[Mr. Speaker]

in foodgrains and other foodstuffs and for matters connected therewith and incidental thereto."

The motion was adopted.

Shri T. T. Krishnamachari: Sir, I †introduce the Bill.

12.47 hrs.

INDUSTRIAL DISPUTES (AMENDMENT) BILL—*contd.*

Mr. Speaker: The House will now proceed with the further consideration of the following motion moved by Shri D. Sanjivayya on the 1st October, 1964, namely:—

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

Has any time-limit been fixed for this?

The Minister of Labour and Employment (Shri D. Sanjivayya): Four hours.

Mr. Speaker: And one hour and fifteen minutes remain, I understand.

Shri Bade (Khargone): What about our motion?

Mr. Speaker: I will consider, I will see.

Shri Sezhiyan (Perambalur): I would like to seek one clarification regarding the adjournment motion to be discussed at four o'clock. Will it be only the Kerala situation or the whole food situation?

Mr. Speaker: It is only the adjournment motion that is being taken up.

Shri Sezhiyan: What about Madras?

Shri Umanath (Pudukkottai): The question is whether it will also include Madras State also.

Mr. Speaker: I have replied that only the adjournment motion will be taken up.

Shri S. M. Banerjee (Kanpur): The motion about Tamilnad and other places, that has not been rejected by you. I feel that an opportunity should be given to us to put our viewpoints on them also.

Mr. Speaker: If the Members desire, I will have no objection.

Shri Nambiar (Tiruchirapalli): The hon. Minister said this morning that he is agreeable for a debate on the food situation.

Shri Ranga (Chittoor): But the Speaker himself has said that he has no objection.

Shri Nambiar: I would submit that the situation in the other States can be discussed in a separate discussion apart from that on the adjournment motion.

Mr. Speaker: The Members might decide among themselves. I have no objection.

Shrimati Renu Chakravartty (Barrackpore): He has forgotten to include Madras also in his adjournment motion.

Shri Hem Barua (Gauhati): May I know when the hon. Minister is going to make his statement on the situation in Nagaland? Since the situation there is highly dangerous, I would like to know when the hon. Minister is going to make the statement.

Mr. Speaker: I have already told hon. Members that as regards what they have not been informed of, I shall take them up one by one. I

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†Introduced with the recommendation of the President.

could not deal with today's notices, because there were certain Members...

Shri Hem Barua: It can be taken up tomorrow. If you fix some time today, then we might not be available or present here to ask questions.

Mr. Speaker: I am not taking up any other calling-attention notice or any other thing today.

Now, Shri V. B. Gandhi may continue his speech on he Industrial Disputes (Amendment) Bill. Perhaps, he is surprised that he has to continue?

Shri V. B. Gandhi (Bombay Central South): I know that I have to continue.

Mr. Speaker: It is not necessary that he should continue. If he does not want to continue, I can call the next hon. Member.

Shri V. B. Gandhi: I do most earnestly want to continue.

Mr. Speaker: Then he may proceed with his speech.

Shri V. B. Gandhi: Yes, I am proceeding with my speech.

This Bill has to be whole-heartedly, supported for the reason that it brings forward certain very important changes in the existing Act. These changes will promote both industrial peace and the habit of voluntary arbitration in this country. I shall just briefly mention three of the changes which are noteworthy which this Bill has brought about. The first is in respect of relaxation of the qualifications that are required for making an officer eligible for appointment as a presiding officer of a tribunal. In the old days, before this new provision was made in this Bill, there used to be a position which was rather anomalous. For instance, an officer presiding over a tribunal was not eligible to preside over a Labour court. A tribunal has wider authority over a wider sphere, and yet he was not permitted or he was not considered eligible to preside over a labour court. Now, that anomaly has been removed, and it has been removed in a manner that has not in any way affected the standard of justice that is dispensed in these tribunals.

I only hope that this relaxation in the qualifications of these presiding officers will enable the Government to appoint more of these presiding officers, and will also help in speeding up and clearing the long-standing arrears which have been a feature of these courts in the past.

The second point is about the cases where the parties agree to have voluntary arbitration. It is provided in this new Bill that an arbitration award shall have the same binding force as the award of a tribunal. Now, that is a very important provision, to my mind. Another provision is that these awards shall have the same binding effect on all persons in the establishment. Under the existing Act, as we know, these awards had binding effect only on those who were parties to the arbitration. But now that is not so. There is, of course, the pre-condition that the parties to this arbitration will be parties which will represent a majority of each side—employers and employees. That is the correct position, and the position as it should be. The new position now which is binding on all the employees in the establishment will naturally encourage the habit of resorting to voluntary arbitration by employers.

Finally, for the purpose of giving notice of termination of an award, it was permitted under the existing Act that any group of employees, not necessarily a majority of employees, would suffice. In fact, that was the opinion of the Supreme Court in this matter. But now the new provision has made a very important change and that change is that a majority of workmen bound by the settlement or

[Shri V. B. Gandhi]

award is necessary for notice of termination of an award. That is a very important and essential safeguard from the point of view of the interests of the workers. Such a majority alone has the right, and can have the right, to terminate an award. That is the right position. What other position could be taken in a matter like this?

It is surprising that there are still some in this House who do not subscribe to this view. For instance, Shri Homi Daji still believes in the *status quo*, that is to say, the position in which it was considered not necessary to have a majority of workmen asking for termination of an award. That would be a reversal of the entire trend and direction in which our legislation wants to move. That would really mean that a minority would be vested with a power to veto the desire or wish of the majority. Such a position would obviously be untenable, undemocratic and unscientific. A minority should not be allowed to take action especially in disregard of the interests of the entire body of the other workmen.

Finally, there are several amendments given notice of. Among these, I would whole-heartedly support....

Mr. Speaker: Are they his own or some other Member's?

Shri V. B. Gandhi: Some other Members'.

Mr. Speaker: Then he can give his support at that time. It ought to be the job of the Minister to deal with them.

Shri V. B. Gandhi: I am concluding.

I would strongly support the amendment tabled jointly by Dr. Melkote and Shri A. P. Sharma. From the speeches made in this House, it was apparent that there was a general agreement with the tenor of this amendment. That agreement came from all sides of the House.

Mr. Speaker: This support of the hon. Member would be buried down in the general discussion. When the amendment stage comes, he might give his support.

Shri D. Sanjivayya: There is one other factor. All those amendments were tabled during the last session and have all expired. Mine is the only amendment which has been renewed.

Shri S. M. Banerjee: My amendment is there.

Shri Dinen Bhattacharya (Serampore): How do they expire?

Mr. Speaker: So he is giving support to an expired amendment!

Shri V. B. Gandhi: I have done.

Shri S. M. Banerjee: Generally, I would have welcomed certain provisions of this Bill. It was the long desire of trade unions, both in the public and private sectors, to have a comprehensive legislation on industrial disputes. This Act was passed in 1947. The intention was to avoid any dislocation in work or cessation of work in an industry, and to establish industrial harmony in industrial units.

After the passage of the 1947 Act and subsequent amendments—I do not want to add to what has been said by Shri Daji, how it has been amended from time to time—the question arises whether all these amendments have served the purpose. My answer is, no.

Now, this particular amendment is being brought. There are certain clauses which are welcome features and I would like to throw some light on them. But what the trade unions wanted, even after all these amendments, is a matter to be reconsidered by Government. Take the suggestion of Shri Daji for another meeting with the trade unions, the central trade

union organisations, AITUC, INTUC, HMS asd ,UTUC. The hon. Minister had an opportunity afforded by these 1½ or 2 months, but I am sorry to say he did not think it proper to convene a meeting of that nature to thrash out the points in dispute. While initiating the debate, he said that this is in pursuance of the tripartite decisions, decisians taken or agreements reached in tripartite conferences like the Indian Labour Conference. We want that industrial harmony should be maintained on the basis of those conventions and agreements. I am one of those who support these agreements. I still want specially in the public sector, and even in the private sector, that there should be no strikes.

What is the outcome of all that? Does Government respect its own decision, the decision on unanimous agreement reached by the Labour Conference? For instance, the first decision, which was hailed by all trade unions throughout the country, whether in the public sector or private sector, was the recommendation of the 15th Labour Conference about a minimum wage. That was not accepted by Government. Even when this question was referred to the Pay Commission, they said it was not mandatory, it was just a recommendation, it was open to Government to accept or reject it. If this is the fate of the unanimous recommendations of the tripartite Indian labour conferences, I do not know what is going to be the fate of labour under this Government.

13.00 hrs.

Nearly 1,800 workers belonging to the Central Roadways Workshops in Kanpur are on strike, and today is the 67th day. This strike has not been engineered or organised by the Opposition, The union is affiliated to the INTUC, and the president of this union is a Member of the other House, Shri Arjun Arora, who is very well known for his reasonableness and maturity in the trade union world. There were eleven demands of the workers, and only because three were referred to arbitration unilaterally, the whole strike has been declared illegal, and even after 67 days the workers have not been taken back and the strike continues.

We are talking of arbitration and adjudication in this Bill. These workers in Kanpur only wanted an arbitrator to be appointed. The Chief Minister agreed in principle, and the Labour Minister wanted to go to the rescue of these workers, but only because one person, the Secretary of the Transport Department of the U.P. Government, has made it a question of prestige, there is no settlement. I would request the hon. Minister, who has a heart which bleeds for labour, to come to the rescue of these people and appoint an arbitrator. I say on behalf of that union, and its President, Shri Arjun Arora, that we are prepared to accept the Chief Labour Commissioner or anybody else as arbitrator, so that the dispute may be settled.

Another case is that of Bharat Electronics. What is the fate of arbitration awards there? One Mr. Louis, an employee, was dismissed from service, and the question was referred to an arbitration board, which decided to reinstate him and awarded him a cost of Rs. 250. The management of this public undertaking went to the High Court of Mysore, and there is a protest hunger strike going on, and a one-day token strike. Is it not against the trade union movement and the Industrial Truce Resolution to go in appeal to the High Court against an arbitration award?

There is a strike going on in the Chipping and Painting Department of the Bombay docks. Some representatives wanted to meet the Minister yesterday, but he had no time. If these things continue, then all our efforts to improve the lot of the workers through legislation which aims at establishing a socialist society will be futile.

[Shri S. M. Banerjee]

I mention these three cases because they are before us today. As regards Kanpur, I would request the Minister to intervene and see that the dispute is settled.

Then I come to the various aspects of the Bill. It is most surprising that the code of discipline has not been implemented in public undertakings, nor in the railways, Defence or posts and telegraphs. Why was it passed at all, why was it accepted unanimously?

What has happened to the Whitley Council? In 1960, when the Central Government employees' strike took place, it was the late lamented Pandit G. B. Pant who initiated this and said that he wanted to make strikes superfluous by introducing either compulsory or voluntary arbitration and adjudication. That was the spirit, and he wanted to bring some sort of negotiating machinery on the model of the Whitley Council. What has happened to that? When we ask the Labour Minister, we are told it is the Home Minister who is the sole custodian of this Whitley Council; when we contact the Home Minister, we are told the Labour Minister has been asked to convene another meeting. Why is a negotiating machinery being denied to the Central Government employees in this way? Today, nearly two lakhs of civilian employees in Defence are taking a strike ballet. They only want a wage board and a negotiating machinery. For getting a negotiating machinery, they have to take a strike ballot. I do not know what is going to happen in the public sector and how industrial relations can improve in this way.

It has been stated in the Bill:

"Where an industrial dispute has been referred to arbitration and a notification has been issued under sub-section (3A), the appropriate Government may, by order, prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference."

I can understand that. I do not want illegal strikes or lock-outs, but if there are eleven points of dispute, one is referred by the management, and that also in a distorted manner which takes out the very essence of it, and if the workers want to go on strike on account of the other ten points, they are prohibited on the ground that one point has been referred to arbitration, with the result that they meet with the same fate as the Central Roadways Workshop workers in Kanpur. This is very defective. The whole thing should be referred to arbitration, if conciliation fails. By referring only one demand to arbitration, out of eleven, we cannot possibly ask the workers not to go on strike. The other demands may be vital and burning ones; by referring one insignificant demand to arbitration, you cannot compel the workers from going on strike. This will be a bad thing.

In U.P., Bihar and other States, it is very difficult to get a reference. I may refer to the case of J.K. Rayon workers, 130 of whom have been dismissed from service after a strike. The question was referred to the Labour Commissioner of U.P. Government and to the Labour Department including the Chief Minister and Labour Minister. Ultimately, when a reference was not made, we actually made an application to Shri Nanda, who was then Labour Minister. Relying on his various assurances given in public meetings, we requested him for reference to arbitration or adjudication. It was denied, even the Centre did not come to the rescue of these workers; they said it was a State matter, though we had exhausted all the channels in the State. Similarly, in the case of Behedia, where 13 to 14 workers were involved, the reference was denied. So, reference should not be made only on flimsy grounds,

and it should not be denied if the employer does not want it.

Sometimes the Chief Labour Commissioner and the Regional Labour Commission, with all their ability, behave towards public sector employers like a helpless widow in a conservative Hindu society, trusting everybody and not doing anything. We know what happened in Bhopal. One senior officer of the rank of Additional Secretary, I believe, Mr. R. L. Mehta, was appointed as special officer for dealing with Bhopal, for making necessary enquiries and investigations. Was he given any co-operation by the Ministry concerned or by the Heavy Electrical Corporation? No. The net result was nil. He was not even allowed to meet certain trade unionists and the dispute continues. Today out of 50 or 60 people arrested, nearly 38 might have been released, people arrested under the DIR. That is the sort of labour relations, whether it is Bhopal or Rourkela or Bhilai or Durgapur, and the fate of the worker in the public undertakings is gloomy. I request the hon. Minister to put his foot down on this attitude. His words must carry weight with the other Ministries, whether it is the Steel Ministry or Railways or Defence. But they do not pay heed to the Labour Ministry; they have their own way and evolve their own procedure. If a code of discipline has been accepted, it has been accepted by all and it has to be implemented.

Then, there is the question of the representative character of the union and the majority union. I have the greatest regard for my friend. Mr. V. B. Gandhi. He criticised Mr. Homi Daji merely because he is in the Opposition. What did he say? How do we judge the representative character of the union? I say that it should be judged by a secret ballot. That is the only democratic method of judging the representative character. Mr. Gandhi defeated Mr. Dange. He was surprised. Still, because the decision was made by a secret ballot, we accept Mr. Gandhi as the representative of a particular constituency. Similarly, why cannot the Labour Ministry bring forth legislation to judge a union's representative character by secret ballot? I am sorry to say this. Mr. Kashi Nath Pandey is here; he is supposed to represent the biggest trade union in the country, INTUC. They are unable to face the ballot. Whether it be the labour-partnership-in-management scheme or any scheme, no scheme can be implemented unless we have one union, one industry. When Mr. Giri was the Labour Minister, he had mentioned about it; he wanted to practise his ideology and philosophy of one union, one industry. But the verification method was found to be incorrect. When we can decide the fate of this country by secret ballot, why should we bid goodbye to this most democratic method while ascertaining the representative character of a union?

I may not be here to move my amendment as I have to be away at 3.30 and so I move my amendment, which says that after 'Act', insert (a) in sub-section (1) for the words "it may", the words 'it shall' shall be substituted.

Mr. Speaker: How can I take it as moved at this time?

Shri S. M. Banerjee: The Minister may accept my amendment. Anyhow, it has come in my speech.

Mr. Speaker: The Minister may answer it. But he said in his speech "I move". How can that be moved?

Shri S. M. Banerjee: I am speaking on my amendment and if the Minister likes he can incorporate my amendment in the Bill: "after a secret ballot of the entire workers of the factory or the establishment". That is my amendment to clause 6.

I would finish in a minute, Sir. Lastly, I would again plead for his intervention in the matter of Bharat

[Shri S. M. Banerjee]

Electronics and Kanpur Central Roadways Workshops where defence stores are manufactured and defence vehicles are serviced. There is no communist or socialist; it is a purely hundred-per-cent INTUC union though some of my INTUC friends do not see eye to eye. The Labour Minister of U.P. has failed and the Secretary of that particular department goes on bullying even the Chief Minister by saying: I will resign if a settlement is reached. 1800 workers are facing starvation for the last 67 days and I would urge upon him to come to the rescue of the workers. With these words I support certain aspects of this Bill, while I oppose others and I would have congratulated the hon. Minister had he thought it fit to discuss ways or means of settling the differences.

श्री याज्ञिक (अहमदाबाद) : अध्यक्ष महोदय, इस बिल के बारे में कई चीज़ें जो हमारे भाई श्री बनर्जी ने कही हैं मैं उन की ताईद करता हूं । मेरा तजुर्बा बहुत लम्बा नहीं है मगर हम ने देखा है कि जो यूनियन को प्रतिनिधित्व मिलता है उस का एक तरह का बड़ा सितम सब कामदारों पर चलता है । प्रतिनिधित्व किसका है, यह एक बड़ा पेचीदा सवाल है । अहमदाबाद में और सारे हिन्दुस्तान में इस के बारे में बहुत चर्चा होती है । जो यूनियन प्रतिनिधित्व रखती है उस को कई सुविधाएं मिलती हैं, वह कारखाने में अपने मेम्बरान बना सकती है और इस वजह से उस की ज्यादा सदस्य-संख्या होती है और जो नयी यूनियन बनती है उस के लिए सुविधा न होने की वजह से और चूंकि कारख़ाने के बाहर उस को अपना काम करना होता है इस वजह से, हालांकि उस की नीति, उस की सब कार्यवाही ज्यादा कामदारों को पसन्द है, फिर भी वह प्रतिनिधित्व नहीं पाती है । इस हालत में जो नई यूनियन होती है, प्रगतिशील होती है, सच्ची समाजवादी यूनियन होती है, उस की तकलीफ़ के निवारण करने के लिए यह बड़ी ज़रूरी चीज़ है कि कभी कैंटीन का चुनाव करना हो तो सीक्रेट बैलेट से होता है, प्राविडेंट फंड की कमेटी बननी है तो सीक्रेट बैलेट से होती है और क्रेडिट सोसाईटी का चुनाव भी सीक्रेट बैलेट से होता है । कितनी ही चीजें सीक्रेट बैलेट से होती हैं । मैं अदब से अपने मंत्री महोदय को कहना चाहता हूं कि यह जो आप क़ायदे, क़ानून में तबदीली करते हैं और प्रतिनिधित्व रखने वाली यूनियन को हम ज्यादा सुविधा देना चाहते हैं तो प्रतिनिधित्व किस का होना चाहिए इस बारे में भी सोचना होगा और इस बारे में यह सीक्रेट बैलेट की पद्धति से ही भारत को फैसला करना होगा ।

अगर कोई मामला कनसिलियेशन या आर्बिट्रेशन के लिए भेजा जाता है या इंडस्ट्रियल कोर्ट में भेजा जाता है, तो कानून के मुताबिक उस के बारे में हड़ताल नहीं हो सकती है । जैसा कि माननीय सदस्य, श्री बनर्जी, ने कहा है, झगड़ों की बड़ी लम्बी सूची होती है और उन पांच, दस, बीस, पच्चीस झगड़ों में से मालिक लोग दो-चार ले लेते हैं और उन के बारे में अपनी सम्मति देते हैं कि उन को आगे बढ़ाया जाये, कोर्ट में भेजा जाये या आर्बिट्रेशन के लिए भेजा जाये । इस वजह से जो बाकी झगड़े के सवालात रहते हैं, उन के बारे में कोई हड़ताल नहीं हो सकती है । यह मुमकिन है कि जो सवालात कनसिलियेशन के लिए भेजे जाते हैं या इंडस्ट्रियल कोर्ट में भेजे जाते हैं, वे इतने बड़े नहीं होते हैं, जब कि बाकी के सवालात ज्यादा ज़रूरी और महत्वपूर्ण होते हैं । इसलिए यूनियन को यह छूट होनी चाहिए कि जो सवालात कोर्ट को नहीं भेजे गये हैं या कनसिलियेशन के लिए नहीं भेजे गये हैं, अगर वह उन के बारे में हड़ताल करना चाहे, तो उस को हड़ताल करने का हक़ हो । ऐसी हड़ताल को ग़ैर-कानूनी करार देने से कामदारों को तकलीफ़ होती है । मैं

चाहता हूं कि इस बारे में भी सोचा जाये और कानून में ठीक ढंग से सुधार किया जाये ।

एक बड़ी मुसीबत जो मैं ने देखी है, वह यह है कि बड़े छोटे कारख़ाने में जो कोई भी कामदार या कर्मचारी मालिक और मैनेजमेंट के ख़िलाफ़ आवाज़ उठाता है, उस के ख़िलाफ़ फ़ौरन कार्यवाही शुरू हो जाती है । अगर हड़ताल की बात आई, तो फिर मामला बिगड़ जाता है । कारख़ाने के व्यवस्थापक बराबर इस बात का ख़याल रखते हैं कि अमुक आदमी यूनियन का काम करता है, अमुक आदमी असंतोष फैलाता है, अमुक आदमी बार-बार फ़रियाद रखता है और कोर्ट की कार्यवाही में भी आगे बढ़ता है । जब कोई मौका आता है, तो व्यवस्थापक लोग उस आदमी पर फ़ाइन करते हैं, उस को शो-काज़ नोटिस देते हैं और आख़िर में उस को निकाल देने का भी हुक्म देते हैं । यह बड़ी तकलीफ़ की बात है ।

मैं निवेदन करना चाहता हूं कि यूनियन बनाना हमारे संविधान के मुताबिक हमारा एक प्राथमिक हक़ है, लेकिन जो लोग यूनियन का काम करते हैं, उन्हीं की छंटाई होती है, उन्हीं पर मालिकों का हथौड़ा पड़ता है, उन्हीं की किसी ना किसी तरह से परेशान करने की बड़ी कोशिश की जाती है । मैं बड़े अदब के साथ कहना चाहता हूं कि अगर भारत में कोई सच्चा जेलख़ाना है, तो वह ये बड़े-बड़े कारख़ाने और बैंक आदि हैं । जेलख़ानों में भी किसी को सज़ा देने के लिए कोई कानून होता है । वहां पर आक्षेप करने वाला एक आदमी होता है और उस पर न्याय देने वाला कोई दूसरा आदमी होता है और उस के फ़ैसले पर भी अपील हो सकती है । लेकिन हम कारख़ानों में क्या देखते हैं ? मालिक लोग ही आक्षेप या फ़रियाद करते हैं, हालांकि नाम किसी अधिकारी का होता है । मालिक, मैनेजर या मैनेजमेंट के हुक्म से ही फ़रियाद होती है । इस से गवाही लेने में आसानी होती है, क्योंकि कामदारों में से ही गवाही लेनी होती है । जब मैनेजमेंट या व्यवस्थापक कहेगा कि गवाही देनी है, तो कौन "न" कहेगा ? अगर कोई इन्कार करेगा, तो फिर उस को भी हटा दिया जायगा । और फिर उस फ़रियाद पर निर्णय करने का काम भी अधिकारी का ही है । यह एक बड़ी अजीब बात है कि प्रासीक्यूटर, जज और फ़ैसले की एक्सीक्यूशन करने वाला एक ही आदमी होता है । हम ने यह भी देखा है कि इस कार्यवाही के सिवा कामदार को यह हुक्म भी दे दिया जाता है कि दरवाज़े पर न जाना और अगर वह दरवाज़े पर जाता है, तो पहरेदार को बुला कर उस को निकाल दिया जाता है । लोकशाही के इस ज़माने में कारख़ानों में जो ऐसी हुक्मशाही चलती है, उस को मिटाना चाहिए । मंत्री जी को इस के बारे में ठीक ढंग से सोचना होगा और कामदारों की मुसीबत का निवारण करने के लिए कोई ठीक व्यवस्था करनी होगी ।

हम देखते हैं कि जिस कामदार को निकाल दिया जाता है, अगर वह कोर्ट में जा सकता है, तो वह जाता है । लेकिन वहां पर कई महीनों तक—और कभी कभी बरसों तक—फ़ैसला नहीं होता है । इस का परिणाम यह होता है कि वह कामदार बेकार हो जाता है और भूखा रहता है । वह बेकार रह कर बरसों तक न्याय की अपेक्षा रखता है और न्याय कब मिलेगा, इस का पता नहीं होता है । इसलिए ख़ास तौर पर यह जरूरी है कि जब कोई कामदार बर्ख़ास्त किया जाये, तो उस के बारे में कोई न कोई निष्पक्ष तहकीकात और जांच होनी चाहिए । कोर्ट के द्वारा वह जांच होने में बहुत देरी लगती है । जो दोनों को मान्य हो, अगर ऐसे निष्पक्ष आर्बिट्रेटर को इस काम के लिए रखा जाये, तो मैं समझता हूं कि आज कामदारों में जो बहुत ज्यादा असंतोष है, वह कम हो जायेगा ।

[श्री यज्ञिक]

मैं ने कारखानों में जो एक बड़ी तकलीफ़ देखी है, वह एक ही चीज के बारे में है और वह यह है कि जब किसी कामदार को निकाल दिया जाता है, बर्खास्त कर दिया जाता है, तो वह अपने दिल में जलता है कि मैं क्या करूं और किस तरह अपने मामले के बारे में फ़ैसला लूं । लेकिन कोई फ़ैसला नहीं होता है । मैं बड़े ही अदब से कहना चाहता हूं कि श्री बनर्जी ने इस बारे में जो सुझाव रखा है उस पर गम्भीरता से सोचा जाये । अगर यहां पर इसकी व्यवस्था नहीं की जा सकती है तो किसी और ढंग से इसके बारे में व्यवस्था की जाये । कारण यह है कि कामदार को निकाला न जाये, उसको जो हकाल दिया जाता है, वह न हो सके । किसी को आज जेल में से भी नहीं निकाला जाता है, सचिवालय में से भी आज किसी चपड़ासी को नहीं निकाला जा सकता है तो कोई कारण नहीं है कि कामदार को वहां से निकाला जाये, उसको कारखाने में से हकाल दिया जाये । यह जो कानून में बड़ा भारी दोष है, इसको दूर कर दिया जाना चाहिये, इसके बारे में जल्दी से जल्दी कोई कार्रवाई की जानी चाहिये । मैं आशा करता हूं कि मंत्री महोदय मेरी इस प्रार्थना पर गम्भीरता से विचार करेंगे ।

श्री काशी नाथ पांडे (हाता) : अध्यक्ष महोदय, इसके पहले कि इस बिल के सम्बन्ध में मैं कुछ कहूं, थोड़ी सी बातें जो यहां कही गई हैं, उनके सम्बन्ध में मैं कहना चाहता हूं, उनके सम्बन्ध में मैं थोड़ी सी सफाई देना आवश्यक समझता हूं ।

अभी बनर्जी साहब ने कहा कि कानपुर के रोडवेज में जो स्ट्राइक हुई और जिस यूनियन ने स्ट्राइक करवाई वह यूनियन आई० एन० टी० यू० सी० से सम्बन्धित थी। मैं स्ट्राइक के बारे में कुछ नहीं कहना चाहता हूं क्योंकि उनकी डिमांड्ज, उनकी मांगे बहुत सी ऐसी थीं जो उचित भी थीं । यह बात भी ठीक है कि वहां पर जो सरकारी कारखाने हैं और उन कारखानों में जो मजदूर काम करते हैं, उनके मसलों को हल करने के लिए कोई अच्छा तंत्र नहीं है । लेकिन मैं उन से कहना चाहता हूं कि वह यूनियन आई० एन० टी० यू० सी० से सम्बन्धित नहीं थी । यह सत्य बात है जिस को मैं उनको बतलाना चाहता हूं ।

दूसरी बात उन्होंने यह कही है कि जब कोई मामला आर्बिट्रेशन में जाने से रह जाये और उसी को हमारे माननीय याज्ञिक साहब ने दोहराया है, तो यूनियन को अधिकार होना चाहिए कि वह हड़ताल पर जा सके । पहली बात तो यह है कि इस बिल को लाने का उद्देश्य क्या है, इसका लक्ष्य क्या है, इसको साफ तौर से समझ लिया जाना चाहिये । अगर सारे देश में हड़तालें ही कराना है तो फिर मैं यह समझता हूं कि कोई किसी प्रकार की बंदिश नहीं रहनी चाहिये, कोई एक्ट नहीं रहना चाहिये । लेकिन अगर हड़तालों को रोकना है तो कुछ न कुछ बंदिशें तो रहेंगी ही ।

13.33 hrs.

[SHRI THIRUMALA RAO *in the Chair*]

इस बिल का मकसद यह है कि लोगों को एक मौका दिया जाये कि वे जो झगड़े हैं उनका फैसला पंच से कर लें । बजाय इसके कि वे हड़ताल पर जायें और जितने दिन हड़ताल पर हैं उतने दिन फैक्ट्री का उत्पादन बन्द रहे, उत्पादन का नुकसान हो और उसके साथ-साथ मजदूरों को अपनी तनख्वाह भी गंवानी पड़े, अच्छा यह है कि कोई ऐसा तंत्र हो जहां जा कर वे अपने मसले रख सकें और फैसले करवा सकें । पंच के पास दोनों पार्टीज चली जायें और जो वहां पर फैसला हो उसको दोनों पार्टीज स्वीकार कर लें ।

मेरा खयाल है कि याज्ञिक साहब भी इस बात को पसन्द करेंगे कि कोशिश इसी बात की होनी चाहिये कि पंचायत के सामने चले जायें और जो फैसले हों उनको सभी मान लें । यही चीज तमाम मजदूर भी चाहते हैं। यहां पर जो पंचायत की व्यवस्था की गई है इसका मतलब ही यह है कि दोनों पक्ष जिस आदमी को पंच स्वीकार करेंगे और जिन मसलों पर दोनों के झगड़े हैं वे सभी उसके समने जायेंगे और जो वहां पर फैसला होगा वहा सभी को मान्य होगा । बहुत से मामले ऐसे भी होते हैं जिन के बारे में दोनों पक्ष समझजाते हैं कि ये किसी पंच के सामने जाने चाहिय या नहीं जाने चाहियें और दोनों को यह मालूम होता है कि इन पर क्या फैसला होना है। उस समय जो एग्रीमेंट होता है, समझौता होता है तो लोग समझ जाते हैं कि इस चीज को भेजना चाहिये और इस चीज को नहीं भेजना चाहिये। जब एग्रीमेंट से ही पंच बनना है तो यह सवाल तो नहीं रह जायगा कि उसके बाद यूनियन को अधिकार होना चाहिये कि वह स्ट्राइक करवा सके ? मेरा ख्याल यह है कि जो मौलिक उद्देश्य इस बिल का है, इंडस्ट्रियल डिसप्यूट्स एक्ट बनाने का है कि स्ट्राइक्स न हों, वह सदैव हमारे सामने रहना चाहिये और कोशिश करनी चाहिये कि स्ट्राइक की नौबत ही न आये।

तीसरी चीज जो उठाई गई है वह बुनियादी चीज उठाई गई है कि कौन मान्य यूनियन हो, कौन रिप्रिजेंटेटिव यूनियन हो । इसके सम्बन्ध में हमारे बनर्जी साहब ने कहा है कि सिक्रेट बैलट के जरिये से यह फैसला हो जाना चाहिये कि कौन बहुमत का प्रतिनिधित्व करती है और वही रिप्रिजेंटेटिव यूनियन हो । मैं उन्हें याद दिलाना चाहता हूं कि इस विषय पर चारों केन्द्रीय संस्थायें जो मजदूरों की हैं, उन के बीच में नैनीताल में एक समझौता हुआ था। असल बात यह है कि हम देखें कि ट्रेड यूनियन क्या चीज है, इसका मकसद क्या है । इसका मकसद यह है कि लोग इसके मेम्बर बनें, इसके विधान के मुताबिक काम करें, जो फीस आदि देनी है, देने के बाद मेम्बर बनें । अब जो मेम्बर नही हैं, जिन्होंने फीस आदि नहीं दी है, उनको यह अधिकार कैसे दिया जा सकता है कि वे वोट द । सिद्धान्ततः यह बात गलत होगी । असेम्बली या पालियामेंट के मैम्बरों के चुनाव के सिलसिले में भी आपने देखा है कि एक वोटर लिस्ट बना ली जाती है और उस लिस्ट के बाहर किसी को अधिकार नही होता है कि वह वोट दे सके। अगर यह बात यहां पर लागू है तो ट्रेड यूनियन के विधान में भी यह बात है कि वही लोग वोट डाल सकते हैं जो यूनियन की फीस आदि दे कर मेम्बर बने हों । इसलिए यह कह देना कि सीक्रिट बैलट से इसका निर्णय हो, ट्रेड यूनियन के सिद्धान्त के ही प्रतिकूल पड़ता है। इससे ट्रेड यूनियन जड़मूल से नष्ट हो जाएगी । इस तरह से तो ट्रेड यूनियंज ही नहीं बन सकगी । लोग समझेंगे कि बगैर कुछ दिये हुये अगर वोटर बना जा सकता है तो और सब अधिकार प्राप्त हो सकते हैं तो पैसा देने की क्या आवश्यकता है, कौन तब पैसा दे कर मैम्बर बनेगा ? इस तरह से ट्रेड यूनियंज का अस्तित्व ही समाप्त हो जाता है ।

अब मैं इस सिलसिले के सम्बन्ध में कुछ कहना चाहता हूं । हमारे दाजी साहब ने पिछली बार कहा था कि गवर्नमेंट इस एक्ट में उसी वक्त संशोधन लाती है जब मालिकों के जरिये से इस पर दबाव पड़ता है । मैं उनको कहना चाहता हूं कि उनकी यह धारणा गलत है । इंडस्ट्रियल डिसप्यूटस एक्ट बनाना कभी एम्प्लायर्ज को अच्छा नहीं लगा है। इसको बना कर गवर्नमेंट ने मजदूरों को यह अधिकार दिया कि वे अपने मसले

[श्री काशी नाथ पांडे]

जो ट्रिब्यूनल बने हैं, उनके सामने ले जा सकें। कंसिलियेशन ग्राफिस जो हैं उन के सामने ले जा सकें। इसके पहले कोई ऐसा तंत्र नही था जहां पर इन मसलों को ले जाया जा सकता हो। वहां पर इनकी बातों को सुना जाता है और फैसला करने की कोशिश की जाती है। इस वास्ते उनका यह कहना कि मालिकों के दबाव में आ कर, उन से प्रभावित हो कर गवर्नमेंट ऐसा संशोधन लाती है, गलत है।

जो संशोधन लाया गया है, इसकी क्या आवश्यकता पड़ी, क्यों हम इस संशोधन को चाहते हैं, यह मैं आपको बतलाना चाहता हूं। आर्बिट्रेशन हम इसलिए चाहते हैं कि आज का जो तरीका है विवादों को तय करने का, वह यह है कि ट्रिब्यूनल में पहले वह चीज़ जाती है। कंसिलियेशन में जब किसी बात पर समझौता न हो तो ट्रिब्यूनल में अगर उस चीज़ को भेजा जाता है तो विधान के अनुसार यह व्यवस्था की गई है कि जो फैसले से सहमत न हो वह हाई कोर्ट में और फिर सुप्रीम कोर्ट में, एक के बाद दूसरी अदालत में जा सकता है। इसका नतीजा यह होता है कि तीन चार साल तक वह आदमी धक्के खाता फिरता है। इस चीज़ को हटाने के लिए इस में यह व्यवस्था है कि जो पंच मालिक और मजदूरों, दोनों की सहमति से नियुक्त किया जाएगा उसका जो फैसला होगा वह तुरन्त लागू हो जाएगा और उस में इस तरह से मुकदमें बाजी नहीं हो सकेगी जिस तरह से अब होती है। यह जो उद्देश्य इस बिल का है, इसका मैं करता हूं।

अब मैं इस बिल की धाराओं के सम्बन्ध में थोड़ा सा कहना चाहता हूं। पेज 3 पर 3(ए) में लिखा हुआ है :-

"Where an industrial dispute has been referred to arbitration and the appropriate Government is satisfied that the persons making the reference represent the majority of each party, the appropriate Government may, within the time referred to in sub-section (3), issue a notification..."

इस सम्बन्ध में मैं यह कहना चाहता हूं कि मैजोरिटी पार्टी जो है वह मजदूरों में तो हो सकती है, एम्प्लायर्ज़ में नहीं हो सकती है। अगर मालिक सारे शियरहोल्डर्ज़ को बुला करके मैंजोरिटी डिसाइड करें तो मुझे मालूम नहीं। मैं चाहता हूं कि मंत्री महोदय इस चीज को स्पष्ट करने की कृपा करें। मैं तो यह समझता हूं कि थोड़ी सी लिखने में स्लिप हो गई है। एम्प्लायर की तरफ से या तो मैनेजर हस्ताक्षर करता है या मैनेजिंग डाईरेक्टर क्योंकि उसको अधिकार होता है कि हस्ताक्षर करे, समूह को लाने का सवाल भी नहीं होता है, जहां तक मालिकों का सवाल है हो सकता है कि यह चीज़ भूल से यहां लिख दी गई हो।

4(ए) में आपने यह कहा है कि जब इस तरह से कोई विवाद हों, और वे आर्बिट्रेशन में चले जायें तो स्ट्राइक जो हुई हो, वह नहीं हो सकती है, उसको आप कानूनी तौर से रोक दें। लेकिन मैं आप से कहना चाहता हूं कि अगर कोई स्ट्राइक हो जाये, कोई स्ट्राइक उसके पहले न हुआ हो, कोई कन्टिन्यू न कर रहा हो, बल्कि उस के बाद से कंटीन्यू करे, तो उस के सम्बन्ध में आप ने क्या सोचा है कि आया वह उस से कवर हो जाता है या नहीं। हम को इसे भी सोचना पड़ेगा। इस की वर्डिंग्स यह हैं :

"....(3A), the appropriate Government may, by order, pro-

hibit the continuance of any strike....".

Only if it is in continuance the provision applies. If after the agreement is signed some people stand up and try to create a scene and say that the workers may go on strike, I do not think this Bill can prohibit that situation. That is my apprehension.

तो मैं इस सम्बन्ध में यह कहना चाहता हूं कि हो सकता है कहीं भूल हुई हो, और हम को उस को सुधारने की कोशिश करनी चाहिये ।

दूसरी बात जो मुझे कहनी है वह यह है कि पेज 4 पर दिया है :

"(7) No notice given under sub-section (2) or sub-section (6) shall have effect, unless it is given by a party representing the majority of persons bound by the settlement or award, as the case may be."

सवाल यह है कि आरबिट्रेटर मुकर्रर होता है तब जब दो पार्टियां हस्ताक्षर करती हैं । अगर पंच मुकर्रर हो जाये, और कोई भी एक आदमी उस के खिलाफ मैंजारिटी पैदा कर ले, तब आप उसे टर्मिनेट कर देंगे । यह कहां तक वाजिब है । आप को मौलिक चीज नहीं भूलनी चाहिये कि टर्मिनेशन का अधिकार उस पार्टी का होना चाहिये जिस ने एग्रिमेन्ट किया है । और वह यूनियन है । सुप्रीम कोर्ट ने ऐसा फैसला किया है, यह मैं मानता हूं, लेकिन अगर आप चाहते हैं कि इस देश में इंडस्ट्रियल पीस रहे, और आप सारे पर्सन्स को नजदीक लेने की कोशिश करें तो इंडस्ट्रियल पीस नहीं रह सकती है । यह इंडस्ट्रियल पीस कराई जा सकती है यूनियनों के जरिये । अगर आप यूनियनों को छोड़ कर मजदूरों के समूह भरोसे चाहते हैं कि देश में औद्योगिक शान्ति रहे, तो मैं समझता हूं कि आप का खयाल गलत है । इस लिये आप इस चीज को न भूलिये । बल्कि आप इस सम्बन्ध में ला डिपार्टमेंट की सलाह लीजिये कि अगर मैंजारिटी पार्टी को छोड़ कर, दी यूनियन रिप्रिजेनटिंग दी मेजारिटी के लिखने की बात करें, तब तो बात समझ में आ सकती है । लेकिन यहां पर तो मैंजारिटी आफ दि पर्सन्स का सवाल है । बहुत से लोग ट्रेड यूनियन के मेम्बर नहीं होते हैं, उन्होंने मैंजारिटी बना कर नोटिस दे दिया । ऐसी हालत में यह भी आप को देखना है कि अगर नोटिस आ जाये तो उस अवार्ड का क्या होगा । अगर कोई आ कर कह दे कि हम मैंजारिटी को रिप्रेजेन्ट करते हैं तो उस के कहने से ही इस बात को नहीं माना जा सकता । यूनियन को आप ने इग्नोर कर दिया । उसके बाद आप पता लगायेंगे, वेरिफिकेशन करवायेंगे कि मैंजारिटी आफ दि पर्सन्स है या नहीं । इस में टाइम लगेगा । इस बीच में इस अवार्ड की क्या कैफियत होगी । मेरा खयाल है कि आप को यह नहीं भूलना चाहिये, आप को सेक्रटरी यूनियन रखना चाहिये और इस सम्बन्ध में डा० मेलकोटे ने जो अमेन्डमेंट दिया है, मैं समझता हूं कि वह बहुत ठीक है । लेकिन जैसा कहा गया है, वह लैप्स हो गया । अगर मिनिस्टर साहब ठीक समझें तो वे खुद अमेंडमेंट दे सकते हैं क्योंकि दूसरों के लिये अब टाइम नहीं है ।

दूसरी बात यह कि जो अमेंडमेंट किया जा रहा है वह नये बिल का सेक्शन 18 है जबकि पुराने एक्ट में वह सेक्सन 33 था । वह यह है कि ड्यूरिंग पेन्डेन्सी क्या हो । यह अधिकार अब दिया गया है कि अगर कोई मामला पंच के सुपुर्द हो तो प्रोसीडिंग्स के बीच में, जब कि पेन्डेन्सी हो, उस में अगर किसी को निकालना हो या सजा देनी हो तो वही तरीका होगा जो ट्राइब्यूनल में केस जाने पर होता है । लेकिन ओरिजिनल एक्ट में जो प्राविजन था उस को

[श्री काशी नाथ पांडे]

आप ने संशोधित कर दिया । इस का नतीजा अच्छा नहीं हुआ मान लीजिये कि कोई डिस्प्यूट किसी ट्राइब्यूनल के सामने पेन्डिग है और मनेजमेंट चार पांच आदमियों को निकालना चाहता है । हो सकता है कि जो विवाद पंच के सामने है उससे सम्बन्धित न हो फिर भी परमिशन लेते हैं । लेकिन होता क्या है । आप परमिशन के लिये अप्लाई करते हैं तो बगैर मेरिटस में गये हुए कि क्यों वह निकाला जा रहा है वह ठीक है या नहीं, पर ट्रिब्यूनलस परमिशन दे देते हैं । उस के बाद क्या होता है । जब लोग निकाले जाते हैं तो वह डिस्प्यूट कंसिलिएशन बोर्ड में जाता है, फिर ट्राइब्यूनल में जाता है और फिर एक के बाद दूसरी अदालत मेरिट में जाने पर उस में तीन साल से ज्यादा लग जाते हैं । मैं कहना चाहता हूं कि अगर आप दरअस्ल मजदूरों की कोई सहायता करना चाहते हैं तो क्या कभी आपने इस पर विचार किया कि वह क्या चाहते हैं । इस में एक चीज पर कोर्ट में दो बार विचार करना फजूल है क्योंकि बहुत समय लग जाता है । मैं समझता हूं कि यह किसी भी तरह से हमारा अभिप्राय नहीं है । मैं समझता हूं कि इन झंझटों को मिटाने के लिये वही तरीका रखना चाहिये कि प्रिंसिपल एक्ट में जो सेक्शन 33 है वही लागू किया जाये । अगर आप अमेंडमेंट करना चाहते हैं तो यह कीजिये कि पेन्डेंसी के दरम्यान कोई केस अगर कोर्ट में जाता है तो उस की मेरिट पर विचार जरूर होना चाहिये ताकि जांच हो जाने के बाद कंसिलिएशन के बाद उसे ट्राइब्यूनल से ले कर सुप्रीम कोर्ट तक न जाना पड़े । मैं समझता हूं कि मिनिस्ट्री इस पर विचार करेगी ।

इस के अलावा मुझे कुछ नहीं कहना है, केवल इतना कहना चाहता हूं कि इंडस्ट्रियल एक्ट में बहुत से संशोधन हुए हैं । मेरा सुझाव यह है कि एक वा इंडियन लेबर कांफरेंस या स्टैन्डिंग कमेटी में इस मसले को ला कर एक सब-कमेटी बना दी जाये जो इन सब बातों पर विचार करके कम से कम मिनिस्टर साहब के सामने अपने प्रस्ताव रख सके कि फलां-फलां सेक्शन के अमेंडमेंट की जरूरत है और किस तरह के अमेन्डमेंट करने चाहिये । इस प्रकार से यह होगा कि यह चीज पीस-मील नहीं होगी ? बल्कि जो संशोधन होने हैं वे एक बार कर दिये जायेंगी और जो कठिनाइयां हैं उन का निराकरण हो जायेगा ।

इन शब्दों के साथ मैं इस बिल का समर्थन करता हूं ।

Shri Dinen Bhattacharya: Mr. Chairman, I would have welcomed this Bill if the hon. Minister had brought a comprehensive amendment of the Industrial Disputes Act. As the Bill is now before us, it appears some of the improvements suggested by the Government are not actually improvements on the condition of the workers. Moreover, there are further restrictions put on the due rights of the workers. Voluntary arbitration has been brought on a par with adjudication putting a bar on any action during the pendency of the arbitration. Some provisions have been incorporated in this Bill for the appointment of judges with this view that the State Governments may not have any difficulty in contacting the industrial tribunals. But what is the condition prevailing now in respect of the tribunals? There may be want of judges in some States, but where there are adequate number of judges why is such a long period taken for the conclusion of a case? Then, if a case is disposed of by a tribunal the employer, in most of the cases, goes to

the High Court or to the Supreme Court. If the hon. Minister reviews the happenings in these tribunals and goes through the different proceedings in the tribunal courts he will find that if, for instance, a worker is victimised or dismissed today and his case is referred to a tribunal the final decision will be received only after the expiry of at least two years. What is the provision made by Government for the intervening period? What will the victimised worker do? In many a case we find that when the dispute is referred for adjudication, by the time the final result of the adjudication comes the worker could not be located because he has gone elsewhere in search of employment as he has to take out his living without any sort of help from the Government. So, if you want to do justice to the workers whose disputes have been referred to tribunals Government should devise some methods by which the disputes before the tribunals could be settled within a very limited time. Also, there should be some restriction or limitation of cases which should go to the High Court or Supreme Court.

Coming to the Works Committee, in our State of West Bengal previously the Labour Department used to send some representative at the time of election to that Committee. Now what is the position? The Government have nothing to do with the election. The employers are all in all and they may or may not notify Government about the conduct of the election. What is happening during such elections? I know of a case in which the workers have preferred an appeal before the High Court about one such election. In that election the ballot boxes were kept under the custody of the management for 24 hours. Although cent per cent of the workers have voted for a particular candidate, the next day morning they found to their surprise when the votes were counted that their candidate has been defeated and another unpopular candidate has been elected. Under the Act and the rules framed thereunder as they stand there is no provision for preferring an appeal before the High Court because article 22 can be invoked only in cases where any public bodies are directly connected. In this case, full authority or power has been given to the employers to conduct the elections and the Labour Department has nothing to do with it. I hope this will be looked into by Government.

Of course, the provision to appoint judges as tribunals is a welcome one. But who is to decide which dispute should go to the court as reference? Now it is left to the sweet will of the Labour Department? Which department is above corruption? Now the reference of a dispute to the court depends upon the sweet will of a particular officer. The Alkali Chemical Works is a big concern in Bengal. Six workers of that concern were dismissed by the management and the Labour Department took two years to come to a decision whether the dispute should be sent for adjudication or not. Ultimately, the file was lost from the office of the Labour Commissioner or the Labour Directorate. If the Minister is interested, he might look into this case. Six workers were dismissed for no fault of their own.

Dr. M. S. Aney (Nagpur): Was the file lost after the case was instituted?

Shri Dinen Bhattacharya: No, the case was not at all instituted. No case was referred to the tribunal. Why do you not have a provision that if a case fulfils certain conditions it should be referred to a tribunal for adjudication or arbitration?

Then, you have restricted agitation by workers when a particular case is referred for arbitration. Since you came out with that decision that all labour disputes should be sent for arbitration we find that in most cases the employers do not like the idea of sending a case for arbitration. So, I

[Shri Dinen Bhattacharya]

would suggest that for speedy disposal of cases some provision should be made so that the employers may not escape arbitration, as they are now doing by saying "we do not want arbitration" and the Government says "the employer does not want arbitration; we cannot do anything". Such a provision should be incorporated in the Act as early as possible.

Then, Dr. Ranen Sen has already asked about the position of the employees of educational institutions after the judgment of the Supreme Court. There is another vital sector, hospitals. What will be the fate of employees of hospitals? Very often we see that hospital workers are raising their grievances and they are not properly looked into. I would suggest that efforts should be made to see that the hospital employees come under the purview of the Industrial Disputes Act or a separate legislation should be enacted for them so that justice is meted out to them.

Coming to the definition of "retrenchment" in the Industrial Disputes Act, what will happen to those who are superannuated or dismissed or whose services have been terminated when they are involved in a major accident? Very often the employers do not like to keep them in service. In such cases, they do not get the retrenchment benefit. Therefore, the definition of "retrenchment" may be so altered as to cover those cases so that justice may be meted out to those victims of accidents and workers who are superannuated by employers.

Then, there is an amendment to section 33 saying that when a case is pending before the tribunal the workers cannot go on strike. Previously, the provision was that specific approval was necessary before any action is taken by the employer, either with regard to change in the condition of service or in respect of victimisation or dismissal of a particular worker. That provision is no longer there. I do not know why this change has been made. Previously, specific permission was to be sought of the tribunal where the case is pending. Now no permission is necessary; simply, the employer will ask for approval of his act. It is a serious matter. The tribunal cannot go into the merits of the case and the employers know it. If the employer wants to victimise any worker, he will simply offer him one month's notice pay and file a petition before the tribunal seeking approval of his action. When the matter comes up before the tribunal, what is the result? The tribunal will see whether the company had given a charge sheet; whether the workers got the opportunity to give a reply to the charge sheet and whether any inquiry was conducted. That is all. Then they will okay the dismissal or victimisation. They will not go into the merits of the case nor into the method of inquiry.

14 hrs.

What is the plea of the employers? They will say that it is a domestic inquiry, the court cannot go into the merits of the inquiry and cannot challenge the method of inquiry. In this way hundreds and thousands of workers are victimised in spite of the provision that a particular management, if it wants to dismiss a particular worker or a group of workers during the pendency of the tribunal, will have to seek the approval of the tribunal. But that is of no use because of this procedure and because of this thing. So, we have given notice of an amendment saying that as it was in the original Act the provision must be such that before taking any action, before dismissing a worker during the pendency of a tribunal, an employer will have to take specific permission from the tribunal. That is our amendment and I hope that the hon. Minister will give serious thought to this if he is really sincere to do any good to the workers.

Then, regarding how to come to a conclusion that a particular group of

workers or a particular union is holding the majority's confidence in that particular factory or establishment, some wrong idea has been given by one of our friends on the Congress Benches who is associated with the INTUC. He said as to how the secret ballot system could be introduced when it was a case of a trade union. What is the spirit behind all these Acts and laws? It is to see that injustice is not done to the workers by employers so that proper industrial truce may be maintained throughout the country. So, if that be the view, what is the harm if all the workers are given the chance to elect their own representative who will have full say in all matters in respect of that particular industry or concern? There is no harm and Government should not hesitate in this matter. Actually, whatever may be the view of the INTUC, the AITUC has always advocated that free choice should be given to all the employees to have their real representative by introducing the secret ballot system in industrial concerns. It is hoped that Government will give second thought to this matter as to how to determine the majority union in all concerns.

Some explanations have been given that in order to accommodate certain recommendations of the Indian Labour Organisation under the auspices of Government they have come forward with this amendment. I say that this is not true. The tripartite meetings have advocated—and the Government agreed to it—the introduction of the need-based minimum wages in the country. They have not yet done so. Government agreed to abolish the contract labour system at least in the public sector undertakings.

Mr. Chairman: The hon. Member should conclude his speech now. I have given him much more time. This is to be covered within a stipulated period; so, he should please conclude his speech.

Shri Dinen Bhattacharya: I am concluding. In the public sector undertakings, in the railways in the electrification projects thousands of young educated boys are made to work on Rs. 2 a day and even on that they do not get jobs daily; so, their wages come to below Rs. 50 a month during these hard days and Government has not looked into this matter. So, it is not true that to accommodate the recommendations of the tripartite labour conferences they are coming forward with this amendment.

Shri D. Sanjivayya: Sir, I am grateful to the hon. Members who have taken part in this discussion and who have made very useful suggestions. The criticism offered is also in a way constructive.

One criticism that has been offered relates to the fact that every time an Amendment Bill is introduced the whole Act is not taken into consideration and a comprehensive Bill is not introduced. This question was considered a few years ago and was placed before the Indian Labour Conference also. Ultimately, the Indian Labour Conference decided that it is not possible to have a comprehensive Bill at one time and the Government should proceed with the amendments now and then whenever necessary. After all, we cannot wait for a particular time to introduce a comprehensive Bill. Sometimes, on account of the decisions of the Supreme Court or of some High Courts an amendment becomes necessary and, unless we effect such amendments quickly, it will be very difficult for the workers to enjoy the rights and privileges conferred on them by this Act.

This afternoon when the discussion began Shri V. B. Gandhi, the hon. Member from Bombay, made very useful suggestions. In fact, he thinks that by relaxing the qualifications for persons to be appointed as judges of tribunals or as presiding officers of labour courts delays will be avoided. I certainly agree with him because the very idea of bringing for-

[Shri D. Sanjivayya]

ward an amendment to relax qualifications in respect of presiding officers of labour courts and judges of tribunals is to find more qualified people so that the posts could be filled quickly and work could be disposed of quickly.

Coming to my hon. friend, Shri Banerjee, who made references to certain individual cases, like, the Kanpur Workshop, Bharat Electronics and the strike that is going on in the port of Bombay by the chipping and painting workers, I would like to say only one point. If there are cases which have been pending for a long time and if they are in the State's sphere, I would certainly take up the matters with the State Governments concerned and see that those matters are quickly settled.

With regard to the chipping and painting workers in Bombay, they saw me on Friday and, Saturday and Sunday happening to be holidays, on Monday I promised to look into the matter and tell them. Yesterday I did call for the file, looked into it and I myself immediately rang up the Secretary of the AITUC and apprised him of the position.

Shri Banerjee also referred to the Code of Discipline which has not been accepted by most of the public sector undertakings. In fact, we have been pressing them. The Defence Ministry have come forward with a proposal to accept the Code of Discipline with certain modifications. I am told that there is some difficulty with regard to the unions. Unless the unions also agree, the Code of Discipline cannot be enforced.

He also referred to the Whitley Councils affair. It is a fact that we took the first step so far as the formation of the Whitley Councils is concerned. But later on I thought that the Home Ministry was the proper authority to deal with this question. Therefore, the file has been transferred to the Home Ministry. I do not know under what circumstances Mr. Banerjee got the information from the Home Ministry that it has again been transferred to the Labour Ministry. So far such a thing has not happened.

Then, Sir, times without number a reference is made to the secret ballot business. This question has been discussed times without number in the Indian Labour Conference, the Standing Labour Committee and in all other possible ways. This question has been finally settled that we will not resort to secret ballot. The present method is quite perfect. If there are any difficulties....

श्री हुकम चन्द कछवाय (देवास) : सभापति महोदय, मेरा एक प्वायंट आफ़ आर्डर है, जिस के बारे में मैं आप की व्यवस्था चाहता हूं। इस समय हाउस में क्वोरम नहीं है।

Mr. Chairman: The question of quorum has been raised. The bell is being rung.... Now there is quorum.

Shri D. Sanjivayya: The hon. Member referred to the question of secret ballot which I have already dealt with.

One other question has been raised with regard to the reference of disputes to voluntary arbitration. Suppose a large number of disputes are raised; a few minor issues might be referred to arbitration and the workers will lose the right to go on strike because the State Government or the Central Government will have the authority to prohibit strikes. But I assure the hon. Members that Government would certainly take care to see that such injustice is not done to the workers.

Shri Yajnik also made a mention of the fact that delays occur in the matter of reference of disputes to tribu-

nals and the hon. Member Shri Dinen Bhattacharya also made an allegation that in the matter of reference of disputes to adjudication it depends only on the sweet will of the labour officers. When matters are referred for adjudication, the Conciliation Officer conducts conciliation proceedings and if the Conciliation Officer fails, he sends failure report to the Chief Labour Commissioner. The Chief Labour Commissioner examines the report and makes his recommendations to the Government. It is only at the government level that these matters are referred to for adjudication and they are being referred by Government for adjudication, strictly in accordance with principles laid down by the Indian Labour Conference. In the recent past I know that in the matter of reference of disputes for adjudication we have been more liberal than before.

The hon. Member, Shri Kashi Nath Pande, expressed certain doubts about certain wording when he raised the question with regard to majority of employees and employers. He thought it should be only employees and not employers. Sometimes we may come across a case where a group of employers are also involved. So, to cover such extreme cases, we have said that majority of employers also be there. Then, the termination of the award should be done by majority of the workers. In fact, there is a judgment of the Supreme Court which goes to say that even a minority of workers can issue a notice for termination of the awards. It is to avoid any frivolous kind of termination of these awards that this amendment has been thought of. When matters go before a tribunal and after the tribunal gives its award, often times employers go in appeal to High Courts or the Supreme Court. We have been persuading the employers not to go in appeal. But so far as the voluntary arbitration is concerned, that is final and I do not think any employer would violate it.

Shri Dinen Bhattacharya wanted that some time-limit should be fixed for disposal of cases by the tribunals. We have always been impressing on the tribunals to dispose of the cases expeditiously. But unfortunately sometimes even the workers' representatives ask for some time and have adjournments, and sometimes in legal matters procedure also requires some time.

When workers are subject to major accidents or they sustain any occupational injury, Shri Bhattacharyaji wanted to know whether any provision is made in this amending Bill. But I thought they are eligible for compensation . . .

Shri Dinen Bhattacharya: I did not mention it for compensation; it was for the retrenchment. When a worker gets an injury, he is not kept in employment.

Shri D. Sanjivayya: That question will have to be examined whether it can be treated as a retrenchment or a retirement on account of a major injury.

With regard to the punishment given by the employers during the pendency of a dispute before a tribunal, Shri Dinen Bhattacharya said that they should take the permission, the approval, of the tribunal. If during the pendency of a case before a tribunal, for every act of misconduct on the part of the workers the employer has to go to the tribunal, it is very difficult to do it, but all the same he has to get the approval from the tribunal or the labour court.

He also mentioned about the contract labour system while mentioning about the various decisions taken by the tripartite conferences. He also made a mention that the subject relating to abolition of contract labour or regulation of contract labour has not been taken up at all. On the 9th and 10th of December the Standing Labour Committee is going to meet and this subject is placed on its

[Shri D. Sanjivayya]

agenda. This matter is going before the Standing Labour Committee.

There are one or two more points which I would like to mention before I conclude. With regard to rationalisation, Dr. Ranen Sen made certain references. In fact, proposals are afoot. I will give him an assurance that we will see to it that no existing worker is either retrenched or loses his job.

Dr. Ranen Sen (Calcutta East): Has the assurance been given to any union? No union has got any such assurance.

Shri D. Sanjivayya: The assurance given on the floor of the House is more than any written communication from the Government to unions.

Dr. Ranen Sen: The assurance was given in respect of the L.I.C. employees. With regard to commercial employees, no assurance has been given in the House or outside.

Shri D. Sanjivayya: When Government adopts a particular policy, it is the intention of the Government to see that such policies are pursued by private employers also. If they do not pursue such policies, we will take sufficient precaution to see that such things are followed by them. If they do not follow them, we will take certain other action.

The hon. Member Shri Oza was complaining that good Conciliation Officers are not available. As you all know, Conciliation Officers are recruited through the Public Service Commission and later on they are given some training also. If in spite of that there are a few bad Conciliation Officers, we have to see that some action is taken against them unless they show efficiency in their work.

There was one criticism that on account of this Bill the workers will not get any benefit. On the other hand their idea was that probably the workers' rights are going to be fettered. I would like to say that workers get a good number of benefits on account of this Bill. The first benefit that they would get is that delay will be avoided because we are amending the clause relating to the qualifications of presiding officers. The second benefit that they would get is the increased retrenchment compensation to be given on account of the closure of an establishment because of the expiry of the period of licence or lease. Originally, they were entitled to get only three months' compensation, but according to the present amendment they will get at the rate of fifteen days average pay for every completed year of continuous service. The third benefit that the workers would get on account of this amending Bill is that service conditions etc. cannot be changed during the pendency of arbitration.

Then, when the majority workers are to be invited for an arbitration award, the minority workers are also given an opportunity of presenting their case before the arbitrator.

Then again, with regard to this continuous service under section 25B, previously it was 240 days for a worker employed below ground. According to the new amendment it is only 190 days.

Previously leave with full wages in the previous year only was to be counted towards the number of days of employment. Now leave with full wages in all previous years will be counted.

Previously, only the largest number of days during which a worker has been laid off would be counted towards the 240 days. The present provision is that all the days on which the worker is laid off shall be counted.

suppose some money is due to the worker......

Shri Dinen Bhattacharya: The medical leave period is not there.

Shri D. Sanjivayya: Let us see. The other benefit is this. If a worker has to get some money from the employer, the worker alone could get it. That was the previous provision. According to the present amendment not only the worker, but after his death his heir or assignee is also entitled to get the money.

The hon. Member Shri Trivedi felt that retired judges should not be appointed as presiding officers of industrial courts or tribunals. In fact, their ripe experience should be utilised. In addition to that, as I said earlier, we are reducing the qualifications. Even district judges and additional district judges with three years standing are eligible. Therefore younger people also will have opportunities.

In respect of individual cases of dismissal there is an amendment which we are examining. Probably it will come in the next batch of amendments.

Shri Vidyalankar made a suggestion that in the matter of recovery of arrears delay should be avoided. Government is examining that question and I hope we will be able to devise means by which the amounts to be recovered will be recovered as early as possible.

Shri Homi Daji in his speech referred to the question of establishment of fair-price shops and consumer co-operative societies in all establishments employing three hundred and more. Only recently in a meeting of the Standing Committee on the Industrial Truce resolution a final shape to the Bill has been given and probably during this session that Bill will be introduced.

Sir, I do not think I have anything more to add. I thank the hon. Members who have given their suggestions.

Shri K. N. Pande: The purpose of providing this section is that the entire case before punishing a worker will be gone through by the tribunal. The purpose is that the interests of the workers should be protected. If the tribunals are required only to put their seal on the punishment given by the employer and say 'it is all right', what is the purpose of providing the section here? My suggestion was that if the tribunal is to go through the case they must have the material to find out whether there is a *prima facie* case against the worker or not. Only then can they give their judgment. It will avoid too much delay in future.

Shri D. Sanjivayya: Suppose immediately some action has to be taken. The management should have the power to take action and go for approval later on. Otherwise, mischief will go on in the factories and probably sabotage will take place, and the whole machinery may be damaged before permission is sought from the tribunal. They can take action, but the approal of the tribunal should be obtained later on.

Dr. Ranen Sen: The hon. Minister said that there might be mischief by the workers. What is the provision to prevent mischief being done by the employer?

Shri D. Sanjivayya: If there is any such thing, that can be brought to the notice of the Government and we will see that steps are taken.

Shri K. N. Pande: Our purpose is also not to encourage mischief. If there is a case, let the tribunal also form an opinion whether the employer's action is right or wrong.

Shri D. Sanjivayya: The tribunal can always form an opinion when the employer goes before the tribunal to get the approval of the tribunal for the action he has taken.

श्री हुकम चन्द कछवाय : मजदूरों के ऊपर अगर कोई चार्ज लगाया जाता है तो होता यह है कई केसिस में कि मजदूर फैक्ट्री में जो बयान देता है, उसी को कोर्ट मान लेती है, कोर्ट में उससे बयान नहीं लिया जाता है। मैं जानना चाहता हूं कि क्या इसके बारे में भी सरकार ने कुछ सोचा है ?

श्रम और रोजगार मंत्रालय में उपमंत्री (श्री र० कि० मालवीय) : मैंने कई केसों में देखा है कि इनक्वायरी के वक्त वर्कर जहां जहां उनको ग्राबजेक्शन होता है वहां वहां वे नोट करा देते हैं। उसके ऊपर ट्रिब्यूनल गौर करता है। बहुत से केस ऐसे भी हुए हैं जहां पर ट्रिब्यूनल्ज ने मंजूरी नहीं दी है।

श्री हुकम चन्द कछवाय : मैं अपनी जानकारी के आधार पर कह सकता हूं कि मध्य प्रदेश के अन्दर वर्कर फैक्ट्री के अन्दर जो वक्तव्य दे देते हैं उसी को कोर्ट सच मानती है, वही कोर्ट को मान्य होता है। वहां पर उनसे दबाव डाल कर कहलवा लिया जाता है और कहा जाता है कि तुम ऐसा बोलो, क्या यह सच नहीं है ?

श्री र० कि० मालवीय : जहां यूनियन ठीक है, वहां यह बात पक्की है कि मजदूर को पूरा मौका दिया जाता है इनक्वायरी के वक्त कि वह अपना रिकार्ड ठीक करवा ले। ऐसी प्राविजन है, ऐसा कानून बना हुआ है कि इनक्वायरी के वक्त वह किसी अच्छे ट्रेड यूनियन वर्कर को अपना रिप्रिजेंटेटिव बना कर वहां रख सकता है, वहां ले जा सकता है।

श्री हुकम चन्द कछवाय : मध्य प्रदेश में ऐसा नहीं है।

श्री र० कि० मालवीय : मैं जानता हूं कि यह प्राविजन है कि वह अपना रिप्रिजेंटिव

Shri Dinen Bhattacharya: You cannot enquire about it at least in West Bengal. There is no such provision there.

श्री र० कि० मालवीय : कोशिश कीजिये वेस्ट बंगाल में भी अलग से।

जब इनक्वायरी होती है उस वक्त ट्रेड यूनियन्ज बहुत अच्छे ढंग से प्वाइंट्स नोट करवा देती हैं और जहां जहां उनको उज्र होता है, वहां वहां वे उज्र भी नोटिड होते हैं। सब रिकार्ड ट्रिब्यूनल्ज के पास जाता है। बहुत से केसिस में ऐसे डिसिशन लिये गये हैं कि एम्प्लायर्ज ने जो मंजूरी मांगी थी, वह उनको नहीं दी गई। अब यह दूसरी बात है, कहीं पर जैसा आप फरमाते हैं, वैसा कुछ हो गया हो। ट्रेड यूनियंज की कमजोरी की वजह से ऐसा होता है। अगर होता है तो।

श्री हुकम चन्द कछवाय : अभी मंत्री महोदय ने यह फरमाया था कि जिस वर्कर का पैसा मालिक के ऊपर निकलता है, उसको देने की हम कोशिश कर रहे हैं। मध्य प्रदेश में देखा गया है कि मजदूरों का जो पैसा होता है, वह अगर वह आई० एन० टी० यू० सी० का मेम्बर हो जाता है, चन्दा दे देता है, उसका व्यक्ति होना है तब तो जल्दी मिल जाता है, दूसरी किसी यूनियन का होता है तो नहीं मिलता है। मैं जानना चाहता हूं कि इस सम्बन्ध में सरकार क्या कार्रवाई कर रही है ?

Shri D. Sanjivayya: As regards what happens in Madhya Pradesh, we do not know. Now that the hon. Member has brought it to our notice, we shall certainly look into it.

Mr. Chairman: 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.

Mr. Chairman: Now, we shall take up the Bill clause by clause.

For clauses 2 to 4 there are no amendments. So, I shall put them together to vote.

The question is:

"That clauses 2 to 4 stand part of the Bill".

The motion was adopted.

Clauses 2 to 4 were added to the Bill.

Mr. Chairman: Now, we come to clause 5. There is an amendment to this clause, which has been tabled by Shri S. M. Benerjee. But the hon. Member is absent. So, I shall put clause 5 to vote.

The question is:

"That clause 5 stand part of the Bill".

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6— (*Amendment of section 10A*).

Mr. Chairman: There is an amendment to this clause, again by Shri S M. Banerjee. But the hon. Member is absent. So, I shall put clause 6 to vote.

Shri Dinen Bhattacharya: We have some amendments to this clause.

Mr. Chairman: Those amendments were given notice of during the last session, and, therefore, they have all lapsed. Only those which have been renewed will be taken up now.

Shri Dinen Bhattacharya: How can they lapse? They had been tabled just in time, before the discussion on the Bill has begun. We had given notice of these amendments, even before the House had started discussion on this Bill.

Mr. Chairman: I do not find any of those amendments in the list of amendments before me.

Shri Dinen Bhattacharya: They are here with me.

Shri D. Sanjivayya: They are not with me either.

Shri Dinen Bhattacharya: They had been circulated also.

Mr. Chairman: Those were amendments received during the last session. For this session, the hon. Member should have renewed those amendments. But he has not done so, and, therefore, they have lapsed, and they are not on the Order Paper now.

Shri Dinen Bhattacharya: Is that the rule?

Shri N. Sreekantan Nair (Quilon): When a Bill is introduced and it does not lapse, how can an amendment lapse? We do not have adequate notice of which Bills are scheduled to come up, and, therefore, we table amendments in advance.

Shri Dinen Bhattacharya: Last time, this Bill was partly discussed and partly left over.

Mr. Chairman: Rule 335 reads thus:

"On the prorogation of the House, all pending notices, other than notices of intention to move for leave to introduce a Bill, shall lapse and fresh notices shall be given for the next session:".

Shri Dinen Bhattacharya: In this case, the discussion on the Bill had begun already.

Mr. Chairman: The Bill remains alive, but not the amendments.

Dr. Ranen Sen: Last time, when the general discussion was taking place, it could not be concluded, and, therefore, it was presumed that all notices of amendments would stand.

Mr. Chairman: With regard to Bills, it is clearly laid down in article 107 (3) that:

"A Bill pending in Parliament shall not lapse by reason of prorogation of the Houses.".

But the rules provide for lapse of the amendments on prorogation of the House, and they have to be given fresh notice of. So, Shri Dinen Bhattacharya's amendments have lapsed.

Dr. Ranen Sen: In that case, we may be allowed to speak on the amendments that may be moved by Government as also on the clauses concerned.

Mr. Chairman: Yes, that can be done.

Shri Dinen Bhattacharya: Then, the Government amendment also would be lost.

Shri D. Sanjivayya: I have given fresh notice of my amendments.

Mr. Chairman: To which clause did Shri Dinen Bhattacharya want to move his amendments?

Shri Dinen Bhattacharya: To clause 6.

Mr. Chairman: The hon. Member can express himself briefly on the substance of his amendment.

Shri Oza (Surendranagar): I had also given notice of an amendment, which has lapsed now. So, I request that I may also be allowed to speak.

Mr. Chairman: The hon. Member is raising that question too late.

Shri Oza: I may be given a minute or two to make my submissions.

Mr. Chairman: I think that if Shri Dinen Bhattacharya would read out his amendment, the House could understand the purpose of his amendment, without much loss of time.

Dr. Ranen Sen: All the same, I would like to make a few remarks on one or two matters. The purpose of our amendment which has lapsed was this. In clause 6(c), it has been stated:

"In subsection (3), for the words 'fourteen days', the words 'one month' shall be substituted;".

In the principal Act, the phrase used is 'fourteen days'. Neither the hon. Minister nor our experience has shown any necessity to change it from 14 days to one month. What is happening at present is this. The Labour Departments in certain areas and in certain States are very lethargic in moving in the matter. So, if fourteen days are made into thirty days, then it would actually mean in practice two or three or even four months. Therefore, the original provision in the principal Act should be retained without any amendment. That was the purpose of our amendment.

Shri Oza: I had moved an amendment to the following effect that:

"Provided that where the agreement does not so provide for the appointment of any person as umpire, the appropriate authority may require the parties to the agreement to do so in a stipulated time, failing which the arbitrators may be asked to choose an umpire."

I was trying to meet such a contingency. Suppose the agreement for arbitration fails to provide for an umpire, the whole thing will fail. In order, therefore, to safeguard the whole agreement, and to ensure that it is not frustrated by some flaw or mistake, I had moved this amendment, and I feel that Government should pay proper attention to this matter. In order to save all these agreements for arbitration, they should provide for such a provision as I had introduced in my amendment.

Dr. Ranen Sen: Again, there are one or two points in this connection. In clause 6 (c) it has been stated:

> "(3A) Where an industrial dispute has been referred to arbitration and the appropriate Government is satisfied that the persons making the reference represent the majority of each party, the appropriate Government may..".

Here, again, I would like to reiterate what I had said earlier. In regard to the question of finding out the opinion of the workers, the hon. Minister has not made any categorical statement. But it was stated earlier that at the Sixteenth Indian Labour Conference, all the trade union organisations had accepted the position, but the All India Trade Union Congress to which I belong, had gone back on their own suggestion that a referendum or vote should be taken among the workers. I would submit that that is not the correct position. I was present in that conference as a delegate. It was clearly stated by us there that in order to get the opinion of the workers, the majority opinion should be elicited by means of a ballot. But we find that in this Bill, the whole thing has been referred to Government, which means the State Government or the Central Government, as the case may be. If Government are reluctant to take the opinion of all workers, and as Shri K. N. Pande has pointed out, the opinion of people who are not members of the union should not be taken, I would submit that at least the opinion of the members of the union can be taken by means of a suitable method such as a secret ballot. Suppose there are three unions called X, Y and Z and all told, they have 50 per cent membership, the opinion of that 50 per cent may be collected; their combined strength may be pooled, and a vote taken on the basis of secret ballot, and on that basis, let the State Government or the Labour Ministry here come to a decision as to which union is a representative union. Otherwise, if it is left to State Governments, then all sorts of corruption and nepotism will prevail; the gates of corruption will open wide. In order to prevent that, the Minister should look into the matter and make up his mind.

Shri Dinen Bhattacharya: There is another point. In page 3, line 29, it is said: that such party

> "shall be given an opportunity of presenting their case before the arbitrator or arbitrators".

I want it to be put in here that such party shall become a *bona fide* party to the arbitration; if they so desire, they will get the full opportunity as an original party, as if they were an original party.

Shri D. Sanjivayya: As regards the change from 14 days to one month, it has been contemplated because according to the present amendment, the award will be binding not only on those who are parties to it but on others also, and the others on whom it will be binding will have to be given an opportunity to be heard. To enable that, this change is made.

With regard to the ballot system etc. though Dr. Ranen Sen says that the AITUC did not agree to this present procedure, unless there is a consensus or a sort of unanimous decision taken in tripartite conferences, Government are free to adopt the existing system. Therefore, we are adopting the existing system. If Dr. Ranen Sen feels that there are certain defects, we are prepared to look into those and rectify them.

Mr. Chairman: The question is:

> "That Clause 6 stand part of the Bill".

The motion was adopted.

Clause 6 was added to the Bill.

Clauses 7 to 13 were added to the Bill.

श्री हुकम चन्द कछवाय : यह इतना महत्त्वपूर्ण सवाल है । इस को बिना कोरम के पास करना मैं उचित नहीं समझता ।

Mr. Chairman: The bell is being rung—Now there is quorum.

Then there is clause 14. There is an amendment, but the hon. Member concerned is not present. The question is:

"That Clause 14 stand part of the Bill".

The motion was adopted.

Clause 14 was added to the Bill.

Mr. Chairman: Now we will take up clauses 15 to 18.

Dr. Ranen Sen: Regarding clause 16, the amendment is that for the words 'to the retrenched workmen to offer themselves for re-employment, and the retrenched workmen', the words 'to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen' shall be substituted. I want to go a little further. Retrenched workmen, if they offer their services, should be given preference. As we know, retrenched workers are just thrown out. Simply saying that they are eligible to service will not do; they should be given the first chance.

Shri D. Sanjivayya: That is the intention of the clause.

Shri C. K. Bhattacharya (Rajganj): Regarding cause 18, I gave notice of an amendment in the last session.

Mr. Chairman: That has lapsed.

Some Hon. Members: Yes.

Shri C. K. Bhattacharyya: If my hon. friends will bear with me, I will say something to their advantage. I renewed that notice this morning. It now depends on the Chair's discretion whether to allow me to move it or not.

Mr. Chairman: If I allow in one case, there will be others. He can express his idea, briefly.

Shri C. K. Bhattacharyya: This amendment relates to sec. 33 of the Act. Sub-section 5 of the section is rather vague and therefore requires clarification. It says:

"Where an employer makes an application to a conciliation officer, Board, Labour Court, Tribunal or National Tribunal under the proviso to sub-sec. (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, as expeditiously as possible, such order in relation thereto as it deems fit".

The expression 'as expeditiously as possible, such order in relation thereto as it deems fit' leaves a loophole whereby the court will not exercise its authority to bring about a finality to the case. That was why I gave notice of an amending Bill in 1963. If I may be allowed to say so, that Bill was taken from another Bill, notice of which was given by my hon. friend, Shri R. K. Malviya, in his non-ministerial days. His Bill lapsed when he was elevated to the Treasury Benches. So I took it up and tried to push it through. At that time on this point I wanted to have it put in this way that, instead of the court passing orders as it deems fit, it should decide on the quantum of punishment and on the merits of the case, so that in one proceeding the worker would have relief both in respect of his complaint and in repect of his claim. As it is, he has to go to the court twice. At that time, I said that I wanted to avoid resort to two sets of proceedings: in order to decide the case on merits first under sec. 33

for a *prima facie* case and then by way of a regular industrial dispute to get it adjudicated. The step suggested will help in avoiding delay in getting relief, preventing high cost of litigation and also preventing prejudicing of the case of the workmen on merits because of the tribunal's approvel of the employer's action.

At that time, Shri C. R. Pattabhi Raman, who was the Deputy Minister in charge, praised my erudition, clarity of thought and all that, but having done all that, he said he would not accept my proposal because it was a piecemeal legislation. Naturally, I expected that when Government brought forward legislation on an integrated basis, my suggestion would be incorporated in it. It was therefore a surprise to me that even after the statement of the Deputy Minister in charge then that my proposal could not be accepted because it was a piecemeal legislation, it has not found a place in the amending Bill brought forward by Government themselves. In addition to what the Deputy Minister said inside the House, I had an assurance from persons higher than him outside this Chamber that they had every sympathy for my amendment, but it could not be mentioned in the House itself, that in any case that sympathy would be translated into action at the proper time. I had all those assurances, and naturally, when the very same sub-section is when the very same sub-section is not included, I am disappointed. The amendment they have brought to the sub-section is only only minor, a piecemeal amendment.

Shri D. Sanjivayya: It is a consequential amendment.

Shri C. K. Bhattacharyya: This sub-section should have been completely redrafted in the way Shri R. K. Malviya had suggested originally, which the Indian Labour Conference had repeated and suported, and which I had the honour to present before the House.

After all, the Minister, even now, may give us the hope that the Deputy Minister gave at that time, . . .

Shri D. Sanjivayya: With the same fate!

Shri C. K. Bhattacharyya: .... that it would be translated into action when the time comes again.

Mr. Chairman: I put clauses 15 to 18.

Shri Dinen Bhatacharya: There is a vital amendment to clause 18.

Mr. Chairman: You can privately write to the Minister, and when he thinks of amending the Act next time, he will bear in mind your point.

Shri Dinen Bhattacharya: It will take only two minutes. You can permit at least to read the amendment. We are not satisfied with his reply.

Mr. Chairman: The proceedings of the House must go on, and you must consult the rules before you give notice.

Shri N. Sreekantan Nair: On the clause he can speak. On every clause, every Member can speak.

Shri Dinen Bhattacharya: My amendment is that for the words "and an aplication has been made by the employer to the authority before which the proceeding is pending for approvel of the action taken by the employer", the words "and an express permission in writing of the authority before which the proceeding is pending is received" should be substituted. A mere application will not do, express permission is necessary, before you take any action against any worker during the pendency of a proceeding before a tribuanl or a court of law.

The Minister's reply is not satisfactory. I am very sorry to say that he does not know the actual state of affairs in the court and in the factory. He always feels that the workers are

[Shri Dinen Bhattacharya]

in the wrong, never that the employers can do wrong to the employees. In hundreds and hundreds of cases the employers take vengeance on the workers, and taking this opportunity of the pendency of a proceeding before the tribunal or court, they take action, particularly against the trade unionists, and there is no protection against this type of action of the employer.

Shri D. Sanjivayya: After all, the amendment cannot be accepted, because it cannot be moved.

Moreover, he has made wild allegations that I always say that the workers are in the wrong. I also say that the management are in the wrong if they are wrong.

Mr. Chairman: The question is:

"That Clauses 15 to 18 stand part of the Bill."

The motion was adopted.

Clauses 15 to 18 were added to the Bill.

Clause 19— (*Amendment of section 33c*).

Shri D. Sanjivayya: I beg to move:
Page 7,—

for **clause 19,** *substitute*—

Substitution of new section for section 33 C.

'19. *For* section 33C of the principal Act, the following section shall be *substituted*, namely:—

Recovery of money due from an employer.

"33C. (1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter VA, the workman himself or any other person authorised by him in writing in this behalf or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery make an application to the appropriate Government for the recovry of the money due to him and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:

Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government.

(3) For the purposes of computing the money value of a benefit, the Labour Court may, if it so thinks fit, appoint a commissioner who shall, after taking such evidence as may be necessary, submit a report to the Labour Court and the Labour Court shall determine

the amount after considering the report of the commissioner and other circumstances of the case.

(4) The decision of the Labour Court shall be forwarded by it to the appropriate Government and any amount found due by the Labour Court may be recovered in the manner provided for in sub-section (1).

(5) Where workmen employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of money, then, subject to such rules as may be made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workmen.

Explanation.—In this section "Labour Court" includes any court constituted under any law relating to investigation and settlement of industrial disputes in force in any State.".'. (1)

If money is due to a worker, naturally Government will have to recover it as arrears of land revenue, but suppose the money, or certain other things which can be computed in terms of money are to be determined, the Government cannot do it because there is a judgment of the Supreme Court or High Court to that effect. Government can only recover a determined amount. Therefore, we have made provision in this clause that with regard to such matters, it is the labour court which will determine the amount, and later on refer to Government, and then Government will recover the amount.

Similarly, if there are a few workers, not only one, all of them can file a joint application.

Dr. Ranen Sen: This is an improvement.

Shri D. Sanjivayya: That is why I have moved the amendment.

Shri Warior (Trichur): We welcome it.

Mr. Chairman: The question is:

Page 7,—

For clause 19, *substitute*—

Substitution of new section for section 33C.

'19. *For section* 33 C of the principal Act, the following section shall be *substituted*, namely:—

Recovery of money due from an employer.

"33C. (1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter VA, the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:

Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer:

Provided further that any such application may be entertained after the expiry of the said period of one year if the

[Mr. Chairman]

appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

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(5) Where workmen employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of money, then, subject to such rules as may be made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workmen.

Explanation.—In this section "Labour Court" includes any court constituted under any law relating to investigation and settlement of industrial disputes in force in any State.".'. (1).

The motion was adopted.

Mr. Chairman: The question is:

"That Clause 19, as amended stand part of the Bill."

The motion was adopted.

Clause 19, *as amended, was added to the Bill.*

Clause 20– (*Amendment of section* 38)

Amendment made:

Page 8,—

(i) line 10,—

after "shall be laid" *insert*—

"as soon as may be after it is made";

(ii) line 12,—

omit "or more";

(iii) line 14,—

for "successive sessions aforesaid",

substitute "session immediately following". (2)

(*Shri D. Sanjivayya*)

Mr. Chairman: The question is:

"That Clause 20, as amended, stand part of the Bill."

The motion was adopted.

Clause 20, *as amended, was added to the Bill.*

Mr. Chairman: The question is:

"That Clauses 21 to 24 stand part of the Bill."

The motion was adopted.

Clauses 21 to 24 were added to the Bill.

Mr. Chairman: The question is:

"That Clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

Mr. Chairman: The question is:

"That the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

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

Shri D. Sanjivayya: I beg to move:

"That the Bill, as amended, be passed."

Mr. Chairman: Motion made:

"That the Bill, as amended, be passed."

Shri Mohammad Elias (Howrah): My hon. friends have stressed the need to give representation to the unions which have got a majority of membership in any given factory. Some of the friends opposite who belong to INTUC have stated there is no need to do it. We find from experience that INTUC unions get recognition, and the others, even though more representative, never get recognition from the management. Recently, many such instances had happened where there was no necessity for stoppage of work or declaration of lock out. The majority union in Bhopal Heavy Electricals is not recognised; it has got more than 5000 membership. Where there is dipute about a union, which union has majority following, we must decide it by secret ballot. At every Indian Labour Conference a demand has been made by the representatives of the trade union that there should be legislation through which these disputes could be determined in every factory. Because we belong to the Opposition, our unions are never recognised although it has the majority following and we advocate discipline in the factory and more production. That is why there have been demands that there should be legislation on how to decide the representative character of the unions and how the management should recognise the unions.

15 hrs.

Secondly, regarding the disputes to be sent to adjudication and tribunal, there are hundreds of thousands of such cases pending before the labour commissioner. We want to reiterate at this time that the procedure must be expedited. Of course there is some improvement in the labour directorate but still we find that if there is a dispute the worker has to apply to the labour commissioner who will then send for the management and it takes months to do this; then he will try to persuade the management to come to a settlement but they never come to any settlement and afterwards there will be tripartite conciliation after which the report is sent to the labour directorate which again takes it up from the very beginning. This process goes on and at the end of one or two years, they will say there is no such cases for sending this dispute to the tribunal for adjudication. So, this brings a lot of trouble inside the factory as the workers become impatient because of the delay and go on strike or slow down and production suffers

[Shri Mohammad Elias]

due to this delay. There should be legislation to avoid this delay. In the Industrial Disputes Act there is a clause that within 15 days Government should come to a decision but it takes often three months. We welcome one or two clauses in this Bill which improves the position but all the causes which underlie the disputes must be removed and labour legislation should aim at that.

Shri D. Sanjivayya: If the present procedure of deciding which union has majority following is not satisfactory it can again be taken up in the Indian Labour Conference or the Standing Labour Committee and if the tripartite body decides in favour of an alternative method, I have no objection. My hon. friend Mr. Elias referred to Bhopal Heavy Electrical Union and unfortunately the union he referred to was unable to produce records for verification purposes.

श्री हुकम चन्द कछवाय : मध्य प्रदेश में इनटक की तानाशाही चल रही है ।

Shri D. Sanjivayya: In my earlier reference I said that cases are being referred for adjudication in accordance with the principle laid down by the Indian Labour Conference. The hon. Member can send the representative on behalf of the AITUC to the Indian Labour Conference or the labour standing committee who can certainly put forward his views and if any change in the policy, is agreed to, that policy change would be certainly followed up.

Shri Mohammad Elias: The hon. Minister said that they could not produce papers for verification. That is also our experience in many places. Even after producing papers and other things our union is treated as a minority in many places. I can challenge the Minister to come with me to the Bhopal factory and call all the workers and just ask them to raise their hands as to which union they want and by this easy method he will immediately understand the position...... (*Interruptions.*)

Mr. Chairman: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

15.07 hrs.

ANTI-CORRUPTION LAWS (AMENDMENT) BILL

The Minister of State in the Ministry of Home Affairs (Shri Hathi): Sir, I beg to move:

"That the Bill further to amend the Indian Penal Code, 1860, the Code of Criminal Procedure, 1898, the Criminal Law (Amendment) Ordinance, 1944, the Delhi Special Police Establishment Act, 1946, the Prevention of Corruption Act, 1947, and the Criminal Law (Amendment) Act, 1952 be taken into consideration."

15.07½ hrs.

[SHRI SONAVANE *in the Chair*]

Sir, the House knows that in 1962 a Committee on the Prevention of Corruption, known as the Santhanam Committee was appointed to review the problem of corruption and suggest measures to combat it. The committee has made various suggestions and I would like to pay a tribute to the members of the Committee for the hard work they have put in and the valuable suggestions they have made in this regard. The present Bill is to implement those of the recommendations which have been accepted by the Government. Most of them have been accepted. Section 7 of that report deals with this subject. I do not make a tall claim that