

[Shri A. K. Gopalan]

already. I thought the hon. Minister would give us an assurance that that Act will be implemented first, and then the plantation workers will be included within the scope of this Bill. Judging from the past experience we have had, I am sure that unless very strong action is taken by Government against these British planters, who do not want to implement the Plantation Labour Act, that Act would be a dead letter. I very strongly protest against the attitude that Government have adopted towards these plantation labourers. I hope Government will see the great amount of unrest that prevails among these plantation workers, and take steps to get the Plantation Labour Act implemented and also bring the plantations within the purview of this legislation.

Shri V. V. Giri: I have nothing more to add except to thank the various hon. Members of this House, or the constructive criticisms they have placed before the House. I assure my hon. friend Shri A. K. Gopalan, that the criticism that he has made in the matter of implementation of the Act, and the application of lay-off, will be duly considered.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

EMPLOYEES' PROVIDENT FUNDS (AMENDMENT) BILL

Mr. Deputy-Speaker: The House will now take up the Employees' Provident Funds (Amendment) Bill.

The Deputy Minister of Labour (Shri Abid Ali): I beg to move:

"That the Bill to amend the Employees' Provident Funds Act, 1952, as passed by the Council of States, be taken into consideration."

The Bill seeks to remove some administrative lacunae in the Employees' Provident Funds Act 1952, which is a simple piece of legislation. The Employees' Provident Funds Act, 1952, fixes the principle in broad essentials, of a provident fund for workers, and leaves the details to be worked out under a scheme. The scheme framed for the establishment and administration of the Employees' Provident Funds was brought into operation by stages, and enforced in its entirety with effect from 1st November 1952. A legislation in respect of an entirely new activity covering a large number of workers in several industries scattered throughout the country can never be perfect in the very first stage itself, and requires improvement from time to time on the basis of actual experience. This Bill has been brought to remove the defects and deficiencies which have been noticed in the administration of the Act.

During the discussion of the Bill in the Council of States, a number of amendments were tabled to extend the Act, and the scheme to several other industries. But it is not necessary to amend the Act, for this purpose. According to sub-section (3) of section 1, the Act applies to six specified industries, in the first instance, and the intention is that other industries should be brought in, and for this purpose, powers vest in the Central Government under Section 4.

5 P.M.

Other industries have not been brought under the Act not because there is any lack of purpose on the part of Government but because their experience with the implementation of the scheme in the 6 industries has not justified any extension at this stage. The task of implementation has been extensive involving large-scale operations. There are plenty of loose ends which need tying up. To solve some of our difficulties, this Bill has

been brought forward. Until the major outstanding issues are settled and the procedure is stabilised scientifically, it will be unwise to bring in other industries. A new scheme of this nature needs time, to take root. Voluminous legal interpretations, clarifications oral and written, and consultations all over the country were needed for overcoming the initial inertia of employers and workers themselves. A number of forms and returns were to be devised, accounting and banking arrangements were to be made and a provisional Manual of Operations framed. Arrangements for annual accounting, exemption and ultimate decentralisation needed our attention. Each of these operations involves considerable time and hard work. In spite of all these difficulties, we have made a good start.

[The scheme has been applied to 1675 factories covering 13.36 lakhs out of 29½ lakhs of employees covering more than 45 per cent of factory workers. Exemption procedure has been evolved and exemption has been granted to 468 factories covering 8 lakhs of employees. Annual accounts for 1952-53 for over 5 lakhs of employees are under preparation and the current account of these employees is being checked up. We have collected nearly Rs. 5 crores on account of contribution and Rs. 16 lakhs on account of administrative charges. After making the demands for final settlement of dues on insurance premia, Rs. 4 crores have been invested in various securities of the Central Government.

The task of amending the Act and the scheme finalising the manual for procedure and decentralising the scheme are engaging our attention. Some employers have contested the applicability of the Act and the scheme to their industries and even challenged the basis of application of the scheme to the scheduled industries. Some employers have also prevented Inspectors from inspecting factories. There has been delay in

submission of returns and payment of dues. We are handicapped for want of powers to recover dues from exempted factories and to levy interest on delayed payments. Under the existing law, there is some difficulty for prosecuting companies or punishing some offences. Of course, a large number of employers are enthusiastically co-operating and it may not take long before the scheme is put on an entirely satisfactory footing. The progress made so far has been considerable and I do hope that in another year's time, we shall be able to stabilise all our plans and procedure and take on hand the question of extension of the scheme to other industries.

The other comments that we have received are regarding certain features of the Act and the scheme.

It has been objected as to why Government factories have been excluded from the operation of the Act, why infant factories have been given time for three years, why contributions are recovered from workers and why exemptions are granted at all. These issues were fully considered only last year by Parliament which decided on the provisions as they exist in the Act today. Exemptions are permissible under the existing provisions only if equal or better benefits may be available for the workers. No exemption is granted without prior consultation with the workers themselves. In fact, every successful exemption application has been so far a joint one.

Another question which is receiving our attention is regarding a pension or insurance plan for workers being added to provident fund benefits. We have in contemplation not only extension of the Act and the scheme but also diversifying the benefit provisions. A pension or an insurance scheme can be successful on the basis of certain amount of continuity of employment. Addition of new benefits is likely to lead to confusion until the procedure for the administration of existing benefits has been finalised. We will take the earliest

[Shri Abd Ali]

opportunity to plan for additional benefits as soon as we feel certain that conditions have become favourable.

As I have explained earlier, our main objective in bringing these amendments is to smoothen out certain administrative difficulties. All the amendments proposed proceed from some administrative difficulty or other although some of them also involve certain points of principle.

The amendment proposed in clause 2 is merely to enable us to take in a factory as distinct from an industry, at the joint request of an employer and a majority of the employees. The amendment in clause 4 is intended for removing the doubt that the scheme applied to all industries covered under the Act. Under clause 6 we are taking powers, primarily for recovering arrears from exempted factories. In clauses 8 and 9, certain benefits are being extended to exempted employees. Under clause 11 the right to inspect an exempted factory is being taken.

In clause 13, it is proposed to take powers for charging damages or penal interest on delayed payments of contribution or other dues of provident fund. In clause 15, powers are being taken to exempt classes of factories on economic or other grounds. In clause 17, powers are sought to be vested in the Central Government for removing difficulties. Amendments proposed in other clauses are either formal or of minor nature which do not call for special attention.

Although all these amendments have been framed on administrative considerations, some of them involve a certain measure of policy. For instance, the proposed section 14 B invests the appropriate Government with powers for recovering damages. The intention of the Section is to recover not only the normal interest but also some amount of penal interest as

well from the employers who default in payment of provident fund dues. It has been our experience that large amount of contributions and administrative charges are kept unpaid for unduly long periods. There are powers for recovery of arrears by summary revenue process and also powers for prosecution where necessary. In the absence of a monetary penalty there will always be a tendency to delay the payment of provident fund collections by some of the employers. Happily, their number is very small.

Secondly, the Central Government are being vested with powers for exempting a class of factories on economic or other grounds, under the proposed sub-section (2) of section 16. A number of factories in certain industries are economically too backward to stand the burden of provident fund. A case in point is the handloom industry in South India. These factories are struggling for existence and the workers therein are facing unemployment. The handloom industry, up to a point, may be an appropriate case where exemption may be considered, if continued employment is to be secured to a worker, to the exclusion of provident fund benefits. No exemption will be granted without consulting the workers, the Regional Commissioners and the State Governments. The Central Government will apply stringent standards for exempting any class of factories and will not grant exemption unless they are completely satisfied about the need for it in the interests of the workers themselves.

Besides the uneconomic factories, there is another class of factories which deserve exemption. Certain Universities and charitable institutions are running factories for educational or charitable purposes. Such factories which come within the purview of the Act and the scheme may not be saddled with the liability of the Act and the Scheme. For these purposes the proposed power is sought to be taken.

Thirdly, Central Government are being vested with powers under the proposed section 19A for removing certain difficulties. A number of difficulties regarding interpretation and application have arisen from time to time and have held up the implementation of the scheme. Some of these disputes are still pending in High Courts. All these cases, in spite of the best wishes of all concerned are bound to take time. The simple issues specified in the proposed section which involve primarily questions of fact can be settled expeditiously by Government. Unless the proposed powers for settling doubts or difficulties are taken, it will involve considerable expense and time to resolve them, through courts of law. In exercising the proposed powers I may assure the House, the Central Government will take into consideration representations from all quarters and also take expert advice wherever necessary.

These in brief are the proposals in the amending Bill. These are primarily administrative and even consequential in nature. They do not affect the basic framework of the Act or depart from the original intentions. I have no doubt that the House will find them wholly acceptable. I request that the Bill may now be taken into consideration.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to amend the Employees' Provident Funds Act, 1952, as passed by the Council of States be taken into consideration."

Shri Tasbar Chatterjee (Serampore): I heard with attention the Deputy Minister of Labour speaking while introducing the Bill. He has dealt exhaustively with the working of the Provident Fund Scheme although I originally felt that he would simply deal with certain points about the amendments. Anyway, that has given me an opportunity of speaking in some detail about the working of the Scheme also. I have the privilege

[**PANDIT THAKUR DAS BHARGAVA**
in the Chair]

of being a member of the Board of Trustees of the Provident Fund and I happen to know how this scheme is working—perhaps a bit more than the Deputy Minister himself. Only the other day I attended a meeting of the Board of Trustees and I happen to know how things developed there. So, I propose to speak in some detail, not only about the amendments, but also about the principle and policy that has been just now mentioned in the Deputy Minister's Statement. The Deputy Minister has said that the main purpose of the Amending Bill is to remove certain Administrative difficulties and very little of basic policy is involved in it. If we carefully analyse what the amendments actually go to mean, we will find that the intention of the Government is not simply to remove certain administrative difficulties, but it is something more because they want to serve the interest of the employers in so far as they have proposed amendments by which more liberal exemptions can be granted and wider scope can be given, to the employers so that they can go out of the scope of the Provident Fund Scheme or at least utilise the Scheme to serve their own interest. It is correct that apparently certain broad things come out of this Amending Bill. Schedule I, in which the industries have been explained, has been a bit elucidated. That is quite good. Application of the Provident Fund Scheme to a factory, which is even beyond this schedule, has also been covered by this Act on the basis of employers and employees' joint agreement. It is also true that by way of removing administrative difficulties, really, protection has been given to employees of exempted factories. No doubt it seems that the Government has come forward to serve the interest of the workers, but to us who looked into the Bill more carefully and who have certain experience about the working of the Provident Fund Scheme—at least to me who knows how things go on in the Board of Trustees—something

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more is apparent. To me it appears that the main purpose of the Bill is not so much to remove certain administrative difficulties as to lay down a new basis upon which methods can be formulated by the employers to deprive the workers of the benefit of the Provident Fund Scheme. That is the main point. I know—and most probably many others also know—that in connection with the provisions of this Bill Government have stated a number of times that the opinion of the labour will be taken and after considering the labour opinion, things will be finalised. Government may know that the different trade union organisations like the A. I. T. U. C. and I. N. T. U. C., have made a number of suggestions as to the way of improving the Provident Fund Act and all those suggestions were made from the point of view of the workers. For instance, it was demanded by the A. I. T. U. C. that the scope of the Bill should be extended to all factories and also the plantation labour. Another vital point was demanded by the labour—not only by A. I. T. U. C. but, so far as I know, by the I. N. T. U. C. also—that the claim for full contribution of the employers should be allowed even when the worker is working for less than 25 years. It was expected that when the Government is coming forward with an Amending Bill, at least some of the demands will be met. The Act could be improved in these directions, so that the workers' interest may be served. To our surprise, we find that the Government has come forward with this Bill just to serve the opposite purpose. The main point in this Amending Bill—that goes against the workers' interest—virtually is this. It has been said that any factory can be exempted from the operation of the Scheme on financial grounds. So far, the question of exemption came in only in connection with those factories that have their own Provident Fund Scheme. Now the Government has come forward with a proposal that even if a particular factory has no provident fund scheme of its own, it

can be exempted from the scope of this Act, i.e. from the obligation of giving workers the benefit of the provident fund on financial grounds. Who will determine these financial grounds? There is nothing in the amendment to say whether Government officers on their own will determine it or whether they will consult the labour also.

Shri V. V. Giri: Majority of workers' it is mentioned.

Shri Tushar Chatterjea: There is no such point in the amendment. Anyway, this is a very vital point, mainly because we have the experience that employers in general, in the course of working the Provident Fund Scheme, have tried their best to squeeze out concessions from the Government. As I said, being a member of the Board of Trustees, I had the privilege of looking into the working of the provident fund schemes in many factories and I experienced what a very big employers' combination like the I. J. M. A. did. Then, a number of engineering factory owners, a number of textile factory owners, right from the beginning are trying to take advantage of the loopholes that exist in this Act and the scheme, and they have not only tried to take advantage of the loopholes but they have also taken advantage of the position of provisional granting of exemption that the Government may make. Anyway, unless and until this particular amending clause is properly modified, unless and until proper guarantee is given that the question of determining the exemption on financial grounds will not be made without consultation with the employees' representative, unless and until that is done, there is every chance of this clause being misused and there is every chance of the employers taking advantage of this clause and influencing the Government to serve their own interests.

Sir, there is another very funny thing in this amending Bill. The Deputy Minister also has said and as we have also seen in

the Bill—and perhaps the Government will say that by this amendment they have tried to accede to the demand of the labourers and it is this: the scope of the provident funds has been extended to such factories in which the majority of the employees and employers will jointly agree. If they jointly agree to come under this scheme, then even such a factory which is not in this schedule will be taken in. It is very good thing to say so, but actually we know from our own experience that the agreement of the employers and the employees is very difficult to achieve. I do not know of the concrete instance the Labour Minister has got with him. It may be one or two little instances, but for the majority of cases we know, when the employees want a particular advantage, then at once the employer steps in and disagrees with the employees and does whatever it is in his power to nullify it. Whenever employees in a particular factory feel that it is better for them to apply to the Government for inclusion of that factory within the scheme, then, it is quite natural, as we have seen from our own experience of labour movement, that the employer will step in and say, no. "I won't agree to your application. I won't agree to your demand. I won't have this included in the scheme." And, under the plea that the employer has not agreed to it, that factory will not be able to come under this scheme. So, in our opinion, this amending clause is nothing but a face-saving device. It is only to pacify the growing public discontent. It is only to show to the labour movement that "you have demanded that the scheme should be extended to other factories. Here, we have extended. In cases where employers and employees will agree, we will extend the scheme to that factory also." "So, we have acceded to your demand. We have recognized your demand. We have given you scope." But in practice, such a thing will never happen, for we know that employers and employees never agree on vital points on which employees' interests depend. So, on the one hand, that dangerous provision is here: a very

wide and new provision for exempting any factory on financial ground, not only from the central scheme but also from any provident fund affair. On the other hand, to befool the public, some sort of palliative has been given; some sort of pacifying words has been said that if employers and employees agree, then we are ready to accommodate that factory in the scheme. From these things, the whole policy of the Government in amending this Bill has become quite clear.

Now, Sir, about the exemptions,—the Deputy Minister has said much about them. On that exemption question, we find that section 17 has been amended. The whole section has been re-drafted and placed as a substitute in the place of the old section. Now, we don't object to the question of exemptions. We are not opposed to exemptions as such, for, if actually any individual factory's provident fund scheme is better than the central scheme of the Government, then, certainly in the interests of the workers, we will demand that an exemption should be given. So, as a matter of principle, we are not opposed to it. But we must see how this exemption question is being viewed by the Government, how it is being executed by the Government and how, under the plea of giving the workers a better provident fund scheme, actually the employers are given a handle so that they can go their own way and deprive the workers, whenever they like, of the benefits. Sir, an amendment has been proposed about the rate of contribution. Originally, the position was this: that in factories where the rate of contribution is in conformity with the central scheme, or more favourable to the workers from the workers' point of view, that rate may remain. That was so in the original Act. But the amendment now is, it must be "not less favourable," in the place of "more favourable." What does it mean? It means nothing but this: that the Government wants that even a factory which applies for exemption can get exemption even if, in its scheme, the rules and the clauses are not better

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than the central scheme. Originally, the condition was that it must be better. Now, Government changes it to be 'not less favourable,' so that it may be equal to the Government scheme. We don't understand why a factory will get exemption, although in its provident fund scheme there is no such thing as "much better than" the central scheme. We cannot understand this. From this attitude of the Government, we feel that there must be behind the back of the Government the idea that the whole Act should be so amended as to suit or serve the interests of the employers. Perhaps the employers have demanded "why put that as 'more favourable'? That acts to the disadvantage. Why don't you change it to 'not less favourable'? Then we can very well make our provident fund scheme just as the central scheme and we can go in our own way."

Secondly, there is another very important thing. Although it looks a very little thing and has escaped the attention of others, it did not pass my attention, for, I happened to know the details of this scheme. It is this: and it is a very vital point. Exemption can be granted only when certain conditions laid down by the Government are fulfilled. If an employer does not agree to fulfil that condition, then the exemption cannot be granted to him. As I know the Board of Trustees after thorough discussion have formulated certain conditions; a number of conditions have been formulated. The real safeguard lies in the fact that those conditions must be fulfilled by the factory or employer wanting exemption. Now, in the amending Bill the provision regarding an employee or a class of employees has been brought in very carefully. In the original Act I find that the exemption to be granted to an employee or a class of employees is a sub-section under the section which says that exemption can be granted subject to certain conditions that Government may impose. Now, in the amending Bill to my surprise I find that the exemption for an employee or a class

of employees has been taken out of that context and put separately and independently, so that this exemption may not be subject to the conditions. This is a very dangerous thing. I know that the Board of Trustees have laid down a number of conditions. But cleverly this paragraph has taken out and put independently, so that no condition can be made applicable to it.

Secondly, Sir, there is another important thing. A new provision has been introduced in the Act. In the case of a factory which has got not only provident fund schemes of its own, but also gratuity, pension, or other benefits, exemption can be granted, if those benefits taken together, singly are not less favourable than the governing scheme. Quite good. In the case of the employers their opinion has been given due regard. But in this particular case, the question of taking the opinion of the employees has been completely disregarded. Now, if the employees of a particular factory feel that even though there exists a provident fund scheme or gratuity or pension, or any benefits like that, they must not go out of this Central Scheme, if they feel that the Central scheme is much better, or to some extent better than the benefits they receive under the rules of that particular factory, Government won't do it. If the employe, on the other hand, wants, Government will grant exemption to him.

In Calcutta, from our experience we know of a number of factories in which the employers taking advantage of the backwardness of the workers, taking advantage of the ignorance of the workers, somehow or other manoeuvre and manage to get a petition signed by the employees by which they seek exemption. When the question of a number of employees or class of employees comes in, when it is to the advantage of the employers the opinion of the majority of the employees will be considered. That provision, we know has been taken advantage of by the employer to the detriment of the interests of the workers and in a number

of cases such applications were sent for getting exemptions. But in a particular case where a whole factory is to be exempted on the ground of better benefit, in such cases there is no such clause; no such condition that the exemption can be granted only when a majority of the employees agree, or the majority of the employees want it. We do not understand why the whole exemption issue is dealt with by the Government only on the basis of the employers' demand. If the exemption is to be granted, it must be granted for the interests of the workers. We know that the conditions about exemption were formulated keeping in view the interests of the workers. But why then, in eliciting the opinion of the employees this vital question has been completely discarded. Exemption applications will be made by the employers; exemption applications cannot be made by the employees.

I know a number of cases in West Bengal where employees want that exemption should be granted. Employers do not want that exemption should be granted. Employees make petitions, but there is no such provision that on the basis of the employees' petition, Government can grant exemption. If the employer wants exemption for the sake of his own interest, Government is ready to grant exemption. While analysing the whole exemption affair, we find that there is some mystery behind it. It is really queer that the bigger the employer, the stronger is the urge for getting exemption. Who applied for exemptions? All the jute factories of Bengal got exemption; all the big engineering concerns of Bengal got exemptions; all the big textile factories got exemption. In regard to West Bengal about which I know a bit intimately, most probably 90 per cent. of the factory workers have been given exemption in this process. If all the jute factories get exemption, if all the engineering factories get exemption, if all the textile factories get exemption, then who else remains to get the benefit of the Central scheme. In the last meeting of the Board of Trustees

I said that the Government has made the scheme in such a way that the original rule has become an exception and exemption has become the rule. The majority of the workers have got exemption; the majority of workers have got out of the Central scheme and only a minority of the workers are in the Central Scheme.

The other day the Deputy Minister of Labour gave certain figures in the other House. The number of workers who have exempted—8 lakhs; the number of workers that are in the scheme—5 lakhs. So, the majority are out of the scheme. The fun is this: the bigger the employer the stronger is the urge for getting exemption and the Government cannot but give exemption. The funnier thing is this: the entire process of giving exemption took about 8 months. During these eight months the employers were sending applications and the Government were considering them, and the workers were deprived of the benefits.

This is my own experience. I referred the matter to the Board. And the Chairman of the Board had to agree that he had heard that such things had happened.

Take for instance the jute factories of West Bengal. They applied for exemption in the month of January or so. Till October nobody could know if the jute factories had got exemption or not. The workers of the jute factories were complaining to us, "What is the matter? We do not know whether the factory has been exempted or not and whether we are under this factory scheme or the Government scheme, whether we will get this benefit or that benefit". If we go to the manager, the manager says, "Still the whole thing is in a provisional way, we have not yet got final exemption, so we are not bound to fulfil the conditions of the exemption". As long as this provisional agreement goes on, the employer is not bound to implement the conditions that have been laid down by the board of trustees. So, for these eight months the employer does not care to implement the conditions—because the exemption is a provisional exemption. And about the

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Central scheme, the Regional Commissioner or other officers also do not care to look into the affairs of the jute factories, look into how the board of trustees in jute factories work. They do not bother. They say "It is not yet final whether the jute factories have really got exemption or whether they are under the scheme; nothing is final; so we cannot do anything now".

Now, what exactly is the matter? I read the report of the Deputy Minister's speech in the Council of States. He said: all the exemption matters have been finalised after proper scrutiny by the members of the board of trustees; they have been properly scrutinised and examined and then everything has been done. That is, exemption has been given by the Government not in a haphazard manner but with the consent of the employees, representatives, etc. I am a member of the board of trustees. I know how things happened. Not even a full report was submitted before the board of trustees about the factories that wanted exemption.

Shri Ab'd Ali: Sir, I may be permitted to clarify the point. I never said that it was done with the consent of the board. I said when exemption applications come jointly signed by employers and employees, then the Regional Commissioner first makes investigation, then the report goes to the State Government, and then to the Provident Fund Commissioner. If the Central Government feels that exemption should be given, then the appropriate Government (the Central Government or State Government) notifies the exemption. And of course it is in accordance with the policy laid down by the board.

Shri Tushar Chatterjea: As I know from my own experience, the statement of the Deputy Minister is not correct. The point is that in not a single case was the exemption application signed by the employer and employee jointly. The applications were always signed by the employers and the consent of the employees was not taken in any

single case. We referred to the matter in the board of trustees—not only we, representing the A. I. T. U. C. but if the Government cares to verify the opinion of their own pet organisation, the I. N. T. U. C., even that representative body very categorically said that in no single case, neither in the case of jute factory nor in the case of engineering or textile factory, the opinion of the employees was consulted. We put forward our point of view and our objection not separately. It is a matter of great gratification, it is a pointer that in the board of trustees all the six representatives of the employees agreed on most of the points. They put forward joint demands. They fought jointly. They took a united stand and criticised Government that their whole exemption policy is in the interest of the employers, and in no single case the union was consulted. The Chairman of that board had to admit: "Yes, in jute, things are really very difficult; you just send complaints; we will look into the matter".

Now, let me state another thing, and that is the question of condition. One very vital condition about that exemption is this that the factory must have its own board of trustees, in that board of trustees fifty per cent. must be representatives of employees and fifty per cent. representatives of employers, and there must be no casting vote for the Chairman who is an employers' representative. Apart from the functioning of that board, in most of the factories so exempted there does not exist any board at all. In most of the jute factories the board of trustees does not exist, for all practical purposes. The employer takes a paper, writes down the names of a number of employees of his own choice and submits it to the Regional Commissioner and says, "yes, here is the board". We know it from our own personal experience. We work in jute unions—not only I but the representatives of the I. N. T. U. C. He also agreed with me that in no jute factory or engineering factory, at least in West Bengal, there

exist any board of trustees in the real sense of the term.

As regards its working, no meeting is held. Whatever proposals are there, the manager or whoever may be there, writes down the proposal on a paper and gets it signed by those so-called members and sends it to the Regional Commissioner. The chairman of the board and the Central Regional Commissioner have to admit "Yes, about jute factories the condition is very bad and really the board of trustees do not function, really in the majority of factories there is no board of trustees". He admitted it and he promised to enquire into the matter. We simply said: you please enquire into these matters, you please enquire whether this condition is being fulfilled or not. So this is the position. The bigger the employer the stronger he is for getting exemption, because the big employer feels quite confident that he will be in a position to do away with all the conditions of exemption and go his own way and befool not only the Government but also the workers.

Therefore, in this amending Bill the points I have mentioned about exemption really worry us. We feel that by these points Government want to make the field of exemption wider so that the employer can go his own way and the employees will suffer. Sir, these are very vital things. Particularly, the most dangerous clause is that which provides that any factory can be exempted on financial grounds. If the factories that come under this Act, that have their own Provident Fund scheme can use the scheme and ignore these conditions, any factory can apply for exemption and it could have no provident fund at all and it will be very easy for the employers to completely topsy-turvy the scheme and deprive the workers of this benefit. We do not know how many employers are preparing grounds for applying to the Government for getting exemption on financial grounds. We do not object to exemption on financial grounds if really a factory is in a very bad position. But why should the workers be punished in that way. Why should not

the minimum obligation that the employers have to discharge to the workers by way of giving provident fund benefit be made compulsory? There may be financial difficulties. In cases of financial difficulties, Government should come forward to pay from its own fund the provident fund benefits or the Government must make such arrangements so that the financial difficulties of the factories are removed, and the poor workers are not deprived of their benefit. Our point is this. The provident fund benefit is the very minimum obligation that the employer has to discharge to the employees. Why should not this be made compulsory? Why should exemption be given in this case also? Therefore, Sir, when such a vital thing is being done, we have reason to suspect that the entire Government policy about this provident fund is something very dangerous, and that it does not serve the interest of the workers, but only serves the interests of the employers.

I do not want to take much of the time of the House. I will speak in detail in connection with the amendments. The only thing that I wish to say in conclusion is this. We expected that the Government would come with an amendment so as to serve the interests of the workers; we expected that the scope of the Bill would be widened and extended to all factories. We expected that Government factories would not be exempted and that they would also come within the fold of this scheme; we expected that the claim on the employers' contribution should be made more liberal than that is in the central scheme. Under the Government provident fund scheme, the employee will not be able to get the full employer's contribution unless he serves for 25 years. As you know, Sir, in the case of a very large number of offices and other concerns, that particular provision is much better than the provisions that the Government have laid down here. In some cases, even with 10 years' service, the employee gets the benefit of full employer's contribution. Even with 15 years' service, the employees will get the full employer's contribution,

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The Government have made provisions here in such a way that the employees will not get full employers' contribution unless they have served for 25 years. As we know, many tribunal awards also have given the employees such benefits. That is much better than the provision that the Government have made here. We expected that all these difficulties in the implementation of this scheme will be removed so that the employee's grievances may be met, so that the persistent demand of the different Central Labour organisations may be met and the co-operation by way of consultation and participating in Boards and Committees may be recognised.

Shri Gidwani (Thana): I do not think we have the quorum, Sir,

Shri Tushar Chatterjea: We expected that the Government will respect this attitude of the different Central Labour organisations. If at all the Government accepted to amend this law, it should go to improve the original Act. But, here, it goes not to improve the Act, but to make it worse. As I said at the very beginning, it is true that there are some provisions removing certain administrative difficulties. But, these good provisions are overrun by these dangerous provisions. Therefore, my criticism is this. These dangerous provisions should be removed and the Bill should be so amended as to serve the workers' interests.

Mr. Chairman: Shri K. P. Tripathi.

Some Hon. Members: No quorum, Sir

Mr. Chairman: Forty seven Members are there. Others are coming. We shall wait.

Shri K. K. Basu (Diamond Harbour): Others may be taken as present. They may come and go. Let us continue.

Mr. Chairman: Others are coming in. There is quorum.

Some Hon. Members: The bell may be rung.

Mr. Chairman: There is quorum.

Shri K. P. Tripathi may go on.

Shri K. P. Tripathi (Darrang): The scope of the Bill is obviously very limited. As I understand from the Mover, it seems to be intended to give effect to the administrative experience in the functioning of the Act during the last one year. Therefore, no change of substance has been made in the Act. Possibly it was thought that one year was too small time to find out whether further substantial changes may be made in the law.

When that measure was moved and passed at the time of the previous Labour Minister, an undertaking was given to the House that as experience increases, an attempt would be made to expand the scope as well as the Schedule of the law. On the other hand, I find no attempt has been made either to expand the scope of the law or to extend the Schedule. On the contrary, it has been proposed that in the beginning of the Schedule in the first line, the word 'production' be deleted. The first line reads as follows: "...engaged in the manufacture or production of ...". Obviously, manufacture and production are two types of functions carried on, and between them, they cover a large number of workers that what the word 'manufacture' only would do. Therefore, instead of this Bill expanding the scope of the Act, as was undertaken on the floor of the House, there is a direct attempt to reduce the scope of the Act. This is very unfortunate. I have tried to understand how this would improve the position of the worker. I have not been able to find any logical reason. I hoped that the hon. Minister would be able to give us some convincing reason as to why it is proposed to be deleted. I had thought that the Government would come forward with an amendment taking power in its own hands so that whenever they find it necessary, they could extend it to other industries also. Instead of that, there is a direct attempt to limit the scope of the Act which goes contrary to the undertaking given here on the floor of the

House. Why is it so, I do not understand.

As regards the Schedule, I find that the same schedule is adhered to.

6 P.M.

No attempt is made to expand it. One little attempt has been made to expand, *viz.*, by giving an Explanation Clause which explains electrical, mechanical and general engineering products. That is not really an expansion, but an attempt to interpret what these words mean, to interpret what was already included therein. I had thought that there would be a real attempt to expand the scope of the Act as well as the Schedule, particularly, as my friend has pointed out, the number of workers included is 8 lakhs plus 5 lakhs—8 lakhs in the exempted industries and 5 lakhs in the non-exempted ones. So, that is only fraction of the entire labour force of the country. If it is said that it is very difficult to expand this type of thing, I can understand it in the case of the Health Insurance Act which is for the protection of the labourer, because it needs hospitals to be expanded, doctors to be found and many adjustments to be made. But, in the case of Provident Fund, the same difficulties do not arise. Provident Fund is a centralised thing which is easier of administration than insurance in which you have to decentralise everything. Therefore, the pace with which the expansion of this Bill was envisaged was quicker than the pace at which the Health Insurance Bill could have been envisaged. Therefore, I had thought that at least in this Amending Bill there would be an attempt to take power in Government hands in order to later on include one after another the other industries here excluded.

The most unfortunate thing that happens about labour legislation is that somehow or other industry is regarded as co-terminus with factories. That is not the case. Industry is a wider term than factories. The labour

Department has the habit of thinking in terms of factories. Possibly it was initiated by the Factories Act. Therefore, whenever labour legislation is brought in, an attempt is made to legislate for the benefit of factories. A factory is one thing, and around the factory there are many people working for the same end, and therefore, as an industry, it is a far wider thing than the factory. It is for this reason that it is very dangerous to limit it merely to manufacture.

I find that leather goods, matches, petrol, transport, shipping, chemicals, mica, rubber, coffee, tea—all these industries are omitted. Why these should be omitted I do not know. Take for instance Tea. I was just reading the Rege Committee Report and I find that as far back as 1921 the Assam Labour Enquiry Committee reported that some provision should be made for superannuation benefit. It reads like this:

“Some of the gardens give a pension of Rs. 3 to Rs. 5 per month to their Sardars. It is not usually given to old labourers who have to depend on their relatives ...”

Though the Assam Labour Enquiry Committee in 1921 had stated that the provision of superannuation benefit is a matter which might receive more attention, it has not received any serious attention in the Tea industry. Since 1921 so many years have passed, and it is clear that a very necessary thing is that some provision should be made. When I went to Cachar I found that the industry was giving Re. 1 per week at a time when it was regarded that Rs. 1/9 per day was the absolute minimum per worker. What happens is this. It is expected that labour should continuously starve and gradually die away quicker than they would otherwise have died. This is the inevitable corollary of this condition. All these people who want superannuation benefit and cannot work are given at the rate of Re. 1 per worker a day and they

[Shri K. P. Tripathi]

somehow carry on; if they have no work, there is nobody who could maintain them, and so they die quicker than they would otherwise have died. It is for this reason that it is very necessary that you should widen the scope of this legislation, and think in terms of industries rather than factories. If once you think of industries, you will find that this sort of mistake will not occur.

With regard to the suggestions made by my hon. friend Shri Tushar Chatterjea about exemptions, I find that there is reason why there should be exemptions, and it is this. In every Government enactment, it is the minimum which is provided for. Even in England, I found that in the case of those industries which had no large trade union organisations, it was the Government legislation which came in for the protection of labour. In the case of those industries, where there was sufficient trade unionism, it was not Government legislation that provided relief to the workers, but it was the trade union action which protected them, with the result that the workers could get more from the employers, than they would otherwise have got.

But here, in India, what do the labourers get? Here is a legislation intended to apply to different industries in different conditions, and it must needs speak therefore of the minimum relief. But we want that legislation which would provide for both contingencies. Firstly, there should be provision of a minimum guarantee, where no provision is made by the industry itself. If by any chance, the industry makes a provision which is better than this, then there should be provision for the workers to walk out of the Government's scheme, and have their own scheme.

Recently, we had an agreement in Assam, with the industry, in regard to another important matter. There

were the ration concessions, and the employees had an agreement whereby they reduced the concessions to cash, at Rs. 60 a month. When this was done, they thought that it was a great bargain, but later on, it was found that in the north banks of the river there, the total value of these concessions enjoyed by the employees came to something more than Rs. 60 per month. So, the employees came forward, and said, 'no, we are not going to agree to your new scheme, we must have the system which was there before. After a great deal of difficulty, we wriggled out of the situation, by making it a sort of personal allowance. In this way, whenever there is a scope for higher relief, exemptions should be granted for that purpose. Therefore, the provision in this Bill which says that there should be scope for industries to walk out of this scheme, if they provide for better conditions, should be there.

There is one statement of Shri Tushar Chatterjea, which seems to be rather very surprising. He said that although it is provided that there should be a joint petition by the workers and the employers, in fact, there has been no joint petition. He also added that even the several trade union leaders, including those of the INTUC, had made the same statement. If that be so, it is for the hon. Minister to find out whether and how far it is true. When we legislated, we not only provided for a joint petition, but we also said, that if by any means, it is bypassed...

Shri Abid Ali: He said 'manipulated joint petition'.

Shri K. P. Tripathi: If it is bypassed, then it should be found out.

I have had experience of these Works Committees, where a similar thing happens. The Works Committees were being set up by the employers themselves, although it was intended,

under the letter of the law, that it should be done by the workers. These Works Committees were utilised for the purpose of breaking the demands made by the trade unions. Such a thing is possible, here also.

I would request the hon. Minister to enquire into the matter and see whether it is a fact, and if it is a fact, to take steps to check that practice. The Bill itself contains some provisions to put an end to such happenings in the future. If any such thing has happened, in the past, then that person who has erred, should be found out, and steps should be taken to see that such things do not repeat in the future, and I hope it will be quite easy for the hon. Minister to find out a method by which a check can be exercised. I welcome this Bill. This is an administrative measure and it would improve the working. Those things which were found necessary by experience have been incorporated in this and I support the Bill.

Shri Abid Ali: Sir, I was much pained to hear the remarks of Shri Chatterjea when he was referring to the manipulated applications. So far as we are concerned, Sir, every effort is being made to ascertain the real wishes of the workers. And, in case some workers have been duped, as the hon. Member has said, then we have ample powers to cancel the exemption which has been given to the factories in which the workers have been duped, as has been stated. In that case, Sir,—it has also been remarked by my hon. friend Shri Tripathi—I may request the representatives of such workers to bring to our notice such cases immediately; and, I assure them that, if on investigation I find that the exemption has been given against the wishes of the workers concerned, such exemptions would be cancelled forthwith.

Sir, I also find that exemption itself has been misunderstood. Exemption does not mean exemption completely from the operation of the Act.

It means that if the workers feel that they should have their own schemes managed locally, they are at liberty to make an application to the Regional Commissioner. As I have said earlier, if he finds on scrutiny that these schemes are on par with the scheme which is discussed here and the intention of a substantial number of workers is that the scheme should be managed locally, he submits his report to the State Government. The State Government also, after being satisfied that the scheme should be worked locally, send their report to the Central Government. After that only action is taken by issuing a notification exempting that particular factory from the direct operation under the Act. It does not mean that the workers of such factories or the employers have been completely exonerated or exempted and there will be no provident fund scheme for such workers. The exemption here only means that it is exemption from the direct control by the appropriate Commissioner and nothing else.

Sir, one hon. Member said that jute mills, big textiles and the engineering industries have been completely exempted. I doubt if all these have been completely exempted. As I have already said, if the workers are not satisfied with the exemption in these cases, we are here to help them.

About the remarks that this Bill has been brought forward to help the employers, Sir, there could be nothing more uncharitable than that. The hon. Member himself has been saying that there are loopholes in the Act which help the employers to get out from its operation. As I have already explained in my opening remarks, this small Bill has been brought forward with a view to remove those loopholes and tighten the scheme so that it may not be possible for the employers to get out from the operation of the Act and also with a view to ensure speedy implementation and also to avoid litigation which some of the employers are indulging in.

[Shri Abid Ali]

Sir, with regard to the Board of Trustees, so far as my information goes, almost all important decisions have been unanimous in the Board in which the representatives of the workers are also participating. With regard to this particular Bill also, Sir, we consulted the members of the Board and the suggestions sent by some of them were given due consideration, but most of them said that they would send their remarks subsequently. Ten days' time was given to send in their objections, if any, but they did not choose to communicate to us anything and that is not our fault. We are prepared to seek their co-operation and request them to help us, but if they choose not to be helpful, it is their pleasure. I am very glad that the object of the Bill has been appreciated. I assure the hon. Member opposite that all this is being done with the intention of helping the workers and the workers are aware that we are anxious to remove their difficulties. With regard to the particular item which my hon. friend there has objected to—about the joint application for total exemption—as I have submitted earlier, whenever we are satisfied as to the choice between closing of a factory or allowing a factory to continue without Provident Fund, everyone will agree that certainly the factory should continue in preference to closing without imposing contribution towards this Scheme. This necessity has been very much appreciated by the workers' representatives themselves. I do not know why the hon. Member there has not been able to read in this Amending Bill that if the majority of the workers desire that the factory should continue and that it should be exempted from the operation of the Provident Fund Act, they have to submit an application to that effect. It will be scrutinised by the Regional Commissioner, by the Provident Fund Commissioner and then by the Government of India.

Shri K. K. Desai: Temporary exemption or permanent?

Shri Abid Ali: As long as it may be necessary. It will also be open to the workers to apply later that the exemption should be cancelled. In that case it will be cancelled. Having said this, I am sure the hon. Member, who has objected, will appreciate the necessity of this particular section, which is not for obliging any employer but it has been brought forward with a view to allow the working of the factory and not its closing because of the imposition of the requirements of the Provident Fund Scheme. With these remarks, I request the House to pass the Bill which has been moved.

Mr. Chairman: The question is:

"That the Bill to amend the Employees' Provident Funds Act, 1952, as passed by the Council of States, be taken into consideration."

The motion was adopted.

Mr. Chairman: Now let us take up the clauses.

Clause 2.— (Amendments)

Mr. Chairman: There is only one amendment which is out of order. The question is:

"That clause 2 stand part of the Bill"

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 to 10 were added to the Bill.

Clause 11.— (Amendment of section 13)

Shri T. B. Vittal Rao (Khammam): Sir, I have my amendment No. 5.

Mr. Chairman: I am very sorry. This amendment is out of order.

The question is:

"That clause 11 stand part of the Bill"

The motion was adopted.

Clause 11 was added to the Bill.

Clause 12 was added to the Bill.

Clause 13 was added to the Bill.

Clause 14 was added to the Bill.

Clause 15.—(Amendment of section 1E)

Shri T. B. Vittal Rao: I move amendment No. 8.

Mr. Chairman: I am very sorry. This is again out of order. He has to justify the amendment. It is outside the scope of the Bill. He may read his amendment. Whatever he wants to get done cannot be done so far as this Bill is concerned. It is outside the scope of this Bill. If he wants to justify his amendment, then, I would like to hear.

Mr. Chairman: The question is:

"That clause 15 stand part of the Bill."

The motion was adopted.

Clause 15 was added to the Bill.

Clause 16.—(Substitution of new section)

Shri Tushar Chatterjee: I beg to move:

In page 6, line 11, for "not less favourable" substitute "more favourable."

The point is, as I already said, in the original Act, in this section, the condition for exemption was this: that the rate of contribution should be in conformity with or be more favourable than the central scheme. That was the condition for exemption. In this amending Bill, in the place of "more favourable", "not less favourable" has been put in. Now, as I said, this putting in of "not less favourable" in the place of "more favourable" means what? It means allowing that factory or employer to have a provident fund scheme that does not in any way give any special concession to

the employee. Now, the question of exemption can come in rightly in such cases where the employee gets some more payment than under the Central Government's scheme. If there is no point in the employee's getting some better benefit than in the central scheme, then, why should the question of exemption come at all? Exemption can come only in the interests of the workers. So it can come in only in such cases where the provident funds scheme gives some better concession or some better favour than the central scheme, to the workers. Here, by changing "more favourable" to "not less favourable," the position has been altered. That is, a factory which has been not more favourable than the Government scheme is also exempted. I do not understand what exemption means in such cases. Exemption means only in the interests of the workers. The interests of the workers are not served by putting in "not less favourable" in the place of "more favourable." Therefore, my amendment is to substitute "more favourable" in the place of "not less favourable."

Mr. Chairman: I would request the hon. Member to move his other amendments also.

Shri Tushar Chatterjee: I beg to move:

In page 6, line 13, for "not less favourable" substitute "more favourable".

In page 6, line 21, for "not less favourable" substitute "more favourable"

In page 6, after line 23, add—

"Provided that the appropriate Government has ascertained the opinion of the majority of such employees before arriving at the opinion."

(i) In page 6, for lines 39 to 46, substitute—

"(c) any person or class of persons employed in any factory to

{Shri Tushar Chatterjee}

which the Scheme applies, if such person or class or persons is entitled to benefits in the nature of provident fund, gratuity or old age pensions and such benefits, separately or jointly, are on the whole not less favourable than the benefit provided under this Act or the Scheme"; and

(ii) in page 7, line 1, for "(3)" substitute "(2)".

In page 6, line 45, for "not less favourable" substitute "more favourable".

In regard to my amendments No. 10, 11 and 12 I have sought to substitute the words "more favourable" for the words "not less favourable". I have already spoken on this.

In my amendment No. 14 (i) I have suggested the substitution of lines 39 to 46 by a new sub-clause (c). Section 17(2) has been put in such a way that the proviso in 17(1) "subject to such conditions as may be specified in the notification" is sought to be removed from this. That means in such cases where a person or class of persons seek exemption, there will not be any condition for such exemption. In the original Act exemptions were provided for subject to certain conditions. That means a person or class of persons can get exemption without abiding by the conditions formulated by the Board of Trustees. Even if an employer does not care to implement the conditions, even if the employer puts hardships on his individual employees or class of employees, there is no protection for the employee. My suggestion is that the whole section should be rewritten in such a manner that Section 17(2) is made subject to conditions made in the previous sub-section.

That is all I have to say.

Mr. Chairman: I have to make an announcement before the House adjourns.

Instead of item 3 in the List of Business, item 4 will be taken up tomorrow after this Bill is finished; that is, the Bill further to amend the Banking Companies Act will be taken up after the debate on this Bill is over, instead of the Ancient Monuments (Amendment) Bill.

Now I will place the amendments moved before the House. Amendments moved:

In page 6, line 11, for "not less favourable" substitute "more favourable".

In page 6, line 13 for "not less favourable" substitute "more favourable".

In page 6, line 21, for "not less favourable" substitute "more favourable".

In page 6, after line 23, add—

"Provided that the appropriate Government has ascertained the opinion of the majority of such employees before arriving at the opinion."

(i) In page 6, for lines 39 to 46, substitute—

"(c) any person or class of persons employed in any factory to which the Scheme applies, if such person or class or persons is entitled to benefits in the nature of provident fund, gratuity or old age pensions and such benefits, separately or jointly, are on the whole not less favourable than the benefit provided under this Act or the Scheme"; and

(ii) in page 7, line 1, for "(3)" substitute "(2)".

In page 6, line 45, for "not less favourable" substitute "more favourable".

The House stands adjourned till 1.30 P.M. tomorrow.

The House then adjourned till Half Past One of the Clock on Tuesday, the 1st December 1953.