

PAYMENT OF WAGES (AMENDMENT) BILL

Mr. Speaker: The House will now resume further consideration of the following motion moved by Shri Abid Ali on the 6th December, 1957, namely:

"That the Bill further to amend the Payment of Wages Act, 1936, be taken into consideration."

Out of 4 hours allotted for all the stages of the Bill, 12 minutes have already been availed of, and 3 hours and 48 hours now remain.

Shri Narayanankutty Menon may now continue his speech.

Shri Narayanankutty Menon (Mukundapuram): While speaking on this amending Bill, I venture to make certain comments upon not only the amending Bill but also the parent legislation and also certain other labour legislations which are interdependent on the Payment of Wages Act. Even though those comments may be a bit critical, I may make it clear that so far as the provisions of the Bill are concerned, we quite welcome them. They are welcome provisions even though there has been a bit of delay in introducing these provisions so as to make them form part of the parent legislation.

Yesterday, I was submitting that a sort of pernicious malady was creeping into the very vitals of the labour legislation in this country. I said that with specific reference to the Payment of Wages Act and also the other interdependent legislations like the Industrial Disputes Act and the Minimum Wages Act. There are powers walking in this country which almost nullify the beneficial effects of almost all legislation, especially the Industrial Disputes Act and the Payment of Wages Act.

In the state of economic development in which we are, we have got very little laws which substantially define the rights of the workers. As the law stands at present, the rights

of the workers are uncodified into the conception of social justice. This social justice has to be administered by the courts of law in our country, and certain forums and certain types of courts have been set up under the Industrial Disputes Act and the Payment of Wages Act and the Minimum Wages Act, to define and codify the conception of social justice as it is to be administered so far as the working classes are concerned.

But we find today, after about seven or eight years of working of the Industrial Disputes Act, the Payment of Wages Act and all other types of labour legislation, unlike in many other countries where labour laws do exist, that the highest court of the land, namely the Supreme Court, is now sitting in judgment to define the conception of social justice. The original jurisdiction granted to the lower tribunals to define social concept has been taken away by the Supreme Court. As a result, the worker who goes to an authority under the Payment of Wages Act gets something as an award by that authority, but the next moment he will find that under article 226 of the Constitution, the High Court interferes and quashes the award. If that is not possible, the Supreme Court interferes under the extraordinary jurisdiction of article 136 and quashes the award. In almost all cases, a few workmen who go before that authority in a State to get the wages for a week's time have no capacity even to engage a lawyer before the lower court, while the almighty employer moves the benevolent jurisdiction of the Supreme Court in Delhi. The worker is lost in a quagmire of ignorance even about the laws. Therefore, whatever little benefit that you are conferring today under the Payment of Wages Act, whatever authority that you give to these tribunals, is not at all beneficial to the workmen concerned.

In the beginning of labour legislation in this country, the Supreme Court used to take a very different

view. For the benefit of the House, I may quote an early decision of the Supreme Court in 1952 when the Court was so allergic to interference with awards and decisions of labour tribunals. In 1952, the Court said, and very rightly:

"In view of the increasing complexity of modern life and the interdependence of the various sectors on a planned national economy, it is obviously in the interest of the public that labour disputes should be peaceful and quickly settled within the framework of labour legislations rather than by resort to direct action, and the courts, especially the highest courts, should be asked to discover formal defects or technical flaws to overthrow such settlements".

Even though in that year, the highest court of the land defined the law, as I have just now read out, in 1956 and 1957, even the smallest benefit to workmen and small deductions for a week's wages were very easily and quickly unsettled by the highest court of our land.

There was a talk—there were Press reports to that effect—that the Government were very seriously considering the state of affairs with regard to interference by the High Courts and the Supreme Court. Everybody was glad and workmen throughout India welcomed such a suggestion, that labour disputes and claims should be settled by the courts intended by this House. But a few days earlier, the hon. Deputy Minister in answer to a question, said that because the jurisdiction of the High Courts and Supreme Court could not be taken away unless the Constitution was amended, they were not at all ready to do it, and therefore, the interference with awards and decisions of labour tribunals would continue for a long time. That is to say, the near-anarchy and chaos that exists today in the field of labour legislation is to continue for some time more.

What is the reason for this change of attitude on the part of Government? What is the reason, why Government are so allergic to amending the Constitution so that Labour disputes could be settled on the field by the authorities prescribed by the Act? Is it because of their unconditional, absolute faith in the fundamental rights of private enterprise and private capital and also the contractual rights which were existent in the previous days in India? If it is so, it comes to this. When the Government come forward with certain types of legislation and when we argue and beg of the Government that certain safeguards should be incorporated therein in the interest of national security, the Government say that there should be a curtailment of fundamental rights. But when it comes to the position that these disputes should be settled and the benefit that is intended by this House by the legislation should be made available to the workmen without interference by these courts of law, the Government say that fundamental rights step in, and the conception of Anglo-Saxon jurisprudence is embedded in the head of the Government at the time.

I am quoting an authority on labour legislation—Mr. Julian Huxley—which has been approved by the Madras High Court in a case in which earlier the Court had stated that it would not be prepared to interfere with this type of cases. The Court has discarded its jurisdiction under article 226 and it has given a fitting reply to those people who take these awards to the highest courts of the land. The Court said:

"Many of our ideas must be re-translated, so to speak, into a new language. The democratic idea of freedom, for instance, must lose its 19th century meaning of individual liberty in the economic sphere and become adjusted to new conceptions of social duties and responsibilities. Whenever the big employer in the country talks about democra-

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tic rights, of individual freedom, meaning thereby the claim to socially irresponsible control over huge industrial concerns and over the lives of tens of thousands of workmen, he is talking in a dying language".

Now we find that this dying language has been accepted by the Supreme Court as a living language.

What is the remedy? The hon. Minister comes and says: 'All right. We are amending the Payment of Wages Act'. What is the use of amending the Payment of Wages Act? How is the workman going to benefit under this Act? Immediately the workman goes to the tribunal, which is appointed by the State, and the tribunal gives an award of, say, Rs. 50 that the employer did not pay, he gets a registered notice the next day from the High Court or Supreme Court, and he is not in a position to appear before the highest court of the land, and to his disadvantage the decision is quashed. If that is the state of affairs, if not only the Payment of Wages Act but all other labour legislation, the Minimum Wages Act and also the Industrial Disputes Act, are going to be nullified by interference by the High Courts and the Supreme Court, what is the remedy?

Therefore, if the Government really intend that the benefits they are conferring by these pieces of legislation should go to the worker and the worker should get it in his own pocket, they should seriously consider the question of amending the Constitution so that these small things are not taken away by the highest courts of the land, to the disadvantage of the worker. I hope because of their own experience in respect of implementing the awards and decisions, they will not delay for a moment to end this anarchic state of affairs, and will see to it that these disputes are settled as far as possible at the lowest level so that no further industrial dispute arises.

As regards the amendments, they have brought today, the main and the most important thing is the inclusion of construction workers within the purview of the Payment of Wages Act. I congratulate Government on this, because about a million workmen who were employed in the construction projects under the Second Plan were denied these rights. They should really have been brought within the purview of the Act earlier. So I congratulate them on this step.

But what is the principle that the Government are accepting? As far as the Payment of Wages Act is concerned, it is not applicable today to a large number of other workmen. Why? Because the Payment of wages Act is a procedural Act. It does not itself confer any substantive right on workmen. It is only describing the procedure whereby under the contract or any other agreement for the time being in force, if the employer refuses to pay the workmen the real wages due to him, the workman has got the right to go to the tribunal for a decision. But the particular law does not define a substantive right, which may be a question of policy. When it is only an enabling Act which enables a certain type of workers to get their wages to which they are entitled under some other law, what is the objection for Government to apply this Act to all other industrial establishments? The Industrial Disputes Act is applicable to all establishments, and establishments have been well defined by many other courts of law. Government, when they make this Act applicable to construction workers, should have also applied it to all workmen so that the benefit of procedure is given to other types of workers also.

I come to the next and most crucial point. Government have redefined wages. This was the reason for bringing in this amendment, because there are some difficulties created by rulings of courts of law as to what should be the definition of wages.

Under the redefinition, I find that bonus, which is available to the workmen other than on contractual basis, does not come within the purview of the Act. I do not submit for the time being that it would have been possible to bring within the purview of bonus that which is available as a share of profit. But what is the situation in the country today as far as bonus is concerned?

There is the Minimum Wages Act which fixes the minimum wages. There is a contractual wage rate which is prevailing in all other industries. So far as bonus is concerned, what is the law? There is no law in the country to determine the bonus in a particular industry. And the absence of that law is making for so much industrial disputes in the country. The total number of man-days lost in the country is the highest so far as bonus is concerned. So far Government has not brought in any substantive legislation which defines the rights of the working classes to get bonus. I do not think it is difficult for Government, in the state of our developing economy and our own social concepts, to bring any substantive legislation defining bonus. As it is, it has got enough material by means of reports of enquiry committees etc. to determine at least the minimum bonus that could be available to the working classes. Why should there be any delay? The Government itself is convinced that a number of labour disputes are due to bonus question, that a number of man-days are lost every year and industrial disputes crop up only on account of bonus.

I have submitted earlier that the definition of bonus has to be done in relation to the social concepts and should not be left completely to the courts to fix it. The courts of law in the country must be given and are given the right to interpret the law as laid down by the Parliament. But when there is no law and when the conception itself is so vague, that conception should originate from the views of this House alone—as to what should be there in defining bonus.

It is very dangerous to give this kind of jurisdiction to the courts of law to define the conception of bonus. That conception should be defined by this House alone. The Government should bring in a legislation to define bonus, whether it is profit-sharing or definite wages—whatever is agreeable to the Government. Until then there will be complete anarchy in the labour relationship scheme and all the disputes will be mounting from day to day, year in and year but and there will be unnecessary hampering of production.

I will conclude by referring to the machinery by which this Act is to be implemented. The Act gives the right to the State Governments to appoint certain authorities to decide about disputes in regard to wages. In certain States the Civil Court judges are appointed. In some cases, Collectors are appointed. And, in some other cases, magistrates are appointed. As a result, when a magistrate in the State of Kerala gives an interpretation to a provision of this Act, and a Civil Judge who is superior to him, the District Judge in Madras, gives a different interpretation and in some other place, some other interpretation, there is conflict. There should be some sort of uniformity in appointing these authorities. The Government of India should arrive at some uniformity either in consultation with the Consultative Machinery, or the Labour Ministers Conference or the tripartite consultative machinery and the authorities under the Payment of Wages Act in all the States should be uniform so that the rulings given by these authorities can have some binding force.

There is the Industrial Disputes Act which gives the procedure for settling disputes and the States have appointed State Tribunals and the Labour courts. Instead of handing over the jurisdiction of defining the rights of the workmen to the civil judges who are versed in civil law why not give the jurisdiction to decide claims under the Payment of Wages Act to the Industrial Tribunals? The claims arising

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in a particular State will be few and far between and the Industrial Tribunals in the States will be able to administer this Act in a far better manner than the civil courts in general. Therefore, instead of giving jurisdiction to the civil courts, the authorities appointed under the Act, the Industrial Tribunals should be given the jurisdiction, so that these Industrial Tribunals which are accustomed to administer industrial law may administer this part of the industrial law which is completely procedural in character.

About other minor matters I shall take the leave of the House to speak when the clause by clause discussion comes. I will make a final appeal to the Deputy Minister. In administering of this Act and in other labour law, there is a very great danger when all these are left to the civil courts. I would once again appeal to the Government to consider this. It is not a question of taking away the rights of somebody else. It is only to see that the Government's policies are implemented and labour disputes are settled as quickly as possible. Therefore, the jurisdiction should be taken away from the civil courts.

I would conclude by quoting another decision of another court which directly relates to the interference in these awards and also the decisions of these courts. The court has observed that article 226 of the Constitution or other articles which give this jurisdiction, to interfere in appeals is no charter for the preservation of all India concepts of contractual rights in the field of labour relations against the impact of awards which are liberal, or legislation which is progressive. These will have to be maintained because our own courts at one time or other have set them up. These decisions shall remain because the upsetting of these decisions by the Supreme Court or the High Court by interfering with every piece of award every day and every morning and granting stay so that the industrial dispute is post-

poned has a direct result on the centres of production. We want to stop this because production shall not be impeded, because we want to settle industrial disputes as early as possible.

Therefore, in view of the rulings of this court and others given earlier, the Government should not be given these extraordinary powers which was never intended to have such interference. I hope Government will take steps as soon as possible to remove this malady and to amend the Constitution so that all these claims, all these disputes will be settled by the authorities in the way this House intends the law to be administered.

Shri Rajendra Singh (Chapra): Mr Speaker, I wonder whether the Mover of the Bill, or, for the matter of that, those who are responsible for bringing this amendment bear in mind the significance of a piece of legislation or an enactment of Parliament. An enactment of Parliament or any piece of legislation passed by a legislative body is meant to answer a problem or a question created by the conflicting and contending elements and constituents of a society. Judged from this viewpoint, I frankly confess that I feel disappointed at the amendment which has been brought in by the Deputy Minister.

Every now and then our Prime Minister is indefatigably preaching and giving sermons that we are passing through a period of tremendous change, passing through a time which is moving so fast that if we cannot catch up with the time, we would be left far behind. Now, we are living in a time in which it is essential and imperative for the development of our country, that industrial development should go ahead as fast as it can. For that matter, it is essential that our labourers should be given not simple sermons, good words of advice and homely threat, but they should be given concrete incentives so that they may forge ahead in a climate of goodwill and understanding.

So far as this amendment is concerned, it does not answer adequately the needs of society as they obtain at present. As we know, the workers have not the same advantage in a money-making society as the capitalist. We know the Payment of Wages Act is there. But if you examine, you will find that in most cases, it is capitalist or the employer who often get better of the workers in law courts.

If you want to do good to the workers, it is imperative for you to bring legislation which would benefit them immediately. I would have congratulated the Deputy Minister had there been at least an adequate provision in regard to wrongful deduction. But that is not there. As regards other matters, this enactment was brought out many years before when the Britishers were there. There is a provision for a small fine of Rs. 10 in case the employer is found to have committed delay in payment. There should have been an amendment to that provision. We find that the capitalists and employers are frequently tampering with the rights of the workers. They always want to crush them. If only Rs. 10 is the fine in case of proved failure, how can the employer be brought back to his sense? I think it is necessary to bring forward legislation which could meet this requirement squarely.

There is a provision that a legal adviser or a lawyer can be engaged. Workers do not have money and they do not have big pockets so as to engage lawyers in the court. Who would take advantage of that provision? I am sure it is the capitalist and the employer who would be benefited and not the workers because the workers cannot afford to engage lawyers paying big amounts as fees. An amendment should have been brought forward whereby only with the concurrence of both the parties a lawyer could have been engaged as it obtains in the Industrial Disputes Act.

I do admit and I feel tempted to congratulate the Ministry for several good provisions in this amendment.

That way, it is a distinct improvement on the original one. But anyway, judged from wider perspective it comes far short of our requirements. Now, as regards the limit, you say that those who were getting Rs. 200 formerly and even those who are getting Rs. 400 now would be covered by this legislation. In the Industrial Disputes Act there is a definition of working men. Under the Industrial Disputes Act, even a supervisor who receives a payment of less than Rs. 500 is covered. If that could have been equally applicable here, I think a larger number of people would have been benefited. I think it would be much better if the Deputy Minister brings in a suitable amendment.

He spoke of the persons who are likely to be benefited. Workers engaged in construction work and also in electrical industries are to be brought under the purview of this Bill. The contract workers employed by the contractors and workers engaged in loading and unloading have yet been kept out of the purview of this amendment. I would ask the Deputy Minister to take note of it and bring about suitable amendment even at this late stage.

This amendment does not cover retrenchment reliefs and we do have disputes on it and much rancour and bitterness could be avoided if that is done. I feel that retrenchment relief and matters of bonus and gratuity should have been included in the amendment. That could have made the amendment comprehensive and met the situation squarely.

श्री च० कु० नायर (बाबा दिल्ली) :

अध्यक्ष महोदय मैं इन बिल के नियों का मेरे पक्ष में विपक्षी मिनिस्टर साहब को बधाई देना है, कि उन्होंने यह बिल लाकर मजदूरी का बहुत बड़ा उपकार किया। लेकिन इसमें कई कमियाँ हैं। कल मैं डिप्टी मिनिस्टर साहब को स्पष्ट सुना। मैं ग्यारहना हूँ कि इन बिल में बोनस की एक परिभाषा होनी चाहिये थी। बोनस का मामला इस वक़्त

[श्री च० कु० नायर]

बहुत जरूरी मामला है खास कर इसलिये कि हम सोशलिस्ट स्टेट कायम करने की कोशिश कर रहे हैं। यह बोनस माना कहा से है? बोनस प्राफिट से आता है और प्राफिट कहा से आता है? प्राफिट बनाने के लिये इन्डस्ट्री में तीन हिस्से होते हैं, एक मैनेजमेंट या मालिक, दूसरा सरमाया और तीसरा मजदूर। जो भी प्राफिट आता है वह सरप्लस के नाम से मसहूर है और दुनिया का मारा कैपिटल इसी प्राफिट से बनता है। इस प्राफिट में तीनो हिस्सों को बराबर हक होना चाहिये। मैनेजमेंट अपनी ज्यादा तनखाह ल लेता है और सरमाये पर जा इन्वेस्ट होता है वह प्राफिट से चटा लिया जाता है। मैशिनरी को टूट फूट और रिपैरिन्ग के लिये भी प्राफिट में म रुपया बाटा जाता है। फिर जो बाकी बचता है उसमें न्याय यत्न एव हिस्सा मजदूर का भी मिलना ही चाहिये। मैं हैरान हूँ इतने मानो में कि गवर्नमेंट इसके बारे में कोई नीति कायम करने में क्या हैमिटेड करनी है। मजदूरों को पूरा हिस्सा दिवाना न उनको क्यों हैमिटेड माना चाहिये। इसलिये मैं चाहता था कि अगर इस बिल के अन्दर ही बोनस के बारे में भी एक परिभाषा जाड दी जाय तो ज्यादा अच्छा रहता। लेकिन दिक्कत यह है कि उसमें प्राफिट शेरिंग का एक नतीजा माना गया है हमारे मजदूरों का। उसमें कटा गया है

"In the establishments where the wages have come up to the standards of living wage it is admittedly a form of profit sharing and not wages"

तब यह है कि इसका वज्र का हिस्सा न माना जायगा। अगर मजदूर को अपने वतन में जीवन का पर्याप्त माधन मिल जाना है तो उस वज्र नहीं कटा जायेगा उसे प्राफिट शेरिंग कहा जायगा। यह बलत है। मान लीजिये कि एक आदमी को

सौ रुपया वेज मिलता है और उसके स्टैंडर्ड के लिये वह काफी है। उसके बाद भी जब प्राफिट का घब बचेगा उसका भी हिस्सा क्यों न हो। अगर उस में मजदूरों का हिस्सा है तो यह कहना गलत है कि इस सौ रुपये को प्राफिट शेरिंग माना जाय। प्राफिट शेरिंग तो सबमुब उस वक्त होगा जब उसका एक हिस्सा कानूनी तौर पर मजदूरों के लिए रखा जाय। अब हर जगह में देखता हूँ कि बोनस के लिए मजदूरों को मालिक की तरफ देखना पड़ता है और खुशामद करनी पड़ती है और स्ट्राइक बगैर करनी पड़ती है जिसमें इन्डस्ट्रियल रिसेशन में बहुत बड़ा नुकसान होता है। मैं समझता हूँ कि हमारी गवर्नमेंट का इन बातों की वाकफियत है। फिर बोनस के बारे में एक निश्चय क्या न किया जाय और क्या न उसके लिए एक फारमूला बनाया जाय कि जो भी प्राफिट होगा उसका एक हिस्सा इसके लिए मुकर्रर करना चाहिये। सब में बड़ा नुकसान इस कानून में है।

इसमें कई फायद का वाज्र भी है जैसे पहले वेजेज का मिनिमम रखा था २०० अब इसका ६०० किया जा रहा है। यह बहुत अच्छी चीज है क्योंकि आजकल स्टैंडर्ड आफ लिविंग बढ़ गया है। इसलिए यह बहुत जरूरी है। इसमें वज्र पात वालों का भी फायदा होगा और यूनियन्स का भी फायदा होगा।

दूसरी चीज इसमें यह बहुत अच्छी की गयी है कि कस्ट्रक्शन लेबर को भी शामिल कर लिया गया है। यह बहुत बड़ी खुशी की बात है। आजकल लाखों मजदूर तामीरी काम में लगे हुए हैं आजकल डेवेलपमेंट के जमाने में करोड़ों रुपया तामीरी में लगाया जा रहा है और हाउसिंग स्कीम्स बगैर चल रही हैं। इन स्कीम्स में बहुत रुपया लगाया जा रहा है इस वक्त इन मजदूरों को भी इस बिल के

धम्बर जाया गया इसके लिए हम गवर्नमेंट को बर्खास्त देते हैं। हमारे प्रपोजीशन के मेम्बर ने भी गवर्नमेंट को इसके लिए बर्खास्त दी है। यह सचमुच इसके लायक है।

आपको मालूम होना चाहिए कि दिल्ली में कितने बड़े बड़े कंस्ट्रक्शन हुए हैं। इनकी बजह से छोटे छोटे सरमायेदार बड़े बड़े सरमायेदार बन गये हैं। इस नई दिल्ली को बनाने वाले ज्यादातर पूर्वी और राजस्थान के मजदूर थे। उनकी हालत आज यह है कि उन्हें सिर छिपाने के लिए जगह तक नहीं है। उनको झोंपड़ी में भी रहने का हक नहीं है। वहां से भी उनको हटाया जाता है। जो सरमायेदार थे उन्होंने मुनाफे से आज ऐसी इमारतें बना ली हैं कि जिनका महीने में तीन चार लाख रुपया किराया आता है। जैसे कि सरदार शोभा सिंह हैं और दूसरे हैं। इन लोगों को लाखों रुपया किराया मिलता है जब ये तमाम तामीर करने वाले मजदूर आज भी सड़कों पर पड़े हुए हैं। उनकी हालत बिल्कुल नहीं सुधरी है। जिन्होंने पैसा लगाया उन्होंने पसीना लगाने वाले मजदूर की बिल्कुल परवाह नहीं की। यह बहुत बड़ा जुर्म था। लेकिन आज हमें खुशी है कि इन मजदूरों को भी इसमें लाया गया है। इस कानून में और भी कुछ फायदेमन्द चीजें हैं।

कुछ चीजें ऐसी भी हैं जिनको घाने वाले कानून में बनाने की जरूरत है। हम देखते हैं कि मजदूर लोग जो मेहनत करते हैं वे गरीबी में रहते हैं और बाकी लोग धनी बनते जा रहे हैं। गवर्नमेंट ने इस कानून में मजदूरों के लिए जो कुछ किया है उसके लिए मैं उसको बर्खास्त दूंगा।

मैं बोनस के बारे में फिर एक दफा दरफास्त करूंगा कि जल्द से जल्द कोई कानून सरकार लाये क्योंकि हमें सोशलिस्ट पैटर्न को मानने में यह बहुत जरूरी है। जब सारे हिन्दुस्तान में लाखों करोड़ों रुपये का काम हो रहा है तो मजदूरों को उसमें उनका हिस्सा मिलना चाहिए। जितनी आप इस

कानून को मानने में देरी करेंगे उतना ही हमारे इंडस्ट्रियल रिनेचन्स के लिए नुकसानदेह होगा। आज मजदूरों में इतनी चेतना आ चुकी है और वे समझते हैं कि मालिक इतने धनी बनते जा रहे हैं हम भी क्यों गरीबी की हालत में पड़े रहें, हमें मुनाफे का हिस्सा मिलने का पूरा हक है। इसलिए मैं उम्मीद रखता हूँ कि गवर्नमेंट इस सिलसिले में एक कानून जल्दी से जल्दी लायेगी ताकि बोनस के बारे में जो भी झगड़ा है उसको दूर किया जा सके।

इन शब्दों के साथ मैं इस बिल की तारीफ करता हूँ।

Shri Keshava (Bangalore City):
Mr. Speaker, Sir, I was carefully hearing the speeches delivered here in respect of this Bill so far. I am very happy to note that Shri Menon was pleased to express some words of welcome for this Bill. Of course, it is one step, big or small, towards the betterment of the conditions of our workers. In that respect he has welcomed the Bill, and I heartily agree with him.

But, Sir, he was pleased to mention that there are some forces at work here in our country which almost nullify all the benefits of this legislation. He made a particular reference to it and dwelt at length on that point. He suggested that the interference of courts very much militates against the benefits that are pointed out in favour of the workers under this legislation.

I beg to bring to the notice of this august House that there are other forces also at work in our country which do not permit these questions to be considered, connected with the relationship of the labour and management, entirely by the two parties concerned. The labour forces in our country are not yet so well and sufficiently organised, and they have not yet been able to be absolutely conscious of the political responsibility in our country. Such being the case, great harm is likely to

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ensue if we leave these matters to be settled only between the parties, the labour and the management concerned. We have been seeing several instances in our country how the labour fall an easy prey in the hands of people who are likely to manipulate their minds and draw them astray. Such being the case, it is a very salutary feature that the courts interpret the laws and give suggestions so far as the implementation of the several enactments passed by this House in favour of the workers are concerned. Therefore, the time has not yet come when we should entirely leave it to the labour and management themselves. As I pointed out, there have been some instances of that kind in some sections of our labour, and that itself is sufficient reason for me to point out that it is too early to leave the matter entirely in the hands of both the parties.

Then, my friend Shri Rajendra Singh also referred to that matter and said that it is an unequal fight, as matters stand now, between the labour and management, and the labour always find it very hard to engage lawyers and fight their battles in courts of law.

So far as this matter is concerned, I would like to suggest a remedy. The remedy is by not solving the matter entirely as between the parties, to be settled in a trial of strength, but is one which should be taken by the Government. It is for the Government to come forward and provide any sort of provisions for a legal aid for the helpless workers and their organisations. That is the way to render redress for their grievances. Otherwise, even as it is, as Shri Rajendra Singh mentioned, the lawyers could only be engaged on concurrence of both the parties. Even there, there is a loophole. Even as matters stand now, the employers engaged very intelligent and powerful lawyers on their side. They employ them in their service and then they could conduct their cases. We

have been seeing such instances growing in our country and that will not in anyway benefit the workers in the least. Therefore, the only way that we could help the workers and redress their grievances is by evolving some sort of procedure where the Government itself can provide for legal aid for the workers and their organisations.

Apart from this, I also feel very strongly on the several omissions in this Act. Our learned colleague has been promising us time and again that he will bring forward a comprehensive enactment for labour matters. That is still to come and we are having small instalments of this type, some relief or the other—whatever it is. To whatever extent it is, it has been a salutary feature, and I wholeheartedly welcome it. But so far as bonus is concerned, I am also inclined to believe that the Government is feeling shy to come forward with a specific legislation in this matter, clarifying the entire matter and defining what bonus is.

The bonus could be related to, and based on, two factors. First is, the profits earned by the concern, and in this respect, the workers are already contributing their quota and they are therefore legitimately entitled to some share of it. The other factor on which it could be based is by relating it to production. It could be tacked on to production. In any of these ways, it could be settled and some solution could be arrived at. I do not see why my learned colleague should put off this day for bringing a legislation connected with bonus any further.

In fact, several companies in the public sector have declared their profits. We are faced with enormous difficulties. The companies declare profits and announce their balance-sheets and publish them, and still, bonus is not given to the workers and they give some reason or other for not giving it. That is creating a very great commotion in the minds of the workers. Naturally, the Government

also will come to trouble in these matters. When such is the case, the Government should not lose any more time in clarifying this matter and bringing about the promised Bill connected with bonus.

So far as other matters connected with this Bill are concerned, I am very happy to note that improvements have been brought about. In fact, for any of the recoveries that the worker is entitled to from the management, he was absolutely going without any remedy. Now, this Bill provides a remedy. Even an attachment of the employer's property, to whatever extent it is legitimately due, could be effected under the enactment. That is a very great relief to the worker.

So far as deductions are concerned, hitherto it was all a one-sided matter. A fine could be deducted or a penalty could be deducted for a damage caused by the worker in respect of any tool. The cost of tools could be deducted in those cases. It was only those things that could be deducted legitimately against the wages. But now, we have provided deductions connected with the insurance premium. There are several other points which would certainly go to the benefit of the workers, and to that extent, it is a most welcome feature.

So far as other provisions are concerned, this Bill has enlarged the scope. I do not want to reiterate the several matters that have already been referred to. This Bill has enlarged the scope of the persons to whom this enactment should apply. It has raised the limit from Rs. 200 to Rs. 400. It is quite a welcome feature, and we are out to establish a socialist pattern of society and a welfare State. Whatever small step it may be, even then, it is certainly a welcome feature.

Of course, the Bill has set aside some of the conflicts and contradictions on account of the decision that was arrived at in respect of the awards, and even there, it is a matter which was most welcome. The Bill also has brought into this category several other kinds of labour. We are

building up our country and enormous labour is engaged in the building industry and several other allied industries. These workers are also brought within the purview of this enactment. Even that feature is welcome, even though these workers are not yet organised. This measure will induce them to organise themselves and fight their battle for the removal of their grievances.

Formerly, an appeal was never allowed in respect of dismissal of a claim. Now, that has been provided by this enactment. Several features are there. I certainly congratulate the Labour Minister on having brought forward this Bill. But, at the same time, I earnestly appeal to him that he should also bring forward another similar legislation even though it may be another instalment, as I could put it, in respect of bonus.

With these few words, I heartily welcome this measure.

Mr. Speaker: Shri Sarju Pandey. I find he is not here. Then, Shrimati Parvathi Krishnan:

Shri K. N. Pandey (*Hata*) rose—

Mr. Speaker: I shall call Shri K. N. Pandey after Shrimati Parvathi Krishnan.

Shrimati Parvathi Krishnan (*Coimbatore*): Mr. Speaker, I would like to state at the outset that I agree with the stand that has already been put forward by my colleague Shri Narayanankutty Menon. I do welcome this measure although it is a very delayed measure. I would like to draw attention to one particular amendment that is given and to point out how important it is, and to request that the Government and the Ministry should guarantee that that particular section in the amending Bill is put into force and implemented as speedily as possible in the light of the happenings today.

At the time of the discussion on the Life Insurance Corporation Bill, both

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on the floor of this Parliament and in the Joint Select Committee, it was pointed out that an amendment of the Payment of Wages Act was very necessary and should be brought in very urgently to enable the deduction of premia from salary bills. There was also a suggestion that it should be included in the Life Insurance Corporation Act. But at that time, the Government gave an assurance that very speedily and in as short a time as possible such an amendment would be brought up. But what really happened? What has happened is that this particular amendment has been delayed for so long that it has meant considerable loss of money to the Corporation and it has affected, therefore, also those funds that are very necessary for investment purposes, necessary for the development programmes, necessary for the fulfilment of the Second Five Year Plan.

Today, we are talking in terms of pruning the Plan because of the lack of resources, talking in terms of economising. And it is astonishing that there should have been delay in bringing in an amendment that was very simple. Other excuses have also been given by the Labour Minister and by Government, trying to link this up with other things and trying to make out that it was the Opposition or other sections who were obstructing a speedy amendment and obstructing the bringing in of this particular clause.

13 hrs.

I would like to put before the House certain figures. In the Railways alone, till the 31st December, 1954, business worth Rs 12 crores was already there as regards insurance. Till 1956, when life insurance was nationalised, the total amount was Rs. 16 crores. This was possible and this happened at a time when premia could be deducted from the salary bills. But since then there has definitely been a decrease in the amount that is given to the

Insurance Corporation from the railway employees and at a time when those who are doing this work, going about getting the workers to insure, themselves say that certainly the railway workers today are becoming more and more insurance-conscious. In fact, the rough estimate that we get from those who have been working in that field and who are experienced in that field is that today only 15 per cent. of our 13 lakh railway men are insured and 25 per cent are above the insurable age and at least 60 per cent more can be insured. It would mean a considerable income for the Life Insurance Corporation and the considerable amount that will come from premia can be utilised for various development programmes. For instance, the rough estimate is about Rs 3 crores a year in the form of premia, if this particular amendment is carried.

Why I am referring to this and why I put these figures before this House is that now that the amendment has been brought about, delayed though it has been, there is only one guarantee, one assurance that I request from the hon. Deputy Labour Minister and I hope he will be in a position to give it. As long back as September 1, 1956, the Railway Board stated that no longer can premia be deducted from salary bills and from that time, representations have been made to the Government and to the Railway Board and in whatever manner possible those who are interested in it have been bringing it before the authorities to try and see that such an amendment is brought, there has been considerable delay. Of course, the usual traditional reply is there that the matter is being considered; it is under consideration, it will be speeded up and so on and so forth.

Now, the assurance I ask, and I hope we will be given that assurance, is that as soon as this Bill becomes an Act, at the earliest possible moment, instructions will be issued to the various authorities, particularly

to the railways to ensure that they deduct all insurance premia from the salary bills with immediate effect, because every minute will count and the sooner it is done, the more will be the income. You will find that the number of people who will be insured will be increasing. Otherwise, with every month you will find that all this money that could and should come to the Life Insurance Corporation, will be going to waste. Because it has been the practice and custom in the past for such deductions to be made from the salary bills, you find that mostly railway workers are reluctant or are not in a position to go themselves constantly to the various Insurance Corporation branches to pay the premia themselves, whereas they are quite willing and not in the least averse to the insurance premia being deducted from their salary bill. That is why I would like that at least in this matter, after all this dilatory action on the part of the Government, at least now we will see some speeding up of the juggernaut of Government procedure, that the slow juggernaut will be speeded up in keeping with the atomic age.

I would like to refer to one or two other clauses in the Bill. I find that in this Bill, as far as public transport is concerned, it is left rather vague. Truck drivers—those who are in the public sector—are not specifically mentioned. In this Bill that is here, I find that in section 2 of the principal Act, there is a substitution: "(c) inland vessel, mechanically propelled". I would appeal to the hon. Deputy Labour Minister that he should also include those who are working as truck drivers and who are in the public sector. Why I say it is this. Of course he may reply, transport is there, omnibuses are there and so on. But today in my part of the country, for instance, because of the lack of railway transport, there are various companies running roadways services and goods are transported by trucks from one end of the State to the other and also from our State to Kerala. They certainly demand that

they should have the same rights, safeguards and privileges that workers in other industries and other sections have. Therefore, it is very necessary that they should be included. They are those who are employed as permanent employees in those concerns and they have every right to have the benefit of whatever legislation Government brings forward.

Not only that. I learn that in U.P. even those who are employed in the public sector do not have these benefits and only recently, an employee of the roadways which is a Government concern in U.P. was punished, because he had the temerity or should I say the courage, to go to court on one of these issues. They need these safeguards also. It is very necessary that this very important section should be included, because our railways do not really fulfil the total requirements of transport that are there in the country. A large part of our country, particularly in the South, does, as I said earlier, depend on road transport and therefore it is necessary that these workers also should be given these benefits.

I am trying to be as brief as possible. Lastly, with regard to the various exceptions that are there on pages 2 and 3, I would agree with the speakers who have preceded me and who have dealt with in detail the question of bonus. Since they have dealt with in detail, I do not propose to take up the time of the House. But there is one point I would like to draw attention to and that is on page 3, it is said, "any travelling allowance or the value of any travelling concession" should also be exempted. The question of travelling allowances and travelling concessions is a very big headache, particularly in the railways and in regard to plantation workers. It takes months and months sometimes for the recovery of travelling allowances for the railway workers. For six, seven or even twelve months, these T.A. bills are left pending and the workers are definitely put to a great deal of difficulty and hardship and suffering as a result of this. In spite of repeated

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reminders, even when the recognised unions take up these representations, there is great delay.

What it means is this that in the case of those who have got a very limited income, who do not have anything to fall back upon, when they spend out of that little income, it inevitably means that they have to go to the money-lender or other sources for making both ends meet. Obviously they cannot spend that money from their salary; from the money that goes towards running the household and meeting the household expenses. Therefore, they have to go to some other sources. Therefore, I feel that travelling allowances should be taken away from this list of exemptions.

This problem is there both amongst plantation workers and also amongst railway workers to my knowledge, but I feel that most probably it is there in so many other cases also, because, after all, as things are today, the manifestations of these various lacunae and difficulties may take a different form; and, they certainly are there in some form or the other in various sectors in public and private enterprise. As far as the Minister's reply is concerned, we have heard it so often that there tends to be a certain familiarity about the manner in which he replies. He will talk about the intentions, how the intention is there, the spirit is there, and so on and so forth. But we do have experience of the various judgments that are there, of the various interpretations that are there. And we have experience of the over-burdening weight of the British system of law and the interpretation of the law with comma, the full stop and the semi-colon. Therefore, it is not sufficient that we should just rest content with the intention. It is very necessary that certain issues have to be made more explicit in a piece of legislation. Because, certainly the courts do not give judgment on the basis of what the intention of the Legislature may

be or what is in the mind of the Government, which is very often very difficult to follow and very intricate and very tortuous in its working. When the courts give their judgment, they do give their judgment on the wording of the law and, therefore, it is necessary that the meaning and the intention should be very plain and very explicit, and not left to the imagination of people or to whatever inspiration they may have, because that inspiration and that imagination may not necessarily coincide with the imagination and the inspiration of our Deputy Labour Minister, because the courts are not concerned with the questions of policy. They are there to administer the law, as they find it.

Therefore, welcoming the Bill with these few words, I would request our Deputy Labour Minister to be a bit more imaginative, to be a bit more accommodating and to see that he includes these very important factors that are necessary. I once more emphasize the point regarding deduction of insurance premia from the salary. I welcome this Bill.

Shri K. N. Pandey: I am very much thankful to you for giving me an opportunity.

Mr. Speaker: May I interrupt the hon. Member for a minute? There are 3 hours and 48 minutes left for this Bill. So, we have to conclude all the stages of the Bill by four o'clock. Now, how long will we take for clause by clause consideration? There are 28 amendments and 7 clauses. Will it take an hour and a half for that stage?

Shri Narayanankutty Menon: One hour will do.

Mr. Speaker: Therefore, we will conclude the general consideration stage by three and then dispose of it in an hour. How long will the hon. Minister take for replying?

The Deputy Minister of Labour (Shri Abd All): About 25 minutes.

Mr. Speaker: So, I shall conclude the discussion by 2.35. Now it is 1.15. So we will have one hour and twenty minutes. I therefore, request hon. Members to restrict their remarks within the time of ten minutes.

Shri K. N. Pandey: I am very much thankful to you for giving me an opportunity to express my views on this Bill. The old Act required modification long before. Even though it has come at this late stage, I welcome it.

There is no doubt that by introducing this Bill, the scope of the Act is going to be enlarged so as to cover workers working in buildings, construction of roads and repairs and also workers connected with generation of electricity and distribution of the same. There is also another important thing. In this Act there is a provision—in the old Act there was no such provision—that if the payment of wages is delayed, then it can be realised from the employers. That will come into force after this Bill takes the shape of an Act. If the wages are refused or delayed, there is a procedure to realise it as land revenue.

While appreciating the Bill, I beg to point out something which has been lost sight of by the Ministry, and that is very important. First, I will draw the attention of the House to the definition of "workmen" in the Industrial Disputes Act. Then my point will be very easily understood. In the Industrial Disputes Act, the definition says:

"'workman' means any person, including an apprentice employed in any industry today in skilled or unskilled, manual or supervisory, technical or clerical work for hire or regard . . . but does not include any such person . . ."

Then, in sub-clause (4) it is stated:

"who, being employed in a supervisory capacity, draws wage exceeding Rs. 500 per mensem".

Now there is a contradiction. There is an inconsistency if you take into consideration the Industrial Disputes Act and the Bill introduced in this House. The present Bill deals with wage up to Rs. 400 and the Industrial Disputes Act deals with a man who gets Rs. 500 per month.

If a person governed by the Industrial Disputes Act is discharged or dismissed and he remains unemployed for two years and if the matter is referred to a court and the award is given in his favour, that is, an order reinstating him, then a person getting Rs. 500 will be entitled to be reinstated along with wages for the period he has remained unemployed. In the case of the same man, if the wages are delayed or denied, then he cannot go to the court under the new Act because he is getting more than Rs. 400, that is, Rs. 500. So, there is a lacuna in this Bill and hope the Ministry will take into consideration this fact and try to correct it.

My next point is about the Payment of Wages Act itself. In the principal Act there is a provision that when the wages are refused or delayed, then the matter may be referred to a court, appointed by the authority under that Act. And that authority may be the SDM or any man who is just equal to a civil court judge or holding a lower post than that. When the Industrial Disputes Act was being considered, in order to simplify the procedure and in order to have less expensive litigation, courts were established under that Act. Now, a similar provision could have been repeated here. But this Act is silent about it. Here the Bill says about an authority appointed under this Act.

When there are so many tribunals consisting of retired High Court Judges and District Judges, why should a matter under the Payment of Wages be referred to some other authority appointed under this Act. That matter can be referred to this tribunal and they can decide it as early as possible.

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The next point is about filing of appeals. That comes under section 17. It says that an appeal against a direction made may be preferred within 30 days of the date on which the direction was made in the Presidency Town and so on. Here there is silence as to who will file the appeal. Is it the aggrieved party, or the union? In the principal Act, in section 15, there is a provision that when there is a complaint about delay in payment of wages or refusal of wages, the union also is authorized to file that case to the appointing authority. Under section 17, when there is a provision for appeal against the judgment of the appointed authority, there is silence as to who will be the right persons or agency to file that appeal to the appellate authority. In the amendment that is sought here, there is provision in section 17A which also says:

"Where at any time after an application has been made under sub-section (2) of section 15, the authority or where at any time after an appeal has been filed by an employed person under section 17 the court referred to in that section, is satisfied . . ."

Only the name of "employed person" has been given here. My experience is this. There were two factories, Padrunna Raj Krishna Sugar Works, Padrunna and the Jagdish Sugar mills, Kathkingan. Payment was refused for the last four months. Either the employed persons may go and file the case. If there is total closing of factory or strike, the employed persons may go to the court and file their case or file the appeal. The agency provided there, that is, the trade union may also go to the court. That is a single body. It is not necessary to close the factory. There will be no strike at all. In that case, if the union is authorised, it is better. Here, the employed person has been given the right of appeal. My request is that the hon. Minister may take this salient point

into consideration and accept my suggestion. I have given an amendment that the trade union should also be authorised to file an appeal, if there is any decision on trial or where the parties are aggrieved by the decision.

Shri Naushir Bharucha (East Khandesh): That is implied.

Shri K. N. Pandey: The employed person is mentioned. Where there is body of workers, the union should be authorised to go there, so that the work may also continue and there may not be any strike in the factory. The procedure also may be simplified. This is my request. Along with the employed person—let it remain there—the trade union of which he is a member or the workers are members, should also have the right.

Although I have brought this point to the notice of the House and of the Minister, I say that this Bill which has been brought before the House is towards progress. I request the Minister again that a comprehensive Act amending all the defects that are still existing should be brought in the near future so that the workers may get relief as early as possible and there may not be any discontentment among the workers. With these words, I support the Bill.

Shri Naushir Bharucha: This Bill is welcome in some parts as far as it goes. But, to our mind, it does not go sufficiently far. I quite appreciate that the range of salaries has been increased to Rs. 400. May I ask the hon. Deputy Minister to consider the fact that, if it is intended that the poor worker should benefit by the Payment of Wages Act, why is it that the employees under the Shops and Establishments Act are excluded from the scope of this Act? The Act is made applicable only to certain specific industries. I would appeal to the hon. Minister in charge to take into consideration the fact that a man who earns Rs. 200 as an employee in a

commercial establishment is as much poor and deserves relief under the *Payment of Wages Act* as any employee mentioned in any of the specific industries. Therefore, I would suggest, a next amendment by way of enlarging the scope of the *Payment of Wages Act* should be made by bringing all persons getting, say, Rs. 200, even if they are employed in commercial establishments. Therefore, while welcoming this feature, I make this suggestion.

Of course, the inclusion of the construction workers within the scope of the Act is very welcome, and also the provision with regard to appeal. The hon. Member who spoke before me has expressed an apprehension that this provision is not clear. It is obvious that a party to the proceedings—in particular cases the union has got the right to file an application—that party becomes a party who can prefer an appeal. To my mind, no amendment is required in that direction. The enlargement of the provision for appeal is certainly welcome.

13.27 hrs.

[**SHRIMATI RENU CHAKRAVARTY**
in the Chair]

There are two or three points on which attention requires to be focused. First, the exclusion of any bonus, whether under a scheme of profit-sharing or otherwise, which does not form part of the remuneration under the terms of employment is doubtful. Because, after all, what is it that we refer to in the terms of employment? Suppose there is a profit-sharing scheme. The profits have been determined already. Then, a claim is made for a particular share of that declared profit. Under the present Act, even when profits are declared, still, the man cannot claim it in the form of a bonus because this has been excluded. I fail to see the reason for this. After all, it means any term of employment. In the case of a scheme of profit sharing, all workmen are getting a part of it and

that becomes a term of employment. To exclude that from the definition of wages is certainly not correct.

The second point to which I desire to draw attention is that a very mischievous provision has crept in on page 4: deduction for house accommodation. Where a workman stays in a tenement constructed by the Housing Board, then, his rent can be deducted without his consent from the wages. In the Bombay State, we have passed the Housing Board Act, where we have given them extraordinary powers. The Housing Board need not go, after the determination of the arrears, to a court of law. Only a Competent Officer certifies that so much is due. That would be deducted from the wages even if it is not really due. A tenant under the Housing Board Scheme has no opportunity whatsoever to take the matter to a court of law. Vast powers have been given to the Housing Boards. There, the Competent Officer, as he is called there, whether the money is due or not, certifies that this much is due from A, and that amount is automatically deducted from his wages. This is a most mischievous provision. I oppose that provision.

There is one more matter to which I invite attention, namely, the new clause 17A for conditional attachment of property of the employer or other persons responsible for payment of wages. The idea underlying this is to secure the arrears of wages in the event of closing down. But, what does the new clause actually say? It says, after giving the employer or other person an opportunity of being heard, direct conditional attachment. What is the result? When the concern is about to close or when notice of closure has been given, the first thing that the proprietor of the concern does is to do away with all the property. By the time the wage earner goes to the court, and makes the application, by the time notice is issued by the *Payment of Wages Authority* to the opposite side, date is fixed, adjournments are given, parties

[Shri Naushir Bharucha]

are heard and conditional order is issued, all the property of the concern can be disposed of and the party may be left with a conditional attachment, there being nothing to attach. These things have happened. In the State from where I come, a particular concern was closed down at Pachora, Bharat Vanaspati. When the Mamlatdar sent an order of attachment to secure the arrears of wages, it was found that everything was mortgaged to the bank and practically everything was finished. In such cases, what should be the procedure? The Payment of wages authority should be authorised to issue an *ex parte* prohibitory order prohibiting the owner from disposing of or dealing with the property until the application is heard. Then, the application should be heard. Once the property is disposed of, conditional attachment has no meaning.

This procedure is not a new procedure. It is being followed in exceptional cases. If the payment of wages authority is given that power to issue a prohibitory order, *ex parte* prohibitory order—merely an application has to be made, and it could be got within ten minutes—on the owner of the concern, then the arrears of salaries would be safeguarded. Otherwise, I am afraid, the poor workers will lose their arrears. I am making this appeal because it has been my experience that in many cases, not only the arrears, but even the provident fund has been entirely swallowed, and the law is virtually helpless. The man may be nominally prosecuted and convicted also. But what happens to the provident fund? In one case, in my constituency provident fund to the tune of nearly Rs. 3 lakhs was swallowed. Therefore, if the law is to provide a remedy, I suggest that it should not only be effective but it should also be prompt.

Therefore, I do appeal to the Minister, and while congratulating him to the extent that he has made some

effort to liberalise the provisions of the Payment of Wages Act, that he should go further and be a little more courageous and see that the remedies which are provided for the benefit of the workmen are really prompt and effective.

श्री स० ब० बनर्जी (कानपुर): सभापति महोदय, यह जो बिल इस सदन के सामने है, उसका मैं स्वागत करना चाहता हूँ और मंत्री महोदय को इसके लिए धन्यवाद देना चाहता हूँ कि उन्होंने कम से कम २०० रुपये की जो बात थी उसको ४०० रुपये तक कर दिया। लेकिन कुछ चीजें ऐसी हैं कि आज इस देश में पैमेंट ग्राफ बेजैज ऐक्ट के अन्दर क्या हमारे मजदूर ले सक रहे हैं या नहीं यह एक सवाल हमारे सामने है।

जिस तरह से मेरे पूर्व वक्ताओं ने कहा कि अक्सर यह देखा गया है क्योंकि हमारे देश में मजदूरों की हालत काफी खराब है और मुकद्दमेबाजी करना उनके हक में हो सकता है कि फ़ायदेमंद हो लेकिन उसके करने की उनमें ज़रूरत नहीं है और अगर ज़रूरत है भी तो मुकद्दमेबाजी करने के लिए उनके पास पैसा नहीं है। इस लिए हमें देखना यह है कि प्राक्किर किस तरीके से ऐसा हम इंतज़ाम करें कि हमारे मजदूर लोग कम से कम पैसे में मुकद्दमे लड़ सकें।

मेरे दोस्त श्री राजेन्द्र सिंह ने कहा कि सीगल ऐडवाइस या सीगल ऐड वी जानी चाहिए। उत्तर प्रदेश की बात में आपको कहूँ कि लेबर कमिश्नर उत्तर प्रदेश ने कुछ सीगल ऐडवाइजर्स नियुक्त किये हैं और तमाम यूनियनों को उन्होंने सिखा भी है कि उन सीगल ऐडवाइजर्स का फ़ायदा उठाया जाय। लेकिन मैं अपने जाती तबुर्बे से मंत्री महोदय को कहना चाहता हूँ कि उसका फ़ायदा उठाना तो दूर रहा सीगल ऐडवाइजर साहब के दर्शन भी तक़रीबन ईब के बाँध से ही मरे और उसके कुछ फ़ायदा नहीं होता। इसका मतीबा यह / का कि

जिस मजदूर के पास पैसा है या जो यूनियन काफ़ी पैसा खर्च कर सकती है वह तो मुकद्दमेबाजी कर लेगी लेकिन एक मामूली गरीब मजदूर के पास सिवाय इसके कि वह अपनी तकदीर को कोस कर और सरकार और मिल मालिक दोनों को कोसता हुआ चुपचाप बैठ जाय और कोई दूसरा चारा नहीं है ।

घर में एक मिसाल आपके सामने देना चाहता हूँ कि यह सरमायेदार और बड़े बड़े मिलमोनर्स बँजरे के सिलसिले में मजदूरों पर कितना भ्रष्टाचार कर रहे हैं । मंत्री महोदय को मालूम है कि कानपुर में एक म्योर मिल है । उस मिल में तक़रीबन ६ हजार मजदूर काम करते हैं । इस मिल के दो सरमायेदारों में आपस में कुछ लड़ाई चल रही है और उसका ख़मियाजा हमारे मजदूरों को मुगतना पड़ रहा है । ६ हजार मजदूरों की पूरे भक्तूबर महीने की तनस्वाह धाज तक मिलमोनर ने नहीं दी है । इससे पहले भी एक सवाल करते हुए इस सदन में मैंने मंत्री महोदय का ध्यान आकषित किया था । उन्होंने कहा कि यह तो प्रान्तीय सरकार की बात है और उनको इसके लिए प्रासीक्यूट किया जा सकता है या नहीं किया जा सकता है, यह तो प्रान्तीय सरकार ही देख सकती है । लेकिन मैं आपको कहना चाहता हूँ कि अगर धाज रिजिड्ली इस ऐक्ट को फौलो किया जाता और अगर हम कोशिश करते कि इसमें धाज सरमायेदार इस तरीके से मजदूरों की गाढ़े पसीने की कमाई को इस तरीके से वह हड़प न कर सके तो बेहतर होता । मैं यह निवेदन करना चाहता हूँ कि ६ हजार मजदूरों को उत्तर प्रदेश के मुख्य मंत्री महोदय के पास कानपुर से सन्ननऊ ५५ बीस पैदल चल कर जाना पड़ा, वे लोग कानपुर से सन्ननऊ पैदल गये और मुख्य मंत्री जी से निवेदन किया कि वह इस चीज का फ़ैसला कर दें । लेकिन मुख्य मंत्री जी ने उनको अपने यहाँ से यह कह कर उमटे बाफ़िश कर दिया कि वे लोग इसके लिए

उत्तर प्रदेश के लेबर कमिश्नर के पास जायें और वे इसका फ़ैसला करेंगे । कानपुर में सरमायेदारों के सिरलाज श्री पदमपत सिहानिया ने साफ़ तरीके से कहा कि २ नवम्बर जिस दिन यह फ़सला हुआ कि मैं इस मिल को चलाऊंगा हालांकि वह मिल के हक़दार थे वह उस मिल के मालिक हैं उस मिल के दो मालिक हैं बागला साहब और पदमपत सिहानिया, दोनों उसके जायज हक़दार हैं उन्होंने कहा कि २ नवम्बर से जब से कि मिल चली है, पहले ले मीक़ चल रहा था, वह तो मैं पेमेंट करूंगा लेकिन भक्तूबर महीने की तनस्वाह धाज तक उनको नहीं मिली है और उसको लेकर धाज भी वहाँ पर मजदूरों की हड़ताल चल रही है । कानपुर में मजदूर परिस्थिति काफ़ी गम्भीर हो चुकी है लेकिन धाज भी उसके बारे में यहाँ कोई कानून इस तरीके से हम लागू नहीं कर सकते चाहे वह प्रान्तीय सरकार हो या हमारे वर्कर्स की हुकूमत हो, ताकि एक बड़े सरमायेदार को हम सजा दे सकें और उसको कह सकें इस तरीके से मजदूरों को रोखी और मजदूरों की रोटी खीनो न जाय । यह मैंने एक मिसाल देकर आपको बतलाया कि इस कानून में कौनसी ऐसी कमजोरियाँ और ख़ामियाँ हैं जिनके कि रहते हम सरमायेदारों का दामन धाम नहीं सकते और उनको ऐसी हरक़त करने से रोक नहीं सकते ।

दूसरी चीज जो मैं निवेदन करना चाहता हूँ वह उस चीज से सम्बन्ध रखती है जिसके लिए कि मेरे भाई श्री टी० सी० एन० मेनन ने एक संशोधन पेश किया है और उन्होंने कहा है कि सारी चीजे इसमें धानी चाहियें जैसे

“any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;”

ट्रेडसिंग एलाउन्स के बारे में मेरी सुझावज बहन श्रीमती पार्वती कृष्णन् ने अपनी स्वीच में कहा । उसके बाद डेब्टी का

[श्री स० म० बनर्जी]

सवाल है और प्राविडेंट फंड का सवाल है। मैं इनके सम्बन्ध में पब्लिक सेक्टर की बात कह रहा हूँ प्राइवेट सेक्टर की बात ही क्या है। पब्लिक सेक्टर में डिफेंस इन्स्टीट्यूट में हालत यह है कि एक इंसान चाहे वह नौकरी से बर्खास्त कर दिया गया, रिटायर हुआ, सुपरऐं-युएंडेड हुआ, ५५ साल के बाद वह गया और भूमकिन है कि उसके प्राविडेंट फंड के हिसाब में २,३ हजार रुपया जमा हो सकता है और अगर वह दरया उसको बन्दी मिल जाय तो वह धाराम से अपनी जिन्दगी बसर करने के क्वाबिल हो सकता है लेकिन आपको यह मुन कर ताज्जुब होगा कि रिटायरमेंट के बाद और उस इंसान के मर जाने के बाद भी कुछ क्लेम ऐसे हैं जिनमें कि प्राविडेंट फंड का मसला हल नहीं हुआ क्योंकि मालिकान को साफ तरीके से मालूम है और जो अधिकारीगण हैं उनको मालूम है कि आखिर कौन सा ऐसा कानून है जो उनको इसके लिए बाध्य कर सकता है वे इसको जानते हैं कि यह चीज तो पेमेंट ऑफ वेजेज ऐक्ट में धाती नहीं है, ज्यादा से ज्यादा वह नोटिस देगा, सिविल कोर्ट में जायेगा और उसके बाद देखा जायगा और उस हालत में जो पेमेंट होगा वह पेमेंट हमारे पास आ जायेगा और वह सरकार की तिजोरी में चला जायेगा और हो सकता है कि वह रुपया दूसरी पंच-वर्षीय योजना में चला जाये। इस तरीके से आप देखेंगे तो आपको पता चलेगा कि प्राविडेंट फंड, बँदूटी और ट्रेडिंग एनाउन्स सम्बन्धी काफी रुपया डिफेंस इंडस्ट्रीज में, रेलवेज में ऐसा निकलता है जो कि डिस्बन्ड नहीं होता है और इस तरह पर लाखों रुपये अनडिस्बन्ड हर साल रह जाते हैं। आज कोई भी कानून ऐसा नहीं है जिसके कि बूते पर हम वह चीज चला सकें या हासिल कर सकें। इसी लिए जो संशोधन रक्खा गया उसको मंजूर किया जाय और उन चीजों को भी उसके मातहत लाया जाय ताकि जो गड़बड़ी आज हो रही है उसको हम रोक सकें।

तीसरी चीज जो मैं आपके सामने इस घबतर पर रखना चाहता हूँ वह बोनस से सम्बन्ध रखती है। बोनस का सवाल बड़ा टेढ़ा सवाल रहा है और यह फ़रसोस की बात है कि इस देश के सरमायेदारों ने हमेशा यह कोशिश की है कि किसी तरीके से जैसे भी हो मजदूरों को बोनस न दिया जाय। आज जिस सरमायेदार से बात करो वह कहता है कि धाष उद्योग चलाने में विशेष फ़ायदा नहीं है और हम तो यह बड़े बड़े उद्योग और कारखाने धादि चला कर देश की सेवा कर रहे हैं बरना हमें वहाँ कुछ मुनाफ़ा तो हांता ही नहीं केवल किसी तरह से जिन्दगी बसर कर रहे हैं और अगर देश का क्याल न हो तो हम मिलें और कारखाने ही बंद कर दे और वे कहते हैं कि जब मुनाफ़ा ही नहीं हो रहा तो बोनस कहा से दें। इस बोनस के सवाल को हल करने के लिए कितनी परेशानी लोगों को उठानी पड़ती है यह माननीय मंत्री को मालूम है। बर्कस को बोनस प्राप्त करने के लिए हाईकोर्ट और सुप्रीम कोर्ट तक की शरण लेनी पड़ती है और काफी मुकद्दमेबाजी करनी पड़ती है और उसके बाद भी बोनस नसीब नहीं होता। अगर हक में फ़ैसला हो जाता है तो वह फ़ैसला लागू नहीं होता है और अगर हम उस फ़ैसले को लागू करने के लिए कहते हैं तो वे हमको कहते हैं कि हम मिल ही बन्द किये देते हैं और मजदूरों के सामने तब वह परिस्थिति हो जाती है कि गधे बे भीख मागने, कुत्ता छोड़ दिया और लाचार होकर कहना पड़ता है कि कुत्ते को हटाओ हमें भीख नहीं चाहिये कम से कम मिल तों चुकी रहेगी। इस लिए मैं चाहता हूँ कि इस बोनस के ईश्यू को ठीक तौर पर टैकिल किया जाय, बोनस को तनस्वाह में शामिल कर दिया जाय और अगर तनस्वाह की डेफ़ीनशन में इसको शरीक नहीं कर सकते तो भेरा कहना है कि अगर आप चाहते हैं कि आपकी दूसरी पंच-वर्षीय योजना सफलतापूर्वक चले और सर्व

इंस्ट्रियल पीस रहे तो यह जरूरी हो जाता है कि मीनेजमेंट मिल मालिक मजदूरों के साथ इस सवाल को मिल कर सन्तोषजनक रीति से सवा के लिये हल कर लें और बोनस को भी इसमें इनक्लूड कर लें। बोनस को अगर हम अलग रखते हैं और मिलमालिक की मर्जी पर छोड़ते हैं तो मैं कहूंगा कि हम इस बोनस के सवाल को कभी हल नहीं कर सकेंगे। मैं आपको उदाहरण के तौर पर बतलाऊं कि कानपुर में साल ईमली कूलन मिल्स जो कि ब्रिटिश इंडिया कारपोरेशन मुंदरा साहब की संस्था है और वे करोड़पति धरबापति हैं, जब उनसे बोनस के लिये मजदूरों ने मांग की तो उन्होंने कहा कि बोनस का ईष्य नहीं हुआ है और बैलेंस शीट रेडी नहीं है। इसका नतीजा यह हुआ कि उस मिल में काम करने वाले एक मजदूर को यूनिजन के एक कार्यकर्ता को ऊपर से कूद कर खुदकुशी करनी पड़ी और बोनस के ईष्य को लेकर वह शहीद हो गया इस उम्मीद को दिल में लेकर कि शायद मेरी शहादत के बाद यह बोनस का मसला हल हो जाय लेकिन बोनस का मामला तो खटाई में पड़ गया और उलटे कानपुर में दो पार्लियामेंट के मेम्बरों पर इस बात को लेकर मुकद्दमे चलाये जा रहे हैं कि उन्होंने उसको खुदकुशी करने के लिये प्रेरित किया। इस तरीके की चीजें चल रही हैं। मैं मंत्री महोदय से निवेदन करूंगा कि हर एक इंस्ट्रियल वर्कर जो जहां भी काम करता है वह पेमेंट ग्राफ बेजेज एक्ट में कवर होना चाहिये। उसमें यह बंदिश नहीं होनी चाहिये कि इसमें प्रेषुइटी, बोनस, प्राविडेंट फंड और ट्रेवलिंग एलाउंस शामिल नहीं होंगे, जैसा कि इस बिल में लिखा गया है। अगर इस तरीके से काम किया जायगा, तो हम इस एक्ट के मातहत कहां तक मजदूरों के हितों की रक्षा कर सकेंगे, मुझे इस में शक है और मैं समझता हूँ कि माननीय मंत्री जी को भी जरूर शक होगा।

जहां तक कंस्ट्रक्शन वर्कर्स और बिस्टिंग

वर्कर्स का सवाल है, मैं यह निवेदन करना चाहता हूँ कि बिस्टिंग और रोड कंस्ट्रक्शन में जो मजदूर कन्ट्रैक्ट सिस्टम—ठेकेदारी प्रथा—के मातहत काम करते हैं, उन पर पेमेंट ग्राफ बेजेज एक्ट लागू नहीं होता है। इस सदन में मैं पहले भी कह चुका हूँ कि मिनिमम बेजिज एक्ट भी किसी किसी जगह लागू नहीं है। उस के उत्तर में माननीय मंत्री जी ने कहा था कि जहां वह लागू नहीं है, वहां उस को लागू करने की कोशिश की जायगी। लेकिन ग्राज भी एम० ई० एस० के महकमे में, सी० पी० इन्स्पू० डी० और रेलवेज में, जहां कि ठेकेदारी प्रथा के मातहत जो मजदूर काम करते हैं, पेमेंट ग्राफ बेजिज एक्ट से उन की कोई गंज नहीं है। अगर वे लोग कहते हैं कि तीस दिन के बाद तनस्वाह दे दीजिये, १० तारीख हो गई है, तनस्वाह दीजिये, तो ठेकेदारों की तरफ से उन को जवाब दिया जाता है कि अगर तुम एक्ट की बात करते हो, तो इस्तीफा दे दो और आओ, अपना काम करो।

हकीकत यह है कि हमारे देश में मजदूरों की बेकारी और गरीबी का ताजायज फायदा उठाया जाता है और इस वजह से जिस एक्ट से उन लोगों की भलाई हो सकती है, उससे वे लोग फायदा नहीं उठा पाते हैं।

मुझे आशा है कि माननीय मंत्री जी इन बातों पर संजीदगी से विचार करेंगे। यह मैं मानता हूँ कि उनके इन्टेण ज अच्छी हैं और उन के इरादे मुसमम हैं—और मैं उन का स्वागत करता हूँ—लेकिन वे सिर्फ नेक और अच्छे इरादे रखें और उनको धमसी जामा न पहनायें, तो काम नहीं चल सकता है। इसलिये अगर श्री टी० सी० एन० मैनन की धर्मैडमेंट को मान लिया जाय, तो अच्छा हो।

मुमकिन है कि कानपुर की म्यूर मिल का मामला, जिसका कि मैंने धमसी चिक किया है, इस बिल के अन्तर्गत न आता हो, लेकिन मैं निवेदन करना चाहता हूँ कि उसके

[श्री स० म० बनर्जी]

कारण सारे शहर की किछा सराब हो रही है और हो सकता है कि वह और ज्यादा सराब हो जाय। लोग चाहते हैं कि वे सराब न हो और इस सिलसिले में कोषिषा भी की जा रही है, लेकिन एक सरमायादार ने वहाँ पर छः हजार मजदूरों की जिन्दगी को सराब कर रखा है—उन मजदूरों के बाल-बच्चों को मिला कर तकरीबन तीस हजार प्राणियों को मुसीबत में डाल रखा है और उन को फाकाफकी की नौबत भा गई है। अगर हिन्दुस्तान में एक सरमायादार की इतनी मजाल है, तो इस कानून का फायदा ही क्या है ?

इस बिल का स्वागत करते हुये मैं यह निवेदन करूंगा कि जो बातें मैंने कही है, उन पर माननीय मंत्री विचार करें और कानपुर के मामले पर, जो कि तमाम लोगों के सामने है और जिस के बारे में मैं सदन में गुजारिषा कर चुका हूँ अपने विचार प्रकट करें। पब्लिक सेक्टर में प्राविडेंट फंड की जो डिफिकल्टीज हैं, उन पर भी वह विचार करें।

यह बिल काफी देर से आया है, लेकिन देर आयद दुस्त आयद। बहरहाल, यह बिल आया तो। मैं उस का स्वागत करता हूँ और आशा करता हूँ कि माननीय मंत्री हमारे सुझावों पर विचार करेंगे।

Shri Ghosal (Uluberia): Mr. Chairman, at the time of the discussion of the Demands for Grants of the Labour Ministry last budget session, I along with my colleagues demanded amendment of the Payment of Wages Act in three respects. One is that the pecuniary limit of the Act should be raised; secondly, the jurisdiction of the Act should be broadened, and thirdly, the definition of 'wage' must be properly given.

As regards the pecuniary limit, we welcome the raising of it to Rs. 400.

As regards jurisdiction, only construction workers have been included, but we wanted that this Act should be extended to cover other workers also, plantation and mine workers and also the clerical section of the working class. As regards the last, we know that the only remedy to realise the wages due is to go to the civil court, and it is impossible for this clerical staff to pay huge court fees under the Court Fees Act and to get justice after a long delay. At least hundreds of clerks have got to file their claims for due wages in the civil court for realisation. Therefore, in order to obviate that difficulty, we wanted that the provisions of this Act should be extended at least to cover the clerical section of the working class. Now that has not been done.

As regards definition of 'wages', I would like to submit that in successive Acts it has been gradually narrowed down. The Payment of Wages Act was enacted in 1938 previous to the Industrial Disputes Act which was passed in 1947. The provisions of the Industrial Disputes Act have been extended to the clerical section. When the Payment of Wages Act was passed, there was no question of the inclusion of the clerical section. Later, if we examine the definition of 'wage' in the Industrial Disputes Act, we find it was further extended to cover DA, housing accommodation, supply of light and water, medical attendance and other amenities or service or any other concessional supply of foodgrains etc. But since 1947, this definition has been gradually narrowed down. In 1948 when the Employees' State Insurance Act was brought into force, in the definition of 'wages' given in section 2(22), the word 'bonus' was dropped, though in the original Payment of Wages Act there was a mention of bonus in that definition. In the Employees' State Insurance Act, it was neither specifically excluded nor specifically included. The definition of 'wages' in this Act also did

not mention whether house allowance, light and water allowance or medical allowance would be included or excluded. It was kept vague.

The definition of 'wages' was further restricted in the Employees' Provident Fund Act, under which DA, house allowance, overtime allowance, medical allowance etc. have been specifically excluded from section 2.

In this Bill, as was in the Payment of Wages Act in 1936, the definition of 'wages' has been narrowed down and stripped of all other attendant amenities, in order to serve the interests of the employers.

As regards *Explanation II*, it has been incorporated to give further freedom to the employers to deduct the wages on the basis of rules to be framed by the employers. We know the fate of these rules that are framed by the employers under the Industrial Employment Standing Order. They always frame these rules which are sent to the Government without the copy being served on the registered unions and these are certified. And, on the basis of these rules, if the employers are allowed to deduct the wages, then, it will be injustice for the workers who will suffer the most. This *Explanation* is not of much importance but it is quite detrimental to the interest of the workers.

It has been pleaded by some of my hon. friends that the definition of bonus should be there and much of the disputes had been raised in the past and there is a likelihood of disputes being raised in the future on the definition of bonus. It has not been defined in any Act so far passed by Government. That point is also a moot point which is to be considered by the hon. Deputy Minister.

Therefore, I beg to submit that while I welcome this because it has been extended to the building workers also, and the limit has been

extended to Rs. 400, I feel that amenities which are essential are being excluded by this Bill. The provisions of this Bill should have been extended to the clerical section of the working class also. I beg to draw the attention of this House to these aspects and say that it should include the clerical section within the purview of this and include bonus also in the definition of 'wages' without dropping all the amenities.

Shri Ora (Zalawad): Madam Chairman, I welcome the Bill so far as it goes and heartily congratulate the Ministry for the same. Wage is the most important item in labour relations. The workmen hire out their labour so that they may earn something for themselves and for their family members. It is not only the question of the amount of wages but also the mode and method of payment that is very important. We know so many cases where industrial disputes have arisen because of the difference of opinion or rather dispute on the question of the mode and manner of payment.

This Bill, to my mind, to a large extent solves those difficulties. We should keep in mind that this Bill is not substantive in character. It is a sort of procedural law. It lays down how the wages which are earned by the workmen shall be recovered. So, while criticising this Bill, I think, we should keep in mind this aspect of the very scheme of the parent Act which this Bill tries to amend.

The main thing which this Bill wants to amend is the definition of 'wages'. And, I am very happy to note that it has been rightly amended so as to include remuneration not only which is to be paid under the terms of employment but also remuneration which becomes due because of settlements or awards or orders of the court. Till now what happened was this.

Wages which had to be paid by the employers only in terms of employment could be recovered through the

[Shri Oza]

appropriate authorities by the workmen. In many cases there were differences of opinion or rather disputes as regards wages. The matter went up for conciliation and the matter went up further to Industrial Tribunals. There were awards and these things could not be recovered through the appropriate authority till now. In case an employer refused to pay remuneration which becomes due under such awards or orders of the Tribunal, the workmen concerned had to go to Government and apply. That was the beginning of the trouble and not the end of the trouble. One might have hoped that these awards and orders of court would be the end of the trouble and they will be complied with and there will be peaceful relations between the parties. On the contrary, it has been our experience that it has been the beginning of the trouble. When the workers apply to Government for the enforcement of the awards, the employers raise so many points of dispute as regards interpretation of terms, of agreement arrived at awards given by the courts. It was also difficult for Government to interpret the terms of the award, complicated as they were some times. The matter went up to civil courts, the Supreme Court or High Courts.

Now, I would refer to clause 3(iii), which proposes to amend the definition. It says:

“Wages” means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes—

(a) any remuneration payable under any award or settlement between the parties or order of a court;

This remuneration will also be recoverable through the appropriate

authority. The workers shall not have to go to Government or an officer of Government. The judicial authorities will immediately proceed to enforce the order and see that all these remunerations which are now payable under these awards and settlements are paid to the workers.

I think this is a very good step that the Ministry has taken and I have nothing but congratulations to the Ministry for the amendment of this definition in this respect. I am sure that the hue and cry which is now being raised and rightly—I do not say that it is unjustifiable—against the non-implementation of awards by the employers will not be there and the wind will be taken out of the sail, and the parties will be at liberty to approach the appropriate authority at least so far as the remuneration under the awards are concerned.

13.59 hrs.

[SHRI C. R. PATTABHI RAMAN in the Chair.]

Another point which has been raised on the floor of the House is as regards bonus. I also agree that something shall have to be done in respect of the issue of bonus. Today we have got the position that the Supreme Court has laid down a sort of formula according to which bonus can be paid to the workers. More or less in the whole country the Industrial Tribunals and the appropriate authorities follow this formula and award the bonus accordingly. I am glad that it is urged here that we should proceed to define what is bonus or in what circumstances or under what conditions bonus shall be payable to the workers. I think this is however not the proper Bill under which we can proceed to do it. It will perhaps lead to further complications.

14 hrs.

To my mind the question of bonus is linked up with the definition of a fair wage. Till now we have not on

our statute-book a definition of fair wage. It is left to the tribunals to interpret that word in the light of their sense of social justice which may vary from person to person. So long as we have not got that definition, it will be very difficult to lay down what and how the bonus will be paid to workers. We know of so many industries in which there are differences in wage structures. Some industries are paying fairly good wages; others are not paying even minimum wages and they are paying almost starving wages. To lay a definition or a statutory formula for bonus which will be applicable alike to industries which are not paying even a minimum wage and to industries which are paying fair wage would not be equitable. So that, so long as this question of fair wage is not ultimately decided and set at rest, I do not think we can proceed statutorily into the question of bonus.

Another question that was raised was about the payment of bonus. It was urged that bonus which is payable under the terms of employment will be recoverable. Sub-clause (c) of clause (vi) says—

"any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);"

If I interpret this Bill correctly it is covered. Now any bonus which is awarded by a Tribunal will be recoverable like any other wages. It is covered by sub-clause (a) which reads—

"(a) any remuneration payable under any award or settlement between the parties or order of a court;"

I think the bonus which will be payable under the awards of industrial tribunals will be covered by this sub-clause. If I am wrong, the hon. Minister will correct me. If my interpretation is correct, the doubts raised by some hon. Members that the bonus which is now awarded should be included is set at rest and we should

be satisfied that now we have got a forum from which we will be able to recover all the dues that are legitimately due to the workers from the employers.

Mr. Chairman: I welcome the Bill as far as it goes and I am sure it will be very helpful to the working classes in recovering their dues.

Shri L. Achaw Singh (Inner Manipur): Sir, this Bill seeks to amend the Payment of Wages Act, which was passed in February 1936. The original Act provides for regulation and protection of wages of workers as well as regulation of deductions from wages of the employees by the employers. The measure was enacted by the then British Government and it was passed under fire of criticism from the Congress Benches.

Now, twenty years after the passing of the original Act, the Deputy Minister of Labour has come forward with an amending Bill. All labour organisations, trade unions in India as well as international labour organisations, have suggested and recommended far-reaching changes on labour legislation and on the subject of wages. I am sorry the main defect of the Act has not been remedied by this amending Bill. The Bill proposes to extend the Act to construction industry. I am of the opinion that this Bill is halting and haphazard; it is also incomplete. It does not go far in those directions where the interests of workers could have been promoted. It covers only a small part of the labour population in the country. It covers only the big industries, the organised industries, the regulated factories, mines, railways and plantations. It does not really cover, and really seek to help the interests of millions of workers in the unregulated factories, workers in the agricultural sector, workers in commercial establishments and also workers in domestic services.

The Act applies only to a small fraction of the labour population. In

[Shri L. Achaw Singh]

my humble opinion the Act should have been made applicable to all categories of workers, to workers in all industries and necessary amendments also should have been provided in this Bill. Sir, there is legislation in Great Britain called the Truck Acts which generally deals with deductions from wages. These Acts are applicable to all classes of industrial workers. There is no reason why this measure should be restricted to a small class of workers.

The Royal Commission suggested that legislation regarding the periods of payment, namely, monthly payments, fortnightly payments, and weekly payments, should be applied to industries like factories, mines, railways and plantations. They also proposed that the measure should be extended to other industries in course of time. But this Bill has not gone so far.

Coming to the definition of wages in clause 3, this Bill seeks to exclude certain parts of bonus from the definition of wages. I think it is not desirable. In the original Act, wages included the whole of bonus, and I am of the view that bonus always forms part of the remuneration of the workers and no artificial difference between potential and earned wages should be created. This division would only benefit the employers and would deprive the workers of their due share. After all bonus comes out of profits. Profits do not fall from the sky. Labour makes its contributions towards the accrual of profits.

Bonus is nothing but part of the wages, earned by the sweat of the brow of the workers. Therefore, there should be no deduction from wages.

Moreover in India workers are not given proper wages, fair wages. They have no adequate living standard and wages are generally low and inadequate in most industries. So in the interest of the workers, bonus along with the wages should be paid in cash and some way must be devised so

that bonus may not be deducted at the time of payment of wages.

I would now like to come to clause 5 of the Bill. It is an amendment regarding deductions consequent upon punishments under service rules. In case of imposition of such punishments, it is necessary that the aggrieved person should be allowed to represent his case. Otherwise, the employer in many cases may act in an arbitrary manner. I would like to suggest an amendment to the effect that there may be some machinery by which the employer and the representatives of labour may come to some agreement to see whether the penalty imposed is in conformity with the requirements and also the rules framed by the employer. In that case, there should be a way for mutual consultation and agreement on such vital matters which affect both the employer and the worker. This is very important because it concerns the service conditions of the workers. It concerns the withholding of promotions, and increments, suspension of the workers and so on. There should be some way effective in which the representatives of labour can have and say in the matter. If possible some agreement may come after mutual discussion as to the nature or manner of penalty which may be imposed. In this connection, I should like to say that courts also held conflicting views. In one case, it was held that any reduction in pay by way of penalty whether for a short period or a permanent reduction in pay was a deduction and illegal under the Act. That is why I would like to propose an amendment.

I would like to make a few observations on fines. They are very irritating to the workers and it is a great injustice to the workers. We have some experience of maintaining discipline without the imposition of fines. Better relations also might prevail between labour and the employer. The practice of deduction by way of fines should be abolished. There may be deductions for some services rendered to the workers but not by way of fines.

The fund created by the realisation of fines must be administered by a joint committee of labour and management. In many cases we have found that the employers have mismanaged the funds. I am told that in the Railways these funds are jointly administered by representatives of labour and management. So, there should be such a committee to administer that fund in all other industries as well.

In Section 8(3) of the Act, there is some provision that the workers should be given a chance to explain, when they are fined. Here too, the representative of the trade union to which the aggrieved worker belongs must be given an opportunity to represent his case. In many cases, fines are imposed arbitrarily as a result of the actions of commissions or omissions on the part of the supervisory staff in many workshops and factories. These fines have resulted in many cases in a great deal of discontent on the part of the workers. In the interest of the workers and of the industry, the employees should be given a full opportunity to place their grievances before the employer, in respect of any matter involving the payment of fine.

Lastly, I would refer to question of enforcement and application of this Act. There is a wide gulf between the provisions of the labour laws and their actual implementation. Some of the labour laws enacted have not come into force in many parts of India while others are applied only to a limited extent. In many of the Government undertakings, especially transport undertakings, workers have been penalised in many ways but most of these labour laws do not apply to them.

In my own territory of Manipur, the running staff as well as the mechanical staff are fined without any rhyme or reason, long after the commission or omission on the part of the work-

er. We are also getting many cases of dismissals and suspensions. When one seeks the protection of the Court not to dismiss any particular worker, the Government or the management would dismiss him. So, in many parts of India all these labour laws do not apply and are not given any effect. So, I would ask the Minister to look into the condition of labour in such territories, especially in Manipur where there is no legislative assembly to look after the interests of the workers, where the administrators sometimes act in an arbitrary way and do not pay any heed to the demands of the workers.

पंडित ठाकुर दास अर्जुन (हिसार) :
जनाब चेयरमैन साहब, मेरे इस बिल के बारे में, तकरीर करने की एक छोटी सी अपालाजी है। वह यह कि जब मैंने इस बिल को पढ़ा तो मैं इस बिल के दफा ८ में जो सेक्शन १७ ए है उस को ठीक से नहीं समझ सका और मैं अब भी चाहता हूँ कि अग्नरेबिल मिनिस्टर साहब इस को मेहरबानी फरमा कर एक्सप्लेन कर दें।

दफा ८ में जो १७-ए के तौर पर है उस में मुझको लाइन १३ और १४ के दरमियान में मासूम होता है कि कुछ प्रल्फाज दर्ज करने से रह गये हैं क्योंकि अंग्रेजी का ठीक फिकरा ही नहीं बनता और सेंस को भी जब पाटं २ से मिलाया तो वह भी साफ नहीं रहता। जनाब वाला मुलाहिजा फरमायें इस में दर्ज है :—

"Where at any time after an application has been made under sub-section (2) of section 15, the authority, or where at any time after an appeal has been filed by an employed person under section 17 the court referred to in that section, is satisfied that the employer or other person responsible for the payment of wages under section 3 is likely to

[पंडित ठाकुर दास भार्गव]

evade payment of any amount that may be directed to be paid under section 15 or section 17, the authority or the court, as the case may be, after giving the employer or other person an opportunity of being heard, direct the conditional attachment.....

मैं शर्त से शर्ज करना चाहता हूँ कि हर किसी जा मैं यह लिखा होता है कि "बी कोर्ट ऑफ डाइरेक्ट" या "बी कोर्ट ऑफ डाइरेक्ट" लेकिन ऐसा बहुत कम देखने में आया है कि वहाँ "सील" और "मे" की शर्त मीजूदगी में सीधा लिखा हो :

"the authority or the court direct the conditional attachment of so much of the property of the employer". मुझे मालूम होता है कि यहाँ पर "सील" या "मे" गलती से रह गया है और इस को मुक्कम्मस किया जाना चाहिये। बेहतर यह होगा कि शर्तरेबिल मिनिस्टर साहब यहाँ लफ्ज "मे" बढ़ा दें। और यह तो लफ्जी बात है। लेकिन इस की शर्त मीजूदगी में दिक्कत पैदा हो जायेगी। अगर आप "सील" रखेंगे तो कोर्ट का यह फर्ज हो जायेगा कि वह कंडीशनस शर्टेपमेंट जारी कर दें। अगर "मे" रखेंगे तो उस को डिस्क्रिशन होगा। आप जिस तरह से चाहें रखें, लेकिन मेरी नाकिस राय यह है कि आप "मे" रखें तो अच्छा होगा क्योंकि इस में कोर्ट को डिस्क्रिशन रहेगा।

लेकिन जिस सास चीज की तरफ मैं आप की तबन्नाह दिखाना चाहता हूँ वह थोड़ी सी मुस्तसिफ है। मैं यह मानने को तैयार हूँ कि आप जो यह बिल लाये हैं यह आप गरीब श्रावमियों की श्मदाह के लिये लाये हैं। जिन बर्कस के लिये आप के दिल में दर्द है उन की श्मदाह के लिये आप यह बिल लाये हैं ताकि उन के बेजेज का पेमेंट ठीक तरीके से हो सके और उन की उन के हक से महकम न किया जाये

लेकिन ताहम आप इस श्म की मानें कि यह हक डिस्क्रिमिनेटरी ला है। जो श्रावमिरी सिविल राइट्स का हक एक श्रावमी को हासिल है उस के मुक्तेनिगाह से यह एक डिस्क्रिमिनेटरी ला है। लेकिन मैं इस के बखिलाफ नहीं हूँ। मैं तो कहता हूँ कि आप इस बिल को ठीक लायें क्योंकि बर्कर का जो हक है वह उसे मिलना चाहिये। लेकिन मैं समझता हूँ कि आप का यह मंशा हरगिज नहीं है कि एम्प्लायर को या किसी श्रावमी को जिस की तरफ बेजेज बाजिब है आप मिट्टी में मिला दें, उस का बकार खत्म कर दें। आप का मंशा सिर्फ यह है कि जिस श्रावमी के बेजेज बाजिब है उन से वह महकम न रह जायें। तो कानून यह होना चाहिये कि जहाँ कोई कोर्ट या प्रचारिटी समझे कि एक शक्स पेमेंट श्वेड करना चाहता है तो कोर्ट यह हुकम दे दे कि या ती वह शक्स उतना रुपया दाखिल कर दे, या जमानत देवे जो कि कोर्ट को और दूसरे शक्स को भी तसल्लीबखा हो, अगर ये दोनों चीजें न की जा सकें तो कोर्ट यह हुकम दे कि वह शक्स कुछ जायदाद अलग कर दे और उस को हाथ न लगाये और उस जायदाद को कोर्ट में पेश कर दे। ये प्रहकाम मुनासिब है और होने ही चाहियें और मैं शर्त से शर्ज करना चाहता हूँ कि आप का भी मंशा वही है जो कि मैं शर्ज कर रहा हूँ। क्योंकि आप ने श्राविर में सेक्शन १७ ए (२) भी दिया है जिस में लिखा है :

"17A(2). The provisions of the Code of Civil Procedure, 1908, relating to attachment before judgment under that Code shall, so far as may be, apply to any order for conditional attachment under sub-section (1)."

लेकिन फर्ज कीजिये कि आप वहाँ पर "सील" या "मे" नहीं मयाते तो उस शूरत में कोर्ट को लाजिमी तौर पर कंडीशनस

एटैचमेंट का हुकम पास करना होगा। हर सूरत में यह हुकम करना होगा कि उस की आयदाव की कुर्की कर भी जाये। अब धाप जानते हैं कि किसी के लिये भी कुर्की दुःख का कारण होता है। जिस को रुपया दाखिल करने का हुकम दिया जा सकता है अगर उस की कच्ची कुर्की हो जाये तो उस में डिस्ग्रेस इन्वाल्ड होती है और मैं समझता हूँ कि यह धाप का मंशा नहीं है। मैं ने इस सेक्शन को पढ़ने के बाद आर्डर ३८ मंगा कर देखा जिस में एटैचमेंट बिफोर जजमेंट का प्राविजन है। मैं इन अहकाम की तफसील में नहीं जाना चाहता। लेकिन इस में यह है कि पहले कोर्ट हुकम देगी कि तुम इतनी चीज हमारे पास दाखिल कर दो, या जमानत दे कर तसल्ली कर दो कि तुम इतना रुपया रखोगे कि उस धादमी को दिलाया जा सके। अगर ये दोनों चीजें फेल हो जायें तो कोर्ट यह हुकम दे सकती है कच्ची कुर्की कर ली जाये। यही धाप की भी मंशा है। लेकिन अब मैं सेक्शन को पढ़ता हूँ तो धाप का यह मंशा उन धलफाज से धदा नहीं होता। इस सेक्शन के मुताबिक कच्ची कुर्की करना लाजिमी हो जाता है जब कि सूरत यह होनी चाहिये की कि अगर कोई इस कानून के मुताबिक रुपया न दे, और जमानत भी न दे जिससे कि तसल्ली हो सके जब तसब किया जायेगा तो रुपया मिल जायेगा, तब कच्ची कुर्की का हुकम दिया जा सकता है। लेकिन जैसा यह सेक्शन है इसको पढ़ने से कन्फ्यूजन हो जाता है। मैं चाहता हूँ कि जो धाप का मंशा है उस को पूरा करें। मैं जानता हूँ कि धाप का मंशा निहायत ठीक है। धाप चाहते हैं कि जो धादमी पेमेंट इमेड करना चाहता है उस को पहले यह हुकम दिया जायेगा कि तुम रुपया दाखिल कर दो जो मैं समझता हूँ कि एक एम्प्लायर के लिये धासान होगा। मासिक की हालत अच्छी होगी और उस के लिये रुपया जमा करना धासान होगा। इसलिये धम्बल तो हुकम यह दिया जायेगा कि वह रुपया दाखिल कर दे। रुपया न दाखिल करने की सूरत में उस को वह

जमानत देने का मौका दिया जाना चाहिये। जब वह इन में से कोई बात न कर सके तो फिर धयालत को कोई चारा नहीं होया सिवा इस के कि वह कच्ची कुर्की का हुकम दे और इस हालत में किसी को शिकायत का मौका भी नहीं होगा। लेकिन इस वक्त जैसे यह दोनों सेक्शन हैं इन को पढ़ने से कन्फ्यूजन होता है। यह साफ होना चाहिये। कानून तो ऐसा होना चाहिये कि पढ़ते ही किसी को पता लग जाये कि एक राक्स के राइट्स क्या हैं और लाइबिलिटीज क्या हैं।

तो मेरी गुजारिश यह है कि एक तो लपज बढ़ा दिया जाये और यह कंडीशनस एटैचमेंट किस सूरत में किया जायेगा यह दर्ज कर दिया जाये। इस से यह नहीं मालूम होता, कि धाप ने कंडीशनल एटैचमेंट को क्या दर्जा दिया है और इस सेक्शन को पढ़ने से कन्फ्यूजन होता है। कोर्ट में डिपार्जिट और जमानत यह दोनों चीजें तो धाई लेकिन इस सारे सेक्शन को पढ़ने से ऐसा मालूम होता है कि एक कन्फ्यूजन सा है। मैं समझता हूँ कि रुपया दाखिल न करने की सूरत में उस को जमानत देने का मौका दिया जाना चाहिये। मैं यह नहीं कहता कि धाप का यह मंशा है कि कच्ची कुर्की लाजिमी तौर पर होनी चाहिये लेकिन इस का रिजल्ट यही होगा। इसलिये मेरी गुजारिश है कि वह कंडीशनस एटैचमेंट किस सूरत में किया जायेगा यह साफ तौर पर दर्ज कर दिया जाये ताकि कोई कन्फ्यूजन ही पैदा न हो।

दूसरी चीज जो मैं धापकी इजाजत से धर्ज करना चाहता हूँ वह यह है कि धाप ने २०० से लिमिट बढ़ा कर ४०० कर दी क्योंकि धाप के जमाने में जो सन् १९३६ में २०० था वह ४०० ही नहीं किन्तु उस की कीमत ४०० से भी ज्यादा है। धाप वर्कर्स और वर्कर्स में क्यों तमीज करते हैं बाहे उस की बेज कुछ ही क्यों न हो? यह २०० से बढ़ा कर जो धाप ४०० की तमीज रखने जा रहे हैं तो अगर तमीज रखनी है तो मेरा कहना है कि ४०० के बजाय वह लिमिट ५०० क्यों न

[वंशित ठाकुरवास भागव]

रक्की जाये। अगर आप हिसाब लगा कर देखें तो पायेंगे कि सन् १९३६ के २०० की कीमत आज ८०० तक पहुंच जायेगी। मैं समझता हूँ कि हर एक को इस से फायदा पहुंचना चाहिये

मैं इस के धाने जा कर यह कहूंगा कि वहां आप वर्कर्स को यह रिप्रायत दे रहे हैं वहां ऐसे लोग जिन की स्वेडेड लेबर है, रूल वर्कर्स, जिनकी कि एकोनोमी बलनरेबिल है उन को भी जब आप को फुरसत हो तो इस का फायदा देने की तरफ ख्याल फरमाइयेगा और मुझे उम्मीद है कि आप इस मसले की तरफ अपनी तबज्जह देंगे और यह देखेंगे कि धाया उन को यह फायदा दिया जा सकता है या नहीं दिया जा सकता है और कुछ आप उस के लिये हल निकालेंगे। और रूल वर्कर्स के बास्ते भी तो कोई इस किस्म का एक कानून लायेंगे जिस से उन को बेजेज का मसला ठीक तीर पर हल हो सके और ऐसा होने से जो उन की मेहनत की कमाई है उस से बं भी वंचित नहीं रहने पायेंगे। मैं सिर्फ इतना ही धर्ज करना था।

**Shri Barman (Cooch Behar-Reserv-
ed—Sch. Castes)—rose.**

Mr. Chairman: I think the hon. Minister wanted to be called at 14.35 and he wanted 25 minutes for his reply.

Shri Abid Ali: Yes.

Mr. Chairman: Then, I think, Shri Barman can have ten minutes.

Shri Barman: I am just tempted, Sir, to speak a few words in this connection. I generally congratulate the hon. Minister that he is always alert to safeguard the interests of workers. As I find, this Bill is a simple Bill, and there was a great necessity for it. In the first place, I find from the Statement of Objects and Reasons that there was some difficulty created by the High Court decisions regarding the definition of wages. So, when this Bill is vitally interested in the wages

of labourers, until that definition was made clear, confusion remained and many uncertainties were bound to remain. Due to that confusion, workers may meet with many harassments as regards their just rights. So, when the definition in the Bill has been made clear, difficulties will disappear. It is a quite welcome measure, namely, that this Bill makes the definition of wages clear. Henceforward there shall be no confusion about the interpretation of it.

Secondly, there is another thing that this Bill has incorporated. Formerly, it was only Rs. 200, as wages, that was fixed as the limit in the enactment. But, by the lapse of time, the value of Rs. 200 in those days is equal, if not more, to Rs. 400 now. So, according to the estimate of the Ministry, they have raised that amount from Rs. 200 to Rs. 400. That is also a necessary piece of amendment.

Thirdly, there have been included many other categories of industries in the definition of establishment. Many other things have been brought in there. That is also quite appropriate and very necessary, because, after we attained Independence, large-scale developments in the industrial sector, both in the private and public fields, have taken place and they will continue to go up gradually. So, unless that also is made clear by defining the word "establishment" and including in it some other categories, both in the private and the public sector, much confusion would remain and the wage-earners in those establishments might be left in the lurch as to whether this Act of 1936 applies in their case or not. So, the amendment in that respect is also a necessary one, and it is right that the Government have come at the right moment to amend this Act of 1936.

I want to just emphasise that ultimately it is the workers who produce the wealth, and all the rest is just a structure super-imposed upon the workers' labours. So, I not only commend the action of the Ministry but

would ask them to be always on the alert to safeguard the interests of workers in all respects.

I support this Bill wholeheartedly.

Shri Abid Ali: I am happy to find—

Shri Narayanankutty Menon: There is no quorum, and the hon. Minister will have to address empty benches.

Mr. Chairman: Yes; the bell may be rung.

14.35 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Mr. Deputy-Speaker: Now, there is quorum. The hon. Minister may continue.

Shri Abid Ali: I was saying that I was glad to find that everyone who spoke from every section of the House has welcomed this measure and there has been not a word said against any provisions which have been proposed to be enacted under this Bill. However, opportunity has been taken, as it is usual, by some hon. friends opposite to say things which had nothing to do with the Bill under discussion.

The hon. friend from Kerala chose to say that there was chaos and anarchy. It may be in his mind; it may be in his party or group. But so far as the country is concerned, so far as the workers are concerned, they know that much is being done for the good of everyone and for the good of all the workers.

Shri Narayanankutty Menon: May I make one point of Personal explanation? The hon. Minister replies when some criticism is offered on the Bill. He refers to anarchy in my own party. Of course anarchy may be there and therefore he seems to speak about it. But we are not interested about party anarchies.

Shri Abid Ali: He said anarchy and chaos, I do not know where

there is anarchy or chaos. It was not known to me at least. It may be known to him and that might have influenced him. Why should he make reference to that? Therefore I do ask him: "Where is the anarchy"?

Mr. Deputy-Speaker: There should not be any surprise that there is some difference of opinion. That is all.

Shri Narayanankutty Menon: That is why we are sitting on this side.

Shri Abid Ali: But not to the extent of anarchy and chaos. Then, what he said is, things are serious. Again, I would like to know in which section and for what purpose it is so. Is it because some people have gone to the High Courts and the Supreme Court? These courts—indeed our judiciary—are pillars of democracy. It is not only the legislature or the Government aid its administration that mean democracy. It is judiciary also. Our judiciary has been very zealously doing its part to give protection also so far as the liberty of the citizen is concerned.

Now, the hon. Member there chose to take objection to some of the judgments of the judiciary which is so high in our country. I am very sorry that a person of his education and from the place where he is sitting should have made such remarks with regard to our judiciary. He said on the one hand that all these enactments concerning labour are useless.

Shri Narayanankutty Menon: Why should he talk about education?

Shri Abid Ali: I did not speak a word during all those discussions and now I would request the hon. Member to hear me. They were irrelevant. I am relevant, because I shall be replying to the points that they have been trying to make out. Though they were unpalatable things, the hon. Members know that I had been keeping quiet. So, if they do not want to hear what I say in return, they should please not make those charges against us.

Shri Narayanankutty Menon: I have not made any charges against the Minister.

Shri Abid Ali: If they made those charges, they should be prepared to hear the replies. I am not going to accept the charges that the hon. Members wanted to make. There was no occasion for it. The Bill is such an innocent, decent and acceptable one that it has been accepted unanimously by this House. Still, there has been discussion on the lines that I am referring to. I do not know why the hon. Members there, one after the other, are trying to interrupt.

The hon. Member there said that as soon as the worker gets Rs. 50 from the Payment of Wages authority, there is the Supreme Court and there are the High Courts and the civil courts to come and take it away, and so the workers do not get a pie. How many cases have gone to the Supreme Court and the High Courts? Not even one per cent. He should try to take a little trouble of finding out statistics. Not even one per cent. of the decisions of the conciliation authority, of the industrial court, of the labour courts, national Tribunal, have gone to the High Courts and the Supreme Court. Why is the fuss made about it? More than 99 per cent. of the cases in which judgment has been delivered by the authorities that I have just mentioned have been implemented. It is not that only the employers go to the Supreme Court and High Court. Workers also have taken recourse to these measures. If they have found something which they felt could be remedied in the Supreme Court or the High Court, they have gone there. Simply because a very small percentage of these parties go to the Supreme Court or High Court, how can we amend the Constitution and take away the authority of the Supreme Court? We are not going to do that. I have made it clear several times and I repeat it here that no occasion has arisen, at least so far as we are concerned, to come before Parliament to

take away these powers of the High Court and the Supreme Court.

A suggestion has been made that these appeals should not go to civil courts, but to the industrial courts. Have hon. Members tried to understand what will be the implication of it? How many industrial or labour courts are there situated in each State? Take the State of his own.

Shri Narayanankutty Menon: We have got seven.

Shri Abid Ali: I know you have got 7; it is not necessary for you to tell me. Every district and sub-division has got a civil court or judicial magistrate. If these appeals go to the judicial magistrates or civil courts, they are situated very near to the place where the worker resides. If we take away the jurisdiction of these courts, then it will be necessary for the workers to go to labour courts or industrial courts which are situated not at a very convenient place so far as the workers' residences are concerned, because the number of such courts is small. There can be no objection that these cases should not go to the industrial courts or labour courts. The reason is that it is in the interests of the workers themselves that justice should be available to them very near to their residence or place of working.

The difficulty is that the hon. Members from Kerala and Kanpur limit all that they say based on the experience that the hon. Member from Kerala has obtained in Cochin or the hon. Member from Kanpur has obtained from the working of the Muir Mills and Lal-Imli. They confine themselves to those areas. Proceed further; your country is big; it has got millions of workers. You speak about what happened about 6,000 workers always. What about those lakhs of workers who have gone on strike without any reason, simply for party purposes, so that somebody may

be elected to Parliament. . . . (*Interruptions.*)

Shri S. M. Banerji: He is making some personal remarks.

Mr. Deputy-Speaker: If the hon. Minister says that some hon. Members who have spoken have limited their vision to their area, there is no harm. We should listen to him. I would also request the hon. Deputy Minister to turn a little to the left and speak.

Shri Abid Ali: Whichever side I look, I see you and nobody else.

Mr. Deputy-Speaker: He speaks pointing to them; that is where the trouble arises.

Shri Abid Ali: A reference was made to some judgment in 1952. Perhaps it was concerning the bank award, but the hon. Member should remember. . . . (*Interruption.*)

Mr. Deputy-Speaker: If there is something that the hon. Member must answer, I will give him an opportunity of explaining himself, but why should the interruption go on?

Shri Narayanankatty Menon: If that is done, we will be satisfied.

Shri S. M. Banerji: The hon. Deputy Minister mentioned about Kanpur. I said that 6,000 workers in the Muir Mills and Lal-Imlil have not been paid their wages for one month. I wanted an answer.

Mr. Deputy-Speaker: The complaint is that the hon. Member always mentions those 6,000 workers and does not take into account lakhs of workers that are there working in the whole of the country. That was the complaint and that is how he has put it. Whether it is right or wrong may be a different matter.

Shri Abid Ali: I was saying, lakhs of workers went on strike without any rhyme or reason simply to benefit a particular individual in his election. . . .

Shri S. M. Banerji: I have sacrificed my job for them. Have a bye-election if you want.

Mr. Deputy-Speaker: Why should the Deputy Minister himself invite some trouble?

Shri Abid Ali: I am not inviting trouble. I am thankful to you for the suggestion, but I am making a statement of fact. It is a fact; it happened. Wrong advices are given to the workers and a large number of workers go on strike. What about their children?

If these enactments are not for the benefit of the workers, why should hon. Members themselves take the trouble of bringing forward non-official Bills? My feeling is that the enactments which we have put on the statute-book have helped the workers immensely. The workers are aware of it and they are benefited by it.

One hon. Member has said that no mention has been made in this Bill about retrenchment relief, etc. It is a pity that my friend who claims to be working in the labour field does not even know this much that this has been taken care of very well by the Industrial Disputes Act and the provisions are sufficiently clear, so far as this particular matter is concerned.

Mention has been made about the dismissal of a particular worker in the U.P. State Transport. I do not think any worker has been dismissed simply because he claimed payment of wages under this Act. If it is so, I would request the hon. Member who has made the reference kindly to give me details and we shall certainly take it up with all earnestness.

Shrimati Parvathi Krishnan: If you do not believe it, what is the point in passing on information?

Shri Abid Ali: A suggestion, was made that this Act should be made to cover bus services, mines and plantations. I may submit for the hon.

[Shri Abid Ali]

Member's information that these industries are already covered.

With regard to insurance, I may tell the hon. Lady Member, yes; it was our policy so far not to give authority to employers to make deductions from workers' wages for the insurance premia, because we knew that as a matter of fact quite a few unscrupulous insurance workers duped the workers by collecting insurance premia and then the insurance policies were forfeited. Mushroom insurance companies also were started. Therefore, we did not want to encourage them. But now, as I have explained yesterday, as the Insurance Corporation is working on good lines and has been appointed by an enactment of Parliament, I have myself suggested that workers should have the power to authorise the employers to collect insurance premia and pay to insurance companies. I do not know what was the objection about that. Of course, so far as the implementation is concerned, it is left entirely to the choice of the workers. They are permitted now under the Act to authorise, but if they do not want to authorise, then we do not want to compel them. If they want to authorise, we will encourage them.

Shri K. N. Pandey made a reference to the fact that we limit this Act to wage-earners upto Rs 400 and the Industrial Disputes Act covers workers who draw upto Rs 500 and there will be difficulty. I may submit that the awards under the Industrial Disputes Act are to be implemented according to the provisions mentioned in that Act. Therefore, there is no disability so far as the workers who may be benefited by the industrial disputes award in getting their wages and the amount due to them in the award, because the limit of Rs. 400 under this Act is not raised to Rs. 500. About the other suggestion regarding appeals, I am inclined to accept that provided another amendment, which I have submitted, which is consequen-

tial on that, is allowed by you and is accepted by the House.

Shri Bharucha has made two suggestions. One was with regard to interim injunctions. That is quite reasonable and I am giving an amendment, as suggested by him.

But, with regard to the shop assistants, the position is that this Act has to be administered by the State Governments and there should be an elaborate machinery for the administration of the Act. So, we can provide in the Act only those which the State Governments are agreeable to administer. With regard to shop assistants, as the hon. Members know, there is a separate enactment in the States. Then, we have also drafted a model Act for this purpose and sent it to the State Government. In such of these States which will accept this formula, automatically the Payment of Wages Act a so will become applicable to the shop assistants.

My friend from Punjab, Shri Bhargava, made a very good suggestion and I am thankful to him for that. It is for the insertion of the word "may" before the word "direct" on page 5. I will accept the amendment accordingly.

With regard to the other workers, as I have already submitted, the State Governments have to administer this law and it is entirely left to them. We do not want to do things which they will not be able to administer.

Much has been said here about bonus. I do not know what the hon. Members meant by it. This Act does not specify what the workers should get or should not get. The scope of this Act is that workers should be enabled to go before an authority under the Act to claim the amount which otherwise they were entitled to and the employer is not paying. That is the scope of this Act. A formula defining "bonus" cannot be put in this Act. An attempt has been

made even in the Indian Labour Conference to find out some acceptable formula as to what is bonus. In spite of the best brains in the labour field having made an attempt to find a formula, they have not yet succeeded.

So, hon. Members do not expect me to give another handle to them for going outside and agitating: look here, government of the Congress has curtailed the rights and taken away what you are entitled to. What has happened in Ahmedabad? A formula has been found out. Workers were happy. In Bombay also it was the same. But the parties which are not happy and which want the workers not to be happy, created trouble. What has happened in Jamshedpur? The same thing. A formula has been evolved and it has been successfully implemented. But that has given them some handle to create trouble.

The Payment of Wages Act is something different from what the hon. Members have in mind. So far as the Government is concerned, so far as the Indian Labour Conference is concerned, so far as the Standing Committee is concerned, they are working at it to find out some formula, acceptable to everyone, not for creating trouble but for industrial peace in the country. That attempt is being continued.

One more attempt has been made in this direction. We propose to refer this question of the bonus to the Sugar Wage Board, which we propose to appoint in the near future

Shri Narayanankutty Menon: The cement.

Shri Abid Ali: One of the terms of reference will be: on what basis bonus can be fixed? That is one concrete attempt which we have made in this direction. They will consider the bonus to be paid to the workers keeping in mind bonus formula fixed by settlement or by award or decision by the industrial court or the national industrial tribunal.

Hon. Members should not go away with the impression that because bonus has not been mentioned, so the workers will not get it. No. If bonus is due because of the decision or the award of the industrial court or the national industrial tribunal, it will be covered by the Industrial Disputes Act, and if an employer chooses not to pay that, then action can be taken against such employer and he is liable to pay heavy fines according to the provisions already contained in the Act that I have mentioned. Therefore, the hon. Members should not be in doubt that any injustice has been done to the workers or that workers have not got any other protection, according to the present legislation, so far as that particular claim of theirs is concerned.

As I have mentioned, this Act is administered by the States and the amendments, which we have proposed, are proposed after consultation, not only with the State Governments, but also with the labour representatives and the employers as well, and according to the decision that has been reached after consultation with these interests. So, I am sure that the amending Bill which has been brought forward will be accepted by the House unanimously.

Shri Narayanankutty Menon: The hon. Deputy Minister referred to quotation I have made about a decision of the Supreme Court. He said that it is the Bank Award. It is not the Bank Award. It is from the case State of Madras vs. Sarathy.

Shrimati Parvathi Krishnan rose.—

Mr. Deputy-Speaker: The lady member had already had enough say.

Now the question is:

"That the Bill further to amend the Payment of Wages Act, 1936, be taken into consideration".

The motion was adopted.

Clause 2—(Amendment of section 1)

Shri Narayanankutty Menon: I want to move amendment No. 13.

Mr. Deputy-Speaker: It is the same as amendment No. 1. Who has given notice of amendment No. 1?

Shri Narayanankutty Menon: Shri K. N. Pandey.

Mr. Deputy-Speaker: Since Mr. Pandey is not moving his amendment, this amendment can be moved.

Shri Narayanankutty Menon: I beg to move:

Page 1, line 12—

for "four hundred rupees" substitute "five hundred rupees"

It can be seen from the reply of the hon. Minister that he was not at all giving any attention to what was mentioned from this side. Regarding this particular instance of Rs. 400 and Rs. 500, when we asked the hon. Minister a question why there was this difference of Rs. 100, we were prepared for an answer: why, we have introduced Rs. 500 last year when the Industrial Disputes (Miscellaneous Provisions) Amendment Act was introduced? Then Rs. 500 was found to be the limit by which a workman was defined in the Industrial Disputes Act. Now all those who are getting Rs. 500 in the industries are defined as workmen under the Industrial Disputes (Miscellaneous Provisions) Amendment Act. Now the Government have come out with an amendment to the Payment of Wages Act. Then what is the objection for Government to include those workmen who are getting upto Rs. 500, to get the benefits of the Payments of Wages Act.

When there was criticism from this side, we were told that we view things from the point of view of a small village or a small district. Unfortunately, in the first reading we could not reply to all those points raised by the hon. Minister. Now, under one Act Government says that Rs. 500 shall be the limit for a workman. Next day they come forward and say Rs. 400 shall be the limit under the Payment of Wages Act. There should be some sort of standar-

disation in this matter. Otherwise, there will be some serious objection to include workmen who are getting Rs. 500. When they have mentioned Rs. 400 in one Act and Rs. 500 in another Act, there should be some sort of explanation as to the justification for this discrimination. Why should they exclude the category of workmen who are getting Rs. 400 and above?

15 hrs.

Therefore, even though the opposition on this side has not got a broad view, of things on an All India basis, Government should have a broad view throughout India and also of the working classes and they should not make discrimination without sufficient reason. While the Industrial Disputes Act is applicable to all industries and establishments, because of certain imaginary objection from the State Government, Government says that it cannot be made applicable to all establishments. Government is not prepared for that. All right. While the Government makes this applicable to a particular industry, let this be made applicable to all the workmen in that industry. Now, the result will be, a portion of the workmen in a particular industry in which the Payment of Wages Act will be applicable will be denied the benefit of the provisions of the Payment of Wages Act. All workmen getting above Rs. 400 and below Rs. 500, if the employer refuses to pay them the wages, they will absolutely have no remedy. If the employer refuses to pay, persons getting more than Rs. 400 will have to have recourse to the Industrial Disputes Act. To have recourse to the Industrial Disputes Act for a section of the workmen for the unpaid wages, will take a long time.

The hon. Minister said that we were speaking with the experience of villages and towns. Now, we made a suggestion that this collecting machinery may be the industrial courts. What is the position? In every State, the District Collector is responsible. The District Collector sits in a State. Once a petition is sent to

him, the position is this. The Collector, on the one side, has got executive responsibilities. In many States, the District Collector has got semi-judicial functions also. After all these things are over, once in six months, he posts the petition. He takes 2 or 3 years to dispose of. The Industrial courts are there. Even though it may be a bit difficult to travel more, the Industrial court is better able to understand the position of the workers and give a decision. There will be no justification in excluding persons getting more than Rs. 400 and less than Rs. 500 and leaving them without a remedy.

Therefore, without referring to any sort of political malice, which is quite unwarranted—because such an innocuous Bill was there and we unconditionally supported the Bill, we made only certain suggestions to make certain improvements—it is quite unwarranted for the hon. Minister to call names and provoke certain political animosities. Without any sort of rancour, without agreeing with us that we all stand for industrial peace, let these suggestions which are not political in character, which are not put in any party politics spirit, be accepted because there is no other reason why it should not be accepted.

Shri Abid Ali: It is said Rs. 400. Somewhere, the limit is fixed. Hon. Member said, why not Rs. 500 or Rs. 600 or Rs. 700. This Act is very much inter-related with the Employees State Insurance Act. These have to be taken we have fixed the limit of Rs. 400. Because of that, limit of Rs. 440. That is the reason. Not that those who draw wages over Rs. 400 are just now cared for. They also have other remedies. These are available to them as to others.

With regard to the civil court and the industrial court, what I have suggested in this. If the hon. Member review for a moment the situation of these courts, the places where they are situated, they will agree with me 100 per cent. that the suggestions

should not be accepted to take away the powers of the civil courts which has been mentioned in the Act.

About the other things, I am the last man to enter into such discussions. But, very unfortunately, while discussing even this innocent and welcome Bill, I would request the hon. Member to read his speech at night. Perhaps, he does not remember what he has spoken in the morning. After he reads, if he tells me that what I have said was not in reply to what he has said, if he is convinced that I have gone beyond that, then, of course, I will say, I am sorry. I know that there won't be any occasion for me to say that

Shri Narayanankutty Menon: The reading should be done by you.

Mr. Deputy-Speaker: Order, order.

I shall now put amendment No. 13 to the vote of the House.

The question is:

Page 1, line 12,—

for "four hundred rupees" substitute—

"five hundred rupees"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill"

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—(Amendment of section 2)

Shri Ghosal: I beg to move:

Page 2,—

after line 9, add:

'(h) "industry" means any business, trade undertaking which includes mercantile firms and organisations.'

Page 2, line 36,—

- (i) for "(1)" substitute "(f)"; and
- (ii) after "bonus" insert "if declared"

Shri Narayanankutty Menon: I beg to move:

(i) Page 1—

for lines 16 and 17, substitute:

'(i) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948; Mines as defined in Mines Act, 1952; Plantations as defined in Plantation Labour Act, 1951; and workers in the Motor Transport'.

(ii) Page 1, line 17—

add at the end:

"and includes any establishment as defined by the Industrial Dispute Act, 1947".

(iii) Page 3—

omit lines 6 to 8. *

(iv) Page 3—

omit lines 9 and 10.

(v) Page 3—

omit lines 11 to 13

(vi) Page 3—

omit lines 14 to 16.

Shrimati Parvathi Krishnan: I beg to move:

Page 1—

after line 18, add:

"(1) for item (a), the following shall be substituted, namely:—

"(a) tramway or any motor transport service including buses and lorries both in public and private sectors"

Mr. Deputy-Speaker: These amendments are before the House.

Shri Narayanankutty Menon: Sir, the main point of these amendments is a bit related to the other amendment. The hon. Minister, while speaking, indicated that the State Governments were consulted. It may be very difficult for the State Governments to administer this Act

if certain other industries are also included in the Payment of Wages Act. That is exactly why I suggested that the States could afford to settle disputes. When the workman has disputes about wages, and the matter is referred to an industrial tribunal and the tribunal gives an order or award in which the wages are defined or other amenities are defined, if all the establishments are not included, I might ask from the hon. Minister, what is the remedy left for the workmen to collect these wages. If the Payment of Wages Act is made applicable, that creates a summary remedy for the workmen, a relatively easier remedy than going to a civil court. In an establishment in which the Payment of Wages Act is not applicable, the only remedy for a workman to collect the wages if the employer refuses to pay the wages, is to go to a civil court. Everybody knows, but the hon. Minister does not know what is the difficulty to a workman in going before a civil court. He will have to pay the court fee. All the formalities and paraphernalia of a civil suit are there. It will be decided after years. The workmen will have to wait till a decision. For the recovery of wages, perhaps a summary remedy is justified. In the case of collection of wages, why not this be made applicable to all industries so that the definition of factory is taken away and establishment substituted?

Even if it is a question of principle, when the Government has decided to define establishment in the Industrial Disputes Act to cover all sorts of establishments, certainly, all the benefits that accrue from the Industrial Disputes Act, which terminate in an award, there should be a further remedy of collection for example I pointed out the difficulty of the workmen. What is the use of disposing of so many awards. First of all, it is very troublesome. Otherwise, we have given remedies. The Government have the Journalists Wage Board. The hon. Minister was saying, we do not experience any difficulty with the

Supreme Court. But, if the hon. Deputy Minister will ask the Labour Minister what the trouble was, with regard to the coal industry when the Supreme Court granted stay for giving award, he will say how the Labour Minister went there and had the matter settled. To avoid this trouble, once an award is passed by a tribunal, immediately for the implementation of the award should be there. The machinery of the Industrial Disputes Act may be there. But, in the case of the recurring right to get these wages, what will the other workmen do? For example, in the Transport industry, it has not been possible to apply.

Therefore, if the State Governments feel that it will be very difficult to administer the Act, a proper administrative machinery will have to be found out so that the workmen could collect the wages. To the Industrial court, all industrial disputes from all industries are referred. Similarly, decisions on industrial disputes should be implemented by these industrial courts. There will be absolutely no trouble at all. The workmen will be prepared. It is far better not to have a remedy at all than to go to a civil court, wait for three years. It will be easier to travel 4 or 5 miles, go to the industrial courts and get this done. Therefore, even if it is difficult at this stage, Government should decide that the Payment of Wages Act should be made applicable. He reminded us that the Payment of Wages Act is only a procedural Act. We did not say that it is a substantive Act. When I spoke in the first reading, I made it clear that the Payment of Wages Act does not give any substantive definition or confer any right upon the workers. It is only to enable the workers to get their rights redressed from the employers that the Payment of Wages Act is there. So, there is no question of conferring any rights here. Here, it is only a question of Government deciding that the remedy to get those rights implemented should be given

by this Act. I hope Government will consider this position and will make this Act applicable to as many industries as possible.

Shri Ghosal: I have moved my amendment in order to extent the provisions of the Payment of Wages Act to all the workers who are covered by the Industrial Disputes Act, especially, the middle class employees of the big cities. They have got only two remedies open to them. One is to go to a tribunal; and a reference can be made to a tribunal only by Government and not at the initiative of the workers. The other is that they can go to a civil court. This would mean that for realising a sum of Rs. 200 they shall have to spend Rs. 50 or more even in the initial stages. I know of one case at least where in order to realise Rs. 200, the man had to spend Rs. 415-9-0.

So, in order to avoid this difficulty at least in the case of the middle class employees in the big cities like Calcutta, Bombay etc. where they are hard hit at the present moment, I have brought forward this amendment, and I would request the Minister to include the middle class employees also within the scope of this Act.

Shrimati Parvathi Krishnan: I have already referred to my amendment when I spoke in the first reading. When amending this Act and trying to include a larger number of workers by extending the provisions of the Act to workers of other establishments also, I would request the Deputy Minister to accept my amendment which seeks to extend the provisions of the Act so as to apply them also to those workers who are working today in transport services other than tramway and motor. As far as motor omnibus and tramway are concerned, they are already there in the old Act. Just as the provision with regard to the workers in the inland water transport is being amended to bring it up-to-date, likewise, with the increased road transport in regard to lorries which are

[Shrimati Parvathi Krishnan]

now used to transport food, to transport developmental goods, and to transport various other commodities, it is very necessary that this large number of workers, that is growing, should also have the benefits of this Act, and they should be included within this Act.

So, it is a very simple amendment, and at the same time a very important and far-reaching one. I am sure the Deputy Minister who seems to be so interested and devoted to taking a much broader and a much wider point of view will have no objection to accepting this amendment in his broad-minded and wide view of things.

Shri Abid Ali: I not only take a broader view but also act accordingly. The Payment of Wages Act already enables Government to extend the provisions thereof to mines, plantations, tramway or motor omnibus services. The Central Government have extended the Act to mines. The State Governments of Assam, West Bengal, Madras, Kerala, Bihar, Mysore, Punjab and Tripura have applied the Act to plantations. The Governments of Assam, Bihar, West Bengal, Madras, Delhi, Andhra, Mysore, Tripura and Punjab have extended the Act to motor omnibus services. The Government of Punjab have also extended it to governmental transport and private transport services. Delhi has extended the Act to motor goods transport services, and Orissa to motor vehicles plying under stage carriage permits and public carriers. There is, therefore, no necessity for accepting these amendments. The Act is already applicable and has been made applicable, as hon. Members will be convinced from the list which I have just read out.

As regards the question of civil court, tribunal etc., the hon. Member has made a mention about that. It is not a question of four or five miles. In some instances, it is a question of one hundred or two hundred miles, and it is a question of the workers walking all that distance to seek redress, if the

jurisdiction of the civil court is withdrawn. Therefore, I insist on not accepting these amendments.

Shri Narayanankutty Menon: That was not the point. What is the remedy then for a worker who has to get Rs. 400 or Rs. 500?

Shri Abid Ali: I have already replied to it.

Mr. Deputy-Speaker: Does any hon. Member want that his amendment should be put to vote separately?

Shri Narayanankutty Menon: You can put all of them together, because the Minister is so broad-minded.

Mr. Deputy-Speaker: I shall now put amendments No. 3, 5, 14, 15, 16, 17, 18, 19 and 25 to the vote of the House.

The question is:

Page 2—

after line 9, add:

‘(h) “Industry” means any business, trade, undertaking which includes mercantile firms and organisations.’

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 2, line 36—

- (i) for “(l)” substitute “(f)”; and
- (ii) after “bonus” insert “if declared”

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 1—

for lines 16 and 17, substitute:

‘(i) “factory” means a factory as defined in clause (m) of section 2 of the Factories Act, 1948; Mines as defined in Mines Act, 1952; Plantations as defined in Plantation Labour Act, 1951; and workers in the Motor Transport’.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 1, line 17—
add at the end—

“and includes any establishment as defined by the Industrial Dispute Act, 1947”.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 3,—
omit lines 6 to 8.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 3,—
omit lines 9 and 10.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 3,—
omit lines 11 to 13.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 3,—
omit lines 14 to 16.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 1—
after line 18, add:

“(1) for item (a) the following shall be substituted, namely:—

“(a) tramway or any motor transport service including buses and lorries both in public and private sectors.”

The motion was negatived.

Mr. Deputy-Speaker: The question is:

“That Clause 3 stand part of the Bill”.

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4 was added to the Bill.

Clause 5—(Amendment of section 7)

Pandit Thakur Das Bhargava: I have got an amendment. It has not yet been cyclostyled. I suggested it when I spoke earlier, and the Minister was pleased to accept it. It runs thus:

Page 5, line 14...

Mr. Deputy-Speaker: That is to clause 8. Now, we are on clause 8.

Shri Narayanankutty Menon: I beg to move:

(i) Page 3—
after line 40, add:

“Provided that any deduction from the wages shall be considered as deduction from wages under this Act, if such deduction has been made without giving reasonable opportunity to show cause against such deduction, and exceeds half of the wages.”

(ii) Page 4, line 20—
add at the end:

“or contributions to Mutual Benefit Schemes approved by the State Governments.”

Shri L. Achaw Singh: I beg to move:

Page 3—
for lines 35 to 40, substitute:

“shall not be deemed to be a deduction from wages in any case where the rules framed by the employer and agreed to by the representative union of the employees or the elected representatives of the employees in the absence of a union, for the imposition of any such penalty are in conformity with the requirements, if any, which may be specified in this behalf, by the State Government by notification in the official gazette.”

The rules framed by the employers may be prejudicial to the interests of the workers, and these rules would concern promotion, withholding of

[Shri L. Achaw Singh]

promotions, withholding of increments, demotion, and suspension. So, they should be scrutinised by the representatives of the trade unions, and they should also agree to the rules framed by the employer before those rules are enforced.

Shri Abid Ali: Under the service rules, action will be taken, and certainly, the workers will be given an opportunity to explain. The standing orders are there. If the standing orders are not acceptable to the workers, then as we have already amended the Industrial Disputes Act, the union or the workers can go to a labour court and have the decision of the court for amending the standing orders. So, it is not necessary to find a place for this amendment here.

Mr. Deputy-Speaker: I shall now put amendments Nos. 20, 21 and 28 to vote:

The question is:

Page 3—

after line 40, add:

“Provided that any deduction from the wages shall be considered as deduction from wages under this Act, if such deduction has been made without giving reasonable opportunity to show cause against such deduction, and exceeds half of the wages.”

The motion was negatived

The Deputy-Speaker: The question is:

Page 4, line 20,—

add at the end—

“or contributions to Mutual Benefit Schemes approved by the State Governments.”

The motion was negatived

Mr. Deputy-Speaker: The question is:

Page 3,—

for lines 35 to 40, substitute:

“shall not be deemed to be a deduction from wages in any case where the rules framed by the employer and agreed to by the representative union of the employees or the elected representatives of the employees in the absence of a union for the imposition of any such penalty are in conformity with the requirements, if any, which may be specified in behalf, by the State government by notification in the official gazette.”

The motion was negatived.

Mr. Deputy-Speaker: The question is:

“That clause 5 stand part of the Bill”.

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 was added to the Bill.

Clause 7—(Amendment of section 17)

Amendment made:

Page 4,—

after line 38, add:

‘(c) for clause (b), the following clause shall be substituted, namely:—

“(b) by an employed person or any official of a registered trade union authorised in writing to act on his behalf, if the total amount of wages claimed to have been withheld from the employed person or from the unpaid group to which the employed person belonged exceeds fifty rupees, or”.

—[Shri Abid Ali]

Mr. Deputy-Speaker: The question is:

"That clause 7, as amended, stand part of the Bill".

The motion was adopted.

Clause 7, as amended, was added to the Bill.

Clause 8— (*Insertion of a new section 17A*)

Shri Abid Ali: I beg to move:

Page 5, lines 7 and 8,—

for "by an employed person under section 17" substitute "under section 17 by an employed person or any official of a registered trade union authorised in writing to act on his behalf".

Pandit Thakur Das Bhargava: I beg to move:

Page 5, line 14—

for "direct" substitute "may direct".

Mr. Deputy-Speaker: Is this amendment acceptable to Government?

Shri Abid Ali: Yes

Pandit Thakur Das Bhargava: I may just explain this amendment. If hon. Members look into the proposed section, they will find that after the words "the authority or the court" etc. there is no word as 'shall' or 'may' before the word 'direct'. Usually, we find that the word used is either 'shall' or 'may'. Here there is no hiatus between 'court' and 'direct'. So unless the word 'may' is there, there is bound to be very great difficulty in actual working, because then the court is bound to order conditional attachment of the property of the employer, whereas according to the provisions of clause 8(2), the provisions of law relating to attachment before judgment are made applicable. According to those provisions, the

first thing that the court should do is to ask the person against whom such attachment is directed to deposit the money in court. The second thing is to get surety. Only if either is not possible that the court should direct conditional attachment. So if the word 'may' is not here, the court may be bound to issue a conditional order of attachment, which is not a proper thing. And we do not know what conditional attachment means. As I see it, conditional attachment means that there should be this attachment only if he does not deposit the money in court or does not give surety. So unless the word 'may' is there, the court's powers will not be defined and the employer will find himself in unnecessary difficulty, because in spite of the fact that he may be prepared to pay the money in court or he may be prepared to give surety, there may be conditional attachment order issued by the court.

In order to avoid this contingency and to make the meaning absolutely clear, to make up for the omission or gap, I have moved this amendment.

Shri Abid Ali: I have also to move another amendment. This has been drafted according to the suggestion made by Shri Naushir Bharucha.

I beg to move:

Page 5, lines 12 to 14—

for "after giving the employer or other person an opportunity of being heard, direct the conditional attachment" substitute "except in cases where the authority or Court is of opinion that the ends of justice would be defeated by the delay, after giving the employer or other person an opportunity of being heard, may direct the attachment".

(ii) Page 5, line 20,—

omit "conditional".

Mr. Deputy-Speaker: All these amendments are before the house.

[Shri Abid Ali]

In view of amendment No. 32, need I put Pandit Thakur Das Bhargava's amendment No. 31 to vote?

Pandit Thakur Das Bhargava: My amendment will become redundant if the Government amendment is accepted.

Mr. Deputy-Speaker: So amendment No. 31 is barred.

I shall now put amendments Nos. 30, 32 and 33 to vote.

The question is:

Page 5, lines 7 and 8,—

for "by an employed person under section 17" substitute—

"under section 17 by an employed person or any official of a registered trade union authorised in writing to act on his behalf."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

Page 5, lines 12 to 14,—

for "after giving the employer or other person an opportunity of being heard, direct the conditional attachment" substitute—

"except in cases where the authority or Court is of opinion that the ends of justice would be defeated by delay, after giving the employer or other person an opportunity of being heard, may direct the attachment".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

Page 5, line 20—

omit "Conditional".

The motion was adopted.

Mr. Deputy-Speaker:

The question is:

"That clause 8, as amended, stand part of the Bill".

The motion was adopted.

Clause 8, as amended, was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

Shri Abid Ali: I beg to move:

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

Mr. Deputy-Speaker: Motion moved:

"That the Bill, as amended, be passed"

Shri Narayanankutty Menon: Whatever has to be said on the Bill has been said and I would not have risen but for clearing up a misunderstanding raised by the hon. Minister regarding the debate.

When we were putting our viewpoints regarding the various provisions of the Bill, the hon Minister misunderstood us. He understood that we were criticising the Government for anything contained in the Act I was only suggesting then that various difficulties were created because of interference by the High Courts and the Supreme Court with the decisions of industrial tribunals and various authorities constituted under these Acts. If the Government also consider that a serious difficulty has been created by means of this interference, certainly that will have to be removed by amending the Constitution.

The hon. Minister took this occasion to pay a compliment to the administration of justice by the High Courts and the Supreme Court. By that it might appear that we were criticising

the administration of justice in the country when directing our criticism on the working of these Acts. I wish to make it clear at this stage that we were not criticising the administration of justice in this country either by the Supreme Court or the High Courts. But way back, three or four years back, when article 31 was to be amended by this House, when Government found it impossible to have any legislation towards land reform, I only read in the papers what the hon. Prime Minister said about interference by the High Courts and the Supreme Court. Afterwards, certain data were furnished regarding the percentage of total awards made by industrial tribunals taken to the Supreme Court. I cannot term that ignorance. But when the hon. Deputy Minister was speaking, he was speaking without data, actual data. He might consider for the last one month alone the total number of awards passed by the Delhi State Tribunal right under his nose, how many awards have been taken to the Supreme Court and how many awards have been granted and what is the subject-matter of those awards.

Mr. Deputy-Speaker: What is the percentage according to the hon. Member?

Shri Narayanankutty Menon: More than 33-1/3 per cent till 1956. Let me cite one instance. A lady typist was dismissed by a company and she remained without employment for 8 months. The industrial tribunal, after considering the facts of the case, found the dismissal to be illegal and directed reinstatement and payment of back wages. Now, we find.....

Mr. Deputy-Speaker: He need not bring the lady typist now at the third reading stage.

Shri Narayanankutty Menon: This is only to make the point clear. In that case, stay is granted and the case is to go on. Like that in regard to the coal award also, Government

were so much convinced that because of the interference of the Supreme Court there is so much trouble that the hon. Labour Minister went and tried for a settlement. I was pointing this out not as a criticism of Government; but it is the actual state of affairs which prevails in the industrial sector. As the Government is very much interested in industrial relations—and we are also interested—we are only making suggestions how industrial relations could be maintained, how these troubles could be avoided.

Also in the case of the Journalists Wage Board, so many questions have been asked and answered on the floor of this House and the Government, at least, found it impossible because of the interference of the High Court in bringing a settlement. The employers took advantage of the Supreme Court judgment. If these are really obstacles in the way of Government in reaching a settlement and implementing certain decisions and policies of Government, if the Government is convinced on the point, we are making suggestions to Government that the Constitution may be amended and the jurisdiction will have to be taken away.

In passing this Bill, I reiterate that the provisions are supported by us. We only make certain suggestions. But I was unhappy that the hon. Minister has brought certain political rancour. We are not accustomed to it.

The Parliamentary Secretary to the Minister of Labour and Employment and Planning (Shri L. N. Mishra): You started it.

Mr. Deputy-Speaker: Now, we need not make it more unhappy.

Shri Narayanankutty Menon: I was making the position clear because he wanted to give a turn. If there is that let us not go from here with the

[Shri Narayanankutty Menon]

understanding that there is no remedy left in this land for collection of bonus. He was not stating the exact point. What we were pointing out was that there should be legislation to define what bonus is. Instead of excluding bonus from the Payment of Wages Act, we said that bonus should be defined by a substantive Act and then it should be included in the Payment of Wages Act. It is clear to us as to everyone that bonus in every industry could not be included in this Act because it is procedural. What we suggested was that it should be defined instead of giving the power to define to each Tribunal in each industry so that there is a sort of anarchy which I repeat.

Now, in the case of bonus, it should be defined by a formula; it should be by statute so that there should be a fixity in the bonus and then that should be made applicable under the Payment of Wages Act. Therefore, I submit and I request the hon. Minister, that whenever it is a question of suggestion from the Opposition, giving a bit more tolerance will not take away either his dignity or the dignity of Government. He need not find political colour in it. When we talk, it may be the experience of 10 labourers or 100 labourers or even 209 labourers—we might not have the experience of millions of labourers—but still the experience of one or ten or 100 could be used. I submit that experience comes from every Member, however small or tiny it may be and he should be able to take it with patience. Then he would be able to understand that we are not to attack him, we are not to non-co-operate with him but we are to co-operate with him in the common goal of establishing industrial peace.

Shri Kanga (Tenali): Mr. Deputy-Speaker, Sir, I wish to congratulate the Government on this Bill. I am very glad now that they have taken this opportunity to extend the scope

of the Bill to several thousands of people. Possibly, very soon they may come to be nearly 100,000 too, those who would be employed in all these great constructional projects going up all over the country.

Secondly, I am also glad that they have introduced a very interesting provision in this of asking us to consider a man who is getting Rs. 400 a month also as a wage-earner. It means that it is not to be the maximum income for anybody in this country because, apart from wage-earners, all those officers and others holding responsible positions are naturally expected to get very much more.

Sometime ago when a resolution was being discussed in one of the Houses of Parliament, we were told that we should not think in terms of distributing poverty and, therefore, we should not think of putting a ceiling even on an annual income of Rs. 30,000. It is in line with that spirit that this Rs. 400 wage is also considered to be a normal one and therefore ought to be brought within the scope of this Bill. I hope the same consideration will be given by our friends in the Opposition and also our friends on the Treasury Benches when they come to discuss and consider agricultural incomes also.

It is not long ago that our friends were asking us to consider Rs. 300 per month or Rs. 3,600 per annum not as the average income for an agriculturist—certainly not the minimum—but as the maximum income for any agriculturist anywhere in the whole of this great land. We were then telling them that with this Rs. 3,600 as the ceiling income to be admitted by Government would be too low a figure. But some of them had the temerity to accuse us, on both sides of the House, of this political arena, of being not revolutionary enough.

They wanted us to accept that arbitrary figure of Rs. 3,600 per annum, that is, Rs. 300 a month as a reasonable enough maximum income to be derived by any self-employed peasant proprietor in this country. Now, our friends from the communist party come forward and ask the Government not to be satisfied with this Rs. 400 as the wage for a wage-earner but to go right up to Rs. 500 also. I am glad they have seen wisdom in this direction, that Rs. 6000 should be the annual wage earnings of a wage-earner. Judging from that standpoint, I hope our friends on both sides of the political arena as I put it would be able to see reason behind what we have said that those who are self-employed, who are not wage-earners should be expected to have a better income and a bigger income, not merely as an average one but as merely the maximum possible that might be admitted by Government in the States as well as in the Centre. We hope that the Planning Commission will take these facts into consideration and will see that there is some kind of parity between the maximum income that they fix for agriculturists and this maximum wage that they are prepared to consider to be paid by the employers under the protection of legislation that we are passing today. After all, there must be some uniformity, some sense of conformity and harmony between the justice meted out to the agriculturists and the justice meted out to wage-earners in the proletariat of this country according to the plans Government would be making.

Having said these things, in conclusion, I would like to make one more suggestion to my hon. friend. I would like him to consider the possibility of getting it discussed at the appropriate moment, either the Tripartite Labour conference or at the conference of Labour Ministers or Agriculture Ministers, the possibility and advisability of extending the scope of this Bill to

farm servants employed by big individual landholders in different parts of the country. I am sure they would be 100,000 in the entire State, and surely over a million in the whole of India, who are being employed as servants on annual contracts where payments are inclusive of both payment in grain and payment in cash to be paid at the end of the year or in course of time during the year, from month to month and so on. These conditions vary from State to State; but, nevertheless these people are employed over a prolonged period of time. They should be given some protection even under this Act. I have been making this plea for more than a quarter of a century, in this House, its predecessors and also outside in the country. I hope the time has come when my hon. friend should take some steps to get this question properly discussed and take some suitable steps either by way of amendment or by way of separate legislation in order to ensure proper harmonious relation between the employers and the employed on the agricultural front, at least to the extent I have suggested.

Shri K. N. Pandey: Sir, I congratulate the Deputy Labour Minister that the Bill which was before the House is going to be passed. I am grateful to him for accepting my amendment. But the one amendment which was left is also very important. To the hon. Member who has just spoken, I may say that this principle of considering a man who is getting more than Rs. 500 as a normal wage earner was accepted. In future, if some amendments are coming to this Act, this will be borne in mind and due consideration will be given to the other suggestions made here in the House. With these words, I thank the hon. Minister.

Shri Abid Ali: Sir, I assure my friend from U.P. that whenever an occasion arises for amending this Act the discussions and suggestions made here will receive due consideration.

[Shri Abid Ali]

The difficulty with regard to agricultural labour, as Prof. Ranga himself realises, is that a very large number of workers are engaged in agriculture in our country and it will be very difficult to bring in legislation and administer it.

I welcome the assurance of co-operation from the hon. Member from Kerala. I again assure him that I do not want to hurt him but he should not also try to hurt me. On a previous occasion also we had this discussion and talks of co-operation. These talks of industrial peace, progress and success of the Five Year Plans were followed by something else in the field particularly when the workers of the Communist Party went to shoot the leaders of the INTUC with arrows by removing tiles of the roof of the rival Union's office room. That is the action outside. It should not be. Otherwise, it loses all meaning. I would ask the hon. Members to follow what the Labour Minister in Kerala has been saying. If that is followed, there would be certainly no occasion for him to quarrel with me. Read that and follow that which has been said by the Chief Minister and the Labour Minister in Kerala as to how the workers should behave. If that is accepted, then certainly, I accept all that the hon. Member said was with sincerity.

Shri Narayankutty Memon: The INTUC also should follow its maxim.

Shri Abid Ali: INTUC has been behaving and doing things in the interest of the nation and it will continue to do so. Nation is supreme and the rest is subordinate; that is their No. 1 principle.

The hon. Member said that the administration of justice was good in respect of non-industrial matters but are not good in industrial matters. If they are good, they are good; if they

are bad, they are bad. Everybody believes that they are good. They are certainly Supreme Court Judges and their judgments are not only supreme but also correct..... (An Hon. Member: And more learned than the Ministers'). Yes, of course more than that. There is no intention to take away the powers given by the Constitution to the Supreme Court or the High Court. The hon. Members have a right to agitate for it, but as at present the position stands we are not inclined to amend the Constitution on that line. About bonus and profit sharing being included in wages, there is an amendment here. But, what is profit sharing? That is to be defined.

Mr. Deputy-Speaker: Amendment is also a suggestion.

Shri Abid Ali: Yes, Sir. First, it has to be decided as to what is profit sharing. Unless that formula is defined, we cannot put it into the Act. It is not so simple. Therefore, our attempt is to fix up some formula and once it is done, it will find a place wherever it is necessary. With these words, I request the House to accept the Bill, as amended.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

DELHI DEVELOPMENT BILL

The Minister of State in the Ministry of Home Affairs (Shri Datar):
 Sir, I beg to move:*

"That the Bill to provide for the development of Delhi according to plan and for matters ancillary thereto, as reported by the Joint Committee, be taken into consideration."

*Moved with the recommendation of the President.