[Shri Priya Gupta.]

Ministry for its proper implementation.

There is a very important question, whether the public will be allowed to travel in the sections administered by the military and whether they will be allowed to book merchandise for consumption in the country because there are some parts which do not produce goods and have to get them from other parts.

Thirdly, I would again repeat the demand for war front allowances to be given to the railwaymen working in those areas and subsidised grain shops which is a pre-requisite for the railwaymen to run their families because grains are not available even at Rs. 2.75 per Kg. This should be ensured to them as was done earlier.

I request the Minister to communicate this to the Ministry of Railways and the Ministry of Food to arrange for these things.

Dr. D. S. Raju: This is a national emergency and I think the defence of the country has got to receive prior attention. Consistent with that, all the proposals which are made will, of course, be given due consideration. These things will be conveyed to the Ministry of Railways and if any rules are to be framed, they will do so. All these things will be given sympathetic consideration.

Shri Priya Gupta: We are grateful to the Minister for his assurance that the service conditions will be kept.

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

13.46 hrs.

INDUSTRIAL DISPUTES (AMENDMENT) BILL

The Deputy Minister in the Ministry of Labour and Employment (Shri R. K. Malviya): I beg to move:

"That the Bill further to amend the Industrial Disputes Act, 1947, as passed by Rajya Sabha, be taken into consideration."

This is a simple Bill to amend the Industrial Disputes Act of 1947. The proposals for amendment of the Act were considered by the Twenty-first session of the Standing Labour Committee, a national tripartite body, which met in New Delhi on 27th December, 1963. The Committee recommended certain proposals for amendment of the Industrial Disputes Act. The Bill now presented before the House seeks to give effect to the recommendations of the Standing Labour Committee and a few other proposals.

श्री हुकम चन्द कछवाय (देवास) : उपाध्यक्ष महोदय, मंत्री महोदय बिल पेश कर रहे हैं, लेकिन सदन में गणपूर्ति नहीं है ।

Mr. Deputy-Speaker: The bell is being rung....Now there is quorum.

Shri R. K. Malviya: Under section 2(a) of the Industrial Disputes Act, industrial disputes in respect of Indian Airlines Corporation and Air India Corporation, which have been established under the Air Corporations Act 1953, fall in the State sphere. The functions of the two Corporations are to provide safe, efficient, adequate, economical and properly co-ordinated air transport services, whether internal or international, and to develop these services to the best advantage. In order to simplify the existing procedure for handling disputes in respect of these Corporations, it is considered necessary to bring them within the jurisdiction of the Central

sphere as in the case of some corporations of all-India importance e.g., the Agriculture Refinance Corporation and the Deposit Insurance Corporation. This will obviate the necessity of handling labour relations in the various branches of the Air Corporations by different State Governments individually and the need for prior consultation with the State Governments for referring such disputes to a national tribunal. Such an arrangement will also have the avantage of ensuring expeditious, co-ordinated and uniform action by the Central Government in handling disputes. The State Governments were consulted in the matter and almost all of them agreed to the proposal.

Sections 2(p) and 12(3) of the Act stipulate, among others, that a copy of the settlement agreement or the memorandum of settlement should be forwarded to the appropriate government. It is proposed that instead of sending a copy to the appropriate government and also to other officers subordinate to it, the copy need be sent only to the officer authorised in this behalf.

In construing the scope of 'industrial dispute', courts have taken the view that a dispute between an employer and an individual workman cannot be an industrial dispute but it may become one if it is taken up by a union or a number of workmen making a common cause with the aggrieved individual workman. Cases of individual dismissals and discharges cannot, therefore, be taken up for conciliation or arbitration, or referred to adjudication, under the Industrial Disputes Act, unless they are sponsored by a union or a substantial number of workmen. There has been a demand that the machinery under that Act should be made available in such cases. The standing labour committee, in its 21st session, also recommended an amendment to the Act so as to make the machinery under it available in such cases. It is proposed to make such a provision in the Act.

Section 25C of the Act provides that a worker who has completed not less than one year of continuous service, on being laid off, is entitled to receive compensation upto a maximum period of 45 days during the course of any twelve months. Where, however, the period of lay-off after the expiry of the first 45 days comprises continuous periods of one week or more, the workman is to be paid compensation for all the days comprised in every such subsequent period of lay-off unless there is an agreement to the contrary between the workman and the employer. This provision is open to abuse inasmuch as a workman can be denied lay-off compensation by being made to work for some days in each week after the first 45 days' lay-off. It is now proposed to amend section 25C of the Act so as to provide for the payment of lay-off compensation for all the days of lay-off after the first 45 days whether the period is continuous for a week or not. The standing labour committee has also agreed to the proposal.

Section 29 of the Act provides for imposition of a penalty for breach of a settlement or an award, which may be imprisonment for a term which may extend to six months, or fine, or both. This section does not, however, provide for enhanced penalty in the event of continued breach of settlement or awards. As a result, some unscrupulous employers are able to successfully thwart the implementation of settlements or awards, even after conviction, by paying a fine once, which may be far less than what the obligation would otherwise entail. Consequently, the workmen are unable to get the benefits of the settlement of award although the employer might have been convicted for the breach. Thus, the absence of provisions of deterrent penalties for continued breach of settlements and awards is acting as an impediment in the way of implementation of settlements and awards. It is, therefore, proposed to provide for the imposition of suitable punishment in case of a continuing breach of a settlement or

[Shri R. K. Malviya.]

an award after conviction for the first breach. This has also been recommended by the 21st session of the standing labour committee. With these remarks, Sir, I commend the Bill for consideration of the House.

Mr. Deputy-Speaker: Motion moved:

> "That the Bill further to amend the Industrial Disputes Act, 1947, as passed by Rajya Sabha, be taken into consideration."

The time allotted for this Bill is three hours.

Shri Indrajit Gupta: (Calcutta South West): This is rather a mixed Bill.

Shri Hari Vishnu Kamath (Hoshangabad): Mixed grill?

Shri Indrajit Gupta: It is a mixed grill of course. It contains both good and bad in it rather more bad than good, I am afraid. One reason for this is that the Labour Ministry has always followed a policy of making a sort of *ad hoc* and piecemeal amendments to the Industrial Disputes Act instead of any comprehensive amendment in the light of the discussions which take place from time to time in the tripartite conference and tripartite standing committees. Therefore, from time to time they come forward with minor amendments relating to a certain particular section or part of the section which leaves many other problems undecided and creates sometimes new complications and problems. What is there good in this which could be supported straightway? First of all, there is an amendment to section 2, which I certainly welcome, which has extended the coverage of this Act to the employees of the Indian Airlines and the Air India Corporation. But here again they have gone one inch forward and then stopped. I would like to ask them, if the object of this Act is to bring about harmony and industrial peace in as wide an area as possible, why are they not a little more bold in the coverage that is proposed under this Bill? For example there are so many types of employees who are excluded from coverage under this Act on the technical ground that they are not workmen. I can give one or two examples. There are the employees of hospitals. Here is a case where it is particularly necessary to take steps to see that any genuine grievances that might be there are speedily remedied and that no kind of dislocation takes place. Nobody wants dislocation in a hospital; nobody can say that because it is a hospital therefore the employees there may not have any genuine grievances. Certainly they may have and certainly if some machinery is available to them for peaceful settlement of those disputes, it is very much to the interests of everybody, including the public. But strangely enough, this particular category of employees are excluded from the aplication of this Act on the ground that they do not come within the existing definition of workmen under this Act. Therefore, what are we left with? Hospital employees in the country have a genuine grievance, but they could not find a remedy under the procedure of conciliation, arbitration or adjudication under this Act. Therefore, with all the goodwill in the world, you cannot prevent every now and then some dislocation or some strike or some stoppage of work taking place in hospitals. That is most undesirable. But there is no remedy left open to them. Here when they decide that section 2 should be amended, why do they put in only the Air India and the Indian Airlines Corporations, I cannot understand. They know very well; they know the history of these disputes in the hospitals. In the educational institutions, there are those employees of the universities, teachers and so on, and other employees also. The same position exists there. They may have some genuine demands and grievances; why should the machinery of this Act not be available

to them also, so that there can be a speedy and expeditious and peaceful settlement of these disputes, instead of driving them to a point where they may resort to some sort of direct action. So, while I welcome this amendment, as far as it goes, to section 2, it is really very shortsighted and very incomplete. I hope the Minister will come forward in the not too distant future with a more comprehensive amendment to section 2 which will also involve, of course, changing or modifying the definition of workman under this Act so that these other sections could also be brought within its ambit.

14 hrs.

Then there is the insertion of a new section—section 2A—which I also welcome and support as far as it goes. As a matter of fact, if my memory does not fail me, several years ago this position did exist, which has been restored now by the insertion of this section, namely, that an individual workman, even if he is not represented by a trade union or even if his case is not taken up by a number of other workmen acting collectively, he was in a position to agitate his individual case before a machinery of conciliation and adjudication. But subsequently, at a certain stage—I have forgotten the exact date—that position was removed from the legislation. It has now been partially restored. I welcome it, because this is really a recognition of the fact that in our country, a very, very large number of workmen are still unorganised. They do not belong to any union. This may be a sad commentary on the state of the trade union movement, but there is no point in not facing the realities; and despite all the claims of membership that are made by the various trade union organisations, I am sorry to say that perhaps almost 50 per cent of all the workers in this country are probably unorganised even today. Even in an organisation like the All-India Railwaymen's Federation, the membership which it claims officially,—I think Shri Priya Gupta will correct me if I am wrong—even its claimed membership, is not even half of the total number of railway workers. So, it was only natural that a workman who is wrongfully discharged or feels he is wrongfully discharged or dismissed or retrenched or his services have been terminated, when he has no union to go to or there is no union which represents him, or he does not feel like being represented by any union, should nevetheless not be deprived of the natural justice which is provided to him now by this amendment and which enables him to take his case up to a conciliator or to an adjudicator. So, I welcome tis certainly, but here too, I must say that that same mentality of going so far and no further has also dominated this new section 2A.

When it is conceded here that the individual workman should be given this facility and right, why is it again curbed and circumscribed and is only restricted to cases of discharge, dismissal, retrenchment and termination of services? It is good as far as it goes, but what about a case where the employer wrongfully suspends somebody or, let us say, demotes him, or in some other way, adversely affects his conditions of service even short of dismissal or retrenchment? As we know in this country, the state of industrial relations is such even now that a huge number of instances of deliberate victimisation of workers takes place all the time. There are a large body of employers in this country who have not reconciled themselves yet to the very existence of the trade union movement and whose one concern for 24 hours of the day is how to break a union, how to disrupt a union, how to intimidate the leading workers of a union, how to create division inside the union, and for that purpose, all manner of harassment and victimisation also goes on, which may come in the form of suspension; sometimes indefinite suspension and sometimes the people are demoted. Sometimes, various other forms of harassment of this type take place. Smetimes, they are

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transferred arbitrarily from one place to another, so that the office bearer of a union can no longer function normally. This goes on in the railways the whole time; they are transferred from one place to another place 500 miles away.

So, the point is that, here, I feel that this section should be enlarged to cover not only discharge, dismissal, retrenchment and termination of services, but also the cases of victimisation, those cases of alleged victimisation which can be established as unfair labour practice as motivated solely by the desire to penalise a worker or intimidate a worker. Such cases should also be covered by this section, because we must remember one thing, namely, when an individual worker feels he has been wronged, and wants to take advantage of this machinery—of course in the eyes of the law he is put on the same footing now as a worker who comes through a union—in actual practictice, we find and we will find, I am quite sure, the machinery being what it is, that the cases of these individual workman are likely to be neglected. They will remain there, lying there for months and weeks together and nobody bothers about them; whereas, if a union or some other body of workmen represents that worker's case, they are likely to be able to get a much better hearing. The individual workman's case is liable to go by default, and in respect of these conciliation officers, labour officers and so on with whom we generally have to deal in all our States, already we find that cases are lying there in the files for weeks and months together. But where it becomes a question of choosing between the case of an individual worker and a case brought by a union, there is every danger and likelihood of those individual cases lying buried under the files for a long time to come. Therefore, the Ministry should also consider the question of strengthening the machinery of conciliation and adjudication. The conciliation officers themselves tell us sometimes: in some cases they complain that they are hopelessly under-staffed; they say they cannot cope with the huge number of cases that come up to them; the State Labour Departments also complain about it; in some cases I think these complaints are justified and in some cases they may not be, but this machinery must be strengthened by the appointment of more conciliation officers, industrial courts, tribunals and so on and enough resources should be put at the disposal of these bodies to deal with the cases. Although some benefit is being conferred here, through this section, on individual workers, in actual practice, the workers may find that these cases are not taken up for months and years together.

Then, in regard to the amendment to section 29 of the Act, my support to it can only be a mixed one, because something is given with one hand and then taken away with the other. What is given with the first hand, I support. It is nothing revolutionary; it simply says that if an employer continues to commit breach of the provisions of the Act, then for each continuing breach, he will be fined Rs. 200 for every day during which the breach continues. It is very good; up to now the penalty which was there in the Act was absolutely ridiculous and no employer ever bothered about it. So, this penalty, for a continuing breach, of Rs. 200 as fine for every day is certainly a good thing and it would act as some form of a deterrent, but what is given by one hand is taken away with the other in the concluding clause of the Bill which says, "Rs. 200 for every day during which the breach continues after the conviction for the first." That means for the original sin of committing the first breach, he must have been prosecuted and convicted, and only after he has been convicted, thereafter, for any subsequent breach, he will be fined Rs. 200 per day. That means, the pre-condition of this continuing penalty is that he should at least for the first breach have been prosecuted and convicted. Who can prosecute and convict the employer? The prosecution can only be launched,

under this Act for any breach, by the Government itself. The workmen who are the sufferers cannot *suo moto* of their own accord start any kind of case against their employer. Only the government on its own initiative can prosecute. But our experience shows that such prosecutions are few and far between. The labour departments are most reluctant ever to launch prosecutions. Therefore this pharse "after the conviction for the first" would nullify to a great extent the benefit which is sought to be given here.

I am opposed to the provision seeking to substitute a new section for section 25 'C' "Right of workmen laid off for compensation." I know incentives are supposed to be given to workers for production and so on. But here a direct incentive is being given to the employer to use any kind of dubious method in order to compel a worker by hook or crook to enter into an agreement with the employer to the effect that, "if I am laid off by you, you have to pay me compensation only for 45 days; from the 46th day onwards, you need not pay me any compensation, even if you keep me laid off for another six months". This is the meaning of the second para which says, "if there is an agreement to that effect between the workman and the employer, no such compensation shall be payable after the expiry of the first 45 days. In our country in so many industries, we find—the minister who is connected with the mining industry also knows—that there are numerous sections of backward workers who are illiletrate. Even now when they receive their monthly wages, they cannot sign their names on the receipts, they merely put their thumb impressions. This is happening in the plantations, jute mills and mining areas. It is very easy for the employer by subterfuge and deceit to force a workman to sign some statement which will amount to his saying, "if I am laid off, beyond 45 days, you need not pay me compensation after the 45th day". This is the incentive offered to the employer here.

In our country unemployment is on a prolific scale and there is no worse fate in society for a man with a family than to be unemployed. It is better to commit suicide. Suppose an unemployed man is offered a job in a factory. The employer says, "I will give you the job as a temporary or *badli* worker; but first you must sign this agreement. Otherwise, you would not get the job." Willy-nilly he will sign it to get some means of livelihood for a few days. And he will sign away his right of compensation for lay-off beyond 45 days. This is a very dangerous clause which should be deleted.

In the same section, there is this provision that "any compensation paid to the workman for having been laid off during the preceding twelve months may be set off against the compensation payable for retrenchment." That is to say, if I have been laid off for a period of 45 days and after that the employer says he is going to retrench me, the statutory compensation which is payable to me will be made minus the amount that has been paid to me already as lay-off compensation. This is in my opinion a most iniquitous provision. Retrenchment compensation is paid for the purpose of that man being able to rehabilitate himself after he is retrenched. He may start a *pan* or *biri* shop to keep himself alive; whereas compensation for lay-off—50 per cent of the total wages—is paid to him for the actual days that he has been refused employment by the employer. Wherever he may be living, he has to go to the closed factory every day and sign his attendance there. Otherwise, he is not paid lay-off compensation. Now it is said here that after I am retrenched altogether, the money that I got during the lay-off period will also be deducted from my retrenchment compensation. This is a niggardly, miserly outlook and this provision should also be deleted.

A word about the *badli* worker. The Bill says, any *badli* worker who has

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completed one year's employment, will be entitled to lay-off compensation. My experience of 25 years in the jute industry is, no *badli* worker will ever complete one year. It is defined in another place that any *badli* worker who has put in 240 days work in a calendar year is considered to have put in one year's work. I have appeared before many jute industrial tribunals and I was a member of the wage board. I have found that hardly 5 to 10 per cent of the registered *badliwalas* are ever permitted by the management to complete 240 days' work in a calendar year and they are never allowed to become permanent in that sense of the term. So, this clause will defeat its own purpose. What should be there is that any registered *badli* worker whose name is maintained on the rolls of the company for a full year should be paid compensation if he is at any time laid off. It should be enough if his name has been carried in the rolls for one year, even though he might have worked only intermittently. In that case, he must be eligible to get this compensation.

Sir, this is a small Bill, but I am afraid it has got so many points in it which are complicated. I would request the ministry to give a little thought to this matter and not keep resorting to this sort of piecemeal amendments every now and then. If a fresh problem is created after two months, they will again bring in a little bit of amendment, not one inch further. Therefore, there is very limited benefit registered in this Bill to the workmen and I would request the minister to accept at least the amendments which we have tabled.

श्री हुकम चन्द कछवाय : उपाध्यक्ष महोदय, मेरा व्यवस्था का प्रश्न है। हाउस में गणपूर्ति नहीं है।

Mr. Deputy-Speaker: The bell is being rung—now there is quorum. Shri Vidyalankar.

Shri A. N. Vidyalankar (Hoshiarpur): Sir, I wholeheartedly welcome this Bill, which was long overdue and on which all the trade union workers and employees in general had been insisting. I think the minister has tried to meet most of the points that the workers had been raising. Although the industrial dispute machinery had really come to the assistance of the workers, it has also created undesirable spirit of litigation. I deeply feel that our policy with regard to determination and settlement of disputes should be well defined and dynamic one and the government should act with determination.

At present, we have just set up the machinery for adjudication. Mostly cases go for adjudication. Conciliation is of course attempted, but conciliation in important cases and in bigger organisations is mostly unsuccessful and cases have to be referred for adjudication. A long time is taken in decisions and the workers and employers have to wait for months with the result that the atmosphere in the industry is never peaceful. Therefore, I think, the Government should think in a determined way and should formulate a definite policy as to how to deal with most of the disputes and had to get their number reduced.

So far as this machinery is concerned, no big effort is made to make it efficient. All the cases must be decided expeditiously, and whatever decisions were taken they should be implemented thoroughly and promptly. We know of a number of cases where the disputes had been settled by courts and tribunals but decisions take pretty long to be implemented. I am glad that the Minister has brought in a provision here providing for deterring penalties where the awards were not implemented, where the settlements were not properly executed in all such cases penal clauses have been introduced and the employer concerned will be punished. For continuing the

breach of the provision of the Awards a continuing penalty has been provided for.

श्री हुकम चन्द कछवाय : उपाध्यक्ष महोदय, हाउस में क्वार्टर नहीं है ।

Mr. Deputy-Speaker: The hon. Member may resume his seat. Quorum has again been challenged. The Bell is being rung.

Now there is quorum. The hon. Member, Shri Vidyalankar, may continue his speech.

Shri A. N. Vidyalankar: Sir, I was referring to the methods of dealing with cases of dispute and I was saying that the Government should have a determined and dynamic policy for settlement of disputes.

We have been talking and listening about the joint machinery for settlement of disputes. Just now my hon. friend, Shri Indrajit Gupta, was referring to certain class of employees, the employees in the hospitals, in the educational institutions, in government service and other services. I quite agree that there also it is quite natural that the disputes would occure and there also some suitable machinery to settle those disputes was necessary. Why is it that the joint machinery about which, we have been listening and discussing for so long, has not been set up in all these institutions? That means the whole scheme of introducing the joint machinery for settlement of disputes is not yet complete. I think the Government should expedite this matter because quite a large number of workers are working in these institutions. These institutions are important. That is why they have been excluded from the Industrial Disputes Act. Because they are important, because their services are important—for instance, the hospitals and educational institutions—we should see that no disputes were allowed to drag on and just kept pending decision. We have not set up any machinery, we have not provided for any other method, for settling those disputes. Therefore, it is very necessary that the Government should complete the scheme of joint machinery and some machinery should be set up so that the disputes in these institutions might also be settled. I quite agree that the Industrial Disputes Act, as it stands at present cannot be applied to the hospitals or educational institutions or to the teachers and others. That is why I say that the joint machinery or some other efficient machinery should be provided for.

At present more than 50 per cent of the workers are not members of any trade unions. My friend, Shri Gupta was also referring to that. What is the reason? I had occasion to ask the workers themselves, I had discussions with them, and the reason given by most of them was that because most of the trade union organisations dabbled in politics they did not come in these trade unions. I think, it is for us, the trade unionists, to find out ways and means to create an atmosphere so that most of the workers would be able to join the trade union organisations. That is how the trade union movement can be properly strengthened.

I welcome the provision so far as individual workers are concerned. In cases of dismissal, retrenchment or discharge, the hon. Minister has kindly provided for reference of their disputes. In the cases of suspension, in cases of demotion etc., some method should be provided for. The spirit behind should be, in all matters where collective needs and collective decisions were necessary, such questions could not be taken up on individual level. An individual cannot place any demands that concerned the whole class of workers. If he was not a member of any trade union or no trade union had not taken up his case, then he could raise any dispute only in such matters where his individual person is concerned. I quite agree with that. But there are other matters apart from discharge, dismissal or retrenchment in which an indi-

[Shri A. N. Vidyalankar]

vidual is deeply concerned. For instance, the increment of a person might have been stopped or the promotion due to an individual worker might have been refused. These are personal matters strictly. But these are also very important matters where a person's well being was involved. Therefore, in such cases also an individual should be allowed to raise a dispute and secure satisfaction. I think the provision in the Bill should be so drafted that in regard to all such matters where the conditions of service of an individual were altered in any manner or when he was deprived of personal benefit earlier due to him, he should be allowed to raise a dispute and he should be allowed to get some kind of satisfaction and some kind of relief

Then, so far as the penalty clause is concerned, I quite welcome this clause. I agree with this provision But here also, these words "after the conviction for the first" should be omitted; because; in a case where the award is not properly implemented, from the very day when the award was given, the worker was entitled for relief. Rather, I would wish that because he had not been paid—something was to be given to him and he had not been denied the same—some part at least out of two hunderd rupees, should be given to the worker, to compensate him for his suffering. He has suffered, in many ways because he has been purchasing provisions from his shop-keeper on loan or otherwise; he had to pay often a higher price for that. Therefore he is entitled to some kind of compensation. So, out of this two hundred rupees, he should be paid some portion of it. It should also be provided that from the day the award was given, from the day when he was entitled to get relief, he should be entitled to get relief from that very date. Some such provision is very necessary.

And lastly, a word about the proposed new section 25C and the proviso containing the words "if there is an agreement to that effect". As regards this question of agreement, my hon. friend Shri Indrajit Gupta has also referred to it, and those who are working in the trade unions know how agreements are secured and how the employers get things in writing. They just get their signatures on blank paper and keep the same on record. Whenever required, they wrote something on the blank paper and presented the worker with a *fait accompli* saying "you had signed the agreement". The worker required some kind of protection against that kind of thing. Therefore, in regard to these so called agreements, some one, a labour officer or somebody, who should see whether this kind of agreement was genuine or permissible or not, whether it was in the interests of both parties or not. There should be some security against these bogus agreements. Such agreements are forced from the workers because of their weak position. This clause should be improved.

I welcome the Bill and thank the hon. Minister for bringing forward this Bill which, as I have stated, was long overdue.

Shri Ranga (Chittoor): Mr. Deputy-Speaker, I am generally in agreement with this Bill, and I am glad my hon. friend Shri Vidyalankar has made a very constructive suggestion to improve upon the position that has been taken up by Shri Indrajit Gupta, that whenever employers obtain these agreements in writing from these employees saying that they are satisfied with whatever the employer has offered to give to them after they are laid off for forty-five days and therefore their other claims need not be considered thereafter, it is best to ensure the presence of a labour welfare officer or some responsible officer in order to guard against the possibility of these poor workers, especially unorganised workers, from being deceived or misled by some of the bad or unscrupulous employers.

I am very glad that this Bill at long last recognises the need for protection of all those workers who are unorganised till now. Shri Indrajit Gupta and his party who have been taking much interest in labour organisation are frank enough to admit that nearly fifty per sent of the industrial workers are yet unorganised into trade unions. These people need protection. Government have realised it at long last and have brought forward this Bill. There I welcome this Bill which seeks to protect these people.

Secondly, I am anxious to see that retrenchment ought not to be confused with being laid off. And therefore, whatever compensation a worker is entitled to get whenever he is retrenched either in continuation of being laid off or without it should not in any way be interfered with and be reduced by whatever a worker is entitled to be paid for being laid off against those days.

श्री हुकम चन्द कछवाय : उपाध्यक्ष महोदय, मेरा व्यवस्था का प्रश्न है। हमारे इतने बड़े नेता बोल रहे हैं और हाउस में गणपूर्ति नहीं है।

Mr. Deputy-Speaker: The quorum bell is being rung—Now there is quorum.

This is the eleventh time that quorum has been raised. Hon. Members will please consider what the country will think of us. The quorum should be maintained.

Prof. Ranga may now continue.

Shri Ranga: It is not necessary to think of giving any kind of incentives to the employers. They have enough of incentives, and if Government really is keen on giving some incentive to the employers the best way to do it is by reducing the tax burdens on them, instead of trying to give these incentives to them at the cost of the workers.

I am particularly happy that any dispute that a worker may come to have with his employer in regard to all these items, namely, his dismissal or retrenchment or his services being terminated, would be treated as an industrial dispute. But then, this would become really ineffective until and unless the conciliation machinery, as has been suggested, is properly strengthened. As it is now, they do not have sufficient number of personnel in this conciliation machinery, so much so that individual complaints are likely to be ignored. So I would like to press upon the Government the need for strengthening this machinery if they really are keen on seeing to it that the benefit of this new provision is given to these individual unorganised workers. And I sincerely hope that Government will try and take sufficient steps in order to see that these individual workers, when they do not belong to any union at all and when they begin to make these complaints, are given as much attention and are shown as much sympathy as others who are being sponsored by the trade unions. If they do so, then it would be possible in this country really to effect labour welfare for all those large numbers of people who for some reason or the other are unwilling and unable to join any union. It is very well-known that there is too much competition between rival unions here in our country sponsored by political parties and quite a large number of workers would not like to belong to any political party and, at the same time, would like to look after themselves and would like to render their service to the nation by working in their respective factories. All these people need the consideration and sympathy of Government. So, I am glad this Bill has been brought forward by the Government and I sincerely hope that the Government as well as the employers will try and help these unorganised workers and see that they do not remain cotinually unorganised or unorganisable' but are properly protected.

Dr. Melkote (Hyderabad): Mr. Deputy-Speaker, I welcome this Bill. I have nothing particular to add. Many

[Dr. Melkote.]

of my hon. friends have already spoken about this Bill and drawn attention of the Government to some of the drawbacks and what ought to be done to remedy them, particularly my hon. friend, Shri A. N. Vidyalankar. I support the Bill entirely.

श्री मधु लिमये (मुंगेर) : उपाध्यक्ष महोदय, यह जो संशोधन विधेयक हमारे सामने आया है इस में कुछ बातों का जिक्र है। लेकिन मेरी समझ में यह बात नहीं आती है कि यह जो औद्योगिक कलह कानून है उस में कई बार संशोधन हो गया है लेकिन कभी भी सरकार की ओर से एक व्यापक संशोधन विधेयक लाने का प्रयास नहीं हुआ है। उसका नतीजा यह होता है कि हर एक दो साल के बाद नये नये विधेयक आते हैं और हम को उन पर विचार करना पड़ता है।

पहली बात तो इस विधेयक के सम्बन्ध में मैं यह कहना चाहता हूं कि इस वक्त मजदूरों के सामने जो तकलीफें हैं ये सारी तकलीफें इस संशोधन से दूर नहीं होंगी। इस वक्त सब से बड़ा मामला बेरोजगारी का है जिस के बारे में यहां कुछ कहा गया है। लेकिन जो यहां कहा गया है वह अच्छा नहीं है। अभी मैं आपका ध्यान कुछ ऐसे वाक्यों की ओर दिलाना चाहता हूं जिन के द्वारा 25 (सी) यह नई उपधारा जोड़ने का प्रयास किया गया है और उस में यह कहा गया है कि अगर मजदूरों और मालिकों में कोई करार हो जाता है तो फिर ज्यादा देने की आवश्यकता नहीं है और उनकी छंटनी के बाद जो पैसा दिया जाएगा उस में से इनका यह पैसा काट ले सकते हैं। यह बहुत ही खतरनाक तजवीज इस में रखी गई है। मैं इसका मुस्तैदी के साथ विरोध करना चाहता हूं।

इस वक्त बम्बई में और दूसरे केन्द्रों में जो घटनायें हो रही हैं सूती मिलों के मामले में उसकी ओर मैं आपका ध्यान दिलाना चाहता हूं। बम्बई में इंडिया युनाइटेड की छः मिलें हैं। एक लाख से ज्यादा लोग उन पर निर्भर करते हैं। पहली तारीख को उस मिल के जो कारकुन हैं, उनको तनख्वाह मिलनी चाहिये थी कानून के अनुसार। लेकिन उनको इस बार तनख्वाह नहीं मिली है। परसों मुझ को बम्बई के मजदूरों ने टेलीफोन पर यह बताया है कि दस तारीख को उनको तनख्वाह मिलने वाली थी लेकिन नोटिस लग गया है कि अब की बार इंडिया युनाइटेड की मिलों के जो मजदूर हैं उनको तनख्वाह नहीं मिलेगी। इस महंगाई के दिनों में न कारकुनों को तनख्वाह मिली है, न मजदूरों को तनख्वाह मिली है और यह सब क्यों हुआ है? इन मिलों में जो अव्यवस्था है उसकी वजह से यह सब हुआ है। सरकार ने एक जमाने में इन मिलों को अपने हाथ में ले लिया था और फिर अच्छा इंतजाम करके और करीब-करीब एक करोड़ रुपया नकद नफा जब इन मिलों का हो गया तो फिर खानगी व्यक्तियों के हाथ में, मालिकों के हाथ में उसने इन मिलों को दे दिया। उसका नतीजा यह है कि फिर ये मिलें बन्द होने जा रही हैं और एक लाख लोगों का जीवन आज खतरे में पड़ गया है। इसलिए जब हम कानून में संशोधन करते हैं तो मैं कहूंगा कि एक ऐसा व्यापक आद्योगिक कानून तैयार करें जिस में इन तकलीफों के बारे में, इन समस्याओं के बारे में कोई ठोस तरीके पर मिल बन्द होने की समस्या का इलाज किया जा सके।

श्री चन्द्रमणिलाल चौधरी (महुआ) कोई इलाज सजैस्ट कीजिये।

श्री मधु लिमये : इलाज यह है कि सरकार इनको ले ले। क्यों वह इनको मिल

मालिकों को दे देती है। आपकी जो सरकार है वह पूंजीपतियों के प्रभाव में इतनी अधिक हो गई है कि सरकारी पैसा, सार्वजनिक पैसा तो लगा देती है मिलों के सुधार के लिए और जब सुधार हो जाता है और मिलों का काम ठीक हो जाता है तो फिर वह उन्ही मिलों को मिल मालिकों के हाथ में दे देती है। इस तरह से सार्वजनिक पैसे का और सरकारी पैसे का दुरुपयोग करती है, उसको बरबाद करती है। इसके बारे में मैं तफ़सील में जा कर बात नही करना चाहता हूं।

सब से बड़ा मसला इस वक्त औद्योगिक कानून को ले कर यह है कि हर कारखाने में, सरकारी महकमे में तरह तरह के मजदूर हैं। ठेकेदारी प्रथा आज भी चालू है जिस के खिलाफ सर्वोच्च अदालत ने फैसला दे दिया है। उसके बावजूद भी ठेकेदारी प्रथा चल रही है। ठेकेदारों के जो मजदूर होते है उनको जो फायदा मिलना चाहिये नही मिलता है। हजारों लाखों की तादाद में मजदूर बदली मजदूरों के तौर पर काम करते है। अस्थाई मजदूरों की भी एक श्रेणी है। एक मिसाल मैं देना चाहता हूं। कई बार काम ऐसा होता है जिसको अस्थाई नहीं कहा जा सकता है लेकिन फिर भी उस काम को करने के लिए जिन को लगाया जाता है उनको 14-14 और 15-15 साल तक अस्थायी रखा जाता है। नगर पालिकाओं में ऐसे लोग है, सरकार के जो दूसरे महकमे हैं उन में ऐसे लोग हैं जोकि 14-15 साल से काम करते आ रहे हैं लेकिन आज भी उनका जो दर्जा है वह अस्थाई मजदूरों का है। कुछ लोगों को बदली मजदूर कहा जाता है। कुछ मजदूर ठेकेदारों के मजदूर है। क्या सरकार को उन मजदूरों के बारे में कोई ऐसा ठोस कानून नही लाना चाहिये कि जिससे एक तो ठेकेदारी प्रथा को बिल्कुल खत्म कर दिया जाए और जो बदली मजदूर है या अस्थायी मजदूर हैं उनकी संख्या किसी भी हालत में दस प्रतिशत से अधिक किसी भी महकमे में या कारखाने में न रखा जाए और सभी मजदूरों को एक साल की उनकी नौकरी होने के बाद स्थायी मजदूरों के तौर पर मान लिया जाए? हर हालत में किसी भी विभाग में, किसी भी कारखाने में, किसी भी यूनिट में दस प्रतिशत या पन्द्रह प्रतिशत से अधिक अस्थायी या बदली के या इस तरह की दूसरी श्रेणी के मजदूर नहीं होने चाहिये। अगर इस तरह का कोई संशोधन हो जाएगा तो मेरा खयाल है कि उससे मजदूरों को काफी फायदा होगा।

इस कानून में कंसिलियेशन के लिये इंतजाम है। कंसिलियेशन करने वाला जो अफसर है वह कितने समय में अपनी रपट पेश करे, इसके बारे में इसमें कुछ नहीं है। कहा गया है कि जैसे व्यावहारिक हो वह अपनी रपट दे दे। कुछ मिसालें मैं आपके सामने देना चाहता हूं। मैं बम्बई नगरपालिका के मजदूरों की बात करता हूं। कुछ साल पहले वहां पर एक झगड़ा चला। उस झगड़े को कंसिलिएशन के सामने सौंप दिया गया। वह असफल हुए। लेकिन असफलता की रपट एक साल हो गया, डेढ़ साल हो गया, कंसिलियेशन अफसर ने पेश नहीं की है। चूंकि असफलता की रपट पेश नहीं हुई थी सरकार ने कहा कि किसी अदालत के सामने इस झगड़े को हम नहीं सौंप सकते हैं। अगर कानून है और उसमें आप परिवर्तन करना चाहते हैं तो इसका भी [illegible] आप इन्तजाम करें कि जिसके अनुसार कंसिलियेशन अफसर को एक विशिष्ट अवधि के अन्दर अपनी असफलता वाली जो रपट है वह पेश करनी [illegible]।

दूसरे कई मजदूरों के बारे में सुझाव दिये गये हैं। अस्पताल मजदूरों के बारे में तो एक खतरनाक सुझाव हम लोगों के सामने आ रहा है। वहां काम करने वाले जो मजदूर हैं उनको औद्योगिक कानून के अन्दर मजदूर नहीं माना जाएगा। कहा यह

[श्री मधुलिमये]

जाता है कि अस्पतालों में जब हड़ताल वगैरह होती है तो आम नागरिकों को, जनता को बड़ी तकलीफ होती है । मैं भी मानता हूं कि उनको तकलीफ होती है । लेकिन उसका क्या यह मतलब है कि अस्पतालों में काम करने वाले जो मजदूर हैं उनकी मांगों को पूरा करने के बारे में, उनको इंसाफ दिलाने के बारे में आप कोई कारवाई नहीं करेंगे ? इसके बारे में हम लोगों ने, हिन्द मजदूर पंचायत ने, सुझाव दिया था कि अस्पताल चलाने वाले जो व्यवस्थापक लोग हैं या सरकार है वे मजदूरों के जो संघ हैं, उनके साथ बैठ कर कोई ऐसा रास्ता निकालें जिससे एक ओर अस्पतालों में हड़ताल न हो और दूसरी ओर काम करने वाले जो मजदूर हैं उनकी मांगों के बारे में न्याय हो और बहुत जल्दी उनकी मांगें पूरी हों । इस तरह अगर आप.....

उपाध्यक्ष महोदय : अब आप खत्म करें ।

श्री मधु लिमये : दो चार मुद्दों के बारे में मुझे कुछ कहना है ।

उपाध्यक्ष महोदय : दो मिनट और ले लें ।

एक माननीय सदस्य : क्या डाक्टरों को भी इस में शामिल कर लिया जाये ।

श्री मधु लिमये : मैं मजदूरों की बात कर रहा हूं । अफसरों की बात नहीं कर रहा हूं । औद्योगिक कानून के अनुसार जो मजदूर हैं उन की चर्चा कर रहा हूं ।

फिर इसमें एक और तरमीम है । जो मालिक औद्योगिक अदालतों के फैसलों के खिलाफ जाते हैं, उन फैसलों को तोड़ते हैं, उन के बारे में । उन को जो सजा या दंड दिया जाता है उसको बढ़ाने की बात है । लेकिन मैं अब यह करना चाहता हूं कि उन के खिलाफ मुकदमें चलाना या न चलाना सरकार के अधीन रहता है । मेरे सामने बहुत अधिक मिसालें ऐसी हैं कि सरकार मुकदमें नहीं चलाती है । इसलिये ऐसा संशोधन आना चाहिये था जिसमें यह लाजिमी हो जाता सरकार के लिये कि वह खोज करती, चाहे मजदूर कहे या न कहे, उन का श्रम विभाग खुद खोज करता कि किन किन फैसलों पर अमल नहीं हुआ है । जिन अदालती फैसलों को मालिक तोड़ते हैं उन के बारे में मालिकों के खिलाफ मुकदमे चलाने का कार्य लाजिमी बना दिया जाये । उसमें सरकार को चुप नहीं रहना चाहिये और ऐसी सख्त सजा मालिकों को दे देनी चाहिए कि आइन्दा वह अदालतों के फसलों को तोड़ने और मजदूरों का पैसा छीन लेने का प्रयास न करें ।

इस तरह की कई बातें है । मैं इतना ही अर्ज करना चाहता हूं कि औद्योगिक कानून में एक व्यापक संशोधन लाने की आवश्यकता है । हर साल जरूरत पड़ने पर हम लोग यहां संशोधन पास करते हैं यह अच्छा नहीं है । इसलिये सभी मजदूर संगठनों से सलाह मशिवरा करके सरकार एक ही बार फैसला कर के ऐसा व्यापक औद्योगिक कानून लाये जिससे कि सारी समस्याएं ठीक हल हो जायें ।

Dr. Sarojini Mahishi (Dharwar North): Mr. Deputy-Speaker, Sir, organised labour is assuming more and more importance in a developing country like ours. We have noticed what this organised labour can do. It can create a lot of havoc in the country when this organised labour responds and reacts to the sweet whims and fancies of certain political parties. Therefore, it is but natural that this organised labour and the unorganised labourers also should be given certain facilities; at the same time, they should be kept under discipline also.

This particular Industrial Disputes (Amendment) Bill, which tries to

give certain facilities to the industrial workers, tries to cover more and more workers coming under the different organisations.

श्री हुकम चन्द कछवाय : मेरा व्यवस्था का सवाल है । बहुत से माननीय सदस्य बाहर घूम रहे हैं और सदन में गणपूर्ति नहीं है ।

Mr. Deputy-Speaker: The bell is being rung...Now there is quorum. She might continue her speech.

Dr. Sarojini Mahishi: In spite of all the good intentions, this particular Industrial Disputes Act has not been able to cover 50 per cent of the aggregate number of industrial workers working in different industrial establishments and concerns. Besides that, I may also add that 75 per cent of the people in our country are engaged in agriculture, nearly 50 per cent of whom are landless labourers working in others' fields. The 1961 census has categorised agriculturists as agriculturists tilling their own lands, agriculturists working as tenants in others' lands and agriculturists who are landless labourers earning wages by working in others' fields. Agriculturists belonging to the third category, the category of landless labourers, are very great in number and when these particular facilities are given to plantation workers, workers in mines and such other things, why is this big section of workers working in the field of agriculture not being covered by some such Act and given certain facilities? Even the Minimum Wages Act is not made applicable to these people who are working in the field of agriculture They are only seasonal labourers working in the fields belonging to others. Therefore, when the Minister thinks of expanding the scope of this particular Act, I hope, he will take into consideration this bigger section also of landless labourers who are working in others' fields.

This particular Amendment Bill to the Industrial Disputes Act tries to cover more and more workers; for example, workers working in the Indian Airlines and such other organisations; but, as mentioned by my hon. friends, why is it that workers in educational institutions and in hospitals, which are considered to be essential services are not covered? Unless these people belong to an organisation of Class IV services, as individual workers, they cannot seek relief. But section 2A which is being added after section 2 in the original Act, provides for the individual worker to go to the court when he is retrenched, discharged, dismissed or when his services are terminated. He can go to the industrial court and seek redress of his grievance even though he is not a member of any particular trade union. This is, no doubt, an additional strong point in favour of the individual worker. Of course, how he is going to be influenced under such circumstances, as an individual worker, we have only to wait and see.

As far as new section 25C is concerned, it is supposed to be a very important substitute. It says:—

> "Whenever a workman..... whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid off, whether continuously or intermittently".

Thus, making provision for his lay-off, either continuously or intermittently. Even if he is laid off, he is entitled to remuneration for a period of 45 days, amounting to 50 per cent of the total basic pay, dearness allowance and such other things. But there is a provision which says:

> "..... no such compensation shall be payable in respect of any period of the lay off after the expiry of the first forty-five days, if there is an agreement to that effect between the workman and the employer:".

[Dr. Sarojini Mahishi]

Seemingly it is a clause in favour of the workman, but the workman, who is always in needy circumstances and who is always a weaker party, can be forced to enter into such an agreement and the employer, while taking him into his service, may make it a condition prerequisite for taking him into service that he should sign an agreement that he would not claim anything beyond that particular period. Therefore, how far this particular clause will be a strong point in favour of the workman under the existing circumstances of labour in our country is a point to be seen. It is no use giving in theory certain rights which cannot be translated into action or which cannot be enforced in practice. It is with that end in view that we have to give certain powers. If the intention of the Government is so good and it is in the interest of the workman, the clause has to be drafted in such a way that it will be in favour of the workman. I do not know whether the good intentions of the Government and the draftsmanship come into the clash with each other. If that is the case, there is also scope for some remedy.

15 hrs.

The next clause is about this particular compensation given during the period of lay-off or during the previous 12 months that can be set off for compensation payable for retrenchment. After a period of 45 days of lay-off, if the workman is retrenched, the compensation that he has received during this period of 45 days or during the previous twelve months can be set off for compensation for retrenchment. Now, I cannot understand the logic behind this. If there is compensation for retrenchment. How can this be set off against compensation that he has received for lay-off. I do not understand as to how this will be in favour of the workmen. Therefore, instead of making matters more complicated, instead of making matters more confused, it is better to lay down in a very simple language that this person is entitled to no compensation at all even if he is retrenched. It is better to lay it down in such simple words. If that is not the intention, then he should be entitled to certain compensation for being retrenched for no fault on his part.

Then, as regards the Explanation added, it is stated:

> "'Badli workman' means a workman who is employed in an industrial establishment in the place of another workmen . . ."

Of course, the very nature of the work of the 'Badli workman' is that he is a temporary, worker whose services are automatically terminated as and when the man who is originally there joins service. Therefore, he cannot continue to be in service for a period of twelve months continuously either as a casual worker or a 'Badli' worker. That is the case of the casual workers in the Railways. For 8 to 10 years, they have been working as casual workers but they have not been given all these facilities.

Shri Warior (Trichur): That is not the reason.

Dr. Sarojini Mahishi: I am referring to the casual labourers. So also is the case of labourers who are employed by the contractors who have taken contracts from the C.P.W.D. These people are working for years together but they are not getting any benefits. Therefore, I ask: How is it that we are going to cover all these people? The very nature of the work of the 'Badli' worker is that he cannot continue to be in service for a period of twelve months. In case he continues to be in service for twelve months, he ceases to be a 'Badli' worker and he is counted among other workers. If certain benefits are to be given to the substitute worker or to these casual workmen, then special provisions are to be made for them. It cannot be done by adding a line of explanation or by putting certain conditions which are quite impossible to be complied with and then we say that we have given certain facilities to them.

Under section 29 of the principle Act, certain words are to be added, that is, a penalty clause, "which may extend to six months, or with fine, or with both". As was said by many Members in the Opposition as well as on this side, first of all there should be a prosecution and then conviction. This penalty of Rs. 200 per day in case of continuing breach that is applicable only to such cases where the breach takes place after the conviction is a very rare thing indeed. I may point out that in many industrial concerns and in many theatres also, you may be surprised to know that even after the awards of the courts are given and the decrees are passed, the decrees are not brought into force and the facilities are not given to the workers. According to the Factories Act, I know that where 50 women workers are employed in a factory, it is provided that there should be a creche and certain other facilities for the working mothers. But no employer has gone to the extent of giving these facilities to them and complying with the terms of the award. Therefore, the best thing is to see that these awards are implemented and executed and that all the facilities according to the Factories Act and the Workmen's Compensation Act are brought into force and that the employers are made to implement these things. It is no use giving so many rights to the workmen in theory alone and at the same time not trying to enforce them in spirit. Government should try to enforce these things and should try to cover more and more workmen working in other institutes and other industrial concerns also.

Shri Priya Gupta (Katihar): Mr. Deputy-Speaker, Sir, the Industrial Disputes (Amendment) Bill, 1965 has been presented before the House in conformity with the behaviour of the Government always to give a latitude to the capitalists. That has also been expressed in the amended portion of the Bill.

In Section 2A, the protection has been given to the individual workers for raising a dispute only in respect of termination of service, discharge from service and dismissal from service and nothing else. This protection has been given. But this should apply to all other conditions of service in respect of which he is penalised, say, for trade union work, for victimisation in the manner of transfer, reversion and stoppage of increments and such other punishments.

In this Section, the Government propose to include the Indian Airlines Corporation and the Air India workers. They should have also made provisions to include employees under the Solicitors and the Attorneys Companies, the employees in the hospitals and the teaching and non-teaching staff working in the universities, colleges and schools.

Then, the provision made under Section 25C is a very dangerous one, that is, the lay-off compensation which even if it be granted will be set off against retrenchment compensation. All the Members have spoken about it. There is a proviso:

> "Provided further that it shall be lawful for the employer in any case falling within the foregoing proviso to retrench the workman..."

They are still making the provision of retrenchment also. In the same breath you are talking about lay-off compensation and about the setting off of the lay-off compensation against the retrenchment compensation and at the same time strengthening the hands of employers in the matter of retrenching the workers. That is very fine. It reminds me of a story of my childhood. I used to ask: Why is it that Mr. Birla and other big capitalists are joining the Indian National Congress? I was told that it was because they had a common ground, that is, the removal of the yoke of subjugation by the Britishers. But there was also another thing which was not concerning the masses. The capitalists thought that during the British

[Shri Priya Gupta]

subjugation, the businessmen of foreign land were dominating in India and, therefore, when India becomes free from that, they would come to power in controlling the Government. And today more and more privileges are being given to them and the Government is supporting them in all the enactments by protecting these businessmen and capitalist groups. I do not mind it. Let them do it. It is part of their agreement and, therefore, they are supporting them . . .

Shri Raghunath Singh (Varanasi): With your agreement also.

श्री प्रिय गुप्त : उस वक्त तो सभी इंडियन नेशनल कांग्रेस में थे । बाद में आपके बरताव से अलग अलग हो गए हैं ।

Shri Warior: It is the sanctity of the contract.

Shri Priya Gupta: Yes, it is the sanctity of the contract which was made by the then leaders of the Congress with the businessmen.

Now, I come to the question of the *badli* workers. The term *badli* means in replacement of. A *badli* worker means a worker working is place of somebody in a sanctioned post. If a *badli* worker continues in service for so many years that means that the worth of charge necessitates an increase in the quantum of workers. So, in effect, these *badli* workers are only regular labour, and hence they must be given the same protection as the other regular workers without any restriction as to the period of service such as one year or so, under the provisions contained in the amending Bill.

In the last line of clause 5, the word 'continuous' in place of 'continual' has been used. Both the adjectives have almost the same meaning. The word 'continuous' means *lagataar*, while 'continual' means 'after taking the gaps into account'. So, the word should be 'continual'. If the total restriction or embargo is not lifted by the Ministry of Labour, at least the word 'continuous' should be replaced by the word 'continual'.

Clause 6 relates to breach of settlement or award. In such cases why should the individual employee be expected to go to a court of law? Why should the trade union be expected to go to a court of law? After all it is checked by the labour inspectors who have now been designated as "Enforcement Officers." When their names have been changed to Enforcement officers, they can very well go and check and find out whether a particular employer has violated any award or has committed breach of settlement or award of a tribunal. Why does the Labour Ministry require the matter to be raised in a court of law and then expect the court of law to intervene and decide whether there is a breach or not? It is evident that the matter should be automatically taken up, and any employer violating an award or a settlement should be treated on a par as if he has been convicted and the same penalties should be imposed upon them as a deterrent measure.

Shri Warior: Let the employer go to a court.

Shri Priya Gupta: Yes, let the employer go to court to disprove the contention that he has violated the settlement or award.

The Industrial Disputes Act is a very big thing. We were hoping that many things would be done as a result of this. But after the passing of the Industrial Disputes Act, we find that the assurances given to us by the Government of India in regard to several things have not been fulfilled. The terms for recognition of labour unions, the conditions in regard to raising of a dispute etc. have not been dealt with properly by the Ministry of Labour.

One hon. Member had raised a question as to the time-limit within

which the conciliation officer should declare his opinion in respect of conciliation after a strike-notice is given. I am reminded here of the assurance given by the then Labour Minister Shri Jagjivan Ram on the floor of the Upper House when Shri Guruswami, the president of the All India Railwaymen's Federation wanted to amend the Bill and make a specific provision in regard to the time-limit; the Labour Minister Shri Jagjivan Ram had then told Shri Guruswami 'Well, we are also Indians, and my hon. friend is also an Indian; we are not apathetic to the labourers. Let not my hon. friend think that at any time the conciliation officer's report will be shelved and Government will take shelter under this provision and will never exercise the right to express opinion in the required terms for one year or two years or never? But when Government did not communicate decisions on the conciliation officer's express opinion in respect of the strike notice given by N.E. mazdoor union in 1956, Shri Guruswami had said that probably like King Dushyanta who forgot the ring that he had given to Shakuntala and could not recognise Shakuntala, likewise, Shri Jagjivan Ram who was the Labour Minister earlier and who had told Shri Guruswami that the provisions would not be superseded, on becoming a Railway Minister afterwards could not recognise the assurance that he had given in the past, just like King Dushyanta. That is what it comes to. Instead of doing things according to a plan and giving a positive power to them to express their opinion within a certain time-limit, this is what is happening. So, I would submit that it should be specifically provided that within a certain time-limit for Government to communicate the concilaton officer's express opinion when a strike-note is given.

Under the Industrial Disputes Act there are also provisions whereby by virtue of agreements between the trade union leaders and the management, there can operate a machinery in lieu of normal conciliatory procedures under the Industrial Disputes Act. Accordingly, in 1951, Shri Jaya Prakash Narain, the then president of the All India Railwaymen's Federation after having had a talk with the then Railway Minister, Shri N. Gopalaswami Ayyangar, came to an agreement, and under that agreement the procedures was laid down in respect of conciliation proceedings and the terms of references in relation thereto. In other words, that agreement laid down a procedure for disposing of the problems of the disputes of railwaymen, whether individual or en bloc by means of a machinery in lieu of the official conciliatory machinery under the Industrial Disputes Act. That machinery is called the Permanent Negotiating Machinery.

Under that machinery, three tiers were envisaged. One tier at the bottom was at the zonal level, or at the General Manager's level having its sections at the district and divisional headquarters; the second tier was at the Railway Board's level or at the Railway Ministry's level or at the level of the Government of India, and the third tier was the "Tribunal". The tribunal was an automatic thing under that agreement. When there is no agreement at the first and second level, that is, at the General Manager's level or at the Railway Board's level between the railway union Federation and the administration, then the matter goes to the tribunal; that is an automatic process. But I am very sorry to tell you that till today, from 1951 till 1965, not a single tribunal has been set up under this scheme. Whenever we raised this point, we used to be told that there was one Shankar Saran Tribunal. But I would like to point out that the one-man Shankar Saran tribunal was not as a result of the three-tier formula; it was a specific tribunal for the purpose of solving the anomalies arising out of the implementation of the First Pay Commission's recommendations. That tribunal did not fall within the purview of the three-tier system.

[Shri Priya Gupta]

At the meeting of the Labour sub-committee which was presided over by Shri Sanjivayya, Shri Peter Alvares as the General Secretary and myself as the Assistant General Secretary of the All India Railwaymen's Federation pleaded before the Labour Minister that this tribunal for arbitration of the disputes at all levels should be guaranteed, and the Labour Minister said that it should be guaranteed. We had given a list to the Railway Board level in this connection, and that is still under examination. We do not know the fate of it, and we do not know what is going to be done. That is how things are being managed by the railways.

As regards casual labour, the hon. lady Member who had spoken earlier could not express the position very clearly, but the fact is that they do the same work as a regular worker. But in the railways, whereas a workman or a member of the class IV staff has got to be paid his regular pay as per the railway rules, a casual labourer because he is only a casual labourer is getting only Rs. 1.25 or Rs. 1.75 or Rs. 1.80 or at the most Rs. 2 for the same regular work which he does. If we point this out, immediately we are told that the worker is only a casual worker and, therefore, he would be paid only on that basis. But I would like to submit that the casual labourer is really not a casual labourer at all. A casual labourer is one whom you utilise for work which is casual; you can term a worker as a casual worker or a casual lobourer only when he is employed on work which is of a casual nature. But in the railways there are casual workers who are employed on work of a regular type. So, how could such workers be designated as casual workers or casual labour? The Railway Ministry has not yet clarified this point and done justice to these casual workers who are employed on regular work.

I know that the Labour Minister would immediately turn round and say that the Minimum Wages Act is there to protect their interests. But I would categorically question that statement. The Minimum Wages Act provides that the District Magistrate of a district should announce the chart of the designations of the persons who can be designated as casual labourers. But in none of the gazette notifications or other notifications publicising the list of those coming under the Minimum Wages Act, has any District Magistrate ever announced the designation of 'Gangman' or other categories obtaining in the railways as coming under that list. Therefore, the argument that the Labour Minister may advance that they are covered by the Minimum Wages Act has no meaning. I may point out that under the electrification schemes and under the project schemes etc. in Railways there is a lot of exploitation of the labour, and they are given only half the pay of a regular worker though the work done by them is the same as that done by a regular worker. Government are talking of tightening up the economic structure in the name of austerity and so on. But that does not seem to be applicable to the gazetted officers and other officers; an officer employed in a project work gets the benefit all right; during the emergency, an IAS officer could also get an increment of Rs. 500. But so far as the casual labourers are concerned, Government are not attending to them at all in the name of austerity.

In all other countries I have travelled, I have seen there is a national policy for fixing wages. The Labour Ministry here should also introduce some provision whereby whenever an employer wants to start an establishment, he must first agree that the worker will be paid the minimum subsisting wage at par with cost of living index. Just as the working hours are fixed and safety factors are taken care of by the Factories Act, the formula for the minimum wage of the worker should also be ensured by some provision of law by the Labour Ministry. Why should an employer be allowed to start an establishment if initially he

cannot afford to make the payment of the minimum national wage to the worker? The Government of India have not so far laid down a national policy in this respect. Whenever there is a cry, they set up a wage board here and a wage board there and they give an increase of Rs. 2 or 4. These are all *ad hoc*, arbitrary arrangements and will not do. Government must come forward for the protection of workmen by legislating for the enactment of a minimum national wage specifying what it is. Then there should be a stop put to the rise in the cost of prices. This condition of the labourer should also come under the Industrial Disputes Act.

Lastly, in all cases of disputes concerning workmen working in an establishment, whether they are of an individual character, whether coming within the purview of these provisions or not, all matters concerning their conditions of service, such as transfer, promotion, appointment, stoppage of increment and all other things, as for example, quarters, uniform, rations, education, medical benefits etc., in all these cases the administration must be forced to talk to the unions or individuals and settle the matter. Also in all cases where the individual concerned has to spend some money in connection with this, provision has to be made by enactment for giving him the necessary financial assistance; otherwise, the poor man cannot go to a court of law and get redress, even though by the proposed section 2A it has been specified what all cases will constitute an industrial dispute.

I hope the Ministry will consider all these points and do the needful.

श्री सिंहासन सिंह (गोरखपुर) उपाध्यक्ष महोदय,

श्री बृकम चन्द कलवाय : उपाध्यक्ष महोदय, व्यवस्था का प्रश्न है । हाउस में गणपूर्ति नहीं है ।

उपाध्यक्ष महोदय : घंटी बजाई जा रही है—अब कोरम हो गया है ।

श्री सिंहासन सिंह : उपाध्यक्ष महोदय इस विधेयक पर काफ़ी विचार हो चुका है । मुझे इस विधेयक को देखकर कुछ आश्चर्य हुआ । जब मैं ने देखा कि हमारे जो गण्यमान्य मजदूर नेता अपना अधिकतर समय मजदूरों के लाभ और भलाई के लिये दिया करते हैं और हमेशा इस बात का ध्यान रखते हैं कि मजदूरों को अधिक से अधिक सुविधा इन पूंजीपतियों से मिले, वे भी इस विधेयक का समर्थन कर रहे हैं, इस को आशीर्वाद दे रहे हैं, इस का स्वागत कर रहे हैं, तो मुझे कुछ हैरत सी हुई ।

15.27 hrs.

[DR. SAROJINI MAHISHI *in the Chair*]

मुझे इस विधेयक में दो बातें एक दूसरे के विरुद्ध दिखाई दी । एक तो इसमें यह व्यवस्था की गई है कि जो मजदूर किसी यूनियन का सदस्य न भी हो, उसको यह अधिकार दिया जा रहा है कि अगर उसको रिट्रेंच किया जाये, नौकरी से अलग किया जाये, उस को सजा हो, ले आफ़ हो, तो वह अपने मसले को ट्रिब्यूनल या आरबिट्रेशन के सामने ले जाकर फ़ैसला करा ले । देखने में यह बड़ी अच्छी बात है । स्वागत योग्य बात है ।

दूसरे, एक नई धारा 25(सी) रख कर यह विधान किया जा रहा है कि जो मजदूर लगातार—आप देखिए कि लगातार, एक दिन का भी उसमें ब्रेकन हो—बारह महीने कार्य पर है, अवकाश के दिनों को छोड़कर, वे बारह महीने पूर्ण होने के बाद अगर उसका एम्पलायर उस को सेवा से अलग करता है, तो वह अपने वेतन का पचास फीसदी पाने का हकदार होगा । देखने में यह व्यवस्था बड़ी सुन्दर है, जो कि प्राईवेट मिलों और सरकारी संस्थाओं पर भी चालू होगी । इस की वजह से मिल-मालिक और सरकारी अधिकारी किसी मजदूर को कि[illegible]

[श्री सिंहासन सिंह]

करने से डरेंगे, क्योंकि सेवा-मुक्ति काल में भी उनको कम से कम पचास फ़ीसदी वेतन देना होगा ।

लेकिन इस में जो दो प्रोवाइज़ो लगा दिये गये हैं, उनसे ये दोनों सुविधायें वापिस ले ली गई हैं । इस तरह एक हाथ से यह दिखलाया जा रहा है कि हम लेबर को ये ये सुविधायें दे रहे हैं और दूसरे हाथ से पूंजीपतियों और उन संस्थाओं को, जो कि मजदूर या कारकुन रखती हैं, यह अधिकार दिया जा रहा है कि वे कोई मुख्तिदा, अनुबन्ध या कान्ट्रेक्ट लिखा लें और उस के आधार पर वे जो चाहें करें, क्योंकि उस हालत में उन पर ये व्यवस्थायें लागू नहीं होंगी ।

जो मंत्री महोदय इस विधेयक को ला रहे हैं, वह खुद मजदूरों के काफी बड़े नेता रह चुके हैं । अगर उन के जरिये यह सदन इन प्रोवाइज़ों सहित इस विधेयक को पास कर दे, तो मैं कहना चाहता हूं कि उसके बाद से आफ की कोई प्राबलम नहीं उठेगी, किसी मजदूर को कम्पेन्सेशन नहीं मिलेगा । शायद ही किसी मजदूर की पूरे साल भर की नौकरी हो पायेगी । इसलिये मंत्री महोदय बारह महीने की लगातार नौकरी होने के बाद जो अधिकार मजदूरों को दे रहे हैं उस से वे वंचित हो जायेंगे ।

इस प्रोवाइज़ों में लिखा है :

"Provided that if during any period of twelve months, a workman is so laid off for more than forty-five days, no such compensation shall be payable in respect of any period of the lay off after the expiry of the first forty-five days, if there is an agreement to that effect between the workman and the employer:"

आज देश में बेकारों की संख्या कितनी है, इसको आप जानते ही हैं । करोड़ों में उसकी संख्या है । हर एक आदमी नौकरी के लिये दौड़-धूप कर रहा है। वह यही चाहता है कि उसको करने के लिये काम मिले । अभी मेरे पूर्व वक्ता ने कहा कि रेलवे में कैज्युअल वर्कर के नाम पर लाखों आदमी काम करते हैं जिन को डेढ़ रुपया रोज मिलता है, 45 रुपया महीना मिलता है । यही लोग जब चतुर्थ श्रेणी के हो जाते हैं तो गवर्नमेंट के कानून के अनुसार, गवर्नमेंट के आदेशों के अनुसार उनको 80-85 रुपया महीना मिलने लग जाता है । परिणाम यह होता है कि ज्यादातर ऐसे आदमियों को ले लिया जाता है जो कैज्युअल वर्कर के तौर पर काम करना स्वीकार कर लेते हैं । तीन महीने के बाद एक को हटा दिया जाता है । वह बैठा जाता है । फिर तीन महीने के बाद दूसरे को लगा लिया जाता है और यह लाइन चलती जाती है । एक साल भर लगातार होने की कभी नौबत ही नहीं आती है । वह आदमी कैज्युअल का कैज्युअल वर्षों तक चलता जाता है । किसी को दस दिन के लिये हटा दिया, किसी को बीस दिन के लिये हटा दिया यह चीज़ चलती रहती है । काम हो रहा होता है लेकिन फिर भी हटा दिया जाता है । एक काम खत्म हो जाता है और दूसरा शुरू हो जाता है तो किया यह जाता है कि पहले आदमियों को हटा दिया जाता है और नये आदमियों को लगा लिया जाता है । कैज्युअल वर्कर के तौर पर यह परम्परा चली आती है । वह कभी रेलवे में जो दूसरे वर्कर हैं उनके समकक्ष नहीं आ पाता है । रेलवे का काम खत्म हो जाए या किसी ऐसी दूसरी संस्था का काम खत्म हो जाये तब तो यह चीज़ भी समझ में आती है कि उसको अलग कर दिया जाये । लेकिन जब काम चालू है तो क्यों उसको बारह महीने पूरे करने का अवसर नहीं दिया जाता है । यह यह अवधि पूरी न करने पाये इसलिए उसको अलग कर दिया जाये तो यह ठीक नहीं

है। यही व्यवस्था आप यहां करने जा रहे हैं। कोई भी मालिक यह लिखा लेगा कि अगर 45 दिन बाद वह गैर-हाजिर होता है किसी भी कारण से, तो उसे यह अधिकार होगा कि निकाल दे, हटा दे। दूसरी प्राविसो में यह कहां गया है :

"Provided further that it shall be lawful for the employer in any case falling within the foregoing proviso to retrench the workman in accordance with the provisions contained in section 25F at any time after the expiry of the first forty-five days of the lay off and when he does so, any compensation paid to the workman . . . may be set off . . ."

प्रथम 45 दिन तो काउंट नहीं होंगे और फिर 45–45 करके एक साल पूरा नहीं होगा। यह जो वर्ड कंटिन्युअस है बारिंग गजेटिड हालिडेज, यह कभी भी कंटिन्युअस नहीं हो पायेगा। यह टूट सकता है। उसके बाद कुछ नहीं मिलेगा। वह उनको बीच में रिट्रेंच कर देगा, उसको सैट आफ कर देगा। आप समझें कि इस तरह का कौन सा मालिक बेवकूफ होगा जो दिये हुये अधिकार का उपयोग नहीं करेगा या इस अधिकार का अपने लिये सदुपयोग नहीं करेगा और मजदूरों के लिये इसका दुरुपयोग नहीं करेगा। हर एक मालिक अब इसके अंदर यही करेगा। चूंकि बेकारी बहुत है, कि गरीब मजदूर से जोकि नौकरी करने के लिये मजदूर है, काम करने के लिये मजबूर है, शर्तनामा लिखा ले और वह लिख देगा और इस तरह से शर्तनामों की भरमार होगी और कोई मजदूर साल भर पूरा नहीं कर पायेगा। वह उसको साल भर पूरा करने नहीं देगा। आप ऐसी परम्परा ला रहे हैं कि हर एक व्यवसाय में हर एक कारखाने में हर एक जगह अब वह कन्युअल लेबर के तौर पर पड़ा रहेगा, वह मुस्तकिल नहीं हो पायेगा। यह जो भी है यह विचारणीय है। मैं चाहता हूं कि जब आप जवाब दें तो यह भी बतायें कि इस तरह के प्राविजन को ला करके आप कैसे लेबर ला में सुधार कर रहे हैं। मंत्री महोदय जानते हैं कि 1952 से पार्लियामेंट चल रही है। तब से कितनी ही बार और कितने ही एमेंडमेंट लेबर डिसप्यूट्स के बारे में ला चुके हैं। मैं जानना चाहता हूं कि उनका परिणाम क्या हुआ है। इतने एमेंडमेंट्स होने के बाद लेबर की अवस्था में क्या सुधार हुआ है। पूंजीपतियों के व्यवहार में क्या सुधार हुआ है। अगर नहीं हुआ है तो सुधार लाने के लिये सरकार क्या उपाय सोचती है जो किये जाने चाहियें। आप समाजवाद का नारा लगाते है। मजदूरों और मालिकों में संघर्ष न हो, इसकी आप व्यवस्था करना चाहते हैं। मैं चाहता हूं कि आप कोई ऐसी व्यवस्था करें ताकि मजदूर भी दिल लगा कर काम करें और समझें कि यह मेरा कार्य है, यह मेरा कारखाना है और मालिक भी दिल से समझें कि जो काम करने वाला है वह उसका अपना ही आदमी है। ऐसी व्यवस्था अगर हो जाये तो झगड़े नहीं होंगे। अगर आप ऐसी व्यवस्था करना चाहते हैं तो आप मुनाफे में दोनों का हिस्सा रखें, मजदूरों का हिस्सा भी हो और मालिकों का भी हो। मालिक अपना कैपिटल लगाता है और मजदूर अपना श्रम लगाता है और दोनों जब मिलते हैं तब उत्पादन होता है। मालिक अपने कैपिटल का सूद पाता है और मजदूर जो काम करता है उसकी तनख्वाह पाता है। जो मुनाफा है वह दोनों को मिलना चाहिये। आज तो ज्यादा तर मुनाफा मालिक ले जाता है और बेचारे मजदूर को कुछ नहीं मिलता है।

मेरे पीछे पूंजीपति सेठ बैठे हुए हैं। सेठ जी बैठे हुए हैं इन्होंने एक किताब लिखी है "आदर्श शासन व्यवस्था"। इसके अन्दर इन्होंने लिखा है कि जब तक प्राफिट

[श्री सिंहासन सिंह]

जो है, मुनाफा जो है उसका दोनों में बटवारा नहीं होगा तब तक ये झगड़े खत्म नहीं होंगे, तब तक ये झगड़े चलते रहेंगे । यह इनका अनुभव है जोकि खुद पूंजीपति हैं, जोकि खुद मिल मालिक हैं । जब एक कैपिटलिस्ट का यह अनुभव है कि जब तक प्राफिट शेयर नहीं होगा, मुनाफे का दोनों में ठीक ठीक बटवारा नहीं होगा तब तक झगड़े चलते रहेंगे, तो इसके बारे में आपको चाहिये कि आप गम्भीरता से सोचें । जब झगड़े नही होंगें तो देश का उत्पादन भी बढ़ेगा और देश को लाभ होगा । इस वास्ते मजदूरों और मालिकों के बीच में झगड़े की जो जड़ है उसको आप दूर करें। समाजवाद में तो प्राफिट शेयरिंग की व्यवस्था होती है, पंजीवादी व्यवस्था मे अगर यह व्यवस्था हो जाए तो बहुत अच्छा हो जब आप ऐसा नहीं करते हैं तब तक झगड़े रहेंगे ही ।

कानून जो आप बनाते हैं वे अपने सैक्रेटरीज की सलाह से बानाते हैं । हमरा दुर्भाग्य यह है कि हम कितना भी उनका विरोध करें, वे पास हो ही जाते हैं । अगर हम कोई संशोधन देते हैं तो जब तक सैक्रेटरी न कहे, मजर ही नहीं होता है ।

श्री सुरेन्द्र नाथ द्विवेदी (केन्द्रपाड़ा) : पास होने में आप मदद करते हैं । तो फिर आप विरोध क्यों करते हैं ?

श्री सिंहासन सिंह : अगर वोट हो तो मैं खिलाफ करूंगा । यह हिम्मत तो मैं कर सकता हूं । लेकिन उसके बावजूद भी यह पास हो ही जाएगा । गोजर के हजार पैर होते हैं, एक टूट भीजाये तो कुछ बिगड़ता नहीं है । अगर मैं इसके विरोध में भी वोट करूं तो भी यह पास हो ही जाएगा । मुझे दुख है कि ये हर काम सैक्रेटरी से पूछ कर ही करते हैं । अगर वे कहेंगे तब तो ये उसको कबूल कर लेंगे और कहेंगे कि न किया जाए तो नहीं होगा ।

श्री सुरेन्द्र नाथ द्विवेदी : ब्यूरोक्रेट्स की एडमिनिस्ट्रेशन हैं ।

श्री सिंहासन सिंह : ब्यूरोक्रेट्स की तो है ही लेकिन उनके साथ पूंजीपति भी मिले हुए हैं । एडमिनिस्ट्रेशन जिस प्राविजन को लाने के लिए कहती है उसी को ये ला सकते हैं, दूसरी को नहीं ला सकते हैं । मैं चहाता हूं कि मंत्री महोदय ईमानदारी के साथ इस पर सोच विचार करें । वह बड़े लेबर के हितैषी हैं । हमारे संजीवैया साहब भी है । वे विचार करें इस चीज पर । इसको राज्य सभा ने तो पास कर दिया है । वह तो राजाओं की सभा है । लोक सभा में तो गरीब जनता के प्रतिनिधि हैं और गरीबों का ही यह प्रतिनिधित्व करती है । मैं चाहता हूं हूं कि एक बार फिर इसको पास कलरवाने से पहले वे विचार करें । अगर उन प्राविजंड को निकाल दें तब तो उनकी एमेंडमेंट्स में कुछ सार रह सकता है, वर्ना नहीं । उनके रहते हुए कोई सार नहीं रह सकता है ।

सभापति महोदय : श्री हुकम चन्द कछवाय ।

श्री हुकम चन्द कछवाय : सभापति महोदय, इसके पहले कि मैं शुरू करूं, मैं एक व्यवस्था का प्रश्न उठाना चाहता हूं । इस समय सदन में गणपूर्ति नहीं है । इसके पहले कि मैं बोलना शुरू करूं, गणपूर्ति हो जानी चाहिये ।

सभापति महोदय : घंटी बज रही है..... अब कोरम हो गया है । माननीय सदस्य आरम्भ करें ।

श्री हुकम चन्द कछवाय : सभापति महोदय, मैं इस बिल का समर्थन करता हूं परन्तु इस सम्बन्ध में दो चार बातें कहना चाहता हूं । इस बिल के अनुसार हवाई जहाज कर्मचारियों के ऊपर औद्योगिक विवाद अधिनियम जो लागू किया जा रहा है यह बहुत अच्छी बात है । लेकिन इस को बहुत दिन

पहले लागू किया जाना चाहिये था । इस मामले में हमारी सरकार काफी दिन पिछड़ गई है ।

इस विधेयक में यह सहूलियत दी गई है कि कोई भी कर्मचारी अपना झगड़ा कोर्ट में ले जा सकता है जब कि पहले यह व्यवस्था थी कि कोई भी कर्मचारी अपने केस को, अपने मुकदमे या विवाद को व्यक्तिगत रूप से नहीं ले जा सकता था, किसी यूनियन के द्वारा ही वह जा सकता था । यह जो छूट आप ने दी है यह बड़ी अच्छी बात है । इस सम्बन्ध में मैं मध्य प्रदेश का उदाहरण देना चाहता हूं । मेरा आरोप है कि मध्य प्रदेश में जितने भी लेबर जज हैं उन के द्वारा मजदूरों के हकों के बारे में कभी भी वाजिब फैसला नहीं होता । इस का प्रमुख कारण यह है कि मध्य प्रदेश में जितने भी लेबर जज हैं, वे मालिकों से बंधे हुए हैं । इस लिये मैं आपके द्वारा सरकार से निवेदन करना चाहता हूं कि जितने भी लेबर कोर्ट हैं उन को समाप्त कर के इन केसेज को सिवल जज या हाई कोर्ट में भेजना चाहिए ।

मजदूरों की जो जमात है उन पर मालिकों द्वारा जो आरोप लगाये जाते हैं या जो केस उन पर लाये जाते हैं उनमें एक बात देखने को मिली । किसी और प्रदेश में यह बात है या नहीं यह मैं नहीं जानता हूं क्योंकि भिन्न भिन्न प्रदेशों में अलग अलग प्रकार के नियम हैं । किन्तु मध्य प्रदेश में यदि किसी मजदूर से कोई अपराध हो जाये तो उस का जो बयान वहां के लेबर आफिसर या मैनेजर के सामने होता है उसे को ही कोर्ट में माना जाता है । वहां पर उस का बयान पुनः नहीं होता है । मेरा यह कहना है कि इन बयानों को रद्द कर के मजदुर कोर्ट में जो बयान दे उस पर विचार होना चाहिये ।

आप ने कहा है कि जहां तक 'ले आफ' की बात है 45 दिन के बाद अगर 46 वें दिन से आगे कोई मजदुर घर बैठे तो उसे ले आफ नहीं मिलेगा, लेकिन अगर मालिक और मजदूरों में कोई समझौता हो जाय तो यह बात हो सकती है । मैं किस का विरोध करता हूं और कहता हूं कि मजदूरों से आप चाहें जैसा समझौता कर सकते हैं क्योंकि मजदूर तो केवल यह चाहता है कि उसे काम मिलना चाहिये । मजदूर की उंगली दबी होती है, वह मजबूर होता है । इस लिये अपना पेट भरने के लिये वह किसी प्रकार के समझौते पर हस्ताक्षर कर सकता है । आप को पता है कि मजदूर कितना अनपढ़ और कितना अज्ञानी होता है । उदाहरण के तौर पर मैं मध्य प्रदेश के कोयला खदानों या बागानों के मजदूरों की बात कहता हूं । वह बिल्कुल अज्ञानी होते हैं । उन को अपने हकों के बारे में कोई ज्ञान नहीं होता है और वह किसी प्रकार के भी दस्तावेज पर हस्ताक्षर कर सकते हैं । मालिक उन से दस्तावेज लिखवा कर अपने पास रख लेता है और उन पर लागू कर देता है चाहे समझौता कैसा भी हो, यह गैरकानूनी चीज है इस को गैर कानूनी ही माना जाना चाहिये, और इस को समाप्त किया जाना चाहिये ।

आपने मजदूरों को जो यह हक दिया है कि वह अपना केस खुद ले जा सकते हैं इससे एक बात तो होगी कि हमारे देश के अन्दर आई० एन० टी० यू० सी० की जो ठेकेदारी बन गई है इस कानून से उस को धक्का लगेगा और उन की ठेकेदारी समाप्त होगी क्योंकि अभी तक यह कानून था कि बिना किसी मान्यता प्राप्त यूनियन के वह अपना केस कोर्ट में नहीं ले जा सकते थे । इस सम्बन्ध में आप बहुत दिनों बाद जगे हैं लेकिन फिर भी जगे तो हैं । अगर यह विधेयक पहले आ जाता तो जो बहुत सी बुराइयां पैदा हुई हैं वह न पैदा होती । इसलिये मैं इस बारे में इस विधेयक का हृदय से स्वागत करता हूं ।

आपने जो आगे चल कर कहा है कि अगर कोई मालिक अपराध करेगा और अपराध के दंड स्वरूप अगर उस को सजा होगी

[श्री हुकम चंद कछवाय]

तो वह ज्यादा से ज्यादा 200 रु० जुर्माने की होगी । इसके बारे में मैं बतलाना चाहता हूं कि पहले यह प्रथा थी कि अगर मालिक एक बार अपराध करता था तो वह रुपया देकर सजा भुगत लेता था ? उस के बाद उसके कामों पर कोई रोक नहीं थी । जो अपराध वह करता था उसका कोई हिसाब किताब नहीं था । लेकिन अब ऐसा नहीं होगा । फैसला होने के बाद यदि वह अपराध करता है तो प्रतिदिन ज्यादा से ज्यादा दंड जो उसे दिया जा सकता है वह 200 रु० होगा । इन 200 रु० की जगह कम से कम 1 हजार और ज्यादा से ज्यादा 10,000 रु० होना चाहिये और इसका पालन भी होना चाहिये ।

जब आपने हवाई जहाज के कर्मचारियों के सम्बन्ध में इस अधिनियम को लागू किया है तो मैं एक बात कहना चाहता हूं कि जो अस्पताल के कर्मचारी हैं आखिर उन्होंने क्या अपराध किया है ? आप उन के बारे में विचार क्यों नहीं करते ? अस्पताल एक ऐसा क्षेत्र है जहां के लोग हड़ताल नहीं कर सकते, अपनी मांग नहीं रख सकते हैं, जुलूस नहीं निकाल सकते हैं । अगर अस्पताल के कर्मचारी ऐसा करें तो वह बड़े भारी दोषी होंगे । इसलिये मैं सरकार से निवेदन करना चाहता हूं कि वह इसके लिये कोई भी कदम उठाये और अस्पताल के कर्मचारियों को यह अधिकार दे ।

जहां तक शिक्षा संस्थाओं का सम्बन्ध है, चाहे वह सरकारी हों या गैर-सरकारी, या विश्वविद्यालय हों, उन सब के बारे में सरकार को विशेष ढंग से कदम उठाना चाहिये और उन लोगों के पर भी इस को लाग करना चाहिये । जहां तक होटलों का सवाल है, वहां के कर्मचारियों या नगरपालिकाओं के कर्मचारियों की भी बड़ी भारी समस्या है । इसलिये सरकार जो छोटे छोटे टुकड़ों में यहां बार बार विधेयक लाती है, यह बहुत गलत है । उसको एक बार पूर्णतया विचार कर लेना चाहिये और उस के बाद विधेयक लाना चाहिय मैं नहीं कहता कि वह जल्दी करे । भले ही एक साल के बाद लाये लेकिन सब विषयों पर विचार करके चाहे खेत मजदूर हों, चाहे बीड़ी मजदूर हों चाहे कोयला खदान मजदूर हों या बागान मजदूर हों सब प्रकार के मजदूर के सम्बन्ध में गम्भीरता से विचार करके यहां पर इकट्ठा संशोधन विधेयक पेश करे ताकि हम उस पर विचार कर सकें ।

जहां तक बदली पास वालों का सवाल है मैं जानता हूं कि लोगों को एक एक साल काम करने के बाद हटाया गया और कई मुआवजा हुए दिए ही । मैं [illegible] के द्वारा मंत्री जी का ध्यान दिलाना चाहता हूं कि मैं स्वयम् एक कपड़ा मिल मजदूर हूं । वहां पर किस तरह से मालिक लोग मजदूरों को साल भर काम करने देते हैं इस का उदाहरण मैं बतलाता हूं । मान लीजिये कि किसी को किसी बदली पास में लिया गया है । अगर वह एक महीने के लिये है तो एक महीने काम करने के बाद उसे हटा दिया जाता है । चार रोज तक वह घर बैठता है और उसके बाद फिर उस की शुरुआत हो जाती है । बदली पास एक महीने के लिये हो ता है । इस तरह से लोगों को काम करते करते लोगों को दस दस और बारह बारह साल हो गये हैं और वह टम्पोरेरी बने रहते हैं और बदली में काम करते जाते हैं । बदली कर्मचारी रेलवे में भी होते हैं । नगरपालिकाओं में भी होते हैं । सभी क्षेत्रों में बदली में काम करने वाले लोग हैं । आप जरा गौर तो कीजिए कि कितने व्यक्तियों को इस तरह से काम मिलता है ? कई व्यक्तियों को बड़ी कठिनाई में काम लिया है, कईयों को इस प्रकार काम करते करते सालों बीत जाते हैं ।

मैं इस सम्बन्ध में एक बात और कहना चाहता हूं कि किसी भी फैक्ट्री में कोई विवाद खड़ा हो जाये, जो इन्सपेक्टर वहां जांच करने जाता है वह मालिकों के यहां चाय पीता है । मेरा आरोप यह है कि इसलिये वह उन के

हक में ड्राफ्ट देता है । मुझको यह बात अनुभव के आधार पर मालूम है।

मंत्री महोदय से मैंने पिछली बार भी कहा था और आज फिर दोहराता हूं कि इस प्रकार के जो नियम हैं वह एक ठेकेदारी प्रथा कायम करते हैं । इसको समाप्त करके हर उद्योग के अन्दर, हर कारखाने के अन्दर, यनिवर्सिटीयों में इसे लागू होना चाहिये । हर उत्पादन में मजदूर भागीदार होना चाहिये । जब तक वह भागीदार नहीं होता, वह मेहनत के साथ और रुचि के साथ उसमें काम नहीं कर सकता ।

मैं एक बात और कहना चाहता हूं । शायद मालिक सोचते हैं कि वह पूंजी लगाते हैं इसलिए मालिक हैं । लेकिन मालिक को यह नहीं भूलना चाहिए कि उसने पूंजी लगायी है पैसे की, हम पूंजी लगाते हैं पसीने की । उसकी पूंजी पैसे की है और हमारी पूंजी पसीने की है । दोनों समान हैं । तो इन दोनों को ध्यान में रखते हुए इस सम्बन्ध में विचार करना चाहिए । मेरा माननीय मंत्री महोदय से निवेदन है कि मैंने जो हवाले दिए हैं उन पर विचार करके मेरे प्रश्न का उत्तर दें ।

Mr. Chairman: Shri Warior, I request the hon. Member to take not more than seven minutes. If he finishes within five minutes, it will be good.

Shri Warior: It is not a question of minutes; there are very important things to be referred to. Although the provisions of the Bill are only a few, they cover very many people. So, it is very important. First of all, my opinion is that when a legislation of this sort has been brought forward, it must have some reflection of the actual realities that obtain in this country. Apart from that, if it is an abstract piece of legislation, I do not mind. It is a universally accepted maxim that whenever a piece of social legislation is brought forward, it must have some reflection, at least a distant reflection, of the actual realities that obtain in this country. The Government speaks about badli workers. I think many of our hon. Members do not even know who is a badli worker. There are so many categories, according to the legislation, in respect of the workers. There are permanent workers; then there are badli workers, who take up jobs then and there when the permanent worker is absent. This is to cover absentees or the absence of those who take leave. Then there are the casual workers; there are trainees; there are those who are called optionals. All sorts of categories or categorisation are there. In this legislation, we are only covering the badlies as far as the first amendment is concerned.

There are certain factories employing power, where there is not a single permanent worker designated as such. All are badlies. I know from my own experience in my own town in the workshops, the engineering workshops there, there are certain cases where the employers employ two or three lathes and who do not at all register their factories and the work done in them. They consider the factories just like their own kitchens. They consider it as their kitchen affair! Take for instance, the plantations. The Minister also should take note of that. Even in the organised plantations—leave alone the unorganised plantations—and the plantation industries, managed by European companies like Harrison and Crosfield, who own large tracts of land in the Western Ghats, there is not a single estate in which they have taken any decision that there should be so many permanent workers and so many badli workers. Throughout all these years, they know what is the permanent nature of the work; they know how much should be the complement; but

[Shri Warior]

they never employ the permanent complement. Suppose there is an estate of so many acres having so many trees, and the industry is a pucca, organised industry, they know that there should be so many tappers, so many weeders, and so many oilers and other workers. They know that. But they never have a register or a muster-roll wherein they can show that so many permanent workers are always permanent or at least so much of the quota or the quantum of the number of workers are always permanent and those posts are always filled up. The list is always in arrears. Suppose an estate should have a thousand workers on its permanent staff, or on the permanent muster-roll, suppose it is so, what action will this Government take to see that that institution fulfils that requirement? Actually, they are left with only 500 or 700 workers and the rest, which constitutes a huge number of workers, is left as badli workers. That is the actual reality.

Therefore, the first point is to see that every organised industry at least, whether it uses power or not, such as an organised plantation, industry, they must have a permanent list of permanent workers, and the number of permanent workers must be statutorily provided in these industries. Then only the badli workers have their first protection.

Then there are casual workers; many people do not know what is happening. You will be amazed, Mr. Chairman, that in this year of our Lord, 1965, there are casual workers who are called casual workers simply because on the last day of the sixth month, for one day, 24 hours, they are kept out of the rolls and then they are re-employed. They might continue to satisfy the provision of 240 days in a calendar year, but there is a break in the sixth month. Suppose on June 30th, a worker is discharged for that day, and on July 1st, he is re-employed, and he is considered as a casual labourer, what do you think of it? On that particular day, he is unemployed. See the mockery of the whole thing. He is employed for almost six months; he is working as a gang cooly, but on that particular day, 30th June, he is under the category of casual workers. As my hon. friend Shri Priya Gupta has said, he is paid only Rs. 1.25 or Rs. 1.50 or so for that particular day. Actually, on the previous day and on the next day, he is getting about Rs. 4 a day; it is the very same worker who gets like that. This arrangement continues for 9 10 or 11 years. But the worker is sticking there owing to the conditions. One is, the cheapest market in India today, and it has been so for so many years, is the labour market. Although the prices are rising, the labour market continues to be the cheapest. Secondly, this glut in the labour market is exploited not only by private profiteers and private individuals and entrepreneurs but also by the socialistic government. I wish that this tall talk of socialism is left in cold storage for sometime so that the rights of the workers may be protected during that period!

Why should they speak of socialism so much? We have nothing to do with socialism. We have not even any distant relationship with socialists. But in this country, have we not come to a time where the Government and the people should see that the workers' rights are protected at least to the minimum? The investors' rights are always protected. Tomorrow a Bill is coming in that respect; it is a shame on this country; when our jawans are dying, the hoarders of gold are being given so many concessions and not even a living wage, let alone a fair wage, is given to these workers. And the Government is bringing forward this legislation to implement the aspirations of the workers. Then, like a stingy miser, so many provisions are there. I ask the Government and the Minister, what is the meaning of this word

"workman"? What is this word used in the singular? It speaks of "workman and his employer".

Shri Priya Gupta: Why not the union?

Shri Warior: No. They would not. I ask the Government: give a stick more, a long *danda* to the employers to beat all other workers with, those workers who insist that they will not sign the agreement. Then, that will be much more helpful to the employers. In this country, where there is so much of competition for living, for earning a livelihood, to take out their daily bread, do you think that a worker will not succumb to this? All right. You want a job; give that, and you lick my boots. Even licking of boots will be done in this country because the people are poor and are unemployed. The unemployment is so much that you might give such a provision as well. Well, I am not developing that argument. But I think that even in this year of our Lord, 1965, to bring such a legislation with such a loophole or lacuna is a shame on the part of this Government who have brought forward such a measure before this august House.

Now, my hon. friend Shri Indrajit Gupta has dealt with the provision about the fine imposed on the employer. Of course, only after conviction, the defaulting employer will have to pay the fine. But what about the dues of the workers? Will the workers' dues be recovered from the employers through the Land Revenue Recovery Act?

Shri R. K. Malviya: That is the provision.

Shri Warior: Where is that provision?

Shri R. K. Malviya: In the Industrial Disputes Act.

Shri Warior: If that is the provision there, it is not here. If there is a provision, it must be explicitly stated. Government is very keen to recover its dues and fines, but not so keen, so far as this legislation goes at least, to recover the workers' dues. The minister himself knows the labour problems what are the stumbling blocks, what is the actual practice, what our workers are getting, what they are denied, etc. But he is in a particular position and he cannot . . .

16 hrs.

Shri R. K. Malviya: This provision is already there; it need not be repeated in every amendment.

Shri Warior: It may be there, but in actual practice, workers are not getting their dues in time.

Shri Priya Gupta: Another court case for that!

Shri Warior: I support all those who have proposed that a comprehensive legislation must be brought. There are the conciliation boards. But employers do not turn up on the summons. The District Labour Officer sits there and we are all there punctually at 11. But the employer sends a letter to the District Collector saying his life is in danger and there is a chance of his being molested in the labour office or nearabout, and he never appears. There is no provision at all to summon him or to issue a warrant against him.

When we discuss the lay off question, what is the implicit meaning enshrined in the parent Act? There is a mill. Something goes wrong with the machinery; some accidents occur or a boiler bursts. There is electricity cut. Such other contingencies are there. This is expected to be of a very temporary nature, not beyond 45 days. After that also, if the machinery is irreparable, the mill has to close down and workers will be retrenched. It is not that for 45 days they are given free meals, half the wages are given and so on. Except in Bombay, Calcutta and some big towns, even in urban areas, these

[Shri Warior]

workers come 6 or 10 miles walking in the early morning. When they come to the gates, their names are noted down in the muster roll and they are sent back. If the company blows a whistle, all of a sudden the workers have to come. They are treated like bolts on the door. If I want, I will bolt the door or if I do not want, I will release it.

After 45 days, the workers should be given all retrenchment benefits. Why should the government be stingy about that? This half wage for 45 days is not given out of gratis; it is earned wage. The workers are there. Whether he works or not is not dependent on him; it depends on other circumstances, which I have explained. Suppose a mill has no raw materials. How can you penalise the workers? That is why lay off is provided. For no fault of the worker, there is stoppage of the concern. It goes on for 45 days. Then if it becomes difficult to run it, there are other provisions for the government taking over the mills. But government is very reluctant to do it. There are textile mills run by a Coimbatore magnate in Trichur. For how many days they have been closed! After 45 days, they say, lock-out. Thousands of workers are employed there.

The question of bonus issue is there. As soon as this bonus enactment was passed by Parliament, before it was sent for Presidential assent, mills began to close down. As Mr. Manubhai Shah explained, there is a gult in the market.

Mr. Chairman: He should conclude now.

Shri Warior: This is very important.

Mr. Chairman: I am not saying this is not important, but within the given time he has to complete his speech.

Shri Warior: I am not repeating anything. I am simply giving instance after instance, with the 35 years of experience I have in trade unionism.

Mr. Chairman: He may conclude in two minutes.

Shri Warior: I request you to be patient with me. There is enough time till five o'clock and we are prepared to sit for more time also.

Shri Kapur Singh (Ludhiana): Madam Chairman, if I have been able to understand my hon. friend correctly, his main grievance seems to be that this Bill ought not to have been introduced in the year of our Lord, 1965. Let it wait till the next year.

Mr. Chairman: He is capable of defending himself.

Shri Warior: Mr. Kapur Singh can expound my cause if I give him a *vakalat*. But I have not given him a *vakalat*. I will expound my own cause.

When this bonus question came up, the mills took advantage of that, kicked up a dispute and closed down. Actually, the South Indian Mill-owners' Association, in their meeting, passed a resolution to cut down the shifts in the cotton mills. Why not they say straightway, "Look here. We have stocks which are not lifted. We have no money. The Reserve Bank has squeezed our credit. We cannot run the mills." Why not say so? Water flows down only, not up. The worker is down and naturally they want to get on the shoulders of the workers. They kicked up the subterfuge of bonus question and closed down. When wage boards give awards, the same practices are adopted to defeat the wage boards. All sorts of disputes can be kicked up by the employers. If the government also falls a victim to that and tries to justify them, where can the workers go for protection?

I think these realities must be taken into consideration. All those things which had been taken up in the tripartite labour conference must be taken into consideration before government brings up a comprehensive labour legislation to give protection to the workers. Then only this Bill will in proper order. Otherwise, the draft itself is wrong.

Shri V. B. Gandhi (Bombay Central South): I welcome this Bill . . .

श्री हुकम चन्द कछवाय : सभापति महोदय, इस समय सदन में गणपूर्ति नहीं है।

Mr. Chairman: He may resume his seat. The bell is being rung.

There is quorum now. The hon. Member, Shri Gandhi, may proceed.

Shri V. B. Gandhi: Madam, this is a good measure, more good than otherwise. I will also say that we have noted the observation of the hon. Deputy Minister that the provisions such as have been incorporated in the Bill have been recommended by the Standing Labour Committee. I promise we shall pay due weight to the recommendations of the Standing Labour Committee, but I also promise that we shall try to place before the House other views when we are not fully convinced that the provisions in the Bill are really suitable for our purposes.

It is provided in this Bill that the two corporations, the Indian Airlines Corporation and the Air India Corporation, should be brought within the sphere of the Central Government. That is a good step, a logical step, and the wonder is that we did not think of it earlier. Such a step will help better regulation of the industrial relations in these corporations.

Now I will come to a really very important point and that is about the provisions in clause 3. In clause 3 we insert a new section, Section 2A. In this section we provide that a dispute between an individual workman and his employer shall be deemed to be an industrial dispute. It will not be necessary to have it sponsored by any trade union or supported by a number of workmen as it used to be before this provision came into force. That, Madam, is considered to be a gain for labour. Many in this House have held it as a gain for labour. Probably, it is so; I do not doubt it. But, at the same time, we must not forget that there are other views on this subject as to whether by granting this status of an industrial dispute to a dispute between an individual worker and his employer we are really helping the larger cause of trade union strength, the larger cause of decision by collective bargaining. We really ought not to treat some of these other aspects lightly. For instance, we remember that there has been a judgment of the Supreme Court in the case of the workers of Messrs. Dharampal Premchand versus the employers' firm. In that judgment the Supreme Court has opined that in the absence of a limitation that the dispute should be supported either by a union or by a number of workers claims for reference may be made frivolously and unreasonably by dismissed employees and that it would be undesirable to allow such claims. The view of the Supreme Court on a matter like this, in my opinion, is entitled to some respect and serious consideration by us. The judgment further expressed the fear that in the absence of a limitation that the dispute should be supported by these other conditions there will be claims for reference to be made to courts in a frivolous way.

Finally, I would say that we might examine this aspect later or on some other occasion when we shall be considering amending this Act. In the meantime we shall have gained some experience with the present proposed provisions of this Bill.

[Shri V. B. Gandhi.]

Only one more point I want to make and it is about the right of compensation for workers who are laid off. We are providing that compensation will be paid to workmen not only for the first 45 days but also for the other periods during a year irrespective of whether the lay off is continuous or intermittent. That is a good thing. That is a gain for labour and that is provided in the first paragraph of section 25C. But in the very next paragraph we see that there is this proviso which says that if a workman is laid off for more than 45 days no compensation shall be payable in respect of any period of the lay off after the expiry of the first 45 days if there is an agreement to that effect between the workman and the employer. A lot has been said about this. What precious chance has an individual workman to deal with an employer on anything like equal terms in a situation like this. After all, we all know the position as it stands. If section 25C gives the right to be paid compensation, as we have seen, the next proviso seriously modifies that right.

We know that our labour legislation cannot be based theoretically on what is good for workmen only but we have to balance it with the consideration, at the same time, of what is economically possible or good for the industry. Even granting that there is this need for taking such a balanced view, I feel that it is time that we insert a little more of clearer direction in the coming labour legislation.

श्री विशनचन्द्र से (एटा): आदरणीय सभापति महोदया मुझे मंत्री महोदय से केवल एक बात कहनी है कि आज इस समय देश में उत्पादन की कमी है और इस कारण हमारे देश को दूसरे देश के सामने हतप्रभ होना पड़ रहा है। इस का मुख्य कारण यह है कि जितनी मशीनों की कैपेसिटी हमारे देश में लगी है उस का पूरा उपयोग नहीं हो रहा है। जैसा कि मेरे एक आदरणीय मित्र ने कहा मैंने एक पुस्तक लिखी है और उसमें उत्पादन के कुछ उपाय अपनी प्रक्टिकल नालिज से लिये हैं। उसमें मैंने बताया है कि जितने भी संस्थान हैं, जिनमें पचास से अधिक आदमी काम करते हैं उनमें वरकर की साझेदारी कर देनी चाहिये। एसा करने का नतीजा यह होगा कि काम करने का वरकर का उत्साह बढ़ जायेगा लेकिन ऐसा नहीं किया जाता और आप नये नये कानून लाते हैं जोकि अधूरे होते हैं। अगर व पूरे होते तो पुनः पुनः विधान में परिवर्तन करने की आपको आवश्यकता नहीं होता। फलत एक अंग को संभालते हैं तो दूसरा खराब हो जाता है।

मेरा केवल यही निवेदन है कि यह पूरे देश का प्रश्न है, उसमें जल्दी करने की आवश्यकता नहीं है। आप इस प्रश्न पर गंभीरता से विचार पुनः करें जितने भी देश में संस्थान हैं चाहे मिलें या कोई भी दूसरे इंस्टीट्यूशन हों, सरकारी या गैर-सरकारी हों उन सबमें काम करने वालों की साझेदारी कर दीजिये। अगर आप चाहेंगे तो मैं अपने विचार आपको पूरे डिटल में दूंगा। इस वक्त तो मैंने केवल दो मिनट समय मांगा है और दो मिनट में ही समाप्त कर दूंगा। अगर आप साझेदारी नहीं लाते तो मजदूर और मालिक के बीच में एक खाई सदैव बनी रहती है।

मैं एक छोटा मोटा स्वतः व्यवसायी हूं। यदि इस समय आप मेरी बातों को मान्यता न दें तो मेरा सुझाव है कि इस कानून को कुछ समय के लिये रहने दीजिये और गंभीरता से विचार करने के बाद ऐसा कानून बनाइये जिसे सारा देश मंजूर करे। इस प्रकार छोटे छोटे

टुकड़ों में कानून पास करना उचित नहीं है। बस मेरा इतना ही निवेदन है।

श्री गौरी शंकर कक्कड़ (फ़तेहपुर) : मुझे इसका आश्चर्य होता है कि एक सरकार जिसने संकल्प इस बात का लिया हो कि वह समाजवादी आर्थिक व्यवस्था देश में करेगी, जब कभी संशोधन इंडस्ट्रियल डिसप्यूट के बारे में लाती है तो यह देखा जाता है कि प्रायः बजाय मजदूरों को सुविधा देने के उनमें अधिकतर मिल मालिकान को ही सुविधा मिल जाती है, और इस प्रकार जो समाजवादी आर्थिक व्यवस्था है वह नहीं आ पाती।

मैं ज्यादा न कह कर केवल इतना कहना चाहता हूं कि जो संशोधन विधेयक हमारे सामने लाया गया है इसमें जो दो तीन धाराएं हैं उनको पढ़ने से साफ हो जाता है कि प्रयत्न इस बात का किया गया है कि अधिक लाभ मिल मालिकान को दिया जाये बजाय मजदूरों के। मेरी समझ में नहीं आता कि जब एक बार वर्कमैन की परिभाषा की गयी तो उसमें सभी वर्गों के काम करने वालों को क्यों नहीं शामिल किया गया, जैसे अस्पतालों के कर्मचारियों को, या एजूकेशनल इंस्टीट्यूशन्स के कर्मचारियों, अध्यापकों आदि को। उस परिभाषा को पूरी तफसील के साथ क्यों नहीं बनाया गया और उस चीज को अधूरा रखा गया।

दूसरी बात मुझे यह कहनी है कि अगर इस विधेयक की धारा 5 को पढ़ा जाये तो उससे आपको यह पता चलेगा कि कोशिश इस बात की गयी है कि दिखाने के लिये तो जो मजदूर हैं उनको लाभ दिया गया है, लेकिन एक हाथ से जो उनको लड्डू दिया गया है उसको दूसरे हाथ से छीनने की व्यवस्था की गयी है। मेरी समझ में नहीं आता कि किस प्रकार इस विधेयक से मजदूरों को लाभ पहुंचेगा। इसमें यह व्यवस्था की गयी है कि अगर मिल के मालिकान किसी प्रकार का मुआहिदा कर लें तो उनको उसका लाभ मिलेगा। मैं यकीन दिलाना चाहता हूं कि ऐसे देश में जहां कि बेरोजगारी इतनी अधिक है जहां लोग पढ़े लिखे नहीं हैं वे बड़ी आसानी से मिल मालिकान के शिकार हो सकते हैं और उनको इस प्रकार के कांट्रैक्ट में आसानी से बांधा जा सकता है।

इसी प्रकार जो पेनाल्टी क्लाज रखा गया है उसके बारे में जो सब से बड़ी चीज मुझे कहनी है वह यह है कि देखने को तो रिकरिंग फाइन की व्यवस्था की गयी है लेकिन जो पेनाल्टी की व्यवस्था इन कानूनों में की जाती है वह बिल्कुल बेकार रहती है इसलिये उसको लागू कराने का कोई अधिकार मजदूरों को नहीं होता। इस कारण यह पैनाल्टी इनफक्चुअस हो जाती है।

अंत में मैं कहूंगा कि ज्यादा अच्छा होता यदि मंत्री महोदय एक विधेयक ओवरहाल लाते जिसमें इस प्रकार के सारे कदम उठाये जाते कि जो भी मजदूर हैं उन सब को लाभ पहुंचता और उनका जीवन ऐसा बन जाता कि कहा जा सके कि वे वैलफेयर स्टेट में हैं।

श्री रा० स० तिवारी (खजुराहो) : सभापति महोदया, जो सुझाव समिति ने दिया है, उसे सरकार ने मान्यता दी है और उसके अनुसार यह बिल लाया गया है। इसकी मुझे बड़ी खुशी है।

मुझे यह निवेदन करना है कि मेरे कई साथियों ने कहा है कि इन कानूनों से मजदूरों को लाभ नहीं हो रहा है। लेकिन यह निश्चित है कि जैसे जैसे सुधार होते गए हैं वैसे वैसे कानून में सुधार होता गया है और कानून अच्छा बनता गया है।

[श्री रा० स० तिवारी]

इस विषय में मेरा निवेदन है कि यदि मुनाफे में मजदूरों की साझेदारी कर दी जाए तो बहुत अच्छा हो। खेती में भी इसको लागू किया जाना चाहिए। आज हालत यह है कि जिसके पास जमीन है वह अकेला उस पर काम नहीं कर सकता है, और जो काम करने वाले हैं उनके पास जमीन नहीं है। अगर खेती में मजदूरों की साझेदारी कर दी जाए तो मैं समझता हूं कि खेती की बहुत उन्नति हो सकती है। आधा हिस्सा मजदूर का हो जाएगा और आधा किसान को मिल जाएगा। इस प्रकार पुराने जमाने में होता था। खेती की जुताई बुवाई मजदूर करता था और आधा हिस्सा मजदूर को मिल जाता था और आधा किसान को मिलता था। इसी प्रकार इस नियम को कोयला खानों में लागू कर दिया जाए। मजदूर जो कोयला खोदे उस की कीमत का वैल्यूएशन करके उसका आधा मजदूर को दिया जाए और आधा मालिक को दिया जाए। इस प्रकार और कामों में भी साझेदारी कर दी जाए। अगर ऐसा कर दिया जाए तो मैं समझता हूं कि बार बार इस प्रकार के बिल लाने की आवश्यकता नहीं रहेगी और उत्पादन में किसी प्रकार की कमी नहीं होगी।

यही सुझाव मैं देना चाहता हूं।

Shri R. K. Malviya: Mr. Chairman, I am very thankful to the House for giving general support to the Bill and also for forwarding some points which have thrown a great light on the labour problems which the country is facing today.

This legislation is a very limited one, confined only to amendment of a few sections of the Industrial Disputes Act. The general policy of the Government is that whatever legislation is brought before the House, it is brought forward with the consent of the tripartite bodies which first take into consideration these points.

The House knows well that we have an Indian Labour Conference which is represented by labour consisting of all the parties, the four recognised Unions—Indian National Trade Union Congress, All India Trade Union Congress, Hind Mazdoor Sabha and the United Trade Union Congress. Almost all the big organisations of employers are represented on it. The public sector is also represented and the States too are represented. The Labour Ministers of States also participate in these conferences. All major decisions, at least those which are brought forward here in the form of Bills, are taken by them Conferences first. I may submit before the House that the amendments which have been brought forward here have been considered by the Indian Labour Conference. Though I must say that there is a lot to be done yet, it could not be done through this Bill and it will be difficult for me to accept any of the suggestions before they are accepted by the Indian Labour Conference.

There are important points which have been raised and they are always considered by this august body—I mean, the Indian Labour Conference. Shri Indrajit Gupta, who made out certain points, is himself a member of the Indian Labour Conference. He represented his party in the last Conference held towards the end of October. He can take the initiative and bring forward those points in the Conference for consideration. Whatever is decided by that Conference, the Government considers it and brings it up by way of legislation in the House.

Now I will reply to some of the points which have been raised by my hon. friends. The first point which has been raised by many of my hon. friends is that there should be a comprehensive piece of legislation. I am one with the hon. Members; but we are in a developing stage. Our industrialisation is proceeding ahead at a very fast rate. We are daily facing new problems. Therefore, we cannot make

a jump with regard to the enactment of the welfare legislation relating to the labour. For instance, we made a provision for the provident fund and we started with a contribution of 6 per cent. We have now increased it to 8 per cent in some industries. By and by, we will cover all the industries. Take, another instance where we have allowed certain privileges at present to the workmen who are getting Rs. 500. This wage limit may have to be increased. We have to do more by and by and problems like this will have to be solved by legislative amendments at short intervals. In this developing economy, we are required to watch the situation from day-to-day and whenever we are able to provide the slightest privilege to the workers, we have to come forward with an amendment. Even if a comprehensive legislation is made today, by consolidating all the amendments, it is not going to solve our problem.

I am at least happy and the House will also agree with me that there have been very many amendments in Labour Legislation. But the House would also remember that these amendments were very necessary. Sometimes, they were very small amendments where only one sentence had to be amended or a few words were to be added. But we had to come with those amendments. Therefore, it will not be in the interest of the workers to say that immediately a comprehensive Bill should come up immediately before the House. That is not going to solve the difficulties. I may tell the House that we shall be required to come before the House with small amendments probably every session. We may come with an amendment for amending these very provisions. Certain points have been made and we may be required to come with further amendments. Therefore, it is not convenient to have a comprehensive legislation. When the time is ripe, I may assure the House that we will not lag behind and we will bring forward a comprehensive legislation.

There is another point which has been raised by Shri Indrajit Gupta, Shri Kachwai, Shri Vidyalankar and other friends and that is about applying this Act to other workers also. This arose out of the amendment which gave powers to the Central Government to refer disputes of the airlines corporations. It has been said that the hospital workers, the workers employed in the educational institutions and the hotel and municipal employees should be brought within the purview of this Act. I may inform the House that the hospital employees are already covered by the Industrial Disputes Act. I may also inform the House that the hotel and the municipal employees are also covered by the Industrial Disputes Act. With regard to the employees employed in the educational institutions, there is a definite ruling of the Supreme Court in which they have discussed it at length as to why this could not be done.

Shri Priya Gupta: What about the clerks, typists and peons working in the educational institutions? They are not the teaching staff.

Shri R. K. Malviya: Under that ruling, they may not be treated as workmen in the educational institutions. Unless the ruling is changed...

Shri Priya Gupta: The ruling is given on the basis of the I.D.A. as it existed then. You gave protection to one category of workers and you also give protection to other categories of workers on the same basis.

Shri R. K. Malviya: I was just explaining it. In fact, when this point is raised in the Indian Labour Conference and if any formula is found out for the solution of the problem, we will have no objection to bringing forward the legislation. I was just submitting that only in those industrial institutions where education of the workmen formed a subordinate part, they were allowed to be covered by the Industrial Disputes Act under the Supreme Court's ruling, while the rest were not allowed.

Shri Priya Gupta: It is subordinate; education forms a subordinate part only because the public sector is under the same Government which has got the industry as well as the other wing namely the educational institution; it is only because of that it is sub-ordinate; it is subordinate to the same Government; you can interpret it that way and you can give protection to them in that way.

Shri R. K. Malviya: We shall look into it and see if they are covered by this ruling.

So far as the agricultural workers are concerned, about whom you, Madam, had also raised a point, I may submit that we have already got a legislation, namely the Minimum Wages Act, and we are trying to redress the grievances of those workers under the provisions of that Act. We have been writing to the State Governments also to take measures to improve the condition of the agricultural workers.

16.42 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

The main point raised by many Members was about the amendment of section 25(c), which makes provision for lay-off compensation. It is said, and to some extent, I am in sympathy with that argument, that the lay-off compensation should not be deducted from the compensation which may be allowed to the worker for retrenchment. That section also deals with the category of workers who may be covered by that provision. This provision was first made in 1953 and it was discussed at that time. Later on also this point has been discussed at length. I am aware of the misery of the workers. I know of cases where the poor workers have been laid off and they have not been paid either the lay-off or the retrenchment compensation. I know a case about one of the textile mills in Madhya Pradesh where the workers fought the trade union leaders and the Government and wanted to work on reduced wages. It was a fact that the mill could not work, despite the fact that the Government insisted on payment of full wages and wanted to give some loan to the mill for this purpose. Because of the length of time of lay-off, the workers were very eager to go back to work and accept even reduced wages. This provision, I submit, should be considered in that light.

श्री हुकम चन्द कछवाय : कहां की मिल थी ?

श्री र० कि० मालवीय : आप जानते ही हैं । राजनादगांव मिल ।

I was submitting that this provision should be considered in that light. I am sure that where the trade unions are strong, they will not allow the employer to play any mischief, and the workers' interests will be protected by them.

Shri Sinhasan Singh: How does the hon. Deputy Minister say so? From his own experience he has said that there have been cases where the workers have not been paid the lay-off compensation, and this proviso provides for the very same thing namely the non-payment of lay-off compensation. As a labour leader of experience, how does the hon. Deputy Minister reconcile himself to this provision and justify this provision?

Shri R. K. Malviya: That is what I am arguing at present. I am replying to that very point. I have said that there have been some cases. For instance, take a case where a mill is closed for genuine reasons.

I have just cited an instance. It could not be opened. I as one of the workers of that organisation, the bigger organisation, tried to intervene...

Shri D. C. Sharma (Gurdaspur): You are not a worker; you are Deputy Minister.

Shri R. K. Malviya: I am talking of the time when I was a labour worker. The workers jumped upon me asking me to allow them to accept reduced wages and allow them to work. Neither I nor the Government did allow. But then the workers settled it themselves.

Shri Priya Gupta: Take the case of the RSN companies during the Pakistan aggression. The work has been laid off. In such cases, provision should be made for giving them lay-off allowance.

Shri R. K. Malviya: I have already submitted that where there are strong unions, they will not allow the workers.....

Shri Priya Gupta: It is a national catastrophe, a national emergency—Pakistan aggression.

Shri R. K. Malviya: I do not yield because I have very limited time.

Shri Priya Gupta: You please keep this in mind.

Shri R. K. Malviya: Every case has got to be judged on its merits.

The question has been raised by several hon. Members about the *badli* workers, casual workers, temporary workers, substitute workers, that all the workers will be exploited under these provisions so far as lay-off compensation is concerned. I am in sympathy with my hon. friends. I know the cases of exploitation. Exploitation goes on. I know certain cases where through a court of inquiry an agreement was arrived at about abolition of the contract system, to regularise this *badli* and temporary worker system—an all-India agreement. It is not being complemented properly. This agony is as great with me as with my hon. friends. I may only submit in reply that Government are contemplating bringing in legislation about the abolition and regulation of the contract system, and care will be taken to see that all these maladies are remedied and they do not trouble the workers.

Shri Kapur Singh: He is appeasing the communists.

Shri Priya Gupta: Also include casual labour there.

Shri R. K. Malviya: I will now deal with one or two more points. One is about delays. I am sorry there have been delays. In many cases, we have found that delays have occurred. One of the reasons is the accumulation of a large amount of cases with individual tribunals or labour courts. As has been announced by the hon. Labour Minister in the House, we are appointing two more tribunals, Central Government Industrial Tribunals, one at Calcutta and another at Jabalpur. At present, we have got only two, one at Dhanbad and the other at Bombay. When these two more Tribunals are established, I hope delay will be reduced to a great extent.

Shri Warior: There is no tribunal for the southern region?

Shri R. K. Malviya: We have got officers of the State Governments as our tribunals. Sometimes we appoint them as labour courts. So there is a chance for quick settlement and disposal of these cases and delays will be reduced to a great extent.

Shri Limaye said that the conciliation officer in the Bombay Corporation case did conciliate the dispute, but had not submitted his report even after one year. For his information, I may submit that there is provision in section 12(6) of the Industrial Disputes Act, according to which a conciliation report has got to be submitted by the conciliation officer within 14 days.

Shri Priya Gupta: There is no provision, Read it correctly.

Shri R. K. Malviya: I do not want to waste the time of the House.

Shri Priya Gupta: There is no question of wasting time. You are giving wrong information to the House.

Shri Hari Vishnu Kamath: He should convince the House, because a Member has challenged him.

Shri R. K. Malviya: This is section 12—Duties of conciliation officers:

"(6) A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government:

"Provided that subject to the approval of the conciliation officer, the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute."

Shri Priya Gupta: But what about Government publishing the report? That is the point.

Shri R. K. Malviya: I have replied to both the points. I have replied to Shri Limaye's point that it is covered by this provision, and I have replied to the hon. Member's point that for reducing delays we are doing everything possible, and we are going to appoint two more tribunals.

I have covered almost all the important points. I thank Shri Bishen Chandra Seth for making the suggestion for profit-sharing by the workers. I would request him to start with this in his own establishments. I again thank the House for the suggestions made and for the support given to the Bill.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Industrial Disputes Act, 1947, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That Clauses 2 to 4 stand part of the Bill."

The motion was adopted.

Clauses 2 to 4 were added to the Bill.

Clause 5.— (*Substitution of new section for section 25C*).

Shri Warior: I beg to move:

(i) Page 2,—

omit lines 22 to 27. (1)

(ii) Page 2, lines 32 to 35,—

omit "and when he does so, any compensation paid to the workman for having been laid off during the preceding twelve months may be set off against the compensation payable for retrenchment". (2)

Actually, in regard to Amendment No. 1, my intention was only to delete the words "if there is an agreement to that effect between the workman and the employer:" in lines 25 to 27. The Government can accept that, or if they say that they will bring forward an amendment to that effect at a later date, I am ready to accept that.

Shri R. K. Malviya: I have just now explained why these provisions are there. I have given the instance of a mill in which the workers themselves, despite the persuasion of the labour leaders and Government, accepted reduced wages. What to say of lay-off compensation? It is for such cases

that this provision has been retained. This was considered by the Indian Labour Conference. If they want to press for it, this can be taken again to the Indian Labour Conference and then alone we can accept it. I do not accept it.

Shri Warior: I do not press my first amendment. The second may be put to vote.

Mr. Deputy-Speaker: Has he the leave of the House to withdraw his Amendment No. 1?

Hon. Members: Yes.

The amendment No. 1 was, by leave, withdrawn.

Mr. Deputy-Speaker: I put Amendment No. 2 to the House.

The amendment No. 2 was put and negatived.

Mr. Deputy-Speaker: The question is:

"That Clause 5 stand part of the Bill."

The motion was adopted.

Clause 6.- (*Amendment of Section 29*)

Shri Priya Gupta: We again submit on this Clause that this word "continuous" should be replaced by "continuity", if at all the whole thing cannot be deleted. Any worker, even if he is on his job for a number of days, he should be allowed this privilege.

Shri R. K. Malviya: That is in the Act; it does not require any further amendment. This provision has been made. When an employer was prosecuted for a certain offence he got acquitted after payment of fine and he was not required to pay the amount of claim. Now, we have made this provision. If after connection he does not fulfil any obligation under the settlement or the award, he will have to pay continuously certain amount of fine per day till he makes payment.

Shri Priya Gupta: With retrospective effect from the date on which the violation has been done, not from the date of the order.

Shri R. K. Malviya: If it is provided in the award or settlement, that will be payable.

Mr. Deputy-Speaker: The question is:

"That Clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

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

Shri R. K. Malviya: Sir, I beg to move:

"That the Bill be passed."

Mr. Deputy-Speaker: Motion moved:

"That the Bill be passed."

Shri Warior: Sir, we are glad the Minister has come forward with a promise that there will be more amendments to this Act to bring it in line with the actual realities that obtain in the country. Apart from the points which we had raised, we had also to mention one other point whenever a worker is dismissed on some charge brought forward by the employer, there is a procedure followed. Now, the Supreme Court has come down upon the tribunals in the sense that the tribunals are not to go into the merits of the case or into the evidence of the case but can only only review them if the procedure adopted is correct or not according to the law; that is all. They cannot go into the merits of the case. I think government will be well advised to take this also into consideration and instead of bringing in piecemeal amendments let us have a full study of the whole situation and have a cum-

[Shri Warior.]

prehensive legislation covering all these difficulties which the trade union movement as well as the employees are facing in having their rights established and honoured by the employers and other agencies in this country. I think the government will bear this in mind. This will come before the tribunal and the tripartite committee. But the government also must have a new approach to these problems and its attitude must also undergo a change so that government will not be taken by surprise so that it will be in a position to understand these problems and take the proper course of action in the prevailing conditions.

Shri Priya Gupta: Sir, I have got a small submission. During Pak. aggression, special circumstances have arisen and some boats and vessels have been seized by them and water route from Calcutta to Assam dislocated, and due to that the workshop at Rajabagan in Calcutta of the RSN Company had been affected very badly and about two thousand workers had been laid off. This embargo of reduced wage for these 45 days should not apply as a large number of workers will be deprived of their wages and be a subject of victimisation of Pakistan aggression. The labour ministry should approach the defence ministry production department to give them some other work in these exceptional circumstances. The shares of RSN company are held—76 per cent of its shares—by the government of India, and it is very useful to the defence ministry. They are in search of other dock and naval yards for repairs and building ships. This yard of RSN Co. with three Dry Docks and two ships can build and repair naval ships and frigates for our vast coastal areas. There are a large number of skilled workers there and they could be made use for other produtcion works for the war efforts.

17 hrs.

श्री हुकम चन्द कछवाय : मैंने कहा था कि मध्य प्रदेश में जो उद्योग हैं उनमें यह प्रथा प्रचलित है कि मजदूर का जो बयान कम्पनी के मैनेजर और लेबर आफिसर के सामने होता है उसी को उद्योग कोर्ट में माना जाता है, उसका नया बयान नहीं लिया जाता । मेरा निवेदन है कि उसको उद्योग कोर्ट में फिर से बयान देने का मौका दिया जाए ।

इसके बाद मैंने कहा था कि मजदूरों के झगड़ों साधारण सिविल कोर्ट्स में और हाई कोर्ट में भेजा जाए उद्योग अदालत में नहीं । इसमें खर्च बहुत पड़ता है, और मजदूर वकील की फीस नहीं दे पाते । मेरा निवेदन है कि मजदूरों के लिये सरकार को फ्री वकील की व्यवस्था करनी चाहिए ताकि वे अपना केस ठीक प्रकार से ट्राईबूनल में लड़ सकें ।

Shri R. K. Malviya: So far as Shri Warior's contention is concerned, I have nothing to add. I have already submitted that his party is represented in the Indian Labour Conference and any of the question which agitates the mind of my hon. friend can be taken to the Indian Labour Conference and discussed there and a remedy found out.

So far as the point raised by Shri Priya Gupta is concerned, I would request him to come sometime to the Ministry and discuss it personally, and I will see what can be done in that case.

Shri Priya Gupta: Thank you very much.

श्री र० कि० मालवीय : कछवाय साहब ने कहा कि मजदूरों के केस लेबर कोर्ट को न भेज कर सिविल कोर्ट और हाई कोर्ट को भेजे जाएं । शायद उनको यह मालूम नहीं कि इंडस्ट्रियल डिस्प्यूट्स एक्ट के मातहत हमको लेबर कोर्ट्स की लाने में कितनी कठिनाई हुई है । सिविल कोर्ट में जो

मुकदमों की फैसलों की हालत है उसको वह थोड़ा बहुत जानते होंगे । हर कोई जानता है कि वहां फैसला होने में बरसों लग जाते हैं, कभी कभी तो दस दस साल लग जाते हैं । इसलिए कोशिश की गयी कि इस काम के लिए अलग कोर्ट्स बनाएं जाएं और उसी के माफिक आज काम हो रहा है । अगर कछवाय साहब को ऐतराज है कि जज ठीक नहीं है तो उनकी शिकायत करें, उनका बदला मजदूरों से न लें । अगर बरकर के केसेज को सिविल कोर्ट में भेजा जायगा तो बरकर पिस जाएगा । जो सुझाव मेरे दोस्त ने दिया है वह लेबर के हक में नहीं है इसलिए मैं उसको नहीं मान सकता ।

जहां तक अपील का सवाल है लेबर कोर्ट की और ट्राईब्यूनल की अपील सुप्रीम कोर्ट तक हो सकती है ।

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

17.03 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Friday, November 12, 1965/Kartika 21, 1887 (Saka).

GMGIPND—LS II—1711 (AI) LSD—27-11-65—970.