

Karnal in the years 1952-53 and 1953-54 and the income expected in the year 1954-55?

THE MINISTER FOR FOOD AND AGRICULTURE (SHRI A. P. JAIN): Rs. 2,63,372 and Rs. 3,05,928 in 1952-53 and 1953-54 respectively. In 1954-55 the revised estimate is Rs. 3,53,500.

STATEMENT REGARDING A MOTION TO REFER THE CONSTITUTION (FOURTH AMENDMENT) BILL 1955, TO A JOINT COMMITTEE.

THE MINISTER IN THE MINISTRY OF LAW (SHRI H. V. PATASKAR): With your permission, Sir, I rise to inform this House that Government propose to bring forward the Constitution (Fourth Amendment) Bill before this House on Thursday, the 17th March 1955, for its concurrence to a motion for the reference of the Bill to a Joint Committee of the two Houses. The motion for reference is expected to be adopted by the Lok Sabha on the 15th March 1955. As the inclusion of this motion in the official list of business of this House for 17th March will not be possible before 16th March, I am taking this opportunity of informing the House that the Bill be brought forward here one day after the motion for its reference to a Joint Committee has been adopted in the Lok Sabha.

MR. CHAIRMAN: Shri B. C. Ghose has requested that the introduction of his Bill might be postponed. Accordingly Shri Kailash Bihari Lall's Bill will be introduced.

THE ORPHANAGES AND WIDOWS' HOMES BILL, 1955

SHRI KAILASH BIHARI LALL (Bihar): I beg to move for leave to introduce a Bill to provide for the better control and supervision of orphanages and widows' homes in India.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill to provide for the better control and supervision of orphanages and widows' homes in India."

The motion was adopted.

SHRI KAILASH BIHARI LALL: I introduce the Bill.

MR. CHAIRMAN: Dr. Raghubir Singh and Shri P. S. Rajagopal Naidu have requested that the consideration of their Bills be postponed to a later date. Therefore we take up Shri T. V. Kamalaswamy's Bill.

THE INDIAN TRADE UNIONS (AMENDMENT) BILL, 1954

SHRI T. V. KAMALASWAMY (Madras): Mr. Chairman, I rise to move:

"That the Bill to amend the Indian Trade Unions (Amendment) Act, 1947, be taken into consideration."

Sir, the Bill which I have just moved for the consideration of the House is a very simple one. This Bill seeks to bring into force from the 1st April 1955 the Indian Trade Unions (Amendment) Act of 1947. As the Statement of Objects and Reasons of this Bill shows, this Act was passed by the Constituent Assembly (Legislative) in November 1947, and the executive was given the power and duty to bring it into force by notification on a future date. Though eight years have now elapsed, the notification is still to issue and the executive has thwarted the desire and clearly expressed the will of the Legislature. This amending Bill seeks to bring the Act into force by the only means now open to the Legislature, that is, by setting a precise date for the commencement of this Act.

Sir, at the outset I wish to make it clear that I am not in any way connected with the trade union movement. I have no connection with any trade union and I can even be called a small employer as I am engaged in a small trade. Now, Sir, everyone knows that a really strong and non-partisan trade union movement is the strongest bulwark against totalitarian tendencies in labour. Such a movement is also essential for the peace and progress of industry, particularly in the context of the much talked of socialistic pattern of society. This is the reason for my interest in the present measure.

Sir, the history of the Trade Unions (Amendment) Act is very interesting and I am glad it has now come up before this House where there are still many Members who had taken part in the original debate in the Constituent Assembly. My friend Mr. Gopikrishna Vijaivargiya for example had referred in 1947 to the objective of "socialism" I do not know what exactly he wants to say now about the socialistic pattern of society.....

SHRI GOPIKRISHNA VIJAIVARGIYA (Madhya Bharat): I still support it.

SHRI T. V. KAMALASWAMY:..... and what its spokesmen have been at pains to point out, namely, its difference from socialism. My friends, Mr. Chaman Lall, Prof. Ranga and last but not the least, Mr. Khandubhai Desai who is now the Minister for Labour were all members who participated in the debate. Dr. Ambedkar was the original author of this Bill, but Mr. Jagjivan Ram who became Labour Minister after August 1947 adopted the baby, and after owning its parentage piloted it through the Constituent Assembly in November 1947.

Sir, this Bill had been introduced in the old Central Legislative As-

sembly and was reported upon by a Select Committee. With the attainment of independence, the Constituent Assembly became the Legislature and all pending Bills before the old Legislative Assembly were kept alive before this Constituent Assembly. The Government at that time thought this Bill to be sufficiently important and urgent, and though the country and the Legislature had at that time many pressing problems arising out of partition, they had this measure passed. The sense of urgency is evident from the fact that the mover, the hon. Mr. Jagjivan Ram admitted that the parent Trade Unions Act required a thorough overhaul but he suggested that it could be taken up later and the Bill should be enacted immediately. Sir, I do not want to quote everyone but this is what the mover himself said:

"The present Bill provides that where the trade unions are registered and fulfil certain conditions, they should be recognised. If we were to analyse the number of strikes that we have had we will find that many of the disputes arose out of this question. When the workers organise themselves and present their grievances or demands to the employers, many of the employers are not in a mood to recognise the unions with the result that the relation between the employers and the employees start with some bitterness from the very beginning. This Bill provides that where the unions fulfil certain conditions, the unions should be given recognition by the employers and in case the employers fail to recognise the unions, the unions will have a right to represent their case to the labour courts and the labour courts will force the employers to recognise the unions."

Sir, this Bill piloted officially by the hon. Minister dealt with only

[Shri T V Kamalaswamy]
two things, recognition of unions and the prevention of certain unfair practices

Sir, I shall refer to only one more speech of the late lamented Mr Harihar Nath Shastri and he said:

"The reason for a measure of this kind has since long been felt by the working classes of this country. In fact, in the year 1929 when the Royal Commission on Labour in India was set up, the demand for compulsory recognition was pressed before it by Indian labour. But the Commission at that time shelved the issue. All the same, due to obvious difficulties and handicaps that the trade unions in this country have been experiencing, the demand for compulsory recognition on their part has been persistent."

Sir, what did this Bill provide? As Mr Jagjivan Ram himself said—and he was supported by other speakers—one of the principal causes of disputes in trade and industry is the vexed question of recognition of trade unions. Because of the shortsighted policy of some of the employers these questions assume the shape of a major dispute leading to perpetual strained relationship between the employer and the employee. The Government made a provision for compulsory recognition of trade unions under certain conditions. I want to emphasise that it did not take away the right of an employer to voluntarily recognise the unions. But the Act provided that where there was a union really representative of workers and fulfilled certain basic conditions, it could apply to the labour court and obtain recognition, even if the employer declined to recognise

it. Sir, as I said the union 12 Noon asking for such compulsory recognition had to observe certain conditions such as that it should have as its members a percen-

tage, to the fixed by rules, of the total workers in the industry, or concern, its rules do not provide for exclusion of any workmen from membership, its rules provide for procedure for declaring a strike, etc. Sir, here I will read from the speech of Diwan Chaman Lal. This is what he said:

"Here we are dealing, as one hon Member has stated, with recognition not between a union seeking recognition from an employer of its own accord but with one where a dispute has arisen and the employer refuses to grant recognition to its union. My hon. friend ought to remember that many a strike has taken place in this country on this very basis of the employer refusing to grant recognition to a particular union, and it is for the purpose of facilitating the grant of that recognition that the hon the Labour Minister has provided for a particular procedure for going before the law court."

Sir, this is what the hon Mr. Jagjivan Ram himself said on this point:

"As Pandit Harihar Nath Shastri has rightly pointed out the Royal Commission suggested that the recognition of trade unions could be left to the employers and as far as possible there should be voluntary recognition by the employers. That has been given a fair trial and we found that the employers have not risen equal to the occasion and they have been creating all sorts of difficulties in the way of the recognition of a trade union."

Sir, it was to obviate this difficulty and this intransigent attitude of the employers that this Bill was brought by the Government at that time in spite of the many pressing problems which they had. Where a union was so recognised by law, or by voluntary agreement, the Act sought to

vest it with some rights of negotiations, namely, right to write and receive replies, right of interview, etc., all simple and inconsequential really, but still major rights which would ensure amicable negotiations and good feelings between a union and a management and thus vital to peace and progress in modern industry Sir, the Act also prescribed certain other provisions found in other enactments in other countries It described certain practices resorted to by employers and also unions and prohibited them as unfair labour practices This is the second part of the amending Bill

Sir, even in an advance country like the United States of America where the trade union movement has advanced very much, unfair labour practices are prohibited such as an employer starting a yellow union, an employer presiding over a union meeting or being present at it, an employer monetarily aiding a union etc Similarly this Act that was never brought into force, defined certain unfair labour practices It was an unfair practice for a majority of members of a recognised union to take part in an irregular strike, for the executive to instigate and support an irregular strike and for an officer of a union to submit false returns It was also an unfair practice if an employer interfered with the trade union rights of his workman or interfered in the formation or administration of a union or discriminated against or discharged officers of a union or workmen who gave evidence in any enquiry or proceedings This Act also prescribed penalties against unfair labour practices and contraventions of various other sections

Sir, I will just quote Prof Shibban Lal Saksena He said

"I have studied the Labour Gazette for several months and tried to see the working of the Trade Union Act for the last three or four years and I have found that

the main cause of strikes, besides wages, is victimisation of the personnel From my own experience I have found invariably that the main dispute was about victimisation and that too merely for being office-bearers of trade unions"

No one can say, and I hope it is not going to be the contention of the Labour Minister of a Government pledged to socialistic pattern, that these elementary rights given to workmen were in any way extravagant especially when we remember that our country claims a permanent seat in the ILO Governing Body as the eighth industrially advanced and important country in the world

But strangely enough, after the Act was unanimously passed, the Government did not enforce it Under section 1 (2) it has been mentioned that this Act shall come into force on such date as the Central Government may by notification in the official Gazette appoint But the Government kept quiet and did not enforce it at all No reasons have been given publicly for their silence in the matter but judging from subsequent events probably the Minister did not like his adopted baby or perhaps this bogey of comprehensive legislation had already caught in This bogey is frequently given out whenever Private Members bring forward any Bill or legislation in this House The result was that a Trade Unions Bill was introduced in 1949 and it was circulated for eliciting public opinion It was also sent to a Select Committee which made a report on it So that legislation was thoroughly discussed in public and by the Select Committee but it was not discussed in the House at all, either because of pressure from the employers or because the Government felt that it was not advisable to give those rights to their own civil servants They did not like the idea of Government servants forming trade unions So they put this Bill

[Shri T. V. Kamalaswamy.]
into cold storage and not even a motion for discussing the Report of the Select Committee was made in the House. That Bill of 1950 incorporated these provisions but also provided for greater supervision of the working of unions in cases of disputes or allegations about unfair elections etc. Sir, I could have even understood the Government not enforcing the Amendment Act of 1947 in view of their intention to bring forward subsequently a comprehensive legislation. But when they found that they could not get the comprehensive Bill passed by Parliament, why did they not at least at that stage give effect to the will of the legislature by enforcing the law already on the Statute Book?

I do not want to be uncharitable. I would rather await the explanation to be given by the Labour Minister for their failure to enforce this enactment. Sir, a limited delegated authority cannot be used to thwart the intention of the legislature. The Executive's discretion has been limited to fixing a suitable date. It did not mean fixing no date at all. I suggest that apart from the merits of the measure, the Executive's conduct in this case deserves censure. Even if after the enactment of the amending Act they felt that in the altered circumstances it should not be enforced, they should have come before the legislature and repealed the Act. If they felt that changes were necessary, they should have amended it further but to keep silent is certainly not exercising delegated authority in a responsible manner.

Sir, the Government may say that many of these problems can be solved by the Industrial Disputes Act. The Industrial Disputes Act, as interpreted by labour tribunals, does not cover disputes arising out of a demand for recognition. There are any number of clear rulings that an in-

dustrial dispute cannot relate to a demand for recognition of a union as it does not concern conditions of employment of workmen. It is also significant that even at the time of enactment of the amending Act the Industrial Disputes Act was already in force for two years. The legislature made these special provisions and it must hence be presumed that it was satisfied that these matters could and would not be covered by the Industrial Disputes Act.

Under these circumstances I want that the amending Act should be enforced immediately. If the Government is not willing to do that, they should say why they are not willing to do so. I do not propose to accept their plea of "comprehensive Bill" knowing the fate of the earlier Bill which they brought forward and later shelved. Even after the elections the hon. Mr. Giri started work on his Industrial Relations Bill but Mr. Giri is gone and the Bill is also gone. It has not even seen the light of the day. Sir, the new Labour Minister is now talking of comprehensive amendments to the Industrial Disputes Act—whether it will be in the life of the present Parliament or in the present generation, one does not know. In any event, it cannot cover the subject matter of the Trade Unions (Amendment) Act which we are now considering. Sir, I can think of only one reason why the Government does not wish to enforce it and that is it will not suit the employers, or the professional labour leaders or professional agitators, into whose tender mercies labour and trade union movements are now being relegated. Of course, Government would not confess it now. In the absence of any cogent reasons for the inaction on their part, I do not know what they would do, but I would like to wait and see.

Sir, I move.

MR. CHAIRMAN: Motion moved:

"That the Bill to amend the Indian Trade Unions (Amendment) Act, 1947, be taken into consideration."

DR. R. B. GOUR (Hyderabad): Mr. Chairman, the All India Trade Union Congress has already submitted a whole, considered charter of trade union rights to the Government. And the so-called comprehensive legislation is under the contemplation and consideration of the Government for a very long time, as our friend, Mr. Kamalaswamy, has just now said.

[MR. DEPUTY CHAIRMAN in the Chair]

But in this particular discussion we would like to express our opinion on the issues that are connected with this particular amendment of the Trade Unions Act which has been relegated to the background, even after it has been passed and considered essential by the then Governor-General of our country. Sir, this Trade Unions (Amendment) Act of 1947 deals with three problems. One is the question of recognition of trade unions. The second is unfair practices on the part of labour and trade unions. And the third is unfair practice on the part of capitalists. I think my friend, Mr. Kamalaswamy, is neither an employer of any great magnitude who knows what the unfair practices of the capitalists are, nor has he experience of trade unions. Otherwise, he would have known what the so-called listed unfair practices are on the part of the trade unions. Then, as regards the question of recognition of a trade union, it is recognised only when it has fifty per cent. of members of that particular industry. That means a representative union which will have fifty per cent. of the labour on its rolls. Mr. Kamalaswamy is quite right and it is quite true that this amendment Act was not enforced by the Government for two reasons. One

is because of the pressure of the employers. There is no doubt about it that they do not want the recognition of trade unions by law. Secondly, the Government themselves later on succumbed to this pressure and they do not want it and in the name of comprehensive legislation, they are postponing its enforcement. Let there be no misunderstanding about it. Sir, we want that the workers must have their inalienable, inviolable right of forming trade unions, for joining the trade unions of their choice. There should be absolutely no interference either by the Government or by the employers in this inviolable right of the working classes. That is our fundamental demand and that is one of the fundamental problems that has been raised in the trade union charter that we have submitted to the Government. This is one of the demands for which the working class has been struggling since it came into existence as a result of the industrial revolution. So, that is the point. We do not want any discrimination, any attack on this fundamental right of the workers to form a trade union.

In the name of recognition of trade unions, the Government or the employers want to come out with certain conditions that would attack this right of the workers. Then, Sir, it becomes an attack on the very right of formation of trade unions. So, this fifty per cent. section,—trade unions in which fifty per cent. of the workers in the trade are there can only be recognised,—is not fair. Hon. Members will also bear with me that this is not a proper section and this cuts at the right of the workers to form a trade union. At the same time, let it not be mis-construed that we want rival unions, that we want any seven workers to be organised into a trade union and then all the unions are to be recognized. No, if the industrialists and the Government are by legislation barred from interfering in the trade union

[Dr R B Gour]
activities Or, if they are barred from doing any unfair labour practice, if legislation is introduced to see that in their dealings with labour they shall not directly or indirectly encourage rival activities, that they shall not interfere in the formation or otherwise of trade unions, then the trade union movement will be united and every industry will have one union It is the employers who encourage rival unions For example, we have all sorts of activities, clandestine as well as open, concealed as well as those which anybody could see Such activities are responsible for division among the workers These are the activities of the employers and Government as an employer also do it Therefore, if in the section relating to unfair practices you introduce this section that it shall not be tolerated, that the employers shall have anything to do directly or indirectly with rival activities, or encourage rivalries and disruption, it will lead to uniting the workers Otherwise in his own interest, in the interests of the company and the management, the employer sees to it that the workers shall not be united so that their bargaining power shall be sabotaged The policy of the All India Trade Union Congress is that there should be no restrictions on the workers, and every union must be recognised Every union which is effective, which is functioning, which has got all the paraphernalia of a trade union, should be recognised It should be definitely made clear that interference with the activities of any union is an unfair practice

Now, let us come to the unfair labour practices that have been enumerated here What is an unfair labour practice on the part of a trade union So long there were illegal strikes Now here is a section about irregular strikes Workers of trade unions are asked not to go in for irregular strikes Now, what is this

irregular strike? They say that there is a procedure Now what is that procedure? The employers come to their own conclusions That means the employers are given the opportunities and the privileges of coming to their own conclusions on the demands submitted by a recognised union, even without reference to that union. And at the same time, a union is debarred from taking any action on that particular conclusion If it does it, it is irregular This term "irregular strike" is a very broad term. It means anything Now, for example, there was a gentleman who beat one of the INTUC workers in Hyderabad Mr Abid Ali himself came to Hyderabad and defended the workers Now according to your Act it would have been an irregular thing on the part of the INTUC workers to have resisted that sort of a insult that a particular official of the employers made Similarly, there may be some British official or some Indian official who kicks a worker, and if the workers collectively demonstrate, or do something, it is irregular And the recognition is withdrawn So, I should say that there is no control over the activities of the managements, but there is every kind of a check on the activities of workers On the activities of trade unions there is a check. They say "this action is regular and that action is irregular" Everything in their case becomes irregular So, Sir, these are the fundamental points We see that the privileged class, i.e. the capitalists, is trying to attack the workers who are not in that privileged position Workers have got only one weapon, and that is organisation They have got the only weapon of collective bargaining. Therefore I should say that in the name of 'unfair practices' you are restricting that only weapon of collective bargaining and bringing pressure on the un-privileged classes, instead of bringing pressure on the vested interests, which must be dislodged, if a socialistic Pattern of

society is really to come into being. So in the name of 'unfair labour practices on the part of the trade unions' you are restricting their right of collective bargaining, which, under the Charter of ILO Convention of 1947, if I remember aright, is the duty of every Government. Again, Sir, you have put here 'victimisation' as unfair labour practice on the part of employers. But we know it for a fact that they never say 'we are victimising an official'. They will simply say that a particular official has been doing certain things in contravention of the Standing Orders and therefore he is being removed from service. I would therefore suggest that we should very seriously consider all these things—recognition of trade unions and unfair practices on the part of the employers—and in the light of the experience gained, we should take certain steps to remedy the situation. And unless we have such a guarantee for the trade unions, that they will have an inviolable right of forming trade unions and dealing with the managements, and unless these unfair practices on the part of the capitalists are checked and made illegal by law, we shall not have that unity in the working classes and we shall have no encouragement for our working classes to organise themselves, which is so necessary an organisational foundation for any socialistic pattern of our society if one is really honest and sincere to work for. With these remarks, Sir, I conclude my speech.

श्री उपमन्त्री (श्री आबिद अली): इस बिल के बारे में जिन दो मेम्बर साहबान ने जो कुछ परमाया उससे मैं बर्द गौर से सुन रहा था।

SHRI T V KAMALASWAMY Sir, may I request him to speak in English because I shall have to reply to the points raised?

SHRI ABID ALI Sir, I was very attentively listening to the arguments of the two hon. Members who have

preceded me but I must confess, Sir, that they have not said anything convincing with regard to the immediate enforcement of the provisions of the Act concerned. Sir, it is true that the amending Act was passed in 1947, but since then labour movement has considerably advanced in this country. At that time, there were a few unions, and the number of their membership was also very small. Since then, a large number of industrial workers have been organised, and now they are getting stronger and stronger. Now, Sir, a complaint is made that a Bill on the pattern of the Bombay Industrial Relations Act has not been re-introduced. But I am surprised, Sir, that when that Bill was brought forward, the hon. Members opposite and the people of their school of thought called it a black Bill.

SHRI S N MAZUMDAR (West Bengal) Why do you want to have that black Bill? Bring in a white Bill.

SHRI ABID ALI So that "black Bill" has now disappeared. Why complain about its disappearance?

SHRI S N MAZUMDAR But a white Bill should be introduced.

SHRI ABID ALI Then with regard to compulsory recognition, the Bombay Act provides for compulsory recognition where there is a 15 per cent. membership of the workers in a union concerned with a particular industry. Now, that also is termed as a 'black' Act. Naturally, of course, the INTUC, being the most representative organisation of the workers, has got a larger number of members in their unions in Bombay.

SHRI SATYAPRIYA BANERJEE (West Bengal) Unions of Government, not of workers.

SHRI ABID ALI All right, of both, if it pleases the hon. Member. I was submitting, Sir, that there are a large number of recognised trade unions in Bombay under the Bombay Industrial Relations Act. And, therefore, the

[Shri Abid Ali.] friends of the Party opposite are agitating that that particular section in the Bombay Industrial Relations Act should be deleted. In Indore also, Sir, some complaint was made by the All India Trade Union Congress and the Hind Mazdoor Sabha workers, because Madhya Bharat also has got a similar Act. There 15 per cent. membership is not liked. And again, a demand here comes that a union with 15 per cent. membership should be given recognition. Now we have to take all these facts into consideration, and the fact that trade union movement has advanced considerably, as also the fact that the Government desires that trade union movement in India should become stronger and stronger, and the workers should not mainly depend upon enactments and regulations about trade union rights, but they should have unions on their own strength would surely be strong and effective, as it is happening today not only in Bombay, Madhya Bharat and such other places where compulsory recognition is provided for according to law, but in other places also where unions are getting sufficiently strong and are being recognised by employers. And we want to encourage that system.

SHRI T. V. KAMALASWAMY: Do you want to absolve yourselves of the responsibility?

SHRI ABID ALI: We have our responsibility too, and in fact, this is part of it that unions should become effective, that workers should become organised, and if we give recognition only on the basis of enactments, then the workers' organisations will become weaker. We do not want that to happen. With regard to the amending Bill, of course we want to bring a beautiful white Bill and I hope it will come very soon. Sir, I oppose the Bill and if the hon. Member is not prepared to withdraw it, then I would request the House to reject the same.

SHRI T. V. KAMALASWAMY: He has not given any reason.

MR. DEPUTY CHAIRMAN: They are bringing a beautiful white Bill.

SHRI T. V. KAMALASWAMY: Why was it not enforced at that time—that beautiful white Bill?

MR. DEPUTY CHAIRMAN: It is put down in the Legislative Business. What is your reaction?

SHRI T. V. KAMALASWAMY: Then I would like to keep this Bill adjourned *sine die*.

MR. DEPUTY CHAIRMAN: I don't think it is possible. Either you have to press it to a vote or withdraw it. If they don't bring it you repeat this mixture.

SHRI T. V. KAMALASWAMY: Sir, Parliament is supreme and they have flouted it.

MR. DEPUTY CHAIRMAN: They are bringing another comprehensive Bill.

SHRI T. V. KAMALASWAMY: Sir, the House will be very ill-advised to rely on their promise. I would like to press this Bill.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to amend the Indian Trade Unions (Amendment) Act, 1947, be taken into consideration."

The motion was negatived.

MR. DEPUTY CHAIRMAN: We will go to Budget discussion.

THE BUDGET (GENERAL), 1955-56
GENERAL DISCUSSION—continued

SHRIMATI PARVATHI KRISHNAN (Madras): Mr. Deputy Chairman, in the midst of all the contradictory hallelujah that have been sung on the floor of this House as regards the