

with the hope that in the immediate future the situation might get better but actually it got worsened. To the medium and small scale industries also the power-cut is above 50 per cent. In Delhi also there is power cut. But the situation in Kerala is the worst. The Government has denied power to extra high tension consumers to the extent of 90%. For the medium and small scale industries also the power cut is 50%. For domestic consumers during the peak hours, from 6.00 P.M. to 9.00 P.M. it is one hour. In the day time the question is not when there is power cut but when we can get some electricity. If we get power during the day-time, it will be a blessing indeed. Even though the State Government has tried to get power from the Central Pool, it could not get it. We demanded additional power from West Bengal; they agreed to it, but we could not transmit the power from West Bengal to Kerala. In 1981 Central Government have decided to establish Centrally-owned and operated National Power Grids. But till now it remains a dream. The failure on the part of the Government to establish a national transmission and distribution system is blocking the way of Kerala in getting power from West Bengal. The power situation in Kerala is the worst. The installed capacity of hydel projects is only 1477 MWs. We have no thermal power plants. The most publicised Kayankulam Thermal Station is only a dream. So many VIPs visited the site. So many inaugurations were done, but still it remains a dream. Sir, the Government has to see the seriousness of the situation there. We should take steps to improve the situation. We have to take steps to grant permission to more power projects to generate power below 5 MWs. Public sector companies can also set up small projects to generate electricity. Even the Railways can set up power plants to run their trains. Transmission and distribution loss is high in Kerala. It is above 21%. We have to reduce it. For reducing it, modernisation of the distribution system

is to be done. The Centre must give financial assistance to the State Governments for modernisation of distribution system coming to the denial of clearance to Pooyam Kutty Hydro-Electric Project. I must say that the attitude of the Government towards the hydel projects should change. Some of the ecologists are viewing the whole thing in a wrong manner. We have to change their attitude. They are doing harm to the improvement of the nation. Sir, at present the problem is regarding trees. It is argued that trees in the project area may be destroyed. Sir, if this is the case, the State Government is willing to plant trees in alternative place. I request the Government to reconsider the decision and grant permission to the Pooyam Kutty Hydro-Electric Project in Kerala. Thank you Sir.

# I. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE ARBITRATION AND CONCILIATION (THIRD) ORDINANCE, 1996

## II. THE ARBITRATION AND CONCILIATION BILL, 1995 — Contd.

The VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Now, the hon. Minister, Shri Ramakant D. Khalap, was on his legs the other day. He had not concluded his speech. He may now continue.

THE MINISTER OF STATE OF THE DEPARTMENT OF LEGAL AFFAIRS, LEGISLATIVE DEPARTMENT AND DEPARTMENT OF JUSTICE (SHRI RAMAKANT D. KHALAP): Mr. Vice-Chairman, Sir, at the outset, let me express my gratitude to all the hon. Members who have no painstakingly studied this Bill and expressed their opinion on various aspects of the Bill.

Shri Satish Agarwal, while moving his Statutory Resolution, had raised certain basic issues about the Ordinance and also about the applicability of this Bill to Jammu and Kashmir.

Sir, if I refer to the statement which was laid on the Table of the House regarding the Ordinances which have been promulgated from time to time, it will be very clear that the Ordinances were necessitated by the sequence of events that took place from time to time.

The legislative history of this Bill began on 16th May, 1995, when the Arbitration and Conciliation Bill, 1995, was introduced in the Rajya Sabha. The Bill was then referred to the Parliamentary Standing Committee on Home Affairs. The Committee submitted its Report to the Rajya Sabha on 28th November, 1995. A number of amendments were suggested by the Committee and these were accepted. However, the Bill and the Report could not be considered by the House during the Winter Session; the motion for consideration and passing of the Bill could not be moved. As a result, the Arbitration and Conciliation Ordinance, 1996, was promulgated by the President on 16th January, 1996.

Afterwards, a notice of motion for consideration of the Bill was given to the Rajya Sabha during the Budget Session of Parliament. But in view of the circumstances prevailing then, this had to be repromulgated on 26th March, 1996. Again, the Bill could not be taken up because the Session of the House in June, 1996, was very brief. It, therefore, became necessary to repromulgate the Ordinance. Thereafter, we have now come with this Bill before the House.

I think, Sir, this sequence of events which I have narrated would suffice to explain the reasons why we had to go in for Ordinances one after another.

Now, Sir, so far as the objection which had been raised by Shri Satish Agarwal insofar as it relates to the applicability of this Bill to Jammu and Kashmir is concerned, permit me to draw the attention of the House to the wording in the Bill. Clause 1, sub-clause (2), says very clearly: "It extends to the whole of India". Then, the proviso says: "Provided

that Parts I, III and IV shall extend to the State of Jammu and Kashmir only insofar as they relate to international commercial arbitration or, as the case may be, international commercial conciliation". Therefore, this very clearly shows that the Bill, as has been framed, is applicable to Jammu and Kashmir, but Parts I, III and IV are applicable to Jammu and Kashmir only in relation to international commercial arbitration and international commercial conciliation.

The reason for this is very clear. We have to work within the confines of article 370 of the Constitution as well as the Constitution (Applicability to Jammu and Kashmir) Order, 1964. If you look at Entry No. 13 of the Concurrent List as applicable in Jammu and Kashmir it very clearly says: "Civil procedure insofar as it relates to administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country". So, by reading this provision of the Constitution it becomes very clear that this law cannot be extended to Jammu and Kashmir so far as domestic conciliation is concerned. So, I think, that should explain the reasons for that particular provision in the Bill.

The various other points which have been raised are, in my opinion, quite important, but the answers to the points are also to be found within the provisions of the Bill itself. For example, it was argued that clauses 82, 83 and 84 which provide for rule making by the High Courts and power to remove difficulties, etc., have resulted in making the Ordinance ineffective without rules being enforced, if I have understood Shri Agarwal correctly. Therefore, I must draw the attention of my learned colleague to these very rules and tell him that though the previous legislation has been repealed, the rules which were framed under the previous legislation, in so far as they are not inconsistent with this Bill, have been saved. So, there are rules in existence.

**SHRI SATISH AGARWAL** (Rajasthan): So far as they are not inconsistent.

**SHRI RAMAKANT D. KHALAP:** If at all they are inconsistent, we will take measures when the time comes. Secondly, there are certain schemes, for the purpose of this arbitration, provided therein, and they have already been framed by the various High Courts.

**SHRI SATISH AGARWAL:** Only Bombay High Court.

**SHRI RAMAKANT D. KHALAP:** No, other High Courts have also framed. Therefore, there is nothing which has not been done under this and, if at all at any point in future any eventuality arises, I can assure the House that we shall not create a situation whereby any of the provisions of this Bill will remain redundant or inapplicable. Therefore, the argument that there is a vacuum on account of non-framing of rules, etc., does not hold water at all.

**SHRI SATISH AGARWAL:** What about section 84?

**SHRI RAMAKANT D. KHALAP:** It is the Central Government's power to make rules.

**SHRI SATISH AGARWAL:** You have not made rules.

**SHRI RAMAKANT D. KHALAP:** Under these powers, as and when it is necessary to make rules, it will be done.

Now, let us read, for our benefit, what clause 84 says:

"(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be, after it is made before each House of Parliament while it is in session, for a total period of thirty days...."

Here, I would request you to read clause 85 also. it says:

"(2) Notwithstanding such repeal,—

(a) the provisions of the said enactments shall apply in relation to arbitral proceedings which commenced before this Act came into force unless otherwise agreed by the parties but this Act shall apply in relation to arbitral proceedings which commenced on or after this Act comes into force;

(b) all rules made and notifications published under the said enactments shall, to the extent to which they are not repugnant to this Act, be deemed respectively to have been made or issued under this Act."

So, I think, this should be enough to satisfy the hon. Member.

There have been suggestions made the amendments recommended by the Parliamentary Committee should have been included in this Bill. In fact, when we take up clause-by-clause consideration of the Bill, those amendments which have been suggested by the Parliamentary Committee will be proposed for the consideration of the House.

Then, points like a time limit for the purpose of arbitration, and any party appointing an interested person as an arbitrator, etc., etc., have been raised.

Sir, the whole concept of this Bill is to permit parties to decide their own forum, decide their own place and time to arbitrate upon their disputes. Once we accept this principle governing this Bill, it becomes amply clear that if we go on prescribing time-limits for the purpose of actions to be taken under this Bill, we shall be giving rise to further litigations. The concept of this Bill is that we want to protect the people as far as possible from going to courts and resolving

disputes out of courts. One hon. Member said that 2.5 crore cases are pending in various courts. It is a fact. Therefore, I would say, the moment we pass this Bill, let us take it as a movement in the entire country so that we are able to reduce the backlog in courts. Let them have their own arbitrators, let them decide on the time-limit within which they will decide and after obtaining the award go to the court for the purpose of execution of the decrees, if need be. That is the intention behind this. Therefore, the provision of Civil Procedure Code and the Evidence Act has not been made applicable, except in the execution of the award. The purpose is let us not entangle the litigants in plethora of rules, procedural aspects and so on.

Doubts have also been raised on certain jargons used here like the 'high contracting parties' and the reference to the Geneva Convention and the New York Convention. It was also argued that these terminologies have not been defined. It is a fact that they have not been defined under the Bill. This term 'high contracting party', which has been used, refers to the contracting sovereign States. I think this is the international jargon used for the purpose of defining or describing the countries which signed these conventions. Similarly the New York Convention or Geneva Convention refers to those conventions on account of the place where they were held. Schedules, which are annexed to this, very clearly tell us what Geneva Convention or the New York Convention means. In that respect this thing becomes very very clear.

Every speaker, while speaking on the Bill said that this Bill is an important piece of legislation and that this Bill be passed. Therefore, in my opening remarks, I said, every Member has supported this Bill. While commending this Bill to this House, I would once again say that considering the importance of this Bill, considering the alternative dispute redressal system, which it creates

by way of arbitration, conciliation, mediation etc., considering the heavy backlog in our courts and considering the emerging liberalised economic situation in the country, this Bill needs to be passed. This Bill needs to be familiarised and taken to the people so that we could see to it that it becomes another movement towards a new type of redressal of disputes. Thank you very much.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Shri Satish Agarwal will like to bring certain other points for consideration of the Minister.

SHRI SATISH AGARWAL: Mr. Vice-Chairman, Sir, I thank the hon. Minister for clarifying some of the points which I had raised at the time of moving my Statutory Resolution seeking disapproval of the Ordinance. So far as my points for disapproval of the Ordinance, are concerned, their validity still remains. So far as the other points are concerned, he has clarified many of them and he has assured this House that if any problem comes in the way of implementing the provisions of this Bill he would see to it that there is no hurdle.

While moving the Statutory Resolution I had made it abundantly clear that I support this Bill. So far as this Bill is concerned, he should consider himself lucky enough to have the widest support on this. We support the provisions of this Bill, of course, with certain reservations. He has tried to clarify some of the points. Now, at the end I seek the leave of the House to withdraw my Resolution in view of the assurance given by the hon. Minister.

(The Deputy Chairman in the Chair)

Even then once again I would like to emphasise my objection with regard to non-framing of rules by the Central Government as mandated under section 84 of the Ordinance. Of course, section 85 too makes a mention that all rules made and notifications published under the said enactment shall to the extent to

which they are not repugnant to this Ordinance, be deemed respectively to have been made or issued under this Ordinance. The hon. Minister must be aware that rules made under the earlier enactments which have been repealed by this Ordinance shall be applicable which are not repugnant. But repugnancy is bound to be there because this Bill contains new provisions which were not there in the Arbitration Act, 1940. These provisions were not there under the Arbitration Act, 1940. There were no rules on those points. So, there may not be a question of repugnancy. But there may be a question of non-existence of relevant rules under this particular enactment, under those enactments which we are repealing, but not those rules which have been the same and which are not repugnant to the provisions of this Bill or the Ordinance. But in my opinion there were no rules or regulations or schemes which required to be framed under the Act of 1940 or which will require to be framed under this new Ordinance. The provisions are new, the concept is new and the approach is new. So, naturally the Central Government has to exercise its powers under section 84(1). Once again I urge the Minister to frame necessary rules—which he has not done so far—under section 84(1) to carry out the provisions of this Ordinance or the Bill, as they are. This is number one. Number two: the Government has promulgated the first Ordinance on the 16th January, 1996. Then, they repromulgated the Ordinance on the 26th March, 1996. Again the Government repromulgated the Ordinance on the 21st June, 1996. I find from the papers that it was introduced in this House on 16-5-1995 after promulgation of the earlier Ordinances, that is, on the 16th January, 1996 and the 26th March, 1996. Now, this particular Ordinance has got certain provisions which were not there in the earlier Ordinances. That is why the need to move amendments is there. For example, in clause 9, he has moved an amendment. He said, “the

following shall be substituted.” The amendment which he has moved in clause 9 already finds a place in this Ordinance, that is, it was not there in the earlier Ordinance consequently in the earlier Bill also. That is why the Government has come forward with an amendment in clause 9. Is that not the position? ... (Interruptions)... I think that is the position. It was not there in the earlier Ordinance, earlier Bills. But we find it here in the particular Ordinance. The bill was moved in May, 1995. That is why you have brought forward an amendment. So, it is not a question of continuity of the old Ordinance. It is a modification of an old Ordinance. So, the right stand would be that certain modifications are there in this Ordinance which were not there in the earlier ones. Secondly, the most important thing that I would like to draw your attention with this regard clause 34(2)(b)(ii) which, in my opinion, the whole House would agree, is the most important provision in this whole thing. In an international trade law, this country may face serious problems. Foreigners are very shrewd and, to some extent, they are crooks also. And our business people in India are, by and large,.....

**उपसभापति:** हम लोग क्यों किसी के लिए कड़े शब्दों का इस्तेमाल करें?

**श्री सतीश अग्रवाल:** “आत्मवत सर्वभूतेषु” यानी अपनी आत्मा के समान सबको समझो, यह भारतीय संस्कृति की देन है। हम भारतवासी भी विदेशियों को अपने समान ही समझते हैं। जैसे हम भोले-भाले हैं, सीधे-सादे हैं, ऐसी ही वे भी होंगे लेकिन वे ऐसे नहीं हैं।

**उपसभापति:** चलिए अग्रवाल साहब ने इस हाऊस में यह ऐडमिट किया है कि भारत के लोग भोले-भाले, सीधे-सादे हैं।

**श्री सतीश अग्रवाल:** हां है।

That is why, Madam Deputy Chairperson, this provision is necessary that if the arbitral award is in conflict with the public policy of India, the award can be set at nought. The award can be nullified

by a court of law if it is in conflict with the public policy of India. While framing the rules, please take care. Certain arbitral awards may be in conflict with the public policy of India and the court has been given the right to declare that a particular award is against the public policy of India. I welcome this measure with my whole heart, 100 per cent. Our courts should have the right to nullify or to declare null and void any international award given anywhere in the world if it is against the public policy of India.

If there is any ambiguity on the scope, you have been given powers under clause 83. "If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty;". This power has been given to you. This is an exceptional power whereby the Government is given power, in the name of removing any difficulty, if need be. Please make the provisions still more stringent so that under the garb of international awards, our people are not cheated. You can take advantage of it.

I welcome the whole Bill; particularly, clause 34 much more. With the assurances that the hon. Minister has given on the floor of the House with regard to the provisions of the Bill, I seek leave of the House to withdraw my statutory resolution.

*The statutory resolution was, by leave, withdrawn.*

**DR. BIPLAB DASGUPTA** (West Bengal): Madam, I must compliment the Minister for doing his home work very thoroughly before coming here to reply. This is his maiden reply. I understand. But still, I feel there are two points raised during the discussion which he has missed. One is that arbitration can help only if the original contract was favour-

able or fair. Now, in a situation where the two parties are not equal in terms of their economic strength, developed knowledge, access to knowledge, etc., there may be some problem with the original contract itself. What I was suggesting was this. Before companies go in for international agreements with multinationals and all that, they should bear in mind the fact that there are many international bodies who help in drafting the laws and all that so that when they get into negotiations with multinationals, they know how the other companies have negotiated. In your Law Cell, you must have some experts who can actually advise the companies on such contracts which include arbitration clauses. If the contracts are weak, then, no matter how fair an arbitration there is, it cannot help the company. That is one point.

The other point is about the cost of arbitration when you are going in for an international arbitration. Is there any way you can reduce the cost..... The cost can be very prohibitive. I gave the example of Enron. One of the reasons as to why the Government retreated was the possible cost of arbitration would have been astronomical. These are the two points I have raised; they are not exactly dealing with the Bill but are part of the implications of the Bill. I would very much appreciate if you reply to these points, Sir. Thank you.

**SHRI RAMAKANT D. KHALAP:** Madam, in regard to the question of inequality raised by the hon. Member, I must say that it is really impossible to take into consideration such an eventuality. There will always be parties some of whom will be very strong, some of whom will be weak. It happens in court cases, a rich man filing a case against a weak person; the rich man employing the services of a senior counsel who probably charges lakhs of rupees for his fees, and the poor man probably going to the legal aid forum for the purpose of getting a lawyer. So, this disparity will continue.

But we only have to see that the arbitrator who is selected by the parties will go by the fair judicial system and he will give the result.

DR. BIPLAB DASGUPTA: Do you have a cell or a body for framing of agreements? ...*(interruptions)*...

SHRI RAMAKANT D. KHALAP: Madam, so far as the framing of agreements is concerned, of course, the Ministry does have a very good, should I say, brains trust so far as the various aspects of law are concerned and this Ministry definitely has been advising all other Departments, all other Ministries, so far as conveyancing is concerned, so far as drafting is concerned, on legal issues and so on and so forth. That will always be available. But between the private companies what will happen, we cannot say anything. For that purpose, probably some institutions will have to come up or some law firms will have to come up. This is a process of evolution.

DR. BIPLAB DASGUPTA: They are already available, but ...*(interruptions)*...

THE DEPUTY CHAIRMAN: Let him complete it first and then you can clarify your points.

DR. BIPLAB DASGUPTA: Madam, you won't mind, if I just take a minute. There are several international bodies now. There is one agency operating under the United Nations—I do not remember the exact name of that body; it is the Centre for Multinational Studies or something like that. There is one body operating with the OECD for European countries. These bodies do deal with various kinds of contracts, say, contracts with oil companies, contracts with copper companies, all possible contracts with insurance companies. Whenever such contracts have to be drafted, our indigenous companies can seek the assistance of these bodies operating in other countries. Our Government should find out which are those bodies operating in other countries, rather than saying that our companies can have their own institutions; it

may be difficult for them. That is why I gave the example of Japan and the East Asian countries like Korea and Taiwan; they have actually helped their own indigenous companies in this particular way. Our companies can have a proper draft of such contracts; they can negotiate on that basis so that the inequality which is inherent in the relationship—whether they are small competitive giants—is, to a certain extent, to be rectified with the help given by the Government. What I was suggesting was this. Certain companies are already in operation in other countries. The Minister will try to find them out and will help the companies when they enter into such agreements with other commercial concerns.

SHRI RAMAKANT D. KHALAP: Madam, so far as this suggestion which has been made by the hon. Member is concerned, certainly this can be considered by the Ministry.

Now as regards the cost, the second issue which has been raised, it is for the parties, before they enter into arbitration agreements, to decide upon the cost of the entire litigation, or if it is not then a reasonable cost is to be awarded by the arbitrator; that is the whole thing we can say. We cannot put an outer limit on it. Thank you.

SHRI SATISH AGARWAL: You have also done your homework on that.

SHRI RAMAKANT D. KHALAP: I appreciate it. In fact, I would like to emulate you, Sir.

THE DEPUTY CHAIRMAN: Now, that is over. So, as Mr. Satish Agarwal has withdrawn his Resolution, I will put the motion moved by Shri Ramakant D. Khalap to vote. The question is:

“That the Bill to consolidate and amend the law relating to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards as also to define the law relating to conciliation and for matters connected therewith or

incidental thereto, be taken into consideration."

*The motion was adopted.*

**THE DEPUTY CHAIRMAN:** We shall now take up clause by clause consideration of the Bill.

*Clauses 2 to 8 were added to the Bill.*

**Clause 9—Interim measures by Court**

**SHRI RAMAKANT D. KHALAP:** Madam, I beg to move:

That at page 5, for clause 9, the following clause be substituted, namely:—

Interim "9. A party may, before or during arbitral proceedings or at any time after the making of the arbitral award but before it is enforced in accordance with section 36, apply to a court—

- (i) for the appointment of a guardian for a minor or person of unsound mind for the purposes of arbitral proceedings; or
- (ii) for an interim measure of protection in respect of any of the following matters, namely:—
  - (a) the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;
  - (b) securing the amount in dispute in the arbitration;
  - (c) the detention, preservation or inspection of any property or thing which is the subject-matter of the dispute in arbitration, or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party, or authorising any samples to be taken or any observation to be made, or exper-

iment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence;

- (d) interim injunction or the appointment of a receiver;
- (e) such other interim measure of protection as may appear to the court to be just and convenient;

and the court shall have the same power for making orders as it has for the purpose of, and in relation to, any proceedings before it."

*The question was put and the motion was adopted.*

*Clause 9, as amended, was added to the Bill.*

*Clause 10 was added to the Bill.*

*Clause 11—Appointment of arbitrators.*

**SHRI RAMAKANT D. KHALAP:** Madam, I beg to move:

That at page 7,—

- (i) line 13, after the words "other arbitration" the following words be inserted, namely:—  
"the reference to "Chief Justice" in those sub-sections shall be constructed as a reference to",
- (ii) line 15, after the words "that clause," the word "to" be inserted.

*The question was put and the motion was adopted.*

*Clause 11, as amended, was added to the Bill.*

*Clauses 12 to 33 were added to the Bill.*

*Clause 34—Application for setting aside arbitral award.*

**SHRI RAMAKANT D. KHALAP:** Madam, I beg to move:

That at page 15, for the line 32, the following words and figures be substituted, namely:—

"corruption or was in violation of section 75 or section 81".

*The Question was put and the motion was adopted.*

*Clause 34, as amended, was added to the Bill.*



*Clause 35 was added to the Bill.*

*Clause 36—Enforcement.*

SHRI RAMAKANT D. KHALAP:  
Madam, I beg to move:

That at page 16, line 11, *after* the words  
"be enforced" the words and figure  
"under the Code of Civil Procedure,  
1908" be inserted.

*The question was put and the motion was  
adopted.*

*Clause 36, as amended, was added to the Bill.*

*Clause 37—Appealable orders.*

SHRI RAMAKANT D. KHALAP:  
Madam, I beg to move:

That at page 16,—

(i) line 17, *for* the words "an in-  
terim" the word "any" be *substi-  
tuted*;

(ii) *for* lines 19-20, the following be  
*substituted*, namely:—  
"(2) Appeal shall also lie to a  
court from an order of the arbit-  
ral tribunal—

(a) accepting the plea referred  
to in sub-section (2) or  
sub-section (3) of section  
16; or

(b) granting or refusing to  
grant an interim measure  
under section 17".

*The question was put and the motion was  
adopted.*

*Clause 37, as amended, was added to the Bill.*

*Clauses 38 to 85 were added to the Bill.*

*New Clause 86*

SHRI RAMAKANT D. KHALAP:  
Madam, I beg to move:

That at page 27, *after* clause 85, following  
new clause be added, namely:—

"86.(1) The Arbitration and Conciliation  
(Third) Ordinance, 1996 is hereby repealed.

(2) Notwithstanding such repeal, any order,  
rule, notification or scheme made or ~~anything~~  
done or any action taken in pursuance  
Repeal of Ordinance 27 of 1996 and  
saving

of any provision of the said  
Ordinance shall be deemed to have

been made, done or taken under the  
corresponding provisions of this  
Act".

*The question was put and the motion  
was adopted.*

*New Clause 86 was added to the Bill.*

*The First Schedule, the Second Schedule  
and the Third Schedule were added to the  
Bill.*

*Clause-1 Short title, extent and  
commencement.*

SHRI RAMAKANT D. KHALAP:  
Madam, I beg to move:

That at page 2, line 18, *for* the figure  
"1995" the figure "1996" be *substituted*.

*The question was put and the motion  
was adopted.*

*Clause 1, as amended, was added to the  
Bill.*

*Enacting Formula*

SHRI RAMAKANT D. KHALAP:  
Madam, I beg to move:

That at page 2, line 15, *for* the word  
"Forty-sixth" the word "Forty-seventh"  
be *substituted*.

*The question was put and the motion  
was adopted.*

*The Enacting Formula, as amended,  
was added to the Bill.*

*The Preamble and the Title were added  
to the Bill.*

SHRI RAMAKANT D. KHALAP:  
Madam, I beg to move:

That the Bill, as amended, be passed.

*The question was put and the motion  
was adopted.*

SHRI V. NARAYANASAMY  
(Pondicherry): Madam, we have  
supported this Bill because it is our Bill.

THE DEPUTY CHAIRMAN: I know.  
But I need some more support.  
(Interruptions). Mr. Narayanasamy, now  
you are sitting in front of me. You have  
to listen to me more seriously. The thing

is, today we have the General Budget. So we will adjourn the House after some time. (*Interruptions*). May I have the attention of everybody? आप हाउस को डिस्टर्ब मत करिए। I am addressing the Minister. Please don't disturb. According to the Order Paper, we should first take up the Statutory Resolution and the Depositories Bill, 1996. But as the Budget has to be presented today, the Finance Minister, Mr. Chidambaram, has to be present in Lok Sabha for the Budget and pre-budget formalities, whatever they are. Secondly, there was a demand from some hon. members. They said that as it was a very important Bill, some more time should be given for discussion on this Bill and it should not be taken up today. I discussed it with the Finance Minister. He has agreed. Now the second Legislative Business is the Industrial Disputes (Amendment) bill, 1996. Unfortunately, Mr. Arunachalam is also busy in the other House with a similar kind of Bill which is pending in Lok Sabha. He has no junior Minister with him today. We have requested .....(*Interruptions*) Just a minute. We have requested Mr. Khalap to stay here.

SHRI V. NARAYANASAMY: Madam.....

THE DEPUTY CHAIRMAN: Mr. Narayanasamy, you can give your amendment later. Let me finish first.

SHRI V. NARAYANASAMY: But that should not be put to vote.

THE DEPUTY CHAIRMAN: It will not be. I will use my discretionary power. I will ask you to withdraw it.

I request Mr. Khalap, who has very nicely piloted his Bill, to read out the statement of Mr. Arunachalam. Shri Satish Agarwal is opposing it.

SHRI SATISH AGARWAL: Madam, I am opposing the Ordinance .....(*Interruptions*).

THE DEPUTY CHAIRMAN: Mr. Agarwal, are you opposing it?

SHRI SATISH AGARWAL: Madam, I am performing the rituals.

THE DEPUTY CHAIRMAN: You perform your rituals. You can speak on it. If it is passed today, it is fine. If it is not I think it cannot be passed today—then whatever is said here can be recorded. Mr. Arunachalam, tomorrow or any other day whenever he is asked, can come here and reply to it.

SHRI V. NARAYANASAMY: Madam, I am on a point of information. Everybody knows that today the budget has to be presented by the Finance Minister. At the time of preparing the List of Business, the Depositories Bill, 1996 should have been put after the Industrial Disputes (Amendment) bill, 1996. If the Government is going to expand the Cabinet, then they should induct two Ministers of State for Finance so that they can pilot Bills in this House. There are so many members in waiting. Why should the bill be postponed for want of the Minister?

THE DEPUTY CHAIRMAN: It is a suggestion. It is not a clarification or information. Mr. Narayanasamy, has made a suggestion. Let the Government take note of it.

SHRI V. NARAYANASAMY: Shri Gurudas Das Gupta and some other Members are waiting. They can be made Ministers of State for Finance.

SHRI GURUDAS DAS GUPTA (West Bengal): Mr. Narayanasamy may kindly make himself available for his induction in the Cabinet.

SHRI V. NARAYANASAMY: Our party has passed a resolution that it will not join the Government ...(*Interruptions*)...

SHRI GURUDAS DAS GUPTA: He can very well become an independent Member and join the Government ...(*Interruptions*)....

SHRI V. NARAYANASAMY: Gurudasji being a vocal Member, how he

is suffering by joining the Government, we all know....(*Interruptions*)...

**THE DEPUTY CHAIRMAN:** If the House so agrees, we can have a debate on this today....(*Interruptions*).... Actually, my job is to preside over Resolutions, Amendments, Statutory Resolutions, Legislative business, Special mentions, Calling Attention and not on the future of the Ministers. So, Mr. Narayanasamy, I request you to withdraw your suggestion and use it in some other forum....(*Interruptions*)...

**SHRI SATISH AGARWAL:** Madam, at the moment, I seek one information. We had decided some business for this week in the Business Advisory Committee and it was announce here. In that particular business which was announced here from the Chair, I found that had to have a discussion on the Railway Budget this week and discussion on the General Budget next week, beginning from the 29th onwards. Now so far as the discussion on the Railway Budget is concerned, we have hardly two or three days left. Today we have Ordinances, tomorrow also we will have ordinances. When do we start with the business which has been finalised by the Business Advisory Committee and which has been announced here from the Chair?

**THE DEPUTY CHAIRMAN:** The Chair announces the business. The business that has to be brought on a particular day has to be decided by the Parliamentary Affairs Minister. Now the Parliamentary Affairs Ministry, in its own wisdom, perhaps, thought that it should bring the Ordinances and get them cleared before we could discuss the agenda. This is my assumption. I have not been informed about it. Now Mr. Satish Agarwal was saying something about the Railway Budget. I think we can discuss tomorrow this matter on how we could adjust the time so that we finish the pending business of Ordinances as well as start the discussion on the Railway

Budget. You can communicate more with our office so that we can have a better arrangement.

**SHRI SATISH AGARWAL:** I am told that the business for the day is listed on the recommendations of the Minister for Parliamentary Affairs. The Minister for Parliamentary affairs should have borne in mind on Friday, that on Monday the Budget was to be presented. This item should not have been kept on the agenda. Similarly, the other Bills should not have been kept on the agenda. When we stall the proceedings even for half-an-hour, we are taken to task by the Press saying that so much time was wasted.

**उपसभापति:** अग्रवाल जी, आप इतनी प्रिसाइस बात कह रहे हैं धीरे-धीरे सीखते हैं। अभी सीख जायेंगे।

**SHRI SATISH AGARWAL:** I am not complaining against them.

**THE DEPUTY CHAIRMAN:** I clarified the position out of my own understanding and experience. Nobody has got so much experience ..... (*Interruptions*)....

**SHRIMATI KAMLA SINHA (Bihar):** Madam, this Bill that we are going to discuss now had already been discussed in this House. The bill was passed by the Rajya Sabha on 5th December, 1995. A notice for consideration and passing of the Bill in the Lok Sabha was given on 7.12.95. The Bill could not be passed by the Lok Sabha. Since, we have already discussed and passed this Bill, there is no need for a fresh discussion. So, we can pass this Bill without any discussion. Madam, we had already discussed it. It is only a submission.....(*Interruptions*)

**SHRI SATISH AGARWAL:** It is not the fault of the Members of the Rajya Sabha. After we passed the bill on 5th December, 1995, the Lok Sabha could not pass it because it was dissolved. So, the Bill got lapsed. And our whole effort has gone waste. We are not to be blamed for it. But we cannot pass it again without discussion. New Members have come now. They have a right to

participate in the discussion  
.....(Interruptions)

THE DEPUTY CHAIRMAN: I want order.....(Interruptions) on the disorder, I want some order....(Interruptions)

SHRIMATI KAMLA SINHA: Madam, that was only a submission. But whatever the House decides and whatever is your ruling, we will abide by it.

THE DEPUTY CHAIRMAN: What Kamla Sinha is saying is that a long, extensive discussion had taken place on this. However, Mr. Jibon Roy may still be having some ammunition left in his gun to fire. But I think that he also spoke on this Bill, if I remember correctly. Now the thing is that because the Lok Sabha was dissolved, the Bill has come back to us for which Agarwalji is not to be blamed. That is why he is moving his disapproval. I can give a solution. अग्रवाल जी ने डिस-अप्रूवल किया है। आप डिस-अप्रूवल पर बोल दीजिए। सरकार इस पर बोल चुकी है। इसलिये इस पर कम डिसकशन करके इसको पास कर दीजिए। समय बहुत कम है।

SHRI V. NARAYANASAMY: That is a good solution.

THE DEPUTY CHAIRMAN: But the only bad solution is that the Minister is not there to answer the motion of disapproval. If Mr. Khalap answers, I will be very happy....(Interruptions)

SHRI V. NARAYANASAMY: Mrs. Kamla Sinha, being in the ruling party, can say that we can pass it without discussion. But we, being on the other side, have a right to say that we want to discuss it.

THE DEPUTY CHAIRMAN: All right. You discuss it. On the question of discussion of the Industrial Disputes (Amendment) Bill, the Rajya Sabha has no dispute.

SHRI BRAHMAKUMAR BHATT (Gujarat): I only want to supplement what Mr. Agarwal has said. He has made

a very right statement. The Rajya Sabha might have discussed this Bill earlier. But as new Members have come, the House, by a majority also, cannot deprive them of their right. So, we have a right to discuss it, whether we agree with it or not.

THE DEPUTY CHAIRMAN: Okay. Mr. Agarwal, you may move your disapproval.

# I STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE INDUSTRIAL DISPUTES (AMENDMENT) ORDINANCE, 1995

## II THE INDUSTRIAL DISPUTES (AMENDMENT) BILL, 1995

SHRI SATISH AGARWAL  
(Rajasthan): Madam Deputy  
Chairperson, I move:

“That this House disapproves of the Industrial Disputes (Amendment) Third Ordinance, 1996 (No. 23 of 1996) promulgated by the President on the 20th June, 1996.”

Madam, the first Ordinance was promulgated probably on 11.10.1995, nearly 10 months back. Then, a Bill was introduced in this House on 28.11.1995, which was passed on 5.12.1995 here. After 5.12.1995, when this Bill could not be passed by the Lok Sabha or when the then Government could not get it passed there, another Ordinance was issued on 15th June, 1996. So, under certain circumstances, when the Bill could not be got passed in the Lok Sabha, they issued on Ordinance on 15th June, 1996. That particular Ordinance had also lapsed. Then, you had brought forth another Ordinance on 20th June, 1996. I fail to understand as to what were the compulsions for the Government not to get the earlier Ordinance converted into an Act in the Lok Sabha. We had a brief Budget session. The earlier Ordinance could have been passed within an hour or two. But it was not done because the Government was not serious about it.