THE

PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

HOUSE OF THE PEOPLE

Friday, 27th November, 1953.

The House met at Half Past One of the Clock

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(*See Part I*)

2-25 P.M.

BUSINESS OF THE HOUSE

Mr. Speaker: I have to inform the House that in the announcement re: the programme of Legislative Business made by me yesterday, I had mentioned that 'two hours' had been allocated for the Employees' Provident Funds (Amendment) Bill. That was a mistake. It should have been one day. The correct position is that one day has been allotted for the Employees' Provident Funds (Amendment) Bill which has already been mentioned in the Bulletin.

PAPERS LAID ON THE TABLE

(i) PATIALA AND EAST PUNJAB STATES UNION GENERAL CLAUSES ACT

(ii) PATIALA AND EAST PUNJAB STATES UNION TENANCY AND AGRICULTURAL LANDS ACT

The Deputy Minister of Home Affairs (Shri Datar): I beg to lay on the Table a copy of each of the following Acts, under sub-section (3) of section 3 of the Patiala and East Punjab States Union Legislature (Delegation of Powers) Act, 1953:—

(i) The Patiala and East Punjab States Union General Clauses Act, 1953 (President's Act No. 7 of 1953). [Placed in *Library*. See No. S-171/53].

(ii) The Patiala and East Punjab States Union Tenancy and Agricultural Lands Act, 1953 (President's Act No. 8 of 1953). [Placed in *Library*. See No. S-172/53].

INDUSTRIAL DISPUTES (AMENDMENT) BILL—*Contd.*

Mr. Speaker: Now, the House will proceed with the further consideration of the Bill further to amend the Industrial Disputes Act, 1947.

Clause 2 is over. We will take up clause 3.

Clause 3.— (*Insertion of new Chapter VA*),

Mr. Speaker: Shrimati Subhadra Joshi: Is the hon. Member moving her amendment?

Shrimati Subhadra Joshi (Karnal): Yes.

Mr. Speaker: She may move the amendment. She may read it to the House. She may speak later.

Shrimati Subhadra Joshi: I move amendment No. 75. Shall I read it?

Mr. Speaker: Yes.

Shrimati Subhadra Joshi: I beg to move:

In page 3, for lines 14 and 15 substitute:

"25A. *Application of sections 25C to 25E.*—The provisions of sections 25C to 25E shall apply to all such cases which are pending before any Industrial Tribunal constituted under the provision of this Act or before any Appellate Court constituted under Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950) but provision of Section 25B to 25E inclusive shall not apply—"

Mr. Speaker: Does she want to say anything in support of her amendment?

Shrimati Subhadra Joshi: No, Sir.

Mr. Speaker: The hon. Minister.

Shri S. S. More (Sholapur): We have a convention that all the amendments of those Members who are present in the House are taken as moved. That facilitate discussion.

Mr. Speaker: I have no objection.

Shri S. S. More: That is the practice. How far it is in compliance with the Rules, I will leave it to you.

Mr. Speaker: I was just considering that, in view of the large number of amendments which are different in nature, perhaps in the discussion it might create a confusion if all are taken together. That is what I thought.

Shri S. S. More: We have been following this practice without any confusion.

Mr. Speaker: Very well. Then each Member can say only "I move".

Shri B. P. Sinha (Monghyr Sadr. cum Jamui): I beg to move:

In page 3, lines 17 and 18, for "on an average per working day have been employed in the preceding calendar month" substitute "are employed".

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

(i) In page 3, line 20 omit "or

(ii) In page 3, lines 20 and 21, after "intermittently" add "and which are certified to be entitled to the benefit of this section by the prescribed authority, after such enquiry as may be deemed necessary".

(iii) In page 4, omit lines 11 to 13.

(iv) In page 4, line 32, omit "in the opinion of the employer,".

(v) In page 4,—

(a) omit lines 40 and 41; and

(b) line 42, for "(iv)" substitute "(iii)".

(vi) In page 5, line 14, for "in the absence of" substitute "notwithstanding".

(vii) In page 5, lines 17 and 18, for "unless the reasons to be recorded the employer retrenches any other workman" substitute "unless on grounds of inefficiency, physical disability or any other reasonable cause the employer retrenches any other workman.".

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

(i) In page 3, line 20, for "or" substitute "and".

(ii) In the amendment proposed by Shri V. V. Giri, printed as No. 37, after "(XXXV of 1952)" add:

"and a plantation as defined in clause (f) of section 2 of the Plantation Labour Act, 1951 (LXIX of 1951)".

(iii) In page 3, line 29, omit "and forty".

(iv) In page 3, lines 35 to 37, for "under an agreement or as permitted by standing orders made under the Industrial Employment (Standing

Orders) Act, 1946 (XX of 1946)" substitute "or locked out, or the period for which he has been suspended, or wrongfully discharged or dismissed,".

(v) In page 4, line 32, omit "if, in the opinion of the employer,".

(vi) In page 4, line 36, after "employment also" add:

"and provided further that the alternative employment does not derogate from the status of the worker".

(vii) In page 4, omit lines 37 to 44.

(viii) In page 5, line 5, after "service" add "without option of ranewal".

(ix) In page 5, line 25, after "persons" add "as may be prescribed in rules framed by Government."

(x) That in the amendment proposed by Shri V. V. Giri, printed as No. 63 in List No. 2, in the proposed sub-section (2) add at the end:

"unless compensation otherwise obtainable is higher".

(xi) That in the amendment proposed by Shri V. V. Giri printed as No. 45 in List No. 2, in the second proviso after "any compensation" insert "for a period above forty-five days."

(xii) In page 5, lines 17 and 18, omit "unless for reasons to be recorded the employer retrenches any other workman."

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

In page 3, line 17, after "workmen" insert "or to any other establishment in which less than twenty-five workmen".

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

(i) In page 3, line 16, for "fifty" substitute "twenty".

(ii) In page 3, for lines 19 to 21 substitute:

"(b) to industrial establishment which works for less than six months in a year, or in which work is performed only intermittently."

(iii) In page 3, for lines 22 to 25 substitute:

"(2) If a question arises whether an industrial establishment comes within the purview of clause (b) of sub-section (1) of section 25A, the decision of the appropriate Government thereon shall be final."

(iv) In the amendment proposed by Shri V. V. Giri printed as No. 37 in list No. 2, in the Explanation add at the end:

"and also includes the following establishments run by a State or Central Government:—

(a) The whole operational area of an irrigation Project which is under construction.

(b) The whole operational area of a hydro-electric project under construction.

(c) All operational areas where any construction work or works under the State or Central Public Works Department is in progress; where not less than five hundred workmen on an average per working day have been employed in the preceding calendar month."

(v) In page 5, after line 38 add:

"3A. Any contravention of the provisions of this Act will make the employer of an industrial establishment liable to pay to the workmen an additional compensation of rupees five per day for all the days calculated from the fifth day of the normal pay day in that industrial establishment, provided the workman presents himself for receiving payment at the time appointed for the purpose during normal working hours."

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

(i) In page 3, line 37, add at the end "or any other Act made by the appropriate Government".

(ii) In page 3,—

(a) in line 39, omit "and";

(b) in line 42, for "weeks" substitute "weeks, and"; and

(c) after line 42 insert:

"(d) he has been unemployed between the date of his dismissal or discharge and re-employment".

(iii) In page 5, line 7, for "gratuity" substitute "compensation".

(iv) In page 5, line 31, after "Act" insert "or in any other Act of the appropriate Government".

(v) In the amendment proposed by Shri V. V. Giri, printed as No. 37, in list No. 2, for "25A to 25E inclusive" substitute "25A, 25C, 25D and 25E".

(vi) In page 3, line 29, for "industrial establishment" substitute "industry".

(vii) In page 3, line 31, for "establishment" substitute "industry".

(viii) In page 3, line 33, for "establishment" substitute "Industry".

(ix) In page 4, line 46, for "workman" substitute "workman employed in any industry".

(x) In the amendment proposed by Shri V. V. Giri printed as No. 63 in List No. 2, in the proposed sub-section (2), for "the provisions of any law" substitute "the provisions of any other law".

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

(i) In page 3, line 35, omit "under an agreement".

(ii) In page 4, line 19, add at the end:

"or worked in the establishment for not less than three hundred and sixty days during a period of twenty-four calendar months".

(iii) In page 4, omit lines 42 to 44.

(iv) In page 5, line 7, after "equivalent to" insert "a minimum of".

(v) In page 3, after line 25 add:

"(3) In an industrial establishment, which is of a seasonal character and in that there are departments in which more than five workers are usually employed for more than one hundred and eighty days in a continuous period of twelve months, such departments of the establishment shall not be treated as seasonal."

(vi) In page 4, after line 19, add:

"(2) The provisions of this Chapter shall not operate to the prejudice of any rights to which a workman may be entitled under the terms of any award, agreement or contract of service, where any such award, agreement or contract of service provides for a longer period and for more compensation."

(vii) In page 3, line 30, after "days" insert "or in a mine for not less than one hundred ninety days in the case of underground workers".

(viii) In the amendment proposed by Shri V. V. Giri printed as No. 45 in list No. 2, for the second proviso, substitute:

"Provided further that it shall be lawful for the employer in any case falling within the purview of clause (b) of the first proviso to retrench the workman in accordance with the provisions contained in section 25F, any compensation paid to the workman for the period more than maximum of forty-five days under clause (a) for having been laid-off for more than forty-five days during the preceding twelve months, being set off against

the compensation payable for retrenchment."

(ix) In the amendment proposed by Shri V. V. Giri printed as No. 63 in list No. 2, in the proposed sub-section (2), for "Chapter" occurring at the end substitute "Act".

(x) That in the amendment proposed by Shri V. V. Giri, printed as No. 37 in List No. 2 add at the end :

"and a plantation as defined in clause (f) of section 2 of the Plantation Labour Act, 1951 (LXIX of 1951)."

The Minister of Labour (Shri V. V. Giri): I beg to move:

(i) In page 3, after line 25, add :

"*Explanation.*—In sections 25A to 25E inclusive, 'industrial establishment' means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (LXIII of 1948) and includes a mine as defined in clause (j) of section 2 of the Mines Act, 1952 (XXXV of 1952)".

(ii) In page 3, line 37, after "(XX of 1946)" insert:

"or under this Act or under any other law applicable to the industrial establishment, the largest number of days during which he has been so laid-off being taken into account for the purposes of this clause."

(iii) In page 3, line 38, before "wages" insert "full".

(iv) In page 4, for lines 11 to 13, substitute :

"Provided that—

(a) the compensation payable to a workman during any period of twelve months shall not be for more than forty-five days except in the case specified in clause (b);

(b) if during any period of twelve months, a workman has been paid compensation for forty-five days and during the same period of twelve months he is again laid-off for further continuous periods of more than one week at a time, he shall, unless there is any agreement to the contrary between him and the employer, be paid for all the days during such subsequent periods of lay-off compensation at the rate specified in this sub-section:

"Provided further that it shall be lawful for the employer in any case falling within clause (b) of the first proviso to retrench the workman in accordance with the provisions contained in section 25F, any compensation paid to the workman for having been laid-off during the preceding twelve months being set off against the compensation payable for retrenchment."

(v) In page 4, line 31, after "laid-off" insert·

"or in any other establishment belonging to the same employer situate in the same town or village or situate within a radius of five miles from the establishment to which he belongs.".

(vi) In page 5, line 7, for "gratuity" substitute "compensation".

(vii) In page 5, lines 12 to 14 for "where any workman, who is a citizen of India, is to be retrenched and he belongs to a particular class of workmen," substitute "where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment,".

(viii) In page, 5, line 17, for "class" substitute 'category".

(ix) In page 5, for lines 35 to 38, substitute :

"(2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any law for the time being in force in any State in so far as that law provides for the

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settlement of industrial disputes, but the rights and liabilities of employers and workmen in so far as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter."

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

(i) In page 3,—

(a) omit lines 16 to 18; and

(b) line 19, omit "(b)".

(ii) In page 4,—

(a) omit lines 37 to 39;

(b) in line 40, for "(iii)" substitute "(ii)"; and

(c) in line 42, for "(iv)" substitute "(iii)".

Shri S. V. L. Narasimham (Guntur): I beg to move:

In page 4, omit lines 42 to 44.

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

(i) In page 4, after line 44 add:

"25EE. *Application of Sections 25F to 25H.*—Sections 25F to 25H inclusive shall not apply:

(a) to non-industrial establishments; or

(b) to industrial establishments in which less than fifty workmen on an average per working day have been employed in the preceding month; or

(c) to uneconomic industrial establishments (as may be defined under rules).

Explanation: In Sections 25F to 25H inclusive, 'industrial establishment' means a factory as defined in clause (m) of Section 2 of the Factories Act, 1948 (LXIII of 1948) and includes a mine as defined in clause (j) of Section 2 of the Mines Act, 1952 (XXXV of 1952)."

(ii) In page 5, for lines 35 to 38 substitute:

"(2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workmen in so far as they relate to lay-off and retrenchment and compensation payable therefor shall be determined in accordance with the provisions of this Chapter."

Shri Vallatharas (Pudukkottai): I beg to move:

(i) In page 4, for lines 49 and 50 substitute:

"(a) the workman has been served with one month's notice in writing by registered letter with a form of acknowledgment of receipt, indicating the reasons for retrenchment and the".

(ii) In page 5, lines 16 and 17, for "the last person to be employed" substitute "the person having the least seniority".

(iii) In page 5, line 11, after "Government" add "and the Union Government".

(iv) In page 5, after line 18 add:

"Provided that—

(a) the contract of employment shall be terminated except on pay day, or the end of a week, month or quarter.

(b) no notice of retrenchment or discharge shall be given—

(i) to a pregnant woman after the fifth month of her pregnancy till the expiry of forty days after confinement;

(ii) to a woman on maternity leave; and

(iii) to any employee during his ordinary holiday or on sick leave;

(c) the employee shall have the right to absent himself from work for not more than two hours a day and one full day in the week during the period of notice for the purpose of seeking employment;

(d) the employee who is served with a notice of termination or discharge shall be entitled to appeal before the expiry of the period of prescription to the Court of Enquiry against the notice, and the Court of Enquiry shall enquire into the existence of the reasons for termination and shall order payment of compensation by the employer to the employee if the employer fails to prove the existence of the reasons for termination."

Mr. Speaker: Then there is an amendment in the name of Shri S. G. Parikh.

Shri S. G. Parikh (Mehsana East): I am not moving it.

Shri Sinhasan Singh (Gorakhpur Distt.—South): Sir, I beg to move:

In page 3, omit lines 19 to 25.

Mr. Speaker: All these amendments may be considered as moved. Now, discussion will proceed on clause 3 and the amendments together.

Dr. Lanka Sundaram (Visakhapatnam): Sir, I rise to intervene in this debate in order to get an elucidation from the Labour Minister as to the interaction of some of the clauses sought to be provided in Chapter VA, and also an assurance that what he has provided for in this Bill will not be rendered nugatory by decisions of employers.

Sir, the other day when I intervened on the first reading of this Bill, I expressed some doubts as to the validity of the wide range of interpretations which may be put on the word 'lay off' for any reason which the employer for the time being might consider to be handy. I refer, Sir, to the definition in (kkk). Having said this, Sir, I will come right to the point because I notice several Members want to speak on this very important Bill involving the fortunes of millions of workers, and I want to be brief.

Sir, you will notice that under 251, paragraph 2, the following is provided for in this Bill:

"Provided that nothing contained in this Act shall have effect to derogate from any right which a workman has under any award for the time being in operation or any contract with the employer".

I want to know from my hon. friend, the Labour Minister, that he will ensure that this particular provision is adhered to and will not be departed from in any circumstances. Now, if you compare this with the provision 25E(i), you will see how the difficulty arises. It runs as follows:

"if he refuses to accept any alternative employment in the same establishment from which he has been laid-off, if, in the opinion of the employer, such alternative employment does not call for any special skill or previous experience and can be done by the workman, provided that the wages which would normally have been paid to the workman are offered for the alternative employment also;",

He will not be entitled to compensation. I have here before me a very concrete case, a case relating to the public sector of our industry, namely, the shipyards. Even before this House has an opportunity of passing this Bill, which is exactly a reproduction of the Ordinance issued earlier, the management has taken recourse to, or proposes to have recourse to, a certain type of action which would render absolutely illusory the assurance provided for in

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251. Here, Sir, is a letter to me from the Managing Director of the shipyard, dated 3rd November 1953. It runs as follows:

> "In the recent Ordinance promulgated by the President regarding compensation for lay-off or retrenchment of workers, it has also been stipulated that the workmen who are laid off, i.e. for whom there is no work in their own category and trade, should not refuse to accept suitable alternative job."

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

Sir, the House knows that a few months ago there was a strike in the shipyard, and as a result of the strike, there were mediation proceedings, and the mediation proceedings were conducted by no less a person than Mr. Justice Mahajan of the Supreme Court. I have before me the award of Mr. Mahajan, dated 13th July this year, and I will read out three points relevant to the consideration of this question, and from this the manner in which the employer would compel workers will become clear. I will elucidate only the relevant portions. Mr. Deputy Speaker, You would recall that about 800 workers were retrenched from the shipyard. Mr. Justice Mahajan says:

> "The management is entitled to retrench 800 workers out of the total strength of roughly 3679 workers and the Union agrees to this retrenchment on the understanding that there will be no further retrenchment during the next two years, *force majeure* excepted".

Then, Sir, clause 2(iii) runs as follows:

> "Any of those who voluntarily wish to take the advantage of retrenchment benefits and wish to get discharged will form the third category, subject to the proviso"—

and I want my hon. friend, the Labour Minister, to mark the words:

> "that the volunteers in each category of workmen will not exceed the numbers sought to be retrenched in each class by the management".

If you will permit me, Sir, the implication of this is that even those who are willing to go out are compelled to remain in employment under the award of July 13. Thirdly, Sir, clause 2(iv) runs as follows:

> "The rest to make up 800 will constitute the fourth category and will be selected on the rule last-come-first-to-go in each category, according to the records of the shipyard".

This is the position, *viz.*, when the workers after a protracted struggle involving a strike agree to retrenchment and argee to retain employment compulsorily, as I have tried to show, in categories prescribed by the management, they must now agree to work which is offered to them, whether it is according to their trades or not. And here is the letter which says that the people involved in this proposition of the management include—I am quoting from the letter of the Managing Director of the shipyard dated the 3rd November—those engaged in "riveting, erection, welding, carpentry and engineering departments". The sum total of the proposition is this, Mr. Deputy Speaker, that even before this honourable House has passed this law, the employer is twisting the Ordinance in order to compel technicians to do manual work. I feel very strongly on this point, and I am sure most of my hon. friends interested in the trade union movement will not disagree with me on this point, that this particular assurance provided for in this Bill under 251, paragraph 2, is already sought to be rendered nugatory even before this House has

passed this Bill. I want an assurance from the Labour Minister that in so far as there are agreements or awards covering the categories of workers in each establishment and employment according to trades, they are not disturbed in terma of 25E, where the employer is given the widest possible power to offer any type of work, and under which when a man does not accept then he is not entitled to compensation.

This is all my case and I request the hon. the Labour Minister to apply his mind to this question. Already, the trouble has started, even before the Bill has become law, and I want to make sure that this particular provision under no circumstances will be transgressed.

3 P.M.

Mr. Deputy-Speaker: I have just to remind hon. Members that one day was allotted to the whole of this Bill, for all stages. We have already spent 5 hours and 44 minutes; that is more than a day and a half.

Dr. Lanka Sundaram: Sir, only yesterday...

Mr. Deputy-Speaker: No, no.

Shri V. V. Giri: From the very beginning.

Mr. Deputy-Speaker: Yes, from the very beginning. That was the understanding come to by the Members who sat on the Advisory Committee. In the Advisory Committee they come and sit and agree to something.

Dr. Lanka Sundaram: Accepting that Private Members' Bills will be taken up at 4, we will be short of half an hour.

Shri Sinhasan Singh: One day does not mean 4 o'clock.

Mr. Deputy-Speaker: One hour and 52 minutes were spent yeaterday. We will assume we have got 2 hours and 8 minutes.

Shri S. S. More: May I remind you, Sir, that when the Business Advisory Committee's recommendation was placed before the House, the Speaker himself admitted that everything will be considered on merits. If a particular measure is of major importance then the time will necessarily be extended to do full justice to that. Otherwise if we go by the rule of thumb, we will require a second watch.

Mr. Deputy-Speaker: There are second watches on their hands. I only wanted to remind them just to bear it in mind when they make speeches.

Shri S. S. More: That we always do. We were elected on that basis.

Shri K. P. Tripathi: Mr. Deputy Speaker, the first amendment which I have moved is that in 25A(b), line 2, the 'or' should be replaced by 'and'.

> "to industrial establishments which are of a seasonal character and in which work is performed only intermittently."

I want to make it 'and' so that both these criteria may be tried before it is declared a seasonal one. If it is not done, then, in either of these cases an industry might be regarded as seasonal, which will be incorrect. There are industries in which some functions are performed as seasonal functions whereas the industry as a whole is a perennial industry. In that case there is no point in regarding the industry as seasonal for purposes of work. I am trying to put in both these criteria so that if an industry or an establishment or a factory is found to be seasonal entirely then only it will be regarded as seasonal; otherwise not. I think it will be accepted.

Then my amendment No. 38 is. I think, an amendment to the Government amendment. The Government

[Shri K. P. Tripathi]

amendment is an attempt to interpret an 'industrial establishment'. In the Explanation the Government wants to interpret it in a restricted manner.

> "In sections 25A to 25E inclusive, 'industrial establishment' means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (LXIII of 1948) and includes a mine as defined in clause (j) of section 2 of the Mines Act, 1952 (XXXV of 1952)."

The result of this would be that only factories and mines would be regarded as coming within the purview of this Act. But, what I am trying to do by my amendment is to include the plantations. I am trying to include the plantations as defined in the Plantations Act of 1951. I am sorry that the hon. Minister is trying to restrict the definition of industrial establishments. It would have been very good if the hon. Minister had not tried to restrict the definition. Reading the agreement which was arrived at between the parties, on which this Bill is based, I do not find that it should be so restricted.

Now, the Agreement reads as follows:

> 'It shall not be applied to factories doing intermittent type of work and to seasonal factories.'

This is the only thing proposed in the entire body of this document which was drawn up as an agreement, namely, that it shall apply to all industrial establishments excepting two categories, namely, factories which are of an intermittent type and seasonal factories. Seasonal factory is one thing and seasonal industry is another. There may be an industry which, as a whole, as I was telling you a little while ago, may be a perennial industry and the factory may be only one part of the functions of that industry and that part may be seasonal. But, looked as a whole, it is a perennial industry. In that case, it was not obviously excluded by the terms of the agreement. Therefore I do not find any authority which the hon. Labour Minister has got not to include a large number of industrial establishments from the provisions of this Bill which is based on this agreement.

It may be said that the plantations which I have tried to include were not represented in this discussion. Referring to the discussion which took place, I find that representatives of all the Governments of the States in which these plantations are, were present therein. For instance, one Mr. Chettiar was representing the Government of Assam and he actually took part and talked of the plantations. When the question of holidays was discussed he stated that only 3 paid holidays were given by the Tea industry in Assam and fixation of minimum 10 holidays would involve a huge expenditure on their part. Therefore he could not agree to the legislation without consulting the representatives of the industry. It is clearly said that so far as plantations are concerned, in the matter of holidays, he could not agree.

But, when we come to this question of compensation for lay-off he does not make any statement. That shows that in the matter of lay-off and retrenchment he has agreed that it should apply to plantations. Then where is the authority obtained by the hon. Minister in order to exclude the plantations? I do not find any. Reading the words of the agreement and understanding them in the ordinary sense in which English is understood, there is nothing to show that these plantations were meant to be excluded by the employers when they made this agreement in that Conference. Therefore, now to come and say that we are to exclude these plantations is very unfortunate and I think the hon. Minister will consider this aspect of the discussion be-

fore he persists in excluding the plantations from the benefit of this Bill.

Now, coming to the merits of the question, whether plantations should be included, I refer to the Rege Committee Report. This report was published in 1946, seven years back. On page 113, it is clearly said that there is generally no problem of unemployment in the plantations. That shows that it is a perennial industry and not a seasonal one. 'Under-employment is, however, a serious problem, though not at present.' So, industry in which there is no unemployment only under-employment, it is very clearly established that this is an industry which practises lay-off. The reason is that at certain seasons they require a larger number of workers than in others. Therefore they maintain a certain strength all through the year and supplement it in the season by some casual workers. In this Bill, there is provision that it shall not apply to casual workers. It shall apply only to permanent workers. The permanent workers in every plantation are permanently employed and not seasonally employed and there is no reason whatsoever why it should not apply to plantations.

Again, coming to page 14 of the Report, it is said:

> 'In view of the rather high profits and low wages, it is but fair that employers should give a small allowance for the days the work is held up due to inclemencies of the weather'.

This report in this sentence suggests that when labour is laid-off, an allowance should be given to them. This suggestion was made in 1946 by a Committee appointed by the Government. This suggestion was made in 1946 by a report of a committee appointed by the Government. Therefore, Government cannot now argue and say that they did not know this. Government knew that the Rege Committee report had suggested as far back as 1946 that such and such compensation for lay-off should be given and then we came to this conference in which it was accepted that it should apply to plantations. Then, what can be the reason on this not being applied to plantations?

Coming to the economic condition of this industry, in the same report at page 8, I draw your attention to the chapter called 'Dividend and Value of Shares', from which you will find that this has systematically given dividends—15 per cent, 18 per cent, 25 per cent, 28 per cent. etc.

Coming to a later date, at page 330 of the Investors Year Book, I find that there were 23 companies having a share capital of Rs. 1,67,00,000, and they capitalised in three years Rs. 1,36,00,000. This does not represent the profits; this was the profit which was utilised for the purpose of liquifying the shares by giving bonus shares to the employees. This is an industry which in three years gave in bonus shares a sum almost equal to the total invested capital. Do you think that this industry is incapable of payment? Everyone knows that it is capable of payment. I quoted even last year that as much as 15 per cent. to 300 per cent. dividends were being declared and so the paying capacity of this industry is completely established. With regard to the way in which this industry distributes its dividends and profits—I want to invite your special attention to this—this industry has got different types of reserves. It has got a reserve for 'paid back leave home' and the managers are given a paid leave to go home. This is an industry which pays pension to its managers and there is a reserve for this purpose. There is also a dividend equalisation reserve; they keep money in this reserve so that dividends may continue to be declared even during lean years. Tell me how many industries are there here in India—textile, cotton, iron, etc.—which keep such special reserves.

[Shri K. P. Tripathi]

Can they afford to keep such special reserves? You will admit that there are not many industries. Look at the allowances which this industry gives—dearness allowance of Rs. 200 to 350; car allowance of Rs. 250; house allowance of Rs. 185; servant allowance of Rs. 120; bonus Rs. 1750; —I am talking of one company only —then there are travelling allowance, provident fund, pension, allowance for enjoyment of leave, language allowance, language bonus.

Dr. N. B. Khare (Gwalior): What about marriage allowance?

Shri K. P. Tripathi: Yes, I forgot to tell you about it. If a child is born, an education allowance is given. I do not say that it is bad. I only say that all these are given and therefore this is an industry, the paying capacity of which is completely established. If you look up the share market report from 1933 to 1951, you will find that the share market register of this industry was at the highest as compared to any other industry in India. Is there any reason, therefore, why this industry should be excluded? This is a perennial industry and it employs labour for 12 months in the year and it has a very high percentage of profits and it has so many special reserves. Its capacity to pay is there and finally, it was agreed by the employers in that conference that it shall be included. Therefore, what right has the Minister now to say "No, this industry shall not be included."? I don't find any reason and therefore I have moved this amendment.

Amendment No. 40 says that in page 3, line 29, omit "and forty", so that it reads 200 days instead of 240 days. On this question I wish only to recall my arguments given yesterday on 'continuous service'. We feel that this has been provided in order to enable payment being made. As far as lay-off is concerned, this payment is like a subsistence allowance and therefore, the smaller the number of days the better. Calculating the number of days available for employment; I find that 200 will be more correct and 240 will be too much. If it is 240, it will exclude nearly all or a very large percentage of workers. Therefore, I think it should be 200 days.

Regarding amendment No. 41.

I want to introduce the period of suspension and the period of wrongful discharge or dismissal. When this happens in an industry, the cases often go to a tribunal and they are kept pending for a long time and when the employees are restored to their employment, they are to be paid back. Sometimes they are not paid back. In such cases this should be applied.

Then, I take amendment No. 45 moved by the hon. Minister. The proviso under this Government's amendment reads as follows:

> "Provided further that it shall be lawful for the employer in any case falling within clause (b) of the first proviso to retrench the workman in accordance with the provisions contained in section 25F, any compensation paid to the workman for having been laid-off during the preceding twelve months being set off against the compensation payable for retrenchment."

Now, here is the principle of set off. The principle is one of compensation for lay off being set off against the compensation being payable on retrenchment. This is a principle to which I object, because I feel that the reasons why we keep these two compensations are different. The lay off compensation is given for the purpose of sustaining him within the period in which he is laid off.

And the compensation for retrenchment is given to make him prepared till he gets another employment. Therefore it should be deemed that the amount of compensation which was given for the period of lay off was consumed when he was laid off. It cannot be utilized for the purpose of preparing him till he gets another employment. Now, here, the employers have cleverly convinced the hon. Minister to set off the one against the other. I think it would be most unfortunate if it is so applied. It should never be accepted in principle. This was not in the agreement at all. It is subsequently somebody's brain-wave which is put in here. Therefore, I strongly object to the principle of one compensation being set off against another. But, as a measure of compromise, I have said that for the first 45 days he should continue to get compensation for lay-off. But if after 45 days he is still laid-off in the same year, in that case, it may be possible to apply that against the compensation for retrenchment. But for the first 45 days compensation for lay-off should never be applied against compensation for retrenchment. The reason is this: that if a man is laid-off for 45 days, then he may determine in his mind that "this is no good; I will go to some other industries." In that case, he may make some efforts to get employment elsewhere. So, if he does so, you should do it only for the first 45 days—when they are over. You shall never apply the first 45 days compensation which is for lay-off, against the compensation which is for retrenchment. Therefore I have put in this amendment as a measure of compromise, but as a principle I strongly object to this principle being introduced in this legislation.

Mr. Deputy-Speaker: Is there a provision for compensation if the lay-off is for a period longer than 45 days?

Shri K. P. Tripathi: In the new amendment there is a provision.

Mr. Deputy-Speaker: For a further period of 45 days?

Shri K. P. Tripathi: Yes---one week at a time.

Shri V. V. Giri: There is an amendment.

Shri K. P. Tripathi: Then I go to amendment No. 48. In this clause, clause 25E (i), on line 32, there is a phrase: 'in the opinion of the employer'. I want to omit that phrase. The clause reads like this:

> "(i) if he refuses to accept any alternative employment in the same establishment from which he has been laid-off, if, in the opinion of the employer, such alternative employment does not call for any special skill..." etc.

If this phrase, 'in the opinion of the employer' is omitted, still, the result would be the same. The thing should be done on merits. It should not be done and it should not depend upon the opinion of the employer. It should be on merits. If the employer arbitrarily does it, in that case, it may be a case for the tribunal and for such negotiations. If the phrase remains, then it will not be a matter for the tribunal. No third party will have any voice in saying that it was not so. Therefore, 'in the opinion of the employer' gives the employer the right to do as he likes. I say that he should not do that as he likes. If it is done on merits and is reasonable, then he may do it, in which case too, the worker may or may not accept. If the dispute on the alternative employment is continuing, the order may be rescinded later on. Therefore, this is a verbal change which will improve the draft and put the Bill in a position which it was intended to assume. I do not think it was ever intended that the employer should be put in a position of dictator, even by the Minister.

[Shri K. P. Tripathi]

Then I go to amendment No. 49. It says:

> "and provided further that the alternative employment does not derogate from the status of the worker."

On this question some argument was advanced already by Dr. Lanka Sundaram. Obviously it has been tried to be mended somewhat by an amendment proposed to clause 25G by the hon. Minister where he says that the 'class' will be replaced by 'category'. I do not know whether replacing 'class' by 'category' is enough. I still think that mere introduction of category in this section would not provide the protection which a worker needs. A technical worker is put on a mere manual job. For that manual job, no skill is required. Therefore, I have put in:

> "Provided further that the alternative employment does not derogate from the status of the worker."

If that is accepted, the employer will not be in a position to give a worker an alternative employment which will derogate from the status of the worker. He will give only such type of work to which the worker has been accustomed. It may be in another branch of the same shop or factory or establishment.

Then I go to amendment No. 50. It is to omit sub-clauses (ii) to (iv). Sub-clause (ii) says:

> "if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day;"

I find that it was not agreed to in the Standing Committee. I do not find any logical reason why it should be so. I think it was put in by the employers out of mere spite. I do not see why the employer should object to it—when man is able to work for a pittance. When a man is laid-off, he should be enabled to earn. He should not be forced to appear everyday in the factory. Why should he be forced to appear every day in the factory if he is completely laid-off for five or seven days? "At least once a day" will help nobody. It is needlessly there. I think if this is omitted, it would improve the position of workmen who are laid-off. In lieu of pay, you are paying him only 50 per cent. of the compensation. He is in fact entitled to the full quota. 'The industrial capacity is not there', you say. Yet, the industry not being in a position to pay full compensation, is paying half compensation. Therefore, it is against the interest of the employer himself, because if the worker in the meantime earns a little more, then he will be more contented: and since he comes back to work, he will be more efficient and the employer will get out of him more efficient work than he could otherwise get. Then, why is this plea put in? To whom does the benefit go? Does it benefit the Government? Does it benefit the worker? Without any benefit, why should there be a provision like this. This is needless for all productive purposes from all points of view. Therefore I say that this provision should not be there.

Mr. Deputy-Speaker: If he earns fully elsewhere, why should he be here also?

Pandit Thakur Das Bhargava (Gurgaon): He cannot earn elsewhere.

Mr. Deputy-Speaker: If Mr. Tripathi's suggestion is accepted, the worker may get whole-time work in some other factory and get his full salary.

Shri K. P. Tripathi: Then he will not come back.

Mr. Deputy-Speaker: But he will get his compensation here, also.

Shri K. P. Tripathi: This prevents him from going elsewhere.

Mr. Deputy-Speaker: Because he is given half, some portion as compensation.

Shri K. P. Tripathi: Just see how the agreement has been transmuted and mutilated. Point ten says: No compensation shall be payable for the days during which the worker has worked elsewhere. This was the point. Here it is said he may not go elsewhere at all. What is the logic behind this? If a man earns elsewhere he shall not be paid twice. That is all right. But here it is said that he shall not earn at all. Is there any logic in it? Suppose a worker earns more than half the wage or the full wage. If he earns half the wage he may be supplemented to the extent of the other half. If he earns the full wage he may not be paid. That should have been the logical consequence. But here it has been put in another way. It has gone worse than the agreement arrived at. When this was the agreement arrived at, what was the reason for this change? I cannot say, nobody can say.

Then I come to (iii) which says "if he works elsewhere, for the days on which he so works". It is there. His wages may be one rupee, and it may be that by his work elsewhere he earned only six annas. Would it be proper to deny him compensation. If he earned one rupee then there is logic, you need not pay. The draft should have been like that. But it is not like that. Suppose a man goes by the way and he says: come on, lift my luggage; and he gives him four annas. The man is entitled to twelve annas' compensation. But he does not get anything. He loses his compensation. Is this justice? The Bill has been drafted in a perfunctory manner, against labour, by the Labour Department. That is surprising.

Then I come to (iv) which says: If such laying-off is due to a strike or slowing-down of production on the part of workmen in another part of the establishment. This is a vicarious liability which, on principle, we cannot agree to. If the worker himself has done it, then there may be logic in it. But if the worker himself is not responsible he should not be penalised. But I find of course that in the agreement it is there—number fourteen.

Shri Gadgil (Poona Central): A sort of collective responsibility.

Shri K. P. Tripathi: I wish the whole world were so collectively responsible! It is only labour that is asked to be collectively responsible and others go scot-free. It should be something like a sympathetic slowdown, showing that there is some complicity.

Mr. Deputy-Speaker: It is supposed to be *vis major*.

Shri K. P. Tripathi: Yes, as you say.

Then I come to my amendment No. 53. In the proviso I have proposed to add the words "without option of renewal". The proviso reads: "Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service". Now, this gives a handle to the employer. There are many services which are on a contract basis, for three years or five years. In every such service there is a proviso to the contract saying that the worker will be entitled to renew it at his option. If there is such a provision for renewal, then obviously by merely exercising his option his service continues; it does not break. In that case, if you want to retrench him, you shall have to apply your mind voluntarily to it and you will have to pay him compensation. But if there is no such clause, at the end of the period of contract the service terminates. On the other hand, if there is a clause of option he should be allowed to exercise the option. If he does not exercise the option, the contract ends. If he exercises the option, the contract is renewed automatically. In that case he should be

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entitled to retrenchment compensation benefit.

Then I come to my amendment No. 60. In 25G I have proposed that the last two lines, namely, "unless for reasons to be recorded the employer retrenches any other workman" be omitted. The principle for retrenchment is: last come first go. Now, here you are giving the employer a right to vary that principle. Are you right in giving that handle to the employer in that way? You say "for reasons to be recorded". There is no difficulty in recording the reasons. I may write anything. It may be a right reason or a wrong reason. It may be a manipulated reason or a fantastic reason; I may just record it and go scot-free. Therefore, it should not be "for reasons to be recorded". If it were said "for reasons" I would not have objected. In that case a third party may say whether it is reasonable or not. But "reasons to be recorded" means that the employer is the only arbiter. That is a wrong thing. Therefore I say that this should be omitted.

Mr. Deputy-Speaker: That is, without reasons he can dismiss?

Shri K. P. Tripathi: Last come, first go. That is the principle. But later on that principle is violated. If he just records the reason he can vary this principle. He should not vary the principle. That is what I say.

Then I come to my amendment No. 62. This is a verbal change. I want that the words "as may be prescribed in rules framed by Government" may be added here. Obviously, rules would be necessary for this.

Then I come to my amendment No. 115. It is an amendment to the Government amendment. The Government amendment reads like this:

> "For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workmen in so far as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter."

I propose that to this be added, at the end, "unless compensation otherwise obtainable is higher".

Why do I do this? Sometimes it is found—just as we found to our great cost this time—that even employers go on a sympathetic lay-off. There were some employers who as an industry decided that there should be a lay-off. In order to put pressure on labour to agree to their terms, as an industry they laid off. When we asked the managers, the individual managers said: we do not know why this lay-off is there, but we have been asked by the company to lay off labour for a few days so that we may teach labour a lesson. Obviously this is not a proper lay-off.

Mr. Deputy-Speaker: Hon. Members may sleep but need not snore.

Shri S. S. More: It is beyond his control, Sir.

Shri K. P. Tripathi: Sir, I was just submitting what would happen when they go on a sympathetic lay-off. All the units of the industry say "tomorrow you are laid off". And later on it is found that the lay-off was *mala fide*. Take the tea industry There was lay-off. And the industry has agreed to pay 50 per cent. compensation. The hon. Minister says the industry is incapable of doing so. But they have come and paid 50 per cent. compensation in terms of your law. Now, you say, it cannot be applied to them. They are laid off and later on we have discovered that it was a sympathetic lay off which was not necessary. We are having a conciliation Board on this issue whether they are to get full compensation or half compensation. If we can prove that it was a sympathetic

lay off and was not necessary, if we can prove that from their records, then we are entitled to get full compensation. Any Industrial court will give us full compensation. Even my hon. friend Shri V. V. Giri. if he were there would give.....

Shri S. S. More: Why even?

Shri K. P. Tripathi: Because , I have been inviting him to come to Assam and he has been evading it.

Shri V. V. Giri: Not full compensation, but one and a half times.

Shri S. S. More: If you were not a Minister.

Shri K. P. Tripathi: Therefore I ask, for such a type of lay off, what do you provide? If you say "shall", the worker is helpless. The employer, with all the impunity at his command, will be able to lay off and say, look here, you are laid off, you have no right to get more than what we give. If he has a right for a higher compensation, it will not prejudice him and he will have the right to go to the court. If he has a right to the minimum compensation, the minimum ought not to be less than 50 per cent. for this reason. I entreat the hon. Shri V. V. Giri to consider this question also.

Shri S. S. More: Sir, I do not propose to cover the ground which has already been covered so efficiently by my hon. friend, the previous speaker. But. regarding this clause (b) of section 25A, I have got some difficulty of interpretation. It says that this particular clause shall not be applicable to industrial establishments which are of a seasonal character or in which work is performed only intermittently. As far as I know, the word seasonal has not been defined anywhere. What do we mean by the word seasonal? What is the period or duration of the season for which if the factory works, it is considered to be seasonal? That this word seasonal does offer certain difficulties in definition has been admitted by the Royal Commission on Labour in India, in 1931. I am referring to page 75.

Mr. Deputy-Speaker: Is there no definition in the Factories Act?

Shri S. S. More: I am referring to page 75 where it is stated: "We have made efforts to collect statistics ..

Shri Gadgil: That is his Bible. He knows it by heart.

Shri S. S. More: Shri Gadgil stated that the hon. Minister knows it as his Bible. But, I am talking about the institutions which will be called upon to interpret this section. If Shri V. V. Giri or Shri Gadgil were the sole arbitrators, I have no doubts.

Shri Gadgil: Make me one.

Shri S. S. More: The Commission said:

> "We have made efforts to collect statistics, but, owing partly to ambiguity in the definition of seasonal factories, it is impossible to give precise figures."

But, in spite of this ambiguity, they proceeded further to classify their statistics and classified some as predominantly seasonal, in which come cotton ginning, cotton pressing, tea factories, jute pressing and others. Then, comes (b) category, partially seasonal. In this category come rice mills, oil mills, gur and sugar factories, tobacco factories and others. My submission is that classifying a factory as possessing the seasonal character without a specific categorical definition is really a dangerous thing. Because, any factory will say that it is a seasonal factory because a seasonal character gives them a sort of a charter to escape scot-free from the responsibilities or liabilities which this particular measure is imposing on the employers. Not only that. The next provision is: in which work is performed only intermittently. It is quite possible, under the advice of an astute lawyer. a factory may say, to come in this particular category, that it is working intermittently, with occasional breaks. If

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they are working with occasional breaks which are their own device, what will follow? They will fit in with this description that they are factories which work intermittently, not continuously, and therefore, they ought to be excluded. My submission is that this is a matter which demands some further consideration by the legal draftsmen at the disposal of the Government. Otherwise, whatever authority is entrusted with the interpretation of this clause, they are not there to fill up the gaps in the legislative enactment. They will say, well, according to the plain wording of this particular clause, we say that this factory is working intermittently, whether the intermittent working was *mala fide* or was actuated by the motive to avoid the provisions of this Act. Therefore, I have suggested an amendment, No. 79, to add the words "and which are certified to be entitled to the benefit of this section by the prescribed authority, after such enquiry as may be deemed necessary". There must be some authority. As I have said, seasonal character cannot be precisely defined. Intermittent working will be a matter of dispute. As far as this enactment is concerned, there is no authority which is entrusted with the task of deciding these matters. Therefore, I say that if seasonal factories under certain circumstances.....

Mr. Deputy-Speaker: Is it not provided for here? See section 25A (2). The question shall be decided by the appropriate Government. The clause reads as follows:

> "(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final."

Shri S. S. More: I know that. The decisions of the appropriate Government, on many occasions, are not judicial decisions. They are executive decisions. In executive decisions, they are not under any legal obligation to give a hearing to the other parties concerned. On many occasions, they decide *ex parte*. The appropriate Governments as they are constituted today are likely to be more sensitive to the influence of the employers than to the needs of the workers. I want to make it a matter of adjudication. Take, for instance, the sugar factories. They are earning heaps of money as profit. Within four months or five months of their operation, they amass such an amount of profit that it gives them plenty for the whole of the year. The shareholders are paid dividends for the whole year. The manager and other high ranking officials get their pay at a particular scale for the whole of the year. Only in the case of the employees, particularly those belonging to the lowest ranks, for the period during which the factory is idle, they are not getting any remuneration because it is an establishment of a seasonal character. I say, on the justice of the case, it ought to be decided by some authority which should be more or less a judicial authority. They will give a full and frank hearing to the other parties, the helpless parties, I mean labour. That is my suggestion. I do not want to leave the whole thing hanging on the peg of executive judgment. I want it to be decided by a judicial authority.

Then, I come to section 25G, where the procedure for retrenchment has been prescribed. It says: ".....in the absence of any agreement between the employer and the workman....". The result is, if there is an agreement between the two parties, this clause will not come into operation and the last man may remain as the first man and the first man may come to be discharged. I have given an amendment. Instead of the words 'in the absence of' I say it should read, 'notwithstanding any

agreement between the employer and the workman', because it may be an iniquitous agreement, and unjust and unfair to the weaker party, and therefore such an agreement ought not to be considered.

Then I come to the portion "unless for reasons to be recorded the employer retrenches any other workman". As an eminent lawyer practising in the civil courts for a very long time you know the legal practice that when a particular authority is entrusted with the responsibility of giving reasons without any qualification, though the reason may be good, bad or indifferent, the very fact that reason has been given is enough and then no higher authority will disturb that sort of decision. We here lay on the shoulders of the employer the responsibility of citing good and satisfactory reasons so that the higher authorities may come to the conclusion whether this particular power given under this Clause was properly and justly exercised or not. I may refer you to the cases under the Preventive Detention Act and the Defence of India Act. The District Magistrate gives some reason, that the sun rises in the East and therefore I detained "X". I need not dilate on that sort of reason, but the fact that the reason has been given will be enough to prevent the intervention by the higher authorities.

Mr. Deputy-Speaker: Is that the decision of the Court?

Shri S. S. More: I believe so, though I cannot quote immediately. but on this principle the High Courts refuse that if the authority has given any reason good, bad or indifferent...

Mr. Deputy-Speaker: However flimsy, however unreasonable?

Shri S. S. More: However unreasonable, in certain cases, though not in the case of Courts. I make a distinction because the Court is subject to the principles of the Evidence Act, of the Civil Procedure and the Criminal Procedure, but when some *ad hoc* authorities or officers entrusted with the responsibility give any reason, the higher authority, under their supervisory jurisdiction, will refuse to interfere with that sort of decision. I believe there are a lot of cases on this point. So, my submission is that it should not be merely stating that. The reason must be sufficiently qualified as "satisfactorily" so that the supervisory authority or judicial Tribunal can go into the satisfactory character or the propriety of the reasons.

These are my submissions, and the time at our disposal is very short. With these remarks, I commend my amendments for the acceptance of the House.

Shri T. B. Vittal Rao: Mr. Deputy-Speaker, the Government amendment that has been moved has brought under the purview of this Amending Bill only the factories defined under the Factories Act and mines, omitting plantations. If there is one thing which has been agitating and which has been responsible for bringing pressure on Government to bring in a legislation of this kind, it has been the crisis in tbe Tea industry and the consequent hardship that the Tea labour had to undergo. I really cannot understand why such a soft-hearted attitude is adopted towards these planters.

Shri K. K. Basu (Diamond Harbour): Quite obvious.

Shri T. B. Vittal Rao: For example, the Plantation Act which was enacted in the year 1951 has not yet been implemented though two years have passed. Now, the little relief that the plantation workers could have got by virtue of this Amending Bill is being removed by the amendment brought forward. I have nothing to add because the profits and all those things have been shown very clearly by my hon. friend Mr. Tripathi. I am firmly of the opinion that this attitude is due to our weak-kneed policy towards the

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British capitalists, and this should be ended soon.

Next, I come to the coal mines. I have moved an amendment that continuous service of 240 days should be reduced to 190 in the case of underground workers who are working in the mines. I am not asking anything new. This has been recognised under the Indian Mines Act, 1952 that for computing annual leave with wages, only 190 days of work they have to put in. In this Amending Bill it has been provided that workers have to put in to be eligible for compensation 240 days as provided for annual leave under Factories Act and similarly whatever the mine workers have to put in to be eligible for annual leave should be inserted.

Further, the conditions under which mine workers are working, for example the accidents, arduous nature of the work, premature exhaustion etc., force us to give even a lesser number of days.

Is this going to affect the profits? Certainly not. I know that today in the trade union where I am working a mine worker gets comparatively less than a worker in the sugar industry or the textile industry or the paper industry or any other industry. The average wage including all concessions amounts to about Rs. 69 per month for a coal miner, but for a worker in the textile or the paper industry it is Rs. 75. So, they are the lowest paid, but look at the salaries the Directors get. The Operative Director gets Rs. 3,000 as salary, Rs. 300 as house rent allowance, Rs. 600 as car allowance, Rs. 150 as domestic servant allowance and so on and so forth. The industry is capable of paying if the number of days is reduced. The industry is not going to lose much. There are coal mines which, with a capital of only Rs. 63 lakhs, have made a profit of Rs. 30 lakhs. And if there is any case for abolition of the managing agency system, it is in the coal industry. For example, the cost of coal is controlled, the distribution is controlled the production is also controlled.

The Deputy Minister of Labour (Shri Abid Ali): Which is that Company? Please name it.

Shri T. B. Vittal Rao: Singareni Collieries. The distribution, production and the cost of coal are controlled. So there is no necessity for this managing agency system. What to say of the commission which is paid to the Managing Agents even on the royalties paid to the Zamindars and the Government, where this exists! For example, in the Company I have quoted, 88½ per cent of the shares are held by Government, but there are five Directors, non-official Directors, representing what interests we do not know, and whenever there is a Directors' meeting they get Rs. 100/- each. This is how they are spending the money.

Moreover, in the coal industry, coal miners get only two holidays with pay during the whole year unlike the factory workers who get more number of days. Then, their annual leave with wages during the whole year is only seven days as against 14 or 15 days under the Factories Act. So, I very strongly urge that these number of days should be reduced and will bring it on a par with the Mines Act.

Regarding Badli workers there is only provision for that particular year, but there are workers who are working in the textile industry, who have put in a service of two to four years and still they are called badli workers. So, my amendment is that if a Badli worker has put in 360 days of service in the course of 24 calendar months, he should also be taken into consideration for payment of compensation for lay-off and retrenchment.

In the textile industry, they will be able to pay. If all the textile mills are closed and retrenchment compensation has to be paid to the workers how much would it come to? Only Rs. 9 Crores. And this is an industry

which has been minting profit. Only the other day when discussing the Unemployment Resolution we heard a Member from that side say that the textile industry in 1947-48 after decontrol made Rs. 100 Crores as profit. This year they have got a reduction in the export duty also. Further under the Sea Customs (Amendment) Bill, they are getting a drawback also. So, it is not as if they are not in a position to pay. If there are any concerns or mills or mines, which cannot pay, it is for them to come to Government and seek such relief as is necessary. The loss etc. should not be thrown on to the shoulders of the workers, but they should be borne by the Government. If a factory cannot pay and cannot work under these conditions, it is up to them to approach the Government, and ask for the necessary relief, and Government may give them tax relief or some other relief, by way of loans. For instance, there is the Industrial Finance Corporation, which is giving loans to so many factories, of the order of Rs. 40 or 50 lakhs. So, such factories as are not in a position to pay should approach Government and seek such a relief as they feel necessary.

4 P.M.

Mr. Deputy-Speaker: Has the hon. Member much more to say?

Shri T. B. Vittal Rao: Yes.

Mr. Deputy-Speaker: It is now 4 p.m. The hon. Member may resume his speech on the day when this Bill is taken up again.

PRIVATE MEMBERS' BILLS

PROCEDURE FOR INTRODUCTION

Mr. Deputy-Speaker: I would like to inform hon. Members that a change has been effected in the Rules of Procedure, with a view to accommodate hon. Members who have been making repeated representations that even after notices for introduction had been given several times, their Bills had not been introduced. Rule 25 of the Rules of Procedure and Conduct of Business has been amended, so as to give priority for introduction of all these Bills. Thus even though there are some Bills which have already been introduced, and are reaching the consideration stage, still, priority will be given to the introduction of these Bills, excepting those Bills, whose object is to amend the Constitution.

Shri S. S. More (Sholapur): May I make a further suggestion, Sir? From the list which has been circulated to us, we find that so many Bills have already been introduced by private Members. Will it not be more useful if Government come out with their reactions to the different measures? If that is done, we shall be able to fix the priority, as far as that aspect is concerned. Otherwise, we shall simply come here, and discuss the Bill, with no tangible results, and this would mean wastage of public funds, if not of our energy. My submission is that it should also be laid down—at least it can be made a convention—that whenever any private Member's Bill has been introduced, Government may, if they are accepting it, say so, and give some parcel of credit to that hon. Member.

Mr. Deputy-Speaker: Perhaps the hon. Member is not aware—it has already been published in the Gazette also—that under the new Rules, a Private Members' Bills Committee will be appointed, who will go into all the Bills which have been introduced. After the introduction stage, they will take up these Bills and divide them into two groups, category 'A', and category 'B'. Then in consultation with the hon. Member concerned, and Government, they will give priority to such of those Bills, as are in their opinion, important, and allow those Bills to be brought up before the House. The reaction of Government also will be known at that stage. The Committee will be appointed very soon.

For the present, I understand that Government have already considered about ten Bills, and they will give their reaction in due course.