

[Shri I. K. Gujral]

is known as the 'reversible system'; that is, we have got an apparatus at our disposal by which a number can be checked automatically, and the telephone operator does not have to ring back. We have undertaken this system and we are resorting to it in bigger towns. In the smaller towns, as yet it may not be possible for us to make the service as efficient as we would like to, but I can assure the hon. Members that this will receive our attention and we will see what we can do in this matter.

Before I sit down, Madam, I not only wish to thank my friends, but I do wish that my friends would be conscious not only of the irritations which are caused to them from time to time, but also of the fact that this service needs expansion, that this service needs investment, that this service needs attention and that this service needs consciousness on our part to grow and develop. Thank you.

**THE DEPUTY CHAIRMAN :** The question is.

"That the Bill further to amend the Telegraph Wires (Unlawful Possession) Act, 1950, be taken into consideration."

*Clause 2 to 4 were added to the Bill.*

**THE DEPUTY CHAIRMAN :** Now we shall take up clause by clause consideration of the Bill.

*Clauses 2 to 4 were added to the Bill*

*Clause 1, the Enacting Formula and the Title were added to the Bill.*

**SHRI I. K. GUJRAL :** Madam, I move :

"That the Bill be passed."

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

# THE INDUSTRIAL DISPUTES AMENDMENT) BILL, 1967

**THE MINISTER OF LABOUR AND REHABILITATION (SHRI JAISUKHLAL HATHI) :** Madam Deputy Chairman, I beg to move :

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

Madam, this is a very short Bill and it was at the suggestion of the Industrial Committee on Coal Mines and also of the Industrial Committee on Mines other than Coal Mines that the Central Organisation of workers and employers have agreed to this formula. Therefore, there is no controversy either from the workers' side or from the employers' side. Madam, under the Industrial Disputes Act, when a worker is retrenched, if he has put in not less than one year's continuous service, he is entitled to compensation at the rate of 15 days' average pay for every completed year of continuous service or any part thereof in excess of six months. He gets the same benefit if the undertaking is closed; that is, he gets 15 days' average wage for every completed year of service. The only exception made is in the proviso to sub-section (1) of section 25FFF of the Act whereby if the closure is because of unavoidable circumstances beyond the control of the employer, then the worker does not get the full compensation and the compensation is limited to three months' wages. Now what the "unavoidable circumstances" are has not been defined. But it has been negatively put in the Act itself that if an undertaking is closed down by reason merely of "financial difficulties (including financial loss)," then it will not constitute an unavoidable circumstance. The closure on account of "accumulation of undisposed of stocks" will not be considered as due to unavoidable circumstance. Also "expiry of the period of the lease or licence granted to it," will not be considered as an unavoidable circumstance. That is, in all these cases, the worker will be entitled to full compensation. Then a question arose, that supposing the ore is exhausted and the employer has to close down the mine, will the worker be entitled to full compensation or will he be entitled only to three months' average pay on the ground that it is an unavoidable circumstance? The workers' case was that when a man is spending lakhs of rupees on working a mine for years, he should know that the mine will be exhausted at some point of time and so he should have laid by some amount, and since all other workers have got retrenchment compensation, these workers also should get it. This question was discussed in the Industrial Committee on Mines other than Coal Mines and also in the Industrial Committee on Coal Mines—we have got two Industrial Committees—and it was agreed that mere exhaustion of ores cannot be considered as a circumstance beyond the

control of the employer and the workers should be entitled to full compensation even if the closure is because of exhaustion of ores. This clause, therefore, is only intended to add to the compensation or to remove the ceiling of three months on the compensation to be paid when there is a closure on account of exhaustion of ores. This is a progressive step in that direction and I am sure the workers' representatives will welcome it. There is not much to be said except to refer to the amendment in clause 2 which provides that when the ore is exhausted, but the employer gives the worker with effect from the date of closure an alternative job which carries the same remuneration with the same terms and conditions, and workman's service is not interrupted, and the worker under the alternative employment is entitled to compensation as he would have been otherwise if his service had been continuous, then the worker need not be given this compensation. This in short is the purpose of the Bill and it is non-controversial. I move this for the consideration of the House.

*The question was proposed.*

THE DEPUTY CHAIRMAN : The time allotted for this Bill is 1½ hours and I have got here the names of six Members. Each Member will get 10 minutes. Mr. Chitta Basu.

SHRI CHITTA BASU (West Bengal) : Madam, this is a very small Bill. From the language of the Bill and from the opening remarks of the hon. Minister, it appears that it is a very simple Bill and we have got nothing to oppose it. As a matter of fact, Madam, at the outset, I may say that I have got nothing to oppose it. I welcome this measure, but while welcoming the measure, I have got certain remarks to make about a larger amount of relief to be given to the workers which, I think, is the intention of the hon. Minister himself.

Coming to the Bill itself, you will see that the amending Bill that we are considering relates to section 25FFF of the Industrial Disputes Act. This section particularly refers to the relief to be given in case of closures. Now, nowhere in the Industrial Disputes Act has the term "closure" been properly, fully and wholly defined. What is meant by "closure"? When will a particular operation be termed "closure" and when will it be not termed "closure"? Madam, ordinarily it was accepted by the Supreme

Court that a closure will be a closure when it has been made on account of *bona fide* reasons. But there may be closures on *mala fide* grounds also and if you permit me I can give you certain instances. And subsequently because of the snag, whether it is a *mala fide* closure or a *bona fide* closure, whether it is partial or whether it is complete, certain decisions by these tribunals have been given which jeopardise the interests of the workers. For example, I want to refer to a particular case, the case of Indian Hume Pipes, wherein it has been suggested that partial closure, closure of a particular department, closure of a particular unit of the industry, is not to be taken as a *mala fide* closure, it has to be taken as a *bona fide* closure and in the absence of that clear definition of "closure", particularly in relation to *mala fide* or *bona fide* closure, we have seen that workers have been victims of this *mala fide* closure in many cases. What happens, Madam, is this. Take, for example that a particular employer does not want a particular number of workers to be working in that factory because of their trade union activities. Now, what he generally does is he temporarily closes a particular department, temporarily closes a particular unit of his industry—he might have five or six units spread over different parts of the country or even in the same place—and the object is *mala fide*; but since there is no clear definition of "closure", the workers are victimised. Therefore, Madam, my point is very simple and very clear that the object of the Bill should have been to guarantee as much protection as possible to the workers who are very often made victims of the anti-labour practice of the employers. In order to achieve that thing a clearer definition of "closure" is called for and that I have suggested in my amendment keeping in view the particular questions that I have referred to.

Coming to the general aspect of the whole thing, Madam, there have been persistent demands from the labour leaders on the representatives of labour that there should be a comprehensive amendment of the Industrial Disputes Act because these piecemeal amendments of the Industrial Disputes Act which we have got occasions to discuss very often, generally do not help the workers to a considerable extent. It is a wastage of the time of the House and at the same time it is not calculated, it is not designed to bring about legislation in conformity

[Shri Chitta Basu]

with the change of the times to protect sufficiently or to safeguard the interests of the workers. Madam, you might also be knowing that recently the National Commission on Labour has also suggested that there should be a single legislation incorporating the major questions of the workers, that is, the employment, the question of wages, the question of retirement, the question of other aspects, which vitally concern the workers and also vitally concern the administration of labour. In the absence of such a comprehensive legislation the Department of Labour also suffers in the administration of labour laws and we, the workers, are also suffering very much. Therefore, I take this opportunity to impress once more upon the hon. Labour Minister that if he is really sincere to protect and safeguard the interests of the workers and if he is equally interested to see that the labour laws are better administered, then such a comprehensive legislation is called for. The sooner it is done the better. The more the delay the more the harm it causes to the workers as also to the Government. Therefore, with these brief comments I welcome the Bill.

SHRI N. PATRA (Orissa): Madam Deputy Chairman, I welcome this Bill because it is going to confer a further benefit in the conditions of the workers working in a mine. On account of exhaustion also he will be entitled to get due compensation. But my contention is that instead of bringing this amendment, the purpose could have been served if the proviso and the explanation to Section 25FFF were omitted. In the Act Section 25FFF is very clear. It says :

"Where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure, shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of section 25F, as if the workman has been retrenched."

This clearly points out the intention of the legislation of providing compensation if the undertaking is closed. If this proviso—

"Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control

of the employer, the compensation to be paid to the workman under clause (b) of Section 25F shall not exceed this average pay for three months."

and the explanation to Section 25FFF(1) were deleted, then the intention, the purpose, of this amending Bill could have been met. There would have been no need to further amend the Bill. Of course, at this stage whether this can be done in that way or not, I cannot say. The intention of the legislation is made clear by simply deleting that proviso and explanation. Section 25FFF specifically states, ".....closure of an undertaking for any reason whatsoever the worker retrenched shall be paid compensation as provided for under Section 25F." The proviso to the Section explains that if the undertaking is closed down on account of unavoidable circumstances, the workman retrenched shall be paid compensation. But at this stage whether it is possible to get this deletion done I cannot say. But a time may come when these difficulties may be experienced in other industries also. Then there will be every need to put another explanation. How will you go on adding explanations to this Section? By giving proper thought and by simply deleting the proviso and explanation to Section 25FFF we would have made the intention clear, I welcome this measure.

3 P.M.

SHRI M. V. BHADRAM (Andhra Pradesh) : Madam Deputy Chairman, I welcome this Bill which has been delayed for a long time. As stated in the Statement of Objects and Reasons, the Industrial Committee on Coal Mining has accepted this amendment in 1964 and the Industrial Committee on Mines other than Coal has accepted it in 1965. The Bill was introduced in the House in 1967 and in November 1968 we are deliberating on it. It shows the way in which the Government is interested in the welfare of workmen. The employers have also agreed to this amendment. Then I do not know who held back the Government from coming before this House in 1965 itself. The reason is not far to seek, Madam. We know the attitude of the Government. I am not speaking only about the Labour Minister, but I am speaking about the Government of India as such. We find that certain vested interests are exercising control or influence over the Government of India. In this connection I would give one or two instances.

During the last Session the very Labour Minister here sympathised with the demands of non-journalists and he was with them hundred per cent. But ultimately the Labour Minister could not prevail on the employers; on the contrary the employers prevailed upon the Labour Minister to surrender to them. The same thing happened in September, just before the Central Government employees' strike. Therefore let me tell you, Madam, that this is only a piecemeal legislation. As Mr. Chitta Basu has suggested, a comprehensive legislation is urgently needed because the existing Industrial Disputes Act is not sufficient and is not able to meet the requirements of the present situation, in the sense that the machinery that has been constituted under this Act has led to protracted litigation. In this connection I can tell you one thing. You know that the Labour Law Journal is running the 39th volume. How can the Labour Minister or any employer expect an ordinary worker to know all the 39 volumes containing the decisions of the Industrial Tribunal, the High Courts and the Supreme Court on various matters? As you know, Madam, very subtle distinctions are made by the Supreme Court in several cases. Mr. Chitta Basu was referring to the Indian Hume Pipe case. In another case also the Supreme Court has held that closure means closing of the business. Moreover there are various definitions and distinctions made with regard to these things. For example there is a difference between "lockout" and "closure". Can an ordinary worker understand all these subtle differences which the Supreme Court has made and decided in several cases? Even the lawyers cannot understand all these things. It is very difficult to understand 39 volumes of the Journal. Therefore the entire object to avoid strikes, to dispose of the pending cases quickly, etc. is defeated. Now what has happened actually? I will give a concrete example which I am at present experiencing.

Madam, a reference has been made by the Andhra Pradesh Government on the 5th January and another reference on 1st February this year. The trial has just begun and only one witness has been examined in that case so far. The employer has gone to the High Court and got stay twice. It means for the whole year that reference is pending before the Tribunal. The result is that workers cannot go on strike for any reason whatsoever. If the employer is capable of

spending money and engaging lawyers there will be protracted litigation in the High Courts and the Supreme Court and the reference will be pending before the Tribunal and it might be three years by the time the Supreme Court gives its decision and the Tribunal gives its award. Therefore this inordinate delay is irritating to the worker and probably in some cases it is leading to ghraos, etc. because there is no remedy available for the worker.

Then there is another instance. Arbitration has also been provided in the Act but Central Government is dishonest in that it never accepts arbitration in its own case and it never advises the public sector undertakings to accept arbitration. It is probably meant only for certain weak-kneed persons. I do not know for whom that provision with regard to arbitration has been made. Is it for the private employer? With what courage can the Central Government ask the private employer to accept arbitration? Arbitration can be acted upon only when the two parties agree. It can't be a one-way traffic.

Then, Madam, there are so many lacunae in the Act that it has almost outlived its utility and therefore it has got to be replaced by a fresh one which gives quick remedies to the worker and gives him better protection. If that is not done, the Labour Minister can say that the National Labour Commission is engaged in the task and he does not know when it will give its report. In that case we will not be able to know when the Government will consider it and when some comprehensive legislation will come before Parliament; probably it may take two or three years before the whole thing comes up. Meanwhile we are dealing with the human beings who have to suffer at the hands of the employers.

With regard to the present Bill there is some reference to compensation for closure. In the original section compensation is a condition precedent to retrenchment. According to the Supreme Court decision and the decision of the Bombay High Court, Mr. Chagla's decision, there is a difference between retrenchment compensation and lay-off compensation. If it is retrenchment, the payment of compensation is a condition precedent to retrenchment; if it is a closure, it is not a condition precedent; the mine or the factory can be closed and compensation need not be paid or it can be delayed for months

[Shri M. V. Bhadram]

together. In that case the worker who is discharged, who has no work, or the fight for a retrenchment compensation through the Industrial Tribunal or the Payment of Wages Court or some such machinery. The Payment of compensation to those people where the mines are closed or even a factory is closed should be made the condition precedent. It is not made the condition precedent under section 25F. In this connection I would draw the attention of the Minister to the fact that the Supreme Court has made a distinction between the words used in Section 25FF and Section 25FFF. The words 'as if' have created havoc according to the decision of the Supreme Court. Therefore it is not 'as if' but it should be a condition precedent to the closure. Otherwise, if it is not paid before the closure, then the closure is not legally valid. Then only the employer will pay the compensation to get rid of the workers; otherwise, he will get rid of the worker but will not pay compensation. Therefore I request the Labour Minister to accept this plea and bring forward an amendment incorporating this idea in the present Bill. I would also ask him to come before the House with a comprehensive legislation at an early date; otherwise the entire working class will be in turmoil and it will affect the production in the country.

**SHRI M. PURKAYASTHA (Assam) :** Madam, I rise to welcome the proposed amendment. The Industrial Disputes Act was passed on the eve of our independence and since then there have been some amendments to it. These piece-meal amendments are not enough. The time has come when the whole Industrial Disputes Act should be replaced by a comprehensive Industrial Relations Act governing the relations between the employers and the employees in all sectors of the industry including the Government employees. If the Government employees are not included under this Industrial Disputes Act then there remains scope for disputes and the litigations will continue. The Industrial Disputes Act has reduced the Indian trade union movement to industrial litigations. There are industrial litigations continuing for years and years to the detriment of the workers. I have been connected with the trade union movement for long and from my experience I can say that this Act works for the benefit of the employers. In this Act much stress has been laid on adjudication which means

delay. Whenever a dispute arises, it is referred to conciliation and when that fails it is referred to adjudication. We have experience of adjudications, taking as long as 14 years. In my district of Cachar in 1953 about 10,000 workers were retrenched and those cases took 14 years to conclude. They went to the tribunal, then to the High Court and then to the Supreme Court where it ended in failure and the union had to incur more than a lakh of rupees as expenditure. So I urge on the Minister to bring a new Industrial Relations Bill wherein more stress should be laid on collective bargaining and industrial action. Collective bargaining and industrial action are the very basis for trade unions. India, though a member of the I.L.O. and a founder member, has not yet ratified the I.L.O. Conventions 87 and 98 on freedom of association and collective bargaining rights. As a result the workers are deprived of their right of freedom of association and collective bargaining. In our country we expected that labour as a whole will be dealt with by the Labour Minister but we find that it is not so and the labour policy is also not determined by the Labour Minister. If the labour policy was determined by the Labour Minister, then the Essential Services (Maintenance) Ordinance 1968 would not have come into force. We have seen how helpless our Labour Minister was when the non-journalist employees of the newspapers continued to strike for two months and for two months the Labour Minister failed to resolve the dispute and ultimately he had to refer it to adjudication. It is a dangerous precedent that the Wage Board decision is to be referred to adjudication. The Wage Board takes about five years to come to a decision and after all this if it is sent for arbitration, it may again take another 10 years. Nobody can guarantee when it will end. So I would urge on the Minister to use his good offices and use his influence in the Cabinet as a whole to see that the labour policy is left in his hands. In our country after independence we have had such eminent persons as Shri V. V. Giri, Shri Gulzarilal Nanda and Shri Jagjivan Ram as our Labour Ministers but the sufferings of the labour have not been mitigated. So I would urge on the present Minister to assert himself and see that the labour legislations are acted upon in the interest of the labour and not in the interest of the employers. There is much talk of elimination of politics from the trade union field but if the Government does not take-

a lead in the matter politics will remain in it. The rivalry in the trade union field is one of the main causes for the entry of politics in the trade union movement. Unless this rivalry is eliminated, politics will remain in the field. The Trade Union Act, 1926 was amended long ago for giving compulsory recognition of trade unions but that provision has not been brought into force. Unless these unions are compulsorily recognised the employers will find enough scope to play workers against workers and the political parties also will find scope for entering the trade union field. So for eliminating politics in the trade union field the recognition of trade unions should be made compulsory and rules should be so framed that the employers have no other alternative but to recognise one union.

The provision for compensation in the Bill is no doubt a good one and I hope it will be properly implemented so that the benefit may go to the workers because the workers will get hardly 15 days' pay for each year of service. If after 20 years of service in a concern a worker gets 10 months pay it is certainly not enough. The compensation also should be raised. I would have welcomed this provision wholeheartedly if along with this new provision, the amount of compensation payable in cases of retrenchment had been raised. With these words, I support the Bill.

**SHRI BANKA BEHARY DAS (Orissa):** I am not going to the other aspects of industrial relations that have been raised by Shri Basu and Shri Bhadram because, immediately, the Minister will say that the National Labour Commission is sitting over it and they will discuss the matter. So there is no use in debating that here. I plead with him that though the idea of arbitration was brought into being particularly after the Code of Conduct was evolved, the public sector industries are not prepared to accept that. I am not so much bothering about the private sector industries, because they are criminals in this respect. But I am more unhappy with this Labour Ministry and the Government of India, who always talked of a socialistic pattern of society and evolved a code of conduct, but their own industries are not prepared to accept that position. I am not going to give many illustrations here, but about their Hindustan Steel I can say that in so many cases our trade unions, have, as always, pleaded with them and said that we are prepared for arbitration. But in not even a single instance did the Hindustan

Steel agree to arbitration. So all these codes and laws are more observed in breach than actually implemented. But I am not going into those aspects now. I will confine myself to this Industrial Disputes (Amendment) Bill.

Though broadly I agree with the provisions of the Bill and I am prepared to support the Minister to the extent the provisions go—because it is a slight improvement on the former position—I want to refer one or two instances to the Minister and say that this Bill is not going to help the labour because, though the liability for payment is on the employer, the only question that should be discussed and finalised is how to get the arrears or these liabilities from the employer. I can give the Minister an instance where we are beset with difficulty in this regard. About one and a half years back there was the *mala fide* closure of the Kalinga Tubes by the employer, Mr. Biju Patnaik, who was a member of the Congress Working Committee at that time. Up till now we have not got the closure compensation. We went to the Labour Directorate, but the Labour Directorate pleaded helplessness. Then we agitated, and a special tribunal was set up only because we agitated that it was a *mala fide* closure. And because the judgment was in our favour, the employer went to the Supreme Court. And the Supreme Court which accepted the position of the closure directed the employer to immediately pay all the dues which one has to pay because of this closure. This was the position six months back. Yet, not a single paisa has been paid by that industrialist or that tycoon who is going to set up a fertilizer plant of Rs. 60 crores in Punjab with the help of the Punjab Government and the Government of India and the West German Government. Now he has not yet paid the sums due to the workers. So what is the use of passing this measure? We went to the Labour Directorate, then went to the special tribunal and then went to the Supreme court. Tell us which is the other authority to which we should go so that we can realise this amount. I know Mr. Hathi is absolutely helpless in this matter. So what is the use of passing such a measure if the measure does not provide a particular clause under which this liability will be immediately paid as compensation money to the workers? If you can make an amendment here, I am giving a concrete suggestion as to what amendment it should be. If you are satisfied that it is a *bona fide* closure according to the definition

[Shri Banka Behary Das]

provided here, then the employer should go to the Labour Directorate of the appropriate Government—if the undertaking is under the Central Government, he will go to the Central Government, and if it is under the State Government, he will go to the State Government for approval. A provision should be here that the employer, when he is going to close a factory or a mill, should get the approval either from the Industries Department or the Labour Department—I will prefer the Labour Department in this case—and while applying for this approval he should give a certificate on the application that “I have paid the entire amount of closure compensation.” Or, if you like, I am prepared even for this position that he will pay that amount to the Government—either the Union Government or the State Government—and on that satisfactory undertaking get the approval for the closure. I think there should be no objection to this from the Labour Minister because, after all, the workers ought to get this money. So there is no harm if the money is given either to the State Government or to the Central Government, or the certificate is given by the industrialist employer that “I have already paid the entire amount of closure compensation.” This is absolutely consistent with the principles that have been advocated in this Bill. So I would request that, if he wants to get this measure passed, if he really wants to help the working class—as he has said here in the Statement of Objects and Reasons—then the only other provision that should be here in this Bill in this regard is to the effect that he should give the money to the appropriate Government, or he should furnish a certificate that he has paid these dues. If that is done I have no objection in fully associating myself with this measure. Now I gave you instances. Not only for closure compensation, also for any dues that the working class has to get, because of the closure, because of the lay-off, because of the retrenchment, etc., some sort of provision should be there. The liability of the employer for all these dues should be covered here and the dues should be paid to the working class at least through the Labour Department of the Union Government or the State Government.

I am now going to refer you to another instance also. One of the collieries, the Villiers colliery, which was under the

jurisdiction of the Central Government, was a colliery in Orissa. And that was closed. Up till now no dues have been paid though twelve years have elapsed since its closure. Leave aside the question of closure and closure compensation. Neither the arrear, neither the bonus, neither the provident fund nor any due has been paid over the last twelve years. I have raised that question here. The Labour Minister comes forward and says that it is the liability of the State Government in the sense that they should proceed against the employer and realise the money. We took it up with the Labour Directorate in the State, and the Government of Orissa says, “What can we do? He has gone away somewhere.” Now twelve years have passed. It is not a question of closure compensation alone; it is a question of arrears also, of pay, bonus, etc. So what happens in spite of the fact that all those powers and legislations are there in the Statute Book? If only one provision is there—I am satisfied whether it is in the Industrial Disputes Act or any other Act—that whatever the liability is of the employers, they should pay them to the Government—which the workers can get later on—or they should give a certificate to the effect that they have already been paid to the workers involved. If this is done in this Bill, then I am satisfied that this will give some benefit to the working class.

Since my friend suggests it to me, I want to refer to that point also. What is the present position as far as labour legislations are concerned? Even if I get a judgment in my favour from the Supreme Court, it becomes difficult for me, for the workers, to benefit by it for these reasons. Suppose in an industry there are 12,000 workers, the sweated labour the coal-miners, who do not know how to read and write, who do not even know how to put their signatures. The present law, is that every individual will have to go to the court through the Payment of Wages Act or through other Acts to realise the money. Even if it is covered under the law, even if the law is here in favour of the workers, the only method of realising the dues from the employers is for the workers individually to go to the law court to realise the sums due to each. Now is it possible for a worker to stay at the place where he was working in a factory, which had been closed and because of which he had been evicted from the quarters he was living in, and pursue the matter for years together in an

empty stomach and at the same time paying the lawyer his fees to realise after all his dues of Rs. 100 or Rs. 200 or Rs. 300? Is it possible for anybody? So the only alternative for him is to leave the place for good. Also the employer in some cases chooses to leave the place and be at large somewhere so that he might be in the happiest position where there was no liability attached to him. This is the position and I think Mr. Anandan will also agree, because we are experiencing this difficulty everywhere in India in spite of the laws or the judgments being in our favour.

Now, when the Minister replies, he may refer to the other aspects raised in detail or not; he may dispose them of in one or two sentences—I don't mind. But on one thing he should enlighten us, and it is this. What is the method of realisation? Is it going to be the State Government or the Central Government that is going to take up this responsibility of realising the money from the employer and paying it to the workers?

Thank you.

**SHRI D. THENGARI (Uttar Pradesh):** Madam, so far as this Bill is concerned we welcome it; it is good, but at the same time I must say that it is not adequate. As a matter of fact, Government has very often said that they are waiting to have a common labour code and the matters will be finalised after the recommendations of the National Labour Commission are out. In that case I do not see why this should have been expedited in this fashion, but if the Government is convinced that there are certain matters which are more urgent and cannot await the publication of the recommendations of the National Labour Commission and their examination by the Government, then we are justified in saying that other matters equally urgent should have been taken up for legislation. Now regarding closure the first thing I want to suggest is that prevention is better than cure and from that point of view we urge that there should be a system of continuous efficiency audit of the different industrial establishments. In Great Britain this system has been working quite efficiently.

**SHRI A. D. MANI (Madhya Pradesh):** For example?

**SHRI D. THENGARI:** In textiles, in engineering particularly.

**SHRI BANKA BEHARY DAS:** Not in newspapers?

**SHRI D. THENGARI:** In case of continuous efficiency audit it becomes possible for the Government to issue a warning before hand that the capital is being managed in an improper manner. The Government can suggest ways and means of proper deployment of capital and it becomes possible for the Government to locate the responsibility for the closure or failure of the industrial establishment. So in India also it should be possible for us to evolve this system of efficiency audit.

Secondly this Bill deals with closure no doubt but it does not prescribe any penalty for employees who semismangement has been responsible for the closure because in more than fifty per cent of the cases it is not the natural causes or causes beyond the control of the employers but the rivalries between the employers themselves or mismanagements on their part that is responsible for the closure of the establishments or factories. In such cases some deferent punishment or penalty should be prescribed for those who are found guilty of mismanagement.

**SHRI M. V. BHADRAM:** Only imprisonment; no other punishment?

**SHRI BANKA BEHARY DAS:** Make it a cognisable offence. When it is a case of dealing with the Government employees they bring out the ordinance with severe punishments but towards these people they are so sympathetic.

**SHRI D. THENGARI:** Thirdly, the workers should have the right to scrutinise the balance sheet even to go behind it. This is very essential because without this right to go behind the balance sheet the workers will not be able to contribute their mite to the proper management of the industrial establishment. This will serve as a sort of deterrent and the workers will also have a sense of participation. And I am quite confident that if workers are given the right to scrutinise the balance sheet probably the eventuality of closure may not arise at all. So the workers should be given this right.

Fourthly, the term 'industrial dispute' should be redefined and industrial matter should include the deployment of capital also. That means the workers should have the right to suggest or to recommend in what particular way the capital



[Shri D. Thengari]

should be deployed. Today the term 'Industrial dispute' does not include or cover this particular aspect; it covers only employer-employee relationship. Therefore we urge that the term 'Industrial matter' should cover this aspect also, that is, deployment of capital and the workers should have the right to suggest in what particular way capital should be deployed.

I think if these suggestions are accepted by the Government the effectiveness of the Bill will be all the greater.

**SHRI JAISUKHLAL HATHI :**

Madam, I am thankful to the Members for least accepting this Bill and supporting it. The realm of industrial dispute is a wide one and can range from matters of adjudication to arbitration, payment of wages, deployment of capital, *mala fide* closure and a number of other things. But I do not think I would go into all the details raised here. However, least it should be said that I have not replied to the Members who made the suggestions, I may say that some of the suggestions are certainly worth considering. For example, I myself feel that in matters of recovery of wages there is abnormal delay and if the worker has to go to the court very often he is not able to get his dues. Moreover we do not have literate workers. Therefore these difficulties are there and it is a good suggestion made by Shri Banka Behary Das that we must evolve a procedure whereby the payment of the dues is assured immediately without the worker having to go to the court and wait for an indefinite period. I fully share his anxiety and we shall certainly take this suggestion into consideration.

**SHRI BANKA BEHARY DAS :** Only take into consideration? Do you agree that this suggestion is a feasible suggestion and without any difficulty we can include it?

**SHRI JAISUKHLAL HATHI :** Now, Shri Chitta Basu's amendment is there. He wants the word 'closure' to be defined, whether it is *bona fide* or *mala fide*, what is total closure and so on. Now a closure is a closure. In the Indian Hume Pipes case the Supreme Court have said that the court does not go behind the motives, whether they are *bona fide* or *mala fide*. If it is a closure

it is a closure and the workers will be entitled to compensation, whatever it is. The distinction was made whether it was a lock-out or closure. Whatever it is once it is a closure, it is a closure. How are we to define total stoppage? If a man close his factory for a month is it a total stoppage or should it be for a year or for what period? We have to take closure in the ordinary sense of the term as closing down of the undertaking. Therefore defining it too much and going legalistically into every word and every phrase will unnecessarily add to the difficulties. If you start defining, if he stops for one month he will say 'I have closed down only for a month and it is not total stoppage'. If it is a closure it is a closure. What the courts said was that they were not going to go into the motive, whether it was *bona fide* or *mala fide*. If it is a closure it is a closure and the workers are entitled to compensation.

Then he said that a comprehensive Bill should have been brought and he also said that the Labour Commission has suggested that there should be a unified code. If he says that the Labour Commission has suggested a unified code does he want me to come here only three months before the Labour Commission's Report is due with a comprehensive Bill?

**SHRI CHITTA BASU :** That Mr. Thengari has answered.

**SHRI M. V. BHADRAM :** Would you assure us that a comprehensive legislation will be brought before this House in 1969 itself?

**SHRI JAISUKHLAL HATHI :** It all depends. I am giving the procedure; I shall tell you what we will do. As soon as the Labour Commission's Report is available we shall call a meeting of the Indian Labour Conference a month or two later. There we shall discuss all the aspects because as you know we are discussing all these things in the Labour Conference and after that whatever is agreed upon we shall bring legislation.

Now, Shri Thengari said that we should not have rushed with this Bill when the Labour Commission was going to submit its Report. Mr. Bhadram, Mr. Das and Mr. Chitta Basu said that the Minister will say that the Labour Commission is there and therefore...

SHRI CHITTA BASU : We know you.

SHRI JAISUKHLAL HATHI : I also know you. This is a piece of legislation which has been agreed to by both the central workers' organisations and the employers. The workers' point is if a mine is closed because of exhaustion of ore why should the workers be deprived of their wages ? Now, this is only a limited measure. Therefore, we hurried it up. We did not want the workers to suffer the loss of compensation if the coal was exhausted. There is only one clause which we have brought forward. It is not that we have not considered it. In fact, I am awaiting the Labour Commissioner's Report. There are other Members who object and say that I should not have waited. Then, as is usual with Mr. Bhadram, he has to bring in certain things. He brought in the Journalists Act and said...

SHRI M. V. BHADRAM : That is the policy of the Labour Ministry.

SHRI JAISUKHLAL HATHI : I am coming to that. He says that although he is in favour of the workers, he could not compel the employers to pay. Now here compulsion can be only by a legal process. Here we have the rule of law. Legislation could have been brought forward and I was going to do it. But that was not going to solve the whole dispute, as I will just explain it. In the case of the Times of India it was not only the recommendation of the Non-Journalists' Wage Board. There were others who were not covered by the recommendations of the Wage Board and they wanted some settlement also for those who were not covered. Now, bringing forward legislation would have benefited some 100 persons, but the 700 persons who were left out, would not have got anything. Secondly, the legislation might have been challenged under our judicial system. Then, we do not know whether the workers will get their dues. I know that adjudication is a long process and if you know what I have done while referring the matter to the adjudication you will appreciate it. You must understand that 75 per cent of the difference between the pay they get and that recommended by the Wage Board would be given and would be protected. If a man gets Rs. 80 and Rs. 20 extra is awarded by the Wage Board, he will get 75 per cent of Rs. 20, i.e. Rs. 15, which means Rs. 95 and this will be protected

even after the Tribunals' award. They will not be paid less than Rs. 95. So, the margin is only Rs. 5. The adjudication is only for Rs. 5 and not for all the differences. Seventy-five per cent is protected and I may say that this was done after consulting the workers' representative fully. Therefore, it is not that we are anti-labour. We have to be practical. By compelling them to pay and implement it by a statutory provision would mean that they would have gone to a court of law. I could not prevent it. The whole Award would have been delayed. Therefore, they have been given the maximum that could be protected. Out of Rs. 100, Rs. 95 are protected and adjudication is only in respect of Rs. 5. That point must be understood.

Then, Mr. Patra said that proper thought should have been given to section 25FFF. Of course, the Government has given proper thought, but along with the Government, the workers organisations, the employers organisations, the Industrial Committee, etc. have given thought to it and they have suggested this amendment. He said that if section 25FFF had been deleted, the whole thing would have ended. It would not have ended. They would have said that the closure was because of unavoidable reasons. It is not because of any fault on their part. Therefore, we have to take into consideration all the circumstances, which they would say were beyond the control of the employers, viz., expiry of the period of the lease or licence, exhaustion of the iron-ore, etc. All these are taken into account. Otherwise, it would have added to the litigation. Therefore, it is a well-thought-out amendment. It cannot be said that it is ill-thought-out.

Now, the Supreme Court judgment in the case of the Indian Hume Pipe Company was referred to by Mr. Chitta Basu. I have got the case here. They have said that they would not go into the question whether the closure is *bona fide* or *mala fide*. Closure is closure and the worker is entitled to compensation. Therefore, I do not think that we should call it a total closure. Closure is closure, whether it is total or partial. Let us not unnecessarily create difficulties by defining the word "closure". In industrial parlance and in law closure is understood. It has to be distinguished from a lockout.

[Shri Jaisukhlal Hathi]

The question of arbitration was also touched. Certainly the Labour Ministry feels that it would be always desirable if the parties agreed to arbitration. We are trying to persuade, educate people to agree to arbitration...

SHRI M. V. BHADRAM : Have you educated your ICS officers ?

SHRI JAISUKHLAL HATHI : The Code of Conduct is only a code of conduct. It is not legislation. All that we can do is to persuade people to agree. If they do not agree, we shall try and try till we make them agree. The ultimate goal is arbitration and there is no doubt about it.

SHRI BANKA BEHARY DAS : In the case of Government undertakings, are you going to educate them ? I can understand you educating the Birlas, but what about Government undertakings ?

SHRI JAISUKHLAL HATHI : All managements have to be educated.

SHRI CHITTA BASU : They are being educated by the Birlas.

SHRI M. V. BHADRAM : The Port Trusts are being manned by the ICS or IAS officers and they have not accepted your arbitration. But if the ICS officer comes to the Labour Ministry and becomes the Secretary of the Labour Ministry, then, he wants arbitration. When he is employed in the Port Trust of Calcutta or Bombay, he does not accept arbitration.

SHRI JAISUKHLAL HATHI : When you are in the House, you are a Member and you speak with dignity. When I am outside, I play a different role. It depends on the environment. A man is educated in the circumstances and environments to which he belongs.

SHRI BANKA BEHARY DAS : That is another double-talk.

SHRI JAISUKHLAL HATHI : It is our duty to educate and we shall continue to educate. I do not think I should take more time of the House and I commend the motion for the acceptance of the House.

THE DEPUTY CHAIRMAN : The question is :

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

*The motion was adopted.*

THE DEPUTY CHAIRMAN : We shall now take up the clause-by-clause consideration of the Bill.

#### Clause 2

SHRI JAISUKHLAL HATHI : I move :

3. "That at page 2, for lines 11 to 22, the following be substituted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), where an undertaking engaged in mining operations is closed down by reason merely of exhaustion of the minerals in the area in which such operations are carried on, no workman referred to in that sub-section shall be entitled to any notice or compensation in accordance with the provisions of section 25F, if—

(a) the employer provides the workman with alternative employment with effect from the date of closure at the same remuneration as he was entitled to receive, and on the same terms and conditions of service as were applicable to him, immediately before the closure;

(b) the service of the workman has not been interrupted by such alternative employment; and

(c) the employer is, under the terms of such alternative employment or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by such alternative employment."

SHRI CHITTA BASU : I move :

4. "That at page 1, line 8, for the word 'Explanation' the word and figure 'Explanation I' be substituted."

5. "That at page 2, after line 8, the following be inserted, namely:—

'Explanation II—'Closed down' means total and bona fide stoppage of the entire undertaking, including

all its branches and subsidiaries by the employer'."

*The questions were proposed.*

THE DEPUTY CHAIRMAN : The question is :

3. "That at page 2, for lines 11 to 22, the following be substituted, namely:—

'(1A) Notwithstanding anything contained in sub-section (1), where an undertaking engaged in mining operations is closed down by reason merely of exhaustion of the minerals in the area in which such operations are carried on, no workman referred to in that sub-section shall be entitled to any notice or compensation in accordance with the provisions of section 25F, if—

(a) the employer provides the workman with alternative employment with effect from the date of closure at the same remuneration as he was entitled to receive, and on the same terms and conditions of service as were applicable to him, immediately before the closure;

(b) the service of the workman has not been interrupted by such alternative employment; and

(c) the employer is, under the terms of such alternative employment or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by such alternative employment'."

*The motion was adopted.*

SHRI CHITTA BASU : I beg leave to withdraw my amendments.

*Amendments (Nos. 4 and 5) were, by leave, withdrawn.*

THE DEPUTY CHAIRMAN : The question is :

"That clause 2, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 2, as amended, was added to the Bill.*

# Clause 1

SHRI JAISUKHLAL HATHI : Madam, I move :

1 "That at page 1, line 4, for the figure '1967' the figure '1968' be substituted."

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

THE DEPUTY CHAIRMAN : The question is :

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

*The motion was adopted.*

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

## Enacting Formula

SHRI JAISUKHLAL HATHI : Madam, I move :

1. "That at page 1, line 1, for the word 'Eighteenth' the word 'Nineteenth' be substituted."

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

THE DEPUTY CHAIRMAN : The question is :

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

*The motion was adopted.*

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

*The Title was added to the Bill.*

SHRI JAISUKHLAL HATHI : Madam, I move :

"That the Bill be passed."

*The question was proposed.*

SHRI M. V. BHADRAM : Madam, Shri Banka Behary Das has suggested about the payment of compensation. I have suggested that it should be a condition precedent to it as laid down in section 25F. Also I would like to make another suggestion. Without amending or amending in some other way the Government should pay the compensation in the first instance within a period of one week and recover it from the employer who refuses to pay. The Labour Minister has accepted it in principle. How is he going to give concrete shape to it ?

**SHRI JAISUKHLAL HATHI :** I have said we shall evolve a procedure whereby the payment is made quickly. But for the Government to recover again there should be some procedure laid down. I cannot go and recover from anybody unless there is some law which enables me to do it. That will have to be looked into.

**SHRI D. THENGARI :** The hon. Minister has not given his reaction about the system of efficiency audit; secondly, about the right of workers to go into the balance sheet, to scrutinise the balance sheet; also to raise an industrial dispute regarding the deployment of the capital.

**SHRI ARJUN ARORA (Uttar Pradesh) :** Madam, the need of a comprehensive amendment and a thorough amendment... (*Interruption*) Please let me speak. I am not under cross-examination. I am making a speech. The need of a comprehensive and thorough revision of the Industrial Disputes Act has repeatedly been emphasized, and I was not surprised when some Members raised that question today. The Minister has said that a comprehensive amendment will come when the Labour Commission submits its report. As Commissions go and as Committees go in this country, nobody can be sure when a Commission or a Committee will submit its report. Already the Labour Commission has said that it will submit its report by March 1969. But by the way it is proceeding I am not sure that it will submit its report by March 1969. I therefore urge upon the Labour Minister to take some action in the matter. He may ask the Labour Commission to submit an interim report on labour legislation pertaining to industrial relations and it may set a deadline for that. For the rest the Commission may take its own time. The Commission has spread its net very wide. It has appointed, as it is fashionable these days, a number of study groups, their reports come and they are published, and people think that the Labour Commission has submitted its report. But the Commission has not concluded even the recording of evidence. It has called some Members of Parliament for examination during the next month. So I am not at all hopeful, Madam, that the Labour Commission will submit its report by March 1969. The Labour

Minister can take action in the matter and request the Labour Commission to submit a report on this particular aspect of legislation pertaining to industrial relations by March 1969 so that at least in the year 1969 a comprehensive amendment of the Industrial Disputes Act may take place. That is very necessary.

**SHRI JAISUKHLAL HATHI :** I thank Mr. Arora for the valuable suggestion he has made. In fact I am in constant touch with the Chairman of the Labour Commission and I have requested him. He says he will stick to the date and in March 1969 he will give the report. In the meantime in our Ministry also we are examining the matter. I would mention that it is our intention not to delay this matter.

**THE DEPUTY CHAIRMAN :** The question is :

“That the Bill, as amended, be passed.

*The Motion was adopted.*

#### THE CONTEMPT OF COURTS BILL, 1968

**THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI K. S. RAMASWAMY) :** Madam Deputy Chairman, I beg to move :

“That the Bill to define and limit the powers of certain courts in punishing contempts of courts and to regulate their procedure in relation thereto be referred to a Joint Committee of the Houses consisting of 45 members; 15 members from this House, namely:—

1. Shri M. P. Bhargava
2. Shri S. N. Mishra
3. Shri A. P. Jain
4. Shri M. Srinivasa Reddy
5. Shri Muhammad Ishaque
6. Shri Sukhdev Prasad
7. Shrimati Vimal Punjab Doshmukh
8. Shrimati Yashoda Reddy
9. Shri C. L. Varma
10. Shri Devi Singh
11. Shri N. K. Shejwalkar