

PAYMENT OF WAGES (AMENDMENT) BILL

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

"That the Bill further to amend the Payment of Wages Act, 1936, be taken into consideration."

Sir, the Payment of Wages Act, to which the present Bill proposes to make certain amendments, was enacted in 1936. This was an experimental piece of legislation, and its working has shown that the Act requires to be amended in certain respects. The proposals for amendment have been under consideration for a long time. They were discussed at the Labour Ministers' Conference held in 1940 and 1942 and also with the representatives of employers and workers, and a Bill was prepared and introduced in the then Legislative Assembly in November, 1944 and later circulated for eliciting public opinion. But with the dissolution of the Legislative Assembly in 1947 the Bill lapsed. And in the light of the comments received, the proposals were further examined.

Since then the question of the amendment of the Act has been under the active consideration of the Government, and in view of the importance of the amendments and the necessity for consulting and obtaining the views of various interests concerned, their finalisation has taken some time. The amendments now incorporated in the Bill will, I am sure, go a long way to improve the administration of the Act, and they will also bring under its purview certain categories of labour which hitherto could not enjoy the benefits of the Act.

I shall now proceed to explain briefly the nature and scope of these amendments. The existing wage limit of Rs. 200 was fixed in 1936. The pattern of the wage structure has since undergone considerable change, particularly because of the introduction of dearness allowance. The wages of workers, particularly the

lower wage group, have gone up; but this does not mean that they have ceased to require the protection of the Act. The Workmen's Compensation Act and the Employees State Insurance Act already apply to persons whose monthly wages do not exceed Rs. 400.

Mr. Chairman: I take it that the hon. Minister is likely to take much more time.

Shri Abid Ali: Yes, Sir.

Mr. Chairman: Then he may continue on the next day. We shall now take up Private Members' Business.

14.29 hrs.

EQUAL REMUNERATION BILL*

Shrimati Renu Chakravarty (Basirhat): Sir, I beg to move for leave to introduce a Bill to introduce equal pay for equal work for women workers.

Mr. Chairman: The question is:

"That leave be granted to introduce a Bill to introduce equal pay for equal work for women workers".

The motion was adopted.

Shrimati Renu Chakravarty: Sir, I introduce the Bill.

BEEDI AND CIGAR LABOUR BILL

Mr. Chairman: The House will now resume further discussion of the motion moved by Shri A. K. Gopalan on the 22nd November, 1957 that the Bill to provide for regulating employment and work in the factories manufacturing Beedi and Cigar in India, be taken into consideration.

Out of two and a half hours allotted for discussion of the Bill, one hour and 50 minutes were taken up on the 22nd November, 1957 and 40 minutes are still available.

Shri Fridib Kumar Chaudhuri may now continue his speech.

Shri T. K. Chaudhuri (Berhampore): Sir, the other day, I was trying to put the problems of the beedi workers engaged in so-called domestic system or *gharkhata* system of beedi manufacture and the conditions of the workers in Aurangabad in the District of Murshidabad in West Bengal which is the second biggest centre of beedi industry in the whole of India.

The first problem is that of bringing the workers engaged under this system under the purview of minimum wages. The Rege Committee recommended that this *gharkhata* system or domestic system should be abolished altogether. But, if we take the realities of the situation into account, we can fairly come to the conclusion that it is not immediately possible to abolish this domestic system of beedi manufacture altogether because, that would throw thousands of people out of employment. I am afraid, our comrade Shri A. K. Gopalan's Bill, although it is a very commendable measure in itself, does not wholly cover the problem with which the domestic workers in the beedi industry are confronted with. Our comrade Shri Tangamani has therefore given an amendment which remedies this deficiency in the Bill. I hope the Hon. Minister will take that amendment also into consideration.

The real problem is that the workers engaged in this *gharkhata* system or domestic system cannot be very easily brought within the scope of the present definition of workmen. If we style them as self-employed workers as under the definition suggested by comrade Shri A. K. Gopalan, that also is not wholly satisfactory. Although they work in their homes, the raw materials, leaves, tobacco and thread and everything else is supplied by the employer or sub-contractor. The sub-contractor engages them or doles out these raw materials to them, they work wholly at home and then

deliver the goods on payment of wages.

I would like to draw the attention of the House and of the hon. Minister to a very peculiar feature of this industry. I found in the Labour Year Book that the average daily number of workers engaged in this industry is shown 69,738 whereas the real fact is that about 5 lakhs of workers are engaged in this industry. With regard to this figures in Bengal, —identically sort of figures—I find that the average number of daily workers employed in the beedi industry is given as 295 only. Only four factories submit returns. You can easily realise the ridiculous state of affairs obtaining in this industry. Most of the establishments engaged in this industry do not come within the purview of the factory legislation or any sort of industrial legislation or labour legislation. If we take the figures of one centre, which I mentioned in my speech at the outset, Aurangabad, there are at least 50,000 people employed in this industry. But, if you take the factories in the Aurangabad town, you will find that no more than 3,000 or 4,000 people are actually employed on Wage Moll in these factories in various capacities. Even this employment figure is not registered because we find that in the Labour Year Book, the average daily number of workers employed in the beedi industry in the whole of Bengal is given as 294. It seems that in spite of the recommendation of the Rege Committee, and in spite of the fact that most of the States have enacted minimum wages legislation in regard to beedi workers and sought to give the benefit of minimum wages legislation to the beedi workers, an overwhelming majority of them have not been or could not be brought under the purview of this Act or get the benefits of this legislation.

I find from the minimum wages prescribed in the different States that it is no where lower than 10 annas, in most cases, it is nearly Rs. 1-14-0

[Shri T. K. Chaudhuri]

and in some cases, it goes upto Rs. 2-8-0. The position varies from State to State. In West Bengal with which I am particularly concerned, the rate is Rs. 1-12-0 to Rs. 2-4-0 per thousand. But, as I said the other day, in the biggest centre of biri manufacture in Bengal, the average rate that is given nowadays has been reduced. I stated the other day the reasons why the rate had been reduced by the employers. It has been brought down to ten to twelve annas and nothing can be done. So far as this matter is concerned, I may state that there is no difference between the congressmen and the leftists in the district. They have been trying to combine to secure for biri workers the benefits of Minimum Wages Act. Even the Labour Minister of West Bengal went there. But, the state of the law is such that these people cannot be given the benefits of this legislation.

So, I would urge upon the hon. Minister to take into consideration the substantive proposals of this Bill. I would also like to draw his attention to the crying problem of the biri workers who work under this domestic system. Let him at least bring forward some measure which will ensure that these people get some benefits of the minimum wages legislation atleast.

Shri Narayanankutty Menon (Mukandapuram): Sir, I wish only to bring before this House one salient point in this Bill. I find from the debates of the last day, the hon. Member Shri Keshava has brought before this House certain points whereby he argued that this legislation is an unnecessary piece of legislation. The point that he has brought forward in support of his argument is that there is a large number of beneficial labour legislation in the country like the Factories Act, the Industrial Disputes Act, Payment of Wages Act, Minimum Wages Act etc., and therefore, this legislation will be superfluous as far as this industry is

concerned. I think Shri Keshava was quite serious when he enunciated certain propositions of law, but I must respectfully submit that this particular industry has been the subject matter of various adjudications before Tribunals, and the hon. Member would like to know that in Madhya Pradesh the erstwhile Nagpur Tribunal, then in Bombay another industrial Tribunal and then in Madras another industrial Tribunal have said that the workers in this industry because of the nature of the employment in this industry are not workers coming within the definition of those Acts, and therefore, the benefits of the Industrial Disputes Act, the Payment of Wages Act and all the other pieces of legislation are denied to them. Therefore, if the argument is that the benefits could be conferred on these workmen through the large number of beneficial legislations already existing, I would submit that unfortunately the position is that these workmen were never given the benefit of these Acts because the Tribunals have held that those who are engaged in this industry are not workmen under those Acts.

Coming to the Factories Act, which alone covers these workers the employers are resorting to certain types of tactics. Because this can be done almost as a cottage industry, only workmen up to nine in number are employed by them so that they would not be governed by the provisions of the Factories Act. Therefore, no piece of legislation existing today, including the piece of legislation that the hon. Deputy Minister has introduced in the House, namely Payment of Wages (Amendment) Bill, will help these biri workers in any way, and therefore there should be an overall piece of legislation whereby the biri workers will be recognised as workmen under atleast one enactment, and the sum total of the minimum benefits conferred by the Factories Payment of Wages Act and all the other Acts could be conferred on them.

There is another point, that is the necessity of this legislation not in respect of or in relation to labour alone. For example, today in Kerala minimum wages have been fixed for the beedi workers. Even though it was extended to the erstwhile district of Malabar by the intervention of the High Court, that notification has been squashed recently. Immediately the minimum wages were fixed, the industry began to move to the contiguous areas of Mysore and Madras States—I can well understand why my hon. friend Shri Keshava was so much vehement about this industry—because no minimum wages have been fixed in those States, and the employers could very well pay the wages they liked. Because the State of Kerala decided to pay these workers the minimum wages and treat them as human beings, as it is being said is the policy of the Central Government, is Kerala State to be penalised by allowing the industry to migrate to the neighbouring States?

This is not only a disadvantage to the workers in the district of Malabar and the other parts of the State, but the industry itself will be at a very serious competitive disadvantage, because if minimum wages are fixed in the State of Kerala and no minimum wages are fixed in the States of Mysore and Madras, the industry is likely to migrate from one place to another; secondly, the industry in Kerala State will not be competitive and the factories in Malabar will be compelled to close down.

Therefore, in view of all these aspects, if the Government is not going to accept this Bill since according to them it may be defective in certain respects, I urge upon the Government to bring in a comprehensive legislation in their own manner incorporating these provisions and giving the benefits to these workers of the other beneficial legislations present today.

श्री बलरामवर्मा धारमलिक (मंडारा—
रजित-धनुसूचित जातियाँ) : सभापति

महोदय, यह जो बिल हाउस के सामने धामा है मैं समझता हूँ कि इस बिल से मजदूरों की पूरी जो समस्याएँ हैं वह पूर्ण रूप से हल होंगी, ऐसा मेरा विश्वास नहीं है ।

बीड़ी के उद्योग और उसके नेबर को यदि ध्यान में रखें तो पार्येंगे कि इस बिल में फ़ैक्टरी की जो व्याख्या की गई है उससे वे मजदूर जो घरबाते में बीड़ी बनाते हैं उनके लिए वह कोई खास उपयोगी सिद्ध नहीं हो सकती है और मेरा ऐसा विश्वास है कि इससे उनको कोई मदद भी नहीं पहुँच सकती है ।

इस बिल को यदि ध्यान देखेंगे तो ध्याको पता चलेगा कि पहला जो चैप्टर है उसमें डेप्लीशंस आती है परन्तु एग्जिक्ट के चैप्टर में जिसमें पैन्ल्टीज के सम्बन्ध में बात कही गई है उसको यदि छोड़ दिया जाय तो बाकी ऐसी बातें इसमें हैं जो कि दूसरे जो मजदूरों के लिए कानून बनाये गये हैं जैसे पैमेंट ग्राफ़ बेजज ऐक्ट, मैटरनिटी बेनिफिट ऐक्ट, बर्कमैन कम्पेंसेशन ऐक्ट और फ़ैक्टरीज ऐक्ट उनमें सबसे यह सब बातें प्रायः हैं और मेरा ऐसा ख्याल है कि वे जरूरी बातें हैं परन्तु इस हाउस में जैसा कि श्री केशव ने कहा था कि यह जो दूसरे कानून मजदूरों के हितों को रक्षा करने के लिए बने हुए हैं उनको यदि पूरी तौर पर मजदूरों के हितार्थ लागू किया जाता है, तो इस नये कानून के बनाने की किसी प्रकार की आवश्यकता नहीं है ।

सभापति महोदय, मेरा निर्वाचन क्षेत्र मंडारा हिन्दुस्तान में बीड़ी बनाने का सबसे बड़ा क्षेत्र है और वहाँ पर १ लाख से अधिक मजदूर बीड़ी बनाते हैं । बीड़ी यूनियनों में मैंने काफी काम किया है और कर भी रहा हूँ और इससे उनकी जो समस्याएँ हैं उन समस्याओं को मैं काफी अच्छी तरह से जानता हूँ ; कम से कम मंडारा जिले के बाबत में कह सकता हूँ कि उनकी एक महत्वपूर्ण समस्या मिनिमम बेजेज की है जिसकी

[श्री बालकृष्ण वासनिक]

धोर ध्यान दिया जाता चाहिए। उनको मिनिमम बेजेज ठीक ढंग से जैसे मिलनी चाहियें, नहीं मिलती हैं। देखा यह गया है कि यदि बेजेज बढ़ा दी जाती है तो लोग कारखाने वहां से उठा कर दूसरी तरफ ले जाते हैं। एक सवाल तो यह बीड़ी मजदूरों के लिए मिनिमम बेजेज का है।

दूसरा सवाल जो बीड़ी मजदूरों का है और जिसकी धोर हाउस में इस विषय पर चर्चा करते हुए किसी भी माननीय सदस्य ने ध्यान नहीं दिलाया, वह बीड़ी छांट का सवाल है। बीड़ियों को खराब बीड़ी कह कर उनको छांट दिया जाता है। इस तरह बीड़ी छांट का जो परिमाण होता है वह केवल १०, २० परसेंट हो, ऐसी बात नहीं है, बहुत दफे १०० परसेंट बीड़ी भी छांट दी जाती है। कट्रेक्टर के पास मजदूर जब बीड़ी बना कर दे बते हैं तो वह बीड़ी की छांट कर लेता है परन्तु उसके बाद भी जब कट्रेक्टर उसको टोकने में भर कर एम्पलायर के पास भेजता है तो अक्सर वह एम्पलायर भी उनमें से बीड़ियों को दुबारा छांट देता है और कभी-कभी तो पूरा टोकना का टोकना बीड़ी का छांट कर देता है। रेगे कमेटी ने इस बात को महसूस किया और उन्होंने इस सम्बन्ध में अपनी यह राय प्रकट की है :

"The argument of the factory owners that rejections are necessary to check bad work and spoiling of the trade marks is untenable as the application of the Act has not led to any tendency for bad work in industries. It is stated by the C. P. Beedi Industries Committee that no concrete evidence was brought before it to support the contention of the factory owners."

यह जो बीड़ी छांट का कारण बता कर काफी मात्रा में बीड़ी रिजेक्ट कर दी जाती है, मेरा

ऐसा क्याल है कि यह जो बिल यहां पर प्रस्तुत किया गया है और इतनी देर तक उस पर चर्चा हुई, उसके दौरान यह जो २० प्रतिशत: या २५ प्रतिशत मजदूरों की बेजेज का हार रोज नुकसान होता है, उसको रोकने और कम करने के हेतु इस बिल में किसी भी प्रकार का कोई प्रोविजन नहीं किया गया है और इस दृष्टि से मैं समझता हूं कि जो बिल का वर्तमान रूप है उसी रूप में हाउस इस बिल को पास करके बीड़ी मजदूरों के लिए कोई खास उपयोगी इसको नहीं बना रहा है और यह कोई खास उपयोगी उनके लिए इस ढंग वाला नहीं है।

मे चाहुंगा कि सरकार नागपुर हाईकोर्ट ने अपने फैसले में यह जो मान लिया है कि बीड़ी मजदूर फैक्टरी एक्ट के अंतर्गत वर्कमें है, उसको लेकर यदि कोई ठोस और डेफिनिट कदम उठाती है जिससे कि इन सब बीड़ी मजदूरों को वर्कमें कहा जाय और फैक्टरी की व्याख्या केवल वही तक के लिए सीमित न रहे जहां पर कि मजदूर बीड़ी बनाते हैं बल्कि अलग अलग जगहों पर जहां कि मजदूर बीड़ी बना कर जिम स्थान पर भेजते हैं और जहां पर कि वह बीड़ी इकट्ठा की जाती है भले ही वहां पर बीड़ी न बनायी जाती हो परन्तु जहां पर बीड़ी के फाइनेल डिस्पोजल के उद्देश्य से इकट्ठा की जाती हो, उस जगह को भी यदि फैक्टरी की व्याख्या के अन्तर्गत एनक्लूड कर लिया जाय तो मजदूरों को लाभ पहुंच सकता है। और मेरा ऐसा विद्वान है कि यदि इस बात को शासन ध्यान में रखे और इस सम्बन्ध में किसी प्रकार का कोई एक नोटिफिकेशन जारी करे या कदम उठाये तो हम प्रकार के बिल की कोई आवश्यकता ही महसूस नहीं होगी और बाकी जो मजदूरों के हितों की दृष्टि से अनेक कानून बनाये गये हैं उन कानूनों का साथ भी मजदूरों को पहुंच सकता है।

The Deputy Minister of Labour (Shri Abid Ali): Sir, on the face of it the objects of the Bill, on doubt, appear to be laudable. But, in considering the Bill it has to be examined whether there is any real need for a separate legislation. The last speaker made a mention of the Minimum Wages Act—difficulties in its administration. Now the Minimum Wages Act is administered by the State Governments. The hon. Member opposite represents Kerala, and the complaints which he has made here concerning its administration in that State, perhaps could profitably be brought to the notice of the State Government there. It is true that some difficulty has been felt legitimately when industry is situated in two neighbouring States, and if minimum wages are fixed in one State and not fixed in the other State Complaints have also been received on that score. Therefore, Sir, we have evolved a machinery to take care of these situations. And, if this matter cannot be solved by negotiation the Central Government will intervene, with the co-operation of the State Governments, to solve these difficulties.

About Chhatni or rejection of biris referred to by my friend from Bhandara, as the Committee points out, no enactment can take care of this difficulty. What should be the percentage of rejection of the biris for that? For that, there should be negotiation between the workers' representatives and employers. The Union should take care of these matters, not enactment.

I have been examining very carefully the provisions of the Bill under discussion, and I find, that most of these find place in the various enactments which are already made applicable to the Biri workers. Therefore, nothing particularly new has been mentioned, and my submission is, as I have said earlier, that only by passing these Bills or putting the Act on the Statute Book the workers' difficulties will not be eliminated. There are other ways of serving them and

taking care of their legitimate interest.

Sir, the other day a reference was made to the Rege Committee Report, but after its publication the Factories Act and the Minimum Wages Act were placed on the Statute Book. The coverage of the Factories Act has now been considerably widened. It has been made applicable to power-using manufacturing premises having ten or more persons, and non-power-using manufacturing premises employing twenty or more persons. With the coming into force of the Act, a large number of tobacco manufacturing concerns have come under the purview of the Act.

Further, Section 85 of the Act empowers the State Governments to extend the two or any of the provisions of the Act to any workshops irrespective of the number of workers employed. At our instance the State Governments—Andhra, Assam, Bombay, Madras, Mysore, Rajasthan, Madhya Pradesh, Kerala and Tripura—have issued notifications extending the provisions of the Factories Act to biri manufacturing concerns. Thus, such of the workers as are employed in biri factories are getting the protection of the safety, health and welfare provisions in the Factories Act. They are also entitled to the benefits of the Workmen's Compensation Act and the Industrial Disputes Act, Maternity Benefit Act (made applicable to women employees in biri industry).

Shri Narayanankutty Menon: Sir, I think this was before the Nagpur, Bombay and Madras Tribunals and they gave decisions that Industrial Disputes Act is not applicable because the relationship between the workers in the biri manufacturing industry and employer is not employee and employer, but contract.

Shri Abid Ali: The hon. Member is referring to the work which is done, not in the premises of the employers, but as I was going to make a mention

[Shri Abid Ali]

to it in the later portion of my speech, that workers are allowed to take biri materials to their homes. Of course, there is no difficulty about the applicability of these enactments to biri workers. Certainly, we will remove the difficulty, if there is any.

So, I was submitting that the power using factories employing twenty or more persons are coverable by the Employees' State Insurance Act also. Some of the speakers referred to the practice of employment of children obtaining in the biri industry. The Factories Act prohibits the employment of children below 14 years of age. Similarly, the employment of children below 14 years in such of the biri making workshops as are not covered by the Factories act, is also prohibited under the Employment of Children's Act, 1938. Thus, if children still continue to be employed, it is not due to the lack of legislative provisions, but due to the difficulties in enforcing these restrictions effectively.

In October 1952 the State Governments were requested to conduct investigation into the health of children of tender age working in biri factories. The reports furnished by them reveal that the extent of child employment in biri manufacturing in contravention of the Factories Act was quite large, and that the health of the children was also in danger due to insanitary conditions, long hours of working and unhealthy environments. With a view to minimising the employment of children in biri industries, the State Governments were advised in April 1954 to take action in the following direction:

- (1) To make full and effective use of Section 85 of the Factories Act to extend the essential provisions of the Act to biri factories where child employment is prevalent but to which the Act does not apply;

- (2) to strengthen the Factory Inspectorate and to enforce strictly the provisions relating to the child labour, and

- (3) to make generally the Inspectorate conscious of their responsibility to protect women and child labour.

As I have stated earlier, most of the State Governments have already taken action under section 85 of the Factories Act. They have also been taking action from time to time to strengthen the Factory Inspectorate for effective application of the provisions of the same Act.

Early in 1954 it was also brought to our notice that there was a tendency on the part of employers to resort to devices to circumvent the provisions of the Factories Act, about which the hon. Member just made a reference of splitting the biri concerns into smaller units and also by distributing the raw materials, such as tobacco mixture, leaves, threads etc., amongst the members of the families for making biris. The work was thus distributed, without allowing concentration in a single building so that the Factories Act might not become applicable. In order to assess the situation in all its aspects and to afford maximum legislative protection to the workers, it was suggested to the State Governments that they might appoint a senior officer to visit all important centres of biri manufacture and to report to the Government the measures to be taken in the matter.

15 hrs.

In the meanwhile, the State Governments were requested to take proper steps for bringing within the scope of section 85 of the Factories Act all places where beedi manufacture was being carried on. In pursuance of our suggestion, four State Governments, namely, the former Travancore-Cochin, Madras, Orissa

and Rajasthan Governments appointed special officers to enquire into the matter. The other State Governments did not consider it necessary to appoint such officers as they felt that the action already being taken both under section 85 of the Factories Act, 1948 or other Acts was quite sufficient.

The special officers appointed by the State Governments of Rajasthan, Kerala and Madras have since submitted their reports. The Rajasthan Officer has recommended that the working hours of the beedi workers should be regulated and that the provisions of the Maternity Benefits Act should be made applicable to women beedi workers, that the supply of tobacco and leaves at home and other places where beedis are manufactured should be prohibited except to registered beedi factories. The Rajasthan Government are taking action on the recommendations made in the report.

The Kerala Government have informed us that they are taking action on the report of the special officer and the question of the appointment of staff to look into the conditions of workers also is being considered by that Government.

The special officer appointed by the Madras Government recommended the enactment of a separate legislation for the beedi industry to regulate the working hours, leave with wages etc. The Madras Government had informed us that necessary steps were being taken to undertake legislation

Reference has been made to the fixation of minimum wages. As already stated, the Minimum Wages Act applies, among others to employees in the tobacco, including the beedi manufacturing industry. The State Governments of Andhra, Bihar, Madhya Pradesh, Madras, Orissa, U.P. Mysore and Rajasthan have already fixed minimum wages for beedi workers.

From what I have stated it will be clear that the workers employed in beedi factories are getting all the protection and benefits available to other workers. They are governed by the Employment of Children Act, the Payment of Wages Act, the Industrial Disputes Act, the Minimum Wages Act, the Factories Act and the Workmen's Compensation Act. Power using factories employing 20 or more persons are covered by the Employees State Insurance Act. Similarly factories employing more than 50 workers are covered by the Employees Provident Fund Act. It is true that owing to the nature of the industry, there are difficulties in the effective enforcement of the provisions of some of the above Acts. The State Governments are doing their best to ensure that the workers get the full benefits of these enactments.

As hon. Members will appreciate, legislation alone will not give them all the protection they need. The workers will have to build their own organisations and develop properly organised trade unions, in order to wield their real strength. The unions can greatly assist in seeing that the enactments which are already there are properly implemented and in bringing to the notice of the departments concerned any deficiencies.

For the reasons explained above, I do not see any justification for a separate all-India legislation for beedi workers. And, I would request Shri Gopalan to withdraw the Bill; otherwise, I would request the House to reject it.

Shri A. K. Gopalan (Kasergod): First of all, I am sorry that the Deputy Minister of Labour has not understood what the object of this Bill is even after the explanation of my hon. friend Shri T. C. N. Menon. He has not understood, why in spite of the fact that there is the Factories Act we wanted this legislation.

Before that, I want to thank all the Members who have supported me.

[Shri A. K. Gopalan]

My hon. friend, Shri Keshava Iyengar said that he knows that as far as the conditions of the beedi workers are concerned, they are not good and there must be some improvement, though he thinks that this Bill is not necessary because there is legislation already.

Another friend on the other side also said that it is true there are certain difficulties. But, as far as this Bill is concerned, it may not cover all of them; so there must be some other provisions also or there must be some other Bill.

Anyhow, as far the Members of this House who spoke on this Bill are concerned, there was no difference of opinion as far as one thing is concerned, namely, that the conditions of the cigar and beedi workers in India today have to be changed and their conditions are not good and so, something must be done immediately to see that they also are able to enjoy the benefits of legislation as other workers in this country.

As the Minister has also pointed out, the Madras Government is going to bring forward a Bill. The other day, my friend, Shri Tangamani said that the Bill which the Madras Government is going to bring forward also gives protection to the beedi workers who will be doing work at home. That was the reason why Shri Tangamani gave notice of an amendment to this Bill and said that it must also be included.

I want to say that the Madras Government after understanding the agitation of the trade and the workers said that they are going to bring forward a Bill. They have already published that Bill and that itself shows that there is a necessity for legislation.

The Deputy Minister has said that there is no necessity for an all-India legislation. If he said that he would ask the State Governments to see that some kind of legislation to protect

the interests of the cigar and beedi workers is brought out, then, I could have understood him. He did not say that. What he said was that the protection envisaged in the clauses of the Bill are covered either by the Factories Act, the Industrial Disputes Act or other Acts.

As Shri Menon pointed out, the Madras High Court have given a judgement, as far as the south is concerned, that the relation of employer and employee does not exist as far as the industry is concerned. There is only a contract system. When the judgement is there, supposing an employer is asked to give the workers the privileges of the other Acts, certainly, he can go to the court and say that the relation of employer and employee does not exist. After the judgement it becomes very difficult for the workers to get the protection, because it is said that the relation of employer and employee does not exist and that it is only a question of contract. So far as the Industrial Disputes Act and other Acts are concerned, they are definite that these Acts will never apply as far as these workers are concerned.

The next point is that it is true there is a Factories Act. If today Government would find out how many of these 10 lakhs of beedi workers come under the Factories Act, they will see that not even 5 per cent. come. After the Factories Act was passed, what happened was this. Those who had 200 to 500 persons working under them in a factory, divided the factories into 18 or 20 blocks and kept them in several places. And, instead of giving the leaves and tobacco directly to these workers they give it through the contractors as the Rege Committee have pointed out. The workers will be divided in such a way that they live in different places in a town or village and they do not come under the Factories Act. There is no question of even the minimum wages because they are not workers

under the Factories Act. The contractor fixes a wage and he gets the beedi from them and supplies them to the employer. It is true that there is the Factories Act but if a committee were to go into the matter, we will understand that not even 5 per cent of the workers in this industry come under that Act because such factories are not there and the workers work mostly under the contract system. So, one of the workers themselves being a contractor, he gets the leaves, gets the tobacco and fixes the wages and gets a profit, and then distributes to the employees. That is the system as far as the southern States are concerned. I think that is also the system in other places. Where this is not possible, then, instead of having 5 or 8 or 9 workers who do not come under the Factories Act? what is done, is the leaves are sent to the houses and, as my friend Shri T. K. Chaudhuri said, it is done on the basis of a cottage industry.

So, that is the reason why we say that certain legislative protection should be given to the cigar and beedi workers as far as the conditions of the industry today are concerned. The Rege Committee went into the question and they definitely said that it is no wa contract system and middlemen system and that unless and until there is legislation, the conditions cannot be improved. That is why this Bill has been brought forward. If the Central Government does not want to bring in legislation on the basis of what I have said, if there are any defects in the Bill, they may add something more. What we want is that the 10 lakhs of workers who are now working in the cigar and beedi industry should be protected. The Minister has himself admitted that their conditions are not good. Though there are certain Acts such as the Factories Act, according to certain judgements of the courts, these workers do not come under that Act also.

As far as their present method of working is concerned, the workers are divided in such a way that in spite of

the factories, the whole industry looks like a cottage industry and so many lakhs of workers are deprived of the benefit of the Factories Act or any other Act which the other employees in this country enjoy. That is the reason why this Bill has been brought forward.

Under the Factories Act, they can compel that certain things must be implemented. If the Minister had said that he would certainly look into the question and enquire into the condition of the workers, then the Factories Act must be applied. When the workers remain under the contract system, they cannot implement any Act. So something must be done. Something is done by the employers to defeat the Factories Act which gives privileges to the workers. That is the reason why in this Bill it is said that there must be an all-India legislation.

So far as the minimum wages are concerned, when one State gives them, they can shift them to other States so that whatever benefits are there which are given to the other classes of workers in this country, could be given in this case also, and the beedi and cigar workers be enabled to have those benefits.

If the Minister requests me to withdraw it, I know what would be the result. If I do not withdraw it, it is not a question of pressing it either. The question is, will the Deputy Minister say and understand these difficulties? Has he to say anything about the condition of these beedi and cigar workers and say that they are better? Does he also understand that as far as the workers here are concerned five per cent of them even do not come under the Factories Act? If this continues, there will be not a single worker who will have the privileges under the Factories Act. They will simply become cottage industry workers. They are sitting for hours—so many lakhs of youngmen—in our country whose health will be spoiled.

[Shri A. K. Gopalan]

The Committee itself has said that most of them are T. B. patients.

If the Deputy Minister will tell us that the Government—either the State Governments or the Central Government—will certainly examine this question and immediately bring forward some legislation by which certainly these privileges which the other workers are enjoying will be made available to the beedi and cigar workers also, I have no objection. But he has not said that. He has also not said whether the Madras Government is bringing such a measure. It is certainly necessary, or else even the legislation of the Madras Government can be defeated, because they can be moved about to the neighbouring places. So, even if the State Government wants to bring in such a Bill to protect these workers, it will not be possible and it will not be fruitful.

The Minister has also said that these workers have got strength. For the first time, I am very glad that he has admitted it—that the unity and strength of the beedi workers is there. They are responsible for it. I am sure that if the Bill is rejected and if the Deputy Minister does not say that something will be done, then it will give us more strength and will give more strength to the cigar and beedi workers of this country. As the Minister also blessed them, they will organise themselves and force the Government to bring forward legislation. I am sure they will be doing it.

Supposing the union is not very strong, does it mean that the Government should not bring forward a legislation? I do not know. I request the Minister to see that as far as these unfortunate workers are concerned, something should be done. Shri D. C. Sharma has said that even a day or even a minute should not be lost—there should not be a minute's delay even—in bringing forward a legislation in this regard. These are unfortunate workers.

If the Deputy Minister will say that the Central Government will ask the State Governments to see that direction is given to those workers and to see that some legislation or some other method is evolved so that the protection of the Acts which are now existing and which the other workers are enjoying, may be made available to the beedi and cigar workers also, then certainly it is good. Or else, I have to press this Bill. I want to know from the Deputy Minister whether he will act up to do these things.

Shri Abid Ali: I have already assured the House that with regard to the defects or difficulties which have been mentioned, arising out of the decisions of the high courts, we will examine them, and if our intention is not being carried out because of the decision of the high courts, certainly we will take steps to amend the Acts concerned.

About the other matter, we have not received any proposal from the Madras Government. As soon as it is received from the Madras Government or the Kerala Government or any other Government, certainly immediate consideration will be given and the decision will be communicated.

Shri A. K. Gopalan: I said there are workers who do not come under the Factories Act and other Acts, and in order to defeat the Factories Act and other Acts, certain things are done. What about them?

Shri Abid Ali: They will be taken care of. The Factories Act should be applied to them, and if it has not been done, we will take necessary action to see that it is effectively applied.

Shri S. L. Saksena (Maharajanj): Do the Government intend to bring about some comprehensive legislation?

Shri Abid Ali: For what? All these things are covered by the existing Act.

Shri A. K. Gopalan: The Minister says that the Factories Act should be implemented. There is no question of implementation of the Factories Act, because, under the Factories Act, there must be a certain number of workers employed. If there is one less, how can he say "implement the Factories Act" unless there is a new legislation?

Mr. Chairman: The hon. Minister has said that so far as the effect of the judgement of the high court is concerned, he will examine it so that the effect is remedied. Secondly, he has further said that if there are other difficulties and if he receives the report from the local Government, he

would look into the matter and see that something is done effectively. In view of that, does the hon. Member want me to put it to the vote of the House? If he wants, I shall put it.

Shri A. K. Gopalan: I want that the question be put to the House.

Mr. Chairman: The question is:

"That the Bill to provide for regulating employment and work in the factories manufacturing Beedi and Cigar in India, be taken into consideration".

The Lok Sabha divided: Ayes: 81;
Noes: 95.

Division No. 9]

AYES

[15-21 hrs.

Banerjee, Shri Pramathanath
Bharucha, Shri Naushir
Braj Raj Singh, Shri
Chakravarty, Shrimati Renu
Chandramani Kale, Shri
Chaudhuri, Shri T. K.
Dige, Shri
Elias, Shri M.
Gaikwad, Shri B. K.
Ghosal, Shri
Ghose, Shri Bimal
Godeora, Shri S. C.

Gopalan, Shri A. K.
Gupta, Shri Sadhan]
Halder, Shri
Kamble, Shri B. C.
Kar, Shri Prabhat
Kodiyar, Shri
Kumbhar, Shri
Kunhan, Shri
Mahanty, Shri

Manay, Shri
Menon, Shri Narayanankutty
Nair, Shri Varudevan
Nayar, Shri V. P.
Pandey, Shri Sarju
Panigrahi, Shri
Rao, Shri T. B. Vittal
Sahodrabai, Shrimati
Saksena, Shri S. L.
Warior, Shri

NOES

Achar, Shri
Achint Ram, Lala
Anjanappa, Shri
Bahadur Singh, Shri
Bajaj, Shri Kamaldevan
Balmiki, Shri
Barman, Shri
Basappa, Shri P. L.
Basappa, Shri
Bhogil Bhai, Shri
Bidari, Shri
Birbal Singh, Shri
Bose, Shri P. C.
Brahm Perkaash, Ch.
Chandak, Shri
Chandra Shankar, Shri
Daljit Singh, Shri
Desai, Shri Mararji
Dindod, Shri
Elayaperumal, Shri
Gandhi, Shri Ferose
Ghosh, Shri M. K.
Goku, Shri A. C.
Harzani, Shri Anwar
Heda, Shri

Iqbal Singh, Sardar
Jang Bahadur Singh, Shri
Jinachandran, Shri
Jogendra Singh, Sardar
Jyotishi, Pandit J.P.
Kanakabai, Shri
Kasiwal, Shri
Keshava, Shri
Kotaki, Shri Liladhar
Krishnamachari, Shri T. T.
Laxmi Bai, Shrimati
Mafta Ahmed, Shrimati
Mait & Shri N. B.
Malaviya, Pandit Govind
Malaviya, Shri K. D.
Mandal, Shri J.
Mandai, Dr. Pashupati
Maniyagadao, Shri
Mehta, Shri J. R.
Mishra, Shri Bibhuti
Misra, Shri R. D.
Narayanaseemy, Shri R.
Nehru, Shri Jewaharlal
Nehru, Shrimati Uma

Oza, Shri
Pahadia, Shri
Parmar, Shri Deen Bandhu
Parmar, Shri Y. S.
Parulekar, Shri
Pattabhi Raman, Shri G. R.
Patel, Shrimati Maniben
Pillai, Shri Tharu
Raghunath Singh, Shri
Rajiah, Shri
Raju, Shri D. S.
Ramanada Tirtha, Swami
Ramaswami, Shri S. V.
Ranbir Singh, Ch.
Rane, Shri
Rangarao, Shri
Rao, Shri Jaganatha
Reddy, Shri Ball
Reddy, Shri Viswanatha
Roy, Shri Bishwanath
Rungtong Sula, Shri
Sadhu Ram, Shri
Seigal, Shri A. S.
Semanta, Shri S. C.
Sanganna, Shri

Sankarpendian, Shri
Sanyabhama Devi, Shrimati
Selku, Shri
Soh, Shri A. K.
Shankaraiya, Shri
Sharma, Pandit K. C.
Sharma, Shri R. C.

Siddiah, Shri
Singh, Shri D. N.
Singh, Shri T. N.
Sirkhasan Singh, Shri
Soman, Shri
Subbarayan, Dr. P.
Swaran Singh, Sardar

Tahir, Shri Mohammad
Tantia, Shri Rameshwar
Tewari, Shri Dwarikanath
Wadiwa, Shri
Wasnik, Shri Baikrishna
Wodeyar, Shri

The motion was negatived.

CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL

Shri D. C. Sharma: I beg to move:

"That the Bill further to amend the Child Marriage Restraint Act, 1929, be taken into consideration."

This is a very slight but very significant amendment to the Child Marriage Restraint Act. There is legislation in this country, called the Child Marriage Restraint Act, as passed in 1929. It was a healthy reform in the direction of social reform in the country. When this Act was passed, it was observed that nothing is more important than this social reform and Government would not lose anything by this reform. But the difficulty of this legislation is that it has not been properly worked.

A Member of Parliament of a different country wrote a book on child marriage in India and she drew our attention to the fact that it is so, that is, this very wholesome piece of legislation had not been given effect to as effectively and as adequately as it should have been. She wrote:

"The necessity for enforcing respect for law and order has recently been much in the mind and in the lips of those in authority all over India. But laws concerning social reform are being neglected".

The official attitude to this Bill has also not been very favourable. During the British days, after this Bill had been enacted, an offender, one who had given his 10 year old daughter in defiance of the Act, to a village

headman was sentenced to six months' imprisonment, the maximum permissible under the Act. But, instantly, the Punjab Government telegraphed an order that that man should be released.

Even though this legislation is much needed and much desired, since it was passed it has remained a dead letter. The magistracy was not in a mood to give effect to it. It was from this point of view that Shri Harbilas Sharda, in an introduction to a book called "Child Marriage Restraint Act" said that the Act had proved a dead letter.

Afterwards, the Child Marriage Restraint Act was amended. It was amended three times—twice in 1938 and once in 1945. Of course, some of the provisions of this Act were changed and the Act has now become a little more effective. For instance, it was made applicable to the whole of British India. It was also given out what the age should be for marriage for boys and girls. All these things were done. But, in spite of the fact that this Act has been amended thrice, still it continues to be an Act which is almost a dead letter. People are ignorant of it. There are very few prosecutions held under this Act. Child marriages are still solemnized not only in villages, which are more or less backward, but also in the cities.

I can tell you that child marriages are a social blot. The Child Marriage Restraint Act is not a measure of social reform. As stated by Shri Harbilas Sharda at the time of introduction of the Bill, it is something like a preventive measure. It is much more than that. Still child marriages