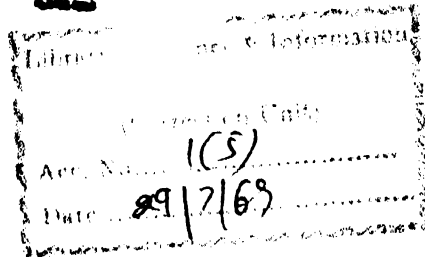


LOK SABHA
JOINT COMMITTEE
ON
THE CONTRACT LABOUR (REGULA-
TION AND ABOLITION) BILL, 1967.

EVIDENCE



LOK SABHA SECRETARIAT

NEW DELHI

November, 1968/Agrahayana, 1890 (Saka)

Price: Rs. 2.25

**JOINT COMMITTEE ON THE CONTRACT LABOUR (REGULATION AND
ABOLITION) BILL, 1967**

Composition of the Committee

Shri Kashi Nath Pandey—Chairman

MEMBERS

Lok Sabha

2. Shri R. K. Amin
3. Shri N. Anbuhezhan
4. Shri Tridib Chaudhuri
5. Shri M. Deiveekan
6. Shri K. R. Ganesh
7. Shri Chand Goyal
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11. Shri Hukam Chand Kachwai
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29. Shri Virbhadra Singh
30. Shri D. R. Chavan

Rajya Sabha

31. Shri Anant Prasad Sharma
32. Shri Binoy Kumar Mahanty

(ii)

33. Shri Dalpat Singh
34. Shri A. C. Gilbert
35. Pandit Bhawaniprasad Tiwary
36. Shri Shyam Dhar Misra
37. Shri Sherkhan
38. Shri Sriman Prafulla Goswami
39. Shri Sanda Narayanappa
40. Shri Sundar Mani Patel
41. Shri Prem Manohar
42. Shri Rewati Kant Sinha
43. Shri Suraj Prasad
44. Shri Brahmanand Panda
45. Shri Jaisukhlal Hathi

LEGISLATIVE COUNSEL

1. Shri P. L. Gupta, *Additional Legislative Counsel, Ministry of Law.*

REPRESENTATIVES OF THE DEPARTMENT OF LABOUR AND EMPLOYMENT

1. Shri P. C. Mathews—*Secretary.*
2. Dr. S. T. Merani—*Joint Secretary.*
3. Shri H. K. Chaudhry—*O.S.D. (Law).*
4. Shri R. B. Shukla—*Director, Industrial Relations.*
5. Shri O. Venkatachalam—*Chief Labour Commissioner (Central).*
6. Shri S. C. Gupta—*Deputy Chief Labour Commissioner (Central).*

SECRETARIAT

- Shri M. C. Chawla—*Deputy Secretary.*

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	2. Shri P. M. Rajgopal, Asstt. Secretary.		
	3. Shri J. G. Patel, Member.		

JOINT COMMITTEE ON THE CONTRACT LABOUR (REGULATION AND
ABOLITION) BILL, 1967

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CONTRACT
LABOUR (REGULATION AND ABOLITION) BILL, 1967

Thursday, the 20th June, 1968 at 10.00 hours.

PRESENT

Shri Kashi Nath Pandey—*Chairman*.

MEMBERS

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4. Shri K. R. Ganesh
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3. Shri O. Venkatachalam, Chief Labour Commissioner.
4. Shri S. C. Gupta, Deputy Chief Labour Commissioner.
5. Shri S. S. Sahasranaman, Under Secretary.

SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

WITNESSES EXAMINED

- I. Indian National Trade Union Congress (U.P.), Lucknow.

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Shri P. K. Sharma, Organising Secretary.

- II. All India Trade Union Congress, New Delhi.

Spokesman:

1. Shri K. G. Srivastava, Secretary.
2. Shri M. Atchuthan, Secretary.
3. Shri Nihar Mukherji, Secretary, Works Federation.

- III. Dakshin Railway Employees Union, Golden Rock (Tiruchy, S.I.).

Spokesman:

Shri V. Sundaramurthy, Assistant Secretary.

- I. Indian National Trade Union Congress, New Delhi.

Spokesman:

Shri P. K. Sharma, Organising Secretary.

(The witness was called in and he took his seat)

MR. CHAIRMAN: I would like to read out to you Direction 58 which reads thus:

"Where witnesses appear before a Committee to give evidence, the Chairman shall make it clear to the witnesses that their evidence shall be treated as public and is liable to be published, unless they specifically desire that all or any part of the evidence given by them is to be treated as confidential. It shall, however, be explained to the witnesses that even

though they might desire their evidence to be treated as confidential such evidence is liable to be made available to the members of Parliament."

We have received your memorandum and we have gone through it. If you want to supplement it you may do so now.

SHRI P. K. SHARMA: We are very thankful to you for having given us an opportunity to have our say on this proposed legislation.

In addition to what we have submitted already in our memorandum, I would like to submit two or three things more.

Chapter III of the Bill relates to registration of establishments employing contract labour. Class 10 provides that the appropriate Government may by a notification or order prohibit employment of contract labour in certain sections of an industry or in certain industries. And it is envisaged under this Bill that contract labour will be minimised. Actually, if the State Governments do not take that much of interest which is necessary, then this object may not be achieved. The term 'appropriate Government' has been defined in clause 2 and according to that in the case of industries which are not within the Central Government's authority, the appropriate Government would be the State Government. If the State Government do not take that much of interest which they ought to take under this Bill, then what will happen to the contract labour? The existing provisions will continue and the existing system will also continue and the contract labour will continue. There is no provision in this Bill to remedy this situation.

I propose that a simplified system other than what has been envisaged under this Bill should be evolved to abolish contract labour in so far as work connected with industry is concerned.

In this connection, I wish to draw the attention of the Committee to the definition of the term 'employer' as given in section 2 of the UP Industrialists' Rules Act. And under the definition, the term 'employer' includes, for the purposes of payment, for the purposes of minimum wages etc, the principal employer. As you have yourself defined in this Bill, the principal employer is responsible for payment of wages and so on.

SHRI DEVEN SEN: Does the definition of the term 'employer' under the Industrial Disputes Act cover the contractor also?

SHRI P. K. SHARMA: Yes, it does cover contract labour also.

SHRI DEVEN SEN: What about the term 'principal employer'?

SHRI P. K. SHARMA: The term 'principal employer' also covers the contractor. There is a judgment of the Supreme Court in this regard in the *Basti Sugar Mills* case.

SHRI DEVEN SEN: Don't you think that it should be clarified in the Bill that the term 'principal employer' cover the contractor also? Should it not be so defined as to cover the contractor also?

SHRI P. K. SHARMA: Yes, it should be so defined as to cover the contractor also.

The system proposed under this Bill is that at the apex there would be an advisory body. This will be a body in which all interested bodies would be represented, such as the railways, the Central Government, labour, employers and so on. This is a sort of get-together body in which matters of detail will not be gone into. This body will meet occasionally to discuss matters of policy most probably within the framework of the legislation and then disperse.

Then, there is a registration authority which has been envisaged in Chapter III which makes provision only for registration of the firms or undertakings covered by this Bill. Then, there is the licensing authority. That authority will issue licences to the contractor and the contractor will be required to sign a contract under which he would be required to comply with the payment of wages etc. The residuary responsibility for payment of wages has been laid on the principal employer also. This does not do away with the contract system. On the other hand, it perpetuates it. That is not the intention with which this Bill has been framed. If you are clear in your mind that the contract system is a curse, as we do feel, because we are the interested parties and we know that the contract system has been used as a device to give lesser wages to the workers and to deprive them of the benefits that you have permitted them to enjoy, then you have to ensure that that

system is abolished. You in your wisdom have given us certain laws and given us certain protection which we as workers enjoy, but by various subterfuges, the employers are not allowing us to enjoy those benefits etc.

If you are clear in your mind that a system should be evolved to do away with the contract system, then you should specify that under no conditions will contract work be allowed in an industry in so far as the principal processes of the industry are concerned.

So far as intermittent work or work of a casual nature is concerned of course, contract labour may be necessary. For instance, in regard to construction of buildings, laying of machinery, construction of roads etc., contract labour is a necessary. There are certain industries in which contract labour has got to be employed. So, we do not say that contract labour can be absolutely done away with. Take, for instance the question of loading and unloading. You cannot employ regular labour for this purpose, because the wagons cannot be placed at your choice and you cannot carry on loading and unloading throughout because it depends upon so many factors. On such works contract labour may be employed. But there is no justification for employing contract labour within the premises of an industry or a mill where regular work is carried on and where regular production work is going on.

Therefore, I would submit that you should clearly specify in this Bill that contract labour shall be done away with. Please do not leave it to the State Governments, but decide once and for all and specify it in this Bill itself.

I would refer to clause 10 in Chapter III of the Bill.

There is a provision under it that State Governments are the appropri-

ate Governments and they may prohibit employment of contract labour in certain industries or in certain sections of industries. But I am afraid this work will not be done by them because State Governments will be pressurised not to proceed with it.

Mr. Chairman, my next submission is that there should be some simplified procedure for registration. The machinery provided for under Chapter III in respect of registration of contractors should be done away with and some simple machinery should be provided saying that in such and such work no contract work should be allowed and in such and such work contract work may be allowed.

Then I come to penal provisions given under Chapter VI. Who will catch this contractor? He will evade all authorities. He may do it in the name of Ram Pershad, but may wander about the country in the name of Shyam Pershad. There will be no trace of him. Therefore, it is always the principal employer who should be made responsible for the fulfilment of the provisions of the Contract Bill. As regards the penal provisions given, as I have already suggested, what is the use of imposing a fine of Rs. 500/- on an employer who earns lakhs of rupees a day? It is an eye-wash. You can just say that a penal provision has been provided. But then what is the utility of imposing a fine of Rs. 500/-? Nobody is terrorised and nobody is afraid of this provision, and nobody takes you seriously. Therefore, I submit that you should have a provision providing for vigorous imprisonment and once at least one of the employers should be sent to jail, if necessary, in order to make the provision effective.

Thank you, Mr. Chairman. If there is any question arising out of my submission, I shall be willing to answer it.

SHRI DEVEN SEN: Don't you feel that the Payment of Wages Act also should be amended so that the so-called contract labour in whatever form they may exist have the right to approach the Court. Now, as it stands, the contract labour have not right to do that.

SHRI P. K. SHARMA: I agree that it may be done, if that is the case.

SHRI DEVEN SEN: Don't you also feel that the definition of 'employer' in the Industrial Disputes Act also needs some amendment so as to cover the Contract Bill?

SHRI P. K. SHARMA: There is no provision of definition of 'employer' in the Industrial Disputes Act, 1947. A definition exists only in the U. P. Industrial Disputes Act which defines the term 'employer'. That definition may be adopted in the Central Industrial Disputes Act and it may be so amended as to cover the Contract Act.

SHRI DEVEN SEN: I would like to draw your attention to Chapter V (a) where it is said that it shall not apply to establishments where the work is only of casual nature. Have you got any definition or idea as to what is called intermittent work and what is casual work?

SHRI P. K. SHARMA: I think I have myself suggested that this is not very clear as to which is seasonal and which is perennial. Take rice mills or sugar industry. Sugar is a seasonal industry. Would it be a seasonal industry or intermittent industry? This is not very clear from V(a). My suggestion has been that V (a) should be so amended as to cover seasonal work so that rice mills, dal mills, sugar industry and all industries of seasonal character are covered.

SHRI DEVEN SEN: I would like to draw your attention to Clause 16 (c) which says: "wherein contract labour numbering one hundred or more is ordinarily employed by a contractor." Don't you think that the

number fixed is on the high side? If only there are 55 or even 99, it does not come within the purview of this Bill. Don't you think this should be removed?

SHRI P. K. SHARMA: I suppose I have suggested lowering down this number. One zero should be removed. I think 10 should be appropriate.

SHRI DEVEN SEN: Then, I would like to draw your attention to Chapter V, clause 21 (1) which lays down that the contractor shall be responsible for payment of wages to each worker employed by him as contract labour and such wages shall be paid before the expiry of such period as may be prescribed. Then, sub-clause (2) says that every principal employer shall nominate a representative authorised by him.....

SHRI HATHI: Duly authorised.

SHRI DEVEN SEN: Yes, duly authorised by him to be present at the time of disbursement of wages as far as I know, the contractor takes money from the principal employer. He does not pay the money before the officers of the principal employer. He takes the money to the dhaura or to the place where the labour are housed and pays them there after deducting his share from the wages. Therefore, I would suggest that the language used here does not seem to be very clear. I think some protection is necessary. No contractor shall be allowed to make the payment in the dhaura or in the absence of the representative of the principal employer. Such a provision should be there.

SHRI P. K. SHARMA: There is only one system of depriving the workers of their due and that is by taking the money from the employer and paying them at their dwelling places. The difficulty is this. A contractor contracts with the principal employer to get a work executed. In other words, the employer and the contractor have a contract between them for the execution of work. They are not bothered as to whether the worker is paid Rs.100 or Rs. 50. In

that eventually, the presence of any representative of the employer makes no difference because there is no contract between them as to how much wages should be paid. The presence of the representative of the principal employer is not going to make any difference. Unless there is a contract between a contractor and the principal employer that this much is the lowest amount payable, nothing can be achieved. In the first place, there should be some provision in the contract between the contractor and the principal employer that the minimum payable wages by the contractor should be the same as prevailing in the industry. Most of the organised industries are covered by the Wage Board and the recommendations of the Wage Board have been implemented either by notification or by the contracts and so on.

SHRI DEVEN SEN: I now refer to Chapter V, clause 17 (2). It is about rest-rooms. Don't you think that there should be some section making provision for the responsibility of the contractor for rest-rooms? A provision exists for the supply of drinking water, medical aid, etc. Just like that, don't you think there should be some provisions for rest-rooms?

SHRI P. K. SHARMA: This difficulty will arise only in cases where the contract worker is working in the open. Where the worker is already working in an industry or any factory, rest houses are provided in the factories under the Factories Act itself. Where the other workers are staying, these workers can also take rest there.

MR. CHAIRMAN: What the hon. Member means is, in spite of the fact that there is provision for rest-rooms in the Act, the contractors do not give effect to those provisions.

SHRI P. K. SHARMA: If they do not give effect to the provisions, they should be made to give the benefit of the Act to the workers. But then, how is it possible that a contractor will build a rest-house?

SHRI DEVEN SEN: The system that exists in the collieries is, if the labourer who is employed by the contractor stays in the house, he becomes for all practical purposes the contractor's slave. The contractor extracts whatever he can from the labour. Therefore, an independent house is a very necessary requirement, particularly when you think that contract labour for wagon-loading has got to be continued.

SHRI P. K. SHARMA: The contractor will necessarily say that when he has invested so much, when he has constructed this, that and the other, it will create difficulties for him if he is asked to go from one place to the other, and if he is told that "you are not a worthy contractor under the Act and you go away." As I have pointed out, in the collieries there is no shed and there is no work-place, and from one colliery they go to the other. So, under these conditions, it is necessary to get rest-houses constructed, but where there is a factory already constructed, there is a rest-house there under the provisions of the Act. So, there is no necessity in that case.

SHRI DEVEN SEN: Rest-house is meant for the period of work, but accommodation is for permanent stay. Is there provision for accommodation?

SHRI P. K. SHARMA: This clause is in respect of rest-houses.

SHRI DEVEN SEN: But rest-houses are not meant for permanent stay.

SHRI HATHI: He explains that if you were to compel a contractor to give permanent accommodation, he will say that he has already invested so much money and will ask where he has to go.

SHRI S. D. PATIL: The contract is for a particular period. How can you ask the principal employer to provide for all these facilities, such as rest-houses?

SHRI DEVEN SEN: I know, as a matter of fact, that some contractors have seven to eight elephants, motor-

cars, etc. So, they should be able to afford it and they may be forced to make accommodation available for the employees. After all where will the workers go, for the night?

SHRI S. D. PATIL: When the work is finished, is it binding upon the employer, the principal employer, to give the workers such facilities?

SHRI DEVEN SEN: Suppose it is a contract for three months, where will the workers stay?

SHRI P. K. SHARMA: The question is, who is responsible to construct the rest-house and whether rest-houses are necessary in such cases for the contracted workers.

SHRI DEVEN SEN: You have said in your evidence that contract labour will have to be continued particularly in the case of wagon loading. Why?

SHRI P. K. SHARMA: I have quoted it just as an example. I do not wish to pin-point it saying that this is the type of work which should be given on contract.

SHRI DEVEN SEN: Don't you think that it is an old thing, and should we not now say that even for wagon loading there should be no contract labour?

SHRI P. K. SHARMA: Yes.

SHRI DEVEN SEN: Now, in Chapter VII, clause 28 (2) (a), an inspector may, within local limits for which he is appointed, enter any premises or place where contract labour is employed. Here, I should think that "employed" means the place where the worker is employed. The inspector should go only to the place of work where the worker is employed.

SHRI P. K. SHARMA: Yes; here, "employed" applies only to the place of work where the worker is employed. You are right.

SHRI R. K. AMIN: Now, you have stated that no exemption or exception

should be made and the Act should apply to the State of Jammu and Kashmir also. You are aware that Jammu and Kashmir is governed by different constitutional arrangements. And yet you suggest that whatever law we pass here should apply to the State of Jammu and Kashmir also. What is your consideration in suggesting this?

SHRI P. K. SHARMA: We are told again and again that Kashmir is part and parcel of the Indian Union, a part of India. I have not been to Kashmir yet, but we are told so. Therefore, why should not the legislation apply to Kashmir also?

SHRI R. K. AMIN: But so long as a different constitutional arrangement exists for Kashmir, do you think that this law and such other laws should also apply to Kashmir?

SHRI P. K. SHARMA: Parliament has the authority to amend the Constitution.

SHRI R. K. AMIN: When such a constitutional arrangement is there, why should this apply to that State?

SHRI P. K. SHARMA: I can only suggest; how it has to be applied, is for your consideration.

SHRI R. K. AMIN: I want to suggest that the Jammu and Kashmir State is governed under different considerations for certain basic things. But these matters which are not so basic, should be made to apply also to Jammu and Kashmir. We can also emphasise that matters regarding contract labour, regulation and abolition, are such as are not basic as between Kashmir and the rest of India, but they are matters which may be applied all over the country.

Now, in your evidence your plea is that in some industries, in some processes, and for certain types of work, contract labour may be justified, but for others it may not be justified. So, you agree that there are certain pro-

cases of certain industries and certain types of work for which contract labour is the need of the situation, and there are others where it is not necessary, and it should be abolished. Could you give me the criteria to find out which are the industries or the processes for which contract labour is justified, and which are those for which it is not justified?

MR. CHAIRMAN: For instance, there are some heavy industries where only the contract workers are there.

SHRI P. K. SHARMA: It is not an industry which should be exempted. There is no question of process. Loading and unloading also is a process. Carrying the finished product is also a process. There are certain industries in which the Government of India releases its stock. Indeed, stock will be released and brought to the station or the port only when they are released by the Government of India. Till such time, what would the workers do? Unless the orders come from the Government of India that you release so much of stocks to such and such a person, till then, you cannot load the finished products. Therefore, I say that this is one of the processes connected with the industry, that is the finished product. There may be certain processes which are connected with the Industry but which may be given to the contract work.

SHRI R. K. AMIN: Don't you think that there are certain individuals also who have some types of work and other types of work who would prefer the contract labour rather than non-contract labour? Don't you think that for them the contract labour is suitable?

SHRI P. K. SHARMA: So far as the workers are concerned, they are prepared to work on the 7th day of a week also.

SHRI R. K. AMIN: There may be certain types of work for which the contract labour might suit them best.

SHRI P. K. SHARMA: I do not know of any such works which would suit the contract labour.

SHRI R. K. AMIN: Suppose I am a owner of a few acres of land. I may not have work for the whole season or for the whole year. And during certain intermittent periods, when I am free I may get some work and I may be prepared to work and earn something. Such a situation is obtaining in rural areas.

SHRI P. K. SHARMA: In rural areas, nobody is free.

SHRI R. K. AMIN: If it is so, will you agree to this?

SHRI P. K. SHARMA: We are very definite about it that the contract work should go. It is of course not benefiting the industry. You are paying that much money to the contractor and you are allowing an intermediate person to have a profit. In any case it does not give any benefit to the workers themselves. Why not you give that to the workers and why should you give that to the third person?

SHRI R. K. AMIN: Why can't it be done through a third party? Whatever increase in the productivity is there, it is taken away by the intermediaries. This you would like to stop. Is it not?

SHRI P. K. SHARMA: Yes, Sir.

SHRI R. K. AMIN: Your contention that there are certain processes where a contract labour is necessary is wrong.

SHRI P. K. SHARMA: It is not wrong. There are certain processes in which you have got to permit it. It is not that it is an absolute necessity. It is a necessary evil that we have to carry on with these processes. You have got to give the contract work for instance in case of installation of motors. In order to ex-

pend your plant, you may have to employ more for the installation work. It may take two years for finishing the installation work. For instance for connecting the motor with power and so on and so forth will itself take two years or so.

SHRI R. K. AMIN: For example, I want to construct my own house. I give it to the contract. No doubt, I am the principal employer because I am constructing my house. But I may give to the contract. I do not know how to construct the house; I cannot supervise it. And so I keep another man to do that job. It is a division of labour in the sense that the contractor also allows to have a division of labour so that the efficiency of the work is increased. In such matters, will you allow the contract labour at all or not?

SHRI P. K. SHARMA: In that case you will have to give a go-bye to the legislation. You have given certain facilities to the working-classes; you have given them certain protection and you have regulated their work. To get the work implemented, he is expected to have a contract labour. You cannot enforce any legislation on him. I think it should be given a go-bye. This is left to you to decide.

SHRI R. K. AMIN: There is another question regarding formation of advisory bodies. It was suggested that there should be some change made in the Body. There you have stated Railway Board as one of the categories. Why do you say 'one of the categories?'

SHRI P. K. SHARMA: Because there are certain categories such as Railway Board and so on and so forth.

SHRI R. K. AMIN: Don't you think that there should be some people on the Board not having any vested interests such as having no sides with the workers nor with the entrepreneurs? Don't you think that such people should be put on the Board?

SHRI P. K. SHARMA: There is already a provision that in the railway, coal industries, mining industries, the workmen or any other interests which in the nature of the Central Government should be represented on the Board.

SHRI R. K. AMIN: It should be specifically made clear, that they represent one interest or the larger interests. Here, there is no neutral interest like retired judge, economist or social worker who will not take any side. Don't you think that from the point of view of larger interests of the society, some neutral should be represented?

SHRI P. K. SHARMA: Is there any assumption that we will not look to the larger interests?

MR. CHAIRMAN: We shall discuss that amongst ourselves.

SHRI R. K. AMIN: We are discussing about the public interest in one way or the other. Who is there as a neutral to look to it?

SHRI P. K. SHARMA: It is a question of deciding on the policy. It is not a body which is envisaged that will decide certain things.

SHRI HATHI: May I intervene? The persons mentioned in this section are specifically mentioned because they know the trade and industry. They know whether a particular kind of work in a particular industry can be done by a contract labour or could not be done by a contract labour. The person who may be an economist and who does not know anything of the coal industry may know the method. Therefore these categories are mentioned specifically. It is not that all should be uninterested totally. They are not in the terms of 'employers' or 'employees' but they are there because they know what work can be done through contract and what work could not be done through a contract in a particular trade or industry.

SHRI R. K. AMIN: I may tell you that in a case which can be done by

contract labour, the workers might tell that it cannot be done by a contract labour while the employers may tell that this can be done by a contract labour. In that case some other party should be there to twist the case.

MR. CHAIRMAN: He has already given his opinion in the matter. Now it is for us to decide how this should be done.

SHRI R. K. AMIN: That is why I suggest in the phrase beginning with 'in the opinion of the Central Government, it ought to be represented on the Central Board' it should be specified so as to include a social worker, economist or a retired judge or some other public man.

SHRI P. K. SHARMA: You can never exhaust the list—it is an ever-expanding list.

MR. CHAIRMAN: We shall discuss that amongst ourselves.

SHRI R. K. AMIN: In Chapter III you have given certain powers of appropriation to Government. Don't you think that there is similar necessity of including one clause. If anybody refers to me a contractor I do not know whether I come under this category or not—maybe my nature of work may be just intermittent or not even perennial or not even seasonal. I do not know whether it can be described as such. There should be some provision that if anybody refers the matter, the Government should be obliged to say whether you come under the law or not.

SHRI P. K. SHARMA: There is some provision somewhere that in case of difficulties, the decision of the appropriate Government shall be final as to whether an industry is of a perennial nature.

SHRI R. K. AMIN: If somebody refers the matter, the Government should be obliged to say 'yes' or 'no'.

SHRI P. K. SHARMA: That necessarily must happen. If a matter is referred to the Government, the Government will decide it either way. The explanation to Section 10 says: "If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final."

SHRI R. K. AMIN: I am doubtful about that. If you refer the matter to the Government, you should be told whether you are under the law or not; whether a licence is necessary for you or not, just as you refer the question of land to the Collector you are told that the titles are clear or not. Should this not be made clear in the provision?

SHRI P. K. SHARMA: We have not got any objection to that.

MR. CHAIRMAN: If something is referred to the Government, the Government will reply.

SHRI R. K. AMIN: Then we go to page 11—Sub-clause 4 of clause 21: In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be to the contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor. This is what the clause says: Supposing in the meanwhile the contract is cancelled by the principal employer under the argument that the terms of the contract have not been fulfilled, what will happen about the payment to the contract labour?

SHRI P. K. SHARMA: Even then the principal employer is responsible.

SHRI R. K. AMIN: Supposing the principal employer A hires B as con-

tractor and there are certain terms of contract under which B can employ contract labour. But when A finds that B has not paid his contract labour, then he cancels the contract with B. The workers do not know that B's contract with A has been cancelled and they are under the impression that they will get the payment. In that case what will you do?

SHRI P. K. SHARMA: The principal employer is still responsible.

SHRI HATHI: I will explain the the position. You see sub-clause (2) which states: Every principal employer shall nominate a representative duly authorised by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as may be prescribed. The position which you envisage will not arise because till the day the contract subsists the payment has to be made in the presence of the authorised representative of the principal employer. The authorised representative will first know in case any payment is not made.

SHRI P. K. SHARMA: It can arise still. Suppose the contractor has paid for the last month on the 7th and the next payment is due on the 7th and his contract is cancelled on the 5th.

SHRI HATHI: The principal employer is liable then.

SHRI P. K. SHARMA: The liability will not exceed more than one month's payment.

SHRI R. K. AMIN: Chapter V—Welfare and Health of contract labour. Can we have a provision like this in regard to the amenities to be provided for labour? If the principal employer has all these facilities of canteen, drinking water, etc. according to the terms of the contract, will you still insist that the contractor also should provide separate facilities for the contract labour?

SHRI P. K. SHARMA: What you say will be all right in the case of

industries covered by the Factories Act where these amenities are to be provided. But, supposing there is a colliery which is not covered by the Factories Act, what will happen to the working force?

SHRI R. K. AMIN: Even here if the principal employer had agreed to provide these amenities, then there is no necessity for the separate amenities.

SHRI P. K. SHARMA: Yes.

SHRI R. K. AMIN: Where more than 100 or more is ordinarily employed by a contractor the provision for canteen etc. should be there. This also depends on the nature of work. What will you do in the case of construction of railway lines, where the place of work is not the same and it is changing from time to time? Will you provide canteen in between two places?

MR. CHAIRMAN: Mr. Amin, the other set of witnesses are waiting. Let us finish quickly. Mr. Ganesh.

SHRI K. R. GANESH: You had mentioned that one of the processes in which the contract labour would be allowed can be loading and unloading. In most of the organised industries loading and unloading is a continuous process unlike building construction and other works of casual nature. If you permit a continuous process like loading and unloading in the category of those processes which can be permitted for contract labour, then probably quite a substantial percentage of workers in the organised industries may be debarred from all these benefits.

SHRI P. K. SHARMA: I am very happy that you pointed out this thing. Loading and unloading is a continuous process which cannot be included here.

SHRI SANDA NARAYANAPPA: The main intention of the Bill that is before the Joint Committee is that all the middlemen should be eliminated and the contract labour should

get their due share of wages and the facilities to be provided. Whenever contract labour numbering one hundred or more is ordinarily employed, all the benefits like canteen, etc. should be provided for them.

MR. CHAIRMAN: If you have any thing to ask the witness that you may ask.

SHRI SANDA NARAYANAPPA: For such things also some rules and regulations can be formed to enforce that the labour that are employed for seven, six days or on weekly and monthly basis where the Factories Act or this Minimum Wages Act are not covered just for casual labour also these rules can be framed and certain wages also fixed for such labour and for violation of such thing some penalties can be mentioned in order to benefit those labourers who have not been covered by this Act. That is what I want to mention, viz., whether such casual labours can be covered by rules and regulations?

MR. CHAIRMAN: Your suggestion is that these workers should be handled by a cooperative. We will keep that in view.

SHRI BRAHMANAND PANDA: You also agree and I also agree that the evil of this contract labour should go. But I think until and unless that is fully abolished we should see that if this evil can be mitigated to a certain extent and with that purpose in view this Bill is there. So far as bigger industries are concerned where apart from perennial work they employ casual labour we have ample control and we can see that those things are rightly done and the contractors follow the provisions of the law. But one thing I want to point out, that is, suppose there is a working-site construction of dam or a big-building and construction work goes on for more than a year and there those people come to work and they work for more than six months; why not maintain a register of such people

who come for this work so that after a Dam is over they are also considered for the type of work they are handling and so in future when services are needed from a register we can take those names and employ them again.

SHRI P. K. SHARMA: There is one difficulty. Suppose, for instance, Hindustan Construction are building a bridge near Delhi; then they take the entire establishment out and they go somewhere in Kerala.

SHRI BRAHMANAND PANDA: Only local; there they should be given preference.

SHRI P. K. SHARMA: Yes, that is correct.

SHRI S. D. PATIL: On page No. 2 it has been stated in Section 4 that this Act applies to certain things. Do you think after going through this Section that it should be made applicable to such works also whose time period is six months or more than six months or also whose estimated cost is also more than Rs. 1 lakh or Rs. 50,000.00 so that there will be a person who is maintaining 25 workers, or who has employed them for one year then such contract will be made applicable; Similarly work should be of what type and of what period and what would be the total cost of that work, if that is also included then it will be more useful.

SHRI P. K. SHARMA: If you want to include it that way then delegate this power to Government.

MR. CHAIRMAN: He wants that the word 'casual' should be defined.

SHRI P. K. SHARMA: Yes, that is correct.

श्री भटानी प्र 1: विचारी : यह जो संख्या 20 दी गई है इस से घाप एभी करते हैं या इस को कम ज्यादा करना चाहिए ?

श्री शर्मा : प्रश्नकार सारे बोझ एक्ट में यह संख्या 20 ही है और एक स्टैंड संख्या लेकर लेब्लिंग में 20 ही दी हुई है । इसलिए या दो सभी में रिड्यूस किया जाय या फिर इसको भी ऐसे ही चलने दिया जाये ।

डा० रामेन सेन : फ़ैक्ट्री एक्ट में 10 भी है ।

श्री शर्मा : वह तो पावर के साथ है ।

श्री अशानी प्रसाद तिवारी : यह जो कान्ट्रैक्टर की परिभाषा दी गई है उसमें जो आपने लेब्लिंग अनलोडिंग का उदाहरण दिया यह कवर होता या नहीं ?

श्री शर्मा : नहीं होता है ।

श्री अशानी प्रसाद तिवारी : क्या आप आवश्यक समझते हैं कि इसको जोड़ा जाय ?

श्री शर्मा : जी हां, बिलकुल ।

श्री अशानी प्रसाद तिवारी : यह है out-worker need not be defined यह आप क्यों चाहते हैं ? जब कि बीडी का काम करने वाले या और लोग बीडी सिगार एक्ट में उनके जो वर्कर डिफ़ाइन्ड हैं उनको आप वर्कर कहते हैं तो यह यह क्यों चाहते हैं कि यह डिफ़ाइनड न किये जायें ?

श्री शर्मा : हमारे कहने का मतलब यह था कि वर्कर में यह सब कवर हो जाता है और एक्सक्लूजन प्रावीजन को ज्यादा बढ़ाने से कोई फायदा नहीं है । "एम्प्लायड इन" यह जो वर्कर की परिभाषा में दिया हुआ है any person employed in or in connection with the work of any establishment. So, it is redundant clause.

उसमें यह आ जाता है । तो इसकी जरूरत क्या है ?

श्री अशानी प्रसाद तिवारी : पृष्ठ 9 पर जो प्रीलेट एगारिटी की नियुक्ति का

बाल है उसमें यदि नेबर कोर्ट या इंडस्ट्रियल कोर्ट को लीप दिया जाय तो कैसा रहेगा ?

श्री शर्मा : प्रीलेट में तो यह मामले जाने ही नहीं चाहिए । ऐसे जो कान्ट्रैक्टर का जो वर्क है उससे आप डिसेम्प्टिफ़ाइड है तो आपने उसे डि-रजिस्टर कर दिया । अब आप उसे प्रीलेट बना देंगे तो आप को तमाम सबूत जुटाने पड़ेंगे जो आप जुटा नहीं पायेंगे । इसलिए एडमिनिस्ट्रेटिव मशीनरी पर विश्वास कर इसके देन एंड देयर डिसाइड कर दें कि यह कान्ट्रैक्टर रहेगा या नहीं रहेगा । उसके लिए सबूत जुटाये जायें और वह प्रदालत में जायें वहां से स्टे ले जायें तो 5 साल तक तो स्टे ही रहेगा । इसीलिये अगर लिटिगेशन प्रोवाइड किया गया तो एम्प्लायर को आप निकाल नहीं सकेंगे । यह तो एडमिनिस्ट्रेटिव एगारिटी को आप पावर दे दें ।

श्री अशानी प्रसाद तिवारी : जो रेगुलर नियल किस्म का काम समझा जाय तो उसमें वर्कमेन को या कर्मचारी को प्राविडेंड फंड या कम्पेन्सेशन ऐक्ट की सुविधा मिलनी चाहिए ?

श्री शर्मा : जरूर मिलनी चाहिए ।

श्री अशानी प्रसाद तिवारी : तो इस क प्रसी एक्ट में कवर होना चाहिए ?

श्री शर्मा : इस एक्ट में नहीं बल्कि प्राविडेंड फंड ऐक्ट में इसके लिए प्राविजन करना पड़ेगा ।

SHRI SHRI CHAND GOYAL: You have said that the definition should be widened so that the principal employer who directly employs the labour should also be included in the definition because there may be some persons who are directly employing labour and the contractor does not come in. Therefore you have suggested that the definition should be

widened at one place and at another place you seem to suggest and your whole case seems to be that this institution of middlemen should be wiped out so that the principal employer wherever it is inherently necessary to do work on contract basis, then, he should directly do it and the middlemen should be wiped out. May I know how you reconcile these two things? At one place you have suggested that the definition should be widened so as to include even those persons who directly employ labour and there the contract does not come in. On the other hand you have suggested that the institution of middlemen should be wiped out and wherever it is necessary to do work on contract labour, it should be done directly by the employer with the labour. So, how do you reconcile these two things?

SHRI P. K. SHARMA: There is no contradiction. That is the 2nd best alternative. If you cannot do away with having a contract labour then you provide the second best. That is what I have suggested.

SHRI SHRI CHAND GOYAL: You have suggested that provision should be made in the Act to include that the advice given by the Board will not be binding on the Government. But the very fact that the Board is an advisory body means this: It does not do anything except advice. It only advises. And it is for the Government to accept the advice or to accept it in a modified form.

SHRI P. K. SHARMA: If it is made clear it is good. It is up to the Board and the Government if it is not clear. Why should you not make your intention very clear, as to whether the advice will be only mandatory or it will be advisory?

SHRI SHRI CHAND GOYAL: Advice of the Board is never mandatory. It is just in an advisory capacity.

SHRI P. K. SHARMA: All right.

SHRI SHRI CHAND GOYAL: You have suggested in comments that this provision of appeal should be done away with and it is likely to delay matters and the delegation is likely to take long. But can't you contemplate certain cases where persons on account of certain misunderstandings or on account of wrong complaints or on account of mala fides may become victims and they should have some redress somewhere? Therefore, if you have a suggestion that the appeal should be decided within a period of 6 months, as in the case of election petitions, so that it does not result in protracted litigation, you may say what your suggestion is. There may be genuine cases where licenses are not given to them or licenses may be cancelled on insufficient grounds.

MR. CHAIRMAN: This is a matter for the Committee to decide.

SHRI HATHI: You can suggest an amendment in the provision of the Act. It is not for the witness to suggest.

SHRI SHRI CHAND GOYAL: In your comments you have not said anything about the facilities. Do you think the facilities contemplated in the scheme of the Act are enough and some other facilities are not needed?

SHRI P. K. SHARMA: No facilities can be enough. To begin with you have made a good start. Let us try. Then the workers will themselves say that these facilities are not enough.

SHRI SHRI CHAND GOYAL: Section 10 of the Act makes provision that the Government can declare certain processes or certain functions where contract labour should not be included. Don't you think that is sufficient guarantee to the idea which you have been all the time suggesting?

SHRI P. K. SHARMA: My opinion is: Why should they delegate this power to anybody else, if they can do it themselves? Are you not clear that this contract system should go?

Then you provide it in the Act itself—why delegate it to the others?

SHRI SHRI CHAND GOYAL: You said that in certain processes and in certain industries or jobs this contract labour has to exist. You can't do without it. May I know if you have made certain lists where you feel in such and such processes and such and such jobs this contract labour should go at once?

SHRI P. K. SHARMA: My suggestion is this. You abolish the contract system straightway in the contract bill, then this advisory board may advise the State Government to exempt certain processes. That State Government should provide exemptions from the contract Bill. Instead of doing this you have done it the other way round. You have said that it will exist. Then there will be a Board and then there will be a process of machinery by which the prohibitory orders will be passed that such and such process will not be given under contract. I request you to do it the other way round.

SHRI SHRI CHAND GOYAL: That is all right.

SHRI S. K. SAHA: For loading and unloading, etc., I think the contractor will be liable to provide all the necessary facilities.

MR. CHAIRMAN: He also wants him to be responsible for all this.

SHRI S. K. SAHA: Will the provident fund, etc. also be provided to the contract workers?

SHRI P. K. SHARMA: It should be provided. In that case the Provident Act will have to be amended.

श्री प्रेम चौरा : मैं समझता हूँ कि श्री शर्मा के दिमाग में यह एनेक्टमेंट केवल बड़ी इंडस्ट्रीज के लिए है। बिड़ला टाटा जैसे लोगों के लिए है जिन का बँज बिल डेढ़ दो लाख रुपया प्रतिदिन है। उनके लिए

पांच सौ रुपये का फ़ाइन बहुत कम है। इस सिलसिले में बीस लेबरर्स की जो लिमिट रखी गई है वह बहुत कम है। उस लिमिट को सौ या डेढ़ सौ कर दिया जाये। इससे स्माल-स्केल इंडस्ट्रीज को रिलीफ़ मिलेगा और बड़ी इंडस्ट्रीज पर कंट्रोल हो पायेगा।
This limit should be raised from 20 to 100.

MR. CHAIRMAN: This is for the Committee to decide.

SHRI P. K. SHARMA: This is for the Committee to consider.

DR. RANEN SEN: Many important points have been covered and I am glad that Mr. Sharma has clearly expressed his opinion. But in course of time in the statement that you made there is a little confusion in my mind in regard to certain processes, viz. loading, unloading, etc. You have said, Mr. Sharma, that such processes as loading and unloading may be done through the contractor. Anyway, you have suggested that these are intermediate processes. May I know whether it is known to you that in the steel industries loading and unloading has become a perennial process. So while making some suggestions, would you make more precise suggestion in regard to some of the items?

SHRI P. K. SHARMA: I am very thankful that the hon. Member has pointed this out. The same job in a certain industry may be perennial, and the same job in another industry may be intermittent. In sugar industry, for example, it will be an intermittent work. The same work in steel industry may be perennial. Therefore, the exemption which I am suggesting is to be specially provided by the proper Government for each industry separately. If you say that the contract system is abolished and then you provide an exemption, then in providing exemption for each industry the job has got to be specified.

and for each industry you have got to constitute advisory boards. These advisory boards will decide the question as to which job has to be included in the contract system and what job has not to be included. These are matters of detail and can be worked out.

DR. RANEN SEN: While you state that the contractor's system should be abolished, you want to say that in the intervening stage a sort of a phased programme may be taken up in certain industries or certain operations, certain processes may be pointed out as within the purview of the contractor and gradually that would be abolished also?

SHRI P. K. SHARMA: Yes. That is the idea. Thank you very much.

DR. RANEN SEN: You have mentioned 'Hindustan Construction Corporation' in some of these answers to questions. You may be knowing that the Hindustan Construction Corporation is one of the biggest contractor organisation in India, and the work they do generally can be done by the Government Departments also, because there is one Government organisation known as the National Project Construction Corporation (NPCC). Would you then say that the first statement that you made that such contractor organisation of Hindustan Construction Corporation may be done away with and such provision should be included in the body of this Act? What is your opinion?

SHRI P. K. SHARMA: How would you make a distinction between a petty contractor and Hindustan Construction Corporation? My submission is that the entire thing should go, lock, stock and barrel.

DR. RANEN SEN: The relevance of this question is that the Hindustan Construction Corporation has become a sort of sanctified, stable organisation, patronised by the Government of India, in regard to certain works,

which can be done by the Government departments or Government organisation which exists. Therefore, this question arises. I want to know your opinion.

SHRI P. K. SHARMA: The contract system as such should go, whether it is Hindustan or anybody else.

DR. RANEN SEN: In the statement again you said that construction of certain Government workshops or any other workshops can be given over to the contractor. This is what you say.

SHRI P. K. SHARMA: I suggested that installation of machinery, installation work in the factory can be given on contract.

DR. RANEN SEN: The present trend is that the construction work is handed over to the contractor. What is your opinion? Should the Government organisation take over the construction work, or for this the contractor should be employed?

SHRI P. K. SHARMA: Yes.

DR. RANEN SEN: You referred to the fringe benefits like provident fund etc. Would you agree that there should be some reference made in the body of the Bill to those fringe benefits such as provident fund, Employees' State Insurance Scheme etc.?

SHRI P. K. SHARMA: There are certain qualifying clauses under the ESI Act as well as under the Employees' Provident Fund Act. I shall have to go into that question in detail before I could say anything on this.

DR. RANEN SEN: Would you agree to it in principle?

SHRI P. K. SHARMA: It is all right in principle.

DR. RANEN SEN: Clause 1(5)(a) provides that it shall not apply to establishments in which work only of an intermittent or casual nature is performed. What is your opinion in

regard to this provision? In your memorandum you have stated that seasonal labour should be covered.

SHRI P. K. SHARMA: This Act should apply to industries which are of a seasonal nature. That is what I have suggested in my memorandum.

MR. CHAIRMAN: The question is whether you are in favour of clause 1(5)(a).

SHRI HATHI: I think what he means is that it should not apply to seasonal work.

MR. CHAIRMAN: No, I think he is saying that it should apply to seasonal labour, but not to casual or intermittent labour.

SHRI P. K. SHARMA: There is nothing wrong if it applies to casual as well as seasonal work. Exemption can be given in suitable cases. There is nothing wrong if the Bill applies because it does not prohibit the contract system altogether. It only says that the contract system will be regulated under certain conditions. Therefore, there is nothing bad in getting this Act applied to seasonal and also casual and intermittent labour.

SHRI S. KUNDU: You are an experienced trade union leader and I would like to ask you just two or three questions so that your answer will help me to study this Bill more closely. It has been stated in the Statement of Objects and Reasons that:

"The matter was discussed at various meetings of Tripartite Committees at which the State Governments were also represented and the general consensus of opinion was that the system should be abolished wherever possible and practicable and that in cases where this system could not be abolished altogether, the working conditions of the contract labour should be regulated so as to ensure payment of wages and provision of essential amenities."

LS-3.

I would like to know how far this Bill has been able to abolish contract labour and whether it has partially or totally failed to abolish it.

SHRI P. K. SHARMA: I am very thankful to the hon. Member for pointing this out. In the State tripartite committee meetings held all over India, they have unanimously requested the Central Government to abolish the contract system and everybody has suggested that it should be abolished. But when the Central Government have come forward with this Bill we find that they only express a fond hope and delegate the power to abolish to the State Governments implying thereby that this is an evil which they shirk to abolish and which they want the State Governments to abolish. In my opinion, that is not the proper thing to do. The Centre should abolish it and they should delegate the power to the State Governments to exempt; if they think that in certain industries it is necessary or that in certain processes of an industry it is necessary to continue it, then they will give this exemption.

SHRI S. KUNDU: In other words, the present Bill does not serve the purpose?

SHRI P. K. SHARMA: This Bill is not at all going to serve the purpose because it will only regulate contract labour. The result will be that there will be red tape again, and a machinery will be created and Government officers would be appointed and their number would multiply; then, there will be a registration authority, there will be registration of contracts, registration of forms and so on. The result would be that we would have to pass in through one more office. So far the Labour Department has been our demi-god, but now there will be another demi-god to whom we shall have to go every now and then, and then pray that we are getting such and such a difficulty under such and such a contract and, therefore, they should adjudicate upon it, so to say, and then abolish it.

SHRI S. KUNDU: You have rightly touched the point and given your opinion on this aspect as you think proper. You have clearly stated that this Bill has not at all been able to abolish the contract labour as such.

I presume you are aware of the working conditions of labour in public undertakings. Today, we have a large number of public undertakings such as the railways, the Hindustan Steel etc. I am informed that all the public undertakings employ a large number of contract labour, with the result that the potentialities of these establishments lie untouched. For instance, in some public undertakings, there are a number of trucks which could be used for loading and unloading, but then they are allowed to remain in store and the work is handed over to private contractors. This has been the subject-matter of discussion.

This Bill emanates from the Government of India and from Parliament; at least in the public undertakings directly under the Central Government, could not this Bill abolish outright contract labour? If such a provision had been made in this Bill, could it not have been easily implemented, to start with? This Bill says that an attempt will be made to abolish contract labour gradually. Could not such a gradual attempt have been made right in the public undertakings? Could not a provision have been incorporated in this Bill to that effect so as to prove the *bona fides* of the statements made in the Statement of Objects and Reasons?

SHRI P. K. SHARMA: Abolish contract labour altogether.

MR. CHAIRMAN: It is well known that this Bill is not going to abolish the contract labour completely.

SHRI S. KUNDU: The statement of Objects and Reasons believes in gradual abolition of the contract labour system. Could not an attempt have been made in this Bill to abolish contract labour in the public undertak-

ings which are under the Central Government and thereby within the purview of Parliament? Since you are a very responsible trade union leader, I would like to know whether this could not have been done, or whether there would have been any difficulties in the way.

SHRI P. K. SHARMA: It can be abolished both in the private and in the public sector; there should be no distinction between the private and the public sectors in so far as the abolition of contract labour is concerned.

SHRI S. KUNDU: To start with, it will be easy to implement it in the public sector undertakings under the Government of India, such as the Hindustan Steels, the railways etc., where the writ of the Central Government would run. So, could not such a provision have been made in this Bill?

SHRI P. K. SHARMA: It is our experience that even if the things are decided, they are very difficult to be implemented in the public sector. You give us the Contract Bill and we will get it implemented in the private sector, but in the public sector, only Heaven knows when the provisions will be implemented.

MR. CHAIRMAN: Are you doubtful that even this Act will not apply?

SHRI P. K. SHARMA: We are not concerned as to how you are going to regulate this measure; whether they are to be registered or not. How are we concerned with it?

SHRI S. KUNDU: In the railways we are told that three lakhs of contract labour is there. Now, if the Railway Minister decides that contract labour should be abolished right now and gives the order, the Railway Board is bound to carry out the order. You have no hesitation about it. Suppose, this Bill which is passed by Parliament makes a provision to see that in the public sector undertakings the contract labour will be abolished, it can be implemented easily.

SHRI P. K. SHARMA: It can be implemented both in the public sector and the private sector.

SHRI S. KUNDU: In certain public sector undertakings, for the period of construction, there is collaboration with technical experts. For instance, in the Hindustan Steel and Bokaro, there is some sort of collaboration with Soviet Russia and the USA. For such technical things, if big contracts are given to big parties, the question arises as to how you can abolish labour contract when such big contracts are given in respect of technical aspects of these plants.

SHRI P. K. SHARMA: Two exemptions will take care of that. If the appropriate Government is authorised to exempt the working processes from the operation of the Act, it will be taken care of.

SHRI R. K. AMIN: Let the appropriate Government exempt the public sector first.

SHRI S. KUNDU: My point is this. If some people ask you this question, how can you define the abolition of contracts in the public sector where there is collaboration with foreign countries. Do you have any solution?

SHRI P. K. SHARMA: My submission is that the technical processes or the technical work can be exempted from the operation of the Act by the appropriate Government.

SHRI S. KUNDU: I suggest one thing. In these technical operations also, we are concerned with the labour force and not with the technical personnel. The labour force is purely Hindustani; it has nothing to do with the contract. Even if the contract is given for technicalities, the labour force will remain for ever, permanently. That should not be done through the contract system.

SHRI P. K. SHARMA: Only those who get Rs. 500 will be covered.

SHRI S. KUNDU: Do you think that even in this case, the contract system should be abolished right now?

SHRI P. K. SHARMA: Yes.

SHRI S. KUNDU: My next question is this.

MR. CHAIRMAN: There is no time, Mr. Kundu. The other witnesses are waiting. They have been asked to come at 11 A.M.

SHRI S. KUNDU: Just a couple of minutes. Now, at the fourth page of the Bill, the definition of "workman" has been given: (A) to (C). You have seen the definition of workman in the Industrial Disputes Act. In paragraph (C) in this Bill, the out-worker has been exempted. Do you think it reasonable to define an "out-worker" and not give him the status of a workman?

SHRI P. K. SHARMA: I have suggested the deletion of section (C).

SHRI S. KUNDU: This law is not applicable to establishments where the number of workmen is less than 20. Have you come across such things where there are contract systems which are of a permanent or perennial type such as the restaurants in the railways, which have been there for ages together and where the number of employees is less than 20? But having done that, the labourers are not given the benefit of the railway workers. In such cases, don't you think that if this Act excludes any establishment employing 20 workers, a large number of workers will also lose the benefit which was expected to accrue from this Act?

SHRI P. K. SHARMA: One thing which we should not lose sight of is the enforcement possibility of the Act. If you enlarge the scope of the Act widely, would there be an appropriate machinery to look after the proper implementation of the Act? The Labour Ministry even now cannot cope with the enforcement of the Act in respect of 20 workers as the limit. So, if you enlarge further, by reducing the number, it will be a happy provision in the Act but it may not be implemented.

MR. CHAIRMAN: That is an administrative point. What is your opinion about its desirability?

SHRI P. K. SHARMA: The norm is fixed by the labour legislation. It is 20 in the Bonus Act. It is 20 in the Factories Act. I do not suppose that an establishment which employs less than 20 would be an establishment worth the name on which any such legislation could be enforced.

SHRI S. KUNDU: Any way, it is your opinion.

SHRI P. K. SHARMA: Yes; that is my opinion.

SHRI S. KUNDU: At page 7, clause 10, there is this provision where an attempt has been made to abolish contract labour. But there are so many riders. The most important rider, to me, is that the question whether an establishment is of a perennial nature or not is to be decided by the Government. Now, Government, as the executive, is bound by the limitation of the ruling party, whichever be the party in power. Suppose could, there not be a fear,—whether it is justified or not is another matter—in the minds of the various trade unions, that once the decision whether an industry is of a perennial nature or not is to be made by the executive, injustice will be done? Therefore, will not the spirit of the Bill which has been touched in clause 10 be completely defeated if this decision is taken by the executive? I know that the judiciary has been a prolonged affair unfortunately in our country, but don't you think that a body presided over by a retired judge with two or three members, could decide these things by going down to the places concerned?

SHRI P. K. SHARMA: It is a very good idea. If an appeal could be provided, it is in this Bill that it could be provided.

SHRI S. KUNDU: Now, you have been working for a long time in the trade union field. The power of launching a prosecution for violation of the various provisions of the Bill

lies with the Government, as you might have examined. The Government will decide whether a prosecution should be launched or not. The contractor who is supposed to have misrepresented or suppressed the facts or has not done his work according to the provisions of the Act will be attracted by the provisions of this Act and the Government or the inspector will launch a prosecution. You would have seen that sometimes it is a very difficult affair to file such a prosecution. Hardly any such prosecutions take place. Don't you think that some other machinery or some people can be made incharge of . . .

SHRI P. K. SHARMA: I have already suggested that these should be made cognisable offence and the proceedings should be initiated on the application made by the Trade Union or the workman who has suffered.

श्री खेती कान्त सिन्हा : इस में 20 की संख्या दी गई है यानी जहाँ पर 20 या उससे अधिक कन्ट्रैक्ट लेबर की संख्या होगी, वहीं पर यह ऐक्ट लागू होगा। मानने इसके सम्बन्ध में कहा कि चूंकि इन तरह के जगहों पर दूसरे सिमिलर कानून हैं उनमें भी यही संख्या रखी गई है इसलिये इस विधेयक में भी 20 की ही संख्या रहने पर आपको कोई एतराज नहीं है। लेकिन मेरा कहना यह है कि ऐसी बहुत सी जगहें हैं जहाँ पर कि कन्ट्रैक्टर्स 20 से कम संख्या ही लेबर्स इम्प्लाय करते हैं, जैसे कि रेलवे कंटेरिंग है, तो ऐसे स्थानों पर जहाँ कि कन्ट्रैक्टर्स के जिम्मे कंटेरिंग होती है वे 10-15 आदमियों से ही अपना काम चलाते हैं। ऐसी दशा में अगर इस विधेयक में 20 की ही संख्या बनी रहती है तो फिर जहाँ 20 से कम कन्ट्रैक्ट लेबर होंगे, उनको इस कानून का कोई भी लाभ नहीं पहुंच सकेगा। इसके बारे में आपका क्या सुझाव है? क्या इस संख्या को बजाय 20 के 10 किया जा सकता है ?

श्री शर्मा : भाप कर सकते हैं, हमको कोई एतराज नहीं है लेकिन फिर ऐक्ट का एनफोर्समेंट बहुत मुश्किल हो जायेगा। 20 की संख्या के रहते हुये ही इतने अधिक इस्टीमिलशमेन्ट्स जो कि 20 से अधिक कंट्रैक्ट लेबर इम्प्लाय करते हैं, इन्फैक्ट से कवर

हो जायेंगे, उनको ही जो मौजूदा सेटअप है वह कोप नहीं कर पायेगा ।

MR. CHAIRMAN: Thank you, Mr. Sharma.

SHRI P. K. SHARMA: Thank you very much, Mr. Chairman.

(The witness then withdrew)

II. All-India Trade Union Congress, New Delhi

Spokesmen:

1. Shri K. G. Srivastava, Secretary.
2. Shri M. Achuthan, Secretary.
3. Shri Nihar Mukerji, Secretary, Works Federation.

(The witnesses were called in and they took their seats.)

MR. CHAIRMAN: Mr. Srivastava, before we start let me read to you the direction from the Speaker:

"Where witnesses appear before a Committee to give evidence, the Chairman shall make it clear to the witnesses that their evidence shall be treated as public and is liable to be published unless they specifically desire that all or any part of the evidence given by them is to be treated as confidential. It shall, however, be explained to the witnesses that even though they might desire their evidence to be treated as confidential such evidence is liable to be made available to the members of Parliament."

Your memorandum is with us. Have you any other points or clarifications to be made besides this?

SHRI K. G. SRIVASTAVA: Sir, we want to draw your attention to the reports on the survey of labour conditions in iron-ore mining industry in India where it says about contract labour: "One of the characteristic features of the pattern of employment in the Iron Ore Mining Industry is the Employment of contract labour even for regular jobs of the various mining operations. The Labour Investigation Committee also discussed

the evils of the contract system of work in the industry and remarked that the system has led to serious abuses of which underpayment of wages, miserable housing, sweating conditions of work, disregard of the provisions of the labour laws are the chief. The Committee opined that the legal abolition of the contract system would improve the lot of the workers. At the time of the present survey also the system of employing workers through contractors was widely prevalent in all the centres. It is estimated that in the country as a whole nearly 56 per cent of the mines employed such workers.

Now it is only one report from one Survey and there are many other Survey reports. So, it is very clear that only the abolition of this evil can mitigate the hardships of the workers and nothing else.

Secondly, I would like to draw the attention of the Committee to the decisions of the Tripartite Indian Labour Conference, 19th Session which was held in Banaglore and which discussed this particular question.

The suggestions contained in this Supplementary No. II to the Memorandum on this item were generally accepted subject to the following modifications and comments: (i) in paragraph 1 of the suggestions, the following may be added: Contract labour will not be engaged in the types of

work referred to in the Supreme Court judgment (Standard Vaccum Refining Co. of India Ltd., v. Their workmen and another) on this subject, namely, factories where:

(a) the work is perennial and must go on from day to day;

(b) the work is incidental and necessary for the work of the factory;

(c) the work is sufficient to employ a considerable number of whole-time workmen; and

(d) the work is being done in most concerns through regular workmen.

As far as para 1 is concerned, it was a unanimous decision of the Indian Labour Conference. Regarding para 2, employers have not agreed. Employers did not accept the suggestion that the principal employer should make payment direct etc. Regarding para 3, it was substituting words for workers, other than those mentioned in para 1, this was a minor amendment. As such the Bill does not attempt to abolish the contract labour. This is the main thing to be done, as per the report of the Committee and the recommendations of the Indian Labour Conference 8 years back. It was pointed out that that is what should be taken into consideration. If there are any legal difficulties in respect of that question, by the judgment of the Supreme Court it is very clear. We shall start with that. In such cases there should be no contract labour. In this country there were middlemen even in the agricultural industry and the Zamindari Abolition Bill have come up and middlemen's profits are being taken away. Parliament has set before itself the task of seeing that this system of contract should also be going out from this country. Supreme Court has, in fact, strengthened the hands of the Parliament and others who want. That is our main contention. We feel that the Act should be amended accordingly.

SHRI DEVEN SEN: What is the difference between your page 9 and paragraph 10, TBC, of this Bill? What is the difference here which you have in mind?

SHRI K. G. SRIVASTAVA: Our page 9 of the Memorandum says that there shall be no employment of contract labour. There is a clear ban on it. While section 10 of the Bill only enables that in certain cases it may be done. Our stand is different.

SHRI DEVEN SEN: Your conditions and the conditions given in the Bill appear to be almost similar in nature.

SHRI K. G. SRIVASTAVA: If the Board is satisfied, then it may do such and such a thing—but, we say no Board is necessary, and the Board may delay the whole thing.

SHRI DEVEN SEN: I want to know whether the Act really abolishes contract labour, or only makes a fuss of it?

SHRI K. G. SRIVASTAVA: It does not abolish at all. We demand that it should be abolished totally. Even the present strength of the inspectorate is such that they are not able to carry out the inspection of these labour laws. Even Government have admitted that they are short of staff. Nothing will practically happen if this Bill is made into law.

SHRI DEVEN SEN: Licensing process is provided in the Act. Do you mean to say that all the existing contractors will be employed as licensing officers?

SHRI K. G. SRIVASTAVA: The main difference between the Bill and our approach is this: Here, contracts are permitted, they have given licenses. The Bill does not start that they have not to be permitted. Only they have to obtain licences. We say no licence is necessary, it should be totally abolished.

SHRI DEVEN SEN: That is all; thank you.

MR. CHAIRMAN: If you are for total abolition of this system, what was the necessity of ABCD, etc.? You have said, no establishment shall employ contract labour?

SHRI K. G. SRIVASTAVA: When we discussed this question in the Indian Labour Conference, it was pointed out to us that total abolition will be difficult, unless the Constitution of India is changed. Therefore, we are going ahead for the time being, and we are starting only with what the Supreme Court has agreed....

SHRI HATHI: The object of the Bill is that we propose to abolish....

SHRI K. G. SRIVASTAVA: But the contents of the Bill show it otherwise.

श्री रा० स्व० विद्यार्थी : आप ने कहा है कि कन्ट्रैक्ट लेबर का टोटल प्राहिबिशन होना चाहिए । मैं आप से यह पूछना चाहता हूँ कि अगर किसी काम के लिए एक या दो घंटे के लिए आदमी चाहिए, तो उस सूरत में क्या किया जाये ?

श्री श्रीवास्तव : काम एक दो घंटे के लिए नहीं आता है ।

श्री रा० स्व० विद्यार्थी : आफिसिबल में ग्राम तौर पर ऐसा होता है । मिसाल के तौर पर फरनीचर रीमूव करना है । वह काम एक आदमी तो नहीं कर सकता है । उस के लिए पांच छः आदमी एम्प्लाय करने पड़ेंगे । ऐसी स्थिति में क्या करना चाहिए ?

श्री श्रीवास्तव : हर एक एस्टाब्लिशमेंट में ऐसे कामों के लिए कुछ आदमी स्पेयर होते हैं या लीव रिजर्व होता है ।

श्री रा० स्व० विद्यार्थी : लीव रिजर्व के आदमी तो वह काम नहीं करेंगे । उस काम के लिए कुछ आदमी उसी वक्त एम्प्लाय करने पड़ेंगे । उस की क्या रेमेडी है ?

श्री श्रीवास्तव : अगर दो चार घंटे का काम है या दो चार दिन का काम है तो

बात दूसरी है । लेकिन उस के लिए भी हमारा कहना है कि कांटेक्टर की जरूरत नहीं है । आप सीधे उन को एम्प्लाय कर सकती हैं और काम ले सकती हैं ।

श्री रा० स्व० विद्यार्थी : आप देखिएगा कि लेबर एक जगह कहीं बैठा नहीं रहता है । आप को व्हाइट वाशिंग के लिए आदमी चाहिए तो ऐसी कोई जगह नहीं है जहां जा कर आप आदमी ले आयें ।

SHRI R. K. AMIN: You ask that direct question put by him about white-washing.

SHRI R. S. VIDYARTHI: There is no direct link between labour and the employer in certain cases. Unless and until there is something to unite them, the work cannot be achieved. In that condition what is the remedy. For white-washing you want some people. उस हालत में—क्या आप चाहत हैं ?

व्हाइट वॉशिंग के लिए आदमी चाहिए तो या तो उस के लिए आप सारे शहर में चक्कर लगाइए और हायर करिए . . .

श्री श्रीवास्तव : हमारी सरकार ने एम्प्लायमेंट एक्सचेंज इसीलिये खोले हुए हैं । वहां आप को आदमी प्रवेलेबल होंगे ।

SHRI R. S. VIDYARTHI: You will like to go to the employment office. And they will send intimation to the labourers. By that time the work will be finished.

SHRI HATHI: Did you not say that under clause 10 contract labour can be totally abolished except in those cases? So, that is already there.

SHRI A. P. SHARMA: In paragraph 6 of the memorandum it has been very clearly stated that the contract labour system is a corrupt practice and it should be abolished and not regulated. Again in paragraph 7, regarding this Bill it is said that this

Bill does not intend to abolish the contract labour altogether, but it intends to regulate contract labour. Then you have said that to the extent of the Supreme Court judgment, the contract labour should be abolished. When you start with such a serious attack against this malpractice and corrupt practice, how is it that in paragraph 8 you say that only to the extent of the judgment of the Supreme Court, the contract labour should be abolished but otherwise it should be regulated?

SHRI K. G. SRIVASTAVA: As I said in my opening statement, we are for its total abolition. The whole working class movement is for the total abolition of this contract system. But when we discussed it in the Indian Labour Conference, it was brought to our notice by the then Labour Minister that it will not be possible with the present Constitution of India and unless amendments are made there to abolish it totally. Therefore, a beginning has to be made and what we have said in paragraphs 8 and 9 is only the beginning so that it can be abolished at least in those categories in respect of which Supreme Court has given a judgment. For the remaining part, our submission is that the principal employer should be made responsible to give them the same wages, same welfare facilities and the same working hours so that in practice they will come to the conclusion that employment of contract labour is not useful to them.

SHRI A. P. SHARMA: Why not you suggest to amend the Constitution?

SHRI K. G. SRIVASTAVA: Of course it should be done. But we are not suggesting it here because I thought this Committee is not for that purpose.

SHRI A. P. SHARMA: We are considering this Bill and in the course of discussion on this Bill we have to consider various suggestions. If you make a suggestion to the Committee for the amendment of the Constitution,

I think we will consider that too. What is your difficulty in suggesting that?

SHRI K. G. SRIVASTAVA: We have no difficulties. If the Constitution can be amended, it should be amended.

SHRI A. P. SHARMA: Do you make a categorical statement that in order to abolish this contract labour system the Constitution should be amended?

SHRI K. G. SRIVASTAVA: Definitely.

SHRI A. P. SHARMA: Regarding principal employer, earlier on Mr. Kundu also said. I want to know one thing. In the cases of Government departments like the Railways or the public sector undertakings where a large number of workers are employed on contract basis, do you suggest that the distinction between principal employer and the contractors should exist or the departments or public undertakings should undertake the work for purposes of regulating the contract labour or do away with the contractors?

SHRI K. G. SRIVASTAVA: It has been our stand that in the railways and such other public sector undertakings work should be done departmentally and not through contractors.

SHRI R. K. AMIN: When you say that contract labour should be abolished, may I take it that it applies to agriculture?

SHRI K. G. SRIVASTAVA: Everywhere.

SHRI R. K. AMIN: In that case, do you support very big farms or small farms?

SHRI K. G. SRIVASTAVA: Smaller farms are to my mind not having contractors as such. They are giving job to landless labour on the basis of the work. There is no middleman.

SHRI R. K. AMIN: I have a few acres of land. But I have only one crop in a year. I require labour for

15 or 20 days only. Do you want me to employ labour throughout the year for this purpose or do you want me to hire them out. If you say that contract labour should be abolished, does it mean that I should employ them throughout the year?

SHRI K. G. SRIVASTAVA: There are people who are employed for limited periods. But there are no contractors.

SHRI R. K. AMIN: Suppose there are some contractors and the labour is employed on the basis of daily wages. Then you have no objection?

SHRI K. G. SRIVASTAVA: No.

SHRI R. K. AMIN: Then your basic objection is to the middlemen.

SHRI K. G. SRIVASTAVA: Yes.

SHRI R. K. AMIN: You think they are at the root of the trouble.

SHRI K. G. SRIVASTAVA: Yes.

SHRI R. K. AMIN: Now you give me your answer in respect of a situation explained by my friend Mr. Vidyarthi. This was about white-washing. I can give the work directly to the labourers and ask them to do that. Another way is that some entrepreneur might come in. He will have a small office. He will do the white-washing on a particular date. He does a little bit of advertising also. Another way is for me to advertise saying that I want the white-washing work to be done. Then tender comes in. Which system do you prefer? White-washing is only an example. Suppose this Parliament House is to be white-washed. They do not keep the men throughout.

SHRI K. G. SRIVASTAVA: This will vary from place to place. When we want white-washing for the Parliament House or any Government buildings, it is not that the contractor immediately comes in. There is a procedure of calling for a tender and so on.

DR. RANEN SEN: The C.P.W.D. is there.

SHRI K. G. SRIVASTAVA: Some time is being taken if we are to go through the Employment Exchange etc. Suppose white-washing has got to be done in my house. My own experience about my house and nearabout is that we directly get the workers and who come and visit our place and get the house white-washed. They know that such and such an amount will be paid for this. This is what I do.

SHRI R. K. AMIN: Sometimes it is possible for those living nearby. It is not always possible.

SHRI K. G. SRIVASTAVA: There is none living nearby.

SHRI R. K. AMIN: There is somebody in between who gets the labourers and who gets the things done. Is it not? And it is easier for the labourers because the contract gets four or five people permanently for the entire year and he gets his requirements done. But it becomes a pooling arrangement. He becomes a pool; he gets the information from various people required for whitewashing at a particular time and adjust it to the requirements of the availability of the labour. It is in the interest of labour and in the interest of everybody that the work is got completed in time. If everyone has to go round and ask for the labour, I think they will not be available. And those who would like to entrust the work will not find the labour.

SHRI K. G. SRIVASTAVA: It may be in the interest of anybody and not in the interest of the labour.

SHRI R. K. AMIN: You see here the labourers get employment for the whole of the year.

SHRI K. G. SRIVASTAVA: That is because the contractor has come to the help of these people.

SHRI R. K. AMIN: They do not keep the labourers for all the year round.

SHRI K. G. SRIVASTAVA: For your information, they keep them as long as they require.

SHRI R. K. AMIN: You feel that certain regulations are necessary in a public sector which also entrusts the work without abolition of the contract labour for the time being.

SHRI K. G. SRIVASTAVA: There should be.

SHRI K. R. GANESH: You have explained that you stand for a complete abolition of the contract system and you have also explained that since it would not be possible due to constitutional difficulties, it should be confined to those works or processes which have been commented upon by the Supreme Court. I would like to know whether you agree with the provision that this will apply to any establishment or contractor employing such number of workmen less than twenty?

SHRI K. G. SRIVASTAVA: I think so. The subsequent paragraph will take care of it viz.,

"Provided that the appropriate Government may, after giving not less than two months' notice of its intention so as to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment or contractor employing such number of workmen less than twenty as may be specified in the Notification."

SHRI K. R. GANESH: I would like to mention this. As a trade unionist you know that it becomes very difficult to get this particular proviso used in this. As far as the other cases are concerned, this provision is there. In a factory or any other establishment normally, there are workers who are

employed are more than 20. Here, as far as the contract labour is concerned, as pointed out here, there are certain specific cases of work in which less than 20 are normally employed. Therefore, would you not think that it would be better that instead of having this enabling provision depending on State Governments to notify this because there are specific works such as in railway restaurants where less than 20 are normally employed, it is better to provide this?

SHRI K. G. SRIVASTAVA: If this number is to be reduced to 10, then many other things will be covered.

SHRI K. R. GANESH: My second question is this. On page 2, 1(5)(a) it is stated "It shall not apply to establishments in which work only of an intermittent or casual nature is performed." Would you like this to remain?

SHRI K. G. SRIVASTAVA: It is confusing me. Does this Bill deal with casual employment also? As I have seen the objects of the Bill, it is only for the contract labour. Casual people are of a different nature; they are not contract labour as such. Our stand has been that casual employment should not be continued for a long time. There should be specific period and we have achieved that as far as Government departments are concerned. There those continued to work more than six months should be given the rights of regular temporary employees. If this is covered, then we would like it. I am not clear whether it applies to casual labour also.

SHRI K. R. GANESH: My question is this. It is specifically stated that it shall not apply to work of intermittent or casual nature. You see in our day-to-day work, the word 'casual' has not been defined. Particularly, the government department can make people casual even for ten or 12 years. Our hon. Minister knows about it that we have represented to him so many times. Everybody has been employed

in the casual category because of this fact that the word 'casual' has not been defined and there is no judicial pronouncement that this word 'casual' can be misused.

SHRI HATHI: This clause does not refer to worker but it refers to work—the work of a casual nature. It does not refer to the worker as such.

SHRI K. G. SRIVASTAVA: That is what we thought.

MR. CHAIRMAN: There seems to be some confusion. In other words, it is stated that contract labour implies only those which are of a casual and intermittent nature. Then, how will you save the workers employed through contractors here?

SHRI K. G. SRIVASTAVA: For that purpose if the 'casual' word is abolished, that will make the things better.

SHRI K. R. GANESH: Do you think that penal provisions are adequate?

SHRI K. G. SRIVASTAVA: The penal provisions are never adequate in the labour laws. In many cases they find it better to violate the laws and pay the penalty than to observe the laws.

SHRI BRAHMANAND PANDA: The title of the Bill is Contract Labour (Regulation and Abolition) Bill, 1967. This means that after regulation we are proceeding towards at least progressive abolition of contract labour.

SHRI K. G. SRIVASTAVA: As far as the provision of this Bill is concerned, it does not aim at abolition at all; it aims at giving licences to these contractors.

SHRI BRAHMANAND PANDA: Your memorandum has also suggested about regulation of the contract labour, not abolition, though you say that abolition is a good idea.

SHRI K. G. SRIVASTAVA: We intended and we wish that this should be abolished. In our memorandum from paragraph 2 to paragraph 7 we have suggested ways and means for abolition—if these measures are undertaken in the Bill, the contract system will diminish.

SHRI BRAHMANAND PANDA: The whole memorandum is for regulation and not for abolition. In para 9 you say that the contract labour should not be employed under four categories. Can you cite an instance which falls beyond the scope of these four categories where contract labour could be employed?

SHRI K. G. SRIVASTAVA: The contract labour can be employed elsewhere also.

SHRI BRAHMANAND PANDA: There are some other categories where also the contract labour can be employed.

SHRI K. G. SRIVASTAVA: Yes.

SHRI BRAHMANAND PANDA: Then you say that the names of employees employed by licensed contractors shall be reported to the nearest Employment Exchange and these employees shall be listed in a common pool which shall be maintained by the Employment Exchange. Fresh recruitments by licensed contractors shall be done only through the Employment Exchanges, and the seniority lists in the pool shall have preference in employment. Do you mean to say that the present Employment Exchanges will be competent to register the names of all the contract labourers who come through the contractors or do you want a separate establishment for this purpose?

SHRI K. G. SRIVASTAVA: No new machinery is being suggested. The present Exchanges can be expanded.

SHRI BRAHMANAND PANDA: That will serve the purpose. You say that the contract labour should be abolished in sectors demarcated by the

Supreme Court judgment, but in other sectors they can be there.

SHRI K. G. SRIVASTAVA: So far as contract labour is concerned, cooperative sector is better than private sector for this purpose.

SHRI S. D. PATIL: It is suggested in your memorandum that you are mainly in favour of abolition of the Contract Labour. You are aware of this fact that the system of contract labour is prevailing in every sector. Do you think that it should really be abolished under the present system?

SHRI K. G. SRIVASTAVA: It was felt that we would not be able to do without zamindars. We find now that we can do without zamindars. The same will apply to contract labour also.

SHRI S. D. PATIL: I will give you an example. I want to paint this hall and I invite for tenders and I accept the lowest tender as is the normal practice. Naturally that man has also to bring contract labourers to do my work. Can this system of contract labour in reality be abolished? You are suggesting that it is very difficult to regularise and so it is better to abolish it. Do you think that it is really possible?

SHRI K. G. SRIVASTAVA: Yes, we can.

श्री भवानी प्रसाद तिवारी : मैं एक ही सवाल आपसे पूछना चाहता हूँ। जो पेरिनियल किस्म का काम होगा उसमें वर्कर्स को जो सुविधायें दी जायेंगी या दी जाती हैं कानून के अनुसार और "कन्ट्रैक्ट लेबर" के लिये जिन सुविधाओं की सम्भावनायें आपके मन में हैं या हो सकती हैं तो इन दोनों की सुविधाओं में कोई अन्तर होगा या नहीं, और अगर होगा तो क्या होगा ?

श्री श्रीवास्तव : कोई अन्तर नहीं होता चाहिये। इनको भी वही हक मिलने चाहिये जो कि रेगुलर इम्प्लॉईज को मिलते हैं।

श्री भवानी प्रसाद तिवारी : तब तो फिर कन्ट्रैक्ट लेबर और पेरिनियल लेबर अलग अलग चीजें भी नहीं रह जायेंगी।

श्री श्रीवास्तव : भले ही वे अलग अलग हों, लेकिन जहां तक वर्कर्स का सवाल है अमल में उनके बीच कोई फर्क नहीं होना चाहिये।

SHRI B. N. SHASTRI: You are suggesting that all the middlemen should be abolished; you mean the contractors should be done away with. Then you want the Employment Exchanges should be expanded so that all of them can come through the department. For example, in Assam every year for construction work, 4 or 5 lakhs of labour are employed and they all come from Bihar. Do you mean to say all these people can be recruited through the department?

SHRI K. G. SRIVASTAVA: Wherever there is work, irrespective of boundaries, people go in search of work. Supposing you set up a factory in Bhilaj or Rourkela people round about areas do come, irrespective of State boundaries. It is not that they can come only through contractors.

SHRI B. N. SHASTRI: Is it possible for the 4 or 5 lakhs of people to contact the department and get themselves engaged?

SHRI K. G. SRIVASTAVA: In due course it is possible.

SHRI B. N. SHASTRI: Please refer to your memorandum para 9(5), where you mention deduction of 8 per cent of the wages in the case of contractors who employ workers for short periods of 15 days or one month how can you apply this provision? Should there not be some time limit?

SHRI K. G. SRIVASTAVA: I think we are generally discussing the question of the employment of labour on long term basis. We have in our country contractors who are doing work

for months and years together. Even under the ESI Act and EPF Act, the time-limit fixed is one year.

MR. CHAIRMAN: So, that time limit should have been mentioned in your memorandum.

SHRI K. G. SRIVASTAVA: I am in another committee appointed by the Government of India the committee on labour welfare and this question is being discussed there—amenities for short term staff.

SHRI SHRI CHAND GOYAL: Suppose there is a busy lawyer who wants to construct a house. He needs the service of 30-40 persons. He does not know the techniques nor has the time. Would it not be advisable for such persons to utilise the services of another person? Of course his profits should be limited.

SHRI K. G. SRIVASTAVA: They will be directly under their employer instead of working under the contractor. There are busy people who have no time to cook. They employ a cook. Similarly, if he cannot look after the work himself, he can employ some person to do it.

SHRI SHRI CHAND GOYAL: When it comes into force, it will apply to establishments employing more than 20 persons. Why do you want it should be reduced to 10?

SHRI K. G. SRIVASTAVA: This may, in our view, be reduced to 10 because in some of the departmental undertakings, in canteens, etc. nearly always ten persons or one or two this way or that way are employed.

DR. S. K. SAHA: You say that you want total abolition of contract labour and not regulation. How can you minimise the cost of production? Why do you want total abolition?

SHRI K. G. SRIVASTAVA: From a survey report, I can point out that the increased production comes about by underpayment of wages, miserable housing, poor conditions of work, disregard of the provisions of labour laws, etc. If you want more production under these conditions, I

think it is impossible; it is also against the dignity of the human labour.

श्री प्रेम मनोहर : अगर लेबर को प्राविडेंट फंड, स्टेट इन्सोरेंस, मिनिमम बोनस और मकान वगैरह सब कुछ गेव इड कर दिया जाये, तो क्या आप तब भी कंट्रैक्ट लेबर को एबालिश करना चाहेंगे ?

श्री श्रीवास्तव : अगर उन को यह सब दे दिया जाये, तो हमें कोई ऐतराज नहीं होगा ।

श्री प्रेम मनोहर : गवर्नमेंट ने भारत सेवक समाज और डिपार्टमेंटल लेबर से काम करवाने का एक्सपेरिमेंट किया था । उस में अधिकतर यह पाया गया कि निर्धारित समय में बहुत कम काम खत्म हुआ और कंट्रैक्टिड लेबर के मुकाबले में कास्ट भी बहुत अधिक लगी ।

श्री श्रीवास्तव : खास तौर से मिलिटरी इंजीनियरिंग सर्विस के सिलसिले में मेरा तर्जुबा है कि वहां पर एक-आध काम जो डिपार्टमेंटल लेबर के जरिये हुए, वे कम समय और कम पैस में हुए । लेकिन एक दो कामों में अनसकसफुल होने पर वह एक्सपेरिमेंट विदग्धा कर लिया गया ।

श्री प्रेम मनोहर : किसी एक व्यक्ति के अनुभव के आधार पर हम कोई बात नहीं कह सकते हैं । सी० पी० डब्ल्यू० डी० के डिपार्टमेंटल लेबर और भारत सेवक समाज से जो काम करवाया गया, वह निर्धारित समय में बहुत कम खत्म हुआ । हालांकि कंट्रैक्टर्स के रेट्स भारत सेवक समाज के शिड्यूल रेट से बहुत कम थे, लेकिन उस के बावजूद भारत सेवक समाज को बहुत लास हुआ :

श्री श्रीवास्तव : खास तौर से क्स्ट्रक्शन इंडस्ट्री से मेरा ताल्लुक रहा है । मेरा तर्जुबा तो इस से उल्टा है ।

DR. RANEN SEN: Do I understand that the principle of total abolition is one of the guiding principles of the trade union movement and is also a matter for social consideration. So, according to you based upon the judgment of the Supreme

Court, the contract labour system should be abolished in a phased manner so that the whole system may be done away with. Is that the idea you wanted to convey in your memorandum?

SHRI K. G. SRIVASTAVA: Yes, Sir. The whole trade union movement has been demanding that the contract labour system should be abolished. Because of constitutional difficulties, we decided that to begin with we must avail ourselves of the Supreme Court judgment. If it is possible to amend the Constitution, the whole thing should be abolished.

DR. RANEN SEN: It is for the Parliament to decide whether the Constitution needs an amendment for implementing this policy. You have to state whether, in principle, you agree with that or not.

SHRI K. G. SRIVASTAVA: In principle we want it.

DR. RANEN SEN: I suppose you have gone through clause 10(1) that gave rise to certain confusion. You say that it is only an enabling provision and that it depends on the appropriate government to notify that a certain process or a certain operation is unnecessary. Could you not make your point a little more specific?

SHRI K. G. SRIVASTAVA: We have made it clear that no establishment shall employ contract labour. Our amendment starts on the clear understanding that it will be abolished in the four cases where the Supreme Court has held that it could be abolished. The difference between clause 10 and our demand is that it only enables the State Government to do away with certain things on the basis of the recommendations of the Central or the State Board. I do not want to go into details. This discussion took place in 1961. The Supreme Court judgement came earlier than that time. Even this enabling Bill has taken eight years. We do not yet know when it is going to be passed and implemented. The whole provision is such that we

are afraid that the contractors will be licensed but not abolished as such. We are definitely of the view that the system should be abolished.

SHRI S. KUNDU: There is no constitutional bar for bringing a Bill to abolish contract labour though the Supreme Court has said that they can go ahead in regard to certain categories of labour and abolish the contract system there.

SHRI K. G. SRIVASTAVA: I depended on a statement made in the Indian Labour Conference where this issue was discussed. We were told by the Government representatives that there would be some constitutional difficulties. I am personally not aware of it.

SHRI S. KUNDU: If there was any constitutional difficulty, this Bill would not have come. Please refer to para 3 of your memorandum where you refer to the 'economic' argument.

SHRI K. G. SRIVASTAVA: I shall explain it further. We have stated there the effect of the contract labour system. Whether it has been done intentionally or otherwise, it is for the others to see. But the result is that when contract workers are engaged, they are denied some of the facilities. The lack of facilities is there. There is no weekly rest; minimum wages are often not paid to them. There are other difficulties also. This has been the result.

SHRI S. KUNDU: Have you made any special study to say that the cost of production will go up if the contract labour system is abolished?

SHRI K. G. SRIVASTAVA: The cost will go up as far as fringe benefits are concerned because the workers are denied these benefits. If they are employed directly by the Government these benefits will have to be given to them. To that extent, the cost may go up. But to offset this there is another side. The contractors take up the work at 100 per cent or 200 or 300 per cent above the real estimated cost.

SHRI S. KUNDU: There are two views on this subject. One view is that if the contract labour is abolished, the cost of production will go down, there will be less pilferage, less stealing and proper benefits would be given to the workers. There is another view that the cost of production will go up if you abolish contract labour. Which view do you hold. If you don't hold any view....

SHRI K. G. SRIVASTAVA: This percentage will definitely be saved. But then there will be some expenditure on the benefits which the workers will get. My overall feeling is that the production cost will be less even then.

SHRI S. KUNDU: As far as I understand, you want the contract system to be abolished. But in case that is not done, you want that stage by stage certain things should be done.

SHRI K. G. SRIVASTAVA: To start with.

SHRI S. KUNDU: I just want to refer to one or two provisions—appellate provisions. The relevant section says that by Notification the State Government or the Central Government can abolish the contract system. But there are some clauses wherein it is stated that unless this work is of a perennial nature it is the Government which will decide. There is also another appellate provision in the Bill which says whether a contractor should be given a licence or

not or if the licence is to be revoked in certain circumstances when Government, the proper agency, the Inspector or any other officer will decide about it.

Now, do you think this power at the hands of the Government will completely defeat the purpose of this Bill, because from your experience you can say whether, if this power vests with Government officers, sometimes the scale will tilt in favour of the powerful employer or the powerful contractor? Have you thought out that this should be left to some sort of independent machinery, the judiciary, or some sort of other agency?

SHRI K. G. SRIVASTAVA: This is correct. But we do not want to go into the detail. We first want major changes in the Bill which are towards the abolition. If things are left to the Government, the scale will always be tilted in favour of the contractor. That point is correct.

MR. CHAIRMAN: Thank you, Mr. Srivastava.

SHRI K. G. SRIVASTAVA: Thank you for giving us this opportunity.

MR. CHAIRMAN: We adjourn now. We will meet again at 3 O'clock.

(The witnesses then withdrew.)

(The Committee then adjourned to meet again at 15.00 hours.)

(The Committee reassembled at 15.00 hours)

III. Dakshin Railway Employees Union, Golden Rock (Tiruchy)

Spokesman:—

Shri V. Sundaramurthy, Assistant Secretary.

(The witness was called in and he took his seat)

MR. CHAIRMAN: I would like to read out to you Direction 58 which is as follows:—

“Where witnesses appear before a Committee to give evidence,

the Chairman shall make it clear to the witnesses that their evidence shall be treated as public and is liable to be published, unless they specifically desire that all or any part of the evidence given by them is to be treated as confi-

dential. It shall, however, be explained to the witnesses that even though they might desire their evidence to be treated as confidential such evidence is liable to be made available to the members of Parliament."

We have received your memorandum and gone through it. If you would like to supplement the memorandum you may do so now.

SHRI V. SUNDARAMURTHY: I would like to place before you three points. The first is in regard to the abolition of contract labour especially in the railways. The railways are the main Government agency to enter into construction contracts throughout the railway system. The work relates to construction of bridges, new lines etc., remodelling, earthen work etc. Materials such as rails, steel, and cement etc. are supplied by the railways and the labour alone is supplied by the contractor. The contractor gets the labour mostly from the tribal people in the villages who are most depressed and backward and who are also mostly Harijans. The labour is not paid any standard wages only sub-standard wages are paid to the labourers.

Moreover, the contractor is exploiting the workmen. There is no labour law followed. The Workmen's Compensation Act, the Industrial Disputes Act and other labour laws do not apply to them at all. The contractor can terminate their services at his whims and fancies. I want that some sort of law should be made applicable to them, especially the Workmen's Compensation Act and the Hours of Employment Act. From sunrise to sunset the people are asked to work and sometimes even late in the night also. Some labour law should be made applicable to them. This is in regard to regulation of contract labour.

My second point is in regard to total abolition of contract labour. At pre-

sent, even for works of a permanent nature, the contract labour system is followed in the railways. For instance, in the refreshment rooms, the catering department, the PW works, repairs to buildings etc. they are employing casual labourers and paying them sub-standard rates. In the transshipment yard also, casual labourers are employed. These are works of a permanent nature. Coal transportation, fuelling of engines, repairs to buildings, roads etc. are also permanent types of work. In order to reduce the expenditure and to implement strict economy, perhaps, they are following the system. Otherwise, there is no justification for bringing casual labour into these jobs.

These are permanent works. The Central Pay Commission has classified the nature of the work and also prescribed a particular rate for the work. And yet to deprive the workers of these benefits, this kind of system is being followed in the railways.

Contract labour is employed in an indirect way in the locosheds etc. The PWIs are acting as contractor-cum-supervisor and employing casual labourers and paying them sub-standard rates. There is no reason at all for this because the nature of work in the PWD, Locosheds, etc. is permanent though they employ casual labour for this work. Therefore, I request you to make modifications in the law to benefit the depressed and underpaid workers.

SHRI DEVEN SEN: Are the contract workers in the railways paid the same level of wages as recommended by the Pay Commission? Do they get any provident fund? Leave?

SHRI V. SUNDARAMURTHY: They are not paid at the level recommended by the Pay Commission. There is no provident fund. They are without pay when they go on leave, at the mercy of the contractor.

SHRI R. K. SINHA: Please refer to para 3 of your memorandum. You say the contractors supply the labour while the department supplies the materials. If the contractor agrees to pay according to the standard wage and other facilities, then only you feel he should be given the contract for these works. If the works are of a permanent nature, the railways could have their own employees, instead of contractors. Is it not so?

SHRI V. SUNDARAMURTHY: I shall be happy if they could be made permanent. But works like remodelling, increasing line capacity, etc. will not be permanent. Again, the construction of a bridge may be over in a year's time. If a bridge away, say at a 100 miles distance from this bridge, is to be taken up, these labourers cannot be employed there.

SHRI R. K. SINHA: These works can be done departmentally also?

SHRI V. SUNDARAMURTHY: Yes.

SHRI R. K. SINHA: Please refer to page 2 of your memorandum—coal loading, unloading, etc. You say all this is of permanent nature. Suppose in a small station, where only a few passengers alight or entrain, the railways will have to bear a heavy loss if they ran a canteen, though this may be of a permanent nature.

SHRI V. SUNDARAMURTHY: Loading and unloading is not done in small stations it is done in big junctions.

SHRI R. K. SINHA: Are you in favour of the complete abolition of the contract system?

SHRI V. SUNDARAMURTHY: Yes, Sir.

SHRI R. K. SINHA: According to clause 4 of the Bill, the definition of the workman does not include any person who is employed in supervisory capacity or whose emoluments exceed Rs. 500 per month. Should not

this limit of Rs. 500 laid down in 1947 be raised to Rs. 750 or Rs. 1000?

SHRI V. SUNDARAMURTHY: I have not got the details of the provision in the Bill just now before me.

SHRI A. P. SHARMA: On page 2 in sub para (i), you say that a contractor could be given a contract if certain conditions like wages, etc. are fulfilled. Material and other things are supplied by the department; the contractor only supplies the labour. What is the necessity to employ contractors? Why cannot they be done departmentally?

SHRI V. SUNDARAMURTHY: The works mentioned are not of a permanent nature; it is not done during the whole year; it may be done for some 4-5 months in a year. They will be suspended during the monsoon. To avoid more expenditure for the railways and for the Government, we can give this contract work.

SHRI A. P. SHARMA: That means you are also in favour of spending less over labour. What is the relevancy of talking about this expenditure?

SHRI V. SUNDARAMURTHY: Firstly, I have stated that the contractors should be made to abide by the Industrial Disputes Act, Payment of Wages Act and the Hours of Employment Act. We should make the contractors abide by these and then the workmen will be benefited.

SHRI A. P. SHARMA: My question is this. You have asked that these conditions should be fulfilled by the contractor. You have also said that only in respect of labour the railways have to depend on the contractors and the railways supply the rest of the things. Why do you suggest that if the contractor fulfils these conditions, the work should be carried on by the contractors only? Why not by the railways? Is it only because of the nature of the work or some other reason?

SHRI V. SUNDARAMURTHY: Because the nature of the work is not a permanent one.

SHRI A. P. SHARMA: So, it should be for a temporary period, but the construction work may last for a number of years. The contractor may also take a number of months or years to do a work. Is it because of the nature of the work or is it on account of the expenditure involved in this? What is the reason that you are suggesting that in such circumstances the contractor should be given this work?

SHRI V. SUNDARAMURTHY: It is only because of the nature of the work.

SHRI A. P. SHARMA: If the nature of the work lasts only for one year, what do you suggest?

SHRI V. SUNDARAMURTHY: Afterwards it may be made temporary.

SHRI A. P. SHARMA: I am talking about the contractor. If the contractor continues with the work for a year or two—which is also possible—what do you suggest in those cases?

MR. CHAIRMAN: He is suggesting that they will remain on contract.

SHRI A. P. SHARMA: Do you still feel that this should be still done by the contractors?

SHRI V. SUNDARAMURTHY: If the Government undertakes all this, it will be well and good. Because of the difficulty to undertake all the work on the part of the Government, because of the work not being of a permanent nature, we suggested that the contractor should be made to abide by the provisions.

DR. RANEN SEN: You are speaking on behalf of labour. Therefore, if the Government has any difficulty it is for the Government to decide. What

is your opinion on the question put by Mr. A. P. Sharma?

SHRI V. SUNDARAMURTHY: I shall be happy if this is done by the railways and not be given to the contractors.

SHRI A. P. SHARMA: Do you mean to say that on the railways, certain works are such that the contractors have to be employed and the railways cannot do without contractors?

SHRI V. SUNDARAMURTHY: I do not think so. They can do without contractors.

SHRI A. P. SHARMA: Then why do you suggest that the work should be done by the contractor?

SHRI V. SUNDARAMURTHY: Only because the work is not of a permanent nature.

SHRI A. P. SHARMA: So you suggest that only for work of a permanent nature the contractor should not be employed. Is this your contention?

SHRI V. SUNDARAMURTHY: Yes, Sir.

SHRI A. P. SHARMA: My next question is this. You have complained about sub-standard payment by the railways for such work as could be treated as of a permanent nature. Is that the only improvement you want, that they should be paid the CPC scales and they should continue the work?

SHRI V. SUNDARAMURTHY: They should be taken as permanent workers.

SHRI A. P. SHARMA: Where the work is of a permanent nature, these employees should be treated as regular employees. Is that so?

SHRI V. SUNDARAMURTHY: Yes, Sir.

SHRI R. K. AMIN: Am I to understand from what you said that in the railways, work of a permanent nature only should be handled by the railways directly and work which is of a temporary nature should be handled by the contractors and can be handled by the contractors?

SHRI V. SUNDARAMURTHY: What I mean is that work of a permanent nature should be done by the railways.

SHRI R. K. AMIN: Supposing there is an accident, and one mile of railway track is damaged by derailment, you have to repair it in two days' time. This, you will consider as temporary work and this should be handed over to the contractors?

SHRI V. SUNDARAMURTHY: Yes.

SHRI R. K. AMIN: Now, in handing over to the contractors, what type of arrangement you would like to have? Would you say that the railway will appoint its own supervisor and the contractor will only supply the labour, or, can they say "we will supply the material and the work will be finished in two days' time," howsoever you do it?

SHRI V. SUNDARAMURTHY: The workmen should be given all the facilities.

SHRI R. K. AMIN: At that time, you have to raise the labour from the local area for two days only. When you are raising labour for two days only,—may be 1,000 people or 2,000 people may do the repair work—in that way, are you going to give them provident fund? Provident fund is meant for them. You cannot give them gratuity or bonus. The only thing you can insist upon is that whatever the railways give as daily wages to the others may be given to these people.

SHRI V. SUNDARAMURTHY: Yes. Supposing one fellow dies in an accident, the railways should take the responsibility for paying compensation

to the employee's dependants. For the duration of the work, in the course of the execution of the work, if a worker is killed by natural means, the railways should take the responsibility of paying compensation to the dependants of the worker.

SHRI R. K. AMIN: It means that you are not against the contract system as such; you would like to see that whosoever is the employer, whether it is the railway or the contractor, compensation is given.

SHRI V. SUNDARAMURTHY: Yes, Sir.

SHRI K. R. GANESH: You suggest that all the labour benefits should be given by the contractor when he employs labour. Don't you think that if all the labour benefits are given by the contractor, then there is no use of having the contract system? The contract system has come to stay to cheat the labour of all the labour benefits. If a contractor is to give all the labour benefits which normally the permanent workers are enjoying, then probably the contract system itself will not be useful. Do you agree with me that if all the benefits are given to the labour by the contractor, the contractor will not pay that from his pocket but will charge all that from the Railways? Therefore, what is the saving to the Railways? So, do you not think that, instead of giving it to the contractor, the Railways should employ these people direct?

SHRI V. SUNDARAMURTHY: Yes, Sir; I agree with you.

SHRI K. R. GANESH: Do you agree that in a public sector industry, like the Railways, if a large number of persons is to be employed, it is advisable and proper not to have any contract system except for absolutely casual nature of work?

SHRI V. SUNDARAMURTHY: Yes, Sir.

SHRI K. R. GANESH: If you agree with that, why do you say that only

for work of permanent nature, the Railways should employ workers on a permanent basis? Suppose, a line has to be constructed or a bridge has to be built. Now, it may be that the construction of a line may last for a year or six months and you may build a bridge here today and a bridge there tomorrow. So, do you not think that except for work of an absolutely casual nature, that is, two, three or four days' work, all work under the Railways should be done departmentally and there should be no contractors as far as the Railways are concerned?

SHRI V. SUNDARAMURTHY: I agree with you. I suggested only an alternative.

SHRI K. R. GANESH: It may be difficult to introduce these things as far as private contractors are concerned, but the Railways are such a huge thing and a public sector industry that it should be able to implement whatever Parliament passes and you, as a trade union leader, should suggest that the Railway Board should be the first place where this pernicious system should be abolished.

SHRI V. SUNDARAMURTHY: I agree.

SHRI S. D. PATIL: Labour is required always for current repairs and special repairs by the Railways. What sort of work is current repairs; is it of permanent nature or of a temporary nature? Repairing the railway line is a permanent type of work or what?

SHRI V. SUNDARAMURTHY: Gang work is always a permanent nature of work.

SHRI S. D. PATIL: Do you accept the contract system for that?

SHRI V. SUNDARAMURTHY: I do not accept the contract system there.

SHRI S. D. PATIL: Then, at present there is construction of a broad gauge from Miraj to Poona. Is it work of a permanent nature or of a temporary nature?

SHRI V. SUNDARAMURTHY: It will go on for years together.

SHRI S. D. PATIL: Should it be given to a contractor or not?

SHRI V. SUNDARAMURTHY: It can be undertaken by the Railways themselves because it will take some years to complete. It is not work to be completed in a few months or weeks.

SHRI BISWANARAYAN SHASTRI: On page 2 of your memorandum in paragraph 2 you have stated:—

"It is only to reduce the expenditure by way of sub-standard rates of wages that the Railway expect to affect economy."

The rate has not been fixed by the Railways; it has been fixed in mutual consultation between the employers and the employees. How is the Railway going to be benefited if the contractor pays sub-standard rates to the employees?

SHRI V. SUNDARAMURTHY: There are permanent nature works in the Railways for which casual labour is employed. For example, a permanent vendor or server in the dining car will be paid Rs. 136 a month but a casual labourer appointed to do the same job will be getting only Rs. 2 a day.

SHRI BISWANARAYAN SHASTRI: Whatever benefit is derived is going to the contractor and not to the Railways.

SHRI V. SUNDARAMURTHY: The Railways are employing them as casual labour for a permanent nature work.

SHRI BISWANARAYAN SHASTRI: That means, there is contract labour directly under the Railways.

SHRI V. SUNDARAMURTHY: The Railway acts as a contractor-cum-officials.

SHRI HATHI: They are not contract labour. That is casual labour employed by the Railways direct.

SHRI V. SUNDARAMURTHY: Yes, Sir.

MR. CHAIRMAN: Is it that there is a uniform rate fixed by the Railways below which the contractor pays to the workers? You said that workers are being paid lesser wages than other workers of the same category are being paid by the Railways and that, that difference is going to the pockets of the contractor.

SHRI V. SUNDARAMURTHY: In this case it is not a contractor.

MR. CHAIRMAN: What do you mean by 'sub-standard wage'? Is there any standard wage?

SHRI V. SUNDARAMURTHY: There is a standard wage for a particular work. For doing that particular work when casual labour is employed, they are given sub-standard wage.

MR. CHAIRMAN: Before giving a contract to anybody, tenders are invited and the tender also includes the wages. While allotting a work to a particular contractor whose bid is the lowest, is any standard wage indicated by the Railways below which the contractor cannot pay to the workers? Is there any standard wage fixed by the Railways?

SHRI V. SUNDARAMURTHY: No, Sir.

MR. CHAIRMAN: Then, what is sub-standard? There must be some standard fixed before there can be something below standard.

SHRI HATHI: If I understand him correctly, what he means is that a man working in the same field gets something more than the contractor gives him.

SHRI A. P. SHARMA: I think, he means that the Railways is paying less than what another railway workers for the same work is paid in permanent employment.

MR. CHAIRMAN: That is what I wanted to know.

SHRI BISWANARAYAN SHASTRI: That means the Railway authorities employ labourers directly and not through middleman.

SHRI V. SUNDARAMURTHY: Yes.

SHRI SHRI CHAND GOYAL: Mr. Sundaramurthy, from your Memorandum I understand you have highlighted three problems. Problem number one is that the Railway Department in order to pay to these casual workers less than they are entitled to have adopted a new technique and the technique is that the railway officials are asked to recruit *khālasī* on daily wages which are much below the standard wages and you have given an instance that the standard wage for that particular work is Rs. 136/- per month apart from other allowances and whereas you have said that a daily worker gets from Rs. 1.50 to Rs. 3.00 per day which comes to Rs. 45/- or Rs. 90/- per month. Now I want to know whether the type of work which these loco foremen and the P. W. Inspectors take from this labourer whether that work is of a permanent nature or that work is wholly of casual nature and whether we can get rid of this evil by employing permanent staff rather than giving this authority to loco foreman and to P.W. Inspectors to make these recruitments. What is the nature of work that is expected from him and whether permanent staff can be kept. Kindly tell us.

SHRI V. SUNDARAMURTHY: This is a permanent nature of work. For example, P.W. Inspectors are engaging carpenters for day-to-day repairs of buildings in the railway colonies. To give an example in the railway colony Golden Rock there are 3500 quarters and daily 50 to 60 casual labourers were employed as carpenters. Whereas the scale of the carpenter is Rs. 110/- plus allowances they employ these casual labourers by giving them Rs. 2.50 per day. Now, everyday the carpenter is required and

also the masons. Like that I can quote many instances.

SHRI SHRI CHAND GOYAL: Then the second problem which you have highlighted is that though there is a permanent nature of work in the railways and you have given the instance of loading and unloading; refreshment canteens, etc. where people are employed permanently and work goes on you say for that type of work also this labour on contract is employed. May I know whether it is also possible to replace it by permanent staff rather than having these casual labourers through contractors?

SHRI V. SUNDARAMURTHY: It can be made permanent because it is required essentially.

SHRI SHRI CHAND GOYAL: Supposing it may not be possible for a particular Division to employ permanent staff because there may not be sufficient work all the year round can a suggestion be given that say for one Zone they have a permanent staff which can be transferred from place to place so that we can get rid of this evil of employing labour on contract. Instead of having permanent staff in the Division we can have that in one Zone.

SHRI V. SUNDARAMURTHY: Every Division will be having work, Sir. There will be no discontinuity. It is the permanent nature of the work and there will be no stoppage of work.

SHRI SHRI CHAND GOYAL: We are very sympathetic towards what you have written. We are not trying to let you down or cross-examine; but we want to get better information so that we can expose your cause. I am asking therefore this question whether this work on the railway which at the moment is being done through contract labour can be done through the permanent staff who will be better-paid who will have other advantages of labour laws which the country has for other labour. That is the thing that I want to understand.

SHRI V. SUNDARAMURTHY: You are talking about transfer of staff from one place to another; if there is no work. That is always being done, Sir.

SHRI SHRI CHAND GOYAL: Am I to understand that this staff which is recruited through these foremen of locos and P.W. inspectors run into 2 lakhs? You have given some statistical figures, 2 lakhs are employed through railway departmental officials and you have given two such instances, loco foremen and the P.W. inspectors and I want to understand in this connection whether really such a thing exists.

SHRI V. SUNDARAMURTHY: Kindly make your question clearer.

SHRI SHRI CHAND GOYAL: I just want to know whether this figure of 2 lakhs of labour which is recruited through departmental officials like loco-foremen and P.W. inspectors etc. is really 2 lakhs.

SHRI V. SUNDARAMURTHY: Yes, Sir, throughout the Railway.

SHRI SHRI CHAND GOYAL: You have asked the members of the committee to visit Madras, Trichy and Madurai and some other places. What do you want to show them there?

SHRI V. SUNDARAMURTHY: To show the sort of condition there—how casual labour are employed, what are the things going on there etc. We shall show how the wages are there, what they are paid and we shall show that to you.

SHRI SHRI CHAND GOYAL: All right, thank you.

SHRI PREM MANOHAR: You have agreed that the person who undertakes to do Minimum Wages Act, Industrial Disputes Act, etc. should be given the Contract Act, that is, he should be given construction work. What will happen in cases of big cities like Delhi, Kanpur, Madras and Bombay where the construction work does not come within the purview of

any law. That is, until and unless there is a factory Act no other law is applicable.

MR. CHAIRMAN: You may kindly give clarification.

SHRI PREM MANOHAR: If the man gives all these facilities then construction work can be undertaken. He considers this work to be of a temporary type. That is all. Why don't you agree that it is all a temporary type of work, it is not permanent type of work? If a man can provide all these facilities then this can be taken up.

SHRI V. SUNDARAMURTHY: I do not follow.

SHRI PREM MANOHAR: The contractor who can provide all these facilities to labour should be taken, should be given the licence.

SHRI S. KUNDU: It is a repetition. Looking from his dilemma, I suggest, we should not thrust such questions on him.

MR. CHAIRMAN: If he does not want, he need not reply. We cannot force him.

SHRI S. KUNDU: About the Dakshin Bharat Railway Union which you represent, can you tell me approximately how many contract labourers are there, approximately.

SHRI V. SUNDARAMURTHY: More than 10,000 contract labourers are there.

SHRI S. KUNDU: What is the nature of these contract labourers? What is the type of work?

SHRI V. SUNDARAMURTHY: They are engaged in loading and unloading coal, fuel to engines, transhipment of wagons, repairs of roads, buildings, etc.

SHRI S. KUNDU: They do similar work as the Class IV employees of the Railway.

SHRI V. SUNDARAMURTHY: Yes

SHRI S. KUNDU: What is the total emolument of the Class IV employees, that is, Pay D.A. etc?

SHRI V. SUNDARAMURTHY: Rs. 196.

SHRI K. A. NAMBIAR: What is paid by the Railway?

SHRI S. KUNDU: How much wage this labourer, this contract labourer gets per month, excluding Sundays?

SHRI V. SUNDARAMURTHY: Rs. 40 to 45 per month.

SHRI S. KUNDU: There is an opinion that if this contract system of labour is abolished then the cost of production of railway lines or such like things will go up. It will mean more money to the railways. There is also another opinion that if this contract labour is taken away, the cost of production will come down because they say that the labourer will get more incentive to work. There will be no pilferage, no theft, etc. Do you follow? One view is that if these contract labourers are abolished, the cost of production will go up. The wage bill will be more. From 45 it will be 136 crores. Another view is this: If this contract system is abolished, if they are taken into the permanent cadre, directly engaged in the department, the cost of production will go down. Which view do you support?

SHRI V. SUNDARAMURTHY: I admit that cost of production may go up, but what about the welfare of society and the uplift of our workmen? In the matter of the welfare of the society and uplift of workmen certain things should be done, Sir.

SHRI S. KUNDU: Do you think cost of production will go up? There is a view that because certain amenities are given the cost of production will naturally go down because they will put more work in that time. Suppose there is Rs. 2 lakhs work given to contract. Out of 2 lakhs Rs. 30,000 is the profit he makes. 12 1/2 per cent

profit is allowed. Beside that they make 30 or 40 per cent profits. There is a view that if you abolish the contract system the Railways will save more money and the workers will put in more production because they will get more incentives. So, if you abolish the contract system of labour, the cost of production will not increase, but will go down. I will illustrate this. Suppose at present the cost of production of one mile of railway line with contract labour is Rs. 10,000/-. If you abolish the contract and the department itself does it then it could be done with Rs. 9,000/- because the profit of the contractor is saved and the workers will work with more incentive. They will work with zeal. Do you agree with that?

SHRI V. SUNDARAMURTHY: I agree.

SHRI K. A. NAMBIAR: There is some confusion in your earlier reply with regard to contract labour employment on the railway lines. You are for abolition of contract labour as such unless it is not possible to abolish it. Am I right?

SHRI V. SUNDARAMURTHY: Yes.

SHRI K. A. NAMBIAR: You say in the first paragraph of your memorandum that there are certain works on the railway such as construction of new lines repair of old lines or remodelling of old lines at places which are far away from headquarters and where the materials are supplied by the railways and labour is supplied by the contractors. For instance, there is a work involving digging up 1,000 c.ft. of earth in order to raise a bund somewhere in the middle of the Gangetic valley. There the Railway Administration is not going to take labour from the headquarters. There, according to you they can engage a contractor. Is not that what you say?

SHRI V. SUNDARAMURTHY: Yes.

SHRI K. A. NAMBIAR: But in that case you say that those people who are paid substandard wages must be paid properly. Am I right?

SHRI V. SUNDARAMURTHY: Yes.

SHRI K. A. NAMBIAR: But here I want to know from you as to how you know that they are paid at substandard rates?

SHRI V. SUNDARAMURTHY: The recruitment of labour by these contractors is very funny. The contractor has got agencies throughout the place and his agent pays advance money to villagers for their marriage expenses and other things. The agents bring all the villagers to whom they have advanced money and ask them to work to their rates, sometimes even at eight annas per day. The villagers do so because they have received advanced money even to the extent of Rs. 500/- from the agent. They are paid sometimes only eight annas and after the one or two months the agent says that he has taken back all the money advanced and they could go away.

SHRI K. A. NAMBIAR: Have Railways got permanent contractors such as zonal or divisional contractors?

SHRI V. SUNDARAMURTHY: Yes.

SHRI K. A. NAMBIAR: These contractors are paying substandard wages. Your contention is that perhaps it may not be possible to abolish the contract system totally from the railways because at wayside stations small works will come up and Railways will not be able to send their own workers from the headquarters to attend these works. In such cases you say that contractors can go and work, but on the condition that the labour must be paid normal wages.

SHRI V. SUNDARAMURTHY: Not only that, the contractors should observe all the labour laws.

SHRI K. A. NAMBIAR: Certainly Even there while entering into the contract, the contractor must accept certain conditions. Then only the Railway Administration should give contracts. Suppose the labour does not get certain facilities. Then the

Railway Administration must get the money from the contractors and provide those facilities to the workers. It should be responsibility of the Railway Administration to do that. Is that your contention?

SHRI V. SUNDARAMURTHY: Yes.

SHRI K. A. NAMBIAR: If the contractor does not pay, what according to you should be the remedy?

SHRI V. SUNDARAMURTHY: The Railway being the beneficiary, they should pay.

SHRI K. A. NAMBIAR: Therefore, do you agree that in case total abolition is not possible all these conditions should be fulfilled?

SHRI V. SUNDARAMURTHY: I agree.

SHRI K. A. NAMBIAR: Thank you. Then in the second chapter you have referred to the employment of contract labour for works which are of a permanent nature. You have answered Mr. Goel's question on this. You said these people are employed and paid at substandard rates in order to bring about economy in railway expenditure. You want total abolition of this.

SHRI V. SUNDARAMURTHY: Certainly.

SHRI K. A. NAMBIAR: Hon. Members have some doubt about the third point, namely, the casual labour. According to you casual labour is only a misnomer. It is only contract labour. Here it is the officials—Railway officials—who step into the shoes of the contractors. There is no middleman. The PW Inspector or the Loco Foreman engages labour casually and pays them at substandard rates where as workers doing same type of work get better wages elsewhere, namely, Rs. 136/- per month. According to you the casual labour employed by PW Inspector or Loco Foreman should

have got this minimum amount. Instead of that they are paid only Rs. 45 and they are disposed of after 3 months or 4 months. In this case, the PW Inspector or the Loco Foreman is the contractor so far as the labour is concerned. Is that your contention?

SHRI V. SUNDARAMURTHY: Yes.

SHRI K. A. NAMBIAR: You want this sort of contract system under official supervision to be abolished?

SHRI V. SUNDARAMURTHY: Yes.

SHRI K. A. NAMBIAR: You are for total abolition of contract labour. But where it is not possible for practical purposes under the conditions of India, you won't mind it to exist here and here, but in such cases you want every labour law to be on the side of the labour and Railways should take the responsibility of safeguarding the rights of such labour. Am I right?

SHRI V. SUNDARAMURTHY: Yes.

SHRI SHASHI BHUSHAN: What are the average working hours of contract labour?

SHRI V. SUNDARAMURTHY: There is no average working hour prescribed for contract labour. He has to work 12 hours or even 14 hours at the whims and fancies of the contractor. There is no minimum or maximum.

SHRI HATHI: In the Railways, when the contracts are given, are there any conditions about payment of wages or workmen's compensation? Is the contractor pinned down to any such conditions?

SHRI V. SUNDARAMURTHY: There is no such condition.

SHRI HATHI: No such condition to the effect that he has to pay the minimum wages or he has to follow the provisions of the Payment of Wages Act?

SHRI V. SUNDARAMURTHY: Nothing of that sort.

SHRI S. P. GOSWAMI: The purpose of introducing this Bill in the Parliament is to protect the interest of the labour. What is your opinion on the main purpose of this Bill?

What should be its purpose, according to you?

SHRI V. SUNDARAMURTHY: Purpose is abolition.

SHRI S. P. GOSWAMI: To me it appears that the purpose of introduction of this Bill is to safeguard the interests of labour—whether casual or contract. Whether that purpose will be served by the introduction of this Bill is my question.

SHRI V. SUNDARAMURTHY: The purpose of the Bill should be for complete abolition of the contract labour.

SHRI S. P. GOSWAMI: You know that contract labour is not going to be abolished completely and immediately but it will be done by a gradual process. Don't you think that there should be some provisions till it is abolished completely that there should be some safeguard of interests of employees?

SHRI V. SUNDARAMURTHY: I could not follow you.

SHRI S. P. GOSWAMI: Do you agree that as long as contract labour

remains, there should be some minimum guarantee to safeguard the interests of the labourers whether they are casual or permanent?

SHRI V. SUNDARAMURTHY: Yes, Sir.

SHRI S. P. GOSWAMI: Whether it is casual or permanent it is absolutely necessary for the existence of the labourers they should be given a minimum guarantee. Suppose we decide that contract labour should be abolished. In Railways there are a number of them. Don't you think that some guarantee should be given to them?

MR. CHAIRMAN: What the hon. Member wants to know is that you are for a total abolition of the contract labour. Suppose it is not abolished totally and the system remains for some time. What is your suggestion at least to the grant of a minimum guarantee to the workers which may better their conditions? This is what he means.

SHRI V. SUNDARAMURTHY: I have already given in my memorandum my suggestions for safeguarding the interests of the labour such as hours of employment, payment of wages and so on and so forth. All labour laws should be followed.

MR. CHAIRMAN: Thank you Mr. Murthy. We shall meet tomorrow at 11 A.M.

(The Committee then adjourned.)

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CONTRACT
LABOUR (REGULATION AND ABOLITION) BILL, 1967.

Saturday, the 22nd June, 1968 at 10.00 hours

PRESENT

Shri Kashi Nath Pandey—Chairman.

MEMBERS

Lok Sabha

2. Shri R. K. Amin
3. Shri M. Deiveekan
4. Shri K. R. Ganesh
5. Shri Shri Chand Goyal
6. Shri Ram Krishan Gupta
7. Dr. Ranen Sen
8. Kumari Kamala Kumari
9. Shri Samarendra Kundu
10. Shri Bhajahari Mahato
11. Shri K. Ananda Nambiar
12. Shri S. D. Patil
13. Shri S. P. Ramamoorthy
14. Dr. Sisir Kumar Saha
15. Shri P. M. Sayeed
16. Shri Deven Sen
17. Shri Shashi Bhushan
18. Shri Biswanarayan Shastri
19. Shri R. S. Vidyarthi

Rajya Sabha

20. Shri Anant Prasad Sharma
21. Shri Dalpat Singh
22. Shri A. C. Gilbert
23. Pandit Bhawaniprasad Tiwary
24. Shri Sher Khan
25. Shri Sriman Prafulla Goswami
26. Shri Sanda Narayanappa
27. Shri Rewati Kant Sinha
28. Shri Suraj Prasad
29. Shri Brahmanand Panda
30. Shri Jaisukhlal Hathi

LEGISLATIVE COUNSEL

Shri P. L. Gupta, *Additional Legislative Counsel, Ministry of Law.*

REPRESENTATIVES OF THE DEPARTMENT OF LABOUR AND EMPLOYMENT

1. Shri R. B. Shukla, *Director, Industrial Relations, Department of Labour and Employment.*
2. Shri H. K. Chaudhry, *O.S.D. (Law), Department of Labour and Employment.*
3. Shri P. S. Mahadevan, *Joint Director, Ministry of Railways.*
4. Shri S. S. Sahasranaman, *Under Secretary, Department of Labour and Employment.*
5. Shri S. C. Gupta, *Deputy Chief Labour Commissioner, Department of Labour and Employment.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

WITNESSES EXAMINED

- I. *All-India Railwaymen's Federation, New Delhi*

Spokesman:

Shri J. P. Chaubey, *Treasurer.*

- II. *National Federation of Indian Railwaymen, New Delhi*

&

Indian National Trade Union Congress, New Delhi.

Spokesman:

Shri Keshav H. Kulkarni, *Joint General Secretary, N.F.I.R. and Member, INTUC, Central Executive Committee.*

All-India Railwaymen's Federation, New Delhi

Spokesman:

Shri J. P. Chaubey, *Treasurer.*

(The witness was called in and he took his seat.)

SHRI J. P. CHAUBEY: I represent All-India Railwaymen's Federation, New Delhi. I am Treasurer of the Federation. Unfortunately the General Secretary and Assistant General Secretary Sarvashri Peter Alvares and Priya Gupta who were expected to come over here have not arrived in time. I have to make a brief submission.

MR. CHAIRMAN: Before you start, I want to tell you one thing. This is about the Speaker's Direction.

'Where witnesses appear before a Committee to give evidence, the Chairman shall make it clear to the witnesses that their evidence shall be treated as public and is liable to be published unless it is specifically desired that all or any part of the evidence given by them is to be treated as confidential. It shall, however, be explained to the witnesses even though they might desire their evidence to be treated as confidential, such evidence is liable to be made available to the Members of Parliament.'

Now you may start, you have already sent a memorandum to the Committee and the same has been circulated to all the Members. Apart from what you have stated in that memorandum, if you have anything to clarify, you can do so now.

SHRI J. P. CHAUBEY: The Railwaymen's Federation is most concerned about the employment of 3 lakhs casual labourers in the Indian Railways. Their conditions are miserable. There is no protection to them. A lot of corruption is also going on in the employment of casual labour. Recently, the system of employment of casual labour is being expanded and many of the works which are of a permanent nature, in those works also, the railways are employing casual labour.

Now, Sir, in a country where we want to establish socialism, this type of exploitation of labourers should be stopped. We have been arguing and representing that some protection should be afforded to these employees. But, unfortunately, there is no statutory law which can afford adequate protection to these employees. Therefore, this Bill which is under consideration, in fact, does not give any protection. The law should be positive and effective, all the provisions should be such that the workmen as also the trade unions can use them for the protection of the employees. Otherwise there is not going to be any sort of social security to these employees. So, from that point of view, the Railwaymen's Federation are more concerned with the provisions of this Bill. All those works which are of a permanent nature should be done by the railwaymen in service. The entire lot of casual labour should be treated as railway employees and they should be given all the securities which are guaranteed to an employee under the Constitution of the country.

I would request you to utilise your good office to propose such amendments in the draft bill so that this

most neglected class of society are given some protection. From that point of view the Bill should be radically changed and should be done in such a way that these employees who are casual and who are contract labour or who are employed by the contractors are given the social security and are given the need-based minimum wage so that they can pull on and become a useful element in our society.

Amendments we have already proposed. If it is not possible for this Committee to suggest some other type of Bill, for abolition of entire contract labour in Government departments at least some amendments might be proposed which may provide some social security.

SHRI DEVEN SEN: I am very glad that for the first time in your representation this point has been mooted viz., that Sec. 10(2) (a)(b)(c) in the Bill should be deleted. Your suggestion is for deletion of sub-paragraph (2) of sec 10. I am glad that you have said so. You have tried to say that this Bill does not contemplate abolition of casual labour under the provisions of this Bill.

SHRI J. P. CHAUBEY: Yes, Sir.

SHRI DEVEN SEN: Some questions were raised yesterday. I would like to get your opinion on those questions. Do you want the operation of this Act also to cover individual transactions—not the railways or the factories? Suppose, I want to build a house and I employ a contractor and give it to him. You want that this should cover that also?

SHRI J. P. CHAUBEY: I do not think that would be possible. If somebody wants to build his house by himself, I don't think it would be possible to suggest an amendment to cover this also.

SHRI DEVEN SEN: You do not need the help of the contractor. Suppose I want to buy a car. I ring up somebody and get the car. I do not

need a mediator. Similarly, if I want to white-wash my house, there is an association of agency for that, I can make use of it. For that job, there is no need for a contractor.

SHRI J. P. CHAUBEY: If that is the proposal that is good.

SHRI DEVEN SEN: I would ask another question. What has been your impression after reading the Bill? Do you think that the Bill is more for regulation of labour than for abolition of contract labour?

SHRI J. P. CHAUBEY: This is entirely for regulation of contract labour. It has failed to regulate the conditions. There are so many provisions which are redundant. The workers will not have the right to seek justice. There will be an Inspector. The workers will be isolated. It would be difficult to enforce the provisions. The provisions should be such which could be utilised by the individuals or trade unions. There should be a judicial body appointed whom they can approach. Our experience is that if the power is delegated to Government, the Officer who is on the job will go on doing things in his own way. He will be guided more by certain methods. So, if there is some provision for interpretation by Government and for enforcement by them, then that would not serve the purpose. Therefore, some judicial or an independent tribunal should be appointed for interpreting the provisions of the Bill and for ensuring the implementation of the provisions of the Bill.

SHRI DEVEN SEN: I would like to draw your attention to section (1). You have said in your memorandum that in Clause (1) (5a), line 17 after the word "intermittent" remove the words "or casual". How will you define "intermittent"?

SHRI J. P. CHAUBEY: Our argument is that in the Railways there should be regular construction department because constructions are always going on. There need not be

any casual or intermittent labour; they will be doing constantly some small project or the other.

SHRI DEVEN SEN: Don't you feel that in your experience as a labour leader that casual labour is just slave labour?

SHRI J. P. CHAUBEY: Yes, that is so.

श्री रेवतीकान्त सिन्हा : आपने अपने मेमोरेण्डम के क्लॉज 1 (ए) में कहा है कि बिल के क्लॉज 1(4) (ए) में मजदूरों की संख्या 20 के बजाय 10 कर दी जाय। दूसरे क्लॉज में भी आपने ऐसा ही सुझाव दिया है। लेकिन लेबर से सम्बन्धित जो दूसरे कायदे और कानून हैं उनमें करीब करीब सभी जगहों पर 20 रखा गया है। क्या यहाँ पर 10 रखने से दूसरे कायदों और कानूनों में 10 नहीं करना पड़ेगा ?

श्री चौबे : 20 का प्राचीन बहुत पुराने जमाने में रखा गया था। आज की परिस्थिति को देखते हुए हम यह महसूस करते हैं कि इन वर्कर्स को भी सोशल प्रोटेक्शन मिलना चाहिये। हमने जो 10 का सुझाव दिया है वह यह देख कर दिया है कि आज के जमाने में क्या पासिबल है, इसमें हमारा विचार यही है कि उस को भी सोशल सिक्योरिटी मिलनी चाहिये।

श्री रेवती कान्त सिन्हा : क्या आप बता सकेंगे कि रेलवे में ऐसे कौन-कौन से इस्टेब्लिशमेन्ट्स हैं, जहाँ पर 10 लोग काम करते हैं ?

श्री चौबे : रेलवे में तीन लाख कैंजुअल लेबरर्स हैं। इस सम्बन्ध में हमारा विचार यह है कि प्राइवेट कान्ट्रैक्टर अगर 1000 श्रावमी भी रखेगा, तो अलग अलग जगह पर अलग अलग रजिस्टर रख कर उसको एक्सप्लायट करने की कोशिश करेगा, लेकिन यदि इसमें 10 के लिये व्यवस्था कर

की जाये, तो बहुत हद तक यह कठिनाई दूर ही सकती है।

श्री रेवती कान्त सिन्हा : रेलवे में कई ऐसे कान्ट्रैक्ट वर्क होंगे, जिन में 10 या 10 से कम, या 12/13 वर्कर्स को एम्पलाय किया जाता होगा, क्या आप ऐसे किसी काम के उदाहरण दे सकेंगे ?

श्री चौबे : मान लीजिये एक कान्ट्रैक्टर लोकोमोटिव का कान्ट्रैक्ट लेता है, जहाँ उसको प्रो-बार् वर्कर्स को एम्पलाय करना पड़ता है, अगर उस तरह के वह 10 शब्द का काम ले लेता है तो एच ए होल उसको 100 घाबमी एम्पलाय करना पड़ेगा, लेकिन वह क्या करेगा कि हर जगह पर भलग भलग रजिस्टर रख कर पांच-पांच घाबमियों को रजिस्टर में दिखाता रहेगा।

श्री रेवती कान्त सिन्हा : इस में वर्कमैन की पेज 4 पर जो परिभाषा दी गई है, उस में दिया हुआ है कि जिसकी 500 रु० से ज्यादा तनख्वाह होगी, वह वर्कमैन में नहीं गिना जायगा। एक तरह से इंडस्ट्रियल डिस्प्यूट्स एक्ट, 1947 की जो वर्कमैन की परिभाषा है, उस को यहाँ पर रिप्रोड्यूस किया गया है। अब यह एक्ट 1947 में बना था, यानी आज से 21 साल पहले, जब कि उस समय के मुकाबले में आज के सर्कमस्टान्सेज में काफी परिवर्तन हो गया है, ऐसी स्थिति में उस सीमा को 500 रु० तक रखा जाये या उस को और ज्यादा बढ़ाया जाये ?

श्री चौबे : बढ़ाने की जरूरत नहीं है, बेजोड़ में ज्यादा परिवर्तन नहीं हुआ है, इस लिये 500 रु० से काम चल जाएगा।

श्री रेवती कान्त सिन्हा : लेकिन ऐसा भी तो हो सकता है कि उस समय मान लीजिये किसी का वेतन 500 रु० हो या 499 रु०

ही, सुपरवाइजरी इयूटी पर ही, उसके बाद जो वैज-स्ट्रक्चर बढ़ता रहा है, उसके अन्दर उस व्यक्ति या उम पोस्ट का वेज 500 रु० से ज्यादा हो गया हो। 1947 के एक्ट के मुताबिक वह उस समय वर्कमैन था, उस को वर्कमैन की तन्नाम फैसिलिटीज मिलती थीं, यूनियन उसको प्रोटेक्ट करती थी, लेकिन अब जब कि बढ़े हुए वैज स्ट्रक्चर के मुताबिक उसकी तनख्वाह 500 रु० से ज्यादा हो गई है, काम उसका अब भी वही है जो 1947 में था, ऐसी हालत में वह त्रिप्लिकु की तरह लटक जायगा, क्योंकि न तो मैनेजमेंट उस को अपने हाथ में लेगा और यूनियन यह कहेगी कि तुम्हारी तनख्वाह 500 रु० से ऊपर हो गई है—ऐसी स्थिति में क्या उसकी सीमा 750 रु० नहीं की जा सकती है ?

श्री चौबे : रेलवे का यह नियम है कि क्लास 3 और 4 एम्पलाई की तनख्वाह चाहे कुछ भी हो, वे यूनियन में रहेंगे। बाई-क्लासिफिकेशन 575 रु० है और वे यूनियन में हैं, अगर 750 हो जायेगी तो भी यूनियन में रहेंगे।

श्री रेवती कान्त सिन्हा : लेकिन इस परिभाषा के मुताबिक तो वे वर्कमैन में नहीं गिने जायेंगे ?

सभापति महोदय : रेलवे में गिने जा सकते हैं।

श्री रेवती कान्त सिन्हा : लेकिन दूसरी जगहों पर तो नहीं गिने जा सकते हैं।

सभापति महोदय : हाँ, इंडस्ट्रियल डिस्प्यूट एक्ट में तो ऐसा ही है।

श्री सुरज प्रसाद : बिल के क्लॉज 10 (2) के सभी सब क्लॉजेज में आपने सुझाव दिया है कि "बैर" शब्द को हटा दिया जाय

श्री चौबे : यह सुझाव इसीलिये दिया है कि इसके बिना वह मीनिंगलेस हो जाता है।

श्री सुरज प्रसाद : इसमें चार चीजें गिनाई गई हैं, आपका ख्याल है कि इसको बिलकुल प्राहिबिट कर दिया जाये।

श्री चौबे : हां, हम इसके बिलकुल एबोलिशन से खुश हैं। हम बिलकुल एबोलिशन चाहते हैं, अगर यह सम्भव न हो, तो जो भी डिप्योरिटी उस को मिल सके, वह मिले। इसी लिये हमने सुझाव दिया है कि इसको हटा दिया जाय।

श्री सुरज प्रसाद : इसमें कहा गया है कि केस तभी किया जायेगा, जब इंस्पेक्टर उसके बारे में रिपोर्ट करेंगे :

श्री चौबे : यह बिलकुल गलत है, इंस्पेक्टर कभी रिपोर्ट नहीं करेगा और वर्कमैन को कभी फायदा नहीं होगा। गवर्नमेंट ने जो एक्ट बनाया है, उसमें ग्रन्टी-मेटली कोई कोई क्लाइम ऐसा जरूर रहता है, जिसमें मालिक को फायदा हो जाता है और उससे दूसरे सारे प्रावीजन्ज नलीफाई हो जाते हैं।

श्री सुरज प्रसाद : क्या इसका कोई रास्ता है ?

श्री चौबे : मैंने देवेन बाबू के प्रश्न का जवाब देते हुये कहा था कि कोई जूडिशियल बोर्ड होना चाहिये, जिसको वर्कमैन भी एप्रोच करे और ट्रेड यूनियन भी एप्रोच करे और वह अपने फेमले को एन्फोर्स भी करे। मैं चाहता हूँ कि ऐसा राइट मजदूर और ट्रेड यूनियन क होना चाहिये।

श्री ए० पी० शर्मा : इसमें सिर्फ कान्ट्रेक्ट लेबर के सम्बन्ध में रेग्युलेशन और एबालीशन की बात कही गई है. . . .

DR. RANEN SEN: Why should the hon. Members start speaking in Hindi when some of us do not understand Hindi? Mr. Sharam can speak in English.

SHRI A. P. SHARMA: On the Railways, apart from the workers employed by contractors there are workers employed by the Railways known as the casual workers. In your memorandum you have suggested that the word 'casual' should be deleted—page 2 of your memorandum—7th line. This Act deals with the contractors workers only. Do you suggest that these casual workers and project workers should be treated as contractors' workers? What is the idea of suggesting that the word 'casual' should be deleted?

SHRI J. P. CHAUBEY: This Act will not be made applicable to workers of intermittent or casual nature.

SHRI A. P. SHARMA: If you delete the work of casual nature then everybody will be contractors' workers. They will say that the casual or project workers are contractors' workers and so they cannot have benefit of this Act.

SHRI J. P. CHAUBEY: That is not the idea. The idea is if the word 'casual' is not there then the benefit of this Act would not apply to the casual labourer.

SHRI A. P. SHARMA: What do you suggest about the casual worker?

SHRI J. P. CHAUBEY: As I appealed to the Committee in the beginning in the Railways these casual labourers are doing such type of work which is of a regular nature like maintenance, etc., and therefore these casual labourers should be treated as railway employees.

SHRI A. P. SHARMA: Whether the work is of a casual nature or permanent nature is a thing to be determined by the Government.

SHRI J. P. CHAUBEY: I have already said that there should be a statutory or judiciary body whom the trade unions can approach for interpretation and enforcement of the provision.

SHRI A. P. SHARMA: About this casual worker—of course, whether it is actually followed or not—there is a rule in the railways that after completing 180 days work they will be treated as temporary workers. But here in the memorandum regarding the project workers it is mentioned that even if they continue for six years still they are paid casual rates. Therefore, do you suggest that the project worker should be treated for the purpose of payment at par with the casual workers.

SHRI J. P. CHAUBEY: Yes.

SHRI A. P. SHARMA: On page 3 of your Memorandum in clause 12 sub-clause 2 in line eight you have suggested that the words "minimum wages" should be substituted by "wages by the principal employer". They have not been able to even protect the minimum wages or obtain the minimum wages to the workers then will it be advisable to suggest that? Will it be advantageous? It will be so vague until and unless it is revised that these wages can be determined by the principal employers.

SHRI J. P. CHAUBEY: Fixation of wages as recommended by the Second Pay Commission.

SHRI A. P. SHARMA: Should we say wages as recommended by Second Pay Commission?

MR. CHAIRMAN: Mr. Chaubey, has the Pay Commission recommended any minimum wage?

SHRI J. P. CHAUBEY: Yes, it has

MR. CHAIRMAN: For the casual labourer?

SHRI J. P. CHAUBEY: We have already said that there should be no

casual labour on permanent nature of work. We are arguing on those lines.

SHRI A. P. SHARMA: What about fixation of wages? Should it be done by Government?

SHRI J. P. CHAUBEY: It should be done by a judiciary body. So far as Government is concerned our experience is that wherever powers are given to the Government they are used against the labourer.

MR. CHAIRMAN: I am told that the Pay Commission has not recommended any minimum wage either for the casual labourer or for the regular worker.

SHRI J. P. CHAUBEY: The Pay Commission has fixed the minimum wage which is Rs. 75—85.

SHRI A. P. SHARMA: Now regarding another type of workers employed by the Railways known as 'workers on Commission'—in the same establishment they employ workers on regular wages and for the same work they employ workers on commission. That is also not included in this Bill. What is your suggestion about it?

SHRI J. P. CHAUBEY: Is it not a sort of contract labour?

SHRI A. P. SHARMA: The Railways do not call them contract workers but are called 'commission workers'. These are the various ways how the workers are employed by the Railways. What is your suggestion regarding this?

SHRI J. P. CHAUBEY: I have already said that those persons who are employed on commission are also doing permanent nature of work. For the catering work one man is getting commission; the other is a casual labourer and still the third is a permanent employee. All the three work for the year. So, the very system should be abolished and everyone should be treated as a railway employee.

SHRI A. P. SHARMA: Did you move in the matter?

SHRI J. P. CHAUBEY: Our Union has not only moved in the matter but we have given a strike notice also.

SHRI A. P. SHARMA: In the beginning you said that you stood for the total abolition of contract labour. But, since it is not possible to do so what would you like to say.

SHRI J. P. CHAUBEY: It is possible if you recommend.

DR. RANEN SEN: You have answered and he has got his reply.

SHRI A. P. SHARMA: My question is this. From this bill, it is not clear whether it is for total abolition. It is more for regulation of contract labour than for abolition. You have also said that since this is not intended for this, you have made your suggestion. Why do you say that you are for total abolition of contract labour?

SHRI J. P. CHAUBEY: We have got our own idea as to what you will do. So, we have suggested that as it may be within the scope.

SHRI A. P. SHARMA: My question is very clear. Why don't you suggest that there should be total abolition? What is the difficulty?

SHRI J. P. CHAUBEY: That is what I am saying. I have said that it should be abolished—not only contract labour but casual labour too should be abolished. The entire Committee should recommend to Government that they must introduce this Bill in Parliament for abolishing casual and contract labour.

SHRI A. P. SHARMA: Have you applied your mind whether it is practicable to abolish this entirely?

SHRI J. P. CHAUBEY: Everything is possible if there is a will.

SHRI A. C. GILBERT: There are labourers working under the contrac-

tors or cooperative societies. You also know that there are cooperative societies only on paper. They have formed the cooperative societies just to take up work for Government. And there are workers working under them. What have you to say about their protection? They have no protection and they are working on daily wages basis.

SHRI J. P. CHAUBEY: Are you asking about the workers in the railways?

SHRI A. C. GILBERT: Yes.

SHRI J. P. CHAUBEY: They should be given protection and they should be brought on the C.P.C. scales—authorised scales of pay. In the case of railways, they have given some contracts here and there. These can be taken over in the railways.

SHRI A. C. GILBERT: You yourself have agreed that these cooperatives are merely on paper. Therefore, what have you to say for them if the work taken over by them is managed by railways?

SHRI J. P. CHAUBEY: It is possible.

SHRI A. C. GILBERT: Do you agree to this?

SHRI J. P. CHAUBEY: Yes, Sir.

SHRI R. K. AMIN: I am not clear about one thing. Would you like to be in favour of the total abolition of contract labour?

SHRI J. P. CHAUBEY: That is not the idea. What I have been saying is this. We are building a society. It is obligatory on the part of Government to ensure a minimum protection to those who are being exploited for years. Therefore, whatever may be the expenditure and whatever may be the labour that the Government may have to undertake, such a rule or law is of a necessity.

SHRI R. K. AMIN: What you are concerned with is about the conditions of labour and not with the contract or any other system. Your concern is that the conditions of labour should be improved and that is a great concern. What objection can be there even if it is done by contract?

SHRI J. P. CHAUBEY: If Government have to take over such a large employment of labour, then we should have some sort of an independent Corporation. Mr. Sen said that there should be some sort of a big society having some treasury rules and so on. They can employ the labourers and keep on sending them wherever the works demand.

SHRI DEVEN SEN: This is a hypothetical question. It is difficult for him to answer.

SHRI R. K. AMIN: Let him say so.

SHRI DEVEN SEN: Such a question should not be allowed in a meeting.

MR. CHAIRMAN: I want to make one thing clear.

SHRI DEVEN SEN: This is a hypothetical question. We should not allow this.

SHRI R. K. AMIN: I am not clear about the contract labour. Has he any grievance against the law? Is he objecting to our having all the labour or keeping the intermediaries? Suppose the conditions of labour are improved, what objection can there be to have contract labour?

SHRI J. P. CHAUBEY: With all my emphasis at my command I say that this system should be abolished because they are eating at the cost of somebody else's labour. They have no right to exist.

SHRI R. K. AMIN: Even if the conditions of labour are improved?

SHRI J. P. CHAUBEY: Whatever it might be, the intermediaries have no entrust this to somebody else by tell-

right to exist. They are unnecessarily eating the fruit of labour of somebody.

SHRI R. K. AMIN: That is what I would like to understand.

SHRI J. P. CHAUBEY: If some sort of a Corporation is to employ the labour, it can determine as to where the requirement of labour will be.

SHRI R. K. AMIN: You are against the contract labour. Even in that contract labour, if the conditions of labour are good as they are in the railways which directly employ the labour, what is the objection?

SHRI J. P. CHAUBEY: Ultimately it will be bad and that is not in the interest of society.

SHRI R. K. AMIN: I would like to understand why that is so bad?

SHRI J. P. CHAUBEY: It is not in the interest of the society to have it.

SHRI R. K. AMIN: I would like to prove that it is in the interest of the society.

SHRI J. P. CHAUBEY: Well, it may be a matter of opinion. I may also prove that it is not in the interest of society. We can always differ.

SHRI R. K. AMIN: Don't you specialise in trade union movement? Are you not specialised in all the trades?

SHRI J. P. CHAUBEY: No.

SHRI R. K. AMIN: Because it is convenient for you to do so. In the railways it is convenient to give certain works to somebody else. Is it not a specialised work? I do not know how to check up.

SHRI J. P. CHAUBEY: For that, I have said that there can be some sort of a department which can run it.

SHRI R. K. AMIN: I would like to

ing that this work has got to be done by this much money.

SHRI J. P. CHAUBEY: Is he a contractor or who that somebody is?

SHRI R. K. AMIN: The Government or the railway can get it done by anybody by saying that they will pay such and such an amount for doing the work. In that way, the conditions of the labourers too may be good and the labourers may have their largest share. What is the fundamental objection that you have?

SHRI J. P. CHAUBEY: Let the work be on a contractual basis. Let there be a big society or corporation or some department which can undertake this work. They can do it.

SHRI R. K. AMIN: If it is done by a contract labour?

SHRI J. P. CHAUBEY: Even then the profits will not go to the individuals. //

SHRI R. K. AMIN: Wage earner also comes under contract in that event.

SHRI J. P. CHAUBEY: Every worker comes under contract.

SHRI R. K. AMIN: If a particular job is entrusted to somebody by Government what is your objection?

SHRI J. P. CHAUBEY: Who is that somebody?

SHRI R. K. AMIN: He may be anybody.

SHRI J. P. CHAUBEY: You define who is 'somebody'?

MR. CHAIRMAN: His argument is not based on this. He is for abolition of the contract system. Let us ask him some other question.

SHRI R. K. AMIN: Are you against the contract system simply for the sake of being against it or for some valid reason? If you say that you

are against the contract system simply for the sake of being against it, then I have no questions to ask.

MR. CHAIRMAN: He is not basing his argument on the merits or the demerits of the system but he is against the system altogether.

SHRI R. K. AMIN: Why do you want to reduce the number of workers from 20 to 10?

SHRI J. P. CHAUBEY: I have already answered this question.

SHRI R. K. AMIN: Under the Factories Act, in the factory establishments the number prescribed is 20 or more. Now you say that under this Bill the number should be reduced to 10. Would you like the number specified in the Factories Act also to be reduced to 10 so that the parity could be maintained?

SHRI J. P. CHAUBEY: I have said that protection should be given to every individual. If that is not possible, then at least the number could be reduced from 20 to 10.

SHRI R. K. AMIN: Why do you say that the number should be ten? Even if two are employed, you can say that protection should be given to them.

SHRI J. P. CHAUBEY: What is the sanctity about the number 20 itself?

SHRI R. K. AMIN: So far as 20 is concerned, there are already rules under the Factories Act specifying that number.

SHRI J. P. CHAUBEY: Because there is a rule there, therefore does it mean that 20 should be accepted everywhere?

SHRI R. K. AMIN: In order to have some parity between the two, I was suggesting 20. Otherwise, those who are employing 19 people regularly will not come under it while those

contractors who are employing 10 will come under it.

SHRI J. P. CHAUBEY: I have pointed out that in order to ensure effective implementation of the measure, this is necessary. Otherwise, the contractor will maintain different registers for every 20 men and he will escape from the provisions. If the number is made 10 then it will be difficult for him to escape from the provisions, although those who want to evade the provisions will go on doing it by some method or the other.

SHRI R. K. AMIN: Now, I am putting a question which is hypothetical but it has a direct bearing on it. If the contract system is abolished, and the work is done departmently directly by the railways, you think that the labourers will be paid more than what they are being paid just now. Therefore, will not the cost of a particular item increase?

SHRI J. P. CHAUBEY: I might say one thing. Suppose somebody says that he would run the entire government on an economic basis, would you agree to it?

SHRI R. K. AMIN: If they like, certainly, yes. That is why the Ministry has been given a limited tenure.

SHRI J. P. CHAUBEY: Suppose somebody says that he will run the entire administration more economically and with less expenditure, would you agree to it?

SHRI R. K. AMIN: That time may also come. If the Government feel that they cannot manage it then they will hand it over to somebody else.

SHRI J. P. CHAUBEY: Suppose Parliament passes a resolution and invites tenders for that purpose, then there will be very good contractors who would tender.

SHRI HATHI: This measure applies only to establishments and not to Government.

SHRI DALPAT SINGH: In view of your memorandum and your amendment, do you feel that the present Bill will not benefit the employees especially in the refreshment rooms and restaurants unless the number is reduced to 10?

SHRI J. P. CHAUBEY: If the number is reduced to 10 then it will be more effective. If the number is kept at 20 then it will be less effective and if the number is 200 it will be nullified.

SHRI DALPAT SINGH: May I know the reason why you want the number to be reduced to 10?

SHRI J. P. CHAUBEY: I have said already that the contractor could maintain registers for every 20 workmen or 19 or 18 workmen and he would say that the works are of different types.

SHRI DALPAT SINGH: What is the average number employed in these railway restaurants and refreshment rooms?

SHRI J. P. CHAUBEY: Although the railways are employing about 3 lakhs of workers yet they say that those people are doing only casual type of work; these 3 lakhs of workers are working for years, and yet the railways say that they are not doing any permanent job.

SHRI DALPAT SINGH: How have you come to the number 10? Is that the average number of employees in the restaurants and refreshment rooms run by the contractor?

SHRI J. P. CHAUBEY: I have answered this specifically more than once.

SHRI R. K. AMIN: This question is again being asked because nobody has been satisfied with the replies given by you. Therefore, you must give the answer to this again.

SHRI DEVEN SEN: This is because he wants the progressive realisation

of the goal of abolition of contract labour altogether.

SHRI J. P. CHAUBEY: Yes, progressive realisation of abolition of contract labour.

SHRI K. R. GANESH: Do you suggest that in the body of the Bill itself there should be specific prohibition of certain types of contract work?

SHRI R. K. AMIN: He has said, of all types of contract work.

SHRI K. R. GANESH: I know that he has said that the contract system must be abolished lock, stock and barrel.

SHRI J. P. CHAUBEY: Progressively.

SHRI K. R. GANESH: Will the provision in clause 10 at page 7 enabling the Central or the State Government to abolish contract labour from any specific field of work satisfy the immediate needs?...

SHRI J. P. CHAUBEY: But there are various provisos.

SHRI K. R. GANESH: My question is whether instead of this enabling provision, if there is a specific provision that contract labour would be straightway abolished in such and such fields of work, will it not be more helpful?

SHRI J. P. CHAUBEY: Yes, it will be helpful.

SHRI K. R. GANESH: For those types of work in which contract labour cannot be immediately abolished, would you suggest that in this Bill itself there should be a provision that the terms and conditions in regard to wages, leave, overtime etc. would be according to certain norms prescribed?

SHRI J. P. CHAUBEY: Yes, there should be.

SHRI K. R. GANESH: Would you suggest that under the penal clauses, there would be an authority like the Payment of Wages Authority to which any worker could straightway apply instead of waiting for the inspectors to prosecute the erring employers? If there is such a provision would it not improve the Bill?

SHRI J. P. CHAUBEY: Yes, it will improve the Bill.

SHRI K. R. GANESH: As you have said, in the railways, there are a large number of casual workers. This Bill mentions specifically only contractors and not the intermediaries. Would you suggest that there should be some provision in the Bill to cover this indirect contract labour in the railways and various other establishments? I am asking this question because as an experienced trade union leader you know that in none of the labour statutes has the term 'casual labour' been defined, nor is there any judicial definition of it. Therefore, advantage has been taken of that loophole, and a large number of workers who have been therefor a number of years have been kept as casual labour depending upon the whims and fancies of the employer.

Since a new Bill is being framed, would it not be desirable to include casual labour also so that this kind of indirect contract system could be immediately abolished?

SHRI J. P. CHAUBEY: Yes.

SHRI BRAHMANAND PANDA: You are against any type of contract labour. If we are to take that this Bill will help in progressive abolition of contract labour, do you think that the provisions of this Bill will dissuade contractors from entering the scene?

SHRI J. P. CHAUBEY: I do not think so. It may in certain cases but not on a large scale.

SHRI BRAHMANAND PANDA: Do you think that abolition can be started in the Railways first?

SHRI J. P. CHAUBEY: In the Railways there is no case for contract labour because that is a regular type of work which can straightway be done by the department.

SHRI BRAHMANAND PANDA: Do you feel that wherever contract labour is employed the principal employer must be held responsible for the payment of proper wages and remuneration to labour?

SHRI J. P. CHAUBEY: Yes, Sir.

SHRI BRAHMANAND PANDA: Do you know that before independence there were many native States, like Mysore and Mayurbhanj, that had given more amenities to the people than some of the British provinces? Somehow or other we have done away with them because we have certain ideals and goals, like socialistic society. Do you think that, whatever may be the difficulties in the early stages, we can abolish contract labour totally and take a risk in this regard?

SHRI J. P. CHAUBEY: Yes. After all, this is a social reform.

SHRI BRAHMANAND PANDA: In answering Shri Sharma you said that the policy of the Government is always against labour. Why do you feel so?

SHRI J. P. CHAUBEY: I have not said that. What I have said is that whenever authority was given to the Government, it was generally used by the department against labour. Therefore I am against giving any authority for execution, prosecution etc. to the executive. It should be given to a judicial board which the worker or the trade union can approach.

SHRI BRAHMANAND PANDA: If you feel that the policy of the Government is against labour, do you

think that contractors are a political factor?

SHRI J. P. CHAUBEY: You know it.

SHRI S. D. PATIL: This Bill is named Contract Labour (Regulation and Abolition) Bill. As you have said, three lakhs of workers are working only in the railways and lakhs of workers are working in various factories, public or private. So, though the intention is that contract labour should be abolished, taking into consideration the large number of factories and labourers working in those factories, instead of abolishing it immediately and bringing so much hardship to labour as well as to the factories, we want to regularise the present system. You have said that this Bill is not at all in favour of abolition but only in favour of regulation. Please let me know how you interpret clause 10 taking into consideration its operative part.

SHRI J. P. CHAUBEY: I have said that sub-clause (2) of clause 10 should be deleted and the clause made more effective. I have suggested amendments.

SHRI S. D. PATIL: You want more drastic and more specific provisions than contained in clause 10.

SHRI J. P. CHAUBEY: It should be more clearly defined. Then I will be satisfied. That is why I have suggested that this sub-clause should be removed so that at least it is somewhat more effective for abolition.

SHRI S. D. PATIL: What more do you expect of Government for it to be more effective?

SHRI J. P. CHAUBEY: In the railways it should be straightaway abolished.

SHRI S. D. PATIL: So, you want that it should enumerate the factories where it should be abolished.

SHRI J. P. CHAUBEY: Wherever it can be straightaway abolished, that should be defined. Wherever there is some difficulty, there should be progressive realisation of abolition.

श्री भदानी प्र. ११ त्रिवारी : मैं एक ही प्रश्न पूछना चाहता हूँ—जो आपन आपने दिया है, उसमें जो संशोधन आपने सुझाये हैं, उसमें एक न. प्रारम्भिक संशोधन है और बाकी के लिये आपने खुद ही कहा है कि कान्सीवन्सल नेचर के हैं। यदि यह समझ लिया जाय कि वह संशोधन स्वीकारिता की स्थिति में है तथा इस बिल में समावेशित कर लिया जाय न, उस स्थिति में यह बिल अधिकों के लिये कहा तक सहायक सिद्ध होगा तथा क्या प्रभाव पैदा करेगा ?

श्री चौबे : फिलहाल बिल जिस रूप में आया है, इससे वह और अच्छा हो जायगा। लेकिन जैसा मैंने धर्ज किया है कि कमेटी अगर इसके अन्दर कोई प्रोग्रेसिव रियलाइजेशन और एडोलिशन को कोई स्कीम कर देगी तो वह और ज्यादा अच्छा हो जायगा और उससे आसानी होगी।

श्री भदानी प्र. ११ त्रिवारी : यह न. ठीक है कि अच्छा हो जायगा, लेकिन उससे क्या अच्छाइयां आ जायेंगी और वह किस तरह से अधिकों की उन्नति कर सकेगा ?

श्री चौबे : जो प्रमेण्डमेंट हमने सजेस्ट किये हैं.....

श्री भदानी प्र. ११ त्रिवारी : उसमें क्या है, कोई नया बिल नहीं बनाया है।

श्री चौबे : अगर दो-चार प्रावीजन और बना देंगे, तो वह मकसद पूरा हो जायगा।

श्री भदानी प्र. ११ त्रिवारी : जो केस मकसद है वह पूरा नहीं होगा, लेकिन बिल का मकसद पूरा हो जायगा।

SHRI SHRI CHAND GOYAL: You have suggested that the limit of applicability of this Act should be reduced from 20 to 10. The other day we had the representative of the INTUC, Shri Sharma, who was of the opinion that since in all other labour laws, Payment of Wages Act, Minimum Wages Act etc., this limit is 20 and since he thought that this Act would be workable only if this limit is maintained at 20 and not reduced to 10, it should be maintained at 20. May I know whether you have applied your mind from that aspect also, that is, in other pieces of labour legislation the limit provided is 20 and not 10?

SHRI J. P. CHAUBEY: Ten was suggested only because protection can be extended to more people; this is a preliminary step towards the total abolition. If there is some valid objection to this number, it can be kept at twenty.

SHRI SHRI CHAND GOYAL: The suggestion has been made that the word 'casual' should be deleted and that only the word 'intermittent' should be retained for the applicability of this Act. Supposing there is an accident somewhere, a lot of debris is there and that has to be removed; the labour employed is casual, for ten days or fifteen days. What is meant by 'intermittent' is that a work is carried on for two months, then stopped for two months, then again done for two months and so on. After this clarification, what are your views on the suggestion?

SHRI J. P. CHAUBEY: If the word 'casual' is retained, the railways will take advantage of it. They have classified three lakhs of workers as casual labour. If you can suggest some formula to take care of this idea, we have no objection.

SHRI SHRI CHAND GOYAL: What percentage of these three lakhs will be working in establishments having more than 20 persons?

SHRI J. P. CHAUBEY: It would be difficult to answer.

SHRI SHRI CHAND GOYAL: It appears that people employed in big construction works such as the Brahmaputra bridge where they have to work for more than 5 or 6 years are all treated as casual labourers and contract labour. If a provision is made that workers employed on projects which take say, more than three months should not be treated as casual, would you be satisfied?

SHRI J. P. CHAUBEY: There can be no reasonable objection to what you say. The difficulty, if a provision like that is made, will be that the whole benefit will be denied to the workers. They will interpret it in such a way to deny the benefit to the workers.

SHRI A. P. SHARMA: If Mr. Goyal's question implies that a worker is employed on a work which takes more than 90 days should be treated as a regular worker, not a casual labourer, that is a good suggestion. Actually, we wanted the criterion of 180 days to be applied; we have not been able to make them accept that.

SHRI SHRI CHAND GOYAL: Some railway officials are working as contractors also and they employ labourers. Take the instance of the loco foreman and P.W.I. Would you want this Bill to cover some of those works?

SHRI J. P. CHAUBEY: It is objectionable to let out contract to government officials. The railways are doing it for economic reasons and for exploiting the down-trodden people. This is work of a regular nature and should be managed through railway employees.

SHRI SHRI CHAND GOYAL: You suggest the deletion of clause 10(2). The Supreme Court has said that in four categories contract labour must go. Do you want that this piece of

legislation should provide that in these categories the contract labour should go? Or, you want to include other categories also?

SHRI J. P. CHAUBEY: The Supreme Court is a judicial body which had interrupted the existing rules or conditions. But we expect from Parliament something more radical. Therefore, your recommendations should be more revolutionary than those of the Supreme Court.

DR. S. K. SAHA: In your memorandum, you favour the total abolition of contract labour and not regulation of it. In the railways, especially, we know; the railways are the biggest concern and they perform various duties; for example, they construct railway lines; they undertake new construction; they build bridges. I want to know the difference in pay between contract labour and the permanent labour in the railways. What is the difference in pay between contract labour and permanent labour—Class IV—in the railways?

SHRI J. P. CHAUBEY: In the railways, the job of this nature which is normally done by the Class IV employees, is done by casual labour or contract labour or the contractor's labour. What we suggest is that this work should be taken up by the railways and should be executed by the railway employees.

MR. CHAIRMAN: He wants to know whether there is a difference of pay.

SHRI J. P. CHAUBEY: There is a difference. The casual labour is paid hopelessly low. It is Rs. 130 in the case of permanent labour and Rs. 45 in the case of casual labour.

DR. S. K. SAHA: In pursuance of economy, the railway employ contract labour in some of the processes. Have you got any objection to it?

SHRI J. P. CHAUBEY: There are a lot of complaints. This economy

drive is misdirected and it is directed against the poorly paid employees. So, if the railways want to economise their expenditure, there are so many ways in which they can do it. Our association is willing to discuss it with the Railway Ministry. But for curtailing the expenditure, the railways should not deny to the casual labour the real wage or the need-based minimum wage. This is a social obligation. The railways must be compelled to pay it.

DR. S. K. SAHA: In the case of an emergency, if an accident occurs at a place which is far away from the railway station, may I know whether the railway is right in employing contract labour in that case? What is your opinion?

SHRI J. P. CHAUBEY: Casual labour are not employed in the case of accidents. That is done by the railway employees. The entire labour of that are is harnessed, and they work.

DR. S. K. SAHA: If it is far away from the headquarters, what will the workers do?

MR. CHAIRMAN: The witness says that it will be done by the railway labour.

SHRI J. P. CHAUBEY: Casual labour will not be able to do that work.

SHRI B. N. SHASTRI: Mr. Chaubey, you want the abolition of contract labour. I would like to know whether you want it in the railways alone or you want to have it abolished in all spheres of society.

SHRI J. P. CHAUBEY: All over the country. But it can be progressively done.

SHRI B. N. SHASTRI: As a trade union leader, with vast experience, do you think it possible that contract labour in any shape or form or

camouflage, can be totally and completely abolished?

SHRI J. P. CHAUBEY: It depends upon the policy of the Government. If the Government wants to abolish it, it can be abolished.

SHRI B. N. SHASTRI: Apart from the Government measures, with the help of the social forces, can it be abolished?

SHRI J. P. CHAUBEY: When it is the policy of the Government to abolish it, the social forces will all fall in line with the government.

SHRI B. N. SHASTRI: There are a good number of steps taken by the Government, but in spite of that, certain evils prevail in society. For instance, there is the Zamindari Abolition Bill but the zamindaris have not been totally abolished up to now. It prevails in some form or other, in disguise or camouflage.

SHRI J. P. CHAUBEY: When there is the law and if the government has not abolished it, what can we do? We can only fight.

SHRI B. N. SHASTRI: You described this Bill as one which regulates contract labour and not abolishes it. But supposing, by regulating the conditions of contract labour it can be raised to the par of permanent labour, if not bettered, would you object to contract labour? For instance, by regulating the course of a river, a river of woe can be turned into a river of smile. On that analogy, if the conditions of contract labour can be made better and brought on a par with permanent labour, have you any objection to contract labour, on principle?

SHRI J. P. CHAUBEY: I have replied to it more forcibly three or four times; that the system should be abolished.

SHRI B. N. SHASTRI: Under any condition?

SHRI J. P. CHAUBEY: Yes; it may be advantageous to one or two men, but that is a social evil.

SHRI B. N. SHASTRI: At the very beginning of your memorandum, you have suggested that a very large force of contract labour is employed by the Indian Railways, the total number, even according to a conservative estimate, being more than three lakhs. I want to know whether it includes labour employed by the railway directly.

SHRI J. P. CHAUBEY: Yes; 99 per cent; they are employed by the railways directly.

SHRI B. N. SHASTRI: For instance, in a loco shed, the foreman may employ labour. Do you consider that casual labour comes within the purview of this Bill or under the connotation of the word "contract"?

SHRI J. P. CHAUBEY: Indirectly, that is contract labour, because contract is also let out for economic reasons, to avoid more expenditure.

SHRI B. N. SHASTRI: How do you distinguish between casual labour and contract labour?

SHRI J. P. CHAUBEY: Contract labour is employed either by the contractor or by the department on a contract basis. But casual labour is just casual, employed by the authorities.

SHRI B. N. SHASTRI: If a railway foreman employs labour for a few days, will it come under the connotation of casual labour or contract labour?

SHRI J. P. CHAUBEY: One reply is, the railways are permanent organisation and they have a permanent staff working. Therefore, the question of employment of one or two persons like that would not arise.

SHRI B. N. SHASTRI: Apart from that, there are temporary people. If such labour is employed by the railway authorities, may I know whether it will be treated as contract labour or casual labour?

SHRI J. P. CHAUBEY: I do not know whether you were in the railways. But I may tell you that even among those who are regular employees, half of them are temporary. That is the policy of the Government. We are asking why they should remain temporary. If they have to stay in the railways, why half of them who are on regular employment, should remain still temporary? Why not they be made permanent?

SHRI B. N. SHASTRI: Regarding advisory boards, you have suggested that industry-wise advisory boards should be established. Don't you think that with the coming up of new industries there may have to be a good number of advisory boards, and in the absence of a Central Advisory Board, there may not be any uniformity of action and thinking in respect of any regulation?

SHRI J. P. CHAUBEY: Conditions differ. But there could be some sort of guidelines. There will be some reports of the National Commissions available. So all concerned will be governed by these rules and laws of the country.

SHRI B. N. SHASTRI: I have no knowledge whether the Railways employ casual labour or contract labour.

SHRI J. P. CHAUBEY: They are self-employed people.

DR. RANEN SEN: What are the perennial nature of works in the Rail-

ways which are also given to the contractors?

SHRI J. P. CHAUBEY: Relaying of tracks, contract renewals, repairs in the loco-sheds, refreshment work, in the loco-sheds, refreshment work, so many other works as construction work, etc.

DR. RANEN SEN: Could you tell me the approximate percentage of such contract labour in the total railway employees, except this casual labour? Could you give us a rough idea?

SHRI J. P. CHAUBEY: I have no knowledge. You can find it from the Railway Board.

DR. RANEN SEN: That would be very necessary.

MR. CHAIRMAN: Relay work is not done on contract basis.

SHRI J. P. CHAUBEY: By Department.

MR. CHAIRMAN: He wants to know what is the perennial nature of work which is done on contract basis, apart from the casual labour. The idea is very necessary.

SHRI J. P. CHAUBEY: The entire repair work of government quarters and buildings which used to be done by a regular gang of railway employees has now been replaced by the contract.

DR. RANEN SEN: That's good information.

MR. CHAIRMAN: What are the works which were being done by the Department itself which have been transferred to the contract system?

SHRI J. P. CHAUBEY: Then we can send you a list.

DR. RANEN SEN: Please furnish this information. This system of employment through government officials

you have stated, gives rise to corruption....

SHRI J. P. CHAUBEY: That is known.

DR. RANEN SEN: I want to know whether the employees who are thus employed by the Railway officials are getting on par with the regular employees or are they getting less?

SHRI J. P. CHAUBEY: They are getting less. Others are getting more than the local market rate.

DR. RANEN SEN: It is true. But generally this is the pattern even in the loco-shed. People are employed like that. They are getting much less than the regular workers.

SHRI J. P. CHAUBEY: Now the position is even in the circumstances the Railway Board have issued a direction that where there is absenteeism on account of leave, etc., they can employ casual labour even for train passing duties. They can employ a porter to the Token for a train-start from the open market—casual labour.

DR. RANEN SEN: In your memorandum sent to the committee you have referred to the substitution of 20 x 10. You have given an explanation; you have mentioned some of the categories of workers who will be benefited if it is reduced. Would you give us some more instances, not immediately, but later on?

SHRI J. P. CHAUBEY: We can send you that.

SHRI K. A. NAMBIAR: I am told that in the loco-sheds workers of casual nature are doing the repair work of engines. Is it true?

SHRI J. P. CHAUBEY: Yes.

SHRI K. A. NAMBIAR: Such workers sometimes are sent on the engines as firemen, second fire-men in the absence of firemen?

SHRI J. P. CHAUBEY: They can be sent. I have told you, Sir, that even for train passing duties they are employed.

SHRI K. A. NAMBIAR: Is that not a danger to safety?

SHRI J. P. CHAUBEY: Yes, why not.

SHRI K. A. NAMBIAR: Similarly, on the traffic side, the engines are to be received and despatched—a very important safety work like passing of trains, etc. is being done by casual labour occasionally. This is also a serious danger to railway safety?

SHRI J. P. CHAUBEY: Yes.

SHRI K. A. NAMBIAR: I am also told that casual labour is employed for transshipment which is of a permanent nature,—work for coal loading and unloading, etc. Is it true?

SHRI J. P. CHAUBEY: Yes.

SHRI K. A. NAMBIAR: And the Railways have issued instruction that if the casual labour continues working for six months there is a danger of that casual labour being treated as temporary employees with benefits of Central Pay Commission scales, etc., so before six months—even if it is 5 months and 29 days—there should be a break.

SHRI J. P. CHAUBEY: Well, they may not have issued instructions, but they are doing it.

SHRI K. A. NAMBIAR: In many cases the employees, with broken service before six months are repeatedly being employed for years together. Is this not a practice generally followed in the Railways?

SHRI J. P. CHAUBEY: Yes.

SHRI K. A. NAMBIAR: Don't you think that this is known to the Railway Administration, both at the General Manager's level and the

Railway Board level, and still they allow it to happen?

SHRI J. P. CHAUBEY: Yes, they know it.

SHRI K. A. NAMBIAR: One particular question was put to you as to what is the difference between contract labour and casual labour. In the case of contract labour there is an intermediary whereas in the other one it is not there. Suppose I say that when a Loco Foreman or PW Inspector employs casual labour at the orders of the Railway Administration, instead of contractor as intermediary, these officials step into the shoes of the contractor. Do you agree?

SHRI J. P. CHAUBEY: I agree.

SHRI K. A. NAMBIAR: If you agree, don't you also agree that this indirect way of employing contract labour, while eliminating contractor from the field, benefits the Railways?

SHRI J. P. CHAUBEY: Certainly.

SHRI K. A. NAMBIAR: But the person who suffers is the labourer. When a Class IV employee gets Rs. 136/- per month, in this case the labourer is paid only according to the market rate of Rs. 1.50 or Rs. 2/- per day for 28 days which means about Rs. 50/- to 60/- is enjoyed by the Railway as saving. Am I not right?

SHRI J. P. CHAUBEY: Yes.

SHRI K. A. NAMBIAR: In other words, while the work done by the casual labour or permanent labour is the same, one is paid more and the other less. Is it your contention also?

SHRI J. P. CHAUBEY: Yes.

SHRI K. A. NAMBIAR: You suggest that this indirect way of employment of labour in the name of casual labour is to be abolished. You have said it in your memorandum in

a mild way. It is stated in Clause 1(5)(a) that it shall not apply to establishments in which work only of an intermittent or casual nature is performed. Here the term 'casual nature' is not concerned with the 'casual labour' that is employed by the railways. These are two different things. This term is used by Railways to mislead the public and to give them the impression that the work is only of casual nature. Are we to be misled by them? Are you also misled by this?

SHRI J. P. CHAUBEY: They will try to mislead you also. According to the Railways, it is one and the same. That is why we have made our suggestion.

SHRI K. A. NAMBIAR: I am glad about that. This 'casual nature of work' has nothing to do with 'casual labour' employed by them.

SHRI A. C. GILBERT: Mr. Chaubey admitted a little while ago that casual labour is employed on engines. Can he give at least one instance where this has been done.

SHRI J. P. CHAUBEY: Whenever there are vacancies, casual labour can be appointed even as cleaners. They are booked out as Second Foremen. So long as there is provision to employ casual labour as porter or cleaner, there is no bar against his being appointed to work in engines also.

SHRI A. C. GILBERT: You admitted that this is being done. Could you give at least a single instance.

SHRI J. P. CHAUBEY: I will have to find out. But there is a possibility of their being booked out.

SHRI K. A. NAMBIAR: My information also corroborates with the information of Mr. Chaubey.

Now I come to workers employed in projects in the Railways. Rail-

ways have issued circulars and it was said in the Parliament also. There is nothing secret about it. Those who are doing casual labour on project works, even if they work for 6 months or 6 years, they will not have any chance of getting minimum wages. But on the engine side, if they continue for some time, there is that chance for them. Is there a circular about that?

SHRI J. P. CHAUBEY: Yes.

SHRI K. A. NAMBIAR: In that process also, some people are deprived of their rights of minimum wages even after working for 6 years.

Then, I would like to know whether you would like to eliminate or abolish contract labour totally. Of course, you have said that you are for total abolition. Suppose a small earth work is there or a bund has to be constructed somewhere in a forest area where some contractor is asked to bring local labour because there is no possibility of railway labour being from the headquarters. Don't you think that in such exceptional cases contract labour could be employed on the condition that the labour should be paid minimum wages and given all protection under the labour laws?

SHRI J. P. CHAUBEY: That can be done.

SHRI S. KUNDU: Would you tell us what is the different nature of work in which the contract labour and casual labour work in the railways?

SHRI J. P. CHAUBEY: I would be submitting a detailed list. Almost all the jobs done by Class IV employees are done by casual labour, for instance, in electric department, mechanical department, commercial department, traffic department and civil engineering department. There is no department where casual labour is not employed. But their employment is confined to Class IV services.

Of course in construction work even in Class III category casual employees are employed in casual work. But in maintenance work the employment of casual labour is confined to Class IV services.

SHRI S. KUNDU: Same is the case with contract labour?

SHRI J. P. CHAUBEY: In Railways there is contract labour.

SHRI S. KUNDU: What is the nature of the work they do, that is the contract labour?

SHRI J. P. CHAUBEY: They do coal handling work, they do work in goods shed, and transshipment, construction work, repair work, etc. They do all these types of work.

SHRI S. KUNDU: What percentage of these works could be done directly by the department in respect of this casual labour and this contract labour? Will it be 100 per cent or 90 per cent, what is your view?

SHRI J. P. CHAUBEY: Excepting those types of work where huge force of labour is required just for 2 days or so, otherwise, all the work can be done by the regular labour in the railways.

SHRI S. KUNDU: What is the hours of work the casual labour and contract labour do per day for the same amount?

SHRI J. P. CHAUBEY: Same as other regular employees—same hours of work as other regular employees.

SHRI S. KUNDU: One is expected to do 8 hours duty per day to earn a day's wage whatever may be the work. Now the casual labour, to earn a day's wage will not do 8 hours but more work 12 hours or 20 hours or something like that. What is your view?

SHRI J. P. CHAUBEY: It depends upon the type of work they do. Suppose he is employed as gateman.

He will work for 12 hours or 24 hours. It depends upon whatever classification they have. If he is in loco-shed it will be 8 hours, for example. It depends upon the job on which the casual labour is employed.

SHRI S. KUNDU: There is some allegation that casual labourers and contract labourers are exploited.

SHRI J. P. CHAUBEY: They are employed; after giving some money, then they are terminated. Such things. This is really a sort of exploitation. But railway supervisors are not contractors. They will not employ them for 24 hours. Even they themselves will go after 8 hours of duty.

SHRI S. KUNDU: In Railways, there are various laws governing labour welfare, PF benefits, Overtime, ISI benefits etc. Are they applicable to casual departments, that is casual labourers and contract labourers?

SHRI J. P. CHAUBEY: No.

SHRI S. KUNDU: In Railways there has been some allegation that casual/contract labourers are engaged in domestic purposes of officers. Is there any truth in that?

SHRI J. P. CHAUBEY: Even permanent employees are used. Are you not aware that actually Government has provided the bungalow peon to the principal officers and others for doing domestic work? That is the positive order of government. It is a British legacy which we are continuing.

SHRI S. KUNDU: There is an allegation that in the appointment of casual labour and also contract labour, mostly of casual labourers, there is some money which have to be paid to the appointing authority. That type of corruption goes on—is it true?

SHRI J. P. CHAUBEY: These people will pay money twice, once when

they are engaged, some money, some Rs. 50 etc. When they complete 6 months and they expect to get certain scale of pay the rate is Rs. 300.

SHRI S. KUNDU: You have said, 'minimum wage' should be deleted and wage should be paid by principal employer. Should I take it—you have suggested this amendment because this concept of minimum wage is a misnomer now? Minimum wage is governed by different acts in different States, and some times less than what is actually paid by the department.

SHRI J. P. CHAUBEY: Always less.

SHRI S. KUNDU: Don't you mean to say, this difficulty will not crop up in the definition of minimum wage?

SHRI J. P. CHAUBEY: There was a sub-committee appointed by Labour Commission for the Railway transport I and Mr. Sharma were members. We have recommended that they should be paid as per authorised rates of pay. That is agreed recommendation.

SHRI S. KUNDU: There are 2 views on abolition of contract and casual labour. One view is we can't abolish it and it will shoot up cost of production. Once that happens we have to get money from passengers and ticket rates and other things will go up. Therefore they say this casual labour has to go on. There is the other view also. If you take the cost of production, construction of a kilometre of line, or building work, shop work, and such other things or manufacture of railway engines, the view has been felt by some and they say the cost of production will not go up but will go down because they say that middlemen's profits will go once you abolish this casual labour and the efficiency of our workers will increase and theft and pilferage will stop. Which view do you hold?

SHRI J. P. CHAUBEY: Cost will not go up. But even if it goes up,

Government must incur that expenditure. We discussed this once with Deputy Prime Minister. We were told prices will go up; on examination it was found that even when there was no increase in DA, prices shot up. So it is no argument that prices will go up. Do you mean to say that if you go on reducing the wages of existing employees, the prices will come down? Even if prices go up certain standards, minimum standards of living have to be provided. Therefore, I recommend, these things should be examined from broader point of view. We should see what is the absolute minimum necessity, for which, whatever may be the expenditure, the money must be found.

SHRI S. KUNDU: I understand that you stand for this view, primarily, that the prices would not go up, but even if prices go up, these minimum things ought to be done, as a social responsibility to be done.

SHRI J. P. CHAUBEY: Yes.

SHRI S. KUNDU: You have been in Railway for many years. Do you think even if there is increased cost of production that may be eliminated to some extent by practising economy in the railways?

SHRI J. P. CHAUBEY: Yes.

SHRI HATHI: Thank you very much for the very lucid exposition. You are mostly connected with Railways. Your suggestions are according to your experience in the Railways. I would ask one or two clarifications. You say, instead of minimum wage, it should be, wage paid by principal employer. So far as Railway is concerned, we have already made recommendation, because the principal employer is also getting some work done departmentally. Therefore they should pay. This applies to so many other contracts. Supposing I want to build a house, I give a contract because I don't have masons, carpenters etc. directly under me. Though I am the

principal employer, I am not paying any wage as the principal employer. If you say "wages paid by the principal employer", will that not create some difficulty? This is all the more so when the principal employer does not pay any wages. I fully agree with you that we should guarantee a minimum standard of wages.

SHRI J. P. CHAUBEY: This has been suggested with a view to give equal or improved wages so that even if the contractor is there he has no right to exploit the people. But there could be an alternative. We can say 'minimum wage or wage paid by the employer whichever is higher.'

SHRI HATHI: You are worried about the casual worker. Here, the word is work of casual nature. Suppose we define what kind of work would be a casual work—work not exceeding so many days etc.—will that clear the whole thing?

SHRI J. P. CHAUBEY: Supposing the sanction is given only for short periods, what will happen?

MR. CHAIRMAN: If these two words are defined properly, your purpose is served.

SHRI A. P. SHARMA: This point should be borne in mind—the sanction may be given for thirty days only.

SHRI HATHI: I am not putting this question with a view to confront you. I am putting them only with a view to overcome those difficulties and the malpractices that are there now can be put an end to. I only want to know from you whether we can overcome these difficulties.

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SHRI J. P. CHAUBEY: Even if you define them, there should be a judicial body. Our point is we must not be confronted with another difficulty; you may be able to get over your difficulties, but some other difficulties may arise for us.

SHRI HATHI: Then, even if the Railway takes over works departmentally, there may be cases where it could not be done. I don't know whether you want advisory board for each area and for each industry.

SHRI J. P. CHAUBEY: Both would be necessary.

SHRI S. KUNDU: Mr. Hathi has raised some very relevant points in the form of questions. I have only one question to raise. Even if the casual work is defined, as suggested by him, the department may terminate the casual labour before the end of that period. Generally, work for a period of 180 days or 6 months will be considered in the nature of casual work. But, before that period is coming to an end, the department will terminate the services of casual labourer and re-employ them.

SHRI HATHI: The work would remain work. If the work is lasting whether the man remains or not, it does not matter. That is why the work is going to be defined.

MR. CHAIRMAN: These things we can discuss among ourselves. Why should we take the advice of the witness in this regard?

Mr. Chaubey, thank you very much for giving us many useful suggestions.

(The witness then withdrew)

II. National Federation of Indian Railwaymen, New Delhi.

and

Indian National Trade Union Congress, New Delhi

Spokesman:

Shri Keshav H. Kulkarni, Joint General Secretary, N.F.I.R. and Member, I.N.T.U.C. Central Executive Committee.

(The witness was called in and he took his seat.)

SHRI K. H. KULKARNI: My name is Keshav H. Kulkarni. I am the Joint General Secretary of the National Federation of the Indian Railwaymen. I represent here my Federation and also the INTUC.

MR. CHAIRMAN: Before you start, I may tell you that "where witnesses appear before a committee to give evidence the Chairman shall make it clear to the witnesses that their evidence shall be treated as public and liable to be published, unless they specifically desire that all or any part of the evidence given by them is to be treated as confidential. It shall, however, be explained to the witnesses that even though they might desire their evidence to be treated as confidential such evidence is liable to be made available to the members of Parliament." Now we start. Your memorandum has been distributed to the Members. What else have you to say?

SHRI K. H. KULKARNI: This Bill particularly is of some significance to the Railways. Railways are one major industry where a very large force of contract labour is employed—beyond 3 lakhs—mainly in the occupation of handling of coal and goods and the engineering works, etc. And the organization which I have the privilege to belong to, viz. the National Federation of India Railwaymen, has been repeatedly demanding that the conditions of work of contract labour are really bad and this system should be abolished, and from that point of view, Sir, as I have already noted in the memorandum, my organisation welcomes this Bill. With this intro-

duction I would like to say further that a lot of discussion has been taking place in various forums on the subject since, perhaps, for the last three or four years. Now, in the context of these discussions, this Bill, so far as my organisation is concerned, is not completely satisfactory. The object, as has been stated by this Bill, is to regulate or abolish the system of contract labour. I have gone through the various provisions of this Bill and I wonder if either of these purposes, whether the regulation or the abolition, is going to be achieved in the way in which the various provisions have been framed. This general observation I am making and I would like to support this observation when I come to certain details about the provisions of this Bill. Only one or two examples I want to quote.

So far as regulation is concerned, Sir, there have been in Chapter IV certain provisions relating to welfare and other health amenities, etc. I have to refer to the judgment of the Supreme Court in the case of Standard Vacuum Oil Company and the subsequent recommendation made by the 19th session of the Indian Labour Conference. The subject was under discussion subsequently in the Standing Committee of the 19th session of the Indian Labour Conference. Their recommendation was very comprehensive. And actually this recommendation was based on the judgment of the Supreme Court, and besides various things had been laid down in that resolution. Take for example, the recommendation of the 19th Session relating to certain conditions regarding fixation of wages, holidays, question of overtime, question of rest, etc. These are things which are very neces-

ary. These things need to be mentioned categorically in this Bill. Our view is that so far as the regulation aspect is concerned, whatever provisions have been made, they are welcome no doubt but at the same time they are too inadequate, looking to the problem and also in the background of the recommendations of the Indian Labour Conference. So far as regulation is concerned, I have made a mention in our memorandum itself that the provision that has been made is not completely to our satisfaction.

I want to make a special mention about prohibition of contract labour. I am going to explain as to why my organisation is not satisfied with this particular provision. There is nothing specific whether a particular occupation is to be prohibited or not to be prohibited.

I would also like to draw your attention, Sir, to another thing. It is not as though in case where it is unpracticable or where it is not feasible, the Government can intervene in the matter to save the situation. I think already there is a provision there and the Government have already the power even to grant exemption in certain cases. About this my organisation feels very strongly. This is a matter about which sufficient consensus has developed in the country. These are things which are capable of very precise definition. There is no question of any confusion or equivocality, so far as the four types of works enumerated by the Supreme Court are concerned and also the 19th Labour Session came to that conclusion. It has been laid down that we can demarcate these types of work which need not be executed by contractors. I think that provision should be there.

I work in an industry which is run under the management and control of the Government and feel special difficulty in these things. This Bill is of significance to the Railways where a very large force of contract labour is being employed. Unfortunately or fortunately, our employer happens to be the Government. If we see it in

the background of our situation as the organised labour in this industry. I would only like to say that our experience is not so pleasant one. When it comes to implementation of a particular thing we have seen this Ministry's working, thinking, acting as employer. This is a sort of confusion when the Government is the employer. Our suggestion is that in those four types of jobs which have been enumerated by the Supreme Court, contract labour should surely be abolished and as I have already pointed out that in case we are going to face a situation where the question of unpracticability or unfeasibility will come up the Government has got powers to exempt particular works and, therefore, that safeguard is there.

Now, I have made a mention in our memorandum about advisory boards for industries because the contract labour is engaged in more than one industry and the nature of these industries is different and the problems may be different according to those industries. For example, the problems of contract labour in sugar industry which may be seasonal are not bound to be same in coal mining industry or in railways. This Advisory Board, as I have seen from this Bill, is going to play an important part in this Act and, therefore, if we really want to serve the real purpose—because there is a provision for consultation—at least in the case of these major industries where there are special problems, special industrial advisory boards should be appointed for example, for coal mining industry, railway, etc..

Regarding other sections there is a repeated reference about Government taking decisions in consultation with the advisory boards. We are afraid if these things are mixed up and there is only Central Advisory Board we may not be able to do adequate justice to the particular industry and, therefore, while no doubt the question of committees may be there—actually this point was discussed at the Standing Labour Committee and the suggestion was made for different committees—

but looking to the whole scheme of the Bill and the way these advisory boards are going to play vital part Committees may be too inadequate and, therefore, at least so far as these major industries are concerned our view is that there should be separate advisory boards.

Now, at the end of clause 10 there is an explanation which is very important. It says "if there should arise any question about a particular work being perennial or not then in that case the decision of the appropriate Government thereupon shall be final". Here, I would only add that as you are going to form these advisory boards for the effective administration of this Act so whatever the decisions are going to be taken—because this word 'perennial' is all the more important because giving the benefit or otherwise of this particular legislation depends upon how you feel about this or how you interpret it.

MR. CHAIRMAN: Here I want to ask you instead of defining what is perennial work if the nature of work that is casual or not is defined then the rest will be 'perennial'. Will that serve the purpose?

SHRI K. H. KULKARNI: If it can be specifically defined well and good but, in case, it cannot be defined....

MR. CHAIRMAN: Why it cannot be defined? It is given in this Bill.

SHRI K. H. KULKARNI: Then the explanation would not be necessary. My only suggestion is that in case such a decision is to be taken that advisory board should be consulted such decisions should be taken only after consultation with the advisory committee.

Again about clause 10(a) where a particular type of work is described "whether the process, operation or other work is incidental to or necessary for the industry—" I think this 'incidental to' sometimes may not correctly express all types of contract labour engaged in the industry.

SHRI HATHI: You want that the explanation there that the decision should be taken in consultation with the advisory committee.

SHRI K. H. KULKARNI: Yes.

Now, 'incidental to'; along with 'incidental to' we wish it should be 'incidental to or connected with' because there are different types of work for example, in the case of Railways loading of the coal—now coal handling may be incidental to railway work but maintenance work is not incidental but connected and a large force is engaged in the engineering contracts. Therefore, 'incidental to and connected with' will cover a major portion.

Then I come, Sir, to clause 21. I have said first that under clause 21 there are only certain responsibilities fixed on the principal employer. No doubt, it is according to the recommendations of the Tripartite Body. As I have already remarked this Section is not adequate to give protection to contract labour. Here, the only abuse which is checked is that of short payment and also some responsibility is thrown on the principal employer. So, there would be more checks against short payment. But the question is who is going to fix the wages. This question came up before the tripartite body and at that time it was said legislative measures for fixing standard wages should be taken. It is a very important question. This question of wages is more important than these welfare and health measures and, therefore, until and unless that provision is made this question of regulation will not be satisfactorily solved at all. Therefore, this standard wage fixation should be there. So, we insist that this question of fixing up of standard wages for these contract labourers should be included and along with it the other subject matters which were included in the 19th Indian Labour Conference should find place in it.

SHRI HATHI: In clause 12(2) there is already provision for fixation of

minimum wages in the conditions of the contract. And these will be fixed for each industry.

SHRI K. H. KULKARNI: That is right. But we feel that it should be specifically mentioned in the clause itself. We were also thinking whether these sorts of establishments would be covered by the Shops and Establishments Act also, but there were some difficulties, and we felt that that Act might not cover them. I have seen many of the States Acts and I find that they may not cover them, and there may be some difficulties. Therefore, so far as these matters are concerned, a special provision will have to be made. There would also be many other difficulties if we depended on them. So, it will have to be done through this measure itself. Further, this Act is going to be administered partially by the Centre and partially by the States and in certain States we are going to face really very complicated situations.

For example, take the case of railway contracts. The contract may be on the railway basis. But the railways do not run according to the States. For example, take the Jaipur division of the Western Railway. It runs through Punjab, Haryana, UP, Rajasthan, Gujarat, Madhya Pradesh, Maharashtra etc. There are nearly seven States. The rules and orders issued in the different States may be different, and therefore it will make matters complicated.

Taking into consideration all these factors we have suggested that these things should be specified in the Bill itself. Already, we have some guidelines laid down. For instance, in the Shops and Establishments Act, we have provided for the hours of work, the rest period, how the overtime payment should be regulated and so on. There is one thing, however, which I would like to mention, namely that whatever hours of work may be there should be at least uniform. The maximum number of hours prescribed

for contract labour workers should be uniform. Under clause 12(2) it may form a part of the contract. But what I would suggest is that the hours of work, the payment rates, the rate of overtime payment, the rest period, how the rest period should be controlled and so on should not be provided for separately but should form a part of this legislation itself, as has been done in the case of the Shops and Establishments Act and other such legislations.

Then, I come to clause 26 which says that no court shall take cognizance of any offence under this Act except on a complaint made by or with the previous sanction in writing of the inspector. In my view, this is not a satisfactory provision.

We have suggested already that there should be a provision similar to that under the Payment of Wages Act, under which there should be a separate authority for the purpose. We are going to introduce many new things through this legislation, and, therefore, a sizeable amount of labour will be there. Therefore, I would like to reiterate the suggestion which we have already made that the provision here should be similar to those under section 22 and section 15 of the Payment of Wages Act....

MR. CHAIRMAN: So that the trade unions also could file complaints.

SHRI K. H. KULKARNI: Under the present provision, unless the inspector gives permission, there is no chance of the employee getting any relief at all or getting any of his grievances redressed. So, this particular provision should be modelled on the basis of section 22 of the Payment of Wages Act and there should also be an authority as appointed under section 15 of that Act so that whatever relief has to be obtained can be obtained from that relief authority, and that relief also would establish whether the Act has been followed or not, and the decision of that authority would be enough ground for any court to take cognizance of any case regarding it.

There is another reason why I want to make this suggestion. Again, I would take the example of the railways. As I have already explained, our experience has not been a pleasant one so far as these matters are concerned. In spite of various laws that have been there, our standing complaint is that the implementation of the various labour laws especially in the departmental undertakings of Government has been very indifferent, and very much halting too. We have repeatedly brought these things to the notice of the Administration. There is not only the question of exemptions, but there is the question of these departmental undertakings exempting themselves from the various provisions of the labour legislation. Every year, the Labour Ministry publishes reports about the administration and working of the Hours of Employment Regulations, the Workmen's Compensation Act, the Payment of Wages Act etc. in the railways. Every year, the Labour Ministry quotes a number of cases where particular provisions have not been followed and have been violated; the next report only contains information to the effect that so many irregularities were found and they were brought to the notice of the Administration, so many of them had been rectified, so many were under review and so many were under processing. That is all that happens. Is this the way the Government would have dealt with an employer if he had violated a law, if he were a private employer? The whole difficulty is because the question of delicacy between sister departments come into the picture, and whatever legal protection would be there for the workers to secure the benefits under particular laws is not there in these Government undertakings. We are afraid that if clause 20 or clause 26 is allowed to remain in its present form, the same thing may happen, so far as these industries are concerned. Moreover, when we make a definite law where we confer certain rights on the employees, we should also provide that if the employee feels that a particular benefit has not been extended to him,

he should have the right to seek remedy in a court of law in respect of the redressal of the grievance that he has. Therefore, this clause should be totally changed and provision should be made for the appointment of an authority as under the Payment of Wages Act. That is all that I have to say.

DR. RANEN SEN: The witness has made very important statements covering many points not covered in the memorandum. So, I would request that his statement in the verbatim form may be circulated to all of us.

MR. CHAIRMAN: The evidence would be circulated as usual.

SHRI S. KUNDU: You have stated that some sort of authority should be set up as is done under the Payment of Wages Act. But the authority under the Payment of Wages Act is for the purpose of realising certain dues, and the provisions followed by that authority are those of the Civil Procedure Code. But here we are concerned with prosecution under a penal provision. That is why a Presidency Magistrate or a magistrate of the first class has been mentioned, and he can sentence the man to imprisonment for three months or a fine of Rs. 500 and the provisions to be followed for that purpose would be those of the Criminal Procedure Code. So, your suggestion for the establishment of an authority as under the Payment of Wages Act would not strictly apply in this case. Secondly, you have said that the provision here that the inspector will decide whether to file a complaint or not may not render justice to the trade union or to the workers. And you have suggested that consultation with the advisory board at the Centre or at the State level should be made and the advisory board may decide it. If I have understood you correctly, I think you have suggested this. To get relief and justice, a certain course will be followed. I think the advisory board will be consulted.

SHRI K. H. KULKARNI: I should thank the hon. Member for this query because one particular point had not been explained well. We say that if a particular wage is due to the contract labour and if the contractor does not pay, the principal employer becomes responsible. If the wages are not paid how is the employee going to recover it? There is no mention about it in the Bill. My suggestion is to incorporate the provisions in sections 15 and 22 for appointing the necessary authority for the recovery of the wages and also for the courts to take cognizance.

MR. CHAIRMAN: So far as wages are concerned, the union may go to the court. What about the penalty to be given? Or are you concerned only with the payment of wages?

SHRI K. H. KULKARNI: With penalty also. Once the court comes to the conclusion that the wage has been delayed or denied, the offence is established; the law has been violated. There is no necessity to obtain anybody's sanction thereafter.

SHRI S. KUNDU: Since you say that you generally welcome this Bill, are you satisfied that this Bill is going to do something to abolish contract labour? First of all, are you in favour of complete abolition of contract labour? Secondly, does this Bill which you have generally welcomed go to abolish contract labour?

SHRI K. H. KULKARNI: We welcome the Bill because it is the first step ever taken towards stopping the abuses of the contract labour system. We are of the definite view that the contract labour on the four types of works mentioned in the judgment of the Supreme Court should be abolished totally.

SHRI S. KUNDU: Please refer to section 10(1). Some attempt has been made to abolish contract labour. Sub-section (2) however limits this attempt and imposes certain conditions. The Explanation puts further limita-

tions and gives the Government certain discretionary powers.

SHRI K. H. KULKARNI: About section 10, I have already placed my views. We do not think that the provision in clause 10 goes to abolish contract labour. It only enables the Government to do certain things. My objection is that the background in which this particular legislation has come is such that no discretionary powers of this nature need to be left with the Government. The provision should be specific and totally prohibit the employment of contract labour in these four types of works. As for the other kinds of works, powers may be given to the Government to do things as and when the necessity arises.

SHRI K. A. NAMBIAR: I welcome your views on clause 10. It says that the Government may do something after consultation with the Central or State Board and so on. It is somewhat loosely worded. You say that contract labour in these four categories of works may be straightaway abolished and powers may be vested with the Government only in respect of other types of works. If contract labour is rightway prohibited in these four categories of works, how will it help you in the Railways?

SHRI K. H. KULKARNI: In respect of a very large number of workmen this problem is going to be solved because there are certain types of work on the railways which are regular railway works but which are got done by contract labour. And of late, we have been seeing that tendency, a tendency which has been growing alarmingly,—that whatever work that we should have done departmentally also is being further handed over to the contractors. Actually our organisation is very sore about it and it has taken up the matter with the authorities also. We are of the view that once the Supreme Court has given a verdict—whether you call it a judgment or not—it has all the moral

force behind it, being the verdict of the highest judicial body in the land and especially the government department should try to stick to it.

Thereafter, there was the 19th Labour Conference which gave its unanimous recommendations, and the Government of India and particularly the Ministry of Railways participated in that conference. Subsequently, this Bill was introduced on the 31st July, and it has been circulated. As has been mentioned in the Statement of Objects and Reasons, the principles have been accepted by the Government of India, but even in spite of that, we have been witnessing that more and more regular work which was being executed departmentally all these years is now being passed on to the contract labour in the name of economy or for so many other reasons. Therefore, if even in these four types of work, contract labour is provided to a very large extent for a substantial number of employees, it is going to provide relief.

SHRI K. A. NAMBIAR: Is this information of mine correct? That is, the work of loading and unloading of coal, transshipment in goods sheds, labour such as khalasi, etc., in the loco-sheds and of late, servers in the departmental canteens,—all this work which was being done previously by the department, is now being more and more handed over to casual labour.

SHRI K. H. KULKARNI: Casual labour is dealt with differently, though it is very much true that the conditions of casual labour are equally pitiable. On the Railways, there have been certain rules and regulations for governing casual labour, but all these people can be covered by legislation. If that is done, it would be very well, but I am unable to give any suggestion in that respect. That is a large force in the Railways; it runs nearly to several hundreds and their condition is very pitiable. These people depend solely on the mercy of their immediate bosses, and we know, for example,

that apart from their conditions of work, whatever benefit the Railway Ministry have thought of, that benefit is not reaching these people actually.

So far as coal and other things are concerned—loco-sheds, etc.—there need not be any work which could be got done by contract. Loading of coal in engine tenders is a loco-shed job and this is a job where you are going to require a number of persons throughout the day for all the shifts. There is no question of season. For every day you are to have a particular number of persons to load the coal in engine tenders. There may not be any contract labour for that. About transshipment also, it is regular work.

MR. CHAIRMAN: To cut it short, his question was that there are some items of work which was done previously by the department. Now, they are being shifted. Can you give a list of such items of work which were done by the department earlier and in respect of which there is a shift now? We would get then an idea about it.

SHRI K. H. KULKARNI: I have already made a statement about the handling of coal and goods.

SHRI K. A. NAMBIAR: Then there is the question of transshipment of goods from metre-gauge to broad-gauge. This work can be handled by the permanent staff; but that is being given to casual labour. Sometimes it is given to contract labour. That is my information; but that system is wrong. Now, the point is you feel that about 2 lakhs persons are employed on the Railways in the name of casual labour.

SHRI K. H. KULKARNI: It must be more than that number.

SHRI K. A. NAMBIAR: You feel that casual labour also should be brought within the purview of this Bill so that they may be given some guaranteed minimum conditions of

work and pay. You know that casual labour gets such Rs. 2 per day, and the total emolument will come to not more than Rs. 136. If you take the class IV employees, there is so much of gap between these two categories. This must be eliminated.

Then, the other point is this. You say that the Payment of Wages Act—sections 15 and 22—should be brought in so that relief can be given to contract labour, and that authority must be there. Will it satisfy you if the authority is given to give relief from the contractor; so far as the railway is concerned, the applicant must have the right to file a suit against both the contractor and the principal employer of the railway. Don't you feel that it is necessary to do so?

SHRI K. H. KULKARNI: The principal employer comes in only when the contractor fails in his responsibility, and duties. So, if the contractor has failed in his duty, the principal employer becomes responsible.

SHRI K. A. NAMBIAR: Casual labour employed in the vicinity where the construction is going on, gets only eight annas a day. Before the labourer goes to the Payment of Wages authority, the contractor or the fellow who had employed him runs away after the work is over. This must be avoided the right of petitioning to the authority must be there and the General Manager or the Divisional Superintendent must be empowered to give relief.

SHRI K. H. KULKARNI: It will be against the principal employer because ultimately he is responsible for making all payment.

SHRI K. A. NAMBIAR: That is a very good suggestion; now, with regard to casual labour, there is one difficulty. It is not contract labour as such. If the Loco Fireman or the PWI who employs casual labour steps into the shoes of the contractor and acts in every way just as the contractor does, and employs people according to his

whims and fancies or terminates the employee's services according to his own whims and fancies, then, that system is actually contract labour. How do you define contract labour then?

SHRI K. H. KULKARNI: I would put it differently. There is some difference between contract labour and casual labour. So far as casual labour is concerned, the rates of wages are fixed; the hours of work are fixed; their rest periods are fixed. There are so many other conditions also which are fixed. There are rules also to govern the conditions of casual labour. The only thing that one can do is, after, say, six months, they should be treated as temporary employees. That is the utmost that one can do. But they may try to bring an artificial brake so that the period of six months will not be complete. There must be some rules laid down.

SHRI K. A. NAMBIAR: So far as salaries and wages are concerned, it may range from Rs. 1½ to Rs. 3, whereas according to the Central Pay Commission, the minimum for a loco-shed kalasi is a total emolument of Rs. 136. But nowhere do I find that casual labour which is employed gets Rs. 136. Is that also fixed?

SHRI K. H. KULKARNI: Our Federation has very fixed views on this question. Our demand is that so far as casual labour is concerned, they should get 1/20th or 1/30th of the minimum of the time-scale allowed to the skilled or unskilled worker engaged in that job, for this particular occupation, taking leave days into consideration. If it is an unskilled labour, he will get Rs. 70 as pay plus dearness and other allowances that may be there. One-thirtieth of that a day the casual labour must get.

SHRI K. A. NAMBIAR: Your Federation is categorical with regard to the temporary and continued service of this casual labour so far as they are used in maintenance work. What is your view with regard to their confirmation etc.-

SHRI K. H. KULKARNI: Under the rules, casual labour can be employed only on such jobs which are casual in nature or on projects which are not supposed to last for a long time. But on projects which may last for a long period, the labour employed is casual. Our Federation is of opinion that if he continuously puts in six months' service, at the end of six months he should be treated as a temporary employee and should be allowed time scale of pay. When there is a vacancy and the question of his absorption, he should be screened and if he is medically fit, he should be given preference for appointment. When he is appointed to a regular job, he should be given credit for whatever service he has put in as casual labour.

SHRI S. KUNDU: Shri Nambiar suggested that in case the contractor does not pay, there should be a provision that the money should be realised from the principal employer. In this connection I should draw your attention to sub-clause (4) of clause 21 which says that in case the contractor fails to make payment of wages within the prescribed period or makes short payment, the principal employer shall be liable.

DR. RANEN SEN: In the first place, you want only abolition of contract labour in certain categories mentioned in the Supreme Court Judgment. Does that mean that you are opposed to the progressive abolition of contract labour?

SHRI K. H. KULKARNI: No. Our suggestions are that in the four types of work contract labour should be straightaway abolished. For the rest the point should be examined whether there are other types of work which are similar in nature and the Government should be empowered to include them also for prohibition. Then, there should be well laid down regulating conditions in this legislation itself so that if it cannot be abolished we make available to these employees certain minimum conditions.

DR. RANEN SEN: What gives rise to such an apprehension, namely, if it cannot be abolished? Will you elaborate on this point? Why do you think it is not possible or its utility is not there?

SHRI K. H. KULKARNI: We are not in a position to think of certain eventualities and only with a view to safeguarding against those eventualities we said that. It is not possible actually to say because conditions may differ in different industries. For example, in plantations, which is very highly seasonal, sometimes there may be work and sometimes there may not be work. There may be some particular work which may be of a regular nature or which may last only for a very short duration. We are not in a position to comprehend all these things.

DR. RANEN SEN: Therefore can I conclude that to begin with you want that in these four or five categories it should be abolished straightaway and then gradually, in a phased manner, if it is possible and desirable all attempts have to be made to see that in other categories also it is abolished?

SHRI K. H. KULKARNI: Yes.

DR. RANEN SEN: Then I want to draw your attention to Chapter VI about penalties and prosecution. You must have noticed that in other labour laws, namely, the Industrial Disputes Act, there is a provision to penalise the employer for continuing offence. Since you are making some valuable suggestions in regard to the payment of wages, clauses 15 and 22, could you suggest any provision to deal with continuing offences?

SHRI K. H. KULKARNI: It will add as a further deterrent if such a provision is made.

SHRI HATHI: Clause 23 is there about continuing offences.

DR. RANEN SEN: I am grateful to you for pointing it out to me. Thank

I will ask the witness: Do you think that the penal measure suggested in clause 23 is a sufficiently deterrent measure to control or prevent these malpractices? Do you think that Rs. 500 for a big firm, like Birlas or Tatas, is a deterrent punishment?

SHRI K. H. KULKARNI: I am not able to reply to this question.

SHRI HATHI: There may be a small contractor for whom it is a big amount.

DR. RANEN SEN: But you have limited the ceiling. That is the difficulty. If the floor is there, I can understand.

Then, I want the opinion of the witness on another important clause, clause 12(2) about the licensing of contractors. What is your reaction to this particular provision?

SHRI K. H. KULKARNI: I have already suggested. So far as these things are concerned, the legislation itself should contain as to what it should be—it should lay down a machinery for fixation of wages in detail.

DR. RANEN SEN: With regard to Chapter VII, clause 28(2) don't you think the appropriate government has been given wide powers regarding application of this Act?

SHRI K. H. KULKARNI: The difficulty would be felt where the appropriate government happens to be the employer; in certain situations I have doubts in my mind how far the provisions would be extended to them.

DR. RANEN SEN: In view of what you have said earlier, what is your reaction regarding certain wide powers given to appropriate government? With regard to railways the appropriate government is central government.

SHRI K. H. KULKARNI: Our view is, straightway there should be a pro-

vision for abolition—and not give them any discretionary powers.

SHRI SHRI CHAND GOYAL: You mentioned about 4 suggestions of the Supreme Court and suggested that provision should be made in the Act that these could be prohibited and no contract labour will be employed with regard to these four categories. This leaves scope for misusing the provision because the casual work and perennial work has not been defined anywhere. What do you suggest, should we define casual work as work which does not go beyond 3 months, beyond 90 days—any work is casual work which is finished in 90 days—that will be casual work and all other work which goes beyond that will be perennial or permanent work where contract labour will not be employed? Will that be necessary to define this casual work to distinguish it from perennial and permanent type of work?

SHRI K. H. KULKARNI: I already said about it, on Cl. 10. I said it would be better to give precise meaning to this perennial work. Instead of allowing discretionary power to Government in the matter we may give precise meaning.

SHRI SHRI CHAND GOYAL: Will 90 days be enough?—a work which does not go beyond 90 days will be taken as casual work—will that be enough?

SHRI K. H. KULKARNI: I wonder if we can lay down specifically so far as all industries and all types of work are concerned. It is very difficult.

MR. CHAIRMAN: It will not be possible in all cases.

SHRI K. H. KULKARNI: Different industries do different types of work.

SHRI SHRI CHAND GOYAL: If you, in this Act, declare that according to the suggestion of the Supreme Court in 4 categories no contract labour will be employed will it cover those cases in which efforts are made to take work through contract labour?

SHRI K. H. KULKARNI: It will cover those cases. I have already replied to that. Substantial number of persons in railways are being covered.

SHRI SHRI CHAND GOYAL: You said there should be advisory board for each industry. Why can't we have persons representing various industries on the board, say, 2 representing mining industry, 2 from Railways, 2 from ports, etc. and with ordinary intelligence don't you think it will be possible for them to grasp the problem of all the industries and one board will be enough and there is no necessity of having separate boards for each industry? What do you say on that?

SHRI K. H. KULKARNI: I would clarify. When I plead for industry-wise boards I did not plead against central advisory board. What I said is besides the Central advisory board. Besides that there will be industry-wise boards for problems connected with particular industries—important, major industries.

SHRI SHRI CHAND GOYAL: It is in the mercy of the inspector to give sanction or instal the machinery, etc. Now these penal provisions cannot be pressed into service. So what is your suggestion? Should there be a machinery? Or do you think that every office bearer of the union should be given the authority of bringing these provisions into play? What is your idea?

SHRI K. H. KULKARNI: My suggestion actually goes some steps ahead. My suggestion is that either the employee aggrieved or the trade union to which he belongs may apply to the authority concerned for relief.

SHRI SHRI CHAND GOYAL: There is a provision in the Act that in such matters the decision of the Government will be final. Don't you think that a machinery consisting of retired judges or acting judges should be created to take decision in such matters, instead of leaving it to the Government?

SHRI K. H. KULKARNI: If there could be some way of precisely defining the word 'perennial' we will welcome it.

MR. CHAIRMAN: There is a demand that the Act itself should define the word 'casual'.

SHRI SHRI CHAND GOYAL: The Act says that this will not apply to establishments where less than 20 people are working. What do you think of this?

SHRI K. H. KULKARNI: I think it should be all right. We have no comments.

SHRI SHRI CHAND GOYAL: With regard to advisory boards, you have suggested that there should be industry-wise advisory boards. After going through the constitution of the Central Advisory Board given in clause 3, do you still suggest that there should be industry-wise advisory boards? If representation is given to a few more categories, don't you think that it will meet your purpose?

SHRI K. H. KULKARNI: Our purpose in suggesting industry-wise advisory boards is this. The nature of contract labour and the type of work differ from industry to industry. In coal mine industry the position is different from what it is in the plantation or Railways. The period or duration will differ from industry to industry. If these could be isolated industry-wise, it would be very easy and will facilitate solution of those problems concerning those industries. Otherwise, the significance of each may not be understood.

SHRI SHRI CHAND GOYAL: You have suggested industry-wise advisory boards. Can you also suggest their constitution?

SHRI K. H. KULKARNI: The same as in the Central Advisory Board.

SHRI S. D. PATIL: With regard to clause 21, you have said in your statement that there is a fear that there

will be short payments so far as this system is concerned. Can you suggest any ways in regard to this?

SHRI K. H. KULKARNI: What I said was that this clause 21 provides safeguard only against one eventuality and that eventuality is short payment. In case there are short payments, there are double checks on account of the principal employer being witness to the payments, and in the absence of the payment, he is being made responsible for it. This provision itself is not sufficient. There should be a provision laying down standard wages and other conditions.

SHRI S. D. PATIL: Is that not fixed nowadays?

SHRI K. H. KULKARNI: No. The contractor fixes his own rates.

SHRI R. S. VIDYARTHI: While you were elaborating your statement, Mr Chairman posed a problem about the definition of the term 'perennial' and 'casual' in the Bill. Are you satisfied with that?

SHRI K. H. KULKARNI: If it is defined, it will be all right.

SHRI R. S. VIDYARTHI: In that case you will like that the Government should just see the implementation part of it. There you do not want the Board to come in.

SHRI K. H. KULKARNI: So far as the Boards are concerned, there may be so many other things to do. The Central Advisory Board is to advise the Government of India regarding the administration of the whole Act. In case it is not capable of being precisely defined, I had suggested that instead of giving the power to the Government to decide, it may be stated that the decision may be taken by the Government after consultation with the Advisory Board.

SHRI A. P. SHARMA: Would you like to leave the whole representation to the Government, or would you like that the Board should be associated with that?

SHRI K. H. KULKARNI: The whole administration of the Act is to be carried on on the advice of the Central Advisory Board.

SHRI A. P. SHARMA: That is right. But about this?

SHRI K. H. KULKARNI: About this also.

SHRI DEVEN SEN: I was really very glad to read your memorandum because you have done your best to the labour. I should thank you for that. I would invite your attention to clause 10 of the Bill and also to your statement in paragraph 2. Clause 10(1) says "Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board . . ." etc. What is this Central Board? You please come to clause 3 on page 4 of this Bill. Don't you see that it is packed with employers as it now stands? Therefore, you may very well visualise what will happen to your point of view there. I am very much afraid of leaving everything to the Central Board. You have not suggested the composition of this Board. The Chairman to be appointed by the Central Government, the Chief Labour Commissioner, a Central Government servant and then such number of members not exceeding seventeen as the Central Government may nominate to represent that Government, the Railways, the coal industry, the mining industry, the contractors, the workmen and any other interests which, in the opinion of the Central Government, ought to be represented on the Central Board. From this we may say that the advice of the Board cannot be effective.

Then on page 2 of your Memorandum you say that the provision made in Clause 10(1) of the Bill is only an enabling legislation empowering the Government to prohibit by a notification employment of contract labour in any establishment. It does not seek specifically to prohibit contract labour. We would like to know what you mean by this.

SHRI K. H. KULKARNI: We have approached the problem from a different angle. So far as the four types are concerned, there need be no consultation. There should be provision in the Bill itself.

SHRI DEVEN SEN: You are wanting a change in the nomenclature of the Bill or the definition of this Bill so as to cover the Casual Labour because another Bill will take another ten years to come.

SHRI K. H. KULKARNI: It could be done by a separate provision.

SHRI DEVEN SEN: We have been told by some witnesses that your officers are sometimes taking men for casual labour at lower rates than the prescribed rates.

SHRI K. H. KULKARNI: Actually these rates are specified. Different areas have got different rates. It all depends on regions; it is not same at all places and at all times. The rate varies from 1.50 to 3.50. The rates are in published documents.

SHRI DEVEN SEN: Is the standard rate different from the C.P.C. rates?

SHRI K. H. KULKARNI: Yes, they are different. For casual labour, our view is that it should be 1/30th or 1/26th of the minimum in the time-scale for the particular job. For skill-

ed labour now it is 110 and for unskilled it is 70 plus whatever allowances are there.

SHRI DEVEN SEN: Even after regulations have been implemented, there will still be residue of contract labour. Do you want that amenities should be provided to them also?

SHRI K. H. KULKARNI: It is necessary that certain minimum conditions of work must be provided. Housing should also be included in that. The most important among these are, in the order of priority, standard rates of wages, leave, overtime, weekly rest day, etc.

SHRI DEVEN SEN: Do you think that the loading and unloading which takes the character of a permanent feature in an industry can be done by contract labour?

SHRI K. H. KULKARNI: It is a regular departmental work; it is continuous also. This regular railway work should be done departmentally.

MR. CHAIRMAN: Thank you very much, Mr. Kulkarni.

(The witness then withdrew)

(The Committee then adjourned).

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CONTRACT
LABOUR (REGULATION AND ABOLITION) BILL, 1967

Thursday, the 26th September, 1968 at 11.00 hours.

PRESENT

Shri Kashi Nath Pandey—*Chairman*.

MEMBERS

Lok Sabha

2. Shri R. K. Amin
3. Shri M. Deiveekan
4. Shri Shri Chand Goyal
5. Shri Ram Krishan Gupta
6. Dr. Ranen Sen
7. Shri Hukam Chand Kachwai
8. Kumari Kamla Kumari
9. Shri K. Ananda Nambiar
10. Shri S. D. Patil
11. Shri S. P. Ramamoorthy
12. Shri Viswasrai Narasimha Rao
13. Dr. Sisir Kumar Saha
14. Shri P. M. Sayeed
15. Shri Deven Sen
16. Shri B. Shankaranand
17. Shri Biswanarayan Shastri
18. Shri S. M. Solanki
19. Shri R. S. Vidyarthi
20. Shri Virbhadra Singh
21. Shri D. R. Chavan
22. Shri K. R. Ganesh
23. Shri Samarendra Kundu

Rajya Sabha

24. Shri Binoy Kumar Mahanty
25. Shri Dalpat Singh
26. Shri A. C. Gilbert
27. Pandit Bhawaniprasad Tiwary
28. Shri Sherkhan
29. Shri Sriman Prafulla Goswami

30. Shri Sanda Narayanappa
31. Shri Prem Manohar
32. Shri Rewati Kant Sinha
33. Shri Suraj Prasad
34. Shri Brahmanand Panda
35. Shri Jaisukhlal Hathi

LEGISLATIVE COUNSEL

Shri P. L. Gupta, *Addl. Legislative Counsel, Ministry of Law.*

REPRESENTATIVES OF THE DEPARTMENT OF LABOUR AND EMPLOYMENT

1. Dr. S. T. Merani, *Joint Secretary, Department of Labour & Employment.*
2. Shri H. K. Chaudhry, *O.S.D. (Law), Department of Labour and Employment.*
3. Shri S. C. Gupta, *Deputy Chief Labour Commissioner (Central Department of Labour & Employment).*
4. Shri C. R. Nair, *Under Secretary, Department of Labour and Employment.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

WITNESSES EXAMINED

I. *All India Manufacturers' Organisation Bombay*

Spokesmen:

1. Shri B. D. Somani
2. Shri N. D. Sahukar
3. Shri Hem Chand Jain

II. *Employers' Federation of India, Bombay*

and

All India Organisation of Industrial Employers, New Delhi

Spokesmen:

1. Shri Pran Prashad
2. Shri Santosh Nath
3. Shri Madan Ghosh
4. Shri M. M. Sethi

1. *All-India Manufacturers' Organisation, Bombay*

Spokesmen:

1. Shri B. D. Somani
2. Shri N. D. Sahukar
3. Shri Hem Chand Jain

(The witnesses were called in and they took their seats).

MR. CHAIRMAN: Direction 58 of the Directions by the Speaker under the Rules of Procedure of Lok Sabha reads thus:

"Where witnesses appear before a Committee to give evidence, the Chairman shall make it clear to the witnesses that their evidence shall be treated as public and is liable to be published, unless they specifically desire that all or any part of the evidence tendered by them is to be treated as confidential. It shall, however, be explained to the witnesses that even though they might desire their evidence to be treated as confidential such evidence is liable to be made available to the Members of Parliament."

We have received your memorandum and we have gone through it. If you want to supplement or clarify any point further, you may do so now.

SHRI B. D. SOMANI: We will emphasise a few points. First of all, we are grateful to you for giving us an opportunity to appear before the Joint Committee. We know the Bill is of vital importance. The object is no doubt laudable—to regulate the conditions of work of labour engaged by contractors in various spheres of activity.

We would, however, like to explain our apprehensions. The work done by contractors connected with industries is of such a wide and varied nature that sometimes the flow or regulation of it is beyond the control of the industry. Take, for example, loading and unloading operation connected with railway wagons. The supply of railway wagons is beyond the control of the industry. It fluctuates very widely. We cannot say how many wagons will arrive at a particular time. Suddenly 20 wagons may arrive or there may be no wagons coming when they are expected. Then sometimes during monsoon, interruption of the railway traffic is there. All this

uncertainty is there. The contractors engaged for loading and unloading operations employ workers whose work fluctuates depending on these aspects. Besides, the timing is also not within the control of the industry. When railway wagons come, we are just allowed four hours to load or unload, irrespective of the number of wagons involved, whether it is four or twenty. If we do not do this within that time, we start incurring heavy demurrage for detention beyond the permissible limit. The regulation of such contractors is dependent upon the availability or otherwise of railway wagons, which is beyond the control of industry.

Another aspect is that some type of work may be seasonal in character. Take the sugar industry and mining operations. Mining operations take place only in the dry season; during the rainy season, they are normally stopped. The supply of materials received in the factory is again regulated during the seasonal work by the factor of transport capacity and transport bottlenecks created in the country.

Then there is another type of work, supply of packing cases, gunny bags etc. For this a certain amount of labour force is engaged. If a second-hand gunny bag gets torn, it is the duty of the contractor (supplier) to sew it and rectify other defects to see that there is no leakage. For mending, repairing, overhauling and keeping proper condition, some labour force is engaged by the supplier. This type of work also fluctuates depending on transport availability or supplies made. Again take forest operations, the paper industry, for example, cutting bamboo which is again a seasonal work, depending again on transport availability. The amount of contract labour required for unloading, for stacking or feeding operations is again subject to fluctuation and variation beyond the control of industries.

In the sugar industry, the same type of situation prevails, a certain number of wagons have to be unloaded at

a particular time, which is subject to fluctuation.

So although the object of the Bill is very laudable, although there has been cases where exploitation of labour by contract may have taken place, by and large, as far as the operation of industry is concerned, *this is the only system of work where payment is made directly related to the out turn of work.* From that point of view, there is a direct incentive for workers engaged in this type of contract work.

Then there are certain types of contractors working in building construction, repairing overhauling or maintenance work, for attending to weighbridges or other instruments. Here it is difficult for a person to say when the workload will be exactly such and such; it may vary or fluctuate. They cannot keep a regular flow of workload. As and when needed, more or less, according to the demand, workers have to be engaged. Any such regulations as are contemplated in this Bill are bound to put more restrictions and regulations which will ultimately boost the cost structure of the industry.

The rate of productivity is the correct criterion in any industry judged from the point of the national economy. The higher the productivity, the better the economy; where productivity is low, the progress of the economy is correspondingly slow. Our productivity situation at present is not so satisfactory or high that we can think in terms of these regulations. Today that consciousness, or will to work in terms of the result in production thereof is rarely there except in some cases of piece work.

So our submission is that in the present stage of the economy when we are already passing through a recession and unrest and other problems, any more regulation of this nature, like registration and regulations concerning amenities and so on are bound to prove more complex and add to the

burden of the industry. We are already being priced out of the world markets and are finding it difficult to push up our exports. These regulations will act as brakes in that direction.

There are illiterate contractors today. Insistence on maintenance of records and returns and their submission will not only be difficult for them, but the situation may be exploited by others. Today industry has found that a particular person has shown leadership and capacity to organise a work and so the work is entrusted to him. When there is registration, then those who are registered contractors will exploit the situation to their advantage and others who are in a position to do the work better may be kept out of the field. These are our apprehensions.

As far as possible, simplification must be the object. Assessment of work and other thing should be in that context. We are now providing two inspecting authorities, one appointed by the Central Government and the other by the State Government. There are other inspecting authorities also under the Factories Act, etc. All this duplication of inspecting authorities, returns, etc., creates a lot of clerical work which again adds to the cost. I submit that the inspection part of it should be entrusted to one and the same body which is already doing the work, namely, the inspecting authorities under the Factories Act, because they are already looking after the hours of work, maintenance of records, etc. Duplication of inspection also adds to harassment and corruption.

With these few words, I would request Mr. Sahukar to address the Committee.

SHRI N. D. SAHUKAR: Mr. Chairman, while associating myself completely with my esteemed colleague, Mr. Somani, in thanking the hon. members of the committee for giving us this opportunity, I would concen-

trate myself on some of the aspects of the Bill which in our opinion might not only create difficulties for us i.e. employers, but also probably would ultimately work to the detriment of the country as a whole.

While defining casual labour, we have completely left out cooperative societies of workers who also undertake casual labour. There is nowhere any reference to them at all. I am sure it is the wish of the Parliament that the cooperative movement should be encouraged more and more. I am emphasising this because it has been found by personal experience that where casual labourers have formed themselves into cooperative societies, they work both in the interests of the members of the cooperative society and in the interests of the industries also. Therefore, Parliament should encourage such cooperative societies.

MR. CHAIRMAN: The definition of casual worker is there. Whether they are supplied by the cooperative societies or by any other agency, how does it change the nature?

SHRI N. D. SAHUKAR: In the case of a cooperative society, the profits are evenly distributed among all the workers whereas in the case of an individual contractor or a company which does contract work, the profits go one contractor or a partnership of contractors. Some employers find it incumbent upon them to encourage the cooperative societies, because they are thereby preventing the casual labour from being exploited by other contractors and at the same time they are getting their work of a casual nature done. Apart from mining and plantation industries which are of seasonal nature, there are certain operations even in regular industries like engineering or textiles, where employment of casual labour is inevitable. For instance, take handling of wagons. No employer can say how many wagons of raw materials are coming at one time or how many empty wagons he will receive. For such operations, if the employer

keeps a full complement of labour under him, the cost is bound to go up. In the box-making industry also, it depends on the flow of orders. In such cases, casual labour is a must. No industry, however prosperous, can afford to keep a large body of workmen idle on the assumption that somehow or other, all of them will be employed. If otherwise they do not keep that labour, the casual work suffers. If tomorrow I get suddenly 20 wagon loads of steel, I will have no labour to unload them. So, apart from the cost the industry will have to bear by way of heavy demurrage, the wagons will remain immobilised for a long time. The railways always insist, quite rightly, that we should keep the wagons moving in the overall interests of the country's economy. Therefore, casual labour is absolutely necessary and our experience is that a cooperative society of workers would be helpful.

I will give an illustration. Two weeks ago I was going round the Rourkela plant. I saw two teams, with two women in each team, loading wagons. In any steel work, as soon as the materials come off the production lines, they have got to be moved out to have quicker turnover. I was told that the four women were loading about 4 wagons during 8 working hours, each of them earning something like Rs. 40 per day. And, they are casual labour. Previously, when they were not employing casual labour, I was told 8 workers took 8 hours a day to load one wagon. We should consider the national economic loss that this sort of thing entails. When Mr. Somani referred to piece work, he was referring to work of this nature. The management of Rourkela plant told me that their output had improved to such an extent that they do not grudge paying higher wages to individual workers. In such cases it is the casual labour which becomes inevitable for that matter in a public sector project also.

SHRI HATHI: How would you like to define casual labour?

SHRI B. D. SOMANI: In the Act it has been kept very vague. The authorities, whether Central or State, is finally to determine whether a particular type of work is to maintain casual labour or labour of a regular nature. Loading and unloading operation may be defined as casual and also as of a regular nature. But the fact is it is fluctuating and its rate of flow cannot be regulated by the industry. Unless we have the control to regulate the flow of it in a uniform way, whether it is a contractor or a public sector employer, it has to be adjusted according to the situation and the need that arises. Where the flow of operation cannot be controlled by the industry we are dependent on somebody else.

SHRI DEVEN SEN: Have you got any idea of the work in the docks? A considerable amount of contract labour could have been there because there is a considerable amount of loading and unloading. In the Calcutta Docks there is no contract labour because they have shift system under which contract labour is eliminated. If the railway wagons arrive in the night what will you do? Under the shift system there will always be some people on duty.

SHRI B. D. SOMANI: There will be certain shifts in which there will be no work and certain other shifts where there will be very heavy work. If suddenly 30 wagons arrive in four hours there will be only one shift available. You want the industry to bear that burden which ultimately results in increasing its cost. Already productivity is so low and our cost is so high that we are priced out in competition in international market. Therefore such operations which are beyond the control of the industry to regulate a uniform flow should be considered as of a casual nature although it may be occurring very frequently in the year.

MR. CHAIRMAN: You are giving reasons and also arguments. How do you want the term "casual" to be defined?

SHRI N. D. SAHUKAR: That work of a nature which cannot be controlled or regulated by the industry should be termed as casual.

MR. CHAIRMAN: You may talk of your own industry but not of other industries. For example, in the railways it may be possible to regulate. Therefore, if possible, you may think over it and give us a definition later on.

SHRI N. D. SAHUKAR: Coming to the definite provisions of the Bill, to supplement what we have forwarded to the hon. Members, on page 2, clause 2(c), the definition of 'contractor' in our opinion is so wide that probably it will bring within its ambit some other manufacturers who may be supplying components. For example, a bicycle manufacturer may be buying pedals or saddles from other manufacturers who may be having their own small-scale industries. This clause will cover them also as contract labour. The definition says: "in relation to an establishment means a person who undertakes to produce a good result for the establishment". If somebody supplies pedals he is supposed to give a good result for the establishment. So I am afraid the definition will have to be revised so as to keep out of the purview suppliers of other raw materials to a factory.

SHRI P. L. GUPTA: That has already been excluded.

SHRI SOMANI: "Casual" is to be determined by the authority. Our submission is that if it is beyond our control to regulate the flow and load then it is certainly of a nature which require contract labour.

MR. CHAIRMAN: It depends on the nature of the industry and also the nature of transport. In the railways you can say that you do not know how many wagons will come, but if the mode of transport is trucks then you can ensure the number of trucks.

SHRI B. D. SOMANI: When the forest operations start you send cer-

tain trucks, but there also with all our efforts some trucks get detained.

SHRI N. D. SAHUKAR: I would invite your attention to Chapter IV of the Bill, clause 12(2)—licensing of contractors—where it is laid down that the authority issuing the licences will lay down such conditions including particular conditions as to hours of work, fixation of minimum wages etc. That means ultimately you leave it to the officials who are functioning under the State authorities to regulate these things. My submission here is that this is rather dangerous in that you will leave it to the States or authorities under the States to make these regulations relating to hours of work, wages etc. Then, there might be no uniformity with the result that industries in one State *vis-a-vis* industries in another State might suffer. I will give you an illustration. Even under the Factories Act, where the provisions are Central and yet the implementation of the provisions is left to the States, I know of one classic case where one State invited us to put up an industry in that State and one of the inducements given by their Industries Officer was "in our State the government is very particular about hours of work and all that sort of thing; in our State, we are prepared to over-look them." This is the sort of danger against which we might arm ourselves against. This particular provision is likely to be abused by those States where, somehow or other they want industries to come up, at least in the beginning. Later on, they may regulate it. But the fact remains that today even in the case of a Central Act like the Factories Act, when its implementation is not uniform in all the States, it is rather more dangerous in a case like this to leave the power entirely to the State authorities to prescribe it.

SHRI SHRI CHAND GOYAL: What do you suggest?

SHRI N. D. SAHUKAR: You have enacted separate legislation like Pay-

ment of Wages Act and Factories Act. Why not make them applicable here? Why do you leave it to the separate authorities to prescribe the mode of payment of Wages? I submit that this is not desirable. There should be one authority.

Then, you have got two separate authorities. At least the provision gives the impression that licensing officer will be separate from the registering officer. I do not know what is the interpretation of the draftsman—I am open to correction by the Legislative Counsel—but to me it looks like that. If that is so, it will only add to paper work and cost of administration. I submit that the volume of work is not so much as to justify the creation of two separate authorities for registration and licensing. Both powers should be vested in one authority in which case the cost will be less and also less work to us. One man will look at the whole thing from one angle.

SHRI SHRI CHAND GOYAL: Most probably the administration would be combining both posts, looking at the workload.

SHRI N. D. SAHUKAR: Then why not prescribe one authority instead of two?

SHRI DEVEN SEN: The licensing officer may be in league with the contractor and the registration officer may be in league with the employers. If we have got two officers, it will be a check upon this corruption.

SHRI N. D. SAHUKAR: So far as failure of human character is concerned, there is nothing which can check it.

Then, coming to section 21(a), you have provided for the payment of wages there. Since the Payment of Wages Act has worked very well in this country, why not apply it rather than prescribe a separate method of payment of wages here?

SHRI HATHI: Here we are putting the responsibility on the principal employer.

SHRI N. D. SAHUKAR: I am against the principle of holding the principal employer responsible. Even assuming that you, in your wisdom, have decided to make the principal employer liable, still I would submit that it should be under the Payment of Wages Act.

SHRI DEVEN SEN: It is all right to make it under the Payment of Wages Act. But if, in the meanwhile, the contractor vanishes, whom to sue? The principal employer cannot vanish so quickly.

SHRI N. D. SAHUKAR: We have always seen to it in our jurisprudence that there is no vicarious punishment. Here it is in the nature of that type of punishment for the misdeeds of somebody else.

MR. CHAIRMAN: The only question is whether the principal employer should be held responsible or the contractor.

SHRI N. D. SAHUKAR: I submit that the contractor should be made responsible.

श्री हुकम चन्द्र कश्यप : वह अगर भाग जाए तो ?

श्री साहूकार : इंडस्ट्री फेल हो जाए तो क्या होता है। वेंजिज भी नहीं मिलती है। यह भी देखा गया है कि प्राविडेंट फंड की राशि लेकर चले गये हैं एम्प्लायर। ऐसी अवस्था में क्या किया जा सकता है।

SHRI R. K. AMIN: May I suggest a way out of the difficulty? Can we not hold the principal employer responsible to the extent of the liability which he has incurred by the contract?

SHRI N. D. SAHUKAR: That would at least mitigate his responsibility.

SHRI R. K. AMIN: We can say that the employer is responsible only to the extent of his contract.

MR. CHAIRMAN: That we can consider when we prepare our report.

श्री हेम चन्द्र जैन : सभापति महोदय, मैं आपको तथा अपने साथियों का श्री सीमानी को तथा साहूकार साहब को बहुत धन्यवाद देता हूँ कि मुझे स्माल-स्केल इण्डस्ट्री की तरफ से यहां आने का मौका दिया गया है। यह एक बहुत ही सुन्दर अवसर है कि जब सारे देश के लिए कानून बनाया जा रहा हो तो लोगों को बुला कर उनकी राय जान कर उनमें आवश्यक संशोधन कर लिये जायें। यह जो राय करने का, मशविरा करने का तरीका है यह बहुत ही अच्छा है, यह एक बहुत ही अच्छी ट्रेडिशन है जो कि अपनाई गई है। सारे देश के प्रतिनिधि यहां बैठ हुए हैं और अधिकारीगण भी बैठे हुए हैं और उनके सामने अपनी डिफिकल्टीज को रखने में मुझे बड़ी खुशी हुई रही है और मैं आशा करता हूँ कि हमारी जा डिफिकल्टीज हैं उनको ध्यान में रखा जाएगा और उन पर विचार किया जाएगा।

इस बिल के बारे में मैंने अपने बहुत से साथियों से मशविरा किया है, कुछ मीटिंगों की हैं। इसमें कोई दो रायें नहीं हो सकती हैं कि लेबर के साथ सही तरीके से बरताव होना चाहिये, उसका उत्थान होना चाहिये। इस बात में कभी डिस्प्यूट नहीं है। लेकिन गवर्नमेंट ने भी इस बात को महसूस किया है, इण्डस्ट्री की कई कैटेगरीज बनाई हैं—स्माल स्केल, मीडियम और लार्ज स्केल। लेकिन जब कोई कानून बनता है तो कानून की दृष्टि में वह सब के सब एक दृष्टि से, एक तरीके से नौले जाते हैं। उसके अन्दर 20 आदमी काम करते हैं या 20 हजार काम करते हैं, कानून की दृष्टि दोनों पर एक ही है। अब आप अन्दाजा लगाइए दस साल के अन्दर देश में किस कदर स्माल स्केल इंडस्ट्रीज ने तरक्की की है। मैं आप के सामने दिल्ली का उदाहरण

रखता हूँ। दिल्ली के सब के मुताबिक 25 हजार इंडस्ट्रीज दिल्ली में काम कर रही हैं। उनमें से साढ़े 24 हजार स्माल स्केल होंगी। शायद तीन चार सौ भी ऐसी न हों जिन को लार्ज स्केल इंडस्ट्री कहा जा सकता है। यह दिल्ली की हालत है। तमाम देश के आंकड़ों को आप के पास होंगे ही। ऐसी दशा में जो 15, 20 या 10 आदमियों से काम कराते हैं उन पर यह कानून लागू हो और यही कानून उन पर लागू हो जो 20-20 हजार आदमियों से काम कराते हैं तो उनके पास तो उतनी फैसिलिटीज नहीं हैं, उतने मजदूर नहीं हैं। इसलिए मेरा यह कहना है कि 20 या 20 से ज्यादा मजदूरों वाली इंडस्ट्रीज पर अगर यह लागू हुआ तो इससे तो बहुत सारी इंडस्ट्रीज एफेक्टिव होंगी और उनकी प्रोडक्टिविटी काफी गिर जायेगी। उससे न लेबर का, न एम्प्लायर का किसी का भला नहीं हो सकता है और न देश का भला हो सकता है। मेरी प्रार्थना इसलिए यह है कि यदि इन को थोड़ी सी फैसिलिटी दे दी जाये तो अधिक अच्छा होगा। आज ही आप देखिए स्माल स्केल इंडस्ट्रीज पर जितने कानून हैं, फैक्ट्री ऐक्ट, शाप्स एण्ड कर्मशियल एस्टेब्लिशमेंट ऐक्ट, इंडस्ट्रियल डिस्प्यूट्स ऐक्ट, यह जितने भी ऐक्ट हैं सभी लागू होते हैं और उनको कितने रजिस्टर इसके लिए मेन्टेन करने पड़ते हैं। मेरा ख्याल है कि सुबह से शाम तक जितने इंस्पेक्टर आते हैं उनको अटेंड करने के लिए एक आदमी मुकम्मिल ही चाहिए। फिर कन्ट्रैक्ट लेबर की बात आ जाये और लेबर-लेबर में तफर्का पैदा किया जाये कि यह एस्टेब्लिशमेंट लेबर है, यह कान्ट्रैक्ट लेबर है, इनका बज रजिस्टर अलग, इनके इंस्पेक्टर अलग, लाइसेंसिंग एथारिटी अलग तो यह सारी चीजें उस पर लागू होती हैं। जनाब साहूकार साहब ने और सोमानी साहब ने बिल्कुल राइटली प्वाइंट आउट किया कि अगर जुदा-जुदा कानून बनाते हैं तो बड़ी तकलीफ होगी, बड़ी हाईशिप होंगी। इसलिए मेरा निबंदन है कि जैसा कि आल इंडिया

मैनुफैक्चरर्स आर्गनाइजेशन की तरफ से सजेस्ट किया गया है पार्ट (1) कि इसमें बजाय 20 के 50 लेबर का प्राविजन रख दें कि 50 से ज्यादा जहां कहीं एम्प्लायी हों, किसी इंडस्ट्री में उन पर यह लागू हो तो बहुत सारी स्माल स्केल इंडस्ट्रीज को इससे राहत मिलेगी। यह मैं इस बजह से नहीं अर्ज करता हूँ कि लेबर को फैसिलिटी देने में हम कुछ बबड़ाते हैं बल्कि जितना एस्टेब्लिशमेंट और बढ़ता है उससे हैरेसमेंट होता है और करप्शन भी बढ़ता है और काम ठीक तरह से नहीं होता है। मुझे उम्मीद है कि 20 की जगह 50 से ज्यादा लेबर का प्राविजन करेंगे तो इस कानून का पूरा फायदा पहुंचेगा और स्माल स्केल इंडस्ट्री को पूरी राहत मिलेगी।

SHRI SHRI CHAND GOYAL: Mr. Somani, your organisation has suggested as Mr. Jain was just pointing out, that the provision should be made applicable to factories where more than 50 persons are employed and where they work for greater part of the year, that is, as you have suggested, 240 days which comes to exactly two-thirds part of the year. That means you want the applicability of this provision only to those establishments where more than 50 persons are employed and they work for two-thirds part of the year. That implies that the work is not of intermittent nature or of casual nature. So, in fact, there is a case of such labour being converted into a regular labour. The object of this legislation is to bring an improvement in the labour conditions.

Then, you have not at all touched one aspect of the problem which is that most of the money is grabbed by the middle-man. Between what the factory is paying and what is going to the pockets of the labourers, there is the middle-man, the contractor, who grabs a large part of the money. The object of this legislation is to eliminate that evil. You have not touched that aspect

We agree that there are so many establishments where they are beyond

the control of the proprietors, that is, they are not in a position to know as to at what time of the year how many labourers will be required, when the wagons will be available and all that. That can very well be imagined. But the question is where more than 50 labourers are employed for two-thirds part of the year. It is a case where this casual labour ought to be converted into regular labour so that the conditions of the labourers also improve.

Then, I want to have some idea as to the number of labourers employed in these industries. We want to have some assessment. We are trying to have that assessment, the fact and figures, as to how many are working in railways, in collieries, in mines and in ports. The Committee wants to have an idea of that.

MR. CHAIRMAN: That can be supplied by the office.

SHRI B. D. SOMANI: May I answer the hon. Member's point? What we have suggested is the applicability of this legislation to particular factories. Therefore, we want to exempt from the Act the small-scale industries...

MR. CHAIRMAN: His question is quite clear. He says, apart from a particular industry, if the workers work for two-thirds part of the year, naturally, they should have some facilities and amenities. Are you prepared to give them or not?

SHRI B. D. SOMANI: There are certain operations which are not going on at all during the rainy season. That means the agricultural labourer who is engaged in agricultural operations works first in agriculture and, after the agriculture work is over, he goes to work in the mines or in such operations which are done in dry seasons. The workers who are normally working in agriculture have an opportunity to work in construction operations, buildings or roads or mining operations, which are normally done in dry season. When we say 240 days,

for 3 or 4 months there is no work done. I have found on certain occasions, even if I want certain work to be done during the rainy season, I do not get the labour because they are all engaged in agriculture. From that angle, it is important that certain industries which are of seasonal nature, should be excluded from the purview of this.

Another thing is that the contractor who engages 20 or 30 workers is a petty contractor. His means are limited and his education is limited. If you want to include all these people under such regulations by which you want them to work, all the returns to be filed, all the notifications to be issued, all the registrations to be done, which is beyond the capacity of those contractors, that means you are creating an artificial situation or a sort of privileged class, that is, licensed contractors alone can do the work. Suppose, today, there is a licensed contractor in electrical works. Even if my man is more qualified and more capable to do it, if he is not a licensed contractor, he cannot do the work of electric wiring even if it is to be done in my own colony of housing. The Act provides that only licensed contractors can do the work. That creates a sort of privileged class. When you go to a licensed contractor, he wants his own terms, his own conditions, and that increased the cost of the industry. It is a handicap to them. That means you are ruling out small contractors. This sort of a thing should not happen under this Act and they should be excluded from the purview of this.

SHRI SHRI CHAND GOYAL: Another question is this. With regard to labour that is employed on contract basis in factories, I want to know what has been done to regulate their labour conditions, whether any medical facilities have been made available to them, whether there is any canteen arrangement for them, whether they get any leave, whether they get the benefits which are made

available to the regular labour, whether some steps have actually been taken to improve the labour conditions and whether the amenities which are made available to regular labour are made available to them.

SHRI B. D. SOMANI: I can talk only of major industries. I can definitely say one thing that it is beyond the capacity of the small industries to do all these. Even if you make regulations, if the people are not able to provide them, only forms and formalities will be there and in reality nothing will happen.

MR. CHAIRMAN: Just as Mr Jain has stated, out of 35,000, 24,000 are cottage industries. Do you think that they should be left untouched without being provided any facilities? Is it human to do so?

SHRI N. D. SAHUKAR: What about agricultural labour? They have not been touched.

MR. CHAIRMAN: They will also be touched gradually.

SHRI B. D. SOMANI: Wherever major industries are operating, there are facilities common to all, whether it is canteen or medical or whatever it is. They are not restricted only to certain people. I can say that there are two or three big units which we are controlling outside Bombay City, and the facilities provided, whether medical or housing or any other facility, are equally applicable to all those who are working in the rural areas . . .

SHRI HATHI: The question is not whether big employers give the facilities. The question is whether the contractors give all those facilities.

SHRI B. D. SOMANI: They cannot give; it is beyond their capacity.

SHRI HATHI: When you give out a contract, does the labour employed by the contractor get all the benefits which your labour gets?

SHRI N. D. SAHUKAR: In some industrial units, they do.

SHRI B. D. SOMANI: There are facilities like medical and school; all these facilities are available to the contract labour.

SHRI N. D. SAHUKAR: By and large, the industrial units give to their casual labour free medical service which is available to their workmen. In all cases the use of grain-shops, run on no-profit-no-loss basis, is allowed, and in some cases even housing is allowed; canteen facilities are also allowed.

SHRI SHRI CHAND GOYAL: Can you give some idea of the wages which a casual labourer gets and which a regular labourer gets in the industry?

SHRI B. D. SOMANI: The whole thing depends on the turnover. Small contractors work in a group and they share the result. I have seen workers working in small groups.

श्री ठुकरा : खर्च कछ्वाय : मैं यह जानना चाहता हूँ कि टिकेदार लोग तो मुनाफ को बांट लेते हैं लेकिन यहां पर एक लेबर को महीने में कितना पड़ जाता है उस मुनाफ में से ?

SHRI B. D. SOMANI: I will give you one typical example. We have some erection work. Actually we find that if the erection work is given on contract to our own workers, they do the work quicker than if the same thing is done on daily wages or monthly wages basis. Our workers have taken the contract and have completed the work. Thus you are giving incentive in this manner to your own people to undertake the work on contract which otherwise may be more difficult and costly to the industry. This aspect has to be borne in mind. We have yet to build a very large number of industries. We are entering into an era of industrial revolution. There have been cases where contractors have become industrialists.

SHRI PREM MANOHAR: It was said that contract labour should be replaced by co-operative societies of workers. Are you prepared to give them the minimum facilities—insurance, provident fund, living wages, etc.? Is this not the responsibility of the employers?

SHRI B. D. SOMANI: Then there will be no difference between regular labour and casual contract labour.

SHRI PREM MANOHAR: We had been to Bombay where we saw a co-operative society for loading and unloading. There, the minimum facilities are not being provided to them. This responsibility should be fixed on the employers. The employers should be responsible for providing these minimum facilities.

SHRI B. D. SOMANI: The co-operatives of labour themselves earn profits.

SHRI PREM MANOHAR: Why not provide them the facilities of insurance, provident fund and living wages?

SHRI B. D. SOMANI: You are not giving those facilities to the employers. You do not insist on the employers being given these facilities.

SHRI N. D. SAHUKAR: The co-operatives themselves make large earnings which are divided. Therefore, the question does not arise.

MR. CHAIRMAN: The question is whether you are prepared to give them the minimum facilities—insurance, provident fund and living wages.

SHRI N. D. SAHUKAR: The question does not arise because they themselves are self-employed labour.

SHRI DEVEN SEN: You are in favour of contract labour. But none of you is a contractor . . .

SHRI N. D. SAHUKAR: No, Sir.

SHRI DEVEN SEN: You are supporting contract labour, presumably for two reasons as far as I have been able to gather from you, namely, it is less expensive and more productive.

SHRI N. D. SAHUKAR: No, Sir. I would put it this way. It is inevitable for us to employ where the nature of work is not of a regular nature.

SHRI DEVEN SEN: My question is whether you pay less to the contract labour.

SHRI N. D. SAHUKAR: It will not work out less if you calculate on the basis of piece work. We do not keep idle labour.

SHRI DEVEN SEN: Do you pay less to the contractor?

SHRI N. D. SAHUKAR: We do not pay less to the contractor. We do not keep idle labour.

SHRI DEVEN SEN: Can you give us a statement of your payment to your contract labour? We have got statements from the Railways, Port Trusts and from the Docks.

SHRI N. D. SAHUKAR: It could be easily available from industrial units.

SHRI DEVEN SEN: If the cost for contract labour and direct labour is the same, why do you employ contract labour?

SHRI N. D. SAHUKAR: The work itself is of that nature where contract labour becomes necessary.

SHRI DEVEN SEN: You gave the example of loading and unloading. I will give the example of dock which is the biggest establishment where loading and unloading on a large scale take place. They have evolved a system under which there is no contract labour.

SHRI N. D. SAHUKAR: The case of dock is some what different from factory. In the dock the steamers

come and go all the time. As a matter of fact there is bunching of steamers. In a factory the inflow and outflow of wagons are not controlled by them.

SHRI DEVEN SEN: Take the case of mining. If you divide the workers into three shifts, then you do not have idle labour and your wagons are not idle.

SHRI N. D. SAHUKAR: We are not representing mining interests. We would not be able to answer that question.

श्री रेवती कान्त सिन्हा : आपने अपने मेमोरेण्डम में कहा है कि जहाँ पचास या उससे ज्यादा कंट्रैक्ट लेबर हो वहाँ ही यह कानून लागू होना चाहिये। लेकिन आप जानते हैं कि ऐसे इस्टैब्लिशमेंट भी बहुत बड़ी संख्या में हैं जहाँ बीस से कम दस या पन्द्रह अथवा उससे भी कम लोग काम करते हैं। क्या आप के कहने का मतलब यह है कि उन लेबरर्स को इस कानून की सुविधा से वंचित कर दिया जाये ?

श्री हेम चन्द्र जैन : मेरे कहने का मतलब यह है कि अगर आप बीस लेबरर्स की पाबन्दी लगाते हैं तो इससे छोटी फैक्ट्री वाले का बड़ा हैरसमेंट होता है। जो छोटी फैक्ट्री चलाते हैं उनके पास स्किल्ड लेबर नहीं होती है न उनके पास कोई सिस्टमेटिक मैनेजमेंट होता है। इसलिये किसी को वंचित करने का सवाल नहीं है सुविधा से। केवल इतनी बात है कि छोटी फैक्ट्री वालों का हैरसमेंट होगा। मिसाल के तौर पर बर्फखाना है जहाँ पर सीजनल काम होता है। वहाँ पर थोड़े दिन के लिये लेबर चाहिये। आप कहते हैं कि वहाँ पर भी रेगुलर तरीके से लेबर को रखना होगा। इसी तरह से आटा मिल है जो कभी चलती है और कभी नहीं चलती है। कभी काम काफी आ जाता है कभी कम आता है। वहाँ पर पांच, छः आदमियों को रख कर आटा मिल वाला काम चलाता है। उसके ऊपर यह बोझ डालना कि वह रजिस्टर में नोट करे, मिनिमम वेजेंस ऐक्ट को लागू करे,

लाइसेंसिंग के अन्दर आये, मैं समझता हूँ कि यह छोटी फैक्ट्री वाले के साथ न्याय करना नहीं है।

श्री रेवती कान्त सिन्हा : मैं आप को और मिसालें दे सकता हूँ। जैसे रेलवे कैंटीन है। वहाँ पर कंट्रैक्ट पर लेबर रखी जाती है और वहाँ पर काम करने वालों की संख्या 20 से कम होती है इसी तरह से लोडिंग अनलोडिंग का काम चलता है, जहाँ पर कंट्रैक्टर्स के साथ 15-20 आदमी काम करते हैं। इस तरह से तो वह भी वंचित हो जायेंगे।

श्री सोमानी : इसमें वंचित करने का प्रश्न नहीं है। प्रश्न यह है कि छोटी इंडस्ट्री के हक में नहीं है कि उसको इस कानून से रेगुलेट किया जाये।

सभापति महोदय : माननीय सदस्य का सुझाव बिल्कुल स्पष्ट है कि अगर यह ऐक्ट उस इंडस्ट्री पर भी लागू किया जाये जहाँ पर 50 या उससे ज्यादा लोग हैं, तो इसका मतलब होगा कि बहुत से सेक्शन आफ लेबरर्स ऐसे हैं जो इस बिल से अछूते रह जायेंगे और उनको कोई लाभ नहीं मिल सकेगा।

श्री रेवती कान्त सिन्हा : आपने अपने मेमोरेण्डम में कहा है कि पचास और उससे ज्यादा लेबरर्स पर भी वहाँ इस ऐक्ट को लागू किया जाये जहाँ लगातार साल से 340 दिनों तक काम होता है। इसका साफ मतलब है कि जहाँ पर इंटरमिटेंट काम होता है या कैजुअल नेचर का काम होता है और 240 दिनों तक बराबर काम नहीं चलता है वहाँ कंट्रैक्ट सिस्टम को बिल्कुल खत्म कर दिया जाये और रेगुलर लोग एम्प्लाय न किये जायें।

श्री हेम चन्द्र जैन : मैं तो यह कहन चाहता हूँ कि जहाँ पर लेबरर्स तयाम साल काम नहीं करते, महीने दो महीने ही साल में करते हैं, उन पर यह ऐक्ट लागू करना हैरसमेंट का वायस बनता है।

श्री रेवती कामत सिन्हा : मैं जानना चाहता हूँ कि सेंट्रल ऐम्प्लायर्स बोर्ड और स्टेट ऐम्प्लायर्स बोर्ड के प्रिन्सिपल एम्प्लायर और एम्प्लायड के रिप्रिजेंटेशन का रेशियो क्या होना चाहिये ?

SHRI B. D. SOMANI: All advisory bodies are on the same pattern.

SHRI N. D. SAHUKAR: 50:50 is the ratio. Up till now we have always followed that.

श्री रेवती कामत सिन्हा : आपने अपने मेमोरेण्डम के पेज 6 में कहा है कि :

About 12(2) it is said that it should not be left to the licensing authority to determine the conditions of employment as to the hours of work, wages and other amenities.

तो फिर आपके विचार से कौनसी मशीनरी इवाल्ब की जाये ?

श्री सोमानी : पार्लियामेंट लेजिस्लेशन बनाये और सेंट्रल अथॉरिटी बनाये ।

श्री रेवती कामत सिन्हा : उस लेजिस्लेशन में भी तो किसी को अधिकार देना होगा ?

श्री सोमानी : फैक्ट्री ऐक्ट में फैक्ट्री इन्स्पेक्टर होता है । उसको अधिकार दिया जाये ।

SHRI B. PANDA: You are not for total abolition of contract labour but only for regulation of it?

SHRI N. D. SAHUKAR: We are not for total abolition.

SHRI K. A. NAMBIAR: They are not even for regulation.

SHRI N. D. SAHUKAR: No, Sir. If you see our note, you will realise that we are trying to smoothen out the rough edges of the Bill.

SHRI BRAHMANAND PANDA: You know the present Contract

Labour (Regulation and Abolition) Bill is going to be more effective.

SHRI B. D. SOMANI: That is a matter of opinion.

SHRI BRAHMANAND PANDA: In certain cases, the principal employer should not be held responsible for failure to provide amenities under Sections 16, 17, 18 and 19. Is that correct?

SHRI B. D. SOMANI: Yes, Sir. What you have said is correct.

SHRI BRAHMANAND PANDA: Whatever you are producing either by employing your own labour or contract labour, unless you give them the minimum amenities provided for under this Bill, don't you think that the principal employer is legally and morally responsible for doing it?

SHRI B. D. SOMANI: We have pointed out this aspect that in the productivity there is an element of labour involved. In India, the wages paid are so low as compared to other countries. Unless and until our productivity aspect and labour cost are in parity with those of other parts of the country, how can this country hope to export and compete with any other country in the world?

SHRI BRAHMANAND PANDA: Let me illustrate this point. Suppose you are working in a factory. You have to employ 200 casual labourers. It may be of a perennial nature or their work may be for 240 days. You are not giving them the facilities although they were given to them by other organisations say, in public sector and other industries.

SHRI B. D. SOMANI: Basically, casual labour is employed for different reasons—suddenly certain things come up when you may ask the contractor to deal with the situation. The whole thing is beyond the control

of the industry. And if one or two industries is unreasonable the cost goes up.

SHRI BRAHMANAND PANDAY: You object to the presence of an officer of the principal employer while disbursing the salaries or wages to the casual labour through the contractor, why?

SHRI B. D. SOMANI: Because he is not connected with it directly. The whole responsibility is that of the contractor. Therefore, why do you insist that the employer's man who is engaging the contractor should also be present for very time?

SHRI BRAHMANAND PANDAY: Do you mean to say that you are concerned only with the production and not to provide amenities to the labourers? Don't you see whether the labourers are paid properly or not? There are muster rolls. And you know the payments are made to them. We do not know out of 300 and odd people how many of them were actually paid the wages.

SHRI B. D. SOMANI: Our point is why do you want that the employer's man who is engaging the contractor should be present at the time of disbursing the wages?

SHRI BRAHMANAND PANDAY: Don't you think that the contractor will also be equally responsible to see that they are paid.

SHRI N. D. SAHUKAR: It is a matter of opinion. We are only regulating the contract.

SHRI R. K. AMIN: They have tendered a very good evidence. I would like to understand it a little better. As I understand from them, for any factory, there is a possibility of giving piece rate work. If it is given, there is no question of contract labour or contract work. There is also a possibility that between contract work and contract labour, a

certain type of job in a firm is being given to contract work. That does not necessarily mean that it should be done by contract labour.

SHRI N. D. SAHUKAR: Yes, Sir.

SHRI R. K. AMIN: Even though there may be a contract work and a piece rate work, having done it, there is still a possibility of employing the contract labour. And in that contract labour there is also a labour which would like to work only for a few days in a year and for the rest of the period they are employed elsewhere or in some other types of jobs. That is why it is very convenient for them to work as a contract labour. Is it so?

SHRI N. D. SAHUKAR: Yes, Sir.

SHRI R. K. AMIN: There is also a possibility that although the work can be given on a perennial basis, yet, under the rules and regulations, it is done by contract labour. Don't you visualise that possibility also?

SHRI N. D. SAHUKAR: That possibility may be also there. I think today most of the employers are enlightened and they do not resort to this. But, there may be cases here and there some odd employers who resort to this sort of thing.

SHRI R. K. AMIN: Do you also visualise the difficulties in one or two things on which I would like you to make it clear. There are bigger firms where staggering is possible. It means that although the work may be of a casual type that does not necessarily mean casual labour because staggering is possible there.

SHRI B. D. SOMANI: There may also be cases where staggering is not at all possible.

SHRI R. K. AMIN: There are cases where staggering is not possible but there are cases, as pointed out by my hon. friend, in bigger firms where there is a possibility of giving staggering work. Here you may emp-

ploy permanent labour, although different type of work may be done by contract system.

SHRI N. D. SAHUKAR: I would respectfully submit that the big work need not be compared with the industrial work.

SHRI R. K. AMIN: I am only making a distinction.

SHRI B. D. SOMANI: Even for the big work there is frustration.

SHRI R. K. AMIN: There are certain industries where the work may be of a contract type but still it is not necessary to employ a contract labour. Staggering is possible for example in big firms. In a small firm where the contract work is to be done, you cannot employ a contract labour. Therefore a distinction has to be made. Although the work may be of the same type, in a bigger industry, contract labour should not be employed whereas in a smaller industry these people may be employed. Do you agree to this?

SHRI N. D. SAHUKAR: Up to a point I would go the whole hog with you.

SHRI R. K. AMIN: Also would you recommend that the contract labour be continued in the cases where there is availability of labour only during a particular part of the season?

SHRI N. D. SAHUKAR: Yes Sir.

SHRI R. K. AMIN: In places where such possibilities are not there, will you say that the contract labour should not be employed?

SHRI N. D. SAHUKAR: Well, where there is no work of a casual nature, then they need not be employed. In fact, immediately employers need not have to employ contract labour.

SHRI R. K. AMIN: You gave the example of agricultural labourers. They are working for five or six

months in a year. For the rest of the period they are unemployed. I think they come to a city and stay there and if there is any work, they are employed. Otherwise, they are unemployed for the entire period of the year. In such an event what have you to say?

SHRI N. D. SAHUKAR: May I submit that very often agricultural labour is also migratory? For example, quite a large number of people come from the Konkan during the off season. When they are not busy in agriculture, they try to go to Bombay and seek employment of a casual nature.

SHRI B. D. SOMANI: Sometimes for a limited period, in the field operations, they are employed. At other times the operations have to be stopped.

SHRI R. K. AMIN: Should this not be done by casual labour? I am now pointing out one more thing and I have done. When a principal employer is made responsible for certain things under the Act, all amenities have to be provided for by the principal employer. Although the work may be given to contract labour, while giving the contract, the principal employer will take into account the liabilities such as to provide amenities etc. Without giving such facilities, if I have to employ a casual labour, I shall have to give Rs. 5 instead of Rs. 3. Only when facilities such as water, canteen, housing etc, are given, Rs. 3 will be given instead of Rs. 5. Is it not so?

SHRI N. D. SAHUKAR: In that case, for a bigger firm in metropolitan cities or in any larger areas, if the principal employer is made responsible, would you consider it objectionable.

SHRI R. K. AMIN: The point here is that when you want to put additional labour, what is going to be the outcome irrespective of the

work done. You simply want the imposition of liabilities?

SHRI B. D. SOMANI: There is no imposition.

MR. CHAIRMAN: You can very well agree with what he says.

SHRI R. K. AMIN: My point is quite different. If you put the responsibility of providing facilities to the principal, then while giving the contract to the contractor, he would take into account first the liabilities he had to bear. The terms of contract will be made accordingly taking account those liabilities. Suppose with these liabilities he is giving Rs. 5 per unit of a contract for the particular type of work, after knowing his liabilities he might as well say that now he could give only Rs. 3 per unit for a particular type of work. The nature of contract will change if this liability is known before hand. In that case will you have any objection in asking the principal employer to provide the facilities to the contracting labourers.

SHRI B. D. SOMANI: Labour will not be available to the contractor at the lower rate. They consider the immediate cash to be more important than provision of all the facilities.

MR. CHAIRMAN: What he wants is that some facilities should be provided to these people. What is the harm in providing those facilities to the people?

SHRI R. K. AMIN: Not facilities, they are the necessities. You see the title of the Bill is 'Regulation and Abolition'. You stand for regulation and you do not stand for abolition. They have said that it will not be applied to Jammu & Kashmir. Jammu & Kashmir has been excluded. Does it mean that some industries will shift to that State because of the advantage of non-applicability of this law?

SHRI B. D. SOMANI: I do not think so. There are factors in Jammu & Kashmir which cannot be compared with factors in India.

SHRI SANDA NARAYANAPPA: Under Section 22(1) if the inspector is obstructed from inspecting the records, provision has been made for imprisonment or fine or both. You have pleaded for the abolition of that provision. What is the alternative suggestion you have if the penal provision is taken away? If the penal provision is not there, then how is to regulate, supervise and see that the labourers are properly paid?

SHRI N. D. SAHUKAR: Why not make the contractor liable. The alternative is to make the contractor liable. Send him to prison certainly. Why do you vicariously punish somebody else for the misdeeds of someone.

SHRI SANDA NARAYANAPPA: You are for the abolition of that penal provision?

SHRI N. D. SAHUKAR: Not on the indirect employer. The penal provision is against the indirect employer. We suggest that it should be on the direct employer.

SHRI SANDA NARAYANAPPA: You are for the abolition of the penal provision. What is the alternative suggestion you are going to make?

SHRI N. D. SAHUKAR: Why not punish the contractor? You are certainly free to punish the contractor.

SHRI DALPAT SINGH: I want to ask a question of general nature. The sum total of the advantages in terms of wages and benefits and other amenities drawn by the casual labours or contract labour is less than that of the regular labour. How do you account for it?

MR. CHAIRMAN: He says there is a difference between a regular worker and a contract worker so far as the wages are concerned. How do you show this in the account books?

SHRI DALPAT SINGH: I want something else. The difference is there. Is there any justification for

this difference from the labourer's point of view? I want an answer to that question.

SHRI N. D. SAHUKAR: Yes Sir, because to one who works regularly, we naturally owe much more than to one who drifts and does very casual work.

SHRI DALPAT SINGH: Do you mean that a contract labourer works more than the regular man?

SHRI N. D. SAHUKAR: Yes during that particular period when he is employed.

SHRI DALPAT SINGH: Do you mean that the contract labourer earns more?

SHRI N. D. SAHUKAR: Very often he does. Very often in certain factories there is absenteeism because in some of the places casual labour is much more in demand at that particular point of time. So the labour comes up. He takes advantage of his leave. He works here while employed elsewhere and earns much more. Very often the purpose of the legislation is defeated by the workers themselves who go in for more money. You cannot help it.

SHRI JAISUKHLAL HATHI: You are saying something different. He may be employed with one man. He takes leave and does some casual work. That is a different matter.

SHRI B. D. SOMANI: Yes it does. In our annual shut-downs, we take workers from other factories.

SHRI K. A. NAMBIAR: We are not legislating for exceptional cases. We are legislating for general cases.

SHRI B. N. SHASTRI: There are two parties—the manufacturer and

the principal employer and the labourers. The contractor comes into existence through the employer and thrives at the cost of the labourer. In those circumstances for the lapse or omission or commission on the part of the contractors, why not the principal employer be held responsible? Why should not the principal Employer be held responsible? Are not the contractors the legitimate children of producers, i.e. the principal employers? Why should they shirk the responsibility?

SHRI B. D. SOMANI: We have no control or record as to how much work he is doing.

MR. CHAIRMAN: That is why people say, do away with them. You cannot keep a proper account and, you don't keep proper register.

SHRI B. D. SOMANI: If it is brought to our notice that payment is not being made to the labour, we try to see that payment is made; otherwise the work stops. In order to ensure that the work is done the employer insists on the contractor about regular payments being made to the labour.

MR. CHAIRMAN: The responsibility for proper payments and proper attendance should be left with the main employer, not with the contractor.

SHRI B. D. SOMANI: Quite often the dispute is of a different nature. The dispute is that sometimes the contractor gets piece work done by the labour.

MR. CHAIRMAN: The employer cannot ask the labour directly; they go through middlemen. If the contractor does not pay the minimum wages or provide certain minimum facilities, it is the duty of the principal employer to look after the labour. If the contractor fails to do it the principal employers should be held responsible.

SHRI B. D. SOMANI: We will only be repeating the replies given previously.

SHRI S. D. PATIL: At the beginning I must humbly and very respectfully submit that I don't accept any of your suggestions made in your memorandum. When work is entrusted to the labour under the labour contract and through the principal employer, what is the responsibility you expect of a principal employer? May I ask you, at the same time, whether both the principal employer and the contractor are responsible for the work entrusted to them?

SHRI B. D. SOMANI: Measurement of work is done and on that basis the contractor is paying. He keeps the record. The principal employer has no record whatsoever of details of work.

SHRI S. D. PATIL: What is the ultimate responsibility of the principal employer?

SHRI N. D. SAHUKAR: We go to the fundamental issue whether contract labour should be employed or not. The principal employer carries the responsibility for his permanent employees.

SHRI S. D. PATIL: With regard to section 21, you have suggested that as regards the provision for payment of wages, it is to be submitted that the Payment of Wages Act provides sufficient and adequate remedies to the employees and when the aforesaid Act is being utilised by the labour throughout the country it appears to be very strange that these additional provisions should have been made for contract labour only. The provisions of the Payment of Wages Act should therefore be made applicable to the contract labour. Why not the principal employers should be made responsible for this?

SHRI N. D. SAHUKAR: We will go into the same question.

SHRI S. D. PATIL: Under Section (1) sub-section (4), it is suggested that this Act should be made applicable.

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cable to establishments where the employees are more than 50. Do you mean to say that if the number is less than 50, it should not be governed at all? Should their wages be left to the sweet wishes of the employers?

MR. CHAIRMAN: That is a matter of opinion. They don't want them to be covered by any law.

SHRI VIRBHADRA SINGH: I would like to have some clarification. While giving the evidence, Mr. Somani talked about casual labour. Here we are concerned with contract labour. I am sure he knows the difference between contract labour and casual labour.

MR. CHAIRMAN: He was talking about both.

SHRI B. D. SOMANI: Contract labour is normally doing casual work. When the work is of intermittent nature it is called casual work. The basic point of contention is this and the whole thing should be viewed from this angle.

SHRI VIRBHADRA SINGH: You have admitted that there is exploitation of labourers by contractors and also that the contractors are not in a position to provide amenities to labourers. In view of this, will it not help if it is made obligatory, if it is stipulated in the general conditions of contract entered into between the principal employer and the contractor that the contractor shall have to pay the wages and provide amenities to the labour employed?

SHRI N. D. SAHUKAR: I may respectfully submit that we never said that contract labour is being exploited by the contractor.

SHRI VIRBHADRA SINGH: In some cases you said.

SHRI N. D. SAHUKAR: No.

MR. CHAIRMAN: He does not accept that position.

SHRI VIRBHADRA SINGH: Mr. Somani did say that in some cases there is exploitation.

SHRI B. D. SOMANI: There might have been some omissions or commissions.

SHRI VIRBHADRA SINGH: Will it not help if it is stipulated in the contract that the contractor shall have to pay all the wages and amenities to the labour?

SHRI B. D. SOMANI: More regulations will increase the cost of industry. We are already squeezed out, priced out in the world market. All these regulations will be detrimental to the cost factor. This has to be borne in mind. All want the welfare of people. But that can come only by increased productivity of labour. Productivity will come from payment by direct result.

MR. CHAIRMAN: It depends on the employer.

SHRI B. D. SOMANI: The responsibility for productivity cannot be on the employer. The work has to be done by the worker.

SHRI N. D. SAHUKAR: The management may design proper flow of work and suggest efficient methods of work. But if the employee does not follow that, then productivity suffers. This is our submission.

SHRI B. D. SOMANI: This is regularly happening.

SHRI S. M. SOLANKI: Mr. Somani in the beginning stated that some work is usually carried on by the cooperative societies. They are not registered; they are bogus. They take the butter and then distribute 'sapreta' milk to the labourers, as sub-contractors do. They are even worse than these sub-contractors. . .

SHRI N. D. SAHUKAR: I can only speak for genuine, *bona fide* co-

operative societies. I was only speaking about them. I was not speaking about bogus societies.

SHRI K. A. NAMBIAR: I have noted down your points, in also your memorandum. I find that if all your suggestions are accepted, then this legislation will practically be brought to nullity. However, I do not want to argue on that point. One thing is that you have no ill-will for the contract labour. Have you?

SHRI B. D. SOMANI: Of course, not.

SHRI K. A. NAMBIAR: The difficulty, you say, is about the cost being increased. When the cost increases considerably or even to some extent, you have no objection to improving contract labour conditions. Can I take it like that?

SHRI B. D. SOMANI: The payment should be related directly with the result. You should encourage direct incentives connected with the turnover of the work and there would be much more flow.

SHRI K. A. NAMBIAR: That is exactly the purpose of this Bill which has been brought—to regulate contract labour. Certainly if contract labour is paid more, that is not to be brought down. But wherever bad conditions are there, we are trying to regulate so that you may have the benefit of direct payment of incentives so that they will put in their best to the industry. Therefore, the scope of this Bill is to regulate those anarchic types of contract labour, to the best advantage of the industry and to the best advantage of the community as a whole. The Bill is not only for abolition, it is also for regulation. Suppose, we find in a factory there are only 100 contract labourers and in our analysis we find that they can also get into the normal pattern into the industry, with your consent we can abolish that. Have you got any objection?

SHRI B. D. SOMANI: This payment is not directly regulated with the work which they are doing. And therefore this is our biggest apprehension that if you allow this system to prevail, probably there are chances that all these small and medium industries would become the worst sufferer by this system. If they are on the permanent employment, they will have the urge to go and loiter about and not attending to their work properly. But if the payment is made on the basis of only of the result he produces, that would be better.

SHRI K. A. NAMBIAR: I want to know this: Suppose you regulate these anarchic contractors. Do you have any objection? They get lot of money extra profit

SHRI N. D. SAHUKAR: How do you say he is making extra profits. Not necessarily. He makes only marginal profits. Generally, a contractor does not make huge profits as you are alleging. His profits are marginal.

SHRI K. A. NAMBIAR: Anyhow, a bad contractor must be punished and a good contractor must behave well. Parliament has a duty to the community. You are forgetting that you have got the duty to give to the community cheap products, whereas Parliament has a duty to the community of giving fair treatment.

SHRI B. D. SOMANI: In the system of contract that is growing in the country, it is largely the small man, the uneducated man who is coming forward who have some leadership/qualities etc. there. It is this which has to be encouraged. By creating a system of licensing and registration, a more privileged class will be coming forward, and you will be debarring those who are probably capable of giving results to it but may not be able to complete the formalities.

DR. RANEN SEN: I want one clarification. Mr. Jain was speaking about small-scale industries. He said

that if this contract labour system is abolished, then that would affect small-scale industries. So I want to know whether he meant that the small-scale industry is based mainly on contract labour?

श्री हेम चन्द जैन : बहुत सी इंडस्ट्रीज ऐसी हैं जो रेग्युलरी तां दस बारह आदमी रखती हैं। लेकिन महीने में दो चार दिन के लिए दस या बीस आदमों उनको रखने पड़ने हैं। अब आपके इस ऐक्ट के मुताबिक उन आदमियों को रजिस्टर में एनरॉल करना पड़ेगा और इसका नतीजा यह होगा कि आज जो 5-7 आदमियों का हैरासमेंट होता है फिर 25-30 का हो जाएगा और प्रॉडक्शन जो होना भी या बह भी बन्द हो जाएगा।

डा० रानेन सेन : प्रॉडक्शन जो आपके यहां होता है वह रेग्युलर एम्प्लॉईज करते ही है। आप तो बीच-बीच में कुछ लोग रखते हैं और उसका मतलब होता है कि

only a part of the production is dependant on this, not the whole production, nor a substantial production.

The second thing that I want to know from Mr. Somani is that in regard to the abolition of contract labour system two arguments that you gave were: firstly, the abolition of contract labour ultimately would increase the cost of production and thereby hamper the community and all that, and secondly, later on, you said that the employment of regular labour necessarily or generally would cause indiscipline in the factory and work would be very difficult to be carried on. Now, if these two main arguments are taken very seriously. May I put it that in order to lower the cost of production and in order to have more discipline inside the factory what is the harm if slave labour is introduced in India?

SHRI B. D. SOMANI: There are certain operations where attendant is required and you cannot measure his

produce. There are certain operations which are of that nature that you have got to keep the fixed persons, like watch and ward. There are certain works which are given to contractor directly on the basis of the work-load that he has to complete a particular excavation or particular aspect of the supply of material in quantity and in number. There only the contract labour comes in the picture and not in those positions where measurement of productivity is not possible.

DR. RANEN SEN: Therefore these two arguments do not hold good for the major part of the production that takes place in a factory. Only in regard to a certain operation—a labour which is called casual—only the necessity is there.

SHRI B. D. SOMANI: Not as a whole.

SHRI P. M. SAYEED: We have gone to many places and we were told that under the contract system now prevailing in various parts of the country the principal contractor engages another contractor and he engages another contractor and this sub-contractor engages *mokhadams*. Are you aware of this?

SHRI B. D. SOMANI: Let me explain. This may be applicable in certain big construction jobs taken up

by big construction companies. Naturally, when they are getting work divided into excavation, filling, etc, they are divided into different spans of work and given to different contractors. But the overall responsibility is theirs.

MR. CHAIRMAN: This is happening in mines.

SHRI B. D. SOMANI: We have not come across.

SHRI P. M. SAYEED: The cost of productivity will go up.

SHRI N. D. SAHUKAR: It is cost of production and not cost of productivity.

SHRI P. M. SAYEED: About avoiding all these intermediary people you have strongly pleaded for co-operative set-up works. Suppose co-operatives are established will the cooperative people be able to serve the same purpose as is now served by the contractors?

SHRI N. D. SAHUKAR: I am talking of *bona fide* cooperative societies. The profits will be distributed between the members of the society.

MR. CHAIRMAN: Thank you, very much.

(The witnesses then withdrew)

(The Committee then adjourned to meet again at 15.00 hours.)

(The Committee reassembled at 15.00 hours).

II. Employers Federation of India, Bombay and All India Organisation of Industrial Employers, New Delhi.

Spokesmen:

1. Shri Pran Prashad.
2. Shri Santosh Nath.
3. Shri Madan Ghosh.
4. Shri M. M. Sethi.

(The witnesses were called in and they took their seats).

MR. CHAIRMAN: Before we start I want to say something to you. The witnesses may kindly note that the evidence they give may be treated as public and is liable to be published unless they specifically desire all or any part of evidence tendered by them is to be treated as confidential. Even

though they may pass their reference that it may be treated as confidential such evidence is liable to be made available to the Members of Parliament.

Now please say whatever you want to say.

SHRI PRAN PRASHAD: Sir, we are very grateful to the Joint Committee for giving us this opportunity of putting forward our views. I would briefly like to recapitulate the position that we are dealing with the Bill which lapsed in last Parliament and the views that we have to express are not only those that were placed before Government at the time when they were framing the Bill originally but will be added and modified in the light of the experience that we may have got in the last two years or so since that time.

Sir, we propose to start with the Statement of Objects and Reasons because that is the genesis of the whole thing and even if in the process we might be repetitious I hope in view of the importance of the subject we will be forgiven if we repeat ourselves. Now, Sir, the Statement of Objects and Reasons says that the system of employment on contract lends itself to various services. This, of course, is unexceptionable. No right thinking person can object to this basic statement. I will go on to say that the question has been under consideration of the Government for a long time. No one can disagree that it has been under consideration for a long time, but one can quite disagree very much whether its abolition could ever be considered whatever be the circumstance, social condition, a set of economy of the country; whether this question is possible as long as human being live on this earth. I would like to be blunt because this will avoid a great deal of euphemism later on.

Now, Sir, the Planning Commission has made certain recommendations of undertaking study and so on. The

matter was considered in the Tripartite Committee and it was viewed that this system should be abolished. Wherever it cannot be abolished, the working conditions of labour should be regulated so that the wages may be regulated. Therefore, Sir, what we are concerned is that the working conditions should be regulated and that essential amenities should be provided. This again is something which nobody would quarrel with. I propose to quarrel with the method in which this is to be implemented. I will contend with making this point only. The proposed bill aims at abolition of the contract labour. It may be notified. It talks about certain criteria that is laid down and provides for setting up of advisory bodies of tripartite character and for all the other things that follows. When such laws are to be enshrined under the act of Parliament, I would like to say the view of what my organisation feels about it. Nobody can quarrel with the idea that wages should be provided and proper amenities provided to the workmen and all that. We are on all fours with the purpose of the Bill so far as these things are concerned. But we object to the suggestion that there should be abolition. First of all it is unpracticable. If you make a law which is impossible of fulfilment the whole concept of law itself becomes liable to abuse and calumny. In the peculiar social circumstances of our country, in administration and other spheres, great expansion has to take place and there is lack of precision in these matters. So, the idea of abolition, I should say, is not practicable. The word abolition in title itself should be removed, *ab initio*, as it is not possible of fulfilment. We should face facts. That is my first suggestion.

After having accepted the position that abolition is not possible, we are left with the very important question to which we can rightly devote our attention. We can devote our attention to the question of regulation. Abolition is impossible, there-

fore we should not talk of abolition. We should not have the word abolition and that is the first point I would like to make before you.

MR. CHAIRMAN: You say it cannot be abolished totally; but to the extent it is possible can we abolish it? What is the view held by your organisation?

SHRI PRAN PRASHAD: My submission is this. In trying to make a certain wrong, you will be perhaps including a very large number of wrongs. There is a situation in this country where 20 million people are either unemployed or under-employed. The total organised sector is variously estimated between 8 and 10 million and the numbers of the unemployed and under-employed are rising substantially. What will happen is this. Even in respect of such cases where gainful employment can be secured in contract labour, the employer will not employ them, because of the tremendous enclopaedia of laws concerning permanent employees. You will be saying that everybody should be employed properly, should be treated properly, should be paid wages properly, should be given amenities properly and all that. Nobody can disagree with that view. But the consequence of this would be that a very large number of people who may have been employed could not get employment. There may be 50 or 60 people in his factory. There may be some extra work which involved the employment of another 30 or 50. He would say:

“बाबा, यह तो हम नहीं लेंगे। कंट्रैक्ट लिबर से हम काम नहीं करवा सकते, और परमनेन्ट लें तो हमारा गला फंस जायेगा और सारी उम्र हम फंसे रहेंगे। जितनी हमारी पूंजी है, जितना काम उससे हो सकता है उतना ही काम हम करेंगे।”

That is the point. This is a real danger. Even those who could get some kind of employment, could not get that employment. They will be denied that employment. I am against abolition root and branch. It is not in the interests of workers themselves.

SHRI SHRI CHAND GOYAL: You have taken a stand earlier that the 4 criteria are found conjunctively and there is the case of the judgement of the supreme court also, regarding the Standard Vacuum refinery and all that. You have tried to build up a case that 4 criteria are found in a certain type of work, but now you are taking a different stand. You say now that even where those 4 criteria are there this should not be abolished.

SHRI PRAN PRASHAD: I am taking the extreme position because I am appearing before you. I am going further. Since in any organised group of people a memorandum has to be in the nature of compromise, this is our compromise position. If you have this concept of abolition notwithstanding the supreme court judgement with regard to the 4 criteria, you would be doing very great harm. This is my point. Since I am appearing in evidence I can do so and I hope I would be permitted to give you more than the written word. But I agree that my second plank of defence is what is in the written word. This is my first plank.

SHRI SANTOSH NATH: In so far as even the written memorandum is concerned which has come from the All India Organisation of Industrial Employers, it is categorically stated in para 3 there that we are opposed to the concept of abolition.

SHRI PRAN PRASHAD: That is a refinement of what I am stating, and what my colleague has pointed out is correct. The position that we are

taking is that abolition in its totality is and would be a mistake. However, if in its wisdom and in its judgement, having regard to assurances that have been given at various times and things of that kind, Parliament were to come to the conclusion that some concept of abolition must remain, then I say that my final position would be the position of the four points taken together, namely the four Supreme Court points in Standard Vacuum Case pointed out.

So, my first point is that abolition in its totality or in any sense even of limitation is a mistake. However, if some feeling exists and we have to lean over backwards and say that something must be done, at least far more than what has been done, then the Supreme Court judgment is there, and I say, all right, let us agree but go no further than the Supreme Court judgment—and there I shall have something to say in a few minutes.

As far as the title itself is concerned, my introductory remarks were designed to suggest to this august body that in any case, putting in a title the words 'regulation' and 'abolition' would be a contradiction in terms; first of all, those are contradictory terms. You either abolish or you regulate. Therefore, my suggestion is that it would be sufficient if you call it Contract Labour Regulation Bill, because regulation can include abolition.

MR. CHAIRMAN: Both the words are included there.

SHRI SHRI CHAND GOYAL: Abolish where possible and regulate where it is not possible to abolish.

SHRI PRAN PRASHAD: Then the title would become much longer.

DR. RANEN SEN: We can go on regulating with a view to abolishing it altogether.

SHRI PRAN PRASHAD: I think that that perhaps would be the correct view. The only difficulty about that view is that it would be unpractical, and I say this with great humility. I do not have any desire to suggest that you who make the laws do not have a much wider perspective than we could possibly have.

So, my first objection is that the word 'abolition' should not be there because it is wholly unpractical. You cannot abolish it in any section, and I say this because I have some experience of this. I should like to say for the information of those who do not know this that I was at that time the chairman of the joint working group of the coal industry, and the first bipartite agreement for the abolition of contract labour in the coal industry was something that I and my colleagues on the employers' side negotiated bipartite with the workers representing all the organised trade unions. So, it is not as though I speak from a position of rigidity. I have had some past experience of this and I had bipartite agreed to something which has not since been repeated for the last six or seven years, in the whole structure of industry in India. That is the first point that abolition is a mistake because it is meaningless and it is misleading and it is unpractical.

I think it would be better if I now invite your attention to the Bill as such because we have now to get down to the heart of the matter.

Clause 1(4)(a) which is part of the clause entitled 'Short title, extent, commencement and application' reads thus:

"It applies to every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;"

Now, let us pause here for a moment, because what this attempts to say is this. Suppose you have a factory of,

say, 300 people and yet on the 27th of June, say, employed 21 people, and for the rest of the days employed 4 people, 2 people and so on. That immediately attracts the rigours of this whole Bill. So, if a man does not have any contract labour but just for one day brings in 21 men than he is subject to the rigours of this Bill. I think this again makes this really unpractical, because in the very nature of things, the very nature of the bureaucratic machinery which would be necessary to implement this, the whole concept of registration and inspection and labour inspectorate etc. would be attracted merely because it was done on one day. Of course, you may very well turn round and say that if a man breaks the law and commits nuisance on the street on just one day out of his 70 years of life, then he must pay the penalty. Of course, that is right, but this is not quite in that sense.

Therefore, I would refer to regulation. As regards regulation, it would be difficult to implement it and make it workable. Our suggestion would be that this should apply to every establishment in which 50 or more men are employed, and secondly, I would like to say, in which 50 or more workmen may be employed for a continuous period of three months in the previous 12 months.

MR. CHAIRMAN: Unless some period is specified, it becomes difficult. That has been the experience.

SHRI PRAN PRASHAD: But my fear is that you are throwing the baby out with the bathwater. In trying to curb something you are enacting a draconian legislation which is going to be so much more difficult to implement. In trying to punish somebody who does something improper, you are enacting a legislation which is going to affect all the persons and all the factories irrespective of whether they employ contract labour for 280 days or 240 days and so on. In all these things, there has to be some proper approach. Gradually, social consciousness is coming in among the

employers also and the employers are improving. But if you make the laws so rigid, then everybody will say:

कोशिश करो; निकल जाये, तो निकल जाये; पकड़ा जाये, तो बँड लक।

If you make the filtration so fine, then you will find that everything will get held up in the filter. You have specified the number 20. Is it possible? In a country of such a big size as ours where we are trying to have small-scale industries and we are trying to develop a large body of entrepreneurs whom we are trying to assist and to whom we are giving finance from the banks and so on, if you are going to enact this kind of legislation and say that if they are going to employ 20 or 30 people then they would attract the provisions of this Act, then is it possible? Believe me when I say that here is one of those cases where the different social objectives would impose contrary constraints, and this is a prized example of that kind of things. I shall have more to say on this point in a few minutes' time.

MR. CHAIRMAN: Suppose an industry tries to decentralise itself and takes the shape of a cottage industry employing only 10 or 12 people and defeat the law, then are Government to keep idle and allow the workers to be exploited by those people?

SHRI PRAN PRASAD: I am sorry that is not my suggestion at all. It would be a very curious thing if speaking for the Council of Employers I spoke about a total disbanding of the big companies into smaller units employing 10 or 12 people. That is not my intention. What I say is that you are not going to have a satisfactory legislation if you are going to put this number of 20. No doubt, along with big industries, you are going to have small industries, and we hope that you will be successful in developing a large band of entrepreneurs. But my point is that in the circumstances of our

country where a large proportion of our works has to be labour-intensive, to have such small units employing 20 people would in my view be unpractical. I suggest that it should be 50; it should apply provided there are 50 or more for a continuous period of three months in any prior period of twelve months. It is for you to consider it. We can do no more than place before you our views. Just as you have every right to disagree with us, we at least have the right to place our views before you.

The other preliminary point I want to make is that we believe that this definition of 5(a) creates a further problem. It says: "It shall not apply to establishments in which work *only* of an intermittent or casual nature is performed".

I have the greatest difficulty in understanding the meaning of this, although my colleagues who are wiser than I say they have very correctly understood it. I am even now flabbergasted as to the precise meaning of it. This shall not apply to an establishment where work *only* of an intermittent or casual nature is performed. But what about the vast number of works where some section or other from time to time has any intermittent work done and which must continue from time to time have to such work done, where such work cannot be stopped without the whole undertaking being placed in jeopardy? Consider this point. It does not say of any section of an establishment; it speaks of the whole establishment. Where in certain sections of an establishment work is done by contract labour, how is it to be done. This has not been brought out here. Admittedly, it would be said that we have not brought this out in our memorandum. But that is not the point. What does this mean? Unless the whole establishment has work of a casual or intermittent nature, you cannot bring in contract labour. It is not possible. Therefore, I ask you to consider redrafting it so that it will take in this sense; the sense we think out to be conveyed

is that in a section of an establishment where work is of a casual or intermittent nature, there contract labour will come. But it does not mean that the whole of the establishment must have this work of this nature. I think this has to be brought out; otherwise, the whole Bill is redundant. If a whole establishment is of a casual or intermittent nature, where is the establishment?

MR. CHAIRMAN: That is one way of arguing.

SHRI SHRI CHAND GOYAL: This is excluding something from the operation of the Act. How does that nullify?

SHRI PRAN PRASHAD: If you exclude this, what remains?

SHRI SHRI CHAND GOYAL: Can you not think of an establishment where casual or intermittent work is going on?

SHRI PRAN PRASHAD: I have been in industry for 27 years. I cannot. If you can, please tell me.

SHRI S. KUNDU: Why are you introducing the word 'whole' to the establishment?

SHRI PRAN PRASHAD: I am not introducing; even without 'whole' the word 'establishment' is defined; it means any office or department of Government or any place where an industry operates. It means whole. Therefore, in my humble view this ought to be redrafted to bring in this meaning.

Then cl. 2(b): "a workman shall be deemed to be employed as 'contract labour' in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer".

This is difficult to understand. I am not aware of any legislation where if

something happens in an establishment without the knowledge of the principal employer, he is held responsible for it. For example, if on a Sunday night, 30 people go into a factory, start it without the knowledge of the employer and there is an accident killing 5 people?

MR. CHAIRMAN: Is it possible?

SHRI PRAN PRASHAD: Not only is it possible. But there are a large number of cases where people have gone and done piece work and got money; there is case law. Many things have happened. In Durgapur, there are 6,000—7,000 people. Without the knowledge of the General Manager, 30 people go into some section for some work. People are taken in. There are certain works which have to be done by contract. It is registered. But in some other section, some people are brought in because the work has to be done. This is without the knowledge of the General Manager.

SHRI HATHI: Then the workmen are under contract labour. Here the only thing mentioned is that he has to be treated as contract labour.

SHRI PRAN PRASHAD: It does not only say that he shall be deemed to be employed, whether the employer knows it or not, but there are certain penal provisions. He can prove that he did not know it. In such a case, how can you make a law holding the employer responsible? In justice, in equity is it possible to do it?

MR. CHAIRMAN: According to you it is correct; in fact it is not.

SHRI SANTOSH NATH: We will come to the question as to what should be the responsibility of the so-called employer.

MR. CHAIRMAN: Not so-called.

SHRI SANTOSH NATH: As long as you want the employer to be brought in, and you want to say that

even without his knowledge he becomes employer, how can you enforce it? How do I protect my own interest? How do I know that so and so was brought in by the contractor at all and certain things were done? Shri Shri Prasad said, would it be doing justice to me? How can he exercise any control over the situation?

DR. RANEN SEN: Does it mean that any number of people can be brought inside a factory without the knowledge of the principal employer? The principal employer is not only the owner but other people also. Without the knowledge of the principal employer, anybody can get inside, start a machine and get injured and all that?

SHRI SANTOSH NATH: If that is done, then there is no question of his coming in without my knowledge. Why do you want these words "Without his knowledge?"

DR. RANEN SEN: In order to obviate the difficulty, the principal employer may say that he has no idea of the whole thing.

SHRI PRAN PRASHAD: Now, Sir, I will come to the heart and root of the case, without going into the other points. (*Interruption*)

मेरे कहने का मतलब यह था कि अगर एक कारखाने में 20 आदमी कंट्रैक्टर के जरिए काम कर रहे हैं और किसी और काम में दो आदमियों को और ले आये तो उसने तो ठेका ले रक्खा उसने तो काम करना है अब वह चाहे उसे 10 आदमियों से कराये या पचास आदमियों से कराये बहरहाल उसको वह काम करना है।

श्री हाथी : ठेका किसने लिया ?

श्री प्राण प्रसाद : ठेकेदार ने।

SHRI HATHI: He is the contractor, and so it is contract labour.

SHRI PRAN PRASHAD: How will it hold me responsible?

SHRI SHRI CHAND GOYAL: Because you are authorising him to undertake a certain work.

SHRI PRAN PRASHAD: How am I held responsible for each and every individual?

SHRI HATHI: It is not for any offence committed by the man. What are the penalties? It may be contract labour and you have to maintain a certain register, and show the payment of wages. If you have given work on contract, there is contract labour in your factory.

SHRI PRAN PRASHAD: I shall now come to the heart and root of the Bill, and my suggestions on the Bill.

SHRI MADAN GHOSH: Take for instance a factory where there may not be any contract labour. On a particular day, there are ten men on a particular work and there are another 10 men on a particular work. The total comes to 20, say. Now, one person might have been brought in by the contractor without the knowledge of the principal employer.

SHRI HATHI: All that work is of an intermittent nature.

SHRI MADAN GHOSH: Yes; but for just one day, a man works without the knowledge of the principal employer, and that establishment becomes a factory in this case.

SHRI HATHI: Just for one day, it is of an intermittent nature. It is a casual work. It is not done for all time.

SHRI MADAN GHOSH: But that comes within the purview of your legislation. (*Interruption*).

SHRI PRAN PRASHAD: We are talking of factories.

MR. CHAIRMAN: You might put in your points first; those questions need not be answered now.

SHRI PRAN PRASHAD: You certainly do not want me to be impolite to the Members of the Committee by not trying to answer them. Anyway, that is about the factories, but consider the question of tea-gardens, the planters, with hundreds of acres, and the man working in all kinds of remote areas. We are also trying to make legislation for all sorts. Let us be clear about one thing. Here, it is not as though we are pleading only for the employers, the capitalists and such concerns who may amass wealth. The point is, if this measure becomes law, it will apply as much to the Government as it does to the public sector and to other walks of life, in the country. Therefore, as the largest employers of contract labour, far, far larger than in any private industry, we have to consider also the effect of this on the Government establishment. It is going to be difficult of enforcement; take road-building, for example, in hundreds of miles of army camps where all kinds of contract work is going on. How are you going to regulate such things if more than 20 people are working without the knowledge of the Lt-Col. of the regiment or of the executive engineer? These are the problems which should be considered. It is not as though we are here to merely grind down the poor. Not that. We are really trying to have a rational approach to what needs to be done; it is certainly a situation which should be considered.

Now, let me come to the crux of the argument. This is with regard to the matter of licensing. I will deal with one other point after this, but this is really the crux of the matter. On the one hand, we are talking of the registration of establishments and of licensing of contractors. Let us consider the registration of establishments. In my view, registration means that every establishment in the country will have to be registered because I can think of no single establishment in the country which does not for one day in the year have 21 people working on contract labour. I would

find it very difficult unless it is an undertaking which is going downhill or going into liquidation where for one day in the year it is not going to have some work done on contract employing 21 people.

SHRI HATHI: Or the total number is less than 20.

SHRI PRAN PRASHAD: Yes; it is highly unlikely,—one day in the year.

SHRI HATHI: If it has never exceeded 20, the question does not arise.

SHRI PRAN PRASHAD: When we are talking of scales, the Fourth Plan, and about 7 per cent growth in exports and so on, and increase in living standards and so forth, you are really saying that every establishment must be registered. The moment you have a law whereby every establishment should be registered, there is no meaning in saying that every establishment will be deemed to be so under the purview of this Act. Every establishment employing more than 20 people will be deemed to be covered. It comes to the same thing. Then why go into the rigmarole of registration? It is unnecessary. You are merely creating more paper work of course it will create jobs in a sense, but I do not think this kind of jobs are necessarily effective or constructive. Therefore, you can easily replace the whole chapter III by one line saying that this law will apply to all establishments employing more than 20 people. That will cover the whole thing. So, talking of registration of establishments is unnecessary. This is a piece of drafting which is just a rigmarole is wholly unnecessary in my view and is really quite purposeless. The drafting people have to draft; that is their job. Therefore, as long as they make it on paper, the more complicated it is, the more difficult it is for the average citizens to understand, whereas the principle of law should be that it should be such that an average person of average intelligence could understand it easily. But they do not want to do that. However

it is not my job here to deal with the merits or demerits of that aspect of the matter. We are only concerned with the purpose of the whole chapter III. It is our considered opinion that the whole of this chapter could easily be replaced by one line saying that this shall apply to all establishments employing more than 20 people. The matter ends there. What do you want registration for? Is it conceivable in an expanding economy, where, some time, for one day in the year or two days in the year, a man does not employ 21 people on contract labour?

SHRI K. A. NAMBIAR: There must be a line drawn somewhere. You now say it could be 50. The drafting is 20. There must be a line drawn somewhere.

SHRI PRAN PRASHAD: I have earlier said that it must be 50; even 20 is ridiculous.

SHRI DEVEN SEN: On your analogy, there need not be a big Income-tax Act and the Income-tax officers. There could be a simple sentence in the law that everybody should pay income-tax. Why do you keep the income-tax officers and all the paraphernalia?

SHRI PRAN PRASHAD: You have a very good point. After all, it has been accepted by all civilised people that the progressive improvement of social responsibility should be directed towards a position where there is least government. But here I am practical. Since this will apply invariably to everybody, this whole thing can be replaced by a short paragraph.

If I am able to persuade you to accept our stand with regard to Chapter III, it is all right. Otherwise, we would have to say the following. Especially in the matter of section 10(2), the prescription laid down by the Supreme Court to which the hon. member referred earlier, must be read in the sense in which it was enunciated by the Supreme Court. The drafter of this Bill has excelled himself in

the explanation which says that the decision of the appropriate government shall be "final". Whereas in all other legal processes except perhaps provident fund—I am talking of labour legislation—an appeal of some kind or other lies, especially when this is a delegated legislation covering a very important and vital subject, to deny any appeal on this matter of fact is a very dangerous thing. It should not be done because in the very nature of things and the kind of thing which is done by contract labour throughout the country, it is quite possible that relatively junior officers in different places may be dealing with this and unless there is some right of appeal, to some kind of judicial body, a dangerous situation will arise. The power should not be delegated so totally to relatively junior officers to take final decisions which may have far-reaching consequences.

Of course, I am immune, even allergic, to politics. But it is clear that with different Governments in different States and at the centre and with all kinds of agreement and disagreement, you can have all sorts of situations.

Therefore, it will be a very dangerous thing not to allow an appeal. An appeal should lie to the labour tribunal to which labour cases are normally referred. Therefore, in our view the Explanation should not say that it shall be final and instead of excluding section 10 in section 15 which deals with appeals, section 10 should be included in it.

About welfare and health of contract labour, there is nothing in this anybody would disagree with. But whereas the welfare provisions of the Factories Act aim at a point where factories employ 250 people or more, I find it difficult to understand why with regard to contract labour, it should apply at the level of 100 people. There should be some consistency in this.

SHRI HATHI: You can bring down 250 to 100 in the Factories Act.

SHRI PRAN PRASHAD: You are right, but it would be difficult to implement it because of the nature of the bureaucracy.

SHRI HATHI: The employers have to do it. I want you to come forward and say, "Why 100? Even for 1 worker, we shall give these facilities."

SHRI PRAN PRASHAD. We would like to do it, but we are not alone in the country. We employ 7 or 8 million people. There are another 492 million people whom you have to take care of. The difficulty is, we can take care of the 8 million people, but you cannot take care of the 492 million people. Therefore, you cannot put the burden on us with regard to 8 million people.

There should be consistency. The Factories Act has stood the test of time. Here also you should have the same pattern. There may be some problems. When barracks are being built in the border between Nepal and Sikkim, who is going to have rest rooms and canteens there? They want to open up Dandakaranya, the desert regions of Rajasthan and so on. I say, we should have rest rooms, canteens, etc. where we can. But let us not make laws which by their very nature are unpractical. To the extent they are practical, I do not disagree. But these are fringe points. Our substantive point is, it should be consistent with the Factories Act, where it talks of 250 people.

Flowing from that, two other very important points arise. One is with regard to the loading and unloading operations. Something has been said here with regard to perennial and intermittent nature of operations. My firm suggestion is, loading and unloading operations should be wholly removed from the purview of this because the problems we have in this country are legion, considering the unreliability of our railways and road transport. They have their own difficulty and I

am not criticising them. In a country with limited resources, trying to do everything in a short space of time, these problems are bound to be there. This is going to be wholly unworkable unless you say positively that loading and unloading will be removed. When I was trying to persuade my friends in the labour union in the matter of abolition of contract labour on coal, the same point was made and they were realistic enough to agree. Sometimes publicly the employers have to say all kinds of things about employees' representatives and *vice versa*. But on the whole, a substantial number of them are sensible and intelligent people. This was readily understood. If we have to move more and more goods over enormous distances, instead of 2500 ton rakes, we will have to go in for 5000 ton rakes. You have got to do unloading. One rake is supplied to a coal mining factory. If it has got to consume 5000 tonnes of coal a month it will get one rake. Is that going to employ permanent labour? Therefore, such things as loading and unloading operations should be wholly removed.

We are concerned with trying to do the best we can within our circumstances for the less privileged workers in our community, but we should not in doing so create a set of laws which will not be capable of practical implementation. Loading and unloading are genuine problems. Warehouses are being built all over the country and foodgrains will be moved for buffer-stock operations in big shuttle trains intermittently and not regularly and consistently. More and more our movements are going to be of that kind. There are going to be large movements of iron ore. Today we are exporting something like 15 million tonnes and we hope to go up to 30 million tonnes. All this will be in intermittent shuttle services. Clearly, anything which suggests that all this has to be regulated this way or that way is going to create difficulty.

Let us make a start. Let us cut out those things which at this stage are going to create difficulties. Let us do what we can do within our means and within our capacity.

Through this legislation we will be not increasing but reducing the liability of the contractors. We have the principal employer, the contractor and the worker. Our objective should be to throw more and more responsibility on the worker. That is why, for instance, in the Finance Act of this year it is provided that all payments in excess of Rs. 2500 have to be made by cheque because the bulk of the black money and all that it has been held is because of cash payments to contractors and this is one step that has been taken to identify that man who gets his money by cheques. If you put all this responsibility on the principal employer you will be diluting this man's responsibility whereas you should be increasing it. Therefore, any suggestion that the principal employer should be responsible for payment to this man in my view is wrong. This man is the employer in law. He is the man to get the work done. Why should he be the principal employer? All the railway stations in this country are managed through railway contractors. Under this system what will happen is that Government has to come here and see that the contractors pay this man. In the event of any problem arising the Chairman, Railway Board, as he is really the principal employer, will have to come in. There is the Hindustan Steel. There is Bokaro. The largest steel plant in Asia is going to be built there. For the next two or three years you will have a large amount of contract work there also. Only last week the Durgapur steel plant authorities issued tenders for loading and unloading and for mining its iron ore deposits. Are you going to have an officer of the MMTC to see that the contractor's labour are paid? These are all socially desirable things, but these are the practical problems that we have to consider. This is, in

my view, not a time when you want to reduce the contractor's responsibility. You want to make him more and more responsible. If you make the principal employed responsible, this man will wash his hands off everything. We want to create a great sense of social responsibility in him and not a lesser sense. This Bill is designed to achieve precisely the reverse effect. This is an easy way for the Labour Department people so that can catch hold of 60 or 70 people and do not bother about other people. That is why they draft Bills like this which are absolutely meaningless. What you want is not to dilute this man's responsibility but to increase it.

SHRI HATHI: You want to have it maintained permanently.

SHRI PRAN PRASHAD: Nature will maintain them permanently. Abolition is wholly impossible. It is ridiculous and it cannot work. It is not possible.

SHRI HATHI: Progressively?

SHRI PRAN PRASHAD: It may be possible in the year 5000 or 6000 when God and man become equated, when we become more and more, through good deeds, like God. Then we would not need this, then there would not be any sin and then we need not have any laws. Until that time let us live with our good and bad points. As long as we live with good and bad points, I am afraid we have to live with contractors. It is going to be there in this country and other countries in the world. To try and remove the responsibility from them by merely throwing it on 60 or 70 Nizams is not going to solve the problem.

Clause 30(2) says:

"Nothing contained in this Act shall be construed as precluding any such contract labour from entering into an agreement with the principal employer or contractor."

Here again, this concept of the principal employer entering into an agreement with somebody who is not his

employee at all is going to result in a lot of muddle.

MR. CHAIRMAN: We are trying to have less headache whereas you want to involve us in a larger area of headache. That is not possible.

SHRI PRAN PRASHAD: I was referring to this limited point about the principal employer and the contractor's labour entering into an agreement. Since we are trying to make legislation it should be as crisp and precise as possible. I will now summarise the five or six points. The first point is that we object to the concept of the use of word 'abolition' in the heading at all, because (a) it is unworkable . . .

SHRI K. A. NAMBIAR: It is infectious.

SHRI PRAN PRASHAD: It is somewhat fascist for a democratic Government to talk of abolition and all that. Therefore this word 'abolition' should be removed. Secondly, it is proposed to cover even small establishments employing just 20; we want that it should be 50 and they should be employed for a continuous period of three months in the previous 12 months. The third point is about the definition of 5(a): "it shall not apply to establishments in which work only of an intermittent or casual nature is performed." That has to be clarified. It must mean section or establishment and the meaning made more precise. Then we object to the business of "with or without the knowledge of the principal employer". We think that is objectionable. We think that loading and unloading must be definitely—an excluded item. We consider that in view of the fact that everybody will be covered by this legislation, Chapter III is redundant and it must be deleted; in its place you say that this law will apply to all establishments employing more than 50 people. Then, we say that the right of appeal must be there because we consider that it

would be dangerous to leave the final decision in the hands of appropriate Government. What does it mean—possibly a junior officer in such a Government. Following from that Clause 15 dealing with appeals should include section 10 and we should have the right of appeal. Then, regarding provision of amenities to labour, welfare and health considerations, etc. it should be in consonance with the Factories Act and the number should be 250. We object to any suggestion at any place in the Bill dealing with the so-called responsibility of the principal employer because we consider that the responsibility of the contractor himself should not be reduced, but in fact greatly increased. I think that covers our view point.

DR. RANEN SEN: I wish to draw the attention of Mr. Pran Prashad to Chapter III which he wants to do away with. He argued a little while ago on the point of explanation, where it is stated that the decision of the appropriate Government shall be final. He felt that the decision will be a decision of a petty junior officer.

SHRI PRAN PRASHAD: It could be.

DR. RANEN SEN: It is clear that the case will be made out by the appropriate Government, whether it is central or State after consultation with the Central Board or the State Board, as the case may be. So it does not and would not depend on a particular officer. If you go through this particular section, you will agree with me that the power is vested in the appropriate Government and the appropriate Government takes a decision in consultation with the State Board where the representatives of the employers are there. Therefore I don't understand the point that the ultimate arbiter of the destiny of this thing will depend upon a petty officer.

SHRI PRAN PRASHAD: Right of appeal should be there.

DR. RANEN SEN: Reading of the Bill does not give me that sense. Though it is a matter of opinion, I will again refer to Section 10, particularly to sub-section (2), where you are totally opposed to the abolition of contract labour because it is not possible and not feasible. Probably this particular point was discussed by the Supreme Court in regard to a particular case. As you probably know, the Supreme Court have stated certain conditions which are more or less embodied in these four points. So I want to know, even despite the opinion of the Supreme Court—it is considered to be a very impartial body—would you dispute the wisdom of the Supreme Court and say that it is not possible nor feasible nor desirable.

SHRI PRAN PRASHAD: I am being asked to comment on the judgement of the Supreme Court. Undoubtedly their wisdom is a great deal more than that of us. Their is the law of the land. Fortunately, we are still free to express our own opinions. This is what we have to say.

SHRI MADAN GHOSH: I can explain the first point. No doubt it is done in consultation with the Central and State Government Boards. But what we have in mind is something like the E.S.I. court, where there is a Corporation standing committee whose decision is taken and the law is amended accordingly. Still there is a court held by a judicial person to interpret the provisions. These being fundamental questions of policy, we felt that it should go to a person holding a court just like the E.S.I. court or a tribunal who can guide properly. We are not quarrelling with the decisions of the Supreme Court. Industrial dispute are resolved in the light of Supreme Court decisions. If contract labour is employed for manufacturing process, certainly it is a dispute between employers and employees.

DR. RANEN SEN: Parliament is also guided by decisions of Supreme Court.

MR. CHAIRMAN: It is their own view point.

SHRI V. NARASIMHA RAO: What is your opinion about constitution and composition of the Advisory Board proposed in the Bill?

SHRI PRAN PRASHAD: In this as also in other legislations, the Government is eminently fair. It brings in all the people concerned and I don't think really one can quarrel on this point. Constitution is really a matter of detail to be decided and we don't have any substantial quarrel on this.

SHRI K. A. NAMBIAR: Mr. Prashad, after hearing your full argument on the abolition part as well as on other amendments, it looks that you are not at all in favour of this legislation. It looks like that.

SHRI PRAN PRASHAD: Very far from it. I have some positive plums to my personal credit with regard to this; so I am not at all suggesting that something shou'd not be done. What I am saying is, please do not overcorrect because the dangers of overcorrection and the damage it can do could be much more than the hardship of unregulated, unabolished contract labour. This is the meat of my argument.

SHRI K. A. NAMBIAR: This Bill plus your twenty minutes' argument for abolition of contract labour and all the points that you have given minus all these things to my mind will be reduced to zero, but you say that there is still something left there. I want to knkow how far it is left.

SHRI PRAN PRASHAD: That is why 500 million people in their wisdom have put you where you are and this is, after all, what you are supposed to do. We have put forward our point. What remains you have to look for.

SHRI K. A. NAMBIAR: I want to find out what remains through you.

2527 (E) LS—9.

Anyway, on the number 20 and 50 you had a very big argument. There must be a line drawn somewhere; you may draw it at 10, 20 or 50. Why do you say, 50? This gentleman here says that you must draw it at 100. What is the meaning of your argument when you say it should be 50?

SHRI PRAN PRASHAD: Any figure one might have is, after all, some kind of a compromise between competing thoughts in one's mind. In our mind, that is, the Council of Employers, we felt that if we pitched too high it would seem as though we did not really mean business. We do mean business. We felt that 20 was too low and unworkable and 100, 150 or 200 might be too many; so we thought that 50 was a nice round figure where it could be made to work. Also, a considerable part of the legislation does have the figure 50 in it with regard to the small-scale industry and other things.

SHRI K. A. NAMBIAR: In the Factories Act 20 has been put as the minimum. That is the law of the land today and you and I agree on that. Here we are ending contract labour and contract labour must not have the disadvantage of the Factories Act. Will it not be injustice if you put contract labour even outside the scope of what is the minimum benefit for other workers coming under the Factories Act?

SHRI PRAN PRASHAD: If I might draw a small distinction. In any case all the workers have got all the protection of the factories Act, even those coming under it if such a Bill became an Act. So far as the Factories Act is concerned, anybody working in a factory, whether a direct employee of the factory or an employee of a contractor working in that factory, is covered by it. This is additional protection for contract labour. The man is already protected as far as the Factories Act is concerned; it is not that he is getting any less.

MR. CHAIRMAN: The only difficulty is that the name of this worker who is working under a contractor is not there on the P. form.

SHRI PRAN PRASHAD: This is correct.

The only other reason why we thought of 50 is that every piece of legislation which in any way restricts the freedom of an employer, the employer will put forward arguments to resist it; so, if he is going to resist, the fact that a suggestion of 20 had been made, naturally we could not accept that and we had to put in a figure which is larger. But, for instance, in its wisdom Parliament has passed the whole provident fund legislation based on a minimum of 50. If Parliament had decided that the figure of 20 as sacrosanct, why did it not make it 20 for the provident fund legislation? Clearly it must have felt that it is unworkable.

SHRI K. A. NAMBIAR: An amendment has to be brought and I am giving notice of that.

SHRI PRAN PRASHAD: What future amendments you will bring is a different question. As things stand at the moment, there is a very good reason because, after all, the Provident Fund Act is not just a one-line Act saying that all industries will come under this. There must be an element of gradualness in this. Our approach to contract business also is that there should be a gradualness. If you try too much too quickly, you will not be able to enforce it and more difficulties would come. You want to create public opinion and you want to get the employers genuinely having a sense of responsibility towards these things. Therefore do not start at the maximum; start at a level which is achievable. This is our point.

SHRI K. A. NAMBIAR: You do not agree even to gradual abolition.

SHRI PRAN PRASHAD: Abolition is rather like two parallel lines which meet at infinity. When we reach that

infinite position in this sense, you will have abolition; but until that time you will not have abolition.

श्री हुकम चन्द कछवाय : क्या आपने कभी इस बात की चिन्ता की है कि जो मजदूर ठेके पर काम करते हैं, उनकी क्या हालत है, उनको खाना मिलता है या नहीं, क्या वे भूखों मर रहे हैं :

श्री प्रान प्रशाद : उसकी चिन्ता ठेकेदार को करनी चाहिये, हमको नहीं ।

श्री हुकम चन्द कछवाय : आप अपनी जिम्मेदारी को निभाना नहीं चाहते हैं । इसी लिए तो हम कहते हैं कि ठेके पर मजदूरों को खत्म कर देनी चाहिये ।

SHRI HATHI: Under the Provident Fund Act it is not 50 but 20.

SHRI PRAN PRASHAD: I am sorry. The point I am making is that it started with 50.

SHRI HATHI: In 1956 it was amended from 50 to 20.

SHRI PRAN PRASHAD: When did the Act first come into force?

SHRI HATHI: In 1952.

SHRI PRAN PRASHAD: So it took four years to come to 20. It started with 50. You may in your wisdom later bring it down or may even go up.

DR. S. K. SAHA: If the principal employers are not held responsible for payment of wages and welfare of contract labour, who will be responsible for them?

SHRI PRAN PRASHAD: In making that statement is not the Government showing its weaknesses? Why can it not implement its laws through contractors; why does it need to catch hold of somebody else? Here is a fundamental point. The point that is being made is that the contractor does not see to the welfare of the workers and somehow the Government, with all its enormous powers, cannot make

that man do it; but it is going to catch hold of 80 or 90 people because they can do it. Is it not total bankruptcy of Government? We want to spread the whole concept of anti-monopoly, small-scale industry and have a large number of small employers. All the desirable social and economic efforts are being made to increase employment and the number of employers.

SHRI HATHI: Not through contractors.

SHRI PRAN PRASHAD: It does not matter how it is done.

SHRI HATHI: It does matter very much.

SHRI PRAN PRASHAD: I am answering the limited question how these welfare measures are going to be done through the contractors. If Government intend to do it, they can do it. Why can you not do it? Why do they need catch hold of somebody else? Here is a case of the sins of the son being put upon the father, because it is easier to catch hold of the father. A father has five sons who are all likely to be sinful; so, catch hold of the father.

SHRI HATHI: The property is to be bequeathed to the sons. The contractor has to do the work for the father.

SHRI PRAN PRASHAD: But they are separate in law. You do not make the sons pay income-tax for the father. They pay separate tax.

SHRI S. M. SOLANKI: According to your information and knowledge, is there any *mala fide* intention on the part of contractors and corrupt practice in revocation, suspension and amendment of licences?

SHRI PRAN PRASHAD: I should make the point here that we are not

representing the interests of contractors. Our fundamental point is that a contractor is like any other employer. If he is registered and does anything wrong and if the law provides for punishment, let him be punished. I do not accept the concept of 'principal employer'. I accept the concept of 'employer' only. The contractor is also an employer.

SHRI VIRBHADRA SINGH: What do you say about Chapter VI of the Bill which provides for penalties and procedure thereof?

SHRI PRAN PRASHAD: This seems to follow the same pattern as of other legislations dealing with offences.

SHRI VIRBHADRA SINGH: There have been suggestions from certain quarters that penalties provided for in this Chapter should be enhanced. What have you got to say about that?

SHRI PRAN PRASHAD: Any legislation which proceeds on the basis that the penalty must be far more than the crime in order to prevent the crime is something, I find, of an objectionable method of the Government. I must say that anything based on excessive penalties is no way of running a democratic country.

SHRI P. M. SAYEED: As you know, the mining industry is a major industry. When we went round the country, we found that the contractor employs 15 to 20 employees. Your suggestion is that the number should be fixed at 50. According to your statement, the principle employer is not responsible to an employee engaged by the contractor. Even if the number is fixed at 50, the employees engaged by the contractor will be left without any advantage of this Bill. Is it not an injustice to the people engaged in the mining industry?

SHRI PRAN PRASHAD: My answer is that, at whatever level you fix the

number, at least the number of persons in excess of that will get protection to start with. It may be that in the initial stages the people who are left out, whatever the number you fix, whether it is 50 or 20, will not get protection. At least a sufficient number of persons will get protection who are not getting today. Following the logic of your argument, it should not be even 20. It should be 2 or even 1. While, intellectually and logically accepting your argument, my answer is, if you want to make progress we should do it through gradualness. Any attempt to do it all at once is not going to be a worthwhile endeavour. I would like to know what the latest statistics are of the total employment on this contract basis. Some studies have been carried out by the Planning Commission. I think, it will be very interesting to know how many people are involved here. It will be interesting to know how many individual employers of this kind there are. There might be tens and thousands of such cases. Some assessment should be made to find out the nature of the problem.

श्री भवानी प्रसाद शिखरी : आपने अभी एक तर्क प्रस्तुत किया कि इस कानून को इस तरह के जो अन्य कानून बने हैं, उनके अधिक से अधिक करीब आना चाहिये, विशेष रूप से फैक्टरी एक्ट की अभी चर्चा हुई है। ऐसी स्थिति में मैं आप से यह पूछना चाहता हूँ कि इस प्रस्तावित कानून की धारा 4 में एम्प्लाइज की संख्या 20 होने के बारे में जो परिभाषा दी गई है, वह तो फैक्ट्री एक्ट के बिल्कुल करीब है, फिर आप इसका विरोध क्यों कर रहे हैं। एक तरफ आप तर्क देते हैं कि करीब आना चाहिये, जहां करीब आने का प्रयत्न किया गया है, या एक सा रखा गया है, वहां आप दूसरी संख्या क्यों प्रस्तावित करते हैं ?

श्री प्रण प्रशद : फैक्ट्री एक्ट को इस स्थिति तक पहुंचने में 80 साल लगे हैं, आप इस बिल में उसी पोजीशन को एक दम ले

आना चाहते हैं, जो फैक्ट्री एक्ट 80 साल में बना पाया है। मेरे कहने का मतलब यही था कि कुछ धकत दीजिये, हड़बड़ी में कोई काम मत कीजिये। हिन्दुस्तान बहुत कुछ काम हड़बड़ी में करता है और फिर उसके लिये वर्षों तक पछताता रहता है। हड़बड़ी में ऐसी चीजें हम को नहीं करनी चाहियें।

श्री भवानी प्रसाद शिखरी : जो अन्व, कानून श्रमिकों की सुविधा के लिये बने हैं, जैसे कम्प्लेन्शन का कानून या प्राविडेंट फण्ड का कानून, इन कानूनों की जो अच्छी बातें हैं, कानून में नहीं आ पाई हैं, अगर कांस्ट्रक्ट लेबर की सुविधा के लिये वे इस कानून में भी आ जायें, तो क्या आपको कोई आपत्ति है ?

श्री प्रण प्रशद : जो सुविधायें उन कानूनों में दी गई हैं, वे तो उनको मिलती ही हैं। जैसे कांस्ट्रक्ट लेबर माइनिंग में है, माइनिंग के हिसाब से प्राविडेंट फण्ड बगैरह उनको पहले ही मिलता है। इसका यह मतलब नहीं है कि माइनिंग एक्ट में जो उनको मिलना चाहिये या फैक्टरी एक्ट में जो उनको मिलना चाहिये, वह नहीं मिल रहा है, वह तो उनको मिल ही रहा है।

SHRI SRIMAN PRAFULLA GO-SWAMI: I just want to know two things from you. Firstly, a substantial section of the poor people under the category of contract labour are in a very deplorable condition. They are not getting their due share. They are exploited by either employer or contractor. This Bill seeks to give them some minimum facilities. Do you agree with such a purpose of this Bill?

SHRI PRAN PRASHAD: I wholly agree with the purpose of the Bill. But I disagree with some part of the Bill.

SHRI SRIMAN PRAFULLA GO-SWAMI: You have given your opinion in such an intellectual way that you are not for giving anything.

The second point is that you are accusing the Government that instead of doing it directly, they have fallen on the contractors; the Government today adopts such a policy, communist policy, of eliminating intermediaries. You said that Government had gone bankrupt and all that. But you should understand that today's Government wants to protect you also.

SHRI PRAN PRASHAD: This does not come within the purview of this Bill. Nevertheless, I would like to answer this question.

SHRI SRIMAN PRAFULLA GO-SWAMI: Your speech provoked me to say this; you talked about Government's bankruptcy and all that.

SHRI PRAN PRASHAD: I would say that your question provokes me to answer that. My answer with regard to that point is that I am a professional manager of an industry. I am not in any sense an owner of an industry. As a manager of an industry, it is a matter of indifference for me as to who owns the enterprise. I am concerned with the effective, efficient manager of an industry. If that is so, and this is what I say it is, as far as I am concerned, if a state of society were to exist where certain things that you said would be removed, I would say that, so long as I am allowed to run an industry, like an engine-driver who runs the engine, I will run the industry; and the day I cannot be allowed to do it, they may send me to Brindawan or hang me, whatever it is.

SHRI R. K. AMIN: May I know whether there are practices prevalent in the industrial field where although the work may be of a perennial nature, the employers have given it on a contract basis because they do not want to accept the responsibility for continuous employment?

SHRI PRAN PRASHAD: The short answer to your question is 'yes'.

SHRI R. K. AMIN: In that case we can detect these industries where such

practices are there and if we pass an Act abolishing that practice, i.e., that no contract labour should be employed for such work, will you take any objection?

SHRI PRAN PRASHAD: I would think that it would be one of the most damaging things that you can do to the Indian economy. I would say that this concept of abolition is wrong.

SHRI R. K. AMIN: I do not say 'abolition'. Wherever such a practice is there.

SHRI PRAN PRASHAD: Even if it were in only one industry out of 10,000 industries, I would say that it would be damaging to the Indian economy.

SHRI R. K. AMIN: When you say that, instead of 20, the number should be 50, have you in your mind the administrative convenience or did you have in your mind the consideration that in a bigger scale of industries although the work may be of a contract type the contract labour may not be employed because of the staggering of work?

SHRI PRAN PRASHAD: I am glad you made that point. If that thought had occurred to me, that would have reinforced my argument. In fact, that did not occur to me—administrative convenience.

SHRI R. K. AMIN: When you say that it would be disastrous to the Indian economy, if the provisions of this Bill are implemented, you mean disaster in the sense that the cost of production would increase considerably.

SHRI PRAN PRASHAD: Not only that.

SHRI R. K. AMIN: What are the consequences that you have in your mind?

SHRI PRAN PRASHAD: I would say that today the average employers—those who have a sense of social justice—have got this dichotomy. The dichotomy is this. On the one hand they realise that, unless greater em-

ployment opportunities are created and provided in this country, there would be disaster. On the other hand they realise that, if they increase substantially their work-force, there would be this difficulty, namely, the business itself may be short term; for instance, export orders in the engineering industry; this is a very important sector where export is possible. Suppose there is a factory which has got, let us say, 500 workers. These people may be doing the work for the Indian economy and they may keep that going. But the export work may be in surges. If he does that work by having all permanent people, then what happens to him when he does not get the export order? If he does not quote for the export order, the export which he is capable of doing is not done. My point is that a part of the employment opportunities which would have been possible if contract labour had continued would be denied now. In my view it is better that a certain number of people, additional people, should be given work even if it is through contract work without the full protection of law than nobody getting the work at all.

SHRI R. K. AMIN: May I understand by what you say that, if the provisions of this Bill are implemented, the total employment opportunities would become smaller than what is possible now?

SHRI PRAN PRASHAD: Yes, in other words, it might tend to freeze in a large area of undertakings of work.

SHRI R. K. AMIN: If the amenities provided are implemented, will they not have a good effect on efficiency?

SHRI PRAN PRASHAD: Amenities of any kind given to workers, where they are reasonably necessary for the workers' health and well-being, are an end in themselves and not negotiable in terms of efficiency.

SHRI SANDA NARAYANAPPA: May I understand from your argumnet

that you are fixing up a permanent place for contractors and also if the Government intends to take up this legislation in order to give amenities and certain conveniences to the labour classes, you are convinced that these provisions in the Bill are damaging to the Indian economy?

SHRI PRAN PRASHAD: I will answer the two points separately. Where it is a matter of giving amenities, I am second to none in saying that it is absolutely essential that they should be given these amenities. It is where the question of protection, registration and licensing comes in, the total abolition is not possible. We are chasing a will O'whisp. It has not been possible any where in the world. While we are trying to be the first in the world in many many fields, we have not succeeded. I do not think we will succeed if we do it here.

SHRI B. K. MAHANTY: May I ask one question. What is your opinion about the CRO system?

SHRI PRAN PRASHAD: My views on the Gorakhpuri labour system are well-known. I have been involved in this for a number of years. My views are that the Gorakhpuris get employment. To-day I am not prepared for the Gorakhpuri system. Mr. Pande is well aware of it. Mr. Hathi is well aware of it. The position is well-known.

SHRI B. K. MAHANTY: Previously your view was different.

SHRI PRAN PRASHAD: I am a little bit wiser.

SHRI DEVEN SEN: Will you tell me as a fact that the contract labour is paid less than his corresponding direct labour and if so, why?

SHRI PRAN PRASHAD: Well, Sir, the contractor has to give.

SHRI DEVEN SEN: What is your reply at all?

SHRI PRAN PRASHAD: I said that the contractor has to live.

SHRI DEVEN SEN: That is not my point whether the contractor does earn or not. My point is: are you aware that the contract labour gets less than the corresponding direct labour. If so, have you not got a moral responsibility to say that people who do your work do not get less than those who are getting more?

SHRI PRAN PRASHAD: I fully acknowledge that moral responsibility. I think everybody in this room is full of moral responsibility. The sole problem is that their pockets are short of money and they will not be able to fulfil their moral responsibility. For instance, there are millions of unemployed and under-employed in the country. Is it not your moral responsibility to do some thing for them?

SHRI DEVEN SEN: My next question is: for whose benefit does the contract labour exist? Is it for the benefit of the labour or the contractor or the principal employer?

SHRI PRAN PRASHAD: For the benefit of all of them.

SHRI DEVEN SEN: The employer gets the benefit because he pays less. The contractor gets the benefit. You know the conditions of the labour under the contract.

SHRI PRAN PRASHAD: I know it. I was concerned with this to some extent also. My answer to you is this. Do you agree that a very large part of the contract workers would have no jobs at all if the contract system was not there.

SHRI K. A. NAMBIAR: How can that happen—simply because the contract labour is abolished?

SHRI PRAN PRASHAD: The railway system in India is run by the contract system. The question was whether and how could we justify the position. In my view there would be actual reduction in the employment of

the contract system is not there. The railways like everybody else has to balance the budget. There is a limit upto which they can go on increasing the passenger fares and freight rates etc. They will have to cut down the amenities in the railways. Let us say there are 5000 or 6000 people working under the contract system in the railways. If they were to pay proper rates, then instead of 7000 they will employ only 4000.

SHRI S. KUNDU: If I understood you correctly, I have a feeling that you do not object to the welfare measures or the payment of correct wages to the labourers. As you said, as a principal employer you also want that the labourers should be paid fair wages. In this connection I want to ask one question. Why do you insist so much that the principal employer should not be held responsible for the payment of wages and other benefits to the workers. Why should it be left to the sweet will of the contractors. As you know, the contractor works on some sort of a commission or benefit and he works on behalf of the principal employer for the main product. He does the liaison. After the structure is built he goes away. The structure remains with the principal employer and the workers who worked and put their sweat and toil for building the structure. The contractor is just and intermediary. After the structure is built he goes away. It is very difficult to get him. We have heard shocking revelations that after the work is over the contractor goes away and does not pay the wages to the labour. They cannot go to the courts. It is really the principal employer who is concerned with the payment of wages. Why do you insist that the contractor should be made responsible for the payments and not the principal employer?

SHRI PRAN PRASHAD: As you rightly pointed out, the contractors are mere agents. They do the work and run away. By introducing a measure of this kind you are encouraging them to run away even

faster. That is the first point. The second point is that if you put the responsibility on the employer only without any distinction between the contractor and the principal employer, our view is that the contractor is really the employer. What we need today is a legislation which is enforceable against the man who is actually in the direct line of employer and employee relationship and master and servant relationship in law. We are introducing a very different concept which is really going to be unworkable will create all sorts of other complications. Therefore, in order to avoid this, you should not try to make the situation too easy for the contractor to run away. You should actually hold him responsible for the things he is responsible and not make anybody else responsible. Without entering into the right or wrong this is the third point.

SHRI S. KUNDU: I do not want to enter into a dialogue with you. But my impression of your speech is that if there is any legislation which guarantees welfare measures for the labour you will support it.

SHRI PRAN PRASHAD: I will. But here the question is of the principal employer. We do not recognise the concept of the principal employer. What we say is that in law the only relationship is between the master and servant, and that can be only between the contractor who is the master and the worker who is the servant. We do not see a third concept there.

SHRI S. KUNDU: Let us forget the law, whether in law there is the principal employer. If there is any dispute about it, the courts will decide it. As I understand it, there is the concept or view of principal employer. Now the question is this. If there is any legislation which is to safeguard the welfare measures for the working class I am sure you will agree to it.

SHRI PRAN PRASHAD: I will whole-heartedly agree with it. But I disagree with the introduction of the concept of principal employer.

SHRI MADAN GHOSH: One way to get over this difficulty will be to get the contractors licensed either under the Shops Act, Factories Act or the Plantations Act so that he will become a legal entity. Also, it will enable the workers to get certain benefits which the Act provides which at present they are not getting.

श्री हुकम चन्द कछावर : ठेकेदार जो काम करवाता है वह आपका काम करवाता है, आपके एरिया में काम करवाता है, उसका लाभ आपको मिलता है। ठेकेदार अगर पैसा लेकर भाग जाता है तो उसकी जवाबदेही आपके ऊपर होनी चाहिए क्योंकि काम तो आपका ही होता है, लाभ भी आपको ही मिलता है...

श्री प्राण प्रशद : नुकसान भी हमारा ही होता है।

श्री हुकम चन्द कछावर : परन्तु मजदूरों को कितनी मजदूरी मिलती है, इसकी आपके कोई चिन्ता नहीं है। उनको कौन कौन सी सहाय्यते मिलनी चाहिए, चिकित्सा की सुविधा मिलनी चाहिए, प्राविडेंट फण्ड की सुविधा मिलनी चाहिए, और जो अन्य सुविधाएं हैं, उन सारी सुविधाओं से वह बंचित रहें इसलिए आपने कह दिया कि हम तो पैसा दे देते हैं लेकिन हमारा कहना यह है कि आपका सीधा सम्बन्ध होना चाहिए।

दूसरी बात यह है कि जहां तक इस बात का सबाल है कि लाइसेंस देने के लिए मजदूरों की संख्या 20 से बढ़ा कर 100 कर दी जाए, हमारा अनुभव तो यह है कि जहां पर सौ श्रादमियों से काम लिया जाता है वहां पर केवल 10 या 15 श्रादमी दिखलाये जाते हैं। ऐसे अनेक उदाहरण हम रोज देखते हैं। इसलिए हम समझते हैं इस लिमिट को बढ़ाना भी कोई उचित बात नहीं होगी। अगर रजिस्ट्रेशन करवाया जायेगा तो सरकार के पास एक रिकार्ड रहेगा, सरकार जांच करेगी और देखेगी कि लाइसेंस देना चाहिए या नहीं देना

चाहिए। हमारा कहना यह है कि उनको कहीं पर भी टैम्पोरेरी नहीं रखना चाहिए। अगर किसी ने तीन महीने काम कर लिया तो उसे स्थाई बना दिया जाना चाहिए। लेकिन आज बहुत से उद्योगों में केवल एक महीने के लिए बर्से का पास बना दिया जाता है, लिख दिया जाता है "केवल एक महीने के लिए टैम्पोरेरी" दूसरा महीना आया तो फिर वही लिख दिया जाता है और सालों तक यही चलता रहता है। सरकार जो कानून बनाती है उनसे बचने के लिए उनके पास वकील रहते हैं जो इस बात की खोज करते रहते हैं कि किस प्रकार से मजदूरों को बेवकूफ बना कर उनका शोषण किया जाए।

श्री प्रण प्रशद : माफ कीजिएगा, सरकार भी बड़ी चालाक है, वह भी अपने कर्मचारियों को बीस बीस साल तक टैम्पोरेरी रखती है। यह तो फिर वही बात हुई कि सारा देश ही ऐसा है, सारी दुनिया ही ऐसी है तो फिर हम लोग भी किस प्रकार अच्छे कहे जा सकते हैं।

SHRI SHRI CHAND GOYAL: In your evidence you have stated that it would be convenient from the point of view of administration if the figure is raised from 20 to 50. From a study of the labour laws I find that the Payment of Wages Act, Minimum Wages Act, Workmen's Compensation Act, Factories Act and so on all of them have taken the figure of 20. So what makes you think that the figure of 50 would be more convenient than 20 from the point of view of administration?

SHRI PRAN PRASHAD: All these social regulations have come progressively over a number of years. Here we are attempting a fundamental departure, something we are wholly unused to, something most of the world is wholly unused to. So, let us proceed gradually. Let us not try to correct all the ills of the world. Of course, we want to correct as much as possible

but let us not try to attempt more than our capacity.

SHRI SHRI CHAND GOYAL: That is a matter of policy. But could you give some logical argument to prove that it is administratively convenient to have the number fixed at 50 rather than 20?

SHRI PRAN PRASHAD: As I see it, nobody has taken any statistics and we are not in a position to get these statistics as to how many individual contractors there are in the country and where they are. So, I say that every establishment should not come within the purview of this Bill. Let us not, to start with, go too far. We should start with some figures like 50 and see how it works. It will be within the power of Parliament to amend it on a future date, if necessary, to make it 20.

SHRI SHRI CHAND GOYAL: You have suggested that it is unfair to make it applicable to cases where the labour has worked even for a day. You have suggested that it should be made three months in the preceding year. Will you be satisfied if, instead of three months we make it 90 days for the whole of the year so that if he has worked for 90 days in the preceding year he would be covered? Or will you still insist on three months?

SHRI PRAN PRASHAD: I insist on nothing. I am here to give evidence. But my view still is that it is better to think in terms of continuity because it makes the keeping of records easier. Later on you can even make it 20 days or even one day. Now let us be practical and let us gain by experience. Let us see the general social response of the employer or contractor.

SHRI SHRI CHAND GOYAL: Then, you went to the extent of criticising the drafting department of the government for using terms like "work of casual nature" and "intermittent work". I want to make it clear that the draftsman draft a legislation according to

the principles and policy decided by government. This is only an exception provided. Suppose the work is wholly of an intermitten or casual nature, then the provisions of this Bill will not apply to that. That is, now you said this will nullify the effect of the whole Act. On the other hand you have suggested this should be made applicable to a certain section or to a certain function which is being done in a factory instead of making it applicable to the whole factory. If you make it applicable to a certain section that will nullify the entire Act and it will reduce it to nullity.

SHRI PRAN PARSHAD: I was expressing our understanding of what this conveyed to us. What I am trying to say is that we have difficulty in understanding this. So we placed our difficulty before you. The intention, I think, should be not just the whole establishment but a part of it where contract work is to be done.

MR. CHAIRMAN: Thank you, very much.

(The witnesses then withdrew)

(The meeting then adjourned)

**MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CONTRACT
LABOUR (REGULATION AND ABOLITION) BILL, 1967**

Friday, the 27th September, 1968 at 15.00 hours

PRESENT

Shri Kashi Nath Pandey—*Chairman.*

MEMBERS

Lok Sabha

2. Shri R. K. Amin
3. Shri N. Anbuhezhan
4. Shri K. R. Ganesh
5. Shri Shri Chand Goyal
6. Shri Ram Krishan Gupta
7. Dr. Ranen Sen
8. Shri Hukam Chand Kachwai
9. Kumari Kamla Kumari
10. Shri Samarendra Kundu
11. Shri K. Ananda Nambiar
12. Shri S. D. Patil
13. Shri Khagapathi Pradhani
14. Shri S. P. Ramamoorthy
15. Shri Viswasrai Narasimha Rao
16. Dr. Sisir Kumar Saha
17. Shri P. M. Sayeed
18. Shri Deven Sen
19. Shri B. Shankaranand
20. Shri Shashi Bhushan
21. Shri S. M. Solanki
22. Shri R. S. Vidyarthi
23. Shri Virbhadra Singh
24. Shri D. R. Chavan

Rajya Sabha

25. Shri Anant Prasad Sharma
26. Shri Dalpat Singh
27. Shri A. C. Gilbert
28. Pandit Bhawaniprasad Tiwary
29. Shri Sherkhan
30. Shri Sriman Prafulla Goswami

31. Shri Sanda Narayanappa
32. Shri Prem Manohar
33. Shri Rewati Kant Sinha
34. Shri Suraj Prasad
35. Shri Brahmanand Panda

LEGISLATIVE COUNSEL

Shri P. L. Gupta, *Addl. Legislative Counsel, Ministry of Law.*

REPRESENTATIVES OF THE DEPARTMENT OF LABOUR AND EMPLOYMENT

1. Dr. S. T. Merani, *Joint Secretary, Department of Labour and Employment.*
2. Shri H. K. Chaudhry, *O.S.D. (Law), Department of Labour and Employment.*
3. Shri O. Venkatachalam, *Chief Labour Commissioner (Central), Department of Labour and Employment.*
4. Shri S. C. Gupta, *Deputy Chief Labour Commissioner (Central), Department of Labour and Employment.*
5. Shri C. R. Nair, *Under Secretary, Department of Labour and Employment.*
6. Shri J. D. Tiwari, *Under Secretary, Department of Labour and Employment.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

WITNESSES EXAMINED

Hind Mazdoor Sabha, Bombay

Spokesmen:

1. Shri V. B. Kulkarni.
2. Shri R. C. Pradhan.

(The witnesses were called in and they took their seats).

MR. CHAIRMAN: Before the witnesses tender their evidence I have to invite their attention to Direction 58 which says that where witnesses appear before a Committee to give evidence the Chairman shall make it clear to them that their evidence shall be treated as public and is liable to be published unless they specifically desire that all or any part of the evidence given by them is to be treated as confidential. It also says that it shall, however, be explained to the witnesses that even though they might desire their evidence to be treated as confidential such evidence is liable to be made available to the Members of Parliament.

We have received your Memorandum. If you have anything more to add you may do so now.

SHRI V. B. KULKARNI: My first point is that abolition of contract labour should be the aim of this Bill and not regulation of it. We believe that abolition would be easier than regulation of contract labour system. We also believe that contract labour system survives by exploitation of labour. Cheaper labour without any security of employment, without any retirement benefits, without any regulated working hours is the main sustaining power of this system. Since it is bad for administrative convenience and economic reasons it should not be continued.

Though we demand complete and total abolition of contract labour system we realise that it cannot be done overnight. Therefore, if the decision is in favour of abolition of contract system the residual remnants of this system should be placed under severe restrictions so as to make it a thoroughly unattractive proposition.

MR. CHAIRMAN: Simply saying that abolition would be easier is not enough. You have to give arguments why it will be easier.

SHRI V. B. KULKARNI: I say that abolition would be easier because smallness of the contractors will make it almost impossible for any active functioning and to make the law operative or enforceable. We have seen that in small industries even the most common and reasonable legislation like the Shops and Establishment Act is not being implemented. We have seen that the implementation is not only defective but inadequate also. Similar reasons prevail in respect of contract labour also.

MR. CHAIRMAN: The employers also say the same thing that it would be difficult to get this Act implemented.

SHRI V. B. KULKARNI: They say they would like to continue the contract labour system in one form or other. We say that since you cannot regulate it, discontinue it. Why allow exploitation of one form or another? Why have one more statute which we cannot implement or enforce? So, the best way would be to abolish contract labour system.

SHRI SHRI CHAND GOYAL: But there are certain types of work where you cannot do without contract labour.

DR. RANEN SEN: Sir, I would suggest that let the witness make a full statement. Then we can ask questions.

MR. CHAIRMAN: My remarks were not meant to curb or obstruct the witness but to enable him to make the point clear to members of the Committee.

SHRI V. B. KULKARNI: If you come to the conclusion that contract labour system in its totality should be abolished, then government should first start abolishing it. They are the largest single employer and by all estimates they are having the largest force of contract labour in various departments. Since ours is a developing economy and since we spent 40 to 45 per cent of our developmental expenditure on construction work and since we allow over 60 to 75 per cent of our construction work to be done through contract labour, it is of the utmost importance that the government should show its sincerity and reasonableness towards labour by abolishing the contract labour system in its departments. Since development is going to be a perennial matter—there would be development even 50 or 100 years hence—there should be a regular department for construction work through which we can do away with contract labour system in construction work. The only argument that can be levelled against my suggestion would be economic costs and administrative difficulties. But to end the exploitation which exists today which one cannot describe adequately the economic reasons and administrative difficulties do not go well with democratic system and the goal of welfare state. Therefore, the government should be the first to start it. If the government starts it, then the private sector employers will have no grudge and no complaint. But if the government continues it and if government ask the private sector to do away with it, there would be a great deal of opposition from the private sector employers. If we are to succeed in this aim, then government must come forward and must be the

first to do away with the contract system.

However, if the Committee comes to the conclusion that contract labour cannot be abolished in certain spheres of our economic activity, then I would urge that this Committee should draft the Bill in such a way, by making amendments and putting severe restrictions, to make employment of contract labour thoroughly unattractive. To do so, the law must provide equality of wages and conditions of work in various categories of employment in various industries. No doubt, wages and conditions of work will differ from place to place and there cannot be any standardisation. I am not asking for standardisation. What I am saying is that the contract labour should get the same salaries and benefits which the regular employees are getting. They should not get a lesser wage than contract labour is paid anything between 35 to 50 per cent of what the regular employees are getting. They are not getting other benefits like holidays, retirement benefits, provident fund, gratuity and so on. If they are all provided in the Act, I am sure the contract labour system will die its own death.

MR. CHAIRMAN: What about the medical facilities, housing and so on?

SHRI V. B. KULKARNI: Everything should be provided to them. Since the Government provide housing to their own employees and since they ask the private employers to do it, there is no reason why the contract labour should be denied these benefits. I am asking for nothing more. I am asking for only that which is given to the regular employees.

Then I would suggest that the Bill should be enforced immediately and simultaneously at all places. No place should be left out of its scope, be it the State of Jammu and Kashmir or any other area. Since

Jammu and Kashmir is part of India and since this is Indian labour legislation, the benefits of it must be made applicable to all the labour force in India, including the State of Jammu and Kashmir.

Then, I feel the limit of 20 is on the high side. We have seen a lot of industries, which have smaller unit factories employing one person less than 20 to get rid of the clutches of the various labour welfare legislation. So, the number should be reduced to 5, if it cannot be reduced to 1. It could be reduced to 1, provided government decide that contract labour is bad and should be abolished. My figure of 5 is not very sacrosanct. I would be very happy if it is 1. But 5 should be the minimum and not 20. If we accept 5 as the limit, then for some benefits like canteen the number should be reduced to 25 or 20. Also, there is no provision for creches. The largest single industry in the country is the construction industry and in that industry a large number of women are employed. They are married and have children. They come to work with children. Many of you have seen, just as I have seen, their putting their children in baskets or tying them between the length of two trees or keep them in the shed and go for work. This is inhuman. If this Bill is to provide any benefit, it should ensure that women workers engaged by the contractors get the benefit of creches and maternity benefit. Whatever facilities we give to women in other industries should be provided to them here also. There is no mention of it in the Bill.

In the Bill, in two places terms like "intermittent" or "work of casual nature" are mentioned.

MR. CHAIRMAN: For your information I may say that if we insist that the contractors engaging women labour should provide maternity and other benefits to women workers,

the contractors would not engage women, because it is going to cost them more.

SHRI V. B. KULKARNI: It is not for me to lay down whom the employer should employ but if the employer employs women workers, he jolly well has to provide creches etc. We cannot stipulate to the employer that he should employ a particular percentage of women workers, but we can certainly provide that if he employs women workers these facilities should be provided.

MR. CHAIRMAN: If you say that if women workers are to be employed they have to be given these facilities, there is a danger of their not getting service.

SHRI V. B. KULKARNI: I can see your point but surely I would not like women employees to be employed because they are cheaper, because they do not ask for creches and dormitories for their children, because they do not ask for special privacies by way of washing rooms and other things. I would surely like women workers to be employed more and more but I would surely not like them to be employed under sub-human conditions. It is the choice of the employer to employ women or men, but once he employs women he shall have to give certain minimum benefits. That should be the attitude of this Committee.

Then, there are two words appearing in this Bill at two places or perhaps more. The words are 'intermittent' and 'casual'. I feel, unless these two words are qualified properly and adequately, they are likely to be misused and will leave open a lot of litigation. What is "intermittent" and what is "casual"? I am told, in Railways 8 lakhs of the employees are casual and some of them retire as casuals. I also know of instances in the Bombay Naval Docks, where I know from personal knowledge, hundreds of employees

retired as casuals in 1956 after years of service. What is casualness of employment? I would appeal to you, therefore, that the terms "intermittent" and "casual" should be specifically stated in the body of the Bill itself.

MR. CHAIRMAN: What is your suggestion?

SHRI V. B. KULKARNI: About the Central and State Advisory Boards, as the Bill stands at present I am not prepared to make any distinction between the representation given to the Government and the employers because the Government is the largest single employer and they together against me as a worker form a majority. I am not casting any aspersion on the Government representatives, but the fact remains that numerically they are stronger than me. If they are stronger, they will be a mockery of the tripartite system or the advisory board. What the two employers, the Government or the private employer or any other employer, will decide will be the law or the advice of this body. So I strongly feel and I demand on behalf of my organisation that the worker should be given equal representation, that is, equal to the total number of Government nominees and the employers' nominees, if this thing is to be permitted.

AN HON. MEMBER: Why not more?

SHRI V. B. KULKARNI: I will be much obliged, if it can be more.

Then, in clause 15(2) of the Bill it is stated "as early as possible". This is a beautifully vague statement. There must be some time limit. If this Bill is to go as it is, at least you will see that a time limit is specified. Within a reasonable period the decision must be given; otherwise this vague term "as early as possible" has got no meaning. People will have to nominate their hirs

and executioners to receive the benefit. There must be a stipulation whereby within a particular time limit a decision would be taken.

About the recovery of dues it should be open to the employees to recover their dues either from the contractor or from the principal employer through a court of law through the Payment of Wages Act. Depending upon the situation they will either sue the contractor or the principal employer or both, but such a provision should be there in the Bill itself.

This is as far as the Bill is concerned. I would like to add two more comments to what I have said so far and that relates to the enforcement of this Bill. As we have stated in our written memorandum, we would not like the right of adding to the Schedule the industries to be covered by the Bill rest with the Government; in fact, we suggest that the Bill should stipulate whether the industry is to be covered under the Act or not and whether the work could be done through the contractor or not should be determined by a judicial body, be it a labour court or a tribunal. I would suggest a labour court because the tribunal would provide a forum for appeal, but it should not be left to the Government or the advisory board, Central or State, to recommend which industry is to be added and which is not to be added. The right to add or exempt industries to or from the Schedule should not rest with the Government. Forgive me to say that our experience in this regard is utterly disappointing and sad. We have a very small, minor legislation, the Maternity Benefit Act. It is not extended to many industries though, as you said a little while ago, large number of women employees are employed and their number is increasing. A large number of them is not covered by

the Maternity Benefit Act. It is inhuman to deny maternity benefit to a woman if she is married.

Take, for instance, the Minimum Wages Act. The Government has a right to add to the schedule the industries and that right has been used by the Government in a very halting and halfhearted manner. So it should not be left to the Government to add to the list of industries and to give exemption. Let it be judicially decided whether the contract labour system should be continued or not in a particular industry or project. Let the court of law decide it and we will bow to the decision of the court.

Then, the licensing machinery should be such that it will provide the right of defence or the right of appearance before it. It is stated in clause 15 that the reasons would be recorded. The reasons should be recorded in writing and it should not be an investigation of a complaint *in camera*. Investigation should be conducted by the officer concerned in the presence of the complainant and the complainant should have a right to place his case before the inquiry officer.

These are in brief our comments.

SHRI SHRI CHAND GOYAL: You have laid emphasis on the abolition of this system but as far as I have been able to see a total abolition of this system perhaps will not be possible. Therefore will you agree to abolition wherever it is possible and to regulation wherever it is not possible to abolish it? Will you be agreeable to such a proposition?

SHRI V. B. KULKARNI: If you agree to abide by the 19th Labour Conference decision, well, I will consider such a proposition, that is, the work of a perennial nature shall not be done through a contrac-

tor. It has stipulated four conditions. If those four conditions are accepted, I don't tie myself to those conditions. Certainly, they are not sacrosanct in a developing society and in a welfare State.

SHRI SHRI CHAND GOYAL: The Supreme Court has laid down four criteria. Now, the employers' representative appeared before the Committee and his emphasis was that what the Supreme Court has laid down, all the four criteria, should be considered conjunctively rather than separately. It is not that this Committee is, in any way, a subordinate court to the Supreme Court and that we are bound by it. Even the interpretation of the Supreme Court that all the four criteria are to be taken conjunctively is not bound to be accepted by the Committee. Would you be satisfied even if one of the criteria is taken up separately to take out the work from the applicability of this Act?

SHRI V. B. KULKARNI: If the Committee recommends that it is not for the contract labour but feels that it cannot be done overnight or in the shortest possible period, for the limited period, I will accept the four criteria. I am not mentally prepared to accept the economic and administrative considerations as a cause for the continuation of the system.

SHRI SHRI CHAND GOYAL: Then, you have tried to make out a case, wherever women are to be employed as labourers, that certain minimum facilities and amenities should be made available for women labourers. Don't you think that such a proposition will deprive a large number of women from employment because, in that case, the employer will not be at all anxious to employ women and he would rather prefer men with the result that women would be left unemployed?

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SHRI V. B. KULKARNI: In any proposition there will not be a total justice. In a proposition that you make, women will be employed under sub-human conditions. Perhaps, the volume of employment will fall. I can see the point. But as a worker, I would prefer non-employment to women to their employment under sub-human conditions. Why should women work? Let their men work and provide them bread.

SHRI SHRI CHAND GOYAL: That means you would prefer them to starve rather than to live under sub-human conditions.

SHRI V. B. KULKARNI: I think, the State should take the responsibility to see that nobody starves. Let us have a social security benefit that everybody shall have something to eat.

SHRI DEVEN SEN: You say that it is in the economic interest that the contract system is being kept or maintained. What do you mean by that? Whose economic interest? Do you mean the interest of the employer or the contractor or of the worker?

SHRI V. B. KULKARNI: I would surely not represent employers here and I would also not represent the Government here because they have their representatives. It is, of course, in the interest of the contractor. According to our estimate, the contractor is, generally, given about 10 per cent of the amount involved in the work. But he earns much beyond that. Our estimate is that he earns between 15 to 25 per cent by giving inferior type of work about which the employer should worry. It is in the interest of the contractors only that the system survives.

SHRI DEVEN SEN: Don't you think that the employer also gains because he pays less to the contract labour than to the direct labour?

SHRI V. B. KULKARNI: You are perfectly right. I am glad you have pointed out this to me. It is entirely true that the employer encourages the contract system because it is cheaper for the employer also. It is hardly possible to make a distinction between an employer and a contractor whose motive is profit. I do not make a distinction between them.

श्री हुकम चन्द कछवाय : ठकेदारी प्रथा जो समाप्त हुई उस से क्या कुछ उद्योग बंद होते से लगते हैं और यह कि ठकेदारी सिस्टम पर मजदूर लोग काफी पैसा कमा लेते हैं 20-25 और 30 रुपया कमा लेते हैं और इसलिये यह ठकेदारी की प्रथा मजदूरों के लिए अच्छी थी तो इस के बारे में आप को क्या कहना है?

श्री बी० बी० कुलकर्णी : मेरा जवाब यह है कि सिर्फ जगह पर ही मजदूर लोगों को ज्यादा तनख्वाह मिलती है। आमतौर पर हमारा यह अनुभव है कि जो लोग कंट्रैक्ट पद्धति के अनुसार काम करते हैं उन को 30-40 प्रतिशत कम ही मिलता है। लेकिन कम और ज्यादा का यहाँ पर कोई सबाल नहीं है। सबाल इस रूप से देखना चाहिये कि कंट्रैक्ट लेबर सिस्टम से मजदूरों को जो हक मिलना चाहिए वह उन्हें नहीं मिलता है। इस देश में कितने ही कामून हैं लेकिन यह कंट्रैक्ट लेबर को एक भी कामून का फायदा नहीं मिलता है। अब गवर्नमेंट को या किसी को या मिल मालिकों को ऐसी सर्विस चलाने का क्या अधिकार है कि जहाँ कोई कामून लागू नहीं होता और मजदूरों को कोई फायदा नहीं मिलता। अब अगर 5 रुपया या 10 रुपया ज्यादा दे देते हैं तो क्या ज्यादा देते हैं? वैसे ही उन्हें आज की बड़ी हुई महंगाई के हिसाब से कम पैसे देते हैं और कौन सा आप उन्हें ज्यादा देते हैं? मजदूरों के कुनबों की परवरिश की जिम्मेदारी यह कंट्रैक्ट लेबर सिस्टम नहीं पूरी कर सकता है और इसलिए इस को हटाना ही चाहिए और बलम ही करना चाहिये।

श्री हुकम चन्द कछवाय : जहाँ पर निर्माण-कार्य होता है जैसे कि कहीं पर रेलवे लाइन बिछानी हो तो आम तौर पर ऐसे किया जाता है कि जहाँ पर वह लाइन बिछाई जा रही होती है उस क्षेत्र के देहाती लोगों को उस में काम पर लगाया जाता है। जहाँ मकानों आदि का निर्माण होता है ऐसे समय में भी कुछ टैम्पोरेरी लोग ठकेदारों द्वारा रखे जाते थे। यह कंजुएल लेबर ठकेदारों द्वारा जहाँ पर रेलों का काम होता था वहाँ के देहाती लोग रख लिये जाते थे अब यदि वहाँ से 500 मील की दूरी पर रेल की पटरी आदि बिछाने का काम होता है तो क्या वह जो लेबर वहाँ पर काम कर रही है उन को वहाँ 500 मील दूरी पर ले जाना उचित होगा और यह कि उन से कितना काम वहाँ पर ले सकते हैं? उस में कितनी हानि सरकार की होगी और कितना ठकेदार का लाभ होगा?

श्री बी० बी० कुलकर्णी : जहाँ तक सरकार की हानि का सवाल है मैं उस की तरफ सोचता नहीं हूँ। सरकार का कर्त्तव्य है कि मजदूरों की भलाई के लिए यदि उसे हानि सहनी पड़े तो उसे भी वह सहन करे। इस बारे में कतई मेरे दिल में कोई संदेह नहीं है। अगर यह सरकार खुद को एक बेलफेयर स्टेट कायम करने के लिए बचनबद्ध मानती है और सोशलिज्म का नारा लगाती है तो उस का कर्त्तव्य है कि वह इंसानों की और गरीब मजदूरों आदि की भलाई के लिए पैसा खर्च करे। अगर वह इंसानों के लिए पैसा नहीं खर्च करेगा तो फिर पित्त के लिए खर्च करेगी? मैं ने यह नहीं कहा कि ठकेदार किसान लोगों को काम पर नहीं लगाते, मैं ने तो यह कहा है कि अगर इस स्कीम को ठीक चलाना है तो इस की सावधानी बतिये और ऐसा बंदाबस्त कांजिये ताकि यह कंट्रैक्ट सिस्टम से मजदूरों का जो शोषण होता है वह शोषण होता उन का बन्द हो जाये। इसीलिये मैं ने कहा है कि रैगुलर परमानेंट मजदूरों को जो तनख्वाह और

तमाम सुविधाएं मिलती हैं वह वेतन व सुविधाएं कंट्रैक्ट लेबर को भी मिलनी चाहिये। अगर उन्हें तमाम आवश्यक सुविधायें व मुनासिब वेतन ठेकेदारों द्वारा दिया जाये तो मुझे कंट्रैक्ट लेबर रहने पर कोई गिला नहीं है। अब अगर रेल पर काम नहीं रह गया है तो यह नहीं कि उन्हें हटा दिया जाय बल्कि और किसी तरह के काम पर उन्हें लगाया जाये लेकिन ऐसा न किया जाये कि 6 महीने तक उन्हें काम पर रख कर बाद में काम खत्म होने पर बेकार का दिया जाये। यह नहीं होना चाहिये कि उन को कम तनखाह दी जाये, इनवार की छट्टी न हो और रहने के लिए जगह न हो।

श्री हुकम चन्द कछुबाय : जहाँ तक लोडिंग और अनलोडिंग का सवाल है, कभी तो किसी उद्योगपति को बॉस बोगीज मिल जाती हैं, जिन को तत्काल भरना होता है, और कभी उस को एक बोगी भी नहीं मिलती है। ठेकेदार का कहना है कि इस तरह के तत्काल काम के लिए लोगों को लेना पड़ता है और अब कोई काम नहीं होता है, तो उन लोगों को बिठा दिया जाता है। इस के लिए क्या रास्ता अपनाना चाहिये।

श्री बी० बी० कुलकर्णी : जिस तरह बन्दरगाहों में रेगुलेटिड एम्प्लायमेंट होता है, गैज होते हैं, नम्बर लगाये जाते हैं, और इस प्रकार लेबर का नियमन होता है, उसी तरह किया जाना चाहिये।

SHRI R. S. VIDYARTHI: You will agree with me that the major portion of our population consists of agricultural labour and they do not have work in the fields for more than four or five months; for that period they are in need to supplement their income. Don't you think that if the contract labour is abolished, they would be the hard hit?

SHRI V. B. KULKARNI: I do not think that the contract labour system is an answer or the panacea for pro-

viding employment. Contract labour is a system of employment which is worst at its roots. Since it is bad, there should be no other consideration.

SHRI R. S. VIDYARTHI: I put a specific question.

SHRI V. B. KULKARNI: I am replying in a specific manner. If you want employment to be given to the agricultural or rural population, by all means give it; I do not say that you should not give them employment. But my sole condition is that they must be paid equal wages and have equal conditions of work.

SHRI R. S. VIDYARTHI: That means, if a contractor employs some labour and gives them all amenities which you want him to provide, then it could continue?

SHRI V. B. KULKARNI: Then it is not contract labour, in my humble opinion. If I work with a contractor without any guarantee of employment and other social benefits, then it is a contract labour. I do not think there will be any contractor who will come forward with all those benefits.

SHRI R. S. VIDYARTHI: Do I take it that you are not in favour of the abolition of the system but you only want that all amenities should be given to the workers, whether they are employed by the contractor or principal?

SHRI V. B. KULKARNI: I have specifically stated that the contract labour should be abolished in totality. But I have accepted the fact that it cannot be abolished overnight. My dialogue with you would be only on those terms that the contract labour must be abolished. Since it cannot be abolished overnight, the residual remnants of it should be put under severe restrictions.

SHRI K. R. GANESH: You stand for the complete abolition of the contract labour system. If for some

reason, as you have stated, it is not possible to immediately abolish completely the contract labour system, would your organisation be satisfied if in this Bill itself those categories of employment which have been referred to by the Supreme Court are abolished straightway—those four categories of employment?

SHRI V. B. KULKARNI: No, Sir.

SHRI K. R. GANESH: My second question is this. For those categories of employment for which the contract labour system for some reason or other cannot be abolished, if I understood you right, would you like the facilities of minimum wages as well as social security benefits to be mentioned in the body of the Bill itself?

SHRI V. B. KULKARNI: Yes, Sir.

SHRI K. R. GANESH: My third question is this. As you yourself said, the word 'casual' is the most abused and misused word. There are persons who have been working as casual labour for a number of years. You would like the word 'casual' to be specifically defined in the body of the Bill itself . . .

SHRI V. B. KULKARNI: Yes, Sir.

SHRI K. R. GANESH: Here is one assistance which we would like to have from you as a labour leader. As you know, the word 'casual' has not been defined by anybody, including the Supreme Court. What would you consider to be an exact definition of the word 'casual' which should be included in the body of the Bill?

MR. CHAIRMAN: Don't make haste. If you cannot give the definition right now, you can send it later.

SHRI V. B. KULKARNI: This is what I was going to say. Even the ILO has not been able to define it properly. Therefore, it would not be possible to attempt a definition

here and now. Please give me some time. I can send it.

MR. CHAIRMAN: You may send it.

SHRI K. R. GANESH: As you have said, the Government is the largest employer of casual labour. You would like that the Government abolishes all contract labour employed by them and mention of that should be made in the body of the Bill itself. Is that so?

SHRI V. B. KULKARNI: I did not say that. I said, the contract labour system should be abolished in totality. So, the Government is included in that. To prove their honesty of purpose, the Government must abolish it first. Let it begin from the Government so that the private employers may have no grudge to complain against them.

SHRI A. P. SHARMA: After going through your Memorandum we find that you have made out a very strong case for total abolition of contract labour system. You have pleaded in very strong words suggesting that the very preamble of the Bill should be changed to incorporate those ideas. When that is the case, what are the other considerations that weighed with you and which have made you feel that it is not possible to abolish it? Can you give me any idea as to why you were feeling that?

SHRI V. B. KULKARNI: I have specifically stated that the contract labour system must be abolished in totality. But you cannot abolish it overnight. Therefore, we have said that the residual remnants of that should be put under severe restrictions so as to make it a thoroughly unattractive proposition.

SHRI A. P. SHARMA: What do you mean by regulating work in such areas of employment where abolition is likely to take some time? You kindly tell about that. What

regulatory measures do you contemplate?

SHRI V. B. KULKARNI: The Bill should stipulate that contract labour system is abolished. This fact should be stipulated. But since it can't be done overnight, the Bill should say, in this area it will operate, under particular conditions and all that. The entire basis of our Memorandum is that it should be abolished. If it cannot be done immediately it should be put under severe restrictions. You can say, contract labour system should be abolished in these areas with a stroke of pen. Since it can't be done in certain other industries . . .

SHRI A. P. SHARMA: Have you got any idea of such areas where you feel that it can't be abolished?

SHRI V. B. KULKARNI: Government gives contract. They have to honour that. I would not like Government to dishonour contracts they have made. They are to be honoured in the performance of that contract and for the period of performance of contract this system will have to stay.

SHRI A. P. SHARMA: What are the Governments departments you have in view?

SHRI V. B. KULKARNI: Includes Defence, includes PWD, which ranks at the top.

SHRI A. P. SHARMA: Not Railways?

SHRI V. B. KULKARNI: Railways are 8 lakhs . . .

SHRI A. P. SHARMA: Railway is biggest employer.

SHRI V. B. KULKARNI: It has to be ratioed with the total employment in that industry. Railways are big. Therefore the contract labour force in Railways or casual labour force is big. But what is ratio to total employment? We have to

look at that way. If it is wrong, I am sorry. But we have to look at this also.

SHRI A. P. SHARMA: You have railways also in view?

SHRI V. B. KULKARNI: I am not exempting any Departments including Defence.

MR. CHAIRMAN: The hon. Member may be brief.

SHRI A. P. SHARMA: He has suggested that instead of saying in the Bill 'as soon as possible' some time limit should be fixed. What is the time limit?

SHRI V. B. KULKARNI: My giving an idea will not benefit the Government. However, if I have to do it 3 months is good enough for me to implement it. It is for Government to decide.

SHRI D. R. CHAVAN: We cannot do it in 3 months.

श्री रेवती कान्त सिन्हा : आपने अपने मيمोरेंडम में सजेस्ट किया है कि सेक्शन 1(4) में, जहा पर बीस वर्कमैन की संख्या रखी गई है, उसके स्थान पर 5 वर्कमैन ही रखे जायें। लेकिन यहाँ पर ऐसे भी सुझाव दिए गए हैं कि यह जो बीस की संख्या रखी गई है वह कम है क्योंकि इस संख्या के रहते हुए ही तमाम छोटे यूनिट्स इसमें कवर हो जायेंगे जिसके कारण यह एक अनवील्डी अफेयर हो जायेगा। कानून को एनफोर्स करना बड़ा मुश्किल हो जायेगा। ऐसी दशा में यदि इस संख्या को और घटाकर 5 कर दिया जाये तो फिर क्या यह और ज्यादा अनवील्डी नहीं हो जायेगा ?

श्री बी०बी० कुलकर्णी : इसके लिए हमारा उत्तर यह है कि सामाजिक परिवर्तन के लिए कोई भी कीमत ज्यादा नहीं हुमा करती है, उसके लिए हर कीमत भ्रदा करनी चाहिए। वैसे तो 50 रखने से भी तकलीफ होगी, 5 रखने से भी तकलीफ होगी और एक रखने से भी

तकलीफ होगी। इसलिये जब तकलीफ होना ही है तो फिर पांच को ही या एक को ही क्यों न रखा जाये। अगर आप एक रखेंगे तो मुझे सबसे ज्यादा खुशी होगी। फिर भी मैं इसमें सैक्रोसेंट नहीं हूँ। लेकिन हम यह महसूस करते हैं कि 20 की यह संख्या ज्यादा है। जो मालिक हैं वे तो फैक्टरी ऐक्ट के दायरे से छूटने के लिए 19 आदमी ही रखते हैं। अगर आप 100 रखेंगे तो वे 99 ही रखेंगे। लेकिन जब आप एक कानून बनायेंगे और सरकार उसको अमल में लायेगी तो उसकी जिम्मेदारी मजदूर संगठनों की भी है, लेकिन कम से कम आप हमका एक हथियार तो दीजिये।

श्री रेवती कान्त सिन्हा : दूरी बात मुझे यह पूछनी है कि सेक्शन 15(1) में जहां पर अपीलट आफिसर की बात है, उसके सम्बन्ध में आपने कहा है कि अपीलट आफिसर को जुडिशल आफिसर होना चाहिये। वह चाहे जुडिशल आफिसर हो या एग्जीक्यूटिव, मेरा सवाल यह है कि अपीलट आफिसर को, जिस आर्डर के अग्रेस्ट में अपील की जाती है, जब तक उस अपील का फाइनल फैसला नहीं हो जाता है, तब तक उसे आर्डर को स्टे करने का अधिकार, आपके ख्याल से दिया जा सकता है या नहीं ?

श्री बी० बी० कुलकर्णी : जहां तक मेरी मालूमात है, हाई कोर्ट, सिविल कोर्ट, इंडस्ट्रियल कोर्ट या लेबर कोर्ट को स्टे आर्डर देने का हक नहीं है। आमतौर पर वे देते नहीं हैं। इसलिये हरगिज मेरी यह मांग नहीं होगी कि जो अधिकार तमाम मजदूरों को नहीं प्राप्त हैं, वह इन लोगों को दिया जाए। आप देंगे तो मुझे खुशी होगी लेकिन यह तजवीज चलेगी नहीं। कंट्रैक्ट लेबर के सिलसिले में स्टे आर्डर कामयाब नहीं होगा बल्कि उनकी नौकरी चली जायेगी। इसीलिये मैं समझता हूँ स्टे आर्डर का अधिकार नहीं देना चाहिए। मजदूरों की भलाई के लिए यह जरूरी होगा।

श्री रेवती कान्त सिन्हा : आपने सुझाव दिया है, सेक्शन 22, 23 और 24 में पेनाल्टी का जो प्राविजन इन बिल में है, वह बहुत कम है, उसे एन्हांस कर दिया जाये। अब सवाल यह है कि पांच हजार रुपये का जो फाइन रखा गया है, छोटे छोटे पेट्री कंट्रैक्ट्स के लिए वही फाइन एक ओवर-बर्डन होगा, इस लिए इस बारे में आपकी क्या राय है ?

श्री बी० बी० कुलकर्णी : मैं इसका आपको क्या जवाब दूँ ? मैं कंट्रैक्ट्स की नुमाइन्दगी नहीं करता हूँ। पांच हजार की जगह पर अगर आप पचास हजार भी रख देंगे तो मुझे, और ज्यादा खुशी होगी। क्योंकि जो आदमी एक इन्मान को इन्मान नहीं मानता उसके लिए कोई भी सजा बड़ी सजा नहीं हो सकती है। जो आदमी एक इन्सान को इन्सानियत के अधिकार से वंचित रखता हो उसके लिए तो और भी कड़ी सजा होनी चाहिए। उनके गुनाह को देखते हुए पांच हजार का जुर्माना बहुत ही कम है।

SHRI BRAHMANAND PANDA: If you think that abolition is not possible over-night do you believe in effective regulation of labour?

SHRI V. B. KULKARNI: Subject to the condition that over-night it cannot be abolished in totality the residual or remnants should be put under severe restrictions.

SHRI BRAHMANAND PANDA: What do you mean by that?

SHRI V. B. KULKARNI: Under regulation.

SHRI BRAHMANAND PANDA: Do you think your suggestion will help in the effective regulation of contract labour?

SHRI V. B. KULKARNI: We have stated in a general term. We are not proposing amendment to the Bill clause-by-clause. We are stating a general proposition. My suggestion is, give them equity in benefit of

wages, conditions of work etc. with regular employees.

SHRI BRAHMANAND PANDA: Will this Bill discourage contractors coming into the picture?

SHRI V. B. KULKARNI: Whether it discourages or not it will surely arrest the mischief.

SHRI BRAHMANAND PANDA: Contract labour is there. The contractor is there, but the word contract labour will not be there.

SHRI V. B. KULKARNI: I would be very frank on this issue. I am not against the contractors. As a human being, I am against the system which they are perpetuating. I have nothing against the contractors. I wish them well. But, I do not want that system to be continued. Let them keep regular employees. I have no quarrel with them.

SHRI A. P. SHARMA: Mr. Chairman, I suppose he is not speaking here on behalf of the contractors. But it seems he is sympathetic towards them.

SHRI V. B. KULKARNI: I am not against any individual. But, I am against that system.

SHRI R. K. AMIN: As I understand it, you are in favour of abolition of the contract labour. But you are not for doing that immediately. There are some difficulties in doing that. And that is why you tolerate restrictions only for the time being.

In your view, there is not a single work which deserves to be given on contract labour basis. I have one difficulty to understand you. That is why I am asking this question. If I have to whitewash this hall—I am in charge of this hall—and if I want to get it done by a particular contractor, will you have any objection to that?

SHRI V. B. KULKARNI: You mean for whitewashing and decoration of

the hall. If that is to be done, I would say that you should pay for seven days' wages. And if you begin the work from Monday to Sunday, you will have to pay for Sunday also as you are paying to a permanent employee.

SHRI R. K. AMIN: That is, if a principal employer employs anyone for the work of a short duration, have you any objection?

SHRI V. B. KULKARNI: I would not agree to this proposition. There are pitfalls in it. My proposition, therefore, is this. I do not visualise that a contract system is necessary in any economic activity of our country. This is my firm belief and my firm statement.

SHRI R. K. AMIN: Will you define 'contract system' because sometimes I find it difficult to distinguish between contract system and the contract. Suppose I keep the labour for two months or five months in a year. There is a contract between me and him that he must work for 30 days in a particular type of work for which I should pay a particular amount for such sort of work. Between me and him the contract system exists. I want to know the difference between the contract system and the contract.

SHRI V. B. KULKARNI: I may tell you that the world has not reached such a stage. Perhaps it would never. The fact remains that you are engaging a man for 30 days and you should pay him for the work he performs. My quarrel with you is this that the law of this country requires a man to work for 28 days. And he has to get a paid holiday also in a week.

SHRI R. K. AMIN: You are assuming all these things. For one month, if I have to pay Rs. 150 and if during that month these are the works to be done by labour, is it not a contract between me and him?

SHRI V. B. KULKARNI: That would amount to contract labour system.

SHRI R. K. AMIN: Then tell me what is the contract labour system?

SHRI V. B. KULKARNI: This applies to three or four groups of labour. They have something in common. They form into a group and they do the work on a contractual basis. This is because the work will be got done much cheaper. It will be economical. It will avoid other liabilities.

SHRI R. K. AMIN: To avoid other liabilities, you give the work on a contractual basis. Certain type of work, although, may be done by a regular set of employees, in order to avoid certain liabilities you do that on a contractual basis. Do I understand like that?

SHRI V. B. KULKARNI: I accept readily what has been said in 19th Labour Conference.

SHRI R. K. AMIN: My second question is this.

MR. CHAIRMAN: According to you—I think he has correctly understood it—the contract labour is employed for the sake of exploitation whether he is a contractor or the employer.

SHRI R. K. AMIN: My next question is this. When my friend, Mr. Deven Sen was asking you a question it was stated that the contract labour was employed in the interest of the contractor. Sometimes it was done also in the interest of the employer. Here, I am speaking of Railways who are the biggest employers. I find that the contract labour, as you see, is to be completely abolished. Will it not increase the railway fares?

SHRI V. B. KULKARNI: I am told—I do not have definite knowledge of it—that the cost might go up by 14 to 16 per cent. This is not my estimate.

SHRI R. K. AMIN: If it increases, there is a possibility that there will

be an increase in the passenger fares also.

SHRI V. B. KULKARNI: Not necessarily that there will be an increase in passenger fares.

SHRI R. K. AMIN: Then wherefrom will it come?

SHRI V. B. KULKARNI: There may be other avenues. The state can subsidise that thereby the wastages can be avoided.

SHRI R. K. AMIN: If the State subsidises, it is at the cost of the general tax-payers. Is it not the consumers who also have to bear the burden? Just as the contractors get the benefit, the employees also get the benefit and consumers also get the benefit. Is it not so?

SHRI V. B. KULKARNI: Yes, Sir.

SHRI R. K. AMIN: My final question is this. Suppose you abolish the contract labour. Can this be done within three months? And will it not increase the unemployment problems?

SHRI V. B. KULKARNI: I cannot say that.

SHRI K. A. NAMBIAR: Mr. Kulkarni, your memorandum and your oral evidence is very much encouraging. Yesterday we were faced with just the opposite view of what you say now. They said that it should not be abolished but it should be continued. Anyway I am not going into that aspect of it. They said that the cost of production would go up the moment you paid a little more by way of concessions or contributions. To that extent, the economic growth also will be affected. What is the answer for this?

SHRI V. B. KULKARNI: My reply to that is this. When the cost goes up on account of abolition of contract labour system, the employers or economists will find ways and means to reduce the wastage by a better organisation of industry and better productivity.

SHRI K. A. NAMBIAR: It was stated by one of the employees that the exploitation of labour would especially neutralise the cost.

SHRI V. B. KULKARNI: Yes, Sir. I said that 15 to 25 per cent is the ratio of profit by contract labour. If that is the saving, where is the increase in the cost of production?

SHRI K. A. NAMBIAR: Therefore, when there is an increase in the cost of production, upsetting the balance of economy will not be there.

SHRI V. B. KULKARNI: I agree with you.

SHRI K. A. NAMBIAR: My next point is this. Another difficulty which the employers have expressed was about the seasonal employees. They were being employed on loading and unloading. Mr. Kachwai also spoke about it. The other day, the railway wagons were in a station for three or four hours within which loading or unloading was to be done. A lot of demurrage had to be paid by an employer because of so much of loading and unloading that had to be done there. For a short time I have to employ sometimes 500 labourers. Another time we have no wagons at all. In these matters can we keep idle labour and pay them which is upsetting the industry. In such matters what is your alternative. This is a point which is focussed here very seriously.

SHRI V. B. KULKARNI: I am grateful for your raising this question. This very question existed in ports and docks. You know it very well that it was handled by decasualisation system under which if you have no work you are paid less and if you work you are paid full wages. By that you are saved of starvation and favouritism.

SHRI K. A. NAMBIAR: You mean to say that for unloading they have got permanent stock of employees at their disposal, and they can so arrange it and regulate it. Is that your view?

SHRI V. B. KULKARNI: Yes, Sir, you can say that.

SHRI K. A. NAMBIAR: Another point which was raised yesterday was that sometimes due to landslides our trucks may not go. So what happens? We have to stop giving work. We are unable to use all the permanent employees. Here and there we take contract labour. Suppose you abolish all these things, such work is affected. In such matters this so-called contract labour is necessary. If you stop it, it will harm our economy.

SHRI V. B. KULKARNI: This question has been raised in an abstract form. It is a hypothetical question. The industry, the Government and almost everybody do provide for it for meeting such difficulties. We find excuses in keeping contract labour. Whatever it be, it is an open fact that the contract labour is employed because it is advantageous.

SHRI K. A. NAMBIAR: Therefore, you mean that it should be adjusted.

SHRI V. B. KULKARNI: Yes, it should be adjusted.

SHRI K. A. NAMBIAR: The Government has got contract labour employed in the construction of buildings. Ten years ago if you had been to Delhi, you would not have seen many of the buildings which you see now. They say, 'We cannot employ permanent labour here. After construction of a big building, we have no necessity for them we may get contract labour nearby. Government cannot keep all the people. We have got a project 500 miles away and we cannot transfer them there'. What is your explanation for it?

SHRI V. B. KULKARNI: I have stated it earlier that the Government should have a construction force or corps. I have also stated in that connection that the development of this country is a perennial matter whether it is construction building or river project. Since it is a permanent feature of our activity Government should have a regular force. You can

transfer a worker employed in Delhi to Kanyakumari. Why not post this man from Delhi to Ernakulam or any other place. You should have regular service for construction activity.

श्री शेरखान : जितने जवाब में ने आप के सुने, उस से ए 1 लगा, आप ने अपने केस को बड़ स्ट्रांग लेबल पर पेश किया। उस के लिए हमें भी नये ढंग से सोचने का रास्ता मिला। मैं यह जानना चाहता हूँ कि खेत में काम करने वाले एग्रीकल्चर लेबर की हद तक भी आप का यह नजरिया जिस के लिए आप अब तक कसते चले आये हैं, लागू होगा? किस हद तक उन की भलाई आप के इस नजरिये से हो सकती है?

श्री कुलकर्णी : मैं यह साफ कह देना चाहता हूँ ताकि कोई गलतफहमी न रहे कि मैं कोई अर्बन-एरियाज के लेबर का रेप्रजन्टेशन कर रहा हूँ और मैं कोई खेतिहर मजदूर के, देहात में रहने वाले मजदूर के खिलाफ हूँ। यह बात गलत है। मैं ने सिर्फ इतना ही कहा...

श्री शेरखान : गलत सही से कोई वास्ता नहीं है,.....

श्री कुलकर्णी : हमारा कहना यही है कि नौकरी आप किस को दीजिए, इस के बारे में तो हम ने कहा ही नहीं, हम कहते भी नहीं। पणिक लोगों को नौकरियां मिलनी चाहिए, हमके लिए हमारी तरफ से शंका नहीं है। और कहा जायेगा वह लोग? लेकिन नौकरी देने का यह मतलब नहीं है कि सस्ते दामों में उन को खरीदा जाये।

श्री शेरखान : मगर आप के कहने का जो तरीका है उस से तो यही मालूम होता है कि आप के पास बन वे ट्रैफिक है। आप चाहते हैं कि सारी दुनिया बनती है तो लेबर की ही बने और लेबर जिन के तबस्मुत से बने वह न रहे। जैसे कि आप अभी फरमा रहे थे कि गवर्नमेंट की तरफ से ऐसे आर्गनाइजेशन हों जो लेबर के बिना डेग के काम का सकें या याद रखें, क्या आप को तजवी

इका है कि खेती का काम करने के लिये भी गवर्नमेंट की तरफ से आर्गनाइजेशन कायम किए जायें तो जिरायत हमारी चल सकेगी?

श्री कुलकर्णी : इस का भी जवाब यही है कि कोई फर्क नहीं करना चाहिये खेती करने वाले मजदूर और दूसरे मजदूरों में।

श्री शेरखान : फर्क का सवाल नहीं है। भ्रमल का सवाल है यहां पर। उन की भी भलाई का सवाल है जिन को मजदूर कहते हैं और उन की भलाई का भी सवाल है जो उसके मालिक हैं। क्या आप को इस का तजुर्बा है कि जिरायत की दुनिया में कभी कभी सिर्फ एक दिन का काम होता है? इस चीज को जानते हैं कि मैं जिरायत करता हूँ, मुझे मजदूर की जरूरत है, मैं दस बजे बुलाता हूँ और 4 बजे घर भेज देता हूँ, वहां आप का यह एक्ट किस हद तक काम करने वाला है? क्या आप इस के ऊपर रोशनी डालेंगे कि इस का क्या हल निकाला जाये?

श्री कुलकर्णी : एसी हालत में तो और कड़ा कानून करना होगा। अगर यह कानून कम है तो और सख्त कानून किया जाये।

श्री शेरखान : कानून बनाने का मंशा क्या आप यह सोचते हैं कि उस कानून से एक बर्ग को जिन्दा रखा जाय और दूसरे को मार दिया जाये।

श्री कुलकर्णी : मैं भूतदया वाला तो नहीं हूँ, मैं अधिकार मांग रहा हूँ।

श्री शेरखान : अधिकार में लेबर की बात को एक इन्साफ के रूप में जांचा जाय, सोचा जाये। मैं ने जैसा आप से कहा क्या आप बन वे ट्रैफिक पर भ्रमल करना चाहते हैं?

श्री कुलकर्णी मैं जवाब में यह कहूंगा कि यह बन वे ट्रैफिक नहीं है, दो तरफे का रास्ता है।

श्री शेरखान : मैं जिरामत करने वाला हूँ, मेरे खत में केवल 4 घंटा का काम है

सभापति महोदय : यह तो अपनी प्रोपिनियन कह रहे हैं, आप उन से इतिफाक करिए या नहीं, यह अलग बात है।

श्री शेरखान : कुलकर्णी जी का जो तरीका रहा है अपनी बात रखने का वह बहुत ही प्रभावशाली तरीके से उन्होंने अपनी बात रखी है।

श्री भा. सं. प्र. वि. धारः : कुलकर्णी जी, आप ने स्वीकार किया है कि एकदम तो कान्ट्रैक्ट लेबर की स्थिति खत्म नहीं की जा सकती है और जब तक यह खत्म नहीं की जा सकती तब तक यह अन्तर दो स्थितियों में बना रहेगा, रेगुलर काम करने वाले और केजुअल काम करने वाले, जब इन दो स्थितियों में अन्तर बना रहने वाला है तो यह तो हो सकता है कि दो तरह की मजदूरों की सुख-सुविधाओं में कम अन्तर रहे पर क्या यह कल्पना नहीं है कि कुछ न कुछ अन्तर रह ही जायेगा ?

श्री कुलकर्णी : मैं ने यह कहा कि एकदम अगर इस सिस्टम को रद्द नहीं किया जा सकता, यह हमें मंजूर है लेकिन मैं ने यह भी बरखासत की है कि कोई मुद्दा लगानी चाहिए, बन्दिश लगानी चाहिए कि छः महीने के अन्दर, दो साल के अन्दर या एक साल के अन्दर यह सिस्टम एबालिश होगा और उस के दरमियान जो कान्ट्रैक्ट पर काम करेंगे उन को जो लोग परमानेंट काम करेंगे उन की ही सारी सुख-सुविधाएँ दी जायेंगी बतन सहित। आगे जा कर यह भी कहा है कि मकान की सुविधा भी उनको मिलनी चाहिये। चिकित्सा की सुविधा ही नहीं, मकान की सुविधा भी मिलनी चाहिये, जिसकी आज तक कोई तजवीज नहीं है।

SHRI B. SHANKARANAND: Mr. Kulkarni, you are interested in the problems of labour. You have

given us a good exposition about the provisions of this Bill. I know also you have tried to suggest certain alternative for the abolition of these middlemen, say the contractors. As I don't agree with you fully in that can you suggest any other feasible alternative for the total abolition of contractors in the labour field?

SHRI V. B. KULKARNI: First of all, I don't think that what I have suggested is not feasible. I think it is very much feasible. It is easier to do so than to regulate the contract labour system. This is my premise. Secondly, if alternatives are to be found, the issues cannot be decided on principle. I take this issue as an issue of principle and a middleman who has no stake or has very little stake should be allowed to exploit others merely because they have to earn their living. I would not accept any alternative proposition to the demand that the contract labour system should be abolished. I do think it should be abolished and I stand for its abolition. But I am prepared to give time for total abolition.

MR. CHAIRMAN: Unconsciously you have suggested an alternative proposition. You want that the conditions should be made so difficult that it becomes impossible to continue this system.

SHRI V. B. KULKARNI: If this is the impression I have created, please allow me to correct myself. I would repeat that the Hind Mazdoor Sabha stands for total abolition of contract labour system, but it visualises the fact that it cannot be done overnight. During this period between abolition of contract labour system in certain employment areas and where it could be allowed for sometime because it cannot be done away with, during that period the contract labour should be given equity benefit with the regular employees so that the worst features of the contract labour system could be removed.

SHRI B. SHANKARANAND: By saying that you stand for the complete

and total abolition of these middlemen you intend that these middlemen should not exploit the labour. Don't you think that the provisions of this Bill will go a long way in stopping the exploitation of labour by the contractors?

SHRI V. B. KULKARNI: My reply would be that generally the law gives the minimum. But this Bill in its present form gives much, much less.

SHRI B. SHANKARANAND: What are the specific provisions which go against the contract labour?

SHRI V. B. KULKARNI: In certain spheres of economic activity....

SHRI B. SHANKARANAND: I don't want a vague answer. What are the specific provisions or sections in this Bill that go against the interest of contract labour?

SHRI V. B. KULKARNI: Clause 1(2) where it stipulates that there will be abolition as also regulation. I have said repeatedly that you will not be able to, with all your honest intentions, to regulate the system. It is cheaper and easier to abolish it. The Shops and Commercial Establishments Act is not being implemented and enforced properly. The Maternity Benefit Act is not being enforced. We have seen other Acts also which have not been enforced. You will have another legislation which you cannot enforce by way of regulation.

SHRI B. SHANKARANAND: Do you think that the contractors in the developing economy have no part to play in the industrial development of the country?

SHRI V. B. KULKARNI: They should be left with no part to play in the economic activities.

SHRI B. SHANKARANAND: If this Bill is enacted and enforced, will it create further labour troubles in this country?

SHRI V. B. KULKARNI: In its present form, first of all, this Bill will not satisfy the labour. Secondly, the implementation will be halting, because the rights are reserved by the Government. On the advisory committees, the representatives of the employers as also of the Government are in majority. You will have a statute on the book which will not be implemented. Leave it to a judicial authority to determine whether contract labour system is necessary in a particular sphere of activity.

SHRI B. SHANKARANAND: I will not agree with you. I don't think you have come here to agree with us. You are for the total abolition of contractors and you feel that it will help the production, will increase the national wealth in this country. You also say that the managerial part played by the contractors should be played by the Government only and by nobody else.

SHRI V. B. KULKARNI: I don't say only Government.

SHRI B. SHANKARANAND: That is why I asked you for alternatives.

SHRI V. B. KULKARNI: This is not alternative. Forgive me for saying so. I have said that the Government being the largest single employer should take this over. I have not excluded private employers. I am very much for them; they should also be there.

SHRI B. SHANKARANAND: Don't you think that this Bill, if enforced, will stop completely the exploitation of labour and will increase the national wealth by encouraging the labour?

SHRI V. B. KULKARNI: I will put it this way. I am against increase in productivity and production through contract labour system. I am not against increased productivity and production by voluntary measures. I will only demand a share of profit.

श्री प्रेम मनोहर : अभी भारत सेवक समाज के द्वारा कुछ कंस्ट्रक्शन का काम किया गया था। उस का प्रत्यक्ष अनुभव यह हुआ कि जो काम उस के द्वारा हुआ उस में 20-25 परसेन्ट पैसा अधिक लगा और जो समय उस काम के लिये दिया गया था, उस में वह काम पूरा भी नहीं हुआ ?

श्री बी० बी० कुलकर्णी : यह भारत सेवक समाज का सवाल नहीं है।

श्री प्रेम मनोहर : मेरे कहने का तात्पर्य यह है कि उन्हीं फैसिलिटीज को लेकर लेबर से काम कराया गया। इसी तरह से सी० बी० डब्लू० डी० के द्वारा या डिपार्टमेंटली जो काम कराया जाता है, उस का भी प्रत्यक्ष अनुभव यही है कि 95 प्रतिशत केसेज में कास्ट आफ कंस्ट्रक्शन दूसरों के मुकाबले ज्यादा आता है और टाइम भी अधिक लगता है। इस से हम लोग आंखें बन्द नहीं कर सकते। ऐसी हालत में मैं आपसे पूछना चाहता हूँ कि लेबर को ये सब सुविधायें देकर यदि काम कराया जायेगा तो क्या कास्ट आफ प्रोडक्शन भी उतनी ही रहेगी और निश्चित समय में सारा काम समाप्त हो जायेगा ?

श्री बी० बी० कुलकर्णी : मैं भारत सेवक समाज के बारे में नहीं जानता इसलिए मैं माननीय सदस्य के प्रश्न का जवाब देने की स्थिति में नहीं हूँ। बाकी मैं यह फिर स्पष्ट कर दूँ कि कंट्रैक्ट लेबर सिस्टम एवालिज करने से यह जरूरी नहीं है कि कौस्ट बढ़े। और तरीके भी ढूँढे जा सकते हैं जिससे कि जो बराबियाँ व बरबादियाँ हो रही हैं उन को रोका जा सके और लोगों की उत्पादकता को बढ़ा सकते हैं। लेकिन यह बात कि लोग अच्छा खाना व नौकरी से सम्बद्ध आवश्यक समस्त सुविधायें मिलने पर अच्छा काम नहीं करेंगे, ऐसा कहना इंसान पर भरोसा जाहिर करना नहीं है। जहाँ काम ठीक नहीं होता है उस की वजह और है लेकिन हम अनरलाइजेशन यह

नहीं कर सकते कि जिन लोगों को ज्यादा सुविधायें दी जाती हैं वह ठीक काम नहीं करते। मैं समझता हूँ कि ऐसा कहना गलत है।

श्री प्रेम मनोहर : अभी मेरे दो मित्रों ने डीक्स पर लोडिंग और अनलोडिंग के बारे में प्रश्न पूछा था और आप ने जो उस का उत्तर दिया है वह उस पर घटता नहीं है क्योंकि वैगंस का आना या, जाना डीक्स में जो शिप्स आते हैं या वहाँ से जाते हैं, उनका मैक्सिमम और मिनिमम बहुत अधिक है। हालत यह है कि डीक्स में शिप्स बराबर खड़े रहते हैं और परिणामस्वरूप हम लोग लाखों रुपया वारफैज और डैम्रज का देते हैं क्योंकि हमारे पास वर्थिंग स्पेस बहुत कम है और इसलिए बमुकाबले अनलोडिंग के आने वाला सामान अधिक रहता है। लेबर का तो हमने नीन शिफ्टों में डिवाइड करके बराबर रेगुलर प्रावीजन किया है लेकिन यह बात वैगंस के लोडिंग और अनलोडिंग में लागू नहीं होनी है क्योंकि वहाँ मैक्सिमम और मिनिमम बहुत ज्यादा है। किसी दिन तो 20-25 या 30 जहाज हो जायेंगे लेकिन किसी दिन 2-3 भी नहीं होंगे। कई-कई दिन तक 1-2 वैगंस भी नहीं आते इसलिए आप का इस लोडिंग और अनलोडिंग को रेगुलर करने के बारे में क्या सुझाव है ?

श्री बी० बी० कुलकर्णी : मेरी समझ में कोई ऐसी स्कीम नहीं बतलाई जा सकती है। उस धंधे की जो आवश्यकताएँ हैं अथवा जो उन की दिक्कतें हैं उन को देखते हुए मेरे लिए यह कहना मुश्किल है कि फ्लां स्कीम आप उस को रेगुलेट करने के लिए लागू कर सकते हैं। बाकी एक फंडामेंटल बात मैं यही कहना चाहूँगा कि मजदूरों को पूरी सुरक्षा और बेतन आदि आवश्यक सुविधायें देकर यदि आप कोई भी स्कीम लागू करेंगे तो वह मेरी समझ में कामयाब हो सकेगी ?

श्री प्रेम मनोहर : फंडामेंटल लेबर लाज में एक चीज है कि लेबर को हम हटा नहीं

सकते हैं लेकिन उस में भाप क्या बेंज करना चाहेंगे ?

श्री बी० बी० कुलकर्णी : फंडामेंटल लाज यह नहीं है बल्कि जैसे गवर्नमेंट सविस होती है वैसे ही यहां भी बाकायदा होना है । इस को फंडामेंटल राइट कैसे कहें ?

SHRI S. P. GOSWAMI: Mr. Kulkarni, you are for the complete abolition of labour contract immediately, and not for any regulation.

SHRI V. B. KULKARNI: Quite correct.

SHRI S. P. GOSWAMI: Supposing we pass a Bill for abolition, you know the present Government is in favour of mixed economy—there are private enterprises and also public enterprises—will that be effective?

SHRI V. B. KULKARNI: It is neither a theoretical issue nor a proposition based on hypothecation, I can reply.

SHRI S. P. GOSWAMI: It is practical. If you are to pass a Bill only for abolition, than it is practical. Even in the agricultural field there are contract labourers, although we have not covered them, because our country is for the mixed economy. It is not a totalitarian country like Russia or any other country.

SHRI V. B. KULKARNI: I am not very clear as to what he specifically wants from me.

SHRI S. P. GOSWAMI: Next question.

For these amenities somebody will have to take the economic responsibility. — What is your suggestion?

SHRI V. B. KULKARNI: As far as establishment is concerned, the employer must bear the cost. As far as provident and other benefits are concerned, they are contributory.

SHRI S. P. GOSWAMI: There will be the establishment cost.

MR. CHAIRMAN: He says that the employee should be responsible.

SHRI VIRBHADRA SINGH: Mr. Kulkarni, if I heard you correctly, you are of the view that the powers which are sought to be vested in the Government under clause 10 of this Bill should not be vested with Government, but with an independent authority. We want that powers under this clause should remain with the Government, but there should be a right of appeal to some judicial authority.

SHRI V. B. KULKARNI: There is a pitfall in your proposition, and therefore, I will not be able to accept it. When you give the right to the Government as well as the right to judiciary,

the question of reference will arise. As we see in labour legislation the Government has the right to make a reference whether the judiciary should enquire into a fact or not and the right of enquiry and justice will be denied to me for administrative or any other reason. This is the very basic legislation and it is coming after a long delay of 30 years the Royal Commission made comments on it. It should be open to the workers to question whether this employment should be of a contractual nature or not, but let a tribunal or court enquire into and pass a judgment, and as a lawful society we should accept the judgment of the tribunal.

DR. SISIR KUMAR SAHA: You are for the abolition of the contract labour, without giving any consideration to the consequences arising. The question comes that it will affect the country. The Government or semi-government or private persons will be affected. What is your opinion about this implementation to the railways?

SHRI S. KUNDU: I would invite your attention to Clause 10 of the Bill. It provides two things. The first is that implementation depends on the State and the Centre. The

second is, under what circumstances it should be implemented.

What are your comments on Clause 10. Suppose Section 10 remains as it is in the bill, will the purpose for which the Bill is intended i.e. to regulate, will be served? Have you any comments to offer?

SHRI V. B. KULKARNI: Sir, I have said earlier and it is in memoranda that this clause should be re-drafted in the light of general observations. The right to enforce and the right to grant exemption should not rest with the Government but should be tested before a judicial authority. So 10(1) & 10(2) which give power of exemption to the Government would become redundant in our scheme of thinking.

Government should not take a decision whether contract labour system should continue or not to continue. As it is we say it should be abolished. If it cannot be abolished let there be industrial dispute over the abolition of contract labour system and let Industrial Tribunals or judiciary open them and their conclusions/decisions could be binding. We do not like to give it to the Government to decide unilaterally to whom it should apply and to whom it should not apply. Let there be judicial enquiry. I am very specific in this respect because there is an unimaginable exploitation that goes on in this system and, therefore, it should not be left to the Government. Let there be enquiry by the judiciary.

SHRI S. KUNDU: Kindly see Clause 10:

"Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment."

The power to prohibit as you said rests absolutely with the State Government/Central Government. Your answer for employment of contract labour is that this power should not be with the State. It should be referred to a judicial body. It will decide in each case. Judicial body has to decide under provisions made in Clause 2. 2 decides clause 1, and establishment, appropriate Government shall have regard to the conditions as to what benefits are provided in the contract labour, 19(2)(a), 10(2)(b), 10(2)(c), 10(2)(d). Suppose your argument is accepted that judicial body should decide. Then judicial body has powers to curtail in (a), (b), (c) & (d). What have you to say? If it goes to judicial body, whether the purpose of regulation will be achieved. Very strong views have been expressed by many members about it. Some have said that there should be total abolition. Some say it should be retained as it is. Some say there should be some changes in it. So, please send your views later on on this.

SHRI V. B. KULKARNI: I am glad that this question has been raised because it gives me an opportunity to express that sub-clause 2(a), (b), (c) and (d) are indeed vague and open for more than one interpretation, I think the guide lines are well set out in the Resolution of the Indian Labour Conference and they should be put in the same words or different words as this Committee or Parliament feels, but they should be the guide lines. They have also put four conditions. Four conditions are very specific. They give the correct impression of what was in the mind of the ILC. They said work may be of perennial nature and may not go from day to-day. It may be incidental and whether work is sufficient to employ full time workers and whether it is being done in the establishment by regular workmen? These are the lines for the Tribunal to decide whether the contract system should continue in a particular industry or a particular section of the industry.

DR. RANEN SEN: Mr. Kulkarni I wish to have clarification from you. There is an argument adduced by the employers that the contract labour system should not be abolished as this will give rise to more unemployment in the country. What is your reaction to this statement of the employers.

SHRI V. B. KULKARNI: I do not think that the views taken by the employers are correct as equal number of workers will be required.

DR. RANEN SEN: You say so in view of the fact that work remain inside the country. You look up page 2 Section 4: It applies—

(a) to every establishment in which twenty or more workmen are employed.

In your memorandum you have stated that this is on the high side. It should be lowered. Now the employers view point is that it should be still higher. They want fifty, is not more.

As far as we can understand the framers of this Bill had this figure of 20 from the Factory Act. The provision of 20 is there in the Factory Act. What is your objection if we stick to this figure of 20 and not to make it higher or lower? What is your argument?

SHRI V. B. KULKARNI: Idea of suggesting 50 is to give largest possible coverage to them. 20, as you say, is in the Factory Act. If we adopt 20 or about 20, a large number of smaller contractors will be allowed to continue their business and the contract labour will exist. Even where the contract system may not be controlled or regulated, it will exist. For the sake of argument, you may say that it is easy to regulate the

conditions of employment. If at all you have to regulate, you can do so only with the bigger contractors, because they have got some establishment where you could locate them. But where are you going to locate the smaller contractors employing less than 20 people? Their number is not small. Perhaps, their number is bigger; I do not know exactly the total volume of employment offered by them. But it is here a question of giving the benefit to such persons who are not covered by any law at present.

DR. RANEN SEN: In other words you want that the law should cover as great a number of workers as possible?

SHRI V. B. KULKARNI: Yes.

DR. RANEN SEN: In the tripartite Indian Labour Conference a reference was made to this in the context of factory workers. Do you want to extend it to all sorts of workers employed in all types of trade, industry and commerce covering various types of workers? Is that the idea?

SHRI V. B. KULKARNI: Yes, that is correct.

DR. RANEN SEN: This means that the main idea behind the Indian Labour Conference resolution has to be scientifically understood and applied throughout so that the maximum number of workers could be covered and the curse of contract labour could be done away with.

SHRI V. B. KULKARNI: Yes.

(The witnesses then withdrew)

The Committee then adjourned)

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CONTRACT
LABOUR (REGULATION AND ABOLITION) BILL, 1967

Saturday, the 28th September, 1968 at 10.00 hours.

PRESENT

Shri Kashi Nath Pandey—Chairman.

MEMBERS

Lok Sabha

2. Shri R. K. Amin
3. Shri N. Anbuhezian
4. Shri Tridib Chaudhuri
5. Shri M. Deiveekan
6. Shri K. R. Ganesh
7. Shri Shri Chand Goyal
8. Shri Ram Krishan Gupta
9. Shri S. C. Jamir
10. Dr. Ranen Sen
11. Shri Hukam Chand Kachwai
12. Kumari Kamla Kumari
13. Shri Samarendra Kundu
14. Shri K. Ananda Nambiar
15. Shri S. D. Patil
16. Shri Khagapathi Pradhani
17. Shri S. P. Ramamoorthy
18. Shri Viswasrai Narasimha Rao
19. Dr. Sisir Kumar Saha
20. Shri P. M. Sayeed
21. Shri Deven Sen
22. Shri B. Shankaranand
23. Shri Shashi Bhushan
24. Shri S. M. Solanki
25. Shri R. S. Vidyarthi
26. Shri Virbhadra Singh
27. Shri D. R. Chavan

Rajya Sabha

28. Shri Anant Prasad Sharma
29. Shri Binoy Kumar Mahanty.

30. Shri Dalpat Singh
31. Shri A. C. Gilbert
32. Pandit Bhawaniprasad Tiwary
33. Shri Shyam Dhar Misra
34. Shri Sherkhan
35. Shri Sanda Narayanappa
36. Shri Rewati Kant Sinha
37. Shri Suraj Prasad
38. Shri Brahmananda Panda
39. Shri Jaisukhlal Hathi
40. Shri Sriman Prafulla Goswami

LEGISLATIVE COUNSEL

Shri P. L. Gupta, *Addl. Legislative Counsel, Ministry of Law.*

REPRESENTATIVES OF THE DEPARTMENT OF LABOUR AND EMPLOYMENT

1. Shri P. C. Mathews—*Secretary, Deptt. of Labour and Employment.*
2. Dr. S. T. Merani—*Jt. Secy., Deptt. of Labour and Employment.*
3. Shri H. K. Chaudhry—*O.S.D. (Law), Deptt. of Labour and Employment.*
4. Shri O. Venkatachalam—*Chief Labour Commissioner (Central), Deptt. of Labour and Employment.*
5. Shri S. C. Gupta—*Dy. Chief Labour Commissioner (Central), Deptt. of Labour and Employment.*
6. Shri C. R. Nair—*Under Secy., Deptt. of Labour and Employment.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

WITNESSES EXAMINED

**I. Railway Board
Spokesmen:**

1. Shri B. C. Ganguli, *Member (Staff).*
2. Shri P. S. Mahadevan, *Joint Director (Establishment).*
3. Shri H. K. Chaudhry—*O.S.D. (Law), Deptt. of Labour and Employment.*

**II. Central Public Works Department.
Spokesmen:**

1. Shri C. P. Malik, *Chief Engineer (Vigilance).*
2. Shri Harish Chandra, *Superintending Engineer.*
3. Shri N. C. Sanyal, *O.S.D. (Labour)*
4. Shri P. C. Raizada, *Labour Officer*

**III. The Minerals and Metals Trading Corporation of India Ltd., New Delhi.
Spokesmen:**

1. Dr. A. S. Sharma, *Director.*
2. Shri V. Kalyanasundaram, *Divisional Manager, New Delhi.*
3. Major D. K. Chandra, *Regional Manager, Calcutta.*

Railway Board

Spokesmen:

1. Shri B. C. Ganguli, *Member (Staff)*
2. Shri P. S. Mahadevan, *Joint Director (Establishment)*
3. Shri B. K. Mitra, *Joint Director (Civil Engineering)*

(The witnesses were called in and they took their seats.)

SHRI JAISUKHLAL HATHI: The Committee visited the South Western, Western and some other sections of Railway zones and they have seen the working and there are some questions which the Committee would like to put to you so that the Committee can get clarifications on those issues. Now some of the points are already there on which the Committee would like to get clarification from you. Shall I ask you a few questions?

There are certain processes and jobs in the Railways which are of permanent nature but which are being got done through contract labour. Do you know of such jobs which are of permanent nature and which are being done through the contract labour? Could these not be done by regular department labour than contract labour? If there are any such jobs, the Committee wants to know the nature of jobs. The object of the Bill is to regulate and abolish contract labour. Wherever it is possible to do our job through the Department, the contract labour should not have it. That is the main idea. Are there any jobs in the Railway which are of permanent nature and are carried through contract labour?

SHRI B. C. GANGULI: In the Railways there are some incidental jobs like goods and parcel handling, handling of coal which comes to the various loco sheds and in some cases we are still doing manual loading of the tenders of locomotives. We some times employ contract labour there. These are the main jobs which are of permanent nature but of variable load. They are either not of a constant load or not of a perennial nature as in the

case of coal wagons; that it is not that every day wagon of coal must come to a loco shed. These types of jobs like goods and parcel handling, unloading of coal in the various steam runing sheds and sometimes loading of coal into tenders of steam locomotives, are, as far as I remember, three types of jobs which are of a permanent nature but are done by contract labour. Now the question arises whether these can be done by the regular labourers. If the workload were, as I said, of a perennial nature without variation from day-to-day, constant load, there would be possibility of getting these jobs done by departmental labour. But what happens is that all these jobs which we have given to contractors are of intermittant nature and load varies from day to day. Suppose you have got 10 wagons of coal today coming in loco shed. There may not be any coal wagon for the next 7 days in that loco shed. So, if you appoint departmental labour that will mean labour will remain idle. There is no place where you can keep them on any other job. That is the difficulty.

SHRI JAISUKHLAL HATHI: You say there are jobs of permanent nature, but load is variable. One, jobs which are intermittent; another jobs which are permanent. These are 2 distinct classifications. Jobs which are permanent may be having permanent or variable load. You have difficulty if the load is variable. But if the job is permanent would it be possible to have nucleus of certain staff, for the permanent jobs and then leave the remaining to be done departmentally but where the job is permanent and load is variable can it be possible to have certain nucleus

permanently in a permanent job and keeping the variable part to be dealt with separately.

SHRI B. C. GANGULI: Probably the nucleus can be formed after work study over a period of what is the load that on an average comes for handling. I am talking about goods and parcels. There is scope to make an analysis and then probably arrive at a minimum number of men that we should keep as a permanent measure. But about the other cases there is no scope because the loads are very intermittent.

SHRI JAISUKHLAL HATHI: Which could be done on larger places or bigger centres where you generally also employ big contract labourers. On small places you don't employ much bigger force. On large centres you employ. There it may be possible to devise a method whereby permanent nature of work with variable load can be managed in large centres by certain nucleus staff.

SHRI B. C. GANGULI: This is all right in principle. What happens is this. Normally it is not good to mix up the working of a departmental job with that of the contractor's labour. Suppose you have kept 50 permanent men as nucleus and you employ also the contractor there for taking account of variable load. That man's difficulty will be that he has no permanent load. The contractor also keeps a nucleus to carry on his work. Unless he keeps some staff how can he take care of fluctuations? You give him no scope. You take up the minimum load to your side and leave the contractor the fluctuations. This is not a practicable or workable proposition. You must give a man a job to maintain a minimum. He has his agents and organisation and he must find some minimum job to pay for these things.

SHRI JAISUKHLAL HATHI: You say there are no permanent jobs which can be done departmentally without inconvenience.

SHRI B. C. GANGULI: You have construction today, you do not have it for 10 days. So, it per force has got to be done by contractors. For building bridges etc. specialised tools and plant and specialised type of labour is needed. The contractor can afford such things. He has got a job here today and tomorrow he may have it elsewhere say at Haldia port for instance. He can utilise the tools and plant and specialised labour as he has various places to work. We had in the olden days though that we could keep some specialised equipments with us like pneumatic air-locks, but we could not utilise them fully. So for specialised type of job it is not possible for any employment agency like Railway on the PWD to maintain the special equipment and labour.

SHRI JAISUKHLAL HATHI: There is National Project Construction Corporation. They can deploy their men in various types of work. Can Railway think of some such thing?

SHRI B. C. GANGULI: We have already got this corporation which is now functioning, as contractor also in Farrakka barrage. Take bridges and allied works. You can't have too many agencies, in this country with the amount of activities in these spheres. We have now got one such body which also finds it difficult to get full work. It won't be possible to have a multiplicity of agencies. Government has got already one. I would suggest that we let it make a success of itself and then we can go on to other agencies. We have not got the capacity to do this with so many specialised types of jobs involved.

SHRI JAISUKHLAL HATHI: If a contractor can afford to have men and then go on from place to place for work, why can such a corporation not do it? Perhaps the argument may be that when there is no work, the contractor can discharge those people.

SHRI B. C. GANGULI: That is the main thing. The second thing is

that you will not be able to attract temporary establishment to Government because we have a lot of limitations, payment of bonus and things like that as also the pay scales.

SHRI JAISUKHLAL HATHI:
They are not limitations.

SHRI B. C. GANGULI: They are big limitations.

SHRI JAISUKHLAL HATHI:
I am talking from the workers' point of view.

SHRI B. C. GANGULI: I am talking of Government point of view. Government cannot go on adding staff like this.

MR. CHAIRMAN: Recently we had gone on tour to some places where we saw work connected with the railways also. I concede there are many works, according to you, of a temporary nature, lasting four or five months where a contractor is engaged and then afterwards they have to be employed elsewhere. Have you got any idea of certain works which are of a permanent nature, occurring for the last many years, which you get done through contractors, where those workers are called contractor's employees, with the result that they do not get proper facilities.

SHRI B. C. GANGULI: I explained that. I will cite an example. The biggest labour we employ is on the maintenance of permanent way. It is a job of a permanent nature with a constant load. We have our permanent gangmen all over India. We could easily have employed contract labour, but we have not done it.

But there is the question of handling goods in the bigger transshipment points, and handling coal in loco sheds. There although the work is of a permanent nature, the load fluctuates. The Minister suggested: why not keep a minimum amount of permanent labour commensurate with the minimum workload and throw over the rest to the contractor? There the

snag is that the contractor is not working in a charitable sort of way. He has to earn a living. To undertake a job at a place, he has to set up an establishment. He keeps a nucleus of men which has to be sustained by some workload. Since he gets that minimum he keeps a minimum staff and keeps on adding or subtracting as and when warranted by the workload that comes. If you remove that permanent part and leave only the temporary fluctuating load, how is he going to keep men for it?

MR. CHAIRMAN: Are there contractors who do work only for the railways and not for other people?

SHRI B. C. GANGULI: That depends. There are certain contractors who work on the railways, in the PWD, in the docks, harbours etc. and there are some others who work only on Railways. There are various types of contractors. As I have explained, there are two or three categories of work of a permanent nature but with a fluctuating workload where we have gone for the employment of contract labour. One is loading and unloading at various transshipment points, unloading coal in, loco sheds loading of coal into steam engines where it is not mechanised or where we do not get it done departmentally.

Let there be no impression going round that the railways are functioning with contractors. The railways do not. If you take our working expenses, 60 per cent is accounted for by the wage bill of our men. That is our trouble today. If we had functioned on any other methods which had been adopted by the company railways in the olden days, today we would have been in a much better position. But our trouble is that we have got a very very large number of permanent labour. I see very little scope for railways to expand their permanent labour in their working.

MR. CHAIRMAN: How do the conditions of workers employed under contract system compare with those of the regular workers in the railways?

SHRI B. C. GANGULI: It all varies from contractor to contractor. There are some contractors who, according to my personal opinion, do not look after labour as they should. There you can say that the condition of the labourers employed by the contractor is worse than the labourers engaged departmentally by the railways. But I have known of certain cases also where contractor labour is better off than railway labour.

SHRI DEVEN SEN: Cite an example.

SHRI B. C. GANGULI: The Hindustan Construction Co. Ltd.

SHRI DEVEN SEN: That is not connected with railways.

SHRI B. C. GANGULI: I am talking of a comparable contractor. Hindustan Construction Co. is an Indian contractor. We are trying to take an employer like the railways. That being so, you cannot take Nathuram or Magan Ram; that comparison will not be appropriate. Therefore, I mentioned the case of Hindustan Construction Co.

MR. CHAIRMAN: He wanted an example so far as the railways are concerned.

SHRI JAISUKHLAL HATHI: The question is: Is there any case of a contractor who gives better facilities to the workers than the railways give to their labour. To that, he mentioned Hindustan Construction Co. The question is whether this company is a contractor in the railways. If so, the reply would be relevant.

SHRI B. C. GANGULI: Hindustan Construction Co. is a contractor in the railways. They have done work. If you want to compare the treatment given by railways to its labour force with that given by a comparable employer, you cannot take one of those people who do only Rs. 20,000 worth of work a year. You have to take a sizeable contractor. In that context,

I cited the name of Hindustan Construction Co. I have had them engaged in the construction of a bridge. They had a beautiful colony built for their labour; they had transport for labour which we do not provide. They had transport for the labourers which we do not provide. They had their doctors employed at the site and I know of a case who was air-lifted to Bombay when it was found that his ailment could not be treated at Gauhati.

MR. CHAIRMAN: The question is how these conditions compare between the contract labour and the regular labour? I am referring to the contractor who employs labour only for the railway purposes and he is employed by the railway contractor.

SHRI B. C. GANGULI: The railway departmental labour has got a time-scale 70—85, plus dearness allowance. Some private contractor may pay less because the minimum wage is less than that. When a contractor is a small man who takes a smaller contract, naturally he tries to limit his payment and the facilities to the barest minimum which is required under the law. He does not give facilities that the railways would give to permanent labour. The permanent labour in the railways has got medical facilities and housing facilities—not to the full extent of course. They are not available to an average contract labour.

SHRI JAISUKHLAL HATHI: Would you say that certain facilities which are deemed to be necessary for the labourers should be included in the law so that the contractor should give those facilities. You yourself say that the contractor would give the minimum facilities under the law.

SHRI B. C. GANGULI: I shall be frank. If execution and enforcement of laws is thorough, I would have gone on making laws and filled Parliament House with law books. Unfortunately, experience is different. We have not been able to enforce a fraction of the various labour legislations that have

been passed in the last twenty years because enforcement needs a certain atmosphere. Have we been able to enforce the Payment of Wages Act except in the Government sphere? Take the Minimum Wages Act. With super abundance of labour in this country, even if you pass a law that Rs. 10 will be the minimum wage, you will find that the contractor will get a man to sign for Rs. 10 and pay him only Rs. 5. Because, there is abundance of labour in the country. My point is that conditions have got to be created before laws are enacted. Otherwise, enforcement becomes impossible. Take the Factories Act, for instance. I am a member of the National Commission on Labour. How many factory inspectors are available in a State and what is the intensity of inspections. Now, nobody says that we should not improve labour conditions; I should not be misunderstood. Without the necessary conditions, legislation becomes a formality of filling up certain forms without really benefiting the labour.

MR. CHAIRMAN: Can you say what percentage of labour is deprived of the benefit of these Acts?

SHRI B. C. GANGULI: If I say, it will not be authoritative. The National Commission on Labour will give a good story about it when it submits its report.

MR. CHAIRMAN: Our experience shows that in large areas, the Acts are being implemented.

SHRI B. C. GANGULI: Would you mind taking a trip of this committee to the Kotah mines? It is not very far. You can see how the Mining Act is implemented. There is no drinking water there.

MR. CHAIRMAN: Does it mean that these Acts are not implemented in most areas?

SHRI B. C. GANGULI: I am not saying that. I am saying that under the garb of this Act the contractor will quote higher rates. Nobody will profit. We cannot enforce this Act.

You say that a canteen should be provided for 100 employees. The contractor will provide for it only on paper; you will not find a canteen there. Let us provide for something which we can enforce. Let us go step by step. Take again the canteen. What is the purchasing power of these 100 labourers? Can you run a canteen? We have to see whether it is workable.

MR. CHAIRMAN: Are you satisfied with the conditions of contract labour in the country? If not, what are your suggestions for improving their lot?

SHRI B. C. GANGULI: My personal view is this. Three things are important. One is higher wages. After 1954 we have not revised the notified rates under the Minimum Wages Act. So, let us first of all enact about the minimum wages for the labourer and see that his wages improve. Secondly, medical facilities for contract labour. Third, we should see if at a least a fraction of the labourers could be housed.

I was only pointing out to this Committee certain provisions of this Bill. You are making one provision to the effect that the principal employer will be liable for ensuring the due payment to the contractor's labour. Now, take for instance a contractor who has 200 labourers. If I have got to satisfy myself that the contractor is paying the labourers correctly all their dues, that means I have to have a parallel organisation for taking the muster, supervising the work of these men and then on the pay-day see that all those men get their pay exactly according to their attendance. It means that you are asking for a parallel organisation by the principal employer to be kept; it will not be practicable.

MR. CHAIRMAN: Are you sure that the contractor would be paying the proper wages

SHRI B. C. GANGULI: There are some contractors who do not pay

and there are some contractors who do pay. You cannot tar them with the same brush. Of course, we have had evidence in the National Commission on Labour that contractors have not paid these labourers. But how can you make the principal employer responsible to see that the payment has been made to the labourers according to the contract of employment? That means I have got to be associated with the employment of labour, the fixation of the rates, keep the muster and also witness the correct payment of dues. All this is duplication. Do you want me to set up such an organisation? I have no objection, but it means that wherever you are going to have these workers on contract labour, it will entail the setting up of a duplicate organisation.

MR. CHAIRMAN: A similar question was put to some of your officers at Calcutta and Bombay and they said that it is not so difficult for them to see that whatever wage is fixed is paid properly; that they may be decided in the terms of the contract and the workers will get it.

SHRI B. C. GANGULI: The point is this: the labourer may be present on, say, 27, 28 or 29 days in a month. If that is not first of all ensured by the principal employer, how is he going to certify that he has been paid? I do not know who have given evidence. But when you make me responsible to certify that the labourer has been paid his full dues, I have got to know their contract of employment showing the rate of daily wages: I have also to maintain the muster-roll so as to see that they have been present for 27 days or 28 days or 29 days, and then on the pay-day, I have to witness the payment as we do in the case of the gangmen who come and take the payment to our satisfaction. A similar organisation should be set up in this case.

MR. CHAIRMAN: An officer has to be deputed for this purpose.

SHRI B. C. GANGULI: That means I have to do it.

MR. CHAIRMAN: You have to do it.

SHRI B. C. GANGULI: I have no objection, but it means all that I have said.

MR. CHAIRMAN: The workers cannot be left to the wolves.

SHRI B. C. GANGULI: May I submit that my personal view is that if there are wolves, you will not be able to save the workers, because with this under-employment in the country, even a schoolmaster signs for Rs. 250 and takes only Rs. 100 home.

SHRI K. A. NAMBIAR: These are exceptions; we are asking for a general thing.

SHRI B. C. GANGULI: But our country is like that. A contract labourer will sign for Rs. 5 and take only Rs. 3 home.

SHRI SHRI CHAND GOYAL: Let us deal with this matter from one aspect. The railway is the biggest employer of this contract labour. I am told that there are three lakhs workers who are being treated as contract labour in the railways.

SHRI B. C. GANGULI: No, Sir; not to my knowledge.

SHRI SHRI CHAND GOYAL: That is the figure supplied by the Federation of railwaymen.

SHRI B. C. GANGULI: That is not a sacrosanct figure.

SHRI SHRI CHAND GOYAL: You can correct the figure.

SHRI B. C. GANGULI: The point is, we cannot talk of figures which are neither correct nor anything else. If

you have got to talk on some premises, we must know . . .

SHRI SHRI CHAND GOYAL: What is the actual figure then?

SHRI B. C. GANGULI: We have got an approximate estimate; I shall give you the breakdown also. Of course, these are only approximations.

SHRI DEVEN SEN: Let us know the total.

SHRI B. C. GANGULI: The total has got to be understood in the light of these facts. If you do not want to take the facts, what is the good of my talking?

SHRI SHRI CHAND GOYAL: Please give us in writing.

SHRI B. C. GANGULI: After we give it in writing, then we shall talk on written figures also! The point is, you have called me to give you certain information. If you do not want the information, what else can I do? Now, for goods and parcels handling, we have 16,000 labourers; coal and ash handling, 20,000 labourers; engineering works including large scale construction, works 5,25,000 engineering works of other nature. . .

MR. CHAIRMAN: Can you give us a copy?

SHRI B. C. GANGULI: I was reading out these figures to give you a background of the matter. Out of these 1,40,000 labourers who are employed on contract, through the contractors, a small, minor fraction will come under the handling category. The majority will continue to be contract labour.

SHRI SHRI CHAND GOYAL: Can you tell us whether you have included in this figure of 1,40,000, those men who are working in the refreshment rooms and the railway godowns?

SHRI B. C. GANGULI: We have a number of vendors,—5,600 and then

another 1,500. We have about 7,000 workers in that category also.

SHRI SHRI CHAND GOYAL: The position is, we have recently received a memorandum from the persons working in the godowns; they have drawn a very horrid picture; they say that they hardly get Rs. 1.50 a day or Rs. 2 a day; there is absolutely no provision for any weekly rest or earned leave; no fixed weekly or fortnightly or monthly pay; no security, no old-age pension, no medical aid, no free passes, no accommodation, no canteen. How are you going to bring the contract labour on a par with other labour who are doing similar type of work? Simply because they happen to be contract labour, they are not enjoying or they are being denied all these benefits which are made available to their brethren working as permanent workers in the railway department. Have you thought of something to be done for them also?

SHRI B. C. GANGULI: So many things can be thought of. For instance, have we thought of the cultivator who is earning just six annas a day? One can go on thinking as much as one likes.

SHRI SHRI CHAND GOYAL: This Committee takes also the view that this labour problem which is the human problem has got to be tackled, if it can be regulated, so as not to deny them these benefits. Have you any suggestions in regard to that?

SHRI B. C. GANGULI: As I told you, you can go on extending the benefits to any limit. After all, you are the law makers. But I suggest that we should move step by step. The first step is that the labourers should be assured of their due wages and that they are not deprived of their regular wages. The second step is the medical facility and the third step is to provide a place to live. These are the first three essentials. If you can ensure these three things for the workers in the country, the other

things can follow. We can think of them at the appropriate time, the things like canteens, latrins and the like.

SHRI S. KUNDU: We thought a politician always talks in the name of the people. I find you also talk in the name of the people.

SHRI B. C. GANGULI: I have been associated with the people, the workers, for the last 32 years of my life.

SHRI DEVEN SEN: Is it not a fact that the Members of the Railway Board are the highest paid in the country?

SHRI B. C. GANGULI: I would like to exchange position with you.

SHRI SHRI CHAND GOYAL: Does this device of employing contract labour enable the Government to carry on its various works at a cheaper cost than what it would be with permanent employees?

SHRI B. C. GANGULI: It all depends on the sphere of works. A limited amount of the works is done on contract basis. The majority of our works are done departmentally, at least, in the Railways. Certain works are definitely cheaper, like buildings construction, bridge construction, etc. We cannot do it so cheap as the contractors will be able to do it because they have got the machinery and they have got the skilled men. We have only got 1 inspector of works for 50 to 60 miles and 1 Assistant Engineer for 200 miles. So it becomes cheaper for us to do supervision and not to do execution of such works. Therefore, contract labour, in certain spheres, is cheaper.

SHRI SHRI CHAND GOYAL: So, it is the Railway Board which benefits from the employment of this particular device. Now, the question is whether the ultimate responsibility of making all payments to the labour be of the Department and not of the

contractors. Since the contractor and the labour are both working for the benefit of the Railways, the ultimate responsibility of making all payments and of discharging all liabilities should be on the Railways and not on the middle-man, that is, the contractor.

Shri B. C. GANGULI: This is an impracticable thing.

SHRI SHRI CHAND GOYAL: This can be done by legislation. Do you accept the position that since the ultimate gainer is the Department, the Railways, the ultimate responsibility of making all payments or of discharging all liabilities should be of the Department and not of the contractor?

SHRI B. C. GANGULI: I have not followed it.

SHRI SHRI CHAND GOYAL: Supposing a particular labourer is unable to recover his wages from the contractor, he should be in a position to recover the same from the Department because he works for the Department.

SHRI B. C. GANGULI: I can't say.

श्री हुकम चंद कछाय : अभी आप ने बतलाया कि पिछले बीस वर्षों में जो भी मजदूरों के हित के कानून बने हैं उन में से अधिकांश पर अमल नहीं हुआ है। मैं जानना चाहता हूँ कि रेलवे में ऐसे कितने प्रतिशत कानून हैं जिन को लागू नहीं किया गया है ?

श्री गांगुली : रेलवे कोई ऐसे कानून नहीं बनाती है जिन को वह लागू नहीं कर सकती। अगर रेलवे ऐसे कानून बनाएगी जो लागू नहीं कर सकेगी तो रेलवे कैसे चलेगी ?

SHRI JAISUKHLAL HATHI: His question is: What are the labour

legislations which are not implemented in the Railways itself.

SHRI B. C. GANGULI: The Railways are a vast organisation. We have got report from various Labour Departments and their Inspectors. We have all found some infringement of labour legislation in the matter of timely payment of wages and things like that and we worked out the percentage of infringement and it is about, if I remember, .007 per cent. If you take a vast organisation like the Railways which is spread all over the country, that is a very small percentage. If it were much, you would have got labour unrest almost all over the country. In fact, for the benefit of the Committee, I can say that we look after labour well. As for example, this year the wages which are due only on the 3rd October have been paid to them on the 28th of this month before the Puja holidays.

श्री हुकम चन्द्र कडवारा : अभी आप ने एक प्रश्न के जवाब में बतलाया कि रेलवे में बहुत से निर्माण कार्य होते हैं जो थोड़े समय के लिये होते हैं। लेकिन रेलवे बेस का सब से बड़ा उद्योग है। उस में ऐसे भी काम हैं जो बारह महीने होते रहते हैं। कहीं कोई नई लाइन बिछानी होनी है, कहीं कोई और काम होना रहता है। कोई न कोई काम निकलता ही रहता है। ऐसी परिस्थिति में ठेकेदारी प्रथा से जो काम लिया जाता है उसे समाप्त करने के बारे में आप का क्या क्या है ?

श्री गंगुली : मैं ने पहले भी कहा और अब भी कहता हूँ कि काम की जो कंटिनुइटी थी, जो काम निकलता था, उस का निकलना अब बन्द हो गया है क्योंकि उस से कोई फायदा नहीं हुआ है। इस से हम लोगों के बजट पर भी असर पड़ेगा। असल में रेलवे में काम निकलना तो जनरल एकांटीमी आफ़ दी कंट्री पर निर्भर करता है। अगर उद्योग बढ़ेंगे तो रेलवे भी ज्यादा बसेगी। लेकिन पिछले दो

तीन सालों से रेलवे में काम निकलना बन्द है क्योंकि सब जगह रिसेशन है। ऐसी स्थिति में अगर रेलवे में काम निकला जायेगा तो नासिक प्रेस का एक्स्टेंशन करना पड़ जायेगा ?

श्री हुकम चन्द्र कडवारा : हम कलकत्ता गए थे। वहां के जनरल मैनेजर से हमने चर्चा की थी। उन का मत था कि रेलवे में ठेकेदारी प्रथा समाप्त हो जाएगी तो रेलों को बहुत भारी घाटा पड़ेगा। मेरा कहना यह था कि कोई नहीं चाहता है कि रेलें घाटे में जायें। लेकिन रेलें घाटे में न जायें इसके लिए हजारों मजदूर जो एक टाइम खा कर सो जाते हैं और बिना छत के रहते हैं यह ज्यादा फायदेमंद है या रेलें घाटे में न जायें यह ज्यादा फायदेमंद है ?

श्री गंगुली : इसका जवाब हम से क्यों मांगते हैं।

श्री हुकम चन्द्र कडवारा : अधिकांश गैंगमैन को टैम्पोरेरी रखा जाता है और उनको रोजाना एक रुपया दो आना तनख्वाह मिलती है। मैंने कलकत्ता में देखा था कि पार्सल गोदाम में एक ठेकेदार के पास चार हजार मजदूर काम करते हैं और एक मजदूर को 52 रुपया 50 पैसा महीना मिलता है। वे आठ दस साल से लगातार काम कर रहे हैं। उनके पास मजदूरों की संख्या कम नहीं होती है बढ़ती ही जाती है। ऐसे स्थानों पर भी क्या आप नहीं चाहते हैं कि ठेकेदारी प्रथा समाप्त हो ?

श्री गंगुली : चार हजार कौन ठेकेदार लगाता है यह मैं नहीं जानता हूँ। चारों बाजू ठेकेदारी प्रथा समाप्त करें तो यह भी हो सकता है। The only thing is you have got to plan the tools, plant, imple-ments, continuity of work, etc. If you can ensure these, why not stop 'Takedar'? 'Takedar' means, you create certain agencies with tools, plant and know-

how. If you feel that you can employ these throughout the year, you can stop 'Tekedari'. What is there? Soviet Russia has not got any 'Tekedar'. If you want to change the system, you can. The only thing is that you should ensure all those which I mentioned.

SHRI DEVEN SEN: Have you got any idea as to what amount you pay annually as commission to your contractors?

SHRI B. C. GANGULI: I do not think we have got any figures that because we do not calculate commission and all that. We call for tenders and rates are quoted. We accept the lowest tender.

SHRI DEVEN SEN: I am talking about contractors. For collecting labour, how much do you pay to the contractor? You may call it commission or whatever it is.

SHRI B. C. GANGULI: We have no such system.

SHRI JAISUKHLAL HATHI: Suppose you want 200 men for a particular job. You ask him to get 200 men and for that, you would be paying him something.

SHRI B. C. GANGULI: We have no such system.

SHRI DEVEN SEN: Please refer to the Annexure which deals with casual labour. I find that every category is of a permanent nature and of a skilled type—blacksmith, driver, mechanic, plumber, etc. You employ casual labour for permanent jobs and for skilled jobs?

SHRI B. C. GANGULI: I have already told you that we do not employ casual labour for permanent job.

SHRI DEVEN SEN: This is from the note submitted by you.

SHRI B. C. GANGULI: This is for project work. It is not of a permanent nature. We start electrification project, Brahmaputra bridge construc-

tion project and so on. These projects will be completed in four years' time or so and after that, we dispense with their services after paying the necessary retrenchment compensation.

SHRI DEVEN SEN: Take, for instance, coal loading. There is a permanent unit directly under the management and if any more is required, that is given to the contractor.

SHRI B. C. GANGULI: To the best of my information, loading and unloading of coal wagons are the responsibility of the consignor and the consignee. The Railways do not come in the picture.

SHRI S. KUNDU: I would request you to see the Statement of Objects and Reasons of this Bill. It begins with one sentence, namely, "The system of employment of contract labour lends itself to various abuses". I should confess here that we, during our study tour, had the opportunity of listening to some of the railway officer and, in general, I have the impression that the evidence that they give before the Committee goes directly contrary to this statement.

But, in your evidence, of course, there is some departure and I must thank you for that. Therefore, the question arises whether, in principle, you agree—you are a senior Member of the Railway Board—that the contract system as such has lent itself to many abuses, many corrupt practices, producing things which are not upto the mark. From that premises we can go into the other questions. If you do not agree, then there is no use putting other questions. Even if the Government puts up a nice wheel, the entire thing has to be implemented by the officers. If they do not realise that this is the real thing which has to be done, then it cannot be implemented. You raised the question of implementation. In some cases it is not implemented. I agree with you. But it is not enough to say that it is not implemented. Why is

it not implemented? We should have faith in our 2 young men...

MR. CHAIRMAN: He may please put his question.

SHRI S. KUNDU: My question is whether, in principle, you agree with the statement that I read out and then the ILO's declaration that this has lent itself to a lot of abuses, and then the Supreme Court's decision that contract labour must be abolished.

SHRI B. C. GANGULI: If I have understood you correctly, your question was whether the contract system leads to abuses. It varies from contractor to contractor. Some contractors abuse, some contractors, as I told you before, have been treating their labourers so well that they have been able to maintain a very good reputation of executing very difficult work. So, it varies from contractor to contractor. In fact, in the whole world, the contract system is functioning. Everybody cannot afford to keep specialised knowledge and equipment; they can be kept only with certain persons. There is nothing intrinsically wrong with the contract system.

SHRI KUNDU: You are not giving a categorical answer. Is the system bad or not? In principle the system is good—is that what you say?

SHRI B. C. GANGULI: Contract system will be there in any country. Without contract system you will not be able to function in any country. You ask a question whether contract system will lead to abuse; my answer is contract system is inherent in any economy.

SHRI S. KUNDU: Rs. 100 crores are there in railways for development works which work through the contractors. You give 10 per cent of the commission which they get. Above 10 per cent they make 25 per cent. They get something from the labourers' wages. If this is true 25 crores go to individuals and so don't

you think these 25 crores could be saved for departmental works? You can plough it back for welfare of labourers and practise economy. Have you understood my point?

SHRI B. C. GANGULI: I don't know whether this figure is correct. Work means 2/3 capital and 1/3 labour. Labour element will be 30 crores and if you say that they are getting more than 25 per cent there is something wrong in the figure. Anybody would have jumped to come for this work rather than go to any other work, if there is such a lot of money.

SHRI S. KUNDU: You don't think there is lot of money in the contract business?

SHRI B. C. GANGULI: Large number of contractors have gone out of business for some years past. Big houses are finding it difficult to carry on this work now.

SHRI KUNDU: You do not believe contractor make a profit?

SHRI B. C. GANGULI: Everybody makes a profit.

SHRI A. P. SHARMA: It is said that 1,40,000 workers are there on contract basis in Railways, including project works. Does it include casual workers?

SHRI B. C. GANGULI: No.

SHRI A. P. SHARMA: These casual workers' number run into lakhs. Is it not that their wages are better than wages of contract labour? Indirectly we have discussed in this committee that railways should be treated as contractor employing the workers. Technically it may not be correct. How do the Railways propose to solve the problem of these casual workers?

SHRI B. C. GANGULI: Causal people are employed for causal type of work. There are 2 such types, construction, that is projects, is one. Secondly we have got some works like

re-laying and things like that. We can't do it with our own permanent staff. We appoint casual labourers. They get pay as per rates fixed by States for similar types of labourers. We have somewhat liberalised these things. If he continues for more than 6 months his service will be of temporary nature. If job continues for more than 6 months, even this casual job, we give temporary status. This benefit we could not extend to projects because their job is for limited period, 2 years or 3 years, but otherwise we give temporary status. I don't know the real solution to casual labour because some sort of casual labour will be inherent. Even in various factories, textile industries and all that, you would need casual labour from time to time. I don't know the solution how you can avoid casual labour.

SHRI A. P. SHARMA: Upto 6 months they are paid less than temporary/regular employees as the nature of work is casual. The type, the category and the amount of the work may be the same but only because the work is of a casual nature, they get less. Can you pay them at the same rates and give the same facilities in respect of wages etc. at par with those doing regular work?

SHRI B. C. GANGULI: This really does not arise out of this Bill. This is a question I leave it to the Committee.

SHRI BINOY KUMAR MAHANTY: One of the aims and objects for this legislation is that so far for the past 20 years it has not been implemented and we therefore want that this should be implemented. What is your objection if we make the Railways responsible for the implementation of this legislation so far as the contract labour is concerned?

SHRI B. C. GANGULI: Let me correct the record. I have made no objection to this Bill. I do not think that it is within my sphere at all. With regard to implementation of labour legislation by the Railways, as

I explained before, we have failed in a very very negligible percentage of cases. In fact I said in 0.007 per cent of the Payment of Wages Act we have failed. I have data on other legislation also. Unfortunately I have not brought them. With regard to your question that we should be made responsible for following all the labour legislation, I submit that you will have to employ a different system. We have the Labour Ministry with their Inspectors and other Labour Officers. Then the Railway Ministry should have the Labour portfolio also and start operating. There is no objection; it will need expanding of the Ministry.

SHRI BRAHMANAND PANDA: If I understand you correctly, you do not believe in the abolition of contract labour—totally or partially

SHRI B. C. GANGULI: I have said that contract system in the present framework within which we work in India and in the present economic theory, it will be impossible to abolish contract labour excepting at a great waste of man-power and equipment.

SHRI BRAHMANAND PANDA: Don't you think that this Bill has been drafted keeping in view the ideals of the Welfare State?

SHRI B. C. GANGULI: I do not know what is the ideal of the Welfare State because I have read the Constitution once or twice and I have been trying to find out the ideal of the Constitution. So far as the Welfare State is concerned, I have heard it many times and I do not know what it consists of.

SHRI BRAHMANAND PANDA: That may be your limitation.

SHRI B. C. GANGULI: That is my limitation.

SHRI BRAHMANAND PANDA: It does not matter. We agree with you. What I say is that contract la-

hour, we believe it to be a form of slave labour in modern times and, therefore, we want it to be abolished. Here the question is: you do not believe in the abolition of contract labour either totally or partially. Do you think that more amenities can be given and more facilities or security can be given to the contract labour through this Bill if it is passed into law.

SHRI B. C. GANGULI: I have already explained that whether it is slave labour or not, I do not know, but the conception of execution of work by a specialised agency with specialised equipment means the system of contractors. You cannot abolish it unless you want a huge waste in the agency of keeping equipment and men going round without doing work. More facilities you can give to the labour. I have said that before. In fact I think these three fundamentals should be assured to the labourers which I personally feel is the first priority and if you want to give more, why not?

SHRI BRAHMANAND PANDA: What I wanted to know is: are we giving it through this Bill?

SHRI B. C. GANGULI: You are giving nothing.

SHRI R. K. AMIN: Your evidence is amply clear and therefore I will only ask brief questions for which I would require only brief answers. You have any instance in the Railways where formerly the work was done not by contract labour but is now done by contract labour because of Labour laws?

SHRI B. C. GANGULI: No.

SHRI R. K. AMIN: People say that contract labour live in inhuman conditions. Our agricultural labour also live in inhuman conditions. Between the two who live in the most inhuman conditions, because you know both?

SHRI B. C. GANGULI: I have said that you can extend it even to the agricultural labour. This you can go on expanding. There is no end to the benefits you can give.

SHRI R. K. AMIN: Yesterday some one came and he said that we should abolish contract labour from the public sector and that too with the Railways. Supposing we do it, what do you think about the difficulties that you will have to face in terms of increase in cost and in terms of total labour and other types of difficulties?

SHRI B. C. GANGULI: I have not calculated the financial implications. To be frank, I can tell you that it will cost quite a lot.

SHRI R. K. AMIN: What will happen to the total employment? Will it increase or decrease?

SHRI B. C. GANGULI: It is bound to increase because you are giving some more work to the Department.

SHRI R. K. AMIN: Supposing you oblige the contractor under this Bill and given these facilities. Do you think it will have an effect on the productivity of the labour?

SHRI B. C. GANGULI: Productivity of labour to be improved by these facilities? I am not sure that you will get any impact.

SHRI R. K. AMIN: You have casual labour and not the contract labour. Is there any difficulty in providing various types of facilities to this casual labour?

SHRI B. C. GANGULI: There is no objection at all. It all depends on how much you are willing to pay for doing some job.

SHRI SANDA NARAYANAPPA: In your evidence you have said that some of the contractors do not provide even the basic amenities to the labourers. That means that you are agreeing with this legislation. Wherever contract labour is to be

abolished, it should be abolished and welfare measures have to be introduced and wherever contract labour is not to be abolished, it has to be regulated. I think you are totally in agreement with the Bill, proposed by the Government and which is under discussion now.

SHRI B. C. GANGULI: As I told you before, there are certain provisos of this Bill which will be very difficult for implementation from the Railways side. I gave you one example. It will be very difficult to implement this provision that the principal employer should be made responsible for ensuring payment to the labourer according to his dues.

SHRI SANDA NARAYANAPPA: Will you agree that the Railway Department is the principal employer?

SHRI B. C. GANGULI: There is no question of agreeing or disagreeing. We are the principal employer, according to this law.

SHRI SANDA NARAYANAPPA: The Government is competent to amend the law for this purpose.

SHRI B. C. GANGULI: It will not be a practicable proposition to say that the principal employer, either the Railways or the P.W.D. or anybody for that matter should be made responsible for ensuring correct payment of the dues to the labourer.

SHRI SANDA NARAYANAPPA: If it is not practical, what are the reasons? Can you give us your experience in this matter?

SHRI B. C. GANGULI: First of all you have got to have a knowledge of the rates and terms and conditions under which the labour has been employed.

SHRI SANDA NARAYANAPPA: It will be regulated.

SHRI B. C. GANGULI: Are you going to specify that a blacksmith will

get Rs. 8 and not Rs. 2, etc.? The contractor may bring a blacksmith at Rs. 10.

पंडित भवानी प्रसाद तिवारी : आने फरमाया कि कुछ ठेकेदार मजदूरों को अच्छी सुविधायें देते हैं, लेकिन अधिक ठेकेदार सुविधायें नहीं देते हैं। जब रेलवे के अधिकारियों का यह मौका आता है कि वे ठेकेदारों से काम लें तो क्या आप ठेकेदारों के शर्तनामों में ऐसी पाबन्दी नहीं लगा सकते कि जो मजदूर उन के यहां काम करते हैं उन को वैसी ही सुविधायें मिलें जैसी अन्य ठेकेदार दे सकते हैं। अगर आप कानून के द्वारा ऐसी मदद करें तो उनकी स्थिति अच्छी हो सकती है ?

श्री गांगुली : अगर आप इन्कटेन्ट करोगे तो रेलवे भी उन सब ठेकेदारों को यह सब सुविधायें देने के लिये मजदूर कर सकती है। इस में कोई दिक्कत नहीं है। यह प्रैक्टिकल तभी होगा जब कि पहले से हम को पता लगना चाहिये कि उन को ये सब सुविधायें मिलनी चाहिये।

There are two parts. One part is you want welfare things like canteen, latrine and other things. That we will be able to check and there is no difficulty. The other part is about ensuring that the labour get their dues properly according to the terms of the contract between the contractor and themselves. Therein our difficulty lies. First of all we have to get all the terms from the contractors. We have to have a machinery to see that the labourers are working according to the terms. We should also witness the payment. Our subordinates should know the name of each labourer and his father's name etc., as we do in Gangmen's case. All these implications will come.

SHRI S. D. PATIL: With regard to section 21, you are pleading that the principal employer should in no way be responsible for making the

payment to the labourers. But you know there is an agreement between the contractor and the labour. Will your difficulty of getting to know the terms, conditions of the contract etc. etc. be solved if the principal employer is also made a party to that agreement?

SHRI B. C. GANGULI: It means the same. The contractor will have an agency. I shall have to have an agency to be associated right from the beginning, from the stage of framing of contract between the contractor and the labour to the stage of payment. There has got to be a duplicate association of the principal employer all the time, because he has got to keep himself in the picture all the time of implementing that contract.

श्री हुकम चन्द कश्यप : इस में दिक्कत क्या है?

श्री गंगूल : दिक्कत कुछ नहीं है । एक मादमी भी लगा सकते हैं और 25 मादमी भी लगा सकते हैं ।

SHRI S. D. PATIL: Is there not a schedule of rate between the contractor and the labour, which is known to the Indian Railway authorities?

SHRI B. C. GANGULI: The Railway makes a contract at certain rates—this much per thousand cubic foot for earth excavation, etc. etc.

SHRI S. D. PATIL: The same is the case with regard to construction of building.

SHRI B. C. GANGULI: We do not say in the contract that the contractor must pay mason this much and a carpenter this much.

SHRI S. D. PATIL: When there is a single worker, is he not paid daily wage?

SHRI B. C. GANGULI: We have no daily wage system.

SHRI S. D. PATIL: If a schedule is prepared, according to which payment is made by the contractor to the worker, and if it is approved by the principal employer, i.e., the Railway authority here, what harm is there in taking the responsibility for making the payment to the worker?

SHRI B. C. GANGULI: First of all we have to satisfy ourselves by keeping a muster roll showing how many labourers were present etc. That means an organisation.

SHRI JAISUKHLAL HATHI: In the tenders there is a clause stating that the contractor will have to pay....

SHRI B. C. GANGULI: ...fair wages. But we have not defined anywhere what is fair wage.

SHRI JAISUKHLAL HATHI: Don't you check that that clause is implemented by the contractor?

SHRI B. C. GANGULI: We only make a check if there are complaints. Uptill now there is nothing called fair wages. Even what you call the living wage, we tried to define in one of the Labour Conferences, i.e., the 15th Labour Conference. We have not yet been able to define fair wage.

SHRI S. D. PATIL: Don't you feel that it is the moral duty of the principal employer to see that the labour doing their work should be paid in full as per terms between the contractor and the labour?

SHRI B. C. GANGULY: I dont think ethics count in government work. Morals and ethics are not law.

SHRI TRIDIB CHAUDHURI: With regard to section 2I—this is my personal opinion—an extremely limited and restricted sort of responsibility is being imposed upon the principal employer. Supposing this clause is amended and it is made obligatory for the contractor, without giving much of a responsibility on the principal

employer, to employ additional staff, and if this contractor is brought within the purview of labour legislation, including payment of wages, how would you like it?

SHRI B. C. GANGULI: My point is that here if you are thinking of a rate which will be binding on the contractor that means it comes to a fair wage to be determined for the various areas of the country, and then you can say that a contractor shall not pay anything below this schedule of rates to their labourer....

SHRI TRIDIB CHAUDHURI: My suggestion is different. I can see the difficulty of the principal employer, particularly in an organization like the Railways, if they have to employ additional staff and the responsibility is directly upon them to see whether a certain rate of wages is being paid or not. But if by legislation these contractors are directly brought within the purview of the labour legislation, and their conditions are more or less changed in a way so that that obligation comes upon the contractor, not so much on the principal employer, would you think that would be an improvement?

SHRI K. A. NAMBIAR: He wants to say that the principal employer is made responsible

SHRI B. C. GANGULI: Contractor's liability is already there. There is the Minimum Wage Act. These things are there.

SHRI SRIMAN PRAFULLA GO-SWAMI: I think you—the Railways—have got a substantial section of contract labour. Can you create a permanent cadre of labourers who can be employed and you can transfer them to different places?

SHRI B. C. GANGULI: Here I will be a little personal in my views. Theoretically, what you say is possible. But, practically it is not possible. There are two reasons. One is

you cannot expect unskilled labourers to be taken all around India....

SHRI SRIMAN PRAFULLA GO-SWAMY: My idea is to create skilled labourers, not unskilled labourers.

SHRI B. C. GANGULI: At the very beginning I have submitted to this committee that it is not possible to have a pool of labourers in the railways, because you will not have constant load of work. For example bridge building. In fact, as I have already explained, we had originally thought we would keep specialised tools; but later on we found that we could not utilize them and sold them out. Unless you want to have wasteful labour and wasteful plant, I do not think it will be workable.

SHRI SRIMAN PRAFULLA GO-SWAMI: That applies to the project, which is allotted to the contractor. But you yourself have certain loading and unloading going on permanently. Loading is not a skilled job, it is unskilled. But even in loading and unloading the Railways employ contractors. Our information is that most of the loading and unloading is entrusted to the contractors. Are you able to abolish that?

SHRI B. C. GANGULI: I told you, Sir, that load is fluctuating. If you want to abolish it, then it will mean much difficulty.

SHRI B. SHANKARANAND: Mr. Ganguli, I am not going to ask any hypothetical question. I am just bringing you right to the subject before you. I hope you have studied the provisions of this Bill. You know there are certain provisions which are applicable to you, i.e., the Railways, as employer; and you have seen from the objectives of this Bill that the system should be abolished wherever possible and practical and in case where this system could not be abolished altogether, working conditions of the contract labour should be regulated so as to ensure payment of wages and essential amenities. This

is the aim and object of this Bill. So, what is your opinion Let us not quarrel about enforcement or implementation. Whether the Bill, if enforced, is going to help regulate the contract labour or not.

SHRI B. C. GANGULI: So far as the Government establishments are concerned they will per force have to go into implementation of these things. There is no question of their not implementing. But in the other spheres it will be difficult to get it implemented.

SHRI B. SHANKARANAND: My question is as we are going to enforce this Bill whether it will help the contract labour or not?

SHRI B. C. GANGULI: No.

SHRI B. SHANKARANAND: Then according to you what are the provisions which will not help regulate this Bill? I want to know the specific provisions.

SHRI B. C. GANGULI: There are so many difficulties. I have to make a long note. If you want me to give you a note on this subject, I will send that to you.

SHRI B. SHANKARANAND: Please send it.

SHRI B. C. GANGULI: If you want to ask any specific question...

SHRI B. SHANKARANAND: I have asked you a specific question.

SHRI B. C. GANGULI: You the asking for principal employer to be responsible for payment. As I have explained to you with this abundance of labour today a man will even sign for Rs. 5 and take only Rs. 3 and work under a contractor.

SHRI B. SHANKARANAND: Have you studied Chapter 3 which is mainly applicable to you. Do you find any difficulty in enforcement of these provisions, as you are a Principal employer. This should be read along with Section 24.

SHRI B. C. GANGULI: I think it will be best if I send a written reply.

SHRI VIRBHADRA SINGH: We were told by a very senior officer of the Railways at Bombay that with the total abolition of the contract system, the railways would entail an additional cost of Rs 100 crores. Do you agree with this view?

SHRI B. C. GANGULI: I am unable to say it will be Rs. 100 crores. I do not know who is that official who has given this statement because Rs. 100 crores seems to be quite a substantial figure out of the total working expenses of the Railways—I think the salary bill is Rs. 330 crores.

SHRI VIRBHADRA SINGH: We were told that. I want to draw your attention to clause 10 of the Bill. Have you got anything to say about that?

DR. S. K. SAHA: I want to draw your attention to clause 21 (2). Whether the railway authorities as principal employers shall nominate a representative duly authorised by them to be present at the time of disbursement of wages by the contractor...

SHRI B. C. GANGULI: No Railway employee is going to take....

SHRI VIRBHADRA SINGH: Sir, he has not answered my question.

SHRI B. C. GANGULI: No Railway employee is going to take the responsibility whether the disbursement has been correct or not unless he is associated from the time of the contract with this, that is, the Payment to be made to the man for so and so work and also keeps a muster-roll for attendance.

DR. S. K. SAHA: Whether you are going to authorise the person to be present or not?

SHRI B. C. GANGULI: We can authorise the person to be present during the Payment. That will not serve the purpose.

SHRI V. NARASIMHA RAO: Are there instances of the casual labour working in the loco sheds etc?

SHRI B. C. GANGULI: For what purpose.

SHRI V. NARASIMHA RAO: For repair works.

SHRI B. C. GANGULI: I am not aware of it.

SHRI V. NARASIMHA RAO: Please refer to Chapter IV. What is your opinion of the Advisory Board?

SHRI B. C. GANGULI: Advisory Boards will be there. There is no objection. There will have to be advisory boards if this Bill comes in.

SHRI P. M. SAYEED: I seek a clarification only. As you have rightly pointed out legislations are not effectively put, the very purpose of bringing in this legislation is to put this legislation effectively by putting in additional responsibility on the principal employer. Am I to understand when you said that it is an impracticable proposition to put an additional responsibility on the principal employer that it is due to the additional financial commitments that you expect?

SHRI B. C. GANGULI: It is impracticable in the sense that to be associated from the contract stage or the contractor with his employees throughout the process of work to the stage of disbursement. This type of association is not a practicable proposition for us.

SHRI P. M. SAYEED: You have just now said—and we also know—that the contractor asks the labourer to sign for Rs. 5 whereas he disburses Rs. 3 only. As the ultimate beneficiary is the railways....

SHRI B. C. GANGULI: How the Railway is benefited.

SHRI P. M. SAYEED: As a principal employer. The contractor does not get the ultimate benefit.

SHRI B. C. GANGULI: We have already agreed on the basis of an open tender or a limited tender for a contractor to do some job at certain rates. Whether the contractor pays to his employees Rs. 3 or Rs. 2 how does the benefit come to us because on the completed work we will have to pay him. No benefit comes to us.

SHRI P. M. SAYEED: Benefited in the sense that the work turned out by the employee is the ultimate benefit of the principal employer and not of the contractor?

SHRI B. C. GANGULI: We have paid for the work. Benefit has not come to me. The benefit has gone to everybody.

SHRI P. M. SAYEED: In spite of all this legislation we all know that the labourer does not get his proper due. This kind of provision has been put in in this legislation in order to make it more effective. The purpose of the Bill will be served only if this provision is strongly put in.

SHRI B. C. GANGULI: It is a matter of opinion, whether by a provision of this nature in the Bill you will serve your purpose or whether there is some other method of achieving it. But my opinion is that you are adding to the general charges of the exchequer for a doubtful benefit. That is my view.

SHRI K. A. NAMBIAR: Are there casual labour employed on the maintenance side in the loco-shed and permanent way? You had said that you did not know.

SHRI B. C. GANGULI: I have said that so far as the overhauling and maintenance and regular work of permanent way is concerned, we have got permanent labour. Wherever we have got increased work in the shape of relaying the sleepers etc. we employ casual labour. In fact, the

chapter on casual labour in the Establishment manual is available to you and you must have read it.

SHRI K. A. NAMBIAR: Anyhow, I want to have a statement from you on this. Will you contradict me if I say that for permanent maintenance work in loco-sheds, casual labour with several years of service are in employment today?

SHRI B. C. GANGULI: So far as I am concerned, in the regular maintenance work, as you say, of locomotives, casual labour are not employed.

SHRI K. A. NAMBIAR: But if it is there, and if it is proved that for three or four years casual labour are employed....

SHRI B. C. GANGULI: For the maintenance of locomotives? That information will be a surprise to me because it goes against the rules.

SHRI K. A. NAMBIAR: I shall spring upon you another surprise. For the permanent way also for maintenance work casual labour with five to ten years' service are employed as casual labour and they are not getting any benefit of permanent employment. Do you know this or not?

SHRI B. C. GANGULI: So far as I know, the rules lay down that if there is casual labour on any casual work, if the period has exceeded a continuous period of six months, then that labourer acquires a temporary status, and he continues like that till such time as he is selected for a permanent vacancy when he is absorbed in the permanent vacancy in his turn of employment.

SHRI K. A. NAMBIAR: If what you say is not in operation you are prepared to correct it?

SHRI B. C. GANGULI: The rules are there. But does that matter arise out of this Bill?

SHRI K. A. NAMBIAR: I wanted to get a clarification from you.

SHRI B. C. GANGULI: I do not find any provision in the Bill relating to that. That is my trouble.

SHRI K. A. NAMBIAR: That was why I wanted clarification.

SHRI B. C. GANGULI: My difficulty is that this does not arise out of the main Bill.

SHRI K. A. NAMBIAR: That is exactly my point that it should come out because your employment of casual labour on Rs. 2 or whatever is the market rate just like what a contractor will do for any work in your regular employment would by itself make you a contractor. For instance, the loco foreman or the PW inspector accepts casual labour.

SHRI B. C. GANGULI: May I just interrupt a little bit? A job which is of a perennial nature and which comes in the process of manufacture should normally be done by permanent labour. That is the ruling of the Supreme Court round which all these things are hinging. If it is a job of a perennial nature and it is in the process of manufacture, you can ask for the provision of permanent labour.

SHRI K. A. NAMBIAR: That is why we are put to difficulties. There is the order of the Supreme Court. There are so many other legislations which you are not following in the railways. That is what we are finding.

SHRI B. C. GANGULI: If you would permit me to go a little aside, I may point out that you have provided for the enactment of the Indian Penal Code wherein you have laid down that no one should steal and so on. And yet stealing goes on. The point is whether we have permitted by rules or orders anything illegal. If we have permitted anything illegal in our rules and regulations, then you can say that it needs correction.

SHRI K. A. NAMBIAR: With regard to the responsibility of the principal employer for payment you have spoken very vehemently against it. But do you know that even today in your contract agreement with the contractor, there is already a provision that the contractor must fulfil the conditions of payment etc. etc.?

SHRI B. C. GANGULI: And indemnify us against the obligations under the Workmen's Compensation Act etc. The enforcement of that is not left to us; there is the labour inspector and there are other agencies for the contractors' labour to go to. We do not function in that sphere.

SHRI K. A. NAMBIAR: Is there such a provision or not in the contract agreement?

SHRI B. C. GANGULI: So far as the fair wages clause is concerned, I can say there is.

SHRI K. A. NAMBIAR: In all your contracts there is already a provision that you are responsible for payment etc. etc.

SHRI B. C. GANGULI: We are not responsible for the payment of wages Act, for complying with the Workmen's Compensation Act and so on. The contractor indemnifies the railways.

SHRI K. A. NAMBIAR: Then, what is the provision there?

SHRI B. C. GANGULI: That we should pay fair wages. As a parliamentarian, you know that we have to yet define what the term 'fair wages' means.

SHRI K. A. NAMBIAR: When there is a stipulation that you should pay fair wages, then the responsibility goes along with it; if there is non-payment then you are responsible for ensuring payment. Does it not go with that? The legislation that is on the anvil makes it incumbent

upon the principal employer to ensure proper payment. So, the payment responsibility is partly there on the railways which responsibility the railways are shouldering.....

SHRI B. C. GANGULI: I have told you that this proviso relating to the principal employer will be one of the most difficult things to operate.

DR. RANEN SEN: You have just now said that in the loco-sheds no job of a permanent nature is done by casual labour....

SHRI B. C. GANGULI: I have already said one thing, that it should be a job which occurs in the process of manufacture.

DR. RANEN SEN: About maintenance and repair also. We have visited certain places and we find that in the locosheds, the loading of coal to the engine is done by two sets of people, permanent employees who work throughout wherever cranes exist and contract labour or casual labour which does the work manually. Is this a correct picture or not?

SHRI B. C. GANGULI: I have already told you that there are some loco-sheds where we are doing the loading by departmental labour. There are some locosheds where we are doing it with contract labour who load coal on to the tender. There are some locosheds where we are doing it by cranes. So, the practice varies.

DR. RANEN SEN: Therefore, it is possible for the railways to do this loading on to the tender of the engines by permanent labour, because there is perennial work?

SHRI B. C. GANGULI: That is why we have to think about this problem. Perenniaty is not there. So far as the passenger trains are concerned, it is a constant factor, but the goods trains running is not so constant and it is not even properly timed and therefore it is wasteful. We have got to think about it. We are thinking of avoiding this wastage of labour in this sphere also. Pro-

bably then we will go in for hand-cranes or for contract labour because we cannot keep this labour idle.

DR. RANEN SEN: You were saying that these regular workers can work by means of cranes. It is admitted on all hands that the railways have a tendency to employ more and more cranes in the name of mechanisation. So in this category of permanent labour, you can have regular labour without resorting to contract or casual labour. That is economical for the railways also.

SHRI B. C. GANGULI: I have got a case in my hand now in which by going to the contractor, the railways expect to save Rs. 80,000. The question is debatable. There are three different methods of doing this particular work and we have to be a little cautious in these days when we are finding it difficult to allow any loose expenditure, to stick to the method of departmental labour all the time in tender loading. We have probably to go in for cranes.

DR. RANEN SEN: Your Bombay General Manager holds a completely different view to what you are expressing. He said that in this regard, employment of regular workers and cranes is much more economical and it has been proved.

SHRI B. C. GANGULI: Departmental work with crane is more economical?

DR. RANEN SEN: Pertaining to cranes for loading tender.

SHRI B. C. GANGULI: If you operate cranes, it is cheaper. But there is manual loading of tender.

DR. RANEN SEN: That is my question. You are not understanding it. You are operating through both—through your regular employees and through contract labour. Contract labour is redundant because regular employees can do the job because it is of a perennial nature.

The second thing is that in the loco shed, in reply to Shri Nambiar's

question, you said no casual labour or contract labour is employed in any maintenance work of a perennial nature. Our group went into loco sheds. There a loco foreman in the presence of the Divisional Supdt. said that in the case of abstention or absenteeism, casual labour to that extent is employed.

SHRI B. C. GANGULI: For what purpose?

DR. RANEN SEN: For the purpose of doing the work of fitters, maintenance and some other work.

SHRI B. C. GANGULI: I am not aware of that. A fitter cannot be a casual labourer. I would like to have details of that.

MR. CHAIRMAN: We thank you for the evidence tendered by you.

SHRI B. C. GANGULI: If you want a statement from us about our reactions—because various members are thinking of various things—we can send it to you.

MR. CHAIRMAN: That will help us.

(The witnesses then withdrew).

II. Central Public Works Department Spokesmen:

1. Shri C. P. Malik, Chief Engineer (Vigilance)

2. Shri Harish Chandra, Suprintending Engineer.

(The witness then withdrew)

3. Shri N. C. Sanyal, O.S.D. (Labour)

4. Shri P. C. Raizada, Labour Officer.

(The witnesses were called in and they took their seats)

MR. CHAIRMAN: You must have gone through the Bill. You have sent us your comments also. If you want to say anything in addition, you may do so, and then members will ask you questions.

SHRI C. P. MALIK: I will first state the position as it exists today in the CPWD regarding labourers. In this department, works are got executed through the agency of contractors except certain, urgent repairs, minor and maintenance works etc. which are carried out with the help of either work-charged staff or casual labour employed on muster roll. The contractors to whom the works entrusted generally employ their workers through jamadars. These contractors who enter into agreements with the department for executing works entrusted to them, are responsible for making payment of wages to the workers and for providing necessary welfare facilities and other amenities according to the provisions of the fair wages clause, the Minimum Wages Act, the CPWD Contractors Labour Regulations, the Safety Code and the Rules for protection of health and sanitary arrangements. They are also responsible for providing hutting accommodation, maternity benefits etc. For all these, there are relevant clauses in our agreements. I have brought a few copies of these agreement forms which I shall give to the Committee. It will be seen that the principal provision of this Bill have already been incorporated in our agreements.

For the enforcement of these provisions, we have got not only our own officers but also Labour Officers from the Ministry of Labour. Some clauses in the contract lay down the powers of the departmental officers as well as labour officers in regard to the penalties to be levied on the contractors if these regulations are not observed by them. The departmental officers have also the authority to provide any or all of the facilities which are not provided by the contractors. These are the arrangements which we have got within the department itself. Over and above this, there are Assistant Labour Commissioners and of Labour Enforcement Officers and of central industrial relations machinery. They also have got their

own powers in respect of these regulations. These inspecting officers visit the work-sites, inspect the records of the contractors and any discrepancies observed by them are pointed out to the contractors as well as the departmental officers. They also prepare their reports on the spot and give it to the contractors and the departmental officers. Instructions have been issued to the departmental officers to take prompt action on these reports. When the executive engineers receive these reports from the inspecting officers, they withhold the necessary amounts of unpaid wages from the bills of the contractors. The final bill and the security deposit refund are not paid unless the contractor obtains a no labour claim certificate from the labour officer. If this Bill is to be passed, the CPWD or any other department which has got all these provisions already in its contract forms and has also the necessary machinery for enforcement of these clauses should be exempted from the provisions of this Bill.

MR. CHAIRMAN: When everything is there, why do you want exemption?

SHRI C. P. MALIK: I shall explain the difficulties. Take clause 21(2) which says that every principal employer shall nominate a representative to be present at the time of disbursement of the wages by the contractor and that it shall be the duty of such representative to certify the amounts paid as wages. We have got about 5000 small and big works going on and we employ about 30,000 labourers and these labourers are paid weekly or fortnightly. If we were to give effect to this provision, we shall need a lot of staff which will be a great financial burden. These works are scattered all over the country and there are places where we do not have even an overseer.

SHRI JAISUKHLAL HATHI: Are these major works?

SHRI C. P. MALIK: They may not be major works.

Complaints regarding the non-payment of wages are investigated by the labour officers of the department. There is a provision that the aggrieved party can appeal to the Regional Labour Commissioner and after his decision is given the Executive Engineer has to make payment to the worker within 45 days.

SHRI JAISUKHLAL HATHI: That means that you are already responsible for paying the worker. How does it affect you?

SHRI C. P. MALIK: The provision is that we pay to him out of the amount that is payable to the contractor. In case the department has to pay, when nothing is due to the contractor, there is a lot of responsibility thrown on the department (under cl. 21.4). That means we shall have to enter into litigation and go to courts, etc. In the end we may not be able to recover anything from the contractor even if we obtain a decree from the court. In the ultimate analysis we fear that the cost of works may go up. The same responsibility has been thrown on the department under clause 20(2) also because it says 'recovered as debt payable by the contractor'. These two responsibilities will mean extra work for the department.

SHRI JAISUKHLAL HATHI: Suppose we provide that this can be recovered as revenue dues. Will that be all right?

SHRI C. P. MALIK: That will help us to some extent.

SHRI K. A. NAMBIAR: Add a penal clause that the contractor must be imprisoned for six months.

SHRI C. P. MALIK: Under clause 12(2) some security deposit has to be paid by the contractor for getting licence. The amount of the security could be so fixed that all such amounts become recoverable.

SHRI JAISUKHLAL HATHI: Unless there is some deposit with you, the money may not be realised from the contractor. If the security is short of the amount to be paid to the workers, they will have to go to the court of law. Therefore, I suggest that this can be recovered as land revenue. It will solve the difficulty.

SHRI C. P. MALIK: In addition to the security which we keep from the contractors' bills, there is another security provided in the Bill clause 12(3). That is the security for getting the licence.

SHRI JAISUKHLAL HATHI: You are not the only one. For a licence you may get some security, but where one gets a contract with 20 people, this security will not be enough.

SHRI C. P. MALIK: To some extent, it will help.

Then, I would invite your kind attention to clause 29. Here again you will find that the registers and other records are required to be maintained by every principal employer and every contractor. This we feel, will be duplication of work and will only mean waste of lot of time, money and effort.

SHRI JAISUKHLAL HATHI: But these are to be incorporated in the rules. It is not in the Act. "Every principal employer and every contractor shall maintain such registers and records giving such particulars of contract labour employed—as may be prescribed." So, while making the rules, all this can be taken into consideration.

SHRI C. P. MALIK: "...giving such particulars of contract labour employed, the nature of work performed by the contract labour, the rates of wages paid to the contract labour and such other particulars in such form as may be prescribed." So, in addition to this, something else may be laid down.

SHRI JAISUKHLAL HATHI: There will be no difficulty.

SHRI C. P. MALIK: This should be done only by the contractor; not by the contractor as well as the employer. It will not serve any useful purpose; this is duplication. If the words "principal employer" cannot be deleted, at least the word "and" in the first line of both the sub-clauses may be replaced by "or".

SHRI JAISUKHLAL HATHI: The contractor will have to keep them. If you say "or", it means employer or the contractor will maintain.

SHRI C. P. MALIK: In that case, only the contractor should be mentioned.

Only the contractor should maintain. That is our first suggestion.

SHRI K. A. NAMBIAR: The contractor may be asked to give a copy.

SHRI C. P. MALIK: Even now he has to submit them. According to this, the responsibility becomes of the department to maintain this. Then, our experience has been that cases of non-payment of wages generally occur when a contractor fails to complete the work due to some financial difficulties. In such cases, we have to get the work done through another agency at the risk and cost of the first contractor. Generally it has been found that at the end there is no money to meet all the expenditure. Even whatever becomes payable by the contractor to the department is not recoverable. In such cases it will be very difficult to meet the claims of the labourers. This will mean extra responsibility on the department, and as we have given in our note, there may be unscrupulous contractors who will just persuade their jamedara or mates and labourers to prefer inflated claims because they know that they are not going to pay. The department will have to unnecessarily meet that expenditure. That will also be an additional burden on the department.

Then, according to clause 7—registration of certain establishments even a principal employer has to get himself registered. Even if we declare our Executive Engineer as the principal employer, this clause is likely to create difficulties for the department. In this case, we will have to declare the Executive Engineer as the principal employer. Due to the peculiar nature of the work, our divisions are closed at one place and opened at another place. If due to some ignorance or some reason or other, the Executive Engineer fails to get himself registered, the work will not be able to proceed; the progress of the work will suffer. So, registration of the principal employer, we feel, does not appear to be necessary. These are the difficulties which we felt will be faced by the department if all the provisions are given effect to and the department is not exempted from the provisions of this Bill.

In this connection, apart from the difficulties, the word "establishment" has been defined at page 3. Clause 2(e) says: "establishment" means (i) any office or department of the Government or a local authority, or (ii) any place where any industry, trade, business, manufacture or occupation is carried on;". This Bill relates to the regulation of contract labour. The contract labour is likely to be employed only at places mentioned in sub-clause (e) (ii) and not in sub-clause (e) (i). So, we suggest that sub-clause (e) (i) should be deleted, because in these places, no contract labour will be employed.

Then I come to clause 13(1), at page 8 of the Bill. It is with regard to grant of licences. The clause as is worded gives the impression that every contractor in the building industry will have to obtain a licence as and when a work is awarded to him. If that is the position, he will take sometime in getting a licence and the starting of the work may be delayed. What I suggest for your consideration is that all those contractors who are

registered with the department may be authorised to get a general licence for the whole of the year which may be made renewable every year, rather than his getting the licence for every item. It may be a general licence for the profession.

Then we have to make one request. A Central Advisory Contract Labour Board is going to be constituted. Our request is that some representatives of the Ministry of Works and Housing and the Central Public Works Department should be members of the Board because we employ a lot of contract labour.

DR. RANEN SEN: I want to put a basic question. This Bill has, as its aims and objects, not only regulation but abolition. So, when a number of multifarious construction activities take place under the aegis of the Government and the various Ministries, and when we have got such an efficient organisation as the C.P.W.D., having at its command qualified engineers, technicians, this and that, what is the necessity of employing contract labour for the construction work of various types?

SHRI C. P. MALIK: The title of the Bill is regulation and abolition. But in the Bill we do not find any reference to abolition.

MR. CHAIRMAN: Please see clause 10(1) at page 7. It is there.

SHRI C. P. MALIK: There are certain functions performed by the contractor. If we are to perform those functions ourselves, we would require extra staff.

DR. RANEN SEN: You have various offices in various zones. In each zone, if you have a central pool of a certain number of workers, they can be utilised for your construction work in various places. You can do your work without having recourse to contractors.

SHRI C. P. MALIK: The contractor brings the labour required for the various types of work-skilled, semi-skilled and unskilled labour. He even gives advances to the labourers from his own pocket. He arranges for the supply of materials. He has got his own organisation to make all these arrangements. These functions cannot be performed by the existing strength.

DR. RANEN SEN: I am assuming that you can increase your strength. For labour there is no difficulty. There are employment exchanges in many towns. There is no dearth of unskilled labour. There is no shortage of even skilled labour. Our engineers are without job. You have got your marketing organisation. When the contractors find difficulty in getting raw materials, machines, etc., they get them through the help of the Government. You can do it yourself.

SHRI C. P. MALIK: We have got a very limited marketing organisation with just two divisions. They cannot cater to all the work. We have got no organisation for getting labour. Generally the people we get through the employment exchanges are not the type of people we want. The contractor knows where the particular labour required for a particular type of work is available. For instance, if we want to do some work in Assam, we do not know the local conditions. We do not know where labour will be available and where marketing facilities will be available. The contractor being a local man knows these things.

SHRI K. A. NAMBIAR: You can engage a contractor in Assam to bring you that labour, for which you can give him commission.

SHRI C. P. MALIK: That can be done. But what about supply of materials?

SHRI K. A. NAMBIAR: You have to give steel, cement, etc. You have to prepare the project report and everything. You have to supervise the work.

also. Except the supply of labour, you are doing everything.

SHRI C. P. MALIK: In addition, the contractor gets work out of labour. We will have to increase our staff for getting work out of labour. That is not so easy. One overseer cannot get work out of so many labourers.

SHRI K. A. NAMBIAR: On the plus side, you have the contractor's commission. On the minus side, you may have to have a little more supervisors. If both these tally, you can solve the problem.

SHRI C. P. MALIK: The contractor is a private individual. He gets work out of the labour. He employs them for extra work. He is interested in his profits and works from morning to evening. After going home, he does his accounts, etc. If all this is to be done departmentally, we will require extra staff and in the ultimate analysis, the cost will go up.

SHRI K. A. NAMBIAR: The contractor takes extra work out of the labour and we are silent spectators.

SHRI C. P. MALIK: He pays them overtime allowance also. But he has got some hold on them and he can ask them to work extra hours.

SHRI K. A. NAMBIAR: Is it not our responsibility to see that labour, which contributes to the construction, is paid its due?

SHRI C. P. MALIK: For the extra labour they put in, overtime allowance is given.

SHRI K. A. NAMBIAR: In your Department, I am told, there are a large number of, what you call, work charged employees. They are there for ten or even fifteen years as workcharged employees. What is your difficulty in confirming them?

SHRI C. P. MALIK: We have already taken steps. Some people have

already been confirmed. We have already converted some of the temporary posts into permanent posts. Orders in respect of some persons have already been issued. Other cases are under consideration and we will be taking action at an early date.

SHRI P. M. SAYEED: How do you entrust the work to contractors? Do you invite tenders?

SHRI C. P. MALIK: Whenever a project is sanctioned we have to prepare detailed estimates which means preparation of detailed structural and architectural designs. On the basis of these designs quantities are worked out. Then we prepare Notice Inviting Tenders. We have two types of contract forms. One is Form PW. 7 which is a percentage rate tender and the other is Form 8 which is item rate tender? Depending on the nature of the work we invite tenders either on Form 7 or Form 8. In the Notice Inviting Tenders all the details are given name of work, different items of work to be executed, quantities etc. In response to them the contractors work out their rates and amounts and submit their tenders.

SHRI P. M. SAYEED: Has at any time it has been brought to your notice that when you entrust a work to a contractor, that contractor engages some other contractors on subcontracts?

SHRI C. P. MALIK: According to the terms of our contract sub-letting is completely prohibited. He does employ some jamadars etc. for bringing labour to him but that does not amount to sub-letting.

SHRI P. M. SAYEED: Legally it is not, but in practice it is being done. If you eliminate all these middlemen and substitute them by departmental people to supervise the work as well as for collecting labour and you spend the same amount of money that you invest now on the contract basis, will that not bring better efficiency and produce better quality of work?

SHRI C. P. MALIK: As far as quality is concerned even now we have our staff to ensure that the work is done according to specifications.

SHRI NARASIMHA RAO: What is your department doing to see that wages to workers are paid correctly or not? Are there inspectors appointed by you?

SHRI C. P. MALIK: Labour officers from the Ministry of Labour along with our own officers look after this aspect of the problem. In addition, there are inspectors from the central Labour Industrial Machinery who also go and look into the records, look into the complaints of non-payment of wages etc.

SHRI R. S. VIDYARTHI: You have stated that your staff supervise the construction work. It is also a fact that you supply them material also. When that is the position, is it not possible for you to get the work done through the department?

SHRI C. P. MALIK: As far as supply of material is concerned, we were at one time supplying cement and steel only as they were controlled materials. Now that steel has been decontrolled, only sometimes we supply that. We are arranging cement not to help the contractor but because we feel that if cement is not arranged by us the contractor will not be able to start the work in time.

SHRI R. S. VIDYARTHI: You supply cement in order that the work should be finished in time. Your supervisory staff are also there. What is the difficulty in having the work done departmentally?

SHRI C. P. MALIK: Cement is not the only material that is required. There are so many small items that are required in building construction. We will have to have a very big machinery for procuring all that.

SHRI R. S. VIDYARTHI: If more supervisory staff and some marketing officers are provided you would be in a position to get the work done departmentally?

SHRI C. P. MALIK: But the cost is bound to go up. It is difficult to say by how much it will go up.

SHRI SANDA NARAYANAPPA: When you are agreeing in principle that the labourers should not be exploited, why is it that you are insisting on contract labour to be continued instead of it being abolished?

SHRI C. P. MALIK: I have already explained the difficulties which we feel will be there in enforcing the provisions of this Bill.

SHRI SANDA NARAYANAPPA: I am asking your opinion on this matter. You are agreeable to regulations of labour and other things. What is your opinion with regard to elimination of contractors and getting the work done departmentally? It does not matter if the cost goes up. I want to know whether the contractor is more efficient to give you good quality work or your engineers and other supervisory people are more efficient to give good work.

SHRI C. P. MALIK: I have already explained my position. As far as the workmanship is concerned, it will be nearly the same in both cases.

SHRI SANDA NARAYANAPPA: Whenever certain temporary works are executed departmentally you employ your own labour, supervisors and engineers as well.

SHRI C. P. MALIK: Not on a large scale.

SHRI SANDA NARAYANAPPA: Why can't you try it on a large scale so that the entire benefit which now goes to the contractor may be distributed among labour?

SHRI C. P. MALIK: We are not doing it now.

SHRI R. K. AMIN: You have told us that you do not undertake any work departmentally by engaging your own labour but you engage contract labour. Do you think that governmental rules and regulations will add to your difficulties and increase the cost of the work and that is why you support contract labour?

SHRI C. P. MALIK: That is true.

SHRI R. K. AMIN: You have said that fair wages and other rules and regulations are already being followed by your department and, therefore, you should be exempted from the various provisions of the Bill which give facilities to labour. If they are already being followed by you, then there is no additional burden or expenditure by the passing of this enactment. Also, it will help us to tell the people that both the private sector and the public sector are observing it. So, why do you ask for this exemption unnecessarily?

SHRI C. P. MALIK: We are doing all this and I have already explained the difficulties we will have to face.

SHRI R. K. AMIN: What are the difficulties?

SHRI C. P. MALIK: If you want, I will repeat them.

SHRI S. KUNDU: You have said that you have undertaken about 5,000 works and employed about 13,000 workers. Could you give us an idea of the amount spent on the workload by your department?

SHRI C. P. MALIK: Our workload during the last three years has been about Rs. 45 crores to 50 crores per year.

SHRI S. KUNDU: I am told that in the tender agreement you allow certain percentage of commission over the actual cost. What is that percentage?

SHRI C. P. MALIK: In our analysis of rates which we prepare for the department as a whole we allow a provision of 10 per cent over and above the cost of materials and labour. Of course, out of this 10 per cent the contractor will have to incur some expenditure.

SHRI S. KUNDU: The impression which we have got is that the contractor is getting a little more than the 10 per cent which you allow by stealing some cement, cutting down wage and so on. Could it be 20 to 25 per cent of the total amount?

SHRI C. P. MALIK: As far as the cutting down of the labour wages is concerned, I have got with me a report prepared by the Chief Labour Commissioner of the Government of India in which he has given the amounts. For the year 1966 the amount due to the contractor recommended to be withheld for the department as a whole was only Rs. 63,400. This is on the basis of the complaints received by the labour officers. When these complaints were looked into by the labour officers the total amount due came down to only Rs. 45,000.

SHRI S. KUNDU: My feeling is that the contractor makes 25 per cent of the total money that is put in the construction work. Could you say anything from your experience?

SHRI C. P. MALIK: I am sorry, I would not be able to agree that.

SHRI S. KUNDU: Would you agree to a figure of 15 per cent?

SHRI C. P. MALIK: No, Sir.

SHRI S. KUNDU: You have said that the total amount you have spent during the last few years is Rs. 50 crores. The figure of developmental expenditure has been going up during the last five years. But the labour force has also gone up to 30,000 workers. Is it not?

SHRI C. P. MALIK: The number of workers is the same. Labour strength is more or less static.

SHRI S. KUNDU: One argument you have given is that it is difficult to get labourers from Assam and NEFA. Have you no supervisors or engineers who are from Assam?

SHRI C. P. MALIK: We have them only when we start work there.

SHRI S. KUNDU: I am sure you still have some Assamese and Oriya overseers and executive or assistant engineers. Through them you can recruit labour.

SHRI C. P. MALIK: It is not necessary that we do have staff from that area.

SHRI SHRI CHAND GOYAL: I gather from your evidence that one dominant consideration with you in this matter is the cost. Now, the NBC has constructed big buildings like Shastri Bhavan. Was their cost of construction more or less than that of contractors?

SHRI C. P. MALIK: I would not like to comment about a sister organisation but, as far as I know, that organisation has been showing a loss.

SHRI SHRI CHAND GOYAL: But has it been able to construct at a lesser cost?

SHRI C. P. MALIK: They have also been submitting tenders. It is not necessary that their tenders have been the lowest in all these cases.

SHRI SHRI CHAND GOYAL: You said that when you make payments or decide the terms of the contract with the contractors, you also take into consideration the wages which are to be paid to the labourers and you allow 10 per cent. Do you include in the cost of labour also the cost of all amenities which are supposed to be provided, say, the canteen,

medical benefits, a fair wage, which you say are already available to your labourers?

SHRI C. P. MALIK: These are supposed to come out of the 10 per cent which we allow for the contractors.

SHRI SHRI CHAND GOYAL: You have mentioned the fair wage clause, the Minimum Wages Act, the Central PWD Contract Labour Regulation, the Safety Code, rules for the protection of health and safety arrangements, accommodation and maternity benefits. Does the labour working in your establishment really take advantage of all these provisions or do they exist only on paper because the poor labourers, who are not in a position to bargain or file a suit against the contractor or alienate his sympathy, actually do not get these benefits?

SHRI C. P. MALIK: These facilities are provided. As far as wages are concerned, our labour is very conscious now. They may be illiterate but they are not ignorant people. We have yet to come across cases where they do not come up with a complaint if wages are not paid to them.

SHRI SHRI CHAND GOYAL: You pointed to the clause which requires you to post your own men to see that wages are properly distributed and pointed out your difficulty that you will have to employ extra staff. This distribution of wages takes place once or twice a month; so it does not require you to employ extra staff but you can post for a day or a few hours the staff already working under you. How does it require you to engage extra staff for that purpose?

SHRI C. P. MALIK: Payments are not paid only once a month but they are made once a fortnight as also once a week in some cases. There are 3,000 works going on. We have not got as many overseers for those works. Then the works are scattered all over the country. All these payments are made on one day and we cannot have

staff everywhere to look after the payment.

MR. CHAIRMAN: Thank you, Shri Malik.

SHRI C. P. MALIK: Thank you very much, Sir.

(The witnesses then withdrew.)

(The Committee then adjourned to meet again at 15.00 hours.)

(The Committee re-assembled at 15.00 hrs.)

The Minerals and Metals Trading Corporation of India Ltd., New Delhi

1. Dr. A. S. Sharma, Director.
2. Shri V. Kalyanasundaram, Divisional Manager, New Delhi.
3. Maj. D. K. Chandra, Regional Manager, Calcutta.

MR. CHAIRMAN: Before you speak on the Bill, some Members of the Committee would like to know about your organisation. You may kindly give a brief sketch about the working of your organisation.

DR. A. S. SHARMA: We are a Government of India undertaking and we are a trading Corporation. The export of iron ore is wholly canalised through the M.M.T.C. except Goa where private shippers are also allowed to export. Similarly, the export of manganese ore is canalised through the M.M.T.C. In addition, the export of ferro manganese is also canalised through the M.M.T.C. We are also importers of certain categories of steel and non-ferrous metals. We import non-ferrous metals to meet the requirements of non-priority industries. The import of steel is restricted at the present moment to a certain arrangement we have with Japan in which every year we export a fairly large quantity of iron ore to Japan and under an arrangement between us with the approval of the Government of India, every year we import steel for a value

of 2 million U. S. dollars. Formerly we were importing other categories of steel from other countries also. But from April, 1968 onwards our import of steel is limited only to this. This is, briefly, about our organisation.

MR. CHAIRMAN: What have you to say about this Bill?

DR. A. S. SHARMA: In so far as the various provisions of the Bill are concerned, really no exception can be taken because they lead towards some social justice. All that I would like to say is that the MMTC is an exporter of iron ore. The purchase of iron ore is done mostly on F.O.R. basis; in other words, we have to carry the iron ore to the port, stack it over there and load it on ships. So, at various ports we have to engage handling agents. We give them a certain rate per ton for undertaking the various operations of unloading from the wagons, stacking at the ports and loading on the ships. From 1968-69 we are really going to lose some money on the export of iron ore. If the provisions of this Bill are going to be applied further expenses will have to be incurred in the matter of providing facilities like sanitation, accommodation etc. We can certainly take no exception to the various provisions of the Bill which are towards the welfare of labour. But this aspect has to be kept in view that on iron ore exports, for which we are the only corporation responsible, we are incurring certain losses and any additional expenses on account of the introduction and passing of this Bill will mean further losses.

SHRI SHRI CHAND GOYAL: What is the number of employees who are working on contract basis in your organisation and what facilities are they getting at present? What is the disparity in wages between regular employees and contract labour?

DR. A. S. SHARMA: We got information about this meeting only yesterday and I really did not know

what questions I shall have to answer. Therefore, my answers will be limited by these two factors. I am not in a position to give you the number of contract labour employed by us on our operations. As I stated earlier, we are not directly employing labour. We are employing handling agents at various ports and we are giving them a consolidated rate which includes the rate which he should pay to the contract labour.

MR. CHAIRMAN: When you enter into an agreement with the handling agent do you impose any condition that so much wages should be paid to labour?

DR. A. S. SHARMA: No, there is no such provision. Suppose we pay Rs. 4 per ton of ore handled. Then in the agreement there will be a provision to the effect "the payment to labour will be made by the handling agent at the rates not below those fixed by the competent authority from time to time and any increase in wages etc. will be to the account of the handling agent and the Corporation will not be liable for such increases". It will also stipulate that the rate at which payment will be made by the handling agent to the labour will be exclusive of insurance, medical facilities, welfare contribution and so on.

SHRI SHRI CHAND GOYAL: How do the rates which you pay to contract labour compare with the rates which you pay to your regular employees?

DR. A. S. SHARMA: The Corporation does not employ labour. The labourers are employed through the handling agents. But when we enter into an arrangement for payment to the handling agent, while arriving at that figure we have our files the break up. In fact, the system is we invite tenders that "those who are prepared to provide these facilities may quote" and they quote under certain headings. When they quote the figure for labour, when this information

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comes to us, we check up whether it is in accordance with the rate fixed by competent authority. If it is so, we agree to it.

SHRI SHRI CHAND GOYAL: The object of this Bill is to abolish contract labour system wherever it is possible and to regulate it in the rest of the categories. We want to know whether it is possible for you to keep a regular force of workers so that contract labour can be eliminated.

DR. A. S. SHARMA: I will briefly explain why it is necessary for us to employ such labour. In fact, we do not employ them direct; we employ them through handling agents. Normally, the labour force is employed from out of the Dock Labour Board. It is only where on a particular jetty, which is exclusively given to MMTC for handling ores, the Dock Labour Board is not in a position to provide labour from its quota that this system of employing handling agents and labour through handling agents arises. Normally, whenever there is such an operation in the port the Dock Labour Board should provide labour and, in that case, they are covered by the various Acts. Since in the letter which went to us only Calcutta was mentioned, I think you would like to have information about Calcutta. Members also visited that place recently. Normally, we should get our ships at King George jetty which is the main dock for receiving ships. But it has happened many a time that the foreign buyer has consigned more than one ship and, therefore, there is likelihood of bunching of ships. In order to avoid such a situation where the ships will have to incur demurrage we had requested the Calcutta Port Commissioners to allot us some other jetty for our exclusive use for handling ore and they have given us the Garden Reach jetty and BLSN jetty. Here they do not give labour from the Dock Labour Board. So, we have to employ handling agents who get labour from outside the Dock Labour Board. If there

is no such arrangement naturally all the labour will be diverted from the Dock Labour Board.

SHRI DEVEN SEN: Have you visited the Garden Reach jetty?

DR. A. S. SHARMA: I have taken over as Director only recently. The Director in charge of Iron Ore is in Tokyo. He is expected in Delhi tomorrow morning.

SHRI DEVEN SEN: I have seen Garden Reach jetty. We visited it as Members of the Committee. It was horrible. No convenience was there. One thousand men and women were there. There was no convenience. There was no housing. There was no water supply. Nothing of the kind. We have nowhere found such a pitiable condition, as we have found under your organisation. You are an autonomous body. How do you explain this? We asked your labourers how much do you get per day. They said, from Rs. 2 to Rs. 3 per day. This is what you pay them. This is the condition and what right have you to employ these people to do this business? They do work under such horrible conditions.

MAJ. D. K. CHANDRA: Export traffic, whether mineral or any other cargo was to be managed by the port. As explained in the beginning the responsibility of managing the port is directly port trust's responsibility. Because of certain limitations, the port trust, at our request said: If you can accommodate the vessel, there are certain areas on which you can do it, but mind, we will not be able to give you skilled labour and unskilled labour and all that. These jetties visited by you were acquired on a lease basis and we employed contractors. While giving these leases to us the port indicated certain pre-requisite conditions to run it. Because it is within the perimeter of the port, there are certain precautions, standing orders and instructions which are

there. On those conditions we were obliged to fulfil them and to run it. Now, practically, iron ore is a cargo which does not need covered accommodation. It is a cargo which can be stored, kept and handled in the open sky. So this particular jetty has not got any covered accommodation. Secondly, it was improvised cargo and the port also had limitation. They said: This is perhaps maximisation of the off-take of iron ore which would take place under those conditions. The actual loading and unloading of vessel is done in an organised manner on a shift basis. There are labourers of various categories, skilled, unskilled, raw labour, crane man, engineering staff and all that. They observe certain timings. Normally they come to the work spot in the morning and then they are deployed. It is not possible, desirable or practical to keep the men who are working somewhere hanging round in the work spot. That is one of the primary considerations why the port trust said: Here is a little jetty; the perimeter is so much, the tracks are so much; the capacity is so much; if you can bring your cargo and load in this fashion we will allow the shipment. Can you manage it? They said: yes, we will be able to manage it. Whatever little space was available was in fact the space earmarked for the essential commodity for storage of iron ore but those were being encroached upon by the labourers employed by contractors and they erected their hutments under their self-help policy. So we said 'Listen; apart from nuisance, it is dangerous also'. We said that the ore stored may slide and fall upon them and the super-structure of the roof of the hutments may hinder running operation. That is why it has been stated that no permanent structures would be erected. This was within that perimeter. For that purpose a minimum number of urinals were there. They were also given drinking water.

AN HON. MEMBER: Why one urinal for one-thousand people?

MAJ. D. K. CHANDRA: If I say I can manage it with 500, the port says, this is the size of the berth, this is the size of the vessel. Your maximum employment of labour if you do it with all these should be 'x'. It is now double 'x'. Does it mean that I will give you twice the number of loading that you are normally provided?

MR. CHAIRMAN: Why did you not take precautions? You required only 500 whereas one thousand people came. It has created problem for you.

MAJ. D. K. CHANDRA: One thousand people did not come. They inflated slightly and increased. They could not physically stop them. They did not take drastic action. It started like a snowball. It has come to the stage you found it there. The port said: You are not following the requirements. Why are you allowing these men to stay? And all that. Within the dock there are certain areas available where these men could stay and they could attend to the work and go away because the port's own labour has conformed to these things. We are really in a very unenviable position how to remedy this. At the importation and the exportation stage that we have now arrived at, we really wanted to help them.

MR. CHAIRMAN: Have you thought of any plan?

श्री हुकूमचन्द कच्छरिया : जो लोग वहां बसे हैं उन से तो काम लेते हैं ? वहां पर यही लोग तो काम करते हैं टोके पर ?

डा० शर्मा : उस में जो पहले मेरे साथी ने बताया 1965-66 में हमारे हैंडलिंग एजेंट्स थे और दूसरे भी हैंडलिंग एजेंट्स थे उन्होंने अपने काम में इन लेबरर्स को लगाया और बगैर किसी के पूछे ताछे ताकि सबको रहने के लिए जगह मिले बगैर किसी की इजाजत लिए हुए वहां अनएथोरिज्ड कच्ची

भूमियां बना दीं और जब उन्होंने बना दीं और जो हैंडलिंग एजेंट्स थे they connived and said that he was not breaking the law but the labourers were breaking the law.

वह अपनी फैमिलीज को ले भाये और उस का नतीजा यह हुआ कि जहाँ 20 आदमी होने चाहिए वहाँ 60 हो गए 70 हो गये। इस तरह से अनहाजनिक कन्डीशन्स पैदा हो गईं। अब सवाल यह पैदा हुआ कि वहाँ पानी का इन्तजाम होना चाहिये, लेट्रीन्स का इन्तजाम होना चाहिये। यह तो ठीक है कि इन सब चीजों का वहाँ इन्तजाम होना चाहिये लेकिन वहाँ पर एम० एम० टी० सी० का इन्तजाम तो है नहीं यह तो पोर्ट कमिश्नर का एरिया है। उन्होंने एकौडिंग टु नीड्स जितने मजदूर वहाँ काम करते हैं उन के लिये पानी और बाथ-रूम का इन्तजाम किया हुआ है लेकिन चूँकि वहाँ पर आदमियों की तादाद बहुत ज्यादा बढ़ गई इस लिये यह प्राबलम खड़ी हो गई।

मैं विशेष तो इस के बारे में कुछ नहीं कह सकता लेकिन ऐसा पता चला है कि पोर्ट कमिश्नर इस प्राबलम को हल करने के लिये स्टेप्स ले रहे हैं। लेकिन एम० एम० टी० सी० को इनमें एक बड़ी तकलीफ है। जितनी जमीन हम ने अपने आयरन-शोर के लिये ली है उस में उन लोगों ने भूमियां बना ली हैं। पोर्ट कमिश्नर वाले कहते हैं कि आपने आयरन-शोर रखने के लिये जमीन ली थी मकान बनाने के लिये नहीं ली थी। वह हम से जमीन का पीनल रेंट लेते हैं पब्लिक अण्डरटेकिंग होने की वजह से हम उन को मना नहीं कर सकते, पीनल रेंट देते हैं और हैंडलिंग एजेंट्स से काट लेते हैं वे भी इस के लिये झगड़ा करते हैं।

श्री हुकूमचन्द कच्छरिया : लेकिन जो लोग वहाँ पर बसे हुए हैं उन्हीं लोगों से आपको काम लेना है यही लोग वहाँ पर मजदूरी करते हैं।

डा० शर्मा : प्राप ठीक करमा रहे हैं। हमारे हैंडलिंग एजेंट ने उन लोगों को वहां पर काम पर लगाया। उन्होंने कहा कि प्राप इतना काम करेंगे और इतनी मजदूरी मिलेगी जिनमम एक्ट के मुताबिक जो दी जानी चाहिये वह उन को दी जानी है लेकिन उन से वह नहीं कहा था कि प्राप यहां पर झुग्गी भी बना लीजिये। उन से वही कहा गया था कि यहां पर काम कीजिये और काम करने के बाद बाहर जाइये जैसे दूसरे लोग काम करते हैं उसी तरह से काम कीजिये।

SHRI DEVEN SEN: What is your annual income and what is your annual expenditure?

DR. A. S. SHARMA: I can tell you for the Corporation as a whole. In 1967-68 our turn over was about 999 million rupees and our profits were Rs. 1.25 crores. On all the commodities, imports as well as exports. In 1968-69, our forecast indicates a great loss.

SHRI B. SHANKARANAND: The Bill envisages regulation gradually leading to abolition of contract labour. May I know what are your difficulties, as employer, with regard to the provisions here in respect of regulation of contract labour?

DR. A. S. SHARMA: I cannot take any objection at all to the provisions of the Bill. They are correct and they are as they should be. But I only say that if these provisions are applied it is going to result in a rise in cost and as an exporting house of the Government of India, with the present cesses, export duties and other conditions under which we work, we can say that this will raise the cost of exports further.

SHRI B. SHANKARANAND: There are two people between you and the labour. One is the handling agency and the other is the contractor.

DR. A. S. SHARMA: The labour are employed by the contractor. In other words, they are the contractors.

SHRI B. SHANKARANAND: The handling agents do not have labour for the agency itself. Labour is supplied by you directly. Is that not correct?

DR. A. S. SHARMA: In the past we have appointed handling agents to perform a certain set of duties and in performing those duties they have to employ labour. If we did not have those tasks they would not have employed that labour.

SHRI B. SHANKARANAND: Can I take it that you are the principal employer?

DR. A. S. SHARMA: In accordance with the provisions of this Bill it would appear that we are the principal employers.

SHRI B. SHANKARANAND: What are your comments on clauses 20 and 21 of the Bill?

DR. A. S. SHARMA: I am in complete agreement with what is written here.

SHRI A. P. SHARMA: This work which is undertaken by the handling agents, is it of a casual nature or of a perennial nature?

DR. A. S. SHARMA: It is not of a perennial nature in the sense that they do not work all the 24 hours. It is of a long-term nature. We have the Calcutta port from which we export our iron ore. In fact, the importance of Calcutta is fast dwindling because of bad port conditions, draft in the river and because of poor handling facilities. Foreign buyers of iron ore are most reluctant to send their ships to Calcutta. You will be surprised to know that during 1968—April to August 1968—from the G.R. Jetty we have exported only 2700 long tonnes of iron ore. Even this quantity will be reduced further

when Haldia and Paradeep develop and other mechanised port facilities are available elsewhere.

SHRI A. P. SHARMA: Then will you not employ handling agents?

DR. A. S. SHARMA: To the extent we are obliged to send iron ore from Calcutta and these two jetties are in our exclusive possession where the port facilities are not good, we shall continue employ handling agents.

SHRI A. P. SHARMA: Is it possible for your organisation—MMTC—to do away with the system of handling agents and employ labour directly?

DR. A. S. SHARMA: What you say theoretically is right that the handling agency must earn a profit for himself. Your question can be answered and my answer will be appreciated if I tell you that the MMTC is primarily an export House. Our job is to export the iron ore. We are not the producers of iron ore. If your question is taken to its logical conclusion, then MMTC in order to eliminate profits at every level must undertake all the jobs; i.e. production, transportation to ports, shipping—they should own ships—so on and so forth. So we would like to concentrate our efforts on selling abroad as profitably as possible rather than undertake all the jobs.

SHRI A. P. SHARMA: That means your main job is to perform the selling?

DR. A. S. SHARMA: Selling is there but this implies all sorts of operations. For instance the ore is produced at the mines. We collect it, send it to the ports, then we take samples and analyse it there, stack them and then take it to the ships.

SHRI A. P. SHARMA: Do some private people also supply you iron ore which is exported elsewhere?

DR. A. S. SHARMA: To-day the production of the iron ore is mostly

in the private hands excepting some public sector mines like the NMOC mines.

SHRI A. P. SHARMA: When the MMTC is prepared to do all the work connected with the export of iron ore, what is the difficulty in their way in employing labour directly for this purpose?

DR. A. S. SHARMA: Normally we would not like to handle the labour. It is only in the transitional period like the exceptional case of G. R. Jetty where we have to employ the labour.

SHRI A. P. SHARMA: We have followed what Mr. Sharma has said as to where they get the labour. That is not my question. My question is as to what are the difficulties if they directly handle the labour. They can employ them. They can get the same work done as the handling agencies are doing. What is the difficulty for you to handle it?

MR. CHAIRMAN: Probably you have not followed. He says that the quantity of exports is climbing.

SHRI A. P. SHARMA: Therefore, the number of workers will increase also. When the work decreases, the number will go down. What I am asking is: whether they have any practical difficulties in handling the labour directly?

DR. A. S. SHARMA: Normally, as I said, we would not like to handle the labour.

SHRI A. P. SHARMA: There is no question of your liking or not liking. This is a Government corporation. Therefore, where is the question? Suppose tomorrow the Railways say 'We want to run the Railways on contract basis', will anybody agree? I want to know whether there is any substantial difficulty so that this Committee can study those difficulties and try to find out whether we can do away with this contract system at least in the Railways.

श्री हुकम चन्द्र कल्याण : इस बात को त, यह स्वीकार कर ही रहे हैं कि ठेकेदारी प्रथा समाप्त होनी चाहिये ।

श्री अर्ना : मैं तो यही कह सकता हूँ कि एम० ए० ए० टी० सी० सेबर को डायरेक्टली हब्बल नहीं करना चाहती है ।

SHRI R. K. AMIN: I have only the questions. I understand that you are not the producers of the iron ore. You purchase the iron ore and handle it for export. After your purchase and when you sell, in between the two, the price you pay and the price you get, there is a difference. Of this difference what will be the total part of your labour?

DR. A. S. SHARMA: I am sorry I have not calculated it. But that will be very small.

SHRI R. K. AMIN: Roughly?

DR. A. S. SHARMA: Very difficult.

SHRI R. K. AMIN: Will it be 5 per cent or 7 per cent?

DR. A. S. SHARMA: I do not have it.

SHRI R. K. AMIN: My second question is: according to the Bill if you are compelled to remove the contract labour, are there any mechanical devices to replace the labour?

DR. A. S. SHARMA: I understand from my colleague that in the Fourth Five Year Plan export programme the idea is to concentrate on a limited number of ports where handling facilities are better and mechanical handling is possible to avoid increase in costs and, therefore, progressively to the extent the responsibility of MMTC employing contract labour can be reduced.

SHRI R. K. AMIN: So under the Fourth Five Year Plan mechanisation is to be resorted to.

SHRI V. KALYANASUNDARAM: The position at the moment is that we have mechanical ore loading facilities in Paradeep and Vizag. We are exporting iron ore abroad through Paradeep and Vizag, through Calcutta, Madras, through Mormagao and through certain small minor ports like Kakinada, Cuddalore and Karwar. It is becoming increasingly difficult for us to compete in the iron ore markets with the limited facilities that we have. The normal practice to-day, particularly in Japan which is our prime importer, is to send ships of very large size. We have facilities at present for ships of 60,000 dead weight whereas in other parts of the world they have started using 100,000 tonners. Such large size ships have to be loaded very quickly and that will be possible only when we have mechanical ore loading facilities. At the moment we do not have facilities to handle such large sized steamers even at Paradeep. If the original draught continues, then it will be possible to take only 50,000 tonners but with the deterioration in the draught conditions, a stage came when even the liberty size ship could not be accommodated in Paradeep. Any way that condition is being set right. Now because of these competing factors in the iron ore trade, the intention is canalise the export of iron ore through five major ports—Haldia in place of Calcutta, Paradeep, Vizag, Madras and Mormagao. In the case of Paradeep we have already got a mechanical ore loading plant. With the improvement of the draught conditions and with that improvement in the ore loading facility, it would be possible for us to meet the requirements of these importers. In the case of Vizag the present loading facility and the present condition of the port will not permit any steamer over 35,000 tonners. And the Japanese indicated that they would be prepared to send only 50,000 or 70,000—tonners. So a scheme is under preparation for the construction of what is called outer harbour which will be capable of receiving steamers even to begin

with, of 100,000 ton capacity and ultimately will be capable of receiving 1,50,000-tonners. The ore-loading capacity initially will be 6,000 tons per hour and ultimately 12,000 tons per hour. Similarly, in the case of Madras, as a part of oil berth, mechanical loading facility will be established, which will be initially capable of receiving steamers of 70,000-tonners and ultimately, of 100,000-tonners; ore-loading capacity will be initially 6,000 tons per hour and ultimately 8,000 tons per hour. The Detailed Project Report has been received and it is now before the Government for investment decision. In the case of Vizag, the feasibility report has been received and once the decision is taken to go ahead with the scheme, the Detailed Project Report will be commissioned. If we adhere to the scheme of things, it will be possible to expect the outer harbour facilities to come into existence by about 1973-74 at the latest. In the case of Haldia...

MR. CHAIRMAN: You are mechanising these ports and trying to reduce the cost of transport. That is the point here.

SHRI R. K. AMIN: Normally you are using the Dock Labour force. When the Dock Labour force is not available, you have to take the contract labour also. I would like to know which is cheaper.

MAJ. D. K. CHANDRA: The employment of unlisted labour is an exception. Otherwise, we are compelled to conform to the port requirements. To this question I have never given thought. This is a very rare case. The Port Trust have their own rules and they expect the MMTTC to behave like any other shippers and entrust their work to their labour force.

SHRI R. K. AMIN: You must be paying the Dock Labour force at a certain rate per ton. You must have had occasion also to engage contract la-

bour at a certain rate. You must be knowing which is cheaper.

MAJ. D. K. CHANDRA: Particularly in Calcutta this is a rare case. We have otherwise stipulated rates.

SHRI R. K. AMIN: Could you supply us this information?

DR. A. S. SHARMA: It could be worked out and then sent to you.

SHRI P. M. SAYEED: We had been to Marmagao and we visited so many mining areas also. We were given to understand that your handling agent engages so many contractors in between and also sub-contractors and then gives to *mukuddam*, thereby the actual wage to a worker comes to Rs. 1.50 to Rs. 2. I want to know whether this is a fact.

DR. A. S. SHARMA: I have to ascertain facts and let you know.

SHRI P. M. SAYEED: How many handling agents are there for you throughout the country for loading and unloading purposes.

DR. A. S. SHARMA: I have no idea.

SHRI P. M. SAYEED: What is the standard rate per ton that you offer to your handling agent?

DR. A. S. SHARMA: It varies from port to port. I have figures for Calcutta. The current rate for Garden Reach is 3.80 per metric tonne.

SHRI P. M. SYEED: If there are so many intermediate persons, the actual wage to the labourer comes only to Rs. 1.50 to Rs 2. Mr. Sharma, what is your difficulty if you wish to remove all these middle men and take the labour as regular employees of the MMTTC?

DR. A. S. SHARMA: There are not many intermediaries. For instance in Calcutta there is only one

handling agent. Similarly the number is very small for Bombay, Madras and Marmagao.

SHRI P. M. SYEED: 50 per cent of the iron ore is exported through Marmagao. You just now told us that you don't have the statistical data as to how many intermediaries are there, what is the actual wage that a labourer gets etc. I don't know what is your difficulty in removing all these middlemen and taking over the labour force yourselves?

DR. A. S. SHARMA: I shall make available to the Committee all the statistical information. In our agreement with the handling agents.

MR. CHAIRMAN: We got a copy of that agreement.

DR. A. S. SHARMA: There is a clause in that agreement that payment to labour will be made at rates not below the rates fixed by the competent authority.

SHRI P. M. SAYEED: Who is the competent authority?

DR. A. S. SHARMA: The State Governments.

SHRI P. M. SYEED: You said that you expect a net loss this year. What is the contributory factor for this?

DR. A. S. SHARMA: I don't know whether I should be within my rights to give all the details. But the main reason is high export duty, closure of Suez Canal and general depression in the world markets.

SHRI P. M. SAYEED: It is not because of high wages to the labour.

DR. A. S. SHARMA: No.

SHRI K. A. NAMBIAR: I think you have seen the memorandum submitted by the National Union of Waterfront workers, Calcutta in which your MMTTC is coming as one of their targets. They say that you could directly employ these people, more than thousand or so, because the conditions of

work are so bad that they live in misery.

DR. A. S. SHARMA: I have not got a copy of it.

SHRI NAMBIAR: The office will give you a copy of that memorandum. They say that instead of having middlemen you could directly employ them. Do you consider it possible to employ these people directly under you and avoid the middlemen, i.e. the contractors?

DR. A. S. SHARMA: As I have already said, the MMTTC as an export house would like to concentrate on various operations leading to exports, but employment of labour we would not like to. However, if this is the wish of the House, I shall convey the views to the management.

SHRI A. P. SHARMA: This question was already answered.

SHRI K. A. NAMBIAR: In the meanwhile, till the Corporation takes a decision in favour of employing them directly, will you consider the question of ameliorating the conditions of work which they have stated here as very bad in nature. Could you try to improve the situation till then?

DR. A. S. SHARMA: If the Bill is enacted...

SHRI K. A. NAMBIAR: Even without this Bill you can do it.

DR. A. S. SHARMA: At present the position is that in the Port Commissioner area the labour is employed from the Dock Labour Board and he does his job. He has his own arrangement for housing etc. Unless and until it is obligatory, we may not do anything ourselves. If it is obligatory that he must be given a house, we shall also do.

SHRI S. KUNDU: You said that you exported Rs. 100 crores worth of iron ore last year?

DR. A. S. SHARMA: I did not say so I said that our total turnover was Rs. 100 crores, out of which Rs. 1.25 crores profit was made.

SHRI S. KUNDU: Out of this turnover of Rs. 100 crores, how much is accounted for by the wage bill for the handling agent?

DR. A. S. SHARMA: This information will be available with us, but I shall not be able to say offhand. I shall send this information.

SHRI S. KUNDU: How many handling agents are there? What is the nature of their working? What sort of labourers do they employ? You may give this information also.

MR. CHAIRMAN: Does this figure of Rs. 100 crores include the price of iron ore?

DR. A. S. SHARMA: It includes all the trade handled by the corporation, namely export of iron ore, manganese ore, ferro-manganese, coal and import of steel and non-ferrous metals, etc.

श्री हुकमचन्द कछवाय : मैं कलकत्ता में एक वर्कशाप देखने गया था तो मालूम हुआ कि वर्कशाप की ओर से एक मजदूर को देने के लिये 3 रु० रोज दिये जाते हैं ठेकेदार को। फिर साथ में बोनस भी दिया जाता है। परन्तु वर्कर्स से पूछने पर पता चला

कि एक मजदूर को उस की तरफ से सिर्फ 2 रु० मिलते हैं और 1 रु० वह ले लेता है। मैं जानना चाहता हूँ कि इस की जानकारी आप को है या नहीं? अगर है तो आप इस के लिये क्या करेंगे?

MR. CHAIRMAN: When we visited that port, this information was given by the management that the contractor took 4 annas out of Rs 3 which was supposed to be paid to the worker. But after enquiry from a worker we found that the worker got only Rs. 2 per day.

MAJ. D. K. CHANDRA: I am sorry I shall not be able to explain that particular incident. Whenever we invite tenders and we finalise the tender, we do make discrete enquiries to find out the break-up of the elements or the ingredients which may form or which the man answering to the tender has taken into account, and we verify whether it is justifiable or not. By a series of cross-checks we do this, and sometimes, the tenderer himself declares that he has put in so many components and that offsets against such and such and such is his margin and so on. As to whether he operates with that margin truthfully and faithfully, we have not got any machinery to investigate that.

(The witnesses then withdrew)

(The Committee then adjourned.)

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CONTRACT
LABOUR (REGULATION AND ABOLITION) BILL, 1967

Saturday, the 23rd November, 1968 at 10.00 hours.

PRESENT

Shri Kashi Nath Pandey—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Shri Chand Goyal
3. Shri Samarendra Kundu
4. Shri Bhajahari Mahata
5. Shri K. Ananda Nambiar
6. Shri S. P. Ramamoorthy
7. Shri Viswasraj Narasimha Rao
8. Shri Deven Sen
9. Shri Virbhadra Singh
10. Shri D. R. Chavan.

Rajya Sabha

11. Pandit Bhawaniprasad Tiwary
12. Shri Sriman Prafulla Goswami
13. Shri Sanda Narayanappa
14. Shri Prem Manohar
15. Shri Jaisukhlal Hathi

LEGISLATIVE COUNSEL

Shri P. L. Gupta, *Addl. Legislative Counsel, Ministry of Law.*

REPRESENTATIVES OF THE DEPARTMENT OF LABOUR AND EMPLOYMENT

1. Shri B. R. Shukla, *Director, Labour Relations, Department of Labour and Employment.*
2. Shri H. K. Chaudhry, *O.S.D. (Law), Deptt. of Labour and Employment.*
3. Shri R. J. T. De'Mellow, *Deputy Chief Labour Commissioner (Central), Deptt. of Labour and Employment.*
4. Shri C. R. Nair, *Under Secretary, Deptt. of Labour and Employment.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

WITNESSES EXAMINED

Calcutta Tea Merchants' Association, Calcutta

Spokesmen:—

1. Shri S. P. Agrawal, *Vice-President.*
2. Shri P. M. Rajgopal, *Asstt. Secretary.*
3. Shri J. G. Patel, *Member.*

**Calcutta Tea Merchants' Association,
Calcutta**

Spokesmen:— 1

1. Shri S. P. Agrawal, Vice- President.
2. Shri P. M. Rajgopal, Asstt. Secretary.
3. Shri J. G. Patel, Member.

(The witnesses were called in and they took their seats).

MR. CHAIRMAN: Before the witnesses tender their evidence I have to invite their attention to Direction 58 which says that where witnesses appear before a Committee to give evidence the Chairman shall make it clear to them that their evidence shall be treated as public and is liable to be published unless they specifically desire that all or any part of the evidence given by them is to be treated as confidential. It also says that it shall, however, be explained to the witnesses that even though they might desire their evidence to be treated as confidential such evidence is liable to be made available to the Members of Parliament.

SHRI S. P. AGRAWAL: I have no objection in making public the statements which I shall be giving here.

Before I begin I take this opportunity to thank you and Members of the Committee on behalf of the Association, myself and my brothers.

During early part of September the Committee visited Calcutta and at that time the Association tried to place before the Members of the Committee some of the view points which are going to affect the tea trade so far as we are concerned. However, the tight programme of the Committee prevented us to meet them personally and, therefore, we submitted a paper which is the basis now for the discussions.

In the paper the Association had drawn the attention to certain activi-

ties of a particular trade union and at the same time have tried to find out whether the Dock Labour Award (interim as it is) is to be applicable to the various activities of the Calcutta trade. The Association also has pointed out the peculiar characteristics of the Calcutta trade—whether the contract labour should be abolished or should be continued.

Well, so far as the Calcutta tea trade is concerned it is unlike the production of tea. Generally, it is understood by saying tea that it relates to the production and manufacture of tea which is mostly in places like Assam, Darjeeling, etc. What we in Calcutta do is to receive the tea already produced in those places and then either sell overseas or ship it on consignment basis to London Auction or bring it to the Calcutta auctions. The activities therefore, of Calcutta auctions or receiving the teas, as it is, more or less of a periodical nature depending on the production in Assam and Darjeeling. There are certain months—February to June—when the tea arrivals in Calcutta is practically negligible. There are certain other months—July and September—when there are some arrivals and there are other months—October to December—when there are heavy arrivals. The nature of employment therefore by the Calcutta warehouses people which store the tea depend largely on the arrivals of the tea from North India. This, therefore, Sir, necessitates that there should not be a permanent force of labour otherwise the overhead expenses will go up tremendously and, therefore, it necessitates that the contract system which had been prevalent in Calcutta for years should be continued.

The other activities which we are carrying on is about the exports. Now, Sir, you are much aware that this is not necessary that firm should have an export order for 12 months. It may be that he has received an export order for the month of December but he may not have an order in January. Now, if he is asked to take per-

manent labour force probably he will die out. It will be killing. Our Government emphasises on promotion of more and more teas. If our overhead expenses go up, probably the small units must be heavily effected. Therefore, we engage labour through contractors. When we get an order and labour is required for blending, etc., they are mostly supplied by the contractors.

Sir, I would like to draw your attention to the Dock Labour Award. Sir, the traders side has nothing to do with the dock. The definition of the Dock Workers as given in the Dock Workers Regulations Act is a comprehensive one but somebody is trying to misconceive it in a different way so that this may be made applicable to the tea trade workers too.

So far as labour problem is concerned it requires wise consideration otherwise it will create vicious circles and will affect the export trade of tea as well. This is my submission, Sir. I will be replying to any other questions which may be asked.

SHRI SHRI CHAND GOYAL: You have tried to separate these workers working in the dookyard from those who work in the godowns and other places. But the object of the Bill is to improve the condition of labour everywhere whether they work in the dookyard or outside.

Even in your Memorandum you have largely dealt with this point as to who do not strictly come into the definition of the Dockyard Act, i.e. the workers who work in the godown are not strictly covered by that definition. But we want to apply the provisions of the Bill to the entire labour wherever it is possible. What is the idea in making any distinction between the workers working in dockyard, in godowns and in warehouses.

SHRI S. P. AGRAWAL: The points involved in it are:

1. Dockyard labour side.
2. How much it is going to effect.

Sir, my point is only this much that the dock labour as defined in the Dock Workers Act is limited to a certain extent and to certain activities. They do not come into picture when teas are being blended, loaded or unloaded. They work at the cargo.

SHRI SHRI CHAND GOYAL: Are they under your industry?

SHRI S. P. AGRAWAL: These workers are mostly contractor's workers. Nature of business is not perennial. Some time it is more, some time it is less. From January to June no tea comes from Assam. This labour force is not required by us.

SHRI SHRI CHAND GOYAL: Could you give us an idea of remuneration which the labourers get while working under your control and while working under the contractor?

SHRI S. P. AGRAWAL: So far as tea trade circle is concerned, there is practically no permanent employment. Labour is employed by the contractors. They are on daily wages. The daily wages that they are paid is near about Rs. 6/- per day. The skilled workers are paid Rs. 7.50 per day.

SHRI SHRI CHAND GOYAL: What about facilities for shelter, drinking water, medical facilities, leave?

SHRI S. P. AGRAWAL: Sir, I was thinking of that but I could not get any information from the main employers if they provide any such facilities. For these facilities they should ask the contractors.

SHRI JAISUKHLAL HATHI: Do the contractors give?

SHRI S. P. AGRAWAL: They supply labour which works in our warehouses in our premises. While working they get one hour's rest from 12 P.M. to 1 P.M. No work is done and they are completely free to go anywhere they like. I do not think they are provided with any living accommodation, rest houses, etc., by the contractors.

MR. CHAIRMAN: What is the main function of Calcutta Tea Association? Is it simply to load or unload?

SHRI S. P. AGRAWAL: There are two main Associations in Calcutta. One is Calcutta Tea Traders Association of which the sellers, buyers and the brokers—these three categories—are the members. The main function of the Calcutta Tea Traders Association is to organise the sale of Darjeeling, Assam and northern tea.

CTMA members are trading with overseas or internally also. There is a section in C.T.M.A. who are engaged in warehousing. When teas are received in Calcutta, they are kept in warehouses. It is technically called warehousing. This Section deals with it. CTMA has two sides—warehousing side and the other is general trading side and selling tea in original condition or in blended condition to the overseas market or even to the internal demands.

MR. CHAIRMAN: Have you got any relation with the Traders' Association? Are they different body? What is the connection between the two?

SHRI S. P. AGRAWAL: Members are common to both. Members who are in CTMA and trading side, they are in Calcutta Tea Traders Association.

SHRI JAISUKHLAL HATHI: How much labour would be employed throughout the whole period of one year?

SHRI S. P. AGRAWAL: I have not assessed that figure. I have, however, made a note of it and will let you know.

SHRI JAISUKHLAL HATHI: But what is the magnitude of your problem if you have not done this even?

SHRI S. P. AGRAWAL: As I have mentioned, there are specific periods here, for instance from January to June, when there is practically no business.

SHRI JAISUKHLAL HATHI: When you are objecting to this, you must visualise the magnitude of the problem. What is the magnitude of workers with whom you have to deal? Do you know the magnitude of the problem? How many labourers the whole trade as such employs?

SHRI S. P. AGRAWAL: It is always fluctuating . . .

MR. CHAIRMAN: During the period you have business, what is the average number of workers working under the association? On some days it will be more and on other days it will be less. What is the average?

SHRI S. P. AGRAWAL: Association never employs.

MR. CHAIRMAN: All right; Members of the Association.

SHRI JAISUKHLAL HATHI: For the Committee to understand your difficulty, you must give some picture to the Committee as to what will be the problem you have to handle. How many workers you have to employ?

SHRI S. P. AGRAWAL: My friend tells me—that is only a very rough calculation—that it will be nearly 3,000 labour force per year.

SHRI JAISUKHLAL HATHI: How many traders?

SHRI S. P. AGRAWAL: Not less than 90.

SHRI JAISUKHLAL HATHI: That will be about 40 per trader.

SHRI J. G. PATEL: The same labourers sometimes work for some members and other members also.

MR. CHAIRMAN: Did you say that from January to June you have no work?

SHRI S. P. AGRAWAL: Practically very little. If during September, October, November and December I require 100 men, during the months

January to June I require only 10 men, that is, 10 per cent.

MR. CHAIRMAN: So, in a sense the work is perennial; of course the number of labourers will be less.

SHRI S. P. AGRAWAL: But it is fluctuating.

SHRI S. KUNDU: In your memorandum you have not said anything specifically about the provisions of the Bill that is before the Committee. You have dealt with some other things. You were just now speaking about the workers. My information is—this is subject to correction—that these workers who handle your goods are very experienced workers in the sense that they have been working in the trade for a long time. Is it true?

SHRI S. P. AGRAWAL: 75 per cent of the workers in the trade are required for handling tea chests. They come to Calcutta when there is work for them and go back to their States from where they come after the season is over. Generally, in Bihar and UP marriage seasons are in Phalgun, Chaitra and Vaisakha corresponding to March, April and May. Usually, they are not experienced labour. But there is a certain percentage experienced and semi-skilled labour also. These are employed mostly for putting hessian on tea chests, putting the iron straps and doing the marking. The larger percentage of the workers are not very experienced as we generally seem to think as in the case of cotton or jute industry.

SHRI S. KUNDU: I do not know how you define 'experienced labourer'. But is it a fact that 75 per cent of the workers have been working in this trade for a long time? I come from Orissa and so far as I understand quite a lot of people from Orissa were working in the dock labour and in this trade. They have been working there for the last 25-30 years. They come and go.

SHRI S. P. AGRAWAL: I will not share your views. In my own experi-

ence during the last 25 years in this line, I have seen that the people who have come today may not be the same people who will come in the month of December.

SHRI S. KUNDU: Do you have any information as to what 90 per cent of the workers do in the lean months?

SHRI S. P. AGRAWAL: I have mentioned that these people come from Bihar and UP. During the months of March, April and May they have their marriage seasons and other work such as cutting harvest, and so on. So, they go back and help themselves.

SHRI S. KUNDU: The work which your contractor does, according to you, is packing and stacking till it is named as cargo. Instead of asking the contractors to do this work, why not you get it done by your own employees?

SHRI S. P. AGRAWAL: The only difficulty is this: If I have a permanent labour force, I have work for them only for six months; for two months I can give them only half work and for the rest of four months they will have no work at all.

SHRI S. KUNDU: Now the work of loading or unloading, packing or stacking is all done by contractors. Why not you give this work to your employees instead of to the contractors?

SHRI S. P. AGRAWAL: From September to December I may require 100 hands. If I keep them permanently, I might need only 10 people from January to June. In that case, why should I carry the load of 90 people?

SHRI S. KUNDU: You have not caught my point still. Your relation with contractor is through tender. Why not you ask your employee to get labour and get the work done instead of giving it on tender basis?

SHRI S. P. AGRAWAL: What is the difference? If my employee gets

the labour force, he will be my contractor.

SHRI S. KUNDU: I have glad that you have said that it is the same thing and there is no difference. Are you prepared to employ direct labour and not through contractor?

SHRI S. P. AGRAWAL: I have explained my difficulties. We employ 10 per cent of the labour in the lean months.

SHRI SHRI CHAND GOYAL: What he wants to elicit from you is that there are two methods of getting the labour. One method is getting the labour through the agency of the contractor to whom you pay a certain rate. Another methods is, you employ the labour direct for 7 or 8 months. He wants to know that if the labour is employed through the contractor, the contractor will have his own share and if the labour is employed direct, the entire wages will go direct to the labour.

SHRI S. P. AGRAWAL: Under the Industrial Disputes Act if the labourer works for a certain period of time, he automatically becomes your permanent labour.

SHRI K. A. NAMBIAR: As you say you require them only for about 8 months of the year. For 4 months they are not required. That is why you get the help of the contractor for supplying the labour for 8 months. On your side it is all right but there is another side of the picture. When you employ them for 8 months, social justice requires that the man should be fed for the remaining 4 months also. Parliament in its wisdom is thinking to request the employers to consider a little more and see that the work is so distributed that a portion of this labour may be utilised in these 4 lean months also so that the labour may feel that they will also get something out of the progress of the country. So, it is a social legisla-

tion which we are thinking of. What have you got to say about it?

SHRI S. P. AGRAWAL: I have every sympathy for the labour force. They are my own countrymen. I will be the last person to see them dying in the streets. It is difficult to employ the labour all the year round. Sometime I might have obtained orders and at another time I might have no orders.

SHRI SHRI CHAND GOYAL: What is to be done? How are you going to compensate them? Sympathies are all right. The question is whether the conditions of labour are to be improved and whether they get a wage which can sustain them all the year round and whether the conditions in which they are working, they can be called humane conditions or civilised conditions. What have you got to say with regard to that.

SHRI S. P. AGRAWAL: The main employers in this case are the contractors, those who are called term contractors. Let the provisions of the Bill be made applicable to them that they have to pay Rs. 10 and they have to keep the labour all the year round.

SHRI SHRI CHAND GOYAL: Will you pay them as much as to enable them to pay Rs. 10 per day?

SHRI S. P. AGRAWAL: The question is not Rs. 10 or Rs. 5. If I want to get my work done. I have to pay them. But how far will it help the labour?

SHRI SHRI CHAND GOYAL: Don't you enter into contract with the contractor? The terms of the contract are to be decided between you and the contractor. You can change these terms and conditions to the advantage of the labourers.

SHRI J. G. PATEL: If the conditions of the worker are to be improved and if they are to be provided with the work all the year round, the employers and the warehouse keepers cannot afford that. But the contractors,

if there is no work in my godown, may be having some other godowns where they can employ the labour. If I do not receive orders, he may be receiving order. So the contractor can provide more employment rather than the employer.

SHRI SHRI CHAND GOYAL: You said that about 10 per cent of the work is of a perennial nature. Have you engaged permanent labour in your own employment for this perennial type of work?

SHRI S. P. AGRAWAL: The perennial work is only in the warehouse section and not on the trading section where we receive orders and execute them. The activities of the warehouse are limited. I would say that in certain firms which are members of the association, there are permanent forces to some extent.

SHRI DEVEN SEN: Is your Association a registered one?

SHRI S. P. AGRAWAL: No.

SHRI DEVEN SEN: Is there any warehouse which is not covered by your association but functions independently?

SHRI S. P. AGRAWAL: Yes, there are.

SHRI DEVEN SEN: What will be the number of labour employed by such independent warehouses and the number of people employed by your association, no matter whether it is contract labour or not?

SHRI J. G. PATEL: We do not have these complete details.

SHRI DEVEN SEN: There is a considerable number of labour employed by independent warehouses.

SHRI J. G. PATEL: Yes, Sir. There is also contract labour.

SHRI DEVEN SEN: I find your association has got the biggest monopoly. It is a voluntary association of tea planters who are the richest people in our country, exporters and internal traders. Not a single poor man you have got in your association. It is quite good. I only point out that your association is one of the biggest monopolies of the country to carry on export trade and bring us valuable foreign exchange. Keeping in mind these factors, I would like to ask whether the employment of contract labour is for your benefit.

SHRI S. P. AGRAWAL: Yes, Sir.

SHRI DEVEN SEN: Have you got the benefit of workers also in your mind?

SHRI S. P. AGRAWAL: Yes.

SHRI DEVEN SEN: How do you pay the wages?

SHRI S. P. AGRAWAL: We pay according to the present wages. . . .

SHRI DEVEN SEN: You do not know whether the contractor is paying 6 rupees or 7 rupees or 2 rupees. We went to Calcutta. We visited some centres. There we found that they pay Rs. 2 per day. We did not meet your contractors but we did meet some other labour, particularly of the Railways where they are paying only Rs. 2 per day. Are you sure your contractor pays Rs. 6 per day to these labourers? Have you got any machinery to check that?

SHRI S. P. AGRAWAL: To that extent I am sure that our contractors pay them quite handsomely. There they have got the payment books also and I have seen myself the payment made by contractors to the labourers.

SHRI DEVEN SEN: When you employ contractors have you got agreement with them?

SHRI S. P. AGRAWAL: Yes, we have.

SHRI DEVEN SEN: How much do you pay as his commission? What is the basis of your contract? Is it on the basis of turn over or what?

MR. CHAIRMAN: He will tell you....

SHRI S. P. AGRAWAL: The contractor himself is a worker. He gets the same rate. The piece-rate is always settled. He will get at such and such a rate.

SHRI DEVEN SEN: I am not satisfied. But I have got other questions to ask.

SHRI JAISUKHLAL HATHI: He says they are working in coöperation. That is, each man takes the same rate. There is no one individual as a contractor.

SHRI S. P. AGRAWAL: The contractors being trained gentlemen, they work together and the income of that day is divided equally between them.

SHRI DEVEN SEN: It is the worst form of exploitation of contract labour. It is worst form of exploitation. Do you employ sardars who come along with workers also as contractors? They are those who recruit the workers. That is what I am trying to find out.

SHRI S. P. AGRAWAL: In any language you take it.....

SHRI DEVEN SEN: Do they live in houses provided by the contractors for them?

SHRI S. P. AGRAWAL: They live independently.

SHRI DEVEN SEN: Where do they get the quarters?

SHRI S. P. AGRAWAL: They have their own rented houses anywhere they live.

SHRI DEVEN SEN: You have got a big dock area there; the number of dock labourers will be to the tune of 10,000. What is the difference in the character of the dock labour and your labour?

SHRI S. P. AGRAWAL: Dock labour is employed by dock labour board for unloading and loading. Dock labour is employed to load it on the steamer or unload it and put into warehouse and all that. They are completely different. Here, in our case, tea comes in; Mr. X has got something in the auction. The tea is delivered to him. It has nothing to do with loading and unloading of the chests of the cargo....

SHRI DEVEN SEN: Do you know that there is a scheme of minimum guarantee in this dock labour side?

SHRI S. P. AGRAWAL: I have nothing to do with dock labour side. That is what I mentioned in my petition to you.

SHRI DEVEN SEN: What is the contribution of individual units to your association? How much do they contribute to you? What is the contribution of others? What is the dividend you declared last year?

SHRI P. M. RAJAGOPAL: There is equal membership. Entrance fee is Rs. 50 and annual subscription Rs. 200. Besides that, to meet any deficit which they may have in the working of particular year we collect additional voluntary contribution from members.

SHRI DEVEN SEN: You don't declare dividend.

SHRI P. M. RAJAGOPAL: It is not profit making body. It is an association—part of Chamber of Commerce.

SHRI DEVEN SEN: Are your members objecting if you regularise your number of employees? If you introduce minimum guaranteed wage, 6 months wage or 7 months wage, for your labour, are your members objecting to that—those who are monopolists in our country?

SHRI K. A. NAMBIAR: They join together into a kind of association for the purpose of export import trade

and there is a little bit of cooperation between themselves. That is all.

श्री प्रेम मनोहर : यह जो कांट्रैक्ट लेबर है इसको लिविंग बेजेज, बोनस स्टेट इन्शोरेंस, प्राविडेंट आदि फैसेलिटीज एवेलेबिल हैं ?

श्री अग्रवाल : जहाँ तक मुझे मालूम है कांट्रैक्टर्स इनको लिविंग बेजेज देते हैं और महीने में 30 दिन काम करने पर 11 दिन की छुट्टी मिलती है। मेडिकल बनीफिट भी उनको देते हैं और बोनस भी उनको देते हैं।

अध्यक्ष महोदय : महीने भर काम करने पर 11 दिन की छुट्टी देते हैं ?

श्री अग्रवाल : आई एम सोरी, उनको 11 दिन की छुट्टी साल में जो छुट्टियाँ आती हैं और जो नेशनल हालीडेज के रूप में डेक्लियर होती हैं, वे उन को देते हैं। इस के अलावा रविवार की छुट्टियाँ भी उन को देते हैं।

श्री प्रेम मनोहर : बोनस जो चाहते होंगे, वे देते होंगे। जो 4 परसेन्ट मिनिमम बोनस प्रेस्क्राइब्ड है, वह भी उनको नहीं मिलता होगा। आप के जो प्रोफिट्स हैं उन पर बोनस केलकूलेट होना चाहिए। वे जो बोनस पे करते होंगे वे बेजेज पर करते होंगे जो कि एक परसेन्ट भी हो सकता है। उस का कोई सम्बन्ध आप की अरनिंग्स और प्रोफिट्स से नहीं है।

श्री अग्रवाल : मैं आप को बताऊँ कि उसमें होता यह है कि यूनियन कांट्रैक्ट्स से निगोशियेट कर लेती है और जितना बोनस तय हो जाता है, वह अपने मेम्बरों में बाँट देती है और हम से चाञ्च कर लेती है।

श्री प्रेम मनोहर : बोनस का केलकू-
लेसन होना चाहिए, आप के प्रोफिट्स के

ऊपर और जितने लोगों ने काम किया है, 6 महीने काम किया है या 7 महीने काम किया है, उन लोगों को उस पर बोनस मिलना चाहिए।

श्री अग्रवाल : अगर हमारे आदमी हों तो ऐसा हो सकता है। मैंने पहले भी भर्ज किया था कि आज एक आदमी महीने भर काम करता है और चला जाता है। फिर दूसरा आदमी काम करने के लिए आ जाता है।

श्री प्रेम मनोहर : कंट्रैक्टर हमको जो आदमी देता है, वह काम करता है।

श्री अग्रवाल : एक हफ्ते में उड़ सी आदमी बराबर काम करता है और दूसरे हफ्ते में अगर 30 आदमियों की रिक्वायरमेंट है, तीन चार महीने तक, सब लोगों को काम देना सम्भव नहीं। यह भी हो सकता है कि वही आदमी रोज आये।

SHRI SANDA NARAYANAPPA: Mr. Agrawal, whenever the contractor fails to pay the labourers according to the fixed wages, what are your observations if the principal employer is made responsible according to the provisions of the Bill? Would you object to it or would you agree to this?

SHRI S. P. AGRAWAL: I will object to it because of the fact that there are certain provisions here which cannot be observed by the employer until and unless those gentlemen are in direct employment. If Mr. X is employed by Mr. Y, necessarily the principal employer is not supposed to know about Mr. Y. He should not be under any penal liability.

SHRI SANDA NARAYANAPPA: The point is as to how the principal employer and the contractor are to discharge certain duties? Under the agreement, are you providing the conditions the labour should be pro-

vided, say, medical facilities, and other things?

SHRI S. P. AGRAWAL: Yes, they are provided.

SHRI SANDA NARAYANAPPA: Then, when you enter into an agreement with the contractor, where is the fear of the principal employer being held responsible for not paying the wages?

SHRI S. P. AGRAWAL: It is not the question of being afraid. It is a question as to whose liability it is to do.

SHRI SANDA NARAYANAPPA: If the contractor fails to pay, then who is to pay the labour? The principal employer must be held responsible.

SHRI S. P. AGRAWAL: As I have already stated, the contractor could be registered.

SHRI SANDA NARAYANAPPA: That's true; the contractor is registered, and according to the rules he will be held responsible. But ultimately when the contractor disappears from the picture, the principal employer should be made responsible for the payment of wages.

SHRI S. P. AGRAWAL: In other words, the principal employer should be responsible both to the contractor and to the workers.

SHRI K. A. NAMBIAR: It is for the benefit of the principal employer to enter into an agreement with the contractor; otherwise you can do it directly.

SHRI V. NARASIMHA RAO: How many contractors have you got?

SHRI S. P. AGRAWAL: The Association has no contractors.

SHRI S. KUNDU: He wants to know what is within the knowledge of Mr. Agrawal as to, besides his firm and other firms, how many contractors are employed?

MR. CHAIRMAN: The number of contractors engaged in his firm.

SHRI S. P. AGRAWAL: In my firm, so far as the Export Section is concerned, I have got a very small turnover—6000 to 7000 chests. In the Warehouse side, I have a direct concern with the Union. I have got an agreement with the Union under which they are working. The terms and conditions are laid down in the agreement which I have entered into with the Union itself.

श्री भवानी प्रसाद तिवारी : मैं यह आपसे जानना चाहता हूँ अग्रवाल जी, कि यहाँ आप इस बिल का अध्ययन करके आये हैं कि नहीं जो ड्राफ्ट बिल कमेटी के सामने पेश है और जिस पर विचार हो रहा है ?

श्री अग्रवाल : कुछ चीजें बताइए ताकि मैं बता सकूँ या जान सकूँ कि क्या कमी रह गई है। यदि कमी रही हो तो मैं उसे पूरा करने की कोशिश करूँगा।

श्री भवानी प्रसाद तिवारी : इस बिल में जो डेफिनिशन "वर्कमैन" की दी गई है, डू यू अग्री विद दिस ?

श्री अग्रवाल : जो डेफिनिशन इंडस्ट्रियल डिस्प्यूट्स ऐक्ट में वर्कमैन की दी गई है. . . .

श्री भवानी प्रसाद तिवारी : जो इस बिल में दी गई है, उसके बारे में पूछना चाहता हूँ।

अध्यक्ष : इससे क्या होगा ?

श्री भवानी प्रसाद तिवारी : इससे यह निष्कर्ष निकलेगा कि जो उन्होंने शिकायत की है यूनियन के बारे में अपने मैमोरंडम में, वह कवर होती है या नहीं। यूनियन के प्रति जो शिकायत है वह भी समाप्त हो जाती है डेफिनिशन से।

श्री अग्रवाल : इसमें मुझे यह अर्ज करना था कि यहाँ पर जो कंटेम्प्लेट किया गया है वह क्लैरिकल साइड में कंटेम्प्लेट किया गया है जिनका कि पैटियाँ उठाने या बन्द करने का काम नहीं है । कोई भी एक आफिस है उसमें चन्द आदमी काम करते हैं तो उसमें वर्कमैन की डेफ़ीनिशन 500 रुपए तक वेतन के वर्कर्स पर लागू होती है । वर्कमैन की डेफ़ीनिशन में जो क्लैरिकल साइड में बैरियर या बाबू जिनको 400 या 500 रुपए मिलते हैं, नहीं आते ।

SHRI JAIKHELA HATHI: A 'worker' means "any person employed in or in connection with the work of any establishment to do any skilled, semi-skilled, unskilled manual work".

The word 'establishment' has been defined "any place where any industry, trade, business, manufacture or occupation is carried".

श्री भवानी प्रसाद तिवारी : मैं यही पूछ रहा हूँ कि इसमें कब होता है ?

अध्यक्ष : वह नहीं ऐसी करते हैं ।

श्री अग्रवाल : उस के लिये हमने यह कहा था कि एस्टेबलिशमेंट की जगह पर फैक्ट्री ऐक्ट के अन्दर जो डेफ़ीनिशन्स हैं उनको रखा गया ।

श्री प्रेम मनोहर : आपने अभी कहा कि लेबर आपके यहाँ रेगुलरली नहीं आते हैं, जो इस हफ्ते आया है अगले हफ्ते वह नहीं आता । इसका मतलब यह है कि आप तैयार हैं एम्प्लायमेंट देने के लिये लेकिन फास्ट लेबर का है जो नहीं आता । अगर लेबर आये तो आप उसको बोनस देने के लिये तैयार हैं गवर्नमेंट इन्स के मुताबिक ।

श्री अग्रवाल : मैंने यह कहा था कि कंट्रिक्टर मेरे पास ले आते हैं ।

श्री प्रेम मनोहर : क्या आप तैयार हैं बोनस देने के लिये ?

श्री अग्रवाल : मैं तो अर्ज भी उनको बोनस दे रहा हूँ ।

MR. CHAIRMAN: Mr. Agarwal, I am not talking of the Association but of the firm where the contract labour is employed. Now, see these contractors are the employees themselves. Is this not a way of exploitation of the workers as well as of the contractors?

SHRI S. P. AGARWAL: On the other hand I will say if Mr. X is a contractor he gives 10 labourers to work and he is working himself. He has not exploited those ten gentlemen.

MR. CHAIRMAN: That is a different matter. This is another way to give contract. In your firm the contractors are permanent but the workers are casual.

SHRI S. P. AGRAWAL: The contractor also becomes casual. If I have got work in December but supposing in January, February and March there is no work then the contractor also becomes casual.

MR. CHAIRMAN: Does the contractor change?

SHRI S. P. AGRAWAL: No, Sir, the contractor does not change.

MR. CHAIRMAN: Can't you agree—after all you require labour—instead of recruiting them through the contractor you give some stability of employment to these workers?

SHRI S. P. AGRAWAL: We can think of giving stability. But the fact remains what will be the position when I have no work.

MR. CHAIRMAN: During the period you have got work suppose you require 200 persons but after some time you require 100 persons when there are lean months. When you have

got work and when you require 100 people again can you not say that these 100 people are the same people who have been working for some period. You allow these people to be stabilised.

SHRI S. P. AGARWAL: Sir, this is not a fact. Suppose we have Mohan and Sohan working with us. Now I want them again after a week but they say because we were sitting idle for one week so we had to go to another employer.

MR. CHAIRMAN: If you have got lean months other also will have lean months. How can they then go elsewhere? The conditions is the same. Here we find the worst type of contractorship. These people are never stabilised. Is it not a fact and if it is a fact, as a human being, can you not think to give some stability to these people?

SHRI S. P. AGARWAL: My friend has given a suggestion that if the workers are under contractors then they are supposed to get and are getting the work for about 10 to 11 months out of the year.

MR. CHAIRMAN: He says that if you allow the contractors to function. Whereas they are not actually the contractors. They are the employees themselves. They do not allow the workers to stabilise because it may incur some extra burden on them. That is the point.

SHRI S. P. AGARWAL: My submission is that probably we are thinking in different directions. The contractor is supplying some force of labour. He is also working with us and as soon as the work is finished the work proceedings is divided equally between all of them.

MR. CHAIRMAN: I understand that. If instead of keeping the contractor there you keep an employee of the concern and this work may be given to him to find out. Can it not be done. In fact, I do not understand

how he becomes a contractor whereas he is a permanent employee of the concern.

SHRI S. P. AGARWAL: He is not a permanent employee of the factory because he is working for me this week but working for him the next week.

MR. CHAIRMAN: I do not think there is so much variation.

SHRI J. G. PATEL: It varies from business to business. This time I may be having dull business but next time I may be having a better business.

MR. CHAIRMAN: Does it happen during the season also?

SHRI J. G. PATEL: Seasonal variation takes place from period to period, firm to firm, warehouse to warehouse.

MR. CHAIRMAN: I may very slightly.

SHRI JAISUKHLAL HATHI: Do you hire warehouses big or small?

SHRI J. G. PATEL: Yes.

SHRI JAISUKHLAL HATHI: Does the cost of warehousing change according to your business or you require for two months big warehouses and for 8 months small warehouses?

SHRI J. G. PATEL: My cost of warehousing changes according to my business. Supposing this month I have 1,000 chests to store the thing, I will pay accordingly. If next month I require 50 chests, I will pay charges for 50 chests.

MR. CHAIRMAN: I wish that trade should not be affected and let everything go in a good manner but at the same time workers should not be exploited so much which is against the human thought or human consideration. Here is the question of human consideration. A large number of contractors are employed in Railways but your contract working system is quite different from others. So far we

have come across so many people, so many firms but the type which you have, I had never heard. This is the first time I am hearing it. Really I want to suggest you to think over it because it has to be corrected in a manner which is possible without effecting your trade. It should be because you people are very intelligent and also well read, well-knowing people and therefore you can do something.

SHRI S. KUNDU: They will do their Best.

MR. CHAIRMAN: We finish now. Thank you Mr. Agarwal.

SHRI S. P. AGARWAL: Thank you, Sir.

(The witnesses then withdrew)

(The Committee then adjourned.)

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