

[Secretary.]

The Speaker has certified that this Bill is a Money Bill within the meaning of article 110 of the Constitution of India."

(VIII)

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith a copy of the Coal Mines Provident Fund and Bonus Schemes (Amendment) Bill, 1965, as passed by Lok Sabha at its sitting held on the 16th September, 1965."

Sir, I beg to lay a copy each of the eight Bills, as passed by the Lok Sabha, on the Table.

THE PAYMENT OF BONUS BILL,  
1965—continued

MR. CHAIRMAN: Mr. Arjun Arora had not concluded his speech the other day. He may continue now.

SHRI ARJUN ARORA (Uttar Pradesh): Mr. Chairman, Sir, on Thursday I referred to the progress made in connection with recognition of worker's right to bonus. It is interesting to recall that this recognition by the higher courts of the country came only after this country was able to win independence. Before that bonus was considered an *ex gratia* payment. As a matter of fact, it is well known that payment of bonus began in the country during the First World War. During that period particularly industries made huge profits; particularly high were the profits made by the cotton textile industry in the country, and some bonus was given to the workers. The then Government interested in prosecuting the First World War helped the workers to get bonus, but between the two World Wars bonus almost disappeared: workers' demand for bonus was stout-

ly resisted by the employers and ruthlessly suppressed by the Government. During the Second World War, workers all over the country demanded bonus. The workers of Bombay resorted to strikes to secure an adequate bonus, and as profits were rising, the rate of taxation was very high, and the workers were given some bonus during the Second World War. As soon as the war came to an end the employers, helped by the then Government, wanted to put an end to the practice of payment of bonus. This led to a number of strikes all over the country during 1946 and 1947. Our Government, soon after independence, called a conference, and an industrial truce resolution was adopted. One of the principles accepted at that industrial conference, which signed the industrial truce, was acceptance of profit-sharing. Sir, a committee on profit-sharing was appointed—a tripartite committee—and it gave a valuable report, I feel, Sir, a legislation like this should have been enacted soon after the committee on profit-sharing submitted its brief but valuable and clear report. If that had been done, the sufferings that the workers had to undergo during the last sixteen years could have been avoided; industrial peace could have been ensured; much of the litigation, much time of the courts beginning from Labour Court to the Supreme Court could have been saved, and what is more important, industrial production in the country could have been carried on in a much more smooth manner than was the fate of the country. It is regrettable that legislation was not enacted soon after the report of the profit-sharing committee. This was due to the desire of the Government to have bonus as a voluntary institution. As a matter of fact, even after the report of the Bonus Commission came in August, 1964, the Government persisted in the delusion that bonus can be made a regular institution by its voluntary acceptance by the employers, and this Bill, which I welcome, comes more than one year after the report of the

Bonus Commission was submitted. Sir, soon after the payment of bonus was recognised as a right of the workers, the courts recognised that workers could raise an industrial dispute relating to refusal of payment of bonus, and it was left to the courts, without any guidance from anywhere, to evolve a formula. A formula was evolved by the Industrial Court of Bombay. That formula was tested before the Labour Appellate Tribunal in 1950. The Labour Appellate Tribunal mainly accepted the principles found acceptable by the Industrial Court of Bombay, but it evolved its own formula and introduced an element called allocation for rehabilitation. That formula of the Labour Appellate Tribunal given in appeals No. 1 and 5 of 1950 became known as the full bench formula. The formula was satisfactory except the fact that it made a provision of allocation for rehabilitation of the industry. This concept of rehabilitation was a new one introduced by the Labour Appellate Tribunal, and, Sir, I know from my own personal knowledge that the concept of rehabilitation, not properly defined, made the employers in the country rehabilitation-conscious, and as far as calculation of available surplus for distribution as bonus was concerned, all the employers, whether they were keen on rehabilitation or not, whether they took any steps towards modernisation of the plant or not, wanted allocation for rehabilitation. The author of this formula was a former Judge of the Calcutta High Court, Sir Rupen Mitter, for whom I have the highest respect. He will go down in the history of industrial jurisprudence in this country as its father. He laid down in a number of cases very sound principles, and therefore it is, thanks to him, that the Labour Courts and Industrial Tribunals in the country, have something to guide them in matters of dismissal, matters of retrenchment, etc. As a matter of fact, a number of amendments which the Government has brought in the Industrial Disputes Act are in a way born out of the decisions of Sir Rupen Mitter.

Sir, Shri Rupen Mitter himself after three years realised the complications which the concept of rehabilitation which he had given in all good faith was leading and while dealing with the Sugar Industry Bonus case in 1953 he in open court said in Bengali, which I cannot reproduce, that it was a very unfortunate moment at which he introduced this concept of rehabilitation. I am glad, Sir, that the Bonus Commission has rejected the employers' plea regarding rehabilitation and this Bill makes no mention of rehabilitation of industry as far as calculation of available surplus is concerned. That is a good thing done by the Bonus Commission.

However, a number of other things came into prominence as a result of the Full-Bench formula and the Labour Appellate Tribunal's decision. When the Supreme Court approved the bonus formula of the Labour Appellate Tribunal, it gave its own interpretation in respect of depreciation and in respect of taxation. As a result of the Supreme Court's decision on the bonus formula of the Labour Appellate Tribunal, the depreciation and taxation are not the actual depreciation and the actual taxation, but a notional depreciation and a notional taxation. Whether the employer pays the taxes or not, he is entitled, as a result of the Supreme Court's view, of notional taxation, to deduct the relevant sum from the available surplus for distribution of bonus. Similarly, whether the employer sets aside a particular sum for depreciation or not, he can deduct the notional depreciation in denying or curtailing the bonus. Sir as one familiar with the working of industries from a distance I can say that depreciation is a prior charge. It is a necessary charge and that charge should be there. The allocation should be made. But that was something which the Supreme Court ignored. The Bonus Commission has also failed to distinguish between actual allocation for depreciation and actual payment of taxes, from the notional

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depreciation and notional taxation. The result is that the Bill is so worded that this concept of notional depreciation will continue. I do want the industries to prosper. I do want the industries to be able to replace their plants. But what is happening in the country today is that the units of industry, year after year in the matter of calculation of bonus claim deduct for depreciation and yet find at the end of a decade that they have no money for replacement of their plant and come to the Government for loans. So, Sir, I submit that the Bill should be so amended that actual taxation that is really paid by the employers and the actual allocation made for depreciation, the sums set apart as depreciation, should alone be taken into consideration when the available surplus is calculated. That I am afraid, has not been done, and the Supreme Court's notional concept is to continue.

Sir, the Bonus Commission which has given a valuable report, itself came as a result of two decisions of the Supreme Court. I remember, Sir, that the first such decision was given by the Supreme Court in the A.C.C. case of 1959 when the Supreme Court stated:

"If the Legislature feels that the claims for social and economic justice made by labour should be laid down on a clear basis, it can step in and legislate in that behalf."

Sir, this observation was made by the Supreme Court in 1959 and we are legislating in the year 1965.

THE MINISTER OF LABOUR (SHRI D. SANJIVAYYA): Please read further.

SHRI ARJUN ARORA: Yes, I will read further. I will certainly read further. When this the highest court of the country felt that the revision of the Full-Bench formula should be done by legislation, it has taken the Ministry of Labour six long years to

bring forward a Bill. Further the Supreme Court observed:

"It may also be possible to have the question comprehensively considered by a high-powered commission which may be asked to examine the pros and cons of the problem in all its aspects."

This was said by the Supreme Court in 1959. But the Bonus Commission was appointed more than two years later, at the end of 1961.

MR. CHAIRMAN: Mr. Arora, I am sorry to interrupt you, but you have already taken 20 minutes and we have to finish the general discussion today. So would you please make....

SHRI ARJUN ARORA: But, Sir, I was told that I would get 30 minutes today, because the other day I got only two minutes.

MR. CHAIRMAN: I think you got five minutes.

SHRI ARJUN ARORA: I got only three minutes the other day.

MR. CHAIRMAN: You may proceed, but please make your remarks brief, for there are many Members who want to speak.

SHRI ARJUN ARORA: As soon as you feel I am irrelevant, I will stop, Sir.

MR. CHAIRMAN: I should like you to feel, Mr. Arora . . .

AN HON. MEMBER: Because he is a labour Member.

SHRI ARJUN ARORA: It has taken the Government more than two years to appoint the Bonus Commission. And then an interesting thing took place. In 1961 itself, the Supreme Court had before it a case called *The Ahmedabad Miscellaneous Industrial Workers vs. The Ahmedabad Electricity Supply Co. Ltd.* and there again the Supreme Court made the same observation. When Ahmedabad is concerned, the Government

moves swiftly, and it was as a result of this observation in the case of The Ahmedabad Miscellaneous Workers that the Labour Minister appointed the Bonus Commission. Sir, it is worth while recalling that the employers in this country, though they never get tired of praising the Supreme Court, did not welcome the appointment of this commission. They were particularly hostile to the Chairman, Mr. Meher and when the Bonus Commission was appointed, the employers in the country carried on a vigorous campaign against Mr. Meher. The campaign was brought to this House also and my learned friend, Shri Babubhai Chinai, asked a number of starred and unstarred questions. This campaign was carried on to put pressure on Mr. Meher and the Bonus Commission did not function for the first six months. For six months after its appointment, the Commission remained immobile because of this all-India campaign carried on by the employers. I congratulate Mr. Nanda for remaining firm in regard to this appointment. In a case like this, when a Judge or a retired Judge—I do not know what he is—is appointed and one side carries on a whirlwind campaign against him, a Judge or a retired Judge being human must have taken note of the pressure which this campaign meant and that pressure finds its reflections in some respects in the Report of the Bonus Commission. There is, for example, the case of fair return on capital. The Labour Appellate Tribunal which did not consist of Communists but of retired High Courts, five retired High Court Judges, gave the full bench formula after hearing the most vocal advocates of the employers' Mr. Palkhiwala and others, and held that six per cent. was a fair return on capital. The Bonus Commission succumbed to the pressure of the employers and held the view that seven per cent. is a fair return on capital . . .

SHRI BABUBHAI M. CHINAI  
(Maharashtra): That is not correct because now . . .

SHRI ARJUN ARORA: You will never be satisfied even if it is made hundred per cent. The Bonus Commission in its wisdom and because of the pressure of the employers said that seven per cent. would be a fair return on capital but the one year that has followed the publication of the Report has not been wasted by Mr. Babubhai Chinai and those of his tribe. They have carried on their pressure against the Government and the Government, in the Bill which we are now considering, says that 8.5 per cent. is a fair return on capital. Now, Sir, the result is that from 6 per cent. as a fair return on capital, which the Labour Appellate Tribunal consisting of five retired High Court Judges—many of them probably had some investment somewhere—we have moved to a situation in which Messrs. Sai, ivayya and Malviya have brought a Bill which says that 8.5 per cent. is a fair return on capital. I think it is time we went back to the Labour Appellate Tribunal's six per cent., and I hope there are some amendments to that effect.

The Bonus Commission was faced with a very interesting discussion whether bonus should be industry-wise or industry-cum-region-wise or unit-wise. In its wisdom, the Bonus Commission came to the conclusion that unit-wise calculation of bonus is good and this Bill also provides for unit-wise calculation of available surplus for distribution as bonus. I feel, Sir, that by accepting the employers' plea that bonus should be determined unit-wise, the Bonus Commission and the Ministry of Labour are giving a premium on inefficiency and mismanagement. The correct formula should have been industry-cum-region-wise. This formula was in force in the cotton textile industry of Ahmedabad and Bombay and it has worked very well. It is in these two centres that bonus is calculated industry-cum-region-wise and it is these two centres which have prospered. I do not know, Sir, why the Bonus Commission came to the conclusion that bonus should be

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calculated unit-wise. On page thirty-three of the Report, the Bonus Commission mentions,—

“Shri Ramanujam, on behalf of the INTUC, submitted that bonus should be paid on a uniform industry-wise rate in the cotton textile industry in South India. In support of the proposal, he argued that the textile mills in Coimbatore had standardised wages and workloads. Their products were sold in the same market, the raw-materials, power, fuel, etc., were obtained under the same conditions but despite the basic uniformities, the trading results of different units showed great variance and he expressed the view that the difference was due to the quality of the management. Mr. Ramanujam submitted that as labour was not responsible for differences in the quality of management bonus should be paid at a uniform rate to workers in the cotton textile mills in the area.”

The same could be said about Kanpur, about Calcutta, about Nagpur, about Bombay and about Ahmedabad. That was a very sound principle which Mr. Ramanujam had enunciated. The Bonus Commission, I am sorry to point out, did not meet the arguments of Mr. Ramanujam and many others. It merely says, on page thirty-four,—

“In the cotton textile industry, there are some units which are modernised, particularly those which have been started more recently, while others have not done so to any appreciable extent.”

Now, modernisation of a plant is not the function of the State, it is not the function of labour but it is the function of the employers. If some employers are responsible for ignoring that vital duty of management, that is no argument that they should be enabled by law to reap the benefits of their callousness, of their in-

efficiency and their mismanagement. (Time Bell Rings.)

I have some amendments and I will make my submission when the amendments are taken up, Sir.

MR. CHAIRMAN: Mr. Kumaran. I would like to suggest to Members to restrict their speeches to fifteen minutes. There are a number of speakers and I am anxious that we must finish the general discussion today.

SHRI MULKA GOVINDA REDDY (Mysore): The Lok Sabha took fifteen hours whereas the time allotted was only five hours. If necessary, we will have to sit longer or it may be extended to tomorrow.

SHRI A. D. MANI (Madhya Pradesh): I would like to make one submission. According to the Bill, the Government has enabling powers to exempt some industries from the operation of this Act. It would be necessary, therefore, for Members to make their submissions. I quite agree that . . .

MR. CHAIRMAN: I am not considering that. Whenever it comes, I will consider it. Do not consider these things in advance.

SHRI P. K. KUMARAN (Andhra Pradesh): In the Lok Sabha, the time allotted was five hours but it took fifteen hours. I am not sure . . .

MR. CHAIRMAN: You may do better.

SHRI P. K. KUMARAN: We are now discussing the Bill in a very grim situation which is facing our country. Our Armed Forces are fighting with vigour and tenacity and have acquitted themselves well in regard to the task placed upon them. It has been calculated that to keep one jawan in the front ninety-nine men should toil and labour in the fields and factories for eight hours. Now, our workers also have responded well and they

have risen to the occasion in a magnificent way. Our Labour Minister broadcast yesterday and acknowledged this fact. What was the situation just a month ago? The food situation was deteriorating already excepting in the imagination of the Food Minister. There were shootings all over the country; there were shootings at Kolhapur, there were shootings at Sholapur, there were shootings at Gorakhpur and violent repression in Bihar. The Bonus Bill which has now been brought forward was agitating the workers and they had given strike notice throughout the country. Yet, today they are working overtime without overtime compensation. They have withdrawn the strike notices. It is in this magnificent response of the workers in this context that I read the provisions of the Bill. When I went through the clauses of the Bill, it made very painful reading. As my hon. friend, Mr. Arora, has stated the Government has succumbed to the pressure of employers. When the Bonus Commission was announced there was a hue and cry throughout the country because according to the formula which was prevailing before the Report of the Bonus Commission—the L.A.T. formula as it is called—the benefit was more. I will illustrate the point. If a sum of Rs. 100,000 was available as available surplus for distribution according to the formula recommended by the Bonus Commission this would have come down to Rs. 95,000 or Rs. 97,000 and according to the formula now put in this Bill it will come to Rs. 70,000 or Rs. 72,000. That means this formula which we are going to pass will bring down the quantum of bonus available to the workers by 25 per cent. This is what we have before us to pass when the country as a whole has risen so magnificently. I think this is a very indecent measure and I hope the hon. Minister will accept some of the amendments that I have tabled in this connection. Sir, when the hon. Labour Minister goes out to meet the workers he talks about socialism louder than some of us do. And so also the Deputy Minister who

is an old trade union worker. I remember the other day when the Labour Minister was talking before the railway workers at Bangalore, he was full of tears for the railwaymen but here in this Bill he has excluded the railwaymen and he has excluded the public sector workers thereby practically doing a disservice to the workers. There is only one clause, clause 10 which provides for payment of a minimum bonus and according to his calculation it will benefit some 40 or 45 lakhs of workers. From among this forest of conflicting clauses if a High Court or the Supreme Court strikes down that clause the whole Bill will become a scrap of paper.

The hon. Minister made a statement in this House on September 18, 1964 and he said:

"It was not Government's intention that benefits which labour may have been enjoying in the matter of bonus in any establishment or industry should in any way be curtailed by the adoption of a new formula for the payment of bonus."

He said further:

"In the circumstances, Government desire to clarify that in the legislation to be promoted to give effect to the recommendations of the Bonus Commission as accepted by Government suitable provisions would be included so as to safeguard that labour would get in respect of bonus the benefits on the existing basis or on the basis of the new formula, whichever be higher."

The wording is clearly whichever benefit is higher that will be allowed. The basis of the formula cannot be higher or lower; it is the benefits which he promised will be higher but he now insists that he did not promise that; he did not promise protection for the quantum but he only promised protection of the ratio. If it is not a deliberate untruth I would like to know what it is. The Bonus Commission has recommended that

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7 per cent. return should be paid on the working capital but he has raised it to 8.5 per cent. And then the reserves are not used as working capital. For the reserves they recommended 4 per cent. while the L.A.T. formula gave only 2 per cent. but he has raised it to 6 per cent. And the result is that the quantum of bonus that will now be available in any unit of industry will be reduced by 25 per cent. This I think is quite unnecessary. Then suppose in an undertaking the surplus is Rs. 100,000. Sixty per cent. of that, that is Rs. 60,000 will be made available for distribution as bonus and Rs. 40,000 will be with the management. Even on this Rs. 60,000 they will get an income-tax rebate of Rs. 30,000. That means even after paying Rs. 60,000 the employers will have Rs. 70,000, hence it is unfair to give them 8.5 per cent. So also the banking companies are permitted 8.5 per cent. but the foreign exchange banks do not have working capital here. They bring money borrowed from their Head Offices in foreign countries and on that they pay interest. The question of permitting 8.5 per cent. on such loan does not arise.

Another thing is about this development rebate. Development rebate can be taken from this huge sum left at their disposal but to reduce the development rebate from the quantum available is also an injustice to the workers. Dealing with the question of future settlements it has been stated that in undertakings where the workers come to an agreement with the management regarding incentive bonus or productivity bonus the profit bonus will not be permitted. That means in future naturally the management or the employers will insist that the bonus system should be connected with productivity. So the principle of profit bonus is almost ruled out unless they go in again for strike notices, litigation, courts, tribunals and other things. Public sector employees have been excluded. There is one condition

attached that if they are competing with private sector in any place then they will be eligible for bonus. The principle which they seem to have accepted is this. If it is competing with private sector they can have bonus and there also 20 per cent. limitation is there. But to assume that an undertaking or a factory which has got a complete monopoly will not be able to pay bonus is wrong. For instance take road transport. In some places the public sector transport competes with the private sector. Suppose there is a route from Delhi to Agra where two buses are run by the Government and two buses are run by a private concern. According to the Bill they will have to pay bonus to their employees but in another route from Delhi to some other place where only the Government is running buses they need not pay any bonus.

SHRI LOKANATH MISRA (Orissa): But you should be happy about it.

SHRI P. K. KUMARAN: The public sector should thrive but it does not mean that the worker who is eligible to get a share of the profit should be deprived of it. The whole bonus has become a right. It has been defined as a deferred wage simply because we are not yet paying even the minimum living wage to the worker. If a fair living wage had been achieved in this country, the question of bonus would not, perhaps, have arisen.

SHRI D. SANJIVAYYA: I think you better speak on clauses and amendments.

SHRI P. K. KUMARAN: I will speak afterwards.

SHRI BABUBHAI M. CHINAI: Mr. Chairman, before I say anything about the various provisions of the Bill, I would like to draw the attention of the House to the circumstances which led to the appointment of the Bonus Commission. It was appointed as a result of the observa-

tions of the Supreme Court in the Associated Cement Companies' case and the recommendations of the Tripartite Standing Labour Committee. The Supreme Court observed:—

"If the legislature feels that the claims for social and economic justice made by labour should be redefined on a clearer basis it can step in and legislate in that behalf. It may also be possible to have the question comprehensively considered by a High Powered Commission which may be asked to examine the pros and cons of the problems in all its aspects by taking evidence from all industries and all bodies of workmen."

The Tripartite Committee was of the view that the question of bonus was one of evolving suitable norms, so that uncertainty associated with it was minimised. It was, therefore, expected that the Commission would evolve a simple formula based on specific principles which should be applicable to industries uniformly both in the public and private sectors, taking into account the problems peculiar to different categories of industries.

Some ill star has dogged the entire subject. The Commission's Report was not unanimous and Government modified the majority recommendations after eight months or so. Then, an *ad hoc* statement was made by the Labour Minister about a fortnight later. Subsequently, Government issued an Ordinance. The present Bill departs from the provisions of the Ordinance. It is no exaggeration if I state that the time and money spent on the deliberations of the Bonus Commission and in tendering evidence have gone to waste inasmuch as the industry shall be confronted with a situation which may perhaps be worse than that prior to the appointment of the Bonus Commission. While the proposed legislation before us has failed to achieve uniformity in the practice of payment of bonus, and reduce the uncertainty associated

with it, the peculiar conditions of different categories of industries in the economy of the country have been completely ignored.

A review of the discussion on the Bonus Bill in the Lok Sabha discloses that as many as 289 amendments were moved. Except the Government amendments, none others were accepted—except one minor amendment. Some of the Government's amendments, however, are much harsher than the original provisions. The reasons adduced by the Government for moving these controversial amendments are also not quite understandable. One of the amendments changes the date for pendency of disputes under clause 33 from 2nd September, 1964 to 29th May, 1965. This would increase the number of disputes, inasmuch as a large number of disputes were raised after the 2nd September, 1964, the date on which the Government announced its Resolution on the Report of the Bonus Commission. If this amendment moved by the Labour Minister and accepted by the Lok Sabha cannot be done away with, in all fairness, only such disputes which are pending before the adjudicating authorities and not before the Conciliation Officer should be brought within the purview of the bonus formula.

I would like to point out in this connection a piquant situation which emerges from this provision. For instance, there might be a dispute in respect of the accounting year 1961-62 pending on 29th May, 1965, but the disputes for the year 1962-63 and 1963-64 might have been settled before this date. As the provision of clause 33 stands, the disputes relating to 1962-63 and 1963-64 will also have to be reopened and settled according to the bonus formula.

The amendment to clause 34(3) moved again by the Minister provides that all future agreements which are different from the bonus formula must provide for payment of minimum bonus of 4 per cent. of basic wage and dearness allowance or Rs. 40



[Shri Babubhai M. Chinai.]

whichever is higher. At the outset, this proviso is against the principle of free collective bargaining. Secondly, there is also an upper limit of 20 per cent. for payment of bonus under the Bill. If Government's amendment is to be retained, the proviso should also provide that no agreement under clause 34(3) shall provide for a bonus exceeding 20 per cent. of wages.

Coming to the other provisions of the Bill, although the Bill has deliberately avoided defining the most important term "bonus", it would appear that it means a payment arising out of an available surplus profit. The provision for the payment of minimum bonus even by concerns incurring losses cannot, by any stretch of imagination, be a part of the profit-sharing bonus scheme. This is nothing but a straight increase in wages, which would cause the loss-making concerns to lose further.

As regards the plantation industry, the introduction of minimum bonus would very much impair its competitive capacity in world markets. The rate of return allowed in the Bill is relatively low. The rate of return allowed by Government on equity capital and reserves has been kept at 8.5 per cent. and 8 per cent. respectively. It will be recalled that the representative of private sector employers on the Bonus Commission urged for these rates at the time of the compilation of the report when the bank rate stood at 4 per cent. The bank rate has since been raised and is at present 6 per cent. I would suggest that keeping in view the existing bank rate, the rate of return should be at least 10.5 per cent. on equity share capital and 8 per cent. on reserves.

Here I would also draw your attention to the existing provisions of item 1(ii) of the Third Schedule that equity capital to be computed for purposes of return would be as at the

commencement of the accounting year. This would be unfair and inequitable to such companies as issue fresh capital during the accounting year. The return should, therefore, be allowed on the average of equity capital as on the first and the last day of the accounting year.

Difficulty is also felt in regard to the calculation of direct tax allowed as a prior charge under clause 6. Though clause 7 provides for a method for notional calculation of this tax in certain cases, it does not indicate whether the bonus paid is to be taken into account while calculating tax. In this connection, I would like to invite a reference to the recommendation of the Bonus Commission which clearly implies that the tax allowed to be deducted should be calculated without taking into account the bonus paid. This very important recommendation has not been brought out specifically in the Bill. It is, therefore, apprehended that the benefit of the saving in tax would be denied to the companies by this omission. This section should therefore be amended to the effect that in calculating tax no account shall be taken of the bonus paid or payable.

There is a glaring inconsistency between clauses 6 and 16. According to clause 16 newly set-up establishments are exempted from the provisions of the Act until the sixth accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders services or until the employer derives profit from such establishment whichever is earlier. In order to determine whether or not an employer has derived profit in any year, that year's depreciation and the arrears of depreciation and losses for the previous years may be fully set off against the profits. However, when once the liability to pay bonus arises before the sixth year, the calculation of allocable surplus under clause 6 has to be made without taking into account the arrears of depreciation or losses. This anomaly

is unfair and I suggest that clause 6 should be amended so as to provide for deduction in the case of a newly set-up establishment covered by section 16, of arrears of depreciation and losses in the previous accounting years.

The provisions of clause 23 provide that the authority under the Industrial Disputes Act may presume that the statements and particulars contained in the balance sheet audited by the auditor qualified under the Companies Act, 1956 are correct. It will be appreciated that these provisions as worded will encourage questioning of all sorts of expenses and much of the time of the authority shall be wasted in satisfying itself about the accuracy of the statement. In view of the statutory obligations on the auditors to follow certain standards while auditing, this clause should be amended so as not to leave the accuracy of the balance sheet to the discretion of the adjudicating authority.

Coming to the most controversial provisions of clause 34 as it stands, it will perpetuate for ever the basis arbitrarily worked out from a payment made in one year. The payment in the base year might have been made on an *ad hoc* basis or *ex-gratia* and without any reference to the profits of the year. The unfairness of perpetuating such a basis needs no elaboration. Sub-clause (2) intends to cover the assurance given by the Union Labour Minister in Parliament on 18th September, 1964, namely:—

“Suitable provision would be included in the concerned legislation so as to safeguard that labour would get in respect of bonus the benefits on the existing basis or on the basis of the new formula whichever be higher.”

Obviously the assurance is to protect the existing basis if it is more favourable to workers than the formula under the Bill. By no stretch of

imagination this assurance could be supported for working out a new basis from a payment made in one year even *ad hoc* or *ex-gratia* payments and perpetuate it for ever. Though I would have preferred sub-clause (2) to restrict the past payments to payments under agreements subsisting on date when the Ordinance was promulgated, payments made on *ad hoc* or *ex-gratia* in the base year should in no case be taken into account. I would therefore suggest that only such payments made in the base year should be taken into account as were made under a formula fixed by an award, agreement, settlement or contract of service.

In conclusion, I would like to state that the object of appointing the Bonus Commission was to evolve a uniform and simple formula for settlement of disputes relating to bonus. The Bill as amended by Lok Sabha and placed before this House, however, provides for virtually three formulae. At the outset there is the formula provided under the Bill; secondly, maintenance of ratio between gross profits and the bonus paid in the base year under clause 34(2); and thirdly a provision for entering into a formula different from that provided under the Bill. I do not think that this was the intention of Government at any time before the Bonus Commission was set up. It is very unlikely that the Bill will at all improve industrial relations. I would like and wish that the Ordinance as promulgated had come as a Bill before this House so that most of the difficulties which have arisen on amending the Ordinance and bringing this Bill before us would have been avoided. Thank you.

MR. CHAIRMAN: We shall continue sitting till 1 o'clock. Mr. Thengari.

SHRI D. THENGARI (Uttar Pradesh): Mr. Chairman, it is for the first time that any piece of legislation has been brought in this context, and therefore this is something commendable. One of the objects of this legis-

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lation was to minimise the litigation on bonus which had become a regular feature of our industrial sphere, but I am sorry to say that for various reasons this object is not going to be achieved.

[THE DEPUTY CHAIRMAN in the Chair]

It seems there was a certain amount of pressure on the Government, because I know that the hon. Labour Minister and the hon. Deputy Labour Minister are men of the masses and they are quite earnest about labour welfare, but still the Bill goes against the spirit of labour welfare, and that is why I am led to believe that there was some pressure from certain quarters. We have been hearing so far about protection being granted to minorities, that is, on the basis of religion or language, but now it seems that the Government is also determined to give protection to economic minorities, that is, the capitalists of the country. The Government has set a bad precedent by introducing modifications in the recommendations of the Bonus Commission. To say that these are modifications would be a gross under-statement of facts. As a matter of fact some of the unanimous and majority recommendations have been torpedoed, because among other things the very basis for the computation of the distributable, whether it be described as available or allocable surplus for bonus, has been changed drastically.

One thing I may say confidently. and the hon. Labour Minister may agree with me, that the distributable surplus under the present Government formula would be generally less than that available under the Bonus Commission's formula, and that available under the Bonus Commission's formula would be generally or I may say invariably lesser than that available under the L.A.T. formula. We are certainly grateful to the hon. Labour Minister for the provision of the minimum bonus of 4 per cent. or of Rs. 40, whichever is higher. But

we fear that in case this provision is struck down by Court, the workers would be left defenceless because there are no other provisions in this Bill. It is not a sweeping generalisation but after careful scrutiny I am saying this. There are no other provisions in this Bill that are rather favourable to the workers. Again, this provision for minimum bonus, though actuated with the best of the intentions, is likely to be taken advantage of and exploited by the employers. I learn from Kanpur that some of the employers have already reduced the quantum of bonus taking advantage of this provision of minimum bonus. While the principle of minimum bonus is understandable, it is not clear what is the propriety in prescribing the ceiling of 20 per cent., because the hon. Labour Minister has been at pains to explain that there is a saving clause which would protect the interests of workers who used to get more than 20 per cent. earlier. Let me say that clause 34(2) does not fulfil the assurance given by him on 18th September, 1964. The clause fails to protect the earlier formula or scheme of computation. I am not saying anything about quantum. It may vary. But even the formula under which they used to get bonus earlier and which was more favourable has not been protected. But what the hon. Minister seeks to protect through this clause is only the ratio, which is neither here nor there. Practically, I fear, this will become a protective clause to the industrialist class who used to pay more than 20 per cent. bonus earlier.

A word about the retrospective effect. The Commission had recommended that their recommendation should be given retrospective effect from the accounting year on any day in 1962, i.e. with regard to bonus issues relating to the financial year 1961-62. Clause 33 does not fulfil this condition. The Government should not have been afraid of reopening the disputes which were decided on principles inconsistent with those underlying this Bill.

Madam, this Bill contains certain provisions which are in contravention of the provisions of the Industrial Disputes Act. For example, under the Industrial Disputes Act, the 'apprentices' are included in the category of 'workmen'. But this Bonus Bill excludes them from that category.

Again, 'travelling concession' is included in the definition of 'wage' under the Industrial Disputes Act. But that is excluded from 'wages' under this Act. These are the contraventions of the Industrial Disputes Act.

The hon. Labour Minister has stated that 45 lakhs of workers would be getting bonus for the first time, because they were not getting bonus earlier, by virtue of this piece of legislation. It is true and we are thankful to him for his help but I would request him to kindly work out the number of those who are excluded by virtue of the Exclusion clauses, i.e., clauses 20 and 32. Apart from the categories enumerated therein regarding which I may make some reference subsequently, there are certain other sections of the working population that are excluded also. The contract labour in general and those employed in constructional and building work in particular, the seasonal workers, the Ministerial staff, the departmental employees, etc. why should they be excluded? What is a department? Is Road Transport a department? Then the Railways are a full-fledged, regular, profit-earning industry. Why should the railway employees be deprived of their right to bonus? Again, it is worth noting that the LIC employees who are excluded by the operation of clause 32 had already secured through agreement with the management, their bonus previously. Also, the Chamber of Commerce at Calcutta was granting the Pooja bonus customarily to its employees; in West Bengal there is only the Pooja bonus. Also the Government is aware that the Bombay Dock Labour Board was thinking of

making provision for payment of bonus to its employees and that also the Boards at Calcutta and Madras were contemplating to follow suit.

Madam, clauses 20 and 32 are the exclusion clauses and with the number of workers thus excluded it may be more—I am not sure—than the 45 lakhs claimed by the hon. Labour Minister as having been included.

Faulty drafting has created some difficulty. To my mind, there is inconsistency between the provisions of clause 32 and those of clause 34(3).

Clause 20 of the Bill is discriminatory. It places the public sector undertakings on a different footing. The public sector should be a model employer. As a matter of fact, the leaders of the Government are giving advice to the private sector employers and we agreed with them on that. But at the same time, in order to bring the appropriate pressure to bear upon the employers in the private sector regarding the proper maintenance of industrial relations, it is necessary that wherever the Government appears as an employer the industrial relations should be proper and it should function as a model employer. It seems that because of the 20 per cent. competitive character, it would be very difficult to ascertain which category of employees in the public sector will be entitled to bonus. There would be a continuous stream of litigation to determine whether public sector undertakings are covered by this Act. This will further add to confusion and difficulties. In the Fourth Five Year Plan, we are contemplating increasing expansion of the public sector. That means that the employees under the public sector would be increasing in number and all those employees would be excluded from the benefit of bonus. Thus, this Bill has virtually excluded a larger number of employees from the benefit rather than those included under it. Government is well aware that it is extremely difficult to determine with any amount of accuracy

[Shri D. Thengari]  
whether the 20 per cent. competitive character exists or not.

There are a number of other points, for example, the development rebate. Under the Income-tax Act it is not obligatory to claim a development rebate. Because of the Bonus Act, this would become rather a regular feature. The employers will be inclined to claim it. It may be noted that the Adarkar Committee does not give development rebate as a prior charge to the employer and no court has accepted so far the development rebate as a prior charge. Even Mr. Dandekar who represented the employers had not suggested it. The Bonus Commission had not conceded it. But the Government is offering to the employers what they themselves did not demand. This is going out of the way.

There are a number of other points which I should like to discuss when there is the clause-by-clause consideration. But one important point I wish to make and that is, it is essential at this stage to define the concept of bonus in the Bill. The provision is 4 per cent. or Rs. 40 whichever is higher. The principle of minimum bonus goes to indicate that the Government was in half mind to concede that bonus is a deferred wage. But it has not conceded it actually. Now, unless 'bonus' is properly defined, it would be very difficult to work out any principles and therefore I should like to suggest that this definition should have been incorporated in the Bill itself.

Thank you

SHRI ABID ALI (Maharashtra):  
Madam, this particular Bill or the Ordinance which precipitated it was very strongly supported by the INTUC and my friends here would be amused to know that it was the non-INTUC trade union organisations and the employers who were very much opposed to it though for different reasons. The INTUC supported this

measure because it will benefit, as my friend, the hon. Labour Minister said, a large number of workers. Perhaps he has mentioned 40 lakhs or more. And according to our calculation, between Rs. 25 and Rs. 30 crores more will be received by the workers on the basis of the provisions which are under discussion here. Naturally, therefore, the employers are opposed to it, and the non-INTUC workers' organisations do not like it because they are losing a weapon which they have been using every year to create trouble and unrest in the industry for their selfish interest.

The question of bonus was taken up by the INTUC leaders for the first time soon after the Second World War. Then it was considered as an *ex gratia* payment. Thereafter it became deferred wage. It has a long history. It is mentioned in the Bonus Commission's Report and most of you have read it. Our respected colleague who is no more in this world, Shri Ambedkar, will always be remembered in this connection also because he was the one man who had rendered the greatest service to the Indian working class in this particular matter. It was he who worked very hard, went to industrial courts, High Courts and the Supreme Court, apart from conducting negotiations across the table, and it was he who brought this verdict from the Labour Appellate Tribunal that workers were entitled to it as a matter of right, not by the *mehrbani* of the employers, to get this annual bonus. This appointment of the Bonus Commission and acceptance of its recommendation and the Bill here—all this is recognition of the fact that workers are co-sharers in the result of the working of the industry. They are not to be satisfied with the meagre salary but also the result should benefit them and the entire part of it should not be taken away by the financier or the employer.

So, Madam, the history between 1946 and 1955, the proceedings of the courts that I have mentioned, and the

results achieved is a tribute to Shri Ambedkar and all that which has followed here also. I wish he were alive to see this Bill and the statute which will be passed.

Now, it was said here that the Ministers can talk very much in a progressive language, but in action they are reactionary. Mr. Dange in the report itself has made an observation which is a reply to the friends from the opposite benches who have made criticism this afternoon. He says:—

"There are certain points in the general body of the Report and in the Bonus formula adopted here on which I would have liked to add a separate dissenting note detailing my views. But I have refrained from doing so in the hope that what has been accepted herein may do away with the complications which the workers had to face on the bonus question in the last few years and may give all of them a better deal for the time being at least."

This much coming from the opposition leader of the type of Mr. Dange of course by itself explains to what extent the workers in India are being benefited by the recommendations submitted by the Bonus Commission which has been accepted by the Government. Madam, these were the demands submitted particularly by the INTUC. The Government have accepted the changes except one with regard to the percentage, that too because a great change has taken place as from the date this Bonus Commission submitted its report. Today we are considering it. Therefore, Government had to take it into consideration. It is not that a small percentage allowed to the industry will take away everything that is being expected. But we have also to consider that the industry should exist, that the industry should work, that capital should not become shy. Of course, this point of view cannot be appreciated by the friends in the Opposition although when they talk outside they do admit that middle and

lower class people are putting their savings in the shares also. Therefore, the prosperity of industry is very much a concern of ours also. The industry should prosper. That is what we want and we should get our due share from it. So, unless we strengthen the industry we cannot get what we want. There is no other alternative. And it is in the interest of the country as well that the industry should progress. The country can progress only when our industry is progressing. Hence, the criticism that the Government under no circumstances should have made any changes is meaningless. With regard to progressive changes, our friend, representing employers, has just spoken. I will also say something. Mr. Dange representing the Communist section has lent his support. Mr. Dange spoke on behalf of the opposing parties and Mr. Dandekar on behalf of the industry, representing an organisation which is fully recognised by the industrialists of the country. He has given his support. Therefore, where is any room for any reasonable-minded and honest person to stand here and level criticisms which friends here chose to make? Of course, there should be some standards in these matters as well.

They say, squeeze the capitalists as much as you can, squeeze the industrialists as much as you can. There are so many rules and regulations and enactments today that some of these friends feel to go in retirement. What is left for them when out of Rs. 5 lakhs earned by them, Government takes away in the shape of so many taxes about 83 per cent? Therefore, everyone should admit that this Government has been honest to all. I am sure that my friends themselves feel that they are not speaking the truth.

Madam, my friend from the industrialists group has mentioned things which are baseless. Let me tell you why some of the factories are losing. In these days people are establishing factories in garages and under the

[Shri Abid Ali]

staircases. Go to Bombay, Calcutta, Madras, anywhere, you will find garages having been converted into workshops. If that is the position, how can these people lose?

There are two reasons for losing. There is loss because either there is inefficient working or it is dishonest working. About that there can be no sympathy. Well, nobody will weep for inefficient and dishonest concerns. I know that because of this or other enactments which have given benefit to workers, not one concern has been closed down, whether it is Provident Fund, Employees' State Insurance or coal-mines benefits to the workers. Not one workshop or mill has gone out of existence because of these enactments which the Government have been introducing for the benefit of the workers. In spite of this they are coming and saying, "If this happens, industry will be closed". It has also been proved that no employer has ever given to any worker a rupee unless he has been compelled to do it. Times are changing. Employers also have been realising that they should try to befriend the workers, and wherever such an attempt has been made, to befriend the worker, to sit with him across the table, to explain to him the working position of a particular establishment, he has co-operated. In so many establishments, in Allwyn, in the plantations in the South, in so many coal-mines in Dhanbad workers have agreed to accept less—Rs. 7 to Rs. 11 p.m. They were prepared to reduce their monthly emoluments at some places even to the extent of Rs. 7, Rs. 8 or Rs. 11 although they were entitled to receive it on the basis of the decisions of courts. There was some difficulty for a coal-mine. They had a particular quality of coal which was not in demand and the coal-mine owner was not able to pay them to the extent allotted by the industrial court and the workers said: 'Yes, he cannot make money and he cannot pay but he is honest.' So the workers

agreed to reduce their wages. To that extent our workers have a sense of responsibility. Some mention was made here that there are no strikes now. How can there be strikes in this period? I do not want to claim credit for my organisation nor am I prepared to concede credit to anyone else for that. They should know that the present situation is such that our patriotic Indian workers will never tolerate anybody going and telling them about strike or demonstrations. They will be stoned simply and nobody will hear them. Our workers have always been patriotic in spite of the difficulties which they are facing because of the unprecedented dearness. I wish we give them the salary which I was getting fifty years back because its purchasing power was much more than that of the amount which the workers get today in spite of the D.A. that they get now. For a worker who gets about Rs. 45 or so, the D.A. is Rs. 122 and still the worker is not able to get that real wage of 1915 or 1920. Of course so far as the actual figure is concerned, from Rs. 20 it has gone to Rs. 145 but the purchasing power of that Rs. 20 was much more as compared to the purchasing power of Rs. 155 to-day but they are also aware of the requirements of the times and of the difficulties of the country.

The assurance has been given by my friend the Labour Minister that the workers would not be worse off. Although a substantial attempt has been made to safeguard it, still there are some **loopholes**. At this stage I am not proposing any amendment but I would wish he and his colleagues and also the friends in the Labour Ministry to kindly keep an eye on the developments following the enactment which we will be having after some time. Some difficulties are bound to arise. The Parliament is there to take care of the difficulties and amend the enactments and I request the Minister not to hesitate to come to the Parliament even with a single amendment whenever he feels

that it has become necessary in the light of the assurance he has given to the workers through the Indian Parliament. I congratulate him that it is in his period that this very progressive and very good enactment is coming into force and I am thankful to him for the way he has been helpful and I thank his colleagues and friends in the Ministry for being so much helpful.

شری عبدالغنی (پنجاب) : میڈم

دہشتی چیمین - میں اپنے انریبل سلیجیویا جی اور مالیہ جی کو دھندوان دیتا ہوں کہ وہ ایسا میزور لئے ہیں جس سے لیجر کا کافی بھلا ہوگا۔ لیکن مجھے دکھ ہے کہ آج بھی جب کہ ہمارے راشٹر پتی، اپ راشٹر پتی، ہرائم منسٹر، ہرم منسٹر، ڈیفنس منسٹر، لیجر منسٹر اور چھانگلا صاحب یو۔ این۔ او۔ میں یہ صاف کر چکے ہیں کہ کشمیر ہندوستان کا اتوت انگ ہے کشمیر ہندوستان کے باقی حصہ میں کوئی فرق نہیں تب یہ میزور جب مہرے سامنے آیا تو میں نے دیکھا کہ اس میں جموں اور کشمیر کو الگ دکھایا گیا ہے۔ کہتے ہیں کہ آئین میں۔ ودھان میں کچھ ایسی دھارا ہے جس سے کبھی کبھی انہیں ایسا کرنا پڑتا ہے۔ میڈم - سچہ میں نہیں آتا کہ جب دنیا کے سامنے ہم اپنا یہ کیس لا رہے ہوں اور دنیا والے ہمیں الجھانا چاہتے ہوں تو ہم خود کہوں الجھ جائیں اور کہیں اس کو

ہم کلیئر نہیں کر پاتے جو کہ اپنے بس کی بات ہے۔ جب میں نے یہ دیکھا کہ جموں اور کشمیر کو چھوڑ کر باقی ہندوستان میں یہ لاگو ہوگا تو مجھے کافی دکھ ہوا لیکن میرا اس بارے میں املڈمنٹ اس لئے نہیں آسکا کیوں کہ وہ کہتے ہیں کہ آئین کی رو سے اس میں کچھ مشکلات ہیں۔

مجھے اب عرض کرنا ہے کہ اس وقت لیجر کئی طرح کے ہیں۔ کچھ تو وہ ہیں جو کہ سرکاری اداروں میں سرکاری ذہل میں کہئے گرانسپورٹ میں کہئے ڈاک پر کہئے بڑی بڑی جو ہماری اسلحہ بنانے والی فیکٹریاں ہیں ان میں کہئے اور گورنمنٹ کے جو اور دوسرے ادارے ہیں ان میں کہئے جس میں کہ مزدور کام کرتے ہیں۔ ان کے ساتھ سرکار کیسا سلوک کرے گی؟ روکھلا میں اور جو بڑی بڑی لوہے کی فیکٹریاں ہیں ان میں قاتا کے برابر مزدوروں کو دے پائوں گے یا نہیں دے پائوں گے یہ تو سرکار بہتر جانتی ہے۔ میرے سامنے چٹائی صاحب کی یہ بات آئی کہ بڑے بڑے املڈمنٹ آئے اور کہ گئے۔ نندا جی کا کہنا تھا کہ ۶۴ کے قریب ایم۔ بی۔ ہیں جو کہ بولا صاحب کی جیب میں ہیں اور تی۔ تی۔ کرشنا چاری کا کہنا تھا کہ ۳۰ کے قریب ایم۔ بی۔ ہیں۔ اسی چلند پیارے لال جو کہ نٹوریمس



[شری عبدالغنی]

ہے کوٹہ لہنے میں اور بے ایمانی کرنے میں اور جن کے خلاف گورنمنٹ نے کبھی قدم اٹھانے کے لئے نہیں سوچا ان کی جہب میں ہیں۔ تو جہاں جیبوں میں ایم۔ پی پڑے ہوں وہاں وہ کیا اپنی رائے دیں وہ تو رائے جن کی جہب میں ہیں ان کی دیں گے اور پھر یہ ہے کہ یہاں جو آفیشل پارٹی ہے وہ اکثریت میں ہے اور اس لئے ان پر ڈسپلن لاگو ہوتا ہے کہ جب منسٹر کوئی امپورٹنٹ ماتے میں تبھی وہ پاس ہوتا ہے۔ اس لئے یہ کہنا کہ گر گئی کوئی بہت اثر والی بات نہیں ہے۔

منسٹر عابد علی صاحب نے ایک بات کہی کہ ایوزیشن والے کیوں یہ کہتے ہیں کہ مزدوروں نے لئے ابھی بھی کچھ اور مانگ ہونی چاہئے۔ ان کا کہنا یہ ہے کہ جو بڑے بڑے سرمایہ دار کماتے ہیں اس میں سے ۸۳ پرسنٹ چلا جاتا ہے۔ میں ان کو یاد دلاؤں کہ ان کی کمائی کے تین دہائیے ہیں۔ جن کو گورنمنٹ کوٹہ دیتی ہے جن کو گورنمنٹ طرح طرح کی رعایتیں دیتی ہے اس سے جتنا وہ بناتے ہیں اس کو پورا دکھاتے ہیں یا نہیں یہ بات میں نے ہاؤس میں کئی بار عرض کی لیکن میری کوئی سلائی نہیں ہوئی۔ میں کہتا ہوں کہ ایک ہی طرح کی چار ماہوں میں ان کی ایک سی کھیتی

ہے ایک سا ان کا کوٹہ ہے لیکن جب انکم ٹیکس دیتے ہیں تو ایک اور دوسرے کے درمیان بہت انٹر کیوں ہوتا ہے۔ معمولی انٹر ہو ۱۰ پرسنٹ کا انٹر ہو تو میں مایوس ہوں کہ ان کا جو ایڈمنسٹریشن ہے وہ نکما ہے لیکن اس میں بہت زیادہ انٹر ہوا اس کا کوئی جواب نہیں دے پائے اور ہمارے فائلڈس منسٹر نے اور نہ ہماری سرکار نے مہری اس عرض داشت پر توجہ کی۔

مہرا کہنا یہ ہے کہ یہ جو بڑی بڑی فیکٹریز کے جتنے مالک ہیں۔ کارخانوں کے مالک ہیں ان میں بے شمار ایمان دار ہوں گے۔ ہو سکتا ہے چنائی صاحب بہت ہی زیادہ ایماندار ہوں اور پورے وہ حقوق ادا کرتے ہوں۔ سرکار کے بھی۔ لیبر کے بھی۔ اپنے بھی۔ اوپر اپنے دوستوں کے بھی۔ لیکن یہ مانگا پڑے گا کہ آج فیکٹری اوپنس جو ہیں بڑے بڑے کارخانہ دار جو ہیں۔ مہدم۔ مہدمے سامنے کئی باتیں آتی ہیں کہ ایک فیکٹری کا مالک ہے اس کے مزدور ہیں اس کو گورنمنٹ کوٹہ دیتی چلی جا رہی ہے۔ اسٹیل وائرس کا کوٹہ دیتی ہے یہ پر کارخانہ میں کچھ نہیں جاتا ہے۔ اسٹیل وائرس ہسٹری میں ختم ہو جاتے ہیں۔ لدھیانہ میں نہیں پہنچتے۔ مزدور کیا کسائے جس کے یہاں کوٹا آیا نہیں۔ مزدور نے اتنا نفع کمایا ہی نہیں۔ ۸۳ پرسنٹ کے اوپر ۱۰ پرسنٹ لگا دو تو کیا

تکلیف ہوگی۔ کہیں کہ اس کو گھارہ لاکھ کے ۲۲ لاکھ بمبئی میں مل گئے۔ اس کو کوئی چلتا نہیں ہوگی کہ اس کا ۸۳ پرسنٹ جو ہے چوں کہ وہ عابد علی بھائی کی نگاہ میں گورنمنٹ بہت زیادہ لے لیتی ہے۔ گورنمنٹ دیتی تو لیتی ہے۔ گورنمنٹ ان کو کوٹہ دیتی ہے اس طرح سے میں نے عرض یہ کیا کہ یہ سب ایک ہی کیپوسیٹی کے ہیں کہوں کہ گورنمنٹ چیلنج نہیں مانتی۔ میں کہتا ہوں کوئی ضرورت نہیں ہے ان کو دوسروں کی بھلائی کے لئے یا ایمرجنسی کو میٹ کرنے کے لئے کہ یہ بڑی بڑی کمپنیاں بٹھائیں۔ کمیشن بٹھائیے۔ دوسرے کمپنیاں بٹھائیے یا داس کمیشن بٹھائیے۔ بلکہ بڑی آسانی سے یہ ان کے ریٹرن لیں انکم ٹیکس کے ان کے ریٹرن لیں ان کے سیلز ٹیکس کے ریٹرن لیں ان کے پراڈکشن کے ریٹرن لیں کیا انہوں نے درج کیا؟ ان کے امپورٹ لائسنس لیں اور ان کا بلک میں جو انہوں نے مال رکھا اور اس کے اکیڈمنٹ جو روپیہ لیا ہے وہ وہ دیکھیں میڈم — میں کہتا ہوں جتنے بڑے بڑے کارخانہ دار ہیں ان کو نوٹیفائیڈ کرنے کا۔ یعنی خوں کیا شاستری سرکار نے۔ ایسا الزام نہیں اٹھے گا۔ ان کے اوپر اتنی پابندی پڑے گی کہ یہ کارخانہ خود بہ خود نوٹیفائیڈ ہو جائیں گے۔ مزدوروں کے لئے شاید پھر

آسانی ہو جائے کہ ان کو صرف سرکار سے دیوارہ کرنا پڑے۔ اور ان کا ہونٹ سرکار ہی مزدوروں کے ساتھ ملے کرے لیکن ایسا کرنے کو سرکار تیار نہیں۔ سرکار کہوں تیار نہیں ہے وہ سرکار اس لئے تیار نہیں ہے کہ سرکار کو اپنے الیکشن لڑتے ہوتے ہیں۔ الیکشن میں بابو بھائی چلتا ہوں۔ مسٹر تاتا ہوں۔ بڑا ہوں۔ سلکھانہ ہوں ان سے روپیہ لینا ہوتا ہے۔ اس لئے اگر وہ اس طرح سے بٹھائیں تو کہیں گے ان کی سب انڈسٹری ٹھپ ہو جائیں گی یا سب کاروبار رک جائیں گے لیکن سچائی یہ ہے میڈم۔ کہ ایک عجیب حالت ہو گئی ہے۔ یہ بڑے بڑے کارخانہ دار سرکار سے کہتے ہیں ہم کو پھر ریپبلسمنٹ کرنے ہیں ہمارے تکلے خراب ہو گئے ہیں ہمارے ڈیپریسیشن اس طرح سے ہو گیا ہے میڈم۔ اس میں یہ لاکھوں روپیہ بچا لیتے ہیں اور بے چارے مزدور کا کوئی حق نہیں ہوتا کہ اس میں حق دار ہوں اور اس کو کوئی حق دیا جائے لیکن اس کے باوجود آخر سلجھویا جی نے ایک محفل کی ہے اور شامیری سرکار اس بات کی مبارک باد کی مستحق ہے کہ انہوں نے ۵۴ لاکھ کے قریب کھائے چالہس لاکھ کے قریب کھائے مزدوروں کو کھائے بہت بڑا ایک قدم اٹھایا لیکن اس قدم میں سرکار کھسے مزدوروں کے ساتھ انصاف کر پائے گی۔ اگر کارخانہ دار جو ہیں وہ اپنا

[عمری عبدالغنی]

اثر دکھائیں نہیں - آج یہ عجیب حالت ہے میڈم - کہ آرٹ سلک کا آجرو امپورٹ سلک ہے لدھیانہ میں آتا ہے ایک گز اس کا استعمال نہیں ہوتا اور برسوں سے آتا چلا جا رہا ہے - یعنی لن کو کوٹہ ملتا چلا جا رہا ہے - ایک گز میں کہتا ہوں استعمال نہیں ہوتا آپ حیدران ہونگی کہ کھسے وہ دیتے ہیں ان کو وہ کوٹہ اور وہ کوٹہ چلتا ہے - بالکل یہی حال ملو بھائی شاہ کر رہے ہیں - انہوں نے وہ بریادی کا فیصلہ کر رکھا ہے کہ کوئی کچھ کہتا رہے نہ انکو وائی بٹھائیں گے نہ شاستری جی کو پتہ چلے گا کہ ملو بھائی شاہ اس وقت کیا ظلم کر رہے ہیں - دوسری جگہ دو کروڑ کے قریب لائسنسوں دئے جاتے ہیں - سہم دستورکت میں یہی سلک کا آرٹ سلک کا لائسنس دیا اس لئے کہ انہوں نے کچھ ایکسپورٹ کیا تھا اس کی عرض میں ان کو دیا گیا وہاں ان کے کارخانہ میں ایک گز استعمال نہیں ہوتا - کوئی چھڑ نہیں بٹتی اور وہ سب کا سب بمبئی میں بک جاتا ہے یا بڑے بڑے ملوں میں یہ جو یہاں سادھنا ہے یا دوسری ملیں میں وہ بھرید لیتے ہیں - ان کا حق نہیں ہے وہ بخرید لیتے ہیں - اس طرح سے ہو رہا ہے اس کا مزدور کو کیا ملے گا - لدھیانہ کا

مزدور میڈم - اس کا فائدہ نہیں آتا سکتا کیوں کہ وہ باہر سے باہر بک جاتا ہے - اس لئے جب ہم بونس پر بحث کرتے ہیں تو ہمیں یہ عرض کرنے کی گنجائش ہونی چاہئے اپنے منسٹر صاحب سے - ٹھیک وہ کہتے ہیں کہ ان کو دو پرسنٹ کے بجائے چھ پرسنٹ دے دو ان کے لئے یہ سوچ لو - لیکن میں اسی طرح سے کہتا ہوں کہ مزدور کا حق ملے جس کے لئے بھائی عابد علی اور بڑے بڑے نیٹاؤں کی مجھے یاد ہے کہ باری صاحب کو بہار میں شہد ہی در دیئے گئے کیونکہ وہ مزدور کے لئے کارخانہ دار سے لڑتے تھے - کوئی ذاتی لڑائی کارخانہ دار سے نہیں تھی - میڈم - وہ صرف مزدور کا حق چاہتے تھے - منشی احمد الدین جو ایک سوشلسٹ لیڈر ہیں اور پی - ایس - پی کے لیڈر انہیں کئی دفعہ قتل کر کے اپنی طرف سے پھینک جاتے تھے کارخانہ داروں کے آدمی - ان کا گناہ یہ تھا کہ وہ کارخانہ دار سے مزدوروں کا حق مانگتے تھے - اور آج مجھے خوشی ہے ان سب کی محنتوں جن میں ارچن اروڑا جی بھی ہیں اور بی بی - جلیہوں نے لہر کے لئے خاص اپنی جان لڑائی آج کامیاب ہوئی اور ان کے لئے خوشی کا مقام ہے - سنجو یا جی

ان کی مدد کو آئے اور انہوں نے ان کی بات کو آگے کرنے کی کوشش کی۔ ٹھیک ہے کہ یہ بل یہ مہرز اتلا کمپریہنسہو نہیں ہے کہ جس سے سنجیویا جی یہ کہیں کہ انہوں نے مزدور کے بونس کا معاملہ جہاں تک ہے اس کو پوری طرح حل کر دیا ہے لیکن پھر بھی یہ ایک قدم ہے ترقی کی طرف۔ اس لئے ہماری مہارکباد کے مستحق ہیں۔ میں عرض یہ کرتا ہوں کہ اس وقت سرکار کو یہ سب بات دیکھنی ہے خاص کر ایسے سے میں جب وہ مزدور سے چاہتے ہیں کہ مزدور سبک دلی سے اس وقت سرکار کا اور اپنے دیس کا اپنے بہادر جوانوں کا جو قربانیاں دے رہے ہیں ساتھ دے۔ مزدور دے گا ضرور دے گا۔ وہ کسی بھی جگہ ہو گا ضرور دے گا کیونکہ مزدور کو زیادہ احساس ہے اور مہرا یہ بھی یقین ہے کہ کارخانہ دار بھی دینگے جو چاہے آج پھر الجھانا چاہتے ہیں سرکار کو اگر سرکار اچھا مہرز لانا چاہتی ہے۔ کیونکہ ان کے پاس کریم ہے۔ سرکار کا جو نکلتا ہے۔ بڑے افسروں سے جن کا تعلق ایکسپورٹ اور امپورٹ سے ہے جس کا تعلق اسٹیٹ ٹریڈنگ سے ہے جس کا تعلق ہو ان دفاتروں سے ہے جو کہ اس بات کے حق دار ہوتے ہیں کہ وہ کسی کی اندگیری

کو چمکا دیں یا بگاڑ دیں۔ یہ لوگ ان کو اپنی ملوں میں رکھ دیتے ہیں۔ یہ کریم آف دی کنٹری ان کو بڑے بڑے سچھاو دیتے ہیں کہ سرکار کے ہاتھ جو مزدوروں کو مدد کرنے والے ہیں اس کو روکنے کے لئے اس طرح سے سپریم کورٹ میں جا کر چیلنج کریں۔ ان کے پاس مہدیم — بوا پیسہ ہوتا ہے اور مزدوروں کے پاس پیسہ ہوتا نہیں ہے۔ ان کی جتنی یونین بھی ہیں وہ بھی اتنی مضبوط نہیں ہو پائیں کہ وہ بڑے بڑے کارخانہ داروں کا مقابلہ کر سکیں۔ اس کا نتیجہ کیا ہوتا ہے کہ کارخانہ دار کے خلاف نفرت پیدا ہوتی ہے۔ مزدور کے دل میں ایک رنج پیدا ہوتا ہے اور وہ رنج اس لئے پیدا ہوتا ہے کہ ادھر تو ہو گیا کسان جو زمین کرتا تھا اس کا سہیلنگ کا ان کے لئے قانون بنایا اور بل کر یہ کہا کہ اس سے زیادہ زمین جو ہے جو کوئی حل چلائے گا وہی اس کا مالک ہوگا۔ اس پر کتنا عمل ہوا وہ تو سرکاروں کی نالائقی کی وجہ سے اسٹیٹ سرکاروں کی وجہ سے نہیں ہو سکا تو اس کے یہ معلی نہیں ہوں کہ ایک قدم جو اچھا اٹھایا تھا جواہر لال جی نے اور ساتھ میں نے وہ قدم غلط تھا۔ مزدوروں کے دل میں یہ آتا ہے مہدیم — کہ یہ

[شری عبدالغنی]

بونس کا قصہ کیا ہے - ٹھیک ہے بونس ہو گیا اچھا ہے پر وہ کہتے ہیں ہم کہیں نہیں مالک ہیں، یہ چٹائی صاحب یہ سنگھانیا صاحب یہ ڈالہیا صاحب یہ ٹاٹا اور بولا یہ کہیں مالک ہیں - مہلت، ہم کرتے ہیں ساری مزدوری ہم کرتے ہیں - ساری کمائی ہم لاتے ہیں اور نام ہوتا ہے کہ اتنا انکم ٹیکس دیا بولا صاحب نے چٹلی جائیداد بن گئی سنگھانیا صاحب کی اور ہمارے ہاتھ وہ سب ہوا - تو مزدور کے دل میں بات آتی ہے اگر ایک کھیتی ہر مزدور کو مالک بنایا گیا اور وہ اس لئے بنایا گیا کہ وہ مزدوری کرتا ہے تو یہ کارخانے جو ہیں وہ کارخانے داروں کے کہیں ہوں - پہلے تو میں نے کہا اگر آپ صرف ان کے ریٹرن ملگوا لیں تو اتنی پینلٹی پڑے گی کہ سب کے سب نیشنلائز ہو جائیں گے - یہ مجبور ہو جائیں گے سونڈر کرنے کے لئے اپنی بڑی بڑی ملوں لیکن پھر بھی نہیں کرتے تو مزدوروں کے دل میں آتا ہے کہ سب کماتے تو ہم ہیں پھر بھی یہ بونس دینے میں جھگڑا پڑتا ہے - کہیں ریٹرو بلک کا جھگڑا ڈالتے ہیں کہیں اس بات کا جھگڑا ڈالتے ہیں کہ کسی طرح سے

ہماری مشینری جو ہے وہ آٹے سال خراب ہو جاتی ہے گہستی گہساتی ہے اور اس کا ہمیں کچھ ملنا چاہئے - کچھ ہمارے بنکوں کے انٹرسٹ بڑھ گئے ہیں - اس لئے کچھ ہمارا بھی خیال کرنا چاہئے - وہ کہتے ہیں کہسے کہ یہ کون ہیں - انہوں نے تو صرف پانچ لاکھ روپیہ یا چار لاکھ روپیہ لگایا اور بھس! کہ روپیہ سوکارنے لگایا اور یہ ان کے باپ کا نہیں ہے - کہیں کہ اسی فی صد، جو ہے اس سے بھی زیادہ کئی حالتوں میں سرکار مدد کرتی ہے - تو ان کا کہنا یہ ہے کہ یہ روپیہ جو ہے وہ سرکار کا ہے اس کا تو صرف دماغ ہے - اس کارخانہ دار یا فیکٹری آئر کا دماغ ہے! اس کا ایک اثر ہے اس سرکار میں یا سرکاری اداروں میں - اور اسی وجہ سے وہ اس دماغ کا فائدہ اٹھاتا ہے اور اس کے نام میں یہ مل کہلاتی ہے - جسے کھانو مل فلاں کی ہے، اشاراد مل فلاں کی ہے - لیکن اصل میں جو مزدور کام کرتا ہے وہی اس کا مالک ہے اور مہدم - وہ دس درر نہیں جب مزدور اپنے حق ملوائے گا -

یہ جو بڑی بڑی ملوں اپنا ریٹرن دستخط کر کے بھیجتی ہیں ان سے معلوم ہوگا کہ یہ کتنی بے ایمانی کرتی ہیں اس لئے انہیں زیادہ سے زیادہ جرمانہ کیا جائے - کس طرح سے لاکھوں روپیہ کا امپورٹ لائسنس بمبائی میں روز بکتا ہے - اس بارے

میں کوئی پوچھنے والا نہیں ہے لیکن ان کو لائسنس دئے چلے جاتے ہیں آپ ایک طرح سے نہیں جس طرح سے کہیں میں بیان کر سکتا ہوں کہ کس طرح سے یہ لائسنس دئے جاتے ہیں - میڈم - آپ کو یاد ہوگا کہ آپ اس ہاؤس میں بیٹھی تھیں اور میں نے کہا تھا کہ ۶۳ - ۱۹۶۲ ع میں جب چھن کا حملہ ہوا تھا اس وقت کچھ لوگ رول ٹائیس خریدنے کے لئے بدیہس گئے تھے وہاں پر جو بہترین فرم تھی جو سب سے پرانی اور بہترین فرم تھی اس نے بہت سستے داموں میں ان کو اول آفر کیا لیکن یہ مہلتا لائے - مہلتا کہیں لائے اور وہ باقی درپہہ کہاں گیا - چھسا میں کہا کرتا ہوں انڈر انوائسٹ اور اور انوائسٹ اس طرح کی باتیں کر کے لائے (Time bell rings) بس ایک منٹ میں ختم کر دوںگا - اس طرح سے کدوڑوں روپیئے کا اون یہ بڑے بڑے بلک والے کامرس منسٹر کے ذریعہ بدیہر سے لائے - میں ہاؤس میں اس بارے میں چلاتا رہا کہ کدوڑوں روپیئے کی بے ایمانی ہو گئی ہے لیکن پھر بھی ان چاروں میں سے ایک کو آسٹریا بھیجا جاتا ہے کہ تم جا کر خرید کر لے آؤ اور اس طرح سے مختلف جگہوں پر چلائے صاحب کے ساتھ ہی بڑے بڑے مل اونر اور بڑے بڑے انڈسٹریلسٹ اپنے ملس

بناتے ہیں - اگر یہ پھر آسٹریا بھیجا جائے تو میں چاہوں گا کہ کس طرح وہاں پر سستا مال بکتا ہے اور یہ مہلتا خرید لائے - پھر کہیں گے کہ ٹھیک ہے - وہاں پر حالات ایسے تھے واقعات ایسے تھے کہ ہم مسجد تھے اور اس طرح کا اون نہیں آیا - اس لئے میں ایک بار پھر سنجیدہ صاحب سے عرض کرنا چاہتا ہوں کہ جو نوجوان ہیں جنہوں نے گاندھی جی کو نہیں دیکھا جو کانگریس کے پورنہاں رہ چکے ہیں لیکن ان کے دل میں گاندھی جی کی تصویر ضرور ہے اور وہ مزدوروں کے لئے اس سے بھی بہتر کاروائی کرنے کی کوشش کریں - میں انہیں اس کام کے لئے بدھائی دیتا ہوں -

†[श्री अब्दुल गनी (पंजाब): मेडम डिप्टी चेयरमैन, मैं अपने आनरेबल संजीविया जी और मालवीया जी को धन्यवाद देता हूँ कि वे ऐसा मेजर लाए हैं जिससे लेबर का काफी भला होगा। लेकिन मुझे दुःख है कि आज भी जब कि हमारे राष्ट्रपति, उपराष्ट्रपति, प्राइम मिनिस्टर, होम मिनिस्टर, डिफेंस मिनिस्टर, लेबर मिनिस्टर और छागला साहब यू० एन० ओ० में यह साफ कर चुके हैं कि काश्मीर हिन्दुस्तान का अटूट अंग है, काश्मीर हिन्दुस्तान के बाकी हिस्से में कोई फर्क नहीं, तब यह मेजर जब मेरे सामने आया तो मैंने देखा कि इसमें जम्मू और काश्मीर को अलग दिखाया गया है। कहते हैं कि आइन में, विधान में कुछ ऐसी धारा है जिससे कभी कभी उन्हें ऐसा करना पड़ता है। मेडम, समझ में नहीं

[श्री अब्दुल गनी]

आता कि जब दुनिया के सामने हम अपना यह केस ला रहे हो और दुनिया वाले हमें उलझाना चाहते हैं तो हम खुद क्यों उलझ जाएं और क्यों उसको हम क्लीयर नहीं कर पाते जो कि अपने बस की बात है? जब मैंने यह देखा कि जम्मू और काश्मीर को छोड़ कर बाकी हिन्दुस्तान में यह लागू होगा तो मुझे काफी दुःख हुआ, लेकिन मेरा इस बारे में एमेंडमेंट इसलिए नहीं आ सका क्योंकि वह कहते हैं कि आइन की रूस से इस में कुछ मुश्किलता है।

मुझे अब अर्ज करना है कि इस वक्त लेबर कई तरह के है, कुछ तो वे हैं जो कि सरकारी इंदारो में, सरकारी रेल में कहिए, ट्रांसपोर्ट में कहिए, डाक पर कहिए, बड़ी बड़ी जो हमारी असला बनाने वाली फैक्ट्रियां हैं उनमें कहिए और गवर्नमेंट के जो और दूसरे इंदारे हैं उनमें कहिए जिसमें कि मजदूर काम करते हैं। उनके साथ सरकार कैसा सलूक करेगी? राउरकेला में और जो बड़ी बड़ी लोहे की फैक्ट्रियां हैं उनमें टाटा के बराबर मजदूरों को दे पाएंगे या नहीं दे पाएंगे, यह तो सरकार बेहतर जानती है। मेरे सामने चिनाई साहब की यह बात आई कि बड़े बड़े एमेंटमेंट आए और गिर गए। नंदा जी का कहना था कि 64 के करीब एम० पी० है जो कि बिरला साहब की जेब में हैं और टी० टी० कृष्णमाचारी का कहना था कि 30 के करीब एम० पी० हैं—अमीचन्द, प्यारे लाल जो कि निटोरियस है कोटा लेने में और बेईमानी करने में और जिन के खिलाफ गवर्नमेंट ने कभी कदम उठाने के लिए नहीं सोचा उनकी जेब में है। तो जहा जेबों में एम० पी० पड़े हों वहा वे क्या अपनी राय दे, वे तो राय जिन की जेब में है उनकी देगे और फिर यह है कि यहा जो आफिशियल पार्टी है वह अक्सीरियत में है और इसलिए उन पर डिसिप्लिन लागू होता है कि जब मिनिस्टर कोई एमेंटमेंट मानते हैं तभी वह पास होता है। इसलिए यह कहना कि गिर गई, कोई बहुत असर वाली बात नहीं है।

मिस्टर आबिद अली साहब ने एक बात कही कि अपोजिशन वाले क्यों यह कहते हैं कि मजदूरों के लिए अभी भी कुछ और माग होनी चाहिए। उनका कहना यह है कि जो बड़े बड़े सरमायादार कमाते हैं, उसमें से 83 परसेंट चला जाता है। मैं उनको याद दिलाऊं कि उनकी कमाई के तीन रास्ते हैं। जिन को गवर्नमेंट कोटा देती है, जिनको गवर्नमेंट तरह तरह की रियायतें देती है उससे जितना वे बनाते हैं उसको पूरा दिखाते हैं या नहीं, यह बात मैंने हाउस में कई बार अर्ज की, लेकिन मेरी कोई सुनवाई नहीं हुई। मैं कहता हूं कि एक ही तरह की चा रमिलें है, उनकी एक सी केपेयिटी है, एक सा उनका कोटा है लेकिन जब इनकम टैक्स देते हैं तो एक और दूसरे के दरमियान बहुत अन्तर क्यों होता है? मामूली अन्तर हो 10 परसेंट का अन्तर हो तो मैं मान लू कि उनका जो एडमिनिस्ट्रेशन है वह निकम्मा है लेकिन उसमें बहुत ज्यादा अन्तर हुआ, उमका कोई जब्त नहीं दे पाए और न हमारे फाइनांस मिनिस्टर ने और न हमारी सरकार ने मेरी इस अर्जदाश्त पर तवज्जो की।

मेरा कहना यह है कि यह जो बड़ी बड़ी फैक्ट्रीज के जितने मालिक हैं, कारखानों के मालिक हैं उनमें बेशुमार ईमानदार होंगे। हो सकता है चिनाई साहब बहुत ही ज्यादा ईमानदार हो और पूरे वह हुकूक अदा करते हों सरकार के भी, लेबर के भी, अपने भी ऊपर, अपने दोस्तों के भी। लेकिन यह मानना पड़ेगा कि आज फैक्ट्री ओतर्स जो हैं, बड़े बड़े कारखानेदार जो हैं मेडम—मेरे सामने कई बातें आई हैं कि एक फैक्ट्री का मालिक है, उसके मजदूर हैं, उसको गवर्नमेंट कोटा देती चली जा रही है, स्टील वायर्स का कोटा देती है पर कारखाने में कुछ नहीं जाता है। स्टील वायर्स बम्बई में खत्म हो जाते हैं, लुधियाने में नहीं पहुंचते। मजदूर क्या कमाए जिस के यहा कोटा आया नहीं? मजदूर ने इतना कमाया ही नहीं। 83 परसेंट के ऊपर 100 परसेंट

लगा दो तो क्या तकलीफ होगी ? क्योंकि उसको ग्यारह लाख के 22 लाख बम्बई में मिल गये । उसको कोई चिन्ता नहीं होगी कि उसका 83 परसेंट जो है चुकि वह आबिद अली भाई की निगाह में गवर्नमेंट बहुत ज्यादा ले लेती है । गवर्नमेंट देती है, तो लेती है । गवर्नमेंट उनको कोटा देती है । इसी तरह से मैंने यह अर्ज किया कि यह सब एक ही केपे-सिटी के है; क्योंकि गवर्नमेंट विना चैलेंज नहीं मानती । मैं कहता हूं कि कोई जरूरत नहीं है, उनको मजदूरों की भलाई के लिए या देश की भलाई के लिए या एमरजेंसी को मीट करने के लिए कि यह बड़ी बड़ी कम्पनियां बिठाएं, कमीशन बिठाएं, बोस कमीशन बिठाएं, या दास कमीशन बिठाएं । बल्कि बड़ी आसानी से यह उनके रिटर्न लें, इनकम टैक्स के उनके रिटर्न लें, उनके सैलज टैक्स के रिटर्न लें, उनके प्रोडक्शन के रिटर्न लें कि क्या उन्होंने दर्ज किया । उनके इम्पोर्ट लाइसेंस लें और उनका बैंक में जो उन्होंने माल रखा और उसके अग्रेस्ट जो रुपया लिया है वह देखें, तो मेडम, मैं कहता हूं कि जितने बड़े बड़े कारखानेदार हैं उनको नेशनलाइज करने का—यानी खून किया शास्त्री सरकार ने, ऐसा डलजाम नहीं आएगा । उनके ऊपर उतनी पेनलटी पड़ेगी कि यह कारखाना खुदबखुद नेशनलाइज हो जाएंगे । मजदूरों के लिए शायद फिर आसानी हो जाए कि उनको सिर्फ सरकार से व्यवहार करना पड़े । और उनका बोनस सरकार ही मजदूर के साथ तय करे । लेकिन ऐसा करने को सरकार तैयार नहीं । सरकार क्यों तैयार नहीं है ? वह इसलिए तैयार नहीं है कि सरकार को अपने एलेक्शन लड़ने होते हैं । एलेक्शनो में बाबूभाई चिन्ताई हों, मिस्टर टाटा हों, बिड़ला हों, सिधानिया हों, उनसे रुपया लेना होता है । इसलिए अगर वह इस तरह से बिठाएं तो कहेंगे उनकी सब इण्डस्ट्री ठप हो जाएगी या सब कारोबार रुक जाएंगे, लेकिन सच्चाई यह है, मेडम, कि एक अजीब हालत हो गई है । यह बड़े बड़े कारखानेदार सरकार से कहते हैं कि हमको

फिर रिप्लेसमेंट करने हैं, हमारे तकले खराब हो गये हैं, हमारा डेप्रिसिएशन इस तरह से हो गया है । मेडम, इस में ये लाखों रुपया बचा लेते हैं और बेचारे मजदूर का कोई हक नहीं होता कि इस में हकदार बनें और उस को कोई हक दिया जाए । लेकिन इस के बावजूद आखिर संजीवैया जी ने एक मेहनत की है और शास्त्री सरकार इस बात की सुवारिकबाद की मुस्तहक है कि उन्होंने 54 लाख के करीब कहिए, चालीस लाख के करीब कहिए, मजदूरों के लिए बहुत बड़ा एक कदम उठाया, लेकिन इस कदम में सरकार कैसे मजदूरों के साथ इन्साफ कर पाएगी, अगर कारखानेदार जो हैं वे अपना अमर दिखाएं नहीं ? आज यह अजीब हालत है, मेडम, कि आर्ट सिल्क जो इम्पोर्टेड सिल्क है लुधियाना में आता है, एक गज उसका इस्तेमाल नहीं होता और बरसो से आता चला जा रहा है । यानी उनको कोटा मिलता चला जा रहा है । एक गज, मैं कहता हूँ, इस्तेमाल नहीं होता । आप हैरान होगी कि कैसे वह देते हैं उनको वह कोटा, और वह कोटा चलता है । बिल्कुल यही हाल मनु-भाई शाह कर रहे हैं । उन्होंने बरबादी का फैसला कर रखा है कि कोई कुछ कहता रहे, न इन्क्वायरी बिठाएंगे, न शास्त्री जी को पता चलेगा कि मनुभाई शाह इस वक्त क्या जुल्म कर रहे हैं । दूसरी जगह दो करोड़ के करीब लाइसेंस दिए जाते हैं, सेलम डिस्ट्रिक्ट में भी सिल्क का आर्ट सिल्क का लाइसेंस दिया, इस लिए कि उन्होंने कुछ एक्सपोर्ट किया था, इसकी एवज में उनको दिया गया, वहां उन के कारखाने में एक गज इस्तेमाल नहीं होता, कोई चीज नहीं बनती और वह सब का सब बम्बई में बिक जाता है, या बड़े बड़े मिलों में । यह जो यहा साधना है या दूसरी मिले हैं, वह खरीद लेती है । उनका हक नहीं है कि वह खरीद लेते हैं । इस तरह से हो रहा है, उसका मजदूर को क्या मिलेगा ? लुधियाना का मजदूर, मेडम, उसका फायदा नहीं उठा सकता ; क्योंकि वह बाहर से बाहर बिक जाता है । इसलिए जब हम बोनस कमीशन पर बहस



[ श्री अब्दुल गनी ]

करते हैं तो हमें यह अर्ज करने की गुजायश होनी चाहिए अपने मिनिस्टर साहब से। ठीक वह कहते हैं कि उन को दो परसेट के बजाए 6 परसेट दे दो, उन के लिए यह सोच लो। लेकिन मैं इसी तरह से कहता हूँ कि मजदूर का हक मिले जिसके लिए भाई आबिद अली और बड़े बड़े नेताओं की मुझे याद है कि-बारी साहब तो बिहार में शहीद ही कर दिए गये; क्योंकि वह मजदूर के लिए कारखानेदार से लड़ते थे। कोई जाती लड़ाई कारखानेदार से नहीं थी। मेडम, वह सिर्फ मजदूर का हक चाहते थे। मुशी अहमिद उलदीन जो एक सोशलिस्ट लीडर हैं और पी० एस० पी० के लीडर हैं, उन्हें कई दफा कतल करके अपनी तरफ से फेंक जाते थे कारखानेदारों के आदमी। उनका गुनाह यह था कि वह कारखानेदार से मजदूरों का हक मांगते थे। और आज मुझे खुशी है उन सब की मेहनत, जिन में अर्जुन अरोड़ा जी भी हैं और भी हैं, जिन्होंने लेबर के लिए खास अपनी जान लड़ाई, कामयाब हुई और आज उन के लिए खुशी का मुकाम है। सजीवया जी उनकी मदद को आए और उन्होंने उनकी बात को आगे करने की कोशिश की। ठीक है कि यह बिल, यह मेजर इतना काम्प्रोमिसिव नहीं है कि जिस में सजीवया जी यह कहें कि उन्होंने मजदूर के बोनस का मामला जहाँ तक है उसको पूरी तरह हल कर दिया है, लेकिन फिर भी यह एक कदम है तरक्की की तरफ। इसलिए वह हमारी भी मुबारिकबाद के मुस्तहक है। मैं प्रार्थना करता हूँ कि इस वक्त सरकार को यह सब बात देखनी है, खासकर ऐसे समय में जब वह मजदूर से यह बात चाहते हैं कि मजदूर सदकदिली से इस वक्त सरकार का और अपने देश का, अपने बहादुर जवानों का, जो कुर्बानियाँ दे रहे हैं, साथ दे। मजदूर देगा जरूर देगा, वह किसी भी जगह होगा, देगा, क्योंकि मजदूर को ज्यादा एहसास है और मेरा यह भी यकीन है कि कारखानेदार भी देंगे जो चान्चा आज फिर चलाना चाहते हैं सरकार को। अगर सरकार

अच्छा मेजर लाना चाहती है, क्योंकि उनके पास क्रीम है—सरकार का जो निकलता है—बड़े आफिसर हैं, जिनका ताल्लुक पैनपोट और इम्पोर्ट से है, जिनका ताल्लुक स्टेट ट्रेडिंग से है, जिनका ताल्लुक और उन दफतरो से है जो कि इस बात के हकदार होते हैं कि वह किमी की इण्डस्ट्री को चमका दे या बिगाड़ दे। यह लोग उन को अपनी मिलो में रख देते हैं। यह क्रीम आफ दी कट्टी उनको बड़े बड़े सुझाव देते हैं कि सरकार के साथ जो मजदूरों को मदद करने वाले हैं उसको रोकने के लिए इस तरह से सुप्रीमकोर्ट में जा कर चैलेंज करें। उन के पास, मेडम, बड़ा पैसा होता है, और मजदूरों के पास पैसा होता नहीं है। उनकी जितनी यूनियन भी है वे भी इतनी मजबूत नहीं हो पाई कि वह बड़े बड़े कारखानेदारों का मुकाबला कर सकें। उसका नतीजा क्या होता है कि कारखानेदार के खिलाफ नफरत पैदा होती है। मजदूर के दिल में एक रज पैदा होता है और वह रज इसलिए पैदा होता है कि उधर तो हो गया किसान। जो जमीन कर था उसका मीलिंग का उनके लिए कानून बनाया बना कर यह कहा कि इस में ज्यादा जमीन जो है, जो कोई हल चलाएगा वही उसका मालिक होगा। इस पर कितना अमल हुआ, वह तो सरकारों की नालायकी की वजह से, स्टेट सरकारों की वजह से, नहीं हो सका तो उसके यह भावने नहीं है कि एक कदम जो अच्छा उठाया था जवाहर लाल जी ने और साथियों ने वह कदम गलत था। मजदूरों के दिल में यह आता है, मेडम, कि यह बोनस का किस्सा क्या है? ठीक है, बोनस हो गया अच्छा है, पर वह कहते हैं हम क्यों नहीं मालिक है, यह चिन्ताई साहब यह सिधानिया साहब, यह डालमिया साहब यह टाटा और बिडला ये क्यों मालिक है, मेहनत हम करते हैं, सारी मजदूरी हम करते हैं, सारी कमाई हम लाते हैं और नाम होता है कि इतना इनकम टैक्स दिया बिडला साहब ने; जितनी जायदाद बन गई सिधानिया

साहब की और हमारे साथ वह सब हुआ । तो मजदूर के दिल में बात आती है और एक खेतिहर मजदूर को मालिक बनाया गया और वह इसलिए बनाया गया है कि वह मजदूरी करता है तो यह कारखाने जो हैं वे कारखानेदारों के क्यों हों ? पहले तो मैंने कहा, अगर आप सिर्फ उनके रिटर्न मंगवा लें तो इतनी पेनलटी पड़ेगी कि सब के सब नेशनलाइज़ हो जाएंगे । ये मजबूर हो जाएंगे सरेंडर करने के लिए, अपनी बड़ी बड़ी मिलें । लेकिन फिर भी नहीं करते तो मजदूरों के दिल में आता है कि सब कमाते तो हम हैं फिर भी यह बोनस देने में झगड़ा पड़ता है । कहीं रिजर्व बैंक का झगड़ा डालते हैं, कहीं इस बात का झगड़ा डालते हैं कि किस तरह से हमारी मशीनरी जो है वह आए साल खराब हो जाती है, घिसती घिसाती है, और उसका हमें कुछ मिलना चाहिए । कुछ हमारे बैंकों के इन्ट्रस्ट बढ़ गये हैं । इसलिये कुछ हमारा भी ख्याल करना चाहिए वह कहते हैं कैसे कि यह कौन है । इन्होंने तो सिर्फ पांच लाख रुपया या चार लाख रुपया लगाया और बीस लाख रुपया सरकार ने लगाया और यह उनके बाप का नहीं है । क्योंकि अस्सी फीसदी जो है उससे भी ज्यादा कई हालातों में सरकार मदद करती है । तो उनका कहना है कि यह रुपया जो है वह सरकार का है, उसका तो सिर्फ दिमाग है । उस कारखानेदार या फेक्ट्री ओनर का दिमाग है या उसका एक असर है उस सरकार में या सरकारी इंदरों में । और इसी वजह से वह इस दिमाग का फायदा उठाता है और उसके नाम में यह मिल कहलाती है । जैसे खातों मिल फलों की है, शागद मिल फलों की है, लेकिन असल में जो मजदूर काम करता है वहीं उसका मालिक है, और, मेडम, वह दिन दूर नहीं जब मजदूर अपने हक मनवाएगा ।

यह जो बड़ी बड़ी मिलें अपना रिटर्न दस्तखत करके भेजती हैं उनसे मालूम होगा कि यह कितनी बेइमानी करती हैं । इसलिये उन्हें ज्यादा में ज्यादा जुर्माना किया जाए ।

किसी तरह से लाखों रुपये का इम्पोर्ट लाइसेंस बम्बई में रोज बिकता है । इस बारे में कोई पूछने वाला नहीं है लेकिन उनको लाइसेंस दिये चले जाते हैं । आप एक तरह से नहीं जिस तरह से कहें मैं बयान कर सकता हूँ कि किस तरह से यह लाइसेंस दिये जाते हैं । मेडम, आप को याद होगा कि आप इस हाउस में बैठी थी और मैंने कहा था कि 1962-63 ई० में जब चीन का हमला हुआ था, उस वक्त कुछ लोग वूल टाप्स खरीदने के लिए विदेश गये थे, वहां पर जो बेहतरीन फर्म थी पुरानी और बेहतरीन फर्म थी उसने बहुत सस्ते दामों में उनको वूल आफ़र किया, लेकिन यह महंगा लागे । महंगा क्यों लागे और वह बाकी रुपया कहां गया ? जैसा मैं कहा करता हूँ, अंडर इनवायसिंग और ओवर इनवायसिंग इस तरह की बातें करके लागे । *The time bell rings*. मैं एक मिनट में खतम कर दूंगा । इस तरह से करोड़ों रुपये का ऊन यह बड़े बड़े बैंक वाले कामर्स मिनिस्टर के जरिए विदेश से लाए । मैं हाउस में इस बारे में चिल्लाता रहा कि करोड़ों रुपये की बेइमानी हो गई है, लेकिन फिर भी उन चारों में से एक को आस्ट्रेलिया भेजा जाता है कि तुम जाकर खरीद कर ले आओ । और इस तरह से मुख्तलिफ जगहों पर चिनाई साहब के साथ ही बड़े बड़े मिल ओनर और बड़े बड़े इंडस्ट्रियलिस्ट अपने सेल्स बनाते हैं । अगर यह फिर आस्ट्रेलिया भेजा जाए तो मैं चिल्लाऊंगा कि किस तरह वहां पर सस्ता माल बिकता है और यह महंगा खरीद लाए । फिर बोलेंगे कि ठीक है, वहां पर हालात ऐसे थे, वाक्यातः ऐसे थे कि हम मजबूर थे और इस तरह का ऊन नहीं आ पाया । इसलिए मैं एक बार फिर संजीवैया साहब से अर्ज करना चाहता हूँ, जो नोजवान हैं जिन्होंने गांधी जी को नहीं देखा, जो कांग्रेस के प्रधान रह चुके हैं, लेकिन उनके दिल में गांधी जी की तस्वीर जरूर है और वह मजदूरों के लिए उससे भी बेहतर कार्यवाही करने की कोशिश

[श्री अब्दुल गनी]

करें। मैं उन्हें इस काम के लिए बधाई देता हूँ। ]

THE DEPUTY CHAIRMAN: Shri M. Govinda Reddy will speak at 2 o'clock.

The House stands adjourned till 2 P.M.

The House then adjourned for lunch at 3 minutes past one of the clock.

The House reassembled after lunch at two of the clock, THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) in the Chair.

SHRI M. GOVINDA REDDY (Mysore): Mr. Vice-Chairman, Sir, I had the privilege of being on the Bonus Commission on whose recommendations the Ordinance and the present Bill have been based. Sir, I must congratulate the hon. Minister of Labour on the unique honour which he has obtained, because ours is the first country in the world to put payment of bonus on a statutory basis. We know how complicated the matter of bonus is. The Government took courage into their hands and not only appointed this Commission, but they took a decision themselves and have codified bonus payment. I think this is a signal success.

Before dealing with the provisions contained in this Bill and what the Commission had in view in recommending the several provisions, I would like to say one or two words on a point raised by my hon. friend Shri Arjun Arora. I would not have referred to it if he had not raised it. He referred to the appointment of the Chairman of the Bonus Commission and the controversy that was raised on his appointment. It was very unfortunate that some interests in the country thought that the Chair-

man of the Commission had biased views, because of some decisions which he had given when on the Industrial Tribunal. My experience, Sir, about him, working as a member of the Commission, was totally to give the lie to the apprehensions that were entertained by some interests, that he would take a biased view. In fact, admittedly even those interests came to consider him to be a very fine gentleman. I found him to take an entirely objective view. As one can imagine, Sir, each point under discussion was very keenly contested by both the employers' and the employees' representatives. Under such circumstances, the Chairman of the Commission, perhaps because of the controversy, he would not take a decision himself. He would simply place the facts that he knew before the Commission and would leave it to the independent members of the Commission to smoothen matters. So I would like it to go on record that he made a signal contribution to the work of the Commission and no better choice could have been made under the circumstances for this office. Therefore, all the fears that were entertained by some interests were entirely unfounded.

Mr. Vice-Chairman, the main point before the Bonus Commission was also related to the reason why it was appointed at all. The Bonus Commission, as one knows and as has been already stated, was appointed in view of the recommendation or rather the observation made by the Supreme Court in the Associated Cement Company case, because till then, as has been very clearly stated before us, the Labour Appellate Tribunal formula gave rise to a lot of litigation. Even the Supreme Court could not simplify that formula. One of the main impediments in the actual working of this formula was, as has already been referred to, the question of rehabilitation. You know, Mr. Vice-Chairman, in any industrial unit, the machinery and other equipments used in the process of manufacturing

its products. become old and depreciated and they have to be renewed and replaced. This renewal and replacement will have to be at the cost of the industry or from the profits or returns from that industry. This led to innumerable controversies, because the employers claimed that naturally, this replacement and renewal of the machinery meant purchasing new machinery, installing new machinery. You know the prices of machinery have been varying from year to year, that in fact they have been increasing from year to year. Therefore, there is no comparison of any prices within a period of five years, because the prices would have risen by 50 per cent or 100 per cent or 200 per cent or even 300 per cent. So the number of litigations which cropped up just on this item was not only colossal, but the cases were such that even for the courts they were difficult of determination. Even for labour it was difficult. In one case, they had to appoint a committee. The court had to appoint a sub-committee of experts to go into the question and find out what was the machinery that needed replacement and renewal in that particular industry. And that committee took nearly two years I think a little over two years, to come to some assessment about the amount which would be necessary for the replacement and renewal. And necessarily that had to come before the court again and the parties contested the assessment made by this committee. And so it went on. In this way there have been cases pending for three years and four years and five years on this question of rehabilitation alone so that neither the employers could be satisfied nor the employees could get their bonus in time. That was actually the fact which made the Supreme Court observe that in the interest of economic and social justice, it was for the Government to take the matter into its own hands and legislate in order to see that this formula is simplified. That was the problem with which the Bonus Commission was faced.

Criticism has been raised, both here and outside, about the concept of bonus. The Commission, I must very humbly submit, was handicapped because of its terms of reference. I must say a word on that, lest the Commission's work should be misunderstood or under-estimated. The terms of reference of the Commission read as follows. I am reading out only one of them:

"To define the concept of bonus and to consider in relation to industrial employment the question of payment of bonus based on profits and to recommend principles for the computation of such bonus and methods of payment."

This was one of the terms of reference. Here the Commission is asked to define bonus, the concept of bonus. That is one thing. And then next, it goes on to say:

"consider in relation to industrial employment"

industrial employment is defined,

"the question of payment of bonus based on profits and to recommend principles for the computation of such bonus."

But then, what was the purpose of defining the concept of bonus, if we had to relate it only to profits? So ultimately, it reduces itself to this. This concept of bonus which the Commission had to consider and define was bonus related to profits. This was the handicap which was before the Commission. There is one criticism which I would like to refer to here. Many of the hon. Members who have spoken here and outside also have said,— 'Why should not public sector concerns be considered for payment of bonus?' Now the term 'industrial employment' is defined and therefore most of the public sector concerns were taken out of the purview of the Bonus Commission. So the Bonus Commission was not responsible at all. The term 'industrial employment'

[Shri M. Govinda Reddy.]

—I am reading from the terms of reference; there is a note under the first term of reference—is defined here and it says:

'Industrial employment' will include employment in the private sector and in establishments under public sector not departmentally run and which compete with establishments in the private sector.

So the Bonus Commission was concerned only with such establishments in the public sector which were running in competition with private sector concerns. Therefore the criticism that the Bonus Commission is silent on public sector concerns because it is a body appointed by the Government and has therefore surrendered to Government is not justified.

SHRI LOKANATH MISRA: They hold the Minister responsible for it.

SHRI M. GOVINDA REDDY: With regard to the L.A.T. formula I was just outlining the difficulty experienced under this formula in deciding bonus. Now in addition to that difficulty of rehabilitation the defect in the L.A.T. formula was that the court decided on the principle of no profit no bonus. Therefore there was no minimum bonus and in such of the cases of concerns where there was no profit although the labour raised a dispute no bonus was declared. So in some bonus was declared and in others, bonus was not declared on the ground that there was no profit and therefore there could be no bonus. I am pointing this out because these are the two advantages which this Bill has brought about, which the Commission overcame and gained. The Commission wanted to simplify the formula in order to avoid litigation and the only way open before the Commission was to take out the question of rehabilitation which was responsible for all the litigation and therefore the Commission worked hard to see if it was possible to have a definite percentage of gross profits

as was made out by labour and as was also claimed by the employers but that could not be arrived at because the machinery differed from industrial concern to industrial concern. The cost of the machinery differs, the age of the machinery differs and therefore there cannot be a standard laid down as to how long the machinery would last and an average cost cannot be arrived at. Therefore the best thing to do was to take it out of the purview of the formula and leave it to the employers giving them a percentage of the available surplus and tell them that it is their headache and they can do whatever they like with that percentage. We wanted to avoid litigation altogether and if the Labour Ministry had stopped with that I do not think there would have been any litigation at all but unfortunately on account of the insistence of labour two more clauses have been added to which I shall come later and which will give rise to litigation. So the object with which the Bonus Commission was appointed and the pains which the Bonus Commission took to see that the formula was as simple and uniform as possible so as to reduce litigation was in a way defeated.

Now, having said this I now come to the minimum. Criticism was made here by Members who asked why there should be a minimum. In prescribing a minimum you are making concerns which do not earn profit also pay bonus. Now it is true that concerns which were not paying till now will have to pay bonus under the Bill, in the light of the recommendations of the Commission also. That point came up for discussion before the Commission and the employers represented that a minimum bonus would not be justified, and it would work as a hardship on the small concerns but as against that the labour claimed that if we exempted losing concerns from payment of bonus then necessarily the question of efficiency came in; when they will not be obliged to pay anything they will not be working very efficiently and they asked that if a concern was not earning pro-

its how it was fit to exist at all. They said that such concerns should be taken over. I am placing the case of the labour. Well, the point which the Commission kept in view in deciding upon the question of a minimum bonus was the question of industrial peace. Now this question has agitated the whole country. Industrial peace was bound to suffer if ten per cent of the labour population got bonus and the 90 per cent did not get anything. When they do not get anything they will be dissatisfied. On the other hand if there was this obligation to pay a minimum bonus they will be working more efficiently and they will try to earn profits. That was one thing. Secondly the main consideration was filling the gap between the actual wage and the need-based wage. Of course there is the concept of the living wage which we cannot by any stretch of imagination hope to reach in the near future because that will cost much more to the industry. So we took up the concept of the need-based wage. In these days of rising prices, when prices are chasing the wages, in order to supplement the wages it is necessary that the industrial population should get something in addition to their wages. Here there is the question of Wage Boards also. Just when the Bonus Commission was appointed and before that I think one or two Wage Boards had been appointed but now more and more Wage Boards are being appointed. Therefore it was necessary to consider how much the wages should be put up to reduce the gap between the real wages and the need-based wages and we thought there should be a minimum that should be given. In the same way we also cut down the maximum. There have been industrial concerns which have been giving 30 per cent bonus, three months' wages as bonus, six months' wages and so on. Now 20 per cent is the maximum that has been laid down. So we cut down the maximum that was being given and prescribed a minimum. Under this about 45 lakhs of people will be get-

ting Rs. 18 crores more as wages. In this the overall view that we kept before us was that the extra burden that would be imposed upon the industry should not be very heavy. It entailed a colossal amount of work. We took up the balance sheets of hundreds of concerns and calculated how much burden it would place on the industry. We saw to it that this recommendation would not place a heavy burden on the industry but at the same time it would ensure industrial peace and we therefore recommended a minimum.

There is another point which I would like to say here.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): You have two minutes more.

SHRI D. SANJIVAYYA: He was a Member of the Commission.

SHRI M. GOVINDA REDDY: I will touch only on the important recommendations. Now, why should there have been a ceiling on the wages? The Commission had very good reasons. First of all, it would create envy among the different units of labour. If the oil concerns are giving seven or eight months' wages as bonus and if the textile concerns give only fifteen days or one month's wages as bonus necessarily there will be envy between them and the labour will be dissatisfied. That is one thing. The second point is it will give rise to inflation. So it is not in the interests of labour itself that they should be paid seven or eight months' wages as bonus. And thirdly payment of larger bonus will deprive the Exchequer of the tax that it would otherwise get on income of the concerns. There is an interesting case which I would like to read out to show how it affects the Exchequer. This is the case of one company. The total cost of the company if it were to pay bonus to its workmen and supervisors would be fifteen lakhs of rupees and the company would save about 61.5 paise

[Shri M. Govinda Reddy.]

in the rupee. Being a private limited company, it would be liable to higher rate of taxation if it does not declare any dividend and it would have to pay super-tax for a considerable amount. The capital being nominal, it would be liable to pay a higher rate of income-tax. The actual burden of the company if it pays six months' basic wages as bonus would be roughly over six lakhs of rupees and the loss to the State by way of rebate on income-tax on the basis of payment of bonus to 1538 workmen and 218 supervisors would be nine lakhs of rupees. This instance shows how the payment of a larger bonus deprives the State of the tax that it should get.

Much has been said about the return on capital. It is true that the Commission recommended only 7 per cent. and 4 per cent. respectively and this was after a bloody war, if I should say, between the labour and capital. There is very good reason for the Government to have recommended 8.5 per cent. on capital and 6 per cent. on reserves. The Government, in my view, have taken a realistic view of the case. The first class companies market their debentures at 7 per cent. and preference shares between 8.5 per cent. and 9.3 per cent. The Industrial Finance Corporation and the State Financial Corporations set up to help industries lend at 7.5 per cent. and the interest rate structure varies between 4.5 per cent and 5 per cent. Government is paying  $4\frac{1}{2}$  per cent. and in actual practice, banks charge 7 per cent. to  $7\frac{1}{2}$  per cent. as interest on overdrafts and securities. The State Bank of India rates have been advanced beyond six per cent. Much water has flown under the bridge since the Bonus Commission made its recommendation. Even before the Bonus, several Tribunals had declared 6 per cent. and so it is in the fitness of things that the rate of return should have been enhanced. This 6 per cent. which was declared before was without the payment of tax. The rate of

return now fixed at 8.5 per cent. on capital and 6 per cent. on reserves is subject to taxation. If we take out the tax, it will work out to the same old rate. Thus, there is no enhancement of the rate of return. The figure seems to be higher but in actual practice it remains where it was before. In fact, it was due to capital that the rate should have been more. It was because of the industrial structure we had in view that we thought we should not give a very remunerative rate but only a very reasonable rate. Even at this rate, capital is very shy and therefore nobody should grudge Government having given this enhanced rate.

There is another small point that I would like to refer to before concluding, since you have called my attention to the time. All the direct taxes paid have been taken as prior charges. This was insisted by several members of the Bonus Commission and I am glad Government have provided for that. Clauses 33 and 34, in my view, are very difficult of implementation and are also anomalous. I would not dilate on them since I have no time. This is the first time that we have put the payment of bonus on a statutory basis. In a complex situation like this, however carefully we may have provided, we cannot solve all the problems. In fact, there are several other interests like plantations and others which have their own problems. So, we cannot solve all the problems. We have made this attempt, sincere and devoted attempt on the part of the Government. Let the country give this a trial and as need arises in the future, I am sure the Labour Ministry will be ready to come forth with due amendments.

SHRI SUNDAR MANI PATEL (Orissa): Mr. Vice-Chairman, the idea of the present Bill is well-conceived in so far as it is essential for the development of industries that there should be harmonious relations between the employer and the employee. The employee should not

have the feeling that he is putting on so much of labour without any corresponding financial gain. Similarly, the employers should not have the feeling that they are being harassed unnecessarily by the workers by demanding more and more which tells on industry. It is to avoid these complaints that the present Bill has been brought forward. However, when we look at the different clauses of the Bill, I have my doubt whether it will serve its principal purpose of bringing the employer and the employee closer and if not, in what way it would help either the interests of the employer or the employee as well as industrial development in the country. Let us look at sub-clause (4) of clause 32 which excludes application of this Bill to the public sector undertakings. The Minister is of the opinion that the Bonus Commission took away from the purview of the present legislation departmentally run public sector undertakings and also those which did not compete with the private sector. He is further of the opinion that as a matter of fact, the Bonus Commission was not authorised to deal with public undertakings. Sir, I feel these two opinions are contradictory. If the Commission's terms of reference did not include such public undertakings, how could they recommend that the proposed legislation should not apply to them? It is evident that the Government did not want its own interests to suffer and hence did not give power to the Bonus Commission to examine the public sector undertakings with a view to bringing them within the fold of this Bill. The Government has been shouting that with the adoption of the socialistic pattern of society, the public sector has to play a greater role in the industrial development of the country. The present investment in the public sector exceeds fifteen hundred crores of rupees. I cannot reconcile myself to the fact that the workers of these enormous undertakings should be given a step-motherly treatment *vis-a-vis* the workers in the private sector. I do not understand this subtle difference.

What difference does it make if it is run departmentally or if it is a public corporation so long as we are producing something and making a profit on that production? Why should Government hesitate to give bonus to its workers on the same basis and with the same idea as in the case of private sector industries? Government goes to the extent of protecting its interests at the cost of the workers even when it enjoys a monopoly over certain items. I must say that in the monopoly items produced in the public sector undertakings, the workers should not be debarred from being entitled to the bonus that Government now contemplates. Why differentiate between a public sector concern and a private sector concern in so far as a worker is concerned? When his counterpart in the private sector is entitled to bonus do you think that he should not aspire for this? If you do not pay him his rightful dues, will he not feel discontented which in turn will tell on production? Government is bent upon exploiting the workers while from the house-tops it is shouting that the private concerns are exploiting the workers and enjoying monopoly conditions. In the present case, by not conceding this demand to give bonus to the workers in the public sector undertakings, Government itself is acting as an exploiter and a monopolist. Therefore, I would strongly urge upon the good sense of the Labour Minister to concede the demand of bringing the public sector concerns under the purview of this Bonus Bill by deleting sub-clause (iv) of clause 32.

Sir, next, there cannot be two opinions that a contractor in all senses, is an employer and hence why should he be precluded from sharing a part of his earning with his workers? After all, in his case, most of his labourers are casual. They are not employed for the entire year. At the same time, the contractor makes some profit with the help of the workers or labourers. Therefore, why should they not get what they are otherwise entitled under the provisions of this Bill?



[Shri Sundar Mani Patel.]

Therefore, let us not hesitate to treat a contractor as an employer and thus agree to an explanation which I have proposed to sub-clause (vi) of clause 32.

Coming to clause 33, I have no objection to an industrial dispute pertaining to a period earlier to this Bill being settled under the provisions of the present legislation. But if you try to open issues which were never raised either by the employee or by the employer, simply because these pertain to the subsequent years, we are forcing endless and unnecessary litigation. This way the whole purpose of the Bill is likely to be defeated. After all, as I said earlier, unless we can achieve harmonious relations between the employer and the employee, this Bill will have no meaning. I am sure to avoid unnecessary straining of relations we should drop the last three lines of clause 33.

Lastly, I should like to point out that by inclusion of an Explanation to sub-clause (2) of clause 34, the whole spirit of this clause has been defied and hotch-potched and it makes no sense. Rather it will create more complications and retard the harmonious relations between the employer and the employee, which we are contemplating to have through this legislation. So, this Explanation is unnecessary and hence this should be deleted.

**THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN):** The Prime Minister will make a statement in this House at about 3.45 p.m.

**SHRI C. M. POONACHA (Mysore):** Mr. Vice-Chairman, I rise to welcome whole heartedly the Bill that is before the House for consideration. The Minister of Labour deserves the congratulations of this House for having brought within the broad framework of this piece of legislation certain basic formulations to provide for the payment of bonus on a statutory basis.

The bonus question has been a very vexed question over a long period of time and no doubt, this needed a good deal of thought, consideration and deliberations to arrive at, let us say, the G.C.M., the greatest common measure of agreement. I do hope that when this Bill is passed it would ensure the payment of bonus to workmen on a statutory basis and thereby serve to fulfil the great objectives we have in view, that is, the welfare of labour.

In the meantime, I cannot help mentioning a few things which I would have very much desired to have incorporated in this Bill that is placed before us. In formulating the various proposals, it appears that attention has been too pointedly directed to the big industrial concerns, factories, processing units and such other things, while the interests of establishments which are primarily engaged in producing agricultural crops have not been given due consideration. The agricultural sector, in my opinion, has not been receiving due attention either from the State or the Central Government and particularly those relating to the plantation industry, i.e., tea, coffee, rubber and cardamom which are to a great extent, controlled by Central Acts because they are the most profitable foreign exchange earners. Therefore, the Central Government is deeply interested in them. As far as the States, are concerned, though agriculture is a State subject sufficient attention is not paid to this sector. Unfortunately, there seems to be a feeling, since the plantation industry is more or less the milch cow of the Central Government, why the State Governments at all should bother about them. We have often-times felt that as far as the agro-industries engaged in the production of primary agricultural products are concerned, they are somewhere in between these two and thereby neither from the Centre nor from the States do we get the necessary attention for development while in regard to tax measures and labour welfare measures and what not, plantations

are always brought under the canvas of Central legislation

In furthering my point I would refer to some provisions contained in the Bill. Now, take, for example, clause 1, which provides for the payment of bonus to workers engaged in any establishment which on any day of the accounting year engages twenty persons. By this provision, a small holding of, say, ten acres engaging ten labourers on an average per day would be attracted because under ten labourers on an average per day would be attracted because under certain exigencies one will have to engage more than twenty labourers. say, for the purpose of picking the crop. It is a fruit crop. It will not wait for anybody's goodwill or good intentions. One has to engage more than twenty labourers per day, though on an average that establishment would not be required to engage more than ten. These are perishable items. One has to collect them within a period of time, depending on the vagaries of nature. The rains may be on. One has to collect it and on certain days he may have engaged twenty or twentyfive labourers. For having done that, the penalty would be that such an establishment would be brought under the canvas of this Bill and then the establishment will have to make provisions for the payment of bonus to the workers. That is a great handicap so far as the agro-industries are concerned. In that respect I have been trying to suggest to the hon. Minister to see his way to provide relief to the small, proprietary holdings and ensure that these small holdings are not unduly harassed on a strict interpretation of the provisions of clause 1. Coming to the question of allowing depreciation, neither the Agricultural Income-tax Act nor the Central Income-tax Act provide for statutory depreciation on the capital, on the values of land, the field assets, the bushes, the three crops, etc. Therefore, in the formulation of this scheme what has happened is, while the benefits could accrue to manufacturing units where you produce tailor-made

commodities which could be precisely made according to certain specifications and for which machines are engaged and buildings are constructed—for all these items you have a regular system of statutory depreciation allowance—but for plantations you have not got any provision of that nature, and therefore the effect of this Bonus Bill, insofar as paying bonus to the workers engaged in an establishment is concerned, would be that it would deprive agro-industrial units from getting the benefit of depreciation allowance which is being generously provided for the manufacturing units.

Similarly I come to the question of development rebate. While the Central Income-tax Act does provide development rebate, some of the Agricultural Income-tax Acts of States do not precisely provide for development rebate. But if I am correct, I remember that in the latest amendment that has been brought to the Mysore Agricultural Income-tax Act, a provision has recently been made for allowing development rebate for replanting. If that is true, this Bill does not permit the benefit of such development rebate provided in the Agricultural Income-tax Act of a State to be taken into account as a prior charge. In a matter like the plantation industry it is a continuous process of replanting. We have been evolving new strains of coffee plants, new strains of tea plants, new strains of rubber, new varieties of cardamom etc. There is a continuous process of research and every time to take advantage of the new strains, the new high-yielding strains, one has to keep on replanting the planted area with new material. For that one has to invest heavy sums of money because replanting is not a simple affair. In that respect there is no provision made at all in this Bill with the result that as far as small proprietary owners of plantations are concerned, you would have put the burden of not allowing them any relief for any kind of developments, which would mean that we are trying to prohibit the smaller, the medium-sized planters from resorting to development, and therefore they

[Shri C. M. Poonacha.]

will lag much behind year after year with out being able to take advantage of the benefits of research that is going on in the country. These plantation industries, as I was mentioning earlier, are controlled by certain Central Acts. Let us take, for example, the Coffee Marketing and Expansion Act, a Central Act which provides for certain marketing facilities, wherein every bean of coffee that is produced will have to be delivered to the Coffee Board straightway. The grower will have no right over it at all after he produces the coffee and delivers it to the Coffee Board, and he will have to wait for a period of 18 to 20 months to receive payment for the crop that he has so delivered to the Coffee Board. He will get it in seven or eight instalments. One has to wait for this time and in the meantime raise credit with a view to providing the working capital during the period. With all these handicaps to the plantation industry, in so far as this Bill is concerned I am sorry to say that it has not taken note of the various problems that confront the plantation industry.

I now come to the question of return on capital, a return of 8.5 per cent on the equity capital. We have these proprietary, individual holdings. You may be surprised to know that so far as the coffee industry is concerned, 85 per cent of the holdings are below 25 acres. This is on record, 85 per cent. And then about 45 per cent of the holdings are between 10 and 25 acres. That is the strength of the coffee industry, if I may say so. Why are these establishments small? They are either inherited or come into one's possession or control by partition. There is no capital, written up as such. There is no asset stipulated as such and then worked out and recorded in the books. While the bigger manufacturing industries, factories and the like would be able to get the benefit of 8.5 per cent unfortunately the plantation industry would not be able to get that benefit unless they are very big plantation units well organised, with their own Secretariat and their own written-down values of

their assets and things like that. In the case of the proprietary landowner, the middle-class planter, there is no possibility of such a return on capital.

In conclusion I want to suggest to the hon. Minister to give some thought to the various aspects and various problems confronting the plantation industry. No doubt in a matter like this, as my hon. friend, Mr. Govinda Reddy, was mentioning, it could not be a fool-proof arrangement. As we gain experience in the working of it, we may have to make it more suitable or workable to the satisfaction of the Industry as well as the working class. I agree fully with that, but in the meantime, as I mentioned earlier, rightly or wrongly the agricultural sector is not getting its due attention either from the State Governments or the Central Government. It is time that at least the Central Government takes this up and that the hon. Minister would consider the question of appointing a Committee to go into the question of the plantation industry as such *vis-à-vis* the provisions of the Bill and due course think of effecting such improvements as he would find desirable in the interest of the plantation industry and such improvements or amendments should be done at the earliest possible time. Thank you.

SHRI MULKA GOVINDA REDDY:

Mr. Vice-Chairman, I welcome the Bill, the Payment of Bonus Bill, 1965. I have a mixed reaction towards this Bill. Government deserves to be congratulated on the provisions that they have made with regard to the payment of minimum bonus which would affect nearly 45 lakhs of workers who are hitherto denied this benefit. But at the same time the Minister is trying to exclude another 45 lakhs of workers particularly in the public sector undertakings. As my hon. friend, Mr. Thengari, put it, the Government, instead of being a model employer, has tried to shirk its responsibility to the employees working under direct Government management, particularly in the

public undertakings. This discrimination will create heart-burning among the employees who are working in the public sector undertakings. You must also remember that most of the important industries are under the public sector. So, it is all the more necessary that we should keep the employees in the public sector undertakings contented. If a distinction is made with regard to the employees in the different public sector undertakings, it creates an eye-sore to those who are denied this bonus benefit.

Mr. Vice-Chairman, for the purposes of calculating the amount available for distribution as bonus, many deductions have been allowed. They have gone beyond the recommendations made by the Bonus Commission. The Bonus Commission recommended that for the purposes of deductions, the tax paid, particularly the super-tax paid, should not be included. Government have gone beyond their recommendation. In many respects, the almost unanimous recommendations, excepting that of the dissenting note of Mr. Dandekar, the representative of the employers, have not been given effect to. When we accuse the Government of not having fulfilled or implemented all the recommendations of the Bonus Commission, we do not accuse the Bonus Commission because they were handicapped by the terms of reference that were included for their consideration.

One vital recommendation that was made by the Bonus Commission the Government have not accepted, and they have included under this Bill the rate of interest as 8.5 per cent. on the working capital and 6 per cent. on the reserves, which was not the recommendation of the Bonus Commission. They have tried to pamper the capitalist interests, the employers, by giving this much of allowance for deduction.

Another point which I would like to stress is this. As in the Income-tax Act, they have tried to follow the same pattern of giving a six-year

holiday for an establishment. It is quite possible that under this pretext many establishments which are running on very profitable incomes may try to split their establishments and start establishments under new names, as somebody put it, in the names of their wives, so much so they will be evading payment of bonus by utilising the six-year holiday that has been provided in this Bill.

Another point that I would like to stress is that the Government have failed to guarantee a living wage and they have also failed to accept the bonus as a deferred wage. While welcoming that the payment of bonus is being codified, I would say that they have failed in one respect, by excluding payment of production bonus. We all know that the level of production in India is very low. It is necessary that production should be increased and the level of productivity should also be increased. As the hon. Minister for Labour told his listeners last night, the workers have spontaneously responded to the call of the nation by giving up all agitation, by withdrawing all demands, and that shows their patriotism in this hour of need. The employers should also respond to the call of the nation. In this hour they should try to share their profits with those people who are mainly responsible for getting those profits for the employers or the capitalists. Instead of doing that, they try to enrich themselves. A time will come—and very shortly I believe—that instead of passing such a legislation as this, we will have to pass a legislation whereby the workers in factories will become the owners of the factories.

I would earnestly request the Minister for Labour to include in the definition any bonus (including incentive, production and attendance bonus)—page 5, clause 2(21) (iv)—which has been excluded from the purview of this Bill. This is absolutely necessary in view of the low productivity and the low level of production that we

[Shri Mulka Govinda Reddy]

have, which we have to improve, and in order to enthuse the workers to produce more. When they produce more, automatically the employers or the managements will be getting benefit out of it. So, it will be helpful both to the employees and the employers. I would urge upon the Minister to reconsider and see that this definition is enlarged to include payment of production bonus as well.

[THE DEPUTY CHAIRMAN in the Chair.]

Regarding the recovery of bonus, it is governed by clauses 21 and 22. According to clause 22, bonus should be recovered as has been provided under the Industrial Disputes Act, 1947. According to the present Bill, persons or employees whose salary or wage is up to Rs. 1,600 are entitled to get benefit by this Bill. But if it is circumscribed that it should be recovered as is provided in the Industrial Disputes Act—which benefits employees whose wage is Rs. 500 and below—it shuts out the employees whose wages are between Rs. 500 and Rs. 1,600 in recovering the bonus to which they are entitled under the present Bill. The Government should come forward with an amending Bill amending the Industrial Disputes Act, 1947 to enable those who get a wage up to Rs. 1,600 to get the benefit provided under this Bill.

Madam Deputy Chairman, I have already referred to the discrimination shown with regard to the employees working in public sector undertakings. This is a very invidious discrimination which should not have been provided in this Bill. On the other hand, all the employees in the public sector undertakings should have the same benefit or same privileges as the employees in the private sector.

I have also moved some amendments and I will speak on them at the clause by clause consideration stage. With these words I support the Bill with

the modifications which I have just now mentioned.

SHRI N. PATRA (Orissa): Madam Deputy Chairman, I support the Payment of Bonus Bill, 1965. There has been a constant struggle by labour to have a share in the earnings of the factories. At long last, after much struggle a situation has arisen when the employer has agreed to treat the worker as part and parcel of the industry. Due to this recognition a good atmosphere has been created which was the crying necessity at a time when the country is faced with a grave emergency. Now it is incumbent on the worker and the employer to boost production, to meet our needs both at the home front and the fighting front. This atmosphere, I wish, may influence production if this good relation is established due to the process of good understanding. With this I hope—it may be a pious wish—the employer may assume the responsibility of a trustee and treat the worker as a co-partner in the industry which Mahatma Gandhi visualised when the country was fighting against British imperialists.

Madam, for the first time under clause 10 a minimum Bonus has been offered to the toiling worker. Whether or not a concern or a factory makes profit, a minimum wage has been assured to him. For all time to come it is not expected that there will be profit. Sometimes there may be a glut in the market and things may go cheap. Things have to be sold out at a cheap price. Even at such a time the interest of the worker is sought to be protected; he is sure to get Rs. 40 or the minimum bonus whichever is greater, but not less than Rs. 40. Therefore, through this Bill lakhs and lakhs of workers, about 45 lakhs of them, are going to benefit. The total amount, according to calculation, comes to about Rs 18 crores. It is not a small achievement for the poor worker. Therefore, I say this is a red letter day in the relation between the worker and the employer. I

wish this relation should grow and the employer should assume the responsibility which he was called upon to assume by Mahatma Gandhi at a certain time.

But, Madam, may I point to the Minister in charge of this Bill, who for the first time is giving a statutory recognition to the worker, that besides these 45 lakhs of workers there will yet be another million workers who are not going to be covered by this; they will not be getting the benefit. I may agree with the Minister to exempt the financial undertakings from the operation of this Act. But why do they not recognise contract labour? Contractors, like Government establishments, have started companies with huge investments, that of trucks and bulldozers and everything. Why should the worker in such concerns not get the minimum Bonus, a benefit sought to be extended to millions of workers? I am sure there will be amendments to this Bill later on. I hope the Government will take cognizance of the case of other workers who are not covered by this Bill. It is expected that Government will also consider the cases of so many lakhs of workers who do not fall under the purview of this Act.

Madam, for violating the provisions of this Act, a penalty has been provided under clause 28. It is a fine of Rs. 1,000 or imprisonment for a period of six months. If the Government apprehends violations, I would request the Government to make the penalty stringent, to make it still more strict. I also suggest that there should be fine and imprisonment both. Both have to go together. I want that the provisions of this Bill should be not only obeyed by the employers but by the employees also. When the Parliament passes it, it must create at least a psychosis in their minds that the measure should be respected. I again support the provisions of this Bill. As the first measure, going to provide statutory recognition to the employees' right to Bonus I welcome it.

SHRI P. C. MITRA (Bihar): Madam Deputy Chairman, I support the Bill on the aground that this is an attempt to minimise the main cause of industrial trouble which happens almost every year in many of the industrial undertakings but I must join issue with my friend, Shri Arora, that the unjustified agitation by the big employers has paid them dividends—that is, the recommendation of the Bonus Commission fixing a reasonable margin of profit of seven per cent. of the capital has been increased to eight and a half per cent. and in the same way the return on the reserve fund has also been increased to six per cent, I practically endorse every word spoken by Mr. Arora about this Bill and I would like to make one or two points.

Under clause 9 there is a proviso:

"Notwithstanding anything contained in this Act, an employee shall be disqualified from receiving bonus under this Act, if he is dismissed from service for—

(a) fraud; or

(b) riotous or violent behaviour while on the premises of the establishment; or

(c) theft, misappropriation or sabotage of any property of the establishment."

In this regard it has become a habit for the companies to make false allegations against their employees. I know at least of the employees of Telco—a big industry in Jamshedpur—where they suspended employees and they alleged a riotous behaviour, and where even after enquiry the police found that it was false, yet they have not been taken back in employment and they are still under suspension. Of course due to the order under the D.I.R. by the Bihar Government restraining the authorities of the company from dismissing any person without the approval of the Government they have not been able to dismiss them but they have suspended them. The moment the D.I.R. lapse, the

[Shri P. C. Mitra.]

people will be dismissed. In the same way they have levelled charges against many regarding theft, misappropriation, sabotage, etc. and I had a talk with the General Manager of the Company and he said: 'If there is no theft, how so many articles manufactured by the company are being sold in the market'. But they do not seize those articles from the shops when they are sold but they get hold of any employee whom they do not like and they suspend him on that allegation. In this way they are also dismissed. So I would like the Government to say:

"a person who has been convicted by the court on a charge of fraud or riotous or violent behaviour etc."

Then only they should be deprived of this bonus. This bonus is nothing but a deferred payment and the employer should not be allowed to have recourse to this provision and dismiss the employees on these charges. I have experience of small companies which are privately managed. Whenever they feel that they can get another man at a cheaper rate, they get rid of the former employees who is paid more emoluments, by making such false allegations in this way. Of course when the Government comes to their help or when big unions come in—not only big unions but unions that are amenable to the employers and when the union leaders approach the employer—then the employer takes them back. Otherwise these people suffer. So this clause will be misused by the employers unless the provision is there that people can be dismissed only when they are convicted by court for such offences.

The provision regarding violent behaviour while on the premises of the establishment is such that any employer can say that a person's behaviour was violent. So some consideration should be given to this aspect. I am happy that this Bill has been introduced particularly at this

time when the labour has promised to make all efforts for higher production for war and I heard yesterday's radio broadcast of the Minister. I found that he was actually very happy and he said many things. He said that the workers have promised not to resort to strike, that they have promised to make sacrifice of their emoluments also and to work more but he did not make any announcement as to what the employers have promised him. From the employers' side there are no such changes in attitude. I was referring to Telco where 87 persons are under suspension. Of course that has been referred to the Industrial Tribunal but this is the state of affairs. They put forward flimsy grounds—that they want a particular office-bearer to remain as President and a particular man as Secretary and no other person, etc. And on that account they are suspended one after another; a large number of workers, active workers, who are of the union, including office-bearers, including even the general secretary, are suspended. So I would like the hon. Minister not only to expect the employees to work hard for the war effort, but also ask the employers to reciprocate and take back at least the workers who are under suspension,—who were actually workers and are under suspension, to make their contribution at least for this war effort—and in this way industrial peace can be maintained—and not to insist upon the persons who will remain the president or secretary of the union of their choice. They should not be the persons who will be made the president or secretary of the union the workers should have the right to elect their president or secretary, and there also, whatever it may be—they have instituted some civil case also—in addition to what the Government has found after inquiry, the Appellate Tribunal also has commented, the Industrial Tribunal also has commented that they had no hold on the workers, and there is no doubt about it that those people who were representing the workers,

those who have been dismissed, are the real men who have a hold on the workers. And yet the company is not recognising those office-bearers. All the same I whole-heartedly support this Bill only on the ground that this will remove some of the cause of industrial trouble.

Thank you.

SHRI A. D. MANI: Madam Deputy Chairman, I thought that in view of the present emergency Government would not insist on rushing this Payment of Bonus Bill through both the Houses of Parliament. I may remind the Minister for Labour that on account of the fact that the pound sterling is being threatened in England, Mr. Wilson has been appealing to trade unions for wage restraints, so that England's economic capacity in the outside markets may be promoted. At a time when our export earnings have just been looking up, and we have to make a long leeway to reach the targeted figure under the Third Plan, I think it is inappropriate for Government to bring in a controversial measure. It is an unfortunate fact that the Bonus Bill, as it stands now, is not welcomed either by the employers or by the employees. I have gone through, with great respect, the report of the Bonus Commission.

SHRI ARJUN ARORA: The employers have learnt to adopt this technique, that is, not to welcome anything but go on criticising it and thus getting more and more concessions.

SHRI A. D. MANI: Yes. I may say that the employers too are very critical of some of the provisions.

I have gone through, with great respect, the report of the Bonus Commission. If this is the report which the Bonus Commission was going to present, I wonder why it took the Commission nearly two years to come to these conclusions.

SHRI AKBAR ALI KHAN: Three years.

SHRI A. D. MANI: All that the Bonus Commission has done is to reproduce in their main report the substance of the evidence led before the Bonus Commission. The practice in the case of all other Commissions has been to record evidence separately, but on the ground that there was not much material to back up their arguments, what the Bonus Commission has done is to reproduce verbatim almost the evidence that was led before the Commission. Madam, I am of the view that, if the Bonus Commission's Report had been accepted by Government in full, the situation would have been different at the present time. But the modifications which have been made have made this Bill unacceptable to labour, and also unacceptable to employers. I personally think, in view of all the calculations made under the Payment of Bonus Bill, that the old formula of the Labour Appellate Tribunal was a much better formula than the formula which the Government has placed before the House.

SHRI ARJUN ARORA: That formula minus the allocation for rehabilitation.

SHRI A. D. MANI: I am glad that my hon. friend has raised this question of rehabilitation. I am surprised that the Bonus Commission should not have accepted rehabilitation as a legitimate charge we do not have a fluid capital market in India. Capital is still shy, and on account of the fact that the bank rate has been raised to 7 per cent, people are not willing to invest in industry unless the return is about 10 to 12 per cent. When the capital market is shy, if we have to develop our industries, capital has got to be found from the industry itself. It is for this reason that the Labour Appellate Tribunal, in the well known case of the Bombay Millowners Association, came to the conclusion that both labour and capital must share the profits. And one of the ways in which capital can share the profits with labour is to



[Shri A. D. Mani.] AN find means and resources for rehabilitating the machinery which may be worn out. Madam, I can speak with some experience of the newspaper industry. If you were to buy a rotary machine now, it will cost 6 to 7 lakhs of rupees. Formerly it was costing only one lakh of rupees. My hon. friend, Dr. Anup Singh, who was in the United States, will bear me out when I say that a rotary machine was available from the Duplex Company for about two lakhs of rupees about ten years ago. Now the price has gone up even to 15 to 20 lakhs of rupees. Where are the industries to find the money except by rehabilitation? I think one of the vital defects of the Payment of Bonus Bill is that it does not take into account the rehabilitation charge, which is a legitimate charge in the light of the present-day circumstances where the capital market is shy. A second point of criticism that I would like to make of this Payment of Bonus Bill is that the equitable return on capital has been fixed at only 8.5 per cent. At the time the Bonus Commission reported, the Commission recommended 7 per cent as an equitable return for capital. The Labour Appellate Tribunal formula had accepted 6 per cent as a reasonable return. At the time the Bonus Commission reported, 7 per cent was a reasonable return but, at the present time, when the banks are offering 7 per cent, people are unwilling to invest in industry. It has to be a realistic formula and such a formula should take into account the factors for attracting capital, and it will mean that the rate of interest that should be offered at the present time cannot be less than 10 per cent. Madam, I would like to say here that the only party that has benefited most by this Payment of Bonus Bill is the Government. I would like the hon. Minister for Labour to answer the point that I want to raise here, namely, that in the Labour Appellate Tribunal formula, before the taxes were levied on a concern, the bonus that was usually paid by

a concern was accepted as a legitimate item of expenditure; that is to say, if a concern had decided to pay three months' bonus, that was deducted from the profits, and it was only on the balance of the money available, after such deduction, was the tax levied. At the present time, what the Government has done is to make tax-collection the first charge and where they have gone back a little on the practices that were prevailing when the Labour Appellate Tribunal formula was being enforced. I know some cases where they have accepted payment of bonus as a legitimate charge, and the Income-tax Department had insisted in the past that not more than three months' bonus should be paid, and so it was reasonable that it was fixed at three months'. The third point of criticism that I would like to make about this Bill is that the concept of bonus should not be mixed up with dearness allowance. In no country in the world is the cost of living allowance taken into account in regard to profit sharing. If there is to be bonus in the light of the many judgments given by the Labour Appellate Tribunal, then the Government should bear in mind that there is a basic wage which is taken as the norm for the determination of bonus and by that I think the worker would get a large share of the profits of the concern. But by introducing this element of dearness allowance as part of the bonus formula, what the Government has done is to make confusion worse confounded. In the case of the Times of India of Bombay in the past, a bonus at the rate of two months' basic pay used to be given, in terms of the Labour Appellate Tribunal formula. Recently a dispute arose and I am credibly informed by people that they have resorted to the minimum bonus recommended by the Bonus Commission. I have no objection to the wage boards for various industries, raising the level of wages in the country. I liked the suggestion made by my hon. friend Shri Arjun Arora that the bonus question should be settled on industries basis

for that is an understandable proposition. But what the Government has done is to fix a minimum bonus and to say that the minimum bonus is to be paid. In the case of other industries, the industries can raise capital. But the Small Newspapers Committee which met at Lucknow to consider this matter recommended to Government that in view of the fact that 80 per cent of the newspapers in India are not in a position to make both ends meet, fixing a minimum bonus would mean that these newspapers would have to close down.

SHRI ARJUN ARORA: We have too many bad papers. We should limit the number and have good papers.

SHRI A. D. MANI: If my hon. friend wants to limit the number of newspapers in the country, he may bring in a legislation to bring down the number of bad newspapers. But he cannot bring a labour legislation and secure a restriction on the number of newspapers published in the country.

I would like to suggest, Madam, that since the Government has taken the enabling power to exempt certain establishments from the operation of this Payment of Bonus Act, and the formula adopted by the Government, the Government should ask the industries concerned to make proper representations before a body constituted by the Labour Ministry on which there would be a judge, a representative of labour and a representative of capital, which would examine all such applications to find out whether the exemption ought to be given or not. I think this is very necessary and I feel there is a very clear case for exempting plantations and the jute industry, which are foreign exchange earners for us, from the operation of this measure. I also think that in the case of newspapers which are not in a position to make both ends meet, there should be some exemption for those newspapers from the payment of the minimum bonus.

I personally welcome the ratio 60:40 which is recommended for the division of the available surplus. With regard to this available surplus also, my feeling in respect of the return on working capital is, considering the fact that banks are most unwilling to advance money, the rate of return on working capital should be 8 per cent and on equity capital it should be 10 per cent, which would be more or less, in line with the needs of the circumstances of the present time.

SHRI ARJUN ARORA: The hon. Member is contradicting himself. He recommended the Labour Tribunal's formula a little while ago, which gives only 6 per cent return on the capital, and now he says the returns should be 8 per cent and 10 per cent.

SHRI A. D. MANI: There is a substantial point of difference. The Labour Appellate Tribunal gave 6 per cent on capital and it also gave the rehabilitation charge. This rehabilitation charge is an addition to the assets of the company, which means money earned by the company. There was no disadvantage to the company with regard to the return on capital. There was another formula for the return on capital and in this Bonus Bill rehabilitation charge is denied.

SHRI M. GOVINDA REDDY: They will get it from the 40 per cent.

*(Time bell rings)*

SHRI A. D. MANI: In two minutes, Madam, I shall finish. I would like to make only one final point, and that is, by putting this enabling provision for allowing workers to negotiate their own separate agreements, the Government, instead of trying to have a simple formula for the industry, has actually promoted tension in the industry. What is likely to happen is since the Bonus Commission's formula is less favourable than the Labour Appellate Tribunal's formula, people would ask for the restoration

[Shri A. D. Mani.]

of the same formula and the employers would ask for rehabilitation charges and there will be endless litigation. I am not sure whether some of the provisions in the Bill like the compulsory payment of minimum bonus, will be upheld by the highest court in the country. Already suits have been filed challenging the validity of some of the provisions and the Government seem to have thrown wide open the door for further litigations.

PROF. A. R. WADIA (Nominated): Madam Deputy Chairman, I was impressed by one statement made towards the end of his speech by my hon. friend Shri M. Govinda Reddy, when he said that in their deliberations the Bonus Commission had been actuated by considerations of industrial peace and not so much by mere considerations of right and wrong. Well, the result is a report which has not been welcomed either by employers or by the employees. And the reasons for this are obvious. I admit that the Government was actuated by the best of motives when they appointed the Bonus Commission. They were very wise in selecting the personnel and the Report itself shows how conscientiously the work was carried out. I also admire the dissenting minute of Mr. Dandekar however unwelcome it may be to certain sections of the people. But I think, Madam, that a bad lead was given to the Commission by the terms of reference given to it. Two of these terms are really objectionable. The first of one is:

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

That points to a definite discrimination in favour of the public sector and I do not think that is fair, es-

pecially when the Government is taking up more and more responsibility in the public sector undertakings. Therefore, they should be all the more alive to the demands—and the rights of the labourers.

The second item in the terms of reference is No. 5 where it is stated:

"To consider whether there should be lower limits irrespective of losses in particular establishments, and upper limits for distribution in one year".

and so on. That also implies that practically they wanted the payment of bonus to be compulsory, whether the company was earning a profit or was making losses. Perhaps that explains the complacency with which the Bonus Commission has made the recommendation that irrespective of profits, bonus should be paid. It also perhaps explains why Mr. Dandekar who criticises almost all the other points, has not touched this point, and in the Bill, in clause 10, we find that this injustice stands. It seems to me, Madam, that this is a rather short-sighted policy. I agree with the very forceful speech made the other day by Mr. Sen Gupta when he argued against the iniquity of this provision. It is a matter of common-sense that if a company is making losses, to expect it to add to its losses by this compulsory bonus payment, is to ask for the impossible. A good businessman would close down the concern. He cannot go on.

DIWAN CHAMAN LALL (Punjab): Where will they get money from when people make losses?

SHRI A. D. MANI: Will Diwan Saheb please speak up?

PROF. A. R. WADIA: That is the concern of the business concern, whe-

ther it finds the money or not. But if the man does not find money and yet and in spite of that, he has to pay bonus, well, he will have to close down. And if he closes down it would mean more unemployment.

**SHRI ARJUN ARORA:** Nobody has ever closed down for such things, nobody has done it.

**PROF. A. R. WADIA:** Then it implies that no company has been making losses. If so, it is not worthwhile putting in a statute that ever when a company is making losses, it should be made to pay bonus. This is a contradiction in terms and Mr. Arora should realise it. At the same time, Madam, the Report and the Bill based on it suffer from one fundamental defect and that defect is that the character of bonus has been completely changed. Originally, bonus was a voluntary contribution given by the employers to the employees. The Report itself defines bonus as a share of labour in the prosperity of a concern. That is a perfectly sensible thing to do if an industry is flourishing and if the employers are making a good deal of money out of it; it is but fair that a good portion of it should go to labour which has contributed to that prosperity. It is now fixed at four per cent. of wages and dearness allowance or forty rupees whichever is higher and this really means, in effect, a compulsory raising of wages. This could have been done more easily by a Wage Board instead of appointing a very costly Commission. Further, Madam, The Report and the Bill change the fundamental character of the bonus by changing it from a voluntary contribution to a compulsory contribution. It is a definite victory for labour and I congratulate labour on gaining that victory for certainly democracy implies the importance of the vote but it is adding insult to injury by stipulating that the bonus shall be paid even if a concern works at a loss. It does violate King's English. If this idea is to be

introduced, some other word should have been devised instead of the word "bonus". There can be no justification for a bonus when a company works at a loss. This is highly improper and my wonder is that in spite of the large number of amendments that we have got, nobody including myself has had the courage to send in an amendment to delete this obnoxious clause.

Madam, there is another point which the Minute of Dissent was making and it is about the rate of return to the investors. I think, my friend, Mr. Arora, has been very greatly offended in that the rate of interest has been raised higher and higher but I am sure he will admit that after all an industry requires money to get on with, not merely labour. Labour is one very important factor but money also is necessary and if the money is necessary, it has got to be invited at rates which will be remunerative and therefore I do admire the hon. Minister for having acceded to the cogent arguments advanced by Mr. Dandekar in his Minute of Dissent. After all, the rate of interest has been rising, the bank rate has been rising and it is from that standpoint that the Bill is very just in spite of the fact that against a few hundreds of employers there are lakhs and lakhs of labourers. Madam, I repeat again that if this Bill contributes to industrial peace nobody can be more happy than myself but I have my doubts if it will contribute to industrial peace. I remember some years ago I invited a very prominent labour leader in Bombay for an address and he gave us a very frank talk and he frankly admitted that whenever they accepted a settlement, it was only for the time being. They lie low so that in a short time they can find out other excuse for making more and more demands. It is from that standpoint this industrial peace is very doubtful but still I wish that this Bonus Bill will further that.