them not have any doubt about it: the position of the handloom weaver will not deteriorate by this measure and we hope that it will be strengthened. If it does deteriorate, I shall come and tell the Members that it has deteriorated and then we must seek other remedies to strengthen the position. But then let them understand that in strengthening the position of the handloom weaver by means of this restriction we cannot escape the inescapable; that is all such measures raise the price of mill *dhoties* to weavers in very many areas where mill *dhoties* are used.

Mr. Deputy-Speaker: The question is:

"That the Bill be passed".

The motion was adopted.

INDUSTRIAL DISPUTES (AMENDMENT) BILL, 1953

Mr. Deputy-Speaker: The House will now take up the clause by clause consideration of the Industrial Disputes (Amendment) Bill.

Clause 2.—*(Amendment of section 2)*

Shri K. K. Desai (Halar): I beg to move:

In page 1, line 12,—

omit "paid or"

In page 1, line 24,—

omit "paid or"

Shri K. P. Tripathi (Darrang): I beg to move:

In page 2,—

(i) in line 3, *for* "uninterrupted service" *substitute* "uninterrupted employment which has not been earlier terminated expressly by the employer"; and

(ii) *omit* lines 4 to 7.

Shri A. N. Vidyalankar (Jullundur): I beg to move:

In page 2, line 3,—

for "uninterrupted service" *substitute* "uninterrupted employment".

Shri S. S. More (Sholapur): I beg to move:

In page 2,—

for lines 3 to 7 *substitute*—

"(eee) 'continuous service' means uninterrupted service, and includes service which may be interrupted merely on account of sickness, or accident, or such absence on account of family events as may be prescribed, or military service, or the exercise of civil rights and duties, or changes in the management of the undertaking, or intermittent involuntary unemployment if the duration of the unemployment does not exceed a prescribed limit and if the person concerned resumes employment, or pregnancy and confinement if her absence does not exceed a prescribed period."

Shri T. B. Vittal Rao (Khammam): I beg to move:

In page 2, line 6,—

after "illegal" *insert* "or lock-out, or closure, or lay off"

Shri A. N. Vidyalankar: I beg to move:

In page 2, line 6,—

after "illegal" *insert* "or lay-off, lock-out or closure, or due to unavoidable climatic reasons"

Shri D. C. Sharma (Hoshiarpur): I beg to move:

In page 2, line 6,—

after "illegal" *insert* "or lock-out or lay off"

Shri N. Sreekantan Nair (Quilon cum Mavelikkara): I beg to move:

In page 2, line 11,—

after "expressions" *add* "including lock-out"

Shri K. K. Desai: I beg to move:

In page 2, line 14,—

omit "similar"

Shri S. S. More: I beg to move:

In page 2, line 14,—

omit "similar"

Shri T. B. Vittal Rao: I beg to move:

In page 2, lines 16 and 17,—

omit "and who has not been retrenched"

Shri S. S. More: I beg to move:

In page 2, line 17,—

after "retrenched" *add* "for valid and proper reasons"

Shri Bhagwat Jha (Purnea *cum* Santal Parganas): I beg to move:

In page 2,—

omit lines 18 to 24.

Shri A. N. Vidyalankar: I beg to move:

In the amendment proposed by Shri V. V. Giri printed as No. 27, in list No. 2—

in the second proviso to the Explanation—

for "for that part of the day" *substitute* "for the whole day".

Shri K. P. Tripathi: I beg to move:

In page 2, line 21,

after "and" *insert* "is refused work, or"

Shri N. Sreekantan Nair: I beg to move:

In page 2, line 31,—

after "workman" *insert* "before the age of superannuation"

Shri S. S. More: I beg to move:

(i) In page 2, line 32,—

before "age" *insert* "prescribed".

(ii) In page 2, line 35,—

after "behalf" *add* "and if the worker is found to be physically unfit to carry on his work with his usual efficiency"

Shri A. N. Vidyalankar: I beg to move:

In the amendment proposed by Shri V. V. Giri printed as No. 29 in the list No. 2—

in part (ii), after "ill health" *add*—

"of not less than six months' duration, and certified by the Civil Surgeon".

Shri Bansal (Jhajjar-Rewari): I beg to move:

In page 2,—

after line 35 *add*—

"(c) termination of the service of a workman on the ground of continued ill health,

(d) completion of service at the end of a specified period of engagement."

Shri V. Missir (Gaya North): I beg to move:

In page 3, line 4,—

omit "or provident fund".

Mr. Deputy-Speaker: Amendments moved:

In page 1, line 12,—

omit "paid or".

In page 1, line 24,—

omit "paid or".

In page 2,—

(i) in line 3, *for* "uninterrupted service" *substitute* "uninterrupted employment which has not been earlier terminated expressly by the employer",

(ii) *omit* lines 4 to 7.

In page 2, line 3,—

for "uninterrupted service" *substitute* "uninterrupted employment".

In page 2,—

for lines 3 to 7 *substitute*—

"(eee) 'continuous service' means uninterrupted service, and includes service which may be interrupted merely on account of

sickness, or accident, or such absence on account of family events as may be prescribed, or military service, or the exercise of civil rights and duties, or changes in the management of the undertaking, or intermittent involuntary unemployment if the duration of the unemployment does not exceed a prescribed limit and if the person concerned presumes employment or pregnancy and confinement if her absence does not exceed a prescribed period."

In page 2, line 6,—

after "illegal" *insert* "or lock-out, or closure, or lay off".

In page 2, line 6,—

after "illegal" *insert* "or lay-off, lock-out or closure, or due to unavoidable climatic reasons".

In page 2, line 6,—

after "illegal" *insert* "or lock-out or lay off".

In page 2, line 11,—

after "expressions" *add* "including lock-out".

In page 2, line 14,—

omit "similar".

In page 2, lines 16 and 17,—

omit "and who has not been retrenched".

In page 2, line 17,—

after "retrenched" *add* "for valid and proper reasons".

In page 2,—

omit lines 18 to 24.

In the amendment proposed by Shri V. V. Giri printed as No. 27, in list No. 2—

in the second proviso to the Explanation—

for "for that part of the day" *substitute* "for the whole day".

542 P. S. D.

In page 2, line 21,

after "and" *insert* "is refused work, or".

In page 2, line 31,—

after "workman" *insert* "before the age of superannuation".

In page 2, line 32,—

before "age" *insert* "prescribed".

In page 2, line 35,—

after "behalf" *add* "and if the worker is found to be physically unfit to carry on his work with his usual efficiency".

In the amendment proposed by Shri V. V. Giri printed as No. 29 in the list No. 2—

in part (ii), *after* "ill health" add—

"of not less than six months' duration, and certified by the Civil Surgeon".

In page 2,—

after line 35 add—

"(c) termination of the service of a workman on the ground of continued ill health,

(d) completion of service at the end of a specified period of engagement."

In page 3, line 4,—

omit "or provident fund".

I will call upon the hon. Minister first to speak in relation to his amendments. Hon. Members will speak on the clause and on all the amendments that have been moved—not only on their own amendments but on other amendments also under this clause—so that once for all the debate would go along. I would not give them another chance even in respect of their own amendments in this clause.

The Minister of Labour (Shri V. V. Giri): My amendment No. 27 is self-explanatory. I beg to move:

In page 2,—

for lines 18 to 24, *substitute*:

"*Explanation.*—Every workman whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:

Provided that if the workman, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment, then he shall be deemed to have been laid-off only for one half of that day;

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day."

This amendment, Sir, is intended to enable full work being given in the second half of the shift. I do not want to make a speech: it is so clear.

I also beg to move:

In page 2,—

(i) in line 35, *add* at the end "or"; and

(ii) *after* line 35 add—

"(c) termination of the service of a workman on the ground of continued ill health".

I have nothing to say on this amendment.

Mr. Deputy-Speaker: Amendments moved:

In page 2,—

for lines 18 to 24, *substitute*:

"*Explanation.*—Every workman whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:

Provided that if the workman, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment, then he shall be deemed to have been laid-off only for one half of that day;

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day."

In page 2,—

(i) in line 35, *add* at the end "or"; and

(ii) *after* line 35 add—

"(c) termination of the service of a workman on the ground of continued ill health."

Shri K. K. Desai: Sir, I have moved three amendments. My amendment No. 21 seeks to omit the words "paid or" from sub-clause (i) (aa). Similarly I want to omit these words from line 24.

If 'paid or' is retained in the clause I am afraid it may so happen that in certain periods the wages paid may have been less. This Bill is meant to meet an emergency which may arise in future. The amendments which I have moved are very clear and I hope the hon. Minister will accept them.

The third amendment which I have moved seeks to omit the words "similar" from line 14. This is also important, because if the word similar is not deleted, the worker is likely to suffer. There are so many cases in which a lay-off takes place for reasons beyond the control of the worker. For example, there are heavy rains and a particular department is flooded and it is closed down. The worker presents himself at the mill gate, but he is not able to work because there is flooding in the department. In such cases the worker should be paid, because he is absenting not on his own volition, but for reasons beyond his control. As a matter of fact he presented himself at the mill, but was not given work. I think the intention of the Bill would be better served if this amendment also is accepted by the hon. Minister.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

Shri Bansal: Sir, with regard to the amendment No. 27 moved by the hon. Minister I would just like to ask him if this is in keeping with the Fourteen Point Agreement. As I will point out later on while discussing other amendments, it is not proper to make drastic changes in any tripartite agreement that might have been arrived at. I am not able to understand quite clearly whether this amendment No. 27 does not violate the spirit of that agreement. If the hon. Minister thinks that it is in conformity with that agreement and is merely of an explanatory nature, I would support this amendment.

I support his amendment No. 29 and along with that my amendment No. 73 which I have moved. The first part of my amendment is the same as that moved by the hon. Minister. The second part of my amendment reads:

> "completion of service at the end of a specified period of engagement".

Now, Sir, this clause reads thus:

> " 'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—
>
> (a) voluntary retirement of the workman; or
>
> (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf."

According to the amendment of the hon. Minister sub-clause (c) which is sought to be added would read thus:

> "(c) termination of the service of the workman on the ground of continued ill-health".

According to my amendment (d) would read thus:

> "(d) completion of service at the end of a specified period of engagement."

The reason for my moving this amendment is this. In a number of concerns young people offer themselves for jobs either as apprentices or for contract jobs to start with. Again there might be small or big concerns which might have in hand a piece of job which might come to an end within a period of six months, a year or two years and the person concerned may be employed for that specified period. If that is the case then I do not think termination of service at the end of that specified period should be treated as retrenchment. That is a simple amendment that I want to move.

[Shri Bansal]

5 P.M.

I have not been able to follow any of the amendments moved by my friend Shri Khandubhai Desai. He wants the deletion of the words "paid or". I read the clause which says that 'average pay' means the average of the wages paid or payable to a workman. Now, if the words "paid or" are removed it will mean payable to a workman. I do not see what difference it will actually make. Now two options are being given namely wages paid or payable—whichever is higher, in my opinion—and therefore it is to the advantage of the worker. I think that is the interpretation which will be borne out by any court. Therefore I think that these words should remain. But if the House is of opinion that my interpretation is wrong and if the Minister accepts the amendment of Shri Khandubhai Desai I will not oppose it.

But I do oppose his other amendment for the deletion of the word "similar". Because in that case this will become a very omnibus and wide clause and I am not able to envisage the possibilities. Here again I would like to know—Shri Khandubhai Desai was a party to that fourteen point agreement—if this will not be going absolutely against the spirit of that agreement.

Shri K. K. Desai: It was a general agreement to pay lay-off.

Shri T. B. Vittal Rao: Sir, the fourteen point agreement has been referred to by Mr. Bansal. We would like to have a copy of it. Otherwise, if the Minister goes on referring to it we would be in a difficult position.

Mr. Chairman: He should have seen the agreement before he came to the House. It was not an agreement to which Parliament is a party; it was between employers, employees and Government.

Shri Kasliwal (Kotah-Jhalawar): Copies of it are available in the Library.

Mr. Chairman: He should have made himself acquainted with it.

Shri S. S. More: May I make a submission? Some of the reports of the tripartite conferences have been circulated already. But the latest report in which this particular matter is supposed to be embodied has not been circulated. Since the previous documents have all been circulated I think we would not be wrong if we expect this particular document also to be circulated.

Shri V. V. Giri: It was placed on the Table of the House.

Shri S. S. More: But the previous documents have been circulated to every one of the Members.

Mr. Chairman: This was placed on the Table of the House.

Shri S. S. More: I do not know whether the Government is out for genuine economy. But if the previous documents were circulated, this one which is in line with the previous documents should also be circulated to us. Of course we know that when it is laid on the Table we can go to the Library and see. But the report of 1952 for instance, a big volume, was circulated. So I do not know why this has not been circulated unless we take it as the intention of the Government to embark on economy measures.

Mr. Chairman: It is rather too late. For instance it happened yesterday when papers were being laid on the Table and some Members said that they should be circulated, and they were circulated. Now it is too late.

Shri Bansal: Sir, on a point of information. My hon. friend from that side said that I have referred to the fourteen point agreement. It was not I who quoted it for the first time. The hon. Minister made a detailed reference to them the other day.

Mr. Chairman: It makes no difference.

Shri S. S. More: Sir, I have moved certain amendments (Nos. 64, 66, 67, 70 and 71). I seek your permission to speak on clause 2.

Mr. Chairman: Certainly.

Shri S. S. More: I will indicate the purpose of every one of my amendments, but before that I should like to make a few observations regarding amendment No. 27 which has been moved by the hon. Minister. In the Bill as it has been introduced the Explanation provides that the worker concerned will have to present himself at a particular time for the purpose of seeking employment and if he is not engaged or given any employment on that presentation then he shall be deemed to have been laid off. Now according to the amendment of the hon. Minister the worker will have to present himself twice, first at the beginning of the first half of the shift and over and above that, if he is not given any employment, he will have to repeat his performance and present himself during the second half of the shift.

I think this is imposing an additional burden, making the concession more onerous than it should be. I should like to take a case. At the beginning of the day the worker presents himself at the door of an employer and the employer tells him "Well, for one week there is no chance of your being engaged". But in spite of such a categorical reply by the employer, according to the original clause and worse still according to the latest amendment, the poor, unfortunate, half-starving employee will have to walk the distance and perform a sort of ritual and present himself at the unsympathetic doors of the hard-hearted employer...

Shri K. K. Desai: Would you see the last two lines of the amendment?

An Hon. Member: Your amendment?

Shri K. K. Desai: The same amendment.

Shri S. S. More: He is referring to this:

> "Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day."

Even this reinforces my own argument.

Shri V. V. Giri: He is certainly benefited by presenting himself.

Shri S. S. More: As far as taking some exercise is concerned he will be surely benefited. But some walking exercise for a famished and half-starved man—it may be good for Mr. Giri—but it will not do any good to the half-starved worker. My submission is if the employer is candid enough and says—he might not have received the yarn he wants to weave into cloth or the raw material necessary for manufacturing a particular article and does not expect to receive it for a particular period—he gives the worker frankly to understand that for a particular period there is no chance of his being engaged in that particular factory, then, Sir, why should it be necessary for him to go every day and present himself in spite of that categorical reply by the employer? I speak subject to correction. But as I am able to read and interpret these provisos and this particular *Explanation* as amended, I feel it will be a categorical obligation on the part of the employee, and if he fails even for a single day to present himself in accordance with this provision then he shall be suffering the penalty or the evil consequences of such failure. I would make a very earnest request to the Minister that he should look into it and should not add to the crushing burden on the lean shoulder of the worker. If he wants to give a good concession let him give it in a good, friendly manner.

Then, Sir, I would go to my own amendments. By my amendment No. 64, I seek to substitute this definition

[Shri S. S. More]

given on page 2, of continuous service. I need not deal with this definition of mine because when I spoke at the First Reading, I quoted a document of the International Labour Organisation of which you were a party. According to the present provision in the Bill, only if sickness or authorised leave or an accident or a strike which is not illegal were responsible for the absence of the workers, they will not be counted as breaking continuity of service. I have already quoted extensively from the document and in tune with this declaration of the International Labour Organisation to which we are parties, I have presented this particular amendment. I need not say anything further.

Regarding amendment No. 66, I know that Shri K. K. Desai has given a similar amendment that the word 'similar' ought to be deleted from this particular clause. Otherwise, the presence of this word 'similar' is rather sinister as it restricts the sphere within which this particular clause will otherwise operate. I have repeated this amendment because on many occasions, the Congress people have a knack of pressing some amendment in their speeches and at the crucial moment of withdrawing those amendments leaving us in a sort of lurch. That should not happen. As a sort of insurance and safeguard, I move this particular amendment.

Shri Algu Rai Shastri (Azamgarh Distt.—East *cum* Ballia Distt.—West): That is very wise.

Dr. Lanka Sundaram (Visakhapatnam): Double talkers, you are.

Shri S. S. More: Then, I go to amendment No. 67. In this amendment, I seek to add the words 'for valid and proper reasons' after the words 'and who has not been retrenched'. Even on this point, I have made my comments in my first speech. Otherwise, if these words are kept there unqualified, the employer will try to get over this clause by retrenching the worker. I have tried to qualify these particular words by the addition of the words 'for valid and proper reasons'. If the retrenchment is malicious and is done with the purpose of avoiding the operation of this particular clause on some flimsy grounds, that sort of retrenchment should not operate to restrict this particular clause.

Then, I come to amendment No. 70. I have stated that the word 'prescribed' be introduced in this particular clause. I will refer you to page 2, sub-clause (iv) (oo). It is stated that retrenchment means the termination etc. To that there are some exceptions; "Voluntary retirement of the workman; or retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf;" I have proposed that the word 'prescribed' should be inserted before the word 'age', that is, retirement of the workman on reaching the prescribed age of superannuation. I do admit that my knowledge of labour laws is not as perfect as it ought to be. I do not know whether there is any other provision in some other enactment where a certain age has been prescribed for retirement on reaching the age of superannuation of a worker. If that prescribed age is not there, the employers will try by way of agreement to see that a particular worker, the moment he reaches the age of 30 years or 40 years will be deemed to be ripe for superannuation. That is likely to happen. The earlier the superannuation age of a worker, the employers will get a sort of an advantage in dispensing with his services. He may try to have in the agreement certain clauses by which a worker shall be treated to be ripe for superannuation even earlier than ordinary normal age of 55 as it obtains in the case of Government employees.

Dr. Lanka Sundaram: If I may interrupt my hon. friend, Sir, there are

different types of superannuation. In the Port Trust it is 60 years; in other places it is 55.

Shri S. S. More: That is why I said that my knowledge of these labour laws is not as perfect as that of Dr. Lanka Sundaram. I pay my compliments to him for his very accurate knowledge. I accept....

Dr. Lanka Sundaram: Why is the hon. Member so chary of welcoming such assistance?

Shri S. S. More: I welcome the assistance as a matter of fact, particularly when it comes so voluntarily. My submission is that Government should come out, if possible, with a certain declaration. Possibly, for different industries, the age of superannuation is different. Different categories will have different ages of superannuation. If there is some prescribed age, that age should not be whittled down by virtue of any agreement entered into by the employer with the employee. Because, I have already stated that the owner of a factory is in a position to dictate and the unfortunate employee who is there seeking some employment to relieve a long spell of unemployment, may not be in a position to assert his will and so, he will be forced to enter into some agreement. That agreement, as you know, Sir, even under the Contract Act, will be treated as an agreement under duress. Even though the proposal is accepted by the other party, the two parties are not on the same plane and the unfortunate worker who is forced to accept, I may say, strange or high-handed terms of the employer, may not be in a position to take a stand against this term. My submission is that the Government should prescribe a particular age for the different categories, and even when an agreement is pushed forward for the purpose of whittling down or lowering that particular age, that sort of agreement should not be accepted and it should be treated as something invalid and opposed to public policy.

Then, Sir, I refer to my amendment No. 71. In page 2, line 35, I want to add something more. The clause says: retirement of the workman on reaching the age of superannuation if the contract of employment.....I want to add: "and if the worker is found to be physically unfit to carry on his work with his usual efficiency".

It is quite possible that in certain industries, even when the prescribed age is something lower, a worker may be physically fit at that particular age. He may be able to carry on the particular work that he is entrusted with with the usual efficiency. He may be endowed with extra vigour or physical fitness even though he has crossed the bar of superannuation and as a matter of fact, he may be able to do full justice to his engagement. I further want that if it is found at a particular age that he has not got the physical fitness that is necessary for his usual efficiency, then and then alone he should be debarred from getting the benefit of this particular clause. These are some of my amendments. I press them with the hope that they will be acceptable first to the hon. Minister, and if not to the hon. Minister, then to the House.

Dr. Lanka Sundaram: Why this invidious distinction?

Shri K. P. Tripathi: The amendment which I have moved is to sub-clause (ii) (eee).

Mr. Chairman: Will he kindly indicate the number?

Shri K. P. Tripathi: Amendment No. 1 list 1.

Mr. Chairman: Only 1 or there are others?

Shri K. P. Tripathi: I have said that the words "uninterrupted service" will be replaced by "uninterrupted employment" and the rest of the clause will be omitted. My amendment is, continuous service means uninterrupted employment which has not been earlier terminated expressly by the employer.

[Shri K. P. Tripathi]

The reason why I move this amendment is this. As I understand, the purpose of providing compensation for lay-off is that whenever a lay-off occurs, the workers should be provided, because the contract between the employer and employee subsists. In the case of retrenchment the contract is terminated and therefore, there is no longer any abiding duty to continue to pay. But in the case of lay-off that contract remains. Because the contract remains the worker cannot leave his post. If the worker cannot leave his post, if the worker is expected to continue to be at his post, then there is no reason why he should not be paid.

Dr. Lanka Sundaram: Fully paid.

Shri K. P. Tripathi: If he is a temporary worker, if he is a casual worker, any type of worker, and if you expect him to come and stand at your beck and call—next Monday you may call him and he may come up—then why shall you not pay him?

Dr. Lanka Sundaram: Fully?

Shri K. P. Tripathi: That is the point. The whole point is that the payment should be full. But here you are providing only for half payment. Is there any reason on earth why you should not pay him fully as you provide here when you expect him every Monday to wait there for you.

In the plantations of Nilgiris when I went there what did I see? I saw workers had been laid off for one week because there was no rain. In the Nilgiris when the workers are laid off, they cannot go anywhere, they cannot find any subsidiary employment. For one full week the worker waited there starving, and next Monday he was expected to be in a fine state of health, in perfect physical condition and put in the maximum amount of work as he did the previous Monday! Is it possible. I ask you. It is not possible. Therefore, the very principle of lay-off must not have been confused with other provisions under the Provident Fund Act or the permanent benefits like earned leave with which it has been confused. The distinction between these two is very patent and obvious. In the case of Provident Fund you are giving him an additional benefit. It is not that he is dying because of want of the Provident Fund. In the case of earned leave, you are giving him an additional benefit. Even if he does not get the earned leave he will not die he will not starve. But in the case of lay-off, for the period of the lay-off he starves. Therefore, to bring in here concepts of Provident Fund and earned leave benefits in which such phraseology is used is, I think, incorrect.

I have tried to look up the tripartite agreement in which I find that the scope of the agreement is wider whereas in this draft it has become narrower, because in the agreement it was said that *Badli* and casual workers shall not be eligible for compensation. That was one of the items of the agreement. That shows that the only thing which the agreement thought should not come within the purview of this is *Badli* and casual worker. *Badli* is very well understood by everybody here. Casual is very well understood by everybody here. Therefore, all other types of workers should get the benefit of this compensation. That was the intention. But what have you done here? By providing this sort of definition of continuous service, you are debarring other types of workers who would almost have completed 240 days that you have provided, but perhaps not completed. They are otherwise entitled to it, but because you have put in this definition they will not be entitled. It is for this reason that I thought the very purpose of the compensation for lay-off was misunderstood. To whom should compensation be paid? The position is very well explained in Clause 5 of the agreement. It says:

> "Compensation will be payable only to permanent workers on the muster roll of the factory."

The criterion is that the worker must be on the muster roll of the factory or the establishment. If he is on the muster roll of the factory, if he is not a casual or *Badli* worker and if he is permanent, then he should be made entitled. Therefore, by putting in this sort of restriction you have gone against the spirit of this agreement and limited it in a way you should not have done. It is for this reason I have tabled my Amendment which says that continuous service means uninterrupted employment which has not been earlier terminated expressly by the employer. If it has been terminated, obviously he does not get the benefit, but if it has not been terminated expressly by the employer and if he continues on the muster roll, then obviously, he is the person to be given the compensation. By putting in other types of distinction it should not be further whittled down. Therefore, I have put in this amendment.

If you accept this amendment you also avoid all possibilities of conflict between the employer and the worker which would arise out of every phrase employed here. There are so many strange phrases and every phrase would be a cause of contention, and therefore if you omit all these phrases and only put in as I have put in, all the conflict will go and this will be in consonance with the spirit of the agreement arrived at and the worker will be protected.

The difficulty is when a worker is laid off he has no money, and if he does not get the wages immediately, if he has to wait for conciliation and arbitration, what is the use? There is no use in providing lay-off compensation in that case. Therefore, whatever legislation you make in the case of lay-off must be a simple measure and abundantly clear so that there is no room for conflict. As I was saying the other day, it should be a fool-proof legislation.

Shri S. S. More: Employer-proof also. Don't call it fool-proof.

Shri K. P. Tripathi: He corrects me. I accept the phrase. It should be effective, because if the lay-off is for one or two months and it is not effective immediately, then it is a dead letter for the worker. It is for this reason that I insist on the hon. Labour Minister who is looking quizzically at me to consider accepting this amendment.

Shri S. S. More: Don't be misled by his nodding head.

Shri K. P. Tripathi: No, I will not be misled.

I find from the proceedings of the same tripartite conference that Mr. Subrahmanian proposed that a worker putting in more than one year's service should not be treated as a *Badli* worker and suggested that on the lines of the Provident Fund Scheme any person who has put in 240 days of attendance should be given that. That shows that even the Labour Secretary was thinking in these terms. He was also thinking that some sort of device should be found out which automatically entitles the worker to this consideration. So, this automatic consideration has been one of the things which has been in the mind of the Labour Secretary, which has been in the mind of every labour worker and should be in the mind of every legislator. It is for this reason I am putting this automatic clause. If accepted, it will do good.

Then, with regard to the two Amendments moved by Shri K. K. Desai, I support them for obvious reasons which have been explained.

The other Amendment which I have moved is No. 28 by which I have tried to put in "is refused work, or" after "and" in the Explanation clause. The idea is that if a man comes and he is immediately refused, then lay-off starts at once. There is no point in waiting for two hours. If he is not refused but if he is made to hang on, then at the expiry of two hours it should be automatically deemed that he is laid-off.

Shri S. S. More: For the whole day, not for the first half.

Shri K. P. Tripathi: Then I come to the famous amendment of Mr. Giri, a

[Shri K. P. Tripathi]

very long amendment in which he has put in two provisos to the Explanation. Under this the position is slightly bettered in the case of those workers who are called for the second shift, but here again I find there is a conflict between these provisos and the Minimum Wages Act. I had a discussion with Mr. K. K. Desai who told me that these provisions will not apply to factories where there is only minimum wage payment, but I do not know how far that will be true, because it is quite possible that it may apply to them also. I refer to Section 15 of the Minimum Wages Act. It says:

> "If an employee whose minimum rate of wages has been fixed under this Act by the day works on any day on which he was employed for a period less than the requisite number of hours constituting a normal working day, he shall, save as otherwise hereinafter provided, be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day."

That says that if a man works less than the normal hours—and the less working is not because of himself, but because of certain other causes—he is entitled to full wages. By this amendment, you are giving him full wages only for the second shift. You are not giving him for the first shift, although you made him wait for all the first shift, and asked him to come back and take the second shift. If the Minimum Wages Act is applicable, you will be reducing his wages from what he is entitled to. Obviously in those factories where the Minimum Wages Act is not applicable, where the workers are getting higher than the minimum wages, this Explanation will not apply. I would request the hon. Minister to find out whether this lay-off compensation will apply to those factories where there is minimum wage payment. If it applies, then a difficulty would arise.

There is an amendment by Shri Bansal, which reads:

> 'In page 2,—
>
> *after* line 35, *add*,—
>
> "(c) termination of the service of a workman on the ground of continued ill health,
>
> (d) completion of service at the end of a specified period of engagement."'

As regards (c) above, I find that a similar amendment has been moved by the hon. Minister. With regard to (d) above, namely termination by agreement, i.e. the period of engagement being over, I would say that there are many contracts under which there is no complete termination, but there is an option of renewal. If, therefore, there is an option of renewal in a contract, obviously, the worker has a right to renew the contract. If you lay him off at that time, or retrench him at that time, then it is incorrect interpretation of the contract. Whenever there is any option of renewal, that provision should be taken into account, and so I would not support the part (d) which Shri Bansal has proposed.

With regard to termination on the ground of continued ill-health, who would be the determining factor, about ill-health? Sometimes, we find that the employer becomes the dictator about our health; he says, you are good, you are bad, or you are indifferent. The whole point is that if a worker is really ill, obviously it is for him to decide. If, however, he is not ill, but the employer thinks that he is ill and he should go out, this would create difficulties. Unless and until there is a provision to determine how this ill-health should be determined, I think this proviso will go against the worker. So, we have to be very careful in accepting this amendment.

I think I have met all the points which I wanted to meet. I commend my amendments to the House, and I would request the hon. Minister to find out whether there is really that legal difficulty which was mentioned earlier, with regard to the amendment which he has moved.

श्री ए० एन० विश्वालंकार : चेयरमैन साहब, मैं क्लाज (ई० ई० ई०) में कन्टीन्यूड सरविस की डेफीनीशन में अमेंडमेंट करना चाहता हूं। आम तौर पर मजदूरों के मामले में यह शिकायत रहती है कि उन के कन्टीन्यूड सरविस के राइट को कई दफा कई तरीकों से रद कर दिया जाता है जिससे कि वह उन फायदों से महरूम हो जाते हैं जो कि उन को मुख्तलिफ कानूनों के अन्दर मिलने चाहिए । इसलिए मैं यह चाहता हूं कि जहां पर लफ्ज 'इल्लीगल' है उस के बाद वह अलफाज बढ़ा दिये जायें "or lay-off, lock-out or closure, or due to unavoidable climatic reasons." अगर आप इजाजत दें तो मैं अपने इस 'अमेंडमेंट' यह इजाफा करना चाहता हूं "wrongful suspension or wrongful dismissal" आम तौर पर अगर किसी वजह से 'डिसमिसल' या 'ससपेंशन' हो और बाद में कोई 'ट्राइबुनल' या 'बोर्ड' यह फैसला दे कि वह 'ससपेंशन' या 'डिसमिसल' 'रांगफुल' था, गलत था, तो उस सूरत में मजदूर की सरविस 'कन्टीन्यूड सर्विस' मानी जानी चाहिए । अगर आप इजाजत दें तो मैं इसको अपने 'अमेंडमेंट' में जोड़ दूं ।

दूसरे जो 'अमेंडमेंट' श्री खंडूभाई देसाई ने पेश किया है कि वह 'ले आफ' की डेफीनेशन में से लफ्ज "सिमिलर" को उड़ा देना चाहते हैं उसको भी मैं 'सपोर्ट' करता हूं। मेरे दोस्त श्री बंसल ने कहा था कि अगर यह लफ्ज हटा दिया जायगा तो इसका नतीजा यह होगा कि वह एक बहुत ही वसीय मानों में ले लिया जायगा और अगर किसी भी तरह मजदूर काम पर नहीं लगाया जा सकेगा तो उस को 'ले आफ' की डेफीनेशन में लाया जायगा । अगर हम इस कानून की स्पिरिट को लें तो तीन तरीके से किसी वर्कर को कारखाने से बाहर किया जाता है। एक डिसमिसल, उसको हम 'ले आफ' में नहीं लेते, दूसरे रिट्रेंचमेंट हो, उसके लिए हमने इस कानून में अलहदा 'प्रोवाइड' किया है । 'रिट्रेंचमेंट' और 'डिसमिसल' के अलावा किसी भी वजह से एक वरकर को कारखाने से बाहर किया जाय 'वह ले आफ' की डेफीनीशन में आना चाहिए । इसलिए मैं चाहता हूं कि लफ्ज 'सिमिलर' को निकाल दिया जाय । अगर बाद में 'सिमिलर' की 'डेफीनीशन' की जायगी तो उनमें बहुत गलतफहमी की गुंजाइश होगी । इसलिए मैं समझता हूं कि जब कि हमारा मकसद यह है कि डिसचार्ज या डिसमिसल और "रिट्रेंचमेंट" को छोड़ कर अगर किसी वरकर को जिसका नाम 'मस्टर रोल' पर है बाहर किया जाय तो उसको 'प्रोटेक्शन' दिया जाय, तो हमें "सिमिलर" के लफ्ज को निकाल देना चाहिए, और जो तजवीज श्री खंडूभाई देसाई ने की है उनको मान लेना चाहिए, वरना इस लफ्ज का बहुत गलत तरीके से इस्तेमाल किया जायेगा । हमारा तजुर्बा है कि 'एम्पलायर्स' किसी वरकर को बाहर कर देने के लिये कई 'रीजन्स' 'इनवेंट' कर लेते हैं और जो वरकर इस तरह बाहर किये जायेंगे उन के मामले में हमेशा इस बात पर बहस होगी कि आया जिस वजह से उनको बाहर किया गया है वह 'सिमिलर' के दायरे के अन्दर आती है या नहीं । इस लिये मैं समर्थन करता हूं कि इस लफ्ज 'सिमिलर' को हटा दिया जाय । और 'डिसचार्ज' और 'डिसमिसल' के अलावा अगर किसी सूरत में मजदूर को काम से महरूम किया जाय तो उसको 'ले आफ' की डेफीनेशन में आना चाहिए ।

दूसरा 'अमेंडमेंट' जो कि श्रीमती सुमठा जोशी ने रखा था मगर वह मूव नहीं

[श्री ए० एन० विद्यालंकार]

हुआ। अगर उसको रखा जाता तो मैं समझता हूं कि ज्यादा अच्छा होता। जो डेफीनीशन 'ले आफ' की "स्टेंडिंग आर्डर्स" में दी हुई है यह उस को ही हू बहू इसमें मान लिया गया है।

दूसरा 'अमेंडमेंट' जो मेरा है वह नम्बर ६८ पर है। श्री गिरी ने २७ नम्बर के अमेन्डमेंट के 'एक्सप्लेनेशन' के अन्दर यह पोजीशन रखी है कि अगर किसी मजदूर को किसी दिन काम न होने के कारण बाहर रखना है तो उसको ज्यादा से ज्यादा दो घंटे तक इन्तिजार करना होगा। तजरबा हमको यह बतलाता है कि ऐसा नहीं होता कि जब मजदूर अपने को हाजिरी के लिए पेश करे उसी वक्त उसको बतला दिया जाय कि उसके लिए उस दिन काम नहीं है। आम तौर पर उसको काफ़ी देर तक इन्तिजार करना पड़ता है, और यह दो घंटे की शर्त इसीलिए रखी गई है कि अगर इतना वक्त तक इन्तिजार करने के बाद भी कोई जवाब नहीं मिलता तो वह 'ले आफ' की 'डेफीनेशन' में रखा जायगा। तजरबा बतलाता है कि दो घंटे तो उस आदमी को ठहरना ही होगा। अगर कोई मजदूर दो घंटे ठहरता है तो फिर वह किसी दूसरी जगह 'एम्पलायमेंट' हासिल नहीं कर सकता और उसको कम तनख्वाह पर रहना पड़ेगा जितनी देर तक कि यह 'ले आफ' की परिभाषा के दायरे में रहेगा। यह अपने आप में काफी 'हार्डशिप' है। और अगर इस दो घंटे के बाद उसको कह दिया जाता है कि वह दूसरे शिफ्ट में आवे तो वह बीच का पीरियड उसका बेकार जाता है और वह उसमें न कोई काम कर सकता है और न यह किसी दूसरी जगह जा सकता है। जब वह दूसरे शिफ्ट में आता है तो उसको दो घंटे इन्तिजार करना होता है और तब उसको जवाब मिलता है। यानी चार घंटे तक तो वह 'एम्पलायर' के 'डिसपोजल' पर रहता है और बाकी का वक्त उधर आने जाने में निकल जाता है। तो 'प्रेक्टिकली' तमाम दिन यह 'एम्पलायर' के 'डिसपोजल' पर रहता है। नतीजा यह है कि काम वह कुछ कर नहीं सकते हैं न घर का काम कर सकते हैं, न कहीं और जगह जाकर 'अलटरनेटिव' एम्पलायमेंट कर के अपनी 'इनकम' में इजाफा कर सकते हैं। यह बहुत ज्यादा 'हार्डशिप' है। इस लिये मैं ने नम्बर ६८ की अमेंडमेंट पेश की है कि अगर दुबारा वह शिफ्ट के लिये आता है और इस तरह से दो घंटा सुबह और दो घंटा दूसरी शिफ्ट में मिलाकर कुल चार घंटे इन्तिजार करता है और फिर भी उसको काम नहीं मिलता तो उसको पूरे दिन का वेतन मिलना चाहिये, क्योंकि एक तरह से उसने चार घंटे कारखाने के दरवाजे पर गुजारे हैं और कोई दूसरा काम उस से नहीं हो सकता है। मैं तो चाहता था कि जो आदमी 'ले आफ' किया जाय, उस को भी पूरी तनख्वाह दी जाय। लेकिन यह कहा गया कि 'ऐग्रीमेंट' हुआ है और उस में यह मान लिया गया है, सभी पार्टी की तरफ से, और उस 'एग्रीमेंट' के जनरल प्रिंसपल्स पर यह कानून बनाया गया है, उन प्रिंसिपल्स को इस में स्वीकार किया गया है, इसलिए मैं इसके ऊपर जोर नहीं देता। लेकिन यह जरूर चाहता हूं कि जो अमेंडमेंट श्री गिरी जी ने रखी है उस में यह जरूर रखा जाय कि अगर दो दफा मजदूर को आना पड़ता है और फिर भी काम नहीं मिलता तो उस सूरत में लाजमी तौर पर उसे पूरे दिन की तनख्वाह दी जाय। यह ६८ नम्बर की जो अमेंडमेंट है उस को मैं ने इसी मतलब से पेश की है।

तीसरे, रिट्रेंचमेंट की डेफीनीशन में नम्बर ७१ की अमेंडमेंट पेश की गई है, जो लोग 'फिजीकली अनफिट' हों उन को रिटायर करना चाहिए। लेकिन देखना होगा कि वे सचमुच 'फिजिकली अनफिट' हों। इस सिलसिले में मेरे दोस्त श्री गोरे साहब ने जो अमेंडमेंट पेश की है उस को मैं स्पोर्ट करता हूं। लेकिन जो २६ नम्बर की गिरी साहब की अमेंडमेंट है उस में मैं एक अमेंडमेंट पेश करना चाहता हूं। "termination of the service of a workman on the ground of continued ill-health", यह दिया गया है, लेकिन "कंटीन्यूड इल हैल्थ" का फैसला कौन करेगा। अगर मालिक एम्पलायर, यह कहता है कि यह आदमी बहुत दिनों से बीमार रहता है और इस वजह से उस की सरविस को टरमिनेट किया जाता है तो उस आदमी को किसी तरह का प्रोटेक्शन नहीं मिल सकता। मैं चाहता हूं कि उस की बीमारी का फैसला आया सचमुच वह लम्बे अरसे से बीमार है और सचमुच वह काम नहीं कर सकता, इस के लिये सिविल सर्जन का सर्टिफिकेट लेना चाहिये और तभी उस की सरविस टर्मिनेट होनी चाहिये।

दूसरी बात यह है कि लम्बी बीमारी में, छः महीने से कम की बीमारी को शामिल नहीं करना चाहिये। जो मजदूर छः महीने से ज्यादा बीमार रहता है तो उस सूरत में जो सरविस टरमिनेट हो उसके बारे में श्री गिरी साहब का संशोधन ठीक है। इससे कम बीमारी हो तो सरविस के टर्मिनेशन के लिये एम्पलायर को 'एग्जम्पशन' नहीं मिलना चाहिये।

चेयरमैन साहब, यह कुछ अमेंडमेंट्स मैं पेश करता हूं और उम्मीद करता हूं कि श्री गिरी साहब इन अमेंडमेंट्स को स्वीकार करेंगे।

Shri T. B. Vittal Rao: I have moved amendments Nos. 2 and 4. Therein I just wanted to make some clarification. Amendment No. 2 is only a clarification amendment. No doubt, the definition of 'lay off' is given while computing the days of continuous service. Here I want to include 'lock out or closure or lay off' so that it will be very clear. Otherwise, it will be difficult in computing the days for continuous service.

By amendment No. 4 I want to omit 'and who has not been retrenched'. We are here only defining what is lay-off. I do not understand the necessity to add these words 'and who has not been retrenched'. When we are defining 'lay off', it is not necessary.

Now, Sir, the hon. Minister has moved certain amendments regarding the worker presenting himself twice. I would have had no objection to the amendment provided he had said that when a worker who went for the first shift and had been asked to come and present himself for the second shift, he would be paid the full basic wages for the day. This is not anything new. This practice is obtaining in some industries already. In some essential works, if the worker has to come regularly in the morning and if he is asked to present himself at the time of the second shift and even then if he does not get work, he is paid the full wages for the day. Whereas here the hon. Minister's amendment says he will be laid off for half day, that he will get only 50 per cent of the wages for the first half and for the later half he will get the full wages. If this amendment, as laid down by the Minister, is accepted, I am afraid the employers will use it in such a way that they will see that spare workers, wherever they exist, will be discharged or retrenched, and then these laid-off workers, if any, will be utilised.

Then, Sir, about the amendment he has moved regarding 'continued ill health'. There is no definition. This is a thing which has been agitating the workers at the Kolar Gold fields. There the employers at the very first sign of the presence of silicosis

[Shri T. B. Vittal Rao]

which has not developed, declare him medically unfit, because silicosis is an industrial disease and they will have to pay for medical treatment. So somehow or other, they declare him medically unfit, without paying any compensation. If this amendment is accepted, then those workers who have got the slightest attack of silicosis will be retrenched. And I may add here, Sir, that the very same workers who have been retrenched at the first sign of silicosis are being entertained at the Hutti Gold mines in Hyderabad. When we approached the Medical officer, he said, "There is no sign of silicosis." So if there is no proper definition of this 'continued ill health' and if it is left as it is, you will see that many workers will be retrenched.

One more thing. Here in the definition of continuous service the hon. Minister has put 'illegal strike'. We all know how the provisions of the Industrial Disputes Act, 1947, operate. Suppose a notice of strike is given over five demands or six demands, the Government invariably chooses to refer only the unimportant demands and then leave off certain demands. Now, if the workers go on strike, then it is declared illegal because they have gone on strike during the pendency of conciliation proceedings or adjudication. He has put down 'illegal strike' in the definition of 'continuous service'. Probably it is in the agreement. I would like to know whether it is so. If it is in the agreement, I would only appeal to the hon. Minister to say simply 'strike', whether it is legal or illegal, because the provisions of the Act have been operating against the workers in many cases.

Then, Sir, our hon. friend, Shri K. K. Desai has moved an amendment to omit 'similar' in page 2, line 14. Only yesterday we had an instance—in reply to a question regarding the flooding of the Majri mines. There is no protection for such cases. The mines are flooded and three hundred workers are thrown out of employment and there is no compensation paid and, if this 'similar' is not removed, then in such case the workers will be deprived of any compensation for lay-off or compensation for retrenchment.

I would just urge the hon. Minister to think of the standards of wages of the workers in India, whether in the cotton industry or jute industry. I will not talk about the coal miners because the Ministry of Labour has got rather a prejudiced view of coal miners.

Shri V. V. Giri: Not at all.

Shri T. B. Vittal Rao: Sir, my experience during the past 18 months has confirmed the view that the Ministry of Labour, as it is constituted today, has got a prejudiced opinion of the coal miners.

You should view it from the point of view of the competitive value. The worker who is getting less may not go out of distress, and accept any other job. We should make provisions, because as I have already pointed out in my opening speech, in a country where there is no unemployment insurance or unemployment relief, the standard of the working class or the workers who are already in service should not go down.

With these few words, Sir, I just commend my amendments.

Mr. Chairman: Shri D. C. Sharma.

Shri Bhagwat Jha: Mr. Chairman....

Mr. Chairman: I have called Shri D. C. Sharma. He is not here. Shrimati Subhadra Joshi.

Shri K. K. Basu: Members who are not here need not be called.

Mr. Chairman: I am calling their names because it should be known who are the Members who have moved their amendments and yet are not here in the House, for discussing the same.

Shri N. Sreekantan Nair: Sir, I have moved two amendments and the one with reference to lock-outs has been accepted by the hon. Minister.

Shri V. V. Giri: I have accepted the amendment with respect to (eee) and not with reference to (kkk). I am sorry that there has been some wrong impression. It may be that I have caused some misunderstanding, I do not know. I accepted Mr. Vittal Rao's suggestion.

Shri N. Sreekantan Nair: I have got the proceedings here, Sir, and I can read from it.

Shri V. V. Giri: I want to correct myself if really I have made myself misunderstood. I placed before you that I was thinking of Mr. Vittal Rao's suggestion. I want to correct.

Shri N. Sreekantan Nair: Sir, I was the first speaker; and when I was speaking as the first speaker I referred to the workers who have been locked out and said that they should also get the benefit of this. The hon. Minister remarked as follows:...

'May I say, I am including lock-out also.'

Mr. Chairman: When the hon. Minister has explained here that when he said that he did not have it in mind, you ought to accept it.

Shri N. Sreekantan Nair: I am just reading it, Sir.

Mr. Chairman: He does not state that he did not say that. He is only stating that when he said it this was not in his mind.

Shri N. Sreekantan Nair: Anyhow, Sir, I was happy over that acceptance of the Minister at that time. Now, I am very sorry he has retracted.

Shri V. V. Giri: I am sorry, I have not retracted; it might be due to misunderstanding.

Shri N. Sreekantan Nair: He has misunderstood the whole thing. Anyhow my supposition is that lock-out is not included. That is one of my complaints, Sir, because lock-out is resorted to by an employer for many reasons. For lay-off there can be some legitimate reason like shortage of material etc. The employer can justify it at least morally, but for that he is made to pay. But when he is locking out without any ground he need not pay. That is the wonderful Bill that is before the House. If the hon. Minister still thinks that lock-out without any reasonable ground should not get the benefit of this legislation, then I leave it to his judgment and to the judgment of the House.

Another amendment is amendment 5, that is the voluntary retirement of the workmen before the age of superannuation That comes into clash, of course, with amendment No. 59 of the hon. Minister. It militates against the very fundamental justice that a worker has to get. The worker has cotinued ill-health. If it is a question of absenting himself due to continued ill-health, it is acceptable to some extent. But even that is not objectionable because the Bill contains two aspects, one compensation for laying-off of a worker and the other the termination of services and compensation for that. As a matter of fact, it is only a very few factories that give gratuity when the services are terminated. If the services are to be terminated and if it is said that it can be done at the age of superannuation, then naturally every employer will start saying, 'you have become superannuated, you retire and you won't get any benefit'. They can simply say that he does not work. he has got better prospects and that is why he is throwing it away. The hon. Minister in his speech explained how when a worker retires or is retrenched and he gets Rs. 1000 or Rs. 1200 or such amount, he may start a little business or somehow make up a living. But in the case of an old man who retires before the age of super-annuation that benefit is not given to him. He will not get it at all if it is not given by an Act. As a matter of fact, in 99.9 per cent. of the industries the old man is not getting it. The provision here will be an inducement to enter into a contract that even if he works for 25 or 30 years he won't ask for any compensation when he goes out of employment at the age of superannuation. Even agreeing that such an agreement is there, I contend that it is only fair that he should get a gratuity. It is a generally accepted practice

[Shri N. Sreekantan Nair]

that every worker should be given a gratuity when he retires. Greater scales have been awarded by Tribunals. But they must get at least 15 days' wages for every year of service. If that provision is not there, naturally people at old age, after a service of 40 or 45 years, will have to go back to the streets. This will be their fate after serving the cause of humanity for such a long period. That is a humanitarian view and if that is not the view of the hon. Minister, I cannot subscribe to his view. Naturally, when a man is old and is at the age of superannuation, he must not be dismissed for either inefficiency or illness. If he wants to retire he must get the benefit of the gratuity or compensation or whatever it is called. That is only a humanitary provision and I would request the hon. Minister to consider that position.

Then with regard to continued illness. I have already explained that if it is continued absence due to illness it can be understood. Even there, I would ask you whether such a worker should not get the benefit of the gratuity or the lump sum payment which he would get, 15 days' wages for every year's service. He need not get the benefit of the notice. That benefit can be taken away. The man has been ill and has been absent for some 6 months. He need not be given notice. But if he has put in some 40 years service, he must get some gratuity, some lump sum, if not for his treatment at least for maintaining himself for a few years if he is sick or infirm. He ought to have a right to get a gratuity or compensation. So, I would request the hon. Minister to reconsider the question of sub-clause (c), because it is blatantly unjust and inhuman to bring in this sub-clause.

6 P.M.

Regarding amendment No. 1 moved by my hon. friend Shri Tripathi, I fully endorse his idea.

Regarding amendment No. 3 of Shri Khandubhai Desai and also the other amendments, I fully support them.

श्री भागवत झा : सभापति जी, मेरा संशोधन यह है कि :

'पेज नं० २ में पंक्ति १८ से २४ तक हटा दिया जाय ।'

इसके पीछे मेरी एक ही भावना है कि इन पंक्तियों के द्वारा सरकार यह चाहती है कि जिन मजदूरों को 'ले आफ' कर दिया गया है वह हर रोज अपनी हाजिरी गेट पर जरूर बजायें। इसी पर एक संशोधन माननीय मंत्री महोदय का है । इससे समस्या का समाधान तो होता है परन्तु पूर्णतया नहीं । मेरा ख्याल यह है कि जब बिना किसी दोष के मजदूर को 'ले आफ' कर दिया जाता है तो उस को यह अधिकार होना चाहिये कि उसे हर रोज हाजिरी देने के लिये गेट पर न आना पड़े। उस को यह सूचना मिलनी चाहिये कि अमुक से अमुक समय तक हमारे यहां इन इन कारणों से काम नहीं होगा और अमुक दिन तुम हाजिरी दो तो तुम को काम मिल जायेगा । यह कहना कि हर रोज तुम दो घंटे हाजिरी बजाओ और उसके बाद अगर काम नहीं मिलता है तो इसका परिणाम यह होगा कि उस को उस दिन कहीं काम नहीं मिल सकेगा । मैं समझता हूं कि अगर हम यह नियम पास कर देते हैं और इसके जरिये उसे आधी पे मिल जाय तो कोई मेहरबानी हम उसके ऊपर नहीं करते हैं । मैं आपके सामने एक दृष्टान्त पेश करता हूं । एक मजदूर के परिवार में दस आदमी हैं और उस मजदूर को २०० रुपया महीना मिलता है । अगर आप उसका 'ले आफ' करते हैं और वह रोज आपके गेट पर हाजिरी बजाता है तो आप उसको १०० रुपया देंगे । लेकिन उस मजदूर के परिवार में दस आदमी हैं । उस का काम कैसे चलेगा ? इस लिये उस को यह अधिकार होना चाहिये कि

उस को यह सूचना मिले कि इस समय तक हमारे कारखाने में काम नहीं हो सकेगा इस लिये तुम न आओ, ताकि उसे यह अवसर मिले कि वह अन्य किसी जगह में काम कर सके और उसको जो २०० रु० मिलता है, जिस के बिना उस के परिवार को कठिनाई होगी, वह उस की पूर्ति कर सके । बिना इस के यह होगा कि उस को और किसी जगह काम करने का अवसर नहीं मिलेगा । इसका परिणाम यह होगा कि आपके यहां भी दो घंटे ठहरने के बाद अगर उस को काम नहीं मिलता है तो उसे सिर्फ १०० रुपये पर ही सन्तोष करना होगा । माननीय मंत्री महोदय ने अपने संशोधन नं० २७ में कहा है कि अगर उस को पहली शिफ्ट में काम न मिले तो वह दूसरी शिफ्ट में आये और अगर दूसरी शिफ्ट में भी काम न मिले तो समझा जायेगा कि उस शिफ्ट में उस का 'ले आफ' नहीं हुआ और उस को बेसिक पे मिलेगी । मैं कहूंगा कि आप उस को पहले दो घंटे इन्तिजार कराते हैं, उस के बाद आप कहते हैं कि काम नहीं है । तो चूंकि समय निकल जाता है उस को कहीं काम नहीं मिल सकता है । दूसरी शिफ्ट में आप उस को पुनः दो घंटे के लिये बुलाते हैं और उस के बाद फिर उस को काम नहीं मिलता है और उस का सारा दिन बेकार जाता है। उसके बदले में आप उसको सिर्फ एक शिफ्ट की बेसिक पे देते हैं और पहले की आधी । मेरा कहना यह है कि जो अमेंडमेंट विद्यालंकार जी ने मूव किया है ६८ नम्बर का उस को मंजूर करने से यह होगा कि अगर मजदूर दोनों शिफ्ट में आता है और उसके बाद भी उस को काम नहीं मिलता है तो यह समझा जाय कि वह सम्पूर्ण दिन अपने काम पर था और उसे पूरे दिन के काम की मजदूरी मिलनी चाहिये । दूसरा एक संशोधन बंसल साहब ने पेश किया है जिस का नम्बर ७३ है जो कि वास्तव में सरकार का संशोधन नम्बर २६ है । उस के अनुसार यह कहा गया है कि अगर कोई मजदूर बराबर बीमार रहे तो उसे कन्टिन्यूड इल हैल्थ के ग्राउंड पर हटा दिया जायगा । मैं ने जब बंसल साहब से कहा तो उन्होंने कहा कि "बी द्योर आफ फैक्ट्स । देअर इज स्टैन्डिंग आर्डर फार डिफाहलिंग इल हेल्थ" यह बात सच है कि यह सदन बराबर कानून पास किया करता है, अगर उस को कानून माना जाय और यह स्टैन्डिंग आर्डर है तो हाय हाय क्यों ? आपने देखा कि इस सदन ने एक 'धोतीज बिल' पास किया है । कानून बनाया गया लेकिन मिल वालों ने उसे तोड़ दिया और सदन को फिर हाय हाय करना पड़ा । इसी लिये जो स्टैंडिंग आर्डर "डीफाहलिंग इल हैल्थ" का है उस से काम नहीं चलेगा । आप कन्टिन्यूड इल हैल्थ की बात करते हैं । यह तो आप एक लम्बी रस्सी दे रहे हैं उन लोगों के हाथ में जो मजदूरों से स्वयं यह कह कर कि आप इल हैल्थ के हैं, आप का स्वास्थ्य अच्छा नहीं है, उस को डिस्चार्ज करा सकते हैं । इसलिये जो बंसल साहब का ऐमेंडमेंट नं० ७३ है और सरकार का नं० २६ है वह मंजूर नहीं होना चाहिये क्योंकि इस के जरिये हम मजदूरों के मार्ग में एक नया रोड़ा अटका रहे हैं ।

इन शब्दों के साथ मैं नं० २६ के ऐमेंडमेंट का समर्थन करता हूं ।

श्री बी० मिश्र : सभापति जी, मैं ने जो संशोधन रखा है उस का नं० ६८ है । उस में यह चाहता हूं कि एक शब्द हटा दिया जाय और वह है "प्राविडेन्ट फंड" का । उस को मैं इसलिये हटाना चाहता हूं कि वह शब्द वहां पर रखा गया है जहां पर कम्पेन्सेशन न मिलने के कारणों की लिस्ट है कि किन किन वजहों से कम्पेन्सेशन नहीं मिलेगा । मुझे

[श्री वी० मिश्र]

को ऐसा लगता है कि मंत्री महोदय ने समझा है कि वह कोई दान है मजदूरों के लिये या उन को कोई इनाम प्राविडेन्ट फंड से मिलता है। मेरा ऐसा खयाल नहीं है। मेरा खयाल है कि वह उन की तनख्वाह का एक हिस्सा है। इस लिये कि जहां प्राविडेंट फंड दिया जाता है उस में मजदूरों के हिस्से का भी पैसा काटा जाता है। मजदूर अपनी तनख्वाह में से दो पैसा, चार पैसा देता है और उस की जगह पर मिल मालिक भी उतना ही पैसा देता है। इसलिये उस को तनख्वाह का पैसा मानना चाहिये और उसको भी हरजाना उस मजदूर को मिलना चाहिये।

मुझ को इतना ही कहना है, इससे ज्यादा कुछ नहीं कहना है और आखिर में मेरी यह अपील है कि मंत्री महोदय मेरे संशोधन को कबूल कर लें तो इससे मजदूरों का लाभ हो जायगा। मैं उनसे इस लिये यह सिफारिश कर रहा हूं कि वह मजदूरों के नेता रहे हैं, और मजदूरों की तकलीफ आराम का उन को ख्याल होना चाहिये।

Shri Sinhasan Singh (Gorakhpur Distt.—South): The amendment moved by Mr. Misra, so far as it relates to lines 18 to 24 may not be accepted by the House, but I speak on that amendment which intends to add a new sub-clause c to (eee)—dealing with the termination of the service of the workmen on grounds of ill-health. My friend Mr. Bhagwat Jha was speaking about it and he said that as Mr. Bansal had pointed out, he should look into the standing orders to see whether there was any definition of continued ill-health in those standing orders or in the Industrial Disputes Act. But I find that in neither of these two places this has been defined. What is 'continued ill-health' is a matter which will remain only et the discretion of the worker. A man may be suffering from jaundice, but all the same he himself is able to do his ordinary work. But on that very ground because it is a long and persistent illness though does not unable a man to do his normal work he may not be called to do work.—He may be deemed to be in continued ill-health and so he must be dismissed, but I don't think that this can be the intention of the clause, It may be a matter of dispute under the Industrial Dispute Act. So, my humble submission to the hon. Minister would be that this point was not part of the original Bill and so it should not be pressed, because if it comes to, we shall be giving a handle which may be misused at any time and which will be to the disadvantage of the employees.

Then, Sir, it will go against the spirit of the definition given for 'continuous service.' 'Continuous service' is defined at page 2, clause (eee):

> " 'Continuous service' means uninterrupted service, and includes service which may be interrupted merely on account of sickness or authorised leave or an accident or a strike which is not illegal....." etc.

Sickness is included in that definition So if a man falls sick, he will not be deemed to have discontinued his services. So, by adding this clause (c), we are just taking away the benefit that was proposed to be given by clause (ee) Therefore, I would request the hon. Minister to consider it and if he finds there is any force in my argument that the addition of this clause may be misapplied to the disadvantage of the employees, he may accept it.

Shri V. V. Giri: Sir, I do not want to take much of the time of the House in replying to the various important and constructive suggestions that have been made by the various hon. Members of this House. I have heard with attention the suggestions made by my esteemed friend Mr. K. K. Desai; I have also heard the views of the other hon. members on the question of the

deletion of the word "similar". After discussing this matter with many of my friends and in the light of the very valuable suggestions that have been made on the floor of the House regarding it, I have come to the conclusion that that word may be deleted.

As regards "paid or" I have accepted the amendment proposed by my esteemed friend Mr. K. K. Desai.

Then there are other matters referred to by various hon. Members. My good friend Mr. Tripathi wanted "employment" instead of service. I beg to submit, Sir, that "employment" may mean that one may be on the muster roll but absent from service. What the mover probably wants is to include in continuous service unauthorised absence.

I want to make quite clear what is continuous service and I would like to state the following.

"Continuous service" is defined in two ways. One way is mentioned in clause (eee). The other is mentioned in section 25B. Under clause (eee) the requirement of continuous service is that the worker must have done 305 days work. 365 days minus 52 Sundays plus eight paid holidays. Towards this strength of 305 days an exhaustive list of exclusion is allowed, namely sickness, authorised leave, absence due to accident, legal strike and at the suggestion of Mr. Vittal Rao I have also used the word 'lock-out', though, in my view, lock-out, lay-off and all this come under cessation of work.

In section 25B a much lower standard, namely 240 days is adopted to constitute one year's continuous service. As a lower standard has been adopted the exclusion would not be as exhaustive as in the case of (eee): only a few limited exclusions, namely lay-off, leave with wages earned in the previous year and maternity leave in the case of female workers. This decision was arrived at in consultation with workers' organisations in connection with the Factories (Amendment) Act and the Provident Fund (Amendment) Act.

I would like to say that before framing this Bill (especially with reference to lay-off) as I have already stated there was a Tripartite Conference and it was really a welcome sign that the workers' leaders as well as employers came to certain conclusions. They also said that the public sector should come in and it was ultimately agreed that certain things should be done within the four corners of the agreement. I am trying to see how best this Bill could be framed and I agreed to certain suggestions which do not go against the spirit or the understandings arrived at.

Now, I would like to say a few words with regard to the suggestion and the amendment proposed by Mr. Bansal. (No. 73). So far as his amendment (c) is concerned that is covered by the official amendment (No. 29). So far as his amendment (d) is concerned I am sorry it is not acceptable. The object of the Bill is to give retrenchment benefits even to persons whose services are terminated on completion of a contract of a period of years, on the ground that if he is unemployed for a period before securing alternative employment there is every justification for giving compensation to a worker when he is thrown out of employment after a period of years though he might have been specifically employed for a period. He must be helped to tide over the period between the termination of the previous service and the securing of fresh employment.

I would also like to say this and would like to repeat what I have said before. So far as this legislation is concerned it is in a sense a deterrent legislation. It is a warning to the employer to see that he does not in a light-hearted fashion retrench. It is also a warning to the workers that they should be careful in their work, otherwise they will not have public opinion on their behalf. My feeling is that if both sides realise their sense of responsibility in all probability unnecessary, unjust, inequitable retrenchment can always be avoided, and the employers and workers can sit at a

[Shri V. V. Giri]

common table and come to an understanding on these matters. It all depends upon the strength of the trade union arguments that the workers possess.

For instance on the question regarding ill-health so many different views have been expressed. My feeling is this that in all these matters there must always be the trade union rendering such help as it can to the workers in protecting their lives. Apart from that, if I feel that the employer has not stuck to the real spirit of things there will be occasion for reviewing the whole matter.

As regards (eee) I am agreeable to carry out the suggestion of Shri Vittal Rao that lock-out should find a place after strike.

Shri K. K. Desai: It is covered.

Shri V. V. Giri: While it is covered, so far as that is concerned I thought it may also be mentioned.

Shri T. B. Vittal Rao: Or lock out, or closure or lay off.

Shri K. K. Desai: It will be "or an accident or lock out or a strike.....".

Shri K. P. Tripathi: Lock out not qualified by 'illegal'.

Shri V. V. Giri: Shri T. B. Vittal Rao said that we should omit the words "and who has not been retrenched". I cannot accept the suggestion The provision for lay off cannot have the effect of preventing retrenchment.

Then, Shri Bhagwat Jha referred to the question of muster rolls, waiting for two hours and so on. I may say that this matter was discussed at great length at the Tripartite conference and the parties have come to the conclusion, unanimous of course, and we should respect that agreement because, after all, we should try to encourage these agreements on fundamental matters relating to conditions of service, and relating to disputes between the employers and employees. Therefore, I regret I will not be able to agree with the suggestion made by my esteemed friend Shri Bhagwat Jha. I do not think that there is anything more that I am called upon to say.

Shri Bansal: On a point of information. Sir, as regards lock outs, and the addition of the words 'lock-out' so as to make it read "...or an accident or lock out or a strike which is not illegal...", I want to know what the position is if there is a perfectly legal lock out.

Shri V. V. Giri: Lock out which is not illegal. If you want to say, you can say the same thing as you said about a strike. It s not necessary really.

Shri K. K. Desai: Otherwise, he shall be repeating what is stated in the end: cessation of work which is not due to any fault on the part of the workmen. A lock out is something over which the workman has no control. He is simply locked out. If you put in the words 'illegal' it means it is modified. I say, lock out, whatever it is, is there. Whether illegal or legal that does not matter. It is not the fault of the workman that there has been a lock out.

Shri V. V. Giri: I agree with my hon. friend.

Shri Gadgil: Has it not been defined?

Shri Bansal: A lock out may be on account of the fault of the workmen. Supposing the workers in a particular factory are going slow, as you know, Sir, in the case of Indian iron recently, the factory had to lock out. Then, what is the position? I am agreeable to the suggestion of Shri K. K. Desai because the wording is cessation of work which is not due to any fault of the workmen, because, if the lock out is not due to any fault on the part of the workmen, then, the workmen should be entitld to the reckoning of the period for this compensation. But if it is on account of the fault of the workmen and the lock out can be associated with any activity that the workmen indulge in, then, I think he should not be entitled to this lay off. I agree with what the hon. Minister said.

Shri V. V. Giri: I can only agree to the word 'lock-out' being added. In fact I thought the wording cessation of work etc. includes lock-out, closure or lay off.

Shri K. P. Tripathi: I did not get any reply to my remarks on amendment No. 27 of his *vis a vis* the Minimum Wages Act.

Shri V. V. Giri: I have nothing to say.

Mr. Chairman: Am I to take it that amendment No. 2 of Shri T. B. Vittal Rao seeking the addition of the words "or lock-out, or closure or lay off"—the entire amendment—is acceptable to the hon. Minister?

Shri V. V. Giri: Yes.

Shri Bansal: What is the decision, Sir?

Mr. Chairman: He accepts Amendment No. 2:

after "illegal" *insert* "or lock-out, or closure, or lay off".

Shri V. V. Giri: Only "Lock-out" is agreed to.

Mr. Chairman: Not "closure" or "lay off"?

Shri V. V. Giri: That is included there. In fact, "lock-out" also is included, but since a point has been raised I accept it. Really it is not necessary, but I accept it.

Shri Bansal: Where are you adding the word "lock-out"?

Shri V. V Giri: After the word "strike".

Mr. Chairman: It may be put after the word "illegal", so that "illegal" may not qualify the word "lock-out".

Now, I put the Amendment to the vote of the House.

Shrimati Renu Chakravartty (Basirhat): May we just know where that word "lock-out" comes?

Mr. Chairman: It would come after the word "illegal".

Shrimati Renu Chakravartty: He says after "strike" and you are saying after "illegal".

Shri V. V. Giri: Yes.

Shri Bansal: You do not want to define whether it is legal or illegal.

Mr. Chairman: I take it the word "lock-out" will come after the word "illegal", because we do not want that "illegal" should also define lock-out.

The question is:

In page 2,

for lines 18 to 24, *substitute*:

"*Explanation*.—Every workman whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:

Provided that if the workman, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment, then he shall be deemed to have been laid-off only for one half of that day:

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day."

The motion was adopted.

Mr. Chairman: The question is:

In page 2.—

(i) in line 35, add at the end "or"; and

[Mr. Chairman]

(ii) *after* line 35 add—

"(c) termination of the service of a workman on the ground of continued ill health".

The motion was adopted.

Mr. Chairman: The question is:

In page 2, line 14,—

omit "similar".

The motion was adopted.

Mr. Chairman: Then I come to Amendment No. 2. After the word "illegal" the word should be "a lock-out" because the Clause reads "an accident or a strike ..."

The question is:

In page 2, line 6,—

after "illegal" *insert* "or a lock-out".

The motion was adopted.

Mr. Chairman: The question is:

In page 1, line 12,—

omit "paid or".

The motion was adopted.

Mr. Chairman: The question is:

In page 1, line 24,—

omit "paid or".

The motion was adopted.

Shri Gadgil (Poona Central): It is 6.30, Sir. There should be both a strike and a lock-out.

Mr. Chairman: The question is:

In page 2,—

(i) in line 3, *for* "uninterrupted service" *substitute*:

"uninterrupted employment which has not been earlier terminated expressly by the employer"; and

(ii) *omit* lines 4 to 7.

The motion was negatived.

Mr. Chairman: The question is:

In page 2, line 3,—

for "uninterrupted service" *substitute*:

"uninterrupted employment".

The motion was negatived.

Mr. Chairman: The question is:

In page 2, line 6,—

after "illegal" *insert* "or lay-off, lock-out or closure, or due to unavoidable climatic reasons".

The motion was negatived.

Mr. Chairman: The question is:

In page 2,—

for lines 3 to 7 *substitute*:

"(eee) 'continuous service' means uninterrupted service, and includes service which may be interrupted merely on account of sickness, or accident, or such absence on account of family events as may be prescribed, or military service, or the exercise of civil rights and duties, or changes in the management of the undertaking, or intermittent involuntary unemployment if the duration of the unemployment does not exceed a prescribed limit and if the person concerned resumes employment, or pregnancy and confinement if her absence does not exceed a prescribed period."

The motion was negatived.

Mr. Chairman: The question is:

In page 2, line 6,—

after "illegal" *insert* "or lock-out or lay off".

The motion was negatived.

Mr. Chairman: The question is:

In page 2, line 11,—

after "expressions" add "including lock-out".

The motion was negatived.

Mr. Chairman: The question is:

In page 2, lines 16 and 17,—

omit "and who has not been retrenched".

The motion was negatived.

Mr. Chairman: The question is:

In page 2, line 17,—

after "retrenched" *add* "for valid and proper reasons".

The motion was negatived.

Shri Bhagwat Jha (Purnea *cum* Santal Parganas): I beg to withdraw my amendment.

The amendment was, by leave, withdrawn.

Mr. Chairman: The question is:

In the amendmnet proposed by Shri V. V. Giri printed as No. 27, in List No. 2—

in the second proviso to the Explanation—

for "for that part of the day" *substitute* "for the whole day".

The motion was negatived.

Shri K. P. Tripathi: I would like to withdraw my amendment No. 28.

Amendment was, by leave, withdrawn.

Mr. Chairman: The question is:

In page 2, line 31,—

after "workman" *insert* "before the age of superannuation".

The motion was negatived.

Mr. Chairman: The question is:

In page 2, line 32,—

before "age" *insert* "prescribed".

The motion was negatived.

Mr. Chairman: The question is:

In page 2, line 35,—

after "behalf" add "and if the worker is found to be physically unfit to carry on his work with his usual efficiency".

The motion was negatived.

Shri A. N. Vidyalankar: I would like to withdraw my amendment No. 72.

Amendment was, by leave, withdrawn.

Shri Bansal: I would like to withdraw my amendment No. 73.

Mr. Chairman: Has the hon. Member leave of the House to withdraw his amendment? I would just like to say that half of his amendment has already been accepted, and so even if I had put it to the vote of the House, I would have put only the other half.

Amendment was, by leave, withdrawn.

Mr. Chairman: The question is:

In page 3, line 4,—

omit "or provident fund".

The motion was negatived.

Mr. Chairman: The question is:

"That Clause 2, as amended, stand part of the Bill".

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Mr. Chairman: The House will now stand adjourned and meet again at 1-30 P.M. tomorrow.

The House then adjourned till Half Past One of the Clock on Friday, the 27th November, 1953.