

MR. DEPUTY SPEAKER : I have taken into account the sentiments of the whole House and passed on this message to the Parliamentary Affairs Minister. She will ascertain the facts and inform the House.

(Interruptions)

MR. DEPUTY SPEAKER : We will find out.

(Interruptions)

SHRI C. MADHAV REDDI (Adilabad) : Till we know from the Home Minister, let us adjourn for fifteen to twenty minutes. (Interruptions)

MR. DEPUTY-SPEAKER : Adjournment—I cannot understand it.

(Interruptions)

SHRI BASUDEB ACHARIA (Bankura): You adjourn the House. (Interruptions)

MR. DEPUTY-SPEAKER : No. After finding out the facts

(Interruptions)

SHRI BASUDEB ACHARIA : We are very much concerned about it.

(Interruptions)

SHRI N.V.N. SOMU (Madras North) : You adjourn the House for fifteen minutes. (Interruptions)

MR. DEPUTY-SPEAKER : Please take your seat. I understand the feelings of the Members. By way of adjourning the House immediately, what are we going to achieve? I understand the agitation, some kind of feelings of the Members. By way of adjourning immediately, we cannot do anything now. Therefore, I request the Minister to pass on the message and find out the facts.

(Interruptions)

MR. DEPUTY SPEAKER : I will ask the concerned Minister to come with the facts.

(Interruptions)

AN HON. MEMBER : How much time? (Interruptions)

MR. DEPUTY SPEAKER : As soon as possible, we will get the facts.

(Interruptions)

SHRI MADHAV REDDI (Adilabad) : At least you must have a time limit.

(Interruptions)

14 30 hrs.

EMPLOYEES PROVIDENT FUND AND MISCELLANEOUS PROVISIONS (AMENDMENT) BILL—*Contd.*

[English]

MR. DEPUTY SPEAKER : The House will now take up further consideration of the Employees Provident Fund and Miscellaneous Provisions (Amendment) Bill. Shri Ajay Biswas.

[Translation]

*SHRI AJAY BISWAS (Tripura West): Mr. Deputy Speaker Sir, a new amendment has been brought forth to the Employees Provident Fund and Miscellaneous Provisions (Amendment) Bill. This has been brought because the existing Act failed to protect the interests of the workers and labour. In the statement of the Hon. Minister we find that the employers did not deposit Rs. 185 crores of Provident Fund amount. Even 5 years ago, the arrears were below Rs. 100 crores. Now the employers have deducted Rs. 185 crores from the employees and that, together with the employer's contribution have not been deposited with the authorities. This is very dangerous but I doubt whether the present Bill also will be able to remedy the situation.

As in the old Act, some loopholes have remained in this Bill also. In the parent Act, there was a penal provision of imprison-

ment for one year and/or fine. Will the Labour Minister be able to say how many employers have been imprisoned under the old Act? Now that penalty is being enhance from one year's imprisonment to 3 years imprisonment in this Bill.

The amount of fine is also being raised. We find that although the owners or employers did not deposit the Provident Fund Amount running into Rs. 185 crores, not a single of them has been sent to jail. Then how can we expect that only by making the penal provisions more stringent in this new amending bill, the interest of the workers can be protected and the employers can be kept under control? Sir, I think that the Government has not studied the problems of the workers and of the provident fund, in depth. Had they done that, then the provisions of this Bill could have made more workable and practical whereby the interests of the workers could be effectively protected. We know where the problem lies. The problem is that the employers are deducting the contributions of the workers from their pay but are not depositing them alongwith their own contributions. What are they doing with this accumulated money? They are investing this Rs. 185 crores in business for their own benefit. They are investing this amount in their own business. With this money of the workers they are creating their new assets and increasing their own profit. Many times we have seen that the Government having failed to recover this Provident Fund money have gone to the courts. What are the orders of the Court? The Courts are passing orders for staggered payment to be made by the employers. Now staggered payments mean that the employers shall deposit this money in instalments. Now this staggered payment is giving rise to certain difficulties. I do not know whether the Labour Minister has considered this angle or not. Suppose one worker has died or one worker has retired. So long as the staggered payment is not complete, the account is also not complete. So long as the provident fund account is not complete, the heirs of a deceased worker or a retired worker is not able to get the payment.

Where is the provision in this Bill that in the case of a worker who has died or one who has retired, the employer shall have to deposit the arrears in one lump-sum and in one instalment? No such provision is there in this Bill. The Government must be thinking that through this amendment all the existing loopholes will be removed. But I have my doubts. I think that the old order will continue. One year ago the arrears were to the tune of Rs. 185 crores when after 5 years another amendment will be brought forth, it will perhaps be found that the amount of arrears of deposit is running into Rs. 300 crores and not a single employer has been punished. There is no provision in this Bill about staggered payments on court orders due to which dead and retired workers are not getting their payments for years. Then, this Bill provides that the defaulting employers will pay a simple interest. I want to ask the Hon. Minister how much interest will the employers earn if they keep Rs. 185 crores in fixed deposit in Banks? How much interest are they getting? They are getting at least 10 p.c. or 17 p.c. interest. But after defaulting and committing a cognizable offence when they are depositing that amount, they are paying only simple interest. Why they should not pay at least compound interest? I want to know this from the Labour Minister. How much are the employers earning from the workers' money in this manner! Therefore, I say that by making this provision for payment of simple interest, the interests of the owners are being protected. No account is being maintained. In all those establishments where contributory Provident Fund exists, the workers simply do not know how much money is it their credit in the Fund. Yearly account slips are not issued. How the workers will know that their employers are not indulging in fraud, how will they know whether their money is being properly deposited or not? The Hon. Labour Minister has not provided in this Bill for the issue of monthly or yearly account slip to the workers. Another problem of the workers is about getting loans. After one applies for loan, he does not know when he will be able to get the loan amount. I can say about the situation in Tripura. If one applies for loan in Tripura, the papers will be sent to Shillong or Guwahati. Now one labourer cannot go to Guwahati to pursue

*Translation of the speech originally delivered in Bengali.

his loan application. A small time worker in some establishment has to wait for a long time because the final decision on his application will come from the Regional Headquarter at Guwahati. Can this poor worker chase his papers at Guwahati? Therefore this problem about loans and even for final settlement remains as before. About belated payment, I have to say that from the present provision of simple interest, it should be made compound interest.

About penal provisions it is said that penalty is being made more stringent. Term of imprisonment is being raised from existing year to 3 years now and amount of fine is also being raised to Rs. 5000. The Government is trying to show the worker that they are on their side, through this amendment Recovery of provident fund amount from the workers and the not depositing it with the concerned authorities—what type of offence is it considered by the Government? Do they view it only as a simple offence? In my view this should be treated as a criminal offence. From the way this amendment has been made, it appears that the Government does not treat this as a criminal offence. If really stringent measures are taken, if some employers are imprisoned then all of them will become alert and they will sit up. They will be dissuaded and discouraged from doing such unjust and illegal work in future. The present Bill will not provide the real stringent measures. I want to know whether some other Bill will be brought forth in the near future that will provide real stringent measures whether default in the case of deposit of provident fund amount by the employers will be treated as a criminal offence or not? If the employers can be sent to jail under the code of criminal offence, then perhaps some benefit will be there. The injustice to the workers and the flaws in the present working can be removed thereby. The Supreme Court has given a clear verdict in this matter. The Supreme Court has passed strictures that these offences should not be viewed as simple offences. They should be treated as criminal offences. Now this outlook or opinion of the Supreme Court does not find a place in this amendment.

I will give an example how the provident fund authority is functioning: there was the need of opening one Sub-divisional Office in

North Bengal. It was decided to open that office at Jalpaiguri. The decision has been taken, office premises has been rented. Since December, 87 a monthly rent of Rs. 7000/- is being paid. Quotations have been invited for supplying furniture here. Quotations have been invited for painting signboards. But that office has not been opened till today, although a monthly rent of Rs 7000/- is being paid for that office. If a provident fund authority works in this manner, how will they look after and protect the interests of the workers?

In this Bill it has been said that the contribution will be raised from $8\frac{1}{2}$ per cent to 10 per cent and from $6\frac{1}{2}$ per cent to 8 p.c. But it has also been provided that the Central Government shall by notification ascertain whether it is applicable or not and thereafter it will be made 10 per cent. How is it possible? Why is the Law not providing straightaway that it shall be made 10 p.c. Why is it being left in the hands of the Central Government to decide through notification whether to make it 10 p.c. or not. But the Standing Labour Committee took a clear decision in its meetings on 22nd and 23rd September, 87 to raise the contribution to 10 p.c.. To bypass the unanimous decision of the Standing Labour Committee why is it being left in the hands of the Central Government? Again in Clause 5 AA it has been provided that an Executive Committee shall be constituted. What is the function of this Executive Committee? It is to assist the Board. We are watching the working of this Board year after year. The Board is indulging in various useless and worthless works. I gave the example of the opening of a office at Jalpaiguri. Now an executive committee is being constituted above its head to assist the Board. The Question is whether this Executive Committee has any utility or not. The Board itself should be made powerful, it should be made more democratic in functioning. It should be made more effective. The Executive Committee will not serve any purpose. It will only be a TA/DA Committee. What assistance will they give to the Board?

As I said in the beginning, the provident fund problem of the employees and workers is not being studied in depth when some problem or crisis erupts, an ad-hoc amend-

ment is brought forth cursorily. Whether that amendment will solve all the problem of the workers or not is not considered deeply. Merely an Executive Committee is being set up.

Then again Sir, a Tribunal is being set up, I am not against tribunals but we have a bitter experience about tribunals. In the Labour tribunals Labour Disputes are pending. Can the Hon. Labour Minister say how many thousand labour disputes are pending with the Labour tribunals? It will run into several lakhs. The Labour tribunal is not disposing off several lakhs of Labour disputes but are sitting over them year after year. Suppose a provident fund authority takes a decision, the employer does not accept that. The matter goes to the tribunal. Now after the decision of the provident fund authority, the worker could get redressal of his grievance. But now the employer goes to the tribunal and the case will linger there for 5 years or more. Therefore, the worker will have to wait for that long. Actually the employer is being benefited this way by opening the road for him to linger the cases in the Tribunal. We are not against tribunals but our doubt is whether the tribunal will be able to solve the problem of the workers speedily and effectively.

In the end Sir, I will mention about the tea gardens. In the tea gardens of West Bengal, Assam, Tripura etc. the management has not deposited the provident fund amount of the workers. Lakhs of rupees in the tea gardens of Tripura have not been deposited with the authorities. The Government has instituted court cases, which are lingering year after year. The Government is adopting half hearted measures in the matter. This is not going to benefit the workers. This will not do. This legislation should be further amended to bring the employers to book and to keep them under control. Otherwise the employers will go on cheating the workers, and the problem will not be solved.

SHRI DAMODAR PANDEY (Hazari-bagh): Mr. Deputy Speaker, Sir, it is a welcome step taken by the Government and has been supported by all including the opposition. It has only been suggested that whatever is being done is not enough and a

lot needs to be done in future. The provision proposed in the present amendment only enables the Government to raise the provident fund subscriptions by two per cent on the basis of suggestion made by the National Labour Commission in 1969. It should have been done much earlier. Neither the workers nor the employers ever obstructed to put the Act into force or to bring forward an amendment on it. Though there has been some delay nevertheless, I welcome the steps taken by the Government in this direction.

One more thing requires attention. There are several other schemes also besides the Employees Provident Fund Scheme. For example, some industries have been exempted from it and they run their own provident fund scheme. The coal mines have their separate provident fund. The private sector and the public sector have been given certain exemptions. But the present arrangement does not indicate anything whether both the sectors should be treated equally. There has been lot of loss on this account and therefore, I want to draw the attention of the Government to it. For example, the Government raised the rate of interest but has it come to its notice that the companies which have been exempted are running their own provident fund schemes but they do not even give 11 per cent interest. It has not come into force either in the public sector or in the private sector. I, therefore, suggest that the scheme to be given effect with regard to provident fund should be binding on these people on an uniform basis. The Government should take appropriate decision and issue suitable direction in case it finds that any departure from the above scheme has been made anywhere.

I would like to submit one thing more. The proposal to increase two per cent is a part of social security. Though we want to provide social security to the labourers we are following the age old practice, in this regard. There has to be a change in the attitude and outlook but no thought has been given to it so far. This 2 per cent increase in the rate of interest in the Provident fund scheme has been made on the recommendations of the Industrial Labour Commissioner and after consulting the industries so that a pension scheme could be

formulated for the workers. About 8 lakh labourers work in the coal mines. They have formulated a scheme. Not only the labourers, but also the officers and employers have prepared it jointly. The Government did never refuse the above scheme. But the whole scheme is the doldrums due to pending of the Bill here.

Those who are about to retire from service are hopeful of getting a handsome amount from the provident fund in lump sum. But the innocent and uneducated labourers face numerous difficulties when they have to withdraw the amount. People also deceive them. In order to safeguard their interests it was provided that the provident fund money will be kept intact and the deposits to be made will be deposited in the pension scheme so that they may get some or the other support till they survive. It was apprehended that somebody may cheat them of the lumpsum amount and waste it. That is why the above arrangement was made. I do not say that this scheme may be withheld here, but the labourers feel that the Government wants to utilise the amount on pensions, because it is in the enabling clause. There are no indications that it will come into force forthwith. I would, therefore like so submit to the Hon. Minister to allow the industries concerned to invest this money in production. Presently, the money deposited in the provident fund is a vital source for the country's economy. Rs. 17,000 crores from the Workers Provident Fund has been invested for promoting country's economy and industry. The increase proposed will be a very important step in the direction of leading the country a head and strengthening the country's economy. But the pension scheme may prove better than it. It will add a specific amount in a particular month. If we can maintain non-inflationary social security on this basis a lot of welfare of the labourers could be done. I, therefore, request the Hon. Minister to reconsider it. It is the the opportune time and even after the Bill is passed he is fully empowered to show the right path to the people.

I do not want to repeat the points which have been made by several Hon. Members. Large number of people are not regularly contributing to the Provident Fund. It was

mentioned that Rs. 185 crores are still to be recovered. But what exactly happens? There are no two opinions that many industrialists have made it into a business. They want to become owners of big factories overnight. They do not want to put hard, labour. They have a tendency to raise loan from the Government on one plea or the other, say for example, by reinstating some employees. They swindle the money of those labourers which they are supposed to deduct from their wages and deposit in the provident fund. Misappropriation in Provident fund is the foremost factor leading to the sickness of an industry. Besides, they do not pay any tax to the Government and keep the money deducted from the labourers with them. When the entire industry becomes sick and swindle the entire capital they tell the Government that they want to close the industry. I would like to ask the Government as to why it cannot make out their intentions in the first instance. The Government should make out that the intentions of the industry concerned are not good from the month it stops contributing to the provident fund. It means that they want to indulge in dishonesty. The concerned industrialist wants not only to deceive the people but also the Government and the society as well. On the plea of sickness he is able to cheat everybody. Now, it has been provided in the Bill to award three year's imprisonment or a fine of Rs. 5000 in case of default. This has been done with a view to recover Rs. 185 crores. We feel that this would be cheaper for the people. The person, who will be awarded three month's imprisonment or a fine of Rs. 5000 must have earned over Rs. 5 crores. He will prefer to spend the jail term for a few days and enjoy there after. There is no dearth of such people in our country. We will have to evolve some concrete measures to recover the money. Only realisation of this amount of Provident Fund contribution would not be sufficient. Few years back only Rs. 3 crores were to be recovered while now it has mounted to Rs. 185 crores. The people have started believing that nothing happens if they embezzle funds. Some Hon. Members pointed out that earlier there was a provision for one year imprisonment in case of default but how many people were prosecuted? When no one was punished under the one year imprisonment provision one fails to under-

stand how you could guarantee three year imprisonment in case of default. What should the Government do now? It should take steps to root out this irregularity.

Appropriate action should be taken immediately after the very first or second month when the contribution to provident fund is not deposited by the employers so that in future it may not accumulate from Rs. 185 crores to Rs. 285 crores. I firmly believe that this irregularity could be checked if immediate action is taken at the initial state. Otherwise these industrialists have decided to swindle the money of poor labourers for the fulfillment of their ambitions and acquiring luxuries. Immediate action is the only way to check it. Therefore, provision should be made so that Provident Fund Contributions do not get accumulated with the employers.

I agree with my colleague's contention that the Employees Provident Fund Scheme has given considerable relief to the workers. But as several Members have pointed out the workers are unaware of the exact amount in their Provident Fund account because they are not issued any account slips. You should issue passbook to all the workers. It is not a difficult task. The Coal Mines Welfare organisation has issued passbooks to all its workers showing their amount in Coal Mines Provident Fund Scheme. That is why most of the workers cannot complain about their accounts. The company possesses their passbooks and workers could check them whenever they like. When a company can manage to issue pass books to its 8 lakh workers why this system cannot be followed throughout the country.

I also want to suggest about the refund of Provident Fund amount. Workers have to face innumerable difficulties in getting refund. They lead a miserable life and even die but they do not get their refund. It has been stated that there is huge amount of unclaimed Provident Fund. Many Members have suggested that this money should be utilized for housing scheme or some other welfare scheme. I am speaking of only one scheme that total insurance, so that worker could get his full amount of Provident Fund on the very day he retires. The insurance company will guarantee this amount. This

unclaimed amount of Provident Fund should be used for timely payment to the retired workers. On the day a worker retires he should be handed over the entire amount of his Provident Fund. This is my suggestion.

These were a few issues which I had to raise. I hope you will pay attention on these issues.

SHRI RAM NARAIN SINGH (Bhiwani) : Mr. Deputy Speaker Sir, I do, not oppose the Provident Fund Amendment Bill. Although the Bill moved by the Hon. Minister of Labour in the interest of workers is a good Bill but it has many *loopholes* and deficiencies. I will offer you a few suggestions to plug them. You may consider them if so desire.

It has been stated by many Hon. Members that the employers have not deposited the Provident Fund Contribution to the tune of Rs. 185 crores. First of all Government should take action against the concerned officers of this department for the their negligence. Those officers are corrupt because employers cannot swindle the money with out their connivance. Action should, therefore, be taken against the guilty officers.

15.00 hrs.

Although you propose to make the Act more stringent by making provisions for 3 year term of imprisonment yet in practice it would be difficult to recover money from the employers when matter is dragged into litigation. When a department is involved in litigation it becomes very difficult to recover the money. In my opinion this money should be recovered by treating it as arrears of land revenue because then there is no scope for litigation. Collectors and Assistant Collectors are empowered to imprison defaulters and attach their property. In my opinion Provident Fund Contribution can only be realised from the industrialist only if it is treated as arrears of land revenue. If the matter is dragged into the court there will be lot of workers who would face innumerable difficulties and may even die

before getting their Provident Fund. Therefore, immediate solution of the problem is to recover Provident Fund contributions from employers in the same way as arrears of land revenue.

Every Government servant gets an annual G.P.F. statement showing the amount of his Provident Fund as on 31st March and he is provided opportunity to point out errors in it if any. Likewise a worker should also be given an annual statement of his contribution to the Employees Provident Fund by Labour Commissioner and should also be provided an opportunity to point out errors if any. That statement will also confirm whether the employer has deposited the Provident Fund contribution of employees? Why cannot the workers be supplied with annual statement of Provident Fund contributions when cores of Government servants are being supplied. Attention needs to be paid in this direction.

Besides, there is lot of bungling in this department. After retirement the workers do not get the refund of their Provident Fund amount for years together. The procedure of Provident Fund refund is so complicated that the worker is fed up of sending applications and in the event of death of the worker on in the event of his giving up the job it becomes all the more difficult to get the repayment. If any worker wants to get loan for the marriage of his daughter or for any other work the attitude of the department is pathetic instead of being sympathetic. The Government should pay attention to these shortcomings. Besides, simplifying the procedure for refund money should be recovered from the employers by treating it as arrears of land revenue. Workers would not be benefited if they are dragged into litigation. Similarly, workers should also be issued an annual statement of their Employees Provident Fund Contributions like the G.P.F. statement issued to Government Servants. Workers would be benefited only through these measures.

[English]

SHRI ASUTOSH LAW (Dum Dum) :
Sir, I stand to support and to congratulate the Government, particularly, the Minister of State for Labour for bringing forward

this Employees' Provident Funds and Miscellaneous Provisions (Amendment Bill), 1988. What I feel and what I find from this proposed amendment Bill is that Government has decided to put more teeth into the Provident Fund Act to enable timely transfer of funds. It is a regular feature and from our experience we find that a large number of employers and a large number of companies in the Private Sector, whether they are exempted under the exempted category or unexempted are not depositing money. Sometimes, they are not depositing the Employers' contribution and there are cases where the employers are also not depositing employee's contribution after deducting money from the employees' salaries. I find that the object of this Amendment Bill is very noble, but we do not know how far this legislation will be implemented. We have come across a number of Acts, a number of amendments Bill, which have been passed in this House, but in the practical field we find that the implementation of the Acts is not very rapid or not prompt. The Hon. Minister is here. I can point out certain shortcomings of Bill. I do not know whether it has been considered before presenting this Amendment Bill or not. There is one practical difficulty to achieve the main object of the Bill. There is an Act called the Companies Act. I am talking from my practical experience. The Companies Act, 1956 has sections 417 to 420 which give certain right to the management or the officers of the company to get relief under section 633 of the Companies Act if any default is committed. Suppose today one officer commits default in depositing the money in Provident Fund, he has right to go before the Court under the Companies Act, and make an application under section 633 of the Companies Act read with sections 417 to 420 asking relief from the court to relieve him from all the consequences for not depositing the money and in that event will grant him relief. This is happening every day. Ultimately the default management may take the instalment order from the court. If they commit default again in making payment of instalments, the matter can be moved before the Constitution Bench under article 226 of the Constitution. I do not know—at present I do not have the exact statistics—of the pending before the High Courts. Of course,

a large number of cases are pending before the Calcutta High Court. I am sure, the Minister is well aware of that fact.

I admit the Bill is a well drafted one, but the moment Government will try to implement the sections which are being amended, the Companies Act and the other Acts will come in the way and again delay will be caused in recovering the money from the management or from the establishment. Therefore, in order to implement this Amendment Bill. Government should look into the matter; it should ensure effective enforcement of this Bill. Secondly, the main purpose of this Amendment, as I understand, is to reduce the arrears. The whole purpose should be to ensure reduction of arrears of Provident Fund. Thirdly, by implementing this Amendment Bill, an attempt should be made to bring efficiency into the organisation. When I say 'organisation', I mean the Government officers who are controlling Provident Fund affairs. It is also necessary to revitalise the Provident Fund machinery with the definite object to realise the arrears and to detect the defaulters and taking timely action against the defaulters so that by committing default, a defaulter cannot take advantage of the long drawn legal procedures. Timely action should be taken immediately.

I may also point out that proposed amendments contemplate that various organisations will come up. Information should be given very promptly to the workers regarding the changes which are taking place in the legislation. Sometimes the workers are not aware of their right. They do not know what to do. If any notification is issued, if any change takes place in the legislation, they are not promptly informed. So, they should be informed about their rights and such wings or departments should be maintained by the Government so that workers could be informed.

In this Act, it has been proposed in Clause 5AA :

"The Central Government may, by notification in the Official Gazette, constitute, with effect from such date

as may be specified therein, an Executive Committee to assist the Central Board in the performance of its functions."

It is a very noble idea. But I do not know why this Act is totally silent about the duties and functions of the Executive Committee. Therefore, it should be spelt out. I find, the Amendment Bill is totally silent about this aspect of the matter.

15.11 hrs.

[SHRI SOMNATH RATH *in the Chair*]

I find from the proposed Clause 9 which intends to amend the Section 6 of the Principal Act that contribution will be enhanced from $6\frac{1}{4}$ per cent to $8\frac{1}{3}$ per cent. That is the highest level. But the minimum rate of contribution should be fixed. A provision should be made in this Act enhancing the minimum contribution of the workers towards the provident fund and that rate should be enhanced. Here, it has been contemplated that at the discretion of the management, the scope has been given, should be enhanced to ten per cent. A line should be drawn that beyond this percentage, no worker should be allowed to contribute.

The most important clause for the rapid and speedy disposal of the arrear cases is the Clause 10. Clause 10 provides as follows :

"The Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional Provident Fund Commissioner, or any Assistant Provident Fund Commissioner may, by order ;

- (a) in a case where a dispute arises regarding the applicability of this Act to an establishment, decide such dispute; and
- (b) determine the amount due from any employer under any provision of this Act, the Scheme or the

Family Pension Scheme or the Insurance Scheme."

The idea is very good. I heartily support this idea. But time should be limited. From our experience, we find that these tribunals and quasi-judicial authorities take unnecessary long time to dispose of the matter. Some specific time should be given in the Act itself within which period whatever disputes are referred to whichever forum: it should be disposed of and the Government should be very vigilant about it. Otherwise, the entire purpose of this Act will be totally defeated. Justice delayed is justice denied.

Clause 7C provides a section which says ;

"he may, within a period of five years from the date of communication of the order passed under section 7A or section 7B, re-open the case.. ."

So, for re-opening the case five years time has been given under this Amendment Bill. Why is it five years? It should be ten years. Why such a short time is given? Suppose an employer has suppressed certain documents and the authority fails to detect these documents, within five years and after ten years it comes to light, then an opportunity should be given to re-open the case. A period of ten years should be kept if not more. This is my suggestion to the Hon. Minister. Five years is too short a time. Even in the Income Tax Act a long time is given for re-opening the case. So why is it only five years here?

Then I find about Tribunals under Clause 7D. It has been contemplated that tribunal will be set up. I am humbly submitting that by simply constituting tribunal disputes cannot be disposed of expeditiously. Some machinery can be set up. Again I am repeating that unless the time limit is provided for within which period whatever disputes are referred to the tribunal has to be disposed of, the tribunal may take to dispose of the case more than five years, by which time the purpose of this Act will be totally frustrated.

Regarding deposits again the question of time limit comes. I would refer to Clause 7L (2) which says :

"A Tribunal may, at any time within five years from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it..."

I would again say that five years time is very short; it should be ten years within which period the Tribunal can rectify its mistakes.

Regarding deposits in case of appeal it has been suggested under Clause 70 that :

"No appeal by the employer shall be entertained by a Tribunal unless he has deposited with it seventy-five per cent of the amount due from him..."

Why is it 75 per cent? The total amount should be deposited like in any other court. After all, the money will be deposited with the Tribunal: it is not the payment. If the management succeeds in the appeal it will get the refund; but defaulting management has to deposit the total amount. Instead of 75 per cent, it should be made total amount—whatever the claim has been determined that has to be deposited and then only the right to go before the Tribunal will be entertained.

Today the arrears of Provident Fund position throughout India, particularly in West Bengal is very bad. In most of the jute industries, the management are not depositing their contribution to the Provident Fund. Some strict measures have to be taken to force these managements to deposit their share of the Provident Fund.

In this Amendment Bill I find another contradiction. A provision has been made for treating the entire amount of arrears of PF dues as first charge on the assets of an establishment in the event of its liquidation. Corresponding amendment in Section 530 of the Companies Act should be made otherwise it will become infructuous. It will clash with Section 530 of the Companies Act. Without making corresponding changes in Section 530 of the Companies Act it will become infructuous.

With these words, I support this Bill wholeheartedly and congratulate the Hon. Minister although this piece of legislation

has been brought too late yet this amendment has been brought for the benefit of the workers of our country.

SHRI BHADRESWAR TANTI (Kaliabor) : Sir, the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill, 1988 has been taken up for the interests of the working class. I would have been happy to support this Bill but I am constrained to oppose this because of the fact that this is nothing but an old record in high sound. After Independence of the country you have brought so many laws in this House. India is a member of the ILO. Out of 150 ILO conventions India has adopted only 30 and that too on paper. You have not adopted them in letter and spirit. So far as our experience is concerned the labour laws are nothing but a scrap of paper.

There cannot be any social security without social justice and without social justice there cannot be any social security. Under Article 19 of the Constitution of India there is provision for protection of certain rights. Under Article 42 there is provision for just and humane conditions of work, under Article 43 there is provision for living wage to the workers' and under Article 43A there is provision for workers' participation in the management. These things are there in the Constitution and you have adopted so many laws but the same have not been implemented so far. I will give an example. If a worker in a private concern is today dismissed by the management the worker will have to take his wage dispute before the management, labour officer or the Inspector. Then after a few months the Labour Inspector or the Labour Officer will start conciliation proceedings. Then conciliation proceedings after a few months will fail. The management will not come to the table of the conciliation proceedings. Then he will submit a failure report to the Labour Commissioner. The Labour Commissioner, at his sweet will, after six months will send a report to the Labour Department and the Labour Department after some months or years will refer the matter to the labour court for adjudication and the workers after two-three years will have to go to the labour court. Then in the labour court the trial

will start and it may take three to five years.

On one fine morning, you will find that the case is dismissed against the workman. Then, he will have to go to the High Court and from the High Court to the Supreme Court. These are nine stages. How can you expect a poor workman, getting Rs. 10-12 a day, to go through all the nine stages? Can a man, getting Rs. 12 a day, follow all these stages? Can he go to the Supreme Court? This is the present position. Such are the laws now. Why have you failed to bring forward a law under Article 323-B? Why don't you set up a labour administrative tribunal for the private workers? The moment a worker is dismissed, he can directly go to the labour tribunal. From the labour tribunal, he can go to the High Court and then to the Supreme Court, instead of following the procedures. These are the lacunae. These are nothing but draconian laws. These are not helping the workmen.

THE MINISTER OF STATE OF THE MINISTRY OF LABOUR (SHRI JAGDISH TYTLER) : Don't get angry.

SHRI BHADRESWAR TANTI : Have patience. You have compelled me to lose my temper. (*Interruptions*)

In my State, there are about 800 tea estates. The condition of these estates is worse. The workers have not been given housing facilities, accommodation, medical facilities, sanitation, water, etc. Nothing of this sort has been given.

You will definitely say that there are AGP and my Government. But for the last 36 years, there was the Congress Government. You have failed to implement the labour laws in the tea plantations of Assam. Assam is earning 60 per cent of foreign exchange out of tea. Tea Board is there for the welfare of the people of the tea plantations. But who is getting the benefit out of the Tea Board's funds? Not a single worker is getting the benefit out of its funds. They have set up some estates. The Tea Board is functioning at their goodwill, but not in the

spirit of the established procedures. It is only busy in making policies. The policies are nothing but fiasco.

Now I am referring to amendment of section 14. In place of three months, now they have extended to one year, a fine of Rs. 10,000. Why? You have failed to make a law for compulsory imprisonment in the event of failure on the part of the management. If the management failed to implement these provisions or laws, then if he tried in a court of law, he will have to undergo an imprisonment or a fine—either of the two. What prevented you to make a provision for compulsory imprisonment in case of failure on the part of the management? Why not that? What new changes you have brought here? Nothing more, nothing new. Make the law compulsory so that the management is compelled to comply with the provisions and implement the laws. Suppose the management is required to construct 8,000 houses in an area. He is to invest Rs. 10 lakhs in a year. He does not care to construct the houses for the workers. He always violates the rules. The moment the case is taken to the court, he hesitates because he is saving money out of that. So he does not care to pay Rs. 5000. There is no penalty or compulsory imprisonment. If you want to give social security to the working class, the laws must be based on the Constitution and implemented properly. They must be scrutinised in a microscopic view. Otherwise, these laws will not be helpful and for the last 14 years, the working class is suffering. You keep on saying *Garibi Hatao* and *Bekari Hatao*. This will not help us, this unity and integrity.

MR CHAIRMAN: Why don't you speak on the Bill?

SHRI BHADRESWAR TANTI: What is there in this Bill? Nothing. It is only a set of paper. I have the Constitution here.

MR CHAIRMAN: Why I am telling you is because the time is short and if you go on speaking on general aspects, you will have little time to speak on the Bill. Already your time has exhausted.

SHRI BHADRESWAR TANTI: So far as the provident fund is concerned, Assam

Tea Plantation provisions are still there. They do not give any statement or account the workers. The innocent workers do not know whether there is any provision to get a statement of accounts or not. This is very serious. For the last 14 years, even on the date of retirement, they do not get their dues. And the law says that within six months or 14 days, they have to get their dues. They do not get the retirement benefits, the PF money and their contribution. This is happening in every industry and what to speak of the public sector industry and in the private sector industry, the picture is very much dim. The workers render their service for building the nation and in return, even on the date of their retirement, they do not get their benefits. There is no law to protect their life and property. Only for name sake, ours is a welfare state and in a welfare state, everybody is protected except the workers. This is happening and particularly in tea industries in Assam, the workers are in severe starvation. There is no opportunity of any kind. So, I pray, through you Sir, the Hon Minister to take such steps that the workers are properly protected, paid and are given all benefits due for them. Otherwise, this will not help at all. With these words, I conclude.

[Translation]

SHRI HARISH RAWAT (Almora): Mr. Chairman, Sir, the purpose of this Bill is to safeguard the interests of the employees. Through this Bill not only the representation of employees has been increased in the Board but it also seeks to vest all the necessary machinery and resources with the Board so that it can check and take steps against the defaulters.

We welcome the Government's decision to increase the percentage of contribution. The provisions made by the Government are well-intended but the problem is in implementation. Provision has been made that interest will be charged from the defaulter. Besides if a recovery is made against a defaulter or a case is registered in the court, there is a provision that first of all the amount of Provident Fund will be deducted from his assets and will be given to the employees. Therefore, we welcome all these steps but now will they be implemented. The

number of defaulters is on the increase and neither the Government nor we are in a position to tell whether this number will decline as a result of this legislation. Just now an Hon. Member said that a number of industrialists have swindled the provident fund contribution of employees to the tune of Rs. 185 crores. A number of cases are pending and no action is taken. It has been suggested repeatedly that pass books should be issued compulsorily to all the employees of those establishments which have come under the purview of the Act, so that the workers could know about their own contribution and that of their employer's contribution in the fund. They will also come to know the amount that they are likely to get on retirement. This is not an impossible task which the Government cannot take.

Another thing, which has come into our notice is that we charge only simple interest on this fund from the defaulters instead of charging compound interest from them. A defaulter is a defaulter and therefore we should not show any leniency to him. Action should be taken against him by making it a cognizable offence but in this regard no provision has been made in this Bill. I would like to urge the Hon Minister that in case we are unable to get the desired results for the workers through this Amendment Bill then this suggestion should be considered in future.

Recovery powers vested with the District Magistrate have been transferred to the Recovery officer. Perhaps the Hon. Minister thought that the District Magistrate had to discharge many duties and therefore he could not pay required attention towards it. I think that it is likely to cause more harm instead of benefiting. The State Governments should be instructed to recover Provident Fund arrears from the defaulters on the similar lines as land revenue. If the arrears of Provident Fund are recovered like the land revenue arrears, I think every person would desire to chase it right from District Magistrate to Chief Secretary of State and even the Chief Minister, but the arrears of Provident Fund are not recovered like the land revenue arrears. That is why nobody feels responsible except this Provident Fund Organisation. I would, therefore, like to request the Government to direct to State

Governments to recover the arrears of Provident Fund on similar lines as recovery of land revenue arrears and utilise the entire State machinery to recover the dues so that the defaulters do not dare to swindle the money. I fail to understand how the Recovery Officers would be successful when they are not vested with those powers which are with the District Magistrate. Even the latter have failed in this field.

With these words, I welcome this Bill wholeheartedly and I hope that the facilities and concessions provided by the Government to the workers, will be welcomed by all.

[English]

SHRI VIJAY N. PATIL (Erandol) : Mr. Chairman, Sir, in a democracy we expect that the majority should rule and the minority sitting in the Opposition should oppose on constructive points. But I have seen some Members who are not satisfied with this very good, comprehensive amendment and they are trying to seek loopholes in that. Of course, in any Act or amendment thereto, there may be some loopholes, there may be some scope for improvement but all the same the fact cannot be denied that this amendment to the Employees Provident Fund Act is very comprehensive. It is almost a new Act, new pay slip. More than 70 per cent of the old things are changed, right from the size of the Board which has been increased from 6 to 10 to accommodate more representatives of the employers and employees, so also the percentage of contribution is being increased from 6 per cent to 8 per cent with enabling provisions up to 10 per cent and the mode of recovery. In case of the mode of recovery also there will be very strong machinery for the recovery and it will work effectively.

Many Members were harping on the figures of arrears, i.e. Rs. 185 crores, but they have ignored the fact that starting from Rs. 3 crores the increase has reached to Rs. 185 crores. But at the time of arrears when the figure was Rs. 3 crores the number of industries was also small. Now, the number of industries, especially the small scale industries has increased and it is running into lakhs. So, definitely when the industry becomes sick or when the intentions

tions of the employer are not honest there may be some arrears and to recover such arrears to protect the interest of the workers even in such units, even against the bad intentions of such employers this amendment has been brought. And with this amendment we will take care of those things. But we must see what is the percentage of arrears. It is hardly one per cent but even to take care of that one per cent, the Central Government under the dynamic leadership of Rajiv ji and our dynamic Labour Minister, Shri Tytler, they have brought forward this amendment. You may say this is late. Many things in democracy are delayed.

SHRI NARAYAN CHOUBEY (Minda-pore) : Democracy means late.

SHRI VIJAY N. PATIL : My CPI and CPI (M) friends should welcome this. I was expecting that they will be sitting in majority here, in full number.

SHRI NARAYAN CHOUBEY : You see your number.

SHRI VIJAY N. PATIL : We are as usual. But sometimes when you are only the protectors, you try to show that you are the only godfather of workers in this country. You should have shown it just now.

Mr. Chairman, Sir, there are the provisions for charging simple interest on the arrears. I would like to suggest that if the industrial unit is facing sickness, if there is no increase in turn over, the interest can be simple interest. There are some other difficulties in the industrial unit or to the employers. If the employer's turn-over is doubled, if there is expansion and if there is profit earning, in that case even if he is maintaining an arrears of provident fund then the interest should be the compound interest. There should be some difference for different types of defaulters of provident fund.

Mr. Chairman, Sir, I would also like to suggest that we have got certain instrument in our hand. For many industries we are giving some special quota of raw materials from the Government. If the employers in such industries are defaulting the provident

fund, then it is very bad and we can think of stopping the priority allotment of such raw material quota. In many areas we are giving industrial subsidy to the extent of 10 per cent, 20 per cent and even 25 per cent. If an employer fails to make the provident fund payments to his employees, there should be a provision whereby the amount of subsidy must be adjusted against the payment of arrears. Many banks do take advantage of this provision and adjust this type of subsidy against loans. We also can make a similar provision for adjusting the subsidy which runs into lakhs and lakhs of rupees even in the case of small scale industries, against the provident fund arrears which remain due from the employers.

I would like to suggest that though this is a very good amendment, our workers must be educated about the provisions of this type of laws. They should be made aware of their rights. In big industrial units, where the number of workers is more, where there are unions like the INTUC, unions of the CPI and the CPI (M) and unions of our friends like Datta Samant, the workers are very much conscious about their rights. They can bring the employers even to their own terms. They need not go to the Provident Fund authorities for recovery of the arrears. They can see to it that the employers contribute to the fund properly and deposit the amount regularly in their accounts. But workers in small units, especially when they are new and when their number is not more than 20 or 30, are not covered by the unions. Such category of workers also should be educated about their rights. They should have an understanding of the various provisions of the law so that they know their rights. When they are conscious of their rights, the work load on the part of the Union and State Governments and other law enforcing machineries will be greatly reduced. If a person is conscious of his rights, he will fight for it. He may go to a court or a tribunal or any other relevant authority for getting his dues back.

Lastly, I would like to tell my Hon. friends in the Opposition, who want everything readymade, that this also is being given in a readymade form. After getting everything readymade, they still want to take the credit for it. At least now, they should

give credit to the Hon. Minister for bringing forward this comprehensive amendment and support it wholeheartedly.

DR. DATTA SAMANT (Bombay South Central) : Sir, my friend from Maharashtra Shri Vijay N. Patil is talking of taking a lot of credit. I will definitely give some credit at the end of my speech.

But first, I would like to submit that workers contribute a lot to the government funds through provident fund, family insurance and so on. The Hon. Minister may kindly give me the exact amount of their contribution, but as far as my knowledge goes, an accumulated amount of 70,000 crores of rupees which belongs to the workers is being used by this Government for various schemes.

Your concern here is only about 1.3 crore workers. You are not taking the workers of the Central Government, State Government and various corporations and public sector undertakings into consideration. So, in the case of an equal number of government workers, you are not going to implement this amendment or increase their provident fund contribution. I think that this is not a correct step. At least in the case of 21 lakhs of public sector workers, you should have done something. Even the workers feel so much conscious about it at the end of their service. They themselves want to contribute more to the fund. Also, the Government is going to gain from this. This is a question of collection of the fund. According to my figures, the annual collection from all Central and State Government workers and public sector units comes to about Rs. 3000 crores to Rs. 4000 crores. The Government collects such a amount. If you consider increasing the amount from 6.1 per cent to 8 per cent or from 8 per cent to 10 per cent, another one thousand crores of rupees can be collected by the Government. Sir, I made all these calculations on my own. Therefore, I want the Hon. Minister to give me the correct details. I say this because we are also concerned about the national economy. I am more interested in knowing as to how much is being contributed by my workers. That is why, all such figures are very important.

Secondly, it is not a question of compound interest and simple interest. I have inquired about this aspect from your Accounts Offices in States as well as here in the Centre. A very huge amount of money belonging to the workers is being used by the Government. You are giving only simple interest on the amount. They deposit their contribution three or four times, every year. But you calculate the interest only at the end of the year. So, there will be an accumulation of interest amounting to crores of rupees. This Government has literally deprived them of interest amounting to crores of rupees. You calculate if they work for thirty years or so, how much will be the interest. Therefore, I would appeal to the Government to direct the banks or other financial institutions to calculate the interest on monthly basis. This discrimination should not be there, regarding calculation of interest on a yearly basis. It is only the workers money which they contribute towards the Provident Fund which is being used for various schemes. I am happy about that.

The bosses of sick industrial units are taking away the hard-earned money of these workers. They are using this money for their various schemes. Ultimately, when you see the net result, there is nothing in it.

I would appeal to the Hon. Minister—the Public Undertakings Committee had given you the recommendation—that the interest calculations should be made on monthly basis instead of yearly basis and the compound interest should be given to the workmen.

Coming to the Provident Fund Office, I would say they are the dens of corruption. I come from Bombay. I was also a leader of their Union. For getting the forms, for filling up the forms, the poor workman has to go ten or fifteen times to that office. Everywhere money is demanded. There are agencies involved in that. There are even the Trade Union Leaders who also indulge in such types of activities. There are big such rackets. Everybody is involved, except a few. If anybody receives Rs. 30,000 or Rs. 40,000 as commission or some such thing, the rest of the people will also demand their share out of that money.

MR. CHAIRMAN : Mr. Thomas takes an exception to this.

DR. DATTA SAMANT : Everywhere there are good and bad people. This can be corrected. I would like to say something more regarding corruption. When the widows of the workers or their dependents approach them for the money, they are not treated properly. Anyway, they are not with the Unions. We do not look after the widows. They need money very badly with the result, even for a signature, they demand money. They raise small technical points and demand money from the poor widows. The same thing is happening in case of retired people.

So my submission is that you set up a Vigilance Cell in the Central Office of the Provident Fund Commissioner. You set up such Vigilance Cells and make enquiries from them. Definitely, I would say, there will be some improvement. Anyway, you are trying to make some improvement by raising your interest rates from 6 per cent to 10 per cent. But the point is the workers should get their interest without any difficulty.

Regarding this, I have already given an Amendment. I hope, you will allow me to move it. In that, what I am proposing is, if any worker contributes on his own more than 10 per cent, then, you should give him Income Tax rebate. In Bombay and also in many other places, the salaries have gone upto more than Rs. 3,000 or Rs. 4,000. So, the workers would like to contribute more money towards the Provident Fund.

Last month, we had discussed High Court Judges Pension. We have passed that also. This Act is encouraging the Provident Fund trusts. A lot of Trusts are run at present. You give permission to the employee. He will collect it and deposit the same with you. The provision in the law is very good. The Hon. Minister is now going to treat the representative of the workmen, the representative of the employer, equally. But the Chairman, will always be the employer. Although the Acts are there, but these trusts are using their own emplo-

yers, their own properties and they are not depositing the money. Nobody has got time to look into it.

Next comes, the problem regarding loans. There is one provision in this Bills which you have added, viz. Clause 2. This is a big joke. The intention is good. The Minister is talking like a progressive, in the matter of contract labour. The strength of contract labour in India is 25 per cent. In the case of 10 per cent, there is no record kept by anybody. In the law, there is no provision to reinstate them. In the law, there is no provision to make them permanent. The Hindustan Lever bosses can appoint all the people as contract labour. So, this provision is going to be there just on paper—I mean about contract labour.

Secondly, about Apprentices. They get Rs. 300/- or Rs. 400/-. They will be sent out after one year. The employer will suitably deduct this amount and keep it in his pocket. If the Government keeps it, I will be happy. But the employers will not part with the receipts. Even though all these provisions are there, since the Apprentices want their bread, all the deductions from them will be swallowed by the employers, who will not part with the receipts. Therefore, this should not be done.

Now, in Clause 14 you are making the punishment stricter, because they have deceived to the extent of Rs. 185 crores. Therefore, it is a very important aspect. Under the existing law, the punishment is Rs. 5,000 fine or six months' jail. Everywhere this word 'or' is there. I am not going into details. But such punishments are not going to work. The man who has cheated the workers of their provident funds amounts should really receive punishment. Forget his contribution. There is a Bradbury Mill in Bombay. The employer there has cheated Rs. 2 crores of workers' money. Still, such people go scot-free. Therefore, please remove all your provisions regarding monetary punishments. The man who has committed this fault must go to jail. Let him go to jail for three months. You send me for three years. I do not feel any agony about it, because I fight for the workers. But about the economic offenders in this

country, and those who are cheating to the extent of Rs. 200 crores,—what is to be done? This law was passed earlier in 1952. There are 1.35 lakh establishments. Have you sent a single employer to jail, for one day in the last 30 years, for committing this fault? This shows the attitude of the Government. You have the National Security Act and other Acts for us. In Bombay, we sent one man for one day to jail. He came out the next day. I remained in the jail for one year. Forget it; I never feel it. But this shows the attitude of the Government. This is a very important point. I want the figures of such economic offenders. I hope the Hon. Minister can give me these figures. You are making amendment in Clause 14. What is the meaning of this fine of Rs. 5,000/-? They have swallowed Rs. 200 crores. And they will never give the fine of Rs. 5,000/-. If a stricter punishment is to be awarded, the Judge must give the reasons for it. All your laws are soft.

All I would like to suggest to you is this. You are going to appoint legal tribunals. It is a good thing. But by the working of all these recovery officers, people who serve notices, make enquiries, and pass them on to the tribunals, who is going to be benefited? It is the employer. Are the poor workers, these *chhota* unions or others going to attend the tribunals? So, by the provision of a tribunal here, and by passing this Bill, you are not going to help the workers. Your intention may be good. That is why I tell you that you may enjoy full power; and I do not mind your using it to some extent. But because you have provided for the tribunals etc., the big business houses will create a lot of legal litigation. They are not going to help the poor workers.

15.58 hrs.

[SHRI N. VENKATARATNAM
in the chair]

Secondly, it is a good thing to say that 75 per cent of the amount should be deposited. But there also, you have given powers to the tribunal to reduce that amount, or make it less. Thirdly, whatever be the amount under dispute, the employer should

pay simple interest. Instead of depositing Rs. 1 crore with you, the employers will create litigation, because the employer will get loan from outside at 20 per cent. Here, he would feel that if the case is decided against him, he will have to pay at less than the bank interest. So, I am suggesting an amendment that $1\frac{1}{2}$ times the rate of interest should be there. Otherwise, through all these legal litigations, your collection will be much less.

You are giving powers, through a provision, to the tribunal or the committee, to reduce the provident fund amounts etc. Please do not start this practice. After the law on sick units was passed, all the healthy units are becoming sick. In Bombay, employers bring certificates. They pay something to some committee, get the certificate and then say: 'I have got a sick certificate. I want concessions in respect of provident fund etc.' The intention was good, when we discussed that Bill here.

16.00 hrs.

Now a sick unit is becoming a Certifying Board of making every unit sick and you are adding sickness here. Definitely, if you are going to give certain concessions, then the sickness is going to increase. If any company is liquidated, the first claim is of the workers. It is good to talk on the platform. There are 3500 companies which are liquidated in this country—about 70-75 from Bombay. Is there any single employee from such companies who got their provident fund? It is very clear that nobody is going to get it. Before a company is declared liquidated, everything is removed from there; nothing is available there. And the liquidation decision comes after 10 years. By that time either the workers go to their native places or die. So, it is becoming an academic discussion. But it is a very important thing.

Here 20 or more workmen are required, but the employer always keeps a register of 19 workmen. When my union was formed, two casual workers were removed and the litigation started. This is a big problem. We can look after the organised workers in the Godrej and Premier. Therefore, I think,

that is not the need of this country. Small industries are coming up and there they are getting Rs. 12 to Rs. 15 per day. For 90 per cent of the workers, they are not giving provident fund slips, forget about the cards; they have not been giving them for the last four years. Therefore, there are such administrative difficulties. If a worker does not get his provident fund slip, then that money will be swallowed by his employer—they know the weakness—or by the accountant or some other clerk. Therefore, there is a lot of provident fund money, but, officially, they must be showing Rs. 185 crores. It is a serious offence. About 10 per cent of the money collected by the Government is not taken by the workers. The Hon. Minister will correct me if I am wrong. The proper claimants are not there. Therefore, there is a lot of dissatisfaction among the workers. I think it is good for the Government to get this money at a simple rate of interest and always save money. So, this is a major contribution by the workmen to the national economy. There are a few thousand crores of rupees of this nature; I do not know; I am not getting this figure. I have tried to get this figure from the Library, but I am not able to get it and the Government is also not giving it. This is the biggest contribution of the workmen to the national economy. The industrialisation is increasing and it is a sure contribution from the workmen to the national economy. It will go into losses. I am proud to mention that this is the biggest contribution from the workers to the national economy. Therefore, the interest of the workers in all these units should be maintained. Therefore I am giving this suggestion that all the units of the Central Government, State Governments, corporations and public sectors must be included. I think the Government is going to gain in that, because the Government is getting money at a cheap rate of interest for national development.

I have got a case in the Bombay High Court. They say that they have collected Rs. 764 crores in eight years, but they have given for pension only Rs 5 crores. So, it is good that Government is getting this money on this account. So, the Government must cover all workmen. If some workers want to contribute voluntarily more than 10 to 55 per cent—I think in some countries it is 33 per cent; if you want, I can give

the names—then at least you keep it income tax free.

This tribunal system and litigation system is not going to help the Government. That is why I request the Government to take all these powers and punish the employers who are making all types of defaults by not using the money properly. Though there is a fine, it is not going to help. According to the Companies Act, if a company diversifies its fund, then there is a fine of Rs. 400; if it swallows Rs. 4 crores, the fine is only Rs 400. There is no criminal prosecution and we are talking is economic offences. Under the Companies Act, last year, 7000 employers were prosecuted and a fine of Rs. 7 lakhs was collected from them for making serious offences for not holding the meetings and diversifying the fund. So, all these economic offences are there. Then the privatisation is going on. Then they are not making the trusts work properly; they are becoming trusts of the employers. In Bombay, it is all right that we can dictate in some places. But when a dispute comes, whatever facilities we get from your office, we get; if there is a lock-out, we get loan; if there is a strike, illegal strike, we get loan. Though you have made a provision, but nobody is going to be prosecuted. For sick units, there should not be any concessions.

For opening a provident fund accounts there should be 20 workers; it should be reduced to 10 workers, because workers of this country always desire that some money should be saved so that it will help them in their old age. For that, the Government is going to gain. I request that the Government may look into this provision. Then about maintenance of the Provident Fund slip. At least the card should be maintained. Immediately after the money is deposited you know that the worker will like to get the slip to see the amount deposited, because the employers are going to cheat. Therefore, there should be such a provision. But there is no provision. I will say, that the worker after working for four years and three years after depositing the money, in a city like Bombay we are getting the slip. What can be said of small small places. There are companies under liquidation and so on.

I thought that though you are making rules they are not going to help the workers. In legal cases I think provision should be made to provide for interest. And the interest should be more. The employers are going to make all sorts of provisions suitable to them and to maintain the provident fund accounts as they want. It is a serious matter. On the contrary the benefits do not reach the workers. I am with the Minister so far as the benefits to the workers are concerned. This is a good measure and on this basis I conclude my speech.

SHRI NARAYAN CHOUBEY (Midnapore) : Mr. Chairman, Sir, Mr. Soz wants me to support this Bill. Since Mr. Soz's party has joined hands with the Congress, he does not find anything wrong in whatever the Congress party does. Am I correct ?

PROF. SAIFUDDIN SOZ (Baramulla) : Is it not a good measure ?

SHRI NARAYAN CHOUBEY : I cannot say, lock stock and barrel that I agree. It is not my choice. Anyway, some important observations have been made. But there are some loopholes which you have to plug, if you want to ensure that the benefit which you are giving by this Bill reaches those workers for whom it is meant.

One point which has been made is, that why not cover all sections of workers and employees ? Why only one section ? Why not the State Government employees ? Why not the employees of the Central Government, Railways, Defence P&T etc., why not the public sector employees—why not all these be included ? I cannot re-state that they should all be covered by this Act.

Another point I big to submit is about the exempted section as per the provisions of this Act, according to which only the employers are to manage everything. Small factories have nothing to do with the Provident Fund Commissioner's office. The employers will collect, and they will disburse the money. Who are the employers ? These are the employers who cheat the workers. These are the employers who make wrong declarations. These are the employers with

whom both the Government and the workers, both are tired. I do not think that it is proper to allow such employers to be kept out of the purview of the Provident Fund Commissioner or the Provident Fund office, and to allow them to do whatever they like. I think this will be remembered.

Another point has been mentioned, which I support. Almost all the Provident Fund offices they are made for the dalals and agents and not for the workers. I know the Calcutta office. It is a dangerous den where nothing can be done without making payment to this Devata, that Devata and saying "Ganeshaya AAdi Panch Devataya Namaha". I know that nothing can be done without that. So, naturally some steps should be taken. They do not care for anybody. They do not care for even Ministers. They are very powerful people, and they have got strong links with the management.

So, what steps do you propose to take so that the workers, the poor workers, and even the workers of the organised sector, led by ITUC, INTUC, HMS, STU etc. do not suffer ? A provision should be there that if the payments are not made to the Provident Fund there will be some punishment. They should be told that if they do not make the payment they will be punished. At least that tendency should be put an end to; at least it should be curbed.

You have also brought in the question of punishment. One thing is that you have increased the punishment to some extent. Fine is also punishment. You have stated one year punishment or Rs. 5,000/- fine or both. Both these are there. What is the interest ? If a man defalcates say, Rs. 1 lakh, in the market he will earn Rs. 5,000/- in fifteen days. So, naturally it is nothing for him To make defalcation of two lakhs or five lakhs and then to pay Rs. 5,000/-, it is nothing for him. My suggestion is that the punishment should be for three years and Rs. 10,000/- must be the fine.

Our workers or employees go to jail very often, they do strikes, they are arrested and put behind the bar I would like to suggest the punishment should be three

years and the fine must be Rs. 10,000/-. If you can put some of the owners in Jail for six months, or one year or two years and get the work inside the jail, then they will understand what is what and they will be afraid. Naturally, if you want to do this, then the punishment should be increased. This is my submission to you.

Another point which I would like to submit is regarding contribution of ten per cent. There was unanimous resolution of the Standing Labour Committee. After it has been increased from $6\frac{1}{2}$ per cent to more, what are the factories and establishments where it was more? Now you have made it little diluted. Under the pressure of the management, do not dilute the unanimous resolution of the Standing Labour Committee. My request to you is that the Government should stick to the unanimous resolution of the Standing Labour Committee and do not dilute it under the pressure of the management.

I would like to submit another point. You are thinking of having an Executive Committee to assist the P.F. authorities. It is another addition only. I do not think it will solve the problems. Only ornamental committee is coming up. I suggest that the PF authorities should be restructured; representatives of the workers should be increased and further more, sub-divisional and regional offices should be opened so that it can function properly. By having another committee with the induction of some officers, we do not think it will serve the purpose of the workmen, for whose interest you have brought this Bill.

Much benefits have been said regarding calculation of interest. The employers do not remit, but they defalcate. The workers are definitely paying money every month and it is not reaching the Government coffers. I fail to understand why can't you give them some initiative and certain leverage. If I take a loan from any bank, the interest which I have to pay; if an agricultural farmer gets some loan; if any young unemployed youth gets some loan from the bank, he has to pay on the basis of compound interest. I fail to understand why the same rule does not apply to the workers who remit the money late to the

Government, I hope, the Minister will consider all these points and he will be strong enough to see that punishment is strongly applied to defaulting employees.

With these words, I thank you and I hope our Minister will be kind enough to see that these loopholes are sealed.

PROF. SAIFUDDIN SOZ (Baramulla): I had suggested to Mr. Choubey that he must straightaway support this Bill because in the Statement of Objects and Reasons I see several good measures in a row. For instance, raising the membership from six to ten of the Central Board of Trustees is a very good idea. Then there is another good idea of raising the contribution from $6\frac{1}{2}$ to $8\frac{1}{2}$ per cent and an enabling provision is also being made for raising the rate of contribution from $8\frac{1}{2}$ to 10 per cent. The Minister needs to be congratulated for that. He is also making a provision for an independent machinery for recovery of the outstanding amount of provident fund and other dues under this Act. I will come to that later. A provision is being made for setting up one or more single-member Tribunals for hearing of appeals. These are some of the very good measures. I feel that this Bill deserves support from all sections. But I would wish that the Minister had taken a little more time to make it comprehensive because he came to this Ministry very recently. I have no doubt that he will care to consider these suggestions and he will incorporate these suggestions wherever necessary or in future he will try to make this measure very comprehensive and it must be in toto a welfare measure.

The Statement of Objects and Reasons says that it covers about 1.66 lakh establishments with about 1.38 crore subscribers under this Act. This is a very big area. But the figures have not been given as to what is the total amount of money that is being collected and what is the total money that is being disbursed. This Bill mentions that there are arrears of subscription amounting to Rs. 1.25 crores. That is a very substantial amount. I am worried about the sick industries because that will also add to arrears further.

On one or two points I would like to draw Minister's attention. One is Appellate Tribunal which is a very laudable idea. Firstly, we must know how many Tribunals will be there and whether the Tribunals will be performing their job very effectively. But on one point I am very much worried and that deserves Minister's pointed attention. It is under clause 7D(3): "A person shall not be qualified for appointment as the Presiding Officer of a Tribunal unless he is, or has been, or is qualified to be, a Judge of a High Court." Now see clause 7E.

"The Presiding Officer of a Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age sixty-two years whichever is earlier."

So, whosoever comes to the Tribunal must retire at the age of 62. We have a funny situation in the country. I do not suppose all lawyers and advocates are very eager to become judges because many of them are having very good practice. So, you have a lot of pressure in the country to find very good Judges for the High Courts. And here you want to have people for the Tribunals. You want to have honest people, capable people, men of integrity and efficiency. Where do you get them if they have the term only for five years and if they have to retire at the age of 62 years? Only one category is available to you, that is, the category is of retired judges. So, in the case of retired judges, I would request the Hon. Minister to consider relaxing the age bar till 65. It should not be 62 at all, if you want that very good people should man these Tribunals.

Then Sir, recovery of arrears is a very good clause in the Bill. Clause 88 says that the recovery will be made like this :

- “(a) attachment and sale of the movable or immovable property of the establishment or, as the case may be, the employer;
- (b) arrest of the employer and his detention in prison.
- (c) appointing a receiver for the management of the movable or

immovable properties of the establishment or, as the case may be, the employer.”

Now, these are very laudable measures so far as recovery of arrears is concerned. But what about sick units? In fact, very good viable units are falling into the category of sick units and this area is already very vast, very big. So, ultimately it depends upon how the Minister organises the implementation of these provisions, and I hope he will take all measures to implement these provisions properly. Meanwhile, I wish him well and I welcome this Bill.

SHRI THAMPAN THOMAS (Mavelikara): Sir, of course, this is an improvement on the present statute and to that extent I welcome it. At the same time, I would like to point out to you certain important things. One is the persons who are not covered under the Provident Fund but who are eligible to be covered, and keeping that perspective in view, how the law can be amended or changed in future. This is one question which I would like to put, that is the unorganised workers, large in numbers, are not yet covered. In fact, for and on their behalf the collections are made and the money is dispersed immediately. For example, I will explain about the workers working in the ports or in some other particular area. When there is a contract or an agreement with the employers or the shop owner, or whoever it is, indirect benefits on wages like ESI, Provident Fund, etc. are also taken into consideration and they are collected. But there is no machinery to keep it and disperse it to them with the perspective that this is an amount which is due to them at the time of their retirement or when they cannot work and they go back. So, my submission is that in an overall angle this has to be reviewed and a method by which all these people can be brought under the purview of this Act will have to be evolved.

My second point is that there should be a one-window system at the time of payment, that is, there should not be any difficulty for a worker to get his provident fund when he superannuates. This money which a person has earned is not the money of

the management. This money has nothing to do with the employer. This is a money which the employer, by way of contract or agreement, agree to pay to the worker on the date of his superannuation. This money is being reduced from his day to day wages. Yesterday I was negotiating with the Modern Food Industries on their wage agreement. The total amount offered by the Modern Food Industries to the workers is about Rs. 26 lakhs. Then they said, not only this Rs. 26 lakhs, there is another Rs. 5 lakhs as indirect commitment. I asked what are the indirect commitments and they said the provident fund comes in that. So, when a trade union goes and makes an agreement with any management, provident fund is a part of that agreement. The employer gets this amount periodically but the workers gets it only at the time of his retirement. So, I was just elucidating an example. Therefore, my submission is that any delay in the payment of provident fund on superannuation cannot be justified. There should be a proper law enforcing machinery to see that the amount is paid to the worker on the date of his superannuation. At the most you may fix up a time limit for putting the onus of proof on the management which is not paying it. For example, somebody wants to keep their money on one pretext or the other. Their arrears are not settled. Their accounts are with the management and they are not settled and therefore, the money is not paid to them. Sir, if a person has retired, within 30 days the amount which he claims is otherwise is not settled, will be given to him. Such a provision should be there, such a directive should be there, such an approach should be there in the law.

Another point is that the present offices and their set up are quite inadequate. With this money, with this fund, now you are expanding even the Board of Directors with more members. You are forming an Executive Committee. But if you look at the way the office is functioning now, the regional offices are functioning now, the Provident Fund Commissioners' Offices functioning now, you will know that they are not only not well-equipped with staff but also they are not decentralised. The Headquarters and other offices should not have any restrictions and the workers should have easy access to those offices and

by doing so malpractices and other kind of difficulties could be avoided so that the workers could go to these offices easily and get their amount without much difficulty because it is their own money and nobody has got any right to keep their money.

Sir, recently I got some information from your Ministry that the amount unclaimed by the workers works out to many crores of rupees. It is a wonder to me, Sir. The money is contributed by the working class and it is their hard earned money. Thousands and lakhs of people who could not claim their money are unaware of this fact. They could not claim their dues because of their being inefficient or absence of knowledge to claim their money or because the necessary forms filled in by them are not proper or they approached very late to claim their dues. Therefore, Sir, in this way thousands of crores of rupees are pending with the authorities non-disbursed. If that is the fact, this was revealed by the Labour Minister earlier while replying to a question in this House, that this much amount has been lying unclaimed, I want to know whom this money belongs to now. What will happen to that money? Therefore, this justifies and fortifies my argument that there should be an effort to give the workers their due share within a stipulated period. Sir, the accumulated arrears lying with the Government is an example for this. There should be proper steps taken to liquidate these arrears. Then, of course, my friends have talked about non-payment of amount and the provisions for punishment are inadequate. Therefore, serious steps and stringent measures will have to be taken against those who do not take action to disburse the workers' dues.

Sir, the Hon. Minister may be aware that in Modi Nagar very near from Delhi, about 30,000 workers are working there and one fine morning something happened there and all the workers had to go. Even now, the provident fund of those workers have not been paid by the employer. That employer has now started some other industry there. He is running the industry. Instead of textile industry, now he has converted it into hotel industry or engineering industry and the poor workers who have come from Kerala and Tamil Nadu or

elsewhere had to go back to their State, without receiving their dues. In that way, a few thousands of crores of rupees are there with them unclaimed. It goes to whom? Sir, this thing is a frequent phenomenon taking place in many places. Take for instance, Dalmianagar in Bihar. For the last six years, the Dalmias have closed their industries there and the workers' money which is due to them is kept by them. The workers have contributed their share of provident fund but that money is kept by them. Sir, if the Government or any other enforcing machinery could not take any steps in this matter, is it not criminal waste and how such an action be justified? So, Sir, these are my few submissions and I hope that the government will take immediate steps after studying the whole problem throughout the country wherever the industrialist have blocked the workers' money and kept it as unclaimed but utilising the same for their own purpose. With these words, I conclude, thank you.

THE MINISTER OF STATE OF THE MINISTRY OF LABOUR (SHRI JAGDISH TYTLER): Sir, first of all, I am very grateful to all the Members for their support to this Bill and naturally this will ultimately help the people for whom this Bill has been brought forward in this House. Sir, I would like to say that this Provident Fund Bill is more of a saving scheme and more of also social security measures for the workers and also in their old age, their families and their dependents can have some amount of money which they have earned and then they can rely on that also. So, we have got quite a number of amendments to this Act which is ultimately going to help the worker and see that this money is also being utilised. I would like to say that when this Act was first initiated, we had six major industries in 1952 and now it is applicable to 273 industries, classes of establishments employing 20 or more persons. By the end of September 1987 the scheme covered about 1.7 lakhs establishments with about 1.41 crores as members, and now the scheme by and large covers almost all the establishments employing 20 or more persons. Sir, the total provident fund collection, as many Members wanted to know, which was done during 1986-87 was about Rs. 1800 crores and the total number of claims settled was about 6.55 lakhs, the amount

paid was about Rs. 566.96 crores, say, about Rs. 567 crores.

Sir, recently under the initiative of the Prime Minister, the family pension benefits under the EPF Act have been recently liberalised and the revised rate of family pensions will range from Rs. 275 to Rs. 750 as against the existing rate of Rs. 140 to Rs. 630. The retirement-cum-withdrawal benefits have also been substantially liberalised, the revised rate of withdrawal will range between Rs. 110 to Rs. 400 for one year membership and Rs. 9000 to Rs. 19,825 for about 40 years' membership. These rates are effective from 1.4.1985.

Sir, about the rate of interest, as many Members have been wanting to know, the rate of interest on provident fund is being increased every year and the rate for the year 1987-88 was 11.5 per cent per annum and for the year 1988-89 we have decided to enhance the rate to 11.8 per cent per annum.

Sir, about the investment of the money, the provident fund is one of the major sources of resource mobilisation for development activities of the Government. According to the existing pattern of investment, 85 per cent of the provident fund contribution is required to be invested in special deposits by the Government and the balance of 15 per cent in the Central/State Government securities and on 31.3.1987 the total provident fund investment that the Government had was about Rs. 15,267 crores and during 1985-86, 5.09 per cent of the total net domestic saving in the country was generated by collection under the Provident Fund Act. So, we have now proposed to raise the rate of provident fund contribution from 6-1/4 per cent of 8.31 per cent and to 8 to 10 per cent on the basic pay and the D.A. This will benefit the employees, at the same time it will also help in mobilising additional resources.

Sir, at present the recovery of provident fund was made through the revenue recovering machine. This arrangement has not been very effective. As on 30.9.87, 28,252 revenue recovering certificates for Rs. 127 crores were pending with the collectors.

In order to extract the recoveries we are now providing for setting up an independent recovering machinery on the lines of the recovering machinery of the Income-Tax Department. The establishments which are at present exempted from the operation of the provident fund scheme have been defaulting in the payment of provident fund dues. As on 30.9.1987 the total amount net transferred to the exempted establishments irrespective of the Board of Trustees was Rs. 102 crores. At present we cannot recover the dues against them as arrears of land revenue. We are now making a suitable provision for the recovery of the dues from the exempted establishments as arrears of land revenue. We are also making a provision for levy on damages not exceeding the arrears on the exempted establishments. For reducing the belated payments, we are also making various penal provisions applicable to the exempted establishments so as to ensure better compliance. I also expect that the officers and the staff of the Provident Fund Organisation will make more concentrated efforts and exhibit a greater sense of discipline and dedication to ensure that members of the Fund get prompt services from the Organisation and mobilise their energies and resources to recover the arrears due. In this connection, I might also mention that the Central Board of Provident Fund has already taken a decision to introduce computer based accounting system for the Provident Fund Organisation in a phased manner. To begin with, it is proposed to computerise the accounting work in Regional Office in Delhi. For this purpose, 14 data entry machines have already been installed and regular data entry work on the machine is in progress.

Some members have raised various queries, and I would like to answer them. Mr. Reddy has said that data is not available on the working of the finances. The annual report which was tabled in both the Houses has all the figures which he has wanted. Many Members have said about Rs. 185 crores which has been due as arrears. Of course, if you look at Rs. 185 crores, it is a big amount. But if you look at the total money received in the country, this is one per cent of the total collection and the situation is not as alarming as it has been made out. Yet provisions are made to

enforce the Act, as you had also mentioned about it. The machinery has been created and penal provisions have been introduced so that, we can enforce the Act and recover money as quickly as possible.

Mr. Reddy has also mentioned that there is no enough incentive for investment. We are giving a fairly high percentage, 11.5 per cent in 1987-88 and 11.8 per cent in 1988-89.

DR. DATTA SAMANT : What about calculation every month ?

SHRI JAGDISH TYTLER : I will come to your query.

And the rate of interest is reviewed annually by the Central Board of Trustees and the rate is higher than the rate of inflation normally. He also wanted to know, how many tribunals are going to be set up and will there be some shortage ? We have decided that as many tribunals as necessary will be set up. We would go in for this, so that litigation is reduced and the aim is to give more time to the tribunal for making decision. Specially the tribunals will be dedicated only to provident fund cases and not any other cases. He has also mentioned that there are not enough qualified personnel available to the tribunal because the term is only 5 years. The term will be up to the age of 62 years or 5 year term, whichever is earlier. He will have all India jurisdiction and the qualification has been fixed at the High Court level because the tribunal will be first replacing the jurisdiction of the High Court in respect of this Act. Therefore, it should at least have the status of a High Court.

PROF. SAIFUDDIN SOZ : The retirement age should be fixed at 65. That could solve your problem.

SHRI E. AYYAPU REDDY : Any person who is directly recruited to the tribunal from the bar, who is qualified to be a High Court judge, will have only 5 years term. That is the difficulty. He will not retire up to the age of 62, but after the term of 5 years. The wording as it is, is whichever is earlier.

SHRI JAGDISH TYTLER : There is a provision for reappointment. Mr. Sharad Dighe has mentioned, what kind of disincentive provided to the people who go for appeal. The employers will have to deposit 75 per cent and above of the amount before they go in for appeal, which provision was not there before.

As of now, appeals under section 19A against the order of the Regional Provident Fund Commissioner are only between 200 and 300 per year, out of assessments in relation to 1.70 lakh establishments.

So, it is not going to be a big burden on this tribunal. The work will be done quicker. For a single dedicated tribunal, it will be possible to dispose of all and if need be, we have no hesitation to appoint more.

Shri Ram Bahadur Singh had also mentioned about the delay in getting money and many other Members also expressed it. We have taken certain steps. We have started computerisation. We have issued instructions that the amount standing in the balance of account should be paid within 20 days in the case of missing credits. I would like to inform the Members that 51.46 per cent of the total claims were paid within 20 days in 1986-87 and 76 per cent of the total claims were paid in 1987. 56 per cent of the total claim were returned in 1986-87. Only 8 per cent of the total claims remain pending after 1986. The case is not as bad as it is made out.

We have also started the system of hearing public grievances.

The pattern of investment is settled by the Ministry of Finance. We have no Cells.

Shri A. Charles and Dr. Datta Samant had also mentioned that lots of forms had to be filled and people have to go through all sorts of processes. This is not correct. At the time of membership, only one form namely, the nomination form is required to be furnished by the members. At the time of settlement of provident fund accounts, again one form is required to be filled in by the member. On death cases, additional documents are required which is as per the law.

We are also reviewing rules and regulations and other things so that the worker does not get harassed and he must get his money in time. That is one of our aims that we must see that the day he retires, he must get his money. This is my aim and I hope we will very soon do it. Please help us in computerisation.

DR. DATTA SAMANT : What about corruption ?

SHRI JAGDISH TYTLER : Many complaints have come up. We are aware of it. We are trying to do everything possible about that. You be rest assured that we will not spare anybody as far as anybody who is indulging in corruption and who is harassing the workers in getting their hard-earned money comes to our notice.

SHRI N. V. N. SOMU (Madras North) : There is difficulty in getting the P. F. money.

SHRI JAGDISH TYTLER : You and Shri A. Charles have asked how many convictions have been made. During 1986-87, the convictions made are 1,569. The number of people who were imprisoned is 856. That means we are trying to catch them. We are not very happy. We will catch more people who are misusing the money.

DR. DATTA SAMANT : Put them in jail at least for one year.

SHRI JAGDISH TYTLER : I am not responsible for that. As regards penal interest on arrears, we have proposed penal damages up to 100 per cent of arrears. This will go in a big way.

Separate legislation for amendment of Section 405 of the Indian Penal Code is being made. This is being amended by this Bill because Section 405 deals with criminal breach of trust. Explanation to this Section clearly says that the employer who misuses any employee's contribution is guilty of criminal breach of trust. This will also deter them from misusing the money.

Shri N. V. N. Somu had yesterday said that unclaimed funds should be used for

welfare measures. These funds are kept aside in order to be repaid. For this purpose, newspaper advertisements, notice to the original employees are issued and in general all efforts are made to locate the employees to whom the payments are to be made, and to pay them the unclaimed arrears. Out of Rs. 15,000 crores deposited in the Government through Provident Fund, only Rs. 20 crores is unclaimed. I have got figures and I will give the figures to you later on. Out of the amount of Rs. 20 crores, we have already identified 50 per cent of the claimants after their death. I will give you the figures later.

Dr. Rajhans wanted to know as to why not we invest this in Indira Vikas Patras. Probably, the Member is unaware that all the money relating to Provident Fund has to be invested as per the direction of the Ministry of Finance.

Shri Asutosh Law said that because of the use of Company Act, there is a delay in recovering the dues. I would say that the Company Act has been enacted under the Civil Law. It cannot permit continuation of the criminal act. As per the scheme of Provident Fund, defaults and arrears are already held as criminal offence under Section 405 of the Indian Penal Code.

Shri Ajoy Biswas wanted to know as to how many people have been put behind bars or convicted regarding default etc I have already given the figures. He has also pointed out that people find a lot of difficulties in getting loan applications. They have to come from Tripura to Guwahati. But, I think the Member was not informed because even till now, a Sub-Regional Office exists in Tripura which could sanction loan and it is sanctioning loan. Recently, one full-fledged Regional Provident Fund Commissioner's Office has been sanctioned and an officer has also been posted in Tripura. He said that even in this amendment, defaults are not being declared criminal offence. This is what he has mentioned. But this is again wrong because defaults are considered a violation of Section 405 of the Indian Penal Code which deals with the criminal breach of trust.

Shri Pandey and Shri Thomas wanted to know about the use of unclaimed funds for

the insurance of the Provident Fund. Unclaimed funds money is due to the individual members and therefore, cannot be used for any purpose other than the benefit of the Members or the claimants.

Sir, Hon. Members would be happy to know—which you probably wanted to know and about which I have mentioned earlier—that the claimants for Rs. 10.58 crores out of the Rs. 20 crores which I mentioned, have been identified through newspaper advertisements last year and the Provident Fund papers are being processed to see that payments are made to the widows or their children. These things were not possible before. But we did everything possible now to see that through the union leaders, through the local officers, through the Police, through the Governmental machinery we must identify those people because big amount is involved. I am happy to say that more than 50 per cent of the claimants to whom the money belongs has been identified and the paper work is on. The Provident Fund officers have done a good job on this. We hope that we will also be able to identify the other people to clear the dues. I would like to say here that it is their hard-earned money and so either the Government or anybody has no right to use their money in any other way.

Shri Tanti had mentioned that regarding labour disputes, Labour Tribunal should be set up under Article 323 B of the Constitutions of India. I would like to inform him that we have taken note of his suggestion and in one of the Bills which is to come, we will be able to do it in that. Further, Shri Tanti was not informed about one particular thing i.e., the Provident Fund Act is not applicable to the workers of the Tea Estates of Assam. In Assam, they are covered under the Assam Tea Plantation Provident Fund and Pension Fund Act, which is administered solely by the State Government.

Shri Harish Rawat and Dr. Datta Samant mentioned that compound interest should be charged from the employers who are defaulting.

DR. DATTA SAMANT : The point is that the workers' money is deposited with

you and it is charged once in a year in January. But, in between, the instalments are deposited. They lose interest for the year. That is very important point.

SHRI JAGDISH TYTLER : What you are telling is they are doing only at the end of the year regarding whatever deposits are given.

DR. DATTA SAMANT : In the Banks and Government Departments it is charged month-wise. But here, the workers are losing a few thousand rupees. This is important and this is what I have suggested. I think the Public Sector Undertakings have also given you this suggestion. That is why I request you to pay attention.

SHRI JAGDISH TYTLER : I will see to that matter. You had also mentioned that the Public Sector Undertakings should also follow the same rate of contribution as is done by the Private Sector. This is what you have mentioned. I would like to inform you that the Public Sector Undertakings usually follow the same rate of contribution and it will also pay —

DR. DATTA SAMANT : Are you making any provision in this Law because you are exempting the Governments and the State Governments and Corporations. Then you can correct me; I will be very happy. Are you covering by this Amendment the 2½ lakh workers of the public sector ?

SHRI JAGDISH TYTLER : After the notification, you have to see...

DR. DATTA SAMANT : In the Bill you have not mentioned. If you are doing that, we will appreciate.

SHRI JAGDISH TYTLER : I cannot change it now. As you know, sometimes the public sector has a better scheme than the Provident Fund and it is never less than the benefit under the Provident Fund scheme. So give them the benefit of doing that; the workers will benefit.

DR. DATTA SAMANT : That is a different aspect. *(Interruptions)*

SHRI JAGDISH TYTLER : You had mentioned that the employers would pay a fine of roughly Rs. 5000 or so and go back scot free with crores of rupees of default. Now, for default the penalty is upto a hundred per cent of the default plus the recovery of the full amount of the default, both recoverable as arrears of land revenue. Simple interest is only on delay in payment but it gets added to the default in payment; the penalty can be levied upto a hundred per cent.

With these words, I would like to conclude. I have received good suggestions and I am happy that most of the Members have contributed to the debate.

DR. DATTA SAMANT : The fine may be removed. Let the punishment be one month's imprisonment, minimum. *(Interruptions)*

[Translation]

SHRI NARAYAN CHOUBEY : A fine of Rs. 5000/- will serve no purpose... *(Interruptions)*

[English]

SHRI JAGDISH TYTLER : It is the person behind who gets the thing implemented. We will make sure that we get it implemented. *(Interruptions)*

Hon. Member Shri Thampan Thomas mentioned about Modi Industries. This is a serious matter which he has brought to our notice ..

DR. G. S. RAJHANS (Jhanjharpur) : Publish the names of defaulters in the newspapers once in six months.

SHRI JAGDISH TYTLER : I would like to inform him that our office will inquire into the whole thing and if they have defaulted, if the workers' money has been misused, I can assure you, we will take the stringent action against those people, however high or big they may be.

With these words, I would conclude.

(Interruptions)

SHRI DAMODAR PANDEY : This is only an enabling provision to enhance the provident fund contribution. I have suggested that this enhanced amount, wherever possible, may be converted into a Pension Fund. Will the Hon. Minister consider this ?

SHRI JAGDISH TYTLER : It is a very good scheme. We will consider that next time.

MR. CHAIRMAN : The question is :

“That the Bill further to amend the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 and the Indian Penal Code, be taken into consideration.”

The motion was adopted.

MR. CHAIRMAN : The House will now take up clause-by-clause consideration of the Bill.

Clause 2 (Amendment of Section I)

SHRI E. AYYAPU REDDY (Kurnool) : Sir, I beg to move :
Page 2, line 2,—

for “may” substitute ‘shall’ (13)

Let this be made mandatory. That is why I have proposed that the word ‘may’ be substituted by ‘shall’.

SHRI JAGDISH TYTLER : I am not accepting the amendment.

MR. CHAIRMAN : I shall now put the Amendment No. 13 moved by Shri Ayyapu Reddy, to Clause 2 of the Bill to the vote of the House.

Amendment No. 13 was put and negatived

MR. CHAIRMAN : Since there are no amendments to Clauses 3 to 8, I put Clauses 2 to 8 together to the vote of House. The question is :

“That Clauses 2 to 8 stand part of the Bill.”

The motion was adopted

Clauses 2 to 8 were added to the Bill

Clause 9 (Amendment of section 6)

MR. CHAIRMAN : Now Clause 9.

DR. DATTA SAMANT : I beg to move :

Page 6 —

after line 17, insert—

“(c) after section 6, the following subsection shall be inserted, namely :

“(2) If any workman voluntarily desires to contribute his provident fund upto twenty per cent of his basic pay and dearness allowance and retaining allowance (if any) he can do so without the contribution of employer over ten per cent of provident fund and such additional contribution made by the workman over ten per cent shall be exempted from income—tax.” (2)

SHRI MANIK SANYAL (Jalpaiguri) : I beg to move :

Page 6,—

for lines 11 to 17, substitute—

“Provided that in its application to any establishment or class of establishments, the Central Government shall by notification in the Official Gazette specify that this section shall be subject to the modification that for the words “eight and one-third per cent.” at both the places where they occur, the words “ten per cent” shall be substituted :” (8)

DR. DATTA SAMANT : I beg to move :

Page 6, line 8,—

after "section" insert—

"and such amount shall be deposited in the provident fund account of the employee and the interest shall be calculated monthly, taking into account the previous deposits, monthly subscriptions and withdrawal, as is done in the case of Government employees." (18)

MR. CHAIRMAN : Mr. Datta Samant, please confine yourself to Clause 9 and amendments 2 and 18.

DR. DATTA SAMANT : On Amendment No. 18, I have already talked in this House and the Hon. Minister has been apprised of it. It is a huge amount which the worker is paying throughout the year. Workers deposit, on an average, about Rs. 1,000 in the provident fund office. It is done in three or four instalments in January, in April, in August and in November. But interest is calculated only in the month of January next. This the procedure followed in the Government so far. In banks and other institutions and in other private dealings, whatever balance is there, month-wise interest is charged. With the result, the workers are losing a big quantum of amount every year which is about Rs. 30, Rs. 40 or Rs. 50 and it gets accumulated. It comes to a few thousands at the end of his service, that is, at the time of his retirement. The Public Undertakings Committee has recommended it very strongly. They have mentioned that the workers' provident fund is the only amount on which simple interest is charged. But in all other Government accounts, on the monthly contribution, compound interest is charged. With the result, the workers are the losers. At the time of retirement, he loses Rs. 2,000 to Rs. 3,000. I, therefore, appeal to the Hon. Minister to accept my amendment and to see that it is passed.

MR. CHAIRMAN : Have you spoken on both the amendments ?

DR. DATTA SAMANT : I have spoken on Amendment Number 18. What is the other amendment ?

MR. CHAIRMAN : Did you not speak on both the amendments ?

DR. DATTA SAMANT : Yes, Sir.

MR. CHAIRMAN : Shri Manik Sanyal.

SHRI MANIK SANYAL : I beg to move my amendment for the consideration of the House. I will speak in Bengali.

*SHRI MANIK SANYAL : Mr. Chairman Sir, a meeting of this Standing Labour Committee was held on the 22nd and 23rd September, 1987. In that meeting the Government's representatives and the Hon. Minister was also present. In item 5 of the resolution that was unanimously adopted there, it was decided that since it was a Contributory Provident Fund, the contribution of the employers and the employees will be 10 p.c. each. In those establishments where the number of workers was less than 50, the contribution was to be raised from the earlier 6½ p.c. to 8½ p.c. and in all those establishments where more than 50 workers were employed, it was to be raised from 8½ p.c. to 10 p.c. But Sir, in this Amending Bill we find that the Government has tried to by pass the unanimous decision of the Standing Labour Committee. This is because the ultimate decision is being left to the new Executive Committee that is sought to be constituted in this Bill. We have a suspicion that there can be only one reason behind the attempt of the Government to bypass the unanimous decision of the Standings Labour Committee of raising the contribution to 10 p.c. This reason is nothing but pressure of the employers and the coming elections. There they will have to please the management and side by side they will have to please the workers also by saying that we have made a provision of 10 p.c. for you. Here I want to say that if the Government is desirous of benefiting the workers through this welfare measure, then they should make a firm commitment and say that 'we shall make it 10 p.c.' This should have been clearly and unambiguously provided in this amending Bill. The amend-

*Translation of the speech originally delivered in Bengali.

ment we are suggesting is to that effect only. We are demanding that in the proviso to Clause 9 (b) of the Bill at page 6 (lines 10 to 17) the word 'may' should be substituted by the word 'shall'. From now on both the employers and the employees shall contribute 10 p.c. to the Contributory Provident Fund. Then only we will be convinced that the intention of the Government is very clear. This is my amendment Sir. Thank you.

17.00 hrs.

DR. DATTA SAMANT : Sir, I want to speak about my Amendment No. 2. It only says that the following sub-section shall be inserted in Page 6 after line 17.

"(2) If any workman voluntarily desires to contribute his provident fund upto twenty per cent of his basic pay and dearness allowance and retaining allowance (if any) he can do so without the contribution of employer over ten per cent of provident fund and such additional contribution made by the workman over ten per cent shall be exempted from income-tax "

I have said during my speech that many of the workmen usually draw high salaries as per this Government's ceiling that if anybody gets more than 18000 rupees he comes under income tax bracket. Actually the salaried workman are the honest tax payers.

MR. CHAIRMAN : You have already spoken. You have already mentioned this point and the Minister also replied.

DR. DATTA SAMANT : This is on my amendment Sir, which is very important. The working class is deprived of this benefit. In the last three years the whole sale and the consumer price index have gone up by 20.6% but the workers' income tax level remained at Rs. 18000. A lot of concessions are given to the private sector—I have no time to mention them—but the salaried workmen are the maximum sufferers because you have kept the same level for three years. Here workers want voluntarily to contribute more towards the PF. I think you want the money also because it is on 1½% without compound interest. It should be allowed.

What I say is if any workman contributes over 10 per cent in his provident fund then he should be given income-tax rebate. In this very House the High Court Judges Remuneration Act was passed and additional house rent and other facilities to the tune of thousands of rupees were given income-tax free. Therefore, I would like to urge that Government should accept this amendment of mine and it should be applicable to the workers also.

MR. CHAIRMAN : Has the Minister to say anything on this ?

SHRI JAGDISH TYTLER : Sir, as far as the point raised by Dr. Datta Samant is concerned I would like to say once full computerisation is done of the accounting system it will be easier for us to calculate the interest every month. Till such time that computerisation is not done I cannot give him an answer but we will consider favourably once full computerisation is done. As far as his second point is concerned it is a good suggestion and, I think, what we will do is that I will convey this feeling of his to the Finance Ministry. If the workers can benefit from my side we will favourably recommend this.

SHRI MANIK SANYAL : In the Standing Labour Committee meeting held on 22nd and 23rd September 1987 decision had been taken unanimously that where less than 50 workers are working the limit should be raised from 6½% to 8½% and where more than 50 workers are working it should be raised from 8½ to 10 per cent. It is your decision and not mine. Why are you objecting ? After inquiry if Government may deem fit by notification in the gazette they should raise it from 8½ to 10 per cent. Why are you not agreeing to this ?

SHRI JAGDISH TYTLER : This particular reference which you are giving surely we can look into this also.

MR. CHAIRMAN : I shall now put Amendments Nos. 2, 8 and 18 to clause 9 moved by Dr. Datta Samant and Shri Manik Sanyal to the vote of the House.

Amendments Nos 2, 8 and 18 were put and negatived.

MR. CHAIRMAN : The question is :

"That clause 9 stand part of the Bill."

The motion was adopted

Clause 9 was added to the Bill.

Clause 10 (Amendment of section 7A)

DR. DATTA SAMANT : I beg to move :

Page 7, line 4,—

for "three months"
substitute "one month" (9)

Sir, this amendment is about giving three months time to the employer. If you give a lot of time in between, the employer can misuse it. That's why I have mentioned that it should be only one month. This is a technical amendment and time should not be wasted for depositing the money on which the worker will lose the interest. Therefore, I do not think there is any difficulty in accepting this.

SHRI JAGDISH TYTLER : I don't accept the amendment.

17.12 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

MR. DEPUTY SPEAKER : I shall now put amendment No. 9 of the vote of the House.

Amendment No. 9 was put and negatived.

MR. DEPUTY SPEAKER : The questions is :

"That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill.

Clause 11 (Insertion of a new section 7B to 7Q Review of orders passed under section 7-A)

DR. DATTA SAMANT : I beg to move :

Page 11, line 14,—

for "twelve per cent."
substitute—

"one and half times the interest charged by any scheduled bank." (3)

Page 11,—

omit lines 18 to 20. (4)

Page 8, line 27,—

for "five years"
substitute "two years" (10)

Page 11,—

omit lines 5 to 7 (11)

SHRI E. AYYAPU REDDY : I beg to move :

Page 7,—

after line 37, insert—

"Provided further that no such review shall be made after the expiry of three years after the passing of the order." (14)

Page 8,—

after line 40, insert—

"Provided that the Tribunal shall not have jurisdiction in respect of establishments situated more than two hundred fifty kilometres from the place of its office :

Provided further that where no notification is issued by the Central Government the district and sessions judge where in the establishment is situated, shall *ipso facto* function as the Appellate Tribunal."(15)

Page 8, line 46,—

for "High Court"
substitute "District and Sessions Court."
(16)

Page 11, line 6,—

omit "waive or" (17)

DR. DATTA SAMANT : The amendment No. 11 is for omitting lines 5 to 7. Here the whole problem is who has raised the dispute with the tribunal. It is a good compulsion that he has to deposit 75 per cent money with the Provident Fund Tribunal. That is a good arrangement for the employer. In order to delay the payment, the big bosses are going to create a lot of litigation and the poor workers always suffer. This line initially was very nice. The Hon. Minister has mentioned but subsequently he says that it has been provided that the tribunal may, for reasons to be recorded in writing, reduce the amount to be deposited. Government's hope is like that. You say, that we are for the workers. You just show off. You deposit the 75 per cent disputed amount with the tribunal. This is a good lesson to the employer. Immediately after that clause, you are given powers to the tribunal to reduce the amount or to waive it completely. I want that these lines should be deleted. There can be some compulsion.

SHRI E. AYYAPU REDDY : Sir, the amendment given by me is :

"Provided further that no such review shall be made after the expiry of three years after the passing of the order,"

Under Clause 11, they have provided that a review can be made on the basis of some discovery of new facts or on account of some mistakes or error apparent on the face of the record. A review certainly can be

made but there should be a period of limitation between which a review has to take place. It cannot be after four years or five years or after the orders have been passed by Provident Fund Commissioner or the concerned authorities. It is a sound principle, not only of jurisprudence but of business management that a period of limitation should be there. Otherwise, there will be no finality to any order. Any order can be subjected to review even after five years or ten years or six years and this will be a limitation for concoction or budging or threatening. Some person or other interpreted by saying that we will review the entire matter. On the basis of the principles of the limitation Act, I have suggested that there should be no review after a period of three years, after the order has become final. This principle has been incorporated in the very same Clause because if you refer to Section 7C, it is stated there as "Provided that no order re-determining the amount due from employer shall be passed under this section unless the employer is given a reasonable opportunity of representing his case". That is a period of five years limitation is placed there. So, on that basis, I am saying that you must not permit any review of an order after the expiry of three years.

SHRI JAGDISH TYTLER : We are satisfied with the present provisions which we have brought and we do not want to add anything further.

MR. DEPUTY SPEAKER : I shall now put all the amendments to Clause 11 together to the vote of the House.

Amendments Nos. 3, 4, 10, 11 and 14 to 17 were put and negatived

MR. DEPUTY SPEAKER : The question is :

"That Clause 11 stand part of the Bill."

The motion was adopted

Clause 11 was added to the Bill

MR. DEPUTY SPEAKER : The questions is ;

"That Clause 12 stand part of the Bill."

The motion was adopted

Clause 12 was added to the Bill
Clause 13 (Amendment of section 8 A)

DR. DATTA SAMANT : I beg to move :

Page 11, line 27,—

add at the end—

"and after sub-section (1) the following proviso shall be inserted, namely :

"Provided that it shall be obligatory on the principal employer to collect the provident fund from the contract labourer or apprentice, as the case may be, and issue receipt therefore, failing which he shall be liable to prosecution under section 14." (12)

It is an important thing that the Government is going to introduce the provident fund for the contract labourer which is already there. Twenty-five per cent of the labour of this country is contract labour and there is no provision to make them permanent. If their services are terminated, we cannot make a claim. Tatas and Birlas can appoint hundred per cent labour as contract labour. That is the position in this country. You must realise what is happening in this country. I want that it should be made obligatory on the employer to collect provident fund from the contract labourer or apprentice and issue receipt therefor and keep proper record. Even for ten per cent of the contract labour, the record is not kept. The employer swallows the contribution. The receipt is received by the employee after three years and in the meantime, his services are terminated. He never gets that money. I have seen a number of contract labour accounts in Bombay. You always talk of the socialistic pattern of society. Even ten per cent of the contract labour will not get this provident fund. The Government is now making it compulsory for apprentices also. These people do not get the job of apprentices and even if they get, they are paid Rs. 200 or Rs. 300 per month. There is no guarantee of the job.

He will get the receipt after one year. In the meantime, his services will be terminated and after termination, he is not keen to get that money and he does not get that now.

I know the Government's attitude, they are not going to accept my views. It must be made compulsory for the employers to keep proper records for the deductions they made for the provident fund in respect of contract labour and apprentices, so that even if their services are terminated, they will get the money.

It is a very concrete and healthy suggestions though it is difficult to implement. I hope the Minister will accept it for the sake of the poor labour.

SHRI JAGDISH TYTLER : Section 8 already casts the liability on the employer to recover provident fund money in respect of the contract employees. That provision is considered adequate. I do not accept the amendment.

MR. DEPUTY SPEAKER : I shall now put amendment to clause 13 moved by Shri Datta Samant to the vote of the House.

Amendment No. 12 was put and negatived.

MR. DEPUTY SPEAKER : The question is :

"That clause 13 stand part of the Bill".

The motion was adopted.

Clause 13 was added to the Bill.

MR. DEPUTY SPEAKER : The question is :

"That clauses 14 to 17 stand part of the Bill".

The motion was adopted.

Clauses 14 to 17 were added to the Bill.
 Clause 18—(Amendment of section 14)

DR. DATTA SAMANT: I beg to move:

Page 16, line 4,—

after "one year" insert—

"but shall not be less than three months" (5)

Page 16, line 30,—

after "one year" insert—

"but shall not be less than three months" (6)

Sir, the Hon. Minister has said that Rs. 185 crores have not been deposited, but that is not the authentic figure. What they have swallowed of the contract labour must be ten times. Nobody keeps the record. If they have twenty workers, they show only eighteen or so. There is no record, no receipts. The employers are committing frauds and not depositing the money. The employers give false accounts to the Provident Fund Commissioner. The workers contribution is collected, but not deposited with the Provident Fund Commissioner. They give false record to the Provident Fund Commissioner and do not deposit the money collected. You are now providing a fine of Rs. 5000 and imprisonment of one year, either or both. Out of the 800 cases which have been prosecuted, none of them has gone to the jail. I am not keen in sending anybody to the jail. But your intention is not to implement this provision of punishment. Therefore, I am saying that in this punishment, at least made some three months compulsory imprisonment. This I think is a compulsory and good provision for those who swallow the money of the workers after collecting from them and those who give false records to the Provident Fund Commissioner's office. The economic offenders must be taught a lesson. I think the Hon. Minister will definitely agree with me. He was sitting by my side, anyhow he is now in the big Party. I do not know what he will say now. But I think for such grievous offence the punish-

ment of three months imprisonment must be there.

SHRI JAGDISH TYTLER: I think there is adequate penalty for furnishing false statement or avoiding the payment. It is already there in the sub-Section 1 of the Section 14 and we are quite satisfied with this. As far as the compulsory punishment is concerned, it is for the courts to decide. We cannot take any decision.

MR. DEPUTY SPEAKER: Now, I put amendment No. 5 and 6 moved by Dr. Datta Samant to the vote of the House.

Amendments No. 5 and 6 were put and negatived.

MR. DEPUTY SPEAKER: Since there are no amendments to clause 19 to 21, I put clauses 18 to 21 together to the vote of the House. The question is:

"That clauses 18 to 21 stand part of the Bill".

The motion was adopted.

Clauses 18 to 21 were added to the Bill.

Clauses 22 - (Insertion of New Section 16A Authorising certain employers to maintain provident fund accounts)

DR. DATTA SAMANT: I beg to move:

"Page 17,—

after line 48, insert—

"(3) Where an establishment is authorised to maintain provident fund account under sub-section (1), it shall be the duty of employer that the workman may get provident fund loans for housing and marriage of his daughter, during lock-out or legal strike on similar conditions as he would have got from Provident Fund Commissioner:

Provided that in the case of any dispute in regard to the payment of

provident fund loans to the workman, the employer shall follow the instructions of Provident Fund Commissioner or otherwise shall be liable to punishment under Section 14." (7)

Sir, it is very important. There are already trusts created by the employer to collect the provident fund amount. In Bombay the big mill owners, like the Morarji Mills and others they run these sort of trusts. Though there is a provision that the provident fund laws should be applicable to them, but the mill owners or the big bosses or the personal Managers operate these accounts and the workers are denied of the loan. They are humiliated. When there is legal strike or lock-outs, we get money from the provident fund commissioner's office. The Government is good enough to have done that. But in these private trusts the employers are not giving the money to them and they are using the trusts as their personal trusts. They are not depositing the money. As per this provision of the Act, Government is introducing that if in any establishment there are more than 100 workers, the employer of that establishment can start the private trust. As per your policy you are doing this privatisation with such type of employers who are notorious. Therefore, through this amendment I would like to suggest that if you are going to create or going to encourage the private trust, then you are selling out your responsibility. But I think you should keep a restriction on these employers who are creating private trust that the workers should get the loan as per the other provisions of the Government. The money should be paid properly in time. And secondly, if there is any strike or legal lock-outs, the worker should enjoy the provisions of the Provident Fund Act. I know the Hon. Minister will say that in the law there is a provision. But my agony is that it is not implemented. I have written 2 or 3 letters last week to you. The widow or the individual worker, whose husband or the father has worked throughout his life in that establishment, keeps on begging from the employer for her whole life. Therefore, what I mentioned was that you make it compulsory on the part of the employer who raises the provident fund trust that he should see that all the provisions should be made applicable to the workers. He must follow the instructions of the Provident Fund Commissioner.

However, here I may point out to the Hon. Minister that the Provident Fund Commissioner in Bombay has written letter to the private trust that they must give the loans. They just throw it in the basket, and the workers go on begging. It is a very serious thing. We discuss a lot of things but a poor widow or a poor individual worker suffers a lot.

Therefore, I am bringing this amendment, i.e. you make it compulsory for the employer to operate or follow the instructions of the Provident Fund Commissioner and if he fails to follow the order of the Provident Fund Commissioner then as per Section 14 the employer shall be liable to punishment. I do not think it is selfish on my part to ask for this. Let me stress here that this is not political criticism. I am sure the Hon. Minister definitely likes my amendment.

SHRI JAGDISH TYTLER : Sir, there is already enough provision in the law to deal with this.

MR. DEPUTY SPEAKER : I will put Amendment No. 7 of Dr. Datta Samant to the vote of the House.

Amendment No. 7 was put and negatived.

MR. DEPUTY SPEAKER : Since there are no amendments to Clauses 23 to 27, I will put Clause 22 to 27 together to the vote of the House. The question is :

"That Clauses 22 to 27 stand part of the Bill."

The motion was adopted.

Clauses 22 to 27 were added to the Bill.

MR. DEPUTY SPEAKER : The question is :

"That Clause 1, Enacting Formula and the long title stand part of the Bill."

The motion was adopted.

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

SHRI JAGDISH TYTLER : I beg to move :

"That the Bill be passed."

MR. DEPUTY SPEAKER : Motion moved :

"That the Bill be passed."

SHRI MANIK SANYAL ; Sir, I may be permitted to speak in my mother tongue because I feel that I can express my feelings and views in a more comprehensive manner in my own language.

[*Translation*]

*Mr. Deputy Speaker Sir, we are discussing this Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill for a long time. Were I will like to remind that since the time our country became independent, a large number of legislation has been enacted for the benefit of the workers. But if we examine closely and impartially we will find that this plethora of Laws has failed to achieve the desired results and the condition of the workers has actually deteriorated day by day. A large number of Acts has been passed. In no other country of the world so many Labour Laws have been passed. But unfortunately there are many loopholes in our Laws and taking advantage of those loopholes, the employers are getting away scot free. The intention of the Hon. Minister behind this present Bill is surely to plug such loopholes. Effort is being made to plug the loopholes. But if we look closely what will we find? Many things have been said about the provident fund. A figure of Rs. 185 crores has also been mentioned as arrears. But if we go in depth we will find that this is not a correct figure. The employers have misappropriated a much larger amount than that. Our Government does not possess the correct account. This matter is very painful for the workers. Dissatisfaction is growing and crystallising in such a fashion that the workers are saying that they no longer want to be a member

*Translation of the speech originally delivered in Bengali.

or contributor to the Provident Fund. Our experience is that after the death of a subscriber his nominee has to wait for years before the claim is settled. Many Hon. Members have mentioned about it. Here I will mention that Ashutosh Babu has rightly stated that under the Companies Act we cannot drag any Managing Director or owner to the court for default. Only the paid managers or principal officers come to the court. They are paid employees. They come to the court and may pay a fine of some rupees and go away. Sir, the Supreme Court has issued a stricture in this connection. Perhaps in 1985 or 1986, I cannot recall exactly, the Supreme Court issued a stricture that the judges do not view the breach of Labour Laws as a cognizable offence, and impose a fine of only 200, 300 or 500 rupees on the defaulters. Even a fine of 5000 rupees would be very light. If a Company defalcates one crore of rupees and invests the same in its business, it will earn a profit of 1 lakh or 2 lakh rupees. In such situation the owner or employer will gladly pay a fine of 5000 rupees. Many other things have been said in this Bill. An executive Committee is sought to be constituted under this Bill. I do not think that this executive committee will serve any purpose. I want to suggest that instead of constituting the executive committee, the Provident Fund Trustee Board may be given more powers and it may be formed in a more democratic way. If this is done, then it will perhaps be able to produce better results and give more benefit to the workers. Here I will like to raise another point for consideration. As already stated by my colleague Dr. Datta Samant, besides the bill should provide for compulsory imprisonment of the owner of an establishment if he is a defaulter. But the Bill provides for either imprisonment or fine. Because of this provision of 'or', the owner is never sent to jail. Unless we are able to send the employers to jail for default, the purpose of this Bill will never be achieved. I do not want to make a long speech. I will only request you to reconsider this Bill in consultation with all the Central Trade Unions. The other side has a vast majority and I know that this Bill will be easily passed by them. Still I will request them to hold consultation with all the major trade unions and reconsider the same so that the defaulting employers may not

be able to escape anyhow. This is my request to the Hon. Minister. With that conclude.

THE MINISTER OF STATE OF THE MINISTRY OF LABOUR (SHRI JAGDISH TYTLER): It is for this reason that the Bills of this kind were brought. He has mentioned some problems which are being faced. We are satisfied with that. So, we would be able to help the worker in removing all those difficulties which have been faced by him.

MR. DEPUTY SPEAKER: The question is:

"That the Bill be passed."
 The motion was adopted.

17.35 hrs

STATEMENT RE: EXPLOSION IN
 JEEVAN BHARTI BUILDING,
 NEW DELHI

[English]

MR. DEPUTY SPEAKER: Shri Chidambaram.

SHRI BASUDEB ACHARIA (Bankura): Sir, at about 12.00 noon, there was an incident of Bomb explosion in which some persons were killed and some were

MR. DEPUTY SPEAKER: No. Nothing will go on record.

(Interruptions)**

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): The Minister of State for Parliamentary Affairs informed me that the Hon. Members desired to know the facts about an incident which took place in Delhi this afternoon. We have gathered the facts and I wish to place the facts.

** Not recorded.

These are the facts regarding the incident of explosion in Delhi earlier today, as received from the Delhi Administration.

At about 12.10 hours today (10.5.88) a bomb exploded in the Reception area of the City Bank located in the new LIC building called "Jeevan Bharti" near Regal cinema in the Connaught Place. City Bank is an American Bank. The explosion caused considerable damage to the bank premises. One person whose identity has been determined is:

—Satish Chaudhary, resident of NOIDA died in the explosion. Fourteen others were injured and one of them is in a critical state. Out of these fourteen persons, eight have been discharged. As regards the in-patients, five are in Ram Manohar Lohia Hospital and one in Lok Nayak Jai Prakash Hospital. Four of the injured persons were employees of the Bank and others were outsiders.

The case has been handed over to the Crime Branch of the Delhi Police for investigation. The Bomb Disposal Squad and Forensic Experts are examining the scene of occurrence.

All the injured are Indian nationals and the identity of all of them except one person who is unconscious and in a serious condition, has been established.

(Interruptions)

MR. DEPUTY SPEAKER: Please... order. The Minister has made a statement. That is all. Now next item.

(Interruptions)

MR. DEPUTY SPEAKER: He has given his statement. That is all. Now Mr. Chidambaram, you may move, for consideration, the next Bill.

(Interruptions)

SHRI P. CHIDAMBARAM: I cannot understand this. A bomb has exploded. One man has been killed. (Interruptions)