

[Shri R. K. Khadilkar]

and he realises, as a good socialist that he is, that there are questions of priority in the programme. So when I said 'pause and ponder and give this House some more time', it means that in due course perhaps when we come to consider all the questions he has raised keeping in view the priority, some of the points he has raised could be considered at the appropriate time. So I suggested that instead of seeing that it is rejected, let him withdraw it as the best course open to him.

PROF. MADHU DANDAVATE : Most of the points that have arisen out of the debate have already been dealt with. I will say only one thing. If the feeling is expressed by the Treasury Benches that here is a Bill which wants the right to work to be established as a fundamental right, if that spirit is welcome and at an appropriate time it is spelt out in such a way that ultimately the right to work becomes part and parcel of our fundamental rights, between the two propositions, getting my Bill rejected and withdrawing the Bill on this assurance that actually the Bill will be examined, the details will be spelt out, there will be a debate on this with due acceptance of the spirit of the Bill, but further acceptance of the Bill and its details in a particular form may be deferred, if some sort of assurance is given on these lines, I am prepared to accept that assurance and on that basis, rather than allowing the Bill to be defeated, because for me the right to work Bill to be defeated, though some people may take the line afterwards that it was defeated because of the attitude of the ruling party—I am not looking at it from that partisan angle—is something which I cannot countenance, because ultimately what will go on record is that this supreme Parliament has rejected this Bill which wants the right to work to be accepted as a fundamental right—in that broader, non-partisan spirit, I am prepared to withdraw the Bill provided that assurance comes.

SHRI R. K. KHADILKAR : I welcome the concluding remarks of my hon. friend, the Mover. I do recognise that he brought forward this Bill to have a debate. I think he has made some points which will provoke a national debate.

Every member of the House will also give serious thought to it. But as I said earlier, we have to determine priorities for social reconstruction. In that process, as he has said, we will keep the spirit of the Bill in mind whenever we frame our social policy. With this assurance, I am sure he will withdraw it.

PROF. MADHU DANDAVATE : In view of this assurance, I seek leave of the House to withdraw the Bill.

MR. CHAIRMAN : The question is:

"That leave be granted to Prof. Dandavate to withdraw his Bill further to amend the Constitution of India."

*The motion was adopted.*

PROF. MADHU DANDAVATE : I withdraw the Bill.

16.30 hrs.

PAYMENT OF BONUS (AMENDMENT) BILL—Contd.

(Amendment of Sections 2, 10 etc.)

PROF. MADHU DANDAVATE : (Rajapur) : Sir, I move :\*

"That the Bill further to amend the Payment of Bonus Act, 1965, be taken into consideration."

16.30½ hrs.

[SHRI R. D. BHANDARE in the Chair]

Before I make my observations on this Bill, at the very outset, let me express my gratitude to the Private Members' Bills and Resolutions Committee for giving category 'A' to this Bill so that this Bill could get priority over all other pending Bills. I had a feeling that when there is a tremendous discontent among the industrial labour and the middle-class employees in this country on the issue of bonus, and when the viewpoint of a number of central trade union organisations has not been accepted by the Government, and as

\*Moved with the recommendation of the President.

a result of that, there is seething discontent in this country, as evidenced by a determined strike action of more than one lakh of labour in the city of Bombay,—

MR. CHAIRMAN : You are using this occasion :

PROF. MADHU DANDAVATE : I will see that I am very much relevant; I will put it in the frame of relevancy.

MR. CHAIRMAN : I have not declared that your argument is irrelevant.

PROF. MADHU DANDAVATE : So, following the strike action, I appealed to the Committee on Private Members' Bills and Resolutions that if those who have sent us here have a feeling that the parliamentary forum cannot be utilised to ventilate their grievances and put forward, before the sovereign Parliament in this country, the viewpoint and the need to revise the 1965 Bonus Act, in that case, it will be a disservice to the parliamentary traditions and democratic practices. I am happy that this point of view was accepted and category 'A' was given to this Bill. As a result of that, I am getting priority to move this Bill for the consideration of the House.

SHRI S. M. BANERJEE (Kanpur) : We congratulate the hon. Member.

PROF. MADHU DANDAVATE : There has been considerable controversy about the Bonus Act which was adopted in 1965. When the Bonus Act was actually introduced in 1965, it was stated that there were a number of problems that were created by the demand for bonus by various categories. In order to eliminate all those controversies and settle these problems in a rational manner the Bonus Act was adopted in 1965.

But after the Bonus Act of 1965 was adopted, this particular Act which was supposed to have been passed to eliminate all difficulties regarding the bonus problem, created further problems, and more controversies were created. For instance, formerly there was the LAT formula and then there were many controversies, and it was felt that probably when the new Bonus Act comes, many of those controversies would be resolved and a new point of view will be adopted consistent with the claim

and the demand of the trade union organisations in this country, representing the organised labour. But in reality that did not happen. As a result, a number of controversies have been there. And, therefore, there has been a consistent demand that there must be an amendment to the existing Bonus Act.

The controversies were regarding the scope of the Act : which are the industries and which are the employees which have to come within the ambit of the Bonus Act? Then again, there were controversies regarding the nature and the minimum quantum of the bonus to be given to the workers. Again, there were controversies regarding the very concept of the bonus itself. I must admit that for years there has been a serious national debate that was going on the very concept of bonus. Some interpret bonus as an *ex-gratia* payment. Some interpret it as some sort of *modus operandi* for sharing the profit. Some others interpret it as a device for sharing the prosperity and some try to interpret it as some form of *modus operandi* by which there can be a sharing of the surplus. But the socialists in this country the organisations of the working class in this country, have taken up a definite connotation as far as bonus is concerned.

I do not consider bonus as some sort of a favour bestowed by the employers on the employees. Unfortunately due to the economic condition of our country, we are not able to give a living wage to the working class in the country. There is a wide gap between the actual wage and the living, you may say the need-based wage and the actual wage. It is found out by statisticians that gap between actual wage and the living wage roughly comes to 25 per cent of the actual wage.

The gap being so wide some methodology must be adopted by which the gap between the actual wage and the living wage could be bridged. We in the working class movement believe that bonus is not some sort of *ex-gratia* payment it is not a favour, it is a device by which to a greater or lesser extent the gap between the actual wage and the living wage could be bridged. It cannot be done 100 per cent. Therefore, as a first step, bridging of the gap could be done to a certain extent. Therefore, bonus has to be treated as

[Prof. Madhu Dandavate]

a deferred wage. That is the attitude the trade unionist in this country has taken up, whether he is from the HMS or the AITUC or CITU or the INTUC. Almost all these trade unionists are agreed that bonus has to be treated as a deferred wage and on the basis of that various payments made.

Once bonus is considered as a deferred wage, and once it becomes clear that it is a *modus operandi* to bridge the gap, we cannot have compartmentalisation of the Bonus Act that it will be applied to X industries or establishments and not to Y industries or establishments.

The process of bridging the gap between a living wage and the actual wage has to be applied both to the public sector and the private sector, local bodies and all the employees who belong to the Central Government and the State Governments. Irrespective of who are the employers this philosophy of the bonus is to be applied to all categories of the working class. The minimum quantum of bonus in this Bonus Act is four per cent of the total annual emoluments. When the gap is so wide we have been insisting that this position has to be changed from 4 to 8.33 per cent. This is the demand of all Trade unions. At a meeting of the HMS, INTUC and AITUC held on 8th September 1971 it was unanimously decided to demand 8.33 per cent bonus and the extension of the scope of the Bonus Act so as to incorporate in it not only private industries but public sector industries including departmentally run undertakings.

Here I should like to point out to you that it is not merely the trade union organisations like the HMS, AITUC or the CITU which have made this demand. I shall quote here what our Labour Minister had said in one of the conferences. The 27th session of the Indian Labour Conference held a meeting in October 1971 and it was opened by Shri R. K. Khadilkar who is the Labour Minister. While inaugurating this conference he said :

"Matters relating to bonus payable under the Payment of Bonus Act have resulted in a good deal of unrest and agitation."

He will also take note of the fact that agitation continues today also.

"Government is committed to a review of the working of the Act but obviously amendments can be promoted only after full discussion and consideration."

Since he seems to feel that amendments can come only after full discussion I felt that it will serve his hunger for discussion if I bring forward this Bill. I feel that whatever lacunae that exist in the Bonus Act of 1965 can be discussed and debated in this sovereign Parliament and then we can modify that Act suitably. With that perspective I have brought this Bill.

The Indian Labour Conference had decided that the entire issue of bonus should be gone into by a committee and the committee should submit its report within a period of six months. There has been a considerable delay as far as the recommendations are concerned. Although the Government was committed to appoint a committee as far back as October 1971, it was only in April 1972 that the committee was actually appointed. Because of this delay, we have been consistently demanding that there must be an interim report. When the problems are being discussed from various angles, it does happen that the final recommendations come at a later stage. But if one anticipates delay in the formulation of the final recommendations, it is very necessary that in the mean time the workers who are restive must be given an assurance that there will be an interim report on the basis of which certain actions would be taken up. But no such thing has come. In spite of the fact that over a number of years productivity has gone up, industries are making huge profits, wages as a proportion of cost of production have gone down and the value added by manufacturers has also gone up, why should the working class receive only 4 per cent as bonus? These are the factors I have stressed. Of course, in certain marginal or exceptional cases there may be cases differing from the analysis I have made, but on a number of occasions, the Labour Minister himself has said that this is the position of our economy. In view of all this, I insist that the clause about the minimum quantum of bonus of 4 per cent has to be changed and it should be 8.33 per cent.

There is another aspect. The ambit of the original Bill is such that certain

industries are completely kept out. Industries in which the workers have established their efficiency in productivity, who have established their sense of responsibility and who have established that they have a crucial role to play in the public sector—even workers in such key positions have so far remained completely excluded from this Act. Take for instance railways, nationalised banking industry, insurance and so on. There are a number of undertakings which are controlled by various committees or local bodies like the Bombay Electricity Supply and Tramways Undertakings which is under the Corporation. We have the employees of the Central and State Governments. All of them are playing a crucial role. We are thinking in terms of expanding the public sector, but the fact is in a number of directions, the expansion is not taking place. If the public sector actually expands more and more, it is very likely that workers will be losing their rights. It happens in the case of political as well as economic rights. A private employee has complete political freedom. If he becomes a railway employee or an employee of LIC or of a nationalised bank, his political rights suffer.

In countries like England and Soviet Russia—I am trying to take countries with differing social systems and ideologies—more and more rights are being given to the government and semi-Government employees, political rights as well as economic benefits. In this Bill I am not discussing political rights. As the expansion of the public sector takes place, if a number of employees come out of the ambit of the Bonus Act, it will be a great disadvantage to them. Therefore, I propose another amendment by which I would like to extend the entire ambit of the Bonus Act so that it will be possible for the public sector employees and others to come under the ambit of this particular law.

A controversy is going on in this country that only those employees who are directly engaged in the Process of production should be entitled to bonus. In a number of cities like Calcutta, Bombay, Kanpur and Delhi you will find a large number of municipal employees, people belonging to the fire brigade which is described as an essential service, sweepers, scavengers and so on. They do not participate in the process of production directly; but they do

contribute to raising the efficiency of the productive apparatus in the country. The conservancy staff help in keeping the city clean so that people are free from diseases. In that way, they are helping the textile workers, dock workers and those who are engaged in the production of electricity. Even those who are engaged in the direct process of production, very often their health is maintained, their services are maintained by the co-operation of sections which are not supposed to be directly participating in the process of production.

Take the case of sweepers of the city of Bombay. Quite a number of them belong to the harijans and Scheduled Castes sections of the society who are destined to do this kind of dirty work for alleged sins committed by them in the past. Because they suffer in silence, does it mean that they must be made to suffer perpetually. To those economists who say that the sharing of bonus should be limited only to those who are directly participating in the process of production, I would pose one question.

We are the people who have decided that the Harijans, the Adibasis, the scavengers and the sweepers should be kept away from the rest of the people who are engaged in the productive apparatus so that they may continue to do this dirty job. They are suffering social oppression because they are engaged in this work. Now, as if all this is not enough, they say that this oppressed section cannot come within the ambit or orbit of the Bonus Act. I say that this is wrong. These people must be brought within the ambit of the Bonus Act. It is from that point of view that I have suggested that this particular Bill must be amended.

I have also suggested that some clauses must be deleted. For instance, there is a clause which says that 20 per cent must be the ceiling. These are the days when we move for ceilings. But in this case, I feel ceiling must be removed. Again, as far as the payment of bonus is concerned, the clause relating to restriction of 20 workers in an establishment should be removed. There are some consequential changes. I do not want to go into the details.

But there is one aspect which I want to draw attention. On this issue a country-wide agitation is going on.

[Prof. Madhu Dandavate]

Coming back to the city of Bombay, as an illustration, there is one pattern of logic in which from particular we can jump over to the general. Therefore, to generalise the case, I will take the illustration of Bombay, which is a model town, model in all senses. It is a model for poverty and affluence, for disparity and social oppression; for all sorts of oppressions as well as prosperity it is a model.

I will just take up that illustration...

AN HON. MEMBER : Cultural.

PROF. MADHU DANDAVATE : That is also a part of it. There is culture and also a lack of culture. Treating some people like scavengers as oppressed people of society and treating them as non-productive people in society, I consider, according to my socialist connotation, that is lack of culture. That is the culture we lack in a city of Bombay.

In this connection, one controversy is going on. Many economists have raised a controversy that if we start treating Government employees, Railway employees, Municipal employees, insurance employees, bank employees and, particularly, the public sector employees as eligible for bonus, if all these employees are given the bonus, what will happen to the national economy of the country? Of course, while checking the prices, while checking up the hoarding, we do not think in terms of national economy of the country. I am talking about those economists, who, while looking at the parallel black money economy in this country, do not think in terms of a threat to national economy.....

SHRI NIMBALKAR (Kolhapur) : That is not true. We are also thinking of it.

PROF. MADHU DANDAVATE : I am not referring to you. You are unnecessarily standing in the dock. I was referring to some economists. I am sure, Mr. Nimbalkar is not an economist. There are economists who have adopted those postures....

SHRI NIMBALKAR : There are people whom you call economists who say that.

MR. CHAIRMAN : Don't reply to all that.

PROF. MADHU DANDAVATE : You can point out to me if any argument that I have put forward is irrelevant. If somebody intervenes, I must reply to that.

Now, there are economists who have raised this point. If you want, I can produce those articles for the benefit of our friends. They have put forward a point of view that there are limitations. For instance, if we have to extricate black money, there are limitations to what we can do. There is a certain administrative lethargy; there is a certain resistance. Due to that, there is a limitation to recover the taxes from those who are evading them. In the light of this, a case has been built up that if all the employees under the public sector, under the municipal authorities, under the local authorities, are given the bonus, in that case, the expenditure will go upto a very big amount.

Here, I want to give an estimate. I have worked out the details and I have taken the assistance of certain economists. I have worked out that if this bonus benefit is to be given to all the categories of employees, then the rough estimate of expenditure will be to the tune of Rs. 200-250 crores. If there are certain difficulties, in that case, the representatives of the Government must carry on a dialogue with the trade unions and they must point out what are the difficulties. I feel, if the expenditure is going to be Rs. 200-250 crores, in case the provisions of this Bill are going to be implemented, it is a worthwhile experiment to be carried out, especially when living is not ensured.

I warn about one thing. When the workers start demanding bonus of 8.3-1/3 per cent. when they start demanding this benefit, one method of dealing with them is to defeat their agitations, defeat their strikes, to break their strikes. I repeat what I told the Prime Minister that with the powerful machinery of the State, it might be possible for the State machinery to cow down their struggles, and for some time, it might be possible for them to defeat them, but just as in the freedom battle, the fighter for freedom is never defeated, the vanguard of the working class in the class struggle also can never be defeated. At times, he may recede but, ultimately, he will always advance so long as the cause for which he fights is a correct cause.

Before resuming my seat, I request the Labour Minister to look at the problem in a proper perspective. Rather than suppressing the legitimate demand of the working class, he should try to have a rapport with them, try to understand their point of view, and try to debate the issue about bonus. My effort, through this amending Bill, is only to initiate this debate and put the entire problem in a correct perspective and make concrete proposals to modify and amend the out dated Bonus Act of 1965.

MR. CHAIRMAN : Motion moved : "That the Bill further to amend the Payment of Bonus Act, 1965, be taken into consideration."

SHRI S. M. BANERJEE (Kanpur) : I rise to support the Bill moved by my hon. friend, Mr. Khadilkar is here ; I am happy about it. It was he who, with the help of some trade unionists, evolved this formula of minimum bonus of 8.33 per cent. It is now known as Khadilkar formula and if this Bill is adopted, it will be known as Khadilkar-Dandavate formula.

A minimum bonus of 8.33 per cent has become the common demand of all workers. Even today what is happening in Bombay? More than a lakh of employees who are on strike there demand a bonus of 8.33 per cent. The textile employees throughout the country—in Bombay, Kanpur and other places—demand a minimum bonus of 8.33 per cent. This Bonus Act has become obsolete. They have got two Balance Sheets and on the basis of the visible Balance Sheet, which they show they only pay four per cent. The British India Corporation paid only four per cent, but then there was a strike in Kanpur—in Lal Imli Mills, etc. Then they paid six per cent and in certain cases 8.33 per cent. I should thank Mr. Khadilkar for intervening in the strike at Kanpur of textile workers and having forced the management to agree to pay in advance till the matter is finally decided, whether the workers are entitled to 8.33 per cent or not. Four per cent is out of date. Naturally this particular Amendment should be accepted.

My friend has also moved that section 11 of the Bonus Act be deleted. Section 11 deals with the maximum bonus. The ceiling has been laid down as 20 per cent. He wants deletion of that. But when we delete that, let there be a proper substitute. This should be

substituted properly because once it is deleted then the employers may think that for workers the sky is the ceiling and for them it would be whatever is available after deducting all those things according to the formula may be even less than 20 per cent. Therefore, a suitable amendment should be brought to substitute section 11 of the Act. I would request them to see whether this could be amended.

My hon. friend has also mentioned about the employees in public undertakings. The terms 'public undertakings' will not cover the employees of Defence, Posts & Telegraphs and Railways because they are all departmentally run ; they are called government employees or government departmental employees. That should be properly substituted so that the desire of the hon. Member, rather the desire of all of us, is met and all the Central Government employees—Defence, Posts & Telegraphs and other allied organisations—are also covered or brought within the purview of Bonus Act.

My hon. friend touched a very serious point—who should get bonus? It was said that those who are connected directly with production should get bonus. I have worked in a Defence organisation for 20 years.  
17.00 hrs.

In a particular factory, some people are directly connected with production. Some people are connected incidentally with production. Some people are connected to provide material to those who are producing. Unless this mass operation goes on, no production can be complete. After all, mass production is divided into various operations and every one, right from the General Manager to the ordinary worker, whether skilled or unskilled or semi-skilled, whether industrial or non-industrial, whether managerial, supervisory or ministerial, every one is connected with the production. Production cannot be made only by two people without the help of others and unless they are provided with material and other things which will enable them to produce. So, the definition of this should be changed completely. Whether it is defence industry or the P & T works or the railway industry, every worker is connected with the production or incidentally connected with production, directly or indirectly connected with production and he should be brought within the purview of this particular legislation.

[Shri S. M. Banerjee]

I know the hon. Minister is aware that whether it is a railway employee or a P. & T. employee or the defence employee, they are all indebted to him, they are all thankful to him, for accepting the unanimous demand of the Members of the Consultative Committee on Labour which met on the 24th of July in Delhi, when they demanded that all employees should be brought within the purview of this Bonus Act and I hope he has forwarded it to the Government and the Government should, in all fairness, accept it. How can they possibly deny the employees working in the ordnance factories when you are paying the same bonus working to a worker in the HAL? How can you deny this to a man working in the Ambazhari ordnance factory when you are paying bonus to a worker in some of the defence factories like the HAL? In that way there is the discrimination. Now, they have paid Rs. 5 crores more to the insurance companies after nationalisation only because there is the discrimination between an Indian insurance company and a foreign insurance company. Let them remove this discrimination and see that all employees are covered under the Bonus Act. The State Government employees who are also connected with production and working in various State Government workshops should be associated with it.

I am also supporting the demand of the hon. Member that people at the lowest stage also should be covered. What about the poor Harijans, the scavengers, the Farashas and others....

SHRI M. RAM GOPAL REDDY (Nizamabad) : Carpenter also?

SHRI S. M. BANERJEE : Carpenter is a skilled job. Carpenter will change your face.

SHRI M. RAM GOPAL REDDY : Is it an unskilled job—working in factories? He will paint you.)

SHRI S. M. BANERJEE : He is already painted.

The question is : whether he is a skilled worker or a highly skilled worker or an unskilled worker—all should be treated alike and should be brought within the purview of this legislation. I would request you to kindly accept

this Bill. Until the Committee appointed for the purpose submits its recommendation to the Government, let him accept this Bill in good faith when he sincerely believes that there should be no discrimination, that there should be no ceiling, when he believes that we are really marching towards socialism, which I very much doubt, then he should accept this Bill. Otherwise, the only request I will make to him is to go out of the House.

MR. CHAIRMAN : Don't challenge his honesty.

SHRI S. M. BANERJEE : I envy him, Sir. I am enamoured of him. I am one of his admirers. The difficulty is not with him. But there are some people, on the top, highly skilled people, who would not allow it. He wants to do a skilled job but the people on the top, the so-called highly skilled people, would not allow him. He should accept the Bill in both letter and spirit simply he should not accept it in spirit.

With these words, I fully endorse the Bill and there is no question of argument. I would request you that the entire working class in the country is groaning. There is going to be a countrywide agitation on the bonus issue unless the minimum bonus is increased. The hon. Minister is the inventor of this formula. I, therefore, expect that he would accept this Bill both in letter and in spirit.

SHRI C. M. STEPHEN (Muvattupuzha) : I rise to support this Bill. When I say, I rise to support this Bill, I would like to bring to the attention of the honourable House the character of the industrial situation in the country. The working class part of the industrial structure of the country today is as if on the edge of a volcano on the question of bonus. This question of bonus, with reference to minimum bonus, and in addition, the question of coverage, has been a matter which has been agitating the organised working class for a long time. It has got a long history. Sir, I do not want to cover the entire field.

Sir, the character or the concept of bonus was being agitated upon for a number of years and there were two points of view in this regard. One view was that it was a deferred wage; another view was that it was profit-sharing. Without prejudice to the claim of the working class for regarding it as profit-sharing, there were demands, that

this aspect of bonus has got an aspect of being a deferred wage. This was urged on the ground of the great gap witnessed between the living wage and the actual wage.

This aspect of the bonus question as deferred payment was grappled with about a quarter of a century ago in the State from which I am coming. That was when Sir C. P. Ramaswamy Ayyar was the Dewan of Travancore. He convened a Tripartite Conference. He said, whether there was profit or loss, the workers must be paid a minimum of four per cent. That sort of demand was made by the Government itself. Kindly note that 25 years back that proposition was accepted. On that basis, bonus was being paid. Then came the LAT, Labour Appellate Tribunal formula. This was the cause and the forum for disputes and agitations with the result that we witnessed continuing annual recurrence of disputes and agitations. So, even the Supreme Court stepped in and directed the Government to examine this question of the Bonus Formula.

In 1961, the Bonus Commission was appointed and they submitted their Report in the year 1964. The trade unions were unanimous in their demand regarding the minimum bonus. The INTUC put up a memorandum urging among other things that 8 1/3 per cent must be the minimum and that 50 per cent must be the maximum. This demand was put up by us. We said that all sectors engaged in production, whether it was the public sector or the private sector, must get the benefit of this minimum bonus.

The principle was the one that was enunciated by the Supreme Court that basically bonus was an effort to bridge up to the extent possible the gap between living wage and the actual wage. The Bonus Commission recommended a bonus of 4 per cent subject to a minimum of Rs. 40. To say that it must be subject to a minimum of Rs. 40 is to concede that there are industries working on a factory basis which would bring to the worker an annual wage of less than Rs. 1000; otherwise, Rs. 40 has no relevance. So dismal was the position. The question now is this. Does a worker who is getting Rs. 1000 per year have a living wage? Is he getting the need-based minimum? Is he getting a bare wage? Is he getting even the minimum wage?

Obviously not, and therefore, an annual insured amount was assured for him and it was said that that amount might be given. The Bonus Act was enacted in 1965, and with the enactment of the measure, discontentment again started. For, the problems which the Act sought to solve were not solved. The recommendations were tampered with. Certain recommendations only were accepted by the private employers. Certain safeguards and provisions to that effect were incorporated in the Act, but those provisions were struck down. The actual income-tax that had to be paid was taken into account as per the contemplation of the Act. But the Supreme Court said that it was to be the income-tax on the basis of the national gross income. Therefore, another amendment had to be brought forward. Amendment after amendment had to be brought forward in order to keep the original concept intact as much as possible. Whatever the worker was getting formerly was safeguarded by a provision in the Act. The Supreme Court put another interpretation on it and that was struck down. All along, the demand has been going on this country that the minimum bonus must not be 4 per cent but it must be 8 1/3 per cent. Then, there is a provision that all the public sector industries which are non-competitive must be outside the purview of the Act. But what has happened in effect?

Government had to issue directions even to those public sector industries saying that despite what the Bonus Act said, but they might pay bonus and call it *ex-gratia*, and thus, in spite of the provision in the Act, the industrial units of the Government, the non-competitive ones have been giving bonus and calling it *ex-gratia*. Therefore, that provision in the Act has been thrown to the winds.

Again, in the private sector, take the case of the textile industry. The textile workers were never satisfied with this. In 1969, in Coimbatore, an agreement was entered into accepting the proposition that the bonus would be at the rate of 8 1/3 per cent; of course, a proviso was put in that it would be subject to the final shape that it would take. Again, in 1970 another agreement was entered into by the Coimbatore textile mills that the rate of bonus would be 8.1/3 per cent, in spite of the fact that 4 per cent was the minimum prescribed in the Act.



[Shri C. M. Stephen]

Sir, I come from Kerala, and there also, the industries even in the unorganised sector, whether it be coir, or cashew or handloom etc. they have now provided without evaluating the profit for a bonus of even 9 per cent. In the case of Government industries, it has become the practice that profit or loss, everyone would be given 8 per cent or 9 per cent or 10 per cent or even 11 per cent. Even in plantations, the private capitalists have admitted that irrespective of whether the industry is making profit or not, the bonus would be at the rate of 8 per cent or 9 per cent or 10 per cent.

I am pointing all this out in order to show that wherever the working class is organised, this provision remains a dead letter, and 8 1/3 per cent has become the order of the day, wherever the working class can assert itself. There has been a unanimous demand on this matter so much so that in 1970, Shri D. Sanjeevaiah had to give an assurance in Bombay that Government were reconsidering the position and that an amended legislation might be brought forward. He had given that assurance while addressing a meeting under the auspices of the Rashtriya Mill Mazdoor Sangh.

Subsequent to that, when a private member's Bill on the self-same question was discussed here, an assurance was given by Government that they themselves would bring forward a comprehensive Bill on the basis of which the Mover was asked to withdraw the Bill and he withdrew it. Again after Shri Khadilkar took over, this question came up. The State Labour Ministers' conference took place. There everybody almost unanimously demanded that the 4 per cent formula must be struck down and 8.1/3 per cent must become the pattern of the day.

The issue came up again in connection with the demand of the textile workers of Bombay. Then what has now come to be known as the Khadilkar formula was evolved. Shri Khadilkar can take the credit for it; his name will go down in history as the author of that formula. What is the essence of it? First 4 per cent was given the go-by and minimum must be 5 1/3 per cent. Then without deducting return on capital, without deducting provision for reserve, without making allowance for

rehabilitation but allowing only for normal depreciation, if there is available a surplus, on a graded scale bonus would be given going up to 8 1/3 per cent. That is, in cases where formerly if the bonus formula was applied, they would get only 4 per cent, they would now get 8 1/3 per cent.

Two things were accepted as a result of the Bombay textile workers' demand. The 4 per cent formula was dispensed with; 5 1/3 per cent has got to be given. But it can go upto 8 1/3 per cent even when there is a loss. This formula was also applied in Ahmedabad. A list of mills was drawn up. Except for 12 mills, all mills were producing balance sheet and profit and loss account. This formula is now being applied to every public sector industry. Bonus of 8 1/3 per cent has become the order of the day.

If the Labour Ministers of all States wanted it, if the labour unions all over India demanded it, if the employers who are bargaining with workers are compelled to agree to 8 1/3 per cent throughout, if the 4 per cent formula has become a dead letter and is buried, then the question remains why the question of 4 per cent must be raised at all. The question raised must be: why it should not be 8 1/3 per cent. The question should be asked the other way round. The question should be: why not 8 1/3 per cent? If the tripartite agreement specifies 8 1/3 per cent, if everybody says it should be 8 1/3 per cent, if the Labour Ministers of all States say it should be 8 1/3 per cent, if the late Shri Sanjivayya had said that 8 1/3 per cent had to be considered, if the Khadilkar formula stipulated 5 1/3 per cent with the expectation that it could go upto 8 1/3 per cent, naturally the question that follows is: why not 8 1/3 per cent and not why 8 1/3 per cent? If this is not conceded, anything may happen. Let the tallest in this country stand against it; whoever stands against it does so at his own peril because that is not going to be considered. 8 1/3 per cent will have to be given. If there is delay in giving it, it only means unnecessary dislocation. This is inevitable, a must 8 1/3 per cent.

Then when did the 4 per cent formula come up? In 1965. Will you not concede that real wages have eroded in the last five or six years? Has that erosion been made up? If the basis is the

making up of the gap, should not that erosion be accounted for? Is that not an argument to revise the 4 per cent upwards to make it 8 1/3 per cent? That being so, it has got to be done. Even before the puja season is coming, the bonus season is coming, it has got to be done. Otherwise, dislocation will take place. Industrial work will be disrupted; things will become difficult and unnecessarily forces will be unleashed. I hope employers will have sufficient sense to act betimes. The interim report may or may not be submitted or considered in time. But Government have got to tackle this problem very seriously.

The other question is about the areas where the coverage must take place. Of course, it has been demanded that the coverage must be extended to different areas and that the public sector must be covered; but in regard to the public sector the question as to which area or which character of that sector is to be covered has to be gone into. Anyway, the present absurd provision in the Act that every public sector which is competitive may get it and every public sector which is not competitive may not get it is to be taken out, and there is absolutely no rationale about it. That is not the way in which this has got to be looked at. There has to be a fresh look into this. Before things become rather hot, let the forces that are responsible become alert and address themselves to this task, because, if that is not done, things may go beyond our control and at this time, when production is the most important thing, let not the producing wheels be disheartened and a calamitous situation invited.

With these words, I support this Bill.

**SHRI SOMNATH CHATTERJEE** (Burdwan): Mr. Chairman, Sir, we very strongly support this Bill so far as it seeks to revise the minimum bonus under the Payment of Bonus Act. We feel that in 1965, the rate that was provided in the Payment of Bonus Act was an apology for payment of bonus. Four per cent which has been provided in this Act has never satisfied the workers. Considering the state of economy in this country, the rising cost of living, four per cent is worse than an apology. All the recognised trade unions in this country have been demanding that at least the minimum bonus should be raised to 8.33 per cent,

that is, one-twelfth of the total emoluments. But, as has been pointed out by other hon. Members, in practice, the rate of minimum bonus has now been 8.33 per cent, and Mr. Khadihar himself has advocated this rate. Therefore there can be no reason why at least a statutory provision should not be made in the Act, so that the employers are forced to pay at least this minimum amount, even though it is not sufficient.

So far as the coverage is concerned, we have always felt that in the Act, artificial standards have been laid down without any rationale being there for excluding some of the types of industries or some of the types of workers from the benefit of the Payment of Bonus Act. The public sector was brought in a very limited manner, within the scope of this Act.

As Mr. Stephen pointed out, only in the case of competitive public sector units this was applicable. That is why we feel that the suggestion which has been made by Prof. Dandavate in this Bill is very welcome. As a matter of fact, we would have been happier if the provision had been made wider and instead of only the public sector undertakings, the Government employees had been brought within the scope of this Bill.

There is one provision with regard to which I wish to draw the attention of Prof. Dandavate. Probably he has not considered it from the aspect which I am now placing. Section 11 of the existing Act provides that the maximum bonus will be 20 per cent. Section 10 provides that the minimum bonus will be four per cent, or Rs. 40 whichever is higher. But under the present Act, the obligation to pay bonus at a rate above four per cent is because of the provision contained in section 11. But even if there is a ceiling of 20 per cent, Mr. Dandavate, in clause 4 of this Bill, has suggested that the entire section 11 should be omitted.

What will happen? So far as the maximum bonus is concerned, there will be no provision. Although he wants to get rid of the ceiling under section 11, what will happen is, if clause 4 of the Bill is adopted, no employer will have any statutory obligation to pay bonus over and above the one-twelfth as has been suggested in the clause.

[Shri Somnath Chatterjee]

Therefore, I request Mr. Dandavate to suggest an amendment to this clause.

**SHRI K. NARAYANA RAO** (Bobilli) : It follows from the formula. There is a formula for it.

**SHRI SOMNATH CHATTERJEE** : In case more than twenty per cent can be given, why not give it ; why should there be a ceiling at 20 per cent ; if the employer can afford to pay more, it should be paid. Therefore we want the ceiling imposed in clause 11 should go.

There is another aspect—the way the surplus has to be calculated has been laid down in the first schedule. It is the experience of persons who have had to do something in connection with the enforcement of the Payment of Bonus Act before the tribunals that great difficulties are faced in calculating bonus, available surplus and allocable surplus. I am sure Mr. Gokhale will agree with me having wide experience of this branch of law. I request the Labour Minister to give intensive thought to this problem and to suggest amendments to the Payment of the Bonus Act which will simplify the procedure. All these provisions for making deductions are being utilised by the employers for showing that the available surplus is less. All sorts of complicated methods of calculation have been laid down in the statute and it is really defeating the very purposes of this legislation.

The urgency of the matter cannot be denied. Throughout the country labour is restive because they feel that the minimum bonus which they consider to be reasonable, 8.33 per cent, is being denied to them. In Bombay thousands of workers have to go on strike for getting an assurance for this amount of bonus which everybody in this House considers to be a very reasonable amount. If we want industrial peace to be maintained in this country, this minimum should be assured and it should be satoritorily provided, not left to the employer-employee negotiation, allowing the employers to go on manipulating their balance sheets and profit and loss accounts. For the proper development of industrial production and maintenance of industrial peace, this is the minimum I expect of the Government. Mr. Khadilkar having already accepted

the principle, I do not see any reason why he should not accept it here, unless there are pressures to the contrary from more important quarters that this should not be accepted.

I shall refer to clauses 8 and 9. Clause 9 deals with section 3 of the Act, sub-clauses 1, 4 and 10. The first deals with general insurance employees, (4) deals with persons employed by establishments engaged in industries carried on by or under the authority of any department of the Central Government or the State Government or local authority and (10) refers to employees in establishments in the public sector, save as otherwise provided under this Act. Now with the increase in public sector undertakings in number as well as in extent it is necessary that those who are in the public sector undertakings should be brought within the ambit of this Bill so that they get the benefit out of this Bill.

Therefore, we very strongly support this Bill and I request Prof. Dandavate to consider amending clause 4, so that the minimum bonus may not otherwise become the maximum bonus.

**SHRI M. RAM GOPAL REDDY** : Sir, I really want to congratulate Prof. Dandavate on having brought this Bill at the most opportune time, because there is widespread drought in the country. 80 per cent of the country is under drought and the remaining 20 per cent under floods. Industrial production has gone down from 12 to 2 per cent. Idle capacity in factories is increasing per unit cost has gone up. Under such circumstances, he has brought a very grand Bill of which the communists and socialists are boasting so much. I congratulate him because the Labour Minister is acting as a super trade union leader and conceding point after point. Last time he conceded gratuity even for an illegal strike period. There is no wonder if he is going to grant this also. I want to know how many people are living in this country. Only the 50 lakhs or 1 crore of labour are living and the labour leaders are living. The remaining 55 crores of people are not living. Nobody cares for them.

**MR. CHAIRMAN** : He may continue on the next day. Now we will take up the half-hour discussion.