

Sir, I beg to lay the full statement on the Table of the House. [Placed in Library. See No. LT-3285|61].

### EXTRADITION BILL

**Sardar Hukam Singh (Bhatinda):** Sir, I beg to move that the time appointed for the presentation of the Report of the Joint Committee on the Bill to consolidate and amend the law relating to the extradition of fugitive criminals be extended upto the 30th November, 1961.

**Mr. Speaker:** The question is:

"That the time appointed for the presentation of the Report of the Joint Committee on the Bill to consolidate and amend the law relating to the extradition of fugitive criminals, be extended upto the 30th November, 1961."

*The motion was adopted.*

### SUGAR (REGULATION OF PRODUCTION) BILL\*

**The Minister of Food and Agriculture (Shri S. K. Patil):** Sir, I beg to move for leave to introduce a Bill to provide for the regulation of production of sugar in the interests of the general public and for the levy and collection of a special excise duty on sugar produced by a factory in excess of the quota fixed for the purpose.

**Mr. Speaker:** The question is:

"That leave be granted to introduce a Bill to provide for the regulation of production of sugar in the interests of the general public and for the levy and collection of a special excise duty on sugar produced by a factory in excess of the quota fixed for the purpose."

*The motion was adopted.*

**Shri S. K. Patil:** Sir, I beg to introduce the Bill.

### STATEMENT RE: SUGAR (REGULATION OF PRODUCTION) ORDINANCE

**The Deputy Minister of Food and Agriculture (Shri A. M. Thomas):** Sir, I beg to lay on the Table a copy of the explanatory statement giving reasons for immediate legislation by the Sugar (Regulation of Production) Ordinance, 1961, as required under Rule 71(1) of the Rules of Procedure and Conduct of Business in Lok Sabha. [Placed in Library. See No. LT-3286|61].

13.45 hrs.

### MATERNITY BENEFIT BILL—contd.

**Mr. Speaker:** The House would take up further consideration of the following motion moved by Shri Abid Ali on the 10th August, 1961, namely:

"That the Bill to regulate the employment of women in certain establishments for certain periods before and after childbirth and to provide for maternity benefit and certain other benefits, as reported by the Joint Committee, be taken into consideration."

The time allotted is three hours; one hour and twenty minutes have been taken already and what remains is one hour and forty minutes. How shall we distribute it?

**Shri Tangamani (Madurai):** One hour more for consideration.

**Mr. Speaker:** Shall we be able to finish it within this time? Are there many amendments? I find that there are no amendments.

**Shri Tangamani:** I have already sent my amendments during the last session when the Bill was taken up on the 10th August. The same amendments may be taken as amendments to this Bill now.

\*Published in the Gazette of India, Part II, Section 2, dated 20-11-61.

†Introduced with the recommendation of the President.

**Mr. Speaker:** He could have easily given notice but it does not matter. I shall waive notice and accept the amendments already tabled as amendments once again tabled to this Bill now. We shall add twenty minutes more and make it two hours so that there will be one hour for general discussion and one hour for clause by clause consideration and also third reading. At 2.45 the general discussion will close. How long will the Minister take?

**The Deputy Minister of Labour (Shri Abid Ali):** About ten to twelve minutes.

**Mr. Speaker:** Shri Aurobindo Ghosal may continue his speech.

**Shri Aurobindo Ghosal (Uluberia):** Mr. Speaker, Sir, I have already discussed the first point last time. My second point is in regard to the wide powers given to the States for exempting establishments from implementing the Act. I have certain apprehension because previously when certain model rules were framed by the Central Government in August 1955 for bringing uniformity and achieving a minimum standard of maternity benefit in all the States, no State amended its rules on the basis of these model rules which were circulated except the States of Madhya Pradesh and Punjab. So, if such wide powers are given to the States then this Act will not be implemented by them.

Now, I would request the hon. Minister to consider if the days can be reduced from 160 to 150 though it has already been suggested in the Joint Committee. I would also request him to consider the special provisions to be incorporated in this Bill for enabling the permanent workers to get the benefit of this. It is about failing to qualify for aid on the basis of attendance. The period of attendance has been fixed at 160. A permanent worker even if there is failure to qualify for aid on the basis of the attendance period as prescribed here, should not be barred from getting any

relief under this Bill. Further provisions should also be made for enabling the seasonal workers to get relief under the maternity Bill.

I shall now turn to the implementation. I find two striking features in the table given in the Indian Labour Yearbook, 1959. I shall give the instances of four States only. In Bombay the number of female workers employed was 50,011: number of maternity benefits claimed was 2125 and the number who were actually paid came to 2090. The rate of average payment was Rs. 31.80.

In Andhra, out of 68425 female workers, maternity benefit was claimed by 1041 and it was paid to 1022 at an average rate of Rs. 16 only. In West Bengal also, out of 86,783 female employees, 17,268 employees wanted maternity benefit and the benefit was given only to 16,272 and the average rate of payment was Rs. 61. In Madras, out of 47,647 female workers, 1,872 workers claimed maternity benefit and it was paid only to 1,193, and the average payment was Rs. 66. Two points have to be noted from this table. Firstly, there is the huge difference between the number of women employees and the number of women employees who had claimed maternity benefit. This is a surprising figure. Out of a total of about 68,000 female workers, the number of claimants was only 1,041. I do not know what is the true state of affairs. The second point is the huge difference between the amount provided in the Act and the average payment. The average amount that is paid to each worker is below the average provided in the Acts of the respective States. In the Bombay Maternity Benefit Act, it is provided that eight annas will be paid per hour. It comes to Rs. 45 in 12 weeks, whereas the average amount paid is just Rs. 31.50. In West Bengal, under the States Maternity Benefit Act, it is provided that Rs. 7 will be paid per week. If it is Rs. 7 per week, it comes to Rs. 84 for 12 weeks. But

the average payment is only Rs. 61. I want to know why this discrepancy is there. I think that there is some defect in the method of implementation and that aspect has to be taken into consideration before this Act is implemented.

Lastly, I would like to refer to that aspect which was already referred to by Shri Tangamani last time. It has been found by the Government that employment of women is decreasing gradually. Previously, the wage of women workers was less, and there was no social security provided for them by legislation. That was the reason why a large number of women used to be employed by the employers. But when there was no difference in wages between the male and the female worker and now when some social legislations are being enacted to give some special facilities to women workers, some liabilities are being imposed on the employers and in order to avoid these liabilities, the employers are trying to stop recruitment of women workers. They have already stopped their recruitment. Not only that. They are also trying to avoid further recruitment, and are also trying to replace the existing women workers in the factories on different pleas.

I can give you one or two instances. In the sewing department of the jute mills which was previously used to be manned by female workers, with the mechanisation of that department, cent per cent of the female workers are being driven out from almost all the jute mills, though the machines are of a very simple nature and can be manned by the existing female workers after a short period of training. But that training is not being given by the employers and they are getting rid of the female workers on different pleas. On the plea of rationalisation, and mechanisation, the number of women workers is gradually decreasing.

In all the big, developing industries like the cotton mills, jute mills and silk mills, the number of women

workers is gradually decreasing. The women workers are being pushed to lesser and smaller industries where there is less security, or which are not under the purview of labour legislation. If we see the table in the publication called *Women in Employment*, 1900 to 1960, published by the Planning Commission, we will find at page 7 that in 1901, the percentage of female workers in non-agricultural sector was 6 p.c. whereas in 1951, it has been reduced from 6 p.c. to 2.8 p.c. It has been admitted by the Government that the proportion of female workers in non-agricultural activity has been going down more or less steadily. If we look into the cotton and jute mills, we will find that the number of women workers is also gradually coming down. In the report, at page 18, we find that in the cotton mills, in 1950, the percentage of female workers was 8.7 and in 1956, within six years, it came down to 6.6 p.c. In jute industry also, in 1950, the percentage of women workers was 12.41, and it has come down to 6.8 in 1953. In silk, from 12.3 per cent. in 1950, it has come down to 6.6 in 1956. In the same report, at page 19, they have said that in the tea factories, in 1951, the percentage of women workers was 22.6, whereas in 1956, it had reduced to 16.8. In the coal mines, also, from page 22 of the report, we find that the percentage of workers in coal mines has come down from 16.4 in 1950 to 13 in 1956.

This is happening in almost all the big industries where the female workers come under the purview of labour legislation. But the percentage is increasing abnormally in the lesser or small factories which do not come under the purview of labour legislation. For instance, in the match and beedi factories, we find from page 19 of the same report that the number of female workers is increasing. In the match factories, the percentage of women workers was 22.1 in 1951; it has increased to 44.7 in 1956. In beedi industry also we find that in 1951, the percentage of female workers was

[Shri Aurobindo Ghosal]

22.6 in 1951 while it has increased to 34.1 in 1956. So, in these small industries, we find a phenomenal increase in the number of female workers. As and when the industries come under the purview of labour legislation, the employers are trying to deprive the female workers of their employment, and dispense with their services, and the female workers are being diverted to the lesser industries or less-developed industries which do not come under the purview of labour legislation. This feature has to be stopped. There is no use in passing this social labour legislation if, in its implementation, the women workers are more hard hit by the Act. Therefore, the Government should see that sufficient provision is made in order to see that the workers, for whose benefit such pieces of legislation are passed, are retained in employment.

I would also like to draw the attention of the hon. Minister to the fact that the laws are not negated by the non-employment of female workers in these industries.

**Shri T. B. Vittal Rao (Khammam):** Mr. Speaker, Sir, I welcome this measure for having a uniform legislation all over the country for the grant of maternity benefit to women workers. The first time this question of uniform legislation was discussed was as long ago as 1954 at the 13th session of the Indian Labour Conference. It was unanimously agreed that the Central Government should undertake legislation to this effect. We are glad that at least after seven long years the Government have come forward with this piece of legislation.

I welcome certain changes that have been made in the Bill by the Joint Committee, like increasing the amount of maternity benefit from 75 nP per day to Re. 1 per day. When I visited the Indian Industries Fair the other day, I happened to go to the stall put up by the Ministry of Labour and Employment where I

found that nearly 4 lakhs of women workers are employed in the various factories, mines and other establishments in our country. So, this measure will benefit, according to the statistics given by the Ministry, 4 lakhs of women workers.

What amazes me is that this Bill does not cover the women teachers. Of course, in the schools that are run by the various State Governments, there are some provisions for grant of maternity benefit to women teachers. But the schools aided by Government do not have any maternity benefit for women teachers; or, even if they have, it is very restricted. In this connection, the Ministry of Education say in their report that they could not enforce compulsory education for the age group 6 to 14 because there is paucity of women teachers in our country. If maternity benefits are given to women teachers, that will be an incentive for getting more women teachers to run the schools.

14 hrs.

I come to another provision where the qualifying period has been put down as 160 days. Originally it was 200 days and it has been reduced to 160 by the Joint Committee. But what about seasonal factories? In our country, there are several factories which work only during certain seasons. In their case, the qualifying period for eligibility to maternity benefits should be reduced. In the note of dissent submitted by Shri Tangamani, Shrimati Renu Chakravartty and Shri Aurobindo Ghosal, they have suggested that at least for seasonal factories, the qualifying period should be reduced from 160 to 100 days.

I welcome also the provision for empowering the labour inspectors on their own to file cases where the employers have defaulted in giving maternity benefits under this Act. It is a very welcome feature in the recent legislation that we are empowering the officials of the Ministry

or the labour inspectors to take action on their own or on the request made by the aggrieved party.

Even though we pass this piece of legislation, I am afraid whether we would be in a position to ratify the Convention in this regard adopted by the International Labour Organisation. We are progressing in many directions, but our country's progress can be measured only when we ratify the conventions and recommendations adopted by the International Labour Organisation. Not only that; we have been continuously a member of the International Labour Organisation since its inception. So, there is a moral responsibility on the Government of India to ratify this Convention. I would like to know from the hon. Deputy Minister whether after passing this legislation, we would be in a position to ratify the convention of the International Labour Organisation. That is a very important factor, because when the ratification of various conventions and recommendations is taken up at the session of the International Labour Organisation, we should be proud to say that we have ratified several conventions and recommendations. We should not be behind other Governments in this respect.

Power has been given under the provisions of the Act for the State Governments to notify. If that power is given, at least there must be a date by which this whole Act should come into force. As I have stated earlier, the Indian Labour Conference unanimously recommended at the 13th session held in January, 1954 that the Government should undertake this legislation. So, there should be a time-limit imposed in the body of the Bill itself, fixing a certain date by which the whole Act will come into force. Otherwise, I am afraid the various State Governments will delay the enforcement and thereby defeat the very purpose of uniform legislation throughout the country.

With these words, I welcome this Bill.

**Dr. Melkote (Raichur):** I welcome the Bill that has been brought forward by the Labour Ministry. The improvements made in the Bill have been various and to the benefit of the working class women in particular. Whilst welcoming this Bill, at the beginning I would like to point out one or two defects, because apart from them, I feel that by and large the benefits have been welcomed by all sections of this House.

In the enactment, they have included 'miscarriage', but have omitted 'abortion'. Shri Nanjappa has brought this to the attention of this House. If a lady has miscarried, she has to be given all the benefits and that period has been fixed as 26 or 27 weeks. But if an abortion takes place—medically that is the term that is generally used in the hospitals—if a person is certified as having aborted, I do not know whether such a benefit is available to that lady. Abortion is a well-understood medical terminology, and its meaning is very clear.

14.08 hrs.

[MR. DEPUTY-SPEAKER in the Chair.]

Miscarriage is abortion after three months. It may be due to menstrual causes or otherwise; but if the contents of a uterus come out within three months, whether by natural process or otherwise, that is called abortion. I personally feel that this Bill should be amended to include abortion as well, which takes place within three months.

The second point is, whilst by and large this measure is welcomed, we are aware that in many of the industries employers are already taking measures not to employ the working class women, because this additional cost that is imposed upon them is being felt as an additional burden. We are living in a democratic country where we have given equal status to

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women. Women are needed by and large in a number of factories. The dexterity of their hands is recognised. Because of this additional benefit, if the public and private sectors should take measures to prevent women from getting into these jobs, it would be a sad tale. I, therefore, personally feel that the Labour Minister should provide somewhere that in places where women have to be employed, they would be employed and retrenchment would not take place.

With regard to the benefits that have accrued, I would like to say that the scope regarding the quantum of cash benefits has been improved and the minimum that is payable to a worker is not less than a rupee. Both these things are very welcome. But where there is no hospital available for the lady to obtain help the maximum amount of money that is provided is just Rs. 25. I would like to know whether in any part of the country today a lady could get all the medical help and also carry on maintaining herself within the small sum of Rs. 25 for a period of nearly a month. I feel, as a medical man, that this Rs. 25 is too small a sum and it needs to be augmented to at least about Rs. 50.

Then, about the average daily wage, it has now been made three months instead of 12 months for a worker to qualify to obtain these benefits. That is certainly a very welcome measure. But, as has been pointed out by some hon. Members, if a worker is a permanent worker on the list and during the last three months either due to illness or something else he was not able to put in his attendance he should not be disqualified from the benefit of this Act.

The special provision that has been made to give relief to the child if the mother should die either during delivery or within six weeks is another additional benefit that has been included in this Bill. It is most welcome. But I do not know whether

six weeks is sufficient. I personally feel that many children in our country die within three months subsequent to which they are able to look after themselves or being looked after by others. This period of six weeks again as medical man I should say, should be increased to three months.

These are, Sir, the major benefits that have been included in this Bill and it makes a radical change for the benefit of the working-class women. I have great pleasure in welcoming this Bill, and I appeal to the House to pass this Bill.

**Shri Amjad Ali (Dhubri):** Sir, as I rise to support the Bill, I feel that I should warn the Government on certain aspects to which the attention of the Government has not been sufficiently drawn.

My reading of this Bill is that the provisions giving maternity benefit to women workers are only confined to factories, mines and plantations. If these could have been somehow extended also to our sisters who are working in the telephone exchanges and our nursing sisters in the hospitals it would have been very much welcome, because there also the workers are very low paid and they get very low wages. There are also women engaged in scavenging work and borne on the staff of municipalities. These women workers are also deprived of the benefits provided for under this Bill. Therefore, in order to bring them also within the purview of a Bill of this nature, which is generally very welcome, I would request the hon. Deputy Minister to consider whether these categories of workers could also be included in the list of workers to whom we are going to give these benefits.

Again, there is the question of seasonal factories. Seasonal factories do exist in India. You will find seasonal factories working in the

country to a large extent. There are women workers employed in these seasonal factories also. Seasonal factories are those which work during a season and not permanently. Our women workers employed in such factories are often deprived of the benefits which we seek to give to our workers through legislations. To this point I would like to draw the attention of the hon. Minister. There are several State legislations which exist for giving maternity benefit to women workers, but nowhere are these women workers included. Therefore, this being a liberal legislation which the Centre is attempting to bring about, this being a legislation of an all-India nature, it would only be good if these women workers could also be included.

There has been one welcome change inasmuch as the qualifying period has been brought down from 240 days to 160 days including the lay-off period sometimes. It is welcome, but I have a feeling that this has been stressed rather too far, too far in the sense that the relationship between the employers and the employees has already become very strained and to further strain the relationship of the employers and the employees is not good. If this kind of a provision is clinched to one side it may do certain harm to our women workers. I hope the hon. Minister will look into it.

Clause 12 relates to dismissal during absence or pregnancy. It says:

"12(1) \* \* \* \* \*

(2) (a) The discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus referred to in section 8, shall not have the effect of depriving her of the maternity or medical bonus:

Provided that where the dismissal is for any prescribed gross misconduct, the employer may, by

order in writing communicated to the woman, deprive her of the maternity benefit or medical bonus or both."

I do not find in the Act itself nor in the rules which have to be made under section 8 anything said as to what sort of "gross misconduct" is envisaged. It has been left vague. I have a fear that it might be misused to the detriment of our women workers working either in our plantations or in our factories or in our mines. This is a point which the hon. Minister has got to look into very carefully and see whether any amendment of section 8 is needed. I have, as I said, a feeling that there is every chance of this section being misused. They will take any excuse as handy for discharging women workers from their establishments in case they find those workers not suited to their whims. The definition of "wages" in clause 3(n) of the Bill is not complete. It does not give a comprehensive idea as to what remuneration is. It reads:

"wages" means all remuneration paid or payable in cash to a woman, if the terms of the contract of employment, express or implied, were fulfilled and includes—

(1) such cash allowances (including dearness allowance and house rent allowance) as a woman is for the time being entitled to:

(2) incentive bonus; and

(3) the money value of the concessional supply of foodgrains and other articles,

but does not include—

(i) any bonus other than incentive bonus;

(ii) over-time earnings and any deduction or payment made on account of fines;

(iii) any contribution paid or payable by the employer to any pension fund or provident fund or

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for the benefit of the woman under any law for the time being in force; and

(iv) any gratuity payable on the termination of Service;"

These are the benefits which a woman worker shall be entitled to. Other perquisites have not been mentioned. I wish the list could have been more comprehensive so that women workers could get more advantage out of this Bill.

**Shri S. M. Banerjee** (Kanpur): I welcome this Bill because this is exactly what everyone in this country wanted, a legislation by which the rights of women workers could be protected. I have read with keen interest the various minutes of dissent given by my hon. friends and I fully associate myself with the sentiments expressed therein.

It is true that there are three Central legislations at present, namely, the Mines Maternity Benefit Act, 1941, the Employees State Insurance Act, 1948 and the Plantation Labour Act, 1951, conferring major benefits. I wish the Joint Committee had considered the various recommendations of the ILO. Today we cannot say in this country that employment opportunities should not be given to our sisters. It is necessary, more in this age of economic depression, for both husband and wife to work to run a family. Previously, in the olden days, it was not necessary for any one in this country to ask his sister, or wife, or even mother, to work to earn their livelihood, but today it has become absolutely essential. The prices are going up, income is not going up to that extent and so there is economic depression which compels the entire family to work in the better interest of the family itself. So, I would plead that such a legislation is necessary and our sisters should be encouraged to work and fight for the equal right to work and earn.

It is somewhat surprising that according to clause 1(3)(b) it is left to the State Governments to notify the

date on which the Act will come into force. I also feel like my hon. friends **Shri Tangamani**, **Shrimati Renu Chakravartty** and **Shri Aurobindo Ghosal** that if it is left to the State Governments there will not be uniformity in a legislation of this type. We have before us the Motor Transport Workers Bill where a time-limit was given. So, everything should not be left to the State Governments to decide without fixing a time limit. In that case, they will delay matters on the plea that there is not enough time to implement such a piece of legislation. So, it will defeat the very purpose of this Bill if it is left entirely in the hands of the State Governments to use their discretion. Even if this Bill is passed by this House with one voice and if it is enacted into a law before the next general elections, I do not think the State Governments will dare to ask certain employers, especially in the private sector, to implement this Bill. They cannot do it because it will have political repercussions. It will be most unfortunate if it is left to the State Governments to implement this legislation. I am saying this without imputing any motives to the State Governments. The Bill says:

"It shall come into force on such date as may be notified in this behalf in the Official Gazette,—

(a) in relation to mines in the territories to which this Act extends, by the Central Government; and

(b) in relation to other establishments in a State, by the State Government."

I do not know why it has been left to the State Governments. When constant representations were pouring in to the Central Government about the need for such a legislation and when the Central Government were convinced about the necessity for such a Bill, when such a



Bill has been brought forward, which was properly discussed and all shortcomings, flaws and lacunae were pointed out in the Joint Committee which were remedied, when all this has been done, I feel that it should not have been left to the State Government to enforce it as and when they choose.

Then, when we consider the case of the factory, mine or plantation women workers, why should we forget our sisters in the commercial undertakings, the telephone operators and the teachers in our schools and colleges? After all, this Bill is being enacted to protect the legitimate interests of our sisters. Take the case of telephone operators. I know that in certain cases they are not granted leave and they are forced to do continuous work. I do not know why this Bill is not going to cover, or has not covered, that category of workers. Take the huge population of women workers in big cities like Calcutta, Bombay or other cities. They work as stenographers, personal assistants, private secretaries or typists. So, I personally feel that our sisters who are employed in commercial undertakings, in telephone exchanges and in other offices should also be covered by this legislation.

I fully associate myself with the sentiments expressed by my hon. friends in the minute of dissent. They have stated:

"The ILO convention 103 applies to women employed in industrial undertakings and in non-industrial and agricultural occupations, including women wage earners working at home. The present Bill as it emerges from the committee applies according to clause 2(1) in the first instance to Factory, Mine or Plantation. It is left to the State Government with the approval of the Government of India after giving not less than two months notice to extend to

other establishments. Our view is that workers in commercial establishments, hospitals and schools ought to have been included in the first instance."

They have very correctly used the word "hospitals". A legislation was brought forward by the State Government of West Bengal to ban all genuine trade union activities in hospitals in West Bengal. Thanks to the Union Labour Minister and the State Labour Minister, who took a positive attitude in this matter, with the help of the Central Government or their labour machinery, we were able to compel the West Bengal Government to withdraw that Bill from the West Bengal Assembly. I am of the view that the nurses in hospitals should also be covered by this Bill. Otherwise, this Bill will lose its significance. Suppose we are passing a legislation for the women workers employed in our country. Then, why should we divide it into two categories, one in respect of which the Central Government should take action, leaving the other part to the State Governments to use their discretion in the case of hospitals, schools and other commercial undertakings? I hope that some suitable action will be taken about this. All the speeches made in this House by hon. Members belonging to the various groups and political parties should be taken seriously and efforts should be made to see that the valuable points made in the minutes of dissent are also taken into consideration.

Then there are other points. Some features of this measure are welcome. Now the minimum daily rate of benefit has been raised. The Joint Committee has raised it from 75 nP to Re. 1 though I personally feel that even this is less. Now the question will be whether the employer has the capacity to pay. When the question of capacity to pay comes up, we are unable to know what the capacity is because the employees know no methods of knowing their capacity.

**An Hon. Member:** Oh! hello.

**Mr. Deputy-Speaker:** I would implore hon. Members that they should not carry inside the House those hellos of the Central Hall.

**Shri S. M. Banerjee:** I would only appeal that these suggestions should be seriously taken into consideration. Today when this piece of legislation is being passed there should not be any impress on left in the minds of those sisters who are not covered by this and in whose cases the State Government has been empowered to extend it after giving two months' notice and so on that the benefits of this legislation would not be available to them.

With these words I support this Bill. I would request the hon. Deputy Labour Minister to go carefully into the various clauses, the minutes of dissent and other things of this Bill and then make such a legislation which is acceptable without any amendment. Whatever amendment is necessary let him bring that or let him accept some of the amendments moved here. I am sure this Bill will become a nice piece of legislation which will be hailed by all quarters, by our mothers, sisters and daughters.

**Shri Abid Ali:** Sir, as the hon. Members are aware, substantial progressive changes have been made in the Bill which is now under discussion as compared with the Bill which was originally introduced. Every item was discussed very much in detail in the Joint Committee and I think hon. Members were very happy with the attitude adopted by the representative of the Government there. They very much appreciated the suggestions which were accepted. My feeling was that there would not be any minute of dissent because I felt that the hon. Members who had made suggestions were very much satisfied with the amendments that were accepted by

the Committee. However, hon. Members know better the reasons which prompted them to submit minutes of dissent and amendments as well.

It is true that this particular measure has taken a very long time to complete the consideration of the Government, but it should be appreciated, as hon. Members know, that at present also there are enactments in force in all the States and it is not that women workers are not getting benefits during the maternity period. Of course, there is some improvement and more benefits will be allowed to them if this measure goes through.

With regard to the reduction in the number of women in employment there was some criticism. Hon. Members should appreciate that so far as the Government is concerned, all the measures which have been introduced are brought after they have been very much scrutinised by the tripartite committees. Still, particularly because of equal wages for equal work—under the coal award women workers who were getting much less before the award are paid on the basis of wages paid to men workers—and other benefits as also because of the change in the process of manufacture there has been a reduction in the number of women employees. Anyway, we are very much concerned with this matter also and shall be glad to receive suggestions from hon. Members opposite and of our own party. We will be glad to do whatever may be possible in this regard as well.

With regard to misconduct, as it is mentioned in the proposed legislation, there will be rules and these will be framed on the basis of the standing orders in this behalf. No free hand will be given to employers.

With regard to miscarriage and abortion hon. Member, Dr. Melkote, has made some suggestions. This was discussed in the Joint Committee and the hon. lady Member who is herself

a medical practitioner and who presided over the meetings of the Committee guided hon. Members by saying that there was no difference between miscarriage and abortion and that the word used here gave complete protection to pregnant women who might be suffering from either of the two categories.

With regard to time much has been said by most of the hon. Members who have participated in the Debate. It is not fair to feel that the State Governments will be negligent and will not be anxious to implement the requirements of this measure at the earliest possible date. There is some difference between the enactment concerning motor vehicle workers which was passed some time back and this measure. That was an original enactment not substituting any existing measure whereas this particular measure will come into force after the existing enactments in respective States are repealed. We cannot fix a date here to make two enactments having the force of law at the same time. Unless the Acts which are in force in respective States are repealed by the respective State legislatures, this particular measure cannot come into force. Therefore it is not possible for us to accept any date. Of course, we are doing all that is possible. In spite of much time having been taken here draft rules are being framed and State Governments also are being cautioned that as soon as it is passed here they should take measures to implement its provisions at the earliest possible date.

With regard to permanent and temporary employees there is no difference so far as this measure is concerned. It has not recognised these categories. As for the teachers and other employees the amendment which has been made in the Joint Committee covers every employee in the country. Our Act shall also apply to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise. In the Joint Committee this phrase was put in

after it was appreciated by all the Members present there that with the acceptance of this proviso the Act would be applicable to every establishment, every industry, every individual employee in the country. That was the feeling there and the Group of the hon. Members opposite was also a party to it.

**Shri Tangamani:** The objection was that they will have to be notified by the State Governments.

**Mr. Deputy-Speaker:** That he has dealt with already.

**Shri Abid Ali:** Of course it has to be done. It has to be notified by them with our consent. Without that nothing can happen.

**Shri T. B. Vittal Rao:** Will women teachers come under it?

**Shri Abid Ali:** Every one. Women teachers were also mentioned. I am not a legal man, but hon. Members representing all the parties were present there and they all felt that every employee in the country is covered by this—telephone operators, teachers, nurses and others.

**Shri Tangamani:** Telephone operators?

**Mr. Deputy-Speaker:** Shri S. M. Banerjee was very solicitous about telephone operators; therefore he is answering.

**Shri Tangamani:** They already have the benefit.

**Shri Abid Ali:** As regards the difference between the number of the women employed and the number who claimed benefit, of course there is a big difference. But so far as I am aware, no complaint has been received up to this time that a woman entitled to this benefit has been deprived of it. In case they are not entitled to it and therefore they did not claim it, certainly nobody can be blamed for that.

[Shri Abid Ali]

So far as the convention of the I.L.O. is concerned, hon. Members opposite asked whether it would be possible, after passing this measure, to ratify the convention which has been adopted by the I.L.O. I find on a comparison of the provisions of the convention with the proposed measure that the provisions here are quite advanced while some are in line with them. So to that extent we have taken care of it. But there is a little difference which may come in the way of ratifying the convention straightway, and it is that under the convention the benefits are provided either through social insurance or out of public funds and the individual employer is not to be made liable for the costs whereas in India the liability rests with the employers, except where the workers are covered by the Employees State Insurance Act. Till such time as we are able to cover every employee in the country under the Employees State Insurance Act it will not be possible to honour this particular provision of the I.L.O. convention. That difficulty for the present, I find, will remain. There is no other difficulty.

So far as the benefits as mentioned in the I.L.O. convention are concerned they are also mentioned in the proposed measure. The workers are getting all that, and in some cases a little more than what the I.L.O. convention had intended. That, of course, should satisfy all concerned.

As regards the position of India about ratifying the I.L.O. convention, I was myself Chairman of this I.L.O. committee once, and hon. Members will be happy to know when I inform them that our country's position was sufficiently high and it was very much appreciated and respected in the matter of applying the convention adopted by the I.L.O. and ratifying it. Of course, one or two countries have shown a larger number of I.L.O. conventions as having been ratified by them. But it was found out that some of these countries are not concerned with some of

the conventions which they have ratified! They have no employees of that category. But that convention was also included to their credit. But so far as we are concerned, the working of these conventions here and ratifying them was very much appreciated and our number, as I have submitted, is respectably high.

With these submissions I conclude.

**Mr. Deputy-Speaker:** The question is:

"That the Bill to regulate the employment of women in certain establishments for certain periods before and after childbirth and to provide for maternity benefit and certain other benefits, as reported by the Joint Committee, be taken into consideration."

*The motion was adopted.*

**Mr. Deputy-Speaker:** We now take up the Bill clause by clause.

#### Clause 2—(Application of Act)

**Shri Tangamani:** Sir, I wish to move my amendments, Nos. 3 and 4 to clause 2.

I beg to move:

(i) Page 1, line 13,—

for "or plantation" substitute—

"plantation, commercial establishment, hospital or school" (3).

(ii) Page 2,—

after line 4, insert—

"(1A) It applies also to seasonal factories and seasonal occupations which work for less than five months in a year but which are of a permanent nature." (4).

Already several hon. Members have referred to these two important points. I moved the amendments in the Joint Committee so that in the first instance itself the commercial establishments, hospitals and schools may be included. In my Minute of

Dissent also I have specially made a reference to this. I may be permitted to say a few words on these amendments.

It is true that the State Governments can, if they want, by giving two months' notice, include certain establishments which will come under "commercial establishments, hospitals or schools". The very purpose of the legislation was that uniform provision should be made for the purpose of giving maternity benefits to various workers. It is true that various State Governments have got legislation for mine workers, plantation workers and also factory workers. In different States there are different qualifying periods; in different States there are different quantum of payment for compensation, and different measures adopted as welfare measures. That is why we felt that a uniform legislation thing into consideration the legislative measures in various States should be taken up; and we were provided with the measures in this country and also in the other countries. It has been admitted that it is necessary that those women who are employed in these commercial establishments, hospitals and schools should also be given the same benefit, because after the coming into being of the Constitution, which provides for equal wages for equal work, a large number of women are coming into these commercial establishments. It may be that certain commercial establishments do have the provision for maternity benefits. It may be that certain State Governments also provide for this. But what is important is this. When we find that the State Governments provide for it and that certain rules and regulations of the Central Government also provide for it, what prevents us from incorporating it in the clause of the Bill itself so that such types of employees may get the benefit in the first instance itself?

My second amendment (No. 4) deals with seasonal factories. When this Bill was before us the qualifying

period was 240 days, and ultimately it was reduced to 160 days—I will have occasion to mention that later on. But the reason why I am saying that it should include seasonal factories also is this. Because, there are certain factories which, in the nature of things, are seasonal. I could mention sugar factories, particularly in the south. I do not include all seasonal factories. I say, let it apply to seasonal factories and seasonal occupations which work for less than five months in a year, but which are of a permanent nature. They must be of a permanent nature, so that the workers who are employed in a seasonal factory this year are guaranteed employment next year and they are in the muster roll. That type of factory is peculiar to this country. It is probably an off-shoot of the agricultural type of employment which we may have. It may be in other employments also. Merely because in the nature of its functioning, it is seasonal in nature, why should we deprive these workers of the benefit? That is the purpose.

I have also given an amendment in the case of seasonal workers. To show how fair my amendments are, I say, instead of 160 days, let the qualifying period be 100 days and let the benefit be proportionate. Because, although it would have been proper if I wanted full payment I wanted it to be so because there has to be a uniform all India legislation for a large number of workers. I can also supply the figures of various seasonal industries where women are employed. Uniformity of legislation was the very purpose for which the Maternity Benefit Bill has been brought although there are a large number of enactments in the various States. That is why I submit that these two amendments are more or less accepted in principle. I see no reason why these two amendments should not be accepted to be incorporated in the body of the Bill itself.

**Shri Abid Ali:** Originally, 240 days were mentioned for the service period

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for qualifying for benefits under the provisions of the Bill which is under discussion. This was reduced to 160 days—from 240 to 160 days. A further attempt to reduce this qualifying period is not acceptable, because there should be some limit. We have done away with the phrase seasonal factory and we do not recognise that. This measure will not recognise temporary or permanent workers. It will be applicable to all alike. How much could the period be reduced for a woman worker to get the benefit? That should be reasonable. It was felt in the Committee that a woman worker who has come for employment should serve the establishment at least for 160 days to be entitled to the benefits as provided for here. It is with this view that the period was reduced and the seasonal category was also eliminated. A reasonable period of service should be there to be entitled to get the benefits. It is not possible to reduce it any further.

**Mr. Deputy-Speaker:** I will now put Amendment No. 3 to the vote of the House.

*The amendment was put and negatived.*

**Mr. Deputy-Speaker:** I will now put amendment No. 4 to the vote of the House.

*The amendment was put and negatived.*

**Mr. Deputy-Speaker:** The question is:

"The clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

**Clause 3—(Definitions)**

**Shri Tangamani:** I move my amendments 5, 12 and 13.

I move:

(i) Page 3, lines 5 to 7, omit—

"but does not include any miscarriage, the causing of which is

punishable under the Indian Penal Code." (5).

(ii) Page 3, line 20, after "bonus" insert—

"overtime earnings, night allowance, and similar allowance." (12).

(iii) Page 3, for lines 24 to 26, substitute—

"(i) profit sharing bonus;

(ii) any deduction or payment made on account of fine;" (13).

Miscarriage is defined as:

"miscarriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code;"

We raised the objection: not that we want the deletion of this as such. But, by implication, such miscarriages may be excluded. There may be certain circumstances in which it may be incumbent on the claimant to show that she is not punishable under the Indian Penal Code. The point is, we should not throw the onus upon the woman when she is claiming a particular compensation. That was the spirit. This is meant to benefit a woman: not to hamper the payment of the benefit or make it difficult for her to claim the benefit. That was the purpose. That is why the provision is made. Why should we deny it by saying that it does not include any miscarriage the causing of which is punishable under the Indian Penal Code?

**Mr. Deputy-Speaker:** Does the hon. Member mean to say that we should reward even the committal of a crime?

**Shri Tangamani:** It is not so simple as that. When there is a case of abortion, there may be an allegation on the part of the employer that it is a case of miscarriage and the onus is thrown upon her to show that it is not miscarriage. She may be prosecuted even. That is quite possible. In the definition clause, why should we define it in such a way that it creates an impression that this proviso will be utilised by the employer? That is my purpose. This need not come in the definition clause itself because miscarriage can be defined. As a matter of fact, there was no need to define miscarriage itself. Such a point was raised. They were very insistent. Even if this particular portion is deleted, the spirit is there. That is why, I have moved this amendment. I moved it in the Joint Committee also.

Coming to the second amendment No. 12, this deals with wages. Wages now include all remuneration paid or payable in cash to a woman, if the terms of the contract of employment, express or implied, were fulfilled and includes—

Such cash allowances (including dearness allowance and house rent allowance) as a woman is for the time being entitled to;

incentive bonus; and

the money value of the concessional supply of foodgrains and other articles.

This question of incentive bonus was included in the Joint Committee. What I would like to add is, overtime earnings, night allowance and similar allowance. A question was asked, how can a woman have night allowance. There are certain industries where women work in the night

also. For instance, the telephone industries. That was raised in the Joint Committee itself. Where allowances are given, for the purpose of making it complete, I have added night allowance and similar allowances. In the tribunals, whenever they compute certain benefits, the question of wages comes to include overtime earnings, night allowance and other allowances also, because the definition of wages under the various legislations was once taken up by a body set up by the Ministry and a uniform definition was sought. I submit that this inclusion will make it more complete. Because, in other words, why do we want all these things to be included? We want that the benefit given to a worker is not at all diminished. We want that when the woman worker is paid the average wages, the wages should include the various overtime earnings and other allowances, which she herself has earned over a particular period. It is as a result of the collective agreement or as a result of certain legislations that she has been given this overtime allowance. After all, we have seen our way to include incentive bonus, which is also in the nature of an allowance and which is not part of the monthly salary. A woman worker who has to work for eight hours a day may be entitled to certain wages, but when she is able to turn out more work, if it is on the piece-rate system, she is given some incentive bonus, and that incentive bonus is also included as a part of wages. And it was possible for us to include in the wages, when we were discussing this clause in the Joint Committee. When that kind of allowance could be included, I want that overtime allowances, night allowances and similar allowances may be included in the wages.

15 hrs.

I hope that this provision would not be just dismissed like any other provision, because I have taken this amendment from out of certain other

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enactments, for the purpose of completing the definition of the term 'wages'.

My next amendment, namely amendment No. 13 deals with the amounts which are to be deducted. In the matter of deduction, I do not want excessive deduction. That is the spirit behind my two amendments. The Bill before us says:

"but does not include—

- (i) any bonus other than incentive bonus;
- (ii) over-time earnings and any deduction or payment made on account of fines;"

Taking these two together, the term 'any bonus other than incentive bonus' may mean any kind of bonus excepting incentive bonus. For instance, there may be profit-sharing bonus, there may be attendance bonus, and there may be certain other bonuses which the employer may give when he is satisfied with the output of work over a certain period. So, different types of bonus payments may be there. But, here excepting, the incentive bonus, all other bonus amounts which the worker may receive are to be deducted. That is why I have made it categorical in my amendment that the only bonus which can be deducted is the yearly bonus which is paid, namely the profit-sharing bonus.

The second point which I have included is in regard to the question of overtime earnings. Overtime earning is something which the worker earns after working overtime. I want that the overtime earnings and other allowances should also be included in wages. But, in this Bill, instead of including them in wages, we are going in a negative or retrograde

direction and we seek to deduct the earnings which the woman worker has received by way of overtime. Since the total quantum of payment made to the worker is governed separately by different enactments, I feel that this definition as it stands is detrimental to the benefits which we are seeking to confer on the woman workers.

Shri T. B. Vittal Rao: I support the amendments which have been moved by my hon. friend Shri Tangamani in regard to the inclusion of overtime earnings etc. for computing the benefits to be conferred under this legislation. I cannot understand why this item has been excluded. In other enactments, as, for instance, the Workmen's Compensation Act, the overtime allowances are taken into consideration for computing the quantum of compensation to be paid to the worker or his dependent, as the case may be. But, quite specially, overtime allowance has been excluded in this particular legislation. Under the Payment of Wages Act also, overtime allowance is treated as part of wages. Under the Employees State Insurance Act also, overtime allowance is included for computing the compensation to be paid. So, I do not see why overtime allowance should be excluded in this Maternity Benefit Bill.

We would like to know on what grounds this has been excluded. We would like to know why an exception has been made only in this Bill. After all, we are going in the direction of having a uniform legislation, and, therefore, there should not be any disparity between this legislation and the Workmen's Compensation Act. Therefore, I would like to have a clarification and proper explanation for exclusion of overtime allowances etc. If no such explanation is forthcoming, then I would request the hon. Minister to include overtime allowance also in the wages.



**Shri Abid Ali:** With regard to amendment No. 5, the clause as it was originally drafted did not contain the last few words. The intention was that if the miscarriage was because of the act of the woman concerned, then she would not be entitled to the maternity benefits. So, subsequently it was thought fit to add these words 'punishable under the Indian Penal Code', so that no doubt should be left and it should not be at the option of the employer to refuse payment of dues to the worker. Consequently, so, a clarification was made by the addition of these words, and the doubts were removed.

It will not be a burden on the woman employed to prove that she is not punishable under the Indian Penal Code. It will be for the employer refusing to pay to prove that the woman is not entitled to payment because she is punishable under the Indian Penal Code; if she is punishable, then, certainly, the police will take action, and she will be tried, and then this payment can be refused by the employer. Therefore, with the addition of these words, sufficient protection has been given to the women workers without imposing on them the burden of proving whether they are entitled to it or not.

**Mr. Deputy-Speaker:** The fear expressed was that it would afford an opportunity to the employer in order to escape the law, to institute or get such proceedings instituted by the police, so that the woman might be harassed, and he might escape payment or do something of that kind.

**Shri Abid Ali:** No. So long as it is not proved that miscarriage was caused by her own act wilfully, she will not be refused benefit under the Act. That is the position. If it is not proved, she will be entitled to the payment.

With regard to the suggestion about bonus, this matter was also discussed in detail in the Joint Committee, and much improvement has been made. Hon. Members will appreciate that an  
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improvement has been made on the clause as it was originally drafted. Incentive bonus has been purposely included because in some establishments, direct wage is reduced when incentive bonus is introduced. So, that has been covered in the term 'wages'.

In regard to overtime earnings, it is not possible to add them, because they are not part of wages in that sense. Once in a way, if there is overtime work, that is, if the workers work overtime for a particular period, they are paid double the original wages. So, it was not thought fit to include this item. My feeling is that here again, the provision was unanimously accepted, because we had a lot of discussion in the Joint Committee.

My hon. friend who has just spoken has mentioned some enactments in this connection. I doubt whether all those enactments contain such a provision. I am not able to check up just now.

**Shri Tangamani:** May I clarify one point? The hon. Deputy Minister has said that it was unanimously adopted. That is not correct, because my amendment was to the effect that it should include incentive bonus, overtime earnings, night allowance and similar allowances, but ultimately incentive bonus alone was included, and the other things were not included, although I pressed for them.

**Shri Abid Ali:** Even if it were not unanimous, the hon. Member has a right to move an amendment here. I said that my feeling was that we had long discussions, and several amendments were discussed, and ultimately it was decided like this; my feeling is that the clauses which are before the House now for discussion were unanimously adopted, and, that was why I made a mention of it.

With regard to amendment No. 13 about profit-sharing, I submit that that is also not acceptable, for the reasons that I have already mentioned.

**Shri Tangamani:** What reasons?

**Mr. Deputy-Speaker:** Now, shall I put all the amendments together to vote or need I put them separately?

**Shri Tangamani:** You may put amendment No. 5 separately and the other two amendments together.

**Mr. Deputy-Speaker:** I shall now put amendment No. 5 to vote.

*The amendment was put and negatived.*

**Mr. Deputy-Speaker:** I shall now put amendments Nos. 12 and 13 to vote.

*The amendments were put and negatived.*

**Mr. Deputy-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 was added to the Bill.*

**Clause 5—**(Right to payment of Maternity benefit).

**Shri Tangamani.** I beg to move:

(i) Page 4, line 25—

for "one rupee" substitute "one rupee and fifty naye paise". (6)

(ii) Page 4, (a) lines 29 and 30—

for "one hundred and sixty" substitute "one hundred and fifty";

(b) line 32, for "one hundred and sixty" substitute "one hundred and fifty". (7)

(iii) Page 4, after line 34, insert—

"Provided further that the qualifying period for factories of a seasonal nature shall be one hundred days with proportional benefits". (8)

I shall take all these three together because indirectly I have to refer to the period of 150, 160 and 100 days also while dealing with the other amendments. I have already mentioned that the qualifying period which was there in the original Bill was 240

days; it was reduced to 160. Now I am pressing for 150. As the hon. House is aware, in the States of West Bengal, Assam and Kerala, the qualifying period is 150 days. Here we are having a legislation which is going to be uniform for the whole country and we are giving to certain States less benefits than those enjoyed by West Bengal, Assam and Kerala. Kerala could be dismissed as a State which passed this legislation when the Communist Government was in power and they wanted to give more benefits to the workers. But how about the State of Assam and the State of West Bengal in regard to certain sections of workers? In these three States, the qualifying period was fit to be put in as 150 days. That is why it stands to reason that other States also should have this benefit. While I congratulate the Joint Committee and Government on reducing the period from 240 days to 160 days, it stands to reason that it should be further reduced by 10 days so that there is a certain uniformity and we will not confer less benefit on certain States than that enjoyed by the States I have mentioned.

I do not propose to repeat the arguments about seasonal factories. The same arguments hold, because in the very nature of things if reference is made to my original amendment to clause 2, it will be found that I am only referring to those seasonal factories which are of a permanent nature, where they are not able to work for more than 5 months. Even there, I say the qualifying period may be 100 days. In other words, they will have to work at least full four months. Then they will be able to get certain benefits which will be proportionate. If the period of 150 days is accepted, it will be two-thirds.

Amendment No. 6 seeks to substitute Rs. 1.50 for Re. 1.00. The Explanation to the clause says:

"For the purpose of this subsection, the average daily wage means the average of the woman's wages payable to her for the days

on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, or one rupee a day, whichever is higher”.

There is a possibility that there may be certain industries where the average daily wage may be even less than a rupee, e.g. certain small plantations which may exist. That is why I have suggested that it should be Rs. 1.50. In the original Bill, it was 75 nP. We were able to increase it to one rupee in the Joint Committee. My original amendment was for making it Rs. 2.00 I am repeating it here with this difference that instead of Rs. 2.00, I am putting in Rs. 1.50 in the hope that Government will consider it worthwhile to accept it by taking this seriously so that in industries where the workers may not get Rs. 1.50, at least the minimum of Rs. 1.50 is guaranteed to them instead of Re. 1.00. That is why I submit that the quantum may be increased by 50 nP.

**Shri Nanjappan (Nilgiris):** I have an amendment to clause 5, namely, amendment No. 17.

**Mr. Deputy-Speaker:** I have no notice of his amendment.

**Shri Nanjappan:** I have got a copy which has been circulated.

**Shri Abid Ali:** That was circulated last Session.

**Mr. Deputy-Speaker:** That was not in the ordinary and proper form. Shri Tangamani wrote to the Speaker requesting that those amendments be revived. The hon. Member has not done even that.

**Shri Tangamani:** Let him speak on that.

**Mr. Deputy-Speaker:** Yes.

**Shri Nanjappan:** I beg to move:

Page 4, line 15, after “woman” insert—

“who has not got more than four children surviving”. (17)

A woman gets maternity benefits at the time of delivery. I want to limit the number of children and keep it in line with the policy of Government in regard to family planning. The Government of India's plan is to allow only three children, but I allow four. I want to restrict it there. Government have now allotted Rs. 25 crores for family planning. Therefore, in the interest of women, there must be some limitation.

**Mr. Deputy-Speaker:** When the planners have allowed only three, why should he allow one more?

**Shri Nanjappan:** There must be some limitation in the interest of their own health and their economic condition. So when Government bring in a Bill, they must keep in line with their own policy. They must see that they do not violate what they have got in view.

Another thing is that some people say that there should be a tax levied if there are more than a certain number of children. People are agitated over such things. So when Government bring in such a Bill why do they not see that their policy is not violated?

Therefore, in the interest of the health of women and in keeping with the policy of Government, I have moved this amendment.

**Mr. Deputy-Speaker:** Would not his proposal inflict double punishment?

**Shri Abid Ali:** I was submitting that in four of the States, nine months are provided as the qualifying period. The Employees' State Insurance Act

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at present lays down a period of 35—40 weeks before the week in which confinement takes place. The period varies in different States. True, in the State of Kerala, it should be 150 days service during the twelve months or the woman should have been on the rolls for nine months immediately preceding the date of notice. As compared to that, the proposed enactment would be much better. In Assam also, 150 days are there, but there also it is the period of twelve months immediately preceding the date of notice. So if the hon. Member goes through the proposed provisions, he will appreciate that they are an improvement.

**Shri Tangamani:** Here also the twelve-month period is there. The twelve-month question is there in that legislation and in this also. Now the period of 150 days is over the period of twelve months—the date from which she is claiming. Surely, in one year, there are more than 150 days.

**Shri Abid Ali:** We cannot have the best of everything. If the measure is compared as a whole with the enactments in all the States, it will be appreciated that much more benefits are being proposed.

As far Rs. 1.50, originally Re. 0.75 was proposed, and now it is one rupee. It does not mean that the workers should get one rupee. The proposition is that they should get their average earning, but where the wages are less than a rupee, they should get at least one rupee. That is the intention, not that it is the minimum as felt by some hon. Members.

Therefore, I oppose the amendment and hope that the hon. Member will appreciate what has been stated and not press his amendment.

As for the suggestion here, I do not think the hon. Member was very serious.

**Mr. Deputy-Speaker:** Now I shall

put amendment Nos. 6, 7 and 8 to the vote of the House.

*The amendments were put and negatived.*

**Shri Nanjappan:** Since my amendment is not acceptable, I do not press it.

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

**Hon. Members:** Yes.

*Amendment No. 17 was, by leave, withdrawn.*

**Mr. Deputy-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—** (Notice of claim for maternity benefit and payment thereof).

**Shri Tangamani:** I beg to move:

Page 5, after line 39, add—

"Provided that if medical examination is prescribed, women doctors or midwives will be made available for the examination, if the woman so desires". (14)

This clause deals with notice of claim for maternity benefit and payment thereof.

A woman employee who is entitled to this benefit has to give notice of her pregnancy and state the date from which she will be absent, not being a date earlier than six weeks from the date of her expected delivery. A woman who has not given notice when pregnant, may give notice as soon as possible. On receiving such notice, the employer may permit her absence of six weeks after delivery. The whole point is how this twelve

weeks is to be distributed, and at present the onus is upon her for giving notice.

In this matter, sub-clause (5) is important, and by my amendment I want a proviso to be added. This is how the sub-clause will then read:

"(5) The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of such proof as may be prescribed that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of such proof as may be prescribed that the woman has been delivered of a child;

Provided that if medical examination is prescribed, woman doctors or midwives will be made available for the examination, if been delivered of a child:

I have tabled this amendment on the basis of some experience which we had in the course of our trade union movement. What happens is that the woman is asked to get a medical certificate. Now, the poor woman in places like the plantations is not in a position immediately to get a medical certificate, and in many cases, although it is genuine—here it cannot be a fake, because it is a case of pregnancy—she has to spend money on her own, when all that she gets is only one rupee per day. When that is the position, she should not be made to go round and find a doctor for getting a certificate. A medical examination may or may not be prescribed. It may be that unless there is a medical examination there may not be conclusive proof of her pregnancy. In such a case when she gives notice, if such examination is prescribed, I want that women doctors and midwives should be made available for examining if the woman so desires. This is a very innocuous thing.

**Mr. Deputy-Speaker:** Innocuous it is, but whether it is acceptable I do not know.

**Shri Abid Ali:** It is intended to cover a much larger number of workers by this measure. It may be difficult for some of the smaller establishments to comply with this requirement. However, we will give earnest consideration to this suggestion that the hon. Member has made at the time of framing the rules.

**Shri Tangamani:** Then I do not press it.

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

**Hon. Members:** Yes.

*Amendment No. 14 was, by leave, withdrawn.*

**Mr. Deputy-Speaker:** The question is:

"That clause 6 stand part of the Bill."

*The motion was adopted.*

*Clause 6 was added to the Bill.*

**Mr. Deputy-Speaker:** The question is:

"That Clause 7 stand part of the Bill."

*The motion was adopted.*

*Clause 7 was added to the Bill.*

**Clause 8—(Payment of medical bonus)**

**Shri Nanjappan:** I beg to move:

Page 6, line 16, after "rupees" insert—

"or the actual amount spent in a complicated case". (18).

I move this amendment because the wording in the clause refers to normal cases. There will be 95 per cent. of the cases which are normal, but there may be five per cent. which may require urgent attention and even sur-

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gical operation for the delivery of the child. In that case, they have to go to distant places. The sum of Rs. 25 which is given is, as I said, for normal cases and it may not be sufficient at all. The woman may be confined to bed for a number of days, and a motor vehicle may be necessary to go to a distant place. Even at the time of the first reading I said it should be amended and the actuals must be paid to the woman.

Not only that. If this amendment is made, the employer himself will take interest and may provide the motor vehicle urgently required, so that he may not have to pay more. So, I want this amendment to be accepted by Government.

**Shri Abid Ali:** In the present enactments, only in one State it is Rs. 25; in some it is Rs. 10; in others it is even less. But we have provided Rs. 25.

**Shri Nanjappan:** That is only for normal cases.

**Shri Abid Ali:** In the other cases the woman will have to be admitted in hospital. With that intention, this amount is, I think, quite reasonable. I hope he does not press his amendment.

**Shri Nanjappan:** I do not press it.

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

**Hon. Members:** Yes.

*Amendment No. 18 was, by leave, withdrawn.*

**Mr. Deputy-Speaker:** There are no amendments to Clauses 9 to 11.

The question is:

"That Clauses 8 to 11 stand part of the Bill".

*The motion was adopted.*

*Clauses 8 to 11 were added to the Bill*

# **Clause 12—(Dismissal during absence or pregnancy)**

**Shri Tangamani:** I be gto move:

(i) Page 7, omit lines 6 to 9. (9)

(ii) Page 7, after line 5, insert—

"Provided that every case of dismissal shall be referred to the Inspector for decision." (15)

These two amendments, I submit, are very important.

Here is a case where we are providing benefit in the case of a certain contingency. This is more in the nature of social security. This principle of social security has been accepted, and I must here concede that the hon. Minister of Labour and Employment has been always anxious to increase the various benefits and the number of contingencies. An expert committee was set up and the report of that committee was, to some extent, discussed in the last Indian Labour Conference also.

The benefit which is going to be conferred, which is contingent upon a certain event, should not be clouded by extraneous considerations. That is the basic thing which I would like to implore for the attention of the hon. Minister through you.

Here is a woman who is given certain protection under this legislation. That is, if she is able to satisfy that she has put in a certain qualifying period and that she is pregnant and gives notice, she is entitled to leave benefit for a period of 12 weeks. The quantum has also been fixed.

An unusual clause has been brought in, namely, that she will be deprived of any benefit if she has been dismissed for any gross misconduct. This particular provision was very much contested and ultimately it was recast. But even after recasting the sting has not been taken away. That is why I submit these amendments

are necessary if we are really going to make this a kind of social security legislation. A punitive clause has no place whatsoever in a social security legislation. This is how the clause reads:

"When a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence or to vary to her disadvantage any of the conditions of her service."

So far as this goes, it is good. The Members of the Select Committee were agreed on this

Then clause (2) is good.

15.32 hrs.

[SHRI MULCHAND DUBE in the Chair]

"Provided that where the dismissal is for any prescribed gross misconduct, the employer may, by order in writing communicated to the woman, deprive her of the maternity benefit or medical bonus or both."

This is an extraordinary position.

As a woman she is entitled to maternity benefits. We must not tag the two together. Without revealing what happened in the Select Committee I would say that all the trade unions would not agree to this. Even when the Bill was brought before this House, the hon. Member, Shrimati Uma Nehru was very stout in opposing the way in which the benefit that is given is sought to be taken away under some pretext or other. That is why I submit that we should remove this proviso.

I have not brought the amendment for the sake of amendment. I want the Government to accept at least the

other amendment, namely, that every such case of dismissal shall be referred to the Inspector or for decision. In other words, there must be a double-check or a number of checks before misconduct is established. It should be established whether it is such a misconduct that would warrant the taking away of the maternity benefit.

Therefore, I implore the House and the hon. Minister through you to accept my amendment that the proviso be deleted. If the Government are not willing to accept that, let them at least accept the other amendment, namely, referring such matters to the Inspector.

With these words I commend my amendments to the acceptance of the House.

श्री सिहासल सिंह (गोरखपुर)

इस क्लज की प्राविसो को देखने के बाद मनुष्यता के नाते भी यह उचित मालूम देता है कि इस तरह का प्राविसो न रहे। एक तरफ तो आप बेनिफिट देने जा रहे हैं और अब क्लज २ में आप कहते हैं कि अगर प्रेगनेंसी पीरियड में कोई डिसमिसल हो जाये तो उस औरत को आप इसके बेनिफिट्स से डिप्राइव नहीं करेंगे। आपने कहा है कि इतने दिन तक सर्व करने के बाद, इतने दिनों तक सेवा कर चुकने के बाद अगर कोई मैटरनिटी बेनिफिट की एंटाइटल हो जाती है और उसके बाद अगर उस को डिसमिस कर दिया जाता है तो वह मैटरनिटी बेनिफिट की एंटाइटल रहेगी। लेकिन इस प्राविसो को देखने के बाद ऐसा मालूम देता है कि अपील करने की बात को रख कर आप उसको हैरानो और परेशानी में डालने जा रहे हैं। आप यहां पर कहते हैं "प्रेस्क्राइड मिसकंडक्ट"। अब प्रेस्क्राइड मिसकंडक्ट का भी पता नहीं है और यह पता नहीं है कि कौन कौन सा प्रेस्क्राइड मिसकंडक्ट है। इसका पता तो रूल बन जाने के बाद ही चलेगा। लेकिन अपील की बात

[श्री सिंहासन सिंह]

को रख कर आप उस औरत के लिये मुकदमे बाजी की सूरत लाने जा रहे हैं। एक तरफ तो आप उस वर्कर के लाभ के लिये कानून बना रहे हैं और चाहते हैं कि उसको इन का लाभ मिले लेकिन दूसरी तरफ कानून का पचड़ा डाल करके मुकदमेबाजी की सूरत पैदा कर रहे हैं। मेरा निवेदन है कि जहां तक मुमकिन हो, जो मुलाजिम है, जो औरत काम करने वाली है सेवा करने वाली है उसको आप मुकदमे की पेचीदगी से दूर रखें, अपील करने के शंशट में उसकी आप न डालें। उसको दस रुपये का तो इस से फायदा मिलेगा और अगर उसको अपील करने पर मजबूर किया जाता है तो इतना रुपया अपील के आने जाने में ही खर्च हो जायेगा और नतीजा यह होगा कि उसको कोई फायदा नहीं होगा। इस वास्ते मैं अनुरोध करता हूं कि इस प्राविसो का आप निकाल दें और अगर आप इसको निकालना नहीं चाहते हैं तो बतायें कि क्यों आप इस प्राविसो को रखने जा रहे हैं और क्यों इसका लाभ आप एम्पलायर को पहुंचाना चाहते हैं। मैं चाहता हूं कि आप यह भी बताये कि कौन सा मिस-कंडक्ट उसके जरिये से इस बीच में हो जायेगा कि उसको इस बैनिफिट से डिप्राइव करने की नौबत आ जायेगी।

आपने इस बिल में कहा है कि अगर वह डिलवरी के वक्त के एक साल में से पहले १६० दिन तक नौकरी में रहती है और उसके बाद अगर उसको डिसमिस किया जाता है तो वह इन बैनिफिट्स को हासिल करने के एंटाइटल हो जायेगी। मैं पूछना चाहता हूं कि इस पीरियड में वह कौन सा मिसकंडक्ट कर देगी जिस की बिना पर कि उसको निकाला जा सकता है और जिस के खिलाफ वह अपील करेगी? आप उसको इस झगड़े में न डालें। सब-क्लाज १ से आप का काम चल सकता है और अगर आप समझते हैं कि कुछ दिक्कत है तो आप ऐसी सूरत

पैदा न करें जिस से मुकदमे बाजी हो। अगर मालिक कहता है कि उसने कोई मिसकंडक्ट किया है तो वह जानने के लिये कि क्या यह बात सही है या गलत, आप अपना कोई अधिकारी या कोई और निष्पक्ष व्यक्ति इसका सही सही पता लगाने लिये भेज सकते हैं। जो प्रेसक्राइड अथोरिटी है, जो इंस्पेक्टर है, वह जा कर इसकी जांच पड़ताल कर सकता है और अपनी रिपोर्ट दे सकता है कि उसने अमुक मिस-कंडक्ट किया है जिसकी वजह से उसको डिसमिस किया जा रहा है।

इस वास्ते मैं चाहता हूं कि आप उस बेचारी औरत को मुकदमे बाजी के चक्कर में न डालें और इस प्राविसो को निकाल दें या फिर जो दूसरी अमेंडमेंट दी गई है, उसको मान लें।

**श्री अबिद अली :** मिसकंडक्ट मामूली तरीके से जैसे समझा जाता है ...

**Shri Tangamani:** In English please.

**Shri Abid Ali:** Misconduct as ordinarily understood has no relation with the provision here. As hon. Members are aware, 'misconduct' is prescribed in the regulations of standing orders; and they will be incorporated when the rules are framed. Hon. Member asked what it will be like. It is like breaking the machinery or setting fire etc. All this will form part of the rules when they are drafted.

About giving power to the Inspector, I think this particular item was not put in the minute of dissent also. Perhaps, the hon. Members will agree with me that giving such wide powers to the Inspector would not be proper. It may not be in the interests of the workers. This is not the first time that we are making such a provision.

**Shri Sinhasan Singh:** You are providing for an appeal. So, you make



the woman go to the appellate court ultimately. Why make her go to appeal? Let the employer refer the misconduct to the appellate court if there be any. He shall decide beforehand whether misconduct of the kind referred to has taken place or not. If the misconduct is there, let there be the punishment. But why put her to the difficulty of appealing to the court of appeal and so on?

**Shri Abid Ali:** I had mentioned that this particular clause formed part of the enactments which are already in force and thus for no difficulty has arisen. However, we will keep in mind the suggestion which the hon. Members have made while framing the rules.

**Mr. Chairman:** I shall now put amendments 9 and 15 to the vote of the House.

*The amendments were put and negatived.*

**Mr. Chairman:** The question is:

"That clause 12 stand part of the Bill."

*The motion was adopted.*

*Clause 12 was added to the Bill.*

*Clauses 13 to 16 were added to the Bill.*

**Clause 17—**(Power of Inspector to direct payments to be made)

**Shri Tangamani:** Sir, I beg to move:

Page 8,

after line 21, insert—

"(2A) The Inspector shall decide on the rights and wrongs of every dismissal and shall direct reinstatement after hearing both sides if the dismissal is considered by him to have been wrongful"  
(16)

This follows directly from my amendment No. 15 to clause 12. I have already advanced arguments as to how it is not proper to deprive a woman the rights of benefits when-

ever she is dismissed for the prescribed misconduct. If that portion is not going to be deleted, I would like to have some safety clause by which the employers' domestic enquiry will not be conclusive. That is why I suggested in my amendment to clause 12 that every such dismissal shall be referred to the inspector for decision. This deals with the power of the inspectors to direct payments to be made. I know the provisions of the Industrial Disputes Act whereby it can be raised in an industrial dispute and dismissal may become the subject-matter of adjudication. That is a different matter altogether. But where she is sought to be deprived of her benefit, I would like this matter to be referred to the inspector who holds himself responsible for the payment of these benefits or see to it that the beneficiary is not deprived unnecessarily. Clause 17 says:

"Any woman claiming that maternity benefit or any other amount to which she is entitled under this Act and any person claiming that payment due under section 7 has been improperly withheld may make a complaint to the Inspector.

The Inspector may, of his own motion or on receipt of a complaint referred to in sub-section (1), make an inquiry or cause an inquiry to be made and if satisfied that payment has been wrongfully withheld, may direct the payment to be made in accordance with his orders."

I want the inspector decide on the rights and wrongs of the dismissal and he shall direct reinstatement after hearing both sides if the dismissal is considered by him to have been wrongful. The inspector will be governed solely by the purpose of payment of compensation to her or benefits to her under this Act. Whatever I have said about my amendment No. 15, I submit, may also be said to apply to this amendment also.

**Shri Abid Ali:** I have already submitted that it would not be proper to give this wide power to inspectors. In some places it may be that they may not be of sufficient standard or requirements.

**Shri Tangamani:** Already you have given powers under 17(2).

**Shri Abid Ali:** Not about finalising dismissal. Further, I have assured the hon. Members that while framing the rules we will keep in mind the suggestions made here so that no undue inconvenience is caused to the women workers.

**Mr. Chairman:** I shall put amendment No. 16 to the vote of the House.

*The amendment was put and negatived.*

**Mr. Chairman:** The question is:

"That clause 17 stands part of the Bill".

*The motion was adopted.*

*Clause 17 was added to the Bill.*

*Clauses 18 to 25 were added to the Bill.*

**Clause 26—(Power to exempt establishment)**

**Shri Tangamani:** Sir, I beg to move my amendment No. 10.

Page 9, line 40,

after "it may" insert—

"refer the matter to the Central Government which may" (10).

The clause, as it stands at present, reads as follows:

"If the appropriate Government is satisfied that having regard to an establishment or a class of establishments providing for the grant of benefits which are not less favourable than those provided in this Act, it is

necessary so to do, it may, by notification in the Official Gazette, exempt, subject to such conditions and restrictions, if any, as may be specified in the notification, the establishment or class of establishments from the operation of all or any of the provisions of this Act or of any rule made thereunder."

This clause gives power to exempt certain establishments from the operation of the Act when the Government is satisfied that the benefits given are not less favourable than those provided under this Act. It is an all India legislation and we want whatever the State Government does to be subject to the scrutiny of the Central Government. For the sake of uniformity, I have suggested that whenever the appropriate Governments want to exempt, than that Government may refer the matter to the Central Government which may, by notification, in the Official Gazette exempt them. In other words, I want a list of the exempted factories to be published centrally so that we will have a clear check. It is not that the State Governments are not willing. In a legislation of this nature, we will be in a position to know how many establishments have sought for exemption and under what conditions. We will also know that in certain establishments there are benefits which are more favourable. In other cases these can be the subject-matter of further negotiations wherever the trade unions are strong. The same argument was advanced by the hon. Minister when he was referring to the inclusion of the other establishments for the benefit of this Act. He said that the State Governments may with the approval of the Central Government do so. I say that where these establishments are to be exempted, let not a blanket power be given to the State Governments.

That is the purpose, and I would be able to say more about it when clause 1 is taken up, where also I

have indicated that the date of operation of this Act should also be notified by the Union Government which is now passing this legislation. It should not be left to the State Governments. Therefore, I submit that this amendment of mine which wants that the issues of exemption to be referred to the Central Government should be accepted by this House.

**Shri Abid Ali:** In all these measures except mines, the Act will be administered by the State Governments and therefore, as this scheme prevails in all other pieces of legislation, it is quite appropriate that this power should vest with the State Governments. Therefore, I oppose the amendment.

*The amendment was put and negatived.*

**Mr. Chairman:** The question is:

"That clause 26 stand part of the Bill".

*The motion was adopted.*

*Clause 26 was added to the Bill.*

*Clause 27 was then added to the Bill.*

**Clause 28— (Power to make rules)**

**Shri Tangamani:** I beg to move:

Page 10—

"omit lines 37 and 38." (11).

This is in conformity with my previous amendments. In all these clauses, the word 'misconduct' should be deleted. The word 'misconduct' should not find a place in the provisions of such legislation. Such social security or beneficial legislation should not have the word "misconduct". On the question of framing of the rules, the hon. Minister says that they are going to frame the rules and define what acts of misconduct are contemplated. One never knows what kinds of things are going to be included here. That is why I say that the whole question of misconduct or gross

misconduct need not be defined by this Act, and that is why I have, in conformity with the previous amendments, suggested the deletion of sub-clause (g).

**Shri Sinhasan Singh:** The previous amendments were not also accepted!

**Shri Tangamani:** Anyway, let it be on record so that the future generation may know it. Therefore, I submit that my amendment, deleting the words, "acts which may constitute gross misconduct for purposes of section 12" be accepted.

**Shri Abid Ali:** This item has already been sufficiently discussed in various ways and, therefore, I have nothing further to add.

*The amendment was put and negatived.*

**Mr. Chairman:** The question is:

"That clause 28 stand part of the Bill."

*The motion was adopted.*

*Clause 28 was added to the Bill.*

*Clauses 29 and 30 were then added to the Bill.*

**Clause 1— (Short title, extent and commencement)**

**Shri Tangamani:** I beg to move:

(i) Page 1, line 7, after 'behalf' insert—

"by the Central Government"  
(1).

(ii) Page 1, omit lines 8 to 11.

This point has been mentioned by several hon. Members during the first reading of the Bill. My hon. friend Shri S. M. Banerjee also referred to this, and he mentioned how in the case of road transport workers, the Joint Committee accepted the Central Government to be the authority for notifying the date. Now, by the recent amendment, we have passed

[Shri Tangamani]

a legislation that in the case of road transport workers, the State Governments will have to notify before 1st April, 1962. Here, what the Bill says is "It shall come into force on such date as may be notified in this behalf in the Official Gazette." Instead of saying that the appropriate Governments will notify this in the appropriate gazette, my purpose is that it should be notified only by the Central Government. So, if you delete lines 8 and 11, and insert the words "by the Central Government" after the word "behalf" in line 7, sub-clause (3) will read as follows:

"It shall come into force on such date as may be notified in this behalf by the Central Government in the Official Gazettee."

Sub-clauses (a) and (b) making a distinction between the mines and other establishments will go. The arguments are there. That is why I have suggested, even in the case of exemption, that it should be notified only by the Central Government and not by the State Governments. For the same reasons which I mentioned on the previous occasion, I submit that these amendments may be accepted by the House.

**Shri Abid Ali:** The Act concerning motor transport workers about which reference has been made just now by the hon. Member did not repeal any existing legislation nor did it substitute any existing measure. That was the original Act by itself, and therefore we readily accepted the suggestion that a particular date should be fixed and by which date it should be brought into force in the entire country.

So far as this particular measure is concerned, all the States have got their own respective pieces of legislation, and it will be necessary, as has been provided here, to repeal those enactments before this particular Act

can be put into force. As I have submitted earlier, if we fix a date here, and by that particular date a particular State is not able to repeal its own legislation, then there will be two Acts in force in such a State, and that position will not be appreciated by any hon. Member. Therefore, the House should have the assurance that we will impress upon the State Governments that this measure should be brought into force at the earliest possible date, and we should trust them to the effect that they also would be anxious to act likewise. With this assurance, the hon. Member, I hope, would agree to withdraw his amendments.

*The amendments were put and negatived.*

**Mr. Chairman:** 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 also added to the Bill.*

**Shri Abid Ali:** I beg to move:

"That the Bill be passed."

**Mr. Chairman:** Motion moved:

"That the Bill be passed."

**Shri Tangamani:** As a person who has followed this Bill right through the Joint Committee and also moved certain amendments here, I would like to make the following observations. I must admit that the Bill, as it has emerged from the Joint Committee, has got certain improvements.

16 hrs.

**Shri Abid Ali:** Substantial.

**Shri Tangamani:** There would have been substantial improvements if the amendments which I had moved were accepted by the House. While I moved my amendment that the

qualifying period should not exceed 150 days, it is a welcome thing that at least 160 days have been fixed as the qualifying period. I hope that it will be clarified that in the States where the qualifying period is 150 days, they will not be forced to have this qualifying period of 160 days instead of 150 days, which they are now enjoying. In other words, as a result of this legislation, the benefits which they are now enjoying should not be reduced either in the matter of qualifying period or compensation to be paid. I am saying this because as a result of the repealing process, a situation may arise that in these three States which are having a qualifying period of 150 days at present, they might insist on a qualifying period of 160 days.

The second point which I would like to impress upon this House is the question of misconduct. I would like to warn that although we have brought out a very good legislation which is going to benefit a large section of women workers, it is inequitable to provide a clause like clause 12 which deprives her of the benefits under certain circumstances. The circumstances mentioned are gross misconduct and dismissal. This should not interfere in any way with the benefit which is granted to the women. I am emphasising this because this clause is going to take away the spirit of such a beneficial legislation like this. I hope this will not be used and even if it is used, it will be used very sparingly. Fool-proof rules should be made to safeguard the women against any kind of abuses under clause 12.

I moved another amendment, which I thought Government would accept, regarding the question of checking up exemptions which the State Governments would like to give. Instead of allowing the State Governments to grant exemptions, it would have been better if the State Governments were allowed to give exemptions subject to the approval of the Central Government. In this very Bill we have made certain provisions for the State Gov-

ernments to get approval from the Central Government in cases where they want to extend the benefit to other establishments. So, for the sake of uniformity if this has been done, it would have been a welcome thing.

While giving this warning, I am really glad in a way that this legislation is going to be on the anvil. In this connection, I will be failing in my duty if I do not make a certain observation. I do not want to cast aspersions on anybody, but it is unfortunate that this Bill which was taken up on the 10th August—almost in the first days of the last session—could not be passed before the end of the last session. I hope that steps will be taken to see that not only this Bill goes through the other House rapidly, and made into law, but also early steps are taken for seeing to it that the State Governments issue the necessary notifications without delay. Rules, as indicated in this Bill, should be framed and subjected to the scrutiny of this House as early as possible.

**Shri T. B. Vittal Rao:** Mr. Chairman, Sir, I want to make only a few observations at this stage. As I said in the beginning, I welcome this measure, because it was as long ago as 1954 that the Indian Labour Conference discussed this and recommended that a uniform legislation for granting maternity benefits should be undertaken by the Central Government. 7 years have elapsed. So, I want the hon. Minister to make up this time by seeing that this law is enforced as early as possible.

It could be done in two ways. Firstly, it could be done by framing the rules under the various provisions as quickly as possible. I make a special request, because of my previous experience with regard to framing of rules. For example, the Mines Act was passed in 1952 and it was enforced from 1st July 1952 in all the States. But the metalliferous mines regulations were framed only last year, after a lapse of 8 years. I want Government to avoid such delays and see that the rules are framed as

[Shri Tangamani]

quickly as possible. They may be discussed in one of the conferences of Labour Ministers which the hon. Labour Minister calls and they may be finalised as quickly as possible.

When I said that when we are providing for uniform legislation, there should not be any disparity between one legislation and another, I pointed out that overtime wages should be included in computing the quantum of maternity benefit. I asked the hon. Minister the grounds for exempting it. He has not given any grounds, because under the Workmen's Compensation Act, the Payment of Wages Act and the Employees' State Insurance Corporation Act, overtime wage is considered as part of the wages. The hon. Minister has not denied this; he said he would verify. As a veteran trade union leader, I was under the impression that he must be knowing this. He said he would verify this. I would earnestly request him to have the verification done as early as possible, even before this Bill is sent to the Rajya Sabha, so that he can move a suitable amendment in regard to including overtime wages for the purpose of computing the maternity benefit.

With these observations, I welcome this Bill.

**Shri D. C. Sharma** (Gurdaspur): Sir, one need not be a labour leader to take part in the discussion on this Bill. Workers are with us all the time and whether we are trade unionists or not, no man who is in public life can afford to ignore the promotion of their cause. Though a friend complained that this Bill has been too long on the anvil, I think it is good that we are beginning the first day of this session, which may be the last session of this Lok Sabha . . .

**Shri T. B. Vittal Rao:** What about the 'lame duck' session?

**Shri D. C. Sharma:** Perhaps you may be there or not.

**Shri T. B. Vittal Rao:** You and I will be there.

**Shri D. C. Sharma:** I was submitting very respectfully that it is a good thing that we are going to pass this Bill, which enshrines the principles of social security for workers, which embodies the principles of social welfare which are obtaining in a welfare State, on this day, and I congratulate the hon. Labour Minister and the hon. Deputy Labour Minister on the good work that they have done.

It is very seldom that a Joint Committee takes such a sympathetic view of the suggestions that are put forward by the Members as this Committee has done. When I compare the original Bill with the Bill as it has emerged from the Joint Committee, I cannot help saying that the Joint Committee has gone as far as it could go and liberalised this Bill in the interests of workers as much as it should have. Of course, there are some persons who, like Oliver Twist, are always asking for more. I do not blame them for that. We should try to ask as much for the workers as we can. But there is a difference. There are some persons who want more on theoretical grounds and there are some persons who want more on practical grounds.

I must submit very respectfully, Sir, that more or less the complaints or the criticisms made on this Bill by certain Members of this House have been more on doctrinaire and on dogmatic grounds than on practical grounds. After all, all social measures, all social security schemes have to take into account the economic conditions which prevail in our country, the industrial potential of our country and the corps of workers that we have. When we judge this Bill according to those things, I think this Bill is going to do good to the workers, especially to my sisters and daughters and to others who are employed in the working corps of my country.

So far as the definition of "wages" is concerned, I would not say that anything more should be added to it. I think this is equitable, just and fair, and when our country progresses in terms of economic prosperity there may come a time when we may be able to enlarge the scope of the definition of "wages". But I feel that the time has not yet come. We should not try to run before we have learnt to work. Practical experience demands that we should not bring into play those tendencies which are not going to help the workers.

I find that this Bill is going to be a joint venture, it is going to be a co-operative venture and it is going to be worked by the Centre and also by the States. My experience of such legislations in this House has been that while the Centre has shown all the ardour for working but a measure which is passed, while the Centre has shown every possible interest in the measure which it has passed, the States have not been able to share that ardour or that enthusiasm. I think as the Bill will travel from Delhi backwards and forwards the enthusiasm for the implementation of this Bill will grow less and less. Here is a problem. How is the Labour Ministry going to see that the States show as much interest in the implementation of this Bill as the Centre is going to show? I think there are certain places where we have given undiluted power to the States. Of course, we are living under a Constitution which gives provincial autonomy to our States. But I feel that even though the States may have provincial autonomy the Centre should not give up its supervisory power. In some of the clauses to which reference has been made, I feel that that supervisory power has been left out. Therefore, I would say that when the rules are framed it should be seen that wherever the implementation of this Bill is concerned the ultimate supervisory power should rest with the Centre and the States should not be allowed to go their own way, follow their own sweet will and do whatever they like. After all, the States are

not as conscious of our social welfare as the Centre is, the States do not have as enlightened Ministers as perhaps the Centre has. Therefore, I would say that the power of the States should be controlled as much as possible so that this Bill fulfils the objectives for which it is being passed.

For instance, a point has been made that 160 days should be reduced to 150 days. I feel that this is a very legitimate demand. The Centre has to show the way, to show the path. The Centre is the path-finder, and I think we would be stultifying ourselves if we find that the Centre has to lag behind some of the progressive States. The Centre should be more progressive than any State in the country. The Centre should lead the States so far as progressive measures are concerned, and it would be a very sad thing if some States have a year of 150 days and the Centre says that it will have a year of 160 days. I hope this thing will be locked into.

Then, the duties of inspectors have been prescribed in this Bill. The whole of this Bill is going to hinge on these inspectors. I would like to ask, what are going to be the qualifications of these inspectors? Are they going to be like our police inspectors, are they going to be like our veterinary inspectors or are they going to be like our school inspectors? What kind of inspectors are we going to have? What are going to be their qualifications? What kind of training are we going to give those inspectors to inculcate in them the spirit of social welfare? If these inspectors are going to be cast in the mould of the bureaucratic inspectors of whom we have so many in this country—traffic inspectors, police inspectors and others—I think this Bill will stultify itself. I would, therefore, like to request the hon. Labour Minister to see to it that these inspectors are not of the usual, normal, bureaucratic varieties that we have in this country, but these inspectors are of the social-service-variety, of the social welfare variety, they are such persons as have been bitten by the

[Shri D. C. Sharma]

bug of social welfare. I want such persons to be inspectors. Therefore, I feel that under the rule-making powers we should lay down the qualifications of these inspectors who are going to be responsible for implementing this Bill.

There is one thing more. These rules are going to be much more important than the clauses themselves. I do not know whether the tail wags the dog or the dog wags the tail, I do not want to enter into that discussion, but in this Bill I think the tail is going to be much more important than anything else. The rules are going to be really the heart of this Bill, the soul of this Bill. The rules are going to make all the difference between making this Bill a good Act and making it a middling or something like that. What do we find? We find that all kinds of powers have been taken by the Government so far as the rules are concerned. How are we going to know whether these powers will be fulfilled when the rules are going to be made? I do not know how long it will take to frame the rules. My hon. friend was talking about the "lame duck" session. I do not know what kind of session that is going to be. Anyhow, I submit that the rules could be passed within this session so that we can have them under scrutiny, because the noble principles which have been enunciated in this Bill, the noble ideals which have been put forward in this Bill will come to nothing if the rules are not properly made and if the rules are not properly scrutinised by this House. I think we seldom discuss rules on the floor of the House, but the rules that are to be framed under this Bill I hope will be discussed in this House and we shall have an opportunity to go through them very carefully. For instance, there is the question of nature of proof required under the provisions of this Act. What kind of rule are you going to make about it? About duration of

make it firm and clear? There are so many other things. I think these rules are going to be the very kernel of this Bill and this House must have an opportunity to scrutinise them before they are sent for implementation to the States. There was a foreign observer who said that labour legislation in this country is something about which any progressive country can be proud. I feel that in the matter of labour legislation we have done very well, owing to the enlightened interest which our Ministry has shown in this kind of thing. If any doubt is raised about the progressiveness of our Labour Ministry in this matter, I think this Bill and so many other Bills will be there to show that everything has been done for making the life of the workers in this country as comfortable as possible. I hope that our workers will have more benefits, larger benefits, greater benefits, as time goes on. As our Five Year Plans mature, as our national income increases, I am sure the workers in our country will have the same kind of amenities and salaries as the workers, say, in the United Kingdom and other progressive countries. I hope that with the help of the people it can be achieved. With these words, I welcome this Bill wholeheartedly and I hope the States, the inspectors and all that bureaucratic machinery, which will come into being on the passing of this Bill, all of them will administer this Bill in the spirit in which it has been framed by the Labour Ministry and the spirit in which it has been passed by the Lok Sabha.

**श्री रामसिंह भट्टी बर्वा (निमाड़) :**

सभापति महोदय, हम इस समय इस बिल को कानूनी रूप देने जा रहे हैं। यहां के लेबर लेजिस्लेशन में मैंने इतना प्रोग्रेसिव बिल नहीं देखा जिस तरह का यह है। यह बड़ा ही सुन्दर बिल है। हमारे सामने बैठने वाले साथियों ने इस इस में कुछ अमेन्डमेंट्स रखे हैं और भालोचनार्थ की हैं। सेलेक्ट कमेटी में हम दोनों साथ थे जहां पर



यहां पर उन्होंने मतभिन्नता बतलाई। इस बारे में कुछ ज्यादा कहने की आवश्यकता नहीं है। पिछले सेशन में मैंने इस सम्बन्ध में काफी कुछ कहा था। मैं केवल एक दो बात माननीय मंत्री जी से निवेदन करना चाहता हूँ।

मंत्री महोदय इस बात को भूल न जायें कि जिस इंडस्ट्री में ८० प्रतिशत बहनें काम करती हैं उन को इस बिल का कोई लाभ मिलने वाला नहीं है। मैं चाहता हूँ कि हम इस पर विचार करें, इस की जांच करे और सोचें कि उन में काम करने वाली बहनों को किस प्रकार से ज्यादा से ज्यादा फायदा मिले। एक इंडस्ट्री बीड़ी की है, जो कि बड़ा भारी उद्योग है। लाखों की तादाद में बहनें वहां पर काम करती हैं। उन को पत्ते, डोरा और तम्बाकू दे दी जाती है और वे लोग घरों पर काम करती हैं। इस बीड़ी उद्योग में हमारे प्रदेश में लगभग ४ लाख श्रमिक काम करते हैं जिन में से लगभग ३ लाख बहनें हैं। उनको इस बिल का कोई फायदा मिलने वाला नहीं है। अब हमें विचार करना चाहिये कि इस बिल के कानून बन जाने के बाद उन को किस प्रकार से फायदा मिल सकता है।

इसी प्रकार से ऊन बिनने का काम करने वाली औरतें हैं। उन को बड़े बड़े कारखानेदार ऊन दे देते हैं और वे घर पर उस को साफ करती हैं और फिर कारखाने में ले जाती हैं। उन को भी इस का फायदा मिलने वाला नहीं है। मैंने टेक्सटाइल इंडस्ट्री में भी देखा। सफाई का काम बहनें अपने घरों में ले जाती हैं और साफ कर के दे जाती हैं। इस कानून से बचने के जो तरीके हो सकते हैं उन पर आप विचार करें।

इसी तरह सीजनल से फैक्ट्रीज होती हैं, जैसे कि जिनिंग फैक्ट्रीज साल में चार महीने चलती है। उस में भी बहनें काफी तादाद में काम करती हैं, लेकिन इस बिल का फायदा

उन को नहीं मिलेगा। बहुत से धान कूटने के कारखाने हैं जिन में बहनें काफी तादाद में काम करती हैं। उन को भी इस बिल का फायदा नहीं मिलेगा।

इस लिये मेरा विचार है कि आप इन बातों पर विचार करें, और जब भी सुविधा मालूम हो, इस कानून को अमेंड करें ताकि सब महिलाओं को फायदा मिले।

**श्री आबिद अली :** अभी माननीय सदस्य ने जो फरमाया वह बिल्कुल ठीक है। इस बारे में जो कुछ भी किया जा सकता है उस की अगर वे सूचना देंगे तो उस पर विचार किया जायगा। विचार करने के बाद ज्यादा से ज्यादा जो फायदा बहनों को मिल सकता है उसको इस बिल में देने का प्रबन्ध किया जायेगा। और हमारी यह कोशिश हमेशा जारी रहेगी।

स्टेट गवर्नमेंट्स के बारे में एक यह सूचना की गई थी कि जहां पर अभी १५० दिन हैं उन को बढ़ाया न जाये। इस बारे में माननीय सदस्य श्री शर्मा ने जो फरमाया, उस सम्बन्ध में मैं इतना ही अर्ज करूँ कि १५० दिन जरूरी हैं। लेकिन जहां तक **ग्रामाउन्ट आफ बेनिफिट** का सवाल है, वह ५ रु ४ आ० पर बीक, और ७।१२ आफ दि ऐवरेज डेली वेज जो है, उस में है ऐवरेज डेली वेज और १ रु० **क्विचएवर इज ग्रेटर**। साथ ही पहले यह रक्खा गया था कि १२ महीनों का ऐवरेज वेज हो, अब पिछले तीन महीनों का ऐवरेज वेतन होगा। इसी तरह से १० रु० मेडिकल बेनिफिट की बात है। जिस स्टेट में १५० दिन रखे गये हैं वहां पर १० रु० रक्खा गया था, उसको यहां पर २५ रु० किया गया है।

इस तरह से अगर पूरा बिल देखा जाय तो यह कानून इस लिहाज से काफी तरक्की की तरफ बढ़ा है। फिर भी अगर कोई स्टेट गवर्नमेंट यह चाहे कि १६० दिन को बढ़ाया जाये और वह इस की तजवीज भेजे,

[श्री आशिष अली]

तो उस पर मुनासिब गौर किया जा सकता है।

बाकी रहा क्लस बनाने के बारे में, तो मैं आनरेबल मेम्बर्स को यह बतलाना चाहूंगा कि इस सम्बन्ध में कार्रवाई जारी हो चुकी है और पहला मस्विदा तैयार है। इधर जो महीने गये उन को हम ने व्यर्थ नहीं जाने दिया। इस तरह से उस का उपयोग कर लिया है और हम उम्मीद करते हैं कि बहुत जल्द स्टेट गवर्नमेंट्स को आखिरी मस्विदा बना कर हम भेज देंगे।

जहाँ तक न्याय का सवाल है उन बहनों के बारे में जोकि काम करती हैं, इस बिल का पूरा फायदा उन को पहुंचाने की जितनी कोशिश हो सकती है वह की जा रही है और आगे भी की जायेगी। कहीं भी इस में कोई कमी और आनरेबल मेम्बर्स और ट्रेड यूनियन्स की मारफत जो सूचनायें आयेंगी तो जो भी आसानियां उन को पहुंचाने की बात कही जायेगी, उन पर भी हम अमल करने की कोशिश करेंगे और स्टेट गवर्नमेंट्स भी करेंगी।

**Mr. Chairman** The question is:

"That the Bill be passed."

*The motion was adopted.*

#### APPRENTICES BILL

**Mr. Chairman:** The House will now take up consideration of the Apprentices Bill.

**The Minister of Labour and Employment and Planning (Shri Nanda):** Mr. Chairman, I beg to move:

"That the Bill to provide for the regulation and control of training of apprentices in trades and for matters connected therewith, be taken into consideration."

It is hardly necessary for me to enter on a long exposition of the proposals embodied in this Bill. I am sure there is going to be no disagreement in this House with the aims and objects of the proposed legislation. I believe that all of us here appreciate the great importance of the measure. The importance is derived specially from the fact that we have undertaken during the last ten years programmes of industrial development on a rapidly increasing scale.

16.28 hrs.

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

The role of industrial development in the economic progress of the country may be judged from the place assigned to it in the structure of our Plans. Here I shall give a few figures. In the First Plan, the net investment in the industrial sector, which includes mining, was of the order of Rs. 270 crores. In the Second and Third Plans the corresponding figures were Rs. 1,545 crores and Rs. 2,570 crores respectively.

Therefore there has been a large stepping up of the rate of investment in industry during the three Plans. Now we are looking to planned investments for the attainment of some of our important national goals, such as the increase in the standard of living of the people through doubling of the and *per capita* income anticipated by about the middle of the Fifth Plan. We are also hoping that in the course of another two Plans to reach very near the stage of a self-sustaining economy. We need the surpluses that will be thus generated for the purpose of paying back all our commitments and the interest thereon and also for ploughing back for further enlarging the scale of development into our own efforts. We have also before us the big problem of finding employment for a large and increasing labour force in the country. All these things will rest on the efficiency of our in-