**Shri Tangamani** (Madurai): I am not pressing any of these amendments.

*The amendments were, by leave, withdrawn.*

**Mr. Deputy-Speaker:** The Resolution also is not pressed.

*The Resolution was, by leave withdrawn.*

**Mr. Deputy-Speaker:** The next Resolution is that of Shri Rejendra Singh and he is not here. He has written to me that he won't move it. Pandit Thakur Das Bhargava has also indicated that he is not moving his Resolution. Shri T. C. N. Menon will now move his Resolution.

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**14.55 hrs.**

## RESOLUTION *RE*: EXCLUSION OF CERTAIN TRIBUNALS FROM THE JURISDICTION OF HIGH COURTS AND SUPREME COURT

**Shri Narayanankutty Menon** (Mukandapuram): Sir, I beg to move:

> "This House is of opinion that suitable steps be taken to amend the Constitution in order that the jurisdiction of the Supreme Court and the High Courts over tribunals and courts constituted under the Industrial Disputes Act, 1947 (Act XIV of 1947) be taken away."

**Mr. Deputy-Speaker:** Probably, the hon. Member never expected this would come.

**Shri Narayanankutty Menon:** I never expected it—after two resolutions—to come up.

My intention in moving this resolution primarily was due to the long experience we had for the last 10 years of the manner in which the High Courts and the Supreme Court have exercised their extraordinary jurisdiction in relation to matters which come up before these Courts from Industrial Tribunals and the Courts of Enquiries and other courts established under the Industrial Disputes Act.

I was expecting that when this resolution is discussed the hon. Minister for Labour would be present. It was quite unexpected that the hon. Home Minister is present to reply to the debate. Technically, it might be a constitutional matter where some of the provisions of the Constitution are to be amended.

**14.56 hrs.**

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

The real implication of the resolution is a matter which concerns the Labour Ministry. But, I am quite sure that the Minister would have taken all that the Labour Ministry could put before this House and that, in this debate, he will suitably and compassionately consider the various grounds on which this resolution is being moved.

When the Constitution was framed, it was claimed by the framers of the Constitution—and at the first impulse of the oncoming of the Constitutional impact on this country the Supreme Court also—said that our constitution is a happy compromise between the American doctrine of judicial supremacy and the British doctrine of Legislative sovereignty. When the Supreme Court reemphasised the intentions of the framers of the Constitution, everyone concerned was quite happy. But, later on, when the provisions of the Constitution, especially articles 226 and 136 came up before them, extraordinary changes in the method of approach and outlook of the different High Courts and the Supreme Court began to be felt by various sections of the people who were affected by their decisions.

When the High Courts were given power under article 226 to issue writs or direction, actually in the cases where they deemed fit to do so, the primary intention was to enforce the fundamental rights as defined in the Constitution. You will remember that, when article 136 was enacted, even in the Constituent Assembly there was a lot of opposition to the same. But it was specially made clear during those days that those powers were to be exercised under extraordinary circumstances with the specific intention of preventing miscarriage of justice.

This Resolution, as it is worded, confines itself to the exercise of this jurisdiction by the High Courts and the Supreme Court *vis-a-vis* the decisions of Industrial tribunals. In matters of criminal law and civil law, and also in constitutional matters, it might be necessary for both the High Courts and the Supreme Court to interfere in spite of the fact that the cases have been decided by the lower courts. In criminal cases, when the matter came before the Supreme Court, in cases decided by Sessions Judges, whether it has been confirmed or reversed by the High Court, the Supreme Court laid down a salutary rule that when there are concurrent findings the interference will be very rare; and in cases of divergent findings, the interference would be in extraordinary cases only when some of the constitutional provisions are involved or violated or when there will be *prima facie* miscarriage of justice.

**15 hrs.**

But, when it came down to the question of interference with the decisions of Tribunals, unfortunately article 136 was so worded that the Supreme Court was given jurisdiction to exercise particular functions over the Tribunals also. The Supreme Court came down with certain new interpretations.

According to the Supreme Court, the highest court in the land, whose decisions in matters of law or the law of the land according to our Constitution, it was not necessary that the Supreme Court should have jurisdiction over the tribunals also. The industrial law of our country took shape long before our Constitution came into force. In 1926, the Trade Unions Act was passed. During the war it was found even by the foreign Government that the relationship between the labour and the employer is a social phenomena and there should be a machinery to deal with these disputes because this is the most important aspect as far as the whole body politic was concerned. At that time, there was no law to regulate the industrial disputes and so in exercise of the powers under the Defence of India rules, certain orders were passed which authorised the Government to constitute tribunals to check disputes between the employees and the employers. At that time, there was no Constitution and no appeal was being taken to anybody. In 1947, the Industrial Disputes Act was passed and when the Act was passed and various tribunals began to exercise jurisdiction, there was almost a clamour in the country, especially from the side of the employers that the tribunals established under the 1947 Act should not be the final authority because they decide questions which are of tremendous economic and social magnitude. So, in 1950 came the Industrial Disputes (Appellate Tribunal) Act. When that Act began to function, there was a clamour from the side of the labour as every decision given by the labour tribunals went almost automatically before the Labour Appellate Tribunals, because they took a very liberal interpretation of section 7 of the Act as to the questions of law. These appeals were there for long times and the appellate tribunals were in certain State headquarters with some benches in three or four States. It was impossible for the labour to fight its case before them. Quite rightly, in 1956, the House

[Shri Narayanankutty Menon]

passed an amendment to that Act as there was no longer any necessity for the appellate tribunals. Instead of promoting industrial peace, they were in some cases hampering it. So, the appellate tribunals were abolished.

When they were in existence, the Supreme Court took the view that because the awards passed by the tribunals have already undergone supervision by the appellate tribunals, which were the appellate authorities constituted under the law, the Supreme Court could not interfere even in abnormal cases with their decisions. So, between 1950 and 1957, there was a dearth of cases in the Supreme Court arising from the labour laws. In 1957, when the position was changed when the new Act came into force on March 10, 1957, there was a flood of appeals directly taken to the Supreme Court from the decisions of the tribunals. The matter did not end there. Previously, the High Courts also refused to interfere under articles 226 and 227. Immediately after the abolition of the appellate tribunals, the High Courts also began to entertain each and every application under article 226 arising from the decisions of the tribunals. It would have been different if the High Courts interfered only in cases where a tribunal has finally decided. The matter has gone further. Immediately Government makes a reference to the tribunal, in 99·9 per cent of the cases the employees utilise this opportunity and take writ applications to the High Court to quash the reference itself and many High Courts say that they have jurisdiction to see whether an industrial dispute exists or not—a question of fact, not of law. A very peculiar, complicated and ironical situation has arisen. In one case, the Supreme Court comes. When there is a statutory authority, it says, which has got jurisdiction to decide on questions of fact or law on a particular case, before that party exercises jurisdiction, the Supreme Court will not interfere under article 226 to issue a writ. The Supreme Court has said that way. But the High Court did not feel content about this. The Supreme Court has said that a writ of certiorari could not be issued where a tribunal has not exercised its jurisdiction because the tribunal will have the first jurisdiction and so it felt it proper that the tribunal should be left to decide the case. But certain High Courts in the country could not feel satisfied about the decision and they bypassed this decision. If a writ of *certiorari* under the common law of jurisdiction could not lie, then we look into our books and derive inspiration from the King's Bench and we find a writ of prohibition could be issued—that is what they say. They say that they can issue a writ of prohibition to the tribunal so that even the reference is invalidated as illegal and therefore no decision is given in some cases.

Some of us here may be interested in the law but the ordinary worker working in the factory, losing his job and raising a dispute before the conciliation officer and getting his case referred by the Government to a tribunal, is not interested in the technicalities or the decisions of the King's Bench or how some lawyers and judges in England decide the case. His case will have to be decided as soon as possible because he is in a state of suspended animosity. So, that is the position. The Supreme Court says that a writ of *certiorari* cannot be issued while the High Court says that it can issue a writ of prohibition but as far as the worker is concerned, the result is one. His case will be pending either before the High Court or the Supreme Court for 2, 3 or 4 years. The High Court may decide about the validity of the reference to the tribunal. A worker can go before a tribunal but a poor worker cannot come here to file an appeal before the Supreme Court. A small trade union cannot come here for this purpose. It is not possible for them to come to Delhi and file a case here and then wait for years together. The ultimate result is this. The law, the Constitution works very fairly and because of

the magnanimous working of the law, the workers will be losing their dispute and would not get justice.

Why is this happening? Before the Constitution came into force, the Federal Court has decided certain fundamental issues so far as our industrial law is concerned. But before going into that, I want to tell this House one thing. Our industrial law is an unwritten law. Because of complex economic developments in our country and unstable conditions—it has always been complex and unstable and developing—it is not possible to say what should be a wage, what should be the bonus and what should be the service conditions. So, what the Government or this House could do was to provide machinery whereby these disputes could be settled. As far as the legal right to settle the claim is concerned, the law of contract is there. Other laws are also there. So the High Court could verify according to this particular section whether you have a particular right, whether your right has been infringed and what is the remedy. But as far as the industrial law is concerned, there is no law at all. If wages are small, the tribunals can fix wages according to a certain conception of social justice.

What is the conception of social justice? It has to be decided by the tribunals. The conception of social justice according to a tribunal in Madras State is far at variance with the conception of social justice as far as the Supreme Court Judge is concerned. We are not surprised, because the man who is drawing Rs. 500 in Madras, a retired District Judge, will have at least an instinct of sympathy for those people who are drawing Rs. 500. That will be his conception of social justice. When you come down to the Supreme Court, the conception of social justice undergoes a transformation, because the Judges there can only see a society which is surrounded by the Supreme Court and such class of persons. I am saying this, Sir, not with affront, not with any disrespect to the highest tribunal in our land. The actual workmen in the field or in the factory really feel that the social justice that is administered by both the High Court and the Supreme Court is the social justice derived according to their own conception and not the social justice as understood either by our Government or by this House, which is the supreme authority to decide what should be the conception of social justice in our country.

Sir, when this House decided that the future pattern of society in India should the socialistic pattern of society, it is a fair and big departure that you have made from the place where we were. Today, when from a given set of circumstances and a given set of social order a society is to undergo far reaching transformation—even the very conception of proprietor of property is to undergo a change, even the very conception of the relationship between employers and workers is to undergo a revolutionary change—in a democracy the most important and most vital weapon for this transformation is the law and the courts in the land. Whatever might be the intention of this House when we legislate, the next morning our intentions will all be frustrated because somebody sitting down there may think and decide that this is not the conception, this is not the intention of the legislature.

This we are feeling today in every respect of the case, because when this House amended the Industrial Disputes Act in 1956 the supreme intention of every side of this House was that industrial disputes will have to be decided as soon as possible, not seeing the whole dispute with the technical conception of law but with a broad outlook of social justice. But, Sir, 'Gods' decide here, but 'semi-Gods' somewhere-else decide otherwise. Therefore, we find that a large number of vital disputes are pending before the courts. The intentions of this House have been frustrated, and so the disputes remain there.

[Shri Narayanankutty Menon]

I would like to point out to this House that certain very anxious moments were created by the Labour Minister. That is why I mentioned in the beginning that the Labour Minister ought to have been present. When a small number of workmen are involved nobody is worried; because the country is not affected, only the workmen and their families are affected. But in big cases where the entire economy of the nation is affected, Ministers are prone to worry. They have worried and they have spent, especially the Labour Minister, sleepless nights. Sir, I am referring to the Coal Award.

After four years the Coal Tribunal gave a decision, a very justifiable, decision even according to the Government. The next morning the employers took the whole matter before the Supreme Court and the Supreme Court, even without having the normal practice of hearing the Attorney General or the other side concerned, granted an automatic stay. The result was, whatever might be the interpretation of law, millions of workers in the coal-fieds, who were waiting for four years to get an increase of two annas, were deprived of the benefit. That was automatically stayed by the Supreme Court, and now they will have to look to Delhi for a decision in the matter. It is not possible for them to engage even a lawyer. The result was that they had to go and threaten a strike. You may say that the Award is there, the Supreme Court has legally granted a stay, and it is not possible for the workmen to go on strike. But tell us, Sir, when after waiting for four years they get an increase of two annas in their wages, the employers with all their resources take the whole case to the Supreme Court and the hon. Judges sitting their without even looking to the social, economic and other implications of the whole matter grant an automatic stay, what the workers are to do. Quite legitimately, the only weapon they have got is to go on strike. And when the strike threat was given, the hon. Labour Minister began to move in the matter. After many many sleepless nights he was able to arrive at a compromise to avoid a situation which was created by the action of the highest tribunal in the land, which disregarded the social implications of the Act. Sir, when a worker is dismissed and a decision is got from the High Court that it is a case of victimisation and the worker will have to be taken back, what we find is that the case automatically goes before the Supreme Court and the Supreme Court grants a stay.

In this connection, I may be permitted to mention one important factor which is in the mind of every workman. When appeals come up before the Supreme Court, the learned counsel who appears for the employers and gets the stay order is none other than the Attorney General of India. Sir, a very fundamental question is involved in this. In a democratic country that is not fair. Even according to our Constitution the Attorney General represents the Government. He is instructed by the Government. He is there to uphold the law of the land, uphold the provisions of the Constitution, uphold all that the Government stands for. But why is it, Sir, that we are finding today, in each and every case the Attorney General takes a private brief and appears for the employers? He actually gets the stay order and thereby he becomes, in one way or the other, responsible for bringing about the situation that we see in this country.

Sir, the hon. Home Minister is not listening to my speech; I know he will not listen. When the workmen and the people of this country find that the Attorney General of India appears on behalf of a big oil company or a plantation company and gets a stay of the

award, what will they feel. A citizen of India will naturally feel that the Attorney General is here to defend the employers of the country, who forms only a small part of the country. Why is that the Government does not see that when the man who is supposed to uphold the law, uphold the Constitution, who is supposed to defend the Government, he is appearing for the employers an impression is very easily created in the minds of the people that the Attorney General who represents the Government is appearing for the employers and getting the stay order?

It may be that technically he may be permitted to do so. It may be that he can practise his profession. Irrespective of that, has not the Government anything to say in this matter? It is expected that in a case where the interest of the Government comes into conflict the Attorney General cannot appear. If that be so, has not the Government got some interest in a case where the workmen have fought for years and got an award from a tribunal? When the Attorney General appears in the case against this award, it shows that the interest of Government is not conflicting, that the Government is a disinterested party.

Sir, that state of affairs should go. The Attorney General should be prevented from appearing in cases, in vital cases where appeals are taken on the decisions of industrial tribunals, because industrial law is a matter in which Government is vitally interested, and the awards passed by such tribunals will have to be defended.

When a tribunal passes an award and on that an appeal is taken up, it will have to be defended by the advocate of the workmen. In our country it is not possible for workmen to have any advocate to represent them because there are statutory restrictions. Also, the workmen in our country are poor. There is also the whole Government of India attacking the award. So, ultimately, the workmen will lose everything. I, therefore, make an earnest appeal that this impression will have to be removed, and the Attorney General should remain as the custodian of social rights of every citizen. He should not be allowed to misuse his profession whereby his only business happens to be to go and appear on behalf of the employers. In such cases he even goes to the extent of questioning even the statutory validity of certain Acts passed by this House also. Sir, for whom is he appearing? Therefore, I appeal again that at least in these matters Government should see that the Attorney Genery does not take sides. Let the Government not support the workers, let not the Government give any help to the employers also. The Government should be impartial, and that impartiality can be expected only through the Supreme Court. But when the Attorney General appears on behalf of the employers and gets a stay order on the award of a tribunal, that cannot be done. Therefore, in the interests of justice, in the interests of fairplay, in the interests of confidence of the millions of working classes in this country in the Government and also in the socialist pattern of society,—we dare say it is going to come—this sort of practice is to be stopped.

Finally, I come to the exercise of jurisdiction. I mentioned earlier that in order that the revolutionary change in the conception of social status and property should come, in order that the socialist pattern of society which we emphasise over and over again before this House could come, the very instrument by which the change and transformation of the social order could come about is the law of the land and the judiciary of the land. If that judiciary and the tools of the judiciary are made in the old, old workshops, and if it works according to the conceptions of the social order which prevailed for 200 years in this country, where are we going to

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change and where is the social revolution that is going to come? The socialist pattern of society will not come even if this House passes a legislation that tomorrow onwards socialism shall be the order of the land. If you want socialism in this land, if you want to have a socialist transformation of society, the very instrument by which the transformation of the social order is made, should be so made that these instruments are fit to transform the society. Today, instead of being an instrument, a vital instrument, or force for the transformation of society, these tribunals are functioning as bloodhounds to check the social progress, because, in these cases they are taking a very reactionary attitude. I do not claim that the Supreme Court should not be progressive or that the high court should not be progressive. But where social conceptions are to be laid down, certainly everbody has got a right to say this Supreme Court or that high court should act according to well-defined conceptions of the social order that have been laid down by the supreme legislative body of the country that is, this House.

They have miserably failed in this respect. In every high court today, there are thousands and thousands of cases pending, where they have automatically granted stay. Before the Supreme Court you will find that every morning a special Bench grants stays automatically for appeals under article 136 even without hearing the other side. As a natural and consequential result, discontent arises in the country, and instead of industrial peace, industrial disputes and confusion become the order of the day.

Now, the hon. Labour Minister who is very much experienced in this, has got a lot of material before him, to show how the high courts have exercised the jurisdiction, and he will not for a moment say that the exercise of these functions have helped in solving the industrial disputes or maintaining at least the *status quo*. There are many questions before this House, and among these questions, the only stand taken by the Labour Minister was that it would not be possible now to think of amending the Constitution and that they will point out some other methods. What are the methods? What is the experience of the trade unions? My own experience goes to show this. Not only the experience of the trade union organisation which I represent but the experience of the trade union organisations in the country including that of the Indian National Trade Union Congress is that as long as this extraordinary jurisdiction of these high courts and the Supreme Court exists, it is impossible to settle labour disputes and impossible to get justice to the working classes. I believe that the INTUC also, after their morbid experience of the last two or three years as to the manner in which justice is being administered from the ivory towers, as our Prime Minister put it the other day, and according to the big conceptions of social justice of certain individuals in the country, feel that it is not possible for us to settle industrial disputes this way. It is not possible for us to lay down even the rudiments of a socialist pattern of society. It is impossible. When you go to war and find that it is impossible to cut a thing with the weapon you have, when you find that the weapon has already become blunt and that it refuses to cut and refuses to obey you, certainly it will have to be changed. Therefore, similarly, with the experience of all concerned, at least in these matters where appeals arise, from the decisions of the industrial tribunals, the jurisdiction of the high courts and the Supreme Court has to be taken away and the Constitution will have to be amended.

What will be the injustice and what will be the repercussion in taking away this provision? There are many tribunals in the land from which

normally appeals are not taken. Till 1950, the industrial tribunals were absolute in the land. There was nothing, as far as the Supreme Court was concerned, over them, and there was no serious miscarriage of justice meted out by anybody. There may be drawbacks and there may be difficulties but there was no serious miscarriage of justice. But, only after the great Supreme Court came into being as the custodian of the rights, constitutional and other, of the people, we find complete anarchy in the industrial field today. Laws are being changed frequently. This morning, you lay down that the worker can get a bonus provided you show a gap in profit. The next morning, it is again perverted and it is said that a gap is not enough to show a profit. At the same time, there are tribunals in West Bengal, in Calcutta, who have declared that bonus could be given without showing a profit. In one case this morning the Supreme Court says that if the worker has gone on an illegal strike, automatically he is subject to dismissal, and the next morning, the Supreme Court reverts its judgment and says that it is not only necessary to prove that the worker has gone on illegal strike but something more is required. Laws are being changed every day, and as far as the workmen are concerned, today there is no law of the land as far as the industrial disputes go. It depends upon the whims and fancies of the Supreme Court. This state of affairs will have to be ended, and unless it is ended...

**The Minister of State in the Ministry of Home Affairs (Shri Datar):** Will the hon. Member be careful in talking about Supreme Court Judges? Whims and fancies—that is not fair to them.

**Shri Narayanankutty Menon:** I am very, very careful.

**Mr. Chairman:** I would point out to the hon. Member that so far as the reasons given by him are concerned, —that the jurisdiction of the high courts and Supreme Court should be taken away, on the basis of delay and impatience of labourers etc. are not objectionable. But to say that the Supreme Court judgments have created anarchy in the land is not proper. I would request him to speak in a responsible manner and to make his points in that way, and not to speak with disrespect so far as the Supreme Court and the high courts are concerned.

**Shri Narayanankutty Menon:** I am sorry.

**Mr. Chairman:** He has practically finished his speech.

**Shri Narayanankutty Menon:** I am sorry if an impression has been created that any disrespect was shown to them. I have got the utmost respect to the highest judiciary in the land. What I was saying was that the ultimate and the sum-total result of their actions and their judgments and decisions, as far as industrial peace is concerned, is anarchy. They might not have intended it, and I do not presume, and I do not charge that the Supreme Court would have intended any anarchy. But ultimately, the result was anarchy. That is what I said.

**Mr. Chairman:** The hon. Member's time is up.

**Shri Narayanankutty Menon:** I would request you to give me one more minute. I shall conclude. If the appellate jurisdiction is taken away, will there be any injustice to anybody according to the new procedure which is suggested? The tribunals themselves are very competent bodies. Either retired judges of high courts or others who are competent to become judges of high courts are appointed as presiding officers of these tribunals. The tribunals decide on matters which will be there only for one year's period. There is a statutory limitation as far as the decisions are concerned. The decisions are not finally binding. The decisions will not

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extend to a period for more than a year. The whole intention, as far as a particular dispute is concerned, is that at least for a period of one year there should be peace. I submitted that there are various difficulties undergone by the workers. From the Government's viewpoint also, do not the Government desire that the very intention of this House in enacting the Industrial Disputes Act should be carried into effect? When a dispute is referred to a tribunal, at least for one year, there should be industrial peace. Even that intention is being defeated.

Therefore, if the Government, from their own viewpoint, take into consideration the difficulties which the workmen are facing and consider this question, certainly the Government could consider this in a very impersonal manner. There is nothing provocative in what I said, for the Home Minister to say that I should be careful in my remarks about the Supreme Court. If I cannot make a perfectly right and a very real remark, which pertains in reality to the health and life of thousands and thousands of workmen in the country, before this hon. House, where else can I go to make the remark, when something is done which is against the workers and which they feel is an injustice done to them. Therefore, I am perfectly entitled to, and it is my legitimate right to say and voice the real grievance of the workers. In doing so, I might have made certain remarks about the after-effects or the sum-total results of the decisions of the Supreme Court, where the judiciary is supreme, everybody, even the common citizen, has got the absolute right to criticise the judgments, the only condition being that the implication of the judgments can be discussed, but not the persons of the judges. I make an earnest appeal to the Government to take all these matters into consideration. If they want a socialist pattern of society to be moulded, even in the course of long long years, if industrial peace is to prevail in the land, if the disputes are to be settled, if the Labour Minister and the whole Government are to be saved laborious hours in settling these problems, apart from strikes, hours which may be profitably used in the development of our land, I hope Government will not find any objection to make suitable amendments both to article 226 and article 136, so that we will not leave any chance for the judiciary to exercise any functions which are not intended to be given by this House.

**Mr. Chairman:** Resolution moved:

> "That this House is of opinion that suitable steps be taken to amend the Constitution in order that the jurisdiction of the Supreme Court and the High Courts over tribunals and courts constituted under the Industrial Disputes Act, 1947 (Act XIV of 1947) be taken away."

**Shri Balasaheb Patil** (Miraj): There is no quorum. Let there be quorum.

**Mr. Chairman:** The bell is being rung. Now there is quorum. Shri Prabhat Kar.

**Shri Prabhat Kar** (Hooghly): Mr. Chairman, I support this resolution and I wish to point out that the suggestion made therein needs a dispassionate discussion, considering whether the object of the Industrial Disputes Act has been properly pursued or whether article 136 as it stands today puts a hurdle in the working of the Industrial Disputes Act. I am sorry neither the hon. Labour Minister nor his representative is here. Our grouse is that article 136 is being interpreted without taking into consideration the need of the labour. I find that the Home Minister and the Deputy Law Minister are here, but what about the Labour Minister who should be vitally interested in this resolution, because the point is whether the Labour Minister's own experience is that

article 136 as it stands today really militates against the objectives of the Industrial Disputes Act?

The difficulty is that today the decisions of the tribunals are interpreted strictly in terms of the common law, which under no circumstance should be taken as the criterion for deciding industrial disputes. Here again, I see that the Law Minister is trying to find out the actual wording of article 136 regarding Supreme Court's jurisdiction over tribunals. I would only draw the attention of the House to the first judgment of the Supreme Court dealing with article 136 in the year 1950. It was the case Bharat Bank versus its employees. Two of the eminent judges of the Supreme Court, who became Chief Justices in succession—Justice Patanjali Shastri and Justice Mukherjee—were of the opinion that article 136 should not give the Supreme Court jurisdiction over the decisions of industrial tribunals. They held that the industrial tribunals were intended to set up a new social order, which should not be interfered with under article 136 by the Supreme Court. It was a Bench of five judges and three of them—Justice Fazl Ali, Chief Justice Kania and Justice Mahajan held that the Supreme Court should interfere, but they pointed out that the Supreme Court should have jurisdiction over every judicial or quasi-judicial body, but it should not interfere with the industrial tribunals, unless there is a gross infringement of the procedure of law. So, three Judges were in favour of granting the Supreme Court jurisdiction, but two of the eminent Judges were of the opinion that article 136 should not give jurisdiction to the Supreme Court over the industrial tribunals.

Recently it has been pointed out that the Supreme Court is interfering with the awards not only on questions of law, but also on questions of fact. Article 136 of the Constitution reads as follows:

> "Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India."

As a result thereof, we find today the interference of the Supreme Court not only on questions of law, but even on questions of fact. Without going through the whole procedure followed in the tribunal, without going through all the facts placed before the tribunal, the Supreme Court decides the facts from their own concept of natural justice according to the common law, the law of the master and servant, which grants certain rights to the master and imposes certain obligations on the servant, which concept has been given the go-by today and which is considered outmoded.

Under these circumstances, the main point of this resolution is whether the purpose for which the Industrial Disputes Act was passed is being served. If we go through the sections of that Act, from the section dealing with conciliation, arbitration, tribunal, etc., the essential factor is time. Every procedure should be expeditiously pursued. Conciliation should be speeded up and if conciliation fails, the matter will be referred to the tribunal. The tribunal should hear both parties expeditiously and give the judgment. Within a month from the date of the judgment, the Government should give the award. So, time is the essence of settling industrial disputes. Now if a reference is made to the Supreme Court, the case goes on for years and years. The purpose of the Industrial Disputes Act was that the disputes should be settled within the shortest possible time so that industrial peace, which was broken for some time, may immediately be restored and there may be settlement of the dispute so that production may not be hampered. What is the position today? I can give you so many instances. Again, I am sorry, the Labour Minister is not present here. There are

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cases, which have been referred to the Supreme Court, which are pending for ten years or even more without a settlement. So far as this House is concerned, we are all serious about increasing production. We want to create such conditions in which production will not be hampered. That is why we enacted this labour legislation. Immediately a dispute is raised, there should be conciliation and an immediate decision by the Tribunal, which should be binding on both parties. If anybody violates the decision, he should be punished. Such a provision is necessary so that all concerned may work to increase production. Now if a man is dismissed, that matter is taken to the Tribunal, from the Tribunal to the High Court and from the High Court to the Supreme Court, and it takes years and years. After ten years it is found that the worker was victimised and wrongly dismissed and an order of reinstatement is issued. If only after ten years a wrongful act could be remedied, do you think it is possible to maintain industrial peace? Do you think it is possible to get the co-operation of the worker? Do you think the purpose for which the Industrial Disputes Act was enacted will be served?

Now the difficulty is that an industrial dispute is treated on par with other litigation proceedings and partition suits. They treat industrial disputes in the same way as disputes between farmers or individuals. In those cases it is immaterial for how many years the disputes go on; so far as the nation is concerned, it is a fight between an individual and another individual. It is immaterial how many years it will take; it is immaterial how much money is spent. But here we are concerned, the whole nation is concerned, with the result of this litigation, with the settlement of this litigation. An industrial dispute is not a simple dispute between a worker and an employer. On its result will depend the security of the nation, production, industrial production, industrial relationship, fulfilment of the Second Five Year Plan and upliftment of the economic condition of the people. It is not an individual dispute or litigation.

But what is the position today? Will the hon. Home Minister be pleased to let us know how many cases are pending in the Supreme Court continuously for years together? If you file a special leave application today, it will go on continuously for 7-8 years and the matter will not be settled. The workers are aggrieved. The employers are going on in the same old way, and every time industrial peace is broken. This is a matter which has to be looked into from that particular angle. You have seen the working journalists' case. You have seen the case of the bank employees. In every case it has taken years to come to a decision.

Now we have to decide what exactly should be the relationship between the employer and the employees, and how the disputes can be resolved. So, this Resolution wants to emphasize that an industrial dispute should be looked completely from a different angle, and not from the ordinary litigation angle, as is being done today. This is a matter which, I think, the House should take into consideration: whether the purpose of the Industrial Disputes Act, the object of the Industrial Disputes Act, whether it is being frustrated because of this interference from the Supreme Court.

It is true that we should have respect for the Supreme Court. But the Supreme Court cannot decide in the abstract or in a vacuum. If the concept of the society is not reflected on the judgment, we have got to criticise the judgment. We have got to make the court see what the nation thinks of it. It cannot decide a matter in the abstract. Today there may be a law; tomorrow it may require some modifications. Interpretation of the law should change with the concept of the society. There is dynamism in

the law, that is accepted. But even today we are passing judgments from the old concept of the law of master and servant where the employer has got the right at any time to hire and fire the employee. We are giving judgment from that angle, whether natural justice has been violated or not. That has to be changed.

Parliament decides certain things. Parliament decides how the workers have to be treated. Parliament decides the relations between the workers and the employers. Now the decisions of the Supreme Court cannot go against the very intention of Parliament. Naturally, Parliament will have the right to cut down this power of the Supreme Court, which makes it possible for the Supreme Court to go against the very intention of this Parliament. That power should be taken away.

I would very much wish the presence of the Labour Minister here, much more than the presence of the Home Minister and the Law Minister, because it is a matter for the Labour Minister to decide whether it has become necessary to amend article 136 and whether industrial disputes should be taken away from the purview of the Supreme Court. Government may say that it is a matter of strict interpretation of article 136 and, therefore, this matter has to be taken up by the Law Minister or by the Home Minister. But I would say that it is a matter of the feelings of the workers. The Supreme Court today, by their actions, is standing in the way of giving proper justice to the workers. However legal and correct the judgment of the Supreme Court may be, it will not receive that respect which is necessary, because of its impact on the workers, and it will create frustration in the minds of the workers. It will put a check on production and will affect the economic condition of the country. So, this resolution has to be viewed from that angle, and I hope Government will consider it from that angle.

**Dr. Melkote** Raichur): The mover of the resolution and the speaker who spoke after him have adduced a number of facts which, to my mind, are borne out by what I have seen during the past few years. Generally speaking, it should be considered that there is a large volume of opinion among the workers in the industries that what is happening in the country today is not what they had expected, and they feel that real justice is being denied to them totally. Therefore, while I am in total agreement with the spirit of the resolution, I can say that the procedure recommended for mending this particular trouble is not quite a correct one.

**15.49 hrs.**

**Shri Mohammed Imam** (Chitaldrug): There is no quorum in the House.

**Dr. Melkote:** There have been cases .....

**Shri Braj Raj Singh** (Firozabad): The question of quorum has been raised.

**Shri V. P. Nayar:** The speech must be heard by at least 50 members. Out of the 50 and odd members of the Treasury Benches hardly one is present.

**Mr. Chairman:** The bell is being rung. Now there is quorum. The hon. Member may proceed.

**Dr. Melkote:** I was saying that there is a large body of opinion amongst the workers in industry that they are not being meted out with justice. That is due to the fact that inordinate delays are taking place due to reference to the Supreme Court. This feeling is being expressed at various conferences held by labour members and also at the tripartite conferences and we have been exercised with what is happening in the country. But as legislators in this House there is one point that we have got to bear in mind. As members of a particular group we may advocate and say that what is happen-

[Dr. Melkote]

ing in the Supreme Court is not quite the correct thing. We may appeal to this House that that reference should be done away with. But it should be remembered that this is a thing which is taken advantage of both by labour as well as the industrialists.

A reference to the Supreme Court can be made either by the labour group or by the industrialists, but generally speaking after Independence there is a feeling in the country that decisions should be given quickly and the law should be interpreted more liberally in keeping with advantages that ought to accrue to the down-trodden and to the advantage of such groups. Unfortuntely, even today when cases are referred to the Supreme Court such long delays take place that it frustrates the workers and even if, suppose, justice is meted out to the working class it comes so late that the benefit of it cannot accrue to the worker. Justice delayed is justice denied. It is this feeling that is taking hold of the working class and that is why this Resolution that a reference to the Supreme Court should be done away with.

When we say this, with all humility I would like to point out that every one of us here has sufficient respect for the highest judiciary in the land and when we say this, particularly in this House, we do so with a feeling that the Government and the judiciary both of them would take stock of the situation and see to what extent what is felt by a large section of the population could be remedied. I hope that it is in this spirit that the hon. Mover of the Resolution has brought this Resolution forward in this House —not so much to press it as so much to give vent to our feelings so that both the Governments and the judiciary may take stock of the situation and try to arrange their ways in such a manner that the working class may get real justice and that too quickly. If that is done, I am sure that the working class would heave a sigh of relief.

But in what manner it should be done is a thing which is rather very intriguing. We may plead that reference to the Supreme Court is unnecessary and should not be made. Suppose, another section of the population also come forward with a similar view. It would mean that we would be making the life of the Supreme Court itself, maybe, well nigh impossible. Such a demand may not be quite correct. That is why I said that whilst I agree with the spirit of the Resolution, the very purpose of the Resolution would be defeated if we press this too hard. I only hope that the Home Ministry and the other Ministries of the Government of India and the judiciary will all sit together and take stock of the situation and help us in remedying this particular difficult situation.

I have nothing further to add except to tell the House again that the sooner this difficult situation is remedied the better it is for every one of us.

**Shri N. R. Ghosh** (Cooch-Behar): Sir, I am sorry that I am to oppose this Resolution.....

**Shri V. P. Nayar** (Quilon): Don't be sorry.

**Shri N. R. Ghosh:** ....not because that I like that there should be long delays. That is injurious. We have inherited this administration of law from England and there also there is "the laws delay". We do not like it. Every citizen of India would certainly want that there should be justice administered as quickly as possible. There is no doubt about it. But the Resolution goes further. The Resolution wants that the jurisdiction of the High Courts and the Supreme Court should go in matters which are decided by industrial tribunals.

It has been held again and again in the High Courts as well as in the Supreme Court that though it is a tribunal and though it is not a court in

the strict sense of the word, still it discharges all the functions of a court. With the gradual expansion of our industrial life—industries expanding every day—the jurisdiction of these tribunals under the Industrial Disputes Act covers millions of people. It includes banks. It includes factories. It includes the jute mills. It includes plantations. It has also been held in one case in the Calcutta High Court and the same view has been confirmed by the Supreme Court that even an industrial dispute between the employers and the employees in local bodies, in a municipality, also comes within the purview of these tribunals. Therefore, when you are going to take out all these disputes from the jurisdiction of the High Courts and the Supreme Court you are actually doing something by which you are depriving these people of their fundamental rights. Now, what is the jurisdiction of the High Courts? What is the jurisdiction of the Supreme Court in this matter? It is mainly under article 226 High Court exercises jurisdiction and under article 136 of the Constitution special leave is granted by Supreme Court. In what cases? In cases where there is a flagrant violation of justice, when there is denial of natural justice, when actually some finding is arrived at on no evidence or when the finding is absolutely perverse. In cases like these special leave is granted.

Now, I submit, as I was going to say, that this will militate against the fundamental rights guaranteed by article 19(1)(g) of the Constitution. As a matter of fact, the findings of the tribunal are not disturbed ordinarily even if it is a wrong finding but if it is within jurisdiction, *i.e.*, in rare circumstances these cases come to the High Court or to the Supreme Court. If anyone even cursorily goes through these several cases which have come before the Supreme Court, he will find that the employers as well as the the employees have been benefited there. There have been some wrong interpretations of sections—there have been some wrong interpretations of the rules promulgated for the guidance of our industrial administration. Such cases come to the High Courts. Such cases come to the Supreme Court. Now, actually if the jurisdiction of the Supreme Court and the High Courts is taken away, then you will limit the adjudication of these cases only to a tribunal. You know that even in civil cases, even in cases between landlord and tenants, even in petty civil cases and also in industrial disputes where there has been denial of natural justice, where there have been violation of law, denial of natural justice, wrong interpretation of the provisions of law or documents, introduction of some new theories of social justice resulting in injustice and violation of law etc. etc., in such matters only the jurisdiction of the High Courts and the Supreme Court is invoked.

**16 hrs.**

As I submitted, the power of superintendence of the High Court and the Supreme Court is the guarantee that is our strongest bulwark. If really the Constitution has to function, if really this country is to have the benefit of the rule of law, we must have the superintendence of the Supreme Court and the High Courts. You know, Mr. Chairman, that the jurisdiction of the Supreme Court is wider and bigger than the jurisdiction exercised by the Privy Council. In criminal cases where actually the jurisdiction of the Privy Council was limited to some matters, we have got a much wider jurisdiction now exercised by the Supreme Court. That is our final resort. We are proud of the Supreme Court. Every citizen has the greatest respect for our High Courts and for our Supreme Court. I do not think there can be any reason whatever why the jurisdiction of the Supreme Court and the High Courts should be taken away only because the administration of law is delayed. If the administration of law is delayed, that is a matter which certainly the Government of the country must look to. I believe that is a disgrace

[Shri N. R. Ghosh]

and I think that should be discontinued. But, that is no reason for taking away the jurisdiction. If there be headache, you need not chop off the head. As a matter of fact, the protection of the Supreme Court cannot be denied to any citizen of India.

There is another point. The Industrial Disputes Act is a departure from the ordinary law. It is a new law. It is practically borrowed from the law of America, from the law of Australia, from the law of England. Even in those countries, superintendence is exercised by the highest court. Even in our courts, how many decisions are set aside by the appellate court and how many decisions of the High Court are set aside by the Supreme Court? Therefore, I would submit that if there be some grievance on account of delay, relief cannot be had by taking away the jurisdiction of the Supreme Court or the High Courts. At any rate, I think it will be a very dangerous thing and it will be playing with fire if the citizens are to be deprived of superintendence of the High Courts and the Supreme Court on account of the delay which sometimes happens in the adjudication of industrial disputes.

**Shri Tangamani** (Madurai): Sir, I rise to support the Resolution now before the House. The intention of this Resolution is not to take away completely the rights of the Supreme Court from certain laws. This only seeks to take away certain rights so far the Industrial Disputes Act is concerned. Even in respect of the Industrial Disputes Act, what I would like to mention is this. Industrial relations have grown over a period of nearly 30 or 40 years. As the hon. Deputy Minister of Labour also knows, the best form of settling industrial disputes is by mutual negotiation. Mutual negotiations and collective bargaining are things which have to be encouraged in this country as in other countries. Collective bargaining has almost received legal status. In France, I know, collective bargaining between two parties is reduced to a statute and that becomes applicable to both the parties. I know, in Pondicherry, whenever two parties enter into an agreement, that agreement is known as collective contract agreement and this collective contract agreement has got the same force as law. Where the two parties are not able to meet, certain machinery has to be evolved by the Government.

During the war period, when industrial peace was necessary, rule 81A of the Defence of India Rules was invoked, because the Trade Disputes Act of 1929 was not sufficient to meet the various disputes that were coming up. From 1939 onwards, Rule 81A was invoked for compulsory arbitration. It may be also called adjudication; a special tribunal was set up and the tribunal gave its finding and this finding was enforceable as an award. In 1947, this was codified and the Industrial Disputes Act of 1947 was passed. I would like to refer to that only for a limited purpose. Section 10 gives powers to the appropriate Government, the State Government in the case of many industries and the Central Government in the case of industries like banks, etc., and also in the case of industries like oil which have got branches not only in one State, but in several States. In 1956 we had an amendment to bring in such industries also. The appropriate Government when it is satisfied that there is a dispute or a dispute is apprehended, will refer this particular issue for adjudication to a special tribunal. Prior to this reference, a complicated machinery comes in. There is an attempt to bring both the parties together. There is a conciliation officer. When conciliation fails and the conciliation officer finds that one of the parties is at fault, he, of his own, using his discretion sends a report to the Labour Commissioner; and if the Labour Commissioner is satisfied, if the Government is satisfied that it is a fit case for reference to a

tribunal, reference is made. I am mentioning this background, because it is not like a civil suit where one party initiates proceedings, a finding is given, there is provision for appeal and there is provision for second appeal also. Here, before this reference is made, a big ground is covered and the workers and the employers have to go through this process over a period of a few weeks or a few months. This procedure in the first instance is the most impotant thing. After the matter is referred to the Industrial tribunal, it gives its award. The Industrial Disputes Act says that the award will come into force a month after it is pronounced or after it is published in the Gazette. It will be enforced for one year and after that period, one of the parties will have right to revoke this award, giving two months notice.

The intention was, where we are not able to have collective settlement, the matter must be referred to the tribunal and the tribunal's findings must be final. That has been the intention. I would have been glad if the hon. Minister of law or the Deputy Minister were here, because now, such matters are being referred to the Law Commission. It will be better if the Law Commission goes into the whole question of industrial law. Several rulings have been given on the question of industrial law. For the last ten years, there have been awards by tribunals, awards by the appellate tribunals, judgments of High Courts and judgments of the Supreme Court also, on questions like wages, bonus, working conditions, social security, and period within which a particular award is to be given. All these matters have been there for the past ten years and it is time that the Law Commission gives its time to this particular aspect also. If we are to have the jurisdiction of the Supreme Court over the Industrial tribunals also, let us have a separate Industrial Bench. Let there be a direction to the Industrial Bench that the matter will have to be disposed of in two or three weeks time. The Industrial Bench must have a special kind of qualification. In many cases, the same identical questions arise.

In 1952, a question arose in the Madras High Court whether a particular employer has got a right to close down his business or not. The Madras High Court held that the employer has got a fundamental right to close down his business. In 1953, an identical issue was raised again before another Bench of the Madras High Court and the Madras High Court decided that no management has got a fundamental right to close down its business and when he closes down his business, he must satisfy the court that there is a *bona fide* case of closure. The Government comes in to see that the closure does not take place because it is in the larger interests of the community. When there is a closure, we find issues are raised before this House by adjournment motions and other ways. Closure is not a fundamental right. Social justice, social concepts go on changing now. I am not casting any aspersions on the learned Judges who gave the ruling in 1952 that it is a fundamental right of the employer to close down his business. Another Bench comes in 1953 and says, it is no longer his fundamental right. So far as social justice is concerned, one high Court takes one view. The Bombay High Court holds that social justice is always governed by the Directive principles of the Constitution. Sometimes, we find the Supreme Court saying, we do not know of any other social justice except the social justice laid down by the Labour appellate tribunal formula so far as bonus is concerned. This idea of social justice is something which changes year by year. It has to be more or less linked with the pattern of society. That is why, the limited purpose of this resolution is to see that the powers given to the High Court and the Supreme Court by articles 136, 32, 226 etc., for interceding in the awards of the various tribunals are restricted.

[Shri Tangamani]

I know, and any one who has been dealing with labour, whether it is from the Ministry side or from the trade union side, will bear me out when I say that there has been discontent. I remember in the 15th Indian Labour Conference which was held in Delhi during July, 1957 it was argued at length by the parties that recourse to the Supreme Court by either party would be considered as a breach of the code of discipline. A code of discipline was formulated and it was agreed by both the parties that no party would have recourse to the Supreme Court.

Not that we have got anything against the Supreme Court, but we know that taking the issue to the Supreme Court will mean delay, and we do not know what type of decision will come. I distinctly remember that when the labour appellate tribunal gave its decision on the coal dispute, the matter was taken to the Supreme Court but Government intervened and asked the management to withdraw it from the Supreme Court.

So, it is no aspersion on the Supreme Court. This labour dispute is an issue which ought to be settled before we go to the Supreme Court or before we go to the High Court. This is an issue which ought to be settled between the parties.

I can mention another instance which involves more than 100,000 plantation workers of the South. For five years the special tribunal went into the question of their wages, working conditions and other things, and then the award was given. After the award was given, the matter was taken to the Supreme Court—because by that time the labour appellate tribunal was abolished—and it was stayed by the Supreme Court, and the discontent continues even to this day.

I will amplify this by another point. The 1950 Act which gave power to the labour appellate tribunal to hear appeals from the industrial tribunals said by section 14 that a stay would be granted only when the party asking for the stay could satisfy the court that if the stay was not granted, there would be serious repercussions to the industry. "Serious repercussions to the industry" was one of the conditions imposed upon the labour appellate tribunal for granting or not granting a stay, but there is no such restriction on the Supreme Court. If the Supreme Court, in their wisdom, are satisfied that a stay is to be granted, it will be granted. No reason need be adduced, but in the case of the labour appellate tribunal, they had to state specifically for the following reasons which will lead to serious repercussions in the industry, we are granting the stay.

I am mentioning this to show that leaving these industrial disputes in the hands of the High Court and the Supreme Court will create more disputes rather than put an end to the disputes. How can we leave the destinies of thousands of people in the hands of one man? We have not given a clear directive as to how the Supreme Court should view industrial law. To this day there is no such directive. The Madras High Court in one case said there was freedom for the individual to close his business. In another case, it was decided there was no longer the freedom of the individual.

There is one individual that is the economic man who is controlling the lives of thousands of people. There is another individual, one of the thousands, who is a social man. The social man and the economic man cannot be equal. In this society we cannot allow the economic man to dominate the social man. So, the courts and the tribunals will have to come in and see that the economic man who is a dominating person is put in his place and the social man who is the real producer is given all that is due to him. That concept comes in one or two judgments, but that concept has

got to be evolved, and I am yet to find such a concept being evolved in the Supreme Court.

It may be because the High Court is nearer and the Supreme Court is far away from the place where these disputes take place. Without any aspersion on the legal acumen or the findings of the learned Judges of the Supreme Court, I may say that the distance and the way in which the disputes arise in the different parts of the country are not in a position to affect the Supreme Court.

With these observations I submit that this resolution has not come too soon, but at the appropriate time, because in the interests of peace in the industry and in the interests of peace in industrial relations, such a resolution is necessary, and I hope the House will give due attention to it.

**Mr. Chairman:** Shri Abid Ali.

**Shri Balasaheb Patil** *rose*—

**Mr. Chairman:** Order, order. I have called the hon. Deputy Labour Minister.

**Shri Balasaheb Patil:** I had risen already before him. I want only five minutes.

**Mr. Chairman:** Surely he will get a chance, there is time. Why should he be in a hurry ?

**The Deputy Minister of Labour (Shri Abid Ali):** At the outset I may explain that this particular matter is within the sphere of the Home Ministry, and Shri Datar was attending on behalf not only of the Home Ministry but the Government. He was representing Government here, and I did not consider it necessary to be present, but as some hon. Members went on repeatedly demanding that some one on behalf of the Labour Ministry must also be present, respecting their wishes I am here.

**Shri Narayanankutty Menon:** We felt your absence very much.

**Shri Abid Ali:** Not that we are not concerned, we are very much concerned, but one Minister on behalf of the Government is enough.

In this connection it should be remembered that in the original draft of the Constitution submitted to the Constituent Assembly, the word "tribunal" was not mentioned. Subsequently by an amendment "tribunal" also was mentioned, to give jurisdiction over tribunals also to High Courts and Supreme Court. So, the Constituent Assembly had taken this particular subject into consideration, and after giving due thought, they felt that High Courts and Supreme Court should have jurisdiction over tribunals also. Therefore, the draft was amended.

I am not a lawyer, but I was discussing it with friends. There is no other enactment which has taken away the jurisdiction of the High Courts or the Supreme Court. So, in case this suggestion is accepted, this will be the exception. It has also to be mentioned in this connection that once we begin to make inroads into the scheme, we would be tempted to make further inroads in a variety of cases. So, as a citizen, every one should be anxious that the Supreme Court's powers should remain supreme, and there should not be any interference to curtail these powers, and they should possess complete powers.

It has been stated here that there has been a flood of appeals. About that comment I may mention that although there have been some very important cases brought before the Supreme Court particularly in recent years, in the last year or two, the number is not sufficient to justify saying at this stage that there has been a flood of cases and this power of the Supreme Court should be curtailed.

I may mention that during the year 1956, out of 3,133 awards given by

[Shri Abid Ali]

State tribunals, only in 147 cases appeals were filed against them in the High Courts and the Supreme Court.

**Shri Narayanankutty Menon:** You mention the number of workmen involved.

**Shri Abid Ali:** In 1957, 125 cases were taken to the High Courts and Supreme Court out of 3,746 awards given during that year. This would mean that during the year 1956 only 4·7 per cent. of the cases were brought before the High Courts and the Supreme Court, whereas in 1957 the percentage was only 3.33.

With regard to Central Government tribunals, during the years 1956 and 1957, 20 and 17 awards respectively were given by the Central Government tribunals. In 1956 in three cases appeals were filed in High Courts and the Supreme Court, but in 1957 no appeal was filed.

**Shri Narayanankutty Menon:** That is a wrong statement. From Delhi itself many appeals have been filed in the Supreme Court.

**Shri Abid Ali:** I am giving the information which has been collected from all available sources.

**Shri Narayanankutty Menon:** May I interrupt?.....

**Mr. Chairman:** The hon. Minister can only give the information which he has. He has not got access to any other source of information. He has given that information which has been collected by him. So, how can he correct it? If the hon. Member knows something more, he may refer to those cases again, when he will have occasion to reply.

**Shri Narayanankutty Menon:** He mentioned this last time also.

**Shri Abid Ali:** On the previous occasion also, when I mentioned these figures, my hon. friend opposite said that these were not correct figures. But we checked up, and after checking, I confirm that these figures are correct.

With regard to the number of workers, in some of these appeals, the number of workers was probably one. It should also be remembered that it is not that all these appeals were filed by the employers. Some of these appeals were filed by the workers also.

**Shri V. P. Nayar:** Very few.

**Shri Abid Ali:** Of course, very few. But the protection is taken by the workers as well.

**Shri V. P. Nayar:** What is the percentage?

**Shri Abid Ali:** As for the other matters, since I was not present here during the course of the debate, I shall leave them to my senior colleague.

**Shri Narayanankutty Menon:** That is quite nice.

**Shri Balasaheb Patil:** I rise to support the resolution that has been brought forward by Shri Narayanankutty Menon. Just now, we have heard about number of cases. But I may submit at this stage that though the number of cases that have gone to the High Court and the Supreme Court is small, what happens in industrial cases is that the same problem is involved in a number of other cases as well. Out of many cases, one goes to the High Court, and the same case very often goes to the Supreme Court also, and the effect of a decision on that case automatically becomes applicable in so many other cases at so many other places, in so many other States, and the worker has got to compromise with the employer, because the decision in that case becomes a *res judicata* in the other cases. Therefore, though the number is small, it does not follow that the magnitude of the industrial dispute cases is lessened.

I do agree with the Deputy Minister of Labour when he says that we should not make inroads into the supremacy of the Supreme Court. At the same time, I would like to submit to him one thing, that let us see what the work of the Supreme Court is. Every now and then, Parliament as well as the State Legislatures are passing Acts; they are passing Acts almost every day. Only a few days ago, we heard here something about the working of the U.P. Legislative Assembly, how a Bill consisting of about five hundred clauses was passed in fifty or seventy-five minutes' time or something like that. At this rate, we are passing enactments, but we find that under the articles of the Constitution, from every Act, appeals are lodged in the Supreme Court. The result is that we find a number of cases are pending before the High Courts and the Supreme Court. The High Courts and the Supreme Court will never give first preference to the labour cases. That is one of the impediments in our way.

The second impediment is the question of costs. In industrial cases, it is only the rich person who is able to fight against the poor persons. If the workers are united, then there is a union, and the union takes up their cause, and goes on fighting. But even with the workers' support, the union can at the most go to the tribunal, and thereafter to the High Court; even then, it is impossible for the union to go on pleading their cases. So far as the Supreme Court is concerned, we are told, and it is in the experience of so many hon. Members, that a deposit of something like Rs. 2,500 or so has to be made. Is it possible for the worker who is fighting for his bread, for his wages or dearness allowance or increment or bonus or holiday wages to fight his case? Let me quote one instance here. It was decided by the Government of India and the different State Governments that there should be a holiday on the Independence Day and the Republic Day. The mills followed that resolution and gave a holiday, but afterwards they came forward and had a cut made in the wages of the workers. And by the time the matter comes up for consideration before Government, it takes nearly three months. And what about the employers? They can go on getting adjournments, because they are not to lose anything, because they can pocket the money, get interest thereon, and go on expanding and exploiting the workers who work under them, and getting the profit. But, so far as the worker is concerned, it takes nearly one month or more before his case goes to Government, and Government takes nearly three months' time for examining whether it is an appropriate case to be sent to the tribunal, and, thereafter the tribunal takes its own time. So, for one day's wages and dearness allowance which is half of the daily wage, it takes nearly six or seven months before the tribunal gives its verdict, and, thereafter, the High Court takes about two years. And as for the time taken before the case goes to the Supreme Court for their decision, we have seen that there is unanimity of views on the part of hon. Members here.

When such is the case, I would submit that the hon. Minister should see whether there cannot be a special bench constituted in the High Courts and the Supreme Court for this purpose, and also whether there cannot be some provision for giving legal aid to labour. In this connection, I may quote a recent case where the Attorney-General of India was taking up the cause of the employer and fighting against labour. What does this mean? This means that the employers can spend money firstly, and secondly, they can get the best of legal advice that is available in India. That is not the case with labour. Therefore, it should be the duty of the Labour Ministry at least to provide funds to labour, which they can use for fighting their cause against the employers. That is my first submission. Secondly, I would submit that the possibility of constituting a special bench to decide these cases as speedily as possible

[Shri Balasaheb Patil]

should be explored. We find similar provisions in the case of the other Bills. Only this morning, we were discussing the Delhi Rent Control Bill where we find there was a special provision for a Controller. The jurisdiction of the civil court was taken away and vested in a special man, namely the Controller. Similarly, the other day, we found in another Bill there was a special tribunal namely the estate officer to decide the cases. So, so far as industrial cases also are concerned, what is the difficulty in having a separate court for this purpose? That is an utter necessity; looking to the nature of the questions involved, looking to the speed with which the matter must be decided, it is an utter necessity.

So, I would urge upon the Ministers concerned to examine this problem from the point of view of social justice, speedy justice and natural justice and I hope that they will come forward with a Bill to amend the Constitution, if not, at least they will make some special arrangement by constituting a special bench.

**The Minister of State in the Ministry of Home Affairs (Shri Datar):** The question raised by the hon. Mover of this resolution is of a very fundamental character. According to him, it deals with the curtailment of the powers of the Supreme Court. The Supreme Court has to be supreme. Similarly, so far as the States are concerned, they have got High Courts which have the highest judicial powers.

**Shri V. P. Nayar:** They are only 'High'.

**Shri Datar:** Under the circumstances, the question arises whether the powers of the Supreme Court should be curtailed, and whether the powers of the various High Courts in India should be curtailed.

While I was looking into the provisions of the Indian Constitution, I found certain articles, where a reference was made to a possible enlargement of the powers of the Supreme Court, but in no article has there been even an indirect suggestion that the powers of the Supreme Court or the High Court can be curtailed. Therefore, we start with this position as to whether there are any circumstances of a fundamental character or of an over-riding character as to justify an amendment of the Constitution which was drafted with great care and in respect of which there was considerable discussion for years together. We have, therefore, to deal with this matter not from any particular point of view, not from the point of view whether any inconvenience is caused to certain parties, but from the highest interests of the country. As you are aware, Sir, there are judicial courts in India with the Supreme Court as the highest judicial court in the land.

**Shri V. P. Nayar:** May I put a question to the hon. Minister? He says that the Supreme Court has to be supreme and that no curtailment of its powers is contemplated in the Constitution. Will he kindly see article 136(2) which says that "nothing in this clause shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces." The Supreme Court has no power to interfere there.

**Mr. Chairman:** Article 32 of the Constitution is there. The hon. Member has referred to article 136(2). Is there any other restriction on the powers of the Supreme Court?

**Shri V. P. Nayar:** We are trying here to take away the powers which may be exercised by the Supreme Court by virtue of article 136. The hon. Minister's contention is that the Supreme Court is supreme and there can be no restrictions on its powers.

I was just pointing out that in the very same article it has been provided that the Supreme Court cannot invoke this power in the case of a decision by a military tribunal. We want that this restriction should be extended to the worker also.

**Mr. Chairman:** That is not the point at issue. If he refers to the Constitution he will find that there is an article there by virtue of which the powers of the Supreme Court can be enlarged. And the hon. Minister said that there is no article in the Constitution by virtue of which we can *restrict* the powers; if there is a restriction, it is there in article 136 itself; can you further restrict it?—that is the burden of his argument.

**Shri Datar:** So I was pointing out whether there were any over-riding circumstances to justify curtailment of the powers.

**Shri V. P. Nayar:** Very much.

**Shri Datar:** May I point out that in case this particular resolution is to be accepted, it would involve amendment of at least three articles of the Constitution? They are articles 136, 226 and 227. You will also note that in addition to the expression "the court" there is also the expression "tribunal" added in two of these three articles. And in respect of this, may I point out that there was a long discussion before the Constituent Assembly? The word "tribunal" had not been mentioned in the draft that was presented to the Constituent Assembly, but an amendment was moved by a Member of the Constituent Assembly and then that amendment was accepted by the Government, and therefore in two articles we have got the word "tribunal" specially inserted. A tribunal is one, naturally, which is judicial in a general way, and which is often quasi-judicial; but all the same, you and I have to agree, Sir, that even the tribunals perform functions which are of a judicial character.

And I was just looking into the Industrial Disputes Act to which the hon. Mover made a reference. Therein we have got section 7 and section 7A. The wording of these two sections should kindly be noted. That would show that whenever these tribunals are carrying on their work or whenever they give any decisions, those decisions are, or have to be, of a judicial character. And the expression that has been used is "adjudication". I am reading section 7:

> "The appropriate Government may, by notification in the Official Gazette, constitute one or more labour courts for the adjudication of industrial disputes".

Similar expression has been used in other cases, and it has been pointed out that when a judicial tribunal has to be appointed, certain qualifications have been laid down, very high judicial qualifications have been laid down. That is referred to in sub-clause (3):

> "A person shall not be qualified for appointment as a presiding officer of a labour court unless he has held any judicial office in India for not less than seven years."

So, as I was pointing out to the House, in addition to the word "the court", the word "tribunal" was purposely put in, so that the Supreme Court, as also the High Court, should have their supreme jurisdiction over the proceedings or over the decisions of these bodies as well. The word "tribunal" was purposely put in with a view to meet any possible objection that it was a tribunal and not a court. That was the reason, and to meet any possible objection likely to be raised, the word "tribunal" was inserted in articles 136 and 227.

Taking article 227 first, it will be observed that the High Courts' power of supervision over tribunals has been expressly conferred by an amendment in the Constituent Assem-

[Shri Datar]

bly to the original draft of the article at the stage of consideration, and the Government accepted that amendment. The Constitution-makers had a definite purpose in making this addition as can be seen from the following extracts from the speech of one of the Members of the Constituent Assembly. Sir, I am reading from the proceedings.

**Shri V. P. Nayar:** I want to know...

**Shri Datar:** Let the hon. Member wait for some time.

**Mr. Chairman:** He is not yielding.

**Shri V. P. Nayar:** I am submitting to you, Sir.....

**Mr. Chairman:** Can he be forced to yield? (*Interruption*). Order, order no interruptions.

**Shri V. P. Nayar:** May I ask him...

**Mr. Chairman:** Order, order.

**Shri Datar:** After I finish, not at this moment.

**Shri Narayanankutty Menon:** Let him not get angry.

**Mr. Chairman:** The Minister says he is ready to answer it afterwards.

**Shri V. P. Nayar:** Then will you permit me afterwards, because you said that I will not get a chance?

**Mr. Chairman:** He may wait. Let him finish.

**Shri Datar:** Sir, I was saying that the word "tribunal" was purposely inserted, and the Members of the Constituent Assembly who considered this particular question had labour tribunal also in their mind. That is the reason why I am reading an extract from the speech of one of the Members of the Constituent Assembly. After it was accepted by the Government and before it was put to the vote, this is what a Member stated:

> "I am very happy at the amendment moved by Dr. Ambedkar"—

I am glad, it was the Law Minister who had moved it—

> "by which he has stated that every High Court shall have superintendence over all courts and tribunals. I wanted to draw the attention of the Hon'ble Doctor to labour tribunals. Every day, labour tribunals are getting more and more important. Our experience of these tribuials is very bad...."

**Shri Narayanankutty Menon:** Whose speech is it?

**Shri Datar:** Let the hon. Member wait. It goes on:

> "They yet have to copy the triditions of the judicial courts. I hope now when the High Courts have powers over them they will also be brought under its supervision and control so that we can have better justice in labour tribunals and also the right procedure."

**Shri Narayanankutty Menon:** May we know the name of the Member?

**Mr. Chairman** Let him proceed.

**Shri Datar:** What they stated was this. Let not the portion that I have quoted be misunderstood or misinterpreted. (*Interruptions*).

**Mr. Chairman:** Order, order.

**Shri Datar:** As I was saying, they felt that the tribunals under the Labour Disputes Act should also be under the supervision of the High Courts and the Supreme Court. It is only for that purpose that it was stated and not in any other way. In other words.....

**Shri Prabhat Kar:** Two eminent Judges of the Supreme Court did not agree with that.

**Shri Datar:** .....the purpose of this supervisory jurisdiction of the High Court and the Supreme Court is to see that whatever is done is done properly and that there is a check upon an inaccurate use of the powers. It might be in favour of one party or another. That is entirely immaterial. As was pointed out, just as all the courts in a State are subordinate to the High Court of the State concerned, all the courts in India are subordinate to the Supreme Court so far as the whole of India is concerned. Thereby we secure two important points. One is that adjudication is looked into and finally scrutinised by the highest court in the land. Secondly, a proper procedure is also followed in all the courts and also the tribunals. Therefore, it was that the word 'tribunal' was purposely put in. When the word 'tribunal' was used, the framers of the Constitution had in mind the labour tribunals which have been started and which are working so often. Under the circumstances, the question is whether any overriding case has at all been made by the hon. Mover.

So far as the jurisdiction of the High Court and specially of the Supreme Court is concerned, we have got various types of jurisdiction. One is the appellate jurisdiction about which I need not say anything. The other is original jurisdiction in certain matters. Take, for example, fundamental rights which have been secured to all the citizens of India. Let it be understood very clearly that in respect of these fundamental rights we have got article 32 which says:

> "The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed".

Let the hon. Member note the word 'guaranteed'. Assuming that it is not improbable that in the decision or in the proceeding of a particular labour tribunal certain questions might arise which might induce a man or party to it to feel that his rights have not been properly protected, his rights have been violated and jeopardised, would it or would it not be right for the person aggrieved to approach the highest court in the land or the highest court in the State? Therefore, so far as this question is concerned, the supervisory jurisdiction ought to be there. In addition to the supervisory jurisdiction, we have got also articles 136 and 226 whereby the Supreme Court and the High Courts have jurisdiction to find out whether a particular complaint is right or wrong, whether any rights have been violated or whether any rights have got to be secured.

So these are very important questions that arise in this case. Therefore, I am submitting that this is the highest right that has been given to the Supreme Court or the High Courts and this should not be lightly set aside. There might be various so-called or alleged inconveniences. But after all, a limit has to be laid and that limit is the limit of approaching the High Court. Under the circumstances, as has been pointed out, would not the Supreme Court and the High Courts having this jurisdiction be in the interests of the citizens of India? Would it not be in the interests of the labour unions themselves, of the workers themselves?

**Shri V. P. Nayar:** Ask them.

**Shri Narayanankutty Menon:** And pay Rs. 5,000!

**Shri Prabhat Kar:** It is impossible to pay the fees.

**Shri Datar:** Let nothing be stated against the dignity or jurisdiction of these courts. Let not our personal views be coloured by so-called inconveniences caused here and there. When my hon. friend, Shri Nayar,

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was speaking on this Resolution as the sponsor, I was wondering whether he was a lawyer at all. Then I looked into the Lok Sabha *Who's Who* and found.....

**Mr. Chairman:** Shri V. P. Nayar was only interrupting him and he has not spoken on this resolution.

**Shri Datar:** I am sorry. I should have said Shri Menon. I am obliged to you for this correction. They all come from Kerala. 'Nayar' and 'Menon'—these are names common there. This is a pardonable mistake.

**Shri V. P. Nayar:** This is typical of his confusion.

**Shri Narayanankutty Menon:** This is their confusion about Kerala. That is the whole trouble.

**Shri Datar:** 'Nayar' and 'Menon' are names that often figure here. We have got the hon. Member, Shri Nayar, sitting by his side.

**Shri V. P. Nayar:** It is as close as Shri Datar and Shri Abid Ali!

**Shri Datar:** So I was wondering whether he was an advocate or lawyer at all. Then I got the *Who's who* and found that he was an honourable advocate.

**Shri V. P. Nayar:** Who?

**Shri Narayanankutty Menon:** Not 'was', but 'is'.

**Shri Datar:** Here it appears that generally so far as advocates or lawyers are concerned, they are not in favour of curtailment of the powers of the High Courts or the Supreme Court—of any court. So I was wondering how the hon. Member was in favour of the curtailment of these powers. And I got the information from the *Who's Who*. He is connected with a number of labour unions. That is the reason why his office-bearership has weighed over him to a larger extent—I am putting it in a humorous language; let it not be misunderstood.

So I submit that so far as this question is concerned, we need not touch the powers of the High Courts and the Supreme Court. Let them remain as they are.

**Shri Prabhat Kar:** And let industrial disputes continue!

**Shri Datar:** Some hon. Members wanted to say something indirectly at least which was disrespectful to the High Courts. May I point out that the judgments of the High Courts and the Supreme Court are of a high order. They consider all these questions from an objective point of view, from a detached point of view, and it would not be proper to say that social justice is not done by them. That is the very reason why there are occasions when we have differences in their opinions also. (*interruptions*).

**Mr. Chairman:** This running commentary should not be there.

**Shri Datar:** I am quite confident that all the rights, including the rights of the workers and of labour ought to remain, and will remain, safe in the hands of the High Courts and the Supreme Court.

**Shri V. P. Nayar:** May I ask a question? The hon. Minister said that if the Resolution were to be accepted, there would necessarily be three articles of the Constitution which would have to be amended. As I heard Shri Narayanankutty Menon, he was concentrating on articles 136, 226 and 227.

**Shri Datar:** Those are the three articles.

**Shri V. P. Nayar:** If he will please read—if he has not already done so—article 136(2) places a restriction on the power given in 136(1) on the Supreme Court in so far as tribunals

of a military character are concerned. Similarly article 227(4) says:

> "Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any relating to the Armed Forces".

Our argument is only this that a similar proviso can be added with respect to these tribunals. If you can exclude specifically by a sub-article one set of tribunals which are of a military character, why not have a similar proviso for labour tribunals also? He was quoting the figures....

**Mr. Chairman:** Order, order. That has nothing to do with this. The hon. Member wanted to ask a question. Instead of asking the question, he has put in a new argument. I am now wondering whether I should ask the hon. Mover to reply because the reply has already been given by Shri Nayar.

**Shri V. P. Nayar:** Then let me ask the question.

**Mr. Chairman:** No. Does the hon. Mover want to reply?

**Shri Narayanankutty Menon:** Yes.

**Mr. Chairman:** He will take only five minutes?

**Shri Narayanankutty Menon:** The hon. Minister has intervened in the debate. I will not take much time. The only point mentioned by the hon Minister which was repeated and repeated and repeated was.....

**Shri V. P. Nayar:** That the hon. Member is an advocate!

**Shri Narayanankutty Menon:**..... that the word 'tribunal' was inserted in the Constitution. Once the word 'tribunal' was inserted and we find after eight years of the working of the Constitution that there are certain genuine difficulties in the administration of a particular Act, are we not to learn from the wisdom of our experience? If we refuse to learn from the wisdom of experience, then what is the use of that experience?

The hon. Home Minister said that in this glorious land of ours, long long past, in the uncertain dawn of history, Manu stated that the shrutis, the smritis and sadachara should be the law of the land and today ages have passed. Why should this House decide about social justice and all that? Because 2,000 years have passed and we have learnt many things from social progress. Therefore, we are telling this that the very argument advanced by the hon. Minister is against him. The hon. Prime Minister thundered in this House about 2 years ago that article 31 was to be amended. It was six years before that the Constitution makers in their wisdom after long debate enacted article 31. After working it for 4 years, it was found impossible for Government to work the directive principles of the Constitution; and Government had to come before this House to amend article 31. So, there is nothing against amending the Constitution. If we want to amend it, certainly, we can do it.

The argument which the hon. Home Minister advanced was not so argumentative in character. What he said was that if we begin to amend article 226 of the Constitution to the extent of the Labour Tribunals, tomorrow something else would happen. At least we in the Opposition do not consider that this Government, once it begins to amend will go on amending it. It can amend wherever it is required.

I want to reply to the hon. Labour Minister because this is the third time that he asserts before this House a fact which is not a fact. He said that in 1957, from the Centrally administered areas not one appeal has been filed. I told him last that right under the very nose of the hon. Minister, in Delhi an award was passed by

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the Delhi Tribunal and immediately, within 7 days, an appeal was filed and stay was granted. I will tell him the name of the case.

**Shri Abid Ali:** I know that case.

**Shri Narayanankutty Menon:** The name of the case is The Assam Oil Co., vs. the Assam Oil Co. Workers Union in which one lady Secretary was also involved. He says that he knows the case. If a man speaks something which is wrong without the knowledge that it is wrong, it is excusable; but, if he knows that it is wrong and repeats it, it can somewhere border on a lie. Therefore, I am telling the hon. Minister.....

**Mr. Chairman:** The hon. Member is rather presuming too much. But soon the hon. Member may have to withdraw what he says.

**Shri Narayanankutty Menon:** This case happened right under the nose of the hon. Minister. I mentioned it to him. He has got statistics before him. It is there in the statistics of the Delhi Administration sent to him; it is there on the records of the Supreme Court. The Deputy Labour Minister says that it is 3.1 per cent. or 3.5. That does not give the real picture. The Deputy Labour Minister knows that if instead of taking the number of cases, if he had taken the number of workers involved, certainly, this House would have been astonished to hear that in a majority of cases they have taken appeals to the Supreme Court—I mean cases in which a majority of workers are involved.

I have got to mention only one thing. It is not a question of difficulties alone. The hon. Home Minister was harping upon difficulties. If it had been a simple difficulty we would not have come before this House to amend the articles of the Constitution. It is not a question of individual parties litigating; it is not a question where the interpretation of the law of tenancy is there. It is not a case where one plaintiff files a suit and another man is defending it. Here is a dispute in which the parties are million in number and whose rights have got a direct bearing upon the industrial set-up of the land.

The Labour Minister has time and again spoken in public and in this House and in the Labour Conferences that one of the provisions of the Code of Conduct should be that both parties should avoid going to the Supreme Court. After the Government has been satisfied and after the Planning Minister and Labour Minister have been satisfied that this is an impediment for industrial peace, certainly why not Government consider this question? Our Constitution is not such a sanctified Constitution that we refuse to amend the Constitution.

There is a provision in the Constitution for amendment of any provision of the Constitution. In fact, it was enacted because, from our long experience we thought that certain provisions of the Constitution may stand as an impediment or block to the very purpose for which the Constitution has been framed, for the very purpose for which this House has legislated. Certainly that has got to be amended.

Our hon. Ministers have, as usual, opposed this. They have vehemently opposed it. Our hon. Deputy Minister of Labour knows only one kind of opposition; and that is if any motion comes from the Opposition, he knows only one way of doing it, opposing it totally with whatever facts he has got—whether they are right or wrong. The hon. Home Minister does not share the view of the Labour Minister. Therefore, I hope they will consider the matter in the interest of all and not see who has brought it.

Personally speaking, Sir, as a lawyer, it is against our interests because litigation will not multiply, it

will go down. But, in the interests of the workers whom we love and who form the greatest factor as far as the Five Year Plan is concerned and the development of the country is concerned, I hope that Government will not stand on prestige. I hope they will consider this question and make suitable amendments, if not on the lines I have suggested, but on lines they may consider proper taking into consideration all the technical and political aspects and remove whatever difficulties they have come across.

**Shri Abid Ali:** A word of clarification, Sir. Last time my hon. friend disputed the statement that in 1957 no appeal was filed with regard to decisions of the Central Government Tribunals. In territories like Delhi the cases, as the hon. Member mentioned, are included in the State tribunals.

**Shri Narayanankutty Menon:** That is not my fault.

**Shri Abild Ali:** Therefore the hon. Member was not right in using the word lie. Of course, it is for you to allow this word or not.

**Shri Datar:** That should not be allowed.

**Mr. Chairman:** As a mater of fact, I stated to the hon. Member like this: After getting an explanation he may have to withdraw what he said. Even if the appeal was not decided by the Supreme Court, but it was withdrawn the Minister would have been within his right to say no appeal was made. So, when he says that he meant an appeal from the Central Government tribunal he was perfectly right in stating what he did. The hon. Member should not have gone to the extent of saying that if the Minister had said that he would be guilty of a lie. It is not proper. After all the mover of the resolution is a Labour Leader between the Labour Minister and the Labour leader, the relations should be much more cordial and should not be strained. I would, therefore, request the hon. Member to withdraw the word. Otherwise, I have also got the power to get it expunged. I would rather like that in the interest of mutual friendship this word should be withdrawn. I would request the hon. Member to kindly consider it and withdraw the word.

**Shri Narayanankutty Menon:** What I have mentioned was....

**Mr. Chairman:** I know it; at the same time it is not proper. The hon. Member would withdraw that rather than I should get it expunged.

**Shri Narayanankutty Menon:** will withdraw that because....

**Shri Abid Ali:** Thank you.

**Shri Narayanankutty Menon:** First of all, there is no animosity between the Labour Minister and myself and secondly I did not say that what he mentioned was a lie.

**Mr. Chairman:** I know what the hon. Member mentioned. Therefore, it was allowed at that time. It was not said that it was a lie. It was in some other way, circumlocutarily said that if the hon. Minister had said that it would have been a lie.

**Shri Narayanankutty Menon:** I am very glad to withdraw it.

**Mr. Chairman:** From what fell from the hon. Member's mouth just now that the Government should take steps to see that delay is eliminated, if that is his proposition, I do not know whether he will insist on this resolution being put to vote.

**Shri Abid Ali:** That is the attempt made through these tripartite labour conferences. It has been unanimously accepted at this conference. The attempt is that there should be no recourse to High Courts or the Supreme Court. We shall make our

[Shri Abid Ali]

best endeavours to see that this is implemented by all the parties.... (*Interruptions.*)

**Mr. Chairman:** They are asking about the delay. They are saying whether the hon. Minister is going to give any assurance or take any steps to see that there is no delay while the jurisdiction of the High Court or the Supreme Court is being exercised.

**17 hrs.**

**Shri Abid Ali:** About delay? That was the intention. Therefore, the labour appellate tribunal has been abolished. Certainly, the attempt is that all these cases should be speedily disposed of.

**Shri V. P. Nayar:** No attempts alone.... (*Interruptions.*)

**Mr. Chairman:** Order, order. Does the hon. Member want this Resolution to be put to the vote of the House?

**Shri Narayanankutty Menon:** Yes, Sir. The assurance... (*Interruptions*).

**Mr. Chairman:** I shall put it to the vote of the House.

The question is:

"This House is of opinion that suitable steps be taken to amend the Constitution in order that the jurisdiction of the Supreme Court and the High Courts over tribunals and Courts constituted under the Industrial Disputes Act, 1947 (Act XIV of 1947) be taken away."

*The motion was negatived.*

**17.02 hrs.**

## RESOLUTION RE: COMMISSION TO ADJUDICATE BOUNDARY DISPUTES BETWEEN THE STATES OF ORISSA, MADHYA PRADESH AND BIHAR

**Shri Mahanty** (Dhenkanal): Sir, beg to move:

"This House is of opinion that a Boundary Commission be appointed to adjudicate upon the boundary disputes between Orissa and Bihar and Orissa and Madhya Pradesh taking village as the unit."

Sir, I venture to move this Resolution not out of any motive of expansionism or adventurist irradentism. This Resolution has a background of sorrow and bitterness tinged with frustration and bloodshed. Whatever might have been said against linguistic States, the fact must be recognised that all these States in the Indian Union today are linguistic States.

**Mr. Chairman:** I hope the hon. Member will take some time to finish his speech.

**Shri Mahanty:** Yes, Sir.

**Mr. Chairman:** Then he may continue the next time.

**17.03 hrs.**

*The Lok Sabha then adjourned till Eleven of the Clock on Monday, the 15th September, 1958.*