

SHRI JAGANATH RAO : Sir, I move :

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

The question was put and the motion was adopted.

THE INDUSTRIAL DISPUTES (SECOND AMENDMENT) BILL. 1964

THE DEPUTY MINISTER IN THE
MINISTRY OF LABOUR AND EM-
PLOYMENT (SHRI RATANLAL KISHORILAL
MALVITYA) : Sir, on behalf of Shri D.
Sanjivayya, I beg to move :

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

This is a simple Bill to amend the
Industrial Disputes Act, 1947. Proposals for
amendment of the Act were considered by
the 21st Session of the Standing Labour
Committee, a National Tripartite Body
(which met in New Delhi on the 27th
December, 1963). The Committee
recommended certain proposals for amend-
ment of the Industrial Disputes Act. The
Bill now presented before the House seeks
to give effect to the recommendations of the
Standing Labour Committee and to a few
other proposals for amendment.

Under section 2(a) of the Industrial
Disputes Act, 1947, disputes in respect of
Indian Airlines Corporation and the Air
India Corporation which have been esta-
blished under the Air Corporations Act,
1953, fall in the State sphere. The functions
of the two Corporations are to provide safe,
efficient, adequate, economical and properly
co-ordinated air transport services, whether
internal or international, and to develop
these services to the best advantage. In order
to simplify the existing procedure for
handling disputes in respect of these
Corporations, it is considered necessary to
bring them within the jurisdiction of the
Central sphere, as in the case of some
Corporations of all-India importance, that is.
the Agricultural

Refinance Corporation and the Deposit
Insurance Corporation. This will obviate
the necessity of handling labour relations in
the various branches of the Air Corpo-
rations by the different State Governments
individually and the need for prior consul-
tation with State Governments for referring
such disputes to a National Tribunal. Such
an arrangement will also have the
advantage of ensuring expeditious, co-
ordinated and uniform action by the Central
Government in handling disputes
accompanied with threats of strike. The
State Governments were consulted in the
matter and almost all of them agreed to the
proposal.

Sections 2(p) and 12(3) of the Act
stipulate, among others, that a copy of the
settlement agreement or the memorandum
of settlement should be forwarded to the
'appropriate Government'. It is proposed
that instead of sending a copy to the
'appropriate Government' and also to other
officers subordinate to it, the copy need be
sent only to the officer authorised in this
behalf.

In construing the scope of industrial dis-
pute, courts have taken the view that a
dispute between an employer and an indi-
vidual workman cannot be an industrial
dispute, but it may become one if it is taken
up by a union or a number of workmen
making a common cause with the aggrieved
individual workman. Cases of individual
dismissals and discharges cannot, therefore,
be taken up for conciliation or arbitration,
or referred to adjudication, under the
Industrial Disputes Act. unless they are
sponsored by a union or a substantial
number of workmen. There has been a
demand that the machinery under the
Industrial Disputes Act should be made
available in such cases. The Standing
Labour Committee, in its 21st Session, also
recommended an amendment to the Act so
as to make the machinery under it available
in such cases. It is proposed to make such a
provision in the Act.

Section 25C of the Act provides that a
worker (who has completed not less than
one year of continuous service) on being
laid off is entitled to receive compensation

[Shri Ratanlal Kishorilal Malviya.] up to a maximum period of 45 days during the course of any twelve months. Where, however, the period of lay-off after the expiry of the first forty-five days comprises continuous periods of one week or more, the workman is to be paid compensation for all the days comprised in every such subsequent period of lay-off unless there is an agreement to the contrary between the workman and the employer. This provision is open to abuse inasmuch as a workman can be denied lay-off compensation by being made to work for some days in each week after the first forty-five days' lay-off. It is now proposed to amend section 25C of the Act so as to provide for the payment of lay-off compensation for all the days of lay-off after the first forty-five days whether the period is continuous for a week or not. The Standing Labour Committee has also agreed to the proposal.

With these remarks, Sir, I commend the Bill for the consideration of the House.

Section 29 of the Act provides for imposition of a penalty for breach of a settlement or an award, which may be imprisonment for a term which may extend to six months, or fine, or both. This section does not, however, provide for enhanced penalty in the event of continued breach of settlements or awards. As a result, some unscrupulous employers are able to successfully thwart the implementation of settlements or awards, even after conviction, by paying a fine once, which may be far less than what the obligation would otherwise entail. Consequently, the workmen are unable to get the benefits of the settlement or award though the employer might have been convicted for the breach. Thus the absence of provisions of deterrent penalties for continued breach of settlements and awards is acting as an impediment in the way of implementation of settlements and awards. It is, therefore, proposed to provide for the imposition of suitable punishment in case of a continuing breach of a settlement or an award after conviction for the first breach. This has also been recommended by the 21st Session of the Standing Labour Committee.

The question was proposed.

SHRI D. THENGARI (Uttar Pradesh) : Sir, this amending Bill is quite a healthy one and on behalf of workers, I think we would be justified in welcoming the various provisions of the Bill. It was but natural and justifiable that the Indian Airlines and the Air-India Corporation should be brought within the jurisdiction of the Central sphere. But at the same time I take this opportunity to bring one particular fact to the notice of the Labour Ministry that the provisions of the Industrial Disputes Act are not being properly extended to the concerns that have already been brought under the jurisdiction of the Centre. I am referring to the Railways. As a matter of fact, the Industrial Disputes Act is applicable to the Railways, but it is well-known that the administration has persistently refused to abide by the provision and, therefore, I should like to request the Government that they should be very particular about the effective implementation of the provisions of the Industrial Disputes Act in the various concerns which are brought within its purview, that the dispute between an employee and employer, individual workman, should be *per se* an industrial dispute. This is a long-left need. No doubt we stand for the growth of a strong trade union movement and as such we should like to see that every workman is represented through the union, and that every industry should ! have only one union so that the principle of one-industry one-union should be brought into practice. Nevertheless, under the present circumstances it would be unjustifiable to deny the workers their right to get their cases represented through a union or through their own lawyers, or themselves. As such this particular provision under the present circumstances deserves to be welcomed though we should like to see that in times to come there should be growth of healthy trade union movement under which every workman would be represented through some union or the other.

The lay-off compensation would become payable for all the days of lay-off beyond the first 45 days whether the period is continuous or not. This is also a welcome feature of this Bill because as we all know, our employers have been experts in depriving labour of its legitimate dues. Various devices have been adopted to this effect.

I would like particularly to mention the device of continuing workmen for years together as temporary just through some technical lacunai and I would also like to request the Labour Ministry that even as they have been graceful enough, kind enough or just and fair enough to bring in this amendment there should be some provision which would ensure confirmation of workers in their respective jobs and which would disallow the employers' practice of continuing the workers as temporary for years and years together. But so far as this particular provision is concerned, we welcome it whole-heartedly. At the same time a provision for enhanced penalty in the event of continued breach of settlements or awards by employers was also demanded by the workmen and this is also a fulfilment of a long-felt need. On the whole this entire Bill is worth being welcomed by the working class of our country.

Thank you.

SHRI T. V. ANANDAN (Madras) : Mr. Vice-Chairman, it is a very good amendment introduced now by the Labour and Employment Ministry for amending Section¹ 2 introducing the Indian Airlines and the Air-India Corporation will, I think, stop these Corporations adopting a method which would be putting the public of this country to great difficulties as we have been experiencing. Hitherto they were not brought under the purview of the Industrial Disputes Act and therefore they had no other chance or source or approach than to demonstrate by getting themselves under sick list by a doctor's certificate or adopting some go-slow policy or by offering Satyagraha or something else. This introduction of the I.A.C. and the Air-India Corporation into the Industrial Disputes Act and bringing them under the purview of this Act, will avoid in the future such activities of the staff of those bodies. That has been one of the main objectives in the last Session, when the I.D. Act was first amended, we had insisted on the Government to see that these concerns are brought under the Act and a provision is made for them to seek the law instead of going in for direct action. This will stop hereafter such activities of the staff of the

I.A.C. and the Air-India Corporation. I do not find fault with the staff of the I.A.C. or the Air-India Corporation because there will be no smoke if there is no fire. The bureaucratic administration at the head of these are the cause for creating unnecessary grievances and since the staff did not have any other recourse, they adopted them but hereafter they will not adopt such untoward activities which put the public and the traffic in difficulties.

Next, the insertion of Section 2A is a good one that discharges, dismissals, retrenchments or termination of the services of individual workmen will hereafter be deemed as an industrial dispute though some of the trade union organisations in this country may not like such an insertion because they will be thinking that they do not have sufficient membership in the trade union but we, true to our democratic socialist tendency and Gandhian philosophy, give democracy to everybody and therefore whether they join a trade union or not we give them. Some trade unions do exploit the situation in this country and live on such dismissals and even go to some of the administrators and managements and ask them to discharge some workers so that they will have some job to do. Such things hereafter will not be given room and the individual worker will have an approach to the Court for getting redress of his grievance or for getting himself reinstated by arguing the case before the court without the aid of any trade unionist of any political affiliation. That is a very good provision.

The insertion of the new clause 25C regarding the right of workmen laid off for compensation is a good one because no concern thrives in this country without the consolidated efforts of the thousands of workers in a concern. It is good that the Labour Ministry thought of introducing this lay-off compensation to the workers. But one thing I would like to add, as I have already been saying, about casual workers. How long are you going to allow these workers to be casual in the country? There are so many thousands of casual labour even under the Central Government employment as I have already pointed out in the W.H.S. Ministry and the Railway

[Shri T. V. Anandan, Ministry. Not less than 400,000 people are there as casual labour for years together. I think the Labour Ministry will give due consideration about the eradication of the word 'casual' because everybody is working and you guarantee him the Wages that an ordinary temporary or permanent worker draws in a concern. You have clarified *badli* workman as a substitute. You guarantee the casual labour. Let him be paid the minimum that a worker gets in a concern. You ee him that much of wages. That may be some solution for these casual and *badli* workmen. However the right to the workmen for lay-off compensation will be welcomed by the working class.

Lastly about amendment to Section 29, it is a good imposition of punishment of a deterrent nature on a defaulter. We must thank the Ministry for having fulfilled its promise given on the last occasion when we brought it to the notice of the Ministry during the first amendment of the Industrial Disputes Act. At that time the Minister himself assured that he would seek an amendment and this amendment is justified and fulfils the assurance given to this House. Therefore with these words I do support the amendments brought forward by the Ministry.

SHRI D. L. SEN GUPTA (West Bengal) : Mr. Vice-Chairman. I should congratulate the hon. Deputy Minister for piloting this Bill. This was a much-needed amendment Bill but I should in all fairness bring to his notice also the facts which have escaped his attention possibly: otherwise this amendment would have been still more perfect. So far as Section 2A is concerned, he has introduced the I.A.C. and the Air-India Corporation within the Central subject for the purpose of determination of the appropriate Government. In res-

pect of these two industries, for the purpose of the Industrial Disputes Act the I.A.C. and the Air-India Corporation will now be guided by the Central Government. All conciliations will be taken up by the Central Government, all references will be made by the Central Government and all incidental matters, namely, recovery of the dues, prosecutions, etc. will, be done by the Central Government. Why the Government thought that the I.A.C. and the Air-India Corporation should be included in this Section we have not got any explanation so far. These are Central Government controlled industries in one sense and there are many such Centrally controlled or owned Corporate bodies in the public sector. There are the Hindustan Steels, the India Cable Company, the Sindri Fertilisers, the National Instruments Factory, etc. The Government should have a uniform policy. It should not come by doses. It should not come by instalments. I can count in my fingers as to how many times the Industrial Disputes Act was amended. It might be that expediency made them wise but will they not feel now that the public sector industries are being incorporated in the Act for giving jurisdiction to the Central Government that there are other corporate bodies also which will face the same problem? I can, from my experience, tell this House that invariably all public sector concerns

TUB VICE-CHAIRMAN (SHRI M. P. BHARAVA) : Mr. Sen Gupta, you may continue later.

The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at five of the clock till eleven of the clock on Friday, the 19th February, 1965.