

PAPERS (ENGLISH AND HINDI VERSIONS)
UNDER ARTICLE 323(1) OF THE CONSTITUTION

The Minister of State in the Ministry of Home Affairs (Shri Hajarnavis): Sir, I beg to lay on the Table a copy each of the following papers (English and Hindi versions) under article 323(1) of the Constitution:—

- (i) Twelfth Report of the Union Public Service Commission for the period 1st April, 1961 to 31st March, 1962.
- (ii) Memorandum explaining the reasons for non-acceptance of the Commission's advice in a case referred to in the above Report.

[Placed in Library, See No. LT-1580/63].

12.24 hrs.

COMMITTEE ON PRIVATE MEMBER'S BILLS AND RESOLUTIONS
TWENTY-FOURTH REPORT

Shri Krishnamoorthy Rao (Shimoga): Sir, I beg to present the Twenty-fourth Report of the Committee on Private Members' Bills and Resolutions.

12.24½ hrs.

ELECTION TO COMMITTEE

CENTRAL ADVISORY BOARD OF EDUCATION

The Parliamentary Secretary to the Minister of Education (Shri M. R. Krishna): Sir, on behalf of Dr. K. L. Shrimali, I beg to move:

"That in pursuance of paragraph 3(2)(d) of the late Department of Education, Health and

Lands Resolution No. F.122-3/35-E, dated the 8th August, 1935, as amended from time to time, the members of Lok Sabha do proceed to elect, in such manner as the Speaker may direct, three members from among themselves to serve as members of the Central Advisory Board of Education for the next term, subject to the other provisions of the said Resolution."

Mr. Speaker: The question is:

"That in pursuance of paragraph 3(2)(d) of the late Department of Education, Health and Lands Resolution No. F.122-3/35-E, dated the 8th August, 1935, as amended from time to time, the members of Lok Sabha do proceed to elect, in such manner as the Speaker may direct, three members from among themselves to serve as members of the Central Advisory Board of Education for the next term, subject to the other provisions of the said Resolution."

The motion was adopted.

12.25 hrs.

PERSONAL INJURIES (COMPENSATION INSURANCE) BILL—contd.

Mr. Speaker: The House will not take up further consideration of the following motion moved by Shri C. R. Pattabhi Raman on the 26th August, 1963, namely:—

"That the Bill to impose on employers a liability to pay compensation to workmen sustaining personal injuries and to provide for the insurance of employers against such liability, be taken into consideration."

The Deputy Minister in the Ministry of Labour, Employment and for

Planning (Shri C. R. Pattabhi Raman): Mr. Speaker, Sir, during war time special legislation becomes necessary to provide for grant of relief in respect of war injuries sustained by civilian employees. The Workmen's Compensation Act, 1923, and the Employees State Insurance Act, 1948, provided for relief in respect of ordinary industrial injuries. War injuries cannot be compensated under these Acts, because, firstly, the extent and severity of war casualties amongst industrial workers depends upon the vulnerability and strategic importance of the industrial areas. Thus, while industries located in vulnerable and strategic areas may experience large-scale and, in some cases, catastrophic casualties, the industries outside such areas may be left free. Secondly, it is obvious that if employers are made liable to pay compensation for war injuries (otherwise than by a scheme of insurance providing for pooling of risks) the burden will fall on employers who have industries in areas vulnerable to enemy action. In most cases, it will be beyond their means to meet the liability. Further, they will be in such a competitive disadvantage that they may be forced to close down sooner or later.

Accordingly, when the emergency was declared in October 1962, action was taken to undertake legislation to provide for basic relief in respect of certain personal injuries sustained during the period of emergency. Such a relief could be given only from the Consolidated Fund of India, and the amount of relief had necessarily to be restricted to the basic minimum. To provide for such relief, the Personal Injuries (Emergency Provisions) Act, 1962 was enacted in December, 1962. The Act empowers the Central Government to make a scheme or schemes providing for the grant of relief in respect of (1) personal injuries sustained by gainfully occupied persons and by persons of such other classes as may be specified and (2) personal

service injuries sustained by civil defence volunteers. A scheme called the Personal Injuries (Emergency Provisions) Scheme, 1962, was notified in December 1962. This scheme provides for the grant of relief from the Central Government funds on a scale approximately equivalent to the amount of relief granted in respect of the lowest combatant rank of the Indian Army. The civil defence volunteers are entitled to relief at a slightly higher rate as in the case of the next higher ranks of the army.

Under the Personal Injuries (Emergency Provisions) Act, 1962, the liability of employers to pay compensation for personal injuries under the Workmen's Compensation Act, 1923 and the Employees' State Insurance Act, 1948 has been removed. The rates of relief provided for under the Personal Injuries (Emergency Provisions) Scheme, 1962 do not take into account the rates of wages of the person sustaining a personal injury with the result that they do not give adequate compensation to the higher paid labour. It is impossible for Government themselves either to increase generally the scale of relief under this Scheme or to undertake liability to pay further compensation to a particular class of employees from Government funds. It is, however, reasonable that the obligation should be put on certain employers. In view of this, supplementary legislation has been proposed with a view to compensate certain classes of employees for personal injuries at a higher rate.

As the hon. Members are aware, with a view to protect industrial properties and goods which are liable to loss or damage by war-like action during the emergency, the Ministry of Finance have introduced Emergency Risks Insurance Scheme through the Emergency Risks (Factories) Insurance Act, 1962 and the Emergency Risks (Goods) Insurance Act, 1962.

These Schemes provide for compulsory insurance, the rate of premium being fixed by the Central Government from time to time. The legislation now proposed by us will to a certain extent be on the lines of the Emergency Risks Insurance Schemes.

During the last war, the War Injuries (Compensation Insurance) Act, 1943 was enacted to provide for relief to certain classes of workmen at a higher rate and to provide for compulsory insurance of the employers. It is proposed now to undertake a similar legislation with certain changes necessitated by changed circumstances as indicated in the Personal Injuries (Compensation Insurance) Bill, 1963.

The statement of objects and reasons appended to the Bill explains the object and scope of the Bill. The Notes on clauses explain in brief the provisions of the Bill. The financial implications are explained in the Financial Memorandum.

The object of the Bill is to impose on the employers of workmen in factories, mines, major ports, plantations, essential services etc. the liability to pay compensation in respect of personal injuries to the extent the amount of compensation payable under the Workmen's Compensation Act, 1923, exceeds the amount of compensation payable under the Personal Injuries (Emergency Provisions) Act, 1962. The Bill provides for a scheme of insurance of the liability by the employers with Government based on premium rates which can be varied with reference to the actual nature or extent of the liability as it may exist from time to time.

The Bill extends to the whole of India and the employers concerned whether their concerns are located in areas threatened by enemy action or not will have to insure their liability. This has been considered necessary because by distributing the burden of the liability to insure over a maximum area, it will be possible to keep the premium rates low and, at the same

time, collect sufficient sums for the Insurance Fund.

The Bill when passed into law will be brought into force from such date as may be specified by the Central Government. The intention is that the enforcement should be started only when there is a possibility of civilian casualties due to hostilities. As already stated by me earlier, the amount of compensation payable is equal to the difference between the amount of compensation payable under the Workmen's Compensation Act, 1923 and the amount paid by Government under the Personal Injuries (Emergency Provisions) Scheme, 1962.

Provision has been made for payment of compensation on a uniform basis irrespective of the fact whether a workman is covered by the Workmen's Compensation Act, 1923 or the Employees' State Insurance Act, 1948. This has been considered necessary from the point of view of practicability, equity and the fact that the quantum of benefits under the Workmen's Compensation Act is fixed automatically.

Under the Workmen's Compensation Act, 1923, the monthly wage limit for coverage is Rs. 500 and the rates of compensation are linked with the wage-slabs. Workmen in the wage slab Rs. 400.01—Rs. 500 are entitled to the maximum rates of compensation. As the Bill would cover the workmen drawing monthly wages more than Rs. 500 also, provision has been made that in their case the maximum rate of compensation provided for in the Workmen's Compensation Act, 1923, for the workmen in the wage slab Rs. 400.01—Rs. 500 would be taken into account.

It is possible that some employers may have voluntarily undertaken to pay compensation in respect of their employees on a scale even higher than what is provided for in the Bill. A provision has, therefore, been made in clause 5 of the Bill limiting the right of workmen to receive compensation otherwise than under the Bill.

[Shri C. R. Pattabhi Raman]

and the Personal Injuries (Emergency Provisions) Scheme to so much only of compensation as exceeds the amount of compensation payable under the Bill.

In the case of Government employees who are entitled to the benefits of extra-ordinary pension, gratuity etc. provision has been made in clause 6 of the Bill to the effect that their right to compensation under the Bill shall be restricted only to so much of the benefit as exceeds their entitlement to extra-ordinary pension, gratuity etc.

Every employer covered by the Bill is required to take out a policy of insurance from the Central Government and this policy will insure him until the termination of the emergency or until the date on which he ceases to be an employer, if such date is earlier.

The Bill exempts employers whose quarterly wages bill is less than Rs. 1,500. Small establishments, for example, small-scale industries, are generally scattered and in their case the cost of collecting the premium and administrative charges will be out of proportion to the realisation to be made. Hence, the exemption. A contractor whose contract is of less than one month in duration is also exempted because it will be very difficult to collect premium from contractors working for small period. The exemption given to employers, will not prejudice the claims of workers and compensation will be paid to them directly from the Insurance Fund.

The scheme of the Bill is that the total amount of the premium payable by employers will be fixed after the emergency is over in the light of the total liabilities but the employers will be required to make advance payments against the final total premium.

Shri Hari Vishnu Kamath (Hoshangabad): After the emergency is over?

Shri C. R. Pattabhi Raman: That is with regard to the advance payment.

The advance payments will be recovered from employers at intervals not more frequent than once in each quarter of a year. The premia under the Emergency Risks Insurance Schemes are also being collected quarterly, as hon. Members would have realised already. The rate of premium will be fixed by the Government from time to time in the light of the liability as it may exist from time to time.

The Personal Injuries Compensation Insurance Fund will consist of all sums received by way of insurance premiums etc. The Fund will be utilised to pay sums required for the payment of compensation to workmen of the cost of administration or expenses of agents employed for the insurance schemes; and for payment of the cost of administering the scheme. The Fund is intended to be self-sufficient but provision has been made for the Central Government to make an advance to the Fund, if it is temporarily in deficit, of any amount which may be needed for meeting the expenditure chargeable to the Fund. The advance will be recouped from the future premia. If there is ultimately a surplus in the Fund after providing for all the payments from the Fund the excess shall be disposed of in such manner as the Central Government may decide.

The Scheme of insurance will be administered through agents to be appointed by the Central Government. The agents will be paid from the Insurance Fund, as remuneration the actual expenses that may be incurred by them in operating the scheme.

I hope that the Bill will receive support from all sections of the House.

Mr. Speaker: Motion moved.

"That the Bill to impose on employers a liability to pay compensation to workmen sustaining per-

sonal injuries and to provide for the insurance of employers against such liability, be taken into consideration."

Shri Hari Vishnu Kamath: On a point of order, Sir. I invite your attention to page 19 of this Bill which sets forth the President's recommendation under article 117 of the Constitution. The recommendation has been communicated to the Secretary of the Lok Sabha and reads as follows:—

"The President, having been informed of the subject matter of the proposed Bill . . . has, in pursuance of clauses (1) and (3) of article 117 . . . recommended to Lok Sabha the introduction and consideration of the Bill."

I submit in all humility that I take exception to the manner in which the highest dignitary of our country under the Constitution seems to have been treated in this particular matter. I submit that he has been treated in a rather informal and casual manner if we take these words literally and unless it is shown to the contrary I suppose we have to take these words literally that are there in the communication as set forth on page 19, namely,

"The President, having been informed of the subject matter of the proposed Bill . . ."

I wonder whether the President was informed on the telephone or through somebody else or through whom and how he was informed, merely to inform the President of the subject matter of the Bill is neither adequate nor appropriate, if we have to observe the spirit as well as the letter of the Constitution. I am sure, the hon. Minister and my other colleagues will agree with me that the President cannot consider anything in a vacuum unless he has got a copy of the Bill before him, that is, the complete Bill with the statement of objects and reasons and everything, all connected material, papers and documents relevant to the Bill. Unless he has all these before him how can he arrive at any reasonably sound judgment as to whether the provisions of the Bill are in accordance with the relevant articles of the Constitution or not? I submit that according to the information given to us just now by the Minister it seems that the President has been only informed of the Bill. We are not sure whether the President had before him a copy of the Bill and other papers or documents relevant to the Bill and, therefore, whether he arrived at a judgment or a conclusion after considering all the aspects of the matter. I submit, therefore, that the President's recommendation as put forward here is not quite in order and in consonance with the spirit and the letter of the Constitution. Therefore, the Bill, as it stands today without the regular recommendation of the President is out of order.

Mr. Speaker: Is the recommendation not in order or the information that was given to him is not in order?

Shri Hari Vishnu Kamath: That is exactly the point. I am glad you have hit the nail on the head. You can put yourself in the position of the President.

Mr. Speaker: I would not.

Shri Hari Vishnu Kamath: You will not literally do it.

Mr. Speaker: Let the hon. Member put himself in that position.

Shri Hari Vishnu Kamath: I certainly would not give the recommendation unless I have got the Bill and all the papers.

Mr. Speaker: I have put him only the question whether he says that the recommendation is not in order or the material supplied to him on which the recommendation was made was not in order. What is it than he takes exception to, out of these two?

Shri Hari Vishnu Kamath: Considering that the material supplied to the President seems to have been inadequate and insufficient, the recommendation of the President is not well based on the material as it should have been presented to him. Therefore, the President has been treated in a very casual and informal manner. It is merely informing him of the subject matter of the Bill. I submit that the President's sanction is, therefore, not quite regular.

Shri U. M. Trivedi (Mandsaur): May I make one submission? I wanted to raise this point. The question is this. This is the first time that this type of certificate has been attached to the Bill. We have never come across this up-to-date. The question is this. Article 117(1) of the Constitution says:

"A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 110 shall not be introduced or moved except on the recommendation of the President and a Bill making such provision shall not be introduced in the Council of States;"

Now, this is what article 117(3) says:

"A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill".

According to the language used in the Constitution, in article 117, the initiative must be from the President, not that the initiative must be taken by the Minister. The Minister shall not decide anything. Actually speaking, all Bills emanate certainly from the President. But, if further thing is necessary, as in this case, where the expenditure is to be met from the Consolidated Fund of India, then there

must be a further recommendation of the President. Here it is stated:

"... recommended to Lok Sabha the introduction and consideration of the Bill."

What he recommended is not the introduction of the Bill. The introduction of the Bill requires his recommendation. That is under article 117(1). Then, further it requires that he must further recommend if there is expenditure to be met from the Consolidated Fund of India, the consideration of the Bill to the House of People. Therefore, in this case there is absolutely nothing to indicate that the whole thing as initiated from the President or that the President has made a recommendation for its introduction and for its consideration. This only shows that the President has made a recommendation for its introduction and for its consideration. This only shows that the Minister wanted this and because the Minister wanted this, the President simply said, "Yes". The point is that it must start from the President. That is the point.

Shri Hari Vishnu Kamath: It has been done in a slipshod manner.

Mr. Speaker: Order, order. I am surprised that an objection has been taken here. What we are concerned with is this. Under article 117 it is provided:

"A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 110 shall not be introduced or moved except on the recommendation of the President . . ."

Now the recommendation is there. No fault has been found with that. The recommendation is regular and when recommendation is there we can proceed with the Bill with its introduction and its consideration. Then, again, it is not enough. I am talking of this because Mr. Kamath has taken objection to the way in which the words put in are, "The President, having been informed..." and he

says that is not the way in which it ought to have been done. In fact, we are not here concerned in what way he gets the information. Whether the information that he gets is enough for him or not, that he has to decide. All those papers must be sent to him. He must have a look at them and apply his mind to that and all things would be deemed to have been done regularly unless something is found out that that was not regular or that it was against the law or rules. This is also not enough. Both the hon. Members have ignored altogether rule 348 of the Rules of Procedure. As to how this recommendation shall be obtained is put down in rule 348. It says:

"Every sanction or recommendation by the President shall be communicated to the Secretary by a Minister in the following terms..

The terms are also given.

"The President having been informed of the subject matter of the proposed Bill, motion, demand for grant or amendment...or recommends to the House the consideration of the Bill."

Therefore, if it had been in any other manner, objection would have been taken that it is not according to the rules that are laid down here. And all along the practice has been according to these rules and according to the Constitution they are perfectly in order. There is nothing wrong in it. Therefore, I overrule the objection taken.

Shri Hari Vishnu Kamath: On a point of clarification. I am glad you have pointed out this rule 348 of the Rules of Procedure. It refers only to the consideration of the Bill. As my hon. friend Mr. Trivedi pointed out.

Mr. Speaker: Every sanction or recommendation.

Shri Hari Vishnu Kamath: But for what?

Mr. Speaker: For any purpose where it is required.

Shri Hari Vishnu Kamath: There are two separate stages as my hon. colleague Mr. Trivedi pointed out.

Mr. Speaker: He would not argue still.

Shri Hari Vishnu Kamath: You, Sir, said in the course of your ruling that all things would be deemed to have been done regularly, that the President is deemed to have before him all the papers unless it is proved to the contrary. We have no machinery to find out whether it was so done or not.

Mr. Speaker: We have to presume that everything is being done regularly unless we can prove otherwise. Shri Nambiar.

Shri Hari Vishnu Kamath: Government should treat him in a better manner.

Mr. Speaker: I hope so. After all, Government will take note of the objection raised here. Shri Nambiar.

Shri Nambiar (Tiruchirapalli): Mr. Speaker, Sir, here I agree with the hon. Deputy Minister that this is a war-time measure, an emergency legislation. But my difficulty is this that in so far as the hostilities and troubles that are contemplated or likely to occur, I do not know whether it is necessary to proceed with such a legislation or whether we could take away the earlier legislation which speaks about the emergency provision of personal injuries. The Personal Injuries (Emergency Provisions) Act, 1962 was enacted towards the end of 1962 for the purpose of paying compensation to the employees as well

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as to the workmen. Here, I am concerned only with the workmen, because all citizens who are likely to be injured as a result of hostilities do not come within the purview of these two legislations. We are here concerned only with the employees working in factories etc. That being so, there is already a provision in the Workmen's Compensation Act, under which they can get the necessary compensation. If the object is one of granting compensation to all the citizens, then why should we differentiate between employees coming under the Factories Act, the workmen coming under the Workmen's Compensation Act and those coming under other Acts? If it is a question of granting sufficient compensation to the employees, then the Workmen's Compensation Act is quite enough for that purpose. But because of the previous legislation that we had passed in 1962, the right of the workers to get compensation under the Workmen's Compensation Act has been removed today. Take, for instance, a forward area. May God forbid that there should be hostility in that area, but suppose there is hostility in the forward area, and a factory is hit or bombed or damaged in any way, and some employees are injured as a result thereof, then, normally they would have got compensation under the Workmen's Compensation Act. But, now because of the Personal Injuries (Emergency Provisions) Act, the employees cannot get the compensation from the employers, but they can get it only from Government under this measure. Therefore, straightway, the employees are deprived of the compensation altogether by the Personal Injuries (Emergency Provisions) Act, 1962. That was the position until this Bill was brought forward.

Mr. Speaker: I understood that it was being ensured by Government that the employers would be required to make payments in that behalf.

Shri Nambiar: No. That is the confusion that has been created. In the Statements of Objects and Reasons, the hon. Minister himself has admitted that:

"Under section 4 of the Personal Injuries (Emergency Provisions), Act, 1962, the liability of an employer to pay compensation for personal injuries (i.e. war injury) under the Workmen's Compensation Act, 1923 or the Employees' State Insurance Act, 1948, has been removed . . ."

Mr. Speaker: That is because Government are taking over that responsibility.

Shri Nambiar: When once that is removed, Government do not give any compensation to the workmen worth its name, and instead, Government will only give some promises to give some compensation. That was the position under the Personal Injuries (Emergency Provisions) Act. But, now, the hon. Minister has improved on that. He says that because the previous Act has deprived the employees of the right of getting compensation under section 4, now, Government want to increase the compensation, which may go up to the provision that has been made in the Workmen's Compensation Act. This is how he has improved on it. Then, he has provided a scheme according to which certain premia are to be paid by the employer, and the money would be collected and put into the Consolidated Fund of India, and from that compensation will be paid. This is the provision that has now been made.

My objection to this is that this makes confusion worse confounded. The employee does not know where to go for compensation. Suppose I am an employee working somewhere in a forward area, and suppose I am injured. I am not going to get any compensation from the employer under these two Acts, but I shall have

to apply to Government for compensation. I do not know what machinery Government are providing for this purpose. So far as the Workmen's Compensation Act is concerned, there is a commissioner already, and I have got a proper channel for getting my compensation. But now that channel has been taken away, because the employer will now say 'I have nothing to do with your payment; therefore, you may ask the Government concerned'. Nobody knows whether the Compensation Commissioner will come into the picture or not. Therefore, the position becomes altogether difficult.

Of course, it may be argued that after all, this is an emergency, and I shall have to undergo some rigours and sufferings, and an employees cannot be distinguished from the ordinary citizen, and, therefore, I may be asked why I am pleading in this manner. I may be asked: 'Suppose the same this happens to a man in the street, who while walking on the street is hit by some bomb or some such thing and he suffers; then, why do you make a differentiation between the employee and the man in the street so far as compensation is concerned?' Then I would ask: 'Why do you make a differentiation by taking away the right of the workman under the Workmen's Compensation Act by means of this provision? You could have left the employee to himself, and he could have been treated in the same manner as others.' Why do you first take away his right under the Workmen's Compensation Act and then try to improve on that position? That is my objection.

So far as the present Bill is concerned, it is an improvement on the previous Act, and to that extent, I welcome this Bill. But it confuses the whole issue and creates a very unreal atmosphere. I am not going into the question of the emergency now, whether it is necessary to have such a provision at this stage, whether we should apprehend any more hostilities and any more injuries similar to what happened last year. All

these are bigger political issues, and I do not want to enter into them at this stage, and it will be wrong on my part also to do so. But, I submit, that in the given circumstances, Government could have been well advised to repeal the Personal Injuries (Emergency Provisions) Act, 1962. If that had been repealed, then I would have been satisfied, so far as the employees are concerned, and the position that prevailed before the emergency started would have been restored once again. But when once you are not prepared to repeal that Act and you try to bring forward another legislation, then it complicates the matter. Moreover, some invidious distinctions are being made. So far as the definition of 'workman' is concerned, Government have not brought in all workmen who are covered under the Workmen's Compensation Act, within the purview of this measure.

Clause 3 of the present Bill reads thus:

"The workmen to whom this Act applies are—

- (a) workmen employed in any employment or class of employment which is or has been declared to be, an essential service under rule 126AA of the Defence of India Rules, 1962;
- (b) the workmen employed in any factory as defined in clause (m) of section 2 of the Factories Act, 1948;
- (c) workmen employed in any mine within the meaning of the Mines Act, 1952.
- (d) workmen employed in any major port;
- (e) workmen employed in any plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951;
- (f) workmen employed in any employment specified in this behalf by the Central Government by notification."

Instead of all this, Government could

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straightway have said that the term 'workman' means any workman who comes within the scope of the definition of 'workman' under the Workmen's Compensation Act. The definition contained in section 2(n) of that Act, which defines the category of workmen could have been included here also. But that has not been done. I ask why even in a Bill of this nature there should be distinction between workmen and workman? As a result of this Bill, even the important compensation rights that the workmen are likely to get will not be available to all the workmen within the meaning of the Workmen's Compensation Act. There again, Government have made a differentiation. Therefore, the whole thing remains in a confused state of affairs.

12.58 hrs.

[SHRI THIRUMALA RAO *in the Chair*]

But, Government may argue this way. Supposing there is a hostility today, or granting that after six months there is a hostility, and something unfortunate happens and injuries take place, then wherefrom will the money come to Government? Therefore, Government want to create a fund. The collections for that fund have to come from the employers. According to this Bill, the premia are to be paid by the employers. We are not taxing the common man at all in this respect but we are collecting the money only from the employers. And we collect the money according to certain rates fixed. I would like to ask why the employer should not be made responsible to pay this compensation as usual, and then he can be subsidised by Government if he has done anything out of the way, or beyond what he was expected to do. Let me make it clear. Suppose there is an employer in the forward area, and he loses Rs. 10,000 as a result of payment of compensation for war injuries and not for injuries sustained in the course of the work in his establishment by an employee; the employer pays the compensation

to the employee. Later on, Government may subsidise the employer to the extent of that sum of Rs. 10,000 or whenever it may be paying him out of the Consolidated Fund of India. Otherwise, what will happen is this. An employer who is located somewhere in Tuticorin, for example, and who is having a factory with ten thousand employees there will also have to pay the premia for what may be taking place only on the border areas. Not only that. He does not know how much he has to pay. He is asked to pay something like a small premium which will be adjusted after the claim is made. The employer does not give the money, but the Government pays and this amount is settled with the premium collected from the fund. That is why the whole thing is confused and neither the employer nor the employee is benefited. The department also cannot deal with the situation.

13 hrs.

When there is hostility, when there is injury sustained, when normal life is not there and the employee gets his limbs broken, he will have to file a petition. To whom? He will have to wait for the compensation. Who is the authority to pay it? The person who gets injured will continue to be 'injured' and the confusion will continue. In the other case, the employee has to submit his petition to the Commissioner under the Workmen's Compensation Act and he will at least get it. But here it is different.

Therefore, though this Bill is an advance on the previous Act, the position is not wholly satisfactory. It is not up-to-date. It is not in any way advantageous to the employee, nor to the employer. No provision has been made showing how the whole thing is going to be dealt with. Who is the Commissioner? How is the compensation to be paid? They say it will come in the rules? But no indication is given. I do not know whether

under the previous Act any notification has been issued, I do not know whether the previous Act is in operation today. We are multiplying Acts; everyday we pass them. But I do not know how we are going to implement them. This should not be another piece of, if I may be excused in saying so, dead legislation. But there is danger of it being so.

My straight request would be to repeal the Personal Injuries (Emergency Provisions) Act, 1962, and leave the workmen who come under the provisions of the Workmen's Compensation Act untouched and safe. If any more danger is likely to come, let the normal law of the land operate and let us see what best we can do later.

If this is not acceptable, my second request is to amend section 3 to the extent of bringing it to the level of section 2(1)(n) of the Workmen's Compensation Act, so that all workmen may come under the benefit thereof.

Another thing—regarding casual labour. The Minister said it is difficult to fix an employer so far as casual labour is concerned and also fix the premium and collect the money. But the unfortunate thing is that the casual labourer also gets injured. For the mere reason that he is a casual labourer, why should he suffer? He has to do the same work as any other worker in a factory. But still the Ministry does not feel the necessity of removing this distinction between a casual and permanent labour. This state of affairs should not be allowed to continue for long. This has been our request with other departments also, like the Railways. We say that this casual system of labour must end. They may say it is required temporarily for temporary work. We agree. But there must be some limitation. If it is for 10 or 15 days, it may so. But this must not continue like that. This distinction must vanish. The Minister will kindly look into it.

The Act applies to employers who pay a wage bill of Rs. 1,500 per quarter. That means the smaller fry are left out. I have no objection. But what is the sort of industry that will be covered, how many workers will be involved? These things are not yet understandable to me. It depends upon the rate of wages and so on. But it looks as if it is a small one. Already some are left out.

What will happen to these employees? Will they get the benefit? The premium is not paid by the employer, but the benefit will go to the employees. If that is so, it is good. But the point is not clear. Of course, there are references to it.

However, considering the present state of affairs, let us pray that there may not be any more hostilities on the border. Let us not create some more laws of this type. Let us try to function under the normal laws. I would appeal to the Minister to consider this. Let employees who are already employed and who are doing their normal work and more for the country's defence, be kept in peace. 8icsary?ddofob

Shri Kashi Ram Gupta (Alwar): Mr. Chairman, Sir, I rise to speak on this Bill with a mixed feeling, because in principle, the Bill is to be welcomed, but from the practical point of view, it must be opposed on so many grounds.

This is an emergency measure. But we all know how the emergency is going on. The very fact that this Bill has been brought in so late in this House speaks of it, that the emergency is not there, as is sought to be pictured by the Bill. We have seen the fate of two former Bills, the Factories Risk Insurance Bill and the Goods Risk Insurance Bill. What is going on is that Government is taking money all right into its coffers, but nothing is to be paid to anybody because no such emergency has arisen in practice. This Bill will also meet the same fate.

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It may be that the Government will say that they are taking powers in their hands, but experience has shown that when powers are given to them, the Government enforce them in a very peculiar way. The only result is that they take the amount into the treasury. There can be no moral justification for it when it is not utilised for the purpose. So the Bill ought not to have been brought in at all, but because it has been brought in, it will be proper to postpone its operation till an emergency arises. If that is assured, of course there can be some utility in the Bill at the proper time.

I may quote two examples. When they bring forward such Bills and get them passed into Acts, the poorer people, the small employers are affected by them. One case is that of the Employees' State Insurance Act. It covered all factories wherever they were situated and the employers who were scattered, who were unorganised, had to suffer in this way that they had to pay the premium but could never hope to get the benefit of it for their employees. After ten or twelve years Government had to notify that areas in which less than 500 people are employed would be exempted from the Act. The same will be the fate of this Bill.

I may give another example. In the present Budget we had removed the excise duty on vegetable oils. This has only resulted in destroying the smaller units, and the Khadi and Village Industries Commission has now to come forward to pay rebate to the Ghani people.

Such things happen. The difficulty is that because labour and employers in small industries are unorganised, they cannot raise their voice, and this Government hears only those voices which are organised, whether it is labour, capitalists or their own people.

So, when this Bill is passed and applied to the people, what will be their fate? Everybody knows that big industries are situated not in the villages but in cities. It is the cities that may be bombarded. So, the employees of these small people in remote places are not expected to be effected, but they will have to pay the premium, and it is the big people that will benefit by it. For, after all, the employees of the big people will be paid from the Consolidated Fund, which comes from all people.

I find that the schedule of injuries is just like the schedule in the Workmen's Compensation Act or the Employees' State Life Insurance Act. In a war one cannot say what kind of injury will be suffered. The percentages given are unreal, and if totalled they would be much more than 100 per cent. In drawing up the schedule, the practical side has been ignored. For example, percentage of disability for loss of both hands is 100, amputation of right arm through shoulder 90, amputation of left arm through shoulder 90 etc. So many amputations are there, but in a war one cannot say that only one amputation will be there and not the other. So, all these calculations are only mathematical and apply to peace-time accidents in factories only. I have tabled certain amendments and shall move them at the appropriate time. But the basic thing is and the Minister himself admits that there are certain areas, certain operations, which are outside the purview of this Bill. For instance, if the quarterly wage bill is less than Rs. 1,500, the employers will be exempted. My friend Shri Nambiar has rightly asked if their employees will be covered or not. If not, what will be their fate? I think it is better that he raises the limit to Rs. 2,500. I shall give the reasons later on.

So far as contract labour is concerned, while the quarterly instalment is there, putting it less than one month is totally negating the whole

thing. It should be less than two months, and I shall give the reasons for the same.

Reading together clauses 9, 15 and 16, some points arise. Clause 9 prescribes a punishment of Rs. 2,000 for contravention and a further punishment of Rs. 1,000 per day for continued contravention. I think this can be done only by a court of law. Once he is challaned in a court of law and fined and the amount is also realised, I cannot see how clause 15 can be applied to him. It says:

“(1) Without prejudice to the provisions of sub-section (2) of section 9, where any person has failed to insure as or to the full amount required by this Act and the Scheme and has thereby evaded the payment by way of premium of any money which he would have had to pay in accordance with the provisions of the Scheme but for such failure, an officer authorised in this behalf by the Central Government, may determine the amount payment of which has been so evaded and the amount so determined shall be payable by such person and shall be recoverable from him as provided in sub-section (2)”.

Once he has been challaned under clause 9, what will be the use of this clause?

Clause 16 reads:

“Where an employer has failed to take out a policy of insurance as required by sub-section (1) of section 9, or having taken out a policy of insurance as required by that sub-section, has failed to make the payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme, payment of any compensation for the payment of which he is liable under this Act may be made out of the Fund, and the

sum so paid together with a penalty of such amount not exceeding the sum so paid as may be determined....”.

There is again a penalty here. How can there be two penalties? The penalty is already there when he is challaned in a court of law. So, all these things seem to be contradictory, and I request the hon. Minister to see what the result would be of all these clauses taken together.

This House has always been ignoring the small producers and their employees, so far as the application of laws is concerned. The time has come when the Factories Act should be so amended that there may be different punishments for the small people and the big people. The present policy of the Government is resulting in protecting the big people at the cost of the small people. I have already given examples. So, just as they have taken power in the Factories Risk Insurance Scheme and the Goods Risk Insurance Scheme to exempt certain classes of factories, they should have taken power to exempt certain classes of people from this enactment. To that end I have tabled some amendments.

Clause 18 reads:

“Any offence punishable under sub-section (2) of section 9 may, either before or after the institution of the prosecution, be compounded by the Central Government or by any authority authorised in this behalf by the Central Government on payment for credit to the Fund of such sum as the Central Government or such authority, as the case may be, thinks fit.”

Sir, I am unable to understand why these should be compounded at all. If a man has done something wrong, he must be punished: there is no question of compounding when it is a

[Shri Kashi Ram Gupta]

war measure. I think it is contrary to the concept of the Bill itself. Thank you Sir, for the opportunity given to me.

Dr. Gaitonde (Goa, Daman and Diu): Sir, I rise to congratulate the hon. Minister as this time there is an improvement over the last Bill, at least in one respect. Last time there was no financial memorandum at all and we were told that it was no possible to have it. This time there are at least some assumptions made. But what are the basis for those assumptions, I do not know. Again and again it is said that it is not possible to make any worthwhile estimate. But I said last time that it was possible to make such an estimate because in other countries it has been made and so why not here? Last time I gave him some data to find out how these estimates are made. I think that they have been ignored.

Sir, the draft of the Schedule included in this Bill is amusing; it is more amusing than the books by Alphonse Daudet who was a great French author. The schedule divides the limbs into upper limb and lower limb..... (Interruptions). Then there is the right upper limb and left upper limb. Left is said always to be inferior to the right. Even if somebody is left handed he will get less compensation. It is extremely wrong. Then, let us take the lower limbs. It speaks of loss of two or more limbs. I would like to know whether in India people have got more than two lower limbs. In respect of the upper limbs, the hon. Minister is clear. The Minister is not clear about the number of the lower limbs.

Shri Hari Vishnu Kamath: Teach him some anatomy.

Dr. Gaitonde: I do not know from where they have copied this but it is a very bad and horrible type of copying. This has to be redrafted.

Shri C. R. Pattibhai Raman: I dare say that I will be able to answer at the proper time.

Dr. Gaitonde: On page 14, there is a description of injuries. There one finds the same percentage for the loss of two fingers on either hand. But when the loss is of four fingers, then there is no equality. Loss of four fingers (right) means 50 per cent while for left, it means 40 per cent. If the person is left-handed, is this classification justified? There is a large-percentage of cases of left-handed persons. Nobody compels any child nowadays in schools to write with the right hand. Then, there is nothing about the loss of three fingers. What would happen if one loses three fingers? I do not know.

In our studies we are told that a man has five senses. But the hon. Minister accepts only two: hearing and vision. About touch, smell and taste he is silent.

Shri Hari Vishnu Kamath: They have the sixth sense.

Dr. Gaitonde: Some have; not all. But the hon. Minister accepts only two senses. What about the other three? If the tongue is cut, he cannot be a Member of Parliament. What about the tongue?

Shri Hari Vishnu Kamath: That is no disqualification,—dumbness or deafness.

Dr. Gaitonde: Suppose I am in a factory and my tongue is cut.

Mr. Chairman: Hon. Member need not offer himself as an example.

Dr. Gaitonde: In an Emergency I may have to go to the front as a surgeon. Then what about the internal organs? Nothing is said about them. Are there only the lower limbs and upper limbs and these two senses? Are there no others? This Schedule should be redrafted completely.

Shri Nambair: I think with the right of redrafting we can pass it.

Dr. Gaitonde: I now come to the financial memorandum again. I request the Minister to ask the specialists to have this kind of studies. What should be the compensation or how many people will get injuries or die in an emergency? These calculations are possible. In other countries these have been done. I ask the Minister whether such a study has been conducted in his Ministry.

Shri Pattabhi Raman: I may assure him that it has been done.

Dr. Gaitonde: Then why do they say that it is not possible to make any worthwhile estimate of the likely number of casualties as this depends upon a very large number of uncertain factors.

Shri Pattabhi Raman: The conventional type of war has changed. We cannot envisage what the future war will be. Whatever was good in the old war in England, rifle shooting and machine guns, etc. may not be so now. We have endeavoured to the best of our ability to think about them.

Dr. Gaitonde: I am not requesting the Minister to copy England. I am saying that just as in England and in other countries of the world, we should study these things. Their calculations may go wrong. In the last war in England they calculated the compensation at £120 million. But I believe, at the end it came to much less. But at least we have to calculate. Some basis is absolutely necessary. The Deputy Minister says that the technique of war and everything changes. I quite agree. The second world war was completely different from the first world war. But the calculations were there before the war. We have to have some ideas as to what would happen. So, with this request, and with the request that these Schedules should be redrafted completely, I congratulate the Minister on having brought forward this Bill and on his including a Financial Memorandum also.

Shri U. M. Trivedi: Mr. Chairman, Sir, I feel that this Bill ought to have been passed long ago. The Personal Injuries (Emergency Provision) Bill, 1962 was passed and assented to by the President on 19th December, 1962. I cannot understand why it has taken nearly ten months more to bring this Bill before the House.

Shri Kashi Ram Gupta: Actually, there is no emergency.

Shri U. M. Trivedi: If there is no emergency, the Bill ought not to have been brought and the time of the House be taken on it. But we presume the Government feels that the emergency exists and the fact that it has taken such a long time will only indicate the lethargic way in which the Government machinery moves.

There is one very patent thing in the present manner in which these laws are made. When the Personal Injuries (Emergency Provisions) Bill was passed, it was provided in section 3 as follows:

“...that the Central Government may make scheme or schemes in accordance with the provisions of this Act providing for the grant of relief in respect of the following injuries sustained during the period of the emergency.....”.

Why should Government have become fond of making schemes and not placing them before the House in the form of Schedules as soon as the Bill is introduced? The Personal Injuries (Emergency Provisions) Bill 1962 was assented to by the President on 19th December, 1962, and the scheme was framed and published on 22nd December, 1962. Let me hope that the Minister pays attention to the debate here. He is talking. He may go home and talk. Here, I think at least he should listen to what I am saying.

Shri C. R. Pattabhi Raman: I assure the hon. Member that I am listening.

Shri U. M. Trivedi: He must give his ear to my speech. I am not addressing empty benches.

Shri C. R. Pattabhai Raman: When my colleague comes, should I not speak to him? I am listening to the hon. Member.

Mr. Chairman: When he has assured the hon. Member that he is listening to him, the hon. Member must take him at his word.

Dr. Gaitonde: On a point of order Those who speak are supposed to address the Chair and not the Minister.

Shri U. M. Trivedi: There I think the hon. Member is very wrong. We do address the Chair; there is no doubt about it; but it is meant for the ears of the Minister. If the Ministers close their ears I think it is no use entering into a debate.

Now, I would request that whosoever drafts these Bills must make it a point that there should not be any policy of hush-hush or secrecy about the scheme that they frame, and if the schemes can be framed within a day or two of the Bill being assented to, why could the schemes be not framed and placed before the House for the House to consider immediately when the Bills are presented?

There is one difficulty that arises. Now, I would like to draw the attention of the House to clause 8(5) (a) which says:

“Without prejudice to the generality of the provisions of sub-section (1), the scheme may make provisions regulating the payment of compensation payable under this Act and the scheme including provisions for punishment by fine not exceeding Rs. 2,000 for the contravention of any requirement of the scheme.”

Now, this is legislating for imposing a penalty by the backdoor. This will amount to a sort of colourable legislation which is not the idea of any subordinate legislation. The provision must be made in the Act itself, namely that if a contravention of any provision made by the scheme is there, then the punishment should be provided in this Act. But here you are leaving the quantum of punishment also in the scheme. What shall be the quantum of punishment, what type of punishment is to be meted out, etc., are left to be decided by a subordinate legislative body or by rules to be made. This is an inconceivable thing. The punishment must be provided in the Act itself. Apart from that, you can still provide that if any contravention of such and such a thing takes place, then a particular fine or a particular penalty may be imposed, but that imposition of the penalty must be provided in the Act. It should not be left to the sweet will of the executive which generally frames these rules, although in substance we say that they are placed before the House, that they are there for 30 days before the House, and they will continue to remain so, and if the House is prorogued, they will remain for another few days and so on and so forth. All these are very good and nice words. But how many of us study it? Once you go out, this is a thing left to the choice of the Government to publish it and publish it in the form of an SRO, and that SRO does not find any place in the minds of the Members of Parliament, unless there are some very alert Members like Shri Nambiar who want to study those things. I for one would say that I hardly come across any of the SROs; I hardly ever apply my mind to find out what these schemes and rules are, unless I go before a court of law and get myself confronted with them and try to find out what they are. I therefore say that when such schemes are contemplated and when the schemes are

in the view of the Government—the executive knows what scheme is going to be framed—such schemes must not be kept out of the knowledge of the Members of this House, but should be embodied in the form of a schedule which may be attached to the Bill so that their pros and cons can be studied.

This scheme is inter-related with the scheme that has been formulated under what we call the original Bill that was passed, the Personal Injuries (Emergency Provisions) Act, 1962. I was looking into this scheme which was published on the 22nd December, 1962. There I found one thing: I would not readily agree with the definition of eligible persons. I do not know how and with what conception it has been said that a daughter, if she is above the age of 18, if she can support herself even if she is not married, will not be given anything; and a father of a disabled person will get pension if he is 50 years of age; the mother will get it and the mother who has got married somewhere else will still get it if she again becomes a widow. So, the mother can get it; the father can get it, but the daughter cannot get it. What a queer conception we have about the dependents of the members of a family? This has been noticed by me today. Similarly, similar things are going to crop up in the new law that we will make. I do not know whether it will be meet and proper for me to make this suggestion, but I do make it with all the humility at my command that when such things are made, when the schemes contemplated are such as go very far to control the working of an Act and the schemes are already in view of the Government, then it would be very proper that the schemes are also embodied in the Bill itself as schedules.

Then, there is one thing. Very recently we had a big quarrel here over this point. Dr. Lohia was saying that the income of many people was three annas and others were

saying that it was seven annas. In these eligibility rules that you have made you are going to provide Rs. 5 a month for the maintenance of a child. What will it come to? So you are still living in those days where you can conceive of a child being maintained on Rs. 5 a month. For a grown up child you are providing Rs. 7-8-0 a month. For whom are you making these laws? Are you making these laws for street beggars? Why have such a nasty provision as that? How much can you purchase for Rs. 5 in a month? Nowadays you know, Sir, you and I cannot have even a lunch for Rs. 5, whereas you want to make a provision for giving Rs. 5 a month for a child. I should say it is inconceivable that such a thing should have been brought into this scheme. I think that probably is the reason why through back-door some arrangement is being made which white-washes all that is desirable under the Act. I do not know how it has escaped the notice of Shri Nambiar who is always up against such things.

Shri Nambiar: I did not go through the scheme.

Shri U. M. Trivedi: I thought you would have gone through it. Then, Sir, there is another thing to which I would like to draw your attention.

Mr. Chairman: May I request the hon. Member to expedite giving his conclusions?

Shri Hari Vishnu Kamath: This is an important piece of legislation, Sir, and I hope you will extend the time.

Mr. Chairman: The time has been agreed to. I am not stopping the hon. Member from speaking. I am only giving him a friendly warning that he should not take more time.

Shri Hari Vishnu Kamath: We are making a friendly request that the time may be extended.

Mr. Chairman: Ringing the bell is the real warning; this is only a friendly warning.

Shri U. M. Trivedi: There is one thing to which I would like to draw the attention of the Government. In the present day legislation I have been noticing a tendency on the part of the Government, and this tendency on the part of the Government is growing day to day and this tendency must be checked. It is that every time a provision is made that no prosecution for any offence punishable under the Act shall be instituted against any person except by or with the consent of the Central Government or an authority authorised on this behalf by the Central Government. We have gone too far with this. We know that corruption exists. We know that there are many petty officers who are corrupt. We also know there are many in sitting at the top who are also corrupt. Why should we leave it in the hands of those top people to say whether or not a prosecution should take place? Why should a corrupt officer decide whether the other officer is corrupt or not? I would, therefore, submit that in formulating such laws we should not put any such condition. Leave it in the hands of the executive authority, as soon as an offence is made out, to prosecute the person concerned if necessary on a police report or on a government servant's report. You may say, as in the Defence of India Rules, that a prosecution shall not commence except on a report in writing by a public officer. You may put it like that, but do not say that every time the Central Government, the high and mighty will have to be moved for prosecuting another high and mighty who might have swallowed thousands and thousands of rupees under this Act. He might not have kept the money in any insurance, he might have let loose the whole thing. The poor man might have been killed and he will file an insolvency report and everybody will suffer out of it. I would, therefore, submit that in such matters the Government should take care of not sowing the seeds which indicate that there is something fishy about the Bill, about the

measure which is meant for public benefit and for the benefit of an ordinary worker. This is a general criticism that I would like to offer, in all humility, and I hope it will be taken note of.

I would like to say one thing more before I close. When you draft a law why should you not have a particular method of drafting, some simple method by which no confusion can arise? A pattern must be fixed and that pattern should always be followed. In clause 8 of this Bill there is absolutely no provision whatsoever that the scheme to be framed under this law shall be placed before both the Houses of Parliament and shall remain there for so many days. I was searching for it. In the Personal Injuries Emergency Provisions Bill you have said that the every scheme and every regulation made under the scheme shall be laid before the Houses of Parliament as soon as may be available. That is in sub-clause 7 of clause 3. Here what you have done is, not having provided there in clause 8, you chose clause 24 at the end. Here you have made the provision. But in between what the Government has done is, another thing has been thrust in. You have said: "Every scheme and every rule made under this Act....". The scheme will be different and the rule will be different. The rule will govern the scheme and the scheme will govern the rule, and create confusion worse confounded in the administration of this law. I would, therefore, submit that some pattern must be followed. In this case the Government could have made this provision in clause 8 itself that the scheme shall be laid before the Houses of Parliament. It could have made this provision in clause 8 also where the scheme has been described. Why have we travelled in this manner and came down to clause 24 to make this provision? I would, therefore, submit that whoever drafts these laws must also keep it in mind that the drafting

must be uniform, that a particular pattern must be followed and that it must be easy and simple for the people to follow.

Shri K. N. Pande (Hata): Mr. Chairman, Sir, I am standing to support the Bill. There are two social security measures which are already in operation giving protection to the workers. One is the State Insurance scheme and the other is the Workmen's Compensation Act. In order to meet the requirements of the Workmen's Compensation Act, there are many factories which have got themselves insured against injuries sustained by their workers in accidents. When there is an injury sustained by an employee it is the insurance company which pays. They assess the percentage of injury sustained. Similarly, about 15 lakh people are covered by the State Insurance Scheme. The scheme in the present Bill is simply to protect the people under this emergency period. This is an emergency measure. The very first clause asks the Central Government to enforce the statute only when there is a possibility of civilian casualties due to external aggression. This measure has been brought before the House by the Ministry now because there is the threat of Chinese aggression. If there is any bombardment on any factory, it will cause injuries not to two or three employees, as in the case of ordinary accidents, but to so many employees. Therefore, it will be very difficult for the ordinary employers to pay such heavy compensation. This measure has been thought of and brought before the House in order to safeguard the interests of both the employees as well as the employers. Therefore, when this Bill takes the shape of an Act, I am sure it will be welcomed not only by the employees but also by the employers.

While supporting the Bill, I want to make one or two suggestions which the hon. Minister should look into. To whom does this Act apply?

To workmen employed in any employment or class of employment which is, or has been declared to be an essential service under rule 126AA of the Defence of India Rules, 1962 and to the workmen employed in any factory as defined in clause (m) of section 2 of the Factories Act, 1948. Now the scope of the Bill is limited to these two classes of people. In my opinion, the scope of the Bill should be extended to cover a larger section of the people. Because, in case of bombardment, it will not affect only those who are working in a factory; it may affect those who are engaged in road construction work also. During the period of emergency, there will be bombardment, roads and bridges will be damaged and repair work will always be going on. If workers engaged in such activities are not covered by the provisions of this Bill, their interests will not be safeguarded. I do not know whether they are covered under "essential services". I hope the hon. Minister will look into this matter and clarify the position, because there is some confusion in my mind.

Coming to the Factories Act, all the workers engaged in every factory are not, strictly speaking, covered by the Factories Act. It is applicable only to those factories where the number of workers is more than ten. Suppose there is a small factory, which is producing some essential commodity required for war purposes, which employs only six or seven workers. What will happen to the workers of such factories? Will they be covered by this Bill?

Then I find from the clauses of the Bill that some of the small factories have been exempted, depending upon their salary bills for a month. It is a good thing. But what will happen to the employees of such factories? If the Government says that even the employees of the exempted factories are covered by the provisions of the Bill, the interests of those workers are also safeguarded because they are doing something for the betterment of

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the country, for the defence of the country, then I have no objection against exemption. It is our bounden duty to see that in case such workers sustain any injuries or die, they or their dependents should be adequately compensated under this Bill, when it takes the shape of an Act. With these suggestions, I support the Bill.

श्री यशपाल सिंह (कैराना) : अधिष्ठाता महोदय, इस बिल का नाम कुछ समझ में नहीं आया। इस बिल का नाम तो Survival of the fittest Bill होना चाहिये था क्योंकि जो गरीब मजदूर हैं उनको इन्शोर किया गया है। एग्रीक्लचरल लेबर जोकि लाखों की तादाद में है उसका नाम तक इस बिल में नहीं आया है। थोड़ी सी यूनियनों हैं जिनका कि थोड़ा बहुत शोर माननीय मंत्री के कानों में पहुंच जाता है, उनके लिये यह बिल लाया गया है लेकिन जो लाखों की तादाद में एग्रीक्लचरल लेबर है उसका नाम तक इस बिल में नहीं है। इसलिये इस के बजाय कोई कम्प्रीहेंसिव बिल लाया जाय जिससे खतिहर मजदूरों को फायदा हो सके।

दूसरी बात यह है कि इस के अन्दर जो इमरजेंसी पीरियड रक्खा गया है वह बहुत बड़ा है ? इमरजेंसी के कोई माने नहीं हैं। हमारे प्रधान मंत्री जी इसी आउस में कह चुके हैं it may continue for 10, 20, 40 or 50 years. यह हमारे प्रधान मंत्री जी कनफेंस कर चुके हैं कि चीन के एग्रेशन से हम लोग ५० साल तक भी प्रभावित रह सकते हैं। इसलिये यह बड़ा बड़ा है और इस के लिये कोई फिक्सेड टर्म आनी चाहिये।

तीसरी चीज यह है कि इसमें जो १५०० रुपये रक्खा गया है वह इस जमाने को देखते हुए बिल्कुल ही नाजायज है और कतई नामुनासिब है। इसमें लिखा है :—

"Every employee or workman to whom this Act applies or is

subsequently made applicable, except an employee whose total wages for any quarter after the commencement of this Act, has never exceeded rupees fifteen hundred".

आज के दिन १५०० रुपये के कोई मानी नहीं है। कारखानेदार जो सरकार की आंखों में धूल झाँकते हैं, ढाई अरब रुपया उन कारखानेदारों के पास बकाया रहता है, व इनकमटैक्स का रुपया मिल मालिकान के पास पड़ा है जोकि ओवरड्यू है लेकिन आज तक सरकार उसको उनसे वसूल नहीं कर सकी है। सरकार न तो उनके रजिस्ट्रों का पता लगा सकी और न उनके एकाउन्ट्स को देख सकी और न ही उनकी चैकिंग कर सकी है। इसलिये एक मजदूर जोकि किसी कारखाने में काम करता है, भले ही वह कारखाना छोटा हो या बड़ा हो, सब को एक निगा से देखना चाहिये और उसके लिये एक कम्प्रीहेंसिव बिल लाना चाहिये। हर एक मजदूर को यह राहत दीजिये और उसके लिये फिक्सेशन हो। उसके लिये एक निश्चित समय हो, एक काल बिल्कुल निश्चित हो जिससे कि यह ठीक से शुरू हो। बजाय इसके कि सरकार के आँधों में इसे दिया जाय एक इस तरीके की आटोनमस कारपोरेशन हो जिसमें कि मजदूरों का सही रिप्रजेंटेशन हो। सरकार आज भी पोलिटिकल सफरस को जो पेंशन दे रही है उसमें उन लोगों को आज तक पेंशन नहीं मिली है जोकि २०, २० साल तक जल में रहे हैं। इसलिये मजदूर यूनियनों के जरिए, मजदूरों की एक कारपोरेशन हो, उनके जरिये इश्योरेंस स्कीम लाई जाय। अगर सरकार के थू किया जायेगा तो फिर उससे फेवरेटिज्म होगी, निपोटिज्म होगी और भाई-भतीजावाद चलेगा। बेहतर यह होगा कि इसके बजाय एक कम्प्रीहेंसिव बिल लाया जाय। कम से कम जो खतिहर मजदूर हैं उनकी फसलों का बीमा करने का भी कोई इंतजाम होना चाहिये।

इसके अलावा सब से बड़ी बात यह है कि सरकार के हाथों में से लेकर इसको जो मजदूरों की कारपोरेशन हो, मजदूरों की जो कोआपरेटिव्स हैं, मजदूरों की जो सोसाइटीज हैं, मजदूरों की जो यूनियंस हैं उनके हाथ में इसे दिया जाये और खेतिहर मजदूरों के ऊपर भी इसको लागू किया जाय।

Shri Hari Vishnu Kamath: Mr. Chairman, I am glad the Deputy Minister has, by moving this Bill for consideration, sought to remind the House that there is an emergency in force in our country, for it was only a week ago that a senior member of the party to which he has the honour to belong, a member who was chosen as the first speaker of his party on the no-confidence motion, only the previous day, had tried to impress on the House that there was no emergency at all. It was symbolic of the awareness of the ruling party, the degree of a wareness of the ruling party, that that senior member was chosen to lead the debate from the ranks of that party. Anyway, now I am glad that he has tried in his own way to remind the House, and through the House the nation outside, that there is emergency in force.

14 hrs.

We have, by now, got used to the rule or the practice, may I say, of an enactment being made in haste and amended at leisure. This has been the tale of this Parliament which has been told so often in this House and this Bill is no exception to that rule or tale. The original Bill was passed into law last December and within eight months we have got an amending Bill. The statement of objects and reasons says that under section 4 of the Personal Injuries (Emergency Provisions) Act, 1962, the liability of an employer to pay compensation had been removed and now this Bill has been brought forward to rectify that error. I do not know why any thought was not given to this aspect of the matter when the original Bill was brought before the House and

who was responsible for this kind of remissness.

14.01 hrs.

[DR. SAROJINI MAHISHI in the Chair]

I will now try to invite the attention of the hon. Minister to certain other aspects of the Bill. I find that the malady of rather somewhat careless draftsmanship has still not been completely cured and I would request him to pay some attention to this matter. Take only one instance. I do not wish to take the time of the House by drawing your attention and of the hon. Minister to a number of instances but I would draw your attention to only one. In clause 2 and in clause 7 there is a reference to disablement that might ensue from an injury. In both these clauses the word used is 'disablement', whereas coming to the Schedule on page 13 you will find that the words used are "percentage of disability". It may mean the same thing but in legislation, I submit, we must be careful as to the words that we use and there must be consistency and identity between the words in the different parts of the same Bill. It is wrong to use one word, that is disablement in one part of the Bill and another word, that is, disability, in another part of the Bill. I hope, it will be borne in mind in future and it may be rectified even now. I do not know if there is some formal amendment to this effect but the hon. Minister, on his own, may rectify this mistake that has crept in.

Coming to the other matters that are germane to this Bill before the House, may I invite the attention of the House and that of the hon. Minister to the statement of objects and reasons. In paragraph 3 of the statement we are told:—

"The premium payable by employers for compulsory insurance will be collected at quarterly intervals as is being done under the Emergency Risks (Factories) Insurance Act, 1962."

If I heard the hon. Minister aright when he moved for the consideration

[Shri Hari Vishnu Kamath]

of the Bill and made a speech thereon, he said that the premia will be collected after the emergency is over. I could not quite follow what he said and that is why I interrupted him and asked him what exactly the point he was making was. Here it is said that it will be collected at quarterly intervals and in his speech he said that it will be done after the emergency is over. This must be clarified when he replies to the debate.

There is another matter which arises from the financial memorandum on page 24. The hon. Minister, naturally, is unable to assess or determine the extent of the liability. That is perfectly understandable. The extent of liability to pay compensation will depend upon the number of casualties. God forbid, there will be any casualties—but I can understand the difficulty in this matter—among the workmen covered by the Bill. The memorandum says:—

“It is not possible to make any worthwhile estimate of the likely number of casualties as this depends upon a very large number of uncertain factors.”

Quite so. But in the very next sentence he goes on to say:—

“The number of workers that will be covered by the Scheme of insurance will be about 6 million.”

I and my colleagues, I am sure, would like him to tell the House how this figure has been computed and what industries, what factories and what other establishments have been taken into consideration for arriving at this figure of 6 million.

Further on, he goes on to say:—

“Assuming that compensation will be required to be paid to one per cent of them....”

I hope, there will not be even 1 per cent casualties, but because earlier

he has said that it is difficult to assess the number of casualties he says that assuming that there will be 1 per cent casualties—1 per cent means 1 per cent of 6 million—the compensation will be an average of Rs. 3,000 per injury and he goes on to arrive at the figure of Rs. 18 crores and takes the administrative and agency charges as Rs. 1 crore. I wish, he gives some details of these figures when he replies to the debate.

Two more matters and I have done. My hon. friend from Goa who is an eminent surgeon, has very rightly drawn the attention of the House and of the hon. Minister to the rather confusing and incomprehensible terminology that has been employed in the Schedule which sets forth the various types of injuries that might be sustained. I would invite the attention of the hon. Minister to some other matters in this Schedule which have not been covered by my hon. colleague from Goa.

May I invite the attention of the hon. Minister to the very delightfully vague words—I should not use the word ‘delightfully’ in the matter of injuries; but it seems to be rather very vague and difficult for a layman to understand. On page 15, under the heading ‘Other disabilities’ for “Very severe facial disfigurement” it is 100 per cent; that is, it is regarded as total disability, whereas certain other injuries which might disable a worker have been awarded a percentage of 40, 50 or 60 and all that. But mere severe facial disfigurement has been classed as 100 per cent disability. I know, facial disfigurement is something which everybody would abhor and nobody would like to suffer from himself or herself. I do not know whether this particular type of injury, facial disfigurement, having been classed under total disability, will be applied with different norms or criteria to women and men workers, because, I suppose, a woman would regard severe facial disfigurement of greater consequence

to herself than perhaps a man might or would.

Shrimati Vimla Devi (Eluru): Thank you.

Shri Nambiar: Thank you for the compliment to womanhood.

Shri Hari Vishnu Kamath: Whatever it may be, I am glad that my Communist colleague has been very responsive to what I have said just now though I would plead with her that some such laws should be enacted in the big Communist countries of Russia and China also.

I hope, the hon. Minister would throw some light on this matter also as to what is severe disfigurement and what is very severe facial disfigurement. Let him tell us what he means by 'severe' and 'very severe', what exact injuries he contemplates; whether he contemplates a nose chopped off, a cheek mauled badly or lips mauled badly or things like that. He should tell the House what exactly he means by 'severe' and 'very severe'.

Then, there is one more thing. I come to p. 17. We have got a rather curious language used here. I do not know whether it is a printer's devil. It is: date of hearing attained. I do not know what is the meaning of saying "date of hearing attained". I cannot follow what it is.

Shri Nambiar: It is a printer's devil.

Shri Hari Vishnu Kamath: Let the Minister throw light on that as to what he means by "date of hearing attained". There have been the cases of total deafness. Look at the classification made here—total deafness. We have had the experience of that here in this House, but of a different kind.

The next one is "Shout not beyond 3 feet". What it is, audible, inaudible, I do not know. That is not clearly set forth. Here is the column "date of hearing attained". That is the head-

ing of the column. Below that comes "Shout not beyond 3 feet". What shout, what kind of a shout, I do not know. We have got different degrees of pitch. I can shout a little louder than perhaps the hon. Minister can and my hon. friend Mr. Nambiar can shout a little louder than myself. I am positive of that. It should be defined. I do not know whether my hon. friend Dr. Gaitonde can anatomically and physiologically define the pitch of the shout, as to what shout is. It is: shout not beyond 3 feet. They are all so vague. And if any assessment of the injury is based on this—God forbid, who will be in power to decide all these things—he will be an arbitrary dictator to decide what shout is, what kind of a shout is, shout not beyond 3 feet, audible or inaudible and all that. There is a question of degree also. Then, it is mentioned: Assessment of both ears used together. What does it mean, unless it means neither ear should be plugged? We normally use both the ears. Therefore, it is unnecessary and redundant. I do not think it is necessary. Normally, we hear with both the ears; both the ears are used. As a matter of fact, the phrase is: "Friends, Romans and countrymen, lend me your ears." We do not say: lend me your ear. I do not know whether this "assessment of both ears used together" is at all necessary. Therefore, I want to request the Minister to think of this.

Then, lastly, I come to p. 15 with regard to this injury of defective vision. Loss of one eye without complications, the other eye being normal—the percentage is 40. Then, below that we have got: loss of vision of one eye with complications or disfigurement, the other eye being normal—the percentage is the same, 40 per cent. The next one, below that, it is: loss of vision of one eye without complications or disfigurement, the other eye being normal—this gets only 30 per cent. The first one, the loss of one eye without complication gets 40 per cent. and this one, the loss of vision of one eye without complications or disfigure-

[Shri Hari Vishnu Kamath]

ment, gets only 30 per cent. This is rather anomalous to say the least.

Shri C. R. Pattabhi Raman: One is, the loss of one eye; the other is, the loss of vision of one eye. I will explain it. It is a technical matter.

Shri Hari Vishnu Kamath: My point is that it should get the equal percentage. Whether it is the loss of one eye or it is the loss of vision of one eye does not make any difference. Madam Chairman, you are so learned and you can understand it.

Mr. Chairman: The Minister will explain it.

Shri Hari Vishnu Kamath: I do not want to cast a burden on you. What is the difference between loss of one eye and the loss of vision of one eye? I do not know.

Therefore, while welcoming the Bill, I believe the implementation of the Bill will bristle with so many difficulties as has happened with the Compulsory Deposit Scheme. I hope this scheme at least would go through and not be attended by pitfalls and dangers that overtook the Compulsory Deposit Scheme.

Shri Radhelal Vyas (Ujjain): Madam Chairman, I am glad that the Government has brought forward this measure. But I would submit that it is not a very comprehensive measure. So many things have been left out. For example, if you refer to the Factories Act, 1948, in the Schedule to this Act, there is a list of notifiable diseases and under the Workers Compensation Act other diseases also are treated as injuries resulting from an accident. This has not been covered by the Bill which is before us.

I would like to invite the attention of the hon. Deputy Minister to a Government report, report No. 18 of the Ministry of Labour and Employment with regard to the survey of carbondi-

sulphide, hydrogen sulphide and sulphur dioxide. Of course, this was restricted only to the survey of viscose rayon industry in India. If you go through it, you will find that the workers, the labour, who are employed in such industries suffer from so many diseases and their whole life is ruined and their longevity is reduced. They suffer from various diseases. This survey report points out a number of diseases to which the labourers are subjected.

Shri Priya Gupta (Katihar): You mean trade diseases? Diseases due to the trade in which the worker is employed.

Shri Radhelal Vyas: Yes. This has been notified under section 9 of the Indian Factories Act also. I would like to know why these diseases have not been covered by the Bill that is before us. There are ordnance factories where silver, lead and other poisonous material are being invariably used.

Shri S. M. Banerjee (Kanpur): They are occupational diseases. They are provided with safety measures.

Shri Radhelal Vyas: Even those have been provided here. There are other Acts also for them. For example, Government employees are covered by some other Act. But in spite of that there is a provision which applies to all the workers. Similarly, I submit that the provisions of this Bill should be extended to include those occupational diseases. So, this is a lacuna which should be rectified.

Shri Priya Gupta: There are explosive factories in India where workers have to inhale harmful gases whereby workers become medically incapacitated.

Shri Radhelal Vyas: I would just like to say something about the diseases to which the workers in various factories are subjected. Even, take for exam-

ple, the factories where carbondisulphide, hydrogen sulphide and sulphur dioxide are being used as raw materials. A survey was made by a team appointed by the Government, by the Ministry of Labour and Employment and this is what it shows. Only 270 workers were examined and out of them 45.5 per cent suffered from headache, 35 per cent from chronic fatigue and 15.1 per cent suffered from the loss of libido, that is, impotency. They suffer even to that extent. I have not been able to understand, even with regard to these factories, why Government has not been able to take precautions which it ought to do. What has the Government done so far to safeguard the health and the security of the workers that work in such factories? A number of recommendations have been made in this report. I have not been able to understand why Government should have taken so much time to implement those recommendations. Almost cent per cent of the workers are obliged to suffer from some occupational disease or the other after some time. There are no proper checks, and there are no proper precautionary measures provided to safeguard the interests of the workers and to check the leaks and the drips in the various factories which lead to various diseases to which these workers are subjected.

So, I would like to submit that Government should come forward in the future with a comprehensive measure to cover all such cases so that full compensation can be paid to the workers, whether they be working in this factory or that factory, or whether they work in a factory concerned with essential supplies or in a factory to which the provisions of this Bill apply only for a limited purpose. I would submit that the provisions should apply to all the workers. For, after all, what is the object of this Bill? The object is to safeguard the interest and the welfare of the workers and to provide for compensation in certain cases. The same principle should apply to all the workers.

So, I would submit that the cases of occupational diseases mentioned in the Schedules to the Factories Act and the Workmen's Compensation Act should also be covered by the Bill that is before us.

Shri S. M. Banerjee: I fully agree with some of the observations made by my hon. friends. There are two questions on which I would like to throw some light. The first is that this particular Bill which was introduced after the other Bill had been passed by this House, should have covered all workers. The definition of 'workman' should be such that not only the factory worker will be covered, but even those who are working in a casual capacity will be covered. Unfortunately, the casual employees who are employed for a specified period for a specific purpose will not be covered by this Bill. This would mean that all those labourers who will be employed in huge numbers by all those contractors who accept Government contracts will be deprived of the benefits flowing out of this particular Bill. Suppose there is an invasion and there is a bombardment, and suppose a worker is injured, as a result of the bombing, while he is engaged in the process of constructing something on a purely contract basis, or he is engaged in the process of building buffer walls or safety walls or in digging trenches etc. Then, what will happen in that case? That job of the worker is for a specific purpose and for a specific period of ten or fifteen days only. What will happen to those casual workers if they sustain injuries? So, I would plead with the hon. Minister to kindly include those employees who are termed as casual workers also within the scope of this Bill. Otherwise, the vast number of workers who want to do their best, and who are doing their best to defend this country and who are prepared to sacrifice their lives also for the sake of this country will be deprived of this benefit of compensation.

I would also plead with the hon. Minister to include certain occupa-

[Shri S. M. Banerjee]

tional diseases. My hon. friend Shri Radhelal Vyas has pointed out certain occupational diseases affecting those workmen who are working in the ordnance factories. The hon. Minister knows it very well that those people who are making TNT, which is a particular material which is required for filling the shells, become absolutely paralytic after ten years of service, and they start trembling in every limb, because the fumes that come out in that place compel them to succumb to that sort of disease. What will happen to those workers? Now, the ordnance factories are on the verge of expansion or they have already been expanded. When we want to achieve a stage of self-sufficiency in the matter of defence production, when we are trying to manufacture automatic weapons and all sorts of other weapons required, conventional and non-conventional weapons required for any war or to meet any emergency, naturally, those ordnance factory workers also should be protected by some legislation. It would have been better if the Workmen's Compensation Act had been amended so as to make it a comprehensive Act covering all cases of injuries including war injuries.

Then, I would like to ask what will happen to those middle class employees who are working in the mercantile offices. The experience in Calcutta is that when a bomb fell in Calcutta near the Cossipore area, those people felt the necessity of such a security. So, I would submit that the provisions of this Bill should not be merely confined to the workmen as defined under the Workmen's Compensation Act or the Factories Act, but should also be made applicable to those middle class employees who are working in various mercantile offices.

I would request the hon. Minister to kindly throw light on these two points. I do not want to take more time of the House. I welcome this Bill. But I would only submit that

it should not be confined to only a handful of people, but it should embrace all persons, for, after all, this is part of a total war effort in which every man, whether employed or not employed, whether in a factory or in an office will do his best to see that the country's integrity is defended.

About casual employees, I would only mention this that during the war time a number of employees, in fact, lakhs of employees will be employed by the various employers. If they are deprived of this concession, then it will be a tragedy indeed. When they wish to sacrifice, and when they do sacrifice, and when they have got every idea to sacrifice more and more in the interests of the country, if they are going to be deprived of this war injury benefit, then it will really be a sad commentary on this particular legislation. So, I would request that this Bill should be made applicable to those persons also. In fact, I am even in favour of this Bill being made applicable to the Members of Parliament, because many Members of Parliament have volunteered to fight the Chinese on the borders. I would go a step further and say that it should be made applicable to even Ministers who unfortunately become casualties either politically or otherwise; they should also be given some sort of war injury benefit.

Shri Kashi Ram Gupta: They should pay premium out of their own pockets.

Shri S. M. Banerjee: That is a different matter altogether.

After all, this Bill relates to personal injuries. If somebody is an injured person, though the injury may not be due to war, or due to bombs, then he should also be provided with some compensation, and I would urge the hon. Minister to kindly consider whether those Ministers who have become casualties could also be covered under this Bill.

Shri C. R. Pattabhi Raman: At the outset, I wish to express my grateful thanks to the hon. Members for their useful suggestions and for the interest taken by them in this Bill.

With your leave, I should first like to deal with Shri Nambiar's points. He was stating that the wider definition of workmen as contained in the Workmen's Compensation Act should be accepted. If the scope is enlarged, so much, then it will be extremely difficult to apply the Act and to collect the premia etc. However, power has been taken to extend the Act to any kind of employment by notification. That is so far as his first point is concerned.

Secondly, it is to be noted that no employer can give compensation to workers for war injuries, because the injuries may be very extensive in a calamity. The Workmen's Compensation Act visualises only normal industrial injuries. I did not expect that my hon. friend Shri Nambiar would have missed this point, namely that the Workmen's Compensation Act really envisages normal industrial injuries only, and an insurance scheme of an all-India nature of this kind only can take note of this problem.

I thought he also referred to remote parts. With planes flying at the speed at which they are now flying there will be very few remote parts in any part of the globe if there is a modern warfare on.

He also referred to casual labour. I am afraid he has not understood the wording of the Bill. Casual workers would also be compensated from the insurance fund. Only, the contractors employing them for a period of less than a month will not pay any premium.

Shri S. M. Banerjee: That is exactly what I mean; they will do so to deprive them of any benefit.

Shri C. R. Pattabhi Raman: What Shri Nambiar was saying was just

the opposite. He was referring to casual labour. I am only answering Shri Nambiar. And then there will be difficulty also about collection. Suppose a person is engaged for one or two weeks by an employer. To collect the premium will be a big problem. As for employees in industries with a wage bill of Rs. 1,500 or less a quarter, they also will be paid from the insurance fund. He missed the point. It is not as if those workers will not be compensated.

Shri Kashi Ram Gupta said that big industries will gain and small industries in remote villages, not affected by bombing, will have to pay for the big industries. I thought I had made it clear. The whole scheme is this. Suppose there are four or five factories in an area which the aggressor or the enemy chooses to concentrate on. Those employers will be completely wiped out. They won't be able even to pay the compensation. Therefore, what happens is that it is spread over the whole of India in order that compensation may be available all over India. It is an all-India scheme. As a matter of fact, small industries are exempted from paying premium, although the employees will get the benefit. That is the position. It was said that the power of exemption should be there. Clause 21, I thought, made it clear.

With regard to the provision for compounding, Madam, as you are aware as a lawyer, for example in the Penal Code for an offence under section 420, cheating, there is compounding; for an offence under section 405, breach of trust, there is no compounding. It is found more in the revenue and other provisions at it facilitates realisation of money. After all, what happens is in some cases it is the money compensation that is more important than a mere punishment of the offender, because the other party has to be taken into account.

Shri Kashi Ram Gupta: Punishment also is in the form of money.

Shri C. R. Pattabhi Raman: I am not going to take the time of the House on this point. When the Law Minister has an occasion to speak on compounding, the rationale behind compounding, he will be able to dilate upon that. The point is there are punishments where the burden is not a penal burden. There is therefore a provision for compounding.

Then, Dr. Gaitonde, for whom I have great regard—he helped us on the last occasion, though it was a sister Ministry that was concerned, with literature on the subject, he also gave us an English book dealing with this—he found the schedule amusing. The schedule is taken from the Army Regulations. Of course, he may say that that is no excuse, that the Army Regulations are wrong. I am only stating that we are trying to preserve a sort of.....

Dr. Gaitonde: I was not thinking of those Regulations. I cannot believe that the Army Regulations have such a provision.

Shri Hari Vishnu Kamath: "More" means two and more.

Shri C. R. Pattabhi Raman: He may say that the Army Regulations themselves may be defective. We are only trying to keep in form.....

Shri Kashi Ram Gupta: We cannot have mathematical injuries.

Shri C. R. Pattabhi Raman: The hon. Member must be aware that we also have neutron bombs . . .

Shrimati Vimla Devi: And radiation bombs also.

Shri C. R. Pattabhi Raman: bombs bursting forty-thousand feet above. The whole scheme of warfare is changing every day. Actually, Madam, as you are aware, they now have the most diabolical weapons which burst sixty thousand feet

above; and all the buildings are safe, and all animals like cockroaches which have some protection on the back—I was on an Atomic Consultative Committee, so I know something about it—they are safe; only breathing human beings are out; and if they are within forty-two miles they are lucky, because they die immediately; the others die a painful, slow death.

So we cannot envisage what will happen in a warfare to come, because we cannot fall in line with what has happened in England in the last war. That was a war fought with machine guns, rifles and bombing. Modern war is changing every day. Therefore we have taken the Army Regulations and are trying to keep in line with them. Dr. Gaitonde says "upper limb lower limb". I may assure him that what is meant is limb. He asks "Three limbs?" Technically, as a doctor, I know that he is on much stronger ground. I do not pretend to have the same qualifications that he has. But it is just possible that a person may lose four or five fingers. I am not saying that it refers to people with three hands. I am not saying that such an absurd thing is envisaged. But the principle behind the Schedule is that only such injuries have been taken as incapacitate a worker either completely or partially, preventing him from earning his livelihood. And if anything has to be done here we will bear what has fallen from him.

He also referred to right and left hand. I myself see the point in it. There may be a left-hander. How can we have a rule of thumb and say "right hand, so much; left hand, so much less"? Therefore, I wish to assure him that such a difficulty can be removed under power taken in clause 23. We have made a note of it. If I may say so with great respect, that is a very valuable point made by the learned doctor, because I know his record in Goa, and we have benefited much from his sug-

gestions; he actually gave us a book on the last war injuries when the debate was on when a sister Ministry was dealing with this matter.

Shri Trivedi referred to five rupees a month for the children. This is what they always get even in regard to combatant ranks; a sepoy or any army rank gets only five rupees per child. In addition there will be what is called a family pension.

Shri K. N. Pande who is a great labour leader was referring to workers repairing roads and bridges. I want to tell him that under war-time conditions such work will be notified as an essential service. Besides, such workers will in any case get a compensation under the Personal Injuries (Emergency Provisions) Act, to which frequent reference has been made. It is already on the statute-book.

Then Shri Trivedi referred to the provision regarding schemes and rules and he said that they should have been in clause 24 and should not be left to delegated legislation to be placed later on the Table of the House. It really makes no difference as long as a provision in this regard is there. It is quite common to have such a provision as this. As the Bill itself says, it is "not exceeding two thousand rupees". You will be pleased to know that clause 8(5)(a) says:

"make provisions regulating the payment of the compensation payable under this Act and the Scheme, including provisions for punishment by fine not exceeding two thousand rupees".

It is in the clause itself.

And then Shri Yashpal Singh was referring to agricultural labour. Such workers will get compensation under the Personal Injuries (Emergency Provisions) Act like any other workers. At present agricultural labour does not get the benefit of the Work-

men's Compensation Act, and that is precisely what we had in mind.

Then, Shri Kamath, with his usual erudition, was posing a number of questions. Firstly, he referred to the number of workers—I think six million workers. This is the number at present employed in registered factories, mines, plantations and essential services. Then he went on to "severe" and "very severe" so far as the Schedule is concerned—severe and very severe facial disfigurement. "Severe" is that which may not incapacitate a worker from earning his livelihood; "very severe"—these are all technical terms, I believe—is that which incapacitates a worker from earning his livelihood; that is he becomes more or less completely unemployable.

Then he referred—quite rightly; we are beholden to him for that—to the 'Date of hearing'. Actually it is a misprint; it should be 'Grade of hearing'. I have taken note of it.

Shri Hari Vishnu Kamath: The same word is used in the first column. What is the distinction between this 'Grade' and that 'Grade'?

Shri C. R. Pattabhi Raman: That is the serial number. That 'Grade' is not necessary there.

Shri Hari Vishnu Kamath: It should be 'Serial Number' instead of 'Grade'.

Shri C. R. Pattabhi Raman: Shri Radhelal Vyas referred to occupational diseases. This Bill deals only with war injuries; it has nothing to do with occupational diseases.

I do not want to keep the House longer. I have answered all the points. I move.

Shri Hari Vishnu Kamath: I raised a point about premium payable. He said it would be recovered after the emergency is over. In the statement, it has been said "that it will be recovered every quarter. Why this discrepancy?

Shri C. R. Pattabhi Raman: There is also provision for advance payment every quarter. The actual scheme of the Bill is that the total amount of premium payable by employers will be fixed after the emergency is over in the light of total liabilities, but the employer will be required to make advance payments against that every quarter. The premium under the Emergency Risks Insurance is also being collected quarterly on account; the actual rate of premium will be fixed by Government in the light of the liability ascertained later.

Shri Hari Vishnu Kamath: Does this Bill provide for that or will you make a provision later on?

Shri C. R. Pattabhi Raman: Yes, provision for fixing premium later on is there.

Mr. Chairman: The question is:

"That the Bill to impose on employers a liability to pay compensation to workmen sustaining personal injuries and to provide for the insurance of employers against such liability be taken into consideration".

The motion was adopted.

Mr. Chairman: The question is:

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill

Clause 3.— (Workmen to whom the Act applies).

Shri Kashi Ram Gupta: I beg to move:

- (i) Page 3, line 18,—add at the end—"except in a factory, where the power used is 7 H.P. or less". (1).
- (ii) Page 3, line 20, add at the end—

"except in the case of an open cast mine where the depth of the mine does not go below twenty-five feet and the total labour employed does not go over twenty-five persons, provided no power is being used in the mines". (2).

Mr. Chairman: These amendments and the clause are before the House.

Shri Nambiar is absent.

श्री काशी राम गुप्त : सभानेत्री जी, मैं यह जो अमेंडमेंट्स दे रहा हूँ उसका मूल कारण कुछ व्यवहारिक कठिनाइयाँ हैं। वास्तव में मैंने जो अपने पहले अमेंडमेंट में लिखा है कि ७ एच० पी० या उससे कम जहाँ पावर इस्तेमाल होती है, उनको छोड़ दिया जाय उसका यह तात्पर्य तो नहीं है कि उनके साथ में कोई रिआयत की जाय। देखना तो यह है कि वह किस हालत में काम करते हैं। दरअसल ऐसी फैक्टरीज देहातों में होती हैं। शहरों में जहाँ इंडस्ट्रियल एरिया होता है वहाँ यह नहीं होती है। शहरों में इंडस्ट्रियल एरिया में जहाँ बम्बाईमेंट होने का खतरा होता है वहाँ पर यह छोटी इंडस्ट्रीज व कारखाने नहीं होते हैं। दूसरी मुश्किल यह है कि यह जो ७ एच० पी० तक के कारखाने हैं उनमें ७-८ आदमी काम किया करते हैं और वह फैक्टरी एक्ट के तहत नहीं आते हैं लेकिन १० या २० फीसदी ऐसे हो सकते हैं जिन में १० आदमी काम करने लग जाते हैं और वह बेशक इस फैक्टरी एक्ट के अन्दर आ जाते हैं। लेकिन ६० फीसदी लोग इसके लाभ से वंचित रह जायेंगे।

इसके साथ ही यह भी देखने की बात है कि इस तरह की जो छोटी फैक्टरियाँ चलते हैं, जो इन छोटी फैक्टरियों के मालिक होते हैं वे भी एक तरीके से मजदूर ही होते हैं। वह कोई बहुत कमाने वाले नहीं होते हैं। थोड़ा

पैसा बचा कर वह छोटा काम चालू कर देते हैं। अब होता यह है कि एम्पलायर होने के कारण वह स्वयं इश्योर्ड नहीं होते हैं। उनका अपना बीमा नहीं होता है हालांकि काम व मजदूरों के साथ ही करते हैं। इसके विपरीत मजदूर जिनके कि साथ वे भी काम करते हैं उन मजदूरों का बीमा होता है। यह ठीक बात है कि मजदूरों का बीमा हो लेकिन मेरा निवेदन है कि जो लोग इस तरह के मालिक हैं और जिनका बहुत थोड़ी सी आमदनी होती है उनका बीमा भी उन मजदूरों के साथ ही जाय तो ठीक होगा। लेकिन आज उनका बीमा नहीं होता है। अब वह छोटे मालिक उनके साथ काम करते हैं उनके साथ ही मरते हैं और उनको भी उन्हीं मजदूरों के साथ जख्म आते हैं। इसलिये अगर उनको इससे वंचित रखा जाता है और उनको कुछ मुआविजा नहीं मिलेगा तो यह व्यवहारिक रूप से लागू होने वाला नहीं है। इसलिये ऐसे लोगों के भी इश्योरेंस की व्यवस्था की जाय। इन कठिनाइयों को देख कर मैंने यह अमेंडमेंट मूव किया है।

मैं मंत्री महोदय से निवेदन करूंगा कि वह यह देखें कि यह कारखाने कहां स्थापित होते हैं और इन पर क्या असर होता है। क्योंकि इसका मूल उद्देश्य यही है कि कोई भी आदमी जो कारखाने में मजदूरी का काम करता है वह सुरक्षित रहे और इसके लाभ से वंचित न रहे। जहां वार मेजर्स होते हैं वहां एसी संभावना नहीं है कि खतरों की लपेट में आ जायें। इसलिये मेरा फिर निवेदन है कि जैसे पहले फक्टरज रिस्क इश्योरेंस एक्ट और गुड्स इश्योरेंस एक्ट पास हुये थे उस तरीके से मौजूदा बिल को लागू न करें। अगर इस में जैसा मैंने सुझाया है सुधार करके बिल को पास करते हैं तब तो इस बिल का पास करना कोई माने रखता है वरना नहीं। आज हालत यह है कि छोटे लोगों की इस बोझ को सहने की शक्ति नहीं है और यदि लम्बे अर्से तक इमरजेंसी चली और इस प्रकार

का कर यदि उन्हें देना पड़ा तो देते देते उनका दम ही निकल जायगा। उस हालत में उसका फायदा केवल बड़े लोग उठायेंगे और छोटे लोगों को इसका लाभ नहीं मिलेगा।

जहां तक मेरा दूसरा अमेंडमेंट है वह बिस्कुल सादा है। कारण यह है कि २५ फुट की जो दुकानें हैं वे बहुत दूर-दूर तक फंजी हुई हैं और वहां कभी लोगों को कोई लड़ाई का खतरा नहीं होता है। इसलिये उन पर यह ऐक्ट लागू करना केवल सरकार के खजाने में पैसा इकट्ठा करना है और उससे किसी मजदूर को लाभ होने का प्रश्न पैदा नहीं होता है। इन दोनों कारणों से व जो दो अमेंडमेंट्स मैंने मूव किये हैं, मैं आशा करता हूं कि उन व्यवहारिक कठिनाइयों को देखते हुये उनको कि मैंने बतलाया है, मंत्री महोदय इस पर विचार करेंगे।

Shri C. R. Pattabhi Raman: I regret I am unable to accept the amendments. The scheme of insurance is based on pooling of risks. Smaller units have limited capacity to pay compensation for war inquiries. The need of insurance in their case is therefore all the more necessary. However, small establishments are already exempted under clause 9(1), which excludes employers whose quarterly wage bills do not exceed Rs. 1,500. The amount of HP used cannot be a criterion for grant of exemption. As the premium rates based on the wages bill, the amount of premium to be paid by smaller units will be comparatively small and within their capacity to pay. There is therefore no justification for exempting any other class of factories or mines.

Mr. Chairman: I shall now put amendments Nos. 1 and 2 to the vote of the House.

Amendments Nos. 1 and 2 were put and negatived.

Mr. Chairman: The question is:

"That clause 3 stand part of the Bill".

The motion was adopted.

Clause 3 was added to the Bill.

Clauses 4 to 8 were added to the Bill.

Clause 9.— (Compulsory insurance)

Shri Kashi Ram Gupta: I beg to move:

Page 7, line 32,—for "fifteen hundred rupees"

substitute—"two thousand five hundred rupees". (4)

Mr. Chairman: This amendment is before the House with the clause.

श्री काशीराम गुप्त : सभानेत्री जी, मंरा अमेंडमेंट है कि १५०० की जगह २५०० हो । मैंने इस हिसाब से देखा कि एक तरफ तो हमारे मंत्री महोदय जो फैक्टरी एक्ट पास करते हैं वह दस आदमियों के ऊपर लागू होता है तो दस आदमियों पर वह किस हिसाब से यह १५०० लगाते हैं ? वे १५०० रुपये को माफ करते हैं तो इससे यह अनुपात बैठता नहीं क्योंकि १० आदमियों पर एक तिमाही पर १५०० रुपये से अधिक आयेगा । १० से कम पर फक्टरीज एक्ट लागू नहीं होता है । इसका तात्पर्य यह है कि वास्तव में किसी फैक्टरी वाले को इसका कोई लाभ होने वाला नहीं है । इसलिए यदि उनको लाभ से वंचित नहीं रखना है और व्यावहारिक कठिनाई को भी देखना है तो १५०० की जगह २५०० कर देना चाहिए अन्यथा इसको हटा देना चाहिए । और जितना भी देना हो उसके ऊपर लागू करना चाहिए ।

Shri C. R. Pattabhi Raman: I am unable to accept the amendment. The provision in clause 9 of the Bill, exempting employers whose quarterly

wages bill is less than Rs. 1,500 has been made because in their case the cost of collecting the premium and administrative charges may be out of proportion to the realisation expected to be made. If this limit for exemption is raised, it will have the effect of reducing the revenues expected from the premiums and increasing the liability of employers who are insured. The present limit is, therefore, reasonable and may stand.

Mr. Chairman: The question is:

Page 7, line 32,—

for "fifteen hundred rupees" substitute—

"two thousand five hundred rupees". (4)

The motion was negatived.

Mr. Chairman: The question is:

"That clause 9 stand part of the Bill".

The motion was adopted.

Clause 9 was added to the Bill.

Clause 10.— (Principals and contractors)

Shri Kashi Ram Gupta: I beg to move:

Page 8, line 29,—

for "one month" substitute—
"two months" (5)

सभानेत्री जी, जब मैंने एक महीने की बात मंत्री महोदय से सुनी, तो मुझे याद आया कि इसके मुताबिक कंट्रैक्ट पर काम करने वाले लोगों का सम्बन्ध फ्रैक्ट्रियों और माइन्ज से होगा । ये व लोग होते हैं, जिनका कोई ठिकाना नहीं होता है, जो चलते-फिरते होते हैं, जो अनपढ़ होते हैं । वे लोग ठेकेदार बन जाते हैं और कुछ लेबरर्स को ले जाते हैं । मिसाल के तौर पर वे उनको खदानों पर ओवरबर्डन के लिए यानी ऊपर की मिट्टी हटाने के लिये और फ्रैक्टरीज में बाहर

का कुछ काम करने के लिये ले आते हैं। वह कैजुअल लेबर होती है। वह दो महीने से कम की भी होती है। एक महीने से कम तो बहुत कम होती है। कैजुअल लेबर के बारे में मंत्री महोदय ने यह दिक्कत बताई है कि उनसे वसूली नहीं होगी। वह वसूली तो इसमें भी नहीं होगी। इसलिए ऐसे झगड़ों में डालना होगा कि ३१ दिन हो गए, तो उसको पकड़ने की कोशिश की जाएगी। उसमें लिखा है कि फ्रैक्टी का ग्रोनर उसका नाम बतायेगा और फिर उससे वसूली होगी। मैं निवेदन करना चाहता हूँ कि यह व्यावहारिक नहीं है।

माननीय मंत्री जी ने और कोई अमेंडमेंट नहीं मानी है, लेकिन वह कम से कम इस अमेंडमेंट को तो मान लें कि कम से कम दो महीने कर दिया जाये बजाये एक महीने के। इस बिल के मुताबिक किस्त वे क्वार्टर्ली देते हैं। इसलिए यह क्वार्टर से कम होने के कारण ऐसे लोगों से वसूली में कठिनाई होगी। अगर इस बिल को ऐसे ही पास कर दिया जायेगा, तो अमल में बहुत कठिनाई होगी, जिसका नतीजा हमारे लिए लाभदायक नहीं होगा। इसलिए अमल की दृष्टि से, प्रैक्टिकल प्वाइंट आफ व्यू से इसको दो महीने कर दिया जाये।

Shri C. R. Pattabhi Raman: The Bill exempts contractors whose contract is for a period of less than one month. The workers of such contractors will, however, be compensated from the Insurance Fund for personal injuries. The scope of exemption has necessarily therefore to be kept to the minimum as otherwise the burden on the Fund and consequently on the employers who are insured will be correspondingly more. The amendment may be rejected.

Mr. Chairman: The question is:

Page 8, line 29.—

for "one month" substitute—
"two months". (5)

The motion was negatived.

Mr. Chairman: The question is:

"That clause 10 stand part of the Bill".

The motion was adopted.

Clause 10 was added to the Bill.

Mr. Chairman: The question is:

"That clauses 11 to 23 stand part of the Bill".

The motion was adopted.

Clauses 11 to 23 were added to the Bill.

Clause 24.— (Scheme to be laid before both Houses of Parliament).

Dr. L. M. Singhvi (Jodhpur): I beg to move:

Pages 12 and 13, lines 37 and 1 respectively,—

for "before the expiry of the session in which it is so laid or the successive sessions aforesaid",

substitute "before the expiry of the session immediately following the session in which the aforesaid period of thirty days is completed". (6)

The amendment is self-explanatory. I do not have to add anything to it.

Shri C. R. Pattabhi Raman: I have already indicated that I am not able to accept it.

This clause has been drafted on the lines of section 3(7) of the Emergency Risks (Factories) Insurance Act, 1962 and section 3(7) of the Personal Injuries (Emergency Provisions) Bill, 1962. No change is necessary.

Mr. Chairman: The question is:

Pages 12 and 13, lines 37 and 1 respectively,—

for "before the expiry of the session in which it is so laid or the successive sessions aforesaid",

[Mr. Chairman]

Substitute "before the expiry of the session immediately following the session in which the aforesaid period of thirty days is completed." (6).

The motion was negatived.

Mr. Chairman: The question is:

"That clause 24 stand part of the Bill."

The motion was adopted.

Clause 24 was added to the Bill.

The Schedule

Shri C. R. Pattabhi Raman: I beg to move:

(i) Page 13, line 12 and wherever it occurs,

for "disability", substitute "dis-
ablement". (7).

(ii) Page 17, line 6,—

(i) omit "Grade";

(ii) for "Date", substitute
"Grade". (8).

Shri Hari Vishnu Kamath: In the course of his reply to the debate, the Minister forgot to elucidate the other two matters to which I had referred earlier, possibly because he was in a hurry to get through. His lunch has been delayed, I think, and perhaps all of us are feeling a little hungrier than when we started to consider the Bill.

I referred to defective hearing and defective vision on pages 15 to 17 and requested him to throw some light on the rather obscure expressions "loss of one eye without complications" and "loss of vision of one eye with complications". What difference does it make when you lose one eye or the vision of one eye, so far as the person is concerned. In my humble judgment, he should be awarded the same percentage, that is 40. When both eyes are lost, it is 100 per cent, and when one eye is lost it should be 50 per cent mathematically speak; it may be even more.

About defective hearing, I wanted to have connotation of the word "shout". What is the norm of shouting? The word has been used by both benches. Not merely the word, shouts have been very common from both sides. Whose shout is the norm—the Prime Minister's shout, or the hon. Members' shout or the Deputy Minister's shout? It says "not beyond three feet". I do not think anybody suffers from that disability here; otherwise, shouts going on here would not have been audible that side and *vice versa*. Our hearing is not so bad I think. We have taken cognizance of shouting. He may throw some light on these points.

Shri C. R. Pattabhi Raman: I can assure the hon. Member of the respect I have for him. We come from the same college from Madras. He always speaks, he never shouts.

Shri Hari Vishnu Kamath: Very good. I am glad.

Shri C. R. Pattabhi Raman: But it is a technical affair. There may be a timbre in the voice. As you are aware, great speakers, even when they whisper, would be audible at the end of the hall. It is calculated in decibels.

14.48 hrs.

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

As for defective vision, as the hon. Member is aware, in playing some games, cricket for example, if the ball comes right on the eye, if there is no complication, the eye is just removed and you have a glass eye. The other eye is not affected. But sometimes, complications may make it necessary to remove the other eye also, in order to prevent septic conditions etc., or if it is a spreading injury. Or, in football, while heading, the strap may hit the eye and it may be damaged, and vision may be lost. So, the wording is "loss of one eye without complications, the other eye being normal", and "loss of vision of one eye with complications or disfigurement,

the other eye being normal". Vision may go and there is dim or defective vision, while in the other case there is loss of the eye altogether. It is a technical thing. I have satisfied myself with regard to its correctness.

Shri Hari Vishnu Kamath: Loss of vision means complete loss. It does not say partial.

Shri C. R. Pattabhi Raman: The percentage is given. There may be loss of vision in the sense that he has lost the benefit of the normal effective vision he had before the injury. We are not dealing with the ordinary question of occupational injury. These are war injuries where more than one person are concerned. These are conventional expressions used in army regulations.

15 hrs.

Shri Kashi Ram Gupta: When are you going to enforce it? Will you enforce it when the war starts actually or even during the emergency?

Shri Hari Vishnu Kamath: On a point of order. If I heard him right, he referred to army regulations which may be accumulating dust somewhere. But the Minister should not take shelter behind the army regulations. Let him bring them and explain to us what it means. It is not enough if he says it is so in the army regulations. They are not gospels for us or *Veda vakya* for us. We can question the army regulations if they are bad in law or bad in form and if we cannot understand them. We can amend them. He referred to the loss of vision and said that it was to the extent of 30 per cent. Here it does not say partial vision. It says here: loss of vision. So, it is not like that. It means that one eye is gone and the other eye remains in tact. To take shelter behind the army regulations may be good for him but not for us. We cannot accept the army regulations if they are obscure and we cannot take them automatically and put them here without giving thought

to the matter. Then again it is coming from the Ministry of Labour and Employment and Planning and not from the Defence Ministry. Were it from the Defence Minister, we could have asked him to produce the army regulations. Now, the hon. Deputy Minister should have been prepared to bring these army regulations and convince this House why this has been used automatically without any thought being given to the matter. We have not been convinced at all of the percentages allowed for the loss of one eye without complications and for loss of one eye with complications. There is disparity in the percentages and there is discrimination shown. I think it should not have been done. The percentage should be 50. If not, in any case, both should be classified as 40 per cent at least and not as 40 per cent in one case and 30 per cent in another case. The explanation is halting and lame and I am sorry to say that this is not the way to treat the House. Let him bring the army regulations and show to us. We shall try to understand them and get them amended, if necessary.

Shri C. R. Pattabhi Raman: Mr. Deputy Speaker, I will not say whether it is lame or not; I will not use any adjective. I am only saying this. We are now talking of loss of normal vision. There is a war injury that takes place. Loss of vision without complications is one category. Loss of vision without complications or disfigurement that is what is stated here. We can also think of women workers involved in these factories. My friend is entitled to comment on the percentages. He may consider them in adequate or unjustified. I have only said that it is *pari materia*; what is available to us so far as this is concerned has been given. The only comparable thing is a group of people in an army getting injury. It is war risk injury applicable to civilian population working in factories. It is *pari materia*; nothing more nothing less. We are having this now and we have enough provisions to change it as circumstances arise.

Mr. Deputy-Speaker: The question is:

- (i) Page 13, line 12 and wherever it occurs, for "disability", substitute "disablement". (7).
- (ii) Page 17, line 6,—
 - (i) omit "Grade",
 - (ii) for "Date", substitute "Grade". (8).

The amendments were adopted.*

The Schedule, as amended, was added, to the Bill.

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

Shri C. R. Pattabhi Raman: Sir, I beg to move:

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

Shri Kashi Ram Gupta: Sir, the point I raised has not been answered.

Mr. Deputy-Speaker: He has referred to the calculations; he said that. The question is:

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

The motion was adopted.

Shri Kashi Ram Gupta: At least now, Sir, let us know whether application of this Bill will be only when the actual emergency arises or even from the present.

Mr. Deputy-Speaker: We have gone to the next business. He gave a reply.

Shri Kashi Ram Gupta: He has not given a reply to this point.

15 06 hrs.

SPECIAL MARRIAGE (AMENDMENT) BILL

The Deputy Minister in the Ministry of Law (Shri Bibhudendra Mishra): Sir: I beg to move:

"That the Bill to amend the Special Marriage Act, 1954, as

passed by Rajya Sabha, be taken into consideration."

Sir, this Bill provides mainly for one clause which seeks to amend section 4 of the Special Marriage Act. One of the conditions of a valid marriage, as will be seen from that section, is that the parties to the marriage must not be within the degree of prohibited relationships. Normally, the position is that marriages under this Act are between different communities or tribes or groups. But cases may arise of marriage between persons belonging to the same community or tribe or group who want to marry under the provisions of the Special Marriage Act. In that case, at present if they belong to the prohibited degrees of relationship, marriage between the parties will not be permissible. If you turn to the analogous provision in the Hindu Marriage Act, it will be seen that section 5 also prohibits marriages among persons belonging to the prohibited degrees of relationship but there is a provision that such marriage is permissible if there is a custom that permits marriage. So that if a custom permits marriage between two parties, marriage is permissible even within the prohibited degrees of relationship.

The object of this amendment is to provide that if custom permits marriage between two parties, the marriage will be permissible under this Act also. It does not matter whether they belong to the prohibited degrees of relationship. It is wellknown that in South India marriage between close relations is permitted under the personal law. These marriages take place under the Hindu Marriage Act. But supposing the parties thereto want to marry under the provisions of the Special Marriage Act, such a marriage will not be permitted because they would fall within the prohibited degree of relationship. To avoid such difficulties, it is proposed to bring custom also under section 4 of the Special Marriage Act.

*In view of amendment No. 7 to On page 15, line 6,—for "disabilities" correction of a patent are not under

the Schedule adopted by the House, substitute "disablements", as the direction of the Speaker.