AYES

Division No. 3] **15.18 Hrs.**

Aney, Dr. M.S.
Banerjee, Shri S. M.
Barua, Shri Hem
Barua, Shri R.
Basant Kunwari, Shrimati
Bateshwar Singh, Shri
Ghosh, Shri P. K.
Gupta, Shri Priya
Jha, Shri Yogendra
Kachavaiya, Shri
Kamath, Shri Hari Vishnu
Kapur Singh, Shri
Kar, Shri Prabhat
Krishnapal Singh, Shri
Mandal, Shri B. N.
Masani Shri, M. R.
Mate, Shri
Mehta, Shri Jashvant
Misra, Dr. U
Nath Pai, Shri
Rajyalaxmi, Shrimati
Ram Singh, Shri
Ranga, Shri
Reddy, Shri Narasimha
Sen, Dr. Ranen
Sezhiyan, Shri
Shashank Manjari, Shrimati
Singh, Shri Y. D.
Swamy, Shri Sivamurthi
Utiya, Shri
Verma, Shri S. L.
Vishram Prasad, Shri
Yadav, Shri Ram Sewak
Yashpal Singh, Shri

NOES

Akkamma Devi, Shrimati
Alva, Shri A. S.
Arunachalam, Shri
Barkataki, Shrimati Renuka
Barupal, Shri P. L.
Basappa, Shri
Besra, Shri
Bhanja Deo, Shri L. N.
Bhattacharyya, Shri C. K.
Borooah, Shri P. C.
Brajeshwar Prasad, Shri
Chanda, Shrimati Jyotsna
Chandrasekhar, Shrimati
Chaturvedi, Shri S. N.
Chaudhry, Shri C. L.
Chaudhuri, Shri D. S.
Daljit Singh, Shri
Das, Shri B. K.
Dasappa, Shri
Dass, Shri G.
Desai, Shri Morarji
Dinesh Singh, Shri
Gupta, Shri Ram Ratan
Hansda, Shri Subodh
Heda, Shri
Hem Raj, Shri
Jamunadevi, Shrimati
Joytishi, Shri J. P.
Kindar Lal, Shri
Kirpa, Shankar, Shri
Krishna, Shri M. R.
Lakhan Das, Shri
Lakshmikanthamma, Shrimati
Lalit Sen, Shri
Laskar, Shri N. R.
Laxmi Bai, Shrimati
Mahadeo Prasad, Shri
Mahadeva Prasad, Dr.
Mahishi, Shrimati Sarojini
Manaen, Shri
Mandal, Dr. P.
Maniyangadan, Shri
Marandi, Shri
Matcharaju, Shri
Mehrotra, Shri Brij Bihari
Melkote, Dr.
Mengi, Shri Gopal Datt
Mishra, Shri Bibhuti
Mishra, Shri Bibudhendra
Mohsin, Shri
Munzni, Shri David
Naik, Shri D. J.
Nallakoya, Shri
Panna Lal, Shri
Patel, Shri P. R.
Raguhunath Singh, Shri
Raja, Shri G. R.
Rajdeo Singh, Shri
Raju, Dr. D. S.
Ram Sewak, Shri
Ramakrishnan, Shri P. R.
Rao, Shri Ramapathi
Rattan Lal, Shri
Roy, Shri Bishwanath
Sadhu Ram, Shri
Saha, Dr. S. K.
Saigal, Shri A. S.
Samanta, Shri S. C.
Satyabhama Devi, Shrimati
Sen, Shri A. K.
Sen, Shri P. G.
Siddananjappa, Shri
Sidheshwar Prasad, Shri
Singha, Shri G. K.
Sinha, Shrimati Ramdulari
Sinha, Shrimati Tarkeshwari
Sinhasan Singh, Shri
Sumat Prasad, Shri
Shyam Kumari Devi, Shrimati
Tiwary, Shri D. N.
Tiwary, Shri K. N.
Uikey, Shri
Veerappa, Shri
Virbhadra Singh, Shri
Wadiwa, Shri
Yadab, Shri N. P.
Yadav, Shri Ram Harakh

Mr. Deputy-Speaker: The result of the division is: Ayes 34; Noes 87. The 'Noes' have it; the 'Noes' have it. It requires 256 to make a majority of the total membership. The motion is not carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting. So the motion is lost.

The motion was negatived.

Shri Hari Vishnu Kamath: It is a moral victory; we have got one-third of the votes.

15.20 hrs.

INDUSTRIAL DISPUTES (AMENDMENT) BILL

(*Amendment of section* 33) by Shri C. K. Bhattacharyya

Shri C. K. Bhattacharya (Raiganj): I beg to move:

> "That the Bill further to amend the Industrial Disputes Act, 1947, be taken into consideration".

In moving for the consideration of this Bill, I have to refer to the history and structure of the section, amend-

[Shri C. K. Bhattacharya]

ment of which I want to bring about by my Bill, that is section 33 of the Industrial Disputes Act. This section has had a chequered history. In the original Act, this section was very brief. It provided that no employer should, during the pendency of any proceedings against a worker before a Conciliation Officer or a Board or a Tribunal, take any step to alter the circumstances to the prejudice of the worker or to discharge or dismiss or punish him in any other way without getting the express permission of the authority hearing the dispute in writing.

15.21 hrs.

[DR. SAROJINI MAHISHI *in the Chair*]

Of course, an exception was made for misconduct not connected with the dispute.

Then the section was amended in 1950 (Act 48 of 1950). This amendment widened the scope of the section and put further restrictions on the authority of the employer to take steps against the workers. For taking disciplinary measures against workers during the pendency of proceedings, the amended section made it incumbent on the employer to get the permission of the court or the authority in any case.

Up to this, the amendment was in the interests of the workers, it operated in the interests of the workers. But then an amendment was brought in 1956 which completely changed the object, and it is that part of the section which I want to tackle now. This amendment by Act 56 of 1956 practically reversed the position. By this amendment the workers were divided into three groups, those connected with the dispute, those not connected with the dispute, and protected workers. Apparently, workers connected with the dispute would not be very many, and protected workers, according to the provision itself, are very few. So, workers not connected with the dispute are the majority.

In the case of workers connected with the dispute, the provision for getting express permission in writing was retained, as also in the case of protected workers, but for the larger section of workers not connected with the dispute, the new sub-section (2) was introduced, which provided that the employer could take action and then seek the approval of the authority hearing the dispute. In this way, a complete change was brought about in the purpose of the section itself, a loophole was created through which the employer could take action against the workers without securing the permission of the Conciliation Officer or the Board or the Tribunal beforehand. The protection guaranteed to the workers by the section before the amendment was taken away. That is why I have brought my Bill.

The new sub-section (2) introduced in section 33 provides that the employer is free to take any action he likes only by paying a month's wages, and then submitting an application to the hearing authority for the approval of the action that he has taken. This has altered the position to the prejudice of the workers and unless clarified or amended will continue to remain so. This is about the history of the amendments of the section. Now I request you to see the structure of the section itself.

I have already referred to the three groups into which workers have been divided. In regard to workers connected with the dispute and protected workers, the permission of the hearing authority has to be taken first and action can be taken only afterwards, while in the case of those coming under sub-section (2) action can be taken first and approval sought afterwards. This is a gross discrimination and puts workers in a hopeless position of helplessness. I am not much concerned with the labour movement as some of my friends in this House are, nor am I an expert in labour laws, but . . . .

Shri Prabhat Kar (Hooghly): But you have raised a very good point.

Shri C. K. Bhattacharyya: .....on going through the section, it struck me that it was a case of injustice which required to be remedied. That is why I have brought this Bill, and I hope that the hon. Members will accept it and give the workers the relief that they require.

We must see the difference in meaning between the words permission and approval. Permission means authority, authority of the body hearing the case, without whose permission action cannot be taken. Approval means doing something in a routine manner, just like a departmental head drafting an order and placing it before the superior officer for approval, expecting that in a routine way it would be approved. The bringing in of the word "aproval" instead of the word "permission" in sub-section (2) makes all the difference.

Why not put "permission" in sub-section (2) as well? If the word "permission" is used in sub-sections (1) and (3), why was the word "approval" brought in sub-section (2)? That means, here the authority of the Tribunal or the Conciliation Officer or the Board dealing with the dispute is made light of, is lessened, and the powers of the employer in dealing with these workers are extended. That is the intention of using the word "approval". That is how sub-section (2) makes the position rather helpless for the worker. Sub-section 5, to which my Bill relates, aggravates the position. If sub-section 2 opens a loophole, sub-section 5 widens it. I want to plug that loophole so that at least some remedy may be given to the workers for protecting themselves against injustice that may be inflicted on them by their employers. I may be asked: why do you not make your Bill wide enough to apply to all workers under all the sub-sections? That is a pertinent question. I had myself contemplated that a provision like this could be made applicable to all the workers coming under sub-sections 1, 2 and 3. But I find that workers coming under sub-sections 1 and 3 have got some protection because in their cases the employer has to seek the permission of the tribunal before taking any action whereas for those coming under sub-section 2 there is no such protection. If the Government is kind enough to widen my provision and make it applicable to all the groups of workers, I shall be the happiest man on earth.

I shall now come to the Bill. Sub-section 5 reads as follows:

> "Where an employer makes an application to a conciliation officer, Board, Labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, as expeditiously as possible, such order in relation thereto as it deems fit."

This is rather vague and requires clarification. It ends with this clause "as it deems fit". It is a loophole through which the authority concerned may pass any order it likes. It requires clarification and I have, therefore, said in the Statement of Objects and Reasons:

> "The scope of this section is very much limited. Under sub-section 5 of this section, the authority, to whom an application for approval of the action is made is simply to hear such application and pass an order as expeditiously as possible and may give its approval of the action taken by the employer if a *prima facie* case has been made out. The merits of the case and the quantum of punishment are not decided in these proceedings."

The court is not authorised to say whether the employer had any real ground to take this step and inflict the punishment and whether the punishment awarded is excessive or not. So, the workman has to raise an indus-

[Shri C. K. Bhattacharyya.]

trial dispute in order to challenge the action taken against him by the employer. This involves financial liabilities for the workman. Besides, the approval of the employer's action by the authority prejudices the case of the workman. In the midst of a dispute, an employer takes some action against a worker. If the court gives its approval to the step taken by the employer, that itself prejudices the case of the worker for getting justice in the final hearing of the case. That is why I suggest that in the very process of the hearing provided for under section 33, the entire merits of the case should be taken into consideration and the Tribunal or the Board or the Officer should give him a final verdict. This will avoid multiplicity of proceedings. Otherwise, firstly there will be proceedings under section 33. Then the worker will have to go to the Government to get permission for raising the industrial dispute. If permission is granted, then practically for the same matter proceedings start again. There is thus avoidable delay in giving redress and the workers will not get redress in proper time. The workers will have to incur heavy financial expenditure in pursuing matters twice for the same dispute. These financial liabilities are becoming at times prohibitive for the poor workers and thus justice is not given to them. My Bill seeks to remedy this situation.

In some cases the Supreme Court has held that the labour authority exercising jurisdiction under section 33 exercises not administrative but judicial jurisdiction. One of the fundamental principles of jurisprudence is that there should be no multiplicity of proceedings and I take my stand on that. If proceedings under section 33 are held to be judicial proceedings, as is held by the Court, why should not this very fundamental principle of jurisprudence be applied to them? The multiplicity of proceedings should be avoided.

As I have stated, they will require the permission of the Government for a reference, and that permission may or may not be available and they may be shut out altogether. So, my amendment provides for it—that is, "as if it were a dispute referred to or is pending before the court." By the introduction of this clause I have brought into the proceedings under section 33 the entire procedure which may be applied to the Industrial Disputes Act in hearing a substantive case. If section 33A is scrutinised, you will find that the same procedure is provided. I wonder why what can be provided in section 33A should not be provided in the other section. If there is a contravention of section 33, then it is provided under section 33A that in the same proceedings, the authority hearing a dispute may go into the merits of the dispute and the quantum of punishment and other things. Why not the same procedure be adopted in section 33 for the poor workers?

I have attempted to extend the jurisdiction of the tribunal not only to consider the intermediate step taken by the employer but also to decide on the substantive dispute between the employer and the workmen with regard to the step taken. As I have stated, under the present provisions, the labour court or tribunal has no authority to go into the merits of the case. I want to provide for that by the introduction of the clause "as if it were a dispute referred to the court."

About the jurisdiction under section 33, I have found some case laws in which they say that the only jurisdiction is to find out whether a *prima facie* case has been made out by the employer for meting out punishment or whether the employer has acted *mala fide*. They have no authority to go into the merits of the case. This is the finding of the court, and in fact this finding of the court has made it too difficult for workers to come under section 33 for leave from the court for bringing in the entire matter of the dispute. That is why I have tried to widen the jurisdiction and the

authority of the court and provide for cases being decided on merits and avoid multiplicity of proceedings and also avoid prejudicing the cause of the workers. I have also tried to get prompt and quick disposal of the cases and relieve the workers from the financial liability in going through the same proceedings more than once.

Mr. Chairman: Motion moved:

> "That the Bill further to amend the Industrial Disputes Act, 1947 be taken into consideration."

The time allotted for the discussion is one and a half hours.

Shri S. M. Banerjee (Kanpur): I rise to support the Bill, and I must congratulate my hon. friend Shri C. K. Bhattacharyya for bringing in this amending Bill. While referring to the particular clause of this Bill, I would like to take this opportunity for inviting the attention of the hon. Minister to some other difficulties also. Apart from the difficulty which has been very well expressed by my hon. friend Shri C. K. Bhattacharyya in his long speech, another difficulty which the workers have to face is that the cases are not referred. Here is my hon. friend Dr. U. Misra. He can inform the House or explain that there are nearly 400 cases of workers in Jamshedpur. What happened? Even those cases were not referred for arbitration or conciliation. They were summarily dismissed, discharged from service or removed from service. They approached the Government of Bihar and the Central Government. They only wanted that these cases should be referred. But these cases were not referred. I have the same experience in Uttar Pradesh. I have referred to the Labour Ministry several cases of workers now working in Kanpur. In J.K. Rayons in Kanpur a strike took place. The strike was declared illegal etc., whatever the case may be. 100 workers were removed from service and their services were terminated. It went before the Conciliation Board. The Conciliation Officer, I am told, has recommended to the State Government that a reference should be made, but still the reference has not been given and the workers are forced to take some drastic decision which may not be liked in the country during these days of emergency. In another case, 14 workers of a sugar factory in Bahari in Uttar Pradesh have been discharged from service. We have been demanding from the Central Government and also from the State Labour Ministry that these cases should be referred, but no reference has been given.

These are really serious matters of the Industrial Disputes Act where the various provisions of the Act if they are amended to suit the convenience of the workers—I use the word "convenience because a worker cannot possibly approach a court of law or go up to the Supreme Court whereas the employer can—it will help them. Naturally, the only advantage for them is the conciliation machinery and after that, after the proceedings there are concluded, a reference is given.

Now, what is happening in respect of other cases? This particular thing has been referred to by my hon. friend, Shri Bhattacharyya. We are also trying to bring certain other amendments so that the whole thing can be brought to the notice of this House and this matter may be solved. I would like to know from the hon. Labour Ministers who are here as to what is their experience about the trade unions. I put this question specially to Shri Malviya. What is his experience about the whole thing? Why is it that such an amendment was not brought by the Government themselves? Why should they not bring in a comprehensive amendment amending the various clauses of the Industrial Disputes Act? What is the delay?

Is it not a fact that a promise was made as long as 1958 or 1959, if I am not mistaken, that there will be such a legislation? Is it not a fact that in the recent Indian Labour Conference Shri Nanda declared that he would like to get those cases where references are not given? People have submitted

[Shri S. M. Banerjee]

those cases. I should like to mention here that these workers are genuinely suffering for no fault of theirs. They want simply that the matter should be referred and nothing more. Let the law take its course. Let the matter be decided either against or in their favour. But at least it should be referred. Why should they be gagged, why should there be strangluation of justice at the initial stage?

Sir, while supporting this Bill I would also mention that I have mentioned these things just for the information of the House and I request that the hon. Minister while replying to the debate may kindly throw light on them.

Dr. Ranen Sen (Calcutta East): Madam Chairman, I rise to support the Amendment Bill moved by Shri Bhattacharyya. Shri Bhattacharyya has narrated as to how section 33 of the Industrial Disputes Act was amended from time to time in such a way that the workers have become the worst sufferers. In 1958, in the Standing Committee for Labour, which was presided over by Shri Nanda, a resolution was accepted by the Government of India to bring in suitable amendments to the Industrial Disputes Act so that these anomalies, difficulties and contradictions to the interests of the workers are removed. I was present in the Standing Labour Committee meeting at Bombay in 1958. In that meeting, a tripartite sub-committee was formed which was to draft these amendments. Now, five years have passed. Still, Government has not thought it fit to bring in a comprehensive legislation to amend the Industrial Disputes Act. On the other hand, as Shri Bhattacharyya has stated, gradually this particular section, which is a very important section in the Industrial Disputes Act, has been amended so as to create difficulties for the workers.

Coming to the actual amendment, what has been our experience? Shri Banarjee has asked the Deputy Minister of Labour, Shri Malviya to think over the whole matter and examine it in the light of his own experience when he was working in the trade union movement. Our experience has been that this section 33, particularly sub-section (5), has gone more or less against the interests of the workers. I will explain how it happened by means of an example. In 1959 or 1960 there was a Textile Tribunal in West Bengal. During the course of the proceedings in the Tribunal, nearly 800 workers were dismissed under sub-section (2) of section 33 of the Industrial Disputes Act and so long as the Textile Tribunal went on there was no hearing at all of the dismissal cases. On the other hand, somehow or other, the Tribunal gave its approval to the action taken by the employer. Later on, under section 33A, an attempt was made to place the matter before the Industrial Tribunal but, unfortunately, somehow or other, the Government of West Bengal did no consider it fit to refer the case to the Industrial Tribunal.

Now, in these days of emergency, we find that the employers are taking recourse to sub-sections (2) and (5) of section 33 indiscriminately and many State Governments, including the Government of West Bengal, refuse to send these cases to the tribunal under section 33. Therefore, this sub-section, as amended by Shri Bhattacharyya is very welcome. I think the whole thing has been considered in a limited way; perhaps, there was some difficulty for him. Anyhow, I think it is in the fit-of things that Shri Bhattacharrya has moved it. Since the hon. Deputy Minister is present here, I think he should have no compunctions in accepting it; he should not oppose it. On the other hand, it should be the duty of the Government to accept such amendment when they themselves have not brought forth such an amendment.

Lastly, I want to say that it is high time for the Government of India, especially the Ministry of Labour, to go through the entire Industrial Disputes Act and bring in suitable amendments to the various sections and sub-

sections which go against the interests of the workers.

Shri K. N. Pande (Hata): Madam Chairman, I am very happy that this Bill has been brought before the House by our friend, Shri Bhattacharyya. This Bill is very important from the point of view of the workers. I do not know the reaction of the Ministry to this Bill, but I think it is time when they should consider the matter seriously so that the workers may be helped in every possible way. Now, what is the background in which this Bill has been brought before the House?

Originally this privilege was given to the employee. If there was any proceeding lying with any court no workers could be dismissed or discharged without the permission of a board or the court. But as the clause was amended later on the result has been that the court has now become a stamping authority. The employer takes action against the worker and goes before the court for permission. What the court does is that it simply says, "We give permission to discharge the worker." They cannot deny that. The amended clause has caused such a result that the workers have been put to innumerable difficulties.

As you know, when there is any dispute the managers or the managing directors fight the cases at the cost of the companies. Had they been required to spend the money from their own pockets, such cases would not have arisen. But simply because they fight the cases at the cost of the company, they go upto the Supreme Court. What happens at the moment is this. Suppose, a workers does not commit any mistake but the employer wants to take action against him then he chargesheets him and dismisses him. Then he submits an application to the court for approval of his action. Then what happens? After the permission is obtained from the court, that poor fellow has again to go to the Conciliation Board and the Conciliation Board has to recommend to the Government whether the case should be referred to the Tribunal for consideration or not. In case the Conciliation Board is also of opinion that the case is such that it should be referred to any tribunal, the case may go to the same tribunal from where the permission was sought by the employer. This is the funny part of the story.

If by experience we realise that we have committed some wrong in the past, we should remedy it. What does the Bill say? The Bill says that if permission is sought by the employer from the court to dismiss or discharge the workman, the court should go into the merits of the case and the case should be decided on merit so that this multiplication of proceedings may not take place. This is simply to avoid this procedure and, I think, even if the Government have any difficulty in agreeing with the wording of the Bill, the substance is such that it should be accepted.

There is great discontentment throughout the country among the workers and I think the time has come when this clause should be amended to enable the employee to seek a remedy from the court from where permission is sought by the employer. Or, in case the employer wants further litigation, the employee should also be given the expenses from the company to fight the case upto the Supreme Court. If that happens, litigation will come down. My appeal to the Ministry is that in case they find any difficulty in agreeing with this Bill at this moment, they should at least accept the substance or the principle involved in this Bill and they should try to bring in an amendment themselves including so many things that are required to be brought in order to simplify the procedure or the proceedings under the Industrial Disputes Act and try to help the workers to the extent that they can. There is a lot of discontentment on other issues too and this will further aggravate the position if it is allowed to continue.

[Shri K. N. Pande]

With these words I support the Bill and request the hon. Minister to consider over the matter seriously and take proper action so that a remedy be provided in favour of the workers and they may be protected from the clutches of those employers who are determined to dismiss a man who is a trade unionist or who has organised labour in order to protect the interests of labour.

16 hrs.

Shri Prabhat Kar: Madam Chairman, I support this Bill which has been moved by Shri Bhattacharyya. I would draw the attention of the House to the importance of section 33 of the Industrial Disputes Act. Under section 23 of the Industrial Disputes Act, no employer can lock out a factory and no workman can go on strike during the pendency of the tribunal's proceedings. Section 33 is a guarantee to the workmen that during the pendency of the tribunal's proceedings, as he was debarred from going on strike, *status quo* will be maintained. There are various ways so far as the employers are concerned. The lock-out is not the only means of keeping the workers out. They can vicitimise the workers individually, suspending them, charge-sheeting them, dismissing them, discharging them and all that. But so far as workers are concerned, there is only one right that they have got and that is to go on strike which is prohibited under section 23 of the Industrial Disputes Act. That is why, section 33 made it incumbent on the employer that during the pendency of the tribunal's proceedings, there should not be any change in the conditions of service.

Now, I would just remind the Labour Minister as to how this amendment came in 1950. In 1950, a tribunal consisting of three High Court judges, Shri K. C. Sen, Justice Chandrashekhara Iyer who became a judge of the Supreme Court also, and Justice J. N. Mazumdar who became the Chairman of the Labour Appellate Tribunal, was sitting over the Bank Disputes tribunal, on an all-India basis, in Bombay. During the pendency of the tribunal proceedings, hundreds of applications came and it became impossible for that tribunal to proceed any further, and as a result of that, the judges at that time made a reference to the Government that unless the Act is amended, it is not possible to proceed any further. During the pendency of the tribunal, section 33A came into operation, that is, no action can be taken without the written permission from the tribunal. Now, in 1956, this amendment had been taken away and again the right was given to the employers to take action and then to seek an approval from the tribunal. As I said in the beginning, section 33 is a guarantee to the workers that during the pendency of the tribunal's proceedings they cannot take any action. It was incumbent that the guarantee should be foolproof. Now, this Bill which Shri Bhattacharyya has brought forward deals only with sub-section 5. He has said, "I wish it had been wide enough, but it is a limited one". To what extent has it come? Now, according to sub-section 5, if a permission is sought from the tribunal, the tribunal has no jurisdiction to go into the merit of the case. Even though the merits may be in favour of the employees, it may be that the management had taken a strong action. As was rightly said by Mr. Kashi Nath Pande, it is a stamping authority of the action of the management. When the tribunal went into the merits it found that the action taken was wrong. The case was taken to the Supreme Court and the Supreme Court came to the conclusion that under sub-section 5, they cannot go into the merits of the case unless certain *mala fides* have been charged and found to be there. Naturally, today, it has happened that the management has got the full authority to take any action during the pendency of tribunal's proceedings when the workers are prohibited from going on strike.

16.05 hrs.

[MR. SPEAKER *in the Chair*]

That is why, whenever a tribunal is proceeding with the general case, we find hundreds of cases of dismissal because at that time the employers are forbidden to take any action against the workers. Under section 33(5) the tribunal cannot go into the merits of the case. Today, therefore, the most important thing is the need to amend section 33; as has been pointed out already by my hon. friend Dr. Ranen Sen, section 33 is one of the sections which requires to be amended, and I believe that Government were also thinking on those lines. Naturally, I would have expected Government to come forward with an amendment of section 33. My hon. friend Shri C. K. Bhattacharyya has in all modesty said that he has not worked as a member of the working classes, but, still, after having studied the implications of this, he has brought forward this amending Bill. We are thankful to him for having brought this matter up before the House, because this is very important, and, naturally, the Labour Ministry must consider this aspect of the matter.

Dr. Ranen Sen: And accept the amendment.

Shri Prabhat Kar: There is no doubt that they should accept it. I think that reference has been made to this, particularly by my hon. friend Shri R. K. Malviya who himself has been a trade union leader, and he has got a full understanding of the implications of section 33 as it stands today and he knows very well how far it is helpful to the workers. During the pendency of any proceeding before a tribunal, when we have taken away the right of the workers, the only right which they have, to go on strike, it is essential that there should be fool-proof guarantee that the employers cannot take any action against the workers without proper permission from the tribunal, and without the tribunal being given the right to go into the details of the case so as to consider the whole matter and then give its judgment. So, it is essential that this amendment should be accepted.

Apart from the fact that section 33 as a whole should be amended to restore the old position that prevailed after the amendment of 1950, when section 33A was brought in, it is very necessary that section 33 (5) also should be amended. Section 33A was brought in 1950, because it was found that during the pendency of a proceeding before a tribunal, the employers always used to take action against the workers and take advantage of the fact that they could not agitate on that issue. The maintenance of industrial peace during the pendency of the proceeding before the tribunal has been one of the important factors, and it has been one of the basic principles of the Industrial Disputes Act, and that was why section 33A was brought in. What was the reason for again amending that section and adding sub-sections (1) to (5) thus taking away the rights of the workers to go before the tribunal and place their case against the management so that the management cannot vindictively take action against the trade union workers or leaders during the pendency of the proceeding before the tribunal, taking advantage of the fact that at that time the workmen are forbidden to take any action because then under section 24 the strike will be declared illegal and under sections 26 and 27 other penal measures also will follow?

That is why these provisions require amendment. I would request the Labour Minister to consider this matter, and accept the amendment which has been brought forward. As Shri K. N. Pande has said, if there are certain wordings which have to be changed, they should be changed, but the principle of this amending Bill should be accepted, and furthermore,

[Shri Prabhat Kar]

there should be an overall amendment of section 33 of the Industrial Disputes Act with a view to safeguarding the interests of the workers during the pendency of any proceeding before a tribunal.

श्री रामसेवक यादव (बाराबंकी) : उपाध्यक्ष महोदय, जो विधेयक हमारे भट्टाचार्य जी ने पेश किया है, मैं उसका समर्थन करने के लिए खड़ा हुआ हूं । इस तरह के विधेयक को सरकार को स्वयं इस सदन में लाना चाहिये था और अगर सरकार नहीं ला सकी है तो उसको इसे मान लेना चाहिये ।

जब माननीय बनर्जी साहब बोल रहे थे और साथ ही साथ हमारे माननीय सदस्य श्री काशीनाथ पाण्डेय बोल रहे थे, उस वक्त मैंने देखा कि मालवीय जी उनके तर्कों को समझ रहे थे और सहमति में सिर हिला रहे थे और उससे मुझे कुछ ऐसा आभास मिला कि शायद वह विधेयक को स्वीकार कर लें ।

मुझे मजदूरों के दुखों की ऊपरी जानकारी है । वास्तव में उनकी क्या क्या तकलीफें हैं, क्या क्या दुःख हैं, इसको नहीं जानता हूं और न ही मेरा कोई सम्बन्ध उससे है क्योंकि मैंने उनके बीच में काम नहीं किया है और न ही करता हूं । फिर भी जो धारा ३३ की उपधारा ५ है अगर उसके अनुसार देखा जाय, साधारण दृष्टि से, कानून की दृष्टि से, तो यह साफ हो जाता है कि जो उपधारा है वह मजदूर लोगों के हित में न हो कर उनके खिलाफ जाती है । मजदूर और मालिक, मजदूर और कारखानेदार, इन दोनों में कारखानेदार ही मजबूत होता है । इसलिये अगर किसी को कानून का संरक्षण दिया जाय तो मजदूर को दिया जाना चाहिये न कि उसके विपरीत कारखानेदार को । इस धारा ३३ की उपधारा ५ में हम देखते हैं कि इतना जबर्दस्त अधिकार दे दिया जाता है कि अगर कारखानेदार या मालिक किसी मजदूर को निकालना चाहे तो वह केवल प्रार्थना पत्र देगा और ट्राइब्यूनल के सामने केवल उसको स्वीकार करने के अलावा और कोई चारा नहीं रह जाता । इसका सीधा अर्थ यह होता है कि मजदूर के साथ अन्याय होगा । उसके साथ जो अन्याय होता है अगर उसको दूर करने के लिये वह अदालत की तरफ बढ़े तो उसमें पैसा खर्च होता है जिसके लिये यह तैयार नहीं हो सकता क्योंकि उसकी आर्थिक स्थिति ऐसी है । यह सारी चीजें इसमें आती हैं और उसका दुरुपयोग होगा ही, जैसा कि मजदूरों में काम करने वाले सदस्यों ने बतलाया । इसलिये माननीय चपल कान्त भट्टाचार्य का ध्यान इस ओर गया और उन्होंने संशोधन रख दिया । इस संशोधन से जो आबिट्रेरी अधिकार अदालत को मिल जाता था और जिसका दुरुपयोग कारखानेदार और मालिक करते थे वह दूर हो जाता है । इसलिये मैं माननीय मंत्री महोदय से निवेदन करूंगा कि वे इस संशोधन को, जो कि दुखिया और कमजोर लोगों के हित में है, मान लें ।

अगर इस समय इस विधेयक को स्वीकार करने में उन्हें कोई दिक्कत हो तो मैं ज्यादा आगे बढ़ने की बात तो नहीं करता, लेकिन आगे वाले सेशन में, जो कि नवम्बर या दिसम्बर में होगा उसमें जो मारा इंडस्ट्रियल डिस्प्यूट्स ऐक्ट है उसमें जहां जहां इस प्रकार के संशोधनों की आवश्यकता हो, उन धाराओं के सम्बन्ध में जो कि मजदुरों के हित में न हों, उनके खिलाफ जाती हों, जो कि उनके तजुर्बे में सामने आई हों, उन खामियों को दूर करने के लिये संशोधन विधेयक लायें । अगर इस को स्वीकार करने की मंशा न हो या फिर इसमें देर लगने की सम्भावना हो, तो फिलहाल जो संशोधन सुझाया गया है उसी को वे स्वीकार कर लें । इससे मजदूरों को बड़ी राहत मिलेगी ।

अन्त में मैं माननीय मन्त्री महोदय से यह निवेदन फिर करता हूं कि वे इस संशोधन को मान लें। अगर उसमें कोई दिक्कत हो तो नवम्बर दिसम्बर सेशन कोई व्यापक विधेयक रख कर इस संशोधन को मान लें।

दूसरा निवेदन मेरा श्री चपलकान्त भट्टाचार्य जी से है कि अगर मन्त्री महोदय इन दोनों निवेदनों को आज से स्वीकार करने में कुछ अड़चन महसूस करते हों, उन्हें कुछ परेशानी हो तो श्री भट्टाचार्य जी इस विधेयक को वापस न लें, यह न कहें कि इस शर्त के साथ वापस लेता हूं।

श्री कछवाय (देवास) : उपाध्यक्ष महोदय, मैं इस सम्बन्ध में इस लिये ज्यादा जोर से बोलना चाहता हूं कि मैं स्वयम् एक मजदूर हूं और मिल में काम करता हूं और जानता हूं कि किस प्रकार से मजदूरों के साथ बरताव होता है, किसी भी केस को कोर्ट में ले जाने के लिये जब मजदूर जाता है तब उसको कितना खर्च करना पड़ता है और उसकी स्थिति क्या होती है। मिल मालिक किसी प्रकार से उनके वकीलों के द्वारा उस केस को तोड़ मरोड़ कर झूठे गवाह पेश करके, छोटे मजदूर को हरा कर विजय प्राप्त करते हैं, यह सब मुझे मालूम है। इस सम्बन्ध में मेरा इतना ही कहना है कि यह जो बिल आया है उसके अनुसार मजदूरों को ज्यादा से ज्यादा सहूलियत दी जावे और ऐसी स्थिति पैदा न हो कि मजदूर कोर्ट में जाकर केस लड़ें। वहां हमारे मजदूरों के दलाल भी बैठे होते हैं जो शासक दल की यूनियन चलाते हैं, अर्थात् इन्टक के लोग। वे लोग किस प्रकार से मजदूरों को बर्गला कर, अपना स्वार्थ सिद्ध करके अपनी नेतागिरी कायम रखने के लिये मिल मालिकों से सांठ गांठ करके, किस प्रकार से पैसा लेकर मजदूरों के साथ जो कुछ नहीं होना चाहिये वह करते हैं ? उसको किसी प्रकार से मना कर, कुछ पैसे का लालच दिलवा कर, उससे कबूल करवा लेते हैं कि मैंने गुनाह किया, मैं अपना केस वापस लेता हूं और उसके बाद उस जगह को तोड़ कर उस स्थान पर उस अमदमी को न रख कर मिल मालिक और मजदूरों में समझौता करा कर कहते हैं कि ऐसा करो।

श्री काशी नाथ पांडे : ऐसे केसेज कितने हैं आपके पास। मैं चाहता हूं कि कुछ के नाम आप इस हाउस में दें, मैं उनकी इन्क्वायरी करवाना चाहता हूं जिन केसेज को इन्टक ने किया है। आप बिल्कुल नहीं जानते कि यह बिल क्या है, आप वैसे ही इस पर बोल रहे हैं।

श्री कछवाय : मैं आपको एक नहीं हजारों केस दे सकता हूं मध्य प्रदेश में। मैंने पिछली बार गृह मन्त्री और प्रधान मन्त्री को पत्र दिया था उसमें मैंने साफ कहा है कि मध्य प्रदेश में इन्टक के कुछ कार्यकर्ता आज से कुछ साल पहले पड़ोस से आटा उधार मांग कर खाते थे लेकिन आज वे लाख लाख रुपयों की बिल्डिंग बना कर बैठे हैं। इससे साफ सिद्ध होता है यह लोग मिल मालिकों से मिल कर मजदूरों के साथ किस प्रकार की ज्यादती करते हैं, किस प्रकार से उनसे समझौता करते हैं। मैं एक नहीं अनेकों उदाहरण दे सकता हूं। उज्जैन, ग्वालियर, भोपाल, देवास, इन्दौर के बहुत से उदाहरण मेरे सामने हैं।

Shri K. N. Pande: What he is saying is not relevant. He has taken another subject.

श्री कछवाय : इससे साफ जाहिर होता है कि किस प्रकार से मिल मालिकों के साथ समझौता करके वे पैसा खाते हैं। इसका सबूत आप देख सकते हैं। (*Interruptions*).

श्री काशी नाथ पांडे : आप गलत बात मत कीजिये इस हाउस में।

श्री कछवाय : मैं सिद्ध करके बतला सकता हूं कि इस प्रकार की हरकतें इन्टक के लोग करते हैं।

श्री काशी नाथ पांडे : मैं चाहता हूं कि आप सबूत दें।

श्री कछवाय: आप मुझ पर दावा कीजिये तो मैं सबूत दूगा कि इस प्रकार की हरकतें वहां पर लोग करते हैं या नहीं । आपको जो जोश आ रहा है वह बिल्कुल सही है, जब किसी को खरी बात कही जाती है तो उसे मिर्चें लगती हैं । आपने शायद कोई बिल्डिंग बना कर रक्खा होगा, मिल मालिकों से समझौता करके कुछ पैसा खाया होगा । आपको बुरा लगना दिखावा भर है, अन्दर क्या है, मैं अच्छी तरह से जानता हूं । आप मजदूर नहीं बने, मजदूर बनते तो आप उस की आत्मा को पहचानते और देखते कि किस प्रकार मजदूरों के साथ इन्टक द्वारा हरकतें की जाती हैं । एक नहीं अनेक प्रान्तों में हरकतें चल रही हैं । मिल मालिकों से मिल कर समझौते किये जाते हैं और हमारे इन्टक के कार्यकर्ता करते हैं । मैं इस बात को यहां पर ज्यादा खोलना नहीं चाहता । उनका जो काम है वह केवल यह कि उनके दफ्तर में बैठ कर टैलीफोन से बातें करना, चाय उड़ाना और ताश खेलना । अन्दर अन्दर बुरे बुरे काम करना इन दफ्तरों में ही उनका काम रह गया है । मैं कहना चाहता हूं कि अगर उनका सारा चित्र देखना है तो मुझे दो, चार, छः रोज का समय दें । मैं पूरे मध्य प्रदेश में दिखला कर बतला सकता हूं । मैं बतला सकता हूं कि उन के कार्यालय से १२, १२, १३, १३ बाटल्स शराब की पकड़ी गई हैं । ऐसे इन्टक के कार्यकर्ता और मजदूरों के प्रतिनिधि हैं जो मजदूरों की दुहाई देते हैं और बापू का नाम लेकर यूनियनें चलाते हैं । उन लोगों की यह हालत है । यह बोतलें कितनी ही पकड़ी गई हैं । इस प्रकार की हरकतें मध्य प्रदेश में हो रही हैं । आप मेरे साथ मध्य प्रदेश चलें तो मैं आप को दिखलाऊं ।

Shri Priya Gupta (Katihar) *rose*—

Mr. Deputy-Speaker: The hon. Member was not here when his name was called.

Shri Priya Gupta: I took special permission from the Chair.

Mr. Deputy-Speaker: I will give him five minutes.

Shri Priya Gupta: I believe the object of the Bill cannot be fulfilled until it is categorically provided in the Bill that the Tribunal has the power to sit on the appeal workman and decide the dispute on merits, on reopening of the whole question. I know, I feel and I believe so, I am using three verbs, because, right from the date of independence we have been marking a trend of changed approach to labour by Government.

The amendment of article 311 curtailing rights of Labour was brought soon after we had attained independence, but fortunately the spirit of our fight against subjugation still remained, and the House did not allow the amendment. But, unfortunately, after the Avadi Congress session, when our Government pledged itself to the socialistic pattern of society, article 311 has been amended, and the rights of labourers have been snatched away.

Similarly, certain rights had been enshrined in the Industrial Disputes Act, and as time went on, our Government has snatched away those rights gradually. We know the fate of such amendments protecting rights of labourers sought in the Bills being brought by Members of the Opposition. We try our utmost to feel the pulse of the people so that what we say may be accepted by Government. We are waiting for the day when the Labour Ministry, by the initiative of the people, would take action. Unfortunately, a Congress Member has moved this Bill. I hope the Labour Minister will kindly look into it and do the needful. While on this subject, I must refer to the things that happened in the Indian Explosives Factory. When the entire matter was pending before the competent authority, action was taken against some workers in the name of other items like service contract, misconduct etc. Workers were victimised. Temporary workers were called in by the management and threatened into giving statements in the desired form to help management in the said dispute.

They said they would terminate their services. There are different terms: termination, dismissal, removal and discharge. For purposes of Industrial Disputes Act, only one thing is there: penal action for removing a man from service. You may call it termination, removal or discharge. The other way of squeezing out the labourers is by way of retrenchment. When we find senior men removed from the establishments and junior men kept there, we deem it is a violation of the provisions of the Industrial Disputes Act. When it is not retrenchment, it is only penal action whatever name one may give to it. I have written letters to Nandaji about Gouria Explosive Factory irregularities but I have not been favoured with any favourable reply or clarification.

Then there are different standing orders in different establishments. I am glad when the Labour Minister says that they are going to make it uniform. I do not know when they will do it. I hope the organised labour and the major labour unions will be consulted as to how these standing orders should be compiled.

Lastly, the present law provides that the tribunals can only see the procedures but not go into the facts or say whether the standing orders are correct and so on. I submit to the Labour Minister that in these days of emergency the labourers must be taken into confidence. The time has come when the labourers must be protected better than they were before and we should not snatch away their rights, especially when the Government is pledged to socialistic pattern of society.

The Deputy Minister in the Ministry of Labour and Employment and for Planning (Shri C. R. Pattabhi Raman): Mr. Deputy-Speaker, I wish at the outset to say that we are very much beholden to what has fallen from so many leaders in the labour field and we are fortunate that very useful suggestions are coming from all sections of the House. I wish to assure the hon. Members that it is not that we are wanting in sympathy with the purport of the amendment. It may interest the hon. Members to know that my esteemed colleague **Shri** Malaviya himself, as a private Member, brought a Bill in the other House. So, generally it is not as if we are not aware of these lacunae in the various sections of the Industrial Disputes Act. We are constantly keeping them in mind, and we are endeaouring to bring sooner than later a comprehensive Bill as we have already stated quite often.

I may, at the outset, give the position so far as this particular amendment is concerned. But before I do so, I may with your leave state that we have evolved a procedure of a tripartite conference. We refer all these matters to the tripartite conference and get their views, because we have our own bias in these matters. We want to see that industrial peace is maintained, particularly so during this emergency. We also seek the cooperation of all the parties always and that has been the method.

The position today is this. Section 33(2) of the Industrial Disputes Act provides that if during the pendency of proceedings in respect of an industrial dispute, any workman commits any misconduct not connnected with the dispute, the employer can take action against him under the relevant standing orders. He has also to get his action approved by the conciliation officer, board or labour court or tribunal or other authority before which the proceedings are pending. Under sub-section (5) of the same section, the tribunal or the authority concerned is required to hear such an application for approval of the action, and pass as expeditiously as possible such orders as they deem fit. This has been tested in the Supreme Court as has been stated by the hon. Members.

This case has been referred to in the Labour Law Journal, 1959, Volume II, page 666. The case in question is Punjab National Bank, Ltd., *vs.* their workmen. I will give only the substance of it from the head-

[Shri C. R. Pattabhi Raman]

notes. The court, speaking through Mr. Justice Gajendragadkar, who is a great authority on labour matters, has actually stated as follows:

> "But it is significant that even if the requisite permission is granted to the employer under S. 33 that would not be the end of the matter. It is not as if the permission granted under S. 33 validates the order of dismissal. It merely removes the ban; and so the validity of the order of dismissal still can be, and often is, challenged by the union by raising an industrial dispute in that behalf. In the case of S. 33 the removal of the ban merely enables the employer to make an order of dismissal and thus avoid incurring the penalty imposed by S.31(1). But if an industrial dispute is raised on such dismissal, the order of dismissal passed even with the requisite permission obtained under S. 33 has to face the scrutiny of the tribunal."

That is the position, as hon. Members are aware.

The hon. Shri C. K. Bhattacharyya, with this usual clarity and erudition, has stated in his speech the objects of the Bill. The Statement of Objects and Reasons also contain what the scope of section 33 is. It is not as if section 33(a) is lost sight of. Section 33(a) deals with the contravention of the provisions of section 33 and hence the courts or the tribunals are expected to adjudicate upon the points in dispute. It is not open to the tribunal to consider whether the proposed order of the employer was not proper or adequate or whether it erred on the side of excessive severity. This is from the judgment to which I reffered to. I do not want to keep the House longer on the judgement than is necessary.

It is also true that if the appropriate Government are satisfied with the merits of the case they can refer the dispute for adjudication. Shri C. K. Bhattacharyya's intention is that this adjudication should be available to the workmen even at the stage when the tribunal is considering the application of the employer under section 33(2). That is the real position. He wants that the worker should not be required to suffer delay and duplication of proceedings and consequent financial liabilities.

We have also had the observations of the distinguished labour leader, Shri K. N. Pande. He also feels that the approval of the action of the employer by the relevant authority under section 33 may prejudice the worker's case if there is a subsequent reference to adjudication. In these matters, as the House is aware, we try to get the opinion of the State Governments also.

I do not want to keep the House very long enumerating what the various States have said, but I shall give briefly some of the arguments advanced against the Bill by some States. Practically all the States have given their opinion. It would appear that the problem has not manifested itself in any acute form in the State sphere. The substance of the arguments advanced by them is that the entrusting of the Conciliation Officers and Boards with duties of adjudication proceedings may prejudice their role as Conciliators. I want to pass over this objection. This is an objection for what it is worth. It is not as if we are blind to it. We ourselves are trying to evolve a procedure. It may be that in course of time, as I said in the beginning, there may be a comprehensive amendment so far as this is concerend.

Secondly, some of the States feel that the proposed amendment would defeat the very purpose of the Bill inasmuch as the disposal of applications for dismissal or discharge will be delayed if the merits of the disputes have to be adjudicated upon. Some of them fell that it would not be appropriate to treat every application filed under section 33 as if it were a dispute referred to a Tribunal for adjudication,

when, in fact, there may not be any real dispute at all. Then, they feel that the proposed amendment would unecessarily disturb the present scheme of the Act, depriving the employer of an important right and lengthen the period of his disability. Finally, they say, that it would not be also proper to confer powers of adjudication on Conciliation Officers who have no judicial experience.

Sir, for what it is worth, I thought I must take the House into confidence and refer to some of the objections raised by the various State Governments.

Even though we had not circulated this elaborately to the employers' or workers' organisations, a number of them have sent in identical representations with regard to this, and there are some in which they have indicated their opposition to the Bill. Naturally, the employers have opposed the amendment.

Dr. Ranen Sen: Which are the trade unions that have opposed this amending Bill?

Shri C. R. Pattabhi Raman: It would not be fair if I say that the trade unions have opposed this, and therefore I am guarded in my statement. I was very cautious in saying that some workers' organisations have expressed their opinions. It is not necessary for me to refer to any one in particular. By and large, I agree, the employers seen to be objecting to this—not all, but some of them—and also some of the workers organisations.

Then, in the 19th session of the Indian Labour Conference held at Bangalore in October, 1961, the Indian National Trade Union Congress brought forward a similar proposal. In support of the proposed amendment they stated that under the existing provisions of the Act, workers were facing the following disadvantages. In fairness to the Indian National Trade Union Congress I want to say that the disadvantages they stated were:

(i) Resort to two sets of proceedings in order to decide the cases on merits—first under section 33 for a *prima facie* case and then by way of a regular industrial dispute to get the cases adjudicated on merits;

(ii) delay in getting relief;

(iii) high cost of litigation ; and

(iv) prejudice caused to the merits of the workmen's case by the Tribunal's approval of the employer's action.

So far as the worker's side is concerned, which is always present in our mind, with regard to the provision in the Act it was said that which involved two proceedings causing considerable delay in getting any relief—first, a *prima facie* examination by the authority, and the second, adjudication of the dispute raised by the workman (subsequent to his dismissal) for getting him reinstated. I do not want to keep the House very long stating the employers' case, but they were of the view that the protection under section 33 was only to see that the management does not act in a *mala fide* way and take advantage in victimising a worker. It was mentioned that where the Tribunal found that there was no *prima facie* case for the employer to dismiss the workman, the later was taken back. The existing protection and the Code of Discipline were, it was pointed out, adequate to safeguard the interests of the workers. The Code of Discipline, if I may say so with respect, has earned the approval all over the country. On the question whether in the code of discipline there were adequate safeguards for the interests of the workers, after some discussion it was decided to place the matter before the next session of the Standing Labour Committee for further consideration. Actually, the matter has placed before the Standing Labour Conference and the Standing Committee and it was decided to defer the matter for a further tripartite meeting. What they wanted was, some

[Shri C. R. Pattabhi Raman].

sort of comprehensive legislation which will bear the stamp of approval from all parties concerned. Even otherwise, the moment we feel that the time has come, I can assure hon. Members, we will see to it that it is not undualy delayed. It is not the intention of Government to bring in the tripartite procedure just to delay the whole thing. I am sure hon. Members will agree with me that it is not the intention of the Labour Ministry to see that some sort of ruse is taken advantage of to delay matters. No; far from it. Industrial peace is very important.

Shri Prabhat Kar: You were referring to the unanimous decisions of the conference. So far as the organisations of workers are concerned, I think they have made their position clear that they want an amendment of section 33. Naturally, employers will object to it. But what is the attitude of the Government?

Shri C. R. Pattabhi Raman: As I was saying, the hon. Member is always thinking of a comprehensive legislation. It will not be unduly delayed. But the fact remains that we have a set procedure. Tripartite means not only the Central Government and the State Governments but also the employers and employees. Now the public sector has also come in, which is a new factor. Now, for the first time, public sector companies are taking part in tripartite conferences. Therefore, we are trying to beat out some sort of arrangement which will be accepted warm-heartedly by all sections. We will not unduly delay matters merely because there is no agreement. I can assure hon. Members that we are constantly keeping this in mind. In genuine cases there is a liberal interpretation given and they are always considered for reference for adjudication. Therefore, I am sorry, I am not able to accept the Bill proposed by Shri Bhattacharyya.

Shri Prabhat Kar: Not even the substance of it? Do you agree with the purpose for which this Bill has been introduced even though you may not accept the amendment as it is?

Shri C. R. Pattabhi Raman: As I have already indicated, it is not a question of agreeing with the purpose of this Bill. It is a piece-meal legislation for the amendment of section 33 alone. For that reason, I am unable to accept it.

Since a reference was made to the Jamshedpur case, I do not want to appear that I omitted to refer to that. That was not considered by the State Government to be a fit case for reference to adjudication because there were cases of violence and it was an illegal strike. That was the position or stand taken by the State Governmen.

Shri C. K. Bhattacharyya: Mr. Speaker, I am much re-assured by the statement of the hon. Deputy Minister that his colleague in the Ministry, the other Deputy Minister, had brought a Bill to this effect in the other House of Parliament, to the same effect as my Bill.

An Hon. Member: When he was not a Minister.

Shri C. K. Bhattacharyya: This re-assures me to think that the Bill which the hon. Deputy Minister, Shri Malviya, found tasteful to him before he was raised to the Ministry would be equally tasteful to him in his ministerial metamorphosis. But, since he has not replied to the debate....

Mr. Speaker: Tastes also change with metamorphosis.

Shri C. K. Bhattacharyya: Sir, I am grateful to you for the reminder. But it does not change so quickly in the human world.

The hon. Deputy Minister who replied to the debate, I believe when he was stating about the opinions of different States on such a matter, quoted the opinion of some States which had stated that the power for dispensing with these procedures should not be vested in conciliation officers as not having much judicial experience. I hope, I have heard him rightly. If that is so, the objection that I would raise is more fundamental.

Section 33 invests the conciliation officers with the power to deal with these proceedings where an employer makes an application to a conciliation officer, conciliation board, labour court tribunal or a national tribunal. The conciliation officer is placed in the same status as the Board, labour court, tribunal or even a national tribunal. It does not lie in the mouth of any State now to say that a conciliation officer should be debarred on the ground that he has no judicial experience. If a State raises such an objection, that objection should not be given any quarter and should be dismissed on the very face of it.

Not only that, the hon. Deputy Minister was quoting some cases. I find in this book the opinion quoted from some law cases in which it is stated:—

> "An Industrial Tribunal acts judicially in exercising its powers under section 33 of the Industrial Disputes Act, 1947 and therefore those powers must be exercised in conformity with the general and fundamental principles on which all judicial acts are to be performed....."

It is on this observation of the highest court in the land that I have taken my stand in bringing forward this amendment and it would break my heart to think that the government of the day or the hon. Minister who represents it in this matter would not give equal consideration to this observation of the court which I have given.

I shall refer to one more argument in my favour. I shall request the hon. Deputy Minister to refer to section 22 of the Act. In section 22 of the Act it provides:—

> "No person employed in a public utility service shall go on strike in breach of contract—
>
> * * * *
>
> during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings."

Shri Prabhat Kar: Section 23 makes it general, that is, for all.

Shri C. K. Bhattacharyya: My contention is that when workers are debarred by law from going on strike because some proceedings are pending before the courts, not only during the proceedings but seven days after that. Why should not the law make the same procedure applicable to the employers and debar them from taking any step whatever during the pendency of the proceedings in a court? These are my contentions and these, I believe, are sound enough to carry conviction to any ministry and any government.

Mr. Speaker: Except his own.

Shri C. K. Bhattacharyya: I hope to carry them with me.

Mr. Speaker: All right; let us see.

Shri C. K. Bhattacharyya: I have pointed out that there is discrimination between the use of the word 'permission' in two sub-sections and in the use of the word 'approval' in another sub-section. To this point the hon. Deputy Minister has not given any reply. Why should this discrimination be there? Why should not all the sub-sections provide that no action should be taken without getting permission from the court? Why should there be that in two cases permission will have to be taken prior to taking any action by the em-

[Shri C. K. Bhattacharyya]

ployer while in another case action is to be taken first and approval of the court is to be sought afterwards? The point at question rather appears to be incongruous in the section. No explanation has been given. I wish the hon. Deputy Minister in the Labour Ministry will think over it. Now, I believe, that is the rule of the day—these tripartite meetings—and in such meetings no love is lost. So, let tripartite meetings be held. The suggestion that I have made in the amendment proposed by me may be put before such a meeting so that suitable amendment might come from the Government itself and the section be amended in a way to make it look just and reasonable, not favouring any particular group, between employer and employee.

Shri Prabhat Kar: Take that assurance from the Minister.

Shri K. N. Pande: Sir, may I say something?

Mr. Speaker: Does it boil down to that suggestion or it is something else?

Shri K. N. Pande: No, Sir. I want to put this thing for the consideration of the Labour Minister. The hon. Minister during the course of his speech referred to a standing committee. I always happen to attend that. There is no opposition from the side of the States. Generally, this is not applicable. Generally, their cases are not going to the court. Originally, this position was there in the Industrial Disputes Act. So, if we go to the original position, there is no harm in it. At least, he will convey our message to the Labour Minister for considering that.

Mr. Speaker: Shall I put the question to the vote of the House?

Shri C. K. Bhattacharyya: The Deputy Labour Minister nodded his head when I suggested that it should be put before the tripartite meeting. So, I take it in my favour.

Shri C. R. Pattabhi Raman: Oh, yes.

Shri Prabhat Kar: Take the assurance from the Minister.

Shri C. K. Bhattacharyya: The Minister, I believe, has given some assurance to me that he will put it before the tripartite meeting so that it could be put into effect.

Dr. Ranen Sen: Does he accept it in principle?

Mr. Speaker: Does the hon. Member want the permission of the House to withdraw the Bill?

Some Hon. Members: No, Sir.

Mr. Speaker: Then I have to put it to the House.

Shri C. K. Bhattacharyya: On the assurance of the Minister, I withdraw it.

Mr. Speaker: Has he the permission of the House to withdraw the Bill?

Several Hon. Members: Yes.

Some Hon. Members: No.

Mr. Speaker: If there is even one voice against, I have to put it to the House.

The question is:

> "That leave be granted to Shri C. K. Bhattacharyya to withdraw the Bill further to amend the Industrial Disputes Act, 1947."

Those in favour, may kindly say 'Aye'.

Several Hon. Members: Aye

Mr. Speaker: Those against may kindly say 'No'.

Some Hon. Members: No.

Mr. Speaker: The 'Ayes' have it, the....

Some Hon. Members: The 'Noes' have it.

Mr. Speaker: May I ask those hon. Members who are against to stand in their places. They are five only. They are not so serious.

Dr. Ranen Sen: We are serious.

Mr. Speaker: Do you want a division?

Dr. Ranen Sen: Yes.

Mr. Speaker: That is what I was asking. Let the lobby be cleared.

Shri Tyagi (Dehra Dun): Are we expected to say 'Yes' or 'No'?

Mr. Speaker: Should I tell him? It is not the American Senate where the Speaker can canvas.

Now, the lobby has been cleared. I shall now put the motion to vote.

Shri C. K. Bhattacharyya wants leave of the House to withdraw his Bill.

The question is:

"That leave be granted to Shri C. K. Bhattacharyya to withdraw the Bill 'further to amend the Industrial Disputes Act, 1947'.".

The Lok Sabha divided:

श्री महादेव प्रसाद (बांसगांव) : अध्यक्ष महोदय, मेरे वोट का रंग सफेद आ गया है । मैं "आयेज" पर वोट करना चाहता हूं ।

Shri C. K. Bhattacharyya: The light on my table is not burning.

Mr. Speaker: He wanted to vote for 'Ayes'?

Shri C. K. Bhattacharyya: Yes.

AYES

[16.53 hrs.] **[Division No. 4**

Akkamma Devi, Shrimati
Alva, Shri Joachim
Aney, Dr. M.S.
Barupal, Shri P.L.
Basappa, Shri
Basumatari, Shri
Bhattacharyya, Shri C.K.
Brahm Prakash, Shri
Brajeshwar Prasad, Shri
Chanda, Shrimati Jyotsna
Chandrasekhar, Shrimati
Chaudhry, Shri C.L.
Chaudhuri, Shrimati Kamala
Chuni Lal, Shri
Daljit Singh, Shri
Das, Dr. M.M.
Das, Shri B.K.
Dasappa, Shri
Dass, Shri G.
Desai, Shri Morarji
Gackwad, Shri Fatehsinhrao
Hajarnavis, Shri
Hem Raj, Shri
Jamir, Shri S.G.
Jamunadevi, Shrimati
Kanungo, Shri
Kedaria, Shri C.M.
Kindar Lal, Shri
Kripa Shankar, Shri
Lalit Sen, Shri
Laskar, Shri N.R.
Laxmi Bai, Shrimati
Mahadeo Prasad, Shri
Masuriya Din, Shri
Mehrotra, Shri Braj Bihari
Melkote, Dr.
Mengi, Shri Gopal Datt
Mirza, Shri Bakar Ali
Mohsin, Shri
Murti, Shri M.S.
Nayar, Dr. Sushila
Nehru, Shri Jawaharlal
Niranjan Lal, Shri
Pandey, Shri K.N.
Pandey, Shri Vishwa Nath
Panna Lal, Shri
Pant, Shri K.C.
Patel, Shri P.R.
Patil, Shri S.B.
Pattabhi Raman, Shri C.R.
Raghunath Singh, Shri
Ram Sewak, Shri
Rao, Dr. K.L.
Rao, Shri Krishnamoorthi
Rao, Shri Ramapathi
Rao, Shri Thirumala
Roy, Shri Bishwanath
Sadhu Ram, Shri
Sen, Shri P.G.
Shastri, Shri Lal Bahadur
Shree Narayan Das, Shri
Siddananjappa, Shri
Sidheshwar Prasad, Shri
Sinha, Shri Satya Naryan
Sinha, Shrimati Ramdulari
Sinha, Shrimati Tarkeshwari
Sinhasan Singh, Shri
Sonavane, Shri
Tiwary, Shri K.N.
Tula Ram, Shri
Tyagi, Shri
Varma, Shri Ravindra
Wasnik, Shri Balkrishna
Yadab, Shri N. P.

NOES

Chaudhuri, Shri Tridib Kumar	Misra, Dr. U.	Shastri, Shri Prakash Vir
Elias, Shri M.	Pottekkatt, Shri	Swamy, Shri Sivamurthy
Kachchavaiya, Shri	Raghavan, Shri A.V.	
Kapur Singh, Shri	Sen, Dr. Ranen	Yadav, Shri R.S.
Kar, Shri Prabhat		

Mr. Speaker: The result of the division is as follows:

Ayes: 74; Noes: 12

The 'Ayes' have it, 'the 'Ayes' have it.

The motion was adopted.

Mr. Speaker: The motion is adopted and leave is granted. Now, the hon. Member may withdraw the Bill.

Shri C. K. Bhatacharyya: I withdraw the Bill.

16.55 hrs.

COMPANIES (AMENDMENT) BILL

(Amendment of sections 15, 30 etc.)

by Shri P. L. Barupal

श्री प० ला० बारूपाल (गंगानगर) : अध्यक्ष महोदय, मैं प्रस्ताव करता हूं :

> "कि कम्पनीज ऐक्ट, १९५६ में आगे संशोधन करने वाले बिल पर विचार किया जाये ।"

आजकल नई कम्पनियों के शेअर बहुत निकले हैं जो कि छोटे-छोटे दस दस रुपये के होते हैं जिनको ग्रामीण लोग खरीद सकते हैं । लेकिन जो कम्पनीज एक्ट हैं उसके अंग्रेजी में होने के कारण वे लोग उसको समझते नहीं हैं इसलिये उसके नफे के और कानून के सम्बन्ध में उनको किसी बात का ज्ञान नहीं होता है । इसलिये मैं समझता हूं कि अगर कम्पनी एक्ट को हिन्दी में भी छापा जाय तो जो लोग अंग्रेजी नहीं जानते वे उसको समझ सकेंगे । यह एक्ट बहुत बड़ा है और अंग्रेजी में है । मैं स्वयम् अंग्रजी नहीं जानता इसलिये मैं इसको ज्यादा समझ नहीं पा रहा हूं । इसके सम्बन्ध में जो कठिनाइयां उत्पन्न होती हैं उनको देखते हुए मैं कुछ सुझाव देना चाहता हूं और कहना चाहता हूं कि इसकी धारायें यह और होनी चाहियें :

(१) प्रत्येक पब्लिक कम्पनी अपने अनुच्छेद और ज्ञापन । आर्टिकल और मेमोरेन्डम । अंग्रेजी के साथ साथ हिन्दी में अवश्य छपायें ।

(२) मैनेजिंग एजेन्सी तथा विक्रय एजेन्सी इत्यादि जैसी महत्वपूर्ण दस्तावेजों को भी हिन्दी में तैयार होना चाहिये ।

(३) कम्पनियों के नाम और पते उनके पत्रों पर अंग्रेजी के साथ साथ हिन्दी में भी लिखे होने चाहियें ।

(४) वार्षिक आय व्यय (बैलेन्स शीट), डायरेक्टरों की रिपोर्ट, आडिट रिपोर्ट इत्यादि अंग्रजी के साथ साथ हिन्दी में छपनी चाहिएं ।

(५) शेयर पत्र के विवरण अंग्रेजी के साथ साथ हिन्दी में भी छपने चाहियें ।

बड़े दुःख के साथ कहना पड़ता है कि मैं यहां पर आज बारह वर्षों से हूं, लेकिन मुझे कोई भी बिल हिन्दी में देखने को नहीं मिला । जब तक हम हिन्दी भाषी लोग बिल को अच्छी तरह से समझ न लें, देख न लें, तब तक हमको बड़ी कठिनाई होती है । हम किस प्रकार से अपने विचार आपके सामने रक्खें और किस प्रकार अपने सुझाव दें ? अगर कोई ऐक्ट या बिल हिन्दी में तैयार होते तो हम भी थोड़ा बहुत उनको समझ पाते और यह महसूस करते कि हमारा सहयोग भी लिया जा रहा है ।