[Shri A. C. Guha.]

Sir, I do not know whether hon. Members will be pleased to make any comments. If they want to make any comments, I would like to reserve my reply.

MR. CHAIRMAN: Any comments?

SHRI H. N. KUNZRU (Uttar Pradesh): It is no use making any comments.

MR. CHAIRMAN: The question is: "That the Bill be passed."

The motion was adopted.

THE INDUSTRIAL DISPUTES (AMENDMENT AND MISCELLANEOUS PROVISIONS; BILL 1956

THE DEPUTY MINISTER FOR LABOUR (SHRI ABID ALI) : Sir, I beg to move:

"That the Bill further to amend the Industrial Disputes Act. 1947 and the Industrial Employment (Standing Orders) Act, 1946 and to repeal the Industrial Disputes (Appellate Tribunal) Act, 1950, as passed by the Lok Sabha, be taken into consideration."

[MR. DEPUTY CHAIRMAN in the Chair.]

Mr. Deputy Chairman, Sir, this Bill has a somewhat long history behind it. 1 do not, however, propose to inflict on the House a detailed account of the proposals embodied in the Bill. I shall content myself with a very brief outline of the position.

The origin of these proposals lies in the Labour Relations Bill of 1950, which was introduced in Parliament during the Budget Session of that year and was referred to a Select Committee. The Select Committee's report was presented to Parliament, but the Bill could not be proceeded with and it lapsed on the dissolution of the Provisional Parliament. Meanwhile, a large number of comments, criticisms and suggestions were received, some even of a fundamental nature directed against the basic principles of the Bill. One serious objection was that the Bill had become too complicated and cumbersome and that its provisions, far from leading to a speedy settlement of disputes, were aDt to clog the 'machinery of settlement, and to lend themselves to prolonged litigation. It was considered necessary, therefore, to consult afresh public opinion on all aspects of industrial relations. A detailed questionnaire on the subject was, therefore, issued and the replies received were discussed in various conferences during 1952 and subsequently. Serious doubts were expressed about the advisability of embarking on an elaborate and comprehensive legislative measure, as was proposed then. Government also felt that there was substance behind these doubts and that the time was not ripe for the enactment of such legislation. It was felt that with such modifications as had been found necessary in the light of past experience this piece of legislation could be worked for smoother industrial relations. It was, therefore, decided not to proceed with the proposals for comprehensive legislation and to confine ourselves to essential amendments to the Act. The Bill before the House incorporates these proposals.

Dealing with the provisions of the Bill, I may invite attention first to the abolition of the Labour Appellate Tribunal. As the House is aware, the Appellate Tribunal came into being in 1950. The purpose behind the Tribunal was to ensure a certain degree of co-ordination in the awards of the various tribunals and to build up a more or less authoritative body of well-founded principles and opinions on industrial law and practice which would serve as a guide to the original tribunals. While this objective has to some extent been realised, certain delects of a fundamental nature have been experienced. One of these is the delay in obtaining decisions in appeals. Appeals from one party or the other on the decisions of the original tribunal became more or less the rule. Now, the delay in reaching decisions in industrial disputes is a matter of vital importance to the workers. Moreover, considering that the decisions of the tribunals are ordinarily valid only for a period of one year, the time taken to arrive at them was disproportionately long. The demand for the abolition of the Tribunal has been almost unanimous from the workers' side. Government felt that the demand was justified. It has accordingly been decided to abolish the Appellate Tribunal. But at the same time it is necessary to provide an alternative machinery which would ensure that decisions of the original tribunal which will no longer be I liable to appeal, are well-considered

and sound. With a view to achieving this end, the proposal now is to introduce a three-tier system of one-man tribunals. At the bottom of the tiers will be the Labour Court, which will deal with comparatively minor matters. Next in order will be the Industrial Tribunal at the State level which will deal with disputes of greater importance. At the top will be the National Tribunal, which will deal with major disputes of national importance, as also disputes which establishments situated in more than one State are likely to be interested in or affected by. The presiding officer of the Labour Court will be a person with at least seven years' experience as a judicial officer or as a member of a State Labour Court for 5 years. The Industrial Tribunal will be presided over by a sitting or retired High Court Judge or by a person who has held the office of member of a tribunal or Labour Appeilale Tribunal for at least two years. As regards the National Tribunal, a silting or retired High Court Judge or a member of Labour Appeilale Tribunal who has held that office for a period of not less than two years shall be eligible to be appointed to preside over it. Both the Industrial Tribunal and the National Tribunal will be assisted where necessary by assessors, appointed by Government to represent the parties. This will be in addition to experts whom the Tribunals and the Labour Courts will be competent to appoint as assessors. It is hoped, Sir, that this system, while ensuring speedy decisions, will avoid the risk of unsound or ill-considered awards.

Now, I come to another important provision of the Bill. In matters of industrial relations, Government places great emphasis on settlement of disputes by mutual negotiations between the parties. The experience of the last eight years shows that adjudication has not been an unmixed blessing and that if large-scale industrial strife has been avoided, a measure of tension and aloofness has developed between employers and workers. Formal sort of litigation, unlike negotiation and conciliation invariably produces adverse psychological reaction in the parties. Settlement of disputes by adjudication thus leaves in its wake a certain amount of bitterness which is in the long run injurious to the maintenance of cordial relations between employers and workers. Where mutual negotiations have failed to bring about a settlement, we would prefer that the parties themselves agreed to voluntary arbitration. When two parties, who are generally well-disposed towards each other, wish to co-operate in the common cause, but cannot agree on certain matters, there is nothing more reasonable and more fruitful of results than to agree to abide by the decisions of an arbitrator. With a view to encouraging settlements by mutual negotiations and conciliations and failing that by voluntary arbitration, the Bill seeks to make bipartite settlements, legally binding on the parties, just like settlements reached in conciliation and also provides for the necessary machinery for voluntary arbitration, on a written agreement between the parties.

While settlement of disputes by mutual negotiation between parties with or without the assistance of Government Conciliation Officers, or by arbitration, is to be welcomed and encouraged, Government cannot discard altogether the method of adjudication by tribunals. For the Second Five Year Plan, it is vital that industrial peace is maintained, as any dislocation of production will be suicidal so far as the larger objective of raising the standard of living of the workers is concerned. It is, therefore, necessary that when production or the fulfilment of the Plan is likely to be threatened, statutory provisions should exist for adjudication.

Another important matter to which I may draw attention relates to the provisions of section 33 of the Industrial Disputes Act, 1947. Considerable difficulties have been experienced in the working of the provisions of this particular section. At the same time, workers deserve protection against vindictive punishment at the hands of unscrupulous employers. The Bill retains the existing safeguards in regard to matters involved in the dispute or misconduct connected with it. Appropriate representatives of the workers listed by the union concerned will also continue to be entitled to the protection of the existing provisions in all maiters whether connected with the dispute or otherwise. Workers dismissed or discharged during the course of the adjudication proceedings will get one month's wages at the time of termination of their services, and also the employers shall have to apply immediately to the appropriate tribunal or court for permission for dismissal or discharge. These applications will be disposed of with speed. This arrangement will give the necessary protection to the workers and it is hoped

[Shri Abid Ali.] that it would be welcomed by them also.

There is another matter to which I would like to invite special attention, *i.e.,* the amendment to the definition of the term 'workman' in the Act. It has been the subject of persistent complaint that the existing definition of the term 'workman' is not comprehensive enough inasmuch as it excluded from its scope technical and supervisory personnel, who can, by no means, be identified with the management and who require as much protection as the unskilled or skilled or clerical or manual labour. It is proposed, therefore, to widen the definition of the term 'workman' so as to cover supervisory personnel whose emoluments do not exceed Rs. 500 per month, and whose functions are not mainly of a managerial nature, as also technical personnel.

Now, I come to an important innovation. There has been a persistant demand from workers' organisations that notice of any change in what, is loosely called the *status quo* should always be given. It is primarily the employer who is in a position to make any exception in rare cases. There is substance behind this demand of the workers. The notice of change in procedure will ensure prior consultation between the parties and thus eliminate causes of friction in the future. It is an eminently desirable practice. It is, however, necessary to define precisely the matters in respect of which notice should be given and such matters should relate only to those not connected with standing orders. The Bill accordingly provides for notice of change and also lists the matters in respect of which such notice is necessary, I may mention that there will be practical difficulties in complying with these provisions in regard to Government employees who are governed by common departmental rules such as the Fundamental and Supplementary Rules, Civil Services Regulations, Railway Establishment Code, etc., which are promulgated under the relevant article of the Constitution. Provision has, therefore, been made exempting such employees from these provisions and the appropriate Government is also being empowered to grant exemptions in respect of any class of industrial establishments or any class of workmen if circumstances justify such exemptions.

Finally, the Bill proposes certain essential amendments to the Industrial Employment (Standing Orders) Act, 1946. Under the Act as it stands when an employer submits the draft standing orders, all that the certifying officer has to see is that provision has been made therein for every matter set out in the schedule, which is applicable to the industrial establishment, and that the standing orders are otherwise, in conformity with the provisions of the Act. The Act specifically says that it shnll not be a function of the certifying officer or the appellate authority to adjudicate upon the fairness or reasonableness of the draft standing orders. Experience shows that this restriction is not conducive to the drawing up of proper standing orders. Accordingly the Bill empowers the certifying officer and the appellate authority to take into account the fairness or reasonableness of the standing orders, before certifying them. Again, under the present law only the employer can take steps to modify the existing standing orders. A similar right is being conferred on the workers as well. Provision has also been made for the resolution of differences, in the interpretation or application of the standing orders by Labour Courts, at the instance of either of the parties without the intervention of Government.

The provisions included in the Bili were discussed with the representatives of important organisations of labour and employers and the State Governments. The Informal Consultative Committee of Members of Parliament concerning labour matters has also generally approved the provisions. A special meeting of the Consultative Committee was convened in which Members of both Houses, who generally participate in labour matters, were invited and their suggestions were given due consideration by Government. Accordingly, about 40 amendments resulting from the suggestions which they gave have been incorporated in the Bill as passed by the other House. In conclusion, I would appeal to employers and workers to accept those provisions and work them in the spirit in which they are sponsored. During the period of the Second Five Year Plan, it is necessary, I should say it is the duty of all concerned, to give a great impetus to production. The creation of additional wealth and its equitable distribution, which are the objectives of a socialistic pattern of society, place great responsibility on all

connected with production. The employer has to be content with a fair return, fair not by his own standards, but by the standards laid down by the community. As for the workers, they must give more than they get so that there is steady augmentation of the wealth of the society as a whole. It is up to the employers and workers to create an atmosphere of co-operation and cordiality and to take a firm resolve to settle all their differences by mutual negotiation, conciliation or voluntary arbitration; and only in the last resort, by adjudication and never to resort to stoppage of work. No doubt, they have a right to strike ; but it should be kept in the pocket, at least during the Plan period. There can be no dispute which cannot be settled by mutual negotiation, voluntary arbitration or, in the last resort, by adjudication. All that Government can do is to make available to the parties the good offices of the Government Conciliation Officers, in settling the disputes and ultimately, the services of Arbitrators and Adjudicators, wherever necessary. I would, therefore, urge with all earnestness to the sense of patriotism of workers and employers and exhort them, with all the emphasis at my command, to totally eschew strikes and lockouts in the larger interests of the community and country as a whole and settle their differences on the basis of mutual understanding and trust. 1 hope that both employers and workers will find the provisions acceptable in their essentials. I move the Bill.

MR. DEPUTY CHAIRMAN: Motion moved :

> "That the Bill further to amend the Industrial Disputes Act, 1947 and the Industrial Employment (Standing Orders) Act, 1946 and to repeal the the Industrial Disputes (Appellate Tribunal) Act, 1950, as passed by the Lok Sabha, be taken into consideration."

SHRI SATYAPRIYA BANERIEE: (West Bengal): Mr. Deputy Chairman, Sir, this Bill has been long overdue. When I say this Bill, I mean a better Bill than this one. Shri Abid Ali has very briefly referred to the history of this piece of legislation. In fact, it has a long history behind it. During the days of the Provisional Parliament, when Shri Jagjivan Ram was the Labour Minister, he brought in two Bills, twin Bills I may call them, which were like the two blades of a pair of scissors designed to cut at the very root of genuine trade union movement. Those twin bills raised a storm of protest among the working class in this country and the result was that Shri Jagjivan Ram found discretion was the better part of valour and allowed those twin Bills to lapse. Then came Shri V. V. Giri as the Labour Minister. He adumbrated that he was going to bring in a comprehensive piece of legislation which would deal with all matters regarding industrial disputes and regarding trade unions. He proceeded very far. In fact a consolidated Bill was prepared, was placed before the Cabinet. The Cabinet discussed it threadbare, but due to circumstances beyond perhaps I don't know, whose control, perhaps beyond Mr. Giri's control, that consolidated Bill did-not see the light of day. But the demand for a comprehensive Bill persisted and we have now before us, as a result of that demand, the present truncated Bill.

Shri V. V. Giri, conceived the Bill, but he could not deliver it on account of his resignation. Now Shri Khandu-bhai Desai has conceived it and has delivered it, but the baby seems to be deformed. How, I will explain to you later on. The Bill has certainly some progressive features.

MR. DEPUTY CHAIRMAN: You may continue in the afternoon.

The House stands adjourned till 2-30.

The House then adjourned for lunch at one of the clock.

The House re-assembled after lunch at half past two of the clock, Mr. DEPUTY CHAIRMAN in the Chair.

SHRI SATYAPRIYA BANERJEE Mr. Deputy Chairman, as I was saying, the Labour Minister this time conceived and not only conceived but also delivered a baby, a baby which is rather deformed. I shall explain to you later why this deformation has taken place. I do not deny that there are certain progresssive features in the Bill but at least there is one regressive feature which takes away all the virtues that are contained in this Bill. I will come to that later on. The Bill has extended the definition of a workman but it does not go far enough. It should have included contract labour. Shri Abid Ali, in his speech referred to the Second Five Year Plan and said that labour should play

[Shri Satyapriya Banerjee.]

its part in implementing that Plan. May I remind him of what the Planning Commission in their Report said with regard to contract labour ?

SHRI ABID ALI: Contract labour is not excluded.

SHRI SATYAPRIYA BANERJEE: If the Minister agrees that contract labour is included then 1 will be spared speaking the few sentences that 1 have to.

SHRI ABID ALI: They are included in the definition of "employee".

SHRI H. P. SAKSENA (Uttar Pradesh) : Very unfortunate things happen ' from misunderstanding.

SHRI SATYAPRIYA BANERJEE: May I take it that contract labour is included within the. definition of workmen? My friends over there and I also have the same impression that it is not included but if you, as a representative of the Government, say that it is included, I accept it.

SHRI C. P. PARIKH (Bombay): Employee of a contractor.

SHRI ABID ALI: I shall explain this point to save the time of the House. It is quite immaterial whether he is an employee of the contractor or not. Every employee is covered by the Act, whether he is an employee of a person who has taken a contract or whether he is directly employed.

SHRI SATYAPRIYA BANERJEE: I want a straight answer for the straight question. I want to know whether contract labour, as it is understood, is included in this Bill ?

SHRI ABID ALI: Certainly, Sir. An employee or a workman who is under a contractor comes under the definition of a workman under this Bill. He is entitled to all the benefits under this Act.

SHRI SATYAPRIYA BANERJEE: What is this roundabout way of answering? 1 want light instead of darkness.

SHRI ABID ALI: It is also immaterial whether he is a casual labourer or a permanent employee. If he is a workman, he is certainly included in this Bill.

SHRI SATYAPRIYA BANERJEE: All right, 1 will be spared the trouble of moving an amendment to the definition of a workman.

The Labour Appellate Tribunals are abolished by this Bill. This has been a universal demand of the working class. It has also inserted a new Chapter HA, relating to notice of change, which is also a welcome feature of this Bill. It has also given something, but not fully in the matter of modification of Standing Orders. That also goes some way, not a very great way; but the whole thing on which the whole relation between the employer and the employee hinges is the question of recognition of the union. The Bill is absolutely silent over it excepting in one place to which I will refer just now, I mean clause 21. Here also only the officer of a registered union is recognised in accordance with rules made in this behalf. In the explanation on page 15 it is said:—

> "For the purpose of this sub-section, a 'protected workman', in relation to an establishment, means a workman who, being an officer of a registered trade union connected with the establishment, is recognised as such in accordance with the rules made in this behalf."

What does this mean? In plain and simple language, it means that only those workers who are *persona grata* of the employer are protected and you can easily understand and realise what this means for the whole working class movement. The whole question of recognition has been by-passed, thereby making negotiations between the workmen and the employer difficult. A trade union has, as its main object the negotiation for collective bargaining; not one or two workmen, but some of them have to unite in a trade union, have to be recognised and then negotiate with the employer for collective bargaining. That is the whole principle of the trade union movement and this Bill has by-passed the whole matter.

SHRI P. N. SAPRU (Uttar Pradesh): Which is the clause which you are referring to?

SHRI SATYAPRIYA BANERJEE: There is no clause as such. We are dealing with industrial disputes and in the matter of settlement of industrial disputes, organised trade unions have to play a prominent part and recognition of trade unions is no part of this Bill.

What does this Bill seek to do? Besides the good points that I have mentioned, it seeks to arm the employers with a very arbitrary power and the Minister in charge has himself admitted it in the Statement of Objects and Reasons. Let me read out that portion of the Satement of Objects .ind Reasons: "It is proposed to alter the existing provisions so as to provide that, where, during the pendency of proceedings an employer finds it necessary to proceed against any workman in regard to any matter unconnected with the dispute, he may do so in accordance with the standing order applicable to the workman, but where the action taken involves discharge or dismissal, he will have to pay the workman one month's wages a id simultaneously file an application before the authority, before which the proceeding is pending, for its approval of the action taken."

I give the dog a bad name and hang it. That has been the right given to the employer by this Bill and the employer goes to the tribunal or to the authority whether his hanging has been light or wrong, i hang him all right. There is nobody to prevent me from doing that. Thai power has been given to the employer by this Bill.

SHRI ABID ALI: TO the court.

SHRI SATYAPRIYA BANERJEE: Yes, yes. Before that you have given the power to the employer to discharge or dismiss an employee. Have you or have you not?

SHRI MID ALI: Then to be decided by the court.

SHRI SATYAPRIYA BANERJEE: Have you or have you not given the employer the power to discharge or dismiss him?

SHRI ABID ALI: Subject to confirmation by the court.

SHRI C. P. PAR1KH: And according In the Standing Orders.

SHRI SATYAPRIYA BANERJEE: Why do you fight shy of saying this? So you have given the power. You have given him the power of giving the dog a bad name and hanging it, and then you have imposed upon him the duty of going to the appropriate authority for its approval or otherwise of the action taken. 1 hat is the most objectionable feature of the Bill and the good features that are in the Bill have been negated, nullified, and taken away by this single provision.

What stands in the way of recognition ? Do you want unity amongst the working class or are there some who do not want unity amongst them? If the Government really desires unity in trade union ranks it is in their hands, it is in the palm of their hands. A stage has now come in the whole trade union movement when one gesture from Government is enough to bring about that unity, and if that unity is brought about all this legislation may or may not be necessary.

Then this Bill has also another important feature. 1 am referring to clause 8 "Voluntary reference of disputes to arbitration." That is a good thing. Compulsory arbitration is the very negation of trade union principles. Therefore, this voluntary arbitration in clause 8 is really a good feature. At the same time there is a very bad feature, a repugnant feature. Just as you have given the employer the power to discharge or dismiss an employee you have given the Government also some such power. I would refer the hon. Minister to page 11, line 35:

> "(b) if the Central Government is of opinion, in any case where the award has been given by a National Tribunal, that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or, as the case may be, the Central Government may, by notification in the Official Gazette, declare that the award shall not become enforceable on the expiry of the said period of thirty days."

You have given the Central Government the power to nullify or not to accept the award. This power the Government should not have taken in its own hands when the award has been delivered by their own National Tribunal, a tribunal constituted by them.

SHRI P. D. HIMATSINGKA (West Bengal): The existing law has that provision.

SHRI SATYAPRIYA BANERJEE: The existing law has it, but the portion which I have read out is not part of the existing law. The existing law covers part (a) only. Part (b) is different and it is quite clear.

SHRI ABID ALI: Social justice.

SHRI SATYAPRIYA BANERJEE: Part (a) is part of the existing law, but part (b) is not and there it gives the Central Government the power to nullify an award. I think I am right.

SHRI P. D. HIMATSINGKA: No, it is still there in section 17.

SHRI SATYAPRIYA BANERJEE: You please go deep into it. Therefore, Sir, the employer has been given enormous powers; the Government has been given enormous powers and the workman has been given very limited powers.

We are told that it is the duty of the trade unions and the working class to implement the Plan and when the Government say like that, it appears that the spectre of indiscipline haunts the Government at every step and the spectre Sir, is not a reality, but the cussed-ness of the employer which is a stem reality escapes their notice. In the matter of indiscipline I would again refer the hon. the Minister for Labour to page 578 of the Planning Commission's Report paragraph 20 on 'Discipline" wherein it is stated:

> "It is equally true that the existing provisions for penalising illegal strikes or lockouts have not proved adequate in practice. It is necessary that the whole issue of industrial discipline in its various aspects should be examined and in the meantime, in their mutual interest, the parties should see that tendencies to indiscipline are sternly discountenanced."

In pursuance of that, in pursuance of these remarks of the Planning Commission the Labour Minister has come forward with this threatening clause *viz,* clause 21 of the Bill to unnecessarily placate the employer and penalise the worker. Sir if the Government really want labour to work for the implementation of the Plan, which is a national task, it is up to the Government to create conditions so that labour can put forth all their energies for the successful implementation of the Plan. I Sir, the Government are building castles in the air without any foundation. The foundation should be the creation of conditions so that the working class as a whole can put their energies to the successful implementation of the plan. And that is wanting in the whole Bill.

These are what the Government propose to do by this Bill. I now leave it to the Government to ponder, to consider to reflect upon the whole thing, to reflect upon what effect this Bill will have on the working class, to reflect as to what the effect of this Bill on the implementation of the Second Five Year Plan will be. Keep the progressive features of the Bill intact; do away with the regressive features; insert the progressive features suggested by us.

The deformity of the child to which I referred earlier relates to this. The child is deformed; there are some outgrowths, particularly clause 21, which should be operated upon to make the child healthy, cheerful and smiling. What you have here is a child having some bad features, some good features, a curious amalgam of both, which does not satisfy the workers nor is conducive to the development of industry; and for the worker in particular and the industry in general, I hope and trust the Government has brought this Bill before us.

I find before me an array of ability of industrialists—Shri Chandulal Parikh, Shri Jain and Shri Doshi and my esteemed friend Prabhu Dayal Himat-singkaji. One feature I must refer to in this Bill, about which I was having a talk with Prabhu Dayalji just now. There has been a provision for punishment of the defaulting employer, punishment by imprisonment. What is the harm if a defaulting employer is imprisoned? If it is found that an employer is not implementing the award, what is the harm if the employer gets some weeks' rest in the guest house of the Government? It is rest, nothing more, nothing less. He can plan for the future in that solitary resting place. He can think about his future there.

SHRI H. P. SAKSENA: What will happen if it is rigorous imprisonment?

SHRI SATYAPRIYA BANERJEE: He can sleep from dusk to dawn. He will have complete rest during this whole period of eleven or twelve hours. He can have his plans hatched out there

and when he comes out he can have his plans executed.

SHRI SHRIYANS PRASAD JAIN (Bombay) : What would you suggest if the workers do not abide by the award?

SHRI SATYAPRIYA BANERJEE: The workers, more often than not, abide by the award. If you look up the records you will find that what 1 say is absolutely true. The employers think that they can afford to disregard the award and this thinking of theirs has been reinforced by the attitude of the Government. There are cases in which the Government have been found to be unwilling to make the employer imple ment the award. They know.....

SHRI K. S. HEGDE (Madras): What about the Banking Award where the workers refused to implement the Award?

SHRI SATYAPRIYA BANERJEE: If you want me to go into the whole history I can do it.

SHRI K. S. HEGDE: You say all the right is on your side and all the wrong is on the other side.

SHRI SATYAPRIYA BANERJEE: So far as the Banking Award is concerned, it is so; cent per cent so.

SHRI K. S. HEGDE: So your judgment is final ?

SHRI SATYAPRIYA BANERJEE. *So* far as I am concerned, yes. I know my words will not have much weight with the Government. There, the capitalists are sitting with them, behind them and by their side and they will have the Government's ears.

Sir, I won't take much time of the House. I have said what I had to say and what remains to be said will be said by my friends who will come later to speak on this Bill. We have also tabled amendments and when the time comes we will have our say with regard to those amendments.

SHRI P. N. SAPRU: Mr. Deputy Chairman, I should like at the outset to say that it is of vital importance to the community that during the next five years we should have a contended labour . force in this country. The greatest asset that a country possesses is the human material that works its economy or its industry and we cannot ignore or forget this basic fact. Personally, Mr. Deputy Chairman, I confess that I belong to a school of thought which would eliminate, gradually maybe, the distinction between the worker and the concern. That is to say, I do not believe in a mechanical socialism operated by State bureaucrats. I believe in a socialism, a progressive socialism, which aims at workers' control of the industries in which they are working. That should be the direction in which we should work; that should be the objective that we should place before ourselves and thai is how we should work for the social objectives embodied in the Five Year Plan. Sir, I have examined this Bill with that broad objective in mind and I am quite free to confess that there are parts of the Bill which I like and there are parts of the Bill about which I am a little hesitantly critical. I will frankly say that I agree with Government that the definition of workman should be broadened to include persons, employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work, who are getting a salary below Rs. 500. In this connection I should like to ask whether the Personal Assistant of a Managing Director or the Private Secretary of a Managing Director would be a workman under the provision as it stands. I think it is difficult to differentiate a Personal Assistant from other employees and I do not know whether the case of a Personal Assistant or a Private Secretary or of a person working in a superior clerical position would be covered by the clause as it stands.

SHRI C. P. PARIKH: Of course. He is not Manager or Supervisor.

SHRI P. N. SAPRU: But he assists the Manager or the Supervisor in management and supervision. He does not work as a worker. I am just posing a question; it is not for me to answer that question. Of course, it will be for the tribunals, when the matter comes up before them, to answer it. What we say in the House is quite immaterial for purposes of interpretation by the tribunals.

SHRI C. P. PARIKH: You are a great lawyer; you give your interpretation.

SHRI P. N. SAPRU: I am humble enough to think that I am not a great lawyer. I have only just ventured to express a certain doubt which has arisen in my mind and I will not go beyond that.

[Shri P. N. Sapru.]

3 P.M.

Now, I would like to say that for my part 1 welcome the abolition of Labour Appellate Tribunal. I have had some experience of how the Labour Appellate Tribunal work. I would like to pay a tribute to the work of the Labour Appellate Tribunal. I am not one of those who think that the Labour Appellate Tribunal did no good. I think it did a lot of good because you wanted a uniform interpretation of the labour laws of this country and that uniform interpretation you could not have unless you had one final appellate authority. An appellate authority is necessary in order to ensure that laws are uniformly interpreted. But 1 think that objective can be achieved by other measures. From the point of view of the workman the system of appeals provided by the existing Act was far too costly. It was possible for the employers to engage—even though counsel are not permitted to appear without the consent of the parties before the Labour Appellate Tribunal— the most eminent counsel and go armed with the opinion of those eminent counsel to argue their case in a legal manner before the Labour Appellate Tribunal. It was not possible for trade union organisations, with the paucity of funds that they possess in this country, to engage the same quality of legal talent. Therefore, from the point of view of the worker, the worker was at some disadvantage so far as the system of appellate tribunals is concerned. I am, therefore, not sorry that the Labour Appellate Tribunal has been done away with.

SHRI LALCHAND HIRACHAND DOSHI (Bombay): That is not the correct way. After all you must make it possible for the workers to be represented by eminent lawyers. Removal of the Labour Appellate Tribunal is not the way.

SHRI P. N. SAPRU: But delays take place. And in industrial disputes it is of importance that disputes should be settled without delay. Capital can wait: labour cannot always wait. It has not the resources to wait. And, therefore, in order to ensure that there is justice in our country, we must have a system which equalises labour and capital. I have no hesitation, therefore—speaking as a lawyer with some experience—in saying that there is much to be said in favour of the abolition of the Labour Appellate Tribunal. But ,that is a different story and 1 will come to my final verdict on this part of the Bill a little later.

I have noticed, Mr. Deputy Chairman,, in this country that there is a tendency to believe in supermen and that tendency to believe in supermen is evident in the clauses of this Bill. We want a one-man tribunal. A tribunal means a forum where you have more than one person. And we want one-man tribunals and we want that one-man tribunal's verdict to be completely final except, of course, where the Union Governnjent thinks that it is in the national interest that the matter should be referred to a National Tribunal, which again will be a one-man tribunal, or where the Union Government thinks that the award should not be accepted. Now, I might say quite frankly that I am opposed to these one-man tribunals. I think that a one-man court is all right where you have an appeal court to supervise that one-man. A one-man court is not all right where you make that one-man final. I have heard a great deal of discussion about the delays in our law courts and so on. 1 may make a reference to what happens in other countries. It will perhaps surprise the House if I tell them that in France no case can be tried by a single person at all. 1 think no human being is completely infallible. I have had some experience as a Judge and (know how valuable Benches are. You go to the court with your point of view and one of your brother Judges corrects your impression. You consult each other and you arrive at conclusions which embody your collective wisdom. And now there is going to be no collective wisdom under this arrangement. The final arbiter, the sole arbiter of matters—be it a concern, an entire industry, or a State industry or an industry of importance to the community—shall be a one-man tribunal. 'Tribunal' is the wrong word *to* use for a court of this character. I think the principle of a one-man tribunal is a vicious principle and I have no hesitation in saying—we in this House have to speak with restraint while speaking on Bills of this nature—that Government have fallen and the trade unions have fallen into an error in accepting this principle. I would, therefore, suggest that for one-man tribunals—it may be a local Tribunal, it may be a State Tribunal or it may be the National Tribunal —two or threemen tribunals should be

accepted. I should be content with two, but there is always a possibility of a difference of opinion. Three is the figure that occurs to one. If you have in all these tribunals more than one person then appeals will become unnecessary, because you have under your Constitution certain safeguards. You have article 226 which gives authority to the High Courts to issue certain writs in appropriate cases and you have article 227 which gives authority to a High Court for superintendence over courts within its jurisdiction. It has been held by the Supreme Court that the power of superintendence under article 227 is of a quasi-judicial nature. Now, 1 know that the powers which the High Court possesses under article 226 are comparatively of a limited nature. They are not even as extensive as the powers which courts possess or civil courts possess under section 115 of the Civil Procedure Code or section 25 of the Provincial Small Causes Act. But nevertheless that power is there and in suitable cases High Courts can intervene where there has been a failure of jurisdiction or where a jurisdiction has been wrongly exercised by courts or where there has been some failure of the principle of natural justice or where there is an -error of law apparent on the face of the record. In fact, in the Northumberland case—that case has been approved by our Supreme Court—the court of appeal went a little further and said that in exercising their writ jurisdiction, courts can interfere where there is an error of law as well. Therefore, provided the one-man tribunal is substituted by a three-person tribunal, there is no danger in abolishing the Labour Appellate Tribunal because there is also the jurisdiction of the High Courts and the Supreme Court under article 32 in respect of Fundamental Rights. With those powers vested in the Supreme Court and the High Courts there is no danger in abolishing the Labour Appellate Tribunal.

Let me, Sir, say a word or two about the qualifications of persons for appointment to these bodies. In our discussions it is assumed that every person appointed to such Tribunals must be a High Court Judge or a retired High Court Judge. I have very great regard for High Court Judges and retired High Court Judges and I should like them to serve on these Tribunals. But it is possible for us to attract younger talent from our Bar. I see no reason why appointment to these positions of persons who have occupied distinguished positions in the legal profession other than those of Judges should be completely ruled out. I would, therefore, have preferred to word this clause so as to enable anyone who has put in ten years' practice at the Bar to be appointed to a Labour Court. This does not mean that I do not look upon High Court Judges or retired High Court Judges as suitable persons for appointment, but this does mean, that I do not wish the choice to be restricted to any particular class only.

Now, Mr. Deputy Chairman, there is a word the significance of which, I con-less, I have not been able to understand. That word is to be found in clause 4 relating to section 7C: "No person shall be appointed to, or continue in, the office of the presiding officer of a Labour Court, Tribunal or National Tribunal if he is not an independent person." What is the meaning of an 'independent' person? What is the test that you propose to apply so far as this question of an 'independent' person is concerned? The statute should be carefully drawn up. Courts have to interpret laws and you must not, therefore, use language which may embarrass courts when a question of interpretation of law comes before them.

SHRI R. C. GUPTA (Uttar Pradesh): It has no meaning.

SHRI P. N. SAPRU: My friend Mr. Gupta says that it has no meaning. I was just more polite. Therefore, I should like to understand what this word 'independent' person means.

SHRI SATYAPRIYA BANERJEE: If I may interrupt for one moment, an independent person is one who cannot be depended upon.

SHRI P. N. SAPRU: That is an argument, that is a point of view which I think can be stressed in courts of law. Arguments can be advanced for days together, can be advanced as to what is an independent person and what is not an independent person. I, therefore, regret that words have been used which strictly speaking as a lawyer, signify nothing to me, which I would, if I were to interpret this Act, find it difficult to interpret.

Then, Sir, I should like to come to a more vital question, and that is the question of notice of change, proposals

[Shri P. N. Sapru.]

regarding which are to, be found in section 9A. I think it is important in industrial relationship that employiers seeking to change the conditions of services of employees should give notice of their intention to do so. Personally, I do not very much believe in this master and servant relationship. But whether we have this relationship or whether we substitute some other relationship in the Utopia of the future, there will be some termination of contracts entered into, and before a contract is terminated or conditions of service altered notice should always be given. I notice, Mr. Deputy Chairman, that the Central Government or the National Government has taken the right or is to be vested with the right of requiring that certain industrial disputes which are of national importance shall be decided by National Tribunals. They can withdraw a case from a State Tribunal or from an Industrial Tribunal and hand it over for adjudication to National Tribunals. I think it is a right thing because disputes which are of very great importance from the point of view, not of any particular State or any particular class, but of the entire community, should be referable to National Tribunals. That power they have taken, and I agree that that is a right and proper power. But there is just one comment which I have to make in regard to this part of the Bill. Is it necessary that Government should have the power of interfering with judicial awards, with awards of properly constituted Labour Tribunals? I would have had no difficulty in saying that they should not have this power had it not been for the fact that I think that judicial review of what Government does is not ruled out by the Bill before us.

If you will turn to section 17A, you will find that this section gives authority to the Central Government to inter fere.....

SHRI C. P. PARIKH: And the State Governments also.

SHRI P. N. SAPRU: Yes, the State Governments also. It gives authority to interfere with the decisions of National or State Tribunals in the interests of national economy or social justice. Now, at first sight, the test seems to be a subjective one, and it may look as if the jurisdiction of the courts is completely barred. But as the House is no doubt .aware, the question, under what circumstances courts can interfere where matters of public policy are involved, has always been a difficult one. The Privy Council, a long time back, held that of public policy, *prima facie,* the executive Government is the judge. That view of the Privy Council has not, as far as I have been able to understand the cases or the decisions of the Supreme Court, been upset. Therefore, the position is that while to a certain extent the test provided here is a subjective one, courts will have authority to interfere with the decisions of the Government, if it is shown in any particular case that the Government has in fact acted in a *mala fide* manner, or has not brought to bear upon its work an intelligent mind. There are many cases to support this point of view. I am not, because of the language employed here, disposed to quarrel with the principle which has been laid down that the executive Government should be able to modify the awards of Tribunals. While I think that the principle of it is not quite all right, because on these Tribunals you will have High Court ludges and ejc-High Court Judges, and it does not look proper that the executive Government should normally sit in judgment over their decisions, yet as the clause stands, I think the intervention of courts is not completely barred, and, therefore, I raise no objection to it.

SHRI LALCHAND HIRACHAND DOSHI: A settlement between the union and the employer is barred by this.

SHRI P. N. SAPRU: A settlement between the employer and the employees, is covered by the clause on arbitration.

SHRI LALCHAND HIRACHAND DOSHI: Unless the settlement is approved, no change can be made until the award is made.

SHRI P. N. SAPRU : Now, Mr. Deputy Chairman, so far as the principle of arbitration is concerned, it has my cordial approval, and I should like labour and capital disputes to be settled, as far as possible, by negotiations. Where it is not possible for them to be settled by negotiations, I think arbitration is a suitable remedy. I notice that the arbitration award shall not be subject to the provisions of the Arbitration Act. That is quite all right. But I venture to think that even an arbitration award will be subject to the writ jurisdiction of the High Courts, or to article 32 of the Constitution, if the

matter raised concerns a fundamental right.

Also, Mr. Deputy Chairman, there is another safeguard to which reference may be made. That safeguard is to be found in article 136 of the Constitution which gives a right of special appeal to the Supreme Court from any final judgment of a court or a tribunal. Now, if the judgment of the National or the State Tribunal is regarded as final, then obviously article 136 will apply and that will give a right of special appeal to the parties concerned.

SHRI K. S. HEGDE: Which is the final judgraent here?

SHRI P. N. SAPRU: The question is: which is the final judgment here? Now, that is a question which troubles me, because you may say that the final judg"-ment is that of Government. But that, I think, to a certain extent, is the position even now. Notwithstanding the fact that there is some provision of that character to be found today, the Supreme Court has been allowing appeals from the decisions of the Labour Appellate Tribunal to itself. If I am wrong, I would like myself to be corrected on this point by Mr. Hegde, for whose legal opinions I have a very high regard.

SHRI K. S. HEGDE: The appeals have been admitted.

SHRI P. N. SAPRU: The High Courts have been proceeding upon the assumption that there is a right of special appeal to the Supreme Court. If the right of special appeal to the Supreme Court is non-existent, certainly a difficult position will arise.

Then, Mr. Deputy Chairman, I have said that I consider the co-operation of labour as vital for the implementation of the Five-Year Plan. I, therefore, hope that there will be unity in labour ranks. This Bill is not concerned with the question of recognition of trade unions. We have a law for the recognition of trade unions. I do not know whether that law needs any change. I have not examined that law from that point of view. But certainly greater unity in labour ranks is desirable, and I am sure that enlightened employers would also like that unity to be achieved.

Often the difficulty today is that employers do not know with which trade union to deal. It is for trade union leaders to face this problem and achieve unity, but in trying to achieve it, they must not sacrifice any of the basic principles which they, as trade unionists belonging to particular trade union organisations, have been accepting so far.

Now, I would like to say a word or two about a clause which frankly I do not very much like. I mean clause 20. This clause is intended to substitute a new section for section 29 of the existing Act. It gives power to a court to sentence to a term of imprisonment a party who has been guilty of any breach of the terms of a settlement or an award. Now, it is a recognised principle of jurisprudence that we administer that for civil liabilities, there must be civil penalties. The introduction of a criminal penalty to a certain extent was there before in the existing Act, but the power was only to the extent of imposing a fine. The institution of a criminal penalty or imprisonment for a civil offence introduces a far-reaching principle in the system of jurisprudence that courts have to administer. I do not think that a civil wrong should be visited by a penalty involving imprisonment. 1 would say that no case, as far as I can see, has been made out for giving authority to courts to award a term of imprisonment. I hope that in a free society we appreciate the value of maintaining freedom in these basic matters and, if I may say so, I find it difficult to reconcile this clause, particularly the power to award imprisonment, with my judicial conscience.

Then, there are certain clauses regarding alterations by the employer in the conditions of service of workmen while the matter is pending before a tribunal. I do not think it is necessary to comment upon them.

Now, Mr. Deputy Chairman, these are almost all the observations that I have to offer on this Bill. I like the Bill as a whole with all its limitations and defects. It cannot be gainsaid that it constitutes a definite improvement over the state of affairs as it exists today, and I do not think that it is a measure to which labour can seriously object. It is on the whole a progressive measure. In saying that it is a progressive measure, I do not mean to suggest that it is an ideal measure. As I have pointed out, it has certainly several defects but I hope that before the Bill leaves this House, those defects will be remedied. I hope that amendments which are i moved to improve the Bill, whether

[Shri P. N. Sapru.]

from the side of the employers or from Members representing labour, will be discussed by this House in a free and impartial spirit. I have no doubt that we will bring to bear upon this measure a balanced approach. We need a balanced approach on these questions of capital-labour conflicts, because if these conflicts continue in our existing state of economy, we shall not be able to reach our goal of a just social order. Our objective is a constructive social revolution. Our objective is not a revolution which destroys without building up something which is worth building. Our objective is a fair deal for everybody, and we look upon capital and labour—I cannot get some other better word to use—as partners in a great enterprise. That enterprise is the greater glory, the greater well-being, of the general community, to which they as also the consumers belong. Thank you.

SHRI ABID ALI: On a matter of explanation, Mr. Sapru raised the question of the appointment of independent persons. Here in this amending Bill it is mentioned that a person should be an independent person to be appointed to a Labour Court, Tribunal or National Tribunal. This should be read with clause 2 (i) of the principal Act at page 3 thereof. It is mentioned there :

> "A person shall be deemed to be 'independent' for the purpose of his appointment as the Chairman or other Member of a Board, Court or Tribunal, if he is unconnected with the industrial dvspute referred to such Board, Court or Tribunal, or with any industry directly affected by such dispute."

This has been in force for the last nine years, and nobody has complained up to this time.

SHRI P. D. HIMATSINGKA: Mr. Deputy Chairman, Sir, the hon. the Deputy Labour Minister has explained the various provisions introduced in the Bill and has tried to explain the salient provisions that have been put in this short Bill. First is the abolition of the Appellate Tribunals, second is the provision for voluntary mutual arbitration, some alteration in the existing section 33 of the Industrial Disputes Act where the •employer cannot take any action even if some dispute was pending between even one labourer and the employer in any conciliation proceeding or tribunal or anywhere; the change in the defini-I tion of 'workman' and so on. Sir, even J hon. Mr. Banerjee who rose first to speak welcomed the various provisions in the Bill which he called the salient provisions but he took exception to one or two items and he said that the Bill had been introduced in the interests of the employers. I am surprised that Mr. Banerjee should have made this com plaint against the present Bill. If he sees the Bill, he will find the provisions have all been made in the interests of, I should say, workmen—some of them necessary but some of them go very much against the interests of employ ers, and are likely to hampej the pro per working of industrial relations. I will deal with them one by one and show how the Bill has gone very much against the employers and that it was not necessary to do so; and there is no wonder that my friend Mr. Banerjee said that the Bill had been introduced at the instance of industrial magnates or rather in their interests but he forgels that the hon. the Labour Minister and his Deputy are both well-known labour leaders .....

SHRI ABID ALI: Labour workers or labour *sewaks.*

SHRI P. D. HIMATSINGKA: There fore, they cannot do anything except possibly in the interests of labour and workmen and, therefore, if there is any thing in the Bill, it should be assumed that the,' have introduced it for the benefit of labour. So far as employers are concerned, I have had discussions with some of the enlightened employers and they don't mind paying sufficient wages. What they always feel is that there should not be any indiscipline or go-slow tactics or tactics which hamper production and which create bad blood between employers and the employees. The trouble in such cases arise not because of the actions of the workmen as such. Unfortunately, in our country most of the present day labour leaders are themselves not workers or connect ed really with workers. They are, gene rally, from outside and, therefore, they don't mind creating a certain amount of difficulty which stands in the way of proper relations. As I said, the employ ers don't mind paying any reasonable wages that the Government or any other authority think fit to fix because after all, they don't pay it themselves but they pass it on to the consumers or to the general body of the people who use the products and, therefore .....

SHRI H. P. SAKSENA: That unfortunate class of men.

SHRI P. D. H1MATSINGKA: My friend says that unfortunate class of men. the consumers, but that has got to be. After all the persons who manufac ture the articles don't pay from their s. They have to add the price of the raw materials and labour plus other charaes they have to incur plus some profit—as the hon. Minister said, some .reasonable profit according to the social justice, not according to what they feel. Therefore, what the Government should aim at in their legislations is how the relations between the employers and the employees can be best arranged, so that disputes may be eliminated and the industrial progress may go on uninter rupted in the interests of the country and in the interests of the fulfilment of the objects that everyone of us has in view and so that the Second Five Year Plan and the subsequent plans which will be coming may be successful and the coun try's standard of living might rise. In this connection I will bring one small point which is almost always forgotten by our friends of the labour side. They feel as if all the employers are big peo ple and they can afford to pay any amount of compensation or lay-off wages. After all, if you really take statistics of the industries in the country and the employers, you will find that at least about 90 per cent, of them are small employers having an industry of a lakh of rupees or Rs. 2 or 3 lakhs. It is only very few of them that are big industrialists who can afford.....

SHRI BHUPESH GUPTA (West Bengal): What does it mean?

SHRI P . D. HIMATSINGKA: It means what I say and if Mr. Gupta had Ijeen folKrwing, he would understand it clearly that a very large number of employers, I said, are small employers having very small capital but they all come within the mischief of the Indus- trial Disputes Act.

SHRI BHUPESH GUPTA: But the overwhelming majority of the workers and employees are under the employment of a very handful of big employers.

SHRI P. D. HIMATSINGKA: They have the benefit of advice from hon. friends like Mr. Gupta.

SHRI BHUPESH GUPTA: It is a fact.....

SHRI P. D. HIMATSINGKA: But the small employers are not excluded and, therefore, the Bill affects them also. Now, I would like to deal with the several provisions of the Bill one by one and show how all the changes that are intended to be introduced are going against certain interests.

SHRI K. S. HEGDE: This Bill is not intended for the interests of the employers.

SHRI P. D. HIMATSINGKA: It should be a reasonable Bill. 1 don't say that it should be in the interests of the employers. It can never be expected that it should be so. As a matter of fact, labour did need a lot of help and protection and that should certainly be given and no one will grudge that; but certain provisions, which to me appear to be unnecessary, have also been introduced; they will not do any good to labourers but will certainly bring about a certain amount of fear or difficulty which will stand in the way of proper improvement in the country. Firstly, the definition of workman, as explained by the hon. Minister himself, has been widened to include supervisory staff and also technical staff which were not included before; and previously the amount mentioned was, I think, Rs. 300 and now it has been raised to Rs. 500.

SHRI C. P. PARIKH: There was no limit before.

SHRI P. D. HIMATSINGKA: I am sorry. Then there is a provision about Appellate Tribunal being abolished. The idea behind has been mentioned to be that there was delay in the disposal of cases and expense.

I do not know whether the three-tier provision in the Bill will be a very great improvement. Firstly, I should t h i n k that the difference between the Labour Courts and the Industrial Tribunals seems to be unnecessary because the items that are intended to be put before the two separate bodies are likely to be overlapping. What I would suggest to be done is that there should be Industrial Tribunals with better class of persons in charge like High Court Judges or other experienced officers. There is no need for having these two classifications of Labour Courts and Industrial Tribunals so far as the State Governments are concerned. As regards other and more important industries which affect more States than one or

[Shri P. D. Himatsingka.] more important national industries, the Union Government should have the power to have National Tribunals.

The next clause that I will deal with is clause 6 which provides that no employer who proposes to effect any change in the conditions of service applicable to any workman in respect of matters specified in the Fourth Schedule shall effect such changes without giving notice. If you look to the Schedule and the matters specified therein, you will find that they cover practically anything that could possibly be thought of. The position seems to be that if you want to transfer an employee from one department to another, perhaps you cannot do so because that is regarded as a change in the conditions of service. I know the case of a Head Clerk in the Calcutta Corporation who was doing great mischief in a particular department and who was intended to be transferred, to another department. He took exception and said that that was a change in the conditions of service and that it could not be done. If that is the position, with all these several items which require notices to be served for any change in the conditions of service, it would be impossible for any employer to effect any change.

SHRI ABID ALI: Change from one department to another is covered by the Standing Orders.

SHRI P. D. HIMATSINGKA: We do not know whether the Standing Orders will be quite sufficient to meet this kind of difficulty. If they are, certainly the difficulty that I feel might come in the way will not be there.

As regards clause 12, Mr. Banerjee made a grievance that the Government is taking power to modify or reject an award. As 1 mentioned, I find that even under the existing section 17A of the Industrial Disputes Act, that power is there with the Government and in cases where Government feel that it is inexpedient on public grounds to give effect to the whole or any part of the award, Government may, before the expiry of the period of thirty days, by order in the Official Gazette either reject the award or modify it. What the present clause provides is that if Government, in the interests of the public or on grounds affecting the national economy or social justice, thinks that it should not give effect to any award, it may, within ninety days, make an order rejecting or modifying the award and in such a case, the appropriate Government has to place that order and the award before the appropriate Legislature; if it is the State Government, the order and the award should be placed before the State Legislature and if it is the Central Government, then they should be placed before the Parliament; and if nothing is done within fifteen days then such order would become final. This gives an opportunity to the representatives, I think to move in the matter and to have the order varied. Therefore, there is certainly a very big improvement in the position that exists under the Industrial Disputes Act and it is certainly an improvement in the right direction. It cannot also be questioned that such a right should not have been given. Government is aware of the fact that in certain cases awards had been given which would have finished certain industries or which would have proved very detrimental to the interests of the country.

The next clause that I would refer to is clause 20. I feel that this clause is very unfortunate. Section 29 of the existing Act makes provision for prosecution as a penalty for breach of settlement or award and has provided for punishment with fine which may extend to Rs. 500. The new clause provides that in case of a breach, the punishment may be a term of imprisonment for six months or fine or both. I feel as hon. Member Mr. Sapru said, that there is no reason why this kind of imprisonment should have been introduced. In any event, if such a provision is going to be introduced, I feel that the hon. Minister should have some such protection as notice on the part of the complainant whoever he may be, whether the employer or the workman. There may be some sort of provision for a notice to be issued by the complainant. In most cases it may be an unintentional non-performance of the award or settlement and in such a case, if notice were to be given by the aggrieved party to the other he will have ample opportunity to comply with the order and do the needful. Even then if he does not do anything, then certainly there will be justification for the punishment provided for in the clause being enforced. Before a prosecution is started, notice should be given to the other party.

SHRI ABID ALI: Prosecution will be started according to the directions of the Government and not by the

party directly. It is there in the principal Act.

SHRI P. D. HIMATSINGKA: Yes, I am sorry. There is section 34 of the Industrial Disputes Act, but in any event, there should be provision for some sort of notice.

SHRI K. S. HEGDE: Even otherwise, courts are not likely to convict a person unless there is the intention.

SHRI P. D. HIMATSINGKA: In any event, there is no harm in making the law foolproof and giving an opportunity to the defaulter to take notice of his default.

The next clause that I would refer to is clause 21. Here I find that a new clause of 'protected workmen' has been created. In my opinion, Sir, there was sufficient protection under the provisions of section 33 of the present Act. Under this, no action can be taken even against others who are not concerned in any dispute so long as any conciliation proceedings or any case is pending in any court or labour tribunal or before a Conciliation Officer. Reasonable opportunity has been accorded by the present clause 21 to the employer to alter, in regard to any matter not connected with the dispute, the conditions of service applicable to a particular workman but then that has been hedged in by another class of 'protected workman' and I am afraid that this class will almost make it impossible for any proper atmosphere being allowed to be created. I feel that this Bill would have been very much better had not this clause been introduced.

Now, so far as the change in the Standing Orders is concerned, the present position is that these Standing Orders have got to be placed before the certifying officer and they become enforceable or applicable only when they are so certified. At present, the law says that they cannot go into the merits but what I suggest is that the Standing Orders may be made applicable and the certifying officer should be given the right to examine the Standing Orders that an employer wants to introduce in regard to their fairness and reasonableness but once that has been done, it should not be open to anyone and everyone to go and move for alterations in the Standing Orders.

SHRI ABID ALI: Even the employer should not be given that opportunity?

SHRI P. D. HIMATSINGKA: If he can satisfy the certifying officer that a certain change is necessary, certainly he will be entitled to do so because, after all, the certifying officer will be the officer who will judge the reasonableness or otherwise. If this right is given to any workman, maybe, a thousand and one may go and apply, and then this dispute will go on, and unnecessary expenditure incurred and attention will have to be given; and it seems to me that a little more power might be given to the certifying officer to examine the reasonableness or otherwise of the Standing Orders and after that if only attention is drawn by the employers or any cogent reason is put forward, then and then only they should be altered.

So far as the general scheme is concerned, I have mentioned that this change in the conditions of service should be provided for. If the Standing Orders make provision for a proper arrangement for that, then of course that will not be very difficult, but as they stand and if the Standing Orders do not give the right to change from one department to another or to some of the changes that might be necessary quickly, this notice of twenty-one days will work very hard and it might be very difficult at times to get anything done within the four corners of the law. With these remarks, Sir, I support the Bill.

SHRIMATI PARVATHI KRISHNAN (Madras): Mr. Deputy Chairman, Sir, as I see it and as a few speakers have also mentioned, we have to view this Bill in the background of its being within the framework of the Second Five Year Plan. All the time there has been reference to the fact that for the successful implementation of the Plan this, that and the other has to be done, and so forth. Sir, what do we mean by the Second Five Year Plan? I mean, what does it express by itself, as it has been put before the people of this country? The Second Five Year Plan is supposed to aim towards more rapid industrialisation, increased production and the economic and social progress of free India. If these are the aims of the Second Five Year Plan, if these aims and objects are to be achieved, then indeed it is really very important that indust

[Shrimati Parvathi Krishnan.] very serious consideration. Because, Sir, in a period of industrial advance, in a period of building up a nation's economy, certainly, industrial relations will play a very very important role.

Therefore, Sir, one would have expected from this Bill a basis for improvement in relations between employers and employees, and I must say that it is a sad disappointment that great limitations are being placed by this Bill rather than the path being opened up for an improvement in such relations. Certainly, there are advantages. One cannot offhand or outright say that this Bill is an employers' Bill or a workers' Bill or a Government Bill—whatever it is. As I see it, there are certain advantages and one has to welcome those advantages. For instance, the extending of the definition of 'workman'; it does not go far enough, but something is there. Secondly, the provision that notice of change in Standing Orders will have to be given to workmen. The principle of voluntary arbitration being accepted, the principle that the worker should also have the right to move the certifying officer for a change in Standing Orders, the abolition of the Appellate Tribunal and a very hesitant and a very timid step towards speeding up the working of the dispute machinery —these are all very welcome aspects of the Bill. But, at the same time, Sir, I would like to draw the attention of the House to the fact that serious drawbacks continue to exist, and certain very essential safeguards for the workers have been removed. I will come to the removal of these safeguards later.

The fundamental basis for industrial peace, 1 would like to point out, is the acceptance and the active implementation of the principle of collective bargaining and agreements. So long as that principle is not guaranteed by the provisions of a Bill like this, no attempt, no good feeling either on the part of the Government or the so-called "enlightened" employer, or on the part of the working class is going to help. In my opinion, Sir, any Government or any party that claims to strive for a socialist society must recognise that, if workers are to play their part in building a new society, they must be given the necessary prerequisites as every other section of society.

DIWAN CHAMAN LALL (Punjab): I do not want to interrupt my hon. friend .....

SHRIMATI PARVATHI KRISHNAN: Then why do you? I do not want to be interrupted.

For instance, Sir, I would like to point out what is said in the Five Year Plan.

DIWAN CHAMAN LALL: The hon. Member is making a wrong statement.

SHRIMATI PARVATHI KRISHNAN: "However, in the light of the socialist pattern of society, within which setting the second five year plan has been framed, suitable alterations in labour policy require to be made. A socialist society is built up not solely on monetary incentives, but on ideas of service to society and the willingness on the part of the latter to recognise such service.... The creation of industrial democracy, therefore, is a prerequisite to the establishment of a socialist society."

Are we going forward, in however hesitant a manner, towards creating the prerequisites for the creation of an industrial democracy? It is by this yardstick that I would request all Members of the House to measure this Bill, including the hon. the Deputy Minister himself. Because I notice how carefully, while waxing eloquent about the Second Five Year Plan, while waxing eloquent over how the workers will have to be "responsible", must not be "undisciplined" and how the employers also will be "brought to book", waxing eloquent on all these subjects, he remained singularly and significantly silent on the question of industrial democracy. It is an easily forgotten matter and I would like to draw the attention of all Members of the House to that very central point which is very, very important if the Second Five Year Plan, is to have any meaning whatsoever to the people of our country.

Now, Sir, industrial democracy can only grow if there is a strong trade union movement, speaking from the angle of the working class. In our country today, this is not the case. We do not have a strong organised trade union movement a vast majority of the workers in our country continues to be unorganised. If the trade union movement is to grow, is to become a strong force and play its full and essential role in society; if indeed industrial democracy is to grow and the future of industrial democracy is to be assured; if that is to happen, Sir, we come back to the basic principle of collective bargaining and we come back to the necessity for

the guarantees of that principle being put into practice.

Sir, I would like to point out that collective bargaining is very closely linked with the principle of recognition of the trade union. What exactly is the role of the trade union? As I see it, on the one hand it is the task of the trade union to safeguard the interests of the employees and to uphold them and also to fight and strive for further safeguards for better and better conditions for the workers. On the other hand— and this is where the dual role of the trade union comes in—it is also incumbent on the trade unions to make their workers conscious of their duty towards society, of fulfilling their obligations towards the task of building the nation, towards the task of contributing to the economic and industrial progress of the country and of the people. Since the passing of the Industrial Disputes Act in 1947 what has really happened in the absence of the principle of recognition of trade unions being implemented? What has happened is that the workers are being asked to become lawyers; they are being asked to become litigation-minded; they are being asked to school themselves into the role of public prosecutors and assistant public prosecutors and so on. Or on the other hand you will find that many outsiders who come into the trade union are not brought in because of their qualifications as a result of serving the people or serving the working class or doing any work with regard to social welfare, but because of their legal qualifications. The ability to argue this or that point, the interpretation of what is dependent and what is independent and so on—this becomes the necessary qualification for a trade union leader. He may or may not be qualified to serve the interests of the working class and to help in the building up of an organised trade union movement which will play its part in society and which will play its part in helping to better industrial relations. This is what has happened.

The workers have become litigation-minded. Why is it so? Because when trade unions, organised trade unions, even with a membership of the vast majority of workers, go farward to meet the management, go forward to place their demands in order to discuss them with the management, the management does not want to meet them. Obviously, it is very easy to understand why. Here, Sir, I am talking particularly, of the bigger employers including the Government. And, as a result, one has to go to the Government which sometimes may be wise, sometimes may be otherwise, and the Government may or may not refer the dispute to a tribunal. And months and years go by while all the ramifications and somersaults and the legal implications are gone into and meanwhile the trade union goes its own way, the management goes its own way and here we sit in Parliament and pass legislation that is supposed to further help matters.

Sir, I would like to take you back for a few years. In 1927, 1928 and 1929 when there were big struggles in this country, big struggles which really led to the birth of a stronger trade union movement in this country, the employers could not or would not deal with trade unions. Therefore, a machinery had to be brought into being by the then British Government which would take up these disputes and which at the same lime would safeguard against the trade unions getting out of hand or growing 'out of control". So, the Industrial Disputes Act was brought into being. It is, of course, necessary to have legislation which will create certain norms to bring about better relations between employers and employees but such legislation and those norms can 'have meaning only if the basic principle of recognising trade unions is accepted. We have, for instance, examples before us of how the non-recognition of a trade union has led to crises of various types. Only recently we had the unhappy incident in Kharagpur because although the membership of the union consisted of the vast majority of the workers, the Railway Administration had not thought fit to recognise that union. In Coimbatore district, in Madukkarai which is near Coimbatore, there is a cement factory of the Associated Cement Co. of India. There is a union which has a membership of over 75 per cent, of the workers employed in that factory but there also we come up against the same problem of the union not being recognised and the workers having to go to the tribunal and endless discussions going on in the tribunal while the workers are told to be patient and the Associated Cement Co. Continues to reap the most phenomenal profits which are increasing year by year. This is the position.

Now, what would be the position if those unions were recognised? A basis would be created for representatives of

[Shrimati Parvathi Krishnan.] the employers and the employees to meet round a table and to conduct discussions and negotiations and then having gone through every possible process, having investigated every possible path for agreement; of course, if there is no other way out, both parties can have adjudication or arbitration. Sir, arbitration and adjudication has meaning, has sense, when it comes as a result of initial discussions having taken place between the two parties; otherwise there is no guarantee that this legislation or any legislation is in any way going to help to bring about better industrial relations.

Of course, I know what the time-old argument is. It seems the Deputy Minister is not listening to the arguments for recognition of the unions because he knows what to say: 'Oh, yes, recognition of unions?' They have got a stock argument. They open the Pandora's Box and out comes the same argument. We will hear a preaching from the pulpit of rivalries, of political affiliations and so on and so forth. So what is the concrete proposition that we put before the workers and the Government? What is the concrete proposition that was put also in that meeting, referred to by the hon. Minister, of the consultative committee? The concrete proposition is, leave it to the workers to decide their leadership. It is indeed a deplorable thing that in our country we have these rival trade unions. Certainly, no genuine trade union worker wants to see such rivalry and the workers themselves want to see that there is unity of the working class in order to withstand any onslaught of the employers. That is certainly the principle on which any genuine and honest trade union worker bases his or her work. But since these rival trade unions exist what is to be done? Why not have secret ballot? Why not leave it to the workers to choose their leaders, to choose who should be that recognised section that will meet the employers and discuss things? Sir, notes are being taken of this.

SHRI ABID ALI: If the hon. Member does not want me to take notes, I will not do so.

SHRIMATI PARVATHI KRISHNAN: Sir, then comes the next argument. If we leave it in that manner, then all sorts of people would play on the emotions of the workers, speeches would be made and tempers would get heated up, etc. etc. It is indeed a very strange logic that a party and a Government, which claim to uphold the principles of trade unionism, which claim to march towards a socialist society, whether by a thorny path or otherwise, one cannot tell, when it thinks that the working class is mature enough to choose legislators, to choose Members to go to the State Assemblies and Members to go to Parliament which decides not only the fate of the working class but decides the fate of every single individual in the country, indeed the fate of the nation itself, should think that these same workers who are considered to be politically so mature will not have the sobriety, the sagacity and the consciousness to choose the fittest representatives to represent their demands and to represent their own personal and individual and class interests. It is a very strange logic and a logic that I am not able to accept and certainly not a single one of us on this side of the House is able to accept, because we certainly respect the working class a great deal more. We certainly have every confidence in the maturity of the workers of our country. If today there is rivalry in the trade union movement, it is not of their doing and if there is a path open for the working class to progress as fast as possible that path can only be followed once the principle of recognition of trade unions, once the principle of collective bargaining is assured by the law of the country. And it is only then one can say that you will have the guarantee of peaceful industrial relations, you will have the guarantee of better industrial relations and you will lay a very sound, a very solid framework, basis and foundation for the growth and the flourishing of industrial democracy in this country. This is what I would like to say with regard to the question of the underlying principle of any industrial disputes enactment.

Now, Sir, I come to the actual provisions in the Bill. There is the amendment to section 10 which goes, once again, against all tenets of democracy. This section gives a wholesale arbitrary right to the Government to refer matters of dispute to the industrial tribunals. It goes against all concepts of democracy, as I said, because it gives an arbitrary power to the Executive. Vesting of such power in the Executive is contrary to all principles of democracy. And we have seen in this country attempts being made by various individuals, by trade

unions, by even some Governments to change this and bring into being more democratic principles. In 1949 the Madras Legislature passed a Bill. I refer to the Industrial Disputes (Madras Amendment) Act (XI of 1949). That BUI, unfortunately, in our "democratic" country has not yet been assented to for various technical "legal" reasons. Now, clause 3 of that reads as follows :—

> "In section 10 of the said Act (that is to say, the Central Industrial Disputes Act No. XIV of 1947) after sub-section (2), the following subsection shall be inserted, namely:—
>
> '(2a) Notwithstanding anything contained in sub-sections (1) and (2) where a Tribunal has been constituted under this Act for the adjudication of disputes in any specified industry or industries and a dispute exists or is apprehended in any such industry, the employer or a majority of the workmen concerned may refer the dispute to that Tribunal'."

This principle of conferring on the worker and conferring on the employer also, as the case may be—see how democratic we are—the right to refer a particular dispute to a tribunal upholds the real principles of democracy. Why is it that one should think that the wisdom of all the ages, all the possibilities of a correct judgment are epitomised in only the Executive authority? Why is it that one should not give the right to the parties to the dispute also to refer the matter to a tribunal? If the principle of collective bargaining is accepted, if the principle of recognised unions is accepted then certainly out of that will follow the extension of the principle of giving democratic rights to the workers also to refer matters to a tribunal. Now, one has to wait. Sometimes we find that the Government may never refer matters to a tribunal. The Executive authority may have a stake in the matter. For instance, the electricity workers of the Madras Government for a long time had ding-dong correspondence with the Government about reference of disputes to a tribunal. They had to wait patiently, of course, always being reminded of the cultural heritage of our country, how patience is a very honourable thing, penance is a very great thing, sacrifice is a great thing. But it is very difficult and well nigh impossible to expect the workers to continue in this manner. Day after day, month after month, year after year, waiting and waiting for a Government which might or might not refer the matter to a tribunal—maybe it is in good mood, maybe it is not. Maybe it depends on the Labour Minister or some other Minister. One never can tell. Now, there may be some differences in the Cabinet also. Well, if there is no resignation, it continues and the matter fails to be referred to a tribunal. Sometimes maybe things come to a crisis and the Government may take it up as a serious issue. One cannot tell. But a measure of this type, a measure that claims to create a basis for better industrial relations in the coming five years, a measure that claims to give to the workers certain advantages which have hitherto not existed, when such a measure contains these arbitrary powers and when you think of the experience of the last few years,—how that arbitrary power has not been consistently used for the benefit of the workers or in order to take up the problem of the workers in a just manner—then it becomes something unacceptable, something that will have to be changed.

Next comes the problem of the implementation of an award. It is a very vexed problem and the penalty has been increased. There are those of course, who are very worried about that. But what about getting it implemented when there is a question not only of penalty but when there is a question, say, of reinstatement of a workman? It is necessary to have some safeguards to make sure that the employers or the employees, as the case may be, are made to take cognizance of a decision that has been taken by a tribunal. For instance, to refer once again to the Cement Works in Madukkarai, over two and a half years have passed since the tribunal has given an award for the reinstatement of the general secretary of the union and for payment of his wages with retrospective effect. There is nothing to impel the management to implement that award. At the same time there is, of course, the possibility of going to court, but then what happens? The management pays the back wages but the reinstatement cannot be taken up. So, Sir, it is not only a question of penalty; it is not only a question of fine; it is not only a question of recovery of money and paying it as ordered by the court. There must also be some safeguards, it must be possible for the authorities concerned to guarantee the implementation of a particular award. To once

[Shrimati Parvathi Krishnan.] again remind hon. Members of what is stated in the Second Five Year Plan, it is this:—

> "While the responsibility for implementation should be mainly on the employer (public or private), an appropriate tribunal should be constituted for enforcing compliance. It should be possible for the parties to have direct approach to this tribunal. The tribunal should also be empowered to interpret the scope and meaning of the directives contained in awards. In respect of findings which are not enforceable in financial terms the tribunal should have the power to require Government or some designated executive authority to secure specific performance within a given period."
>
> '"One of the sources of friction bet ween labour and management is inade quate implementation and enforce ment of awards and agreements....."

It is not to stop with "specific performance" as is sometimes being done, but "to secure specific performance within a given period". It is really extraordinary how fine are some of the sentiments that are there in the Second Five Year Plan; a very facile pen has been wielded in drawing up the Second Five Year Plan. Unfortunately, that same facility does not extend to legislation. It does not also extend to many of the speeches that are made on the floor of the House by those people who claim unanimously to support the principles and objectives and all else of the Second Five Year Plan. It is really remarkable, Sir, and of course, it is a very difficult position to understand. But I would not be surprised, Sir, if many of those who today are speaking on behalf of the employers, on behalf of the various other sections, perhaps have not even bothered to glance through the section on labour policy— it is a very small section, but a very important section, because therein willy-nilly are expressed principles of industrial democracy which are very- important, therein willy-nilly are expressed certain principles that will have to be implemented if any labour legislation is to have any value whatsoever, is to have any sanctity whatsoever in the new India that is coming into being. Therefore, Sir, I would like to impress upon you that it is not only a question of payments, it is not only a question oi imposing penalty for payments, but it is something more. There are various aspects that have to be looked into, various awards which may refer to reinstatement, which may refer to agreements on rationalisation, which may refer to agreements on work-load, by which implementation of all awards is guaranteed and is made possible.

With regard to the three-tier system, it is indeed a welcome proposal that the Appellate Tribunal is being abolished, and an attempt is being made to speed up the machinery for settlement of disputes. But it goes against all concepts and tenets of democracy when there are only one-man tribunals. Of course, one has had experience of such things, and sometimes they are good and sometimes they are bad, but there is always safety in numbers. A three-man tribunal can always guarantee a freer and franker exchange of opinion, can always guarantee that certain points that might be missed, certain points that might not be noticed by one, might be brought to the attention of the tribunal by another. And another thing that will have to be thought of very seriously,—particularly because Sir, as the discussion has been going on, one could see that lawyers are all straining at the leash to give us various interpretations of the law—is that Industrial Tribunals should be vested with power and authority to bring about closer understanding and compromises between the employers and the employees. Today we are in a position where sometimes if one or the other is not content with a decision, there is always the High Court or the Supreme Court to administer the law. Where industrial law is concerned, it is justice that has to be administered and not law, and therefore, Sir, I would appeal to hon. Members that the question of industrial relations should be viewed in such a manner that all legislation or actions that are brought to bear on that question are brought in such a manner as to help to bring about compromise between the parties to the dispute. In spite of various smiles, I would like to repeat the word 'compromise' which should be aimed at in creating a new basis for mutual relations between employers and employees. This really should be the spirit behind such legislation. It is not a question of the "whether" or the "wherefore" or the "but" or the "why" that matters. We have had endless discussions on the floor of the House on whether the comma should come before "the" or it should come after it. That

is not what is important in industrial relations. What matters is, are the interests of all parties being considered in a dispassionate manner and is justice being administered? It is not a question of interpreting this word or that word.

Now, Sir, I come to the most controversial clause, and that is the amendment to section 33. It is indeed amazing that this amendment should be brought in when we are on the threshold of the Second Five Year Plan. That is the protection, Sir, that the worker has had against any unfair action. It has always been open to the employers to take action against the workers with permission from the court even when a dispute was before a tribunal. Now, Sir, we are told that there is the new class of protected workmen and that after all in the building of a socialist pattern of society—emphasis on pattern, socialist pattern of society—it is necessary to see that other interests are also protected, etc. etc. And then we are told of the indiscipline of workers, indiscipline of so and so, indiscipline all round, and that the employers, after all the poor, suffering, starving employers, will have to be safeguarded so that they can also put in their bit in building the new India, and that section 33 was really preventing the employers from pulling their complete weight in the First Five Year Plan, "let us guarantee them at least now so that they will do their best to co-operate". This seems to be the strange logic. Then it is said, "the Standing Orders are there, and only within the Standing Orders action can be taken against workers, and after that approval has got to be got from the Court; therefore why worry?" Firstly, one must remember that the Standing Orders apply to those factories, those establishments which employ a hundred or more workers, and in our country there are certainly a large number of workers that belong to establishments that have a smaller number—for instance, the small workshops, match factories, *biri* industries etc., where there are much less than a hundred workers. How the Standing Orders will help them I do not understand.

Secondly, Sir, we are told that the employers must have some safeguard. It seems to me, Sir, that the Government, wedded to the principle of compensation, imagining that the rest is all going against the employer, feel "why not give the employer something". As far as section 33 is concerned most blatantly in the Statement of Objects and Reasons, it is said that "Employers have complained that they are prevented from taking action even in obvious cases of misconduct and indiscipline unconnected with the dispute till long after the offence has been committed." Well, Sir, if this is the only argument that can be brought forward, all I can say is that workers are also complaining that they are unable to take action against "undisciplined" employers who may be taking advantage of a dispute being there before the tribunal. *(Laughter.)* Sir, I hear laughter. That, of course, comes from certain sections. I can, of course guess the sections from where it comes.

AN HON. MEMBER : It is evident.

SHRIMATI PARVATHI KRISHNAN: I am glad it is evident to others, but I was not sure. Apparently, all I was saying so far seems to have rung *a* bell in certain quarters. To take away the protection that is being given to the workman by section 33, all these arguments are used, and it is amazinc, what acrobatics the defenders of this amendment have to go through. If you say that this right is being taken away without laying the rest of the cards on the table—that is, victimisation of active trade unionists being made possible— then you are told, "Oh, but it was only a notional right that the worker had. because after all the employers used to sack the people and then go to the court, and then the case went on. Now we are speeding up legislation. Therefore, it won't be so bad", etc. etc. When you point out, Sir, that there are positive cases where trade union workers, where among the more conscious sections, the working class have been protected by section 33, you are told that there are cases of indiscipline also. "There are those guilty of theft, guilty of rudeness to employers" you say that they are responsible trade union workers but the employers say that they are undisciplined. Well, Sir, in such cases in industrial establishments action can be taken under the Criminal Procedure Code, and there are other laws. Why section 33 has to be done away with in order to enable the employer to take action against anti-social elements I fail to understand.

Then, Sir, there is another thing about the matters unconnected with the dispute before the tribunal. Now this

[Shrimati Parvathi Krishnan.] is a very dangerous thing, because maybe the dispute is about bonus, maybe the dispute is about wages, maybe the matter unconnected happens to be rationalisation, or maybe the matter unconnected happens to be retrenchment of a large number of workers. In a country that is full of the interpretation of law, there is always the danger of further and further interpretation. Therefore, it is very necessary to give a categorical protection to the workmen against any vindictive action on the part of the employers, and on the part of the management. This is why, Sir, we oppose this amendment of section 33 and demand that the protection that the workmen had till now should continue. The workmen also should know that there is the possibility for him to stand up for his rights, when the occasion demands it. These are the main points that I would like to bring to the notice of this honourable House.

Then, Sir, there is one more point, and that is with regard to clause 31. Clause 31 on page 21 reads as follows:

> "If, immediately before the com mencement of this Act, there is in force in any State any provincial Act or State Act relating to the settlement or adjudication of disputes, the opera tion of such an Act in that State in relation to matters covered by that Act shall not be affected by the Indus trial Disputes Act, 1947 as amended by this Act." ftf

Now, Sir, this is a very blanket clause and it is fraught with danger. Perhaps Sir, one of the Acts it refers to may be the Bombay Industrial Relations Act, and that is sacrosanct and will not be touched by the Government. So, if they want to mention a particular Act, let it be mentioned specifically. If you have a clause of this type, there are other States which are affected. I am told, Sir, that in U.P. for instance, the working journalists have been told that the Working Journalists Act that has been passed by Parliament cannot come into operation there and there are various Acts already existing in that State which are quoted in order to deny to the working journalists the rights that have been conferred on them. Therefore, Sir, I have got great apprehensions about this particular clause, and I would suggest to the hon. Minister that if he has any particular legislation in mind, let that legislation be mentioned specifically, and the matter can be considered by the House. But this overall and blanket sort of exemption that is given is certainly one that cannot be accepted without being looked into very carefully.

Finally, Sir, I would just like to deal with this phrase "enlightened employer" that has been so lightly put before us by Mr. Himatsingka. It is so difficult, Sir, in our country to find an "enlightened" employer. Certainly, there are the smaller employers, those who are struggling against the stream of big monopolistic business that is trying to squeeze them out of existence. There are, no doubt, some smaller employers with whom the trade unions are on the best of terms and who, certainly, listen to the voice of the workers and who, with their limited financial resources, Sir, try to give a more sympathetic hearing to the workers. They also attempt to give better conditions wherever possible. Now, Sir, my question is: Who is this "enlightened" employer? In Valparai, in the Annamalai's where there are a large number of tea estates, who are responsible for flouting every single bit of legislation, for flouting any conciliation or agreement that is signed, for flouting any award that is given by any tribunal? There is one particular estate, the Sho-layar Estate, and I am sure every one is aware as to who is this "enlightened" employer who is the owner of that estate. That estate belongs to the big Birla group of estates. That is the example of an "enlightened" employer. The owner of that estate fiddles with his registers of those workers who have been there as permanent employees for a number of years under the management, from whom this estate was bought over; and be converts them into temporary employees so that he can save something in the matter of maternity benefit, in the matter of casual leave and in the matter of all those amenities which are guaranteed by law to the working class of this country. These are the "enlightened" employers, on behalf of whom we have just heard one spokesman. With all the sentiments that are being expressed with regard to the Second Five Year Plan and with all the sentiments that are being expressed time and again as to the welfare of the toiling sections in this country, we have had the statements made here about the non-existent enlightened employers. I could understand if the spokesmen of smaller employers were here who would demand and receive the co-operation of the working class and of the toiling sections in order to make

their industry or their concern stable. I could understand that, Sir. But it really leaves a very bad taste in the mouth— to use that hackneyed phrase—when some of our friends talk about the enlightened employer, who will have to pass the burden of the expenses of his industry on to the consumer, because after all, he must have that extra money to pay for his palatial house, that extra money to pay for his new Cadillac and that extra money to pay for the air-conditioning plant in his house. When we talk of better industrial relations, certainly, this is not the enlightened employer to whom we refer. But this is the enlightened employer who has been responsible for the deaths of workers in the mines of Parasia and in the mines of Amlabad, and who is not prepared to take those safety precautions that are enjoined upon him by the law of the land. He is simply there to have his huge profits. It is not only the consumer who has to pay, but it is also the worker who pays with his sweated labour and with his life. Therefore, Sir, it is not a question whether this is a Bill for the enlightened employers, whether this is a Bill for the small employers. But this is a Bill, Sir, which does not fulfil the principles of industrial democracy, does not fulfil those principles which are necessarily to be accepted and implemented, if the people of this country and if the working class and all other sections of the masses are to pull their weight unitedly and with all their support and all their enthusiasm for taking the country forward in the coming few years.

SHRI LALCHAND HIRACHAND DOSHI: Sir, it is not my intention to take much time of the House after such eloquent and illuminating address from the last speaker.

Sir, I would first of all refer to the subject of tribunals. The Government have chosen to discontinue the Appellate Tribunals. To my mind, Sir, this is one of the retrograde steps that the Government have adopted in denying justice to the cause of industrial relations. We always say that in these days relations between capital and labour or between management and labour ought to stand on a very high footing and that everybody should make an effort *to* see that these relations are put on a sound basis, but here is a provision whereby the confidence that should have been created in the minds of the employers and employees is being undermined. As one of the speakers who preceded me said, after all one-man justice is no justice. He is liable to make mistakes, and therefore, as there is no correcting court, these mistakes will create considerable dis-satisfaction amongst the contending parties and the object of this legislation will not be achieved at all. Why have the Government chosen to abolish the Appellate Tribunals? I was reading the speech of the Labour Minister in the other House and I found that one of the reasons given was that the appellate courts delay decisions. To my mind, this is a very unsound argument. If you provide enough courts, so that different disputes could be brought to these courts, discussed and finalised, I am sure that there would not be any delay. If you do not appoint a sufficient number of judges and if you allow the parties to drag on the cases, then there would not be quick decisions, and the cases will drag on in thfce courts. I have had some experience about these disputes in the courts and I know that there have been several cases where labour have deliberately delayed decisions many times feeling that a decision from the court would not be helpful to their cause. For these reasons, I feet that there is great necessity that there should be appeals from one-man decisions, and this would considerably help to bring about amicable relations between the parties. If this is not possible, then there should be at least more than one judge in these courts. As was suggested, there should be at least three men to conduct these proceedings. For this reason, I feel that this clause is not an improvement, but rather the reverse of it.

The other result of a one-man court would be that there would not be any co-ordinating link between the decisions of different courts. Let us take the Labour Courts. Perhaps there will be half a dozen such courts in a region, and these courts will not have any guiding factor, and each court will be deciding cases in its own way. Therefore, when a decision is given by one court and a party goes on that decision, another court will give another decision and there will not be any co-ordinating factor whereby one can be guided regarding the decisions and interpretations of the courts. It is very important that certain interpretations of these sections should be there and it is only then that one can understand the com-' plicated phraseology of these various

[Shri Lalchand Hirachand Doshi.]

clauses. For this reason, if there ar^ Appellate Tribunals, then the original courts would certainly be guided by the decisions of the Appellate Tribunals and it would be helpful. In the absence of such decisions, it would almost come to a sort of gamble from court to court, because each court is completely independent of the other courts and there will not be any coordination between the decisions of the various courts. Even in High Courts we find that different High Courts come to different decisions and it is only the Supreme Court decisions that make the decisions of the various High Courts conform to each other afte[r] the Supreme Court has given its decision. Therefore, if we have one-man courts and no appeals, then it will be difficult to arrive at any final understanding about the meaning of these labour laws. For this reason, I submit that instead ftf trying to save money Government should provide more courts and also Appellate Tribunals, so that it will lead to more harmony arrtong the contending parties.

As regards assessors, the clause says that the appropriate Government or the Central Government shall appoint assessors where necessary. To my mind, 'where necessary' is not the correct wording. Whenever either of the parties suggests that a decision is required on a technical matter and, therefore, nomination of assessors is necessary, Government should provide such assessors, and it should not be left to the Government whether assessors should be provided or not. The request of the parties should be binding on the Government.

About clause 21 (section 33) about which we have heard just now, my personal feeling is that the provision here for the payment of one month's wages or salary in case of discharge or dismissal for misconduct is an encouragement to such misconduct. I cannot understand why anybody should be paid when that person is not behaving properly. I have not been able to understand the logic why the employers should be prevented from taking any action because something is pending before a tribunal. There is no victimisation. If there is any victimisation on the part of the employer, the aggrieved party has full freedom to approach the Government or the court, but to prevent the employer from taking any action simply because some case is pending oeiore a tribunal, is denying justice. On top of that, to say that an employer can be allowed to take action if he is agreeable to pay one month's wages to a party who is doing mischief, I think, is not sound justice. It is only encouraging indiscipline and misconduct. I would, therefore, urge on the Government that wherever an employer feels that a person has misbehaved, he should have the freedom to take suitable action under the Standing Orders, and if that is wrongly done, of course, the court is there to say that the action taken by that employer is wrong. But he should

have freedom to take that 5 P.M.
action without delay so that

the discipline, in the industrial organisation will not be undermined. Discipline is one of the most important items so far as efficiency is concerned and if we do not see that discipline in the industrial organisation is maintained, there is grave danger to production and all sorts of wrong acts will be committed and go-slow, which is very common in many of the factories, will be encouraged. I would, therefore, request that the Government reconsider their decision and see that any action that is needed with regard to discipline or proper behaviour of personnel is expeditiously taken so that the working of the factory is done on efficient lines.

MR. DEPUTY CHAIRMAN: Will you continue on Monday?

SHRI LALCHAND HIRACHAND DOSHI: I would like to finish. I will not take more than a couple of minutes.

MR. DEPUTY CHAIRMAN: He is going away to Bombay today.

SHRI LALCHAND HIRACHAND DOSHI: The definition of 'workman' is also one of the points; and I should have preferred a straight definition of a workman who is actually doing some active work, apart from supervisory or managerial. There seems to be a certain system in defining various words in these laws whereby it is given much wider sense than what the word actually should mean. In one definition it was given that a man is a person with two hands and two legs and this and that, and also includes a four-legged animal called 'monkey'. That sort of a wide definition is most undesirable and let us restrict it to the real meaning of the word and we should not go beyond

the actual meaning of that word. For that reason it is undesirable that a 'workman' in the definition should have included a supervisor who is not really a workman but a person who is getting work out of the workman and is guiding him in doing proper work and for that reason, the definition of the word 'workman' should be improved. Thank you.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 11 A.M. tomorrow.

The House then- adjourned at five minutes past five of the clock till eleven of the clock on Friday, the 10th August 1956.