

[Mr. Deputy Speaker]

ment No. 1, for referring the Bill to a Select Committee, to the House.

*Amendment No. 1 was put and negatived.*

MR. DEPUTY-SPEAKER : The question is :

"That the Bill to provide for the acquisition and transfer of the right, title and interest of the owners of the coking coal mines specified in the First Schedule, and the right, title and interest of the owners of such coke oven plants as are in or about the said coking coal mines with a view to reorganising and reconstructing such mines and plants for the purpose of protecting, conserving and promoting scientific development of the resources of coking coal needed to meet the growing requirements of the iron and steel industry and for matters connected therewith or incidental thereto, be taken into consideration "

*The Motion was adopted.*

MR. DEPUTY-SPEAKER : Before we take up clause-by-clause consideration there are a number of difficulties which I wish to point out. According to the rules, all the amendments should be given one day in advance so that copies of the amendments can be circulated to the Members and they may be able to study them and come to the House prepared to make their contributions. There are quite a large number of amendments which were sent in only today, including some amendments of the Government. I am in a difficulty. According to the rules I may or may not accept them, but I would not like to be arbitrary in the matter. How is it possible to circulate the amendments received today to the Members so that they can study them? I would like the hon. Minister to enlighten me. Under the circumstances, possibly the best thing is to take up the Clause by Clause consideration tomorrow.

SHRI S. MOHAN KUMARAMANGALAM : I am told that the next business on the Order Paper is ready and Mr. Khadilkar is here. So, though I am not anxious to postpone it, if the House considers it reasonable, we can take up the Clause by Clause consideration tomorrow and give the hon. Members an opportunity of going through all the amendments.

SHRI K. NARAYANA RAO (Bobbili) : There must be a formal motion for adjournment of the debate on this particular Bill.

MR. DEPUTY-SPEAKER : Under Rule 89, the Speaker may, if he thinks fit, postpone the consideration of a clause. So, even without referring it to the House, I can do it. But I am happy the Minister agrees with me. Clause by clause consideration will be taken up tomorrow.

SHRI DINEN BHATTACHARYYA (Serampore) : Can some new amendments be given at this stage?

MR. DEPUTY-SPEAKER : I do not know. Next item

16.16 hrs

#### PAYMENT OF GRATUITY BILL

THE MINISTER OF LABOUR AND REHABILITATION (SHRI R. K. KHADILKAR) : Sir, I beg to move :

"That the Bill to provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oil-fields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto, as reported by the Select Committee, be taken into consideration."

I have the honour to move that the Payment of Gratuity Bill as amended by the Select Committee be taken into consideration and also that the Bill be passed. The bill is part of a package of social security measures we have promoted to enable the workers to meet the different contingencies of life. The grave problem of unemployment is, of course, with us all the time and we have to do all we can to solve or at least to contain it. But at the same time, we must also do our limited best to dispel the sense of insecurity which haunts the minds even of those who are already in employment. Absence of adequate retirement benefits is one of the factors that make for this sense of insecurity. The worker knows that even after a long working life he would not have the wherewithal with which to meet the needs of life on retirement. This thought starts disturbing him as he approaches retirement and makes retirement itself an event to be looked upon with

dread. The Provident Fund Scheme has been devised by the Government to give the worker a measure of income security in retirement; the Family Pension Scheme recently introduced provides a measure of protection for his dependents in the event of his death in harness. There has been a demand all over the country for the introduction of a Gratuity Scheme designed to serve the same purpose. The Bill before us seeks to meet this demand.

The Bill was referred by the Lok Sabha to a Select Committee on the 21st December, 1971. The Select Committee presented its Report on the 2nd May, 1972. The Committee has made a number of changes in the Bill designed to improve its coverage and content. I shall briefly recapitulate the more important of these changes.

- (i) To widen the coverage of the Bill, the wage limit has been raised from Rs. 750 to Rs. 1000 per month as provided for in the Employees' Provident Funds Scheme, 1952. To ensure that a person who has been employed for a continuous period of five years on wages not exceeding Rs. 1000 per month may not become disentitled to receive gratuity when his monthly wages exceed Rs. 1000 a provision has also been made that gratuity should be paid in respect of the period during which such a person was employed on wages not exceeding Rs. 1000 per month on the basis of the wages received by him during that period.
- (ii) Under the Bill as introduced in the Lok Sabha, the quantum of gratuity payable at the rate of half a month's wage for each completed year of service was to be subject to a maximum of 15 months' wages. That Select Committee has not altered the rate but the ceiling on the quantum has been raised from 15 months' wages to 20 months' wages so as to provide an incentive to employees who work beyond 30 years of service.
- (iii) The Bill as introduced in the Lok Sabha was to apply initially to factories, mines, plantations and such shops or establishments employing 10 or more persons as are covered by the relevant State Acts, with an enabling provision empowering Central Gov-

ernment to extend its provisions to other establishments also. The Bill as amended by the Select Committee will now apply initially to oil fields, ports and railway companies also in addition to the sectors originally proposed to be covered. The enabling provision for extension of the provisions of the Bill to other establishments also remains.

- (iv) In the case of a dispute with regard to the amount of gratuity payable to an employee or the admissibility of any claim for payment of gratuity, the employee also will now have the right to make an application to the Controlling Authority for appropriate action.
- (v) In the cases of default in the payment of gratuity, gratuity will be recoverable as arrears of land revenue together with compound interest at the rate of 9 per cent per annum from the employer.
- (vi) Where an employer fails to pay gratuity to an employee, he will be punishable with imprisonment for a term which will not be less than 3 months, unless the Court trying the offence, for reasons to be recorded in writing, is of the opinion that a lesser term of imprisonment or the imposition of a fine would meet the ends of justice.
- (vii) Under the proviso to clause 11 of the Bill, a specific provision has been made under which the appropriate Government shall authorise the criminal prosecution of an employer who has failed to pay gratuity within the prescribed time.

The Select Committee had also requested Government to reconsider Clauses 2(c) and 4(6) of the Bill, relating to the following matters :

- (i) Whether a strike which is illegal should be considered as interruption of service which will disqualify an employee for gratuity for that particular year.
- (ii) Whether gratuity is liable to be forfeited in part or in whole if an employee's services are terminated for any act causing damage or loss to or

[Shri R. K. Khadilkar]

destruction of property belonging to the employer or for riotous or disorderly conduct or any other act of violence on his part or any offence involving moral turpitude.

Government have given the most careful consideration to these two recommendations of the Select Committee, but could not see their way to accepting them.

Under Clause 2(c) of the Bill a period of illegal strike does not form part of "continuous service". The intention is that in case of participation in an illegal strike, the employee will forfeit gratuity for that particular year, but the service rendered in earlier years and in subsequent years will be taken into account for purposes of payment of gratuity. As sudden and unjustified strikes (which may partake of an illegal character) upset production plans and may cause considerable loss to employers and to the country generally, Government feel that there should be some deterrent against such strikes. Gratuity is no doubt an important retirement benefit to the worker; but it also embodies the concept of a reward to the worker for long and efficient service rendered to the employer. Government are, therefore, unable to agree that the period of "continuous service" may include the period of an illegal strike.

As regards the forfeiture of gratuity, the Select Committee has suggested that the entire clause 4(b) may be omitted so that gratuity which an employee earns by virtue of service over a period may not be forfeited for any misconduct on his part. The concept underlying this provision in the Bill is that misconduct on the part of an employee, no matter at which stage of service, should entail consequences either by way of reduction of the gratuity payment or by its total forfeiture. There are degrees and grades of misconduct and forfeiture of gratuity should arise only in the case of misconduct which may be described as grave or serious. I hope the House will agree that a distinction should be made between technical misconduct and misconduct which entails destruction of employer's property or which involves riotous conduct and use of violence. There should be some deterrent against this class of misconduct and this is what Clause 4(6) seeks to provide.

In the Select Committee several members expressed their anxiety to ensure promptness in the payment of gratuity. Since gratuity is

a retirement benefit payable when an employee superannuates or resigns, there should be adequate safeguards to ensure that the employer does discharge this obligation at the time it arises. A number of suggestions were made, the principal one being that there should be a Trust Fund to which the employers would make a prescribed contribution every year, the Trust Fund will be responsible for paying gratuity to the workers at the time it falls due. The proposal has been considered by Government and a Working Group has been set up, with an Actuary of the Life Insurance Corporation as its Chairman and including representatives of the Departments of Insurance, Labour and Employment and Economic Affairs and the Bureau of Public Enterprises, to consider the matter in depth and to make recommendations on the most suitable and feasible Scheme for the purpose. The Group has already started its work and necessary further action will be taken in the matter after its report is received.

I am confident that the Bill will be welcomed as a piece of progressive labour legislation and that it will receive support from all sections of the House. Workmen all over the country have been anxiously waiting for this measure to be placed on the statute book and I would urge that we should do so as early as possible.

I am aware of the fact that in certain particulars the Bill does not fully meet the wishes and suggestions made by the Select Committee. I would, however, request the House to look at the Bill as a whole and to understand how far it fulfils the broad objectives which we all have in view. There may be some who desire an extension of the coverage of the Bill and others who would like to see larger benefits made available to workers. These may be desirable ends in themselves but I suggest we may consider them at a later stage after we have some experience of the working this new statute. We are now making a beginning with a gratuity scheme, and in the opinion of the Government, the provisions of the Bill represent a fair balance between needs of the workers employed in the productive process and the compelling need for conserving resources for the augmentation of the total national product. We must not forget that such augmentation is an essential pre-condition to the success of our current efforts to

remove the scourge of poverty from the country. When viewed from this angle, I am sure, that the Bill will commend itself to all sections of the House and command their support.

**SHRI SOMNATH CHATTERJEE** (Burdwan) : Mr. Deputy Speaker, Sir, this is a measure which has been long overdue. Although it is somewhat a half-hearted measure, we welcome it.

In the past, the payment of gratuity has been treated to be in the nature of a dole or a pittance to be given to an employee who is being retired or superannuated at the sweet will of the employer. After giving best years of his life for the employer and with no prospect of future employment, when an employee is retired, he is certainly entitled to be given in lieu of pension something like gratuity. That is why there has been a consistent demand that this benefit which is not a mere pittance or a dole from the employer should have a statutory recognition. And it should be made a statutory right of the workers to get that. With greater and greater shrinking of employment potentialities, with no old age benefit being available and with no unemployment insurance being available to the employees who lose their jobs by one or the other processes mentioned in this Bill, it is fair and proper that provision should be made for payment of gratuity. From its very name, the concept of gratuity seems to connote that it is in the nature of a gratuitous payment. But now it has been legally recognized in some cases at least ; under industrial law it is a justifiable claim on the part of the employee for services rendered and it should no longer be treated as a charity or a dole given by the employer. This is not an ex-gratia payment but a vested right of the employees to get it.

The Bill, we are very sorry to say, although it meets some of the requirements which have been long overdue, by reason of its restricted scope does not meet all the requirements, and some of the provisions, I am sorry to say, are loaded in favour of the employers and not the employees.

The hon. Minister has referred to some of the provisions which we find from the Report of the Select Committee were very much discussed but Government has not found it possible to accept. The reasons which have been given do not convince us.

Apart from the coverage of the workers,

why should the retrenchment compensation which is provided in the Industrial Disputes Act under 25F not have been made a part of the gratuity scheme? Because what is paid as compensation for retrenchment is in the nature of gratuity for services rendered ; on the basis of the years of services rendered, that compensation is calculated which is really gratuity. Now because of more effective steps indicated in this Bill, it would be easier for the workmen who are retrenched to come under the scope and ambit of this Bill ; there would be an easier method of realisation. We all know how long it takes under 25F ; sometimes the Industrial Tribunal has to assess, calculate, the retrenchment compensation that is payable under 25F. But this Bill does not include that category within its ambit.

Clause 1 (3) makes the applicability of this scheme to categories of workers very much restricted. We find from the Report of the Select Committee and the Minutes of Dissent appended thereto that there has been a consistent demand—I believe and I am told that almost all the Central trade union organisations asked—, namely, why should this scheme be restricted to certain categories of workers in this country, what right have we to deny this payment of gratuity to all types of employees. We find that there has been almost a unanimous demand, so far as it appears from the Minutes of Dissent, from a large section of members representing trade union organisations to include within the ambit of this Bill transport workers, workers of the local bodies, workers in the construction industry, educational institutions, hospitals, etc., for which some amendments have been given. But what is the rationale behind exclusion of these categories of workers? Was it an arbitrary method of picking and choosing which was adopted? No rational principle is indicated.

Why should some of the workers only get the benefit? What right have we got to deny the other workers of the benefit? This is the most ordinary benefit which the worker is entitled to get. Why this arbitrary selection of some of the types of workers to get the benefit? Therefore, we should definitely commend to the hon. Minister to accept some of the amendments which we have given to enlarge the scope of the Bill. After all, the employers will have to pay. Why should he in some cases have the right to deny this benefit to the workers and only in certain fields of employment this is applicable. I submit there is no reason behind this arbitrary picking and choo-



[Shri Somnath Chatterjee]

sing of types of workers who should get the benefit.

Then clause 2(c), to which we have a very fundamental objection. The clause said that no strike should be encouraged. But I take it that the legality or illegality of a strike would be determined by the Industrial Disputes Act—Sections 22 and 23. The hon Members are aware—most of them are, I am sure—as to what are the occasions which have been held to prohibit a strike, apart from the period of notice to be given. You are aware that nobody can go on a strike during the pendency of the conciliation proceedings, during the pendency of proceedings before a court or tribunal, during the pendency of arbitration proceedings and during any period in which a settlement or award is in operation, etc. Therefore, a strike which may be wholly justified will because of certain statutory standards laid down be declared illegal. Otherwise the workers will be fully justified in going on a strike and there may be various reasons why the workers will have to go on a strike, not that they get pleasure out of it. Therefore, these are certain statutory standards laid down in the Industrial Disputes Act which cannot possibly visualise all the circumstances in which the workers or a body of workers can go on a strike. Supposing there is a strike for a day or two which is fully justified, as you will see that some of the hon. Members in their Minutes of Dissent have indicated, but these workers who go on a strike for a day or two which otherwise is fully justified, would be debarred from the benefits of being treated in continuous service under Section 2 sub-clause (3). I submit this is a retrograde measure because there are various types of employers and it will not be difficult for them to create provocations and get rid of the applicability of these provisions or to make the workers lose the benefits of this scheme, to provoke such a situation in which the workers will be forced to go on a strike for a day or two or seven days and then come within the mischief of Section 2 sub-clause (3) and they will lose the benefit of being treated in continuous service. We submit this is a measure which the Government may consider again and the Government may kindly accept the amendment which I have submitted.

The other clause to which I wish to draw the attention of the hon. Minister and the House is clause 2(5). That is definition of wages. Although we generally welcome this measure, we find some of the provisions are

put more for the benefit of the employers than for the benefit of the employees. Clause 2 (5) says that it shall not and it does not include any bonus, house rent allowance, overtime allowance and any other allowance. After all, nobody can say that the level of wages or salaries in this country is very high. The dearness allowance in many cases is treated and ought to be treated as part of the wages itself.

Even dearness allowance is not to be taken into consideration while computing wages under this.

AN HON. MEMBER: It will be taken.

SHRI SOMNATH CHATTERJEE: I am sorry, I made a mistake; I stand corrected. But there are other types of allowances, bonus, etc. Why should not these things be treated as part of the wages? Why should not this benefit go to the employees? After all, you are giving 15 days' wages in a whole year. That is for the purpose of gratuity. Why do you deprive them of this amount which in any event is not going to be very large.

I wish to draw his attention to Clause 4 which is about the 'qualifying period'. Clause 4 says:

"Gratuity shall be payable to an employee—

- (a) on his superannuation,
- (b) on his retirement or resignation,
- (c) on his death or total disablement due to accident or disease

after completion of not less than five years of continuous service."

This, I do not understand. What is the special charm of mentioning '5 years'? What is the special reason behind it? If this is less than 5 years, he will not be entitled. Why? Suppose, after 2 years he is disabled due to accident. What happens? Why should he not get the benefit? We have put another amendment which I request the House to accept.

The rate of gratuity, namely, 15 days in one year is not at all an adequate amount. This should be raised to 30 days. And then, about the upper limit, we wish to submit that there need not be any upper limit. Entitlement to gratuity depends upon length of service, the number of years a worker has put in. That will be a thing which will vary in indi-

vidual cases. Therefore, why should there be any upper limit prescribed?

Another objectionable feature that we find is about 'forfeiture' of the entire amount of gratuity. Sub-clause (a) of clause 4 (3) says that the gratuity of an employee whose services have been terminated for any act, wilful omission or negligence, causing any damage or loss to, or destruction of property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused. Sub-clause (b) provides for the total forfeiture of the entire amount due. I wish to refer to a judgment of the Supreme Court in this connection. The Supreme Court has been criticised on the floor of the House on many occasions for taking up a reactionary attitude and all that. This is what the Supreme Court said in 1961. I am quoting from the judgment of the Supreme Court Mr. Justice Gajendragadkar in the judgment said:

"On principle, if gratuity is earned by an employee for long and meritorious service it is difficult to understand why the benefit thus earned by long and meritorious service should not be available to the employee even though at the end of such service he may have been found guilty of misconduct which entails his dismissal. Gratuity is not paid to the employee gratuitously or merely as a matter of boon. It is paid to him for the service rendered by him to the employer and when it is once earned, it is difficult to understand why it should necessarily be denied to him, whatever may be the nature of misconduct for his dismissal."

This was said in the Garment Cleaning Workers' case, in 1961.

This was what was done by the Supreme Court in 1961. Now we are putting the clock back. We are now saying, for one act of misconduct, after your 20 years of service, you will hereby lose your entire benefit. Is this not a most amazing provision?

It shows complete lack of concern for the employee who is serving in industry, because after many years of service, because of just one act of misconduct he may lose the entire amount of gratuity. If because of the misconduct the employer suffers or there is any loss in production, then the extent of the loss could be deducted from the gratuity but the balance of the amount should be paid to the workers. Therefore, we are very strongly opposed to the provision in clause 4 (6) (b) (i).

Then, I come to clause 11. Why should it be left to the State Government to make a complaint if there is any default in compliance with this particular Act? Provision is made that it has to be brought to the notice of the State Government and the State Government shall authorise the controlling authority to make a complaint. After all, it is the employee who will suffer? If the employee feels or can make out a case that the provisions of the Act are not being followed and there are no extenuating circumstances, why should it be left to the employee to go to the State Government and why should he have to satisfy the State Government? Supposing the State Government or the authorised person does not file the complaint, there is no way to compel the State Government to make a complaint or authorise the controlling authority to make a complaint. We know that under the Industrial Disputes Act, nobody can compel the State Government to make a reference under section 10. Then, what is the remedy? There is no remedy except public opinion. Why should there be such a provision leaving it to the State Government or the controlling authority to lodge a complaint? After all, it is the employee who suffers and it is he who has earned his gratuity. So, why should he be made to run to the State Government? We know the amount of redtapism which is there. So many methods have to be adopted to move the State Government in the matter, and depending upon the good wishes of the State Government, the controlling authority will take steps in the matter.

Again, who will have the control of the proceedings? The employee would not have it nor would the trade unions have it, but the entire control would go in the hands of the controlling authority. So, this creates a great deal of doubt in the minds of the workers in regard to this particular provision of law that it should be made a cognizable offence, namely that the default should be made a cognizable offence. We welcome this move that it is being made an offence. But why should the Government hedge it with restrictions or make proposals as would whittle down the effect of it? So, we would ask the hon. Minister to consider favourably the suggestions and make the necessary changes in the Bill.

SHRI B. V. NAIK (Kanara) : I welcome this Bill which is a progressive measure.

16.48 hrs.

[SHRI K. N. TIWARY in the Chair]

[Shri B. V. Naik]

To begin with, I find that in the course of his clarifications of the objects and reasons of this Bill, the hon. Minister of Labour has stated that gratuity is a sort of reward to the worker for the full period of his service. I think the time has come for us to think a bit differently or a bit away from this at least in the spheres of economic thinking, when we are thinking in terms of wages. Gratuity is not the prize of labour but a sort of repayment of a labour loan. It will have to be defined very clearly and very unambiguously whether gratuity is a reward or a sort of donation or a sort of prize or whether it is a rightful claim of the labourer on a labour loan.

I think that in the context of the non-Victorian economic thinking, we shall have to talk of the amounts that are due to a labourer as a justifiable and justiciable claim. In a socialist economy, we have to take it *a priori* that a worker's contribution to the productive activity or the end-product of the economic activity is not a bit less or a bit more than anybody else's contribution to it, whether it be the capital or the organisation or the management or the land. I think this is at the very base of our concept of a socialist society, that he stands on a footing of absolute equality. In that context, I would suggest that we treat gratuity as a justiciable claim of the labourer.

Then coming to the aspect of continuous service, I have seen in many of our industrial undertakings that, progressively, the moment you make it into a continuous service, it becomes a hazardous enterprise for the labourer because they will hire him and fire him before the end of six months. We have seen in one of the areas in a very reputed concern that the ratio of the permanently employed labour to the non-permanently employed labour which was being sacked at the end of every 9 or 11 months was 1 to 3, if not more, because correct statistics in regard to the seasonal labourers are not being maintained. I would like Government to take such steps as are necessary to see that the unscrupulous employers, people who have yet to accommodate themselves to the situation in the present context, do not resort to the step of making continuous labourers into the non-continuous category, so that by bringing in progressive legislation like giving them gratuity we do not reduce the security and permanence of the jobs which they enjoy at present. These are some of the hazardous effects of good legisla-

tion and I would request our Labour Minister to kindly keep a watchful eye on this aspect of the security and continuity of service of the employees.

I really compliment the three members of the Select Committee who have appended a note of dissent, Shri Mehta, Dr. Sen and Shri Giri who have given adequate reasons why some sectors of industry like construction workers, canteens and clubs where labour is unorganised should be brought within the purview of the benefits of this progressive legislation. I think we have fairly adequate data as to the total quantum of unorganised labour in this country whether they are working in forestry or fisheries or land. But when we come to the question of agricultural labour on a seasonal basis, we come into a field of production which is bristling with immense problems I understand that. But what about the forest labourers, those people who work with contractors, the road gangs, the construction workers, people who are working in schools as teachers? While we can and do sympathise with organised labour in the oligopolistic sector of our industry, I think the conditions of labour which deserve immediate attention are those prevailing in this unorganised sector. The suggestion in the note of dissent commending the inclusion of these various sectors of our economy for eligibility for the purpose of gratuity deserves a fresh look and fresh consideration.

I may submit here that in our country where about half to one-third of the population is living below the poverty line, the large number of people who are going to be affected as far as our economic conditions are concerned. They are those people who have a multiple employment situation. The agricultural labourer works during the monsoon in the farms; he works on the road during the summer; he works, if it is nearabout, in a plantation during the winter or during the fair season. These are the people who go from employer to employer and from employer to further employer, whether it is a vertical or a horizontal mobility. Usually it is horizontal going from place to place. I wonder when in this country, after 72 years of this century, we are going to take a look and see to the benefits of these workers in the unorganised sector, a large number of them, nearly four-fifth of them today account for the number of people who in this country constitute the people who are below the poverty line. If in the words of our

hon. Minister who said that he wants to fight the scourge of poverty, this is to be achieved, in this legislation, for which he has our full backing, there is not a word about the people who constitute one-third to half of the population. I think it is about time that our labour legislation as well as our Labour Ministry do something very serious and very earnestly.

It is worth-while that we have today a working group working about the conditions of creating a sort of gratuity fund. A top level actuary or an expert in this line is going to work out and see how every month or every year, we should contribute something to the gratuity fund. But I wish something more radical or much more important is done in the form at least of a working group. I hope that the recent labour conference that was held at Jaipur did draw pointed attention to the unorganised labour in this country.

I welcome this Bill. Anyone in his wisdom could not do anything else, since a worker in unorganised labour accounts to a number anywhere from 50 lakhs to 75 lakhs; that means, a population which is higher in the multiple of five.

In this context, I would like to draw pointed attention to a very specific case of injustice being meted out to the labourers in some portions of the State of Mysore. We have the salt pan workers. These people come from the Harijan families; these people, numbering about 1,000, have been working virtually for three generations distinctly for about 75 years, and they have been seasonally employed. At least in those parts of the State where I come from, they are seasonal workers, but they have a multiplicity of employment. Even within the seasonal workers, in the name of a Salt Growers Society, there is a body which is supposed to distribute the products for the purpose of absentee landlords who mostly live in big cities and who do not have the time to come at least once to the salt pan. Such is the condition that they are unable to finance themselves even for a period. If our slogan as well as our basic motto of banishing poverty are to have some meaning, it must first attack the weakest link in our socio-economic change, and I would therefore request and draw particular attention to the salt pan workers in the coastal areas in particular; next only in the descending scale of misery come the forest labourers all over the country. I would like to draw the attention of the hon. Minister to salt pan

workers and the forest labourers, and to their miserable conditions of work.

I welcome this Bill and compliment the hon. Minister for bringing in this progressive legislation.

17 hrs.

DR. RANEN SEN (Barasat) : This Bill went to the anvil of the Select Committee and this is a fulfilment of a longfelt need and as such I welcome it. As has been the practice with our Government, while bringing a good thing, they leave open so many loopholes and fill it up with so many negative things that the purpose of some of the good things is defeated. Earlier Mr. Chatterjee has said that the Members of the Select Committee were more or less unanimous on certain points but ultimately in the wisdom of the Labour Ministry this Bill was passed in the Select Committee in the present form.

Shri Khadilkar in his introductory remarks said that persons who are engaged in productive labour had been covered. Are the workers engaged in the transport industry, the workers of the contractor who build railway lines and bridges, construction workers who had built Farraka and Sharavati and who are building the new India—are they not engaged in productive labour? Why is the coverage limited? It should have been expanded to include all these workers. In my minutes of dissent I have already referred to them and I do not want to dwell in more detail on this point. They are doing productive labour. Are not the employees of educational institutions, of the universities, engaged in productive labour for the benefit of society? To limit this simply to factory labour is wrong. I say that more wide coverage could be given and there is still time to give second thoughts to the suggestions made by two previous speakers.

SHRI K. D. MALAVIYA (Domariaganj) : I support your plea but how do you get an organisational picture? Take the transport workers. He is here today and tomorrow he leaves, on his own will. How do you organise him?

DR. RANEN SEN : There is the Motor Transport Workers Act. The motor transport workers may be scattered all over India from Bombay to Calcutta or from Kashmir to Kerala; yet they could be drawn in under this Act. If the Government so desires there

[Dr. Ranen Sen]

are means of including all these workers. I know it is difficult but there are precedents and already the motor transport workers are covered under the Act.

Clause 2 (c) is an indirect attack on the right of workers to strike. Strikes do not take place all of a sudden. A strike has been going on in the Khetri Copper Mines for the last 24 days because there have been enough provocations and the workers reacted. They are human beings engaged in productive labour. If they do not react, I would say they have become dead wood. Because they are human beings they react and it is known to the Minister also that in such "illegal" strikes the Government has to intervene and sit with the strikers and come to a settlement. I know that in the Khetri strike also, which has been declared illegal, this will have to be done. We are living in 1972 and not in 1922. What is happening in England today? In spite of the Industrial Relations Act passed by the Conservative Government with a comfortable majority, the workers defied them and the Government had to move the Court to withdraw their order jailing four or five workers. This is what is happening today. So, a Government which advocates Socialism should not have resorted to this particular Clause. Hence I say that it is an indirect attack on the right of the workers to strike. I know that for some time past, right from the Prime Minister to Mr. Khadhikar, they have been trying to sell the idea that the worker should give up the right to strike. This is one way of introducing that idea through an Act which I know the workers will not accept, and there will be a lot of trouble whether gratuity will be forfeited or not on this question.

In Clause 4 it has been provided that gratuity will be payable at the rate of 15 days wages for those who have completed 5 years of service. I am not supporting the position that overtime, production bonus, incentive bonus etc. should be included, but I suggest that instead of 15 days it should be one month and that the period of entitlement should be reduced from 5 years to at least 3 years if not less. If a worker dies a few months before completing 5 years, what will happen to him? The law is not very clear. In regard to death or disablement by accident, it has been provided that the nominees will get the benefit. So, there are some redeeming features in the Bill, but the above two suggestions should have been accepted as they would cover a

very large number of workers and go a long way to ameliorate their condition.

As has been pointed out by Shri Somnath Chatterjee, Clause 4 (b) provides that the gratuity can be forfeited in case of riotous and disorderly conduct. Under the Standing Order Act, there is a provision for penalising the workers, and now they will be penalised again under this Act. Why this double penalty? Secondly, who decides whether it was riotous or disorderly conduct? The Bill is vague on the point. Mr. Nair says that it is the employer. So, the employer is entitled on two accounts to victimise the workers. We know the psychology of the employers. They will have some police case instituted and the worker's right to gratuity is gone. If it is said "if he is convicted by any court of law", as was suggested in the Select Committee, I can understand. But as it stands now, the workers are likely to suffer.

Coming to clause 9 (2), the clause states one thing but the proviso states a different thing. Clause 9 (2) says that an employer who contravenes any provision of this Act shall be punishable with imprisonment which may extend to one year. But the proviso says that for non-payment of gratuity, the punishment shall not be less than three months, etc. I cannot understand this distinction between violation of the provisions of this Act and non-payment of gratuity. Violation of this Act means non-payment of gratuity. Then it says that the trying court may award less than 3 months provided the reasons are recorded! Reasons are always recorded in the judgments. This is just a loophole to help the employers to get out of the rigorous imprisonment.

Clause 10 says that if the employer is able to prove that he is not responsible but somebody else is responsible, then somebody else goes to jail and the employer sits in his air-conditioned room. In these days of poverty and unemployment, you will find a number of jail-goers if they are paid Rs. 500 or Rs. 1000. So, this is another concession to employers. Government knows that employers have defaulted in payment of provident fund to the workers to the extent of Rs. 28 crores. Still, they are dealt with leniently and magnanimously!

Clause 11 says that no court shall take cognizance of any offence and only the State Government or the appropriate authority is entitled to take cognizance of it and proceed legally. The workers will be at a disadvantage

under this provision. It is our experience that the State Governments will not send them to the court easily.

Take the case of the Provident Fund Act. The employers went on cheating the workers. When the workers came to know of it they went to the Provident Fund Commissioner. Yet, no cases were instituted. But the workers cannot go to the court. Even when the workers know that they are being cheated, they have to follow a laborious process to go to the court. First they will have to go to the State government, stage a *dharna* or demonstration and create some difficulties before the State government take it up to the court. In that way you are encouraging the workers to create law and order problem. Why should you prohibit the workers from appearing before the court? After all, it is permissible in the Bombay Labour legislation, the State from which the hon. Minister comes. Does he not know that in his State the workers can go to the court? But this suggestion was not accepted by the Select Committee even though more or less all the members of the Select Committee made this suggestion.

Therefore, I conclude by saying that it is a good piece of legislation full of limitation and lacunae which may defeat the good purpose for which it was intended. I hope at this late stage the hon. Minister will accept some of the amendments and give a new and fresh look to the Bill. But, in spite of these defects, as I said at the beginning, I welcome it.

**SHRI RAJA KULKARNI** (Bombay-North-East): Mr. Chairman, I welcome this Bill on payment of gratuity to workman. This is a legislation which is long overdue. Gratuity is one of the retirement benefits like provident fund and pension. Since there has been a legislation for provident fund since long, as also for family pension, the payment of gratuity also needed legislative status. Under this legislation the workers are going to get a statutory right for gratuity. This right which was enjoyed by the workers in a number of industries under contracts, agreements or awards of industrial tribunals is now given statutory recognition.

I welcome the provisions of this legislation for two or three reasons. Firstly, if any industry or concern or establishment there is already a gratuity scheme which is more beneficial than the provisions of this legislation, that will not be affected by the introduction of this legislation.

I am happy to say that many of the improvements suggested in the Select Committee were accepted by the Government. Yet, there are a few grievances still which are legitimate and it is hoped that even at this late stage, government will accept the suggestions for removing those grievances. In order to make this Bill purposive and give full protection to the workers at the time of retirement, the hon. Minister should accept some of the suggestions made by those who have the interests of labour at their heart.

It is heartening to see that the Select Committee has made some improvements in the Bill. For example, under the original Bill the maximum benefit was for a period of 15 months. It has now been increased to 20 months.

Similarly, the amount of gratuity was to be calculated on wages upto Rs 750 but now it has been increased upto Rs 1000.

**MR. CHAIRMAN:** Please don't go into what took place in the Select Committee. You can casually make some mention of that. But don't go into all that.

**SHRI RAJA KULKARNI:** In spite of these improvements which the Select Committee has suggested and the Government has accepted, there are two or three clauses to which the attention has been drawn by many of the trade union leaders and Members of this House. I would like to give my comments specially with respect to clause relating to break in continuous service because of the participation in an illegal strike, that is, clause 2 (c).

I would like that the Government do consider this suggestion. Participation in an illegal strike might harm the worker in risking his service. Why, then, he should have another risk of losing all his retirement benefits also. Therefore, I would like that the Government should consider this even at this late stage.

Then, I would like to go to another point, regarding total forfeiture of gratuity if service is terminated because of riotous, disorderly or violent behaviour or moral turpitude, that is, clause 4 (6) (b). The Government has not accepted the suggestion that was given by the Members of the Select Committee. I would like to say that the Government should make up its mind and accept the suggestion.

[Shri Raja Kulkarni]

We are aware of the confusing and contradictory decisions of the Supreme Court on this issue. In one case, in the *Hindustan Times* case, reported in 1963, No. 1/LLJ on p. 108, the Supreme Court decided that the gratuity cannot be forfeited on grounds of gross misconduct. But in another case, in the case of *Calcutta Insurance Co.*, reported in 1967, No. 11/LLJ on P. 1, the Supreme Court held that no gratuity is payable on grounds of misconduct.

These are contradictory decisions. I do not know whether the Government has not made up its mind because of these contradictory decisions. But the Government should go into the merits of this issue and should take a progressive view and should not debar the workers from their claim to gratuity. If a worker has put in 15 or 16 or 18 years of service as a good workman and, if in the last year of his service there is any misconduct for any fault of his, he should not lose gratuity. Just because there has been some misconduct in the last year of his service, he should not be deprived of the benefit which he has earned because of his good work during a large part of his service period. In the case of misconduct, there is the Industrial Standing Orders Act which decides through enquiry the gravity of where the misconduct, the extent of the misconduct and what are the circumstances in which the misconduct is committed. There is no question of how to decide and who is to decide. That is decided by the Industrial Standing Orders Act. Forfeiture of gratuity, instead of becoming a deterrent to act of misconduct, is likely to be misused by employers for compelling obedience to injustices inflicted upon the workers.

Then, I come to another point about the coverage of workmen, the industries and the services. Though it is true that in the Select Committee, the Government accepted some modifications, yet there are certain industries and certain services which the Government has not accepted.

Government are now getting, under this Bill, the right to extend this legislation to other establishments which are not specifically mentioned now. We hope that Government will immediately extend this legislation to all the services, whether they are transport or construction, naming specifically the con-

struction companies or the transport services; wherever there are more than ten workmen.

Then there is another point on which I would like to make a request to the Government. With the statutory gratuity coming in, the funds with the employers will be accumulated; and augmented. They will be in the hands of the employers. It is not in the interest of the workmen seeing the experience of Provident Fund and Employees' State Insurance contributions, to keep these fund permanently at the disposal of the employers such situation is not beneficial to the working class or to the Government or to the country. Therefore, Government should consider amending, if possible in the immediate future, this legislation to acquire or transfer all these funds just as they had done in the case of provident funds which are vested in a Corporation. A trust or some other autonomous body should be created wherein all employers should be asked to deposit the gratuity funds—all the gratuity that has been provided for on the basis of this legislation or whatever is under the contractual gratuity schemes in these companies or establishments; whatever is provided for in the Balance Sheet—those amounts should be deposited with a trust separately. It should be at the disposal of the Government so that the money can be utilised for the purpose of economic development just as Government is using the money of the provident fund for the purpose of investment. I hope, the hon. Labour Minister will give thought to this suggestion and agree to it in principle at this stage and introduce it at the appropriate time.

\*SHRI C. CHITTIBABU (Chingleput) : Mr. Chairman, I am thankful to you for giving me an opportunity to say a few words on The Payment of Gratuity Bill which has been introduced by the hon. Minister of Labour. In his introductory speech, he has commended this Bill to the approval of the House.

In the Statement of Objects and Reasons, he has stated that since many State Governments have either passed or in the processing of enacting legislation in regard to payment of gratuity to industrial workers, it has become necessary to have a Central law on the subject so as to ensure a uniform pattern of payment of gratuity to the employees

\*The original speech was delivered in Tamil.



throughout the country. If that is the intention of the Central Government, I would like to know why the workers in a few selected fields alone should be given this benefit. As has been pointed out by my predecessors who participated in the debate, what happens to the long standing demand of agricultural labour for basic minimum wages? In Tamil Nadu, a separate Committee has been constituted by our Chief Minister, Dr. Kalamannar Karunanidhi to go into the question of compulsory payment of basic minimum wages to agricultural labour. Some other States may follow suit. If the States come forward to enact legislation in this respect, will the Central Government come forward to formulate legislative proposals so that there can be a uniform pattern of payment of basic minimum wages to agricultural labour throughout the country?

So far as this Bill is concerned, it is a half-baked piece of progressive labour legislation. If the Government are inclined to feel that with the assistance of such labour laws they will be able to establish socialism in the country, I make bold to say that the labour will not be able to raise their head for another 50 years to come. I will substantiate my view point.

This scheme of payment of gratuity is made applicable only to the employees engaged in factories, mines, plantations, ports and railway company. What is the position of workers in other sectors of productive industry? This Bill will create invidious distinction between workers, which will in turn lead to unnecessary ill-feelings among different categories of workers. I am afraid that this Bill may pave the way for labour revolution also. For example, a transport worker may feel as to why he should work for eight hours if he is denied the facility of gratuity while his counterpart in a factory will be able to enjoy this benefit. I doubt whether this Bill will lead to healthy and happy labour relations in the country.

I do not understand why the All India Railways should be called as Railway Company in this Bill. The Railways throughout the country are run by the Railway Board. There are only two or three petty private railway companies in the country. I want to know whether this term 'Railway Company' in this bill refers to the All India Railways or to the two or three private railway companies in the country. I want the hon. Minister to clarify this point. In regard to

ports, a distinction has been made by saying 'major' ports in the Bill. What will happen to the workers in the minor ports? Are the workers in the minor ports not to be categorised as workers?

SHRI VASANT SATHE (Akola): Where is it—'major port'?

SHRI C. CHITTIBABU: It is not in the Select Committee's report. It is in the Bill.

SHRI M. RAM GOPAL REDDY (Nizamabad): Yes, it is there.

SHRI VASANT SATHE: It is amended now—'ports' only.

SHRI C. CHITTI BABU: Then I withdraw that word.

The transport workers, the construction workers, the workers in hospitals who save the life of so many people, and the workers in educational institutions have been excluded from the purview of this Bill. While the plantation workers have been made eligible for gratuity, the agricultural labour has been left out in the lurch. An agricultural labour can easily become a plantation labour. In what way the plantation labour is different from agricultural labour? The plantation workers are just the agricultural workers on the hills and their surroundings, doing the same work which the agricultural labour does on the plains.

As pointed out by the hon. Minister in his introductory speech, the Central Government have brought forward this measure with a view to ensuring a uniform pattern of payment of gratuity throughout the country, especially when many State Government's are formulating labour welfare legislation. I would like to know from the hon. Minister of Labour whether the Central Government will also bring forward a comprehensive legislation for the welfare of agricultural labour if the States start enacting laws for them. What will the Centre do if such a situation is created in the country? The agricultural workers are being exploited by certain political parties for the purpose of toppling the State Government. The agricultural labour are easily taken in by the offer of Rs. 3 or so and they easily become pawns in the political game of chess. I have seen this happening in Tamil Nadu. Because they have no security of basic minimum wages, they are susceptible to such unhealthy overtures by the political parties. I warn the

[Shri C. Chittibabu]

Labour Minister that this kind of agitation on the part of agricultural labour for basic minimum wages may spread at the all-India level if steps are not taken by the Labour Ministry to formulate a comprehensive legislation which would ensure the payment of basic minimum wages to the agricultural labour.

I will take this opportunity to request the hon. Minister of Labour that workers like sweepers, scavengers etc. working in the local bodies like Municipalities should also be brought under the purview of this Bill.

Sir, if the gratuity money is left in the hands of employers, naturally they will utilise it for their personal ends. I would suggest the creation of a Trust for gratuity funds and this Trust should be entrusted to the care of the State Governments who can employ the funds for public purposes. There is no mention in this Bill as to how the gratuity funds would be managed. In spite of the fact that the Provident Fund Commissioner is in charge of provident fund, the arrears of provident fund run into many crores. The Provident Fund Commissioners continue to remain the hapless victims of the vagaries of the Employers. If we allow the Gratuity Fund to be with the Employers, they will play ducks and drakes with the money of the workers. It is very necessary that a Trust is to be created for gratuity money and it should be administered by the State Government.

An employer who contravenes or makes default in complying with any of the provisions of this Act or any rule or order made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both. I am afraid that these penalties are not adequate. A defaulting employer should be penalised with 5 years rigorous imprisonment or with a fine of Rs. 50,000/- This alone will create a sense of fear in the mind of the employer. An employer may have to give a gratuity of Rs. 4500/- to the worker who has put in 30 years of service, if the wage of the worker is taken as Rs. 300/- per month. If the fine is just Rs. 1000/-, he will just pay this fine of Rs. 1000/- and deny the worker his dues. If there is deterrent punishment, an employer will think twice before he takes recourse to such malpractices. Having had the experience

in the implementation of the Provident Fund Act, which also contains such a penal provision, the Government should have become wiser while formulating penal provisions in this Bill. I would suggest stringent punishment for the defaulting employer.

Under Clause 11 of the Bill, it is stated that no court shall take cognizance of any offence punishable under this Act save on a complaint made by or under the authority of the appropriate Government. The worker has to approach the court through the concerned State Government for redressal of his grievances. I do not understand why the State Government should be dragged into this. When there is no provision in this Bill regarding the management of Gratuity money by the State Government, why should the State Government be brought into the picture in the case where the employer does not give his dues to the worker? The Labour Minister has mischievously brought the State Government also in the picture unnecessarily. If the State Government is empowered with the administration of Gratuity fund, then there is some meaning in dragging the State Government where the employer does not pay the dues of the employee. I would suggest that the Gratuity fund should not be allowed to be in the hands of the employer. A trust should be created and it should be entrusted to the State Government.

In conclusion, I would refer to Clause 4(G) which deals with forfeiture of gratuity. A security officer in a factory may fabricate a case of theft against a worker, which may lead to the forfeiture of gratuity. If the management is unwilling to pay gratuity to a worker, anything can be done, taking shelter under this clause. I would strongly urge upon the hon. Minister to delete this clause from the Bill.

I would finally request you to bring forward a comprehensive legislation fixing a uniform pattern of payment of basic minimum wages to the agricultural labour throughout the country. Not only the agricultural labour of Tamil Nadu, but the agriculture labour throughout the country will hail him as the harbinger of hope for them; otherwise, they will not forgive him.

With these words, I conclude.

SHRI M. RAM GOPAL REDDY  
(Nizamabad) : I congratulate Shri R. K.

Khadilkar on his having brought forward this very good piece of legislation before this House. I also congratulate Dr. G. S. Melkote who had presided over the Joint Committee and had given very good comments on this Bill . . .

SHRI M. C. DAGA (Pali) : And not the Members of the Joint Committee.

SHRI M. RAM GOPAL REDDY : I think also the Members of the Joint Committee including Shri M. C. Daga.

I have to state that some of the Members of my party also are now trying to compete with the Opposition in demanding more and more for the workers under this gratuity Bill. I would like to point out that this Bill deals with only less than one per cent of our population. 99 per cent of our population does not come under this Bill at all.

We have to remember also that we are not dealing only with the private employer, but even Government are becoming a very big employer. After nationalisation of banks, after the nationalisation of the insurance companies, after the nationalisation of general insurance, and the nationalisation that is going to be done in the future, and in fact, the nationalisation of the coking coal mines Bill which we had today, Government themselves would emerge as a very big employer, and Government would have to shell out a great amount of money to the workers from their pocket. If Shri R. K. Khadilkar is going to proceed at this rate, then I am afraid that a day may come when 50 per cent of the Central budget would go towards payment of gratuity to the workers only. Today, this Bill covers only less than one per cent of our population. They do not constitute the entire population. The average salary received by any labourer in the organised sector is over Rs. 2700. But in the rural areas the income is not even Rs. 20 per mensem, that is to say, the income is just about Rs. 240 or so, which is less than 9 per cent of the income that is being enjoyed by a labourer in the organised industry or an industrial labourer. I would like to ask the hon. Minister what steps he is going to take to end this disparity.

We are trying today to end the disparity between the rich man and the poor man. Here, I want that the disparity between one class of labour and another class of labour should be ended. Sir, I am associated with a co-operative sugar factory to which I have

been elected in 1968. At that time, we were paying only Rs. 9 lakhs ; today we are paying Rs. 19 lakhs. I want to know how this is increasing every year by about Rs. 2 lakhs.

श्री हुकम चन्द कछवाय (मुरैना) :  
महंगाई कितनी बढ़ी है ?

SHRI M. RAM GOPAL REDDY :  
महंगाई केवल अकेले उनके वास्ते नहीं बढ़ी है।  
सबके वास्ते बढ़ी है।

एक माननीय सदस्य : मुनाफा कितना बढ़ा है ?

SHRI M. RAM GOPAL REDDY :  
मुनाफा कुछ नहीं बढ़ा है। यह कोआपरेटिव  
शुगर फैक्ट्री हैं, प्राइवेट नहीं हैं।

If there is increase in profit, that must go as income tax to the exchequer. I am not even asking that it should go to the shareholders. It should go to Government so that they may establish more industries so that more of the unfortunate unemployed people may find employment. But here a case is being made out by even people like Shri Kulkarni who say that even for the period of illegal strikes gratuity should be paid. In Hindustan Steel, there were strikes and loss of production to the tune of Rs. 23 crores. It is 6 per cent of the total sales of that concern. This strike is not done for an economic benefit to the workers. It was resorted to simply because of inter-union rivalry. If this is the fate of our country, where are we heading for ? After all, the *garibi hatao* programme is not for half per cent of the population, but for one hundred per cent of the people of the country.

The other day our Prime Minister and President appealed to labour and labour leaders that there should be no strike at least for some time. This has fallen on deaf ears of labour unions. The increase in production in 1950-60 and 1960-68 was of the order of about 9 to 13 per cent per year, a compound increase. But after announcing so many benefits, after giving so much money to labour, industrial production has gone down to 2 to 3 per cent. We should be ashamed of it.

In the villages, there is a cry that land should be distributed. Certainly it should be distributed. But there are no rains. There is drought. What is anybody going to do with the land now. We have lost our mental balance. We are talking about so many things.

[Shri M. Ram Gopal Reddy]

Everyone wants to compete in radicalism. At this rate, I do not know where this competitive radicalism is going to lead us to. We are nationalising one thing after another. Shri Sathu and Shri Kulkarni went everything to be done for organised labour who are probably their voters. Should this be the criterion? Should we always keep an eye on winning elections in these matters? I say that if this is our attitude we are not true patriots. Now if anybody has to be radical, he should be just also.

I ask, what are you going to do with agricultural labour who are not even getting Rs. 20 a month. This is on record. Nobody wants to speak for these people. Why? Because organised labour can stop railways, factories and so on, you are afraid of those people and want to please them because they are vocal. But what about the dumb millions? Nobody wants to look after them. I want their interests should also be protected equally well. For that there should be more public concerns, more money should be invested in factories so that these unfortunate people who are the relatives, sons, wives and daughters, of labourers could find employment.

MR. CHAIRMAN: Let him speak on the Bill.

SHRI R. N. SHARMA (Dhanbad): We would like agricultural workers to be brought within the purview of the Bill.

SHRI M. RAM GOPAL REDDY: Workers indulging in illegal strikes should not get any benefit under this scheme. I am afraid that under pressure from somewhere, Shri Khadilkar may succumb to this sort of thing. But he must remember that after all, he is distributing money of the entire nation which has to be utilised elsewhere for better purposes and better production.

SHRI SOMCHAND SOLANKI (Gandhinagar): I must mention that the Payment of Gratuity Bill, 1971, does not cover a large number of workers employed in different institutions, organisations and industries other than those mentioned in sub-clause (3) of clause 1. As Parliament is now making this law, its scope or coverage should not be limited. Nothing must be left out of the scope of this Bill. So, I must mention, as my hon. friends have also mentioned, certain points. Mr. P. M. Mehta has mentioned that workers of local bodies, workers in transport, workers of any contract labour,

construction industries, educational industries, institutions, hospitals, canteen clerks and co-operative societies, railway companies and technical institutions and universities must be included in this class. I say this because when the Government is going to pass this law, these groups must not be neglected to take the advantage or benefit of this law.

Regarding the continuance of service, I must say that term "continuous service" has created a lot of difficulties for the workers to get the benefit of retrenchment compensation and gratuity provided in the Industrial Disputes Act. In the industries, due to his management of their own, the workers are provoked by the mis-management of the management and the institutions, and due to that, the workers go on strike, and ultimately, the result comes out that the workers are victimised, and the undesirable, unreasonable and unjustified approach of the management creates great difficulties to the workers and loss in money. Regarding this, in this Bill, in clause 2, sub clause (c) the word 'illegal strike' is put in. I do not understand why this word is included in these provisions. When the workers are demanding their due rights and privileges, when they are harassed by the mis-management they go on strike. So, due to that reason, the workers must not be victimised. They have the privilege in the democratic republic, and in such democratic countries, the right of workers to go on strike should not be stopped but maintained and the provisions in this Bill should not include this word 'illegal'. I do not know who will judge whether the strike is illegal. So, the word 'illegal' must not be there in this clause but omitted.

About the service, in certain circumstances, the workers cannot complete 240 days in a year. Due to the closure of the department of the unit, or a shift of the whole of an undertaking under the standing order the continuity of service is affected. It breaks the service of the workers due to the decision of the tribunals, and the Supreme Court of India has held only these years in which the employees have put in 240 days of service should be considered for the purpose of computing the amount of retrenchment compensation. Due to the above decision, the workers are excluded and do not get the full benefit for the total period of their service. Therefore, the Government should safeguard the continuity of service amending the above decisions.

Some employees are given gratuity for the purpose of permanency only, and the prior service is excluded from the total period of service while computing the benefit of gratuity. In the case of change of management either by sale or lease or taking over of the unit or mill or a by a corporation, or its sale in the liquidation, the past service of the workers should be taken into consideration, irrespective of the above circumstances, for the payment of gratuity. The employees of sick units or mills, factories, etc., do not get such benefits and sometimes; the benefit is delayed for one reason or another and the gratuity benefit remains simply a paper decree. The same thing applies to the retrenchment compensation payable under the ID Act of 1947 and the Payment of Bonus Act of 1965. Provisions do not help them due to the closure of the sick mills and the benefits payable to the workers are not paid to them. The term 'employees' should not be restricted to workers earning only Rs. 750 per month. It should be raised to Rs. 1,600; in the Bill it says Rs. 1,000. If this is not done, clerical staff, technicians and managers will be deprived of the retrenchment benefits. Ceiling on other benefits may be there but gratuity must be payable to all the staff. In some contract labour employees are employed permanently, not casually. Such employees should not be excluded from the benefit of gratuity. The age of superannuation is fixed at 58; it must be not less than 60.

MR. CHAIRMAN : Please try to conclude.

SHRI SOMCHAND SOLANKI : The most important thing is that salary and dearness allowance must be included. It is mentioned in the Bill that in a year they must get the benefit of at least 15 days net salary but I must say they should get at least 30 days salary in counting gratuity. In the Committee it was felt that the ceiling on the gratuity amount to be paid to an employee be

raised from 15 months wages to 20 months wages. I do not understand why they have fixed this limit to provide, an incentive to employees but the real incentive is this that after passing ten years in service the workers should get the maximum benefit to the highest extents and so after 20 years double than that. Thirty years should not be limit preventive. I must mention the ceiling is not raised according to the service and labour of the labourers.

18 hrs.

About the management and the safeguarding of the workers' funds, some trust must be created and the management should be given to the Life Insurance Corporation so that they can safeguard the workers' benefits. Provident Fund money and the gratuity money must be safeguarded by certain laws. It is not mentioned in this Bill. Only the permanent workers are getting the benefit of this Bill. I would suggest that the temporary workers, probationers, casual workers, *badlis* and apprentices must also get this benefit and the qualifying period of five years must be changed into one years service to get the benefit of gratuity.

This is a progressive Bill and I support it, but I request the hon. Minister to accept some of the amendments so that it provides greater benefits and safeguards to the workers.

MR. CHAIRMAN : Shri Ramjibhai Verma. Shri Sreekantan Nair.

SHRI N. SREEKANTAN NAIR (Quilon) : Mr. Chairman.

MR. CHAIRMAN : He will continue tomorrow.

18.01 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Thursday, August 3, 1972/Sravana 12, 1894 (Saka).*