

MR. DEPUTY-SPEAKER: The question is:
"That Clause 50 stand part of the Bill."

The motion was adopted.

Clause 50 was added to the Bill

Clause 51 to 57 were added to the Bill

FIRST SCHEDULE

SHRI V. SOBHANADREESWARA RAO: I
beg to move:

Page 21, line 17,--

add at the end,--

*"except to the Parliament when the
relevant information is sought for."
(34)*

Sir, under this declaration of fidelity and secrecy, even this House is not informed as to the extent of how much amount was written off that was due from big company. Even when we get some report about the writing off, we are not informed. Generally, we seek information from the Government.

Under this very fidelity and secrecy act, that vital information is not provided even to the highest body like the Parliament. The clause of fidelity and secrecy should not apply to public financial institutions. The Parliament should know how the monies that are collected as taxes from the people are being spent; whether there is any misuse of fund, whether there is any wastage of fund or whether there is any favouritism shown to any company. That type of vital information should be supplied to the Parliament. That is why I moved an amendment to this effect and I hope that the Government will agree to it.

MR. DEPUTY-SPEAKER: I shall now put Amendment No. 34 moved by Shri. V. Sobhanadreeswara Rao to the vote of the House.

Amendment no. 34 was put and negatived

MR. DEPUTY-SPEAKER: The question is:
"That First Schedule and Second Schedule stand part of the Bill".

The motion was adopted.

*First Schedule and Second Schedule
were added to the Bill.*

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

SHRI JANARDHANA POOJARY: I beg to
move.

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

MR. DEPUTY-SPEAKER: The question is:

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

The motion was adopted.

15.02 hrs.

DISCUSSION RE: OUT-OF-COURT SETTLEMENT IN REGARD TO PAYMENT OF COMPENSATION FOR THE VICTIMS OF BHOPAL GAS TRAGEDY-CONTD.

[English]

MR. DEPUTY-SPEAKER: The House shall now take up further discussion on the reported negotiations between the Government of India and the Union Carbide Corporation for an out-of-court settlement in regard to payment of compensation for the victims of Bhopal gas tragedy. Mr. Sharad Dighe to speak.

THE MINISTER OF INDUSTRY (SHRI J. VENGAL RAO): Sir, I have to reply.

MR. DEPUTY-SPEAKER: No. There are some more Members to speak.

(Interruptions)

SHRI J. VENGAL RAO: How much time will they take?

MR. DEPUTY-SPEAKER: Don't worry, they will finish in half-an-hour's time. I request the Members to be very brief.

SHRI SHARAD DIGHE (Bombay North Central): On that day also he wanted to go away and we accommodated him.

DR. DATTA SAMANT (Bombay South Central): This is a very important issue; at least let us discuss it.

SHRI J. VENGAL RAO: Sir, I have no objection even if they want to discuss it upto 5 O'clock.

(Interruptions)

SHRI SHARAD DIGHE: The Parliamentary work should have the highest priority.

MR. DEPUTY-SPEAKER: The issue regarding the reported negotiations between the Government of India the Union Carbide Corporation for an out-of-court settlement was discussed the other day at great length. Fortunately, even though the case was set for settlement on the 18th of November, no settlement took place and the case was adjourned to a further date.

Now the main question is that in view of all that has happened in the past, whether it is advisable to go in for an out-of-court settlement in this matter. I would like to refer to certain dates before I proceed further.

This disaster took place on the 2nd or the 3rd of December 1984. Then by an Act, The Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985—which was passed in March 1985, the Government took the monopoly of representing all the victims before the Court. Judge John. F. Keenen by his order dated 12th May 1986 held on the ground of forum-non-convenience that it should be sent to an Indian court...

Therefore, accordingly the present suit in the court of District Judge of Bhopal was filed on 5th September, 1985. When the preliminaries were going on before the court it appears that the District Judge after

hearing the parties made an interim order and in fact this order has nothing to do with the final settlement in this suit. What he has merely directed is this in these unprecedented circumstances arising out of unprecedented industrial tragedy I would be failing in my judicial duty if I were not to draw upon the ever-vivacious spring of justice flowing from Section 151 of CPC". So he has exercised his inherent powers under Section 151 and said "I therefore, ventured: With all humility at my command to feel that I have sound legal sanction to put forth to the parties a proposal for re-conciliatory substantial interim relief to the Gas victims." So what the learned judge has stated is that you should find out a way for re-conciliatory interim relief in this matter pending hearing and disposal of this matter.

Now, in fact, for this small proposal also the Union Carbide has very adamantly stated that court had no jurisdiction and they have made a fantastic and small offer even for interim relief. They say: "To bring into the deposit in court the proceeds of the dividends declared since the year of the tragedy in respect of the entire shareholding of Union Carbide Corporation in UCIL. So in India whatever the proceeds of the dividends on the shares. This will be over Rs. 21 million. The necessary application to the Reserve Bank for this purpose may be made forthwith." Then with large heart they say: "To authorise the American Red Cross in Washington to remit forthwith to this hon. court all moneys which continue to be held by it (out of U.S. \$5 million paid by UOC in December 1985). Which is expected to be approximately Rs. 39 million." This is the fantastic and very small interim relief which they are proposing. Where is the question of the final settlement at all?

Now finally for settlement when we have assessed our claim at 3.3 billion dollars they are offering only 500 to 600 million dollars. Apart from this fantastic low offer which they are making to consider any negotiation out of court at this stage is not only premature but unwise as far as the Indian Government is concerned. The aim of this litigation was not merely to get moneys from them but to establish fro

[Mr. Deputy Speaker]

the multinational industries what is their liability in this case and it is going to be a precedent for all the third world nations as far as the multi-national corporations are concerned. Therefore, the main important point in this matter is not merely money but to fix the liability. Who was responsible for this whole catastrophe which has taken place in which 2850 people were killed and over 2 lakh maimed and still today 1100 patients are in the hospital without any improvement in their condition. There is a medical report which was published yesterday which says "The Bhopal gas leak has caused a four-fold increase in abortions, menstrual dis-order and inflammation of reproductive organs among women." "Those women who have conceived after the gas leak also showed a high proportion of spontaneous abortions indicating a continued effect of the toxic gas leak." It will affect not only this generation but the progeny in that very place.

When we take the monopoly of representing all these victims, then merely to pay them some money here and there will not be a solution at all. It will be a betrayal of the confidence which the whole nation and the Parliament has put in the Government to present the case on behalf of the victims. My submission is that at this stage no settlement is possible and should not be gone into. No negotiation should even take place. If we allow this multi-national company to go scot-free like this by paying some dividend or some insured amount to the Indian people, then it will be a precedent for all multinationals. They will say: Go to the third world: have anything. You can have Hiroshima there. You can have gas chambers there. Kill people and get scot-free. You don't touch their assets at all and you just take whatever the insurance company gives and such dividends which are available in that country. So it will be a very bad precedent not only for this country but also for all third world nations. This will imply that they can even ignore all the safety standards which are laid down under the law. Even with their criminal negligence, they can go scot-free. From this point of view, if the confidence is reposed

by the people to represent their case in the court, then Government should see that not only the victims get adequate compensation but the honour of this country is safe and as far as future is concerned, a good precedent is also established.

Fixing liability is the most important thing in this case. That will not only keep our honour, keep good standards in this country but will also be a good lesson for the multinational. It will also give us a good bargaining power. At this stage, whenever we negotiate, they say: "No, no, we are not liable. On humanitarian grounds, we will consider something." Even for interim relief in their statement itself they say that on humanitarian grounds we will offer this thing. So this is not the stage. It is absolutely premature and unwise to take into consideration these proposals as far as the negotiations are concerned.

I think the evidence is such that everything will come out and we will be able to fix complete liability. It is not necessary to develop cold feet and say that in litigation anything can happen and we will not get anything. I have learned that as far as this multi-national is concerned, sufficient data for fixing the liability has been collected. It will be very useful as far as this country is concerned. Then, we can also pursue the criminal charges so far as the other persons are concerned. We should proceed further and have a good bargaining position.

I will go further and say that if the Government under that Act has taken the monopoly of representing these victims, then it is their duty to take Parliament into confidence. It is their duty to take into confidence the other voluntary agencies which are working there on behalf of the victims. After the liability is fixed, the elected representatives of the people, namely, this Parliament, and the voluntary agencies working there, should also be taken into confidence from time to time before finalising any settlement or before any offer is made. It is not necessary to develop cold feet, as I said, and hurry up with this and take any paltry and fantastically small sums and put an end to this matter. It will be betraying the victims and the people of this country.

SHRI S. JAIPAL REDDY: (Mahbubnagar): Mr. Deputy-Speaker Sir, the most important thing to be noted at the outset is the strange silence that the Government has scrupulously observed over the last two months in regard to various kinds of reports that have been appearing in the Press. Even the Minister for Industries who has been listening to this debate has also been sounding quite equivocal. It is this prevarication on the part of the Government authorities which has given rise to widespread suspicious. One does not have to refer to the fact that this tragedy has caused colossal damage which has been rightly described by Shri Krishna Iyer as Bhoposhima. So, the damage as has been mentioned by other friends was not merely in terms of a large number of deaths but in terms of multi-dimensional, continuing long-term genetical effects. It is found in the ICMR Report of 1986 that in addition to eye and respiratory problems, there is evidence of widespread multi-organ involvement, coma and so on. In March, 1987, the ICMR sponsored another study which indicated the continued presence of toxins in the bodies of gas victims. Many studies have established this fact and I do not have to go into details. The other day, a senior Member, Shri Veerendra Patil was referring to the genuine difficulty of documentation, in new of the large number of patients and the number of victims. I agree with him on that account.

15.16 hrs.

[SHRI SHARAD DIGHE *in the Chair*]

But at this stage, we are not dealing with the documentation that would be required in Court of Law, in regard to individual victims but with documentation, in regard to the liability of the company. In my view, the documentation in regard to liability of the company has been a massive and therefore, open and shut case. I do not know why the Government is developing cold feet in regard to this particular point.

SHRI J. VENGAL RAO: What is that particular point?

SHRI S. JAIPAL REDDY: The point of liability.

THE MINISTER OF STATE IN THE DEPARTMENT OF CHEMICALS AND PETROCHEMICALS IN THE MINISTRY OF INDUSTRY (SHRI R.K. JAICHANDRA SINGH): Sir, this is one of the preliminary issues which we have taken before the District Court in Bhopal, especially liabilities is one of the major issues which we have taken.

SHRI S. JAIPAL REDDY: That is well known. My point is even while the issue of liability was still under consideration in the Court, where was the need for the Government to talk to the Union Carbide in regard to out of courts settlement. The Government has not been able to clarify this. The Government representative should not choose to intervene and make partial clarifications in regard to the limited points and confuse the basic case.

Mr. Chairman, Sir, as has been mentioned by you when you spoke here, the Government have not only taken the power, but also assumed the responsibility to protect the interest of all the victims. This is an onerous responsibility. It has been referred to already as a test case.

The other day, our esteemed friend, Shri Veerendra Patil, was referring to the possibility of the victims being turned into guinea-pigs in the judicial laboratory. But what of the attitude of the various multinationals in the third world countries as a consequence of which the people in the third world countries have been turned into guinea-pigs for their colossal profits?

We had asked for three billion and odd dollars. Since the Government have not chosen to contradict the reports that appeared in the press, we are compelled to proceed on the assumption that they are largely correct. If five to six hundred million dollars was the offer of the company, then what would that mean in terms of compensation to the individual victims? It would not come to more than Rs. 15000 per an injured person.

SHRI R.K. JAICHANDRA SINGH: How are you calculating that?

SHRI S. JAIPAL REDDY: Out of 600 million dollars, only 425 million dollars are offered to be paid in hard cash now, and the rest will be paid in easy, convenient, instalments and out of this amount of 425 million dollars, 125 million dollars would be paid to the Government for the expenses it incurred on the litigation. That will bring the figure down to 300 million dollars.

SHRI R.K. JAICHANDRA SINGH: I do not know from where this figure of 600 million dollars or 300 million dollars has been acquired. Yes, we have seen it from the papers and many of the hon. Members have spoken. Yes, there was an attempt, there was some exploration of some settlement also in the United States and now in Bhopal, as some of the hon. Members have mentioned, on the 18th November. This was done at the initiative of the court. Mr. Chairman, while speaking, you yourself mentioned that the court under Section 151--the court has inherent powers under that Section--have taken recourse to this. They have said that as an interim relief, the court might ask, or the court did ask the two parties, whether there was any responsibility of both the parties to have an exercise to see whether some interim relief could be given. There was some negotiation between the two sets of lawyers, but nothing definite has come to the Government. These figures have appeared very widely in the papers and we should not, for all practical purposes, rely on them...*(Interruptions)*

SHRI S. JAIPAL REDDY: Sir, I am again thankful to the Minister for his intervention but I am afraid it has not added anything to the clarify of the situation. He has only got confusion worse confounded. Sir, he should have clarified as to why the Government did not contradict various reports appearing in the Press for the last 2 months.

DR. DATTA SAMANT: Sir, in the House I have raised them several times.

SHRI S. JAIPAL REDDY: Sir, we have been stressing that before the question of liability is established, there is no need

whatever to discuss with the Union Carbide. The question we are trying to raise is, why and under whose authority, with whose permission did you initiate discussion with the Union Carbide? The Minister other day contended that the court has given direction. The court has not given any direction. The court could only suggest to the two parties to explore the avenues of possible settlement out of the court. Government could have told the court, "Look, we are not interested in that". Why did you allow the time to be last? Sir, if 600 million dollar figure is totally imaginary, you might as well say so. If there were some exercises you may as well take the House into confidence as to what was the offer made by the Union Carbide and as to what was the demand made by the Government? Sir, I am, therefore, compelled to proceed on the premise of this imaginary figure.

I am afraid that out of the remaining 300 million dollar or so, lot of money is set apart for the improvement of civic amenities--I might say a ridiculous thing--including the improvement of an Airport at Bhopal. This is the information I have received. I am not levelling an allegation; I am merely eliciting the clarification. When the turn of the Minister comes, he may take the opportunity to clarify them.

There are already parallels for us to draw upon in regard to the quantum of compensation. In August, 1985, the Manville Corporation offered 2.5 billion dollars for damage caused by asbestos. The damage caused in this case was only to 60,000 persons and the order of the damage caused was far far less.

A.H. Robins Company paid 520 million dollars to settle the claims relating to injuries from the Dalkon shield in 1986.

In the case of Karen Silkwood, the jury awarded 500,000 dollars to every affected person.

Coming nearer to home. The Government has paid Rs. 1 million compensation to the air crash victims.

So, we have some of these parallels to go by.

Sir, I may draw the attention of the Government to the recent pace setting judgement delivered by our own Supreme Court, headed by the Justice Bhagwati. Sir, in this historic case relating to Sriram Company of Delhi, Justice Shri Bhagwati propounded a welcome doctrine that the quantum of compensation to be fixed should be in relation to the assets of the company which causes the damage. I think, Sir, this judgement comes in handy to us and we should not allow this advantage to be lost.

Sir, while the merits of not entering into negotiations with the Union Carbide for settlement outside the court, at least at this stage, are overwhelming, one is only intrigued as to why the Government is so anxious about negotiations. If the people in India develop unflattering notions about the Government's vulnerability to foreign blackmail, I do not think Government can blame the people. The Union Carbide's spokesman challenge, the Government of India even about a year back and said that in case no settlement was reached with the Union Carbide, no capital would flow into India from the West. I am not referring to the more subtle and more dangerous kind of blackmail that could be exerted by people like Win Chadda.

I see some weight in the argument that if the case is allowed to be taken to the logical limit, it would be a time-consuming process. It would take years. I am, therefore, suggesting that the Government of India should come forward with a piece of legislation under which, special courts could be constituted to settle claims arising from large manmade disasters. While this was the biggest industrial accident in the history of the world, we may have bigger accidents in future in our country and else-where. Therefore, the Government should also think of a comprehensive piece of legislation. Even while the case may be on, we should leave no stone unturned to get interim compensation. This legislation could also refer to the principles and lay down the principles statutorily as to how

interim compensation should be paid. If this is done, firstly relief can be provided to the victims; secondly, the role of multi-nationals in the third-world countries can be delineated; and thirdly maximum compensation can be secured. If the Government does not go through these motions, one would only be obliged to suspect the *bona fides* of the Government.

[Translation]

DR. G.S. RAJHANS (Jhanjharpur): Mr. Chairman, Sir, one of the products of the Union Carbide is the 'Eveready Torch Cell'. These are battery cells and are called 'Eveready'. Till recently, the advertisement of Eveready carried the following slogan:

[English]

'A cat has nine lives'.

[Translation]

If any multinational organisation asks Union Carbide whether to set up a chemical unit in India or not, then Union Carbide would encourage it to do so because

[English]

Indians have nine lives.

[Translation]

If Indians did not have nine lives then how could so many people in this country still survive after the Bhopal tragedy. You must have understood what I want to imply. The multi-nationals consider the third world countries like worms. They treat them worse than animals and we continue to tolerate their atrocities helplessly.

In regard to the issue of cut of court settlement of compensation, I will tell you an important fact. I want the hon. Members to pay attention to my submission. In July, I read in a foreign newspaper in this library itself perhaps it was New York Times or International Herald-in which a series of articles were written

[Mr. G.S. Rajhans]

about this subject saying that out of court settlement was in the interest of the Indian Government. Because Union Carbide possesses certain facts which have been admitted by the supervisors and workers of the factory, according to which the accident was a deliberate act of sabotage due to jealousy or as a result of their differences with the manager. Arguments were also advanced to the effect that out of court settlement has become necessary for the Indian Government because Union Carbide is in possession of certain evidences which can verify the above fact.

Sir, everybody is aware that multinational companies manage to insert such articles in big newspapers and publish such stories. In this connection, I will praise that Indian living in the United States, who has said that according to U.S laws if a sabotage takes place, as a result of which a labourer dies or is injured or is otherwise affected, then the entire responsibility has to be shouldered by the manager of the plant. Therefore, Union Carbide has to pay compensation and it is immaterial whether it is paid in the court or out of the court. I am all praise for that Indian who wrote such a courageous letter to the Editor.

The idea of an out of court settlement is under discussion for the last 5 or 6 months. The hon. Minister is asking as to wherefrom is the issue of 300 millions to 600 millions being raised? The subject has made headings and has otherwise appeared in the form of articles in every newspaper. One of the big newspapers based in South India which brings out one of its editions from Gurgaon as well, reported four or five days back that talks are going on to reach a settlement at 250 millions. I want to submit that whatever is being talked about is not totally baseless. All newspapers have carried reports to this effect and not all of them are irresponsible.

If you are making an out of court settlement, although I am not in favour of it, you should not reduce the amount which was being negotiated at 3 millions earlier. I would say that even this amount is

inadequate. You have stated that you gave Rs. 55 crores as interim relief. Is Rs. 55 crores sufficient? The other day it was suggested here that Government can levy some surcharge for floods and droughts. Can the same not be done for providing relief to the victims of Bhopal gas tragedy as well? We can levy a small tax for this purpose.

The whole world knows that after Hiroshima and Nagasaki, it is Bhopal and Chernobyl which figure as one of the worst disasters. I have read in a number of international newspapers about incidents which would have been of the magnitude of Bhopal had the tragedy struck there. In other words, Bhopal has become synonymous with horror and the people of the whole world know about it.

We are back to square one after a period of three years. The third anniversary of this tragedy will be witnessed very soon. The whole nation is concerned about this matter. If you can reach an out of court settlement, you should go, for it because you say that the process in the court will take a long time, but you can provide relief to them yourselves, they should not be left to die.

Secondly, the miseries of the people of Bhopal were shown on Television some 3 or 4 months back. We were horrified to see their condition and our conscience was shaken thoroughly. Whosoever saw those scenes was horrified. If we have even a little conscience, then we should make arrangements for providing substantial interim relief to these unfortunate people. Much has been said and will continue to be said about the misery of the people affected by gas and I do not want to repeat it. The gas has not only affected the present generation of the people in Bhopal but it will affect the future generation as well. Does not our conscience prick us to make some efforts to help the hapless victims of Bhopal?

I want to submit one more point. Wasn't it the duty of the Indian Government to educate the American people about their responsibility in the

Bhopal Tragedy so that they launch agitations and compel their Government to provide interim relief? Had the Government taken proper initiative, a huge sum would have been provided as relief to these people. I think that Indian Embassy did very little in this regard. It neither held any seminar or meeting nor released any advertisement for this purpose and was merely waiting for the court to make a settlement. The American Court, which declared that the hearing of the case should be held in the Indian Courts because Indian Judiciary is very impartial and can be fully relied upon, ought to be praised. We have not lost the case there. What I want to say is that we can build up public opinion in America even after three years by saying that litigation is a long drawn process and it is not possible for a poor country like India to bear the expenditure of giving compensation to all the victims and, therefore, Union Carbide should give interim relief. Whether the case is decided in the court or a settlement is reached out of the court, there can be no two opinions about the fact that thousands of people who died and lakhs of others who have been affected by gas should be compensated. When a small quantity of chemical was dropped into Rhine river by Sandoz Company, a commotion was created in West Germany and Switzerland and within two weeks that company had to give crores of dollars as compensation. Does not law exist in that land, cannot law take its own course there? But the reason was that such a strong public opinion was built that they had to do it. Photographs of dead fish which were killed on account of chemical poisoning were published in the newspapers. I want to say that when crores of rupees can be given as compensation for dead fish, then what should be the quantum of compensation here in our case which concerns the loss of human lives. Therefore, without repeating what has already been said, I want to submit that you should make efforts even now to create a strong public opinion in U.S.A. Union Carbide does not have shortage of funds. It should be compelled to grant as interim relief at least half of the amount demanded as compensation.

[English]

SHRI G.M. BANATWALLA (Ponnani):
MR. Chairman, Sir: When this House adopted the Bhopal Gas Leak Disaster Bill in 1985, little did it realize that the provisions of the very Bill could be utilized for jettisoning the best interests of the victims. It has been pointed out to us that clause (b) of subsection (1) of Section 3 of the this Act empowers Government to enter into compromise. However, I rise to emphasize a very important fact, and we must not lose sight of this important fact, namely, what were the considerations that the House had at the time of passing this Bill. It was realised that individuals may under compulsion of their immediate needs enter into arbitrary settlement of their claims. Therefore, we thought it necessary to give monopoly of representations to the government; government and government alone was therefore made entitled to represent the best interests of the claimants. The Act therefore places two important responsibilities, dual responsibilities to protect the best interests of the claimants; and in the second place to provide for immediate relief and rehabilitation of the victims to provide for their immediate needs. When the House was so serious that it did not allow the individuals to come to any arbitrary settlement with respect to their rights, how can the government be given any long rope for any arbitrary settlement out of court settlement with the Corporation? Therefore, that is an important factor that cannot be simply ignored.

I will not go by the various press reports as to what are the terms of the offer. The government has taken a very strange position of simply denying this report or that report but has failed to take the entire nation into confidence with respect to the negotiations that the government was having for out of court settlement. The government has agreed that there were negotiations both in the United States as well as in our country. We, therefore, demand that this House be told about the details of those negotiations. The government owes it a duty to this House, owes to the Bhopal gas victims, owes to the nation

[Shri G.M. Banatwalla]

to tell us as to what those negotiations were and what were the details of those negotiations. It is extremely sorry to find that the government has been functioning on such an important matter in a shroud of secrecy; that is the main problem which has given rise to so much of agitation. There was an agitation here in Delhi; there was a bandh in Bhopal and the government sat tongue tied without taking the nation into confidence throughout. Therefore, the first demand from the government is to take this House, to take the Bhopal victims, to take the entire nation into confidence and say what those negotiations are and what details of the negotiations are with respect to out of court settlement? The implications of the out of court settlement must be realised. In the first place, washing out this liability, criminal liability, means that nobody in the world would ever come to know as to who was responsible for such a colossal catastrophe that we had. I must say that this enthusiasm about out of court settlement is more in the interest of the Corporation rather than in the interest of the victims of this Bhopal gas tragedy. The Corporation has to be brought to books and their liability has to be ascertained, their criminal liability, and thereby justice must be extended to the victims. The serious implications will be there. Merely accepting certain money is encouraging these multinationals and others to ignore safety standards.

I will not dwell much upon this point because it has been very clearly brought out in this House. Indeed, we cannot have, and we do not want to have any more Bhopals. Let there be no more Bhopals and therefore it is our first and primary responsibility to see that no out-of-court settlement is arrive as that may wash away the criminal responsibility that may lead to the tendency to ignore safety standards and that may lead to the creation of few Bhopals too.

Mr. Chairman, as I have said, the important point is that this nation is in the dark. There is therefore an agitation. While de-

manding from the Government full details with respect to the negotiations, I must also demand from the Government a categorical assurance that no out-of-court settlement will ever be arrived at without the previous sanction and approval of this House here, without taking the representatives of the people confidence. It is not a minor tragedy that we had. I need not go into the dimension of the colossal catastrophe that we had. Perhaps, the full dimensions have not been projected in spite of the various studies that we have had up till now. I must, therefore, rise to join all my colleagues who have demanded that proper attention be paid to criminal liability and ascertainment of criminal liability. Of course, an important question is, that those people, they may want immediate money. They cannot be asked to wait indefinitely. But this particular fact was taken into account by this House itself. Was it not known that the litigation will be a drawn out thing? That it will take a lot of time, everybody knew it. And, therefore, the bill that we passed, namely, the Bhopal Gas Leak Disaster Bill, in 1985, provided, as I have said, the dual responsibility of the Government, not merely to pursue and prosecute the Corporation, but also the responsibility to provide for the relief and rehabilitation of the victims. A sum of Rs. 55 crores that has been very broadly projected here in this House as the relief for the victims. Every relief must be provided, full rehabilitation should be undertaken by the Government and at the same time prosecute both for the civil and criminal liability. That is the need. Therefore, while I am precise that criminal liability cannot be ignored, I also emphasise that the minimum needs of the gas victims cannot be ignored. And it is the responsibility of the Government to give full rehabilitation and to undertake full rehabilitation of the victims of this great tragedy, at the same time prosecuting the company both for its civil and criminal liability.

Mr. Chairman, I must, before concluding, once again emphasise that the Government must give an assurance to this House that no out-of-court settlement on a matter of such great importance will be ar-

rived at without taking this House into confidence.

[*Translation*]

SHRI AZIZ QURESHI (Satna): Mr. Chairman, Sir, much has been said on this subject here and I will not repeat that, but I want to remind the hon. Minister through you that when this subject was discussed in this House two and a half years ago and a bill was also passed here at that time, I had raised a point at that stage that a top level leader of one political party had alleged that prior to the occurrence of the tragedy, two officers of the rank of General of the US army, had gone to Bhopal. The Government should investigate the matter fully and inform the House about the truth. This allegation was made publically by a top leader of a political party but I regret that neither a word was said in reply nor any information was given. I want to request the Government to clarify the matter in this august House as it is necessary to know whether there is any truth in it or not.

The second point raised was regarding out of court settlement. I come from that city. I was born there, was brought up there and my mortal remains will be laid there as well. I want to ask as to which settlement are you talking about? First, Government of India should ascertain the fact through its own source whether the interim relief granted for the rehabilitation of the victims has been fully utilised or not. In this connection, the initiative was taken by the Central Government and the Prime Minister who sanctioned relief generously. On its part, the State Government and its Ministers also made substantial efforts to ensure that people must get relief. As a result, the gas victims were supplied with essential commodities from the Fair Price Shops free of cost. But I want to submit with full responsibility that the owners of these outlets have become millionaires in connivance with the Government and its petty officials, I repeat that the owner of every Fair Price Shop has become a millionaire and relief has not reached all the victims. The Government must pay attention to this point.

In regard to the victims who are dead—they number 2500 according to official record—for each of whom you had earmarked a sum of Rs. 10,000 as compensation, I want to ask whether the heirs of every such victim have received that amount or not? I would also like to point out that there are some unfortunate families which have lost all their members and as a result there is no one left to whom compensation can be granted. Complaints in respect of such cases have also come to me and these are under investigation.

16.00 hrs.

You talk about out of court settlement so that this case can be put to an end by claiming a certain amount. Your objective is very good as it will enable the people to get immediate relief and they need not wait for the case to be settled through the long drawn process of the court. However, I want to make certain submissions which might sound stupid to my colleagues. Nevertheless, I must raise these issues here. Bhopal which was called a city of silver setting was reduced to a graveyard by the criminal negligence of the Union Carbide.

[*English*]

[*Translation*]

Union Carbide has made it into a graveyard. If you take the responsibility and put the issue to an end, even then it is not going to be over. Three generations of the children who are in their growing age now have been affected. Neither the Government nor the doctors are aware as to what future is in store for them. No one knows about the future of three generations of these victims.

You have talked about granting compensation. But I want to ask you as to what compensation can you give to those children who have become orphans or to the widows or woman from genteel families who have taken to prostitution in order to survive? Therefore, I want to submit that regardless of what settlement or agreement Government reaches, it must

[Shri Aziz Queresni]

ensure that a phased programme for the victims is formulated. This rehabilitation programme should include education, housing, medical facilities, employment and other welfare measures. Until it contains provisions for social improvement, no agreement will be beneficial. If you do not make such provisions, the future generations will never forgive you.

[English]

DR. DATTA SAMANT (Bombay South Central): The hon. Member from that area spoke just now. I am not from that area. After one year I had gone there. After hearing and seeing the people there I came to the conclusion that in India any multi-national can kill our people like guinea-pig and get away with that. This is the agony. It is really frustrating the way this Government is dealing with this matter.

16.04 hrs.

[SHRI SOMNATH RATH *in the chair*]

This Bhopal tragedy can be compared with Hiroshima where the atom bombs were thrown. But that was the war period. Here it is the multi-national which has become prosperous at the cost of our country and its people.

I shall not take much of your time. I shall read out to you a portion of the report of the Indian Council of Medical Research about this tragedy. It says:

"In addition to the eye and respiratory problems there is evidence of widespread multi-organ involvement, of coma, gastrointestinal disturbances lesions in the central nervous system, psychological trauma, behavioural disturbances, more frequent aborted fetuses, and retarded growth of babies born to exposed mothers."

This is the report of the Indian Council of Medical Research and not the report of Dr. Datta Samant or anybody else.

The children that are going to be born will be retarded. Will anybody like that his children or the progeny should be retarded? Even the New York Times has stated on 27.7.86 that 86,000 people were per-

manently injured, one-third of them severely. The report also mentions 56 still-births, 91 infant deaths within the first week of birth (twice the average), 355 spontaneous abortions (three times the average), and long-term damage to liver, kidneys, blood and nervous systems of the victims. These are the reports of the Indian Medical Council and the New York Times which I liked to quote. What is happening in this country? Is it the way the Government is looking at these matters? This is not the first time that it has happened. In 1978 also an intense and costly fire occurred within an alpha naphthol storage area of the Union Carbide plant. Then on 26th December, 1981, a deadly phosgene gas leak resulted in the death of the plant operator. In January, 1982, a phosgene gas leak seriously incapacitated 28 people. On 5th October, 1982, methyl isocyanate—the same gas-based gaseous production seriously injured four plant workers. Several members of neighbouring colonies suffered severe respiratory difficulties as a result of the accident as well. Forget that. In all the branches of the Union Carbide all over the world, there have been about 21 accidents. I will not take much time of this House. Four such type of serious accidents have occurred in the same plant. And when the matter was raised in the Madhya Pradesh Assembly, the hon. Minister protected this company. He said: "What is there? Sometimes some small things do happen. They are such a nice employer. What can we do?" If you want, I will give the exact wording of that Minister. He has behaved in an unfair manner.

The company is not following the safety procedures. Even the New York Times has quoted that on September 11, 1984, before the data of accident—a Report by Union Carbide safety inspectors at Institute warned that a 'runaway reaction' at a tank storing methyl isocyanate could lead to a 'catastrophic failure' of the tank. So, one month before the accident, the report of the safety inspectors of this plant says that all the safety procedures were not being followed. The safety measures in the New York plant and here are entirely different and they should be corrected. All these things have been reported by the Inspectors and the authorities of the New York.

There is another report which says: "It was the decision of the parent company to store this gas in large quantities. It was also the 'undersign' of safety systems by the parent company which resulted in the escape of a large enough quantity of the gas to cause such damage." Storing of this gas should not be done in a large quantity. This is against the law. So, I have got a number of statements. These are not mine, these are the statements of the New York Times and the New York Safety Inspectors. These are the reports of those who are the culprits. And what is their reaction after killing so many people? The Union Carbide management is saying that this is a sabotage by one of the workers or by some vested interests. That is the theory they have brought before the court. They say it is a sabotage. They have said somebody had opened the valve of the tank where this methyl isocyanate was stored, and as a result of this, it had leaked into the water and the gas was formed. They say they have not done anything. The second theory that they have put up before the court is that it is the Indian company which is not concerned with this. Their working is different though they are using the name of the parent company. The third thing that they have put up in the court is that as far as the safety precautions or the Factory Act measures are concerned, they are following them hundred per cent. So, they are not guilty at all. These are the various points that they have raised in the New York Court, before Justice Keenan and before the Bhopal Court. So, even after killing so many Indian people and incapacitating lakhs of people, the Union Carbide is behaving like big boss. They are not prepared even to say 'sorry' to the Minister or to the Government. If this is the way the Government is going to deal with all these matters, then I do not know where we are going. This is a serious matter which the Government has to think over.

Sir, the hon. Minister is here. I will raise four or five points in the little time that is available to me. Those are very important points. The Hon. Minister has said that he does not know what are the figures. I have got all the dates with me. The Union Carbide went on delaying the hearing.

After four months, in April you filed the case in the New York court. Then the

hearing had come. Now, in the month of November, they were not prepared to accept it and again they say that we are prepared to settle it by mutual consultations. Then simultaneously, he had taken the case in the Bhopal Court and the matter was referred to again there. Even for this they have taken 10 days for correspondence and delayed this matter for more than one year. I can give all the information regarding each date of the affidavit they made. Here the whole observation is that the Union Carbide is deliberately delaying the case but the Bhopal court says that the matter is there and we are trying to settle it and you give us two days time. Whatever the Union Carbide advocates are saying, the same thing your lawyers are speaking. I am making this allegation. I have got the statement. Therefore, the Government is totally neglecting. You have taken the power from this House but you have never bothered to do it. The hon. Minister has said now that they do not know what are these 6 lakhs and 3 lakhs. Sir, the original proposal in your file is for Rs. 3900 crores, that is, 3.9 billion dollars. That was the proposal to be discussed in New York and now it has come to 650 or 700 millions. From billion it has come down to million, that is, divided by thousand. I do not know what is happening. Once upon a time, they had maintained 3.9 billions. You were trying to settle it at a little less. The hon. Minister cannot deny it. I am giving information regarding the case filed by way of affidavit on the 14th September, 1987. Only two months back, they were seeking compromise and the Indian Government also has made a statement in Bhopal that "we are making a compromise". Sir, it is really surprising that the hon. Minister says that we are having mutual settlement out of court. Is this the way your lawyers act in Bhopal? Forget then that they are also trying to talk of the compromise, but are they talking without your knowledge? Sir, for two months I have been raising this issue in the House during the Zero Hour. Government have never replied to my point. It is a secret statement going on without the knowledge of the people and this House and it is really shameful on the part of the Government to act in this way without even taking this house into confidence.

[Dr. Datta Samant]

Sir, how many people are involved in this? 2800...? After the accident a number of organisations went there. But how many people were killed? There is no survey report. Forget about the claims. I am not concerned with that. But for such a catastrophe Government should have the exact figure. You are not having it. Everything is taken very lightly. The only thing is to talk and try to propagate.

SHRI R.K. JAICHANDRA SINGH: You ask for that. We will give you. You never asked for that. Now, the exact number of deaths as on 30th September, 1987 was 2850.

DR. DATTA SAMANT: Therefore, Sir, this is a very serious thing happening in this country. I am a medical doctor. This accident has caused permanent damage to the haemoglobin. This spoils your whole system in the body and is going to affect the future progeny and with such deadly poison these merciless people killed those innocent people.

Now, on 18th November, a point was discussed in this House and the hon. Minister had come out with the statement that the settlement was not possible. It is not correct. You are trying to hide something. But on 20th November, all the 35 organisations of Bhopal had observed the 'bandh' and when the Government found that it would be very difficult to settle it, now you are changing the stand. I am still happy that you are changing your stand and you are improving but keep that and maintain that. Otherwise, after this Session again some few lakhs will come here and there and there and again in between the session some celebration is done there because the MPs talk in that way.

[Translation]

We are giving the money. What will you gain by dying? Whatever we are giving accept it. We cannot give more.

[English]

So, we do not want that type of begging. So many people are killed. The Union Carbide is not prepared to accept the liability. I will give you one more figure to show that the Union Carbide's assets are

going out. In 1984 there were assets worth 9,788 million Dollars, in 1986 there were assets worth 7,571 million Dollars. 2,500 million Dollars of assets have gone out. Sir, their loans have gone up from 2,293 million Dollars to 3,707 million Dollars. The Union Carbide is gradually reducing the assets. They are increasing their loans. They have closed their subsidiaries at Bombay and 2000 workers are starving there again. Nothing can be done. They say, they are holding them to ransom. They have closed all their units. Then why not take over all these units? I am asking you this question because they are in your country and they have already spoiled the things.

Sir, the Bhopal Judge suggested that they have given the hint for the interim settlement. Yes tell me a single incident where the lawyer of your Government has asked for the interim settlement. On the contrary efforts were made or suggestions were given by the Bhopal Judge because your lawyers are working in league with the Union Carbide. I am telling you very frankly.

SHRI R.K. JAICHANDRA SINGH: Sir this is a very serious allegation.

MR. CHAIRMAN: He will reply.

(Interruptions)

SHRI R.K. JAICHANDRA SINGH: How can the hon. Member say that our own lawyer who is the Attorney-General of India is a party or in league with the Union Carbide?

(Interruptions)

DR. DATTA SAMANT: Sir, I am reading the statement. I have got the statement that the Bhopal Judge has told us, 'Let us have the interim settlement.' But your Government never forwarded that. Is it the way of dealing with things? It is not an inference that I draw that both of them are working together, getting some money and distributing it. (Interruptions). Like a beggar you distribute the money, then you will get vote on everything. I do not know that type of things. Why the efforts are not made? I am going to make the suggestion that when the people are suffering, you give them only Rs.55 crores so far, as the hon. Minister said the other day. If the sufferings are there, have you made any re-

*for victims**Tragedy*

quest in writing or orally to any Judge either in New York or here that 'you give the interim money and let all the people not suffer'? You have not done it. And when the people are suffering the Union Carbide is so intelligent that they are holding you to ransom. You want some money; distribute something and finish it off. You are killing thousands of people and you are leaving these multinationals. Therefore, I am giving the suggestion that immediately you move for the interim relief from the Union Carbide. That is one thing. Sir, the more important is the criminal liability, and that is difficult. The Union Carbide of India is not taken as the party. Hon. Minister, you please clarify it. You cannot prosecute or punish the Union Carbide, the main branch. And in a criminal case you cannot take the corporate man as responsible, you must refine the individual. So, on that basis you find out the culprits. They must be punished and with the criminal pressure you settle all the claims giving them more money. That is the need of this time and I am sure that the Government will stand by this decision.

SHRI SOMNATH CHATTERJEE (Bolpur): Sir, it is a matter of national shame and tragedy that nearly three years after this event that has taken place, this Parliament is busy discussing whether there will be a settlement between the Government of India and the company which is responsible for it. Sir, it is a question of national honour being at stake.

Sir, hundreds and thousands, if not lakhs, of people were affected, their life has been seriously undermined—the hon. Minister got up to give the figure of 2850 deaths and so far as we have been able to gather 10,000 victims are of burnt out cases, more than 20,000 victims have suffered permanent disablement and more than two lakhs continue to suffer from various ailments following their exposure to the gas. How this Government is behaving? What its activity has been during the last three years? Sir, it is not only the moral responsibility of the Government of this country, it has assumed the legal responsibility of looking after the interests of these victims when Law was passed in 1985 which disabled the individual victim from taking steps. Therefore, really and legally a fiduciary obligation was under-

taken by the Government of India. We would like to know how that obligation is being discharged by the Government and what they have done during the last three years.

Sometimes I find interjection from the Treasury Benches with an attitude of amusement: when there is no settlement what is this discussion for? Every side of this hon. House including Members belonging to the ruling Party have expressed their greatest worry and concern about the way things are going on and they have protested against any possible settlement out of court or inside-court between the Government and the company. Therefore, it is a question which is agitating the House and if the Government have not even dreamt of or thought of entering into a settlement either at the instance of the court or otherwise, they should have been able to stop this discussion by categorical, unequivocal statement that there will be no settlement until the determination of the liability of the Union Carbide is made in this matter. Don't take it as a matter of pittance when this country has an obligation to stand by those people with or without compensation. I am not going into that. That is not the purpose of this discussion. But whether persons culpable who are responsible for this, whether they will have any liability to compensate those unfortunate victims of their impropriety, illegalities and failure to maintain safety standards. Nobody is taking it as a Party issue. In the ultimate analysis, the question will come, as the former Chief Justice of India has put it very pertinently, how much. The people have a right to know what is the value the Government is putting on an Indian life. I would like to know from this hon. Minister, what is the basis of a settlement, possible negotiation for settlement. The lawyers, the learned Attorney General should have told the judge: We appreciate your concern for these people; but we are not going to come to an arrangement with these people whose hands are now reddened with the blood of the people of this country. That should have been said.

Kindly appreciate the main worry of the Union Carbide here. It is a multi-national concern operating through subsidiaries in different countries. What they are most worried about is to show that Union Car-

[Shri Somnath Chatterjee]

bide has no responsibility. That is why, the question of an Indian concern being responsible has been raised. But it is not difficult, any lawyer worth the name would know that corporate veil is created for the purpose of avoiding responsibility in law. But it is not difficult also to pierce the corporate veil, as it is called in legal terminology. When you pierce the corporate veil, the real person involved in the matter comes up before everybody and that is the obligation which this Government of India has undertaken by this Act. That is, to pierce this corporate veil and to disclose to the people, expose to the people of the world at large, how these multi-nationals are operating with their profit motive, how they are playing with the lives of the people in different countries, specially in the Third World countries. The question is, will there be retribution or not. It is not a question of getting some money, whatever may be the circumstances and whatever may be the amount. Will there be a determination of the liability for this? I am not so much concerned about the criminal liability. Criminal liability will be primarily attached to individuals, individual officers or Directors or employees. Criminal liability against the corporate body will be a fine imposed on them. But that will be hardly commensurate with the seriousness of the damage that has been caused. It is primarily a question of civil liability and the determination of the civil liability will proceed on the basis of ascertaining the seriousness of the nature of the activities they have carried out and the breach of the safety standards that had taken place and their negligence in taking the minimum precaution in running their establishment.

One word was said by Dr. Samant. The people in third world countries are guinea pigs and they can be experimented upon and when some demand for money will be made, throw something on their face irrespective of the consideration, and determination of the liability, irrespective of the requirements of the situation, irrespective of the value that has been put to human life. Who will compensate those people who life-long have to suffer because of the circumstance? Who will compensate the mother's feeling in whose wombs the

child will not be born? How much money will compensate them? See the attitude that is taken. Why are you worried? What is the point of this discussion? No settlement has yet taken place.

The question is are you going to insist, or not insist? I would like to know this from the hon. Minister. What is the stand of the Government? Will you insist on a determination of the liability of this Union Carbide in this matter, or not? Because a settlement, without any determination of the liability, will not in future or even now satisfy the people of this country. Do not take it as just a phenomenon that has happened. It may recur in future. The time has come when the world should know who has been responsible for this biggest disaster that has taken place out of the activities of multi-national corporations in a third world country like ours.

There are certain basic issues. The question is what these multi-nationals were keen to avoid, liability of multi-national enterprises in third world countries and in countries like ours. They are keen that they should remain out of the condemnation or out of any assessment of compensation or any determination of liability so far as they are concerned.

One of the objects of the Government is that there should not be any arbitrary settlement by of any individual victim. What is meant by arbitrary settlement? That was the object that was proclaimed. The Act has precluded any individual settlement by a victim. How do you decide arbitrariness without judicial determination? 500 million, 600 million, or 1,000 million what is the standard of reasonableness as far as Government is concerned? They have got a list of the number of dead and their families involved. Hon. Minister intervened to say that they have got a list. They have a complete list of the victims. How do you assess how much money you pay to one who has lost his eye-sight? I would like to know from the Government what is the standard of compensation. How much money you assess for loss of a child? On that basis, what is the assessment of the Government as to the minimum amount required for the purpose of proper rehabilitation of these people and for their relief? Unless the people of this country are taken into confidence, it is bound to be arbitrary. It

cannot be done only in the precincts of the North Block or South Block or Udyog Bhan. The people of this country must know as to what is the quantum you are fixing for the purpose of reasonableness of compensation which must be demanded and must be obtained through legal process, if possible. That is what we want. It is necessary that when you have taken upon yourself the responsibility--the Government--of pursuing this matter on behalf of the victims, it was a very laudable step. But that obligation that you have taken, you cannot discharge by surrender of national honour and dignity and surrender of the non-consideration of the interest of these victims of this country. The necessity of avoiding any arbitrary settlement in this matter and to avoid *ad hoc* measures, I would request the hon. Minister to tell this country as to how much money, according to you, will provide the minimum fair compensation to these people so that we can assess, in all earnestness, at least to our knowledge as to what does this Government think should be the liability of Union Carbide. The next point is very important. So far as any settlement is concerned, no settlement should be arrived at without bringing the matter before the Parliament and without having the views, ascertaining the views of the victims themselves and their representatives. One thing is very clear. In this country, the entire public opinion has reacted strongly against even a suspicion of a settlement. Eminent academicians, judges, economists, different organisations the women of Bhopal who are the greatest victims they came all the way from Bhopal and they have demonstrated here saying: "We are the victims, not those who are sitting in power there. We do not want this type of a settlement. We do not want to compromise our honour. We want to hold them responsible so that there may not be a second occasion like this in the future. No other mother should suffer in future. No other women should lose her husband in this manner. Nobody should lose his or her eye-sight in this manner. The future progeny should not have another occasion to be affected like this. We will not agree to this settlement. Therefore we do not want this settlement". This is what they have said. What about their sentiment? What about their feelings? Have you consulted

the people of Bhopal; the victim' representatives? You have not done it. Nobody has done it. The silence on the part of the Government in not taking this House into confidence even at the initial stage, shows that they have not given up the idea of a possible compromise. This is disturbing us most. Are you still keen to have a compromise or not? Compromise on what basis and what amount; with or without determination of liability of Union Carbide? Is our Government keen to somehow exonerate a multinational Corporation being found out to be legally liable for its one of the greatest disasters that has been committed on the human race of this country? Is this Government working to save a multi-national Corporation from being exposed to the people of this country or to the world that they have failed to take minimum safety measures for the purpose of protection of the common people of this country? There, the profit motive has totally engulfed all other necessities for safety devices in a Unit like this. Therefore, what is the basis of a possible settlement in this case? We would like to make it very very clear. Our country to save its honour and prestige and for the sake of the victims themselves and those who have died for no fault of theirs and those will suffer lifelong for no fault of theirs, we should take up the commitment that come what may, how far we may continue to suffer, but we must stand, so far as we are concerned as a country, by the people and provide them all the relief and rehabilitation and succour and sustenance. That is national obligation. But at the same time we shall not let go these perpetrators of one of the biggest crimes against humanity by not taking the minimum precautionary and safety devices for the purpose of carrying on a dangerous business like this and as a result of which thousands and thousands of people are in life-long misery. I am not going into the details; it is not necessary; everybody knows. But let the hon. Minister give a commitment to this House that there will never be a compromise with them surrendering our national honour. Do not go and sit before them on bended knees. Do not go and offer your hand for a compromise which does not satisfy the people of this country and their conscience. Do not play with the lives of those innocent people who are the victims of this multinational enterprise.

SHRI THAMPAN THOMAS (Mavelikara):
Sir, I rise here not to make a speech but to ask certain questions and to get specific answers to them. One is, how much quantification you have made when you are going to make a settlement with the Union Carbide, if a proposal is there. Earlier you had said that three billion dollars were assessed as the damage. Now, on what basis are you proceeding for a settlement if you want it?

Secondly, when the Government pleader has submitted before the court that he wants a settlement fair to all parties, does it mean that all parties include the Union Carbide also as a party? If that is the case, how are you viewing Union Carbide who was responsible for this disaster as a party to be given a fair deal? This was stated by the Government pleader before the court. If it is so, it is shameful. Instead of bargaining with the Union Carbide and getting compensation, if you are going to give a fair deal for the accused, that means you are also going to be an abettor to this issue. Whether the Government is an abettor to this issue is a point which you have to explain.

In the 73rd Session of the International Labour Organisation, this matter came up. 149 countries' representatives were there. The whole world, the whole humanity, was shocked by the Bhopal incident, and everybody was very deeply concerned about this issue. When they discussed it, they said that there should be a uniform standard for the multi-nationals if they do anything in any of the countries in the world. I would like to ask this question in this context, in accordance with the discussions which took place in the International Labour Organisation: suppose the Union Carbide had met with such an incident in America, what would have been the compensation payable by them for the citizens of America and will you make that standard applicable in this country? What I would like to bring to your notice is that, if you make a haphazard settlement in the matter and get some pittance from them, then this country will be a shameful, laughing stock for the entire humanity; the whole world will laugh at you. Therefore, to this House,

if you are making a proposal for settlement, you should make it known as to what is the amount and what is the manner in which you have determined it or are going to determine it. Your proposal was that arbitrary settlement should not be there by the individuals, that the victims should not approach the court and make a settlement as that would tell upon the case. That is what the Prime Minister has said here; that was the argument given by the Government in this House when discussions were held, when we raised this issue here. You have said that the individual victims should not go for arbitrary settlement. Here is a Government which is going to settle this matter. We want to know in what manner you are going to settle it. Many issues have come up. Some of the prominent judges of the supreme Court and prominent people have appealed. You should tell the people what you are doing. You have not so far said as to what is the quantification and how you are going to get the accountability from those people who are responsible for this thing. I suspiciously view this especially when the Union Carbide took a stand originally in the American court that this was a sabotage, this was done by some Indian workers.

They wanted to keep somebody under suspension, they wanted to escape the responsibility instead of settling the matter. Will it be available again. In a matter in which you are going to settle the matter, there should be proper proposition. What is the proposition on that? If an accused takes a stand that it has happened because of some other thing, how are you going to settle it? That will be a disadvantage to those who are victims of the issue. How are you going to formalise these issues for the quantification of this matter?

Secondly, about victims. How have you rehabilitated the victims? If you have found out these things, who is going to rehabilitate them. Which is the party involved in this? I have known certain lawyers. They were prepared to take the case of the people who have suffered. They wanted to go to American courts and take the share of this money. They wanted to conduct the cases on commission basis. If such things happen, the money of the poor people will

also be shared by some other people. All these things were said at that time. It is the Chairman of the Union Carbide who said in a meeting with shareholders that for the first year, they had spent about 14 million US dollars as legal charges. If that is the case, we would like to know on what basis you are proceeding. You have to place it before this House and the people to know that in what manner exactly are you proceeding.

My friend said about criminal liability and civil liability. I say that it is a tortious liability of the company. It is a vicarious liability of the company; because of its action has suffered third party. It is not a direct party. In a tripartite decision, if there are labour and management and because of the action of the management labour is suffering, there is a consequential law by which they can take recourse. But when a stranger is affected, I say about ILO's concern over the issue, when a citizen is affected because of the actions of the management, normally, labour laws and laws of any particular country doesn't protect a stranger. Therefore, in international echelon, it has brought a new chapter, a new approach in this context. This Government will have to be prudent in moving and taking any step further because this is going to affect the humanity as a whole. That is all, I have to say.

THE MINISTER OF INDUSTRY (SHRI J. VENGAL RAO): Sir, I have listened with great interest the important issues raised by the Members of this House. I have also noted the various points of critical relevance made by the Members who spoke on 18th November, 1987. One factor that has been stressed by practically all the Members is the paramountcy of the interests of the victims of the disaster. At the very outset, therefore, I would like to reiterate and reassure the House that the primary concern of Government in the matter has been and will be to protect the interests of the victims and no steps will be taken to vitiate these interests.

I must also admit, with a fair degree of certainty that the present discussions have clearly elucidated the complexity of the subject under discussion. The intricacies of the various issues have been brought out effectively. Concern has been rightly ex-

pressed that even after three years, the victims are still to receive compensation. In the same breath, it has been asked as to why is Government in a hurry to settle the case. On the one hand, some have urged that Government has a burden to establish the doctrine of multi-national enterprise liability, particularly on behalf of the Third World Countries. At the same time, others have cited that the Bhopal gas victims should not be made guinea-pigs in the judicial laboratory. Continuing the issue of liability further, some have urged that the position of Government will be stronger after establishing liability while others have stressed that the Bhopal victims want compensation whether criminal liability is established or not, whether civil liability is established or not. Others have gone to the extent of stating that settlement will be a political retreat for Government, while still other have emphasized that the door for negotiation should not be closed.

It is but stating the obvious that there is no easy solution to a complex legal issue, which is further compounded by the fact that the case is sub-judice. Therefore, the subject has to be treated with circumspection and caution that it deserves. I am particularly concerned by the fact that proceeding of this House have been cited from time to time in the litigation. Every word that is stated here is subjected to great scrutiny by all interested parties. I am sure we are all unanimous on one approach at least—that the benchmark for deciding any issue should be whether or not it will be in the interests of the victims. I am sure you will also agree that we should not inject polemics into an already complicated and vexed legal wrangle.

That the interest of the victims have been the prime concern of Government is fully borne out by the history of the case. It may be recalled that after the disaster, several private plaintiffs had filed cases in USA, seeking compensation against Union Carbide Corporation, USA. For ensuring that interests of all the victims are fully protected and are not bartered away for private gains, it was at the initiative of Government that the Bhopal Gas Leak Disaster (Processing of Claims) Act., 1985 was enacted. This is an unique piece of legislation, unparalleled in several ways, particularly in

[Shri J. Vengal Rao]

the context of Government assuming the responsibility for seeking redressal for the victims of a tortuous Act of a private party. The Act confers certain powers on the Central Government to ensure that claims arising out of or connected with the Bhopal gas leak disaster are dealt with speedily, effectively, equitably and to the best advantage of all the claimants. The Act provides the Central Government with the exclusive right to represent and Act in place of every claimant who has made or is entitled to make a claim for the purpose of, inter alia, institution of any suit or other proceedings in or before any court or other authority or withdrawal of any such suit or other proceedings or entering into a compromise. The position in this regard has been aptly clarified in the House on 18th November 1987 by my Hon. colleague Shri Veerendra Patil. Therefore, whatsoever Government is doing for claiming compensation for the victims is very much within the framework of the Act.

A complaint was accordingly filed on 8th April, 1985 in the United States Federal District Court, Southern District, New York against Union Carbide Corporation, USA, claiming compensatory and punitive damages. Following the decision of the U.S. Court to send back the case to India on the ground of forum non-convenience and the consent given by UCC to submit to the jurisdiction of the courts in India, a suit was filed in the Court of District Judge, Bhopal against UCC, USA seeking compensation for the victims. I may stress here that in the absence of these developments, for an Indian Court to get jurisdiction over UCC, USA may have been a difficult proposition.

This House will recall that during the pendency of the suit in USA the private plaintiffs had asked for a settlement which was not acceptable to Government since it was not in the interest of the victims. It was because of the efforts of Government that such a settlement did not materialise. Again, it was because of this that wisdom dawned on all concerned that no settlement can be reached without consent of the Government.

It has been clarified in this House on a number of occasions that Government had not foreclosed the option of settlement

provided it was in the interests of the victims.

The latest round for exploring this option was initiated on the basis of an order passed by the District Judge, Bhopal, for reconciliatory interim-relief. Attorneys for Union of India as well as Union Carbide have been taking follow-up action on the directions given by the District Judge for exploring the possibility of a fair settlement which will cut short the length of time involved, if the case were to go through the full judicial process. It must be clarified here that the amount of compensation obtained after undergoing full judicial process. Even if the full amount as claimed is decreed, will be several times lower in terms of present day value. One member has aptly described this phenomenon as a bird in the hand being worth more than two in the bush, particularly when one takes into account not only the cost of litigation process. (*Interruptions*)

SHRI G.M. BANATWALLA: It is a human tragedy. It is not bird hunting. What kind of idioms and proverbs have been bought here?

SHRI J. VENGAL RAO: but also the cost of relief and rehabilitation that will necessarily be required for the victims until compensation is received by them. Some members have also pointed out that the full judicial process may involve the appellate courts particularly since we may have to seek enforcement of any decrees against UCC in a court in USA. Therefore, any fair, just and reasonable amount of compensation, even through negotiated settlement, is welcome if it is in the interests of the victims. It has been reported to the Court on 18th November, 1987 that no settlement has taken place so far. The court has, therefore deemed it fit to move ahead with the case and has fixed 27th November, for drawing up schedule for hearing of petitions so that the case can be presented in an expeditious manner.

I must also mention here that the use of the term out of court settlement needs also to be clarified. When the case was in USA, negotiation had taken place under the umbrella of the Court.

SHRI SAIFUDDIN CHOWDHARY: What is the umbrella? What is the negotiation?

SHRI J. VENGAL RAO: As already clar-

fied the attorneys for Union of India as well as Union Carbide have now been taking follow up action on the directions of the court of District Judge, Bhopal in this regard. Viewed in this perspective, the words negotiation for 'out-of-court settlement' may not convey the actual situation since the negotiations are being held and will continue to be held in pursuance of the initiative taken by the court.

Some Members have suggested that the liability fo Union Carbide Corporation should be established first. I may mention that an application has already been submitted to the District Judge, Bhopal for deciding in the first instance the issue of liability as a preliminary issue. I also understand that the investigations being conducted by the Centre Bureau of Investigation in respect of the criminal case registered in this connection are nearing completion.

Members have also raised the question of seeking interim relief. It may be recalled that this issue had been taken up by Judge Keenan, when the case was in USA as well as by the District Judge, Bhopal when the case came to India. At the instance of Judge Keenan, Union Carbide had given only \$ 5 million as interim relief to be provided to the victims through the Indian Red-cross. Similarly, Union Carbide submitted before the District Court, Bhopal a proposal for interim relief which, in essence meant depositing Rs. 21 million with the court. In response, Government had stated that this insignificant offer was mere pittance keeping in view the magnitude of the disaster.

Government have, however, not spared any efforts to provide relief and rehabilitation to the victims, particularly for providing the medical assistance. For this purpose, the State Government have not only set up a number of new major medical facilities but have also augmented the existing facilities. In the aftermath of the disaster, when the need was to provide immediate relief, the Govt. of Madhya Pradesh had disbursed exgratia relief of Rs. 10,000 to the next-of kin of the each dead person and Rs. 1,500 to each of the gas-affected families having income of Rs. 500 p.m. or less. Ex-gratia payments have also been made for loss of livestock,

Pension is being provided to the widows of the deceased and social security pension is being provided to the needy persons. Free foodgrains had been distributed to the victims for nearly one year. I also understand that the railways have also provided relief, including medical relief, to their affected employees. Thereafter, measures have been initiated for providing economic rehabilitation. These include training opportunities for upgradation of skills and employment, self-employment programmes and providing financial assistance under the Special Training and Employment Programme for the Urban Poor. A separate industrial complex is also being developed for providing employment opportunities to the gas victims. In fact, I have also personally visited Bhopal twice. This industrial complex will provide more than 300 sheds and will, therefore, be an important avenue for gainful employment for the gas victims. Special health and nutritional programmes have been taken up which cover more than 50,000 children and 11,000 women. A number of schemes for improvement of drainage, drinking water supply facilities, road improvement have also been taken up in the affected areas. The State Government is also separately finalising a Long term Action Plan in this regard which will, inter alia, take into account the physical and economic conditions of the victims for tailoring appropriate long-term rehabilitation schemes. I may assure the House that no effort will be spared by the Government for fully meeting the needs of relief and rehabilitation of all the victims. I am sure, this is a task in which everybody will support in its effective implementation.

As regards the question of providing re-employment to the ex-employees of the Union Carbide plant at Bhopal, the State Government has set up a special employment bureau which has been able to offer employment opportunities to 631 out of 634 retrenched employees. I understand efforts are continuing to provide employment to all the retrenched employees.

As the House is aware, Government had constituted a Scientific Commission for continuing studies on the effects of the lethal gas leakage on life systems. The work of the Commission is still continuing. Be-

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sides, many other scientific institutions like ICMR, ICAR, CSIR have taken up projects to study the effects of the leakage of the lethal gas. All these investigations and researches are being closely monitored.

I must also clarify that Government has already promulgated a scheme known as the Bhopal Gas Leak Disaster (Registration and Processing of Claims) Scheme, 1985, under Section 9 of the Bhopal Act. However, the Scheme and its execution could essentially depend upon receipt of compensation after adjudication or settlement. However, for obviating any delays that may arise in processing the claims, the Government of Madhya Pradesh set up a Directorate of Claims for processing the claims filed by various claimants. These claims are being tentatively categorised under different heads, such as, death, total disability, etc. As the tragedy was of an enormous magnitude affecting lakhs of persons, leading to the filing of more than 5 lakh claims, processing, scrutiny, categorisation and ascertaining of their claims is bound to take time. In fact, the State Government has undertaken a massive scheme for proper medical documentation of the affected persons. Therefore, sufficient advance action has been taken to activate the scheme as soon as it becomes necessary to do so. This will ensure minimum delay in disbursement of compensation to the victims.

One member expressed concern about the adequacy of the assets being maintained by UOC to satisfy any decree that may be passed against it in this case. Even when the case was in USA and reports were received 'about sale of assets by Union Carbide. Government had engaged a specialist financial firm to monitor and assess the financial position of Union Carbide

17.00 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

After filing of the suit in the court of District Judge, Bhopal, when further reports of

of assets by Union Carbide were received, an injunction was obtained from the court directing Union Carbide to maintain unencumbered assets of a fair market value of \$ 3 billion to meet the decree, if any, that may be passed by the Court.

I would like to take this opportunity to reassure the House that no effort will be spared to secure compensation for the victims of the gas leak disaster, speedily effectively and to the best advantage of the claimants. This is an obligation enjoined by the Bhopal Act on the Government and no effort will be spared to fulfil this obligation to seek the speediest resolution of the case within the framework of the Act. I may again reassure that the interests of the victims will be fully protected and that this alone will be the prime determining consideration. There should be no misgiving nor misapprehension about this. The history of the case bears ample testimony to the fact that at each state, it has been the Government that has fully protected the interests of the victims. We are also very conscious about the honour of our country. I can assure that we will not do anything against the interest of the country.

AN HON. MEMBER: What about the out-of-courts settlement?

SHRI J.VENGAL RAO: The case is sub-judice. I cannot say anything.

(Interruptions)

SHRI SOMNATH CHATTERJEE : I am on a point of order. The Minister cannot take cover of the subjudice. The question is relating to the possibility of a compromise.

(Interruptions)

MR. DEPUTY-SPEAKER : There is no point of order.

(Interruptions)

MR. DEPUTY-SPEAKER : No. I cannot help you.

SHRI BASUDEB ACHARIA : In protest we walk out.

Shri Basudeb Acharia and some other hon. Members then left the House.

REPRESENTATION OF THE PEOPLE
(THIRD AMENDMENT) BILL

[English]

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ) : Sir, I beg to move.

"That the Bill further to amend the Representation of the People Act, 1950 be taken into consideration."

The Constitution (Fifty-seventh Amendment) Act, 1987, inserted a new clause (3A) in Article 332 of the Constitution. This amendment had the effect of introducing a formula different from the provided in clause (3A) of Article 332 of the Constitution for the reservation of seats for the Scheduled Tribes in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland. According to the new clause (3A) of Article 332, the number of seats to be reserved for Scheduled Tribes in the existing Legislative Assemblies of the aforesaid four States was to be determined with reference to the actual number of seats held by the Scheduled Tribes in the existing Legislative Assemblies of the said States on the date of commencement of the Constitution (Amendment) Act. The new clause (3A) also provided that if all the seats of the existing Legislative Assemblies were held by the Scheduled Tribes on the date of commencement of the Constitution (Amendment) Act, one seat shall be kept open. As regards the question of actual determination of the number of seats to be so reserved for Scheduled Tribes, the Representation of the People (Second Amendment) Act, 1987, which had been passed by Parliament, gave the requisite power for such determination to the Election Commission

The determination by the Election Commission of the number of seats to be

reserved for the scheduled tribes in the aforesaid Legislative Assemblies under these amendments would have been a simple matter if the same had been left to be determined with reference to the factual position on a past date. But it had to be consciously and deliberately left to be determined with reference to a future date, namely, the date of enforcement of the new Constitution (Amendment) Act, because of the intention of the Government to add three more tribes to the list of scheduled tribes in the State of Meghalaya. At the same time, this device of determining the reserved seats with reference to the factual position on a future date had to take care of the possibility of changes occurring in the position of various Legislatures by reason of any vacancy on account of death, resignation, disqualification or otherwise. Such a situation had, in fact, arisen in the case of the Nagaland State Legislative Assembly where three vacancies which had occurred on earlier dates were not known to the Election Commission. This resulted in a situation that although by the provisions of the Constitution (Amendment) Act, 59 seats are required to be reserved for the scheduled tribes for that Assembly, it had reduced the number of seats in 57 in view of this position. To overcome this difficulty, it was decided, in consultation with the Election Commission and the Attorney General, that the Representation of the People Act may be amended to specifically indicate therein the number of seats that would be reserved for the scheduled tribes in the Legislative Assemblies of these States. This suggestion was also agreed to by the Election Commission which felt that though the power of the Election Commission to determine the Assembly constituencies would enable it to specify the number of seats also, it may not be possible for it to use its discretion to increase the number of seats upto 59 in view of the existing vacancies in the membership of that State Legislative Assembly and of the wording used in sub-clause (b) of the new clause (3A) of Article 332 of the Constitution that:

"a proportion not less than the number of members belonging to the scheduled tribes in the existing