

[Mr. Speaker]

Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee ;

that the Committee shall make a report to this House by the last day of the first week of the next session.

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

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

The motion was adopted.

12.58 hrs.

INDUSTRIAL DISPUTES (AMENDMENT) BILL

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

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

Sir, we have of late seen the disturbing spectacle of the closure of industrial undertakings leading to loss of production and unemployment of large number of workmen. Employers have declared these closures suddenly without notice or advance intimation to the Government.

The provisions of the Industries (Development and Regulation) Act are not adequate to prevent sudden closures. At best, the provisions of that Act provide for an investigation into the affairs of the company before it has actually closed down. This lacuna has been under consideration for quite some time past and has been discussed at a number of tripartite conferences, when it was felt that no total closure should take place without three months' notice to the workers as well as to Government.

Closures at the present juncture result not only in 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 and (2) not to close before expiry of the period of notice. The notice period can be utilised by Government to undertake a speedy investigation into the affairs of the unit in order to decide what remedial measures can be taken to prevent closure.

13 hrs.

The Indian Labour Conference at its meeting in October last generally endorsed the proposal for Central legislation although employers did contend that it may not be possible to give notice in all cases. The Conference was also of the view that notice by itself would not help prevent closures, and that Government should take powers to take over the industrial units which are on the point of closing down or have closed down. The question whether a 60 days' notice or a 90 days' notice should be given also came up for consideration.

It was pointed out in the discussions 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 the financing of the company concerned from that very day. Hypothecation arrangements would come to a standstill, the raw materials would not be supplied and in fact all the creditors would make a rush on the sick unit in order to realise their dues. The consensus of opinion, therefore, was that a two-month period should be adequate and should suffice to meet the situation. Clause 2 of the Bill, therefore, makes this provision.

Clause 3 of the Bill prescribes the penalty for closure without notice. This is imprisonment for a term which may extend to six months or with fine which may extend up to Rs. 5000 or both. This is the maximum punishment provided for any offence under the Industrial Disputes Act. But if by experience it is found to be inadequate, I would assure the House that we will review this penal clause.

With these few words, I move that the Bill further to amend the Industrial Disputes

Act, 1947, as passed by Rajya Sabha, be taken into consideration.

MR. SPEAKER : Motion Moved :

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

SHRI DINEN BHATTACHARYYA (Serampore) : I would like to make certain observations on the Industrial Disputes (Amendment) Bill as passed by Rajya Sabha. We expected that a comprehensive amendment would be brought forward, not only on the question of closure but on certain other issues also over which the workers all over the country have been agitating for a long time.

For example, they expected an amendment in regard to the old method of inquiring into cases of suspensions or other allegations. We have seen from our experience that the charge-sheets are drawn by the management and the inquiry is also held under the direct supervision of the management, and in no case are the employees allowed to have their own representatives during the inquiry, and as a result in almost all the cases we have seen that the workers have been suffering because of the lacuna for a long time. A demand has often been made in this House that at least when there are charge-sheets and suspensions, the workers' representatives must be allowed to have their say during the inquiry and participate in the inquiry proceedings. But that is not there, and no employer allows any worker to bring his own representatives at the time of the enquiry.

Then, what will happen to a worker who is charge-sheeted and kept on suspension for months and months and year after year? There is no provision in the Industrial Disputes Act in regard to the time-limit up to which a worker can be kept under suspension on certain charges. So, in West Bengal and Kerala, during the time of the United Front regime, a provision was made in the law for the grant of a subsistence allowance. It has now been made a statutory provision in West Bengal that in the case of suspension the workers will continue to get at least 50 per cent for the first three months and after three months, 75 per cent of their total wages so long as they are kept under suspension. Why not this type of Act, this kind of law, be brought by Mr. Khadilkar as a Central law?

This the time that he should bring a similar legislation now in Parliament.

There is no provision in the Industrial Disputes Act to bring any employer at the table of conciliation. They will refuse to come. Even when the Labour Department serves notice on them, asking them to come and settle the dispute, they will not come. There is no provision to force an employer to implement the award of an industrial tribunal. These are the common things for which all over India the workers are agitating. I know the Government of India has now followed a procedure which is fantastic enough; it is only to win over certain sections of the workers as represented by the INTUC, HMS and AITUC, excluding all others from the opportunity of coming to a point in respect of the recognition of trade unions and also in respect of certain issues which are agitating the workers all over India. I do not know why this pick and choose tactics have been adopted by the Government which professes to be a democratic government and which is adopting socialist methods. This is not the way to get the real sanction from the workers as to which of the unions will represent their case. So, until and unless a fullfledged amendment is made to the Industrial Disputes Act, it is no use. The conditions have changed, and the mood of the workers has changed and the Government, though it now professes socialism, etc., does not at all act truly to its professions, and only there is so much of talking aloud that they will do this and that.

Coming to the amendment, I say that it is a stunt. It is nothing but a stunt. It is only giving another opportunity to the big employers to get a certificate from the Government to close down a particular unit as per their sweet will, and they will have to wait only for two months. Where is the check if within those two months the Government and the employees concerned find that the closure notice is not bonafide and that there is no reason for closure? Where is the protection for the workers that there will be no closure? Simply by giving notice of two months, any employer can do it. I know in West Bengal, during the President's regime, through the Consultative Committee, a similar Act was passed, and even after passing that type of amending Act, so many factories have been closed.

Mr. Khadilkar may note down that one firm, very closely related to Birlas, Kusum

[Shri Dinen Bhattacharyya]

products producing Dalda closed one of their units in Hooghly district giving just three days notice after the passing of the Act by the consultative committee set up for West Bengal during the President's regime. No action has yet been taken; the matter has been brought to the notice of the labour department but as the employers have good influence with the officialdom of West Bengal no step has yet been taken in spite of violation of the provisions of the Act. I should like a categorical answer from Mr. Khadilar: what is the definition of closure and how will closure be treated. To avoid certain obligations the employers resort to closure. If they declare a lockout, they will come under the provisions of the Industrial Disputes Act. Instead of declaring a lockout, they declare a closure... (Interruptions). Only on the 6th of May in Rajya Sabha the Labour Minister replied to a starred question and said that in the majority of cases closure and lock out had been resorted to by the employers to deprive the workers of their legitimate rights or to camouflage their own corrupt practices which they had been indulging in for a long time. It is not because of the workers. Very often allegations are made against the workers but the reply of the hon. Labour Minister in Rajya Sabha makes it clear.

You will find this point in my amendment also. The Supreme Court has given a judgment that to close a factory is the fundamental right of an employer. There are so many cases. He will simply send a notice and then everything is all right. There is no provision in this Bill that there will be check within two months, so that unnecessarily or for the interests of the employer, no factory will be closed. ... (Interruptions). The simple thing is to notify: I have read the Bill.

Then, if less than fifty men were working in an establishment or factory that will not come under the purview of this Bill. Why? Now-a-days, in capital intensive industry with less than fifty workmen they could produce a volume of goods and earn a lot of money. Why not make this Bill applicable to such establishments also, to factories which are covered under the Factories Act? Instead of 50, why not amend it? You said that you will bring legislation to abolish the contract labour, but it has not been abolished. The Hindustan Construction Company has its branches all over India. It wound up one unit in the Hooghly district of West Bengal.

They wanted to shift the orders from that part of the country to some other part and they are managing to do it, but the workers lost their job and their provident fund. If you are sincere to stop closures by the corrupt management, you should define what is *bona fide* closure and what is *mala fide* closure. Unless it is categorically provided, you cannot catch any employer under this Act.

You are saving something but doing another thing. If any body contravenes the provisions of this Act, he will be fixed a maximum of Rs. 5000. The employer does not care for this petty fine. A petty judge drawing Rs. 400 or 500 will not punish an employer and send him to prison. We pleaded in the West Bengal Consultative Committee also that you should make it compulsory to give imprisonment. If any employer violates any provision of this Act, he should be imprisoned. There should be no "or". No option should be given to the trying magistrate. If you want you can say "imprisonment and fine". You should not say "fine or imprisonment or both". Otherwise, this closure *hatao* will be just a slogan and stunt like *garibi hatao* and the whole thing will be a fiasco. No worker will have any confidence in you if you come with this sort of Bill after so long a time. My amendment says :

"Upon receipt of such notice, the appropriate Government shall, upon giving opportunity to the employer and employees through their organisation or organisations in the said undertaking, or otherwise, decide whether there are circumstances justifying the intended closure and only upon sanction being given by the appropriate Government to the said effect, the intended closure will be effective".

So, unless the employer satisfies the authority and the employees that there is no other way but to close the factory, he cannot do it. If this provision is there, it will act as a deterrent and check on *mala fide* closures, whose number exceeded 6000 all over India. Not only in West Bengal but also in Mysore, Andhra, Maharashtra and Gujarat a number of units have increased. If you want to achieve the real object of not having closures, I would request the hon. Labour Minister to plead with the Cabinet to take the necessary

steps because the real reason and genuine cause for the closures is the malpractices of the management, short supply of raw material or short supply of finances. Unless these things are removed, by simply bringing half-hearted legislation like this you cannot stop closure. With these words, I plead with the Minister that my amendments may be accepted.

श्री शिव नाथ सिंह (मुंसुनू) : अध्यक्ष जी, औद्योगिक क्षेत्र में विवाद चाहे क्लोजर से हो, चाहे स्ट्राइक से हो, हमारी प्रगति में बाधा पड़ती हैं। पिछले तीन चार साल का अनुभव है कि जितनी स्ट्राइक हुई, जितने क्लोजर्स हुए, उनसे उत्पादन में कमी आई और उम कमी की वजह से राष्ट्रीय आय में भी कमी हुई। हमें खुशी है कि सरकार ने इस तरफ ध्यान दिया। आज तक हम समझते थे कि कोई भी विवाद होता है वह लेबर की तरफ में ही होता है लेकिन अब सरकार ने सोचा कि किसी विवाद का कारण केवल लेबर ही नहीं हो सकते हैं बल्कि एम्प्लायर भी उसका कारण हो सकते हैं। हमने वेस्ट बंगाल में देखा, और भी राज्यों में देखा कि बहुत सी यूनियन्स बन्द हुईं लेबर की वजह से क्योंकि उनको जस्टिस नहीं मिलती थी, उनका जो ड्यू था, वह उनको नहीं मिलता था। इसीलिए उन्होंने अपने अधिकारों की मांग की, स्ट्राइक की और उनके मुकाबले में एम्प्लायर्स ने क्लोजर किया। खुशी है कि सरकार ने इसकी तरफ ध्यान दिया और यहाँ पर जो अमेन्डमेंट बिल पेश किया गया है मैं उसका समर्थन करता हूँ। लेकिन मेरा ऐसा खयाल है कि यह अमेन्डमेंट बिल पूर्ण रूप से इस समस्या को हल नहीं करता है। जैसा कि अभी मेरे पूर्व वक्ता ने कहा, इसके लिए एक काम्प्रिहेंसिव बिल आना चाहिए ताकि सभी प्रकार के शगड़े, चाहे क्लोजर से हों, स्ट्राइक से हों या किसी भी प्रकार का विवाद हो उनका सही ढंग से निपटारा किया जा सके।

इस बिल में दो तीन चीजें रखी गई हैं। एक तो एम्प्लायर को 60 दिन की नोटिस देनी पड़ेगी। वह नोटिस दे देगा लेकिन हमें देखना

चाहिए कि उसी के ऊपर हम क्लोजर को एक्सेप्ट न करें। क्योंकि हम देखते हैं कि जो बहुत सी नयी यूनियन्स काम करती हैं उनको सरकार की तरफ से लोन देने में, एक्साइज ड्यूटी में, रा-मैटोरियल की सप्लाई में, इम्पोर्ट लाइसेन्स में बहुत सी रियायतें मिलती हैं। मालिक पांच दस साल तक इन रियायतों का उपभोग करते हैं, उसमें अच्छा मुनाफा कमाते हैं और उसके बाद में जब वह यूनियन्स साधारण यूनियन्स बन जाती हैं तो उनको क्लोजर कर देने हैं। इसलिए सरकार को देखना चाहिए कि यूनियन्स के जो मालिक हैं, जिन्होंने इतने समय में उससे मुनाफा कमाया है वह उसको क्लोजर न कर सकें और जो मालिक अपनी किसी एक यूनियन्स को क्लोजर करता है उसको कोई दूसरी यूनियन्स खोलने की इजाजत नहीं मिलनी चाहिए। मैं समझता हूँ जब तक यह बात नहीं होगी तब तक क्लोजर की समस्या का समाधान नहीं हो सकेगा। मालिक दस साल तक चानू यूनियन्स को बन्द कर देते हैं और दूसरी नयी यूनियन्स कायम कर लेते हैं ताकि नयी यूनियन्स खोलने के जो फायदे होते हैं वह उनको मिल सकें। इस लिए, इस बात को देखना चाहिए कि कोई भी यूनियन्स किन्हीं वाजिब कारणों से ही बन्द की जाये जैसे कि रा-मैटोरियल की सप्लाई न हो या कोई और ऐसी वजूहात हों जोकि मालिक के बूते के बाहर की हों। ऐसी स्थिति में जब कि यूनियन्स को चलाया ही न जा सके तभी क्लोजर की इजाजत देनी चाहिए, वरना इजाजत नहीं देनी चाहिए।

दूसरे, इसमें जो प्रावजो रखे गए हैं, मेरी समझ से वह पूरे बिल की मंशा को खरम करते हैं। माननीय सदस्य ने अभी कहा कि 50 लेबर से अधिक नहीं होंगे हैं तो इसकी डेफिनीशन में आयेगे।

"an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project."

आज विकास का युग है। हमारे देश में जगह जगह पुल बन रहे हैं, नहरें बन रही

[श्री शिव नाथ मिह]

हैं, कारखाने बन रहे हैं। जितने भी बड़े बड़े उद्योगपति हैं, बिड़ना, टाटा और दूसरे, उन्होंने कास्ट्रक्शन यूनिट्स कायम की हैं, कम्पनीज बनाई हैं। उदाहरण के तौर पर मैं बताना चाहता हूँ खेतरी प्रोजेक्ट है, वह प्राप्तर हो रहा है, वहा पर अच्छा काम हो रहा है, वहा पर उन्होंने ठेके ले रखे हैं कास्ट्रक्शन के, कहीं स्पेक्टर बनाने का ठेका है और कहीं टनेल्स की खुदाई है। उनके पास लेबर भी है। अगर वह लेबर अपनी वाजिब मांगें रखने में, अपने क्लेम्स की मांग करते हैं तो वे उस यूनिट को बन्द कर देते हैं। हो सकता है कि उस यूनिट में 50 से कम लेबर हो लेकिन जा उनका आल इंडिया कामप्लेक्स में उसमें बहुत से लेबर होते हैं। वे मालिक इस प्रकार से एक जगह यूनिट बन्द करके दूसरी जगह चले जाते हैं। इसलिए मालिकों के लिए यह कम्पलमरी होना चाहिए कि अगर एक जगह पर अपनी एक यूनिट को वह बन्द करता है तो वहा के लेबर को अपनी दूसरी यूनिट में काम दे। जब तक आप ऐसा नहीं करेंगे तब तक मालिकों के लिए किसी एक जगह की यूनिट को बन्द कर देना बड़ा आसान रहेगा। इस प्रकार से एक मालिक जिसने कि वहा पर इतना मुनाफा कमाया है और जिसको कि अपने लेबर को भी देना है वह उनको कुछ देने में छट्टी पा जाता है। इसलिए मैं चाहूंगा इस तरह का प्राविधान इसमें जरूर होना चाहिए।

जहां तक पनिसमेंट का सवाल है, दो तीन दिन पहले यहां पर अन्ट्रैबिलिटी बिल पर बहस हुई थी, उसमें आपने पनिसमेंट रखा है। स्टेट्स में भी इस प्रकार के कानून है, एम्माइज के कानून है, शराब की भट्टी रखने पर, उसके लिए मिनिमम पनिसमेंट रखा गया है। यहां पर यह जो एम्प्लायर्स है वह बड़े इन्फ्लूएन्सल और पैसे वाले होते हैं। मैं कोर्ट की शान के खिलाफ कुछ भी नहीं कहना चाहता लेकिन ये लॉग कोर्ट्स को इन्फ्लूएन्स करके भी सफल हो जाते हैं। वहा से ये लोग मामूली ज़ुर्माना पाकर या बिना ज़ुर्माने के ही छूट जाते हैं।

इसलिए मैं समझता हूँ मिनिमम पनिसमेंट का क्लोज इसमें रखा जाना चाहिए। आपने 5 हजार रुपए तक ज़ुर्माना और 6 महीने तक की सजा रखी है। लेकिन मैं समझता हूँ कम से कम चाहे एक महीने की ही सजा हो उसको जरूर रखना चाहिए। और ज़ुर्माना का क्लोज तो इसमें होना ही नहीं चाहिए क्योंकि पैसा उनके लिए क्या महत्व रखता है? जब तक आप इसमें मिनिमम पनिसमेंट नहीं रखेंगे तब तक इस क्लोज का कोई महत्व निकलने वाला नहीं है। आपने इसमें रखा है :

"30A. 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."

मैं आपसे निवेदन करना चाहता हूँ कि इसमें आपने उसके लिए कम्पलमरी रखा है कि वह बिना नोटिस दिए बन्द नहीं कर सकता है लेकिन अगर वह बिना किसी वाजिब कारण के बन्द करता है तो उसके लिए आपने कौन सा प्राविधान रखा है? जबतक इसके लिए आप कोई प्राविजन नहीं रखेंगे तब तक इसका कोई प्रभाव पड़ने वाला नहीं है। आप मुश्किल से यही कह सकते हैं कि 60 दिनों के लिए लेबर को प्रोटेक्शन मिल जायेगा लेकिन उसमें अधिक कुछ नहीं है। 60 दिन के बाद के लिए आपने कौन सा चेक रखा है? इसलिए मैं चाहता हूँ इसके अन्दर इस प्रकार की व्यवस्था होनी चाहिए कि बिना किसी वाजिब कारण के, बिना किन्ही वैलीड रीजन्स के अगर वह यूनिट बन्द करता है तो उसको वाजिब पनिसमेंट दिया जायेगा।

एक बात और निवेदन करना चाहता हूँ कि जैसीकि आज कल एम्प्लायर्स की टेण्डेंसी हो गई है अलग अलग नामों से अलग-अलग कन्सर्स रखते हैं तो हमें इस बात को देखना चाहिए कि जब एक यूनिट बन्द होती है तो उसकी जो सिस्टर यूनिट्स हैं वहां पर, पहली यूनिट से निकाले गए लेबर्स

को एवजाव करने की पाबन्दी एम्प्लायर की रहेगी।

इसके साथ साथ जैसा मैंने शुरू में कहा, जब तक आप कोई काम्प्रिहेंसिव बिल नहीं लायेंगे तब तक इस समस्या का पूरा समाधान नहीं होगा। यह जो टेम्पोरेरी मेजर्स लाए गए हैं उनके लिए मैं सरकार को धन्यवाद देता हूँ और यह आशा करता हूँ कि यहां पर शीघ्र ही सरकार काम्प्रिहेंसिव बिल लायेगी।

13.28 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

MR. DEPUTY-SPEAKER: Shri C. M. Stephen.

SHRI C. M. STEPHEN (Muvattupuzha): Mr. Deputy Speaker, Sir, to appreciate the relevance and the necessity for this Bill one must recollect the background of events which has necessitated the introduction of this amendment. This is just another step by way of implementation of the resolution passed by the Indian Labour Conference for the purpose of facing and resolving the question of widespread closures in the industries. To prevent that, a blanket ban saying that there should be no closure is nothing but senseless. Because by a mere ban an undertaking which is forced to be closed cannot be redeemed from closure. An employer who feels that he cannot run the factory for whatever reason cannot by mere fiat of a law be forced to keep that industry running. Therefore, the way the Indian Labour Conference approached the problem was this. If the closure becomes absolutely necessary or unavoidable, then there must be sufficient provision for the Government to step in. If the Government is to step in, some amendment must take place in the Industrial Disputes Act so that the Government may get sufficient notice, enabling them to investigate into matters and to decide as to whether they should step in and pick over that factory.

It was in this background that a few months back we passed an amendment to the Industries Development and Regulation Act. Very far-reaching provisions were included in that. If an industrial sector or a unit is basically sound but by mismanagement is being closed down, then the Government can step in. If a factory has been remaining

closed for more than three months, the Government can step in. If a factory is engaged in such vital essential industry, then also the Government can step in. The Government can step in and keep that factory running with an ultimate purpose of taking it over for all time to come. That was the provision introduced by way of an amendment to the Industries Development and Regulation Act.

Now, the operative provision connected with this amendment is a provision which is contained, as I understand, in the Industries Development and Regulation Act. The Government need not wait for all time. Therefore, the Government must get sufficient notice. Three months notice or the two months notice was the dispute. We have settled at two months notice. That is to say, when the Government says that two months notice is enough, I suppose, the Government assumes to themselves the responsibility also of seeing that the investigation will be carried out expeditiously within a period of two months so that they can decide as to whether the factory is capable of being taken over and being run.

The moment this notice comes, I understand, the authorities under the Industries Development and Regulation Act will have to step in. Investigations will have to start. Finally, a decision will have to be taken before the expiry of two months notice, as to whether the factory must be picked up or written off as a dead thing. That is the spirit in which this amendment is introduced. If you are assessing this amendment detached from the Industries Development and Regulation Act, then this amendment would be completely senseless and meaningless.

SHRI B. V. NAIK (Kanara): There it is two months after the closure.

SHRI C. M. STEPHEN: Even a running factory can be taken over. The ultimate test as to whether it must be taken over for all time is the assessment, whether it is basically sound and is being mismanaged. If it is basically sound and is being mismanaged, then the authorities can take it over and convert it into a public sector company or some other company and carry it on. That is the spirit in which we have got to see this amendment and link it with the provisions of the Industries Development and Regulation Act. In that sense, I welcome this amendment.

I welcome this amendment in another

[Shri B. V. Naik]

sense also. This is after all a mere implementation of a decision of the Indian Labour Conference where not merely the trade unions which Mr. Dinen Bhattacharyya complained of as discriminatorily carrying on confabulations but all the trade unions were present and the decision was unanimous. It is on record. It is a faithful implementation of the decision. Of course, it has got its limitations under the present conditions. If I may use a Marxist Communist party jargon, under the capitalistic structure of society, nothing more can possibly be open for us to be done.

Under the circumstances, this is an effective measure and the *bonafides* are that these two measures are linked with each other.

One thing more I would say. I have not moved an amendment at all. I was wondering whether a notice to the workers also was not necessary because the workers are the affected party. Here, you send a notice in secret to the Government. And the notice is liable to be treated as secret because, if it becomes public, as enunciated by the Labour Minister himself, the question of financial institutions backing out will come and, therefore, you are likely to keep this notice as a secret notice. The Government is not going to be affected. The real affected parties are workers. The workers are not to get any notice, as the amendment now stands. I do not know whether any remedy with respect to that is possible. If the worker is convinced, whatever be the assessment of the Government, that the closure is *mala fide*, that the wages due to him have not been paid, retrenchment compensation has not been settled, gratuity has not been paid, nothing has been paid and the man is trying to flee the scene without settling accounts with him, then two months are necessary for the worker to pick up a fight; if the matter is not settled across the table directly, it should be taken to the stage of a battle if that is necessary. The notice is not there; whether the notice must not be there, it is for the Government to consider; I am only indicating that.

I agree with Shri Bhattacharyya that section 30A is as good as not being there because we know what is the experience, judgments and sentences of the judiciary weigh very heavily on the side of employers. That has been the experience all along. The Untouchability Amendment Bill which we

passed the other day is a standing testimony to the condemnation by Parliament of the conduct of judiciary with respect to this. They were given the option either of imprisonment or fine. The 25 years of experience has shown that where the weak man is concerned, the judiciary is rather too panicky or shaky to punish the fellow who is persecuting the weak man. Suppose, I, in my agony, in my poverty, to feed my little boy, just pick-pocket Rs. 5 from my neighbour, the judiciary frowns at me, the society frowns at me, the magistrate does not have second thoughts to bundle me out for three months or six months imprisonment; nothing less than that. Where a human being is being treated as an untouchable, where a provision with respect to the labour is not implemented, where the award is not implemented, I have not seen the maximum punishment being given. Imprisonment to the rising of the court or a big amount of fine of Rs. 5 to 25 is all that is being given. Therefore, I would rather say that section 30A does not find a place in this at all. We are of course profiting by experience. Provident Fund provision is going to be amended. The Gratuity Bill has a compulsory provision for imprisonment. These things are there. We are profiting by experience, and I hope that the succession of legislations which are being enacted by Parliament making imprisonment compulsory in the place of the discretionary option given to the judiciary will be taken by the judiciary in the proper spirit, namely, as a warning and declaration that we are losing confidence in them, in the wise exercise of their discretion. That is all I could think of.

With these observations, I welcome this Bill in the sense that there is a faithful implementation of the Resolution of the Tripartite Conference.

With respect to the complaint that Shri Bhattacharyya made about the three trade unions getting together, I would rather leave it to the Labour Minister; I have got only one thing to say; these trade unions come together. . .

MR. DEPUTY-SPEAKER : That is not part of the Bill.

SHRI C. M. STEPHEN : But the point was made here and that was affecting me. That is why I wanted to reply. I am a party to that. But I will not advert to it if you

are objecting. The Bill is good to the extent it has gone, and is not good to the extent that it has not gone.

SHRI S. M. BANERJEE (Kanpur) : I support this Bill, Sir, but my support is not unconditional. I was also a party to the decision taken in the Indian Labour Conference. But the question is whether this Bill will meet the requirement. That has to be seen after its implementation. We have seen that there are so many units—small, medium and even large—which have been closed down in various States. Nearly 13 or 14 textile mills in Bombay, in Ahmedabad and other places have been closed and the reason is labour trouble and according to the hon. Minister, when he replied to the debate in the Rajya Sabha, he agreed—and I quote him :

“Hon. Member Shri Kalyan Roy referred to the report. I am happy he has referred to it because there was a misconception that 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 . . .”

So, the hon. Minister, Shri Khadilkar, himself agreed while replying to the debate in the Rajya Sabha that only 30% could be attributed to the so-called trade union rivalry and labour trouble and so on. 70% was due to the mismanagement and the *mala fide* intentions of the millowners.

We expected a comprehensive labour legislation so that the various clauses are thoroughly changed. He was permitted to move the Bill with an assurance that a comprehensive legislation will be brought later on. The hon. Minister assured in the Rajya Sabha in the same discussion—I quote :

“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 L. Kalyan Roy asked the question ‘When?’ to which the Minister replied, ‘I hope to introduce it in the current session.’ Sir, but the current session expires in the next few days . . .

SHRI DASARATHA DEB (Tripura East) : Nobody is behind you, Mr. Khadilkar.

MR. DEPUTY SPEAKER : There is one behind.

SHRI S. M. BANERJEE : So, no comprehensive legislation is coming up and the ruling Party is not interested in any comprehensive legislation. This is apparent from the attendance in this House. The attendance is so thin that it reminded me of a story. Once a gentleman was making a fiery speech. The audience was quite thin. Another man was listening to his speech. A third man asked him, ‘Why don't you also go in the usual way?’ ‘What can I do? I am the next speaker.’ Sir, sometimes, it happens that only those who like to speak remain. That is why I request the hon. Minister to kindly consider these amendments moved by my friend, Shri Bhattacharyya, Shri Mohd. Ismail and Shri Chatterji. I feel that some of the amendments should be accepted. We have not moved but the position is that they have taken the first opportunity to move the amendments and if these amendments are accepted, there will be blood in the veins of the Bill and the Bill would serve some purpose.

The hon. Minister again said in the other House.

“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.”

He knows that it is because of mismanagement, whether by Mundhras or other brothers of Mundhras. They do it intentionally. They have converted majority of the sugar mills as scrap. They have earned fabulous profits, I should say, hundred times and 200 times of more than what they spent. Now, they are no more interested. Now, they want that the Government should take over all these sick units. I am for helping the sick units, but healthy units should also be taken note of.

[Shri S. M. Banerjee]

What is the position about the small and medium industries, closed units in West Bengal? How many have been taken over by the Government? There are 286 units which are closed. I would like to know from the hon. Minister as to what is happening with regard to the taking over of these units. After the supreme court judgment, if the closure is *malafide*, if it is proved and even if the worker knows that it is *malafide* he cannot go to a court of law. The court cannot take a decision whether it is *malafide* or *bonafide*. The worker cannot possibly proceed with it and this will not be regarded under the Industrial Disputes Act. I would request the Minister to consider in what way this Bill could be improved upon. He may consider whether any amendment of his own could be brought. Let him not accept amendment from the opposition, but I have full faith in his wisdom, let him bring his own amendment which will make this Bill more effective.

MR DEPUTY-SPEAKER : When ?

SHRI S. M. BANERJEE : Tomorrow. We are suspending the rules every day ; it can be done once more. Sir, now let us see what the provisions. The proviso says ,

Provided that nothing in this section shall apply to - (a) an undertaking in which not more than fifty workmen are employed or were employed on any day of the preceding twelve months,

(b) an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project.

Only this morning there was a question about the security of service of the workmen. There is absolutely no security for these construction workers and any contractor may withdraw the contract making hundreds of workmen becoming surplus and they will not be entitled to any retrenchment compensation, lay-off wages and so on. I would request him to remove this proviso. Now what happens is this. To avoid labour legislation, what they do is, they employ 30 persons, they employ 10 persons. There are small units doing various operational parts which are assembled in a particular place and they manufacture the total, the whole, article. Those units could be exempted under that. That is the latest policy of the capitalists to have small units, derive all benefits from the Government, from the various agencies, financial institutions and

others, spend less, and get more profit. They avoid labour legislation and in this way they see that labour legislation is not implemented in their case. I would request him to see whether this proviso could be withdrawn. This will be a potent instrument in the hands of those who want to terminate the service of workmen illegally.

When Provident Fund and other schemes are made applicable to those who employ 10 or 20 persons, why should these people alone the construction workers and others, be taken out of the purview of this particular Bill? This be a sad commentary on labour legislation and our industrial relations. Let him find out whether this proviso will help the employer or the employee. If it helps the employer, it should be withdrawn. We may lose but we shall definitely vote against it. Let the hon. Minister accept this amendment moved by my hon. friends, but the Bill should not be passed as it is. This was pointed out in the other House also, but I do not know why those amendments could not be moved and those amendments were not accepted. But the mere fact that the other House did not move those amendments should not deter us from moving amendments or from requesting the hon. Minister to accept our amendments or from moving his own amendments to withdraw this particular proviso which will be a sharp instrument in the hands of those who want to sack the workers.

The hon. Minister knows that in Bombay, the Sakseria mill has been closed and it has not been taken over. He definitely knows that in Saharanpur, the Lord Krishna textile mill is not closed but it is not open. It is a peculiar position. There is no closure notice but mill does not work. The workers have not got their wages since February, 1972. Then, there is the Lakshmi Ratan Cotton Mill of Shri Ram Ratan Gupta that famous or notorious man. That mill is closed and it has again reopened. It was to be taken over by Government. I do not blame the Central Government. But the State Government which swears by socialism to come to the rescue of Ram Ratan Gupta ; he said that this might not be taken over because they were paid 4 per cent bonus.

So, again, it will be closed. The condition is horrible there. I submit that this mill should be taken over. I would request the hon. Minister who is taking enough interest in

labour matters even in UP to assert himself, and we shall give him all help to see that these mills are taken over.

With these words, I would request the hon. Minister to kindly see that the proviso is withdrawn.

*SHRI J. M. GOWDER (Nilgiris) : Hon. Mr. Deputy Speaker, on behalf of my party, the Dravida Munnetra Kazhagam, I would like to say a few words on the Industrial Disputes (Amendment) Bill.

According to this Amendment an employer who intends to close down an undertaking shall give 60 days' prior notice to the Government. I welcome this salutary provision. At the same time, I would like to say that there are many lacunae in the Industrial Disputes Act and the Government would be well advised to remove them as early as possible. I do not understand why the Government should bring legislations in piecemeal so far as the question of labour welfare is concerned. It is really regrettable that the Government are reluctant and hesitant in formulating a comprehensive legislation for labour welfare which will be in consonance with the needs of the time. Till they do this through piecemeal laws like the one under discussion, I do not think it is possible for the Government to give full protection to labour. The Government have been saying that such a comprehensive legislation for labour welfare which will be in consonance with the needs of the time. Till they do this, through piecemeal laws like the one under discussion, I do not think it is possible for the Government to give full protection to labour. The Government have been saying that such a comprehensive legislation will soon be brought forward. I would ask when are they going to do this? Are we to wait for this interminably?

I am surprised that even in this amending bill undertakings set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project have been exempted from the necessity of giving 60 days' prior notice before closure. You will agree, Sir, that in an undertaking doing some project work will have more than 50 workmen. If it is the construction work of a small building, it may not be possible to abide by this provision. But, what about construction of a dam or a project which takes 5 to 10 years? In the contract signed

with the Government it is stipulated by what time, by what year the project should be completed. During the period of work for such long time, the contractor employs some thousands of workers. Is it impossible for the undertaking of such a contractor to give 60 days' notice? I am unable to appreciate why the Government should show sympathy to such undertakings of the contractors through this kind of exemption in the law. Recently the construction workers in Delhi went on strike. Should the Government not give protection to thousands of construction workers? It is not that Government are to take over such undertakings if prior notice is given by the undertakings engaged in construction of a dam. At least the Government can try to help the construction workers in finding alternative employment. As Shri Banerjee pointed out just now, this proviso should be removed from this amending bill.

Similarly, on account of availability of electric power, a unit may employ 5 workmen. When the power was not available, the same unit would have employed 50 or more workmen. Just because of the availability of electric power, if only 5 workmen are employed in a unit, should they be denied the protection of the Government? In the case of units employing 20 workmen and above, so many concessions like provident fund gratuity, insurance, etc., are being given through some other statutes. I cannot appreciate the sympathy being shown by the Government to the management employing upto 50 workmen and why should the workmen be deprived of certain benefits for no fault of theirs. Why should not the management employing 50 workmen be penalised if it fails to give 60 days' prior notice before closure. I would like the hon. Minister to clarify this point in his reply to the debate.

According to the penal provision in this amending bill, if an employer fails to comply with the requirement under this bill, he shall be punishable with six months imprisonment. But, if the Central Government delay inordinately in re-opening the closed units, what action can be taken against the Government? The State Governments have been repeatedly requesting the Central Government to re-open the closed units. But there is unconscionable delay on the part of the Central Government in re-opening these closed units. What kind of action or punish-

*The original speech was delivered in Tamil.

[Shri J. M. Gowder]

ment can be awarded against the Government for this delay? Can we take any action against Mr. Khadilkar? It is not my point that the industrialist should not be punished. It should not be that he alone should be punished for his mistake. If a mistake is committed by the Government, it should not be that it is not anybody's responsibility. There should be some kind of parity between the Government and the employers so far as award of punishment for lapses is concerned.

Shri Stephen, who preceded me, stated that the Central Government can take over running industries also. I do not know under what Act this can be done. Under the Industries Development and Regulation Act, if an essential industry is closed, it can be taken over by the Government. But a running unit can be taken over only if the Government nationalise it and not otherwise. It cannot be taken over ordinarily.

In this House, we have made repeated requests that the Government should bring forward a comprehensive labour welfare law. You know, Sir, that there are so many piecemeal legislations in this regard. Before I conclude, I would urge upon the Government that they should soon introduce a comprehensive bill for labour welfare and they should try to curb the tendency of bringing forward piecemeal bills for this purpose, which serves no useful purpose.

As the Government have brought forward at least this amending bill in the interest of labour welfare, I pay my humble tribute to the hon. Labour Minister, Shri Khadilkar and I welcome this amending Bill. With these words, I conclude.

SHRI B. V. NAIK (Kanara) : Mr. Deputy-Speaker, Sir, the President in his address has requested a certain amount of restraint by the labour in regard to strikes and I think on the basis of the subsequent developments, the behaviour of labour in this country has been highly responsible. At the same time, I welcome the Minister of Labour for having brought this new Bill in which he would like to exercise a certain amount of restraint on the part of the employers or the managements of these various concerns.

I had already suggested that there is a point of view in this country that when we are asking the labour to participate in the national activity or the construction activity

of the country, there should be also a reciprocal gesture on behalf of the capital, and therefore, in any case of labour-management truce, if it is to be ushered into this country, while we ask the labour to compromise its fundamental right or the right to strike and unite, we will also have to exercise a certain amount of restraint on the profits that are taken away from the industry. One of our friends, Shri S. M. Banerjee, said particularly about the industries being squeezed dry. Leaving aside extreme cases it should be possible for us to bring labour as well as capital in the country round a table and ask the capital to voluntarily surrender the surplus that accrues at the end of the financial year so that it is ploughed back into the industry and to provide for the growth of the industry and additional employment opportunities. What is sauce for the goose is sauce for the gander. We should be able to bring about a truce and I do hope that in the wake of the Industrial Disputes Bill the Labour Minister will try to bring these two factors of our industrial production together.

14 hrs.

In our country we have a well organised labour sector, which is confined to about four million people. Between them they represent a population of about two crores, not more than 1/25th of our total population. It exerts tremendous pressure—I mean the organised labour, particularly in major and medium industries. It is able to exert organised pressure of a political nature which is out of proportion to the total number of people. Not that I am against it. But if anybody in our country deserves a fairer deal it is the unorganised labour—small people who work as shop assistants, construction workers and so on. Where is the pension, gratuity, old age or disability pension or the other facilities. What about the gangs who work on the roads or carry on construction activities? Approximately 20 per cent of our population get the worst conditions of labour. What about the agricultural labour? What protection do they get? What are their minimum wages? We are talking more and more about a smaller section of the working population? They are productive, they are skilled and talented and they ought to be helped. But by and large I think there has been a blind eye as far as unorganised sector, small units are concerned, particularly those which are excluded from the labour legislation. A certain amount of

restraint is expected of the labour. Even comrade Battacharyya knows that one of the characteristics of bourgeois is cowardice. If it resorted to closure, it is because bourgeois has run away from the condition of labour unrest, particularly bandhs, gheraos and so on. It is good that in recent months there is not much evidence of these things.

I subscribe to the point of view of my hon. friend here. It is true that a sick industry can be taken over. It can be done for two months after closure. Until and unless an industry closes it cannot come under the Industrial Development Act. Why cannot we think in a co-ordinated way so that the taking over of sick industries coincides with the date of the closure? Why should another sixty days be allowed to intervene? There will be a lot of hardship, partial unemployment and re-employment and so on. In Mysore some industries remain closed for two years: the Karnatak Co-operative Textile Mills, Hoobly. Another industry in Gulberga has been sick. They should be taken over; they are in the cotton growing belt of our State. They should be opened immediately under the Industrial Development Act for the welfare of the workers employed therein. Sir, I would also say that a very large portion of the population in our country—I wish I had the figures to substantiate—are in these small industries which employ below 50. It is in these units particularly the conditions of the labour are very very unsatisfactory and to that extent, we should be in a position to cater to their needs also.

As far as the question of penal provisions is concerned, I think the provision of six months imprisonment is adequate enough as a deterrent.

If there is going to be an era for the purpose of national progress and constructive activity, if labour as well as capital were to come together and sit across the table and then work and plough the profits back into the industry and if they are to work for a progressive future, I think much benefit will accrue and for the sake of that benefit, I welcome this Bill as it has been brought today.

SHRI RAJA KULKARNI (Bombay-North East): I am sorry that I have to express my opinion which is slightly different from that of my predecessor who is my colleague, Mr. Naik. He no doubt supported the Bill,

but all the attack was on the Bill from different angles. Probably, he has not understood the main purpose of the Bill.

There was a demand of the organised labour in this country when closures were taking place, when mills and other big factories in different parts of the country which were in existence for the last 30 or 40 years and employing more than 2,000, 4,000 or even 8,000 workers, were closed. There was also a demand from the Trade Unions that the Government must take some effective steps. Well, this is one of the steps that the Government has taken which was also raised in the tri-partite body.

The purpose of the Bill itself is a limited purpose. The amending Bill does not say that it provides all the remedies of preventing or avoiding the closures. It does not also say that all the problems of the workers arising out of the closures would be resolved. That is not the aim of the Bill. The purpose of this Bill is a very limited purpose. It seeks to provide some time or period before the actual closure is effected. There should be some time at the disposal of the Government, at the disposal of the workers and employers and also the public to know what are the reasons. It is quite clear. It is properly worded in the sense that it provides a requirement of 60 days' notice of the intended closure is to be given. It is not said here and it should be noted by all concerned, that an employer can effect a closure and give 60 days' wages to the workers in lieu of notice period. If any employer intends to close his undertaking, he has to give 60 days' prior notice. There is no option for him to effect a closure immediately and pay two months' wages for the same. That would have been another attempt, if Government wanted, to go away from the real purpose. Therefore, this 2 months' time is an involuntary time for the employer. He should give 2 months' time to all concerned.

It is true that under the Industrial Disputes Act the whole remedy of preventing unemployment cannot be there. But, ultimately, it is a progressive step in the sense that, so far once a closure is effected, it was not possible for any Trade Union or any worker to raise an industrial dispute. Judicial decisions were there. This Bill seeks to remove the handicaps in the way of employees to raise some dispute. Whatever may be the reason given by the employer in the notice—shortage

[Shri Raja Kulkarni]

of material, shortage of electricity or market going down or prices going down or labour trouble—the reasons are to be specified. Pinpointing is necessary. Once the reasons are given explicitly, it gives time to the unions as well as to Government to decide as to what could be done immediately. If the reasons specified are about the market or prices or labour trouble, there is time for Government to rectify those mistakes. But if it is due to mismanagement, it would be difficult. It might not be possible to remedy mismanagement within two months' time. But then Government will have to take action under other Acts like Companies Act, Industries (Development and Regulation) Act, etc. The Labour Ministry which is in charge of this Act will have to move the other ministry and satisfy the unions. In this way, it helps the labour in knowing what are the real reasons. Even if the reasons cannot be completely removed or eliminated, the workers will know where they stand and what are the remedies at their disposal. That is the limited purpose of this Bill. We should not look at it from a bigger perspective. The Bill is not intended for giving relief to those workmen where the factories are already closed. It is only for the future. This is more of a preventive measure.

I am told in West Bengal the Labour Minister said that all the closed units are being taken over. Similarly attempts have been made to take over closed units, but I know there are units which are closed and are not being taken over. Maybe the Government can be criticised for that. The Industries Ministry can be criticised. If the Labour Ministry has not done enough work, it is also open to criticism. But so far as this Bill is concerned, it has just a limited purpose to give time to Government and workers to know the reasons and to rectify the situation if it can be rectified and avoid closures to some extent. It is not intended to find all the remedies for preventing closure or to give all the relief. With this limited purpose, the Bill is welcome and I support the Bill. The working class was asking for it. The Labour Ministry should see that within this two months period at their disposal, as soon as the unions approach them, they should move in the matter and try to help the workers to prevent the intended closure.

श्री आर० बी० बड़े (खरगोन) : उपाध्यक्ष

महोदय, इंडस्ट्रियल डिस्प्यूट्स अमेंडमेंट बिल आज विचारार्थ पेश है। इसमें खास बात यह है कि यदि कोई नियोजक या प्रबन्धक उपक्रम को बन्द करना चाहता है तो उसे दो महीने की नोटिस देनी चाहिए। लेकिन हमारे पूर्व वक्ता ने अभी बताया कि यह केवल उस का एक लिमिटेड परपज है। एफेक्टिव स्टेप्स उसके लिए हैं कि नहीं यह देखना चाहिए। मैं ऐसा कहना चाहता हूँ कि एफेक्टिव स्टेप्स हैं या नहीं इसकी तरफ हमें अभी टीका करनी है, क्वांटिफाइंग करना है कि 1947 में यह इंडस्ट्रियल डिस्प्यूट्स ऐक्ट पास हुआ। उसके बाद इंडस्ट्रियल डेवलपमेंट ऐंड रेगुलेशन ऐक्ट बना। तो यूनियन्स ने काफी इसके खिलाफ हल्ला किया और यह मांग की कि नियोजक और प्रबन्धक कारखाने को एकदम ऐसे ही बन्द कर देते हैं, लेबर को निराश हो कर घर बैठना पड़ता है। तो शासन को पहले यह देखना चाहिए कि इसको कैसे रोका जाय। इसके ऊपर एक काम्प्रीहेंसिव बिल लाना चाहिए कि एकदम कोई बन्द करता है तो उसके लिए क्या करना चाहिए, उसके आगे फालो अप, आगे कौन से कदम उठाना है, ऐसी पालिसी होनी चाहिए कि इसके लिए एक ज्वाइंट मैनेजमेंट कौंसिल नियुक्त करें जिसमें लेबर और एम्प्लायर्स दोनों एक साथ में रहे या गवर्नमेंट उसको लेकर चलाए। एक दफा मैंने देखा है भोपाल में, इन्दौर में जब गवर्नमेंट ने यह कहा कि हम तुम्हारी मिल को ले लेते हैं यदि तुम बन्द करते हो तो वह मुकर गए। कहा कि नहीं, आप थोड़े दिन चलाइए, अभी हमको फाइनेंशियल अडिजन आ गई है, उसके बाद हम चलाएंगे। तो यह हो कि आफ्टर टू मंथ्स आर थ्री मंथ्स गवर्नमेंट खुद अपने हाथ में ले ले या लेबरर्स की ज्वाइंट कौंसिल उस इंडस्ट्री को पूरा अपने हाथ में ले ले तो मैं समझता हूँ कि उसमें मजदूरों को रिलीफ मिल जायगी। जो इसके आन्वेषक और एम्स थे उनमें बताया कि मिस-मैनेजमेंट की वजह से, लेबर अनरेस्ट से या फाइनेंशियल डिफिकल्टी होने से, या रा मीडियल कम होने

से इंडस्ट्री बन्द होती है या इंडिसप्लिन होने से वह एकदम बन्द कर देते हैं तो उनको नोटिस देनी चाहिए 60 दिन का। आगे यह कहा है कि—

“An undertaking in which not more than fifty workmen are employed or were employed on any day of the preceding twelve months”.

वह इसमें नहीं आता है। तो मैंने देखा कि हमारे यहां एक मिल थी। उसने देखा कि इस तरह से यह इसमें नहीं आता तो उसने चार कारखाने खोल दिए, मैं नाम तो किसीका लेना नहीं चाहता, लेकिन भंडारे बिल्डिंग इंडस्ट्री, भंडारे डाईंग इंडस्ट्री और इस तरह की तीन-चार इंडस्ट्रीज खोल कर पचास-पचास मजदूर उसमें रख दिए। क्योंकि इस तरह से वह उसमें नहीं आयेंगे। तो यह चीज देखनी चाहिए थी कि प्रबन्धक इसका कितना फायदा उठावेंगे ?

हमारी जितनी जीनींग फैक्ट्रीज हैं, दो-ढाई सौ काटन जीनींग फैक्ट्रीज हैं और हर एक में डेढ़-डेढ़ सौ, दो-दो सौ आदमी हैं। लेकिन वह कहते हैं कि यह कांस्ट्रक्ट लेबर हैं, यह इसमें नहीं आते। तो उस लेबर की तरफ आपका ध्यान नहीं है और अभी पूर्व वक्ता ने कहा कि ऐसे जो लोग हैं उनके लिए इस बिल में कुछ नहीं है।

इसके बाद पनिशमेंट का क्लोज है। उसमें कहा है :

“Notwithstanding anything contained in sub-section (1), 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...”

What is this “or the like”

यह “आर दि लाइक” क्या है ? यह ऐसा लगता है कि यह इनके भागने के लिए एक रास्ता छोड़ दिया है। चरना वह “आर दि लाइक” क्या है इसका मतलब हम समझ नहीं पाए। तो ऐसे इन्फिनिट वर्ड्स नहीं रखने चाहिये थे। क्योंकि ला इतना इंड्रीकेट होता है कि मैजिस्ट्रेट और वकील तथा दूसरे लोग

उसमें से भागने के लिए दरवाजा निकाल लेते हैं। ऐसे ही मन्त्री महोदय के सेक्रेटरिएट में जो यह रूल बनाने वाले, कानून बनाने वाले हैं उन्होंने भी यह शब्द इस तरह का रखा हुआ है। इसके बाद आगे कहा है पनिशमेंट रखते हुए :

“Shall be punished with imprisonment for a term which may extend to six months, or with fine”

एंड विद फाइन क्यों नहीं ? क्योंकि पांच हजार रुपये देकर उसका पाप-क्षालन हो गया। जैसा कि अभी सोवियत से कुछ लोग आए थे तो उनसे पूछा कि आपके यहां जुर्म करने पर क्या करते हैं ? उन्होंने कहा कि कोई चोरी करता है या कोई जुर्म करता है तो उसके लिए उसे सजा देते याने सजा में फाइन सिर्फ करते हैं। तो उनसे कहा कि “Do you purchase crime by taking fine ? Government purchases crime.”

यानी क्रिमिनल से पैसे लेकर उसको छुट्टी दे देते हैं। जैसे एक क्रिमिनल गुनाह करता है तो पांच हजार रुपये दे कर वह दोषमुक्त हो जायगा। पहले ऐसा होता था कि पाप को छुड़ाने के लिये देवता पर रुपया चढ़ाया जाता था, रुपया चढ़ा दिया और पाप क्षय हो गया—यह नहीं होना चाहिये। अभी अभी बक्काओं ने इसके बारे में कहा है। माननीय खाडिलकर जी लेबर के बारे में बहुत मिम्पैथी रखते हैं। मैं उनसे अनुरोध करना चाहता हूं कि “और” के बजाय “एण्ड” रखिये तो मुझे आपत्ति नहीं है।

यह जो कानून बनाया गया है, यह इन्कम्प्लीट है। मुझे ऐसा लगता है—यदि आप इसके बाद क्या करना चाहिये—ऐसा प्राविजन रखते तो अच्छा होता। लेकिन एक मित्र कहने लगे कि अपना कोई मामा नहीं है, तो काना मामा ही अच्छा है। कानून नहीं है तो काना कानून ही अच्छा है, लेकिन इससे मजदूरों को सैटिस्फैक्शन नहीं होगा। मैं इस इन्कम्प्लीट कानून को इसलिये सपोर्ट करता हूं कि पहले कुछ नहीं था, अब इससे कुछ तो आपने किया

[श्री आर० वी० बड़े]

है। लेकिन जो बातें मैंने अभी कही हैं, यदि उनको आप ठीक कर दें तो मजदूर वर्ग आपको धन्यवाद देगा।

MR. DEPUTY SPEAKER : Shri Vasant Sathé.

SHRI VASANT SATHÉ (Akola) : Sir, I rise to support this Bill which is a very desirable and welcome measure, long awaited, but I may be allowed to say, yet half-hearted. For the simple reasons, that this measure will only give breathing time. I don't think it is intended even to serve as a remedy for the ill of closure. Its only object appears to be that sixty days notice should be given so that in the meantime something can be done or at the most two months wages will be assured more. But you cannot by a law stop a man from closing down his unit. We will have to take steps really to take over these units. That is the only real remedy. But it is good that this Bill gives time. There are certain legal lacunae in this. I would like to place them for the consideration of the Hon'ble Minister if he feels that something can be done at this stage. He may himself suggest amendments and accept them. I cannot move the amendments at this stage. Firstly, we say closure. But you know that there is a distinction between the closure and stoppage. The employer has used this very often in the courts of law and they have tried to utilise this distinction. He puts up a notice that the working of the mill or industry is stopped till further notice. Now, stopped till further notice is not a closing down. But it may be, he will lay off all the employees and you know what happens. Therefore, define the word 'closure' here. The word 'closure' has already been defined in the Industrial Disputes Act, which means something else. There is definition of the word 'stoppage' also. That also means something else. I would submit that if the real intention is to be made fully foolproof you could add here the words 'or stopped indefinitely the working of' after the word 'closed down,' and the words 'an undertaking' shall follow so that even such indefinite stoppages could be covered by this Bill and then incidental amendment would be in the last line for intended closure or stoppage. That word also could be added. This is only a simple amendment to cover the very idea and to prevent the mischief that the employer often does which is so well known and common

knowledge of the people who are in the trade union or who have been practising on the labour-legal side.

Then, there is another aspect to which I would like to invite the attention of the hon. Minister and that is, why have this proviso to the definition of industry. In the Industrial Disputes Act, the definition of industry is wide enough. It covers all industries. Why curtail the right given to the employees already by providing that this will not apply to an undertaking in which there are not more than fifty workmen. After all, what you are providing is the breathing time. If two months notice is good enough for a big employer, employing more than 50 workmen, why it is not good enough for an employer employing, say, 49 or 48 or 40 workmen. What is wrong? You know, in modern times, the capital-intensive units tend to employ less and less number of men. But they are big units all the same. I know, for example, a very sophisticated industry, a litho industry, in Nagpur which employs hardly 40 persons. But it is one of the best in India and one of the most richest. Now, if such a unit were to threaten closure, will it escape this clause and will there not be any benefit for these 40 persons in that unit? Therefore, I do not think this proviso is really necessary. It is not going to cause any hardship on the employer at all. All that you are doing is that you must give two months notice. What more are you doing? Nothing more than that. Therefore, I think, this proviso in all fairness should go.

Now, I come to another clause. I do not agree with my hon. friend, Shri Bade, when he says that the phrase "or the like" has any invidious thing in it. It says :

"Notwithstanding anything contained in sub-section (1), the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as..."

Because it is qualified by the word "as", therefore, there follows "or the like". They are "ejusdem generis". Therefore, there is nothing wrong in it. The words "or the like" should remain.

As far as clause 3 is concerned, you had once said, if you will remember, that these employers' punishment must be deterrent. Unless you really make it effective and deter-

rent, they will just not care for your legal provisions. Therefore, you don't say, for a term which may extend to six months". You delete the words "which may extend" and, say, "six months" straightway. Then only they will know that the punishment is for six months. We must be very clear in our mind as to what we want to do. If a person or an employer wants to escape even an innocuous provision like this, that is, of two months notice, if he wants to defeat that, then you be clear about it. This is not going to be tolerated. There should be an imprisonment of six months not that it may extend to six months.

Have you seen a single employer in this country being punished and imprisoned for even six days? I have been working in this field for so many years, for more than 20 years, and I do not know of a single employer in this country who has been punished with imprisonment for violating industrial law even for six days. So why make a farce of it? No court in this country is going to give punishment to these employers even till the rising of the court.

SHRI S. M. BANERJEE : The hon. Member was saying, till the rising of the court. In some of the cases, the courts themselves rise when they see some of the big employers. (*Interruption*)

SHRI VASANT SATHE : No employer has been punished. Therefore, let us not make it a farce. Otherwise, you delete it. If you do not want to have deterrent punishment, you delete it. But when you want to have a deterrent punishment, you say, six month, and not a term which may extend to six months.

Then, it should be "and" and not "or"—or with fine which may extend to five thousand rupees. That means, it can be Rs. 5/-only. In the figure of Rs. 5000, the zero seem to have no value. I ask; Who is the employer who has been fined even Rs. 500? Even if he is fined Rs. 500, he fights it out upto the Supreme Court for 10 years. He would save an interest of more than that. This is what happens. He fights it out. I do not believe in this—I am sorry, I say it with pain, I know that the Minister also feels equally concerned about it, in his heart of hearts he must be feeling the pain and sorrow, over the way the employers treat—rather in a cavalier manner—the labour legislations and the deterrent provisions in the labour legislations. There-

fore, I have proposed this amendment as far as punishment is concerned; the imprisonment should be for six months and the words "not extending to" should be dropped; also the word 'or' should be changed into 'and' before the words 'fine.'

These are the suggestions that I have to make in all humility, and I hope that hon. Minister will accept them.

MR. DEPUTY-SPEAKER : The Minister.

SHRI K. S. CHAVDA (Patan) : The remarks made by Shri S. M. Banerjee that the courts rise when they see the employers, should be expunged from the proceedings.

SHRI S. M. BANERJEE : I have not said that. They mentioned about rising of court. I said, some courts rise themselves.

SHRI R. K. KHADILKAR : Mr. Deputy-Speaker, Sir, I am indeed grateful to the hon. members who have broadly welcomed the measure, that is before us. There was some criticism, and I could understand their criticism. It was based on some misconception. They should remember that, during the last two years, there were a sort of chronic closures in the industrial field. Demands were made by the trade union leadership and workers, and Government also felt concerned how to prevent the closure of running undertakings. In the entire industrial scene, they decided to take certain measures. One was, under the Industries (Development & Regulation) Act, to take it over, and coupled with that, this question of 60 days notice before closure. The other measure will come into operation after the unit is closed. This measure is rather a preventive one. When there are certain symptoms of sickness in a running undertaking, we want to see whether it would be possible to make an attempt to give some help, whatever is called for, so that the industry could be kept running; instead of making a *post-mortem* investigation and finding out what has led to the closure. If symptoms are known before hand. Government should undertake suitable measure, or treatment such as transfusion by way of financial help or certain other treatment, so that the closure is prevented. In that sense, this is a preventive measure; I must confess.

The hon. members have raised certain question. Almost all of them have raised the question of quantum of punishment provided

[Shri R. K. Khadilkar]

under this. They have raised some point regarding the malpractices prevailing in the industry because taking advantage of 50 employees, they might split it up so that they could avoid the operation of the law. I know that this is prevalent in certain industrial centres; if I were to mention only, my hon. friend, Shri H. M. Patel will bear me out, in Surat there is this malpractice of splitting up so that they could escape the Factory Act or whatever labour legislation or social legislation is there. We have taken note of it. The main purpose of this measure is that, as far as possible, we will not allow an industry to close down; when there are certain symptoms, whether it is mismanagement or shortage of raw materials or shortage of finance or labour trouble, instead of at a certain period of crisis suddenly closing it down, the industry is given an opportunity that Government will help provided you gave a notice in every possible way and this situation was particularly aggravated because of the political situation in Bengal. The number of closures in Bengal, as compared to other States, is very large and some steps are very necessary of this nature. I know it is a very limited measure in its scope. But, if you understand the object, I think, as almost all the hon. Members thought, they have suggested certain amendments or thought of other things and they have welcomed it because they also realise that at this juncture of our economy, if such measures are not taken, then the question of unemployment which is there and production, both, cannot be tackled.

The question of punishment in such a social legislation is a serious matter as I said on several occasions, here. Unfortunately, the judiciary takes a very lenient view of the laws when their enforcement is before the judiciary particularly in social security or labour fields. Perhaps the time has come when we will have to reorientate the approach of the judiciary and keeping in view the past trend some corrective steps are called for and I think appropriate steps will have to be taken sooner or later because if you study our legal system, it is in a way slanted to a particular class in the society and unless this is corrected, I think all these misgivings could not be removed or dispelled, I must confess. The provision of punishment under this measure, *viz.*, six months or fine or both is the maximum punishment provided under the Industrial Disputes Act. But, if by experience we find that this

is inadequate, certainly, we shall reconsider the position.

SHRI VASANT SATHE : What has been our experience uptill now ?

SHRI R. K. KHADILKAR : But, to-day I am not prepared to accept it because I do not share the view that all the people who are in business and industry are unconcerned about running it. There are some black sheep. There are some speculators who operate to the detriment of the industry....(Interruptions) But even then, when we legislate, we presume, the purpose of the legislation being, as I have explained, to help the industry to recover and to revive and run in a healthy condition, that similar response will be forthcoming from the other side.

SHRI R. V. BADE : The punishment should be deterrent.

SHRI R. K. KHADILKAR : As I said, under the Industrial Disputes Act, what is the maximum has been provided in this and I have given an assurance that if by experience...

SHRI S. M. BANERJEE : Raise the fine to Rs. 5000.

SHRI R. K. KHADILKAR : I have kept your criticism in mind. I will watch and at the appropriate time, we will review and whatever deterrent punishment you provide for, ultimately you will have to create a social climate....

SHRI S. M. BANERJEE : Ultimately, God will punish them.

SHRI R. K. KHADILKAR : The hon. Member should remember that we have to create a social climate to prevent such things. By mere punishment whether deterrent or otherwise, you cannot tackle the situation. This is a totally wrong approach.

About certain matters that were referred to, particularly, I take note of the criticism and this one amendment which has been moved by Shri Dinan Bhattacharyya. He should read the papers very carefully. These three major central trade union organisations have come closer; it is a voluntary act. I welcome the spirit of the amendment, coming from your party, because you decided to work outside the democratic framework to operate in a manner which is not conducive to this kind of co-operation, to suggest that workers

and employers and management should jointly take note of the ills of the industry or take note of the symptoms and make a move in that direction. I certainly welcome that but unfortunately the trade union movement is so much fragmented and divided that we are not in a position to ensure that they take it as if they are partners in the industry, they are responsible to the social well-being etc. The trade union leadership today is also not in that position.

SHRI DINEN BHATTACHARYYA : That is your subjective conclusion.

SHRI R. K. KHADILKAR : That is our attempt. We wish they take responsible position in the process of production along with the management. That is the suggestion.

SHRI DINEN BHATTACHARYYA : That cannot be a one-way traffic.

SHRI R. K. KHADILKAR : That is the suggestion contained in your amendment. I welcome the spirit of it. It shows, some changes have taken place on the other side. Your amendment says :

"Upon receipt of such notice, the appropriate Government shall, upon giving opportunity to the employer and employees through their organisation or organisations in the said undertaking or otherwise, decide whether there are circumstances justifying the intended closure and only upon sanction being given by the appropriate Government to the said effect, the intended closure will be effective."

If trade union leadership takes this type of responsible attitude I think numbers of closures particularly in West Bengal could have been avoided.

SHRI DINEN BHATTACHARYYA : Largest number of factories are closed in Mysore. Then comes Andhra. Also, you don't talk about your own State.

SHRI R. K. KHADILKAR : For instance, after the amendment of the Industries (Development and Regulation) Act we are now providing notice before closure. Even then certain difficulties are experienced. We know it. There are certain shortcomings. Judiciary gets an opportunity to pick up something and staff the process.

SHRI DINEN BHATTACHARYYA : What will happen after 2 months notice ?

SHRI R. K. KHADILKAR : Mr. Banerjee referred to Sakseria Mills. It is one of the best concerns in Bombay. It is closed. Even after these measures it is very difficult to open because certain operators go to the available avenues, judicial avenues, to come in the way. This is our experience. So, this is not a foolproof measure. I am saying that it is not possible to bring about a foolproof measure but we are making attempt to improve the industrial climate in the country and see that production tempo is kept up and see that burden of unemployment is reduced and with that limited purpose in view we are bringing forward this measure, keeping in view this objective, very limited, but essential. I think hon. Members who have welcomed will support it too. There are certain minor amendments.

SHRI DINEN BHATTACHARYYA : Not minor amendments.

SHRI R. K. KHADILKAR : I think the best thing would be, he should amend his own political approach to the problem and come before the House with a clean hand. Then I will accept it.

SHRI DINEN BHATTACHARYYA : This is avoiding the thing. This is not accepting something. This is only helping the employer.

MR. DEPUTY SPEAKER : The question is :

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

The motion was adopted

Clause 2—(Insertion of new section 25 FFA.)

SHRI SOMNATH CHATTERJEE (Burdwan) : I beg to move :

Page 1, lines 15 and 16, *omit* "or were employed on any day of the preceding twelve months". (2)

Page 1, line 17,—

(i) *after* "undertaking *insert* "temporarily".

(ii) *after* "set up *insert* "for any particular project". (3)

Page 1, lines 18 and 19, *omit* "or project" (4)

Page 2. *omit* lines 1 to 6. (6)

SHRI DINEN BHATTACHARYYA : I beg to move :

Page 1, line 14, for "fifty" substitute "twenty". (1)

Page 1, after line 19, insert—

"(1A) Upon receipt of such notice, the appropriate Government shall, upon giving opportunity to the employer and employees through their organisation or organisations in the said undertaking or otherwise, decide whether there are circumstances justifying the intended closure and only upon sanction being given by the appropriate Government to the said effect, the intended closure will be effective". (5)

MR. DEPUTY SPEAKER : These amendments are now before the House.

SHRI SOMNATH CHATTERJEE : So far as amendment No. 2 is concerned, I feel that there must have been some inadvertent omission on the part of the drafting department to take note of the fact that by reason of the clause which is being incorporated in this draft Bill, the entire object will be nullified,

I would like to draw the attention of the hon. Minister to the proviso which says that nothing in this section shall apply to an undertaking in which not more than 50 workmen are employed. I submit that the later part is dangerous. The second part of the proviso says 'were employed on any day of the preceding twelve months'. The result would be if out of 365 days on one day the employees did not come up to the number fifty or were less than 50 in number, then this section will not be applicable at all to that undertaking, although on the other 364 days there might have been a hundred employees. I would like the hon. Minister to appreciate that it has been put in a negative fashion because it says :

"Providing that nothing in this section shall apply to—

- (a) an undertaking in which not more than fifty workmen are employed or were employed on any day of the preceding twelve months".

Kindly see how the object is being nullified, because those undertakings which employed less than 50 workmen or not more than 50

workmen on any day would be beyond the purview of this Act because out of 365 days on just one day the number of employees might have been less than 50 or just 50. I am sure that this is not the intention of the hon. Minister. I feel that this may have been a drafting lapse on the part of the Department. I would request the hon. Minister to kindly consider this. This is also a new type of provision, because we do not find this kind of provision in other pieces of legislation.

In the Factories Act, a factory has been defined as follows :

"'factory' means any premises including the precincts thereof where upon ten or more workmen are working or were working on any day of the preceding twelve months."

It is put in a positive way. So, we know the minimum number of workers that must have been working there in order to bring it within the meaning of the term 'factory'.

Similarly in the Payment of Bonus Act, 1965 in the definition in section 1 (3) we have :

"Save as otherwise provided in this Act, it shall apply to every factory and every other establishment in which twenty or more persons are employed on any day during the accounting year".

So, we know the minimum number of persons who must work. Then, again, in the Industrial Disputes Act itself, section 25 A(1) provides that :

"Section 25C to 25E inclusive shall not apply to industrial establishments in which less than 50 workmen on an average per working day have been employed in the preceding calendar month."

No similar provision has been made here. Suppose on the 1st January of a particular year there were 50 employees in that undertaking and from 2nd January to 31st December, the number was 200, then in view of this proviso, that undertaking will not come within the scope of this Bill. Therefore, I submit that this part of the proviso should be deleted, because otherwise the entire object of the Bill will be frustrated.

SHRI VASANT SATHE : All that the employer has to do is to lay off a certain number of workers on one day.

SHRI SOMNATH CHATTERJEE : If on one day the number of employees is 50 or below 50, then the establishment comes out side the scope of this Bill, because of the phrase 'on any day'. That is very significant. No average is being indicated. Therefore, any day, if the number is below 50, he goes scot-free. Therefore, I submit this is a very great lacuna in the Bill, I am sure the intention of the Minister is not that.

So far as the next amendment is concerned,—amendments 3 and 4—the hon. Minister has not replied to that although all the hon. Members had referred to it, namely, the second proviso, that is, proviso (b). What is the rationale behind excluding entirely the construction workers or the undertakings set up for construction of buildings, bridges, *etc.*? We know the Hindustan Construction which is one of the biggest concerns in India. We have Martin Burn which has its own undertaking for making or constructing buildings, bridges, *etc.* Why should they all be altogether put out of the purview of this Bill? If the intention is to exclude those undertakings which have been set up for the purpose of carrying out one particular project, and after that project is concluded it is intended to close it down, one can understand; therefore, I am proposing in my amendments 3 and 4 that if an undertaking has been temporarily set up for construction or for taking up any particular project, this need not apply. If the hon. Minister will kindly note, what I have said is, after 'undertaking' insert 'temporarily'. Then the clause will read, "an undertaking temporarily set up for any particular project for the construction of buildings." *etc.* Then, it will be outside the purview of this Bill. Otherwise, we know of regular construction business, regular undertaking which carries on a large scale business of construction of buildings, *etc.* There cannot be any rationale in leaving them out of the purview of this Bill. Therefore, if the amendment suggested is accepted, I submit that a particular project undertaking will be outside it, but the regular undertakings will come within the scope of the Bill.

The last amendment which I suggest is to sub-clause (2) of clause 2. That is, for omission of the entire sub-clause. You will find that this is the exemption provision. If the intention was, as the hon. Minister said in his introductory speech and also in his reply, to see what are the ills that are afflicting a particular undertaking so that

remedial measures can be taken, that is one thing. But the period is not a long one either. Why discretion is being given to the Government in the absence of clear guidelines being laid down in sub-section 2, namely, what would be the exceptional circumstances, accident or death? These two have been mentioned. Why cannot any undertaking wait for 60 days before it closes down, and why should the Government give any such opportunity to particular undertakings not to comply with the requirement of giving notice? The importance is this. There will be a spate of litigation on the construction of the words "or the like it is necessary to do so," because, whether it is *ejusdem generis*, whether it is of different species, whether it is a completely new thing which are depending on the Government or not, nobody will know and there will be a spate of litigation. What will be the true meaning of the words "or the like"—whether it is similar or completely different, has to be found out. Really, the object will be frustrated if this exemption provision is given.

I will make one more submission. Take the case of death. There are big undertakings. Again, take the case of the employer; there must be others to fill the gap in the undertaking, then and there. Why should not other persons come in the shoes of the dead employer and wait for 60 days before the closure? Therefore, I submit that the hon. Minister should consider favourably these amendments and accept them, because there is no justifying circumstance to give these powers to the Government which they do not at the moment require, because, at the moment, we want the undertakings to continue and not close down.

With these words, I commend the amendments for the acceptance of the House

SHRI DINEN BHATTACHARYA : Sir, I should like to speak on amendment No. 5 which is very simple. The Minister himself has admitted the reasonableness of this amendment, and the reasonableness of the approach that is indicated here. I do not find any reason why he should be hesitant to accept it. My amendment is simple. What do you do after two months notice or even within two months? What will be the function of the Government after getting the notice? Will they sit tight or will they take some steps so that the workers and the Government may know under which circumstances the employer

[Shri Dinen Bhattacharyya]

has decided on his course of action. If it is proved there are no reasons for closure, some steps should be taken so that at least the closure notice will not be effective. That sort of guarantee must be there. He is giving sermons to adopt this attitude and that attitude. I have adopted a rational attitude. But a reasonable and rational attitude must be taken by the Government, so that there may not be any malafide and intentional closures. If you want to stop them, you must accept this amendment.

The other amendment is to reduce the number of workmen from 50 to 20. If twenty workers are employed, it is called a factory. Here also the provisions of this Bill should be made applicable to establishments with 20 or more persons. There is no difficulty in accepting this amendment.

SHRI R. K. KHADILKAR : Regarding the objection raised by my hon. friend to clause (2) about an undertaking in which fifty or more men are employed, this clause was bodily lifted from the West Bengal Act. About sub-clause 2, that was also bodily taken from the West Bengal Act.

So only one point was made : why are the construction workers excluded ? In any statute there are certain exceptions. This legislation is primarily concerned with industrial undertakings. I do realise that construction workers also need coverage and security of employment and so on. But it can be provided in a different way. If you see the scheme of things, we can go to the help of an industry which is about to close for want of capital, raw material or due to labour trouble. We cannot adopt the same method if the construction of a building is nearing its end.

SHRI SEZHIYAN (Kumbakonam) : He should answer the point raised by Mr. Somnath Chatterjee. He only says that it had been bodily lifted from the West Bengal Act. That is not a proper explanation.

MR. DEPUTY-SPEAKER : You should have spoken before the Minister, not after he has spoken. What about the ambiguity which was referred to ?

SHRI R. K. KHADILKAR : I do not think there is ambiguity. At the spur of the moment I cannot reply whether that type of ambiguity is there. *(Interruption)*

SHRI VASANT SATHE : How does it

justify, because there is something wrong in the West Bengal Act ? If it is prima facie illegal, it will be struck down.

15 hrs.

SHRI R. K. KHADILKAR : As I said, he has raised a point which creates some doubt. I am not just now on the spur of the moment convinced, when it was examined by the law officers of the ministry. *(Interruption)* I do not know whether that point is very valid. I am not convinced myself. Therefore, I would like to retain it as it is.

SHRI SEZHIYAN : The minister himself say he is not fully aware of the implications and he has not studied it. He admits there is some doubt created ; no legal opinion should be taken. Hence, I suggest that the discussion on this clause be postponed under Rule 109.

MR. DEPUTY-SPEAKER : Before I put it to the House, I would like to know from the minister whether he is very clear in his mind that this ambiguity is not there.

SHRI R. K. KHADILKAR : So far as I could follow argument, I was not convinced about the ambiguity. He has created some doubt. Beyond that, I do not think there is anything.

SHRI S. M. BANERJEE : After your pin-pointed question, the minister states that a doubt has been created, whether rightly or wrongly. We are passing a Bill, a doubtful legislation with a doubtful mind. May I request you to postpone it till tomorrow ?

SHRI R. K. KHADILKAR : Any lawyer can create some doubt in the minds of all. So far as I am concerned, I have followed it very clearly and I do not think the substance of his argument is tenable so far as this case is concerned.

SHRI DINEN BHATTACHARYYA : Originally he was in doubt. This is an afterthought.

SHRI S. M. BANERJEE : All of us have expressed doubt about the proviso, both lawyers and non-lawyers. Tomorrow somebody may go to the Supreme Court or High Court and get it struck down. It is a sad commentary on this Parliament. Let him come with an amendment tomorrow.

MR. DEPUTY-SPEAKER : Whether it desirable or not to adopt a legislation with a

doubtful mind, I cannot pronounce on that. I am in the hands of the House. I have no remedy.

SHRI SEZHIYAN : With your consent, I want to move under Rule 109 that the debate on the Bill may be adjourned till tomorrow.

SIIRI S. M. BANERJEE : The other day; Mr Raj Bahadur also moved for adjournment of the debate on the Bill on untouchability, under the same rule and it was adjourned.

MR. DEPUTY-SPEAKER : For the adjournment of a discussion on a Bill, there must be some valid reasons. In this case, the minister himself has said that he entertains some doubt. I think under these exceptional circumstances, I should give my consent for moving this motion. Under this rule, he can move that the debate be adjourned. That is all. Not till tomorrow or any such thing.

SHRI SEZHIYAN : I beg to move :

"That the debate on the Bill be adjourned."

MR. DEPUTY-SPEAKER : The question is :

"That the debate on the Bill be adjourned."

The motion was adopted.

MR. DEPUTY-SPEAKER : We will take up the next Bill. Shri Khadilkar.

**THE DEPUTY MINISTER IN THE
MINISTRY OF LABOUR AND REHABILITATION (SHRI BALGOVIND VERMA)**
rose—

SHRI S. M. BANERJEE : When Mr. Khadilkar is present in the House and the motion is in his name, can anybody else move it ?

MR. DEPUTY-SPEAKER : He has given the responsibility to his Deputy. It is all right.

SHRI S. M. BANERJEE : We accept it, as a special case.

15.06 hrs

MATERNITY BENEFIT (AMENDMENT) BILL

**THE DEPUTY MINISTER IN THE
MINISTRY OF LABOUR AND REHABILITATION (SHRI BALGOVIND VERMA) :**
Sir, I beg to move * :

"That the Bill further to amend the Maternity Benefit Act 1961, as passed by Rajya Sabha, be taken into consideration".

Sir, in 1961 the Maternity Benefit Act was enacted to secure uniformity in the payment of maternity benefit to women industrial workers throughout the country in certain industries. There is then also the Employees' State Insurance Act, 1948 which provides for the payment of maternity benefit.

Sub-section (2) of section 2 of the Maternity Benefit Act, 1961 provides that—

"Nothing contained in this Act shall apply to any factory or other establishment to which the provisions of the Employees' State Insurance Act, 1948 apply for the time being."

The intention is that a woman worker should cease to get maternity benefit under the Maternity Benefit Act, 1961 when she gets the same benefit under the Employees' State Insurance Act, 1948.

In accordance with the provisions of section 50 of the Employees' State Insurance Act, 1948 maternity benefit becomes payable after a period of about nine months from the date of application of the Employees' State Insurance Scheme to an area subject to the fulfilment of certain qualifying conditions in regard to payment of contributions.

The Government of Gujarat brought the Maternity Benefit Act into force in factories with effect from the 1st March, 1961. The Employees' State Insurance Scheme was extended to Ahmedabad with effect from the 4th October, 1964. Some employers in Ahmedabad stopped payment of maternity benefit to women workers to which they were entitled under the Maternity Benefit Act, 1961 before the 4th October, 1961 on the ground that they were not required to do so in view of section 2 (2) of the Act. To meet the situation, the Government of Gujarat amended the Maternity Benefit Act, 1961.

*Moved with the recommendation of the President.