**SHRI GADILINGANA GOWD** *in the Chair*]

Calcutta was once described by the late Prime Minister, Pandit Nehru, as a city of processions. It is so because it is a city of problems. There are so many problems afflicting the city which have baffled all attempts of the West Bengal Government in solving them. There is the problem of drainage. Even an inch of rain there floods the streets where one can do boating and fishing, if one would like. There is the problem of housing and other things. I am not going into them now. I am confining my remarks to the most burning question of congestion of traffic in Calcutta.

Calcutta is not only the responsibility of the Government of West Bengal. It is a cosmopolitan city where people from all the four corners of India flock to earn their living. Out of the present 7 million population, about 35 per cent do not speak Bengali but speak the other languages enshrined in our Constitution. It is therefore the Centre's responsibility also to solve Calcutta's problems, by lending it a generous helping hand.

So far as traffic congestion is concerned, it had a population of 4 million in 1947 which has risen to 7 million now. The traffic problem has increased. About 4 lakh people flow into Calcutta via Sealdah and Howrah stations daily. Between the hours of 9 and 10, you will find there a sea of human heads coming out of these stations like tidal waves. All these people have to go to their offices by boarding buses or trams which are the common man's transport. But those trams and buses are not standing for them empty. They are already overcrowded, because about ten lakhs of people are carried in trams every day and about 15 lakhs by buses. In peak hours a tram with a capacity of 65 persons carries more than 200 persons, and a bus with a capacity of 45 has to carry more than 100 passengers. These numbers, though ascertained through a survey, I do not think, include those unfortunate few who have got to perch themselves on the footboards and the back bumpers of the vehicles which is responsible for so many accidents every day, every month and every year.