NOTIFICATION UNDER DISPLACED PERSONS (COMPENSATION AND REHABILITATION) ACT

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): Sir, I beg to re-lay on the Table a copy of the Notification No. S.R.O. 1161, dated the 19th May, 1956, under sub-section (3) of section 40 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. [*Placed in Library. See* No. S—225/56.]

BUSINESS ADVISORY COMMITTEE

THIRTY-EIGHTH REPORT

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Sir, I beg to move:

> "That this House agrees with the Thirty-eighth Report of the Business Advisory Committee presented to the House on the 18th July, 1956"

Shri Kamath (Hoshangabad): Sir, I rise on a point of order. The House has not had notice of this motion. You rightly ruled sometime ago, in the last session, I believe, that even though it might be a report of the Business Advisory Committee, the motion should be made well in time to enable Members to table amendments. It has not been done so in this case. Therefore I suggest that it may be held over till Tuesday by which time I and other Members may be able to give notice of amendments to this motion.

Mr. Speaker: When was this circulated?

Shri Kamath: It was circulated only this morning.

An Hon. Member: The report was presented two days ago...

Mr. Speaker: There is no good merely being satisfied with the presentation of the report. In future, as soon as the report is submitted, hon. Members also must give notice of their intention to make the next motion on a particular day, two days in advance or at least one day in advance.

Shri Kamath: You mean the Minister, Sir.

Mr. Speaker: The hon. Member himself may make a motion. It applies to all hon. Members whoever he may be. It is not only with respect to this that I am saying. This applies to every motion that is sought to be moved. Notice of a motion should be given sufficiently in advance to give opportunity to hon. Members to table their amendments. This will stand over till the 24th, if notice of this motion has not already been given.

Shri Kamath: Very good, Sir, thank you very much.

BUSINESS OF THE HOUSE

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Sir, with your permission I beg to announce that Government propose to take up during next week the following items of business after the passing of the Industrial Disputes (Amendment and Miscellaneous Provisions) Bill:

1. The Bihar and West Bengal (Transfer of Territories) Bill— for reference to a Joint Committee.

2. The States Reorganisation Bill as amended by the Joint Committee for consideration and passing.

INDUSTRIAL DISPUTES (AMENDMENT AND MISCELLANEOUS PROVISIONS) BILL

Mr. Speaker: The House will now take up the following motion moved by Shri Khandubhai Desai on the 20th July, 1956, namely:

> "That the Bill further to amend the Industrial Disputes Act, 1947 and the Industrial Employment (Standing Orders) Act, 1946 and to repeal the Industrial Disputes (Appellate Tribunal) Act, 1950, be taken into consideration."

[Mr. Speaker]

The motion was put to the House formally and now boo. Members may take part in the discussion. The time allotted is 10 hours and the time taken is 22 minutes. So 9 hours and 38 minutes remain. I would now ask hon. Members to apportion the time amongst the various stages of the Bill. There are a number of amendments tabled even by the Government and there are a number of other amendments tabled by other hon. Members. I would therefore suggest that 7 hours may be devoted for the general discussion 3 hours for clause-by-clause consideration.

Shrimati Renu Chakravartty (Basirhat): I would suggest 6 hours and 4 hours.

Mr. Speaker: All right. We shall have 6 hours for general discussion and 4 hours for the clauses. Whatever time is saved out of these 4 hours will be devoted for the third reading.

Now, for the general discussion, out of 6 hours, 22 minutes have been availed of. I would like to have a provisional idea as to how many hon. Members would like to take part in this debate so that I might regulate the time accordingly.

Some Hon. Members *rose*—

Mr. Speaker: There are 21 Members who want to speak.

Shri N. Sreekantan Nair (Quilon cum Mavelikkara): There are some more who have gone out.

Mr. Speaker: I will take it as 25 Members.

The Deputy Minister of Labour (Shri Abid Ali): I would also like to participate.

Mr. Speaker: Hon. Members may kindly send in their names to me.

Shri Kamath (Hoshangabad) Will both the Ministers reply or only one?

Mr. Speaker: Both will speak: one will intervene and the other will reply.

We will assume half an hour for the reply. So we have 5 hours left. If I give 10 minutes to each Member that will be more than enough. I will not be able to satisfy each group. I find a number of Members taking part from one group. Hon. Members may kindly distribute themselves over the general discussion and also clause-by-clause consideration. If they can suggest one or two Members from each group to speak on the general discussion and ask the rest to speak on the clauses, then I can give them sufficient time. They may give the names of Members who are to speak on the general discussion and reserve the others for the clause-by-clause consideration.

Shri V. V. Giri (Pathapatnam): Mr. Speaker, Sir, I rise to congratulate the hon. Labour Minister for presenting this Bill to this House though long overdue.

I am sure most of the sections of this House welcome the various provisions of this Bill, but I know there have also been honest differences of view on some of the aspects of this Bill. So far as I am concerned, I had much to do with the drafting of this Bill and these proposals, and, if I may say so with great respect to my esteemed friend, Shri Khandubhai Desai, I am responsible to a great extent for the conception and he is responsible for the delivery!

Dr. Lanka Sundaram (Visakhapatnam): And what a baby!

Shri V. V. Giri: Of course, I said so in a lighter vien. I crave the indulgence of you, Sir, and of the House for making a personal explanation to this House as to why I was not able to prepare a consolidated or a comprehensive Bill on this subject while I was in office. I must say that I trumpeted and I advertised early in 1952 that I would present a Bill of that character. It was my sincere intention to do so, but on account of circumstances over which I had no control I could not do so.

The House will remember that in the year 1950, my esteemed friend, Shri Jagjivan Ram, presented a Labour Relations Bill in Parliament but it could not pass through all the stages and the Bill lapsed. At the time when I assumed office, I felt that a fresh approach may be made on the subject of industrial relations because there were certain differences of view in the matter of this legislation and some of the organisations insisted that a greater emphasis should be laid on conciliation more than adjudication. Therefore, I wanted a detailed questionnaire to be issued to the workers' organisations, to the employers' organisations and to the public on the various aspects of industrial relations and I must say the response was very great. Thereafter, there was a tripartite conference at Naini Tal in October, 1952, when the whole matter was discussed at great length. That conference felt that in order that there may be more detailed discussion and conclusions which should form the basis of a consolidated Bill there should be a seven-man committee to go into the matter. They, therefore, proposed that a seven-man committee, representative of all sections, should be brought into existence and produce a report, on the basis of which the consolidated Bill should be produced. The seven-man committee went at great length into the whole matter and I am glad to say that with a good deal of unanimity a report was presented. On the strength of that report, a consolidated Bill was drafted, dealing with all aspects of labour legislation and industrial relations and it was presented to the Cabinet. But unfortunately there were great differences of view taken by various Ministries honestly and genuinely. There were honest and genuine differences on the view-points, and I felt that discretion was the better part of valour and I also felt sincerely that if I had, in spite of the differences, drafted a consolidated Bill it would nieither have been useful to the country nor to labour and industrial peace.

I am not here to enter into a controversy. I do not wish to repeat what I have stated in the letters to the Ministries and of the circumstances which disabled me to produce a consolidated Bill. But I always felt, so soon after I assumed the reins of the office of Labour Minister, that a consolidated Bill was, so to say, a truncated Bill, and in fact, I may just mention that I was satisfied and I advised the sub-committee of the Cabinet that I would be prepared to have a short, revised Bill, in the circumstances mentioned. Whatever it may be, I wanted, under the circumstances, to have some of the fundamental points mentioned in the legislation. In fact, the House will remember that I always laid great stress on the question of lay-off and retrenchment. Luckily for us, owing to the so-called slump in textile trade, that subject came in earlier and a separate legislation was passed, which really tended towards the improvement of industrial peace, because, on the one hand, the employers were circumspect in trying to engage just the number of persons that they required and the workers, on the other hand,—they were also honest and genuine in regard to the retrenchment that was necessary—were not thrown into the streets. They could get some unemployment benefit without contribution so that they could look out for fresh employment. Therefore, the fundamental point or the fundamental objective was disposed of through a separate Bill.

The other points that I considered most important were the revision of standing orders, the definition of workmen, notice of change and the abolition of appellate tribunals. On the question of standing orders, this Bill is certainly a great improvement because, hitherto, the standing orders have been more or less the monopoly of the employers for their guidance and therefore, the new provisions empower the employees' representatives to take part and have joint discussions with the employers so that they may come to an agreement on the basis of which the industry really runs. If the standing orders are understood and acted upon by both sides in a sincere spirit, strikes may not occur. Not only that, both

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as regards the substances and the interpretation if there are differences of view, regarding standing orders, both the parties can appear before any independent authority whose decision shall be final.

I am also glad that the definition of workmen has been elaborated to the advantage of the working classes. Notice of change is an important matter. If I may say so, it is the pivot and the corner-stone of industrial disputes. If a party is dissatisfied with the conditions and wants to change them, each party has to give notice to the other about the intended change, and the *status quo* should be maintained during this interval. But I would like to say straightway that the provision about the notice of change will not work in a successful manner unless the principle—I have always maintained this—that there must be one union for one industry is observed I do feel that the employer will be happy to see that one union exists in one industry so that he may know exactly with which body he has to deal. I am absolutely certain that if only the workers and the workers' organisations believe in democracy and the democratic running of trade unions in a scientific and well-organised manner, this shall not be difficult. My view is that if the unions can combine together and avoid rivalry, one union in one industry will be possible. I do not believe in non-members taking part in unions elections. If it is possible that members of different trade unions who believe in democracy and democratic running of trade unions can combine together and vote for a single body and a single set of office bearers, this should be possible. On the Railways, through the endeavours of some of us and the Railway Ministry, we have been able to convince the Railway workers to have one union in one industry at all level—at the federation level as well as at the unions level. When that could be possible, I appeal to all sections of the House, especially to those who represent the workers' organisations to ponder over and consider this proposition in a careful manner and try to arrive at a proposition to have one union in one industry, one central organisation for all the working classes in India.

Closely connected with this question of recognition of trade unions. Employers in India must realise the trade union movement and trade unions have come to stay and whether they like it or not, they have to deal with organised workers in this country, in order to secure industrial peace. Therefore, there is no use of employers shirking this question; they must be in a position to deal with unions which can deliver the goods and which will be in a position to negotiate on equal terms in a peaceful and democratic manner and produce the necessary results. I do hope that Government and employers will help the organisation of unions in a sympathetic way and not unnecessarily interfere with those organisations; they should see that recognition is easily given to unions throughout the length and breadth of the country.

I remember there is a law passed in Parliament—I think it was Dr. Ambedkar's Bill—in or about 1947. I do not see any reason why the Government should not consider it and see that that law is not kept in a suspended state of animation, but put into effect. If necessary a tripartite conference can be called to discuss the matters and remove the deficiencies by amendments. This is a matter which I want my esteemed friend, the Labour Minister to consider.

I have always believed that adjudication is enemy number one of the working classes not only in the matter of settlement of disputes, but it is against the interests of organised trade union movement. So long as adjudication remains on the statute-book, conciliation machinery has no value; at any rate, it will be of less value. You will kindly remember that during the time of the war, this thing has been introduced for the first time as an enactment in England, the United States and India, I can understand a war-time measure to meet the exigencies and emergencies

of the situation; but, after the war, while United States and U.K. have repealed it, India persisted in having that enactment. If experienced countries like the United States and U.K. can do it, why should we not do it also? This adjudication is a counsel of despair. If you want to give full weight and make the conciliation machinery successful, about which everybody seems to have agreed, why can we not decide to remove adjudication from the statute book for at least a period of three years and see how that machinery works? If the machinery does not work properly, we shall again be able to revert back; nothing will prevent us from doing so. But I am absolutely certain in my own mind that so long as adjudication is there, conciliation machinery will not succeed. Workers were accustomed to it, as some of them were accustomed to opium and they cannot get over it. They would not rely on organised trade unions for supporting them when they are in trouble; but, they think they can go to the court and get all they want. I feel that the workers' organisations should try to take courage in both hands and say, "We do not care to have adjudication; but, we want the other machinery for reconciliation and settlement of disputes." There should be a joint standing machinery not merly on paper, but in practice, working day in and day out at all levels and at all stages in the industry, taking away all sense of fear on the part of workers. Then, with that standing machinery as the basis, reconciliation can go and later, if disputes are not settled, have an industrial court, if necessary, on the lines of the U.K. Industrial Act of 1919 and see how we can avoid this adjudicating machinery, which is doing great havoc to the working class movement. I want every one of you, interested in the matter, to consider all the aspects and come to practical conclusions. When I speak about these things, I speak with sense of responsibility, not only because I held the portfolio of Labour three times during my life, but firstly and principally because I have been a trade unionist for 35 years and I have come to the conclusion that Internal settlement of disputes is far more abiding and far more permanent than external imposition by a third party, be it Government or God. Therefore, if this House is interested in having real trade union organisations based on democratic and scientific principles and if we want industrial peace, there must be an attempt at taking away this adjudicating machinery lock, stock and barrel for at least three years; this would do great good to the country and to the working class movement and ensure peace in industry.

Of course, I said I shall remove the appellate tribunal. The appellate tribunal, thanks to the Labour Minister has been removed now. At the same time, with my strong views on the question of the abolition of adjudication, if I had agreed and if I had advised the sub-committee to agree to the three-tier system, it was merely choosing the lesser of the evils. I am absolutely certain that if the workers say unitedly "we do not want this adjudication", I know it will be removed though I am not a Minister.

Dr. Lanka Sundaram: Do you agree to the three-tier system?

Shri V. V. Giri: Because, the lesser of the two evils. Whatever I have said, whatever I say, shall apply both to the public sector and the private sector.

I come to the amendment to section 33. This amendment naturally raises many contentions. You must admit that the workers have a genuine feeling that certain rights that they possessed previously are being removed by this amendment. I may tell you that we gave very anxious consideration for a very long time to this matter at the Nainital Conference, at the Seven-men Committee, at the Consultative Committee and elsewhere, both outside and inside these Committees. Two of the central organisations have agreed to it and a third organisation put forward constructive proposals. I do not wish to say anything except merely state a fact. The Labour Minister has in his opening speech told us

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why we have been compelled to have this amendment. At the same time, the following points may be noted by the workers' organisations. Protection on the lines of the existing legislation is preserved to all workmen regarding any matters connected with the dispute before the tribunal. That is as it was before. No doubt in matters connected with the dispute, that right is restricted. But, there are the following safeguards. Simultaneously with the discharge or dismissal notice, the employer has to file an application with the tribunal where the dispute is pending to secure approval of the action taken. He has to pay a month's wages and take him back to service if the tribunal has not approved of the action taken. Not only that. The top executive who are generally victimised by the employers for trade union actions are protected whether the matters referred to, are connected with the existing dispute or matters unconnected with the dispute. At the same time, I have made it perfectly clear before the seven-man committee and elsewhere that so far as this amendment is concerned, that the employers are put on their good behaviour. The employers must be sure that they look only to the spirit of the things and not to the letter and not victimise the workers. If in a year's time, I said publicly as a Minister, it was not found satisfactory and if it was found that the employers were taking mean advantage of this proposition, I would not hesitate to recommend to the Cabinet that this should be repealed. The employers should remember that this was said by an ex-Minister who was responsible, who took courage in both his hands to do it. It is unfortunate if the employers do not know how to behave in a proper manner and assure the workers that they are not anxious to victimise because they have got a right to do so or something of the kind. Then, there is greater hope for industrial peace. I want the Government also to remember the pledges that I have made to the working classes, to everybody. Therefore, I shall watch whether as a back-bencher or as an ex-Minister or a Member of Parliament as to what they do and would not do. If things are not done properly, I would fight tooth and nail to the last, to repeal the amendment.

Shri Nambiar (Mayurham): Will the present Labour Minister follow the same suit?

Shri V. V. Giri: Much better than myself.

Shri Nambiar: He can very well do it.

Shri V. V. Giri: I have done it I take the responsibility. I am sure he will do it better than myself.

Shri Nambiar: Let it come from the horse's own mouth.

Shri V. V. Giri: A month's wages are given to the workers who are discharged or dismissed. I also gave an assurance that I would try my best to see that these cases are disposed of within a month. I want the Government of India and the Labour Ministry to have as many agencies as possible and see that these cases, when they arise, are disposed of expeditiously. If they have still any doubts, I would like to extend one month to two months I would like the employers to accept it, so that they will receive at least two months wages and there will be greater possibility of the cases being disposed of in two months.

There is another point. Discharge or dismissal involves a stigma. The case is really *sub judice*. When an employer makes an application to the authority to approve his action, it means neither discharge nor dismissal. Instead of saying that he is discharged or dismissed, it may be stated in the provision that he is on compulsory leave for a month or

two. When the matter is decided, he can be discharged if the court approves of the action and if not, he will be reinstated. I think there is a good deal in it. In fact, I mentioned it before the seven-man committee. Nobody loses anything; but a sort of morale is established and a stigma is not put on a man discharged or dismissed. This matter should be considered by my esteemed friend, the Labour Minister.

I do not wish to take up more of the time of the House. I have already taken more time than I should. I do hope that all these points will be considered in a constructive manner and legislation passed. I support the Bill.

Shri A. K. Gopalan (Cannanore): Mr. Speaker, at a time when we have got a Plan for rapid industrialisation and also for increase in production, I do not think that the Industrial Disputes (Amendment and Miscellaneous Provisions) Bill that has been placed before the House is in any way adequate and suitable. Though there are some good provisions in the Bill, when we go into the details of the Bill, we find that section 33 which was far better than it is in the amendment, which gave protection to the workers, has been removed.

First of all, I want to say that it is necessary for rapid industrialisation and industrial peace in the country to have collective bargaining and negotiation. The employer and the worker should be at liberty, whenever any dispute arises to resort to collective bargaining and negotiation. We have to go into the history of the Industrial Disputes Act, when it was enacted and what was its object. In the years 1927, 1928 and 1929, there were big strikes and struggles in India and the employers could not directly deal with the trade unions. They thought and the British Government also thought that they could crush the unions and put down the strikes and struggle with the help of a law. Therefore, the Trade Disputes Act was enacted in 1927. After that, in 1934, the Bombay Government framed a law of conciliation. They brought in labour officers and conciliation officers as a substitute for the trade unions. After that, the Industrial Disputes Act was passed in 1947. It was framed with the object of weakening the trade unions. It has also made the workers litigant-minded. We see today that most of the trade union functionaries are busy in the courts, the industrial courts, the High Courts or the Supreme Court. And that was the very object of the Trade Disputes Act also. The Government did not want that the unions must be strengthened.

As my hon. friend Shri V. V. Giri has said, compulsory arbitration cuts at the very root of the trade union organisation. The workers come together when there is a necessity. It is necessity that unites the workers. When the workers understand that they have got to get certain demands fulfilled, they join together and form a union. But the fact remains that the Trade Disputes Act, instead of strengthening the unions, actually has weakened the unions, with the result that the workers are driven into the courts like the industrial courts, the High Courts or the Supreme Court. So, we see today that the object of the Trade Disputes Act, namely to weaken the trade unions, is being realised in practice, just as the framers of that Act wanted it.

But today, the conditions in the country are different. We have now got before us the Second Five Year Plan, where we have laid down some specific objectives such as increase in production and so on. At a time like this, the main basis of any legislation that is brought forward so far as the workers are concerned should be that industrial peace is created, the relations between the employers and the employees are bettered and collective bargaining and negotiation are made possible

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with the employers. In this connection, I would like to recite to you a small story. A man reached the top of a tree, and then he fell down from there. Somebody asked, 'What about that man', and he was told 'The man is all right, but his head is removed from the trunk; only the head is not to be seen'. In the same manner, this is a very good Bill, but there is no provision in this so far as the most important thing, namely, the recognition of the union is concerned.

In 1947, a Bill to amend the Trade Disputes Act was passed by the Legislative Assembly, but I do not know what has happened to that Bill. I do not know whether it was sent at all to the President for his assent. At least that Bill contained some provisions in regard to the recognition of the trade unions. One of its provisions was that the most representative union of the workers would be recognised. Although I do not support that Bill, and I do not agree to the terms and conditions laid down in that Bill in this regard, yet at least there was some provision in this regard, namely, that there must be some representative union for purposes of collective bargaining and negotiation with the employers.

As you are aware, the basis for collective bargaining is the recognition of the union by the employers. Unless there is a legislation by which the employer is compelled to recognise the unions, and unless and untill the employers and the employees are made to come together for collective bargaining and negotiation, whatever amendments we may pass here, ultimately things will end in the courts only.

Coming to the Bill proper, I find that there is a provision in it in regard to penalty for breach of settlement or award. Previously, if there was a violation of the arbitration award, the penalty was confined only to fine. But now imprisonment also has been put in as an alternative or adjunct to fine. I would like to point out that no employer will be afraid of this punishment, because in practice, there will be no punishment at all. What is important is that Government will have to take action.

Only four days ago, I was at Firozabad, and the demand of the workers there was that the Factories Act should be applied to them. They wanted that they should be given only eight hours of work a day, and the other benefits of the Factories Act also should be extended to them. You are aware that the Factories Act was passed some years ago. But even today, the workers are compelled to go on strike in order to force the employers to apply the Factories Act, but we find that Government are not doing anything at all in this matter. Therefore, I am afraid that even if there be a penalty clause providing for imprisonment, unless Government move in, the workers cannot get what they want. And judging from past experience, I might say that they may not move in.

I was saying that the first thing necessary for settlement of any industrial dispute is that there must be a recognition of the union, in order that there may be collective bargaining. A recognised trade union is also necessary in order that there may be better production by every unit, which can be encouraged by a joint organisation of the management and the workers led by the trade unions in industry. So, it is not only for the purpose of getting some bonus and wages that the workers must be allowed to form a union which should be recognised, but also for the purpose of increasing production, because the workers also want that they must do something for the advancement of the country and for the reconstruction of the country through their organisation. How could the workers do so, unless there is an organisation of their own? So, the development of a healthy and

strong trade union organisation is very important not only for fighting for bonus, wages and other rights of the workers but also for the development of the nation as a whole. From this point of view also, the recognition of the workers' unions is very important.

And what have Government done in this regard? As far as the private employers are concerned, that is another matter. But what is the attitude of Government? Where there are unions, the attitude of Government has all along been not to recognise the unions and not to see that negotiations and settlements are made possible. Only during the last session, we had a debate on the Kharagpur strike. And then, there was also the Kalka strike. We heard many violent speeches from the other side, and it was said that the workers were violent and they were doing all sorts of things. So far as the Kharagpur strike is concerned, some of my friends have gone and visited that place afterwards, and they have enquired and ascertained that there is a union there at Kharagpur which is representative of a majority of the workers, but that union could not negotiate, because it had not been recognised. The authorities had said many a time that they would take steps to recognise it. But they have not done so. If only the trade union there had been recognised, they would have been able to carry on negotiations, and such strikes as had happened would not have happened.

Only a little while ago, I had told you my experience in the port of Cochin, in this connection. I had been to the port, and I saw also the port administration at Cochin. The conciliation officer had given notice to the workers and also to the port administrator for the settlement of some disputes, nearly a year ago. About two months back also, he had given fresh notice to the workers and to the port administrator in order that certain disputes, which have been pending for nearly three years now, could be settled by negotiations. But the port administrator did not come at all. Then I brought the matter to the notice of the Minister of Railways and Transport.

I am saying all this only with a view to pointing out that where there are recognised unions, it is the duty of Government to see that any demands that they put forward are considered by means of negotiation and some compromise arrived at. If that is not done, then the industrial peace which we all desire will not be there.

So far as industrial relations in the public sector are concerned, we also understand that there are certain conditions laid down by the Home Ministry, which have to be fulfilled, before a union can be recognised. But what we find is that the secretary of the union or the other important office-bearers and responsible workers of the union are transferred from place to place. As far as the railways and the postal department are concerned, we know that the most important thing, namely the machinery which can conduct negotiations, is not there.

I want to know from the Minister what difficulty is there that stands in the way of recognition of the unions. One difficulty that is put forward is that there are so many unions, and one does not know which union to recognise. If there are two unions in one place, then either of those unions must be recognised, provided they are registered under the Trade Union Act. If, on the other hand, it is said that there should be only one union for one industry, then it is the duty of Government to see that the necessary conditions are created, which could make such a thing possible.

At the meeting of the Labour Panel, we had put forward a concrete proposal in this connection, namely that there should be a ballot for the purpose. Let the workers in the different unions be given an opportunity to express their wish by means of

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a secret ballot, and let us abide by the decision of the majority of the workers. But it was pointed out in the Labour Panel by somebody that one could not go by secret ballot, because there would be speeches, emotions will be created, and the workers would vote just as they like. But I would like to state here that we are forming even our government on the basis of secret ballot. Emotions are created, and so many other things are created, and yet it is by secret ballot that we are forming our government. If our people could be given the right to form their government by secret ballot, I do not understand why the workers also should not be given the same right, and why they should not be told: 'You express your wish by a secret ballot, and we shall abide by the majority decision'. If the majority of workers are represented in one union, then the workers will have to abide by whatever decision is taken by the representatives of the union. Until recognition of the union is there, until there is one union in one industry representative of the majority of workers in the industry, until the employer recognises that union, certainly there can be no collective bargaining and no negotiation. So the very basis and foundation for collective bargaining as well as negotiation is the recognition of union and one union for one industry. That can be achieved only if Government take courage to ascertain what is the opinion of the majority of the workers. They must say: 'We want to recognise the union. Let us know what is the opinion of the majority of the workers'. On the basis of that, it can be done.

1 P.M.

So I want to ask why it is not done. Yesterday the Minister was talking about the BIR Act. I want to know what is going to be the outcome. Wherever the BIR Act had been there—in Bombay or Madhya Pradesh—so many struggles had been there. If the employer or somebody can get 15 per cent. of the workers to form a union, such a union can be recognised. The others will have to abide by whatever agreement is concluded between that union representing 15 per cent. of the workers and the management. Certainly, it may be that in one industry or factory there may be 60 per cent. of the workers who do not belong to that union and do not agree with the policy of that union.

So unless and until it is ratified by the whole body of workers, any agreement reached between a union representing only 15 per cent. of the workers and the management, will not be respected. As we see today, as we have seen before, in many places, such an agreement is not respected because it does not represent the view of the whole body of workers. Not only that. Even according to the BIR Act, no worker is allowed to represent himself. He cannot have his own lawyer. For everything he must go to the union, though he is not a member of that union, though he does not like the policy of the union. That means it is compulsory affiliation by which the members are forced to say: 'We cannot do anything. We cannot represent. So at least now let us join the union'. This is forcing them to join that union.

What I say is that such a thing will not happen if there is a union representative of the majority of the workers. As far as the working of the BIR Act is concerned, we know the workers have been subject to many disabilities. The right of the worker had been curtailed. The worker is not, according to democratic principles, given an opportunity to represent himself.

A Bill was passed before, though assent has not been given to it. That can amended, in that way, if it is not possible to incorporate that amendment in this Bill, especially when

there is no Select Committee motion on this Bill. Let the Labour Minister give us an assurance that immediately a Bill for the recognition of trade unions will be moved amending the old Bill which was not given assent to. Then only there will be some satisfaction as far as collective bargaining and negotiations are concerned. This must be done not only in one place but in all places. We know that in some places the majority of workers belong to one union, but the employer recognises another union where membership is not there, where membership is bogus. He negotiates a settlement with the latter union. This leads to disagreement among the workers. So as far as one industry and the workers of that industry are concerned, let there be one union representing at least the majority of the workers. Let there be some conditions for recognition. Let there be some principles on which a trade union can be recognised. On that basis, recognition of a trade union is the most important thing. As my hon. friend, Shri V. V. Giri said, let there be negotiation and collective bargaining. Give them the opportunity, and only if there is no settlement between the employer and the employees they should be given an opportunity to go to court. That is the most important point I want to bring out.

Coming to the provisions of the Bill, there are certain good provisions here. One is regarding the extension of the definition of 'workman'. But there again, I want to point out that contract labour has been left out. Contract labour exists even in the major industries. As far as Government are concerned, they have not stopped the contract labour system. Contract labour exists in the railways and in other big industries in the public as well as the private sectors. As long as the contract labour system exists, why do Government want to leave that out from the scope of this definition? People doing contract labour even in the major industries for 10 or 15 years are not brought under this. I want to know why. Either the contract labour system must be abolished or they have to give contract labour the benefit of this provision. Giving them contract labour and not giving them the benefit of this is certainly a wrong policy. We have tabled an amendment to include contract labour within this definition. I hope that will be accepted.

The second point is about the provision regarding notice of change in the conditions. There also so many services are left out. I think they should not be left out. They must also be included. That is the second amendment I wish to suggest.

The provision regarding amendment of section 33 of the Industrial Disputes Act is regarded by the workers and by all others as the most objectionable part of the Bill, because already the protection that has been given to the worker under section 33 is now being taken away. What is the reason for this? The reason is that employers have complained that there is adjudication if protection is there. If the worker beats a man or commits some other offence, there is the Criminal Procedure Code; you can ask the police to take action against him. But here the question is different. The most important thing is that the worker agitates. After the agitation, though the employer does not want it, adjudication proceedings start. When it comes up for adjudication, the employer wants to wreak vengeance on the worker. He knows that the workers are organised into a union, they have agitated the matter and it is now going to be adjudicated upon. So at the time of adjudication, he can, according to the provision now, dismiss a workman. It is said that he has got an opportunity to appeal. If a worker is dismissed pending award, is there anything in this Bill to show that within two or three months, the inquiry will be over and the worker will get something? It may be that the matter is reported immediately to the adjudicating authority, but it may be four months or even five years or seven years before the case is over. In the meantime, what can the worker do? Will the worker

[Shri A. K. Gopalan]

be in that union? Will the worker be in that industry? When he is dismissed, he has no work. Certainly after one month or so, he will go to some other place because he wants to find some job. That was the reason why there was some protection given, but that protection is now sought to be taken away. When that protection was there, the employer could not do anything to wreak vengeance on the worker. This amendment seeks to take away the limited protection given to the workers under setcion 33 of the principal Act.

The charge levelled by the employer is that the provision under section 33 has led to indiscipline among the workers, and Government have accepted this version of the employer. I have already pointed out what they can do if there is indiscipline.

[MR. DEPUTY-SPEAKER *in the Chair.*]

1-09 P.M.

They have also proposed that where during the pendency of the proceedings an employer finds it necessary to proceed against any workman in regard to any matter not connected with the dispute, he may do so in accordance with the standing orders applicable to the workman. But when the action taken involves discharge or dismissal, he will have to give the workman one months' wages and simultaneously file an application to the tribunal for its approval of the action taken. But when will approval be given? Is there any time-limit for the approval? When there is no time-limit for approval, for five years the worker may have to wait after being dismissed. Half a dozen workers are dismissed from a factory and they are waiting there for approval. There is no time limit for the approval. If the employer wants to see that some workers are sent away from his factory, if he wants that some trade union leaders should be sent away, he can dismiss them and send a report. No time limit is fixed for the approval and it may drag on for even two years.

Supposing the dispute is about bonus. Then, according to the amendment, there can be decrease in wages and they cannot take it up. There may be increase in work-load. That is not a matter before adjudication and so that also can be done. If the question is about bonus, then, there can be decrease in wages. There are many loopholes. The worker can do nothing. Generally he has got the right to protest, to strike but he cannot go on strike. The employer can drive him away, can dismiss him and also change the conditions of service and do anything which is not a subject of adjudication.

Coming to the industrial courts there is the three tier system. We propose that it must be a three-man tribunal and there is no need to have different kinds of courts like those proposed here. Let there be one national industrial court to go into the question.

As far as going to the High Courts and Supreme Court is concerned, we say it will not be of any use. We know how these Courts work. We know what the Bombay High Court did in the bonus case. The Labour Appellate Tribunal said that 4 annas must be given as bonus. But the Bombay High Court said that no bonus need be given because in that year there was no profit. So far as the High Courts and the Supreme Court are concerned, we know they decide things only on the basis of the Constitution and constitutional points and they are not concerned with labour relations. It is not on the basis of labour relations and industrial peace that these courts decide things, whereas the tribunals know something about these.

Another point is the arbitrary power given to Government in the reference of the dispute. Power is given to the Government to decide which is most important point. When the worker thinks that some point is important the Government may not think so and refer something else to arbitration.

The special INTUC number—May 1956—very strongly opposes it. It says that such powers vested in the Government for referring the dispute are so wide that they can cripple a Union or work up strikes. This question is one of policy and in the ultimate analysis the working class would not agree to such wide powers being vested in the Government. The question which requires an answer is whether such power vested in the Government is in consonance with the democratic principles on which we establish a new order. As far as the working class is concerned, it can never agree to such powers. The question of referring disputes for adjudication as analysed requires a complete change. What we say is that such powers should not be given. It is not only our view; it is also the view of other unions. Such vesting of powers in the executive goes against all concepts of democracy; it is the worker that must have the right to say which are the things to be referred and not the Government.

I have already said about the penalty for breach of settlement. Let the Government assure us that wherever there is a breach of the award, action will be taken at once. Even an assurance is a good thing. Even today there are a few places where the Factory Act and other Acts passed by Parliament are not being implemented. If Government will see that wherever there is an award broken, whichever party it is, action will be taken, then, certainly, this is a very good clause.

I want only to make an appeal to the Labour Minister. When the object is to have industrial peace and also collective bargaining and negotiation, certainly, another Bill for the recognition of the Trade Unions should be brought along with this. It may be a very simple one. If that is brought in and if my friend, the hon. Minister is also pleased to bring back the old section 33 it will be doing good. The new clause goes against the interest of the worker and it should not be there.

Dr. Lanka Sundaram: Mr. Deputy-Speaker, Sir, this the first Republican Parliament of India has waited more than four long years to obtain from Government something in the shape of a charter of working men's rights I regret to say that my hon. friend, Shri Khandubhai Desai, in introducing this Bill, has not given this House, nor the country and more so the working men themselves such a charter. Yesterday my hon. friend, Shri Desai said—and I am quoting—

> "I would like to say that this Bill has been placed before this House after full consultation for the last two or three years. I cannot say that this is the last word."

I have been wondering why, particularly, the Ministry of Labour requires such a long and inordinately long time to go through the process of incubation before a Bill of this character is presented to this House. I have made an analysis of the amendments sought to be moved by my hon. friend Shri Desai to this very same Bill covering 9 pages of closely typed foolscap sheets. They contain 44 amendments. In fact, I have got a feeling that the Statement of Objects and Reasons of this Bill may have to be substantially altered in the light of the amendments of the Minister himself. This is not the first occasion —and I am not saying this in any carping spirit—that the Labour Ministry brought in amendments totally to alter the shape of the Bill which was supposed to be on the anvil of this House. My friend, Shri Giri did it on a previous occasion as the House very vividly recalls. I refer to this only for one reason, namely, that there is a divison in the councils of the Government of India in the Labour Ministry, with the result that they do not know how to make up their minds. When the proper moment arrives and if I get a chance I will compare the amendments of my friend the Minister with

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the provisions of the Bill itself. But I say this because I felt, with the interest I had taken in trade union matters, that something fundamental will be done by Government before this Parliament is dissolved to give the working men a sort of a charter of their legitimate and irreducible minimum of rights. I regret to say such a charter is not available.

This Bill like the proverbial curate's egg is good in parts and I congratulate my friend Shri Khandubhai Desai for having at least agreed to the delayed abolition of the Labour Appellate Tribunals. Some of us who had appeared before industrial tribunals know how tortuous the process is. I have got one vivid case where I appeared before a tribunal and it took 11 months to get a first verdict. By the time of the first verdict, 3 of the workers involved in the dispute died. This is on record. The Labour Appellate Tribunals have become so obnoxious to the working man's improvement. I can also say that so far as employers go because if any employer is willing to do his duty by the worker in the interest of his own establishment, he would not like to go from pillar to post, whatever the resources available to the employer might be, for months and years to come. I also congratulate my friend Shri Desai for the new enlarged definition of worker even though I have some difficulties still as regards its scope and content.

Thirdly, I would like to congratulate him for having given the new right to the worker with reference to the alteration of the standing orders. To my mind, unless I misread the situation in the labour sphere, this standing order issue has become perhaps the most vital bone of contention between the employer and the employee. And, every time the employer was in a position to twist the standing orders to suit his own ends without the worker having any adequate relief. But I say that this Bill is good in parts.

I have got one or two difficulties about this Bill apart from its halting, limited character. I tried to go through every comma and full stop and every word, phrase and sentence of this Bill and I could not get any assurance that the worker would get an automatic right of recognition for his trade union, a provision which my friend, Shri Gopalan, referred to as existing in the 1947 Act. I know, and my friend, Shri Khandubhai Desai, also knows, how on the Railways parallel unions were forced and had been deliberately brought into existence and sustained. I am not now going to apportion the blame to Government, but each one in the trade union movement knows how recognition is a matter of vital concern to the people and how in particular there is a distinction apparently drawn, though not within the framework of the Bill, between the private and public sectors. I will give two or three concrete examples. On the Railways, for example, certain unions are recognised and certain are not recognised. Even the Stenographers' Association of the Central Secretariat is recognised, but class III associations were not recognised on the Railways—I had been one of the Railway Unions' President and I know this. I am only illustrating this to show that the discretion is vested in the employer, particularly in the public sector, to withhold recognition. I regret that this sort of extraordinary powers being given to the employer in the public sector cannot be tolerated in this country and they should cease forthwith.

I had hoped that in the framework of the Bill some sort of a time limit for the disposal of disputes will become available. I agree that not all disputes can be disposed of within a specified limit of time, but some sort of phasing for the disposal of these disputes seems to be called for. I have known cases where it has taken more than two years for the worker to get relief even though the Appellate Tribunals are abolished. That is

why I asked my friend, Shri Giri, one question when he made a really admirable speech—I congratulate him on it as one of the pioneer trade union workers in the country and as one who is responsible for laying the groundwork for this Bill itself. I put the question, why does he agree to the three-tier system in the Bill and what is the necessity for the Labour Court, Tribunal and National Tribunal? I can say, based on personal knowledge of industrial disputes, that this sort of appeal after appeal will not conduce to the harmonious labour relations, will certainly not give the worker and, I say in the same breath, the employer quick, speedy and enduring results.

Shri V. V. Giri: There is no question of appeal at all here.

Dr. Lanka Sundaram: I am only illustrating the problem in a general way. Virtually it comes to the same point; categories are divided and approaches are also specifically laid down. In any case, the three-tier system is there. According to the way in which these cases are preferred, the problem is important, and I would straightway suggest to my friend, Shri Khandubhai Desai, to agree to the abolition of the so-called Industrial Tribunal in the middle. Actually, I am anxious to have the Industrial Court and the National Tribunal is enough. But that is a matter for technical investigation. I am prepared to listen to any arguments which Government can advance that this three-tier system is necessary, and absolutely necessary. In my view, on the basis of the advice which I have received from various trade unions, such a three-tier system is not necessary.

I have noted down the words as my friend, Shri Giri, was making his eloquent appeal. He said that he would prefer internal settlement to external imposition. Each one of us trade-unionists knows that this is the objective which is dear to our hearts, but we know from day to day experience that the bureaucratisation of the public sector and investing the executive authority in certain establishments with powers which are really beyond measure, will never enable the worker to get an opportunity for settlement. Only three months ago there was a case in the Shipyard and from pillar to post the workers went in order to sit down with the employers, but that right to sit down with the employers was not given. A strike notice was served and then some of us intervened to withdraw the strike notice. I am only anxious to point out that this right is not in the concept of this welfare State, and is almost impossible to get in the manner in which the executives entrusted with the running of the public sector are catering for the workmen's movement. I quite realise that nationalisation is inevitable in the context of our country today—welfare State and socialist pattern of society. Let there be no mistake about it. But the fact is that we are running these institutions with the help of these officers, who are invested with powers beyond measure, who are creating trouble for sitting across the table and settling disutes. I can give half a dozen cases where in the public sector this sort of settlement by direct negotiation was not made possible. I should like to hear my friends who are here and who have experience of public and private sectors if they can tell me that I am wrong in my experience. It might be that I am an unfortunate person to have such an experience. I am not saying that the private sector is composed of people who are paragons of virtue, but I find that more and more liberty and scope for uncontrolled and untrammelled activity are available in the public sector, In the private sector, the Government comes in as the third party, but here in the public sector, the Government is a party itself. I think the Government in the Labour Ministry and my friends, Shri Khandubhai Desai and Shri Abid Ali, who are here, will apply their minds to this point. Clearly a distinction is sought to be made,

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may be even unintentionally, but the implication is clear.

Finally, on this point I would like to say that quite a number of civilian establishments of the Government of India are excluded from the operation of this Act. I often wondered—and I would like my friend Shri Abid Ali to tell me why it is so—why the civilian establishments of the Defence Ministry are not given the benefits of this Act. I have seen here the revised amendment No. 43 on the Order Paper to clause 32, defining workman. It only makes a reference to the Army Act, Air Force Act and the Navy (Discipline) Act, but these are for regular combatant personnel. I am here to say that my friends who have experience of the Defence Establishments, the civilian side particularly, know this fact, and I regret to say that these provisions are not made available to one of the vast employing agencies in the Government of India in existence today and I hope that this desideratum, this lacuna will be filled up.

I have got one or two general observations also to make. I find that the system of conciliation at present in operation has become a total failure with the result that some sort of a time limit, say a fortnight, must be automatically placed for this conciliation. I have got a recent experience of a Tribunal case. The workers gave a notice of strike; then the Labour Officer stepped in and thereafter various higher officers came into the picture and it did not lead to any conciliation at all. I am sure most of my friends also will have had similar experience. So, some sort of ceiling must be set for the initial conciliation machinery to complete its work.

I am rather sorry that my friend, Shri Gopalan, had to make a reference to High Courts and the Supreme Court, but I feel that in vital questions of principle or law, there must be the right to appeal to the High Courts and the Supreme Court. I think that is a protection which the workers want. In fact, I have got before me the joint statement issued on behalf of a number of unions—Naval Base, Naval Armament Depot, M.E.S., Shipyard etc.—urging for such a right. I think this House is entitled to know the implications of the demands which I am voicing here this afternoon. There is a clause relating to the notice of change in the working condition of the employees. That should not be confined to private industries. I hope to have an opportunity to develop this point at the appropriate stage.

On the overall right to strike, I am perfectly clear in my mind that without conceding this right of collective bargaining and settlement there may not be industrial peace in this country. I would be most unhappy to see any curtailment of the right to strike as the ultimate weapon in the hands of the worker. In the present context of our national development, the Second Plan, the concept of a welfare State and a socialist pattern of society, both the Government which is one of the biggest employers, and the private employers must see and notice the time spirit. I regret to say that such a notice of the time spirit is not evident from my knowledge of the private employer or the Government whose departments are now employing vast numbers of industrial and other workers. I hope that this Bill, before it passes through all the stages will be modified in terms of the constructive criticism offered from such widely different personalities as my friends Shri Giri and Shri Gopalan and that after that is made, this will be one of the stages in the evolution of a charter of workmen's rights, and that by the time the next Republican Parliament—the second Parliament—is convened such a charter will be available to this country.

Shri Venkataraman (Tanjore): This is a Bill to amend the existing Industrial Disputes Act for the purpose, as the preamble of the Act itself says

of providing for investigation and settlement of industrial disputes. The larger question of a charter of rights for the labour or the recognition of trade unions and all that are not very relevant to the Bill which is now under discussion. No doubt, it is very necessary that the fundamental principles of labour-mangement relations should be established before we can proceed to see whether it yields any results. But that by itself, I am afraid, is not now before the House. That would have been before the House if the comprehensive Bill which was promised from time to time by the Labour Ministry had been brought forward. In the Labour Relations Bill which was before the provisional Parliament, there were provisions for collective bargaining, recognition of agents and so on. But as one who has been associated through all the various stages of the negotiations between several trade unions and the employer organisations I find that both in the Indian Labour Conference held in 1951 and again in the Indian Labour Conference held in 1952 in Naini Tal there was no measure of agreement. It was found that unless there was some measure of agreement between the various bodies and at least a measure of agreement among all the trade unions, it was not possible to place a comprehensive legislation before this House. In the meanwhile in the administration of this law, a number of difficulties have arisen and very serious disadvantages have grown for the working class.

In the first instance, the courts began to give a narrow interpretation with regard to the definition of the workmen and excluded quite a large category of employees who deserved protection and—I am sure—which it was intended to give at the time when the 1947 Bill was discussed in the House. I will give you one or two instances. The foreman in a factory was considered to be a supervisor and therefore he was excluded; a chargehand was also excluded from the benefits of this law. An overman in a mine who merely supervises the safety arrangements was considered to be not governed by this Act. A mistry in a plantation who just works along with the other workers and draws about Rs. 1-8-0 per day was considered to be a supervisor and he was excluded. Quite a large number of these petty people who deserve the protection of the Industrial Disputes Act have been excluded from the benefit of this law. So, it has become necessary to amend this definition in order to cover those categories of employees.

In 1951, the Select Committee on Labour Relations Bill took evidence of the various interests. The association of technical personnel tendered evidence before that Committee and it pointed out the harrowing tales of victimisation of people who were in the technical employment in the factories. Particularly, the association gave instances from the textile mills. It was thought necessary that we should amend this definition so as to include all the categories of people who deserved protection. But I am afraid even as the clause now stands that sufficient protection will not be given to all the categories. We are again leaving the question open for interpretation by industrial tribunals. I would like my friend Shri Abid Ali to kindly note this and reply in his answer whether according to the definition in the Bill, a doctor, a compounder, a nurse, a midwife and a teacher in the plantation are "employees" under the Plantation Labour Act and whether they would be protected or not. My reading of this clause is that they will come under the category of technical personnel and that they will be protected. I would like to be assured by the Minister that it is the intention because, if tomorrow the courts give a different interpretation, I may be enabled to apply to the Government to change the definition and see that it is brought in line with the intention. Otherwise, it would be open to doubt whether the word

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'technical' would be confined only to those people who are dealing with engineering, scientific or other aspects of industry or trade and they may, therefore, be excluded. There is a genuine doubt which has been expressed to me by the staff of the South India Plantation Staff Association in their last annual conference and I wish that the Minister would make the intention clear. I know very well that the intention that we express here is not binding on the courts but if the courts give a different interpretation we may approach the Government to bring our intention in accordance with the interpretation.

The present law has got certain defects which have been pointed out by various courts. For instance, there is difference of opinion between the High Courts on the one side and the Labour Appellate Tribunal on the other on the question of what is an industrial dispute—whether an individual dispute is an industrial dispute or not. In the case of Kandan Textiles, reported in 1949 *Labour Law Journal*, 675, the Madras High Court held that the case of an individual who has got a dispute with an employer could not be referred to because it was not an industrial dispute and not taken up by a batch of workmen. If you look at the definition of 'industrial dispute,' it say '.....a dispute between the employer and workmen'—in the plural '....or between workmen and workmen....'—in the plural. On the basis of that they interpret that an individual workman cannot have an industrial dispute with the employer. This dicision has been followed in 1955, *Calcutta Weekly Notes*, page 169 and reported again in 1953 *Labour Law Journal*, 137. As against this decision the Labour Appellate Tribunal in the Swadeshi Cotton Mills case, reported in 1953, *Labour Law Journal*, 757 says that an individual dispute is also an industrial dispute and so it is within the competence of the Labour Appellate Tribunal to adjudicate on it.

The conflict of this decision puts the Tribunal in a very disadvantageous position. Under article 227 of the Constitution the decision of the High Court is binding on subordinate courts as well as its tribunals. The decision of the Appellate Tribunal is binding on a subordinate Tribunal. Therefore, it becomes very difficult for them to choose which decision they should accept. This difficulty was realised on the last occasion when the Labour Relations Bill was discussed and then it was decided that an individual dispute should be treated as an industrial dispute. This is the revised definition which they adopted with regard to an industrial dispute:

> "A labour dispute means a dispute or difference between an employer on the one hand and one or more of his employees or a certified bargaining agent...."

Therefore, we should bring on par the present legislation with the decision taken in this Select Committee on the Labour Relations Bill, so that this at least is clarified and there may be no further disputes on this matter or uncertainty on this question.

Then again there is another difficulty which has arisen, and that is this, with regard to labour disputes. The definition of 'industrial dispute' says: "any dispute or difference between an employer and an employee with regard to the conditions of employment of any person". Now, the expression "any person" has been interpreted by the then Federal Court in the Western India Automobile case to include any third party. But the Labour Appellate Tribunal has interpreted this expression to mean that it refers only to a workman. So again there is a conflict of opinion and we do not know which to accept and whether the Government would be justified in referring disputes relating to

third parties in this question. This is one of the vital matters, because it may be that a person is not governed by the definition of 'workman', nevertheless he may play such a useful part in the trade union that other workers may either like to retain him or get him out for his anti-trade union activities. Unless that right is given with regard to the employment or non-employment of a third person or any person, the trade unions cannot develop in their full sphere of activities. Therefore, I would suggest, it is very important that this also should be remedied as early as possible.

Then, Shri V. V. Giri took credit for bringing the clause relating to compensation for retrenchment, and rightly so. Some of the trade unions had sent many hundreds of telegrams asking him to bring forward that legislation and we were very proud of it. But, unfortunately, I am afraid he does not know that the whole law is about to be torpedoed. In the latest case in Allahabad High Court....

Shri Abid Ali: We will rectify that if it is possible.

Shri Venkataraman: I am very happy. That is exactly what we want, because this will cause one of the worst repercussions in the trade union movement. A company or an industry can on the pretext of closing down send away all its workmen not paying compensation which has been guaranteed under section 25 (f) of the Industrial Disputes (Amendment) Act and then it can restart its business at any time. The Allahabad High Court has held—thank God, it is not a decision in any case, it is only an *obiter dictum*—that if a company closes down, it has got the fundamental right under the Constitution and no power on earth can compel it to pay compensation for closure. The question here is is not one of damages. The mistake which the Allahabad High Court made was that they interpreted compensation for closure as damages. That is not correct. It is no punishment for closing down. It is a compensation for the years of service a man has rendered in the industry, by way of provident fund, gratuity and so on. Therefore, this has got to be remedied and I am glad the hon. Minister has taken note of this. He said that this is under the active consideration of the Government.

Shri Abid Ali: I said that if there is some lacuna we will rectify it.

Shri Venkataraman: I am very glad that the Government is looking into this.

Mr. Deputy-Speaker: The hon. Member should try to conclude now.

Shri Venkataraman: Can I have some 5 or 10 minutes more?

Mr. Deputy-Speaker: The hon. Member may have 5 minutes more.

Shri Venkataraman: There are one or two things in which we have gone back on the provisions in the old Bills. Instead of making an improvement we seem to be progressing backwards. In clause 7(a) and 7(b) of the Bill it is said that the Government may appoint two assessors to advise the Tribunal. In the Appellate Tribunal Act the provision in section 9, sub-clause (4) was that after consulting the parties they may appoint assessors. But in the original Industrial Disputes Act, in section 11(5) it was said that only with the consent of the parties can assessors be appointed. So we started with appointment of assessors with the consent of parties, came down to consulting them and are now finally doing away with it. I do not know why this has been done and I am sure the Government will try to see that this is also rectified.

There is one other matter which has been the very centre of controversy and that is the amendment to section 33. My submission is that the law as it now stands is not so bereft

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of protection to the workers as it has been made out by some of the Members. Section 33, before the amendment of 1950 was that, if a dispute was not connected, if the particular change in the condition was not connected with the matter in dispute then the employer had an absolute right. In 1950 the pendulum swung the other way and they said, if there was a pending dispute, no change should be made whatsoever. If we are restoring the position to the level before 1950, as it was in the original 1947 Act, then there is some cause for complaint. But today you will find that if there is any point connected with the dispute, the employer cannot take any action without the permission of the Tribunal. If it is connected with the dispute and the employer claims that it is not connected with the dispute, then the employees can take action under 33-A which is still available to them. If the employer wants to make any change in the conditions of employment then the new clause relating to notice of change comes into operation. He has to give 21 days' notice to the workers within which time they can move the Government and have this as a dispute referred to the Tribunal. Again, if it is a condition which affects an interpretation of the standing orders, now under 13A in Fourth Schedule the employee has a right to go directly to the Labour Court and seek his remedy. If the employer wants to make a change by way of a change in the standing orders, then again he has to go and apply for a change in the standing orders. I have gone through carefully all the possible cases in which an employee can be dismissed or an employee's condition can be changed, and I have come to this conclusion that except in blatant cases of assault, theft, misappropriation or other misdemeanour unconnected with the dispute the employer cannot take any action. He will be obliged to take the permission of the Tribunal or the Labour Court or some other certifying authority in this case.

Shri Nambiar: But in case of victimisation under some pretext what is the guarantee?

Shri Venkataraman: If it is victimisation it must follow one of these things. Firstly it must be a discharge if it is a discharge, according to standing orders. If the application of the standing orders is not proper the employee concerned can at once say that. You may kindly refer to the new provisions. All the criticism that is level with regard to 33A is based on notions about the old Act. The new provisions have not been fully gone into by hon. Member. If a man is victimised, as my friend Shri Nambiar said, and has to be dismissed then he has to be dismissed only in accordance with the standing orders. If that is not done, it is open to the worker to go and complain that the standing orders have not been properly applied. Reference may be made to section 13A occurring in clause 32 of the Bill. It says:

> "If any question arises as to the application or interpretation of a standing order certified under this Act, any employer or workman may refer the question to any one of the Labour Courts..."

He can go straightway to the court. Therefore, even there, he would be protected.

There is only one matter in which I feel strongly and that is in regard to the power which is reserved by the Government to change or modify the award. I objected to it in 1950 and I said that this would be used, if at all it is used, against the workers. Shri Jagjivan Ram then very eloquently said that this is intended to render social justice and that I need

not be afraid of it. But the unfortunate way in which it has been used—only once it has been used—has disturbed the workers' minds.

Shri Abid Ali: In Travancore-Cochin, it was used in favour of the workers.

Shri Venkataraman: That was a very small thing. My friend Shri Khandubhai Desai supported me in this question. I want to place on record the telegram from Shri Khandubhai to Shri Hariharnath Shastri, the late-lamented labour leader, on this matter. He said:

> "I have a telegram from Mr. Desai. Very much perturbed to read press reports—clause relating to powers to be vested in Government to modify awards given by appellate tribunals highly controversial—. Looking to very strong adverse opinion of working classes, I very earnestly request you to delete clause or postpone further consideration of the Bill till Labour Relations Bill is considered by the Select Committee".

I would say that the hon. Minister should endeavour his very best to see that this power is taken away. This does not do any credit for this legislation. Whatever the decision, the parties must be able to accept it. Whether the decision is adverse to labour or is adverse to the Government, they should accept it. It has had a very sorry episode in our nation's history. I am quite sure that all the representatives of labour would support me in this point.

श्री अ० ना० विश्वालंकार (जालंधर) : श्रीमान् जी, जो बिल आज हमारे सामने है वह मौजदा कानून में कुछ तबदीलियां करने के लिये लाया गया है। आम तौर पर वे तबदीलियां ठीक हैं और इसलिये मैं इस बिल का समर्थन करता हूं। इन तबदीलियों से वे दिक्कतें दूर हो जायेंगी जो कि अभी तक इंडस्ट्रियल डिस्प्यूट्स ऐक्ट (श्रम विवाद अधिनियम) के अमल में होती थीं।

सब से पहली तबदीली जो कि बहुत ही अच्छी है, वह मुकदमों का जल्दी फैसला करने के लिये की गयी है। मुकदमे लम्बे चलने से वर्कमैन (कामगारों) को बहुत नुकसान होता था। इस कमी को हटाने की कोशिश की गयी है। इसका श्री गिरी जी ने भी समर्थन किया है। यह हमारा तजर्बा है कि इस तरह की कोई व्यवस्था अगर फैसला करने के लिये नहीं होती, तो कई जगह जहां पर यूनियन कमजोर होती है, वहां पर एम्पलायर (नियोजक) उसकी बात नहीं मानते। श्री गिरी जी का कहना है कि ट्राइबुनल (न्यायाधिकरण) आदि जो कि मुकदमेबाजी के जरिये हैं उनको खत्म करना चाहिये। लेकिन मैं समझता हूं कि जहां पर यूनियन मजबूत है वहां के लिये तो यह चीज ठीक है पर जहां यूनियन कमजोर है वहां पर कोई ऐसी मशीनरी न होने से वर्कमैन को नुकसान हो सकता है। अगर एम्पलायर्स को यह मालूम होता है कि यह मामला फैसले के लिये किसी ट्राइबुनल के सामने जाने वाला है तो वे फैसला करने के लिये तैयार हो जाते हैं। लेकिन मैं यह चाहता हूं कि इसमें वर्कमैन और इंडस्ट्रियल डिस्प्यूटस की जो डेफीनीशन (परिभाषा) हो वह वसीय हो ताकि जो झगड़े हों वे सब उसमें आ जायें और डेफीनीशन पर ही झगड़ा न चलने लगे और वर्कर को जल्दी से न्याय मिल जाये। जो डेफीनीशन अब तक थी उसको वसीय करने की कोशिश की गयी है लेकिन दो एक तबदीलियां जो कि लेबर मिनिस्टर (श्रम मंत्री) साहब करना चाहते हैं उनको मैं नहीं समझ पाया कि वे कहां तक वर्कमैन के लाभ के लिये हैं। एक तबदीली जो कि वे करना चाहते हैं वह यह है कि "इंडस्ट्री (उद्योग)" की जगह "इंडस्ट्रियल एसटेबलिशमेंट (औद्योगिक उपक्रम)" रखा जाये। मैं

[श्री आ० ना० विश्वासंकार]

नहीं समझता कि इस तबदीली से यह डेफीनीशन वसीय होगी । बल्कि इससे तो ऐसा मालूम होता है कि उसको और भी रेस्ट्रिक्ट (नियंत्रित) करने की कोशिश की जा रही है।

दूसरी तबदीली वह यह करना चाहते हैं कि वर्कमैन की डेफीनीशन में से आखिरी कुछ लाइन हटा दी जायें जो कि पेज 2 पर दी गयी हैं और इस प्रकार हैं :

"and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any person who has been dismissed, discharged or retrenched in connection with, or as a consequence of that dispute, or whose dismissal, discharge or retrenchment has led to that dispute.".

उन्होंने प्रोपोज (प्रस्ताव) किया है कि यह हिस्सा हटा दिया जाये । यह हिस्सा इसलिये रखा गया था कि कई बार अदालतों में यह झगड़े उठते थे कि एक वर्कर जो कि नौकरी से निकाल दिया गया है और जो कि अब सरविस (सेवा) में नहीं है उसका मामला इसके अन्दर नहीं आता। इस वजह से उसके झगड़े को इस ऐक्ट के मातहत नहीं समझा जाता था । इसलिये इस हिस्से को रख कर कानून में इस बात को साफ किया गया था कि अगर किसी को, जिसका कि झगड़ा चल रहा हो, रिट्रेंच (छंटनी) कर दिया जाये या डिस्चार्ज (सेवामुक्त) कर दिया जाये या डिसमिस (निकाल) कर दिया जाये तो उसको भी इसी डेफीनीशन में रखा जायेगा और उसका मामला भी इंडस्ट्रियल डिस्प्यूट्स ऐक्ट के मातहत लिया जायेगा । मैं समझता हूं कि कानून को साफ रखने के लिये इस हिस्से को रखना जरूरी है । अदालतों में डेफीनीशन पर अक्सर झगड़े चलते हैं । इसलिये हमें चाहिये कि हम डेफीनीशन्स को साफ रखें ।

एक चीज और है और वह यह कि जो ठेकेदारों को लेबर है उसको भी इसमें शामिल कर लिया जाना चाहिये ।

एक चीज और साफ नहीं हुई है । वर्कमैन की डेफीनीशन के बीच हिस्से में दिया गया है "functions mainly of a managerial nature". यह मामला बहस तलब है कि वह कौन से फंक्शन्स (कृत्य) हैं जो कि मैनेजीरियल (प्रबन्धकीय प्रकार) नेचर के हैं और इसे साफ करना चाहिये, क्योंकि हमारा यह तजर्बा रहा है कि अदालतों में डेफीनीशन के मामले पर लम्बी बहस चलने लगती है और असली मामले का फैसला होने में बहुत वक्त लग जाता है। इसलिये हमको डेफीनीशन्स को साफ कर देना चाहिये ताकि इस मसले पर बहस की गुंजाइश ही न रहे। यह कानून वर्कमैन के लिये है ताकि उनके झगड़े जल्दी फैसल हो सकें । इसलिये हमको कोई चीज वेग नहीं रखनी चाहिये और हर मामले को साफ कर देना चाहिये ।

इस बिल में एक और चीज बहुत अच्छी है और वह यह कि इसमें चेंज आफ कंडीशन्स आफ सरविस (सेवा की शर्तों में परिवर्तन) के बारे में नोटिस देने का प्रावीजन (उपबन्ध) किया गया है । चौथे शिड्यूल (अनुसूची) में उन बातों की लिस्ट (सूची) दे दी गयी है जिनके लिये कि नोटिस दिया जाना चाहिये । मैं समझता हूं कि यह एक इम्प्रूवमेंट (सुधार) है ।

सरकार ने सेक्शन 6 में कुछ एग्जेम्पशन (उन्मुक्तियां) करने का भी प्रावीजन किया है। लेकिन जहां वह एम्प्लायर के लिये कानून ढीला करे वहां उसको वर्कमैन के लिये भी

उसे डोला करना चाहिये क्योंकि गवर्नमेंट का काम है कि वह एम्पलायर और वर्कर दोनों के इंटरेस्ट्स (हित) को वाच (देखरेख) करे ।

सेक्शन ३३ के मुताल्लिक काफी बहस हुई है, और मैं समझता हूं कि इसमें इसके मुताल्लिक जो कुछ प्रोवीजन दिये गये हैं वे काफी हैं और ठीक हैं । लेकिन यह किसी कदर इस बात पर भी मुनहसिर करेगा कि जो अदालतें हैं वे इसको किस तरह से चलाती हैं । हमारा यह तजर्बा रहा है कि सेक्शन ३३ की वजह से अदालतें असली मामलों का फैसला करने के लिये वक्त ही नहीं निकाल पातीं और केसेज पेंडिंग (विचाराधीन) पड़े रहते हैं । मैं समझता हूं कि इसमें यह बहुत अच्छा प्रोवीजन कर दिया गया है कि अगर अदालतें चाहें तो सेक्शन ३३ के मामलों को एक या दो जजों के पास भेज दें । अगर ऐसा किया गया तो सेक्शन ३३ के केसेज की वजह से देरी होती थी वह नहीं होगा और डिसीजन में बहुत सुधार हो जायेगा ।

2 P.M.

स्टैंडिंग आर्डर्स (स्थायी आदेशों) के बारे में मुझे यह कहना है कि स्टैंडिंग आर्डर्स एम्पलायर्स अपनी मर्जी से लागू करते हैं और लेबर कमिश्नर (श्रम आयुक्त) या और किसी को भी इसमें दखल देने की गुंजाइश नहीं है । अब इसमें स्टैंडिंग आर्डर्स के मामले में जो कोर्टस (न्यायालयों) को राइट (अधिकार) दिया गया है वह बड़ी अच्छी और स्वागत योग्य चीज है और इसके कारण बहुत से झगड़े हट जायेंगे अगर स्टैंडिंग आर्डर्स ठीक तरीके से बने हों और ऐसा होने पर झगड़ों का स्कोप (क्षेत्र) भी कम हो जाता है और झगड़े बहुत ज्यादा अदालतों में और दूसरी जगह नहीं जा सकते । यह एक अच्छी चीज है ।

एक चीज जिस पर मुझे थोड़ा ऐतराज है वह २५ (आई) सेक्शन को इसमें से हटा देने पर है । मुझे याद है कि जिस वक्त यह सेक्शन बना था तो यह कहा गया था कि जो वर्कमैन के ड्यूज (भाग्य) हैं उनकी अदायगी उसी तरीके से की जायेगी जैसे कि एरियर्स आफ लैंड रेवेन्यूज (बकाया लगान) वसूल किये जाते थे और यह अमेंडमेंट पास करके इसको सेक्शन में लाया गया था और उसको आज उसमें से हटाना मेरे खयाल में मुनासिब नहीं है । यह ठीक है कि आपने इसमें यह प्रोविजन रखा है कि जो सैटिलमेंट (समझौते) की खिलाफवर्जी करेंगे उनके लिये इसमें पैनाल्टी (दंड) बढ़ा दी गई है लेकिन मेरा कहना यह है कि वर्कमैन के इंटरेस्ट में सबसे पहली बात यह है कि जो उसके ड्यूज हैं वह फौरन उसे मिल जाय और अपने ड्यूज की वसूली के लिए वह इंतजार में बैठा रहे, यह चीज उसके लिये बड़ी मुसीबत की है और इसी खयाल को सामने रख कर यह प्रोविजन रखा गया था कि उसके ड्यूज की वसूली लैंड रेवेन्यूज की तौर पर होगी और मैं समझता हूं कि इसमें से २५ (आई) को हटा देना मुनासिब नहीं है और उसको इसमें रखना चाहिये । यह ठीक है कि इस में हमने सजा का प्रोविजन रखा है कि जो लोग सैटिलमेंट या किसी फैसले पर अमल नहीं करते उनके लिये हमने सजा का प्रोविजन रखा है और यह ठीक भी है कि आप ऐसे लोगों को सजा दें जो कि फैसले पर अमल नहीं करते लेकिन वर्कर्स को उससे क्या फायदा । इस वजह से मैं समझता हूं कि इसमें ऐसा प्रोविजन जरूर रखना चाहिये ताकि जो ऐवार्ड (पंचाट) हो उसका इम्प्लीमेंटेशन (कार्यान्विति) फौरन हो और जब गवर्नमेंट एक ऐवार्ड को मान ले तो उसका फौरन अमल होना चाहिये । मैं चाहता हूं कि जो फैसला देते हैं उनको ही यह पावर (शक्ति) हो कि वह अपने फैसलों को इनफोर्स (लागू) करा

[श्री प्र० ना० त्रिपाठी]

सकें । हमें ऐसी व्यवस्था करनी चाहिये कि जो ऐवार्ड देने वाला कोर्ट हो उसको अपने ऐवार्ड को इनफोर्स कराने की उसी तरह से पावर हो जैसे कि कोर्ट्स को अपनी जारी की हुई डिक्रीज को इनफोर्स कराने की पावर होती है । हम चाहते हैं कि इन कोर्ट्स का कंसट्रक्शन (बनावट) कुछ ऐसा हो ताकि आज ऐवार्ड को अमल में लाने के सिलसिले में जो काफी देर लग जाती है वह न लगने पाये और हमें ऐवार्ड के इम्प्लीमेंटेशन की तरफ ज्यादा तवज्जह देनी चाहिये और यह देखना चाहिये कि आज जो इसमें दिक्कतें पेश आती हैं और खिलाफवर्जी को सूरत में फर्स्ट क्लास मजिस्ट्रेट के पास मुकद्दमा जाता है और जो वहां पर काफी टाइम लगता है और तब तक उस ऐवार्ड का अमल में आना रुक जाता है, उस ऐवार्ड के इम्प्लीमेंटेशन को हमें ऐक्सपेडाइट (शीघ्रता) करना चाहिये और ऐसा इंतजाम करना चाहिये कि उस पर फौरन अमल हो और वह टले नहीं । सजा की अपेक्षा ऐवार्ड के अमल की ओर हमें अधिक ध्यान देना चाहिये क्योंकि यह वर्कर्स के इंटरेस्ट में है । अदालतों में वक्त लगता ही है और वह अब भी लगेगा । एक फैसला हो जाता है और महीने भर के बाद गवर्नमेंट ने तय किया कि वह फैसला उसे मान्य है और गवर्नमेंट द्वारा उसको मान लेने के बाद भी अगर उसका इम्प्लीमेंटेशन नहीं होता तो आप भले ही उसके लिये मुकद्दमा चलाते रहिये उससे वर्कर्स को कोई फायदा नहीं होता और इस वास्ते हमें कोई ऐसा इंतजाम करना चाहिये कि जब कोई फैसला हो जाय और गवर्नमेंट उस ऐवार्ड को मान ले तो उस पर अमल होना फौरन शुरू हो जाय और वर्कर्स को जो मुआविजा आदि उसके द्वारा मिलना है वह उन्हें मिल जाये । हमें इस बिल में कोई ऐसी व्यवस्था करनी चाहिये जिससे ऐवार्ड स को इनफोर्स कराने का जरिया निकल जाय । इन शब्दों के साथ मैं आम तौर पर जो बिल पेश है, उसका समर्थन करता हूं ।

Shri K. P. Tripathi (Darrang): Mr. Deputy-Speaker, Sir, I rise to support this Bill. The working classes have been waiting for a very long time for this sort of legislation and the history of this legislation has been well-described by Shri Giri who spoke before me. Nobody else is more competent to describe what went before, what was necessary and how the working classes continued to wait. After all we could not get a comprehensive Bill; we have got a truncated Bill. The reason is very clear. The working classes could not come to agreement on certain matters and therefore a large part of the Bill had to be given up and only a portion of it has been brought up. Shri Gopalan said that this Bill is almost a trunk without a head. To some extent it is true. The question of recognition of a union and the bargaining agent is very important in the industrial history of a country. It will be remembered that in the United Kingdom and the United States one of the reasons which made unions strong and ultimately brought peace in the industrial sphere was the compulsory method of bringing the employers and workers together so that they might negotiate. Of course, the trade unions in those countries have become strong enough today and they do not need that protection. But in those days they needed it. They got this advantage and that was one of the main pillars of their strength. In our country we have been trying to get this, but up till now it has not been possible. But to blame Government for this would be wrong. The blame lies on our own shoulders. Until and unless the leadership in the working classes comes to an agreement on this question

as to how the recognition is to be brought about and how the bargaining agent is to be determined, I have no doubt that this question will continue to be delayed.

Shri Gopalan said that the best way in the circumstances would be to have a secret ballot to determine who is the real representative. The history of secret ballot in India is well known. I do not think it is so easy an affair. It is quite true that members of trade unions who have really enrolled themselves into trade unions should have the right to determine who should be the bargaining agent. But as we know in India today the trade union movement continues to be beset by political leaders and political ideologies and therefore the movement continues to be divided. It would be wiser for us not to seek compulsion by legislation for determination of this issue. It is far wiser for us to determine this issue by sitting together and trying to come to an agreement. So long as the trade union movement in this country continues to think in terms of compulsion by legislation for bringing about this unity, I have no doubt that we will fail. Therefore, I have not lost hope.

I think in the last few years—particularly within the last two years—there has been a trend in the country for bringing trade unions together, towards a general unification. If this trend continues, I think the time will come when it would be possible for us, despite the political aberrations, to come to a stage where the trade union movement in the country will be unified. Till then I have no doubt that the rest of the provisions of the Bill, the Labour Relations Bill as it was called then, will have to wait. Of course, certain portions of it which have been omitted for the time being might have been brought up even without such an agreement. They have been held up I suppose for some other reason; maybe those reasons may disappear and those portions may be brought up earlier.

Now there are certain aspects of this Bill which are very important. Some of them are of course non-controversial in character in the sense that most of the working classes accept them. One is controversial relating to section 33. So far as the abolition of the appellate tribunal and the introduction and acceptance in the legal framework of the arbitration machinery is concerned, so far as the question of giving notice of change of working conditions is concerned, so far as the enlargement of the definition of the term "worker" is concerned; the power given to the unions and the workers to have a hand in the determination of the standing orders; the question of interpretation of awards by labour courts and the possibility for the first time that labour itself might directly go to the court for such an interpretation without the intervention of the Government and finally the punishment clause, namely, the employers are to be punished even with imprisonment if they do not implement the awards—these are all clauses which are non-controversial in the sense that the working class had accepted them earlier. We have been waiting for them and as a matter of fact, they have come very late. Also, I do not say that they have given as much as we desire.

Certain loopholes and lacunae have been pointed out by my friend, Shri Venkataraman. There are similar remarks to be made with regard to some other clauses of the Bill, but by and large they are acceptable and therefore, we are for them. To the extent the Bill helps us to advance towards the goal which we want to attain, we accept it; to the extent it does not, we will continue to press for it.

Coming to the most controversial clause about section 33, there have been several types of approaches to this question. One is that we are giving away a benefit which we have got and the question arises whether we are not justified in doing so. How far are we giving away the benefit

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which we have got? To my mind, there are two things: one is the legitimate rational protection which we are not giving up and the other is the irrational protection which has been given away. Under section 33, even in respect of matters which are not connected with the main dispute, once an industrial dispute is before a court or tribunal, no change can be made by the employer. Now, taking advantage of this provision, undoubtedly workers in many parts of the country have resorted to indiscipline and certain examples of indiscipline have been cited. So, it is very clear that this section, instead of merely protecting trade union rights, has now been made to protect the industry also. Therefore, when we meet with this logic, we have to admit that we have gone beyond the intention which was desired and so the working class had to agree to a revision of that section. To that extent, it is quite true that we have given up something, but against this giving up, we have tried to get a measure of protection, which is essential. In the section it is very clearly stated that one per cent. of the total number of workers will be fully protected even in respect of matters not connected with the dispute, the minimum number of such protected workmen being five and the maximum number being 100. It is realised by everybody that generally in trade unions there will be only four or five officers and in larger unions, the most active workers do not exceed 100 in number. Therefore, so far as the trade union movement is concerned, it is fully protected. So far as individual indiscipline is concerned, all the workers are not protected. Although protection has been fully withdrawn so far as individual indiscipline is concerned, full protection of the trade union movement still continues.

The second point made by Mr. Venkataraman is very essential. In clause 22, there are two parts (a) and (b). Under (b), action can be taken against individuals for indiscipline. Under (a), action can be taken for changing the conditions. So far as (a) is concerned, I have some doubt, because I feel that the balance of the situation has been destroyed. There is section 22 in the original Act followed by section 23, which says that during the pendency of any proceeding in a Tribunal, strike cannot be resorted to. This was possible because, during the pendency of a dispute, all new disputes were automatically referred to the Tribunal, and therefore, strike was unnecessary. But now, the employer has the right to change the conditions: whereas under sections 22 and 23, the workers have no right to go on strike. This destroys the balance. To some extent, that balance is restored by the provision about notice of change. But, if a new dispute arises, it is not automatically referred to the Tribunal. It will be considered by the Tribunal only if the Government refers it to the Tribunal. In the interim period, if the Government does not refer the dispute to the Tribunal, it does not go to the Tribunal. So, there is the possibility that a change may be made; the Government may not refer it to the Tribunal and we cannot go on strike. This destroys the balance on which the whole Bill is designed. Therefore, we come to the logical conclusion that in respect of all changes which are made by the employers while the proceedings are pending in a court of law, it would be the duty of the Government to refer them automatically to the Tribunal. Then the balance will be restored. If that is not done, then the balance will not be there. I do not know what the intentions of the Government are, but we hope that the intentions of the Government are, to maintain this balance. We hope that whenever such disputes arise, the Government will refer them to the Tribunal, so that we may not suffer under sections 22 and 23 unnecessarily.

There is another section which gives the Government the power to do away with the provision of giving notice of

change in times of emergency. Here also the same difficulty will arise. The employer would be able to make a change without giving any notice and we will not be able to go on strike, because sections 22 and 23 will operate. These are the points which should be considered carefully by the Ministry. I have no doubt that Government is trying to make these changes and make the legislation more rational. Only in that hope, we are supporting this measure. The irrationality which would arise due to the existence of sections 22 and 23 shall have to be corrected by Government by executive orders.

There is a proviso at page 14 with regard to individual workers. Where an individual worker is discharged, the employer has automatically to refer it to the Tribunal. But so far as (a) is concerned, that provision is not there. Therefore, in the case of (a), we shall have to go through the procedure of coming to the Government first. It would have been wiser it, instead of taking this duty on their shoulders, the Government had provided that it may be referred automatically by the employers for determination by the Tribunal, so that in the interim period, a change might be held over. I do not know whether the Government would consider this now. I have no doubt that they would have to take all this into consideration in the ultimate enforcement of the law.

The next point that I want to make is with regard to definition. Certain points have been made out by Shri Venkataraman to show how the definition is defective. I also feel that if the terms are not widely interpreted as Shri Venkataraman suggested, it would be difficult for us. With regard to contract labour, we have already passed a resolution demanding the abolition of contract labour wherever there is permanent type of work continuing. I think the main demand under this head is to abolish the contract system. Government should push forward with this programme.

In para (iv) of sub-clause (f) of clause 3, we talk about supervisory personnel being invested with managerial power. The agreement, so far as I remember, was that people drawing Rs. 500 or less should get the right to organise and get the protection of this Bill. In a democratic society, the general rule should be that everybody should have the right to organise. It should not be a particular right. In the way in which trade unionism developed in this country, the trade union movement was regarded as a particular right because it was regarded as a conspiracy in the beginning. In some way or other, whenever we come to legislation, there is always a tendency to limit it to as few persons as possible. The tendency should be to exclude as few persons as possible from this right. When we came to this agreement, we thought that all people getting less than Rs. 500 will have automatically right to organise. But due to the existence of the word 'or' in page 3, sub-clause (iv) it is very clear that a man drawing say Rs. 50/- may be clothed with colourable managerial rights and he may not be able to get the benefit of this legislation. There are plantations, as my hon. friend Shri Venkataraman was pointing out, in which a headclerk is drawing Rs. 400 or Rs. 500. He will have a right to be in the trade union. Suppose there is a branch garden where the head clerk draws only Rs. 50 or Rs. 75. The manager may give him some colourable right of management. This man getting Rs. 75 will be prevented from being in the trade union and the man getting Rs. 400 will have the right to organise. This would create a great anomaly. I do not understand the logic of having a clause which prevents such ordinary people from having the right to organise. Therefore, I would have liked the Government to accept the amendment with regard to the word or so that it may be changed into 'and'. There are four or five ways of correcting the situation. Amendments have been filed. The last of the

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amendments is that the word 'or' should be replaced by 'and'.

It is argued that the word 'mainly' is sufficient protection. You know the word 'mainly' is not sufficient protection. If it were sufficient protection, the occurrence of this word in para (iii) would have been sufficient. It would not have been necessary for the subsequent part of the clause to be there at all. The clause would have ended with 'manager'. The very fact that it is not so, shows that it is not sufficient. In a branch garden, for instance, it is necessary for the manager to have a colourable device so that on the spot he may take some action. That is not his main avocation. If you look at the contracts you can see whether his main occupation is management. He is not the manager. He is a head clerk or a clerk. He has the right to supervise, but not to take any decision. The decisions are taken in the main garden. For the purpose of law, this may be sufficient and he may be prevented. If this clause is allowed to be operated in this way, I have no doubt that many of our trade unions will be split. The most important key workers in our unions in the plantations will be hit, and there will be a split on that issue. Therefore, I request the Government to consider these points.

My time is up. I will not take more time of the House.

पंडित ठाकुर दास भार्गव (गुड़गांव) जनाब डिप्टी स्पीकर साहब, मैं गवर्नमेंट को इस बिल को बड़े अर्से के बाद भी यहां पेश किए जाने पर मुबारिकबाद देता हूं। इस बिल के अन्दर बहुत सी प्राविजंस हैं.....

Shri Venkataraman: May I request the hon. Member to speak in English? This is a legal matter and I would like very much to hear his valued views.

Pandit Thakur Das Bhargava: I would congratulate the Government for bringing in this measure which is long overdue. Although I am not in any way connected with labour or employer, still I find that principles of justice, fair play and equity are to be found in almost every section of the Bill. I know that whatever comes from our respected Labour Minister shall be imbued with that spirit. When I find Shri V. V. Giri also adorning these Benches, I find the spirit of Shri V. V. Giri and the Labour Minister in every section and in every word of this Bill. I congratulate them both for this production.

Coming to the merits of the Bill, I submit that I am not satisfied with the definition of the word workman. My reasons are obvious. We have just now heard Shri K. P. Tripathi explaining sub-para (iv) on page 3 of the Bill. We have heard Shri Venkataraman also in respect of this when he spoke about nurses, doctors, etc. I think that we should not attempt to define whether a person is skilled or unskilled or supervisory, technical or clerical, because there are many other heads which you do not think of: for instance, the medical line, etc. If you take away these adjectives and keep simply workman, on the whole the difficulty will be solved.

Moreover, I understand the idea is to include as many people as possible and to eliminate as few as possible. Therefore, I accept the formula which Shri K. P. Tripathi has propounded before us. In my humble view, I do not know how paras (iii) and (iv) can be reconciled. Para (iii) says:

> "who is employed mainly in a managerial or administrative capacity; or"

In the first place, we do not know what is managerial capacity and what is administrative capacity. Any kind of work can be turned into work of administrative nature just as my hon. friend has pointed out. In a branch garden a person drawing Rs. 50 may

be entrusted with some work which may partake of the nature of managerial or administrative work, where in a bigger garden, a person getting higher salary may not come under that category if he is in the headquarters. Similarly, in a sugar mill, any ordinary manager getting Rs. 250 will not be included whereas an engineer or doctor getting Rs. 499 will be included. This is not proper. As a matter of fact, we want that every person must be protected, unless and until he draws a pay of a certain amount and also has got some managerial or administrative work. Therefore, I think, the Government will be well advised to have both these conditions in this sub-para (iii) on page 3 of the Bill. That would meet the ends of justice. Therefore, we should say, any person drawing more than Rs. 500 and having administrative or managerial powers shall excluded. I can understand that. Otherwise, if you keep the provision as it is, many complaints will arise and people who are not drawing a large amount and who are doing administrative or managerial work in an ordinary capacity will not be protected.

Then, I come to the qualification of the judges of these three classes of courts. I should think that we should make some change in so far as the second class is concerned. I am not impressed by the argument that there should be only one class of officers. Even in our courts, we have the High Courts, the sessions courts, first class magistrates, etc. They are dealing with different kinds of work. When I persue Schedules 2 and 3, I find that the work is quite different. The Labour Court will only deal with Schedule 2 and the Tribunal shall deal with both Schedules 2 and 3. There is no point in insisting that all the judges must be of the same calibre and must do the same work. If the work is different, there is no point in saying that there should not be different classes. I am rather happy that the appellate courts which were the source of so much delay are now being taken away, and these courts have been appointed in their place. After all, we know the nature of the work that was done by these appellate courts and even their judgments were not binding for all time. So, I am satisfied that the change from the appellate courts to these three courts is quite justified.

But I am anxious that in so far as the qualifications for appointment to the industrial tribunal are concerned, in addition to sub-sections (a) and (b), a new sub-section (c) may be added to the effect that a person who holds this post must be a person who has experience of at least ten years of judicial work and one year of labour work. The real qualification that we want in a person of this kind is that he must have had a thorough grounding, so far as the judicial work is concerned. If he has served for ten years as a judicial officer, I think the main qualification will be satisfied, and he must have experience of one year in labour work also. After all, there will be many judges of this kind in every State; we shall have at least three or four such courts in every State. In order that there may not be any difficulty, I am anxious that you do not narrow down the scope of the qualifications to such an extent that you will not be able to find competent judges to fill these posts. I would therefore respectfully request the Labour Minister to kindly consider this humble suggestion of mine, which I have put in in amendments Nos. 136 and 137 of which I have given notice today. In those amendments, there is only one small difference. In the amendment that the Minister has been pleased to put forth, the qualification is that the person must have put in two years' experience in labour work. But I have suggested only one year in my amendment. So far as the general qualification is concerned, however, I am anxious that at least seven or ten years' judicial experience must be there.

Now, I come to clause 8. I am very glad that the general principles of

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civil law have been regarded as good so far as these courts are concerned, namely that if the employers and the employees come to a compromise and they want to appoint an arbitrator, they can do so. By making a provision of this nature, you are making a new law. So for as labour legislation is concerned I am very happy that so far as mutual consent and amity are concerned, they have been given the place of preference as they should be. In ordinary civil law, whenever there is an agreement to refer a matter to arbitration, the parties could do so. We have a similar provision in the Arbitration Act also. But even apart from that, we have a provision in the civil law to the effect that whenever the parties to a dispute come to an agreement so far as arbitration is concerned, then the matter is referred to the arbitrator, and his decision is binding. I am very glad that you have accepted that principle here.

But may I humbly ask you to consider one more thing in this connection, namely, that in a civil case, when there is a suit pending also, if the parties come to an agreement, they could refer the matter to arbitration, because it is regarded that the method of arbitration is perhaps superior to the method of decision by courts. So, there is a provision in the Civil Procedure Code that if in a pending suit, the parties want to send a case to arbitration, they are allowed to do so. I want that a similar provision should be made in clause 8 here, so that the parties, if they come to an agreement while the suit is pending, could refer the matter to arbitration. Once you accept the principle that arbitration is much better than decision by court, then logically it follows that even if they have sent the case to the labour court, if they come to a decision later on to refer the matter to arbitration, they should be allowed to do so.

Further, I find that in all other cases, under the Civil Procedure Code as well as under the Arbitration Act, there is a provision that after an arbitrator has given his decision or award, it could be objected to on grounds of fraud, misrepresentation and so on. I think, taking human nature as it is, even the award of the arbitrators in these cases will be objected to in many cases. I do not find any provision corresponding to the one that is to be found in the Civil Procedure Code or the Arbitration Act in this regard.

Shri Venkataraman: It is not the intention that it should be objected to on those grounds.

Pandit Thakar Das Bhargava: I am very glad about it, and I wish that such a provision should not be there even in ordinary cases. I do not like the idea of a person first choosing his own judge and then trying to pick holes also in what he has done. So what is done here is really a good thing. At the same time, I would like to submit that you will find in the long run people complaining,—in spite of the fact that they have selected their own arbitrator,—just as they are complaining under the civil law. That is the difficulty that arises. Otherwise, so far as the principle is concerned, it is a good one. The party chooses its own judge, and then abides by the decision that he gives.

Pandit K. C. Sharma (Meerut Distt.—South): The judge may go wrong.

Dr. Laka Sundaram: Judges are above law.

Pandit Thakar Das Bhargava: Let the judges go wrong. But I hope my hon. friend will not go wrong with me, but may kindly allow me to go on.

So far as the new provision in regard to standing orders is concerned, I am very happy. Just as our President can ask the Supreme Court to

give their opinion on any matter relating to the interpretation of the Constitution, likewise, it is provided here that the workers or the employers or both could go to court and ask the court to give its decision about a particular standing order. That is a very good idea. It will obviate many difficulties. Further, many disputes may not arise at all because the right interpretation will be available to the parties concerned, once they have raised the matter before the court.

Similarly, in regard to modifications of the conditions of service, I welcome the provision made in the proposed section 33, which is a much-debated section. I have sent notice of an amendment to this section. Once I had an occasion to appear before an industrial tribunal. There I found that the employers experienced a certain difficulty, and that difficulty was this. While the dispute was going on, some of the labourers had taken in into their heads to do some sort of mischief: they put some earth, and some pieces of iron into the the machines. I for one do not want to take sides in this matter. At the same time, I am anxious, that so far as misconduct is concerned, whether it is connected with the dispute or not, a misconduct is misconduct, and it should be within the powers of the employers to see that the misconduct is not allowed to be perpetrated, because after all, if it is allowed, production will stop.

Shri U. M. Trivedi (Chittor): The labour leaders will lose votes if they do that.

Pandit Thakur Das Bhargava: I am a very humble man, and so far as the labour leaders are concerned, I respect all of them. I do not want to see that in any way they lose their prestige. At the same time, as a humble citizen of this country, I do want that we may have provisions in this law which may be quite just.

So far as misconduct is concerned it is most difficult to decide whether the misconduct is connected with the dispute or not, for the employers will always say that it is not connected with the dispute while the employees will always say that it is connected with the dispute. So, it is very difficult to decide this matter. So far as sub-section (1)(a) of proposed section 33 is concerned, I do not want to have any change, but so far as sub-section (1)(b) is concerned, I want to point out that it is most difficult to decide whether a misconduct is connected with the dispute or not. But there are certain pieces of misconduct, such as assault or arson and so on, in respect of which I do not see any justification for any sort of leniency being shown to the man who is guilty of it. I am therefore anxious that so far as misconduct is concerned, it should be made punishable by the employer. At the same time, I do not want to give the employer a free hand, for in that case, Shri Nambiar might ask 'What would happen in cases of victimisation?' I have therefore provided an antidote to this in my amendment to proposed section 33(5), which runs thus and which is a very salutary provision also:

> "Where an employer makes an application to a conciliation officer, Board, Labour Court, Tribunal or National Tribunal, under the proviso to sub-section (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.".

This is good as far as it goes. But I further want that in cases where the court ultimately finds that the employer has not behaved well or that his order of punishment was wanton or unjustified, the court can give in respect of that matter suitable damages, apart from the other remedies which are open to it. I do not want that the employer should get unnecessary powers in a case of this nature. If the employer misbehaves, he can also

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be imprisoned, and in fact, we have got a section to that effect, and any contravention of that section will attract the remedy of imprisonment even so far as the employer is concerned. I also know that the employers are too powerful and they are not going to be imprisoned. But in a valid case of victimisation, there is no reason why they should not be punished. Therefore, I want to have it both ways. The first thing is that so far as misconduct is concerned, that misconduct, whether it is connected with the dispute or not, should be punishable by the employer. Secondly, if the employer is found ultimately to have misbehaved and not done justice to the man, then suitable action must be taken and punishment must be awarded. You may say that in such cases imprisonment is the only punishment that can be awarded. I can understand that.

There is one thing which has been suggested, and rightly, and that is that in cases of this nature, expedition is most necessary. If the case prolongs for six months, so far as the labourer is concerned, he will not stick to that place. He may go away and then he may lose his appointment. Therefore, as we have done in the Representation of the People Act that within such and such time, the court must decide the case, accordingly here we can say that within a reasonable period, two months or three months, this matter of approval of punishment must be decided by the court. Even if it were a fixed period, it would be the right thing to do. If we do that, nothing will be lost. On the contrary, we shall gain.

Now I have to make another submission also. The original Act, as was pointed out by my hon. friend, Shri Venkataraman, had a provision about assessors, that with the consent of the parties, assessors could be appointed. Here we find two kinds of provisions. One is in regard to the appointing authority, that they can appoint assessors. Then we have got a provision that the courts also can associate with themselves a person or persons having special knowledge about the matter in dispute.

Now, when assessors are appointed, what will be their functions? Is it necessary to hear them? If the court does not hear them and delivers judgment without hearing them, what would happen? I know that under the Criminal Procedure Code, when we had assessors, it was necessary that the courts must have taken the opinion of the assessors on all the charges. If the court did not do that, the judgment of the sessions judge would be set aside by the High Court. Though it was not necessary to accept their findings, it was necessary to hear them. Now, if we have got a provision for appointment of assessors, you must make a provision here to the effect that their opinion will be taken. Otherwise, what is the use of Government appointing assessors? We should have a provision that their opinion should be taken, but no court should be bound by their opinion. We have done away with assessors in respect of the Criminal Procedure Code.

Shri Venkataraman: Will not the words "two persons as assessors to advise the Tribunal" in the proposed section 7A(4) cover the case? It means their advice must be taken.

Pandit Thakur Das Bhargava: Suppose one of them is not present. Suppose both are not present on a certain date. Then what will happen? The same difficulty which arose in the case of the appellate court with one Judge present and others absent, would arise. Therefore, you must also make a provision that if one of them is absent or if both are absent—as you have made in the case of the Judges—it will not invalidate the decision of the court. But you must also provide that the Judges must otherwise hear their advice, because what is the good of Government appointing them if they are not to be heard?

So this provision must be made. Otherwise, difficulty may subsequently arise. Some courts may hold the words 'to advise the Tribunal' to mean that the advice was not taken and therefore, the judgment is wrong. I am fearing this difficulty. In short, the provision will be more or less like this: they have a right to be heard, their advice will not be binding; then their absence on any particular date or dates will not be material: thirdly, even if one of them is not present, nothing will happen.

Then we have a provision under clause 9(e) which says:

> "A Court, Labour Court, Tribunal or National Tribunal may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessor or assessors to advise it in the proceeding before it".

I have tabled an amendment to the effect that this should be deleted. My submission is that it is much better to examine such persons with special knowledge as witnesses, so that both parties may have an opportunity of cross-examining them. Their advice may not be binding or may not even be taken, but their evidence must be taken. This is a better procedure than associating them with the court. Also, a question may arise when two persons are there as to what should be done when there is no unanimity.

My submission is that so far as assessors are concerned, this Bill is silent on the points I have mentioned, and therefore we should make the necessary provisions so that difficulties may not subsequently arise.

Shri N. Sreekantan Nair: I am not very happy at the form of the Bill as it is placed before the House. There is a saying in my language, Malayalam, which means that a thing is too bitter to be swallowed and too sweet to be spat out. This is what I deeply feel in regard to this Bill.

One of the laudable changes is the widening of the definition of 'workman'. But it takes away with the left hand what is given by the right. The definition, of course, is intended or supposed to be intended to include technicians and supervisory staff. But when it is said 'mainly managerial', every employer will contend that all officers under the sun are doing 'mainly managerial' work, so much so that there won't be any supervisory staff.

Shri Venkataraman: May I just remind my hon. friend that there is a judgment of the High Court of Madras which says that mere designation as 'manager' will not be binding, mere payment of wages as 'manager' will not be binding but only the actual duties performed would determine whether a person is a manager or not?

Shri N. Sreekantan Nair: May I also remind my hon. friend, Shri Venkataraman, who is publisher also of the Madras *Labour Journal* that the Labour Appellate Tribunal found a teacher in a kindergarten school whose duty includes washing children, to be not within the purview of the Industrial Disputes Act. That was the ruling of the Appellate Tribunal in a case which was defended by his own junior who is also editor of the paper.

Shri Venkataraman: I suppose that decision is based on the fact that it is neither clerical nor manual—not on the ground 'managerial'.

Mr. Deputy-Speaker: Order, order. Let us proceed. Enough has been reminded on both sides.

Shri N. Sreekantan Nair: Anyhow, though he was confronting the hon. Labour Minister with what he said before he was Minister, he himself swallowed his own objection to that definition of 'workman' while he was speaking.

I was discussing this question with a foreign gentleman. He was astounded at the fact that there could be people drawing below Rs. 500/- in

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managerial or supervisory posts. I told him that there may be people with managerial status getting Rs. 50. (*Interruption*). To just throw these people at the tender mercies of the employer is too hard. Naturally, they must at least be given protection under the Industrial Disputes Act in the matter of fixity of employment. That can be given provided the limit of Rs. 500 is accepted for both supervisory and managerial staff. That is the minimum which the hon. Labour Minister can do on this matter.

As to the question of contract workers, it may be argued that it is implied. But, as has been suggested by my hon. friend, Shri A. K. Gopalan, it is better to make it plain so that there may be no possibility of misinterpretation or misrepresentation.

As to the question of the benefits of the new chapter IIA providing for 21 days notice, it has been set off or counteracted by the changes in section 33. Much has been said to justify the change and my learned friend, Pandit Thakur Das Bhargava, was very vehement about the punitive measures. As a matter of fact, all the case laws provide ample protection for the employer. He can suspend a worker, he can conduct an inquiry and he can then dismiss a worker even without consulting the Tribunal. He won't be penalised and the action would not be vitiated even if there is no sanction by the court for inquiry and punishment. This is the position as the case law stands today. You want the worker to be dismissed first. He will get one month's wages. If this goes on for more than one month, for 5 or 6 months or even one or two years, he will starve and he may even go away. Because he is no worker, the union will have no interest in him so much so that after two or three years, when his reinstatement is ordered, the worker may not exist, he may have gone out of the land, he might have perished. Is this justice, is this fairness? I say he should not be dismissed. Shri Giri was suggesting that he may be relieved. That is the position now. He can be suspended; he can be kept out of the factory but he has got to be paid his wages. Now the position is that when he is suspended he is not paid his wages. You want to take punitive action without even a nominal enquiry. I think it is unfair to bring in this clause to amend section 33.

The question of gratuity, provident fund and other claims go when he is dismissed. Nothing is mentioned about the rights of the dismissed worker. Only if it is suspension can all these questions be kept pending.

The provision regarding one per cent. of protected workers, I think, is a most heinous provision that can be brought. I would rather have no protection at all for anybody than allow one per cent. of the workers to be labour aristocrats, to be differentiated from others so that other workers who are victimised, who are penalised can be made to agitate against the office-bearers of the union and the leaders of the movement so that it may spell the ruin of the trade union movement in this country much more than anything else.

Shri Nambiar: Creation of disruption in the labour ranks.

An Hon. Member: Here comes a Daniel for judgment?

Shri Nambiar: It is a provocation to disrupt.

Mr. Deputy-Speaker: Let it not be decided between Members themselves.

Shri N. Sreekantan Nair: If my learned friend's suggestion to send him to jail if he misuses that provision is accepted, no employer might misuse it. But, as the case law stands today, with the amendment, the recalcitrant employer goes Scotfree. On the other hand, as the law stands now, under section 33, he has to get the prior sanction and even if it is a dismissal without sanction he has to institute a proper enquiry and if that enquiry is not proper he can be taken to task

and penalised also. So, if a change is contemplated, at least Pandit Bhargava's suggestion may be put in so that the employer might be penalised if he deliberately goes beyond his jurisdiction in dismissing an employee.

Perhaps, I will be the only man in this House to raise the question of the Appellate Tribunal. I do not agree with the abolition of the Appellate Tribunal in the present state of things. I represent a Central Trade Union Organisation and we do not agree to it. If you accept the principle of adjudication, then, you have to provide the necessary checks and balances and appeals; otherwise, adjudication becomes a farce. I know that other opinions have been voiced by other organisations. But, if the concept that adjudication itself is wrong—as advanced and advocated by Shri Giri —is accepted, I have no complaint. Initially it may go against the interest of the workers. But after a few buffetings the workers will become hardened and will know how to organise themselves and know how to kick back and fight back. In the present context, if the tribunal gets unfettered freedom, naturally, he becomes subject to all sorts of personal prejudices and may go wrong. If today the lower tribunals are more popular than the Appellate bodies, it is because of the Democles' sword hanging over their heads. I am no friend of the Appellate Tribunal. In fact, I was the first trade unionist in India to raise a hue and cry against a corrupt judge of an appellate tribunal. I complained to the President and I wrote in the Press openly challenging the Government to proceed against me so that I may at least throw mud on him if I cannot obtain justice. The reply that I got from the President of India was that we would get a separate Bench for South India. I do not think the members of the appellate tribunal are really above board in everything, but because they are there most of the lower tribunals are behaving properly. When they are removed, naturally, all sorts of complications will come in. If he wants to speed up the proceedings I humbly submit that the hon. Minister brings in a provision that no legal practitioner will be allowed to butt in in these industrial disputes unless he is a manager of a firm without any actual legal practice and if it is enforced, 99 per cent. of the industrial disputes will cease. Protracted Adjudications will stop.

Shri B. S. Murthy (Eluru): How does it help?

Shri N. Sreekantan Nair: Because these lawyers would not come and create difficulties and twist matters and the dispute will be decided on real merits. Now, the worker is not capable of engaging very high-paid lawyers..... (*Interruption*).

Mr. Deputy-Speaker: Order, order; let the hon. Member continue. A trade union leader should not get so easily provoked.

Shri N. Sreekantan Nair: We are also human.

Anyhow this system of lawyers is encouraged more and more by the tribunals in this country. In trade union cases the tribunal itself puts this question: Why don't you accept this lawyer? Naturally, if the man wants to win his case he has to please the Tribunal. So he is compelled or cajoled to accept the lawyer. This leads to legalistic arguments and the cases are protracted and the expenditure of the labourers is enhanced by these lawyers butting in.

If the hon. Minister is bent upon abolishing the appellate tribunal then there should be sufficient protection to the worker; some provision for appeal has to be made. It may be reference either to the respective High Court or Supreme Court. I am normally not a believer in justice being meted out by the High Courts and the Supreme Court, in the case of industrial disputes, because I know that they always measure things on the basis of statutes laid down in the country

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and they do not realise the rapid changes that occur in the industrial relations in the country. We know what the Labour Appellate Tribunal and the Supreme Court did in the bonus case. They did not take into consideration the concept of the Welfare State or the socialist pattern of society. They allow the employer 6 per cent. interest on capital, 4 per cent. interest on all reserves, allow him 1/15 of the total value for rehabilitation and then and then only will the worker get any quantum of bonus. That was the decision of the labour Appellate Tribunal. But even that decision was made worse by the Full Bench of the Supreme Court coming in and making it inflexible. This kind of interference has always been there. But, there must be some sort of Democles' sword for these tribunals. I would say that as a trade union worker I feel that it may go against the workers. So, appeals must be possible and all the procedure adopted by the tribunals must also be adopted by the High Court. If the employer is the appellant, I submit that the employer must bear all the expenses of the worker incurred in prosecuting the case. This is the suggestion which I have very seriously placed before the House and I am sure that if it is not conceded now, opinion from all over the country will compel this House to reconsider this question.

3 P.M.

One more point I would like to bring to the notice of this House and that is regarding the existing members of Labour Courts and Tribunals. They have been initiated into the art of adjudication and this is a different line from the Civil Jurisprudence. Industrial adjudication is not so much a question of legal cleverness which demands 10 years' experience as demanded by Pandit Thakur Das Bhargava. This is a matter in which legal acumen is more of a danger than help. It is human considerations and equity that ought to weigh with the Tribunal.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

There should be no hair-splitting distinction between one quibble of law and another quibble. Those people who have some experience may be allowed to function as Presiding Officers of Labour Courts and Tribunals, and I would also suggest, as mentioned by you, Mr. Chairman, that the minimum qualification for tribunals may be one year's experience of labour adjudication. But I oppose 10 years' judicial experience. I also oppose the provision of conception of appointing pensioned judges. Instead of fixing the maximum age limit to be 65, I would suggest that it be brought down to 55 so that people with choleric temperament because of superannuation and old age should not come in here and disfigure the adjudication proceedings in courts.

Shri Bansal (Jhajjar-Rewari): Every right-minded person would welcome a measure that leads to maintaining and increasing the area of industrial peace, and to the extent this Bill goes in that direction, I welcome it.

The hon. Minister was pleased to say that most of the changes that are now being made in the Act are as a result of joint consultations and the largest measure of agreement between the employers and workers. I agree that some of the provisions at least are as a result of such agreement, but I also know that on some of these changes there has not been that unanimity which a person like me would like. Nevertheless, I do think that this measure has come not a day soon and will lead to the establishment of better relations between workers and employers.

I am anxious that now that we have launched on the Second Five Year Plan, nothing should be done to disturb industrial peace, and in order to achieve that objective, if the employers or the workers have to sacrifice something out of the rights they have got or are supposed to have got, I would

not consider that sacrifice as any great loss on the part of the one or the other.

The discussion this morning, I must say, has been of a very high level. The labour leaders who have spoken before me have all of them tried to appreciate the changes that are being brought into the Act. I must say that in one or two cases I did find a smacking of sticking to the rights that had been obtained or the so-called rights that have been obtained by the workers. I am not one of those who view this piece of legislation from the point of view of rights and privileges. I want to examine the Bill from the point of view of a layman who is anxious to see that the production in this five-year period increases to the maximum, and that nothing happens which will hinder our rapid industrial progress. From that point of view I would urge that we now sit down and decide on a five-year industrial truce. I am sure that the workers and employers will be in a position to decide here and now that they will not have any dispute during the five-year period and all differences that arise between them will be settled by mutual agreement and arbitration. I fully agree with my friend, Shri Giri, that we should rely more and more on collective bargaining and conciliation. But the difficulty is this. We are not in a position now when we have embarked on the Five Year Plan to experiment. In normal times I would have certainly left the whole movement to be given a trial to see whether we cannot settle our differences by mere conciliation, voluntary agreements and collective bargaining. Supposing that fails, can we afford at this juncture to see our industrial harmony disrupted? Therefore, we have to have an approach where free play is given both to collective bargaining, and where collective bargaining is not possible due to one reason or another, to adjudication. But I am sure that our labour law will work in such a manner that more and more we begin to rely on the inherent strength of the organisation of workers and of the employers to settle whatever differences arise between them. To that extent I congratulate the hon. Minister who has been able to bring about a provision in the Bill which will now give the force of law to any collective agreements that have been mutually arrived at. I agree with the suggestion made by you, Sir, that even during the course of a dispute which is referred to adjudication, if the parties come to an agreement, they should be allowed to come to that agreement and settle their differences mutually.

A number of my friends have spoken about the definition of "workman". I am one of those who believe that every workman should have the right to have his grievance voiced. But as long as we do not develop functional trade unions in our country, we will have to keep some distinction between those who have the responsibility of taking work from employees or supervising their work and the ordinary workers. To that extent, I think, there is a lacuna in this definition. When you say that the person who is in a managerial and supervising capacity but who gets less than Rs. 500 a month will be a workman, a doubt arises in my mind as to what will happen in hundreds and thousands of small factories where the manager or the supervising person does not get more than Rs. 300 or Rs. 400 a month. Do you think that they should all automatically become workmen? If the definition in this respect is not amended, I am afraid a lot of difficulty will be created in smaller undertakings. I would suggest that the hon. Labour Minister must keep that aspect of the matter in view.

In almost all the legislations of advanced countries in the world, those people who work in a confidential capacity or who are looking after the Watch and Ward are generally excluded. Suppose a person is a confidential Secretary to the General Manager or the Managing Director, I do not think he should be covered by the definition of 'workman'. I would request the hon. Labour Minister,

[Shri Bansal]

therefore, to consider very seriously whether these people and the people who are responsible for watch and ward should not be excluded from this definition. If it is insisted that they should come within the purview of this Act, then I think they should have the right to form separate unions apart from the workers' unions so that the harmony and the efficient working of the undertaking will not be disturbed.

Much has been said about the amendment to section 33. I do not want to say much on it. That is one section where there has been a substantial agreement between the workers' and employers' representatives at the various forums. I know that the employers are not satisfied with the change made and a large number of representations have been made to the Government. From the debate today, I find that even some of the workers are not satisfied with it. As it is both of them are somewhat dissatisfied. Even then they tried to hammer out this formula in the various meetings with the help of the Government. I think a fair trial should be given to this new formula. I agree with your suggestion if it is found acceptable to the Labour Minister that if it is misconduct whether it is connected with the dispute or not, the employer should have the right to take necessary action but I for one would like to see that we try to implement this new formula in the proper spirit so that this biggest cancer in the industrial relations after 1947 is removed. I do not want to go into the long history of trials and tribulations which the industry has had to face on account of the existing provision because these things are too well-known.

Coming to the machinery for compulsory adjudication, I beg to differ from the statement of the Labour Minister that the present provisions of the Bill are as a result of agreement between the employer and the workers. I feel that the employers have always been pressing that the adjudicators of the industrial tribunals and the national industrial tribunals should be sitting High Court judges. In one of the meetings I think—I do not remember—the Labour Minister said that he would accept that suggestion. Later on he said that this suggestion could not be worked. I have not been able to understand why it was found to be unworkable. If sitting judges are appointed to these two tribunals, it will not only add to the prestige of the tribunals in the eyes of the workers and the employers but there will also be greater sense of justice and fairplay. I do not want to refer to particular cases but we have often heard it said that a retired High Court judge who is superannuated looks forward naturally to his continued employment and for that purpose his judicial outlook is somewhat vitiated. I am not saying that it is so always but there is a chance and it has been brought to the notice of the Minister from time to time. It is for this reason that I have said times without number that in these cases the presiding officer should be a sitting High Court judge and the entire arbitration machinery at these two levels should be placed under the jurisdiction of the High Courts. If the sitting High Court judges are appointed to these presiding offices, in my view the jurisdiction automatically passes to the High Court and that will lead to a very healthy development. But if that is not possible, another suggestion has been mooted and I think discussed at a very high level also that the entire judicial machinery should be handed over to either the Law Ministry or to some other Ministry so that the executive Ministry which is looking after the labour relations does not come into play again and again. It is not that I am casting any aspersions on the *bona fides* of any Ministry. Perhaps there would be a greater feeling in the minds of the

people that the adjudication will be conducted on an absolutely impartial basis. It is not too late to consider either of these two suggestions.

The Labour Minister has not only not incorporated these provisions to make appointments from the sitting judges but he has watered down certain provisions in the Bill. He has brought certain further amendments. I am sure the Minister will explain and give his reasons when the clause by clause discussion comes up and if I have any observations to make I shall offer them at that time.

You were pleased to say certain things about the assessors. I only want to underline what you said with a modification that in the case of assessors, a panel of names both of workers and of employers should be maintained. Such panels could be had from the appropriate employers and workers organisation. If Government at any time wants to appoint assessors, they should be drawn from these panels.

As for the notice of change, there has been no such agreement at any of the conference. I know that this has a very long history. But, now the amendment is too drastic. The genesis of this notice of change was, as far as I know, the introduction of the latest labour saving machinery. It was urged on behalf of the workers that the employers should not introduce any labour saving machinery without giving notice of the change to the trade unions. But, I find that a large number of other things have been included. In my opinion, there is an apprehension of certain genuine difficulties being created in the way of the working of the industries. For instance, if there is going to be a change of shift or some such thing—the employer may think that there must be a change in the shift on account of certain factors, say to achieve greater efficiency—and if he is to wait for 21 days or for the agreement from the workers, it will be very difficult. I would therefore suggest that if possible this notice of change should not apply to as large a number of categories as has been now provided in the Bill.

As regards the abolition of the appellate tribunal, here again, the employers have not seen eye to eye with the Government or with the other trade unions which have been asking for the abolition of the appellate tribunal. In the beginning when the tribunal was appointed there were conflicting judgments by the various tribunals and even the same tribunal gave decisions differing from each other on the same question at different times. A lot of confusion was created. After some years of experience, they have come to a position where they were beginning to gain a lot of respect for themselves. I cannot welcome the abolition of these tribunals. There should be no dilatoriness in the judgements and disputes should be settled as soon as possible. But, I agree with my friend, Shri Nair, that in the present state of affairs there must at least be one appeal. Inasmuch as there is no provision for even one appeal, I think it is a retrograde step. My apprehension is that even the workers will not like it after some time. There are judges and judges and tribunals and tribunals. I am sure it will be felt that perhaps the provision for at least one appeal was absolutely necessary in the circumstances which obtain in our country today. I would, therefore, very much like—if there is not going to be an Appellate Tribunal—that at least one appeal is provided from the Industrial Tribunal to the National Tribunal and from the Labour Court to the Industrial Tribunal. It will not lead to any drastic change in the Bill and it can be provided, in my opinion, quite easily.

There are other small points to which I will not refer at this stage. I wil deal with them when we come to the discussion on the clauses.

Mr. Chairman: Shri G. D. Somani.

Shri T. B. Vittal Rao (Khammam): Sir, I rise on a point of order. There is no quorum in the House.

Mr. Chairman: The bell is being rung. Now there is quorum. Shri G. D. Somani can now proceed.

Shri G. D. Somani (Nagpur-Pall): Mr. Chairman, Sir, much has already been said from all sides and I would, therefore, try as far as possible to avoid repetition and to confine myself to a few important features of the Bill. In the beginning I would like to welcome the approach of the hon. Labour Minister, which he indicated at the end of his speech yesterday while opening discussion on this Bill, when he remarked that in the contaxt of the Second Five Year Plan there is no place now for stoppage of work or for any conflicts in the relations between the employers and employees.

Sir, at a time when we are on the threshold of an immense and ambitious scheme of industrialisation under the Second Five Year Plan, it is in the fitness of things that we should all realise that the production on all fronts has not only got to be maintained but increased, and that can only be possible if we have an atmosphere of goodwill and harmony all round. To that extent, both sides—that is the employers' and the workers' representatives—have really to reorientate their outlook in a manner which will enable our industrial production to go on unhampered.

Indeed there are quite definite indications of several major agreements having been arrived at during the year and a half that have preceded, where due to the bipartite machinery, I mean to say, due to the joint negotiations between both sides, it has been possible, for example, to take out the major issue of bonus from the industrial courts and a five-year agreement was entered into between the chief textile industrialists of Ahmedabad and Bombay. Due to these bipartite negotiations a basis has been created where recourse can be had more and more to collective bargaining and mutual negotiations than recourse to industrial courts. It has also been agreed in principle in Bombay, between the representatives of the industry and of the workers, that all further disputes in the Bombay City mills will be referred to a bipartite joint machinery and as far as possible they will be kept out of the scope of being referred for adjudication. These are all happy signs, and as pointed by my hon. friend, Shri Giri—he pointed out at the time of initiating discussion on this Bill, explaining his attitude, that this 'adjudication' was Enemy No. 1 of the workers—I hope this spirit of collective bargaining and mutual negotiations will develop, when there will be no longer any necessity for any recourse for compulsory adjudication. But so long as that atmosphere is not created I quite recognise that some sort of a machinery is essential where, in case the mutually agreed settlement is not available, recourse can be had to adjudication.

Now, coming to the actual provisions of the Bill, I would just like to say a few words about this question of definition. I am aware that several of my friends on the labour side have welcomed the change and they have indeed praised that this widening of the definition of 'workers' is in the right direction. But I have my own fears in this connection and even as the definition stands at present I think the inclusion of apprentices and clerks under the definition is already causing difficulty. The point is, whether the absence of this widening of definition has really caused any difficulty or not. That is the question which has to be considered. Sir, I am submitting from my own experience of Bombay that so far as these supervisory and technical personnel are concerned they have really got an organisation of their own and whenever there have been any difficulty they have just contacted the Millowners' Association. We have found by our actual experience that these mutual contacts have helped a great deal

that in dealing with any dispute might have arisen concerning the supervisory or technical personnel. I for one, therefore, do not see how, in what manner and in which part of the country these superior personnel have felt any difficulty, under the present circumstances, in having their grievances not being redressed.

As Shri Bansal pointed out, in most of the advanced countries of the world adequate precaution is taken to ensure that all these personnel, whether supervisory or technical, are those who hold positions of confidence and are kept outside the purview of any industrial legislation. For instance, in the United States of America the term 'employment' is defined so as to exclude any individual employed as a supervisor. In Canada, again, the definition excludes a superintendent or any other person who exercises supervisory functions or is employed in a confidential capacity with the running of the establishment.

Shri Venkataraman: What about Australia?

Shri G. D. Somani: I have given the instances of two highly industrialised countries. I have already submitted the actual experience that I have got about the difficulties which these supervisory and technical personnel experience in major centres like Bombay, and how we have been able to evolve a satisfactory way of dealing with those difficulties. We should remember, when we are talking of strengthening the machinery of joint consultation and collective bargaining and the desirability of extending the scope of mutual negotiations, it is rather going too far to extend the scope of industrial disputes and to create a spirit in the minds of superior executive officers of concerns to look to the courts and to the Government for redressing their grievances rather than to their own employers. It might create unnecessary complications if the supervisory, technical, or superior staff have to resort to all sorts of complicated actions under the Act. Thereby, the supervising capacity will be really very much affected. Therefore, I think that this change in the definition of workman and this widening of the scope of the definition to include their technical and supervisory staff is not a healthy change and it might lead to unnecessary complications. I think it should have been left to be mutually negotiated. If any such difficulty could be brought to the notice of the employers' organisation, explaining the circumstances where the supervisory personnel were subject to any unjust treatment or where their grievances were not redressed, I think it would be far more easier to get the difficulties redressed than to bring about this extension and widening of the scope of the definition and thereby creating a series of complications which might retard the smooth functioning of the various concerns. After all, so far as the majority of the concerns in the country are concerned, one will find that very few people are left out, because the remuneration of Rs. 500 per mensem has been provided in the Bill. Therefore, for all practical purposes, most of the supervisory, technical and senior staff will be covered under this Act. By the existing provision, the area of conflict will rather be extended than narrowed down, and the spirit of joint negotiation will be adversely affected rather than promoted by the widening of the definition of workman.

Coming to the question of the appellate machinery, the position is very clear. Even among the workers' representatives, they are not unanimous in asking for the abolition of this machinery. After all, when it was found out that there was complete chaos and conflict in the various judgments of the labour courts before 1950, the Government thought fit to establish this appellate machinery. I do not think there is much justification for doing away with this machinery at this stage. In explaining the objectives, the Minister gave the reason, and the reason was that much delay ensued in this matter. If the reason is one of delay, in the

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functioning of this appellate machinery. I think it should be possible to strengthen the existing machinery itself and thus eliminate all possible delays and to ensure that the functioning of the appellate machinery is expedited. But, as it is, in view of the overwhelming opinion on the labour side in favour of the abolition of this appellate machinery, Government have decided to do away with it. But then, the replacement of this machinery by the three-tier adjudication machinery has not been brought about in the manner in which it could have been done. It could have been done in such a way that it could bring satisfaction to all sides. As has been pointed out by the preceding speaker, all along or at least in the beginning stages, some talks were going on, and it was understood that the sitting high court judges would be replaced, along with the abolition of this appellate machinery, and that at least these industrial tribunals and the national tribunals would be manned by sitting high court judges to ensure that justice would be done and also to see that the judicial machinery is manned by the proper type of persons. But, somehow, due to some difficulties or due to certain State Governments, it has not been possible for the Government to accept that suggestion, and as it is, there are doubts in the minds of several disinterested persons whether the replacement of this machinery will enable our judicial machinery in the labour courts to function smoothly and efficiently.

Then, in regard to the question of assessors, one would have thought that with the abolition of this appellate machinery, the parties concerned—whether they are the workers or the employers—would be given the discretion to appoint the assessors whenever they want to appoint assessors, so that the case would be followed up automatically. But as it is, it appears that it has been left to the discretion of the State Governments concerned to appoint the assessors or not to appoint them. That again might create difficulties because, in the absence of the expert advice of the assessors in several complicated cases, it may not be possible for a one-man tribunal that is contemplated to be set under this Bill, to do full justice to the various cases. I should think that even now, at this stage, it is possible for the hon. Minister at least to ensure that these assessors are always associated, if either of the parties involved ask for it, and that it is not left to the discretion of the State Government to appoint the assessors or not to appoint them.

Much has been said about the amendment of section 33A, in regard to which, of course, the employers have all along felt genuine difficulties. My friend Shri A. K. Gopalan has feared a lot of adverse consequences following the amendment, but I think more than adequate safeguards have been provided in the Bill. In case any employer dismisses or discharges any workmen, under this amendment he will have to get the approval of a tribunal for the dismissal or the discharge. Indeed, I think it would have been better if the provision had been that if the worker had felt aggrieved it would be open to him to go to the court rather than to compel the employer, after having dismissed the worker, for his neglect, to seek the approval of the court. After all, it is the aggrieved party who should go to the court for redress and it should not have been made compulsory for an employer to be called upon to approach the court to prove the case for discharge or dismissal or whatever the punishment that is given to the worker for his misconduct.

Shri Nambiar: Because it is the employer who wants to remove the worker, he is the aggrieved party and so he must go to the court.

Shri G. D. Somani: The employer wants to remove the workman for certain solid reasons. I do not at all share the fear expressed by my friend Shri A. K. Gopalan that any very serious consequences will follow. After all, each employer looks more the contentment of his workers and to the smooth running of the concern rather

than to do something deliberately and discharging or dismissing the workers or to take some action against them which might lead to serious discontent among the workers. It is common knowledge of each and every employer that it is very difficult to keep his concern running unless he has the willing co-operation from his workers, and that any drastic action like dismissal or discharge cannot under any circumstances be taken lightly. It is only when there is no other way open and only when the case is serious enough that recourse to severe action is taken. I do not at all share the apprehension that of those who think that great calamity or a very serious situation will develop as soon as this amendment is carried out. As it is, discipline and efficiency require some sort of powers for those who have to conduct or run the concerns. The mere fact that this amendment is being made will not, in any way, I am sure, lead to any undesirable consequences about which apprehensions have been expressed.

The last point to which I would like to draw the attention of the House is about the powers given to the conciliation officers. As it is contemplated under the Bill, the conciliation officers will be vested with wide discretionary powers of a civil court under the Code of Civil Procedure, 1908, and it may be genuinely apprehended that such arbitrary powers might lead to a lot of complications. Indeed, so far as the calling of particulars or other information is concerned, I think even without these powers the conciliation officers can call for such records or for such information as they may require, and so, it is hardly justified or necessary to arm the conciliation officers with such wide powers. That is all that I want to say.

Shri Bhagwat Jha Azad (Purnea Santal Parganas): I welcome this measure because of certain changes which were long overdue. I receive this measure with pleasure in that I find that there are certain changes and amendments which will help labour in its task for greater production in the country during the Second Five Year Plan. Up till now, the employers had, as it were, a one-sided affair or traffic. They could change the conditions of service in any way they liked and they could initiate changes in the standing orders as they liked. Now the possibility of such things has been removed. Till now, the standing orders have been purely for the employers' advantage in the sense that only they can initiate changes in them. But now, labour also can initiate changes in the standing orders. Therefore, we welcome this provision.

We are most happy to find that these long blessed, with a question mark before it, appellate tribunals have gone. We used to file cases which used to be pending for four or five years. Recently we had some cases: the appellate tribunal sat over them for five years. The labours won them but then employers moved the Supreme Court and it asked for Rs. 2 lakhs security from the labour. Now we are very glad that the 1950 Act has gone; I am sure it would give us some relief. Also, there is provision for voluntary resort to arbitration by parties by a written agreement. I will not dilate on these advantages; they are so apparent and it is enough to say that we receive them cordially and whole-heartedly.

I would now like to point out certain lacunae that are there in this legislation. The most important and controversial matter is about the definition clause. I would have liked Mr. Somani to be here just now. He has given us a sermon and said, "What is the necessity for widening this definition? The relation between the employers and the employees is so cordial in Bombay. The supervisory and technical staff are so pleased with us." He quoted the practice in certain other countries like Canada. I would also like to quote other countries. What are the reasons for industrial peace in those countries? In industrially advanced countries like Britain and Canada there is collective bargaining, which has not been achieved in India. I

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Britain, they have got properly organised unions. I must confess, not as a leader but as a humble worker, that we have not got properly organised unions as they have got in Britain. There are also employers' associations in other countries. They sit round and they voluntarily decide all the disputes. Sometimes, they also set up ad hoc committees which have no connection at all with the Government. They have voluntarily set up a joint machinery which normally decides their disputes. There is also provision for referring disputes to independent arbitration. Like other under-developed countries, in India, also we are not properly organised. In countries like Britain the employers are not so blood-thirsty as their counterparts here. They do not suck every drop at the first moment; they want to derive profits in the long run. They look more towards the future than to the present. Therefore, in those countries technical and supervisory staff are not included in the definition of "workmen". But in India the conditions are quite different; the relations are not so good. Therefore, we certainly want that this sort of legislation should come before Parliament to guide us in our day-to-day work. I feel that though the definition has been widened compared to what it was before, still it is not up to the mark. According to the present definition, technical and supervisory staff getting above Rs. 500 per month will not be included. But even the supervisory and technical staff getting below Rs. 500 will be sought to be excluded under the pretext that they have been given some managerial work. Therefore, I feel that this definition does not go far enough to cover all the technical and supervisory staff. I would strongly urge the House to accept the amendment of Mr. Tripathi and Mr. Venkataraman in which they seek to widen the scope of this definition.

So far as clause 22 of this Bill—dealing with section 33 of the original Act—is concerned, there is a controversy. Mr. Venkaraman has said that he has examined the pros and cons and that all sorts of disputes would be covered by that clause, I disagree with him on one point. As Mr. Tripathi has pointed out, during the pendency of a dispute if other disputes arise, they cannot go on strike and Mr. Somani, who so highly praised the relationship between the supervisory staff and the employers, can certainly take action against the labour. The balance had been tilted to the advantage of the management and to the disadvantage of the workers. During the pendency of proceedings in a court or tribunal, if a fresh dispute arises, the workers cannot go on strike, but they can change the conditions. Therefore, we feel that there is still a case for providing certain other safeguards under this section.

As I have pointed out, the provisions of this Bill are no doubt welcome. Since the first Act was passed in 1929, we feel that we have covered much ground. I am not so pessimistic as my friend Mr. Gopalan. He says that there is no chance of settlement arbitration or administration of justice. I am not so negative in my approach; I feel that during this period, we have covered sufficient ground and we have improved the relationship between the labour and the management. But still I agree that we have not been able to develop collective bargaining to the extent it prevails in other countries and hence the necessity for the present legislation. Nonetheless, I feel there is a case for proceeding still further. We must give sufficient chances for the recognition of the unions. Also, labour leaders, whether belonging to this side of the House or that side, should see that unions are working properly. In this country, unions have been given a certain colour. When A goes, it is one colour; when B goes, it is another colour and when C goes, it is red colour. But still, I am of the opinion that so far as the recognition of unions is concerned, all chances must be given to the labour to express

its opinion and there should be no delay in giving the recognition, though I must add that it is because the recognitions of unions held by my friends have been so few, some of the remarks have been made. I do not share those remarks. I welcome the provisions of this legislation. The definition clause should be widened and other safeguards should be provided in section 33.

With these words, I welcome this measure.

Shrimati Renu Chakravarty: Mr. Chairman, at the outset, I would like to say that I want to voice the perturbation of the workers at certain changes in this Bill in regard to certain rights which they had so long enjoyed. This is a Bill as a result of which we want a satisfactory solution of industrial disputes. Everybody wants industrial peace, the worker and the employer and the nation at large. But, this industrial peace has to be based on democratic principles. That is why the worker feels that this Bill has come about at a time when he expected far more from the Government, especially, as it is coming on the eve of the Second Five Year Plan. We have heard of this Plan again and again from the employers, Ministers and various Members of this House. It is because it is coming on the eve of the Second Plan, this Bill should have embodied the policy which the Government wants to adopt towards labour. The first and the fundamental basis of such policy should have been, as almost all Members have stated, collective bargaining. We have to judge this Bill from the point of view whether it is actually helping collective bargaining or it is increasing litigation mindedness of the worker—I should not say litigation mindedness—but rather that the worker is being forced to go further and further to litigation. When I was listening to Shri G. D. Sumani, some suggestions came from certain sections of the House which has capital at its back which is able to fight out in the legal courts with the power of money. They can go on from month to month whilst the worker, at that very moment, is fighting an unequal battle, a battle in which he has to contend with poverty. That is why all trade unions, irrespective of their opinions have been demanding that it is time that we have more of collective bargaining for coming to decisions round the table rather than compulsory adjudication which is another word for litigation. That is why we feel that the benefit which had been given to the worker in section 33 and which is sought to be taken away how is going to hit the worker very hard. It is not only taking away certain rights which the workers had under the present Act in this unequal battle. The safeguards about which Shri K. P. Tripathi and Shri Venkataraman spoke will actually mean that we will have to go further to labour courts, and a further process of litigation will take place. There is also the further point that even if there is a fresh reference to the tribunals, the screening process of the Government will have to be gone through. This is the reason why labour is seriously perturbed about section 33 with the result that certain good clauses have not been appreciated to such an extent. Experience has shown that during the pendency of a dispute before a tribunal, this one right which was given to the worker helped him tremendously. At every stage we have found that the employer, being the powerful partner, by various methods has brought about oppression of various types. The question has been raised,—Shri K. P. Tripathi put it in his own way in fine words—we do not want the irrational protection given by section 33. This irrational protection is stated to be because of misconduct, etc. Certain cases have been quoted. If there had been any indiscipline, any sort of mischief, rights have been given to the employers to punish the worker. That is the point that I want to stress on this House. The right is there for the employers to immediately suspend him. In certain other cases, they have also the right to dismiss. This power has been utilised by the employers. It is not that the employers have not used

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this right. What they want is a further enhancement of their position. That is why we feel that what has been given by the right hand has been more than taken away by the amendment of section 33. I want the Labour Minister to understand the volume of opinion that has been coming to us from the last session to this session. From the time when we asked Government to expedite this Bill, from the time when we were asked not to send this Bill to a Select Committee, to this day, a large volume of opinion has come to us from the trade unions that you have done a very wrong thing in not having taken the Bill to a Select Committee, in not having screened it—not only ourselves, but all sections of the House—because it deals with a matter of such vital importance to labour.

I would refer to what Shri V. V. Giri said. We wanted that this Industrial Disputes Act should have embodied within itself certain fundamental approach to labour and its rights. That fundamental approach was the question of collective bargaining, the key-stone of which is recognition of unions. I will not take much time. I do not feel that it is of fundamental importance and everybody who has spoken up till now, except the representatives of employers has said that this is something without which this Bill becomes impotent. We would like the Labour Minister, when he replies, to tell us clearly what is it that he is contemplating about the recognition of trade unions. At the same time, I warmly welcome what Shri K. P. Tripathi said. One of the reasons for the present position is the fact that we in the various trade unions have not been able to come to a conclusion ourselves. It is right that all the trade unions should sit together and come to some decision rather than take upon us the compulsions of law. I hope that Shri K. P. Tripathi would do his best to convene such a meeting of all the organisations of Central trade unions so that this can be done. At the same time, as we are legislating here and Government is a party to the legislation, we would like the Government to make the position clear as to what it thinks should be done about recognition. Every labour dispute comes to this fundamental point. Only the other day, when I was leading a delegation to the Chief Minister of West Bengal in the case of an industry like the steel industry, the United Iron and Steel Workers Union, this question was raised, in front of the labour officers. Again and again when disputes arise, we want to thrash them out across the table and find a solution. At that time, the labour officers said, we have been asking the employers to come, but the reply is that we do not recognize the union and that is all. The Chief Minister was flabbergasted. He asked, can't you force them to come. He did not know the law in detail. Anybody who deals with this matter knows that there is no compulsion. Because the employer does not recognise the union, he did not come and he did not discuss. The dispute goes on and finally ends in a crisis. This is one of the fundamental points to which I do feel that the Government has not seen its way to give full importance. There have been many cases in which the Government itself is a party. There is the question about the Chittaranjan Union. In Chittaranjan, there were three unions. The I.N.T.U.C. lost its recognition because it did not have sufficient representation. The two other unions have amalgamated and formed one union. Even that has not been recognised. I can give so many instances. The question of the South Eastern Railway Union has come up. The whole affair came to a climax. This question has been hanging fire for months. I think that is the union which has the largest following. I hope the Labour Minister will make this point clear.

I would like to say that certain welcome clauses of the Bill have also some drawbacks. I hope that in the second reading of the Bill, that is, in the amendment stage, we shall be

able to make the Government accept some of the amendments which have more or less received the unanimous approval of all the sections of the House. Especially, there is the question of the definition of 'workman' on which so much stress has been laid again and again. I would not like to go into that now.

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But there is the question of giving notice when there is a change in the conditions of service. That provision is good as far as it goes. But here too, the good of section 9A is taken away by section 9B where Governments or to any class of workmen section 9A; if in their opinion it may cause serious repercussions on the industry concerned and public interest so requires it, they shall not apply it to any class of industrial establishments or to any class of workmen employed in any industrial establishment. There are various industries in which this can be applied. But I feel doubtful whether it is at all necessary for Government to intervene in a matter involving notice of change in the conditions of service.

Then, there is the question of punishment for breach of settlement or award. There, again, Government have to give more thought. As a matter of fact, I find that even under the existing law, there are penalty clauses in cases of illegal lock-outs and various other things, and the employers can be imprisoned. But I would like to know in how many cases Government have agreed to such a thing and the employers have been imprisoned. So, I would say that it is not enough merely to put in this clause of penalty, at the same time leaving the judgment entirely in the hands of the executive authority or Government.

There is one other very fundamental point, and that is that no right is given by this Bill to the worker to refer a matter directly to the tribunal. There again, I can speak for my State. I was discussing it with certain friends of mine only the other day. In my State, in the case of a majority of the disputes, one of the biggest problems is to get the Government agree to refer a matter of dispute to the tribunal. I could give you any number of examples, where only after a great deal of trouble and after the lapse of so many months, some minor matter may have been referred to the tribunal. Only the other day, on the dispute relating to the Kuthi steel workers,—we wanted certain matters to be referred to the tribunal. In that case,—we did not get a reply for months. We had written to the Government in the month of January. Till June there was no reply to it. Then, in June when we went on a deputation to the Chief Minister, the Labour Minister when he was asked, said, 'Oh! yes, we are going to give you a reply'! And you know what reply we got from him? When the reply came in July, it was that the employers had looked into the matter and they were satisfied that the discharge notices were all right, and therefore, the matter need not be referred to the tribunal. This is the disgraceful way in which certain Governments behave. That is why we are totally opposed to this screening by Government. We feel that if you really want to solve the disputes, then the matters of dispute should be referred by the workers directly to the tribunal.

Then, there is the question of the standing orders. We certainly welcome the changes that have been made in this respect. The certifying officer has the right to make a scrutiny of the standing orders. But we would at the same time like to point out that these officers are not always the best people to judge what the standing order should be, in order to bring about real industrial peace and amity between the workers and the employers. That is why we suggest that model rules should be framed by a tripartite

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conference, which should form the basis of all industrial standing orders. We feel that this would go a long way towards a solution of this problem.

Now, I come to the dismissal clause. According to section 33, we find that no worker can be discharged unless he has been paid one month's wages. But I would like to point out that the worker is the weaker partner in the dispute as far as money goes and further, in this Bill, no time-limit has been placed on the tribunal, within which time it should give its judgment. We know that sometimes there is a long delay of as much as even six months or a year. So, we would like to say that we are against the total modification of the existing section 33. But we have not got enough votes, and therefore, in the end, Government may push through whatever amendments they have brought forward. But we feel that if the dismissal clause is kept as it is, it will be a further attack on the rights of the workers. He should be paid not one month's wages as is provided for here, but wages for the period of pendency of the dispute before the tribunal, that is to say, till the tribunal gives its final verdict, he should be considered to be a workman in service, and he should be paid wages. Very often it happens that it takes about six months or so to dispose of the case, and in many cases, the workers would have gone by that time. And even if they are reinstated afterwards, there will be no chance of justice being done to them. So, the section should be modified in the light of what I have stated.

Now, I come to the exception made in respect of civil servants. I feel that this section is unfair because even for notice of change in conditions of service, no right has been given to them. Some of them are in important industries, no doubt, but I feel that they have also suffered from certain glaring injustices in regard to their conditions of service, and they have no means of getting justice done to them. Sometimes, there are such long delays that they have no means of getting their difficulties solved. All methods of conciliation, and all avenues for conciliation are barred to them. I therefore urge that the discrimination sought to be made in their case should be done away with.

Finally, in regard to the High Courts, I feel that very often they have given stay-orders which have gone against the workers. Therefore, I would urge that their jurisdiction should not be allowed in these cases.

In conclusion, I would like to reiterate one most important thing, namely that the present section 33 should not be changed. What has been given to the worker under the existing section should be retained, because labour, at this moment, is an unequal partner in the fight, and therefore, at least this much must be given to it. The employer has got the full right already to suspend the worker, if he thinks that he has done something which warrants punishment.

श्री रा० रा० शास्त्री (जिला कानपुर मध्य) : इस बात को सारे देश में स्वीकार किया जा रहा है कि अगर हमें पंच वर्षीय योजना को कामयाब बनाना है, तो मजदूरों का सहयोग बहुत ही आवश्यक है। जब कभी हम माननीय श्रम मंत्री का भाषण समाचारों में पढ़ते हैं या गवर्नमेंट के बयान पढ़ते हैं, या जो पंच वर्षीय योजना हमारे सामने पेश की गई है, उसको पढ़ते हैं, तो हम को ऐसा विश्वास होता है कि अब मजदूरों का ओहदा समाज के अन्दर ऊंचा दिया जा रहा है और इस बात को स्वीकार किया जा रहा है कि वास्तव में मजदूर एक स्वतंत्र नागरिक है और उस को वह अधिकार मिलना चाहिये।

हम लोग बहुत दिनों से यह उम्मीद लगाये हुए थे कि जो कुछ पंच वर्षीय योजना में कहा गया है उस उसूल को, जब कभी मजदूरों का कानून आयेगा उस में जकर देख किया जायेगा। अभी पंच वर्षीय योजना के सम्बन्ध में जो हाउस की कमेटियां बनाई गई थीं उनमें हम ने बहुत बहस की, परन्तु मुझे इस बात को देख कर बहुत अफसोस होता है कि जो उसूल वहां पर बनाये गये और जो बातें वहां पर हम लोगों ने की, उन सब बातों को ताक पर रख कर यह विधेयक हमारे सामने पेश किया गया। मुझे ऐसा लगता है कि वास्तव में इच्छा तो है कि हम इस चीज को करें और मजदूरों का ओहदा बढ़ायें, लेकिन इस बिल को देख कर ऐसा मालूम पड़ता है, और कुछ बातें निश्चित रूप से ऐसी रखी गई हैं, कुछ कदम ऐसे लिये गये हैं, कि उनका बहुत बुरा प्रभाव मजदूर आन्दोलन पर पड़ेगा।

मैं यह जकर समझता हूं कि इस विधेयक में दोनों तरह की बातें हैं, अच्छी बातें भी हैं और बुरी बातें भी हैं। जब स्वराज्य हुआ था तो हम ने देखा कि अक्सर हड़तालें होती थीं और मजदूर ताकत के जोर पर मालिकों से अपनी बात को मनवाता था। कांग्रेस का राज्य आया और इस बात का प्रचार हुआ कि हड़तालें बन्द हों तथा अदालतों के जरिये से मसले हल किये जायें। उस का भी एक्सपेरिमेंट (प्रयोग) बहुत दिनों तक हुआ और अन्त में हम इस नतीजे पर आये कि इस तरीके से व्यवसायिक शान्ति अच्छी तरह से नहीं होती और तरक्की नहीं हो रही है। अब दूसरी स्टेज (अवस्था) आई कि मालिक और मजदूर दोनों मिल कर, साथ बैठ कर आपस में अपने मसले तय करें। जहां तक इन सब चीजों का तात्लुक है कि मालिक और मजदूर आपस में बैठ कर मसलों को तय करें, इस में किसी को ऐतराज नहीं होगा, और यदि ऐसा हो सके तो व्यवसायिक शान्ति कायम हो सकती है। लेकिन इस बात को देख कर बड़ा आश्चर्य हुआ कि इस के लिये कोई उपाय विधेयक में नहीं सुझाया गया है।

मालिक और मजदूर मिल कर आपस में अपने मसले तय कर लें, बात बिल्कुल सही है, लेकिन आखिर, मजदूर जब बात करेगा तो अपनी यूनियन (संघ) के जरिये से करेगा, अपने संगठन के जरिये से करेगा। इस विधेयक में शुरू से आखीर तक किसी जगह पर भी इस बात का जिक्र नहीं किया गया कि जो संस्थायें समझौते के लिये बातचीत करेंगी वह कौन सी यूनियन्स (संघ) होंगी, किन को अधिकार मिलेगा और किन को नहीं। जैसा अभी माननीय राज्य मंत्री महोदय ने विदेशों का हवाला दिया था, मैं कहता हूं कि यूनियनों में ऐसे भी देश हैं जहां पर इस बात का प्रावधान (उपबंध) है कि अगर कोई मालिक मजदूर यूनियन से बात नहीं करेगा तो वह अनफेअर लेबर प्रैक्टिस होगी। तो अगर कोई मिल मालिक रिकगनाइज्ड रिप्रिजेंटेटिव यूनियन (मान्यता प्राप्त प्रतिनिधि संघ) के साथ बात न करे तो जकर ही इस के बारे में इस बिल में कोई व्यवस्था होनी चाहिये। क्या आपने इस बात पर भी विचार किया है कि जो प्रावधान (उपबंध) आपने इस बिल में रखे हैं उनका मजदूर आन्दोलन पर क्या असर पड़ेगा? यह ठीक है कि हम लोग जो यहां पर बैठे हैं, वे यह महसूस करते हैं कि इस विधेयक में तीन चार अच्छी बातें हैं और हम उनका स्वागत करते हैं। लेकिन जो कमियां रह गई हैं, हम आशा करते हैं उनको भी आप कुछ संशोधनों को स्वीकार करके दूर करने की चेष्टा करेंगे। आप ने मजदूर की परिभाषा में जो सुपरवाइजरी स्टाफ (पर्यवेक्षक कर्मचारिवृन्द) और टैकनिकल स्टाफ (प्राविधिक कर्मचारिवृन्द) को शामिल किया है, इसका हम स्वागत करते हैं यह एक सही बात है।

[श्री र० र० खन्डेकर]

कन्ट्रेक्ट लेबर (रेगुलेशन एण्ड एबोलिशन) के बारे में मैं समझता हूं, रीडोलेन्स को साफ नहीं किया गया है। इसको साफ कर देना चाहिये। इसके साथ ही साथ स्टैंडिंग आर्डर्स (स्थायी आदेशों) को बदलने का जो हक आज तक मालिकों को ही दिया गया था वह अब मजदूरों को भी दिया जा रहा है, यह भी ठीक ही किया जा रहा है और ऐसा होना भी चाहिये। एपोलेट ट्रिब्यूनल का जो अन्त किया जा रहा है इसका भी हम स्वागत करते हैं। मालिकों को कंडिशंस चेंज (शर्तें परिवर्तित) करने के बारे में जो नोटिस देने की बात कही गई है, इसका भी हम स्वागत करते हैं और इसे स्वीकार करते हैं। ये हैं कुछ बातें जिन का हम स्वागत करते हैं। लेकिन इसके साथ ही साथ मेरा दिल यह कहता है कि सैक्शन ३३ को चेंज करने की जो बात कही गई है, वह ट्रेड यूनियन मूवमेंट (श्रमिक संघ आन्दोलन) के लिए अच्छी नहीं होगी। अगर आप मजदूरों के किसी भी सैक्शन को बुलायें और मिनिस्टर साहब उनके साथ बैठकर बात करें और उनसे इस के बारे में उनकी राय पूछें तो मैं निश्चित रूप से कह सकता हूं कि वे इसको स्वीकार नहीं करेंगे। वे आपको साफ साफ यह बता देंगे कि जो अधिकार इस बिल में हम को दिये जा रहे हैं या जो जो फायदे की बातें इस बिल के द्वारा हमारे लिये की जा रही हैं, अगर आप सैक्शन ३३ को चेंज करते हैं, तो वे हमें स्वीकार नहीं हैं। अगर आप उनको यह बता दें कि अगर उनका कोई मामला कोर्ट के अन्दर है उस वक्त जो मालिक हैं वह अनुशासन के नाम पर उनको निकाल सकता है और फिर उनसे उनकी राय पूछें और उनको यह बतलाने के लिए कहें कि बोलो यह बिल तुम्हें मंजूर है या नहीं, तो यह मेरा पक्का विश्वास है कहां तक आम मजदूरों का ताल्लुक है वे एक आवाज से यह कहेंगे कि हम इन तमाम कंसेशंस (रियायतों) को छोड़ने के लिए तैयार हैं लेकिन हम यह कभी नहीं मान सकते हैं कि मालिकों को यह अधिकार हो कि वे मुकदमे के दौरान में मजदूरों को निकाल सकते हैं। मैं आशा करता हूं माननीय मंत्री जी इस बात पर अवश्य गौर करेंगे। मैं आपको यह भी बतलाना चाहता हूं कि जहां तक आई० एन० टी० यू० सी० का ताल्लुक है और उसके द्वारा जो समाचार पत्र निकाला जाता है और जिस के एडिटर शायद श्री के० सी० त्रिपाठी जी हैं, इसके अन्दर भी इस बात को कहा गया है कि अगर मजदूरों को आप आटोमैटिकली मुकदमा लेजाने के अधिकार से वंचित करना चाहते हैं तो सैक्शन ३३ की तब्दीली नहीं होनी चाहिये। इसमें लिखा है :—

"If, there is automatic reference of dispute, then the question of sections 33 and 33A may not arise at all, but as long as this automatic reference of the dispute is not provided, we are totally against any modification of section 33 or 33A".

हो सकता है कि सदन को इस ओर से जो बात कही जा रही हो वह माननीय मंत्री जी को स्वीकार न हो। लेकिन कम से कम आई० एन० टी० यू० सी० (भारतीय राष्ट्रीय कामिक संघ कांग्रेस) जो बात कहती है उसको तो उन्हें अवश्य स्वीकार करना चाहिये। मैं आशा करता हूं, हमारे दोनों माननीय मंत्री जो कि मालिकों के तथा मजदूरों के दृष्टिकोण को अच्छी तरह से जानते हैं, इसको अवश्य स्वीकार कर लेंगे। हम लोग जो कि रोजमर्रा मजदूरों के बीच काम करते हैं यह कह सकते हैं कि इस कानून के पास हो जाने के बाद मिलों के अन्दर झगड़े कम होने के बजाये बढ़ जायेंगे। यह सही है कि एक प्रेजेंट ट्रेड यूनियन वर्कर्स (वर्तमान कामिक संघ कर्मचारी) को भी इसमें प्रोटेक्शन दिया गया है, इसको हम

स्वीकार करते हैं। लेकिन जब तक आप ट्रेड यूनियंस को रिकग्नाइज (मान्यता देने) करने की बात नहीं सोचेंगे तब तक शान्ति स्थापित नहीं हो सकती। आप सोचिये कि अगर कोई चीज किसी अदालत के अन्दर गई है और जो एक्टिव वर्कर्स (सक्रिय कर्मचारी) हैं उनमें से मालिक पांच छः को हटा देता है तो इसका क्या नतीजा निकल सकता है। मैं जानता हूं कि अगर कोई झगड़ा हुआ तो उसका दोष हम को ही दिया जायेगा और कहा जायेगा कि यही लोग हैं जो मजदूरों को भड़काते हैं। लेकिन मैं आपको यकीन दिलाता हूं कि ऐसी बात नहीं है। अगर मालिकों ने इस दफा का इस तरह से दुरुपयोग किया जैसा कि मेरा विश्वास है वे करेंगे, और कुछ भी मजदूरों को निकाल दिया, तो मजदूर उसी वक्त उनको जवाब देंगे और लड़ जायेंगे और उनको निकालने नहीं देंगे। इसका नतीजा यह होगा कि हड़तालें होंगी, जिसे गैर कानूनी करार दे दिया जायेगा, दफा १४४ लगा दी जायेगी, गिरफ्तारियां होंगी, लेकिन इससे काम चलने वाला नहीं है। तो मेरा पक्का विश्वास है कि मजदूर उसी कारखाने के अन्दर लड़ाई करेंगे, झगड़ा करेंगे और मालिक उनको यही जवाब देगा कि मुझ को कानून के अन्दर यह अधिकार है कि उनको नौकरी से बरतरफ कर दूं और इस अधिकार का ही मैंने उपयोग किया है। यह ठीक है कि कानून में जब एक बात लिखी जाती है तो बाद में जाकर उसमें से बहुत सी बारीकियां निकल आती हैं। इस वास्ते मैं प्रार्थना करता हूं कि आपको मजदूरों के दृष्टिकोण को समझने की कोशिश करनी चाहिये, जिस चीज में उनकी भलाई हो वही चीज करनी चाहिये। श्री वैकटरामन् साहब ने इसका इंटरप्रेटेशन (व्याख्या) जो निकाला है उसको मैं ठीक नहीं मानता हूं। वह यह समझते हैं कि पेंडेन्सी के वक्त अगर कोई मालिक किसी मजदूर को निकालना है या किसी को डिसमिस करता है, तो वह ऐसा नहीं कर सकेगा। मैं समझता हूं कि जो दफा रखी गई है उसकी मंशा यह है कि जहां तक पर्टिकुलर कंडिशंस को पेंडेन्स का सम्बन्ध है, उसको तो एक जगह पर रखा गया है। फिर यह कहा गया है कि डिसिप्लिन (अनुशासन) के नाम पर वह उसको डिसमिस कर सकता है। इसका क्या नतीजा होगा? आज तक तो यह था कि मालिक अगर किसी मजदूर को निकालना चाहता है तो पहले उसको ऐसा करने की इजाजत लेनी पड़ेगी तब वह ऐसा कर सकेगा लेकिन अब पहले वह ऐसा कर सकेगा और बाद में उसे इजाजत लेनी पड़ेगी। आप देखिये कि कमीन साहबान का अन्तर पड़ गया है। अब तो वह एक्शन (कार्यवाही) ले लेने के बाद एप्रूवल (स्वीकृति) लेगा जबकि पहले उसे पहले एप्रूवल लेनी पड़ती थी। मैं चाहता हूं अगर ज्यादा कुछ नहीं तो आप दफा ३३ को न बदलिये। जो भी हक मजदूरों को मिल गए हैं वे उन्हें मिले रहने चाहियें। अगर आप यह हक मालिकों को देते हैं कि जब चाहें वे मजदूरों को निकाल बाहर करें तो जो एक बड़ा हक मजदूरों को मिला हुआ है वह उनसे छिन जायेगा। अगर आप इस हक को बना नहीं रहने दे सकते हैं तो इतना तो कर ही दीजिये कि जहां मालिकों को आप यह हक देते हैं कि वे डिसिप्लिन (अनुशासन) के नाम पर मजदूरों को निकाल सकते हैं तो आप मजदूर को इतना हक तो दे दीजिये कि अगर वहां पर डिस्प्यूट (विवाद) होता है तो मजदूर का वह मसला आटोमैटिकली (स्वतः) अदालत के अन्दर चला जाए। इसमें गवर्नमेंट की इंटरफेरेन्स (हस्तक्षेप) जरूरी नहीं होनी चाहिये। देखने को) ठीक मालूम होता है कि गवर्नमेंट यह फैसला करे कि कौन सा मसला ट्रिब्यूनल को देना होना चाहिये और कौन सा नहीं। मैं अब गवर्नमेंट के हाथ में कोई पावर आने देना चाहता लेकिन

[श्री रा० रा० शास्त्री]

है तो वह उसका ठीक से उपयोग नहीं कर पाती है। गवर्नमेंट के हाथ में यह पावर है कि जिस किसी यूनियन को वह चाहे उसे रिकगनाइज करे और जिस यूनियन को चाहे उसकी पीठ पर हाथ रख दे और जिस यूनियन को चाहे दबा दे। तो यह जो हक है वह भी बहुत खतरनाक साबित हो रहा है। मैं चाहता हूं इस अधिकार पर भी प्रतिबन्ध लगे। साथ ही साथ किसी मालिक को मजदूर को निकालने का और यदि हड़ताल हो तो उसे गैर कानूनी करार देने का, अदालत के अन्दर केस न ले जा सकने का तथा गवर्नमेंट से ऐसा करने के लिए इजाजत लेने का, जो अधिकार मालिकों और गवर्नमेंट के पास है, उससे मजदूरों पर क्या बीतेगी इस पर गौर कर लिया जाना चाहिये। मालिकों को जो यह अधिकार दिया गया है वे इसका दुरुपयोग करेंगे।

आप रोजमर्रा यह बात कहते हैं कि पंच वर्षीय योजना को सफल बनाने का हर किसी को उपाय करना चाहिये। साथ ही साथ आप पंच वर्षीय योजना में कहते हैं कि :—

"A strong trade union movement is necessary both for safeguarding the interest of labour and for realising the targets of production".

मजदूरों का इंटरेस्ट (हित) भी इसी में है, हमारे देश का इंटरेस्ट (हित) भी इसी में है कि ट्रेड यूनियनिज्म स्ट्रांग फुटिंग (कार्मिक संघों का दृढ़ आधार) पर हो। अब ये स्ट्रांग किस तरह से बन सकती हैं, इसके बारे में आप कहते हैं :

"Another step in building strong unions is to grant them recognition as representative unions under certain conditions".

तो यदि आप यूनियंस को स्ट्रांग बनाना चाहते हैं तो आप क्यों उनको रिकगनिशन (मान्यता) नहीं देते हैं। हमारी समझ में नहीं आता कि जब आप यह नहीं करते हैं तो आप किस लिए यह योजना बनाते हैं। मैं आशा करता हूं कि माननीय मंत्री जी यूनियंस को मान्यता प्रदान करने के बारे में जो उनकी नीति है उसको यह स्पष्ट करेंगे।

साथ ही साथ आपने योजना में कहा है कि गवर्नमेंट एक माडल एम्पलायर (आदर्श नियोक्ता) के रूप में देश के सामने आयेगी ताकि उसको देखकर जो दूसरे एम्पलायर्स (नियोक्ता) हैं वे इंस्पीरेशन हुआ (प्रेरणा प्राप्त) कर सकें। लेकिन यह बड़े ताज्जुब की बात है कि जो उसके अपने एम्पलाईज हैं उनको वह इसमें से निकाल देना चाहती है। तो मैं जानना चाहता हूं कि जब गवर्नमेंट एक माडल एम्पलायर बनना चाहती है तो क्यों उसके जो डिफेंस (रक्षा विभाग) के एम्पलाईज (कर्मचारी) हैं उनको भी वही प्रोटेक्शन (संरक्षण) नहीं देती जो कि प्राइवेट मिलों में मजदूर काम करते हैं, उनको मिले होते हैं। जहां तक गवर्नमेंट का ताल्लुक है वह इससे बचना चाहती है। आज हमारे देश के अन्दर एक प्राइवेट (गैर सरकारी) और एक पब्लिक (सरकारी) सैक्टर (उद्योग क्षेत्र) है। जो पब्लिक सैक्टर (सरकारी उद्योग क्षेत्र) है वह दिन-ब-दिन बढ़ता जा रहा है। यह सब की मांग है कि पब्लिक सैक्टर (सरकारी क्षेत्र) बढ़े। तो पब्लिक सैक्टर के जो कर्मचारी हैं उनकी सचमुच ऐसी सशक्त ऑर्गेनाइजेशन होनी चाहिये, उनका ऐसा संगठन होना चाहिये तथा उनको ऐसे हक प्राप्त होने चाहियें कि जिनको देखकर आप प्राइवेट एम्पलायर्स (गैर सरकारी नियोक्ता) को यह कह सकें कि अगर गवर्नमेंट मजदूरों को अधिकार देकर अच्छी तरह से

काम चला सकती है तो क्या वजह है कि आप भी ऐसा नहीं कर सकते हैं । मैं चाहता हूं कि यह उन पर भी लागू होना चाहिए ।

जहां तक इस विधेयक में संशोधन करने का प्रश्न है, हम लोगों ने अपने अपने संशोधन भेजे हैं और मैं उम्मीद करता हूं कि जिस संशोधन के बारे में गवर्नमेंट समझे कि इससे मजदूरों, समाज और देश का कल्याण होगा, उस संशोधन को वह स्वीकार करेगी । गवर्नमेंट खुद भी यह महसूस करती है कि इस विधेयक में कुछ कमी रह गई है और आप ने देखा कि मिनिस्टर साहब ने खुद ४४ संशोधन भेजे हैं । मैं अन्त में निवेदन करूंगा कि यह बात नहीं होनी चाहिए कि आप पहले ही यह तय कर डालें कि जो कुछ आप कह रहे हैं, वह ठीक है, क्योंकि आप लोगों की तादाद ज्यादा है और इधर बैठने वालों की तादाद कम है, इसलिए उनकी सही बात को भी न माना जाये । हमें इस बात का ध्यान रखना चाहिए कि हम लोगों की स्थिति यहां पर कोई आपोजिट्स—दुश्मन—की तरह नहीं है । यह देश हम सब का है । आप भी इस देश के हैं और हम भी इस देश के हैं और हम दोनों इस देश का सुधार करना चाहते हैं और यहां के लोगों का स्तर ऊंचा उठाना चाहते हैं । इस अवस्था में यह उचित और आवश्यक है कि हमारी तरफ से जो भी सही बात कही जाये और आप समझें कि इससे देश का कल्याण होगा, तो आप जिद्द को छोड़ कर उस को स्वीकार करें । उसी से हमारा, आपका और इस देश का कल्याण होगा ।

ठाकुर कुशल किशोर सिंह (मुजफ्फरपुर—उत्तर—पश्चिम) : सभापति महोदय, कई वर्षों से इस बात की चर्चा चल रही थी कि हमारे सामने बहुत बड़े पैमाने पर मजदूरों के कानून संशोधन के रूप में आयेंगे । जब कभी यहां पर किसी लेबर कानून या उस के संशोधन का जिक्र आया, तब श्रम मंत्री की तरफ से यह आश्वासन दिया गया कि वे इस कानून को इस सेशन (सत्र) में ला रहे हैं, दूसरे सेशन में ला रहे हैं और तीसरे सेशन में ला रहे हैं इत्यादि, इत्यादि । उन्होंने यह भी फरमाया कि इस सम्बन्ध में उन का जो भी तजुर्बा है, वह सब इस में समाविष्ट रहेगा । लेकिन इस विधेयक को देख कर मैं अनुभव करता हूं कि पहाड़ खोदने के बाद चुहिया निकली है । श्रम मंत्री ने कहा है कि इतने सालों तक इस विषय का मुझे जो अनुभव हुआ है, उस के आधार पर मैं ने इस बिल को बना कर यहां पेश किया है । मैं नहीं जानता कि उन्होंने इस सिलसिले में किस तरह का अनुभव प्राप्त किया है ।

उन्होंने वर्कमैन (मजदूर) की डेफीनीशन (परिभाषा) बदलने की कोशिश की है । मैं ने इन्डस्ट्रीयल कमेटी (औद्योगिक समिति) में भी उनसे कहा था कि आप ट्रिब्यूनल (न्यायाधिकरण) के ऐवार्ड (पंचाट) को पढ़िए और अपने अफसरों को पढ़ने को कहिए । जो मजदूर इस में नहीं आते हैं, उन का इस में समावेश होना चाहिए । मैं नहीं जानता कि मंत्री महोदय ने या किसी अफसर ने मेरे नोट को देखा है या नहीं ।

श्री आरिफ बेग : बहुत गौर के साथ ।

ठाकुर कुशल किशोर सिंह : वाच एंड वार्ड स्टाफ (सुरक्षागण) और पीयन (चपरासी) वगैरह उस में नहीं आते हैं । न वे स्किल्ड लेबर (प्रवीण श्रमिक) में आते हैं और न अनस्किल्ड लेबर (अप्रवीण श्रमिक) में—न फिजिकल लेबर (शारीरिक श्रमिक) में शामिल किए जाते हैं और न क्लैरिकल स्टाफ (क्लर्क कर्मचारी) में आते हैं । स्कूल में काम करने वाले टीचर्स (अध्यापक) को भी अलाहिदा कर दिया गया है और डाक्टर को भी । वर्कमैन की जो डेफीनीशन दी गई है, उस में वे लोग नहीं आते हैं ।

[अक्षर अतुल किशोर सिंह]

दूसरा प्रश्न यह है कि आज कल इंडस्ट्रियल डिस्प्यूट्स (औद्योगिक विवाद) क्यों खड़े होते हैं ? रेकगनीशन आफ ट्रेड-यूनियन (कार्मिक संघ को मान्यता देना) के मामले को लेकर बहुत ज्यादा इंडस्ट्रियल डिस्प्यूट्स (औद्योगिक विवाद) खड़े हो जाते हैं, लेकिन इस को दृष्टि में रख कर इंडस्ट्रियल डिस्प्यूट् की डेफ़ीनीशन में कोई तरमीम करना मुनासिब नहीं समझा गया है । मैं समझता हूं कि इंडस्ट्रियल डिस्प्यूट की डेफी में न रहने पर भी बहुत जगह स्ट्राइक (हड़ताल) होती है । डालमिया नगर बहुत बड़ा कनसर्न (समवाय) है । वहां सिर्फ रेकगनीशन की वजह से ही हड़ताल का नोटिस दिया गया और आपस में पंचायतें वगैरह हुईं । आज स्थिति यह है कि मिल मालिकों की तरफ से अनफेयर लेबर प्रैक्टसिज (कर्मिकों सम्बन्धी अनुचित व्यवहार) होती हैं, मजदूरों के साथ इल-ट्रीटमेंट (बुरा व्यवहार) होता है, गाली गलौच होती है, एसाल्ट (प्रहार) होते हैं और उन के बारे में आप कहते हैं कि कोर्ट में जाओ, मुकदमा करो, क्रिमिनल प्रोसीडिंग्ज (दाण्डिक अभियोग) करो । सरकार को यह महसूस करना चाहिए कि मजदूर सिर्फ पैसे के लिए नहीं मरता है—उस को प्रतिष्ठा भी चाहिए और सद्व्यवहार भी चाहिए । अगर मिल मालिक की तरफ से उस के साथ इल-ट्रीटमेंट होता है, दुर्व्यवहार होता है, तो वह भी इंडस्ट्रियल डिस्प्यूट का एक बड़ा कारण होना चाहिए । मिल-मालिकों की इस तरह की हरकतों से बहुत बड़े डिस्प्यूट खड़े हो जाते हैं । मैं समझता हूं कि सरकार को इस बात का नोटिस लेना चाहिए और ऐसी व्यवस्था करनी चाहिए कि कोई भी मिल-मालिक या मैनेजर या एडमिनिस्ट्रेटिव आफिसर (प्रशासी पदाधिकारी) इस तरह की हरकत न करे, जिस के कारण इस प्रकार की अशान्ति उत्पन्न हो जाये—चाहे वह इंडस्ट्रियल अशान्ति न हो, लेकिन एक दूसरी तरह की अशान्ति तो इन कारणों से हो ही जाती है ।

इस विषय में श्रम मंत्री ने यह भी कहा कि इंडस्ट्रियल पीस (औद्योगिक शान्ति) के लिये वे यह कानून बनाना चाहते हैं । मैं समझता हूं कि अगर यह बात इंडस्ट्रियल मिनिस्टर (उद्योग मंत्री) की तरफ से कही जाती, तो ज्यादा शोभा की बात होती । मैं तो यह सोचता था कि वे श्रम मंत्री हैं और श्रमिकों के हितों की रक्षा का उत्तरदायित्व उन के ऊपर है । उन को इस बात का ध्यान रखना है कि श्रमिक बेकार न होने पायें, उन का जीवन-स्तर ऊंचा हो, उन को और सुविधायें दी जायें और जो सुविधायें उन को इस समय उपलब्ध हैं, उन पर किसी प्रकार का कुठाराघात न हो । इन बातों को दृष्टि में रख कर वे कोई कानून हमारे सामने लाते, तो हम को प्रसन्नता होती । लेकिन मैं तो यह अनुभव करता हूं कि जो हक श्रमिकों को दिया गया था, वह भी इस कानून के जरिये खत्म हो रहा है । सैक्शन ३३ में जो भी हक उन को मिला हुआ है, आज वह इस कानून के जरिये खत्म हो रहा है । मैं समझता हूं कि श्रम मंत्री का जो पद है, उस की प्रतिष्ठा के लायक शायद इस तरह की बातें नहीं हैं । उन को तो श्रमिकों के हितों का रक्षक होना चाहिए, न कि उन के हकों को छीनना चाहिए ।

आज राष्ट्र के नाम पर मजदूरों से बलिदान करने के लिए कहा गया है । लेकिन प्रश्न यह है कि राष्ट्र किस के लिए है ? क्या वह उन मुट्ठी भर लोगों के लिए है, जो मौज उड़ा रहे हैं ? मैं समझता हूं कि यह राष्ट्र मजदूरों का है और मजदूरों के लिए है । अगर मजदूर नहीं रहेंगे—अगर उन के हक उनकी प्रतिष्ठा, उनकी रोटी और उन की नौकरी नहीं रहेगी, तो फिर यह राष्ट्र रहेगा किस के लिये ? इस लिए मैं चाहता हूं कि सरकार की तरफ से ऐसा कानून बने कि किसी मालिक को किसी को डिसमिस करने का—

बर्खास्त करने का—हक न हो। कोई ऐसी व्यवस्था की जाती कि अगर किसी समय यह समझा जावे कि कोई मजदूर किसी खास काम के लायक नहीं है, तो उस को किसी दूसरे काम पर लगाया जावे या उसके लिए कोई दूसरा उपाय ढूंढा जावे, किसी को डिसमिस (पदच्युत) करने की बात क्यों की जाती है? क्या हम यह महसूस नहीं करते कि यह सजा तो मजदूर के लिए मरण के बराबर है? जिस तरह डेपिटल पनिशमेंट (मृत्यु दंड) है। (जिसको कि आज समाप्त किया जा रहा है), उसी तरह यह बर्खास्त करना है और उस को भी समाप्त कर दिया जाना चाहिए। सरकार को या किसी मिल-मालिक को किसी व्यक्ति को भूखा मारने का हक नहीं होना चाहिए। हम ने कांस्टीट्यूशन (संविधान) में लोगों को राइट टु वर्क की गारंटी दी, लेकिन आज हम एम्पलायर्ज को राइट टु डिसमिस दे रहे हैं और उस पर कानूनी मोहर लगा रहे हैं। हमारे श्रम मंत्री को देखना चाहिए कि इस तरह की बात न हो।

जहां तक स्ट्राइक (हड़ताल) और लाक-आउट (ताला बन्दी) का सम्बन्ध है, मैं यह कहना चाहता हूं कि लाक-आउट की डेफ़ीनीशन में यह बताया गया है कि :

"'lock-out' means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him."

एक तरफ तो आप ने एक सेक्शन से स्ट्राइक और लाक-आउट को एक जगह रख दिया है और ऐसा मालूम होता है कि सरकार एम्पलायर और एम्पलाई की एक ही नजर से देख रही है, लेकिन दूसरी तरफ आप मिल-मालिक को लाक-आउट करने का अधिकार दे रहे हैं, उस को डिसमिस करने का अधिकार दे रहे हैं, जो कि कानून के मुताबिक नहीं दिया जाना चाहिए। मैं समझता हूं कि जिस वर्ष पर आप स्ट्राइक को रखते, उसी पर लाक-आउट को रखते और अगर आप ऐसा करते तो मिल-मालिक को डिसमिस करने का अधिकार हरगिज नहीं होना चाहिए।

आप चाहते हैं कि कानसिलिएशन प्रोसीडिंग्स (समझौते की कार्रवाई) के दरमियान किसी तरह का डिसमिसल न हो या चैंज आफ कंडिशन न हो, लेकिन कानसिलिएशन प्रोसीडिंग्स (समझौते की कार्यवाही) की डेफ़ीनीशन (परिभाषा) को आप ने बदलने की कोशिश नहीं की। आप ने बताया है कि पब्लिक युटिलिटी सर्विसिज (सार्वजनिक लाभ की सेवाएं) के बारे में कानसिलियेशन प्रोसीडिंग्स कब शुरू समझी जायेंगी और कब खत्म समझी जायेंगी, लेकिन जो पब्लिक युटिलिटी सर्विसिज नहीं हैं, उन के बारे में नहीं बताया गया है कि कानसिलिएशन प्रोसीडिंग्स कब शुरू होती हैं और कब खत्म होती हैं।

इसके अलावा एम्प्लायर्ज को और ट्रेड यूनियन को यह भी खबर होनी चाहिये कि कंसिलियेशन आफिसर कब अपनी रिपोर्ट (प्रतिवेदन) भेजते हैं ताकि उनको मालूम हो सके कि मामला खत्म हो गया। इस रिपोर्ट (प्रतिवेदन) के लिये कोई समय निश्चित कर दिया जाना चाहिये, नहीं तो इसका कोई अर्थ नहीं रहेगा। १९४७ के पहले जबकि डिफेंस आफ इंडिया एक्ट (भारत रक्षा-अधिनियम) लागू था तो एडजूडेकेशन (न्याय निर्णयन) के एवार्ड (पंचाट) के लिये समय निश्चित था लेकिन जब ज्यों ज्यों आप "एक्सपिडीशसली" (शीघ्रता से) शब्द का प्रयोग करते जाते हैं त्यों त्यों ज्यादा समय लगता जाता है। आपको यह बतलाना चाहिये कि इस "एक्सपिडीशसली" शब्द का अर्थ क्या है। यदि इस समय को आप एक साल भी निर्धारित कर दें तो हमें एतराज न होगा लेकिन कुछ समय तो निश्चित कीजिये। अभी तो छह और तीन साल तक का समय लग जाता है।

[ठाकुर युगल किशोर सिंह]

दूसरी बात मैं यह कहना चाहता हूं कि हमारा लेबर (श्रमिक) एक बहुत कमजोर पार्टनर (साझीदार) है। अगर किसी धनी के धन की चोरी हो जाती है तो उसे आप काग्निजेबिल आफेंस (हस्तक्षेप अपराध) मानते हैं और उस मामले की पैरवी पब्लिक प्रासीक्यूटर (सरकारी अभियोजक) करते हैं। लेकिन जब मजदूरों का शोषण होता है तो उनको आप वकील की सहायता नहीं देते। आप उनको अकेला छोड़ देते हैं कि वे कंसिलियेशन आफिसर (समझौता पदाधिकारी) के सामने जायें, ट्राइब्युनल (न्यायाधिकरण) के सामने जायें, सरकार को दरख्वास्त दें। मेरा सुझाव है कि यदि कोई एम्प्लायर आपके कानून के विरुद्ध कार्य करे तो उसको भी काग्निजेबिल आफेंस (हस्तक्षेप अपराध) माना जाये और उस मामले में सरकार मजदूर को सहायता दे अगर वकील रखने की जरूरत हो तो उसके लिये सरकार अपनी तरफ से वकील भी रखे। अगर सरकार ऐसा करेगी तो उसे मजदूरों का पूरा पूरा सहयोग मिलेगा।

इसमें आपने जजों की उम्र ६५ साल रखी है। मैं अदब से कहना चाहता हूं कि यह उम्र बहुत ज्यादा है। मेरा तजुर्बा है कि अधिक उम्र वाले जब लोग अदालत में तो आते हैं, देर से आते हैं, केवल घंटा दो घंटा काम करते हैं, कभी उनके पेट में दर्द होता है और कभी कुछ होता है और जो काम दो दिन में खत्म हो सकता है उसको पूरा करने में उनको १८ या २० दिन तक लग जाते हैं। इसलिये मैं अदब से निवेदन करना चाहता हूं कि ५५ वर्ष से नीचे उम्र वालों को आप रखें। ६५ वर्ष वाले मिनिस्टरी का काम कर सकते हैं लेकिन उनसे जज का काम नहीं लिया जा सकता।

अब आपने अपने ऊपर बहुत बड़ी ताकत ले ली है। एवार्ड ही अब बहुत बड़ी एम्पावर होगी और वह जज भी होगी। यह न्याय की बात नहीं मालूम होती। जो आप जज रखते हैं आपको उन पर विश्वास होना चाहिये और उनका फैसला मान्य होना चाहिए। लेकिन आपने इस में यह प्राविजन रखा है कि आप उनके फैसले को मॉडीफाई (संशोधित) भी कर सकते हैं। ऐसा करने से बड़ी गड़बड़ी हो सकती है जैसी कि बैंकों के मामले में हो चुकी है। इसके कारण हम एक अच्छे मिनिस्टर भी खो चुके हैं। यद्यपि जो मिनिस्टर साहब उनकी जगह आये हैं वे भी काबिल हैं, लेकिन इस प्राविजन (उपबंध) के रखने से गड़बड़ी हो सकती है और इससे मजदूरों का सरकार में विश्वास भी कम हो जायेगा। इस लिये मैं चाहता हूं कि एवार्ड को बदलने की जिम्मेदारी सरकार अपने हाथ में न ले और इसको ट्राइब्युनल (न्यायाधिकरण) के हाथ में ही रहने दे। और उसके जो फैसले हों उनको माना जाय।

श्री आबिद अली : आज सुबह से इस बिल पर चर्चा हो रही है। उस तरफ से जो बातें कही गई हैं उनको सुनकर मेरा यह ख्याल होता है कि जो चीजें इस बिल में रखी गई हैं उनके विरोध की बहुत गुंजाइश नहीं है।

आखिरी माननीय सदस्यों ने जो चीजें कही हैं मैं पहले उनका जवाब देना चाहता हूं। उन्होंने फरमाया कि ६५ वर्ष की उम्र रखी गई है। आपको मालूम है कि अभी तक इंडस्ट्रीयल डिस्प्यूट्स एक्ट (औद्योगिक विवाद अधिनियम) में उम्र की कोई कैद नहीं थी। सत्तर या अस्सी साल का आदमी भी रखा जा सकता था। अब हमने ६५ साल की उम्र रखी है।

जहां तक सोने का सवाल है, वहां पर पार्लियामेंट के सदस्य भी सो जाते हैं।

Shri Venkataraman (Tanjore): But they do not decide cases.

श्री जाविद अली : वे भी देश के बारे में सब कुछ फैसला करते हैं। जवान आदमी भी कभी सो सकते हैं। लेकिन मैं यह मानता हूं कि जो बीमार हों उनको इस काम पर नहीं लगाया जाना चाहिये। जिनकी सेहत अच्छी हो उनको ही रखना चाहिये। इसमें कोई बहस की गुंजाइश नहीं है।

जहां तक वकीलों का सवाल है, जब तक दोनों पार्टीज राजी नहीं होतीं वहां वकील जा ही नहीं सकता। जहां तक दूसरे कोर्टस, जैसे हाईकोर्ट या सुप्रीम कोर्ट, का सवाल है जब जरूरी मालूम हुआ हमने वकील रखे हैं वे मजदूरों की मदद करते हैं। जो कार्यवाही इम्पलीमेंटेशन के बारे में की जाती है उसमें हम अपने वकील रखते हैं, उसमें मजदूरों को वकील रखने का कोई सवाल ही पैदा नहीं होता।

Shri A. K. Gopalan: Among those who are present now, I was looking into the point whether there was anybody who did not know English. I find that everybody here knows English and and we can all follow English. Is it not, therefore, better that at least now they Deputy Minister speaks in English? In fact he can also speak English well.

Mr. Chairman: It is left to the individual Member to choose the language in which he should speak. I cannot force any hon. Member to speak in a language which is different from the language in which he has chosen to speak. So, it is now left to the Deputy Minister to choose the language in which he should speak.

श्री जाविद अली : मेरे दोस्त गोपालन साहब तो बहुत अच्छी हिन्दी बोलते हैं और बड़े बड़े जल्सों में हिन्दी में तकरीरें करते हैं। जो मैं बोल रहा हूं उसे वे अच्छी तरह समझ लेंगे और फिर हमको जो हिन्दुस्तान सहिष्णता हिन्दी समझने की आदत भी तो डालनी चाहिये। ये तो जनता के प्रतिनिधि हैं और जनता के नजदीक जाना चाहते हैं। उनको इस तरफ जरा तेजी से कदम उठाना चाहिये।

तो मेरी अर्ज यह है कि हमने कैसिलियेशन प्रोसीडिंग्स (समझौते की कार्यवाही) खुद और जल्द होने के बारे में वक्त निश्चित कर दिया है। अगर इस बारे में कोई कमी रह गई है तो उसको भी हम दूर कर देंगे ताकि उसके बाद जो कठिनाई माननीय सदस्य ने बतायी है वह न रह जाये।

यूनियन्स (संघ) के बारे में आपने फरमाया कि उनके रिकोगनीशन की आप उम्मीद करते थे और आपने पंचशाला योजना के बारे में भी जिक्र किया। पंचशाला योजना में मजदूरों के लिये क्या चीजें होनी चाहियें वह तो एक अलग बात है। इस बिल का भी उद्देश्य यही है कि जो चीजें वहां पर निश्चित की गई हैं वह जल्दी अमल में आ सकें। उद्योग में बरकती और शान्ति होनी चाहिये, मजदूरों में उत्साह होना चाहिये और वहां तक हो सके झगड़े होने ही न चाहियें, और अगर हो भी जायें तो आपस में उनका फैसला हो जाना चाहिये, या पंचायत से फैसला हो जाय। अगर पंचायत में भी वह फैसला न हो सके तब मामला अदालत में जाये। इन सब बातों को सामने रख कर यह बिल पेश किया गया है और जो कायदे बनेंगे उनमें भी इस बात का ध्यान रखा जायेगा कि मामले का जल्द फैसला हो।

जाल्दी जी ने फरमाया और ठाकुर साहब ने भी फरमाया कि मामलों के फैसले होने में दो दो और तीन तीन साल लग जाते हैं। जहां तक सैंट्रल सरकार ट्राइबुनल का ताल्लुक है हम खुद उसके पीछे पड़े रहते हैं और करीब २२ अब मुकर्रर कर दिये थे। जन् १९५५ की एक भी अपील बाकी नहीं रही है सिवाय

[श्री आविद अली]

उनके विषके बारे में हाई कोर्ट या सुप्रीम कोर्ट का चार्जर है। तो तीन साल की बात तो अब रही ही नहीं क्योंकि अब तो अपील का झगड़ा ही नहीं रहेगा।

एपैलेट ट्राइब्यूनल (अपीलीय न्यायाधिकरण) न चाहने की एक खास वजह यह थी कि उद्योग सम्बन्धी केसेज के फैसले तो एक ही साल के लिये लागू रहते हैं और उसके बाद दोनों पार्टीज को हक रहता है कि नोटिस दें और तरीके बदलें तो उसके लिये एपैलेट ट्राइब्यूनल वगैरह की गुंजाइश नहीं रहती है। देर लगने की अब बिलकुल सम्भावना नहीं रहेगी।

सैक्शन ३३ के बारे में मैं समझता हूं कि दिमागों में कुछ गलतफहमी है। बहजो बिल आपके सामने पेश है इसमें एम्प्लायर्स (नियोजक) को यह इजाजत हासिल नहीं है कि वे किसी वर्कर को डिस्मिस (पदच्युत) कर सकें बल्कि इस बिल के द्वारा उनको पहले से ज्यादा प्रोटेक्शन (संरक्षण) मिल रहा है। मसलन यह बताया है कि सैक्शन ३३ और ३३ ए के होते हुये भी बहुत से वर्कर्स हटा दिये जाते थे। अगर कोई मेम्बर साहब यह समझते हों कि सैक्शन ३३ के होने के कारण वर्कर्स नहीं हटाये जाते थे तो मैं बहुत नम्रता से निवेदन करूंगा कि उनका ऐसा समझना गलत है। हम उनको मदद करते ही रहते हैं जहां जहां मदद करना जरूरी होता है। श्री शास्त्री ने अभी फरमाया कि अगर वर्कर्स का कोर्ट के सामने जाने का आटोमेटिक (स्वतः ही) हक हो तो सैक्शन ३३ ए० को हटाने के विरोध की गुंजाइश नहीं रहती। जहां कहीं केसेज पैंडिंग हों और अगर वर्कर्स को हटाया जाय तो वर्कर्स को यह अधिकार है कि वह फौरन हमारे पास आने हुए ट्राइब्यूनल के पास जाये और यह ट्राइब्यूनल्स बड़े बड़े केसेज में और जो छोटे छोटे केसेज हैं उन के लिये कोर्ट की बार्कंस हम यह चाहेंगे और ऐसी कोशिश करेंगे कि दो महीने के अन्दर यह केसेज फैसल हो जाय। किसी साहब ने इस के बारे में यह फरमाया कि बिल पिसत कर देना चाहिये। यहीने या पन्द्रह दिन नियत कर दें तो मैं उन से पूछना चाहूंगा कि अगर उस विवाद के अन्दर केस फैसल नहीं हुआ तो क्या होगा? फर्ज कर लीजिये कि एक वर्कर को डिस्मिस कर दिया जाता है और आप दो महीने का टाइम उस के केस का फैसला हो जाने के लिये मुकर्रर कर देते हैं और वह उस विवाद के अन्दर फैसले नहीं होता है तो उस का क्या बनेगा? क्या वह हमेशा के लिये हटा दिया जायगा?

ठाकुर लक्ष्मण किशोर सिंह: एक्सटेंशन (समय बढ़ाने) का राइट (अधिकार) दे दीजिये।

श्री आविद अली: इसीलिये तो हम कोई इस तरह की मियाद नहीं रख रहे हैं। अभी तक वर्कर्स को अगर हटा दिया जाता था तो उन को एक भी पैसा नहीं मिलता था। हम इस तरह का कानून बना रहे हैं ताकि एक वर्कर जिस को कि जनवरी की तनख्वाह मिल चुकी है और फरवरी में हटाया गया है तो उस को फरवरी का भी कैश मिलना चाहिये। फरवरी के महीने में अगर वह हटाया गया है तो मार्च या अप्रैल में उस का फैसला हो जाना चाहिये। आज हालत यह थी कि वर्कर्स को हटाते हैं तो उन को पैसा नहीं मिलता है। और अगर इस बदली पर गौर किया जाये तो मैं समझता हूं कि मेम्बर साहबान इस नतीजे पर पहुंचेंगे कि जो हालत आज वर्कर्स की है उस को हम इस तरह के कायदे कानून बना कर के कुछ बेहतर ही बनाने की कोशिश कर रहे हैं।

ठाकुर लक्ष्मण किशोर सिंह: दो, दो और तीन-तीन महीने तक के वर्कर्स सस्पैन्ड (निलम्बित) रहते हैं।

श्री आविद अली: ठीक फरमाते हैं और यह उन की और मेरी जानकारी में है कि ऐसे भी वर्कर्स हैं जो कि तीन तीन साल से सस्पैन्ड पड़े हुए हैं इस से कोई इंकार नहीं कर सकता है। अब हम इस तरह के कायदे और

कानून बना कर के इस बात की कोशिश कर रहे हैं कि ऐसी चीजें और नाइंसाफी वर्कर्स के साथ न हों ।

श्री गोपालन ने अपनी स्पीच में रैकग्नीशन आफ यूनियन्स की बाबत बहुत कुछ कहा और कुछ दूसरे भाइयों ने भी इस की तरफ इशारा किया । बी० आई० आर० के अनुसार १५ परसेंट मेम्बर हो जाय किसी यूनियन में तो उस का रैकग्नीशन का हक हो जाता है लेकिन फर्ज कर लीजिये कि दो यूनियंस हैं, एक में १५ हैं और दूसरा में १७ हैं अथवा २२ हैं तो जिस में ज्यादा मेम्बर होंगे उस को रैकग्नीशन (मान्यता) का हक हो जायेगा। ८५ परसेन्ट को कम्पलशन (बाध्यता) नहीं है कि वह उस यूनियन को माने मगर उन को एक किस्म की दावत दी जाती है कि जो रैकग्नाइज्ड है उस यूनियन में सब शामिल हो जायें । उस यूनियन के आफिस बियरर्स भी उन्हें यूनियन में शामिल हो जायें और उस पर कब्जा कर लें और अपने मन के मुताबिक यूनियन को चलायें इस हालत में शिकायत की गुंजाइश कहां रह जाती है । लेकिन उनकी यह मांग कि यूनियन को जिस हाल में भी हो मान लो कुछ जंचती नहीं है । उन्हों ने प्लेबिसाइट (जनमत संग्रह) के लिये जो कहा तो यू० पी० की शुगर इंडस्ट्री का प्लेबीसाइट का तजुर्बा याद आ गया । आई० एन० टी० यू० सी० के खिलाफ सब के सब मिल गये । उस समय सिब्बन लाल जी ने भूख हड़ताल की हुई थी जब कि वोट डल रहे थे और वह वोट सिब्बन लाल जी को जिन्दा रखने के लिये पड़े क्योंकि लोग यह नहीं चाहते थे कि वे मर जायें और असल बात तो यह है कि कोई भी इंसान यह नहीं चाहता कि कोई शख्स इस तरह मर जाय उस वोट ने सिब्बन लाल जी की जान बचा ली लेकिन बाद में हम ने देखा कि जिन लोगों ने वहां एक साथ मिल कर वोट दिये थे जब उन से कमेटी में रखने वाले सदस्य के नामों की लिस्ट देने को कहा गया तो वे एक लिस्ट नहीं दे सके और वह एक साल दो साल तक लिस्ट साथ तक नहीं दे सके । इस तरह हम ने देखा कि वे लोग जो इस मौके पर एक साथ मिल गये थे साथ नहीं रहे इस से यही नतीजा निकलता है कि इस तरह की चीजें एक वक्ती जरूरत को सामने रख कर के गड़बड़ कर के एक में मिल जाते हैं और वास्तव में उन के एक साथ मिलने का कोई महत्व नहीं रहता है इसलिये वर्कर्स को यह पूरा हक दे देना चाहिये ......

Shri A. K. Gopalan: By election the Government also changes.

श्री आबिद अली : पांच साल तक पार्लियामेंट काम करती है और उस के आधार पर दूसरे पांच साल के लिये एलेक्शन होता है और लोग पार्लियामेंट के पिछले पांच साल के कार्यों को देख कर वोट देते हैं और जिन को वह चुनते हैं वह पांच साल के लिये पार्लियामेंट को चलाते हैं । अब अगर आप कायदे से एक साल के लिये रैकग्नीशन देना चाहते हैं तो मुझे उस में बहुत एतराज है । बम्बई में और दूसरी जगहों पर जो एक तरह का एक्सपेरीमेंट (प्रयोग) हो रहा है उस से आप लोगों को शिकायत है—

श्री अ० क० गोपालन : बम्बई का एक्सपेरीमेंट (प्रयोग) बहुत खराब है और अच्छा नहीं है ....

An Hon Member: This is a black Act.

श्री आबिद अली : यूनियन वाले कायदे को ब्लैक एक्ट कहा गया । उस को ब्लैक हाल में डाल दिया गया है अब उस को भूल जाइये । मैं समझता हूं कि इस बिल को जिन्हों ने ब्लैक बिल कहा है उन्होंने गुस्से में ऐसा कहा है और सोच समझ कर नहीं कहा है क्योंकि सुबह से ले कर इस वक्त तक जितने सदस्यों ने इस पर तकरीरें की हैं सब ने इस की तारीफ की है और कहा है कि इस में बहुत सी अच्छी बातें हैं । अब हो सकता है कि इस में एक आध खामी रह गई हो और यह स्वाभाविक है ही कि जो हमारे सामने मेम्बर साहबान बैठे हुए हैं उन का ध्यान खासतौर पर एक आध कमी

[श्री आबिद अली]

की ओर आये और विरोध करने की दृष्टि से ही मैं समझता हूं कि उन्हों ने इस बील को कहा है ।

जहां तक मजदूरों के काम का सवाल है यह बील स्पष्ट है कि मजदूर मेहनत से काम करें ताकि राष्ट्र मजबूत हो और उन्नत हो और साथ ही यह बील भी मान ली गई है कि मजदूरों को उन की मेहनत का उचित मेहनताना मिले और मैं समझता हूं कि हर वर्कर अब यह बात समझ गया है कि वह जो काम करता है वह किसी खास वर्ग या लोगों के लिये नहीं करता है बल्कि वह राष्ट्र के हित में काम करता है और वह यह भी समझता है कि जब राष्ट्र उन्नति करेगा तो उस का वाजिब हक उस को पूरा पूरा मिलने वाला है ।

मेरी बहन श्रीमती रेणु चक्रवर्ती ने चित्तरंजन का जिक्र किया। मैं स्वयं चित्तरंजन गया था और मैं ने बहुत से वर्कर्स से इस यूनियन के सम्बन्ध में बातचीत की और मैं बतलाऊं कि दर्जनों से मैंने उस यूनियन की बाबत पूछा लेकिन केवल एक ने बतलाया कि हां सुनते तो हैं कि कोई ऐसी यूनियन वहां पर है। मैं ने उस से पूछा कि कि क्या तुम उस यूनियन के मेम्बर हो तो उस ने कहा कि मैं मेम्बर नहीं हूं। कहने का मतलब यह है कि वहां पर लोगों को बिल्कुल इस बात का पता ही नहीं है कि वहां पर कोई यूनियन है और वास्तव में वह नहीं के बराबर है और अगर कोई सख्त डेढ़ ईंट की अपनी मस्जिद बना ले और उस में नमाज पढ़े तो उस की जुर्रत है। वर्कर्स जानते हैं कि कांस्टीट्यूशन (संविधान) के लिहाज से उन को यूनियन बनाने का हक है और आज देश में किसी अधिकारी की यह मजाल नहीं है कि सिर्फ यूनियन में काम करने की वजह से किसी भी वर्कर को हटा सके । यह बात दूसरी है कि कोई झगड़ा करे इनडिसिप्लिन (अनुशासन) करे, लेकिन यूनियन में काम करने की वजह से किसी भी वर्कर को कोई भी हाथ नहीं लगा सकता, यह चीज वर्कर्स तक अच्छी तरह पहुंच गई है और वे यूनियन बनाने का हक खूब अच्छी तरह समझते हैं.....

Shri A. K. Gopalan : Why do not we try to take the opinion of the workers ?

श्री आबिद अली : हम चाहते हैं कि वर्कर्स सही तौर से यूनियन बनायें और उन के द्वारा अपनी आवाज रखें और जो यूनियन वे बनायें वे मजबूत हों और हम उन को सही लाइन पर प्रोडीज (ठीक ढंग पर कार्य करने) की तरफ इशारा कर रहे हैं। और जिस तरीके से अहमदाबाद, जमशेदपुर और इंदौर वगैरह में हो रहा है उसी तरीके से वे अपनी यूनियनें बनायें और अपने को मजबूत और संगठित करें और जहां जरूरत हो वहां टक्कर भी ले लें ।

यहां पर कालका और जड़नपुर का भी कुछ जिक्र किया गया है । मैं समझता हूं कि अगर यह न किया जाता तो ज्यादा अच्छा होता । जो भी वहां पर हुआ उस में मैं समझता हूं कि कोई भी ट्रेड यूनियन वाला सहमत नहीं होगा और वह रास्ता देश और स्वयं वर्कर्स के हित में नहीं था । एक बार वर्कर्स की कोई डिमांड अगर कहीं पर पूरी होने से रह भी गई हो तो भी किसी को मारने का हक नहीं है ।

जब हिन्दुस्तान में सब हिन्दुस्तानी रहते हैं, एंजिन ड्राइवर हिन्दुस्तानी, एंजिन का क्लीनर हिन्दुस्तानी, गार्ड हिन्दुस्तानी, पैसेन्जर हिन्दुस्तानी, मालिक हिन्दुस्तानी, तब किसी ट्रेन का गिराना या किसी को मारना कैसे उचित हो सकता है ? अगर कहीं थोड़े बहुत लोग भी इस ख्याल के वाकी हैं तो जो हमारे भाई अपोजीशन में बैठे हुये हैं उनका भी कर्तव्य है कि वह लोगों को समझायें कि ये चीज देश में नहीं होनी चाहिये । आ रहा है सन् १९१७, हटा

दीजिये हमको अगर इनको लोन वोट दें तो, इसके बारे में कोई हमारा आपका झगड़ा नहीं, लेकिन अगर आप हटा नहीं सकते तो पत्थर और लाठी बरसाने की मेहरबानी तो न कीजिये। अगर इतनी बात समझ ली जाय तो ज्यादा अच्छा होगा कि पत्थरों और लाठियों से गवर्नमेंट को आप नहीं हटा सकेंगे।

यहां एक ऐडजुडिकेशन (न्याय निर्णयन) के लिये जो टाइब्यूनल का सम्बन्ध है, स्टैंडिंग आर्डर्स और छोटे केसेज होंगे वह जायेंगे एक सात साल के अनुभवी जज के पास, जो उससे बड़े होंगे वह जायेंगे इंडस्ट्रियल ट्राइब्यूनल के सामने और जो बहुत ही महत्व के केसेज हैं वह जायेंगे नेशनल ट्राइब्यूनल के सामने। आपने विशाखापटनम के माननीय सदस्य ने कहा था कि अपील के अलग अलग तरीके इस सम्बन्ध में रहने दिये गये हैं। जैसा, अभीअभी भी, आपने फरमाया था, जैसे महत्व के केसेज होते हैं वैसे वह सुप्रीम कोर्ट (उच्चतम न्यायालय) हाई कोर्ट (उच्च न्यायालय) सैशन जज (सत्र न्यायालय) और मैजिस्ट्रेट के पास जाते हैं, उसी प्रकार से यहां भी होगा, इसमें अपील की कोई गुंजाइश नहीं रहती है।

जो दो साल के अनुभवी जज को ट्राइब्यूनल में रखने की बात है उसमें हमारा उद्देश्य यह था कि हम उनके अनुभव का लाभ भी लेंगे और जो दो साल से ज्यादा काम कर चुके हैं उनको इस कायदे के पास होने के बाद यह कह देना कि तुम घर चले जाओ, उनको रिट्रेंच कर देना, हमको अच्छा नहीं लगा, यह एक अनुचित बात होगी इसलिये हमको उनके अनुभव का लाभ भी लेना है और उनको काम भी देना है। इसलिये हम उनको रख रहे हैं, वे लोग थोड़े थोड़े दिनों के बाद जाते रहेंगे और हाई कोर्ट के जजेज या रिटायर्ड जजेज ही रहेंगे।

वर्कलैस (निर्धारित) के बारे में मैं यह कहना चाहता हूं कि यह बात खुद वर्कर्स की तरफ से उठी थी कि कुछ अवेलेबर हो जायेंगे, दूसरे कोर्ट के सामने केसेज चलाम और तीसरे ट्रेड यूनियन फील्ड (श्रमिक संघ क्षेत्र) में काम करें, हो सकता है कि मजदूरों के दरम्यान इतने बहुत कार्डिनल और अनुभव की लोग न हों, आज के ऐतराज को ध्यान में लाने के बाद यह होना चाहिये कि वहां वहां बहुत जरूरत हो वहां वह रखे जायें।

श्री वेंकटारमन ने कम्पेन्सेशन प्लानेज के बारे में फरमाया था, वह ऐक्ट में है ही और इंटरप्रेटेशन (व्याख्या) में आ जाते हैं। यहां तक उन्होंने इलाहाबाद हाई कोर्ट जजमेंट का जिक्र किया, मैं यकीन दिलाता हूं कि यहां पर जो कायदा पास होता है, उसको अमल में आना ही चाहिये। अगर किसी खास वजह से ऐसी गलत स्लिप हो गई तो उससे हक नहीं मिलेगा कि वह उस पर कार्रवाई करे। ऐक्ट में कोई कमी बाकी है तो हम जल्दी से जल्दी उसको निकाल दें। इसमें कोई दो राय नहीं हो सकती हैं।

इम्प्लिमेंटेशन (कार्यान्विति) के बारे में भी मैं अर्ज कर दूं। हम खुद इस बात की कोशिश कर रहे हैं कि हमारी मैशीनरी (तन्त्र) पूरे तरीके से काम करे। हम अफसर बढ़ा रहे हैं और इस बात की कोशिश हो रही है कि यहां कोई ऐवार्ड (पंचाट) आया कि जल्दी से उसका पूरा इम्प्लिमेंटेशन (कार्यान्विति) हो क्योंकि ऐवार्ड (पंचाट) के जरिये से वर्कर्स को जो कुछ दिया गया है, वह फौरन उसके हाथ में आना ही चाहिये। इसके लिये हम खुद बड़े आतुर और उत्सुक हैं, यह मैं यकीन दिलाना चाहता हूं।

आज जिक्र आया था कि अगर कहीं वर्कर को हटा दिया जाय तो उसको कम्पेन्सेशन न मिलेगा। ऐमेंडिंग बिल में सेक्शन २२ में

[श्री आविद अली]

लिखा है कि उस को अख्तियार है कि वह जो चाहे रिमीड (सहायता) दे सकता है। वह वर्कर को रिइन्सटेटमेंट (पुनर्नियुक्त) कर सकता है और अनएम्पलायमेंट (बे-रोजगारी) के पीरियड (काल) का वेतन दे सकता है। इसके अलावा वह जो भी चाहे कम्पेन्सेशन (क्षतिपूर्ति) वर्कर को दे सकता है।

श्री बंसल ने कॉन्फिडेंशल क्लर्कस (गुप्त काम सम्बन्धी क्लर्क) और वाचमैन के बारे में जिक्र किया था कि उनको भी हक होना चाहिये यूनियन बनाने का। जहां तक हमारे कायदे का सवाल है, उसमें, मैं अर्ज कर दूं, वाचमैन और कॉन्फिडेंशल क्लर्कस को हक है कि वह अपनी यूनियन्स बनायें, लेकिन मैं उनसे भी अर्ज करूंगा कि साथ एन्ड थार्ड और कॉन्फिडेंशल डेजिग्नेट के जो लोग हैं उन के साथ एम्पलायर का इतना अच्छा व्यवहार हो कि उनको ट्रेड यूनियन में जाने की जरूरत न पड़े। यह चीज कुछ मुफ्लिस भी नहीं है।

कंट्रेक्ट लेबर के बारे में भी मैं अर्ज कर दूं। इस अमेंडिंग बिल (संशोधन विधेयक) में और पहले भी ऐक्ट के लिहाज से एम्पलायर और एम्पलायीज दोनों के रिजेक्शन्स का जिक्र आता है। जो कंट्रेक्टर के एम्लाईज हैं वह वर्कर्स और एम्पलायीज में आ जाते हैं। उनको भी ऐजुडिकेशन का हक मिला हुआ है। दूसरे जो हक हैं उनमें भी वह लोग आते ही हैं, इसलिये कहीं भी कोई दिक्कत मालूम नहीं होती।

ट्रेड यूनियन्स (श्रमिक संघ) की मेम्बर-शिप (सदस्यता) का जिक्र किया गया था और कहा गया था कि ट्रेड यूनियन्स के मेम्बर कम हो रहे हैं। मालूम नहीं कि मेम्बर साहबान स्टेटमेंट में क्यों ऐसा जिक्र करते हैं। खुद उन्हीं के दफ्तर से जारी सूचनायें मंगवाई तो उससे मालूम हुआ है कि सन् १९५७–५८ में २७९६ ट्रेड यूनियनें रजिस्टर्ड थीं। सन् १९५२–५३ में वह ४१०१ हो गईं, और उसके बाद भी बढ़ रही हैं। सन् १९५७–५८ में टोटल मेम्बरशिप १६,६२,९२९ थी, वह बढ़कर २०,९४,९३२ हो गई। इस तरह से सन् १९४७ से लेकर १९५१ तक में १६ लाख से २० लाख मेम्बरशिप बढ़ गई है।

Thakur Jagal Kishore Sinha: What about its proportion to the total number of employees?

श्री आविद अली : जी हां, एम्पलाईज का नम्बर भी बढ़ा है। सवाल यह था कि ट्रेड यूनियन्स कम हो रही हैं और ट्रेड यूनियन्स की मेम्बरशिप कम हो रही है। इसके बारे में मैं जिक्र कर रहा था कि वह कम नहीं हुई है, बल्कि ज्यादा हुई है।

जहां तक कि हमारे एम्पलायर (नियोक्ता) और एम्पलाईज (कर्मचारी) का सम्बन्ध है, इसके बारे में दूसरे माइयों ने भी फरमाया और हमेशा कहा ही जाता है, और हम भी यह चाहते हैं कि उनके बीच में हमारी जितनी कम जरूरत पड़े हम उतना ही खुश होंगे और ट्रेड यूनियनें जितनी ही मजबूत होंगी उतना ही ज्यादा अच्छा होगा। इस बात के लिये हर एक कोशिश करेगा कि ट्रेड यूनियन्स मजबूत हों, वर्कर्स ज्यादा से ज्यादा ट्रेड यूनियनों में शामिल हों, अपने हक को समझें, अच्छाई को समझें, बुराई को समझें, दुश्मन को समझें, दोस्त को समझें और देश की तरक्की जो उनका फर्ज हो उसको अदा करते हुये उस की तरक्की की कोशिश करें। एम्पलायर भी, जैसा माननीय सदस्य सोमानी जी ने फरमाया और उन की बात मुझे बहुत पसन्द आई, अब पूरी ईमानदारी से बातें करने लगे हैं और वह भी इस बात को समझने लग गये हैं कि जहां तक ....

एक माननीय सदस्य : क्या यह सचमुच समझने लग गये हैं ?

श्री आविद अली : मेरा यकीन है कि वह समझने लगे हैं फिर मैं तो यह समझता हूं कि चूंकि हम ईमानदार हैं इसलिये वह भी ईमानदारी से समझने लग गये हैं कि किस चीज में उन का फायदा है, वर्कर का फायदा है, और सब से ऊपर मुल्क का फायदा है। इस चीज को सामने रखते हुए सब अपने अपने फर्ज को अदा करते हुए इस मुल्क को आगे उन्नति की तरफ बढ़ाने जायें. आज इसी की जरूरत है।

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, the 24th July 1956.