

The House reassembled after lunch at half past two of the Clock. THE DEPUTY CHAIRMAN in the Chair.

SHRI BHUPESH GUPTA: (West Bengal): May I, Madam, inform you and through you the House that the 'internecine' Kerala Government has fallen.

SHRI ABID ALI (Maharashtra): Incidents may take place, but the Congress will remain and its flag will remain flying always. That the hon. Member should know.

AN. HON. MEMBER: He will never go.

SHRI ABID ALI: I will also remain alive, and so many will succeed me and they will remain for long, long years, as long as the country.

SHRI A. B. VAJPAYEE (Uttar Pradesh): Long live Mr. Abid Ali.

SHRI BHUPESH GUPTA: Yes, like Johnny Walker.

THE INDUSTRIAL DISPUTES (AMENDMENT) BILL, 1963—continued

SHRI ABID ALI: Madam, my submission was with regard to discrimination about which complaint has been made. I also join in this submission, Madam, that there is discrimination. Here I am one with the hon. Member opposite, but for different reasons. He said that discrimination was in favour of the I.N.T.U.C. My submission is that discrimination has been against the I.N.T.U.C. There have been instances where we have convincingly proved where I.N.T.U.C. was entitled to representation and adjudication etc. but preference was given to other unions, to A.I.T.U.C. particularly. The reason, perhaps, for that was that some of the friends, both in the Centre and in the States, feel that they are the people who shout more, and therefore, to keep them a little under control they have favoured them. But I.N.T.U.C. is an organisation which

stands for the prosperity and progress and unity of the country and therefore my friends in the Government know that they will not trouble them much even when the I.N.T.U.C. is discriminated against. However, as there are only three or four minutes more for me, I shall leave this at that. Our friends who have spoken here seem to have utilised this occasion to tell the workers that injustice is being done to them by the Government although the fact is that this particular organisation has no support of the workers. This particular organisation has been disowned by the workers themselves. They do not like it because the workers have appreciated and learnt that the A.I.T.U.C. particularly has done them much harm and done much harm to their interests.

Therefore, my request to the Government lastly is this. Kindly appreciate this particular point not because the Labour Conference has taken a particular decision which has to be honoured by Government, but in addition to that as I have mentioned earlier, the suggestion is anti-national. If the suggestion is accepted it will keep the workers' mind always agitated and it will not be possible for the workers to attend to their jobs with peace and affection. And that is exactly what our hon. friends opposite want, so that the country may remain in difficulties and perhaps through the chaos, which they are trying to create, they may profit. But nothing of that kind will happen because the I.N.T.U.C. and Congressmen will always tell the workers what is right and what is wrong and will not allow the workers to be misled. I also request the Government to appreciate properly what these friends are and what they want. The Government should not be bullied.

SHRI RATANLAL KISHORILAL MALVIYA: My hon. friend Shri Thengari wanted a statement from the Government about the supremacy

of Parliament, whether it could overrule the decisions of the various tripartite bodies. I may submit that Parliament is supreme and it can do anything. There is no doubt that the decisions of the tripartite bodies, even of a very top-level body like the Indian Labour Conference, Parliament can change it and take its own decisions. But I may also submit that this august body, the Indian Labour Conference, consists of not only the top representatives of the recognised trade union organisations but also of the associations of employers of the public sector, and of the State Governments, and whatever decisions they have taken so far have proved well in practice. We should adhere to that system of consultations in conferences. Madam, unless it is proved that this system is not proving useful there is no reason for us to depart from the practice of basing our amendments and labour legislations on those decisions.

SHRI P. K. KUMARAN: Does your decision on the Bonus Commission recommendations also rest on the same principle? The Bonus Commission also had representatives of the management and workers.

SHRI RATANLAL KISHORILAL MALVIYA: I do not want to be dragged into a controversy. As the hon. Member knows there was a note of dissent. The Government had assured that only the unanimous recommendations would be accepted.

SHRI BHUPESH GUPTA: What did you say? You say that only the unanimous recommendations will be accepted, and therefore you have now accepted the note of dissent and rejected the unanimous recommendations. Is this your idea of unanimity?

SHRI RATANLAL KISHORILAL MALVIYA: The Government has accepted all the unanimous recommendations, and considered the note of dissent.

SHRI ABID ALI: Previously the Government has given the assurance

that only the unanimous recommendations would be accepted here.

SHRI BHUPESH GUPTA: Where?

SHRI ABID ALI: In this House.

SHRI BHUPESH GUPTA: To the Report as such all of them are signatories, and the vote was appended.

SHRI RATANLAL KISHORILAL MALVIYA: It is a general assurance given in connection with the Wage Board that all unanimous recommendations would be accepted and about this Bonus Commission also.

SHRI BHUPESH GUPTA: The less you speak about the Bonus Commission, the better.

SHRI RATANLAL KISHORILAL MALVIYA: So far as this particular amendment is concerned, the legal position is this. The provision in the Bill is on the lines of the existing section 10(2) where the provision exists for joint reference of disputes to adjudication by the employers and workers. Sub-section 10(2) has been in existence from 1947 and no difficulty has been experienced all these years and the Government has come to conclusions on the basis of the Conciliation Officers' reports. Further, the Government will have to issue a notification within a period of one month. If secret ballot of the entire workers is to be had, the necessary machinery will have to be created for this purpose and it will be difficult in practice to hold such a ballot within this specified period of time. It may be added that even for the purpose of recognition, which is governed by the criteria for the recognition of unions appended to the Code of Discipline in the industry, there is no provision for such a ballot. There is a detailed procedure prescribed for verification of the membership of the unions affiliated to the four All-India trade union organisations and also for the purpose of recognition. This procedure has been followed, and so. I do not think this amendment would be necessary.

SHRI NIREN GHOSH: On a point of clarification . . .

THE DEPUTY CHAIRMAN: I think we have had enough discussion on this

amendment. We are digressing. I shall now put the amendment to vote.

The question is:

3. "That at page 3, line 27, for the word 'workmen' the words 'employers and workmen' be substituted."

The motion was adopted.

THE DEPUTY CHAIRMAN: The question is:

12. "That at page 3, line 22, after the words 'Government is satisfied' the words after a secret ballot of the entire workers of the factory or establishment' be inserted.

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as mended, was added to the Bill.

Clauses 7 to 9, were added to the Bill.

Clause 10—Amendment of section 19

SHRI P. K. KUMARAN: Madam, I move:

13. "That at page 4, after line 21, the following be inserted, namely:—

"Provided that in the case of workers, the majority shall be determined by a secret ballot of the workers of the factory or establishment."

THE DEPUTY CHAIRMAN: I will request hon. Members who want to speak on the amendment, to focus their attention on the amendment itself. Let us not digress.

SHRI P. K. KUMARAN: Here it is a question of collective bargaining. The membership of a union may be fifteen per cent. and even if three such unions join together, the total would only

come to forty-five per cent. If such a union comes to an understanding or gets an award, it is not fair to impose it on the majority. That is why I say that you should decide by secret ballot. We have been discussing this subject all the time and so I do not want to go into details. Even if there is only one union, the principle of it is wrong—your making a section consisting of fifteen per cent. of the workers to represent the remaining eighty-five per cent. of the workmen. I hope the Minister will accept the amendment.

The question was proposed.

SHRI D. L. SEN GUPTA: I want to support the amendment. The conception of majority, in my submission, is foreign in law so far as industrial adjudication is concerned. This question was raised before the Supreme Court by the employers, namely, that an industrial dispute to be constituted in the legal sense of the term must have the backing of a majority. The Supreme Court ruled that out and has held that no majority is necessary; what is visualised is only the support of a substantial section of the workers. There are two conceptions; one is an industrial dispute and the other is an individual dispute. Whether a section of the people, not consisting of a substantial section or short of majority, can get up an industrial dispute is a moot point. For the 1st time, the Supreme Court has said that majority is not necessary. I am of opinion that it is the most correct and practical view which the Supreme Court could take in view of the fact that only very few industries can have workers commanding a fifty per cent. majority in that particular union. In that event, where is the possibility of the termination of an award? This will make an award a more or less permanent feature which is not what is intended. This will place hurdles, one after another, in our way and we will have to cross hurdles after hurdles to reach our goal. In our Constitution a living wage has been conceded as our goal but we are not yet anywhere near it. We cannot reach that goal by

stages. When an award is given—be it an adjudication award, be it an arbitration award—and if that award is to be terminated, you say that it can be done only by the asking of a section consisting of more than fifty per cent. of the people. This will put a great hurdle and it will be an almost impossible task. The hon. Minister in charge of this Bill may kindly take that aspect into consideration. This is the practical aspect and mature consideration, sober consideration is required in order to see that the Bill, as it is ultimately passed, does not destroy the purpose for which this is meant.

The Supreme Court has taken the view that a minority union can also get an award terminated. The hon. Minister in his provision has said that a minority union should not terminate an award so that the provision for a majority is necessary but I am of opinion that it will be all the more an impossible task if we provide here that unless a majority comes forward the award will remain for all time to come. Let us imagine the stage of things in the various industries. Mr. Malviya, the hon. Deputy Minister, is a well-known labour leader of the collieries. He knows how many trade unions there are in the collieries; in each colliery, two or three, some times even more than that. We are aware that not one single union covers more than fifty per cent. I can conceive of a position where there are three unions each commanding thirty per cent. of the workers. The total membership covered might come to ninety per cent. but no union has the majority in that sense. No union has got more than fifty per cent. of the workers in its fold and so no union will be in a position—be it the AITUC be it the INTUC, be it the HMS or be it the UTU—to terminate the award unless all the unions combine together. If they remain disunited, the award will remain and only the workers will suffer, not the employers. They do not go in for an award. In 99.9 per cent. cases, it is the workmen who benefit and if an award takes a permanent shape, these people would

suffer and you will thereby be perpetuating a state of things which is not desirable. Circumstances change every day and, with the change, naturally the workmen will expect something more and if they do not get through these methods, what else is the alternative? The hon. Deputy Minister knows that a majority is not necessary for starting a strike. A group representing ten per cent. of the workers can make the strike successful; even twentyfive per cent. of the workers, if determined, can make the strike successful. Section 23 of the Industrial Disputes Act makes all such strikes illegal because nobody can strike so long as an award is in operation. That being the position, strikes will be illegal. Nevertheless there will be illegal strikes. There are ever so many illegal strikes in the country and in spite of their illegality the Government had to bow down and the Government had to come to terms with them. We know of the Bombay Dock Workers' strike; we know of the miners' strike in West Bengal. By providing a provision of this character, you will be driving them to take recourse to illegal strikes because they cannot go on a legal strike. And they cannot get a legally valid reference made so long as the award is not terminated. Unless and until the award is terminated there cannot be any fresh awards. Even if the Government wants, the Government cannot make a legally valid reference unless under section 19(6) the whole award is terminated. And that termination is impossible because of this new provision. When it becomes so impossible, the workers will not sit tight and say that the law does not allow them to do anything. What is the course open to them in these circumstances? The only course open to them is to go on an illegal strike. So this is not a desirable position. Therefore, I would request the hon. Minister to accept my amendment at least for the sake of reasonableness, for the sake of appreciation of the workmen's interests.

SHRI RATANLAL KISHORILAL MALVIYA: Madam, this amendment is based on the experience of situa-

[Shri Ratanlal Kishorilal Malviya.] tions created due to rivalries in the unions. Minority unions have given notices of termination; awards or agreements, howsoever good they may be and in the interests of the workers, have been terminated and the result has been that due to the action of minority unions the workers at large in those units have suffered. And for another award or another agreement, it has been difficult for the employers and the workers to come together. This situation prevails for quite a long time creating all sorts of difficulties, creating bad atmosphere which leads to the sufferings to workers. So this aspect has got to be borne in mind by my hon. friend, Mr. D. L. Sen Gupta. So far as the majority is concerned, they are at liberty to terminate any agreement or award. And no advantage, which is legally due to the workers, is taken away by this amendment. I therefore oppose the amendment, Madam.

THE DEPUTY CHAIRMAN: The question is:

13. "That at page 4, after line 21, the following be inserted, namely:—

'Provided that in the case of workers, the majority shall be determined by a secret ballot of the workers of the factory or establishment.' "

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill.

Clauses 11 and 12 were added to the Bill.

Clause 13—Substitution of new section for section 25B—Definition of continuous service

SHRI P. K. KUMARAN: Madam, I move:

8. "That at page 5, after line 33, the following be inserted, namely:—

'(iii) forty-five days, in the case of seasonal workers'."

Madam Deputy Chairman, whatever we say, the hon. Minister is not prepared to concede the point. Here my intention is to bring the seasonal workers within the purview of the Act so that they may get the benefit accruing under this Act. The hon. Mr. Sanjivayya knows the condition of the women workers in the tobacco industry in Andhra Pradesh. The thousands of women workers—there are nearly eight to ten thousand women workers—will not be benefited by the provisions of this Act unless this condition of forty-five days is accepted. Another industry, in which seasonal workers are employed, is the sugar industry. I need not go into all those details about them. I hope this amendment of mine will be accepted.

The question was proposed.

SHRI A. D. MANI (Madhya Pradesh): Why not accept at least this one amendment?

SHRI ARJUN ARORA: Just one for a change?

SHRI RATANLAL KISHORILAL MALVIYA: Madam, this is an amendment which is being sought for seasonal workers. Seasonal workers are those who work only for a particular period and for the rest of the year they are unemployed.

SHRI P. K. KUMARAN: But they continue in service for years together.

SHRI RATANLAL KISHORILAL MALVIYA: And the provision which is made for lay-off compensation is very clear. The service required is a continuous one year service for payment of compensation. Therefore, this applies to those workers who are in

continuous service for one year and that one year is defined and all the privileges have been given to those workers. For instance, a workman shall be said to be in continuous service for a period if he is, for that period, in un-interrupted service including service which may be interrupted on account of sickness or authorised leave, or an accident or a strike which is not illegal or a lock-out or a cessation of work which is not due to any fault on the part of the workman. All those privileges are indicated for computation of the period of one year of service. I am therefore sorry I am not in a position to accept the amendment.

THE DEPUTY CHAIRMAN: The question is:

8. "That at page 5, after line 33, the following be inserted, namely:—

'(iii) forty-five days, in the case of seasonal workers.'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

Clause 14—Amendment of section 25F

SHRI P. K. KUMARAN: Madam, I move:

14. "That at page 6, after line 18, the following be inserted, namely:—

'(iii) after clause (c), the following proviso shall be inserted, namely:—

'Provided that the service shall not be treated as not continuous if the break in service is occasioned by the employers' wilful refusal to provide employment with a view to deprive the employees of the benefits accruing under this Act.'"

SHRI P. K. KUMARAN: Madam, this generally concerns workers in Government Departments, Railways and in the other undertakings also where they are called work-charged or contingent service and other things. In the Railways there is a rule that any casual labourer, who has put in six months of continuous service, is eligible for the Pay Commission scales.

SHRI RATANLAL KISHORILAL MALVIYA: This is covered here.

SHRI P. K. KUMARAN: But what happens in the Railways? We have got people with 12, 13 or 14 years of service who have not yet qualified for the Pay Commission scales. How does it happen? After they have served for five months and some days then suddenly you stop them for one day and again re-employ them.

There may not be any record 3 P.M. on paper. What is happening is that such people are in thousands. How do you account for them? That is why I say that this provision should be there. If it can be proved that the employer has consciously broken the service by creating an artificial break in service, then such things should not be treated as a break in service. There are thousands of such cases. In all the departments it is a problem. In coal-mines it is a problem. In the public sector undertakings it is a problem. Wherever casual labour is employed, it is a problem. They are not getting benefits which they are legally entitled to. Good regulations are passed, but they are not given effect to.

This is the last amendment and so, one incident I would like to mention. Some twelve years back in Srikakulam district one bus driver, Ramudu, was removed from service, dismissed by his employer. He went to the court. Finally, the High Court gave an award that he should be reinstated and, if not reinstated, he should be paid Rs. 4,000 as compensation. This

[Shri P. K. Kumaran]
 happend twelve years ago The employer refused to reinstate him and refused to pay him the money Again, he had to go to court. The Munsiff's court said that it could not be enforced because it had been time-barred under the limitation Act. He cannot claim his compensation Now, what is the remedy under this Act? Good provisions are there, but how do you meet such cases? So, I appeal to the Minister and to the Members of the ministerial benches to consider the position Instead of rushing through with this legislation, they should consider the whole thing and bring forward a comprehensive Bill as demanded by my friend, Shri Bhargava There are several defects All our amendments have been drafted from practical experience, from living examples which are taking place in the country So, I would request you to withdraw the Bill at least now and bring forward another comprehensive Bill or let us discuss it in a Select Committee and then pass it

The question was proposed.

SHRI NIREN GHOSH Madam, there is one point which I would like to raise This point has also been brought up in the House before whenever an opportunity arose Now, the same case can be made out that more than a lakh, two or three lakhs of workers, would be involved They would come under this amendment. If it is accepted, the temporary and casual workers who are denied the benefits given to permanent workers would be benefited They are a perennial source of trouble and industrial disputes arise Strikes take place But the Government has made a gift to the employers so that they can keep the workers more and more under their thumb under the penalty that they are not permanent workers Their services can be dispensed with at any moment Some sort of black-legs, a reserved pool of two or three lakhs of black-legs you have offered to the employers of India in order just to deny the absolute minimum

benefits to the working classes, leading to perennial troubles, industrial disputes, strikes and all that. I do not know what he will do. Some time or other when the working class will be able to force the issue then perhaps you will change your attitude, but that is not a proper way The way for Parliament, for the ruling Party, is to come forward and make at least proper legislation To you it may be a minor thing, but from the workers' point of view it is a major thing You have to make some sort of provision for this So, I would appeal that this amendment be accepted Let not the Government just say 'No' They should reconsider and see whether they can accept it

SHRI D. THENGARI This particular amendment is quite in keeping with the original intentions of the Government in this regard So, I request the hon. Deputy Minister not to refuse it, as if refusal is part of a ritual

SHRI RATANLAL KISHORILAL MALVIYA Madam, the rights of the workers, so far as their permanency is concerned, are protected by the Employees' Standing Orders Act. Every concern worth the name has got Standing Orders in which the service conditions of a worker are defined The complaint which has been made by Mr. Kumaran is correct We have also got complaints to the effect that if there is a provision in the Standing Orders to have a temporary worker only for a period of three months, six months or for a period of one year But even in cases of work of permanent nature, unscrupulous employers terminate their services before the end of three months, six months or one year and after a few days they will again be taken back in service on a fresh contract So far as law is concerned, this practice is against the Standing Orders It is for the trade unions to strengthen themselves and protect the rights which have already been conferred on the workers This amendment therefore, is not the remedy to protect such workers who are

turned out of service before the period expires. The remedy lies elsewhere. I would request my hon. friend to seek remedy elsewhere and not by means of this amendment. I am sorry, I cannot accept the amendment.

THE DEPUTY CHAIRMAN: The question is:

14. "That at page 6, after line 18, the following be inserted, namely:—

'(iii) after clause (e), the following proviso shall be inserted, namely:—

'Provided that the service shall not be treated as not continuous, if the break in service is occasioned by the employers' wilful refusal to provide employment with a view to deprive the employees of the benefits accruing under this Act.' "

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

Clause 15—Amendment of section 25 FFF

THE DEPUTY CHAIRMAN: There is one amendment in the name of the Deputy Minister.

SHRI RATANLAL KISHORILAL MALVIYA: Madam, I move:

4. "That at page 6, line 22, after the words 'granted to it' the words 'where the period of the lease or the licence expires on or after the first day of April, 1967,' be inserted."

The question was proposed.

SHRI ARJUN ARORA: Madam, I support the amendment, but there is one thing very intriguing about the amendment. Why does the Deputy Minister want this provision to come into force only in the cases of com-

panies whose leases expire on or after the 1st April, 1967? Mr. Bhupesh Gupta will probably offer a curious reply. He will say that the Deputy Minister has an eye on the forthcoming general elections. That obviously is not true.

SHRI BHUPESH GUPTA: How clever he is? He is putting into my mouth what he wants to say. I like it. He has a sense of humour.

SHRI ARJUN ARORA: That is obviously not true. The amendment by the learned Deputy Minister is very necessary, though it is not at all necessary to qualify it by adding these words: "...on or after the first day of April, 1967." The amendment deals with the section in the main Industrial Disputes Act which defines the entitlement of workers for retrenchment relief in case of closure. Many concerns close down and they say that they have closed down because of factors beyond their control. And then they refuse to give retrenchment relief to the workmen who are, of course, thrown out of job for no fault of theirs. It is to guard against it that section 25FFF was introduced in the Industrial Disputes Act in the year of grace 1956. Since then many defects have come to light. Some companies say that they are closing down because their licences have expired. In the electricity supply industry of the country this is a very serious problem. Licences for generation and distribution of electricity were granted by the respective State Governments early in this century. Even the licences which were granted for fifty years, a long period indeed, are expiring now. Many of them have already expired and some are expiring this year. As a matter of fact, in the case of the Lucknow and Allahabad Electricity Supply Companies they are expiring during this month, and the Companies will say: "Well, we are not able to give our workers any retrenchment relief merely because our licence is expiring." Normally, Madam in the case of the electricity supply industry closure does not take place. Where

[Shri Arjun Arora].
the licences expire, the Government or the municipalities or the State Electricity Boards step in. But unfortunately the municipalities and even the bureaucratically manned State Electricity Boards have funny ideas about fair labour practices. In this House I have in the past drawn the attention of the Ministry of Labour to the strange case of the Balarampur Raj Electricity Supply Undertaking. The State Electricity Board of U.P. took over the undertaking on the expiry of its licence, but then it did not take over the services of all the employees of that important public utility undertaking. They said: "The Company has closed and we select the people whom we want". That Company, that Raj Undertaking said: "We are closing because of no fault of ours because our licence has expired." This matter has become very important in the case of electricity supply undertakings in the country, and it is necessary that the Government should legislate that in the case of expiry of the licence granted to an undertaking it will not be able to refuse retrenchment compensation to its employees. But why ask the people to wait for this much-deserved benefit for three years? What will happen to the undertakings whose licences expire during these three years? As a matter of fact what was disputable so far will become clearer now, and this amendment which the Deputy Minister has moved will do more harm to the workers during the coming three years than the good it will do after 1967.

So far the issue was debatable. Industrial disputes were raised even in the case where an undertaking refused to give retrenchment compensation on the expiry of its licence. But now there will be no possibility of a dispute. The employer will throw this amendment on the face of the unions and say: "The Rajya Sabha has enacted, Parliament has enacted that you will get this benefit only in case my licence expired after the very auspicious date, the April, Fool's Day,

in 1967." So I urge upon the Deputy Minister, the Minister and all concerned and their advisers, to redraft the amendment and drop this "April 1967" because otherwise during the coming three years you will cause misery to the workers particularly in the Electricity Supply Undertakings. A large number of licences in these undertakings are likely to expire during the three years. I am not moving an amendment, and so the Deputy Minister can have the satisfaction of saying that he accepted no amendments in the Rajya Sabha. But I urge upon him to redraft his own amendment.

SHRI A. D. MANI: He has no time.

SHRI ARJUN ARORA: He can do so in the Lok Sabha.

SHRI RATANLAL KISHORILAL MALVIYA: Madam, my friend, Mr. Arora, in support of his argument against this amendment has cited cases specially of Electricity Boards. The terms of these Boards are fixed. Whatever their agreement was, the dates when they are likely to expire must have been mentioned in their licences. Therefore, the provision surely will not affect those cases where these licences are expiring after April, 1967. But then the position would have remained the same had not there been any amendment. Madam, the House knows that in cases of closure the employer used to get away with payment of compensation for only three months, though the provision in the Act is that when a worker is retrenched or when his services are terminated, retrenchment compensation should be given at 15 days for each year of completed service; the compensation has got to be paid at that rate. Now the provision has been made that he will be treated as a retrenched hand and he will be paid at the rate of retrenchment compensation. There may be cases, Madam, where the employer even after this amendment is passed, may not abide by the provisions of the law, and litigation may go on in such a case; the employer closes his shop

and goes away and the workers suffer. We have put a definite date to see that a reserve is created, and it is for the workers' organisations to see that they create a reserve during this period. The date of expiry of the licence will be known to the worker. He will also know what would be the amount of compensation payable by the employer to the workers, and an attempt may be made by the workers to see that that much reserve is made available by the employer to the workers after the expiry on the 1st April, 1967.

Madam, another point has been raised by Mr. Arora. He says that where the licences of electricity undertakings are expiring in 1965 or 1966 or where the licences have already expired the successor companies take only a number of workers and the rest are refused employment. For this I will only advise the trade unions to be alert and see that all the workers are retained in service.

SHRI ARJUN ARORA: What is the sanctity about that date, 1st April, 1967, which the learned Deputy Minister thinks to be necessary? Why is it not to be applicable from the moment the enactment comes on the Statute Book but only from the date April 1st, 1967?

THE DEPUTY CHAIRMAN: The question is:

4. "That at page 6, line 22, after the words 'granted to it' the words 'where the period of the lease or the licence expires on or after the first day of April, 1967' be inserted."

The motion was adopted

THE DEPUTY CHAIRMAN: The question is:

"That Clause 15, as amended stand Part of the Bill."

The motion was adopted.

Clause 15, as amended, was added to the Bill.

Clause 16 to 23 were added to the Bill.

Clause 24—Savings

SHRI RATANLAL KISHORILAL MALVIYA: Madam, I move:

5. "That at page 9, for the existing clause 24, the following be substituted, namely:—

'24. *Savings*—Notwithstanding anything contained in this Act, every person holding office as a presiding officer of a Labour Court or Tribunal immediately before the commencement of this Act shall continue to hold his office for such period as the appropriate Government may determine in this behalf from time to time.'

The position is this. Clause 3 of the Bill seeks to make serving or retired Judges or Additional District Judges of not less than three years' standing eligible for appointment as presiding officers of Industrial Tribunals. Some of the State Governments have further relaxed the qualifications and appointed presiding officers. When this Bill is passed, the presiding officers who do not satisfy the qualifications under the Act, would not be competent to hold the post. But the officers have already gained much experience in industrial adjudication and it may not be advisable to dispense with their valuable services at this stage. It is therefore proposed to have a provision under clause 24 so that such officers may continue to hold office till such time as the appropriate Government may determine for the purpose.

The question was proposed.

THE DEPUTY CHAIRMAN: The question is:

5. "That at page 9, for the existing clause 24, the following be substituted:—

"24. *Savings*:—Notwithstanding anything contained in this Act, every person holding office as a

[The Deputy Chairman]
presiding officer of a Labour
Court or Tribunal immediately
before the commencement of this
Act shall continue to hold his
office for such period as the appro-
priate Government may determine
in this behalf from time to time.' "

The motion was adopted.

THE DEPUTY CHAIRMAN: The
question is:

"That clause 24, as amended, stand
part of the Bill."

The motion was adopted

Clause 24, as amended, was added
to the Bill.

Clause 1—Short title and commence-
ment.

SHRI RATANLAL KISHORILAL
MALVIYA: Madam, I move:

2. "That at page 1, line 4, for the
figure '1963' the figure '1964' be
substituted."

It is a formal amendment, Madam.

THE DEPUTY CHAIRMAN: The
question is:

2. "That at page 1, line 4, for
the figure '1963' the figure '1964' be
substituted."

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 RATANLAL KISHORILAL
MALVIYA: Madam, I move:

1. "That at page 1, line 1, for
the word 'Fourteenth' the word
'Fifteenth' be substituted".

Madam it is again a formal amend-
ment.

THE DEPUTY CHAIRMAN: The
question is:

1. "That at page 1, line 1, for
the word 'Fourteenth' the word
'Fifteenth' be substituted.

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 RATANLAL KISHORILAL
MALVIYA: Madam, I move:

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

The question was proposed.

SHRI NIREN GHOSH: Madam, I
want to say a few words at the end.
Generally, this Bill, as is going to be
passed, is almost a useless piece of
legislation. Almost all the burning and
important problems of the working
class movement, as posed before the
Government, have been passed by
deliberately. In whose benefit? Not in
the interests of the workers, not in
the interests of the country. It might
be in the interests of the employer.
Now, time and again, the hon. Minis-
ter has brought in the role of the In-
dian Labour Conference. I must pin-
point the fact that he has misrepre-
sented the whole position. As regards
the verification procedure, I know, for
example, that our central trade union
organisation, the AITUC, had never
given up the right of a union to be re-
cognised on the basis of a secret bal-
lot. That is what we want, that is
exactly the point of view that was
put forward by the AITUC. It is the
Government and the INTUC which did
not agree, and that is why, for the

sake of compromise, perhaps in order to oblige the Government, they accepted this for the time being.

THE MINISTER OF LABOUR AND EMPLOYMENT (SHRI D. SANJIVAYYA): May I say, why don't you oblige here also, having abliged in the Indian Labour Conference?

SHRI NIREN GHOSH: We find.

AN HON. MEMBER: You have misused your power.

SHRI NIREN GHOSH: . . . that wherever we have gone to oblige you by accepting your standpoint, you have utilised it as an instrument used your power.

SEVERAL HON MEMBERS: No, no.

SHRI NIREN GHOSH: You are not interested . . .

SHRI AKBAR ALI KHAN (Andhra Pradesh): Question.

SHRI D. SANJIVAYYA: I do not think that the AITUC alone represents the working class; there are bigger organisation which represent the working class.

SHRI NIREN GHOSH: Might be, there might be other organisations.

SHRI D. SANJIVAYYA: I say, bigger organisations.

SHRI NIREN GHOSH: That is going to be tested in practice. What is the proof of that? When the hon. Minister says that we unanimously accepted or agreed to the position, I say that it is a misrepresentation of facts. You can give arguments in favour of your point of view but you ought not to misrepresent others.

Then the question of reason comes in. My hon. friend, Shri Abid Ali, is not here just now. Perhaps if a secret ballot is conducted, he will know—the minority puts up big demands, will catch the ears of the workers and

get the maximum votes. This sort of argument only the Minister of Labour can advance. Then we may as well strike off our Constitution and hold no elections on the basis of adult franchise because the same argument can be advanced—a minority party using certain slogans can get a majority and form the Government and just the Congress whom perhaps God has ordained to rule this country. So, this sort of flimsy, childish argument we have got to listen to. Why by pass the most reasonable position? Knowing full well, they do not want to accept this position. Had this proposition been accepted, Mr. Michael John's union in Jamshedpur would never have been recognised. It does not command the majority of the workers, it is going on. Whom are you obliging? You are obliging Mr. J. R. D. Tata. That is why you cannot accept this point of view. Accept our proposition even now, conduct a secret ballot if you have the courage at all. At the Bhopal Heavy Electricals, you hold the secret ballot to know the position of the workers and I can say that the majority of the workers will go by this. So, that is the position in so far as this burning question is concerned.

Similarly as regards the industrial disputes, disputes which lead to troubles and strikes, you never want to solve them. You want strike, but under what circumstances? You want it so that you can tell the workers that they are going in for an illegal strike and you will put it down. You want a strike under such unfavourable conditions that the heavy hand of the Government can be clamped down upon the workers and tell the workers, "You are having an illegal strike". So, no other way is left open for the workers. That is the position. You are hitting the worker. Again I ask you: In whose interest? In the interest of the employees or in the interest of the big employers of India? That is how you are pursuing a policy which is serving neither the working class nor the country, nor the purpose of production, nor is it for industrial truce.

[Shri Niren Ghosh]

It is mainly and primarily for the purpose of putting down the working class of India. I do not know whether you will succeed for ever or not. That is for history to say. But the working class cannot be put down in that fashion. Today, tomorrow or the day after they will go on protesting and some time or the other they will gather up force and launch a general counter-attack against this in order to force the hands of the Government and effect suitable changes in this policy. It is for you not to go in for that sort of thing. Even now, after the Bill is passed, I would request you to reconsider and bring forward a comprehensive piece of legislation in consultation with the Central trade unions. I ask you: Have you consulted the Indian Labour Conference? Did you put this piece of legislation before them, did you consult all the central trade unions before you came forward with this Bill before Parliament? You did not, and now you are bringing in that Indian Labour Conference again and again. Even now, whether this Bill is passed or not, I would request you to do so because that will be good for you as well as for the country.

SHRI D. THENGARI: Madam, while I will not like to reiterate what has already been said by way of comments on different clauses in the Bill, I would just like to emphasise that the entire Bill is a piece-meal legislation which is not going to serve the purpose it is meant to serve and, therefore, it is quite necessary to introduce a more comprehensive Bill. Therefore, I request the Government that instead of rushing this Bill through, the Government should take more time and bring in a more comprehensive Bill. Then, that would be to the benefit of the workers and all concerned.

SHRI D. L. SEN GUPTA: Madam Deputy Chairman, I am not very happy at the manner in which this Bill is being passed. So far as the hon. Deputy Minister is concerned, I shall not impute any motives that he has no

concern for labour. But what I want to tell you is that this Bill ought not to have been hurried through in the manner it is being done. If the Bill were on the pattern of the resolution in the tripartite committees, there was no harm in circulating this Bill for eliciting public opinion or for referring it to a select committee because he knows for certain that tripartite committees or the Indian Labour Conference in that sense are not fully the representative voice of labour. True indeed that labour delegates are there, labour advisers are there in them, but on questions of vital importance like this every individual labour might have his say. That has not been done.

So far as the Bill is concerned, let it not be considered a legislation of all the sections. I should like to remind the hon. Deputy Minister, the Treasury Benches here and the ruling party in particular that our national economy depends on it. It is a Bill on which industry, commerce and finance, all should be consulted. Unless labour is contended, unless industrial peace is maintained none of the plans, however trumpeted none of the plans, however trumpeted those plans might be, have any chance or success. If you want to make the Bill serve its purpose, it requires more careful attention, it requires greater thought and imagination. You have not done that. That is our grievance. You are passing it in a manner, as you yourself say, recommended by tripartite conferences. Left to the hon. Deputy Minister, possibly he would have accepted the amendment. But he at once consulted the Secretaries and said, "No, I do not agree".

SHRI RATANLAL KISHORILAL MALVIYA: Question.

SHRI D. L. SEN GUPTA: I see his difficulty. But that should not be the attitude of a democratic government. Government is run by Ministers, not by the Secretaries.

SHRI P. K. KUMARAN: No, no. Secretaries.

SHRI D. L. SEN GUPTA: If that is the position, I expect nothing from him. But I only pity the hon. Deputy Minister whose *bona fides*. I never doubt.

Yesterday an hon. Member from the South and a man like Mr. Sapru suggested that abolition of the Labour Appellate Tribunal has done great harm. I fully agree with them. The Deputy Minister knows it for certain that when the Labour Appellate Tribunal was there, an aggrieved trade union and, for the matter of that, an aggrieved workman could seek relief by preferring an appeal before the Labour Appellate Tribunal which cost him only Rs. 25. Now the Labour Appellate Tribunal is abolished and labour appeals have become a one-way traffic. In 95 per cent. cases—only 5 per cent. prosperous unions might prefer appeal to the Supreme Court—appeals in the Supreme Court are preferred from the employers side. Before becoming a Parliamentary Secretary or Deputy Minister, I think Mr. Malviya had the experience of filing an appeal in the Supreme Court. To file an appeal there costs Rs. 2,500. To file an appeal in the Supreme Court you have to file a special petition on a Rs. 250 stamp. Then the cyclostyling expenditure comes to Rs. 500. Then you have to spend on an advocate, an arguing lawyer and all that. Then, expenditure on printing paper is a costly affair. This is over and above this Rs. 2,500. I shudder to think whether this aspect was considered by the Labour Ministry at all while abolishing the Labour Appellate Tribunal. I know the answer would be 'Yes' again, a very old slogan. There would be again the shelter behind tripartite conferences and all that. Certainly do hold them. It is all very good that Government and employers join hands together. There are employers' representatives, Government representatives and labour representatives. We want to avoid too many appeal stages. Formerly there was the Labour Appellate Tribunal and then the Supreme Court. Now you say you are eliminating one stage of the Labour Appellate

Tribunal. While doing that you have really banned appeals so far as labour is concerned. This is not correct.

Madam, so far as the Deputy Minister is concerned he owes an explanation to this House before the Bill is finally passed, to the question raised by my hon. friend, Mr. Arjun Arora namely, why he has put 25FFF, why he has chosen that auspicious and blessed date, the 1st April, 1967 for putting it into operation, in his amendment of that section?

SHRI RATANLAL KISHORILAL MALVIYA: Madam, the main point which has been raised in the Third Reading is that this is a piecemeal legislation and that a consolidated Bill should have been introduced. Mr. Sen Gupta says that the Bill should have been circulated for public opinion. On the one hand, the hon. friends on the opposite side admit that labour affairs are getting complicated day by day. Problems crop up because we are implementing our plans and the industry is growing day by day. The strength of the labour is also growing day by day. Industries which were not known to this country previously, new industries, are cropping up and new problems are coming up. Therefore, in this background we must be ready for rapid or repeated amendments also. The Industrial Disputes Act is not a big Act. It is a very small Act and as my friend, Mr. Bhargava, said yesterday, during the short period of 15 years about fourteen or fifteen amendments have been made to this Act. I submit that it is so because it was the necessity of the time and it may be that in shorter periods still further amendments may be introduced. I may inform the House that another amendment to the Industrial Disputes Act is under preparation. There are also other legislations which are coming for introduction, for example, regarding the abolition of the contract system. So in the economy in which we have been placed, it will be very difficult and even if the Bill is consolidated

[Shri Ratanlal Kishorilal Malviya.] and a comprehensive Bill is introduced and passed by the Parliament, the need may be felt even after six months to have amendments to that comprehensive legislation. Waiting for such a comprehensive legislation is not in the interests of the workers or in the interests of the industry. It is through immediate measures, which give relief to the workers, that we can all help the workers and the industry.

My friend, Shri Niren Ghosh, attacked the Indian Labour Conference and imputed an allegation that there has been mis-representation by me. Mr. Ghosh is represented in the Labour Conference through his representatives and if Mr. Tata is there—he mentioned Mr. J.R.D. Tata but he does not attend the Conference and has his representative there—Mr. Ghosh also is represented. There is a full-dress discussion on the subjects on the agenda face to face. Conclusions are arrived at after full-fledged discussions and then after the discussions, whatever the conclusions are, we bring them before the House in the form of legislation. If my hon. friend does not believe his own representatives in the Indian Labour Conference, he could withdraw them but it would not be a good practice. It is a very healthy practice that these measures before the House come in after consultation with all the parties.

Shri Sen Gupta raised the point that it should have been circulated for public opinion. Who are the public who are going to give their opinion on such labour legislation? May I ask my friend: Are they not the persons who are represented in the Indian Labour Conference, the Standing Labour Committee and the various other tripartite bodies?

SHRI ARJUN ARORA: There are other workers. The organised workers, whom the three central trade union organisations represent in the Indian Labour Conference do not, all

the three combined, contain altogether more than 25 lakhs workers as members. So the labour represented in the Indian Labour Conference is only 25 lakh people which you will concede, is about one-fourth of the industrial workers in the country. Why consult only one-fourth of the labour and then say that you have consulted the labour?

SHRI RATANLAL KISHORILAL MALVIYA: There is a reply for it. The four trade union organisations represent the majority of the workers.

SHRI ARJUN ARORA: They do not. Only 25 per cent.

SHRI RATANLAL KISHORILAL MALVIYA: They are established organisations. You have to put this question to the other side whether they accept this or not, and I may say that this element which is represented in the Indian Labour Conference, is the element which is supported by the workers generally. If my hon. friend wants that those other workers should be represented, they should either join one of these four organisations which are . . .

SHRI ARJUN ARORA: Why should they?

SHRI RATANLAL KISHORILAL MALVIYA: I anticipate what you want to say and I will reply. If my friend wants that those 75 per cent. of the workers who are not members of any trade union organisation be represented, there is no difficulty at all. They may join either of the four organisations and can get representation in any of the conferences. Another way open is that if there is any other organisation which feels strongly, it may also have one lakh members and get the fifth organisation recognised by the Government.

SHRI AKBAR ALI KHAN: Independently.

SHRI RATANLAL KISHORILAL MALVIYA: Any organisation with a membership of one lakh will be recognised for the purpose of representation in all Government conferences etc.

SHRI ARJUN ARORA: Why does the Government want to force trade unions to hitch their wagons to the bandwagon of some central organisations? On important matters all the registered trade unions should be consulted.

SHRI RATANLAL KISHORILAL MALVIYA: So far as these organisations are concerned, the Government hears them. The way is open to them to represent their matters to the Government independently of these organisations and get relief. The workers may choose wiser organisations, and wiser leadership which represent the working classes in the conferences. I will advise my hon. friend to advise the workers to become wiser and try to get representation for themselves in the way I have just mentioned.

I have already replied to the point of Mr. Sen Gupta that reference to Select Committee or circulation of the Bill does not solve the purpose and therefore the best method, which has been found out, is to get the opinion in conferences like the Indian Labour Conference and proceed on with the necessary legislation.

Now I will make only a little reference to what Mr. Ghosh has said, the threat of strike; supposing this is not accepted by them, there is the threat of strike from that side. May I submit very humbly, Madam, that strikes are not launched only on legal issues. There are strikes which are conducted to achieve some other objectives which are beyond the scope of the Industrial Disputes Act. What will the Industrial Disputes Act do or what will this amending legislation do for them? So I will only advise Mr. Ghosh to see the tides of time and act wisely.

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Thank you, Madam.

THE DEPUTY CHAIRMAN: The question is:

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

The motion was adopted.

THE PRESS COUNCIL BILL, 1963

THE DEPUTY MINISTER IN THE MINISTRY OF INFORMATION AND BROADCASTING (SHRI C. R. PATTABHI RAMAN): Madam Deputy Chairman, I seek the permission of the House to move:

"That the Bill to establish a Press Council for the purpose of preserving the liberty of the Press and of maintaining and improving the standards of newspapers in India be taken into consideration."

Madam, the House is already familiar with this measure. A Press Council Bill was introduced in this House in July, 1956, and came up for consideration in December of the same year. It was passed with a few amendments. With the dissolution of the first Lok Sabha in April, 1957, the Bill lapsed.

The present Bill, Madam, follows the 1956 model with a few modifications. Before I deal with the various provisions of the Bill I would like to refer to its historical background. The Press Commission, Madam, which was appointed by Government in 1952, recommended, *inter alia*, the establishment of a Press Council. It was the considered view of the Press Commission that a body like the Press Council should be the guardian of the virtues so vital to the freedom of the Press, namely, editorial independence, objectivity of news presentation and fairness of comments, and should be entrusted with the responsibility of fostering the development of the press. The Commission, Madam, realised that, whatever the law relating