

NOES

Kanclappan, Shri S.
Koya, Shri

Maurya, Shri
Muhammad Ismail, Shri
Mazaffar Hussain, Shri

Sezhayan, Shri
Tabar, Shri Mohammad
Yashpal Singh, Shri

Shri P. L. Barupal (Ganganagar): 1 am for Ayes.

Mr. Speaker: What is reflected there?

Shri P. L. Barupal: Abstention.

Mr. Speaker: That will be noted.

The Deputy Minister in the Ministry of Education (Shrimati Soundaram Ramachandran): Mine has not worked.

Mr. Speaker: The hon. Minister has not voted, or something is wrong?

Shrimati Soundaram Ramachandran: Something is wrong.

Mr. Speaker: That will be noted.

Ayes: 97; Noes 8.

The motion was adopted.

13.41 hrs.

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

Mr. Speaker: Before I call upon Shri Masani, out of the five hours allotted, how much time should be given to the general discussion?

Shri Indrajit Gupta (Calcutta South West): Five hours is too inadequate.

Shri N. Dandekar (Gonda): There is a very large number of amendments tabled, and a very large number of Members want to speak.

Mr. Speaker: Three hours would be enough for general discussion?

Shri N. Dandekar: Four hours, and at least four hours for clause by clause consideration, and one hour for the third reading.

Mr. Speaker: Not that one hour afterwards.

Shri N. Dandekar: Amendments are in hundreds.

Mr. Speaker: That would be too much then. Five plus three, eight hours in all. I will add three more with the consent of the House.

Shri N. Dandekar: Three hours for general discussion, four for clause by clause consideration, and one for third reading. Or, you could have 3½ hours for general discussion.

Shri Indrajit Gupta: Four, three and one.

Mr. Speaker: This is the concensus, four, three and one.

Shri N. Dandekar: I am quite certain that clause by clause consideration would require much longer.

Shri M. R. Masani (Rajkot): I beg to move:

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

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

May I, while moving this resolution, make it clear that my purpose at this stage is not to discuss the merits or demerits of the ordinance or the Bill which now takes its place? I am concerned at the moment with the justification for promulgating the ordinance on 29th May last. In so far as the merits of the Bill are concerned, my colleague will address the House on that matter, and we have tabled a large number of amendments which explain our stand. Therefore, what I say now has no implications in so far as the contents of the Bill are concerned. I am concerned with the use of the ordinance-making power to which recourse was had.

If we turn to the preamble of the Ordinance, we find that it says:

"Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action,

"The President is pleased to promulgate the following ordinance, the Payment of Bonus Ordinance."

It baffles one's imagination as to how the hon. President could allow himself to be satisfied so easily by these concerned, namely the Labour Ministry and the Government, that the requirements of this constitutional article and of the preamble, which is couched in the language of the Constitution, had been satisfied. We all know that the President, in this context, represents the Government of the day, and therefore, the responsibility for the misuse of this Ordinance-making power falls squarely on the shoulders of the hon. gentlemen who sit opposite.

Let us examine the nature of this alleged emergency to which the President referred. The facts are stated in the Statement of Objects and Reason to the Bill that has now been introduced. It points out that a tripartite commission was set up by the Government of India by a resolution dated 6th December, 1961, 4½ years back. This commission made its report to Government on 24th January, 1964. Over two years were taken by this commission in examining this matter. Then, Government sat over this matter for six months before even expressing their comment or view on the report of the commission, because it was only on 2nd September, 1964 that Government at last announced acceptance of the commission's recommendations, subject to a few modifications. This was their idea of emergency or urgency, that for six months they sat over the commission's report and did not even say whether they accepted it or not. After six months, they said, "Yes, 1159 (A) LSD—6.

we accept it." That was on 2nd September, 1964.

From that date till May 29, which is a whole nine months or so, the urgency of the situation was so pressing that Government again went to sleep or dickered with the problem. Then Parliament was in session from February to May. Over and over again during the Budget session, when numerous other Bills were also introduced, various hon. Members kept on asking the Minister as to when he was going to introduce the Bonus Bill, and the Minister and the Parliamentary Affairs Minister kept on saying that they would do their best to bring it in that session. Obviously, the Bill was ready. If it was ready, why was it not introduced during the last session? If it could not be passed, why was it not referred to a Select Committee and the valuable period of three months used for a better scrutiny by us of this Bill? But the House was allowed to adjourn early in May without the Bill even being introduced in spite of, as I said, repeated reminders. Then suddenly on 29th May, the Government awakens to the urgency of the matter, and, behind the back of this Parliament, enacts an ordinance. If this thing could have waited from 1961 to 1964 and 1965, surely the heavens were not going to fall if this Bill had been brought before the House now. What possible justification can there be for avoiding its being brought before the House in the beginning of May and then saying: "We cannot wait till August", when they waited for four years and certainly for more than a year after the report of the Commission?

In other words, if I put a question: "was there any emergency before the House adjourned early in May?" the answer is obvious. If there had been some emergency the hon. Minister would have introduced the Bill and said: let us rush it through. Obviously when the House dispersed in early May, there was no emer-

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gency, no urgency. Has something new happened after the House adjourned that created an emergent situation? Certainly not. Nothing happened between the adjournment of the House and the 29th of May, nothing at all. Why this Ordinance, then?

The answer seems to be: a very dangerous habit is overcoming those in office today; they have got so used to taking liberties with the Constitution and so used to ply in ducks and drakes with the articles of the Constitution, that it has now become an addiction. They simply cannot resist the temptation to take this drug of violating the Constitution at any given moment. This is a dangerous habit, using emergency powers for normal, routine legislation. That is what it is. This Bonus Bill is a piece of routine, normal economic legislation, labour legislation. There is no crisis involved, no emergency involved, no urgency involved. Nothing would have happened if the Bill had been introduced in August. If half a dozen labour disputes had been filed, so what? Do we not have enough labour disputes as it is? A few more.

Let me say this. The passing of this Ordinance has solved nothing. If the idea was that it would bring about industrial peace, it has not served that purpose. If the idea was that the House would be faced with an accomplished fact, even that has not been achieved. From the number of amendments tabled to this Bill, including those of the Minister, it is seen that there is nothing final about the Bill. It is not even a *fait accompli*. If that was the somewhat dubious motive, even that has been frustrated. The point is this. Out of sheer slovenliness and sloppiness, lack of care for the Constitution, lack of respect for parliamentary institutions, lack of respect for democratic procedures, this Government is allowing this country to slip step by step, from the correct path which this country has chosen. I consider it a public

duty that we should ventilate this point by tabling this motion because every Ordinance that is allowed to slip through like this without protest would be apt to drive one more nail into the coffin of our Constitution, if these reckless people across were allowed to have their way.

I am not questioning the validity of the Constitution. It is for the Courts; maybe, it is valid because the hon. President has unfortunately thought it fit to make himself a party to this expedient. But I do question the propriety of this Ordinance. I wish that the hon. President, who has the power to make himself a moral censor of those in office by occasionally questioning their improper activities, had said: I will not be a party to this rather dubious expedient; face the House when it meets next time; do your business, carry on your burden and do not make me a party to this cutting the corners and shortcuts you are indulging in.

Many years ago, this House had discussed this matter; it had an opportunity on 16th February 1954. There was a full dress debate eleven years ago because even at that time, those in office then and now—they are the same people largely—were getting used to this habit and several Members of the then opposition, including one or two Congress Members like that very fine constitutionalist, Pandit Thakur Das Bhargava, joined hands and ventilated this concern of theirs, that if this Government were allowed to go on with the misuse of the ordinance making power, our constitutional integrity was in danger. There was a long debate over a number of hours and many outstanding people took part in the debate. The debate was published in this paper, Ordinance and Taxation by Ordinance, published by the Lok Sabha.

During that debate, the then Speaker, he was a very great Speaker, as I recall from my own experience of the House in those days, Speaker Mavalankar, said what is the final

word on the subject. I do not think that even the Treasury Benches would question the validity of the proposition that he advanced. He said; "It would be recognised that that is not the democratic way of doing things; it is only in exceptional circumstances that Government may issue Ordinances. They can only if they must." I urge that in this case they have done so even though they need not have done so. There was no 'must' about it. They make lightly use of a power that should be reserved for very special and very onerous circumstances which do not exist in this case. I hope the hon. Minister, when he speaks now will take the trouble of telling the House and justifying himself as to how he comes before the House and justifies his action in having this Ordinance promulgated. After that, we shall judge whether he has any excuse or not; and if he has not, the best thing he can do is to apologise to the House and promise not to do it again.

Shri Bade (Khargone): My motion is also there.

Mr. Deputy-Speaker: He can speak. I shall place the motion before the House first. Motion moved:

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

The Minister of Labour and Employment (Shri D. Sanjivayya): Sir, I beg to move:*

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

While moving this motion, I would like to recall as to how this question relating to bonus has been a question of great controversy over a long period. During the Second Plan, the Planning Commission suggested that this question might be carefully

studied before an arrangement acceptable to all parties could be evolved. In the meanwhile, the suggestion made was that the current practice of settling these disputes by resorting to industrial tribunal or by making reference to industrial tribunals should be continued. Therefore, several disputes were either settled by mutual negotiations or discussions or they went before the industrial tribunals or industrial courts when references were made by the Government. Ultimately, the labour appellate tribunal evolved certain principles on which these disputes could be settled. This formula evolved by the labour appellate tribunal is popularly known as the LAT formula. In one particular case relating to bonus disputes these principles or this formula involving these principles came before the Supreme Court which upheld the principles evolved by the tribunal. During that time, the Supreme court also observed in its judgment that if the legislature feels that the claims of social and economic justice made by labour should be re-defined on a clearer basis, it can step in and legislate in this behalf. They have also said that in the alternative, Government may consider the question of appointing a high-power Commission to go into this matter. Therefore, the Government thought it fit that this question should be discussed in a tripartite body. In the year 1960—March-April—the matter was placed before the standing labour committee and ultimately a decision was taken to appoint the Bonus Commission.

14 hrs.

Another decision taken in that tripartite body was that the terms of reference also should be settled in a meeting of a tripartite nature. Therefore, a small tripartite committee was constituted to settle the terms of reference and ultimately the Bonus Commission was constituted on the 6th December, 1961. It

*Moved with the recommendation of the President.

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was presided over by an eminent judge, and the employers and workers were represented and, as usual, a member of Parliament and an economist were nominated to the Commission. For the first time, through a legislation, we were compelling the public sector also to be covered by the recommendations of this Commission. After long deliberations, as was correctly pointed out by my hon. friend, Shri Masani, spreading over a period of two years or so or more, the Commission submitted its report on the 24th January, 1964. Most of the recommendations of the Commission are unanimous excepting a Minute of Dissent by a representative of the employers . . .

An. hon. Member: In the private sector.

Shri D. Sanjivayya: . . . in the private sector. The Government have carefully considered all these recommendations including the Minute of Dissent. The Minute of Dissent relates to issues like disallowance of super-profits tax and rehabilitation allowance as prior charge, rate of return on capital and concessional treatment for certain industries. Therefore, the Government as I said, earlier, had to take into consideration not only the unanimous recommendations of the Commission, not only the Minute of Dissent by a representative of the employers but also keep in view the economy of the country as a whole. Therefore, after careful consideration the Government accepted almost all the unanimous recommendations without any modification..

An Hon. Member: Question.

Shri D. Sanjivayya: Almost all, I said. And with regard to the recommendations in which there was a Minute of Dissent, Government, after careful consideration, accepted them with certain modifications. This decision was announced by the Government on the 2nd September, and on the 7th September, a statement containing the decisions of the Government was placed on the Table of the Lok Sabha.

One or two things, I would like to submit to the House, with regard to these modifications. One important modification relates to the allowance of all direct taxes to be deducted as prior charges, and also, the tax concessions and subsidies given should not be taken into account for the purpose of calculating gross profits or calculating the bonus. Then, one other important modification relates to the rate of interest recommended by the majority of the members; they recommended that the rate of interest should be six per cent on equity and four per cent on reserves. We modified them and improved them, and made the rates 8.5 on equity and six per cent on reserves. Here, one important factor has to be borne in mind. These rates of six per cent and four per cent also existed at a time when these recommendations of the Bonus Commission were not available, but at that time, this six per cent or four per cent was not subject to tax. Here today, this eight per cent and six per cent are taxable. If this is taken into consideration, then probably the modification made by the Government is justifiable.

Not only that. The present or the prevalent market rate of interest is also taken into consideration. Then, one other important recommendation of the Commission is that these recommendations should have retrospective effect from the accounting year ending on any day in 1962. Here, the Government thought that if that recommendation were to be accepted without any modification, it would result in the reopening of even those cases which had already been settled. Therefore, we said that this recommendation of the Commission should be applied retrospectively to bonus matters other than those cases in which settlements had been reached or decisions had been given already. After this decision of the Government was announced, several representations were made to the Government by various workers'

organisations that according to the present formula evolved by the Bonus Commission and as modified by the Government, certain workers would get a lesser quantum of bonus than what they used to get before, under the LAT or the Full Bench formula. Thereafter, the Government carefully considered the representations made by the various workers' organisations, and ultimately, on the 18th September, 1964, I made a statement on the floor of this House. In that I made it clear that in the legislation to be promulgated to give effect to the recommendations of the Bonus Commission as accepted by Government, suitable provision will be included so as to safeguard that labour would get in respect of bonus, benefits on the existing basis or on the basis of the new formula whichever be higher. I may state here that clause 34 of the Bill seeks to implement this assurance.

Shri Daji (Indore): It does not do it properly.

Shri Priya Gupta (Katihar): The clauses are contradictory in this respect.

Mr. Deputy-Speaker: Order, order.

Shri D. Sanjivayya: Hon. Members will have ample opportunities; there are four hours for the general discussion. The Speaker just now announced it. (*Interruption*). Therefore

Shri Indrajit Gupta: Please tell us how it has been done.

Shri D. Sanjivayya: I do not know how hon. Members are able to know what is passing on in my mind. Let me complete the sentence.

Shri Indrajit Gupta: Your mind is in the Bill!

Shri D. Sanjivayya: My mind is within myself and it will be made known to you in due course. Clause

34 gives effect to the assurance given by me on the floor of the House. Hon. Members are really worried about the fact that this particular clause might not convey the intention of the Government clearly and in an unambiguous way. As I said earlier, they will have four hours for general discussion, three hours for clause-by-clause consideration and one hour for the third reading. When we take up that particular clause, I will certainly deal with that aspect of the question at length and try my best to clear the doubts and dispel any misapprehension or misconception in the minds of hon. members.

Shri Priya Gupta: On a point of order, Sir. Clause 34(1) negatives the assurance held out in the Bill about the quantum of bonus to be paid. How can the Bill contain contradictory clauses?

Mr. Deputy-Speaker: He can oppose clause, if he wants. There is no point of order.

Shri D. Sanjivayya: I do not want to take the precious time of hon. members at this stage, in which case the time-allotted for general discussion will be curtailed. When we take up this clause during clause-by-clause consideration, probably this clause would take much of the time of the House and I will explain it then.

Mr. Masani, who moved the motion to disapprove of the ordinance pointed out that the government have not been taking steps expeditiously to bring forth the contemplated legislation. He quoted from the statement of objects and reasons and said that the government announced the decision on 2nd September, 1964, but till 29th May 1965, for a period of 10 months, government went to sleep and never took any urgent steps. I will explain what we have been doing during this period. Immediately after taking the decision, government drafted the Bill and in accordance with the

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tradition and convention that we have developed in relation to the formulation of labour policies, we had to place the draft Bill before a tripartite conference. So, on 9th and 10th December, 1964, the tentative Bill was placed before the Standing Labour Committee. After considerable deliberations, the Standing Labour Committee felt that it would be desirable to refer this matter to a sub-committee. A sub-committee was constituted with instructions to report to the Standing Labour Committee within a short time. The sub-committee met on 3rd January and ultimately came to the conclusion that it would not be possible for them to evolve an agreed solution to this troublesome question and felt that the whole matter should again be placed before the Standing Labour Committee as early as possible. The sub-committee recommended that in view of the divergent views of workers' and employers' representatives, it should be left to the government to take a decision, keeping in view the various views expressed by all the parties concerned. Again the Standing Labour Committee met on 27th March 1965 and approved the recommendation made by the sub-committee.

Thereafter, we tried our best to finalise the Bill. In fact, this is an original Bill, not an amending one and certain decisions taken and certain assurances given by the government are really very difficult to be put in a legal form. Even the drafting department of the law ministry said that some of these were really very difficult. In any case, we tried our best to see that the Bill was introduced in the budget session itself. That is why every Friday when the Minister of Parliamentary Affairs rose to announce the business for the next week, hon. members opposite asked when the Bonus Bill would be introduced and he always said that government would try their best to introduce the Bill. In spite of our best efforts, we could not introduce it

during the budget session. But all the same, ever since we took a decision and announced it on 2nd September 1964, we have been appealing to all the employers to implement the resolution of the government on the Bonus Commission's recommendations without waiting for legislation. In the very same announcement, we made it clear that government would certainly bring forth legislation incorporating their decisions. The employers turned round and said that they would not implement the recommendations of the Bonus Commission as modified by the government in the resolution, but would do so if an enactment was passed.

So many disputes have been pending since a long time. There have been agitations and attempts to have Bombay bundh, Ahmedabad bundh or sometimes Bharat bundh also. All kinds of agitations have been going on.

Shri Indrajit Gupta: Now we are having bonus bundh!

Shri D. Sanjivayya: At the same time, even the employers have been objecting to certain provisions and they have been making representations. So, we thought that any delay would cause immense harm to industrial peace in the country at a time when we are passing through difficult times. Today it is more aggravated. So, we thought the best thing would be to promulgate an ordinance, so that the disputes could be settled in the light of the provisions of the ordinance. I have placed a statement on the Table of the House on the 16th August, detailing the reasons why it became necessary for us to promulgate an ordinance. Now I hope that the employers and workers would give their full cooperation to the government in implementing the provisions of the ordinance and of the Bill when passed.

The most important feature of this new scheme is that while according to the LAT and full bench formula, bonus was paid on the basic wage, here bonus will be paid on basic wage plus dearness allowance. There are certain other important features like 4 per cent or Rs. 40 minimum or 20 per cent maximum bonus and also the principles of set on and set off. I hope these would go a long way to improve the lot of the working classes in this country.

Another unique feature of this formula is, according to this formula, nearly 45 lakh workers, who had never enjoyed bonus before would be made eligible to get bonus. Even if they get the minimum of Rs. 40 per year, it will be Rs. 18 crores per year. This is a great boon, I think, to the poor workers in our country. It may not be possible and it might not have been possible for either the government or the commission to meet the aspirations of the working class fully. In a similar way, probably the industrialists or employers might not have been pleased with the decisions of the government. But, on the whole, we feel that with the goodwill and co-operation of both the employers and workers we will be in a position to create peaceful conditions in this country of ours so that production may not suffer, so that the economic growth of the country may not be hampered. Economic growth and increase in productivity and production are really essential today because we are passing through critical times. Unless we are economically sound, unless our production in the industrial sector goes up, it will not be possible for us to prepare ourselves to meet any emergency which may be in the nature of external aggression or internal trouble.

Mr. Deputy-Speaker: Motion moved:

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

Shri Daji: Sir, I beg to move:

"That the Bill be referred to a Select Committee consisting of 15 members, namely:—

Shri Ramchandra Vithal Bade, Shri Tridib Kumar Chaudhuri, Shri Homi F. Daji, Shri Indrajit Gupta, Shri Hari Vishnu Kamath, Shri Madhu Limaye, Shri M. R. Masani, Shri Harish Chandra Mathur, Shri B. P. Maurya, Dr. G. S. Melkote, Shri Kashi Nath Pandey, Shri D. Sanjivayya, Shri A. P. Sharma, Shri Diwan Chand Sharma, and Shri S. M. Banerjee. (81).

with instructions to report by the 22nd September, 1965."

Mr. Deputy-Speaker: Both the original motion and the amendment are now before the House. The time for speeches will have to be limited and I leave it to hon. Members to take the minimum possible time.

Shri N. Dandekar: Mr. Deputy-Speaker, Sir, I want, in the course of my observations, to touch upon only three salient features of what has been evolved in this Bonus Bill. The first is to express my sense of regret, which I did also in my minute of dissent, that it has not been found possible to evolve a bonus scheme linked to production. Sir, when this matter came up for anxious thought in the course of my work on the Bonus Commission, I found that we had been pretty well hamstrung by the terms of reference which almost wholly excluded any consideration of any other form of bonus except bonus related to profits. I still think that this is a grave error on the part of our whole industrial nexus, both employees and employers, that they have rejected and the Government have not had the courage to evolve a bonus scheme geared more to production and productivity or having that as its central element than is the case here. I know, and I am appreciative of the fact, that in clause 32 a provision has been made to allow employers and employees to work out, if they can,

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alternative schemes geared to production and productivity in lieu of the profit bonus scheme. I think that is a very good thing, but I wish the Government had gone further. I do not blame here only the Government. I blame both the employers, because they apparently are lazy and do not want to undertake the more difficult task of gearing the bonus to production and productivity, and also the workers because they seem in these days to be increasingly concerned with getting more and more for doing less and less, and not particularly concerned or bothered about any question of production or productivity. And it would seem that the Government have not had the courage to tell both of them where they get off on a matter of that kind so essential and important to the country and to the consumers. I will leave it there. Sir, because it is not, unfortunately, an essential part of the Bill.

Now, Sir, I would like to deal, in the rest of the remarks that I will make, with two main aspects of the Bill. I will deal first with the legal framework which it presents,—the legal structure within which the whole bonus question is presented; and, secondly, the substance or the scheme of the bonus matter itself.

On a *prima facie* view of the Bill, it would seem that it is rather well drafted. For instance, the Act applies to all factories and establishments having more than 20 employees at any time but not to certain specified classes of employees which are enumerated in clause 32. In so far as it applies to those factories or establishments that are not exempted, it would be effective in relation to accounting years commencing in 1964 and also, in certain circumstances, retrospectively to earlier accounting years not earlier, however, than the accounting year ending in 1942. That is in accordance with the recommendations of the Bonus Commission and that again is something that I support.

It also displaces, quite rightly,—I will come to the confusion it subsequently creates, I will come to that later on—in sub-clause (1) of clause 34 all the existing laws on the subject. That is to say, Labour Appellate Tribunal Formulae, Supreme Court Rulings, all the awards, whether of tribunals or arbitrators, all the agreements and settlements, and terms of all existing contracts. It pretends to sweep this whole clutter out of the way and to start the new bonus scheme in a clean legal framework. It also allows, quite rightly, in the cases to which it applies, the continuance of existing alternative schemes where the payment of bonus is linked to production or productivity in lieu of bonus based on profits, under clause 32(vii)(a). And it also allows for fresh agreements of that kind to come into being as between employers and employees voluntarily agreeing to such arrangements, under clause 32(vii)(b). Finally it permits under clause 34(3) new agreements to come into being where bonus, even though related to profit, is computed in accordance with a scheme different from the one propounded in the Bonus Bill.

As I said, at first sight, the *prima facie* view is a very good one and it accords with the main recommendations, in so far as the legal framework is concerned, of the Bonus Commission. But no sooner has one conceded this and when one turns to certain other clauses, one discovers that this whole admirable legal framework to which I referred is completely ruined by other provisions in the Bill. Indeed, in regard to the final legal structure of the Bill, I would like to say that I have rarely come across a Bill so badly drafted, containing so many conflicting provisions that it is exceedingly difficult to know which provision, supersedes which. I would like to give here the example of clause 32 and clause 34(3). Both of them begin with an extraordinary statement of law. Clause 32 begins by saying: "Nothing in this Act shall

apply to..." a whole series of enumerated specific classes of excluded employees. Then, clause 34(3) also says: "Nothing contained in this Act shall be construed to preclude employees employed in any establishment or class of establishments from entering into agreement with their employer. . . ." On a reading of this it would seem as if, although under clause 32 a whole lot of employers and employees have been totally excluded from the ambit of this Act, because it is said that nothing in this Act shall apply to them, sub-clause (3) of clause 34 says that nothing contained in this Act can apply to employees who want to bring about a new profit-sharing bonus agreement with their employers including the employers who have been excluded. I frankly think. . . .

Shri Bade: Only this clause is applicable, all the other clauses are bogus.

Shri N. Dandekar: When some of these provisions go on to say that **nothing in this Act shall apply to (A)** and, then, certain other provisions say that nothing in this Act shall apply to (B), I begin to wonder what applies to whom.

Then, Sir, I would like to deal with yet another part of this Bill, at some length, because it also destroys, in my judgment, the main legal framework altogether. I refer to sub-clause (2) of clause 34. The Minister referred to this particular sub-clause of clause 34, as the sub-clause designed for carrying out some assurances.

I would like briefly to recapitulate what, I think, is the effect of this in terms of the total destruction of the whole legal framework in which the Bill is otherwise conceived.

In the first place, it resurrects all the old laws at one stroke, not uniformly, but in some cases any pre-existing tribunal awards, in other cases any pre-existing arbitration awards, in yet other cases any pre-existing agreements, and in yet other cases any pre-existing settlements or terms of contracts of service. I wonder what this would mean, when any tribunal or

adjudicating body is going to sit in judgment over disputes arising out of this Bonus Bill. It would have to undertake a tremendous amount of research in any particular case to find out what law applies: is it the previous law, or is it the preceding award or the preceding arbitration award, or the preceding settlement, or preceding contract of terms of service, or only this Act?

Similarly, Sir, there is complete confusion—although, as I said, it would seem that *prima facie* there is no confusion,—there is a complete confusion, once again, as to which particular year's award or arbitration etc. would apply. In some cases the position as in 1961, which is the earliest year preceding the earliest accounting year relevant to the Bonus Bill, will apply; so, in some cases it will be the law or the legal position applicable to the employees as prevailing in the year 1961; in other cases it will be the position prevailing in 1962; in yet other cases it will be the legal position as prevailing in 1963; and yet in another lot of cases it will be the position prevailing in 1964. Sir, I am not a mathematician, but I imagine that the theories of permutation and combination would yield something like 24 different legal positions in respect to the law governing bonus that will operate in this country when this Bill is passed! That is the utter monstrosity, of a jungle of laws in which both the employers and the employees, as well as the tribunals and the arbitrators and the courts would have to wallow, jumping from one legal position to another legal position, in an endeavour to ascertain which was best for the employees depending upon the particular facts and circumstances of the particular case before them.

I would like in this connection to bring to the notice of the House the problem arising in a case which is within my knowledge of late. What happens, for instance,—I do not know what the answer is,—But I have been asked what would happen under this

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Bill in a case where, if there were several separate departments, undertaking, and branches of an establishment in more than one state, and where bonus was paid on the basis of all the undertakings being taken as one, and where the employees of one undertaking but not the others raised a dispute in relation to a particular accounting year, another went into dispute in relation to another particular accounting year, and a third went into dispute in relation to a third accounting year. What is the law? Who is to apply it? In which state? And what will be the result and state of industrial relations in this particular concern, between itself and its employees, at the end of it, is something I am not in a position to answer.

If that were all, it would be confusion enough. But on turning to the provisions of clause 34(2) I find a curious statement. I am referring to this particular provision, because I say this,—and this is the entire burden of what I am trying to say,—that the Bill starts to build up a good legal framework within which bonus disputes are to be adjudicated, and then promptly proceeds by clause 34(2) to destroy the whole of it. This clause says:

"If in respect of any accounting year the total bonus payable to all the employees in any establishment under this Act is less than the total bonus paid or payable...."

... what this means, I will come to later, because that is concerned not with law but with the substance of the matter....

"to all the employees in that establishment in respect of the base year under any award, agreement, settlement or contract of service etc."

Any award in the whole country; it does not restrict the exercise to any award or terms of agreement applicable to the particular employees and the particular employ-

yer; the employer or the employees, particularly the employees are free to look round the whole country and find any award, settlement or terms of settlement where... (Interruptions). That is the wording here.

Shri D. Sanjivayya: In respect of the base year.

Shri N. Dandeker: I have read it over and over again. It does not matter about the base year.

Shri D. Sanjivayya: We have only one base year. There cannot be hundred awards.

Shri N. Dandeker: I am saying, whether it is this base year or the second base year or the third base year, the law applicable would be, any award in the whole country, any settlement, any term of contract, anything, relative to that base year. One can pick up any such award and say: In relation to my particular base year, namely the year preceding the year to which any dispute under section 33 relates, in that year there is such and such an award, and I wish to pick up that one from the shelf, and I am entitled to claim... (Interruption)... Sir, I am not giving way,—I am entitled to claim under that particular award a particular mode of computation of bonus. If that is the meaning,—and it is quite capable of being the meaning,—I suggest we are in a mad house. I suggest that we are unable in this particular matter even to know, in any particular case what the law on the subject is,—something than which I cannot imagine a worse type of legislation.

Finally, Sir I want to turn to the substance of the Bill, the substance of the scheme of bonus. Here again, when one takes a quick look, at first sight it is an admirable scheme. It conforms to the general approach adopted by the Bonus Commission. In one or two matters they have departed from the Bonus Commission, in most of them they have not. The tribunal adjudicating a dispute would

have to proceed with ascertaining first, the gross profits of a concern subject to certain adjustments, but before deducting depreciation, income-tax, development rebate or anything of that kind. And having ascertained that, you next proceed to deduct certain essential concomitants of running a business, namely, depreciation, development rebate, income-tax. Having done that, you then further deduct certain prior charges specified in Schedule III, and so you get what is called the available surplus from which a certain portion is regarded as the allocable surplus; and that is the surplus allocable to the purpose of bonus. That is the general scheme evolved by the Bonus Commission. It also conforms broadly to the general scheme prevalent before this Bill, in what is known as the LAT formula as approved and modified by the Supreme Court from time to time, but subject to one important difference, namely, that the allowance for rehabilitation which the Supreme Court thought was necessary is not, under this particular scheme, allowed. I will deal with that matter during the clause-by-clause discussion. What I am concerned with here is that the outlines of the bonus scheme are fair enough and recognisable. One more feature of this bonus scheme, not previously prevalent in any law or terms of contract or anything at all, is the provision for a minimum bonus. As the Minister pointed out the minimum bonus clause alone will bring as many as 4-1/2 million workers actively within the ambit of the bonus which they had not previously got or heard of. This is something which, before this Bill, neither the Supreme Court nor any other court felt, in law or on merits, justifiable in an award. It was never possible to go to any court and say, "Never mind if there are no profits, I must nevertheless have a certain minimum bonus". The minimum proposed in the Bill, is also a minimum much higher than any minimum ever agreed to before or accepted by mutual settlement between workers and employers, as for instance in the tex-

tile industry in Ahmedabad and in Bombay where it was always accepted that if a minimum was all that was possible of payment, that minimum should be restricted to an amount equal to two weeks' basic wages.

That, Sir, is a recognisable scheme, and that is more or less the scheme evolved by the Bonus Commission of which, as I say, I was a member. I can recognise this in this Bill. But, once again, when I proceed to read certain other provisions in this Bill, I find the whole thing, this whole bonus scheme can be thrown right out of the window at any time anybody chooses, if it become difficult. For, once again, sub-section (2) of section 34 is concerned with propounding the most remarkable proposition,—not just a remarkable proposition but the most remarkable proposition—that this law need not apply. And one starts groping around for some other law which might be more beneficial. But, even assuming that there is no groping around in a miasma, that there is no uncertainty on that particular point, what does sub-section (2) of section 34 say? It begins with a pious statement, which I accept, that if the total amount of bonus payable in accordance with this scheme is less than the total amount payable under some other possible scheme, the bonus will be paid according to the earlier or previous scheme. Then, one could say, all right, there is an alternative clear solution to the problem. But it is not that way at all. It may well be that the total bonus payable under this bonus scheme is actually greater than the bonus actually paid under some other scheme in a base year, but the ratio of bonus to the gross profit of that year may be more favourable than the ratio of this year under the Bill. In other words, you are comparing in this case, not the amounts at all, but the ratio; it is not the amount that is in comparison. It may well be that the bonus in the base year was merely the minimum of two weeks' basic wage and, as such, obviously less than the minimum appli-

[Shri N. Dandeker]

cable under this bonus scheme, mentioned in clause 10, where it is 4 per cent of the wages plus D.A. for the whole year. Nevertheless, notwithstanding the fact that the amount of bonus payable under this scheme is substantially more than the amount of bonus payable under some other scheme, if the present ratio of bonus to the gross profit is different from the corresponding ratio of a certain base year, under this particular clause they are still entitled to throw the whole thing out of the window. I will content at this stage by giving by way of illustration just one example. I have hundreds of examples but I will give only one. I have before me the example of a case where the so-called gross profit in accordance with section 34(2) was only Rs. 20 or so for the base year. Nevertheless, the bonus paid, let us say, was Rs. 10,000. So, the ratio of bonus paid to the gross profit was 500 times or some such thing. Therefore, the employees are entitled now to claim that they must have 500 times the gross profit, during the current year subject only to the maximum of 20 per cent. In other words, quite irrespective of merits, they are entitled to an amount equal to 20 per cent of their dearness allowance and pay; that is to say, one-fifth of the year's dearness allowance and pay, irrespective of any consideration whatsoever as to the capacity of that concern to pay.

I will conclude by briefly recapitulating what I said. Firstly, I think it is very sad that the whole concept about production and productivity is now completely lost sight of. Secondly, the Bill begins by creating a legal structure that holds good, but then they knock it right down and you have in its place a jungle of law, any of which may apply from case to case. Thirdly, it begins by building a good scheme for payment of bonus which is immediately thrown right out of the window.

I think, Sir, in many respect, the Bill is bad. It is an instance of schizophrenia in the Minister, on the

one hand a certain sense of responsibility as Minister in charge of the labour problems for the whole of this country and, on the other hand, a certain loyalty to the labour movement as a labour leader. The result is this particular Bill, which is just too bad to be really thought of in its present form for consideration by this House.

Shri K. N. Pande (Hata): Mr. Deputy-Speaker, Sir, I am standing here really to support the Bill. But, while supporting the Bill, I have to make certain observations. Before going into the merits of the Bill, I want to refer to the history of bonus. I could understand Shri Masani opposing it, because he is against promulgating the Ordinance. No authority, not even the Government, can keep the labour force for long under control merely by force without considering and conceding their legitimate rights. For example, for the last two years the issue of bonus is pending in the sugar industry of Bihar. Those cases have not been decided because no decision has been taken on the Bonus Commission Report. Similarly, there are cases pending with tribunals and other machinery. Therefore, one can easily imagine the worry and anxiety of the workers on this problem.

But why did the Government promulgate such an Ordinance when there was an emergency? There was an attack on our border at Kutch. I think every citizen of this country, including every worker, knows that this is not the time for starting an agitation. Therefore, several labour organisations approached the Government and requested them to do something to protect the interests of the workers instead of putting them to the necessity of agitating for the removal of their grievances. Government wanted to do something for them. Therefore, they promulgated an Ordinance, which is a very good weapon with the Government for doing things in a constitutional way.

Shri N. Dandeker: Constitutional way?

Shri K. N. Pande: Yes, because that would be ratified by the Legislature. Of course, Shri Dandeker is always against paying any bonus. He has said just now that the payment of bonus should be linked up with productivity and other things. I agree with him there. But if in the normal working of a factory there is profit, is labour not entitled to get a share out of it as bonus? Labour is entitled to bonus. If labourers are entitled to bonus, there must be some machinery, some formula, to determine the quantum of bonus to be paid to the workers. If there is higher productivity and higher production because of the efforts of labour, naturally the labour force is entitled to a share of the increased profits because the increased profits have accrued as a result of their work. But that should not be linked up with bonus. With all great respect to Shri N. Dandeker, who is an enlightened man, I would request him to consider the other aspect. No Government can control the country and the people, including the labour force, by force. They have to consider the difficulties of the people and find some solution for them. Unless they do that, the people are not going to be satisfied with the Government. The labour will not be satisfied by mere lectures or promises.

In respect of the bonus that is being paid in the sugar industry, an announcement was made by the Labour Minister on the 18th September 1964. Under the old arrangement the workers used to get Rs. 18 crores to 17 crores every year as bonus. Now, as a result of the Bonus Commission's recommendations, as modified by Government, the workers are going to get much less unless their interests are protected by Government. Do you think that the Bonus Commission was formed with a view to reduce the quantum of bonus? Was it meant to reduce the quantum of bonus available to the workers? No, that was not the purpose of appointing the Bonus Commission. The object of appointing the Bonus Commission was to see that justice is done to the workers and

that they get their legitimate and reasonable share in the profits of the company, even if they are unorganised and there is nobody to look after them. The Bonus Commission was formed because of the observations of the Supreme Court. When the Commission submitted its report, the Government modified it. Even according to the Labour Appellate Tribunal formula the direct taxes were deducted first. It is not a new thing. There may be some modification here and there but the system is the same. It was deducted first and then out of the remaining sum the workers were given a certain part as bonus.

The formation of the Bonus Commission was not with a view to reducing the quantum of bonus. If the workers were getting higher bonus, naturally their interests were required to be protected by the Government. Therefore the Government was approached in that regard and the announcement that was made by the Labour Minister reads like this:—

"The decisions taken by Government on the Bonus Commission's Report will provide for the payment of bonus to a large number of workers who were not getting any bonus previously and also given enhanced bonus to many others who were getting less in the past. At the same time, it was not Government's intention that benefits which labour may have been enjoying in the matter of bonus in any establishment or industry should in any way be curtailed by the adoption of a new formula for the payment of bonus. In the circumstances, Government desire to clarify that in the legislation to be promoted to give effect to the recommendations of the Bonus Commission as accepted by Government suitable provisions would be included so as to safeguard that labour would get in respect of bonus the benefits on the existing basis or on the basis of the new formula, whichever be higher."

[Shri K. N. Pande]

This was the announcement made by Government.

As Shri Dandekar said—and he laid very great emphasis against sub-clause (2) of clause 34—I say that this sub-clause (2) of clause 34 does not indicate that the old quantum of bonus is going to be protected. I have every doubt about that although the Government says otherwise. Therefore I want a categorical clarification in this regard. I do not want to be entangled in legal words because bonus has to be determined either by the employer or by the courts. We can only pass the legislation; after that it is the property of the courts and it is they who interpret it. In my humble opinion this sub-clause does not clarify the position and does not protect the right of workers to get higher bonus if they used to get higher bonus according to the old formula. I want that a categorical assurance should be given by the Labour Minister in this regard that the workers would continue to enjoy the benefits that they used to enjoy in the past according to the old formula.

While speaking on this matter I want to say a few sentences about the special features prevailing in the sugar industry. The sugar industry works only for four to five months in a year—somewhere it is six to seven months—and the production of these four to five months or of six to seven months gives so much profit to the factory that one sugar factory owner has built several textile factories. The old basis in the sugar industry was that the quantum of bonus was determined and the distribution was made on the monthly income in the season. Now, here a permanent worker will get more but a seasonal worker will get proportionately less. It is at the cost of the seasonal worker production that the permanent workers continue their services for the whole year and will earn more bonus than the seasonal workers whose bonus will be cut. Previously it was not done. For example, where a factory was

liable to pay Rs. 2 lakhs as bonus, we saw as to how much the salary bill of one month during the season was. Suppose, the salary bill of a factory was Rs. 1 lakh then it meant and it clearly indicated that every employee, whether he was getting a minimum wage or a higher wage, was entitled to get two months' salary as bonus. But here the things have been changed.

The sugar industry employs two lakh workers. I made several representations to the Government and tried to urge upon them to give some consideration to this matter. A large number of workers employed in the sugar industry are seasonal and if they are going to get less amount, according to this new formula, nobody can guarantee that there will be peace in the sugar industry; at least I have no confidence that I can assure anybody that there will be peace in the sugar industry unless the sugar workers are assured at least about the mode of distribution. Nobody has to pay anything extra. The formula is given and a certain amount of bonus to the workers of each factory is there. They want that their old mode of distribution should be employed and not this new one. There is a lot of conflict here and it is creating a rift between the seasonal and permanent workers. Do you want to create a battlefield in the sugar industry? If that is the intention of Government, I have nothing to say; but if that is not the intention, specially when there is an emergency in the country and you want peace, kindly take all possible steps so that struggle and conflict will be avoided. Therefore I want that the Labour Minister should clarify not only in respect of the higher amount but also in respect of those factories where due to loss the workers are going to get the minimum.

There is another apprehension also in my mind. As Shri Dandekar said, I know that there are two writ cases

pending before two High Courts. The factory owners say that when there is no profit, the factory should not be liable to pay any bonus. On this ground they have gone to the High Court. I do not know what is going to happen. The Government will also defend it because it is their responsibility to defend their own legislation. But anyhow if something otherwise happens, how will the wrong be corrected? This should also come from the Labour Minister. If in the middle of negotiations any judgement comes which is contrary to the interests of the workers, what will the workers do because the employers will immediately refuse to pay any bonus to the workers. You have to tell us what the workers will do in such a circumstance and how to stop them from agitating in order to get bonus as this is a crucial thing so far as the workers are concerned. For example, in Calcutta at the time of Dussehra there is a lot of hue and cry for bonus and nobody can stop the workers from demanding bonus. If it is not settled amicably and peacefully, naturally I do not think any kind of force can stop them from making any demand or from going ahead with their demand and agitations.

The labour problem, apart from being an economic problem, is more or less a psychological problem also. Labour is not by habit a fighter at least in our country where democracy is prevailing. The workers are not like those in other countries. I have not seen China and I do not know how the workers behave there because they do not go on strikes—I have never heard of that. They are crushed by force. Here that is not the condition because here we have got the liberty to form associations, to put our demands and also agitate for our problems that we face. Naturally here there is some difficulty and their problems require a psychological treatment. If psychological treatment is not given to the workers and their questions are not decided in a peaceful manner, you can judge what is the other course open to them to

get the matter decided or to get their problems solved.

Therefore I want that the Labour Minister will consider all these difficulties of the workers. This is a complicated issue. At the moment I am speaking and after I have spoken my Communist friends will speak. They will also oppose it because from the trend of amendments I see that a lot of opposition is coming from them also. Naturally, you have to give some serious and very special consideration to the matter so that some solution may be found out in order to ease the situation. This is what I wanted to say.

15 hrs.

Shri Indrajit Gupta: Mr. Deputy-Speaker, Sir, the Labour Minister, while moving the motion for consideration of the Bill just now tried to give this House the impression that the Bonus Commission's recommendations, that is to say, the majority recommendations of the Bonus Commission, had in almost all respects been accepted by Government and embodied in the terms of the Ordinance and now in the terms of the Bill.

Sir, I suggest, in all seriousness, that the Labour Minister knowing fully well that this statement of his is a distortion of the truth has been trying to mislead the House. The point of the matter is not as to what is the number of recommendations of the Bonus Commission which they have accepted or modified or rejected—it is not a quantitative question—but the question is as to what was the core of the Bonus Commission's recommendations. Any matter which deals with the question of bonus has naturally to deal primarily with the question of how bonus is to be computed, how the quantum of bonus which is payable is going to be calculated or computed. That is the core and the kernel of any scheme of bonus. Other things are only incidental. Surely, the Minister remembers very well that it is in respect of the computation

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proceedure that the most serious departures have been made by the Government from the majority recommendations of the Bonus Commission in the name of modification and it is on this ground, that is to say, a deliberate and wilful attempt to reduce the quantum of the allocable surplus which can accrue to the workers as bonus, that organised labour all over the country is most indignant against the Bill in the form in which it has been put before the House and there is the apprehension which my friend Mr. Pandey, on the other side, entertaining that as a result of this Bill there may not be greater peace but greater unrest and the apprehensions are very well founded precisely because of this factor.

I wish to make some general remarks at this stage. When we come to clause-by-clause consideration of the Bill, I shall speak in detail on the clauses concerned. First of all, just as Mr. Masani waxed so eloquently with his indignation about the propriety or otherwise of the Government functioning by an Ordinance—he is entitled to his views—I must also raise my voice of indignation and protest against the precedent and a very dangerous precedent, which has been introduced by this Government in the manner in which it has dealt with the recommendation of the Bonus Commission. There was the Commission consisting of seven persons. Just now, the Minister made a passing reference to the composition of the Commission. He talked of an eminent Judge who was appointed as the Chairman he reminded us that there was an Economist there; he reminded us that a Member of Parliament was there, that representatives of the employers both of the public and private sectors were there and the representatives of the two biggest trade unions organisations in this country were there including the organisation which is now headed by my friend Mr. Pandey. Out of these seven Members, he said, six Members, that is to

say, an overwhelming majority, agreed on certain recommendations while one member representing the employers of the private sector put in a minute of dissent.

Shri A. P. Sharma (Buxar): He is sitting here.

Shri Indrajit Gupta: I am not aware of who is sitting here. My quarrel is not against any individual and, to me, Mr. Dandekar is only a symbol of something, of Mr. Kriiloskar perhaps who, from outside, is offering a new kind of bonus to individual Congressmen as the Chairman of the Federation of Indian Chambers of Commerce and Industry and saying that if you champion the cause of FICCI, he will give you the bonus. I am not concerned here with the individuals. I am concerned here with the representative who put in a minute of dissent and, that is the form in which the Report came to the Government, six Members on one side and one Member on the other, and the basic core of this minute of dissent—I am sure Mr. Dandekar will not contradict me—was precisely relating to the method of computation of the bonus.

Now, what is the precedent that the Government has set before the country where democracy is supposed to be practised and where sermons of democracy are handed out to us every day by the hon. gentleman opposite? We are always told that democracy means that the verdict of the majority will prevail. But in this particular case, we found that a veto power was given to one Member—practically, it amounted to the veto power—representing the private sector capital and the Government obligingly incorporated the main essence of Mr. Dandekar's minute of dissent into the Ordinance and now into the Bill. There was much in the majority recommendations of the Bonus Commission which were not at all palatable even to the workers; perhaps, they were

not palatable to the employers of even the public sector—I do not know—but our representatives, I mean, the representatives of the trade unions including Mr. Vasavada who was the President of the INTUC at that time, put their signatures on the majority recommendations precisely in the interests of getting some sort of an overall settlement which would settle this vexed question of bonus to some extent in the nature of a package deal, taking the good and the bad in it together. An honest attempt was made that some sort of a cease-fire on this question of bonus should be brought about through a package deal. I suggest that one Member representing the private employers was allowed to carry out an infiltration across that cease-fire—Mr. Dandekar by his minute of dissent committed that infiltration—that infiltration was not stopped but encouraged by the Government and, step by step, the Government has gone on retreating in the face of that attack, that pressure, and now we have before us a very much emasculated version of the Bonus Commission's recommendations and the essence of it is that the method of computation has been revised in such a way that the amount which will eventually emerge as the allocable surplus for bonus has been drastically cut down and, in some cases, may be reduced to an almost vanishing point. The Minister could have been fair enough to remind this House that, for example, on the question of deduction of prior charges, before arriving at the allocable surplus for bonus, the majority of the Bonus Commission's recommendations had said that as far as taxes were concerned, only income-tax and super-tax should be deducted as prior charges—that is a fact—and now the Bill which is before the House says that not only income-tax and super-tax but also companies' sur-tax on profits, agricultural income-tax and any other tax which may be declared by the Central Government to be a direct tax for the purpose of this Act can all be deducted. It is not a very ser-

ious departure from the Bonus Commission's recommendations?

Then, on the question of development rebate, with your permission, Sir, I would just read out an extract from the Bonus Commission's Report. It says:

"Under the Income-tax Act, development rebate is not part of the depreciation allowance and is granted over and above the depreciation allowance. It is a special allowance to encourage Companies to instal new machinery. In a year in which installations of machinery are very large, the inclusion of the whole of the development rebate together with the statutory depreciation, as prior charge, might wipe out or substantially reduce the available surplus, even though the working of the concern may have resulted in very good profit . . ."

Now, here the prior deduction of the whole of the development rebate has been permitted in this Bill. I do not wish to go into further details on this just now but it is easy to see that every possible opportunity has been provided in this Bill for companies to make prior deductions under various heads in such a manner that the allocable surplus that will emerge at the end as payable for bonus will be either drastically reduced or in some years, when profits may have been made, may disappear altogether.

As my friend Mr. Pandey put it just now on the other side, what is the purpose of this whole Bonus Commission's recommendations and this Bill? Is it that the whole concept of bonus should be put on an equitable basis which would assure the working classes of this country that they will get a due share in the profits which are the result of their toil or is it that they may be landed either in a mess of litigation or in a condition where for some years they will not get bonus at all despite having built profits for the employers? How the INTUC,

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which is always fighting as the sole representative of the working class, find themselves able to lend their support to this Bill when their representative had signed the majority report of the Bonus Commission which has been violated now, is beyond the comprehension of ordinary mortals like us. Of course, we do not represent the workers' they are all represented by the INTUC.

This is the situation now. We find in the Bill itself that, not only content with reducing the allocable surplus in this manner, the number of conditions, the number of restrictions, the number of exemptions or powers to exempt, with which this whole provision for bonus has been circumscribed and hemmed in are such that, I think, in the end it would be more fitting to change the long title of this Bill from 'payment of bonus' to 'non-payment of bonus' because that seems to be the real object.

The minimum number of people should qualify for bonus—this seems to be the object of the Bill as it has come in its present shape. The Minister has made much ado about this provision for minimum bonus. In itself, I admit that, even if this clause guaranteeing minimum bonus irrespective of profit or loss, could be ensured, it would be some substantial gain for at least those workers in our country who are unorganized in small industries or who have never enjoyed the benefit of bonus—not only small industries, but very big public sector concerns where they have never had a pie as bonus all these years. Even there you will find that there is no guarantee of recovery of minimum bonus in the event of an employer refusing to pay. Please go through the clause carefully. The only way to get their bonus, if it is due under the Act and if a particular recalcitrant employer does not pay, is through a long process of either raising the dispute under the Industrial Dispute Act or litigation or something like that; there is no other way of recovering the money.

As regards public sector concerns, the conditions, restrictions and exemptions allowed are such that, I think, the Government itself, which in this case happens to be the employer, should at least practise enough honesty not to discriminate between employer and employer since in this case the boot is on its own foot. They have put a clause here. I shall, in this connection, give an example which is fresh in my mind since I dealt with it only day before yesterday. In the Durgapur Steel Works or rather in the Hindustan Steel Works, a dispute has arisen whether they have to get the minimum bonus this year or not. According to the terms of this Bill, they have to show that, in that year, 1958-59, this Durgapur or Hindustan Steel Works was actually in production. The management holds that, in 1958-59, the production which took place was a trial one, an experimental production, and, therefore, cannot be reckoned as regular production. The employees have proved—and it has not been controverted—that, in 1958-59, the production of Hindustan Steel Works fetched a sale price in the market of Rs. 20 lakhs. Of course, the production was on a much smaller scale than what it is today. If it was trial production, an experimental production, how was it sold in the market and how does the Balance Sheet of the Hindustan Steel Works for that year reveal that, by sales, they got an income of Rs. 20 lakhs? Because of an invidious clause in this Bill, which is put in there for some obscure purpose, we find that there is a very big dispute there; the situation is heading towards a strike and we do not know what is going to happen.

The Minister is going on inundating this House with amendments to the very eleventh hour, which only shows that his own mind is not very clear; even this morning he supplied us with a list of amendments (No. 9); yesterday he introduced a new amendment adding to that huge list of exemptions and in that he adds all em-

ployees of inland and water transport companies which are operating on routes between two countries, I know what he has in mind. I am the President of the Union of that Company, which sent a telegram only three days ago from Calcutta, the River Steam Navigation Company of Lord Inchcape, whose control and management have been taken over recently by the Government though the shares of Lord Inchcape have remained intact. Because of the British Company's mismanagement all these years and because that Company has been showing losses over the last three years, that management put in a petition to the Government that they should be exempted altogether from this Bill and Mr. Sanjivayya comes forward obligingly and on the brink of this consideration of the Bill, he puts in an amendment like that.

Further, I say that this is a very dangerous form of legislation which is being undertaken. I agree with Mr. Dandekar on one point. There are so many contradictions, so much of confusion, in the drafting of the legislation and in its outlook too. Provided the company has completed at least six years, provided so many other things, once it starts functioning as a regular company—it does not matter even if it makes a loss—it will have to pay a minimum bonus. But if it is not six years' old, if its production has been a trial production if it operates a water route which passes through a river in Pakistan, then it is not to pay any bonus. Wonderful! What kind of outlook is this? What does this mean except to try and cut out people as far as possible.

Then, take for example the question of the category of workers who have been completely excluded. All apprentices are excluded altogether. Why should they be excluded from getting even the minimum bonus? Contract labour is totally excluded. In the definition of wages for the purpose of calculating bonus where Mr. Sanjivayya very proudly said that hitherto

it was only basic wages that was taken into account, but now it would be basic wages and dearness allowance, I may remind you that there are several lakhs of employees in this country working in the distributive and such trades who function mainly on the basis of commissions. Their regular fixed salary amounts to Rs. 50 or 60 per month; the balance has to be earned from commissions on sales. Let us take the popular example of the salesmen of Bata Shoes or the salesmen of Usha Company, who make fans and sewing machines. They are all educated middle-class people and some of them are graduates. Their fixed salary is Rs. 50 or 60 per month and the balance has to be earned by them on the basis of commissions on sales. But this Bill comes forward and excludes all commission from the computation of wages for the purpose of calculating bonus. Is this a correct thing to do? It means that, in such cases, those employees will get practically no bonus whatsoever. Here in their cases, where they are functioning as salesmen and so on, their commissions, the rate of commission and the basis of commission are an integral part of the contract of service; it is not just something in the air; it is in the contract of service. Yet, these commissions have been excluded. In such cases it means that the whole body of employees will be clearly denied any bonus at all. I could go on for a long time dealing with many points and we shall bring many of them up when it comes to the question of concrete amendments and clause by clause consideration. Now, I must say a word about the famous clause 34, which my hon. friend Shri K. N. Pande has dealt with already. Of course, I hold my patience a little bit because the hon. Minister has assured us that when he comes to that clause, he would enlighten us to our complete satisfaction. That was why I was interrupting my hon. friend only to a little extent earlier on because I would have liked him to have explained at the outset of this discussion

[Shri Indrajit Gupta]

exactly what the implication of this clause 34, is. I fully share and my organisation namely the AITUC fully shares, the misapprehensions and misgivings of my hon. friend Shri K. N. Pande that what might emerge ultimately as a result of this clause 34 may not be protection of higher bonuses at all. It may be so in some individual cases but in many cases it may not be so, and in some cases it may lead to a fall from the previous higher bonuses. My hon. friend Shri K. N. Pande is quite right when he asks what the object of any progressive legislation is if it cannot give a fool-proof guarantee that the existing rights and privileges of the workers will not be curtailed. If existing rights and privileges are going to be curtailed, then whatever else may happen, that act cannot lead to industrial peace, but it will lead to more bitter discontent and unrest and more intensive strife, which I am sure the hon. Minister does not want just as none of us wants it too.

Here, in clause 34, all that we are guaranteed is the ratio. How that ratio will work out in practice is something which I would be very glad to know from the hon. Minister. For the ratio is in relation to a base year. In that particular base year, we do not know what condition the particular establishment or company may have been in. If I am linked on a ratio basis to a base year, then the result in the present year when I am going to get bonus may be completely to my disadvantage. On the other hand, my hon. friend Shri N. Dandekar has pointed out some example where it may work the other way round. I do not know. The whole thing is a confusion. Even if the ratio is maintained, the quantum of bonus per worker may fall down considerably because in the meantime the number of workers may have increased in that concern and only the ratio would be maintained; in that case, the quantum of bonus accruing to each worker is bound to fall.

Therefore, as far as clause 34 is concerned, we have not been able to appreciate yet what sort of fool-proof protection it embodies. We have got grave misgivings. I believe and I am told that the recent strike which took place by the *Times of India* employees and Bennet Coleman and Co. employees was called off by that union on the basis of some assurance given to them by the hon. Minister that clause 34 was being formulated in such a way that there was no possibility whatsoever of their previous higher bonus—I take it that higher bonus means higher quantum of bonus—being reduced; I am told that on the basis of some such assurance, that strike was withdrawn. But in the pages of this draft Bill and in the language of this draft Bill we find no such assurance whatsoever. Therefore, we would certainly like to be enlightened on this point.

Finally, I would conclude with one other observation. Since there seem to be so many misgivings, and they are being expressed from various sides of the House regarding the way this Bill is drafted, and since many anomalies and contradictions are being pointed out, and since we find also that the hon. Minister himself on the morning of the 6th of September, 1965 is still not having his mind at rest and has still come forward with sheaves of amendments himself, I would request him to please consider once again whether it is not possible even at this stage to refer this Bill to a limited Select Committee; the duration of the Select Committee may be limited. I do not want the whole thing to go on for months and months, but let it be limited to just a couple of weeks or ten days. Let a chance be given to some committee to go into the Bill and try to remove some of these anomalies and these contradictory things and clarify certain things so that it may not land us in endless disputes and litigation and endless strife hereafter. This, I think would be a correct reflection of the views of those who are entertaining doubts and

misgivings on this question throughout the country.

Mr. Deputy-Speaker: Now, Shri A. P. Sarma.

Shri Sham Lal Saraf (Jammu and Kashmir): You are calling only representatives of labour. We have no place here?

Shri Daji: There is enough confusion already. Let not the confusion be worse confounded.

Shri Sham Lal Saraf: My hon. friend may rest assured that we shall point out where the confusion lies.

Shri A. P. Sharma: I wish to congratulate the Government and the Labour Minister for having brought forward this Payment of Bonus Bill, 1965 before this House for its passage. Before the amendments were tabled by Government, I had also some observations to make regarding this Bill. But after the tabling of the amendments, particularly to clauses 33 and 34, I support this Bill wholeheartedly. That is why I congratulate the Government and the Labour Minister for having come forward with this Bill.

I also congratulate Shri N. Dandekar and Shri Indrajit Gupta because they agree to at least one thing and that is to cause confusion. All along they have been talking about confusion. I shall come to them later on in the course of my speech while dealing with the Bill proper. At this stage, I would merely point out that both of them are interested in it for the same purposes, although they may be talking in different language. And that is why they are opposing this Bill.

From a close study of the Bill it will be found that about 45 lakhs unfortunate workers who, as the Labour Minister has said, have never seen what is called bonus are going to get a minimum bonus of four per cent. My hon. friend Shri N. Dandekar objects to 4 per cent minimum bonus.

But this Bill will protect also the right of the workers to get higher bonus wherever they have been getting higher bonus as a result of some award or some settlement. The total amount according to this Bill will be about Rs. 25 to 30 crores. Therefore, I would like to say that this is definitely a gain for the workers, and particularly, as I have said, to those workers who have never received any bonus at all in the past.

I shall be very happy if this bonus formula is extended to other industries, and particularly to the workers in public sector undertakings, and some method is found out by the employing Ministries to include those workers also who unfortunately have been left out of the scope of the present Bill.

To have a proper appreciation of this Bill, the amendments that have been tabled, particularly, to clauses 33 and 34 have to be appreciated in the background of the character of bonus originally recognised in this country. Originally bonus was regarded as *ex-gratia* payment to the workers. But, according to this Bill now, it will be a matter of right for the workers. Therefore, this Bill substantially changes the character of bonus hitherto paid to the workers in this country. This bonus Bill will ensure social justice to the workers, and it will be definitely laying down a healthy tradition for settling the bonus disputes of the workers.

Shri N. Dandekar and the employers have opposed this Bill because in their opinion the employers were getting some rehabilitation allowance under the Labour Appellate Tribunal formula and that is not provided in this Bill, and, therefore, they are opposed to this Bill. We have to examine how much they were getting under the Labour Appellate Tribunal formula for rehabilitation charges. They were allowed 6 per cent return on the capital and two to four per cent as reserve. The Bonus Commission re-

[Shri A. P. Sharma]

commended 7 per cent and 4 per cent respectively, and according to the modification now made by Government, which is incorporated in this Bill, the rates will be 8½ per cent and 6 per cent respectively. From all this you will find that whatever modification Government have made so far in the bonus report and incorporated in this Bill is such that the employers are definitely the gainers. There is no doubt about it. Over and above that, they are also entitled to a certain development rebate. Therefore, I do not understand why the employers are opposed to this Bill.

15.30 hrs.

[DR. SAROJINI MAHISHI in the Chair]

They are opposed to the payment of minimum bonus of 4 per cent, because their argument is that if an industry runs at a loss, the workers cannot be entitled to a bonus. Here we have to see that these workers do not suffer. If at the same place where there are two industries, one running at a profit, and the other running at a loss due to mismanagement or inefficiency on the part of the management, if one industry is running at a profit, naturally the other industry should also run at a profit. Therefore, to say that minimum bonus is not justified is not correct. If at all any industry runs at a loss on account of mismanagement of the industrialist or employer, it is the employer who should suffer, not the workers. Therefore, I agree that it is absolutely justified to fix a minimum of 4 per cent and a maximum of 20 per cent bonus as laid down in the Bill.

In spite of all these modifications which are mostly in favour of the employers, they are not satisfied. When these modifications were announced by Government, the workers' organisations, particularly the organisation to which I belong, the

Indian National Trade Union Congress, protested against them, but later on when the Prime Minister and the Government of India assured us that wherever the workers are getting a higher bonus than that laid down in Bonus formula they will continue to get that, we reconciled to the idea of the modifications.

While concluding my observations at this stage, I would record my support to the Bill because it ensures the payment of a minimum bonus to more than 45 lakh workers who have never got bonus, it protects the interest of about 15 lakh workers who have been getting a higher bonus than that laid down in the Bonus formula and at the same time industry will also get sufficient allowance for development and expansion and their expenses. This Bill is quite in order and I record my support and that of my organisation to it.

Only one word regarding the Opposition friends who are opposing the Bill. I wish to say that some of these people are not interested in solving certain problems. This is particularly so in the case of our friends sitting opposite, that is, the Communist Party and the All India Trade Union Congress. They are never interested in solving the problems of the workers because they know if the problems are solved through peaceful or constructive methods, their utility will cease to exist. They will only be useful at a place where confusion reigns. That is why I have said that I want to congratulate Shri Dandekar and Shri Indrajit Gupta for the fact that at least they can agree in one respect, that is to cause confusion. That is why they are trying to create confusion so far as this Bill is concerned.

Otherwise this Bill is quite in order. It is a progressive step, it is a step towards socialism in this country. Over and above that, it lays down a peaceful, constructive method

for the settlement of disputes of workers regarding bonus. I hope that the same formula will be extended to the rest of the workers in the country who are working in employing ministries like railways, defence and other departments.

With these words, I support the Bill.

श्री बड़े : माननीया सभापति महोदय, मैंने इस प्रकार का संकल्प दिया है कि मैं इस प्रॉडिनेन्स से सहमत नहीं हूँ, लेकिन मैं ने जो प्रस्ताव दिया है वह इस बास्ते नहीं कि मैं पूरे प्रॉडिनेन्स से सहमत नहीं हूँ। मेरा इतना ही कहना है कि बोनस कमीशन ने जो सिफारिशों की थीं अगर उन को बैसे का बसा ही इस में रखा गया होता तो शायद मैं इससे सहमत होता। लेकिन मैं ने देखा कि बोनस कमीशन ने जो सिफारिशों की हैं उनसे यह प्रॉडिनेन्स और बिल विपरीत जाता है, और इससे मजदूरों में और कारखानों में काम करने वालों में असंतोष है। इसी कारण मैं ने यह संकल्प दिया है।

श्री दांडेकर और श्री मसानी के जो संकल्प हैं उनमें और मेरे संकल्प में अन्तर है। उन का यह कहना है कि इस प्रॉडिनेन्स के निकालने की जरूरत नहीं थी, मेरा कहना है कि इतने पढ़ने ही यह प्रॉडिनेन्स निकालना चाहिए था या बिल लाना चाहिए था।

अब बिल पर आते हुए मैं पहले तो बोनस कमीशन के सदस्यों को धन्यवाद और बधाई देना चाहता हूँ कि उन्होंने ने इस बहुत कठिन विषय पर विचार कर के बोनस की परिभाषा दी है। पहले बोनस ऐसा समझा जाता था कि कुछ एक्स प्रेशिया पेमेंट कर दिया या जैसे कुछ इनाम दे दिया। उस के बाद समझा जाता था कि अगर प्राफिट हो गया तो उसमें कुछ हिस्सा मजदूरों को दे दिया, उसके बाद यह समझा जाता था कि और उत्पादन बढ़ गया तो मजदूरों को कुछ दे दिया वही बोनस है। लेकिन बोनस कमीशन

ने कहा है कि उन को लिबिंग वेज देना चाहिए और अगर एक्चुअल वेज और लिबिंग वेज में अन्तर है तो लिबिंग वेज देनी चाहिए और उन्होंने ने मिनिमम और मैक्सिमम बोनस कर दिया है जिस से ब्यापारियों को नुकसान न हो, और मजदूर उत्पादन का भी ध्यान रखें और दोनों में संतुल्य रहे। उन्होंने ने पेज 19 में यह व्याख्या दी है :

"It is difficult to define in rigid terms the concept of bonus, but it is possible to urge that once profits exceed a certain base, labour should legitimately have a share in them. In other words, we think it proper to construe the concept of bonus as sharing by the workers in the prosperity of the concern in which they are employed".

मैं समझता हूँ कि जो इनमें कनव्यूजन था उसके बारे में उन्होंने बीव का रास्ता निकाला है और यह व्याख्या दी है। उन्नी के अनुसार उन्होंने अपनी रिपोर्ट दी है।

मैं यह दिशा-क्रमां कि शासन ने समाजवाद की धोरणा करने हुए और समाजवाद का डिहोरा पीटने हुए भी मजदूरों के साथ उस प्रकार न्याय नहीं किया है जैसा कि कमीशन ने सिफारिश की है। मजदूरों को जो न्याय बोनस कमीशन ने देने का प्रयत्न किया है उस को वापस लेने की शासन ने कोशिश की है। कमीशन ने कहा है कि कनसेशन देने में एम्प्लेज प्राफिट्स टैक्स और डायरेक्ट टैक्स इनक्यूड करने चाहिए लेकिन शासन ने कहा :

"All direct taxes for the time being in force will be deducted as prior charges; tax concessions given to the industry to provide resources for development will also be accepted as prior charges; the rate of return on capital to be allowed as a prior charge shall be 8½ per cent. on

[श्री बड़े]

paid up capital and 6 per cent. on reserves (as against 7 per cent. and 4 per cent. respectively) as recommended by the Bonus Commission".

हमारे दांडेकर साहब ने जो असहमति पत्र दिया है उसी को स्वीकार किया गया है। मैं नहीं जानता कि मंत्री महोदय ने इस को क्यों स्वीकार किया। इतना हार्ड पावर्ड कमीशन था और इस की बात शासन ने नहीं मानी और इस प्रकार उस के एक चपत लगाया और उस का आदर नहीं किया।

Dr. Ranen Sen (Calcutta East): Government has been pressurised by big business.

श्री बड़े : सरकार मिक्स्ट इकानमी की नीति पर चल रही है। वह एक और मजदूरों को खुश करना चाहती है और दूसरी तरफ मिल मालिकों को भी खुश करना चाहती है। यह कनफ्यूजन इसी कारण पैदा हो रहा है। एक्सेस प्राफिट्स टैक्स के बारे में कमीशन ने उदाहरण दिया है। उन्होंने कहा है :

"The Super Profits Tax has been notified by the Government as a tax on excess or abnormal profits under Section 34A (4) (d) of the Companies Act".

जब काफी फायदा होता है तो स्वाभाविक तो यह है कि लेबर, जो कर्मचारियों को जो कि वहां पर मेहनत से काम करते हैं उन को भी उस प्राफिट में से नफ़ा मिलना चाहिए लेकिन वैसा न करते हुए यह जो किया गया है कि मिल मालिकों के पास पैसा रहना चाहिए, तमाम नफ़ा उन्हीं के पास जमा रहना चाहिए ऐसा कर के शासन ने कोई वृद्धिमत्ता नहीं बताई है।

कमीशन ने डेवलपमेंट रिबेट के बारे में अपने विचार व्यक्त किये हैं। उन्होंने मिल

के क्लार्क के पीछे कारण दिया है कि ऐसा हम क्यों करते हैं वैसे कारण नहीं बताया है लेकिन कमीशन ने खाली यह कह दिया है कि डेवलपमेंट रिबेट क्यों नहीं निकालना चाहते।

"As regards the development rebate, the commission observed: "We now come to the question of development rebate and the saving tax on account of development rebate. It is a special allowance to encourage companies to instal new machinery. In a year in which installation of machines are very large, the inclusion of the whole of the development rebate together with the statutory depreciation, as prior charge might wipe off or substantially reduce the available surplus, even though the working of the concern may have resulted in very good profit.'"

अब काई भी साधारण आदमी यह जानना चाहेगा कि इसमें यह डेवलपमेंट रिबेट क्यों नहीं शामिल करना चाहिए ? इस के लिए उन्होंने कोई खास वजह नहीं बतलाई है कि वैसा क्यों नहीं किया जाना चाहिए।

"(12) "direct tax" means—

(a) any tax chargeable under—

- (i) the Income-tax Act;
- (ii) the Super Profits Tax Act, 1963;
- (iii) the Companies (Profits) Surtax Act, 1964;
- (iv) the agriculture income-tax law; and

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

बाइरेक्ट टैक्स की शासन ने परिभाषा बतलाई है और वही पर उस ने लिखा है कि कोई भी टैक्स जिसे कि सरकार गजट में शायी कर दे बाइरेक्ट टैक्स माना जाएगा और वहां पर सरकार को यह प्राफिट या बोनस बांटना चाहिए ।

इस के बाद मुझे समझ में नहीं आता कि नई इंडस्ट्रीज जो हैं उन को 6 साल की विशेष छूट कैसे देते हैं ? यह 6 साल की छूट देने का क्या कारण है ? 6 साल तक नई कम्पनियों को बोनस नहीं देना चाहिए ? यह 6 साल आप ने कहां से निकाला है ?

उसके बाद मैं ने यह देखना चाहा कि पबलिक इंडस्ट्रीज को आप में शामिल किया है या नहीं । उसके वास्ते उन का कहना है कि गवर्नमेंट इंडस्ट्रीज में यह बोनस बिल लागू नहीं होगा । आखिर यह बोनस बिल पबलिक इंडस्ट्रीज के वास्ते क्यों नहीं लागू होना चाहिए ? आप व्यापार करते हैं, आप की इंडस्ट्रीज कम्पटीशन करती है और इस वास्ते इस कमिशन ने अपने पेज 88 पर यह कहा है :—

"A number of representatives of public sector enterprises appeared before us or submitted their representations. In one way or another they emphasised the special character of public sector enterprises stating that their primary objective was to assist in the economic growth of the country with a view to promoting employment and the well-being of the community in general; that profit motive was a secondary consideration and that whatever gains ultimately accrued would be utilised for further growth to the ultimate good of the entire community;

that most of them were of a basic character designed to promote dependent industries in the private sector; that certain financial institutions recently set up were not intended to restrict or retard the business activities of established private financial institutions, but were primarily designed to provide cheap credit for the development of industries..."

आपे चन कर उन्होंने कहा कि 20 परसेंट का जब कम्पटीशन होगा तो वह कम्पटीशन फ्रील्ड में तैयार होंगे । उस का एक रेशियो दिया है तब उस पर बोनस बिल लागू होगा । लेकिन यदि इस प्रकार से किया जायगा तो फिर झगड़े हो जायेंगे । आप ने जो बोनस के लिए 20 परसेंट का रेशियो रक्खा हुआ है और कहा है कि उस पबलिक कंसर्न को और उस सरकारी कारखाने को बोनस बिल लागू होगा जिसमें कि उनका किसी से कम्पटीशन होगा, प्राइवेट कंसर्न जिसमें कि 20 परसेंट सेल्स और प्राइवेट कंसर्न का होगा यह रेशियो आप ने रक्खा हुआ है । मैं समझता हूँ कि कमिशन ने भी दिया हुआ है । यह कमिशन ने कहा है कि हमें इस में कोई रैफेंस नहीं था ।

"The term 'industrial employment' will include employment in the private sector and in establishments in the public sector not departmentally run and which compete with establishments in the private sector".

उनको रैफेंस इस प्रकार दिया है कि पबलिक सेक्टर के कारखाने जितने होंगे उनके वास्ते बोनस कमिशन को विचार नहीं करना है तो भी उन्होंने विचार किया है ।

"In the strict economic sense competition covers not only service rendered and/or the production of an industrial unit but also the resources utilised (competition for labour, capital and materials); but if this were in-

[श्री बड़े]

tended there could hardly be any significance in a specific use of the expression 'which compete with the establishments in the private sector', because every industry must employ and compete for resources for running it, and therefore, there can be no exemption".

अब यदि आप कम्पटीगन को टैस्ट रजो है तो प्रत्येक इंडस्ट्री चाहे वह पबलिक सेक्टर की हो या प्राइवेट सेक्टर की और वह प्राफिट करती है तो कोई बहस नहीं है कि उनको इस बोनस देने से क्यों छूट दी जाये ? अब दोनों ही रा मैटीरियल लगी है तो रा मैटीरियल से कम्पटीगन होगा, लेबर से कम्पटीगन होगा और कंपिटल से कम्पटीगन होगा तो यह बोनस पबलिक सेक्टर और प्राइवेट सेक्टर दोनों में मिलना चाहिए । शासन ने यह एक बड़ा अभ्याय किया है कि उसने प्राइवेट सेक्टर पर तो यह बोनस बिल लागू किया है लेकिन पबलिक सेक्टर को उससे महकूम रक्खा है । बोनस फारमूला उन पर भी लागू होना चाहिए । चूँकि ऐसा नहीं किया जा रहा है इसलिए इस बारे में कामगारों में बड़ा असन्तोष है ।

जैसा कि श्री डांडेकर और इन्द्रजीत गुप्ता ने 34 के बारे में कहा है वहाँ पर दरअसल बड़ा कनफ्यूजन है । इसके साथ में एक प्राविजो एड किया गया है :—

"Provided that nothing contained in this sub-section shall entitle any employee to be paid bonus exceeding twenty per cent. of his salary or wage for the accounting year."

मैक्सिमम कितना होना चाहिए इस के वास्ते आप ने यहाँ बलाज डाल दिया है जो कि आप अपने एग्रोमेंट के अनुसार ले सकते हैं । यह तो बहो हुमा है कि आपने इस में एक हाथ से दिया और दूसरे हाथ से ले लिया । एक हाथ से आप ने दिया कि एग्रोमेंट के अनुसार ले सकते हैं लेकिन दूसरी तरफ कह दिया कि किसी भी हालत में जो मैक्सिमम 20 परसेंट का रक्खा है उससे अधिक बोनस कोई भी कर्मचारी नहीं पा सकता है ।

यह सेक्शन 34 में ने पूरा पढ़ा तो धुसे तो उससे कोई मतलब निकलता दीखता नहीं है । मालूम ऐसा पड़ता है कि इन के मन में कोई दूसरो बात है यह कल्पना डालने के वास्ते सेक्शन तैयार किया, सेक्शन का मतलब कुछ होता नहीं है और इतने साफ साबित हो जाता है कि आप कुछ करना नहीं चाहते हैं और इस शगड़ेबाजी को उत्पन्न करना चाहते हैं ।

जो आपने अमेंडमेंट दिया है उसमें आपने छोटे छोटे इरटंबलिशमेंट्स नहीं लगाये हैं । उसमें आप ने यह कहा है :—

"32. Nothing in this Act shall apply to—

(i) employees employed by any insured carrying on general insurance business and the employees employed by the Life Insurance Corporation of India."

आपने इस में यह कहा है कि जनरल इश्योरेंस बिजनेस पर यह बोनस लागू नहीं होगा लेकिन एल० आई० सी० को नहीं लेते हैं । लेकिन जनरल इश्योरेंस को इस बोनस से क्यों छूट दे रहे हैं यह

मेरी समझ में नहीं आता है और न ही इनके लिए उन्होंने कोई वैलिड आर्गुमेंट दिया है ?

आप ने यह कहा है :—

“(c) institutions (including hospitals, chambers of commerce and social welfare institutions) established not for purposes of profit;

“(vi) employees employed through contractors on building operations;”

मेरा कहना यह है कि बिल्डिंग प्रीपेरेशंस हमने स्टार्ट किये हुए हैं और वह इस प्रकार के ठेकेदार लेते हैं। एक क्लाइंट इस में और डाला है जिसमें उन्होंने लिखा है। एक विचित्र धारा है।

“If the appropriate Government, having regard to the financial position and other relevant circumstances of any establishment or class of establishments, is of opinion that it will not be in public interest to apply all or any of the provisions of this Act thereto, it may, by notification in the Official Gazette, exempt for such period, as may be specified therein.”

ऐसी छोटी छोटी कम्पनियों के लिए शासन यह समझता है कि बोनस बिल लागू नहीं होना चाहिए। दरअसल होता यह है कि किन्हीं बड़े कम्पनी लीडर जो कि किसी इंडस्ट्रियल कारखाने में इंटरैस्टेड होते हैं उनको बोनस कमिशन से छूट दिलवाने के लिए अपना प्रैसर गवर्नमेंट पर डालते हैं और इसलिए यह इस तरह का इसमें प्राविजन रख दिया गया है। लेकिन इस तरह का छूट का प्राविजन रखना उचित नहीं है।

आपने इसमें मैक्सिमम और मिनिमम रक्खा हुआ है कि इतना बोनस मिल सकेगा लेकिन क्या आपने यह देखा नहीं है कि जो कारखानेदार हैं उनके पास में ज्यादा एमाउंट रह जाता है और बोनस बांटने के वास्ते कम होता है ? 60 : 40 का रेशियो रक्खा है। 60 परसेंट उस के पास रहेगा और 40 परसेंट इनके पास रहेगा, सरप्लस बांटने का लेकिन इस 60 परसेंट में भी देखते हैं कि जो जनरल रिबेट होगा वह 30 परसेंट के इक्विवलेंट रिबेट मिलता है। इस तरह कारखानेदार के पास 70 रुपये रह जायेंगे, अर्थात् मेजर पोर्शन, ज्यादा हिस्सा, उस के पास रहेगा।

मैं समझता हूँ कि जब कारखानेदारों के पास काम करने वाले मजदूरों ने बिल्लाना शुरू किया और वे पिछले दो तीन साल से मंत्री महोदय के पीछे लग गए, तो मंत्री महोदय यह बिल ले आए। जैसे मां बूझ न आने पर बच्चे के मुँह में भ्रगंडा दे देती है, वैसे ही मंत्री महोदय ने यह बोनस बिल मजदूरों के सामने पटक दिया है। लेकिन मजदूर इस से संतुष्ट नहीं होंगे। कमिशन और शासन ने यह मैक्सिमम और मिनिमम बोनस की व्यवस्था कर के मजदूरों के साथ अन्याय किया है।

मैं ने कुछ एमेंडमेंट्स दिये हैं। मैं उन एमेंडमेंट्स के साथ इस बिल का समर्थन करता हूँ।

Dr. Melkote (Hyderabad): Madam Chairman, during the short period of 1½ or 2 hours, we can clearly discern three kinds of thought being viewed today. One set of members on this side are for supporting this Bill altogether. On that side are the people who are criticising it. Among these two groups on the other side also, a distinction could be made.

[Dr. Melkote]

One group likes to thwart the Bill altogether so that the working class conditions may not improve, whereas the other group wants to imperil the provisions of the Bill.

Sir, on behalf of the workers and on behalf of the labour, I would like to say this. This bonus Bill that has been introduced here has a long and historic past and it has ultimately culminated in this Bonus Bill today and I stand here to offer my strong support to it. I do so for certain good reasons, one reason being this. One group which would like the thwart it had been continuously saying that the workers have no right to claim this kind of bonus whatsoever. It is that section of the Opposition here which has been raising questions as to why the Ordinance was promulgated; they were indulging in legal quibbles and other things in the Bill and ultimately would oppose, if possible, the Bill altogether. They were not for the betterment of the working class at any time; they had never been and even today if they could help it they would like to see to end of this Bill. The second group in the Opposition side seized the various flaws in the Bill, saying that the quantum of profit and other things had been nibbled away by the industrialist class so that the working class may get less and so on. How to improve the living conditions of working class, is the question. The Supreme Court itself had to give a decision. There was a case of a strike between the workers of a mill and an industrialist referred to the Supreme Court which said: this is a fit case for a commission to be appointed by the Government to go into the whole question. That is how the Bonus Commission got appointed with representatives of Government, industry and working class. There is one question which I would like to highlight today; that is that the representative of industry in the Commission, Mr. Dandekar, had given

a minute of dissent. Were it a unanimous report, it would have been easy for the Government to introduce the Bill immediately. But he had appended a dissenting minute and so it is a majority report. We still expect that the representatives of the industrialist class would play the game in order that the bonus is given at an early date. There is no want of money as crores of rupees are held back and they are not being paid. Interest accrues on it but we do not know to whom it goes to. Today also, this Bill is being opposed with a particular motivation, the industrialists have been doing so all along. They have never accepted that the workers are due to be given a bonus of this type but they say that they could participate in the profits of the company, if productivity improves. One of them said that it should be related to productivity. Supposing it is not and still there is a profit made as one Member pointed out, are not workers entitled to a share of it? How does this profit come in? What is happening in other European countries? Today, after Independence what do these industrialists pay us as wages? The establishments in this country managed by private industrialists get raw materials cheap; they also pay cheap wages; they earn enormous profits. Our charge is that they are not giving even a living wage today. What happens in other parts of the world? I was in Europe two or three months back; this was my third visit. An ordinary worker of any type in Europe gets a minimum wage of £16-20 per week which is nearly 1½ times the wage of a worker per month here. So, it means that the workers here are not given their due and yet the industrialists oppose even a small quantum of bonus that is being given to them. The working class comprises 12 million workers in this country and they would have risen in revolt but for this Bill. The Government wants to allay that unrest and it has done so by promulgating the Ordinance. I

do not see what is the unreasonable-ness in it. It is only in the fitness of things that Government have done so; they have done a very wise thing. Otherwise there would have been an upheaval of the working class. I congratulate the Minister for bringing forward the Ordinance at the proper time. The quantum of wages that is given is very low. So, the Bonus Commission has arrived at certain conclusions. In committees of this type there have always various points of view to be taken into consideration. If we the workers, support the Bill that is here, it does not mean that we support every clause of the Bill. It only means this. In all committees, we have ultimately to arrive at some unanimous decision and there is some and give take. It is in that light that our support has to be given. Nobody should take law into his own hands and say he will not do this or that whatever be the decision of that Commission. We accept our objections again because nothing is final in this world and we can raise it at some other time. This thing, the question of the bonus, has been hanging fire for the past 10-15 years and let there be some decision arrived at on the bonus we are entitled to. We can always raise other issues later on. It is from that point of view that we accept it and in that light this Bonus Bill has to be considered. It is not as if we are entirely satisfied with all the provisions of the Bill and therefore we support it. But ultimately we have to accept some such recommendations of a committee. It was a high-powered commission which the Government had appointed and so we accept it with all its drawbacks. We congratulate the Minister for bringing in this Bill at this appropriate time.

There are certain findings that the Commission had recommended and they will come up before you for discussion. It is said, some of the workers who have got a higher bonus may get affected adversely, that is what has been decided in the report.

There were numerous representations, possibly, about a thousand representations, on this matter and being a democratic socialist type of Government, the Government wanted to see that the working class got its just share in the profits. It would be the most unreasonable thing if anybody were to curtail what had already been getting which means helping the industrialist capitalist class again. So, certain modifications had been brought in to the advantage of the workers and we congratulate the Government on this.

There is one clause here in the Bonus Bill about the apprentices. An apprentice who earns a wage is included to receive all advantages that any other worker derives under the Industrial Disputes Act. But an apprentice in this Bill is excluded from getting the benefits of the bonus. I do not know how it has been done. He is entitled to it and it has got to be given and that is our feeling in the matter.

16 hrs.

[SHRI KHADILKAR in the Chair]

About one or two clauses, I would like to mention, but I may say it clearly that we have not given any amendments so far, thinking that during the discussion, we might speak out what is working in our minds regarding the meaning to be attached to certain clauses and when the Government's clarification and our views, if similar, the matter may be allowed to rest there. Otherwise, we would like to press our feelings in the matter.

I do not want to take more time of the House. The Ordinance was necessary. The Bill as it has come forward has come none too soon, seeing the situation and the conditions that exist in the country now. The Bill has come at the appropriate time. There have already been certain cases reported where taking advantage of the situation, the industrialists have told the workers that there will be considerable delay in

[Dr. Melkote]

the finalisation of the report of the Bonus Commission and the results may not prove to be very encouraging to the workers. And, this they have already come to an agreement paying the workers less. The workers have already accepted some of these things. This Bill seeks to protect the workers from the operation of such things, and therefore this Bill is most welcome and we support it strongly.

Shri Alvarez (Panjim): Mr. Chairman, Sir, at long last, the Bonus Bill is before the House, and I must welcome it straightaway. For many years, a large part of labour legislation has been concerned with the settlement of bonus, and I am now glad that is being placed on a statutory basis. May I also say straightway that the Bill, in its provisions, displays a great deal of confusion, and I would at this stage join in the appeal made by the hon. Member, Shri Indrajit Gupta, that in order to make the Bill more precise and to remove some cobwebs and confusions that abound in it, a small Select Committee may be appointed to report within a week, if necessary, so that the Bill can become a model of precision, and its contradictions could be resolved, and the Bill can be passed in this very session of the House.

In this introductory speech, I intend to deal with three main points. For a long time, as I said earlier, a large part or a large effort of the trade union movement has been towards the securing of bonus and to the extent that a labour Bill like this Bonus Bill finds itself on the statute today, it is a signal victory for labour. But there is a word of warning I would like to sound on this occasion. As I said, a large proportion or an increasingly large proportion of the efforts of the trade union movement has been in getting a bonus, and a diminishingly reduced proportion of that effort has been put in the organisation of the trade

union movement itself, in the sense that they find it difficult to make the unions viable by the collection of trade union dues from month to month or from year to year. An examination of the accounts of any trade union will prove this. My hon. friend Shri K. N. Pande opposite will agree with this proposition: that a large proportion of the total income of the trade union movement comes from bonus, and I hope that with this bonus becoming statutory, the trade union movement does not lose either its dynamism or its principles, and that labour leaders will come together and agree that a higher basic wage is much better than any amount of bonus that they may get by the legislation that is being brought before this House.

Secondly, it is necessary to look at the financial provisions. The financial provisions, the organisational set-up or the structure, and those who are entitled to get the bonus and those who are liable to pay the bonus constitute the main provisions in this Bill. In regard to the issue of the quantum of bonus payment, it has been decreed that the minimum bonus is four per cent, or Rs. 40 and the maximum would be 20 per cent. I would like to question the wisdom of this set on and set off of allocable surplus that is being introduced in the Bill. I can understand if payment of bonus was made on pool, either a pooling of the industrial economy of this country or by the pooling of particular industry. The question of limiting the bonus to four per cent at the minimum and 20 per cent at the maximum has no relationship to the economy. The relationship would be proper if, having accepted the principle, it is put down that each industry or each company will be liable to pay bonus on the basis of its profitability or viability. I do not see why this set on and set off have come in. I think that once a minimum bonus has been

agreed to, it should be the minimum under all circumstances and no company which has to meet this liability of the minimum bonus should be able to claim any compensation in a year, so to say of reasonable profitability, because the principle is that bonus must be paid. I am sure this issue of minimum bonus introduces another implication: the implication is that bonus is not given on profitability; if bonus is paid on profitability, then obviously the Bonus Commission would not have recommended this four per cent minimum bonus to those companies that have not made any profit. The fact that the Bonus Commission has recommended that even those companies that have not made any profit should be liable to pay the minimum bonus would go to imply that bonus has a connotation more than the mere participation in profit-sharing, and that it has all the implications of an approximation to a fair wage. Therefore, both these principles are here incorporated; one by implication and the other by connotation.

Then there is the point that confusion has been caused by the drafting of clause 34. The wisdom of this clause is not understandable. The Government had given an assurance, many times over, that where there is an agreement of the bonus being paid at a higher rate, the Government would not put in any limitation upon the payment of bonus at a higher rate. In a number of industries, it has been the practice to pay bonus at a rate higher than this 20 per cent limitation placed statutorily in this Bill. I would say that if a company can make a higher rate of profit because of the direct co-operation and participation of the working classes in the working of the company, there is no reason why the limitation on bonus should be kept at 20 per cent. After all, if it is participation, let us share a fair proportion. Why should there be any limitation of 20 per cent of the allocable surplus, as it is technically termed here? After meeting all the liabilities, taking it for granted, the stated in the

Bill, the amount should be brought together and the working classes should have a claim over a share of it. If it has been found feasible in the past to pay higher bonus than 20 per cent as now limited in this Bill, I would like to ask where has all the extra money, after setting aside the 20 per cent, gone? Is it going to be utilised by the company for any investment? This question is not being answered. The reason is not being given as to why the Government should place a limitation. It is a legitimate question and I hope that the Labour Minister in his reply, will explain why this promise to abide by the award of a bonus which had been higher than this limitation of 20 per cent is not being honoured.

According to the structure, we are aware that all workers in a company which employs a minimum of 20 workers should be given the bonus. There are a vast number of factories— I think these are larger in numbers than the others—where the company employees less than 20 workers. It may be a margin of 19; from 10 to 19. If the Government's economic policy is of economic diversification, a larger and larger number of companies will be such as will work with a smaller complement of workers than that stipulated in the Bill. What is going to happen to them? Those small companies also make a certain amount of profit. Apart from the losses that they incur the small companies, small engineering shops, are also viable; if the workers can get a share of the bonus, I do not see why those people who work in companies employing less than 20 persons should be deprived of the minimum bonus of four per cent or Rs. 40 which is laid down and stipulated in this Bill.

Secondly, there is a class of workers who are excluded. I am referring to the stevedore labour, the seamen and other shore labour. Surely they perform as important an economic function as any other worker in any other industry. They also perform some very vital tasks and some strategic

[Shri Alvares]

operations at all times of the year. People who employ them also earn a certain amount of profit which is not less than the quantum earned in other industries. So there is no justification why these people should be excluded from the benefit of this Bill and I do urge that the minister gives his consideration to this matter in his reply, so that we may be able to extend the provisions of this Bill to include such workers.

There are workers in the public sector and those employed by the ministries of the government. As far as public sector employees are concerned, it has been laid down that in the case of those public sector companies whose income from its products is equal to 20 per cent of its gross produce in competition with the private sector, the workers will be entitled to bonus to the extent of the proportion of that 20 per cent which is earned in competition with the private sector. This is a very tortuous way of denying workers in the public sector the benefits of their efforts. After all, these public sector corporations or companies are set up by government as a matter of policy. They are public sector in the sense that they contain an overdose of government investment. The working class produce in any private company as much as they produce in the public sector. Why is it that the workers in the public sector should be subjected to a tortuous procedure and denied the benefits of this Bill? I do urge on the minister that the workers in the public sector also be brought on the same level as workers in the private sector.

There is the ministerial sector. If government's policy were to encourage public sector—both ministerial and other public sector enterprises—and if this is to form the basis of our economy, will it not be reasonable to argue that as the public sector grows in importance, volume and dimensions, a larger and larger number of work-

men employed in industry in this country will belong to these two sectors? If they are going to be the larger section of the working class movement in this country, it would mean that government is a party to progressively denying a larger section of workers from the benefits of the Bonus Bill.

I am associated with the organisation of railwaymen. I am surprised, my hon. friend over there did not mention it.

Shri A. P. Sharma: I mentioned it; you did not hear.

Shri Alvares: Railways are not merely an industrial concern; they are also a commercial undertaking. Railways earn large profits not merely to finance their own development upto a certain extent, but profits in order to pay to other States in the country certain amount of subsidies on the basis of certain other liabilities, like the passenger tax, in lieu of which Rs. 1 crore are paid to each State. If railways are able to earn money on a commercial-cum-industrial basis, there is no justification for them to be excluded from the provisions of this Bill. After all, one can argue that the railwaymen, employees of the defence department and people working in P&T perform an economic function. The Bonus Bill has laid down once and for all that bonus accrues not merely because of the principle of participation in profits, but also because of certain other liabilities. Therefore, 4 per cent minimum is given even in case of loss. If it is conceded that 4 per cent must be paid under any circumstance and it does not accrue because of the principle of participation in profit-sharing I cannot understand why the same principle cannot be extended to the public and ministerial sectors also. It can be argued that just as workmen in other sectors work and get bonus irrespective of profits, because they perform an economic function and contribute to the total industrial output of the country, so also the workers employed in the public and

ministerial sectors should be able to get a share of the bonus. I am sure that is an eminently justifiable demand.

My last point is about plantation labour in sugar industry, etc. My friend, Shri K. N. Pande, rightly raised this issue. Take the sugar industry. Those who work permanently and those who work seasonally are perhaps in the ratio 1:10. Hitherto, all bonus given to these people was paid on a flat basis. Those who work seasonally and those who are working permanently got the same quantum of bonus. Now this Bill alters everything. In the manner of accounting what proportion of bonus the seasonal labour would be entitled to, this Bill has removed an economic benefit which these seasonal workers were getting, on the same basis as permanent workers. Of course, the Bill gives the permanent workers their share according to the maximum of 20 per cent or minimum of 4 per cent, but it has consigned the seasonal workers to a much lesser amount of bonus. That is the basis on which they will be made to work. It is conceivable that the industrialists and the company managers, taking advantage of it, may be tempted to reduce the amount of days of seasonal labour which these seasonal workers are accustomed to put in for working the factory. It will lead to any number of abuses. After all, the sugar mills were paying it willingly in the past. The principle was accepted that seasonal labour contribute as important an economic function as permanent labour. If they do not perform their task, the permanent labour cannot proceed forthwith. Therefore, the bonus commission had not treated seasonal and permanent labour on the same basis. Therefore, this lacuna may be remedied by an amending clause bringing the seasonal labour on the same basis as permanent labour.

श्री ए० ना० विद्यालंकार (होशियारपुर) : सभापति महोदय, मैं इस बात के लिये लेबर मिनिस्टर साहब को बधाई

पेश करता हूँ कि उन्होंने यह बिल पेश किया और पहली मर्तबा बोनस का मामला हमारे कानून के अन्दर धाया। मैं ऐसा समझता हूँ कि शायद इसी वजह से लेबर मिनिस्टर साहब ने यह बिल जल्दी से पेश किया कि यह कानून की शकल प्रकल्प्य कर ले और बोनस एक वर्कर का कानूनी राइट बन जाये। इस हिसाब से मैं समझता हूँ कि यह बिल बहुत अच्छा है और स्वागत करने के योग्य है। इसके लिये मैं मिनिस्टर महोदय की सराहना करता हूँ। हमारे बहुत से वर्कर्स ने भी बाबजूद कई नुकायस के इस बिल को इस दृष्टि से स्वीकार किया कि चलो एक दफा तो पैर जमाने के लिये जगह मिल जाये फिर उस के भागे हम धीरे धीरे उन्नति कर लेंगे और इस में और थोड़े से इम्प्रूवमेंट्स कर लेंगे। इस दृष्टि से इस बिल का मैं स्वागत करता हूँ।

जहाँ तक इस बात का सवाल है कि इस में कई खामियां रह गई हैं जिन का यहाँ पर काफी जिक्र हुआ, मैं ऐसा महसूस करता हूँ कि कई खामियां ऐसी हैं जो कि बुनियादी खामियां हैं और उन की दुरुस्ती होनी चाहिये। उस की एक बुनियादी वजह है जिस से बुनियादी खामियां पैदा होती हैं। बोनस के बारे में हमारी जो धारणा है हमारा जो कंसेप्ट है बोनस का वह हमारे सामने साफ नहीं है। इस बिल में और चीजों की तारीफ है लेकिन बोनस की कहीं पर तारीफ नहीं है। बोनस के बारे में जब भी अधिकारियों में कुछ झगड़े चलते थे तो अक्सर इस बात पर बहस चलती थी कि यह एक्स-प्रैजिया पेमेंट है या डैफर्ड वेज है। बिजिनेस में फायदा हुआ मालिक को, बहुत सारा फायदा हुआ, मुनाफा हुआ और वह खुश हो

[श्री प्र० ना० विद्यालंकार]

गया। उस मुनाफे से उस के दिल में खुशी पैदा हुई। उस खुशी का इजहार करने के लिए उस ने कुछ मजदूरों को इनाम बांट दिये। अब मालिक तो यह कहता है कि हम इनाम बांटते हैं, एक्स-ग्रेशिया पेमेंट है। मैं पूछता हूँ कि इनाम की क्या बात है? यह मेहनत करते करते मर गये, हमारी मेहनत की वजह से तुम्हारे पास यह इतनी दौलत आ गई। हमें जो तनख्वाह तुम देते हो वह बहुत कम है, हमारा गुजारा भी नहीं चलता। लिविंग वेज भी नहीं है मजदूर का। हक ज्यादा का था हम ने मालिक से पूरी मजदूरी पूरी उजरत नहीं ली। अब जब तुम्हें फायदा हुआ है तो हमारा हिस्सा तुम हमें दे दो। इसी पर बहस चलती रही, कि बोनस एक्स-ग्रेशिया पेमेंट है या डेफैक्ट वेज। जब भी भ्रदालतों में इस मामले को ले गये तो काफी काफी बोनस वर्कर्स को मिलता रहा। सुप्रीम कोर्ट तक में, वहां का दरवाजा जब मजदूरों ने खटखटाया तो वहां पर भी काफी उनको बोनस मिला और अकसर हमेशा बोनस मिलता रहा। जितना मुनाफा होता था उसके प्रपोरशन में इस बात को ध्यान में रखते हुए कि वर्कर्स की वेज जो है वे बहुत कम हैं। मैं ऐसा मानता हूँ कि दरअसल में बोनस कोई इनाम नहीं उजरतों का ही हिस्सा है। मैं ऐसा मानता हूँ कि जितना मजदूर काम करते हैं, और जितनी दौलत को पैदा करने में जो अपनी मेहनत खर्च करते हैं उस मेहनत का पूरा हिस्सा उस को मिले तो बोनस कोई अलग चीज नहीं है। वह पूरा हिस्सा उसको बैजज की शकल में, उजरत की शकल में, मिलना चाहिए। अगर उसको उजरत का पूरा हिस्सा मिले तो बोनस की कोई गुंजाइश नहीं रहती है लेकिन चूंकि मेहनत के मुताबिक जो उसकी उजरत होनी चाहिए वह इस वक्त उसे नहीं मिलती है।

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इसलिए यह बोनस की बात आती है। आज तो लिविंग वेज भी नहीं है और अगर हम फेयर वेज की शकल में इतना मांग सकते हैं कि मेहनत के मुताबिक उसे फेयर वेज मिल जाए, उस के बाद भी जो बचता है उसके बाद उसमें से कुछ वह मालिक देता है तो मैं मानने को तैयार हूँ कि वह बोनस है लेकिन आज तो फेयर वेज उनको मिलती नहीं है। लिविंग वेज भी उस को नहीं मिलती फिर उसको मुनाफे में से कुछ मिलता है तो हम उसको प्राफिट शेयरिंग नहीं मानते। मैं उसको यह समझता हूँ कि वह वेजेज का एक हिस्सा है। जब तक उसकी वेज पूरी फेयर वेज की लिमिट तक नहीं चली जाती जो भी उसे मिलता है वह उसकी वेजेज का, उजरत का हिस्सा है और उसके अन्दर कोई इनाम नहीं है और एक तरह से उसकी यह प्राफिट शेयरिंग भी नहीं है। हां, फेयर वेज मिलने के बाद जो मुनाफा बचता है उसमें से उस को प्राफिट शेयरिंग में जो मिलता हो उस को आप बोनस का नाम दे सकते हैं। चाहे मजदूर को लिविंग वेज भी नहीं मिली, उसे मालिक ने जो उजरत दी उसके बाद मालिक को मुनाफा हुआ उसमें से दो, चार परसेंट निकाल कर लेबर को दे दे और यह कह दे कि तम्हें इनाम बांट दिया यह गलत धारणा बोनस के बारे में है जोकि हमारे दिमाग में से निकल जानी चाहिये। हम लोग भी कुछ यह सोचते रहते हैं कि जब बोनस मिल गया तो बोनस कोई ऐसी चीज है जो हम मालिकों से छीन कर वर्कर्स को दे रहे हैं दरअसल वर्कर्स का हक नहीं था लेकिन वह इनाम छीन कर हम उस को दे रहे हैं इस धारणा से मालूम होता है कि हम कितना भ्रमक भ्रमक कर चलते हैं। मालिक से कुछ ले लिया तो समझते हैं पता नहीं हम कुछ अ-धाय कर रहे हैं पता नहीं उस से कुछ छीना झपटी कर रहे हैं, मैं ऐसा नहीं मानता जब

तक उस को पूरी फेयर बेज नहीं मिलती तब तक जो भी उस को मिलता है वह उस को उजरत का हिस्सा है, उस की बेज का हिस्सा है। उस के अन्दर कोई प्राफिट शेयरिंग नहीं है। प्राफिट शेयरिंग उस के बाद होती है। इसलिये यह जो बोनस बिल है उसको मैं प्राफिट शेयरिंग नहीं मानता। मैं तो ऐसा मानता हूँ कि बेज का एक अधूरा हिस्सा ही वर्कर्स को मिला है और उस में कोई बड़ी चीज नहीं मिली है। बोनस के बारे में हम अपनी धारणा, अपना कंसेप्ट साफ करें। मैं ने जैसे कहा यहाँ इस बिल में बोनस की कोई तारीफ नहीं है मैं यह नहीं कहता कि बोनस की जरूर तारीफ की जाय लेकिन उसका मकसद आपके दिमाग में साफ होना चाहिये। यह बिल जिस तरीके से जितना बोनस देता है उसके अन्दर प्राफिट का हिस्सा नहीं है। मैं इस को प्राफिट शेयरिंग नहीं मानता। मैं ऐसे ही मानता हूँ कि जो मजदूर की उजरत है, उसका कुछ हिस्सा यह बोनस बिल पूरा करने की कोशिश करता है इससे अधिक मैं इसे और कुछ नहीं मानता। यह एक दृष्टिकोण है जिससे कि मैं इस बिल को देखना चाहता हूँ। अब से पहले जब तक यह बिल नहीं था तब तक बोनस का झगड़ा चलता था। कुछ इस प्रकार के इंडस्ट्रियल डिस्प्यूट्स हुए और वह भ्रदालतों में जाते थे तो मजदूर को भ्रदालतों में कुछ मिलता था। इस बिल के बन जाने से हर एक वर्कर का फायदा नहीं हुआ कहीं पर फायदा हुआ और कहीं पर फायदा नहीं नुकसान हुआ। यह ठीक है कि इससे बड़ी तादाद में वर्कर्स को कुछ न कुछ मिलेगा लेकिन भ्रदालतों से अभी तक जो कुछ वर्कर्स को मिलता था उससे वर्कर को कुछ ज्यादा बेहतर मिलेगा अभी मुझे इस बात में तसल्ली नहीं है क्योंकि उसमें मुझे ऐसा दीखता है कि जहाँ पर भ्रदालतें कुछ दिलाती थीं वर्कर्स को उससे अब कम ही मिलेगा। भ्रदालतों का अब सवाल नहीं रहा चूँकि कानून बन जायेगा। चार अरसेट से अब ज्यादा देने की बात भ्रदालत

भी नहीं करेगी। आपने ज्यादा से ज्यादा 20 परसेंट रख दिया है तो उससे अगर पहले कुछ ज्यादा मिल सकता था तो यह कानून बना कर आपने उस पर रोक लगा दी है। मैं इस बात को बराबर सोचता हूँ कि आया वर्कर्स की पोजीशन इस बिल के बनने से पहले से बेहतर हो गयी या पहले से कुछ खराब होगयी? इस बात को हमें इस दृष्टि से भी देखना है, विचार करना है कि हमारे पहले बेहतर हालात हों, पहले से खराब न हों। यह मैं अरूर मानता हूँ कि एक संकणन ऐसा होगा जोकि भ्रदालतों में नहीं जा सकता था या कहीं पर उसे बहुत कम मिल पाता था, वह वर्ग भी इसके अन्दर शरीक हो जायगा लेकिन उन वर्कर्स के भ्रलावा जिनको कि ऐग्जम्प्ट कर दिया गया है और उनको कुछ मिला नहीं, ऐसों की भी बहुत बड़ी तादाद है। यह मैं ने कुछ बुनियादी बातें कही हैं।

अब जो बिल के अन्दर कुछ नुकस है उनका जिक्र करना चाहता हूँ। ऐसा लगता है कि एक तो जो तारीफ शुरू में की यह इस्टैबलिशमेंट की जिसमें नम्बर 2 के पांचवें सेक्शन में इस बात का खतरा काफी है इस्टैबलिशमेंट में या फीक्टरीज में टैबेसी यह होगी कि वहाँ पर फ्रेगमेंटेशन शुरू हो जाता है। मालिक क्या करते हैं? वे अपनी फीक्टरी को, अपने इस्टैबलिशमेंट को कुछ छोटा करने की कोशिश करते हैं और काटछांट कर अहाँ पर एक फीक्टरी है, एक छोटी सी हलकी सी दीवार खड़ी कर दी और कह दिया कि यह दो फीक्टरीज हैं और वर्कर्स की तादाद कम कर दी। वर्कर्स की तादाद कम है या नहीं इसका पक्का फैसला कर लेना चाहिये। यह जो बिल बनता है उससे पहले जो उनकी तादाद थी वर्कर्स की, उस में से जो फ्रेगमेंटेशन होता है उसकी तादाद कम करके दिखलाई जानी है इसे रोका जाय। इस बात का क्या इंतजाम है? यह अभी मुझे इस बिल में देखने को नहीं मिला? इस बात का हमें

[श्री प्र० ना० बिद्यालंकार]

इंतजाम करना चाहिये कि जितने भी हम लोग कानून बनाते हैं उन तमाम में जहां वर्कर्स की तादाद डिफाइन करते हैं उसे कम करके प्रोग्रेशन न किया जाय इस का हम पूरे तरीके से कोई प्रच्छा इंतजाम नहीं कर पाये हैं ।

जहां तक डाइरेक्ट टैक्सेज का ताल्लुक है मैं इस बात को मानता हूं कि यह सुपर टैक्स, कम्पनीज प्राफिट टैक्स और एग्रीकल्चरल इनकमटैक्स वगैरा का जिम्मा नहीं होना चाहिये । बोनस फारमूला बनाते समय हमें इस बात का ध्यान रखना चाहिये था । लेकिन मैं समझता हूं कि शायद उस की दिक्कत है जैसे कि इस बात पर चर्चा हुई, काफी बहस हुई, यह काफी बहस में कोई फैसला नहीं होता और इरादा यह था कि ट्राईपार्टाइट कान्फेंस में फैसला हो, तीनों सब जितने दल हैं वे सब मान जायें, मजदूर भी मानें, मालिक भी मानें, सर्वसम्मति से फैसला हो । लेकिन मुझे एक खतरा मालूम पड़ता है और वह यह कि जब हमने एक बुनियाद डाल दी तो उस बुनियाद को फिर बदलना हमारे लिये मुश्किल होगा । मैं चाहूंगा कि मिनिस्टर साहब इस दृष्टिकोण से देखें क्योंकि यह अधिकार बन जाता है, वैस्टेड इंटरैस्ट बन जाता है । एक तरफ बोनस की तारीफ करते हुए जब उन्होंने यह सब फारमूले निकाले, उस को एक दफा मान लिया तो मालिक उस को घासानी से छोड़ने के लिये तैयार नहीं होगा ।

16.29 hrs.

[Dr. SAROJINI MAHISHI in the Chair]

मुझे कंट्रैक्ट लेबर के बारे में भी कहना है । फैक्टरी को आप कंट्रैक्ट पर दे दीजिये । जहां आपने कंट्रैक्ट पर दे दिया फैक्टरी को बोनस की कैद से आप छूट गये । इस बात को आप को साफ करना चाहिये कि अगर आप फैक्टरी कंट्रैक्ट पर देते हैं या कंट्रैक्ट लेबर हो उस चीज को भी आप सेफगार्ड

कीजिये वहां बोनस से निकलने का रास्ता न बन जाय । जो उस में रास्ता है आप कंट्रैक्ट पर देकर किसी भी फैक्टरी को या इस्टैबलिशमेंट को इस कैद से आप निकाल ले जाते हैं । कंट्रैक्ट लेबर का इंतजाम करना चाहिये और बाद में जो कि भ्रोनर है, अल्टीमेट भ्रोनर, जितना भी पेमेंट है उस की जिम्मेदारी उस के ऊपर ही होनी चाहिये ।

फिर मैं ऐसा मानता हूं कि जहां पर आपने वर्कर्स को यह सहुलियत दी है कि छुट्टी पर जाता है और कहीं उस को लाजिमी तौर पर रिट्रैच किया जाता है वहां पर आपने उसको सही तौर पर बोनस से महकूम नहीं किया । लेकिन उस के साथ जहां पर लौकभाउट हो जाता है उसको आपने शामिल नहीं किया है । जहां पर वह इलीगल स्ट्राइक पर जाता है उस के लिये नहीं बल्कि जहां पर वह लीगल स्ट्राइक पर जाता है उसको तो इसमें शामिल होना ही चाहिये । अगर कोई वर्कर लीगल स्ट्राइक पर जाता है तो उसका अधिकार सुरक्षित रहना चाहिए । अगर लोक भाउट होता है उसका अधिकार मारा नहीं जाना चाहिये । उसको आपने शामिल नहीं किया है उसको शामिल करना चाहिये था ।

मैं समझता हूं कि सब से ज्यादा सीर पायंट यह है कि वर्कर्स को जो अधिकार दिया गया है, पब्लिक सेक्टर में वह अधिकार उन को नहीं दिया गया है । यह जरूरी है कि गवर्नमेंट के भ्रदारों में भी वह अधिकार उन को मिलना चाहिये । इस बारे में यह कहा गया है कि रेलवेज और सीमैन के बारे में गवर्नमेंट ने एग्जम्पशन दे दी है । पब्लिक सेक्टर में वर्कर्स को उन सहुलियतों से महकूम कर दिया गया है, जो कि उन को प्राइवेट सेक्टर में प्राप्त हैं । मैं समझता हूं इस तरह हम ईक्वालिटी के सिद्धान्त, ईक्वल प्रापरटिनिटी के उसूल की खिलाफबर्जी करते हैं । इसलिये यह मुनासिब है कि गवर्नमेंट के जो कार्मिथियस और इंडस्ट्रियल एस्टाबलिशमेंट

है, उन को भी साथ लेना चाहिये। मैं जानता हूँ कि मिनिस्टर साहब चाहते हैं कि उनको शामिल किया जाये और उन को साथ लिया जाये, लेकिन स्थिति यह है कि कुछ मिनिस्टरों-प्रार्थनसिब तरीके से नहीं सोचती हैं।

16.31 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

गवर्नमेंट को इस बात का फंसला उसूली तौर पर टाप लेवल पर लेना चाहिये और पब्लिक सेक्टर को इन एस्टाब्लिशमेंट्स को शामिल करना चाहिये। उन को छोड़ देना कोई बहुत अच्छी बात नहीं है।

हर एक स्टेट गवर्नमेंट अपने यहां ट्रांसपोर्ट चला रही है, यह ठीक है कि इन्हें डिपार्टमेंटल तरीके से चलाया जाता है। ट्रांसपोर्ट वर्कर्स को हममें शामिल नहीं किया गया है। उन को शामिल करना चाहिये और इसी तरह और भी बहुत से लोगों को शामिल करना चाहिये।

सरकार ने एक फार्मूला बनाया है और ध्राम तौर पर सब ने चार परसेंट की बात कहना शुरू कर दिया है। एक यूनिशन—पी० टी० आई० फेडीरेशन—से मेरा भी ताल्लुक है। पिछले कई सालों से लगातार उन लोगों को ज्यादा बोनस मिलता रहा है, काफी मिलता रहा है, क्योंकि पी० टी० आई० के मैनेजमेंट को प्राफिट हुआ है। लेकिन दूसरों की तरह उन्होंने भी ध्रब कह दिया कि हम चार परसेंट से ज्यादा नहीं देंगे, क्योंकि जो कानून ध्रा रहा है, उस में चार परसेंट तय किया गया है और इस लिये हम उस से ज्यादा नहीं देंगे। यह गलत तरीका है। एम्प्लायर्स इस बारे में कोई न कोई रास्ता और बहाना निकाल लेते हैं लेकिन हम ऐसा उपाय करें और क्लॉज 34 की डेफिनीशन को इस तरह से क्लियर करें कि इस तरह के नकारात्मक निकल सकें।

जितने इंडस्ट्रियल डिस्प्यूट्स होते हैं, उन में रिकवरी का प्रोसीड्यर इतना लम्बा चौड़ा और डिफिक्टिव है कि वर्कर्स को लाखों रुपयों का घाटा होता है और वे बेचारे छोड़ कर चले जाते हैं। रिकवरी का प्रोसीड्यर उसी तरह डिफिक्टिव है, जैसा कि इंडस्ट्रियल डिस्प्यूट्स एक्ट के और रिकवरी के मामलों में होता है। चाहे क्लज में और चाहे किसी और तरीके से इस प्रोसीड्यर को सिम्प्लीफाई करना चाहिये। जब सरकार इतना लम्बा-चौड़ा बोनस का कानून बनानी है, तो उस को कम से कम ऐसी व्यवस्था करनी चाहिये कि बोनस घाटोमैटिक हो सके और वर्कर्स को उस के लिये लम्बे-चौड़े झगड़े में न फंसना पड़े, उन को कोर्ट में न जाना पड़े। इस वक्त प्रोविजन यह है कि ऐसे मामले में गवर्नमेंट सर्टिफिकेट देगी और कलेक्टर लाइक एरियर्स ध्राफ लेंड रेवेन्यू रिकवरी करेगा। मैं चाहता हूँ कि इस तरह की कानूनी पेचीदगियों से वर्कर्स को ध्राजाद किया जाये। ध्रगर रिकवरी के प्रोसीड्यर को सिम्प्लीफाई नहीं किया जायेगा, तो सरकार वर्कर्स को जो फायदा पहुंचाना चाहती है, वह फायदा उन को नहीं पहुंच सकेगा।

इस वक्त मैंने कुछ बातें ध्राप के सामने रखी हैं। जब मुक़्तलिफ क्लॉजिज पर डिस्कशन होगा, उस वक्त मैं दूसरे ऐतराज का जिक्र करना चाहूंगा।

Shri N. Sreekantan Nair (Quilon):
Mr. Deputy-Speaker. I am sorry to find the hon. Labour Minister, after all these months of deliberations, has finally decided to toe the line of Shri Dandekar.

Shri D. Sanjivayya: No, no.

Shri N. Sreekantan Nair: Look at the Bill and its Statement of Objects and Reasons. Look also at the dissenting note of Shri Dandekar. Shri Dandekar wants super-profit tax and rehabilitation allowance to be included in the charges. The employers

[Shri N. Sreekantan Nair]

want 8.5 per cent return on capital and 6 per cent return on reserves. These are the two main, important and insistent demands placed by big business of India before Government and these are the only demands raised by Shri Dandekar in his dissenting report. The Bill has been drafted on the basis of the dissenting report presented by Shri Dandekar. This is the first time in the history of Parliament—of course, I am only referring to democratic governments; I am not competent to say about other governments that a Bill is being formulated on the basis of the dissenting report, paying no heed at all to the majority report. Shri Dandekar has done his job very cleverly.

There was Shri Ganguli, a very independent and honest man, who was a theoretician. He also expressed a dissenting voice. He could not accept the idea of public sector undertakings being exempted from the purview of this Bill. And the two arguments he raised are very pertinent ones. Firstly, the same work must be rewarded similarly. It is unfair to deny the workers of public undertakings the benefit of bonus which has become part of wages. Secondly, bonus is an incentive to the workers to produce more. The public sector undertakings should also take advantage of the payment of bonus to increase the incentives of workers so that they can get more profits. It is human psychology that in order to extract more work from the workers you must give them some incentives. So, the incentive bonus should be paid by public sector undertakings also. These were the two very relevant factors which he pointed out.

While the representatives of employers and the independent economists expressed their views outspokenly, at least towards the close of the report, the representatives of workers were prepared to go to any length to have an agreed formula with the result that finally they were cheated out of it. Therefore, what happened was

that both in the Bonus Commission Report and in the Ordinance, and also the Bill which is based on the Ordinance, the claims of the workers were simply brushed aside.

There were certain misconceptions in the minds of the representatives of workers. Firstly, they hankered after the mirage of compromise settlement. Another misunderstanding is that there is no correlation between maximum and minimum bonus.

The minimum bonus is granted only in certain kind of industries. In a growing country like India, where the industries deal with the day to day requirements of the country, where the industries do not handle controlled or highly technical commodities, they fall under one group. There is a group of industries which cater to the requirements or needs of the country, which depend on imported or controlled goods which are protected. The protected industries get a very high profit. They continue to get high profits as long as they are protected. The other group of industries will have very serious competition to face and so their profits will be limited. So, one group of industries will always be paying the minimum or somewhere near the minimum bonus, they can never give the maximum. The second group of industries will always be paying the maximum, and they have been paying 40 or 50 per cent in the preceding years. Now, this Bill says that the second group of industries need not pay that high rate of bonus. Why should they not pay it? To whom will this additional profit go? The additional profits, according to me, should go to the workers straightway. If it cannot be done, at least an educational fund should be created for the children of the workers out of the surplus profits which accrue after four years.

Now there is a definite lacuna in the Act. It refers to four years. What

happens after four years? The hon. Minister is very clear enough not to mention it. The surplus money should go to the educational fund.

An hon. Member: Why not to the national defence fund?

Shri N. Sreekantan Nair: I think all my friends in the INTUC and other sections of the trade union movement will agree to the utilisation of this surplus for the defence of India. Alternatively, it can be put in a pool fund so that the marginal industries which always run at a loss can give at least 4 per cent. I have no objection. The workers would not have felt the limiting clause of this Bill and would not have taken it so much to heart had the employers, who are now rolling in wealth, were not allowed to enjoy much more benefit out of this Bill. This limiting clause is meaningless.

Then there are certain *ad hoc* payments. The PTI is supposed to be an institution which does not earn any profit. They sell news and they get money. What they do with it I do not know; but their workers are paid only *ad hoc*, an *ex gratia* payment which was in existence in India 20 or 30 years ago. That is followed by the PTI and many of the other newspaper concerns. These workers are not included here because one word has been omitted. It is not by settlement; it is not by award but it is by some sort of an *ex gratia* payment or the so-called willing contribution of the employer because the employer knew that the workers would create trouble and force them to pay. So, they have made it. So some voluntary payment by the employer in the base year must also be taken into consideration for the purpose of this Bill.

Then there is a long list of exemptions. Why not delete the other clause because all the interests of Government are protected by other clauses?

Then, a reference was made to contractors. The Government wants

only to cover workmen under contractors engaged in building operations. What about workmen under contractors engaged in the ordinary processes of running a factory or a mine? You may, of course, say that is not very strictly legal; but such illegal things are going on for a long time. The Bill does not definitely preclude them but there is no means of getting them bonus unless you lay down specifically that the principle employer is responsible for the payment to the contractor's men in such cases; otherwise you will be letting them down.

The four per cent minimum is a very disputed issue. I admit that even if it is taken to a court of law, it may be very difficult to be accepted. It is a very dangerous thing. If tomorrow that falls, the entire working class in India will rise in revolt and there will be all sorts of struggles including perhaps bloodshed. So, this 4 per cent minimum cannot be taken away. But if you want to enforce it, there is only one method, namely, take this law and its provisions out of the jurisdiction of the courts or say that this is something like a deferred wage.

My hon. friend, Shri Vidyalankar, was referring to it. This 4 per cent is not a new innovation of the Bonus Commission. Shri Dandekar said that he had never heard about it except perhaps in Ahmedabad. I can say that for 18 years it had been existing in the State of Kerala—4 per cent of the total earnings had been paid—not only in the private sector but in the public sector also under a tripartite agreement in 1946 under Sir C.P. Ramaswami Ayyar. The employers, Government and the workers decided to enforce payment of 4 per cent of the total earnings as minimum bonus and it was reiterated by the Congress Government in 1948 by another tripartite conference.

The concept is very simple. Every industry should pay its workmen a minimum of 4 per cent of the annual earnings of the workers irrespective of profit or loss whereas in case of

[Shri N. Sreekantan Nair]

profit the bonus should be on the basis of higher profits. It is a very simple formula that had been working very effectively for the last 18 years in the State of Kerala which is supposed to be a problem State, a disrupted State. But there the employers, the employees and the State Government accepted it and enforced it.

When the Labour Appellate Tribunal formula came there were for two years some disturbances but the employers themselves came back to the original formula of 1946 and it is continuing to function there even now. That formula also would be shaken now if this Act is taken to a court of law and questioned there.

Then, I come to the question of disqualification for bonus, that is clause 9. If you understand the working of any industrial establishment and the attitude of the employers towards the trade union workers, you will find that they are all victimised in one way or the other and the easiest method of dismissing any worker is to say that his behaviour has been riotous or indisciplined. If he is dismissed on that account, then he loses the benefit of getting the bonus which he earned by his hard work during the previous year. The Supreme Court looked into this question and said that dismissed workers have a right to get bonus because it is the part of the remuneration for the previous year's work. Now, this Bill takes away the advantage of the ruling given by the Supreme Court which was in favour of the workers. It is a very rare occasion when the workers got something from the Supreme Court and that is being denied.

Mr. Deputy-Speaker: The hon. Member's time is up.

Shri N. Sreekantan Nair: Only one thing I want to bring out and that is the exclusion of 8.5 per cent on the capital and 7 per cent on the reserves. These are the things which

the Bonus Commission definitely opposed in their Report. As to how they found a place in this Bill is something beyond my understanding. That is why I say that the hon. Labour Minister is catering to the demands of the big businessmen.

Lastly, I come to the proviso to clause 34 which takes away what has been given on one hand and which goes against the undertaking that has been given on the floor of the House. In the past, certain workers were getting more than twenty per cent. When you are having a new formula or you are going by the existing formula—you can say so anywhere else, not in clause 34—why should you say that it cannot go beyond twenty per cent? That will create bad blood in the workers. Even if you do not allow more than twenty per cent under this Bill, in those cases where the percentage calculation of bonus in the base year is accepted, why don't you allow them a higher bonus? Let at least those people enjoy a higher bonus.

Shri Sham Lal Saraf: Mr. Deputy-Speaker, Sir, I rise to support this Bill with a few observations that I would like to make.

Firstly, I personally do not like to get such measures passed through an Ordinance. I wish the Government had taken time and got introduced a Bill, as they are doing it now. Otherwise, a democratic set-up, to get things passed into law from an Ordinance cannot be appreciated.

A few observations had been made by my friends. I am very much in agreement with what Mr. K. N. Pande and other friends have said. The workers' minds have been exercised for many years in the past that some formula should be arrived at so that they are in a position to derive some benefit out of the labour that they put in in diversified industries, in diversified fields, in our country. I am really very happy and congratulate the hon. Minister that he has taken courage in his both hands and

has come forward with this Bill. Any law can never be the last word on the statute book. Any change can be effected at any time. If my friends, whether it is Mr. Dandekar or Mr. Indrajit Gupta, do not agree with this or that clause of the Bill, it is open to them to get an amendment moved at any time they like, in whatever way they think.

There are one or two things which are uppermost in my mind and which I want to place before the hon. Minister. In the present economic condition of our country and the industrial growth of our country, it may not be correct to treat everybody at par.

I strongly feel that capital-intensive industries should be treated absolutely separate from labour-intensive industries. With regard to labour-intensive industries, Shri K. N. Pande mentioned one aspect of it, i.e., about the labour in sugar industry; that is a very important point he has made. Those workers who work only for a part of the year should certainly be given a separate treatment, when you compare them with the others, whether they work in labour-intensive industries or in capital-intensive industries. How difficult it is for a worker, who works only for a few months in a year, to see things through as far as his life is concerned. He also pointed out one more important factor; people make huge profits, but what do they do with the workers? That should be treated separately. I am reminded of another point: take the plantation industry, tea industry. I know a little about this industry in the north-east, namely, Assam, Bihar, Darjeeling and Dehra Dun and a little about Himachal Pradesh. As far as tea planters are concerned, today they are in a very bad position. If you see their Balance-Sheet, you will find that they are running in losses year after year. To place everybody on par will not be correct. When this Bill is taken up clause by clause, perhaps I may get an oppor-

tunity of placing before the Government certain points and I would like the Minister to listen to them and see that the things are set right.

I have to point out another thing, which my Hon. Friend should pay attention to. As was pointed out by Dr. Melkote, today our productivity cannot compare favourably with any other country in the world, both in quality and in quantity. That is the position. Therefore, the end product, the earnings of end product cannot compare in any way favourably with any other country in the world. It is not simply for the reason that labour cannot work. There are so many other reasons; they have better machinery, better working conditions and so many other things. Therefore, we have to make up this deficiency. We have remained so backward, when compared to other countries, in a number of ways. The difficulty is that we do not put our heads together, whether it is textile industry or plantation industry, to see where the lacunae are. If we remove all the lacunae, I am sure that we shall have better productivity and much more earnings; everybody will prosper, particularly the worker. My point is that, when we take up a Bill like this, we should not view it only from one point. We have to see it from various angles and if we do that, I am absolutely sure that we can go ahead. No doubt, interests differ. For instance, Shri Indrajit Gupta and Shri Alvares talked about those who work in ports steamer and other services or, what you would call, those industries where the conditions of work are different. Labour working in different fields, in different walks of life, have to be treated separately. Therefore, it would be incumbent on our Labour Minister to understand these problems very well and see that all categories of labour are treated in a manner that they are benefited in the proper manner and get whatever they deserve. If we try to cover all with one article, it will not help anybody. It may help a few but most of the people or the majority of the people might suffer. Therefore, my

[Shri Sham Lal Saraf]

submission would be this, namely that the lacunae should be properly rectified. I have seen several lacunae in the present Bill. All the same, I would not like to discourage the hon. Minister from going through with this Bill. Let him go through with this now and have it passed. But after that, let him think over the matter, and let others also think over it, and in the next session, let the hon. Minister bring forward amendments to some sections and see that the people are benefited.

Before I conclude, I would once again say that I welcome this Bill, but I would say again that it will not be correct to bracket all types of labour in the same category and cover them under the same clause or the same phrase. We should see on the other hand that we accommodate different types of labour in their own way so that they get the benefit to which they are entitled, which is the purpose of the Bill that is now being enacted.

With these words, I support the Bill.

Shri Seshiyam (Perambalur): The bonus Bill, after many years of consideration after many weeks of drafting, has at last come before us now. But it is highly regrettable that even after the considerable time taken by Government, the Bill has not been put on a firm or clear basis, and it bristles with many lacunae and tends to defeat the very purpose for which it was recommended and expected by the workers. Government have been slow but they have not been steady. They have been pressurised to take the line given by the capitalist class, to the detriment of the workers and the working class. Even my hon. friends opposite who rose to support the Bill have not been quite happy. They themselves want some improvements. That shows that the Bill has not been drafted or considered from the proper angle from which it should have been done. Even the

hon. Minister is sending in his amendments at the eleventh hour. I do not know whether we shall be receiving some more amendments tomorrow.

I hope that Government will accept the Opposition's point of view that after having waited for four years it would not make matters any the worse if they could allow a week or two more to refer it to the Select Committee and get the report within a limited time and get the things straightened.

As one of the previous speakers had pointed out correctly, bonus is no longer considered to be an *ex-gratia* payment or a payment in a charitable way by the benevolent employer. It is a right of the workers, and as defined in the correct way it is deferred wages. Even under the Wages Act of 1936, the workers' wages have been defined clearly to include bonus also. That shows that bonus is not an *ex-gratia* payment but a part of the wages, but only a deferred one in a certain sense.

Moreover, the outlook of the Government as per the provisions of the Constitution has been to provide a fair and decent return to the workers. Under article 43 of the Constitution,

"The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities . . ."

When that is the provision in the Constitution and when we bring forward a Bill, it is not fair to exclude certain categories or types of workers and to include only certain other types. After all, the Constitution stresses that all workers, whether they be agricultural, industrial or otherwise, whether they are employed in life insurance or in the Ministries, in the railways or in the P. & T.

Department, should all get this benefit. After all, a worker is a worker, whether he works in the public sector or in the private sector, whether in the Government offices or in the companies, and as such, all workers should be given the same facilities. The law should show equal concern for all workers. So, the present Bill should be made applicable to all the employees whether they are in Government or in firms or elsewhere.

I would also like to point out that even though the intentions have been good and the objects have been laudable, the provisions have not been put in the correct way so far as the computation of the bonus is concerned. The previous speakers also have referred to this in a detailed way. I have also to point out that there have been three formulae. First, there was the Labour Appellate Tribunal formula; then the bonus formula given by the Bonus Commission and then the formula as modified by Government.

17 hrs.

If we go through these three formulae, we find that the calculation of the quantum, what they call "the

available surplus", has not been given in the same way. It has been steadily deteriorating from the point of view of the workers who are not getting a square deal even after considerable deliberations by Government, even after much representation made by the workers' unions on various organisations. The bonus formula, as recommended by the Commission is, gross profit for the year less depreciation less income-tax and super tax less return at the actual rate payable on pref. share capital and at 7 per cent on ordinary capital plus at 4 per cent on reserves . . .

Mr. Deputy-Speaker: Is the hon. Member likely to take some more time?

Shri Seehyan: Yes, another ten minutes.

Mr. Deputy-Speaker: Then he may continue tomorrow.

17.01 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, September 7, 1965/Bhadra 16, 1887 (Saka).