

12 hrs.

Clause 1

RE: STATEMENT BY THE DEFENCE
MINISTER

Mr. Speaker: Is there any statement going to be made by the Defence Minister? (*Interruption*).

Shri Surendranath Dwivedy (Kendrapara): We would like to know whether there is going to be any statement.

Mr. Speaker: That is what I asked; I will find out.

12.04 hrs.

PAPERS LAID ON THE TABLE

ORDER OF DELIMITATION COMMISSION

The Deputy Minister in the Ministry of Law (Shri Jaganatha Rao): I beg to lay on the Table a copy of Order No. 19 of the Delimitation Commission determining the parliamentary and assembly constituencies in the Union Territory of Himachal Pradesh, published in Notification No. S.O. 2498 dated the 9th August, 1965, as corrected by S.O. 2609 dated the 17th August, 1965 under sub-section (3) of section 10 of the Delimitation Commission Act, 1962. [Placed in Library. See No. LT-4766/65].

12.04 hrs.

MESSAGE FROM RAJYA SABHA

Secretary: Sir, I have to report the following message received from the Secretary of Rajya Sabha:—

I am directed to inform the Lok Sabha that the Representation of the People (Second Amendment) Bill, 1964, which was passed by the Lok Sabha at its sitting held on the 27th November, 1964, has been passed by the Rajya Sabha at its sitting held on the 2nd September, 1965, with the following amendments:—

Enacting Formula

1. That at page 1, line 1, for the word "Fifteenth" the word "Sixteenth" be substituted.

1181(A) LSD—5.

2. That at page 1, line 4, for the figure "1964" the figure "1965" be substituted.

I am, therefore, to return herewith the said Bill in accordance with the provisions of rule 128 of the Rules of Procedure and Conduct of Business in the Rajya Sabha with the request that the concurrence of the Lok Sabha to the said amendments be communicated to this House.

12.01½ hrs.

REPRESENTATION OF THE PEOPLE
(SECOND AMENDMENT) BILL

Secretary: Sir, I lay on the Table of the House the Representation of the People (Second Amendment) Bill, 1965 which has been returned by Rajya Sabha with amendments.

12.02 hrs.

STATUTORY RESOLUTION RE:
PAYMENT OF BONUS ORDINANCE
AND PAYMENT OF
BONUS BILL

Mr. Speaker: The House will now resume further discussion of the following resolution moved by Shri M. R. Masani on the 6th September, 1965, namely:—

"This House disapproves of the Payment of Bonus Ordinance, 1965 (Ordinance No. 3 of 1965) promulgated by the President on the 29th May, 1965."

and also the further consideration of the following motion moved by Shri D. Sanjivayya on the 6th September, 1965, namely:—

"That the Bill to provide for the payment of bonus to persons employed in certain establishments and for matters connected therewith, be taken into consideration."

An hon. Member: How much time, Sir?

Mr. Speaker: Only 45 minutes are left so far as the general discussion is concerned. So far, three hours and 15 minutes have been spent. Shri Sezhiyan. (*Interruption*).

Order, order. If there is going to be that normal exodus, that might take place immediately. There ought not to be any talks in the passages.

Shri Sezhiyan (Perambalur): In the Statement of Objects and Reasons given in the Bill, the Minister has stated that the "Government announced acceptance of the Commission's recommendations subject to a few modifications as were mentioned therein." Though the Minister has stated that "a few modifications" have been made in the recommendations of the Bonus Commission, in our view, these modifications are on a vital matter like the computation of bonus. The very basis has been assailed and the whole structure of the computation and the quantum of bonus has toppled down. It is like saying that only a small injury has been done to a man, though the small injury has been inflicted on the most vital part of the human body, that is, either in the cerebrum or in the heart. The whole structure, the whole basis of the payment of bonus, has been brought to nil and has been nullified by the so called "few modifications" made by the Government.

Sir, even the bonus formula recommended by the Bonus Commission, I cannot say, is a very satisfactory one. Even the small concessions extracted by the working class through the report of the Bonus Commission have been nullified by the "few modifications" made by the Government. If you analyse the bonus formula recommended by the Commission as well as the existing LAT formula, we can see that the recommendation made earlier, namely, the LAT formula, has been watered down even by the Bonus Commission. The Bonus Commission's formula, as recommended in their report is, gross profit for the year, less depreciation, less income-tax and super-

tax, less return at the actual rate payable on the preference share capital and at seven per cent on ordinary capital plus at four per cent on reserves. The balance would be 'available surplus', and of this balance, 60 per cent should be allocated as bonus subject to a minimum equivalent to four per cent of the annual basic wages and dearness allowance, etc., or a minimum of Rs. 40 whichever is higher. This is, of course, subject to the maximum of 20 per cent. Let us compare this with the existing LAT formula, which is gross profits, less depreciation, less income-tax, less 6 per cent return on paid-up capital and less 3 per cent return on working capital—the balance will be available surplus. But the 6 per cent given in the LAT formula has been increased to 7 per cent and 3 per cent return on working capital has been increased to 4 per cent by the Bonus Commission. But even these things have been whittled down by the government in their modified formula. The only redeeming feature in the modified formula of government is, the minimum of Rs. 40 or 4 per cent, which has been fixed. But even that is not applicable to all the workers. To everybody's surprise and chagrin, the Government of India modified the Bonus Commission formula, even though the concessions given by the Bonus Commission have not been of a much higher order. The present formula as modified by the government gives the schedule as gross profits less depreciation, less all direct taxes, less 8·5 per cent return on paid-up capital and less 6 per cent return on the reserves. The reason given in the dissenting note for calculating the return on capital at 8·5 per cent, as against the LAT and the bonus commission's recommendation of 6 per cent is that the LAT fixed the common ground for the fair return on paid-up capital was 6 per cent and that 6 per cent referred to a tax-free 6 per cent while the tax-inclusive return would be 8·5 per cent. But it is nowhere stated in the LAT full bench formula whether the 6 per cent is exclusive or inclusive of tax. So, why should the tax return be brought into the picture now?

When the bonus commission made its recommendation, it clearly analysed all these points and made the recommendation with the full knowledge as follows:

"The balance left with the concern would be 40 per cent and this would be increased by the saving in tax on bonus payable. The aggregate balance thus left with the industry is intended to provide for gratuity and other necessary reserves, requirements of rehabilitation in addition to the provision made by way of depreciation in the prior changes, the annual provision required, if any, for redemption of debentures and return on borrowings, payment of super profit tax, if any, and in addition return on capital."

So, all these things have already been gone into by the bonus commission when they fixed 40 per cent and 60 per cent. By this modified formula, the available surplus will dwindle to a scrap and no one need be expecting the accounting and disbursement under 'setting off' and 'setting on', because there will be no such thing left to carry forward for the future, under the modified formula.

Let me take some concrete examples and show how the LAT formula, the bonus commission formula and the modified formula of the government work out. That will show how the available surplus is being diminished gradually by this process. I will take some textile mills working in Coimbatore in South India, because the textile industry is the industry where the basic wages and D.A. stand on an advantageous footing for arriving at the bonus quantum. In Saroja Mills, Coimbatore, the available surplus under the LAT formula is Rs. 12,63,441; under the bonus commission's formula it is Rs. 12,38,216 and under the modified formula of the government it will be Rs. 909,884. In Venkatesa Mills Udumalpet, the LAT formula will give a surplus of

Rs. 10,88,494; under the bonus commission's formula it is Rs. 10,54,714 and under the modified formula of government it is reduced to Rs. 7,00,539. The same is the case with Dhana-lakshmi Mills, Tiruppur. Rs. 15,34,392 is the sum given by the LAT formula; the Bonus Commission's recommendation will give about Rs. 1 lakh less, that is, Rs. 14,66,052, whereas the modified formula will whittle it down to Rs. 12,68,420. Therefore when you get the available surplus of Rs. 13 lakhs under the LAT formula, it will come to Rs. 9 lakhs under the modified formula of the Government. That means, the amount available under the LAT formula will come down to 75 per cent. Therefore even if you have not done the depreciation of the money value, the quantum is already reduced by the present one and in the end the workers will be getting very meagre amounts as bonus. Even now the minimum of 4 per cent is being taken advantage of by some concerns. The Express Newspapers, which were usually declaring one month's bonus, have now arranged their accounts in such a way that they are able to pay only the minimum bonus of 4 per cent which will give them much less than the present one month's bonus that had been available to them.

In the end I want to say that on the very vital question of payment of bonus the Government has been pressurised. They have not taken into consideration the very obligations made by them in the Constitution. In all these deliberations, decisions and modifications one thing stands out very clearly. Whether the Government fulfil or not the obligations made under the Constitution to provide a decent living for the workers, whether the workers are able to get a decent living, a fair wage and a good bonus in return for the hard work done by them, whether the workers are able to live happily or not, there is one class which is going to get a sure and sumptuous bonus in return for the meritorious work done to the capitalists and big business and that is the ruling

[Shri Sezhiyan]

class. During the last elections they were able to get a sumptuous bonus of Rs. 97 lakhs from the capitalists and industrialists. Probably, after the Payment of Bonus Bill is passed, they may get even a better bonus for the next elections. Therefore this Bill looks as though it is not a Bill for payment of bonus to the workers but it is a Bill which has been prepared and engineered by our hon. Minister of Labour for future payment of bonus to the Congress Party, the ruling party.

Mr. Speaker: Shri S. M. Banerjee, but he will be very brief.

Shri S. M. Banerjee (Kanpur): I will take ten minutes.

Shri P. C. Borooah (Sibsagar): Sir, I should also be given a chance.

Mr. Speaker: I looked towards this side but nobody stood up.

Shrimati Subhadra Joshi (Balram-pur): I have been standing since yesterday.

Mr. Speaker: Then I should blame my eyes. I looked towards this side but nobody stood up and I am told by the hon. lady Member that she had been stand since yesterday. Did she stand here the whole night also?

श्री हनु मन्मथ कच्छबाय : (देवास)
अध्यक्ष महोदय, मेरा भी नाम है ।

श्री शौर्य (प्रलीगढ़) : मैं भी बोलना चाहता था वरना थोड़ा सा समय मझे भी दिया जायगा ?

अध्यक्ष महोदय : मेरे पास इस बिल के लिए समय बाड़ा बचता है लेकिन मैं देखूंगा कि कहाँ तक मैं उनको एकोमोडेटर सकता हूँ ?

Shri S. M. Banerjee: Mr. Speaker, Sir, I support the motion for reference

of the Bill to the Select Committee moved by Shri Homi Daji. I was the joint Mover of this motion. We suggested that this Bill should come back from the Select Committee on the 22nd on the assumption that the session was going to be extended at least by three or four days. After the Bill emerges out of the Select Committee, I think, all of us could discuss it in a better atmosphere.

The Bonus Commission's Report unfortunately has become a controversial report because of one note of dissent given by my hon. friend, Shri Dandekar, which the Government has incorporated here with the result that it has given a feeling not only to the working people of this country but to others also that the employers' representatives can upset any commission's report. I do not know why the Labour Minister, who had the support of the Cabinet—I do not know for certain whether he had that—should succumb to this pressure. It has set such a bad precedent that all commissions are going to be prejudiced and nobody would become their members. And if anybody becomes a member, only that person would become a member who could possibly give a report against the interests of the working class.

Then, why have the public sector employees been exempted? It is generally said that the public sector is not supposed to earn profits, though it is a controversial matter. We have been pleading in this House that the public sector projects should also make profits and certain public sector projects are making profits. I am sure, with little improvement and administrative reforms in the public sector projects, they can earn profits. We do not want fabulous, unreasonable profits. If the private sector units which do not make any profit are liable to pay 4 per cent as bonus, I doubt why that particular clause should not be made applicable to the public sector and departmental employees.

Then, it is something surprising that the railways, the posts and telegraphs and defence employees, who are working in various workshops day and night and are producing for the security of the country, to defend the country, have been exempted. They will not get any bonus under this Bill. As a representative of the defence employees I know that incentive bonus has recently been granted by the Defence Minister; but that does not cover all sections of employees. It is given only to those workers who are working in the maintenance and repair sections. Supposing there are 80,000 or 1 lakh workers in the ordnance factories alone, out of those 1 lakh workers hardly 30,000 get incentive bonus; the others are denied this. Therefore I plead with the Labour Minister kindly to accept the motion for referring the Bill to the Select Committee so that proper representation may be made on behalf of the defence, railway, posts and telegraphs and other employees of public sector undertakings and this matter would be considered. They should also be included in the purview of this particular Bill.

Then, if the minimum bonus clause is struck down in the courts, the ceiling clause, that is of 20 per cent, must be removed. This should be removed in the larger interest of pleasing the workers. The discontent that is growing among the workers will be minimised by such action.

The Commission's recommendation for 7 per cent return on capital and 4 per cent return on reserves should be restored. These are very minor things and I do not want to say much because my hon. friend, Shri Indrajit Gupta, has touched upon all these points. If the hon. Minister has listened to him carefully, he will kindly consider those points and try to bring forward those amendments which are accepted by the employees' representatives in this House. Unfortunately, the Labour Minister is not here and the Deputy Labour Minister still wants to get some points from the officials just to wriggle out of this argument.

Then, the development rebate cannot be charged before bonus. These are the few points which I wanted to place before the House. Some of the hon. Members have congratulated the hon. Minister for bringing forward the Ordinance and this Bill. Ordinances are passed and I have nothing to say against the Ordinance. Generally I do not support such Ordinances when Parliament is meeting. They could have brought forward the Bill long ago. The Ordinance was not necessary.

What is required today is improvement, certain modifications, in the Bill to suit the workers. After all, the industrialists who have made fabulous profits should pay money from their pockets as bonus. I come from Kanpur where textile mills and other industries are there. In Kanpur all employers have issued notices that they will pay only 4 per cent bonus. Even those employers who have made fabulous profits—if we see their balance sheets, we will find that they have made such profits—have displayed notices on the boards that they will pay only 4 per cent. I refer to concerns like the British India Corporation, Rayon Industries and other industries who are supposed to make profits and have made profits. I am afraid that taking advantage of this 4 per cent clause no employer is going to pay more than 4 per cent in any case. So, the ceiling of 20 per cent should be removed because after going through this carefully I find that nobody will get the same amount of bonus that he was getting before; it is going to be reduced and curtailed in the name of keeping in tune with this legislation. So, my point is that this should be referred to a Select Committee.

With these high prices in the country, where Government has miserably failed to bring down the prices, the people wait patiently for bonus for clearing out their debts and so on. Today, bonus cannot be termed anything else but an integral part of their wages. With bonus that they get, they practically

[Shri S. M. Banerjee]

clear all their debts and fulfil their obligations towards the members of their families.

In the circumstances, I would request the hon. Minister to kindly consider all these points. Let us discuss each amendment. Some of the amendments which have been moved by the Opposition should be accepted.

An hon. Member: All the amendments.

Shri S. M. Banerjee: He cannot accept all the amendments. It is impossible for him to do that.

With these observations, I would request the hon. Minister to kindly take the sense of this House and accept some of the amendments which are acceptable to him.

श्रीमती सुभद्रा जोशी : अध्यक्ष महोदय, अभी दो चार दिन पहले प्रधान मंत्री ने देश के सब लोगों के नाम प्रपील करते हुए यह कहा था कि इस वक्त देश के सामने जो संकट प्राया है, उस को सामने रखते हुए हर एक व्यक्ति का यह फ़र्ज है कि वह धमन-बेन रहे और ज्यादा से ज्यादा काम करे। उन्होंने मजदूरों से प्रपील की थी कि वे पैदावार बढ़ायें। उन्होंने समाज के प्रत्येक प्रत्येक लोगों से भी यही प्रपील की थी। ऐसा मालूम होता है कि वह प्रपील उन को खास तौर से हमारे लेबर मिनिस्टर को करनी चाहिए थी, जो कि शायद नहीं की गई।

मैं मंत्री महोदय को यह पाव दिलाता चाहती हूँ कि जब चीन का हमला हुआ, तो हमारे देश का मजदूर वर्ग, किसी किसम की फ़र्बानी से पीछे नहीं हटा। जो कुछ उस के पास था, वह उस ने दिया। मजदूरों ने अपनी एक एक दिन की तन्त्राह दी, पैसा दिया, ख़ेर दिया और रैलीज में कपड़े उतार उतार कर देने लक़र दिये। जो कुछ उन से बन पड़ा, वह उन्होंने क्या

उन्होंने यह समझौता भी किया कि जब तक हम जैन्सी रहेगी, तब तक मजदूर लोग कोई भी एंजॉटेगन या हड़ताल नहीं करेंगे। जो लोग मजदूरों में काम करते हैं, वे अच्छी तरह से जानते हैं कि इस के मुकाबले में उस मौके से फ़ायदा उठा कर मालिकों ने जगह जगह मजदूरों के कार्यकर्ताओं को अपनी मिल्ों और कारख़ानों से निकाला और उन को विविटमाइज किया।

मैं आज मंत्री जी से यह खास निवेदन करना चाहती हूँ कि जो बिल हमारे सामने प्राया है, उसकी मौजूदा शकल को देखते हुए या तो उस को सिलेक्ट कमेटी में भेज दिया जाये, नहीं तो इस बारे में जो बहुत सी एमेंडमेंट्स दी गई हैं, वह उन को मंजूर करें।

जो क्लाइ सब से ज्यादा झगड़े का कारण है, सब से पहले मैं उस का जिक्र करना चाहती हूँ। पिछले दिनों उन्होंने टाइम्ड प्राफ इंडिया की स्ट्रोक के बीच में इन्टरबॉन किया और वहाँ के एम्पलाईज को प्रावसास दिया कि इस बिल में जो बेंजिज पा रहा है, उन के मताबिक उन के राइड्स का बहुत अच्छी तरह से रक्षा होगी। 1960 में टाइम्ड प्राफ इंडिया के बर्कंड को 20.89 लाख के प्राफिट में 10.29 लाख बॉनस मिला। जो बिल हमारे सामने है, उस के मुताबिक बर्कंड को 67.84 लाख के प्राफिट में 10.75 लाख बॉनस मिलने वाला है। प्राफ जरा प्राफिट और बॉनस के परसेंटेज को भी देखिए।

मुझे यह देख कर बहुत ताज्जुब होता है कि मिनिस्टर साहब बार-बार यह कहते हैं कि तुम लोग जो कुछ चाहते हो, इस क्लाइ का वही मतलब है। अगर वह यह कहते हैं कि वह इस क्लाइ का मतलब बेंज करने के लिये तैयार नहीं हैं, अगर वह कहते कि

मैं वह चीज देने के लिए तैयार नहीं हूँ, तो मुझे को समझ में आता। लेकिन वह बार-बार कहते हैं कि मैं इस क्लॉज को समझा कर तुम्हारी तसल्ली कर दूंगा कि उस का मतलब वही निकलता है, जो तुम चाहते हो। मैं निवेदन करूँगी कि महज लपजों के लिए इतना झगड़ा मचाने की क्या जरूरत है। धाखिर सभी लोग धंधेजी जानते हैं। अगर वे धंधेजी नहीं जानते हैं, तो मंत्री महोदय किसी धौर भाषा में बतायें। उन्होंने मुझे भी कहा कि तुमने कौन से वकील की राय ली है। मंत्री महोदय धौर सरकार की यह नीति है कि बाहर के जो लोग यूनियनों में काम करते हैं, उन को डिस्करेज किया जाये। मैं तो इस बात का उतना दावा नहीं करती हूँ, लेकिन जितने माननीय सदस्य बोले हैं, चाहे ० एन ० ० ० ० ० ० ० ० ० के हों धौर चाहे ० ० ० ० ० ० ० ० ० के, वे रोज कोर्ट्स धौर ट्रिब्यूनल्स के सामने छुद केस पेज करने हैं। अगर उन लोगों को वह इन्टरप्रेंटेशन समझ में नहीं आता है तो उस इन्टरप्रेंटेशन के क्या मानी हो सकते हैं? वे कौन से वकीलों के पास जाय? अगर मिनिस्टर साहब चाहते हैं कि यह क्लॉज कानून का झगड़ा बन जाये जो कि धालरेडी कानून का झगड़ा है, तो इस से मजदूरों का कोई हित होने वाला नहीं है। अगर सिर्फ लकड़ों को गड़बड़ है, तो मिनिस्टर साहब को सब से पहले वे लफ़्ज जैज कर देने चाहियें।

मैं ने स्टडी कर के देखा है कि पहले जब मालिक अपनी मर्जी से बोनस देते थे, या मजदूर अपनी ताकत से लेते थे, तो उन को बोनस ज्यादा मिलता था। कई ट्रिब्यूनल्स ने यह कहा है कि यह डैफ़िनेट पेमेंट धाफ़ डेजिज है। उस के बाद मालिकों के धौर मचाने पर एक लेबर एपेलेट ट्रिब्यूनल बना, जिस ने कई बहानों से उस में से पैसा निकालना शुरू कर दिया। उस ने कहा कि रीजने-

बल क्लेमस धाफ़ इंडस्ट्री पहले निकाल लेने चाहिए—धौर रीजनेबल का मतलब यह है कि जिस को मालिक रीजनेबल समझें। उस ने कहा कि स्टेटूटरी इप्रिसिएशन, टैक्सिज, पेड धप कैपिटल पर 6 परसेंट रिटर्न धौर 2 से 4 परसेंट वॉकिंग कैपिटल पर इन्डस्ट पहले निकाल लिया जाये। इस के धलावा उस ने रिहैबिलिटेशन के धाजिज धौर डाल दिये। बोनस कमीशन ने रिहैबिलिटेशन धाजिज को निकाल दिया, लेकिन सरकार ने उस को डेवलपमेंट रिजेंट के नाम से डालने की कोशिश की।

मैं निवेदन करना चाहती हूँ कि लेबर एपेलेट ट्रिब्यूनल ने पहले नुक्सान किया, जिस से मजदूरों को धौर कम बोनस मिलने लगा धौर फिर बोनस कमीशन तथा सरकार ने मजदूरों का धौर नुक्सान किया। हमारी समाजवादी हुकुमत है धौर हमारे मंत्री समाजवादी हैं धौर समाजवाद में बिश्वास रखते हैं। इसलिए यह उचित है कि धगर कहीं पर सरकार का दखल हो, तो वह मजदूरों के हक में होना चाहिये। लेकिन हम देखते हैं कि हर जो नया धारमला धाता है, उस से मजदूरों को जो बोनस मिलता है, वह किसी न किसी तरीके से धौर कम हो जाता है।

मैं चाहती हूँ कि मंत्री महोदय दिल्ली क्लाय मिल्स द्वारा दिये गए बोनस को देखें। पहले मजदूरों को अपनी ताकत से 30, 31 परसेंट तक बोनस मिल जाता था। धीरे धीरे वह कम हो गया। 1955-56 में 162 लाख के धाफ़िट में मजदूरों को 36 लाख बोनस मिला। उस के बाद लेबर एपेलेट ट्रिब्यूनल के धारमले के मुताबिक, जब धाफ़िट 325 लाख हो गया तो मजदूरों का बोनस कम हो कर 22 लाख हो गया। जब बोनस कमीशन की रिपोर्ट धाई, तो उस के मुताबिक, जब दिल्ली क्लाय मिल्स का धाफ़िट 384 लाख

[श्रीमती सुभद्रा जोशी]

तक पहुंच गया, तो मजदूरों का बोनस धीरे धीरे कम हो कर 21 लाख रह गया। हमारी समाजवादी सरकार की यह कौसी व्यवस्था है कि प्रॉफिट बढ़ते जायें और मजदूरों का बोनस कम होता जाये। मैं किसी कानूनी पंच में नहीं पड़ना चाहती हूँ, लेकिन मंत्री महोदय को इस बात का कोई जवाब हिन्दुस्तान के मजदूर वर्ग को देना पड़ेगा कि प्रॉफिट बढ़ता जाये और बोनस गिरता जाये, उस का प्रोपोसल गिरता जाये।

एक दफा इसी तरह से एक एवार्ड धाया था। सरकार ने एक बड़ा ट्रिब्यूनल बिठाया, जो कि पोस्ट हार्ड पावर्ड था और जिस में बड़े काबिल धादम रखे गये। उस में एक नोट धाफ डिसेंट धाया और सरकार की गाडी डीरेल हो गई। मैं मंत्री महोदय को कहना चाहती हूँ कि कितनी दफा सरकार ने लेबर के नोट धाफ डिसेंट पर ट्रिब्यूनल के एवार्ड को रोज किया, कितनी दफा सरकार ने मजदूरों के हक में दखल दिया, वह इसको गिन कर इस सदन के पटल पर रखें, ताकि हमको मालूम हो कि मंत्री महोदय के किताने कदम लेबर के हक में उठते हैं और किताने कदम सरमायादार के पक्ष में उठते हैं।

जैसा कि मैंने कहा है, प्रधान मंत्री ने देश के लोगों को जो धपील की है धगर उन्होंने उस में मंत्री महोदय को इन्क्लूड नहीं किया, तो मैं उन से प्रार्थना करना चाहती हूँ कि धगर वह मजदूरों से शान्ति चाहते हैं, तो उन को बताना चाहिए कि वह कौन सी हद तक गरीब धादमी से सैक्रीफाइस चाहते हैं। उसको उतना मत सताइये कि वह डेक हो जायें, टूट जाएं। शान्ति वह रखेगा। धाज कौन हिन्दुस्तान में है जो शान्ति नहीं रखेगा।

जब कि हमारे देश पर बाहर से धत्याचार हो रहा है, एपेशन हो रहा है। लेकिन सवाल यह है कि क्या मंत्री महोदय को ही उस का फायदा उठाना चाहिये और मजदूरों को दबाना चाहिये। एक एक सेक्शन के बारे में चाहे ध्राई० एन० टी० यू० सी० हो या ए० ध्राई० टी० यू० सी० हो, चाहे वह लेबरस की कोई धीर संस्था हो, तमाम यही कह रही है कि शब्दों के डेर डेर में ध्राप न पड़ें, तमाम तरफ से इसी चीज पर एतराज हो रहा है। मंत्री महोदय की नीयत चाहे कुछ हो, लेकिन वर्कज के बारे में ध्रपने शब्दों को बे रोज करें और लोगों को सेटिसफाई करें ताकि यह लिटिगेशन का मामला न बने। बड़े बड़े मिल मालिक, बड़े बड़े सरमायेदार, बड़े बड़े लोग वकील, ले लेते हैं, बैरिस्टर एंगेज कर लेते हैं लेकिन मजदूर ऐसा नहीं कर सकते हैं। धाज यह कहा जाता है कि मजदूरों को, कार्यकर्ताओं को यह चीज समझाई जानी चाहिये। जब हमारे सदस्यों की समझ में ही नहीं धाती है तो उनको या ट्रिब्यूनल को जा कर कैसे हम समझायेंगे कि इस कानून का मंत्री महोदय कहते थे कि यह मतलब है धीर तुम कहते हो कि यह मतलब है। इस बास्ते में कहना चाहती हूँ कि पहले वह हमें कर्नविस करें, नहीं तो उन शब्दों में फौरन वह तबदीली करें।

श्री मौर्य : अध्यक्ष महोदय, मैं ध्रापके प्रति बड़ा धाभार तथा श्रद्धा प्रदर्शित करता हूँ। कि इतने छोटें से दन से सम्बन्धित होने के बावजूद भी ध्रापने कुछ ढाल मुझे इस पर बोलने के लिए दिये हैं...

अध्यक्ष महोदय : दल ध्रापका छोट है लेकिन ध्राप खुद तो बहुत बड़े हैं।

श्री मौर्य : इस प्रॉडिनेंस के बारे में बहुत से माननीय सदस्यों ने कहा है कि इस से एम्प्लायीज को फायदा हुआ है। किसी ने इस के बारे में कहा है कि एम्प्लॉईज को इससे फायदा हुआ है। अभी इस सदन की आदरणीय सदस्या बोल रही थीं। उन्होंने टाइम्ब्र प्राफ इण्डिया का हवाला दिया। वहाँ सन् 1960 में एकाउंट प्राफ बोनस 10.29 लाख रुपया था जब कि उनको फायदा 20.89 लाख का हुआ था। 1964 में एकाउंट प्राफ बोनस 10.75 लाख उनको मिला जब कि फायदा 67.84 लाख का हुआ। इस से अनुमान प्राप लगा सकते हैं कि जो पूंजीपति वृत्ति रखने वाले लोग हैं वे किस तरह से मजदूरों के साथ पेश आते हैं। मैं ज्यादा ब्योरो में न जा कर कुछ क्षणों में यही बतलाना चाहता हूँ कि अपने देश में हमने एक परम्परा अपनाई है, लोकतंत्र की परम्परा अपनाई है, लोकशाही की परम्परा अपनाई है, पार्लिमेंटरी डेमोक्रेटिक सिस्टम के सिद्धान्त को मान कर हम चल रहे हैं। किस कारण से स्वतंत्र दल के वक्ता भाई मसानी जी ने प्रॉडिनेंस का विरोध किया है, उस कारण में न जा कर, जिस सिद्धांत के आधार पर उन्होंने प्रॉडिनेंस का विरोध किया है, उस का मैं तर्क दिलाऊँ, हृदय से समर्थन करता हूँ। कोई भी प्रॉडिनेंस जो यहाँ पर लागू होता है वह लोकतंत्र के मूल को घोटता है, लोकतंत्र के मूल पर छुरी चलाता है। अगर हम इस (ordinance) के इतिहास में जायें तो हमें पता चलेगा कि बोनस कमिशन 6 सितम्बर 1961 को नियुक्त हुआ। 24 जनवरी 1964 को उसने अपनी रिपोर्ट दे दी और 2 सितम्बर 1964 को भारत की कांग्रेस सरकार ने यह विश्वास दिलाया कि हम जो उसकी सिफारिश हैं उनको स्वीकार करेंगे। 29 मई 1965 तक कांग्रेस सरकार

कुम्भकरण की नींद सोती रही और उसने कोई कार्रवाई नहीं की। इस बीच तीन तीन पार्लिमेंट के सेशन हो गए, मानसून सेशन, विटर सेशन और बजट सेशन। उन सेशनों में से किसी में भी कभी भी इस इतने महत्वपूर्ण बिल को लाने की चिन्ता सरकार ने नहीं की, हमारे श्रम मंत्री जी ने नहीं की। प्रधानक उनकी नींद खुली और उन्होंने पार्लिमेंट के बजट सेशन के ठीक पश्चात ही प्रॉडिनेंस लागू कर दिया। मैं इस में नहीं जाना चाहता हूँ कि इस तरह के प्रॉडिनेंस से पूंजीपतियों को लाभ होता है या नहीं, और न ही मैं इसके ब्योरे में जाना चाहता हूँ लेकिन इतना मैं भ्रमण कहना चाहता हूँ कि इससे लोकतंत्र की हत्या होती है। यह बात निश्चयपूर्वक कही जा सकती है।

हमारे श्री जी० संजीवैया साहब ने बड़े विश्वास के साथ कह दिया है कि इससे 45 लाख काम करने वाले लोगों को फायदा होगा। मैं उनसे बड़े ही विनम्र शब्दों में पूछना चाहता हूँ कि क्या इससे बेरोजगार मजदूरों को लाभ होगा जो करोड़ों की संख्या में इस देश में हैं और जिन की पर कैपिटल इनकम दस पैसे से ज्यादा नहीं है? आदरणीय मंत्री जी कहें हैं कि उनको कोई लाभ नहीं होगा। यही नहीं, मैं उन से जानना चाहता हूँ कि क्या इससे मकान बनाने वाले मजदूरों को कोई लाभ होगा। जो लाखों की संख्या में इस देश में हैं और जो बे मीत मर जाते हैं? उनको कोई मुझावजा तक नहीं मिलता है। क्या उनको कोई भी इससे लाभ होगा? क्या इससे जो लाखों की तादाद में पब्लिक एंटरप्रेजिज में या सरकारी कारखानों में काम करते हैं, उनको लाभ होगा? उनको भी clause 32 के आधार पर कोई लाभ नहीं होगा। मैं यही कहना चाहता हूँ कि इससे जो प्रतिस्पर्द्धा समाज के लोग हैं और जो करोड़ों की तादाद में इस देश में हैं, उनको कोई लाभ नहीं होगा।

[श्री मोरी]

मैंने जैसा कहा मैं ज्यादा समय नहीं लूंगा। लेकिन एक बात मैं जरूर कहना चाहता हूँ। जब बोनस का सवाल आता है, उसके बारे में मैं स्वयं अपने शब्दों में न कह कर श्री डी 0 संजीवैया के ही शब्दों में आपको बतलाना चाहता हूँ जो कुछ अखबारों में निकला था। हिन्दुस्तान टाइम्स को मैं कोट कर रहा हूँ। 14 जुलाई 1965 को श्री डी 0 संजीवैया ने कहा था।

"Mr. D. Sanjivayya, Union Minister of Labour and Employment, said today that legislative measures were necessary to improve the lot of construction workers in the country.

"Regretting over the 'long neglect' of construction workers, he said, insecurity of income, poor conditions of work and sub-standard living conditions affected the development of an effective trade union organisation. This gave a setback to the bargaining power of the construction workers.

"There was also no separate legislation for the building workers. Though the provisions of the Wages Act 1948, and the Workmen's Compensation Act, 1923, were applicable to them in majority of cases, these were violated, he added.

"Mr. Sanjivayya said the death rate among construction workers was high. Issuing voluntary codes of safety to be followed in the industry did not bear much fruit without an adequate enforcement machinery. Also, the construction work in all public undertakings was executed through contractors on whom the project authorities did not have much control."

अपने ही शब्दों में उन्होंने बताया है कि किस किस तरह की दुर्घणा मकान बनाने वाले मजदूरों की है। मैं उन से प्रार्थना करूँगा कि उनसे सम्बन्धित बिल बहूँ यहां पर साथे।

इसके साथ साथ मैं प्रशोका होटल के बारे में कुछ कहना चाहता हूँ। वह सारी दुनिया में बड़ा मशहूर होटल है। वह भी बोनस की कैटेगरी में नहीं आयेगा। वहां पर एक मजदूर को कितनी तनख्वाह मिलती है, यह बताते हुए मुझे धर्म आती है। 36 रुपये वहां उनको जो फोर्ष ग्रेड के नौकर हैं, जो सफाई करने वाले मजदूर हैं या जो वैरे हैं मिलते हैं माहवारी और कुल मिला कर उनको 66 रुपये महीना मिलता है। घाबकस की मंहगाई में 66 रुपये में क्या हो सकता है। सरकार यहां के पूंजीपतियों से यह कहे कि वे बोनस दें परन्तु वह स्वयं अपने यहां के लोगों को, अपने यहां के कठोरकर्मा लोगों को सुविधायें न दे, या फायदे में से हिस्सा न दे, स्वयं उस चीज को न माने, उसको अपने ऊपर लागू न करने तो आप खुद ही सोच सकते हैं कि वह चीज ठीक तरह से नहीं चल पाएगी, कारगर नहीं हो पायेगी, उसको ठीक तरह से लागू नहीं किया जा सकेगा।

अपने वक्तव्य को समाप्त करते हुए मैं कहना चाहता हूँ कि ऐसी व्यवस्था की जाए जिससे इस बोनस बिल में जो एम्बिगुएटीज हैं, वे न रहें। वैसे कानून का छोटा सा विद्यार्थी मैं भी रहा हूँ। मैं समझता हूँ कि यहां पर एम्बेडमेंट लाने से भी कोई लाभ नहीं है। कांग्रेस दल इतनी ज्यादा तादाद में है कि कोई सिस्टमैटिक कांस्टीट्यूशनल लीगल एस-पैक्ट भी यहां पर रखा जाए तो उस को भी नहीं माना जाता है। उन को बहुमत के तूफान में बहा दिया जाता है। इस बिल के अन्दर एम्बिगुएटीज हैं, बेगनस है और ये लिटिगेशन को एनकरेज करेंगी। इससे वकीलों के घर भरेंगे। मैं भी वकीलों में से आता हूँ। मैं समझता हूँ कि कठोरकर्मा मजदूरों को कोई लाभ नहीं होने वाला है। बहुत सोच समझ कर यहां पर इस सदन में सरकार को इस बिल को पेश करना चाहिये। अगर अब भी सिलेक्ट कमिटी को यह सौंप दिया जाए तो बहुत अच्छा होगा.....

अध्यक्ष महोदय : आप भी अपने आप को वकील कहते हैं। आपको तो बोनस मिल जायेगा न ?

श्री श्रीय : क्या फायदा होगा। अगर एक वकील को बोनस मिल जाए, उस से शोणितों को कोई फायदा नहीं होगा।

मैं एक प्रार्थना घन्ट में एक क्षण में करना चाहता हूँ। श्री डी० संजीवैया ने कहा है कि पहिले जाम न होने पायें। यह सही है कि पहिया जाम नहीं होना चाहिये। लेकिन जब पेट में रोटी नहीं होगी तो पहिया जाम होगा ही। आपको निश्चयपूर्वक कहना होगा, आपको एक अंतिम निर्णय लेना होगा कि काम करने वाले जो मजदूर हैं, वे भुखे मरने न पायें, उनको अनिर्धार्य वस्तुयें मिल जायें, उनको कुछो रोटी मिल जाए। अगर इसका निश्चय आप नहीं कर सके, अगर इसका प्रबन्ध आप नहीं कर सकते हैं तो पहिया जाम हो जाएगा और जब पहिया जाम हो जाएगा तो देश बहुत बड़े संकट में फंस जाएगा। जबकि दुश्मन हमारा दरवाजा खपका रहा है और उस समय मेरी आप से प्रार्थना है कि आप इस तरह की व्यवस्था करे कि मजदूर जिन के यहां काम करते हैं, यानी एम्प्लायर्स उन दोनों में अच्छे सम्बन्ध पैदा हों, उन के बीच के सम्बन्ध बढ़ें और मजदूरों की जो जरूरतें हैं वे पूरी हों।

Shri Prabhat Kar (Hooghly): So far as the Payment of Bonus Bill is concerned, I need not go into its background. In 1961, a Bonus Commission was set up because of the fact that at that time every year due to bonus disputes there were strikes and also litigation.

Now, the whole effort today was to have an integrated Bill so that bonus payment might be guaranteed to the employees and litigation and other struggles averted. The Commission made its recommendations. There was a note of dissent. Government promulgated the Payment of Bonus Ordinance and now the Payment of Bonus

Bill is before us. Excepting Clause 10 which guarantees a minimum bonus, all other provisions adversely affect the bonus formula that is in existence in all the industries. For instance, in the Third Schedule, the paid up equity share capital as at the commencement of the accounting year which is allowed to be deducted has been raised to 8.5 per cent from the limit of 6 per cent allowed by the Supreme Court; similarly, percentage of reserves shown in the balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year has been raised to 6 per cent from the 4 per cent allowed by the Supreme Court.

If Clause 10, as it is in the ordinance, which has been challenged in court is struck down, what is going to happen to the employees who are getting bonus which is much better than what has been provided here? Once it is struck down, this will be a scrap of paper. No amount of labour machinery will be able to stop the struggle of the employees. I do not know whether the Labour Minister has thought over this matter. Why this colossal waste of time, money and energy over this Bill which has been put forward? What is the main purpose of the Labour Ministry? Is it to improve the payment of bonus, guaranteed payment of bonus, or pure and simple to hoodwink labour by Clause 10, which has been already challenged? I do not know what the court will say, whether the minimum bonus guaranteed irrespective of losses, will be accepted or not. This is a serious situation which is facing us today. Until and unless the Labour Ministry takes this particular factor into consideration and tries to improve and change the Bill, the Bill will be worth nothing.

Apart from other provisions, we will come to them afterwards, Clause 15(1) reads:

"Where for any accounting year the allocable surplus exceeds the

[Shri Prabhat Kar]

amount of maximum bonus payable to the employees in the establishment under section 11, then, the excess shall, subject to a limit of per cent. of the total salary or wage of the employees employed in the establishment in that accounting year, be carried forward for being set on in the succeeding accounting year and so on up to and inclusive of the fourth accounting year to be utilised for the purpose of payment of bonus in the manner illustrated in the Fourth Schedule."

After four years, what will happen to this 20 per cent? Will it go into the coffers of the employer?

There are many other questions, but the most important point is that barring Clause 10, all other provisions are bad compared to the present bonus formula. This matter should be carefully considered.

श्री हुकम चन्द कच्छवाय : अध्यक्ष महोदय, मैं इस बिल का पूर्णतया समर्थन नहीं करता हूँ। मैं कुछ बातों का समर्थन करता हूँ और कुछ बातों का विरोध करता हूँ। इस बिल के विरोध में कई संशोधन आये हैं इस से साफ हो जाता है कि मजदूरों में काफी असन्तोष है। इस सम्बन्ध में मैं यह कहना चाहता हूँ कि आज मजदूर जो है वह कारखानों की आत्मा है, और जब तक आत्मा सुखी नहीं रहेगी तब तक कोई काम ठीक नहीं होगा। हम ने सरकार से यह मांग भी की कि कारखानों का मजदूरीकरण होना चाहिये। जब तक मजदूरीकरण नहीं होता है तब तक यह झगड़ा हमेशा चलता रहेगा। इस को निपटाने का एक ही रास्ता है कि उन में मजदूरों को भागीदार बनाया जाये। ऐसा किया जाये तो सारी समस्या अपने आप हल हो जायेगी। आज सब जगहों पर जो मजदूरी मजदूरों को मिलती है उस में और जीवन को ठीक से चलाने के लिये जो मजदूरी मिलनी

चाहिये उस में जमीन और घासमान का अन्तर है। आज जो बढ़ती हुई बंहगाई है उस के अन्दर जीवन को चलाने के लिये मजदूर को कितना पैसा मिलता है, इस को देखिये। वह किस प्रकार से अपना गुजारा कर सकता है। लेकिन सरकार ने कभी भी गम्भीरता के साथ इस बात पर विचार नहीं किया। इस का कारण यह है कि सरकार के पास जितने बड़े बड़े लोग आते हैं वह बड़ी बड़ी बातें करते हैं। लेकिन जो छोटे परिवार के लोग हैं वह इन परेशानियों को जानते हैं। मैं छोटे परिवार में पैदा हो कर मजदूरी कर के आया हूँ। मुझे इस बात का अनुभव है। मैं जानता हूँ कि मजदूरी कर के परिवार को चलाना कितना कठिन होता है।

आज इस बिल में सरकारी कारखानों को छूट दी गई है। क्या कारण है सरकारी कारखानों को छूट देने का। उन पर इस बिल को क्यों लागू नहीं किया गया। जिस कमेटी ने रिपोर्ट दी है उस के काफी परिश्रम किए हैं। काफी परिश्रम करने के बाद उस ने रिपोर्ट बनाई है। क्यों सरकार उस को वैसा का वैसा लागू नहीं करती है। इसमें संशोधन क्यों लाया गया। केवल श्री दांडेकर साहब के कहने पर ही उन के संशोधन को मान लिया गया। उस कमेटी में मालिकों के और से दांडेकर ने प्रतिनिधित्व किया। उन की बात को सरकार मान गई लेकिन हमारी बात नहीं मानी गई। यह मजदूरों के साथ अन्याय है और इस तरह से उन के हकों को कुचला जा रहा है।

दूसरी बात मैं यह कहना चाहता हूँ कि बोनस कमिशन ने कहा था कि टैक्स को भी शामिल कर के बोनस दिया जायेगा लेकिन सरकार ने छूट दे दी है कि टैक्स देने के बाद जो पैसा होगा उस में से बोनस दिया जायेगा। लेकिन यह गलत बात है। उस से मजदूरों में असन्तोष फैलेगा। बोनस कमिशन की जो

रिपोर्ट हे उस को वैसा का वैसा ही लागू किया जाये तो इस में कोई आपत्ति नहीं है ।

आज कोई भी कारखानेदार मजदूर को बोनस नहीं देना चाहता । वह इस के लिये तरकीब निकालता है । लेकिन अगर मालिक मजदूरों को बोनस नहीं देता है तो मजदूर कोर्ट में नहीं जा सकता है । आप ने मजदूरों को क्यों छूट नहीं दी कि यदि मालिक मजदूर को बोनस नहीं देता है तो उसे कोर्ट में जाने का अधिकार है । आज मजदूर को हक है कि अगर उस को पूरी तनक्वाह नहीं मिलती है तो वह कोर्ट में जा सकता है । लेकिन बोनस के लिये नहीं जा सकता है । एक घोर आप कहते हैं कि आप मजदूरों के लिये कल्याणकारी नियम बनाते हैं दूसरी घोर मजदूरों का गला घोटते हैं । इन दोनों चीजों का ताल मेल ठीक नहीं बैठता । उन्हें भी इस बात की छूट दी जानी चाहिये कि चाहे कहीं के काम करने वाले हों, सरकारी हों या प्राइवेट हों, उनको मालिकों के खिलाफ कोर्ट में जाने का अधिकार है । इस में रेलवे कर्मचारियों को छोड़ा, आपने सरकारी कारखानों को छोड़ा, आप ने सुरक्षा उत्पादन मजदूरों को छोड़ा । बहुत से सरकारी कर्मचारियों को छोड़ दिया । आप कहते हैं कि उन पर यह लागू नहीं होगा । आखिर उन्होंने क्या अपराध किया है जो उन को छोड़ दिया गया ।

जहां तक बीड़ी मजदूरों का सवाल है, कोयला खदानों में काम करने वाले मजदूरों का सवाल है, स्लेट पेन के काम में काम करने वालों का सवाल है उन के बारे में यह नियम बनाया गया कि उन को इस का लाभ नहीं मिल सकता । मैं आज कहना चाहता हूं कि मजदूरों के साथ खिलवाड़ किया जा रहा है । यह बात जरूर है कि सरकार कहती है कि हम मजदूरों का कल्याण करना चाहते हैं, लेकिन जिस गति से उन को यह काम करना चाहिये, सरकार वैसी प्रगति नहीं कर रही है । सरकार इस मन्मते में पीछे हटती जा रही है । इस से साफ जाहिर होता है कि एक घायमी

की बात से, जो कि मालिकों का प्रतिनिधित्व करता है, प्रभावित हो कर वह दब जाती है । या फिर हो सकता है कोई व्यक्तिगत स्वार्थ हो उस का जिस के कारण वह उन की बात मानती है, बाकी किसी की बात नहीं मानती ।

मैं इतना ही कहना चाहता हूं कि इस सम्बन्ध में जो बोनस कमिशन की रिपोर्ट आई है उस को वैसा का वैसा मान लिया जाये तो किसी को कोई आपत्ति नहीं होगी ।

इस बिल में एक घोर छूट दी गई है । किसी राज्य सरकार के पास कोई प्राइवेट कारखाने का मालिक चला जाये घोर यह कह दे कि हम बोनस बांटने में प्रसमर्थ हैं, तो उसे छूट है कि वह बोनस न दे । राज्य सरकार उस से कह सकती है कि उसे छुट्टी है बोनस न देने की । यह गलत बात है । फिर जो नये कारखाने हैं उन को दस साल तक बोनस न देने की छूट है । यह भी ठीक नहीं है । उस को हानि हो या लाभ हो, उसको बोनस न देने की छूट नहीं देनी चाहिये ।

Shri P. R. Chakraverti (Dhanbad):
We find ourselves in a strange predicament. When this Bonus Commission's report was published, the note of dissent given by my hon. friend here created a furore all over India. Industrialists came from all corners and mustered strong, and as a result, discussions in committees and sub-committees went on, and even with his enormous patience, the Minister of Labour and Employment could not come to a determined settlement of the issue concerned. Now, Mr. Masani and Mr. Dandekar come forward and charge the Government that it had delayed the Bill. I would thank the Ministry for clause 20 which relates to the application of the Act to establishments in the public sector in certain cases. It is a question that has been troubling the employee running into millions all over India and indeed this is a redeeming feature of the bill. It is giving them something which has so long been

[Shri P. R. Chakraverti]

denied to them. One difficulty with regard to clauses 10 and 11 is with regard to the question of fixing 4 per cent of the salary as the minimum bonus is this. Clause 10 fixes the minimum bonus. Clause 11 goes upto a maximum of twenty per cent. What is bonus. Its definition is a complicated matter and it has raised some complicated issues. It is something extra, especially addition to the dividend or wages; it is not an incentive. It is a lumpsum payment in recognition of the work which he is doing. There is the other aspect of the question which is brought to the fore when the question of incentives is concerned. In another industry which is a very big industry and which employs more than half a million people, when there is the question of raising the salaries of employees, immediately comes in the industrialists saying that on the basis of some report accepted by the Government of India, if a single paisa is to be added to the wage of the employee, they will put up the price of the commodity which is placed in the market by that amount. We do not understand how these things could be calculated. My friend on the other side was pointing out that because of the dissenting note of Mr. Dandekar, Government has come with that schedule. I am not happy with Schedules II and III and the terms which have been prescribed therein are not necessarily in line with the returns in different types of industries today. The Supreme Court has come forward with a definite verdict; it should not exceed six per cent. When it is a question of employees, immediately other calculations are brought in.

Clause 11 raises the question of maximum which is fixed at twenty per cent. It has created some confusion in the minds of the employees. We have been given an assurance on this but I want to be assured in this House by the Minister that it would not affect the existing system of bonus

which is now being granted in different industries, may be, 25 or 40 per cent. There is confusion on this score and so an assurance must come forth.

It has been said that this four per cent which has been prescribed as the minimum wage, this payment is not connected with the earnings or profits of the industry. The plea is that the industry is affected adversely because of this payment which has been forced on the industry in terms of clause 10. From what I had interpreted earlier, it is a pittance which is granted to the employee; it has nothing to do with the profit and there is no ground for objecting to this and hold that it would affect adversely the industry.

The two Schedules; B and C give a feeling of uncertainty in the minds of the employees concerned and their number runs into millions. I feel the balance had been tilted in favour of the industrialists and not in favour of the employees. However, Government has brought forward this Bill after three years of the preparation of the report and a few months had elapsed after it had been placed before the country; with the assurance that clause 11 will not affect the existing structure of payment of bonus, we are in agreement with the principles and also the clauses which had been placed before us and as such I endorse the Bill.

Mr. Speaker: Shri P. C. Borooah. He may take five minutes.

Shri P. C. Borooah: Since yesterday, I have been requesting and it will be difficult to confine my observations to five minutes.

Mr. Speaker: He may speak on clauses.

Shri P. C. Borooah: First of all, there should be a definition of the word bonus; it has not been defined in the Ordinance or the Bill. The meaning of bonus is changing from time to time. Formerly, it was known as a

gift or an *ex-gratia* payment by the employer to the worker and it is not so now. It is no longer a voluntary grant; it is now a right of the worker to share in the profit. This Bill changes it again as there is no question of profit. Even if there is no profit, it should be paid. Hence the term bonus should be defined, because the aim of the Bill is to evolve a suitable and simple formula for uniform application to different categories of industries.

The time at my disposal being short, I shall refer to the *viz.* the tea industry, and show how it is affected by this Bill. It will then be for the House to judge without going to say anything for myself, the House can judge whether the tea industry will be in a position to bear this burden. The hon. Labour Minister should consider whether they should give effect to this Bill for tea industry. It is a labour intensive industry and a million and a quarter people are in work daily in the tea gardens; employment on plantations is largely on a family basis and the effect of this Bill will be to give benefit to the labour in the tea industry two and a half times more than that of worker's family in the capital-intensive industries (Interruptions.) They should benefit if provided the industry can bear the burden.

Shri Priya Gupta: The way is to reduce administrative expenditure of tea estates.

Shri P. C. Borooah: They were reduced substantially. I was saying that on a family basis, on an average, two adults and one adolescent per family are employed. If we put the minimum bonus at Rs. 40 per head, every family will get Rs. 100. An average tea garden is between 500 and 1000 acres; and each acre needs at least 1.33 worker, on an average; that means three acres need four men. On an average tea garden, normally about a thousand people would be employed and the bonus payment commitment should come to about Rs. 40,000. Is it possible for a garden to pay it or not is the ques-

tion for this house to consider. Some of the gardens had already adjusted their bonus at Rs. 20 in 1962. After the Bill is passed, their commitments would be Rs. 20 more for 1962, and Rs. 40 for each year of 1963 and 1964. It means a demand of a sum of Rs. 1 lakh, will fall on a tea garden of average size on account of minimum bonus immediately. Let the House consider if it will not be a bit too hard on the industry. If it is considered so, then the gardens shall have to be given sufficient time for payment and a system of deferred payment or something of the kind shall have to be devised. Otherwise, many of the tea gardens will have to be closed down. The headache then will not be of the industry alone but will pass on to the Government and particularly to the Labour Minister. I would, therefore, request the hon. Minister to re-examine this aspect of the matter very seriously and in its correct perspective.

13 hrs.

In para 55 of the report of the Tea Finance Committee, it has been stated that from 11.83 to 38.46 per cent of the tea gardens in different districts were sustaining losses for sometime past. If these gardens are made to pay the full amount as contemplated in this Bill, they will have to close down, earlier than they could have sustained, eating on their slender, low, reserve. Realising that the industry is passing through a crisis, the Government appointed the aforesaid Tea Finance Committee, and the Committee made some available recommendations. Although all the recommendations were not accepted by the Government, yet in the last Finance Bill, the Finance Ministry provided some measures which gave the industries a substantial relief. But whatever little was given by the Finance Minister much more of the same has now been taken away by the Labour Minister through this Payment of Bonus Bill. I request that the House should consider this and make the Bill amended, if it so feels, when the clause-by-clause consideration is taken.

[Shri P. C. Borooah]

up. The tea industry is one of the biggest industries in our country, employing as said before more than one and a quarter million of workers. It is for the Government to see how the industry as a whole could be helped for the benefit of the workers as well as for the country's production and much needed foreign exchange.

Shri M. R. Masani (Rajkot): Sir, may I say a few words in reply?

Mr. Speaker: I gave him the right; he might answer to the arguments of the Minister afterwards, if there are any new points arising. The Minister will now reply to the points.

The Minister of Labour and Employment (Shri D. Sanjivayya): Mr. Speaker, Sir I am glad that about 20 hon. Members have taken part in this discussion relating to the first reading of the Bill. Several important points have been raised during this discussion and most of them I had covered during my introductory speech. But all the same there are some more points which have not been covered in respect of which I would like to say a few words.

Taking the last point which has been raised by the last speaker, it relates to the question of definition of bonus. I must confess that in this Bill we have not defined bonus as such, but by various clauses put forward through this Bill we will arrive at a bonus. Gross profit is defined; the formula is given as to how the gross profit should be arrived at and there is also another provision which tells us as to how many items are to be deducted as prior charges out of gross profit; then we arrive at what is known as available surplus.

Shri Daji (Indore): Non-available surplus, you mean.

Shri D. Sanjivayya: 60 per cent of the available surplus is supposed to be allocable surplus which will be available for distribution as bonus. Of this allocable surplus, bonus has to be paid, and if this allocable surplus is more than 20 per cent of the total

wage bill of the workers for the whole year, then the excess amount will be set on, and then, if this allocable surplus falls short of four per cent of the total annual wage bill, then to that extent, the deficiency will be set off. If there is no allocable surplus, in that case, the employers are asked to pay four per cent or Rs. 40 whichever is higher, and the whole amount of minimum bonus, whether four per cent or Rs. 40 that is paid, will be set off. This will go on for four years. Therefore, we felt that there was no need to define bonus as such.

The next point which I would like to deal with relates to the question of making the provisions of this Bill applicable to the public sector projects or undertakings. A definite reference was made to the Bonus Commission and in the light of that reference, the Bonus Commission made recommendations pertaining to the term "industrial employment" which will include employment in the private sector and any establishments in the public sector not departmentally run and which compete with establishments in the private sector. Therefore, straightway, departmentally-run public sector undertakings are taken away from the purview of this Bill. As a matter of fact, the Commission itself was not authorised to deal with such public sector undertakings. Secondly, such of those public sector undertakings which are not departmentally run but which compete with the private sector undertakings, will be covered by the recommendations of the Bonus Commission. So, in their wisdom, the Bonus Commission recommended that the public sector undertakings which are not run departmentally and which compete with the private sector, if they compete to the extent of 20 per cent in the sale of goods or rendering services, then, the recommendations of this Commission would apply. Therefore, for the first time, by law we are making the provisions of this Bill applicable to the public sector.

Shri Indrajit Gupta (Calcutta South West): Why are you accepting only a part of the wisdom of the Bonus Commission? Because that suits you?

Shri D. Sanjivayya: When go a little further and probably when we take up the clauses one by one, the hon. Member will see as to how far the wisdom of the Commission has been utilised by the Government. One criticism against the Government and against this Bill was the question relating to the modifications made by the Government. In the very initial stage itself, I made it very clear that Government had to take into account not only the interests of the worker, not only the interests of the country but the economic development of the country and also the development of industries. After all, with the advent of freedom in our country, we would like to achieve what is known as the economic growth, and we cannot achieve economic growth unless we industrialise our country. Unless we provide certain facilities for the industries, how can the industries grow? Therefore, the industrial growth of the country, the economic growth in the country and the general well-being of the whole nation were taken into consideration and certain modifications have been made.

Shri Dandekar who initiated the debate complimented the draftsmen and said that it was a well-drafted Bill, but in spite of the admirable way in which it was drafted, there were certain confusion. I do not know whether the confusion exists in the mind of the draftsmen or the speaker himself who made this remark. In fact, there was one clause to which he referred.

Shri N. Dandekar (Gonda): I said it was well conceived but badly drafted.

Shri Daji: Well-conceived but ill-born!

Shri D. Sanjivayya: The hon. Member referred to clause 32 in which it is said: "Nothing in this Act shall apply to employees employed by any insurer carrying on general insurance business" and so on. Under this clause, the various categories are given. This means that those employees who belong to the various categories mentioned in clause 32 will not be covered by any provisions of this Bill. Then, the hon. Member again referred to clause 34(3) which reads as follows:

"Nothing contained in this Act shall be construed to preclude employees employed in any establishment or class of establishments from entering into agreement with their employer for granting them an amount of bonus under a formula which is different from that under this Act."

If employees belonging to any particular factory or undertaking or establishment voluntarily enter into an agreement with their employers, neither this Act nor the Government nor any power on earth can interfere. So, clause 34(3) gives that opportunity for the employers and employees to come to an agreement. I do not see any contradiction between clauses 32 and 34(3).

With regard to the merits of the clauses several suggestions were made. Especially about clause 34(2), various members doubted or expressed their apprehension whether the assurance given by the government on the floor of the House is fully conveyed through this clause. Before I answer it, it is necessary for us to remember what the assurance was. For the benefit of hon. members, may I read that portion of the statement which I made on 18th September, 1964? I said:

"In these circumstances, the government desire to clarify that in the legislation to be promoted to give effect to the recommendations of the bonus commission as

[Shri D. Sanjivayya]

accepted by government, suitable provisions would be included so as to safeguard that labour would get in respect of bonus the benefits on the existing basis or on the basis of this formula, whichever is higher."

If anybody understood by this that the quantum was sought to be protected, he is mistaken.

Shri Indrajit Gupta: Please read the previous paragraph of your statement.

Shri D. Sanjivayya: Let me recapitulate the earlier part of it also. Supposing according to this formula workers get less quantum of bonus than the quantum which they were getting earlier under the LAT or full bench formula, in that case the basis will be protected in the accounting year. That is what I meant and it has been brought out very clearly in sub-clause 84(2).

Shri Daji: Quantum is protected?

Shri D. Sanjivayya: Quantum is not protected. But in the accounting year, if bonus is calculated and if the total quantum is less than the quantum they would have got under the LAT or full bench formula, then the workers can claim for protection of the basis, viz., the ratio. Suppose in the base year, a particular establishment earned Rs. 100 lakhs profit and it paid Rs. 30 lakhs as bonus. The gross profits and the bonus paid are taken into consideration in the base year. The percentage is 30 per cent. In the accounting year, suppose the bonus according to this formula is only Rs. 20 lakhs. It means the bonus to be paid in the accounting year according to the present formula, viz., Rs. 20 lakhs, is less than Rs. 30 lakhs which they were entitled to under the previous formula. So, in that case, the basis or ratio will be protected.

In the base year, suppose the gross profit is Rs. 100 lakhs and Rs. 20 lakhs

is paid as bonus. It is 20 per cent. In the accounting year, suppose the profit is Rs. 200 lakhs and suppose according to this formula the workers get only Rs. 10 lakhs. Then the ratio between the gross profits and bonus paid in the base year, i.e. 20 per cent, will be maintained. That means out of Rs. 200 lakhs in the accounting year, the workers are entitled to Rs. 40 lakhs, because 20 per cent of Rs. 200 lakhs is Rs. 40 lakhs. It is that which I meant and that has been fully conveyed in this clause.

Clause 33 gives retrospective effect to the recommendation of the bonus commission. It is true that the commission recommended that their recommendation should have retrospective effect from the accounting year on any day in 1962, i.e. with regard to bonus issues relating to the accounting year 1961-62. But we felt that if this was done, several complications would arise. For instance, a minute page, Mr. Borooah said that in the tea gardens bonus is settled by mutual agreement between workers and employers for 1961-62, 1962-63 and so on and he apprehends that all of them will be reopened. According to this provision they will not be reopened. Government took the decision that this retrospective effect would be applicable only in respect of cases which have not been decided. That means, the cases which the hon. member mentioned will not be reopened. With that intention we have drafted this clause.

Regarding the date which we have mentioned as 2nd September, 1964 I am moving an official amendment making it 29th May 1965, because that is the day on which the ordinance was promulgated. I will explain it when we come to that clause.

Shri Indrajit Gupta: The bonus commission recommended that it should take retrospective effect from the accounting year on any day in 1962. Why should that be changed to 1964?

Shri D. Sanjivayya: We have not changed that date at all. This retrospective effect will be applicable to cases which have not been decided. If they have been decided, we don't touch them. If they are not decided, the recommendation of the commission applies.

Shri Prabhat Kar: So far as the minimum of 4 per cent is concerned, the question of raising any dispute did not arise. There was no scope for any body raising any dispute when there was loss. They will be the losers.

Shri D. Sanjivayya: I agree that it does not cover the disputes relating to minimum bonus, because the concept of minimum bonus was not there at all in that year. Therefore, it does not cover.

Shri Indrajit Gupta: The last para in page 1 of the Bill reads:

"Save as otherwise provided in this Act, the provisions of this Act shall, in relation to a factory, etc., have effect in respect of the accounting year commencing on any day in the year 1964."

Shri D. Sanjivayya: This is prospective effect.

Shri Daji: Where is the retrospective clause?

Shri D. Sanjivayya: It is clause 33. I do not know whether I have been able to convince my hon. friends opposite. I am not a legal pundit, but I have taken the best advice from the legal department. The draftsmen have been able to convince me and I am convinced that the provisions do convey the intention of the government.

About the minimum bonus, I would say it is really a boon to the working classes. Some apprehension has been expressed by an hon. member opposite that this may be struck down by some court. But I am quite

confident that it would not happen, because the courts would certainly keep in view the economic and social justice that has to be done to the working classes.

I hope I had covered quite a number of points. If there is any left, I will answer it when we take up the clause by clause consideration.

Shri M. R. Masani: I listened to the speech which the hon. Minister made and this morning I read carefully the speech he had made yesterday. I am sorry to say that he has completely failed in his obligation to satisfy the House that there was any case for promulgating that Ordinance. In his speech yesterday he made the pathetic plea that, during the period between 29th May and August when the House would meet, some labour disputes might arise over this matter. So, he thought the best thing was to clamp down the Ordinance. This is hardly the kind of plea that one expects from a responsible Government. It was, in other words, an admission that purely for the purpose of a minor convenience they had gone to the President and abused his powers and prerogatives by making him a party to a fraud on the Constitution. I am sorry that this abject failure on his part justifies my fears that he had no answer to the motion that I had moved.

It is a pity that Government's reliance on its majority in this House, so unrepresentative of the votes cast by the electorate at the last general elections, enables it to get away with this kind of nonchalant attitude towards Parliament. All that one can do is to hope that in spite of the crudeness of only electoral system, the next Lok Sabha will be so balanced that this kind of attitude will not be tolerated any more.

Mr. Speaker: Does the Minister want to say anything more?

Shri D. Sanjivayya: No, Sir.

Mr. Speaker: I will now put the Resolution to the vote of the House. The question is:

"This House disapproves of the Payment of Bonus Ordinance, 1965 (Ordinance No. 3 of 1965) promulgated by the President on the 29th May, 1965."

The motion was negatived.

Mr. Speaker: There is an amendment moved by Shri Daji to the motion moved by Shri Sanjivayya. I will now put it to the vote of the House. The question is:

"That the Bill be referred to a Select Committee consisting of 15 members, namely, Shri Ramchandra Vithal Bade, Shri Tridib Kumar Chaudhuri, Shri Homi F. Daji, Shri Indrajit Gupta, Shri Hari Vishnu Kamath, Shri Madhu Limaye, Shri M. R. Masani, Shri Harish Chandra Mathur, Shri B. P. Maurya, Dr. G. S. Melkote, Shri Kashi Nath Pande, Shri D. Sanjivayya, Shri A. P. Sharma, Shri Diwan Chand Sharma and Shri S. M. Banerjee with instructions to report by the 22nd September, 1965."

The motion was negatived.

श्री हुकम चन्द कछवाय : अध्यक्ष महोदय, कोरम नहीं है।

अध्यक्ष महोदय : बहुत देर में याद कराया आपने। जो हो गया है, वह हो गया है।

The bell is being rung... Now there is quorum. The question is:

"That the Bill to provide for the payment of bonus to persons employed in certain establishments and for matters connected therewith, be taken into consideration."

The motion was adopted.

Clause 2. —(Definitions).

Shri Indrajit Gupta: I beg to move:

(i) Page 3,—

omit lines 39 and 40. (9)

(ii) Page 3,—

omit lines 41 to 44. (10)

(iii) Page 4,—

(i) line 1,—

omit "(other than an apprentice)"; and

(ii) line 6,—

add at the end—

"and includes all persons employed by or through a contractor". (11)

(iv) Page 4, line 6,—

add at the end—

"and includes all persons employed through a contractor, save as provided in this Act." (12)

(v) Page 4,—

(i) line 13,—

after "so named" insert—

"and includes the principal employer in case of all employees employed by or through a contractor"; and

(ii) line 18,—

add at the end—

"and includes the principal employer in case of all employees employed by or through a contractor". (13)

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

(i) Page 4,—

after line 18, insert—

"(iii) in the case of employees under a contractor, the employer of the factory or any other establishment who would be responsible." (14)

(ii) Page 4, line 6,—
add at the end—

"and includes all persons employed by or through a contractor and also temporary workers employed for three months or more." (258)

Shri Indrajit Gupta: I beg to move:
Page 5,—

omit line 26. (212)

Shri Prabhat Kar: I beg to move:

(i) Page 4, line 1,—

omit "(Other than an apprentice)" (89)

(ii) Page 4, line 6,—
add at the end—

"and includes all persons employed by or through a contractor". (90)

(iii) Page 4, line 13,—

after "so named" insert—

"and includes the principal employer in case of all employees employed by or through a contractor". (91)

(iv) Page 4, line 18,—
add at the end—

"and includes the principal employer in case of all employees employed by or through a contractor". (92)

Shri Alvarez (Panjim): I beg to move:

(i) Page 3, line 18,—
add at the end—

"and also recommendations made by a wage board appointed by the Government". (254)

(ii) Page 3,—

omit line 39. (255)

(iii) Page 5,—

omit lines 17 to 19. (263).

Shri D. S. Patil (Yeotmal):

(i) Page 5, lines 3 and 4,—

omit "(other than remuneration in respect of over-time work)". (261)

(ii) Page 5, line 14,—

omit "medical attendance". (262)

Dr. Ranen Sen (Calcutta East): I beg to move:

(i) Page 4, lines 2 and 3,—

omit "and six hundred". (56)

(ii) Page 4, line 6,—

add at the end—

"and includes all those employed by or through a contractor". (57)

Shri Bade (Khargone): I beg to move:

(i) Page 3,—

omit lines 38 to 44. (118)

(ii) Page 4,—

(i) line 3,—

after "industry" insert—

"or factory or establishment";
and

(ii) line 5,—

after "reward" insert—

"or on contract". (120)

(iii) Page 4, line 13,—

after "so named", insert—

"and in case of contract labour the principal employer." (121)

(iv) Page 4 line 18,—

add at the end—

"and in case of contract labour the principal employer". (122)

(v) Page 5,—

omit lines 11 and 12. (123)

Shri N. Dandekar: I beg to move:

(i) Page 3,—

after line 8, insert—

"Provided that in relation to any employer having factories or

[Shri N. Dandekar]

other establishments in two or more States the appropriate Government shall be the Central Government." (146)

(ii) Page 3,—

(i) line 40,—

omit "and"; and

(ii) after line 40, insert—

"(v) the Wealth Tax Act, 1957; and". (147)

(iii) Page 4,—

after line 8, insert—

"Provided that any person employed on a salary or wage exceeding five hundred rupees per mensem in any factory or other establishment to do any supervisory, managerial or administrative work may at his option elect not to be treated as an employee for purposes of this Act:

Provided further that the option once exercised under this clause shall be final and may not be changed save with the previous consent in writing of the employer." (148)

(iv) Page 5,—

after line 26, insert—

"(viii) any overtime pay or allowance, or education allowance or maternity benefit, or payment in lieu of any leave not availed of or lay-off compensations, or compensation for any injury or death sustained or suffered in the course of employment, whether paid or payable under the terms of employment or under any award or agreement or under any law for the time being in force or *ex-gratia*." (149)

13.29 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Shri N. Dandekar: The amendments which I have moved to clause 2 are

comparatively simple and designed to clarify certain definitions. The first one, amendment No. 146, is concerned with sub-clause (5) of section 2 which defines "appropriate Government". The Bill says:

"appropriate Government" means—

(i) in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947, is the Central Government, the Central Government;

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situate;"

My amendment seeks to add:

"Provided that in relation to any employer having factories or other establishments in two or more States the appropriate Government shall be the Central Government."

The object of moving this is merely to avoid a good deal of multiplicity of proceedings in different States, in the case of those employers coming within the ambit of this Act who have factories or establishments or branches or departments in various States. I know of several such cases. I know also of the degree to which both the employers and employees are subjected to a good deal of unnecessary hardship merely because different Governments have to deal with disputes in cases of that kind. I hope, the hon. Minister will find it possible to accept that in cases where the establishment covers places in more than one State the Central Government should be the appropriate Government so that a national tribunal may deal with the matter as in the case of banks, insurance companies and so on.

My second amendment, No. 147, is in two parts and I will take those two parts together. It is concerned only with inserting wealth tax as one of the direct taxes that are mentioned in clause 2(12). Admittedly wealth tax is a direct tax; but if there is any doubt on that subject, I may mention that there was a Bill, the Direct Taxes (Amendment) Bill, that was passed last year which included also various amendments to the Wealth Tax Act. Wealth tax is also a very important direct tax. It used to be applicable both to companies and non-company business enterprises. For some years now it has ceased to be applicable to companies; but it is still applicable to business and professional enterprises in respect of the net investment in those enterprises. Recently in a case in the Calcutta High Court, it has been held that in such cases wealth tax is a tax directly attributable to and wholly and necessarily incurred for the purpose of business. My submission, therefore, is that wealth tax is one of the direct taxes that ought to be specified here as essentially connected with businesses such as those under consideration save in the case of companies where it would not be relevant because companies are no longer subject to wealth tax.

My amendment No. 148 is an important one. It is connected with the definition of "employee" in sub-clause (13) of clause 2 which is very wide, and necessarily wide, because of the scope of bonus as recommended by the Bonus Commission and it has to include employees drawing up to Rs. 750 per mensem plus also employees drawing up to Rs. 1,600 per mensem as if their emoluments were Rs. 750. That brings into the scope of the word "employee" personnel who are essentially in more responsible positions than workmen employees namely, supervisory, managerial and administrative personnel. The purport of my amendment is simply this, namely,—

"Provided that any person employed on a salary or wage exceeding five hundred rupees per mensem.....to do any supervisory, managerial or administrative work may at his option elect not to be treated as an employee for purposes of this Act:

Provided further that the option once exercised under this clause shall be final and may not be changed save with the previous consent in writing of the employer."

The reason why I suggest this, in the first place, is that there is a clear-cut distinction between employees in the ordinary sense and employees, however low paid, who occupy positions of managerial, supervisory or administrative responsibilities. I suggest that if they wish to opt out of this because of any other alternative schemes that the employer may have in connection with them, they ought to have the right to opt out. I have in mind in fact several such cases for which I was responsible. In one case the officer employees were persuaded that in the long run it would be to their benefit not to get too exercised over bonus but to join superannuation funds. In many companies there exist superannuation funds for employees of certain level of salaries and above as an alternative to bonus schemes. It is only in those cases that any employee is likely to exercise this option; and even there I am not compelling anybody to go out of this bonus scheme. But I do suggest that there should be this flexibility for employees of these categories, if they so choose, to opt out of the bonus scheme and continue with their pension, gratuity and such other schemes as may be there.

Finally, my amendment No. 149 is designed to clarify sub-clause (21) of clause 2 which is concerned with defining "salary and wage". Salary and wage has been fairly clearly defined and in particular it enumerates what is not includable under salary and

[Shri N. Dandekar]

wage. But my difficulty as regards those enumerated cases is that you are bound to have a good deal of battling over item (i) of those exclusions, namely, "any other allowance which the employee is for the time being entitled to". I suggest it will be desirable to narrow down the scope of that vague thing further by specifying what I have specified in the suggested amendment, namely:—

"any overtime pay or allowance or education allowance or maternity benefit, or payment in lieu of any leave not availed of, or lay-off compensation, or compensation for any injury or death sustained or suffered in the course of employment, whether paid or payable under the terms of employment or under any award or agreement or under any law for the time being in force or *ex gratia*."

I would like to lay particular emphasis on "*ex gratia*". Several companies with which I have been associated have adopted the practice of not restricting compensations in the case of injuries and deaths and so on while in service merely to the statutory compensation. If the circumstances of the accident or the circumstances of the employee and his family or the circumstances particularly of his bereaved family in the event of his death were such as to justify additional payment of this kind, they have been giving them generously as they rightly ought to. None of these, so far as I can make out, under the definition of salary and wages proposed in sub-clause (21) are includable as salary and wages. All I am trying to seek by this amendment is to clarify this so as to minimise the area of dispute.

Shri Prabhat Kar: Sir, Clause 2(12) where direct taxes have been defined says:—

"Any tax chargeable under—
the Income-tax Act;

the Super Profits Tax Act,
1963;

the Companies (Profits) Sur-
tax Act, 1964;

the agricultural income-tax
law;"

We have opposed this and have suggested, as was suggested by the Bonus Commission, that only the income-tax and super tax should be deducted from the gross profit with a view to arriving at the available surplus. So far as the manipulation of balance sheets is concerned, it is a well known fact. Never is the full picture of the company laid before either the shareholders or the public. Therefore if a number of items are deducted before coming to the available surplus with a view to finding out what exactly should be the amount on which bonus will be calculated, the available surplus will be a very small amount or will almost go away. Particularly in view of the fact that the Bonus Commission has discussed this matter threadbare and suggested this, it should not be increased further. The clause also says:—

"any other tax which, having regard to its nature or incidence, may be declared by the Central Government, by notification in the Official Gazettee, to be a direct tax for the purposes of this Act;"

As you can see, Shri Dandekar, who gave the note of dissent, has tried to put in wealth tax also and there will be a number of suggestions for the deduction of prior charges. I would say that in order to find out the available surplus for bonus only income-tax and super tax should be deducted.

So far as some of the amendments which have been moved by Shri Dandekar are concerned, I would oppose them. The first one is amendment No. 148. Under this he wants to create a separate class of employees who under the offer of

some bait will not accept bonus. That means, they will be paid under-hand certain things which will go for the manipulation of accounts by which the income-tax to be paid to Government can be overcome. An Act that is passed must be binding on all persons who are covered by it. There shall not be any option given to the employer to wean away some section of the employees who are otherwise governed by some bait which will be given to them. It has been suggested that they may agree to higher pension, higher gratuity and some other kinds of remuneration of which we do not know. That should not be allowed.

The second amendment is about salary and wage. So far as overtime is concerned, it is already provided, namely,

"remuneration (other than remuneration in respect of overtime work)".

It is very clear in sub-clause (21) that salary and wage will not include overtime. So, I do not understand his putting forward the question of overtime.

The second thing is this. So far as "salary or wage" is concerned, the basic pay and dearness allowance and some other special allowances which are earned by the employee on account of the nature of the duty that he does—they are a part of his personal pay—should be included in calculating the bonus. That thing should be done.

So far as Amendment No. 146 of Shri Dandekar is concerned, it is already included. That is, the appropriate Government is the Central Government. I do not know why he is talking of this. That is already included.

Dr. Ranen Sen: We have moved the amendments on, clause 2, sub-clauses 13 and 21.

In sub-clause 13, in the definition of the employee, the apprentices

have been excluded. Now, under the Industrial Disputes Act, the apprentices are included in the category of workmen. We do not understand why all of a sudden apprentices are being excluded. It means that the apprentices will not be guided by the provisions of this Act. This has never been done before. All of a sudden, the basic statute in the form of the Industrial Disputes Act is sought to be violated.

There is another sub-clause, 21, where this Bill seeks to exclude, among other things, "any travelling concession". In the definition of "wage" as given in the Industrial Disputes Act, that is included. We do not understand in whose interest the Government have tried to restrict it in this way by violating the Industrial Disputes Act which guides all industrial disputes in our country. These are two very important things which contravene the provisions of the Industrial Disputes Act.

Another point I want to raise in regard to sub-clause 21 is about the commission payable to the employee. Yesterday, my hon. friend, Shri Indrajit Gupta, touched on this point. He has already stated the position and I want to restate it again. All over India, there are a large number of employees who work on commission basis, that is, the salesmen in the Bata shops and in other various shops. Here, the position is like this. Their basic wage is very little and they work on commission and they get commission over and above their wage. It is a sort of dearness allowance because the dearness allowance is sometimes absent or the amount of dearness allowance is very meagre. Therefore, this commission forms a part of their wage. Any attempt to exclude this class of employees will be very harmful to a very large number of employees whose number would be more than a lakh.

[Dr. Ranen Sen]

I wanted to bring these two very important points to the notice of the hon. Minister. I would request him to think over again and see whether he should, at this stage, try to violate the provisions of the Industrial Disputes Act. I would also request him to go into the matter relating to the employees who work on commission basis.

Lastly, there is another point which I forgot to mention about the Bonus Commission's Report. He was referring to the Bonus Commission's Report. He cannot refer to the Bonus Commission's Report according to his convenience. It had been stated by many of the hon. Members yesterday that Government had deliberately violated the recommendations of the Bonus Commission on major points. For example, in the Bonus Commission's Report, they had included the contract labour. The contract labour today forms a large percentage of the working population in our country. Here also, the Government has excluded the labourers employed by the contractors. In fact, the contract labourers do not enjoy any of the facilities that other labourers enjoy in the various industries. Therefore, I would strongly plead with the Minister again to reconsider this thing and include the contract labour also within the scope of this Bill.

श्री बड़े : उपाध्यक्ष महोदय, मेरा संशोधन क्लोज 2 में पेज 3 पर है। मेरे संशोधन का नम्बर 118 है। मेरे जितने विरोधी मित्र इस पर बोले हैं वे सब मेरे साथ हैं कि डाइरेक्ट टैक्स में सुपर प्राफिट्स टैक्स, कम्पनीज टैक्स और एप्रिकल्चरल इनकम टैक्स शामिल नहीं होने चाहिये। बोनस कमिशन की रिपोर्ट में यह स्पष्ट है कि डाइरेक्ट टैक्स में केवल इनकम टैक्स शामिल होना चाहिये और दूसरे टैक्स नहीं शामिल होने चाहिये। इसके लिये उन्होंने काफी जोरदार कारण दिये हैं। मैं समझता हूँ कि अभी तो शायद हमारे मिनिस्टर साहब

इस बात पर एडमेंट होंगे कि जो उन्होंने किया है ठीक किया है, लेकिन वह सोचें कि मजदूरों को ज्यादा देना है या नहीं और अगर देना है तो उनको उन कारणों पर विचार करना चाहिये जो कि बोनस कमिशन ने दिये हैं। मेरा निवेदन है कि अगर मजदूरों का और कारखानेदार का झगड़ा हो तो उनको यह प्रयत्न करना चाहिये कि मजदूर को ज्यादा मिले। वह लेबर मिनिस्टर हैं, उनको यह विचार करना चाहिये। यदि वह कोई दूसरे मिनिस्टर होते तो मैं उनसे यह बिनती न करता। लेकिन श्रम मंत्री को तो मजदूरों की बाजू को संभालना चाहिये था। मैं सुनना चाहता था कि ऐसा न करने के लिए वह अपने जवाब में क्या कारण देते हैं, लेकिन उन्होंने कोई कारण नहीं दिया कि क्यों सुपर प्राफिट्स टैक्स ग्राइड टैक्स को शामिल किया गया है।

दूसरा मेरा अमेंडमेंट यह है कि एंप्लॉयिड को भी मजदूरों में (एम्पलाइड में) शामिल किया जाए। इस में दिया गया है :

"employee" means any person (other than an apprentice). . . .

इसका मतलब है कि एंप्लॉयिड को बोनस नहीं मिलेगा। ऐसा करने के लिए मिनिस्टर साहब के पास क्या कारण हैं। घापने पेज 4 क्लोज 13 में दिया है :

"employee" means any person (other than an apprentice) employed on a salary or wage not exceeding one thousand and six hundred rupees per mensem in any industry. . . .

इसमें उन्होंने "एम्प्लॉयिडमेंट" नहीं रखा जसा कि क्लोज 1 में रखा है। वहां घापने दिया है :

"Save as otherwise provided in this Act, it shall apply to—

- (a) every factory; and
- (b) every other establishment. . . ."

जब आपने उसमें एस्टेबलिशमेंट और इंडस्ट्री दोनों रखा है तो इसमें एस्टेबलिशमेंट क्यों नहीं रखा। एस्टेबलिशमेंट और इंडस्ट्री में फर्क है। मैं माननीय मंत्री जी से बिनती करूंगा कि अगर वह इसमें एस्टेबलिशमेंट शब्द और डालेंगे तो इसका उद्देश्य पूरा हो जाएगा। एम्प्लोईज के साथ एस्टेबलिशमेंट भी घाना आवश्यक है।

दूसरे मैं कांटेक्ट लेबर के सम्बन्ध में कुछ कहना चाहता हूँ। हमने देखा है कि मध्य प्रदेश में जिन फैक्टरियों पर श्रम कानून लागू होता है उनमें कारखानेदार लेबर के लिए ठेकेदार नियुक्त कर देते हैं और लेबर के लिए उनको पैसा दे देते हैं और इस प्रकार श्रम कानून से बच जाते हैं। वह ठेकेदार को मिडिल मैन बना लेते हैं और इस प्रकार मजदूरों को श्रम कानून का लाभ नहीं मिल पाता।

इसके प्रतिरिक्त जैसा डा० दिनेन सेन ने भी कहा है आपको सेलेरी और बेजेज के प्रश्न पर भी विचार करना चाहिये। आपने सब क्लॉज 20 में दिया है :

“(i) any other allowance which the employee is for the time being entitled to;”

हमारे डांडेकर साहब ने कहा है कि इसका विश्लेषण होना चाहिये जिससे कि घागे कारखानेदारों को कठिनाई न पैदा हो। लेकिन मेरा कहना है कि इन शब्दों को :

“any other allowance which the employee is for the time being entitled to;”

निकाल दिया जाना चाहिये। मैंने मिल में पांच साल नौकरी की है। वहां यह होता है कि अगर पे 50 रुपया है तो परमनल एलाउंस 50 रुपया है और परमनल एलाउंस को वह पे के हिस्सा में नहीं लेते। अगर पगार बढ़ना है तो परमनल एलाउंस बढ़ना जाता है उजो पे में नहीं गृमार किया जाता।

इसलिये मेरा कहना है कि घाप इन शब्दों को :

“any other allowance which the employee is for the time being entitled to;”

इसमें से निकाल ही दीजिये जिससे कि घागे चल कर कानूनी कठिनाइयां पैदा न हों।

“any other allowance which the employer is, for the time being entitled to.”

फिर उस के साथ में मेरा एक प्रमेडमेंट और है...

उपाध्यक्ष महोदय : माननीय सदस्य का समय समाप्त हो गया है।

The Hon. Member has taken ten minutes.

Shri Dandekar: We would like you to extend the time.

Shri Daji: We want some extension.

Mr. Deputy-Speaker: We are on clause 2.

श्री बड़े :

From the beginning I am on clause 2.

मेरा कहना है कि इस सेलरी और बेज की परिभाषा में

“any other allowance which the employer is, for the time being, entitled to”

को शामिल करना चाहिये अन्यथा इस क्लॉज को निकाल देना चाहिये। कोर्ट में इस की जो मौजूदा वर्डिंग है उसके छिलके उतारे जायेंगे और परिणामस्वरूप लिटिगेशन बढ़ेंगे जो कि होना नहीं चाहिये। शासन को इस पर गम्भीरतापूर्वक विचार करना चाहिये और इसलिये मेरा जो प्रमेडमेंट है उसे स्वीकार कर लेना चाहिये। बस मुझे इतना ही कहना है।

Mr. Deputy-Speaker: I have to inform the House that a news bulletin regarding the latest situation on the borders, received from the Ministry of Defence, has been placed in the Parliamentary Notice Office for the information of the Members. Those who are interested may go there and see.

Shri Bade: It is very difficult to go there. It will be better if you read it out here.

Shri Indrajit Gupta: We all feel like going. It will be better if it is read out here.

Mr. Deputy-Speaker: Nothing very important.

Shri Bade: We are very keen to know about it.

Mr. Deputy-Speaker: All right. I shall get a copy here.

श्री बे० शि० पाटिल : उपाध्यक्ष महोदय, क्लाज 2 पर मेरा 261 नम्बर का जो संशोधन है वह बहुत महत्व का संशोधन है

श्री हुकम चन्द कछवाय : बहुत महत्व का संशोधन है इसलिये उस पर बोलते समय हाउस में कोरम तो रहना ही चाहिये जो कि इस समय मौजूद नहीं है।

Mr. Deputy-Speaker: The quorum bell is being rung..

Now there is quorum. The hon. Member may start.

श्री बे० शि० पाटिल : सेशन 2 का सबसेशन 21 सैलरी और वेज की परिभाषा देता है। उस परिभाषा में सैलरी और वेज में रैगुलर वज और डियरनेस एलाउंस यह दोनों ही सम्मिलित हैं। लेकिन इसमें अबर बॅन रैग्म्युनेशन इन रिस्वैन्ट ऑफ़ अबर टाइम वर्क लिखा है। अबरटाइम वर्क को सैलरी और वेज की परिभाषा के अन्दर

शामिल नहीं किया गया है। मेरा जो यह प्रमॅन्डमेंट है वह यह चाहता है कि यह अबर-टाइम से जो पैसा मिलता है, जो उनको वेज मिलती है वह सैलरी और वेज की जो परिभाषा दी गई है उसमें उसको शामिल कर लिया जाय और उसको भी वेज माना जाय। इसीलिये मैंने अपने उस प्रमॅन्डमेंट में यह चाहा है कि उस सबक्लाज 21 में से यह अबर बॅन रैग्म्युनेशन इन रिस्वैन्ट ऑफ़ अबरटाइम वर्क डैलीट कर दिये जाय।

उपाध्यक्ष महोदय, इस विधयक का जो खंड 32 है उसमें काफ़ी ऐसे कर्मचारी छोड़ दिये गये हैं लेकिन पब्लिक और प्रायवेट सेक्टर के एस्टैब्लिशमेंट्स के जो कुछ कर्मचारी हैं और जिनके लिए कि बोनस देने का सरकार ने निश्चय किया है उन लोगों के लिए भी सरकार हाफ़ हाटॅडली काम करती है। आज आप देखेंगे कि कई ऐसी फ़ैक्टरीज हैं जहां पर कि यह अबर टाइम वर्क बहुत मिलता है। संकटकाल में अबर टाइम वर्क बहुत चलता है। आपको मालूम होगा कि इंजीनियरिंग इंस्टीट्यूट जो हैं उन में जो काम करने वाले लोग हैं वे रैगुलर वेजेज पर भी काम करते हैं और वहीं पर अबर-टाइम वर्क करते हैं। अब दरभसल अधीक-तर इंजीनियरिंग इंस्टीट्यूट में अबरटाइम एक रैगुलर फीचर ऑफ़ वर्क है और वे रैगुलर वेज हैं क्योंकि उसके बगैर न तो वर्कर्स सस्टेन कर सकते हैं न ही इम्प्लायर्स बगैर अबरटाइम के अपने प्रोब्लेगेशंस पूरे कर सकते हैं। अबरटाइम वर्क से बड़ा रैगुलर प्राफ़िट किया जाता है, फ़ैक्टरी काफ़ी मुनाफ़ा कमाती है तो मैं नहीं समझता कि अबरटाइम वर्क करने वाले जो कर्मचारी हैं जो कामदार हैं उनका हिस्सा इसमें शामिल क्यों न हो? वह जो काम करता है और उसे जो वेतन मिलता है उस पर अगर आप बोनस देना चाहते हैं तो जितना वह ज्यादा काम करता है उस पर आपको बोनस देना चाहिये। रैगुलर वेज और डियरनेस

एलाउंस यह दोनों ही बातें इसमें शामिल की हैं। मेरा सुझाव है कि इसमें प्रोब्लेम टाइम वर्क करने वाले जो कामदार हैं और उनको भी जो वेतन मिलता है वह वेतन भी इसमें शामिल होना चाहिये।

Shri Alvares: Mr. Deputy Speaker, Sir, I have three amendments in respect of clause 2 and I am speaking on clause 2, sub-clause (12), i.e. in respect of direct taxation. We have noticed that, in spite of the recommendations of the Bonus Commission, the Government have increased the quantum of direct taxes. For instance, they have accepted Mr. Dandeker's minute of dissent by raising the dividend from 7 to 8.5 per cent., similar is the case with regard to the issue of reserves. If the Government is given the liberty to keep on adding any amount of direct taxes as and when occasion arises, things will come to such a pass that we will find that the quantum of bonus is a diminishing issue. So, on the one hand, the Government have put a limit of 20 per cent in spite of the fact that, in many instances, the bonus was much more. Secondly, the Government have, by increasing the amount of rate of dividend, further curtailed the quantum of bonus. If the Government is given the liberty to increase or add any new direct taxes, then the quantum of bonus will be less and less as years go by. Therefore, I commend that this amendment be accepted by the House.

14 hrs.

Then, I come to sub-clause (13) relating to the question of apprentices. While speaking yesterday I had pointed out that this clause would not give the full concession to seasonal workers, and it would lend itself to a number of abuses. Similarly by denying the apprentices of the bonus, it is likely that further abuses may take place. For, very often many companies take a lot of legitimate work from the apprentices and do not permit them to qualify for bonus. I may

mention the instance of the railways in this connection. There are thousands of people who are working in a big workshop, who are not entitled to any consideration at all and who do not get bonus and yet Government take from them work of a completely skilled nature. Since the apprentices would be dependent on the employers for their future employment, it is very likely that in order not to permit the employees to have any share in the bonus, the employers will resort to an abuse of the whole system by asking the apprentices to do legitimate skilled work and by reason thereof deprive the apprentices of the bonus and at the same time increase their own margin of profit.

In regard to the third amendment, I want to delete sub-clause 21 (iv), so that all bonus of a productive or incentive type should be counted for the purpose of calculation of wage. Hitherto it has been the traditional practice to measure work by the number of days spent on it. In many old or traditional instances, it is the day's work which is counted. But modern scientific method has given up this measure or yardstick and has resorted to the measure of productivity. The measure of productivity is a new scientific measure for determining the work done and the quantum of production. So, it is obvious that the bonus or wages must be related to productivity. The other day, the hon. Finance Minister, while speaking on the relationship between wages and productivity in the context of the Fourth Plan suggested that the two should be linked up. That is exactly what my amendment seeks to do, namely that the wages should be linked up with productivity and the old form of computation of wages should be given up. If wages are linked up with productivity, then I am sure that all extra production which qualifies for extra incentive or production bonus would also qualify for the term 'wage' and entitle the workers to those wages; similarly production bonus would also qualify for being included in the term 'wages'. Therefore, I do urge the

[Shri Alvares]

Labour Minister to accept this modern connotation of productivity and relate wages to productivity, and as a consequence thereof, include all bonus and production incentives for the purpose of determining the wages.

14.03 hrs.

STATEMENT RE: DEFENCE OPERATIONS

Mr. Deputy-Speaker: Now, the latest Defence Ministry Bulletin would be read out.

The Minister of Rehabilitation (Shri Tyagi): The Indian Air Force was very active yesterday

Shri Vidya Charan Shukla (Mahasamund): On a point of order. This statement which the hon. Minister is reading has already been circulated to all and sundry. . . .

Several hon. Members: We have not got it. Let it be read out.

Shri Tyagi: The Indian Air Force was very active yesterday and went out after a number of enemy military targets. Last night, our Air Force bombed the Chaklala air base near Rawalpindi, and this morning they attacked the Sargodha air base in West Punjab. They met with stiff opposition at the latter place. The latest reports till this morning indicate that the IAF had on the whole a successful day.

Yesterday's 'bag' includes the destruction of 9 American aircraft of the Pakistan Air Force, damage to two other aircraft and destruction of 16 Patton and Sherman tanks in various sectors, 14 artillery guns, two light anti-aircraft guns and between 30 and 40 vehicles. A number of tanks and armour vehicles were damaged.

In addition, as already reported, the Air Force yesterday blew up an oil

tanker train, a concentration of military vehicles, another goods train carrying military stores, some gun positions and a military camp which was set on fire.

Two of the aircraft destroyed are four-engined American transport aircraft. These two and two F-104's were damaged on the ground. In addition, six American Sabre jets and one B-57 bomber were destroyed in various sectors in air battles as well as by ground action.

The Pakistan Air Force was also active throughout yesterday and attacked a number of our air bases from Pathankot to Jamnagar. Jamnagar airport was subjected to a series of attacks but there was little damage caused and the airport is functioning normally. In Amritsar, the Pakistan Air Force dropped bombs on the civilian area. The extent of damage is still being ascertained. Pakistan yesterday extended the conflict to the eastern sector. The Pakistan Air Force made an attack on the Kalai-kunda air base near Calcutta. The attack was driven off.

The total losses suffered by us both in the air and on the ground in yesterday's operations are eight aircraft. A few other aircraft were damaged.

On the ground, advancing Indian troops are meeting with increasing resistance. Stiff fighting is continuing in the Dera Baba Nanak bridge area, where seven enemy tanks have been destroyed. This morning the Pakistanis blew up the Dera Baba Nanak bridge.

Pakistan dropped small bands of paratroopers in different parts of the Punjab last night and early this morning. A number of paratroopers have been captured in the Pathankot and Jullundur areas. The local Army and civil authorities are taking steps to round them up.