

[श्री राम विजयस पामवान]

अध्ययन के अनुसार एक जिले से दूसरे जिले में खाद्यान्न वितरण में भारी अन्तर है। एक जिले में 469 टन अनाज का ही वितरण किया गया जब कि दूसरे जिले में 27 हजार 74 टन खाद्यान्न वितरण किया गया। 20 जिलों में से 11 जिलों में खाद्यान्न का उपयोग किया गया। पाच जिलों में आपूर्ति में विलम्ब और भण्डार की सुविधा की कमी पाई गई।

अध्ययन के अनुसार ठेकेदारों ने खाद्यान्न को बाजार में खुले आम बेचा है। निर्धारित मजदूरी से कम मजदूरी मजदूरों का दी गई। कुछ राज्यों में अनाज के बदले नगण्य राशि का भुगतान मजदूरों को किया गया और ठेकेदारों ने खुल कर अनाज की चोर बाजारी की।

अतः सरकार से माग है कि योजना आयोग की रिपोर्ट के आधार पर दोषी व्यक्ति, ठेकेदार एवं अधिकारियों के खिलाफ कड़ी कार्यवाही करे और एक शक्तिशाली निगरानी समिति का गठन करे।

PROF. N. G. RANGA (Guntur): All this happened when your government was there.

11.17 hrs.

ESSENTIAL SERVICES MAINTENANCE (ASSAM) BILL AND STATUTORY RESOLUTION RE APPROVAL OF NOTIFICATION ISSUED BY ASSAM GOVERNMENT DECLARING CERTAIN SERVICES AS ESSENTIAL—Contd.

MR. DEPUTY-SPEAKER : Now we take up the legislative business. I shall now put the motion for consideration.

The question is :

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

The motion was adopted.

MR. DEPUTY-SPEAKER . Now we take up clause by clause consideration.

Clause 2.—(Definition)

SHRI G. M. BANATWALLA (Pon-nani): I beg to move:

Page 2,—

omit lines 30 to 32. (2)

Page 3—

omit lines 4 and 5. (3)

MR. DEPUTY-SPEAKER : Then, Shri R. K. Mhalgi he is absent.

SHRI A. K. ROY (DHANEAD): I beg to move :

Page 3, lines 3 to 8, —

omit “or to accept employment, and includes—

(i) refusal to work overtime where such work is necessary for the maintenance of any essential services:

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

SHRI G. M. BANATWALLA : Sir, I have moved two amendments. My first amendment is to omit lines 30 to 32 on page 2 in clause 2.

Sir, it deals with the definition of the term ‘essential service’. It is well known that almost everything under the Sun is sought to be included in the definition of the term ‘essential services.’ The purpose of the Bill is to see that essential services in their real term are maintained. My submission, therefore, is that this item No. 13 which says -

“(xii) any service in connection with the affairs of the Union or the State of Assam not being a service specified in any of the foregoing sub-clauses;”

is so wide that it defeats the very purpose for which the Bill is sought to be brought. We are told that the Bill is there in order to maintain the supply of essential services. Therefore, the Bill should be restricted to the supply of essential services and essential services alone. In the garb of the term essential services if every service under the Sun is taken then it is a fraud that is being played upon this House.

Essential services we are told include postal, telegraph or telephone service; railway service; services connected with loading and unloading of goods; services connected with aerodromes; services connected with the clearance of goods or passengers through customs or prevention of

smuggling; any service in any establishment of, or connected with, the armed forces of the union or in any other establishments or installations connected with defence; etc.

Now, Sir, my submission is that all the necessary essential services are included in all these items. Now, one more item is sought to be included to say—all other services not specified in the foregoing sub-clause will also be included. This is rather unfair and a wrong advantage is sought to be taken of the Bill.

The hon'ble Minister himself says in his Statement of Object, and Reasons : —

“As the State of Assam was under President's rule, the Essential services Maintenance (Assam) Ordinance, 1980, was promulgated by the President on 6th April, 1980, which specified certain essential services and empowered both the Central and State Governments to prohibit strikes in the State of Assam in any essential service.”

I submit that telling this House that the ambit of the Ordinance or the ambit of this particular Bill is confined to only certain specified essential services is misguiding the House because the ambit is so wide enough that it includes any and every sundry service in Assam under the sky. Therefore, as I have said earlier we have supported the measure in view of the situation in Assam but then its application should be truly and correctly limited to the maintenance of essential services and no more. I hope that this submission will be accepted by the government. In case, government fails to see the wisdom of the submission, I hope, this House will rise above party considerations and accept the amendment which I commend to the House.

SHRI A. K. ROY: Sir this Bill has two qualities. First quality is its undesirability and the second quality is its absurdity.

Mr. Deputy Speaker, Sir, you have been a trade union leader one time.

Nowhere you would find this type of definition of strike. A new definition of 'strike' has been given here. Nowhere else would you find such a provision. All the non-essential services are also being included as essential services. All things not connected with strike are also included in the term 'strike'. Refusal to accept employment is also treated as strike. It is very strange. I think this type of definition cannot be found anywhere else. I don't think this House can come across such a type of definition anywhere else, Sir. You say, refusal to accept employment is also 'strike'. Not only that. 'Refusal to work overtime' is also a 'strike'. Nobody can force him. Even under emergency nobody can force the worker to work overtime. It is his own desire; his own will to do overtime or not. He may do it; he may not do it. But here it has been said, 'refusal to do overtime is also a strike'. Similarly conduct which may result in stoppage of work or retardation of work of essential service is also considered a strike. It is very strange indeed! If this House passes such a provision, posterity will only laugh at us. They will laugh saying what a provision we are advocating, as Members of Parliament. So Sir, I request the hon. Home Minister to consider this thing and to accept this most logical, reasonable and simple amendment. That is all that I wish to submit.

**THE MINISTER OF STATE IN THE
MINISTRY OF HOME AFFAIRS
(SHRI YOGENDRA MAKWANA):**

Sir, Shri Banatwalla has pointed out that certain provision of this Bill could be misused, by including certain service as essential service at any time. I wish to point out to him, that is not the case. Every time the Government has to come before Parliament. The provision under sub-clause (xiii) would cover services in connection with the affairs of the Union or the State of Assam which may be 'essential service' which has not been specified in any of the foregoing sub-clauses. This general formulation has been

[Shri Yogendra Makwana]

adopted because it is not always possible to list precisely all the services which may be considered to be essential. These powers are not of a sweeping nature. For residuary essential services the Central Government or Assam Government would be required to issue a notification in the official gazette declaring them to be essential services, for the purposes of this Act. Every such Notification will be required under clause 2(2) to be laid before each House of Parliament immediately after it is made, if it is in session; and on the first day of the commencement of the next session of the House if it is not in session. The notification shall cease to operate at the expiry of 40 days from the date of its being so laid or from the date of reassembly of Parliament, unless before the expiry of this period, a resolution approving the issue of the notification is passed by both Houses of Parliament. Thus, for all, residuary services, Parliament will have an occasion to review and approve the Notification. Once the need for subclause (xiv) is accepted, clause 2(2) for laying the notification before Parliament and getting its approval follows as a natural corollary. Therefore, no misuse of this provision is there. On the contrary, Government has to come before each House. This is not of a sweeping nature. So, I am sorry I cannot accept his amendment. So far as the amendment of Shri A. K. Roy is concerned—he has said about the overtime—this is also essential because if the employees of any essential service refuse to work overtime, where such work is necessary, it will naturally affect the maintenance of essential services. Subclause (ii) of the definition is meant to cover sit-down, tool-down and pen-down type of situations. Under such circumstances, though the employees are not technically on strike, it may seriously affect the working of the essential services. To meet such a situation both these ingredients are necessary for the effective maintenance of essential services and therefore

should be retained. Otherwise, it will hamper the services and, therefore, this clause is inserted in this Bill. Therefore, I oppose the amendment moved by the Hon'ble Member. I would request both the Members to withdraw their amendments.

SHRI G. M. BANATWALLA: I do not withdraw.

MR. DEPUTY-SPEAKER: I shall now put the Amendments Nos. 2 and 3 moved by Shri Banatwalla to the vote of the House.

Amendments Nos. 2 and 3 were put and negatived.

MR. DEPUTY-SPEAKER: Now, Mr. Roy, are you withdrawing Amendment No. 25 which has been moved by you?

SHRI A. K. ROY: No, Sir. Let it be put to vote of the House.

MR. DEPUTY-SPEAKER : The question is :

“Page 3, lines 3 to 8, —
omit “or to accept employment,
and includes—

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

(ii) any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service” (25)

THE LOK SABHA DIVIDED.

Division No. 3] [11.40 hrs.

Acharia, Shri Basudeb

AYES

Azmi, Dr. A. U.

Barman, Shri Palas

Basu, Shri Chitta

Chakraborty, Shri Satyasadhan

Chaturbhuj, Shri

Chaudhuri, Shri Tridib

Chavan, Shri Yeshwantrao

Choudhury Shri Saifuddin
 Dandavate, Prof. Madhu
 *Dubey, Shri Bindeshwari
 Ghosh, Shri Niren
 Giri, Shri Sudhir
 Goyal, Shri Krishna Kumar
 Halder, Shri Krishna Chandra
 Harikesh Bahadur, Shri
 Hasda, Shri Matilal
 Imbichibava, Shri E. K.
 Jagpal Singh, Shri
 Khan, Shri Ghayoor Ali
 Khan, Shri Mahmood Hasan
 Kunhambu, Shri K.
 Mahata, Shri Chitta
 Mandal, Shri Dhanik Lal
 Mandal, Shri Mukunda
 Mandal, Shri Sanat Kumar
 Mehta, Prof. Ajit Kumar
 Misra, Shri Satyagopal
 Mukherjee, Shrimati Geeta
 Parulekar, Shri Bapusaheb
 Paswan, Shri Ram Vilas
 Rajda, Shri Ratansinh
 Ram Kinkar, Shri
 Riyan, Shri Baju Ban
 Roy, Shri A. K.
 Roy, Dr. Saradish
 Saha, Shri Ajit Kumar
 Saran, Shri Daulat Ram
 Shamanna, Shri T. R.
 Shastri, Shri Ramovatar
 Varma, Shri Ravindra
 Verma, Shri R. L. P.
 Verma, Shri Shiv Sharan
 Yadav, Shri D. P.
 Yadav, Shri R. P.
 Abbasi, Shri Kazi Jalil
 Ahmed, Shri Kamaluddin
 Ankineedu Prasad Rao, Shri P.
 Ansari, Shri Z. R.
 Arunachalam, Shri M.
 Baitha, Shri D. L.
 Bajpai, Dr. Rajendra Kumari

Bhagwan Dev, Shri
 Bhoi, Dr Krupasindhu
 Buta Singh, Shri
 Chandra Shekhar Singh, Shri
 Chavan, Shri S. B.
 Chingwang Konyak, Shri
 Chouhan, Shri Fatehbhan Singh
 Daga, Shri Mool Chand
 Dalbir Singh, Shri
 Das, Shri A. C.
 Dennis, Shri N.
 Dev, Shri Sontosh Mohan
 Dhandapani, Shri C. T.
 Gadgil, Shri V. N.
 Gireraj Singh, Shri
 Gomango, Shri Giridhar
 Hembrom, Shri Seth
 Jadeja, Shri Daulatsinhji
 Khan, Shri Arif Mohammad
 Khan, Shri Malik M. M. A.
 Krishan Dutt, Shri
 Krishna, Shri S. M.
 Kuchan, Shri Gangadhar S.
 Kunwar Ram, Shri
 Kusuma Krishna Murthy, Shri
 Lakkappa, Shri K.
 Madhuri Singh, Shrimati
 Mahabir Prasad, Shri
 Makwana, Shri Narsinh
 Mallikarjun, Shri
 Misra, Shri Harinath
 Misra, Shri Nityananda
 Mohanty, Shri Brajmohan
 Mohsin, Shri F. H.
 Mukhopadhyay, Shri Ananda Gopal
 Mundackal, Shri George Joseph
 Muthry, Shri M. V. Chandrashekara
 Marugian, Shri S.
 Nagina Rai, Shri
 Nandi Yellaiah, Shri
 Nikhra, Shri Rameshwar
 Panday, Shri Kedar
 Panigrahi, Shri Chintamani
 Panika, Shri Ram Pyare
 Parashar, Prof. Narain Chand

*Wrongly voted for AYES.

Pardhi, Shri Keshao Rao
 Patil, Shri A. T.
 Patil, Shri Balasaheb Vikhe
 Patil, Shri Chandrabhan Athare
 Patil, Shri Shivraj V.
 Patil, Shri Vasant Rao
 Potdukhe, Shri Shantaram
 Quadri, Shri S. T.
 Rahim, Shri A. A.
 Rajamallu, Shri K.
 Ranga, Prof. N. G.
 Rao, Shri M. Nageswara
 Rao, Shri M. Satyanarayan
 Raut, Shri Bhola
 Reddy, Shri K. Brahmananda
 Reddy, Shri K. Vijaya Bhaskara
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Venkata
 Sahi, Shrimati Krishna
 Sathe, Shri Vasant
 Sabastian, Shri S. A. Doraj
 Shanmugam. Shri P.
 Sharma, Shri Chiranji Lal
 Shastri, Shri Dharam Dass
 Shingda, Shri D. B.
 Shiv Shankar, Shri P.
 Stephen, Shri C. M.
 Sukhadia, Shri Mohan Lal
 Sukhbuns Kaur, Shrimati
 Tayeng, Shri Sobeng
 Thorat, Shri Bhausahab
 Tripathi, Shri Kamalapati
 Varma, Shri Jai Ram
 Zail Singh, Shri

MR. DEPUTY-SPEAKER: Subject to correction, the result* of the division is

Ayes: 45;

Noes: 87

The motion was negatived.

MR. DEPUTY-SPEAKER: The question is:

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill

Clause 3—Power to prohibit strikes in certain employments)

MR. DEPUTY-SPEAKER: Shri Mahalgi is not present. Now Shri Ram-avtar Shastri.

SHRI RAMAVATAR SHASTRI (Patna): I beg to move:

Page 3, lines 32 and 33,—

For "six months" substitute "one month". (26)

Page 3, line 34—

for "six months" substitute "fifteen days" (27).

दोसे तो मैं इस बिल को ही गलत मानता हूँ । हम इसके विरोधी हूँ । लेकिन इन लोगों ने अपने बहुमत से इसको पास करवाना है । इसलिए एमेंड-मेंट के जरिये इसका कुछ असर हम कम करवाना चाहते हैं । यही मेरा एमेंडमेंट का मकसद है । मैं जानता हूँ कि आप लोग मानने वाले नहीं हैं । फिर

*The following Members also recorded their votes:

AYES: Shri Ashfaq Hussain, Shri Ghulam Mohammad Khan, and Shri A. K. Balan;

NOES: Shri K. C. Sharma, Shri Chakradhari Singh, Shri S. S. Ramaswamy Padyachi, Shri Shiv Kumar Singh, Shri R. Y. Ghorpade. Shri Oscar Fernandes, Shri Navin Ravani, Dr. Shankar Dayal Sharma, Shri Sajjan Kumar, Shri R. Muthu Kumaran, Shri K. B. S. Mani, and Shri Bindeshwari Dubey.

भी हमारा कर्तव्य है कि हम आपको नेक सलाह देने की कोशिश करें। धारा 3 में आपने आवश्यक सेवाओं में हड़तालों पर रोक लगाने की बात कही है और उसकी अवधि के बारे में कहा है कि छः महीने की अवधि के लिए आप हड़तालों पर रोक लगाना चाहते हैं और बाद में अगर जरूरी समझेंगे तो इस अवधि को और छः महीने बढ़ाया जा सकता है। इसका मतलब यह हुआ कि एक साल तक आप इन हड़तालों पर रोक लगाना चाहते हैं। एक साल तक आप किसी को मंत्री सवालों को लेकर यह या सदी मार्गों को ले कर हड़ताल पर जाने नहीं देना चाहते हैं। हड़ताल करना, माउज बनाना यह हर किसी का संवैधानिक अधिकार है। सत्रियान ने जो यह अधिकार लोगों को दिया है उससे आप लोगों को महसूस करना चाहते हैं। इसको हम पसन्द नहीं करते हैं। इसलिए मैं ये चाहता हूँ कि जहाँ आपने छः महीने की अवधि की बात कही है वहाँ आप इस अवधि को एक महीना कर दें। और आगे भी आप अगर रोक को जारी रखना चाहते हैं तो पंद्रह दिन कर दें। यही मेरे प्रमेडमेट है।

SHRI YOGENDRA MAKWANA: It cannot be done because we have to keep a record....

MR. DEPUTY-SPEAKER: Mr. Shastri, are you withdrawing the amendment?

SHRI RAMAVATAR SHASTRI: No.

MR. DEPUTY-SPEAKER: The question is:

Page 3, lines 32 and 33,—

for "six months" substitute "one month" (26)

Page 3, line 34,—

for "six months" substitute "fifteen days" (27)

The motion was negatived.

MR. DEPUTY-SPEAKER: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4—Dismissal of employees participating in illegal strikes)

MR. DEPUTY-SPEAKER: Shri R. K. Mhaigi is not present. Now Shri Ramavatar Shastri.

SHRI RAMAVATAR SHASTRI: I beg to move:

Page 3, line 44,—

omit "(including dismissal)" (28)

Page 3, line 46,—

omit "(including dismissal)" (29)

क्लाज चार में जो हड़ताल करेगे उनको मजा देने का प्रावधान किया गया है। यह कहा गया है कि इन उपबन्धों के अन्तर्गत जो हड़ताल में भाग लेगा उसके खिलाफ अनुशासनात्मक कार्रवाई की जा सकती है और इस अनुशासनात्मक कार्रवाई में डिसमिसल भी शामिल है। यह बहुत ही जोरदार चोट मजदूरों के अधिकार पर की गई है। आप अनुशासन की कार्रवाई करे इसके तो में समझ सकता हूँ। अनुशासन की कार्रवाई बहुत तरह की हो सकती है। लेकिन हड़ताल में भाग लेने वाले का डिसमिसल भी कर सकते हैं यह जनतांत्रिक उद्देश्यों के बिल्कुल खिलाफ है, उस पर चोट है। इसलिए मैं चाहता हूँ कि यह जो पदच्युति है इसको आप हटा दें। इसको हटाने से मेरे खयाल में आपका बहुत अहित नहीं होगा। नहीं हटाने है तो यही समझा जाएगा कि उसको आप डंडे के बल पर नौकरी से निकाल देंगे, उसके बाल बच्चों को भूखी मारने की स्थिति में डाल देंगे, जो बिल्कुल ही उचित नहीं है। इसलिए मेरा निवेदन है इसको आप निकाल दें।

MR. DEPUTY-SPEAKER: Now I put amendments nos. 28 and 29 moved by Shri Ramavatar Shastri to the vote of the House.

Amendments Nos. 28 and 29 were put and negatived.

MR. DEPUTY-SPEAKER: The question is:

"That Clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5—(Penalty for Illegal Strikes)

SHRI RAMAVATAR SHASTRI: I beg to move:

[Shri Ramavatar Shastri]

Page 4, line 4,

for "six months" substitute "one week" (30)

MR. DEPUTY-SPEAKER: Now I shall put amendment no. 30 moved by Shri Ramavatar Shastri to the vote of the House.

Amendment No. 30 was put and negatived.

MR. DEPUTY-SPEAKER: The question is:

"That Clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6—(Penalty for instigation etc.)

SHRI RAMAVATAR SHASTRI: I beg to move:

Page 4, line 9,—

for "one year" substitute "one week" (31)

Page 4, line 9,—

for "two thousand" substitute "ten" (32)

MR. DEPUTY-SPEAKER: Now I shall put amendments nos. 31 and 32 moved by Shri Ramavatar Shastri to the vote of the House.

Amendments Nos. 31 and 32 were put and negatived.

MR. DEPUTY-SPEAKER: The question is:

"That Clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7—(Penalty for giving financial aid to illegal strikes)

SHRI RAMAVATAR SHASTRI: I beg to move:

Page 4, lines 13 and 14,—

for "one year" substitute "one week" (33)

Page 4, line 14,—

for "two thousand" substitute "ten" (34)

MR. DEPUTY-SPEAKER: Now I shall put amendments nos. 33 and 34 moved by Shri Ramavatar Shastri to the vote of the House.

The Amendments Nos. 33 and 34 were put and negatived.

MR. DEPUTY-SPEAKER: The question is:

"That Clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8—(Power to arrest without warrant)

SHRI RAMAVATAR SHASTRI: I beg to move:

Page 4, line 17,—

omit "without" (35)

Page 4, line 17.—

before "warrant" insert "on the basis of" (36)

उपाध्यक्ष महोदय, मैं एक बात कहना चाहता हूँ। बिना वारण्ट के गिरफ्तारी की व्यवस्था इस बिल में की गई है जो किसी भी जननातिक मुक्त से नहीं होनी चाहिए। अगर हम कोई गलती करते हैं तो वारण्ट दिखाइये गिरफ्तारी का और गिरफ्तार कर के ले जाइये। यह सारा अधिकार आपको प्राप्त है, लेकिन बिना वारण्ट के किसी को जेलखाने में रखना, किसी भी जनतंत्र में इसकी इजाजत नहीं दी जा सकती। लेकिन मैंने आश्चर्य है कि जो दिनरात जनतंत्र की माला जपने वाले हैं, बिना वारण्ट के किसी को गिरफ्तार कर लें। आपको पुलिस कैसी है, इसका बखान कल कर चुके हैं, आज भी आपने देखा कि मध्यप्रदेश में किस तरह में लडके

के सामने मां का रेप करवाया गया। यह आप जानते हैं। तो पुलिस बही है, इसको इतना बड़ा अधिकार आप दे रहे हैं, मैं समझता हूँ कि यह बहुत ही अधिक है।

इसलिए मैं चाहूंगा कि कम-से-कम वारण्ट निकालिये। (व्यवधान) शास्त्री जी को या किसी को चाहे जब जेल में ले चलिए, लेकिन बिना वारण्ट के किसी को गिरफ्तार करना गलत है। इसका मैं विरोध करता हूँ।

SHRI YOGENDRA MAKWANA: I oppose this amendment.... There is nothing new.... It is a mere reproduction of Section 41 of the CPC.

MR. DEPUTY-SPEAKER: Now I shall put amendments nos. 35 and 36 moved by Shri Ramavatar Shastri to the vote of the House.

Amendments Nos. 35 and 36 were put and negatived.

MR. DEPUTY-SPEAKER: The question is:

“That Clause 8 stand part of the Bill.”

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9 was added to the Bill.

Clause 10 was added to the Bill.

Clause 11 was added to the Bill.

Clause 1—(Short title and extent)

SHRI G. M. BANATWALLA: I beg to move:

Page 1,—

after line 5, insert—

“(3) The Act shall cease to be in force on the revocation of the Proclamation, dated the 12th December, 1979, in respect of Assam, issued under article 356 of the Constitution by the President, or on the said Proclamation ceasing to operate.”(1)

This is the most reasonable amendment that I seek to place before the House. We are told and correctly that this Bill is sought to be made a law in the context of the situation prevalent

in Assam. The hon. Minister says in his Statement of Objects and Reasons.

“The mass movement in Assam in connection with the foreign nationals issue had been taken advantage of by disruptive forces to seriously affect the maintenance of supplies and services essential to the life of the community . . .”

Every word of what is stated here is borne out by the situation in Assam and therefore, in view of the situation prevalent in Assam this Bill has been brought. It is logical, therefore, that the life of this Bill should be restricted to the life of the proclamation that the President has issued with respect to the situation in Assam. I, therefore, hope that this Amendment will be accepted.

I may remind the Government that even the Government by what is stated in its aims and objects does not intend this measure which contains draconian powers to be a normal piece of legislation. This Bill does not represent as I understand the ideology or the philosophy of the Ruling Party towards labour or industrial relations. It is because of the situation in Assam that their hands were forced to bring such a Bill and this was because of the situation in Assam that I also most reluctantly extended my support to the Bill, though with certain reservations. It is quite obvious that if this is not to be a normal piece of legislation and must not be a normal piece of legislation, then the life of this Bill must be restricted to the life of the proclamation issued by the President with respect to Assam and the sweeping powers under it should not continue for even a single day or a single second after the restoration of normalcy in Assam. Therefore, I make a very fervent plea that the Government should accept my amendment in order to see that the Bill lapses the moment the proclamation of the President with respect to Assam lapses. I hope the Government will accept this particular amendment.

SHRI YOGENDRA MAKWANA: I cannot accept the amendment. By virtue of article 357(2) of the Constitution, any law made by the Parliament during the period of proclamation under article 356 shall continue in force until altered or repealed or amended by a competent legislature. Although according to this provision in the Constitution, there is no bar regarding the period of validity or enforceability of an Act made by Parliament during the continuance of the proclamation, the provisions of the Act relating to the State field will become inoperative after the revocation of President's rule. As soon as the State legislature is revived, the necessary legislation in the State field will be considered afresh by the State legislature. The provisions of the Act relating to the central field will remain operative and the position will be reviewed at the time of the revocation of the President's rule. The Act is being enacted specifically in the context of the current situation in Assam and it is, therefore, not considered necessary to prescribe any time limit for the life of the Act. The amendment proposed by Shri Banatwalla in this regard is therefore opposed by me.

In view of the position as explained by me, I request him to withdraw his amendment.

MR. DEPUTY-SPEAKER: He has made a request to you to withdraw the amendment. Are you withdrawing it?

SHRI G. M. BANATWALLA: No, Sir. I am pressing it.

MR. DEPUTY-SPEAKER: I shall now put amendment No. 1 moved by Shri Banatwalla to the vote of the House.

Amendment No. 1 was put and negatived.

MR. DEPUTY-SPEAKER: The question is:

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

The enacting Formula and the Title were added to the Bill.

SHRI YOGENDRA MAKWANA: I beg to move:

"That the Bill be passed."

MR. DEPUTY-SPEAKER: The question is:

"That the Bill be passed."

The motion was adopted.

MR. DEPUTY-SPEAKER: I shall now put the statutory resolution moved by Shri Makwana. The question is:

"That in pursuance of sub-section (2) of section 2 of the Essential Services Maintenance (Assam) Ordinance, 1980 (No. 2 of 1980), this House approves the issue of Government of Assam, Political (A) Department, Notification No. PLA-334/80/7, dated the 7th April, 1980, declaring the services in connection with the production, supply and distribution of water and electricity including the services under the Assam State Electricity Board Constituted under the Electricity (Supply) Act, 1948, to be essential services for the purposes of the said Ordinance."

The motion was adopted.

SHRI HARIKESH BAHADUR (Gorakhpur): Sir, I have tabled an amendment and I wanted to move it. But you did not call me. This Bill is *ultra vires*.

MR. DEPUTY-SPEAKER: Your amendment to clause 2 was the same as that of Shri Banatwalla. I told you that.

SHRI HARIKESH BAHADUR: He has spoken and I should have also spoken. Actually, they are in a hurry

in adopting this Bill because they want to suppress the people of this country. In fact, I do not want to come in their way because that process will open the way to the disaster of this Government.

12 hrs.

**ASSAM STATE LEGISLATURE
(DELEGATION OF POWERS) BILL**

MR. DEPUTY-SPEAKER: Now, we take up Assam State Legislature (Delegation of Powers) Bill.

THE MINISTER OF HOME AFFAIRS (SHRI ZAIL SINGH): I beg to move*:

"That the Bill to confer on the President the power of the Legislature of the State of Assam to make laws, be taken into consideration."

The House is aware that the proclamation dated 12th December, 1979 made by the President under Article 356 of the Constitution in relation to the State of Assam provides *inter alia* that the power of the State Legislature shall be exercised by or under the authority of Parliament. The Bill, therefore, seeks to confer on the President the power of the State Legislature to make laws in respect of the State. It has been the normal practice to undertake such legislation in relation to the States under the President's rule and the present Bill is on the usual lines.

Provision has been made in the Bill for the constitution of a consultative committee consisting of 45 Members of Parliament. In this regard, provision has also been made to empower Parliament to direct modification in the laws made by the President, if considered necessary.

I request the hon. House to accept the legislative proposal before it.

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill to confer on the President the power of the Legislature of the State of Assam to make laws, be taken into consideration."

SHRI A. K. ROY (Dhanbad): I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 16th August, 1980."
(15)

SHRI MUKUNDA MANDAL (Mathurapur): Mr. Deputy-Speaker, Sir, I oppose the Assam State Legislature (Delegation of Powers) Bill because this is an anti-democratic measure.

Sir, when this Bill was introduced, we opposed this Bill because if such a Bill is passed, the democratic institutions in the country will be disrupted. This Bill confers on the executive all the powers to frame any law including laws on finance and taxation.

In a democracy, laws are framed with the participation of the people's representatives. When the executive is given power to frame laws, the sentiments and the aspirations of the people will not be reflected in those laws. So, through the delegation of power, the actual power of the people and actual rights of the people will be subverted. For whose interest the executive will function? For whose interest the laws will be framed? If the people are not empowered to frame laws or the representatives are not empowered to frame laws, for whom the laws will be enacted? Here, you say that the Parliament has been authorised to enact laws. But as soon as the Bill is passed, the executive will get the power to enact laws. So, I think, the whole Parliamentary

*Moved with the recommendation of the President.