

are going to release our rice at fixed prices the price levels of other qualities will adjust themselves to this level.

DR. P. C. MITRA (Bihar): What about Bihar ?

MR. CHAIRMAN: He has not omitted Bihar.

SHRI H. P. SAKSENA: Is it the Government's policy to reintroduce control on food grains ?

MR. CHAIRMAN: No.

SHRI H. N. KUNZRU (Uttar Pradesh): Do Government propose to maintain these fair price shops as long as deficit financing will be added to ?

SHRI A. P. JAIN: As long as there is a demand at that price.

PANDIT S. S. N. TANKHA (Uttar Pradesh): The hon. Minister said that the rise in the price of foodgrains had been due to a shortfall in the production of coarse grains. May I know whether this short production had been due to those lands, whereon these coarse grains were being cultivated all along, being diverted for the cultivation of wheat or other cash crops or was it due to certain local calamities which might have occurred in those places ?

SHRI A. P. JAIN: It is primarily due to local calamities, drought in some places and over-abundant rainfall in other places.

SHRI AKBAR ALI KHAN (Hyderabad) : There are the cheap grain shops that are being run in Hyderabad. Will they be continued, will the Government support be continued or will they be stopped?

SHRI A. P. JAIN: These shops will be continued and they will continue to be multiplied so long as there is demand for rice and wheat at those prices.

#### **PAPERS LAID ON THE TABLE**

##### **FURTHER AMENDMENTS TO EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952 WORKING JOURNALISTS WAGE BOARD RULES, 1956**

THE DEPUTY MINISTER FOR LABOUR ('SHRI ABID ALI) : Sir, I beg to lay on the Table, under sub-section

(2) of section 7 of the Employees' Pro-

vident Funds Act, 1952, a copy of the Ministry of Labour Notification S.R.O. No. 1660, dated the 21st July, 1956, publishing further amendments to the Employees' Provident Funds Scheme, 1952. [Placed in Library. See No. S-293/56.]

I also lay on the Table under subsection (3) of section 20 of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955, a copy of the Ministry of Labour Notification S.R.O. No. 1769, dated the 30th July 1956, publishing the Working Journalists Wage Board Rules, 1956. [Placed in Library. See No. S-323/56.]

[MR. DEPUTY-CHAIRMAN in the Chair.]  
SUPPLEMENTARY DEMANDS FOR GRANTS  
FOR EXPENDITURE OF THE CENTRAL  
GOVERNMENT (EXCLUDING RAILWAYS)  
IN 1956-57

##### **SUPPLEMENTARY DEMANDS FOR GRANTS FOR EXPENDITURE OF THE TRAVANCORE- COCHIN GOVERNMENT IN 1956-57**

THE DEPUTY MINISTER FOR FINANCE (SHRI B. R. BHAGAT): Sir, on behalf of Shri M. C. Shah I beg to lay on the Table a Statement showing the Supplementary Demands for Grants for Expenditure of the Central Government (excluding Railways) in the year 1956-57. [Placed in Library. See No. S-320/56.]

I also beg to lay on the Table a Statement showing the Supplementary Demands for Grants for Expenditure of the Travancore-Cochin Government in the year 1956-57. [Placed in Library. See No. S-322/56.]

##### **THE INDUSTRIAL DISPUTES (AMENDMENT AND MISCELLANEOUS PROVISIONS) BILL, 1956 —continued**

MR. DEPUTY CHAIRMAN: Yes,  
Mr. Abid Ali. Now, before you begin let me tell the House that we have to finish all stages of this Bill by 3 o'clock, and we will sit through the Lunch Hour also. We will take up the other Bill at 3 o'clock.

##### *Clause 3—Amendment of Section 2*

THE DEPUTY MINISTER FOR LABOUR (SHRI ABID ALI) : Sir, about the amendment regarding contract labour

I may submit that the Act does not make any differentiation between a worker employed by the owner of an establishment or factory or employed by a contractor.

About the amendment tabled by the hon. lady member regarding leave, I may submit, Sir, that the Mines Act and the Factories Act contain the necessary protections that she has in view.

About amendment No. 71, Sir, I may submit it is not necessary at all because the figures per mensem has been mentioned. If a worker is paid on the basis of weekly work or a daily wage, then it can be very easily calculated. Therefore none of these amendments are acceptable and I would request the hon. Members concerned to withdraw them.

MR. DEPUTY CHAIRMAN: The question is:

1. "That at page 2, line 30, after the word 'implied', the following be inserted, namely:—

'and includes a person employed by a contractor to do any work for him in the execution of a contract with an employer'."

The motion was negatived.

SHRI C. P. PARIKH (Bombay): I beg leave to withdraw my amendment. •(No. 2).

The amendment\* was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

3. "That at page 3, after line 9, the following be inserted, namely:—

'(h) after clause (s), the following clause shall be inserted, namely:—

"(0 'recognised trade union' means any union • that has the support of the majority of workers concerned as expressed through secret ballot'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

♦For Text of amendment vide col. 1108 of Debate dated 13th August, 1956.

27. "That at page 3, lines 5 to 7, the words 'being employed in a supervisory capacity draws wages exceeding five hundred rupees per mensem or' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

70. "That at page 2, after line 11, the following be inserted, namely:—

'dd) in clause (oo), at the end of sub-clause (c), the following shall be added, namely:—

"provided that all the un-enjoyed permissible privilege and sick leave for the full length of service of the employee has been taken into account before such termination due to ill health'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

71. "That at page 2, line 30, after the word 'mensem', the words 'whether wages are paid monthly, weekly or daily' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

72. "That at page 3, line 6, after the word 'mensem', the words 'whether paid monthly, weekly or daily' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

*Clause 4—Substitution of new sections for section 1*

SHRI C. P. PARIKH: Sir, I beg to move:

4. "That at page 3, line 22, for the word 'seven' the word 'ten' be substituted."

5. "That at page 3,—

(i) at the end of line 25, after the words 'five years' the word 'or\*' be inserted; and

[Shri C. P. Parikh.]

(») after line 25, the following be inserted, namely:—

'(c) he is or has been or is qualified to become a High Court Judge; or

(d) he is holding or has held the office of a member of a Tribunal for an aggregate period of not less than one year "

SHRI SHRIYANS PRASAD JAIN (Bombay): Sir, I beg to move:

28. "That at page 3, line 12, for the words 'The appropriate Government' the words 'The High Court of the State concerned' be substituted."

(The amendment also stood in the names of Shri C. P. Parikh and Shri Lalchand Hirachand Doshi.)

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Sir, I beg to move:

29. "That at page 3, line 21, for the word 'held' the words 'been holding' be substituted."

SHRI SHRIYANS PRASAD JAIN: Sir, I beg to move:

30. "That at page 3, line 26, for the words 'The appropriate Government' the words 'The High Court of the State concerned' be substituted."

(The amendment also stood in the names of Shri C. P. Parikh and Shri Lalchand Hirachand Doshi.)

SHRI C. P. PARIKH: Sir, I beg to move:

31. "That at page 3, line 31, for the words 'one person only' the words 'not less than three persons' be substituted."

SHRI JASPAT ROY KAPOOR: Sir, I beg to move:

32. "That at page 3, line 35, the words 'or has been' be deleted."

SHRI SHRIYANS PRASAD JAIN: Sir, I beg to move:

33. "That at page 4, line 5, for the words 'may, if it so thinks fit', the words 'shall when asked for by either of the parties' be substituted."

(The amendment also stood in the name of Shri Lalchand Hirachand Doshi.)

SHRI C. P. PARIKH: Sir, I beg to move:

34. "That at page 4, line 15, for the words 'one person only' the words 'not less than three persons' be substituted."

SHRI SHRIYANS PRASAD JAIN: Sir, I beg to move:

35. "That at page 4, for lines 15-16, the following be substituted, namely:—

'(2) A National Tribunal shall consist of more than one High Court Judge to be appointed by the Central Government'."

(The amendment also stood in the name of Shri Lalchand Hirachand Doshi.)

SHRI JASPAT ROY KAPOOR: Sir, I beg to move:

36. "That at page 4, line 19, the words 'or has been' be deleted."

SHRI SHRIYANS PRASAD JAIN: Sir, I beg to move:

37. "That at page 4, line 24, for the words 'may, if it so thinks fit' the word 'shall' be substituted."

(The amendment also stood in the name of Shri Lalchand Hirachand Doshi.)

SHRI C. P. PARIKH: Sir, I beg to move:

38. "That at page 4, line 31, for the word 'sixty-five' the word 'sixty' be substituted."

DR. R. B. GOUR (Hyderabad): Sir, I beg to move:

54. "That at page 3, after line 25, the following be inserted, namely:—

'(4) The appropriate Government may, if it so thinks fit, appoint assessors to advise the Labour Court of whom at least half the number shall be labour representatives.' "

55. "That at page 4, line 6, after the word 'appoint' the words 'at least' be inserted."

56. "That at page 4, after line 7, the following proviso be inserted, namely:—

'Provided that at least half the number of assessors shall be labour representatives.'"

(The amendments also stood in the names of Shrimati Parvathi Krishnan and Shri Perath Narayanan Nair.)

SHRI RATAN LAL KISHORILAL MALVIYA (Madhya Pradesh): Sir, I beg to move:

57. "That at page 4, line 15, for the words 'one person' the words 'two persons' be substituted."

(The amendment also stood in the name of Dr. Shrimati Seeta Parmanand.)

DR. R. B. GOUR: Sir, I beg to move:

58. "That at page 4, line 24, after the word 'appoint' the words 'at least' be inserted."

59. "That at page 4, after line 26, the following proviso be inserted, namely:—

'Provided that at least half the number of assessors shall be labour representatives.'"

(The amendments also stood in the names of Shrimati Parvathi Krishnan and Shri Perath Narayanan Nair.)

MR. DEPUTY CHAIRMAN: The clause and the amendments are open for discussion.

SHRI P. N. SAPRU (Uttar Pradesh): All the clauses are taken together?

MR. DEPUTY CHAIRMAN: No, only one clause, clause 4 and all the amendments thereto.

SHRI JASPAT ROY KAPOOR: Mr. Deputy Chairman, my amendment relates to the constitution of the Labour Court, the Tribunal and the National Tribunal and all of them relate only to one point, namely, as to whether the presiding officer of the Court or the Tribunal, whatever the case may be should be a person holding some office at the time of the appointment or he may even be a retired person? I submit that since this is to be a one-man tribunal, the person holding this office must be an absolutely independent person.

The second point involved in my suggestion is that so far as the judges are concerned be they of the High Court or any other court, they should not have before them the temptation that if they work well to the satisfaction of the Government, after their retirement they

will be easily called back to occupy these offices. I, therefore, submit that in order to keep the judiciary above temptation and not to place before them the luring temptation of being called back to service after retirement, it is necessary that once a judge has retired he should not be called back to occupy the position either of a presiding officer of a Tribunal or of a National Tribunal. There is a fundamental principle and a fundamental object involved in my suggestion and I will seriously and most earnestly request the Government to consider as to whether it would not be advisable to keep the judiciary above temptation, not to have retired judges or retired persons at all. I do earnestly submit that of late there has been growing a sort of grievance among the public, I say this with all seriousness, because quite a few responsible persons have narrated their experience—if not experience their serious view—that some judges who have retired from High Courts are frequently called back to occupy important positions such as are mentioned in this Bill, whereas some other judges who by the public used to be considered to be very independent judges are not called back. The services of some retired High Court judges who used to be considered as very independent are not being availed of at all, whereas the services of some other retired High Court judges are being frequently availed of. Now, this has created an impression, maybe, right or maybe wrong, that in the matter of selection of judges the Government is influenced by the consideration of the manner in which those judges deliver judgments in cases which affect the Government. Whether it is right or wrong is quite another thing—I believe it is wrong—but the very fact that such a notion should spread about in society is bad enough. Human nature being what it is, if a judge when he is working as a High Court judge, begins to feel that if his judgments are to the liking of Government then after his retirement he is likely to be called back to service to occupy such positions as are provided in this Bill, it is obviously bad enough. I am not concerned with what actually the state of affairs is, but the fact is that we have to take into consideration human nature. And secondly ....

MR. DEPUTY CHAIRMAN: That will do. Please be brief.

SHRI JASPAT ROY KAPOOR: Lastly we should take note of this view which

[Shri Jaspat Roy Kapoor.] is growing in the country at this time, rightly or wrongly.

SHRI C. P. PARIKH: Sir, my amendments are the pivot of the whole Bill because according to the judgments given the disputes will diminish. The judiciary should, therefore, be as strong, as effective and as competent as may be necessary for the requirements. In the first place, Labour Court is the first court in this Bill and according to the Second Schedule "illegality or otherwise of a strike" is within its jurisdiction. It is the principal thing because when a strike is declared illegal, fines are also imposed on workmen. But the fines are never imposed on or recovered from workman. I can tell all the Members of the House that it is only in name. The law is there for imposing fine if the strike is illegal, but no punishment is inflicted. I know of many cases in Bombay factories.

Now, Sir, with regard to the presiding officer of a Labour Court, it has been provided that he should have at least seven years experience in any judicial office. I say, Sir, that the period should be ten years. I think it is no use grudging payment of higher salary to the judiciary in the matter of adjudicating and solving industrial disputes, because the country will suffer a lot in production if they are saving in salaries of big officers. Practising lawyers with good practice do not desire to be judges either of the Labour Courts or Industrial Tribunals or National Tribunals. Therefore, I say that this qualification must be there.

Also with regard to the Labour Court, it is not mentioned that a man who has been in the Appellate Tribunal can be appointed. My suggestion is that any one who is holding or has held the office of a member of a Tribunal for an aggregate period of not less than one year should also be appointed.

The second point is with regard to the persons especially in the State Tribunals and the National Tribunal. The composition of the Tribunal should be not less than three members because that is very important if these disputes are to be resolved to the satisfaction of both the employers and employees. Looking to the conditions in the country, looking to the mentality and the agitation which is carried on by the employees as well as the rights of the employers and the rights of the consumers, these judges should be not less

than three, because one-man Tribunal will not always be satisfactory. And Mr. Hegde's experience was that they were not sitting together. I have seen in the Bombay courts that the judges are in their chairs sharp at eleven o'clock. I have always seen that. The only thing is that having got less number of Tribunals they are unable to cope with the work. In order that they may be able to cope with the work, you must have as many Tribunals as necessary to solve the disputes within a given period. With regard to the National Tribunals disposal of disputes may take one year. The disputes involve questions of national importance. They are of such a nature that industrial establishments situated in more than one State are likely to be affected. This is an important matter and you want to leave it to one judge. I think that is not proper. The Appellate Court is sometimes composed of five judges. So, not less than three judges should be there in order to adjudicate disputes.

Then, Sir, with regard to the appointment of these judges at present these judges are appointed by the Labour Ministry of the appropriate Government. I think that should not be the case. The Law Minister should be vested with the power of appointing judges only on the recommendation of the High Court of the State concerned. That provision should be there and the Law Minister cannot reject the recommendation of the Chief Justice of the High Court in this respect, because the judiciary should be independent and I think that the executive or the Labour Ministers who are sometimes representing the interests of the employees should not sit in judgment on the representations made to them. Therefore, it is necessary that the appointment of these judges should be by the Law Minister on the recommendation of the High Court or by the High Court itself, if it could be provided in the Bill.

MR. DEPUTY CHAIRMAN: Please be brief.

SHRI C. P. PARIKH: Sir, I will take only two minutes on each amendment.

MR. DEPUTY CHAIRMAN: You cannot go on at that rate because there is no time. All these points have been thrashed out in the general discussion.

SHRI C. P. PARIKH: Then I come to my amendment regarding the presiding

officer of a Labour Court, Tribunal or National Tribunal, where it says that no one who has attained the age of sixty should be there. The age limit should be "sixty" instead of "sixty-five" years. I would request, Sir, that these points should be taken into account and, if necessary, Government should bear the additional expenses on account of increased salaries of these judges. I think that the salaries that are paid to the judges should be adequate in order that we can find competent personnel.

SHRI SHRIYANS PRASAD JAIN: Sir, I have moved five amendments and I shall categorise them into two groups. It has been suggested that the appropriate Government will make the notification for the appointment of Judges—it may be the Labour Court or the National Tribunal or it may be the Industrial Tribunal. My idea is that for the dispensation of impartial justice the adjudication machinery should form part of the regular judiciary and the Government should not appoint the judges. My experience is that when there is an appointment by the appropriate Government, the appointment can be made having in view political considerations too. I want that this adjudication machinery should be free from any political control and influence as the issues involved are very high, and it should be very very impartial and not connected with any particular ideology. This remark is also applicable to Industrial Tribunals as well as the National Tribunals.

Regarding the second point about the appointment of assessors, power has been given to the Government to the effect that they may agree with the appointment of the assessors or not. My point is that, when there is a demand by either party, the Government must agree to appoint assessors, and it should not be left to their discretion, so that justice may be impartial in accordance with the advice which may be imparted by the assessors.

DR. R. B. GOUR: Mr. Deputy Chairman, our amendments are very simple amendments, and I hope the hon. Deputy Labour Minister who appears to be a bitter friend to all of us here on these benches would try to look into this matter. The point is that it has been said that there will be assessors. Let the option be given to the Government concerned, to appoint assessors even for the Labour Courts. Secondly, let it be explicitly said that among those assessors 3—12 R. S./56

at least half of them would be labour. Here I want frankly to tell the hon. Minister that on this matter a certain amount of unity should also be brought about. For example, suppose a case is being investigated by either a Labour Court or a tribunal or a National Tribunal, and suppose the union concerned is affiliated to the I.N.T.U.C., then among the assessors let there be representatives of the H.M.S. and the A.I.T.U.C. If it is a case of the H.M.S., then let there be I.N.T.U.C. and A.I.T.U.C. representatives among the assessors, and so on. In this way proper help would be rendered to the presiding Judge, and also proper representation to the labour will be available, and every case will be properly understood and decided upon.

AN. HON. MEMBER: What about the representation of the employers?

DR. R. B. GOUR: The other half would be represented by the employers. They are the better half. There can be technical assessors also if the issue is technical. Labour has got its own technicians. We are not also opposed to the idea of my hon. friends over there—and I think here is an instance in which the capitalists and the Communists are agreeing—that there should be three men instead of one man in the Tribunals. But we are opposed to Mr. Jain's idea that the High Court should appoint the Labour Court. In that case the whole administration of the Labour Court will be a problem. In that case the Supreme Court will have to appoint the National Tribunal. Should the whole question of the administration of these Courts be under the judiciary or the State Government or the Central Government? That great problem will arise and therefore we are opposed to that idea.

SHRI RATANLAL KISHORILAL MALVIYA: Sir, since the Labour Appellate Tribunals have been abolished the responsibility which so far was being held by the Labour Appellate Tribunal now falls on these other Tribunals.

MR. DEPUTY CHAIRMAN: You want two persons instead of one? Is that your idea?

SHRI RATANLAL KISHORILAL MALVIYA: Yes, Sir, and assessors should be compulsorily attached to these Tribunals. If my proposal is not accepted, I oppose the idea of both Mr. Parikh and Mr. Jain that they should be appointed by the Law Ministry with the advice of the Chief Justice.

SHRI P. N. SAPRU: Sir, I want to say a few words.

MR. DEPUTY CHAIRMAN: Be as brief as possible. We are very short of time.

SHRI P. N. SAPRU: I should like to be as brief as possible, but a few points have been raised to which I would like to refer. First of all, Sir, I should like to speak with reference to the suggestion of Mr. Parikh that Judges should be appointed on the advice of the High Court. I regret that I am unable to agree with Mr. Parikh for this reason that appointment is an executive action. There has to be some one who is responsible to the Legislature for the appointment. That some one cannot be the court. Therefore, appointments can only be made by the executive Government who should, however, consult the High Court. They should not consult the Chief Justice only but also consult the High Court as an entire body and should appoint on the recommendation of the High Court. That is a different thing. You can consult, if you like, the Chief Justice of India for National Tribunals.

Then, Sir, I would like just to refer to what Mr. Kapoor said. Mr. Kapoor said that High Court Judges should not be eligible for appointment to Labour Appellate Tribunals. Even in England and even in the United States Judges are appointed to conduct specific enquiries and their independence has not suffered. Take, for example, the present Cyprus dispute. Lord Radcliffe has been sent there on behalf of the British Government to frame a constitution for Cyprus. Lord Reed has been sent to frame a constitution for Malaya. Mr. Justice Linskey has been sent to work in a dispute in a matter in which some Ministers under the Labour Government were involved. I can give many such instances. Therefore, judicial independence is by and large a matter of individual character. I venture to suggest with some confidence that there is character in our Judges. I would certainly say that it is not enough for a person to be a good Judge in order to be a good Judge of the Labour Appellate Tribunal. He must have a sociological bias or he must have a social outlook or possess a definite social philosophy. That is a matter which can be taken into consideration by the appointing authority at the time of appointments.

Then, Sir, I shall come to the point which was raised by Mr. Parikh and which was also raised by Dr. Gour, and that is that there should be a Bench. Now there were two arguments which were used against that proposal. The first argument was by Mr. Hegde for whom I have a very great respect as a lawyer, and I am hoping to see him adorn a Bench of one of our High Courts one day. I had occasion to work with him at the United Nations and I know what an extremely able lawyer he is. What I want to say is that Mr. Hegde has had experience of the Bar but he has not understood properly the nature of the judicial process. A Judge has to decide a case according to his individual conscience—he may have a strong colleague or he may have a weak colleague—Gujeratis look very meek and mild .....

MR. DEPUTY CHAIRMAN: The stronger always dominate the weaker.

SHRI P. N. SAPRU: I have never known a judge who allows himself to be dominated. Certainly he allows himself to be influenced by his brother judge, and it is only natural that the brother judge who happens to be the abler of the two, should occasionally carry his point.

Now, Sir, a point was made by Mr. Abid AH yesterday. He said "After all, what is there to worry about a one-man Tribunal ? If one judge goes wrong, two judges can go wrong or even three judges can go wrong. Even the Supreme Court goes wrong, because we have interfered with the judgments of the Supreme Court." The fact that we have interfered with the judgments of the Supreme Court as a sovereign Legislature in the country does not mean that the judgments of the Supreme Court were wrong. The Supreme Court has to interpret the law according to certain recognised canons of interpretation, and in its interpretation it is not concerned with what the Legislature intended. A judge is not concerned with what the Legislature intended. He is only concerned with what is actually to be found there in the statute for that is what enables him to gather the intention. I remember as a matter of fact that in one very great case a body of judges was asked to assist the House of Lords. Well if we accept Mr. Abid Ali's argument as correct, there should be no appeals, there should be no benches and no tribunals. That is really going too far.

Lastly, Mr. Deputy Chairman, I may tell you that these courts or these tribunals will have very important functions to perform, and in human affairs the possibility of error cannot be entirely eliminated. Therefore, Sir, it is wise to have, considering that there is to be no appeal against these tribunals, more than one judge.

I would also like to say, Mr. Deputy Chairman, that I am in entire agreement with my friend, Dr. Gour, in stressing the view that there should be assessors, and that these assessors should be drawn equally from labour and from capital. They will be of assistance to courts in arriving at decisions with regard to technical matters, because courts will be dealing with questions of social justice and various technical matters. Without such assistance it may not be possible for courts to arrive at correct conclusions. I suggest, Sir, that consideration should be given to these matters on merits, and I hope that the Deputy Minister for whom we have got a very high regard will approach these questions with an open mind. Thank you, Mr. Deputy Chairman.

SHRI ABID ALI: Sir, at the outset I may submit that I have supreme respect for our Supreme Court. What I was saying yesterday was this. Their judgments also can be such with which everybody may not agree. It is not necessary that every one should agree. Although the judgments or the decisions are final. With regard to the appointments by Government or by a High Court or on the recommendation of a High Court, Sir, I may submit firstly that this is a function of Government, and therefore it must be performed by Government, so far as the question of appointments is concerned. Perhaps some hon. Members have in mind the present provision in the principal Act that if a person is to be appointed as a Tribunal, then the High Court concerned should be consulted if it is for the original side, or the Supreme Court should be consulted if it is for the appellate side. There, Sir, the provision is that a person can be appointed as a Tribunal if he is qualified to be a High Court judge. Not necessarily he should be a High Court judge, but he should be qualified to be a High Court judge.

SHRI P. N. SAPRU: May I interrupt the hon. Minister and point out that under the provisions of\* the Constitution, so far as the subordinate judiciary is concerned.....

MR. DEPUTY CHAIRMAN: We cannot go on at this rate. He is replying now.

SHRI ABID ALI: So, Sir, I was submitting that a practising pleader who has been at the Bar for more than ten years can be appointed as a High Court judge, and also he can be appointed on a Tribunal both on the original side and on the appellate side. Therefore, Sir, we do consult the Supreme Court in such matters. Now, if this amending Bill is passed, we will not be able to appoint a person who will be qualified to be appointed as a High Court judge. Either he has been appointed by the Government with the concurrence of the High Court as a judicial officer, or he is a High Court judge, or he was a High Court judge. Therefore, Sir, the High Court or the Supreme Court had already been consulted before their appointment, and in that event it is not necessary to go to them again when we are appointing the already approved persons. Sir, if a person has been removed from service or if his services are terminated or if he is dismissed due to his misconduct or on any other such ground, then we will not appoint him. Before making an appointment we examine his record very carefully and satisfy ourselves with regard to his character and other things.

Then, Sir, my friend, Shri Kapoor, raised one point. I am really surprised at that. That was something about pick and choose business. I may submit, Sir, that we are very anxious and we have been very anxious always to take every available retired High Court judge. As soon as we learnt that a particular judge was going to retire, we wrote to him asking whether he would like to join the Tribunal. I would therefore request my friend to mention the name of even one retired judge—not here, but privately—who has such a grievance that his request was overlooked. In fact, Sir, we have been searching for the retired High Court judges, and we are not able to get them.

SHRI JASPAT ROY KAPOOR: Sir, on a point of personal explanation. I did not say that any retired High Court judge had not been taken and his request was overlooked. I did not make that complaint. My submission was this. The allurements of re-employment should not be there before a sitting High Court judge that after his retirement he will be called back. That is my point.

SHRI ABID ALI: He has mentioned that there has been a complaint to the



[Shri Abid Ali.]

effect that the claims of some retired High Court judge have been overlooked. Therefore, I was making that statement. The age of 65 is permitted for the Supreme Court also and the Supreme Court can take retired High Court judges. We also can take up to the age of 65, and so, there is no question of any sort of temptation, because up to the age of 65, they are eligible to be appointed as Supreme Court judges.

Now, Mr. Parikh said that ten years' experience as judicial officer should be there. I may submit that as far as possible, we will be taking retired Sessions judges, but there will be some places where Sessions judges may not be available. The whole idea is speedy disposal of cases.

SHRI SHRIYANS PRASAD JAIN: If only retired judges are to be taken, naturally they will try to be in the good books of the Government, while they are in service.

SHRI ABID ALI: I do not agree with the view that the moment a judge retires, he becomes open to all sorts of temptations.

Regarding assessors, I have assured hon. Members yesterday, that when assessors are appointed, one will be such as will be able to explain points on behalf of labour and the other from the management side. It is impossible to accept the amendment that for every reference there should be assessors. I have already explained the reasons yesterday. Also, some of the items, that will be entrusted to these Tribunals will be of a miscellaneous nature. I cannot accept the suggestion that for every reference there must be assessors.

DR. SHRIMATI SEETA PARMA-NAND (Madhya Pradesh): At least for the National Tribunals the appointment of assessors should be made compulsory.

SHRI ABID ALI: Therefore, I would request hon. Members to leave it to the Government, with this assurance from me that in all very important and complicated cases, assessors will be appointed to represent both the sides. Therefore, this matter need not be pressed.

About one or three judges, I have already explained the position yesterday.

MR. DEPUTY CHAIRMAN: You are not accepting any of the amendments?

SHRI ABID ALI: Otherwise, the whole thing will become very dilatory, while we want to have speedy disposal.

About the appointment, I may submit that the appointment is not made by the Law Ministry or the Labour Ministry. It is made by the Government of India or the State Governments. Certainly the Law Ministry will be consulted.

\* Amendments Nos. 4, 5, 28 to 38 and 57 were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

54. 'That at page 3, after line 25, the following be inserted, namely:—

'(4) The appropriate Government may, if it so thinks fit, appoint assessors to advise the Labour Court of whom at least half the number shall be labour representatives'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

55. "That at page 4, line 6. after the word 'appoint' the words 'at least' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

56. "That at page 4, after line 7, the following proviso be inserted,, namely:—

'Provided that at least half the number of assessors shall be labour representatives'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

58. "That at page 4, line 24, after the word 'appoint' the words 'at least\*' be inserted."

The motion was negatived.

\*For text of amendments *vide* cols. 1180-83 *supra*.

MR. DEPUTY CHAIRMAN : The question is:

59. "That at page 4, after line 26, the following proviso be inserted, namely:—

'Provided that at least half the number of assessors shall be labour representatives'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That Clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

*Clause 5—Substitution of new sections for sections 8 and 9.*

DR. SHRIMATI SEETA PARMA-NAND: Sir, I move:

60. "That at page 5, at the end of line 5, after the word 'filled' the words 'or from the stage at which the Labour Court, Tribunal or National Tribunal may deem proper' be inserted."

(The amendment also stood in the name of Shri Ratanlal Kishorilal Malviya.)

MR. DEPUTY CHAIRMAN: The clause and the amendment are before the House.

SHRI ABID ALI: I am not accepting the amendment.

•Amendment No. 60 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

*Clause 6—Insertion of new Chapter HA.*

DR. R. B. GOUR: Sir, I move:

6. "That at page 5, line 33, after the word 'workmen' the words 'and also to the registered union or unions' be inserted."

7. "That at page 5, line 35, for the word 'or' the word 'and' be substituted."

•For text of amendment *vide* cols 1195 *supra*.

8. "That at page 6, line 4, the word 'or' be deleted."

9. "That at page 6, for lines 5 to 14 the following be substituted, namely:—

'Provided that if in any case there are in operation any better rules for change, then such rules shall continue to operate'."

(These amendments also stood in the names of Shrimati Parvathi Krishnan and Messrs. Perath Narayanan Nair, J.V.K. Vallabharao, Abdur Rezzak Khan, Safya-priya Banerjee, N. C. Sekhar and S. N. Mazumdar.)

SHRI C. P. PARIKH: Sir, I move:

10. "That at page 6, line 18, after the word 'employers' the words 'or the employees' be inserted."

DR. SHRIMATI SEETA PARMA-NAND: Sir, I move:

61. "That at page 5, at the end of line 35 for the word 'or' the word 'and' be substituted."

(The amendment also stood in the name of Shri Ratanlal Kishorilal Malviya.)

MR. DEPUTY CHAIRMAN: They are all formal amendments. The clause and the amendments are before the House.

SHRI C. P. PARIKH: I am unable to understand 9B. ".... to any class of industrial establishments or to any class of workmen employed in any industrial establishment affect the employers in relation thereto." The changes might affect the employees sometimes more than the employers. So, after the words "employers" the words "or the employees" must be there.

SHRI N. C. SEKHAR (Travancore-Cochin): We are moving these amendments to clause 6, because we want to insert the words "and also to the registered union or unions" after the word "workmen" in line 33. We have got more than one union in several industries whether you call them rival unions or not. Anyway, Government have recognised registered trade unions as *bona fide* trade unions. Such unions are there in several industries. Our point is that, in addition to serving a notice on the workmen, they should also serve a notice on the registered *bona fide* trade union or unions.

[Shri N. C. Sekhar.]

Then the other amendment we would like to move is on page 6 for lines 5 to 14. We would like those lines to be substituted by: "Provided that if in any case there are in operation any better rules for change, then such rules shall continue to operate." Here, the Government has made certain exceptions in subclause (b). In order to do away with the bad effects of that change, we would like to insert this portion which I have already placed before the House. I would request the hon. Deputy Minister to accept these amendments.

DR. SHRIMATI SEETA PARMA-NAND: Mine is a very simple amendment that, instead of the word 'or' the word 'and' should be there. I personally think that this must have been a misprint. It reads "without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or (b) within twenty-one days of giving such notice." It should read actually "and (b) within twenty-one days of giving such notice." The whole object of making better conditions of service for the workmen will be defeated if before the time limit given his conditions of work are changed, and so the word 'or' should be changed to 'and'. I would request the hon. Minister to accept this, because it would not mean any extra time in the other House. This is only a verbal change and the other House accepted it without discussion.

1 P.M.

SHRI ABID ALI: I may submit that this point was considered in the other House also. It is not that I am not accepting any amendment because we should not go there again. I must assure the hon. Lady Member that the purpose she has in view is covered by the present wording, 'or' means 'and' also. That is our legal opinion. Of course she is also a food lawyer but our Legal Department is perfectly satisfied that the purpose she has in view is served by the present wording.

Regarding the other point, I may say that the intention is to enable the appropriate Government to exempt any class of industrial establishment or any class of workmen employed in any industrial establishment. It says:

tFor text of amendments *vide* col. 1196. *supra*.

"That the application of the provisions of section 9A to any class of industrial establishments or to any class of workmen employed in any industrial establishment affect the employers in relation there to so prejudicially that such application may cause serious repercussion on the industry concerned."

It is the employer who is called upon to observe the needs of a changed procedure and the application of the new procedure would not affect the employee prejudicially. The amendment therefore is not acceptable to us.

DR. SHRIMATI SEETA PARMA-NAND: Sir, what is your interpretation? Does 'or' mean 'and'?

MR. DEPUTY CHAIRMAN: I don't propose to give my opinion.

\* Amendments Nos. 7 and 8 were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

6. "That at page 5, line 33, after the word 'workmen' the words 'and also to the registered union or unions' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

9. "That at page 6, for line 5 to 14, the following be substituted, namely:

Provided that if in any case there are in operation any better rules for change, then such rules shall continue to operate."

The motion was negatived.

tAmendments Nos. 10 and 61 were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

*Clause 7—Amendment of section 10*

DR. R. B. GOUR: Sir, I move:

11. "That at page 7, after line 7, the following be inserted, namely:—

tFor text of amendments *vide* cols. 1195—96 *supra*.

"(in) after the proviso, the following further proviso shall be inserted, namely:—

'Provided also that the aggrieved party may refer any dispute directly to the Labour Court or Tribunal, as the case may be, and in such case no reference by appropriate Government will be necessary'."

I also move:

12. "That at page 8, after line 26, the following be inserted, namely:—

'(8) Notwithstanding anything contained in the preceding sections, if any fresh dispute arises during the pendency of the case before the Labour Court, Tribunal, or National Tribunal, as the case may be, the aggrieved party can directly refer the dispute to the said Labour Court, Tribunal, or National Tribunal'."

(These amendments also stood in the names of Shri Perath Narayanan Nair, Shri J. V. K. Vallabharao, Shrimati Par-vathi Krishnan, Shri Abdur Rezzak Khan, Shri Satyapriya Banerjee, Shri N. C. Sekhar and Shri S. N. Mazumdar.)

DR. SHRIMATI SEETA PARMA-NAND: Sir, I move:

73. "That at page 6, (i) for lines 27-28, the following be substituted, namely:—

'7. In section 10 of the principal Act,—

(a) the existing sub-section (1) shall be renumbered as subsection (1A) thereof and before the said subsection as so renumbered, the following shall be inserted, namely:—

(1) the workers and employers may refer a dispute direct to a Labour Court without reference to the appropriate Government.

(aa) in sub-section (1A) as so renumbered,—'."

I also move :

74. "That at page 6, line 31, for the words 'refer the dispute' the words 'if there is such a request from either party, refer the dispute' be substituted."

(These amendments also stood in the name of Shri Ratanlal Kishorilal Malviya.)

MR. DEPUTY CHAIRMAN: The clause and the amendment are open for discussion.

DR. SHRIMATI SEETA PARMA-NAND: This is a simple amendment. It only asks that so far as at least the Labour Court is concerned, to this last tier of the three Courts, the labourers should have the right to make direct reference. Because it means so much dilatoriness in procedure if they have to go through conciliation and then again have to request the Government to make a reference. It can be appreciated if the Government reserve the right with regard to the two higher Courts. This amendment only gives the labourers the right to make direct reference to the Court and leaving of course the Government's right in cases where such a reference has not been made either by employer or by a recognised union but by a few workers who may want that reference should be made, there the Government can make that reference. I hope the Government will accept this amendment.

SHRI N. C. SEKHAR: Apparently this may appear to be a very simple one but in content it is very important so far as the interests of the working classes and maintenance of peace in industry are concerned. The hon. Minister is adamant and is not prepared to accept any amendment. He has already decided not to accept any amendment. Yet we must drive home the point and say that injustice is done by this clause. In the course of his speech, the Minister gave certain figures to show that justice was done to certain National T.U. organisations. But here we are not concerned with figures but we are concerned with how the issues were presented by the Government. When the workers represented to the Government certain issues, the Government selected on their own certain unimportant issues and placed them before the Tribunal for a decision. That affected the interests of the workers greatly. So a great number of disputes took place previously and are likely to take place hereafter also. To avoid that we want to give the workers the right to represent their cases themselves before the Tribunal. So we have suggested this amendment. The hon. Minister must think over this several times before he refuses to accept this amendment.

SHRI ABID ALI: We have given very earnest thought to every small and big amendment that has been suggested by hon. Members. I am not adamant. It will be improper on the part of the hon. Member to say that because as I explained earlier, we had a conference of all the Members of Parliament who participated in discussions concerning labour matters and on the suggestions received in that conference, we have brought forward forty amendments—not one but 40 in the Bill. Having accepted forty amendments arising from the suggestions of hon. Members, now to come and be told that we are adamant, is not reasonable at all.

About the suggestion that workers should be able to go to these tribunals directly, I may submit that it will mean nothing but anarchy and chaos. As was mentioned in the other House by Shri R. Venkataraman, take an establishment having 1,000 workers. Every worker will be able to go to Court. One will want to work for 8 hours, another will want five hours and a third will want 10 hours. What will be the number of disputes before the Court? It will be unending. If we mention 'unions' then if an establishment has 700 workers, there can be 100 unions as 7 workers can form a union and get it registered. And every one of these unions can go to the Court for getting the things which may come in their minds for adjudications. It is therefore not a proper suggestion and makes the entire scheme unworkable. Therefore I am sorry, I must oppose the amendments. Regarding direct reference, it is not possible to be accepted.

\* Amendments Nos. 73 and 74 were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

11. "That at page 7, after line 7, the following be inserted namely:—

'(Hi) after the proviso, the following further proviso shall be inserted, namely:—

Provided also that the aggrieved party may refer any dispute directly to the Labour Court or Tribunal, as the case may be, and in such case no reference by appropriate Government will be necessary.'"

The motion was negatived.

\*For text of amendments *vide* col. 1199 *supra*.

MR. DEPUTY CHAIRMAN: The question is:

12. "That at page 8, after line 26, the following be inserted namely:—

'(8) Notwithstanding anything contained in the preceding sections, if any fresh dispute arises during the pendency of the case before the Labour Court, Tribunal, or National Tribunal, as the case may be, the aggrieved party can directly refer the dispute to the said Labour Court, Tribunal, or National Tribunal.' "

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 7 stand part of the Bill."

The motion was negatived.

Clause 7 was added to the Bill.

*Clause 8—Insertion of new section 10A*

SHRI JASPAT ROY KAPOOR: Sir, I move:

39. "That at page 8, line 31, after the word 'before' the words 'or after' be inserted."

40. "That at page 8, at the end of line 37, after the word 'agreement' the following be inserted, namely:—

'If the reference to arbitration is made after the dispute has been referred to a Labour Court or Tribunal or National Tribunal, the said Court or Tribunal, as the case may be, shall not proceed further with the adjudication of the dispute.' "

MR. DEPUTY CHAIRMAN: And do you want to say anything?

SHRI JASPAT ROY KAPOOR: Yes, Sir.

At the moment I am encouraged to move my amendments by the assurance given by the hon. Deputy Minister, Shri Abid Ali that he resents being called adamant, so far as these amendments are concerned. If it is not so and he has an open mind, I hope he will prove this by his conduct by accept-

ing some of the amendments, at least the one that I have just moved, because these amendments are absolutely in keeping with the assertion that the hon. Labour Minister has made as also his learned deputy, that they would always like to encourage adjudication by arbitration. So far as the present clause 8 is concerned, it says:

"Where any industrial dispute exists or is apprehended and the employer and the workmen agree to refer the dispute to arbitration,".

That is all right so far as it goes. And then it says: "they may, at any time before the dispute has been referred...." and so on. All I want is that the privileges which are contained in this clause 8 and that are intended to be given to awards by an arbitrator, if the reference to the arbitrator is made before the dispute is referred to a Labour Court or a Tribunal, should similarly be extended to arbitration and the award, even if the reference is made after the dispute has been referred to the Court or Tribunal. I see no reason why once a dispute has been referred to the Court or Tribunal, it should not be open to the parties to take the case away from the Court or Tribunal and refer it to an arbitrator. I am sure it is agreed on all sides that we should always encourage adjudication by arbitration. In that case the task of the Government would be very much lightened and lessened, if the case is withdrawn from the Court or Tribunal and referred to an arbitrator.

MR. DEPUTY CHAIRMAN: That will do.

SHRI JASPAT ROY KAPOOR: Just one more point, Sir. The argument might possibly be urged by the hon. Deputy Minister that there is no bar in this Bill to referring a case or dispute to arbitration even after it had gone before the Court or Tribunal. That is true. But the question is: Will the Tribunal or the Court stay its hands thereafter? Not necessarily. Secondly, even if the Court is inclined to do so—I do not know whether it has any inherent power to do that—even if it does so, the question arises whether the award given by the arbitrator in such cases, will have the sanctity that we are giving to an award under the provisions of this Bill. I am afraid it will not have that sanctity. What are those special privileges and what is the sanctity that are given in this Bill?

(Time bell rings.)

They are enumerated here in the sub-clauses.

MR. DEPUTY CHAIRMAN: The time is up, Mr. Kapoor. If every Member takes five minutes over each amendment, then we will not be able to complete this Bill by three o'clock.

SHRI JASPAT ROY KAPOOR: There is enough time, Sir.

MR. DEPUTY CHAIRMAN: That will do.

SHRI JASPAT ROY KAPOOR: But let me complete my point, Sir, otherwise it will be meaningless. I am submitting that sub-clauses (5), (4) and (3) of this clause will not apply to such awards.

Then again, provision 17A on page 11 will not be applicable and none of the other provisions of this Bill will be applicable to such awards. Therefore, I submit that both the awards in all such cases should be treated as on par.

SHRI ABID ALL My hon. friend Mr. Kapoor wants me to be a reasonable person, but that I cannot be by accepting unreasonable suggestions. I may submit that he is quite right in saying that during the pendency of the proceedings before a Tribunal, the parties can go outside the Tribunal or Court, have their own arbitrator and his award can be brought in, can be produced in the Court as an agreed solution of the dispute, and that would-be accepted by the Court and decision " will be given in terms of the settlement that they have been able to arrive at. Therefore, there is no difficulty.

♦Amendments Nos. 39 and 40 were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

MR. DEPUTY CHAIRMAN: No amendment is being moved to clause 9 and there are no amendments proposed to clauses 10 and 11.

Clauses 9, 10 and 11 were added to the Bill.

\*For text of amendments *vide* col. 1202 *supra*.

*Clause 12—Substitution of new sections for sections 15, 16 and 17A*

DR. R. B. GOUR: Sir, I move:

13. "That at page 11, lines 5-6, for the words 'as soon as it is practicable on the conclusion thereof the words 'within two months' be substituted."

14. "That at page 11, line 12, after the word 'Court' the words 'or Tribunal' be inserted."

(The amendments also stood in the names of Shri Perath Narayanan Nair, Shri J. V. K. Vallabharao, Shrimati Parvathi Krishnan, Shri Abdur Rezzak Khan, Shri Satyapriya Banerjee, Shri N. C. Sekhar and Shri S. N. Mazumdar.)

SHRI C. P. PARIKH: Sir, I move:

42. "That at page 11, lines 5-6, the words 'as soon as it is practicable on the conclusion thereof be deleted."

43. "That at page 11, at the end of line 7, after the word 'Government' the words 'within two, three and four months, respectively, unless the previous permission of the Chief Justice of the appropriate High Court has been obtained for a longer period' be inserted."

SHRI JASPAT ROY KAPOOR: Sir, I move:

44. "That at page 12, at the end of line 12, after the words 'Central Government' the following be inserted, namely:—

'for not less than fifteen days, and the said order shall be subject to such modifications as the Legislature of the State or Parliament may make during the session in which the order is so laid."

45. "That at page 12, line 13, the words 'rejected or' be deleted."

46. "That at page 12, line 15, after the words 'shall' the words 'subject to any modification by the Legislature of the State or Parliament' be inserted."

DR. R. B. GOUR: Sir, I move:

62. "That at page 11, lines 22-23, for the words 'in such manner as the appropriate Government thinks fit' the words 'in the Official Gazette' be substituted."

(The amendment also stood in the names of Shrimati Parvathi Krishnan and P. Narayanan Nair.)

DR. SHRIMATI SEETA PARMA-NAND: Sir, I move:

63. "That at page 11, after line 23, the following proviso be inserted, namely:—

'Provided that the interim award would remain in force till the final award and would not be required to be published."

(The amendment also stood in the name of Shri R. K. Malviya.)

MR. DEPUTY CHAIRMAN: The clauses and the amendments are before the House.

SHRI C. P. PARIKH: Sir, it is agreed that the courts should hold their proceedings as expeditiously as possible and in that case. I think the Labour Court should not take more than two months to give its decision, the State Tribunal not more than three months and the National Tribunal not more than four months. I think within these periods all these disputes could be adjudicated. Of course, this cannot be done if there is inadequacy of the number of Courts or if there is inadequacy in the number of judges.

MR. DEPUTY CHAIRMAN: All these questions have already been dealt with in the general discussion and there is no purpose in repeating the arguments over again. I would request hon. Members not to stress points already dealt with and on those points no speeches need be made. On some important clauses some observations may be made.

SHRI C. P. PARIKH: But inadequacy of the number of Courts and the inadequacy of the number of judges are the causes of all the delay and that should be appreciated by the hon. Labour Minister. If there is adequate number of Courts and judges, then I submit these period of two, three and four months respectively should be quite sufficient. And if in any case, this cannot be done, then the previous permission of the High Court should be obtained. The hon. Minister said that the process would be dilatory, but it need not be dilatory. The Ministry or the High Court should keep a watch on the judgments and see that they are given within these periods. This assurance should be given to the House. This assurance is more in the

interest of labour, that all these things will be watched and that the judgments will not be delayed beyond a certain period.

MR. DEPUTY CHAIRMAN: Mr. Kapoor, you pressed this point earlier.

SHRI JASPAT ROY KAJOOR: I stopped short of it because you were pleased to nod your head when I said that I will talk in detail at the stage of the consideration of the amendments.

MR. DEPUTY CHAIRMAN: You must co-operate with me.

SHRI JASPAT ROY KAPOOR: I may submit that this amendment of mine is an important one and I am very particular about it. I would like to abide by your wishes and say something on this; I may not take time on my other amendments. The amendment that I have now submitted must necessarily be accepted by the Government because it really carries out the intention of the hon. Labour Minister himself.

MR. DEPUTY CHAIRMAN: Why do you say that Parliament has no power? It is supreme and it can pass a resolution rejecting or modifying an award.

SHRI JASPAT ROY KAPOOR: Sir this has been clumsily worded and as it stands at present—you may not agree and yet I venture to hope that you will agree with me—it says that the modification or the rejection of an award or an order rejecting an award shall be placed before Parliament or the Legislature as the case may be for fifteen days. It shall become final only after that. In the first place, it does not say that for fifteen days the award shall continue to be laid before the Parliament or the Legislature, as the case may be, during the Session. It only says that it shall be laid before the Parliament or the Legislature and fifteen days thereafter it shall become final. Now, it may be laid before Parliament or the Legislature just on the last date of the Session, not intentionally but because of the specific provision in the Bill that any order passed must be placed before the Parliament at the earliest opportunity. It may so happen that just on the last day or two or three or even four days before the closing of the Parliament or the Legislature, the Government will pass an order rejecting or modifying the award. Parliament will be seized of

it only for four days—not for fifteen days—and it may be that in some cases it may be seized only for a few hours. Therefore, I submit that this clause is clumsily worded. I would like to submit—as I submitted earlier also—that merely placing on order on the Table of the Parliament is of no consequence unless you specifically provide herein that it shall be open to us, by virtue of a provision incorporated here in, that we can amend, modify or reject that order. I will read two sentences from the speech of the hon. Labour Minister in the other House. He said,—and it was on this assurance and on this interpretation— .....

MR. DEPUTY CHAIRMAN: The hon. Member cannot refer to the proceedings of the other House.

SHRI JASPAT ROY KAPOOR: I do not know, Sir. The two Houses have got to be taken together. If, in connection with a measure, the hon. Minister says one thing in the other House, we should take cognizance of it. We are here considering this Bill as it has emerged from that House. We should know the circumstances under which this Bill was passed there, this particular clause was passed there. In view of the specific assurance and interpretation of the hon. Minister that under the very provisions of this Bill, Parliament—of course, both the Houses of Parliament—can amend that order, this provision was passed. Now, my submission is that if the interpretation of the hon. Minister is correct, I am out of court. If, however, that interpretation is absolutely wrong, then in order only to carry out the intention of the hon. Minister himself, it is necessary to modify this provision. Now, what he said there was this: It is in page 1736 of the proceedings of the 24th July :

"We have further provided that it would not be effective until after it has been placed on the Table of the Parliament for the fortnight. If, within a fortnight, the House does not say anything, that will become effective."

In the first place, as I have already submitted, it may not necessarily be for a fortnight. He goes on to say,

"Within that fortnight, the sovereign Parliament has got the right to move a Resolution accepting, rejecting or modify it. So, ultimately, who is going to modify the award in the



[Shri Jaspat Roy Kapoor.] interests of social justice or general economy ? It is this sovereign Parliament of the Republic of India which is going to do it. So, I do not think anybody can take objection to this."

MR. DEPUTY CHAIRMAN: That is what he will say here also.

SHRI JASPAT ROY KAPOOR: This is what they intend to do but then they have not got the right to do it, they have not taken to themselves the right even to accept our resolution. That is what I submit. There is absolutely no meaning in saying that they shall place it before the Houses of Parliament, that they are vesting Parliament with the right to modify it. That is absolutely incorrect. With these few words, Sir, I submit that this amendment of mine may please be accepted.

One word more, Sir. Do you not see something ridiculous here ? They use the word "reject" and say that when any award is rejected or modified by an order and such an order is laid before the Legislature of a State or before Parliament, such award shall become enforceable only after the lapse of the prescribed number of days. When an award is rejected, how is it enforceable ? We must talk some sense in our provisions. They say that an order rejecting an award shall become effective and enforceable fifteen days after it is placed on the Table of the House. In a rejected award there is nothing to enforce. I beg of you to seriously consider whether we should permit provisions to be incorporated in our Bills in a manner which expose us to ridicule. Do you think, Sir, that this provision has been correctly worded ? Obviously not and I am glad you will bear me out, Sir.

SHRI RATANLAL KISHORILAL MALVIYA: My amendment is with regard to interim awards which are passed by the Tribunals. Under the provisions of section 17 of the parent Act—and there is no change in that provision under this Bill—the awards are to be published. I have faced difficulties with the Tribunals when the question of interim relief came up. The relief is a very minor one but it cannot be given because the law requires its publication and the Tribunals are put to a great difficulty. The substance of the amendment that I have moved is not mine; it is the request of the Tribunals. I refer especially to 1953 A.I.R. Travancore-Cochin—page 167—and 1953 Labour Law Journal, page 228. In these cases,

the Tribunal and the Travancore-Cochin High Court have requested the Government to see that such an amendment is carried out when this Act comes up for further amendment by the Parliament. This is the proper time when Parliament can take note of these requests. My amendment is a very simple one. The provision here is that it will be published in the way which Government thinks is proper. I say that interim awards need not be published at all but that they should be given effect to immediately they are passed. It might be a question of paying some money to the workers during the pendency of a case only. My submission is that unless this provision is amended, the worker will continue to suffer disabilities and great hardships. In my field there are situations in which fifty or sixty workers have been dismissed or suspended and stranded with not a pie of relief. This is not a situation peculiar to my field only. Such cases are reported from all over India and the workers are put to great difficulties. Unless provision is made that the order in regard to interim awards need not be published, I think the workers will continue to suffer.

I request the hon. Minister to accept this amendment, which is a very vital one, in the interests of the workers.

DR. R. B. GOUR: My amendment is very simple, No. 62. I fully support the amendment of my friends, Mr. Malviya and Dr. Parmanand and I hope the Minister will also consider particularly our amendment No. 62. Why should it be "as the appropriate Government thinks fit"? Now the question is you publish the award as it is. Then you have the right to modify or reject the award and after that you lay the award together with a copy of the order before the Legislature concerned. Why do you want to intervene even in the publication of the award ? So we say that the award should be published as it is in the Official Gazette as soon as the Government gets it, and that is why we say that the words "in such manner as the appropriate Government thinks fit" be deleted and in their place the words "in the Official Gazette" be inserted. That is all.

SHRI ABID ALL: Sir, as to what my hon. friend Shri Malviya has said, I do not think such a difficulty will now arise and we shall see what can be done with regard to this suggestion while framing the rules.

About the suggestion made by the hon. Member, Shri Kapoor, I may submit, Sir, that the whole scheme is clear in the provisions which are under discussion. The relevant provision says if "on public grounds affecting national economy or social justice" Government decides to modify an award, what it will do is this. "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." First its enforcement is suspended. Then it says in the proposed section 17A. (2) "Lay the award together with a copy of the order before the Legislature of the State or before Parliament" and as the case may be "on the first available opportunity". So it cannot be done when the Parliament is not in session.

MR. DEPUTY CHAIRMAN: Unintentionally you may place it on the last day of a session of the Parliament.

SHRI ABID ALI: Any mistake can happen. That is another thing, but the intention here is .....

SHRI J. ASPAT ROY KAPOOR: The hon. Minister says "Any mistake can happen," .....

MR. DEPUTY CHAIRMAN: And then the Members will have no occasion to move any resolution.

SHRI ABID ALI: It will be placed before Parliament in due time and such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid. It will be illegal if the provisions of law are not carried out according to what is mentioned in the provisions, and these will have to be honoured.

SHRI JASPAT ROY KAPOOR: It is not so mentioned.

SHRI ABID ALI: So I am making it clear. The intention is that the Legislature should be seized of the Notification modifying the award for full fifteen days.

SHRI JASPAT ROY KAPOOR: I agree. I only want that intention to be incorporated .....

SHRI ABID ALI: Nothing is done during the course of this fortnight. First it will be a proposal.

MR. DEPUTY CHAIRMAN: Your intentions are that you will give full fifteen days for the Legislature.

DR. R. P. DUBE (Madhya Pradesh): How the intentions will be put down is the question. It is not a question of what the intentions of the hon. Minister are. What matters is what is really written there in the laws.

SHRI ABID ALI: My submission is that that is what is mentioned in the law and has to be followed.

MR. DEPUTY CHAIRMAN: So you are not accepting any of the amendments.

SHRI ABID ALI: I am not accepting them, they are not necessary.

SHRI JASPAT ROY KAPOOR: May I know how the rejected award will be enforced as provided herein ?

SHRI ABID ALI: That will be a proposal only.

DR. R. B. GOUR: I am withdrawing my amendments Nos. 13 and 14 and not No. 62.

♦Amendments Nos. 13 and 14 were, by leave, withdrawn.

SHRI C. P. PARIKH: I withdraw my amendments Nos. 42 and 43.

♦Amendments Nos. 42 and 43 were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

44. "That at page 12, at the end of line 12, after the words 'Central Government' the following be inserted, namely:—

'Far not less than fifteen days, and the said order shall be subject to such modifications as the Legislature of the State or Parliament may make during the session in which the order is so laid.'

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

45. "That at page 12, line 13, the words 'rejected or' be deleted."

The motion was negatived.

\*For text of amendments *vide* cols. 1205 *supra*.

MR. DEPUTY CHAIRMAN: The question is:

46. "That at page 12, line 15, after the word 'shall' the words 'subject to any modification by the Legislature of the State or Parliament' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

62. "That at page 11, lines 22-23. for the words 'in such manner as the appropriate Government thinks fit' the words 'in the Official Gazette' be substituted."

The motion was negatived.

SHRI RATANLAL KISHORILAL MALVIYA: Sir, in view of the assurance given by the hon. Minister I withdraw my amendment.

DR. SHRIMATI SEETA PARMA-NAND: I join Shri Malviya in withdrawing the amendment.

♦Amendment No. 63 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 12 stand part of the Bill."

The motion was adopted.

Clause 12 was added to the Bill.

Clauses 13 to 16 were also added to the Bill.

*Clause 17—Amendment of section 23.*

DR. R. B. GOUR: Sir, I move:

64. "That at page 14, lines 12 to 14, for the existing clause 17 the following be substituted, namely:—

17. *Amendment of Section 23.*— In section 23 of the principal Act,—

(i) for the words 'in breach of contract' the words 'in regard to any matter connected with the dispute' shall be substituted; and

(ii) in clause (b), for the words 'a Tribunal', the words 'a Labour Court, Tribunal or National Tribunal' shall be substituted."

\*For text of amendment *vide* col. 1206 *supra*.

MR. DEPUTY CHAIRMAN: The clause and the amendment are open for discussion. Any remarks ?

DR. R. B. GOUR: Sir, this amendment seeks to amend section 23 of the principal Act. Now, Sir.....

MR. DEPUTY CHAIRMAN: Breach of contract ?

DR. R. B. GOUR: It is not merely breach of contract. It is the right of the worker to strike during the pendency of the dispute. Here, Sir, the Government is coming with a Bill where they would withdraw one facility that the worker was enjoying and that is that he will not be dismissed or his service conditions will not be changed so long as the dispute is pending in a Court of Enquiry, in a Tribunal, but they are not withdrawing the other, this condition that existed in the principal Act when the workers could not go on strike during the pendency of a dispute. Yesterday he gave us an example that the employers were dismissing, that they were changing the conditions of service and the workers were putting in miscellaneous petitions before the tribunals. Now that very fact goes against his contention. Precisely because the employers, in spite of the provision in the original Act, were dismissing those workers and the workers had to go with miscellaneous petitions against a particular class of employers the protection afforded to the workers by the principal Act should continue. Nevertheless they are moving that amendment to that particular clause. Then we want that they should also move an amendment to section 23 in this regard. Suppose there is a particular case before the Tribunal. Now there may be other disputes and there are disputes arising. You have not accepted any time limit for the Tribunal to give its award, say, within 2, 3, 4 months. Suppose the award of a Tribunal takes some time. Meanwhile other problems may arise and on those particular issues, on those particular disputes that are not connected with the dispute that is under enquiry or investigation, you have under this section 23 imposed a disability on the worker that he cannot go on strike. Why not remove this disability here ? Therefore my amendment is this that if there is a dispute unconnected with the issue that is under enquiry, then the worker should have the right to go on strike. I can quote any number of cases from the Digest. For example there were cases

when the strike was illegal under this particular section, section 23 of the principal Act, but it was justified because of the provocation from the management, because of the intensity of the demand that the workers had put, because of the case that they had already built up on that particular demand. There are so many cases that could be cited from the Labour Law Digest that such strikes had been justified in spite of the fact that it was illegal. The hon. Deputy Minister is not listening to me, Sir. That is most unfortunate. He is talking to an hon. Member.

SHRI ABID ALI: I am not talking. I am looking into his amendment.

SHRI H. P. SAKSENA (Uttar Pradesh): It is an insinuation against me. I submit that is a false accusation. I did not even open my lips. I had simply come and sat here.

DR. R. B. GOUR: Therefore, Sir, remove this disability from the worker and let him also go on strike if there is a dispute created by the employers and that dispute has nothing to do with the dispute that is under enquiry.

SHRI ABID ALI: Sir, I was giving earnest attention to the amendment which the hon. Member has suggested and still he is angry with me. It is very interesting.

SHRI AKBAR ALI KHAN (Hyderabad) : They are determined to be angry with you.

SHRI ABID ALI: Sir, I may mention that firstly there is no disability to the worker by the amending Bill. Secondly, the strike should be read with lockout. The present position continues whether connected with the dispute or otherwise. The employer cannot declare a lockout during the pendency of the proceedings. Therefore, the employees also should not go on strike. These are inter-related and, therefore, must remain.

DR. R. B. GOUR: They are interrelated, because they have inter-related it.

MR. DEPUTY CHAIRMAN: The question is:

64. "That at page 14, lines 12 to 14, for the existing clause 17, the following be substituted, namely:—

17. *Amendment of section 23.*— In section 23 of the principal Act,—

(i) for the words 'in breach of contract' the words 'in regard to any matter connected with the dispute' shall be substituted : and

(ii) in clause (b), for the words 'a Tribunal', the words 'a Labour Court Tribunal or National Tribunal' shall be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 17 stand part of the Bill"

The motion was adopted.

Clause 17 was added to the Bill.

Clauses 18 and 19 were added to the Bill.

*Clause 20—Substitution of new section for section 29*

MR. DEPUTY CHAIRMAN: There are three amendments.

SHRI P. D. HIMATSINGKA (West Bengal): Sir, I move:

15. "That at page 14, after line 28, the following proviso be inserted, namely:—

'Provided that no prosecution shall be started for any breach of any term of any settlement or award unless the complainant has given fifteen days' prior notice of his intention so to prosecute to the person alleged to have committed a breach.'"

(This amendment also stood in the name of Shri Jaspat Roy Kapoor.)

SHRI JASPAT ROY KAPOOR: Sir, I move:

47. "That at page 14,—

(i) in lines 23-24, the words 'with imprisonment for a term which may extend to six months, or' be deleted; and

(ii) in line 24, the words 'or with both' be deleted."

MR. DEPUTY CHAIRMAN: Mr. Bisht is not here. Amendment No. 48

[Mr. Deputy Chairman.]

not moved. The clause and the amendments are before the House.

SHRI JASPAT ROY KAPOOR: Sir, I simply move these amendments, conserving my breath for another amendment. I move them in order to give the hon. Deputy Minister an opportunity to accept them if he likes.

MR. DEPUTY CHAIRMAN: No speech. You are not accepting it?

SHRI ABID ALI: No, Sir. I have already explained yesterday.

SHRI JASPAT ROY KAPOOR: I do not press it. I beg to leave to withdraw my amendment.

SHRI P. D. HIMATSINGKA: Sir, I also beg leave to withdraw my amendment.

♦Amendments No. 15 and 47 were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 20 stand part of the Bill."

The motion was adopted.

Clause 20 was added to the Bill.

Clause 21—*Substitution of new section for section 33* DR. R. B. GOUR: Sir, I beg to move:

16. "That at page 14 to 16, for the existing clause 21 the following be substituted, namely:—

21. For section 33 of the principal Act, the following section shall be substituted, namely:—

'33. *Substitution of new section for section 33.*—During the pendency of any conciliation proceeding before a conciliation officer, or a Board, or of any proceeding before Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall—

(a) after to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings; or

\*For text of amendments *vide* cols, 1216 *supra*.

(b) discharge or punish, whether by dismissal or otherwise, any workmen concerned in the dispute;

save with the express permission, in writing, of the authority, before which the proceeding is pending."

17. "That at page 15, for lines 17 to 21, the following be substituted, namely:—

'Provided that in case of alteration of the conditions of service, the workman concerned shall have the right to apply to the authorities before which the main dispute is pending for disapproval of the said alteration of conditions or service:

Provided further that in case of discharge or dismissal of any workman, the employer shall make an application to the authority before which the dispute is pending for approval of the action taken by him and shall continue to pay to the workman concerned the wages that are due to him, if he were in service, for such time as the said authority takes to give its final decision on the matter.' "

18. "That at page 16, line 9, after the words 'employer' the words 'or an employee' be inserted.

19. "That at page 16, line 11, after the word 'approval' the words 'or otherwise' be inserted."

20. "That at page 16, line 12, for the word 'him' the words 'the employee' be inserted."

21. "That at page 16, line 13. after the word 'hear' the words 'arguments of both parties upon' be inserted."

(The amendment also stood in the names of Shri Perath Narayanan Nair, Shri J. V. K. Vallabharao, Shrimati Par-vathi Krishnan, Shri Abdur Rezzak Khan, Shri Satyapriya Banerjee, Shri N. C. Sekhar and Shri S. N. Mazumdar.)

DR. SHRIMATI SEETA PARMA-NAND: Sir, I move:

65. "That at page 14, line 37, after the words 'conditions of service' the words 'as mentioned in the Fourth schedule' be inserted."

66. "That at page 15, line 4, after the word 'express' the word 'prior' be inserted."

(The amendments also stood in the name of Shri Ratanlal Kishorilal Malviya.)

MR. DEPUTY CHAIRMAN: The clause and the amendments are before the House.

SHRIMATI PARVATHI KRISHNAN (Madras): Sir, with regard to this, this is the clause which we consider most important, because it takes away from the worker a right that has been granted to him until now. I have already made reference to this in my speech during the first reading of the Bill and I do not want to repeat those points. I would only like to remind the hon. Minister, once again, that there has been a great deal of agitation in the minds of the workers and in the minds of all genuine trade union workers with regard to this amendment because until now, in spite of what he said, that employers have taken action and miscellaneous petitions have had to be filed, there are also cases where the trade union has been strong, where the trade union has been well organised, workers have been protected by this particular section—section 33—of the Industrial Disputes Act. Therefore, we bring forward this amendment safeguarding this right of the worker with every confidence that the trade union movement and the working class will be able to make use of it in the best possible and the most reasonable manner. Yesterday there was a demonstration of workers who came here in order to present a petition to the hon. the Labour Minister, the workers of Delhi, and because he was busy on the floor of the House, it became necessary for some of us to meet them to accept the memorandum and pass it on to the Minister. I do not know whether he has even troubled to glance through that memorandum, but I hope that he will not once again say "we had a committee meeting where every Member of Parliament had opportunity to express himself and more than forty or fifty or whatever it is, amendments were moved." Because if I remember aright, during that particular committee meeting, this was the amendment that was discussed the longest. And as regards this amendment the voice of the Members of Parliament who were at that committee fell on very, very deaf ears, I might say, absolutely stone deaf ears. So, I hope we will be spared this note that keeps ringing

4—12 R. S.—56

again and again from the lips of the hon. the Deputy Labour Minister.

Now, Sir, with regard to amendment No. 17, we are told that the worker is given one month's wages. We do care for the worker and we do not want the worker to suffer. But what is the use of one month's wages? We know from our own practical experience. It is not what might happen or what the Deputy Minister might visualise in his moments of leisure and on the floor of Parliament, but what has been our experience. Our experience has been that disputes go on, are dragged on for months and for years before the Tribunal and is a worker expected to keep his family going on one month's wages? It may be for a period of ten months or twelve months and so on. What we ask by this amendment is that the worker should be paid wages for the time that the dispute is pending. Then there is a guarantee that he can maintain his family until such time as the court decides either for his reinstatement or against it. These are the arguments that we want to put forward and I hope the hon. Deputy Minister will set it fit to accept these amendments.

DR. SHRIMATI SEETA PARMA-NAND: Sir, this is a very important amendment which would safeguard the rights of the workers and reduce their suffering in case of discharge. These words I wish should be added in section 33(1), sub-section (a) and sub-section (b) to make the position clear. After the words "condition of service" the words "as mentioned in the Fourth Schedule" should be added. I want that the conditions of service as mentioned in the Fourth Schedule should be applicable so that in the case of industries where there are no proper conditions of service laid down—because it is not every industry that is so progressive that it has done this—the conditions mentioned in this Schedule would be useful.

Then, the word "prior" should be added after the word "express". That is, no employer shall for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute save with the express prior permission in writing. It is not stated there that the permission should be "prior" permission. If the permission is taken subsequently then the object of giving any real relief under this Bill which is meant more in the interests of the workers than the industry, is defeated. As

[Dr. Shiimati Seeta Parmanand.]

the hon. Deputy Minister said yesterday, there are no funds even from which to pay, when a dispute is going on where the contractor just dismisses a worker for harassment, to add to his hardship. Later on if the worker wins the case he will not be able to get anything. At least these very nominal amendments should be accepted.

SHRI BHUPESH GUPTA (West Bengal): Sir, I want to speak a few words on this particular clause and amendments. All that we demand here is that this particular amending clause in the Bill should not be there, that the original position as embodied in section 33 should be restored in the present Bill, that is to say, by eliminating a particular clause which is provided in the amending Bill. Arguments in favour of it have been given by the hon. speakers from both sides in the House and I think it is very important that when we are passing the Industrial Disputes amending Bill with a view to improving the industrial relations in the country, we should not impair the provisions of the Bill by introducing an element which goes in favour of the employer. Not only that it encourages and helps him in frustrating the healthy development in the industrial sector and in carrying on attacks on the working class. Yesterday I was very sorry to hear what the hon. Minister said on the subject. When certain suggestions were made, he thought that the persons who were making those suggestions from our side of the House were being unreasonable. I ask him how is it that the Congress Government thought that section 33 should remain in the Industrial Disputes Act for such a long time? Was it unreasonable at that time? If it was found advisable to keep section 33 on the Statute Book then, the Government should furnish proper explanation as to why a change of position is called for today. I think the onus of proving the reasonableness or the unreasonableness of it rests with the Government and not with us. As far as I can make out from the speeches that have been made on so vital a proposition as this, the hon. Minister has made out no case whatsoever in favour of this amending provision except that he had discovered certain indiscipline amongst the workers and wants to guard against them. Such is the language of the employers, such is the language of the boss, such is the language which provokes industrial disputes instead of settling things. I was surprised to find Mr. Parikh choosing an

argument of molestation of women and saying a lot of other things. Another hon. Member in order to justify the amending provision chose another set of arguments. Mr. Deputy Chairman, I do not think that Miss Mayo's angle of vision is the right angle of vision for looking at things which obtain in our industrial economy. What is important today is to find out exactly how we can promote better relations. Whether the employers would get more encouragement or whether they would be dissuaded from doing certain things which in the final analysis is responsible for creating industrial unrest in the country—that is the question and it is no use trying to get away from that. You can accuse us, Communists, as much as you like. You can malign a particular trade union organisation as much as you like. But the fact remains that every hour it is the employers who, because of their greed of profit, because of their exploiting tendency, create unrest in our economy, who create unrest in the industry, who are responsible for lock-outs, strikes and trade disputes that arise. Now, this condition is precisely going to encourage them, strengthen their hands and provoke them into further action. The hon. Minister said that even under the original provision a number of disputes arose, a number of malpractices took place. Suppose there is a good law in the country, and some people commit crimes despite the good law, is it an argument or a justification for abolishing the good law? Since when is the Labour Minister cultivating this type of argument? You cannot have this kind of horse-trading in arguments when we are dealing with this provision. I think we have a right to demand whether the organised trade union movement in the country has accepted this proposed amendment. Yesterday, before the Parliament rose there was a demonstration which I also attended I found that all the workers were demanding that this particular clause should not be there which seeks to amend section 33 of the original Act. At the same time they were prepared to admit the other good provisions in the Bill. It is not as if they had come there with a view to grinding some political axes against the Government. They are quite alive to the good things that are being done for meeting the demands of the workers. But they are very sensitive in this matter and they protest against this particular provision.

Now, Sir, I would ask at whose behest or on whose orders such a new element

is being smuggled into the industrial laws of our country. We would like to know who has advised the Government in this matter, which trade union leaders of the country have told them that this should be the provision in this Bill. Government is today bound to explain its position, tell the organised working class movement that it is motivated in this amendment by considerations in favour of the working class and not by a desire to oblige and please certain employers and bosses. It is the Government who should explain the position. I would still request the hon. Minister—I know that he is very touchy when it concerns us—to take out this amendment. It is absolutely unnecessary, it is highly provocative, it is dangerous in the sense that it enables the employer to carry on his attack against the working class and frustrate whatever we intend to achieve in the field of rehabilitating good relations in the industrial sector of our economy.

SHRI ABID ALI: Sir, if there is a good law in force and the working of it shows that there are some defects in it, and if the purpose of the law is not served, certainly it should be changed and that is what we are doing. It is the experience of the working of this particular section, and the suffering workers have demanded that this section should be so amended as provided in the amending Bill. As I have already quoted figures yesterday, a large number of workers were put out of employment even during the pendency of the proceedings before the Labour Appellate Tribunals. These figures only concern the Labour Appellate Tribunal proceedings. Besides that, during the pendency of the cases before the original Tribunals a much larger number of workers were sent away, and they had to either go home or before the authority concerned for relief. As I have explained yesterday, Sir, it is not that one month's wage will be of sufficient protection for twelve months or two years. I also sufficiently understand that, Sir, at present the position is that he is simply sent away. I do not say that the worker should be sent away. I should submit, Sir, that he should be allowed to work, there should be happy industrial relations. But in case a worker has been sent away, instead of his getting nothing as at present, he must be paid a month's wage. The present procedure, as the hon. Member also understand very well, takes months before decisions can be arrived at, and then the

aggrieved party goes in appeal. This remains pending for two or three years or any number of years. Now what we are providing for is that the workers, if sent away, must be paid a month's wage. Then, not the worker, but the employer should go before the Court and seek their approval or otherwise obtain the decision of the Court. The Court may say that in accordance with the provision of this clause removal is not approved and order him to give such relief to the worker the Court may deem fit. I do not think, Sir, that any reasonable person will consider that the amending provision will do harm to the worker. Every reasonable-minded person must accept that the workers are better cared for by this provision. I do not say that what we are suggesting is according to a formula agreed to in M.P.'s meeting. No. The charge that we do not accept any amendment coming from the members opposite is wrong. We have proposed ourselves 40 amendments and most of these arose out of the discussions which we had at a meeting of the M. Ps. in which the hon. Members opposite, many of them, did participate.

MR. DEPUTY CHAIRMAN: What about Shrimati Seeta Parmanand's amendments ' '.

SHRI ABID ALI: I am coming to that. I have never said in the opening speech that because of indiscipline it is necessary, and all that. I have only mentioned indiscipline with regard to friends outside, and yesterday was one such occasion.

2 P.M.

Sir, it is not correct to say that there were a thousand persons. I must say that there were hardly a couple of hundreds of workers.

MR. DEPUTY CHAIRMAN: That does not matter. We are not concerned with that.

SHRI ABID ALI: Then Sir, about the suggestion made by Shrimati Seeta Parmanand, I submit that permission means permission. The employer cannot take any action without permission.

DR. SHRIMATI SEETA PARMANAND: May I ask one question Sir ? If there is a gap of three to four months before the court finds time to dispose of the application and if he can be dismissed with one month's notice, how can prior permission be obtained unless.....



SHRI ABID ALI: I mean that permission means prior permission.

MR. DEPUTY CHAIRMAN: Now I will put the amendments to vote.

The question is:

16. "That at page 14 to 16, for the existing clause 21 the following be substituted, namely:—

21. "For section 33 of the principal Act, the following section shall be substituted, namely:—

'33. *Substitution of new section for section 33.*—During the pendency of any conciliation proceedings before a conciliation officer, or a Board, or of any proceeding before a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall—

(a) alter to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings; or,

(b) discharge or punish, whether by dismissal or otherwise, any workmen concerned in the dispute;

save with the express permission, in writing, of the authority, before which the proceedings is pending."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

17. "That at page 15, for lines 17 to 21, the following be substituted, namely:—

'Provided that in the case of alteration of the conditions of service, the workmen concerned shall have the right to apply to the authorities before which the main dispute is pending for disapproval of the said alteration of conditions of service:

Provided further that in case of discharge or dismissal of any workman, the employer shall make an application to the authority before which the dispute is pending for approval of the action taken by him and shall continue to pay to the workman concerned the wages that are due to him, if he were in

service, for such time as the said authority takes to give its final decision on the matter."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

18. "That at page 16, line 9, after the word 'employer' the words 'or an employee' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

19. "That at page 16, line 11, after the word 'approval' the words 'or otherwise' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

20. "That at page 16, line 12, for the word 'him' the words 'the employer' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

21. "That at page 16, line 13, after the word 'hear' the words 'arguments of both parties upon' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

65. "That at page 14, line 37, after the words 'conditions of service' the words 'as mentioned in the Fourth Schedule' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

66. "That at page 15, line 4, after the word 'express' the word 'prior' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 21 stand part of the Bill."

The motion was adopted.

Clause 21 was added to the Bill.

Clause 22 was added to the Bill.

Clause 23—Insertion of new sections 33E and 33C

SHRI JASPAT ROY KAPOOR: Sir, I move:

49. "That at page 16, lines 27-28, the words 'subject to special directions in the order of transfer' be deleted."

SHRI RATANLAL KISHORILAL MALVIYA: Sir, I move:

67. "That at page 17, line 6, after the word and figure 'Chapter VA' the words 'or by way of wages' be inserted."

(This amendment also stood in the name of Dr. Shrimati Seeta Parmanand.)

MR. DEPUTY CHAIRMAN: The clause and the amendments are now before the House.

SHRI JASPAT ROY KAPOOR: Mr. Deputy Chairman, this clause 23, to which my amendment No. 49 relates, provides for two things. It provides for the transfer of a dispute from one Labour Court, Tribunal or National Tribunal, to another Labour Court, Tribunal or National Tribunal. That is the first part of it, and the second part is that while so transferring the dispute, the Central Government can lay down special directions in the order of transfer for being observed by the court or the tribunal, as the case may be. Now, this, I submit, Sir, is one of the most astounding and outrageous provisions that I have ever come across in any legislation. It strikes at the very root of independence of the judiciary and amounts to making contempt of court something legalised. I wonder, Sir, whether any self-respecting High Court judge would agree to work on a Tribunal under such conditions. He is being told "You shall adopt such and such procedure, and no other procedure. You shall try the case *de novo* if we ask you to do so. You shall try the case from the stage at which it has been left by the other court, if we direct you so to do." Have you, Sir, ever come across such an astounding proposition in any legislation? Can we be a party to making contempt of court a legalised thing? I am asking, can anyone issue a direction or can anyone make a suggestion or make a humble request in the form of direction to a court that it should proceed in such and such manner? Is it not the very negation of the entire judicial system that we have adopted in this country and which we want to respect? Must this sovereign body, Sir, be a party to such

an absurd sort of legislation? I submit "definitely not". I am sure, Sir, you will not be able to find one single self-respecting judge whom you want to give directions not only in the matter of procedure, but in every other matter also, if you so like. Sir, the hon. Minister in charge of this measure said yesterday that what the Government intended to do was to lay down only one thing, whether the trial is to be *de novo* or otherwise. Unlike that, the words here are of a much wider implication, namely, "subject to special directions in the order of transfer." The directions have got the dignity of being special directions, because it is laid down here as follows:

".....subject to special directions in the order of transfer, proceed either *de novo* or from the stage at which it was so transferred."

They virtually amount to dictating a judgment for the Tribunal. Now, must we be a party to such a provision being incorporated in this measure?

There is another thing also. Sir. It appears that many of the provisions in this Bill have been very carelessly drafted. Yesterday, the hon. Minister stated that what the Government intended to have was that if a dispute is pending before a tribunal, it might, if the necessity arises, be transferred to a National Tribunal. Now I submit that under this provision they cannot do so. I would, in this connection like to draw your personal attention, Mr. Deputy Chairman, to this phraseology which says that "The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding under this Act pending before a Labour Court, Tribunal, or National Tribunal and transfer the same to another Labour Court, Tribunal or National Tribunal, as the case may be—" This can mean only one thing, and no other, that from one Labour Court it can be transferred to another Labour Court, and not from one Labour Court to Tribunal or to a National Tribunal. Now, Sir, if the intention of the hon. Minister is that it should be permissible to the Government at any stage to transfer a dispute from a Tribunal to a National Tribunal, that cannot be done under these provisions for the transfer, because of the word "another", can only be to another Tribunal and not to a National Tribunal. So, they must take serious note of it and see what exactly they intend to do. We are here to hold them to carry out even their intentions.

SHRI RATANLAL KISHORILAL MALVIYA: Sir, my amendment simply seek to clarify the position. Section 251 of the original Act is going to be replaced by section 33C, a new section. The original Act has made it very clear that, when a recovery is to be made from the employers, the amount of recovery may be by way of compensation or by way of wages. These words "by way of wages" I want to be incorporated in this clause.

[THE VICE-CHAIRMAN (SHRI S. N. MAZUMDAR) in the Chair.]

This is simply to clarify the position. It gives the right to the worker to claim wages of whatsoever nature they may be the omission of these words is likely to create confusion. It may be that in many cases there may be misinterpretations by Tribunals and the workers may suffer. Therefore, the addition of these words is very necessary, and I request the Minister to accept my amendment.

SHRI ABID ALI: The amendment of Mr. Malviya does not lie within the scope of this amending Bill. The payment of wages is governed by the Payment of Wages Act. Therefore, the difficulty which he has in view may not perhaps arise.

SHRI RATANLAL KISHORILAL MALVIYA: The Payment of Wages Act prescribes a time-limit of six months, whereas under this Act wages can be recovered for any period. I have myself got wages for workers from 1947. The Payment of Wages Act is quite a different matter. Unless there is a provision like this in this Act, there may not be any relief available to the workers.

SHRI ABID ALI: The wages which the hon. Member has referred to as having been obtained by him since 1947, became payable after the award was declared. Therefore the payment became due on the day the award came into force. The mention of 1947 is not material at all.

Coming to the point raised by Mr. Kapoor, I am in entire agreement with him in all that he has said, but not with his amendment. What he has suggested is quite all right but .....

SHRI JASPAT ROY KAPOOR: Lip sympathy only.

SHRI ABID ALI:..... our action will be on that basis only. There is no intention to interfere with the right of the court with regard to the matters which are justiciable. We only want to have power which we have not got now to transfer cases from one Tribunal to another, or from one court to another, and also to give directions, as it is mentioned here, or suggestions, whether a case should be started *de novo* or from the stage at which the case was transferred. Nothing more than that.

SHRI JASPAT ROY KAPOOR: Why do you want it ?

SHRI ABID ALI: Because it is necessary.

THE VICE-CHAIRMAN (SHRI S. N. MAZUMDAR) : The question is:

49. "That at page 16, lines 27-28, the words 'subject to special directions in the order of transfer' be deleted."

The motion was negatived.

\*Amendment No. 67 was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRI S. N. MAZUMDAR): The question is:

"Thai clause 23 stand part of the Bill."

The motion was adopted.

Clause 23 was added to the Bill.

*New clause 23A*

SHRIMATI PARVATHI KRISHNAN: Sir, I move:

22. "That at page 17, after line 26, the following new clause be inserted, namely:—

23A. *Amendment of section 34.* —to sub-section (1) of section 34 of the principal Act, the following proviso shall be added, namely:—

'provided that in case of any breach of any terms of any settlement or award cognizance shall be taken by the Court even on complaints made by the aggrieved party.'" (The amendment also stood in the names of Messrs. Perath Narayanan Nair, J. V. K. Vallabharao, Abdur Rez-zak Khan, Satyapriya Banerjee, N. C. Sekhar, S. N. Mazumdar and Dr. R. B. Gour.)

\* For text of amendment *vide* col. 1227 *Supra*.

THE VICE-CHAIRMAN (SHRI S. N. MAZUMDAR): The clause is now before the House.

SHRIMATI PARVATHI KRISHNAN: I have not got much to add to what I had already stated during the first reading, and I hope that the Minister would have thought seriously over it in the past few days and would accept the amendment.

SHRI ABID ALI: I oppose it. It is not necessary. The present arrangement is all right and is working very well.

THE VICE-CHAIRMAN (SHRI S. N. MAZUMDAR): The question is:

22. "That at page 17, after line 26, the following new clause be inserted, namely:—

'23A. *Amendment of section 34.*—To sub-section (1) of section 34 of the principal Act, the following proviso shall be added, namely:

'provided that in case of any breach of any terms of any settlement or award, cognizance shall be taken by the Court even on complaint made by the aggrieved party.'

The motion was negatived.

Clauses 24, 25, 26, 27 and 28 were added to the Bill.

*Clause 29—Substitution of new Schedules for the Schedule.*

DR. SHRIMATI SEETA PARMA-NAND: Sir, I move:

68. "That at page 21, after line 3, the following be inserted, namely:—

'5A. Change of residence;

5B. Transfer from one department or one place;".

(The amendment also stood in the name of Shri Ratanlai Kishorilal Malviya.)

THE VICE-CHAIRMAN (SHRI S. N. MAZUMDAR): The clause and the amendment are now before the House.

DR. SHRIMATI SEETA PARMA-NAND: Mr. Vice-Chairman, these two additions in the amendment which I like the hon. Deputy Minister to accept are very vital in the interests of the workers. The amendment seeks to make two additions to the conditions of service mentioned in the Fourth Schedule and which have to be observed when any dis-

pute is going on, so that the workers cannot be harassed. Now, change of residence should have been here and also transfer from one department to another and from one place to another. It is very common that the employers, in order to harass and victimise the workers or to humiliate them, while the dispute is going on, change their residence which they may have occupied sometimes for 20 years, for no vital reason, but just in order to put the worker to as much inconvenience as possible and also to terrorise the other workers by that example. Similarly, though it may be argued that this change of residence or transfer of the workers from one Department to another is the right of the employer, still when a dispute is on or even when the dispute is, under the change that has been effected, not exactly allied to the dispute that is under reference, it should not be right for the employer to change the residence for victimization or transfer the workers. This is a very simple amendment. Already there are 11 items of conditions of service mentioned and this only seeks to add two more items.

SHRI ABID ALI: If this can form part of industrial disputes, Government is not precluded from referring it for adjudication. I think that it should better so in the standing orders than find place here.

Amendment No. 68 was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRI S. N. MAZUMDAR): The question is:

"That clause 29 stand part of the Bill."

The motion was adopted.

Clause 29 was added to the Bill.

Clause 30 was added to the Bill.

*Clause 31—Act not to override State Laws*

DR. R. B. GOUR: Sir, I beg to move:

69. "That at page 21, after line 27, the following proviso be inserted, namely:

'Provided that such a State Act has no provisions that are contrary to the provisions of this Act or has provisions that take away or abridge the rights of workmen as enjoyed under this Act.' "

\*For text of amendment *vide* col. 1231 *supra*.

(The amendment also stood in the names of Shrimati Parvathi Krishnan and Mr. Perath Narayanan Nair.)

THE VICE-CHAIRMAN (SHR<sup>r</sup> S. N. MAZUMDAR): The clause and the amendment are for discussion.

DR. R. B. GOUR: Sir, clause 31 of the Bill suggests that the other Acts that will be there in the various States are not annulled by this amended Act as it is going to emerge after this Bill is passed. I want a proviso to be added to this particular clause as follows:

"Provided that such a State Act has no provisions that are contrary to the provisions of this Act or has provisions that take away or abridge the rights of workmen as enjoyed under this Act."

Yesterday, Prof. Wadia also supported this amendment of mine saying that if there is any State Act that abridges the privileges granted to workers under the Central Act or that contains provisions that are contrary to the provisions of this Act, then the Central Act must supersede that particular State Act. Here in our country in regard to Industrial Disputes there are legislation in the States that are contrary to this Central Act. There are legislations in the States that abridge the rights that the workers enjoy under this Act. For example, in this Act there are certain legal strikes and certain illegal strikes. That means there could be strikes. The law does not ban the strikes even though in the interest of the country or the economy or planning there is a certain restraint. That can be understood. But under the Bombay Industrial Relations Act, the B.I.R. Act or the Black Act as the workers call it, there can be no legal strike at all. There are so many provisions in that Act that go against this Act or that abridge certain rights that are conferred on the workmen by this Act. For example, there is a right that if there is a particular dispute in a particular court, the Industrial Disputes Act allows a workman who may not be a member of a particular union which is conducting the arguments about the dispute on behalf of the workmen to approach the Court directly and argue his case himself or to approach another union, in a similar industry. But the B.T.R. Act does not give that right. The Bombay High Court gave a verdict that that particular clause of the Bombay Act was *ultra vires* of the Constitution and the Central Act must have the right to supersede the

State Act but finally the Supreme Court held, on an appeal by the Government of Bombay, that the Bombay Government was right. Therefore such problems are there. Similarly in U.P. I understand that while we have extended this Act to working journalists, there is a State Act—a wonderful Act—where the working journalists could not come under this particular Act. Therefore the U. P. Government is refusing the working journalists to get the benefit of this Central Act. I need not dilate on this. There are certain provisions in some State legislations that go contrary to this particular Act that we are going to pass and therefore this proviso is very important. That legislation or that clause in that legislation that is contrary to this provision or which takes away the rights conferred on the workers by this Act, should not be considered as superseding this Act. This is the proviso and I think the hon. Deputy Minister will at least in this particular case be well advised to accept this amendment.

SHRI ABID ALI: Article 254 of our Constitution explains the position sufficiently well and that must be understood. About the Bombay Act, again the hon. Member has been good enough to call it a black Act but as a matter of fact I know that the workers unions there have been demanding application of the B. I. R. Act to the industries to which it has not been made applicable. Perhaps the hon. Member knows that 5 or 6 industries have been brought within the scope of the B.I.R. Act, not all. By stages it is being applied to other industries. But why should the workers be passing such resolutions in their union meetings? Nobody is forcing them to pass a resolution asking Government to make the Act applicable to the transport workers. It was not applicable to them. It was not applicable to the electric workers but they went on demanding it. Why should they do it if it is a black Act? I don't know from where the hon. Member got such information. It is very surprising.

About U.P., I may submit that I do not think that the Government of U.P. will refuse or can refuse to implement the amendment to the Act concerning the working journalists. I submit that they cannot and will not do it.

SHRIMATI PARVATHI KRISHNAN:  
They have.

SHRI ABID ALI: Where did they say that it will not be made applicable to the journalists—the Act which was passed for the working journalists ? Strikes are not prohibited by the B.I.R. Act but these are regulated.

THE VICE-CHAIRMAN (SHRI S. N. MAZUMDAR) : The question is:

69. "That at page 21, after line 27, the following proviso be inserted, namely:

'Provided that such a State Act has no provisions that are contrary to the provisions of this Act or has provisions that take away or abridge the rights of workmen as enjoyed under this Act.'"

The motion was negatived.

THE VICE-CHAIRMAN (SHRI S. N. MAZUMDAR) : The question is:

"That clause 31 stand part of the Bill."

The motion was adopted.

Clause 31 was added to the Bill.

Clauses 32 and 33 were added to the Bill.

Clause 1, the Title and the Enacting Formula were added to the Bill.

SHRI ABID ALI: Sir, I move: "That the Bill be passed."

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, we are at the end of the journey as far as this Bill is concerned. At this stage, I would like to make only certain general observations with a view to indicate how we could best work for the maintenance of proper industrial relations, with a view to the proper development of the right type of industrial relations in the country, relations that are often disturbed by certain policies of the Government as also by the behaviour of the employers. We are told in the Statement of Objects and Reasons attached to the Bill that this measure is intended to promote better industrial relations. Sir, there have been many laws and industrial laws too, in this country and not all of them were without certain good provisions. In fact, there have been measures and enactment which contained some undoubtedly good provisions, although most of them had again been mixed up with certain bad provisions also. But if

we have not succeeded in attaining the objectives set forth in the Bill or implementing the good and healthy measures that were passed, it is because in the field of practice, the employers went against the spirit of the provisions and put their narrow self-interest above the interests of the country and the workers. It is also because the Government, instead of trying to prevent the employers from so violating the laws and so behaving, have often enough, encouraged them in their misdeeds and mischiefs. This is a matter of profound regret in our country.

*(At this stage the Deputy Minister for Labour left the House and his seat was taken by the Parliamentary Secretary to the Minister for External Affairs.)*

I am very glad to see that the Parliamentary Secretary for External Affairs will now deal with the Labour Department.

Sir, this is the common experience of all people here that often enough the Government has completely brushed aside the grievances and the demands of the working classes. Often enough they have themselves taken sides with the employers and prevented crisis being resolved or prevented industrial disputes being settled in an amicable and friendly manner. I think it necessary at this stage to point out these things, because unless and until Government rectifies its own steps, unless and until Government gives up the old spirit which guided them in the past, all these measures and all the good provisions of this Bill would remain a dead letter and nothing would come out of them. I regret to say that the more I hear the hon. the Deputy Minister of this subject of industrial relations, the more I am convinced that, whatever the pressure of the working class movement might be, the stand of the Labour Ministry is to put up a stiff resistance against all beneficial changes. We made certain suggestions and they were reasonable suggestions. One may or may not agree with them, but they called for certain examination. You can get together the people and sit across the table and debate over such matters and see which are right and which are wrong. Or you may leave it to practice in order to prove which should be acceptable and which should not be. But instead of taking this constructive approach in the matter, the hon. Deputy Minister took the opportunity of having some fling at the Communist Party and a particular

[Shri Bhupesh Gupta.] trade union movement which he did not like. I regret this very much for that is not the way you can develop good industrial relations, or promote industrial peace. We and many others who are connected with the working class movement, the All India Trade Union Congress—and there are many others directly connected with the trade union movement—and all such organisations and elements should be taken seriously and should be taken into confidence. The hon. Minister and the Labour Department should take counsel with them. Unless such a course is adopted, it is very difficult, merely by the passing of such measures, though they may be good measures, to promote good industrial relations.

The hon. Deputy Minister tried to remind us that we had changed our views, that we are saying something now which we did not say before. Well, if they change their ways and their ideas, certainly we too should change our views and our ideas about them. For instance, some of the provisions that they are making in this Bill, did we not ask for them for the past three years. Did we not get up on the floor of this House and ask for the abolition of the Appellate Tribunal? Did we not ask for certain other measures and certain other changes in the provisions? All those they bitterly resisted at that time, but today they have changed, and it is all to the good. We welcome changes in the Government and so far as they go, we welcome them. But if at the same time you do not change your attitude and if you stick to your old arguments and your old approach, then we cannot help it; we will also have to stick to our own position and express the same views that should be expressed. He, of course, referred to many things and said that we were quoting Mr. Tripathi in this House. I should have thought that he would be happy at Mr. Tripathi being quoted, for at least we discovered one Member worth quoting. I should be very happy to live to see the day when I could quote Mr. Abid Ali. I wish he would give me an opportunity to quote him and I very much like that position to come about. Mr. Vice-Chairman, if we quote Mr. Tripathi, it is because we share his sentiments and views in a particular matter. We would like to quote more and more from the Congress Members opposite, because I think that will be helpful to the country as a whole. Common thinking is nothing

bad, it is not to be looked down upon and it is not something which you should deride in your speeches. Sir, I can tell the hon. Deputy Minister why we have changed in certain respects and why we say certain things which we did not say before. But I would first of all ask the hon. Minister and the Members opposite to read some of the speeches that they made in 1952 in the Provisional Parliament and earlier, and then in 1953. They will be glad to find that they have changed in certain respects and changed for the better. Naturally we also said something different, but this thing should not be made a debating point here. It is most regrettable that so responsible a person as the hon. the Deputy Minister, dealing with so responsible a party as the Communist Party—and whether they like it or not, that is the party which comes very close after them, that is next to you and that is connected with the working class movement. Such a Party, you cannot squeeze out of existence. I think one should not be interested in showing his spleen against them. That does not help at all. As the hon. Minister is coming in now, I would request him to change his attitude towards such matters. Now, baiting the Communist Party or a particular trade union movement does not help the development of good industrial relations in the country. That is what I would like to make perfectly clear. We have seen this thing for a long time; you have seen that it does not pay at all. You have seen that the more you incline towards the employers, the more the trade union organisations come together and make common cause which you cannot disregard and to which you have to yield. Learn from these at least and develop better and friendly attitudes in such matters, that will help. I think there are a lot of things which we can settle sitting across the table; there is a lot of things for which we know bitter struggles have to be waged by the working classes. We are conscious of this fact but we would not like to miss any opportunity of amicable settlement, of coming to an agreement through mutual discussion with the employers and the Government. In this context, the attitude of the Government assumes particular importance. Today, Government should adopt the proper attitude. Now, if the working class people were on top of the world in India, they would not have minded your being a little more generous towards the employers but the working class people today are subject to exploitation and all kinds of oppres-

sive actions on the part of the employers. It is they who need to be given relief.

THE VICE-CHAIRMAN (SHRI S. N. MAZUMDAR): Mr. Gupta, we have not much time on hand.

SHRI BHUPESH GUPTA: Therefore, we would like the Labour Ministry to view questions of labour from the point of view of the working classes because that would give them the right approach.

I welcome the abolition of the Appellate Tribunals and am strongly opposed to the amendment of section 33 of the Industrial Disputes Act. It is clearly stated in the Statement of Objects and Reasons that this amendment has been sponsored because the employers would like to have such an amendment carried out. It is in the document itself. I wish it were not done, I wish that the Government, even if the employers demanded it, had desisted from doing such a thing. Whatever you may say about the demonstrations outside, etc., the working class movement in the country would not accept this amendment; the trade union leaders of various trade union organisations would not reconcile to this kind of unjust and improper tampering with the provision which despite its failing gives some kind of a protection to the working classes.

Finally, I would appeal to the hon. Minister and say that the time has now come for him to change his attitude a little. We are living in a different time now. However much you may talk about the Second Five Year Plan and all that, nothing would be helped by maintaining this kind of hostility towards a particular trade union organisation or against people whom you believe are associated with that organisation. I think there is room for all to work together in certain fields and I say that the hon. Minister, of all people, should not stand in the way of co-operation.

SHRI RATANLAL KISHORILAL MALVIYA: Mr. Vice-Chairman, we are now at a stage when, after some time, this amending Bill will come into force. It has introduced certain changes in the form of the introduction of a three tier system, an absolutely new chapter or section with regard to notice of change, the introduction of arbitration, the abolition of Labour Appellate Tribunals and so on. There are certain changes which I myself and my colleagues in the organisation wanted to be introduced in the amending Bill that is before us now

but there was no opportunity because of the nature of the Bill and due to other factors, to bring them in. I feel that the time has now come when we should not wait for long for further amendments as we had to in the case of this Bill. After 1947, we had only one amendment, a major one, to section 25 of the Act. There may be occasions in future when amendments will have to be brought in more frequently. As times move fast, I feel that Government will not hesitate to bring in certain amendments—which I will refer to later on in my speech—sooner than later.

I will refer to two changes that have been effected by this Bill. One is regarding the abolition of Labour Appellate Tribunal and the other is a change in section 33. The Labour Appellate Tribunal has been abolished with the consent of all concerned and there is no doubt about it that it is in the interests of labour. Some of the recent decisions, especially the recent coal award however, have taught us a lesson and I at least feel that the Labour Appellate Tribunal should not have been abolished. We were objecting to the Appellate Tribunal only on account of the delay but, so far as relief to the workers is concerned, I very strongly feel that had there not been the Appellate Tribunals, the condition of three and a half lakhs of workers in the coal industry would have been very bad indeed. The way in which the award has been implemented by the employers is the worst that I have ever found during the last ten years of my trade union career. This is not the time when I should narrate those instances but I feel that the Labour Appellate Tribunal should have continued for some time more.

[MR. DEPUTY CHAIRMAN in the Chair.]

The difficulty is to get people of high reputation and good experience to substitute National Tribunals. In the light of what has happened and what is hap-pending in the country, I hope Government will take care to see that really high class people are appointed in the Tribunals and also in the Labour Courts. So far as Labour Courts were concerned, they are at present appointed by the State Governments from the State judicial services. I submit, Sir, that the procedure usually adopted by these Courts is not very favourable to labour. They are generally either subordinate judges; sometimes they are district and sessions judges holding court once a week, once



[Shri Ratanlal Kishorilal Malviya.] a fortnight or once a month. That is not going to help where there is much work, such as in Jharia field, Dhanbad, Asansol and other industrial centres. There should be exclusive courts for the labour and of course there are some already. I do not say that there are not Labour Courts exclusively, but there are places where this work is entrusted to judges, district and sessions judges or subordinate judges or to some executive officers. This is not going to help in the present set-up. The judges must be exclusively for settling labour disputes. They should be those familiar with the labour psychology, judges who know the spirit of the times and who will move with it. In the implementation of Industrial Disputes Act we don't look to the civil law so much as it is forced upon the workers by civil judges. It may be kept in view that the judges who are entrusted with this task of settling labour disputes should be such who have sympathy with the workers, who know the spirit of the times, who move with it and who won't strictly apply the civil law to these labour disputes.

Now with regard to section 33A it is a bitter pill which I am willingly swallowing. Sir, the experience has been that section 33A has not been applied in the spirit in which it was construed. I am sorry to say that hundreds of workers in my field have been suspended, discharged and dismissed during the pendency of the disputes before the Tribunals and hundreds of applications have been made to the Tribunals for the relief of such workers. The employers have never taken care to make any application to the Tribunal. Without any permission of and without any application to the Tribunal hundreds have been dismissed in my field. It is my practical experience. When I approached for relief I have not been granted it despite the ruling of the Supreme Court. I have been told in many cases that the ruling did not apply to particular cases when in my heart of hearts I believed that the ruling applied and the worker was entitled to relief. In view of that experience I beg to submit that this new amendment provides some relief to the workers.

*(Time bell rings.)*

Two minutes, Sir. The relief has been provided for to a certain number of workers who will be office bearers of the union, who were the worst victims of section 33A or section 33. So I take

it in that light. I submit, Sir that retention of section 33A in the original Act was the best which I would have liked, but under the circumstances in which the workers have been placed, I support this amendment and I say that it is a blessing to the workers, at least to a certain number of workers who are generally the targets of victimisation.

Now, a word with regard to the amendments to other Acts which may be required.

MR. DEPUTY CHAIRMAN: No, no, it is out of place here. Mr. Abid AH.

SHRI AKBAR ALI KHAN: May I speak, Sir ?

MR. DEPUTY CHAIRMAN : No time.

SHRI ABID ALI: Sir, the Bill which we are about to pass, I am sure, will be helpful to popularise collective bargaining. It will go a long way to strengthen the trade union movement and benefit the workers generally; it will eliminate delay completely in the matter of settlement of industrial disputes not only by the introduction of the three tier system but also by the abolition of the Appellate Tribunal.

With regard to the amendments to sections 33 and 33A, I have explained yesterday and this morning how it will be in the interest and to the advantage of the workers. To the suggestion of the hon. Member opposite for a change of attitude I must submit, Sir, that by my nature I am friendly to every one and the position which I hold commands that I should respect every Member of the House. At the same time it is my duty to repudiate some suggestions which are made, sometimes even uncharitably. I can appreciate hon. Members opposite placing their point of view in complete disagreement with ours. To that extent it is quite all right, but making a suggestion that we are just playing in the hands of the employers, that because the employers have made a suggestion we are accepting it and that the trade union movement of theirs is being crushed' and the I.N.T.U.C. is being protected is quite wrong. I may submit, Sir, that no protection from us can keep the I.N.T.U.C. or any organisation alive, nor can we crush the trade union organisations of other parties. It is simply impossible. If the workers have given their support to stand by any organisation certainly it shall exist. We have no power; we cannot undo it; it

is impossible even if we wanted to do it. On the other hand if the workers give no support for any particular organisation, then that organisation will cease to exist. We stand for the workers, irrespective of the leadership that any particular union may be having. That I must make clear and the facts and figures that I have submitted, Sir, here must have convinced everybody that cases are decided on merit, not according to the political colour of any trade union organisation. It could have been the other way: I.N.T.U.C. might have got 57 per cent of the adjudications according to their applications, but here the facts tell a different story. Therefore it should be convincing to the hon. Members of the other side also that not only I am prepared to respond but I am prepared to initiate friendship; it is my duty, but they should not go out of their way to impute motives and think that honesty and decency is their monopoly. If they do it, they are certainly in the wrong box. A question was put and it was said that no trade union leader would have supported the amendment proposed to section 33. I may inform him, Sir, that except himself and his like outside, every responsible trade union leader has supported this amendment.

With these words, Sir, I move that the Bill be passed and I am sure it will be. as I have submitted, for the good of the trade union movement, for the good of the industry and for the good of the country. Thank you.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed." The motion was adopted.

#### ALLOCATION OF TIME FOR GOVERNMENT BUSINESS DURING THE FOURTEENTH SESSION

MR. DEPUTY CHAIRMAN: I have to inform hon. Members that the Business Advisory Committee at its meeting held today has allocated time as follows for Government business during the current session of the Rajya Sabha:— 1. The States Reorganisation Bill, 1956 (Consideration and passing)—

General discussion . . . 20 hrs.

Clause by clause consideration and third reading . . . 10 hrs.

30 hrs.

-----

2. The Motor Vehicles Bill, 1955. (Amendment) Bill (Motion for reference to the Joint Committee of the Houses). 1 hr.
3. The Bihar and West Bengal (Transfer of Territories) Bill, 1956. (Consideration and passing). 7 hrs.
4. The National Highways Bill, 1956 (Consideration and passing). 2 hrs.
5. The Indian Coconut Committee (Amendment) Bill, 1956. (Consideration and passing). 1 hr. 30 mts.
6. The Supreme Court (Number of Judges) Bill, 1956. (Consideration and passing). 1 hr.
7. The Constitution (Ninth Amendment) Bill, 1956. (Consideration and passing). 7 hrs. 30 mts.
8. The All India Khadi and Village Industries Commission Bill, 1955. (Consideration and passing). 6 hrs.
9. The Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 1956. (Consideration and passing). 2 hrs.
10. The State Financial Corporations Amendment Bill, 1956. (Consideration and passing). 2 hrs.
11. The Jammu and Kashmir (Extension of Laws) Bill, 1956 (Consideration and passing). 2 hrs.
12. The Government Premises (Eviction) Amendment Bill, 1954 (Consideration and passing). 3 hrs. 30 mts.
13. The National Volunteer Force Bill, 1955. (Consideration and passing). 2 hrs.
14. Appropriation Bills in respect of—
  - (i) Supplementary Demands for Grants for the Central Government for 1956-57;
  - (ii) Demands for Excess Grants for the Central Government for 1951-52; and
  - (iii) Supplementary Demands for Grants for Travancore-Cochin State for 1956-57.