Deputy Chairman]

(vi) continuance of the subsidization of the imported foodgrains;

(vii) reduction of food imports to the minimum; and

(viii) effective steps for the stepping up of food production.'"

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

3. "That at the end of the motion the following be added, namely :—

'and having considered the same, this House is of opinion that—

(i) wells and canals should be got constructed instead of giving assistance in cash for constructing them;

(ii) in order to improve the economic condition of the farmers, Government should, keeping in view the cost of production and the prices of essential commodities, announce the prices at the time of sowing each crop and should be prepared to purchase any quantity of foodgrains at those rates;

(iii) the food zones should be abolished immediately; and

(iv) State Banks should be established in rural areas to meet the needs of the farmers.'"

†[3. "प्रस्ताव के अन्त में निम्नलिखित जोड़ा जाये, अर्थात :—

और उस पर विचार करने के बाद इस सभाकी यह सम्मति है कि —

(1) कए और नहरें बनवाने के लिए नगदी मैं सहायता दिये जाने के स्थान पर इन्हें बनवा कर दिया जाये ;

(2) किसानों को आर्थीक स्थिति को सुधारने हेतु उत्पादन लागत तथा अत्यावश्यक वस्तुओं के मुल्यों को ध्यान में रखकर सरकार को प्रत्येक फसल के बोने के समय भाव घोषित करने चाहिये तथा उन्हीं दरों पर कितना भी अनाज खरीदने के लिए तैयार रहना चाहिये ;

(3) खाद्यान्न क्षेत्रों को अविलम्ब समाप्त कर दिया जाना चाहिये; और

(4) किसानों को अवश्यक्ताओं को परा करने के लिए ग्रामीण क्षेत्रों में स्टेट बेंक स्थापित किये जाने चाहियें।"]

†[ ] Hindi translation.

The motion was negatived.

THE INDUSTRIAL DISPUTES (AMENDMENT) BILL, 1966— *continued.*

THE DEPUTY CHAIRMAN: The next item on the Order Paper is the Industrial Disputes (Amendment) Bill. It is half debated. The next speaker will be Mr. Arora. He is not here. Mr. N. Patra.

{At this stage, Shri Arjun Arora entered)

SHRI ARJUN ARORA (Uttar Pradesh) : Madam ...

THE DEPUTY CHAIRMAN : I have called him.

SHRI N. PATRA (Orissa): Madam, I rise to support the Amendment brought forward by the hon. Minister.

[THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) in the Chair]

I think the spirit of the agreement has not been taken into consideration, the improvement brought in the amendment. Mr. Mani was referring to the domestic enquiry. I agree with him in the way he has explained about the matter. Therefore, I have nothing much to say except that I support it. I hope my friend, Mr. Arora, who is interested will speak.

SHRI ARJUN ARORA: Mr. Vice-Chairman, I rise to support the Bill. But I must submit that it is a half-hearted measure. As a matter of fact a thorough revision of the scheme of the Industrial Disputes Act of 1947 has been long overdue. The predecessor of the present Labour Minister did make a promise to this House that he will bring forward a Bill embodying a thorough revision of the scheme of the Bill. Somehow, this

4 P.M.

has not been done by the Labour Ministry which seems to believe in piecemeal legislations and it has again brought forward a minor amendment to the Industrial Disputes Act.

The main clause of this Bill is clause 3 which seeks to do away with the ill-effect of the Supreme Court's judgment in the Indian Iron and Steel Company Limited case. We know that the Supreme Court erroneously held that the Industrial Tribunal or the Labour Court could not sit in judgment over the act of the management. Sir, that decision is now about a decade old, that decision was given by the Supreme Court in 1958. Government have brought forward an amendment to undo the evil effects of that decision of the Supreme Court nine years after the judgment was given. It is a wonderful way of the functioning of the Labour Ministry that it took nine years to draft this nine-line Bill.

Mr. Vice-Chairman, the Government have repeatedly said that they are committed to maintenance of industrial peace through the process of conciliation and adjudication. But when glaring defects in industrial dispute legislation come, they take nine years to consider an Act. This fact itself is a thorough condemnation of the Labour Ministry and reveals that the Labour Ministry does not bring forward a labour legislation unless it is acceptable to the employers of the country.

SHRI A. D. MANI (Madhya Pradesh) : It has got to be on a ...

SHRI ARJUN ARORA: That is not the way, Mr. Mani.

SHRI A. D. MANI: I am putting a question to him.

SHRI ARJUN ARORA: I did not put a question when he was speaking, when he talked of extraneous things and of novel ideas.

So, nine years after the decision of the Supreme Court in the Indian Iron and Steel Company case, the Government have come forward with this amendment which I undoubtedly welcome. 1 welcome a son being born even to an old man. So, the best thing is that the child be born to young parents.

Then, Sir, the proviso to section 10B is highly objectionable. The proviso reads—

"Provided that in any proceeding under this section, the Labour Court, Tribunal or the National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter."

Sir, the 'material on record' is very misleading. But it cannot mislead those who are well versed in labour laws and industrial practices. The material on record in this case is not material on Tecord of the Tribunal; it is material on record in the so-called domestic enquiry. Now, this concept of domestic enquiry also needs a little explanation.

Once upon a time in this country, the employers' right to hire and fire was the rule. Through long-drawn-out strikes and agitations, the workmen in this country have won the right of security of employment. I must say that labour legislations during the last 20 years have helped that process. Now that the security of employment is guaranteed once you are employed, the Labour Tribunals have laid down the procedure. And one of the procedures is that no disciplinary action against any employee will be taken unless the elementary principles of natural justice are satisfied. That requires the charge-sheeting of the worker, giving him an opportunity to reply and then, if on the basis of his reply, the employer does not withdraw the charge-sheet, an enquiry into the matter is made. That enquiry is called a domestic enquiry. But that enquiry is a domestic enquiry of the employer. Employers in the country have engaged officers well versed in law. It is those labour officers who, on behalf of the employers, conduct the enquiry, the so-called domestic enquiry. Trade unions in the country are not yet given the opportunity to participate in that so-called domestic enquiry. The result is, Sir, that on the one side, one labour officer is the prosecutor. He issues the charge-sheet. The other labour officer, his colleague, is holding the domestic enquiry.

the poor worker, illiterate in the circumstances of the country, is supposed to participate in that domestic enquiry unaided by the trade unions. We are kept out of that domestic enquiry because we are considered to be outsiders. So, the result is that the labour officers of the concern in question prepare the so-called material on record

IShri Arjun Arora]

and on that basis, they arrive at a decision and dismiss the workmen or discharge them.

Now, Sir, it is not easy for a workman or a trade union to take a matter relating to dismissal or discharge to an Industrial Tribunal. He has got to go in for conciliation. And then the appropriate Governments, the State Governments generally, go into the matter and only when they consider that the matter deserves to be taken for adjudication, only when they consider that it is expedient to refer the matter for adjudication, that matter goes to a Tribunal. When the matter goes to the Tribunal, why limit the functioning of the Tribunal and why ask the Tribunal to decide the issue on the basis of the record cooked up by the paid employees, well-trained in law, of the employer? The side of the workmen alone, and not the employers', should be given the opportunity to bring forth fresh evidence.

Sir, the Minister may argue that if we say that the Tribunal may examine the matter on the basis of the evidence produced before it, the employee will bring forth fresh evidence. All the evidence of the employer is there ; it is produced and it is used in the domestic enquiry. It is the workman unaided by trade unions who is not able to put his side of the case on record in the so-called domestic enquiry, and the result is that the material on record is one-sided. So it appears what the Labour Minister is giving to the workmen with his right hand he is taking it away by the left hand by making this rather sinister proviso in section 10B.

Sir, even today the functions of an Industrial Tribunal are very limited. That is why the workmen in the country and trade unions in particular are losing faith in the process of adjudication. The process of adjudication, particularly relating to dismissals and discharges, is a useful filter of our industrial life. It helps to maintain industrial peace. But that faith is shaken—and it has been shaken by some of the cases, Labour Appellete Tribunal decision in the Bukingham and Carnatic case and the Supreme Court judgment m the Indian Iron and Steel Co. case and several others. They have shaken the faith of the workmen and trade unions m the process of adjudication The effort now should be to do something to restore their confidence because if adjudication is denied to them, discontent remains, dissatisfaction is perpetuated and the workmen are encouraged and forced to resort to their mighty weapon of strike which dislocates production. So it is time that the Government brought forward a new scheme of industrial adjudication.

I realise that the new scheme cannot be brought by bringing this amendment Bill. But I hope the Labour Minister will be generous and he will keep the maintenance of industrial peace in view and drop the proviso to section 10B which clause 3 seeks to introduce. If that proviso is dropped this amendment Bill will become really useful. As it is, it will be another piecemeal legislation which does not drastically improve the climate of industrial relations. Thank you.

SHRI BALACHANDRA MENON (Kerala) : Sir, this amendment Bill to the Industrial Disputes Act, as my friend, Mr. Arjun Arora, has put it, is a piecemeal legislation which will not take us very far. The Industrial Disputes Act is an illegitimate child of the Defence of India Act. It was a fetter on the workers and it continues to be so in regard to its major provisions. Every one knows that. Actually what happens is this. When a domestic enquiry is started, we fully know that labour leaders will not be allowed to be present. As has been pointed out by Mr. Mani, for the employer often a legal man comes there as representative of the firm. But the poor worker is deprived of the benefits of the advice of the labour leader or a member of the working committee or the Executive. He is completely deprived of that right. If he is an European employer, he puts the question in English which is translated by somebody and the answer is given in Tamil or Malay al am or whatever language the worker knows which is again translated to the European employer. And definitely the whole case is misrepresented to the employer who conducts the enquiry. Often there is no Labour Officer. There will be either the employer or somebody whom the employer engages. He may be a manager. In the plantations where the employers are mainly Europeans, in our area the entire questions are put in English which are translated. Now, some of them do not know even Ae A, B and C of the industrial law. It is necessary that they must be taught

something about the industrial law. It has come to that. In India the employers are much more backward than the workers. They do not know the law of the land. This is the position. So they refuse to accept some evidence. They will not allow the evidence to bs translated if it is given in Malayalam or in a language which the worker knows. They will not enter all these things; the evidence will not be recorded. When that is so, the enquiry becomes a farce. It is unfortunate that the Supreme Court should have gone to the extent of feeling that a domestic enquiry is something which leads to something where the rights of the workers are protected. They are forced to have a domestic enquiry. They make it a farce. It is conducted by the employer's man or his agent and there is no sanctity behind it.

Unfortunately, what we have done here is to have a sort of compromise. As usual with us, we are not straight. The Objects and Reasons clearly point out that after the Supreme Court's decision it was found necessary to have it corrected in the light of the directions given by the International Labour Organisations. So it has been done. But, again, something will have to be done to protect the interest of the employer also. So what was done ? The proviso was added. The proviso means that no fresh evidence can be allowed. What does it mean ? We are deprived of these rights. We will not be allowed to bring in any fresh evidence. We will be deprived of these rights. Now, the Supreme Court, in its anxiety to keep the worker and the employer justly treated, without taking sides, naturally wants to see protection given to the employer. What does it want ? It considers the domestic enquiry as a court. When that is so, it naturally cannot allow any fresh evidence. I would beg to submit that in such cases, specially in casc^ where we are dealing with labour, in cases where it is a social legislation, as far as possible, we must be in a position to sec that this enquiry does tamper with the decisions of courts which are not intended to safeguard the rights to private property. In the case of industrial law it is always a changing things.

When that is so, I would suggest that we must make it clear that domestic enquiry should not be treated as an enquiry of an ordinary court, that in the case of dismissal, discharge, etc., a straight reference to the Labour Court must be allowed. I do not say this in the case of other punishments. You can suspend a man, but when he is suspended, pay him half the wages and let the case be taken up by the tribunal or the court. That is the only way to save him. Otherwise, if you want to have this provision, it will mean that you accept the status of a court for the domestic enquiry and naturally the Supreme Court will come round and tell you "All right, in that case no fresh evidence will be allowed". That is why I say "cut it off". Let us allow in such cases the matter to be straight taken to a tribunal or an Industrial Court. In that case, there is at least some amount of safety for the worker. I would, therefore, appeal to the hon. Minister to see that this proviso is changed and the worker is given the right to take it straight to a tribunal. I would also appeal to him that in the case of all enquiries, even domestic enquiries, the workers' representative must be allowed to be present because that is an elementary thing. It is a recognition of the union's right for collective bargaining. If an employer, even today, in the year of 1967, is not prepared to allow the workers' representative to be present, then he must be a very old-fashioned individual who does not understand the change of times. I would, therefore, earnestly request the Minister to allow the labour leaders to be present at these enquiries.

One word more. 1 accept this amendment regarding "any member of the executive or other office-bearer". That is absolutely necessary. When we speak of the "office bearer", except the Auditor, any body who is in the working committee should be allowed to be present, because a person who might not be well-versed in law might be elected Secretary while there may be somebody else who is well versed in law. Therefore, this is a good suggestion and this should be accepted. Thank you.

SHRI T. V. ANANDAN (Madras): Mr. Vice-Chairman, Sir, I would have welcomed this amendment had it originated from the Labour Ministry, Government of India, without borrowing the decisions of the Supreme Court of India and the International Labour Organisation. That shows that this Government is not interested in the welfare of the workers. It should have automatically come from them, Mr. Vice-Chairman, because we are wedded to democracy.

[Shri T. V. Anandan]

Neither the capitalists support the Government to-day nor does the working class support the Government of the day to-day. Who else are going to support the Government? No one else. It is in a *Trisanku swarga* that the Government is functioning to-day, because of the lethargy of the Government is not taking keen interest in the vast majority of the working class. Although the Industrial Disputes Act is there from 1947 with about 8 or 9 amendments to it, it has not yet satisfied the working class. Although the Government can say that it has opened ways and means for the aggrieved worker to be brought before a tribunal or a court of enquiry or a conciliation board or an arbitrator, is any worker in the country to-day satisfied with all these statutory obligations ? No. If they are satisfied, why then, Mr. Vice-Chairman, should the working class invent this curious method of "gheraos"? Has anyone ever heard of this in this country? They are not satisfied to-day and if the Government of India wants to have a perfect working class, satisfied in their day-to-day affairs, they should immediately repeal this Act. It is no good having such a wide measure. For example, Mr. Vice-Chairman, it is stated in one section "The appropriate Government by notification in the Official Gazette... appoint conciliation officers. ..". Then in another section, about the boards of conciliation, it is said "The appropriate Government may, as occasion arises, by notification in the Official Gazette….". Then section 6 also says "The appropriate Government may, as occasion arises, by notification in the Official Gazette constitute a court of enquiry....". We find the same thing in section 7 also regarding Labour Courts and Industrial Tribunals. ..

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): But we are now dealing with the amendment.

SHRI T. V. ANANDAN: That is what I am dealing with. Section 10(b) in the amending Bill says "Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication ....". Now how is this referred to the court? It is by the appropriate Government. To-day in this country the workers are classified as private sector workers, public sector workers and Central Government employees. Industrial expansion is taking place rapidly in this country. The Governments are themselves becoming employers. Here the Central Government is an employer. Do you mean to say that when a worker demands reference to a court of arbitration or a conciliation board or a tribunal or National Tribunal, the Government, which is the employer, will immediately accede to it? We have seen it in the recent issue of increased dear-ness allowance to the Central Government employees. Did the Government yield then? The Government was adamant until the workers declared a strike. Earlier also we have seen, Sir, that no Government, whether State or Central, had come to the aid of the working class unless there was an agitation or a demonstration. How many millions and millions of man-days have been lost in this country? Have the Government thought about it? There is no other way out than to repeal this Act and promote an Act by which there will be established permanent industrial courts in the country as are functioning in advanced countries like Australia, New Zealand and Canada. There is no other way for a wage-earner to go to a court straightaway unless the administration is forced to open their eyes and appoint a conciliation board or an arbitrator. Sir, I would only say that as things are shaping in this country to-day, unless the Government comes forward very radically to have revolutionary institutions, to be statutorily guaranteed, there is no salvation. If we want to retain this democracy in our country and to prove to the world that India will ever be ruled by a democracy, the working class must be satisfactorily supported and their problems solved. There is no good of introducing in this country automation and electronic computers. When you go to other countries and try to copy their automation, don't you realise that the working class there is also governed by different laws, very satisfactory laws? Therefore, I do say that there is no good of merely copying other countries in these advances but you should also see that the workers here are satisfied. If they are not satisfied, then I think peace cannot be guaranteed to the people of this country, neither to the industrialists nor to the workers. Therefore, if we want to retain this democracy, industrial courts must be established all over the country to enable the worker to file a case as in the civil courts; he must be able to file a case and get things solved.

Then, after the departmental enquiries, tresh material is not to be brought in. As speakers before me have said, at the departmental enquiry, only the officer is there and the worker has to present his case himself. The evidences are not very clear. So it is one-sided. And if the Government wants to satisfy the workers, they must either introduce a lawyer on behalf of the worker at the departmental enquiry itself or immediately establish industrial courts for a peaceful solution to problems. Thank

श्री रेवती कान्त सिंह (बिहार) : उपसभाध्यक्ष जी, जब कोई वर्कमन या कोई मजदूर किसी मालिक के द्वारा सर्विस से डिसमिस किया जाय, डिसचार्ज किया जाय या रिमूव किया जाय तो वह किसी लेबर कोर्ट में, ट्राइब्यूनल में या नेशनल ट्राईब्यूनल में मामला दायर करे और लेबर कोर्ट उसमें इन्टरफेयर करे उसके बारे में 1958 में सुप्रीम कोर्ट ने एक फैसला दिया कि लेबर कोर्ट इन्टरफेयर कर सकता है। अगर लेबर कोर्ट समझता है कि उसकी बर्खास्त भी नाजायज है तो वह फिर से उसकी नियुक्ति का हुकम दे सकता है, आदेश दे सकता है। मुझको ताज्जुब होता है कि एक साधारण सी बात को इन्डस्ट्रियल डिस्प्यूट्स ऐक्ट में इन्कारपोरेट करने में इस हुकूमत को 9 वर्ष लग गये, 9 वर्षों में लेबर मिनिस्ट्री एक छोटा सा बिल ड्राफ्ट कर सकी और इन 9 वर्षों में देश के मेहनतकशों को, देश के मजदूरों को कितना नुकसान हुआ इसकी कल्पना नहीं की जा सकती। फिर भी देर आयद दुरस्त आयद। बिल लेट आया।

इस बिल में मुख्य बात क्लाज 3 प्रिन्सिपल ऐक्ट में एक नयी धारा 10 बी जोड़ने की है लेकिन 10 बी में जो कुछ भी उन्होंने दिया है उसके नीचे एक प्राविजो लगाकर एक हाथ मे से देकर दूसरे हाथ से छीन लिया है, क्योंकि जब तक यह प्राविजो रहेगा कि लेबर कोर्ट कोई नया इविडेन्स नहीं ले सकती है. जो मैटीरियल आन रिकार्ड होगा उसी पर वह सब कुछ फैसला कर सकती है। मैं डिटेल में जाना नहीं चाहता। मेरे दोस्त अर्जुन अरोड़ा ने काफी इलेबोरेटली इसको समझाया है। मैं सिर्फ इतना ही कहना चाहता हूं कि जब कोई मजदूर बर्खास्त किया जाता है, डिसमिस या डिसचार्ज किया जाता है, तो जो डोमेस्टिक इन्क्वायरी होती है वह डोमेस्टिक इन्क्वायरी इम्प्लायर की इन्क्वायरी होती है और मटीरियल आन रिकार्ड बराबर इम्प्लायर के पक्ष में होता है, इम्प्लायीज के पक्ष में नहीं जाता है। वैसी हालत में अगर इम्प्लायर के ही मटेरियल आन रिकार्डस का लेकर लेबर कोर्ट को फैसला करना होगा तो फिर लेबर कोर्ट का फैसला वही होगा जो इम्प्लायर का होगा। ऐसी सूरत में मैं यह कहना चाहता हूं कि यह प्राविजो सिर्फ व्यर्थ ही नहीं है बल्कि बहुत ही खतरनाक है और मजदूरों को जो एक अधिकार यहां की जुडीशरी ने दिया, न्यायालय ने दिया उस अधिकार को सरकार ने इस बिल में यह प्राविजो रखकर छीन लिया है। मैं मंत्री जी से यह अपील करता हूं और साथ साथ आपकी मार्फत इस हाउस से अपील करता हूं कि पहले तो मंत्री जी इस प्राविजो वाली चार, पांच पंक्तियों को डिलीट कर देने के लिये तैयार हो जायं और अगर वह तैयार नहीं होते हैं तो मैं सदन से अपील करता हूं कि वह श्री चित्त बसु और श्री अर्जुन अरोड़ा जी के अमेन्डमेन्ट को मान ले और इसको डिलीट करा दे।

उपसभाध्यक्ष जी यह पीसमील लेजिस्लेशन क्यों ले आते हैं? अभी एक और इन्डस्ट्रियल डिस्प्यूट्स ऐक्ट का अमेंडिंग बिल इस हाउस में आने वाला है। इसी साल 1967 का बिल आते आते हो सकता है दो साल बाद पेश हो जैसे कि यह 1966 का बिल 1967 में उपस्थित हो रहा है। यह बार बार जो छोटे छोटे संशोधन आते हैं इससे कोई लाभ नहीं होता सिवाय इसके कि सदन का समय खर्च होता है

[श्री रेवती कान्त सिंह]

लेकिन उससे मजदूरों का कोई लाभ नहीं होता । इन्डस्ट्रियल डिस्प्यूटस ऐक्ट में मजदूरों के हित की दृष्टि से अनेक खामियों को हम देखते हैं । उन खामियों में कुछ की ओर मैं ध्यान दिलाना चाहता हूं और मैं चाहता हूं कि उनको ध्यान में रखते हुए एक कांप्रिहेन्सिव बिल आए ।

अब एक बात की ओर मैं आपका ध्यान दिलाना चाहता हूं कि जब कोई मामला लेबर डिपार्टमेंट को कांसिलियेशन के लिये रेफर होता है उसके लिये यद्यपि कानून में है कि चौदह दिन के अंदर कांसिलियेशन प्रोसीडिंग्ज शुरू हो जानी चाहिये लेकिन अन्यूजुअल डिले की जाती है, काफी दिन कांसिलियेशन प्रोसीडिंग शुरू करने में लगा दिये जाते हैं और अगर कांसिलियेशन प्रोसीडिंग शुरू भी हुई तो इम्प्लायर की अटेन्डेन्स उसकी उपस्थिति निश्चित नहीं रहती.....

श्री चित्त बासु (पश्चिमी बंगाल) : कंपलसरी नहीं होता ।

श्री रेवती कान्त सिंह : कंपलसरी नहीं होता । नतीजा यह है कि लम्बी तारीखे बढ़ाते जाते हैं । अगर कहीं कांसिलियेशन फेल कर गया तो आटोमेटिक ट्राइब्यूनल में जाने की व्यवस्था नहीं है; फिर सरकार को रिपोर्ट देंगे और सरकार उस पर विचार करेगी और सरकार जब तय करेगी कि वह ट्राइब्यूनल में जाय तभी ट्राइब्यूनल में जायेगा नही तो नहीं जायेगा, फिर जब ट्राइब्यूनल में जायेगा तो फिर ट्राइब्यूनल बरसों समय लगाता है । इस सब का नतीजा यह होता है कि जो मजदूर नौकरी से निकाला जाता है, बर्खास्त हो जाता है, वह इधर उधर ठोकर खाता है, मारा मारा फिरता है । मैं एक सुझाव देना चाहता हूं कि आप चाहे जितना समय ले लें कांसिलियेशन प्रोसीडिंग में, ट्राइब्यूनल में लेते रहिये मुझे कोई ऐतराजनही है, लेकिन उतने दिनों तक उस मजदूर को कम से कम आधा वेतन देत रहिये नहीं तो उसके मामले को जल्द से जल्द एक्सपीडाइट करने की व्यवस्था होनी चाहिये ।

तीसरी बात ट्राइब्यूनल में जो मामला आता है वह इतना एक्सपेन्सिव होता है कि बेचारा गरीब मजदूर जो नौकरी से निकाल दिया जाता है वह उसके एक्सपेन्सेज को बर्दाश्त नहीं कर पाता है । वैसी हालत में मेरा सुझाव है कि ट्राइब्यूनल में मजदूर की ओर से वकील की व्यवस्था सरकार को करनी चाहिये । सरकार को वकील देना चाहिये मजदूरों के लिये । अगर ट्राइब्यूनल में मजदूर जीत गया तो बिल्कुल स्वाभाविक है कि इम्प्लायर सुप्रीम कोर्ट में, हाईकोर्ट में जायेगा और वह जाता है । नतीजा यह होता है कि यह इन्डस्ट्रियल डिस्प्यूट्स ऐक्ट वास्तव में एक लिटीगेशन का सोर्स बन गया है और तमाम यूनियनों में हमारे जैसे लोग जो काम करते हैं, तमाम यूनियनों के बिलकुल मुखतर और मोहर्रिर बन गये हैं, सारा समय हमारा लग जाता है मुकदमे की पैरवी करने में, चन्दा वसूल करना, कोर्ट में जाना, यही हम लोगों का धंधा हो गया है और कोई काम हम लोग कर नहीं पाते हैं जब कि हम लोग अंतःकरण से फील करते हैं कि हम लोगों का काम है मजदूरों की आर्थिक, मानसिक, सामाजिक, सांस्कृतिक और हर प्रकार की उन्नति करना । उसके लिये उनके अंदर कंस्ट्राक्टिव काम करना चाहते हैं लेकिन सारा समय यूं ही बर्बाद हो जाता है इंडस्ट्रियल डिस्प्यूटस ऐक्ट के मुकदमे लड़ने में ।

एक बात मैं यह कहना चाहता हूं कि यह इन्डस्ट्रियल डिस्प्यूटस ऐक्ट लागू है लेकिन अगर ठीक से जांच की जाये तो ऐसे उदाहरण एक नहीं सैकड़ों और हजारों की संख्या में पूरे देश में मिल जायेंगे कि एग्रीमेन्ट साइन होते हैं यूनियन और इम्प्लायर के बीच में, गवर्नमेंट आफिशियल्स की उपस्थिति में एग्रीमेन्ट साइन होते हैं लेकिन वह एक

एग्रीमेन्ट भी लागू नहीं होता है, इम्प्लीमेन्ट नहीं होता है। वेज बोर्ड के अवार्ड होते हैं, ट्राइब्यूनल के अवार्ड होते हैं लेकिन वह इम्प्लीमेन्ट नहीं होते हैं। उसके बाद जब मजदूर जाता है घेराव करने के लिये तो पुलिस इन्टरफेयर करती है। तो मैं समझता हूं मजदूर का यह लेजिटिमेट राइट है घेराव करना और पुलिस उसमें इन्टरफेयर नहीं कर सकती। पुलिस का इन्टरफेरेन्स कैपिटलिस्ट इन्टरेस्ट को सर्व करता है। इसलिए मैं चाहता हूं अगर आप घेराव को सचमुच बंद करना चाहते हैं तो सिर्फ यह कह कर नहीं होगा कि लेफ्ट कम्यूनिस्ट या दूसरे उसको शुरू करते हैं या चाइना से आया है, अमरीका से आया है, यह कह कर घेराव को बंद नहीं किया जा सकता है। घेराव को अगर बंद करना चाहते हैं तो इन्डस्ट्रियल डिस्प्यूटस ऐक्ट को सुधारिये, इसके मुताल्लिक जितने एग्रीमेन्टस होते हैं, जो वेज बोर्ड के अवार्डस होते हैं, ट्राइब्यूनल के अवार्डस होते हैं उनको आप तुरन्त से तुरन्त लागू करिय, इम्पलीमेन्ट करिये।

अगर कोई बाइलैटरल एग्रीमेंट होता है तो उसको आपको लागू कराना चाहिये और उसको इम्प्लीमेंट कराना चाहिये। अगर आप इम्प्लीमेंट नहीं कराते हैं तो फिर मजदूर क्या करे। मैं आपको बिहार के बरतानिया इंजीनियरिंग कंपनी का उदाहरण देना चाहता हूं। पिछले पांच वर्षों के अन्दर और कम से कम दो वर्षों के अन्दर दर्जनों एग्रीमेंट साइन हो चुके हैं मगर उनको इम्प्लीमेंट नहीं किया जा रहा है। जब इस तरह की स्थिति है तो फिर मजदूर क्या करेगा।

दूसरी और अन्तिम बात जो मैं कहना चाहता हूं वह यह है कि सरकार अब खुद ही इम्प्लायर होती जा रही है। जितने भी पब्लिक सेक्टर हैं उनमें तो वह इम्प्लायर होती ही जा रही है मगर जो दूसरी इन्डस्ट्रीज हैं उनमें भी वह दूसरे ढंग से इम्प्लायर होती जा रही है। तो ऐसी हालत में अगर आप सरकारी कर्मचारियों को ट्रेड यूनियन राइट्स नहीं देना चाहते हैं तो यह गलत बात है। मैं चाहता हूं कि सारे देश में जो तमाम मेहनत करने वाले लोग हैं, चाहे वे कलम के मजदूर हों, चाहे फावड़ का काम करते हों, मशीन से काम करते हों, चाहे सरकारी मुलाजमीन हों, गैर सरकारी मुलाजमीन हों, इन तमाम लोगों को ट्रेड यूनियन राइट्स मिलने चाहिये। जहां पर सरकार ट्रेड यूनियन राइटस मानती भी है वहां पर उनके लिये कम्पलसरी आर्बिट्रेशन नहीं मानती है। मैं आपके सामने बिहार स्टट के चतुर्थ श्रेणी के कर्मचारियों का मामला रखना चाहता हूं। उनकी यूनियन रजिस्टर्ड है ट्रेड यूनियन ऐक्ट के मुताबिक, मगर जब कोई झगड़ा खड़ा होता है तो उसके लिये उन्हें आर्बिट्रेशन कांसिलियेशन और ट्राइब्यूनल द्वारा फैसला देने का अधिकार नहीं दिया जाता है। इस तरह से जो भेदभाव किया जाता है उसको जल्द से दूर किया जाना चाहिये।

इन शब्दों के साथ मैं फिर एक बार मंत्री जी से अपील करूंगा कि वह चार पांच पंक्ति जो प्राविजों में हैं उनको डिलीट कर दें। अगर वे उसके लिए तैयार नहीं है तो मैं सदन से अपील करूंगा कि वह श्री चित्त बासु और श्री अर्जुन अरोड़ा जी के अमेन्डमट को स्वीकार कर ले। इसके साथ ही साथ मैंने जिन बातों की ओर मंत्री जी का ध्यान खींचा है उनको ध्यान में रखकर व इन्डस्ट्रियल डिसप्यूटस ऐक्ट में ऐसे पीसमील संशोधनों की जगह एक काम्प्रीहेन्सिव बिल लायें क्योंकि यह बिल बहुत पुराना हो गया है और नाकाफी है। पूराना होने के साथ साथ देश की परिस्थिति भी बदल गई है जिसकी वजह से इस बिल द्वारा काम नहीं चल रहा है और इसलिए मैं कहना चाहता हूं कि एक नया काम्प्रीहेन्सिव बिल लाया जाना चाहिये।

SHRI NAND KISHORE BHATI (Madhya Pradesh): Mr. Vice-Chairman, Sir, I rise to welcome this Industrial

[Shri Nand Kishore Bhatt]

Disputes (Amendment) Bill. I was not here on the last day and I could not get the benefit of the debate that day. So if there is any repetition of observations which have already been made by my friends I may be excused for it.

Sir, the amendment of the Industrial Disputes Act on these lines was one of the long pending grievances of the working class throughout the country. We have been repeatedly demanding the security of employment. This is one of the privileges and rights given to a work-ker under the Constitution, but because of faulty provisions in the Industrial Disputes Act the workers have been put to a lot of difficulty, and the employers have been pursuing a policy of deliberately throwing out of job such of the workers whom they thought undesirable and who could not fulfil their expectations although they had been doing their jobs well. Workers who had been the victims of the domestic inquiry had no remedy and the Act had no jurisdiction to go into the cases of dismissals, discharges and terminations of service carried out under the domestic inquiry. From this point of view I welcome this Bill and it has come at the most opportune time.

Sir, some of the previous speakers have criticised the Industrial Disputes Act. In my opinion, the Industrial Disputes Act has done yeoman service to this country. All of us are aware that immediately after the country had become independent, there were friends in this country who preached that the country was not independent, that the strikes were organised to achieve tbeir political ends and the employers counteracted by declaring lock-outs and closures of their factories. It was all done by interested parties and by friends belonging to the other side, who did not want industrial progress. It was the Industrial Disputes Act which showed the royal road to the working class of this country, and in case of any deadlock, the trade union could raise the dispute, and the dispute was referred to adjudication. From this point of view I can say that the Industrial Disputes Act has done good service to the working class.

On the question of security of employment, Sir, the workers everywhere, who had been the victims of the domestic inquiry leading to their dismissal or discharge or termination from service, were in a state of helplessness. Even the tribunals had no say on the results of the domestic inquiry. So they had no remedy. Therefore, the working class had to launch agitations and go on strikes, to the dislike of all concerned. Now the International Labour Organisation, in their recommendation (No. 119) have stated that a worker aggrieved by termination of employment at the initiative of the employer should be entitled to appeal against the termination to a neutral body such as the Tribunal, and this amendment has given that protection, Sir. Even before the Supreme Court had made the observations as to how far the Tribunal's powers were limited in cases of dismissal, discharge or termination, the working class had been agitating and seeking a remedy against their victimisation under a domestic inquiry, but then the Supreme Court's observations came as an obstacle in their way. All the same the working class continued its agitation. They made representations to the Government seeking a remedy. At long last the Government has come forward with this amendment based on the recommendation of the International Labour Organization, that the Tribunal should have the power to set aside the orders under domestic inquiry. So I very much welcome this amendment, the proposed new section 10B in the Industrial Disputes Act, not so much the proviso appearing thereunder. The proviso would have been ideal in a situation where we could rely on the employers. But experience has shown that in many cases the records of the employers are cooked up. Even in this august House this question has been discussed, that the industrialists have been keeping double records, and it has also been proved before the Industrial Tribunals that a number of concerns keep double records. Therefore, the portion in the proviso reading "shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter," should be deleted. I strongly urge upon the hon. Minister to withdraw the proviso.

I am glad that in sub-clause 2(a) the hon. Minister has included the Industrial Finance Corporation and also the State Insurance Corporation for purposes of reference to Tribunals. Here I would like to say one thing. During the last twenty years we have established a number of public sector undertakings, and there are public sector undertakings which have got more than one unit, and in some cases they are scattered in more

than one State. I would like the hon. Minister to make a provision in the relevant section that if the units are spread over in more than one State, the reference should be to a National Tribunal.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Have you given any amendment?

SHRI NAND KISHORE BHATT: No, Sir, but I am just appealing to the hon. Minister sc that he might consider it.

With these words I heartily welcome this amending Bill.

SHRI CHITTA BASU: Sir, although the hon. Minister in his opening remarks observed that this is a simple piece of legislation which may be hurriedly passed in this House, right from the beginning I thought that it was not such a simple legislation, because it involved every fundamental privilege of the workers which they had earned after a strenuous fight over a long period of time.

Sir, in this Bill we find that the Government proposes to vest certain powers in the Tribunal, the National Tribunal or the Labour Court and in doing so they have incorporated in this measure the decisions of the Supreme Court. In this connection I want to invite the attention of the hon. Minister to the fact that even today these Tribunals, National Tribunal or the Labour Courts, have got some authority in the capacity of supervising authority, to give judgments if certain conditions are there. The conditions are these: violation of the principle of natural justice, perverse finding, basic error and unfair labour practice and victimization. If these things are there then even today the Labour Court can give a judgment. But these judgments are given in the capacity of a supervisory authority. Now the question comes whether these Labour Courts, National Tribunal or Tribunals will be given the authority of an appellate body. I think the objective of the Government is clear and so far as the objective is concerned I have nothing to say. But I feel that in the body of their new section, *i.e.* section 10B it is not clearly indicated. If the hon. Minister says that it is sufficiently explicit then I have nothing to say. But to me it appears that it should be made much more explicit so that there may not be any misunderstanding as to whether these bodies have got the appellate authority or not. In that sense I would say that the simple words "appellate authority" may be inserted at the appropriate place.

Now I come to the question of the proviso. I do not want to dilate much on this because it has been already referred to by some hon. Members. I am also glad to note that my amendment has been supported by all the hon. Members who have taken part in this debate and they have rightly supported the cause of the workers. All I need say now is that an ordinary worker who gets dismissed or discharged is not able to adduce proper evidence during the course of the so-called domestic enquiry. That being the case that enquiry is conducted solely and primarily and ultimately to help the employer and to hold the worker guilty. And so the Tribunal will be giving its judgment on the basis of the material that is on record. When that is the case, then certainly you can assume that the judgment will not go in favour of the discharged worker who had preferred an appeal to the Tribunal. One point may be stated against my amendment, namely, that this will involve more time. That is what I understood from what the hon. Minister himself said. But I submit that once you raise this question of time, then the entire Industrial Disputes Act has to be amended so that the delay which is so normal can be avoided. As my hon. friends have rightly pointed out if you want to raise an industrial dispute before a Tribunal it will require not less than six months. A formal dispute has to be raised. Then there should be conciliation attempts. These conciliation proceedings may continue for months. Since there is no provision in the Industrial Disputes Act to ensure compulsory attendance from the side of the employer, these proceedings take months and months. To conclude the conciliation proceedings it takes months and months. If the conciliation proceedings fail then the dispute has to be referred to the appropriate Government for being referred to the Tribunal for adjudication. That also takes a lot of time. Therefore, the fact is that the working of the Industrial Disputes Act takes a long time and to say that we cannot give the worker the right to adduce fresh evidence because it would mean more time, would be nothing short of injustice. I say this because I feel that if the worker is given the

[Shri Chitta Basu]

right to adduce fresh evidence then he may be able to get justice. What is the practice today? In the domestic enquiry the employer makes some other employees to come and give evidence in favour of the employer for which, of course, that employee will be given something, he would earn some admiration from the side of the employer. I do not want to use the word "bribe" because I want to use a decent word. The thing is, nobody dares to appear before the domestic enquiry and speak and adduce evidence in favour of the worker. That being the case the worker who has been discharged or dismissed should be given a chance. He may be able to get some worker to come and give evidence in his favour even though other workers may not dare to do so under the present scheme of things. This is a very vital question, namely, whether we shall give the worker the right to be heard. That is the basic issue or basic question before us. I feel that if this proviso is allowed to be there we will be denying the worker the right of being heard at the Tribunal level.

Again you should understand that the entire working class is today facing a great attack from the side of the employers. The problem before the Indian working class is security of service. Security of service is 10 be guaranteed and I feel that this piece cf legislation does not ensure security of service to the worker.

Now I want to raise two points. The first is this. As has been rightly pointed out, when a worker goes before a Tribunal it takes a long time to get the matter settled. Why should not the employer be forced to pay the worker half of the wages he used to earn? That would only be natural justice. Sir, you will be glad to learn that the West Bengal Government—I speak of the United Front Government—had drafted a Bill of that nature so that if a worker is dismissed or suspended then the employer will be forced to give him 50 per cent of his wages. That Bill has been sent here for sanction, J think. I do not know what has been the fate of that Bill. If the United Front Government had been there now, that Bill would have been passed by the West Bengal Assembly. My point is this. We should have a satisfactory provision to see that ihe employer does not unnecessarily discharge or dismiss the worker. If there is such n provision then it will have a deterrent effect on the employer. At the same time the working class in this country will be assured of a certain amount of natural justice, so that will be a double benefit.

Again I want to draw the attention of the House and of the Labour Minister to a particular fact that is agitating the minds of many trade union workers. Very recently the Madras High Court has given a judgment suggesting that a stay-in-strike is not a strike. I shall quote from that judgment. It says:

> "The act of workmen in remaining after working hours (in the factory) would amount to seizure, holding-up of people, and preventing the use of the premises by the employer".

Also that High Court gave a directive under section 561A of the Cr. P.C. On the other hand, in the case of the Punjab National Bank the Supreme Court has said that a stay-in-strike is also a strike.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : It is irrelevant here.

SHRI CHITTA BASU: I am coming to that, Sir. What I say is if the Government is going to have a coihprehen-sive Bill with a view to rectifying all the lacunae now found in the Industrial Disputes Act, the hon. Labour Minister should take note of this judgment of the Madras High Court and say that a stay-in-strike is also a strike and a stay-in strike should, therefore, be dealt with as a strike when working the Industrial Disputes Act.

If that is not done this type of piecemeal legislation will become necessary and they will have to take much of the time of the House which will be of no benefit either to the Government or to us. With these few words I hope the hon. Minister will give thought to the points raised by us and accept the amendments which we have moved.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Diwan Sahib, would you like to speak just for two or three minutes?

DIWAN CHAMAN LALL (Punjab): Two minutes with your permission.

I support Mr. Sinha in what he said regarding the entire over-hauling of the legislation on this subject but I think

Mr. Chitta Basu was entirely wrong in considering what he did consider, namely, the widening of this measure. This measure is a strictly limited one. It is limited to the judgment of the Supreme Court for which my learned friend, the Labour Minister, has added a new section 1.0B. In that new section he seeks to protect the working class because according to the Supreme Court judgment in the case that has been cited it was quite clear that no action could be taken by the Tribunal and the Tribunal could not function as an appellate court. And what my learned friend has done is to protect the working class in regard to dismissals and suspensions. That ought to be welcomed by everybody in this House.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): *h* is welcomed by everybody.

DIWAN CHAM AN LALL: I think so.

श्री निरंजन वर्मा : (मध्य प्रदेश) माननीय उपसभाध्यक्ष जी, हाउस का समय कितना बढ़ाया गया है ?

उपसभाध्यक्ष (श्री अकबर अली खान) : अभी दस मिनट में हम खत्म करेंगे आप सबकी इजाजत से ।

DIWAN CHAMAN LALL : All that I wanted to say was this ...

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): That you welcome this measure?

DIWAN CHAMAN LALL : Not only welcome this measure but I think it is a correct measure. It was correct on the part of the Labour Minister to have brought this measure. What the International Labour Office has decided is incorporated in section 10B.

Thank you.

THE MINISTER OF LABOUR AND REHABILITATION (SHRI JAISUKH-LAL HATHI) : Vice-Chairman, Sir, I am grateful to the Members for extending their support and welcoming the Bill. I also appreciate that as representatives of workers it is their duty to feel that this provision should not be there. I do appreciate that and I feel happy at the aspirations of the workers' representatives. Actually when this measure was-being discussed in the Tripartite Conference those who were present at that Conference must have seen the tremendous amount of opposition on the part of the employers to this measure. In spite of that opposition of the employers we have brought forward this Bill and that shows that we are aware of the difficulties of the workers but, as I said, there are two sides. On the one h?.nd the management says that it is their right to maintain discipline and to dismiss the workers while the Labour Ministry and the workers say that this right can never be absolute. And that is also what the I.L.O. has said. The workers feel that everybody should have the right to go directly to the Tribunal. We have to strike a balance. On the one hand we do not want to encourage legislation. We have got the conciliation machinery where you bring the parties together, try to settle the issue and thus avoid litigation if possible. In litigation there is delay. I perfectly agree with Mr. Sinha and Mr. Chitta Basu that when this is delayed the workers have to be paid; at least fifty per cent they say. I may right now say that so far as the Central Government is concerned we have already issued instructions—I have done it a few days back—saying that the worker will be paid 50 per cent of the wages and if the enquiry goes beyond 90 days he will be paid 75 per cent of the wages. That means I am not blind to the difficulties of the workers; I am aware of the difficulties of the workers. At the same time we have to see where their interest lies. We have already issued instructions in this regard.

So far as the West Bengal legislation is concerned, we have agreed to that; that also I may tell Mr. Chitta Basu. We have communicated to them.

So far as the other point is concerned, I really feel that if fresh evidence is allowed to be brought it will help the worker to an extent but the employers will go on bringing fresh evidence. And it is not correct and the Supreme Court only meant that it should be seen whether it is in accordance with the principles of natural justice.

So far as the Industrial Disputes Act is concerned, Members know that the National Commission is looking into that and I would not like to bring in piecemeal legislation. I brought this because

[Shri Jaisukhlal Hathi]

I thought that job security was one of the most important things that agitated the worker and for doing this, legislation is necessary. I need not go into the details but on the question of evidence I would plead that it would not help the worker. I do realise that as workers' representatives you would naturally have to press it but I have to see that there is no unnecessarily prolonged litigation. My efforts will be to see that employers go in for voluntary arbitration so that these delays are eliminated. Thank you.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is:

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

The motion was adopted.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): We shall now take up clause by clause consideration of the Bill.

Clause 2—Amendment of Section 2

SHRI JAISUKHLAL HATHI: Sir, I move:

3. "That at page 2, line 7, for the word 'and' the word 'of be substitut ed."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : 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 3—Insertion of New Section 10B

SHRI CHITTA BASU: Sir, I move:

4. "That at page 2, lines 31 to 34 be deleted."

The question was proposed.

SHRI CHITTA BASU: I would press this amendment and request the Minister to accept it.

SHRI JAISUKHLAL HATHI: I have already explained the position.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is:

"That at page 2, lines 31 to 34 be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : The question is :

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clauses 4 *and* 5 *were added to the Bill.*

New Clause 6—Amendment of First Schedule

SHRI JAISUKHLAL HATHI: Sir, I beg to move:

5. "That at page 3, after line 6, the following new clause be inserted, namely :—

Amendment of first schedule—'6. In the First Schedule to the principal Act, item 18 shall be omitted.'"

The question was put and the motion was adopted.

New clause 6 was added to the Bill.

Clause 1

SHRI JAISUKHLAL HATHI: Sir, I beg to move:

2. "That at page 1, line 4, for the figure '1966' the figure '1967' be substituted."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): 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: Sir, I beg to move:

1. "That at page 1, line 1, for the word 'Seventeenth', the word 'Eight-eenth' be substituted."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): 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: Sir, I beg to move:

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

The question was proposed.

SHRI CHITTA BASU : Now, that the Bill is going to be passed. I want to ask only one point. I want to know from the Minister what steps the worker can take if the worker feels aggrieved during the process of domestic enquiries as in the present system.

(No reply)

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is:

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

The motion was adopted.

THE VICE-CHAIRMAN fSHRI AKBAR ALI KHAN): The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at fourteen minutes past five of the clock till eleven of the clock on Friday, the 1st December, 1967.

GIPN—35-68 R. S.(ND)/67—30-7-68—570.