

Maniyangadan, Shri
Matcharaju, Shri
Mathur, Shri Harish Chandra
Mehrotra, Shri Braj Bihari
Minimata, Shrimati
Mishra, Shri Bibhuti
Mohanty, Shri G.
Morarka, Shri
Murti, Shri M. S.
Naik, Shri D. J.
Naik, Shri Maheswar
Nallakoya, Shri
Pandey, Shri R. S.
Pandey, Shri Vishwa Nath
Patel, Shri Mansinh P.
Patel, Shri P. R.
Patel, Shri Rajeshwar
Patil, Shri D. S.
Patil, Shri S. B.
Pattabhi Raman, Shri C. R.

Prabhakar, Shri Naval
Raj Bhadur, Shri
Raju, Shri D. B.
Ram Swarup, Shri
Rane, Shri
Rao, Dr. K. L.
Reddiar, Shri
Roy, Shri Bishwanath
Saraf, Shri Sham Lal
Sarma, Shri A. T.
Satyabhama Devi, Shrimati
Sen, Shri P. G.
Sharma, Shri A. P.
Sharma, Shri D. C.
Shahsi Ranjan, Shri
Sheo Narain, Shri
Shree Narayan, Das, Shri
Siddananappa, Shri
Singh, Shri K. K.
Singh, Shri R. P.

Sonavane, Shri
Srinivasan, Dr. P.
Subramanyam, Shri T.
Sumat Prasad, Shri
Swamy, Shri M. P.
Tiwary, Shri D. N.
Tiwary, Shri R. S.
Tula Ram, Shri
Tulmohan Ram, Shri
Vaishya, Shri M. B.
Varma, Shri Ravindra
Veerabasappa, Shri
Venkatasubbaiah, Shri
Verma, Shri B.
Vidyalankar, Shri A. N.
Vyas, Shri Radhelal
Yadav, Shri Ram Harkh
Yadava, Shri B. P.

Mr. Deputy-Speaker: Ayes 30;
Noes 97. The amendments are lost.

The motion was negated

Mr. Deputy-Speaker: I shall now
put the Government amendment No.
73.

The question is:

Page 11, for lines 10 and 11, sub-
stitute—

(b) in section 9—

(i) in sub-section (1), for the
words 'the working journalist may',
the words 'the working journalist
himself, or any other person autho-
rised by him in writing in this be-
half or in the case of the death of
the working journalist, any mem-
ber of his family may' shall be
substituted;

(ii) for sub-section (2), the fol-
lowing sub-section shall be substi-
tuted, namely:—" (73).

The motion was adopted.

Mr. Deputy-Speaker: The question
is:

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

The motion was adopted.

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

Mr. Deputy-Speaker: There are two
amendments to clause 1. Anybody
moving them? No.

The question is:

"That clause 1, the Enacting
Formula and the Title stand part of
the Bill."

The motion was adopted.

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

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

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

Mr. Deputy-Speaker: The question
is:

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

The motion was adopted.

15.07 hrs.

PERSONAL INJURIES (EMER- GENCY PROVISIONS) BILL

**The Deputy Minister in the Minis-
try of Labour and Employment and
Planning (Shri C. R. Pattabhi Raman):**
Sir, I beg to move:*

"That the Bill to make provi-
sion for the grant of relief in res-
pect of certain personal injuries
sustained during the period of
the emergency, be taken into con-
sideration."

The purpose of this Bill is, as has
been explained in the Statement of
Objects and Reasons, to empower the
Central Government to formulate a
scheme under which financial relief
could be given to persons, other than
purely military personnel, who sus-
tain personal injuries during the em-

*Moved with the recommendation of the President

[Shri C. R. Pattabhi Raman]

emergency and are engaged in occupations or services connected directly or indirectly with our defence efforts. Hon. Members may be aware that a similar scheme was introduced at the time of the last War and continues to be in force. The necessity for fresh legislation has arisen since the War Injuries Ordinance of 1941 and the Scheme framed thereunder had specific reference to the hostilities during the last war and cannot be utilised to deal with the present situation. Even today some pensions are being paid under the old provision.

In modern warfare no individual can be completely insulated against the effects of enemy attack, particularly when there is aerial bombing. It would not be possible to provide financial relief to all persons who are incapacitated, whether physically or mentally, due to military operations. Moreover, timely shifting away from the normal place of residence to safer areas would provide some protection to unattached persons not in regular employment. But it is necessary that persons employed in essential undertakings and services should stick to their place of duty, irrespective of the nature and intensity of threats of attack. Members of the civil defence organisations in particular have to expose themselves to special risks. It is, therefore, only proper and just that such persons, or their dependents in case of the death of the former, should be provided with a minimum of relief. The quantum of relief can in a sense be a full compensation for the loss of earning capacity resulting from personal injuries. No account will, therefore, be taken of the position or income of the person injured at the time of the injury. It will only be ascertained whether he was gainfully employed or not. That has been specially defined in the Act as has been done in older enactments. The rates of relief will be related only to the severity of the injuries. These rates will be fixed, as was done during the last war, at amounts equivalent to

the rates of pension and injury allowance drawn by the lowest paid combatant ranks of the army. Civil defence volunteers and persons employed in certain occupations specified by Government will be entitled to slightly higher rates of relief as for the next higher ranks in the army.

Apart from financial relief, injured persons would require medical attention. Government, therefore, propose to arm themselves with power to direct dispensaries and hospitals to provide medical and surgical treatment in respect of personal injuries sustained by gainfully occupied persons or personal service injuries sustained by civil defence volunteers.

I hope the House will appreciate the urgency of this measure and give its approval to the Bill.

Mr. Deputy-Speaker: Motion moved.

"That the Bill to make provision for the grant of relief in respect of certain personal injuries sustained during the period of the emergency be taken into consideration."

Three hours are allotted for this Bill.

Shrimati Vimla Devi (Eluru): Mr. Deputy-Speaker, Sir, we welcome the Personal Injuries (Emergency Provisions) Bill. Since our country is facing war conditions, this piece of legislation is very necessary. It is ironical that though our people and Government stood all these years for peace, war has been forced on us. Because the people know the Government's peaceful policies, they are aroused and angry, and they are willing to fight and sacrifice their all for the sake of their motherland. Our people till now engaged in peaceful construction have been forced to prepare for war. But, Sir, the Chinese propaganda now is, it wants, after the shameful attack on India, to hide behind the suggestion that the Indian Government should not disrupt Asian unity. But let it be clearly and boldly

said that it is not India which has disrupted Asian unity, but it is the Chinese who have stabbed Asian unity in the back. If they want peace as they shout, they should give up their equivocal proposals and accept India's clear and just proposals. But let it be also known that if we must, we shall fight to the last drop of our blood for the motherland.

All sections of our people have come forward willingly to help the war efforts and face the risks bravely. In modern warfare, it is not only the combatants who suffer, who are injured; modern warfare brings war to every door step. No one is immune and no one is safe. It is, therefore, just and proper for us to help, protect and compensate those who are injured. Though to a certain extent the man who is injured is alone the man who has to bear the physical distress, let us all join together and try to mitigate the harm as far as possible. This Bill is meant to fulfil this purpose and is therefore most welcome and commendable.

Having said this, Sir, I have a few remarks to make on the provisions of the Bill. According to the scheme of the Bill, we do not know the scales of compensation nor the authority who will decide it. All these have been left to the Government for preparing a scheme for this purpose. I can only suggest and emphasise that the scheme prepared by the Government should provide adequate compensation. The compensation provided should not be a token amount but it must fulfil what it aims to achieve, that is, fully help the injured person.

Secondly, the scheme must provide for just and speedy disposal of cases. We know what inordinate delays there are in implementing the Workmen's Compensation Act. Sometimes, it takes nearly two to three years before the compensation is given. So monetary and medical aid must be given immediately. It will help the injured to be cured quickly, mental-

ly and physically. It would be shameful if any injured person is lost in the webs of bureaucratic machinery.

Thirdly, while the injured are hospitalised, they must get their full remuneration if they are drawing less than Rs. 100 per month.

Then, there is no provision for the injured persons to appeal against the bureaucrats if they refuse to do their duty or if they are unjust. Provision for this should be made in clause 3(6). We are seeing violations of the Workmen's Compensation Act. So, if employers fail to give information about injuries sustained by employees they should be taken to task and severely punished.

Though many acts are made to benefit the people, they are not implemented properly. Therefore, the implementation must be very efficient. Also, persons who are benefited by the Acts, many of them do not know that such Acts are existing and, therefore, wide publicity must be given to the Act.

The Government should agree to lay on the Table of the House the scheme it prepares under Clause 3 of the Bill, so that the Parliament can have an opportunity to discuss it.

Then, as a necessary complement of this Act, to protect workers who are not covered by the Workmen's Compensation Act or the Employees' Insurance Act, legislation should be brought at an early date, as has been visualised in the Statement of Objects and Reasons.

Sir, we are passing through trying times, but I have no doubt that the unity and determination of the people shall enable us to come out victorious. I only hope that this good piece of legislation may be never required in practice. But one must keep one's powder dry, and it is good to have such a legislation.

Sir, I again welcome this measure.

Dr. Gaitonde (Goa, Daman and Diu): Mr. Deputy-Speaker. Sir, I welcome this Bill. I have read it very carefully and I have found a few interesting things. Therefore, I would like to draw the attention of the Government to certain points which I do not understand.

I have a copy of the Bill here. When we come to the Financial Memorandum they say: "...the extent of which cannot be estimated at present". We are told that this Bill is very similar to the Bill that was enacted by the British in 1941.

Shri S. M. Banerjee (Kanpur): By an Ordinance.

Dr. Gaitonde: Yes, by an Ordinance. The British did not follow this pattern in the sense that before enacting this Bill they had something else. They had earlier passed a Civil Defence Act in July, 1939 for England. We have done just the reverse. We have first passed the Defence of India Act. So far, the Civil Defence Act has not been passed. Unless a Civil Defence Act is passed, this Bill becomes an isolated Bill without any relation to the whole aspect of the problem. I will tell you why. Unless we know what is going to be the compensation, this Bill does not have any meaning.

The problem is, how is it possible to estimate the compensation? This work has been already done. I had a talk with some friends who said that this was impossible. But, as I said, these 'impossible' things have been already done in other countries. In England itself, if you go through the documents of the war, you will find that long before the war, since 1924, they were studying this problem. and they had certain estimates. Without making estimates, I do not know how a Bill like this will work. I will give you some figures that they reached in 1938. In 1938 their estimated compensation was £120 million. That means they had studied this problem.

Why can't we study in the same way. The way they studied was this. This was a Cabinet decision, and I thought that the Minister when he presented the Bill would tell us something about the background of this type of Bill.

In England, as there were many difficulties as regards the finding out as to how many casualties will exist, they first tried to find out what will be more or less the quantum of attack or how many bombs are likely to fall in England. This was done and the estimates were extremely high and yet all the civil defence was based on these estimates. At the end, I will give you some of the data which, I think, are interesting. We should not discard them completely.

Now the first basis for this work was the bombardment of Barcelona. Then they found out what happens to a city when there is no civil defence. They have given some numbers in that connection. I am not giving all the numbers here, but they can be found out from the British documents which are all published. The calculation is more or less like this: there will be 50 to 72 casualties per ton of bomb. They believed that 3,500 tons will be thrown over England in the first 24 hours and after that 700 tons a day. We need to have some idea as to the money that will be needed for compensation on this basis. Otherwise, if we go according to the data given by the British authorities, the amount will be quite astronomical, more than our whole budget. I do not know what the Minister thinks about this data. I hope in the answer at the end he will say something about the data, how the money will come and how much will be needed.

They have also referred to the mental cases. Does the Government, does the Minister, have any idea of the number of mental cases when there is warfare? In England, according to their calculation, they found that the number would be very very high and in the beginning they thought that payment of compensation was impos-

sible. Fortunately, their civil defence was perfect. Because it was perfect, in all the five and a half years of war they lost about 1½ lakhs dead and three times that number wounded. That is the relationship in the case of all wars—three injured for every one dead. The specialists in mental diseases then told the Government that they will have three mental patients for every one physically injured.

Have all these numbers been worked out by the Ministry? Or has anybody thought about this problem? I believe this is extremely important. I am asking this question as a suggestion for the Government officials to study this problem, because the mere passing of a Bill will not do. For example, in England about 1,000 new operation theatres were built during the war-time. We simply say that the injured persons will go to the dispensary etc. But how the dispensaries will work; I do not know.

I believe that we should know at least the magnitude of the problem. Unless that is known we will not be in a position to know what to do. So, the first thing is to find out the target and the second thing is to find out how much money will be needed. This had been done not only in England but in all the countries before the war began. Now we are in the midst of war and yet nothing has been done. This isolated Bill has no relation to the whole context. So, I do not understand it. Therefore, with due apologies to the people who have brought forward this Bill, I would like to suggest that this problem should be studied properly and if not now, very soon, some other Bills should come up in the same line. Now we are told that we are following the British pattern and yet the most important Bill, the Civil Defence Act, is not there. So, my request to the Government is to see that the Civil Defence Act is enacted as soon as possible.

Shri D. C. Sharma (Gurdaspur): We have got the Defence of India Act.

Dr. Gaitonde: That is completely different from the Civil Defence Act. This problem was studied by the British authorities in a very beautiful way and they took a long time to study it. They first passed the Civil Defence Act in July 1939 and, afterwards, the Defence Act on 24th August, 1939. So, my suggestion to the Government would be to let the specialists and officials study this problem.

Shri Hari Vishnu Kamath (Hoshangabad): Mr. Deputy-Speaker, Sir, while generally welcoming the provisions of the Bill, one cannot help being struck by the curious irony of fate, not uncommon in the chequered history of mankind, which has compelled the Treasury Benches to bring in before the House, one after another, measures which were adopted and promulgated by the British imperialist regime just over two decades ago. Within fifteen years of independence, we are in the midst of a war, undeclared though it be, and we are patterning our legislation more or less on the model of the laws that were passed by the British Government which imprisoned most of my friends on the other side, and this side of the House as well, of which we had no knowledge at that time, because we did not bother to look into them at all at that time.

At the outset, before going into the merits of the case, may I again make a request to you, Mr. Deputy-Speaker, and to the Treasury Benches through you, that the rules of the House, the Rules of Procedure, particularly rule 69, needs amendment? Again and again, on previous occasions, I had referred to this matter, and I am repeating and reiterating the suggestion today on this occasion as well.

Rule 69, sub-rule (1) is very clear, definite and categorical. In the case of a money Bill, it is mandatory under

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article 110 of the Constitution that the President has duly to certify it and recommend it for consideration by Parliament. Rule 69 of the Rules of Procedure is mandatory and definite on this point that:

"...and shall also give."

Please read the wording; please look at the wording of the rule; the word used is "shall".

"...and shall also give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law."

On a previous occasion, I had raised this matter and I had suggested that the rule should be amended to apply to those Bills in the case of which the circumstances are such that the estimate could not be given. If this rule is not amended and it stands, as it is, this Bill before us, before the House, cannot be considered at this stage. I am sorry, this is an emergency through which we are passing, but we should have provided for an emergency also in these rules, and now before any such Bill comes before the House I hope this rule would be amended so as to include within the purview of this rule Bills where no estimate could be given, contrary to the provisions of sub-rule (1) of rule 69 of the Rules of Procedure, as it now stands.

The rule is very categorical. It says "shall", not "may" or that in particular cases it need not be given; it says "shall also given an estimate of the recurring and non-recurring expenditure". Now, may I read the Financial Memorandum attached to the Bill? It merely says:

"The relief proposed will involve expenditure from the Consolidated Fund of India, the extent of which cannot be estimated at present."

It is completely contrary to sub-rule (1) of rule 69, which says that an

estimate shall be given. Now this Memorandum says that it cannot be given.

I do not know if you can give a ruling on this point as to whether it can be considered before I proceed further. It is up to you to give a ruling on this point. I have raised a point of orders. Will you, Sir, kindly give a ruling before I proceed with the merits of the Bill?

Shri C. R. Pattabhi Raman: If I may endeavour to assist to the extent possible, it is in the very nature of the enactment that there can be no definiteness about the estimate.

Shri Hari Vishnu Kamath: Amend the rule.

Shri C. R. Pattabhi Raman: Aerial bombing may be in big cities or it may be confined to strategic points. No one can foresee now what the extent of the damage will be, what the extent of Government's undertaking will be and what the extent of Government's compensation will be. What really happens in these matters is that assent is taken because it may involve expenditure. It is only a permissive thing. It is true that the word 'shall' is there as has been quoted by the hon. Member, but there are cases where it will not be possible, in the very nature of the enactment, to estimate correctly, or even approximately, the expenditure. There may be nothing at all for all we know or it may mean anything. But the provision has to be made for personal risk.

Shri Hari Vishnu Kamath: I appreciate the Government's difficulty and it is not my purpose to obstruct. The rule should be amended.

Mr. Deputy-Speaker: I think, the provision in the rule has been complied with. They cannot estimate it at this stage. The hon. Member will realise that it may not happen at all; but if it happens, to what extent it happens nobody can say.

Shri Hari Vishnu Kamath: My submission is that the Rules of Procedure should be amended to cover such Bills.

Mr. Deputy-Speaker: Wherever an estimate is possible the Government is bound to give it.

Shri Hari Vishnu Kamath: But here it does not have the words "wherever it is possible".

Mr. Deputy-Speaker: But the financial memorandum, I think, complies with the rule. We shall proceed with the Bill.

Shri Ranga (Chittoor): It is within your province to suspend for the time being the operation of that rule.

Mr. Deputy-Speaker: That we will see. The rule, as it is, has been complied with sufficiently. The clauses which involve financial expenditure have been printed in bold letters and the financial memorandum also says that it is not possible to estimate it at present. I think, it has been complied with.

Shri Ranga: After all, they should have attempted to impress the country with their idea of seriousness by saying that although it is not possible for them to estimate it accurately, they propose to set apart Rs. 5 crores or Rs. 5 lakhs or Rs. 10 crores for this purpose. If they had said that, they would have complied with this rule.

Shri Hari Vishnu Kamath: With due reference to your judgment I would like to make one brief remark. You said that it has sufficiently complied with the rule, but I submit in all humility that there is no sufficient compliance; either there is compliance or there is non-compliance. There is no sufficient compliance.

I will now proceed to the merits of the Bill before the House, My hon. friend, Dr. Gaitonde, was quite right when he referred to this case of—shall I say—inverted priority. Perhaps it is that which he has in mind.

The Civil Defence Act should have been passed by this House first and then this measure which includes so many things about civil defence authorities, civil defence service, civil defence volunteers and organisation. The definition clause includes these terms and it would have been better if the Parliament had adopted a comprehensive Civil Defence Act which is as important as military defence on the frontier. But here, apparently, I do not know what the motive and the intention of the Government is, According to this clause, that is, clause 2, civil defence organisation means any organisation established for civil defence purposes. Do you follow this? It says:

"'civil defence organisation' means any organisation established for civil defence purposes."

What is civil defence, nobody knows. What is civil defence is not defined.

Shri C. R. Pattabhi Raman: It has been defined in the Defence of India Act which has already been passed.

Shri Hari Vishnu Kamath: I do not know; but I am very glad if it has been defined there. But the force of the argument of my hon. friend, Dr. Gaitonde, still remains that Civil Defence Act should be a comprehensive measure.

Shri Bade (Khargone): My submission is that Shri Kamath is right in this. When a definition is given in another enactment, it is said "as defined in that Act". So, here it should be said "civil defence as defined in that Act".

Shri Hari Vishnu Kamath: It should be here also. I was going to say that but I did not want to take the time of the House. It should not be there only in the Defence of India Act.

Shri C. R. Pattabhi Raman: Even there....

Shri Hari Vishnu Kamath: We do not want what is given there.

Shri C. R. Pattabhi Raman: I am guided by the Chair, not by the hon. Member.

Shri Hari Vishnu Kamath: I am not yielding.

Shri C. R. Pattabhi Raman: I find that he has built a structure without any foundation.

Shri Hari Vishnu Kamath: You are building it on sand.

Shri C. R. Pattabhi Raman: I do not want to use.....

Shri Hari Vishnu Kamath: Better think before you speak.

Shri C. R. Pattabhi Raman: It says:

"In this Act, unless the context otherwise requires,—

"civil defence" includes any measures not amounting to actual combat, for affording defence against any form of hostile attack by a foreign power or for depriving any form of hostile attack by a foreign power of its effect either wholly or in part whether such measures are taken before, during or after the time of the attack;".

Mr. Deputy-Speaker: Which is that Act that he is reading from?

Shri C. R. Pattabhi Raman: From the Defence of India Act.

Shri Ranga: That should be quoted here.

Shri Hari Vishnu Kamath: Anyway, let him have it. The Treasury Benches can have it.

Now, please turn to the statement of objects and reasons. There are various statements made there which are at the present stage of clarification or explanation by the hon. Minister somewhat obscure. Perhaps a little more light needs to be shed on some of the statements made in the statement of objects and reasons. It opens with the words:—

"The War Injuries Ordinance, 1941".

Of course, they were not responsible for this Ordinance in 1941—naturally; but later on it is stated that the Ordinance still continues to be in force. I do not know why in the 15 years of independence we could not either convert an Ordinance passed by the British Government into an Act or repeal it. Some sort of regularisation should have been done. The War Injuries Ordinance passed by the British Government in 1941 still continues as an Ordinance in 1962, the year of grace!

Shri H. N. Mukerjee (Calcutta Central): How can it?

Shri Hari Vishnu Kamath: That is why I want light to be shed on it. We would like to know what the provisions of that Ordinance are and why it should continue in force today still as an Ordinance with our Government in saddle for 15 years now. Perhaps these old measures were lying as lumber and now because unfortunately we have got to fight a war these have been brought out from undercellars and are applied today at leisure.

May I invite your attention to two kinds of injuries that are envisaged in this Bill, namely, personal injuries and personal service injuries? I hope that whoever is charged with the task of assessing compensation for these injuries will be a person who is not merely competent from a mechanical or an official point of view but has also got the rather intangible qualities of human sympathy and understanding.

May I, for the benefit of the Treasury Benches, read out, by your leave, certain very illuminating extracts from this very useful book, *Damages for Personal Injuries* by Mr. John Munkman which was published in 1956. I am sure, my hon. friend, Shri Pattabhi Raman, in the course of his wide reading has come across this book. It includes case

law even dating back to the Second World War. Here he has tried to explain what personal injuries are. It is very illuminating and very useful and I hope, if Shri Pattabhi Raman has not read it, he will read it at leisure very soon.

"In every case of personal injuries, there are two main factors which have to be taken into account in assessing the damages.

On the one hand, there is the personal injury itself ranging from the loss of a limb or other part of the body to slight cuts or bruises, and involving not only pain and hardship, but also the loss of the pleasures of life."

That is why I said that the man charged with this task should have plenty of human sympathy and understanding. It goes on to give illustrations. I do not want to read the illustrations.

Mr. Deputy-Speaker: Be brief. There is a time limit.

Shri Hari Vishnu Kamath: The Bill is also important. Three hours have been allotted. I hope the time taken on the point of order is not debited against me.

Mr. Deputy-Speaker: You have taken 20 minutes.

Shri Hari Vishnu Kamath: The point of order took 20 minutes.

Mr. Deputy-Speaker: I did not take more than two minutes.

Shri Sham Lal Saraf (Jammu and Kashmir): The time taken in the point of order will have to be included, I feel. That was the introduction.

Mr. Deputy-Speaker: The point of order is over. Mr. Kamath will continue. Please finish.

Shri Hari Vishnu Kamath: There are two kinds of losses so far as personal injuries are concerned. One is financial or pecuniary loss and the

other is personal loss. He then refers to 'quantifying' that is judging the quantity of financial loss and quantity of personal loss at pages 9 and 10.

An Hon. Member: Lines, please.

Shri Hari Vishnu Kamath: Lines are not marked. I will read one brief paragraph about quantifying personal loss: That is very interesting.

"When we turn to the assessment of the personal loss—the loss of a limb, or an eye, or the endurance of pain and discomfort—it is at first sight an entirely different problem—from pecuniary loss. Different it certainly is—that is what he says—and more difficult; but the difference is not so profound as is sometimes suggested, and the difficulty is no greater than many others which the law is able to resolve.

There are dicta in the older cases—sometimes paraphrased uncritically by legal writers—which suggest that damages for the injury itself, as distinct from the financial loss entailed, are not compensation at all, but a kind of solatium, a sympathetic payment admitted to be less than is really due."

That is an elaborate argument. I hope the Minister will read it closely and carefully before he replies to the debate and if it is not possible, later on. I have one or two points with regard to this measure. I have a number of amendments on which I will speak at the appropriate time.

The last para of the Statement of Objects and Reasons refers again to War Injuries (Compensation Insurance) Act, 1943, again passed during the war time when most of us here and on the other side on the Treasury Benches were in jail. It is said:

"The interests of workers covered by these two enactments (that is, the Employees' State Insurance Act and the Workmen's

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Compensation Act) will be protected either by amending (that is the word used) the War Injuries (Compensation Insurance) Act, 1943".

It has not been brought before the House so far. I do not think so; I am not quite aware; I do not recollect whether it has been amended or an Amending Bill is being brought before the House.

....or undertaking separate legislation on the lines of this Act.....

I do not know what "this Act" means: whether that Act or this Act.

Shri Ranga: The present one.

Mr. Deputy-Speaker: This Act.

Shri Hari Vishnu Kamath: "..... which provides for payment of compensation to the injured person—then the phrase—roughly equal—

Here comes the force of the argument used by Mr. Munkman in this book.

"roughly equal to the difference between the amount paid under the War Injuries Scheme....

We do not know what the War Injuries Scheme is.

....and the amount payable under the Workmen's Compensation Act, 1923.

It says that the difference between these two will be computed. It is very unclear to say the least to me at present. This must be made clear in the course of the reply to the debate what exactly is meant by these phrases and by these sentences. At this stage, I will not make any further observations, but leave the rest of the observations to be made at the clause by clause consideration stage.

Mr. Deputy-Speaker: We will finish this Bill today. We have taken 35 minutes extra over the other Bill.

Shri Hari Vishnu Kamath: The House can extend the time.

Shri S. M. Banerjee: The Minister may reply tomorrow.

Mr. Deputy-Speaker: Let us finish this Bill whatever be the time. Three hours have been allotted. Two hours for general discussion; one hour for clauses.

Shri Hari Vishnu Kamath: Many amendments.

Mr. Deputy-Speaker: Thirty-four amendments: one hour.

श्री बूटा सिंह (मोगा) : उपाध्यक्ष महोदय, यह जो पर्सनल इंजरीज (इमरजेंसी प्राविजंस) बिल हमारे सामने है, सरकार ने इस बिल को पेश करके इस बात का सबूत दिया है कि अपने देश की सुरक्षा के लिये जैसे हमारे फौजी नौजवान सरहदों के ऊपर दुश्मन के साथ लड़ रहे हैं वैसे ही देश के अन्दर अपने देश की रक्षा करने के लिये जो शहरी या नागरिक दुश्मन का सामना करेंगे, जो उन को इंजरीज होंगी, जख्मी होंगे, मर जायेंगे या उनको और मुश्किलत होंगी, ऐसे लोगों को सरकार ने इसमें मुआविजा देने का वायदा किया है। यह एक अच्छी और स्वागत योग्य बात है जोकि सरकार करने जा रही है और इसका तकरीबन इस हाउस के सब मेम्बरान समर्थन करेंगे। मैं अपनी ओर से और अपनी पार्टी की ओर से इस बिल को बिलकम करता हूँ।

इस बिल में पेज २ पर क्लोज नम्बर २ (४) जोकि डैफिनीशंस के बारे में है "गेन-फुली अक्रुपाइड परसन" को इस तरह डिफाइन किया गया है :—

"'gainfully occupied person' means a person who is engaged in any trade, business, profession, office, employment or vocation".

यहीं पर बस खत्म कर दिया है। अब यह एक सच्चाई है कि भारतवर्ष किसानों का देश है और इसमें खेतीवाड़ी का काम करने वाले नागरिकों की संख्या सब से अधिक है। मुझे यह देखकर दुःख हुआ कि किसान जो कि इस देश की रक्षा करने के लिये किमी सिपाही से कम महत्वपूर्ण नहीं हैं उनका सरकार ने इसमें नाम तक नहीं लिखा। जैसा कि मिनिस्टर साहब ने यह बिल इंट्रोड्यूस करते वक्त बतलाया कि इस बिल को इंट्रोड्यूस करने की आवश्यकता इसलिये हुई कि मौजूदा लड़ाई के तरीके जो हैं वे बहुत पेचीदा हो चुके हैं। जो नागरिक ऐरियल बॉम्बिंग से देश की रक्षा करते हुये मारे जायेंगे उनको मुआविजा देने की भी व्यवस्था की गई है। मैं चाहता हूँ कि मिनिस्टर साहब इस बात को जरा और ध्यान से सोचें और देखें कि खेतों में काम करने वाले किसान और मजदूरों पर जब हवाई जहाजों के जरिये बम गिरेंगे तो क्या उन को भी कोई मुआविजा देने का सरकार इरादा रखती है? उनको इस सुविधा से महरूम रखना ठीक नहीं होगा और इसलिये मैं चाहता हूँ कि सरकार अगर इस बिल में खेतिहर मजदूरों को भी शामिल कर ले तो यह बिल मुकम्मल हो जायेगा।

दूसरी बात जो मैं आप के ध्यान में लाना चाहता हूँ वह यह है कि इस बिल के पेज ४ पर क्लॉज ३(५) में यह दिया हुआ है :—

“A scheme may be amended or rescinded at any time by the Central Government.”.

मैं समझता हूँ कि सरकार को यह इतनी बड़ी ताकत दे देना इस हाउस की तरफ से वाजिब नहीं है कि गवर्नमेंट खुद स्कीम बनाये, जब चाहे उसको अमेंड कर ले या चाहे तो उसे खत्म भी कर दे। मैं चाहता हूँ कि जब भी किसी स्कीम को अमेंड करना हो या उसको खत्म करना हो, तो उसको इस हाउस के सामने रखना चाहिये और इस हाउस को ही इस बात की ताकत और इस बात का अधिकार

होना चाहिये कि वह उसको अमेंड कर सके या उसको खत्म कर सके।

क्लॉज ३(६) में कहा गया है :—

“Any decision of the Central Government or other authority empowered to make payments under a scheme as to the making, refusal of amount, or as to the continuance or discontinuance, of a payment under a scheme may be varied, from time to time, by a subsequent decision of the Central Government or such authority..”.

प्राज तक हमने ऐसा कोई कानून नहीं देखा है, जिसमें यह भी लिखा हुआ हो कि इट बिल बेरी फ़ाइन टाइम टू टाइम। मैं चाहता हूँ कि चूंकि अभी तक हमको टाइम टू टाइम वरी करने का अर्थ नहीं बताया गया है, इस लिये सरकार इस बारे में अपनी नीति को और स्पष्ट करे और इस मामले को निश्चित तौर पर तय कर दिया जाये।

इसके आगे यह लिखा हुआ है :—

“... but save in so far as it is so varied shall be final and conclusive.”

मैं चाहत हूँ कि सरकार को यह जो ताकत और अधिकार दिया जा रहा है, उसके साथ ही यह भी प्रोवाइड करना चाहिये कि अगर किसी आफिसर या अथॉरिटी ने इसके बारे में कोई ऐसा डिसिजन कर दिया है, जो कि जायज नहीं है या जिसके खिलाफ किसी को शिकायत हो, तो एग्जीक्यूटिव पार्टी को हाई कोर्ट में अपील दायर करने का हक होगा।

मेरा हल्का बिल्कुल पाकिस्तान की सरहद के साथ लगता है—मेरा मतलब वागहा पुराना से है—और वहां पर जब किसान खेत को जाता है, तो उस के एक हाथ में राइफल होती है और दूसरे हाथ में हल होता है। ऐसे एक नहीं, बल्कि सैकड़ों इन्सिडेंट्स

[श्री बूटा सिंह]

हमारे ध्यान में लाये गये हैं, जिन में खेत-मजदूरों और किसानों को चोट आई या घे जखमी हो गये। १९४१ का आर्डिनंस, जिस को कानून की शकल देने के लिये यह बिल लाया गया है, अभी तक इन फोर्स रहा है। लेकिन मैं आपको बताना चाहता हूँ कि उसके जरिये एक भी केस नहीं लिया गया और किसी को पेमेंट नहीं की गई। मैं चाहता हूँ कि मौजूदा हमजैसी के लिये सरकार जो यह बिल हाउस के सामने लाई है, इसके पास होने के बाद इसके बारे में भी सरकार वैसा ही रवैया अखतयार न करे।

पेमेंट देने के सिलसिले में इंस्टीट्यूशन ऑर ऑरगनाइजेशन रेकगनाइज्ड बाई गवर्नमेंट की बात कही गई है। मैं यह अर्ज करना चाहता हूँ कि यह लड़ाई का टाइम है, इसमें रेकगनीशन का क्या मतलब है। जहां भी नागरिक इकट्ठे हो कर अपने देश की हिफाजत और दुश्मन का मुकाबला करने के लिए लड़ते हैं, वहां पर किसी ऑरगनाइजेशन की रेकगनीशन का सवाल नहीं होना चाहिए। रेकगनीशन का मतलब यह है कि पार्टी इन पावर जिसको रेकगनाइज करे, क्योंकि सरकार के पास उन्हीं के नाम जायेंगे, जिनकी कांग्रेस सिफारिश करेगी। इसलिए इस किस्म के प्राविजन को बिल्कुल नहीं रखा जाना चाहिए। देश की रक्षा करने के लिए किसान, मजदूर और दूसरे नागरिक जहां भी संगठित हो कर कोई भी यत्न करते हैं और किसी हमले में घे जखमी हो जाते हैं, तो उनको कम्पेन्सेशन दिये जाने के बारे में रेकगनीशन का सवाल नहीं होना चाहिए।

मैं चाहता हूँ कि जिन बातों की तरफ मैंने आपके जरिये माननीय मंत्री जी का ध्यान आकर्षित किया है, वह उन पर विचार करें और अपनी नीति को स्पष्ट करें।

श्री अचल सिंह (धारा): उपाध्यक्ष महोदय, इस संकटकालीन स्थिति में इस बिल की बहुत आवश्यकता है, क्योंकि विदेशी आक्रमण और युद्ध के समय जो बालन्टियजं, होम गार्डज या रक्षा दल वगैरह के लोग डिफेंस का काम करते हैं, अगर उनके लिए कोई इस प्रकार की व्यवस्था न की जाय, तो उनमें काम करने का उत्साह नहीं होगा। इंग्लैंड की नजीर हमारे सामने है। जब जर्मनी ने हमला किया, तो इंग्लैंड पर बहुत बड़े पैमाने पर बाम्बिंग किया गया, जिसके परिणामस्वरूप लाखों मकान गिर गए और लाखों आदमी घायल हुए। सरकार ने उन लोगों की मदद की। इसी प्रकार हमारे देश की वर्तमान परिस्थिति को देखते हुए इस बिल को पास करना बहुत आवश्यक है।

एक माननीय सदस्य ने यह एनग्वे किया है कि इसमें रुपए की कोई निश्चित तादाद नहीं बताई गई है। मैं कहना चाहता हूँ कि इस वक्त कोई रकम कैसे निर्धारित की जा सकती है, क्योंकि अभी बाम्बिंग वगैरह शुरू नहीं हुआ है और अभी इस बारे में कोई एस्टीमेट नहीं लगाया जा सकता है। मैं बताना चाहता हूँ कि जब चीन का एग्जेशन हुआ, तो फिनांस मिनिस्टर ने उसका मुकाबला करने के लिए १०० करोड़ रुपए की रकम मांगी। इसी तरह जब मोंका आयेगा, तो सरकार एक स्पेसिफिक रकम की मांग लेकर हाउस के सामने आ जायेगी।

जैसा कि मैंने पहले भी कहा है, इस बिल का पास होना निहायत जरूरी है, क्योंकि जो लोग इस वक्त रक्षा-कार्यों में लगे हुए हैं, उनको इससे काम करने का उत्साह मिलेगा। मैं इस बिल का समर्थन करता हूँ और आशा करता हूँ कि इस बिल को पास किया जायगा।

Shri Maniyangadan (Kottayam): I support this Bill. It is mainly intended to enable Government to prepare a scheme as contemplated in clause 3 of this Bill for giving compensation to persons injured as a result of the war. In this connection, while personal injuries etc. are defined in clause 2, clause 3 (1) (a) provides as follows:

"personal injuries sustained by gainfully occupied persons (with such exceptions, if any, as may be specified in the scheme) and by persons of such other classes as may be so specified;"

In other words, it will be applicable only in this way.

With regard to the scheme that is going to be prepared by Government under this legislation, there is no provision now for placing it on the Table of the House for its being scrutinised by Parliament. I would request Government to make a provision for placing this scheme on the Table of the House so that it may be scrutinised by Parliament.

15.57 hrs.

[SHRI MULCHAND DUBE *in the Chair*]

Otherwise, we would not be able to know what classes of persons are exempted or what classes of persons are included under this scheme.

There was a criticism here that a Civil Defence Act had not been passed by this Parliament before this measure was taken up. But I would refer to the Defence of India Bill which was passed recently by this House. The term 'civil defence' is defined therein. Moreover, chapter III of that Bill, particularly clauses 7 to 12, are concerned with the civil defence services, and sufficient provisions have been made regarding civil defence in detail. In the light of that, there is absolutely no necessity to have another legislation for civil defence. But the term 'civil defence' as defined in the Defence of India Bill may perhaps be applicable only to that Bill. There-

fore, I would suggest that if it is advisable, a definition of the term 'civil defence' may be included in this Bill also.

As regards the estimates of the expenses that may have to be incurred later on account of passing of this Bill and in paying compensation, I do not know how it is humanly possible to estimate how many persons will be injured, what will be the quantum of injury and all those things. It is, Sir, humanly impossible to do that. It was stated that in England and other places certain estimates were made. But, I do not know how far those estimates proved correct subsequently, if at all such estimates were made. Anyhow, it is pure human knowledge that an estimate of the injury that would be inflicted as a result of the war cannot be foreseen earlier. I do not propose to deal with that much further.

As regards the point of order raised, a ruling has been given and there is no need for us to go into that now.

16 hrs.

In this connection, I would like to bring to the notice of the Government the necessity of more civil defence efforts. If civil defence is not adequately prepared and taken care of, one cannot imagine the calamity that is going to happen to us. The amount that will have to be disbursed under the provisions of this Act also will be very much. But, if civil defence is properly taken up and adequate measures are taken for the protection of the people beforehand, it will be not only a great relief to the people, but it will also help the Government in not spending much on account of this reason.

In this connection, it is highly necessary that the civil defence efforts must be given much more importance. Certain amendments had been proposed and were withdrawn. I do not know the necessity of some of the amendments. I do not propose to deal with the amendments, but I would

[Shri Maniyangadan]

like to stress on the necessity of giving more importance to civil defence efforts. I would also like to repeat what I submitted earlier, namely, that we should include the definition of the term civil defence in this clause. With these words, I finish.

Shri S. M. Bamerjee: Mr. Chairman, Sir, I rise to support this Bill which is the need of the hour. Our country is a peaceful country. We have always followed peaceful means. We never thought that the country which is so friendly to us (which pretended at least to be so) would have embarked on this massive invasion on this peaceful country. Now, Sir, we find that it is not going to end now. We have taken a pledge in this House that we shall not rest unless every inch of our sacred land is recovered from the Chinese invaders. Naturally, this country should prepare itself to meet any emergency including any air raid. When we are trying to defend our country, we must realise that the enemy is a most unscrupulous enemy; they are not at all sincere about a compromise. I take this opportunity in saying that if this latest formula of the Chinese invaders is accepted, it will be a sort of political hat-trick for them. I say, it is a political hat-trick in the sense that first of all, they will mobilise world opinion in their favour. Secondly, they will demoralise the people in our country who stood as one man to defend our motherland as desired by our beloved Prime Minister and thirdly, this will result in unpreparedness of which Government has been accused, and rightly so.

Now, Sir, certain facts have been brought to the notice of the House by my hon. friends Dr. Gaitonde and Shri Kamath and others. This Bill does not say anything about the quantum. What will be the actual method? Are you providing this under the Workmen's Compensation Act or the Employees' State Insurance Act which is already before us?

Sir, it is stated in the Bill as follows:

"Personal injury means a physical or mental injury and includes any disease whether manifesting itself immediately or subsequently caused by the discharge of any missile (including liquid or gas or both); or the use of any weapon, explosive or other noxious thing; or the doing of any other injurious act, either by the enemy or in combating the enemy or in repelling an imagined attack by the enemy".

Now, Sir, this takes precaution about that. This clause covers, God forbid, nuclear war and the missiles and such after effects of the war. Now, this is all very good, but what about the application? Government are taking measures for preparing the country for air raid. What is our experience in this city itself? In Chandni Chowk, Sir, some work was given for the construction of those walls for air raid to some contractors. The supervisors, overseers or even the engineers belonging to the Corporation were to look after that job. And, what do we find? Even in such act which is taken to defend our people against air raid, we find that there is corruption. I want to know, Sir, what strict measures are going to be taken against those persons who still want to harvest at the cost of the nation. So, with the passing of this Bill, every effort must be taken to see that the job is done correctly and efficiently. It is surprising that even today when the entire conscience of the entire country is exercised over the great need for defence, there are some people in this country who want to harvest at the cost of the nation.

Sir, I would like to know as to who are to frame the rules. When the rules are framed, will those rules be laid on the Table of the House? The amendment is there and I hope, in all

Bill

its fairness, the hon. Minister will accept that. Everyone must know what the rules are so that he may be able to explain them fully to those who may unfortunately become victims of this war. With these words, Sir, I support this Bill and I again request the Hon. Minister to make it more clear. Certain clauses are ambiguous and it should be made perfectly clear, because, this has to be applied in a wider scale in respect of all those who are prepared to serve in the national defence or in the civil defence organisations.

Mr. Chairman: Shri Bade.

श्री बड़े : सभापति महोदय, यह जो बिल पेश किया गया है, इसका हर कोई स्वागत ही करेगा। चीन ने हमारे साथ धोखेबाजी की है, उसने हम पर हमला किया है और इस हमले के कारण जो नुकसान होने वाला है या जो परसनल इंजरीज होने वाली हैं, उनके लिए कम्पें-सेशन देने के उद्देश्य से यह जो बिल यहां पेश किया गया है, इसका हर कोई स्वागत ही कर सकता है।

लेकिन जब मैं इस बिल को पढ़ता हूं तो पाता हूं कि शासन ने बहुत ही जल्दबाजी में, बहुत ही हरीडली, इसे तैयार किया है। इसकी जो प्रोविजंज हैं, वे बराबर नहीं हैं, डेफीनीशंज नहीं दी गई हैं, प्लानिंग तो है लेकिन डिटेल्ज नहीं हैं, स्कीम नहीं है। मैं समझता हूं कि इतनी हरीडली और इतने हैपहैजंड वे में आज तक कोई भी बिल सरकार की तरफ से तैयार नहीं किया गया है। इस तरह से कोई बिल लाकर रख दिया गया हो, ऐसा मैंने आज तक नहीं देखा है। यदि वह एनैक्टमेंट पास भी हो जाय तो भी इसके वास्ते यह शंका पैदा हो गई है कि हमको अलग से जुडिशल कोर्ट्स बिठलाने पड़ेंगे या इंटरप्रेटर्स बिठलाने पड़ेंगे। इसलिये जब शासन से कहा गया

कि उसको इसमें एक फाइनेन्शल मेमो-रैंडम रखना चाहिये था, कोई एप्रॉक्सिमेट अमाउंट इसमें रखना चाहिये था, तो शासन ने कहा कि वह इम्पॉसिबल है, वह इस समय नहीं हो सकता। यह भी मान लिया गया, लेकिन एकट बनाते समय तो उसके सामने कोई प्लानिंग होनी चाहिये थी। मैं आपको इसकी कुछ वॉर्ड्स बतलाता हूं। इसमें पेज ३ पर यह स्कीम है :

(8) "scheme" means a scheme made under this Act.

अन्डर दिस ऐक्ट आखिर कौन सी स्कीम होने वाली है? कौन सी सरकार की योजना है, इसके बारे में यह हाउस बिल्कुल अन्धकार में है। अगर किसी को ऐसे वक्त में इंजरी हो गई तो उसको कैसे कम्पेन्सेशन दिया जायेगा? इसमें कहते हैं:

- (a) personal injuries sustained by gainfully occupied persons.
- (b) personal service injuries sustained by civil defence volunteers.

फिर इसमें मित्रल डिफेंस वालेंटिअर्स की डेफिनिशन दी है :

"civil defence volunteer", in relation to an injury, means a person certified by an officer of a civil defence organisation authorised by the Central Government to grant such certificates, to have been a member of that organisation at the time when the injury was sustained."

यानी सिविल डिफेंस वालेंटिअर वह समझा जायेगा जिसको सेंट्रल गवर्नमेंट की अथॉरिटी या सर्टिफिकेट दिया जायेगा। उसके अलावा जो दूसरे वालेंटिअर हैं, गांव के आस पास के लोग हैं, जो वहां की जनता है वह अगर बम्बार्डमेंट या अटैक के समय में मदद करती है तो उसे सिविल डिफेंस वालेंटिअर नहीं समझा जायेगा। केवल

[श्री बड़े

भारत सेवक समाज के लोगों को ही वालेंटिअर समझा जायेगा । और किसी को भी वालेंटिअर नहीं समझा जायेगा, यह इसका स्पष्ट मतलब होता है । इसके बजाय सिविल डिफेन्स वालेंटिअर की यह डेफिनिशन होनी चाहिये थी:

“civil defence volunteer means all those persons who help in the case of attack or bombardment.”

अगर ऐसी डेफिनिशन होती तो वह ज्यादा वाइड होती और उससे लोगों का ज्यादा समाधान होता । यहां पर सिविल डिफेन्स आर्गनाइजेशन के बारे में दिया है :

“ ‘civil defence organisation’ means any organisation established for civil defence purposes which is declared by a scheme to be a civil defence organisation for the purposes of this Act and the scheme.”

वह कौन सी स्कीम होगी? ऐसी कोई स्कीम नहीं है जिसके अन्तर्गत सिविल डिफेन्स आर्गनाइजेशन या सिविल डिफेन्स वालेंटियर्स आयेंगे । इस स्कीम के अन्दर कोई अथारिटी होगी, वह अथारिटी सर्टिफाई कर देगी तब उसको सिविल डिफेन्स अथारिटी समझा जायेगा । इसके बारे में हाउस को बिल्कुल अन्धकार में रखा जाता है । शासन के माइंड में कंप्यूजन है, उसके अन्दर कोई क्लियर आईडिया नहीं है । वह कब और कैसी सेकेन्ड लाइन आफ डिफेन्स और डिफेन्स वालेंटिअर्स तैयार करेगी । इसके सम्बन्ध में गांव गांव में लोग आकाश की तरफ देखते हैं । वह शासन की तरफ देखते हैं कि शासन उनको आदेश दे कि कौन सी सेकेन्ड लाइन आफ डिफेन्स होगी । उसके लिये अथारिटी कौन सी होगी जिसको एप्रोच करना होगा ? **बेअर इज नो स्कीम**

एट अल । शासन अन्धकार में है, जनता अन्धकार में है, सब लोग अन्धकार में हैं । और यह नैचुरल है । पन्द्रह साल आराम करने के बाद एक दम से हमको हमले का सामना करना पड़ा है । इसलिये तैयारी जल्दी नहीं हो सकती ; लेकिन सेकेन्ड वर्ल्ड वार आप के सामने हो चुकी है । सेकेन्ड वर्ल्ड वार में आर्डिनेंस पास हुए थे । उनमें जो स्कीमें थीं उनको सामने रख कर आप योजना बनाते तब भी काम चल सकता था । लेकिन आज अन्धकार ही अन्धकार है । सब कुछ अन्धकारमय मालूम होता है, हाउस में अन्धकार, शासन में अन्धकार और बिल में भी इसके बारे में कोई योजना नहीं । केवल यह बतला दिया गया है कि शासन को यह अधिकार दिया जाय कि वह सिविल डिफेन्स पर्सनल इंजरीज बिल लाये और जो कुछ चाहे करे । **व्हाट एवर वि गवर्नमेंट वान्ट्स टु डू, वि गवर्नमेंट शुड डू फार पर्सनल इंजरीज** । अगर आप इतना ही कह दें तो हम यह अथारिटी आप को दे दे । **बट इज वि सम ऐंड सबस्टेंस आफ वि बिल** । इसमें और कुछ नहीं है ।

दूसरी बात यह बतलाई है :

“personal injuries sustained by gainfully occupied persons.”

इसके बारे में आपने जो डेफिनिशन दी है वह बड़ी वाइड है ।

“ ‘gainfully occupied person’ means a person who is engaged in any trade, business, profession, office, employment or vocation and is wholly or substantially dependent thereon for a livelihood, or a person who, though temporarily unemployed, is normally so engaged and dependent.”

इसकी डेफिनिशन भी बड़ी वाइड है । इसका तो कुछ मतलब ही नहीं होता ।

Bill

"personal injuries sustained by gainfully occupied persons."

इसके अन्तर्गत स्कीम होगी। ग्लूट इज बट स्कीम? ऊपर लिखा है "अन्डर बट स्कीम" वह स्कीम क्या है?

Shri C. R. Pattabhi Raman: Clause 3.

श्री बड़े: मैं क्लाज ३ पढ़ रहा हूँ। ग्लूट धार बीज स्कीम्स?

"The Central Government may make a scheme or schemes."

इस स्कीम के बारे में कोई चीज सामने नहीं आ रही है। थोड़े दिन हुए सेकेन्ड बल्ड वार हुई थी। इसमें तरह तरह की स्कीमें बनाई गई थीं। उस वक्त सेकेन्ड लाइन आफ डिफेन्स तैयार हुई थी। सिविक गार्डस् तैयार हुए थे। गांव के वालेंटिअर्स और उन वालेंटिअर्स को मदद करने वाले भी अगर हताहत होते थे तो उनको भी मदद मिलती थी। लेकिन इसके बारे में इस बिल में कुछ नहीं है। केवल गवर्नमेंट के अधाराइज्ड वालेंटिअर्स होंगे जिनको इसमें रिकग्नाइज्ड किया गया है।

इसके बाद आप देखिये कि कम्पेन्सेशन देने की अपारिटी कौन है? वह भी शासन निश्चित करेगा। इसके बारे में कोई जुडिशल बाडी या ट्राइब्यूनल या अपारिटी, या तहसीलदार, डिस्ट्रिक्ट मैजिस्ट्रेट, कोई नहीं है। बेअर इज नाथिंग इन विस। इसके बारे में जो बिल बनाया जा रहा है वह बिल्कुल हैपहैजर्ड है। मैं ने विधान सभा में भी इस तरह का बिल नहीं देखा और न इस हाउस में मैंने आज तक देखा है। ऐसा बिल कभी आया ही नहीं है। इस बिल में कंफ्यूजन ज्यादा है, कोई निश्चित चीज नहीं है शासन के सामने।

फिर इसमें दिया हुआ है: .

"In the case of a personal service injury sustained by a civil

defence volunteer, by the employer of the volunteer, or by any person who has any responsibility in connection with the volunteer's duties."

इसके क्या माने हैं? आखिर वालेंटरी इयुटीज के लिये कोई रिस्पॉसिबल भी है या नहीं है? इसके कोई मतलब नहीं हैं। सेकेन्ड वार के समय में जो इमर्जेंसी एनैक्टमेंट्स आये थे उन में स्कीम्स बनी थीं। अगर उन स्कीम्स के आधार पर डेफिनिट योजना शासन देश के सामने रखता और उस के बाद यह बिल लाता तो मैं समझता हूँ कि जनता भी आपको धन्यवाद देती कि पार्लियामेंट ने कुछ काम किया और आपके समय का भी कुछ सदुपयोग मालूम होता। लेकिन चूंकि पर्सनल इंजरीज (इमर्जेंसी प्राविजन्स) बिल यहां शासन द्वारा लाया गया है, इससे मालूम होता है कि शासन का लक्ष्य उसकी तरफ है, यह इंडिकेट करता है कि शासन आज जाग्रत है, और इसके लिये मैं शासन को धन्यवाद देता हूँ।

इसके साथ ही साथ मैं कहना चाहता हूँ कि अच्छी तरह से योजना बना कर सब स्टेट्स को अलग अलग भेजना चाहिये कि किस प्रकार से सेकेन्ड लाइन आफ डिफेन्स तैयार हो सकती है। अगर आप इस तरह से योजना तैयार करके सब स्टेट्स को भेजेंगे तो मैं कहता हूँ कि हम शासन को धन्यवाद देंगे कि उसने कुछ काम की बात की। इतना कहते हुए मैं इस पर्सनल इंजरीज (इमर्जेंसी प्राविजन्स) बिल का समर्थन करता हूँ।

श्री कछवाय (देवाम): सभापति महोदय, मैं समझता हूँ कि हाउस में कोरम पूरा नहीं है।

Mr. Chairman: The bell is being rung... Now there is quorum. Dr. M. S. Aney.

Mr. Chairman: There is quorum. Dr. Aney.

Dr. M. S. Aney (Nagpur): I only wish to bring to the notice of Government one or two points.

There is no doubt that in these war conditions it is necessary to make some provision, nay adequate provision, for civil defence also. I only want to point out that in the last war, the Government of India also took up this matter, and a separate independent Ministry in charge of this civil defence was created at that time, and our friend late Dr. Raghavendra Rao was in charge of this Civil Defence Ministry. He was at that time serving in England as a Member of the India Office. He was there when England itself was being bombarded by German aeroplanes every day. He had that experience, and also all the arrangements that were made for civil defence in England were known to him, and when he come here, he brought with him the entire literature that existed in England. He was placed in charge of the Ministry and he submitted a big statement, on the basis of which civil defence for various purposes were created at that time.

Civil defence comes in after the war comes in. It does not come in before the country is at war. So, there is nothing wrong that we are taking up this matter now. Unless the country is in an emergency, there is no question whatsoever of the Government having to consider and be ready for preparing some schemes of civil defence.

These air-raids have destroyed the difference between combatant and non-combatant about population and created a new element altogether. It is because of that this question of civil defence has assumed enormous importance. It is so important that it has to be treated as a separate thing altogether. So many problems arise out of it. Therefore, my suggestion is this. If the war is going to con-

tinue for long—not only longer but going to be a furious war also—if that is so, the Government should think of putting a separate Minister in charge of civil defence. As in the case of planning—there is a separate Minister for that, the civil defence also has to be adequately provided for and that will require a separate Minister of high standing to be put in charge of that. That is my one suggestion.

Secondly, as regards certain defects which are rightly pointed out, looking at it we do not know what is going to be spent. But these are matters of estimate and I am sure, though they are only taking powers today for creating a machinery, that machinery would study all those questions of expenditure and all that and they would get the advice of the persons who have been in this affair before. They can give us some idea of it. Therefore, in moving this Bill, they are not only providing for a necessary thing as regards compensation for personal injuries, but they are also laying down the foundations for creating a proper civil defence scheme in this country. Looking at it from that point of view, we must put up with the defects whatever we find today.

Sir, I conclude by saying that we must ask the Government to proceed as quickly as possible, as cautiously as possible and as comprehensively as possible to deal with this pattern of civil defence.

Shri Warrior (Trichur): Sir, I welcome this measure. But there are certain things which should be clarified by the Hon. Minister concerned. First of all, the whole picture will emerge only when the scheme is placed on the Table of the House. Unless that is done, we do not know how this will bring...

Shri C. R. Pattabhi Raman: Sir, may I intervene here? I propose to accept this. I have given some thought to that. The scheme will

be placed on the Table of the House. That will satisfy Mr. Kamath and Mr. Daji who have moved the amendments. I am accepting a similar amendment which will make all the rules to be placed on the Table of the House.

Shri Ranga: What about other amendments with regard to the inclusion of agriculture?

Shri C. R. Pattabhi Raman: I am only answering Mr. Warrior.

Shri Warrior: I am thankful to the hon. Minister for this, for promising that the scheme will be placed on the Table of the House. I was only saying, when the scheme comes out, then only we can know who are all benefited by the scheme, how much will be the quantum of benefit, how much each and everybody will be getting and which are all injuries that are classified and taken into consideration. All these questions are yet to be settled. In the Workmen's Compensation Act and in other Acts, we find that these classifications are there. There are the schedules according to the salaries or the wages of each and every worker and according to the injuries sustained. The injuries are classified there. So, it is very easy to know how much will be the quantum of relief that each and every worker will have. That is one point.

The second point is this. This Bill covers only the period of emergency. It is put down here—the injuries sustained during the period of emergency. That is declared by the Government. Now, an injury might be sustained now, during the period of emergency, but at the same time it may not be manifest, the effect of which may come later after the period of emergency is over. That also must be covered.

Shri C. R. Pattabhi Raman: That is covered.

Shri Warrior: Another point that I want to make also depends upon the
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scheme. That is why I am very much constrained not to speak in detail about it. Now, a worker is engaged in the production, in the working of the Plan, and at the same time he is engaged in civil defence duties too. There are many cases like that. That worker who sustains an injury during the course of the duty connected with the civil defence or something connected with the defence will be getting compensation either according to this scheme or according to the Compensation Act, whichever, I do not know, is applicable.

Shri C. R. Pattabhi Raman: I am sorry, I may again intervene. He is also to be gainfully occupied. That is a very wide term. The other is, civil defence. The definitions themselves are there.

Shri Warrior: This is what the clause 4 says:

“4. (1) In respect of a personal injury sustained during the period of the emergency by any other person, and in respect of a personal service injury sustained during that period by a civil defence volunteer no such compensation or damages shall be payable, whether to the person injured or to any other person, as apart from the provisions of this sub-section—

(a) would be payable under—

- (i) the Workmen's Compensation Act, 1923, or
- (ii) the Employees' State Insurance Act, 1948;”

So, I wish to point out that more clarity be brought in. Suppose the scheme gives much more benefit than already scheduled in the Workmen's Compensation Act or the ESI Act. In that case, the worker may not be a loser because he sustains an injury in the civil defence or in the other operations and at the same time he is covered by two enactments already there. He should not be a loser by that. That means

[Shri Warior]

he must get the maximum benefit out of this enactment. So, that might also be clarified.

Sir, these are the two points that I have mentioned and I welcome this Bill as a very emergent thing.

Shri Sham Lal Saraf: Sir, I support this Bill and when I have heard some of the speeches here, I feel the provisions of this bill are being made a bit complicated. I think it is very clear to me as far as the presenting of this Bill by the Government is concerned. The law is already on the statute book, the War Injuries Ordinance of 1941 in which certain discrepancies had been found in case of this present war emergency. The first is, the personal injuries sustained by gainfully occupied persons and by persons of such classes as may be classified by the Government hereafter—how they can be covered.

Secondly, with regard to the personal service injuries sustained by civil defence volunteers, a provision has been made so that they can get benefit by this Bill when it is passed into an Act. Also, care has been taken to see that as far as the workmen or workers working in factories and other gainful employments are concerned, they are compensated under this workmen's voluntary war injuries compensation insurance or the Workmen's Compensation Act. The only thing is that they should not receive double payment. They should receive only one payment. In case they receive less by getting compensation under one Act, they get full compensation entitled to any worker or any personal service injury person under this Bill when it is passed into an Act. That being so, I think the present purpose of the Bill is very clear, and therefore, there is no ambiguity about it.

I agree with Shri Kamath when he referred to one point, and that is, how much finance is involved in this. As far as the rule is concerned, I think

it is very clear. I also concede the point that has been explained by the hon. Minister that at the moment he cannot estimate what amount may be required for the purpose of this measure. I would, however, submit that a token amount should have been set apart at the moment and the House should certainly agree to that.

I do not understand how the benefits under this scheme is to be worked out and then estimation about the funds required will be made and how funds under this head will be sanctioned. Will the Government come again to this House, or, have they got the authority vested in them? I personally feel that they may come again to this House for that purpose. But I think the right and proper course at the moment would be to allot at least a token amount by which the purpose of the Bill could be implemented.

Some hon. friends have expressed doubts with regard to the implementation of these measures. I think that as far as the enemy action is concerned, the provisions relating to persons who receive injuries by enemy action are fully explained in clause 3, and therefore there is no ambiguity about it. Similarly, the provision about how in what manner the personnel may be injured are also fully explained. Therefore, the doubts raised by my hon. friend from Punjab will not hold water. Keeping that in view, I would submit that once the civil defence organisation scheme is completed, care has to be taken about certain things which I would submit before this House. I would appeal to my hon. friend on either side of the House that these measures are passed at the time of the grave emergency for the country and therefore the question of benefiting one party or the other will not and should not arise. While implementing Bills like this, laws like this, we should have no mental reservations in respect of any side, any party, who are present in this august House. I therefore submit that we have to condition our minds and ourselves to

a national discipline. We know the conditions that prevailed in Great Britain in the last war and the first world war. We know how even a small child would not divulge the secret to anybody who would go and ask him or her about certain things. Therefore, first of all, we have to condition ourselves, all of us, to one national discipline. We as a nation should have the national cause dearest in our hearts.

Secondly, I can tell you from my experience how people have functioned elsewhere on such occasions. We have to develop the local leadership. For instance, when you say civil defence, it may be a small mohalla, a small street or a small village. Therefore, unless and until a proper local leadership develops, nobody from the Centre or the States will be in a position to afford help or give relief or advise in the local area. If a certain street or village is bombarded, if certain houses collapse, the information that has to be gathered and known can best be known through the local men there. Therefore, that confidence has to be created at that stage, and so, creating the local leadership is absolutely necessary. That can only come when, firstly, we as a nation behave in a disciplined manner, and secondly, we inculcate the spirit of oneness among the people, to whichever party they belong. Then alone will we be able to implement the laws that we are passing at the moment.

Another thing is this. Some hon. friends have said on either side of the House that where we have to delegate the authority to some people, say the magistrate or the doctor, we have to see that they are persons of character and ability. Only men of character and ability should be entrusted with this work. Then alone can these schemes be successful.

Lastly, I would submit that Government should not take much time now in drawing up the scheme. The doubts expressed by some hon. friends here

may not be corrected. But one thing that I personally feel is that while these measures are being adopted, while the delegation of powers has been agreed to, while the Government have been invested with the necessary powers, it is absolutely necessary that these measures should be immediately followed by working out the schemes according to which all these laws could be effectively implemented as quickly as possible.

With these few observations, I wholeheartedly support this Bill.

Shri Mohsin (Dharwar South): I rise to support this Bill. Some hon. Members who have already spoken have inadvertently opposed the Bill with regard to some of its provisions, saying that the Government is seeking to have sweeping powers under this Bill. This is not a new measure, and this Bill has been brought in accordance with the War Injuries Ordinance of 1941 which was in force before the second world war. Because it was ineffective for giving any remedy for those who have suffered in this present emergency, this Bill has been brought in.

None can dispute the urgency of this measure, because suddenly the massive invasion of the Chinese has taken place and so many people who were engaged in trade and business and similar occupations have been upset, and they are being put to loss. Some of the persons who must have been engaged in civil defence must have lost some of their limbs and must have been put to great hardship. This Bill is intended only to give relief to such persons as have suffered in this emergency and who are going to suffer in future.

While speaking on this Bill, some hon. Members have referred to the proposed scheme that the Government may formulate, and they have also criticised that the Government ought to have brought forward or formulated a scheme along with this Bill. The Government will have to be armed with such powers; we do not know what kind of scheme the Government will have in future; also they may

[Shri Mohsin]

have to amend the scheme in future, as and when the necessity arises. We do not know how long the present emergency may exist.

16.38 hrs.

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

We have already given vast powers under the Defence of India Act. I do not know how some Members are feeling shy to give these powers also, when we have already given those vast powers to the Government. Under the Defence of India Act, the Government is already armed with vast powers. It is only to give some relief to the persons who may suffer or who have already suffered that this Bill will be coming into force. The personal injury sustained by gainfully employed persons will cover persons who may not be defence volunteers. They may be citizens engaged in one trade or the other, but who may have suffered on account of this invasion. So, this is a very welcome measure and to keep up the morale of the country and to give adequate compensation to those who have suffered, it is the nation's duty to rise to the occasion; we are only giving powers to the Government to enable them to do their duty.

Some Members have also criticised that there might be some discrimination between one set of volunteers and another. I do not think that the Government will differentiate between the persons who defend the country and put them on a party-wise basis. After all, the nation as a whole has stood as one man to defend the country's honour, and I do not think that any Government will discriminate or bring in politics in awarding compensation. This is the time when all parties should keep in line with the Government, and only with faith we have to proceed to face the emergency. I hope that the Government will come forward in effectively giving compensation to those people who have suffered already and might suffer in future.

We are going to build up a second line of defence, namely, the civil defence volunteers. Our learned friend, Dr. Aney has already emphasized the importance of such civil defence volunteers especially under the present set-up. Of course, it was not felt before, but it will be felt now. Unless we have the second line of defence, i.e. civil defence, our army, navy and air force may not be sufficient to defend our country. We have to strengthen our civil defence volunteers and wherever they suffer, Government will have to come to their aid and give them all help.

With these words, I wholeheartedly support this Bill.

Shri C. R. Pattabhi Raman: Sir, I am really indebted to the Members for the very useful suggestions given by them. As usual, I was very fortunate—if I may arrogate it to myself—that there was almost unanimity so far as this measure is concerned.

I may at the very outset refer to the amendments, which may clear the air, if I may use that expression. When I come to the clauses, I will deal with the amendments in detail.

There was some debate with regard to 'any' or 'a'. These are consequential amendments.

With regard to placing it on the Table of the House . . .

Mr. Deputy-Speaker: He can reply to that when he comes to amendments.

Shri C. R. Pattabhi Raman: There was some discussion with regard to these two or three points. With regard to placing it on the Table of the House, Mr. Kamath has agreed to making one or two verbal alterations there. It will be suitable and I accept them. I have shown it to him.

With regard to the hon. Member, Shri Ranga, I would remind him that as it now stands, the expression "trade"

Bill

business, profession, office, employment or vocation" is sufficiently wide. The definition clause 2 defines 'gainfully occupied person' and says:

"who, though temporarily unemployed, is normally so engaged or dependent".

We are deliberately making it wider so as to include persons employed in agriculture, plantation, etc. Actually if agriculture alone is referred, it may not be so wide. It will be noticed that even factories, mines and other vital institutions have not been specifically mentioned. All these are included; the wider includes the narrower. Therefore, it is not necessary to make specific reference to agriculture. I hope it will satisfy the hon. Member.

Shri Ranga: You could have avoided mentioning all the other things also and be satisfied with the general statement.

Shri C. R. Pattabhi Raman: Categorisation is always difficult; I admit that. But these are broad categories. I give this assurance that it is really our intention to bring in agriculture. There is no idea to exclude it at all.

I am very much obliged to Mr. Kamath, who with his usual erudition, while referring to the constitutional provision, stated that it was paining him very much that even when we are free we are patterning our legislation on the model of the British legislation. The position is this. Actually, today there are a number of ordinances. Article 372 says:

"(1) Notwithstanding the repeal by this Constitution of the enactments referred to in article 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a

competent Legislature or other competent authority."

Shri Hari Vishnu Kamath: You should have repealed them.

Shri C. R. Pattabhi Raman: What has happened is we had the Essential Services Maintenance Ordinance. The ordinance is continued by the India and Burma Miscellaneous Provisions Acts of 1940. Actually, there are a number of enactments and ordinances. If Parliament has to take up all those, it will take a lot of time. Actually, we have had a lot of legislation. It is not as if we are lazy; we have been dealing with the Acts as and when it becomes necessary. I am not, of course, pooh-poohing his suggestion. I can quite understand his indignation, with his brilliant record of public service. Therefore, they come under the Essential Services Maintenance Ordinance; they are all part of the India and Burma Miscellaneous Provisions Act. I do not think I need say much more with regard to this part of the argument with regard to validity.

Dr. Gaitonde referred to the history of the second world war. He comes from Goa and he was actually in Britain during those days; he has gone through the bill. We are very much indebted to him for the very useful suggestions made by him. There is a publication here *Problems of Social Policy* by Richard M. Titmuss; it is His Majesty's Stationery Office publication. Chapter II deal with "the expected consequences." I am much obliged to the hon. Member, Dr. Aney, who referred to the old enactment and the person who piloted the Bill in the Viceroy's Executive Council. It is said in this book:

"From these anticipations of the character of the attack that might be launched against the civilians of Britain, there flowed the question: What kind of consequences will follow and how will the people react?"

I am going to read 10 or 15 lines from this book. They had only this data

[Shri C. R. Pattabhi Raman]

before them in regard to the 1914-18 attack. How is it that we can size up the present attack with that? Actually, he gives the number of metric tons of bombs dropped; how many people died with each dropping of the bomb, etc. It is an exhaustive study. He says:

"These were but a few of the issues that had to be faced. The major consequences that were envisaged and for which (as subsequent chapters show) plans were prepared may roughly be grouped under the following heads."

That is what Mr. Warrior also referred to. He goes on to say:

"Physical casualties including the effects on health; material damage; social distress disorganisation and loss of morale."

Actually they had to seek the help of a number of psychiatrists. People were shaken so much by the bombing, some by the noise, some out of fear became permanent invalids. Some had hallucinations, split personalities and so on. All these are dealt with here. Sir, I shall take only five minutes on this. I am aware that we have to rush through, but I thought the House would be interested....

Shri Hari Vishnu Kamath: You are quite interesting.

Shri Ranga: You would be more interesting if you accept some of our amendments and include 'agriculture' also.

Shri C. R. Pattabhi Raman: I never try to avoid. I face the issue in my humble way and try to meet it; I may not succeed fully. I have got sufficient humility to do that. But the fact remains that I referred to agriculture. I am on the main question as to whether is it possible or is it not possible to estimate the damage. Is it or is it not possible to refer to the scheme as such? One

Member was saying this is a very vague Bill.

Shri Ranga: Absolutely vague.

Shri C. R. Pattabhi Raman: With all the experience in public life, I would like the hon. Member to tell me what sort of attack he expects.

Shri Hari Vishnu Kamath: God forbid!

Shri Bade: There is some scheme in the British Emergency Act. I saw it in the library; I will show it to the Minister. But here there is no scheme at all for the States.

Mr. Deputy-Speaker: The scheme will be prepared under this Act.

Shri C. R. Pattabhi Raman: Under clause 3 here we have also given the powers to frame schemes. They may come into existence as and when occasion arises. It may be a protracted war, it may not be a hot war, it may be a hot war and so on. If you want me to say now what sort of war it will be and what sort of provision will be made, it will be very difficult to forecast. The whole trouble is this. Actually, in spite of bombing what happened in England may be interesting to hon. Members. It is said here:

"As different questions arose, in the planning of a variety of emergency services, the use of multiplier of fifty casualties per ton of bombs gave to each problem a grim aspect."

They had a rough estimate that for one ton of bombs there will be 50 casualties. Then it is said here:

"When the committee of Imperial Defence was considering in 1937 compensation to civilians for loss of life or injury from air attack it assumed that the attack would continue for sixty days and that the total number of casual-

ties might amount to 6,00,000 killed and 1,20,000 injured. The capital cost involved, on the basis of a given scale of compensation, was then estimated at £120,000,000. When the Ministry of Health, in 1938-39, was trying to compute the number of hospital beds required to deal with civilian air raid casualties, its translation of the Air Ministry's 1937 and 1939 estimates led to figures ranging from 1,000,000 to 2,800,000 beds according to length of stay in hospital. Similar proportions were reached when other problems were investigated. The number of graves and coffins required was so great that the Home Office, envisaged mass burials and the burning of bodies in lime. This was thought to be unavoidable, as otherwise 20,000,000 square feet of seasoned coffin timber would be needed each month at a cost of approximately £300,000."

Shri Hari Vishnu Kamath: Those bombs are out of date now.

Shri C. R. Pattabhi Raman: Ballistic missiles and so many other weapons are there. Then, hon. Members would perhaps also be interested in another aspect of it. Actually, my learned friend was anticipating it. It is said here:

"There was seldom a day in five years when enemy aeroplanes or flying-bombs or rockets were not over some part of Britain. Even if raiders were not signalled, there was always the threat of attack—a threat which touched not only the nerve-centre of Government, but many towns and villages throughout the country."

Then he goes on to say:

"The contrasts between forecast and event, emphasised more than once already, will now be rather more comprehensively surveyed."

That was the immense problem in a country which had faced wars frequently and which had prepared for hostilities. Therefore, if any vagueness is alleged about it, it is perhaps that we have to grope in the dark, but it is not as if we do not have a definite idea. If you ask me what the ways and means position will be or what provision is going to be made, I do not think it will be seriously put to me as a question.

Finally, what has escaped, if I may say so, with great respect, the attention of most of the hon. Members is clause 6 of the Bill. There it is said:

"The person managing any dispensary or hospital shall, if so required by the Central or a State Government by general or special order,

- (a) provide at the dispensary or hospital medical and surgical treatment for persons who have sustained injuries of the nature specified in sub-section (1) of section 3. and
- (b) keep such records and make such returns relating to the persons treated for such injuries as may be required by or under a scheme."

Any person who fails to comply with this provision will have to pay the penalty. We may have to request a number of dispensaries, hospitals, clinics and all that. One of the amendments of Shri Kamath seeks to add "or clinics". I would beg of him not to insist on these amendments because our provision is, as I said, all embracing.

I would, therefore, submit, Sir, that the Bill, with the amendments that we have tabled and one amendment of Shri Kamath which I am prepared to accept with a few changes, may be considered clause by clause and passed.

Mr. Deputy-Speaker: The question is :

"That the Bill to make provision for the grant of relief in respect of certain personal injuries sustained during the period of the emergency be taken into consideration."

The motion was adopted.

Clause 2 — (Definitions)

Mr. Deputy-Speaker: The House will now take the Bill clause by clause. There are some amendments to clause 2.

Shrimati Shashank Manjari (Palamau): Sir, I beg to move:

Page 2, line 8—

after "office" insert "agriculture". (1)

Shri Hari Vishnu Kamath: Sir, I beg to move:

(i) Page 2, line 1,—

for "person belonging to any" substitute—"national of such". (4)

(ii) Page 2, line 6,—

for "person belonging to" substitute—"national of such". (5)

(iii) Page 2, line 17,—

for "emergency shall come to an end". substitute—

"Proclamation of Emergency shall be revoked under article 352(2) of the Constitution". (6)

(iv) Page 2, line 17,—

for "emergency shall come to an end". substitute—

"Proclamation of Emergency shall cease to operate". (7)

(v) Page 2, line 19,—

after "disease" insert—

"or disablement or disfigurement". (8)

(vi) Page 3, line 3,—

after "disease" insert—

"or disablement or disfigurement". (9)

(vii) Page 3, line 9,—

after "disease" insert—

"or disablement or disfigurement". (10)

(viii) Page 3, line 9,—

after "contracted" insert—

"notwithstanding that it has manifested itself subsequently". (11)

(ix) Page 3, line 16—

after "disease" insert—

"disablement or disfigurement". (12)

(x) Page 3, line 19,—

after "disease" insert—

"disablement or disfigurement". (13)

Shri D. S. Patil (Yeotmal): Sir, I beg to move:

Page 2, line 1,—

for "any country" substitute "a country".

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

(i) Page 2, line 19,—

for "and includes any" substitute—

"or a" (35)

(ii) Page 3, lines 2 and 3,—

for "and includes any" substitute—

"or a" (36)

Shri Hari Vishnu Kamath: Mr. Deputy Speaker, Sir, I have moved amendments Nos. 4 to 13, both inclusive, standing in my name. I am

obliged to the hon. Deputy Minister for the reason he gave with regard to the omission of the definition of "civil defence" in this Bill before the House. On the same reasoning, he need not have brought in the definition of the word "enemy" which is defined in the Defence of India Bill. Apart from that, I wish to amend it to a certain extent because I feel that the construction of the definition as it is is not quite satisfactory. Instead of saying "any person belonging to any country committing such aggression", having said that in the earlier sub-clause "any person or country committing external aggression against India;", it would be sufficient and perhaps proper also if he says: "any person belonging to such country committing such aggression". If that is not acceptable, I would request the Minister not to deviate from the definition in the Defence of India Bill which we have passed. The rest of it is already here in the Bill before the House. It says: "any person belonging to any country committing such aggression". The second "any" has been brought in there, I think, by oversight. In the Defence of India Bill it reads: "any person belonging to a country committing such aggression".

Shri C. R. Pattabhi Raman: Is the hon. Member referring to the Defence of India Bill?

Shri Hari Vishnu Kamath: Yes.

Shri C. R. Pattabhi Raman: I have read it myself.

Shri Hari Vishnu Kamath: Do not deviate from that definition. If you do not want my amendment, at least do not deviate from the Defence of India Bill which has been passed by this House. The second "any" is not necessary. That is a minor verbal amendment. He quoted from the Defence of India Bill earlier. When you have quoted from it, do not deviate from it at all. Your own argument was that "civil defence" is defined there.

17 hrs.

Shri C. R. Pattabhi Raman: I will accept that.

Shri Hari Vishnu Kamath: Either you can accept that amendment or you can move one *suo motu*.

Shri C. R. Pattabhi Raman: I will accept amendment No. 33 by Shri D. S. Patil on the same subject.

Shri Hari Vishnu Kamath: Then I come to my next amendment. Clause 2(5) of the Bill reads:

" 'period of the emergency' means the period beginning with 26th October, 1962, the date on which the Proclamation of Emergency under clause (1) of article 352 of the Constitution was issued and ending with such date as the Central Government may, by a notification in the Official Gazette, declare to be the date on which the emergency shall come to an end."

I do not know why this involved provision is necessary. If you look at the Constitution, article 352 says:

"(2) A Proclamation issued under clause (1)—

(a) may be revoked by a subsequent Proclamation;

*** *** ***

(c) shall cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament."

So, in the case of an emergency, either it is revoked by the President by a specific proclamation or it ceases to operate. It is not necessary for the Minister, for the Government to provide here "and ending with such date as the Central Government may, by a notification in the Official Gazette, declare. . . ." The provision should be simple to the effect that it is till revocation of the proclamation of

[Shri Hari Vishnu Kamath]

emergency. By my amendment I have sought to substitute the words "emergency shall come to an end" either by "Proclamation of Emergency shall be revoked under article 352(2) of the Constitution" or by "Proclamation of Emergency shall cease to operate". One of these two amendments should be accepted by the Government.

Then I come to the amendment regarding disablement and disfigurement. Since the next three or four amendments are on the same lines, I will take them together. If you refer to clause 2(6); it says:

"'Personal injury' means a physical or mental injury and includes any disease whether manifesting itself immediately or subsequently....."

I want to include the words "or disablement or disfigurement" after the word "disease". Here may I point out that the word "disablement" occurs in clause 3, in line 43 on page 3, though the word "disfigurement" is not mentioned there? Now I wish to include the possibility and probability of disfigurement because, according to the dictionary, as the hon. Minister knows very well, disfigurement is something different from disablement. Here I have got the authority of a book by an eminent lawyer, an eminent British barrister, entitled "Damages by Personal Injuries" where he has devoted a separate chapter for "disfigurement" which is very interesting, where he observes:

"disfigurement has always been regarded as an important element in assessing damages. Especially when a young woman is disfigured...."

and, Sir, women make more than half the population of the world, though they are not half here.

"... Especially when a young woman is disfigured, her prospects of marriage are impaired"

This is in the book. This is not my statement.

Shri Sonavane (Pandharpur): It is very interesting.

Shri Hari Vishnu Kamath: It will be more interesting if you proceed further. I can do that if the Deputy-Speaker will give me more time. "In fact" the learned author goes on to say:

"In fact, this is one of the few types of cases where there is a tendency for damages to be excessive."

Then he quotes cases later on.

Mr. Deputy-Speaker: Does not "physical injury" cover "disfigurement"?

Shri Bade: Shri Kamath is not speaking according to legal terms, because "injury" means any injury to the body or mind. Therefore it includes "disfigurement" also.

Shri Hari Vishnu Kamath: I am not so fortunately placed as my hon. friend, Shri Bade. He is a lawyer; I am not one; I am not a lawyer. But here is a book the title of which is "Damages by Personal Injuries" where he has devoted a separate chapter for "disfigurement". If it is the argument of the Government that "injury" includes "disfigurement", it should also include "disease" and "disablement". If "injury" does include "disease" and "disablement", it is not at all necessary to use the words "disease" and "disablement" in the Bill, because "injury" includes everything. But, in the definition clause of the Bill, you will be pleased to find it stated "a physical or mental injury and includes any diseases....". Later on, in the next clause, the word "disablement" comes, though it is not mentioned in this clause. But the word "disfigurement" does not figure anywhere.

Therefore, to make it comprehensive, to make the word "disablement" fool-proof and knave-proof—not merely fool-proof but knave-proof also—in all respects, it is necessary to put in the word "disfigurement" also.

By my last amendment I have sought to insert the words "notwithstanding that it has manifested itself subsequently" after the word "contracted" on page 3, line 9. This is in line with the earlier provision in the Bill "manifesting itself immediately or subsequently". Even for diseases there is a period of incubation. Is it not Dr. Gaitonde? There is some sort of a gestation or incubation period for every disease. Therefore, a disease contracted earlier may manifest later.

Mr. Deputy-Speaker: "whether manifesting itself immediately or subsequently" is already there.

Shri Hari Vishnu Kamath: I am on page 3, line 9 the words are:

"...at the time when the injury was sustained or the disease was contracted."

The medical expert will readily tell the House, enlighten the House, in this respect and will convince the House that it is difficult for anybody, even for an authority to ascertain when a particular disease was contracted. I do not know what Dr. Gaitonde feels in this matter.

Dr. Gaitonde: Sometimes, it is possible; sometimes, it is not possible.

Shri Hari Vishnu Kamath: There is always room for doubt in this matter and we do not know how an authority will come to a decision in this matter as to when a particular disease was contracted. Therefore, I have sought to make it clear by adding the words "notwithstanding that it has manifested itself subsequently", because the symptom will appear later. If the disease is proved to be contracted earlier at the time when he was in service, then it should be made applicable to him.

I move my amendments and commend them for the acceptance of the House.

श्री कछवाय : उपाध्यक्ष महोदय, मैं समझता हूँ कि हाउस में कोरम पूरा नहीं है।

Mr. Deputy-Speaker: It is past 5 o'clock.

Shri Hari Vishnu Kamath: But the House is scheduled to sit till 6 o'clock. That convention applies only when the House is not scheduled to sit beyond 5 o'clock.

Mr. Deputy-Speaker: If he insists on it, I will have the quorum bell rung. But we are very much short of time.

श्रीमती शशांक मंजरी: उपाध्यक्ष महोदय, मैंने क्लाज ३ में दो अमेंडमेंट दिए हैं। उनका मूल आशय यह है कि एक बार यह स्कीम बन जाए फिर उसके बाद यह न हो कि सरकार जब चाहे तब उसको बदल दे। इस बात को मेरी पार्टी मानने को तैयार नहीं है। अगर किसी वक्त यह जरूरत मालूम हो कि इसको बदलना आवश्यक है तो ऐसा पार्लियामेंट की मंजूरी के बिना न किया जाए।

Shri Ranga: I am sorry, my hon. friend was not agreeable to accept the simple amendment that we wanted to suggest. It is simple, as it is.

Mr. Deputy-Speaker: He has not yet replied.

Shri Ranga: He gave an indication, anyhow. I am extremely anxious about it. If his argument holds good, namely, that any employment would be covered by the terms of sub-clause (4) of clause 2 specially by what he has said here, that is, vocation, there is no need to have mentioned trade, business, profession, office and so on. It has been the habit, I do not know why, with the civil service and also.

[Shri Ranga]

with the Government to be very allergic when it comes to agriculture. They make an initial mistake and they do not want to be discovered to have made that mistake. They feel ashamed when their attention is drawn to it and they go on finding all sorts of excuses. My hon. friend is a lawyer. Does he give an assurance that the assurance that he has given here will be respected by the courts of law? No, it will not be respected by the courts of law at all. It may be respected by his officers, but if at any time this question were to come up before a court of law, it would not be respected. That is why I am extremely anxious that this simple amendment but with very great significance ought to be accepted and the term 'agriculture' should be included in it. So much more can be said in regard to this, but it is so obvious. I was taken aback when I found that my hon. friend was being badly advised by his advisers and that he was not prepared to accept it. Rather, he was trying to use his own great eloquence as well as his intelligence in order to find an excuse for this. I am sorry to have to say this.

Shri Sonavane: The intention of the legislature is always taken into consideration by the courts. Professor Ranga must know that.

Shri Shivaji Rao S. Deshmukh (Parbhani): The intentions of legislature can never override enactments.

Mr. Deputy-Speaker: Order, order.

Shri Sonavane: The clause is so wide that it covers the amendment Professor Ranga is speaking about.

Shri C. R. Pattabhi Raman. With your leave, Sir, I will deal with these amendments seriatim, but it is just possible that I might also deal with some of the amendments moved by Shri Kamath and others together.

The first amendment is with regard to "even after the revocation of the

Proclamation of Emergency". It may happen that the emergency has to continue even after the revocation of the Proclamation. So, we are unable to accept it.

Then, I had told Shri Ranga on a previous occasion that it was not any prompting at the last minute. We had given full thought to it. I had already indicated that factories were not included there, mines were not there, other vital installations were not there and if agriculture is to be put there then what about horticulture, sericulture, plantations etc.? Are we enumerating everything? Is it a law lexicon? We are giving broad heads and categories. We have also indicated those partially employed which means agriculturists mostly but not all who are not fully employed people and who may have months of leisure. It is all embracing. There is no deliberate attempt. Actually, I might assure him that this was with me even two days ago. It is not as if I am trying to be persuaded by the officers of my Ministry who are doing good work there. If any blame is to be attached, it must come on my shoulders and not on my officers.

Will regard to Shri Patil's amendment and Shri Kamath's amendment also, the definition of enemy...

Mr. Deputy-Speaker: You have accepted amendment No. 33.

Shri C. R. Pattabhi Raman: The definition of enemy has been taken from the Defence of India Bill and no change is called for. Shri Patil's amendment will satisfy the lacuna so far as the new word 'any' is concerned.

Then, with regard to the date of emergency it cannot be the same as stated. Then there is our own amendment. It is a drafting charge. There, as I have already read out, we have said:

"For "and includes any" substitute "or a".

With regard to the word 'physical', I think it was already pointed out to Shri Kamath that injury is a very wide term. It fell from you, if I may say so with your usual acumen. The term 'injury' is very broad and the word 'physical' includes disablement also. Disfigurement is also included in disablement. Therefore we are unable to accept that amendment.

As regards "a disease whether manifesting itself immediately or subsequently", that is included in the definition of personal injury. The amendment, therefore, is not called for. The frame of the Bill, as it is, is wide enough.

One reference was made to disablement. That includes temporary disablement also. It is just possible that there may be only temporary disablement. That also is included.

No rules are proposed to be made. For that also Shri Kamath has moved an amendment. That amendment, if I may say so, is not also called for. With regard to the placing on the floor of the House....

Shri Hari Vishnu Kamath: We are not on clause 3 at present. We are on clause 2. We will come to clause 3 later.

Shri C. R. Pattabhi Raman: We will come to that later.

Mr. Deputy-Speaker: I will first put to the vote of the House amendment No. 33 by Shri Patil and amendments Nos. 35 and 36 by Government.

The question is:

(i) Page 2 line 1,—

for "any country" substitute—
 "a country" (33)

(ii) Page 2, line 19,—

for "and includes any" substitute—

"or a" (35)

(iii) Page 3, lines 2 and 3,—

for "and includes any" substitute—

"or a" (36)

The motion was adopted.

Mr. Deputy-Speaker: Which other amendments am I required to put?

Shri Hari Vishnu Kamath: I want to withdraw amendments Nos. 4, 5, 6, 7 and 11. I will not press them. But I would press amendments Nos. 8, 9, 10, 12 and 13. Because they are a package deal, they can be put together.

Mr. Deputy-Speaker: Has the hon. Member the leave of the House to withdraw his amendments Nos. 4, 5, 6, 7 and 11?

Amendments Nos. 4, 5, 6, 7 and 11 were, by leave, withdrawn.

Mr. Deputy-Speaker: Now I will put amendments Nos. 8, 9, 10, 12 and 13 to the vote of the House. Let the lobbies be cleared.

I will put all the amendments together.

The question is:

(i) Page 2, line 19, after "disease" insert—

"or disablement or disfigurement" (8)

(ii) Page 3, line 3 after "disease" insert—

"or disablement or disfigurement" (9)

(iii) Page 3, line 9, after "disease" insert—

"or disablement or disfigurement" (10)

(iv) Page 3, line 16 after "disease" insert—

"disablement or disfigurement" (12)

(v) Page 3, line 19, after "disease" insert—

"disablement or disfigurement" (13)

The Lok Sabha Divided.

Division No. 13]

[17-20 hrs.

AYES

Berwa, Shri
Gokaran Prasad, Shri
Kachhavaiya, Shri

Kamath, Shri Hari Vishnu
Omkar Singh, Shri
Singh, Shri Y. D.

Warior, Shri

NOES

Aney, Dr. M. S.
Azad, Shri Bhagwat Jha
Bhattacharyya, Shri C. K.
Birendra Bahadur Singh, Shri
Borooh, Shri P. C.
Das, Shri B. K.
Dasappa, Shri
Desai, Shri Morarji
Deshmukh, Shri Shivaji Rao S.
Dhuleshwar Meena, Shri
Dwivedi, Shri M. L.
Gaitonde, Dr.
Ganga Devi, Shrimati
Jedhe, Shri
Jena, Shri
Kamble, Shri
Kindar Lal, Shri
Lakshmiathanma, Shrimati
Laskar, Shri N. R.
Laxmi Bai, Shrimati

Mahishi, Shrimati Sarojini
Malaichami, Shri
Maniyangadan, Shri
Mehrotra, Shri Braj Bihari
Minimata, Shrimati
Mohsin, Shri
More, Shri K. L.
Muthiah, Shri
Nigam,
Nira
Patil, Shri D. S.
Pattabhi Raman, Shri C. R.
Raj Bahadur, Shri
Raju, Shri D. B.
Ram Sewak, Shri
R m Swarup, Shri
Rane, Shri
Reddiar, Shri
Roy, Shri Bishwanath

Sadhu Ram, Shri
Sahu, Shri Rameshwar
Samanta, Shri S. C.
Saraf, Shri Sham Lal
Satyabhama Devi, Shrimati
Sharma, Shri K. C.
Shastri, Shri Ramanand
Sheo Narain, Shri
Singh, Shri K. K.
Sinha, Shri Satya Na yan
Sonavane, Shri
Soundaram Ramachandran,
Shrimati
Surya Prasad, Shri
Tiwary, Shri R. S.
Vaishya, Shri M. B.
Venkatasubbaiah, Shri
Vidyalankar, Shri A. N.
Yadava, Shri B. P.

Mr. Deputy-Speaker: The result of the Division is: Ayes: 7; Noes: 57. The amendments are lost.

The motion was negatived.

Mr. Deputy-Speaker: Amendment No. 1. The hon. Member is not here. I will put it to the vote of the House.

Amendment No. 1 was put and negatived.

Mr. Deputy-Speaker: The question is:

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

Shri C. R. Pattabhi Raman: Sir, I have got to interrupt. In this confusion, I find that the words "a country" is what we intended. I find it is here entered as "any". It is Shri D. S. Patil's amendment No. 33. We have agreed. It must be "a country", not "any country". It is his amendment. That is why I interrupt. It won't be in keeping with the Defence of India Regulations. The provision there is "a country".

Shri D. S. Patil: My amendment is correct.

Shri C. R. Pattabhi Raman: Any person belonging to "a country" and not belonging to "any country".

Dr. M. S. Aney: "Any" changed into "a". He is correct.

Shri C. R. Pattabhi Raman: Actually, you will please see. Every other provision is like this.

Shri Hari Vishnu Kamath: Bring it like the Defence of India Act. I did not press my amendment at all. I withdrew all my amendments. I did not press.

Shri C. R. Pattabhi Raman: It is Shri D. S. Patil's amendment.

Mr. Deputy-Speaker: You please move another amendment at the Third Reading, because it has been accepted.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

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

Clause 3—(Power to make scheme for relief in respect of personal injuries and personal service injuries)

Shri Hari Vishnu Kamath: I beg to move:

(i) Page 3, line 35, after 'disabled' insert 'disfigured'. (14)

(ii) Page 3, line 39, after 'disease' insert 'or temporary disablement'. (15)

(iii) Page 4, line 4, after 'make' insert 'rules and'. (16).

(iv) Page 4, after line 5, insert:

“(3A) Every rule or regulation made under sub-section (3) shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if before the expiry of the session in which it is so laid and the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation”.

(17)

Mr. Deputy-Speaker: As regards amendments Nos. 2 and 3, the hon. Member Shrimati Shashank Manjari is absent.

Then, there are two amendments in the names of Shri Warior and Shri Daji, namely amendments Nos. 18 and 34. Are those amendments being moved?

Shri Warior: I do not move No. 18 in the light of what the hon. Minister has stated.

Shri C. R. Pattabhi Raman: As re-

gards amendment No. 34, it may read like this....

Mr. Deputy-Speaker: That is in the name of Shri Daji. He is not present here.

Shri C. R. Pattabhi Raman: I am accepting the amendment subject to the following change. Shri Kamath has agreed to those words being changed.

Mr. Deputy-Speaker: He is not moving his amendment. So, the hon. Minister may move his amendment separately.

Shri Hari Vishnu Kamath: I am accepting his amendment to my amendment.

I shall be very brief in dealing with the amendment Nos. 14, 15 and 16 which I have moved; I shall not dwell on amendment No. 17.

A little earlier, the hon. Minister was pleased to say that the word 'injury' covered 'disablement' also. I would draw his attention to the wording used in this very Bill itself. At page 3, line 35, the wording is:

“in respect of persons injured, diseased or disabled....”.

If injury does include disablement, I do not know why this word should have found a place in the very body of this Bill. If that is so, if disablement is not covered by the word 'injury', then disfigurement also *ipso facto* and *a fortiori* should not be covered by the word 'injury'.

I shall just quote one sentence from the book which I referred to a little earlier. In that book it is said very well and very forcibly. It is said there:

“It is objected that money can never be a true equivalent for a personal injury.”.

Of course, that is so. Then, it says:

“But this argument proves too much. There are many things for which money is no substitute but which yet have recognised value.”.

[Shri Hari Vishnu Kamath]

Then, it is said:

"Money is no substitute for water to a thirsty man."

It is very well put there. Money is no substitute for water to a thirsty man, but water may have a market value, and even in the desert.

So, here is a very important clause which deals with injury, disease and disablement. I would, therefore, once again plead with the hon. Minister and the House to see that these provisions are implemented by persons who are not merely just officially and routinely competent but who are gifted, with human sympathy, insight and understanding and who do not merely reckon everything in terms of money, because as has been well said, money is no substitute. As the poet has said:

सर्वे गुणाः कांचनमाश्रयन्ते

In the case of these war injuries, especially where a person may lose a limb or an eye or a whole part of a body, it should be assessed not just in terms of those limbs technically but should be judged more liberally and with insight, understanding and vision. If that is not brought to bear on those cases we shall have no proper assessment of the damages that have to be awarded in the case of injuries.

The last amendment in my name is amendment No. 17 with a certain amendment from the hon. Minister which I have accepted.

Amendment 16 I do not move, because "regulations" covers that. So, I will beg your leave to withdraw that amendment. So, I will only press amendments 14 and 15, because I am still not convinced because in his own Bill he has used the word "disablement" instead of "injury". If that is so, disfigurement also must come in.

Shri C. R. Pattabhi Raman: With regard to disablement, I have already

explained to the House that it includes temporary disablement also, and we are not accepting that amendment.

Similarly, no rules are proposed to be made with regard to amendment 16.

Mr. Deputy-Speaker: Amendment 16 he is not pressing.

Shri C. R. Pattabhi Raman: With regard to amendment 17, this is how it will read now:

"(7) Every scheme and every regulation made under a scheme, shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or the regulation or both Houses agree that the scheme or the regulation should not be made, the scheme or the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme or the regulation".
(17 as modified).

Mr. Deputy-Speaker: Does he press amendments 14 and 15?

Shri Hari Vishnu Kamath: I feel disabled by his non-acceptance.

Mr. Deputy-Speaker: Does he want me to put them?

Shri Hari Vishnu Kamath: Similar amendments have been rejected by the House. So, there is no point in pressing them.

Mr. Deputy-Speaker: Has he the leave of the House to withdraw amendments 14 and 15?

Hon. Members: Yes.

Amendments Nos. 14 and 15 were, by leave, withdrawn.

Mr. Deputy-Speaker: Has he the leave of the House to withdraw amendment 16?

Hon. Members: Yes.

Amendment No. 16 was, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

"Page 4,—after line 5, insert—

(7) Every scheme and every regulation made under a scheme, shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or the regulation or both Houses agree that the scheme or the regulation should not be made, the scheme or the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme or the regulation. (17 as modified)."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

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

The Motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 4—(Relief from liability to pay compensation or damages).

Amendment made:

Page 4, line 19,—

omit "other" (37)".

(Shri C. R. Pattabhi Raman)

Mr. Deputy-Speaker: The question is:

"That clause 4, as amended stand part of the Bill".

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 5—(Information as to earnings).

Shri Hari Vishnu Kamath: I beg to move:

(i) Page 5, line 22,

after "service injury" insert "or contracted the disease". (19).

(ii) Page 5, line 27,—

after "having" omit "any". (20).

(iii) Page 5, line 27,—

after "knowledge" insert "or information". (21).

(iv) Page 5, line 32,—

for "to" substitute "before". (22).

(v) Page 5, lines 33 and 34,—

for "with respect to those earnings" substitute "in support of such information". (23).

(vi) Page 6, line 2,—

after "with" insert "imprisonment for a term which may extend to one year, and" (24).

(vii) Page 6, lines 2 and 3,—

for "fine which may extend to five hundred rupees" substitute—"shall also be liable to fine". (25).

[Shri Hari Vishnu Kamath]

These are all major, important provisions. I will take up the latter ones first.

This clause provides for information as to the earnings, etc., etc. It is stated in clause 5(1) (b) as follows:

"any other person having any knowledge with respect to the financial circumstances of the injured person during that period."

Shrimati Vimla Devi: How long is the House sitting, Sir?

Mr. Deputy-Speaker: Till we finish this Bill.

The Minister of Shipping in the Ministry of Transport and Communications (Shri Raj Bahadur): Is the House taking up the next Bill also, thereafter?

Mr. Deputy-Speaker: If there is time.

Shri Hari Vishnu Kamath: If we finish this before six. The other Bill may not come up today. Now, may I submit that the word "knowledge" is not quite comprehensive in this context, because the word "knowledge" has got a definite connotation whether in the English dictionary or perhaps in the legal terminology, and unless it is supplemented by the word "information," this provision will not be complete. Knowledge is something different from information. So, my amendment is to this effect, and the sub-clause would then read as follows:

"any other person having any knowledge or information..."
etc.

I am sure the hon. Minister who has been a very competent lawyer in his own right will appreciate the difference between "knowledge" and "information", and to make this provision quite comprehensive, he should include the word "information". Knowledge may be based on information or on belief. The sources of knowledge are so many, and semantically as well as otherwise,—etymo-

logically—the word "knowledge" is not quite coterminous with or synonymous with the word "information". Therefore, to make it complete and comprehensive, I would suggest the inclusion of the word "information" also in this connection.

Then I shall turn to the other amendments. First, I shall refer to the penalties provided. It has been the contention of the House not merely on this occasion but on previous occasions also, when the Government brought in legislation, for instance the Drugs (Amendment) Bill, by many of us on this side as also on the other side of the House—many of my hon. colleagues on the other side—that the Government is not serious or earnest in dealing with the anti-national or anti-social offences or evils. On the other occasion also, it was said that a deterrent punishment should be provided for, and the Government refused to accept the opinion of the House, on both sides of the House. Of course, there was no voting, I know; but the opinion has been clearly expressed on that occasion that the punishment provided must be deterrent in character. Deceit is a grave offence, almost amounting to perjury; of course, perjury means, perhaps, giving false statements, but even the word "deceit" means cheating. Even a man who cheats is only given a punishment of fine of Rs. 500. When all of us,—the whole nation,—are supposed to be actuated by a spirit of emergency, where is the emergency clause here? When we have to deal with very serious matters the Government provides for a penalty of Rs. 500 only. Those who have made their pile—many of them will make their pile in this war—would not care for a fine of Rs. 500; they would not care even if it is Rs. 5,000 or Rs. 50,000. If the Government are serious about this matter, they must provide for a substantial term of imprisonment. If they mean business, and if they do mean to trifle over this war emer-

gency, they must provide for a substantial term of imprisonment. Therefore, I have moved this amendment, providing for imprisonment and also fine. I hope that the Government, if they are worth all that they said about this war emergency and their intentions and determination to deal with the anti-national and anti-war effort walas in our country, should accept my amendment without much ado.

Now, I should like to say a few words about my earlier amendment—about the contracting of disease. By my amendment No. 19, I have sought to insert “or contracted the disease” after “service injury”. Clause 5 says:

“...to ascertain the earnings of the person injured in respect of any period before he sustained the personal injury or the personal service injury.”

Here I want to add “or contracted the disease”. Injury is something apparent. You can see it. But contraction of disease is something vague. In some cases, it may be difficult to say when he has contracted the disease, as my hon. friend also said. So, unless it is definitely provided for that that period should also include the time when he contracted the disease.....

Dr. Gaitonde: Perhaps it refers to gas cases.

Shri C. R. Pattabhi Raman: He refers to poisonous gas cases.

Shri Hari Vishnu Kamath: I do not dispute that.

Shrimati Vimla Devi: What injuries will be there to anticipate in the case of nuclear war? No man will be there.

Shri Hari Vishnu Kamath: Are you supporting me or him?

Shri Warrior: Both.

Shri Hari Vishnu Kamath: I am grateful to my hon. friend of the communist party.

I do not dispute the proposition so ably stated by Dr. Gaitonde and supported by the Deputy Minister. But what is visualised here is only personal injury or personal service injury. Though the word ‘injury’ includes according to him ‘disease’ or ‘disablement’, in the previous clause you have had the word ‘disease’ separately along with “injury”. So, unless you categorically, definitely and explicitly refer to the period when the disease was contracted, a person in whom the disease becomes manifest sometime later will not be eligible for the benefits under this provision. It has to be proved by medical and other tests that the disease he is suffering from today was really contracted during the period when he was in service. It may be proved by pathological test.

Shri Warrior: What about benefit of doubt?

Shri Hari Vishnu Kamath: There is no question of benefit of doubt here. It is a question of proving that the disease was contracted during service. I do not know whether the hon. Deputy Minister has followed this point fully, because injury is something different from the disease.

Shri C. R. Pattabhi Raman: The word ‘knowledge’ is much wider than ‘information’, which may include hearsay also. My hon. friend referred to cheating, with regard to punishment. There may be cases of genuine doubt and genuine mistake when an estimate is made. In such cases, fine is adequate.

Shri Hari Vishnu Kamath: What about other cases?

Shri C. R. Pattabhi Raman: With regard to personal injury, clause 2 says:

“(6) ‘personal injury’ means a physical or mental injury and

[Shri C. R. Pattabhi Raman]

includes any disease whether manifesting itself immediately or subsequently—

(a) caused by—

- (i) the discharge of any missile (including liquid or gas or both), or
- (ii) the use of any weapon, explosive or other noxious thing, or
- (iii) the doing of any other injurious act."

That brings in radiation also. So, it is very wide.

Shri Hari Vishnu Kamath: Please refer to clause 3 where besides 'injury' you have said 'disease' also.

Shri C. R. Pattabhi Raman: That is for a particular narrower purpose; that will not take away the all-embracing effect of the definition section.

Therefore, I would plead with my hon. friend not to press this amendment because it really serves no purpose.

Shri Hari Vishnu Kamath: Contracting the disease is different.

Mr. Deputy-Speaker: I shall put the amendments to the vote of the House. Does he press any of them?

Shri Hari Vishnu Kamath: Yes, Sir, I press amendment No. 19.

Mr. Deputy-Speaker: I hope he is withdrawing all the others?

Shri Hari Vishnu Kamath: Yes.

Mr. Deputy-Speaker: Has he the leave of the House to withdraw all his amendments except amendment No. 19?

Several Hon. Members: Yes.

Amendments Nos. 20 to 25 were, by leave, withdrawn.

Mr. Deputy-Speaker: I shall now put amendment No. 19. The question is:

Page 5, line 22,—

after "service injury" insert—

"or contracted the disease" (19).

Those in favour may please say "Aye".

Some Hon. Members: Aye.

Mr. Deputy-Speaker: Those against may say: "No".

Several Hon. Members: No.

Mr. Deputy-Speaker: The "Noes" have it.

Shri Hari Vishnu Kamath: The "Ayes" have it.

Mr. Deputy-Speaker: Those in favour may rise in their seats.

Some Hon. Members rose—(laughter).

Mr. Deputy-Speaker: Three hon. Members have stood up.

Shri Hari Vishnu Kamath: It is not a matter for laughter. My friends do not know how to legislate.

Mr. Deputy-Speaker: Order, order. Those against may rise in their seats.

Several Hon. Members rose—

Mr. Deputy-Speaker: I find a very large number against the amendment. The amendment is lost.

The motion was negatived.

Mr. Deputy-Speaker: I shall now put the clause to the vote of the House. The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6— (Medical attention in dispensaries and hospitals)

Mr. Deputy-Speaker: Then we come to clause 6. What are the amendments?

Shri Hari Vishnu Kamath: Sir, I beg to move:

(i) Page 6, line 4,—

after "person" insert "owning or" (26).

(ii) Page 6, line 4,—

after "hospital" insert "or clinic". (27).

(iii) Page 6, line 7,—

after "hospital" insert "or clinic" (28).

(iv) Page 6, line 14,—

after "with" insert—

"imprisonment for a term which may extend to six months, and" (29).

(v) Page 6, lines 14 and 15,—

for "fine which may extend to one thousand rupees" substitute—

"shall also be liable to fine". (30).

Mr. Deputy-Speaker: Does he want to say anything?

Shri Hari Vishnu Kamath: Yes, Sir. I will try to convince. I am against a stone wall, but I do not lose hope. My amendment No. 27 seeks to insert the words "or clinic". The wording in the Bill is: "dispensary or hospital". I am not a doctor nor, as I said, I am a lawyer. But Dr. Gaitonde may help us here.

Dr. Gaitonde: Hospitals and dispensaries are all clinics.

Shri Hari Vishnu Kamath: Then you need not have the words: "Hospital or dispensary", you need have only the word "clinic". I accept Dr. Gaitonde's authority.

Shri C. R. Pattabhi Raman: Except that in a clinic there may not be equipment for a medical aid at the required time of the required nature. In fact, it is a narrow thing.

Shri Hari Vishnu Kamath: I have not been inside a clinic, but I know

friends who have got clinics. I do not know which clinic the hon. Minister knows to say that a clinic has no medical aid equipment.

Shri C. R. Pattabhi Raman: There may be a case where a clinic may be a diagnostic clinic, for all I know. There may be some clinics which may not be equipped for medical aid. But every hospital and dispensary has got such equipments.

Shri Hari Vishnu Kamath: But there are cases of persons, I know, who would prefer to go inside and be treated in a clinic rather than in a hospital or dispensary. I do not know why persons who wish to be treated in a clinic should be debarred under the law from availing the benefit of this law. Because, Sir, all hospitals nowadays, I am sorry to say, are not equally efficient. Some of them are even unclean hospitals. There are government hospitals which are insanitary even in Delhi. That matter when it came up was not contested seriously by the Health Minister. She admitted various deficiencies in the hospitals. There are insanitary and unclean hospitals in the Capital. If that is so here, I shudder to think what the position may be in the remote corners of our vast country.

Shri R. S. Pandey (Guna): Which hospital are you referring to?

Shri Hari Vishnu Kamath: I will tell him outside the chamber. There are some clinics run by very able surgeons and doctors in big cities. They are known for their efficiency, for their personal attention to patients or people who go inside the clinics. Therefore, even if he retains the words: "hospital or dispensary", he should also accept my amendment and agree to include the word: "clinic", because, as Dr. Gaitonde has said, the word "clinic" includes both and they are in a way synonymous or co-terminus with one another. Therefore, to make it comprehensive, we should have the word "clinic" along with the word "hospital" or "dispensary".

[Shri Hari Vishnu Kamath]

Then I will refer briefly to the other amendments whereby, as I stated and pleaded with the House earlier, I have sought to make the punishments to be awarded for offences under the Act more deterrent. Take any provision. Except in the case of clause 7, to which I will come later, where there is provision for imprisonment up to three months, in all other cases it is only a fine of Rs. 500 or Rs. 1,000. I repeat that unfortunately the Treasury Benches and the ruling party have got some mental reservation on this point of sending some of the persons—I will not say favourites or people whom they like—to jail and unless there is a revolutionary change in the mental make-up of the Treasury Benches with regard to sending some of the persons committing offences like this to jail in war time, nothing will come out of this provision.

Mr. Deputy-Speaker: Here it is a punishment for doctors.

Shri Hari Vishnu Kamath: Whoever it is. A doctor is also a citizen. He should not commit an offence. Do you mean to say that a doctor should not be sent to prison? Doctors have gone to prison in other countries.

Mr. Deputy-Speaker: If he fails to keep such records or fails to make some returns.....

Shri Hari Vishnu Kamath: If his services are requisitioned under the emergency powers and if he refuses to serve is he not committing an anti-national act, irrespective of whether he is a doctor or lawyer or anybody else? Suppose I am asked to render some service under the Defence of India Rules and I refuse to do it, I will be hauled up and punished. If you, Sir, also, God forbid, refuse to serve under those conditions, you will also be treated in the same way. So, there is no question of any exception in the case of war measures. Be he a doctor, a patient a

Minister or anybody else, every offender under the Act must be sent to prison if they mean business and if they mean what they say. Therefore, I do hope that at least in this case they will accept the provision which provides for imprisonment and makes it deterrent.

Shri C. R. Pattabhi Raman: I have already explained the position of the Government.

Mr. Deputy-Speaker: Government is not accepting any of those amendments. Does he want to press any of them?

Shri Hari Vishnu Kamath: I want to press my amendment No. 27 for adding the words "or clinic".

Mr. Deputy-Speaker: Has the hon. Member the leave of the House to withdraw amendment Nos. 26, 28, 29 and 30?

Some Hon. Members: Yes.

Amendments Nos. 26, 28, 29 and 30 were, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

Page 6, line 4,—

after "hospital" insert "or clinic" (27).

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 6 stand part of the Bill".

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7.— (Penalty for false statement)

Shri Hari Vishnu Kamath: I beg to move:

(i) Page 6, line 20,—for "three" substitute "six" (31).

(ii) Page 6, line 20,—add at the end—

"and shall also be liable to fine" (32).

Here the Government have at least had the sense to think, to consider, that this is a fairly serious offence, and they have provided for a term of imprisonment extending to three months. It says:

"Any person who, for the purpose of obtaining a payment or grant under a scheme either for himself or for any other person, knowingly makes any untrue statement or untrue representation, shall be punishable with imprisonment for a term which may extend to three months."

As I said earlier, this is the only provision where they have realised the need for imprisonment, for a substantive sentence of imprisonment. Here at least, can they not make it a little more deterrent? I have sought to increase it, to raise it, to six months from three months, because, in my opinion, any term of imprisonment, to be fairly effective should not be less than six months. You will find in the Indian Penal Code, where most of the major offences are detailed that they have provided a sentence of not less than six months. Here I do not know what actuated the Government, after having detailed in the provision, in the clause, the ingredients of the offence, after having realised how serious the ingredients are, to provide for a lenient sentence of three months imprisonment alone.

My other amendment is:—

"add at the end—

'and shall also be liable to fine'"

I commend both these amendments to the acceptance of the hon. Minister and the House.

Shri C. R. Pattabhi Raman: I regret, I am unable to accept them.

Shri Hari Vishnu Kamath: Then, I regret I will not withdraw them.

Mr. Deputy-Speaker: I shall put them together to the vote of the House.

The question is:

(i) Page 6, line 20,—

for "three" substitute "Six" (31).

(ii) Page 6, line 20,—

add at the end—

"and shall also be liable to fine" (32).

Those in favour will please say 'Aye'.

Some Hon. Members: 'Aye'.

Mr. Deputy-Speaker: Those against will please say 'No'.

Several Hon. Members: 'No'.

Mr. Deputy-Speaker: I think the 'Noes' have it. The motion is negatived.

Shri Hari Vishnu Kamath: The Ayes have it.

Mr. Deputy-Speaker: I shall put it again. The question is:

(i) Page 6, line 20,—

for "three" substitute "six" (31).

(ii) Page 6, line 20,—

add at the end—

"and shall also be liable to fine" (32).

Now, those in favour will please rise in their seats. There are 4. Now, those against will please rise in their seats. I see a large number against. The motion is negatived.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8 was added to the Bill.

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

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

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

Taxation Bill

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

17-57 hrs.

MANIPUR (SALES OF MOTOR SPIRIT AND LUBRICANTS) TAXATION BILL

The Minister of Shipping in the Ministry of Transport and Communications (Shri Raj Bahadur): Sir, I beg to move*:

"That the Bill to consolidate and amend the law relating to the levy of a tax on sales of motor spirit and lubricants in the Union Territory of Manipur, be taken into consideration."

At present tax on motor spirit and lubricants is levied in Manipur under the Assam (Sales of Motor Spirit and Lubricants) Taxation Act, 1939 which was extended by the former Durbar of Manipur in 1940. The rates in Assam have increased considerably ever since this was introduced. There was an amending Bill in 1955 in Assam, whereas they have remained static at the previous level in Manipur. The object of the present Bill is firstly, to express those rates in terms of metric measures and decimal coinage and, secondly, to raise the level of taxes suitably in suitable stages. It is not proposed to apply the Assam rates all at once or immediately to the State of Manipur taking into account the state of comparative backwardness of that area, but we propose to do that in stages and the power is proposed to be vested in the Central Government for the purpose.

Generally, the basis of the present Bill is the Assam Act of 1955 but there are certain variations which have been included for the purpose of improvement of the measure. I think, at this preliminary stage these remarks will suffice and I would com-

mend this Bill for the consideration of the House.

Mr. Deputy-Speaker: I see no hon. Member is rising to speak. So, I shall put it to the vote of the House.

The question is:

"That the Bill to consolidate and amend the law relating to the levy of a tax on sales of motor spirit and lubricants in the Union Territory of Manipur, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The House shall now take up clause-by-clause consideration of the Bill. There are no amendments. So, I shall put all the clauses together to the vote of the House.

The question is:

"That clauses 2 to 37 stand part of the Bill."

The motion was adopted.

Clauses 2 to 37 were added to the Bill.

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

Shri Raj Bahadur: Sir, I move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

Mr. Deputy-Speaker: Shall we take up the next Bill or adjourn?

Shri Hari Vishnu Kamath: Let us adjourn.

Mr. Deputy-Speaker: The House stand adjourned till 12 noon tomorrow.

18 hrs.

The Lok Sabha then adjourned till Twelve of the Clock on Friday, December 7, 1962/Agrahayana 16, 1884(Saka).

*Moved with the recommendation of the President.