

**BEEDI AND CIGAR WORKERS
(CONDITIONS OF EMPLOYMENT)
BILL**

The Deputy Minister in the Ministry of Labour, Employment and Rehabilitation (Shri Shah Nawaz Khan): I beg to move:

"That the debate on the motion, That the Bill to provide for the welfare of the workers in beedi and cigar establishments and to regulate the conditions of their work and for matters connected therewith, as passed by Rajya Sabha, be taken into consideration, which was adjourned on the 7th September, 1966, be resumed now."

Mr. Speaker: The question is:

"That the debate on the motion, That the Bill to provide for the welfare of the workers in beedi and cigar establishments and to regulate the conditions of their work and for matters connected therewith, as passed by Rajya Sabha, be taken into consideration, which was adjourned on the 7th September, 1966, be resumed now."

The motion was adopted.

Shri N. Sreekantan Nair (Quilon): On a point of order. The Bill is being moved now and is taken up now. It has not been circulated to the members sufficiently early; it came to us only this morning; so, we have no time to place our amendments. It is unfair on the part of the Speaker to take it up now without giving us an opportunity to move amendments.

Mr. Speaker: It was moved in the last session. Only the debate was adjourned.

Shri N. Sreekantan Nair: It is not a question of last session. It has not been circulated sufficiently early. How can I move my amendment?

Mr. Speaker: If he has any amendment to move, I will certainly condone the delay.

Shri N. Sreekantan Nair: Yes.

Shri Vasudevan Nair (Ambalapuruzha): May I know what is the time allotted for this?

श्री हुकम चन्द कछवाय (देवास) : यह बड़ा महत्वपूर्ण बिल है। कम से कम घाट बंटे दिये जाने चाहियें।

Mr. Speaker: They have proposed one hour.

Some hon. Members: One hour will not be sufficient.

Mr. Speaker: We shall just see.

Shri Surendranath Dwivedy (Kendrapara): This is only an enabling motion and it has been adopted. The Bill can be taken up some other time.

Mr. Speaker: The debate, which was adjourned in the last session, is to be resumed now.

Shri Shahnawaz Khan: The Beedi and Cigar Workers (Conditions of Employment) Bill, 1965, was moved for consideration by the hon. the Home Minister on the last day of the preceding session of the Lok Sabha and further discussion on the Bill was adjourned. I would like to take this opportunity of saying a few words on this Bill.

As the hon. members are aware, we have various laws to afford protection to the workers in factories, mines, plantations and motor transport undertakings, but there is no separate all-India comprehensive legislation for regulating the conditions of work of workers in beedi and cigar industry. In many States beedi *karkhanas* were registered as factories under the Factories Act, 1948, but there was a tendency on the part of the employers to resort to devices to circumvent the operation of the Act by splitting the concerns into smaller units and also by distributing raw materials such as tobacco mixture, beedi leaves and strings to workers for making beedis at home.

डा० राम मनोहर लोहिया (फर्रुखाबाद) : क्या बीड़ी वालों के बिल पर विचार करने के लिए कांग्रेसियों की कोई

जूरत नहीं रह गई है, जो वे उठ कर चले गए हैं ? तो हम भी चलते हैं ।

12.51 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Shri Shah Nawaz Khan: This tendency was met by many of the State Governments by extending the provisions of the Factories Act to beedi establishments under section 85, which empowers the State Governments to apply the provisions of the Act to any premises wherein a manufacturing process is carried on with or without the aid of power, irrespective of the number of persons employed. However, a large number of workers did not get the protection of law on account of the fact that there was no employer-employee relationship between the proprietors and branch managers of beedi factories and their employees. To meet this difficulty the Madras Legislature passed in 1958 a separate legislation named 'Madras Beedi Industrial Premises (Regulation of Conditions of Work) Act' to cover the beedi workers. Similar law was enacted in Kerala subsequently.

The State Governments concerned found it difficult to enforce the State Acts fully in view of the fact that the beedi industry is extremely sensitive to controls and has a tendency to migrate from one State to another, mainly because there may be no similar legislation in the neighbouring States. To meet this difficulty, the question of having a Central legislation in the matter came up for consideration before the 21st session of the Standing Labour Committee held in December, 1963. The Committee agreed that there should be a Central legislation on the lines of the Madras Beedi Industrial Premises (Regulation of Conditions of Work) Act, 1958 with suitable changes. The State Governments, the All-India organisations of

industrial employers and workers etc. were then consulted in regard to the scheme of the legislation and it was finalised in the light of the comments received.

For a proper understanding of the Bill I would like to outline in brief the existing systems under which the beedis are manufactured. The first is the factory system of work. The manufacturer is the owner of a factory and the workers gather and work under his supervision and make beedis. Some work is done by workers outside the premises also. The general practice is that the employer distributes bundles of leaves to the workers on the previous day and the workers soak them in water and cut them into suitable size at their homes and then bring them back to the factory for rolling on the following day. Bigger workshops are covered by the Factories Act, 1948.

In the second system, the workers work at home. The proprietor instead of engaging workers directly in a particular place for rolling beedis, distributes tobacco, leaves and thread to out-workers, generally women, who work at their homes. These workers roll beedis at home and deliver them to the proprietor. Under this system there is relationship of employer-employee between the proprietor and the out-workers but obviously in such a system it is not practicable to regulate working hours or to provide for such welfare facilities as are related to the place of work.

The third system is the contract system of work. The general practice is that beedi leaves and tobacco are given by the proprietor to the contractors or branch managers, who in turn distribute them to the beedi rollers in villages for preparation of beedis. The beedi rollers usually prepare the beedis at their homes; at times, also at the workplaces provided by the contractors. The prepared beedis are returned to the contractors who again in turn take them to the proprietor, the proprietor after sorting out the sub-standard

[Shri Shah Nawaz Khan]

beedis pays to the contractor for the remaining beedis. Thereafter the contractor pays wages to the beedi rollers according to the number of beedis rolled by them less the rejected beedis. The significant feature of this system is that the proprietor and the beedi rollers do not directly come into contact with each other. The contractor retains commission or profit for himself.

The fourth system is the 'Sale and purchase system of work'. Lastly there are the self-employed workers who work in their homes.

These workers suffer owing to unregulated hours of work, arbitrary deductions from wages etc. Some of the evils, as for instance, unhealthy working conditions, unregulated hours of work etc. are present in a varying degree in the cigar industry also. The Bill, therefore, applies to both beedi and cigar industrial premises in any part of which any manufacturing process is carried on with or without the aid of power.

As it is very difficult to regulate working conditions of workers who work at their homes as self-employed persons working with or without the aid of the members of the family, the legislation will not apply to such self-employed persons. However, private dwelling houses in which a manufacturing process connected with the production of beedi or cigar is carried on has been included in the definition of 'beedi establishment' except for the self-employed persons.

As regards contractors, there are two classes of contractors, those who merely act as agents of the principal employer and those who buy the leaves and tobacco from the manufacturer. The former category is proposed to be eliminated or neutralised by making the principal employer responsible for compliance with the provisions of the Act. The latter category will be treated as 'employer' for all purposes.

The Bill seeks to provide for the regulation of the contract system of work, licensing of beedi and cigar industrial premises and matters like health, hours of work, spreadover, rest periods, overtime, annual leave with pay, distribution of raw materials etc. The notes on clauses explain the various provisions of the Bill.

I commend the Bill for the consideration of the House.

Shri Birendra Bahadur Singh (Rajnandgaon): On a point of information....

Shri D. C. Sharma (Gurdaspur): He is not a beedi merchant.

Mr. Deputy-Speaker: First, let me place the motion before the House.

Motion moved:

"That the Bill to provide for the welfare of the workers in beedi and cigar establishments and to regulate the conditions of their work and for matters connected therewith, as passed by Rajya Sabha, be taken into consideration."

1 hour is the time allotted for this Bill.

श्री हुकम चन्व कछवाय उपाध्यक्ष
महोदय, यह बहुत बड़ा और महत्वपूर्ण विधे-
यक है। सरकार इसको पिछले चार सालों से
टालती आ रही है। इसके लिए केवल एक
घंटा देने से काम नहीं चलेगा। इसके लिए
कम से कम चार घंटे का समय दिया जाना
चाहिए ताकि माननीय सदस्यों को इस बारे में
अपने विचार प्रकट करने के लिए पर्याप्त
समय मिल सके।

Mr. Deputy-Speaker: All right, we shall have one more hour and we shall have two hours in all. I can give one hour more; so, we shall have one hour more, and we shall have two hours in all.

Shri A. K. Gopalan (Kasergood): As regards amendments, we had given notice of them during the last session,

but last session they could not come up, because the Bill was taken up towards the fag end of the session and at the last hour. Again, we have now to give fresh notices. At ten o'clock today, we have tabled some amendments.

Mr. Deputy-Speaker: All those amendments will be taken up. Let us have 2 hours in all.

Shri N. Sreekantan Nair: The Hon. Speaker had ruled earlier that he would waive the time-limit for notices, and we could table amendments even today.

Shri A. K. Gopalan: There are so many amendments, and, therefore, I would submit that at least 2 hours should be there for the clauses.....

Mr. Deputy-Speaker: If hon. Members would avoid repetition of the arguments, we can find time for all those amendments.

Shri A. K. Gopalan: 2 hours will not be sufficient. At least 3 hours may be given.

Mr. Deputy-Speaker: I am afraid we are hard pressed for time.

Shri A. K. Gopalan: This is such an important Bill.

Mr. Deputy-Speaker: We shall have 2 hours and then see.

Shri Birendra Bahadur Singh: On a point of clarification. The Deputy Minister has stated that four systems are prevalent in the country. Which are the systems prevailing in the different States?

Mr. Deputy-Speaker: He has mentioned that already.

Shri Birendra Bahadur Singh: He has only mentioned the four systems but he has not mentioned which systems are prevalent in which States.

Mr. Deputy-Speaker: He has said that already.

Shri Birendra Bahadur Singh: In Madhya Pradesh, the system is diffe-

rent. Secondly, I would like to know how the leaves are procured....

Mr. Deputy-Speaker: If the hon. Member wants to speak, he can speak afterwards. He said that he only wanted to put a question, and, therefore, I had allowed him.

Some hon. Members: Let the time be increased from 2 hours.

Mr. Deputy-Speaker: Let us have 2 hours, and as the discussion proceeds, let us see.

13 hrs.

Shri P. K. Deo (Kalahandi): Mr. Deputy-Speaker, I congratulate the Government on at long last realising the difficulties of the workers and coming forward with a legislation of this type by which the workers should be benefitted. But I am sorry to say this legislation is confined only to industrial premises and factories where the beedis and cigars are generally manufactured. The actual process of manufacture starts from the time the beedi leaves are collected. This aspect has not been examined by the Ministry.

Before the leaves come to the factory they are collected from the tenants' holdings or forests. In the collection process, Government give monopoly rights to the *kendu* leaf contractors. These beedis are produced from a kind of leaf which is called *kendu* in Orissa and *tendu* in Madhya Pradesh. Most of the lands where these leaves are grown are found in Bihar, Madhya Pradesh, Orissa, and Andhra Pradesh.

So far as the collection of these leaves is concerned, it is a pity that in spite of the fact that these leaves are produced in tenants' lands, the tenants are completely ignored and the monopoly of collection given to certain individuals who generally exploit labour, take advantage of the monopoly system and do not pay labour proper wages. The wages hardly come to four to five annas per day. Specially in the summer season when there is no agricultural employment for labour, this is their only source of employment, namely,

[Shri P. K. Deo]

beedi leaves collection. Right from dawn to dusk they work, for nearly 12 hours; even little children, the old and infirm, the entire community, go to the forest or to tenants' lands and try to collect these beedi leaves. After working for 12 hours, they get hardly 4-5 annas per day per head. This is because the monopoly right of collection is given to contractors.

श्री हुकम चन्द कछवाय : उभाध्यक्ष महोदय मैं आपकी व्यवस्था चाहता हूँ कि आज पहला दिन है और सदन में गणपूति नहीं है।

Mr. Deputy-Speaker: The bell is being rung—Now there is quorum. He may continue.

Shri P. K. Deo: I was referring to the monopoly system in the collection of beedi leaves.

Even though the tenant has got his full right over all the produce on his land, he is denied an equitable price because there is no other buyer for his leaves. More than 80 per cent of the leaves is being produced from tenants' holdings, and hardly 20 per cent in the reserve forests. Even though the monopoly right is limited only to the reserve forest area, the tenants have no alternative but to dispose of their leaves to these particular contractors. Being monopolist the contractors always exploit the labourers who, as I have said, get hardly 4-5 annas per day. The beedi magnates control the entire politics in the State area. So far as my State is concerned, in spite of protests from all quarters, these favourite contractors were given monopoly rights because they contribute sumptuously to the Congress election fund. That is the reason why in spite of the fact that this monopoly system infringes the fundamental rights enshrined in the Constitution and also goes against labour interest, it is being perpetuated. For election purposes, these are the people who supply funds to the Congress Party.

I am afraid the various provisions of the Bill are limited to factory workers employed in industrial premises. But I submit that these provisions should be extended to areas outside the industrial premises also. Even those workers who are engaged in the collection of beedi leaves should get the benefit of this Bill.

We are against the contract system. All the political parties and labour unions have been shouting from the very beginning that this system should go. Under this system, the contractor invariably tries to get the maximum advantage for himself by exploiting labour. So this system has to go and any other system is preferable to it.

As regards the profit made by the beedi leaf merchants from the collection of beedi leaves, it has been calculated that the leaves are collected at about Rs. 25-50 per bag. These beedi leaves are in great demand specially in Pakistan. They are selling it at Rs. 150—200 per bag. From that you can easily know the amount of profit that these sharks have been making at the cost of labour. The beedi leaves monopoly has to go.

As regards the conditions of working of the workers in the factories, I had the privilege of visiting some of the factories. Conditions there are far from satisfactory. They work in insanitary conditions; there are many occupational hazards they have to face for which no provision has been made in this Bill. Even though there might be something in the Workmen's Compensation Act, I do not think it is adequate in case they fall victims to these occupational hazards.

With these words, I beg to submit that the scope of the Bill should be extended also to those workers who are working outside industrial premises and mostly engaged in the collection of beedi leaves from tenants' lands and from the forest areas.

Shri D. C. Sharma: Mr. Deputy-Speaker, I welcome this Bill wholeheartedly. As the House knows, I have been one of those persons along with Shri A. K. Gopalan who have been all these years drawing the attention of this House and the country to the plight of the beedi and cigar workers. We have been putting questions, we have been making speeches on some Private Members' Bills, but we have not been very successful so far, but today I find that the Government is going to introduce the Bidi and Cigar Workers (Conditions of Employment) Bill, 1966. I think this should have come in 1952 or 1957. I do not understand why the Government has taken such an unconscionably long time in bringing forward this kind of social, economic and labour legislation.

I believe that it is a three-fold legislation to which we are devoting ourselves this morning. First of all I say it is a social legislation because I believe the bidi merchants—I hope there are no bidi merchants in this House—take advantage of the poverty of the people. We are all poor people and we all live beneath the subsistence margin. There are very few persons who are living above the subsistence margin. And these bidi merchants, blood-suckers of humanity, practitioners of the worst form of sweated labour, exploiters of the labour of women and children, should have received a harsher treatment by the Bill of this gentleman, this INA man, than they have received here.

I call it a social legislation because a child has been described as a person who has not completed 14 years of age. It is my conviction, and I have visited some bidi factories unfortunately, and I tell you that a child may be employed in some other factory of 14 years of age....

श्री हुकम चन्द कश्यप : उपाध्यक्ष
महोदय मेरा व्यवस्था का प्रश्न है सदन में
गण-पूर्ति नहीं है।

Mr. Deputy-Speaker: Quorum has been challenged by your friend.

Shri D. C. Sharma: Who is my friend? He is my friend? God save me from those friends.

Mr. Deputy-Speaker: The bell is being rung. . . Now there is quorum.

Shri D. C. Sharma: I was submitting very respectfully that in this industry particularly no person below the age of 18 years should be employed. I say this for the simple reason that this industry is destructive of human life, and it involves people, workers, in such hazards as not only shorten their lives but cut short their lives altogether. I wish some social survey had been taken in this country. We are always having sample surveys of all kinds, but we do not have such surveys where they are needed. Then you would have found what is the average expectancy of age so far as these bidi workers are concerned. They inhale those tobacco particles and they work under unhygienic conditions, and they work for long hours and they work under masters who, I should say, are the most cruel. The result is that these bidi workers have the average age expectancy reduced to about 50 per cent of what the average age is today. I say this without any fear of contradiction. Therefore, my first point is this that no person below the age of 18 years should be employed in these bidi factories.

My second point is this. Our Government has given many examples of these employers, and they have given many categories of these employers, and I am glad that they have introduced one more category, the category of the contractor, and they have said something about these contractors, they may be, whether they are employ or recruit labour for this purpose, but I submit very respectfully that these employers of whatever kind they may be, whether they are employers of contract labour or forced labour or other kinds of labour are, I tell you, employers of what you may call forced labour. I think no industry in our country has devised so

[Shri D. C. Sharma]

many ways of circumventing the Factories Act and the other Acts that our good Government has passed than this industry.

Once I went to visit a factory, and I was in these *khaddar* clothes, and I found that some of the workers scampered away from the premises as rats scamper away when the cat visits. The fact of the matter is that "premises" have not been defined very exactly and very comprehensively, and I think that these premises have to be defined in terms of place, in terms of locality, in terms of household, in terms of other places, because if you transfer the premises from a factory, they go to a house; if you transfer them to a house, they leave the first storey and they go to the third storey; if you make them leave the third storey they go to the neighbouring house. I tell you the most ingenious methods are employed by the bidi merchants to circumvent all the wholesome labour laws that our Government has passed so far as welfare is concerned.

My third point is that the king-pin of this legislation is going to be the Inspector. Of course, we are found of having inspectors, sub-inspectors, chief inspectors and all that kind of thing, and if people talk about the population explosion, I talk about the bureaucratic explosion. Our bureaucracy has increased at a greater rate than even our population. Compare the bureaucracy in 1947 with the bureaucracy that we have now. You can have family planning so far as the birth of children is concerned; I wish there were some kind of family planning so far as the multiplication of bureaucracy is concerned. Now, we are going to have inspectors. Who are these inspectors? feeble, miserable, petty human beings, liable to every kind of temptation, liable to all kinds of social and economic pressures. What you give with one hand in this legislation will be taken away with the other hand so far as these inspectors are concerned.

With regard to the powers to make rules, I say that all the letters in the alphabet have been exhausted in this Bill, in this clause about power to make rules; it begins from (a) and goes on to (x), (Why leave out the two letters, (y) and (z)?) Too much has been left to the rule-making power of the States. I feel that if it is going to be a central legislation, this power should vest in the ministry of Labour and Employment and it should not be left to the tender mercies of the State Governments. The State Governments have given a poor account of themselves so far as this kind of legislation is concerned. Except the Madras State perhaps, what has Kerala or Mysore or Orissa done? They have not taken note of this problem.

Shri D. N. Tiwary (Gopalganj): What has Punjab done?

Shri D. C. Sharma: There is no bidi worker in Punjab. I may tell you that if some Biharis go there as bidi workers, we will drive them out because Punjab State is going to be a state mostly of non-smokers. I submit that the rules that are made should be made operative in all the States because these rules are going to provide for most of the things. With these words, I welcome the Bill and I hope that the problems I have referred to will be considered.

Shri Warrior (Trichur): Although very late, at least now the Government has come forward with this Bill and so I welcome this Bill. The sole aim of legislation for this sector, namely, bidi and cigarette workers, should be to organise them more and more progressively. This industry is the most unorganised, though it gives employment to millions of workers. The Minister said that the workers were about to be classified into four sections. But actually it is not so. Every factory has its own way of doing things. For instance, I am told that every household in Tinnevely district in Tamilnad is a bidi workshop. They never come under the

purview of the legislation at all. They can disorganise the industry more and more to avoid and evade all legislation that go to help the workers. That must not be so. The more the industry is organised in factory pattern, the more benefit could be given to the workers. Another aspect is that these workers are not registered or employed in such a way that they could claim any benefits of any labour legislation. For instance, the ordinary bidi worker should have the benefit of bonus. They must be under some employer who is responsible to give them the bonus. I came across a judgment of the Allahabad High Court which said that the contractor was liable to give bonus to the people. Contractors wash off their hands when it is a question of giving any benefit to the workers; so do the owners of the factories as they will say that the workers are not their employees but the employees of the intermediaries, the contractors.

Another problem of this industry is the migratory nature of it. If there is no uniform rate in a particular region, this industry has a tendency to migrate from one place to another. When the workers at one place are more organised and begin to demand their rights and privileges in a collective way, the employers take recourse to this method of shifting the industry to Mysore or Madras State. If there is a uniform rate of wages, this would not happen.

Not only that. The *kendu* leaf is very essential for this industry and it is almost a monopoly. Tobacco also is controlled by the Government. So, the raw materials for this industry are actually in the hands of the Government and so it should regulate the industry in such a way that the exploitation of the workers can be ended as soon as possible. But that is not done.

I have come across a report of the Royal Commission in 1931. Again in 1946, we had the famous Rege report.

Has the Government examined the findings of this committee in relation to the present state of affairs in the industry? If it had been so, it would have brought forward a better Bill giving more benefits to the workers. It is time the workers and industry are not left to the whims and fancies of the State Governments. We want to unify the industry more and more and organise it properly and also to give benefits to the workers in a uniform way so that many of the evils and tricks adopted by the manufacturers and employers would not be there. For instance, those sections of our society which are the weakest, children and women, who could not enforce collective bargaining are the most exploited. They say that, they are providing employment to women and children. But what do we find when we go behind, what they say? We want the industry to be more organised. Ways and means must be found to curb the possibility of exploitation of women and children below the age of employment and to enable the workers to get more of benefits from the central labour legislation.

Unemployment is one of the staring crises for these workers. Whenever the manufacturers think that they must reduce production to have an impact on the market price, there is unemployment among them. When this is resorted to, there should be some provision for their maintenance. Even the Rege committee had recommended in 1946 on different aspects of benefits for this poor section of the workers. But it is not done anywhere. They are left to their own fate and the workers do not get any benefit out of that.

I have to make only one more suggestion, and that is, the State Governments, as Shri Sharma was saying, should not be given the option to make the rules and implement the legislation. We have some instances; in the Motor Vehicles Act, we had the same experience. It is left to the States, and the States never implement the measures. It should not be

[Shri Warior]

the attitude of the Central Government that they have done whatever they could do and that the rest could be left to the whims and fancies of the State Governments. It must be a principle: as far as labour is concerned, which is an all-India affair and not a particular State's affair, and whenever a labour legislation like this is concerned, I think it is a concurrent subject and it can be done, and that is, the Central legislation must have a provision for the Central legislative body—Parliament—itself to scrutinise whether the rules and regulations made under the legislation are placed on the Table of the House. It only means that we pass the legislation and it must be our responsibility, the responsibility of this House, to see whether proper rules and regulations are made and also whether they are implemented in time. When the legislation regarding the motor vehicle workers was passed, it was understood that every worker could get the benefit out of that measure. But I should like the Minister to let us know how many motor workers in this country under private ownership are actually having the benefit of that legislation. Not many. The State legislatures and the State Governments are not willing to implement the measure; the rules are made much later, so many years after passing the legislation, and they are not implemented properly. The Governments are not in a mood to press upon the employers to get them implemented. This is the position.

In this legislation, the same thing would be repeated. I am quite sure about it; it is left to the States. You can see that for years together the rules will not be forthcoming and even after the rules are framed, the measure will not be implemented soon. So, what is the use of coming forward with a legislation? The Central Government must not leave it to the tender mercies of the State Governments. I think this aspect of

the question must be gone into more thoroughly and the Union Ministry of Labour must come forward with a provision for rule-making powers to be taken by the Central and placing a copy of the rules on the Table of the House, so that this Parliament will at least have the satisfaction of seeing that proper rules are made and a proper date is fixed for the coming into force of this legislation simultaneously and for simultaneous implementation throughout India.

Shri K. N. Pande (Hata): Mr. Deputy-Speaker, Sir, I heartily welcome this Bill. I know the history of the beedi workers for long and the circumstances through which they have to pass at different stages. The complaint first came from the beedi workers in Madhya Pradesh. There are several types of employees among the beedi workers. When the State Government had to make an Act, it was managed by the employees actually to apply it in such a way that instead of getting the beedi manufactured by supplying raw material at one place, they distributed the material to so many people simply to avoid the Factories Act and to earn more profits. This is not the state of affairs in one State. This is the condition in several States. Therefore, there was a proposal from so many States that there should be a Central legislation on this issue, so that all the employees in all the States may get equal benefits. Therefore, the Central Government, with this point in view, has brought this Bill before the House.

In some places, this Bill could fulfil the purpose for which it has been brought, but in some cases I feel a doubt whether it is really going to serve the purpose of providing the benefit to the workers. It is not the Factories Act which will safeguard the interests of the workers. There is one very important Act which has also to be taken

into consideration, and that is, the Standing Orders Act. The standing orders here will apply to cases where the factory employs 250 workers or more and premises employing 50 workers. So there is room to play a game with the workers. Although the employers may employ more than 50 workers, they will never show in the register that there are 50 workers and some of the workers will remain as temporary workers, or they will keep a different register for them, so that the number prescribed, namely, 50, will not be obtained and thus these people will not get the benefit of the Standing Orders Act. I hope the Government will take this fact into consideration, because it is not the earned leave under the Factories Act which is alone needed by the factory workers; in a factory like this, the nature in which the workers have to do their job is such that they will fall sick and it is not seldom. Therefore, there should be some Act to protect their interests so that they may get sick leave. Unless the Standing Orders Act applies to them, the workers will not be able to get sick leave; they will not be entitled to it. Similarly, there is the question of casual leave. In my opinion, therefore, the number of workers mentioned above should be less; it must be something like 25 or below 50. Below 50 will serve the purpose because that may even go to 20.

Shri D. C. Sharma has pointed out that no worker who is less than 15 years of age should be allowed to work in a factory. But there are several types of employees and work. In this case age has no consideration. They have to work in their own houses through a contractor. There also, under a contractor, there will be workers who are 15 years of age or less than that. I think they should not be debarred from working.

We have seen in this Bill that there are certain types of people who take material from the employers or the

contractors and manufacture beedi at their homes. If the argument of Shri Sharma is taken into consideration, naturally these people also will be debarred. So, the age should not be a consideration here, because beedi is not such a commodity which cannot be manufactured by these young people. The question arises about these people who have to get raw material from the employers or the contractors and for the manufacture of the beedis at their homes. Precaution has to be taken so that such people may get proper payment and there is no age consideration in this regard. They will be getting wages on the basis of production. There is also a provision of checks on some quality or the other. They will reject certain portions of the beedis. Therefore, the income of the worker who is expected to earn something will be reduced. Here, the precaution has to be taken. Those workers who manufacture beedis at their homes taking the raw material from the contractor or the employer, should get proper payment on the basis of piece-rate.

An hon. Member: How could it be protected?

Shri K. N. Pande: There is Industrial Disputes Act. If there is a dispute, that will be decided, and the rate will be fixed, because these people are earning much more than the minimum wages fixed by the State Governments. So, there is no question of giving them a minimum wage.

I am talking about big factories employing more than 250 or premises at least 50 workers. The place where the beedi is manufactured is not so clean. In a factory, it is possible sometimes to extend the working hours from 8 to 9. But in such an unhealthy place, it will be very difficult to work for 9 hours and it is likely that the workers may fall sick. Therefore, the number of hours should be confined to 8 only. There is a provision in the Factories Act that they should work for 48

[Shri K. N. Pande]

hours in a week and this is for six days. They have to work for 8 hours per day. But if they work for 9 hours for 5 days, then on the sixth day they have to work only for 3 hours. I know this provision is simply for calculation of overtime. But it is not applied only for that purpose. It becomes a regular practice in the factories. The workers should be saved from this.

I am very happy that there is a provision that the Standing Orders Act will apply to all factories or premises which employ 250 or 50 workers. The Government has to see that it actually does apply. Merely making a provision will not help. If it is applied, there will be some benefit to the workers and some regulation of employment also—how they will be recruited, how they will be made temporary or permanent and so on. There is a provision that after 6 months, they can be discharged by giving one month's notice or if they are dismissed on a charge of misconduct, even one month's wages need not be paid. But all this comes within the scope of the Standing Orders Act. Instead of giving these details here, it would have been better if the Standing Orders Act had been applied in all the cases where the number of workers in a factory was 250 or in a premises more than 50.

Shri A. K. Gopalan: Sir, there has been so much delay in introducing this Bill and the Bill as it stands today has got so many loopholes which will, instead of giving some relief to the workers, give some more distress to the workers. In spite of this, I am glad that the Government has come forward with this Bill. In the second Lok Sabha, a non-official Bill was introduced by me and some others. The then Labour Minister had given an assurance that the Government would itself introduce a Bill and so we withdrew our

Bill. After so many years, only now the Government have come forward with this Bill. There had to be so much persuasion even in the last session and at last the Bill has come.

There are lakhs of youngmen working in this industry. Most of them are not highly educated. I am sorry the Government has not cared this section of the workers. I do not want to say anything about their condition because Mr. Sharma has already explained about the unhygienic conditions under which they are working. They have to sit from morning till evening to get at least about Rs. 1½ per day. I think if this Bill as it stands is passed without the loopholes being removed, certainly it will not benefit the workers. There is a provision that the State Government has to decide whether to implement this Act in that particular State or not. What is the use passing a Bill by Parliament and saying it is left to the State Government to implement it or not? It is better not to pass such a Bill. When a Bill is passed by the Centre it means it must apply to all the States. Otherwise even in those States where the Act is implemented the workers will not get the benefit. For instance, Madars Beedi Industrial Premises Act was passed in 1958. Immediately all the factories were taken to the neighbouring Andhra State. In Kerala some legislation was passed about beedi and cigar workers, but all the factories were taken to Bangalore or Mysore. So, even the workers in Madras and Kerala where the legislation was passed, could not get the benefit. I want to ask the Minister why this clause is there giving the right to the State Governments. When that non-official Bill was discussed, the then Labour Minister, Mr. Hathi, said that a zonal thing will be formed. I submit that there is no use in passing a Bill like this unless it is implemented in all the States. Otherwise, even in that State where it is implemented, the workers

will not get the benefit. This clause should be removed and if it is passed, it will be only cheating and betraying the workers.

Then I come to contract labour. The Government is thinking of abolishing the contract system. They have agreed that in principle the system is bad. This system must first be abolished in the beedi industry. Otherwise, the exploitation and perpetuation of this unsocial system will continue in the industry. Instead of one employer exploiting the workers, he gives the contract to somebody and that contractor employs 8 or 9 people under him, paying them whatever he likes and making them work at any place he likes. When this Bill was introduced in the Rajya Sabha, knowing that this Bill will be passed, in many places in Kerala where there were factories, they tried to avoid it by having the contract system or out-door system. Out-door system means there is no question of implementation of minimum wage or any labour legislation, because it is an individual who is made to work in the house. As soon as the Bill is passed, big factories can say, the factory is closed and they can have some contractors or have out-door work. We have given amendments in this regard also.

This system of collecting and buying products must also be stopped. Under this system, the factory employer is there, but there are no workers in his factory. The factory is abolished. He has 3, 4 or 15 agents who take the leaves from him. The agent has got some people and he makes them work. Nobody knows anything about the wages he pays. So, as long as the contract system as well as the out-door system are there, there is no use in passing this legislation. There are certain factories where implementation of labour legislation is there. The moment this legislation is passed, it will lead to more exploitation of the workers. There are three loopholes which make this Bill an instrument for more exploitation of the workers. Firstly, you are giving the power to the State to implement or

not to, implement it. Secondly, even if it is implemented, there is the contract system and you do not want to destroy the contract system. Thirdly, out-door work is allowed. The factory owners, sitting in their own places, saying that they have no factory, will see that the work is spread over the whole place and they will not care to look after the condition of the workers. Those who are working in factories today will also become workers in houses. They will have no benefit from the labour legislations that we pass here.

Therefore, I would request the hon. Minister to see, if the object of the Bill is to give relief to the lakhs of beedi and cigar workers in the country, certainly that these three loopholes are removed. If these three things are there, certainly, not only their object will not be fulfilled but, on the other hand, it will lead to more exploitation of the workers. It will only help the employers to exploit the workers. Do you want that more exploitation of the workers should be there or do you want to give some relief to the worker? Do you want to see that the factories that are there are closed down because of this legislation or do you want to see that even those people, in groups of eight or ten, under the contract system are brought under this legislation so that they may also get some relief? I would request the hon. Minister to consider these points and see that the amendments we have tabled are accepted.

श्री हुकम चन्द कछवाय : उपाध्यक्ष महोदय, मैं इस सम्बन्ध में कुछ कहूँ इसके पहले आप से निवेदन करूँगा कि कोई भी कैबिनेट मंत्री यहाँ उपस्थित नहीं है। उन्हें बुलाया जाय मेरे बोलने से पहले तो ज्यादा अच्छा होगा। यह बोड़ी विधेयक जो हमारे सामने विचार के लिए आया है...

Shri Narendra Singh Mahida (Anand): Sir, there is no quorum in the House.

Mr. Deputy-Speaker: The hon. Member may resume his seat. The Bell is being rung.

There is quorum now. The hon. Member, Shri Hukam Chand Kachhavaia, may continue his speech.

श्री हुकम चन्द कछवाय : उपाध्यक्ष महोदय, मैं कह रहा था कि यह जो विधेयक आया हमारे सामने विचार करने के लिए यह वास्तव में आज से 18 साल पहले आना था। पता नहीं सरकार की आंखें क्यों बन्द रहीं इन बीड़ी मजदूरों की ओर। या तो सरकार यह मानकर चलती है कि बीड़ी मजदूर एक बिलकुल कम अकल लोग हैं या भारत की आबादी में इनकी कोई संख्या नहीं है, या फिर बीड़ी बनाना पाप है और इनसे पापों का बदला लिया जा रहा है, या कोई ऐसा दोष किया है इन्होंने जिसके कारण इन की ओर सरकार की निगाह नहीं गई। आज बीड़ी के क्षेत्र में भ्रष्टाचार लूट और बेईमानी इतनी ज्यादा मची हुई है कि जिसके कारण बीड़ी मजदूर बहुत परेशान हैं। मैं यह इसलिए कह रहा हूँ कि मेरा सारा परिवार, मेरी जाति, मेरी काम बिलकुल इस बीड़ी के काम में संलग्न है और काफी मेहनत के साथ परिश्रम करती है, उनकी कठिनाई क्या है, इसे मैं अच्छी तरह जानता हूँ। मैं यह कहना चाहता हूँ कि मध्य प्रदेश के अन्दर बीड़ी मजदूर और बीड़ी व्यापारी इन दोनों में कितना अन्तर है? आज मध्य प्रदेश शासन के अन्दर एक मंत्री बैठे हुए हैं, परमानन्द भाई पटेल, यह इतने बड़े पूजोपति हैं कि सारा मध्य प्रदेश का बीड़ी का उद्योग इनके स्वयं के हाथ में है और यह मध्य प्रदेश के अन्दर मंत्री बने बैठे हैं। बीड़ी कानून के बारे में जो मारी लाइन हिलायी जाती है, वह बिना उनसे पूछे नहीं हिलायी जाती और किसी प्रकार से भी उनका जितना दमन होता है वह उनके इशारे से होता है। मध्य प्रदेश शासन इस प्रकार उनके हाथों में बिका हुआ है। पूजोपतियों के हाथों में बिका हुआ

है। मैं उसका जिक्र इस समय करना नहीं चाहता। लेकिन आज बड़ी ही दर्दनाक घटनाएं उनके साथ होती हैं। इस में तीन हिस्से हैं—मालिक जो ठेकेदार को माल बनाने को देता है और ठेकेदार मजदूरों को भेजता है। दाम जो उसके तय हैं वह इस प्रकार हैं—मालिक जो ठेकेदार को देता है वह 1 रुपया 56 पैसे हजार के हिसाब से देता है और ठेकेदार से मालिक साइन करवाता है 1 रुपया 62 पैसे पर कि 1 रुपये 62 पैसे हजार का भुगतान किया। ठेकेदार मजदूरों के बीच में जा कर उनसे 1 रुपया 50 पैसे पर साइन करवाता है और देता है 1 रुपया 40 पैसे। यह बीच में दस-दस, बारह-बारह पैसे की लूट होती है और यह दोनों के बीच में बंट जाता है।

फिर जब मजदूर बीड़ी बनाते हैं तो उसके बाद छटनी होती है। उसमें इतनी बीड़ी छांट दी जाती है कि मान लो एक सप्ताह में 12 रुपये की बीड़ी बनायी तो उसमें से आधे के करीब बीड़ी छांट दी जाती है और मजदूर को 6 रुपये मजदूरी के पहुंचते हैं। लेकिन क्या सरकार का ध्यान इस ओर गया? क्या वह जो छांटी हुई बीड़ी है उसे फेंक दिया जाता है या रद्दी की टोकरी में डाल दिया जाता है? नहीं, उस बीड़ी को अच्छी बीड़ी के रूप में ही बेचा जाता है। उन्हीं दामों में बेचा जाता है जिसमें अच्छी बीड़ी बेची जाती है। यह इस प्रकार की घूसखोरी और बेईमानी है। क्या सरकार ने इस बात पर विचार किया कि इसकी छानबीन की जाय?

पत्ते तोड़ने का जो काम है, हमारी मध्य प्रदेश की सरकार ने पत्ते तोड़ने का राष्ट्रीयकरण किया। लेकिन उसमें किस तरह की धांधली की जाती है कि एक मजदूर इसी प्रकार जब हजार पत्ते तोड़ता है तो उसमें भी छंटनी होती है। खराब पत्ते अलग छांटे जाते हैं। लेकिन उस के दाम नहीं दिये जाते? क्या खराब पत्ते तोड़ने का जब आदेश दिया जाता है तो क्या उस में उसकी

मजदूरी नहीं लगती, खराब पत्ते तोड़ने में उसको श्रम नहीं करना पड़ता ? हमारा कहना है कि खराब पत्ते निकलते हैं तो उसके भी दाम दिये जाने चाहिए चाहे वह कम क्यों न हो ? लेकिन दिये जरूर जावें । ऐसा न हो कि न दिये जाय । इसके अलावा उन्हीं खराब पत्तों को अच्छे पत्तों की गड़ियों के अन्दर उन्हीं दिया जाता है बीड़ी बनाने के लिए और वह जब बीड़ी बनाने के लिए ले जाते हैं तो जब वह कम पड़ जाता है तो उसका मूल्य भी बीड़ी बनाने वाले श्रमिक से ही काट लिया जाता है । जितनी तम्बाकू बी जाती है, या जितने पत्ते दिये जाते हैं, उसमें भी छंट जाते हैं, तो उसका दाम बीड़ी मजदूरों से काटा जाता है और कहा जाता है कि यह पत्ते तुम ने खराब किये हैं, तुम्हारा दाम काटा जायेगा । ऐसे अनेक घोटाले मैंने देखे हैं । हमारी सरकार की आंख बहुत दिन के बाद खुल रही है । मैं समझता हूँ कि सरकार, मैं जो कह रहा हूँ उसका पूरा ध्यान रखेगी ।

इसके अलावा हम ने देखा कि जब बीड़ी छांटी जाती है तो उसके ऊपर सरकार की ओर से कितना गौर किया जाता है, मैं इसके बारे में कहना नहीं चाहता । मैं पहले ही कह चुका हूँ कि मध्य प्रदेश शासन में ऐसे मंत्री बैठे हुए हैं, जो कुछ होने ही नहीं देते । उन मजदूरों को बीड़ी बनाने के लिये जो धागा दिया जाता है, मालिक की ओर से तो उन्हीं दामों पर दिया जाता है, जिन दामों पर बाजार में मिलता है, लेकिन हमारे जो बीच के ठेकेदार भाई हैं, वे किस प्रकार की धांधली करते हैं कि उस धागे की लच्छी को 20 पैसे में देते हैं जबकि उसका बाजार मूल्य 10 पैसे है ।

14 hrs.

अभी हमारे एक मित्र कह रहे थे, कि 18 साल से कम उम्र के बच्चों को इस काम पर नहीं लगाना चाहिये, लेकिन दुर्भाग्य है कि 10-10 साल के बच्चों को इस काम को करना पड़ रहा है । जिले के जिले भरे हुए

हैं, खाना नहीं मिलता । मेरे बहुत से ररिपेदार हैं, जिनको मैं जानता हूँ, जो 24 घंटे में 18-18 और 20-20 घंटे काम करते हैं, सिर्फ चार घंटे सो पाते हैं, उनको मजबूर हो कर इतना काम करना पड़ता है, क्योंकि उसके बिना उनका गुजारा नहीं होता । हमारे शर्मा जी कहते हैं कि 18 वर्ष से कम उम्र को यह काम नहीं करना चाहिये, ठीक है, लेकिन ऐसा उनको कहने से पहले उनको रोजगार दीजिये, बेरोजगारी के कारण उनको ऐसा करना पड़ता है ।

इन ठेकेदारों की बेईमानी का एक और उदाहरण देता हूँ । एक किलो तम्बाकू एक हजार बीड़ियों के लिये मिलती है, लेकिन ये ठेकेदार केवल ₹25 ग्राम तम्बाकू उनको देते हैं और 375 ग्राम खुद बचा लेते हैं । इस से आप अन्दाजा लगा लीजिये कि जो बीच के दलाल हैं, वे कितना खाते हैं । मैं इसके एक नहीं अनेकों प्रमाण दे सकता हूँ, लेकिन मुझे दुख है कि इस ओर सरकार का ध्यान नहीं जाता है । यह बात बिलकुल स्पष्ट है कि जब कम पत्ती मिलेगी तो बीड़ी ठीक नहीं बनेगी, जब बीड़ी ठीक नहीं बनेगी तो उसमें बहुत ज्यादा छंट दी जायेगी, इस तरह से उसको पूरा पैसा नहीं मिल सकता है । इस तरह से ये ठेकेदार और मालिक मिल कर काफ़ी पैसा कमाते हैं ।

इसके अलावा मैंने यह भी देखा कि यदि कोई बीड़ी मजदूर को किसी प्रकार की शिकायत है और वह मालिक के पास जाकर कहता है कि मेरी यह शिकायत है, मैं इस तकलीफ़ का मरीज हूँ, मुझे यह दुख है, आप मेरे दुख को हल कीजिये, तो वह व्यापारी जवाब देता है कि हम ने तुम से बीड़ी नहीं बनवाई है, तुम्हारा हमारा कोई सम्बन्ध नहीं है, हम ने ठेकेदार से बीड़ी बनवाई है, हम उसको जानते हैं, इस प्रकार का उसको जवाब दे दिया जाता है और वह बेचारा निराश हो कर लौट आता है । इसी तरह से जब उसे रेट कम मिलता है या कोई और दिक्कत होती है और वह ठेकेदार से

[श्री हुकम चन्द कछवाय]

कहता है, तो ठेकेदार की तरफ से उसको धीस दी जाती है कि तुम्हारा घन्धा बन्द कर दिया जायेगा। यह एक ऐसी रामबाण दवा है—घन्धा बन्द—इस के आगे तमाम मजदूरों को झुकना पड़ता है। आज इस महंगाई के जमाने में उनको बीड़ी बनाने का क्या मिलता है—एक रुपया छः आना हजार या एक रुपया आठ आना हजार। यदि आप और गहराई में जायेंगे, देहातों के अन्दर जायेंगे, पिछड़े इलाकों में जायेंगे, तो हर पांच भील पर यह रेट और कम होता चला जाता है। यह दशा आज हमारे देश की, हमारे बीड़ी मजदूरों की है। मैं चाहता हूँ कि सरकार इस ओर विशेष ध्यान दे।

एक बात मैं और कहना चाहता हूँ। हमारा जो मेल्टल एम्पाइज विभाग खुना हुआ है, उनके रेटों की बाबत मत पूछिये। उन्होंने साल में तीन रुपया टैक्स बीड़ी बनाने वालों पर लगा दिया है, मैं जानना चाहता हूँ कि यह टैक्स उन पर क्यों लगाया गया है। आप मालिकों पर टैक्स क्यों नहीं लगाते, जो गरीब मजदूर बीड़ी बनाते हैं, उनका टैक्स भरने से क्या सम्बन्ध है। आप ने ठेकेदार पर 25 रु० और बीड़ी मालिक पर 200 रु० टैक्स लगाया है, आप मालिकों पर टैक्स क्यों नहीं बढ़ाते। आपके टैक्स वसूल करने की भी एक घटना मैं सुनाना चाहता हूँ। ऐसे ही एक व्यक्ति को टैक्स देना था, सिहीरा जिले में पिपरिया गांव है, वहां की यह घटना सुना रहा हूँ। इस सरकार ने उसके घर कुड़की ले जाकर उसके बरतन तथा अन्य घरेलू सामान नीलाम करवा दिया, इस सरकार के लिये यह कितने शर्म की बात है। यह कोई तरीका है कि इस तरह सरकार कुड़की ले जाकर उस गरीब के घर के जीवनोपयोगी सामान को नीलाम करवा देती है। एक छोटी सी बात पर, उसने तीन साल का टैक्स नहीं दिया था, वह कहाँ से टैक्स दे, उसको खाने तक को तो नसीब नहीं होता है। ऐसी एक नहीं अनेकों

घटनायें हैं, लेकिन जो बीड़ी मालिक हैं, जरा देखिये कि वह बीड़ी किस भाव से बेचते हैं और उस पर उनको कितना खर्च करना पड़ता है। यह बताया जाता है बीड़ियां 5 रु० 6 आने हजार या साढ़े पांच रुपये हजार पर बेची जाती हैं, जब कि उसका खर्च कितना आता है—पत्ते पर 12 आने, तम्बाकू और मजदूरों पर 3 रुपये, पैकिंग पर 6 आने इस प्रकार सब मिलाकर करीब 4 रु० 6 आने या साढ़े चार रुपये खर्च आता है, इस प्रकार वह एक रुपया हजार बीच में मुनाफा कमाता है। मैं पूछना चाहता हूँ कि क्या सरकार ने इस बात की खोज की है कि इस प्रकार के जो घोटाले होते हैं, इस प्रकार की जो कमाई होती है, उसके बारे में कोई जांच की जाय।

मैं अब अपना अन्तिम सुझाव रखने के बाद भाषण समाप्त करूंगा। सब से पहले तो मैं यह मांग करता हूँ कि पत्तों का जो राष्ट्रीयकरण किया गया है, वह समाप्त किया जाय, इसके साथ बीड़ी बनाने वालों के लिये जो कानून बनाया गया है, उसमें कुछ ढील दी जावे ताकि उन्हें राहत मिल सके, खास तौर से छोटी पूंजी वालों को राहत दी जानी चाहिये। फैक्टरियों में जो गडबड घुटाले होते हैं, उनकी छानबीन की जावे। कारीगरों को स्थायी मजदूर माना जावे, इसके अलावा व्यापारियों का शासन से सम्बन्ध तोड़ा जावे। एक सुझाव और बाकी है। जनपद द्वारा जो मध्य प्रदेश में टैक्स लगाये गये हैं, वह टैक्स समाप्त किया जाय। मैं समझता हूँ कि सरकार मेरे इन सुझावों पर ध्यान देकर तुरन्त राहत दिलायेगी।

Shri Narendra Singh Mahida: Mr. Deputy-Speaker, Sir, this is a beneficial piece of legislation which affects my constituency and, therefore, I welcome it. The beedi industry dates its origin to the 17th century in India when tobacco was brought from South America. In fact, the smoking habit

can be traced to Indian mythology. But the regular smoking habit came to India along with the Portuguese and today we find that it has spread throughout the world. In Ayurveda it was mentioned many thousands of years ago that by smoking the leaves of certain plants the *vayu* in the body can be removed. That is mentioned in the mythology also.

This is the only cottage industry spread in rural India which gives cash emoluments to the rural population in off season to augment their family incomes. Weaker sections of the society, old and infirm, females and *purda* ladies earn their income from the beedi industry. Beedi industry is one of the cottage industries which requires no machinery, power, water, foreign exchange, technical know-how or skilled labour. This is an indigenous industry.

The working conditions prevailing in the beedi establishments are far from satisfactory. The trade is in the hands of moneyed people who treat the workers with contempt. I shall give some instances to substantiate my statement.

I personally feel that the standard of living of the workers engaged in the beedi industry should be improved. The employers in the beedi industry adopt many ways to escape the provisions of the Factories Act. The labour is unorganised and is not able to safeguard or protect its interests.

I shall now relate one or two instances to show how badly the workers are treated. The female workers in the smaller factories are called at unearthly hours like 10 or 12 O'Clock in the night and molested. I would earnestly request the hon. Minister to ensure that this sort of thing is stopped in our country.

One or two State Governments have passed legislation to regulate the conditions of these workers. But they are unable to enforce the law owing to the fact that the industry is highly

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mobile and tends to move to an area where no such restrictive law prevails. For example they have moved from Gujarat, where there is such a law, to Madhya Pradesh and Orissa. It became necessary, therefore, to have Central legislation on the subject.

I welcome clauses 24 and 25 particularly which refer to prohibition of employment of children and prohibition of employment of women or young persons during certain hours. This is the first time that un-organised and poor beedi workers will get statutory protection by this Act.

Clause 42 of the Bill empowers the State Governments to give exemptions. This is a very damaging provision in the Bill. If the employers are allowed to do so, it is just possible that the employers will try to take undue advantage of this provision by shifting and removing the factories in the States where the provisions of this Bill are not enforced. It will create unemployment and other complications. Therefore, I request that this clause 42 be deleted from the Bill.

Sub-clause (3) of clause 29 of the Bill provides that no process connected with making beedi or cigar shall be carried outside industrial premises. But it is learnt, that if the employer distributes work in private dwelling house which is known as *Ghar Khep* work, those workers are to be exempted from the provisions of the Bill. I oppose it.

As stated in the aims and objects of the Bill, the special feature of the industry is that by manufacturing beedi through contractors and distributing work in private dwelling houses and splitting concerns in smaller units, the employers want to escape from the responsibility. As this provision of clause 29 is made against such escape of the employer, it should not be deleted.

I propose that the working hours, including the spread over period, should be 11 hours. I also propose that before the worker is given leave

[Shri Narendra Singh Mahida]

with wages he should be given advance pay for that period. There must be provision for provident fund also in the Bill.

About 10 per cent workers in this country are suffering from TB. This is an occupational disease in this industry. Provision should be made in the Workmen's Compensation Act to declare it as an occupational disease and free medical treatment should be given to every worker who is suffering from TB. Their fingers are also affected by this.

In clause 39, sub-clause (3), there is a provision for preferring an appeal against the order of the authority. This provision is likely to delay the dispute and the worker will be deprived of the benefits. So, the summary decision should be made final.

I request the hon. Minister to explore the possibility of export of Indian bidis to other markets. It has been found that several Americans and Europeans have found our bidi of great taste and I have seen Americans with bidis in golden and silver cigarette cases. They probably believe that cancer is prevented by smoking bidis.

A research centre is necessary in this industry. It can certainly devote its energy and attention for the promotion and development of such measures as are conducive to the progress of this industry.

A few years back when the working of a bidi-making machine was successfully exhibited in the Kalyan Session of the Indian National Congress, the Government lost no time in imposing heavy additional Central excise duty on machine-made bidis in order to discourage mechanisation of manufacture which would have thrown huge number of bidi rollers out of employment. I request the Government that they should consider this and see that in future not only bidis but hand-made cigarettes also are encouraged.

श्री व० शि० पाटिल (यवतमाल) :

उपस्थित महोदय, बीड़ी और सिगार संस्था-

पनों में कामियों के कल्याण और उन के कार्य की शर्तों को विनियमित करने वाले और उससे सम्बन्धित विषयों के लिये उपबन्ध करने वाले इस विधेयक का मैं स्वागत करता हूँ। हमारे देश में जो अनभारगेनाइज्ड और गरीब बीड़ी वर्कर्स हैं उन की बहुत दिनों की मांग थी कि उनके कल्याण के लिए एक ऐसा कानून बनाया जाये जिससे उनकी स्थिति में सुधार हो। बड़े उद्योग में बच्चे, औरतें और आदम सब लोग काम करते हैं और वह अधिकतर बीड़ी कारखानों और तम्बाकू से भरे हुए छोटे छोटे तारीक कमरों में काम करते हैं। इसलिये इस बिल में उनके कल्याण के लिये जो सुविधायें दी गई हैं वह बहुत अच्छी हैं।

इस उद्योग में काम का जो आज का सिस्टम है उसमें ज्यादातर फैंक्ट्री सिस्टम भाफ वर्क है इसलिये उसमें काम करने वाले कर्मचारियों को तो इसका फायदा मिलेगा ही लेकिन जो होम वर्क सिस्टम है, कट्रेक्ट सिस्टम है, सेल और पचेज सिस्टम है या सेल्फ एम्प्लायड वर्कर्स सिस्टम है, सब पर यह कानून लागू होगा और उनमें काम करने वाले सभी लोगों को इसकी सुविधायें मिलेंगी। जो कट्रेक्ट सिस्टम है उस पर भी इस बिल को लागू किया गया है यह बहुत अच्छा है क्योंकि इसके अनुसार एम्प्लायर कर्मचारियों के लिये स्वच्छता, प्रति बीड़ को रोकने, पीने के पानी, शौचालय, धोने के साबुन तथा प्राथमिक चिकित्सा का प्रबन्ध करेगा। इसके अलावा इसमें और भी बहुत सी चीजें दी गई हैं जो कि कर्मचारियों के लिये अच्छी हैं। पहले ऐसा था कि मद्रास में और दूसरी स्टेट्स में लेजिस्लेशन तो थे लेकिन उनका इम्प्लेमेंटेशन नहीं होता था। इसलिये इस क्षेत्र में भी फैंक्ट्री ऐक्ट, इंडस्ट्रियल डिस्प्युट्स ऐक्ट, इंडस्ट्रियल एम्प्लायमेंट स्टैंडिंग आर्डर, मेटानिटी बेनिफिट ऐक्ट आदि को लागू करने का प्रयत्न किया गया है। यह भी बहुत अच्छा

है कि इसमें कर्मचारियों को साप्ताहिक छट्टियाँ देने का भी प्रबन्ध किया गया है, मजदूरी सहित वार्षिक छुट्टी देने का भी प्रबन्ध है।

लेकिन इतना सब होने के बाद भी ऐसा लगता है कि इसमें जो सेक्शन 29 है उसका एम्प्लायी द्वारा लाभ उठाया जा सकता है। इस सेक्शन के अनुसार औरतों को बीड़ी की पत्तियाँ और तम्बाकू को घर ले जाकर काटने की सुविधाये दी गई हैं उसकी सुविधा का फायदा उठा कर नियोजक को चीजें पहले से होती रही हैं वही करते रहेंगे। इसलिये जरूरी है कि इस सेक्शन 29 का सुधार किया जाये।

इस विधेयक में समरी डिस्मिशन का भी प्रबन्ध किया गया है। यह कर्मचारियों के लिये बड़ा अच्छा है क्योंकि अपनी गरीबी के कारण कर्मचारी अपनी छुट्टी में नहीं जा सकते और समरी डिस्मिशन का फायदा वह उठा सकते। इस विधेयक में राज्य सरकारों को कुछ औद्योगिक प्रेमिसेज को छूट देने की शक्ति की बात कही गई है कि वह कह सकती है कि कुछ प्रतिष्ठानों के कर्मचारियों पर यह कानून लागू नहीं किया जायेगा। मेरा खयाल है कि ऐसी छूट नहीं देनी चाहिये।

इसमें एक और चीज दी है, जैसा कि अभी माननीय सदस्य ने बतलाया, कि स्वयम् नियोजित कामिक को इस उपबन्ध से मुक्त किया गया है। यह जो क्लोज दिया गया है इससे भी कर्मचारियों को बहुत कठिनाई आ जायेगी। जैसा अभी मिनिस्टर साहब ने बतलाया यह कानून मद्रास, केरल और मैसूर में था, लेकिन उसका इम्प्लिमेंटेशन ठीक नहीं हुआ। जहाँ पर यह कानून था वहाँ की इंडस्ट्री वाले दूसरी स्टेट में इंडस्ट्री को ले जाते थे और इसका नतीजा यह हुआ कि बीड़ी कर्मचारियों को लाभ नहीं हो पा रहा था। इसलिये सदरन जोनल कांसिल में प्रपोजल

था कि कोई सेंट्रल लैजिस्लेशन बनना चाहिये। लेकिन सेंट्रल लैजिस्लेशन बनने के बाद भी जो कारखाने होंगे उनके बारे में आपने क्लोज एक में स्टेट को एकट आरम्भ करने का अधिकार दिया है कि वह चाहे जिस विभाग में और चाहे जब कारखाने में कानून को लागू करे।

इसका नतीजा यह होगा कि स्टेट्स इसको लागू नहीं करेंगे या इसमें बहुत देरी करेंगी और यह कानून इसी तरह से बना रह जाएगा। आज पिछले 18 सालों में यह कई बार देखने में आया है। जहाँ बहुत कम मजदूरी मिलती है वहाँ उनको उचित मजदूरी दिलाने के लिये कोई कदम स्टेट्स की तरफ से नहीं उठाया गया है। इस वास्ते मैं कहूँगा कि स्टेट्स को पावर्ड नहीं दी जानी चाहिये। यह लैजिस्लेशन यहाँ से पास हो रहा है और सेंटर को ही इसे लागू करना चाहिये।

रूल मेकिंग पावर्ड स्टेट्स को दी गई है। यह कहा गया है कि जब रूल बनेंगे तभी यह कानून अमल में आयेगा। मैं कहूँगा कि यह जो पावर स्टेट्स को दी गई है यह नहीं दी जानी चाहिये। यह जिम्मेदारी सेंटर को लेनी चाहिये।

बीड़ी जो बनती है उसके लिए बनियादी चीज तैदू के पत्ते हैं। बीड़ी लीवज जो जमा करते हैं, वे जो लोग हैं, जो कर्मचारी लोग हैं, जो कांटेक्टर के लोग हैं उन कर्मचारियों का इस बिल से कोई सम्बन्ध नहीं रखा गया है। इसलिए मेरा यह सुझाव है कि ये जो बीड़ी लीव जमा करने वाले हैं जो देहात के लोग हैं उनका भी कहीं इस बिल में सम्बन्ध जोड़ा जाना चाहिये। आजकल हीटा यह है कि लीवज की कटौती करते वक्त सौ में से 25 को छांट दिया जाता है और जब छांट दिया जाता है तो जो छांटे गये लीव हैं उनको उन्हें वापस नहीं किया जाता है, उनको कांटेक्टर खुद ले लेता है। अगर ऐसा

[श्री दे० शि० पाटिल]

प्राविजन कर दिया जाए कि इन लीम्ब को जला दिया जाए, इनको नष्ट कर दिया जाए तो यह जो कांटेक्टर द्वारा इनको ले जाने की प्रथा है, इसका भ्रन्त हो सकता है। ऐसा ही अगर बीड़ी खराब है, पीने लायक नहीं है, बेचने के काबिल नहीं है तो जिस बीड़ी की छंटनी की जाती है वह बीड़ी कारखानेदार को नहीं दी जानी चाहिये, उसको नष्ट कर दिया जाना चाहिये, न यह कर्मचारी को मिले और न कारखानेदार को मिले। होता यह है कि उसको कारखानेदार ले जाते हैं और फायदा उठाते हैं।

इन शब्दों के साथ मैं इस बिल का समर्थन करता हूँ और आशा करता हूँ कि ये जो सुझाव मैंने दिये हैं, इन को मान लिया जाएगा।

श्री राम रेवक यादव (बाराबंकी) : उपाध्यक्ष महोदय, बीड़ी उद्योग में लगभग पचास लाख लोग लगे हुए हैं। यह कुल आबादी का एक प्रतिशत हिस्सा होता है। इस उद्योग में लगे हुए लोगों की दशा बहुत ही दयनीय और शोचनीय है। जैसा अभी कई माननीय सदस्यों ने कहा उनकी ओर सरकार का बहुत पहले ध्यान जाना चाहिये था और इस काम में बहुत विलम्ब हुआ है। फिर भी जो विधेयक प्रस्तुत किया गया है, मैं इसका स्वागत करता हूँ।

जो कानूनी खामियां हैं इसमें और जिन का लाभ मजदूरों के हितों के खिलाफ उठाय जा सकता है उनको मैं चाहता हूँ कि दूर कर दिया जाना चाहिये। इस पर माननीय मंत्री महोदय सोचें।

सभी धंधों में कुछ न कुछ जोखिम जरूर होती है और वह जोखिम होती है बीमारी की और मौत की। इस धंधे में भी इन दोनों में से एक जोखिम जरूर मौजूद है और वह बीमारी

की जोखिम है। तम्बाकू को लगातार सूंघते रहने से, उसके बीच में रहने से और पत्तियों के बीच में काम करने से जो एक प्रकार की गंध उठती है उससे जो इस उद्योग में लगे हुए लोग होते हैं अक्सर बीमार हो जाते हैं और उनको तपेदिक की बीमारी प्रायः हो जाया करती है। इस तरह भी आपका ध्यान जाना चाहिये था और इसके बारे में भी आपको कोई व्यवस्था करनी चाहिये थी। इस बीमारी से बचने के लिए कुछ उपाय किये जा सकते हैं जैसे सफाई वहां होनी चाहिये, लोगों का इस उद्योग में काम करने का समय नियत होना चाहिये और साथ-साथ उनकी दवा दारू की व्यवस्था होनी चाहिये। जब तक दवा की व्यवस्था नहीं होती है तब तक उनको इस बीमारी से बचाया नहीं जा सकता है। यह एक महत्वपूर्ण मामला है। मैं निवेदन करूंगा कि ऐसे उपाय काम में लाये जाने चाहिये और उनकी इस विधेयक में व्यवस्था की जानी चाहिये जिससे बीमारी की रोकथाम हो सके और जब वे बीमार हो भी जायें तो उनके इलाज का प्रबन्ध होना चाहिये। यह किस तरह से हो सकता है, सरकार की ओर से हो सकता है या उद्योग की तरफ से, यह दूसरी बात है। लेकिन इसकी व्यवस्था होनी जरूरी है। अगर आप बीड़ी उद्योग में लगे हुए मजदूरों की हालत को संवारना चाहते हैं तो इस ओर आपको अग्रथ ध्यान देना चाहिये।

बीड़ी मजदूरों की हालत को सुधारने के लिये कम से कम तनख्वाह का जिक्र किया गया है। अभी एक माननीय सदस्य ने बताया है कि बीड़ी मजदूरों को जो वेतन मिलता है दैनिक वह कानून की परिधि से ऊपर है। उनको जो व्यवस्था है उससे ज्यादा वेतन मिलता है। लेकिन मैं कहूंगा कि जो वेतन उनको इस समय मिल रहा है वह आज की महंगाई को देखते हुए, जीने लायक नहीं है, इस वेतन से उनकी जो जरूरतें हैं वे पूरी नहीं हो सकती हैं। इतना मात्र कह देने से कि मिनिमम वेजिब

रेषट लागू है, उससे उनको कम नहीं मिलता है, मैं समझता हूँ समस्या हल नहीं होती है।

बीड़ी उद्योग के बारे में मैं एक बात ब्राप से कहना चाहता हूँ। मैं आशा करता हूँ कि केंद्रीय सरकार इस ओर ध्यान देगी। इस उद्योग का विस्तार यदि हम कर सकें तो इससे हमारा सम्बन्ध विदेशों से भी जुड़ सकता है। आज आवश्यकता इस बात की है कि देखा जाए कि सिग्रेट में जो कागज इस्तेमाल होता है उसके मुकाबले में जो तेंदू के पत्ते बीड़ी के लिए उपयोग में लाये जाते हैं वे कागज के मुकाबले में कम हानिकारक हैं। लेकिन इसके लिए खोज की जरूरत है, इसके लिए जानकारी प्राप्त करने की जरूरत है, जरूरत इस बात की है कि डाक्टर लोग इस पर खोजबीन करें और खोजबीन के बाद जो परिणाम सामने आयें उनका प्रचार हो। जब यह चीज हो जायगी तो शायद विदेशों से बीड़ी का व्यापार बढ़ाया जा सकता है। लेकिन यह तभी होगा जब सरकार इस ओर ध्यान दे। इसमें जो कमियाँ हैं, जो सफाई बगैर रखने की जरूरत है उस ओर भी ध्यान देना होगा। यदि हम चाहते हैं कि विदेशों में हमारी बीड़ी जाए तो इधर भी आपकी ध्यान देना होगा और इसके लिए एक प्रयोगशाला बनानी होगी, डाक्टरों की व्यवस्था करनी होगी। यह उद्योग-घंघा इस देश के ग्रामीण उद्योगों में से सबसे बड़ा उद्योग-घंघा है। साथ ही साथ यह गांव का उद्योग है। यदि हमने जो बात मैंने अभी कही है उस ओर ध्यान दिया तो इसमें तम हो जाएगी मजदूरों को भी फायदा पहुंचाया जा सकता है और साथ साथ पूरे देश को भी फायदा हो सकता है।

यह भी कहा गया है कि कुछ बच्चों को और औरतों को काम पर भ्रगर लिया जाता है तो उनको रोका जाए क्योंकि एक खाम उम्र के बच्चों और खास स्थिति में औरतों को काम पर नहीं जाने दिया जाना चाहिये। मैं इस मिलमिने में इतना निवेदन करना चाहता

हूँ कि जहां तक इस सिद्धान्त का प्रश्न है, नीति का प्रश्न है इस सम्बन्ध में कोई दो रायें नहीं हो सकती हैं। कोई नहीं चाहेगा कि बच्चों को काम पर यहां लगाया जाए। सभी यह चाहेंगे कि बच्चों को अपनी यह समय पढ़ाई लिखाई में, दस्तकारी के काम में लगाना चाहिये। लेकिन ब्राप देखें कि आज वे अपनी रांटी कमाने के लिए इस काम को करते हैं। ब्राप देखें कि आज की देश की स्थिति क्या है। यहां के छोटे छोटे बच्चे बेकार हैं, बेरोजगार हैं, भूखे हैं। इसलिए वे काम करने पर मजबूर होते हैं। भ्रगर वे इस काम को न भी करना चाहें, उन्हें कोई इस काम पर न भी लगाये, तब भी वे काम करने के लिए मजबूर होते हैं और उनकी इस मजबूरी का नाजायज फायदा भी उठाया जाता है। उन्हें दूसरों के मुकाबले में कम वेतन मिलता है। काम वे दूसरों के बराबर करते हैं लेकिन वेतन उनको कम मिलता है। औरतों भी काम मर्दों के बराबर करती हैं लेकिन उनको भी वेतन कम मिलता है। भ्रगर मंत्री महोदय चाहते हैं कि उनको काम पर न लगाया जाए, किसी खास स्थिति में औरतों को काम पर न लगाया जाए तो मैं उनसे कहूंगा कि उन बच्चों को कारीगरी सिखाने के लिए कोई प्रबन्ध किया जाना चाहिये, उनके लिए कोई वैकल्पिक व्यवस्था होनी चाहिये। भ्रगर वैकल्पिक व्यवस्था नहीं होगी तो यह कोरे सिद्धान्त की बात हीकर रह जाएगी। यह आपके कानून में लिखी बात रह जाएगी लेकिन बच्चों से बराबर काम लिया जाता रहेगा, औरतों से बराबर काम लिया जाता रहेगा। इसलिए मैं निवेदन करूंगा कि बीड़ी उद्योग में, होटलों में तथा दूसरी जगहों पर जहां छोटे छोटे बच्चे नौकरियां करते हैं उनको ब्राप कोई वैकल्पिक काम दें। उनकी पढ़ाई लिखाई का ब्राप इंतजाम करें। भ्रगर ब्राप नहीं कर सकते हैं तो राज्य सरकारों को कहें कि वे करें। भ्रगर ऐसा कुछ नहीं किया जाता है तो यह जो आपकी इच्छा है और जिसको ब्राप कानून में जगह देने जा रहे हैं, यह किताबों तक ही सीमित रहेगी।

[श्री रामसेवक यादव]

मैं यह भी चाहता हूँ कि इस विधेयक को अधिक व्यापक बनाया जाना चाहिये। यह व्यापक नहीं है। फैक्ट्री कानून में निश्चित संख्या से ऊपर जहाँ संख्या होगी वहाँ पर तो यह लागू होगा लेकिन जहाँ पर बीस, पच्चीस या तीस मजदूर काम करते हैं वे छूट जायेंगे। यह जो संख्या है यह कम नहीं है।

श्री हिम्मतासिंहका (गोंडा) : सब भा जाएंगे।

श्री रामसेवक यादव : इस उद्योग में ठेकेदारी प्रथा जो चल रही है इसका भी अन्त होना चाहिये। बीड़ी के पत्ते तोड़ने में ठेकेदार बीच में आते हैं। वैसे तो ठेकेदारी प्रथा सारे देश में चल रही है। जहाँ सरकारी उद्योग हैं, जिनको मार्बर्जिनिक उद्योग कहा जाता है उन उद्योगों में भी ठेकेदारी प्रथा चलती है, निजी उद्योगों का तो कहना ही क्या लेकिन मैं चाहूँगा कि इनमें ठेकेदारी प्रथा का अन्त होना चाहिये। खास तौर से बीड़ी के उद्योग में पत्तों के काम में जो ठेकेदारी प्रथा है, उसका अन्त होना चाहिए, क्योंकि वे ठेकेदार मजदूरों का शोषण करते हैं। मैं सरकार से कहूँगा कि वह इस विधेयक में ठेकेदारी प्रथा का अन्त करने की व्यवस्था करे।

इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ।

Shri Sham Lal Saraf (Jammu and Kashmir) : I rise to support this Bill which, I consider, has come not too late before this House. Some of our friends expressed doubts about this. I would say that well begun is half done. I have to make two or three points.

In this Bill almost all that is contained in the Factories Act is being introduced in other ways to help these beedi and cigar workers. Even

from the details of these clauses that are included in this Bill regarding cleanliness; hygiene, ventilation, spacious premises and all that, I would say that those are pure and simple things to which none should object. But at the same time under Clause 41 power of exemption has been given to Government—Government can exempt any class of industrial premises or a certain manufacturer from all the provisions of this Bill. I wonder why this blanket provision has been kept there. I very strongly urge that these rudimentary things, which have been permitted to the workers in this industry after such a long time, should accrue to them. Under Clause 41 blanket provision has been kept that all the conditions can be waived and the premises or a certain manufacturer can be exempted from the provisions of this Bill. I think that is too much. I would request the hon. Minister to kindly look into this because after all this is a very simple legislation; if it were a piece of intricate labour legislation, that may be a different thing; but as far as this legislation is concerned, it is a very simple one and only rudimentary benefits will accrue to the workers who have been very much exploited to this day, as was pointed out by the various hon. members. I do not want to traverse the same ground once again. I would like to make two or three points.

The first point is this. As my hon. friend, Mr. Warior pointed out, when this law is passed by the Central Government, it should *ipso facto* be made applicable all over the country. If there is any loophole left for the States in giving effect to this law, then the very purpose of this legislation would be absolutely lost. I would, therefore, very strongly urge — and would request the hon. members on all sides of the House to urge this point very strongly—that when a Central legislation is passed, it should be a piece of law for all the States, for the whole country. With

regard to my State, namely, Jammu & Kashmir, you have given an exemption that a certain law may not affect the position there. Wherever social welfare measures flow from the law, the benefits should accrue to all the workers and should cover the entire country. Therefore, my point is that this law should be made applicable all over the country. I think Mr. A. K. Gopalan also has pointed out this. This is a very strong point. There is no use passing a law like this. It should be made applicable to all the States.

I think, Mr. Ram Sewak Yadav made out a good point. This can be a very good exportable item. As far as beedi is concerned, I have been in touch with the export business for some years. With regard to cigarettes, so many doubts about its use, have been raised nowadays and I see that very sensible people and intellectuals feel very much hesitant sometimes in taking cigarettes. As far as beedi is concerned, it has been proved that it does no harm to the smoker. That being so, if it is manufactured properly under hygienic conditions and people here, there and everywhere know how it is done—its contents and how the same are manufactured—then I think this could be a very good exportable item. I would say that the Minister of Commerce may include this item also for export. Once this law is passed and beedi manufacturing starts in right earnest, I would say that this would be a very good item for export. Keeping that in view, I would again say that this law should be made applicable to the entire country; secondly, there should be no exemption; what can be the reason for this? Unless that is explained, it should not be there. When only simple things are given, why should there be any exemption; this should be made absolutely clear. Thirdly, we should pay attention to export.

With these words, I support the Bill.

Shri N. Sreekantan Nair: At long last, this Bill has come before this

House. As in the case of other enactments that are brought forward by the Labour Ministry, this Bill is also fraught with ambiguities and whenever such an enactment was brought before the Supreme Court—it is bound to be brought—some of us have had the misfortune and the mortification, as we witnessed in the case of Bonus Act and others, of hearing the judges and the lawyers scoffing at the Parliament. The same defects, I am afraid, are to be found in this piece of enactment also. I shall come to this later. So many of my hon. friends have opposed excluding Jammu & Kashmir and allowing the State Governments to have their own rules to decide what to exempt, whether they should exempt every provision of this legislation to this employer or that employer. I would say that this leaves the door open to corruption of all sorts; it allows the influential employers to exert their influence on State Governments and get exemptions; it also allows the industrial rivalry to flourish. The beedi industry in one State will run away to the other State if any other State fails to enforce the provisions of this Act. So, such loopholes should not be given. I would request the hon. Deputy Minister to note that every section of this House has unanimously demanded that the rule-making and exempting powers should not be given to the States. This has been demanded by every section of the House irrespective of the fact whether they belong to the Congress or the Opposition; it has been unanimous and this must be taken note of by the hon. Minister. Naturally the provisions in Clause 1, sub-clauses (1) and (2), Clause 14(3) and Clause 41 should automatically go.

Then there is a very curious omission. My hon. friend in his anxiety to provide for payment on a holiday—which the workers get for working on a day when the establishment is closed—has provided for some payment. I do not know how it is to be interpreted; it is a very ambiguous

[Shri N. Sreekantan Nair]

provision. There is no provision whatsoever for payment to the worker on the day he works when the entire establishment is closed. If you look to Clause 21, you will find that no provision has been made for payment to the worker on a day when the establishment is closed and he is utilised to wet the beedies or do some other work. Then Clause 31 provides for a holiday; I do not know which holiday because no holiday has been definitely specified. It says:

"Every industrial premises shall remain entirely closed...."

So, that is considered to be a day on which there is no work and the establishment is closed. Nobody knows whether it is a holiday or not. So, an additional clause has got to be put in. Sub-clause 3 should be re-numbered as sub-clause (4) and a new sub-clause (3) should be brought in for the provision of payment for the workers on the day when they are working when the establishment remains closed. In regard to the payment itself, I would submit that it has to be double payment or payment on the basis of overtime wages as is usually given on such days. So, a new clause should be brought in. Otherwise, the employer will take shelter behind the provision and say that the worker would be paid the normal wages on the holiday also and would not pay him anything extra. I would like to know the intention of Government in bringing forward this clause. I would request the hon. Minister to make it clear whether he intends that the worker who works on a holiday on which the establishment is closed should get double the wages or whether he intends that the worker should get only the normal wages and a subsequent holiday with pay would be given to him. So far as I am concerned, I would insist that when a worker is working on a day when the rest of the establishment is closed, he must be paid double the average wages as in every other industry.

Then, there is another omission. The entire powers of prosecution have been vested in the Chief inspector and the inspectors. Time-limits have also been prescribed. But curiously enough, the hon. Minister has forgotten to provide that as soon as they get intimation of a breach of any provision of the law, the chief inspector or the other inspectors should take the case to a court of law. So, the petty officers have been given discretionary powers to decide whether to prosecute a person or not, so much so that they have got ample sources to be corrupt without being called upon to prosecute even one single employer. If they do not prosecute within three months, then *ipso facto* it lapses according to the provisions of this legislative measure. In certain other cases, if there is no prosecution within six months, then the complaint of the workers lapses. If a new sub-clause (3) is not inserted in this regard in clause 36, the result will be that in the event of a chief inspector or other inspectors not filing a complaint in the court within three months in some cases and within six months in certain other cases, the complaint of the workers *ipso facto* would lapse and the workers will have no remedy. Every employer can go to the chief inspector or the other inspector or whoever can cognize these offences, give him some money and then escape from the entire penal provisions of this measure. This is a very serious omission which would lead to a lot of corruption throughout the country.

Then, I would like to point out what appears to be a mathematical error. I do not know whether it is a mathematical error or it is a deliberate error. In clause 18, the computation is given regarding the ration that must be given to a worker's family. The computation is given in explanations I and II. In explanation I we find:

" 'Standard family' means a family consisting of an employee,

his or her spouse and two children requiring in all three adult consumption units."

Then, in explanation II, the term 'adult consumption unit' is defined as follows:

"'Adult consumption unit' means the consumption unit of a male above the age of 14 years; and the consumption unit of a female above the age of 14 years and that of a child shall be calculated at the rate of eight-tenths and sixtenths respectively of one adult consumption unit."

So, even if we take it as eight-tenths and six-tenths for two children, the total comes to fourteen-tenths; so, the total for the standard family would come to 3.4 units and not just 3 units. I would like to know what the hon. Minister means when he puts down only three adult consumption units for a standard family....

Mr. Deputy-Speaker: The hon. Member should try to conclude his speech now.

Shri N. Sreekantan Nair: I am just pointing out the important things only.

Mr. Deputy-Speaker: The hon. Member has got his amendments, and he can speak on those amendments. He has already taken about ten minutes.

Shri N. Sreekantan Nair: I do not think that there is any time-limit. The committee was not consulted in regard to the time-allocation. Those Members who have got something to say must be allowed to have their say.

Mr. Deputy-Speaker: No Member has taken more than 10 minutes.

Shri N. Sreekantan Nair: Those who may not have anything to say might have taken ten minutes. If I stray away from the point or if I make a point which has already been made, then you are justified in saying

that I should conclude. But I am not straying away from the main point.

This is a very important Bill.

Shri Hari Vishnu Kamath (Hoshan-gabad): You may extend the time by one hour.

Mr. Deputy-Speaker: Time has already been extended by one hour.

Shri N. Sreekantan Nair: It is not my fault. I am not touching any point which has already been touched and I am not wasting even a single minute on that.

I would request the hon. Minister to explain this mathematical computation of eight-sixths and six tenths together becoming one unit. That cuts at the claim of the worker because he is entitled to get something more.

Regarding the overall approach to the Bill, therefore, I feel that Government want to claim that they have done something and wash their hands of the responsibility to implement it. I would, therefore, submit that powers of exemption given to the State Governments should be completely taken away; the errors in drafting should be eliminated, and provision for payment of double wages to workers working on holidays should be inserted.

Shri Kandappan (Tiruchengode): This much-awaited measure has been brought before the House after a rather undue delay. The service conditions of the working class engaged in this industry are perhaps some of the worst. A graphic picture of the working conditions in the factories wherein these people are employed is given in the following words:

"The working conditions in the so-called factories are generally deplorable. Arrangements for sanitation, ventilation, lighting, drinking water, latrines and urinals are either completely lacking or unsatisfactory."

[Shri Kandappan]

These were the words uttered by the Mover of this Bill in the Rajya Sabha. This shows that he is very much aware of the situation prevailing in the beedi and cigar factories, but I am sorry to find that the clauses in this Bill and the way in which they have been framed do not bear the imprint of the awareness by the Government of the real situation of the workers in this industry.

I would like to submit that this industry should be treated on a special footing and not like other factories. Some hon. Members who preceded me had drawn attention to this fact. But I would like to emphasise that just a packet of cigarette per day may cause cancer even to a well-built man in the long run. So, imagine the havoc that may be wrought by the inhaling of the pernicious and pungent smell of the tobacco by the persons who are employed in these factories, godowns and other places which are very dark; according to the nature of the work, it is said, only dark places are required or this purpose. Therefore, I would submit that the service conditions of these workers should be studied differently and not on a par with those in other factories.

I have gone through the debate that took place over this Bill in the other House, and I find that a plea was made there for the reduction of the number of working hours from 48 to 42 but that was not acceptable to Government. It was also pleaded that the working hours of a female should be limited to 6 P.M. That was not also acceptable to Government. I strongly feel that the working hours particularly of those who have to handle tobacco should be strictly limited. Otherwise, the health of these workers will be affected very much and the workers would have to suffer a lot. In fact, it is blood-sucking and it is poisonous, as everybody knows. So, Government should think over this particular pro-

blem. Those who are employed in collecting or gathering leaves, may not be affected to that extent and therefore, they may be treated normally but those who are employed on the handling of tobacco should be treated specially and their working hours must be limited accordingly.

Much is being said about the Madras Beedi and Industrial Premises (Regulation of Conditions of Work) Act, 1958.

I am sorry to find that information is lacking or perhaps there is a deliberate attempt to suppress it. I know that this particular legislation has not brought any boon to the working class in Madras. The workers have not benefited at all. In fact, the Madras Government is thinking of amending some of the sections of the Act so as to enhance the facilities given to the workers and to safeguard their interests. I find that this particular Bill which has been claimed as a very comprehensive one and an improvement on the Madras Act is not at all so. It is worse in some respects; amendments are sought to be made not to make it better but to make it worse. I would like to mention one instance. This is with regard to dismissal, cl. 31(1). The proviso reads:

"Provided that such notice shall not be necessary if the services of such employee are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an inquiry held by the employer for the purpose".

The inquiry is to be held by the employer for the purpose! No employer would keep the interest of the worker in his mind in such cases. It is just tantamount to outright dismissal without taking into account the rights and wrongs of the case. The relevant portion of the Madras Act reads:

"supported by satisfactory evidence recorded at an inquiry held for the purpose".

At least this is vague in this respect. The employee may also claim that a person who is not a party to the dispute should inquire. But here it is made very clear that the employer is to hold the inquiry. A handle is given to the employer, the business magnate to just throw out the employee on any ground, even flimsy ground, as that is sufficient ground to him for ousting the employee. I do not think any co-employee will come before the employer and plead on behalf of the employee who is to be dismissed.

Here the interest of the workers should be protected. If this clause is left as it is, I am afraid the business magnates, tycoons and kings—the House may be interested to know that in Madras there is one man called 'Emperor', a beedi emperor; so there are emperors in this country—will not oblige the workers on their own volition. That is impossible. So Government should ponder over this. This clause must be suitably amended. This kind of dismissal outright without any inquiry worth the name is definitely going to create many hardships to the working class. If provisions like this are allowed to remain in the Bill, it will be a gross betrayal of the working class; it will not serve the interests of the working class at all.

I would conclude by referring to one other matter. There are outdoor employees in this particular sector. People take beedi leaves to their houses and return with the beedis made. In fact, the Madras Act failed precisely because of this kind of evasions. It was not possible to regulate working conditions in the factory because there was no such thing as a factory. These kings and emperors were able to see that less than the minimum number stipulated for a factory are employed in one place. If the minimum is put as 50, then the employer who wants to employ more than 50, could just split it into two establishments. He can then very well carry on the business as he

likes. This loophole should be plugged. There should be some provisions in anticipation of this kind of evasions which are already taking place in Madras.

I would have appreciated if that Government have gone through the problem and examined the difficulties experienced after the enactment of the Madras Act and have brought some provisions plugging the holes. But I am sorry to find in this Bill that they have rather added to the loopholes, they have not plugged any. So I think a thorough revision of the Bill is called for and an honest effort on the part of Government to afford relief to the working class in this industry which is unorganised is needed so that these workers are brought on a par with the other workers in the country and their interests safeguarded.

Mr. Deputy-Speaker: Shri Shah-nawaz Khan.

Shri J. P. Jyotishi (Sagar): I had given my name.

Mr. Deputy-Speaker: I have called the Minister.

Shri Shah-nawaz Khan: I am very grateful to the hon. Members who have taken part in this debate and supported the Bill. It is really gratifying to see that all sections of the House are united in seeing that this Bill is passed as early as possible and is made effective so that it would put an end to all the exploitation of the beedi and cigar workers which has been taking place all this time.

I do not have to go into the history of the Bill. Members are fully aware of the difficulties which various State Governments had to face in enforcing this Bill and making it really effective. It was to overcome these difficulties and to make this Bill really effective that central legislation had to be undertaken.

We fully appreciate the apprehensions of hon. Members when they say

[Shri Shahnawaz Khan]

that the State Governments had failed to get the provisions of these Acts fully implemented and take effective action and so nothing should be left to the State Governments and the Centre should take all power into their own hands and fix the date when the Act should come into operation. But I would like to place before them the fact that this Bill when it becomes an Act has to be implemented and enforced by the State Governments. It should be for each State to fix the date of enforcing the Act in various parts in accordance with administrative arrangements....

Shri Sham Lal Saraf: Is it enforcing or enacting?

Shri Shahnawaz Khan: Enforcing the Act in various parts of the State in accordance with administrative arrangements made for the purpose.

Shri Balkrishna Wasnik (Gondia): Can we not prescribe a time-limit?

Shri Shahnawaz Khan: Since enforcement has to be done by State Governments, they have to make the administrative arrangements for effective implementation. We have left it to them to decide the date on which their administrative arrangements are complete when they can really enforce it.

Shri N. Sreekantan Nair: What about framing rules?

Shri Shahnawaz Khan: I have taken full note of the feelings of the House and I can assure the House that we from the Centre will act as a watchdog and make sure that there is no delay or procrastination on the part of any State and that the Act is enforced as early as possible and in a really effective manner. That we shall see to. We can also issue directives from the Centre if it is necessary to do so, but I hope it would not be necessary because all the State Governments themselves are

very keen to ensure that this exploitation of the workers which has been going on for such a long time and their unhygienic conditions of work are ended as early as possible.

Shri Warrior: The rule-making powers are also left to the States, not only the date of enforcement, and the States drag on delaying.

15 hrs.

Shri Shahnawaz Khan: All I can say is that we will make sure that the thing is not delayed, that the rules are framed as early as possible, and if it is necessary we will issue directives from the Centre. We will keep a very strict watch over the whole thing.

Shri Deo desired that the Bill should be made applicable to persons who collect Tendu leaves in forests. That would be very much beyond the scope of this Bill, and the State Government themselves, of course, are competent to take steps under the Minimum Wages Act and other legislations to see that the workers, wherever they are working, get a fair wage, but it is not necessary to include that category here.

A number of hon. Members talked about occupational hazards and the prevalence of tuberculosis in the trade. We conducted a survey and we found that, although there was considerable incidence of tuberculosis among the bidi workers, it was by and large no higher than what it is among other industrial workers in crowded cities and other places where conditions of work are not very satisfactory.

Shri Sham Lal Saraf: But bidi manufacture is an additional cause.

Shri Shahnawaz Khan: The conclusion that has been arrived at by the people who went into this aspect was that it is the insanitary and unhygienic conditions of work that are responsible for it, and malnutrition, and not the bidi trade

as such. I might also inform the hon. Members that we hope that these people will also be covered by the Employees' State Insurance Act, and then they will also get the medical benefits which are very liberal in the case of TB patients.

In this Bill we have taken action to ensure that the contractors who previously were able to get away and to escape the force or the rigours of the legislation, have now to comply with the provisions of this Bill; if they are not acting as agents of the main proprietor and if they give material to the workers and take the finished goods from them, they will be treated as the employers, and they will have to comply with the provisions of this Bill. Therefore, the contractors have been made responsible.

श्री श्रींकार लाल बेरवा (कोटा): जरा कोरम का भी खयाल होना चाहिये। यह श्रम का मामला है और मंत्री जी जवाब दे रहे हैं।

Mr. Deputy-Speaker: The bell is being rung. . . Now there is quorum.

Shri Shah Nawaz Khan: As I was saying, this institution of contractors has also been made responsible to abide by the provisions of this Bill, and therefore in future they will not be able to get away as easily as they have been getting away in the past.

This bidi industry is a very wide-spread industry and, as I explained in my opening speech, there are regular industrial establishments, regular factories, and there are private homes where the work is carried and then there are self-employed people who work in their own homes, and the whole family practically takes part in it, and therefore it is a sort of additional source of income to those people. Therefore, we have exempted the people who are working in their own homes, getting the material themselves, not working for any contractor or for any proprietor.

Shri N. Sreekantan Nair: Whom are they working for? They have to work for some contractor or some proprietor.

Shri S. Kandappan: Do you mean to say that they are selling their product direct?

Shri Shah Nawaz Khan: They can sell it.

Shri S. Kandappan: It is impossible.

Shri Shah Nawaz Khan: This Bill is not applicable to those persons who are buying material direct and disposing of it on their own, but in the case of persons who are supplied materials by the contractor, the contractor is made liable to abide by the provisions of this Bill, and if the factory-owner employs them, then the factory-owner is responsible for complying with the provisions of this Bill.

Mr. Kachhavaiya, who knows so much about this bidi industry and whose whole family are connected with the manufacture of bidis and all that, very rightly pointed out the malpractices which exist in making rejections of the leaves and rejecting the bidis. But he will please see that this is taken care of by clause 39. The Industrial Disputes Act is applicable. If there is any dispute in this respect, it can be taken to the inspector on the spot and he can decide and in case the decision is not acceptable, then the parties can go in appeal further up.

श्री हुकम चन्द कछवाय : तम्बाकू कम दिया जाता है बीड़ी बनाने के लिए जिसके कारण बीड़ी ठीक नहीं बनती है। काफी तादाद में बीड़ियां छांट दी जाती हैं। इसके बारे में क्या किया जाएगा। इसके बारे में कुछ नहीं बताया है। पत्ती उनकी छांटी जाती है, पत्ती के पैसे काटे जाते हैं।

Shri Shahnawaz Khan: All these things will be taken care of in the rules which will be framed. We will make sure that the malpractices mentioned by the hon. Members are eliminated. The hon. Member here mentioned that women were called at very odd hours and were maltreated. Clause 25 prohibits that; no women or young person shall be required or allowed to work in any industrial premises except between 6 A.M. and 7 P.M. Anybody who contravenes this provision can be prosecuted.

I am glad a number of hon. Members talked about the export possibilities of bidis. I am glad to tell the House that bidis may be exported on a fairly large scale and they are gaining in popularity in foreign countries. A research centre has been established by the bidi manufacturers' organisation in which they are going to further improve the type of bidis and make them more attractive. I have seen some of the holders and packages; they are smart and neat and I am sure that the export aspect is receiving proper attention. My hon. friend Mr. Yadav is not here; he talked about proper medical arrangements for the workers. We hope to bring before long those people under the provisions of the ESI Act which will look after them properly.

Shri N. Sreekantam Nair: They are not covered under the ESI Act.

Shri Shahnawaz Khan: We hope to bring them under that Act.

Shri Hukam Chand Kachhaviya: Provident Fund, bonus, D.A.

Shri Shahnawaz Khan: All that will apply to them later on. A number of hon. Members objected to the powers of exemption given to the State Governments under section 41. That is a general provision which is on the lines of one in the Factories Act; it does not mean that exemptions would be given without any

rhyme or reason. It may have to be given in the case of extreme emergency, in exceptional circumstances only.

Shri A. K. Gopalan: What is the emergency in bidi manufacture?

Shri Shahnawaz Khan: Supposing there were extreme conditions of famine and they want to override certain other provisions, you can exempt them.

Shri A. K. Gopalan: Can this not be taken by the State Governments and used so that they do not implement it for sometime?

Shri Shahnawaz Khan: No.

Shri A. K. Gopalan: Why not?

Shri Shahnawaz Khan: We have powers to issue directives from the Centre.

Shri Umanath (Pudukkottai): The Madras Bill became an Act. Then the Government exempted one clause after another and it is reduced to a licence fee collecting Act. This happens when there was no emergency.

Shri Shahnawaz Khan: I think I have covered most of the points.

श्री हुकम चन्द कच्छवाय : न मंत्री महोदय ने प्राविडेंट फंड का, न बोनस का और न महंगाई भत्ते का एवं चिकित्सा का जिक्र किया है। हमें आशा थी कि वह अपने उत्तर में इन के बारे में कुछ कहेंगे, लेकिन उन्होंने कुछ नहीं कहा है।

Shri Shahnawaz Khan: It does not mean that the other existing Acts would not apply. The Minimum Wages Act, the Bonus Act, which already exist will apply to them when they are covered.

Shri Hukam Chand Kachhavalya:
What about provident fund?

registered under the Trade and Merchandise Marks Act, 1958; (22).

Mr. Deputy-Speaker: The question is:

(ii) Pages 2 and 3,—

"That the Bill, to provide for the welfare of the workers in beedi and cigar establishments and to regulate the conditions of their work and for matters connected therewith, as passed by Rajya Sabha, be taken into consideration."

for lines 30 to 38, and 1 and 2 respectively, substitute—

The motion was adopted.

Mr. Deputy-Speaker: We take up clause 2. Any amendments?

'(g) "employer" means a person who has the ultimate control over the affairs of any beedi or cigar industry or a person who supplies raw materials for the manufacture of beedies or cigars directly in the factory or through any other person or persons called a contractor, branch manager, manager, agent, munshi, thekedar, sattedar or any other such name and who has the ultimate control over the quality and quantity of beedies or cigars or a person who uses the trade mark either on the label of beedies or cigars or bundles of beedies or cigars or a person who pays central excise duty for the tobacco which is used in the manufacture of beedies or cigars under Central Excise Rules, 1944.

Clause 2- (Definitions)

Shri Shah Nawaz Khan: I beg to move:

Page 2, line 26,—

for "both at home, and substitute—

"both at home (hereinafter reference to in this Act as 'home worker'), and " (1)

Shri Warior: I beg to move:

(1) Page 2—

for lines 10 to 29, substitute—

'(f) "employee" means any person employed in any manufacturing process concerned with a beedi or cigar industrial premises directly or through any agency, for hire or reward, whether for wages or not, or to do any work skilled, semiskilled or unskilled, manual or clerical and includes any person employed through a contractor or branch manager, manager or agent or munshi or thekedar or sattedar to work for the employer in whose name the trade mark of the product is

Explanation:—contractor, branch manager, manager, agent, munshi, thekedar, or sattedar or person with any other such name in the industry means an employee who receives the raw materials from the employer, supervises manufacture of beedies or cigars on behalf of the employer and returns the product to the employer.' (24).

(iii) Page 3,—

Omit lines 3 to 7. (25)

(iv) Page 3,—

Omit lines 22 and 23. (26)

(v) Page 3,—

for lines 24 and 25, substitute—

[Shri Warrior]

'(n) "private dwelling house" means a house of a self employed worker who under necessary licence is engaged in the manufacture of beedies or cigars or both and does not hire other workers for the same; (27)

Shri Yashpal Singh (Kairana): I beg to move:

(i) Page 2,—

for lines 4 and 5, substitute—

'(b) "child" means a person who is less than ten years of age;' (6)

(ii) Page 3, line 31,—

for "fourteen" substitute "ten" (7)

Shri Umanath: Today morning I have given 18 amendments.

Mr. Deputy-Speaker: I want the numbers which you are moving and which relate to this clause.

Shri Umanath: They have not yet been circulated.

Mr. Deputy-Speaker: They are the same as Mr. Warrior's amendments.

That is why they are not circulated.

Shri Umanath: If later on anything is missing, I must be given the chance to press that. I do not know the number.

Mr. Deputy-Speaker: Please give the numbers from your amendment list.

Shri Umanath: It was not circulated. It was given before 10 this morning.

Mr. Deputy-Speaker: Please read your amendments. Shri Warrior has moved his amendments. Is Shri Shah-nawaz Khan moving amendment No. 60 clause 2?

Shri Shahnawaz Khan: Yes. I move:

Page 3, for lines 22 and 23, substitute—

(m) "principal employer" means a person for whom or on whose behalf any contract labour is engaged or employed in an establishment; (60)

Mr. Deputy-Speaker: Shri Umanath may now move his amendments.

Shri Umanath: Yes; I shall move my amendments for clause 2. There are other amendments for other clauses.

Mr. Deputy-Speaker: What are the numbers?

Shri Umanath: The first is No. 7; it is the previous session's number.

Mr. Deputy-Speaker: What is the number of the amendment in your list?

Shri Umanath: The next is No. 6 of the notice of the previous session.

Mr. Deputy-Speaker: Please read your amendments.

Shri Umanath: Page 2, for lines 10 to 29—substitute

Mr. Deputy-Speaker: That is identical with Shri Warrior's amendment No. 22.

Shri Umanath: Pages 2 and 3 for lines 30 to 38, and 1 and 2 respectively, substitute—

Mr. Deputy-Speaker: That is identical with Shri Warrior's amendment No. 24.

Shri Umanath: Then, page 3, omit lines 3 to 7.

Mr. Deputy-Speaker: That is identical with Shri Warrior's amendment No. 25.

Shri Umanath: Then, page 3, lines 22 and 23.

Mr. Deputy-Speaker: That is also identical.

Shri Umanath: Page 3, for lines 24 and 25, substitute-

Mr. Deputy-Speaker: That is also identical.

Clause 2 and the amendments thereto are before the House.

Shri Umanath: Mr. Deputy-Speaker Sir, with regard to the amendments that I have moved for clause 2, the first one deals with the question of definition of contractor, contract labour, employee and employer, etc. The important question is of determining who the employer is in this industry. The bane of this industry is the contract labour system through which the employer escapes all the benefits that the labour should get. The real owner in the beedi industry is the trade-mark owner, and the trade-mark owner, in order to avoid the benefits being conferred on the labourers, employs certain people call contractors and agents who in turn employ the labourers.

15.23 hrs.

[MR. SPEAKER *in the Chair*]

The question to be determined is what is the harm if the system of making the contractors liable under this Act is kept, as the hon. Minister has said. The important question is, if a contractor employs certain labour for rolling beedies, those workers are rolling beedies for a particular trade-mark owner; they are rolling beedies not for the contractor but for a particular trade-mark. And so, they are really the workers of the particular trade-mark owner and the contractor is just to avoid the benefit conferred on the workers as I have already said.

With regard to this, the hon. Minister has been stating that all the other Acts and provisions can apply to the contractors also. I will give you an instance. The hon. Member there asked, what about the bonus and dearness allowance?

The respective Acts will apply to the contractors. If a dispute is raised by a worker under a contractor who is really the agent of the particular trade-mark owner, and if it goes for conciliation, say a dispute about dearness allowance, what will happen is that the dearness allowance is decided on the basis of the financial capacity of the owner, and if the contractor is recognised as the owner, as you do in this Bill, the contractor is getting some commission; his financial position will be so weak that the worker under the contractor will not get dearness allowance at all. So also is the question of bonus. When computing the bonus, profits and other things will be taken in to consideration. If he raises a dispute, and if it goes before adjudication, the industry's profits will not come into the picture because the industry's profit will be with the trade-mark owner and not with the contractor, and the trade-mark owner being excluded and the contractor being made the owner here, what will happen is that the contractor's commission will not be sufficient to compute the bonus for the worker. So, that is the question here. He will be seriously affected, notwithstanding all that you have said.

In this connection, I wish to bring to your notice a ruling of the Supreme Court on the question of contractors. The wages of the workers in Salem were reduced by two annas by the owners. The dispute was referred to adjudication. The trade-mark owners took up the position that they are not the real owners and the position was that only the contractors were the real owners and they are liable to pay back the two annas and that they are not in the picture. It went to adjudication and then to the high court. Finally it came up to the Supreme Court. The Supreme Court has given its decision with regard to who these contractors really are. I shall quote the relevant extracts from the ruling given by the Supreme Court. It said:

"It has been found by the tribunal and this has been confirmed by the appeal court that the so-

[Shri Umanath]

called independent contractors were merely agents or branch managers of the appellants. We see no reason to disagree with this view taken by the contractors and confirmed by the appeal court on the facts of this cases."

Again, it says that "as the appeal court has rightly pointed out, the so-called independent contractors were indigent persons who were in all respects under the control of the appellants" and it says ultimately: "Further, there is also no doubt from whatever terms of agreement were available on the record that the so-called independent contractors have really no independence at all." It is so clearly stated.

Again, it says:

"But there can be no doubt that the workers employed by the so-called contractors are really the workmen of the appellants, that is, the trade-mark owners, who are employed through their agents or servants whom they choose to call independent contractors."

Finally, it says:

"In the circumstances we are of the opinion that the relationship of master and servant as between the appellants, that is the trade-mark owners, and the workmen employed by the so-called independent contractors is established."

When the Supreme Court has clearly laid down in a decision that the workmen under the so-called contractors are not the workmen of the contractors but really the workmen of the trade-mark owners, why then has the Government come forward to recognise the decision of the Supreme Court and include it in the Act that has been brought forward here? Why should it again go back and legalise a system in this industry which has been really held to be illegal and meant for unfair labour practices? Why should a thing that has been decided by the Supreme Court again be legalised indirectly by this measure? That is why

I am saying that if this is right, all these definitions must be removed, I have given the definition in such a way that it covers all these things; it abolishes the contract system, the intermediary system and it recognises the reality and the truth that these are workmen of the people who are trade-mark owners, who are having the possession of the profits of the industry on which alone, if it is brought into dispute, they will get bonus and dearness allowance. If the profits of the industry which are in the hands of the trade-mark owner are excluded from the relationship, what will happen is, even if disputes are raised they will not get any bonus or dearness allowance.

Then, my next amendment deals with the definition of establishment and industrial premises.

(h) and (i) define 'establishment' 'industrial premises'. According to me, these two separate definitions are not necessary. (i) which defines 'industrial premises' is enough and it will cover establishments also. In the Madras Act, industrial premises alone were defined and that has not created any harm. If you have two separate definitions, all sorts of confusion will arise and it will be misused again. That is why I want (h) to be deleted.

Sub-clause (m) says: 'principal employer means an employer who employs contract labour in any establishment.' Since I have objected to contract labour being continued, that can be removed.

Then the definition of private dwelling house given in the Bill is very vague. My amendment seeks to make it more specific to avoid misuse by owners. My amendment says:

"Private dwelling means a house of a self-employed worker who under necessary licence is engaged in the manufacture of beedis or cigars or both and does not hire other workers for the same."

This is a provision through which industrialists are trying to escape all their responsibilities. I do not think Government will have any objection to accepting the definition given by me.

All these things are very important. In the light of the Supreme Court decision, the Government should accept this amendment. On this point during the general discussion, there has been unanimity of opinion, irrespective of political affiliations. I hope Government will accept it.

श्री यशपाल सिंह : मैं अपने सब अमेंट-मेंट्स के मुताल्लिक कहूँ या इसी क्लाज के ऊपर जो है उसी पर कहूँ ?

अध्यक्ष महोदय : क्लाज (2) इस समय पेश हैं।

श्री यशपाल सिंह : मैं यह चाहता हूँ कि यह जो बिल पेश किया है यह जम्मू एंड काश्मीर के लिए नहीं है। तो यह भी "स्टेप-मदरली" ट्रीटमेंट है। यह सब जगह लागू करना चाहिए। अगर यह हाउस इसका ख्याल नहीं करेगा तो नेशन इसका ख्याल कैसे करेगा ?

यह जो आपने बच्चों के मुताल्लिक रक्खा है जूवेनाइल्स के लिए, बीड़ी का काम कोई मुशक्कत का काम नहीं है। उसे घर में बैठे बैठे लड़कियाँ भी कर सकती हैं। इसलिए बजाय 14 साल के दस साल रखा जाये। इससे यह होगा कि रोजगार पैदा होगा और बच्चों में काम करने का शौक पैदा होगा। यह कोई मुशक्कत का काम नहीं है। यह एक कला का काम है। आसान काम है जिसे छोटी छोटी लड़कियाँ भी कर सकती हैं। इसलिए 14 के बजाय 10 साल रखा जाये।

दूसरे, जो लाइसेंस के मुताल्लिक रखा है एवेरी ईयर वह ठीक नहीं है। जब

आपके हाथ में एथारिटी है ज्वत कर सकते हैं, कंसिल कर सकते हैं तो इसकी मियाद कम से कम तीन साल होनी चाहिए या पांच साल ज्यादा से ज्यादा हो। जब आपने इतनी पावर अपने हाथ में ले रखी है और बिलकुल मिलिटरी रूल करना चाहते हैं, डिक्टेटरशिप करना चाहते हैं तो इसकी मियाद तीन साल रखिएगा जिससे कि उसको मौका मिल सके कि वह इंडस्ट्री की कुछ तरक्की करके दिखा सके।
.... (व्यवधान)

अध्यक्ष महोदय : कहा जा रहा है कि यह सब कुछ जनरल डिस्कशन में आ चुका है।

श्री यशपाल सिंह : जो अमेंडमेंट हैं मैं तो उन्हीं के मुताल्लिक कह रहा हूँ। उनसे बाहर नहीं कह रहा हूँ। और बहुत सी बातें हैं जो नहीं कहां गई हैं जैसे जम्मू और काश्मीर के लिए नहीं कहा गया है।

यह जो अर्न्डलीव है, मान लीजिए पहले साल में वह न ले सके तो दूसरे साल में उसे एलाऊ करना चाहिए। अगर मिनिस्टर साहब का भत्ता एक महीने या दो महीने का रुक जाय तो तीसरे महीने भाँ ले सकते हैं, चौथे महीने भी ले सकते हैं। तो मन्तूरों के साथ यह अन्याय नहीं होना चाहिए। अगर एक साल में वह न ले सके तो दूसरे साल में उसे वह अर्न्ड लीव लेने की इजाजत होनी चाहिए।

दूसरे यह है कि किसी भाँ शक्स के ऊपर जो यह इतना बोझ डाल रहे हैं, आठ घंटे से ज्यादा यह नहीं होना चाहिए। आठ घंटे से ज्यादा होगा तो किस तरह से वह अपने बाल बच्चों की देख रेख कर सकेंगे और जाकर के अपना दूसरा काम कर सकेंगे।

[श्री यशपाल सिंह]

इसके अलावा यह जो आपने रखा है 20 रुपये इसको बढ़ाकर 20 रुपये के बजाय 50 रुपये रखिएगा।

Shri Warrior: The most important definitions are of 'employer' and 'employee' because there have been several disputes in the court. In one case, the industrial tribunal awarded two years' bonus to the beedi workers. But the trade-mark owner said that the beedi workers are not workers as defined in the Industrial Disputes Act. But the Allahabad High Court ruled that they must be considered as employees within the definition of the Industrial Disputes Act and upheld the tribunal's award.

In a very big district—Tirunelveli—in Madras, every worker in that district is a contractor of the manufacturer. The manufacturer shirks all responsibilities. Each house is given leaves and tobacco. They make beedis and give them to the agents. The agents take it to another centralising point. From that centre, the final man takes it. This dispersal must be stopped. otherwise, there will not be anybody responsible for giving the benefits to the workers as contemplated in this Bill. The contractor or agent cannot fulfil the obligations cast on the employer in this Bill. An Agent will have only 10 workers and a contractor will have 10 agents. Several contractors will be under one manufacturer. This dispersal must be stopped. Therefore, the definition must be such that the worker is able to get the benefits contemplated in this Bill.

Shri Shah Nawaz Khan: Sir, I find some difficulty in accepting the amendment proposed by Mr. Umanath. It very often happens that beedis are supplied by the contractors to several trade-mark owners. So, it is difficult to make any one particular trade-mark owner the employer. Moreover, as already stated, under the sales and purchase system, the contractor is as good as an employer. The Madras High Court has already held void a similar

provision in the Madras Act on the ground that it is unreasonable to hold one trade-mark owner or user answerable for beedis manufactured by another.

Shri Umanath: That was the judgment given by a single judge. Subsequently it was turned down by another bench of the High Court. The owners then went to the Supreme Court and I have just now read the Supreme Court's judgment. It is a crucial question. The workers can get bonus, OA etc. only if the profit of the industry is brought in the picture. If the contractor is recognised as employer, the profit of the industry in the hands of the trade-mark owner does not come into the picture and the workers do not get bonus or DA.

Shri Shah Nawaz Khan: I have got another amendment in which the definition of the principal employer is sought to be amended. It says:

"principal employer' means a person for whom or on whose behalf any contract labour is engaged or employed in establishment."

Under the original Clause, contractor also becomes the principal employer. The intention, however, is to make the main manufacturer and not the contractor the principal employer. I think this amendment will cover it.

Shri Speaker: I shall put the Government amendments first—Nos. 1 & 60.

Shri Umanath: Sir, is it a new amendment that he is suggesting?

Mr. Speaker: Is it a new amendment besides No. 60?

Shri Shah Nawaz Khan: It is amendment No. 60.

Mr. Speaker: The question is:

(i) Page 2, line 26,—

for "both at home, and" substitute—
"both at home (hereinafter referred to in this Act as 'home worker') and" (1).

(ii) Page 3,—

for lines 22 and 23 substitute—

‘(m) “principal employer” means a person for whom or on whose behalf any contract labour is engaged or employed in an establishment;’ (60)

The motion was adopted.

Mr. Speaker: Am I required to put any other amendment separately?

Shri Warrior: No. 27

Mr. Speaker: The question is:

Page 3,—

for lines 24 and 25, substitute—

‘(n) “private dwelling house” means a house of a self employed worker who under necessary licence is engaged in the manufacture of beedies or cigars or both and does not hire other workers for the same;’ (27)

The motion was negatived.

Mr. Speaker: I shall put all the other amendments moved to clause 2 together.

Amendments Nos. 6, 7, 22, 24, 25 and 26 were put and negatived.

Mr. Speaker: I shall now put the clause. 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—(Industrial premises to be licensed.)

Mr. Speaker: Is there any amendment to clause 3?

Shri Warrior: Sir, I beg to move:

Page 3,—

after line 37, insert—

“(2) No employer shall engage any worker, for any out-door

work, i.e., work outside the industrial premises, connected with the manufacture of, beedies and cigars.” (29)

Sir, it is quite obvious. These workers are not only considered as beedi workers but also as domestic servants. These are the methods by which these poor workers are exploited. What can we do? The Government must see that these workers are enrolled in a register. The workers must also be given to understand that they are beedi workers and they are not to be exploited in any other way. This can be done if the Government insists on the employers to keep a register of these workers. I hope this amendment will be accepted by the Government.

Shri Umanath: Sir, as far as clause 3 is concerned, it is inadequate. A similar provision, a similar definition was there in the Madras Act. It is equivalent to section 3 of the Madras Act. Notwithstanding an equivalent provision in the Madras Act this out-door abuse by factory owners was there and this out-door work continued. On the basis of that experience this amendment specifies clearly that no employer shall engage any worker for any out-door work, i.e., work outside the industrial premises, connected with the manufacture of beedies and cigars. Government cannot have any objection to the spirit of the amendment. I am only saying that on the basis of the experience that a similar clause did not help check these illegalities it might be clearly specified as given in the amendment. What is the objection?

Shri Shahnawaz Khan: Sir, the Bill does not permit out-door work for those employed in industrial premises except for the purpose of wetting or cutting beedi or tobacco leaves. Wetting and cutting of beedi leaves is, in some States, customarily done by the workers at home; hence this exception. This amendment is unnecessary.

Mr. Speaker: I shall put amendment No. 29.

Amendment No. 29 was put and negatived.

Mr. Speaker: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4—(Licences)

Mr. Speaker: Then we come to clause 4. What are the amendments?

Shri Warrior: Sir, I beg to move:

(i) Page 4,—

for lines 17 and 18 substitute—

"(d) whether the application is made *bona fide* by the employer in whose name the trade mark under the Trade and Merchandise Marks Act, 1958, is registered on behalf of himself or in benami of any other person called contractor, agent, branch manager, manager, munshi, thekedar or settedar."
(31)

(ii) Page 4,—

after line 20, insert—

"(f) provision of separate place of work for women employees if the applicant employs women."
(32)

Shri Umanath: My suggestion is to delete (d) and to make the *bona fide* enquiry after the application is made for licence more exhaustive. The amendment suggested is:

"(d) whether the application is made *bona fide* by the employer in whose name the trade mark under the Trade and Merchandise Marks Act, 1958, is registered on behalf of himself or in benami of any other person called contractor, agent, branch manager, manager, munshi, thekedar or settedar."

This is a very exhaustive thing. When an application for licence is made the task is there on the part of the Government to see whether the application is *bona fide* for the trade-mark owner. Its misuse is being done in this industry. While the trade-mark owner escapes somebody else is made to apply for the licence and then there is an enquiry. If it is defined as suggested in the amendment, the enquiry will be exhaustive and the *bona fide* or *mala fide* of the application can be found out. Otherwise, the provision is too vague and that is why this amendment is suggested.

Amendment No. 32 seeks to add (f). Sub-clause (3) says: "The competent authority shall, in deciding whether to grant or refuse a licence, have regard to the following matters:—" and (a) to (e) are listed there. I am suggesting that (f) also must be added providing for a separate place of work for women employees if the applicant employs women workers. A large number of women are employed in this industry. While deciding whether a licence must be granted or not the authorities must see, as per this amendment, whether any provision for separate place of work for women employees is made if the applicant employs women. If this is not made a large number of women workers will be affected. As I said a huge number of women are employed in this industry. I do not think Government will have any objection in asking the Licensing Committee to see whether this point is fulfilled or not. Many Ghosha women are employed in this industry. These Ghosha women and also other women workers may not like to mix up with other workers in the same factory. Therefore, if a separate place of work is not provided for them there is a likelihood of their getting unemployed. Therefore, these poor women workers must also be protected.

Shri Shah Nawaz Khan: Sir, I am afraid I cannot accept any of these

amendments. The definition of "employer" given in the Bill will cover contractors, branch managers and others. As regards Trade Mark owner as I have already said, it has already been pointed out that he cannot be described as "employer". Therefore, this amendment is not necessary. Regarding provision for a separate place of work for women, it can be taken care of under the rules and provision made under the rules.

Mr. Speaker: I shall put amendments 31 and 32 to the vote of the House.

Amendments Nos. 31 and 32 were put and negatived.

Mr. Speaker: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Mr. Speaker: The question is:

"That clause 5 stand part of the Bill"

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 was added to the Bill.

Clause 7—(Powers of Inspectors)

Shri D. S. Patil: I beg to move:

(i) Page 6, line 7,—

for "as he thinks fit" substitute—
"as may be prescribed" (33)

(ii) Page 6, lines 17 and 18,—
for "if any, as he may think fit" substitute—

"as may be prescribed" (34)

मैं कहना चाहता हूँ कि इसमें जो "ऐज ही थिंक्स फिट लिखा है, ऐसी अनियन्त्रित पावर देना ठीक नहीं है निरीक्षण के लिये। इसलिये मेरा अमेंडमेंट स्वीकार कर लिया जाना चाहिये।

Mr. Speaker: Does the Minister accept them?

Shri Shahnawaz Khan: No, I am afraid I cannot accept them.

Mr. Speaker: I will now put amendment Nos. 33 and 34 to the vote of the House.

Amendments Nos. 33 and 34 were put and negatived.

Mr. Speaker: The question is:

"That clause 7 stand part of the Bill"

The motion was adopted.

Clause 7 was added to the Bill.

Clauses 8 to 13 were added to the Bill.

Clause 14—(Creches.)

Shri N. Sreekantan Nair: I beg to move:

Page 8, line 9,—

for "State Government" substitute—

"Central Government". (55)

In the reply to the general discussion the hon. Minister admitted that the rule-making power may vest with the Central Government. If the rule-making power is given to the various State Governments, the rules made in each State will be different from those in the neighbouring States and there will be so much disparity that the implementation of the Act will be difficult. Since the hon. Minister has promised to consider this question. I hope he will accept my amendment. After all, these are elementary things, like providing a room for the mother to feed the child etc. In such cases, the Union Government should assert their right to frame rules.

Shri Warrior: The rule-making authority must vest with the Central Government because, first of all, the legislation is of the Central Government. Secondly, one of the maladies of this industry is migration. If one

[Shri Warrior]

State Government gives a better deal to the workers, the immediate effect of this is that the industry tries to shift its base to a neighbouring State. If there is uniformity of rules, this tendency will not be there. Therefore, in order to eliminate this tendency at least, the Central Government and Parliament must ensure uniformity of rules. If the Central Government themselves do not want to frame the rules, they can prepare model laws for the States to copy.

Shri Shahnawaz Khan: We can guide the State Governments to have some sort of uniformity in the rules. But I do not think it will be proper for us to take over the rule-making authority.

Mr. Speaker: What about the suggestion about the model laws?

Shri Shahnawaz Khan: We can consider that.

Mr. Speaker: I will now put amendment No. 55 to the vote of the House.

Amendment No. 55 was put and negatived.

Mr. Speaker: The question is:

"That clause 14 stand part of the Bill".

The motion was adopted.

Clause 14 was added to the Bill.

Clause 15—(First aid.)

Shri D. S. Patil: I beg to move:

Page 8, lines 23,—

add at the end—

"and shall take precautions against the fire for the safety of the workers" (16)

My other amendment No. 35 relates to free medical treatment. About ten per cent of the workers in this industry are suffering from tuberculosis,

which is an occupational disease. Therefore, I am suggesting that free medical treatment should be given to every worker who is suffering from TB.

Shri Shahnawaz Khan: As I explained in my speech earlier, I am afraid I cannot accept that. Fire-fighting will be taken care of by the rules.

Mr. Speaker: I will now put amendment No. 16 to the vote of the House.

Amendment No. 16 was put and negatived.

Mr. Speaker: The question is:

"That clause 15 stand part of the Bill".

The motion was adopted

Clause 15 was added to the Bill.

Mr. Speaker: There is an amendment by Shri D. S. Patil for the insertion of Clause 15-A.

Shri D. S. Patil: I am not moving it.

Mr. Speaker: The question is:

"That clause 16 stand part of the Bill".

The motion was adopted

Clause 16 was added to the Bill.

Clause 17 was added to the Bill.

Clause 18—(Wages for overtime work.)

Shri N. Sreekantan Nair: Here I want to say something about the arithmetical calculation given in the Bill. The Explanations given in I and II do not agree. Explanation I says:

"'Standard family' means a family consisting of the employee, his or her spouse and two children requiring in all three adult consumption units."

I think it would mean half a unit for each child, which is all right. But Explanation II says:

“Adult consumption units’ means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child shall be calculated at the rate of eight-tenths and six-tenths, respectively, of one adult consumption unit.”

Eight-tenth plus six-tenth will make 1.4. So, the total should be 2 plus 1.4, which is 3.4. So, arithmetically it should come to 3.4 and not 3. They are entitled to get an additional .4 units. So, I am moving my amendment No. 56.

Page 9, lines 23 and 24,—

omit “all three” (56)

Shri Shah Nawaz Khan: This is merely for the purpose of calculating the amount which should be given to them. We have taken this from the Factories Act.

Mr. Speaker: I will now put amendment No. 56 to the vote of the House.

Amendment No. 56 was put and negatived.

Mr. Speaker: The question is:

“That clause 18 stand part of the Bill”.

The motion was adopted.

Clause 18 was added to the Bill.

Clauses 19 and 20 were added to the Bill.

Clause 21—(Weekly holidays.)

Shri N. Sreekantan Nair: This clause deals with weekly holidays. Sub-clause (1) says:

“Every industrial premises shall remain entirely closed except for

wetting of beedi or tobacco leaves, on one day in the week which day shall be specified by the employer in a notice exhibited in a conspicuous place in the industrial premises and the day so specified shall not be altered by the employer more often than once in three months and except with the previous written permission of the Chief Inspector.”

Sub-clause (2) says:

“Notwithstanding anything contained in sub-section (1), an employee employed in the said premises for wetting of beedi or tobacco leaves on the day on which it remains closed in pursuance of sub-section (1) shall be allowed a substituted holiday on one of the three days immediately before or after the said day.”

No mention is made there as to whether he should be paid or not. Then comes sub-section (3) which says:

“For a holiday under this section, an employee shall be paid... at the rate equal to the daily average of his total full time earnings for the day on which he had worked during the week... and other allowances.”

So, for the holiday he is allowed to receive one day's wages, but for the day on which he is working and it is a holiday for other workers of the industry no mention has been made as to any payment at all. We do not know whether the Government intends that it must be only one day's wage or double the wage or no wage at all because he is paid for the substitute holiday that he is getting. That point is not at all clear.

16 hrs.

He has been taking shelter under other industrial enactments. As is laid down in other industrial establishments for working on a holiday, this Bill also must provide for double wages for a worker who is working

[Shri N. Sreekantan Nair]

on that day. So, I have brought in amendment No. 57. I move:—

Page 10,—

after line 12, insert—

“(2A) For working on the day the establishment remains closed, the employee shall be paid double the average of his full time earnings for the days he has worked in the previous week.” (57)

Shri Shah Nawaz Khan: I am sorry, Sir, I cannot accept this. If the worker works on a holiday, he is given a holiday in lieu. So, for the day he works he is compensated by another equally good holiday on another day and he gets exactly the same wages which he gets on a working day or which he would have got on a holiday.

Shri Umanath: If he works on Sunday, should he not get the wages for the work turned out because even otherwise for the holiday he is paid? He puts in additional work on a holiday and what is the provision for payment for that? What the employers will say is, “You have been paid for the holiday and this work need not be paid for”.

Shri Shah Nawaz Khan: The holiday is a working day for him. He gets his working wages and then he gets a substitute holiday.

Mr. Speaker: I shall put amendment No. 57 to the vote of the House.

Amendment No. 57 was put and negatived.

Mr. Speaker: The question is:

“That clause 21 stand part of the Bill.”

The motion was adopted.

Clause 21 was added to the Bill.

Clauses 22 to 25 were added to the Bill.

Clause 26— (*Annual leave with wages.*)

Shri Warior: Sir, I move:—

Page 12,—

after line 17, insert—

“(8) Every employce shall be allowed ten days festival and national holidays with wages which shall include besides other holidays, Independence Day, Gandhi Jaywanthi and May Day”. (40)

I hope, there will not be any objection by the Minister to accepting it. These are the most important national days.

Shri N. Sreekantan Nair: I do not move my amendment No. 58.

Shri Shah Nawaz Khan: I am afraid, I cannot accept it.

Mr. Speaker: I shall now put amendment No. 40 to the vote of the House.

Amendment No. 40 was put and negatived.

Mr. Speaker: The question is:

“That clause 26 stand part of the Bill.”

The motion was adopted.

Clause 26 was added to the Bill.

Clause 27— (*Wages during leave period*)

Amendments made:

(i) Page 12 line 23,—

for “Explanation” substitute “Explanation I”. (2)

(ii) Page 12,—

after line 27, insert—

“Explanation II.—For the purpose of determining the wages payable to a home worker, during leave period or for the purpose of payment of maternity benefit to a woman home worker, ‘day’ shall mean any period during which

such home worker was employed, during a period of twenty-four hours commencing at midnight, for making beedi or cigar or both." (3)

(Shri Shahnawaz Khan)

Mr. Speaker: The question is:

"That clause 27, as amended, stand part of the Bill."

The motion was adopted.

Clause 27, as amended, was added to the Bill.

Shri Warrior: Sir, I move:

Page 12.—

after line 31, insert—

"27A. (1) Every employer of a beedi or cigar industrial premises shall guarantee full work for at least 280 days in a year to employees working under him.

(2) In case the employer is not able to give full work to any employee, he shall compensate him—

(a) by paying him the average daily rate of wages calculated on the basis of one month's wages; and

(b) in case of no work on any day by paying the employee at least two rupees a day."

(41)

The intention is very clear. If the workers are not guaranteed sufficient number of days' work in a calendar year, they stand to lose some of the benefits that come to them through other labour legislations, for instance, the provident fund. By and by the Government may come forward for extending the provision of provident fund to these workers also, but at that stage if the workers do not have 240 days minimum they will not be entitled to the benefit of provident fund.

Not only that, this industry is of such an unorganised nature that workers often stand to lose very many

days' work and are thrown out of employment without relief. In that case also there is so much of suffering. In order to avoid all this and in order to give more and more encouragement, to make this industry on the factory pattern, I have moved this amendment and I hope the Government will consider it sympathetically.

Shri Umanath: The millions of workers who are employed in this industry are entirely dependent for their livelihood throughout the year only on this industry. If they are not given work for a certain number of days in a year, more or less they will have to undergo semi-starvation conditions. Their wages are also very low. If the wages are high, there is another consideration, but their wages also are very low and employment also is not given to them throughout the year.

Further, in other industries the Act provides that if a worker is laid off on the day on which he does not work the employer should pay half the wages. So, in industries where higher wages are received by workers if they are given this guarantee of half day's wages on day of lay-off, in this most unorganised industry where workers have to rely only on this and wages are very low, what is the logic in Government's refusing this? The Government should accept this amendment.

Shri Shahnawaz Khan: As the hon. Members know it is rather an unorganised industry.

Shri Warrior: The same argument is returned against us.

Shri Shahnawaz Khan: I am afraid, this cannot be accepted.

Shri A. K. Gopalan: Because it is unorganised!

Mr. Speaker: I shall now put amendment No. 41 to the vote of the House.

Amendment No. 41 was put and negatived.

Mr. Speaker: The question is:

"That clause 28 stand part of the Bill."

The motion was adopted.

Clause 28 was added to the Bill.

Clause 29— (Special provisions)

Shri Warrior: Sir, I move:

(i) Page 13, line 6,—

after "employees", insert—

"or the pasting of ring labels on beedies or cigars by women". (42)

(ii) Page 13, lines 7 and 8,—

omit "on an application made to it by the employer on behalf of such employees". (44)

(iii) Page 13,—

omit lines 16 to 18. (45)

I have nothing to add. The Government should accept them.

Shri Umanath: Sub-clause (1) of clause 29 reads:—

"The State Government may permit the wetting or cutting of beedi or tobacco leaves by employees".

Here we request that the words—

"or the pasting of ring labels on beedies or cigars by women".

be add. This also may be included because for just this small, petty work of pasting and other things women will not be going to the factories. When he is accepting permitting wetting or cutting of beedi or tobacco leaves by employees outside the industrial premises, this petty work may also be allowed and I request the Minister to accept it.

In the same sub-clause it says:—

"on an application made to it by the employer on behalf of such employees".

This may be deleted because the employer making an application on behalf of the employees really results in harassment. So many employees will be dragged and threatened by them so as to put in an application. They will be terrorising them to accept all sorts of unlawful things. So, this need not be there and these words may be deleted.

Then, in sub-clause (3) there is a proviso saying:—

"Provided that nothing in this sub-section shall apply to any labour who is given raw material by an employer or a contractor for being made into beedi or cigar or both at home"

This proviso should be deleted.

Dr. M. S. Aney (Nagpur): I support this.

Shri Shahnawaz Khan: Regarding the pasting of ring labels, this process is done after the beedies have been rolled and manufactured. The other process of cutting and wetting is before the actual rolling and the completion of the work. So, once the beedies have been completed and rolled, if we allow the ring labels to be pasted and allow these to be taken home, there may be some difficulty, the tobacco may be taken out or the thread may be taken out. Therefore I do not accept this.

Mr. Speaker: I shall put Amendments 42, 44 and 45 together.

Amendments Nos. 42, 44 and 45 were put and negatived.

Mr. Speaker: The question is:

"Clause 29 stand part of the Bill".

The motion was adopted.

Clause 29 was added to the Bill.

Clauses 30, 31 and 32 were added to the Bill.

Clause 32A (New)**Shri Warrior:** I move:

"Page 14,—

after line 25, insert—

"32A. (1) In case any employer under this Act, in whose name any beedi or cigar trade mark is registered, buys beedies or cigars by himself or through agent from any self-employed worker, he shall be punishable with imprisonment for six months or with a fine of rupees one thousand or with both.

(2) Any self-employed worker who sells or otherwise disposes of his produce of beedies or cigars, to any employer or his agent, shall forfeit his licence for rolling beedies or cigars." (46)

Shri Umanath: By having clause 32A (New), we are seeking an advantage for the workers. In an earlier amendment, the Government have accepted that the principle employer should be defined as the main person who is responsible for the trade mark and all that. This Act provides for the self-employed workers. Now what will happen is, after this definition of 'principle employer', the employers will use self-employed workers as the tools through whom they will get the beedies rolled and passed through the trade mark and sell them in the market. Thus they will get over the entire problem. So, this amendment deprives the employers from using self-employed workers as their tools. The amendment says:

"(1) In case any employer under this Act, in whose name any beedi or cigar trade mark is registered, buys beedies or cigars by himself or through agent from any self-employed worker he shall be punishable with imprisonment for six months or with a fine of rupees one thousand or with both."

That is with regard to the employer. Then, sub-section (2) says:

"(2) An self-employed worker who sells or otherwise disposes of his produce of beedies or cigars, to any employer or his agent, shall forfeit his licence for rolling beedies or cigars."

This relates to self-employed worker. So, either way that makes the thing pucca. I do not think the Government will have no objection to this.

Shri Warrior: These self-employed workers get licence by paying Rs. 5 or so. They are scattered all over the place. They never allow this industry to get organised so that the workers can enforce collective bargaining. That position is not attained because of this. Actually, if the Government wants, they can take away these five rupee licences, the so-called 'C' Class licences as it is called in our State. Then, all the workers will have to seek employment in one organised factory or the other. There, the workers will be in a position to enforce the collective bargaining. Otherwise, it will not be possible. We do not know whether it is the intention of the Government to ask the State Governments to take away these licences of self employed workers. If that stage has not been reached, at least there must be some restrictive provision in this Act whereby there will not be any misuse which will otherwise defeat the very purpose of this enactment.

Shri Shahnawaz Khan: As far as the Government is concerned, we are very keen that in respect of organised workers who are working in industrial establishments or in establishments which are manufacturing beedies, all the provisions should apply immediately. But, at the same time, in this beedi trade, there are many workers who may not want to become the employees of any contractor or any proprietor. Therefore, we do not wish to deprive those self-employed workers from that benefit.

Shri Umanath: This amendment is for the purpose that the employer does not mis-use self employed workers and not to ban self employed workers.

Shri Shahnawaz Khan: As regards trade-marking, this legislation is on an experimental measure and, at present, the provisions for general penalty for offences made in clause 33 are quite adequate. Further changes can be made in the light of the experience gained. Therefore, the question of imposing this penalty should not arise.

Mr. Speaker: I shall now put Amendment 46 to the vote of the House.

Amendment No. 46 was put and negatived.

Mr. Speaker: The question is:

"Clauses 33, 34 and 35 stand part of the Bill".

The motion was adopted.

Clauses 33, 34 and 35 were added to the Bill.

Clause 36— (Cognizance of offences.)

Shri N. Sreekantan Nair: I move:
"Page 16,—

after line 22, insert—

"(3) When an offence under this Act comes to the notice of the Chief Inspector, or Inspector, he shall file a complaint before the court assigned for this purpose with the least possible delay." (59)

Sir, this clause deals with cognizance of offences. It is a defective clause. It may be argued that there are such provisions in other enactments. But that provision is not so all-embracing as it is here. By other methods, the right is conferred on the worker either to go direct to the court or to the Government. Here, the only remedy to the worker is to go to the Chief Inspector or an Inspector and no complaint can be taken to a court

of law without the consent or the written permission of the Chief Inspector or an Inspector. That provision provides enormous powers of not only denying the workers of their right but also of making good their own position and earning money through corrupt practices. May I read sub-clause (1) It says:

"(1) No Court shall take cognizance of any offence punishable under this Act except upon a complaint made by, or with the previous sanction in writing of the Chief Inspector or an Inspector within three months of the date on which the alleged commission of the offence came to the knowledge of the Inspector."

If he dilly-dallies with that and allows three months to lapse, naturally, the entire claim of the worker goes phut. Then, there is a proviso:

"Provided that where the offence consists of disobeying a written order made by the competent authority, the Chief Inspector or an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed."

There also, if he just sits quiet or pretends that he is doing something and the period of six months lapses, then also the right of the worker goes phut. So, it is penalising the worker for the deliberate fault of the Chief Inspector or an Inspector which is something improper, illegal and immoral. Therefore, I have suggested that sub-clause (3) may be added, that is:

"(3) When an offence under this Act comes to the notice of the Chief Inspector, or Inspector, he shall file a complaint before the court assigned for this purpose with the least possible delay."

I have given him ample latitude by saying "with the least possible delay" and that protects the right of the

worker. In this enactment, the question is how far the Factories Act will apply and how far the Bonus Act will apply. We know that nothing will apply to them. Even such provisions of the Industrial Disputes Act are partially made applicable to them. I do not know how far it will stand the test of the law. The only protection is to go to a court of law and that power is completely vested in the Chief Inspector or an Inspector. This is very dangerous. He can sit over it for three months and that right of the worker goes phut.

Shri Bade (Khargone): I want to point out one thing. I want to ask the hon. Minister as why there is this provision of three months and six months in the Bill. Previously also, under the Cloth Control Act, the Cloth Controller had to give permission and then only a complaint could be made in the court. In that way, there was so much corruption that that provision had to be deleted. Here also, as my friends have said, there is corruption. In sub-clause (1) there is a provision of three months and in the proviso, there is a provision of six months. Are they going to absolve all the offences after the period of six months is over? If no cognizance is taken of any offence within six months, is the person absolved of the offence? What is the objective behind this? I want to know that.

Shri Shah Nawaz Khan: The Chief Inspector and the Inspectors are also under the discipline of the Government. If we find that there is any wilful delay or dilly-dallying, those people will be dealt with very seriously. Also today the workers are so well organized that they will not tolerate such things.

Mr. Speaker: I now put Amendment 59 to the vote of the House.

Amendment No. 59 was put and negatived.

Mr. Speaker: The question is:

"That Clause 36 stand part of the Bill."

The motion was adopted.

Clause 36 was added to the Bill

Clause 37— (*Application of the Industrial Employment (Standing Orders) Act, 1946 and the Maternity Benefit Act, 1961*)

Mr. Speaker: There is a Government amendment.

Amendment Made:

Page 17,—

after line 7, insert—

"Provided that the said Act shall, in its application to a home worker, apply subject to the following modifications, namely:—

(a) in section 5, in the Explanation to sub-section (i), the words 'or one rupee a day, whichever is higher' shall be omitted; and

(b) sections 8 and 10 shall be omitted." (4)

(*Shri Shah Nawaz Khan*)

Mr. Speaker: The question is:

"That Clause 37, as amended, stand part of the Bill."

The motion was adopted.

Clause 37, as amended, was added to the Bill

Clause 38 was also added to the Bill

Clause 39— (*Application of the Industrial Disputes Act, 1947*)

Shri D. S. Patil: I have an amendment, No. 18. In this clause, there is a provision for preferring an appeal to such authority as the State Government may specify. This provision is likely to delay the disputes and the worker will be deprived of the benefits. Therefore, the summary decision should be final. I, therefore, propose to omit sub-clause (3) of this Clause.

I beg to move:

Page 17, omit lines 26 to 31 (18)

Shri Shah nawaz Khan: It is not necessary to do it.

Mr. Speaker: I now put Amendment No. 18 to the vote of the House.

Amendment No. 18 was put and negatived.

Mr. Speaker: The question is:

"That Clause 39 stand part of the Bill."

The motion was adopted.

Clause 39 was added to the Bill

Clause 40 was also added to the Bill

Clause 41- (*Power exempts*)

Shri Warior: I have got Amendment No 47. I beg to move:

Page 18, line 13,—

after "may", insert—

"after consulting Trade Unions or representatives of labour,"

We are adding only one small provision here for consultation with the trade unions or the organisation of workers in the matter of exempting certain provisions of this Act. Clause 41 reads as follows:

"The State Government may, by notification in the Official Gazette, exempt, subject to such conditions and restrictions as it may impose, any clause of industrial premises or class of employers or employees from all or any of the provisions of this Act or of any rules made thereunder."

This Clause, as my hon. friends have pointed out, gives a very wide power to the State Governments. There are other implications also in this. What we want is to bring into the orbit of this enactment more and more powers whereas the Government is empowering the State Governments; the Central Government is not in the picture at all. Of course, there is the right of

the State Government; we do not deny that as such, but the representatives of the workers' organisations must be consulted and only with their concurrence this must be done. It must not be done only by employers and the Government.

Shri Umanath: This is being suggested on the basis of the experience in the Madras State. In Madras State an Act was passed where the State Government, of course, has the final authority, the power, to exempt the beedi owners from all the provisions or certain provisions. What happened was that because the beedi-owners were stoutly and unitedly resisting the enforcement of all the provisions or various provisions of the Act, the Madras Government was trying an experiment i.e., giving them exemptions and trying to attract them towards the acceptance of the Act. They were trying a method—I do not know whether it is a Gandhian method; that is, giving them some concessions, saying "we will exempt you from such and such provisions, you accept the principle of the Act". Where is the question of accepting when the Act is an Act which is applicable to all the owners? They tried this. Then slowly, from one provision after another, they were given exemption and yet, they did not abide by that. Ultimately what is happening in Madras State now is this: what is remaining is the power of the Government to collect licence fees from the owners. There is a provision to that effect in the entire Act; only that provision is in force now; so, the whole Act has now become a licence-fee-collecting Act. So, with that experience, I am saying that it should not be done like that. That is why we are suggesting that if any exemption is to be made, it should be done after consulting the trade union representatives or the representatives of labour. If this amendment is accepted, the Government can hear the opinion of the labour representatives also who are directly involved in the question of benefits and other things. Then there will be some relief for them.

Arbitrarily allowing the State Government to do would be unfair. You can accept this amendment. What could be the objection to this?

16.25 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Shri Shahnawaz Khan: All that I can say in this respect is that this consultation would normally be done by the State Governments of their own accord.

Shri Umanath: They did not do; that is why, we are suggesting.

Shri Shahnawaz Khan: As my hon. friend is aware, we are laying great emphasis on proper co-operation and consultation between the workers and the management in the tripartite meetings and conferences; we are laying emphasis on this not only in one field but in all the industrial undertakings; that is the policy that the Government is following. Normally, on an important matter like this, the Government would consult the trade unions. Therefore, I do not think that it is necessary to put it in the statute.

Mr. Deputy-Speaker: I now put amendment No. 47 to the vote of the House.

Amendment No. 47 was put and negatived.

Mr. Deputy-Speaker: The question is:

"That Clause 41 stand part of the Bill."

The motion was adopted.

Clause 41 was added to the Bill.

Clause 42 was also added to the Bill.

New Clause 42-A

Shri Warrior: I have got my Amendment No. 48, i.e. for a new Clause 42-A. Sir I beg to move:

Page 19, after line 25, insert—

"42A. The Central Government shall issue a directive to the Central Excise Department to the

effect that the latter consult the competent authority under this Act, before issuing licence under the Central Excise Rules, 1944, for the manufacture of beedies or cigars." (48)

Shri Umanath: This amendment is also suggested on the basis of experience.

What is happening is that the Central Excise Department issue L-2 licences, i.e., for small manufacturers, L-2 licences are issued. What the beedi-owners are doing is that, to escape their liability and responsibilities arising out of this Act or in other Acts, they just get some ordinary workers or petty people to apply for L-2 licences and they run the whole show from behind giving the outward appearance that the L-2 licencees are the owners. This is an illegal and an unfair thing that is going on. The responsibility is there for the Central Excise Department to see before issuing L-2 licences whether the person is genuinely applying for himself or he is a benami applicant. But what happens is that the Central Excise Department is absolutely unconcerned with that aspect of enquiry; they simply issue the licence. Today in Tamilnad, there are a number of benami licencees who are having L-2 licences. During the previous Private Members' Resolution which my comrade Mr. A. K. Gopalan moved, I raised this question and Mr. Hathi promised on the floor of this House that this question would be looked into and that the Central Excise Department would consult the Labour Department of the State Government before giving L-2 licences, so that benami licencees do not come in the picture. It was on the floor of this House I raised this question and Mr. Hathi had promised that it would be looked into. Now is the time when I can add it as an amendment. There cannot, therefore, be any difficulty for this Act to provide that the Government will issue a directive to the Central Excise Department to consult the competent authority under this

[Shri Umanath]

Act before licences are given, to see whether they are benami or not. This is a very fair thing.

Shri Shahnawaz Khan: I am sorry to say that this amendment cannot be accepted. Government have powers to deal with benami transactions and any fraudulent deals under the other laws, and they have adequate powers for this purpose.

Shri Warrior: They are not doing it. That is the trouble.

Mr. Deputy-Speaker: I shall now put amendment No. 48 to the vote of the House.

Amendment No. 48 was put and negatived.

Clause 43— (Act not to apply to self-employed persons in private dwelling houses).

Shri Shree Narayan Das (Darbhanga): I beg to move:

Page 18, line 34, after 'occupier' add at the end 'or his relatives'. (49).

According to the provisions in this clause, this measure will not apply to the owner or occupier of a private dwelling house who carries on any manufacturing process in such private dwelling house with the assistance of the members of his family living with him in such dwelling house and dependent on him.

In our country, generally there are some relatives who live with the family; although they are not quite dependent on the family, still they reside with the family. Therefore, if at a private dwelling house some manufacturing process connected with beedis and cigars is carried on, if we add the 'relatives' also, there will be no harm. Suppose there is a family consisting of one male, one female and two children, and suppose there are three or four relatives belonging to

that family who reside there, and supposing they help or assist in the process, why should they not also be exempted from this measure? At present, the manufacture of beedis and cigars is a very small cottage industry. Although it is not carried on in any large scale, yet, in various parts of Bihar I have seen in small villages and small towns that this industry is being carried on on a cottage industry basis. I would, therefore, humbly request the hon. Minister to accept my amendment to insert the word 'or his relatives' also.

Mr. Deputy-Speaker: The amendment is now before the House.

Shri Shahnawaz Khan: The reason why I cannot accept this amendment is that this may lead to various malpractices and other evils of which hon. Members have talked so much. This may be taken as the thin end of the wedge. If this amendment is accepted, then many malpractices may creep in.

Mr. Deputy-Speaker: I shall now put amendment No. 49 to the vote of the House.

Amendment No. 49 was put and negatived.

Mr. Deputy-Speaker: The question is:

"That clause 43 stand part of the Bill".

The motion was adopted.

Clause 43 was added to the Bill.

Shri Shree Narayan Das: I beg to move:

Page 18, after line 34, insert:

"43A. Nothing contained in this Act shall apply to the owner or occupier of any place or premises, including the precincts thereof, who carries on any manufacturing process in such places or premises, including the precincts thereof,

employing not more than five employees:

Provided that the owner or occupier thereof is not an employee or a contractor of an employer to whom this Act applies." (50)

While I agree that this provision should apply to the beedi and cigar manufacturing industry, I would like to submit that at present in a very large number of villages and in small towns, this industry is being carried on on a cottage industry basis. Suppose in a small town some employer just employs four or five persons and manufactures something, that gives employment to some poor persons in the villages, and this measure should not apply to such persons.

I find that some exemptions are going to be given by the State Governments in some special cases. I do not agree that this power should be given to the State Government in such a general manner, but a specific provision should be made in this Bill so that wherever any employer employs less than five persons in a small town or a small village, he should be permitted to carry on his activity and this measure should not apply to him, because he is actually providing employment to some poor persons in the village. There would be no violation of any of the provisions of this Bill if this amendment of mine were to be accepted. I would, therefore, request the hon. Minister to accept my amendment.

Shri Shahnawaz Khan: I cannot accept it.

Mr. Deputy-Speaker: Does the hon. Member press it to a vote?

Shri Shree Narayan Das: I would seek leave of the House to withdraw my amendment.

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

Several hon. Members: Yes.

Amendment No. 50 was, by leave, withdrawn.

Clause 44—(Power to make rules)

Shri Shahnawaz Khan: I beg to move:

Page 20, after line 33, insert:

"(4). Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature, where it consists of two Houses, or where such Legislature consists of one House, before that House, while it is in session for a total period of 30 days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the Legislatures agree in making any modification in the rule or the Legislatures agree that the rule should not be made, the rule 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." (61).

Shri Warior: I beg to move:

Page 18, line 35, for 'State Government' substitute 'Central Government'. (51)

Shri Shree Narayan Das: I beg to move:

Page 20, after line 33, insert:

"(4). Every rule made under this section shall be laid as soon as may be after it is made, before the State Legislature while it is in session for a total period of 30 days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the Legislatures agree in

[Shri Shree Narayan Das] making any modification in the rule or the Legislatures agree that the rule should not be made, the rule 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." (52).

Mr. Deputy-Speaker: These amendments are now before the House.

Shri Shree Narayan Das: In almost all the Central Acts, whenever the rule-making power is given to the Central Government, provision is also made to the effect that the rules so framed are subject to modification by Parliament; they are placed before Parliament for a certain period, and if any modification is made during the period, they are subject to such modification. The House has the power to reject those amendments also. We make such provision in all the Central Acts. Under this Bill, rule-making powers are going to be given to the State Governments. I would, therefore, request the hon. Minister to have a provision whereby the rules framed by the State Governments would be placed before the State Legislatures and would be subject to such modifications as the State Legislatures may make or in case they reject them, be annulled.

Therefore, I would request the hon. Minister to accept my amendment.

Shri A. K. Gopalan: I have an amendment, No. 44.

Mr. Deputy-Speaker: It is the same as that of Shri Warrior's.

Shri A. K. Gopalan: I want to speak.

Shri Warrior: Apart from all other arguments, we on this side try to be convinced by the arguments given by the hon. Minister. But the point is that there are states which have no legislature at all. Where will these

rules be laid? Take, for instance, the State of Kerala. The rules are made by the State Government. Where will they be laid? In their own shelves. It may be said that it can come up here. We know how far we are able to consider the rules. If they are laid on the Table of the State legislatures, they will have some time and occasion to look into those things. That is done there. Here once the legislation is passed, we know what happens.

Mr. Deputy-Speaker: It will be placed on the Table of Parliament.

Shri Warrior: When are we going to consider the rules? We know what that process is, in respect of legislation about a State which has no legislature. Such situations are going to happen in this country much more.

Shri A. K. Gopalan: I would ask Government one question. Why has this legislation been brought forward? At least Shri Hathi can advise the Minister why this legislation is brought forward. What was the purpose of this legislation? When a private Member's Bill was brought in here, this question was asked. When there is legislation in a State, the purpose is to see that it is implemented. The example of Madras is there. In Madras, they said, 'You give Rs. 2-8'. Then those factories shifted to Andhra where they have to pay only Rs. 1-8.

This was discussed and Shri Hathi said that before bringing an all-India Bill so that there might be codification, there would be zonal committees in the north and south so that there could be some discussions and on that basis there could be some codification. This was what was said.

But the purpose of this Bill seems to be only to tell the workers that 'we have passed legislation regarding conditions of work of cigar and beedi

workers; but we have given power to the State Governments to make rules'. If a State Government does not frame rules or if one State Government frames one set of rules and another State Government another set of rules, in implementation the same difficulty arises. So the purpose is defeated. We have seen in the south, in Madras and Kerala, that these cigar and beedi workers will not be benefited by it because the factory owners will remove their factories in Kerala to Mysore; because they are people from Mysore and they will withdraw from the State.

As I said, there was a discussion in this House on this matter and it was said that before an all-India legislation was brought in, it would be seen that at least there was co-ordination, that the Labour Ministers of the States would be called in conference and something would be done in that direction.

Then the emergency has been cited. What is the emergency? Emergency is only as far as the cigar and bidi workers are concerned? Emergency of getting bidi leaf or getting tobacco, what is the emergency?

Shri Shahnawaz Khan: Exemption may be given in case there is some extreme emergency.

Shri A. K. Gopalan: What is the extreme emergency as far as the bidi workers are concerned?

Shri Shahnawaz Khan: The hon. Member has got the other emergency on his mind.

Shri A. K. Gopalan: Please explain, what is the emergency that is in your mind? The Central Government passes a legislation, they say these must be the conditions of work of the bidi and cigar workers. What is the emergency in the State? It may be the emergency of an employer is that State to have more profits. So, it will be only betraying the workers,

hitting the workers, making them understand that after pressing for ten years in Parliament, we have passed a legislation, but at the same time throw them at the mercy of the State Government and say that the whole power of implementation is with the State Government. If that is so, please do not pass this Bill, do not betray the people and cheat the people like this by passing this legislation and putting them to hardship.

I would also impress upon the Minister that it was for the very same purpose that this all-India was necessary, or else why should there be an all-India Bill? East State can have a Bill concerning cigar and bidi workers. Why should the Centre legislate, what is the purpose of this legislation? So, I request that in view of the unanimous opinion of the House, this must be accepted. If this is not accepted that means there is no sincerity in passing this Bill, it is only to make the workers understand that we have passed a Bill.

Shri Shahnawaz Khan: It is my misfortune that when I took up this subject in my reply to the general discussion, Shri Gopalan was not here.

Shri A. K. Gopalan: I was here.

Shri Umanath: Your explanation has not convinced us.

Shri Shahnawaz Khan: As I said, since the enforcement has to be done by the State Government, we thought it proper that the State Government should also frame the rules, but I also assure him that we will take proper care to see that the rules are framed on a uniform basis and that no such conditions are created whereby one State gives different conditions of work to the bidi workers from the other.

Shri A. K. Gopalan: Why not have model rules, what about that?

Mr. Deputy-Speaker: The question is:

Page 20,—

after line 33, insert—

'(4). Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature, where it consists of two Houses, or where such Legislature consists of one House, before that House while it is in session for a total period of 30 days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the Legislatures agree in making any modification in the rule or the Legislatures agree that the rule should not be made, the rule 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.'

61.

The motion was adopted.

Mr. Deputy-Speaker: Now I put amendment No. 51 to the House.

Amendment No. 51 was put and negatived.

Mr. Deputy-Speaker: What about 52? It is covered by the Government amendment.

Shri Shah Nawaz Khan: We have accepted that amendment in principle.

Shri Shree Narayan Das: I wish to withdraw.

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

Hon. Members: Yes.

Amendment No. 52 was, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

"That Clause 44, as amended, stand part of the Bill."

The motion was adopted.

Clause 44, as amended, was added to the Bill.

Clause 1—(Short title, extent and Commencement)

Shri N. Sreekantan Nair: I beg to move:

(i) Page 1, lines 5 and 6,—

omit "except the State of Jammu and Kashmir". (53).

(ii) Page 1,—

(i) line 7,—

for "the State" substitute—"the Central".

(ii) line 9,—

for "State Government" substitute "Central Government". (54).

Shri Warrior: I beg to move:

Page 1,—

for lines 7 to 10, substitute,—

"(3) It shall come into force in all States of the Indian Union on such date as the Government of India may, by notification in the Official Gazette, appoint." (20).

This is the most crucial amendment. We do not want different dates to be pursued by different States. If all the States do not enforce this legislation on the same date, we are quite sure that the primary object of the legislation will be defeated. We want the Government to consider this sympathetically earnestly and seriously. Government will not have any objection if they consider it seriously. But if they simply stand

on prestige since it has come from the opposition, it is another matter. Actually what happens is, some of the forward states will accept and some backward states where the workers cannot force the Government and the employers to fix an early date will delay it. The spirit and the purpose of the legislation will be defeated in that case. Why not at least be done? The rule making power, the implementation power and the machinery to implement—all are left to the States. Why not at least the date on which it has to come into force be left with the Central Government? If a Government wants, it can come forward with a suggestion that it should be after 2 or 3 months, so that all the States will enforce this enactment on the same date.

Shri N. Sreekantan Nair: My amendment is to clause 1; my amendment No. is 53. Clause 1(2) says that it extends to the whole of India except the State of Jammu and Kashmir. The little constitutional difficulty that was before us in the past does not exist any longer; it has been cleared by constitutional amendments. The traditional method of putting this clause in every enactment no longer holds good. My hon. friend Shri Saraf himself has pleaded for the introduction of this measure in Kashmir as well. That is, so far as my amendment No. 53 is concerned.

So far as my amendment No. 54 is concerned, I entirely support what my hon. friend Mr. Warior has said. If that is not possible and the Government thinks that there must be different dates for different States, that also is something which we can allow out of necessity, provided the Central Government takes upon itself the responsibility of enforcing it in the various States. So, I want the Central Government to be brought in and the clause would read: "It shall come into force in a State on such date as the Central Government may by notification in the official gazette appoint...." The Cen-

tral Government can ask the State Governments about their opinions and they can ask them whether they have any particular objection to a specified date, so that the Central Government will be the final authority which decides upon the date on which it will come into force. If some State wants a date 5 or 6 months later, that too can be conceded if a later date is appointed by the Central Government. The Central Government may have different dates for different States or areas. All this can be brought in but the responsibility must be that of the Central Government so that it may see that this is enforced without delay.

Shri Umanath: Clause 1 (3) says that it shall come into force in a State on such date as the State Government may appoint.... If this clause is passed as it is, it will definitely veto the objects and reasons stated in the Bill. It says that when a State passes special acts to regulate the conditions of work of these workers the industry was highly mobile and tended to move to an area where these laws would not operate. That is stated to be the object. If the clause is passed as it is, the object of the Bill will be defeated. If the State Governments had no powers to enact their own laws, then I can understand this clause here which will empower the State Governments to do certain things. The State Governments had the powers all along and yet, why did the Government come forward with this Bill? Because, notwithstanding the State Governments having these powers, they were not utilising them to enact the laws so that this industry does not shift from one State to another. That is why this Bill has come. What will happen, if different States fix different dates; if, for instance, the Madras Government enforces it and the Mysore Government fixes a different date, immediately they will shift it from their State to another place, after the passing of this Bill.

[Shri Umanath]

The Minister has been saying that for "administrative arrangements" this clause is being retained. I suggest that for these administrative arrangements, to appoint officers and so on in the various States, the Central Government may consult the various State Governments and see that they make the administrative arrangements and then let them fix one day and enforce it throughout the country. They can do that. If the Government does not accept it, then, it means that, as our friends have said, the purpose is just to show the workers that "we have done this for you," whereas really the object is to see that the benefit goes to the employers and not to the workers.

Shri Shahnawaz Khan: I do not feel that there is any need to be so rigid. In this particular aspect we need not insist on fixing one definite date. What can be done is to give the State Governments reasonable time to make arrangements to declare the dates and make it effective. So long as it is done within a reasonable time—and we will see from the Centre that no State delays the enforcement of it or delays the marking of rules—it does not matter.

Shri A. K. Gopalan: May we know what is the difficulty that you feel in accepting this?

Shri Shahnawaz Khan: The only difficulty is that one State may not find it convenient to enforce it from a particular date.

Shri N. Sreekantan Nair: But my amendment allows different dates for different States.

Shri Shahnawaz Khan: We can see from the Centre that this thing is implemented within a reasonable time. Nothing would be lost. Why insist on a particular date?

Regarding the application of the laws to the State of Jammu and Kashmir State, the labour laws in the

concurrent list do not apply to the State of Jammu and Kashmir, but by mutual agreement and by consent of the State Government, this can be made applicable, and most of the laws are made applicable to them.

The other question is a much larger one and it can be dealt with separately.

Mr. Deputy-Speaker: I shall now put the amendments to the vote.

Amendments Nos. 20, 53 and 54 were put and negatived.

Mr. Deputy-Speaker: The question is:

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

The Enacting Formula and the Title were added to the Bill.

Shri Shahnawaz Khan: I beg to move:

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

Mr. Deputy-Speaker: Motion moved:

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

Shri Umanath: The Government have refused to accept certain important and crucial amendments on which there has been unanimity in this House from all sections, and they are going headlong with this measure with the majority behind them. The Government is just acting like the fish, a variety of fish which we call in Tamil as *vilang meen*. That fish has the head of a snake and the tail will be like that of a fish. The Government, by enacting this measure, by rejecting certain crucial amendments accepted by all sections of the House, is just acting like that fish; because that fish, when it faces a snake will show its

head and when it faces another fish it will show its tail! Just like that, the Government wants to pass this enactment. And today, when the elections approach, when the employers create a hullabaloo, the Government will tell them that the Government have protected the contract system and have protected the industry. When the beedi workers will create a hullabaloo and say, "you have rejected all the crucial amendments", the Government will tell them "we have passed this for the first time: we have given you all the benefits, maternity benefits, etc." So, the Government, by passing this Bill and by rejecting the crucial amendments, which were unanimously supported, are acting just like the fish. I request the hon. Minister at least to reconsider the position at this stage.

Shri Shah Nawaz Khan: I cannot understand why my hon. friends on the opposite side are suspecting the *bona fides* of the State Governments. I would again reiterate that this Act will have to be enforced by the State Governments. We have had discussions with all the States and they have expressed their willingness to make this Act a very effective one and to put an end to this exploitation of the beedi workers. All the States are very keen and sincere in their desire to enforce this Act effectively. Let the States have a chance.

Shri Umanath: They had a chance for 18 years.

Shri Shah Nawaz Khan: Now that we have enacted a uniform legislation from the Centre, let the States be partners in making this beneficial enactment really effective for the benefit of the workers.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

16.56 hrs.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

REPORT OF JOINT COMMITTEE

Shri Sezhiyan (Perambalur): Sir, I beg to present the Report of the Joint Committee on the Bill further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951.

16.564 hrs.

CONVICTION OF MEMBER

(Swami Rameshwaranand)

Mr. Deputy-Speaker: I have to inform the House that the Speaker has received the following communication, dated the 1st November, 1966, from the Superintendent, Central Jail, New Delhi:—

"I have the honour to intimate that Swami Rameshwaranand, Member, Lok Sabha, was sentenced to pay fine of Rs. 20 or in default to undergo 7 days' simple imprisonment, under Section 32, Police Act, by the Court of Magistrate, First Class, New Delhi, on the 28th October, 1966."

16.57 hrs.

STATEMENT RE: DELHI POLICE

The Minister of Home Affairs (Shri Nanda): Sir, certain sections of the non-gazetted officers of the Delhi Police have been holding public meetings and indulging in other agitational activities with the object of securing recognition of a union which they have formed and for the redress of their grievances. They had sought registration of the union, but the Registrar of Trade Unions, Delhi, has refused registration on the ground that the provisions of the Indian Trade Unions Act are not applicable to members of a police force.