

in the country. Sometimes a flight is too early, sometimes it is too late. There are various difficulties. Some people miss their breakfast, some people miss their dinner and so on. What we have got to do is to ensure the maximum utilisation of the fleet, hon. Members from Tamil Nadu came to me and said that this was the position. I think they had met the Airlines officials also. I said that whenever the next amendment came about, we would certainly try and see what we could do. Madam, very rapid changes in the schedule are not possible or even desirable. A lot of tourist bookings take place months in advance and if you keep on changing the schedule constantly, everything is thrown out of gear. Indian Airlines is seized of the problem and we will certainly try to accommodate to the wishes of the hon. Members.

SHRIS. S. MARISWAMY : We met you as early as November last year, before the summer schedule was announced, and we requested you to consider it. And you also promised us that you would give a oneway change and not a double change.

DR. KARAN SINGH : I will talk to the Airlines people.

SHRI K. CHANDRASEKHARAN : Madam, the hon. Minister has stated that once the schedules are published, there are objections and it is very difficult to satisfy all of them. At the same time, to avoid the objections or to keep these objections to the minimum, may I suggest to the hon. Minister—in fact, one of the Air Passengers Association in the country has passed a resolution to this effect and sent the same to the Ministry—to consider the possibility of his Ministry constituting an advisory body for the Indian Airlines just as the Zonal Railways constitute advisory bodies for timetables. It is not as if these suggestions are accepted. But some high level advisory body regarding time-tables may be considered.

DR. KARAN SINGH : We had advisory bodies before, but they were abolished in the last Bill. But quite apart from advisory bodies or otherwise, we always welcome suggestions that may be given by Members of Parliament and others. We will do our best within our limitations to fulfil them. Now, the flight to my own home-town,

Mr. Chandrasekharan, leaves at 6 in the morning, which is a most inconvenient time. People from my city say, "what is this? You are the Minister and the flight to Jammu leaves at 6 in the morning which means you will have to get up at 4." But the point is, this plane has to make so many halts. If I direct them to put the flight to Jammu at 8 O'Clock instead of 6, they will be losing revenue worth lakhs of rupees. It is always very difficult to accommodate everybody, but we will do our best.

SHRI M. RUTHNASWAMY (Tamil Nadu): May I ask the Minister if it is to accommodate the businessmen, who are the largest users of our airlines, that this timetable has been fixed? They finish their business at 5 either at Madras or at Delhi and they go back home.

But Members of Parliament and others who have no business to transact are put to all this inconvenience.

DR. KARAN SINGH: We have got to meet the requirements of the maximum number of passengers possible.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): The question is—

"That the Bill be passed." *The*

*motion was adopted.*

#### **THE INDUSTRIAL DISPUTES (SECOND AMENDMENT) BILL, 1971**

THE MINISTER OF LABOUR AND REHABILITATION (SHRI R. K. KHADILKAR) : Madam, I beg to move:

"That the Bill further to amend the Industrial Dispute Act, 1947, be taken into consideration."

Madam, the problem of closure of industrial undertakings leading to loss of production and unemployment of a large number of workmen has become

[ Shri R. K. Khadilkar ]

increasingly grave of late. Employers have declared certain closures of industrial establishments without notice or advance intimation to the Government.

[THE VICE-CHAIRMAN (SHRI V.B. RAJU  
in the Chair)]

Several factors have led to such closures amongst which are accumulated losses over a number of years and mismanagement of the affairs of the concerns. The unsatisfactory state of industrial relations, *i.e.* in essence labour unrest, making it difficult to sustain the required production has been pleaded as the precipitating factor. Certain other causes like financial difficulties and non-availability of essential raw materials have also been mentioned. The provisions of the Industries (Development and Regulation) Act are not adequate to prevent certain closures. At best the provisions of that Act provided for an investigation into the affairs of the company before it is actually closed down. This lacuna has been under consideration for quite some time past. At the 16th session of the Indian Labour Conference held in May, 1958, the question of closures was discussed and it was agreed that no shift working should be discontinued without two months' notice and that no total closure should take place without three month's notice to the workers as well as to the Government. It was also agreed that in the case of units of engineering industry the period could be reduced in individual cases if the State Government was satisfied that because of the circumstances of any particular unit a shorter period of notice was adequate. The 24th session of the Standing labour Committee meeting in February, 1966, soon after the Pakistani aggression, viewed with grave concern the situation arising from closures and mass retrenchment. The Committee reiterated the decision of the 16th session of the Indian Labour Conference on the subject and agreed that in cases of closure and mass retrenchment there should be three month's notice to the workers as well

, as to the Government. These decisions of the tripartite body represent voluntary agreements on the part of employers and they were not taken in the context of consideration of proposals for legislation. But in the recent past a number of industrial establishments have closed down. The closures at the present juncture result not only in the loss of production but also in accentuating the problem of unemployment. It is, therefore, necessary to consider whether suitable legislative measures can be evolved to prevent such closures by requiring an undertaking—

(1) to give prior notice of its intention to close;

(2) not to close before the expiry of the period of notice.

The notice period can be utilised by the Government to undertake a speedy investigation into the affairs of the unit in order to decide what remedial measures can be taken to prevent the closure. This matter was considered by the session of the Indian Labour Conference held on 22nd and 23rd October, 1971. The Conference generally endorsed the proposal for a Central legislation although the employers did contend that it may not be possible to give notice in all cases.

The conference was also of the view that a notice by itself would not prevent closures and that the government should take power for taking over all industrial units which are on the point of closing down or have closed down. The question whether 60 days' notice or 90 day's notice should be given also came for consideration. It was pointed out in the discussion that a longer notice period may defeat the very purpose which we all have in mind, it was argued that the moment you put up a notice of three months, the financial institutions would be prompted to stop or delay financing of the company concerned from that very day. Hypothecation arrangements will come to a standstill, raw-materials would not be supplied and in fact all the creditors would make a rush on the sick units in order to realise their dues. The concensus of opinion, therefore, was that two months period should be adequate and should suffice to meet the situation.

Sir, I would like to say that with the enactment of the Industrial Disputes (West Bengal) Amendment Act on 20th August 1971, the Government set in motion a legislative process which will be completed when this Bill now under consideration of this House becomes law. This process is designed to achieve three objectives.

The first objective is to try and take action to cure the malady which leads to closures.

The second objective is to try and take necessary measures well ahead of time in order to prevent closures.

The third objective is that where the mischief is already done and closures have already been effected, suitable action should be initiated to try and undo the mischief to the extent that is possible.

The first objective aimed at trying to cure the malady is found in the provisions of the Industrial Development and Regulation Act, 1951. Section 15 of the Act empowers the Central Government to cause investigation to be made in certain circumstances and to use its authority to ensure that during the investigation, the production does not come to a halt.

In order to achieve the second objective, that is to ensure that remedial action is initiated well ahead of time to prevent closures, the present Bill which is before the House makes it imperative on the employers to serve two months' notice on the government about impending closure. During this period of two months, government is to mobilise all its resources in an effort to see that a closure does not really come about. In any case, if the closure becomes inevitable, then sixty days provide reasonable time for the appropriate government to take steps to soften the rigours of the impending closure. In a situation where closures have already taken place or the companies have gone into liquidation, government is now vested with powers to take positive action in respect of such establishments. Previously the Industries Development and Regulation Act, 1951, did not give any power to government to intervene where a closure had already taken place or a company was in liquidation. With the amendment of this Act in December 1971, the Government can now take over

industrial undertakings for investigation in certain circumstances. Government can also now order an investigation into the affairs of a company which has gone into liquidation. It was not possible prior to the amendment of the Industrial Development and Regulation Act. In order, therefore, to complete the process which I have just now described, it is necessary that the Bill now before the House is passed as soon as possible. The main objective of the Bill is to remove the present lacuna in the Industrial Disputes Act. Under this Act there is no legal bar to the employers declaring closure. Under that Act they are required to give either one month's notice or pay wages in lieu of notice to the workmen.

4 P.M.

The Government considers that it should have an opportunity to go into the causes of closures and take such steps as it might think necessary for avoiding closures. A compulsory notice of sixty days for this purpose is being provided for by a suitable amendment to the Act.

With these words, Sir, I move that the Bill further to amend the Industrial Disputes Act, 1947, be taken into consideration.

*The question was proposed.*

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Yes, Mr. K.A. Krishnaswamy.

SHRI K. A. KRISHNASWAMY (Tamil Nadu): Mr. Vice-Chairman, Sir, at the outset, I must express my sincere gratitude to you for giving me this opportunity to speak on the Industrial Disputes (Second Amendment) Bill, 1971.

Before entering into the Bill proper, I am compelled to recall the scintillating voice, the splendour of diction, the exuberance of thought, the highly critical argument, the skilful debating talents, displayed by my late lamented leader Arignar Anna, who thundered forth for the cause of the glorious Tamilians i.e. this very same August House a decade ago.

Sir, I am proud to inform this August House that I have been shaped and moulded by my late leader Anna.

While I am discussing about the Industrial Disputes (Amendment) Bill, perforce I am

[Shri K. A. Krishnaswamy]

thinking of my late leader Anna, for his brilliant exposition of labour-management relations.

Sir, the purpose of this Bill is to prevent the sudden closure of industrial establishments without any notice or advance intimation. The Bill provides that an employer who intends to close down an undertaking should serve at least sixty days' notice on the State Government stating clearly the reasons for the intended closure of the undertaking. According to the Statement of Objects and Reasons of the Bill, several factors appeared to have...

SHRI KALYAN ROY (West Bengal): Sir, I have no objection to his speaking. But, is it proper to read out a speech? I have no objection to the speech.

SHRI S. S. MARISWAMY (Tamil Nadu): It is all right. It is his maiden speech.

SHRI M. KAMALANATHAN (Tamil Nadu): Sir, it is his maiden speech and it should be allowed... (*Interruptions*).

SHRI S. S. MARISWAMY: Even the Minister read out his speech.

SHRI THILLAI VILLALAN (Tamil Nadu): Sir, it is his maiden speech and without interruption he should be allowed to speak.

SHRI KALYAN ROY : Sir, I have no objection to his speech. I am only drawing your attention. That is all.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): All right.

SHRI K. A. KRISHNASWAMY: Sir, from the next time onwards I will manage to speak without the draft.

According to the Statement of Objects and Reasons of the Bill, several factors appeared to have led to these closures, amongst which accumulated losses over a number of years and mismanagement of the affairs of the establishment are mentioned. It reveals certain other causes like financial difficulties, non-availability of essential raw materials, etc. But, Sir, so far as my

knowledge goes, certain other contributing factors also play havoc in this region. The wrongly channelled trade union leadership and the rejected, dejected, frustrated politicians also pollute the atmosphere and disturb the tranquillity which ought to prevail in the field of industry.

Let me give one example from my State of Tamil Nadu and that is the Simpson Company strike. I am sure, Sir, that the hon. Minister of Labour will concur with me that the whole strike was politically motivated and not otherwise. The intentions of these misguided trade unionists and the mischievous politicians were only to discredit the DMK administration in Tamil Nadu. With head erect and with pardonable pride, I can tell this august House that we in Tamil Nadu have a popular Chief Minister, Dr. Kalamannar Karunanidhi. He is the first Chief Minister in the whole of the Indian sub-continent who directly handled the labour problems and created a congenial atmosphere and established an excellently cordial relationship between the management and the workers.

The Chief Minister of Tamil Nadu Dr. Kalamannar Karunanidhi is of the view that both the duties and rights must go hand in hand. While duty is being stressed by the management, the management should not fail to take note of rights of the toiling workers. Likewise, while the rights are being stressed by the workers, they should also remember their duties for this country in the field of production.

If these two concepts go together, much unpleasant situation could be averted.

Sir, today our country is passing through a tremendous crisis. Especially after the Indo-Pak war, our economy is also crippled. The planned growth of this country is terribly upset.

The spiralling up of prices, thanks to inflation and deficit financing, almost derail the country. The damage that has been caused must be rectified. Especially for the present context, what and what is wanted is, the industrial peace and labour rest. With the redoubled vigour the country must produce more.

Sir, I am happy to announce on this occasion to this august body that my State, Tamil Nadu, is one among the very few States in the whole sub-continent where strikes and lockouts are at a bare minimum. This fact has been amply revealed by the latest statement given by the...

SHRI A. G. KULKARNI (Maharashtra): The D.M.K. is creating the trouble...

SHRI THILLAI VILLALAN: In the morning, answer to this has been given...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Don't disturb him.

SHRI THILLAI VILLALAN : He is making his maiden speech. It is not fair. Mr. Kulkarni is a very senior Member in this House. He is interrupting. Another Member Mr. Kalyan Roy is also interrupting...

SHRI A. G. KULKARNI : Everybody knows what is there in Simpson. We ignore what he is talking.

SHRI K. A. KRISHNASWAMY: This fact has been amply revealed by the latest statement given by the Labour Ministry of the Government of India.

Sir, I am particularly in agreement with the spirit of the Bill. Bills can be introduced. Bills can be passed. But, Mr. Vice-Chairman, the proof of the pudding is in the eating.

I have done. Thank you for your kindness.

SHRI T. V. ANANDAN (Tamil Nadu): Sir, the second amendment of the Industrial Disputes Act is before the House. I wanted to dilate on the subject.

My colleague who has made his maiden speech today has referred to politics in the trade union field in Tamil Nadu. Therefore, I would like to tell this august House that if the hon. Labour Minister makes up his mind to see that politicians are prevented from entering into the trade union field, there may be peace in this country. Also, Sir, I would like to say that the DMK Party, after having come into power in the south,

wanted to thrust its leadership in the trade union field. They have admitted themselves that they are novices in the trade union field. It is a statement I am making with full responsibility...

(*Interruption*)

If you go into the statements and the statistics that the Government of India possess, you will find that not less than 51 strikes were there in Tamil Nadu. Tamil Nadu is compared to West Bengal in 1971 as to the total number of strikes in this country. And, therefore the political party named DMK cannot propagate itself that it has a real trade union interest in the trade union. It is interested in politics. This House is well aware that I never indulge in politics while talking of trade union matters.

Coming to the amendment before the House, although it is belated, I as a trade union representative have to admit that this is a progressive measure and it ought to have come earlier, because no employer likes to close his concern nor workers want to go on strikes. It is because of the faulty planning that the Government of India has made. I emphasize that the policy of mixed economy is the cause of these troubles in this country.

We had seen last year as to how many strikes and disturbances were there in West Bengal. Neither the trade unionists nor the employers ever knew what *gherao* meant. *Gherao* was given a status in West Bengal, but it is banned—I know—as far as Tamil Nadu is concerned. The Chief Minister does not agree to *gheraos*; he takes a very serious view if any trade union *gheraos* an officer. It is an innovation introduced into this country by both the Left and Right Communist parties. They have invented this *gherao* business and this *gherao* business was the cause for the shifting of most of the factories from West Bengal because of which the President had to interfere. It is after the intervention of the President that the Labour and Employment Ministry has today come forward with the present amendment about which we have no grouse at all.

[Shri T. V. Anandan]

All the three national trade unions that exist in the country today are delivering the goods to the people. But for these national organisations, there would have been great disruption in the trade union field. Whatever progress the country has achieved, it is all due to the co-operation of all the trade unions in this country and, therefore, the credit must go to them. They have also agreed with and endorsed the President's Act of West Bengal saying that an advance notice of 60 days has to be given. But I do not agree with the last clause—Penalty clause—because the employers will be prepared to pay not five thousand rupees why even ten thousand rupees. But what I say is, a really democratic, socialistic set-up has to be achieved in this country. You should have penalised them not by fine but by rendering them to surrender the ownership of the factory if they close before sixty days without giving advance notice. That should be the penalty. What is communism? After all, communism is nothing but slaughtering. If a man is threatened with slaughter, he will necessarily abide himself by law and reason. Therefore, you must introduce a clause that if any employer closes his concern without giving due notice then he will be liable to surrender the ownership of the factory; and the factory ownership should go to the workers of the concern. That is the way to achieve real socialism—not by words—in this country.

However, Mr. Khadilkar, having taken over charge of the Labour and Employment Ministry, you had the good fortune of introducing an amending Bill. Many had planned to do it and they have all failed but you have the pride of introducing such amendments. I welcome this Bill on behalf of the working classes of this country.

SHRI MAHAVIR TYAGI (Uttar Pradesh): Sir, just one clarification I would like to ask. I would like to have your permission to seek a clarification from the hon. Minister.

THE VICE-CHAIRMAN (SHRI V.B. RAJU): No, no, only after all the speeches are over.

SHRI BRAHMANANDA PANDA (Orissa): Sir, my humble submission is that while new Members enter the House there will naturally be maiden speeches.

We are not averse to maiden speeches but then we are allergic to spinster talk. You must make a distinction between maiden speeches and spinster talk.

SHRI MAHAVIR TYAGI : Sir, only one clarification, of course, the measure is very good and well-motivated to stop the closures. It is an excellent idea because, after all, closure means stoppage of production of wealth which is very bad indeed. I just want to know from the hon. Minister whether he had tried to examine if it is possible to apply the Russian rules or procedure with regard to these labour questions and other questions as well. For instance, in Russia neither can the labour go on strike nor can the factories be closed. Why not let the Government look into it. If it is possible to apply the Russian procedure pertaining to factory workers—I am sure it is radical—I think my communist friends will also support it. So nobody can oppose it and they are the surest rules. I would request the hon. Minister to examine whether they could be applied here.

SHRI D. THENGARI (Uttar Pradesh): While welcoming the Bill I would remind our Minister that he himself had admitted earlier the necessity of introducing a comprehensive Bill regarding industrial relations because the present ID Act is admittedly just one of the relics of the British regime not adequate to deal with the present situation. So a simple Conciliation-cum-Arbitration Bill would serve the purpose better than all such complicated provisions. Secondly, I would reiterate my earlier suggestion that in every undertaking in the private sector efficiency audit system should be introduced. Because, in that case, mismanagement and other things will naturally be curbed. Thirdly in the Statement of Objects and Reasons it has been rightly stated that these are four reasons for closure—mismanagement, labour unrest financial difficulties and non-availability of raw materials but obviously various parties are responsible for the factors responsible for closure. So so far as labour unrest is concerned, it is all the more necessary now, particularly when there has been an appeal from the President and the Prime Minister for a three-year moratorium on strikes and lock-outs, that justice should be cheap and expeditious, that there should be Joint Mana-

gement Councils in every industry or industrial establishment either in the public or private sector and every decision should be taken only unanimously by the Council whether that decision pertains to disciplinary action or deployment of capital and without the approval of the workers' representative no decision should be taken. So it is high time that such Councils are set up in every industry. That is the way to overcome the difficulty of labour unrest.

Coming to the present Bill I have a few suggestions. I will not put up any formal amendment because it is of no use. In Section 3 the punishment prescribed for employers should be progressively more deterrent and by that I mean the larger the establishment, the more deterrent should be the punishment. Then in section 2 it is stated :

"The appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that provisions of sub-section (1) shall not apply etc."

Here there should be such a provision that before issuing such a directive for exempt on the appropriate Government must consult the representatives of the workers therein and secure their prior approval for exemption from the operation of Section 1. That is imperative. Then in sub-section (1) of Section 2 some exceptions are being provided and there is a list of industries. Here I would stress that no industry should be exempted from the provision of notice of 60 days. The only exception, if it is to be made, can be in the case of cottage industries employing less than 20 workers; otherwise, the provisions of the Bill should be applicable to all other industries and no exception should be made. Then whenever there is a notice for closure, there should invariably be constituted a Committee of Enquiry consisting of a representative of the workers also and that Committee should be required to determine the real causes and the validity of the notice for closure.

In case of closure retaining allowance must be given to all workers. So far as the

payment is concerned, if the committee of Inquiry comes to find that the responsibility for closure is on the employers then the retaining allowance should be paid by the employers themselves and if it is found it is non-availability of raw materials that is responsible for the closure in that case the retaining allowance should be paid jointly by the employer and the Government.

Then, Sir, in case of closure, the mills or factories or the industrial establishments should be invariably handed over to the workers therein unless they shirk the responsibility of managing their own affairs and the Government must come forward with the requisite technical and financial aid. There are certain cases where we may have reasons to believe that the closure is *mala fide* in that case the workers should have the right to stage a strike in the reverse. By strike in the reverse I mean that the workers will not quit the premises; they will occupy the premises and they will run the mills and the Government should come forward with appropriate help to the workers in case of such a strike in the reverse.

Thank you.

SHRI A. G. KULKARNI : This measure which was long desired has been brought forward by the Government and Mr. Khadilkar deserves appreciation for bringing this measure.

SHRI KALYAN ROY : And also the State which agitated for this legislation.

SHRI A. G. KULKARNI : Yes; the West Bengal State also. But now work it properly.

SHRI KALYAN ROY: It is up to you.

SHRI A. G. KULKARNI : Sir, this is a half-hearted measure and that is why I am not fully satisfied because it has not gone into the genesis of such type of closures, particularly foreclosure by the employers. In this Industrial Disputes (Amendment) Bill the nature of the genuine closure has to be more precisely defined because as has been pointed out by my colleague, Mr. Thengari, there are various reasons why these closures take place. In many of the

[Shri A. G. Kulkarni]

cases it is the employers' greed to make more profits that is responsible for the closure of the units. There may be some genuine cases; I do not deny that. In certain cases it may be marketing difficulty as in the case of the oil engine industry now. In the country today the oil engine industry is in a depressed state and whatever you may do, it cannot be revived. Apart from such cases, the genuineness of the closure has to be defined and unless it is defined clearly it will create more legal problems and complications. Here I would like to draw the attention of the hon. Minister to particularly one fact. Due to the British influence on the industrialists monopolistic tendencies have come out of their greed, out of their trading interests. In industry what we really want to develop here is manufacturing interest. If one is a real manufacturer he will think a hundred times just like an agriculturist or a farmer who will not see his crops getting dry—he will bring water from some place or other and see that the crops are watered—before he closes his unit. So this kind of manufacturing interest ought to be encouraged by the Government. That is why the suggestion made by my colleague, Mr. Thengari, as also by others, about penalty has to be looked into. It has to be reviewed and it can be reviewed with some experience. That is why I say that the Government has come with a halfhearted measure because the Government has got ample experience of our employers' attitude, particularly the trading community which is interested in the manufacturing activity of the industry. So the penalty has to be something different from what has been prescribed in the amending Bill that has been brought forward.

Similarly there is another aspect which been very well brought out by Mr. Anandan. The recent advent of political parties is vitiating the atmosphere of the trade union movement in this country. Particularly since the advent of political parties it has vitiated the atmosphere to such an extent that there is total disregard for national interest...

SHRI KALYAN ROY:., and co-operative interests.

SHRI A. G. KULKARNI : Cooperatives are manufacturing interests. What else is there ? Why I say this ? No less a person than

the President of this country—for that matter the Prime Minister also—has time and again said that there must be what you call a total understanding on strikes to be avoided. For that purpose nobody will deny that the labourers and the employees have got their inherent and fundamental right to Strike. I do not deny it. If any idea is there that this right should be withdrawn, at least I would be the first to oppose it because that right is a fundamental right of any trade union movement. But having said this, if the economy of the country as a whole is going down, is dwindling down, the major reasons for this, apart from other reasons, are the strikes and the lock-outs and the go-slow movement in the factories. If these are not to be there, then political interference in the trade union movement has to be avoided. Why I say this? It is only two days back I was just mentioning—and the Minister took it very lightly—Just see the indiscipline in the banks, particularly in the nationalised banks, and the personnel policy of the Banking Department. Now, even the Directors are not appointed—you *will* perhaps be aware of this—and we are told that it is the labour rivalry or the union rivalry that is delaying the process of appointment of Bank Directors. The banks' personnel policy not being rational, the sufferer is the community, and in a trading and industrial city it has been our experience. Now discipline in the nationalised banks is at the lowest level at present, and that is why I say that interference by political personalities has been the root cause of the indiscipline that is on the increase at present, and that is why, Sir, I feel that this is one of the measures which will set right this. But the Government will have to come with more stringent measures to set the house in order, particularly on this indiscipline and political interference. Sir, the difficulty particularly will be in the matter of wages. Of course we find that for the closure of a factory, the factory has to give some sixty days' notice, or whatever is there. There is another aspect of the matter which I do not find in this Bill, and Mr. Khadilkar will set it right if my apprehension is correct. There is another type of industry run by the Government; particularly when the textile mills are taken over, they call it a relief scheme. Where is that provision of the relief scheme in this Bill? A relief scheme means that a worker has to accept lower wages. I do not understand

this, Sir. I am fighting with my own I State Government why the workers should accept lower wages at all. The root cause of the trouble in the textile industry was in the industry having made some bungling or in the employer's attitude. We see nearabout what an employer is doing. An employers starts selling yarn or cloth, or even the coal received or the steel received on behalf of the factory, in the black market and makes money in cash. That shows that the factory is going to be wound up within six months or a year or two years. For that purpose this escape door has been introduced and the workers are made to accept some lower wages. If that undertaking has to run, I would tell Mr. Khadilkar that this type of attitude, on behalf of any state Government or on behalf of the Central Government, to allow a unit to run paying the workers reduced wages, is one that does not deserve any comment from me at least because, Sir, this is just like asking an employee to take lower wages for doing the same work as before. In this contention, Sir, I draw the Minister's attention to his own suggestion about bonus. He made really an appreciable effort in announcing in Bombay that about 8 % bonus will be paid to the workers. Mr. Khadilkar has to be congratulated for this because he took courage and raised the quantum of bonus.

SHRI KALYAN ROY: Then he retreated.

SHRI A.G. KULKARNI : This is what I am coming to. Having made this announcement, I would request him to please tell me where it is paid. Some factories might have paid, but they are very few. The Khadilkar bonus formula was applicable to the State sector also. I am a director in a State sector unit and I am asking the management why they are not paying that much bonus.

They were paid some advance, not even 8.14 per cent. It was 6 or 6-14 per cent. It has been ordered by the State Government to be cut from their wages. I want the Minister to reply to this. Why should the employees suffer? When you make an announcement, the provision has to be made by the State Government or the Central Government. Why was the formula not enacted in toto as per the directions given by the Minister of Labour

for this purpose? The delay in appointing the Bonus Commission is also not liked by the people. I want you to throw light on these matters.

SHRI KALYAN ROY : Sir, I feel sympathetic to Mr. Khadilkar because he is a tiny man, not in size, but in the Cabinet. I think he knows that he is being pushed to the corner and he has really no decisive voice in shaping the labour policy of his Government. That is why there is so much discontent, so much unrest and so much grievance accumulated throughout the country. So far as the Bill is concerned, again it is good. It goes one step further, but it does not at all meet what is needed today. It may lead to sanctioning of closures. It is a funny Bill dealing with closure, but there is no definition in the Bill to say what is 'closure'. How does the problem of closure crop up in an industrial dispute? The whole closure business came after the Supreme Court's judgement. Previously there were prolonged lock-outs and Mr. Gajendragadkar in the Banaras Ice Factory case gave a judgment in the Supreme Court saying that in a mala fide closure the workers have a right to treat it as an industrial dispute and they should be paid compensation. This was a good judgment, but it was totally reversed later on by the Supreme Court. It said that even if it is a mala fide closure, there cannot be any industrial dispute and from that year round about 1960, all the closures, which were really lock-out, came into existence in the country. There are closures for half an hour. There are closures for 48 hours. There are closures for three days. These closures are really camouflaged lock-outs. So, the main disease remains untackled. Mr. Khadilkar has made the pain a little bearable. That is all. What has led to these closures? All kinds of talks are being made about strikes and unrest and workers are whipped for these. I am referring to a question and reply today about what led to the closures. I am leading from the reply to Starred Question No. 433. It says.

"The Government of Wsst Bengal recently made two analytical studies of the causes for closure of industrial units in that State. The first study of 54 closed units employing more than 100 workers per

[Shri Kalyan Roy]

unit showed that labour unrest accounted for 29.63 per cent cases. A subsequent analysis, on the basis of statement of management, of 76 cases of closure, which occurred during the year 1971 and which continued to remain closed on 31-12-1971, revealed that the causes for closure in these cases were as follows:—

	Per cent
1. Financial stringency ...	43.4
2. Lack of orders and depression ...	9.2
3. Shortage of raw material ...	7.9
4. Gherao ...	Nil
5. Labour indiscipline ...	21.0
6. Labour violence ...	Nil
7. Go slow ...	6.6
8. Strike ...	1.3
9. Litigation and inter-management feuds ...	10.5

It would thus appear that labour indiscipline, go-slow and strike accounted for a total of about 29% of cases of closure which occurred in 1971.

All this Goebbels propaganda that workers' strikes are responsible for closures have been blown up by the findings of the enquiry committees set up by the Government of West Bengal. So, the remedy lies in this case not in punishing him with Rs. 500 of fine or with one or two years of imprisonment. And one hon. Member suggested the taking over of the factory and that will help to solve the problem which is becoming rampant. And what happens. After this Ordinance about sixty days' notice came, we found that one of the biggest factories—Incheck at Calcutta has been locked out, because they have to give notice prior to closure; the closure becomes a lockout and the entire responsibility falls on the management. And the whole trouble is, Mr. Khadilkar and the Cabinet do not see that the entire industrial sector of this country is dependent upon the two Acts; one is the Industrial Disputes Act of 1947 and the other is the Trade Union Act, which were both inherited from the British days. Ninety per cent of the labour disputes today arise because of the utter inadequacy and the utter failure of the Industrial Disputes Act to tackle the problem. You can take any clause. Who is a workman ?

A workman under the Industrial Disputes Act is a technical man, a clerical man, a manual man, like that. But, Sir, what about the supervisor ? In other words, if you just designate a man 'supervisor'—and he may be getting Rs. 500—he is debarred from the definition of a workman. A clerk with Rs. 2000, he continues to be a workman. See the anomaly. Take the case of industries. Delhi University has got a press in Delhi, with linotype and other types of work. They work as hard as any press in Connaught Place. But they are not workmen. Similarly, in hospitals and other place<sup>9</sup>, there are people who are peons and chaprasis. If you take the Industrial Disputes Act, it is just failing. Instead of coming forward with a piecemeal legislation like this, you should have brought forward a comprehensive Bill which will really tackle the problem. You have brought forward this amending Bill; I agree with this because this one goes a step further. But this will only create more problems which you are going to face.

Take the appointment of a judge under the Industrial Disputes Act. Previously it was that anybody qualified to become a High Court Judge could have been appointed a Judge of the tribunal. Then came an amendment. But what is the effect? Only those who were judges in the district courts have become judges of industrial tribunals, people who have no understanding of the labour problem or the social problem, and now they are made judges. And that needs a change.

Then come to the implementation machinery. As far as the Industrial Disputes Act is concerned, what is the machinery? The entire machinery right from the Chief Labour Commissioner to the inspector is absolutely useless. The Act says that conciliation proceedings, after a dispute is raised, should be ended within 14 days. Can Mr. Khadilkar show me one single dispute which has been settled in 14 days? It takes even 14 months. And what are the workmen to do? Conciliation proceedings in 14 months? The conciliation proceedings go to the Regional Labour Commissioner. The Regional Labour Commissioner is either absent or he sleeps over the matter. Have you taken any step against any single officer who has violated this rule? You are forcing the workmen to go on

strike or to adopt go-slow tactics because of the defective laws which have been enacted.

Then, Sir, if a dispute remains unsettled, it goes to Delhi to the Government for reference whether it should be sent to the tribunal or for arbitration. Then, the entire decision is taken by the bureaucracy. Firstly, the conciliation proceedings take 14 months. Then the dispute remains with the Chief-Labour Commissioner's Office or the Labour Minister's Office or down below. Who will give the reference and who will decide which case should go to the labour tribunal or otherwise—the bureaucrats or the Chief Labour Commissioner? And the workers here—are they prepared to wait indefinitely? And then reference is denied to a case which is....

THE VICE-CHAIRMAN (SHRI V.B. RAJU): You are touching on the deficiencies of the other Bill. Let us actually confine to this Bill.

SHRIKALYANROY: Then, awards have remained unimplemented. The maximum number of awards have remain unimplemented. Can Mr. Khadilkar show me one case where the employer has been prosecuted or sent to jail? Not a single case so far. The awards of the Industrial Tribunals have totally remained unimplemented. But, Sir, what I was trying to point out was, this Bill is a step forward—there is no doubt about it—but the closures are due to the mismanagement of the vested interests.

There is corruption. Here it was admitted in this House that money which was given to Mr. Abhijit Sen, the Managing Director of Sen Raleigh, was diverted to his private account. The result is loss. The same thing happened in the Mundhra concerns at Bombay and Calcutta. The same thing happened at other places.

The other point is about the transfer of offices. Suppose I do not close a factory. Karam Chand Thapar has transferred the head office from Calcutta. The Caltex has transferred their head office from Calcutta. I do not close the factory but I quietly transfer the head office. What remedy have you got about this? So the whole tragedy of the Labour Ministry is that ins-

stead of tackling the demon straight, which is responsible for so much unrest among the workers, they try to tackle it in a manner which is creating more unrest, more agitations throughout the country. So he has first to come forward with a comprehensive Bill.

The second thing is about punishment. Any employer would gladly give you Rs. 500 or Rs. 600 and violate this particular clause. It is nothing new. There is already a clause like that in relation to coal mines. There is an Act which is called the Coal-mines Conservation and Safety Rules of 1954. Under rule 40 of the same, if you want to close a mine you have to give 90 days' notice. We asked questions whether the mines which have been closed down in Bihar and West Bengal have given notice. The Minister of Mines replied giving names of the mines which have been closed. Not one man has given notice. The mine-owners laugh in their sleeves. He pays only Rs. 50 and is let off. There is a law in relation to mines; it is violated. The same thing will continue to take place unless you make the punishment deterrent, unless you make the employers really feel sorry for not giving sixty days' notice. I am afraid I have to congratulate the Minister half-heartedly. It does not solve the problem. Instead of closure what will they do is to declare lock out. Previously they declared closure in order to avoid the rules. So the time has come instead of talking about moratorium on strikes, which has been condemned by the A.I.U.C and I.N.T.U.C. you should really scrap the British Act which has not solved any problem. You should start bringing piecemeal legislation. You should really get hold of the owners who are responsible for the situation and who, are flourishing because of your allowing them to violate the rules. I am afraid unless you make the punishment severe, I can tell you, Sir, this rule is going to be violated in the same way as the mines rules are being violated. Unfortunately, Mr. Khadilkar, this is a very half way step for which you have to answer to the working class tomorrow.

श्री नागेश्वर प्रसाद शाही (उत्तर प्रदेश) :  
उपाध्यक्ष महोदय, मैं इस विधेयक का स्वागत करते हुए कहना चाहता हूँ कि यह विधेयक

[श्री नागेश्वर प्रसाद शाही]

अपने उद्देश्य की पूर्ति में उतना ही कमजोर और दुर्बल है जितना हमारे श्रम मंत्री जी हैं। यह विधेयक जिस उद्देश्य की पूर्ति के लिए लाया गया है उसमें पूर्णतया असफल होगा और इससे भी यह साफ प्रकट है कि सत्ता-दल समाजवाद की स्थापना की ओर कितने आधे-मन से अप्रसित हो रहा है। इस विधेयक से यह भी साफ प्रकट है कि किस प्रकार सत्ता-दल का समाजवाद बराबर है साम्यवाद धन पूजीवाद के। कम्युनिज्म प्लस कैपिटलिज्म बराबर है, रूलिंग पार्टी-सोशलिज्म। उत्तर प्रदेश में पिछले चुनाव में जाहिर हो गया कि डा० जैड० ए० अहमद प्लस बी० आर० मोहन बराबर हुआ रूलिंग पार्टी सोशलिज्म। इसलिए मैं कहना चाहता हूँ कि आप इस विधेयक की ओर देखेंगे तो इस विधेयक की उपधारा 2 में इस प्रकार की व्यवस्था कर दी गई है कि समुचित सरकार को इस बात का अधिकार होगा कि यदि 60 दिन के नोटिस दिये बना भी या उससे कम समय में भी नियोजक उपक्रम को बन्द कर देता है तो उसके खिलाफ कोई कार्यवाही नहीं हो सकेगी। इस तरह का अधिकार समुचित सरकार को दिया गया। इसमें यह लिख दिया गया है—अगर आप कारणों में गौर करेंगे कि अगर उपक्रम में कोई दुरुस्तना या नियोजक की मृत्यु अथवा ऐसे किसी अन्य कारणों से—तो इसमें जो अन्य कारण जोड़ दिया गया है, उसके द्वारा लेबर कमिश्नर को यह अधिकार दे दिया गया है कि इसके स्कोप को, इसके क्षेत्र को इतना विस्तृत कर दे, इतना वाइड कर दे कि इसमें सब तरह के कारण आ जाएँ और किसी भी मिल मालिक के खिलाफ इस विधेयक की अवहेलना करने पर कोई कार्यवाही नहीं हो सकेगी। आज मिल मालिकों की ताकत को सब जानते हैं और सरकार की नीति को भी सब लोग अच्छी तरह से जानते हैं। आज मिल मालिक सरकार की नीति को प्रभावित

करने में किस तरह से कामयाब हो जाते हैं, इस बात को जानते हुए भी सरकार ने इस बात की गुंजाइश कर दी है कि कोई भी मिल मालिक कोई भी नियोजक इस विधेयक का मनमानी ढंग से अवहेलना कर सकता है।

जब यह चीज कर दी, तो आप देखेंगे कि धारा 3 में जहाँ दण्ड का प्रावधान किया गया है, उसमें लिखा गया है “कारावास जिसकी अवधि छः मास तक की हो सकेगी या जुमाने से जो पांच हजार रुपए तक का हो सकेगा या दोनों से दण्डनीय होगा।” यहाँ पर भी आपने गुंजायश कर दी है; क्योंकि आज कोई भी पूँजीपति पांच हजार या छह हजार रुपया जुमाना आसानी के साथ दे सकता है, जबकि वह लाखों रुपया अपने कामों को करवाने के लिए दे देता है।

आज से कुछ साल पहले जब पैनल कोड में संशोधन किया गया था तो उसमें दंड की धारा में ऐसी कुछ व्यवस्था कर दी गई थी कि जहाँ कारावास या जुमाना था वहाँ से “या” शब्द को हटा दिया गया था। दंड को कठिन बनाने के लिए, दंड को कठोर बनाने के लिए “या” शब्द हटा दिया गया था, लेकिन यहाँ पर सरकार ने जान बूझ कर के धारा दो की उपधारा में इस तरह की गुंजाइश कर दी है, जिसके द्वारा लेबर कमिश्नर समुचित सरकार के कारणों को उचित समझ कर उसे माफ कर सकता है।

यहाँ उस गुंजाइश को करने की क्या आवश्यकता थी? हमारे कुछ साथियों ने, आनन्दन जी ने, कुलकर्णी जी ने जोर दिया है कि पनिशमेंट को सख्त बनाया जाय, दण्ड को कठोर बनाया जाय, मगर सरकार उसकी ओर कतई ध्यान देने को तैयार नहीं है। मुझे अपना तजुर्बा है। आज से 20 साल पहले मैं भारत सरकार के श्रम विभाग का वकील था और मैंने इस विभाग के कई सौ मुकदमों में पैरवी की है। मैं जानता हूँ कि ये धनपति लोग कोर्टों को प्रभावित करते हैं और जब

आपने 'या' का प्रावधान कर दिया कारावास या जुर्माना, किसी भी धनपति को कारावास नहीं हो सकता और किसी मजिस्ट्रेट या कोर्ट की हिम्मत नहीं होगी कि धनपति को कारावास दे सकें, चाहे कोई मामला कितना ही संगीन क्यों न हो, कितना ही बड़ा मामला क्यों न हो, सब में जुमनि की सजा होगी। आपने जुर्माना पांच हजार रुपए तक रखा है, लेकिन सौ रुपए, दो सौ रुपए, तीन सौ रुपए जुर्माना होगा। साधारण मजिस्ट्रेटों के कोर्ट में मुकदमे जाते हैं तो वे करते क्या हैं, बैंक डोर से दो हजार घर पहुंच जाता है और 50 रुपया जुर्माना कर देते हैं। यदि आप इसे समाप्त करना चाहते हैं और इन धनपतियों के द्वारा, अपने न्यायालयों को भ्रष्ट होने से रोकना चाहते हैं तो आप 'या' शब्द को हटा दीजिए, माननीय मंत्री महोदय।

एक दूसरी बात कह कर, श्रीमन, मैं खत्म करना चाहता हूँ। जब आप इस तरह के कमीशन एपीइन्ट करते हैं चाहे बेज फिक्सेशन के बारे में हो या किसी और मामले में तो आम तौर पर रिटायर्ड हाई कोर्ट जजों को एपीइन्ट करते हैं। पिछले सालों का तजुर्बा यह बताता है कि जब इन जजों के रिटायरमेंट में तीन-चार साल बाकी रह जाते हैं, तो इनके फैसलों के रुख में बड़ी तब्दीली आ जाती है और वे गवर्नमेंट में एप्रोचेज शुरू कर देते हैं कि रिटायरमेंट के बाद उनको कोई न कोई दो-तीन साल का काम मिल जाय। मैं मंत्री महोदय से निवेदन करना चाहता हूँ कि मैं इसके विरुद्ध नहीं हूँ कि हाई कोर्ट का रिटायर्ड जज एपीइन्ट न किया जाय, लेकिन आप कोई पेनल बना लें या कोई ऐसी व्यवस्था कर दें, जिसमें पिक एण्ड चूस या फेवर की गुंजाइश न हो, आपको इस बात का अधिकार न हो कि फलों को कर दिया, फलों को नहीं किया ताकि किसी जज को अपने जजमेंट को प्रो-गवर्नमेंट जजमेंट या अपने व्यू को प्रो गवर्नमेंट व्यू बनाने की आवश्यकता न पड़े।

SHRI R. K. KHADILKAR : Sir, I am indeed happy that all the honourable members have welcomed the measure which is before the House. It was but natural that on this occasion in the context of trade union relations and other matters that are just before those who are very much concerned questions about production about self-sufficiency, about healthy trade union relationship, were raised. I would have very much liked to refer to all these questions as I take them very seriously. But for want of time I will have to defer certain matters or certain points raised in the course of the debate...

SHRI KALYAN ROY: Why for want of time? We are prepared to listen to him. This is a matter which is more vital than the Aircraft Bill.

SHRI R. K. KHADILKAR : So far as the Bill is concerned, the main criticism is that it is half-hearted and it is not going to meet the situation, though our objective is laudable and in particular the punishment is not deterrent enough. I would like to assure the House that the present provision for punishment is perhaps the highest under the Industrial Disputes Act. Those who are in the trade unions know that. The punishment is 6 month's imprisonment or Rs. 5,000 fine. But if by experience it is found inadequate, I will again assure the House that we will review the position, so far as the Bill is concerned.

SHRI K. CHANDRASEKHARAN: That is, for making the punishment more deterrent?

SHRI R. K. KHADILKAR : Yes.

SHRI K. CHANDRASEKHARAN: That will never solve the problem.

SHRI R. K. KHADILKAR : That was the criticism.

SHRI K. CHANDRASEKHARAN : We have tried it in regard to the prohibition law. We made anti-prohibition offences more and more penal and punishment more and more deterrent. But we found that there were more and more prohibition offences.

SHRI R. K. KHADILKAR : But as I said in my speech while moving the motion for consideration, we have set in motion certain processes and if you look at it from that angle you will realise that government has been seriously considering for some time past how to meet the situation of closures in this country and particularly during the last couple of years. Therefore, the present measure is just to meet that situation or to fill in a gap. This measure is perhaps the last in the series. I know in the past—even now there are—there were *mala fide* closures. Somebody referred to Mundra and certain mal-practices...

SHRI KALYAN ROY : On a point of clarification. Even in the face of *mala fide* closures, the workers today, after the ruling of the Supreme Court, cannot raise any industrial dispute. Why not bring in some amendment to remove this lacuna?

SHRI R. K. KHADILKAR : There are certain operators in the industrial field who are well known speculators and they are operating in a manner detrimental to the economy as well as to the interests of the workers. They leave the concern almost squeezed out of its potentialities, and when it is more or less scrap or when it is not likely to yield anything, it is thrown like an orphan child and government is supposed to take the responsibility calling it a sick concern or sick textile mill. This is the position prevailing in the industry. But as I have said earlier, there are several factors leading to closures. We have taken into consideration some of the factors and have taken the remedial measures.

Hon. Member Shri Kalyan Roy referred to the report. I am happy he has referred to it because there was a misconception I had almost all the closures were due to labour unrest and trade union rivalry and similar factors. But from that report it is very clear that labour unrest and other factors are hardly responsible for 30 per cent of the closures and other factors are more responsible for bringing about such a situation where industry remains closed for a number of days.

I do recognise that the present industrial relations machinery is inadequate. I do recognise that it takes a long time to get

the result of a dispute. Sometimes it takes years together. As hon. Members know very well, we have directed our energies to bring about some sort of an understanding among the three major national trade unions so that with their support we could undertake certain measures to incorporate certain suggestions in the form as they were made or with some modifications in the National Labour Commission regarding the industrial disputes settlement machinery.

5.00 P.M.

Sir, inter-union rivalry often leads to a very unhealthy condition and in a way helps the unscrupulous management or the proprietor in considering that it is not worth continuing production and so, it is closed down. So, these efforts are being made and I am confident that within a month's time we shall be able to place at least before this House a comprehensive Bill amending the present Industrial Disputes Act.

SHRI KALYAN ROY : When?

SHRI R.K. KHADILKAR : I hope to introduce it in the current session.

SHRI A. G. KULKARNI : In the Lok Sabha?

SHRI R.K. KHADILKAR : Here or there, either here or in the Lok Sabha, because, so far as introduction is concerned, the question is not where I introduce it. But, I say, I would like to introduce such a measure in the current session.

SHRI A.O. KULKARNI : According to the time-table, the session is ending on the 14th.

SHRI R. K. KHADILKAR : I also know the time-table.

Then, Sir, certain other questions were raised incidentally. For instance, Mr. Tyagi, an old friend of mine, asked: "Why not follow the Russian example and ban the strikes and compel the proprietors to run the factory?" He should remember—he was a Member in the Constituent Assembly, if I mistake not—that our Constitution is based fundamentally on a different pattern

and a certain right of associations is also there and because of that it is not possible to do that nor can anyone contemplate that so long as the democratic basis is there in the framework of the Constitution and all of us would like to preserve it. It is possible just to act in a manner, as he supposes, as in Russia they are acting.

Some reference was made to the suggestion of the Rashtrapati which was later on endorsed by the Prime Minister. I would like to make it clear that a suggestion of moratorium was ever intended and it is unfortunately misconstrued. If it is taken in the right spirit, it was intended that an atmosphere in this country, particularly in the industrial field, should be created when the present strife will not bring about any cessation or interruption of production. When we say we will have to build up a self-reliant economy, we will have to guard against interruption in the production process and all factors involved in or directly concerned with the maintenance of production, whether the management or the trade union leadership or the government, all will have to pull together to see that disputes—there are bound to be disputes and we will find out some other method to settle them—never lead to stoppage of production or interruption and all efforts will have to be made to keep production at the optimum level. That was the purpose and there was no other intention of taking away this right or abrogating it.

The President, as you know, is an old trade unionist and even now he stands, on many occasions, fearlessly supporting the rights of the workers. Similarly, the Prime Minister, when she addressed the Conference of the trade union leaders, made it abundantly clear and appealed to the trade union leaders to close down their ranks and find out a way so that the Government would take suitable measures to remove the current defects in the trade union machinery.

I think the process that was started in May last perhaps will bear fruit in the month of May this year. That is my fond hope. I think things are moving in that direction.

Mr. Thengari said : Why not ask the workers to take over the manufacturing units, industrial units. Well, in Yugo-

slavia workers manage such units. In our present economic and political framework it is difficult just now to say that we shall take over the unit and run it. But an attempt is being made that the employer has not that absolute right to run a factory or a concern and just close it down or shut it down according to his whims so that he could operate in an economy which is regulated, where industry also has got some protection and sheltered existence.

I may remind Mr. Kalyan Roy, who said that we are following the British pattern...

SHRI KALYAN ROY : I did not say that. What I said was that we have inherited this Trade Union Act from the British days. He has not brought amendments, radical changes for the working class. All the amendments so far have been for the employers, except this amendment.

SHRI R. K. KHADILKAR : Though certain things were inherited from the Britishers, I am proud we have not inherited the relationship that prevailed in Britain or even prevails now where trade unions and the industry decide among themselves and ultimately reach a settlement, or go on strikes. Here in this country Government is not playing a negative role in the industrial field, holding the ring and allowing the two parties just to settle their claims on their own strength. Government is firmly with the working class and trade unions to the extent that their rights are protected and all the social legislation regarding socialistic and other matters or trade union legislation giving a certain amount of protection is initiated by Government and the trade union leaders will have to admit it, because it is on account of this partisan role in this country that trade union movement has gathered a certain amount of strength and they have got a certain status in the state of things in this country.

Therefore, on this question I will not take much of your time because I want to get this measure through. And I am sure that whatever short comings have been pointed out just now, not regarding the Bill but regarding the industrial disputes settlement machinery, and other matters..,

SHRI A.G. KULKARNI : What about the bonus ?

SHRI R.K. KHADILKAR : My friend Mr. Kulkarni referred to bonus. At a particular moment when we were threatened with a strike we devised, with the concurrence of employers and trade union leaders—if not all, some of them—a sort of *ad hoc* formula, and I announced that we shall set up a committee to review the entire bonus scheme as it is today. I may say that in a few days time I will be able to announce the composition of it and its terms of reference. I hope in this year we will be able to evolve some formula that would satisfy the aspirations of the workers because there is almost a unanimous demand from all sides and all the Labour Ministers in the States are also unanimous on this point. But it needs a complete review of the scheme and it would not be proper for me to say that the *ad hoc* formula would meet the particular situation visualized. It was an *ad hoc* formula. Whatever the minimum and the maximum will be worked out by that committee...

SHRI A.G. KULKARNI : What about the State sector units?

SHRI R. K. KHADILKAR : One point, a very pertinent point, was made by Shri Kulkarni. We have taken a number of textile units as a sort of relief measure. I know there are more than 60 mills and most of them, if not all, are not run on profit.

This is a public sector in textile industry. We are seriously concerned how to run it and make it profitable. We know how initially we take over a sick unit. If a mill is closed at some point, one of the hon. Member\* like Mr. Kulkarni will say the entire economy of the Taluka town is shattered, somehow or other you open it even if wages or other allowances are not paid to the full. Under pressure we take it over. I know it is a weakness and, therefore, sometimes we pay less than others.

SHRI A. G. KULKARNI : Is it fair, Mr. Khadilkar, that the employees should get less for the fault of employers?

SHRI R. K. KHADILKAR : Under

compelling situation we take this measure. But we must see that they become economically viable and workers, their wages and dearness allowances, their bonus and other earnings are well protected. As I said earlier, this matter needs a very careful consideration and I am glad the hon. Member, Mr. Kulkarni, has pointed to the weaknesses in the present scheme.

Beyond this at the present moment it would be difficult for me to go into the details about all the point raised, but I would like to assure them once again that I am seized of the problems that have been raised, particularly by Mr. Roy, Mr. Thengari and other hon. Members and I will give very serious consideration to all of them.

With these words, Sir, I make a motion that the Bill be taken into consideration.

THE VICE-CHAIRMAN (SHRI V.B. RAJU): Now I will put the motion. The question is:

"That the Bill further to amend the Industrial Disputes Act, 1947, be taken into consideration.

*The motion was adopted.*

THE VICE-CHAIRMAN (SHRI V. B. RAJU): We shall now take up clause by clause consideration of the Bill.

*Clause 2—Insertion of new section 25FA.*

SHRI KALYAN ROY : Sir, I move:

3. "That at page 1, line 9, for the words 'sixty days' the words 'ninety days' be substituted."

4. "That at page 1, lines 17 to 19 be deleted."

5. "That at page 2, line 4, the words 'or the like it is necessary so to do' be deleted."

*77ie questions were proposed.*

SHRI KALYAN ROY : Sir, I would humbly request the hon. Minister that the time limit should be extended to 90 days. It is not because it is a precedent or it is something like very radical. It is not at all radical, it is already there, Sir, I am

reading from the Coal Mines Conservation and Safety Rules, 1954. Under Rule 40, it says that the owner, agent or manager of the coal mines is required to give proper notice to the Coal Board of 90 days before it is prepared to close the mine or any section of it. If no such notice is given to the Coal Board then they will be prosecuted. So in relation to mines such a limit of 90 days already is there.

In view of this, when the Labour Minister acknowledges that the closures are mainly due to the fault of the employers, the managements, the wastage, the corruption and looting of the shareholders of the workers, then why limit it to only 60 days? You are creating two categories, one in relation to coal mines where you are giving 90 days and the other in relation to the other employers where you are giving 60 days. Thus you are going against the Coal Mines Conservation and safety Rules. It is a serious anomaly. In order to avoid contradiction, confusion, I will request the hon. Minister to kindly change it from 60 days to 90 days.

SHRI R. K. KHADILKAR : Unfortunately, I have got the notice of this amendment just now. I had no notice; otherwise I would have replied to this. However, I will take note of what he has said.

SHRI KALYAN ROY: Sir, in the light of the assurance given by the hon. Minister I would like to withdraw my amendments.

*The amendments (Nos, 3, 4 and 5) were, by leave withdrawn.*

THE VICE CHAIRMAN (SHRI V.B. RAJU): The question is:

"That clause 2 stand part of the Bill." *The motion was adopted Clause 2 was added to the Bill.*

*Clause 3.—Insertion of new Section 30/1.*

SHRI KALYAN ROY: I move:

6. "That at page 2, lines 11-12, for the words 'which may extend to six months, or with fine which may extend to five thousand rupees,' the words 'which may extend to five

years or with fine which may extend to thirty thousand rupees' be substituted."

SHRI SANAT KUMAR RAHA : (West Bengal) : I am not moving my amendment but I shall make my speech which will be my maiden speech later.

*The question was proposed.*

SHRI KALYAN ROY The Bill is good and all the sections of the House have welcomed it but then the last portion makes the entire thing rather ridiculous. What is the punishment ? Nothing will come out of the Bill if the last clause is retained as it is because the employer who is prepared to violate, who is prepared to suddenly close down in order to coerce the workers, which is very much in vogue to-day, will gladly pay Rs. 5000. Six months, imprisonment is nothing and he will authorise his Manager. The entire purpose of the Bill will be defeated by this magnificent punishment. If you take a rational view of it, you should increase the quantum from six months to 2 or 5 years and the fine from Rs. 5000 to Rs. 30,000. What is Rs. 5000 to Birla or Mundhra or Mafatlal? None of the employers will give sixty days notice unless you make the punishment deterrent.

The other part is about the exclusion of undertakings set up for construction of buildings, canals etc. I am totally against it. This should be completely deleted, because there are big projects which will continue for years together and there are Government concerns. Why should you exclude them. They should be given alternate jobs. I am against the exclusion of construction work. I am not requesting the Labour Minister to accept the punishment I am suggesting but at least let him increase it otherwise the whole thing is useless. You will be shouting outside but the disease will remain as it is.

SHRI SANAT KUMAR RAHA : Mr. Vice-Chairman, this piece of legislation regarding industrial disputes will not solve the problem which has been posed...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): May I suggest you will get an opportunity to speak on the Third Reading?

SHRI SANT KUMAR RAHA: All right.

SHRI R. K. KHADILKAR : Sir, a plea is made that the punishment at present provided is inadequate. As I have said in my reply, after some time if it is found that it is not adequate we shall review the position but at the present juncture I am not prepared to accept the amendment.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is :

6. "That at page 2, lines 11-12, for the words 'which may extend to six months, or with fine which may extend to five thousand rupees' the words 'which may extend to five years or with fine which may extend to thirty thousand rupees' be substituted."

*The motion was negatived.*

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is—

"That clause 3 stand part of the Bill'.

*The motion was adopted*

*Clause 3 was added to the Bill.*

*Clause \.—'(Short Title)*

SHRIR. K. KHADILKAR : Sir, I move:

2. "That, at page 1, lines 3 and 4, for the words 'Industrial Disputes (Second Amendment) Act, 1971' the words 'Industrial Disputes (Amendment) Act, 1972' be substituted."

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

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

"That Clause 1, as amended, stand part of the Bill."

*The motion was adopted.*

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

*Enacting Formula*

SHRI R.K. KHADILKAR: Sir, I move:

1, "That at page 1, line \for the word

'Twenty-second' the word 'Twenty-third' be substituted."

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

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

*The motion was adopted*

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

*The Title was added to the Bill.*

SHRI R.K. KHADILKAR: Sir, I move:

"That the Bill, as amended, be passed.

*The question was proposed.*

SHRI SANAT KUMAR RAHA : Vice-Chairman, Sir, in this connection when this Industrial Disputes Bill is going to be enacted an unhappy relationship has grown in the House and that relationship is between trade union and politics. It is a funny thing that those who are engaged in politics trouble their heads with the relationship between trade unions and politics. It is commonly said that trade union should not be mignled with politics, that it should not be vitiated with politics but it is my contention that as trade unions should not be the tools of politics or political parties, it is an accepted truth that all the political leaders from our President to the mover of this Bill have grown out of the trade union movement. They have come to politics through trade union movement.

SHRI B. T. KEMPARAJ (Mysore): What about you?

SHRI SANAT KUMAR RAHA: I also. So, this is my contention and I am prepared to accept that out of the trade union movement I have grown as a political party worker. The cadres have been built up through politics and politics has percolated to the working class also for the political emancipation of their own class as well as the class of their allies. This is my study of politics. Politics is such a vast science. It has got a vast philosophy. It is full of thoughts for social advancement. So, we cannot make this politics a petty-minded one. I think

that a political worker should accept political parties in that direction where the trade union movement should not be a party Bajji movement or a tool of political parties. Secondly, in this Statement of Objects and Reasons it has been correctly stated that closure is a problem. It is still a problem of West Bengal, now Banga Pradesh, though a President's Act was enacted to tackle the problem. Now the promotion of a Central legislation on this subject is going to be enacted here, and West Bengal, that is, Banga Pradesh, has given the lead to this Bill, to this legislation. I am gladdened by the announcement of our hon. Minister for Labour that he will bring a comprehensive Labour Bill in the current session. We hope that this piecemeal Bill, which is going to be enacted, will be compensated for by that comprehensive Bill. I appreciate that Government has posed the problem of closure correctly, but Government has itself stated that it is their mixed economy, and that mixed economy, during the last twenty-five years, has given birth to seventy-five families, which are monopolists. So, I have no faith in this strange type of mixed economy, which our ruling party is following, and through which our monopolist groups are always flouting the decisions, the laws, the orders and the disciplines of the Government. On the other hand, what we see in this Bill is a very insignificant thing for the mill-owners, because you will fine them five thousand rupees or send them to imprisonment for six months—that is the maximum. No maximum punishment is given. In the present society, in the present judiciary, in the present system of economic life, only all these rich people make compromises. If our Government wants to compromise with this class of mill-owners as reformism, if the Government wants to have mixed economy to advance its own cause, it will ultimately go to monopolism and nothing else. I think this is not the correct way. If the legislation comes in a comprehensive manner, I would request our hon. Minister that he should consider seriously those who are damaging our society and those who are indulging in anti-social activities. They are the Key persons of our society. They are against social advancement. They are against economic development. They are against political emancipation. We have got plenty of these happenings and all these facts in Banga Pradesh, in West Bengal.

Still, the connivance of America is going on in Indian soil to subvert our sovereignty and to turn our country into an instrument of American imperialism, to turn our country into a satellite country of imperialist America. This is how we are proceeding towards the economic life of mixed economy. I should therefore suggest that employees and employers should not be kept at par when covering them in any legislation. The judiciary should seriously think that the employees in the society are the down-trodden people. Our employers are the key men who are doing their best, with their ulterior motive, to gain profit, to enjoy their closure for profit, to enjoy their closure for their own monopolism and to enjoy their benefits at the cost of the hungry millions. Closure is a part of business of these monopolists. Closure is a part of their profits, of the profits of the rich capitalists. It is a part of the gamble of these vested interests. Therefore, I would request that the closures of mills and undertakings should not be taken as closures only. There is the political, social and economic impact on a closure. I say again that closure is a part of business. Closure is a part of profits. Closure is a part of the game of the monopolists. Accordingly closure should be treated in the comprehensive Bill. I would suggest again that the employer should not be treated in a lenient manner. Leniency, liberalism, weakness, these things should be abandoned in the case of the employer class. If we treat them liberally, they will retaliate on us. They will retaliate and they will go against the hungry millions and the Government as well.

They know it well that this machinrey of the Government, this administration of the Government, this bureaucracy of the Government exists only for the vested interests and the capitalists. With the help of the Government and the administration they ruthlessly exploit the hungry workers. The vast problem of unemployment is the problem both of India as well as of West Bengal from which I have come here. I would request our hon. Minister, through you, Mr. Vice-Chairman, to see when he comes forward with a comprehensive Bill, that he does not sloganise. Our Prime Minister always says that socialism is not out slogan, but it is our promise,

[Shri Sarat Kumar Raha] If you are sincere, if your statement is sincere, I would like that Labour Minister should start with seeing that the promises are fulfilled in the coming years. For that in the field of industry, in the field of agriculture, in the field of everything else social advancement is necessary. Political advancement is necessary as economic advancement is necessary—This perspective of socialism against capitalism and monopolism is necessary in the path of one's advancement, towards non-capitalism.

Lastly, I would say that our country is an under-developed and an undeveloped country. We want both legislation and judiciary, political economy as well as administration befitting a socialist country. Our socialism should be in a broad way. I think in the Chinese way it cannot be implemented. In the Russian way it cannot be implemented in India. There must be some sort of Indian way. What is that? It is not to be in the form of a mixed economy. It is not to be in the capitalist way, whatever be the name of the path which you suggest. I would request you to see that in all the spheres of man's advancement, social advancement—you would certainly promise that you would bring in socialism—socialism should be brought about scientifically. It should be brought about in a revolutionary manner. It should be brought about in a struggling way. It cannot be brought about without any struggle. I see that there is an undertone of compromise in this Bill. On the one hand you say that closure poses a serious problem in the way of India's advancement. On the other hand, you are too liberal towards your ally, the capitalist friend and employer, for whom your treatment is this. If they do anti-social acts, if they earn profit at the cost of the hungry millions, the maximum punishment is only six months. They can be fined only up to Rs. 5,000. When these big persons go to court, when they request any administration, my experience is this. They get satisfied when big men come before them in spite of their being anti-social in character. So, I request that these people should be treated in a serious manner. They should not be shown any latitude. They should be given a warning and they should be given such a lesson that if they go against our society, if they go against our national

advancement, if they go against our production, if they go against our working-class, they would be eliminated from the society. We shall boycott them from our society. We shall legislate in such a way that they should get themselves free from all ulterior motives of exploiting the people and of making our country a colonial or a semi-colonial one in the world. Here countless human beings are thinking that the days of liberation are coming. The trade unionist, the workers and students are in a youthful mind and they are expecting that their future is soon coming.

Everywhere we see it. In the last election, I have personally seen—lakhs and thousands of workers, thousands of kisans, youths and students, they were gathering together in a buoyant mood, in a promising and happy tone uttering slogans from their mouths that they will win the future. I would request our Labour Minister to deal with them sympathetically. These people must be fed, these new people should be given sufficient nourishment, these people should be given education and schooling so that our spheres of activities go in that line with a future promise that socialism will be created and established.

Mr. Vice-Chairman, I thank you that you have given me some time to speak and express my mind for the first time in this august House, with which I was not accustomed at all.

SHRI LOKANATH MISRA (Orissa) :  
Sir, would you permit me to make a maiden speech?

THE VICE-CHAIRMAN (SHRI V.B. RAJU): Mr. Balachandra Menon.

SHRI BALACHANDRA MENON (Kerala): Now that the Bill is before you and we have accepted all these clauses, may I make one suggestion? We must have a rule also here. Let there also be some rules. You have already stated that the employer should give sufficient reasons as to why he closes down the factory. Let that be to the satisfaction of the Government. So a definition as to the reason for the closure should be there. It should say, "It must satisfy the Government." That at

least will save good deal of comment. Otherwise, what it is today is to give you a notice. Is that enough? If a man is to be changed after two months, he knows that. How does it in any way satisfy you? I would say that in such cases the Government should be satisfied. We cannot change this but in the rules you can do it and a clause to that effect should be there, which will be of real help. That is all my submission.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Mr. Sundar Mani Patel.

SHRI SUNDAR MANI PATEL (Orissa): Mr. Vice-Chairman, Sir...

SHRI BHUPESH GUPTA : (West Bengal): Sir, I have discovered something that they have done.

THE VICE-CHAIRMAN (SHRI V. B. RAJU) : Let him speak.

SHRI SUNDAR MANI PATEL: I have stood up not to oppose the Bill. I know that the intention of the Bill is a pious one. But I have my doubt whether the pious intention about the non-closure of the industrial units will be served by this piece of legislation. That is the question because now there are so many champions for the cause of the working classes, as they say. And all along, we have been hearing that the employers are the exploiters of the working classes. There may be some but not all. But I would like to add here that not only the employers but even the politicians, the so-called champions of the cause of the working classes, they are also participants in the exploitation of the workers. Will the champions agree to my suggestion? As has been pointed out by the Minister there are four major unions in the country. Will they agree on one point? There should be *one* union in each industry. That is my first demand. Secondly, in all the managements there should be the representatives of the unions. They must have first say in the management of the industry. Thereby we can reduce mismanagement as well as labour unrest because the main purpose of having such a legislation is the non-closure of the industry. Why?—because it affects production. But the responsibility for

that is laid on the employer as if it is none of the business of the workmen.

So the working class or the labour union must have a say and responsibility for production. Though the Minister has said that he is coming forward with a very comprehensive Bill, even in the present Bill, I hope, these two points will be looked into.

SHRI THILLAI VILLALAN (Tamil Nadu): Sir, I am very happy over the passing of this Bill. But I am unhappy to refer to the irresponsible statement by an hon'ble Member, Mr. Anandam. He said that the D.M.K. is a novice in trade unionism and that they have crushed trade unions in the State. These statements are irresponsible. There is no base for making these two statements but he made them. In this absence I do not want to say anything about him. But I will say only this. We can take it as a babbling of a person who is frustrated and rejected by the people of the State. Only out of frustration he has stated that D.M.K. is a novice and that the D.M.K. Government is crushing trade unions. Our hon'ble Minister known very well—he visited our State to study the labour situation in the State and he has satisfied himself with the labour problem and the manner in which the honourable Mr. Karunanidhi, the Chief Minister, has handled it. The visible example for this conclusion is the settlement arrived at in the Simpson group's companies dispute. The company is now running smoothly. All the workers are working there. But contrary to this situation our frustrated and rejected trade union Leader, Mr. Anandam, has made a statement which is unwarranted, unnecessary and irresponsible. With these words I welcome this Bill.

SHRI BHUPESH GUPTA : I would not have spoken but my attention has been drawn to the last clause of the Bill, the penal clause. It says:—

"Any employer who closes down any undertaking without complying with the provisions of section 25FFA shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both."

[Shri Bhupesh Gupta]

In this Bill it is the discretion of the Judge to send him to prison. He may even punish him with fine. Imprisonment is not compulsory. I am surprised how it has come here.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): This point has been debated.

SHRI BHUPESH GUPTA: The point has not been debated. I can only reveal a secret which many people do not know. You will hear.

SHRI LOKANATH MISRA: Unless the Government takes a clearance from him it cannot be passed.

SHRI BHUPESH GUPTA: Not that. You listen.

SHRI LOKANATH MISRA : I am not serious.

SHRI BHUPESH GUPTA: Under the President's Rule the Parliamentary Committee on West Bengal considered a Bill like this to regulate closure, and this Bill was brought when the West Bengal Legislature, naturally, was not there. The Parliament delegated power to the Committee of the two Houses of Parliament under the chairmanship of the Prime Minister of the country. And a similar Bill was brought restricted naturally to West Bengal only. And a provision of this kind was there. I suggested at that meeting of the Consultative Committee of Parliament on West Bengal Legislation, supported by Congress Members, that imprisonment should be made compulsory, that it should not be "or" but it should be "and"; imprisonment must be compulsory and after that it is for the judge to decide whether there should be fine or not. There should not be any choice between imprisonment and fine. Our argument was that imprisonment was very essential in such cases. What happened was, in the course of the morning discussion, our suggestion was accepted by the Prime Minister. She said, "All right". It was the unanimous opinion of that Committee that imprisonment should be compulsory. If you refer to the Bengal Bill, you will find that imprisonment is made mandatory. If a conviction is to be given, then imprisonment must be

there. The Prime Minister accepted it. In the afternoon, my friend, Mr. Khadilkar, came to the meeting of the Consultative Committee of Parliament and wanted to make out that all the Labour Ministers, who were at that time meeting in Delhi elsewhere, would not agree to imprisonment being made compulsory. Therefore, he suggested to the Consultative Committee of Parliament on West Bengal legislation, presided over by the Prime Minister, that the decision be changed in order to provide for this alternative of either fine or imprisonment or both. Then there was a discussion. Ultimately, the Prime Minister said, "No, I am not going to change the position. Since it has been the consensus of opinion that imprisonment should be compulsory, we should stick to it." We did not, and the Prime Minister herself did not, allow it to be changed.

Now I suddenly find that this has been altered. That is to say, what Mr. Khadilkar tried under the pressure of the Labour Ministers to get done in the Consultative Committee of Parliament on West Bengal Legislation, but failed, he is now getting gone here so that this Bill takes away the effect of that and even in West Bengal, after the passing of this Bill, the provision of compulsory imprisonment will not be there. Now, why this change, he should explain. I ask this because a conspiracy has been going on. As I told you, I attended that meeting of the Consultative Committee. In the morning decision was taken that imprisonment should be compulsory. Mr. Khadilkar, if I remember a right, was present there. And in the evening, he comes and says that the Labour Ministers did not want such things and therefore it should be changed. The Prime Minister refused to change it. We did not allow it to be changed. Now I find it changed here. Is this the way to function? When it comes to the labour, there is always imprisonment. But when it comes to the employer class, there is no imprisonment, there is only fine. And fine is no punishment for them. They can pay a fine of Rs. 5,000 or Rs. 10,000 and get away with it. The Prime Minister accepted our argument that as far as the big capitalists are concerned, fine would not be effective and, therefore, it was understandable that there should be some penal provision of the type of imprisonment.

But now this is being done. The Labour Ministry has done it. I say, the Labour Ministry is responsible for this clear sabotage. It is reversing the position taken unanimously by all the parties at the meeting of the Consultative committee of Parliament on West Bengal Legislation. This is how things are done. I would like to have an explanation. I request that this matter be deferred to-day. Let it be taken up with the Prime Minister of the country. Let us know whether she has changed her mind; let us know why in the case of West Bengal, she was agreeable to make imprisonment compulsory and in the case of general legislation for the country, her Government is not making it so, but is diluting the Bill that we had passed under a Presidential order. This kind of sabotage is the line of some of the bureaucrats and officials.

Now this nonsense about a moratorium is going on for some time—moratorium, moratorium, moratorium. Some fools in bureaucracy are talking like that. They do not understand that a moratorium will never be accepted by the working class because the right of collective bargaining, which is meaningless without the right to strike, will never be surrendered by the working class merely because some people want it.

And the Government goes on saying moratorium, moratorium, moratorium. But here when it comes to the employer, the Bill is diluted to suit the convenience of the employing class, to suit the convenience of the employers. When it comes to the workers we hear the talk about moratorium. I know Mr. Khadilkar said, "No, no, we shall not impose ban on strikes". Good, he said, it. But why does he not stop that nonsense about moratorium? Once and for all that nonsense about moratorium should stop in high quarters. I should like to have an explanation as to why there is this cold-blooded cowardly, sabotage in the Bill by the Labour Minister when he knew that even under President's rule in a Parliamentary Committee we passed a similar Bill providing for imprisonment as a compulsory punishment. I should like to have an explanation from him.

SHRI R. K. KHADILKAR : Let me at the outset clear some misconception and reply to my honourable friend, Mr. Bhupesh Gupta, regarding compulsory imprisonment

provided in the West Bengal Act. This matter was specifically referred to the Cabinet whether it should be retained in the same form or not, and the Cabinet did not agree for compulsory imprisonment...

SHRI BHUPESH GUPTA: Your Prime Minister agreed.

SHRI R. K. KHADILKAR : In the Cabinet, of course, the Prime Minister presides over the Cabinet. The honourable Member knows it.

SHRI BHUPESH GUPTA : What is a Cabinet without the Prime Minister? I should like to know this. Let them have a discussion with the Prime Minister. Let the Bill be held over. We were there, the Prime Minister agreed. A good thing \_\_\_

SHRI LOKANATH MISRA: You are right: I agree cent per cent with you.

SHRI BHUPESH GUPTA: All right, join me. I should like to know...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Let the Minister complete his reply.

SHRI R. K. KHADILKAR : First of all, this point was referred to the Cabinet along with other provisions of the Bill. This matter whether it should be retained as in the West Bengal Act or not was referred to the Cabinet and the Cabinet has approved the present quantum of punishment as it is provided. Presumably all our labour legislation or legislation of this nature is based on some sort of consensus. As the honourable Member knows among the Labour Ministers as well as in the tripartite body, a certain consensus...

SHRI BHUPESH GUPTA : No tripartite. Why do you bring in the tripartite? In the committee meeting which we attended you were present.

SHRI R. K. KHADILKAR : At that time the Labour Ministers' Conference was going on and I just sounded them whether they would like to make punishment compulsory under the provisions of the Act and they were not in favour of it.,.

SHRI BHUPESH GUPTA : Who said it ?

SHRI R. K. KHADILKAR: The entire...

SHRI BHUPESH GUPTA : No, no.

SHRI R. K. KHADILKAR: The Labour Ministers' Conference was going on and...

SHRI BHUPESH GUPTA : I say instead of your trying to persuade them, you permitted yourself to be persuaded by them. Then you came to our meeting. Even after that we decided and the Prime Minister agreed that the provision of compulsory imprisonment should be maintained. Now you have got it changed.

THE VICE-CHAIRMAN (SHRI V.B. RAJU): Mr. Bhupesh Gupta, you have stated this. You have made your point very clear. Let him speak now.

SHRI R. K. KHADILKAR: Now that you have raised this matter, I try to explain how it has come in the present form with the full concurrence of the Cabinet. As regards the other points which have been raised, I do not know...

SHRI BHUPESH GUPTA: Who suggested it in the Cabinet ? Who suggested it ? It was your Labour Ministry, that it should be altered. This is very important. Sir, on a point of order. The Cabinet should not be a shelter. Let him deny that it is the Labour Ministry which suggested to the Cabinet that the Bengal Bill should be modified and that imprisonment should not be made compulsory. The Labour Ministry suggested it. I put it to you, Sir. Let him deny it. I should like to know whose decision it was.

SHRI R. K. KHADILKAR : Cabinet's decision is a collective decision. The honourable Member should know it.

SHRI BHUPESH GUPTA: What is that? I say no. The Minister may be ignorant about a Cabinet Government, but I know it. I know it is a collective decision. I know the Prime Minister presides over the Cabinet.

When I point out, the Prime Minister agreed and it was good of her to agree in

the case of West Bengal to make provision for compulsory imprisonment. I cannot believe that the Prime Minister herself initiated that this should be modified in order to dilute the Bill. It is your Ministry. Sometimes that is the trouble with our Prime Minister. Despite her personality and authority, she allows herself to be misled by some of the bureaucrats and some of the officials. I would ask the Labour Minister: Did you stand for the principle accepted in the Bengal Bill? Did you say so in the Cabinet ? Did you make a representation to the Prime Minister that the Bengal Bill should be maintained and imprisonment should be compulsory? Did you advise the Cabinet that there should be compulsory Punishment...

THE VICE-CHAIRMAN (SHRI V.B. RAJU): This is just repetition.

SHRI BHUPESH GUPTA : Let him answer.

THE VICE-CHAIRMAN : (Shri V.B. Raju) He has answered :

SHRI BHUPESH GUPTA: He told me that Cabinet decision is a collective responsibility. That I know. I will not trouble him on that. I studied it and I know it. Who brought it to the Cabinet? Who initiated it?

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The final word has been said that he has nothing to say in the matter.

SHRI BHUPESH GUPTA: Why he has nothing to say ?

THE VICE-CHAIRMAN (SHRI V.B. RAJU): He has nothing more to say.

SHRI BHUPESH GUPTA: Nothing more to say having committed this sin ? He has to tell the truth...

THE VICE-CHAIRMAN (SHRI V.B. RAJU) : The question is...

SHRI BHUPESH GUPTA : Now you are questioning. He has nothing to say

and you are accepting that. He has misled and he has flouted the opinion of the Prime Minister even. And I regret that the Prime Minister has accepted that.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): You are stretching it too far.

SHRI BHUPESH GUPTA: The Prime Minister says one thing in the Committee and does something else in the Cabinet...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): This is not the occasion to say all that...

SHRI BHUPESH GUPTA : This is precisely the occasion...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:...

SHRI BHUPESH GUPTA : This is ridiculous and shameful...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

"That the Bill, as amended, be passed."  
*The motion was adopted.*

SHRI BHUPESH GUPTA: All right. The Bill is passed. I rise on a point of order. What about my privilege? I put a straight question that the Cabinet was misled by the Labour Minister...

THE VICE-CHAIRMAN (SHRI V.B. RAJU): You can do it through a motion or some other process.

SHRI BHUPESH GUPTA : I will do it. Do not take shelter under Cabinet. We did not make you the Labour Minister...

THE VICE-CHAIRMAN (SHRI V.B. RAJU): The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at fifty-eight minutes past five of the clock till eleven of the clock on Friday, the 7th April, 1972.