

नाम पर अभी जो समय का तकाजा है, उसके मुताबिक बनारस हिन्दू यूनिवर्सिटी से हिन्दू वर्ड हटा दिया जाये और अलीगढ़ मुस्लिम यूनिवर्सिटी से मुस्लिम वर्ड । उपसभापति जी, इन सब बातों से . . . (व्यवधान)

श्री उपसभापति : जब बिल आएगा, तब कहियेगा । अब छोड़िये ।

श्री शिव चन्द्र झा : इसलिए यह क्लस एण्ड रेगुलेशन्स के अलावा एक कम्प्रीहेन्सिव विधेयक लायें ताकि इस पर . . . (व्यवधान) जैसे आप अलग से मिजोराम में कैम्पस बना रहे हैं, तो यह गलत बात हो गई । यह जो दोनों नाम साम्प्रदायिक हैं, इससे साम्प्रदायिकता की बू आती है, इसको हटाने पर आप विचार करें । आप भले ही मदनमोहन मालवीया यूनिवर्सिटी रख दें . . . (व्यवधान)

श्री उपसभापति : ठीक है यह प्वाइंट . . . (व्यवधान)

श्री शिव चन्द्र झा : यह मेरी आपत्ति है ।

MR. DEPUTY CHAIRMAN: Dr. Adiseshiah, do you want to oppose it?

DR. MALCOLM S. ADISESHIAH (Nominated): No. I want to support the Bill.

MR. DEPUTY CHAIRMAN: The Bill is not coming up today. It is just introduction. Now the question is:

"That leave be granted to introduce a Bill further to amend the Banaras Hindu University Act, 1915 the Aligarh Muslim University Act, 1920, the Delhi University Act, 1922, the Visva-Bharati Act, 1951, the Jawaharlal Nehru University Act. 1966,

the North-Eastern Hill University Act, 1973 and the University of Hyderabad Act, 1974."

The motion was adopted.

SHRIMATI SHEILA KAUL: Sir, I introduce the Bill.

THE INDUSTRIAL DISPUTES (AMENDMENT) BILL, 1982

MR. DEPUTY CHAIRMAN: Now Bills for consideration and passing. Shri Bhagwat Jha Azad.

SHRI SHRIDHAR WASUDEO DHABE (Maharashtra): Sir, we have given notice. We want to oppose it.

MR. DEPUTY CHAIRMAN: You oppose it, but not at this stage. After the Minister, you can do it.

SHRI SHRIDHAR WASUDEO DHABE: No, after that how can we oppose it?

SHRI M. KALYANASUNDARAM (Tamil Nadu): Sir, on a point of order.

THE MINISTER OF STATE IN THE MINISTRY OF LABOUR (SHRI BHAGWAT JHA AZAD): Sir, I move:

"That the Bill further to amend the Industrial Disputes Act, 1977. . ."

SHRI SADASHIV BAGAITAR (Maharashtra): Sir, we have to oppose it just now.

SHRI M. KALANASUNDARAM: Sir, I am on a point of order. The Chair must protect our right when a Member stands on a point of order.

MR. DEPUTY CHAIRMAN: But so many Members stand up.

[Mr. Deputy Chairman]

This is the difficulty here. I do not know what you are saying or what they are saying. You appreciate my difficulty also.

SHRI M. KALYANASUNDARAM: Sir, the Bill is supposed to have been passed by the Lok Sabha and placed on the Table of this House day before yesterday and the Bill was actually circulated to the Members only yesterday morning. At least two days' notice is necessary for taking up the Bill for consideration. (Interruptions). Let me complete my point. From the press reports, it is clear that even in the Lok Sabha it was not passed properly.

MR. DEPUTY CHAIRMAN: That is a different thing.

SHRI M. KALYANASUNDARAM: A Bill has to be properly passed by the Lok Sabha and after giving two days' notice, it can be taken up for consideration here. Now the Minister is in a hurry to take the Bill in to consideration. Permission to take the Bill into consideration today cannot be given because two days' notice is not given. You cannot do it.

SHRI SHRIDHAR WASUDEO DHABE: Sir...

MR. DEPUTY CHAIRMAN: Are you saying on this point of order or something else? ... (Interruptions) ...

SHRI SHRIDHAR WASUDEO DHABE: I am saying in addition to this point of order—something different.

MR. DEPUTY CHAIRMAN: No, not in addition. Now let me dispose of it. (Interruptions) ... So far as the point of order raised by Shri Kalyanasundaram is concerned, here is before me a letter from the Minister addressed to the Chairman and the Chairman was

pleased to waive the requirement of 48 hours' prior notice under Rule 123... (Interruptions) ... Therefore, it is in order and he can move the Bill... (Interruptions) ... No, that has been done with.

SHRI SADASHIV BAGAITKAR: What is the urgency? There are the normal Rules of Procedure.

MR. DEPUTY CHAIRMAN: Now that point is over. Next point.

SHRI SHRIDHAR WASUDEO DHABE: Mr. Deputy Chairman, Sir, with due respect to what you have pointed out, that it is a very urgent matter, it does not carry any conviction with that point of order because the Labour Minister has made a statement here and given a solemn assurance that he was calling a tripartite labour conference in the first week of September. Today the press has given the dates also—6th 7th and 8th. This is a very important but a controversial Bill. He may have his own point of view but there are the other points of view of those who are opposing the Bill—may be right or wrong or correct or incorrect. But when the forum is available and when he himself says it requires consultation and when it is a major Bill which is going to be a departure from the ordinary procedure under the Industrial Disputes Act, I fail to understand the hurry.

MR. DEPUTY CHAIRMAN: That point he will reply during the debate. This is a point for debate.

SHRI SHRIDHAR WASUDEO DHABE: I fail to understand why there should be hurry about it.

MR. DEPUTY CHAIRMAN: That he will reply to.

SHRI SHRIDHAR WASUDEO DHABE: I would request you to reconsider your decision on the point of order. What is the hurry? You

must protect the House. There is no urgency.

SHRI N. K. P. SALVE (Maharashtra): Would the Bill cease to be controversial if it comes after 48 hours? . . . (Interruptions) . . .

SHRI SADASHIV BAGAITKAR: This is no argument.

SHRI N. K. P. SALVE: What is the rationale? That shows the hollowness of your contention. The whole question is, they are entitled to their views, we are entitled to our views. The Bill is controversial; that is a fact. But the whole thing is, on a procedural matter there appears to be a grievance—that on a procedural matter like this such a departure should not have been allowed because the matter is controversial. Mr. Dhabe said that some time in September the tripartite conference is to be called.

SHRI SHRIDHAR WASUDEO DHABE: It has already been called.

SHRI N. K. P. SALVE: The crucial question so far as the procedural matter is concerned is that even if it had been taken up tomorrow, the Bill would nonetheless have been as controversial as it today is. The disputes between us—the conceptual disputes, disputes as to details—would have continued even today. The tripartite conference is not being held before the expiry of 48 hours. Therefore, so far as the procedural wrangling is concerned, except waste of time there is no other outcome. . . (Interruptions) . . . Therefore, I submit, let it proceed and save the time of the House.

SHRI P. RAMAMURTI (Tamil Nadu): Mr. Deputy Chairman, Sir, I would like to point out that the matter of procedure is not so simple as such. Yes, tomorrow it can be taken up—I have no objection to it. Of course, on principle it was not considered, consultation had not taken place at the tripartite conference. That is a different matter: I am not arguing on that. The fact is that this

Bill in the present form, after it has been passed by the Lok Sabha, came into our hands yesterday. You know that yesterday we were all busy in this House till late. The Constitution (Amendment) Bill took a long time and it was finished only at about 4.30 p.m. Then there was something else and in the evening some of us were invited by the Leader of the House for dinner at eight o'clock and we were all there till ten o'clock. Therefore, where is the time for us? The 48-hour notice is provided only to enable us to study the Bill properly and see what changes have been made and in consonance with the changes made by the Lok Sabha to give amendments here. Now you are depriving us of the opportunity to give amendments. We could have given amendments for the original Bill, but that is not what is before us. The Bill brought before us is as passed by the Lok Sabha. It is from that point of view that I am saying that it cannot be brought today.

SHRI SADASHIV BAGAITKAR: Sir, I am really sorry that our good friend Mr. Salve has taken the procedure lightly. (Interruptions) It is not that question. You have a majority, you can pass it the very day. That is not the point.

SHRI N. K. P. SALVE: I never said that, Bagaitkarji.

SHRI SADASHIV BAGAITKAR: I accept that. What I am saying is that there should be unanimity regarding protecting the procedure. There can not be a difference. You have put your point of view and we have our own. Apart from the facts which Shri Ramamurti has placed before the House, let me bring to your notice that I received the parliamentary papers today at 9.25 A.M. I do not know why it was so late. At 9.25 A.M. I received my parliamentary papers. Do you expect us to any justice? When can we go through the amendments that were moved when the amendments were circulated only this morning? And the parliamen-

[Shri Sadashiv Bagaitkar]

tary papers reached me at 9.25 A.M. today. (*Interruptions*).

MR. DEPUTY CHAIRMAN: The Bill was submitted yesterday.

SHRI SADASHIV BAGAITKAR: That is different.

AN HON. MEMBER: The parliamentary papers reached me at 9.25 today.

MR. DEPUTY CHAIRMAN: That will be looked into.

SHRI SADASHIV BAGAITKAR: You kindly look into it. I am not making it an issue. I am merely stating the facts to say that when there is a full day left for the Government business, what was the hurry in bringing this today by special permission of the Chair? You could have easily done it tomorrow and protected the procedure.

MR. DEPUTY CHAIRMAN: Only one more day is left. Tomorrow is a holiday.

SHRI SADASHIV BAGAITKAR: On Friday, it could have been done. (*Interruptions*). That tomorrow is a holiday, I never knew.

MR. DEPUTY CHAIRMAN: That is for the Private Members' Bills.

SHRI SADASHIV BAGAITKAR: Sir, what is the urgency? Is there any emergency that this Bill must be passed this very afternoon? I would request that this Bill be postponed for 48 hours and we could take it up on Friday, nothing will be lost.

MR. DEPUTY CHAIRMAN: I do not think there is any reason to revise the permission granted by Mr. Chairman.

DR. BHAI MAHAVIR (Madhya Pradesh): Mr. Deputy Chairman, you have disposed of the objection as the Chairman has waived the requirement

of 48-hour notice. But isn't the House entitled to know how suddenly some such emergency has arisen that this particular thing is sought to be rushed through in the last two days of the session?

MR. DEPUTY CHAIRMAN: He will reply to all these things that you are raising in his reply.

SHRI P. RAMAMURTHI: If Mr. Chairman waives the requirement on the basis of urgency, it is for the Chairman to tell us what the urgency is.

MR. DEPUTY CHAIRMAN: Mr. Chairman was satisfied about the urgency.

SHRI P. RAMAMURTHI: May be. But you must satisfy us also. He cannot take a unilateral decision.

DR. BHAI MAHAVIR: There is a large number of speakers and the whole country is in a way affected. We should understand if there is any particular urgency which has suddenly erupted in an unforeseen manner. The labour situation and the problems on the industrial front are all there and the Government has been handling or mishandling it in the way it thinks best. How is it that suddenly something has come up that this is sought to be waived?

MR. DEPUTY CHAIRMAN: Shri Bhagwat Jha Azad.

SHRI M. KALYANASUNDARAM: Sir, I have no intention to question the ruling of the Chair. But, when the Chairman thought that the matter was so urgent as to waive the rules and permit the Minister to move a motion, are we not entitled to know the circumstances under which the Chairman has done it? The Bombay strike has been going on for seven months. Certainly there is no hurry.

MR. DEPUTY CHAIRMAN: There is a hurry.

SHRI M. KALYANASUNDARAM: What is the harm if this Bill is not

passed in this session and is taken up in the next session? Why must the rules be treated so lightly?

MR. DEPUTY CHAIRMAN: You know the urgency from the provisions.

SHRI M. KALYANASUNDARAM: There is no urgency.

SHRI P. RAMAMURTI: I would like to convey to the Chairman my sense of deep regret. If the Government tells him that something is urgent, before he gets convinced about the urgency, he should call the leaders of the Opposition and hear them before taking a decision. Ordinary justice requires that this can be done by him only after listening to us. He never gave us a hearing and suddenly he takes a decision. I am not reflecting on the Chair, but a judicial person like him should understand that the course of natural justice does require that we must be heard. And we do not find any urgency simply because the Government says it is urgent.

SHRI BHAGWAT JHA AZAD: Sir, I beg to move:

"That the Bill further to amend the Industrial Disputes Act, 1947, as passed by the Lok Sabha, be taken into consideration."

The Industrial Disputes Act, 1947, is a procedural law which provides for a procedure as well as a machinery for resolution of industrial conflicts. The hon. Members are aware that the National Commission on Labour had recommended a complete revision of the existing procedure and system for resolving industrial conflicts. These recommendations were discussed in several forums, but there has been no consensus on some of the principal recommendations of the Commission, namely, the setting up of Industrial Relations Commissions for the resolution of industrial disputes and the procedure and criterion to be followed for identifying a bargaining agent. Government is however of the view that there are certain other aspects of

the industrial relations law which need immediate changes, particularly when some consensus has already been built up on many of those issues where immediate action is required.

You are all aware that my distinguished predecessor, Shri J. B. Patil, as Labour Minister, held detailed discussions in this regard with the representatives of central trade union organisations, employers' organisations and Members of Parliament during February-March, 1980. Thereafter, in June, 1980 he then Labour Minister, Shri T. Anjiah, held talks with 28 trade union leaders. In all those talks the need for bringing out legislative changes on certain aspects of law was recognised, and there was also a feeling that Government need not indefinitely wait for bringing out a comprehensive law on industrial relations and they may go ahead with certain immediate changes that are called for on aspects relating to coverage under the law, redefinition of the term 'Workman', providing for time-limits for adjudication of disputes by Labour Courts and Tribunals giving more powers to Conciliation Officers for effective conciliation and other connected matters. Most of these things were brought before the Consultative Committee of the Ministry of Labour in August 1980 and thereafter on a few occasions these were discussed in that forum. Government also took note of the views of the Members of the Consultative Committee on the amendment proposals. Government was considering.

During the course of discussion on the Bill in the Lok Sabha one hon. Member particularly wanted to know about the philosophy behind the Bill. A careful and objective perusal of the provisions of the Bill would show that the main intention of the Government is to protect the interest of the workers.

SHRI M. KALYANASUNDARAM: It is an attack on the trade unions.

SHRI BHAGWAT JHA AZAD: That is your feeling. You are attacking the trade unions.

[Shri Bhagwat Jha Azad]

A careful and objective perusal of the provisions of the Bill would show that the main intention of the Government is to protect the interest of the workers by promoting labour welfare. Under the Industrial Dispute Mechanism by widening the definition of the term 'industry' we have covered a large sector of human activity, where employers and employees co-operate for rendering of services and production of goods. Activities like Dock Labour Board and sales promotion have now been specifically included in the amending Bill. Supervisors drawing wages up to Rs. 1,600/- have been brought within the definition. No doubt certain activities have been excluded. These categories have to be viewed in a different context, as there cannot be a comparison between an industrial activity carried on in factory, a mine, a plantation etc. with the activity carried on in a hospital, educational institution, research organisation and the like. Further there are several small organisations which contribute towards voluntary efforts for giving necessary relief to the poor, disabled and the like. Government has to make sure that the conditions in the country are favourable for promoting such voluntary efforts and it is not proper for making them follow the procedural formalities under the scheme of the Industrial Disputes Act. Government is not averages to the redressal of grievances of such employees and the hon. Members are aware that a Bill entitled the Hospitals and Other Institutions (Settlement of Disputes) Bill, 1982, was introduced on the 6th May, 1982, in this House and we expect to take up this Bill for further processing during the subsequent session.

In this Bill, there are a number of measures which would contribute positively towards promotion of better labour welfare and industrial harmony. There is a proposal for introducing the concept of providing for Grievance Settlement Authorities in

all industrial establishments employing 50 or more workers, in accordance with the rules that would be framed by the Government and the rules would ensure that the workers have representation in that forum. Further, the proceedings pending before the Labour Courts and Tribunals would not lapse as a result of death of a workman. The Labour Courts and Tribunals would endeavour to give awards on all pending reference within the time limit specified in the order of reference, and in respect of disputes concerning individual workmen, this would not exceed a period of three months. One other measure which is very much in the interest of the workman is that whenever there is an award of a Labour Court or a Tribunal reinstating a workman, who was dismissed, discharged or whose services were terminated, then the workman will get 100 per cent wages, irrespective of whether the employer actually reinstates him in service or not. This means that if he goes in appeal in a higher court, still the workman will get 100 per cent wages.

After the Industrial Disputes (Amendment) Bill was introduced in the Lok Sabha, Government received a series of representations from different quarters and these were examined in detail and certain areas were identified and I have, in the course of processing this Bill in the other House, got clauses 2, 6, 7 and 21 amended. I would also like to mention on this occasion that the present Bill represents only the first instalment of legislative changes.

SOME HON. MEMBERS: Oh!

SHRI BHAGWAT JHA AZAD: What is "oh" in this? Should I say it is final?

SHRI N. K. P. SALVE: Their political bread and butter is being hit.

SHRI KALYAN ROY (West Bengal): It is the first stab in the back.

SHRI BHAGWAT JHA AZAD: And Government intends to convene the National Tripartite Conference

and the major recommendations of the National Commission on Labour, which were referred to by me earlier, would be discussed in that Conference. Thereafter, Government would be taking a final decision on the machinery for resolving industrial disputes, procedure for recognition of unions and connected matters.

With these introductory remarks, I would earnestly commend this Bill for the consideration of this House.

The question was proposed. . .

MR. DEPUTY CHAIRMAN: There are five amendments for reference to a Select Committee. At this stage, I would request the Members only to move their amendments. Mr. Shiva Chandra Jha.

SHRI SHIVA CHANDRA JHA (Bihar): Sir, I move:

"That the Bill further to amend the Industrial Disputes Act, 1947, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Shri R. R. Morarka
2. Shri S. W. Dhabe
3. Shri G. C. Bhattacharya
4. Shri Biswa Goswami
5. Shri Shanti G. Patel
6. Shri Hari Shankar Bhabhra
7. Shri Kalraj Mishra
8. Shri Rameshwar Singh
9. Shri Hukmdeo Narayan Yadav
10. Shrimati Mohinder Kaur
11. Shri Shiva Chandra Jha.

with instructions to report by the first week of the next Session."

SHRI M. KALYANASUNDARAM: Sir, I move.

"That the Bill further to amend the Industrial Disputes Act, 1947, be referred to a Select Committee of

the Rajya Sabha consisting of the following members, namely:—

1. Shri Kalyan Roy
2. Shri P. Ramamurti
3. Shri S. W. Dhabe
4. Shri V. Gopalsamy
5. Shri R. Ramakrishnan
6. Shri Ladli Mohan Nigam
7. Shri M. Kalyanasundaram

with instructions to report before the last day of the next session."

MR. DEPUTY CHAIRMAN: Shri Bagaitkar. Not here. Shri Shanti Patel.

DR. SHANTI G. PATEL (Maharashtra): Sir, I move:

"That the Bill further to amend the Industrial Disputes Act, 1947 be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Shri Bhagwat Jha Azad
2. Shri P. Ramamurti
3. Shri Kalyan Roy
4. Shri Nand Kishore Bhatt
5. Shri P. N. Sukul
6. Shri Kalraj Mishra
7. Shri Sadashiv Bagaitkar
8. Shri S. W. Dhabe
9. Shri Shiva Chandra Jha
10. Dr. Shanti G. Patel.

with instructions to report by the first day of the Winter Session, 1982."

SHRI SHRIDHAR WASUDEO DHABE: Sir, I move:

"That the Bill further to amend the Industrial Disputes Act, 1947, be referred to a Select Committee of the Rajya Sabha Consisting of the following members, namely:—

1. Shri Bhagwat Jha Azad
2. Dr. Shanti G. Patel
3. Shri Shiva Chandra Jha
4. Shri Indradeep Sinha

[Shri Shridhar Wasudeo Dhabe]

5. Shri P. Ramamurti
6. Dr. Bhaji Mahavir
7. Shri Nand Kishore Bhatt
8. Shri Ramanand Yadav
9. Shri Sadashiv Bagaitkar
10. Shri S. W. Dhabe.

with instructions to report by the last day of the Winter Session, 1982."

The questions were proposed.

MR. DEPUTY CHAIRMAN: Now, the Motion for consideration of the Bill and the amendments are open for discussion. Mr. Ramamurthi, you just start the speech and you can continue after lunch.

SHRI P. RAMAMURTI: Mr. Deputy Chairman, despite the soothing words that the mover of the Bill, the Labour Minister, had stated about this and despite all the protestations of good intentions about the solicitude for the welfare of the working class and the poorer sections of the people of this country that he shares, I would like to point out that the Bill's real intention is exactly the opposite of what he has stated.

As suggested by you, I shall explain my point later, after lunch.

रादन को कार्यवाही 2 बजे तक के लिये स्थगित हो जात है।

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

The House reassembled after lunch at two minutes past two of the clock. MR. DEPUTY CHAIRMAN in the Chair.

SHRI P. RAMAMURTI: Mr. Deputy Chairman, just before the lunch interval, I was stating that the real intentions of the Government are different from what the Minister of Labour has stated in this House. What

are those real intentions? The Labour Minister, said that it is the first instalment. I would like to point out to him that this is not the first instalment. Already ESMA is there. The second instalment was the Trade Union (Amendment) Bill which had been introduced in this House. The third instalment is the Hospital and other services Bill. Four instalments are already before this House out of which one has already been passed. The real intention of all these Bills is to deprive the workers of their ultimate weapon, namely, their right to strike with which alone they can force an unwilling employer to come to some reasonable terms with them. In this country you cannot cite a single instance in the history of the working class ever since industrialisation started here where the employer—whether in the private sector or in the public sector on his own accord, *suo motu*, came forward to improve the conditions of the working class. Inch by inch the workers had to fight for their right even to start a union. They had to sacrifice everything. Even now the position that is prevailing in many parts of the country is, whenever there is a dispute between an employer and the union, immediately its members and activists are dismissed on some pretext or other. This is victimisation and this victimisation is the common order of the day. Now, under these conditions, I want to point out that as far as this Bill is concerned, when it is said that it is intended and it is framed for the purpose of shortening the time of settling a dispute, I say that it is not so and it is actually the other way about. Why? A new authority called the Grievances Settlement Authority is being created. Despite my friend saying that that authority will consist not only of management's representatives, but also of the workers' representatives nobody knows who those workers' representatives are. Nobody knows anything about it. The so-called workers' representatives would really be the representatives of the management. And,

Sir, the method of nominating that person also is not known and nobody knows about it. Therefore, going by the way in which the Government has been going about this business, one can be sure that the so-called workers' representatives will be the stooges of the management only.

Now, first of all, you must go through the procedure of the Grievances Settlement Authority. The dispute must be referred to him and then, after that only, if the aggrieved party does not accept that, it goes for conciliation and afterwards, if the conciliation proceedings fail, it may go for adjudication by a tribunal and until the whole procedure is gone through, you cannot go on strike and the workers are deprived of their right to go on strike. And, Sir, as far as the adjudication proceedings and the conciliation proceedings are concerned, although in this Bill there is a provision, it has been provided that in each case of reference, the referring authority will specify the time-limit by which a decision must be given, yet there is a proviso, there is a loophole, that has been provided therein and that loophole, that provision is that the authority concerned, on the application of either party can, for reasons to be recorded in writing, extend the time. No appeal lies against that; he is just to write something. That is all. We all know that the employer is interested in prolonging the dispute because he wants to deprive the worker of his right to strike during this period. He wants a cooling off period. So, in order to prolong it as long as possible, the employer wants to do this and he can do it and that has been provided for. Therefore, all this talk that it is intended for shortening the time of settlement is a bogus claim, and it is not acceptable. We all know by practice what it is. We have been in the trade union movement for the last forty years or so and we know it. Why forty years? I have been in the trade union movement right from 1934 and so, for nearly fifty years I

have been in this movement and I know what it is. And, Sir, the main thing, as far as these Bills are concerned, is to penalise the workers, the working class. Before I come to the other things, I want to point out one thing and it is this that the Minister claimed in the other House, when he was introducing the Bill, that this Bill carries out the general principles and guidelines laid down by the Supreme Court. I want to quote the Supreme Court judgment itself and leave it to the people to judge as to who is telling the truth and who is not telling the truth. I won't accuse the Minister of telling a lie because, Sir, you will immediately say that it is unparliamentary and all that. So, I will use Churchill's words in this context and say that "he is guilty of a terminological inexactitude". Here is what the Supreme Court has said—it is a famous judgment and I quote—

" 'Industry' as defined in section 2(f) has a wide import. Where there is (i) systematic activity, (ii) organized by co-operation between employer and employee (the direct and substantial element is chimerical), (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss, e.g. making, on a large scale prasad or food), *prima facie*, there is an 'Industry' in that enterprise. Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector. The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations. If the organisation is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

"The consequences are (i) professions, (ii) clubs, (iii) educational institutions cooperatives, (iv) research institutes, (v) charitable pro-

[Shri P. Ramamurti]

ject and (vi) other kindered ventures, if they fulfil the triple tests listed above, cannot be exempted from the scope of S. 2(J)."

This is the judgment. It is clear-cut. And now the Minister comes and says that he is carrying out the guidelines of the Supreme Court.

What am I to say if such statements are made? I do not want to comment on that. It is for them to comment—the other side. Now, Sir, so many other industries are also excluded. Wherever there is employee employer relation, there should be collective bargaining. In all civilized societies the right of collective bargaining is accepted. If collective bargaining is not successful in a capitalist society, the only weapon that a worker has got is the right to strike. And the worker will not use that weapon just for the fun of it. You go and try and try to incite the worker with all your voice but you will not be able to make the worker go on strike if he does not want to. Therefore, Sir, the point I want to make is that in all civilized societies, in all capitalist countries, wherever there is employee-employer relation they have got the right to strike and the trade union right also. For example, I would like to remind the Labour Minister that in Great Britain during the War the hero of the War, Sir Winston Churchill, brought an Act whereby the Civil Servants' Association was denied the right to affiliate to the British Trade Union Congress. Although Churchill was the hero of the war, at the end of the war when the election was held, the British working class and the labour movement made that single issue the issue of the entire election and Churchill, the hero of the war, was defeated. His Government was defeated and the first act of the Labour Government that immediately came after that, was to repeal the act of Churchill. In England, in America, in France, in Germany, in Italy, we have got civil servants unions and these have the

right to organisation which is complete. There is no fetter for them. But here you want to fetter all these categories under some pretext or the other. It is contrary to the conventions that have been accepted—the ILO Convention that you have accepted. You don't bother. What does it matter? If the ILO Convention is there I do not care; it is my country; I do not carry it out. That is all. Therefore, Sir, it is no wonder that the present Industries Minister, who was the Labour Minister before, went to plead before the ILO that the third world countries must be exempted from the convention of the ILO. I am not surprised at that. But now even without getting that exemption you are carrying it out and you are implementing that thing. Now, in this Bill I would like to point out that a new chapter is being created here where you have not only provided for a grievances procedure but you have also stated that in the establishments under the Government—they may be public sector undertakings or departmental undertakings like the Railways or the other Defence establishments—in those undertakings under the Central Government if the Government is satisfied that a proper grievance settlement authority exists and a proper procedure is being laid down then it can be completely exempted from the operation of any part or all of the Industrial Disputes Bill. It means that these portions relating to no strike, when these proceedings are there, will be kept and not the others. Therefore, that authority's verdict will be final. We know that these authorities are the creatures of the management. They are paid by the management. How do you expect a man, who has been paid by the management, to stand by the workers? I do not understand. What a wonderful logic? This is the attitude. The working class should not fight for itself. But the working class will be helped by us. Does it want your charity? It does not want your charity. We will fight for our rights and get our demands fulfilled.

Then, Sir, a new chapter has been created which is called Unfair Labour Practices. And a schedule of unfair labour practices is there. I will just read that out, so that it is clear.

SHRI N.K.P. SALVE: What clause are you referring to?

SHRI P. RAMAMURTI: I don't remember the clause. If I refer to clause after clause, it will take some time. I will tell you. The Fifth Schedule is about unfair labour practices. The Government wants to show that it is fair, it holds the scale even between the working class and the employer. And, therefore, certain items are there with regard to what are unfair labour practices on the part of the management. What are they; "To interfere with, restrain from, or coerce, workmen in the exercise of their right to organise, form, join or assist a trade union or to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, that is to say—(a) threatening workmen with discharge or dismissal, if they join a trade union." Which employer will do it openly? In what world are we living? Which employer will say: If you join a union I will dismiss you? He will find some other excuse or pretext. Can an employer threaten a workman "If you join a union, I will dismiss you?" He will find some other pretext to dismiss him. The moment he joins a union which he does not like, the employer will find some other clause and immediately dismiss him, right or wrong. He will write a plausible clause. This is what happens. Then, I quote: "Threatening a lockout or closure, if a trade union is organised." Which employer will do that? Which employer will say that if you organise a union, I will close the factory or declare a lock-out? Which employer will do it? Similarly, 'granting wage increase to workmen at crucial period of the trade union organisation with

a view to under-minding the trade union organisation." Who will do that? Then, "to dominate, interfere with or contribute support, financial or otherwise, to any trade union, that is to say, an employer taking an active interest in organising a trade union of his workmen" He will never do it. He will ask somebody else to action his behalf. And before the court he will say, I have not done it; somebody else has done it; I am not responsible for what somebody has done. This is what the employer will say. None of these things can ever be proved in any court of law. All your sayings, all these things about the unfair labour practices on the part of the employer, not one of them can be proved in a court of law. The employer will always escape, even if you file a case. You will not dare to file a case against the employer. This is another matter. Even if you file a case, the employer will escape because none of these things will be proved in a court of law. I do not want to read all these things that you have listed. Every one of them will be dismissed by the court. But in the case of the workers....

SHRI J. K. JAIN (Madhya Pradesh): Such high respect you have for the judiciary.

SHRI P. RAMAMURTI: Because no evidence will be available there. I am saying that the employer will be able to circumvent it by not himself doing it but by asking somebody else to do it. Therefore, this does not mean anything. Even the best of the judiciary will not be able to find the evidence to convict him. That is my point. Whereas in the case of the employee, you will find evidence in every one of them. What is that? In the case of the employee, it is: "To coerce workmen in the exercise of their right to self-organisation or to join a trade union or refrain from joining any trade union, that is to say, for a trade union or its

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members to picketing in such a manner that non-striking workmen are physically debarred from entering the work places." The employer will certainly be able to get his management staff, all of them who are benodlen to him, who are afraid of joining the strike, who do not join the strike, the entire management staff will be put as witnesses. And you know the courts. The courts say. "Oh. They are all well-paid people, they are men of status. So many people give this evidence. How can we disbelieve it?" And the workmen will be dismissed. You know, in the courts even today when a witness gets into the witness box, the cross-examination begins with the questions. What is your status? What is your income? Are you paying income tax? Are you paying other taxes? As if people who pay taxes who have not good status are very truthful, and the people who do not pay the income tax, people who are agricultural labour are unreliable people. "Oh, he is a man of no status and, therefore, he cannot be believed." This is what is happening even today. This was the position during the British days. And this is the position that is happening even today. Therefore, when all the array of the management staff come and give evidence one after another, these things will be proved. Similarly, one of these things is like that

SHRI SANKAR PRASAD MITRA (West Bengal): That kind of cross-examination does not create any effect on the judge.

SHRI P. RAMAMURTI: I am yet to understand why a judge should at all allow such a question. If the judge is not weighed by such considerations, I am yet to understand why a Magistrate or a Judge or a Subordinate Judge or a Judge of the High Court should at all allow such

questions to be put to a witness. In that case these questions should be disallowed as irrelevant under the Evidence Act. Therefore, Sir, this does not convince me. Then for a recognised union to refuse to bargain collectively in good faith with the employer; who is to decide what is good faith? What good faith? (Interruptions).

How do you decide it is in good faith, I cannot understand this thing. Therefore, whatever the management says, if we do not accept or if you think that the management has put forward a reasonable proposal, which I do not think is reasonable, and I reject it, then you say, you have refused to bargain in good faith and you will be convicted. This is all that meant. Then you say, to indulge in coercive activities. I do not understand who is going to do this. Then you say, to stage, encourage or instigate such forms of coercive actions as wilful go-slow, squatting on the work premises after working hours or 'gherao' of any of the members of the managerial or other staff. All these things can be proved physically proved. Then to stage demonstrations at the residence of employers or the managerial staff members is another unfair practice. How solicitous to their feelings of the management you are. You are so very solicitous to their feelings, to the feelings of the managerial staff and you say that you cannot even stage a demonstration before an employer's house. So much solicitude about the feelings of the employer. This is the attitude. All these things can be proved. After all, when one hundred people go to the house of a manager, it can be proved easily. Therefore, with regard to the workers, every one of the things that you have provided for, can be proved and with regard to the employers nothing can be proved and I dare say that you will never take action against the employers because your entire history has been that. What has been the experience.

for the last 30 years? Have you ever taken action against an employer even though he has defrauded the payment of the provident fund dues collected from the workers? Have you ever taken action against any employer for having swallowed the E.S.I. money? It is already admitted by the Reserve Bank of India that over Rs. 1200 crores belonging to these people of this country, lent to these companies by the public sector banks, have got to be written off because that cannot be recovered because many factory managers have swallowed that money and they have built up empires with this money. This is your entire history. And, today you want to tell us that you are going to punish the employers. We never believe that. Therefore, Sir, take the recent example....

SHRI KALYAN ROY: There should be a sense of humour...
(Interruptions)

SHRI P. RAMAMURTI: Take the recent example of how the Swadeshi Cotton Mills, the management of these Mills, refused to pay the workers for five months.

Mr. Salve, that is section 36B, clause 21. They are hungry and then they sat inside the factory and when they sat inside the factory then the police was called and then a clash took place and in that clash one of the management staff was killed and the workers were also beaten up. Then you say, this is a law and order problem. You never thought that this is wrong and even today I want to point out to you that today in Kanpur, there is the J. K. Mill; there is a lock out. A lock out has been declared for the last five or six months. They do not ask your permission before declaring the lock out, even though the law says that. Yet, you never take action against them. This is your entire history. This is our experience. Therefore, when you say that you are providing

for protecting the workers against illegal lock-outs and all that, we do not believe you, because you will make any illegal lock out to look as legal and you do not take any action. This is what has been happening. Then you say about closures and you say that you are going to prevent the closures. I cannot understand how? If they go to the Supreme Court, what will the Supreme Court say; the man has not got the money. Suppose he gets, some creditor to file a petition goes for liquidation, then what can you do about it? Therefore, all these things that you say, that you are providing for in this Act, are just shibboleth, just to cover up the real intentions, and to prevent the trade unions from organised participating in strikes and depriving the workers of their right to strike. This is what you have done. And then the punishment has got to be read with is stated in this Bill but with what you have provided for in the trade-unions Act. That shows your intention. In that, you have provided that if any worker or any office-bearer of an union is guilty of any of these practices—the so-called unfair practices—in that case that union's registration can be cancelled and such a person cannot be an office-bearer of any union for life. Do you dare to prescribe such a punishment for an employer, I ask? Are you prepared to say that any employer who is found guilty of unfair practices shall not be in the management staff under any status, either as the managing director or director or an officer of a company and he is unfit to be there? Are you prepared to do that for the management staff or management? You dare not do that . . .

AN HON. MEMBER: Or to the owner.

SHRI P. RAMAMURTI: Yes, or to the owner? But when it comes to a worker, you would deprive him of his right to choose an office bearer for his entire life. This is your sense

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of justice. And then, why does it happen? All this happens because you think that the workers are being incited; and you want to prevent that incitement: I want to point out to you what Pandit Jawaharlal Nehru said in 1928 in Lahore presiding over the youth conference. Those words are ringing in my ears. At that time, the British Government, the colonial Government also used to say that the Indian people were being incited by irresponsible politicians against the British Government. And this is what Pandit ji said. It is not we that incite our people; it is the hunger and poverty and unemployment that are driving people to revolt. These are the words of Pandit Jawaharlal Nehru. And today, after 33 years, you are driving the working class in this country, the poor people in this country to revolt. Your entire history has been that. I would just read out to you what has been the condition of the working class after 32 years, in your welfare State; "It is generally believed that in the organised industry the workers have been able to get an increase in wages by exercising their trade-union power and the employers have yielded because they knew that they could, with their monopoly power, successfully shift the additional cost, wage cost to the consumers and thereby maintain their usual margin of profits. However, the data on the average annual earning of factory workers both in money and real terms show that workers have not received a fair deal. In most third World countries. Real wages in the factory sector have tended to increase faster than overall per capita income; but a singular exception to the general rule was India. "Note this India" is a singular exception. While in all third world countries, real wages have increased faster than per capita income, as far as organised industry is concerned, India has been the exception. Why? "It is also seen that compared to many countries, wage increase in India in

relation to increase in prices, has been the lowest. During 1956-1964, for instance, average annual rate of change in money wages was 2.9 per cent but consumer price increased by 4.7 per cent." So, 2.9 per cent wage increase and 4.7 per cent was price increase. "During 1956-1960, annual rate of change in real wages was minus .9, while it was minus 2.6 per cent during 1960-1964. Since then, the trend has not changed any significantly" Who has written this? It is not I or any marxist economist; this has been published in the Indian Labour Journal published by his own Ministry—Labour Ministry— May Number. You have accepted it.

This is the condition. Colonial day's wages are still prevalent. You went on increasing the prices. The policies which had been pursued by you significantly" Who has written this? It all these years have led to this position, where, the real wages of the working class have been depressed, as per your own figures. I would also like to point out that your figures for cost of living have been fraudulent. That they were fraudulent has been accepted unanimously by the Rath Committee consisting of workers' representatives, employers' representatives and an independent economist whom the Government of India appointed at that time. All these three parties have unanimously said that this much percentage has been a fraud, although the workers' representatives contended that the fraud was much more, to a greater extent. But even this fraud, you were not prepared, the Government of India was not prepared, to correct. The Finance Minister, at that time, Shri R. Venkataraman, said on the floor of this very House that they cannot implement that because it would mean transfer of crores of rupees from the employers to the pockets of the workers. This was the statement he made. Therefore, you are a party, the Government of India has been a

party, in defrauding the workers of what is due to them. You have been a party to the fraud committed on the workers by that Bureau of Statistics in Simla. This is what you have done. If the workers, today, want to revolt against that, why? I ask you. What else can they do? This is but natural. It is these kinds of good intentions which you are presenting through this Bill.

For example the other day, our Prime Minister agreed in America in an interview that the assaults which are taking place, which are being committed on the Harijans, in this country are really the assaults carried on by the landowners on the agricultural labourers. The same thing has been accepted by Shri Venkataraman in the other House in the course of a debate on the question of atrocities on Harijans. Therefore, all these years, you have not been able to implement a single one of your land laws. All these years, you have not able to implement your minimum wages law, for the agricultural labourers or for the other sections of the people. As a matter of fact, it has been admitted in the draft of the Fifth-Five Year Plan, which has been drafted by your Government, not by the Janata Government, that this cannot be implemented because you have not got the machinery to implement the minimum wages law for agricultural labourers. You say that you cannot implement that in a vast country like this. Wherever we have organised the agricultural labourers, we had to

face police repression. The police are sent. What is happening in Bihar? The Mahant is protected against the agricultural labourers by the Police. What is happening in other parts of the country? Even the Home Ministry has admitted this. Atrocities are being committed on the poor agricultural labourers, who are now getting awakened and who are asserting their rights. This is what you read. Mr. Venkataraman knows, for example, that in the whole of Tamil Nadu, the minimum wages law has not been implemented. He also knows that it is we who have organised the agricultural labourers and the tenants in the whole of Tanjore district, in Madurai, in Coimbatore and wherever we could. And we had to face Police repression at your hands, at the hands of the Congress Government. Many people had been shot. All those we went to get certain minimum conditions for the workers. Therefore, as I said, atrocities are taking place on the agricultural labourers; you are not implementing the minimum wages law. You have got a wonderful Act; the Contract Labour (Abolition) Act. But what is the use of that Act? Day by day, more and more workers are being put under contractors. You are talking of abolition of bonded labour. It has also been said that bonded labour has been abolished in Haryana. The Chief Minister of Haryana said that. But the other day, when the Supreme Court appointed a commission to go and find out the condition in Haryana, the commission reported that in Haryana,

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no industrial law is there, no factory legislation is there and that nothing is being observed; it has been found that they do not get even the minimum wages. This has been your record. In the face of this record, how can we believe what you say? Therefore, all your talk that you are extremely anxious about the condition of the poorer sections of the people does not wash. You are saying that we are politically motivated. Whereas, it is you who are politically motivated. Your solicitude for the interests of the working class is just hypocritical. Excuse me for saying so. It is just hypocritical, because your record is one by means of which the biggest monopolists in this country have grown richer and richer. Your policies have led to this condition. The money of the people has been sequestered. But no action has been taken against them or to stop that trend. On the other hand, not only the monopolists but the foreign multinationals also have had a hay day in this country. You go and invite the multinationals and say that we are paying the lowest wages, the wages are the lowest in this country. and, therefore, please come and invest in this country, exploit our labour and go back. This is what you are saying in so many words, it is there on the record. Therefore, when you are following this policy, when you want them to come here to exploit our labour, when you do it, naturally he who calls the piper also calls the tune. He is the piper, he is the master. "If you want

me to come, your labour must be disciplined." This is the time he wants you to play. According to him, discipline means whatever conditions might be meted out to the workers they must not fight. That is how this country has been brought to this condition of extreme crisis. It is because of the policies that you have followed all these years; we are not responsible for it. After all, the working class in this country today has increased productivity. The first Labour Commission's report pointed out that in the 10 years the working class has increased the productivity by 68 per cent. Now the Government itself has admitted on the floor of this House—I do not remember the date—that during the last 10 years, from 1970—80, the workers' productivity has increased by 28 per cent. That means, the worker has been made to increase his work, but on the other hand the wages have gone down day by day. This is your performance. If the Bombay strike has not been an eye-opener, if it has not opened their eyes, I do not know what else can open their eyes. Despite all the laws of repression that you can enforce after getting them passed by your majority, the working class in this country will not take it lying down. When the working class awakens to fight, when it rallies support from its allies, from its friends and other toiling sections of the people, nothing can stand in their way; all your laws will be thrown overboard. Even now, in spite of all these laws, how many strikes, which have taken place, are illegal? Do

you know in how many cases the Supreme Court has held illegal strikes to be justifiable and on that ground has awarded wages for the full period? Do you know that? Have you ever read the judgments? And today you are banning strikes and you are going to punish the people for that. But I must tell you that despite all the punishment the working class has given its blood and it has built up its trade union. Today ~~you may~~ have a stooge union to support you, but I may remind you that when the Janata Government brought forward a similar Bill—it was not so harsh as this—at that time the INTUC joined us and there was a big demonstration at the Boat Club. The then president of the INTUC, Shri A. P. Sharma, who now adorns one of the Ministerial chair of the Minister, came to address that meeting. It was a common meeting against that Bill. He started addressing the meeting by saying, “if Indiraji came all these Bills will not be there.” That was a common meeting of all unions on the single issue of opposition to that Bill, but he started misusing it for his Party purposes. Then there was a rush at him. I had to rescue him in that meeting from the people. So, the INTUC took a particular stand then.

SHRI SADASHIV BAGAITKAR: The present president of the INTUC may know this.

SHRI P. RAMAMURTI: He may have forgotten that. Today they are playing a different tune. All that I want to point out is that despite all these draconian laws, once the working class in this country woke up and

rallied the entire working people, nobody would be able to stand before them. I promise that we, of the trade union movement, whatever your law, whatever law you may pass, will give up our life but will not give up the right to fight. We will go on fighting and fighting till a change is brought about.

SHRI N. K. P. SALVE: Mr. Deputy Chairman, Sir, I rise to support this Industrial Disputes (Amendment) Bill, 1982.

SHRI KALYAN ROY: Not you.

SHRI SADASHIV BAGAITKAR: For you to support this Bill is something fantastic. (Interruptions).

SHRI J. K. JAIN: Sir, I am on a point of order.

SHRIMATI MONIKA DAS (Karnataka): Sir, we never disturbed them. Why are they disturbing us? (Interruptions).

SHRIMATI USHA MALHOTRA (Himachal Pradesh): You should be patient.

SHRI KALYAN ROY: Sir, I did not disturb him. I only wish he should not lend his name to this. Let Mr. J. K. Jain lend his name to this.

श्री जे. के. जैन : देखिए, कितने शांत वातावरण में हमने विरोध दल के जो नेता हमारे बुजुर्ग नेता हैं, राममति जी हैं उनको शान्ति से सुना । मेरा निवेदन है आपसे कि आप हमारे विरोधी दल के भाइयों से इस बात की हिदायत करें कि डिबेट अभी काफी चलना है इस तरह से हो-हल्ला मचाने से कुछ काम चलने वाला नहीं है । अपना अपना प्वाइंट आफ व्यू हर एक को रखने का अधिकार है मेरा आपसे निवेदन है कि आप हमारे माननीय सदस्यों से निवेदन करें कि जो भी स्पीचेज हों उनको शान्ति से सुने जिससे मजदूरों को लाभ आदि वे सचमुच चाहते हैं तो जरूर होगा ।

SHRI N. K. P. SALVE: Sir, I very much respect the sentiments of the Opposition so far as their views are concerned. But sometimes when the Opposition says "No", they mean "Yes" and sometimes when they say "Yes", they mean "No". This time when they are saying that I must not speak, I am sure each one of them wants to hear what we have to say on this. I am sure they are not so intolerant as not to hear a rational analysis of the entire Bill as such.

Sir, so far as the debate on this Bill is concerned, I cannot proceed further without expressing my anguish over something which happened when the hon. Minister started his speech. Some derisive comments were made; some sarcasm was shown; and some ridicule was sought to be poured on him. This is a Bill which had raised controversy in the other House and which has raised a controversy in this House. We can appreciate the sentiments of the Members of the Opposition and certainly it is their absolute right to consider the objections which they have to this Bill as valid and certainly they are entitled to express them in a manner they should like to. But if we have to respect their rights, equally they must concede that the rights of this side are equally sacrosanct. And at that time I wish they had listened to the Minister a little more respectfully, particularly so when we have in our Labour Minister a person who is known for his devout socialist commitments. We have known him as a man who has been a fierce and fearless crusader in our party in the cause for the emancipation of the downtrodden and the less-privileged and the under-privileged. And certainly Mr. Bhagwat Jha Azad was entitled to receive more respect than was shown to him. It has caused anguish to me because this sort of attitude does not add to the merits of their objections, to the merits of their protests, nor does it add to the dignity of the House.

So far as we are concerned, this Bill conforms to the philosophy, the ethos, the entire approach of my party and I submit, Sir, that despite the serious objections which have been raised, despite the protest, despite the vehement opposition in the other House and the opposition which we have seen just now by Shri Ramamurti in a very parliamentary language, we maintain that this amendment is a watershed in the labour legislation of our country. (Interruptions) You may not agree, but I shall explain my reasons. Maybe I am wrong.

SHRI SADASHIV BAGAITKAR: Mr. Salve, I am glad you have come in the open.

SHRI N. K. P. SALVE: All of us are in the open in democracy. In public life, every one has to be in the open. We have to go to the people who are the masters and who vote. And no body can remain concealed for too long. We shall come in the open. (Interruptions) Kindly listen to what we have to say, what is the rationale...

SHRI KALYAN ROY: You may be arguing for it. But basically we know you are opposed to it.

SHRI SADASHIV BAGAITKAR: That is why when Mr. Salve stands up, we feel as if he has been engaged...

MR. DEPUTY CHAIRMAN: Mr. Bagaitkar, I do not understand why you are disturbing him. Please don't disturb others. Otherwise it will create problems.

SHRI J. K. JAIN: Mr. Bagaitkar is such a senior Member. He should not do this. Kindly make him a back-bencher.

SHRI N. K. P. SALVE: Mr. Bagaitkar is a senior Member, a responsible Member and I am sure he will listen to our viewpoints in the matter be-

cause what we consider so far as my party is concerned... (*Interruptions*) ... We do not want any political party ever to consider that industrial disputes is an area which is the stock-in-trade of political parties. We want to hit at the root of that. While we want every measure to be taken whereby the welfare of the employees is protected, ultimately to consider that in the system in which we are we can come with a massive mandate without working for the employees and their welfare is to ignore the hard realities of life. But ~~certainly~~ there are certain areas in which we do not want the employers to be exploited. Industrial disputes, has been treated as their stock-in-trade, undoubtedly, by certain political parties and they have exploited both employers and employees for purposes of unscrupulous political profits and gains, and if there have been such unscrupulous political profits and gains, is there not to be a measure to curb them?

I have heard with great respect the speech of Mr. Ramamurti. Half of it was unrelated to the provisions of the Bill. He expressed his general dissatisfaction over the economic situation in the country. He talked of monopolies, he talked of disparities. All that may be correct but that is wholly irrelevant for purposes of debate today. So far as the provisions of the Bill are concerned, not a single provision did he say was wrong in basic principle and philosophy. All that he said is that in the implementation of these provisions which may be salutary, which may be well-intended by Mr. Azad but in actual practice they are likely to be abused. This virtually means, I think, that however good the remedy may be but because the remedy is likely to have certain deleterious, certain pernicious side effects, we should not have a good remedy at all. I was wanting to listen from him very carefully whether there is in principle such vehement and such strong opposition. I thought in principle there will be

some opposition. But if some agencies outside, if the Supreme Court or the High Courts, if the labour tribunals, if the managers of the various industries or their owners, if they are going to flout this willy-nilly and if they are going to harass employees, does it mean that the salutary provisions which have been made, the attempt which is being made to help the employees—all of them—have to be rejected lock, stock and barrel? Therefore, I submit, basically I accept that there is nothing wrong in the principle, the philosophy, the objective of the Bill as such. At least, nothing has been pointed out so far. Let us proceed a little further.

SHRI NIRMAL CHATTERJEE

(West Bengal): His reference to the unfair labour practice of denying the labour leaders, is it not a specific reference to the Bill? ... (*Interruptions*)

SHRI N. K. P. SALVE: I will deal with this aspect. What happens is, whatever laws we make, I do concede that in this country there is a situation where the underprivileged, the less privileged are not dealt out a fair measure. I was on a different question. Kindly bear with me when I say, does it mean that he must have come out a little later, does it mean that he should not come out with a measure which would be fair and equitable? Ramamurti, of course, read the Fifth Schedule, about unfair practices. I am going to read out a provision to show how the Bill is very favourably loaded in favour of the employees and how the employers are going to be booked if they indulge in malpractices—a large many malpractices so far as the country is concerned. It is going to book them and send them to imprisonment for six months plus fine and, in a very limited area, to stop irresponsible militant and wholly irresponsible trade unionism. Surely you don't want irresponsible trade unionism. I am sure you don't want dangerous trade

[Shri N. K. P. Slave]
unionism. You want a trade unionism which is for the benefit of all.

SHRI NIRMAL CHATTERJEE: Our definition will be different. You are defining differently... (Interruptions)

SHRI KALYAN ROY: He is dressing the rear.

SHRI N. K. P. SALVE: I am addressing you, Sir.

MR. DEPUTY CHAIRMAN: He knows it very well, but he wants to interrupt you.

SHRI N. K. P. SALVE: On whosoever's head the cap fits, it will fit his head. But if Mr. Kalyan Roy thinks that his head is too big for this cap, I have nothing to say.

Sir, I was submitting that so far as my party is concerned, we have always maintained that the employer's own interest can never be above the interest of the employees. They have to be co-extensive and any employer who keeps his own interest above the employees' interest or behaves in a manner which is detrimental to the interest of the employees must be booked. This is our basic approach to the whole matter. But there are conditions. We are to ensure that there is discipline in the controlled economy. Sir, the entire controlled economy as such will not fail if we were to rationalise the trade unionism, if we were to ensure that there is going to be no malpractice, there is going to be no victimization, there is going to be no harassment to trade unionism, honest trade unionism, in favour of the employees as against trade unionism, which, to my knowledge, exploits more than the employers—and some of them exploit both; when they are taking money from the employer, they are taking money from the employees and misuse...

AN HON. MEMBER: Do not generalize this.

SHRI N. K. P. SALVE: This is very unfair. Have I taken the name of your trade union organisation?

श्री जे. के. जैन : दाढ़ी में तिनका है।

SHRI N. K. P. SALVE: Now it makes me feel that you are speaking like a man who has guilty conscience. I have only expostulated a proposition. I have not said that we are exempt, I have not said that you are exempt, but you are protesting against this. Is that the philosophy? (Interruptions).

श्री जे. के. जैन : चोर की दाढ़ी में तिनका।

AN HON. MEMBER: Exceptions are there.

SHRI N. K. P. SALVE: I think if the gentleman is going to keep his mind closed and mouth open, nothing will come out. Understand what we have to say. This is one practice. We do not want moneys to play a role in the area of industrial disputes where moneys are taken by trade union from the employers and also from the employees to enrich themselves. Whoever does this has to be booked. To say that only one party does it or the other party does this to the exclusion of the others, is not going to solve the problem. Let there be introspection and let it be understood as to who the people are. It is undisputed that there have been cases of extreme indiscipline and irresponsible trade unionism. Let those people who indulge in this decide for themselves. I am not sitting in judgment and let the House also not sit in judgment.

Let me come to the provisions of the Bill straightaway.

SHRI KALYAN ROY: And tell us how they have been effectively used against the workers.

SHRI N. K. P. SALVE: I have tried to apprise myself from a very dear friend of mine in the Opposition, whose name I need not mention, as to the basic objections which they have. Courtesy to my friend prevents me from mentioning his name. I asked him just now in the Central Hall as to the essence of the objections against the Bill. He has been kind enough to enumerate them. A very knowledgeable person. I respect him very greatly. So I am going to deal with what I have to say about the provisions of the Bill in the light of what I have been enlightened about the real objections.

Sir, there is some dispute about the change in the definition of the industrial disputes. There are inclusions and there are exclusions. What was happening as a result of the definition given by the Supreme Court has a historical background. A certain definition was given by the Supreme Court and it divided the entire area of the industry as such to which these laws became applicable. The Supreme Court laid down certain positions and they said that a systematic activity organised by co-operation between employers and employees for the production or distribution of goods and services calculated to satisfy human wants and wishes, not spiritual or religious, but inclusive of all material things, etc. etc. constitute industry in the enterprise. Consequently, it happened that any institution, any activity openly, clearly on the face of it with altruistic objectives, any activity sheerly for missionaries, any activity for spiritual purposes, religious purposes also got integrated. Therefore it had to be rationalized. We do not expect the lawyers who are volunteering to run free legal service to get into this. We do not expect doctors serving in their spare hours in free medical centres to get into this. We do not want the ashramites working at the bidding of a Holiness. Divine Light personality to get into this. Therefore,

Sir, certain exclusions have been carved out. And I do not see any serious objection at least in this House. I believe in the other House a serious objection was raised about certain exclusions which are contemplated in the revision of definition of industry, but it has not been raised here. And I suppose by now it is realised that so far as the recasting by way of inclusion in the Bill and exclusion of industries from the applicability of the Bill are concerned, there is general agreement on that. Agricultural operation has been left out, hospitals have been left out, educational institutions and organisation engaged in charitable service have been left. So far as the amendment of the definition is concerned, it must be accepted that it is a very very worthwhile one, I am sure.

SHRI NIRMAL CHATTERJEE: Mr. Ramamurti referred to civil service unions from different places. Is the agreement relevant from that point of view? I am just drawing your attention.

SHRI N. K. P. SALVE: Civil service associations. I will deal with it. I have noted this point.

SHRI J. K. JAIN: Why should you deal with it? You ignore it.

SHRI N. K. P. SALVE: Kindly let me go to the positive aspects. I have dealt with the provision. And to some other provisions I will come.

Now I come to the Grievance Settlement Authorities. I heard what Mr. Ramamurti had to say about the Grievance Settlement Authorities. Not a word was spoken by him so far as the basic principle of the appointment of these Authorities is concerned. I maintain that he did not object to the principle of constituting the Grievance Settlement Authorities. All that he said is that the Authorities in all probability are going to be—I quote—“tools of management.” I have in mind that some are going to be tools

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of management. If out of a hundred supposing two or three are going to become tools of management, what have you to say so far as the salutariness of the constitution of such authorities is concerned? It is not going to ensure informal, expeditious justice? Is this not going to be a mechanism by which you will expeditiously resolve in an informal manner disputes and problems? What is the problem? You have only said that they are likely to be tools of management. I pose a counter question: Supposing it is not a tool of management, which way will it work? Will it not work freely, judiciously and justly for the benefit and interest of the employee and not harass him into getting himself involved in long drawn, long labyrinthine roads of litigation which he cannot afford, that an employee, a poor man cannot afford. I submit, Sir, this is one provision, for which I consider this Bill as a watershed. *(Interruptions)*

MR. DEPUTY CHAIRMAN: Please allow him. This debate cannot go on like this, if you get up and put questions.

SHRI N. K. P. SALVE: There are other speakers to follow me. If each one of them is blowing me to smithereens, I am sure they will beat me to pulp. *(Interruptions)*

MR. DEPUTY CHAIRMAN: Please sit down. You reserve your points and put them in your time.

SHRI N. K. P. SALVE: My submission, Sir, is, so far as this particular provision is concerned, which contemplates the constitution of the Grievance Settlement Authorities, I think, it is an extremely beneficial artifice, an extremely beneficial device, entirely to the benefit of employees, which will ensure expeditious justice to them. Mainly because in some cases there is going to be abuse

which is like to be, it does not make the principle, the principle underlying this policy, underlying this provision, nonetheless, commendable. This is one provision, this new provision, this innovation, which makes this Bill, according to me, a watershed.

Sir, I come to the limit for the disposal of the cases. They have to be disposed of in three months time, and the extension is given only for reasons to be recorded. The only objection which has been raised is not to the salutariness of the provision. It is entirely, wholly, I maintain, in favour of the employees. He must get the award within three months if a matter is taken in dispute to the Labour Court, but for extension purposes there have to be reasons in writing. Mr. Ramamurti said that this would be a force, that every time the employer would give the reasons, the Court would accept them. May I ask a question: Because in a particular case the Court is likely to act arbitrarily and succumb—assuming for a moment, which I do not concede—to the influence of an employer and gives extension, if two out of a hundred or three out of a hundred or ten out of a hundred cases were to happen like this, does it make this provision an improper provision? Does it mean that this 3 P.M.

provision is against the interests of the employees? What have you to say about the principle of this provision? Merely because it is likely to be abused in the exaggerated manner in which you are putting it, a very salutary provision, a provision which works on the principle that justice delayed is justice denied, such a provision also is sought to be attacked only on the ground that in some cases, extension may be sought without there being any reason. Sir, I do not think any court gives extension. They are slow to give ex-

tension if there are no reasons, but there is only one aspect of the matter which I must bring to the notice of the Minister. I want him to tell us—we are interested in the successful working of this Act—what happens if the labour courts are not adequate and they are not able to dispose of the matter in three months' time. That is the problem of the High Court and the Supreme Court. They want to take up a large many matters, but their hands are full and that results in any amount of pendency. Today an income-tax reference takes 15 to 16 years. Some matters which I argue, it is only my son who will take up hereafter. The way it is going on, I will not be surprised if the father argues a matter and it is taken up by his grandson. So far as assesseees are concerned, I have known of cases where the original assessee is dead, his immediate heir is dead and it comes to his immediate heir. In the Calcutta High Court, in which a tremendous amount of work was done by our very distinguished colleague here when he was the Chief Justice, he knows the tremendous pendency of cases. Now what assurance....

SHRI KALYAN ROY: In one court, if you don't pay any wage, immediately they give injunction.

SHRI N. K. P. SALVE: Where no wages are paid, not only no injunction should be given, but they should be sent to jail, and that is what Bhagwatiji has provided in this Bill. I am coming to that provision also. There is going to no stay and the moment a person is reinstated, 100 per cent wages have to be paid to him. I on the question of delay. What has Bhagawatji to tell us on this? You are providing a time limit that within three months it should be done. But it is not purely a

question of the convenience or inconvenience of the parties before the court. It is also a question of the convenience of the court itself. If the court itself has too many matters on its hands and it is not able to decide in three months' time, what is the redressal? Will they ask the two parties. "Willy-nilly for the sake of the court, you write out any blessed reason and on the basis of that blessed reason, I shall give extension." This is a very salutary provision, a very important provision, a very beneficial provision and we want that this must not be frustrated for want of adequate ways and means in courts to give justice.

I come now to clause 11 which speaks of payment of 100 per cent wages where the first court decides in favour of the employee. Not a word has been said about this salutary provision by Ramamurtiji. I have not heard any comments about this. I was not able to read any comments about this so far as the debate in the Lok Sabha is concerned. I would like to know whether or not this provision clause 11, goes the whole hog to save the poor, harassed employee from deprivation of the wages when the decision of the first court is in his favour. The moment a person gets the decision of the first court in his favour and his reinstatement order is made, then notwithstanding the fact that the employer has made an appeal either to the High Court or to the Supreme Court, the reinstated person is entitled to 100 per cent wages. And there is going to be no stay on this. Bhagwatji has gone the whole hog when he has divested the High Court and the Supreme Court of all right to grant a stay even in a deserving case. Now, so far as I am concerned, in principle I agree with it. I entirely agree with it; I agree with the provision. But I must draw his attention to the weaknesses

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and this is a legal aspect of the matter. The courts have held that every appellate authority has an in-built right, an inherent right to grant a stay. The moment the appeal is filed and redressal is sought for a particular direction on a particular issue, during the pendency of the matter before the court, it is the inherent right of the court to grant a stay. I will only read one para because I want him to consider this and make appropriate changes. We do not want that this provision should be diluted, but any amendment ~~has~~ *also to meet the test of constitutionality*. I do not want this clause, this particular section 17A to be struck down on the ground of constitutional validity. Article 19, Article 14 and other Articles are likely to be hit. I am reading a small portion, a small para, from the case of Income-Tax Officer vs. M. K. Mohammed Kunhi, Supreme Court decision 1969, Vol. 71, ITR 819. This is what the Supreme Court has to say. On the argument that there is no express power of grant of stay to the Appellate Tribunal and to the Appellate Authorities—and therefore, for a long time they could not give stay—in one particular matter when it was insisted that the right of stay is in-built with the right of appeal, that matter was taken up by the Supreme Court and this is what the Supreme Court says:

"If the Income Tax Officer and the Appellate Assistant Commissioner have made assessments or imposed penalties raising very large demands and if the Appellate Tribunal is entirely helpless in the matter of stay of recovery, the entire purpose of the appeal can be defeated if ultimately the orders of the departmental authorities are set aside."

Going a little further they have said:

"It is the duty of the judges to apply the laws, not only to what appears to be regulated by their express dispositions, but to all the cases where a just application of them may be made, and which appear to be comprehended either within the consequences that may be gathered from it."

Therefore, the ratio of this case is in case where the ultimate decision of the court, in favour or against, is likely to be frustrated, since the court intervenes and grants a stay, to grant stay is an inherent power. It is against this background that I want Bhagwati to save this. He may take it as my suggestion. In laying down any such thing, kindly enumerate the circumstances in which, the limited circumstances in which, stay can be granted in an extraordinary situation. Only one circumstance in which stay can be granted if the court finds that the order is... (interruption) because this sort of blanket ban which I accept is absolutely correct, which is very valid, which is reasonable for... (interruptions).

SHRI M. KALANASUNDARAM: Mr. Salve, there is provision for staying reinstatement. The only thing is wages alone will be paid. Still the management can refuse to reinstate.

SHRI N. K. P. SALVE: No management will reinstate and pay wages. They ask for stay of payment of wages. Please understand. I am arguing that you cannot divest the courts of their right to exercise their right of staying the payment of wages...

SHRI M. KALYANASUNDARAM: Now you are alerting the management.

SHRI N. K. P. SALVE: I am raising a legal issue. In spirit I

accept this. If Bhagwatji had done this, if you find that it is valid constitutionally, it does not hit any of the rights enshrined in the Fundamental Rights Chapter, so far as I am concerned, I will be more than happy.

May I come to the unfair labour practices to which considerable time was devoted by Ramamurthiji. Clause 16 of the Bill—unfair Labour Practices—reads in these terms. It seeks to insert two new Sections, 25T and 25U.

“25T. No employer or workman or a trade union, whether registered under the Trade Unions Act, 1926, or not, shall commit any unfair labour practice.

25U. Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both”.

For unfair labour practices a provision is made that a person who is guilty of an unfair labour practice, will be imprisoned in addition to bearing the burden of fine. What are the unfair labour practices, have been enumerated in the Fifth Schedule. The first part of the Fifth Schedule refers to unfair practices on the part of employers and the trade unions and the employees, and they are 16 in number. If one were to determine the gamut... (*interruption*). I do not know what is there to laugh about it!...

SHRI SADASHIV BAGAITKAR: You are stressing too much on numbers.

SHRI N. K. P. SALVE: The gamut of this is very wide and large. It is not so quantitatively. I am speaking qualitatively. Qualitatively, the first of the unfair

labour practices on the part of the employer is to interfere with, restrain from, or coerce, workmen in any manner from forming or organising or assisting a trade union and further it is provided that any one threatening a workman with discharge or dismissal or lock-out or granting wage increase to workmen or opposing this sort of formation of trade unionism or assisting trade unionism will be deemed to have committed an offence under the law. Will anybody say that this is done for the benefit of the employer by the Labour Minister? Who is there to deny that the worker under this provision is protected against interference, coercion and duress directly or indirectly indulged in by the employer and against all other unfair labour practices? What is the wrong the Labour Minister has committed in bringing forward this provision?

The second of the unfair Labour practices is that the employer should not dominate, interfere with or contribute support, financial or otherwise, to any trade union. It further says that no employer should take active interest in organising a trade union of his workmen.

Sir, I have not been a trade union worker. But I have had the privilege of representing for ten years a constituency where one of the largest coal mines had been in existence and this, sir, was at a time when the coal mines had not been nationalised. In those days it was my most painful experience to see that but for a person here or there, several trade unions were in the pay-roll of the employer and nothing could be done against the employer. That is sought to be checked by this provision here. What is wrong in it? What is wrong in enumerating this as one of the unfair labour practices on the part of the em-

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ployer? Kindly name a single item here to which objection could be taken in principle? That is my greatest regret. I would say that sentiments are not going to play any major part in this. To say that in the totality it is disadvantageous to the labour and therefore we are opposed to it is not proper. This sort of ambiguous, equivocal affirmation is not going to help. Let us come to brassstacks. Let us sit down and reason it out. Can you object to any one of these on principle? There are sixteen unfair labour practices on the part of the employers listed out here. Now, tell me which area is left out.

Now, let me come to unfair labour practices on the part of workers and trade unions to which objection was taken. I know my time is running out. The first one of these unfair labour practices is to advise or actively support or instigate any strike deemed to be illegal. Mr. Ramamurti was saying that there are thousands of illegal strikes in this country and he was expressing his anguish and distress because the machinery is not able to control such illegal strikes. He said that such strikes are rampant in the country and he thought that there will now be a spurt in their number. If the Labour Minister has included in this Bill a provision which says that if a worker advises or actively supports or instigates such an illegal strike, he will be put behind the bar, what wrong has he committed? The greatest objection that has been raised is against the provision which says that a worker should not demonstrate at the residence of the employers or managerial staff and if he does it, it will be deemed to be an unfair labour practice. On this it is said that where a person in charge of the management openly and defiantly flouts

the award of a court or tribunal or a High Court and refuses to make payment to his employees for days, he should be considered to have committed the worst sort of atrocities on his employees and even such a person is protected under this provision because even a peaceful demonstration cannot be held by the aggrieved workers at the residence of such a person. This has been the argument from the other side. As against this, I have a counter question to ask. However unscrupulous, however undesirable, and however culpable and criminal an employer may be, there is one basic question. At the place of residence of such a person, are not his wife, are not his children and are not other unsuspected people entitled to protection, if they incite the workers to go there and demonstrate?

SHRI KALYAN ROY: Suppose he is a bachelor?

SHRI N. K. P. SALVE: If he is a bachelor, you catch him in the premises itself because he will be more in the premises than in the house. For long years, Sir, Mr. Kalyan Roy had been a bachelor and it is good that he is married now.

DR. BHAI MAHAVIR: Even if he were a bachelor, he may have his parents.

SHRI N. K. P. SALVE: Yes, he may have his parents. There may be other people in his house, his parents may be there and there may be his children, small children, petty children. How are you going to protect them? You must strike a balance of convenience. There may be one out of one hundred individuals who may be guilty of this unscrupulousness. But he may also have his wife and children and other people who are innocent and, on the other hand, there are 99 people

whose wives and children and other people need the protection in the house. Is it necessary that even a peaceful demonstration should be conducted or organised at his house? Then, Sir, there is one more basic question: How does the person gain by going to the residence rather than by going to the office and holding the demonstration? A peaceful demonstration, if it is going to be effective, if it has to be effective, can be organised there rather than at the residence. May be that there is a *bona fide* case of injustice. But there are 99 *mala fides* when this sort of demonstration is held at the residence of the people. Therefore, Sir, taking the balance of convenience, I think, this is again a salutary provision.

Then, Sir, something I said about "good faith". An unfair labour practice *inter alia*, Sir, is for a recognised trade union to refuse to bargain collectively, in good faith, with the employer. Ramamurtiji asked: "What are you talking about 'good faith'?" "I will submit to him, Sir, with great humility that 'good faith' and '*mala fides*' are legal concepts and I can cite a catena of cases, a heap of cases, a chain of cases, of the Supreme Court, of the House of Lords, and so many other cases where what is a 'good faith' and what is '*mala fide*' have been defined in terms. Now, if the courts are not going to listen only to *mala fide* or *bona fide*, it is a different thing. But, Sir, '*bona fide*' and 'good faith' are legal concepts, very much known to the people in the legal world.

In the end, only one point I would make and I am done. There was some reference to the courts and it was said that whenever you go to a court of law—somewhere he has said that in his speech—everytime there is a decision there is a verdict against the employee

and it is always in favour of the employer, and that a discriminatory treatment is sought to be given. Sir, I submit one thing. I am not conversant with what is happening at the lower courts' level. But this sort of a comment against the High Courts and the Supreme Court is very uncharitable. Sir, I know it for a fact that they give preference to service matters. The moment a question of the services is involved, they give priority to it. Only the other day, Sir, in the High Court, there was a case. An assessee was fighting against the confiscation of Gold and High Court refused to grant any stay. They were requested to take up the case immediately. He said: "Kindly take up the matter expeditiously because millions of rupees' worth to gold has been confiscated." Then, Sir, the Judge said: "So much the better because it is safe and secure with the Government of India." The party said: "In that case much capital is blocked away and what will happen to the right, the fundamental right, of a man to carry on his trade?" Then, Sir, the Judge remarked: "Mr., we have a large number of cases a large number of service matters pending, where, on our verdict, depends the welfare, life and living of the family of a man. We have to give priority, if at all we have to give, to these service matters. Only and not to the question of the return of the confiscated gold." Therefore, Sir, it is very uncharitable and it is a very uncharitable comment on the courts to say that these services matters are not being given the priority or are not being treated with the urgency that they deserve or that the court is biased and so on. If at all there is any bias, the bias is in favour of the employees and their bias is in favour of the employees and it has to be in favour of the employees. Therefore, Sir, I maintain

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in, the aggregate, that this Bill is an excellent measure, a rational measure, which rationalises the whole thing and brings logic into the main Act and any opposition to this, Sir, is a political opposition only, is an opposition by those who treat the industrial disputes as stock-in-trade and indulge in that for purposes of political gains and political profits, in an unscrupulous manner. Thank you, Sir.

MR. DEPUTY CHAIRMAN: Yes, Dr. Shanti Patel.

DR. SHANTI G. PATEL: Mr. Deputy Chairman, Sir, I was listening very patiently and carefully to the arguments that were being advanced by Mr. Salve.

SHRI N. K. P. SALVE: Half-a-minute, Sir, I am compelled to make a reference. Mr. Ramarmurti was not here. He has the courtesy to send me a note saying that he is going to get his blood pressure checked. I requested Mr. Ramarmurti not to speak for such a long time. Twenty minutes time is sufficient. Please make sure that whenever he speaks, it should not be for more than twenty minutes, because his life is far too precious for all of us.

DR. SHANTI G. PATEL: When I was listening to him my neighbour Shri Shiva Chandra Jha whispered into my ear that Mr. Salve is a good tax evasion expert.

SHRI N. K. P. SALVE: I object to this sort of nonsense. Are you allowing this sort of nonsense in this House?

MR. DEPUTY CHAIRMAN: I will see to it.

SHRI J. K. JAIN: Get it removed from the proceedings. (Interruptions)

SHRI N. K. P. SALVE: The amount of tax I have paid... (Interruptions)

All the taxes I have paid. What tax have I evaded?

DR. SHANTI G. PATEL: You are not evading. You are helping those persons who are involved in tax cases, you give advice...

SHRI N. K. P. SALVE: Please speak correct English.

SHRI J. K. JAIN This cannot remain on record. He is calling... (Interruptions) It should be expunged. (Interruptions)

SHRI N. K. P. SALVE : What does he think? It is lack of expression on his part.

श्री शिव चन्द्र झा : मेरा प्वाइंट आफ़ आर्डर है । मिस्टर साल्वे फ़ॉर्थ लोक सभा में रहे हैं । 1967 से 1971 तक मैं भी उस समय वहाँ था और उन दिनों से इनके भाषण मैं सुन रहा हूँ । यह अच्छे वकील हैं । हर तरह की सलाह देते हैं कचहरी की बातों को ले कर मामलों में उसमें टेक्स की बात भी आती है उसके मुक्तिक भी देते हैं । यह मैं इनसे कह रहा था ।

श्री एन० के० पी० साल्वे : अपने प्रोफ़ेशन में सलाह देने में क्या होता है, यह दूसरी चीज है मगर पटेल साहब ने एक दूसरी बात की । (व्यवधान)

डा० शान्ति जी० पटेल : मगर मैंने नहीं कहा, मैंने तो उनको कोट किया ।

He is a good sportsman. (Interruptions)

SHRI N. K. P. SALVE: Carry on.

DR. SHANTI G. PATEL: Actually I was going to pay my compliments by saying that I found

him a good advocate of a very bad case of the Government. (Interruptions) If he had waited for a moment, he could have known that. But even in his observations he could not help referring to one aspect of the matter where he said that even the so-called beneficial provisions of payment of 100 per cent of wages, when the statement is in order and when the case is before the High Court in appeal, may not be upheld for certain reasons that he gave as an advocate. I would only like to say that even this so-called beneficial provision may not remain there. But it is worse than that. I am sure it must not have escaped his notice. The original provision of the Act, if he would have cared to refer, says that an appeal can go, and it is for the High Court or the Court concerned to say... whether the payment of wages should be given or not. Now, they have brought a provision under which the workman concerned or the victim would be required to prove that he has no other source of income; he is not earning from another place. Now, this is something which is going to work as a constraint on a person who is victimised, who is otherwise a victim. This is how this particular provision, this so-called beneficial provision, is going to work in practice against the interests of the workers. Anyway, it is for them to decide. Sir, this is a piece of legislation which was enacted during the time of the British. The British enacted this particular law with certain objective. Their objective was to rule over this country and to keep all the classes under bondage. It is surprising that after 35 years, after so many years of Independence, we have not been able to overhaul this particular piece of legislation so that the new Industrial Relations law is able to meet the challenges of the present situation in the form of economic development and industrial harmony and to suit the history and culture of this country. What the Govern-

ment has been doing all these years is to bring forward amendments from time and time. You are well aware, Sir, that throughout the rule of the Congress Party, they have said that this is the first instalments. Such instalments have come in the past also. But the main structure of the law has remained the same. This particular law which gives benefit to the employers more than anything else has been allowed to continue. What should have been done was to abandon this approach of patchwork and to bring forward a comprehensive industrial relations law. The Labour Minister, who is a good friend of mine, said that this is the first instalment. When we discussed this thing with his two predecessors, they also said that they would bring forward a comprehensive law. They were doing this and that. It is possible that after this Bill he may be shifted to another good or better Ministry and we will have to deal with another Labour Minister and he may have to bring forward another instalment. The fact is that the law which should be completely overhauled is not being overhauled all this time.

Another aspect of the matter is this. A reference has been made that they had discussed it with the central trade union organisations. I would like to submit with all respect and ask which trade unions have agreed to certain obnoxious provisions which have been made a part of this particular Amending Bill. I would particularly like to refer to the restrictions put in the definition of industry and non-application of this Bill in cases of certain industries like hospitals or educational institutions or certain other charitable institutions and the like. This non-application has not been agreed to by any central trade union organisation. Therefore, it was, to say the least, very unfair on the part of the Labour Minister to say that there has been a certain consensus

[Dr. Shanti G. Patel]
on the basis of which this Bill has been prepared and now being piloted in this House.

I would refer to another abnoxious feature, i.e. the exemption which is given under Section 36(d) or so now under which any industry under the control of an appropriate Government can be exempted from all or any of the provisions of this particular law. Sir, these two provisions are sufficient to show that we are going even beyond the Britishers. At least, the Britishers kept these two provisions in the Industrial Disputes Act. The first provision has been interpreted by the Supreme Court now. It has covered hospitals and the rest of the industry. What the Government has tried to do is to set the clock back. Now, they want to be covered by this particular piece of legislation. He will turn around and say: "I am bringing another Bill and I am covering that." I am sure he remembers that there also he has tried to remove hospitals whether under the Government or charitable institutions or philanthropic institutions. He is even taking away the present right enjoyed by the workmen so far and guaranteed by the Supreme Court. This section is the most exploited section, most unorganised section and this section was given certain rights by the Supreme Court through the interpretation of the Industrial Disputes Act. Now, this particular right also, the Government, of which he is the Labour Minister, wants to take away. Similarly, Sir, there is no provision for exemption in the Industrial Disputes Act. There also, he is trying to have the powers with the Government, 'the appropriate Government.' The application, the implementation of it is going to be a very difficult and complicated affair. But he wants to have this particular power—"Where only the Government is satisfied." The word 'satisfied' is such a word, beyond which it is very

difficult for any court to go and find out. So, my friend, Mr. Salve, has been telling that trade unions have been indulging in this and taking money. May I say in all humility that here is an opportunity for the Government to make money? They have been making money in other ways. I would also refer to all those persons who are concerned with the running of the Government another aspect in this particular matter. Sir, it has been said that the penalties have been increased as far as the employers are concerned. May I ask the Labour Minister: How many defaulting employers have been proceeded against, even with the lesser amount of penalties? If you see the whole case where the number of breaches of the provisions of law are there, there are a number of industrial court awards which are not even implemented. Still, the Government does not care to take action against the defaulting employers. And they want this. What I feel is, my impression is that certain powers are sought to be taken by the Government by sugar-quoting something, by saying that we are trying to give something to the labour, say, in the form of, as it was said, this 100 per cent wages or maybe increasing some scope of the present definition of industry which has been already done by the Supreme Court in its famous judgment on Bangalore Water Board. I would, therefore, like the Government to reconsider this whole point *de novo*, not making it a point of prestige. Not only this, Sir. An assurance was given by his predecessor, Mr. Tiwari—let me name him and say—that all these matters will be thrashed out at the tripartite conference, that is the Indian Labour Conference. It was made a part of the agenda. But such a conference has not taken place. Now, a cover is sought to be taken under the discussions that took place between the Minister and some individuals, whatever organisations they might be representing. What

is necessary? There is a tripartite machinery, and the convention was to raise these issues before this particular forum, go into them thoroughly and then come to a decision, and according to the consensus go ahead with the Bill. But that particular practice has not been followed, and there is a certain undue haste. I do not know why this indecent hurry is being indulged in, as it was done today when consideration of this particular Bill was placed in this House. Sir, it has been said that this is being done with a view to having speedier resolution of industrial disputes and the National Commission on Labour recommendations being implemented. Sir, as I submitted a little earlier, the speedier application is only one of the various amendments that are sought to be made. It is a very insignificant part of the whole picture which is sought to be placed in the form of the amendments to the original Act. Even there are several recommendations of the NCL on which there have been agreements. They are not being proceeded with. This is something which is being taken. This Report was published. I think, in 1969, Now, 13 years have elapsed. After that, they want to come around and say that we would like to implement some of the recommendations of this particular Gadgil Commission. And the only thing that seems to have been picked up is the unfair labour practice.

The Vice Chairman (Shri R. Ramakrishnan) in the Chair

Sir, may I submit that this concept of unfair labour practice has been taken from America? There, they have this phrase which is commonly used. But here they have taken only the phrase and implemented it in their own way, in their own fashion in this particular country.

Sir, there the whole concept is based on the workers, that the

workers must have a right to organise, must have a right to choose their bargaining agent without any coercion or interference from the employer. Thirdly, and the most important thing is that the employer must bargain in good faith with the union concerned, the bargaining agent, that is selected through the secret ballot, and the workers concerned. Now, all this is sought to be done away with. There is a case law in that country which lays down what is unfair, which lays down what is unfair, unfair. There has been a case law and there has been no occasion for them to tabulate this. Sir, there the unfair labour practices are tabulated. Even with the best of intentions the courts are bound to get lost in interpreting those particular words and phrases, and there are experts like Mr. Salve and others who generally help the employers because the tax evaders are generally employers. (*Time Bell rings*). I am sorry, he is not here...

श्री जे. के. जैन : यहां यह बात तय हो चुकी है कि किसी माननीय सदस्य के खिलाफ कोई बात नहीं कही जायेगी । हमारे माननीय सदस्य यह कह रहे हैं कि एम्प्लायर्स टैक्स-ईवेडर्स होते हैं और साल्वे जी इन टैक्स-ईवेडर्स का साथ देते हैं । इस तरह की बातें किसी माननीय सदस्य के बारे में नहीं कहनी चाहिये । यह पहले तय हो चुका है । मेरा निवेदन है कि आप इसको प्रोसीडिंग्स से निकाल दें ।

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Is it unparliamentary?

DR. SHANTI G. PATEL: Sir, even a murderer will be defended by a lawyer. What is wrong in this? Tax evader has also a right of defence in a court of law. Anybody can defend him. (*Interruptions*).

SHRI J. K. JAIN: What are you saying? Will he accept this?

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Dr. Patel is not meaning to say that Mr. Salve is a tax evader. He is saying...

SHRI J. K. JAIN: Sir, he says that employers are tax evaders and Mr. Salve helps those people. What is this?

DR. SHANTI G. PATEL: It is against professional ethics not to accept. . . (Interruptions).

SHRIMATI USHA MALHOTRA: Sir, I would like to intervene because I do not think it is very necessary you donot have to describe Mr. Salve. He is a lawyer and that is a fact and what has this to do with the Industrial Disputes Bill, 1982.

SHRI SADASHIV BAGAITKAR: Is it unparliamentary? Why are you wasting the time of the House like this? (Interruptions).

SHRI J. K. JAIN: What do you mean by saying. Is it unparliamentary?

SHRI SADASHIV BAGAITKAR: Is it unparliamentary? That is the decision of the Vice-Chairman.

THE VICE-CHAIRMAN SHRI R. RAMAKRISHNA): Dr. Patel, as long as you do not make any personal references, it is all right. So, you please proceed.

DR. SHANTI G. PATEL: Sir, I am the last man to make any derogatory references. I can speak in praise of Mr. Salve both inside and outside the House. And, as a good lawyer, he must take up whatever cases he gets.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): That is all right, please proceed.

DR. SHANTI G. PATEL: Then, Sir, I was referring to the definition of 'industry', and particularly the

Government's action to narrow down the scope of the definition of 'industry' and thus take away the right of the workers to get organised, and get advantage of certain provisions. Sir, it has been said in this context that we are bringing this particular law, piece of legislation. . . (Time Bell rings) Sir, I will take a few more minutes.

This brings me to what is happening in Bombay. They are saying here, Sir that we are bringing this law to have industrial harmony, industrial peace. Here is a strike which has been going on for the last seven months and the Government's legal machinery or the law which has been enacted in the State of Maharashtra, has not been able to help in any way in resolving this particular dispute. Sir, this is very pertinent. I am raising this point because the labour management problem cannot be solved through statutory measures. Statutory solutions are not the solutions which can be of help in preservation of peace or industrial harmony. They require more enlightened and more imaginative approach so that the both the parties are kept together, aken into confidence. Here the only objective seems to be, let us make a number of laws which can help us in achieving this particular objective. As far as exemption is concerned, I consider it to be most obnoxious. Regarding unfair labour practices, I have made by observations. I would only say that it will come in the way of collective bargaining and development of free trade union movement in this country.

Regarding the settlement authority, I would only like to submit that I was listening the speech of the Labour Minister who tries to correct the lacuna which is obvious in the law by saying that he will have the workers' representatives nominated by the employers. I am very grateful to him for making this correction. But what is important is the number of representative, who are going to represent the workers. If that machi-

nery is to function, they have to be persons nominated by the recognised trade unions, any trade union which is recognised through secret ballot of workers. Then this machinery will function; otherwise it will just fail like what is called the Workers' Committee at present which is there under the law but does not function at all as the experience has shown over the last several years.

Regarding closure, I will not like to dilate more; there are a number of loopholes. But there is section 33(c)—Recovery of the amounts which are due to workers. Sir, under the present provision, a worker can make his claim after any number of years; even after he has retired or he is dismissed or discharged. He can go and make a claim. But here is a Government which wants to restrict this right of workers which is being enjoyed for so many years, by saying that he must make a claim in 3 months. In the industry, it is very difficult for workers to make a claim because as soon as they make a claim, they face dismissal or discharge. I would only like to quote and end my speech. Only a few days back, there was a seminar held by the National Labour Law Association which the learned Minister went and inaugurated. I am sure he must have looked—at least glanced—at the conclusions of this particular seminar. This seminar was devoted only to the number of instalments in the form of amendments to Industrial Disputes Act which are going to follow, that is, the present Bill as well as some more Bills which are going to be considered later on. And this is what they say: "The general view of the Seminar was in favour of integrated and comprehensive industrial relations law. In this view, the Seminar felt that the definition of the term 'industry' in the Industrial Disputes (Amendment) Bill 1982, was unduly restrictive." I am referring to this seminar because this was composed of a number of eminent people and I am told one of the Additional or

Joint Secretaries of the Ministry of Labour also was the main prime mover behind this particular seminar. I further quote: "The definition of the term 'industry' should be widened and all the activities including hospitals and educational institutions should be dealt with in a single enactment".

I may refer also to another conclusion. "The provision relating to unfair labour practices should be deleted." It has already been stated. "The proposed section 36B for grant of exemption should be deleted." In fact, I can refer to a number of them but I do not want to take the time of the House.

While concluding, I would like to submit that this makes me suspect that the Government has certain sinister ulterior motivation in bringing this legislation. They cannot bring certain obnoxious features like exemption, non-application and even labour practices, as has been done in the present form. So, they have tried to sugar-coat it with something but their real motivation is to see that the trade union movement in this country is controlled by the Government and they are able to dictate as to how it should be run and how the people who are leading trade unions can be disciplined by threats of imprisonment and heavy fines, while the employer will always escape as pointed out by my predecessor earlier because they have a lot of finances and even when the fine is imposed, it is not the employer who is going to pay but it is the company which is going to pay. While concluding, my appeal to the hon. Minister is that he should not make the passing of this Bill a point of prestige; but he should try to understand our arguments. He has been in the habit of saying that whatever the Opposition says is politically motivated, and nothing else. Let him not just rest on that kind of argument. Thank you.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Mr. Ramachandran. Before he speaks, I would request hon. Members to be brief. Already, the time taken is one hour and forty-five minutes. The total time allotted by the Business Advisory Committee is only two hours. All parties....

SHRI SADASHIV BAGAITKAR: Mr. Vice-Chairman, Sir, we have a submission to make.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Please hear me what I say. All the parties, including the Congress (I), have taken much more time, in excess of the time allotted to them. As a result, the time left for the remaining speakers is hardly anything.

SHRI SADASHIV BAGAITKAR: Mr. Vice-Chairman, Sir, we are discussing this Bill under handicaps. When it was moved, we made our position very clear. Even the requirement in regard to notice of two days has been waived by the Chairman. We are discussing this important Bill under handicaps. We received the Parliamentary papers at ten. On the top of it, now, you want to scuttle the debate.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): I am not scuttling the debate, Mr. Bagaitkar. You must not misunderstand me. I am only requesting hon. Members to be brief.

SHRI SHRIDHAR WASUDEO DHABE: Do not scuttle the debate.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): I am not saying that this will cut into the main points of the debate. Now, Mr. Ramachandran please.

SHRI M. S. RAMACHANDRAN (Tamil Nadu): Sir, in the process, my time has been taken.

Sir, I rise to support this amendment Bill. I am very much surprised why there is so much opposition from my friends on the other side to such a harmless and beneficial measure like this. As a trade union worker, not a boss, my experience tells me that the definition of the term 'industry' under this Bill is more beneficial, more comprehensive and more exhaustive than the definition which we are having under the present Act. Through this amendment, we are bringing a large number of workers under the coverage of the term 'industry'. Of course, there are certain exemptions which have been granted. As my learned colleague who spoke from my party said, as has been explained by him, what is sought to be done, is an exemption which is required by certain considerations, in the larger interests of the society. It is true, the Supreme Court have brought within the coverage of the term 'industry' hospitals and certain other institutions also. This amendment is, in a way, against the decision of the Supreme Court. But, in a welfare State like ours, not only the interests of the employees, but the interests of the society as a whole also should be taken into account. While taking such a view, this exemption cannot be said to be against the interests of the workers, or, it cannot be said that by this definition of the term 'industry', the rights of a large number of workers are being taken away. After all, the number of workers who will be affected by this exemption, is very much negligible when compared with the total working population in this country. While supporting this amendment, I would appeal to the hon. Minister to provide adequate and effective machinery for redressal of their grievances. The mere fact that they are taken outside the purview of the Industrial Disputes Act, should not come in the way of getting their grievances redressed. The Government should take steps for providing adequate and effective machi-

very for redressal of all their grievances.

The other point which I would like to submit, Mr. Vice-Chairman, is that I am surprised at the opposition made by some hon. Members on the other side to the amendment relating to the definition of "unfair labour practice." The term "unfair labour practice" has very often been used by the trade unions themselves. Really speaking, Sir, after the royal Commission on Labour in the independent India there was no proper study made of the conditions of the workers, of the various labour laws, etc. The trade unionists including my friends who are sitting in the opposition, made a demand that a National Labour Commission should be constituted to go into all the aspects of the working conditions of the labour in the country, all the labour laws and all aspects connected with the labour and the trade union movement in the country. On that Commission representation was given to all the trade union centres that were existing then. The AITUC, the HMS and all other major trade union centres were there. Maybe, the trade unions which did not exist then did not get a berth, they might have come in only in the recent years and for that nobody can be blamed, but all the major trade unions which were there in existence at that time were given representation on this National Labour Commission. One of the unanimous recommendations of this National Labour Commission was that we should not allow the trade union movement of this country to function in a rule of jungle, there should be a rule of order, there should be a rule of law and there should be a code of conduct for both the sides. There should be a code of conduct not only for employees but for employers also. Even before, that, the Indian Labour Conference, which my learned previous speaker referred to as a national tripartite conference which has not

been convened in the recent past, itself evolved, what is called, a code of discipline in the year 1957. This code of discipline stipulated certain norms, standard of behaviour for both the employees and the employers. This code of behaviour, this code of disciplining was later on accepted by most of the Central trade union organisations and almost all the registered trade unions, who got themselves registered subsequently. By and large, this code of discipline was not only recommended by the Indian Labour Conference which was a national tripartite body which consisted of the representatives of both the employer and employee sides, but this was also ratified by the trade union movement of this country, and based on this code of discipline the Government of Kerala introduced legislation. They wanted to give legal sanction to this code of discipline. They evolved the code for the employers and the employees, but for some reason that was not brought on the statute book. Recently the Government of West Bengal also brought a law for code of discipline but one difference between Kerala and West Bengal was that the Kerala legislation related to employers and employees both but the West Bengal legislation was confined only to the employers. They thought that there was no need to stipulate code of conduct for employees. They have got every right to come to their own conclusion. But that is also not brought into the Statute Book. What I am trying to submit is that the principle that the code of discipline should be codified was not only recommended by the National Labour Commission as a unanimous recommendation but was also accepted and augmented by two States of this country—namely Kerala and West Bengal. Therefore, there is nothing wrong in our trying under this Act, to codify the code of discipline. After all all of us are aware of the industrial scene in the country. In spite of established and recognised trade unions in spite of legal stipulations being in force in spite of the awards of labour courts/tribunals and High Courts being in

(Shri M. S. Ramachandran)

force, sometimes the rule of jungle persists through several methods—fair and unfair, crooked and otherwise. Long-drawn strikes are brought in and as a result the interests of the community are at stake. This amendment only attempts to regulate and codify and then prescribe certain 'dos' and 'don'ts' not only for the employees but also for the employers and there is nothing wrong in that.

Sir, as a trade-union worker coming from the field, I know how many dismissed workers have suffered for a number of years. The Industrial Disputes Act provides that the award of the industrial tribunal shall be final and shall not be called in question in any court of law. But in practice, in exercise of the writ jurisdiction, every award, particularly relating to reinstatement goes to the High Court. And the moment the award is questioned in the High Court through a writ application, a stay is invariably granted. These writ proceedings go on for years—for three, four, five or six years—with the result in spite of my getting an award in my favour; if I am dismissed today, and I get my order of reinstatement by the labour court which takes some two years, after that it goes to the High Court and then the High Court stays the award, it takes four to five years to decide it, and I do not get any wages during that period. Therefore, in such cases, the present amendment is really a boon. It makes it a statutory obligation that during the pendency of the whole proceedings, a worker is entitled to cent per cent wages notwithstanding the stay.

While supporting the amendment, I would only appeal to the hon. Minister to see that the position is clarified and made more clear to the courts, particularly our courts and our departments which are conducting the cases in the courts, that there is no provision for the courts to grant any stay against payment of wages.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Please conclude now.

SHRI M. S. RAMACHANDRAN: With these words, Sir, I support the Bill.

4.00 p.m.

श्री सदाशिव बागाईतकर : श्रीमन्, जो बातें अभी तक इस बिल के विरोध में कही गई हैं उनको मैं दोहराऊंगा नहीं। लेकिन मैं जरूर उम्मीद करता हूँ कि कम से कम ऐसी बातें जिन पर श्रम मंत्री जी का कोई खास मतभेद किसी भी कारण से नहीं हो सकता है, जैसे लिमिटेशन वाली बात है तीन महीने की, ऐसी चीजों को मानने का कार्य वह करेंगे, उसको मानेंगे और इतना संशोधन किसी भी रूप में करने का आश्वासन देंगे तो यह हम लोगों के लिए ठीक होगा। क्योंकि अखिरकर इसकी मंशा यह है कि इस तरह के कानून से मजदूरी की मदद होती है तो इस तरह की एक बार, सीमा को बता कर के उसमें कोई खास मदद होगी इसके बारे में मैं आपको एक उदाहरण के तौर पर कह रहा हूँ मुझे यह उम्मीद है कि इस तरह के जो लोग हैं जिस चीज की तरफ उनका ध्यान आकृष्ट किया है।

श्री धर्मवीर (उत्तर प्रदेश) : वह तीन महीने की लिमिटेशन क्या है?

श्री सदाशिव बागाईतकर : मैं अभी आपको बताता हूँ। अभी मेरे एक मित्र श्री साल्वे साहब जो अब यहाँ नहीं हैं, मैं यह कहना चाहता हूँ कि असल में हम लोग जो इसका विरोध कर रहे हैं उसमें असूल क्या है। उसकी लम्बी चौड़ी व्याख्या करने की जरूरत नहीं है। राइट टू स्ट्राइक की जो कल्पना

हम लोगों ने कबूल की है जिसको किसी रूप में हमने अपने संविधान में रखा है उसका मूल स्वतंत्र ब्रिटेन से हमने ले लिया और राइट टू स्ट्राइक की व्याख्या है उसी को मैं पढ़ता हूँ ताकि इस तथ्य को समझ लिया जाए कि हम लोग जो इस संशोधन का घोर विरोध कर रहे हैं उसका कारण क्या है। राइट टू स्ट्राइक जिसकी व्याख्या यह है—

Right to strike: *Halsbury's Laws, England, Second Edition, Volume V, Page 392.*

"The right to strike or the right of the subject to withhold his labour so long as he commits no breach of contract or tort or agreement is enumerated as one of the important liberties of British subjects which may be regarded as of a fundamental character."

क्योंकि ब्रिटेन के पास लिखित रूप में संविधान नहीं है इस तरह की जो व्याख्या है परम्परा से बनी है उसका काफी आधार वहाँ पर बन गया है, इन चीजों का निर्णय करने के लिए यह जो संशोधन विधेयक इंडस्ट्रियल डिस्प्यूट एक्ट का है इसका परिणाम यह हो रहा है कि राइट टू स्ट्राइक की यह जो व्याख्या है उससे बुनियादी तौर पर डिपार्चर हो रहा है क्योंकि यह अनक्वालीफाइड डेफिनिशन है और हम सरकार के इस अधिकार को कतई नहीं मानते कि मनमाने ढंग से सरकार जिस इंडस्ट्री को चाहे एक्जेंशन दे दे जिसकी बात मेरे मित्र डा० पटेल ने कही कि यह तो मनमाने ढंग से किसी भी विभाग में हड़ताल करने का जो हमारा अधिकार है मजदूरों का अधिकार है उसको छीन ले। अखिरकार, हम लोग इसका अनुभव कर चुके हैं कि सरकार के हाथ में जो अधिकार रहते हैं इनका कितना गलत इस्तेमाल हो सकता है। मैं

आपको एक ही उदाहरण इस विषय में दूंगा। सरकार के हाथ में आज भी अधिकार है किसी सर्विस को इसेंशियल डिक्लेयर करने का। अब कानून जो इसका है उसके पहले की बात मैं कर रहा हूँ। सरकार का इतना अधिकार था कि कि जो नोटिफिकेशन के द्वारा किसी सर्विस को इसेंशियल डिक्लेयर कर देती है और मेरा यह खुद का अनुभव है। कभी सुनी बात मैं नहीं कर रहा हूँ। जिस यूनियन को मैं चलाता था जिसका मैं सदस्य था गरवारे नाइलोन जो नाइलोन फाइबर का प्रोडक्शन करती है उसमें इंडस्ट्रियल डिस्प्यूट की बात आई, हमने हड़ताल का नोटिस दिया और हम हड़ताल पर चले गये तब यह बात सामने आई थी Garware Nylon was declared as an essential service.

वहाँ के लेबर महकमे को भी मालूम नहीं था कि यह कब हुई है आगे चल कर पता चला आपके तिड़के साहब लेबर मिनिस्टर थे उन्होंने किसी तरह इसको गजट करवा लिया है और फिर उन्होंने इसको डी नोटिफाई किया कि गरवारे नाइलोन इंडस्ट्रीज इसेंशियल सर्विस में नहीं हो सकती यह हमारी बात मान कर उन्होंने डी नोटिफाई करने का नोटिफिकेशन इश्यू किया, गजट किया। मैं समझता हूँ यह पहला ही उदाहरण इस किस्म का होगा। सरकार के हाथ में जब इस तरह का अधिकार देने हैं तो इसका फायदा मजदूरों को मिलने की बजाय यह जो केपिटलिस्ट क्लास के लोग हैं इनको कितना मिलता है। इसका अनुभव हम लोगों को है इसलिए जब आप अपने हाथ में एग्जेंप्शन को ले रहे हैं कि किसी इंडस्ट्रीज के लिए लागू होगा किसी में नहीं होगा। इन तरह की बात आप करते हैं तो हमें अपने अनुभव के आधार पर हिम्मत नहीं होती

(श्री सदाशिव बागारतकर)

आपको हम इतना अधिकार दे दें, इस लिए हम इसका विरोध करते हैं, श्रीमन् इसमें अगर राइट टू वर्ग की बात है सरकार एक तरफ यह कहती है कि हम राइट टू स्ट्राइक मान लेते हैं। तो जो व्याख्या मैंने अभी पढ़ी उसके मुताबिक मुझे यह कतई नहीं लगता कि सरकार किसी विभाग के मजदूरों को हड़ताल करने के अधिकार को इस बिल द्वारा, जैसा कहा जा रहा है, चाहे शिक्षा विभाग हो चाहे हास्पिटल हो चाहे और कोई चीज हो, यह मानती है आखिरकार वहां हड़ताल नहीं चाहते हैं तो कुछ और करना होगा। विवाद तो वहां खड़े होंगे ही, हड़ताल बंद करने से बात खत्म नहीं होती है।

जो औद्योगिक विवाद इंडस्ट्रियल रिलेशन के हमारे आजायेगे उनको निबटाने के लिये जो आवश्यक मशीनरी है वह कौन सी है और क्या है यह बात है। अब तो श्रीमान यह बात है कि जिस तरह से इस संशोधन विधेयक पर देश के अनेक मजदूर संगठनों ने, सिवाय केन्द्रीय संगठनों ने, यहां तक कि आपके इन्टक ने भी इसके बारे में कुछ अपने विचार आपके सामने रखे हैं, और यह बात कही जाती थी कि जब ट्रिपारटाईट कान्फेंस होगी तो ट्रिपारटाईट कान्फेंस में इन सभी चीजों का विचार किया जायेगा। अब स्थिति यह बन रही है, आज ही अखबार में खबर आई है कि आप ट्रिपारटाईट कान्फेंस बुलाने जा रहे हैं यह जहाँ है या गलत है मुझे मालूम नहीं है लेकिन आज यह खबर आई है। एक तरफ आप ट्रिपारटाईट लेबर कान्फेंस बुलायेंगे और दूसरी तरफ ट्रिपारटाईट लेबर कान्फेंस को, मजदूर संगठनों को आपने यह कहा कि उसमें शरीक होने के लिये यह फेट एकाम्पली है। हमने यह कानून बनाया

है कि अब आपके जो कुछ इसके बारे में विचार होंगे उससे हमारा कोई ताल्लुक नहीं है। आखिरकार ट्रिपारटाईट कान्फेंस करने जा रहे थे तो कौन सी ऐसी अर्जेंसी थी जिसका लेकर आज आप इसको ले आये। दो महीने रुक जाते विन्टर सेशन में इसको करते तो कौन सा बड़ा नुकसान होता तो मुझे ऐसा लग रहा है कि या तो आपकी ट्रिपारटाईट कान्फेंस से जो उम्मीद हम लोग करते हैं उसमें आपकी मंशा कुछ भलग होगी या सिर्फ पब्लिक रिलेशन का मामला बनाने की आपकी मंशा होगी या दिखाने की बात होगी। यह दूसरी बात है; क्योंकि मैं समझता हूँ कि ट्रिपारटाईट लेबर कान्फेंस में अगर इस तरह के एक काम्प्लिकेटेड लेबर लेजिस्लेशन पर सोचना है तो इस तरह का लेबर लेजिस्लेशन आज हमसे यहां पास करवा कर आप वहां जाकर उपस्थित करेंगे तो फेट एकाम्पली के सिवाय क्या होगा और इस ट्रिपारटाईट कान्फेंस की उपयोगिता कम हो जायेगी या नहीं। हालांकि मेरी दृष्टि में तो उसकी उपयोगिता कम हो जायेगी क्योंकि कानून जो बनने की बात थी वह पहले से बता दिया यह स्थिति उससे बनती है इसीलिये श्रीमन्, हम उसके घोर विरोधी रहे हैं और आज मैं कहना चाहता हूँ जब हमने कहा और भट्ट साहब इसमें बोले जो इन्टक के प्रेजिडेंट हैं, हमारे इस सदन के सम्मानित सदस्य हैं तब मैंने ही नहीं कहा था भट्ट साहब मैं आपकी याद ताजा करना चाहता हूँ कि जब जनता पार्टी की तरफ से इंडिस्ट्रियल रिलेशन बिल आया था, रवीन्द्र वर्मा साहब ने पेश किया था, उस सदन में, इस सदन में तो आया ही नहीं था, तो हम सब लोग थे जिन्होंने खुले आम इसके विरोध में अपनी आवाज को बुलंद किया

था और यह नोक सभा की प्रेसीडिंग मेरे पास है 30 अगस्त, 1978 की और इसी में इन्ट्रोडक्शन स्टैज में भी इस बात का विरोध किया। उस वक्त के हमारे पार्टी के जनरल सेक्रेटरी श्री मधु लिमये उन्होंने विरोध किया था, ज्योतिनय बसु ने विरोध किया था, पार्वती कृष्णन् ने विरोध किया था। तो हम लोग अपनी कम्पेस गिरबी रखकर किसी राजनीतिक दल में नहीं बैठते हैं... (व्यवधान) जो भी आप बतायें हम दूँ श होंगे अगर है आप में हिम्मत तो बतायें विरोध करके ?

SHRI KALYAN ROY: He is not guilty of that charge.

SHRI SADASHIV BAGAITKAR: That would be obvious in a few minutes.

श्रीमन् इसलिये मैं चाहता हूँ कि आखिर-कार हमारे अपने कुछ कमिटमेंट उसूलों के साथ है कि नहीं। राजनीतिक दल के नाते तो कोई कुछ करना चाहे उसमें हाँ में हाँ भरना अगर हमारा काम है तो हम नहीं समझते हैं कि कच्ची ईमानदारी से अपने उसूलों के प्रति जो हमारी वफादारी है, जो हमारा दायित्व है उसको हम निभा सकते हैं। यह उदाहरण मैं इसलिये दे रहा हूँ कि ऐसा समय आ जाता है कि जब हमको अपने मतभेद हमारी समस्याओं को, बुद्धि को साक्ष्य रख करके प्रकट करने चाहिये और सामने रखने चाहिये। इसमें कोई बड़ी सरकार गिरने की बात नहीं है लेकिन हम इसमें कोई कायर बन जाय हम अपने उसूल ताक कर रखकर डिसिप्लिन निभाने की बात कर तो मुझे नहीं लगता कि हम कोई सेवा करेंगे और मजदूरों का इसमें भला होगा। तो इसलिये हम यह कहना चाहते हैं कि आज इतनी जल्दी श्रम मंत्री जी ने जो विधेयक लाये हैं उसको आज लान की कोई आवश्यकता नहीं थी।

ट्रिपार्टाइट लेबर कानफ्रेंस अगर सितम्बर में करने जा रहे हैं, या अक्तूबर में करने जा रहे हैं... (व्यवधान)

हां, वही तो मैं कह रहा हूँ। अगर आपकी अनाऊंसमेंट हुई है, तो ट्रिपार्टाइट लेबर कानफ्रेंस में हम लोगों को मौका देते और वहां हम अपनी बात सामने रखते, औरों को भी मौका मिलता। उसके बाद आप सोचते कि कैसे करना है वह भी आपने नहीं किया। जल्दी आपने इसलिए की कि इसके बारे में.... (व्यवधान)

इसलिए ट्रिपार्टाइट लेबर कानफ्रेंस के बारे में अंततः में अगर कोई मेरी राय पूछे, तो मेरी राय यह है कि सरकार का अगर यह खैया है, तो लेबर आर्गनाइजेशन ट्रिपार्टाइट कानफ्रेंस में शरीक क्यों हो? क्या फायदा जिन चीजों पर वहाँ बात करने के लिए—

SHRI KALYAN ROY: Why should we go there?

SHRI SADASHIV BAGAITKAR: Why should we go there? If you are exparte taking decisions and bringing measures to which we are fundamentally opposed, there is no utility of having any tripartite conference.

और हम आपके पब्लिक ग्लेशेंस के काम में मदद करने के लिए वहाँ आकर के तस्वीरे खींचें—इसमें कोई मतलब मुझे नहीं लगता है। अगर मेरी राय हो, तो मजदूर संगठन को सलाह होगी कि यह अधिकारों की जो वचनबद्धता का उल्लंघन हुआ है, उसका नतीजा एक ही हो सकता है कि—
The trade unions should boycott this tripartite conference as a protest against this attitude of the Government because—

हमको यह अपनी जगह बताना चाहते हैं।

[श्री सदाशिव बागाईतकर]

You want to show us our place.

एक माननीय मनस्य : नहीं ।

श्री सदाशिव बागाईतकर : बिल्कुल मताना चाहते हैं । आपके न कहने से क्या होगा । आपके न कहने पर हम विश्वास थोड़े ही करेंगे । जिस तरह के कदम आप उठा रहे हैं, जिस तरह से आप मजदूर संगठन के साथ पेज आ रहे हैं ... (व्यवधान)

अगर यही आपकी मंशा है, तो ठीक है । हम उसको भी झेलें और इज्जत के साथ मजदूरों के साथ जो अपनी वफादारी है, उसको निभाएं । (घंटी) इसलिए जो यह विवेक उन्होंने लाया है उसका खुलासा वह जरूर करें ।

प्रब इस विधेयक के जो पहलू— प्रब साल्वे साहब आए हैं, श्रीमान, यह क्योंकि बड़े वकील है, क्याति वाले है, मैं सिर्फ एक ही चीज यह कर के सुनाता हूँ जो बात मैंने शुरू में कही—

What is at stake? Why are we opposed to this? For your information, I am reading this from Halsbury's Laws, Second Edition, Volume VI, page 392:

"The right to strike or the right of the subject to withhold his labour so long as he does no breach of contract or tort or agreement is enumerated as one of the important liberties of a British subject which may be regarded as of a fundamental character."

This is at issue.

और आप जब आकर हमको असंतोष बढ़ है—अगर दो-तीन महीने पहले का आप लंडन टाइम्स अखबार उठा कर के देखें, अस्पताल में नर्सों नहीं हैं, उसके जोटो आए हुए हैं, पिकेटिंग लाइन में नर्सों खड़ी हैं, मेडिकल प्रोफेशन के लोग खड़े हैं । अगर यह संस्य आपको मंजूर है, तो मैं पूछना चाहता हूँ कि कौन

सा अधिकार है कि अस्पताल में कोई हड़ताल न करे, एजुकेशन इंस्टीट्यूशंस में नात-टीचिंग स्टाफ के लोग भी हड़ताल न करें । यह कौन-सा अधिकार आपको मिलता है? क्या आप हमारे इस अधिकार का हनन नहीं कर रहे हैं? आप जरूर कर रहे हैं और फंडे-मेंटल राइट में जिस अंश जिस रूप में और जिस शक्ति में इस अधिकार का समावेश है, उसका अगर आधार यह है तो आप क्या यह उम्मीद करते हैं कि हम खुशी-खुशी से मंजूर करें कि हम हड़ताल नहीं कर सकते हैं । यह चीज नहीं है । साथ ही साथ अपने फेयर लेबर प्रैक्टिस— साल्वे साहब देश के इतिहास से आप परिचित हैं, शराब की दुकानों पर पिकेटिंग करने का हमारा अधिकार हासिल करने के लिए हम लोगों ने क्या-क्या नहीं झेला है? क्या यह बात नहीं है?

एक माननीय सदस्य : भूल गये हैं ।

श्री सदाशिव बागाईतकर : कोर्टस पर हमने और सेक्रेटरीएट्स पर हम लोगों ने क्या पिकेटिंग नहीं किया है? पिकेटिंग हमारा अधिकार है कि जहां से गलत चीज अनैतिक चीज चलती है, उसके खिलाफ समाज का मन जगाने का अधिकार है । आप आज क्या कह रहे हैं कि पिकेटिंग न करे, मैनेजर के घर पर जाकर हम प्रदर्शन न करें, तोड़फोड़ न करे, गाली-गती न करें (घंटी) मुझे यह सब कबूल है । लेकिन जो आदमी गलत काम, अन्याय करता है, उसके खिलाफ समाज के मन में घृणा पैदा करने का काम, मारपीत प्रेशर लाने के काम करने से आप इनको रोक रहे हैं । क्या करेंगे आप? कुछ महीने से बम्बई के टेक्सटाइल मजदूर जो हड़ताल कर रहे हैं, आपकी सरकार निकम्मी है, सात महीने के बाद

भी अड़ई लाख मजदूर के लिए वह कुछ कर नहीं जा रही है। सारा लेबर मेकेनिज्म, लेबर लाज टूट चुका है, न आप मालिक को समझा सकते हैं, न मजदूर को समझा सकते हैं। सोत महीनों तक भूख से तड़पने वाले लोग कल तय करते हैं कि हम मालिकों के घर पर धरन दे कर बैठेंगे तो क्या गलत है इस में? कुछ तो लज्जा होनी चाहिए, सत-सत महीने सरकार कुछ न करे, मालिक कुछ न करे, मजदूर भुखा मरे और आप कानून की बेड़ी उस को पांव में डालना चाहते हैं। वह मेनेजर के घर पर डिमास्टेशन करे— इस में कौन सी आपत्ति की बात है। पिकेटिंग का अधि-कार देश की आजादी से जुड़ा हुआ है और आप कह रहे हैं कि पिकेटिंग न करे। कौन सा उसूल आप गिना रहे हैं। हम यह कह रहे हैं कि इस कानून बनाने के पीछे आप लोगों की मंशा और कुछ है। आप लोग मजदूर आन्दोलन को इस देश में गिरवी रखना चाह रहे हैं— या तो सरकार के पास गिरवी रहे या मालिकों के पास गिरवी रहे—यह मंशा आप की हमारे जीते-जागते तो पूरी नहीं हो हो पायेगी। आप हमें गोली से भून दे, उस के बाद करें, तब तो हो ही सकता है, लेकिन एक चीज मैं साफ कहना चाहता हूं कि जितना आप इस आन्दोलन को दबाने की कोशिश करेंगे, आप ने कहा—

Unsocial characters have entered the trade union movement . . .

SHRI N. K. P. SALVE: Some of them are there.

SHRI SADASHIV BAGATKAR: I agree with you.

तो किस रास्ते से आप मुकाबला करेंगे? जो सही ट्रेड यूनियन करने वाले हैं उन से आप बात भी नहीं करेंगे और आप उम्मीद करेंगे कि पुलिस डंडा चला

कर इर्रोस्पॉसिबल ट्रेड यूनियन को खत्म कर दे। प्योर और सिम्पल इकोनोमी को ले कर जो ट्रेड यूनियन बड़ी है उसको आप बन्द करना चाहते हैं। आप ऐसा नहीं कर सकते। इस रास्ते से तो बगावत बढ़ेगी, कानून तोड़ने की मनोवृत्ति बढ़ेगी सरकार मजदूरों के खिलाफ है, पैसा वालों के, बिड़ला और टाटा के पास गिरवी है, यह भावना बढ़ेगी। इसी संदर्भ में कल बिड़ला के हिन्दालको के खिलाफ 27 करोड़ का मामला उठा था। 27 करोड़ बिड़ला ने आप के कोष में नहीं दिया क्या आप ने बिगाड़ा उस का।

रीस्टेटमेंट का भी केस कोर्ट में जाता है तो कोर्ट कहता है कि रीस्टेटमेंट से अशांति होगी, आप पैसे-तनख्वाह ले लीजिए, दूसरी जगह नौकरी के लिए जाइये। हम आप से कह रहे हैं कि जो लेबर जूरिस्टप्रूडेंस बना, जो कानून देश में बने वह आज की परिस्थिति में बहुत नाकाफी है। जो बड़ी-बड़ी इंडस्ट्रीज हैं उन्हीं के मजदूरों की बात नहीं है, डिस्ट्रिक्ट प्लेसेज में, ताल्लुका प्लेसेज में जहां अनआर्गनाइज्ड लेबर है वहां इस काले कानून का ज्यादा उपद्रव होगा। इस के लिए हम तैयार नहीं हैं। इसलिए, श्रीमन्, हमारी राय में जो यह विधेयक सरकार लायी है इस के पीछे सरकार की मंशा क्या है इस के बारे में हमारे मन में जरूर शंकाएं हैं, हमको लगता है कि सरकार का मन इस के बारे में साफ नहीं है, वरना ट्रिपाटीइट कांफ्रेंस एक तरफ करने की बात और दूसरी तरफ इतनी जल्दी इस कानून को नियमों को तोड़ कर लाने की बात।

श्रीमन्, अन्त में मेरा यह निवेदन है कि देश में इंडस्ट्रियल रिलेशन्स बहुत ही खराब स्थिति में हैं। जिस ढंग से सरकार इस में नाकामयाब रही है उस से स्थिति

[श्री सदाशिव बागाईतकर]

को सुधारने की उस से कोई उम्मीद नहीं है। सरकार ने आज तक कोई सबूत नहीं दिया है कि उस के पास वह संकल्प शक्ति है जिस से वह इंडस्ट्रियल रिलेशन्स पर काबू पायेगी। मजदूरों के अधिकारों का इस तरह हनन कर के आप उम्मीद करते हैं कि डिस्प्लिन आ जायेगी ?

दूसरी बात जो खतरे की लग रही है उस को कह कर मैं खरम करता हूँ। मुझे यह लग रहा है कि पावर्टी की नयी व्याख्या देश में बनने जा रही है। प्रधान मंत्री अभी-अभी अमरीका से आये हैं। उन के जो इन्टरव्यू हम ने यहां सुने उन में प्रधान मंत्री ने यहां तक कह दिया है कि प्लानिंग कमीशन के जो स्ट्रेटिक्स देश में होते हैं वह सारे रिलायेबिल नहीं होते। यह मेरी अपनी बात नहीं है। उन्होंने यह भी कहा कि गरीबी की रेखा की जो व्याख्या हमारे देश में की गयी है वह भी आज बहुत सही नहीं है। उन की इच्छा और विचार क्या हैं मैं नहीं जानता। लेकिन हम पर इन चीजों का जो असर होता है वह यह है कि क्या प्रचार द्वारा आप इस चीज को फैलाने जा रहे हैं कि पावर्टी हैज बीन वैनिशड फ्राम दिस कंट्री। इस समय देश में कोई पावर्टी नहीं रही है। पावर्टी लाइन के नीचे रहने वाला कोई नहीं है। यह जो गोयबल्स के टैक्स्ट्स थे प्रचार के उन का इस्तेमाल कर के आप भ्रम पैदा करना चाहेंगे तो इस से कोई लाभ होने वाला नहीं है और न इस से देश में कोई फंसने वाला है। तो मेरा कहना है कि इस तरह का काला कानून को प्राप्त होना चाहिए। कल यहां प्रेस चर्चा की गयी और आज ही टाइम्स ने अपना एडीटोरियल लिखा है "ब्लैकेस्ट आफ दि ब्लैक"। मुझे अफसोस है कि वह आप की पार्टी का ही स्टेट है और आप के पिछे ही वहां राज चला रहे हैं।

ब्लैकेस्ट आफ दि ब्लैक की जो चर्चा वहां के बारे में हुई, अनअवेयर हो कर वही ब्लैकेस्ट आफ दि ब्लैक ला आप यहीं इस सदन में आज लाये हैं और इसलिये मेरा आग्रह है कि इस बिल को आप वापस लें। इस से कोई लाभ होने वाला नहीं है। ट्रिपार्टाइट कॉफ्रेंस को आप कराने जा रहे हैं इस लिये उस के पहले इस को पास नहीं कराना चाहिए और आवश्यकता होती तो उस के बाद एक कोई कॉन्फ्रेंसिव कानून लाते तो दूसरी बात होती। इसलिये इस संशोधन विधेयक को हम विरोध करते हैं और मंत्री जी से मेरा यह आग्रह है कि आप इस को वापस ले लीजिए और मजदूरों का दमन बंद कराइये और उन में भय पैदा करने का काम बंद कीजिए। यही बात कह कर मैं अपनी बात समाप्त करता हूँ।

श्री जे० के० जैन : उपसभाध्यक्ष महोदय, अभी हमारे वरिष्ठ साथी अपना भाषण कर रहे थे। शब्द जल्द सुनायी दे रहे थे लेकिन सार उस में कुछ नहीं था। क्योंकि शब्दों की जो झड़ी उन्होंने यहां लगायी वह इस कान से अंदर गयी और उस कान से निकल गयी....

श्री सदाशिव बागाईतकर : बीच में कुछ भी न हो तो हम क्या करें।

श्री जे० के० जैन : आप अब बोल चुके हैं, मुझे बोलने का मौका दीजिए। आज मुझे यह कहते हुए बड़ा गौरव है कि इंडस्ट्रियल डिस्पूट्स अमेंडमेंट बिल जो मंत्री यहां पेश कर रहे हैं उन का सारा जीवन मजदूरों की सेवा में और जो गरीब तबका है उस की सेवा में बीता है और बीत रहा है और यही कारण है कि भगवत झा आजाद जैसे कुशल मंत्री मजदूरों के समर्थन में इस बिल को यहां पर लाये हैं। मैं तबे दिल से उन

को बर्धाई देता हूँ । मात्र विरोध के लिये विरोध करना ऐसा मैं विरोधी दलों का काम नहीं समझता कम से कम विरोधी दलों को इस बात को सोचना चाहिए कि जो बिल यहाँ पर लाया गया है उस का असर क्या होगा । मजदूर वर्ग को इस से कितना लाभ होगा । तालाबंदी नहीं हो सकती । जहाँ वह हड़ताल की बात करते हैं, कभी एक भी सदस्य ने तालाबंदी की बात कही? कैसे मजदूर समर्थक हैं मैं इस बात को नहीं समझ पाया कि उन की जो तरहरें यहाँ पर हुई उससे मजदूर समर्थक होने का एक अंश लेशमात्र भी दिखाई नहीं देता है । क्या मजदूर मालिक के झगड़ों को आपस में बैठ कर सुलटाने को एंटो लेबर कहा जा सकता है? क्या वह चीज प्रो-लेबर होगी कि जहाँ मजदूरों को परेशानी हो, तक्रुफ हो? इस बिल के अंदर ऐसा प्रावधान किया गया है कि मजदूरों के रिप्रेजेंटेटिव, मालिकों के रिप्रेजेंटेटिव, सरकार के रिप्रेजेंटेटिव बैठ कर इस बात का फैसला करें, इस बात का निर्णय करें कि कौन गलत है, कौन सही है । उसी रास्ते से गुजरने के बाद ही हड़ताल और लाक आउट की बात की जा सकती है । जहाँ एक ओर विरोधी दल के भाई यह कहते हुए नहीं सकते कि देश के अंदर खाने की चीजों की कमी है; कपड़े की कमी है, और कंज्यूमर्स आइटम्स की कमी है, मैं उनसे पूछना चाहता हूँ कि हड़ताल के माध्यम से वे इन कमियों को क्या पूरा करना चाहते हैं? देश के प्रोडक्शन को बढ़ाना होगा और तभी हमें मजबूर हो कर कहना पड़ता है कि सिर्फ राजनीतिक स्वार्थ के वशीभूत हो कर यह हमारे विरोधी दल के भाई इस तरह का झूठा नारा लगाते हैं और यदि तुम्हारे अंदर हिम्मत है तो दिल खोल कर बोलो कि हमें देश में उत्पादन को बढ़ाना होगा । इन्होंने किस प्रकार

से प्रधान मंत्री श्रीमती इंदिरा गांधी के प्रोडक्टिविटी के नारे का मजाक उड़ाया क्योंकि ये नहीं चाहते कि हमारी सरकार के शासन के दौरान देश तरक्की करे इनकी मंशा बिलकुल यही है कि ये ऐसी चीजों के अंदर सदन की कार्यवाही को उलझाते रहे जिससे इस सदन के अंदर कुछ काम की चीजें न हो जाय । लेकिन मेरे भाइयों, आप लोगों का यह मंसूबा पूरा होने वाला नहीं है हमारे मंत्री, हमारे साथी और हमारी सरकार बहुत सजग है । आप जैसे लोगों के लिए वह हाथ में तरकश और तीर-कमान लेकर बंटी हुई है । आप लोगों के जो कारनामे हैं उनको सफल नहीं होने दिया जाएगा ।

उपसभाध्यक्ष महोदय, हम जो भी बिल लाते हैं अपनी बुद्धि से लाते हैं । आप लोगों को तरह अन्य देशों के इशारों पर नहीं चलते । आपकी कैबिनेट ने बिल के ऊपर अपनी मंजूरी दे दी थी लेकिन आपको हिम्मत नहीं हुई । हिम्मत क्यों नहीं हुई कि दूसरे आका ने आपको पकड़कर खींच लिया और पकड़ाकर इस बिल को आपने पास नहीं किया । बड़े गर्व से कह रहे हैं— बागाईतकर जी कि रवीन्द्र वर्मा जी इस बिल को लाये थे — और हमारी पार्टी ने उसका विरोध किया था । लेकिन ये आपके दोस्त थे— जिनके साथ आपके मतभेद है । उनके साथ...

श्री सदाशिव बागाईतकर : आप भी, इंटक वाले भी उसमें शामिल थे, उनको पूछिये ।

श्री जे. के. जैन : कैबिनेट के निर्णय को आप पास नहीं करा सकते थे— क्योंकि आप लोगों का धागा कहीं और से खिंच जाता था और वह ऐसा धागा था कि धड़ाम से टूट गया और... (व्यवधान)

श्री सदाशिव बागाईतकर : आप भी उसमें मूर्ख बन गये। (व्यवधान)

श्री जे० के० जैन : सारे देश की जनता ने आपको मूर्ख साबित कर दिया 1980 के चुनाव में करारी मात देकर। उन करारी मात को खाकर भी आप अपने आपको मूर्ख नहीं मानते, इससे बड़ा मूर्ख कौन होगा ? सारे देश की जनता कहती है कि आप मूर्ख हैं, आप अपने को मूर्ख ही कहते हैं क्योंकि मूर्ख व्यक्ति कभी अपने को मूर्ख नहीं कहता।

श्री हरी शंकर भाभड़ा (राजस्थान) : बिलकूल ठीक कह रहे हैं आप। (व्यवधान)

श्री जे० के० जैन : उपसभाध्यक्ष महोदय, कितना अच्छा प्रावधान इस बिल में दिया गया है कि इंटर्नल मशीनरी के निर्णय के खिलाफ यदि मालिक कोर्ट में जाता है तो मजदूरों को उतनी ही तनख्वाह मिलेगी जितनी कि उसको नौकरी में रहते हुए मिलती है। यदि मालिक यह समझता है कि इंटर्नल मशीनरी ने फैसला गलत किया है तो वह जा सकता है हाई कोर्ट में, लेकिन हाई कोर्ट में जाने से पहले उसको यह सोचना पड़ेगा कि मजदूर को घर में बैठकर सौ प्रतिशत वेतन देना पड़ेगा। तो मैं पूछना चाहता हूँ कि यह कहा पर मजदूर विरोधी है जिसके लिए आपने इतना बड़ा तूफान खड़ा किया दूसरे हाउस में और आपके साथियों ने हंगामा मचा दिया।

उपसभाध्यक्ष महोदय, लाक आउट कहां पर हो रहे हैं। कितनी बार इसे सदन में चर्चा हुई लेकिन आपके कानों के ऊपर जूँ नहीं रेंगी। अरे, एक बार तो खुले दिल से बोलो कि जहां आपके कम्युनिस्ट भाइयों का शासन है वैंस्ट

बंगाल में वहां पर 10 हजार में से 8900 लाक आउट्स वैंस्ट बंगाल में हैं। यह बिल उन लाक आउट्स के ऊपर पाबन्दी लगायेगा। इसीलिए इस पर आपको इतनी परेशानी हो रही है क्योंकि मिल मालिकों से मिलकर ही इनका धंधा चलता है। इनका धंधा ही इसी आधार पर चलता है, इनकी पार्टी का और इनके नेताओं का कि मिल मालिकों से मिलकर लाक आउट कराना और पैसा लेना। इन लोगों का तो काम ही यही रहा। जो कहावत गांव की है कि "भूस में आग लगाकर जमालो दूर खड़ी", ऐसे ही ये भूस में आग लगाना चाहते हैं और वर्कर्स को भड़काते हैं और अपना घर में बैठते हैं।

उपसभाध्यक्ष महोदय, मैं सरकार को बधाई देना चाहता हूँ कि ऐसे लोगों के ऊपर जो ऐसी गंदी राजनीति से अपना पेट भरते हैं, उन लोगों को करारी लात मारी गई है इस बिल में। उन लोगों के ऊपर हमारे कुशल मंत्री जी ने एक ऐसी करारी लात मारी है कि अब वे कोई गंदी राजनीति लेकर मिलों के अन्दर इस तरह से लाक-आउट नहीं करा सकेंगे।

उपसभाध्यक्ष महोदय, जब हड़तालों की बात होती है तो हमारा ध्यान एशियाई मुल्कों की तरफ भी चला जाता है। आप जानते हैं कि जापान एक समय मिट्टी में मिल चुका था, लेकिन आज से 20 वर्ष पूर्व जिस जापान का माल कोई लेने के लिये तैयार नहीं होता था, जिस जापान का माल फुट पाथ पर पड़ा रहता था, बेकार समझा जाता था, आज आप उसी जापान की प्रगति को देखिये। हड़तालों और लाक-आउट से जापान ने यह प्रगति नहीं की है। उनका विरोध करने का कुछ नया ही तरीका होता है। यदि वर्कर मालिक की किसी बात से नाराज होते हैं

तो वे प्रोडक्शन बन्द नहीं करते हैं । वे प्रोडक्शन को डबल कर देते हैं । इसके फलस्वरूप मजदूर हो कर मालिक को मजदूरों की बात माननी पड़ती है क्योंकि मालिक के सामने यह प्रश्न खड़ा हो जाता है कि जिस माल की वह सो चीजें बेचा करता था, उसकी अब दो मो को कैपेसिटी हो गई तो वह उस माल को कहा बेचेगा ? इसी तरह से फिलीपीन्स को देखिये । उसने क्या प्रगति की है ? वह भी एशियाई गरीब मुल्क था जिस पर चार सौ वर्ष तक अमरीका और दूसरे मुल्कों ने राज्य किया । जिस वक्त हम आजाद हुए, उसी वक्त फिलीपीन्स भी आजाद हुआ था । लेकिन आज उसकी प्रगति को देखिये यह प्रगति उमने हड़तालों और लोका-आउट से नहीं की है । विरोधी दलों का जो यह नारा है —जय हड़ताल, जय तालाबंदी, अब उनको यह छोड़ना पड़ेगा । अगर वे सचमुच में देशभक्त हैं तो उन्हें यह नारा देना चाहिए कि इस देश में अब न हड़तालें होंगी और नहीं तालाबंदी होंगी । तभी इस देश का उत्थान हो सकता है, तभी इस देश के अन्दर प्रोडक्शन बढ़ सकती है । मेरी पार्टी की, कांग्रेस पार्टी की, हमेशा से एक पोलिटिकल विल रही है कि देशवासियों के हित में, मजदूरों के हित में, कर्मचारियों के हित में जो कुछ किया जा सकता है, वह हमारी पार्टी और हमारे सरकार करती है । लेकिन इनके ढाई वर्षों के शासन काल में कोई काम नहीं हुआ क्योंकि उनकी कोई पोलिटिकल विल नहीं है । इनमें पोलिटिकल विल कहाँ से होती, ये तो आपस में लड़ते रहे और जाड़ने-तोड़ने में लगे रहे और अपने आप को जोड़ भी नहीं पाये । इसलिये जिस सरकार की पोलिटिकल विल नहीं होती है वह इस तरह का बिल नहीं ला सकती है । जिस सरकार की पोलिटिकल विल होती है वही इस प्रकार का मजदूर समर्थन बिल ला सकती है ।

उपसभाध्यक्ष, महोदय, मैं तहेदिल से इस संशोधन का समर्थन करता हूँ और अपने भाइयों से यह निवेदन करना चाहता हूँ कि वे निर्णय विरोध करने के लिये हर चीज का विरोध न करें और इस बिल का स्वागत करें क्योंकि इस बिल से देश में प्रोडक्शन बढ़ेगा, इस बिल से मिल-मालिकों और मजदूरों को आपस में बैठकर अपने अगड़े को सुलझाने का मौका मिलेगा और जो हमारे राजनैतिक दल एक गन्दी राजनीति में फसे हुए हैं उनको भी इसमें निजात मिलेगी । इन शब्दों के साथ मैं इस बिल का समर्थन करता हूँ ।

DR. (SHRIMATI) NAJMA HEP-TULLA (Maharashtra): Sir, first I would like to congratulate our Labour Minister for bringing such a comprehensive Bill. I will also congratulate him for excluding the following, like agriculture, hospitals educational institutions, research organisations, khadi and village industries and such organisations which are working for the betterment of the country and the people at large. As a woman I would like to support this exemption because so many voluntary women's organisations would have been affected by the Supreme Court judgment, and I am happy that the Minister paid a great heed to it and he has exempted these organisations.

Secondly, Sir, as you know, our Prime Minister has called this year as the Productivity Year, and I am quite sure that our Labour Minister and our Government kept this in view before formulating the different aspects of this Bill. Therefore, steps should be taken to improve productivity. Steps should be taken for creating better understanding and peaceful atmosphere between the industry and the workers. I am quite sure if our opposition Members, without any prejudice and after taking out their colours, look at it, they would definitely realise that it is a good Bill and they would accept this Bill. It is neither against the workers,

(Dr. Smt. Najma Heptulla)

nor is it against the employers or even the consumers. As I was hearing the speeches here, I was having my own conclusion. The other people were worried about the employers. Some others were worried about the employees. Nobody bothers himself about the larger interests of the people who are affected as much in a dispute between the labour and the employers. In such disputes, it is the consumer who is affected very badly. What is happening in Bombay. The strike is neither helping the workers, nor is it helping the millowners and it has very badly affected the other 2 million people. So I feel that the opposition Members should consider these points. If there is productivity in the country, definitely everybody is going to get benefited. There will be a psychological impact of this Bill which will have effect on everybody. I do not know in which way our Members are thinking that it is going to help only the entrepreneur. Our Minister has taken good measures to see that if there is any dispute out of anything, it should be settled at various levels. As my friend and Salve Sahib has also mentioned, if a worker gets a verdict that he was not wrong, then the Government will see to it, if the employers goes in appeal, that the workers gets his full wages. I have my own apprehensions. I was thinking that if a worker loses his case in the higher court, does he get his money back? I do not understand why our Members who have made such eloquent speeches, were considering that this is against the workers. I think most of the attack was on the code of conduct or the discipline. I think that every individual in our country, if he has got certain rights, has got certain responsibilities also. These responsibilities fall equally on the employers as well as on the employees. If the hon. Minister has put all these things into the Industrial Disputes Act what is wrong in it? There is a certain code of conduct. I do not understand why anybody should feel bad about it. If

their motivations are not bad, they should not feel bad.

As so many people have made such eloquent speeches, I would not like to go into details. I would only say that I feel that the words "Manager or the Supervisor", which he has put in the Bill, might affect the small scale industries because a Supervisor in a small scale industry may get Rs. 1600 but it is not a managerial job. I would like the Minister to look into this aspect and see that the small scale industries are not affected by this Act. In a large scale industry, there are many people and the scale of salary is much higher. This is my own apprehension that the small scale industries are going to get affected by this

Another thing that I would like to point out is about the sales promotion. Sales promotion also comes under it. The sales promoter or the salesman comes under it. Now, mostly the job of the sales promotion employees is to travel around and most of the time he is missing contact with the person who is employing him. So, you cannot bring him under the consideration of it because the employee does not know what he is doing. So, I would like the Minister to consider this aspect also and see that it is not misused.

Sir, the last thing I would like to mention here is about agriculture. I have heard trade union leaders talking about the protection of the rights of the workmen. But here the agriculture section is not touched. Nobody is ever bothered about 85 per cent of the labour which is employed in the agriculture sector. None of you want to protect their rights. You are always talking about the rights of the people who are already protected so well. (Interruptions) I am a consumer. I am an ordinary person. I am neither an industrialist nor a trade union leader. I only put in my idea and I will request our Government, our Minister that as he has brought a very comprehensive legislation for the protection of the industrial workers, he should also bring another comprehen-

give legislation for the 85 per cent of the labour of our country which is in the rural area, in the backward area. Nobody is bothered about them. You talk about the wage structure. There is no wage structure at all existing for the agriculture labour. Why should the Government not consider this? While we support these points, we hope that our Labour Minister will give consideration . . .

श्री जसवंत सिंह (राजस्थान): आपकी इजाजत से इसमें जो डोमेस्टिक सर्वेंट हैं वे भी शरीक होने चाहिये ।

DR. (SHRIMATI) NAJMA HEP-TULLA: Anybody. I would feel that everybody's interests should be protected, whether it is domestic servants or anybody. Whatever I have noticed as an ordinary person, I am pointing out. Everybody is talking about the protection of the industrial workers who are already well protected. They are always talking about the people who are getting more than Rs. 700 to Rs. 1600. What about the labourers in the villages? What about the casual labour working in the Railways? Thousands and thousands of people are working there. What about their protection? The trade union leaders are talking . . .

SHRI DIPEN GHOSH (West Bengal): Can you tell me which industry workers are getting Rs. 1600 a month? (Interruptions).

DR. (SHRIMATI) NAJMA HEP-TULLA: Sir, with these words, I support this Bill. And I hope that you will bring another comprehensive Bill for the agricultural labour and the casual labour who are working in the Railways, as you have done for the plantation workers. Thank you, Sir.

DR. BHAI MAHAVIR: Mr. Vice-Chairman, Sir, we are happy to have the benefit of listening to many learned Members of this House today, with some entertainment also thrown in now and then. My good friend, Mr. Salve is there. Whether the ruling

party brings forward a Bill to restrict individual liberties or to provide for what is known as the Essential Services (Maintenance) Act or propose restrictions on the freedom of the press, his legal knowledge is available for the ruling party to be put to good use.

SHRI N. K. P. SALVE: So is yours to your party.

DR. BHAI MAHAVIR: I am. . .

श्री लाडली मोहन निगम (मध्य प्रदेश)
आपके यहां ही सारे बुरे काम कराए जाएंगे, यह मैं नहीं समझ सकता ।

DR. BHAI MAHAVIR: I am much less an expert than Mr. Salve and, therefore, I start with a note of humility, inspired by what he said. I was very much moved when he said that people on this side were capable of blowing his argument to pieces. Well, that was more of humility than a statement of fact. I know of your competence and, therefore, I must admit that we do learn when a debate on a subject like this is conducted at a suitable level.

Sir, the hon. Minister, when he moved this Bill, gave us some details of the dates of how the genesis of this Bill has come about. He said that in February 1980, that is, soon after his party came to power, there was some consultation with the Central trade unions. A few days later there were consultation with the employers and just a few days later thereafter there were consultations with the Members of Parliament connected with trade unions. But, after that, Sir, there is a gap and since June 1980 we are not told what was happening on this front, whether it was put in some sort of a hatching machine for hibernation, or for what reason the Bill was delayed all this time. Now, suddenly, at the fag-end of the session we are told that this must be passed and even when there is insufficient time at the disposal of the House we are sought to be pushed into a situation

[Dr. Bhai Mohavir]

where the Bill has somehow to be passed and the Chair, as you are very well aware, is in a tight corner as to how to limit the speeches to keep within the allotted time. But, Sir, I have not been able to find even a word of explanation as regards the urgency of this Bill just at this moment. If the consultations that were taking place were all, more or less, completed in early 1980, now this is the past middle of 1982, more than two years, what is the reason which has kept the hon. Minister sitting quiet over this very important issue which he considers important today and he suddenly brings it like a surprise upon us and tells us that it has to be passed because of certain very immediate and important reasons.

Sir, his argument becomes even more unconvincing when he tells us that a national tripartite conference has been called and is going to be held next month. Well, Sir, were the heavens' going to fall if this Bill had not been brought before that National Tripartite Conference held its deliberations? Why do you want to take a step which will not enable you to take benefit or draw benefit from the deliberations of that conference which you yourself have called? Sir, I am unable to understand the logic of this particular situation. He has himself said that a comprehensive labour law is on the anvil as recommended by the National Commission on Labour which worked during the years 1968-1969. Since then we have had the glorious period of Mrs. Indira Gandhi's reign, the dynamic decade and the emergency period also of which we off and on hear the virtues even now. But in spite of all those good things being said for this period there was no occasion for this particular draft to be brought or this particular objective to be achieved by our hon. friend on that side.

(The Vice-Chairman (Dr. Shrimati) Najma Heptulla in the Chair)

Madam, he says that after the tripartite conference a decision will be

taken on setting up a machinery for resolving the industrial disputes, formulating procedures for recognition of unions and connected matters. All these years the Government has not been able to formulate how unions are to be recognised. The unions are insisting that there should be some verification machinery, whether it is through a ballot or through some other machinery, I do not know, and God knows for what reason we have not been able to formulate a method of determining which particular union is representative of which particular section of workers in a particular industry. This is not a flattering tribute to the Government or to the hon. Minister, for whom I certainly have great regard.

But, Sir, if you have not been able to do this . . .

THE VICE-CHAIRMAN DR. (SHRIMATI) NAJMA HEPTULLA):
A coup has taken place.

DR. BHAI MAHAVIR: But, Madam, if you have not been able to do this, will you blame the opposition for it, will you blame the international events for it, will you blame the weather for it? These are the things on which the Government has to apply its mind and use its wisdom and achieve the desired ends. It is nobody's case, Madam, that there should be any restrictions on production. Production has to be increased. Production must increase. If there is a difference, it is on the point whether production will be increased by trusting labour by making them feel all the time that they are shirkers, that they are evaders and that they do not put their heart into the work. And, therefore, the Government like a grand-ma must stand with a rod and keep an eternal vigil on their activities, on their mischiefs. The hon. Minister would agree with me that if a Government or an authority were to start with this presumption, it would be creating difficulties for itself. Therefore, the issue is not just what you are trying to do through this Bill.

It was said just now whether we think that strikes and lockouts will bring benefit to the country, will promote country's welfare or add to our GNP at least. But is it not true that even under the old Act, section 10(3)—I am not a good lawyer or a good student of law either—there is a situation in which Government can prohibit strikes and lockouts once a particular dispute is referred to adjudication? How often has that provision been used? And if that provision has not been used, what are the reasons? The situation appears to be that the Government is somehow jittery, I do not know for what reason. When it comes to that, they say, we have got such a massive mandate, we got such huge percentage of votes and, therefore, all these pigmies, opposition-wallas, do not enjoy anybody's confidence, and all this talk goes on. Even so, when it comes to implementing a particular provision or using power which they already have, we do not know why they become so shaky. After all, it is a sign of shakiness that today they are afraid of the press. Yesterday, we had such a discussion as to why restrictions are sought to be imposed on press, and that it is because of scurrilous writings, because of character assassination which a newspaper can indulge in. If a newspaper can indulge in character assassination, are you so very unsure of your character or the appreciation which the people have of your character that you think a stray journal here or there will believe any imaginary stories so much that your hold on the people will be lost? There was ESMA; there has been an assault on the judiciary also with efforts to demoralise the judges by making their posts transferable, asking them to sign this form and that form, and now this particular Bill which again is indicative of the distrust this party in power seems to have developed of the things around it and of the workers and all organised sections of public opinion. Even admitting that I am no expert on labour laws or the working of labour laws, I want to ask, is it not a fact that

workers' experience hitherto is such that they feel that the present law does not effectively protect them against erring employers, mischievous employers? For example, if an employer defaults in depositing the workers' provident fund or State insurance contributions with the appropriate authorities, the Government is unable to protect the employees against such defaulting employers also, or if the worker is thrown out without compensation or gratuity, he does not seem to get sufficient protection from the Government, or if the employer violates safety provisions under the Factories Act or he leads the undertaking willfully to sickness or brings it to a grinding halt depriving thousands of workers of their jobs, if these things are going on and the workers find that they are not protected sufficiently by the Government, it is not because the Government does not have the powers, or the law has not equipped it with sufficient authority, but it is so because the Government does not have either the political will or for some reason, has to play safe and soft to the big influential people in the industry or business.

Madam, this particular thing which is sought to be done now, is, as I said I am unable to convince myself, so urgently needed that it could not be delayed for some further consultation. There has been a proposal before the Government for several years now that some autonomous industrial relations commission should be set up for the purpose of settling industrial disputes on a semi-autonomous basis. It was suggested that it should be largely autonomous. But this particular proposal also has not been accepted. I admit that this was not accepted even during the Janata regime. But you had a much longer-term, you had a more stabler term. Why is it that this particular thing has not appealed to you? And why is it that you are doing this in a slipshod manner, bringing in instalments what you want to do on the labour

(Dr. Bhai Mahavir)

front? There has been talk of. . . (Time-bell-rings). Madam, may I take two or three minutes more, with your permission? There is a talk of certain institutions being excluded, hospitals and others. And it has been said that the Government has moved a Bill in this House for the purpose of dealing with them. Hospitals are different. I appreciate the feeling that a hospital is not a factory, like the one which is producing nuts and bolts. It is a better type of service. It is a service which is very essential for the common people. But what I wish to submit is that, an accountant sitting there, the sweepers who are employed there, the people who are engaged as karmacharis, in a hospital establishment or in a hospital office, consider themselves no different from the karmacharis who are working in a post office or in any other office. When we put restrictions on them, they feel that they have to. . . (Inter-ruptions)

SHRI N.K.P. SALVE: It may be an accountant. It may be a clerk. They are a very insignificant portion. Can you draw that sort of distinction in a particular kind of industry itself?

DR. BHAI MAHAVIR: What I am saying is slightly different. What I am saying is that, when you take such a step, or, when you make such a distinction, the important thing is that you should provide for these people a machinery for the redressal of their grievances. But why is it that you have not done it? You say here, you have proposed a Bill. You say, you have brought a Bill. But you do not think that that needs such an urgency which is needed for this particular Bill which has come up for consideration today. What is the reason for not taking it up? Why is it that that was not pursued further and made into an Act? Then, people would have known, well, this particular section provides for a machinery for the redressal of their grievances. In hospitals, it may be different. But there

are universities; there are colleges. I, myself, am connected with the university here. We know how much havoc is caused. The situation is allowed to deteriorate to such an extent that people are left with no alternative. I am not one of those who would like strikes to be had for the fun of it. I think, a genuine trade unionist would not like that. But why is it that we have allowed the situation to go down or deteriorate like this? (Time-bell rings) I will say one or two more things only. I would like to say something in respect of Government's economic policies, for provision of employment, for maintaining prices at a stable level. I have here a consumer price index statement, according to which, one DA instalment was recommended by the Rath Committee for faulty calculation of the index number by the Government. This was not given and then we were told that the cost of living is coming down. As a matter of fact, people who go to the markets for making purchases of the necessities of life know that right from January this year, the prices of consumer goods have been going up. And there is not the slightest justification for claiming that the price rise has been contained. Recently, they have gone up further. And the price rise which the Government is sanctioning in administered prices of certain commodities is further proof of that. The price of vegetable oil was increased only last February by Rs. 1.70 per kg. With all that, they do not even accept the logic or the principle of compensating the workers for the rise in the cost of living. You do not protect them against the rise in the cost of living. This is the reason why a situation has arisen when people talk of launching struggles. Madam, I have here with me a judgement of a High Court. This is a judgement
5 P.M. of the Delhi High Court
against a person who was dismissed from the Trade Fair Authority of India. Madam, in the last session I had an occasion to raise this question. New rules have

been framed where associations are not permitted to be formed by workers. The charge against that worker was that he held a meeting and delivered a speech. The High Court is on record, having reinstated him, saying, I quote:

"Ignoring the contents of the speech of the petitioner the circumstances in which it was made, disregard of the procedure of the inquiry prescribed by the Authority itself, denial of proper opportunity to the petitioner to defend himself and the imposition of most severe sentence unwarranted by the alleged misconduct, make the impugned orders highly unreasonable and arbitrary. They smack of discrimination and victimisation. The impugned orders violate the guarantee given by articles 14 and 15 of the Constitution to an employee of an Authority which is an instrumentality of a State."

Madam, such is the the situation where Government companies are not permitting to form associations. There are 219 Companies of the Government with an investment of Rs. 21,000 crores. They are unwilling to permit their rules of recruitment to be scrutinised by Parliamentary Committees. This is the situation in which the workers feel that the Government is not putting any faith in them and we, as Members of Parliament, understand that the Government's policies smack of a particular type of either authoritarianism or lack of faith in all that goes around it. In such a situation even though it may not be easy to pick up faults with particular clauses as such when you restrain the right to strike when you restrain the right to picketing and all these things, we become apprehensive that you are not above to have a better approach of creating confidence in workers. Therefore, I would urge upon the hon. Minister that in keeping with the spirit of the time he should try to win the confidence of

the workers rather than put shackles on their rights. This creates suspicion. We have already a lot of suspicion in politics, socialist or otherwise. There is time that we too called a halt to it and tried to introduce a better and a more humane approach in such circumstances.

SHRI NAND KISHORE BHATT (Madhya Pradesh): Madam Vice-Chairman, thank you very much. I have heard a great deal of reference from the previous speakers to the comprehensive labour Bill. It is not merely enough if we provide for settlement of disputes or merely work for industrial peace, for, under certain circumstances, peace itself can be negative, namely, absence of war. What the country needs today is harmony in industrial relations. Amendments to the Industrial Disputes Act should aim at our country's economic and industrial development with social justice for all. The Act has, therefore, to be development-oriented. It should democratise the relations between employer and employees. The culture of 'conflict of interests' leading to perpetual confrontation must now yield to a new culture of 'community of interests' leading to cooperation. My friends have been talking about comprehensive labour relations Bill, but we know it very well that it is far away from practicability. I compliment the hon. Labour Minister in not waiting for the much discussed comprehensive labour Bill but coming forward with practical amendments which are going to play a great role in the context of our economic developmental activities.

Madam Vice-Chairman, the marxist theory of class war and class conflict was propounded in altogether a different context of the exploiting capitalist set up. The application of this theory in industrial relations even in the private sector has since lost all relevance in view of the vast changes that have taken place over the passage of time. This is more so in the

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public sector. Enforcement of a number of laws for the protection of the rights of labour and democratisation of the industry through participative management, provide no room for the marxist theory of conflict of interests or institutions run under marxist norms. Instead a new atmosphere of community of interests and cooperation has to be ushered in.

My friends have made repeated reference about the textile strike in Bombay. I need not elaborate the means adopted to prolong the strike only to satisfy the ego of an unscrupulous individual. It is on record. I do not want to name the trade union leaders. They were the same leaders who had approached the Chief Minister of Maharashtra to say that this erratic trend in the trade union movement started by a particular individual to put the entire economic system to ransom was not desirable and they wanted deterrent action against such anti-social elements. I do not want to say it, but as the strike started they found that probably their shop would be closed and they would have no place. It is again these very trade unionists once opposed to any erratic individual to come in the field and destroy the normal trade union activities, who came forward and they joined his bandwagon. Everybody says that something should be done for the workers. I would urge them to tell us if they have got any practical solution.

We have all been working in the trade union field for long. Trade union is not an end in itself. It is a part of our entire approach to the economic and social justice that we are striving to achieve. Before trade-unionists, we are citizens of this country; we are consumers. As trade-unionists we may take credit for having organised this strike or that strike. But we forget that we are answerable to the people for our actions whether right or wrong. The entire society would be really grateful

to the hon. Minister for the practical and pragmatic approach with which he has come forward before this House with these amendments, because for the speedy disposal of disputes, the Government has to take a few measures expeditiously. Settlement of industrial disputes is being unduly delayed, with the result that the aggrieved workers are forced to lose faith in the grievances settlement procedure. In a recent case, the Supreme Court gave a decision invalidating the dismissal of a worker in the Mathura Electricity. That is a 'classic case' in this regard where the employee in the Mathura Electricity was dismissed in 1956 and after quarter of a century, the Supreme Court gave its decision in favour of the employee in 1981. Such is the situation. Under these circumstances, when the existing machinery has not proved effective, instead of waiting for a comprehensive Bill the Minister and the Government were quite right in taking appropriate steps to come forward with some basic amendments which are going to be of great value to the entire working class.

I have no intention of going into detailed arguments. We know it very well that whenever there was an appeal, the worker had to starve and beg. If there was a economically strong union, or if there was a good set of workers around him, they financed him. We have seen cases where the workers could not get justice. So the Labour Minister has come forward with a proposal that workmen in whose favour there is an award for reinstatement would be eligible to get cent per cent wages even when the award is contested by the employers in higher courts. There is a common tendency on the part of the employers to go in for appeal to higher courts. If they lose in the High Court, they go to the Supreme Court. And no worker, or for that matter no citizen can have the patience, money or energy to face such legal onslaughts. From that point of view, this provision which

has been made in this Bill is something very remarkable for which I am sure thousands and thousands of workmen who are suffering day in and day out are going to express their grateful thanks to the Government and to the Minister who has taken pains to bring forward this sort of welcome provisions.

Madam, justice delayed is justice denied. Now because of the litigation that we find everywhere, one can very well understand that there is discontentment among the working class. It is quite legitimate and natural. Considering this he has come forward, not waiting for any other legal measures with a provision for a time-limit for the disposal of cases by labour courts and tribunals. Three months in individual cases is the time-limit prescribed for the disposal of cases. What more is required? What is required, therefore, is that the strength of the trade union movement should not only be directed against conflicts but the strength should be there for a positive purpose. Negative approach is not going to help at all.

Our friends who go to Russia, and other socialist countries come back and make long speeches as to how heavenly things are over there. How happy the workers over there are, but they do not talk of the disciplined manner in which they work there and what kind of machinery is provided there for the protection of the workers. They never talk about that. They only talk about the prosperity of the workers in those countries. Our friends there have also given the examples of Japan, Germany and many other countries. Even a leader like Mr. Ramamurti himself talked about U.K., America and all the developed countries, but little did he say about the amount of discipline there, the way the workers, with their solidarity, are in a position to prevail upon the authorities, the Government, with the sympathy of the public. Are we in a po-

sition to do that? Unless we are going to do that and unless we take the society along with us, we cannot do it. After all, they are not only workers; they are citizens also. So, a trade union movement which is basically not looking after the interests of the workers cannot survive. That is why we have seen how the 19th January strike call given by all the trade unions together could not succeed. The INTUC does not take the whole credit for it; neither the Government also could claim the whole credit for it. It was because the people did not support that sort of an action. Indian people today are quite mature. It is more than fifty-five years since the country got Independence and people now understand things.

I very much sympathise with my striking friends in the textile industry. But I have myself gone to Bombay and found that the strike has practically no impact on the life of the people there. Otherwise, whenever there is such a labour problem, you cannot find normal life. Here it is so because there is no principle. If you go about with certain principles with a certain logic, certainly in a democracy you can achieve something. Ultimately people are our masters. If you can satisfy people with your approach, it is going to be helpful, surely their sympathy is there and no power on earth can deny the workers their legitimate rights.

Now the proceedings before the labour courts and tribunals would not lapse as a result of the death of a worker, but we would like to know from the hon. Minister whether at least his heirs, his dependants would get the benefit. Formerly it used to be so and I presume that is the intention of the amendment that has been provided in this Bill. This, in my humble opinion, is a big achievement.

I do share the feeling of my friends who have been saying particularly about this Section 36-B—clause 21—“Where the appropriate Government

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is satisfied in relation to any industrial establishment or undertaking or any class of industrial establishments or undertakings carried on by a department that adequate provisions exist for the investigation and settlement. . .” The apprehension has been expressed by a number of friends from the other side that they feel that probably it is not applicable to public sector organisations. But, at least I am convinced that there need be no such apprehension on this score because whatever activities are going on in the public sector undertakings will continue. I shall be grateful if the hon. Minister, while replying to the debate, would dispel that doubt.

Madam Vice-Chairman, I do not want to take much of your time. Mention was made about a comprehensive Industrial Relations Bill that was introduced during the Janata time and I do concede that the INTUC was also a part of the Joint Action Front that was there. But the reason for the INTUC joining the Front was because the Bill provided for considerable bureaucratic domination over the trade union scene and industrial relations and such a domination was bound to suffer from political overtones or undercurrents. I am not going into the details. But I have to point out that they introduced a new concept of “*ipso facto* unions” putting at naught the very concept of freedom of association so loudly acclaimed by the opposition political parties. My trade union friends did not differentiate between members and non-members and they said. Why should another union be there? I have got the right, the freedom of association to organise my own union. But, according to them, *ipso facto* members and non-members were equal. That position was not acceptable. Various categories of negotiating agents provided for in the Bill would have meant no negotiating agent for collective bargaining.

If an elected leader from the working class could understand the implications of the new legislation, he would not be compelled to depend upon outside leadership for legal precautions for all times. We did not know the legal position obtaining at the moment. We wanted that leadership should come from the rank and file.

The Bill justified lay-off on account of ‘accumulation of stocks’. This ground had to be rejected, as accumulation of stocks are often held for purposes of profiteering and is not beyond the employer’s control. Madam, we found 49 shortcomings in that comprehensive legislation and we had no options but to reject.

Very often, my friends say something on INTUC. INTUC was conceived as a constructive trade union movement responsible to the society without indulging in any activity that is going to harm the interests of the workers. The very fact that INTUC came into being immediately after Independence when our friends were encouraging and joining hands with those who were saying that India was not yet independent, is a proof enough that we wanted production, we wanted. . .

AN HON. MEMBER: You did not do anything about the Bombay textile strike. (*Interruptions*)

SHRI BHAGWAT JHA AZAD: Let him speak uninterruptedly.

SHRI NAND KISHORE BHATT: So INTUC is that very organisation which has a glorious past and in spite of combined attacks—has stood the test of time. We have functioned to the best of our capacity and without compromising the interests of the workers at any stage.

Madam, Vice-Chairman, much has been said about the right to strike.

But strike is a means, it is not an end in itself. My friends speak as if strike is a goal we have to achieve. If we were to achieve it, everybody would have joined in it. It is an illusion and it is being resisted. The Bombay strike is an example before us.

Madam, about the unfair labour practice, I have to compliment the Labour Minister. I think for the first time in our country after Mr. Gulzari Lal Nanda we have a Labour Minister of calibre, guts and determination to give a proper direction to our economic activities, to the working classes and to the industry. We have got a code of conduct which places obligations on the workers, the employers and the industry. So I should say that what he has done is not something new. This was a code voluntarily accepted by all the trade union organizations, by whatever persons that there were of the Indian National Trade Union Congress, the All-India Trade Union Congress, and others. All such organisations were a party to the voluntary code. The present Minister has only shown guts to give a statutory provision, for which he deserves our unanimous compliments and congratulations. And this is not something which is new. Somebody has referred and said that the Bengal Government has come forward with a legislation on unfair practices, but that is only limited to the employers. In Kerala, they had provided it for the labour. And there is already an Act on the Statute Book of Maharashtra, Trade Union and Unfair Labour Factories Act. This Act has shown by the test of time that the Central Government is perfectly justified to bring this kind of provision.

Much is being said about the workers not getting a fair deal. Madam, while the Minister has

given so many benefits to the workers, I would urge that wherever any recalcitrant employers are indulging in activities detrimental to the interests of the workers, some provision should be made for giving them deterrent punishment because only a fine of Rs. 500 or Rs. 1,000 is not going to make any impact on them. Our country is passing through great hardships. Even Pak'stan, our neighbour, has a GNP of 260 dollars, while we have a GNP of only 154 dollars. How are we going to improve our conditions? How are we going to improve the conditions of the poor people? The time has come when we should all work together. What is required is that we must have a realistic approach to the whole situation. We should have co-operation, not conflict. We should develop understanding not mistrust. We want involvement, not isolation. Our approach should be positive, not negative under inspirations from abroad.

Madam Vice-Chairman, it is time that all of us, irrespective of wherever we are, in whatever political parties we are, realised the reality of the situation, the sentiments of the people and their sufferings for years. It is time that in our different walks of life—if we are trade unionists, as trade unionists, if we are Government servants, as Government servants—we realised that the poorest of the poor who are looking to us are not going to wait for long. We have to remove poverty, unemployment and hunger. And this cannot be done by slogans. We have to work for it. I am grateful to the Labour Minister for the practical way in which he has tried to deal with the situation. Thank you.

THE VICE-CHAIRMAN (DR. (SHRIMATI) NAJMA HEP-TULLA): Mr. Dhabe. I do not want to disturb you in between

[The Vice Chairman]

while you are speaking. There is very little time allocated to your party.

SHRI SHRIDHAR WASHUDEO DHABE: Everybody has exceeded his time.

THE VICE-CHAIRMAN (DR. (SHRIMATI) NAJMA HEP-TULLA): They have, but...

SHRI SHRIDHAR WASUDEO DHABE: I only want your indulgence. I won't take long.

THE VICE-CHAIRMAN (DR. (SHRIMATI) NAJMA HEP-TULLA): I do not want to shock you, but you have only three minutes officially.

SHRI SHRIDHAR WASUDEO DHABE: Even the ruling party Members have exceeded their time.

THE VICE-CHAIRMAN (DR. (SHRIMATI) NAJMA HEP-TULLA): Everybody has.

SHRI SHRIDHAR WASUDEO DHABE: Why do you want to single me out?

THE VICE-CHAIRMAN (DR. (SHRIMATI) NAJMA HEP-TULLA): I am not singling you out.

SHRI SHRIDHAR WASUDEO DHABE: Madam Vice-Chairman, I am surprised to hear a statement from Mr. Bhatt that the working class movement has not supported the strike of 19th January. I am also surprised to hear his statement regarding the restrictions on the definition of industries when the INTUC, including their General Secretary, has pleaded for years together that the time has come in the country to have an employer-employee relations Act, not merely restricted to one industry. As Madam Vice-Chairman rightly said, agricultural workers

should get protection, domestic servants should get protection, every sector of workmen, who are having low wages, who have no service conditions, should get protection. But they are out of the purview of the Act. In that context, when we examine this legislation, it cannot be accepted even by Mr. Bhatt on an objective basis. In this country we have traditions built. My learned friend and a respected Member of this House, Mr. Salve, is not here. He was asking: what is the fundamental approach? Why are you opposing the Bill? I would like to stress on the fundamental approach. It is a sad affair in our country that trade unions are linked with political parties, whatever be the political parties. This will not help the industry or the country or the working class as such.

SHRI NAND KISHORE BHATT: The I.N.T.U.C. is an independent organisation.

SHRI SHRIDHAR WASUDEO DHABE: I am not talking of you; I am talking of all parties. Why do you take it that it is about you? That shows that you are more attached to the Congress Party (I). I am stating the facts. Can we make a distinction between one class and another class? Is it not in the interests of all persons that production must go up? Is it not in the interests of the working class that unless peace is maintained, service conditions cannot be improved? Is it not in the interests of the Government? In fact they are more concerned about peace, even at the cost of incurring the dissatisfaction of the working class or annoying the employers. For this purpose, either through a wise policy or judicial pronouncements or Government policy and the Planning Commission, certain conventions have been built in our country, certain principles have been evolved.

What are the principles? One principle is that if we do not agree among ourselves, then there will be an arbitrator or a conciliation machinery and the matter will go for adjudication in the final analysis. It has been the principle of labour jurisprudence that justice must appear to be done, and therefore, a third person from the Labour Ministry or the Labour Commissioner's office and so on, would be asked to go between the workers and the employer. This principle has been accepted for the last 30, 35 years. Now in this Bill you are making a departure. That is my fundamental objection with your approach. That is why I have moved this amendment for a Select Committee. There is a fundamental deviation from the principles of labour relations built up in this country. What is the departure? The departure is that the grievance settlement council will be appointed by the employers for looking into the grievance of the employee whom they have themselves dismissed. Can a person be a judge of his own cause? The American labour jurisprudence is different. There they have accepted in the agreement clause itself; they have specific terms.

Then we say we should have expeditious disposal of disputes. Now, if the grievance settlement council is appointed by the employers and employees together, then it will be a joint panel or joint arbitrator where both parties are represented, where representatives of both employers and employees have equal share and responsibility. Then only it may carry some credibility with the parties. Mr. Salve, I was referring to you: What is your fundamental approach? What is the principle of jurisprudence? It is that a third person must be the judge. The same person cannot be a judge of his own cause. You

dismiss the employee and you yourself set up a council for looking into that dismissed employee's grievances!

SHRI N. K. P. SALVE: The principle of natural justice is that a person cannot be a judge of his own right. What is sought to be provided for is to constitute a settlement body which will have representatives of management and representatives of employees...

SHRI SHRIDHAR WASUDEO DHABE: But who will appoint that council?

SHRI N. K. P. SALVE: If you go by the principles of natural justice, then a representative of the employee also may not come there.

SHRI SHRIDHAR WASUDEO DHABE: Here he is a nominee of the employer. Employees have no voice in the appointment of the council. This is the fundamental difference that I point out in the approach.

Then about expeditious disposal. Expeditious disposal is the second objective given in this Bill. But by appointing a grievance settlement council there will only be delay. They say after the grievance settlement council fails, then the matter can go for conciliation or adjudication. The National Labour Commission of which so much has been talked, has stated that the dismissed employee should have the right to go to the labour court within three months. What is the practice, what is the industrial jurisprudence, in Maharashtra, in Madhya Pradesh, in Gujarat? If the person is dismissed or retrenched or removed, or his services are terminated, under this Act he has the remedy to go to the labour court immediately for adjudication and for setting aside the dismissal. Therefore, this Bill is making a fundamental departure. If you want expedi-

[Shri Shridhar Wasudeo Dhabe] tious disposal, then this should not have been provided.

Then, in order to have a wider connotation of this Act, it has been found in the clauses on industry certain sections are completely kept out. The Supreme Court has held that it is in the nature of an activity which should be determined according to whether it is an industry or not and not who runs it. I can understand when the Supreme Court said that sovereign functions such as police, administration and legislature, should be excluded. First was the Nagpur Corporation case. Then there is the later case; the Bangalore water supply case. There Supreme Court gave a wider interpretation in order to protect the industry. This Act is not against the industry or the employee because it is providing for a machinery for settlement of disputes. If certain undertakings are taken out of the purview of the Act, will it stop strike? Will there be any machinery? Now you see the universities and educational institutions. There are more strikes now though they are prohibited. Nowhere in the world a substitute has been found for strike. Strike cannot be prohibited. Strikes can only be regulated. If you want more expeditious settlement of disputes, do you think it can be done through the adjudication machinery? Even if you provide for a time limit to the employer, he can go to the High Court and later to the Supreme Court or file writ petitions. So, there is no substitute to strike and it will then be a very time-consuming process. Adjudication will be a very difficult instrument for solving the problem expeditiously.

I am now referring to the definition of 'industry'. Other services have already been discussed. This

definition does not include any activity which is carried on by a cooperative society if not less than ten persons are employed...

SHRI BHAGWAT JHA AZAD:
If the number is less than ten.

SHRI SHRIDHAR WASHDEO DHABE: Only below ten, not above ten?

SHRI BHAGWAT JHA AZAD:
That is right.

SHRI SHRIDHAR WASUDEO DHABE: Co-operative below ten is exempted.

Now I come to clause 2 regarding agricultural operations. A standing committee was appointed and the committee has recommended a comprehensive legislation to regulate the service conditions of agricultural workers. The Committee gave a unanimous report. But the Government could not implement the report so far. Why? Because the State Governments are opposing it. The Labour Minister should take courage to bring forward a legislation to improve the service conditions of agricultural labour. The State Governments should not come in the way of this important welfare measure. Unless this is implemented, our production cannot be increased and our economy cannot be improved.

I will refer only to two more provisions of this Bill. One is 36B which is being dealt with in clause 21 of the Bill. This is an exemption clause and this is the first time that this departure has been made. I do not know what is the intention of the Government in exempting certain establishments. Nor the hon. Minister has explained clause 21 of the Bill. Up till now there has never been such an exemption. This is a basic departure and you have

taken power to exempt certain establishments from the provisions of this Act. The reason given is that they may have adequate provisions for investigation and settlement of industrial disputes. You are a lawyer and you know the implications of legal provisions. Can an employer set up a quasi-judicial machinery or a tribunal? Will that be a better machinery? How can you have better industrial relations than under the existing machinery? You can have a conciliation machinery. You can have machinery for negotiations. Conciliation machinery under the Labour Ministry or adjudication machinery is quasi-judicial by nature. An employer cannot set up such a quasi-judicial machinery. And in clause 21, there are no guidelines given regarding exemption. It is a blanket provision. Once an order is issued under this, somebody may revoke it. I know that under the Payment of Bonus Act a similar provision was there. But they have taken care to provide in that Act what is needed. I am quoting from that Act:

"If the appropriate government, having regard to the financial position and the relevant situation of any establishment or a class of establishments, is of the opinion that it will not be in public interest to apply all or any of the provisions of this Act, it may, by notification in the official gazette, exempt for such period as may be specified therein, subject to such conditions as it may think fit to impose."

There also the provision is sparingly used. But the condition is that it must be for a specific period and not for a blanket exemption which is being provided in this Bill. Therefore, even under the Payment of Bonus Act, the exemption clause is there and the

guidelines are in the relevant section itself. But you are taking the powers in this Bill to provide blanket exemption and not for specified period. There are no guidelines and it is not known whether it is for a specified period or not. Further, once you give the exemption, it will not be possible for you to revoke it also.

Then, Madam, my third submission would be this: I want to refer to the exclusion of industries. You have excluded certain items like educational institutions, hospitals, etc. Is it not a departure from the Supreme Court judgment? You should have specifically said that you are trying to modify the Act and, if that is so, why was there such a hurry? I cannot follow this. I do not know why there was such a hurry to rush with this legislation. When you are meeting soon, when you are going to have the tripartite conference, you could take a consensus of the concerned people. You referred to the consensus which was there in 1980. But I do not think that there was any consensus. I had attended one or two meetings as a Member. Not a single question was asked as to what industries would be exempted, not a single question was asked as to what would be the exemption and not a single question was asked as to what would be the new legislation. Therefore, I would request him not to bring forward this piece of legislation, which is more in the nature of a restrictive legislation, more in the nature of granting exemptions to the industries, and more in the nature of not following the National Labour Commission's recommendations and guidelines for the settlement of disputes of the industrial workers. Madam, my esteemed friend, Mr. Bhatt, was referring to the Maharashtra Act. I would say that even your officers have not seen the Maharashtra

[Shri Shr'dhar Wasudeo Dhabe] Act. The Maharashtra Unfair Labour Practices Prevention Act was brought forward in 1973 and it has been in force for a long time and that Act provides for giving power to the court, but not merely for giving or awarding punishment. The labour court or the High Court can give an injunction for a temporary period to the employer or the management and he will pay the fine and dismiss the workers. It is six months' imprisonment or one thousand rupees in fine. He will pay the fine and will dismiss the workers. Therefore, this provision with regard to the unfair labour practices is only half-hearted.

Madam, this Bill has been opposed by all the trade unions on the main ground that this restricts the rights of the workers. Other Bills are also prohibiting strikes. But this is a complete departure from what was being done up till now in this country and, therefore, I would request the honourable Minister again to see whether it is possible to postpone this Bill and, if it is possible, to postpone it and not to press for passing it. If you are really going to reconsider and if you are going to bring forward other Bills in instalments, then this instalment can also wait like the others till the tripartite meeting is over. Thank you, Madam.

SHRIMATI USHA MALHOTRA: Madam Vice-Chairman, I rise to support the Industrial Disputes (Amendment) Bill wholeheartedly. I congratulate the honourable Labour Minister for his farsightness, for his courage and for his determination to sort out the relationship problem between the employers and the employees. His endeavour has been a sincere and honest one to do so. He has the experience, the calibre and, I think he has done justice to

the longstanding need for a proper labour policy which has not been properly spelt out so far. I would appeal to the critics of the Bill to make a careful study of the Bill and not to come down on it just for the sake of opposing it. My hon. colleague from across the floor himself admitted that there has been a spurt of illegal strikes. There is no machinery to stop all this and put an end to it. We are trying to stop this. Now, the incitement of workers is there. We want to do away with it, because with the catchy slogans they have all along held out to the workers they have tried to strike at the roots of the economy of this nation. We do not want them to exploit the situation. We do not want them to exploit it for their own political ends and the interests of the poor workers are held to ransom. Their welfare and their interests are well-safeguarded within the framework of this Bill. We can bring the employee and the employer together for harmonious working.

Madam, Vice-Chairman, I would request them not to mislead the workers, because they will very soon know the self-styled well-wishers who have all along exploited them. The 'Bharat Bandh' is an eye-opener for them. Our workers are well advised all along. They have trade unions. They have not to be carried away by these slogans which they have held out all along to destroy the nation's economy. Our hon. Prime Minister has given a call for the 1982 year as the year of productivity. The illegal strikes which they want to defend. I think, will not bring in the prosperity which we all wish and which we are endeavouring to have in our country. I urge upon the political parties for heaven's sake do not encourage and defend illegal strikes. The nation has to forge ahead. Japan is an example.

The workers hold the interest of the nation supreme, by not shattering the economy of the country by strikes and lock-outs. The Act provides for the machinery and procedure for the investigation and settlement of industrial disputes. The Act had certain weak spots and they have been identified by the National Commission on Labour which made an in-depth study of industrial relations laws and procedures. This study has helped the Government to identify a number of areas in which the Act needed to be amended to promote industrial harmony. The Labour Minister has laboured hard and has shown a high degree of farsightedness by bringing in this Bill. He has held a series of consultations with the representatives of trade union organisations and the employers. The whole objective of the proposed amended legislation should therefore be growth-oriented with simultaneous dispensation of equitable justice all around. The Bill adequately protects the rights and has an inbuilt mechanism for restraints for those who come under its purview. The Bill makes it obligatory for the employers to provide for an internal grievance settlement machinery. A workman in whose favour there existed an award of a labour court or tribunal for reinstatement would automatically be entitled to get full wages, even when the employer chooses to challenge the award in a higher court. The Bill seeks to impose reasonable restrictions on the employer's right to close down an industrial establishment. There are certain undertakings which do not fall within the definition of "industry", and they have been excluded from the purview of the Act. The idea had not been to take away workers' rights, working in the hospitals, educational institutions and research organisations but their interests were well protected by a provision of alternative grievance redressal machinery in the hospital and other institutions. The law is the result of collective wisdom and reflects the aspirations of the community.

The labour policy is the result of the tripartite consensus built over the years. We are all aware that this is a very vital and sensitive field. Let us realise that the workmen and the employers have to build bridges of understanding and help the nation in its onward march to progress and prosperity.

The partisan game of the political parties at the level of unions shall not, in any way, help the nation or the workers to forge ahead. My colleagues have earlier admitted that the country is facing serious crisis and as such, do they intend to defend strikes? Do they intend to run the country without a labour policy well spelt out in the country? I am sure no one wants it this way. We all want to see India progress and march forward to prosperity. In the case of West Bengal, the labour situation was the worst in the past couple of years where the loss in mandays was the highest compared to the other States in the country. (Interruptions) The Bill is in the interests of the working class and that of the nation as a whole. It is because of the efficiency of the political party which is in power and which the entire country needs today. (Interruptions) The country is well aware of it. (Interruptions).

Clause 2 of the Bill includes some items which were not previously included in the definition "under the central sphere", namely the Employees Provident Fund Organization, the Coal Mines Provident Fund Organization, and so on and so forth. I am sure nobody would have any objection to these organisations coming under the central sphere as they are central public sector undertakings, with units spread over many States. The Labour Minister has excluded from the purview of the definition of "Industry" human activity concerned with wants or wishes which are merely spiritual or religious in nature, agricultural activity, self-employed

[Smt. Usha Malhotra]

professions practised with the assistance of less than ten persons and cooperatives having less than 10 persons. My hon. colleagues would agree with me that hospitals, educational institutions, research organisations, charitable institutions, khadi and village industries, the sovereign functions of the Government and domestic service, do deserve a different treatment from the other activities and also the very fact that the latest court decisions make it all the more necessary to formulate a meaningful national labour policy.

I take this opportunity to congratulate the Labour Minister for putting forth the definition of the word "workman" which would include workmen drawing Rs. 500/- to Rs. 1600/- per month.

Clause 8 of the Amending Bill provides for giving speedier justice by the labour courts for which we have been fighting on this side or that side. You should be happy that this clause has been included in this Bill for speedier justice by the labour courts and the cases would now have to be decided within a period of 3 months. Clause 8 also provides that proceedings pending before a labour court will not end merely because of the death of one of the parties to the dispute. Certain powers have been vested in the conciliation officers to settle disputes expeditiously.

Clause 11 again is directed for the welfare of the working class as it has been laid down that the employer shall pay full wages, pending proceedings in the higher court.

Clauses 12, 13, 14 and 15 have made additions in safeguarding the interests, and in favour, of the working class. It was necessary for the Government to redefine 'closure' so that the units are not closed down by employers for frivolous reasons and goods and services are continuously supplied to the community and workmen are not left to destitution and

starvation because of arbitrary closures. (*Time Bell rings*).

Clause 15 is there to stop the employers from resorting to unfair labour practices as well as the working classes in such a critical atmosphere. I am sure nobody would want that either the employers or the workers should halt production. We cannot allow our country to be held at ransom just because somebody out of frustration wants to behave in a fashion which is not considered healthy and progressive in the field of industrial relations activity anywhere.

In the end, I would sincerely appeal to every one in this House that we should not let this golden opportunity go from our hands for amending this Bill. My friends are also aware that Clause 21 allows the Government to give exemption from this Act to its own departmental undertakings. And, so, Government will use this privilege only in exceptional cases, after ensuring that full justice is done to the workmen employed in these undertakings.

Madam, I would land my whole hearted support to this Bill and this is just what was needed to bring about a comprehensive legislation for the entire country. Thank you.

SHRI DIPEN GHOSH: You have well read out.

SHRIMATI USHA MALHOTRA: You do not have to learn everything by heart. (*Interruptions*)...

SHRI KALYAN ROY: Madam Vice-Chairman, I will be very brief. Madam, it is obvious that this is another noose on labour unions. And the very fact, the way the Bill has been pushed through shows the Government of Mrs. Gandhi has passed on from talking tough to acting tough towards labour.

Madam, in spite of the speech of Mr. Salve, with his usual courage of

no conviction, we belonging to the working class—irrespective of INTUC, AITUC, CITU, HMS, BMS—are opposed to this Bill and will oppose it even after its passing here through strike actions. Let there be no doubt in the mind of the Government about it.

Madam, is it only the left trade unions or the right trade unions that are opposing it? I am just quoting and I would like the Government to say from where I am quoting:

"The amending Bills that have been introduced in Parliament recently appear to us to be scrappy, inadequate even the effort to bring forward such necessary amendments to meet the immediate needs. These will not be effective instruments for the economic development of the country."

The same journal further says:

"As regards activities/institutions of 1, 4, 5, 6 and 7, we strongly oppose their exclusion..."—that means, hospitals, charitable and educational institutions—"from the scope of the term 'industry', and accordingly suggest that the relevant clause at page 3 under the words 'but does not include', should be deleted."

Which Central organisation can write this? Must be AITUC? Irresponsible. CITU? More irresponsible. BMS? Absolutely untouchable. Have they written it?

SHRI NAND KISHORE BHATT: Madam...

SHRI ARVIND GANESH KULKARNI (Maharashtra): Why do you provoke? (Interruptions).

SHRI KALYAN ROY: Let me finish. Have patience. Why does the lady protest too much?

SHRIMATI USHA MALHOTRA: Did you see me protesting?

SHRI ARVIND GANESH KULKARNI: Madam, why do you take it on yourself. Not only you are a lady but even the males are ladies now. What can you do? (Interruptions).

SHRI KALYAN ROY: Madam, I am thinking of stopping now. Only I have quoted Shakespeare, nothing more. (Interruptions). For heaven's sake...

THE VICE-CHAIRMAN (DR. (SHRIMATI) NAJMA HEPTULLA): They took it too literally.

SHRI KALYAN ROY: This is the journal of the Indian Worker, Thirty-fifth Anniversary of the INTUC, June 28, 1982: Which is the Central trade union which is supporting this scrappy, inadequate Bills?

SHRI NAND KISHORE BHATT: Madam, Vice-Chairman, on a point of order. When this document was printed, by that time, there was no dialogue with the Government. Subsequently, we had a dialogue with the Government and I understand that Government had invited all the Central trade union organisations. At least, when we were invited, we had discussion with them and the doubts that were there they had been clarified. (Interruptions)...

SHRI KALYAN ROY: I do not need any help.

Madam, Vice-Chairman, I thought the Labour Minister referred to dialogues between the Central trade unions in 1980 and this has been published on June 28, 1982. May be, Mr. Bhatt is fighting against his conscience, he is forgetting his memory and what has been written in the INTUC journal, in the Annual Number.

Madam Vice-Chairman, I was present in the meeting which was called by Mr. Anjiah. As a matter of fact, I paid compliments to the Prime Minister that for one whole day she was also present. Many other Ministers

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did not come. She was not only present, she took down notes. But we never discussed the Industrial Disputes (Amendment) Bill there. We only discussed the various problems of various Central trade union organisations, nothing of the Act. We discussed unemployment, rising prices, retrenchment, lock-outs, closures. These are all the things that we discussed. I think, Mr. Labour Minister should again go through the minutes of 1980 meeting which have been circulated to all of us. So, Sir, this Bill, as I have quoted, has been so disparagingly commented upon by the INTUC. At least, let that be accepted by the Government. But even there they ignored the INTUC, because, perhaps, they think, after all, whatever the Government will do, the INTUC has no other alternative but to support it, because the INTUC exists with the patronage and support of the Government. Otherwise, Madam, Vice-Chairman, how any working class organisation can support the Bill? Illiterate workers, peasants are good enough to vote who is going to be the Prime Minister but they cannot vote to choose their collective bargaining agency. This is the sad position of the INTUC. But, in spite of that, I pay compliments that, at least, whatever Mr. Bhatt might have said here, the organisation is wholly opposed to the Bill. So, the Bill is most ill-advised.

Madam, Vice-Chairman, we would like to see the productivity increase; there is no doubt about it. We would like to see that the production goes up so that we can compete in other world markets. We are faced with a naked challenge from the western countries, which are forcing through the I.M.F., the International Monetary Fund loans to dump their goods on us. We would like the production to go up. But unfortunately this kind of a Bill will lead to further intensification of the confrontation between the labour on the one hand and employers and Government on the other.

The confrontation which we have seen in Bombay is likely to spread. Actually this Bill, Madam, as I have pointed out, is a bipartite product of the employers and the Government.

6.00 P.M.

Mr. Bhagwat Jha has only taken the baby which is not his baby. It is the policy of the Government, as I said in the beginning, to take tough action against the working class. Already, the position is bad enough. We are trying to find out areas where we agree to bring about peace, which may not be possible, but to lessen the tension. But the tension is bound to increase with this Bill. The 19th September strike should have been a pointer to the Government that things are going pretty bad in industrial areas. Members of Parliament have commented or referred to the textile strike of 7 months. All efforts have been made with hoodlums, with police, gangsters, millowners and their stooges to break the strike but the strike could not be broken. Anybody who has led the strike, knows that the strike cannot be broken in this manner. The fire spreads. It has spread from Bangalore and it has now spread to Bombay and from Bombay it will spread to the mines. We do not want this. I repeat but it is going to happen. In this year of productivity, we have not yet passed August, and we have lost nearly 70 million mandays, more than what happened in the last 3 years. If this is the result of a Government that functions, the people may next time vote for the Government that does not function. And this Bill is going only to accentuate the bitterness between the Government which decided to crush the working class, and the working class and peasantry.

Other gentlemen have talked about the hurry. What is the hurry? Everybody has asked it. When you are going to meet the Central trade union organisations you could have brought

this Bill in the Winter Session. What was the emergency situation? And we have not heard a single explanation. That makes us suspicious. Is it some foreign hand behind? Is it the IMF which talked of wage freeze, talked about de-nationalisation, talked about cutting down wages? Whether it is the package deal of the IMF, question has been raised, and you have to answer and the answer should be convincing.

Madam Vice-Chairman, I have great respect for Nandaji. I think he was a good Labour Minister. But now we find, in dealing with workers' grievances, demands and arrogance has developed in the Government. It is not the attitude of accommodating each other, attitude that frightens us; it is an attitude of bully and a boxer. It should not be the attitude of Central Government. As a journal—not left, not right but a very well-known journal—pointed out, time has come when the present Government decided that the kid glove must be given up for the veil fist. This is a veil fist which has been pointed out to the working class and the working class have no other alternative but to accept the challenge and fight it back.

Coming to the Bill, I deal with unfair labour practices. I can understand the genuine concern of some that there should not be demonstrations before the managing director's personal house or where directors' families live. But don't you see how cleverly they manipulate? For 5 months, Kesoram Cotton Mill was locked out this year and when we demonstrated, immediately a case was filed in Calcutta High Court that some distant relative of some director is residing in the Kesoram Cotton Mill premises and therefore, there should be no demonstration. You have opened a Pandora's Box. Every factory will have a room and they will say 'my grandfather or my would-be bride would be staying there'. By this, you are actually crippling us. Workers are being killed because of gross violations of safety laws in the

factories. I think, the Labour Minister will agree with me when I say that in the last five years, the number of fatal accidents in factories has been going up. I will be debarred from taking out a body of a dead worker by the side of the factory because this comes under 'demonstration'. Workers will not be allowed to take out even silent processions. No slogans. Nothing. We are debarred actually even to take out a silent demonstration in the streets, where some directors may be living. He will say 'I have been disturbed'. If I want to take out a demonstration to South Calcutta from Central Calcutta and in between if two or three directors' bungalows or two or three directors' flats are there, the Bill will be used to say 'No; this demonstration cannot pass through that route'. What you are heading to? What kind of fetters you are putting around our hands and around our neck? This Government should have some sense of shame. There are certain provisions in this Bill which are objected to even by the INTUC journal, Indian Worker. My amendments, most of the amendments which I have submitted, are from the INTUC....

AN HON. MEMBER: Memorandum.

SHRI KALYAN ROY: It is not mine. I thank Mr. Ramanujam for helping me in this way, to show how this Bill is so scrappy, inadequate and useless. Mr. Azad has talked about this National Commission on Labour. He has proposed to amend the Industrial Disputes Act in regard to explosions in mines. I am referring to page 7, clause 13, which says:

"(a) in sub-section (1), after the words 'or to natural calamity' the words 'and in the case of a mine, such lay-off is due also to fire, flood excess of inflammable gas or explosion' shall be inserted."

One who is not acquainted with the provisions of the Mines Act and the violations of the provisions of the

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Act, will easily be carried away by this deceptive amendment. I would like to bring to the notice of the hon. Minister the unanimous recommendation of the Mines Safety Conference. Sir, a question was asked on the 21st March, 1975, in regard to this. This was a unanimous recommendation. INTUC is a party. The Government of India is a party. The Director-General of Mines Safety is a party. The employers are a party. The question was, what happens to a mine which is closed because of explosion or because of flood, as in the case of Chasnala, or because of roof fall, as a result of the deliberate refusal by the management to implement the safety laws? The National Commission on Labour has made a recommendation in regard to this. I am quoting from the Parliamentary papers, which has been quoted just now. It says here:

"The recommendations of the National Commission on Labour regarding compensation to workers for loss of wages when the mines are ordered to be closed on account of violations of safety provisions etc. should be implemented. Suitable amendments should be made to section 22 of the Mines Act in this respect."

It has recommended that in case an explosion takes place and the mine is closed, the Government should examine the question of reopening the mine and pay the workers full wages. Why was it not incorporated? Why was not this recommendation incorporated in this amending Bill? You talk of the recommendations of the National Commission on Labour. You say, you are going to rely on them. But you do not touch the recommendations of the National Commission on Labour at all. When I am bringing before you a specific recommendation of the National Commission on Labour that where an explosion or a fire or a roof fall takes place because

of the refusal by the management to implement the safety laws resulting in lay-off of workers, the workers should be fully compensated, what prevents the Government from incorporating it? If they are honest, sincere and devoted to the miners they should do it. So, Madam Vice-Chairman, the apparent honesty is torn to pieces. Now they want the Bill to be passed. I would again request the hon. Minister to think about it.

My last point is, so many of my friends, hon. Members, have talked about the sanctity of hospitals and all this. What kind of hospitals are we seeing nowadays? I cannot afford admission in any hospital of the Birlas. What about Jaslok hospital? What about Bombay hospital of the Birlas? What about the Woodlands hospital? Are they hospitals? They are parlours of the rich people who do not go to the ordinary government hospitals. Today each cabin costs thousands of rupees. They have become profitable organisations. Whenever a Birla man, I have seen, has been caught in COFEPOSA or in the offence of evasion of income-tax or a warrant has been issued against him, immediately he gets sick and gets admission in Woodland or Bell view or Jaslok or Bombay hospital. Are they hospitals? They get more money in the name of trust. Please go through the report of the Public Accounts Committee on evasion of wealth tax. The Mafatlals, the Birlas, the Singhania's, the Goenkas, and the Tatas have set up together 3,000 trusts in the name of hospitals, in the name of religious institutions, not only to avoid wealth tax or income-tax but also to deny the workers the little minimum wages. Please take the wage chart of Jaslok hospital. Workers went on strike some years back for a minimum need of working hours. There are no fixed working hours. From morning till evening they have to work. This is because if G. D. Birla is admitted the whole world collapses.

SHRI P. RAMAMURTI: It is till 10 O'clock in the night.

SHRI KALYAN ROY: That is what I am pointing out. Are they hospitals? These are the rich men's hospitals. There is no protection for the workers, for the nurses or for the ward boys or even the doctors in those hospitals. But suddenly you woke up because the Birlas have complained that they do not like to have unions in the Woodland hospital in Jaslok hospital, in Bell View hospital, in Bombay hospital. The closeness of a bourgeois government and the monopoly is made nakedly, vividly clear by this Bill. But they will not listen to us as they did not listen to us when they imposed emergency. They did not listen to us when they ran after the youngmen to emasculate them. What happened in U.P. and Bihar? They did not listen to us when they enforced ESMA. Factories after factories have been closed down. Madam Vice-Chairman, we have discussed the closing down of the jute mills without notice. Mr. Patil replied to us that 17 jute mills are there where 70,000 workers have been rendered unemployed. Has any employer been arrested? In Bombay textile strike 25 leading trade union leaders have been arrested and a Member of the Lok Sabha was also arrested under ESMA. This is how you are implementing the laws. Why do you come between us and the employers? you are trying to put us on equal par with them. Is it fair to treat the monopoly houses, the multinational houses, big business and the bidi worker and the miner and the textile worker on equal footing? Your approach is totally wrong. That is why I say that it is a bipartite product. On the one hand it is the Government of India and on the other it is the employers. That is why we are left with no option but to oppose it tooth and nail, not only here but down in the mines, in the docks, in the jute mills, in the plantations and, if necessary, in the streets.

THE VICE-CHAIRMAN (DR. (SHRIMATI) NAJMA HEPTULLA): Last speaker, Shri G. C. Bhattacharya, apart from a couple of third-reading speakers.

श्री शिव चन्द्र शा : हमारा नाम ?

उपसभाध्यक्ष [डा० (श्रीमती). नाजमा हेपतुल्ला] थर्ड रीडिंग में आपका नाम है।

नौवहन तथा परिवहन मंत्रालय में राज्य मंत्री (श्री सीताराम केवरी) : ये हमेशा थर्ड क्लास में रहते हैं।

श्री लाडली मोहन निगम : आप थर्ड क्लास ही तों बनाने जा रहे हैं देश को। हम उसी के नागरिक हैं। मोहतरिमा, मुझको थर्ड क्लास से जरा ऊपर उठा दीजिये।

THE VICE-CHAIRMAN [DR. (SHRIMATI) NAJMA HEPTULLA]: Government has abolished third class. It is only second class now.

SHRI G. C. BHATTACHARYA (Uttar Pradesh): Madam, Vice-Chairman, I oppose this Bill and I associate myself with whatever has been said by very eminent speakers from the Opposition side.

Madam, I am not surprised that this Bill has come. This Bill was bound to come because brick by brick now the foundation is being laid for the establishment of an authoritarian State in India. The first brick was laid in July, 1980, when the Industrial Policy Resolution was amended. The Industrial Policy Resolution was amended to open the door for multinationals and also the monopolists in this country and to sabotage the public sector ultimately. Then, the other bricks were laid when the MRTP and FERA were sought to be diluted. Now finally this Bill has come to discipline the working class, as one of my friends said. These are very cold and calculated steps to finish a free

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society, to finish a democratic society and to establish an authoritarian State in order to help free market economy dominated by the multi-nationals and the monopolists and in the process to establish a family rule in this country.

Madam, when the other side points out certain bright features of this Bill, I only want to tell them that if you take the Bill as a whole, this is a sugar-coated poison. So try to see it. Don't go by the sugar-coating but see the poison. Once you swallow it, you are finished.

SHRI LADLI MOHAN NIGAM: It is cynide; not sugar.

SHRI G. C. BHATTACHARYA: What I say will be established immediately from the various provisions of the Amendment Bill. The Bill says which is "industry" and which is not "industry". It says "industry" does not include—any agricultural operation, hospitals or dispensaries, educational, scientific, research or training institutions, and institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service. I do not know whether Mr. Azad has applied his mind to this provision. You know how monopolists here are experts in transferring everything under the garb of charitable institutions. Even the *khana* and dress and other things also come from charitable institutions of the monopolists like the Tatas and the Birlas. Everything is camouflaged. If tomorrow the industries that they set up are also set up under the so-called charitable or philanthropic institutions, where do we stand? How do we regulate their industrial empires? So, you have laid a dangerous path and you will slip on this path and have a fall.

Apart from that, Madam, take agricultural operations. As you know,

India is an agricultural country with eighty per cent of the people taking to agriculture. If you take out agricultural operations—And you are right; when you were speaking on the floor about the living conditions of the agricultural workers—then how do you control them, how do you give succour to them? When there was a violent movement—the Naxalite movement—you tried everything right from Vinobaji to land reforms and distribution of land—although on paper only. Now what will you do? Now you are keeping out the highest number of unorganised labour from the scope of this Bill. Therefore, after you take out all these organisations from the definition of "industry", what remains? Therefore, most of the unorganised working classes you have taken away from the purview of this Bill, leaving them to suffer or to take to arms. Nothing else. Then, Madam, if this is the state of affairs, they can say, "All right. If they take to arms, we will face them with arms." But that, I say, is not a free society, not a democratic society.

Then, Madam, many things have been said about the grievance settlement authority. I would again draw the attention of Mr. Dhabe to sub-clause (4). Firstly you will see what Mr. Dhabe has said. The employer has to appoint this. But if he does not appoint? As I know, Government orders granting minimum wages are not implemented. I am connected with many trade unions which are fighting for the implementation of Government orders for giving minimum wages, but the Labour Department colludes, everybody is in league to defeat the Government orders. When we say "Give it", they declare a lock-out. When we say, "Please allow us to work" then the police is let loose on us. So, these mercenaries are trying to defeat your own orders. What will you do? What is the mechanism to compel anybody to appoint a grievance settlement machinery? Now, what is the most dangerous

thing here? (*Time-bell rings*) Madam, I have got 18 minutes. There are no other Independent Members. I am the only one.

THE VICE-CHAIRMAN [DR. (SHRIMATI) NAJMA HEPTULLA]: All the 18 minutes do not belong to you alone.

SHRI G. C. BHATTACHARYA: There is nobody else, Madam. Don't be unfair. You belong to the fair... Don't be unfair. Don't look at them. They are out to curtail my time.

THE VICE-CHAIRMAN [DR. (SHRIMATI) NAJMA HEPTULLA]: I am only looking at you.

SHRI G. C. BHATTACHARYA: There are 18 minutes and there is nobody. This is my time.

What I am telling him is, when you say that there will be a grievance settlement authority, there is a very, very important nexus. Unless the grievance settlement authority decides, nothing can be referred to arbitration. It means, even if the employers appoint this authority, they will not decide it, they will not participate in it. They will take any amount of time. Who is there to arbitrate? "Decide" means, to be decided by both the parties. Suppose myself and my employer are involved, there are two parties and the employer does not come. The dates are given. But there is no decision. They do not co-operate. Then? Although they have appointed it, they do not cooperate and no decision is taken. Then, whatever may be the magnitude of the dispute, it cannot be referred to arbitration. Then, what are the workers to do? The workers have either to suffer or take to armed struggle or revolution. How do you read this susceptible portion in a democratic society, a free society? Are you not laying the base of foundations for an authoritarian State? Because in that case, you will say: Either you fall in line or silently suffer; the decision

will not be there, your dispute will not be referred. You do anything. Our organised police force is there to finish you. Therefore, Mr. Azad must see where the disease is. This disease is there and I have not seen any remedy. And what has not been provided by the Act will not be provided by the rules or the orders. Somewhere they have said 'prescribed'. If they have not provided it here, which is a substantial thing, no rules can be made opposed to the spirit of this. So you cannot go beyond this position. No decision will be there if the employer does not co-operate. How do you compensate the employee?

Then, Madam, I am coming to unfair labour practice. On this my colleagues from this side have said. Now you kindly see the Fifth Schedule.

उपसभाध्यक्ष (डा० (श्रीमती) नाजमा हेप्टुल्ला) अभी कितना समय बाकी है आपका ?

श्री जी० सी० भट्टाचार्य आप कहिये तो बैठ जाऊँ, आपका हुक्म शिरोधार्य है ।

THE VICE-CHAIRMAN [DR. (SHRIMATI) NAJMA HEPTULLA]: You have already taken 12 minutes.

12 मिनट हो गये ।

श्री जी० सी० भट्टाचार्य : आप उनके कहने से बह रहे हैं, 12 मिनट हो गये तो 6 मिनट के अन्दर बैठ जाऊँगा । आप उधर मत देखिये ।

उपसभाध्यक्ष (डा० (श्रीमती) नाजमा हेप्टुल्ला) आप भी इधर देखिये ।

SHRI G. C. BHATTACHARYA: I am very happy.

मैं अपनी तक़दिर देख रहा हूँ ।

THE VICE-CHAIRMAN [DR. (SHRIMATI) NAJMA HEPTULLA]: Thank you very much.

SHRI G. C. BHATTACHARYA: Madam, the first thing you can see, when it comes to unfair labour prac-

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tice on the part of trade unions, is: "To advise or actively support or instigate any strike deemed to be illegal under this Act". Who will decide the deemed clause? "Deemed to be illegal", is notional. It means that anybody, even a constable or a chaprasi, can deem the strike to be illegal and send the man to jail for six months. It is never done like this. When any action which will lead one to imprisonment is there, the word "deemed" is never used. You can call Mr. Salve and he will be able to tell you whether such a word is used or not.

Now you come to 2. (b): "to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workmen or against managerial staff". Here, what is the flaw? Here also, I am questioning about the deemed illegal strike. Those who are in the labour field know that there is an organised attempt to break the strike. Then, what will you say? When you try to break the strike, there will be employer, there will be anti-social elements who will be employed by the employer, and then there will be the police force at his command. Then you say "non-striking workmen or against managerial staff". Who will decide who is a striking workman or a non-striking workman. Have you defined non-striking workers? You can on your own say they are non-striking workers. This means you want to create a division among the working class by having all the force behind you saying that here are the striking workers, here are the non-striking workers. This has not been done anywhere. Therefore, you have struck again at the root of the fundamental rights of the working class to go on strike. And if you do it, don't have any illusion. The weapon of strike is a safety valve for the society, for a democratic society. If you want to finish it, the democratic society or free society will come to an end. Therefore, whoever is talking of

Japan and all these things is not trying to understand the real implications. Strike is not a bad thing. It is a safety valve for a democratic society. If you don't allow a cat to go out of the room, the cat, though it may be small, will strike at you and finish you. Therefore, don't close the door. At least throw some doors open to the working class to express their grievances. They are being exploited. It is a fight between unequals. There is no comparison between the working class and the employers. The employers have organised forces and money at their command. The working class is totally helpless. They have got their unity and nothing else. And you don't want to allow them to go on strike to ventilate their grievances. Therefore, those three or four provisions that I have pointed out strike at the very root of a democratic society, a free society. It shows that you want to establish an authoritarian and Fascist State. Therefore, I strongly oppose the Bill.

SHRI BHAGWAT JHA AZAD:
Madam Vice-Chairman, I am grateful to the hon. Members on all sides who have participated in this debate to express their feelings as they wanted and as much as they wanted. Some of them are those who have so far, from independence to this day, seen nothing good in the Government. Therefore, their language is: to hell with you; whatever good you do, we do not take note of it. Then there are the other persons who have gone through the Bill, quoted the provisions, given constructive criticism and supported the Bill. From among the Opposition parties, I am grateful to Dr. Shanti Patel and also to Dr. Bhai Mahavir, who have criticised and have given constructive suggestions. But for them, it would have been apparent that there are absolutely water-tight compartments in this House. One consists of persons who have shut their eyes to anything good in this Government; only bad is seen in everything by them. And the other consists of persons who think that

since they do not have anything to say, they should say that it is all useless. And some Members have surprisingly seen a foreign hand in this Bill. It does not lie in the mouth of those who get dictates from foreign countries to tell us that we are being dictated in this Bill. There are a couple of Members in this House who have always believed in giving threats. Madam Vice-Chairman, we have seen such threats. We have seen this on the 19th January strike and we are prepared, Madam, to see those threats once again, how they are implemented on the streets, because we know that the workers are with us...

SOME HON. MEMBERS: Ah!

SHRI BHAGWAT JHA AZAD: ... because they know that this "ah-ing" of a few persons...

THE VICE-CHAIRMAN [DR. (SHRIMATI) NAJMA HEPTULLA]: Excuse me. When you were speaking, the hon. Minister did not disturb you. When he is speaking, you should not disturb him.

SHRI BHAGWAT JHA AZAD: Madam Vice-Chairman, I would start with what Mr. G. C. Bhattacharya, the last speaker but not the least. He was reminding us about the consideration of the Bill, what should be done in this and what he does not like. The first important thing was about the grievance settlement machinery. I want to say on this. Madam Vice-Chairman, at present, as the law stands in the country, a worker in any establishment in this country, the moment he is either suspended, discharged or dismissed or when other charges are led against him, whether he is near or far away in a project, has a machinery available to him. There is conciliation first by the appropriate Government. If it is State Government, the State Labour officers move; if it is Central Government, we move. If it fails, then we try for

voluntary arbitration. If it fails, we try to send the case for adjudication. If it fails, then the labour court. Have I done any crime in providing like this? All I have said is the existing machinery will be there, it will be available, plus this additional one. There are thousands and thousands of establishments in this country today. There will be a grievance settlement authority ... (Interruptions)

(MR. DEPUTY CHAIRMAN in the Chair) Please give me your ears and not your mouth. If honourable Members do not want to hear me. I have no objection to say I move that the Bill be taken into consideration. Please have patience. (Interruptions) I heard with patience all your criticism. Now please extend the same courtesy to me and listen to my reply with patience. (Interruptions) When you used all kinds of invectives, superlatives, hyper-boles and what not, I did not speak a word against them. I heard them all patiently. . . (Interruption) Mr. Deputy Chairman, I have committed a mistake by referring to his name. I am sorry, I will not do it again.

What I am saying is that this settlement council that we have proposed in the different establishments, is not any substitute for what is available today in the country. What we have got today under the law in the thousands and thousands of establishments in this country, will be there. What are we providing for here? Not by the employer. It will be provided for in each establishment under the broad and detailed guidelines that the Government will formulate under the rules to tell them; it will be a bipartite machinery in which the employer and the employee will be there. We will give them detailed guidelines, even the time-limit for the cases. I am quite sure when I say that the voluntary arbitration and the settlement machinery are available in the plan itself. They function under the detailed guidance of the

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Government. I am quite sure much of the harassment to the workers is going to be removed. The normal processes are available—conciliation not succeeding, going to the voluntary arbitration, not succeeding going to labour court, and so on. Much of the problem, I hope and I believe, will be solved. One can ask: If the employers don't do it, what will you do? The statutory backing under the Act is there for asking them to do it under the detailed guidelines of the Government. If not done, the law will take its course. I am always reminded: how many employers have you punished? I have figures with me. There are thousands we are prosecuting today under the Provident Fund Act. We have punished them. We have fined them. And we propose, I can tell the honourable Members, to come with such an amendment where punishment should be stringent. I propose making the law and I hope all the lawyer-Members will help me in seeing that the defaulters are fined and punished, those who are avoiding the law...

SHRI P. RAMAMURTHI: May I remind him that he need not amend the Provident Fund Act? As a matter of fact, if my money for purposes of depositing in the provident fund has been taken by the employer and he does not deposit it and he uses it for himself, then it is misappropriation, criminal misappropriation punishable with seven years. Why don't they resort to that? I do not know.

SHRI BHAGWAT JHA AZAD: I fully agree with the honourable Member. I have taken this stand that that money of the workers which is deducted for depositing in the provident fund, if it is not deposited, then it should be treated as a breach of trust and we are trying to explore that this stands the scrutiny of law and this would be done. Straightway I say I agree with this and we will do

SHRI DIPEN GHOSH: How many public sector undertakings have deposited?

SHRI BHAGWAT JHA AZAD: Possibly they have a technique of not allowing me to continue. I do not know why at every two minutes they interrupt me. Probably they feel that only they are the masters of this House. If they show some patience, I hope I will be able to convince them. I also have some values and principles which I have been following since the first Lok Sabha when many of them were not there.

What I want to say is that whatever provision I have brought. I have brought with good intentions and I propose to follow them. They are not to cover up anything. I am asked: Why did you come so late? I have not come late. I want to answer that question. I introduced this Bill much earlier. The moment I took over as Labour Minister I introduced some Bills and all of them are for the welfare of labour. Whether it was about 50 per cent payment of wages, or 75 per cent of wages or 100 per cent payment of wages, all were in the interest of labour. They are all progressive measures. Some hon. Members may not agree and I do not expect them to agree also. I introduced this Bill in the last session. I thought that all the Parties represented on the Business Advisory Committee would force the Committee to include this Bill in the agenda much earlier. I was expecting this from the first day of this session. According to some hon. Members this Bill is controversial, but to me it is a very important piece of legislation. If it has come only now it is not due to any failure on my part. I expected hon. Members to press for it. They said: Why not wait for the national tripartite conference? It has a large agenda to discuss. In this Bill I have said about the grievances settlement machinery. And I have said that during the pendency of the proceed-

ings, the worker should be paid hundred percent wages. The Supreme Court had struck down closure as ultra vires. I have tried to modify it. The reason was that I thought enough chances are not given to the employer. So, I have remodified. If I say that before closure, retrenchment or lock-out, they must give 2 or 3 months' notice to the Government, what is wrong in it? We can then, after hearing both the employer and the workers, decide whether it is justified or not. That is the purpose. What is the point for difference on this? I know that many of the hon. Members will not agree with me on two important provisions. One is the provision about unfair labour practices. The other is about exclusion of certain industries. I am sure they do not object to the inclusion. I have widened the definition to include many industries. They have told me about the Supreme Court judgement. I am also aware of it. The Supreme Court judgement said that an industry must have three important salient features, namely, continuity, relationship between employer and employee, and production to satisfy the human wants. It is on this basis that we have defined industry in this Bill. That is how a large number of establishments come under the extended provision of this Bill. When I say that hospitals, educational institutions, khadi industry and charitable institutions will not come under this, I hope the Supreme Court will realise that there are occasions when certain of the industries will have to be excluded. That is why they have suggested, "Constitutionally and competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise might be covered thereby.". There we have an honest difference of opinion and I agree with the honourable Members also. But what I am saying is that to the five or six provisions that I have made in this Bill, no honourable Member will have any objection. They are all for the labour and only for

the labour and not for the employers. The honest difference of opinion is there where we have put hospitals, educational institutions, etc. out of the purview of this Bill. They will not agree with us on this. But what we say is this: The strike culture that is very much necessary for a Faridabad establishment, for a jute mill in West Bengal or for a textile mill in Bombay does not at all go with the All-India Institute of Medical Sciences or the Jawaharlal Nehru University or those other Universities in the country or hospitals in the country which are there to serve the larger interests of the people in the country at large. Therefore, we as the Government or as a party think that the time has now come when we should, on this point, bear this honest difference of opinion and allow them to go out of the purview of this Bill and for that I have introduced another Bill in this House which I propose to take up in the next session. That was why I thought that if the honourable Members would have pressed for this Bill, I would have pressed for that now and that would have been the first Bill today and this would have been on the first day. But they asked me why I am bringing forward it now and I am putting this question to them: Why did you not press for this?

AN HON. MEMBER: Because no one would agree.

SHRI BHAGWAT JHA AZAD: Yes, because on some points we did not agree, but on major points we agreed. Therefore, Sir, what I am saying is this: I have not done anything which is beyond the scope of the judgment of the Supreme Court. The Supreme Court has also said that there are a large number of others in this country. The Judges are wise people and when they gave the definition of this, they also said:

"There are a large number of others in this country: the legal profession, the medical practitioner,

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the cobbler..."—that is the word that they have used in this—"... the ordinary cobbler and his assistant, the cycle repairer with a helper whom we come across on the pavements of the cities and towns, and the idea of industrial dispute for this reason applies all along the line to the small artisans, craftsmen, domestic workers and the like, the solicitor, the lawyer, the doctor or the engineer, a butcher or a candlestick-maker with or without an assistant—these do not fall within the meaning or definition of industry."

I have done only this much and I have not done anything unconstitutional or beyond what the Supreme Court has given in its judgment. Therefore, the only point of difference between us and the Opposition is, as I have said earlier, on two important matters. One we can understand and therefore, we do not agree. But what about the other, that is, the provision regarding the unfair labour practices that I have given? The main burden of their argument is that whereas in the case of an employer this will not be proved, in the case of labour it will be proved. But it is like putting the cart before the horse. I say that there are a large number of cases and respected Ramamurtiji wanted me to tell him in how many cases we have punished the employers. I have said that we have punished the employers in thousands. I have brought the cases against them in thousands; it is true. But the point is only this much: It is not I who have sent them to the jail. I led the cases, brought them under prosecution before the judge and the honourable judge sometimes, which I hate, gave them twenty rupees and left them and that is why, as I said, I have provided, under the Payment of Wages Act, for the payment of not less than Rs. 300/-. You can say, "Make it three thousand" and I can understand that. But it is for them to say. That is why I am now

pleading with my colleagues and others: Let it be in some cases fine and imprisonment and that would be a good deterrent for them. I see the feelings of the House and I too express my feeling and let us try on that line in some of the future provisions that I will try to make. What I am saying is that the point on which there is disagreement between the Government and those people is on the question of unfair labour practices. Sir, it is not something which I have done now. In 1957, a code of conduct, a code of discipline, was agreed upon by the employers and the employees on ten items. What are the don'ts? The employers and the then Central Trade Unions, whatever unions were there—I was not there—agreed on ten items. Subsequently they agreed on 7 items of Don'ts. So there were 17 items of Don'ts agreed upon by the employers and employees since 1957. But since that was the code of conduct not statutorily backed, they were followed or not. What I have done is that I have given them statutory backing in this amending Bill. Not only that. The National Labour Commission in their Recommendation 194 said that time has come when you must codify them to remove the irritants in the industrial relations of employers and employees. And I have done that. The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act of 1971 also codified these. Even the progressive Government of West Bengal in their Bill—not assented to, on what grounds? I do not know—have codified the unfair practices for the employers. Even the Bill of the Kerala Government of 1959 has codified the unfair labour practices of employers and employees. Mr. Deputy Chairman, I have drawn upon the experiences of those, since I was convinced that now time has come when I must tell them what they should not do, so that they may clear beforehand the path for understanding and should not be a cause of misunderstanding. All that I have done.

I do not believe that today trade union in this country is so weak that their cases will be proved and employers' will not be proved. It only displays a lack of confidence of the trade union in this country that they are unable to prove it. If an employer gives a worker an undue increment during the time of legal strike or forming a union, he will be hauled up before the court that he has given a bribe. It can be proved.

One point he vehemently criticized about the demonstration at the residence of the employer. Mr. Deputy Chairman, I have not restrained them from demonstration—at the office, at the mill, at the work-site. They are the proper places for having a demonstration. What I have restrained them from is having a demonstration at the residence. If the hon. Member feels that office is less important than the residence, all right then I will consider it. But the question is this. I have not restrained them from demonstration everywhere. One unfair labour practice is violent demonstration at the residence of the employers. I hope they will agree to this. Therefore, in the unfair labour practices of employers and employees, I have not myself tried to do something which is not being done since 1957. All that I have done—and I can be called upon that you have done, why did you codify them for the first time. I can be guilty of that; I plead guilty to that charge. But I have done that in good faith for removing the irritants in the relations between the employers and employees.

Mr. Deputy Chairman, these were the points which are there. Apart from them, the hon. Members have given me the sense as if I am sitting in my Labour Ministry debate. This year I had the privilege in the Lok Sabha to have a debate, but not in the Rajya Sabha. So I had full five hours' good debate, covering almost all aspects of industrial relations. Even I would be covered by Mr. Pranab Mukherjee, Finance Minister,

or the Commerce Ministry. They should have replied about monopoly trade practices, about multi-nationals coming in this country, then about a large number of issues—the Press Bill in the charge of the Home Minister, monopolies in the charge of the Finance Minister, then the appointment of Judges—Home Minister's job. Then we have got this Rath Committee. Yes. But the Members forgot to refer to seal Committee which followed it and has given much better recommendations. As I have explained in this House, we are trying to proceed on that. This discussion gave me more idea about labour than this Bill. About nine-tenth of what was talked in this, I do not say was irrelevant, but I would say it was relevant in other contexts and only one-tenth was said about this Bill. In this Bill the provisions that I have given are very clear. On most of them, the hon. Members have no difference with me. I think there was difference on two important points, i.e. exclusion and unfair labour practice. We have strong difference and on these two points we will never agree either in the House, the sovereign Parliament, or anywhere else. Therefore, I think we have to reconcile and live together.

Mr. Deputy Chairman, we have had long sermons by some of the friends and also threatening. I must tell one thing and that is that from the beginning our Government—I am an humble and small member of this Government—do not submit to threatening. We have seen it on 9th January. We have seen it afterwards also. We shall see it after this if they propose to do that. If there is a strike in the coal industry and if the Coal Minister needs my strength and support, I will give that support. If there is something wrong in the Labour Ministry, I and my Government will do everything to solve it. Madam Prime Minister has got all the sympathy for the workers and it has been amply demonstrated in the last two years' performance in this country.

[Shri Bhagwat Jha Azad]

Mr. Deputy Chairman, Sir, some of the opposition friends said "the glorious rule of Mr. Gandhi". Of course, there was satire in it. But I say that yes, there was the glorious period of Mrs. Gandhi's rule which increased production in contrast to the inglorious rule of a few years of some of my friends' parties in which the production went down to minus 1.4 per cent. From minus 1.4 per cent, we brought it to 10 per cent. We have got a food production of 130 million tones in this country. We have got 14 per cent increase in saleable steel, 10 per cent in electricity production, 9.6 per cent in coal and 54.2 per cent in crude oil. Mr. Deputy Chairman, Sir, all this shows that the workers—not the Ministers, not the officers, nor the hon. Members—gave this production during the last two years. There is record production either in field or in farm, either in factory or in shop and all this is due to the cooperation of the labour force in this country who are with Mrs. Gandhi. Therefore, it is not proper to say that the labour is with them. The taste of the pudding is not only in eating, but in digesting it also. They say only eating. I say digesting it also. We have seen this all round production. In the coming months, we shall be able to have much better co-operation from the labour and they will realise who are their friends and who are their foes, we or the trade unions with their political leanings.

Mr. Dhabe said one thing very correctly. He said that most of the trade unions think less of labour and more of their political parties. All of them are attached to the hand wagon of some political party. Mr. Dhabe has given the most appropriate comment. Mr. Deputy Chairman, Sir, they are attached to the hand wagon ask by what yardstick I judge a central trade union in this country. I ask by what yardstick I judge a cen-
1980. B.M.S., a front organization of the B.J.P. has submitted the list of its members. So also the H.M.S. has submitted its members. So also the

INTUC has submitted. Others have also submitted. But it has not been submitted by our friends who are threatening and saying that I am dictated by some foreign country even in this Bill. My goodness! What a pronouncement! Please submit your membership. Those two central unions are CITU and AITUC. If now

I say... (Interruption) I
7.00 P.M. am sorry I cannot agree
with you. I do not know
where they stand because they cannot
settle their internal difficulties—the
same unions, the same membership.
I am frank enough. I tell you, please
submit it. We have differences about
verifications. You want secret ballot.
That is true. The present procedure
is verification. In between verification
is for check off. But till I discuss in
the National Tripartite Conference
about this, I am not going to change
any procedure. I invite you. The
most important point which is today
putting all difficulty in the industrial
relations is the collective bargaining
agent. That is what I say. The most
important is collective bargaining
agent. I am referring the collective
bargaining agent issue to the National
Tripartite Conference. Please come
prepared with all the knowledge,
volumes of books and all the argu-
ments. Let us settle this one issue in
the National Tripartite Conference
and we will have solved a great thing
in this country. Similarly, about
verification. So, on all these items,
I invite you to come to the Conference
and not like my friend, Mr. Bagaitkar
who says, let us boycott it. I must
tell you one thing. If you boycott, that
is our choice. My humble request is,
please come. If you do not come,
the Government sent by the massive
mandate in the country will not wait
for you. It will proceed with the
people, with the labour who are there
to do this job. Thank you, Mr. De-
puty Chairman, Sir.

MR. DEPUTY CHAIRMAN: I shall first put the amendment of Shri Jha to vote. The question...

श्री शिव चन्द्र झा : मुझे थोड़ा बोलना है ।

श्री उपसभपति : आप वाद में बोलियेगा अभी वह सब खत्म हो चुकी है ।

The question is:

"That the Bill further to amend the Industrial Disputes Act, 1947, be referred to a Select Committee of the Rajya Sabha consisting of the following Members, namely:—

1. Shri R. R. Morarka
2. Shri S. W. Dhabe
3. Shri G. C. Bhattacharya
4. Shri Biswa Goswami
5. Dr. Shanti G. Patel
6. Shri Hari Shankar Bhabhra
7. Shri Kalraj Mishra
8. Shri Rameshwar Singh
9. Shri Hukmdeo Narayan Yadav
10. Shrimati Mohinder Kaur
11. Shri Shiva Chandra Jha

with instructions to report by the first week of the next Session."

I think the Noes have it.

SHRI SHIVA CHANDRA JHA: No, no. The Ayes have it. We want Division. (Interruptions)

MR. DEPUTY CHAIRMAN: Will it be convenient if the hon. Members rise in their places? We can follow that procedure.

SHRI P. RAMAMURTI: We want Division on this. We have got a right to ask.

MR. DEPUTY CHAIRMAN: All right, Division.

The House divided.

Mr. DEPUTY CHAIRMAN:

Ayes ... 35

Noes ... 72

YES—35

Advani, Shri Lal K.
Ashwani Kumar, Shri
Baga'tkar, Shri Sadashiv
Barman, Shri Debendra Nath
Bhabhra, Shri Hari Shankar
Bhattacharjee, Shri Nepaldev
Bhattacharya, Shri G. C.
Chatterjee, Shri Nirmal
Dhabe, Shri Shridhar Wasudeo
Ghosh, Shri Arabinda
Ghosh, Shri Dipen
Goswami, Shri Biswa
Gupta, Shri Ram Lakhan Prasad
Jaswant Singh, Shri
Jha, Shri Shiva Chandra
Joseph, Shri O. J.
Joshi, Shri Jagannathrao
Khendelwal, Shri Pyare Lal
Kushawaha, Shri Ram Naresh
Mahabir Prasad, Dr
Mahavir, Dr. Bhai
Mathur, Shri Jagdish Prasad
Patel, Dr. Shrimati G.
Mitra, Shri Santosh
Mohanani, Shri K.
Mukharjee, Shrimati Kanak
Nigam, Shri Ladli Mohan
Ramamurti, Shri P.
Roy Shri Kalyan
Sen, Shri Sukomal
Shahedullah, Shri Syed
Sharma, Shri Yogendra
Siddhu, Dr. M. M. S.
Suraj Prasad, Shri
Yadav, Shri Hukmdeo Narayan

NOES—72

Akarte, Shri Jagannath Sitaram
Ali, Shri Syed Rahmat
Allahabadi, Shri Hashim Raza Abidi
Arif, Shri Mohammed Usman
Bhamidipati, Shri Krishna Mohan

Bhandare, Shri Murlidhar Chandra-
kant

Bharadwaj, Shri Ramchandra

Bhardwaj, Shri Hansraj

Bhatt, Shri Nand Kishore

Bhim Raj, Shri

Bhuyan, Shri Gaya Chand

Chatterjee, Prof. (Mrs.) Asima

Chavan, Shrimati Premilabai Daji-
saheb

Das, Shrimati Monika

Dharmavir, Shri

Handique, Shri Bijoy Krishna

Hanspal, Shri Harvendra Singh

Haq, Shri (Molana) Asrarul

Heerachand, Shri D.

Heptulla, Dr. (Shrimati) Najma

Jadhav, Shri Vithalrao Madhavrao

Jain, Shri J. K.

Joshi, Shri Krishna Nand

Kalaniya, Shri Ibrahim

Kaul, Shrimati Krishna

Kesri, Shri Sitaram

Khan, Shri Maqsood Ali

Khaparde, Shrimati Saroj

Kureel Shri Piare Lall Urf Piare Lall
Talib Unnavi

Kushnoor, Shri Veershetty Moglappa

Lalsawia, Shri

Lokesh Chandra, Dr.

Madanna, Shri M.

Makwana, Shri Yogendra

Malhotra, Shrimati Usha

Manhar, Shri Bhagatram

Matto, Shri Ghulam Rasool

Maurya, Shri Buddha Priya

Mehta, Shri Kishor

Mukherjee, Shri Pranab

Naik, Shri G. Swamy

Nalwa, Shri Hari Singh

Pandey, Shri Sudhakar

Paswan, Shri Ram Bhagat

Patel, Shri Ram Pujan

Patel, Shri Viththalbhai Motiram

Patil, Shri Dinkarrao Govindrao

Prajapati, Shri Pravin Kumar

Prasad Shri, K. L. N.

Rafique Alam, Shri

Rai, Shri Kalpnath

Rao, Shri B. Ramachandra

Rao, Shri K. V. R. S. Bala Subba

Ratan Kumari, Shrimati

Rathvakoli, Shri Ramsingbhai Pata-
liyabhai

Razack, Shrimati Noorjehan

Razi, Shri Syed Sibtey

Sahu, Shri Santosh Kumar

Salve, Shri N. K. P.

Saring, Shri Leonard Solomon

Sheikh, Shri Ghouse Mohiuddin

Shukla, Shri Keshavprasad

Singh, Shri Bhishma Narain

Singh, Shri J. K. P. N.

Singh, Shri Ng. Tompok

Singh, Shrimati Pratibha

Singh, Dr. Rudra Pratap

Sukhdeo Prasad, Shri

Sukul, Shri P. N.

Tyagi, Shri Shanti

Yadav, Shri Ramanand

Zakaria, Dr. Rafiq

The motion was negatived.

MR. DEPUTY CHAIRMAN: In view of this amendment being negatived, the other amendments moved by Shri Kalyanasundaram, Dr. Patel and Shri Dhabe are barred. Now I put the motion moved by Shri Bhagwat Jha Azad to vote.

The question is:

"That the Bill further to amend the Industrial Disputes Act, 1947, as passed by the Lok Sabha, be taken into consideration."

The House divided.

MR. DEPUTY CHAIRMAN:

Ayes .. 74

Noes .. 35

YES—74

Akarte, Shri Jagannath Sitram
 Ali, Shri Syed Rahmat
 Allahabadi, Shri Hashim Raza Abidi
 Amarjit Kaur, Shrimati
 Arf, Shri Mohammed Usman
 Bhamidipati, Shri Krishna Mohan
 Bhandare, Shri Murlidhar Chandra-
 kant
 Bharadwaj, Shri Ramchandra
 Bhoadwaj, Shri Hansraj
 Bhatt, Shri Nand Kishore
 Bhim Raj, Shri
 Bhuyan, Shri Gaya Chand
 Chatterjee, Prof. (Mrs.) Asima
 Chavan, Shrimati Premilabai Daji-
 Sasheb
 Das, Shrimati Monika
 Dharmavir, Shri
 Handique, Shri Bijoy Krishna
 Hanspal, Shri Harvendra Singh
 Haq, Shri (Malana) Asrarul
 Heerachand, Shri D.
 Heptulla, Dr. (Shrimati) Najma
 Jadhav, Shri Vithalrao Madhavrao
 Jain, Shri J. K.
 Joshi, Shri Krishna Nand
 Kalaniya, Shri Ibrahim
 Kaul, Shrimati Krishna
 Kesri, Shri Sitaram
 Khan, Shri Maqsood Ali
 Khaparde, Shrimati Saroj
 Kureel, Shri Paire Lal Urf Paire Lal
 Talib Unnavi
 Kushnoor, Shri Veershetty Maglappa
 Lalsawia, Shri
 Lokesh Chandra. Dr.
 Maddanna, Shri M.
 Makwana, Shri Yogendra
 Malhotra, Shrimati Usha
 Manhar, Shri Bhagatram

Matto, Shri Ghulam Rasool
 Maurya, Shri Buddha Priya
 Mehta, Shri Kishor
 Mirdha, Shri Ram Niwas
 Mukherjee, Shri Pranab
 Naik, Shri G. Swamy
 Nalwa, Shri Hari Singh
 Pandey, Shri Sudhakar
 Paswan, Shri Ram Bhagat
 Patel, Shri Ram Pujan
 Patel, Shri Viththalbhai Motiram
 Patil, Shri Dinkarrao Govindrao
 Prajapati, Shri Pravin Kumar
 Prasad, Shri K. L. N.
 Rafique Alam, Shri
 Rai, Shri Kalpnath
 Rao, Shri B. Ramachandra
 Rao, Shri K. V. R. S. Bala Subba
 Ratan Kumari, Shrimati
 Rathvakoli, Shri Ramsingbhai Patali
 yabhai
 Razack, Shrimati Noorjehan
 Razi, Shri Syed Sibtey
 Sahu, Shri Santosh Kumar
 Salve, Shri N. K. P.
 Saring, Shri Leonard Solomon
 Sheikh, Shri Ghouse Mohiuddin
 Shukla, Shri Keshavprasad
 Singh, Shri Bhishma Narain
 Singh, Shri J. K. P. N.
 Singh, Shri Ng. Tompok
 Singh, Shrimati Pratibha
 Singh, Dr. Rudra Pratap
 Sukhdeo Prasad, Shri
 Sukul, Shri P. N.
 Tyagi, Shri Shanti
 Yadav, Shri Ramanand
 Zakaria, Dr. Rafiq

NOES—35

Advani, Shri Lal K.
 Ashwani Kumar, Shri
 Bagaitkar, Shri Sadashiv
 Barman, Shri Debendra Nath
 Bhabhra, Shri Hari Shankar

Bhattacharjee, Shri Nepaldev
Bhattacharya, Shri G. C.
Chatterjee, Shri Nirmal
Dhabe, Shri Shridhar Wasudeo
Ghosh, Shri Arabinda
Ghosh, Shri Dipen
Goswami, Shri Biswa
Gupta, Shri Ram Lakhan Prasad
Jaswant Singh, Shri
Jha, Shri Shiva Chandra
Joseph, Shri O. J.
Joshi, Shri Jagannathrao
Khandelwal, Shri Pyarelal
Kushawaha, Shri Ram Naresh
Mahabir Prasad, Dr.
Maharir, Dr. Bhai
Mathur, Shri Jagdish Prasad
Mitra, Shri Santosh
Mohanani Shri K.
Mukherjee, Shrimati Kanak
Nigam, Shri Ladli Mohan
Patel, Dr. Shanti G.
Ramamurti, Shri P.
Roy, Shri Kalyan
Sen, Shri Sukomal
Shahelullah, Shri Syed
Sharma, Shri Yogendra
Siddhu, Dr. M. M. S.
Suraj Prasad, Shri
Yadav, Shri Hukumdeo Narayan

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill. Clause 2. There are 32 amendments.

Clause 2—Amendment of section 2

SHRI DIPEN GHOSE: Sir, I move:

1. "That at page 2, line 26, *after* the word 'permanent' the words 'or temporary' be inserted."

3. "That at page 2, lines 35-36, the brackets and words '(not being wants or wishes which are merely spiritual or religious in nature)' be deleted".

4. "That at page 2, line 47, for the words 'but does not include' the words 'and also includes' be substituted."

6. "That at page 3, line 39, *after* the word 'undertaking' the following be inserted, namely:—

'and the principal owners of the establishment or undertaking shall be responsible for all liabilities of such separate industrial establishment or undertakings.'

7. "That at page 3, line 49, *after* the word 'undertaking' the following be inserted, namely:—

'and the principal owners of the establishment or undertaking shall be responsible for all liabilities of such industrial establishments or undertakings.'

8. "That at page 4, line 8, for word 'nature' the word 'any' be substituted."

[Amendment Nos. 1, 3, 4, 6, 7 and 8 also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph and Shri Arabinda Ghosh.]

9. "That at page 4, lines 19-20, be deleted."

[Amendment also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph, Shri Arabinda Ghosh, Shri Kalyan Roy and Shri M. Kalyanasundaram]

10. "That at page 4, lines 40 to 43 be deleted."

[Amendment also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph and Shri Arabinda Ghosh].

11. "That at pages 4-5, lines 46 to 48 and 1 and 2 respectively, be deleted."

[The amendment also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph, Shri Arabinda Ghosh, Shri Kalyan Roy and Shri M. Kalyanasundaram].

41. "That at page 3, after line 49 the following be inserted, namely:—

'Explanation:—An activity shall be considered as severable if such activity is generally carried on by itself.'

[*The amendment also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph and Shri Arabinda Ghosh.*]

SHRI KALYAN ROY: Sir, I move:

2. "That at page 2, line 27, after the words part thereof, the words 'or' lock-out for more than seven days' be inserted."

5. "That at page 2, line 47, be deleted and in pages 2-3 for i'em Nos. (1) to (9) in figures relating thereto, the letters (c) to (k) respectively be substituted."

[*Amendments Nos. 2, and 5 also stood in the name of Shri M. Kalyanasundaram.*]

30. "That at page 2, line 35, the brackets and words (not being wants or wishes which are merely spiritual or religious in nature)' be deleted."

31. "That at page 2, lines 39-40, be deleted."

34. "That at page 2, lines 48-52 the words and brackets except where such agricultural operation is carried on in an integrated manner with any other activity (being any such activity as is referred to in the foregoing provisions of this clause) and such other activity is the predominant one be deleted."

36. "That at page 3, line 5, be deleted."

37. "That at page 3, lines 6-7 be deleted."

38. "That at page 3, lines 8 to 10, be deleted."

39. "That at page 3, line 11, be deleted."

40. "That at page 3, lines 12 to 16 be deleted."

43. That at page 4, lines 7 to 9, be deleted."

[*Amendments Nos. 30, 31, 34, 36, 37, 38, 39, 40 and 43 also stood in the names of Shri Suraj Prasad, Shri Ladli Mohan Nigam and Shri M Kalyanasundaram.*]

44. "That at page 4, lines 19-20, be deleted."

[*The amendment also stood in the names of Shri Suraj Prasad, Shri Ladli Mohan Nigam, Shri M. Kalyanasundaram, Dr. Shanti G. Patel and Shri Sadashiv Bagaitkar.*]

45. "That at page 4, lines 21 to 23, be deleted."

[*The amendment also stood in the names of Shri Suraj Prasad, Shri Ladli Mohan Nigam, Shri M. Kalyanasundaram and Shri Shridhar Wasudeo Dhabe.*]

46. "That at page 4, lines 42-43, be deleted."

49. "That at pages 4 and 5 lines 46 to 48, and 1 and 2, respectively be deleted."

[*Amendments Nos. 46 and 49 also stood in the names of Shri Suraj Prasad, Shri Ladli Mohan Nigam and Shri M. Kalyanasundaram.*]

DR. SHANTI G. PATEL: Sir, I move:

29. "That at page 2, line 27, after the word 'thereof' the words and lock-outs for more than seven days' be inserted."

32. "That at page 2, line 47, be deleted."

47. "That at page 4, line 47, for the words 'one thousand six hundred' the words 'three thousand' be substituted."

[*Amendments No. 29, 32 and 47 also stood in the name of Shri Sadashiv Bagaitkar.*]

SHRI O. J. JOSEPH: Sir, I move:

33. "That at page 2, line 47, for the words 'but does not include' the words 'also includes' be substituted."

[The amendment also stood in the names of Shri Dipen Ghosh and Shri Sukomal Sen.]

SHRI SHRIDHAR WASUDEO DHABE: Sir, I move:

35. "That at pages 2 and 3, lines 48 to 52 and 1 to 11 and 17, respectively be deleted."

42. "That at page 4, lines 4 to 6, be deleted."

48. "That at page 4, lines 47-48, the words 'draws wages exceeding one thousand six hundred rupees per month or' be deleted."

The question were proposed.

MR. DEPUTY CHAIRMAN: I think Members have spoken on the amendments.

SHRI KALYAN ROY: You allow five minutes each.

MR. DEPUTY CHAIRMAN: Each one of you has taken more than 5 minutes already. All right, you all speak for two minutes each.

SHRI DIPEN GHOSH: Mr. Deputy Chairman, Sir, while moving my amendments, I would like to oppose this Bill lock, stock and barrel. Sir, you have seen that I have moved a number of amendments and my intention in moving these amendments is to oppose this Bill lock, stock and barrel, because. I think, this Bill is intended to take away the fundamental right of the workers of the country. I have heard the hon. Minister's contention. But I cannot agree, I must say, with his contention. As you know, Sir, a man to live, requires Oxygen. Similarly, in a class-divided society like ours, particularly, in a capitalist country, the workers cannot live without the right to organise right to bargain and the right to strike. The Government has brought this

Bill to take away this fundamental right of the working class. Our hon. Minister has said many things while replying to the debate. I would like to point out only one aspect which our hon. Minister has tried to stress on that he and his Government want to punish the erring employers also indulging in unfair practices. Here, in one clause, they have said—his has also been referred to by the hon. Minister—that any person who indulges in any unfair labour practice shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees.

MR. DEPUTY CHAIRMAN: You need not read the provision. You make your point.

SHRI DIPEN GHOSH: I would like to say only one thing which he wanted to stress on. That is why, I say, employers are exploiting the workers. They do not pay the minimum wages. They do not pay a living wage. They do not pay even the dearness allowance or other fringe benefits which are required to be paid according to the rules and according to the law. Even they went to retrench them. That is why, the workers want to react. The workers, while reacting, want to go on strike. One is the offender. The employer is the offender. And the workers are the defenders. Here is a Bill in which both the offenders and the defenders are sought to be put on par. Therefore, Sir, I oppose this Bill lock, stock and barrel. That is why, I have moved these amendments and through these amendments, I want to oppose, I want to obstruct the passage of this Bill inch by inch.

SHRI KALYAN ROY: Sir, this Bill has made me sick and I do not want to speak.

MR. DEPUTY CHAIRMAN: I wish you well.

SHRI SHRIDHAR WASUDEO DHABE: Mr. Deputy Chairman, Sir, the hon. Minister himself has accept-

ed the spirit behind my amendments, 35, 42 and 48. The basic difference of opinion between the Government and the Opposition is in regard to the definition of the term 'industry'. The Supreme Court has held that educational institutions and hospitals should be included. When they want to expand the scope of the Act, there is no basis for this restriction. This has been taken out without any purpose and without any proper machinery. Therefore, I press my amendments.

DR. SHANTI G. PATEL: Sir, in the first place, I would like to refer to the definition of the term 'closure' which is very limited in scope, though it was intended to define what is 'closure', which was not done so far. The Minister, in his reply, has referred to certain Acts of Maharashtra. But there is another Act, the BIR Act, where the definition of 'closure' has been given. If that definition had been accepted, perhaps, the workers would have gained a lot. But this particular definition is not going to be helpful and that is why, I have suggested that lock-out which is partial closure should also be there. I would also like to refer to another amendment which I have moved. In respect of the definition, Sir, I have very patiently listened to what the Minister had to say on the decision of the Supreme Court. I had a certain personal role to play when the first decision was given in 1960. It was in connection with Hospital Mazdoor Sabha of which I happened to be the General Secretary at that time. We had to fight hard, workmen were retrenched and they were without wages for a very very long time. When we went to the Supreme Court, it is then that we won our point and a government hospital was declared as an industry in that particular case. That judgement got reversed later on. But again the Bench presided over by Justice Chandrachud has already given this decision. So, what we desire is that the Government should not put the clock back. As I put it earlier, they should

accept the Supreme Court judgement in toto, not to exclude them and have another piece of legislation. Here I would like to emphasise that hospitals controlled by government, charitable philanthropist institutions and some institutions of this type are sought to be excluded. So, it is not proper for the Minister to say that they are following the Supreme Court decision. If all these Bills are taken together... (Time Bell rings). Let me complete. It may not be important to you...

MR. DEPUTY CHAIRMAN: It is important. Why do you say that it is not important? (Interruptions). You have already spoken.

DR. SHANTI G. PATEL: I would have completed if you had not interrupted me. That is why we say that the whole scope should remain undiluted and should be there.

MR. DEPUTY CHAIRMAN: Now I would like, if the House agrees, to put to vote all the amendments of clause 2 together.

SHRI SHRIDHAR WASUDEO DHABE: We want separate voting on amendments 4, 35 and 42.

SHRI KALYAN ROY: That will be an unfair labour practice.

SHRI SHRIDHAR WASUDEO DHABE: These are the main amendments and we would like that amendments 4, 35 and 42 should be put to vote separately.

MR. DEPUTY CHAIRMAN: All right. I put amendments 4, 35 and 42 to vote.

The question is:

4. "That at page 2, line 47, for the words 'but, does not include' the words 'and also includes' be substituted".

35. "That at pages 2 and 3, lines 48 to 52 and 1 to 11 and 17, respectively be deleted."

42. "That at page 4, lines 4 to 6, be *deleted*."

The House divided.

AYES—33

NOES—78

AYES-33

Advani, Shri Lal K.
Ashwani Kumar, Shri
Bagaitkar, Shri Sadashiv
Barman, Shri Debendra Nath
Bhabhra, Shri Hari Shankar
Bhattacharjee, Shri Nepaldev
Bhattacharya, Shri G. C.
Chatterjee, Shri Nirmal
Dhabe, Shri Shridhar Wasudeo
Ghosh, Shri Arabinda
Ghosh, Shri Dipen
Goswami, Shri Biswa
Jaswant Singh, Shri
Jha, Shri Shiva Chandra
Joseph, Shri O. J.
Joshi, Shri Jagannathrao
Khandelwal, Shri Pyarelal
Kushawaha, Shri Ram Naresh
Mahabir Prasad, Dr.
Mathur, Shri Jagdish Prasad
Mitra, Shri Santosh
Mohanani, Shri K.
Mukherjee, Shrimati Kanak
Nigam, Shri Ladli Mohan
Patel, Dr. Shanti G.
Ramamurti, Shri P.
Roy, Shri Kalyan
Sen, Shri Sukomal
Shahedullah, Shri Syed
Sharma, Shri Yogendra
Siddhu, Dr. M. M. S.
Suraj Prasad, Shri
Yadav, Shri Hukmdeo Narayan

NOES—78

Akarte, Shri Jagannath Sitaram
Ali, Shri Syed Rahmat
Allahabadi, Shri Hashim Raza
Abedi
Amarjit Kaur, Shrimati

Arif, Shri Mohammed Usman
Bhamidipati, Shri Krishna Mohan
Bhandare, Shri Murlidhar
Chandrakant
Bharadwaj, Shri Ramchandra
Bhardwaj, Shri Hansraj
Bhatt, Shri Nand Kishore
Bhim Raj, Shri
Bhuyan, Shri Gaya Chand
Chatterjee, Prof. (Mrs.) Asima
Chavan, Shrimati Premilabai
Dajisaheb
Das, Shrimati Monika
Dharmavir, Shri
Handique, Shri Bijoy
Hanspal, Shri Harvindra Singh V. R.
Haffi, Shri (Molana) Asrarul
Heerachand, Shri D.
Heptulla, Dr. (Shrimati) Najma
Jadhav, Shri Vithalrao Madhavrao
Jain, Shri J. K.
Joshi, Shri Krishna Nand
Kalaniya, Shri Ibrahim
Kaul, Shrimati Krishna
Kesri, Shri Sitaram
Khan, Shri Maqsood Ali
Khaparde, Shrimati Saroj
Kureel, Shri Piare Lall Urf Piare
Lall Talib Unnavi
Kushnoor, Shri Veershetty
Moglapa
Lalsawia, Shri
Lokesh Chandra, Dr.
Maddanna, Shri M.
Makwana, Shri Yogendra
Malhotra, Shrimati Usha
Manhar, Shri Bhagatram
Matto, Shri Gulam Rasool
Maurya, Shri Buddha Priya
Mehta, Shri Kishor
Mirdha, Shri Ram Niwas
Mukherjee, Shri Pranab
Naik, Shri G. Swamy
Nalwa, Shri Hari Singh
Pandey, Shri Sudhakar
Paswan, Shri Ram Bhagat

31. "That at page 2, lines 39-40,
be deleted."

32. "That at page 2, line 47, be deleted."

33. "That at page 2, line 47, for the words 'but does not include' the words 'also includes' be substituted."

34. "That at page 2, lines 48-52 the words and brackets 'except where such agricultural operation is carried on in an integrated manner with any other activity (being any such activity as is referred to in the foregoing provisions of this clause) and such other activity is the predominant one' be deleted."

36. "That at page 3, line 5, be deleted."

37. "That at page 3, lines 66-7, be deleted."

38. "That at page 3, lines 8 to 10, be deleted."

39. "That at page 3, lines 8 to be deleted."

40. "That at page 3, lines 12 to 16, be deleted."

41. "That at page 3, after line 49, the following be inserted, namely:

'Explanation.—An activity shall be considered as severable if such activity is generally carried on by itself.'

43. "That at page 4, lines 7 to 9, be deleted."

44. "That at page 4, lines 19-20, be deleted."

45. "That at page 4, lines 21 to 23, be deleted."

46. "That at page 4, lines 42-43, be deleted."

47. "That at page 4, lines 47, for the words 'one thousand six hundred' the words 'three thousand' be substituted."

48. "That at page 4, lines 47-48, the words 'draws wages exceeding one thousand six hundred rupees per mensem or' be deleted."

49. "That at pages 4 and 5, lines 46 to 48, and 1 and 2, respectively be deleted."

The motions were negatived.

MR. DEPUTY CHAIRMAN:
The question is:

"That clause 2 stand part of the Bill."

The motion was adopted

Clause 2 was added to the Bill..

Clause 3 was added to the Bill.

Clause 4—Amendment of section 7A

MR. DEPUTY CHAIRMAN:
Now we take up clause 4 of the Bill. There are two amendments.

SHRI DIPEN GHOSH: Sir, I beg to move:

12. "That at page 5, line 8, after the word 'Act' the following be inserted namely:

'and the Tribunal shall complete the adjudication proceedings within forty five days from the day of such reference'."

13. "That at page 5, lines 9 to 11 be deleted."

[Amendment Nos. 12 and 13 also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph and Shri Arabinda Ghosh.]

The questions were put and the motions were negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 4 stand part of the Bill."

"That motion was adopted.

Clause 4 was added to the Bill

Clauses 5 and 6 were added to the Bill.

Clause 7—Insertion of new Chapter 11B.

MR. DEPUTY CHAIRMAN: We shall now take up clause 7. There are 18 amendments.

SHRI KALYAN ROY: Sir, I move:

14. "That at page 5, line 30, after the word 'Act' the words 'and in consultation with the trade unions in the establishments' be inserted."

15. "That at page 5, lines 42 to 46, be deleted."

[Amendment Nos. 14 and 15 also stood in the name of Shri M. Kalyanasundaram]

53. "That at page 5, line 27, for the word 'fifty' the word 'fifteen' be substituted."

[The amendment also stood in the names of Sarva Shri Suraj Prasad, Ladli Mohan Nigam, M. Kalyanasundaram, Dipen Ghosh, Sukomal Sen, O. J. Joseph and Arabinda Ghosh.]

57. "That at page 5, line 31, after the word 'disputes' the words 'in consultation with trade unions' be inserted"

[The amendment also stood in the names of Shri Suraj Prasad, Shri Ladli Mohan Nigam and Shri M. Kalyanasundaram.]

SHRI SHRIDHAR WASUDEO DHABE: Sir, I move:

50. "That at page 5, lines 24-25, for the words 'Grievance Settlement Authorities' the words 'Labour Court' be substituted."

52. "That at page 5, lines 26 to 32, be deleted."

59. "That at page 5, lines 34, the words 'referred to in sub-section (1)' be deleted."

61. "That at page 5, for lines 37-38, the following be substituted, namely:—

'to the labour court within three months from occurrence of the Industrial dispute and to his knowledge.'

63. "That at page 5, lines 39 to 46 be deleted."

SHRI DIPEN GHOSH: Sir, I move:

51. "That at page 5, line 25, for the word 'AUTHORITIES' the word 'COMMITTEE' be substituted."

56. "That at page 5, line 30, for the word 'Authority', the word 'Committee' be substituted."

58. "That at page 5, line 32, after the word 'establishment' the words 'which shall consist of equal number of representatives from the management and workmen' be inserted."

60. "That at page 5, line 37, for the word 'Authority' the word 'Committee' be substituted."

62. "That at page 5, line 39 for the word 'Authority' the word 'Committee' be substituted."

65. "That at page 5, line 44, for the word 'Authority' the word 'Committee' be substituted."

[Amendment Nos. 51, 56, 58, 60; 62 and 65 also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph and Shri Arabinda Ghosh.]

DR. SHANTI G. PATEL: Sir, I move:

54. "That at page 5, line 30, after the word 'Authority' the following be inserted, namely:—

'of which half of the number of members will be those nominated by a union recognised through a secret ballot of workers, and, if no recognised union exists, they will be elected directly through secret ballot of workers.'

64. "That at page 5, lines 42 to 46 be deleted."

[Amendment Nos. 54 and 64 also stood in the name of Shri Sadashiv Bagaitkar.]

SHRI PYARELAL KHANDELWAL (Madhya Pradesh): Sir, I move:

55. "That at page 5, line 30, after the word 'Authority' the words 'of

(Shri Pyarelal Khandelwal)

whom two third members shall be from the workmen' be inserted."

SHRI SHRIDHAR WASUDEO DHABE: Sir, I want to say something on my amendments. This is a provision which is absolutely new in the industrial relations law, for a grievance settlement council to be appointed by the employer. Therefore, it will not carry any conviction with the labourers if the employers set up the grievance settlement council. My amendment is because the National Labour Commission has also stated that disputes regarding dismissal and discharge should directly go to the labour courts, instead of going to the grievance settlement council. I would request the Minister to accept the amendment. Let the worker go directly to the labour court instead of the grievance settlement council because otherwise it will be very time consuming—because more time will be taken for that—and also, no employee would accept it.

DR. SHANTI G. PATEL: Sir, there is a provision regarding the grievance settlement authority, but under the clause the powers have been vested in the employer to constitute this particular authority and he is likely to misuse them—rather he would certainly misuse them to his advantage. That is why an amendment has been proposed that half the members of this authority should belong to the workers and they should be nominated by the unions concerned—recognised unions. There is no provision in this whole Act for a recognised union. Unless a recognised union comes into the picture, this particular provision is likely to work against the interests of the workers. That is why I suggest, let this amendment be accepted, and accordingly the workers' representatives can be chosen.

MR. DEPUTY CHAIRMAN: I think the House will agree that all these

amendments may be put to vote together.

HON. MEMBERS: Yes.

MR. DEPUTY CHAIRMAN: The question is:

14. "That at page 5, line 30, after the word 'Act' the words 'and in consultation with the trade unions in the establishment' be inserted."

15. "That at page 5, lines 42 to 46, be deleted."

50. "That at page 5, lines 24-25, for the words 'Grievance Settlement Authorities' the words 'Labour Court' be substituted."

51. "That at page 5, line 25, for the word 'AUTHORITIES' the word 'Committee' be substituted."

52. "That at page 5, lines 26 to 32, be deleted."

53. "That at page 5, line 27, for the word 'fifty' the word 'fifteen' be substituted."

54. "That at page 5, line 30, after the word 'Authority' the following be inserted, namely:—

'of which half of the number of members will be those nominated by a union recognised through a secret ballot of workers, and, if no recognised union exists, they will be elected directly through secret ballot of workers'."

55. "That at page 5, line 30, after the word 'Authority' the words 'of whom two third members shall be from the workmen' be inserted."

56. "That at page 5, line 30, for the word 'Authority', the word 'Committee' be substituted."

57. "That at page 5, line 31, after the word 'disputes' the words 'in consultation with trade unions' be inserted."

58. "That at page 5, line 32, after the word 'establishment' the words

'which shall consist of equal number of representatives from the management and workmen' be inserted."

59. "That at page 5, line 34, the words 'referred to in sub-section (1)' be deleted."

60. "That at page 5, line 37, for the word 'Authority' the word 'Committee' be substituted."

61. "That at page 5, for lines 37-38, the following be substituted, namely:—

'to the labour court within three months from occurrence of the Industrial dispute and to his knowledge.'

62. "That at page 5, line 39 for the word 'Authority' the word 'Committee' be substituted."

63. "That at page 5, lines 39 to 46, be deleted."

64. "That at page 5, lines 42 to 46, be deleted."

65. "That at page 5, line 44, for the word 'Authority' the word 'Committee' be substituted."

The motions were negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 7 stand part of the Bill."

The House divided.

MR. DEPUTY CHAIRMAN:

Ayes.... 79

Noes.... 35

AYES—79

Akarte, Shri Jagannath Sitaram
Ali, Shri Syed Rahmat
Allahabadi, Shri Hashim Raza Abidi
Amarjit Kaur, Shrimati
Arif, Shri Mohammed Usman

Bhamidipati, Shri Krishna Mohan
Bhandare, Shri Murlidhar Chandrakant
Bharadwaj, Shri Ramchandra
Bhardwaj, Shri Hansraj
Bhatt, Shri Nand Kishore
Bhim Raj, Shri
Bhuyan, Shri Gaya Chand
Chatterjee, Prof. (Mrs.) Asima
Chavan, Shrimati Premilabai Dajisaheb
Das, Shrimati Monika
Dharmavir, Shri
Handique, Shri Bijoy Krishna
Hanspal, Shri Harvendra Singh
Haq, Shri (Molana) Asrarul
Heerachand, Shri D.
Heptulla, Dr. (Shrimati) Najma
Jadhav, Shri Vithalrao Madhavrao
Jain, Shri J. K.
Joshi, Shri Krishna Nand
Kalaniya, Shri Ibrahim
Kaul, Shrimati Krishna
Kesri, Shri Sitaram
Khan, Shri Khurshed Alam
Khan, Shri Maqsood Ali
Khaparde, Shrimati Saroj
Kureel, Shri Piare Lall Urf Piare Lall Talib Unnavi
Kushnoor, Shri Veershetty Moglappa
Lalsawia, Shri
Lokesh Chandra, Dr.
Maddanna, Shri M.
Makwana, Shri Yogendra
Malhotra, Shrimati Usha
Manhar, Shri Bhagatram
Matto, Shri Ghulam Rasool
Maurya, Shri Buddha Priya
Mehta, Shri Kishor
Mirdha, Shri Ram Niwas
Mukherjee, Shri Pranab
Naik, Shri G. Swamy
Nalwa, Shri Hari Singh

Pandey, Shri Sudhakar
 Paswan, Shri Ram Bhagat
 Patel, Shri Ram Pujan
 Patel, Shri Viththalbhaj Motiram
 Patil, Shri Dinkarrao Govindrao
 Pattanayak, Shri B. C.
 Prajapati, Shri Pravin Kumar
 Prasad, Shri K. L. N.
 Rafique Alam, Shri
 Rai, Shri Kalpnath
 Ramakrishnan, Shri R.
 Rao, Shri B. Ramachandra
 Rao, Shri K. V. R. S. Bala Subba
 Ratan Kumari, Shrimati
 Rathvakoli, Shri Ramsingbhai
 Pataliyabhai
 Razack, Shrimati Noorjehan
 Razi, Shri Syed Sibtey
 Reddy, Shri T. Chandrasekara
 Sahu, Shri Santosh Kumar
 Salve, Shri N. K. P.
 Saring, Shri Leonard Solomon
 Sharma, Shri A. P.
 Sheikh, Shri Ghouse Mohiuddin
 Shukla, Shri Keshavprasad
 Singh, Shri Bhishma Narain
 Singh, Shri J. K. P. N.
 Singh, Shri Ng. Tompok
 Singh, Shrimati Pratibha
 Singh, Dr. Rudra Pratap
 Sukhdeo Prasad, Shri
 Sukul, Shri P. N.
 Tyagi, Shri Shanti
 Yadav, Shri Ramanand
 Zakaria, Dr. Rafiq

NOES—35

Advani, Shri Lal K.
 Ashwani Kumar, Shri
 Bagaitkar, Shri Sadashiv
 Barman, Shri Debendra Nath
 Bhabhra, Shri Hari Shankar
 Bhattacharjee, Shri Nepaldev
 Bhattacharya, Shri G. C.
 Chatterjee, Shri Nirmal

Dhabe, Shri Shridhar Wasudeo
 Ghosh, Shri Arabinda
 Ghosh, Shri Dipen
 Goswami, Shri Biswa
 Gupta, Shri Ram Lakhan Prasad
 Jaswant Singh, Shri
 Jha, Shri Shiva Chandra
 Joseph, Shri O. J.
 Joshi, Shri Jagannathrao
 Khandelwal, Shri Pyarelal
 Kushawaha, Shri Ram Naresh
 Mahabir Prasad, Dr.
 Mahavir, Dr. Bhai
 Mathur, Shri Jagdish Prasad
 Mitra, Shri Santosh
 Mohanan, Shri K.
 Mukherjee, Shrimati Kanak
 Nigam, Shri Ladli Mohan
 Patel, Dr. Shanti G.
 Ramamurti, Shri P.
 Roy, Shri Kalyan
 Sen, Shri Sukomal
 Shahedullah, Shri Syed
 Sharma, Shri Yogendra
 Siddhu, Dr. M. M. S.
 Suraj Prasad, Shri
 Yadav, Shri Hukmdeo Narayan

*The motion was adopted.**Clause 7 was added to the Bill.**Clause 8—Amendment of section 10*

MR. DEPUTY CHAIRMAN: Now we take up clause 8. There is one amendment (No. 66) by Shri Dipen Ghosh. I think you have already spoken. (*Interruptions*)

SHRI DIPEN GHOSH: Don't say: "You have already spoken". Whether I speak or not, you give me a chance.

MR. DEPUTY CHAIRMAN: I am asking you.

SHRI DIPEN GHOSH: Sir, I have opposed this Bill lock, stock and barrel as it is obstructive. I have brought this amendment.

Sir, I move:

66. "That at page 6, line 17-18, for the words 'three months' the words 'forty-five days' be substituted."

[The amendment also stood in the names of Shri Sukomal Sen, O. J. Joseph and Shri Arabinda Ghosh.]

The question was proposed.

MR. DEPUTY CHAIRMAN: Now I will put Mr. Dipen Ghosh's amendment No. 66 to vote.

The question is:

66. "That at page 6, line 17-18, for the words 'three months' the words 'forty-five days' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

Clauses 9 and 10 were added to the Bill.

Clause 11—Insertion of new section 17 B. Payment of full wages to workman pending proceedings in higher courts.

MR. DEPUTY CHAIRMAN: There are six amendments.

SHRI DIPEN GHOSH: Sir, I move:

16. "That at page 7, line 16, after the word 'case' the words 'a conciliation officer by his award or' be inserted."

17. "That at page 7, line 29, for the words 'no wages' the words 'difference of wages' be substituted."

[Amendment Nos. 16 and 17 also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph and Shri Arabinda Ghosh.]

SHRI SHRIDHAR WASUDEV DHABE: Sir, I move:

67. "That at page 7, line 21, after the word 'Supreme Court' the words 'or any other authorities' be inserted."

69. "That at page 7, line 25, after the word 'Court' the following be inserted namely:—

'and the employer shall deposit back wages and compensation awarded in the High Court or Supreme Court or any other Authority as a condition precedent for admission of any such proceedings against the award'."

SHRI KALYAN ROY: Sir, I move:

68. "That at page 7, lines 22 to 25, the words 'if the workmen had not been employed in any establishment during such period and an affidavit by such workman had been filed to that effect in such court' be deleted'."

70. "That at page 7, lines 26 to 30 be deleted."

[Amendment Nos. 68 and 70 also stood in the names of Shri Suraj Prasad, Shri Ladli Mohan Nigam and [Shri Shridhar Wasudeo Dhabe]

The questions were proposed.

SHRI SHRIDHAR WASUDEO DHABE: Sir, under this provision, which is a good provision, they will be required to pay wages during this period. But this is so only if the case is in the High Court or Supreme Court. But if it goes to a civil court, then they are not required to pay wages to the workman. It can be challenged in a civil court also. Then back wages are not required to be deposited. I have suggested that back wages should be deposited. I

(Shri Shridhar Wasudeo Dhabe)

have suggested that the words "any other authorities" should be added so that wherever the workman goes, the employer will have to comply with the order to pay wages to the workman.

MR. DEPUTY CHAIRMAN: With the permission of the House, I shall put all the amendments together.

The question is:

16. "That at page 7, line 16, after the word 'case' the words 'a conciliation officer by his award or' be inserted."

17. "That at page 7, line 29, for the words 'no wages' the words 'difference of wages' be substituted."

67. "That at page 7, line 21, after the word 'Supreme Court' the words 'or any other authorities' be inserted."

68. "That at page 7, lines 22 to 25, the words 'if the workman had not been employed in any establishment during such period and an affidavit by such workman had been filed to that effect in such court' be deleted."

69. "That at page 7, line 25, after the word 'Court' the following be inserted namely:—

'and the employer shall deposit back wages and compensation awarded in the High Court or Supreme Court or any other Authority as a condition precedent for admission of any such proceedings against the award.'

70. "That at page 7, lines 26 to 30 be deleted."

The motions were negatived.

MR. DEPUTY CHAIRMAN: Now the question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clause 12 (Amendment of section 25K)

MR. DEPUTY CHAIRMAN: There are three amendments to clause 12.

SHRI KALYAN ROY: Sir, I move:

18. "That at page 7, line 32, for the words 'one hundred' the word 'fifty' be substituted."

[The amendment also stood in the name of Shri M. Kalyanasundaram.]

SHRI DIPEN GHOSH: Sir, I move:

19. "That at page 7, line 32, for the words 'one hundred' the word 'ten' be substituted."

[The amendment also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph and Shri Arabinda Ghosh.]

DR. SHANTI G. PATEL: Sir, I move:

71. "That at page 7, line 32, for the word 'one hundred' the word 'twenty-five' be substituted."

[The amendment also stood in the names of Shri Sadashiv Bagaitkar and Shri Shridhar Wasudeo Dhabe.]

MR. DEPUTY CHAIRMAN: I think all of them have spoken earlier. With the permission of the House, I shall put all these amendments together.

The question is:

18. "That at page 7, line 32, for the words 'one hundred' the word 'fifty' be substituted."

19. "That at page 7, line 32, for the words 'one hundred' the word 'ten' be substituted."

71. "That at page 7, line 32, for the words 'one hundred' the word 'twenty-five' be substituted."

The motions were negatived.

MR. DEPUTY CHAIRMAN: Now, the question is:

"That clause 12 stand part of the Bill."

The motion was adopted.

Clause 12 was added to the Bill.

Clause 13—Amendment of section 25.

MR. DEPUTY CHAIRMAN: We shall now take up clause 13. There are ten amendments.

SHRI KALYAN: ROY: Sir, I move:

20. "That at page 7, lines 34 to 36, be deleted."

[The amendment also stood in the name of Shri M. Kalyanasundaram.]

75. "That at page 7, line 42, after the word 'explosion' the words 'excepting in cases where mine's authorities have been held responsible by the Directorate General of Mines Safety' be inserted."

77. "That at page 7, line 43, for the words 'thirty days' the words 'fifteen days' be substituted."

[Amendment Nos. 75 and 77 also stood in the names of Shri Kalyanasundaram, Shri Suraj Prasad and Shri Ladli Mohan Nigam.]

SHRI SUKOMAL SEN (West Bengal): Sir, I move:

72. "That at page 7, lines 39-40 the brackets and words '(other than badli workmen or Casual Workmen)' be deleted."

73. "That at page 7, line 40, after the word 'mine' the words 'or a quarry' be inserted."

74. "That at page 7, line 42, after the word 'explosion' the words 'due to non-observance of safety provisions by the management' be inserted."

76. "That at page 7, line 43, for the words 'thirty days' the words 'five days' be substituted."

78. "That at page 7, after line 46, the following be inserted, namely:—

(2B) under no circumstances the permission to continue such

lay-off shall exceed more than one week from the date of such application'."

[Amendment Nos. 72, 73, 74, 76 and 78 also stood in the names of Shri Dipen Ghosh, Shri O. J. Joseph and Shri Arabinda Ghosh.]

SHRI O. J. JOSEPH (Kerala): Sir, I move:

79. "That at page 7, after line 46, the following be inserted, namely:—

'(bb) for sub-section (3) the following sub-section shall be substituted and shall be deemed to have always been substituted, namely:—

'(3) Where an application for permission has been made under sub-section (1) or under sub-section (2), the authority to whom the application has been made, after making such enquiry, as it thinks fit and after giving a reasonable opportunity of being heard to the employer the workmen and the persons interested in such lay-off may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and the justness of the bonafides of the proposed lay-off and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen' "

[The amendment also stood in the names of Shri Arabinda Ghosh and Shri Dipen Ghosh.]

SHRI DIPEN GHOSH: Sir, I move:

21. "That at page 7, line 36, after the word 'explosion' the words 'caused due to non-observance of safety measures by the management' be inserted."

[The amendment also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph and Shri Arabinda Ghosh.]

MR. DEPUTY CHAIRMAN: With your permission, I put all these amendments together.

The question is:

20. "That at page 7, lines 34 to 36, be deleted."

21. "That at page 7, line 36, after the word 'explosion' the words 'caused due to non-observance of safety measures by the management' be inserted."

72. "That at page 7, lines 39-40 the brackets and words '(other than badli workmen or Casual Workmen)' be deleted."

73. "That at page 7, line 40, after the word 'mine' the words 'or a quarry' be inserted."

74. "That at page 7, line 42, after the word 'explosion' the words 'due to non-observance of safety provisions by the management' be inserted."

75. "That at page 7, line 42, after the word 'explosion' the words 'excepting in cases where mine's authorities have been held responsible by the Directorate General of Mines Safety' be inserted."

76. "That at page 7, line 43, for the words 'thirty days' the words 'five days' be substituted."

77. "That at page 7, line 43, for the words 'thirty days' the words 'fifteen days' be substituted."

78. "That at page 7, after line 46, the following be inserted, namely:-

'(2B) under no circumstances the permission to continue such lay-off shall exceed more than one week from the date of such application'."

79. "That page 7, after line 46, the following be inserted, namely:-

'(bb) for sub-section (3) the following sub-section shall be substituted and shall be deemed

to have always been substituted, namely:—

'(3) where an application for permission has been made under sub-section (1) or under sub-section (2), the authority to whom the application has been made, after making such enquiry, as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen and the persons interested in such lay-off may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and the justness of the bonafides of the proposed lay-off and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen'."

The motions were negatives.

MR. DEPUTY CHAIRMAN: Now, the question is:

"That clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

Clause 14 (Substitution of new section for section 25-O Procedure for closing down an undertaking.

MR. DEPUTY CHAIRMAN: We shall now take up clause 14. There are four amendments.

SHRI SUKOMAL SEN: Sir, I move:

80. "That at page 8, line 9, for the words 'ninety days' the words 'one hundred and eighty days' be substituted."

82. "That at page 8, line 16, after the word 'work' the words 'by the Government or Government agencies but

shall not include works done by contractors' be inserted."

[Amendment Nos. 80 and 82 also stood in the names of Shri Dipen Ghosh, Shri O. J. Joseph and Shri Arabinda Ghosh.]

SHRI KALYAN ROY: Sir, I move:

81. "That at page 8, line 12. after the words 'such application' the words 'along with balance sheets, profit and loss accounts' be inserted."

83. "That at page 9, line 17, for the words 'fifteen days average pay' the words 'one month's full pay' be substituted."

[Amendment Nos. 81 and 83 also stood in the names of Shri Suraj Prasad, Shri Ladli Mohan Nigam and Shri M. Kalyanasundaram.]

The questions were proposed.

SHRI SUKOMAL SEN: Mr. Deputy Chairman, Sir, this Bill is totally obnoxious and every clause of this Bill is against the workers. I wholeheartedly oppose this Bill.

The motion was adopted.

MR. DEPUTY CHAIRMAN: With the permission of the House, I put all these amendments together.

The question is:

80. "That at page 8, line 9, for words 'fifteen days average pay' the words 'one month's full pay' be substituted."

81. "That at page 8, line 12, after the words 'such application' the words 'along with balance sheets, profit and loss accounts' be inserted."

82. "That at page 8, line 16, after the word 'work' the words 'by the Government or Government agencies but shall not include works done by contractors' be inserted."

83. "That at page 9, line 17, for the words 'fifteen days' average pay' the words 'one month's full pay' be substituted."

The motion were negatived.

MR. DEPUTY CHAIRMAN: Now, the question is:

"That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

Clause 15 was added to the Bill.

Clause 16—Insertion of new Chapter VC.

MR. DEPUTY CHAIRMAN: There are six amendments to clause 16.

SHRI DIPEN GHOSH: Sir, I move:

22. "That at page 9, line 32-33, the words 'or workman or a trade union, whether registered under the Trade Unions Act, 1926, or not' be deleted."

24. "That at page 9, lines 36-37, for the words 'six months' the words 'five years' be substituted."

[Amendment Nos. 22 and 24 also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph and Shri Arabinda Ghosh.]

SHRI KALYAN ROY: Sir, I move:

23. "That at page 9, lines 35 to 38, be deleted."

[The amendment also stood in the names of Shri M. Kalyanasundaram.]

DR. SHANTI G. PATEL: Sir, I move:

84. "That at page 9, lines 32 to 38 be deleted."

[The amendment also stood in the name of Shri Sadashiv Bagaitkar.]

SHRI ARABINDA GHOSH (West Bengal): Sir, I move—

85. "That at page 9, line 37 for the words 'one thousand' the words 'ten thousand' be substituted."

[The amendment also stood in the names of Shri Sukomal Sen, Shri Dipen Ghosh and Shri O. J. Joseph.]

SHRI SHRIDHAR WASUDEO DHABE: Sir, I move—

86. "That at page 9, after line 38 the following be inserted, namely:—

254(1). Any Labour Court or Industrial Tribunal or National Tribunal Constituted under the provision of this Act or similar State law shall have powers to issue injunction against any person or authority

or department restraining it from the committing an unfair labour practice including the powers to pass interim orders as it may deem fit in circumstances of the case."

The questions were proposed.

SHRI ARABINDA GHOSH: Mr. Deputy Chairman, I oppose this Bill totally. It is an obnoxious and anti-working class Bill. And I move my amendments.

SHRI SHRIDHAR WASUDEO DHABE: In this clause which provides punishment for unfair labour practices, the Labour Minister waxed eloquent. Only prosecution is provided. There is no preventive remedy provided in this Clause. I have suggested the power of injunction which is provided in the State laws. If that is not there, then this will be meaningless.

SHRI DIPEN GHOSH: I oppose this particular Clause. The Government has intended to undertake certain rights in respect of certain undertakings which means that the public sector undertakings, particularly the undertakings owned by the Central Government, would be taken away from the purview of this Act. So I oppose this particular Clause.

MR. DEPUTY CHAIRMAN: The question is—

22. "That at page 9, lines 32-33, the words 'or workman or a trade union, whether registered under the Trade Unions Act, 1926, or not' be deleted."

23. "That at page 9, lines 36 to 38, be deleted."

24. "That at page 9, lines 36-37, for the words 'six months' the words 'five years' be substituted."

34. "That at page 9, lines 32 to 38 be deleted."

35. "That at page 9, line 37 for the words 'one thousand' the words 'ten thousand' be substituted."

36. "That at page 9, after line 38 the following be inserted, namely:—

'254(1). Any Labour Court or Industrial Tribunal or National Tribunal Constituted under the provision of this Act or similar State law shall have powers to issue injunction against any person or authority or department restraining it from the committing an unfair labour practice including the powers to pass interim orders as it may deem fit in circumstances of the case.'

The motions were negatived.

MR. DEPUTY CHAIRMAN: The question is—

"That Clause 16 stand part of the Bill."

The motion was adopted.

Clause 16 was added to the Bill.

Clause 17 and 18 were added to the Bill.

Clause 19—Amendment of Section 33C.

MR. DEPUTY CHAIRMAN: There are three amendments; 87, 88 and 89.

SHRI DIPEN GHOSH: Sir, I move—

87. "That at page 10, line 30, for the words 'three months' the words 'fifteen days' be substituted."

88. "That at page 10, line 34, for the word 'extend' the word 'reduce' be substituted."

89. "That at page 10, lines 34-35, the words 'by such further period as he may think fit' be deleted."

[Amendment Nos. 87, 88 and 89 also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph and Shri Arabinda Ghosh.]

MR. DEPUTY CHAIRMAN: The question is—

87. "That at page 10, line 30, for the words 'three months' the words 'fifteen days' be substituted."

88. "That at page 10, line 34, for the word 'extend' the word 'reduce' be substituted."

89. "That at page 10, lines 34-35, the words 'by such further period as he may think fit' be *deleted*."

The motions were negatived.

MR. DEPUTY CHAIRMAN: The question is—

"That Clause 19 stand part of the Bill."

The motion was adopted.

Clause 19 was added to the Bill.

Clause 20 was added to the Bill.

Clause 21—Insertion of new section 36B—Power to exempt

SHRI SHRIDHAR WASUDEO DHABE: Sir, I move:—

90. "That at pages 10-11, Clause 21 be *deleted*."

[*The amendment also stood in the names of Dr. Shanti G. Patel and Shri Sadashiv Bagaitkar.*]

Sir, this is the most obnoxious provision. This exemption clause in the industrial disputes is obnoxious because the Government is trying to grab more power to exempt industries whenever and wherever they like. They want to take a blanket power. I am totally opposed to it.

The question was proposed

MR. DEPUTY CHAIRMAN: The question is—

90. "That at pages 10-11, clause 21 be *deleted*."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is—

"That Clause 21 stand part of the Bill."

The motion was adopted.

Clause 21 was added to the Bill.

Clause 22—Amendment of Section 38.

SHRI DIPEN GHOSH: Sir, I move—

91. "That at page 11, line 9, for the word 'Authorities', the word 'Committees' be *substituted*."

[*The amendment also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph and Shri Arabinda Ghosh*]

SHRI SHRIDHAR WASUDEO DHABE: Sir, I move:

92. "That at page 11, clause 22 be *deleted*."

The question were put and the motion were negatived.

MR. DEPUTY CHAIRMAN: The question is—

"That Clause 22 stand part of the Bill."

The motion was adopted.

Clause 22 was added to the Bill.

Clause 2—Insertion of new Fifth Schedule.

SHRI DIPEN GHOSH: Sir, I move—

25. "That at page 12, lines 2-3 the brackets and words '(not being a strike which is deemed to be an illegal strike under this Act)' be *deleted*."

26. "That at page 12, lines 29-30, the words 'as a measure of breaking a strike' be *deleted*."

27. "That at page 13, lines 10-11, the words 'deemed to be illegal under this Act' be *deleted*."

28. "That at page 13, line 20, after the words 'work places' the words 'provided such non-striking workmen are not newly recruited with the sole aim of breaking the strike or agents hired by the management with a view to cowndown the striking workmen', be *inserted*."

95. "That at page 12, lines 39-40, the words 'with the object of dep-i-

[Shri Dipen Ghosh]

ving them of the status and privileges of permanent workman' be deleted."

96. "That at page 13, lines 4.5, the words 'which is not an illegal strike' be deleted."

97. "That at page 13, line 8, the words 'in good faith' be deleted."

[Amendment Nos. 25, 26, 27, 28, 95, 96 and 97 also stood in the names of Shri Sukomal Sen, Shri O. J. Joseph and Shri Arabinda Ghosh.]

DR. SHANTI G. PATEL: Sir, I move—

93. "That at page 12, after line 12 the following be inserted, namely:

'(g) giving a special increment to a certain workman or;

(h) not recognising the Union on the basis of the secret ballot of workers or to cause or contribute to the multiplicity of Unions'.

101. "That at page 13, lines 13 to 23 be deleted."

103. "That at page 13, line 24, for the words 'for a recognised Union' the words 'An Union recognised through a secret ballot of workers' be substituted."

105. "That at page 13, lines 26 to 33 be deleted."

108. "That at page 13, lines 36 to 39 be deleted."

[Amendment Nos. 93, 101, 103, 105 and 108 also stood in the name of Shri Sadashiv Bagaitkar]

SHRI KALYAN ROY: Sir, I move—

94. "That at page 12, line 33, the word 'legal' be deleted."

98. "That at page 13, line 9 the word 'recognised' be deleted."

99. "That at page 13, line 10, after the word 'lock-out' the words 'or closure' be inserted."

100. "That at page 13, lines 13-14 be deleted."

102. "That at page 13, lines 18 to 20 be deleted."

104. "That at page 13, lines 24-25 be deleted."

106. "That at page 13, lines 28 to 31 be deleted."

107. "That at page 13, lines 32-33 be deleted."

[Amendment Nos. 94, 98, 99, 100, 102, 104, 106 and 107 also stood in the names of Shri Suraj Prasad, Shri Ladli Mohan Nigam and Shri M. Kalyanasundaram.]

THE DEPUTY CHAIRMAN The question is:

25. "That at page 12, lines 2-3 the brackets and words '(not being a strike which is deemed to be an illegal strike under this Act)' be deleted."

26. "That at page 12, lines 29-30, the words 'as a measure of breaking a strike' be deleted."

27. "That at page 13, lines 10-11, the words 'deemed to be illegal under this Act' be deleted."

28. "That at page 13, line 20, after the words 'work places' the words 'provided such non-striking workmen are not newly recruited with the sole aim of breaking the strike or agents hired by the management with a view to cowdown the striking workmen' be inserted."

93. "That at page 12, after line 12 the following be inserted, namely:—

'(g) giving a special increment to a certain workman or;

(h) not recognising the Union on the basis of the secret ballot of workers or to cause or contribute to the multiplicity of Unions'.

94. "That at page 12, line 33, the word 'legal' be deleted."

95. "That at page 12, line 39-40 the words 'with the object of depriving them of the status and privileges of permanent workman' be deleted."

96. "That at page 13, lines 4.5, the words 'which is not an illegal strike' be deleted."

97. "That at page 13, line 8, the word 'in good faith' be deleted."

98. "That at page 13, line 9 the word 'recognised' be deleted."

99. "That at page 13, line 10, after the word 'lock-out' the words 'or closure' be inserted."

100. "That at page 13, lines 13-14 be deleted."

101. "That at page 13, lines 13 to 23 be deleted."

102. "That at page 13, lines 18 to 20 be deleted."

103. "That at page 13, line 24, for the words 'for a recognised union' the words 'An union recognised through a secret ballot of workers' be substituted"

104. "That at page 13, lines 24-25 be deleted."

105. "That at page 13, lines 26 to 33 be deleted."

106. "That at page 13, lines 28 to 31 be deleted."

107. "That at page 13, lines 32-33 be deleted."

108. "That at page 13, lines 36 to 38 be deleted."

The motions were negatived.

MR. DEPUTY CHAIRMAN: The question is—

"That Clause 23 stand part of the Bill."

The motion was adopted.

Clause 23 was added to the Bill.

Clause 24 was added to the Bill.

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

SHRI BHAGWAT JHA AZAD: Sir, I move:

"That the Bill be passed"

The question was proposed.

SHRI P. RAMAMURTI: While moving the Bill for consideration and while replying to the debate at the first reading stage, the Minister proclaimed very loudly the best of intentions. We all know that the way to Hell is paved with good intentions. We all know how all the good intentions that have been proclaimed by the Government from time to time have all been belied. We know that at the beginning of every Five Year Plan it is proclaimed in that document that the objective of the Plan is to lessen the disparity of income and wealth and to prevent concentration of wealth and economic power in a few hands. But the result of every Five Year Plan has been the opposite of that and has resulted in more disparities of income and wealth and greater concentration of wealth and economic power in the hands of fewer and fewer hands. We know that all these intentions are just intentions which will take us in opposite direction.

We have fought this Bill tooth and nail here. The Minister has thrown a challenge and we will take up the challenge and see that this Bill remains a dead letter outside the House. We do not want to have anything to

do with the Bill and, therefore, we stage a walk out in protest.

[At this stage several hon. Members left the Chamber]

SHRI BHAGWAT JHA AZAD: I want to put the record straight. It is the hon. Members, Shri Kalyan Roy and Shri Bagaikar who threw the challenge. They said: "We challenge the Government and we will take the issue to the streets". I know the workers are with us and we know what happened at the time of the 19th January strike. I said: "If you throw that challenge, I accept it". It is they who threw the challenge. And I have accepted it. This is just to set the record straight.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

MR. DEPUTY CHAIRMAN: I would like to know whether we proceed with the next Bill. We will now take up the Motor Vehicles (Amendment) Bill, 1982.

THE MOTOR VEHICLES (AMENDMENT) BILL, 1982

नौवहन तथा परिवहन मंत्रालय में राज्य मंत्री (श्री सीताराम केसरी): श्रीमान मैं प्रस्ताव करता हूँ कि —

"मोटर यान अधिनियम, 1939 का और संशोधन करने वाले विधेयक पर, जिस रूप में वह लोक सभा द्वारा पारित किया गया है, विचार किया जाये।"

The question was proposed.

श्री लाल कृष्ण आडवाणी (मध्य प्रदेश): उपसभापति जी, मैं सदन के नेता महोदय से यह निवेदन करूंगा कि खाली जो दो

मनी बिल हैं, जिन जो पास करना आवश्यक है उसको पास कर लिया जाये। लेकिन इस बिल को अगले सेशन के लिये छोड़ दिया जाय, यह मेरा निवेदन है।

श्री सीताराम केसरी: मेरा आपसे निवेदन है कि चूँकि इस बिल का संबंध दुर्घटनाओं से है और आप जानते हैं कि दुर्घटनाओं में मरने वाले लोग गरीब और कमजोर वर्गों के लोग होते हैं, इसलिये सदन से मेरा निवेदन है कि इस विधेयक को निश्चित रूप से पास कर दिया जाये। यह गरीबों से संबंधित बिल है।

श्री जगदीश प्रसाद माथुर (उत्तर प्रदेश): कहने के लिये तो है। लेकिन सच बात तो यह है कि इसके अन्दर एक प्रोविजन है कि अगर मेरी मोटर गाड़ी से, मेरे ड्राइवर से, किसी को चोट लग जाय तो किसी सबूत की आवश्यकता नहीं है, मुझे 15 हजार रुपये देने पड़ेंगे। किसी सबूत की आवश्यकता नहीं है। उस पर जाने की आवश्यकता नहीं है। अगर कोई आदमी जानबूझकर आत्म-हत्या करने के लिये आता है तो उसको उसके द्वारा 15 हजार रुपया दिया जायेगा। इसलिये यह जो है इसको सोच-समझ कर फिर लाया जाये।

श्री लाल कृष्ण आडवाणी : मैरिट पर ...

श्री जगदीश प्रसाद माथुर : मेरा ड्राइवर चला रहा है। किसी ने उसके आगे आकर आत्म हत्या कर ली, या चोट लग गई तो उसके लिये उससे पैसा ले लेंगे ...

श्री सीताराम केसरी : इंस्योरेंस है, व्यक्ति की बात नहीं है। इंस्योरेंस कम्पनी पे करेगी, आदमी नहीं पे करेगा। मेरा आपसे निवेदन है कि क्योंकि यह कमजो