

MR. CHAIRMAN: How can I explain it to the House? If a notice is given, it has to be processed and you would know in due course what has happened to it. If all the notices are mentioned in the House, it would be like asking me to do my office work here in the House.

SHRI P. K. KUMARAN: It is creating unrest in the country in industrial sector.

MR. CHAIRMAN: The notice has been passed on.

SHRI BHUPESH GUPTA (West Bengal): It is the privilege of the House.

MR. CHAIRMAN: When you give the notice it has to be processed.

SHRI BHUPESH GUPTA: The position is this. The Bonus Commission's Report was laid on the Table of the House. We asked for a discussion. The discussion was delayed and we are not allowed . . .

MR. CHAIRMAN: Please do not explain that to me here. I am dealing with the notice.

SHRI BHUPESH GUPTA: Then, they should make a statement.

MR. CHAIRMAN: They may probably make it—I do not know—or they may not make it.

SHRI BHUPESH GUPTA: They have made a retrograde modification inimical to the interests to the working class.

**THE INDUSTRIAL DISPUTES
(AMENDMENT) BILL, 1963—
*contd.***

MR. CHAIRMAN: We pass on the next item. The discussion on the amendment to clause 4 had come to an end yesterday. The Minister will now reply.

THE DEPUTY MINISTER IN THE MINISTRY OF LABOUR AND EMPLOYMENT (SHRI RATANLAL KISHORILAL MALVIYA): Sir, I will reply to the amendment of Shri Arjun Arora, I on which he and Shri Bhupesh Gupta had spoken yesterday. This particularly pertains to the fact that besides Judges, lawyers etc. should be taken on as Judges of the Tribunal. The position is this. The qualifications of the presiding officers of Industrial Tribunals have been prescribed after consulting the tripartite national bodies.

The employers have been of the view that the Tribunal should be manned by High Court Judges. In 1958, that is, in the 16th Session of the Indian Labour Conference at Naini Tal, in view of the practical difficulties in obtaining suitable persons for appointment as presiding officers, the employers agreed to the appointment of District Judges. The question of further lowering the qualifications will have to be approved by the national tripartite body. Persons, possessing special knowledge of problems relating to industry and labour, may not command the confidence of parties to the same extent as the judicial officers. This is a very broad qualification which can cover any person, and in the circumstances, I am unable to accept the amendment.

[THE DEPUTY CHAIRMAN *in the Chair*]

I may submit that there is ample scope. The insistence of the Government at present is on arbitration of cases. We are against the delays and we want that every case should be decided by arbitration. There is scope enough for anybody outside the persons mentioned in the amendment to come forward and it is open to the parties to have anybody as arbitrator.

SHRI ARJUN ARORA (Uttar Pradesh): Madam, the Deputy Minister's answer is very unsatisfactory because to every sensible suggestion, his

[Shri Arjun Arora] patent reply is that the matter was ; discussed at the tripartite meeting and agreed upon. The Parliament of India, as far as I am aware, never delegated its power in the matter of legislation to the Indian Labour Conference much" of which is hand-picked by the Government.

SHRI P. RAMAMURTI (Madras): I would like to say that the question as to who should be appointed was never discussed in any tripartite conference.

SHRI RATANLAL KISHORILAL MALVITYA: I would refer to the 16th Session of the Indian Labour Conference. It was held in Naini Tal.

THE DEPUTY CHAIRMAN: The question is:

11. That at page 2, lines 31 to 34, for the existing clause 4, the following be substituted, namely:— \

"4. *Amendment of section 1A.*— In sec Lion 7 A of the principal Act, in sub-section (3),

(i) after clause (a), the following clause shall be inserted, I namely: —

'(aa) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or';

(it) in clause (b), after the words 'not less than two years' the word 'or*' shall be inserted; and

(Hi) after clause (b), the following clause shall be insert- I ed, namely: —

'(c) he has special knowledge of the problems relating to industry and labour.' "

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

New Clause 4A

SHRI P. K. KUMARAN (Andhra Pradesh): Madam, I move:

7. That at page 2, after line 34, the following be inserted, name-

*.—

"4A. *Amendment of section 10.*— In section 10 of the principal Act,—

(i) in sub-section (1) for the word 'may' the word 'shall' shall be substituted;

(ii) after clause (d) of subsection (1), the following further proviso shall be inserted, namely:-

'Provided further ttat where the dispute relates to dismissal or discharge, it must necessarily be referred to arbitration: '

(Hi) after sub-section (4), the following proviso shall be inserted, namely: —

'Provided that where the reference is defective, the union concerned shall have the right to get the reference altered'."

Madam, regarding my first amendment, what is happening in our country is that when a dispute is raised, however much the unions pursue their case, the issues are never referred by Government to arbitration Or conciliation or any other thing. More often they have got to go to the extent of declaring a strike, and only when the strike is on, such issues are referred to arbitration. So, instead of going through the costly procedure I want that the word "may" should be replaced by the word "shall" so that all demands or dis-

putes, when raised, may be automatically referred to arbitration or adjudication.

As far as the second amendment is concerned, generally what is happening is any case of dismissal or removal from service or discharge is not referred to arbitration under the Industrial Disputes Act. Here and there in certain private concerns they may be doing it but generally in public undertakings or industrial concerns run by the Government, either State or Central, such cases invariably are not so referred. So, such cases should automatically go to arbitration. Regarding the third amendment, since the procedure is so lengthy and so tortuous, often such references are made in the last minute in a haphazard way. In the last resort, the terms of reference are written in such a way that the bone of contention, the main issues, are not covered under the terms of reference. In such cases the unions concerned should have the right to get the terms of reference altered by the industrial court. That is my intention.

So, in order to provide these facilities I suggest that the amendments may be accepted by the House.

The question was proposed.

SHRI P. RAMAMURTI: Madam, the amendment is a very simple one. Our Government talks so much about industrial relations. They say that it is the workers who are at fault very often, that the workers are itching for a strike, and all that sort of thing. But here is an amendment which only seeks that the workers should be given an opportunity to canvass their case before the court over the appointment of which the workers have no right whatever, have no say whatever. You appoint your own courts, but at least give us that opportunity to go and canvass our case as against the case of the employer whenever disputes arise before an impartial authority openly, before the eyes of the entire public. Let that court decide whether our

case is a just one or whether the employers' case is a just one, whether we are in the wrong or whether the employers are in the wrong. This is the simple demand that has been made here.

In the absence of this provision, what is happening today is that many State Governments in their desire and extreme anxiety to bolster up their own pet organisation, the I.N.T.U.C., use this weapon, use this right which has been given only to the Government to refer the disputes to particular tribunals. They use this authority or rather they misuse this authority to refuse reference in all those cases where the unions concerned are not those of the I.N.T.U.C. This has been the case throughout. I can quote chapter and verse, and for each one of these things we cannot go to the High Court. The working class is a poor class. You have not improved the conditions of the working class, and the working class cannot be going to the Supreme Court again and again with a writ application saying that the Government of a particular State is misusing this power. After all an industrial dispute has been defined. It cannot be a frivolous dispute for the simple reason that we are asked to refer to adjudication only those cases which fall within the ambit of the Act where what is an industrial dispute has been defined. Whenever disputes regarding this arise and when the conciliation efforts made by the conciliation officers appointed by the Government fail, what is the remedy after that? The only remedy is either the workers have got to give up their case altogether or assert their right by going on strike. This is the only remedy. In the meanwhile if the workers are not to assert their right by going on strike, there must be some provision by means of which they can canvass their case. We do not want to give the right to the Government. The Ministers may take the law in their own hands. They may think that a particular union does not deserve it, let them go on strike.

[Shri P. Ramamurti.] This is what the various Ministers do. After all, the Congress Ministers are open to the charge of discrimination. I can certainly say that. Take, for example, the Bhopal incident. We know that the I.N.T.U.C. there does not represent, even according to the figures furnished by the Government of India's own officers who went and inspected the records, even 300 workers though there are more than 10,000 workers there. That is the union that has got the right to represent all the workers.

Therefore, all that this amendment asks is to give them the right. If the conciliation proceeding fails, then automatically it must go before an industrial tribunal. Why the Government oppose this suggestion I do not see unless it be that they want to keep in their armoury a weapon in order to put down all those unions which they do not like. But I can tell you, despite any attempt that you may make—you have been pampering the I.N.T.U.C. all these years, you have been trying to see that the other unions are put down—the working class in this country will certainly get over all this repression that might be put upon them. Therefore, I would ask them to wake up to a sense of reality, sense of justice, and see that the right to go to the court is given to the workers whenever they choose. This is the simple thing and I do not see why the Government of India should refuse to accept it.

SHRI ABID ALI (Maharashtra): Madam, I may say a few words with regard to the strong words used by the hon. Member opposite. Firstly, of course he knows very well that abuse does not argue a case, and for all these years . . .

SHRI P. RAMAMURTI: On a point of order. I have never . . .

SHRI ABID ALI: I am standing. I am not yielding.

(Interruptions)

SHRI P. RAMAMURTI: I am raising a point of order. The point of

order is, when I have not abused anyone—I may have used harsh words—is it open to any Member to charge me with abusing anybody? Have I used any abusive word in my speech? Is it open to a Member to talk about something which I have not said?

SHRI ABID ALI: What I am submitting, Madam, is that to use the words which he has used with regard to the I.N.T.U.C. is not proper. I appreciate his feelings when he is disowned by the workers in the establishment to which he made a reference.

(Interruptions)

THE DEPUTY CHAIRMAN: Let him have his say now.

SHRI ABID ALI: Was he not disowned by them? At least let him hear me. Madam, what I was submitting was, when he and his union and the friends whom he is representing here have been disowned by the workers in the establishment to which he has made a reference, why should he come here and . . .

SHRI P. RAMAMURTI: You have been disowned.

SHRI ABID ALI: Madam, please control him.

What I was submitting was, there is a process laid down. We are not representing only 300 workers, certainly we have a vast number. *(Interruptions)* Madam, is it the way?

THE DEPUTY CHAIRMAN: You carry on.

SHRI ABID ALI: See how he behaves. Because he behaved like this, the workers disowned him. *(Interruptions)*. He should go and be useful. We are the workers' servants, we are their well-wishers. We serve them by our efforts. But their efforts are not to the workers' benefit. They simply shout, they howl, they abuse. They say that the Government has

done this and that. They do not know how to benefit the worker;. Therefore, they have disowned then and the I.N.T.U.C. is there. The workers love us, they appreciate us. We have good credentials and we are using the credentials for their good and we will be there till we are qualified to be there, not by shouting and abusing but by serving them.

Thank you.

SHRI P. RAMAMURTI: Is he prepared to make a statement?

(Interruptions)

SHRI ARJUN ARORA: Madam, I want to say a few words about the amendment.

THE DEPUTY CHAIRMAN: About the amendment? Yes.

SHRI ARJUN ARORA: Not about the exchange of harsh words or otherwise.

Madam, this amendment is a good one and I support it though I do not support the source from which it has come.

SHRI BHUPESH GUPTA (West Bengal): All right, you put it in your name.

SHRI ARJUN ARORA: Particularly I want to draw the attention of the House to that portion of the amendment which says—

"Provided that where the reference is defective, the union concerned shall have the right to get the reference altered."

Now, this is a much-needed amendment. The whole Industrial Disputes ("Amendment") Bill, which we are considering, is primarily intended to remove certain difficulties created by the verdicts of the Supreme Court, some of which may jeopardise the machinery for adjudication. Now, this particular amendment also relates to

a decision of the Supreme Court. In the well-known judgment in the Bata Shoe Company, Patna case, the Supreme Court has held that once the Government makes a reference in certain words, the Government cannot alter it. If the reference is defective, the whole thing may become infructuous, but the Government cannot alter the reference. This difficulty is being faced by trade unions all over the country.

Madam, the present arrangement is that the parties go in for conciliation and state their case. And on the basis of the understanding which the Conciliation Officer is able to arrive at, he frames the issues. He sends them to the appropriate Government. The appropriate Government have some competent and some 'otherwise' people to examine them and these competent or 'otherwise' people frame the issues for reference.

SHRI P. RAMAMURTI: Competent or otherwise.

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I SHRI ARJUN ARORA: Well, many times the reference is so worded that the whole content of the dispute, which threatens industrial peace, is not imported into the reference. Sometimes the issues are misleading, sometimes the issues are so carelessly framed that the adjudicating authorities' powers are very much restricted. That creates a great deal of difficulty. The result is that the trade unions try to get the reference altered. But then, the Supreme Court's ruling in the Patna Bata Shoe Company's case is hurled against that, and they become helpless. This portion of the amendment is one which the Government itself should have brought forward. This difficulty is being faced by trade unions all over the country for the last four or five years and there must be a remedy. Even if the Government is not in a position to accept the first two parts of this amendment, I urge upon it, in all humility, to give its earnest consideration to the third part of it which relates

[Shri Arjun Arora.] to alterations in references. As a matter of fact, this portion of the amendment only seeks to give the appropriate Government more powers. Government should not feel hesitant to take more powers particularly when a party like the hon. Shri Kumaran's suggests that the Government should have more powers, and the Government should have the power to alter the reference, it should take this power. And I may remind you that in view of the Supreme Court's judgment to which I have made a reference, they do not have the power.

SHRI RATANLAL KISHORILAL MALVIYA: Madam, sweeping remarks have been made by Shri Rama-raurti that there is favouritism or discrimination and that the cases of the Communist Party, the party to which he belongs, are not referred to

SHRI P. RAMAMURTI: Not only my case. I am not talking of my case. I am talking about the unions which you do not like. There are other unions, not only my union.

SHRI RATANLAL KISHORILAL MALVIYA: This is absolutely wrong. I may submit that if there are such cases which have been examined and not referred, there must be some reasons, and the reasons are given to the parties.

SHRI P. RAMAMURTI: No.

SHRI RATANLAL KISHORILAL MALVIYA: They are given.

SHRI P. RAMAMURTI: Government has not given them. The only simple answer is that the Government does not see any valid reason for referring it. That is all. That is the only answer.

SHRI ABID ALI: Is it not a fact that statements were placed here showing all-India figures both in the Central sphere and in the State

sphere? A number of applications were made and adjudication references were made.

THE DEPUTY CHAIRMAN: The Minister will deal with all those cases.

SHRI ABID ALI: The AITUC's number was sufficiently high.

SHRI P. K. KUMARAN: Will Government give a comparative statement of the issues raised and referred?

THE DEPUTY CHAIRMAN: Mr. Malviya, you better reply.

SHRI RATANLAL KISHORILAL MALVIYA: I only beg to submit—I am dealing with the cases and I order "the references and therefore I can say with authority that very liberally the references are made and my friend has got no ground to complain. If the references are not made, they are not made on certain grounds. This, does not apply only to the party to which the hon. Member belongs but to everybody. There must be a number of cases of other parties too, I.N.T.U.C. and H.M.S., where the cases have not been referred. If they are not fit for reference, they are not referred.

SHRI P. RAMAMURTI: I am speaking for all.

THE DEPUTY CHAIRMAN: Please listen to him and then ask for any clarification at the end.

SHRI RATANLAL KISHORILAL MALVIYA: With regard to the Bhopal case, to which Mr. Rama-murti has referred, I have already replied yesterday. I do not want to repeat it. I have already given a detailed reply. In fact, if the parties do not produce the books at all, what is to be done? .

SHRI ABID ALI: They have not got it.

SHRI RATANLAL KISHORILAL MALVIYA: We have got a procedure for verification.

(Interruption by Shri Niren Ghosh)

THE DEPUTY CHAIRMAN: No interruptions now.

SHRI RATANLAL KISHORILAL MALVIYA: If the union concerned does not follow legal formalities, what are the officers to do?

SHRI P. RAMAMURTI: Put them in jail.

SHRI RATANLAL KISHORILAL MALVIYA: So far as the amendment is concerned, this is a new clause which is sought to be introduced by my hon. friend; it is a new amendment which he wants to insert. It has nothing to do with the amendment which we seek in the amending Bill. If the amendment which he wants, namely, "for the word 'may' the word 'shall' shall be substituted;" is accepted, Madam, the effect will be that every dispute will have to be referred for adjudication. This is a major amendment and, according to the practice obtaining in the Government of India, should be approved by a tripartite national body. In this connection, it may be said that the model principles for adjudication have been evolved at the Indian Labour Conference. Therefore the Government do not act in an arbitrary manner.

Further, under section 12(5) the Government has to record and communicate to the parties concerned reasons for refusal. Such reasons must be germane to the dispute. The Act does not envisage that all disputes should be referred for adjudication. If at all, the suggestion could be again put forth by my hon. friend before the Indian Labour Conference and advice sought.

SHRI P. RAMAMURTI: The Indian Labour Conference meets once in a year.

SHRI NIREN GHOSH (West Bengal): You fix the agenda. You do not allow all this to be put into it.

i SHRI RATANLAL KISHORILAL MALVIYA: Madam, this is wrong because we invite suggestions for the agenda. All relevant suggestions are incorporated in the agenda and they are discussed in the Indian Labour Conference.

Now, there is another amendment which has been proposed by my hon. friend to section 10(1) to be put as a proviso. It says: —

"Provided further that where the disputes relates to dismissal or dispute relates to dismissal or referred to arbitration;"

I My humble submission for the consideration of my learned friend is that arbitration is always voluntary. It is for the parties to come to agreement and get the case referred to arbitration. It is not as if we can impose arbitration. Imposition of arbitration would only mean adjudication. And I may assure my hon. friends that in cases of dismissal, discharge or retrenchment, wherever there is a proper case, we do refer it for adjudication.

SHRI P. RAMAMURTI: The Member said he meant adjudication and not arbitration. Therefore, let us not discuss the question of arbitration.

SHRI RATANLAL KISHORILAL MALVIYA: If he wants adjudication, I beg to submit that in proper cases adjudication is given. Any discharge, dismissal or retrenchment is considered on merits and reference is allowed.

He wants another amendment No. (iii) to section 10 of the principal Act. His amendment reads as follows: —

"Provided that where the reference is defective, the union concerned shall have the right to get the reference altered."

' The amendment is not very clear. The terms of reference are drawn up by

[Shri Ratanlal Kishorilal Malviya.] the Government in the light of the demands made by the unions. The tribunal also draws up issues after hearing the parties. Government will have to consider whether any amendment or alteration to the reference is called for and whether it is possible in the light of judicial decisions. I may submit. Madam, that the Government has not got power to change the issue where absolute change is sought. In such a case, the whole issue is required to be withdrawn and replaced by some other issue. But if the matter refers to the issue concerned and if any alteration is required we do amend it and we do alter the terms of reference. Thus to a great extent the need which is expressed by my hon. friend is met. Therefore, firstly, because it does not arise out of the present Bill and, secondly, for the reasons mentioned by me I do not accept the amendment.

SHRI P. RAMAMURTI: I want one clarification. Supposing a union raises half a dozen demands, demands regarding wages, demands regarding leave, demands regarding bonus and dearness allowance, out of these four demands, the Government refers only one demand for adjudication; it does not refer others. Later on, even if the Government finds that another demand has got to be referred, the Government cannot alter it under the existing law because the Supreme Court judgment in the Bata case prevents the Government from doing so. Even by mistake if the Government does not refer another issue which is a very vital issue, the Government has not got the power to alter it. That is the present position.

SHRI RATANLAL KISHORILAL MALVIYA: Madam, the procedure is very ordinary. When a large number of demands arise we examine them. To avoid delay we refer the demands about which we are sure that the procedure has been followed and we find that they are referable. We continue examining the demands. When we find that other demands also merit refer-

ence we make a second reference, if necessary, a third reference or even a fourth reference. The Supreme Court decision does not come in the way.

SHRI D. L. SEN GUPTA (West Bengal): Just one clarification. The hon. Deputy Minister while replying on the amendments has just observed that one amendment relates to addition of a sub-clause to the original section 10 of the Act, namely, arrogating to the Government further power to amend the reference. Is it the position taken by him that inclusion of a new provision does not come within the scope of the amendment? He has just observed that it is inclusion of a new provision. But is it not the position in law that a new clause can also be added by an amendment?

SHRI NIREN GHOSH: I want some-clarification on this point. How does the Minister cover those cases because over a number of months generally the Government do not make any reference to adjudication over vital matters where they think the workers are weak. Their case goes by default and when the union gathers strength and threatens a strike, then they refer only certain of the demands put forward by them and after reference to adjudication, if new disputes crop up over vital issues and the workers agitate then there is no fresh reference, as the Minister says. Generally there is no-second or third reference. He cannot cite any instance. If the workers say: 'Unless there is reference, we will go on strike' then they come down with a heavy hand saying that the workers had gone on an illegal strike. " 11 those cases you have not covered. To a certain extent, this amendment covers certain of these cases. If you refuse to accept it, then what is the position? You do not want any peace in the industrial establishments but you want strikes. If the Government want strikes, there will be strikes.

SHRI RATANLAL KISHORILAL MALVIYA: So far as Mr. Sen Gupta is concerned, what I meant was that un-

der the interpretation of the Industrial Disputes Act, we have powers to alter the terms of reference. So far as Mr. "Ghosh is concerned, I may assure Lim that the practice which is being followed by the Government here is this,

SHRI P. RAMAMURTI: The Government of India or the State Government?

SHRI RATANLAL KISHORILAL MALVIYA: The Government of India. There are two things. Firstly, the issues which are examined; and those which are found referable to adjudication are referred. If necessary, the issues are also added, but for certain reasons if some delay is caused in the examination of other issues, fresh references are made. I may assure my hon. friend that I have passed orders making such references. The condition is that for a fresh reference the issue must be fresh. As Mr. Ramamurti has pointed out, if it is a case of wages then wages will be the issue. If it is something else, a different issue can be framed but if it is wages; then we amend the issue.

THE DEPUTY CHAIRMAN: The question is:

7. That at page 2, after line 34, the following be inserted, namely:—

"4A. Amendment of section 10.—In section 10 of the principal Act.—

(i) in sub-section (1) for the word 'may' the word 'shall' shall be substituted;

(ii) after clause (d) of subsection (1), the following further proviso shall be inserted, namely:

'Provided further that where the dispute relates to dismissal or discharge, it must necessarily be referred to arbitration;'

(Hi) after sub-section (4), the following proviso shall be inserted, namely:—

'Provided that where the reference is defective, the union

concerned shall have the right to get the reference altered.'

The motion was negatived.

Clause 5 was added to the Bill.

Clause 6—Amendment of section

10A.

SHRI RATANLAL KISHORILAL MALVIYA: Madam, I move:

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

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

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 questions were proposed.

SHRI P. K. KUMARAN: Madam, during the discussion on the Bill during the last Session, yesterday and today, throughout the subject of how the nature of representation is to be decided was discussed. Yesterday only, the question of Bhopal Heavy Electricals Workers Union was raised. Again the question of representation given to the Vizag Harbour Board was raised. In all these cases, we find that the representative nature is decided by the union by arbitrary verification procedure. The Minister was saying that the Tripartite Conference has decided that the recognition of the representative nature should not be decided by secret ballot. I do not know how it was decided. The decision is, it should be decided by verification. That does not rule out that the representative nature should be decided by secret ballot. I remember one case in the Vijaya-wada P.W.D. Workshop where a ballot was taken in spite of this decision and that was ordered only when the Government found that the I.N.T.U.C. Union will get the majority and they got a majority, but when the something was demanded by other unions, the Government refused. So, before deciding

[Shri P. K. Kumaran.] which is the representative union, the opinion of the entire workers of the establishment should be taken into consideration. Moreover, when a union decides to function and does propaganda, you cannot simply say: 'You open your books for verification'. Sometimes, as Mr. Ramamurti said, you ask the Secretary to produce the records when he is in jail. So, in order to overcome such things I suggest that it is very fair that if secret ballot is given, justice can be meted out.

Not only that. Day in and day out the Government say, they want one union in one industry. If you adopt this procedure and decide which is the representative union—let it be of I.N.T.U.C. or H.M.S. or A.I.T.U.C. and let the workers decide it—then you will automatically find that one union merges itself in the representative union and that is how an all-India single united organisation can be evolved, if this principle is accepted. If you do not accept it and then have verification procedure, it is only to practise discrimination against one or other union except the I.N.T.U.C. union.

SHRI D. THENGART (Uttar Pradesh) : I want to know from the Minister whether in the light of his past experience it is desirable to introduce a new system, that is, of secret ballot and whether the Parliament is not a competent body to set aside the decision of the Indian Labour Conference even if it is necessary to set aside.

SHRI P. K. KUMARAN: The Labour Conference decisions are observed more in the breach.

SHRI P. RAMAMURTI: As far as the Indian Labour Conference decision is concerned, there we have agreed to follow some decisions wherever there was agreement. On issues on which we think there can be agreement between the Government, employers and workers, there we tried to take some agreed decisions but that does not at all mean that the Tripartite Conference will substitute our function that

the Parliament has abdicated its functions and I have handed over its function to the Tripartite Conference. Here we are dealing with the question of what is generally known, in any civilised country, as the right of collective bargaining by the workmen. After all, what is a recognition of a trade union? The recognition of a trade union is the recognition of the right of the workers to collectively bargain with the employer because the worker is a weaker party. An individual worker cannot go and bargain with the employer individually. Therefore collectively, on behalf of the workers in a particular establishment, they should get the right of bargaining with the employer collectively.

Now the question comes as to who is the authority or organisation who has got the right to go and collectively bargain on behalf of all the workers in the establishment in which they are employed. How is it to be decided? We swear so much by democracy. Parliament is to be elected on the basis of adult suffrage. The entire people of this country have to elect Parliament, the Prime Minister of this country, the Chief Ministers and the various Ministers. They are all elected on the basis of adult suffrage. Here when you come to the workers, when they say that you should give them the right to choose whichever union they want, what do you say? Unfortunately, in our country there is multiplicity of unions. It is not a desirable thing. As far as we are concerned, we are prepared to do everything in our power to see that multiplicity of unions does not exist.

That is why we have offered many solutions. We have said, for example, let the Government undertake the responsibility of conducting free and fair elections; I am prepared to agree and submit a list of my membership in a particular union. Let the I.N.T.U.C. give their list of membership; I have no objection; I do not want it to be scrutinised. The Government may scrutinise my mem-

bership and accept what it thinks to be right. Let the I.N.T.U.C. give a list of their membership; I am prepared to accept it. Let the other unions give lists of their membership; I am prepared to accept them with-scrutiny. Let all this membership be pooled. Let us all try and have a single union for every establishment. Let you have the authority to ensure that free and fair elections take place. I am prepared to see that all my unions are dissolved and merged into a single union. This is what was in vogue in Mysore under an Act which was there before 1947, a union for every establishment. The then Labour Commissioner of the Mysore Government called for the lists of membership and he held the elections and declared the result. That system was prevailing in Mysore before it was integrated in the Indian Union. But, unfortunately, we do not have any such system here. Any seven members can join together and have their own union. Therefore, under these conditions, who is to decide as to which is the authority which can collectively bargain and bind all the workers to the bargain? I say: Give that right to the workers themselves to choose.

Unfortunately, in our country trade unionism has not developed to such an extent as, for example, in a country like Great Britain where membership of unions embraces near about 70 or 80 per cent, of the entire working class. Unfortunately, in our country our membership does not extend beyond about 50 per cent, in the best of circumstances. Under these conditions, when no union, for example, can claim recognition on the basis of its membership alone to represent the entire working class of that establishment, why should a worker who does not have confidence in any union and does not join any union, why should that worker be bound down by the agreement that is made by a union which has got on its membership rolls only 15 or 20

per cent, of the entire workers of that establishment? Therefore we say under these conditions: Give that right to the workers themselves to decide. Have secret ballot.

The answer that is given by some of the Ministers astounds me—they were referring to the Tripartite Conference. Yes, there we did make this proposal, and in the Tripartite conference one of the esteemed members of the Congress Party, a Minister at that time, and since the chief of the I.N.T.U.C., that gentleman, at a certain stage, made the wonderful point that if elections are held, heat will be generated. Well, I want to know, if the Chief Ministers of States and the Prime Minister of this country can be ejected on the basis of free and fair General Elections—where I am absolutely certain a good deal of heat is generated—why should it be denied in the case of the working class wishing to choose its own representatives, to find out which is the union which will represent its interests best? Therefore this is the simple thing that we ask.

My friend, Mr. Abid Ali, was just now

THE DEPT. CHAIRMAN: You have made your point clear already. On the amendments you just make your points and let the Minister answer. You cannot make a speech now.

SHRI P. RAMAMURTI: Therefore, Madam, if this simple thing is not conceded, you are going to have any amount of trouble in this country. The troubles you are speaking so much about are the result of the existence of a multiplicity of unions and all the other troubles which you think disturb industrial peace, will not be there if my suggestion is adopted. Thereby industrial peace will be promoted to a considerable

[Shri P. Ramamurti.] extent. I do not say that industrial peace will be completely observed in the country; no such thing is possible, but to a considerable extent industrial peace will be promoted if we accept the simple right of the workers to choose their own representatives, their own bargaining agents. If you allow the workers to choose their own bargaining agents, then only things would go. Otherwise nothing will happen.

SHRI ABID ALI: It is true that this matter was discussed in the Indian Labour Conference and unanimous decisions were taken to which the friends opposite were also a party, and of course Government is morally bound by them though not legally because Parliament is supreme and it can take its own decision. I was submitting that, Government being a party to this decision, the hon. Minister explained yesterday the position as it stood, explained why this decision was taken. I am not taking shelter under that decision. I am opposed not because there is strong feeling on that side that I.N.T.U.C. is given the representation through this method. Nothing of the kind, Madam. There are unions which are represented by the hon. friends opposite also, which have been recognised under this very system. Now he says that the Prime Minister of India, the Chief Ministers and others have been elected on some basis and that the same basis should be adopted for this purpose also. But, Madam, perhaps he has forgotten that every citizen of India is not a voter. First he should become a voter; then only he can participate in the elections. Similarly, in this matter also . . .

THE DEPUTY CHAIRMAN: Every adult has got the right to vote.

SHRI ABID ALI: I say every citizen is not a voter automatically. He has to be on the voters' list.

SHRI P. RAMAMURTI: It is the duty of the Government to enrol them.

THE DEPUTY CHAIRMAN: He only referred to adult suffrage.

SHRI ABID ALI: Yes, if I am a citizen of India and am qualified to be a voter and my name finds a place in the voters' list, then only I have a right to participate in the elections.

SHRI P. K. KUMAR AN: The reference is to secret ballot.

SHRI ABID ALI: Simply because I am a worker, I do not automatically become entitled to vote. He said that there may be a worker who is not a member of any union. Now, a person who is not interested in a trade union or a person who is not interested in the trade union movement, what right has he—although employed in a particular establishment—to come and cast his vote because there is secret ballot?

(Interruptions)

I did not disturb them when they were speaking, Madam. You should give me protection to the extent that they should remain sitting without making interruptions.

THE DEPUTY CHAIRMAN: You please continue.

SHRI ABID ALI: Similarly, workers choose their unions and the difference between me and him is that in the interests of India, in the interests of these Five Year Plans, in the interests of the progress of the country which we want to achieve, and in the interests of all that we cherished to achieve after we attained independence, we want peace in the country; we do not want tension. But they do not want anything of this kind. They want all disturbances, they want pauperism to prosper and therefore they want tension. They want no peace in the industry. This is all the difference between me and him. Now it has already been accepted by all those who are in the trade union movement, I mean the decision in the

Indian Labour Conference which was i attended by their representatives, | and that decision and that procedure have been adopted according to which the representative character of a union is established.

Now, what happened, Madam, in U. P. where secret ballot took place the I.N.T.U.C. on the one hand and all these friends on the other? Secret ballot was taken for the first time in the sugar industry and they won. Why they won? Because one leader went on hunger strike and people i voted for them at least to save that life. They exhorted the workers that if they voted for the other side, there will be prosperity for the | workers. It was something like IUC-tion of the workers' poverty and work- 'ers misery. This is what they want I and what we do not want. Of course they won by all these tactics and we lost. But what happened later? As soon as they won, there was a quarrel among themselves. The A.I.T.U.C., the H.M.S. and others who combined against the I.N.T.U.C. and won the ballot started quarrelling as to who should nominate the representatives on the sugar committee, and they could not come to terms for yiars. But we continued representing the workers because we were genuinely representing the workers and we have been there. But they could not nominate a single person. Now, do they want that situation to arise as it developed in U. P.?

Now, about discrimination they j speak, and they have been mentioning Bhopal again and again. I have personally requested their leader that according to the system which has been adopted for the purpose of verification of membership, in the case of Bhopal also where they claim to have more number of workers on their rolls than the I.N.T.U.C., they should present their claim to the Labour Commissioner of Madhya Pradesh. There is the verification procedure to be followed. He has to follow it. He is bound to and he is willing. But, Madam, they have

been mentioning all these points here, but they do not submit an application to the Labour Commissioner of Madhya Pradesh so that their claim is ascertained and judgment is pronounced. When the normal yearly verification took place, their records were not produced.

SHRI P. RAMAMURTI: How could it be done when the union officebearers were in jail?

SHRI ABID ALL: When my friend the Minister said that the records, were not produced I exclaimed how the records could be produced—they were non-existent.

SHRI NIREN GHOSH: Who said that the records were non-existent?

SHRI ABID ALL: If the records do not exist, they do not exist; they do not exist on the basis of the claim that they have been making and therefore the records could not be produced. So coming and saying here that I.N.T.U.C. has got only 300 members as against their 2,000 members, does not help their case.

(Interruptions.)

I am not referring to any union on Bengal.

SHRI NIREN GHOSH: I was only referring to the union which he wa» should be brief.

(Interruptions)

THE DEPUTY CHAIRMAN: Well, you please finish your points.

SHRI ABID ALL: I have two or three points more.

THE DEPUTY CHAIRMAN: You should be brief.

SHRI ABID ALL: I am very brief and, of course, I have to refer to all the points mentioned by the other side.

THE DEPUTY CHAIRMAN: » i* 1 o'clock and the House stand* adjourned till 2.30 P.M.

The House then adjourned, for lunch at one of the dock

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. ¹ They do not like it because the workers have appreciated and learnt that the A.J.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 KISHORILAI*
MALVIYA: My hon. friend Shri Thengari wanted a statement from the Government about the supremacy