and I take it that this House gives its seal of approval for the financial and monetary policy implied in the Second Five Year Plan.

Mr. Speaker: The question is:

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

The motion was adopted.

INDUSTRIAL DISPUTES (AMENDMENT AND MISCELLANEOUS PROVISIONS) BILL

The Minister of Labour (Shri Khandubhai Desai): I beg to move*:

"That the Bill further to amend the Industrial Disputes Act, 1947, and the Industrial Employment (Standing Orders) Act, 1946, and to repeal the Industrial Disputes (Appellate Tribunal) Act, 1950, be taken into consideration."

I do not want to go into the long history of the Bill. As the House is aware, the Industrial Disputes Act, 1947, was passed about nine years back. It has been worked during the last so many years and in the course of its working, certain shortcomings and defects were found and the Government wanted to rectify them. During the last two or three years, in the time of my predecessor, Shri V. V. Giri, various conferences were held and this Bill is the result of those conferences. I may not be able to say that it has got more or less the unanimous consent of all, but I can say without hesitation that this Bill is more or less based on the consensus of opinion prevailing among those who are interested in this law.

The House is aware that there has been a consistent demand by labour that the Labour Appellate Tribunal should be abolished. The Appellate Tribunal was introduced in the country in 1950 with a view to bring about uniformity and also co-ordination of judgment from time to time. It has no doubt, as far as that particular aspect is concerned, served a good purpose. The judges of the Appellate Tribunal have certainly taken the matter into their best consideration and have tried to bring about uniformity and co-ordination in certain judgments which were given by the tribunals. As against this merit of the Appellate Tribunal, certain defects were found and they were: justice was being delayed to particularly in matters which relate to industrial sphere. In the industrial sphere, any justice that is delayed will more or less disturb and dislocate the industrial production. The discontent and dissatisfaction were such that it became necessary to see that the justice that is made available to the workers should be made quick and expeditious. With that end in view, the decision was taken by the Government to abolish the Appellate Tribunal. When we are taking steps to abolish the Appellate Tribunal, we have also taken this opportunity to amend certain other relevant sections of the existing law so as to make the industrial disputes settled in an amicable and smoother way.

The main features of the Bill, as the House is aware, are four or five in number. In dealing with the provisions of the Bill, I may first invite the attention of the House to the abolition of the Labour Appellate Tribunal. As this House is aware, the Appellate Tribunal was established in 1950. Though the principle of the Appellate Tribunal was good in itself, as I have already said, there were delays in the dispensation of justice. When we abolish the Appellate Tribunal, we have come to the conclusion that it should be substituted by a system which, while it has got the status and stature of a good judiciary, should see that whatever disputes are referred to it are expeditiously decided. By the alternative

*Moved with the recommendation of the President.

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machinery which we are now setting up, we are ensuring that the decisions of the original tribunal, which will no longer be liable to appeal to a higher tribunal, are well-considered and sound. With a view to achieving this end, the proposal now is to introduce a three-tier system of one-man tribunals. At the bottom of the tier will be the Labour Court which will generally deal with comparatively minor matters, for example, those relating to the interpretation or application of the standing orders or minor disputes which the Government might refer to it for adjudication. Next in order will be the Industrial Tribunal at the State level which will deal with disputes of greater importance. At the top will be the National Tribunal which will deal with major disputes of national importance as also disputes which establishments situated in more than one State are likely to be interested in or affected by. We have been able to see that the presiding officer of the Labour Court will be a person with at least seven years of judicial experience or a member of the State Labour Court who should have put in about five years' experience. The Industrial Tribunal will be presided over by a sitting or a retired high court judge or a person who has held the office of member of a tribunal or Labour Appellate Tribunal for at least two years. As regards the National Tribunal, a sitting or a retired high court judge, or a member of a Labour Appellate Tribunal who has held that office for a period of not less than two years shall also be eligible to be appointed to preside over it. Both the Industrial Tribunal and the National Tribunal will be assisted wherever necessary by assessors appointed by Government to represent the parties. This will be in addition to experts whom the tribunals and the Labour Courts will be competent to appoint as assessors. It is hoped that this system will avoid the risk of unsound judgments and ensure the speedy decisions, and avoid ill-considered towards. While amending this law, the Government desires and the Government is anxious that the mutual settlements by arbitration or collective agreement are the main prop of industrial peace. Therefore, we have come to the conclusion that mutual setflements, either by agreement or, in the case of a long-term dispute by arbitration, should be given legal sanction.

In matters of industrial relations, Government places great emphasis on settlement of disputes, as I said, by mutual negotiations. The experience of the last eight years has shown that compulsory adjudication has not been an unmixed blessing and that if large-scale industrial strife has been avoided, a measure of tension and alofness has developed between employers and workers. Formal litigation, unlike negotiation and conciliation, invariably produces adverse psychological reaction on the parties. Settlement of disputes by adjudication thus leaves in its wake a certain amount of bitterness which, in the long run, is injurious to the maintenance of proper relations between managements and workers. Where mutual negotiations have failed to bring about a settlement, we would prefer that the parties themselves agree to voluntary arbitration. When two parties, who are generally well disposed towards each other, wish to co-operate in the common cause but cannot agree on certain matters, there is nothing more reasonable and more fruitful of results than to agree to abide by the decisions of an arbitrator. With a view to encouraging settlements by mutual negotiations and conciliations and failing that, voluntary arbitration, the Bill seeks to make bipartite settlements legally binding on the parties just like settlements reached in conciliation and also provides for the necessary machinery for voluntary arbitration on a written agreement between the parties.

While settlement of disputes by mutual negotiation between parties with or without the assistance of Government conciliation officers or by

arbitrators is to be welcomed and encouraged, Government cannot discard altogether the method of compulsory adjudication by tribunals. For the second Five Year Plan, it is vital that industrial peace is maintained as any dislocation of production will be suicidal so far as the larger objective of raising the standard of living of the workers is concerned. It is, therefore, necessary that, when production or the fulfilment of the plan is likely to be threatened, statutory provisions should exist for compulsory adjudication of the questions which might lead to dislocation or disturbance of production.

Another important matter to which I may draw attention relates to the provisions of section 33 of the Industrial Disputes Act, 1947. This section prohibits an employer from changing the conditions of service or terminate the services of any workman or punish him in any way, during the pendency of proceedings before a Conciliation Officer, Board of Conciliation or Tribunal, save with the express permission in writing of the Conciliation Officer, Board or Tribunal, as the case may be. This has been found in practice to operate to the detriment of the maintenance of proper discipline and efficiency in the undertaking. In every case of discharge or dismissal or punishment, the employer has to seek the prior permission of the Conciliation Officer, Board or Tribunal, as the case may be. The number of such applications seeking permission went on increasing and even cases of ordinary dismissal or suspension according to the standing orders had to be taken to a Tribunal and the Tribunals were very much burdened with such cases. This is one of the reasons why there is delay in adjudicating at present. It has also been found in actual practice that this has not resulted in giving any protection to the worker, because the employers go to the court only after taking action against the worker. So, the protection given has been more or less of a theoretical nature. We have, therefore, evolved a scheme whereby the victimisation of the employees can be prevented. When a particular dispute is before a Tribunal for conciliation, it should be confined to a certain number of officers, say, five, whose names will be mentioned beforehand to the Tribunal. These five persons cannot be dismissed unless the prior permission of the Tribunal is taken. As far as other people are concerned, their services can be dispensed with under the standing orders, but after this, they have to go to the Tribunal for their approval. That is what we have provided. While safeguarding the interests of the workers, it also safeguards the interests and the smooth running of the industries. Moreover, we have made one other change, namely, that a change notice has to be given. This matter has also now become more or less an industrial matter. If some injustice has been done to a worker, if there is any victimisation, the question can be referred to the law court and there will have to be an expeditious decision on the matter. That is the new change which we have made in this Bill.

The next change which we are proposing in this Bill is about the definition of the term "workman". It has been the subject of persistent complaint that the existing definition of the term "workman" is not comprehensive enough inasmuch as it excludes from its scope technical and supervisory personnel who can by no means be identified with the management and who require as much protection as the skilled or unskilled or clerical or manual labour. Government feel that there is much substance in this complaint. It is proposed, therefore, to widen the definition of the term "workman" so as to cover supervisory personnel whose emoluments do not exceed Rs. 500 a month, and whose functions are not mainly of a managerial nature, as also technical personnel.

Now I come to an important innovation in this Bill. It has been brought to our notice that off and on

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the employers or the management make certain surreptitious changes, which do not come to the notice of the union or the workers. So, we have introduced in this Bill a provision for giving notice of change more or less on the lines of the provision which has been in the Bombay Industrial Disputes Act and which has worked very well for the last 15 years. That is one of the reasons why there is more or less industrial peace in the State of Bombay. There has been a persistent demand, particularly from workers' organisations, that notice of any change in what is loosely called the *status quo* should always be given. It is primarily the employer who is in a position to make any, except in rare cases. There is substance behind this demand of the workers. The notice-of-change procedure will ensure prior consultation between the parties and will thus eliminate causes of friction in the future. It is an eminently desirable practice. It is, however, necessary to define precisely the matters in respect of which notice should be given and such matters should relate only to those not connected with standing orders. The Bill accordingly provides for notice of change and also lists the matters in respect of which such notice is necessary. I may mention, Sir, that there will be practical difficulties in complying with these provisions in regard to Government employees who are governed by common departmental rules such as the Fundamental and Supplementary Rules, Civil Services Regulations, Railway Establishment Code etc. Government does not make any surreptitious changes. If there are any changes to be made in the relations of the employer with the Government, full consultation takes place between the parties concerned. Therefore, there is no need for including the Government employees who are governed by Fundamental Rules etc., so far as notice of change is concerned. Provision has, therefore, been made exempting Government employees from these provisions and the appropriate Government is also being empowered to grant exemptions in respect of any class of industrial establishments or any class of workmen, if circumstances justify such exemptions.

Finally, the Bill proposes certain essential amendments to the Industrial Employment (Standing Orders) Act, 1946. Under the Act as it stands, when an employer submits the draft standing orders, all that the certifying officer has to see is that provision has been made therein for every matter set out in the schedule, which is applicable to the industrial establishment and that the standing orders are otherwise in conformity with the provisions of the Act. The Act specifically says that it shall not be a function of the certifying officer or the appellate authority to adjudicate upon the fairness or reasonableness of the draft standing orders. This was more or less against the interest of the working class, because the employer has to submit the standing order and the appellate authority or the certifying officer was not empowered to look into the merits of the standing order. The employees were also not in a position to get these standing orders changed, if they worked to their detriment. Accordingly, the Bill empowers the certifying officer and the appellate authority to take into account the fairness or reasonableness of the standing orders before certifying them. Again, under the present law only the employer can take steps to modify the existing standing orders. A similar right is being conferred on the workers as well. Provision has also been made for the resolution of differences in the interpretation or application of the standing orders by labour courts at the instance of either of the parties without the intervention of the Government. That is, for interpretation or application of Standing orders, if there is any grievance on either side, they can directly approach the Labour courts. The provisions included in

this Bill were discussed with the representatives of important organisations of labour and employers and the State Governments.

Mr. Speaker: How long will the Minister continue?

Shri Khandubhai Desai: Three or four minutes.

Mr. Speaker: Yes. I will extend the time for Private Members' business.

Shri Khandubhai Desai: In conclusion, I would like to appeal to the employers and workers to accept these provisions and work them in the spirit in which they are sponsored. During the period of the Second Five Year Plan, it is necessary, I should say, the duty of all concerned, to give a great impetus to production. The creation of additional wealth and its equitable distribution, which are the objectives of our society, place a great responsibility on all sections. The employer has to be content with a fair return, fair not by his own standards, but by the standards laid down by the community. As for the workers, they must give more than they get so that there is steady augmentation of the wealth of the society as a whole. It is up to the employers and workers to create an atmosphere of co-operation and cordiality and take a firm resolve to settle all their differences by mutual negotiation, conciliation or voluntary arbitration and only in the last resort by adjudication, and never to resort to stoppage of work. Indeed, I would go so far as to say that there should be no place for stoppage of work in our present economy. There can be no dispute which cannot be settled by mutual negotiation, voluntary arbitration or in the last resort, adjudication. All that Government can do is to make available to the parties the good offices of the Government Conciliation Officers in settling the disputes and ultimately the services of Arbitrators and Adjudicators, wherever necessary. I would therefore, appeal with all earnestness to the sense of patriotism of workers and employers and exhort them, with all the emphasis at my command, to totally eschew dislocation to production in the interests of the community and the country as a whole and settle their differences on the basis of mutual understanding and trust. I hope that both the employers and workers will find the provisions acceptable in their essentials.

Before I conclude, I would like to say that this Bill has been placed before this House after full consultation for the last two or three years. I cannot say that this is the last word. But that is the extent to which we have been able to go taking into consideration the conditions in the country. If, after the passing of the Bill, it is found that any further amendment is necessary, Government will have no hesitation in bringing those amendments. Because, the purpose of Industrial Disputes Act is not to create disputes, but to avoid disputes and settle disputes and create a healthy psychology in the country so that the management and workers who are more or less co-trustees of the whole community may be able to give their best towards production in the country and not in mutual wrangling.

I commend this Bill to the House.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Industrial Disputes Act, 1947, and the Industrial Employment (Standing Orders) Act, 1946, and to repeal the Industrial Disputes (Appellate Tribunal) Act, 1950, be taken into consideration."

This will stand over. Private Members' Resolutions will be taken up now.