

(Amdt.) Bill

जाता है - दिल्ली म्युनिस्पल कारपोरेशन, नई दिल्ली म्युनिस्पल कमिटी और कंस्ट्रक्शन बोर्ड, ताकि वे अपनी सड़कों को बेहतर बना सकें और नई सड़कें बना सकें। जैसा मैंने पहले बताया था, वह रुपया पहले भी उन को दिया जाता रहा है और इस साल उन को और ज्यादा मिलेगा। टैक्स कलैक्शन के खर्च को काट कर बाकी सब रुपया उन को दे दिया जाता है।

वह कहते हैं कि सेन्ट्रल गवर्नमेंट दिल्ली की मदद नहीं करती। मैं उन की जानकारी के लिए बताना चाहता हूँ - पिछले साल सड़कों के लिए जो मदद उन को दी गई है - वह 2 करोड़ 10 लाख रुपये और इस साल यानी 1969-70 में जो मदद उन को दी जाने वाली है - वह है 5 करोड़ 15 लाख रुपये।

तीन करोड़ रुपये ज्यादा एक साल में ही मिले। जहां तक दिल्ली म्युनिस्पल कमिटी की बात कही गई, उसको पिछले साल एक करोड़ 5 लाख रुपये मिले थे और इस साल तीन करोड़ 76 लाख मिलेंगे। अब अगर यह मदद नहीं है, इसके बाद भी कहा जाये कि कोई मदद नहीं हुई तो फिर मेरे पास कोई जवाब नहीं है। सिर्फ एक साल पहले से तीन करोड़ रुपया ज्यादा आपको देने का फंसला है।

श्री हरबयाल बेबगुल : आप टोटल एलोकेशन को देखें तो 23 करोड़ 40 लाख पिछले साल भी था और वही अब भी है। इस रुपये को हम बाह्य सड़कों पर खर्च करें या किसी और चीज पर, वह बात भलग है।

श्री इकबाल सिंह : यह बिल सड़कों की बाबत है। सड़कों की बाबत में कह सकता हूँ कि पिछले साल के मुकाबले इस साल तीन करोड़ ज्यादा मिला है। इसके बाद भी अगर कहा जाये कि कुछ नहीं मिला तो मेरे पास उसका जवाब नहीं है।

(Amdt.) Bill

श्री रणधीर सिंह : ट्रैक्टर को मोटर से भलग कर दीजिए।

श्री इकबाल सिंह : मैं रणधीर सिंह जी की जानकारी के लिए बतलाना चाहता हूँ कि अगर ट्रैक्टर खेती के लिए होगा तो वह पहले से ही निकला हुआ है, उस पर कोई टैक्स नहीं होगा। हां, अगर वह कारोबार के लिए होगा तो उस पर टैक्स रहेगा।

इन शब्दों के साथ मैं धाशा करता हूँ कि यह सदन इस बिल को पास करेगा।

MR. CHAIRMAN : The question is :

"That the Bill be passed."

The motion was adopted.

14.52 hrs.

STATUTORY RESOLUTION RE: PAY-
MENT OF BONUS (AMENDMENT)
ORDINANCE
AND
PAYMENT OF BONUS (AMENDMENT)
BILL

MR. CHAIRMAN : Now we shall take up the next item. Shri Goyal.

SHRI S. KUNDU (Balasore): Sir, before Shri Goyal starts, may I make a humble submission? I filed an amendment after 3 P. M. to the Payment of Bonus (Amendment) Bill which we are going to take up after this Resolution of Shri Goyal. If you permit it, it could be circulated.

MR. CHAIRMAN : I do not know the subject matter of your amendment. It has to be considered whether it is admissible or not. On a mere technical ground, that you have filed it a bit late, it will not be disallowed. But you should allow some time to the Chair to consider it. I shall consider it later when I see it.

SHRI S. KUNDU : All right.

AN HON. MEMBER : What is the time for this ?

MR. CHAIRMAN : The allotted time is four hours for both the Resolution and the Bill. I do not think we shall require so much time. The Speaker had appealed this morning and the result of his appeal is seen in the quick passage of the Delhi Motor Vehicles Taxation (Amendment) Bill. We have saved some time on that. If we are able to save some time on this, the Demands for Grants (General) will be taken up in time. If Members co-operate, I think, everyone will have time.

SHRI SHRI CHAND GOYAL (Chandigarh) : Sir, I beg to move :

"This House disapproves of the Payment of Bonus (Amendment) Ordinance, 1969 (Ordinance No. 2 of 1969) promulgated by the President on the 10th January, 1969."

In deference to the wishes of the hon. Speaker and the House I would not take as much time on this as I took in opposing the first Ordinance. I would remind the House that the Rajya Sabha was adjourned *sine die* on the 28th December, 1968 and this Ordinance was promulgated on the 10th January, 1969. So, while issuing this Ordinance, the President or, so to say, the Council of Ministers was very well aware that House was going to be reconvened within a short period. I would submit that this method of issuing the Ordinance on flimsy pretexts brings the law into contempt.

As I explained the other day, the architect of the Constitution, Dr. Ambedkar, while dealing with article 123 made it very clear that when a certain need arises suddenly, or when there are emergent circumstances or, as Mr. Seervai put it, when a certain piece of legislation is struck down by the Supreme Court or High Courts, then in order to circumvent or to remove the effect of the judgment, the Government can be said to be justified in promulgating an Ordinance. But I would like to submit that, in this case, the judgment of the Supreme Court was delivered long ago. I could

understand if this Ordinance had been issued within a fortnight or within a week of the judgment of the Supreme Court. As far as I can remember, the judgment in the case of the Metal Box Company was delivered in August, 1966 and the Ordinance was issued in 1969. Practically, after 2½ years the Ordinance was issued. So, the apprehension that the framers of the Constitution had in their mind that the provisions of article 123 might be abused and that the executive may encroach upon the right of the legislature, the right of Parliament, that is the exclusive right of framing the laws, has come true. Since the Government has not explained the reason as to the urgency or as to the emergency in which this Ordinance has been issued, I oppose it tooth and nail and submit, only on this ground, that this is a constitutional inroad on the power of the executive to interfere with the exclusive functioning of legislature, of Parliament, so far as legislation is concerned.

So far as the object of the Ordinance or the Bill is concerned, it is a limited one. What happened was that there was a dispute between the workers and the industrialists as to which amounts are to be deducted from the gross profits in order to find out the amount of bonus. After deducting those amounts, 60% of the surplus is distributed among workers as bonus. What happened was that the industrialists got a rebate on account of this amount which they distributed by way of bonus and, therefore, the dispute was whether that amount could be deducted from the gross profits of the next year. The Supreme Court gave the judgment in favour of the industrialists saying that they were justified in deducting a notional amount which may not be substantial or the actual amount.

This is in order to circumvent that judgment of the Supreme Court that this Bill is being brought forward. So far as the objective is concerned, I whole heartedly support it because I believe that it is the right of the employees to share this profit. The reason is that the industrialists get it because of this bonus that is the amount of rebate is available because of giving bonus.

Therefore, that which has been earned on account of the employees, is certainly the share of the employees and it should be distributed among them.

15 hrs.

MR. CHAIRMAN : Your objection is to the promulgation of the Ordinance, but you support the Bill on its merits. Is that the position ?

SHRI SHRI CHAND GOYAL : Yes Sir; that is the position. Because these two items are being discussed together, I am also making my submission on the Bill.

I will make it clear that I wholeheartedly support the objective of the Bill. But I would also invite the attention of the Government and of the hon. Minister to another aspect, namely, that instead of resorting to piecemeal amendment of the Bonus Act, he should bring forward an exhaustive amending Bill on the subject. There are a number of other problems which are agitating the workers. One of the problems is that there should be no ceiling on the gross profit and the whole of it should be distributed amongst the labour rather than a percentage being kept to themselves by the industrialists. There is another aspect and that is that bonus has two characters. In cases where there is a difference between the actual wage and the living wage, bonus has the character of a supplementary wage or a deferred wage. So long as we are not able to fill this gap between the actual wage and the living wage, bonus has the character of serving as a supplementary wage or as a deferred wage. We should keep this in mind. We know that at present there is a wide disparity existing between the actual wage and the living wage and, therefore, any reduction from the amount of bonus which the labour is entitled to get, will be unjustified. When the actual wage and the living wage become one, then this bonus has the character of profit-sharing. Therefore, we should keep these two conceptions of bonus in mind, the character of a deferred or supplementary wage, and the character of profit-sharing when the actual wage coincides with the living wage. I would in-

vite the attention of the hon. Minister to certain lacunae which are existing at the moment in the present Bonus Act. They have to be removed at an early date by bringing forward another piece of amending legislation which should be in the nature of an exhaustive amendment. Here I would give two or three suggestions. One is as I have already submitted, that there should be no ceiling, so far as surplus for bonus is concerned. Secondly, at the moment there is the practice of tampering with the number of employees for the application of certain labour laws. This has also to be given proper attention. Then, the labour does not have the right of going behind the Balance Sheet, of looking into the accounts, of challenging the propriety or impropriety or certain accounts. Therefore, provisions have also to be made to enable the labour to go behind the Balance Sheets and to challenge the expenditure wherever it is improper. Therefore, I would appeal to the hon. Minister to bring forward an exhaustive legislation incorporating all these suggestions which I have made.

MR. CHAIRMAN : Resolution moved :
"This House disapproves of the Payment of Bonus (Amendment) Ordinance, 1969 (Ordinance No. 2 of 1969) promulgated by the President on the 10th January, 1969".

THE MINISTER OF LABOUR AND REHABILITATION (SHRI HATHI) : Sir, I beg to move :

"That the Bill further to amend the Payment of Bonus Act, 1965, as passed by Rajya Sabha, be taken into consideration".

Sir, I do not want to go into the whole scheme of the bonus, the concept of bonus what practice prevailed before the Bonus Act, how the Bonus Commission was appointed, etc. I do not go into these details at this stage. I would only say broadly that the Bonus Act contemplates a particular method of calculating the available surplus. And, from the gross profit, certain items have to be deducted. One of the items to be deducted is the direct taxes.

(Shri Hathi]

Here, there was, in a way a difference between the calculation which the employers made and the calculation which other people made according to us, and also according to the workers. It had been urged on behalf of the workers that in Section 6 (c) the word 'is liable to pay' connotes the tax payable by the employer actually. The employers have on the other hand said that the tax to be deducted as per section 6 (c) is a notional tax and not actual tax Act which may be higher than the actual tax which actually the industrialist pays because according to them the calculation should ignore the tax rebates admissible to the employer under the Income-tax Act on the amount of bonus paid to the employees.

The latter view has been upheld by the Supreme Court though the national tribunal has upheld the workers' plea in the case of Indian oxygen. But the Supreme Court held that this means notional tax and not the actual tax. And they also said that the intention of the Parliament seems to be that it is notional tax and not actual tax. As a result of this the tax deduction would be a notional amount, higher than the actual tax and the tax rebate admissible to the employer, under the Income-tax Act and the benefit will fully go to the employer. The House is already aware that there is another decision of the Supreme Court where section 34 (2) was struck down. Under this, the workers could get higher bonuses than that admissible under the general formula of the Bonus Act. That was struck down. Therefore the workers were agitating long before this matter went before the Indian Labour Conference and the Standing Labour Committee and we were thinking as to what could be done. But in the meantime came the decision in respect of Metal Box.

I might only correct the impression of Shri Goyal that it was not in the year 1966 that it came; it was in 1968 that the Supreme Court gave the decision.

It is not that it was given in 1966 and we had waited for 4 years and then brought the ordinance. It was only in August,

1968 that it came. Then the workers naturally agitated and they were rightly agitated over this question. There was great unrest among the workers. Well, we tried to talk to them, to persuade them, and ultimately this ordinance had to be promulgated. It is not a day too late that the ordinance was brought or promulgated.

SHRI S. M. BANERJEE (Kanpur) : May I just interrupt ? The Supreme Court judgment was in 1968 or 1966 ?

SHRI HATHI : It was in August, 1968.

If Shri Shri Chand Goel had only read the Statement of Objects and Reasons, he would have found the date of the Supreme Court judgment mentioned there.

SHRI TENNETI VISWANATHAM (Visakhapatnam) : It has not been supplied to us. That is why this difficulty is there.

SHRI HATHI : The only thing is that the civil appeal was of 1966, though it was decided in 1968. What the Supreme Court said was that from the Act it did not appear that the intention of Parliament was that it should be the actual tax. I may draw the attention of the House to the fact that when the Bonus Bill of 1965 was being discussed in the House, Shri N. Dandekar had moved an amendment in order to clarify the point, and he wanted that it should be the notional tax and not the actual tax. That amendment was rejected after the then Labour Minister had made the following statement :

"Regarding the other point about the tax concessions contained in the Bonus Bill, we have considered that point also. Having given so much concession for improving the industries, we thought that this may not be allowed to the management. Therefore, I am not in a position to accept any of these amendments".

That was the intention of the Government and we also thought the interpretation will be there that when it is said that a tax is payable it means that the person is actually paying it. But the Supreme Court has held that it is a national tax. The reason why we did not accept that amendment was that on the basis of the Bonus Commission's report itself, we had made several concessions to the employers. For example, the Bonus Commission had given 7 per cent on the return on paid-up capital; the Act gives them $8\frac{1}{2}$ per cent; where the Bonus Commission had given 4 per cent on reserves, we had given 6 per cent.

AN HON. MEMBER : Why did they do it ?

SHRI HATHI : The Bonus Commission had suggested that for rehabilitation, the rebate on tax should be covered, but we said that at that time it was all right but after having given this, there was no need to give them more for rehabilitation purposes. Therefore, we did not want to give it. Therefore, we have said that the tax concessions will not go to the employers but to the workers. That was our idea. But that having been turned down, I have brought forward this amending Bill and I commend it for the acceptance of the House.

MR. CHAIRMAN : Motion moved :

"That the Bill further to amend the Payment of Bonus Act, 1965, as passed by Rajya Sabha, be taken into consideration".

SHRI D. N. PATODIA (Jalore) : This particular piece of legislation is, as pointed out by earlier speakers, in replacement of an ordinance that was promulgated on the 19th January, 1969. The effect of this Bill will be that the total amount of available surplus for distribution of bonus will, after the ordinance, be increased by the amount of tax rebate available to the employees by way of payment of tax in the preceding year.

Before I go into the merits of this particular piece of legislation, I would like

briefly to speak on the circumstances under which this ordinance and this Bill has been introduced.

I am in entire agreement with what my hon. friend Shri Shri Chand Goyal has said, that it was nothing but an attempt on the part of the executive to have more powers for Government. The explanation given by the hon. Minister does not meet with satisfaction. The facts are clear. The judgment of the Supreme Court was delivered in August, 1968. After that, till 20th December, the Rajya Sabha was in session. On 10th January, the ordinance was promulgated. On 17th February, again, the Lok Sabha and the Rajya Sabha met in session. How does the hon. Minister explain this particular point of time, namely 10th January, which was selected for promulgating the ordinance? After the judgment of the Supreme Court, the Government had as many as four months available to them; until 20th December, they could have brought forward the legislation before this Parliament. Till 20th December, it was not a matter of importance for them; they could wait till that date; having waited for so long, they could have waited till 17th February also. After all, the heavens were not going to fall. Therefore, this type of explanation given by the hon. Minister is not at all satisfactory. Therefore, I feel that resorting to the promulgation of an ordinance in this manner should be discontinued and this practice should not be resorted to again. This is nothing but an expression of the timidity on the part of Government. For, this particular point was raised in the Rajya Sabha also. The hon. Minister himself had stated while replying to the debate there :

"The Supreme Court's decision in the Metal Box Case, however, showed that the language of the statute did not bring out the above intention. As the Parliament was not in session, the workers were agitating and there were demands that the whole Act should be overhauled and these benefits have been denied to them and something should be done. It was, therefore, that an ordinance was promulgated."

[Shri D. N. Patodia]

The reason for the promulgation of this ordinance, therefore, was not the urgency of it but the agitation of the workers. Probably, at that particular point of time, the agitation grew in momentum and Government were timid enough to succumb to the workers and satisfy the workers. Otherwise, there was no justification whatsoever.

After the judgment was passed in August 1968 since they did not think of bringing forward a Bill until 20th December, they could have waited till 17th February.

Having made these observations, I would now like to speak on the merits of the Bill itself. Before I come to the amendments as suggested in the Bill, although the hon. Minister did not go into the details himself, I would like briefly to go into the background and history of the bonus system. Until 1948-49, the payment of bonus by the employers was only a gratuitous payment, and it was always paid out of the surplus available with the employers; it was neither a part of the claim of the employees nor was it a regular wage. During the Second World War, in the case of certain textile workers, some portion of the profits was paid, but that again was only out of the profit. In 1948-49, for the first time, in respect of the textile workers, the industrial court suggested that a portion of the surplus profit should be distributed amongst the workers. Here again it was only a share out of the profit, and it was not obligatory on the part of the employers to pay, if there was no profit. But in December, 1961, for the first time the Bonus Commission was set up by Government which submitted its report in 1964 after three years. On the basis of that report, an ordinance was promulgated which ultimately became the Bonus Act of 1965. The Bonus Commission made so many wide-ranging changes in the definition of bonus, in the applicability of it and the manner in which it was to be calculated. For the first time, the definition of bonus was completely changed. Payment of bonus was made compulsory by the employers to the employees

at a minimum of 4 per cent irrespective of whether there was profit or loss. It was made part of the regular wage; it was no more payable only out of surplus. This was one very important basic change in the definition introduced by the Bonus Commission.

SHRI S. XAVIER (Tirunelveli) : Four per cent of what ?

SHRI D. N. PATODIA : Of the wage.

The second important change was that the Act was made applicable to all establishments employing 20 or more workers. By this wide application, a very large number of employees was covered. The third important change was that every employee drawing upto Rs. 1,600 per month was covered by this.

But the most important change was that while calculating bonus, it was provided for in the Commission's recommendation, and in the Bill also, that DA will also be calculated. Until that time, bonus was payable only on the basic wage, but after the passing of the Bonus Act in 1965, DA was included for the purpose of calculating the quantum of bonus.

I will illustrate the effect of this. Take the case of a textile worker in Bombay whose basic wage is Rs. 50. He was entitled to a DA of Rs. 180 per month. According to the new formula, if the bonus is paid at the minimum rate, he would be entitled to Rs. 111, equivalent to two months basic pay; if it was paid at the maximum rate, he would be entitled to Rs. 552, that is, 11 months basic pay. This was the fourth important change. After all these changes were made, the Bill was brought forward and enacted.

With this background, I come to the provisions of the Bill. I would like to say that with the provision of payment of minimum 4 per cent, there was simultaneously another provision made in the Act that 60 per cent of the total surplus avail-

able should be distributed to the workers in the form of bonus and 40 per cent retained by the employers for various purposes like gratuity, rehabilitation, reserves, renovation etc. How was this percentage fixed? Why 60 per cent for the employees and 40 for the employers?

SHRI GEORGE FERNANDES (Bombay South): Because the workers produce the wealth.

SHRI D. N. PATODIA: There were certain basic reasons for it. While fixing this percentage which was lower in the case of the employer and higher in the case of employees, due consideration was given to the fact that in the matter of notional calculation of tax for the purpose of distribution, the employers will be making certain savings. The explanation given by the hon. Minister while referring to the previous discussions in the House was again confusing because this particular point was already dealt with not only by the Supreme Court but also by the Bonus Commission itself. There was no ambiguity about it. I would like to quote what the Commission has observed in this respect:

"The fixing of a certain proportion of the available surplus to be distributed as bonus subject to a minimum and maximum in the formula which we recommend would lead to an equitable result.....

mark the words 'would lead to an equitable result'—

"We recommend that this proportion should be 60 per cent. The balance left with the concern would be 40 per cent and this would be increased by the saving in tax on bonus payable."

That was how it was made equitable; 60 per cent given to the workers, 40 per cent retained by the employers, because the 40 per cent will have a tendency to get increased after taking into account the savings in the tax which the employers will be obtaining in the matter of payment of bonus.

Then they say further:—

"The aggregate balance thus left with the industry is intended to provide for gratuity and other necessary reserves, requirements of rehabilitation in addition to the provisions made by way of depreciation in prior charges, annual provision required, if any, for redemption of debentures and return of borrowings."

"Payment of super profits tax if any and additional return on the capital."

It was very clear and a very thorough description was given explaining why 60% was retained for the employees and why 40% was retained for the employers. Now the Supreme Court has also accepted this particular view as expressed by the Bonus Commission. Although the hon. Minister has quoted one part of the Supreme Court judgment, let me quote the other part. It has explained this while dealing with the clause in which this Bonus Act prohibits calculation of rehabilitation charge at the time of calculating the available surplus. It explains why rehabilitation is a prior charge partly because there were complaints that it was being ill-used and partly also because it knew that the rebate under the Income Tax Act on the bonus given would go to the employer with which he can recoup the depreciation which would be larger than the one allowed under Sec. 132 of the Income Tax Act. There is no ambiguity. (1) It clearly says that the total advantage to the employer will be more than 40% which will be used for several purposes. (2) It says that the total tax savings will in any case be larger than the saving compared to Section 32 of the Income Tax Act. Therefore at this stage to make any argument that this was not understood properly and therefore this amendment has been brought is not proper.

We would always welcome any proposal which gives better wages, better standard of living to the workers but it ought to be necessarily in the interests of social justice and equity. While bringing this amendment, have the Government taken care to see that it meets the demand of justice and

[Shri D. N. Patodia]

equity? The hon. Minister has said that whereas the Bonus Commission has suggested lower rates of depreciation and other things, the Act provides for higher rates. But he forgets that those rates suggested by the Bonus Commission were in the context of the rates that prevailed in the country in 1962-63? And the rates allowed by the Act were in the context of the situation prevailing in 1965. Is he not aware that compared to 1965, the rate of interest has considerably gone up to-day and the rates which are provided for in the Act are not enough to meet the situation to-day? With regard to the rates of depreciation, the rates of return on capital—all these rates, I hope the Government would do well at least to clarify to the House. They are not adequate in the context of the situation prevailing to-day. It is no argument to say that employers are benefited by way of higher percentage of reductions made available in the Act because those percentages are very much lower in the context of the situation prevailing to-day. Therefore, if there is any case, there is a case for upward revision of these rates for depreciation, for return on capital and so on before arriving at the total available surplus for distribution as bonus. If these amendments are accepted the financial problems will get more complicated and the employees will have great difficulty as to how to renovate their machinery, how to pay adequate return on the capital, how to provide depreciation, etc. They are already in a very tight corner. Therefore, I totally oppose the Bill. I oppose the amendments which have been moved and I hope the Government will agree to withdraw this Bill completely.

SHRI VIKRAM CHAND MAHAJAN (Chamba) : There can be no two opinions that the object of the Bill is to benefit the employees. The result of the amendment would be that larger surplus would be available for payment of bonus and it would ultimately improve their wage which at present is at the sustenance level and not at the level which we term as 'living wage'. The Supreme Court has performed its duty, the duty of interpreting the statute as laid down by the Parliament. And if Parliament

sometimes does not make its object clear, then it is no fault of the Supreme Court if it interprets it in the way that Parliament then intended it to be interpreted. It is this time, I must say that the Minister has realised the wrong that was being done to the employees then, and now he has brought the necessary amendment.

I want to bring out a few lacunae in the Bonus Act which I hope the Minister will consider and bring a more comprehensive legislation. One of them is that in the Bonus Act we have provided a minimum and a maximum. The minimum is four per cent and the maximum is 20 per cent. I have not been able to follow the reason or the rationale behind the maximum. There is no maximum provided for profit. It is not provided that profits will be to the tune of 20 per cent and the balance will go to the State or that the maximum will be 50 per cent and the balance will go to the State or somebody else. There is no limit so far as the profits are concerned, in regard to the person who owns the industry. What is the rationale behind the maximum on the bonus? After all, they are part of the machinery which raises the production and they are part of the industry and the entire system of production. In a socialist economy, there can be no rationale as to why they should not be entitled to a share equally. So far as I am concerned, I would say that they are entitled to more, but in any case, they are entitled to equal shares. That is, the percentage of profit that goes to those who own the industry—to the same percentage, they are entitled to. I initially said they are entitled to more, because they are larger in number, and their standard of life is much lower than those who own the industry. I have nothing against the people who own the industry. I think they are part of the nation. And they are doing their best for the development of the nation. So far as that part is concerned, there cannot be two opinions, because we know that and we need that class of persons who can develop the industries.

SHRI GEORGE FERNANDES : No.

SHRI VIKRAM CHAND MAHAJAN : I would like to differ from my hon. friend

there. I am only pleading for the other part that labour is equally important and rather more important, and as their wage is much lower than the incomes and profit of the people who own the industry so they are entitled to a greater consideration.

What I submit is that by laying down the maximum on the bonus, no greater injustice could be done to them. Therefore, I submit that this aspect may be considered and this maximum on the bonus should be removed, so that they are also entitled. You have fixed 40 per cent on the shares of the labourers and 60 per cent goes to the industry. If in that particular limit, the labour gets only 20 per cent, still, sometimes a surplus is there. It has happened in many industries. One of these industries is Burmah Shell and the other is Standard Vacuum. There, before this maximum was imposed, the labour class or the employee class was getting much more, but after the imposition of the maximum, their bonus has gone down. What logic could be there in imposing this maximum? At best the argument could be that possibly a larger amount is left for this benefit of improving the machinery, but that amount was being kept even then by Burmah Shell or Standard Vacuum. What benefit have you given to either the industry or the labour? On the contrary, you have harmed the worker with out benefiting the industry, except of course the people who own the industry in the sense that they will get larger profits.

SHRI HATHI : Minimum.

SHRI VIKRAM CHAND MAHAJAN : You have imposed the maximum also: 20 per cent. My argument is there is no rationale behind the maximum especially when you have not put a maximum on the profits. I am not saying that you should put a maximum on the profits. What I am saying is you should remove the maximum on the bonus.

Secondly, bonus is payable only in industries employing 20 persons or more. To avoid paying bonus, industries are broken up into different units, though ultimately owned by one person. Therefore, I suggest that instead of fixing a minimum of 20 employees, it should be on the basis of profits and

production. If an industry makes a profit, of, say, Rs. 1 lakh or more, even if it employs less than 20 employees, bonus should be paid. I am only taking a hypothetical case and this particular aspect should be gone into further.

SHRI S. M. BANERJEE (Kanpur) : Sir, after hearing Mr. Patodia, I am convinced that the ordinance was fully justified. A feeling has grown among the workers in the country that Government should have accepted the majority decision of the Bonus Commission. But they ultimately yielded to the pressure of the employers. Government ultimately surrendered before the employers led by Mr. Dandekar, a member of this House, and they considered his minute of dissent more than the majority decision. That is one of the reasons why ever since the Bonus Act was enacted in 1965, there has been no industrial harmony. Mr. Patodia has a grouse even against the 4 per cent minimum.

Mr. Patodia has not said anything about those who are minting money at the cost of the sweating labour and who are making fabulous profits in the private sector. Can it be denied that generally in the major industries in the private sector, there has been a rise in profits? Even a lay man without the jugglery of statistics believes that they have minted money and that is why they have so much money-white or black-with them. Sir, whenever commissions have been appointed to go into the working of industries, they have said that the industries are making money. That is why there has been growth of monopolies and the Monopolies Commission was appointed.

SHRI D. N. PATODIA : There is no monopoly.

SHRI S. M. BANERJEE : We should compare India with America. Taking our standard of life into consideration, is there not a monopoly? What was the Birla family and Tata family before independence in 1947 and what are they today? What is the living condition of the worker today? Has his real wage and purchasing capacity gone down or gone up? Mr. Patodia was referring to the dearness allowance. He

{Shri S. M. Banerjee}

also quoted the wage of Rs. 50 in the textile industry. It is not a shame that a worker in textile industry is getting a minimum wage of Rs. 50 per month ?

SHRI D. N. PATODIA : It is not minimum wage; it is the basic wage.

SHRI GEORGE FERNANDES : It is not even Rs. 50; it is only Rs. 30. (*Interruptions*)

इस पर आपको शर्म आनी चाहिये । एक रुपया बेनिक वेज पर डे ? आपको शर्म आनी चाहिये । यह टेक्सटाइल इंडस्ट्री की हालत है जो हिन्दुस्तान की सबसे बड़ी इंडस्ट्री है ।

SHRI S. M. BANERJEE : I do not expect Mr. Patodia to support the workers' cause, but he should not be proud of the fact that in a country wedded to socialism, fabulous profits are earned by the industrial sharks and the worker gets only Rs. 30.

I has been decided that their dearness allowance should be linked up with cost of living. There the employers have a grouse against the workers. That is why, Sir, I support this Bill.

What happend after the decision of the Supreme Court ? In 1968 there was going to be a serious labour unrest in the country. I must congratulate Shri Hathi today that he asked the President to bring in the Ordinance in time. When certain questions were asked in the other House by those who represent the employers, Shri Patodia's counterparts, he asked the employers' association to answer whether they wanted to control labour unrest with the help of the police, army, bullets and lathis. He said it was impossible to control labour unrest in that way. That is why, Sir, I support this Bill though with certain mental reservations.

This Bill has been brought after the decision of the Supreme Court, as stated by the Minister, in the case of Metal Box of India. According to this decision the entire bonus rebate, the entire tax rebate

on the bonus paid or payable will accrue to the employers. According to the Bill only 60 percent goes to the employees and 40 per cent to the employers. If Shri Patodia's contention is accepted he wants only one per cent to go to the employees and 99 per cent to go to the employers for rehabilitation etc.

A lot of exemptions have been given to the textile industry in excise duty etc. What amount of it will be pumped into the mill for renovation purposes, for rehabilitation purposes etc. ? Not a paisa will go into that. They will get this concession and have another industry in some other place. The Textile mills in Kanpur which are manufacturing medium and coarse cloth will come to a stop after ten years if they not modernised. What is happening is, in the name of modernisation and rehabilitation they are getting tax relief from the Finance Minister and they are not using a single paisa for modernisation or rehabilitation. On the other hand, they are opening industries in Naini or Rihand area of Mirzapur. Is that the way of the employers should behave ? Our contention is that the entire amount of surplus should be distributed as bonus.

The Labour Appellate Tribunal has given hundred per cent of the rebate as surplus available to be distributed among the workers and not 60 per cent. Why should the Government change it ? The Bonus Act has reduced it to 60 per cent. It clearly means that the decision of the Government to ignore the majority decision of the Bonus Committee's Report and accept the minority report was wrong. They feel it today.

The ceiling of 20 per cent is being misused by those who are minting money. Shri Mahajan quoted the case of foreign oil companies. What has happened to the Indian Oxygen and Acetelene Company, what has happened to I. C. I., what has happened to Dunlop, what has happened to Good Year and all other concerns ? Those who are paying by the threat of strike upto 35 per cent and 40 per cent.

taking advantage of this Bill they will have a ceiling of 20 per cent and they will not pay more than 20 per cent. I request in all seriousness, in all humility, to the Labour Minister, who is accommodative, persuasive, tenacious and who always feels for the labour, to remove the ceiling of 20 per cent. I assure Shri Patodia that we will take 40 per cent and if he does not pay we will go on strike. The employers say : we will get 40 per cent, we will not allow the workers to get any share out of it, even though they have to work for 8, 10 or 12 hours a day. They build palaces in the name of the company. Everything except their wife and children belong to the company. That is how they swindle the shareholders, which has been proved by the Vivian Bose Commission Report. I would strongly recommend that report to Shri Patodia for reading.

During the last three years Rs. 228.50 crores worth of reserve has been converted into shares. If it is reserve they will get only a return of 6 per cent. Once they convert it into bonus shares, the return increases many-fold. The law always helps the employers at the expense of the employees. During the last three years the total value of the bonus shares has been Rs. 228 crores. In 1963-64 was only Rs. 4.1 crores and in 1965-66 only Rs. 4.9 crores. Now the workers are put in a disadvantageous position because of the conversion of reserve into bonus shares. This year in the budget relief has been given to the textile mills. Yet I am sure the textile mills of Kanpur, British India Corporation, Lal Imli, Dhariwal, Singhania group or Jaipuria group are not going to pay more to the workers.

Then, under the Bonus Act their accounts and books are presumed to be correct. When it has been found that these firms are maintaining two books, one for purposes of bonus and another for purposes of profit, when it has been confirmed by many commissions, why should it be presumed that they are correct until some proper investigation is made ?

When the Bonus Commission Report was being considered by government, it

was argued on behalf of the workers that the existing gains should be protected in spite of the note of dissent of Shri Dandeker. Yet, the majority decision of the Commission was ignored. Government did not think it correct to go against the decision of the minority, namely, Shri Dandeker. So it was argued at that time, not by us of the opposition, but by labour leaders like Shri Vasavada, that the existing gains should be protected. Then the late lamented Shri Lal Bahadur Shastri gave an assurance and it was incorporated in section 34 (2) of the Bonus Act. We must remember here that Shri Lal Bahadur Shastri had the courage of conviction to say nobody is going to be harmed.

Now this measure was struck down by the Supreme Court in 1968 and government had been thinking of bringing an Ordinance. Now they have brought it. But, along with the amending Bill, they should also promise that the other clauses will be amended to suit the convenience of the workers. The employers have earned enough. Is it not time to make the workers happy, to assure them two square meals, a small house and education to their children ? Otherwise, this country will be reduced to ruins and we will be making a mockery of socialism, allowing these sharks to earn more and more profits.

The other day I was surprised to find that no member of the Birla family pays wealth-tax. Perhaps, they are the poorest people in the country ! Their accounts are manipulated in such a way that nobody pays wealth-tax.

This question was discussed in the Standing Labour Committee and the Labour representatives, including those of INTUC, made the unanimous recommendation that the L. A. T. formula should be accepted. But the employers did not accept it. They say : we are paying four per cent. As stated by Shri Patodia, he has a grouse that it has been made statutory. According to him, it was a good wish, kindness of the employers. *सारे लालेजी* saying *तुमने बहुत अच्छा काम किया है । वसो, तुमको बोनस देने*". But it is not like that. Bonus

[Shri S. M. Banerjee]

is a deferred wage. Whether it is in Calcutta, Kanpur, Bombay or other industrial cities, the workers must get bonus and they will fight for it.

This Ordinance was promulgated to protect the interest of workers. But has it protected that ? That is a matter of dispute. We feel that it has not. Section 27 says that the balance sheet and accounts should be presumed to be correct. This presumption is not correct and I would request the hon. Minister to look into this.

Then, what will happen if there is a dispute ? Suppose, we find that according to the open balance sheet even, not the concealed balance sheet and books, the company has earned a profit and is capable of paying more than 20 per cent. What will happen then ? Should we confine ourselves to 20 per cent ? Suppose, we want to negotiate and the negotiation fails, what should be done then ? Only the industrial Disputes Act is there in such cases and it takes years to decide a dispute because immediately the employer can go up to the Supreme Court, he can take recourse to the law and take the protection of the court. If there is an agitation, they will immediately say that there is a *gherao* going on. If it is West Bengal, they will immediately say that these Communists Subodh Banerjee and Kishto Ghosh, have started a *gherao* and thus create panic in the mind of everyone saying, "Look here, it is the Chinese tactics that the West Bengal Government is adopting". If it is UP, they will blame some other party. If it is Delhi, they will blame the Jana Sangh. The two parties which they always blame are the SSP and the Communist Party. They are always blaming the red flag. So, a machinery should be evolved to see how this matter could be settled expeditiously.

I know, whenever this matter is put up before the Indian Labour Conference or the Standing Labour Committee—the Indian Labour Conference has a wonderful representative of the employers, Shri Naval Tata Shri Naval Tata Never agrees; he says, "Baba, do it but we shall consult our employ-

ers, "The employers have to make up their mind once and for all. If there is going to be a mixed economy in this country, if both the public and the private sectors have to exist, they have to make up their minds. They have to make some change in their minds and decide how best things can be settled peacefully, amicably and without any dispute or recourse to any strike etc.

Lastly, about those workers who are employed in defence industries I have requested the hon. Minister several times and I request him once again. I am talking of the industry; I am not talking of men working in the Secretariat. I am talking of the ordnance factory workers and the workers in the CODs. They have got 3½ lakh workers there out of whom 3 lakh workers are covered by the Factories Act and the Industrial Disputes Act. Why should they be deprived of it only because there is no profit-sharing, only because they are not earning money ? They are not supposed to earn money. Do you expect the ordnance factories to manufacture the defence goods which they are manufacturing with a profit motive ? If there is the profit motive, where will be the service motive ? There cannot be any service motive then. In fairness to defence employees, railway employees in workshops etc. and all this employees of Central Government undertakings who are covered under the Industrial Disputes Act and the Factories Act, they should be covered under the Bonus Act. I would urge upon the hon. Minister to bring forward an amendment and see that it should equally apply to the private sector and the public sector, specially to all those public sector undertakings which are covered under the Industrial Disputes Act.

With these words, I give my support to the Bill and I request the hon. Minister to bring forward a comprehensive piece of legislation to curb the monopolistic tendencies of the employers. I completely disagree with Shri Patodia, whose speech I liked very much. He is a well informed person but he is in a wrong party. I am always on the left because the left is the

safer side. Even the policeman on the street will ask you to keep to the left. Therefore I am on the left and request my hon. friend to come over to this side.

SHRI K. M. ABRAHAM (Kottayam) : Mr. Chairman, it is not surprising that this Bill came about by issuing an Ordinance because the Bonus Act itself was Promulgated by an Ordinance. It shows that this Congress Government can deal with the question of bonus only by issuing an Ordinance. It appears that the Government is playing the hide-and-seek game with the employers. The Government are promulgating an Ordinance and the employers challenging it in a court of law.

The trade union movement has repeatedly characterised that the Bonus Act has virtually become a minimum Bonus Act. It has demanded the scrapping of the Bonus Act and the bringing of a comprehensive Bonus Bill so that adequate bonus is given to all the industrial workers. Instead of accepting this genuine demand, the Government have resorted to nominal changes which ultimately will not give much concession to the workers.

The Ordinance was promulgated on 10th January. It was a clear case of keeping an eye on the mid-term elections. It also was meant to give advance notice to the employers so that they may prepare their accounts in such a way that the employers may not give bonus to the workers.

It is well known that the balance-sheets of the companies are taken to be the gospel truth and the workers are not able to challenge them in a court of law. This is a clear attempt on the part of the Government to hoodwink the working class in the name of making provisions for higher quantum of bonus.

I have got a clear case before me of South India West Coast Co. of Coimbatore which was not charging development rebate prior to the enactment of the Bonus Act. But after 1965, it not only started charging it but recovered earlier amounts due on

account of development rebate with the result that the workers are deprived of their rightful bonus. Such mal-practices can be quoted at great length. The main point is that innumerable mal-practices and irregularities are committed by the employers to deny bonus to the workers. The Government, however, has not cared to take a single drastic step against the employers. The net result of this is that the workers are not getting adequate bonus.

The present amending Bill does not even touch the fringe of the problem. If Government is really serious to settle the bonus claims, it can consider the entire question of bonus *de novo* and grant reasonable quantum of bonus to the workers. The Bill will not go any far in satisfying the aspirations of the workers. They will continue to fight till the reasonable claims are met by the Government and the employers. Even the 4 per cent minimum bonus is being denied to the workers. For instance, the Hira Mills, Ujjain, M. P. and the Bharat Mills, Pondicherry have been exempted from the payment of 4 per cent minimum bonus. There are many cases of non-payment of bonus in the country to cite. Yet the Government has not brought forward any amendment to rectify this state of affairs. Therefore, I request the Minister to bring forward a comprehensive Bill covering all the aspects of the bonus so that the workers may get higher bonus than this.

16 hrs.

श्री हुषम चन्द कछवाय (उज्जैन) : समापति महोदय, मैं इस बिल का समर्थन करता हूँ और इसके सम्बन्ध में दो-चार बातें माननीय मन्त्री जी के ध्यान में लाना चाहता हूँ। इस बिल को वास्तव में यह सोच कर बनाया गया था कि मजदूरों को लाभ होना, लेकिन वास्तविक लाभ नहीं हुआ। जब यह बिल नहीं था उस के पहले हम मालिकों से झगड़ा करके 60 प्रतिशत तक बोनस ले लेते थे, लेकिन अब घातने सीमा बांध दी है, उस सीमा से वह टस से मस नहीं होते। मैं चाहता हूँ कि यह सीमा समाप्त

[श्री हुकम चन्द कछवाय]

कर दी जाय या इसको 20 प्रतिशत के बजाय 50 प्रतिशत कर दिया जाय, यानी इस सीमा को ज्यादा बढ़ाया जाय। इसी सम्बन्ध में मैं यह भी कहना चाहता हूँ कि बोनस कमीशन की जो रिपोर्ट हमारे सामने आई है उसमें यह भी कहा गया है कि बोनस 60 प्रतिशत दिया जाय, उसमें से 40 प्रतिशत मालिक अपने पास रखे और उस धनराशि को मजदूरों के उपयोगी कामों में, भ्र्वास के लिए खर्च करे। मैं आपको बताना चाहता हूँ कि कोई भी मालिक या उद्योगपति इसको भ्र्मल में नहीं लाता है। मजदूरों के भ्र्कान स्थिति वंसी की वंसी है या तो उनको काफी ज्यादा किराया देना पड़ता है या गन्दी जगहों पर झुग्गी-झोपड़ी बना कर रहना पड़ता है। मैं चाहता हूँ कि वह रुपये उन के भ्र्वास पर खर्च किया जाय, इसके लिए आप विशेष ध्यान दें।

जिस फंक्दुरी में 20 या उससे अधिक व्यक्ति काम करते हैं, उस पर यह एक्ट लागू होता है। मेरा ऐसा अनुभव है कि देश में ऐसी बहुत सी फंक्दुरियाँ हैं, जिनमें 100-100 व्यक्ति काम करते हैं, लेकिन वे अपने यहां 20 से कम ही शो करते हैं ऐसा वह इसलिए करते हैं कि उनको बोनस न देना पड़े। मैं चाहता हूँ कि इस चोरी की तरफ आप विशेष ध्यान दें।

आपने इस कानून को गैरसरकारी उद्योगों पर लागू किया है। मेरा कहना है कि आप इसको एल० आई० सी०, कोयला, रेलवे, हथियार बनाने वाले कारखाने इन सब सरकारी उद्योगों पर भी यह कानून लागू होना चाहिये। आपने बहुत से कपड़ा उद्योगों को आपने हाथ में लिया है। आपने यह भी कहा है कि अगर उद्योगों में घाटा हो तो भी 4 प्रतिशत बोनस अवश्य देना चाहिए, लेकिन इस नियम का पालन स्वयं सरकार नहीं कर रही है। सरकार ने जो कपड़ा उद्योग अपने हाथ में लिया है, उनमें से

कुछ घाटों में चल रहे हैं, उनमें यह 4 प्रतिशत बोनस नहीं दिया जाता है, मैं चाहता हूँ कि वे उद्योग भी यह बोनस अपने मजदूरों को दें।

जिन उद्योगों पर बोनस नियम लागू है, वे उद्योग समय पर अपने मजदूरों को बोनस नहीं देते हैं। साल डेढ़ साल तक मालिक बोनस नहीं बांटते हैं, लाखों रुपया बोनस में फंसा पड़ा है, मालिक ठाठ से उस रकम पर व्याज कमाते हैं। मेरा ऐसा कहना है कि उस रकम का जो व्याज आये, वह भी बोनस के रूप में मजदूरों को मिलना चाहिए, मालिक उस रुपये को अपनी जेब में न रख सके, ऐसी व्यवस्था आपको करनी चाहिये और बोनस बांटने की सीमा निश्चित की जाय। साल समाप्त होने के बाद एक दो महीने या ज्यादा से ज्यादा तीन महीने के अन्दर वह बोनस बांट दिया जाय।

आपने एक्साइज ड्यूटी में छूट दी है, इस से कपड़ा उद्योग के मालिक को लाभ होगा, आपको देखना चाहिए कि क्या वह लाभ उनको मिला है? बोनस कानून जिस ढंग से भ्र्मल में भ्र्ाना चाहिये, उस तरह से उस पर भ्र्मल नहीं होता है। एक सबसे बड़ी गड़बड़ यह हो रही है - हर कपड़ा उद्योग वाला अपने यहां दो दो दस्तावेज रखता है। मुनाफा कितना बताना चाहिए, किस प्रकार से उसका बटवारा हो किस तरह से मुनाफा कम दिखाया जाय, इन सब चीजों के लिये इन्होंने अपने यहां बड़े बड़े विशेषज्ञ रखे हुए हैं, जिनकी तनकूहें हजारों रुपये होती हैं और वे बड़ी चतुराई के साथ सरकार के सामने और मजदूरों के सामने शो करते हैं कि इसमें इतना घाटा हुआ है या इतना मुनाफा हुआ है, जब कि वास्तव में उनको मुनाफा ज्यादा होता है। अगर आप इस की खोज करेंगे तो आपको पता चलेगा कि वास्तव में उन की इन्कम क्या है और वह उसको कितना कम कर के दिखाते हैं। मजदूरों को बोनस का

हक उनका जन्म सिद्ध अधिकार है, तनखाह तो उनको हर महिने मिलती है, लेकिन उस उद्योग में वे लोग जो अपना खून पसीना एक करते हैं, उस मुनाफे में बोनस उनका हिस्सा है और यह उन को जरूर मिलना चाहिये।

आपने इस एक्ट में बोनस के लिए 20 परसेंट का प्रॉवीजन किया गया है। आज कई स्थानों पर मान्यता प्राप्त यूनियने, खास कर इन्टक को कई प्रान्ती में कई उद्योगों में मान्यता प्राप्त है, इसके नेता मालिकों के साथ बैठ कर समझौता करते हैं केवल उन मालिकों के स्वार्थ के लिये, इन्टक के नेता उन मालिकों की जेबों में रहते हैं या बड़े बड़े आम चुनावों में वे मालिक कांग्रेस को पैसा देते हैं चुनाव लड़ने के लिये और फिर मनमानी करके उनमें समझौता करवा कर मजदूरों पर लादा जाता है। इस लिए मैं चाहता हूँ कि जो कानून आपने बनाया है, उस को मही मायनों में अमल में लाया जाय।

आज सभी क्षेत्रों में एक प्रकार की धांधली चल रही है, आज ऐसे बहुत से उद्योग हैं—जैसे शुगरफैक्ट्रीज, तेल मिल, जिनिंग फैक्ट्रीज आदि जिन पर यह कानून लागू नहीं होता है, क्योंकि इन उद्योगों में काम सिर्फ चार महिने होता है या 6 महिने होता है। मैं चाहता हूँ कि इन उद्योगों की तरफ भी ध्यान दिया जाय। मैं चाहता हूँ कि माननीय मन्त्री जो इस के बारे में एक विशेष एन्क्वायरी करवायें कि कौन कौन देता है और कौन कौन नहीं देता है, अगर आप इस की खोज करेंगे तो आपको मालूम होगा कि बहुत से उद्योग इस नियम का पालन नहीं करते हैं। आपके इन्स्पेक्टरों, मैं यह नहीं कहता कि सभी इन्स्पेक्टरों बेईमान हैं लेकिन उनमें बहुत से ऐसे हैं जो मालिकों के हक में रिपोर्ट देते हैं, मालिकों की हां में हां मिलाते हैं और मालिक इतने चतुर होते हैं कि किस प्रकार से उनको मुनाफा हो, किस प्रकार से उनकी इकत बड़े, किस प्रकार से उन के पास पैसा जमा हो, उसके लिए नीच से नीच काम भी

करते हैं। मैं चाहता हूँ कि आप इस तरफ विशेष ध्यान दें।

मैं आशा करता हूँ कि जो सुझाव मैंने दिये हैं, सरकार उन के बारे में एन्क्वायरी करायेंगी, ताकि काम ठीक ढंग से चल सके।

श्री जार्ज फरनेन्डीज (बम्बई-दक्षिण) : सभापति महोदय, जब यह बोनस का न बना तब ऐसा समझा जाता था कि आगे से बोनस के सम्बन्ध में कोई भगड़ा नहीं होगा और इन भगड़ों को मिटाने के लिये ही यह कानून बनाया गया है। लेकिन पिछले कई वर्षों का यह अनुभव रहा है कि भगड़े मिटे नहीं, बल्कि और ज्यादा बड़े हैं। मैदानी भगड़े बड़े हैं और अदालती भगड़े भी बड़े हैं। इसके पीछे जो मुख्य कारण है उसकी थोड़ी सी झलक आज पाटोदिया साहब ने हमें दी है। उन्होंने अपने जिन विचारों को आज यहां पर व्यक्त किया, उससे ऐसा मानूम हुआ कि हिन्दुस्तान के मालिक बोनस को मजदूरों पर महरबानी समझते हैं, वह इस बात को नहीं मानते कि बोनस मजदूरों का हक है। मालिक मजदूर को कम तनखाह देकर उस का जो शोषण करता है, उस शोषण से जो मुनाफा कमाया जाता है, उस में से कुछ हिस्सा मजदूर को अधिकार के साथ मिलना चाहिये—यह बात भी हिन्दुस्तान के मालिकों में अभी भी मानने के लिये तैयार नहीं हैं।

16.08 hrs.

[अध्यक्ष महोदय पीठासीन हुए।]

मुझे बहुत गुस्सा आया जब पाटोदिया साहब ने बम्बई की सूची कपड़ा मिलों के मजदूरों का उदाहरण यहां पर दिया। उन्होंने यह बताने की कोशिश की कि अगर मैं बसमत बोनस दिया जाय तो 11 महिने की बेसिक वेज हो जाती है। किसी भी मालिक को इस किस्म की बातों को यहां पर पेश करते हुए तर्क मंगनी चाहिये क्यों

[श्री जार्ज फ़रनेन्डीज]

कि जो बेसिक वेज है—प्राज बम्बई की सूती कपड़ा मिलों में वह 30 रु० है। पिछले 25 वर्षों से यह बेसिक वेज बम्बई में है दो लाख सूती मिलों के मजदूरों की। मुझे कोई यह कहे कि उन को मंहगाई भत्ता मिलता है जो 150 रु० या 160 रु० है, तो मैं उन से कहना चाहता हूँ कि मंहगाई भत्ता तो आप इस लिये देते हैं कि आपने चीजों के दाम बढ़ाये हैं—सरकार और मालिक दोनों ने मिल कर बढ़ाये हैं, इस लिये मंहगाई बढ़ी है। अगर कोई मंहगाई भत्ते का सुझाव देने की कोशिश करे, मैं समझता हूँ कि उसको कुछ शर्म से सिर झुका कर ऐसी बात कहनी चाहिये। मैं समझ सकता हूँ कि 160 रु० बेसिक तनख्वाह हो 30 रु० मंहगाई भत्ता रहे, चीजों के दामों में जो उतार चढ़ाव होता है उसका कम्पेन्सेशन करने के लिए। लेकिन अजीब तरीका चन रहा है, मालिक उन्हीं पुरानी परम्पराओं में रह रहे हैं। मैं आपसे बम्बई सूती मिल मजदूरों के बारे में बतलाऊ कि बोनस के मामले में काफी चिल्लाने के बाद, काफी ग्रान्दोलन और संघर्ष करने के बाद, महाराष्ट्र के मुख्य मन्त्री की मध्यस्थता से ही बोनस का मामला इस हाल हल हुआ। बम्बई में 60 मिले हैं जिनमें दो लाख मजदूर काम करते हैं लेकिन बोनस ऐक्ट को मद्दे नज़र रखते हुए किसी भी मालिक ने, हम कानून के पास होने के बाद से आज तक अपनी मर्जी से बोनस नहीं दिया था। वहाँ के अधिकांश मजदूर आज भी चार फीसदी बोनस पाते हैं। इसके साथ साथ मुझे यह भी कहना चाहिए कि जिन मिलों को सरकार चला रही है बम्बई में, उन मिलों के मजदूरों को आज वह चार फीसदी बोनस भी नहीं मिलता है। तो आज यह हालत सूती मिल मजदूरों की बनी हुई है।

दूसरे क्षेत्र के जो मजदूर हैं उनके बारे में मैं ने पहले ही कह दिया कि उनकी शिकायतें

कम नहीं हुई हैं और न उनका भगड़ा कम हुआ है। बोनस ऐक्ट के जरिए से आप जो काम करना चाहते थे, आपका वह मकसद पूरा नहीं हुआ है। आज मालिक इस विधेयक का विरोध कर रहे हैं। उनको रिटैर्विलिटेशन के लिए पैसा चाहिए। कौन से रिटैर्विलिटेशन के लिए पैसा चाहिए? बम्बई में ही नहीं बल्कि सारे हिन्दुस्तान में आज मिलें बन्द हो रही हैं। पुराने इंजीनियरिंग कारखाने जैसे लक्ष्मीरतन इन्डस्ट्रीज, चाहे वह कानपुर में हो या बम्बई में हो, वे बन्द हो रहे हैं। उनको रिटैर्विलिटेशन के लिए पैसा नहीं मिला इसलिए बन्द हो रहे हैं। क्या पिछले 50 वर्षों में उन्होंने मुनाफा नहीं कमाया, इसलिए बन्द हो रहे हैं? कारखाने बन्द होने का एक ही कारण है कि जो मुनाफा होता है, जो रिजर्व्स रखते हैं, उसका इस्तेमाल कारखाने के रिनोवेशन के वास्ते नहीं किया। नयी मशीनरी डाली नहीं बल्कि वह पैसा फिक्सल खर्चों में चला जाता है। लेकिन इस बात के लिए मैं मालिक को ही झकेले दोषी नहीं मानता बल्कि इसके लिए सरकार भी दोषी है क्योंकि उन मालिकों को कई स्तर पर काला पैसा देना पड़ता है। आपने शायद पिछले दिनों में अखबारों में पढ़ा होगा कि नाईलान यार्न वाले बिज़ापन दे रहे हैं और बता रहे हैं कि हिन्दुस्तान में जितने नाईलान यार्न का इस्तेमाल होता है उसका करीब करीब आधा ना लान यार्न काले बाज़ार से, स्मगिल्ड होकर जो आया होता है, खरीदा जाता है। तो जब वे स्मगिल्ड माल खरीदेंगे तो वह किसी भी तरह से कन्ट्रोल रेट पर नहीं मिल सकता है बल्कि कन्ट्रोल रेट से ज्यादा पैसा देकर उनको खरीदना पड़ेगा। साथ ही साथ स्मगिल्ड नाइलान यार्न पर वे जो पैसा खर्च करेंगे वह पैसा उनके हिसाब किताब में भी नहीं आयेगा। तो इस तरह से काले पैसे को उद्योग धंधों में और समाज में इस्तेमाल करने का तीव्र तरीका आपने बना रखा है।

अध्यक्ष महोदय, एक मन्त्री के पी० ए० के बारे में राज्य सभा में बाने चलीं कि पेंसा मांगा, तो इस तरह के जो पैसे दिये जाते हैं वह कम्पनी के हिसाब किताब से नहीं दिए जाते हैं, उसमें लिखे नहीं जाते हैं। हिसाब किताब में यह नहीं लिखा जाता कि मन्त्री के पी० ए० को फाइल देने के लिए दो हजार रुपये दिये गए। यह नहीं लिखा जाता कि लाइसेंस देने के लिए किसी सरकारी भ्रक्षर को 50 हजार या एक लाख रुपये दिये गये। आपने तो ऐसी व्यवस्था बना रखी है कि लाइसेंस परमिट लेने से कन्ट्रिब्यूटर के जरिए कारखाना खड़ा करने तक और उसके बाद रा-मैटीरियल खरीदने से लेकर बेचने तक, हर स्तर पर काले पैसे का इस्तेमाल किया जाता है। इसमें आज सभी लोग फंसे हुए हैं। पूरा समाज बुरी तरह से फंसा हुआ है। इसी के कारण आज मालिक अपने पैसे का बेजा इस्तेमाल करके, रिट्रेबिलिटेशन की बात लेकर आपके सामने दिम्मत के साथ खड़े होते हैं।

मैं इस विधेयक का समर्थन तो करता हूँ लेकिन इसका समर्थन करते हुए मुझे दो एक स्पष्ट बातें सरकार के सामने रखनी हैं। आपने पिछले पांच सात सालों में इस कानून के ढंग को देखा है। अब आप एक बात करें कि इस कानून से असल में कितना फायदा हुआ, कहा तक इस कानून ने मजदूरों को घाटे में डाला, इस कानून को असल में लाने में आप कहां तक सफल हुए और कहां तक असफल हुए, इन सारी बातों की आप इन्वेंचरी करायें। आप एक जांच प्रयोग बनाइये जैसे कि आपने बोनस कमीशन बनाया था। यह मांग मानिक भी कर रहे हैं और एक असल से हम लोग भी यह मांग कर रहे हैं कि ऐसा एक कमीशन बनाया जाये और उसके हाथों में यह बात सौंपी जाये। आज बोनस कमीशन के द्वारा बोनस फार्मूले को बिगाड़ कर रख दिया गया है। जब कानून बना तो उसमें, जहां चार फीसदी रिटर्न कहा गया था रिजर्व पर उसको 6 फीसदी कर दिया

गया। जहां पेड अप कैपिटल पर 7 फीसदी कहा था वह साढ़े 8 फीसदी कर दिया गया। इस तरह से बोनस कमीशन के फंसले को भी आपने कानून के अन्दर सौ फीसदी नहीं माना बल्कि उसको बिगाड़ने का ही काम किया। तो पिछले 4-5 सालों में इस बोनस कानून के असल में कहां तक आपको कामियाबी मिली, इसकी जांच होनी चाहिए और यह भी देखने की कोशिश होनी चाहिए कि इसमें किन किन दुश्स्तियों की आवश्यकता है ताकि जहां तक हो सके इन समस्याओं को हल करने का काम किया जा सके। आप इसके लिए तत्काल एक जांच आयोग बनायें क्योंकि जब तक इसमें आप बुनियादी परिवर्तन नहीं करेंगे तब तक समस्या हल नहीं हो सकती है।

अध्यक्ष महोदय, कल यहां पर मन्त्री महोदय ने एक बहुत बड़ा कबूली जवाब दिया था। जब मैंने उनसे यूनियनों की मान्यता के सम्बन्ध में प्रश्न पूछा था तो उन्होंने यह जवाब दिया कि सरकारी क्षेत्र के अन्तर्गत ही कई इन्डस्ट्रीज ने कोड आफ डिस्प्लिन को नहीं माना है जबकि यह कोड आफ डिस्प्लिन सरकार का ही बनाया हुआ है। यह एक अजीब सी बात है कि सरकार एक आदर्श बनाती है, लेबर मिनिस्टर उसको मानते हैं, कैबिनेट मानती है लेकिन रेल मन्त्री उसको नहीं मानते हैं, डिफेंस मिनिस्टर उसको नहीं मानते हैं। समझ में नहीं आता कि यह एक सरकार है या इसमें 12 सरकारें हैं। एक कोई कानून बनाये और दूसरा उसको न माने, यह बात समझ में नहीं आती है। आज सार्वजनिक क्षेत्र में जो उद्योग बन्दे हैं वहां पर अभी भी बोनस को एक्स प्रेशिया पेमेंट करके माना जाता है, जैसा कि बाबू भाई चिनाय इसको कहते हैं कि यह कोई अधिकार नहीं है, बल्कि बक़शीश है। मैं पूछना चाहता हूँ कि आज जो कर्मचारी स्टेट ट्रान्सपोर्ट अग्नरटैकिंग में काम कर रहे हैं, उनको बोनस क्यों नहीं दिया जाता है। इसी दिल्ली शहर के अग्नर दिल्ली ट्रान्सपोर्ट

[श्री जार्ज फरनेन्बीज]

यूनियन है या जैसे कि बम्बई में बी०एस०अन्डर-टेकिंग है, वहाँ पर मजदूरों को बोनस क्यों नहीं दिया जाता है ? अगर यही घंटा निजी क्षेत्र के मालिक चलाते तो वे इसमें पैसा भी कमाते और चार पीसदी देने के लिए तो आप उनको मजदूर कर ही सकते थे लेकिन अगर आपकी म्युनिसिपैलिटी है उसने कोई उद्योग चलाया हुआ है या राज्य सरकारों ने कोई उद्योग चलाया हुआ है या केन्द्रीय सरकार ने चलाया हुआ है तो वहाँ पर बोनस देने से क्यों इनकार करते हैं ?

अब मैं सरकार से कुछ प्रार्थना करना चाहता हूँ। पहली बात तो यह कि बोनस फार्मूला कानून का आज तक जो अमल हुआ है उसमें क्या सुधार किया जाये, उसके लिए आप एक जांच आयोग बनाने के लिए तत्काल कार्यवाही करें और अगर सम्भव हो तो आज ही यहाँ पर इस बात को घोषित कर दें। दूसरी बात यह है कि जब तक उस आयोग के द्वारा बोनस के सारे भ्रष्ट को मिटाने का रास्ता नहीं बनता है तब तक के लिए कमसे कम सार्वजनिक क्षेत्र में, राज्य सरकारों और केन्द्रीय सरकार के क्षेत्र में और स्थानीय सस्थाओं में जो मजदूर हैं उनको बोनस का हक मिल जाना चाहिए। इस कानून के अन्तर्गत आप ऐसी व्यवस्था करें। इस काम के लिए पार्लियामेंट का सेशन खत्म हो जाने के बाद अगर कोई आडि-नेन्स भी निकालना पड़े तो उसको भी निकालें ताकि आज आप मजदूरों के जो सबसे बड़े मालिक हैं, आपके मजदूरों को भी, इस बोनस कानून के जरिए जो बोनस का अधिकार दिया गया है, उसका फायदा उनको भी मिल जाये।

SHRI S. KUNDU (Balasore) : Mr. Speaker, Sir, I rise to give critical support to this bill, critical support because I feel that this Bill falls far short of what was actually desired by Parliament at that time.

The hon. Minister was good enough to read a few lines from the speech of the then Minister of Labour—I am not sure whether he was there then—wherein it has been said :

“Regarding the other point about this concession obtained on the bonus paid, we have considered that point also. Having given so much of concession for improving the industries, we thought that this may not be allowed for the management.”

They thought at that time, if I remember correctly, that tax concession should not be allowed to go entirely to the management. Now, the Minister in his spirited speech while moving the motion, said that according to the desire of Parliament we have given 60 per cent to the workers and 40 per cent to the employers out of this rebate concession. My point is, the total of this rebate on account of concession which the employers get should have gone in its entirety to the workers. This is the point. I am sorry it has not been touched or discussed here. We have been kept in a fool's Paradise and in a delusion. I was trying to scan through the pages of the Bill for the last few hours. I am really sorry to find that it does not add to the hopes and aspirations as expressed then.

This Bonus Act is nothing but a pointer and a direction as to how the wage structure is shaped and what is our policy so far as the wage is concerned. I would plead with the Minister today that he must find out sometime and he must take the floor of Parliament and devote sufficient time to discuss what is the concept of wage. The most vital and important thing today is that we must evolve a revolutionary concept of wage. Nothing can be done if you just do some sort of patchwork here and there. The Bonus Act as it is does not at all fulfil the hopes and aspirations of the people. Unless you give a wage, unless you give a need-based wage, unless you give a wage that a worker deserves by putting his

hard work in the factory for production, I am afraid his system is not going to last.

In the rest of the world, around all the corners, a revolutionary concept of wages has taken place. But in India it has not touched the fringe. In India, what is the concept of wage so far as the employer is concerned? Forget about the employees for the moment. The concept of wage of the employer is learnt from this. If you go to a house of any industrialist or a rich man, you will find two lines written on the wall: "लामस्य शुभम्" That means profit is good. Am I right? This is the concept, a stinking concept of our Indian industrialist and businessman. This is the concept that is now ruling. We want to make an El Dorado of democratic socialism. It will defeat all our purpose. Therefore, I would urge that it must be decided now, this is the time to have a dialogue as to what should be the concept of wage.

The hon. Minister himself knows that even in the capitalist countries, even in the most diehard capitalist countries like Japan, the United States and Germany and other countries, the concept of wage has taken a revolutionary change. It was: "You must give me this much of production for this much of wage." Now they say, "If You give greater benefit to the workers; give them a good wage." Give them a good education to their children and medical facilities. Then automatically production goes up. That is the secret of Japan's revolution. They have achieved a breakthrough in the concept of wages. The old antiquated concept was destroyed. The employers and workers began to think they were partners. This concept of wages has been adopted in some other capitalist countries also, but so far as India is concerned, it has not yet come.

Mr. Patodia thinks that even this 4 per cent minimum should not be there. I thought a young man like him should inject some dynamism into the antiquated capitalist deals prevailing in India. But I am sorry it is not possible to expect it from the Indian industrialists now and that is why more and more we shall have to fall back upon legislation.

When the Bonus Bill was debated here, it was pointed out that there were various limitations. It is fantastic to have a provision that nobody can pay bonus more than 20 per cent. of total wage of this year. By this bar, you are taking away the right of collective bargaining, which is the most important weapon in the hands of the workers. I know some factories and industrial establishments pay much more than the statutory limit, because the workers have the strength and the industries are making enormous profits. The right thing would be to raise the lower slab of 4 per cent and keep the higher limit open, so that bonus may be paid according to the strength of collective bargaining and to the profits of the industry.

This Act does not apply to many categories of workers like some sections of dock workers, seamen, etc. Mr. Patodia was asking, wherefrom the money will come. In section 6, so many deductions are allowed from of the Bonus Act the gross profits and ultimately only a small amount is left to be divided in the ratio 60:40.

As I said, I want that a dialogue should be started about the concept of wages and the guidelines should be fixed. Then, in the light of the discussion that emerges out of the dialogue, comprehensive amendments should be brought to the Bonus Act.

Coming to the provisions of this Bill, it is a puzzle. It is very difficult to understand what it means. After the Supreme Court decision, even a child knows that the rebate which the employers were getting on account of the bonus they were paying should not be deducted from the gross profits and it should not be treated as a direct tax, but it should go to the workers.

In this Bill you have said that 60 per cent of that rebate should go to the workers and 40 per cent to the management. If you wanted to do this simple thing you could have just said that the rebate concession that the employer got by payment of bonus should be added to the coming year's gross profit. I do not know why there is necessity to minus clause (a), clause (b). When I speak on the clauses, where I have given an amendment, I will

[Shri S. Kandul]

try to bring to your notice how ambiguous this Bill is. My fear is that this Bill may again be struck down by the AND GENERAL RATE A CYCLE WHICH WILL SURTAIN supreme Court. I would like the Minister to check it up and have a thorough thinking about it. He may say that in his reply or take some time and reply later.

The provisions given in the Bonus Act did not start from a law but from a judgment given in the case Indian Express versus Workmen a few years back. In that case the Supreme Court said that no factory or industry has a right to exist unless it give minimum wages to the workers. About there or four families were taken, their cost of housing and education on children, medical facilities and other things were calculated and they said that this should be the guiding principle for anybody in any industry.

I am glad Shri Morarji Desai is here. Fortunately he comes when we discuss such matters. The other day I was listening to him. When there was a demand from this side that the rates of D. A. should be increased and a portion of the dearness allowance should be permanently merged with pay and that the wages should be increased as the cost of living index goes up, he said promptly if you give more and more money the cost of living will go up and there will be a rise in prices. This has been his argument for a long time. I think we should start thinking afresh.

We have not developed our consumer industries. If we do not develop our consumer industries the employment capacity also will not increase. To develop our consumer industries there must be buying capacity with the people. Between five to ten per cent of our people get a monthly wage of Rs. 3000 or Rs. 4000. The need of today is to provide employment for our people. For that we should produce more and develop our consumer industries. There must be more buyers and then only we can produce more. To have more buyers we must give more and more money to the class of people who get only Rs. 150 or Rs. 200 a month. Then they will buy more things

our economy. Therefore, it is quite late in the day to say that if you increase their wages the prices will go up. I hope the Minister will give thought to it.

SHRI HATHI : Mr. Speaker, I am thankful to the hon. Members who have supported this Bill. My only regret is that Shri D. N. Patodia did not find himself in agreement with this Bill as such. He criticised not only the promulgation of the Ordinance but also the provisions of the Bill as such. He asked what was the urgency of issuing such an Ordinance ? According to him, it was the threat of agitation by the workers that made the government submit to that. Even though he is not present here, I have a right to ask him one question. Is not the satisfaction or contentment of labour an important thing in Industry ? Can an industry thrive, or even survive, if the labour is not contented ?

This agitation was going on, not from 1968 but right from the time when section 34 (2) was struck down by the Supreme Court; but now it has taken a serious form. It is not the thinking of Government alone. Even in the pamphlet which the employees. Themselves have issued they have stated that a number of trade unions have renewed the agitation against the Payment of Bonus Act, which was enacted in 1965 and that memoranda and resolutions are being submitted to the government, demanding the amendment of the Act forthwith in the interest of industrial peace. Now, is not industrial peace necessary and important? If there is unrest, how will they be able to face it ? Merely by denying their demands or by arguing with them?

I was surprised when he compared himself with an industrial worker in Bombay. After all, what does a textile worker get because of this amendment? And why should you envy if the textile worker gets a few more rupees, especially when you have got a part of this rebate ? I would plead with him and his friends that this kind of attitude that any small measure which goes to benefit the workers should always be opposed by the employers is not a healthy sign.

because that never leads to industrial peace. On the other hand, you have to create confidence in them that you are trying to accommodate them if their demand is legitimate. Since the original intention was that the rebate on tax paid on bonus should go to the workers, they should have ungrudgingly given it and supported the Bill. That would have led to mutual confidence and establishment of good relations between the employers and workers. Unfortunately, they have not done that. So, government by this measure are seeking to give the workers what is due to them. I think I should admit that this is the minimum that we are giving. But the employers are opposing even that I would only say that this attitude is not going to help either industrial peace or good relations between employers and employees.

SHRI GEORGE FERNANDES : They should be condemned.

SHRI HATHI : That you have done. I am trying to bring in them a sense of proportion so that goodwill and good relations may be established.

SHRI GEORGE FERNANDES : You have tried it for 22 years.

SHRI LOBO PRABHU : Do not sacrifice the consumers for these good relations.

SHRI HATHI : It is not a question of sacrificing any body. This is what the employees are entitled to get.

The hon. Member quoted the report of the Bonus Commission. I myself said that the Bonus Commission did say that their idea in giving this rebate on income-tax paid on bonus to the employees was that they may get something by way of rehabilitation. I know the Bonus Commission mentioned it in paragraph 12 of its Report. But, after that, so many things have happened. Government gave $8\frac{1}{2}$ per cent instead of 7 per cent on capital, 6 per cent instead of 4 per cent on reserve ; they also gave a development rebate. Taking into consideration all this, we thought that the tax concession on bonus should go to the workers and not to the employers.

That was what we thought and the national tribunal also gave the decision in favour of the workers. But, unfortunately, as I said in my opening remarks, the Supreme Court said that the intention did not seem to be there. We are here clarifying the intention.

Then, I shall come to the point raised by Shri Kundu and explain what it means. I will give an example so that he understands what the two paragraphs mean. Supposing, an industry makes a gross profit of Rs. 30 lakhs. Then, at the time of calculation they calculate Rs. 15 lakhs as income-tax which they will have to pay. Then Rs. 15 lakhs remain as the profit. This Rs. 15 lakhs is divided into 60:40 and Rs. 9 lakhs go as bonus. That is when they prepare a balance sheet. Now, when the actual assessment comes, which is not in the same year-it comes a little later-they deduct Rs. 9 lakhs out of Rs. 30 lakhs. This Rs. 9 lakhs they have paid as bonus and they deduct this as expenditure. This gives them Rs. 21 lakhs as profit. On this they have to pay Rs. $10\frac{1}{2}$ lakhs as income-tax. So in the calculation they had taken Rs. 15 lakhs as income-tax while the actual payment is Rs. $10\frac{1}{2}$ lakhs and Rs. $4\frac{1}{2}$ lakhs is saved to them. Now we say that this Rs. $4\frac{1}{2}$ lakhs will be added to the available surplus in the next year and will be distributed in the ratio of 60:40.

This is what these two paragraphs say. If he reads them now, he will understand. I will read it for him. It reads :--

"the gross profits for that accounting year after deducting... an amount equal to the difference between"--

the two, that is, Rs. 15 lakhs which they had calculated they would have to pay as income-tax and Rs. $10\frac{1}{2}$ lakhs which they actually paid. This is rather a technical way of explaining but this is the position. I hope, I am now clear and there is no need of any further clarification. This is what is meant. This has been done in consultation with the income tax office, the Law Ministry and everybody concerned and this is the best way in which it could be put.

SHRI S. KUNDU : Would you kindly see sub-clause (b) (ii) ?

There it says :--

"the direct tax, calculated in accordance with the provisions of section 7".

SHRI HATHI : All taxes are direct taxes.

SHRI S. KUNDU : Yes. But how does it emerge ? It says :--

"the direct tax, calculated in accordance with the provisions of section 7, in respect of an amount equal to the gross profits of the employer for such preceding accounting year after deducting therefrom".

Which one ?

SHRI HATHI : You. apply the figures that I gave you and you will understand it. I cannot go on explaining it further.

I have explained it by giving an illustration. It talks of the difference between (i) and (ii); (i) is Rs. 15 lakhs and (ii) is Rs. 10½ lakhs.

Then, there are various suggestions made by different members. They are not quite pertinent, but Shri Fernandes has made a suggestion that we should assess how it has worked, whether it has worked in favour of the workers or in favour of the employers. Now, by the very fact that Section 34 (2) was struck down, that is, where the workers were to get something more and it was provided that the ratio between the profit and the available surplus in that year could remain the same, to that extent, the workers have suffered a loss. It goes without analysis. I do not think a review is necessary in these cases. But about the appointment of a Commission, we have already asked the National Labour Commission to look into this very question itself. If we were to appoint another Commission, it will take two years more. This will be quicker. If you want time, that is a different matter.

श्री जार्ज फर्नेन्डीज : मेरा इतना ही

कहना है कि हम लोगों को कितना ज्यादा नुकसान हो रहा है, स्टेट का कितना नुकसान या फायदा हो रहा है, इस पर हमल किस ढंग से हो रहा, इससे टिस्प्यूट्स कितनी कम हो गई, कितनी बढ़ गई, कौन कौन सा भंडा आया है, इन सारी चीजों के बारे में जांच की जाय। इस चीज को नेशनल कमिशन पर न छोड़ा जाय। This is a vital element.

SHRI HATHI : We will make a study of that. But we have to understand one thing. Where there is a machinery for taking the matter to industrial dispute, it is likely that one party and, in most cases, the employer goes in appeal. That is there. But we will make a study. ..

श्री जार्ज फर्नेन्डीज : एक कमेटी बिठलाने में क्या तकलीफ है। सरकार, मालिक और मजदूर तीनों तरफ के लोग बैठे और दो महीने में हमको बतलायें।

SHRI HATHI : Then, there were other suggestions made. These suggestions were mainly about the Act, that it should apply to other industries, to the public sector and all that. But that is beyond the scope of the present Bill.

SHRI GEGRGE FERNANDES : You bring an amendment.

SHRI HATHI : other suggestions which the hon. Members have made will be considered.

SHRI SHRI CHAND GOYAL : I only want to emphasize that the hon. Minister has not explained as to what prevented the Government from bringing forth a legislation in the last session, in the month of December, instead of resorting to this method of issuing the Ordinance and encroaching upon the right of the legislature, that is of Parliament. It is all right to say that there were disputes or the agitation going on, was assuming a serious form. But I wanted to know what prevented the Government from bringing forward a legislation when Parliament was in session, and

where was the urgent necessity which had immediately cropped up justifying the issue of the Ordinance. The Minister has failed to explain that.

MR. SPEAKAR: Now, I put the Resolution of Shri Shri Chand Goyal to the vote of the House.

The question is :

"This House disapproves of the Payment of Bonus (Amendment) Ordinance, 1969 (Ordinance No. 2 of 1969) promulgated by the President on the 10th January, 1969."

The motion was negatived

MR. SPEAKER : Now, the question is :

"That the Bill further to amend the Payment of Bonus Act, 1965, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted

Clause 2- (Amendment of section 5)

MR. SPEAKER : We now take up clause-by-clause consideration of the Bill. There are some amendments to clause 2 to be moved. Shri Maddi Sudarsanam-not here; Shri Shiv Chandra Jha not here.

SHRI S. M. BANERJEE : I beg to move :

Page 1, line, 9--

for "1968" substitute "1967" (2)

Page 1, line 13,--

after "to" insert--

"one and a half times" (3)

Page 1, line 16,--

for "the immediately preceding" substitute "that" (4)

Page 2, line 3,--

omit "preceding" (5)

SHRI LOBO PRABHU : I beg to move :

Page 1, line 13,--

for "an" substitute-

"unless it is used to reduce the prices for consumers, and" (9)

SHRI GEORGE FERNANDES : I beg to move ;

Page 1, line 9,--

for "1968" substitute-

"1967 in so far as the pending disputes in regard to the payment of bonus for that year are concerned" (10)

SHRI S. KUNDU : I beg to move :-

Page 1,--

line 12, add at the end

"section 7 and the amount on account of tax relief obtained for payment of Bonus in the preceding year" (14)

Pages 1 and 2,--

omit lines 13 to 17 and 1 to 6, respectively. (15)

SHRI LOBO PRABHU : My amendment is in favour of a party which is completely forgotten in this House. There has been a tug between employers and employees. There has been not even a reference to the consumer who is the most important party in this matter. I would like to point out that the employees add to a total of 6 million only as against 187 million workers. In this amendment, it is proposed to add to what they have already received, in my opinion, without any justification under the Bonus Payment Act, I say, that is without justification for the simple reason that there is a conspiracy today, whether it is recognised in this House or not, between the employers and the employees to push up the prices, so that the employers can keep their profits and the workers their

[Shri Lobo Prabhu]

high wages, The profits are not reduced at all. The variable dividend continues to be at 9 or 10 per cent. Wages have gone up to the extent of 200 to 300 per cent. Who pays for this ? It is the consumer who pays for these prices which are about 200 per cent over world prices. The simple question before this House is : are we going to submit ourselves to the conspiracy between the employers and the employees ?

MR. SPEAKER : Please come to your amendment.

SHRI LOBO PRABHU : I am giving the background because this is a very important point. We have to think in terms of the consumers who are not only 187 million workers but the entire population of 528 million as against these 6 million factory workers and a few thousands of employers, What are we proposing to do for them ? I have suggested that this amount, which will be available from the rebate of the income-tax should be given as a rebate on prices to the consumers. The scheme is not unknown. Even at present most factories give a rebate to their workers, 15 to 20 per cent. I would suggest that this rebate should be given on supplies to consumer co operative societies. If possible, some of this rebate could be given to the poorer classes, but neither the workers nor the employers should have the benefit of this rebate. Why am I making this proposal ? Why am I discriminating against the employers who are identified with my Party ? Why am I discriminating against the workers with whom I like to identify myself ? I would like to go much farther than my friends on the other side. I would like not only to represent the workers who are six million factory workers, but also to represent all the poor people in this country. It is these poor people whom the left parties are not representing; they come and ask for favour only for six million factory workers. (Interruptions) We have to remember that, as a result of this conspiracy between the workers and the employers, 52 per cent of the cost of production goes to the employers and employees. This is a very unconscionable proportion which has

been found by the FAO to compare very poorly with the proportion in Pakistan of 30 per cent and the proportion in advanced countries of 20 or less per cent. This is the secret which you have to realise. By this conspiracy, 52 per cent goes to management and labour. I am, therefore, proposing a very simple amendment. Let this not go either to the employers or to the workers if it can go to the consumers through a medium like the consumer co-operative societies. I am quite sure, whatever this House thinks, the country will be with me when I say that the poor people of this country deserve to have a measure of deflation, something which will reduce prices, and I would like to assure the partners of this conspiracy also that they will not lose because, as prices fall, the market extends. and there will be more profit coming to the employers and more wages to the workers.

MR. SPEAKER : Mr. Banerjee.

SHRI S. KUNDU : I gave my amendment yesterday after 3 O' Clock. I would, therefore, like to seek your permission.....

MR. SPEAKER : Yes. You can also speak. I have called Mr. Banerjee now.

MR. S. M. BANERJEE: My amendment reads as follows:-

"Page 1, line 9, -

for '1968' substitute '1967'.

It should be 1967 in the place of 1968. It should read as follows:-

"Provided that the available surplus in respect of the accounting year commencing on any day in the year 1967....."

As I have said, instead of 1968, substitute 1967. Sir, my hon. friend Shri Lobo Prabhu is going away. He wanted to protect the interests of the consumer. He has consumed the time of the House.

SHRI LOBO PRABHU : You are con-

uming the patience of the House. That is what you are consuming. (Interruption)

SHRI GEORGE FERNANDES : He says so much about consumers; he is not here to vote for his amendment.

SHRI C. K. BHATTACHARYYA (Raiganj): They should not be allowed to come nearer to each other. (Interruption)

SHRIS. M. BANERJEE : If I had my way I would have consumed you. Sir, my second amendment says :

Page 1, line 13,

after "10" insert "one and a half times". My next amendment says :

Page 1, line 16.--

for "the immediately preceding" substitute "that" The last amendment is :

Page 2, line 3.--

omit "preceding"

These are a few amendments. I hope the hon. Minister will accept them if he really wants something to be done in the interest of labour.

श्री जार्ज फ़र्नेन्डो : अध्यक्ष महोदय, मैंने जो चार तरमों में पेश की हैं, उनमें से तीन तो बड़ी हैं, जो माननीय सदस्य, श्री बनर्जी, ने पेश की हैं। अपनी पहली तरमीम के द्वारा मैं यह चाहता हूँ कि इस क़लाज में "1968" के स्थान पर "1967" रख दिया जाये और उस के आगे ये शब्द बढ़ा दिये जायें

In so far as pending disputes in regard to payment of bonus in that year are concerned.

अगर इस बिल को इसी रूप में पास कर दिया जायेगा, तो 1967 के जिन मामलों का अभी तक फ़सला नहीं हुआ है, वे दो पुराने हिसाब से सेंटल कर दिये जायेंगे और 1968 के बाद के मामलों का फ़सला इस नये का न के मुताबिक़ किया जायेगा और इस प्रकार यह एक

सीधा सीधा डिस्क्रिमिनेशन होगा। मैं अपना तरमीम के द्वारा चाहता हूँ कि बोनस सम्बन्ध जो भगड़े अभी बाकी हैं, उनको भी इस क़ानून का फ़ायदा मिले। अगर श्री बनर्जी की तरमीम को स्वीकार कर लिया जायेगा, तो यह तबलीफ़ सामने आ सकती है कि यह कहा जायेगा कि 1967 के जो भगड़े ख़त्म हो चुके हैं, उन्हें भी इस नये क़ानून के मुताबिक़ सेंटल किया जाये। इस तरह भगड़े के लिए दरवाज़ा खुला रहता है। मैं चाहता हूँ कि इस बारे में भगड़े की कोई मुंजायश बाकी न रहे और साथ ही यह क़ानून पास होने के बाद डिस्क्रिमिनेशन न हो। इसलिए मैंने यह तरमीम रखी है कि 1967 के जो मामले अभी अनिर्णीत हैं, वे इस क़ानून के मुताबिक़ सेंटल किये जायें। मैं समझता हूँ कि इस तरमीम को स्वीकार करने में मन्त्री महोदय के सामने कोई झड़पन नहीं होनी चाहिए। इसको स्वीकार करने से सब भगड़े मिट जायेंगे और इसको स्वीकार न करने से भगड़े बढ़ जायेंगे। इस तरमीम को स्वीकार करने से भगड़े का रास्ता बन्द होता है, खुलता नहीं है। मुझे आशा है कि मेरी इस तरमीम को देखते हुए श्री बनर्जी अपनी तरमीम को वापस ले लेंगे।

श्री स० मो० बनर्जी : अगर श्री जार्ज फ़र्नेन्डो के संशोधन को स्वीकार कर लिया जाता है, तो मैं अपना संशोधन वापस लेने के लिए तैयार हूँ, क्योंकि मैं चाहता हूँ कि उन लोगों की तकलीफ़ कम हो।

SHRIS. KUNDU : I would like copy of my amendment to be given to Government.

MR. SPEAKER : Yes, it is there.

SHRI S. KUNDU : It has far reaching consequences. I hope he will kindly read it. This Bill says 'available surplus'. This refers to gross profit in the accounting year after deducting therefrom the sums referred to in Sections 6 and 7 and aggregate of these two, that is direct tax of the gross

[Shri S. Kundu]

profits without deducting bonus from that the minus direct taxes of gross profit after deducting bonus. This is to be added to the available surplus which has been already calculated under Sections 6 and 7. Now, Sir, my point is this. In the Supreme Court the question was raised about rebates. The Government has also agreed that these big industrialists and employers get lot of money on account of rebates. What actually we are going to do to guard against that ? They said, a direct tax, an income-tax, from the gross profit, without deducting the bonus, say about 15 lakhs direct tax, and deduction from it of direct tax of the gross profit after deducting bonus from the gross profit, say, 14 lakhs.

So hardly one lakh of rupees are available from this. If you only pay the rebate, you will many more lakhs. Kindly see what is put in here :

"the direct tax calculated in accordance with the provisions of section 7 in respect of an amount equal to the gross profits of the employer..."

17 hrs.

That is, minus direct tax calculated under sec. 7 of the gross profit of which the bonus has been taken out. Bonus is taken out from the gross profit. The direct tax will come down by a slender margin and the difference between the two will be very small.

Therefore, I have said clearly that after sub-cl. (a) which says 'the gross profits for that accounting year after deducting therefrom the sums referred to in section 6',

the following should be added :

"section 7 and the amount on account of tax relief obtained for payment of bonus in the preceding year",

This is simple.

SHRI HATHI : I do not know if I should reply to Shri Lobo Prabhu since he

has left. Anyway I do not accept his amendment.

MR. SPEAKER : He need not worry. It is only a general proposition.

SHRI HATHI : So far as Shri Banerjee's amendment No. 2 is concerned, seeking to substitute 1967 for 1968, the reply has already been given by Shri Fernandes, that that will create difficulties. As for Shri Fernandes's amendment, we considered it. The question is whether we can think of at least the pending cases. But there, you will recall, the Supreme Court has struck it down as discriminatory. Those that are settled are gone; we do not touch them. For those that are pending, to which the Act may apply, it has been struck down on the ground that it is discriminatory.

Therefore, we have said, any dispute arising after 1968, accounting year. They will all be there.

SHRI S. M. BANERJEE : Accept 1967.

SHRI HATHI : It is not possible. So many disputes might have been settled. All that would get revived. Therefore, that is also difficult.

We have considered both carefully. Inclusion of 1957 will give rise to a number of disputes which might have been settled. If we are to take the pending cases, it is likely to be struck down. Therefore, 1968 is the only possible way of doing it.

SHRI GEORGE FERNANDES : Take the risk.

SHRI HATHI : We cannot.

The next amendment, No. 3, is about the insertion of 'one and a half times'. I have not quite understood it. This is on the basis of 60 and 40. Therefore, we do not say 'one and a half times'. We have got it in the same proportion as the available surplus is distributed, that is 60 and 40.

The next amendment seeks to do away with 'immediately preceding'. He wants that it should be 'that year'. When they calculate income-tax on paper, from Rs. 30 lakhs they say Rs. 15 lakhs will be payable in that year. But the income-tax is assessed not in that very year. It takes a year or so or two years for that. Therefore, the actual tax will be known in the next year. So it cannot be in that year. It must be the preceding year. Hence the words 'immediately preceding' There is need for this.

With regard to Shri Kundu's amendments, I have explained at great length that this formula which he said is more complicated than which we have done. Here between A and B A is the gross profit. (*Interruptions*). You are confusing. You are confusing between rehabilitation and rebate. This rebate is not rehabilitation but the rebate is saving from direct tax on the ground that they have paid bonus. I will illustrate this. If an industry makes a profit of Rs. 30 lakhs, he calculates Rs. 15 lakhs as income-tax which he would be liable to pay. The available surplus is Rs. 15 lakhs, out of which he pays Rs. 9 lakhs as bonus. When the actual assessment is made, he deducts the Rs. 9 lakhs out of Rs. 30 lakhs and the balance is Rs. 21 lakhs. He pays income tax on Rs. 21 lakhs which is Rs. 10½ lakhs. Now the difference between Rs. 15 and Rs. 10½ lakhs is Rs. 4½ lakhs. This will be added in the next year for the purpose of distribution of bonus. Now if you read A and B, the whole position will be clear.

SHRI S. M. BANERJEE : Does he accept any amendment ?

MR. SPEAKER : He has explained.

SHRI S. M. BANERJEE : We accept his explanation.

MR. SPEAKER : Now I will put Shri Banerjee's amendments to vote.

Amendments Nos 2 to 5 were put and negatived.

MR. SPEAKER : Now I will put Shri Lobo Prabhu's amendment to vote.

Amendment No 9 was put and negatived.

MR. SPEAKER : Now I will put the amendment of Shri George Fernandes to the vote of the House.

Amendment No. 10 was put and negatived.

MR. SPEAKER : Now I will put Shri Kundu's amendments to the vote of the House.

Amendments Nos. 14 & 15 were put and negatived.

MR. SPEAKER : The question is :

"That clause 2 stand part of the Bill."

The motion was adopted

Clause 2 was added to the Bill.

Clauses 3 and 4 were also added to the Bill.

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

SHRI HATHI : I move :

"That the Bill be passed."

MR. SPEAKER : Motion moved :

"That the Bill be passed."

SHRI S. M. BANERJEE : I would only request the hon. Minister that he has given an assurance that as far as the payment of bonus under the Bonus Act to the workers of the public sector those who are covered by the Industrial Disputes Act, we are not satisfied. We would request him that this should be taken in the Indian Labour Conference and a solution found for it.

Anything thing. The ceiling of 20% should be removed so that the employees are strong enough to bargain for more bonus. With these words I support the Bill.

जी बार्न करेन्डीन : मध्यम महोदय, मन्त्री महोदय से दोबारा मुझे वही विनती करनी है,

[श्री जार्ज फरनेन्डीज]

कि जिसके बारे में मैंने पहले उनसे कहा था और जिसको भाई बनर्जी साहब ने भी दोहराया है। जब मन्त्री मशौदय उत्तर दे रहे थे, तो उपप्रधान मन्त्री जी यहां पर बैठे हुए थे, शायद उनके रहने के कारण उनको बोलने में कुछ तकलीफ हो रही हो, जब जब वह चले गये हैं तो मेरी उन से प्रार्थना है कि आप आयोग के बारे में जरूर कार्यवाही कीजिए। नेशनल कमीशन आफ लेबर जैसा कमीशन बनाने की जरूरत नहीं है, लेकिन ऐसा आयोग बनायें जिसमें मालिक, मजदूर और सरकारी प्रतिनिधि बैठ कर दो-तीन महीने में बोनास का न के हक में सचमुच क्या काम हुआ है, इससे मजदूरों की भलाई का क्या काम हुआ है, इसके बारे में जरूर रिपोर्ट मंगवायें जिससे आगे काम चलाने में मदद मिल सके।

दूसरे-केन्द्र, राज्य और स्थानिक संस्थाओं में काम करने वाले मजदूरों के लिए इस सत्र के चलते या 17 मई से पहले पहले मेहरबानी करके आडिनेन्स लाने का काम जरूर करें।

MR. SPEAKER : The question is :

"That the Bill be passed".

The motion was adopted.

17.11 hrs.

STATUTORY RESOLUTION ITAL PUBLIC WAKFS (EXTENSION OF LIMITATION) AMENDMENT ORDINANCE AND
PUBLIC WAKFS (EXTENSION OF LIMITATION) AMENDMENT BILL

SHRI SHRI CHAND GOYAL (Chandigarh) : Sir, I beg to move :

"This House disapproves of the Public Wakfs (Extension of Limitation) Amendment Ordinance, 1953 (Ordinance No. 13 of 1953) promulgated by the President on the 31st December, 1958."

I would oppose this ordinance with all the vehemence at my command, because I am not only against the tendency of issuing an ordinance which is introducing totalitarian trends in our democratic functioning but I am also against the principle which this Bill or ordinance incorporates. Since the Bill is coming through the Law Ministry, I would have expected the Law Ministry and Government of India to be vigilant and careful, and the Government ought to have anticipated that limitation was to expire in certain cases it was incumbent on the Government to bring in legislation in the last session. But the lethargic way in which the Government and especially the Law Ministry functions, is a sad commentary on the working of our democratic system.

I was submitting that now efforts are being made through this legislation to extend the period of limitation for bringing suits for properties, the possessions of which were taken between 14th August 1947 and 7th May 1954. But the period of limitation for bringing suits is being extended for the third time. The easy way which the Government resorts to is, first to bring legislation through ordinance and then to expect Parliament just to rubber-stamp them; this is not at all a healthy practice.

MR. SPEAKER : The same argument is made.

SHRI SHRI CHAND GOYAL : I am not repeating anything. Sir. This method will set up a bad precedent for the States. You must be remembering that in the last Government of the United Front, when Mr. Jyoti Basu wanted to bring a financial Bill. But he could not bring it within eight months, but when the legislature was not in session, then it was done by means of an ordinance. The States also get encouraged by this unhealthy trend which is being set up by the Central Government. I am constrained to say that if this tendency is not restrained, if this is not resisted, then we will be compelled to move for scrapping article 123 which allows the executive to issue ordinances.