

SHRIMATI CHANDRA PRABHA URS (Mysore) : Sir, I beg to present the following reports (Hindi and English versions) of the Standing Committee on Labour and Welfare and the Minutes of the sittings of the Committee relating thereto.

- (1) Thirteenth Report in the National Trust for Welfare of Persons with Mental Retardation and Cerebral Palsy Bill, 1991.
- (2) Fourteenth Report on 'The Maternity Benefit (Amendment) Bill, 1995'.

14.22 hrs.

### NATIONAL ENVIRONMENT TRIBUNAL BILL

[English]

MR. DEPUTY-SPEAKER : Now, the House shall take up the legislative business. Shri Kamal Nath.

THE MINISTER OF STATE OF THE MINISTRY OF ENVIRONMENT AND FORESTS (SHRI KAMAL NATH): Sir, I beg to move\* :

"That the Bill to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accidents, with a view to give relief and compensation for damages to persons, property and the environment and for matters connected therewith or incidental thereto be taken into consideration".

In doing so I submit that this Bill seeks to fulfil a long felt demand for none mechanism for effective and expeditious relief and compensation for damages to persons, property and environment, particularly to victims of accidents in hazardous industries or operations, including those occurring during transport of hazardous substances. The growth of hazardous industries and operations which produce many industrial and domestic goods needed by people is essential for our development and in recent times there has been a tremendous increase in the number of such industries. However, it has also increased the risk of accidents, not only to the workmen but also to others who may be in the vicinity of accident sites. Very often, the people affected by such accidents belong to the weaker strata of society with little capacity to secure compensation for their sufferings. Workers who are victims of such accidents in hazardous industries are protected by the Workmen's Compensation Act, 1923 and by the Employees' State Insurance Act of 1948, but the members of the public in the surrounding area are not assured of any compensation except through long legal procedures.

I need hardly emphasise the social importance of this Bill for protection of the environment. We face serious environmental problems and the health and integrity of our natural resources are in danger. Environment pollutions caused by unplanned discharge of wastes and residues and improper handling of toxic chemicals or other hazardous substances has serious implications for the long term health and well-being of our population. The Bhopal gas tragedy has poignantly brought home the dangers to human safety, health and environment, which can arise from industrial accidents.

Hon. Members have been continuously expressing concern over the degradation of environment and emphasising the need for taking adequate safeguards for prevention and containment of such accidents as well as some effective and expeditious mechanism to dispense justice to the victims of the accidents. The need for effectively controlling environmental pollution has also been emphasised time and again in the House.

Government fully shares the concern for a better environment and has been examing how best to strengthen the legal framework and the regulatory agencies for this purpose. Efforts are also underway to promote safety at all stages, levels and operations, especially in hazardous industries, where accidents can endanger not only the workers within factory premises but also the surrounding inhabitants and environment. Besides it is also necessary to keep in view the more long-term ecological and environmental imperatives

The principle of strict civil liability and setting up of a National Tribunal to deal with concerns relating to inherently dangerous activities had originally arisen in the judgement of the Supreme Court of India pertaining to the Oleum Gas leak from the Sriram Food Fertilizers Industries. The Court has observed that an enterprise which is engaged in such activities poses potential threat to the health and safety of the persons working in the factory and residing in the surrounding area; and owes an absolute non-delegable duty to the community. The Supreme Court has also observed in Charan Lal Sahu Vs. Union of India- Bhopal Gas Leak Case that, under the existing civil law, damages are determined by the Civil Courts, after a long-drawn litigation which destroys the very purpose of awarding damages. In order to meet the situation, to avoid delay and to ensure immediate relief to the victims, it was suggested that the law made by Parliament should provide for the constitution of Tribunal regulated by special procedure, for determining compensation to victims of industrial disaster.

The United Nations conference on Environment and Development held at held in June, 1992 has also called upon State to develop National Laws regarding liability and compensation for the victims of pollution and other environmental damages .

The number of public interest litigation and court cases seeking compensation for damages to human

\* Moved with the recommendation of the President.

health and the environment, particularly contamination of sub-surface water, is increasing. There is also an increasing trend in the number of industrial disasters. It has now become necessary to codify, streamline and develop the principles of strict liability for damages arising out of handling of hazardous substance as defined in the Environment (Protection) Act, 1986.

There has been a set of laws to regulate pollution and to penalise the polluter but there is no mechanism to compensate those who become the victims of environmental degradation brought about by the callous activities of establishments carelessly handling hazardous substance. The compensation under the Public Liability Insurance Act envisages only interim relief. Litigations under the Law of Tort are extremely time-consuming and evidence of liability and quantification of the compensation is very difficult to establish. As the present system of jurisprudence does not provide for compensation for environmental damage, it is proposed to develop the law of strict liability and to set up special legal institutions to redress this deficiency and also make adequate arrangements for interim relief.

I would like to highlight briefly the main aspects of the proposed Bill. The Bill seeks to establish a Tribunal with its benches in each State and Union Territory, or for a group of States/Union Territory in a phased manner. In the first phase, in addition to the principal bench at Delhi, benches are proposed to be in Bombay, Calcutta and Madras. The Tribunal will consist of a chairperson, Judicial and Technical Members. Jurisdiction, powers and authority of the Tribunal may be exercised by its benches. A bench shall consist of a judicial member and a technical member.

The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure but shall be guided by the principles of natural justice. The Tribunal shall have power to regulate its own procedure and also would enjoy powers vested in a civil court while trying a suit respect of summoning and enforcement of attendance of any person, talking evidence on oath and affidavits, powers requiring the discovery and production of documents, including requisition of any public record or document.

Access to the Tribunals will be available to the aggrieved persons or entities and representative bodies in the field of environment by making an application. On receipt of such an application, the Tribunal may, if satisfied after inquiry, admit the application for adjudication. If the Tribunal is not so satisfied, it may summarily reject the applications after recording reasons.

The Tribunal will entertain claims for compensation for damage if it is presented within five years from the occurrence of the damage. No other Civil Court shall have jurisdiction to entertain any claim or action which can be entertained, tried or dealt with by the Tribunal.

No application fees shall be charged in respect of cases brought before the Tribunal from persons whose income is below the prescribed limits and from representative bodies; others can be required to pay a fee not exceeding Rs.1000/- to be determined by rules.

Appeals from the Tribunal will lie with the Supreme Court.

Non-compliance of the Tribunal's directions or orders will be punishable with imprisonment up to three years or with fine which may extend upto Rs. 10 lakhs or both. The orders will, however, be passed after the accused is given an opportunity to show cause.

The proposed Tribunal Bill was introduced in the Lok Sabha by me in the Monsoon Session of Parliament in 1992 and during the Monsoon Session of Parliament in 1993, the Bill was referred to the Departmentally-related Parliamentary Standing Committee on Science and Technology, and Environment and Forests. Based on the recommendations of the Committee, notices have been given to the Lok Sabha for two official amendments, one for replacing the words 'Chairman' and 'Vice-Chairman' wherever they occur in the Bill by the word 'Chairperson' and 'Vice-Chairperson' and the other for the addition of a new sub-clause; "(2) the Tribunal may, if it thinks fit, take up the case for claims for compensation *suo-motu* in the existing Clause-5 of the Bill. The Parliamentary Standing Committee has said and desired that why should the Tribunal only intervene when there is an application. So, the Parliamentary Standing Committee, in all its wisdom, desired that this clause be removed and the Tribunal should have powers to act *suo motu*. This has been introduced and I shall be moving this as a Government amendment.

The proposed Bill was also debated in the media for some time. Various legal bodies and voluntary organisations have made certain comments on the provisions of the Bill. The main comments relate, to (i) the limited scope of the Bill and (ii) the exclusion of radio-active substance and (iii) exclusion of workmen from the ambit of the Bill. We have also received suggestions for incorporating additional provisions for right to information, merger of public liability in the proposed Bill and for shortening of time for making application for compensation.

Hon. Members of the House will appreciate that the scope of the proposed Tribunal was restricted to accidents occurring while handling hazardous substances because damage caused by the substances other than those which are notified as hazardous are not easily amenable to assignation of cause-effect relationships or computation of losses. Including the other substances may lead to a greater number of litigations. Before embarking upon such an unfamiliar area of liability and compensation, the Ministry of Environment and Forests would like to gain experience from the operation of the limited scope of the Tribunal Bill.



Radio-activity has not included in the proposed Bill because there is a separate legal mechanism under which the victims of radio-activity can claim compensation. Similar is the case with workmen who are covered under the Workmen's Compensation Act.

Though there is no separate provision for the right to information in the proposed Bill, the procedure to be adopted by the Tribunal shall have enough scope for transparency. The time-limit for application claiming compensation is not too short as perceived by various organisations because the manifestation of the symptoms of carcinogenesis have a long gestation period, sometime upto twenty years.

As regards the merger of Public Liability Insurance Act, 1991, with the National Environment Tribunal Bill, we are of the opinion that the experience of the working of the Public Liability Insurance Act should be awaited for some time, before taking a decision to merge it with the proposed Bill.

Sir, we consider this a very important social legislation and the first of its kind in the world for providing relief, and compensation to victims of accidents while handling hazardous substances. We believe that the very scheme of the Bill will create a safety consciousness among the industries and protect the interest of people living in the neighbourhood of factories, while saving and conserving the environment.

With these words, I move the Motion.

MR. DEPUTY-SPEAKER : Motion moved :

"That the Bill to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment and for matters connected therewith or incidental thereto, be taken into consideration."

I would like to say that the time allotted on the subject is two hours. Such of those hon. Members who have not sent their names, they may give their names through the Whips and the Whips also should indicate now many Members shall have to speak. It will be very difficult. If the list is too big, to regulate the timing in the end. So, kindly this in view. However, I would like to mention about the time allotted to different parties. The time was allotted by the Business Advisory Committee where in the heads of all political parties represent. The time allotted is as follows:

Congress 54 minutes; BJP 25 minutes; CPI(M) 8 minutes; Janta Dal 5 minutes; CPI 3 minutes; Samta Party 3 minutes; AIDMK 2 minutes and so on. There are also other political parties who have to speak for one minute...(Interruptions)

SHRIMATI CHANDRA PRABHA URS (Mysore) : I would like to say that the rehabilitation relief work has been delayed for a long time for the want of release of forest land. It has been kept pending for a long time. I have made a request many a time to the Ministry in this regard. I would like to know about this from the Hon. Minister.

MR. DEPUTY-SPEAKER : Lodhaji, your political party has given three lists with different dates and different names. Therefore, kindly confirm which list has to be carried into effect including the speaker who initiates the debate. Previously we had a bitter experience in this regard. And Members have said that earlier Members take more time and subsequent Members are left with very less time.

SHRI GUMAN MAL LODHA (Pali) : It is a very important legislation. If you want us to make only the points, it is very difficult...(Interruptions)

MR. DEPUTY-SPEAKER : The Business Advisory Committee has allotted the time. The Business Advisory Committee is represented by the leaders of all political parties. They have fixed the time. It is up to us to confine ourselves within the time allotted.

[Translation]

SHRI GUMAN MAL LODHA : Mr. Deputy Speaker, National Environment Tribunal Bill, 1992 has been introduced in the House and as whole, I support this Bill. There was a great need of this Bill. There was no comprehensive law available to check the number of accidents which occur due to highly hazardous and explosive substances in the industrial units in our country.

Mr. Deputy Speaker, Sir, we have seen that as a result thereof, people had to suffer and they had to make rounds of Tribunal for years together and still they have not been paid compensation. Lakhs of people died. Generations have passed but they could not get any compensation. In view of this, the present Bill is a welcome step.

Sir, this Bill is being welcomed as whole because of its provisions for social reforms and social justice, particularly regarding those accidents for which there are special provisions but I would like to say that the hon. Minister has withdrawn the main spirit of the Bill by which the whole nation could have got relief. He has included a provision by which the people will be deprived of the relief. Due to this black provision, the very objective of this Bill has been defeated. By including this provision, the Government has committed a suicide and attacked the very intention of giving social justice. The provision says that the Central Government can exempt any owner, corporation by its legal authority through the special provisions of this Bill. This offence may commit any heinous crime, be it any big tragedy like Bhopal gas tragedy, lakhs of people may die but the Central Government by issuing a notification will acquit the quality and no Tribunal will be appointed.

Mr. Deputy Speaker, Sir, it is just like that after suffering much pain someone has given birth to a child but the child has born dead. By incorporating such provision you have throttled the rights of the poor. I would like to submit that this provision may be deleted. I would like to draw your attention to the section-4 of the Bill. Through this section, the Government has been given power that the Central Government may, by notification, exempt any owner from the operation of this Act. He will be free to do anything. Such owner will not be liable to pay any compensation.

Mr. Deputy Speaker, Sir, we have made a rule of law. Our constitution makers had said that every-one will be equal before the law and everyone will be governed by the law. There will be no partiality with anyone under the law. Be it Central Government, State Government, any Corporation or Common Citizen, all will have the same rights as a common citizen, but by incorporating this provision in the Bill you are committing a murder of the rule of law. Earlier people used to say.

[English]

"King can commit no wrong."

[Translation]

but it is not so work free country, we have been given equal rights in the Constitution. You have mentioned in this Bill that the Central Government will be exempted from this. Not only the Central Government but any big Department of the Central Government or State Government which is engaged in hazardous work can be exempted, if Central Government issues a notification to that effect. If now any Corporation of Central Government like Indian Oil Corporation where oil tankers catch fire many a time and many people die due to that, property worth crores of rupees gets damaged will be exempted and the Central Government will issue a notification and will give exemption to Indian Oil Corporation. Any local Authority or any Corporation, under the ownership or control of the Central or State Government, Public Sector Undertakings, where there is maximum number of highlighted staff and the accident rate is also much higher and produce hazardous chemicals and other substances that are most dangerous can be exempted by this provision. Therefore, I would request the hon. Minister that this clause-4 may be deleted. Do not destruct the rule of law, strengthen it. "Construct, build do not destruct", lest you may not be blamed for destruction of rule of law. You abolished the Privy Purse but have taken a new lordship into your hands. You have become a monarch, Monarchy, in which it was said that 'king can commit no wrong'. Therefore, the clause-4 may be deleted completely, or you may say, that you will not give this power to anyone absolutely but will give discretionary powers. Then, people will come to you, those people who have some influence in

your cabinet, Ministry and influence those people who have powers to do so and seek exemption. This will not only be breach of the rule of law in this country but will also encourage corruption. I would like to submit to you that you must delete section-4 completely. Apart from this you have said that Rs.1000 will be charged as court fee. How is it so that you are asking to pay Rs.1000 to the person who has lost his father or who has lost her husband or son, the woman who has become widow due to accident caused by hazardous substance. The person who has not the money even for the cremation of his dear one, our hon. Minister is asking him to pay Rs.1000 as court fee. The Government should pay that fees when the claim for compensation is entertained. I appeal that some sympathy should to such persons it is a question of humanity. This is like adding insult to injury. Rather you should give a healing touch to that. You have looted millions and billions of rupees through a big scam. You want to add more burden on those people by asking this Rs.1000. I request you to withdraw this provision and make it free of charge.

Sir, this is in our Civil Procedure Code people that in forma Pauperis, i.e., who as poor are exempted from paying fees. This decision was made by the Britishers but our own rulers are more dangerous, more adversaries and reactionaries. They charge Rs.1000 even on the cloth put over the dead person and say that only after that, the application will be entertained. I have welcomed this legislation in its entirety. I am not opposing for the sake of opposition only. I am opposing it through constructive approach and I firmly believe that hon. Minister will appreciate this approach and withdraw this. There are many lacunae in it, which I would like to mention here. You have mentioned "Just Compensation" in section 6. What is this "Just"? The judge will give according to his discretion. Whatever will be this political or social philosophy, he will award compensation according to that. Somewhere it will be Rs.5 and Somewhere Rs.1 lakh. In this country, there is great inequality in the matter of Compensation. There are different laws at different places, such as Indian Airlines Act, according to which if an aeroplane crashes, the dependent will get Rs.5 lakh as compensation and that too has increased these days but according to Indian Railways Act, Rs.1 lakh is given as compensation. There is Fatal Accident Act, Workman Compensation Act, Motor Vehical Act and Standards and Schedules are different in all those Acts and it is unfortunate that there is no uniform standard for valuation of human life in our country.

I wrote these things in one of my judgement. Once, President had to visit Jaipur and one labourer was engaged in the repair work of the road, and accidentally he was crushed by tractor.

A compensation of Rs. 7 thousand only was awarded and it was said that it is under the workman Compensation Act wages were also very low. But if the

same person would have been going by a plane for marry-making and would have met with an accident and died, an award of Rs. 5 or 7 lakh would have been awarded. Somewhere the value of the life of the same person is only Rs. 5 thousand, somewhere it is Rs.20 thousand and somewhere it is Rs.2 lakh. What type of justice is this? What are the criteria? We talk about social justice and in the Constitution also it has been written—Fraternity, Equality. What type of equality is this?

You have mentioned 'Just! Just means reasonable, which is a relative word. Whatever is reasonable in your view, it may be unreasonable in our view. Daily, you witness that discussion is held here. We say that it is unreasonable, Unpatriotic and betrayl but you say that it is patriotism. Sometime you term something wrong, sometime we say so but it is not because of any matece. It is the theory of relativity, difference of opinion and different point of view. The approach is different to view the same thing. You have left it by mentioning the word 'Just'. 'Just' means it is upto the discretion of the judge to decide whatever he deems fit. If 50 people are killed in an accident and different tribunals are asked to adjudicate upon the case, it is just possible that some of the victims will get as much as Rs.2 lakh whereas some others will get only Rs.20 thousand or 25 thousand. This is not equality, this is big blow the rule of law. Therefore, I would like that in place of "just compensation" a schedule of compensation should be drawn. I would request the hon. Minister that the value of human life should be equal everywhere and in all the departments, be it Railway, Air Services, Workman Compensation Act, Fatal Accident Act or Insurance Act. It should not be left to the discretion of the judge or to your will. You have brought arbitrariness in it. The Supreme Court and many other judges have said that wherever norms or criteria are not there or guidelines are not made, arbitrariness comes there and

[English]

arbitrariness is the negation of rule of law in justice.

[Translation]

You have mentioned the word 'just' in it but it is unjust, you are talking about justice but injustice is being done. Any judge can adopt his own philosophy. You know that arguments are put before the judge and he decides the case according to his own understanding. If you leave it to his discretion, then I will say that it is a big lacuna and would like to say that you must remove it.

You must have observed in the Workman Compenstion Act, Fatal Accident Act, Motor Vehicle Act that there is schedule of compensation. There are certain guidelines and criteria that if a person is killed, it is found out as to how old was he, how much he would have earned in his life, the number of children he had to support, his necessities etc. You should incorporate such criteria in it. It would not be proper to leave it to

the naked discretion of the judges as has been done in it. I oppose it and would like that you may reconsider it.

There are some other sections to which I would like to draw your attention. So far as appointment of the judge is concerned, you have said that it should be only from the High Court or Supreme Court. It is appreciable, but you have added a clause which says that the vice-chairman with two years experience can also be appointed as Chairman, but the question is as to Vice Chairman for two years? who can be appointed Vice-Chairman? You have fixed criteria for that also, separately. But the basic concept is being ignored. Whenever there is any accident, it is demanded that this should be inquired into by a just judge from High Court or Supreme Court and people expect justice from him. You should therefore, restrict it to the judge of a High Court or Supreme Court only. Do not bring Vice-Chairman into it. If after remaining Vice-Chairman for two years, he becomes the Chairman of criminal side, the very object of this Act will be defeated. Similarly, you have made some other provisions in it towards which I would like to draw your attention. In Section 5, Clause 4, you have made a provision of 'Dismiss in Default'. In my opinion, this decision of taking suo-moto notice is a good decision. I may tell you that we used to take action on the cuttings of newspapers and considered them as writs. Similarly, we used to take decisions on the basis of post cards. Then where is the technical requirement of submitting any application? I welcome the amendment regarding taking suo-moto notice. You should inspire the tribunal to take suo-moto decisions and newspaper reports should be considered basis for taking action. When I was a judge, I used to provide justice to the poor, oppressed and victims and to those who cannot approach the court through the advocats of High Court by giving high fees, on the basis of post cards and newspaper cuttings. Not only myself but there were so many other judges who used to do the same. I expect that if you have made a provision of suo-moto notice, you will withdraw the provision of Rs. one thousand as Courts fee as it is totally inconsistent.

A clause of default is also there. When you have taken suo-moto notice, then how there will be any default? In suo-moto notice, there is no one as party and when party is not there then this clause of dismissal is default in Section 5, sub clause 4 (g) becomes redundant after suo-moto notice because when you have taken suo-moto notice then no one will be the party and if no one comes forward, then how you will dismiss it as default? Therefore, it should be automatically withdrawn, being inconsistent.

I would also like to say that you have said a very good thing that you want to follow the guidelines given by the Supreme Court but you have confined hazardous substances to only one Act. What does it mean? You have made an Act but you have killed the very spirit of

this Act. What are hazardous substances? This is neither in your hands nor with the tribunal, it is in some other act. You, yourself have said that the limit is very low in it and though there are so many hazards but you cannot bring those in it? What are the hinderances? Heaven would not have fallen, if you would not have made this provision. Therefore, I would like to request you to change the definition of 'hazardous' given in this Act. You have mentioned in the Act that "Hazardous Substances" means such a substance or Product which is defined as hazardous substance under Environment (Protection) Act, 1986 and which is more than the amount fixed by the Union Government under Public Liability Insurance Act, 1991. This means that you have put two riders.

What is the position today? I come from Pali district. There are many factories, industries in that area. Not only in Pali, in Bombay and Calcutta also there are so many factories and you may have observed that High Court ordered to close down many industries in Ahmedabad by serving a notice to them. Today, the Taj Mahal in Agra is becoming black and losing its shine. Supreme Court has given a notice to many industries that they should stop emitting pollution and have asked to close factories. The Court has asked them to appear before it after four months and take measures to stop pollution. I would like to inform you that these factories emanate chemicals into the river and that polluted water goes into the fields and as a result thereof, the fields and crops in those areas get destroyed. The fertility of the fields is badly affected. Thus, thousands of fields have been destroyed. The Pollution Board has turned a blind eye to this fact in the whole country. Pollution Board is a big fraud in this country as it does not take any action to prosecute the offender.

I am not the only person to this, Gujarat High Court has also said that all the chemical and other industries have taken NOC from the Pollution Board. You know that No Objection Certificate can also be obtained by paying graft and today in the entire country, the bureaucracy and politics are running on this graft.

15.00 hrs.

This is the reason that the big political leaders do not interfere in it and Pollution Board gives No Objection Certificate to these industries. Dangerous and hazardous substances emanate from these industries and spread in the villages and mix in the river water and wells. Hundreds of people become hunch-backed and lose their eyesight. Their teeth have lost their colour and have become yellowish. I have seen such victims in my area. You have done nothing in this regard. Whether all these persons will get compensation?

You have brought this legislation to remove hurdles and obstructions. First, you should change the definition. If a chemical like the one Bhopal gas tragedy

witnessed, emanates from somewhere, first you will decide that as to whether this comes under this Act or not? Few days back poisonous gas emanated from a mill in Bombay and dissolved in the water due to which 12-13 workers died there. The people living in slum area there became blind. Many such big accidents keep on occurring due to hazardous substances.

Your Pollution Board works only on paper. How many people who are responsible for increasing pollution have been prosecuted by you. If you give details about it. I will assume that Pollution Board is functioning properly. Pollution Board is issuing No Objection Certificate; by receiving grafts. This practice should be stopped, otherwise this act will not have any meaning. Cars, Airconditioners are being given as draft to the officers. The features I have narrated are very important. I have already stated that I do not oppose this Bill and my party is also not opposing it but the creative and practical suggestions given by me may be implemented.

You have fixed a time period of 5 years in this Act. What will happen to those labourers who have left the villages and also to these fields of farmers which have been destroyed? What is the remedy? Why you have fixed a time period of 5 years? I would like to know, whether the farmers and people living in village will be duly compensated who are the victims of such pollution? A provision to this effect should be made in this bill.

You have said that this is the first legislation of its type, not only in India but in the entire world. But the law should have adequate powers and justice should be provided without fear and favour. The law should not be only a show piece. You should become the leaders of the society and Messiah of social justice. The people who have already suffered a lot should be provided compensation. Do not try to put hurdles by making a provision of Rs. 1000 as fee. Though, you tried a lot but a dead child took birth which we do not want. We want a living and healthy child. You should remove all the lacunae and hurdles. When there is a horse race, a good horse like Chetak crosses all the hurdles, Merely making much noise will not serve the purpose. You should be result-oriented. I would like to submit to you that the most important thing is to fix the quantum of Compensation. Make a uniform legislation all over India and the value of human life should be equal everywhere. It should not be there that some body is getting one five thousand and someone is getting five lakhs. This difference in the amount of compensation shows that there is pollution in the eyes of the authorities. You should first remove this pollution in your viewpoint. You are wearing black glasses, remove it, Only then you will be able to see that how the poor are yearning for justice. Even till today the victims of Bhopal gas tragedy have not got justice. The new born babies also suffer from the diseases of their parents, because they inherit those diseases. Though, you have established many tribunals and lot of judges are there

but these efforts are all in vain. The judges get their allowances but the victims of Bhopal gas tragedy, the poor people have not been rehabilitated upto now. Make an effective law for those who have not got compensation upto now, a law which may provide true justice to them.

You have not provided any time limit in the Bill as to what time justice would be delivered to a victim. You have just said that it was mentioned in UN and the Court there has said that justice is not provided, people keep on making rounds to the tribunals and you are making law for that. Have you fixed any time limit for it that it will be delivered within six months or one year? I would like to tell you about a tragedy. When I was Chief Justice in Assam, I went for an inspection to Tejpur. A case for compensation was pending with district judge there. A widow had been coming to the judge for ten long years but no statement had been taken and no compensation had been paid to her. She had to track down difficult hilly terrain.

If your tribunals have to work in this manner then the cases will not be decided ever in 15-20 years. Therefore, I would like to say that you should fix a definite time limit, which is the principal of natural justice, say that the case will be decided in six months. There should not be lengthy arguments and legal complications. People should get timely by justice say within six months.

One more thing, I would like to submit that you have not fixed any amount for interim compensation. This provision is available in Motor Vehicle Act. Under that Act, as soon as application for compensation is submitted, the widow or the daughter or the mother of the victim gets Rs. 15.25 thousand as compensation. Have you made any such provision in this act? As far as I know, there is no such provision in it.

SHRI KAMAL NATH : For that Public Liability Insurance Act is there. When this Bill was introduced, I had mentioned that Public Liability Insurance Act is meant for interim compensation only. To give further benefits, we are bringing this act.

SHRI GUMAN MAL LODHA : March four steps ahead, but do not go ten steps back. Forward and forever, it should not be that after making some progress, you may go back to the same position. Interim Compensation shall be paid...*(Interruptions)*

Sir, I would conclude after stating one more thing. There should be decentralisation of courts. You have set up a tribunal in Delhi and other there will be set up in Bombay, Calcutta and Madras. How a widow of a poor victim of an accident will go to Madras, Calcutta, Delhi or Bombay? Who will make arrangements for her stay there or other things. Therefore I would like to request you that at least one tribunal in each state should be set up and it would be better if further decentralisation is done. Justice should be easy, free and fair. It should be provided to everyone and should

be within his reach and means. If such a provision can be made, then it can be said a good judicial system; otherwise, it will serve no purpose and all will be proved to be paper work only.

*[English]*

Make a lively Bill to give relief to the needy and not to a fraud.

*[Translation]*

Do not become actors, become social workers rather a grass root workers. Justice cannot be given by sitting in an airconditioned room of a Five Star Hotel. Sir, I hope that hon. Minister will consider the suggestions submitted by me. These are creative, constructive and suggestions for social justice. With these words I conclude and welcome this bill.

*[English]*

MR. DEPUTY-SPEAKER : In this case time allotted was 25 minutes. Justice Lodha has taken 35 minutes.

SHRI GUMAN MAL LODHA : Sir, the time in the case of the first speaker is not counted.

MR. DEPUTY-SPEAKER : There cannot be any exemption. The total time allotted is two hours. Every business shall have to be completed by that time.

Dr. Kartikeswar Patra. The time allotted for the Congress Party is 54 minutes. So, please see that some of your friends are also accommodated.

Dr. KARTIKESWAR PATRA (Balasore) : Sir, I am first speaker from my Party.

MR. DEPUTY-SPEAKER : It is up to you. If you save time, then subsequent speakers can have time to speak.

DR. KARTIKESWAR PATRA: Sir, I rise to support the Bill brought forward by our hon. Minister for Environment and Forests. I would like to congratulate the hon. Minister for his having taken a bold step and bringing this historic Bill in this august House. This Bill had been kept pending with the Standing Committee for a few years. So, this is an opportunity when this Bill should be passed by this House with some amendments.

Sir, Sir Winstan Churchill, with his prophetic wisdom warned the world about the grave consequences of environmental barbarity in the guise of growth and I quote:

"The dark ages may return, the stone age may return on the gleaming wings of science; and what might now shower immeasurable material blessings upon mankind, may even bring about its total disaster.

Be aware I say! Time may be short"

These were the very emphatic and prophetic views expressed by Sir Winston Churchill.



15.13 hrs.

(Shrimati Geeta Mukherjee *in the Chair*)

Sir, the point is, why has the hon. Minister attempted to bring this Bill to this House? It is because he has felt, not only he alone has felt, but also the entire House and the entire country has felt that there is a dire need for giving compensation to the victims of environmental hazards and accidents that are taking place in this country. When there were atomic bomb explosions in Hiroshima and Nagasaki, nobody came and claimed compensation. But when there was the Bhopal gas disaster, then people came and demanded compensation. And their demand for compensation was a genuine demand.

Sir, the Father of the Nation said, "the Earth has enough for every man's need, but not for every man's greed. What a man, who has lost his kith and kin in an environmental disaster, is given in return? What is it that he is getting in return? He is getting only the compensation and nothing more. I appreciate one thing, that is, it has been clearly dispelled in this Bill that immediate compensation will be paid and it will not be allowed to hang on for several years. The grievances of the people, who will file cases in the National Environment Tribunal, could be redressed immediately. That is one good feature of this Bill. In a democratic country a national policy must not be fancy or folly of anyone blessed with a little brief authority but it should be the product of an on going process of debate, design, disclosure of information and patriotic process. This should also be appreciated by all.

A similar legislation was brought by the hon. Minister on 18th August, 1992. The Environment Protection Act was passed in 1986 and the Water Pollution Act was passed in 1974. Some other Bills were also passed in this House. When this sort of an attempt is being made by the Government, the intention of the Government is very clear. The intention is that some sort of justice should be done. My honourable colleague once said that we are not trying to give natural justice. But here the intention of the Government is very clear. Here I would like to quote the impeachment of Hastings, as recorded by Macaulay and I quote:

"I impeach him in the name of India, whose rights he has trodden under foot, and whose country he has turned into a desert. Lastly in the name of human nature itself, in the name of both sexes, in the name of every age, in the name of every rank, I impeach the common enemy and oppressor of all.

The common enemy is environmental pollution or the environmental hazards. So, that has been brought in this House in the shape of a Bill and this House should consider it.

I would like to say that this is a quasi-judicial Bill because this does not give power to give punishment.

One can only award a compensation but no punishment. I would like to have one clarification from the hon. Minister: whether the Supreme Court's recommendation to establish the Environment Court has been kept in view before bringing this Bill before the House or not.

This, in my view, sometimes does not conform to the Supreme Court's recommendation. Sometimes we have some sort of discrepancy between a public sector and a private sector. I would like to submit before the hon. Minister that this Bill should be made applicable for both private and public sectors. It means that while private sector is liable to pay compensation, the public sector should also be made liable to pay compensation. Otherwise, it will offend Article 14 of the Constitution that we are giving some sort of discrepancy. In my opinion it should be very much clear that the tendency of cases in court should be disposed of in such a manner that all the cases pending in court are brought before the Tribunal so that the Tribunal can dispose of immediately and people can have their grievances redressed quickly.

It has been mentioned that the post of Vice-Chairman should not be there or even if it is there it should not be manned by a retired bureaucrat; he should be a sitting or a retired judge. Sometimes retired bureaucrats, who think of their own people, are appointed. That attitude should also be totally avoided. He should, at least, be a social worker so that he can deliver proper judgements on the appeals.

I want to submit that though proper legislation is timely, its effectiveness will be felt widely only if its scope is widened. This is my submission before the hon. Minister. The Standing Committee has given its recommendations. The Committee strongly felt that-

"the Government may seriously think of enlarging the scope of the Bill by including under the ambit of the Bill cases of compensation for damages which are caused by hazardous substances that have not been identified by the Ministry of Environment and Forests because environmental pollution can be caused by substances which may not be hazardous as per the specific list of the Ministry but the scale of damage which they can cause may be quite extensive."

This is one of the recommendations of the Standing Committee. I would like to submit the we should pass the Bill with certain amendments and the hon. Minister should go in for accepting certain amendments so that it will be convenient in passing the Bill in this House. Let the Bill take its birth first. One of my hon. colleague has just said that it is going to be dead child or a live one, whether it will serve the purpose or will not serve the purpose, these things can be judge later. If amendments are brought by everybody it will also be very beneficial to the victims. This is my humble appeal before this House.

MR. CHAIRMAN: I would request all the hon. Members to cooperate and be brief and pointed.

DR. SUDHIR RAY (Burdwan): Madam, Chirperson, I shall be brief. It is because, there will be another speaker who will be speaking on behalf of my Party.

The Bill is welcome. It was long-awaited Bill. But the Bill has many defects. It is because in 1987 Justice P.N. Bhagwathi, proposed establishment of such a Tribunal which would deal with all cases regarding environmental pollution, environmental degradation etc. But this Bill only proposes the establishment of a Tribunal which will only deal with accidents and compensation. Therefore, I would like to request the hon. Minister to set up more full-fledged Tribunals or Courts which will deal with all sorts of environmental offences etc.

Secondly, the proposed Bill has another defect as pointed out by Mr. Justice Lodha. It has been said that the Central Government may exempt the Central authorities, the State Governments, public undertakings etc., etc. In India, it is the fertilizer plants, it is the ONGC, it is the steel plants, and it is the chemical industries which generally cause accidents and which are responsible for environmental pollution.

Madam, Damodar is an important river but there are innumerable public and private sector industries on her banks, because of which it had turned into a gutter. No step has been taken to cleanse the water of river Damodar. So, why are you exempting public sector industries, the Central Government, the State Government and the Municipal Corporations? It is the Municipal corporation which regularly dump their wastes into the river courses.

Thirdly, it has been noticed that the proposed Tribunal would consist of bureaucrats. The bureaucrats at the age of 58 may seek retirement and then become a judge of Tribunal. Now, it is accepted by all that a Bench or a Tribunal should have regular judges or should have regular Members as judges. It is because of the fear that the bureaucrats who will be nominated to this Bench may not act independently.

Then, Justice Bhagwathi proposed establishment of a panel which would consist of technical experts who would give technical advice to the Tribunals. But, unfortunately, this Bill does not provide for establishment of a technical panel where people of eminence who deal with research and who have research experience are not proposed here.

Then Madam, it has been found that this Bill only deals with cases of accidents and compensations arising out of those accidents. It has been found that workmen have been excluded from the periphery of this Bill because only the people who live in the vicinity or who have suffered accident due to environmental pollution will be given compensation. What about workmen? Yes, the Minister has said that they are covered by other legislation. But yet I would say that their cases should be included here.

Lastly, I must say that there should be Benches in all the State Capitals of India because India is a vast sub-continent. Therefore, as Justice Guman Mal Lodha said that it would not be possible for the poor people to come to Delhi or Madras or to Calcutta for seeking Justice.

Therefore, there should be independent branches. Branches of this Environmental Tribunal should be established in all the State capitals and if possible in other towns also.

[Translation]

SHRI MOHAN SINGH (Deoria): Madam Chairman, on the whole I welcome this bill and support it but would also like to give some suggestions. A good idea has come to the mind of the Government consequent upon the decision taken during Earth Summit to appoint such a tribunal at international level. However, I would like to suggest that it is not only a matter of paying compensation, relief or rehabilitation for the damages caused by environmental pollution or other related accidents. There are many other things which one cannot call environmental accidents. The point of debate is that since it is not due to accident one does not become eligible for compensation. This definition will have to be made more comprehensive because water pollution caused by factories is becoming more and more dangerous for human beings, animals and crops as well. It causes health hazards and as a result growth of human beings stops and they die slowly. There is a need to clarify the definition of accidents.

The second thing is that the Tribunal consists of Chairman and others. It is provided in clause 10 that the benches of the Tribunals shall be set up. I would request that our is a big country and the purpose cannot be served by merely setting up a tribunal in the capital of the country. It will be very difficult for the common man of the country to get justice. It should be the endeavour of the Government that the benches of the tribunal are set up in every State of the Country.

My third suggestion is regarding appointment of members of the tribunal. The person, who had been the judge of the Supreme Court would be the member of the tribunal. The tenure of his service as a judge of the Supreme Court, period of his reappointment and age limit etc. should be defined clearly. My suggestion is that the person eligible for becoming a judge of Supreme Court should be nominated by the Government in the tribunal as a member and his tenure as a member in the tribunal should at least be 10 years.

I would also like to say on clause 4.

[English]

The Central Government may, by notification, exempt from the operation of this Act any owner, namely :

(a) by the person who has sustained the injury;

- (b) any State Government;
- (c) any corporation owned or controlled by the Central Government or a State Government;
- or
- (d) any local authority.

[Translation]

Why does the Government want to retain powers regarding exemption with it? I object to it. Even after appointing a tribunal they want to retain these powers. It is provided that a person, who is eligible for becoming judge of the Supreme Court has been a judge of a High Court will be the member of this tribunal but the power to exempt the Institutions will remain with the Government. It is not proper. This power should remain with tribunal itself. Since the intention of the Government is to have control over the functioning of bureaucracy.

SHRI RAM KRIPAL YADAV (Patna) : Mr. Chairman, Sir, I rise to express my support to the National Environment Tribunal Bill introduced in the House and wants to thank the hon. Minister that he has brought such a very good bill here. Not only our country but the entire world today is worried about environmental pollution which is becoming more and more grim. This is a welcome step since it will check further pollution of environment and minimise the impact of it on the people.

Apart from this, I would like to say that the hon. Minister will keep the drawbacks of the bill in mind towards which the hon. members have drawn his attention and proper steps will be taken for their rectification. Hon. members's Shri Mohan Singh and Lodha ji have drawn the attention towards the drawbacks and I hope that those will be duly removed as this legislation needs to be made more effective.

The entire world is concerned about growing pollution of environment. I would like that such efforts should be made by the Government that the people of our country may become more alert and vigilant regarding the hazards and dangers of environmental pollution. The pace at which the problem of environment pollution is increasing it will pose great dangers before the mankind and if steps are not taken to check that and educate the people about it, serious repercussions may follow. It is a well known fact that the number of industries are increasing in our country and due to this the atmosphere at every level is becoming polluted. As a result, the people are suffering and getting affected by such diseases which were not heard of earlier. New and unknown diseases are coming to fore and we will have to face its consequences in future. Therefore today the need of the hour is to warn the people against the dangers of environmental pollution, otherwise it can cause so many problems, which we had never imagined. I would, therefore, request the hon. Minister of remove the lacunae, to which the hon. members

have drawn the attention of the House and make this bill more effective and comprehensive. With these words, I welcome and support the bill introduced in the House.

[English]

SHRI PRITHVIRAJ D.CHAVAN (Karad) : Thank you Madam, Chairperson, I stand to support the National Environment Tribunal Bill.

Madam, the Standing Committee has studied the Bill and has given its report. Since 1972 Stockholm Conference on Human Environment, there has been a growing awareness about the need for environmental legislation. The 1992 Earth Summit in Rio gave further impetus for centralised national and International legislation.

Today we have international treaties such as the Climate Change, Bio Diversities, the Ozone Layer and the Endangered Species.

India has always been in the forefront in the environment protection movement. Beginning with the Environmental Protection Act in 1986, we have developed legislations to punish the polluters. But the effect of an environmental tregedy by an industrial undertaking, which involves innocent by-standers, who needed to be compensated, was felt particularly after the shocking event of the Bhopal gas tregedy.

In 1986, in the Oleum Gas Leakage Case, the Supreme Court had highlighted the need to form Environmental Courts and also to form Environmental Research Group to help the environmental legislation. In 1991, this House enacted the Public Liability Insurance Act, which provided for compulsory insurance and immediate compensation in case of accidents arising out of handling of hazardous substances. The local Collector was empowered to immediately give compensation.

The present Bill seeks to set up Tribunals as quasi-judicial bodies to decide the final claims arising out of such accidents. The name of the present Bill is quite misleading. There is a feeling that this, perhaps, deals with the entire gamut of environmental cases. Unfortunately it is not so. As the Bill presently stands, it is not very much more than a Claims Court, which seeks to settle claims arising out of accidents in handling hazardous substances. Since it only deals with hazardous substances, offences committed under other environment laws would now have to go to other court or other authorities. So, there is a multiplicity of authorities dealing with environmental offences. There is a need to go from this first step, which is a welcome first step, to a comprehensive Bill, which not only integrates the Public Liability Insurance Act as well as the present Tribunal Bill but also to go over the entire gamut of environmental laws in addition to the need to develop a strict code for civil liability arising out of such accidents.

15.42 hrs.

(Shrimati Santosh Chowdhary *in the Chair*)

Madam, now coming to particular clauses of the Bill, in clause 3, the workers are excluded from this Bill because the workers are covered by other legislation. But there is a possibility, which cannot be ruled out, that the Tribunal may settle claims to the by-standers which may be much higher than those given under the existing laws, to protect the workers. So, I would like to suggest to the Minister that a provision should be brought in that in case of compensation awarded by the Tribunal is higher than the compensation given to the workers, then the higher compensation would automatically be given to the workers.

Clause 4 - everybody has commented on it - gives the power to the Central Government to exempt certain organisations, Central Government and State Government Corporations, etc. The Standing Committee has also commented on this point. I do not think and I agree with the speakers who spoke before me - that there is a need for the Central Government to keep this power of exempting certain categories of undertakings. Let us accept the recommendation of the Standing Committee, which is a very clear recommendation, that the Government need not keep this power with them. I support what my earlier speakers have said my own feeling is that clause 4 can be deleted in its entirety. I hope that the Minister will bring an amendment considering the unanimous feeling of the House and also the unanimous recommendation of the Standing Committee...*(Interruptions)*

SHRI GUMAN MAL LODHA : Now it will become unanimous.

SHRI KAMAL NATH : I know what you say is with a lot of validity. I know it by all your letters.

SHRI PRITHVIRAJ D.CHAVAN (Karad) : Now coming to clause 5(4) about which Justice Lodha had a lot to say. But I disagree with him. There is nothing wrong in levying a fee of Rs. 1000 because the Bill contains provisions to exempt people who are below certain level of income. So poor people have been left out of it. But I do not understand why the Central Government and the State Government Undertakings have been exempted. There is no need to exempt these Undertakings.

The next point which has been commented upon is the five year limitation. I do not think there is a need to discuss it at the moment. We could continue to keep this provision, and if the experience tells us otherwise, we can always go back and change. Otherwise, there will be a series of litigations which will be undecided and a lot of old cases would come up.

There are a few suggestions about the constitution of the Tribunal. Madam, many other Tribunals have been formed, and they essentially end up as being an employment avenue for retired people. Let this Tribunal

not become an avenue for retired people. Let this Tribunal not become an avenue for finding employment for finding employment for retired judges, bureaucrats, secretaries and additional secretaries. I think we could bring in an upper age limit beyond which a person cannot be appointed as a member. In case of Chairman, we could continue with appointing a Supreme Court Justice as Chairman but technical members, the expert members and legal members need not be retired bureaucrats. They should be serving bureaucrats. I think this can easily be achieved by putting an upper age limit.

Coming to clause 11(7) which talks about the composition of the Selection Committee, I suggest a small amendment in that. I suggest that there should be two environmental experts instead of one which is presently proposed in the Act. It will give a proper balance. Otherwise, the Selection Committee will be loaded heavily in favour of the bureaucrats.

Madam, another provision is that the pending cases are not going to be transferred to the National Environment Tribunal. This is a controversial clause. I think, due consideration should be given after some time, if not, immediately. We should need to transfer everything - all environmental legislation and all environmental litigation - to this Tribunal so that it becomes a very effective final authority in all environmental matters.

Madam, the Supreme Court in the Oleum Gas case judgement had very strongly recommended that an independent expert technical panel, which they called "Ecological Research Service Group", be formed. I do not think there is any initiative so far in forming such an independent body of experts at the moment. Even the Public Liability Insurance Act, which we have passed, had a provision for Government to form advisory committees. I do not know if the Government has formed those advisory committees under the Public Liability Insurance Act. But immediate steps should be taken to form at the national level, this independent body of experts who can be counted upon to help the Tribunal in case of technical or scientific matters which are likely to come up. I am sure, the Minister will take immediate steps to constitute such an expert body.

I am very happy that the Minister has accepted the recommendations of the Standing Committee to give power to the Tribunal to initiate, suo motu litigation. This is a good amendment. I support it. I think it will certainly go a long way in strengthening and giving the teeth required for this Tribunal.

The NGOs also can initiate action under the Tribunal but those NGOs need to be recognized by the Government. The NGOs are playing an increasingly important role in the development activities and in matters of natural justice, and when we say that they need to be recognized by the Central Government, there is a problem. We need to evolve a system of guidelines

and evolve some legislation whereby the NGOs could be categorized and could be recognized properly. This may not come under the scope of the Ministry of Environment but the Government should take steps to legislate giving recognition to the non-governmental organizations.

The Planet's eco system are under great strain. There is a awareness that the economies of today in attempting to achieve today's life-style stealing from future generations. The Government is making serious attempts to develop environmental legislations - in this case, to codify the principle of strict civil liability arising out of accidents in handling hazardous substances. As the Minister has said, this is the first attempt anywhere in the world, therefore, he deserves congratulations.

Although the present legislation does not go far enough, it is a good beginning. We shall have to learn from the experience of this Act and from the experience of the Public Liability Insurance Act. Government can then come forward to integrate these two Acts together and move towards a more comprehensive scheme of things - the Environmental Courts, as envisaged by the Apex Court in their 1986 judgment.

With these words, I support this very important place of social legislaion.

SHRI GEETA MUKHERJEE (Panskura) : Madam Chairperson, this Bill, though it does not deal with the gamut of the circumstances, is welcome the view of the tremendous tregedy of Bhopal gas leakage, in my opinion, we should have brought it even earlier. We should not have waited for three years.

I personally went to Bhopal as soon as the tregedy took place and I still cannot forget its tremendous effects. But I am sorry to say that up-till now, we have not been able to do justice to those victim. I hope, he will try to do that now.

As far as this Bill is concerned, I think Chavan Ji is quite right when he says that clause 4 should be omitted. That is a unanimous view. I also strongly hold that view and so also all my previous speakers, because sometimes we see that the Governments are the worst offenders in this, as, for example, the pollution created by Government buses - buses run by local bodies or by State Governments - arsenic pollution in the water and various other forms of pollution. Mr. Sudhir Ray has rightly pointed out how the Damodar water has been totally polluted. Kamal Nath Ji will know it because he knows West Bengal very well. In view of all this, it seems that Government really being one of the worst offenders, they should never be exempted from the purview of this Bill.

Secondly, though this Bill says that it will be, under the discretion of the Board as to where the Benchers will be, at the same time, Kamal Nath Ji says that there will be three Benches at the moment. I have a feeling

that three Benches would not do because these things are such by which mostly poor people are affected, and it taken a lot of time and also money to come up to that level. Therefore, the number of Benches should be more.

Then, there is another thing, that is, the amount of compensation which has been referred to by Lodha Ji.

I think that should be left at that because our experience is that it becomes very different in different cases. Therefore, there should be some criterion clearly laid down as to what would be the compensation.

Then comes the question of time limit for bringing the case. As far as the time limit for bringing the case is concerned, I have no objection because sometimes it happens and some persons do not know and when they come to know they went to come to the Tribunal. Therefore, I do agree that the time has been extended. But I have a feeling that the cases must be dealt with within a time-frame so that the Tribunal should be able to say that within a time-frame it will decide the case. A suggestion has come here that it should be six months period and that is a good one.

I have another point which has also been referred by some people. It is the question of limitation on hazardous substances. That should be taken out because we have named some of the hazardous substances. But as per the definition given by the Rio Conventions we are bringing the Bill. Therefore, the definition says about air, water and underground etc. If all these are put together, then there should not be any limitation to the hazardous substances which are put in the Bill. I think they are contradictory in terms and it should be resolved in favour of hazardous circumstances which will come under the purview of this Tribunal and it should encompass all.

I have another point which no other friend here has proposed. I have a feeling that this is quite important. Hence, in this Bill, an exemption has been made to the workmen from the scope of this Bill because of the existing Workmen's Compensation Act, 1923. My experience is that, firstly this 1923 Act is an ancient Act and after that so many things have happended. Secondly my experience says that the workmen are the worst affected. For example, in my district, Shri Kamalnath would know, in Jhargram the stones are broken and from the Silicosis comes. I went there and I was really trembled at the site of those patients who have become thin like ropes and are dying. One is dying one day and the other is dying the next day. Up to now, despite my taking it up with the authorities, this company's licence has not been cancelled and no compensation has been given to the poorest of the poor. It is like that there.

Therefore, I feel that this Workmen's Compensation Act should be changed. I do not know how far it is



possible. You have to examine this. But this idea has to come in this Tribunal where the time-frame should be there by which time the Tribunal has to finish the cases.

Therefore, I would particularly request that this question also should be examined. Though the Workmen's Compensation Act does not come under Shri Kamalnath, it is related because already due to hazardous substances lot of workmen are suffering. We need not repeat here the great tragedy of Bhopal again. In small places also it is happening. Therefore, I hope that this question also will be seriously thought over and something should be done about it.

With these words, Madam, I conclude with the request that as on a number of things most of the speakers have agreed with each other here, the Minister himself should suo motu come with some amendments as he wants the Tribunal to take up cases suo motu and he will accommodate our suggestions some of which are absolutely from all the parties. I hope he will do so.

16.00 hrs.

SHRI GOVINDA CHANDRA MUNDA (Keonjhar) : Madam, I am on a point of order.

MR. CHAIRMAN : What is your point of order ?

SHRI GOVINDA CHANDRA MUNDA : Madam, the hon. Member in her speech has said 'under water'. What is the meaning of 'under water' ? Let me know from the House...*(Interruptions)*

MR. CHAIRMAN : Mr. Munda, please sit down.

SHRI GOVINDA CHANDRA MUNDA : Then, I may be given a chance to speak.

*[Translation]*

SHRI ASHTABHUJA PRASAD SHUKLA (Khalilabad) : Madam Chairman, the Bill which the hon. Minister has introduced regarding making a provision for stringent punishment for the loss of human life, property and environment during accidents - while loading/unloading hazardous substances - and relief or compensation thereof deserves welcome because people wanted that the Government should take some steps to bring in such a Bill. However, the hon. Minister has very cleverly tried to evade the liability of his Government in the proposed Bill. I associate myself with other Members who have made suggestions for change in the Bill.

Nothing has been stated in the Bill about the organisations under the ownership or control of either the Central Government or a State Government in regard to exemption of liability. It is provided that in case of death or accident and or environmental pollution related issues, exemption will be granted. I think, death is death and the culprit is culprit, whether it is an organisation of public or Private Sector. It is not proper in the name

of equal justice and equal law to discriminate between culprits. I shall therefore, urge to delete the provision regarding grant of exemption of Public Sectors. The words, "Compensation which appears to be just" used in the Bill has brought its soul in the dock. What is meant by "just" ? Can death or its criteria be decided in the court bar? The deceased may be somebody's son or husband or brother but after all, justice should be done to the deceased. Shri Guman Mal Lodha has tried to put his view very clearly on this matter. I want you to fix, through this Bill, the quantum of compensation and the circumstances under which it will be paid.

Madam, 80% of population of this country lives in villages. This is the country of villages and labourers. The Government has mentioned about setting up of Benches in the capitals of some States. I would like to ask how far do you want a labourer of a poor family to go to fight his case. I would like to tell the hon. Minister that under Motor Vehicles Act, there is a provision for granting compensation. Whenever a member of a poor family puts up his claim for compensation, he has to go to the District Headquarter. Our legal process is so long that the advocate becomes tired to pleading his case. Ultimately, the petitioner becomes hopeless and he seems to be gripped by the apprehension that quantum of compensation that he is likely to get from the Court will be less than the money he has been spending on his endless visits to the Court to get justice. We are aware of the working of the courts. So, you must clarify the period within which the claims will be finally disposed of the outline of the whole system including quantum of compensation should be specified. Sometimes it is observed that a person is not held guilty. Suppose he is not guilty and the compensation is paid to an acquaintance, he moves to the Court. Has the Government found a way out under such circumstances?

The hon. Minister has said that in case of accidents, compensation will be paid. I would like to say that stringent measures should be taken to check recurrence of such accidents. For this purpose, we shall have to add some sub-sections or sub-clauses to the law. The Government has set up a Pollution Control Board and crores of rupees have been spent to make Ganga and Yamuna pollution free. However, a question arises whether the Ganga and Yamuna have become pollution free ? If not, what are the reasons? Similarly, when industries are established, the industrialists are granted licenses only after they install pollution free system in their industries. It is a binding condition but despite this, case go to Supreme Court and the things come back to square one. If one goes to Kanpur, one finds lot of tanneries there. While seeing the flowing river water there, one finds a film of dirt over water. One can also see the state of Yamuna water in Delhi. There is river Ami in my constituency. Due to pollution, lots of fishes have died in it. Now, who will be the claimant for the compensation? This is a very big question. Suppose, Somebody's cattle is swept away by the river water, there can be a claimant for compensation but for these

fishes which die because of water pollution, who will be the claimant? In this connection, an agitation was launched in our area and I had even written to the hon. Minister to declare that river an industrial drain.

We want more and more industries to be set up but this principle is not justifiable that existing industries should be closed down. However, it is also not proper that neither an industry be set up nor an industry be closed. We do require industries but these should be pollution free and for this purpose, the Government must devise some plan. We have submitted a proposal for declaring Ami river as an industrial drain. It should be surveyed from head to tail. The head should be made more deeper and the Tail should be raised higher. An embankment should be constructed there. Thereafter, drains should be dug on both sides after a distance 50-100 meters. Since thousands of acres of land get inundated by floods only one crop is grown there. If the Ami river is converted into an industrial drain after constructing embankments, it will help stop flooding of the land. The drains on both the sides of the bund should be made more deeper so as to hold much water. This still water from the drains can be used by the industries after cleaning it with instruments and re-discharged into the drains so that water in the drain alone get polluted. When this polluted water of the drain will flow into the river, it must be passed through pollution control system to remove the pollutants in it. Thereafter, this released water should be used for irrigation through small canals. I think that instead of allowing polluted water fall directly into big rivers, these industries should allow polluted water flow through industrial drains or through a new technique after rendering it pollutants-free. Any agency be it the Government or an individual or public sector or private sector found responsible for laxity in completion of the task, should be dealt with stringently. A provision to this effect should be made in the bill somewhere. The Government should come forward to implement this job. Although a pollution control Boards exists yet the way it discharge its functions is well-known to all of us. Crores of rupees are being misappropriated which should be avoided.

Although efforts are on, I think a few suggestions that I have made, will also be accepted by the Government. However, I would like to thank the Hon. Minister and welcome him for bringing in such an important Bill.

*[English]*

SHRI CHITTA BASU (Barasat) : Madam, this is an honest effort from the side of the government to combat the environmental and ecological danger which is increasingly becoming alarming. So far as the objective of the Bill is concerned, it is highly laudable. The hon. Minister should know that he has traversed some distance, but not long enough distance and he will have to undertake some other programmes for the successful termination of this alarming danger.

Madam, I want to make it clear that this is the age of industrialisation. We will have to take to industrialisation. But in the race for industrialisation, we do not have to destroy the nature. Earlier, it was thought the man's progress depends upon the conquest of nature. I think that perception requires to be changed now. Certainly, we shall try to conquer the nature, but we should also cooperate with the nature. If we lay emphasis on the conquest of nature, then the environment will not be protected and that would also cause injury to the civilisation and the mankind as a whole. Therefore, it should be our constant effort to see that industrialisation takes place in a ecology-friendly atmosphere.

I hope that has been the objective of the Government in bringing forward this Bill. The Bill itself suffers from some infirmities as, for example, if you kindly look at the definition of 'accident', it is not simple enough. It says an accident means an accident. What does this convey? I cannot understand.

'Accident means an accident involving fortuitous or sudden or unintended occurrence while handling any hazardous substance'

What is the hazardous substance? It should be related to the deterioration of ecology. I, therefore, suggest that this definition should be very elaborate so that the Tribunal can also make use of this clause in taking into consideration the wider aspects of the problem.

I hope that the hon. Minister may reconsider and make it adequately simple regarding the definition of 'accident'.

So far as the objective is concerned, there is no difference of opinion. But Section 4 has the effect of self-defeat. You are exempting the State Government, the Central Government, the Industrial Corporations and other Organizations and Municipalities and Corporations. Then what remains? Therefore, whatever might be your objective, the greater part of the danger is being kept outside the purview of the operation of the Bill. Therefore, I think this will be self-defeating. It will not bring about the desired result.

I think the hon. Minister should reconsider so that it may be the effective way to achieve the objective.

In the Tribunal, there are Members who are judges of the Supreme Court, High Court, Additional Secretaries and Secretaries. But there is no scope for any NGO or any environmentalist in the Tribunal so that from wider point of view, the Tribunal can get the benefit of an expert on environment.

SHRI SRIBALLAV PANIGRAHI (Deogarh) : He can prosecute also.

SHRI CHITTA BASU : It is not a question of prosecution alone. You may provide for judicial personnel, technical personnel and a bureaucrat having

experience in Administration etc. But is there environmentalist? The effect of the particular Project on environment is also to be taken into account if you really want to protect environment. Therefore, in the Tribunal, there is no scope for any expert opinion regarding environment. I think this is one of the basic weaknesses of the Bill. But you have involved environmentalist in the matter of selecting some candidates. There you have understood that most of them are Tribunal personnel = Chairman of the Tribunal, Secretary of the Government of India in the Ministry of Environment and Forests and Secretary to the Government of India in the Ministry of Law, Justice and Company Affairs and Director General, Council of Scientific and Industrial Research and Environmentalist who is to be nominated by the Central Government.

Here, you have taken or agreed to take the services of an expert on environment. For what purpose? It is to select persons for appointment. For appointment purposes, you have taken the services of an environmentalist. But I think that the expert on environment should also get a proper place in the Tribunal itself so that the Tribunal can also get the benefit out of the expertise of the environmentalist.

Next, I come to Section 27, The proviso says :

"Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence."

Of Course, you have provided an opportunity for such persons. They simply have to come forward with an explanation saying that the offence was not committed within their knowledge. If that statement is made, I think a person is not to be brought under the provision and the whole purpose will be defeated if you really want to punish the real guilty. Therefore, I think this proviso should be omitted in order that this Tribunal can really have teeth to bite.

Madam, this is one-sided in the sense that the Tribunal will Act as a claim settlement body. But about the other aspect of environmental or ecological danger, nothing is to be dealt with by the Tribunal. This is one of the reasons which is causing concern to us. Every project in every State is to be examined by the Ministry before it is cleared. For example, whether the Subarnareka dam is to be cleared or not, that aspect is also to be examined and cleared by the Ministry. A recent World Bank Report says that there are 40 or 45 dams in our country which are facing certain dangers of being blown out because of the silting at the bed. For these kinds of dangers, I think some mechanism should be provided in the body of the Bill itself. The problem of environment is not only about the quantum of compensation for an accident but the purpose should

be a wider one. The Declaration of the United Nations is much more wider. It is not merely meant to provide some compensation. The objective of the Rio de Janeiro Declaration is to protect environment. That particular part of the objective has been, according to me, completely neglected. You may say that this is not a comprehensive Bill and one part of the problem is being dealt with. But I would request you to kindly consider this aspect. For example, some big man comes and starts prawn-culture. There is a project which was going to be launched in Orissa. That project is the Chilka project...*(Interruptions)* I know that therefore, I dare mention this to you. In my district, Madam, you know about the 'Bheri' project, that is, the fishery project. What happens there is that the saline water is brought into the paddy-fields in order to grow prawn.

This prawn business is being conducted these days by the big multinational corporations. They are polluting the local industry; they are polluting the political industry and they are also polluting or rather creating a law and order situation in many areas. Therefore, unless these aspects of the problem are taken into consideration, it will be a partial one. My grouse is that this Bill is not a proper instrument to deal with all the problems regarding the environmental problems and for the protection of the environment. Therefore, I think, there should be a separate mechanism as to how to prevent all these assaults on the environment. I think, it may not be provided here, but that is a real problem. The Government should understand it.

Now whom are you going to punish for arsenic contamination in water which is used for drinking purposes in four to five districts of West Bengal? How do you say that it is an accident? It is something of a bane of the industry. Somebody should be punished for this. But how do we do it? You cannot find out the guilty. Other methods have to be adopted and alternative sources of drinking water have to be arranged so that the danger arising out of arsenic contamination can be fought back. You may take a decision that drinking water is a subject that comes under the State Government. That does not protect the environment. You may score a point. You may abdicate your responsibility. But arsenic contamination is a danger which is a very much alarming today. These types of problems are also to be tackled by the Ministry of Environment. There is no provision for it. I do not think that a provision should be made in this Bill. But what I mean to say is that is merely a claims settlement body. At the same time, these major and general problems of environment should also be dealt with if we really want to protect the environment and make the life worthy of living. Then this Planet becomes really a Planet of life, enjoyment, prosperity and happiness.

With these words, Madam, I extend my support to the Bill with the hope that the Ministry will formulate their response to the problems, as has been mentioned by me and other hon. Members in this House.

SHRI SRIBALLAV PANIGRAHI: Madam Chairperson, I rise to support this National Environment Tribunal Bill, 1992. As observed by the hon. Minister in his introductory remarks, this is indeed an important social legislation. I am also delighted to learn that this is the first of its kind in the whole world. We really feel thrilled about the fact that this is the first of its kind in the world.

Of course, there are certain lacuna pointed out by the hon. Members which need to be looked into by the hon. Minister whose sincerity of propose is known to everybody. It is above board. His attempts are praiseworthy. India is in the forefront of this movement to protect and to promote environment. There is an international movement going on. After our Independence in 1947, during 1950s and 1960s there was absolutely no concern about environment. No concern was expressed. That is how when Industries came up, when power plants came up, we were not insisting on and no attention was given to setting up of electro precipitators etc. There was no attention given to the treatment of water polluted by paper mills etc. Our anxiety was to go in for setting up of industries without having any regard to the aspect of pollution. This aspect was just brushed aside in the first two decades after Independence.

In 1972 at Stockholm, the capital of Sweden, there was an international conference and to our pride, our late lamented Prime Minister Madam Indiraji played a pivotal role in that conference. Thereafter a green revolution started in Europe and other developed countries leading to the formation of a political party under that title-Green Party. After 1972, we have come across such green political parties under the name and style of the Green Party and they are functioning. They are laying much emphasis in their election manifestoes on the environmental aspect. Since then India is playing a leading role. You know Indiraji also was given the UN Award for this purpose for her laudable contribution in this field. After that our young and dynamic Minister Kamal Nathji admittedly is doing his best.

SHRI RAM NAIK : You must pay your respects to Shri Rajiv Gandhi before coming to Kamal Nathji.

SHRI SRIBALLAV PANIGRAHI : That you need not remind me. I do not go out of the way to praise somebody or denounce somebody, Ram Naikji.

In 1992 conference, India played a very leading role. Shri Kamal Nath was leading our contingent. You know what type of hectic activities and discussions were going on. But India played a very significant and decisive role under the leadership of our dynamic Minister, in charge of the Ministry of Environment and Forests, Shri Kamal Nath. It has to be admitted.

16.34 hrs.

(Shri P. C. Chacko *in the chair*)

In this background the Bill that is before us today has reference to that. At the same time I must say something about judiciary. Shri Lodha is here. The

Supreme court is also doing its best on this front. We are all now residents of Delhi, as members of Parliament. Delhi is one of the most polluted cities of the world. It is the fourth highest polluted metro of the world.

This is the situation. The Supreme Court, in a recent judgement, has issued notice to around 9,000 industries including Governmental organisation to shift somewhere else. We praise the role played by the apex Court of the country in this direction. Unless there is bit of compulsion or a bit of threat, in a democracy of our nature things will not move. No work will be started unless there is an element of threat or compulsion. In that respect, the Judiciary has a role to play. And the Supreme Court has played its role well, particularly with regard to environmental protection.

Sir, this is, in a sense, a continuation of the Public Insurance Liability Act. This is an extension of that Act. As pointed out by some of my colleagues who have earlier, this Bill falls short certain expectations. These will have to be taken care of. Of course, the Public Liability Insurance Act, 1991 deals with emergency cases and the final settlement will be decided by this Tribunal.

Sir, as Shri Chavan said, the title of the Bill is really misleading as it covers all the gamuts of environment. Any violation has to come under the jurisdiction of this Tribunal, but that is really not so. The real purpose would be served only when all these aspects are brought under the jurisdiction and competence of this Tribunal, so that this Tribunal, as a whole, can try all cases of degradation or wherever there is a violation of an environmental law. Then only it will be useful and meaningful.

I must say that this is a good beginning. And this is the first of its kind in the world, as observed by the hon. Minister. Shri Chitta Basu, while suggesting some improvements, has supported this Bill, but some hon. Members are opposing it since it is falling short of certain expectations. But I would say that we should pass it unanimously.

Sir, I would request the Minister that two or three more aspects should also be covered by this Tribunal. There are some discrepancies found in Section 4. They have to be removed.

Before the Standing Committee, the officials of the Ministry have said that they would like to learn from experience. So, they did not say whether they objected to it or whether they were in agreement with expanding the jurisdiction of the Tribunal. But they just said that to start with it would have a limited purpose, a limited jurisdiction and thereafter it would be expanded.

Shri Kamal Nathji may kindly note that the fertiliser plants and paper plants are the most pollutant industries in respect of pollution. Fertiliser plants are by and large in the public sector. I know, in Talchar, Brahmani river and if river are polluted by the fertiliser plants and other plants. It was also indicated that surface water is also covered by the Bill. But that will not do. Flowing

water also has to be covered by this provision. The big industries are polluting the water. According to a UN study, about 84 to 90 percent of the water of the world is not fit for human consumption. Even if it is 84 percent, it is alarming. You can also find that water in good condition, which is fit for human consumption has now become a rare commodity. So, we have to move faster. This Bill provides for precisely a compensation tribunal. But it has got to be really an environment tribunal. This Bill is a landmark Bill, no doubt; and whatever shortcomings are there, they should be looked into and changes should be brought about.

In 1986, Justice Bhagwati, the then Chief Justice, in his judgment suggested the setting up of environment courts like this, specifically for this purpose because they were not able to pay attention to a large number of cases which were coming up in the usual course before the Supreme Court and other courts and which were lingering on for decades. The tribunal also has the right to find out, on enquiry if the tribunal is satisfied, then, it will admit; otherwise, it will not admit. How can they conduct the enquiry if some machinery or some organisation is not there to assist them in this direction.

There is also a suggestion in the 1986 judgment that some service research group should be formed consisting of independent and professionally competent experts with regional environment courts, they should be set up and they should be entrusted with the enquiry aspect. This should be done. At the same time, if there is no time limit fixed for it, then again it will lose its relevance; and the expectation that we are having again will not come true in course of time. So, I submit that six month's time should be given, the procedure should be the summary procedure. Naturally, the tribunal will have to be governed and guided by the principle of natural justice. The other side should be given enough opportunity to represent his or her case. Six month time limit should be there for the disposal of such petitions etc. which will be there before the tribunal.

Another thing I found in the Bill is about the age restriction which is 16 years or so. In our country, in many cases, they are not technically industrial workers, but they are working in different organisations, in different establishments; but they are child labour.

However we may proclaim that child labour does not exist or that we have debarred child labour, still lakhs and lakhs of children are employed in different organisations and establishments. I have an apprehension. If this age restriction of 16 years and above will remain, probably, in some cases, they may be debarred from getting their dues or compensation, if some moshappening occurs in industry. This should be looked into.

Lastly, today morning, when my name was called in Zero Hour, I was not present and when I came back, I saw honourable Deputy-Speaker in the chair. I was to speak about this topic.

MR. CHAIRMAN : Do you want to take up the Zero Hour subject also now?

SHRI SRIBALLAV PANIGRAHI : It is related to this subject, Sir.

MR. CHAIRMAN : This is not allowed. You can speak only about this Bill and not about Zero Hour topics.

SHRI SRIBALLAV PANIGRAHI : But it relates to this subject.

MR. CHAIRMAN : Now that you have stated it, I am not allowing it, if it is about the Bill, then I will allow it. You cannot raise a point now which you wanted to raise in the morning.

SHRI SRIBALLAV PANIGRAHI : Just kindly hear me, Sir. I did not know that it will come up now. Otherwise, I had given notice for it. You may kindly listen to me and then say whether it is allowed or not.

Shri Sivaji Patnaik is here now. In Orissa, we have a very beautiful and attractive wild life sanctuary in Bhitarkanika and there is a crocodile project with rare species of crocodiles. They are now reportedly ill and have died due to some disease or lack of proper support from the concerned authorities. So many types of stories are coming up in the local Press about Bhitarkanika. It is also a beautiful world famous mango grove which is also being destroyed. According to another recent report, Orissa's environmental degradation has become alarming. It is prepared by Council of Professional Social Workers. Likewise environmental problems are there regarding mango grove and crocodile project also.

On this occasion, I would like to bring a point to the notice of the hon. Minister. Let him send experts from here immediately; there is a standing invitation to Kamal Nathji to visit Orissa and make a on-the-spot study about environment problems of Orissa.

With these words, I support the Bill. Know the good efforts made by the Ministry. A good Environment Minister cannot be populated with the State Governments, more so, among his own colleague in the Centre. If he wants to be very strict, it is very good. Now, industrialisation is the order of the day. Every State and every organisation wants to set up industry and industry brings in pollution. Pollution goes with industry. We want industry but not pollution we want co-existence of industry and environment. This is a very difficult task and this task has also to be performed by the Ministry of Environment and we all have to contribute our share in creating a good order, a good climate for such co-existence of industry and environment. If environment is lost, human race will be lost and if there is no industry and no progress, it will lead to poverty. This is a challenging task which we all have to address ourselves to.

[Translation]

SHRI BHAGWAN SHANKAR RAWAT (Agra) : Sir, First of all, I would like to draw your attention to two clauses of this Bill and thereafter I shall give my views



on its general provisions. Under clause 20, locus standi of other Courts has been withdrawn. The claims for tortious liability which can be filed at present in district Courts will not be filed there once this Bill becomes an Act. I would like to know from the Hon. Minister whether the Government will set up benches in every District? I am apprehensive about this. How can an ordinary person find justice in such a situation? In case the benches are not set up in every District, he will be deprived of the present facility without any alternative. I request the Hon. Minister to throw some light on this aspect. There is a saying "An ass went to ask for horns but lost his ears." Let it not happen that the Government instead of checking violations of the environmental laws and giving relief to ordinary people snatch their rights and the courts become out of their reach.

Secondly, this Bill is very derogatory and discriminatory. The Hon. Minister has said everything about private sector but he knows it very well that maximum pollution comes from public sector units. I have discussed this topic with him at least 40 times during the last four years. However, he himself knows it and is also making sincere efforts in that direction. The Taj Mahal is facing danger on account of pollution from the Mathura Oil Refinery. He also knows it that an affidavit alongwith NRI's Report is filed in the Supreme Court. One can very well imagine that when pollution can cause danger so much, what a big danger it will be posing to the health of the people of that area. When I talk to the doctors in Delhi, they say it is vehicular pollution which has caused health problems to the people. People should not go to the Connaught Place in the evening for a stroll. There is no alternative to this or else they may fall ill.

In Agra also, thousands of trucks which ply on the National Highway, emit smoke. The Hon. Minister in his reply had stated that the trucks which pass through Agra emit 75 kg sulphur dioxide per day. I know that the Central Government charges money for granting licences and permits. Who will own the responsibility for playing with the health of the people? A provision has been made under clause 4 that Central Government or State Government exempt any Corporation or Local Authority owned and controlled by them. No law can be more discriminatory than this. Our Constitution guarantees equal rights to all citizens. At least equality should be observed in matters of health and they should also be considered as an entity. I would like to say that if the Government is found wanting in the discharge of its duties, it should also be held responsible for the lapse.

As I have mentioned, the Taj Mahal is suffering maximum damage from Mathura Oil Refinery but monibund industries of Agra are bearing the brunt it was declared in 1968 that no new industry will be set up at Agra. Accordingly, no industries are being set up but despite that democles sword is hanging on the existing industries. No steps are being taken to check

the pollution being caused by the wrong policies of the Government or by the public sector undertakings. Not only this, if the Government is asked to quantify the pollution there, they simply reply that the Government has not got any scientific study conducted to find out the contributing factor to the pollution at Agra. This is because the Government knows that the cat will be out of the bag. Maximum pollution is caused by the Mathura Oil Refinery and the Government wants to hide this fact. It was under political pressure, this refinery was thrust upon Mathura. Thus, the Government has played with the life of the whole nation.

Under Ganga Action Plan (Phase II), Yamuna was to be cleansed from Delhi to Agra. However, this plan remained confined to paper only. This scheme was inaugurated by the Hon. Minister with great pomp and show but the job progress is seen nowhere. Not only this, Ganga Action Plan is half-baked and because of this whatever money is being spent on it is going down the drain. The Government can mislead a Japanese bank while taking money from it by saying that it shall feed river Yamuna with the water from the Tehri Dam within a prescribed time but it cannot do so with Indian people. I would like to say that the programme of construction of barrages at Brindaban, Gokul and Agra should be included in this plan. A suggestion to this effect was also made by the then U.P. Government but it was not accepted. No arrangements have been made to save Taj Mahal from sand of river Yamuna which is destroying it. There is no water in the Yamuna. The level of water is falling down. No provision has been made to solve these problems. If this barrage had been constructed, the level of water would have risen, greenery would have increased, trees and plants would have grown and there would have been abundant water, thus ensuring the safety of the Taj Mahal. But the Government is responsible for criminal negligence.

I would like to add that the Government makes declarations about many schemes. Recently Ministry of Petroleum & Natural Gas announced a 10 point time-bound scheme but so far no concrete progress appears to have been made in starting this scheme. Due to non-implementation of this scheme the Taj Mahal is getting polluted very fast and health of local people is deteriorating.

If, under this law, the Ministry of Petroleum fails to act and other Departments also do not act, there is no provision to punish them or file a law suit against them. I would like to say that the Government should take positive steps otherwise, a provision should be made to take effective action against the concerned Department or Authority. I am saying this because in the Taj Mahal and Sikandra, deer and peacocks are dying but there is nobody to look into it. It is not yet known whether they are dying due to environmental pollution or are being poisoned. This is also not being examined.

The Government should kindle a will power to check environmental pollution. I would like to read out the

Report of Parliamentary Committee on Environmental pollution. My colleagues were saying that recommendations of the Committee related to Ministry of Science & Technology, and Forest and Environment should be implemented. The Committee has stated, "its permeation has been limited to compensate the environmental loss due to loading-unloading of hazardous substances." It has been said by the Government, in reality its application is limited to protection of environment and payment of compensation for the loss to persons, property and environment due to loading/unloading of hazardous substances." This is not enough that since it is the recommendation of the Committee, a Bill has been brought here. This Bill has been introduced under international pressure. The hon Minister went to attend Earth summit and gave an assurance there. Hence this Bill. This is a good beginning but the Bill is incomplete. Therefore, a comprehensive Bill should be brought which will spell out a uniform national policy on health, fix responsibility, ensure justice to all, make the Government responsible for its acts of omissions and commissions and people will not have to move Supreme Court every time because justice is very costly, and it takes a long time. If one has to go to Supreme Court, then what is the use of this Act. There is need to apply the provision of tortious liability to a lower level. I would like to reiterate that the Secretary of the concerned Ministry has said that based on the experiences gained in future, its application can be extended. There is an urgent need to widen its applicability. May be the Ministry has not so far been able to envisage all aspects but keeping in view the facts being spell out here, the Government should introduce a comprehensive Bill.

17.00 hrs.

I am supporting this Bill only because by taking this step, the Government has made a good beginning. I do not want to spoil that beginning. This is like "a drop in the Ocean". I therefore, urge that, keeping all this in view, the Hon. Minister should solve the problem by introducing a comprehensive Bill.

[English]

SHRI HANNAN MOLLAH (Uluberia) : Sir, I Rise to express my conditional support to this Bill as it is a small step in right direction. But the Bill is loaded with many deficiencies.

Firstly, the Bill proposes to be very strict, stiff and effective. If the nature of the Bill is studied, it would be seen that the Ministry has a very strong teeth but has brought in a very toothless Bill. It cannot bite. Secondly, it is seen that it is the habit of the Congress Government not to bring in a comprehensive Bill. Always they take up piecemeal legislation. They cannot take a holistic approach. They would take up piecemeal issues and would promise that they would expand it in future.

SHRI SYED SHAHABUDDIN (Kishanganj): They leave something for you to do when you come to power.

SHRI HANNAN MOLLAH: That is good. So, soon they will leave. A few months after, we have to do that. Anyway, that is not the correct approach. A holistic approach should be taken. It is not too early for that. I congratulate him for the brave fight that he has given in the international conferences, but here when he is trying to implement those things, he has lost that spirit. It is because of that this Bill has got so many weaknesses. Though this bill is the first of its kind here in this country, yet we have had the worst experience in Bhopal Gas tragedy a few years back. Since 1984, I am fighting and shouting in this House...

AN HON. MEMBER: Not alone...

SHRI HANNAN MOLLAH : Some people have come and some people have gone, but I am here since 1964 and I am continuing here. The present situation is, they are expanding the base — from 16 wards they have expanded to 52 wards thereby diluting the benefits to the people. The people are running from pillar to post but they are not getting the benefits. The Benches which are supposed to dispose of the cases pertaining to the gas disaster are functioning at a snail's pace and we do not know how long they would take to settle the cases.

17.03 hrs.

(Mr. Deputy-Speaker in the Chair)

You promised to punish the criminals. Mr Anderson is one of them. Some provisions should be made in the Bill for somebody who runs away from the country after killing thousands of people. We are still not able to bring a person who killed thousand of people and fled the country to book. Such provisions to bring such persons to book should be made in the Bill.

The fourth weakness in the Bill is that you have given an escape route. Even you have not considered the recommendation of the Standing Committee. The Standing Committee categorically has suggested that clause 4 of the Bill should be deleted.

But that was not deleted. If somebody is injured, who is responsible for it? But if he is injured, he may be exempted. The Government institutions are exempted. So, it is a discrimination. If private persons are punished, the public organisations should also be punished if they commit a mistake. It is against the very spirit of the Constitution. Here the escape route has also been provided, that is, if you can prove that you were not there, you can escape. But you have not accepted this recommendation. The only recommendation that you have accepted is, instead of the word 'Chairman' you have put the word 'Chairperson', as if a great contribution has been made by the Ministry by accepting this recommendation. you have not accepted the recommendation to delete Clause 4.

SHRI K. MAL NATH : Let me correct you. We have also accepted the suo motu ability of the Tribunal to intervene. That is not only one recommendation that we have accepted but a very substantive one has been accepted by us. When I will reply, I will let you know how many more we have accepted.

SHRI HANNAN MOLLAH: The next point is regarding its limited scope. I join with other hon. Members and request you to bring a comprehensive Bill and expand its scope. A number of cases are there. What will happen to them? I would like to know whether they will be brought under this Tribunal or not.

The other weakness that this Bill has is, there is not fixed time frame. As you know, justice delayed is justice denied. In the case of Bhopal Gas tragedy people are denied justice. You may be knowing how people are suffering. The persons who have money go to the authorities and make them prepare fabricated report and thus are getting all the benefits. The poor people who have no source are not getting any compensation. This type of weakness should be avoided by bringing a comprehensive Bill. You have also not provided any guideline for giving compensation. While framing the rules, you must also incorporate some guideline for this. Otherwise, in this country we have seen the overall deterioration of man. People have lost moral values. If there is no guideline you cannot ensure that the people will get justice.

You should also fix some timeframe within which the cases should be disposed of. All these points have already been referred by the hon. Members who spoke before me and I would not like to repeat them.

We have come to know that for the development and protection of environment we have entered into an agreement with USA. We will be getting aid from USAID for this project. It is learnt that a larger component of this aid will be spent on the import of machinery. I would like to know whether this machinery is suitable for our country or not. Since a major part of the aid will be spent on the import of machinery, what will be the percentage of money contributed towards this project and what benefit will it bring to our country in terms of protection of environment? This point was discussed a few days ago during the Question Hour but since nobody from the Ministry of Environment was there to reply it, I am taking this opportunity to raise it here.

With these words, I support this Bill, though it is a limited, partial and weak Bill, since it has been brought with good intentions. I hope while framing the rules, you will give more teeth to it so that it serves the limited purpose for which it has been brought before the House. At the same time, you will also keep in mind the suggestions made here by the hon. Members and bring a comprehensive Bill. Thank you.

SHRI A. ASOKARAJ (Perambalur) : Mr. Deputy-Speaker, Sir, in the Statement of Objects and Reasons the hon. Minister stated that the United Nations

Conference on Environment and Development in Rio de Janeiro in June, 1992 in which India participated, called upon the States to develop national laws regarding liability and compensation for the victims of pollution and other environmental damage. But the Government has taken three years to introduce the Bill. Though it is belated Bill, I welcome it.

Sir, all these points has been highlighted by the Supreme Court also in several judgements. As other Members have also pointed out correctly, the exemption of liability given in Clause-4 should be withdrawn. I urge the Ministry to withdraw this Section as this would be a discriminatory one.

I would like to make a point in respect of establishment of the Tribunal. Many other Members have also pointed this out. It is said that only three Benches would be constituted. I request th hon. Minister to consider having at least one Bench in every State not only because of the vastness of the subject but because of the importance of the subject. I urge upon the hon. Minister to look into it. Many Members of Parliament have rightly pointed out that because of the distances between vast areas, proper justice cannot be done easily if three Benches only are constituted.

Regarding the penalty, I would like to point out that discrepancies should be sorted out. As environmental pollution involves water, air and land, the Government should take initiative to educate people in the villages. People living in many of the villages do not know the implications of hazards of environmental pollution. I urge upon the hon. Minister not to entrust this problem to the State Governments. We should educate the villages by giving aid and by making proper advertisement of the hazards of environment pollution. Presently when the projects are cleared from environment angle the Boards which have been constituted in some States for this purpose are indulging in favouritism. They should not indulge in such things. I am pointing out this because there are tanneries, sugar factories and so on which are polluting the atmosphere. So, my request to the hon. Minister is that all these things should be kept in mind and the discrepancy which is there should be removed.

THE MINISTER OF STATE IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DEPARTMENT OF YOUTH AFFAIRS AND SPORTS) AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI MUKUL WASNIK): Mr. Deputy-Speaker, Sir, I would like to make one request.

Sir, we have another Bill also which is slated for discussion today. I would request you that after this Bill passed, let the House take up the second Bill viz Indian Penal Code (Amendment) Bill which is of a technical nature. If both these Bills are passed today, it will greatly help us in finishing the business in time.

SEVERAL HON. MEMBERS : Yes.

MR. DEPUTY-SPEAKER: I think the House wholeheartedly agrees with you.

SHRI P. C. CHACKO (Trichur) : Mr. Deputy-Speaker, Sir, I am very happy to participate and support the National Environment Tribunal Bill which is being discussed just now. I am a Member of the Standing Committee on Science and Technology. This Bill was discussed in that Committee also. I was associated in that discussion. I would like to take this opportunity of conveying the feelings of the Committee to this House that the National Environment Tribunal Bill is not sufficient enough.

Although I am supporting this Bill yet I would like to highlight certain drawbacks of this Bill as was done by my hon. friends in this House. It has been brought here because of the Rio Conference in which India established its preference or its priority for the environment issues. That was one major event in which our dynamic Minister of Environment, Mr. Kamal Nath had established the priority of this Country on behalf of one-fifth of humanity. You know how much priority a big country of India's size is giving towards environment issues. That was the first time when some focus was drawn. A decision was also taken in the Rio Conference calling upon all the participating countries to initiate a national legislation or a national law. As part of that this Bill has been introduced in this House and before it was introduced, it was discussed in the Standing Committee also.

Sir, this Bill sounds very high and rouses a note of expectation but the fact remains that is now being reduced to just a Bill which is meant for paying compensation to the accident victims.

While introducing this Bill, the hon. Minister said that he has accepted some suggestions which were made by the Standing committee and I hope that some of those suggestions are going to be commented upon the hon. Minister at the time of replying to this debate. The simple reason for my submission is that already there are certain legislations, like the Public Liability Insurance Act for paying compensation and so on. If an accident takes place while handling a hazardous substance, under the Public Liability Insurance Act, the victim is eligible for compensation. So, what is so high about this particular legislation which has been brought before this House in the form of National Environment Tribunal Bill? So, I am a little disappointed to say, while supporting this Bill, that this is not sufficient.

Sir, various legislations for environment protection are there. Take the example of Environment Protection Act of 1986. The Public Liability Insurance Act is there for various acts connected with the environmental problems which fall under the jurisdiction of this National Environment Tribunal Bill.

That is not being done here. I am sure the hon. Minister will make his idea clear when he gives the reply. Just inquiring into the accidents and paying the compensation to the victims will not serve the purpose. In the Finance Bill also it was mentioned that Rs. 18.5

lakh has been allotted for this and then for annual maintenance to Rs. 25 lakh had been allotted. This is not sufficient. This is not what is expected of an issue like this. This Bill should be much wider in scope because the victims cannot go to Bangalore, Bombay or Delhi to get the compensation. Justice should be available at the doorsteps and it should be cheaper too. Otherwise, no legislation is going to be beneficial to the poor man. It will remain only in the statute book. So, we should think of widening its jurisdiction and have more benches or the operating courts in the district headquarters. There are 500 district headquarters in the country. If the people do not get a chance to go and file their complaints and get justice, what is the use of bringing in a legislation? Environmental issue is not just paying compensation. Shri Bhagwan Shankar Rawat has just now mentioned that a priceless heritage, the Taj Mahal is being destroyed and we are just crying in wilderness. What is happening? Who is polluting the atmosphere? We are just waiting for an accident to happen and then pay compensation. This is not what we want. We want the Government to identify the degrading factors and the polluting factors of the environment. As was mentioned by Shri Hannan Mollah this Tribunal does not have sufficient teeth to curb the environmental degradation. Where do we start acting upon? We are just paying compensation. That is not what we want. I would suggest to the hon. Minister who is a person of great understanding to widen the scope of the Bill. This Bill has to undergo sufficient changes as early as possible. My friend Shri Hannan Mollah was saying that Congress does not have the tradition of presenting a comprehensive Bill, as if for the last 45 years all the legislations are passed by the Communist Party. This is a very good Bill. Everybody welcome it. But its scope should be widened.

Sir, I have a lot of things to say but the time is very limited. I would confine myself to two or three points. I am not able to understand why there is discrimination between private sector units and public sector units. It is alright if the public sector units pollute the environment. But if it is a private sector unit, it should be tried in the Tribunal. I do not know where from this approach has come. When there is political content in any legislation, this is likely to happen. This is simply a bureaucratic type of legislation. Of course, we know the idea has come from the Government but more contribution should have come from the Government at the time of drafting the Bill. This discriminatory power should not be there in the Bill. Under Article 4, it is going to be challenged.

I know that he is a very strong person, who will not hold to any kind of temptations or pressures. But, I know how much he is struggling for implementing many of the policies which he himself has declared.

I remember, in this House once he has declared the Wasteland Preservation Policy of the Government of India, but how much he is struggling to preserve that policy. I know because pressure are mounting on the Minister, may be from various quarters and corners - I

do not want to name all these things but to preserve his own policy he is struggling like anything - ultimately, somehow it is being watered down and all these things are happening. In spite of the best efforts of the Minister and against all his intentions - I am just citing an example, that means if somebody can be exempted under the law then there will be tremendous pressure on the Minister, this and that - ultimately environment degradation practice will continue and the Bill will be a useless legislation. That kind of a situation should not happen to this Bill also.

Sir, I am not dealing with other points because of the paucity of time. Sir, these few suggestions made by the Standing Committee are being accepted by the Minister and for his generosity I congratulate him. But at the same time, let there be a continuous Standing Committee. Let there be all people interested in the environmental issues, come, contribute and strengthen this Bill.

There can be more and more amendments. Justice Raghvan's decision was being quoted here. There are serious shortages of facts and figures regarding various kinds of pollutants and polluting situations. So data should be available, statistics should be available, technical people's contribution should be there and there should be a rich storehouse of information. Then only any kind of Tribunal can function in the given context. Merely by making a Tribunal they just cannot act and they just cannot go into the intricacies of the problems that are coming before them. So information should be available for the Tribunal, for any Tribunal and for this Tribunal also. For that, this research group is a very important thing.

Sir, while supporting this Bill, I once again want to repeat it. We the Parliamentarians as well as the people who are interested in the environmental problem expected a lot from the hon. Minister because we know his commitment to this subject. So we expect a lot and as a beginning we support this and request that this may be further enriched by taking into account all the opinions expressed by all the hon. Members of this House.

MR. DEPUTY-SPEAKER : The time allotted to this subject was two hours. But we have already consumed one hour more than that. There are still some hon. Members who wish to speak. If they stick to the time limit of two minutes and subject to the condition that we will take up another Bill, we can adjust them too. We may have to sit for 20 minutes more than the regular hours.

PROF. UMMAREDDY VENKATESWARLU (Tenali): Sir, our party has not been so far been given the representation and now you are restricting the time for two minutes.

MR. DEPUTY-SPEAKER : No, probably Prof. Sahab you were not present in the beginning. We have made it clear in the beginning the time allotted to each Party

and the name to be sent. The Chair has indicated all this. But anyhow if you agree we shall have to sit for 15 to 20 minutes more after 6.00 p.m. If you all agree, we can proceed further, Shri Ram Naikji.

PROF. UMMAREDDY VENKATESWARLU : Yes, we agree, Sir.

MR. DEPUTY-SPEAKER : All right.

[Translation]

SHRI RAM NAIK : Mr. Deputy Speaker, Sir, I want to express my views on National Environment Tribunal Bill. A conference was held at Rio-De-Janerio on 4th June, 1990 and within one and half month Kamal Nath ji has brought this Bill. I congratulate him for this. But this Bill should have been brought three years ago.

SHRI KAMAL NATH : This is not in my hands. First, it was put up before the Parliamentary Committee, but did not appear in the list of business. Instead other subjects got priority and this time also it has come with much efforts.

SHRI RAM NAIK : It is very regrettable that such an important subject could not get proper attention. I would like to say that such things should not happen in future. The hon. Ministers put up proposals before the Business Advisory Committee. Hon Members might have observed that standing committee passed the TADA Bill within two days. This bill should have also got same kind of attention.

I have observed that in total 25 amendments have been brought by the Government and the Minister. Out of them 24 amendments are of similar nature i.e. for 'Chairman' substitute 'Chairperson' and for 'Vice-Chairman' substitute 'Vice-chairperson'. This hon. Minister may say that it was suggested by the Standing Committee and he has accepted that. I want to say that, be it Standing Committee or the Minister, one should follow the Constitution of India. In the Constitution too, the 'Chairman' of the Rajya Sabha is called 'Chairman'. It has been mentioned in the General Purposes Act also that 'Man includes Women'. I request that the Government should take it seriously and bring an amendment. The Speaker and Deputy Speaker are addressed as a person. There would not be much difference if we bring such an amendment in a single bill any. It levels little child like me. This kind of amendment will not serve any purpose.

The Parliament will become a laughing stock in the eyes of legal experts. Why should it be amended in this Bill only? Therefore, the hon. Minister should reconsider it and after consulting the hon. Law Minister, he should bring an amendment in it. Both the things cannot go together.

I support the suggestion that compensation should be considered suo motu by keeping in view the application for claim. Shri Guman Mal ji has already gone into the aspect of compensation in detail and I will not like to say further. In "Compensation which appears



to be just", the word, 'just' do not do justice to the sufferer. 'Just' means Justice to all. It should be made more clear as it is in the Insurance Act, Railway Accident Act or Motor Vehicle Act. Therefore, the compensation should be quantified.

Clause 8 provides "reduction of amount of relief paid under any other law". In this regard I have to say that there are so many other Insurance Acts, like Medical Insurance Act which also provide for Compensation. It should also be clarified in this Bill that as to whether compensation received under medical insurance or life insurance will be deducted from the compensation to be received under this law or not. But if you think that it is clear in this act, then the hon. Minister should clarify it while replying to the debate for our knowledge. This clarification will help the Tribunal when it will start functioning.

Regarding clause 4, the hon. Members have said that the Government should not exempt itself. If the Government will not work in an ideal manner then who else will do. I had from Bombay-city. There is a big factory at Chambur in Bombay. Incidents of gas leakage occur in this factory after every 3-4 months. Besides, there are petroleum refineries in Chambur, owned by the Government. If due to transportation or other reasons, any mishappening occurs, the Government should also think about this aspect also. The Government should bright its good image before the people and if Government really wants to implement this law and give justice to the people then it should not exempt itself from the provisions of this law. Only then the law will serve its purpose. Today, such accidents are taking place in different undertakings of the Government. The Government should not exempt itself. I am reiterating this because all the members as well as the standing committee have put this demand. Therefore, you should also agree to this demand.

The delay in bringing this legislation can be understood but many such accidents have taken place during the last three years. I do not want to confine myself to the Bhopal Gas tregedy only. Four months back. In my constituency an oil tanker over-turned at Manpada area. As a result, everything got destroyed within a radius of 4 kms. Despite destruction on such a large scale, people could not get compensation. If this Bill had been passed at that time, the people there would have got benefited. Therefore, this kind of delay also causes great difficulty to the people. In view of this, whenever Government wants to take any step, it should take immediately.

I would like to submit one more thing. Since we are passing this bill belatedly, the Government should try to collect information whether in the incidents, which took place during last couple of years, compensation has been paid or not. If you do this, we would support the Bill. Otherwise this delay cannot be condoned. Efforts should be made to provide relief to genuine needy

persons from the Prime Minister's Relief Fund or from a special fund. This is a good legislation but it has been brought after much delay. I would request you to keep the sentiments of the House in your mind, particularly about deleting clause 4, with these words, I conclude.

[English]

SHRI SYED SHAHABUDDIN (Kishanganj) : Mr. Deputy Speaker, Sir, first I join my colleagues here in expressing my appreciation for this Bill, flawed it is, but a good step in the right direction. What I would like to suggest to the hon. Minister is that when he first formulated the Bill perhaps we must have been one of the first governments to formulate a Bill in pursuance of the Reo Convention. But since then, during the last three years, a number of other countries must have formulated their national legislations. But I do not know whether they have. This information can be obtained and if that information is available to the hon. Minister. then in that case, perhaps he can benefit when acting on the suggestion made universally by this House that we need a more comprehensive piece of legislation.

I would just like to pin-point some of the points. The jurisdiction should be much wider over all matters relating to environment pollution or ecological degradation. Secondly, here I find : " damages to person, property and the environment". As far as damage to persons and property are concerned, there are claimants, but what about damage to the environment? Who will claim on behalf of the environment to the flora and fauna. When a damage takes place? obviously, we expect that the Government itself should be the claimant or the public authority itself should be the claimant whenever there is a damage to the environment as such.

The definition of accident excludes expressly war or radioactivity. I think in a country which has committed itself to the development of nuclear power, there are possibilities of pollution and damage due to radiation.

SHRI KAMAL NATH : There is another law which deals with that.

SHRI SYED SHAHABUDDIN : That is fine.

The compensation that is being suggested here has no retrospective effect. That is a point just made by hon. Mr. Naik. I support the idea that this law should have a retrospective effect, perhaps from the day that we signed the Reo Convention.

The point made in clause 3 is : "compensation is payable for such death, injury or damage." But when the damage is to the environment, to whom shall the compensation be paid - to the birds, to the flora, to the fauna...(Interruptions)

SHRI KAMAL NATH : There is a Fund called the Employment Relief Fund, to which it will be paid.

SHRI SYED SHAHABUDDIN : So, all that shows why a more comprehensive law is really called for.

As far as clause 4 is concerned, I join in this universal request to this hon. Minister that it should be deleted, that there should be no discrimination between the private sector and the public sector, between the Government and the public, as far as any such liability is concerned.

There is nothing here in the Bill to guide the authority or the Tribunal on the question of quantum of compensation. So, I suggest that at the time of framing the Rules, some guidelines should be framed so that people know what they can expect, as in the case of other similar laws.

Similarly, I join in the suggestion that there should be a general time frame. Although a tribunal or a judicial or a quasi-judicial authority cannot really be dictated about the time to be taken, but we expect that this should be done within a reasonable time.

The most important thing I find is about the composition of that Tribunal. I do not see at all why it has been limited to even in the case of a judicial person to someone who is or has been a judge of the Supreme Court. Why can it not be a person who is eligible to be a judge of the Supreme Court because that will at least give a wider field for the Government to make a selection? A person who is qualified to be a judge of the Supreme Court can be a Chairman, a person who is qualified to be a judge of the High Court can be a Vice-Chairman, etc. But the most objectionable part is this that the post of the Chairman or the Vice-Chairman in the scheme of the law is available to a technical expert only by means of promotion. He should first come in as a Technical Member, he may then be promoted as a Vice-Chairman and he may then be promoted as Chairman. Why?

Why is it so? The post of Chairman should be open to all the three channels whether it is administrative channel, whether it is technical channel or the judicial channel and persons of eminence and persons of standing in any one of these three fields should qualify for being appointed as the Chairman of the Tribunal.

I would like to draw your attention to clause 18 which says that "Central Government shall determine the staffing pattern of the Tribunal". I think there should be some internal mechanism within the Tribunal to decide it. Of course, they cannot do it unilaterally; they will, obviously, place their recommendations or proposals before the Government for sanction.

SHRI KAMAL NATH : I have said that it will define its method of working. It is not accepted outside the orbit. Its functioning as such is not outside the orbit of the Central Government.

SHRI SYED SHAHABUDDIN : But, in that case, will the Central Government consider the proposals made to it by the Tribunal?

The last point that I have is concerned with clause 19 which says about the distribution of the business of

the Tribunal among various Benches. Of course, I first foresee that there shall be far larger number of Benches when we are to deal adequately with the problem. I feel that one-tenth of the territory of the country or one-tenth of the population of the country should be covered by one Tribunal. It need not be exactly a State-specific. Where we speak about the distribution of the business of the Tribunal among its various Members, both 'regional' and 'functional distribution' should be made. The work can be divided according to the territory. It can be a territorial jurisdiction or it can be divided according to the nature of the work which is the functional distribution.

With these remarks, I generally support the Bill. I welcome the Bill. I also join in the hope expressed here on the floor of the House that one day we shall have a more comprehensive law which shall cover all aspects of environmental pollution and ecological degradation and the scope of the Bill shall cover everything protection, damage compensation in all its aspects. I hope that under the dynamic leadership of the Minister of State, perhaps, we shall be able to infuse a real life into these Tribunals because I know that institutions do not merely exist on paper and institutions acquire a life of their own and a vitality of their own by the manner in which they work and that is our hope and with this hope I support the Bill.

MR. DEPUTY-SPEAKER : So far, four Members from Congress - that includes the hon. Minister who is to reply - and four from the B.J.P., one Member from Janata Dal and two from Samata Party and two from C.P.I. (M) and one each from C.P.I., Telugu Desam and A.I.A.D.M.K. There are one or two persons to speak.

*(Interruptions)*

MR. DEPUTY-SPEAKER : Yes, I will give you a chance. I have noted it down. Prof. Venkateswarlu shall have to speak now whether you will it or otherwise. Let us stick to the limited things. The names which have been regularly given by the Whips are being exhausted. Now the Chair is trying to accommodate only the extraordinary slips which have been directly sent from the Members.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P.M.SAYEED) : Sir, what about the next Bill for which I am waiting?

MR. DEPUTY-SPEAKER : Yes, we will take it up. The House has agreed and subject to that condition only we are giving chance to Members who sent individual slips. Now Prof. Venkateswarlu to speak.

PROF. UMMAREDDY VENKATESWARLU : Mr. Deputy-Speaker, Sir, I thank you very much for the opportunity given. The Bill commended by the hon. Minister for Environment is welcome and it is a really very good and big gesture on the part of the hon. Minister for having brought in the Bill. It is a long felt need. I am happy to say that he is the first Minister who

has introduced such a useful Bill in our country which has been done for the first time, taking inspiration from the deliberations of the Rio Conference held in 1992.

Though a number of my colleagues have pointed out that this is a belated discussion, the hon. Minister has provided the explanation for it. The Bill has come in the aftermath of the Bhopal gas leakage episode.

Now the scope for implementation of the provision of this Bill is much wider than what has been mentioned in the Bill. The Bill was brought for the first time in 1992, but the scope has widened very much now how ever this Bill has to be passed. I personally feel that the hon. Minister will come up with several amendments in future keeping in mind the suggestions that have been extended by the hon. Members.

Sir, this Bill has been brought with a very good intention to provide social justice and financial assistance to the unfortunate victims of the environmental hazards and also the ecological degradation which are even increasing. Sir, for want of time I am just trying to comment on only two or three points. The first point is about the location of the Benches. The location of the Benches should be at more number of places. Since the subject is very important and its scope is much wider, the claims will be more. So, it is better to have quite a good number of Benches, almost at the rate of one in each State.

Sir, with regard to the appointment of members, it has been suggested by several of our colleagues that there should not be any age restriction. If it is restricted to persons who are 60 years old and above, naturally it will become an abode and an avenue for all those who have attained superannuation and retired. Then in the name of utilisation of their matured and other things they will be normally appointed here. It will be better. If this age restriction is not followed.

Then, Sir, I want to make a request about Clause 4 which has been mentioned by almost all the Members. There is unanimity with regard to the lacuna that is found in this Clause 4. It says :

"The Central Government may, by notification, exempt from the operation of this Act any owner, namely:

- (a) by the person who has sustained the injury;
- (b) any State Government;
- (c) any corporation owned or controlled by the Central Government or a State Government; or
- (d) any local authority.

If all these are exempted, what is going to remain under the purview of this Bill and to whom the justice is going to be catered? If the Central Government, by notification, is going to exempt these bodies. I do not think that there will be any claimant. No party will come to this Tribunal and this Tribunal will not have any work if these exemptions are given. As such, since almost all

the participants in this discussion have pointed out Clause 4, I request the hon. Minister to have a fresh look as far as this Clause it concerned. It is better that there should not be any exemption as far as the Tribunal is concerned.

Finally, Sir, environmental pollution is increasing for no fault of the individuals. There are certain individuals who claim they have got certain knowledge. But there are several individuals who do not go in for this claim at all out of ignorance. There are also several mounments like the Taj Mahal, as Mr. Rawat has pointed out. Who is going to make a claim on behalf of the Taj Mahal? Who is going to make a claim on behalf of any other institution which is subjected to environmental pollution and ecological degradation.

I come from a coastal area. In the recent times the multinationals have come for shrimp farming in almost all the coastal area. They have occupied the land just abutting the villages, next to the door, next to the village point and the land has been converted into the shrimp farms. The sea water has been let in. Most of the villagers are suffering for want of drinking water. At whose fault? Is it the fault of the villagers who have been residing there since some hundreds of years? Now, these people have come. The water was not polluted earlier. People are being driven to some 10 or 15 kms. to fetch a potful of water. The rich people - who are involved in shrimp farming - who can afford, have been drinking only the bisleri water daily. And those who cannot afford to drink this water, have been drinking only the polluted water. Almost all the inhabitants have been suffering with several diseases.

Sir, I will conclude after giving just one example. Most of the developing countries are engaged in manufacturing the bulk drugs. No developed country is engaged in manufacturing the bulk drugs. These bulk drugs are the main source of pollution of water. The water pollution is increasing only through these drugs. These industrial establishments are coming up quite nearer to the inhabitants, the villages. Since they are coming up nearer to the villages, the water pollution is increasing and the people are suffering at the enjoyment of multinationals, the business establishments and the corporate establishments.

So, Sir, this Bill has got a wider scope. But still there are several deficiencies and several setbacks in this Bill. Hence, they are to be further looked into by the hon. Minister. But still I really congratulate the hon. Minister for having brought this Bill. I support this Bill and hope that this Bill will serve the unfortunate people at large in this country.

[Translation]

SHRI RAM PRASAD SINGH (Bikramganj) : Mr. Deputy Speaker, Sir, this bill is an important bill and provides compensation to the sufferers. I support this bill because this is for the welfare of the sufferers. The

Government was compelled to bring this legislation after UN conference in June, 1992. In that Conference we has resolved to bring out this legislation. I thank the hon. Minister of bringing this legislation though belatedly. The provision of compensation is a good thing but no time limit has been fixed because many cases get delayed and sufferers do not get compensation.

Just now Ram Naik ji and Shahabuddin ji discussed a clause which I support. Today, there is great problem of pollution in this country. Population, pollution and poverty are the main problems of our country. With the rise in the population, our scientists also went on evolving new techniques for the benefit of our people. Many new industries were set up which caused environmental pollution. The pollution has increased to such an extent that Delhi has been declared the most polluted city of the country.

18.00 hrs.

Recently Supreme Court has given a verdict that 10 thousand factories should be removed from Delhi. Today, the water is polluted, air is polluted and Ganga, Yamuna have also become polluted. A Central Pollution Control Board was set up in 1974 but no results came forward...*(Interruptions)*

*[English]*

MR. DEPUTY SPEAKER : Now, it is 6 o'clock. Is it the desire of the House that we should extend the time by another forty five minutes.

*(Interruptions)*

MR. DEPUTY SPEAKER : Earlier, I have sought the permission of everybody to extend the time. Otherwise, I would not have given the chance to everybody and I would have literally stuck to the list.

MAJ. GEN. (RETD.) BHUWAN CHANDRA KHANDURI : How long will it go?

SHRI A. CHARLES (Trivandrum) : Sir, we should sit late till we finish these items.

MR. DEPUTY SPEAKER : We shall sit for another forty five minutes.

*[Translation]*

SHRI RAM PRASAD SINGH : Today, Delhi has 22 lakh vehicles, out of which 15 lakh are two-wheelers. These vehicles cause noise pollution as well as air pollution. The power houses are also causing smoke pollution. We perform religious rites and flow the ashes of dead bodies into the rivers which cause water pollution. About 80 lakh people die in the whole country in a year. If per dead-body 4 quintal wood is consumed, then the total comes out to 3 crore 20 lakh tonnes. The smoke from the burning of wood is one of the causes of pollution. The slum dwellers are suffering from Tuberculosis due to pollution and we are unable to provide drinking water to them.

In India, 15 lakh hectares of forest land is being denuded every year and 60 lakh hectares of land is

becoming desert. 2,600 crores tonnes of top soil is being washed away. The flora and fauna, creatures of lakes and thousands of species are becoming extinct due to pollution. It is feared that in the next 20 years, one fifth of the total species of living creatures will be destroyed. In the decade of 80-90 the average temperature was 45 degree celcius. Even today we are becoming victims of hot weather. In the next 100 years, the sea level may rise up from 1.4 metres to 2 metres. The rural population is decreasing day by day and they are migrating to cities. Earlier 70 percent people lived in the villages but according to the latest survey, only 60 per cent population lives in the villages and remaining 40 per cent live in cities. These all are the causes of the problem of pollution. If we will not pay attention towards the causes of pollution, no Act will prove effective. The number of sufferers will rise and the number of cases in the courts will go up. In such a situation proper justice cannot be done. The Pollution Control Board gives licences to those factories also which do not even install pollution control devices...*(Interruptions)* Sir, population and poverty are main problem. In a country, like India which has vast forest reserve. We are resorting to felling and trees indiscriminately ...*(Interruptions)* I am coming to that point also. Every year 25.4 wood is cut for firewood. Therefore, I would like to say that the Government should make arrangements for cooking gas etc. for the people. It will also save wood as well as check pollution. There should be restriction on plying individual vehicles to check pollution...*(Interruptions)* In this regard, we should follow China. The Chinese Government ask its employeess to go to office by cycles to check pollution. We should also bring such a legislation.

I am thankful to the hon. Minister that he has brought this bill. I support it because it is for the welfare of the poor and in the interest of the country.

Mr. Deputy Speaker, Sir, I am thankful to you for giving me an opportunity to express my views.

SHRI KAMLA MISHRA MADHUKAR (Motihari) : Mr. Deputy Speaker, Sir, being a young and energetic person our hon. Minister wants to do something constructive in his ministry. I do not have any doubt about his intentions, but he Bill he has introduced is like a pitcher in which there are many big holes. There are many loopholes in it. This I am saying because you have exempted public sector, State Government and local bodies and many other sectors. What has been left with you? Many hon. Members have rightly pointed out that which sector has remained in it...*(Interruptions)* ...that is happening. That will happen wherever you go. I will not mention as to which sector has been left out, to whom you will give a compensation, who is going to be benefited?

Actually, this is the Government's trick to spare the multinationals. That is why they have exempted these sectors. Privatisation is being done and multinationals are coming here. Now, another Bill will be brought here

that the multinational companies should also be exempted. An amendment will be brought that the multinational companies which are spreading pollution here should be exempted. I know their intentions and this I want to bring on record.

The second thing they have said is about the tribunal. Our learned friend of BJP who is a member from Bombay and who is well versed with legal aspects, has rightly said that there is nothing in the tribunal which the Government is going to set up and through which the common people are said to be benefited which may help the poor.

Many hon. members have said that the tribunal will be set up in Delhi. Why such tribunals are not being set up at state and district levels? How a poor person, who is sufferer will come to Delhi to seek justice? He will need at least Rs. one thousand to travel from Bihar to Delhi and back. Then for whom you are making this law? Who are the people, going to be benefited by this? I do not think that you are doing it for the welfare of the poor. This is being done for the purpose of entering it into the records that India was the first country to bring such a Bill in pursuance of the policy framed during Rio-de-Janeiro conference. But this will not help us. Do not remain in this illusion. Kamalnathji nobody knows as to whether you will be sitting there or here after the coming elections. The new Government will definitely bring the Bill afresh. You will not be able to fulfil your desire through the Bill. I do not want to go into the details of the provisions of this Bill because many members have already expressed their opinion. Chackoiji has also expressed his opinion. He is from his own party. There are some controversial points in it. What is the harm in accepting the points of general nature? You should accept those. Our colleagues from the Bhartiya Janta Party and CPM have raised some points here. There is no harm in accepting them. The Government should reconsider the provisions regarding setting up of tribunals, their powers and giving compensation, and bring a new Bill in this regard. I do support their intentions but not this Bill. The intentions may be good but there is nothing in this Bill and it is toothless.

[English]

SHRI GOPI NATH GAJAPATHI (Berhampur) : Mr Deputy Speaker, Sir, I thank you for giving me this opportunity. At the very outset, I welcome the spirit of the National Environment Tribunal Bill of a generally innocuous and humanitarian nature. Indeed, as has already been expressed in this august House, the Rio de Janeiro Summit of 1992 was the highest forum, where the subject of environment preservation and its protection were discussed in great detail and with all seriousness. It was heartening to note that India played a pivotal role in highlighting and also getting due international recognition of the burning issues on the vital subject of environment protection. Our dynamic Union Minister hon. Kamal Nath Ji must be particularly complimented on this landmark achievement.

Incidentally, hon. Kamal Nath Ji is well aware of the multifarious environmental problems of the State of Orissa to which I belong. There exist a spectacular array of environmental treasured spots in Orissa requiring immediate attention of the Central Government as well as the State Government. Time and again, I have highlighted the dire need to preserve the unique eco-biodiversity of Mahendragiri Hills in my Berhampur Parliamentary Constituency by declaring it a "Biosphere Reserve" expeditiously. Further there are innumerable ponds and small lakes throughout Orissa State, existing in a filthy and highly polluted condition. As the poor villagers depend on these sources for their drinking purposes depollution and purification of these drinking water sources are warranted immediately. Now, the objectives of providing strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accidents, for giving relief and compensation for damages incidental thereto, are commendable and should be welcomed. Perhaps a Bill of more, comprehensive nature could be brought in later by the Union Government. More Tribunals of this kind could be located uniformly throughout the country for attaining its objectives. Now, owing to paucity of time, I will conclude by lending my full support to the National Environment Tribunal Bill.

MR. DEPUTY SPEAKER : Excellent, Thank you very much.

As per the final list sent by the Whips, all names have been called. Over and above that, some more names of the hon. Members have also been called. The time has already been extended. If the hon. Minister were to agree, I have no objection in allowing you.

SHRI KAMAL NATH : Let him be the last speaker.

MR. DEPUTY SPEAKER : Now so many Members are raising their hands like Shri Ramashray Prasad Singh, Shri Oscar Fernandes, Shri Charles, Shri Dattatraya Bandaru, Shri P.C. Thomas and others. I think, it will be very difficult if they do not stick to two minutes.

[Translation]

SHRI VIRENDRA SINGH (Mirzapur) : Mr. Deputy Speaker, Sir, the National Environment Tribunal Bill, 1992 has been put up before the House for amendment. Though this Government do not try to do such work but Kamalnath ji has done a good job and whenever he does so it is all of a sudden.

[English]

MR. DEPUTY SPEAKER : May I request the hon. Members to post pone such commentaries till 8 o'clock.

[Translation]

SHRI VIRENDRA SINGH : This is not the matter of sweet commentary. Kamalnathji has done a good work, but this Government does the good work only all of a sudden, this much I want to say.



Just now hon. Members have said that Government should have brought this Bill earlier and it has been delayed but before this Bill also your ministry might have made many laws to check the pollution. I would like to inform you that there is a big industrial area in my parliamentary constituency. Hindulco Carbon Plant of Birla Company and Kanodia Chemical Plant are there which are discharging their effluents in Pant Sager. About 15 lakh people use water from Pant Sagar for drinking purpose. The people there are being affected by diseases. I have requested the hon. Minister in this regard orally and in writing also and want to know again whether any legal action can be initiated by making such type of laws and pollution be checked? If you say it is possible laws were framed and it was said that pollution will be checked through the law but what happened thereafter? I want to say that the Birlas and others industrial houses had been influencing the Government and its decisions and lakhs of people there are still continuing to be affected by diseases. They are compelled to drink the polluted water. It is not only the question of water pollution, the sound pollution is also there. There are coal trolleys which produce much sound and about three lakh people are badly affected by mental tension. There is RenuSagar Power Company of Birla's which generates power. I have orally and in writing also informed the hon. Minister that the ropeway at NCL Jhigurdah also produce much noise and are the major cause of sound pollution. This fact has been proved by the medical experts that people are facing a lot of mental tension due to this sound pollution. This is a big problem for human beings. I would request the hon. Minister that avoiding this question will not solve this problem. It should be well defined that who will be benefited by this legislation, by this legislation. Whether people like Birla, Tata or Kanodia will face cases under this law and who will be considered to be affected by pollution. They will come to Delhi to claim compensation. Therefore, at least the pollution at Singrauli area and pollution caused due to the factories of Birla and Kanodia should be checked, otherwise 15 lakh people there will have to face a tragedy like Bhopal. Even today the victims of Bhopal gas tragedy are facing problems. This pollution is not limited to cities only, it is in villages also. There are big ponds in the villages. Earlier these were cleared but now this practice has been abandoned. The cattle drink water there. The villages are also becoming urbanised today and the water supply system in villages is also being polluted. The wells and ponds are getting polluted. Therefore, I would like to say that some arrangements should be made for that also. If a provision to this effect is also added in this Bill, it would be much better.

This is a country of villages. We should keep this in mind. I would like to say to you that earlier the dead animals were skinned and the bones were utilised for commercial purposes and the meat was disposed of by burying but these days those dead animals are thrown into the river. A law should be enacted to check this

also. What happened to the Ganga cleaning programme in Kashi? When Late Shri Rajiv Gandhi was the Prime Minister, he had introduced this programme and a plant was set up there but that is not serving the purpose. Same is the case with the plant in Mirzapur districts. Today the dead animals are thrown into the Ganga. The water of the Ganga was used for medicine purposes but today that has not remained pure even for drinking or bathing purpose. Therefore, I would like to request you to make efforts to free Ganga from pollution. It will give you a good name. You are capable of doing good things. It is my humble request that before passing this Bill a provision should definitely be added in it to check the pollution in the villages also. Stringent action should be taken against the violators and it should also be made clear also who will be responsible for taking such action. With these words, I hope that the objects and aims of this Bill will be achieved and conclude my speech.

[English]

\*SHRI OSCAR FERNANDES (Udupi) : Mr. Deputy Speaker, Sir, India is the only country in the world to feel proud for having introduced a great Bill of this magnitude ever after the Rio Conference on Environment. All the related problems may not be solved through this Law. However, the Government has made a beginning and it should continue This Bill can be amended from time to time depending upon the circumstances. Environment pollution particularly water pollution is the major problem of the people in my Udupi Parliamentary Constituency. A number of major Industries are coming up in South Canara district. The polluted water of all these industries flow into the sea. This is the greatest threat to the life of our fishermen in that area. I urge upon the Hon'ble Minister to look into this matter immediately. The industries can be spread all over the coastal line instead of setting up at one place.

The authorities of these industries have taken up blasting rocks using explosives. This has resulted in the breakages of walls of most houses in that area. The people are frightened to live in those houses. The authorities of these Industries are not taking any responsibility. According to them this fact has been checked by Engineering College authorities. This area is called as "Kudupu" and the Centre should come to the rescue of the people here. We have already approached the State Government, District Commissioner and other concerned authorities. But strangely, nothing has been done in this regard to provide relief measures to the affected people. My humble request to the Hon'ble Minister is to despatch relief assistance to these people.

The Industries which are responsible for ecological degradation do not have sufficient funds to control environment pollution. Hence, I would like to appeal to

\* Translation of the speech originally delivered in Kannada.

the Centre to allocate funds to these industries for controlling pollution. The allocation can be made from the World Bank assistance.

Sir, Varahi Lift Irrigation Scheme is a very important project in Karnataka. In fact, it is pending with the Centre for a pretty long time and the people of my State have made several demands about this scheme in the past. I, therefore, request the Hon'ble Minister to sanction this Scheme without any further delay.

I thank the Hon'ble Deputy Speaker for giving me an opportunity to speak and with these words I conclude my speech.

[Translation]

SHRI DATTATRAYA BANDARU (Secunderabad) : Mr. Deputy Speaker, Sir, I welcome this Bill. There are so many good things in this Bill. As many hon. members have stated and I also want to submit that the biggest pollution centre of Asia is at Pathanchuru near my area, where the Vorho factory is situated and emits poisonous gases.

[English]

MR. DEPUTY SPEAKER : Dattatrayaji, will you please repeat the name of the company? The Minister could not hear it.

SHRI DATTATRAYA BANDARU : It is Volrho.

[Translation]

The Volrho company is emitting poisonous gases and as a result 35 villages in the neighbourhood are not getting even potable water. The Supreme Court has also given an order that the farmers there should be provided at least Rs. 2 crore as compensation. But that money has not been given to the farmers uptill now. The horrible situation there is that the growth of the children in village Pathanchuru circle and nearby villages has stopped because of non-availability of drinking water. Government provides them drinking water from Manjeera water project through tankers. Similarly, many drug industries are also situated there. The maximum number of drug industries in Asia are in Pathanchuru only and about 18 are in my area Mianpur itself. The problem of pollution has become so big there that you cannot check it. The Hussain Sagar Lake which is the most beautiful lake in the city is in my area and due to effluents in that lake, the whole city is being polluted. My submission is that all these things should be included in this Bill. Just now Shri Venkateswarlu of Telugu Desam Party was speaking that apart from industrial effluents, a new culture has come to the Andhra Pradesh and that is shrimp culture and prawn culture. I have visited 25-30 villages in Nellore district where the prawn culture has started. There is no drinking water in any village and water is being provided through tankers. Therefore, Air Pollution, Water Pollution and

other types of pollution are damaging the rural environment. These should also be included under the purview of this Bill. At Present we are thinking of one aspect only.

Likewise, more and more environmentalists should be included in the tribunal as members or chairman. At present all the chairman in Pollution Boards are IAS officers and they do not have any knowledge about pollution problem. The Pollution Board does not take any action on the suggestion given by technical people or environmentalists. The Chairman of Pollution Board has given permission to big factories under the pressure and they have violated the rules. For example permission for setting up of any new industry has to be given only after the limit of 20 kilometres, but this law has not been adhered to. My colleagues have just now told that the affected people will have to come to Delhi for compensation. This will cause a great loss of money and time for them. Therefore, a provision for a regional centre in every capital should be made so that they may not have to come to Delhi for compensation. In my Parliamentary constituency the nuclear fuel centre and BDL factory have caused Tuberculosis among the people living there. You are requested that the properties any such factory which does not provide compensation, should be disposed of and the affected people should be provided compensation this is our recommendation. Many companies will say that they do not have the money to pay compensation, then a provision should be made for disposing of their properties for providing compensation. I welcome this Bill and conclude.

[English]

SHRI P.C.THOMAS (Muvattupuzha) : Sir, I support the Bill and I would like to point out a few aspects. The main intention of me to speak on this Bill is to bring to the notice of the hon. Minister, through you, Sir, one important aspect in my constituency. There is an area which is about 10 kms from Cochin. I urge upon the hon. Minister, through you, Sir,.....

MR. DEPUTY SPEAKER : Hon. Minister is nothing down every point. So, you need not have to worry about it.

SHRI P.C.THOMAS : Yes, Sir. There is one industrial area in my constituency which is about 10 kms from Cochin in Kerala where we have the prestigious industries like Cochin Refineries, FACT where fertiliser is manufactured, many other insecticide companies like Carbon Black Production, etc., Now, that area is suffering from a lot of pollution.

One thing which has been found recently and which has been accepted by some factories is the presence of diesel and petroleum in almost every plot of land nearby and the people are also complaining about it for quite a long time. But the Cochin Refinery which has earned a very good name for production and which has got a very good name in all other respects, is not in a

position to accept that that was due to their working. But it is hazardous that diesel or petroleum content of this factory had gone to the extent of polluting the nearby areas and now a stage has come where diesel is now oozing out like anything. People have now found and the factory itself has found that it is coming out from that factory.

We should have a machinery to assess the loss. The property owners have been put to a great loss in respect of their cultivation, in respect of drinking water, in respect of use of the land in terms of the value of the land. They are really affected. How it is going to be assessed is a problem. If they go to the national tribunal for a change, there is a simplified procedure where even the summary disposal is there. Of course, the powers given under the Civil Procedure Code in respect of some powers which have been stated here, are not enough.

But I would like to point out here that in one of the Clauses the powers of Civil Procedure Code with regard to the sending of Commissions for study, for examination of witnesses are given. There a provision may also be made to send commissions to study the exact loss. Otherwise the poor residents will not be able to prove, what exactly is the loss. I suggest that in Clause 6, sub-clause (4) (e) an addition to the extent of giving the power to the Tribunal to send experts to make an on-the-spot study and assess the actual loss or damage sustained is necessary. That is not there in this particular Bill. Therefore, I would say that such an elaboration is necessary in this Clause.

I have also made a point regarding spread of diesel. I would urge upon the Minister to kindly make an inquiry on this aspect. I also plead with the Minister to send a special team from the Central Government for making a study there.

Regarding Clause 4, many points have been made here. I would also like to point out this - of course it may be accepted if it is found true or found to be correct - that there is not only a demerit in giving power of extension for State Governments, Corporations, public undertakings, local authorities, etc., but I also feel that there is a tremendous flaw by way of drafting mistake in this.

Clause 4 says :

"The Central Government may, by notification, exempt from the operation of this Act any owner, namely :

(a) by the person who has sustained the injury;"

I think that is a mistake. It does not make much sense. I request you that it may be reviewed or it may be re-coined for making it more sensible. Your intention is not that the person who has sustained the injury can be exempted but your intention is that at the instance of that person, some exemptior. can

be given. If that is your intention, I think that wording has to be re-coined so that the proper meaning will come to the Section.

Sir, due to paucity of time, I am not going into the other aspects but I would commend the hon. Minister for bringing forward this Bill which has been an off-shoot of the Rao Conference, where India could earn a very good name after the deliberations.

MR. DEPUTY SPEAKER : My request is, of course, two or three names are left out. I think there is also another Bill. They can participate in that.

Shall I request the hon. Minister to reply?

SHRI A. CHARLES : Sir, in the next Bill, nobody is participating. So, it is not possible for us to participate.

MR. DEPUTY SPEAKER : It is a very small amendment.

MAJ. GEN. (RETD.) BHUWAN CHANDRA KHANDURI : We have sat for 45 minutes. The Minister is still to reply. There is another Bill. It may not be finished within 45 minutes but it will take at least one hour and forty-five minutes...*(Interruptions)*... The third Bill has to come. The extension time is only 45 minutes...*(Interruptions)*

MR. DEPUTY SPEAKER : Hardly, Mr. Charles, Mr. Meena and Mr. Rai are there to speak.

SHRI KAMAL NATH : Sir, I will reply...*(Interruptions)*

MR. DEPUTY SPEAKER : Let us not exhaust the patience. One minute please. Mr Rai, can you speak for only one minute? You make just relevant points.

*[Translation]*

SHRI LALL BABU RAI (Chhapra) : Mr. Deputy Speaker, Sir, I would like to submit some points regarding this Bill. There are about 75 thousand species of creatures and 45 thousand types of vegetations. The deforestation is continuing in a large scale. Before independence the total forest area in our country was 22 percent. I would like to say to the hon. Minister that he should keep this in mind.

Today, pollution is increasing in Ganga and other rivers. You have formulated many schemes and have spent about Rs. 371 crore on making Ganga river pollution free till March, 1994. This information has been given in the latest report of the Comptroller and Auditor General of India. The first phase of this scheme was started in April, 1985. 261 sub plans have been implemented in this is regard but the work of cleaning Ganga is still incomplete. It has been stated in the report that state agencies are unauthorisely using the money meant for making Ganga free from pollution. Is there any effective mechanism to identify this with the Ganga project Directorate or not? Oxygen plants were started in Farrukhabad and Fatehgarh in Uttar Pradesh. The sewage Treatment Plant having capacity of 4-5 lakh per day remained jammed between August 1992 and 1993 due to technical faults. A portion of sewer line

in Howrah in West Bengal could not be completed due to adverse conditions of soil there. The comptroller and Auditor General has stated in its report that upto 31st March, 1995 two in Kanpur, one in Allahabad, one in Patna and four sewerages plants in Calcutta had not been completed. A plan was formulated to construct 55,163 public and semi public latrines along the banks of the Ganga to stop pollution in Ganga but that plan also has remained incomplete. There was also a plan for constructing electric crematorium, but that has also not been completed. I would like to ask from the hon. Minister as to when these schemes will be completed. Please state categorically Alongwith this hon. Member Shri Virendra Singh Ji has stated about Kanodia Distillery Plant. I want to say that factory is not following any rule of law. This should be seen whether it is being done with the connivance of the officers or someone else.

The farmers of Saurashtra are on the verge of ruin because of the salt factory set up by the Tatas. The sea water is taken through the pipes to the factory through the fields of the farmers and the seepage from those pipes is damaging the fields. Attention should be paid to that also. 47 villages of Phulpur near Allahabad have been badly affected due to IFFCO Factory. When the farmers hold agitations and demonstrations to press their demands, they are harassed by officials and influential people of the area. You are requested to pay attention to the problem of pollution there. A decision was taken to shift 29 factories from Kanpur but that has also not been done.

[English]

MR. SPEAKER : Please conclude. It will not go on record.

(Interruptions)\*

[Translation]

MR. DEPUTY SPEAKER : Please thank the hon. Minister, he has brought such a good Bill.

SHRI LALL BABU RAI : I thank the hon. Minister for bringing such a good Bill and support it.

[English]

SHRI A.CHARLES (Trivandrum) : Sir, while supporting the Bill, I also share the express views expressed by most of the hon. Members that there should have been a more comprehensive Bill because this present Bill provides for damages. This relief is already available under the Law of Tort because this is a civil wrong and unliquidated damage is the remedy for that. So, I feel that there should have been a more comprehensive Bill considering all the aspects.

Due to constraint of time, I would like to just mention the points. Many hon. Members have mentioned about section 4. Under this section, total exemption is provided

to the State Governments, Corporations, local authorities — I do not agree with this. In all fairness, total exemption given to the States and the Corporations is not fair.

Sir, section 6 of the Bill says that the Tribunal has the power to summarily reject the application. I do not question the power of the Tribunal to reject the application summarily, but I would like to know whether a person who is coming to seek relief, should have the right to know as to why his/her application is rejected. So, I would like to request the hon. Minister that there should be a small addition that applications could be summarily rejected after recording reasons therefor. In case of a summary rejection, a person has no occasion to know why his/her application has been rejected.

Sir, coming to sub-clause (5) of clause 10 which says, the principal Bench is in Delhi. Now, I come from Trivandrum, the extreme southern part of India. How can a person from Kerala who is seeking relief, make himself or herself available of this benefit? I would request the hon. Minister that there should be one Bench in each State capital. Then only real relief could be given to the persons.

Sir, section 25 stipulates that an appeal could be made only in the Supreme Court. It is very unfortunate. I think, there should be a provision to appeal in the High Courts of the States. It would be very difficult for a person who comes from the extreme south or from the north-east to appeal in the Supreme Court. That appeal is meaningless. Section 25 says that an appeal against the order of the Tribunal lie to the Supreme Court. That clause needs to be amended. The first appeal shall lie to the High Court of every State.

A sub-clause of section 25 says that every appeal under this shall be referred within a period of 90 days from the date of the award. Within 90 days, one might not even get the order.

SHRI KAMAL NATH : There is a provision of condoning it.

SHRI A.CHARLES: Sir, that is entirely different. Normally, 90 days time is given from the date of receipt of the Award. That should be under the normal circumstances. In every Act it is there. Now the other things depend on the subject to a decision of the appellate authority. What is the fate of the petitioner? I feel, in all fairness, the period of appeal should be within 90 days from the date to receipt of the order.

Sir, Shri Hannan Mollah said that there is no teeth in this Bill. I would like to draw his attention to section 26 of this Bill. It is a very powerful section. It reads:

"Whoever fails to comply with any order made by the Tribunal, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten lakh rupees, or with both."

\* Not Recorded.

Sir, I would conclude with one sentence. In the name of environment, a lot of developmental activities have been prevented. We have to strike a balance between development and environment. The welfare of the people is our concern. With these words, I welcome the Bill. Thank you.

[*Translation*]

SHRI TEJ NARAYAN SINGH (Buxer): Mr. Deputy Speaker, Sir, I support the Bill introduced in this House. But I have observed that some important points have been left out in this Bill. Nothing has been mentioned about the period of inquiry. I would like that a definite time limit should also be mentioned in this Bill.

So far as the pollution is concerned, a number of public sector industries are ruining the farmers. There is one Amjhor Fertiliser Factory in the public sector in Rohtas district in my area due to which thousands of acres of agricultural land in the radius of four kilometers has been destroyed. Last year, the farmers of that area submitted a memorandum to the Prime Minister in this regard but the Government of India has not taken any action. The farmers of that area have stopped cultivation. Not only this the people there have to go far away to fetch drinking water because the underground water has also got polluted because of the factory there. The Government should see that compensation is provided to the people living around a fertiliser factory which pollutes the ground water of the nearby places or make arrangements of drinking water for the residents of that area. Where the factory waste damages farm land, the affected people should be provided jobs in the factory or given land at some other place to earn the livelihood for their families.

There should be an inquiry as to whether the money sanctioned by the Minister for this purpose has been properly utilised or not. You made arrangements for protecting the Ganga from pollution in our area Buxar, Benaras and Ghazipur and crores of rupees have been earmarked for this purpose but how much money has been spent or has remained unutilised or misappropriated? I am sure that only one fourth of the total amount sanctioned is spent and rest is shown on papers only. I would request the hon. Minister to pay attention to these things. The Bill brought forward by the Government will definitely provide relief to the people. The inquiry of Bhopal Gas tragedy took a lot of time but if this Bill is passed, it will take less time and people will get compensation also. Therefore, I thank you for bringing this Bill and support it.

[*English*]

MAJ. GEN. (RETD.) BHUWAN CHANDRA KHANDURI: Sir, it is already 18.55 hours.

MR. DEPUTY SPEAKER: If the Chair were to go strictly, only the name of the Members that came through their Whips were to be called. Since the Members have

taken pains to come here and give their names, the Chair is little liberal. The Hon. Minister has so beautifully brought forward the Preamble of the Bill that many Members got interested to speak on it. No doubt, we have taken the desire of the House also.

MAJ. GEN. (RETD.) BHUWAN CHANDRA KHANDURI: But our patience is fully exhausted.

MR. DEPUTY SPEAKER: I am fully aware of it. But there are Members who are very anxious to take part in it.

18.54 hrs.

[*Translation*]

SHRI BHERU LAL MEENA (Salumber) : Mr. Deputy Speaker, Sir, I support the Bill brought forward and appreciate the work being done by the Department of Forests. I have a minor amendment which is very important and policy oriented. Court walls are constructed by the Forest Department for the protection of forests and this helps the forests grow well. But after 5 years, the walls are razed and again the forests are destroyed. Boundaries are again erected.

Mr. Deputy Speaker, Sir, I would like that the court walls should be erected those should be forever and be well maintained. This will protect the forests. More forests will be there which will help in controlling pollution and maintaining good ecological balance.

MR. Deputy Speaker, Sir, my second submission is that my area is inhabited by tribal people. These people have encroached upon the forest land for their livelihood because they do not have land for agriculture. This practice is continuing for the last 15-20 years and some people have been in possession of such land for the last 30 years. But they have not been given ownership rights. They should be allotted such land. I have met the hon. Minister many a times and he assured me that these lands will be allotted to them but no allotment has been made upto now. Therefore, through you, I would request the hon. Minister that the tribals, who are holding the forest land for the last 15-20 years should be allotted the same.

Mr. Deputy Speaker, Sir, mine is a tribal area. There is no industry, no dam, no means or irrigation. There is no scope of labour for the local populace who are very poor. There are large number of marble quarries and marble from that area is exported to other countries. The benefit thus accrued is taken away by the rich people only and the tribals and labourers do not have any other source of income but the Government also put hinderances in earning their livelihood by closing down those quarries. Therefore, the laws relating to marble quarries should be repealed and mines should be responded so that the poor and tribal people may get work and relief.



Mr. Deputy Speaker, Sir, the last submission I have to made is that the tribals who have submitted applications for lease of marble quarries should be given the lease of those quarries. With these words I conclude.

**SHRI RAMASHRAY PRASAD SINGH** (Jahananabad) : Mr. Deputy Speaker, Sir, I am last person to speak on this Bill. I whole heartedly support this National Environment Tribunal Bill.

Though this Bill is limited in scope. Every hon. member has expressed his desire that it should have been comprehensive. The objective of this Bill is appreciable but this has not been made comprehensive and therefore, I would say that the lacunae in it should be removed. For example, the power given in section 4 of this Bill are not proper. All the members have opposed it. It should therefore, be amended. After all what this tribunal will look after. When you all the public sector and private sector corporation and undertakings them at par, how it is possible that you may implement it on private sector but not on public sector. Our national industry should be kept under one criterion because if any tragedy happens there you will exempt that by taking refuge to this section. This is not proper. All the human beings are equal. Therefore, the legislation made for the protection of human beings should be used for their welfare and protection. You should amend this section 4.

Mr. Deputy Speaker, Sir, the second thing I would like to submit is that the small industries and the industries because of whom pollution spreads as a result of which people are badly affected to the affected people should be asked to provided compensation.

I would like to draw the attention of the hon. Minister towards a leather factory at Jahanabad who throws its industrial waste into river Yamuna which has polluted the water very much and thousands of animals have died. Therefore, I would like that a survey in regard to the damages caused should be conducted and the affected farmers should be provided compensation.

Mr. Deputy Speaker, Sir, the scope of this Bill is limited to Delhi only. My submission is that it should be extended to every State so that they are equally benefited.

**19.00 hrs.**

The court fees of Rs.1000 should be waived off. Only then this Bill will be of any benefit.

[English]

**SHRI KAMAL NATH** : Hon. Mr. Deputy Speaker, Sir, I would like to thank the hon. Members for a very spirited debate on this very historic legislation which has been brought before this House. I would like to thank them for their support and it is this support which has given the strength and inspiration for whatever steps we have been able to take. The steps to be taken, undoubtedly, are many. The problems we have are multi-dimensional, and multi-faceted. If we were to look at the issues

confronting our country in the area of environment are, whether they are forests, whether they are water, whether they are industries, whether they are lakes, whether they are our oceans and whether they are our rivers, we have a very large and an accumulated problem.

Earlier on, Sir, it was a question of how man would survive with man. We had the problem of war. We had the problem of the nuclear threat. But over the last decade and especially in the last five years, the question is not how man would survive with man but the question is how man would survive with nature. The problem in this, I must point out to the hon. Members, is not nature but again is of human nature. So, Sir, in this multi-dimensional and multi-faceted challenges which we have before us, so far as industries are concerned, I would like to say that we have very large and old industries. An hon. Member talked about pollution in rivers. We must recognise that in the last 100 years, it was considered that the most appropriate thing to do is to set up industries along the rivers. So, when we see the entire river base in our country, on either side of the rivers, there are industries. They are old industries. The problem can be very simplistically put close down all industries and close down all traffic and if you do that, the environmental problem will be solved. But that is not possible. That is not the way to go about it. The question is how do we internalise these environmental concerns in the developmental process? That is the challenge before us.

Today we are on the threshold of development as never before thus this challenge becomes even greater. The impact of environmental degradation two decades ago could not even be measured. We could not measure the impact that our own developmental activities had on water; that our developmental activities had on soil, that our own developmental activities had in air and so on. With the progress of science and technology, we are able to assess these impacts not only when we suffer but there are caution points. We get warnings in advance. So the question is not just what we are going to do in the future. We also have upon us the responsibility and challenge of what we have to do about our industries which exist. These are old industries. They are using old technology. They are employing thousands of people. They are located in wrong places. We have industries like in Chembur, Bombay. At what time it was considered very good to have industries in Chembur. It was very good to have textile mills in the heart of towns. But the pressure of pollution added with the current pressure of development, the task today has become enormous.

So, Sir, we have to achieve this, milestone by milestone. In this, my own effort and the effort of my Ministry has been to strengthen the States. How do we strengthen the States? It is not the intervention of the Central Government or the intervention of the Central Pollution Control Board which will solve the problem. We have to strength the State Pollution Control Boards. We have to see that they have institutional strength;

and they have laboratory strength so that they are able to measure, act and react. It is then and then alone and with the support and the enabling role of the Central Government will we be able to correct the problems in the villages. Certainly, the Ministry of Environment and Forests in Delhi cannot be policing all districts, all villages, all ponds, all lakes and all rivers.

This has to happen by the institutional mechanism of the State Governments and it has been our effort to achieve this. We have got several programme through which we have strengthened the State Pollution Control Boards. Five years ago there were many people who had not even heard of State Pollution Control Boards. One of our other strategies is to bring about greater awareness. We have succeeded in this awareness campaign. Now, the common people are not only concerned with environment pollution but also want to act. By acting on that concern coupled with what this House provide them in terms of legislative strength and what the Boards provide them in terms of institutional strength, will we able to move forward. So, the overall strategy is to create awareness and to strengthen the institutional approach, to strengthen the State Governments and trying to bring environment on the centre stage of our national agenda. To a large extent we have succeeded in this. I feel very happy and inspired that so many Members spoke on this subject. Sir, I remember the all round support I received when I brought in the Public Liability Insurance Bill and Wild Life Protection (Amendment) Bill irrespective of the party affiliations. We all know that environment is not a subject to score points. It has been my effort not to make it so. As far as environmental issues are concerned, we are not driven by partisan views and difference of perceptions but driven by a common objective. I would like to say more on what steps we have taken but the time is short. I think we have crossed a major milestone. I would have myself liked that we enlarge it. But I think in certain areas we have to go milestone by milestone. I know we have covered only eight thousand hazardous industries. But these eight thousand units cover various units located right across the country. Whether it is Vapi-Ankaleswar belt in Gujarat or whether it is a chemical unit near Renukot to which my hon. friend Shri Virender Singhji refers to or whether it is a unit in Cochin, all are covered. There is an enabling Clause. By process of subordinate legislation we can include more hazardous industries. Actually, I do not want there to be a spate of litigations when we go down the road. If there is a spate of litigations, we may not be able to cope with it. So, this is the first step. This is the first milestone which we have tried to cross. This deterrent clause is more important. If the hon. Members see the definition of 'accidents' in the Bill, it is very wide. It has built into it many restraining clauses. I greatly appreciate the Standing Committee of Parliament for having recommended that there should be suo motu. I have very happily accepted that.

There have been some comments about the delay. Sir, I, in all earnestness brought this Bill in August, 1992. Only at that time the Committees were formed. We were waiting for the Committees to be formed and we were waiting for the Committees to get on with it. Then, there was a rush of business in the last two sessions, and it could not find place in the agenda. But that is behind us. Now, the question is what is going to happen in future and I am confident that the delay will be made up in the forming of this tribunal and in the framing of the rules.

Most of the suggestions are across the House, are from all sides and some are very valid and useful suggestions.

There is a point which has been made about Clause 4. I want to point out to the Members that I entirely agree with the Members on Clause 4. When we are at Clause 4, if the House would choose to vote it down, I will go along with the wishes of the House. There are certain technical complications in myself moving an amendment. So, I am unable to move it.

There are points made about the time limit that this Tribunal, when set up, may also spend several years. Sir, the concept of the Bill is to get out of the normal system. The whole objective of the Bill is that we do not go through the routine. If we have to go through a normal judicial process then this Bill was not needed. If this Tribunal has to replicate or duplicate what the normal civil courts are doing, there was no need for this Bill. But because this is away from that orbit, it is in on orbit of its own, while we will be framing rules, we shall be ensuring that we are putting in provisions that there is no delay. One very important ingredient for this is that it shall be as per natural justice. Natural justice would obviously mean that there has to be immediate action and I will ensure that when we frame the rules this is taken care of.

Another point made is about the amount of compensation. There are some points in this. Already there are certain reference points as far as compensation is concerned, as far as Railways are concerned and as far as the Indian Airlines are concerned. I did not want to bind down but I wanted to make compensation open-ended. Because we wanted to make it open-ended, we did not want to have a formulation of compensation. There are reference points which will be available to this Tribunal, which are for Railways, which are for Airlines and for car accidents. I am sure that the Tribunal will rise above that, will go beyond that because again if it has to follow the normal rule we did not need this legislation.

There may be some lacunae, there may be some points which when we work can be sorted out. As I said this is the first legislation of this kind in the world. There is no model we have and there were no reference points, we have to formulate something keeping all areas in consideration, for example, as far as the

question of hazardous substance is concerned. If I were to make the scope wider somebody may complain that he has a chest problem because of the vehicular pollution, so I am going to sue. It could have been endless, it could have been uncontrollable. Anybody could have gone to the court for anything. So the idea was to keep this deterrent, to focus on some of the most polluting industries, like we have done in our strategy for impact assessment. We have taken on the delinquent in the first phase. When we take on the major delinquents, I am sure that the deterrent, effect will snowball into other sectors, into other industries.

One important thing which this Tribunal will have is, it will have the access to all opinions. They will be able to consult a large number of people and they will be able to consult a large number of NGOs. So when we are formulating legislation of this kind, we must try—that was my view—to keep as much of it as flexible as possible. So this consultation process which will be available to the Tribunal to consult all to assign Pollution Control Boards, to assign other agencies to check out, will be very helpful to the Tribunal. I think that the Tribunal will have access to a lot of expert opinions.

Sir, about the fees of Rs.1,000, which has been mentioned, there is a provision that this can be waived when we frame the rules. This provision will be kept because there may also be large institutions filing cases, there may be people, there may be large companies and we also guard against competitor driven claims in business and industry.

In business, one industry may want to file a suit to drive out somebody else. We have to take all these things into account and be careful that this does not help competitor driven litigations. Keeping all these parameters in view, we have provided that provision.

Sir, a point has been made that there are not enough Benches. I also agree, Sir, that there are not enough Benches. But this is only a start. This is the National Environment Tribunal Bill. If I try to include 30 Benches in it, we would have never had the budget, we would have never had the money and it would never have happened. So, what we considered appropriate was to start with four Benches and soon we will have Benches in those areas, start where there are heavily polluting units. But in the four major cities, it is just a start. It is not an end, it is just the start. Since we could announce only four, I have chosen to announce these four, but, in the process of time we will identify which are the areas which need them, which are prone to accident and which have a lot of such industries and we shall be extending the Benches of the National Environmental Tribunal there.

Sir, there are some unrelated points which have been made and which are not related to this Bill. One was about some agreement with the United States. Sir, there is no agreement with the United States for money where they will be paying us money for equipment. But,

in general, I would say that today India is in the forefront of unknown environment. And far from multilateral institutions, from various bilateral cooperation programmes, in the area of environment and forest, a large amount of money is coming because when we are at a point of development, when India can become, if we follow wrong route, a major environmental hazard. So a large number of countries want to assist us. Of course, this is not going to happen. We are not going to take discarded technology or discarded industries from other countries. Sir, this point of development, we are ensuring that we have clean technology not cleaning up technologies. Clean technology is distinct from cleaning up technology. So, there is no assistance or aid or cooperation or credit, which is tied to equipment as such. We have to see what is in our national interest. We are going to ensure that, we have been continuously doing that.

Sir, there was a point made by the hon. Members about their various constituencies. I assure them that I have taken note of them and I shall interact with them separately. They are very valid points. I am happy that the hon. Members have brought to my notice as to what is happening in their specific constituencies because sometimes getting a feedback becomes very difficult. Some of them have already been brought to my notice. We are trying to do something. Our interface is with the State Government and sometimes the State Government is not as enthusiastic as we are and sometimes the State Government, in particular areas or particular case is...*(Interruptions)*

*[Translation]*

Sometimes it happens but you have drawn my attention and I am thankful to you for this. I do believe that we will be able to maintain the awareness which has come in our country and in the state of our friend and alongwith that, we will face the challenges before us strongly.

*[English]*

Sir, there are some unrelated points. There are several general points also. As the time is short, I would not reply to them. But I have tried to cover most of the common points made by the hon. Members.

MAJ. GEN. (RETD.) BHUWAN CHANDRA KHANDURI : Mr. Minister, could you assure us that this Tribunal will have only technically qualified people and those people, who know the subject and will be cut of bound for bureaucrats?

SHRI KAMAL NATH : Sir, this Tribunal has not been made to take care of the needs of the retired bureaucrats. I must be very clear on that. There are good bureaucrats also. Let us not condemn the bureaucrats. There are some bureaucrats who have gained the experience. I am not saying that they will be there. But I do not think that we should also say that all those bureaucrats will be out of this ambit.

There are some good bureaucrats. I am not saying that we must use them. But we could use them.

MAJ. GEN. (RETD.) BHUWAN CHANDRA KHANDURI: Sir, my point is that I do not deny that there are very good bureaucrats. But once you keep this avenue open, there is always a system of keeping wrong people in it ...*(Interruptions)*

SHRI KAMAL NATH: I appreciate the hon. Member's concern. I share his concern and we will be very careful.

*[Translation]*

SHRI RAM NIHOR RAI (Robertsganj) : Mr. Deputy Speaker, Sir, I have been continuously drawing the attention of the hon. Minister towards my constituency. the district Sonbhadra is the most polluted area of India and I have many a times written about it to the hon. Minister. I would like to know from the hon. Minister as to whether any Parliamentary Committee will be constituted to check this dangerous pollution problem in which hon. Shri Virendra Singh would also be a member?

SHRI KAMAL NATH : Sir, I would send a Committee for inquiry, this much assurance I can give to the hon. member. When this Committee visits his area will be duly intimated. You and other hon. Members and representatives will also be intimated so that they may also give their co-operation.

SHRI DATTATRAYA BANDARU: Sir, You have mentioned about setting up of a Bench, I would like to know whether a Bench will be set up in South also?

SHRI KAMAL NATH: Sir, we have said that in the first phase Benches will be set up at Calcutta, Delhi Madras and Bombay and after that wherever it is found necessary, it can be set up .

SHRI DATTATRAYA BANDARU: It is required in Secundrabad...*(Interruptions)*

*[English]*

MR. DEPUTY SPEAKER: Mr. Chavan, you wanted to ask something.

SHRI PRITHVIRAJ D. CHAVAN (Karad) : Sir, this is actually on unrelated topics. Will the Minister be kind enough to answer some of the questions? I want to know what steps have been taken to alleviate water pollution caused by sugar industries in Western Maharashtra.

SHRI KAMAL NATH: Sir, I will inform the Member separately. Otherwise, it will become an open ended discussion...*(Interruptions)*

MR. DEPUTY SPEAKER: Thank you. Now let us take the motion for consideration of the Bill.

The question is:

" That the Bill to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a

National Environment Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment and for matters connected therewith or incidental thereto, be taken into consideration."

*The motion was adopted.*

MR., DEPUTY SPEAKER : Now let us take up clause by clause consideration of the Bill.

### Clause 2 Definitions

Amendments made :

Page 2, —

(i) line 12 for "Chairman" means the Chairman' substitute

"Chairperson" means the Chairperson'

(ii) line 26, for "Chairman"

substitute "Chairperson"

(iii) line 27 for "Vice-Chairman"

substitute "Vice-Chairperson"

(iv) lines 30 and 31 for "Chairman and a Vice-Chairman"

substitute "Chairperson and a Vice-Chairman"

(v) line 41 for "Vice Chairman" means the Vice-Chairperson'

substitute — "Chairperson" means the Vice-Chairperson' (3)

Page 3, —

(i) line 2, for "Vice-Chairman" references to the Vice-Chairman'

substitute "Vice-Chairperson's references to the Vice-Chairperson."

(ii) line 3, for "Vice-Chairmen"

substitute " Vice-Chairpersons" (4)

(Shri Kamal Nath)

MR. DEPUTY SPEAKER : The question is:

"That Clause 2, as amended stand part of the Bill."

*The motion was adopted.*

*Clause 2, as amended, was added to the Bill.*

### Clause 3 Liability to pay compensation in certain cases on principle of no fault

Amendment made :

Page 3, —

(i) line 31, for "apportions" substitute— "Operations"

- (ii) line 33, for "apportions" substitute—"operations" (5)

Shri Kamal Nath

MR. DEPUTY SPEAKER: The question is:

"That Clause 3, as amended, stand part of the Bill."

*The motion was adopted.*

**Clause 4 — Exemption from liability**

SHRI HANNAN MOLLAH (Uluberia) : Sir, regarding clause 4, the Minister has agreed to delete it.

SHRI KAMAL NATH: Sir, I just want to draw the attention of the House to clause 4, which is the clause on which Members have objection and it is up to the House to decide on this.

SHRI HANNAN MOLLAH: The House can unanimously delete it.

SHRIMATI GEETA MUKHERJEE : We can unanimously delete it.

MR. DEPUTY SPEAKER: Okay, The question is:

" That Clause 4 stand part of the Bill"

*The motion was negative.*

**Clause 5 — Application for claim for compensation**

Amendment made :

Page 4 —

- (i) after line 21, insert "(2) The Tribunal may, if it thinks fit, take up the cases for claims for compensation *suo motu*."
- (ii) line 22, for "(2)" substitute "3"
- (iii) line 29, for (3) substitute "4"
- (iv) line 35, for "(4)" substitute "(5)"
- (v) line 4, for "(5)" substitute "(6)" (6)

Shri Kamal Nath

MR. DEPUTY SPEAKER: The question is :

"That Clause 5, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 5, as amended, was added to the Bill.*

MR. DEPUTY SPEAKER: The question is:

"That Clauses 6 to 9 stand part of the Bill."

*The motion was adopted.*

*Clause 6 to 9 were added to the Bill.*

**Clause 10 — Composition of Tribunal and Benches thereof**

Amendments made:

Page 6,—

- (i) line 23, for "Chairman" substitute — "Chairperson"

- (ii) line 24, for "Vice-Chairman" substitute—"Vice-Chairperson"

- (iii) line 31, for "Chairman" substitute—"Chairperson"

- (iv) line 36, for "Vice-Chairman" substitute—"Vice-Chairperson"

- (v) line 38, for "Vice-Chairman" substitute—"Vice-Chairperson"

- (vi) line 40, for "Vice-Chairman" substitute—"Vice-Chairperson" (7)

Page 7,—

- (i) Line 11, for "Chairman" substitute—"Chairperson"

- (ii) Line 12, for "Chairman" substitute—"Chairperson"

- (iii) Line 15, for "Chairman" substitute—"Chairperson"

- (iv) Line 18, for "Chairman" substitute—"Chairperson"

- (v) Line 21, for "Chairman" substitute—"Chairperson"

- (vi) Line 22, for "Chairman" substitute—"Chairperson" (8)

(Shri Kamal Nath)

MR. DEPUTY-SPEAKER : The question is:

"That clause 10, as amended, stand part of the Bill,"

*The motion was adopted.*

*Clause 10, as amended, was added to the Bill.*

**Clause 11 (6) Qualification for appointment of Chairman, Vice-Chairman or other member**

Amendments made:

Page 7,—

- (i) line 27 and 28, for "Chairman" substitute —"Chairperson"

- (ii) line 31 for "Vice-Chairman" substitute —"Vice-Chairperson"

- (iii) line 32 and 33, for "Vice-Chairman" substitute—"Vice-Chairperson"

Page 8,—

- (i) line 11 and 12, for "Chairman, Vice-Chairman"

substitute—"Chairperson, Vice-Chairperson"

- (ii) line 15 for "Chairman or the Vice-Chairman" substitute—"Chairperson, or the Vice-Chairperson"



- (iii) line 21 for "Chairman of the Tribunal ;—  
Chairman of the Committee"  
*substitute*—"Chairperson of the Tribunal;—  
Chairperson of the Committee"

MR DEPUTY-SPEAKER: The question is:

"That Clause 11, as amended, stand part of  
the Bill"

*The motion was adopted.*

*Clause 11, as amended, was added to the Bill.*

**Clause 12 — Vice-Chairman to acts as Chairman  
or to discharge his function in certain  
circumstances**

Amendment made:

Page 8,—

- (i) line 37,—  
for "Chairman" *substitute* "Chairperson"
- (ii) line 37, and 38  
for "Vice-Chairman" *substitute* "Vice-  
Chairperson"
- (iii) line 38,—  
for "Vice-Chairmen" *substitute* "Vice-  
Chairpersons"
- (iv) line 40,—  
for "Chairman until the date on which a new  
"Chairman"  
*substitute* "Chairperson until the date on  
which a new Chairperson"
- (v) line 43,—  
for "Chairman" *substitute* "Chairperson"
- (vi) line 44,—  
for "Vice-Chairman" *substitute* "Vice-  
Chairperson"
- (vii) line 45,—  
for "Vice-Chairman" *substitute* "Vice-  
Chairperson"
- (viii) line 47,—  
for "Chairman until the date on which the  
Chairman"  
*substitute* "Chairperson until the date on  
which the Chairperson" (11)

(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 12, as amended, stand part of  
the Bill."

*The motion was adopted.*

*Clause 12, as amended, was added to the Bill.*

**Clause 13 — Term of office**

Amendment made:

Page 9,—

- (i) line 1,—  
for "Chairman, Vice-Chairman"  
*substitute* "Chairperson, Vice Chairpersons"
- (ii) line 5,—  
for "Chairman, Vice-Chairman"  
*substitute* " Chairperson, Vice-Chairperson"
- (iii) line 7,—  
for "Chairman, *substitute* " Vice-Chairperson"
- (iv) line 8,—  
for "Vice-Chairman, *substitute* Vice-  
Chairperson" (12)

(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 13, as amended, stand part of  
the Bill."

*The motion was adopted.*

*Clause 13, as amended, was added to the Bill.*

**Clause 14 — Resignation and Removal**

Amendment made:

Page 9,—

- (i) line 11,—  
for "Chairman, Vice-Chairman"  
*substitute* "Chairperson, Vice-Chairperson"
- (ii) line 14,—  
for "Chairperson, Vice-Chairman"  
*substitute* "Chairperson, Vice-Chairperson "
- (iii) line 20,—  
for "Chairman, Vice-Chairman"  
*substitute* "Chairperson, Vice-Chairperson"
- (iv) line 23,—  
for "Chairman, Vice-Chairman"  
*substitute* " Chairperson, Vice-Chairperson"
- (v) line 27,—  
for "Chairman"  
*substitute* "Chairperson"
- (vi) line 28,—  
for "Vice-Chairman"  
*substitute* "Vice-Chairperson" (13)

(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 14, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 14, as amended, was added to the Bill.*

**Clause 15 — Salaries and allowances and other terms and conditions of service of Chairman, Vice-Chairman and other members**

Amendment made:

Page 9,—

(i) line 31,—  
for "Chairman, Vice-Chairman"  
substitute "Chairperson, Vice-Chairperson"

(ii) line 34,—  
for "Chairman, Vice-Chairman"  
substitute "Chairperson, Vice-Chairperson"  
(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 15, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 15, as amended, was added to the Bill.*

**Clause 16 — Provision as to the holding of offices by Chairman, etc on ceasing to be such Chairman etc.**

Amendment made:

Page 9,—

line 37,—

for "Chairman, substitute "Vice-Chairperson"

Page 10,—

(i) line 1,—  
for "Vice-Chairman" substitute "Vice-Chairperson"

(ii) line 2,—  
for "Chairman" substitute "Chairperson"

(iii) line 5,—  
for "Chairman or "Vice-Chairman" substitute "Chairperson or Vice-Chairperson "

(iv) line 7,—  
for "Chairman or Vice-Chairman" substitute "Chairperson or Vice-Chairperson"

(v) line 8,—  
for "Chairman, Vice-Chairman" substitute "Chairperson, Vice-Chairperson"

(vi) line 11,—

for "Chairman, Vice-Chairman" substitute "Chairperson, Vice-Chairperson" (16)

(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 16, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 16., as amended, was added to the Bill*

**Clause 17 — Financial and administrative powers of Chairman**

Amendment made:

Page 10,—

(i) line 18,—  
for "Chairman" substitute "Chairperson"

(ii) line 20,—  
for "Chairman" substitute "Chairperson"

(iii) line 21 and 22,—  
for "Vice-Chairman" substitute "Vice-Chairperson"

(iv) line 23,—  
for "Vice-Chairman" substitute "Vice-Chairperson"

(v) line 25,—  
for "Chairman" substitute "Chairperson" (17)  
(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 17, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 17, as amended, was added to the Bill.*

**Clause 18 — Staff of the Tribunal**

Amendment made:

Page 10,—

(1) line 31,—  
for "Chairman" substitute "Chairperson" (18)  
(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 18, as amended, stand part of the BILL."

*The motion was adopted.*

*Clause 18, as amended, was added to the Bill.*

**Clause 19 — Distribution of business amongst the Benches**

Amendment made:

Page 10,—

(i) lines 40 and 41,—

for "Chairman" substitute "Chairperson" (19)  
(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 19, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 19, as amended, was added to the Bill.*

MR. DEPUTY SPEAKER : The question is :

"That clause 20 stand part of the Bill"

*The motion was adopted*

*Clause 20, was added to the Bill.*

**Clause 21 — Powers of Chairman to transfer cases from one Bench to another**

Amendment made:

Page 11, line 10,—

for "Chairman" substitute "Chairperson"

(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 21, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 21, as amended, was added to the Bill.*

**Clause 22 — Decision to be taken by majority**

Amendment made:

Page 11, line 16,—

for "Chairman" substitute "Chairperson" (21)

(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 22, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 22, as amended, was added to the Bill.*

MR. DEPUTY-SPEAKER : The question is :

"That Clauses 23 to 28 stand part of the Bill"

*The motion was adopted*

*Clauses 23 to 28 were added to the Bill.*

**Clause 29 — Members and staff of Tribunal to be public servants**

Amendment made:

Page 13, line 10,—

for "Chairman, Vice-Chairman"

substitute "Chairperson, Vice-Chairperson"  
(22)

(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 29, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 29, as amended, was added to the Bill.*

**Clause 30 — Protection of action taken in good faith**

Amendment made:

Page 13,—

(1) line 14,—

for "Chairman, Vice-Chairman"

substitute "Chairperson, Vice-Chairperson"

(2) line 16,—

for "Chairman Vice-Chairman"

substitute "Chairperson, Vice-Chairperson"

(23)

(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 30, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 30, as amended, was added to the Bill.*

MR. DEPUTY SPEAKER : The questions is :

"That Clause 31 stands part of the Bill"

*The motion was adopted.*

*Clause 31 was added to the Bill.*

**Clause 32 — Power to make rules**

Amendment made:

Page 13, line 32,—

for "(4)" substitute "(5)"

Page 14,—

(1) line 2,—

for "Chairman, Vice-Chairman"

substitute "Chairperson, Vice-Chairperson"

(2) line 5,—  
for "Chairman, Vice-Chairman"  
substitute "Chairperson, Vice-Chairperson"

(3) line 7,—  
for "Chairman" substitute "Chairperson" (25)  
(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 32, as amended, stand part of  
the BILL."

*The motion was adopted.*

*Clause 32, as amended, was added to the Bill.*

MR. DEPUTY SPEAKER : The question is :

"That the Schedule stands part of the Bill"

*The motion was adopted*

*The Schedule was added to the Bill*

SHRI A. CHARLES (Trivandrum): Mr. Deputy-Speaker, Sir, since Clause 4 stands deleted now, for the sake of record, it may be recorded that the remaining Clauses have to be re-numbered. Re-numbering has to be done from Clause 5 onwards.

SHRI KAMAL NATH: Sir, that will happen in the Act. Now, we have taken up the Bill. The numbering in the Bill, I presume, will remain the same and in the Act, the numbering will change.

#### Clause 1 — Short title and Commencement

Amendment made:

Page 1, line 15,—  
for "1992" substitute "1995"

(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 1, as amended, stand part of  
the Bill."

*The motion was adopted.*

*Clause 1, as amended, was added to the Bill.*

#### Enacting Formula

Amendment made:

Page 1, line 10,—  
for "Forty-third" substitute "Forty-sixth" (1)

(Shri Kamal Nath)

MR. DEPUTY-SPEAKER: The question is:

"That the Enacting Formula, as amended,  
stand part of the Bill"

*The motion was adopted.*

*The Enacting Formula, as amended, was  
added to the Bill.*

MR. DEPUTY SPEAKER : The question is :

"That the Preamble and the Long Title stand  
part of the Bill"

*The motion was adopted*

*The Preamble and Long Title were added to the Bill.*

SHRI KAMAL NATH: Sir, I beg to move:

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

MR. DEPUTY-SPEAKER: Motion moved:

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

[Translation]

SHRI RAM NAIK(Bombay North): Mr. Deputy Speaker, Sir, I would like to thank Shri Kamal Nath. He agreed to the unanimous opinion of the House and clause 4 has not been made part of the Bill. I had asked one or two things to which he did not reply. I would request him to ponder over those points. It will not be proper for the laws to mention about Chairperson in a single Bill. Therefore, if you think it proper, you can discuss it with the Department of Law and if you think it necessary then you can include chairman or chairperson, otherwise it will not be good to include it a particular Bill.

Lastly I would say that whereas we are attentive to what is being said the House, he goes on eating something. What does he eat, let us also know, so that we may concentrate.

SHRI KAMAL NATH: The important thing raised by the hon. member is about making amendment in the constitution, I will bring it to the notice of the hon. Minister of Home Affairs. He has raised a valid point. Perhaps this will not be proper to bring amendment in particular bill but hon. Home Minister will decide on it. So far the question of my eating something is concerned, it is not that everything is said in the House. I will let him know about it outside the House.

[English]

MR. DEPUTY-SPEAKER: The question is:

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

*The motion was adopted.*

[English]

MR. DEPUTY-SPEAKER: Please there is another Bill also. Today you showed so much interest and Kamal Nath ji also spoke exhaustively in his speech about the Bill with the result the Chair never wanted to deny any opportunity to the hon. Members. So, taking into consideration your sweet desire to participate in the deliberations I sought the permission of the House to extend it for some more time. And I also tagged on this. There is another Bill also which shall have to be taken into consideration. The hon. Minister concerned is also just waiting. I am really happy that you are so liberal.