

SEVERAL HON. MEMBERS *rose*.—

MR. SPEAKER : I think that many a time, whatever time we fixed in the Business Advisory Committee, we have exceeded that time.

Yesterday, last night what happened? I am sorry. In the Committee you said one hour was not enough; so we agreed on two hours. Last night it went up to 9 O'clock. More than five or six hours had been taken on one motion.

SHRI DINEN BHATTACHARYYA : The issues are so important.

MR. SPEAKER : If on such issues, you clearly say in the Business Advisory Committee, we can decide accordingly.

SHRI INDRAJIT GUPTA (Alipore) : The House is willing to sit late; how does it interfere with them?

MR. SPEAKER : It is not a question of willingness to sit. The staff, overtime and so many other things have to be taken care of by me. For you it is just sitting; it is not a question for us alone; it is a question for the Parliament's staff also. Anyway we should try to stick to the time.

SHRI RAJ BAHADUR : I only want to clarify that in the Business Advisory Committee we did not fix any number; we said that we shall try according to the importance of the motion.

SHRI JYOTIRMOY BOSU (Diamond Harbour) : At least two; that was the decision.

SHRI DINEN BHATTACHARYYA : All the factories in West Bengal are closed; it is because of power failure. When will that discussion come up here?

MR. SPEAKER : In the Business Advisory Committee we said that normally, as a matter of procedure we had seen having one. As the session was short, I said that

we should have another two or three; that comes to having almost two a week. We did not like to by pass the convention. I said that in one week we may have extra; it is a question of putting it.

SHRI S. M. BANERJEE (Kanpur) : It is difficult for you to allow call attention notice or discussion. But I should like you to ask the Minister to make a statement on this subject. You are aware that it was admitted by the Finance Minister that the cost of living index has gone up to 239 and according to the promise made to the Central Government employees the dearness allowance will have to be revised. I want him to make a statement when he is going to implement it.

MR. SPEAKER : You can write to me about this rather than raise it under 377. I shall send it to him.

SHRI S. M. BANERJEE : I have already written to you but the paper has been returned to me.

MR. SPEAKER : This statement is already there. We shall adjourn now for lunch. We should try to stick to the schedule, and so we meet again at 2 O'clock.
13.15 hrs

The Lok Sabha adjourned for Lunch till Fourteen of the Clock

The Lok Sabha re-assembled at Five Minutes past Fourteen of the Clock.

[MR. DEPUTY SPEAKER *in the Chair*]

COKING COAL MINES (NATIONALISATION) BILL—*Contd.*)

Clause 17—(*Employment to certain employees to continue*)

[MR. DEPUTY SPEAKER : We resume discussion on amendments to clause 17 of

the Coking Coal Mines (Nationalisation) Bill.

SHRI SOMNATH CHATTERJEE (Burdwan) : I had yesterday moved two amendments which read as follows :

Page 8, lines 31 and 32, —

after "Central Government" insert —
"which will not be less favourable than the remuneration, terms and conditions of employment as prevailing on the appointed day"

Page 9, lines 13 and 14, —

omit "against the owner of the coking coal mine or coke oven plant, as the case may be, hut not"

So far as clause 17 is concerned, I feel that the Minister ought to accept my amendments because if the intention is taken over all the workmen in the nationalised undertakings there is not reason why this assurance should not be given, a statutory assurance, if I may use that expression, that even if their terms and conditions are altered, they will not be altered in a manner which will be less favourable or less advantageous to them. The provision is that the terms and conditions of employment may be altered. We only want this should be made clear that this alteration should not be to the detriment of the employees.

Then I come to my amendment No. 20. Clause 17(5) says:

"Where, under the terms of any contract of service or otherwise, any person whose service becomes terminated, or whose service becomes transferred to the Central Government or a Government company by reason of the provisions of this Act, is entitled to any payment by way of gratuity or retirement benefit or for any leave not availed of, or any other benefits, such person

may enforce his claim against the owner of the coking coal mine or coke oven plant, as the case may be, but not against the Central Government or the Government company."

My amendment says that it will be enforceable against the Central Government but not against the previous owner. Government can later take steps against the previous owner. Suppose after six months or one year government brings into operation clause 17(2) and says to an employee "your services are no longer required; you may go". By that time the amount of compensation may have been paid under clauses 23 and 24. What will those employees then do? Because, the money will not be in the hands of the government or the Commissioner thereafter. They will have to run after somebody whose existence they do not know and to whom they have no access whatsoever. So, the net result is that these officers will lose their jobs and they will have no chance of recovery of the gratuity or retirement benefit. By this amendment we are suggesting that government should pay these employees. Let the government afterwards recover the amount from the previous owners, if they can. When the choice is between government taking steps for recovery of this amount and the employees taking steps for the recovery of the amount, our submission is that the government should take up the responsibility and not the employees.

What has been provided in clause 23 is that wages etc. will be paid after the secured creditors are paid off. A time-limit is also specified under clause 23. Sub-clauses (2) and (3) of clause 17 may come into operation much later. By the time the employees try to recover the gratuity or retirement benefit from the previous owners there will

[SHRI SOMNATH CHATTERJEE]

be nothing left. That is why we are suggesting that these amendments could be favourably considered and accepted by the Minister.

DR. RANEN SEN (Barasat): In the speech of the hon. Minister the other day he said that the secured creditors will be first in the queue.

THE MINISTER OF STEEL AND MINES (SHRI S. MOHAN KUMARAMANGALAM): Sir, I would request the hon. Member to speak on clause 23 when it is taken up. Then I will deal with the point about secured creditors. Now, let him speak on the two amendments which have been moved.

DR. RANEN SEN: These are inter-related.

SHRI S. MOHAN KUMARAMANGALAM: I am not burking the question. I will deal with that point when we take up clause 23. Now we are dealing with different problems.

You have moved amendment Nos. 19 and 20 and I am dealing with them now. So far as Amendment No. 19 is concerned we are not in favour of accepting it. The reason is that under the comprehensive clause like this, it is extremely difficult to actually operate. We have to standardise conditions of service in all these concerns. In one particular concern, the medical leave may be a little more, in another concern, the casual leave may be more. It may vary from concern to concern. If you take the terms of service conditions, the best of all, you may get a very unbalanced position indeed. Therefore, we want to standardise them and we want to have reasonable service conditions. If somebody loses on one hand, he will gain on the other. Now, suppose, 30 days leave is the total leave—20 days privilege leave, 5 days casual leave and 5 days medical leave. In another place, it is 15 days privilege leave, 15 days medical leave and 5 days casual leave which will make

35 days leave. If you have a statutory guarantee, the matter will go to a court and what a decision of the court in a case like this will be is anybody's guess. Therefore, we do not want to have it. We have not done it in the past. No matters have been taken to court even in the case of I. I. C. and companies like that. That is because what has been fixed has been broadly favourable to the employees. Any statutory guarantee like this will lead to litigation by individual workers or staff or officers belonging to different companies.

So far as the question of probation which my hon. friend Shri Indrajit Gupta raised is concerned there is no such intention. A correction will be made if that has been read that way to make everybody subject to a period of probation. All those who are permanent employees will automatically become permanent employees of the new organisation. Only those who are temporary or were on probation earlier will be on probation. If the circular—I have also got a copy of it—is likely to be misunderstood though that is not the intention certainly the matter will be cleared. I would like to assure the hon. Member that there is no intention of subjecting 1,20,854 employees to the whole process of probation all over again. Those who are permanent employees will be permanent employees and those who are not permanent employees will have to take their chance in the manner in which the service conditions provide for it.

So far as the second amendment to sub-clause (5) of clause 17 is concerned, I am afraid, I am not in a position to accept that also. We cannot guarantee all the liabilities of the previous owner to the staff. We can only say, "You go against the previous owner." We cannot take over all the liabilities. So far as clause 17(1) is concerned, you can take my assurance that nobody's services are going to

be terminated at all. It is only in clause 17(2) that it may arise and it will arise only in relation to very highly paid staff earning Rs 40,00, Rs 50,00, Rs 80,00 or Rs 10,000 or even more with whom were likely to have some difficulty in reaching an understanding about their future. We do not want to take on ourselves the liability for every contract probably, very onerous contracts, which had been entered into by a Manager who has served say, for 10 years and has earned Rs 10,000 or Rs 15,000 a month plus so many perquisites this and that and on termination, was entitled to two months gratuity for every year of service rendered and all that. We are not prepared to take over such a liability.

I think, the hon. Member should appreciate the assurance given by the Government not because we are giving it but because this is not the first occasion we are nationalising and we have nationalised quite a number of concerns in the past, that we have had no complaints that the employees have been maltreated by not being given gratuity and other benefits. If you introduce a comprehensive clause like that, you will compel the Government to pay out to highly-paid persons who refuse to work for the new companies and then make us dole out even lakhs of rupees.

That is why we cannot accept your amendment.

SHRI SOMNATH CHATTERJEE Is it the Minister's view that claim under sub-clause (5) will come under Clause 23?

SHRI S. MOHAN KUMARAMANGALAM It is very likely in relation to the highly paid people because the point whether they will continue in service or not will be settled quickly, in many cases it has already been settled as to whether they are continuing or not. In relation to

workmen, I think, you and I are interested in 17(1) and 17(2). We are also interested in 17(2) because we are interested in justice. But we are more interested in 17(1). In relation to 17(1) I would ask you to accept the Government's assurance that we do not intend to do, and will not do, harm by cheating them of their gratuity or whatever retirement benefits they may be entitled to. I ask you to accept the assurance on the basis of the record of the Government in relation to these matters.

MR. DEPUTY SPEAKER I shall now put all the amendments—19, 20 and 21—together to the vote of the House.

Amendments Nos. 19 to 21 were put and negatived.

MR. DEPUTY SPEAKER The question is

That Clause 17 stand part of the Bill?

The motion was adopted.

Clause 17 was added to the Bill.

MR. DEPUTY SPEAKER Clause 18. Mr. Kartik Oraon. He is not here. I shall put the Clause to the vote of the House.

The question is

“That Clause 18 stand part of the Bill?”

The motion was adopted.

Clause 18 was added to the Bill.

Clauses 19 to 21 were also added to the Bill.

Clause 22—(Statement of accounts in relation to the period of management by the Central Government etc.)

THE MINISTER OF STATE IN THE
MINISTRY OF STEEL AND MINES
(SHRI SHAHNAWAZ KHAN) : I beg to

move:

Page 10, line 25,—

after "vested in it" insert—

"under the Coking Coal Mines (Emergency Provisions) Act, 1971"(7)

SHRI S. MOHAN KUMARAMANGA-
LAM : This is regarding certain procedural
matters. We want to safeguard ourselves.
I do not think the House will have any objec-
tion.

MR. DEPUTY-SPEAKER : The ques-
tion is :

Page 10, line 25,—

after "vested in it" insert—

"under the Coking Coal Mines
(Emergency Provisions) Act, 1971"
(7)

The motion was adopted.

MR. DEPUTY SPEAKER : The ques-
tion is :

"That Clause 22, as amended, stand part
of the Bill."

The motion was adopted.

Clause 22, as amended, was added to the Bill.

Clause 23—(Claims to be made to the
Commissioner).

SHRI SOMNATH CHATTERJEE : I
beg to move:

Page 12, Line 11,—

for "they shall abate in equal propor- 5 of
tions and be paid accordingly" 1908

substitute—

"the Central Government shall pay
the amount of short-fall" (22)

Page 12,—

for lines 12 to 14,

substitute—

"(4) The Commissioner shall decide
upon the claim within a period of
three months from the date the
claim is preferred" (23)

Page 12, line 21,—

for "prove" substitute "prefer" (24)

Page 12, line 22,—

for "by the Commissioner" substitute—

"in sub-section (1)" (25)

SHRI K. BALADHANDAYUTHAM
(Coimbatore) : I beg to move :

Page 11, lines 33 to 36,—

for "unsecured debts, not being the
amounts advanced by the Central
Government or the Custodian ap-
pointed under the Coking Coal Mines
(Emergency Provisions) Act, 1971,
for the management of the coking
coal mine or coke oven plant, as
the case may be"

Substitute "liabilities" (27)

SHRI SHAHNAWAZ KHAN : I beg to
move:

Page 12,—

after line 28, insert—

"(7A) The Commissioner shall have
the power to regulate his own pro-
cedure in all matters arising out of
the discharge of his functions in-
cluding the place or places at which
he will hold his sittings and shall, for
the purpose of making any investi-
gation under this Act, have the same
powers as are vested in a civil court
under the Code of Civil Procedure,
1908, while trying a suit, in respect of
the following matters, namely:—

- (a) the summoning and enforcing
the attendance of any witness and
examining him on oath;
- (b) the discovery and production of
any document or other material
object producible as evidence;
- (c) the reception of evidence on
affidavits;
- (d) the issuing of any commission
for the examination of witnesses.

(7B) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of 1860, the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of 5 of the Code of Criminal Procedure, 1898, 1898." (28)

SHRI SOMNATH CHATTERJEE : Amendment No. 22 is with regard to sub-clause (3) of Clause 23, at page 12. Clause 23 says that after the claims of the secured creditors are paid, the claims of other unsecured creditors will come. No doubt, the employees' entitlements to the extent mentioned there will be paid. But sub-clause (3) says:

"The debts specified in sub-section (2) shall rank equally among themselves and be paid in full, unless the assets are insufficient to meet them in which case they shall abate in equal proportions and be paid accordingly."

Let us see the nature of the dues mentioned. The first is all wages or salary, including compensation payable for retrenchment, etc. Then:

"all amounts due in respect of contributions payable during the twelve months next before the appointed day, under the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948..."

"all amounts due in respect of any compensation or liability for compensation under the Workmen's Compensation Act, 1923 in respect of death or disablement of any employee" and then "all sums due to any employee from a provident fund, a pension fund or gratuity fund" and "all sums due to the State Government as royalty, rent or dead rent, as the case may be," apart from the dues of the workmen. Kindly see that most of them are statutory entitlements

like statutory compensation under the Coal Mines Compensation Act, Bonus Schemes Act and then Workmen Compensation Act and the Provident Fund Act. Our submission is and we very strongly suggest this for his acceptance. So far as the statutory entitlements of the labourers are concerned, why should they be put in the position that if the amount which has been determined by the Government is not sufficient to pay off the secured creditors and then the unsecured creditors including the State Government coming and participating, they may not get anything. Kindly see. The amount of royalty to the State Government—that also has to be treated on an equal footing with the labourer's entitlements. You all know that there are huge sums outstanding on account of rent and royalty to the Government. If it is clubbed together with this amount, there is hardly anything left. I had occasions to talk to one or two persons. Yesterday, I incidentally met some employees. They say that the liabilities are such that there will hardly be left anything to pay even the secured creditors, not to speak of unsecured creditors. I am not asking for any increase. What I am submitting is that now that they have become Government employees—what mistake have they done?—they ought not to be made to suffer. They should not be made to lose their statutory entitlements. There is no question about the legitimacy of this demand, about the genuineness of the demand. If there is any shortfall, let the Government, as an ideal employer, pay them. Why should the employees lose? I don't know whether any debts have been detected by the Government in respect of any particular colliery. In that case, we should have known as to what is the position. If any debts have been detected, what are the debts? What is the amount of compensation? What is the extent of the loss that they will suffer? The hon. Minister would kindly consider

[SHRI SOMNATH CHATTERJI F]

favourably this amendment amendment No 22

So far as the other three amendments are concerned they are more of the nature of drafting suggestions I have given an amendment for substituting lines 12 to 14 Here it is provided

The Commissioner shall fix a certain date on or before which every claimant shall prove his claim or be excluded from the benefit of the disbursements made by the Commissioner

The suggestion we are making is that it should be substituted by

The Commissioner shall decide upon the claim within a period of three months from the date the claim is preferred

There I may be administrative difficulties If as proposed in sub-clause (4) the employee is required to prove his claim by a certain date it may create hardship to the employee Proving the claim does not always depend upon him He prefers the claim he may adduce the proof but that has to be gone into by the Commissioner He may present the proof but whether it is accepted or not that will depend on the Commissioner Therefore why should a time limit be mentioned here?

Similarly sub-clause (6) for which we have given an amendment says that every claimant who fails to prove his claim within the time specified by the Commissioner shall be excluded We are suggesting that instead of proving, it would be that "every claimant who fails to prefer his claim within the time specified" He may be excluded from the disbursements made by the Commissioner

Amendment No 25 is a consequential one It is

Page 12 line 22 -

for 'by the Commissioner substitute

"in sub section (1)'

These are consequential amendments I request the hon Minister to consider favourably amendment No 22

SHRI K BAI ADHANDAYUTHAM I hope the hon Minister will accept the spirit of what he spoke that he would give priority to the wages and other entitlements of the employees So I think he will give top priority and see that they get the payments Compensation is not paid to him the dues of the workers are not paid You say first charge will be on royalties secured debts and so on The workers will have to go without their dues being realised This is the position Therefore I request the Minister to give first priority and stipulate that the company has to make this payment to the Commissioner I insist upon my amendment and I request him to consider and make suitable changes

DR RANJIN SIN The hon Minister explained that the secured creditors will have the first charge He said they are not responsible for any mismanagement they are quite innocent people and all that May I ask him what workers have done? Were they responsible for any mismanagement for the slaughtering of the mines? If the secured creditors get first priority why should workers be denied? This I am not able to understand I hope the Minister may be aware of the fact that there are many secured creditors who are *benami* creditors belonging to the same group of organisations This has been the situation in the coalmines and other industries They cheat both the Government and the workers by subscribing in such a manner If anybody should get the first priority it should be the workers It is so on grounds of natural justice also Production is due to the workers and the participation of the workers What we find is that their wages, their arrears, their provident fund, etc remain unpaid to

them. We have been told that the first priority will not be that of the workers. The hon. Minister said that they will be having priority, but that they will be second in the queue. I do not understand the position. Section 23(2) (c) says about 'all sums due to the State Government as royalty, rent or dead rent, as the case may be. In regard to that, the hon. Minister knows that the West Bengal Government has put in a claim of Rs. 30 crores.

AN HON. MEMBER: So has the Bihar Government?

DR. RANJEN SIN: It will be more. Coking coal mines in Bengal are only 4 or 5. Most of the coking coal mines are in Bihar. In West Bengal Government puts claim of Rs. 2 crores or Rs. 3 crores out of this Rs. 30 crores, then, the Bihar Government will claim Rs. 30 crores or Rs. 40 crores. Sub-clause (3) says:

The debts specified in sub-section (2) shall rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions and be paid accordingly.

It is a very unfair attitude to the H. assets are not there, what happens to the workers? One of my friends here said, the money-lenders are placed first in the queue and the workers who have built up that mine comes only second in the queue. So, with regard to the amendments moved by Mr. Chatterjee and Mr. Baladhandayatham, I would appeal to the Minister to see that proper justice is done to the workers.

SHRI VASANT SATHI (Akola): I am speaking in support of the spirit of the amendment. I want a clarification and if that satisfies hon. Members, then the purpose will be served.

Under section 317 of the Companies Act, chapter 5-A claims are included as priority

claims to the extent of Rs. 1000 per worker. If that is done, then even with the secured creditors, it becomes a priority claim along with the Government creditors. Why should the wages of the coal mines workers also not be included if necessary by amending section 317 of the Companies Act and adding this to that section so that they will be put on a par and no hardship may be caused to them? If that suggestion is accepted then all this hardship due to the employees being put below the secured creditors would be overcome. If this is done then it will serve the purpose and meet the requirements.

SHRI S. MOHAN KUMARAMANCIAM: The difficulty about acceptance of these amendments really arises out of the position that we have in the law of our country. Section 73 of the Transfer of Property Act gives certain rights to any person who lends money on the basis of security. If the concern had just closed down, what would have been the position in relation to the workers or any creditors? The workers would have stood in the same place as all unsecured creditors and would have come after the secured creditors. That would have been the position.

Therefore, what we have done is while we have not, as it were, amended by implication section 73 of the Transfer of Property Act, which we think will not be good from the point of view of the business relationships that exist in the country under the law as it exists in our country today, we have put all the workers' claims above the claims of all other unsecured creditors, apart from the State claims of royalty. It is always a difficult thing to decide as to whether we should put the State behind. For, after all, what is the State claim except the claim of all the rest of the people over whatever comes into the hands of the State? We have to decide then that the workers' claims under this section should be above

[Shri. Mohan Kumara mangalam]

the claims of the people as a whole who are supposed to own the mines and the minerals under the mines and in respect of which they are paid royalty. But the State is not something different from the people or the country. The State is also entitled to certain payments in respect of the exploitation of the minerals which exist and that is called royalty. Therefore, we think that it would in principle be wrong that what is owed to the State as a whole should also be pushed out along with the other unsecured creditors and they should all be treated on the same plane. This is the main point that I wish to make.

Now, I go on to the next point namely that where the debts are not being met fully, or in other words, the assets are insufficient to meet them, they shall abate in equal proportions and be paid accordingly. My hon. friend, Mr. Chatterjee, has moved an amendment in this regard and said that Government should pay. The point is simply this. Are Government to take over the responsibility of paying the workmen in any case where there is a shortfall? Supposing any industry closes down tomorrow, would there be any responsibility on the part of Government to take it over and pay? There would be none, and I think we are all agreed there. They would manage as best as they can and from whatever are the assets that the concerns has. In fact, they would not have got the benefits which they are getting under this Bill, because they would rank lower down and they would not be able to get all that they should get. It is a different matter if it goes into liquidation under the Companies Act, because that will be covered by a different law. But there, if it is the ordinary enactment, then it will be governed by section 73 of the Transfer of Property Act, and we do not think that it is right to load the Government which means loading the general revenues with the payment of whatever balance is due.

I would submit that we are not making the workers worse off. There seems to be a general feeling because some of the Members who have spoken that way, that this would put the workers in a more disadvantageous position than they would otherwise have been in. I would submit that that is not correct. On the contrary, we are in a sense making them better off, because whereas they would have been ordinary unsecured creditors just somewhere in the queue, possibly at the back of the queue, as it were, we have brought them right up to the stage behind the secured creditors.

What we have not done is to go against section 73 of the Transfer of Property Act. We do not think that under the law as it stands in our country today it will be proper to do so because that will lead to a general state of uncertainty.

My hon. friend Dr. Ranen Sen has talked about possible benami transactions. That is a part of the life which we have to lead and which we have to tolerate. We have to get rid of it in the best way we can, but we cannot because of a possible misuse of the law say that the law itself must be set aside.

Then there should not be any secured creditors; there should not be Sec. 73 of the Transfer of Property Act. By all means let it be if we come to such a position. But so long as the law stands as it does in this respect, what we have done under this Act is not—I repeat is not—to put the workers in a worse position than what they were before nationalisation, but to put them actually in a better position. That is my difficulty in accepting these amendments.

As for sub-cl. (6), I think the hon. member has a point. "Every claimant who fails to prove his claim within the time specified by the Commissioner, ... really with all respect to myself and the draftsmen, this

makes little sense. It should read—this is a suggestion—

“Every claimant who fails to file the proof of his claim within the time specified”.

If he is prepared to accept this or reframe his amendment in this way, with the permission of the House—I am sure the House will permit it—I am prepared to go along with him. Mr. Deputy-Speaker, the hon. member has moved an amendment to cl. 23(6), using the word ‘prefer’. It does not really bring out the meaning because that is covered by 23(1), that is, the filing of the claim, the preferring of the claim. This is really the filing of the proof. So I would be prepared to accept an amendment which reads: ‘Every claimant who fails to file the proof of his claim within the time specified’.

SHRI SOMNATH CHATTERJEE :
Agreed.

SHRI S. MOHAN KUMARAMANGA-
LAM : If he moves it in that way, I am prepared to accept it.

SHRI SOMNATH CHATTERJEE :
May I move it likewise?

MR. DEPUTY-SPEAKER : Let him submit it to me first.

SHRI S. MOHAN KUMARAMANGA-
LAM : The others do not arise.

DR. RANEN SEN : What about the amendment regarding extension of the timelimit—Instead of one month, three months. moved.

SHRI S. MOHAN KUMARAMANGA-
LAM : To my knowledge, there is no such amendment. Instead of his amendment, let him put it as I have suggested. Then I am prepared to accept it because that is really what we want. I think this covers the discussion on cl. 23.

I have got my amendments (7A) and (7B)—amendment No. 28.

SHRI DINEN BHATTACHARYYA
(Serampore) : Please see amendment No. 23. It is an amendment for extension of time.

SHRI S. MOHAN KUMARAMANGA-
LAM : For deciding the claim? I am afraid it is impossible to put down a mandatory clause like that because after all there must be some reality attached to any provision that we insert into a Bill. It is not realistic to insist that the Commissioner should decide it in three months, when first of all you give one month for the filing of claims; then there will be quite an amount of clerical work to sort out the claims and then to examine and pronounce on them. With all the speed we shall try to ensure, I do not think it is possible for him to do it.

SHRISOMNATH CHATTERJEE : How long does he think it should take? There should be some indication.

SHRI S. MOHAN KUMARAMANGA-
LAM : We are trying to ensure that the person who is appointed Commissioner will have no interest in prolonging the proceedings, as some persons appointed Commissioners do. Being a member of the bar, he knows it. If you appoint somebody who has no other occupation except this, it may go on for even a decade. We would appoint somebody who by virtue of the office he occupies would like to finish it quickly, and we shall try to finish it as quickly as possible.

MR. DEPUTY-SPEAKER : There are a number of amendments. There is one which is moved by the Government, which I will put separately. There is another amendment which the Minister has indicated that he would accept. I think I will have to put them separately.

SHRI S MOHAN KUMARAMANGA-IAM : No 24 is the amendment which I am accepting

MR DEPUTY-SPEAKER He has given another which has been re-numbered as amendment No 30 I will now first put amendment Nos 22, 23, 24 25 and 27 to clause 23

Amendments Nos 22 to 25 and 27 were put and negatived

MR DEPUTY-SPEAKER I will now put amendment No 28 by **Shri Shahnawaz Khan** The question is

*Page 12,

after line 28, insert

“(7A) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions including the place or places at which he will hold his sittings and shall for the purpose of making any investigation under this Act have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely

- (a) the summoning and enforcing the attendance of any witness and examining him on oath,
- (b) the discovery and production of any document or other material object producible as evidence,
- (c) the reception of evidence on affidavits,
- (d) the issuing of any commission for the examination of witnesses

(7B) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 (45 of 1860) of the Indian Penal Code and

the Commissioner shall be deemed to be a civil court for the purposes of section 195 (5 of 1898) and Chapter XXXV of the Code of Criminal Procedure, 1898”, (28)

The motion was adopted

MR DEPUTY-SPEAKER Now I am putting the new amendment

SHRI S MOHAN KUMARAMANGA-IAM I am sorry to trouble you again, because, when we make this amendment, I think we have to be cautious. If we are amending clause 23(b) in the manner I have suggested, clause 23(4) will also have to be consequentially amended which will then read

“The Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim”

SHRI SOMNATH CHATTERJI . There is a similar amendment from me

MR DEPUTY-SPEAKER You will have to reword it

These are the new amendments

SHRI SOMNATH CHATTERJI I move

Page 12 line 13, for ‘prove’ substitute
“file the proof of” (30)

Page 12, line 21, for “prove” substitute
“file the proof of” (31)

MR DEPUTY-SPEAKER The question is

*Page 12, line 13, for “prove” substitute
“file the proof of” (30)

The motion was adopted

MR DEPUTY-SPEAKER The question is

*Page 12, line 21, for “prove” substitute
“file the proof of” (31)

The motion was adopted

MR. DEPUTY-SPEAKER : The question is :

"That clause 23, as amended, stand part of the Bill".

The motion was adopted.

Clause 23, as amended, was added to the Bill.

Clause 24—(Disbursement of money by the Commissioner)

MR. DEPUTY-SPEAKER : Now, we take up Clause 24.

SHRI SOMNATH CHATTERJEE : I move :

Page 12, lines 38 and 39,—

for "every such claim shall abate in equal proportions and be paid accordingly"

substitute—

"the Central Government shall provide funds to the Commissioner to the extent of the amount of short-fall" (26)

I am pressing it. But I need not speak on it.

MR. DEPUTY-SPEAKER : I shall put amendment No. 26 to the House.

Amendment No. 26 was put and negatived.

MR. DEPUTY-SPEAKER : The question is :

"That clause 24 stand part of the Bill."

The motion was adopted

Clause 24 was added to the Bill.

Clauses 25 to 29 were added to the Bill.

Clause 30—(Penalties)

MR. DEPUTY-SPEAKER : Now, there is clause 30; there are two amendments, 8 and 29.

SHRI SHAHNAWAZ KHAN : I move :

Page 14, line 7, after "Central Government" insert "or Government company" (8)

Page 14, line 23, omit "he" (29)

MR. DEPUTY-SPEAKER : The question is :

"Page 14, line 7, after "Central Government" insert "or Government company", (8)

The motion was adopted.

MR. DEPUTY-SPEAKER : The question is :

"Page 14, line 23, omit "he," (29)

The motion was adopted.

MR. DEPUTY-SPEAKER : The question is :

"That clause 30, as amended, stand part of the Bill.

The motion was adopted.

Clause 30, as amended, was added to the Bill.

Clauses 31 to 36 were added to the Bill.

MR. DEPUTY-SPEAKER : The question is :

"That the First Schedule, Second Schedule, Clause 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

The First Schedule, the Second Schedule, Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI SHAHNAWAZ KHAN : Sir, I move :

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

MR. DEPUTY-SPEAKER : Motion moved :

"That the Bill as amended, be passed."

SHRI DINEN BHATTACHARYYA : Sir, I want to say at this stage, even though

[Shri Dinēn Bhattacharyya] everything to be said has already been said, that the mine-owners who have the mines will benefit by this Bill. Shri Mohan Kumaramangalam has by this Bill butchered the workers. He has tried to explain his position as if he was pleading for the cause of the mortgagees, the mine-owners. . . .

MR. DEPUTY-SPEAKER : You are going into details; we are at the third-reading stage.

SHRI DINEN BHATTACHARYYA : This is a very important thing. You should also realise that the workers work in the mines under the ground. Government speaks about socialism and *garibi hatao*. They can change the Constitution when they want. In this case they have fully protected the rights of the mine-owners. Land reforms have been scuttled and there is no longer any hope. Of their socialism, only the ism remains; there is nothing social in it.

Therefore, My humble request to Mr. Mohan Kumaramangalam is that he should at least not forget his past. He should be honest enough to admit that he had left no scope and no opportunity for the workers who work hard to get a due share. He is now helpless because he has joined a Party whose policy he has to follow, namely, to save the interest of the propertied classes. Here is the example. The poor workers will not get their provident fund or other dues. It is a clear and blatant example that this Government is not to safeguard the interest of the down-trodden people.

MR. DEPUTY-SPEAKER : What should be done to Bill ?

SHRI DINEN BHATTACHARYYA : He should be bold enough to come with suitable amendments to the Bill.

SHRI H. M. PATEL (Dhandhuka) : I think Mr. Bhattacharyya said that the Hon. Minister had butchered the workers.

It seems to me that the hon. Minister had butchered the owners.

DR. RANEN SEN : The owners have butchered the mines.

SHRI H. M. PATEL : Perhaps the hon. Minister could derive some satisfaction from the fact that he has been butchering all round. When he said in his very persuasive manner that the assets were evaluated by experts, and this is how the amount was arrived at, he did not indicate what principles were followed by those experts who valued the asset, nor did he make it clear what were the assets which were taken into account. When one studies the detailed figures it does seem that in many cases the owners would not even get one third value of their assets. In certain cases even the value of the coal stocks are not being offered to the owners. It is not clear what norms, what criteria were adopted in arriving at the amount. Article 31 as it stand amended by the 25th amendment certainly suggested that an amount only should be mentioned. But the right of the property has not yet been embodied and there it was accepted even when the 25th Amendment was discussed and debated in the House. you said that it will be dealt with and the amount will be arrived at fairly and that fair and reasonable compensation will be given, the word compensation need not be mentioned nevertheless, what the amount is supposed to be is not clear. For instance, one of the most important thing in valuing all these assets would be that in the coal mine what is the potential, how much coal still remains in the mine? If it is already exhausted, naturally its value would be nil. But has that aspect been taken into account? What are the other assets that have been taken into account? You can clearly see from the Bill that the liabilities have not been deducted from the assets in arriving at the amount, and if that is

so, then the position of the owners is even worse. But there is no harm in not deducting the liabilities from the valuation of the assets in arriving at the amount so long as the valuation of the amount has been done in a fair manner. This is what I would request the hon. Minister to indicate, what are the norms that he has adopted in evaluating the assets. What are the items that he has taken as assets or his exports have taken as assets in particular. I would like to know whether the potential in a colliery, whatever has been left in reserve that has been fully taken into account or not? This is all what I have to say because at this stage I do not wish to take more time, but I put this particular point that the amount has to be arrived at so that the owner does get a fair and reasonable value for whatever he is surrendering or what ever he is being deprived of.

श्री कमल मिश्र मधुकर (केसरिया) : उपाध्यक्ष महोदय, अगर कोई यह ममझता है कि इस बिल को पास कर देने में समाजवाद आ जायेगा तो यह भ्रम में है। इसमें समाजवाद नहीं आने वाला है। मैं ममझता हूँ कि वर्कज के इंटरैक्ट के इस गैट-प्रप में देखा जाना चाहिए और उनके इंटरैक्ट की डिफरेंस की जानी चाहिये। अगर यह भी कर दिया जाये तो भी इसकी स्वागत योग्य कहा जायेगा। इसके साथ दो मबान जुड़े हुए हैं। एक तो कम्पैन्शन का है और दूसरा वर्कज का तथा उनका जो बकाया है, उसके भुगतान का है। उनका जो बकाया है उसका भुगतान तो किया ही जाना चाहिये। इस सवाल पर कोई मतभेद नहीं होना चाहिये। सब पार्टीज के लोगों ने, जिन्होंने इस बहस में भाग लिया है, एक मत में यह कहा है, उनकी यह सर्वसम्मत राय रही है कि मंत्री महोदय वामपन्थी पार्षदों से बंधे हुए होने के कारण क्या वजह है कि उन्होंने उन को भुना कर जिन लोगों ने माइज को लूटा है, उनको कम्पैन्शन देने की बात की गई है। क्या कम्पैन्शन हम उनको देना जिन्होंने लूट की है, जिन्होंने देश छोड़ दिया है, जिन्होंने माइज

की तबाह और बरबाद किया है। जब आपने प्लान किया था राष्ट्रीयकरण करने का और पहले में बिल आप लाये थे उसके बाद भी उन्होंने सम्पत्ति की चोरी की है, जब आप कोकिंग कोल माइज को टेक ओवर करने का बिल लाये थे, उसके बाद भी उन्होंने सम्पत्ति की चोरी की है। क्या यह कम्पैन्शन देना लूट, बरबादी और बेण-ट्राह को बढ़ावा देना नहीं है। मैं नहीं ममझता कि कम्पैन्शन देने से कोई लाभ हो सकता है। यह तर्क दिया जाता है कि संविधान में हम बंधे हुए हैं, हम बान्ने हम ऐसा करना चाहते हैं। मैं नहीं ममझता हूँ कि कि हम तरह से संविधान को टूटाई कोई मॉर्गानिस्ट करे जाने वाला दे सकता है।

अब स्थिति क्या है? कोकिंग कोल माइज को टेक ओवर करने के बाद भी हालत यह है कि वर्कज को कलकत्ता में धनवाद और धनवाद से कलकत्ता बदला जा रहा है और उनके तबादलों का यह मिलमिला निरंतर जारी है। मैं चाहता हूँ कि गारंटी दी जाये कि उनका यह हैंगसमेंट बन्द कर दिया जायेगा और जहाँ वे काम कर रहे हैं, जब तक कोई काम ही कटिनाई न हो, उनको बदला नहीं जायेगा।

मुझे खुशी होती है कि अगर तमाम बाकी जो प्राइवेट कॉर्पोरेशन् हैं इस बिल में उनको आपने हाथ में लेने की आपने व्यवस्था कर दी होती। प्राइवेट कॉर्पोरेशन् में कंसेट्रेशन कैम्पस बने हुए हैं जिन को गोरखपुरी कैम्पस के नाम से जाना जाता है। 90 फूट लम्बे 14 फूट चौड़े टोन के शैड के नीचे और टिन भी एम्बेस्टोज शीट्स के नहीं 125-125 फीटों को बिहार तथा पश्चिम बंगाल में रखा जाता है। लेकर लाज के खिलाफ जा कर कई और कार्यवाहियों की जाती हैं। बेजिद में कटौती कर दी जाती है और तरह-तरह की कटिनाइयाँ उनके सामने में पैदा कर दी जाती हैं। आप सोच सकते हैं मजदूरों की कौसी स्थिति होती होगी। मैं चाहता हूँ कि आप गारंटी दें कि आप लेकर लाज जो बने हुए हैं, उनका पालन करवायेंगे और साथ ही प्राइवेट कॉर्पोरेशन् में

[श्री कमल मिश्र मधुकर]

जो उनका शोषण होता है, उसको बन्द करवायें। जो लोग प्राइवेट माइंस को हानि पहुंचाते हैं, कोयला जला देते हैं और जला कर जो इन्श्योरेंस का पैसा है वे ले लेते हैं और इस तरह से राष्ट्रीय शक्ति बे करते हैं, उसको भी रोका जाना चाहिये। कानून की जो अवहेलना करते हैं, उनको भी रोका जाना चाहिये। आप आजादी की पच्चीसवीं सालगिरह मनाने जा रहे हैं। मैं जानना चाहता हूँ कि इन कंसेंट्रेशन कैंम्पस में जो रह रहे हैं—उनके लिये आप किस तरह से यह सालगिरह मनायेंगे।

बड़ एण्ड कम्पनी देश के 75 इजारेदारों में से एक हैं। उमने हिन्दुस्तान तथा बिहार की सरकार को भी धोखा दिया है। आज वहाँ मजदूर डेढ़ महीने से हड़ताल पर हैं। मालिक मुनने को तैयार नहीं है। वहाँ पांच मजदूर गोली से मारे गये और चार सौ जेलों में बन्द हैं। फिर भी मालिक मुनने को तैयार नहीं हैं। हड़ताल समाप्त नहीं हो रही है। यह राष्ट्रीय शक्ति है: ऐसी स्थिति में उत्पादन चूँकि बन्द है ये जो प्राइवेट कालियरीज हैं इनका राष्ट्रीयकरण बहुत आवश्यक है।

मैं यह भी कहना चाहता हूँ कि व्युरोक्रेसी से भी आप को बचना होगा। व्युरोक्रेसी का काम करने का अपना लाजिक होता है और वह अपनी इच्छाओं के अनुसार चलती है। आपको उसको अपनी इच्छाओं के अनुसार चलाने का प्रयत्न करना चाहिये। मैं समझता हूँ कि ये सब चीजें हैं इन पर ध्यान दिया जाता तो अच्छा होता। फिर भी यह जो बिल आया है यह स्वागत के योग्य है।

SHRI S. MOHAN KUMARAMAN-GALAM : Sir, I have nothing very much more to say because I have answered most of the points earlier. When I was listening to Mr. Bhattacharyya using expressions like "Butchering the workers". I was wondering what language he will use when the workers are really butchered. He would have exhausted all the adjectives. If this Bill is butchering the workers, what

happens if 100 workers are really shot? So, let us leave all these extravagant expressions aside. I believe very sincerely that this Bill does some justice to the workers, because for the first time 120,000 workers in the coal-mining belt are being dealt with justly. For the first time, they are getting their wages according to the wage board award. For the first time, the labour laws regarding the provident fund, gratuity etc., due to them, are being enforced in their favour. I have already given the assurance that so far as the conditions of workers are concerned, they will not suffer under this Bill. The passing of this Bill should enable us to develop the coking coal mines both from the point of view of national reconstruction and from the point of view of improving the conditions of workers. Even hon. members who have spoken critically just now about this Bill have themselves acknowledged that NCDC and Bharat Coking Coal have been paying full respect to wage board awards, etc. I think we should recognise the basic transformation taking place in the lives of the workers as a result of this Bill. The uncertainties and difficulties which they faced earlier are being put an end to. Will this end for all industrial conflict? No. We do think we will have misunderstandings and so on but I think we are all agreed that nationalisation does improve the conditions of workers, as it improved it earlier, and will certainly improve it, so far as these workers are concerned.

15.00 hrs.

I find myself in a peculiar position. I am shot at from the left, I am shot at from the right and I am where I am.

So far as Shri H.M. Patel is concerned, he is naturally worried about what exactly were the principles we adopted in arriving him at the amount. But with all the respect that I have for him I am not going

to oblige him by giving him the facts he has asked for. Under the Constitution we are entitled to come to an amount. I explained in very broad terms the process by which we arrived at this amount when I introduced the Bill. The process we followed was that we valued the physical assets of the mines. It took us nine months to value the physical assets of 214 coking coal mines, because the accounts of many of these mines are in as bad a state as the mines themselves were. The machinery was in varying stages; sometimes good and sometimes bad, and it took quite some time to be able to arrive at a reasonably correct evaluation of these machines. Having come to a particular figure, which was the value of these assets, we then took into consideration the entire past of the coking coal mining industry, the manner in which these gentlemen contributed, or failed to contribute, towards the national development, and then arrived at a figure which we thought to be just and reasonable. I think that is all the illumination that I would request the House to permit me to give Shri Patel on this question.

I do not think there are many people who are going to shed tears over the end of the era of private ownership of the coking coal mines. There are other areas in industry where perhaps some contribution may have been made by industrial entrepreneurs to the development of the Indian economy. So far as the coking coal mine owners are concerned, I think that their contribution has been negative from the beginning to end. If ever there has been exploitation of workers in this country, it has been in the coking coal mines; the coal mines generally, one can say, but more than the coal mines generally, in the coking coal mines particularly. If ever there has been chicanery and corruption on a large scale by capitalists in our country, it has been by the capitalists who live in Jharia district. They

purchased everybody of every political party which they found purchasable, they purchased everybody of every trade union which they found purchasable, in fact people from every walk of life whom they found purchasable.

SHRI PILOO MODY (Godhra) : It could not have been done without the collusion of the government.

SHRI S. MOHAN KUMARAMANGALAM . I did not know that Shri Pilo Mody was interested in this. Otherwise, I would have been soft.

SHRI PILOO MODY : I am putting you in company along with them. I am saying that it could not have been done without the collusion of the government.

SHRI S. MOHAN KUMARAMANGALAM The sympathisers of the coking coal mine owners who, we complain, are amongst us should really be sitting on that side and not here.

SHRI PILOO MODY : I am referring to those who are on that side now.

SHRI S. MOHAN KUMARAMANGALAM: It is very difficult for him to get up and so he interrupts sitting.

So far as Shri Madhukar's point about guarantee that the workers will not be harassed by the management is concerned, the answer is that it is a nationalised organisation. There are bound to be some conflicts, there are bound to be some misunderstandings, but I think all of us are agreed that nationalisation does tend to improve the industrial relations. All of us must do our best to see that things are better in the public sector than they have been in the past.

DR. RANEN SEN : Quite a large number of employees are being transferred from Calcutta to Dhanbad.

SHRI S. MOHAN KUMARAMANGALAM : I will deal with that point. The total number of workers that are now employed in the Bharat Coking Coal Company is 1,20,000. The total number of workers employed by the different headquarters in Calcutta was 210. Out of these 210, about 100 persons are being retained in Calcutta. 110 employees have been asked to shift to Dhanbad.

The hon. Members will appreciate the dilemma with which the coking coal organisation was faced when we took over management of these mines. Out of these 214 coking coal mines, 211 mines are situated in Jharia. So, naturally, the proper place where the headquarters of the coking coal organisation should be in Bihar, in Jharia and in Dhanbad. Therefore, necessarily we have to place the headquarters there. However, we do need a Sale and Purchase Organisation in Calcutta. The maximum number of employees whom we can employ in that organisation have been employed in Calcutta and the only balance have been shifted to Dhanbad. Not only that. If you investigate the facts, the Bharat Coking Coal Co. have been fair to the employees, giving them free accommodation until they could find proper accommodation, helping them and giving transfer allowance and so on and so forth. But you will understand that we do not want to make it a Bengali-Bihari issue. I know, you will agree with me that it should not be made such an issue. You will appreciate that we have to do this because, otherwise, we will have 200 persons doing 100 persons work and engage 100 persons more in Dhanbad. I think, we have been quite fair.

MR. DEPUTY-SPEAKER : The

question is :

"That the Bill, as amended be passed".
The motion was adopted.

1.57 hrs.

DIPLOMATIC RELATIONS (VIENNA CONVENTION) BILL

DEPUTY MINISTER IN THE
MINISTRY OF EXTERNAL AFFAIRS
(SHRI SURENDRA PAL SINGH) : Mr.
Deputy-Speaker, Sir, I beg to move.*

"That the Bill to give effect to the Vienna Convention on Diplomatic Relations (1961) and to provide for matters connected therewith, as reported by the Select Committee, be taken into consideration."

The Bill was introduced in the Lok Sabha on the 25th November, 1971. It was referred to a Select Committee of the Lok Sabha in December, 1971. On that occasion, I made a detailed statement indicating the need for enacting this legislation and I also explained the broad features of the Bill. I need not, therefore, take the time of the House in going over the subject-matter of the Bill in detail.

All I wish to emphasize is that the Bill will give effect to the Vienna Convention on Diplomatic Relations 1961, to which India is a party. Certain provisions of the Convention which require to be given the force of law will be given that force under the provisions of the Bill. These relate to the privileges, immunities, exemptions and facilities which a Diplomatic Mission and its members will enjoy from the local criminal and civil jurisdiction. Until now these matters were governed by international custom and practices and in India by legislative provisions and administrative

* Moved with the recommendation of the President.