

(viii) Need to provide seeds, fertilisers and diesel to farmers in the country, particularly in Azamgarh, Uttar Pradesh

[*Translation*]

SHRI RAM KRISHAN YADAV (Azamgarh): Mr. Chairman, Sir, ours is a country of farmers. 80 per cent of the total population is engaged in agriculture directly or indirectly. Agriculture is the main source of income in our country. It is very essential to increase the agricultural production for the development of the country. Central Government and State Governments are committed to the welfare of the farmers. But I regret to say that at this time of sowing and irrigation neither seeds nor fertilizer nor diesel or petrol are available for irrigation in Azamgarh, Uttar Pradesh which is my constituency due to which a serious situation has arisen before the farmers. I would like to draw the attention of the Government to this and urge upon them to provide seeds, fertilizers, diesel and petrol immediately to the farmers.

15.25 hrs.

PUBLIC LIABILITY INSURANCE BILL —
CONTD.

[*English*]

MR. CHAIRMAN: Now, we are going to take up the next item; Bills for consideration and passing. Now, we take up further consideration of the following motion moved by Shrimati Maneka Gandhi, on the 4th January, 1991, namely:-

"That the Bill to provide for public liability insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling any hazardous substance and for matters connected therewith or incidental thereto, be taken into consideration."

The time allotted is two hours for this Bill. We have already taken 52 minutes. Only one hour is left. This Bill is to be passed today itself. Therefore, I request the hon. Members to cooperate with the Chair and try to be very brief and within the time available, try to finish the speech.

Now, Shri Kumaramangalam to continue, Try to be brief.

SHRI P. R. KUMARAMANGALAM (Salem): I will be very brief. Mr. Chairman, Sir, when I was on my feet last time, I very categorically welcomed this Bill. We wish to welcome this Bill as not only refreshing, a welcome measure but also a revolutionary measure in the sense that we have had a series of accidents due to hazardous substances including the Bhopal Gas Leak accident. We have seen that even now the matter is pending in litigation. Relief is not only needed but also a welcome measure. Sir, under Clause 8(1) of the proposed Bill it is clearly laid down that the relief will be in addition to any other right to claim compensation in respect thereof under any other law for the time being in force. However, under 8(2) it is made clear that if any persons is liable to pay compensation under any of the law, the amount of such compensation shall be reduced by the amount of relief paid under this Act. This, I do feel is a little unfair essentially because the schedule lays down very small amount of Rs. 25,000 in the case of death, fatal accidents and Rs. 12,500 in other cases. This is rather unfortunate because this amount is so small that it should be really treated as relief. I would, through you, Sir, draw the attention of the hon. Minister that in many cases where death takes place—especially under Workmen's Compensation Act—it is commonly known that funeral expenses and other immediate expenses as relief are never considered as part of the compensation. It is always dealt with separately. If this is going to be dealt with at the same level that this is an immediate relief that is being provided, I would request that Sub-Clause 2 to Clause 8 be deleted. If the hon. Minister could consider it, it would be a welcome measure. Then, the

amount that is given would not matter and would not look too insignificant. If it is going to be part Compensation, as provided in the present Bill, then the amount should be definitely increased. After all, in the Railways, it is Rs. one lakh. Regarding Air Services, it is Rs. 2,00,000/- The amount that is provided in terms of Rs. 25,000/- is really a pittance considering the value of rupee today and really the compensation or the relief that one gets now. If it is going to be part compensation, my plea essentially is that. Otherwise, I welcome the Bill.

Sir, there are many amendments which the hon. Minister herself has been kind enough to accept. I am sure this Bill will go a long way and bring a lot of relief to a lot of people.

I strongly support this Bill.

[*Translation*]

SHRI DAU DAYAL JOSHI (Kota): Mr. Chairman, Sir, the Bill introduced by Shrimati Maneka Gandhi is indeed an appropriate Bill. Kota city is called industrial capital of Rajasthan. It has an industrial complex. In view of the DCM concerns, Shri Ram Chemicals and other industries, there prevails an atmosphere of constant fear that some big mishap may take place which may remind us of Bhopal tragedy. Last year there was a leakage of ammonia gas in Kota city. Recently, D.C.M. have taken sufficient precautionary measures taking into consideration the causes of Bhopal tragedy. Whenever we pass through the industrial areas in Kota, we have a feeling of leakage of various types of gases. It is feared that these gases may not reach suffocating point. So far, there was no provision or any other law for payment of compensation to the people not living in immediate vicinity or to others due to which such a situation has arisen. It is a step in the right direction. We also have a nuclear project near Kota. When we think of atomic power, it gives rise to this apprehension that some mishap may take place any time and with all sincerity we pray to God that such a day should never come. There is no reason to

believe that nature would be unkind to us. Due to the presence of Atomic power precautionary measures have been taken from time to time. I sincerely wish that the mishap of chernobyl does not take place here. A comprehensive plan was chalked out to make available immediate medical aid and for the transportation of the affected people from one place to another urgently. Perhaps Rajasthan is the most neglected State in respect of roads. When such a big project has been installed there, a fear of serious mishap cannot be ruled out. For meeting the requirement of the Army and the power sector provision of roads has been made. Similarly the Central Government should provide special assistance for laying a network of roads around the raidus areas near the atomic projects. When the aid was provided, it was stated that within eight months, proper roads would be constructed but unfortunately a period of five to seven years has passed the vehicles still have to go through kuccha roads. I would like to urge that it should be seen in a wider perspective; and the compensation should not be kept confined only to the workers and people around it but it should be applicable to the people also residing in nearby places. It should be kept in mind that some serious mishap can take place any moment there. As such, there should be some provision for the compensation in this Act. The amount of compensation should be fixed for on loosing a finger or getting pasalytic attack. At present whenever Hindu-Muslim riots occur and some person is killed during the riots a compensation to the tune of Rs. 25000 to one lakh rupees is paid. We have to make specific provisions in this Act with regard to the extent of damages done to the people at various points and the compensation should be paid on that basis. Due to setting up of Thermal Power Project and Gas factories in Kota, possibilities for breaking out any epidemic have been created. People claim that as soon as fourth unit is installed in Kota; Acid rain may take place there any day thereafter, Causing heavy damage to plants and human beings. My submission is that all these things should be taken into account and they should certainly be brought within

[Sh. Dau Dayal Joshi]

the purview of this Act. So that relief could be provided to the people. I welcome the Bill introduced in this House by Shrimati Maneka Gandhi and thoroughly appreciate the work done by her with a view to provide relief to the people.

[English]

SHRI MANORANJAN BHAKATA (Andaman & Nicobar Islands): Mr. Chairman Sir, I rise to support this Bill and I congratulate the hon. Minister for bringing this Bill for discussion.

Before I extend my support, I want to specifically make some suggestions for her consideration. First of all, I cannot understand why in Section 4 and 3 the Central Government and the Public Sector Undertakings have been exempted from the purview of this Act. Today we find that the hazardous and pollution creating activities have been caused mostly by a large section of the public sector undertakings. If Tatas and other industries can be under the purview of this Act, I cannot understand why the Central Government, State Government's undertakings and their industries are kept out of the purview of this Act.

She has made an amendment in Section 14, substituting "whoever" for "If any owner". I cannot understand the need for this amendment. In Section (4) it is said "Every owner shall take out, before he starts handling any hazardous substance....." That means responsibility lies with the owner and there is no reason why it should be "whoever". Therefore Section 4 is absolutely correct and there is no need of having the amendment to Section 14. I request the hon. Minister not to press for this amendment.

Clause 7.1 says:

"On receipt of an application under subsection (1) of section 6, the Collector shall, after giving notice of the application to the owner and the insurer....."

Why should the insurer be given notice? That means they will employ big lawyers and that will fetch more money. But the poor affected persons will suffer for a long time. I don't think it is necessary to give notice to the insurer.

Section 7.7 says:

"A claim for relief in respect of death of or injury to any person or damage to any property shall be disposed of as expeditiously as possible."

Here also, the commonman will be the sufferer. There you have stated the time as, "as expeditiously as possible". That means, there is no time limit. There should be some sort of prescribed time limit. That will only help.

In Section 8(2), you have stated, "...the amount to such compensation shall be reduced by the amount of relief paid under this Act". There you have suggested that if someone gets relief from some other sources, that will be reduced. There is no need to reduce this. After all, in the provision which you have made, the amount is so meagre that it is not possible even for meeting the treatment part. You are saying that Rs. 12,500 which is the maximum amount, is sufficient. In the Schedule, under reimbursement of medical expenses, you can see this, that Rs. 12,500/- is the maximum limit, in each case. I do not think that it is necessary to reduce the amount which he would get from other sources, from the amount of relief you would give. There is no need to reducing it.

In Section 13(1) also, you have stated, ".....Central Government Officials: This is a very vague term, because Central Government in the country may mean Andaman & Nicobar Islands or Lakshadweep or Ganjam District of Orissa or some other place. It is a very vague term.

You should specifically delegate the powers to the State Government officials. It cannot be left like this. That is why, I feel that it should be specifically delegated to the

State Government. That should be prescribed here.

You have also suggested an Advisory Committee. So, there will be one advisory committee. But that committee will be of officials only. Public representatives will not have anything to say. That is why, I suggest that two Members of Parliament should also be included in the Management/Board, who can see and monitor this.

I think these are some of the points which can be corrected and which will help also. Though these are late, I think, it is "Better late, than never".

I thank the hon. Minister of bringing forward this Bill before the House.

PROF. PREM KUMAR DHUMAL (Hamirpur): Mr. Chairman, Sir, I welcome the Public Liability Insurance Bill, 1991 and for this I congratulate and thank the hon. Minister.

Sir, I want to make some suggestions in this regard. I find some deficiencies in this Bill. On page 2, the Sub-clause 3 of clause 4, empowers the Central Government to exempt the Central Government, the State Governments, the District Administration or any Corporation or any local authority under the control of Central Government or State Government. This provision appears to be totally unwarranted. One may die due to private, Government or Corporation factory. I would like to urge the hon. Minister to reconsider it. I think that proper attention was not paid to the provision that has been made in respect of Central Government, State Governments, Corporations or Local Authorities. I am again referring to clause 4 at page 2 and I would like to say that the Bill that you have introduced should be applicable uniformly on Central Government, State Governments, Corporations and local authorities. Under clauses 18, no court shall take cognizance of any offence under this Act except on a complaint made by the Central Government or any authority or officer authorised in this behalf by that Govern-

ment or any person who has given notice for not less than sixty days in the manner prescribed, or of the alleged offence and to his intention to make a complaint to the Central Government or the authority or officer authorised as aforesaid. The notice period appears to be too long and the conditions of giving cognizance that have been incorporated should be governed by the courts and the courts should take into cognizance as and when any affected person lodges a complaint. My third submission is that the amount fixed for compensation is too less. It is 25000 in the event of death, 12,500 for treatment and 6,000 for loss of property. In the statement of reasons and objects you are yourself admitting that most of the affected people belong to weaker sections. It has been pointed out by one of the hon. Members earlier too when a person is killed in an Air crash compensation in lakhs is paid as to why less compensation is proposed to be paid to the victims belonging to weaker sections. As most of the affected persons belong to weaker sections, I would like the amount of compensation to be enhanced. Provision of Rs. 12500 for treatment is also less. What sort of compensation for a property you can expect in this amount of Rs. 6000/- in these days. This too looks strong. This amount should also be enhanced, and the member who spoke prior to me has also referred to clause 7 Sub-Section (7) where in it has been stated 'disposed of a expeditiously as possible. Who will decide as to how much time it should be. It is justified. As such it should be time bound and a time limit should be fixed whether it may be 60 days or 30 days. A decision in this regard should be taken within a month and with these suggestions I support the Bill and I am fully hopeful that you are going to pay full attention to the discussion that is taking place here and what Shri Chidambaramji has stated in his personal capacity that would also be similar to it, I would like to draw your attention to these four suggestions.

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Hon. Chairman, Sir, I welcome the public liability Insurance Bill. It is indeed a good Bill and it should have been brought

[Sh. Girdharilal Bhargava]

earlier. In this context, my submission is that laws are enacted everyday for the control of pollution and for compensation of losses on account of it but the people could not be able to get any sort of benefit as yet from these laws. For example, the victims of Bhopal Gas tragedy have not been given any sort of compensation till date and in this regard no action has yet been taken. The matter is still in the court and the Government is not taking any interest in it. The amount of compensation is also too meagre. It is a well known fact that the Union Carbide was agreeable to pay a compensation of Rs. 70 crores by a settlement has been reached at 45 crore dollars. In addition to that, in our country, such insecticides as have been banned in most of the countries in the world are still being used. I would like to submit that a provision should also be made in this Bill to provide a compensation to the victims of the diseases which crop up due to these insecticides or due to use of such fruits or other edible items as may spread diseases.

Mr. Chairman, Sir, my submission is that many accidents take place due to gas, petrol, acid and inflammable tankers and the people fall a victims to it. Despite having laws in this regard, there are companies which are unable to make treatment charts available along with the tankers or the transporters do not carry the same charts along with these tankers. This should be strictly enforced.

I would also like to draw your attention to the problems prevailing in Jaipur. Near the Tonk Gate and The Small bridge there are huge tankers of gas, petrol and kerosene oil located by the side of the Secretariat. The railway track and big colonies are also there. If these petrol, diesel and gas tankers are not removed from that place, I am afraid there may be a more serious accident in Jaipur than it was in Bhopal.

The Central Government should remove those tankers from there to avoid any such mishap in Jaipur as has been occurred in Bhopal, because there are Secretarial, the

houses of the Ministers big office complexes and big residential colonies which have developed there. If any such accident takes place there, it will cause havoc.

Mr. Chairman, Sir, My submission to the Central Government through you is that they should pay due attention to what I have stated and I request them to circulate this bill for eliciting public opinion. Thank you.

[English]

SHRI GOPI NATH GAJAPATHI (Berhampur): Mr. Chairman Sir, I commend the Public Liability Insurance Bill on workers protection moved by Smt. Maneka Gandhi for consideration. My honourable colleague, Shri Manoranjan Bhakta has made certain suggestions in the regard and I fully support those views expressed by him. As originally envisaged in the Bill to empower the Central Government is only to lodge complaints in all cases which is not going to be a very practical approach. Hence, this responsibility would better be delegated to the State Governments also for quicker remedial action. Secondly, as envisaged in the Bill, there is no need for the insurer to come into the picture at all. In such an event, top level advocates would be engaged by the insurance companies for their personal advantages. In fact, the insurer will start even acting as a benami to the owner. Thirdly, why should not the Government institutions also be brought within the purview of the insurance schemes like private organisations? This discrimination also needs to be eliminated. Lastly, in the original Section 4(1) and Section 4(2) of the Bill, the change of word 'insurer' to 'owner', I personally feel is really not necessary. Apart from that, the Bill seeks to fulfil the long felt demand for some scheme to give immediate relief to victims of accidents in Hazardous industries and toxic chemical operations. It is a matter of great relief that this Bill has been brought during this Session after having been contemplated three to four years back and kept pending for the Cabinet approval until last year.

As regards loss of private property, the

ceiling on compensation is only Rs. 6000 which appears to be indeed very low. It should be seen whether this paltry amount can be raised marginally if not substantially.

Further, the clauses which have been included in the Bill will provide speedy compensation to poor workers involved in accidents. There is a preferential discrimination in the matter of payments of compensation for persons who die in rail or air accident whereby they get substantial compensation amounts ranging from Rs. 2 lakhs to even Rs. 4 lakhs. However, if a worker is killed in an industrial accident, his next of kin gets a paltry amount of Rs. 5000 to Rs. 6000 only. Hence, this unfair clear discrimination must be eliminated.

While welcoming this Bill, and fully supporting the clauses and the views expressed therein, I would urge the Government to ensure that these relevant points for making the Bill more practical and effective be actively considered.

[*Translation*]

SHRI THAN SINGH JATAV (Bayana): Mr. Chairman, Sir, I commend the Public Liability Insurance Bill 1990 moved by the hon. Minister Smt. Maneka Gandhi the year of which has now been proposed to be changed to 1991. Though there are many good provisions in the Bill yet I have given some minor amendments and I want to draw your attention on those amendments. In clause 2 of the Bill, the words "incident" and "occurrence" may also be added along with the word "accident" as these words convey different meanings, in order to avoid misinterpretation of any kind arising out of the meaning of these words so that one's interest in getting compensation after meeting any casualty, may not suffer.

In Part (d) of clause 2, the hazardous substances have been defined under the Environment (Protection) Act 1986. Besides the definition of hazardous substances, given in the Act, there may be many other hazardous substances, which have not been covered in this definition so a list of the

hazardous substances may be appended to this Act. In sub-clause 2 of clause 3. The words "wrongful act", have been used. My suggestion is that the words "wrongful act" may be omitted because the lawyers will plead that there was no wrongful act on the part of the company. The words "default" and "omission" may please be added. In the 41st line of clause 4, it is mentioned that the companies shall be liable to pay against the policy provided it has completed the duration of one year. So, it would be difficult to dispose of the claim in case one meets any such accident within the period of one year. Hence my suggestion it to reduce the period from one year to three months only.

The sub-clause 3 may be Committed because in it the orporations, companies and other such establishments under the control of Central Government or the State Government or the semi-Government have been exempted from bearing such liability. Instead of exempting them, they must be made necessarily liable to abide by this provision.

The sub-clause 6 of the clause 7 contains "Insurance as arrears of land revenue or of public demand." I suggest that it may be completely deleted because the collection through the arrears of the land-revenue is very cumbersome. In lieu of that the word "attaching the property" may be substituted. And such cases must be disposed of within 15 days and the words "as expeditiously as possible." may be substituted with the words "15 days"

The clause 8 says:

[*English*]

"the amount of such compensation" *shall be reduced*. in place of this "the amount of such compensation" "*shall not be reduced*" by the amount of relief paid under this Act" be inserted.

[*Translation*]

In it, to confer powers upon the collector is right but the words " Arrears of land-

[Sh. Than Singh Jatav]

revenue may be deleted wherever it is used. The compensation amount that has been fixed, appears to be very small. It should at least be Rs. 50 thousands in case of death. In case of the loss of property, it should be 1/6th of the total cost of property. If it is less than the fixed ceiling, an amount of Rs. 6,000 may be paid. No lacuna must be left in the rules.

With the aforesaid words, I commend this Bill. I hope the hon. Minister will accept my amendments.

[English]

SHRI P. CHIDAMBARAM (Sivaganga): Mr. Chairman, Sir, the Law Minister is here and I do not think the Ministries should pass the buck to each other. They should look into this matter and if possible move an official amendment. The first objection we have is to Section 4, Sub-Section 3. The Law Minister will also kindly look into the Bill. Under Section 4, sub-Section 3 they are taking powers to exempt Central Government owned organisations, State Government and local authority from the purview of this Act on the ground which I think is very specious, i.e. each one of them will set up a fund.

Now, you take the Steel companies. Tatas are major Steel companies; SAIL is a major Steel Company. Bokaro, Rourkela or Bhilai can set up a fund and then apply to the Central government for exemption. Why should Tatas not do the same thing and say that they are setting up a fund? I think this is just a kind of bureaucratic insidious interpolation which can defeat an Act. Most establishments of this country belong to the Central Government are in the Public Sector.

[SHRI VAKKOM PURUSHOTHMAN *in the Chair*]

16.03 hrs.

Like every other private employer, like every other private industrial establishment,

they must also assure and they must also come under the purview of this Act. They should not say that they have set up a fund which fund will never have money—and they should not come to the Central government and ask for exemption. I think this is specious and this must go. If our public sector must perform competitively, they must also accept all the obligations which other sectors accept. If Public Liability Insurance Bill is to cast a liability on everybody I don't see any reason why the public sector should be exempted under a very specious argument that they will set up a fund. What is this fund and why should they alone be allowed to set up a fund?

I think the Minister should consider this and, even if she is not able to bring up an amendment immediately, she should tell us that she is not going to invoke Section 4, Sub-Section 3 and grant any exemption to anyone.

The second and the more fundamental objection is, why should the insurer be heard. What is this Bill? This Bill is based on the principle of 'No fault'. The Bill says so and the Minister also said so. Under Section 3 it says that it is 'No fault liability'. I don't have to show fault on anyone's part. It is the principle of strict liability. If there is an accident, if there is a hazardous substance, if somebody has suffered an injury, the compensation has to be paid. Now where does the insurer come into the picture? He gets his premium. The moment you allow the insurer to come in and contest the claim, the Minister can take it from me, it will take 10 years to settle the claim. In the motor accidents claim, the insurer has been allowed to come in. In your experience and my experience, which motor accident claim has been settled in ten years? It goes to the MACT which is a tribunal. From the tribunal it comes to the High Court. From the High Court it goes to the Supreme Court. And who is fighting the case? The case is not fought by the owner. The owner does not bother. He is insured. The case is fought by the Insurance company. The Insurance Company will engage high-priced lawyers and fight the poor claimant for a paltry sum of

Rs. 12,000 or Rs. 15,000. They will fight him for 15 years. I think the insurer should be kept out of it. It is the insurers' lobby which has introduced this into the Bill. The insurer must be kept out of it. I am sorry to tell the Minister that we cannot support this clause. On all other clauses, we are willing to debate and we are willing to discuss, but on this we are not going to accept the insurer. Insurer has to be deleted. I have already suggested to the hon. Minister that she would have to move an official amendment deleting the word 'insurer' and the words in the brackets 'including the insurer' on page 4, line 3. The insurer has no place in the scheme of things.

The last amendment which I would suggest to her is on a matter of practical implementation of this Act. Under Section 19 regarding power to delegate, I would suggest that she has to delegate it to the State Government. Is the Central Government going to file complaints in over a thousand Magistrates' Courts? The complaints are filed in the Judicial Magistrate's Court and there are thousands of such courts. How can the Central Government possibly file complaints in every case in every court? You will have to trust the State Government and delegate the power to them and ask them for annual reports on how many claims did they entertain and how many complaints did they file and so on. Otherwise, she will have to have a large bureaucracy with over a thousand people for filing complaints alone. It is not possible. She would have to delegate this power to the State Government. Her officers may advise her that the word 'authority' includes 'State Government'. But it may or may not. To make matters explicit, she would be well advised to add 'State Government' before "any person" etc. The power must be delegated to the State Governments. I hope she will accept this and bring an official amendment.

In particular we are very keen that the insurer should not come between the claimant and the owner. The insurer has no place in the scheme of things and he must be kept out of it.

With these suggestions, I conclude.

[*Translation*]

DR. SHAIENDRANATH SHRIVASTAVA (Patna): Mr. Chairman, Sir, the aims and objects of the Public Liability Insurance Bill that has been moved, are very noble. I would certainly serve the purpose of giving relief to those persons who receive injuries while handling the hazardous substances. But it is very surprising that the Central Government's Institutions are exempted from this provision. So, I doubt over the motive of the framers of this Bill, who have exempted the Central Governments and its institutions from bearing the losses a worker suffers during discharging of his duties of handling hazardous substances. Hence, I request to bring the Central Government and all its institutions, companies, factories etc. also within the purview of this Bill.

Secondly, I have to say that the provision of giving compensation is confined to the specific classes of workers only, whereas a typical change in the country's situation has come due to increase in terrorist activities during the last few years and bombs explosives or any such things are left here and there in public places, which have to be removed by the Government servants, especially the police personnel as part of their duties. There have been many cases when many of our dutiful police officers were injured while removing these articles such as transistor-bombs or any other things from the public places. But this Bill does not cover such officers for payment of compensation against their losses they suffer in dealing with their jobs. So, I request Shrimati Maneka ji to amend this Bill in order to cover the Government officials also who on their duties suffer losses while handling the hazardous substances.

Further I would like to say that the workers engaged in production of fire works and crackers have not been covered since the raw material used by them have not been included in the lists of the hazardous sub-

[Dr. Shailendranath Shrivastava]

stances despite the fact that the five works have grown as cottage industry during the recent years and a number of explosions have occurred in those places. So, I request you to include them also in case you have overlooked them by mistake.

As far as the period of time in regard to the disposal of claim is concerned, I would like to draw your attention towards the clause 7 on page 4 in which it has been stated "A claim for relief in respect of death or injury to any persons of damage to any property shall be disposed of as expeditiously as possible." I would like to draw the attention of the House as well as the Hon. Member towards the words, "as expeditiously as possible" because these words have lost their relevant now as the people take these words in their own way resulting in nonpayment of compensation.

You have also stated if there is some accident, the information thereof should be given within a period of five years. I do not understand the reason of giving such a long time. The maximum period of fifteen days is sufficient for making claim against any accident from the date of its occurrence. If the time span is five years, there will be rise in the cases of corruption in the Government offices because most of the claims would be fake. Therefore, the claims should be submitted within fifteen days and their disposal should be done within the maximum period sixty days.

SHRI JAG PAL SINGH (Hardwar): Mr. Chairman, Sir, I commend the Public Liability Insurance Bill as moved by the hon. Minister, half-heartedly, because the Public Undertakings have not been included in it whereas the workers often meet accidents there. So, I would request the hon. Minister to amend this Bill in order to include the Public Undertakings also in its purview; otherwise the workers of the Public Undertakings will consider themselves victims of discrimination.

The other short-coming in this Bill is that there is no provision of timebound insurance. It clearly means that you have left the victims at the mercy of the Collector or the management and now they will decide the concerned matters at their own discretion with regard to time. Hence, I would request to the hon. Minister to make a provision in the Bill that the Collector or the Chairman of the Management would be made responsible for the payment of the compensation to the employees who lose their hands, fingers, legs or receive any injury, within a stipulated period of time, it may be one month or three months. I think that the people who entered politics through the trade unions might have bitter experience of the worker taking rounds of the courts because neither the Government nor the management is held responsible for anything. After the death of a worker, his family members have to make rounds of the courts and labour courts, etc. and the workers and their families face numerous problems and hardships.

I, therefore, would request the hon. Minister to make a provision that compensation would be paid to the workers within a period of one month and the Collector or the Management on whom you have entrusted the responsibility will be made responsible to decide the claims within a specified time.

Mr. Chairman, I want that these two things should be inserted in the Bill so that the workers are able to get their compensation in time. With these words, I conclude and thank you.

[English]

SHRI BALGOPAL MISHRA (Bolangir): I stand to support this Bill; but, unfortunately, in this Bill also, the Machiavellian law is still enforced. As you know, Machiavelli says that the King can do no wrong. In sub-clause (3) of clause 4, it has been mentioned that Central Government, State Government, any corporation or any local authority shall be exempted. In a democracy, how long can we go on creating this dual citizenship? You see any field of activity here: there is always dual

citizenship. There is always a privileged class. Public undertakings and government concerns are supposed to function as commercial houses and business houses with socio-economic motives. But because they are functioning with socio-economic motive, where is the justification that they should be absolved from their primary responsibilities? I fail to understand this logic.

I have heard my friend Mr. Chidambaram. I do not want to repeat the same things. I will simply add to Mr. Chidambaram's remarks, and say that the hon. Minister should re-consider this, and bring in a official amendment to this particular sub-section.

Similarly, this is what has been mentioned in sub-clause (3) of clause 11:

"He may, if he has reason to believe that it is expedient so to do to prevent an accident dispose of the hazardous substance seized under sub-section (2) immediately in such manner as he may deem fit."

This is another ambiguous authority given to the inspecting or seizing authority. In many cases, we know that sugar is being converted into salt, in the P. D. system. When sugar is seized it is converted into salt in the police station. When fertilizer is seized, it is converted into some other commodity in the police station. Peculiar things are happening in this country in our day-to-day lives. That is what we are seeing. So, under hazardous substances, what are the substances included, has not been categorically or specifically mentioned. There may be certain things which are hazardous. It is known to everybody. But as you are aware, vested interests are there everywhere. You may declare that a particular substance is hazardous, and say, 'I am going to destroy it'. But instead of destroying it, you may sell it in the black market. So, the method of destroying it should be categorized, should be clearly identified, so that in future there is no hanky-panky business possible, no under-hand dealing is possible. Victimization is

also possible, because there is rivalry between different business houses. One man can utilize another man for his own ends.

Sub-clause (7) of Clause 7 on page 4 of the Bill reads as follows:

"A claim for relief in respect of death of, or injury to, any person or damage to any property shall be disposed of as expeditiously as possible."

There should be a definite time limit. Ten days may be less for you, but somebody can take some plea and drag it on. Justice delayed in justice denied.

So, the Bill must be specific and definite and it should contain clear objectives. I request the Minister to consider all the points I have raised.

MR. CHAIRMAN: Now the Minister will reply to the debate.

THE MINISTER OF STATE OF THE MINISTRY OF ENVIRONMENT AND FORESTS (SHRIMATI MANEKA GANDHI): Before I start replying to the debate, I would like to request you to give more time to the member to speak.

SHRISONTOSH MOHAN DEV (Tripura West): I think every member has spoken. That is all right.

SHRIMATI MANEKA GANDHI: I think there is a need for more welfare measures.

SHRI SRIKANTA JENA (Cuttack): Before the hon. Minister starts replying to the debate, I want to know who is the Mover of the Bill? The Bill which had been circulated, there the Mover of the Bill is: Mr. Nilamani Routray. The Mover of the Bill which we are discussing now is Shrimati Maneka Gandhi, the hon. Minister of State of the Ministry of Environment and Forests. So, I am interested to know who is the Mover of the Bill and which Bill we are now going to pass? (*Interruptions*)

SHRIMATI MANEKA GANDHI: I think the Minister who moves the Bill. (*Interruptions*)

AN. HON. MEMBER: She also remained a Minister. (*Interruptions*)

SHRIMATI MANEKA GANDHI: I am grateful to the hon. members who have given their valuable suggestions. I hope those suggestions will help us in better implementation of the important welfare measures. The Bill seeks to mitigate the suffering of the people, particularly the weaker-section. It also aims at dispelling fear in the mind of the people who are worried about not getting medical treatment; medical treatment will be available to the victims of the accidents. (*Interruptions*)

We had held intensive discussions over the last three years with the General Insurance Company and other associations. The Bill is based on the scheme determined by an Expert Committee. It will be our endeavour to keep the scheme going on so that immediate relief could be provided to the victims.

SHRI MANDHATA SINGH (Lucknow): I urge you not to brush aside his clarification.

MR. CHAIRMAN: No, there is no point of order.

SHRI MANDHATA SINGH: He wants to be educated. Was the Lok Sabha Secretariat so poor that they could not come out with a fresh publication with Mrs. Maneka Gandhi's name printed on it? We want your ruling on this. (*Interruptions*)

MR. CHAIRMAN: Did you read today's Agenda? Kindly read it. There is no point of order.

SHRI MANDHATA SINGH: I request you to read the Bill.

MR. CHAIRMAN: I request you to read today's Agenda. There is no point in it.

SHRI MANDHATA SINGH: I want your ruling.

MR. CHAIRMAN: I have given my ruling. There is no point of order. You see the Agenda. It is in order. The Minister may continue.

DR. LAXMINARAYAN PANDEYA (Mandsaur): The name of Mr. Nilamani Routray is there. Now she is handling the Bill. It should be corrected.

MR. CHAIRMAN: Why are you making all this noise?

SHRI MANDHATA SINGH: He may be allowed to seek the clarification. (*Interruptions*)

MR. CHAIRMAN: No, no, it is in order. You read the Agenda.

SHRI SRIKANTA JENA: How could a Member know what are the contents of a Bill from the Agenda (*Interruptions*)

MR. CHAIRMAN: Have you read the agenda?

SHRI SRIKANTA JENA: No.

MR. CHAIRMAN: If you have read the agenda, you would not have spoken like this.

SHRI SRIKANTA JENA: I fully agree with you. After going through the agenda if I go to the Bill then in the Bill the name of Shri Nilamani Routray is there. Whether the same agenda is reflected there or not is an important matter. (*Interruptions*)

SHRI BASUDEB ACHARIA (Bankura): Why was it not circulated with a correction? (*Interruptions*)

THE MINISTER OF COMMERCE AND MINISTER OF LAW AND JUSTICE (SHRI SUBRAMANIAM SWAMY): The law and procedure is very clear. The Bill was introduced on the 31st of May by the then Minister for Environment, Shri Nilamani Routray. The

Bill today is being piloted by the new Minister and as long as it is the same Lok Sabha there is no need for the re-introduction of a Bill and the same Bill can continue. The Bill is no record and it is being piloted by Shrimati Maneka Gandhi.

MR. CHAIRMAN: Not only that. She moved the Bill on the 4th January. The List of Business says that Shrimati Maneka Gandhi moved this Bill on 4th January. There is nothing relevant in this.

(Interruptions)

MR. CHAIRMAN: The time of this House is very valuable. Each minute we are spending a lot of money. Do not waste time. This is in order. She moved this Bill on the 4th January.

SHRI SRIKANTA JENA: You know every Bill gets the approval of the Cabinet. When the Bill was approved by a Cabinet how can another Cabinet move it? And how can it be introduced now?

SHRI MANDHATA SINGH: Cabinet decisions continue.

MR. CHAIRMAN: There is no point in this.

(Interruptions)

SHRI MANDHATA SINGH: It is a question of propriety

MR. CHAIRMAN: There is absolutely no question of propriety. Everything is in order.

SHRI P. CHIDAMBARAM: I think they are trying to re-write the Constitution. In the short period of eleven months they were in government they should have tried to read the Constitution at least once. The point is there is continuity of Government. They should at least read the constitution now. *(Interruptions)* I am entitled to make my submission.

MR. CHAIRMAN: He is speaking with

my permission. If you want to say anything you say after Mr. Chidambaram. I have permitted Mr. Chidambaram.

SHRI P. CHIDAMBARAM: Just as my hon. friend is entitled to make a wrong statement, I am also entitled to make a wrong statement. It is for you to decide whether my submission is correct or his submission is correct. According to me, he has made a wrong statement. If he thinks that my submission is wrong, he can appeal to you. You can give your ruling. The Bill was introduced on 31st May 1990, by the then Minister. There is a continuity about Government. The Ministers may change but the Government of India is the same. The Minister who was there in office will introduce the Bill as it is in the Bill. It cannot be corrected. It cannot be corrected because the Bill was introduced by the then Minister in charge. It cannot be corrected. You cannot retrospectively appoint a Minister on 31st May. The Minister on 3rd January moved the Bill and she is piloting the Bill. Why are you wasting the time arguing the point after the Bill was moved? Why are you wasting the time? *(Interruptions)*

SHRI MANDHATA SINGH: He has an aspersion that we have not read the Constitution. It should be either expunged or it should be withdrawn. We are not prepared to bear aspersions being cast on us by Mr. Chidambaram. Either he should be called upon to withdraw or you have to expunge it.

MR. CHAIRMAN: Please resume your seats.

(Interruptions)

DR. BIPLAB DASGUPTA (Calcutta South): We agree that the Bill was moved last year in Parliament. That is true.....*(Interruptions)*

SHRI A. CHARLES (Trivandrum): Mr. Chairman, Sir, I am on a point of order.

MR. CHAIRMAN: What is your point of order?

SHRI A. CHARLES: May I know, under what rule he is he questing the ruling of the Chair? Can a Member question the ruling of the Chair?

MR. CHAIRMAN: Nobody can question the ruling of the Chair. I am hearing him. There is no harm in hearing him.

DR. BIPLAB DASGUPTA: My submission is this. Mr. Chidambaram should not think that he is the sole repository of all the wisdom on the constitution in this House. He should not have such a grand idea about himself. What we are saying is very simple. We are saying, it is true that on the Agenda, it is written that the Bill would be moved by Shrimati Maneka Gandhi. But when we look at the Bill, we find that there is a different name. We agree that there is a continuity of the Parliament. We agree that the Bill introduced earlier by the Minister can again be submitted. The only question that we are asking is this. Is the working of the Parliament Secretariat so sloppy that they can not make a simple correction?.....(*Interruptions*)

MR. CHAIRMAN: Dr. Biplab Dasgupta, I have heard you.

(*Interruptions*)

SHRIBASUDEB ACHARIA: That is your ruling, Sir?

MR. CHAIRMAN: I will give you my ruling. You cannot dictate to me.

SHRI UTTAM RATHOD (Hingoli): This Bill was introduced in the name of the Minister and not in the name of the Minister of State. This Bill was introduced much earlier. So, I think, the objection that has been raised is wrong. Secondly.

DR. BIPLAB DASGUPTA: What is wrong?

SHRI UTTAM RATHOD: Do not think that you know everything. The hon. Minister is saying that she is piloting the Bill for the

first time. We must have some decency to listen to her.

MR. CHAIRMAN: I have heard enough. This Bill was introduced in May. After that, the Government had changed. The present Minister moved for consideration of this Bill on 4th January, 91. Everything is in order. There is no point in wasting the time of the House.

(*Interruptions*)

SHRI GUMAN MAL LODHA (Pali): Sir, there should be no aspersion.

(*Interruptions*)

MR. CHAIRMAN: There is no aspersion.

(*Interruptions*)

SHRI BASUDEB ACHARIA: I want to know whether Mr. Chidambaram has withdrawn his words? (*Interruptions*)

MR. CHAIRMAN: I will go through the record. If there is anything objectionable, that will be expunged.

SHRI BASUDEB ACHARIA: You have heard what he has said.

MR. CHAIRMAN: That is what is normally done. If there is anything objectionable, the record will be examined and a decision will be taken.

(*Interruptions*)

MR. CHAIRMAN: That will be examined under what context the remarks have been made and what is the implication and whether these are against the rules. If it is against the rules of the House, then definitely it will be expunged.

(*Interruptions*)

DR. BIPLAB DASGUPTA: The words were very clear. He is the repository of all the wisdom. (*Interruptions*)

SHRI GUMAN MAL LODHA: Kindly expunge those remarks.

(Interruptions)

SHRI RAM NAIK (Bombay North): I am on a point of order. The hon. Member, Mr. Chidambaram, has said that some Members have not read the Constitution. *(Interruptions)*

DR. BIPLAB DASGUPTA: He is the only constitutional expert in the country and nobody else. *(Interruption)*

SHRI RAM NAIK: My point of order is that the hon. Member, Mr. Chidambaram, has supported the Minister without reading the Bill and without knowing what she is saying. This is what he is doing. *(Interruptions)*

DR. BIPLAB DASGUPTA: We felt hurt because this is not for the first time that Mr. Chidambaram has made such remarks. He has been making such remarks regularly over the last one year. He has been deliberately offensive and also abrasive in his remarks. *(Interruptions)* He has no respect for other Members. *(Interruptions)*

MR. CHAIRMAN: Even if Mr. Chidambaram has made a general statement about Members, it will be examined. I will also be advised by the Secretariat about the procedure and the precedent. If there is a violation of the rules, I will get it examined by the Secretariat and a decision will be taken. That is what is normally done.

(Interruptions)

SHRIMATI MANEKA GANDHI: Sir, I appreciate the sentiments expressed by the Members that the amount of compensation that is given to the victims should be much more. The hon. Members will appreciate that this Bill seeks to provide immediate interim relief and the victims would be entitled to claim full compensation.

Several hon. Members raised the issue

of prescribing a time limit for the disposal of the claim. I am moving an official amendment for this purpose.

I am also accepting the suggestion that there should be no ambiguity as to the events that constitute accident, and support the amendment moved by Mr. Anil Shastri who has been a Minister in the Ministry of Finance.

I am also accepting the suggestion not to show any licence to those who do not take insurance or who otherwise violate the provisions of the Bill. I am moving an official amendment for this purpose. *(Interruptions)*

Sir, the hon. Members are aware that it was in 1986 in the oleum gas leak case that the Supreme Court held that the persons handling hazardous substances are inherently in dangers and are socially liable to be compensated for any damage that is caused to them. We should lose no time to ensure that at least immediate interim relief is available to the victims. This will be a significant social welfare measure. I would be very much surprised if anybody opposed or tried to delay a measure that would provide relief to the weakest of the weak, the poorest of the poor. I would urge that in the interest of the country and of the very very poor in this country, we should pass this Bill without delay. *(Interruptions)*

SHRI S. BENJAMIN (Bapatla): One small clarification from the hon. Minister, Sir. Cotton growers are more in Prakasam and Guntur districts. They pick up labourers from amongst the ordinary agricultural labourers. There is no insurance for them either from the side of the producers or from the side of the workers. While disseminating pesticides, several people die. Incidents are common among workers who are spraying insecticides in the cotton fields. I would like to know whether those workers are covered under the provisions of this present Bill or not because agriculture as such is not treated as an industry. There is no insurance and poor people are suffering without any compensation. That is why I wanted to have this clarification.

MR. CHAIRMAN: Now, before we take up clause-by-clause consideration of the Bill, there is an amendment to the Motion for Consideration moved by Shri Girdhari Lal Bhargava. I am putting this to the vote of the House. The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 5th April, 1991."

The motion was negatived

MR. CHAIRMAN: The question is:

"That the Bill to provide for public liability insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling any hazardous substance and for matters connected therewith or incidental thereto, be taken consideration."

The motion was adopted

MR. CHAIRMAN: The House will now take up clause-by-clause consideration of the Bill... (*Interruptions*)

SHRI GUMAN MAL LODHA: Sir, before the Bill is taken up for clause-by-clause consideration, I would like to know where are the copies of the amendments.

MR. CHAIRMAN: The official amendment will come when that particular clause is taken up. You must understand that.

SHRI GUMAN MAL LODHA: This must be given in advance. Unless the amendment is given to us, how can we read it and express our opinion?

MR. CHAIRMAN: In certain cases, when there are suggestions from this House, the Government can move the amendment in the House itself.

SHRI GUMAN MAL LODHA: But now at least it should be given

MR. CHAIRMAN: It is already circulated. The hon. Member is not aware of it.

(*Interruptions*)

Clause 2

Definitions

MR. CHAIRMAN: Mr. Anil Shastri, are you moving your amendment to clause 2?

SHRI ANIL SHASTRI (Varanasi): Sir, I beg to move:

Page 1, line 8,-

after "an accident" insert "or incident" (4)

After the 1984 tragedy in Bhopal, it was expected that this Insurance Bill would come much earlier, but it is a matter of great satisfaction that after six years, the Bill was introduced and has come up in Parliament. I have no hesitation in saying that if this Bill has come up in Parliament, it is on account of the commitment of the Minister of Environment Madam Maneka Gandhi to environment which arises out of her commitment that there is a definite need to preserve life on this planet and if life is to be preserved in this world, I am sure dangers to environment cannot be ignored. Due to the experience of the Bhopal tragedy, I have moved this amendment that the word 'accident' be replaced with 'incident' because it should not happen that a manufacturer or the owner of a unit handling chemical or hazardous material gets away with the excuse that despite all precautions taken, the incident occurred. Therefore, irrespective of the precautions that are taken by the owner, if an incident does occur, I would like that the affected people should be covered by this Bill. As I said earlier, it is because of Mrs. Maneka Gandhi's commitment to environment that this Bill has come up. So, I would expect her not to take a half-hearted measure and I would request her, through you, to kindly consider my amendment and replace the word 'accident' with 'incident'.

SHRI RAM NAIK: Sir, I want to speak on this amendment.

MR. CHAIRMAN: Normally it is not done; only the mover of the amendment is permitted to speak.

SHRI RAM NAIK: According to rules, any amendment can be supported or opposed. It is a very important amendment. Kindly give me one minute. (*Interruptions*)

SHRI P.R. KUMARAMANGALAM (Salem): Sir, there are rules. According to rules, he should have given notice.

MR. CHAIRMAN: Mr. Kumaramangalam, the rule does not prohibit, but normally it is not done.

[*Translation*]

SHRI RAM NAIK(Bombay North): Sir, this is a very important amendment. The victims of Bhopal tragedy will certainly benefit from this amendment. Such incidents can take place in future also. The persons who had to suffer due to the word "incident" instead of the word "accident" will also be benefited. That is why, this is an important amendment, and I support it.

[*English*]

SHRIMATI MANEKA GANDHI: Sir, I accept the amendment.

MR. CHAIRMAN: The question is:
page 1 line 8,-

after "an accident" insert "or incident"
(4)

The Motion was adopted

MR. CHAIRMAN: The question is:

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

The motion was adopted

Clause 2, as amended, was added to the Bill

MR. CHAIRMAN: There is no amendment to clause 3 so I put it to the vote of the House.

The question is:

"That clause 3 stand part of the Bill"

The motion was adopted

Clause 3 was added to the Bill

MR. CHAIRMAN: Clause 4 Shri Than Singh Jatav - Not moving.

There is no amendment up to clause 6.

So I put clause 4 to 6 to the vote of the House.

The question is:

"That clause 4 to 6 stand part of the Bill.

The motion was adopted

Clauses 4 to 6 were added to the Bill

Clause 7

Award of relief

MR. CHAIRMAN: Shrimati Maneka Gandhi.

SHRIMATI MANEKA GANDHI: I beg to move:

Page 4, line 32,

add at the end,—

"and every endeavour shall be made to dispose of such claim within three months of the receipt of the application for relief under sub-section (1) of section 6." (16)

MR. CHAIRMAN: Shri Banatwalla.

SHRI G. M. BANATWALLA (Ponnani):
I beg to move:

Page 4, line 32,—

add at the end—

"and within three months of the date of receipt of the application for relief" (5)

Page 4, line 32,—

add at the end—

"and every effort shall be made to dispose of the claim within three months of the receipt of the application for relief" (6)

It is a matter of record. I have moved the amendments. The amendments wanted merely that the application for relief should be disposed of as far as possible, within a period of three months. Now the hon. Minister has almost accepted my amendment. Instead of my word "effort", she has made a better expression, "every endeavour shall be made". However, in view of the acceptance of the amendment through an official amendment by the Minister, I seek the leave of the House to withdraw my amendments.

MR. CHAIRMAN: Has Shri G. M. Banatwalla leave of the House to withdraw his amendments?

SEVERAL HON. MEMBERS: Yes.

Amendments No. 5 and 6 were, by leave, withdrawn

MR. CHAIRMAN: Now I shall put amendment No. 16 moved by Shrimati Maneka Gandhi to the vote of the House.

The question is:

Page 4, line 32,—

add at the end,—

"add every endeavour shall be made to dispose of such claim within three months of the receipt of the application for relief under sub-section (1) of section (6)." (16)

The motion was adopted

MR. CHAIRMAN: Now, I will put clause 7, as amended, to the vote of the House.

SHRI P. CHIDAMBARAM: Before you put clause 7 to the vote, I want to know whether the hon. Minister is moving another amendment deleting the word "insurer".

She has accepted the suggestion. But that amendment has not been moved.

MR. CHAIRMAN: Are you moving?

You have circulated only amendment No. 16. But you are free to move.

SHRIMATI MANEKA GANDHI: I beg to move:

Page 4, line 3,—

Delete the words (i) " and the insurer"

(ii) "(including the insurer)" (33)

MR. CHAIRMAN: Please give it in writing to the House.

SHRIMATI MANEKA GANDHI: I have given it in writing.

MR. CHAIRMAN: It has not reached the office so far. (*Interruptions*)

Have you got any objection?

SHRI SRIKANTA JENA (Cuttack): It is a purely technical thing. It is a Bill. It is not anything else.

MR. CHAIRMAN: If the hon. Members raise some point, the hon. Minister can accept that suggestion and can move an oral amendment.

SHRI RAM NAIK: We agree. We would like to have an assurance from you. But, in future at least the Law Minister who is an experienced person should make it in advance.

MR. CHAIRMAN: You please understand. This is a good practice in democracy. This amendment was not intended. But when the hon. Members of the House suggest some good amendments, there was no time for circulating yesterday. It is accepted. It is a normal practice that good suggestions are accepted in the House and the Government brings an oral amendment on that point. It is a good practice.

SHRI RAM NAIK: I am not opposing the rules and procedure of the House.

MR. CHAIRMAN: This amendment was not intended by the hon. Minister. This amendment was moved on the basis of the discussion which took place in the House. Is it not a very good practice, my dear friend?

SHRI RAM NAIK: Yes.

MR. CHAIRMAN: Now I shall put amendment No.33 moved by Shrimati Maneka Gandhi to the vote of the House.

The question is:

Page 4, Line 3,—

Delete the words (i) " and the insurer." (ii) "(including the insurer)" (33)

The motion was adopted

MR. CHAIRMAN: The question is:

"Clause 7, as amended, stand part of the Bill."

The motion was adopted

Clause 7, as amended, was added to the Bill

Clause 8

Provision as to other right to claim composition for death etc.

MR. CHAIRMAN: Shri Than Singh Jatav—Not present. Are you moving your amendment No. 7, Shri G. M. Banatwalla?

SHRI G.M. BANATWALLA (Ponnani): I beg to move:

Page 4

Omit lines 37 to 41 (7)

I hope that the hon. Minister will accept that the petty relief that is given under this Bill should not be deducted from the amount of compensation which may become payable as a result of the operation of any other law. I hope the hon. Minister will accept the amendment.

SHRIMATI MANEKA GANDHI: In the beginning, I made it quite clear. It is only an interim relief. Therefore, I cannot agree to it.

MR. CHAIRMAN: I request Shri G. M. Banatwalla to withdraw his amendment.

SHRI G. M. BANATWALLA: I press it.

MR. CHAIRMAN: Now I put amendment No. 7 moved by Shri G. M. Banatwalla to the vote of the House.

Amendment No. 7 was put and negatived

17.00 hrs

MR. CHAIRMAN: There is no amendment to Clause 9.

So, I will put Clauses 8 and 9 together to the vote of the House.

The question is:

"That Clauses 8 and 9 stand part of the Bill."

The motion was adopted

Clauses 8 and 9 were added to the Bill

MR. CHAIRMAN: Now clause 10 Shri Than Singh Jatav - not present.

The question is:

"That Clause 10 stand part of the Bill."

The motion was adopted

Clause 10 was added to the Bill

MR. CHAIRMAN: Clause 11. Shri Than Singh Jatav - not present. There is no amendment for Clauses 12 and 13. So, I shall put Clauses 11 to 13 together to the vote of the House.

The question is:

"That Clauses 11 to 13 stand part of the Bill."

The motion was adopted

Clauses 11 to 13 were added to the Bill

Clause 14

Penalty for contravention of sub section (1) or sub section (2) of section 4 or failure to comply with directions under section 12

SHRIMATI MANEKA GANDHI: I beg to move:

Page 6, line 23,—

for "(1) If any owner"

substitutes "(1) Whoever" (2)

Page 6,—

after line 33, insert—

"(3) Nothing contained in section 360 of the 2 of Code of Criminal Procedure,

1973, or in 1974 the Probation of Offenders Act, 1958 20 of shall apply to a person convicted of an 1958, offence under this Act unless such person is under eighteen years o are."(17)

MR. CHAIRMAN: The question is:

Page 6 line 23,—

for "(1) If any owner"

substitute "(1) Whoever" (2)

Page 6,—

after line 33, insert—

"(3) Nothing contained in section 360 of 2 of the Code of Criminal Procedure, 1973, 1974 or in the Probation of Offenders Act, 20 of 1958, shall apply to a person convicted 1958, of an offence under this Act unless such person is under eighteen years of age." (17)

The motion was adopted

Clause 14, as amended was added to the Bill

MR. CHAIRMAN: The question is:

"That clause 14, as amended, stand Part of the Bill."

The motion was adopted

MR. CHAIRMAN: There are no amendments for Clauses 15 to 20 of the Bill.

SHRI P. CHIDAMBARAM: She said she will have an official amendment to Section 19 adding the word 'State Government'. You have put all the Clauses together. She said in her speech that it will be delegated to the State Government. She has not moved it.

SHRIMATI MANEKA GANDHI: I have said..... "including any officer, authority or

other agency". I think that 'agency' would include the State Government.

SHRIP. CHIDAMBARAM (Sivaganga): It won't.

SHRIMATI MANEKA GANDHI: Should we put it under consideration of the topic.

MR. CHAIRMAN: Mr. Chidambaram, the problem is, without giving it, how can we know it.

SHRI P. CHIDAMBARAM: She can give an amendment now.

SHRIMATI MANEKA GANDHI: We can take care of this in the rules.

MR. CHAIRMAN: Since he is not pressing that amendment, it can be taken care of in the rules.

MR. CHAIRMAN: The question is:

"That Clauses 15 to 20 stand part of the Bill.

The motion was adopted

Clauses 15 to 20 were added to the Bill

MR. CHAIRMAN: Now Clause 21.

Shri Than Singh Jatav-Not present

MR. CHAIRMAN: The question is:

"That Clause 21 stands part of the Bill"

The motion was adopted

Clause 21 was added to the Bill

MR. CHAIRMAN: There are no amendments to clause 22 and 23. So I put them to the vote of the House.

The question is:

"That clause 22 and 23 stand part of the Bill."

The motion was adopted

Clauses 22 and 23 were added to the Bill

The Scheduled

SHRI G.M. BANATWALLA: I beg to move:

Page 9, lines 3 and 4,—

for "incurred up to a maximum of Rs. 12,500" substitute "considered reasonable" (9)

Page 9, line 5,—

for "Rs. 25,000" substitute "one lakh rupees" (10)

Page 9, line 7,—

for " up to a maximum of Rs. 12,00" substitute " and considered reasonable"(11)

Page 9, line 10,—

for "up to a maximum of Rs. 12,500" substitute "and considered reasonable"(12)

Page 9, line 13,

for "Rs. 25,0000" substitute "one lakh rupees"(13)

Page 9, line 16,—

omit "upto a maximum of 3 months" (14)

Page 9, line 19, —

for "Rs. 6,000" substitute "one lakh rupees" (15)

MR. CHAIRMAN: Shri Than Singh Jatav is not present.

SHRI G. M. BANATWALLA: Sir, I plead with the Government that all reason-

[Sh. G.M. Banatwalla]

able medical expenses should be met in full and no maximum limit should be put over it. The reasonable medical expenses should be provided for as a matter of relief. I must also say that this amount of Rs. 25,000 for fatal accident is pitiably low and, therefore, I have suggested a reasonable figure of a lakh of rupees. Thirdly, it is ridiculous that where there is a loss, where there is damage to property, the relief should be restricted to only Rs. 6,000. Damage to property and relief restricted to only Rs. 6000 is a ridiculous figure. And, I, therefore, suggest a reasonable increase in the amount.

I must also plead with the Government that where there is a loss of wages due to temporary, partial disability and the earning capacity of the victim is affected, then the relief should be paid for all the months the labourer is not in a position to attend his work. This cannot be limited. Otherwise, the hardship continues and relief only becomes an illusory thing. I, therefore request and plead that in the case of loss of wages, the total loss should be provided for as a matter of relief.

SHRI S. BENJAMIN: I have suggested that there are several cases of deaths by consuming insecticides. And these people should be given compensation more than what is prescribed.

SHRIMATI MANEKA GANDHI: Hon. Member Shri Banatwalla has proposed an amendment to enhance the quantum of relief, in the Schedule. It must be realised that these are merely interim and immediate relief and this relief is provided on the lines of the Motor Vehicles Act of 1988 and it is not a full compensation which may be awarded by court of law. As interim and immediate relief provided by the court is adequate, we may not accept it. I request him to withdraw it.

SHRIG. M. BANATWALLA: That is not my habit unless She accepts it.

MR. CHAIRMAN: I shall now put Amendments 9 to 15 to the vote of the House.

Amendments Nos. 9 to 15 were put and negatived

MR. CHAIRMAN: The question is:

"That the Schedule stands part of the Bill."

The motion was adopted

The Schedule was added to the Bill.

Clause 1

Short title and Commencement

Amendment made:

Page 1, line 4,—

for '1990' substitute '1991' (1)

(Shrimati Maneka Gandhi)

MR. CHAIRMAN: The question is:

"That Clause 1, as amended, stand part of the Bill."

The Motion was adopted

Clause 1, as amended, was added to the Bill

MR. CHAIRMAN: The question is:

"That the Enacting formula and long title stand part of the Bill."

The motion was adopted

The Enacting Formula and the Title were added to the Bill

MR. CHAIRMAN: The Minister may now move that the Bill as amended be passed.

SHRIMATI MANEKA GANDHI: I beg to move:

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

MR. CHAIRMAN: Motion moved:

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

SHRIP. CHIDAMBARAM (Sivaganga): I wish to make a couple of submissions. Firstly I spoke to the Minister and a number of hon. Members also pointed out that we do not accept the principle under which the Government and public sector undertakings are likely to be exempted. I concede the point that she has not exempted them in the Bill, but she has taken the power to exempt them. When I spoke to her she said that this power will be exercised sparingly and she will give an assurance that this power will not be exercised as a matter of routine. I think it is only proper that she makes this assurance on the floor of the House so that the assurance is on record that she will not grant exemption for the asking either to the Central Government or to the State Governments or to any public sector undertakings or to any local authority and this power will be very very sparingly used. I think this assurance should come in her final reply.

I also pointed out to the hon. Minister that there are serious errors in Section 19. I have already pointed out one about the inclusion of the word "State Government". I think she is being advised that the words "Agency" or "Authority" would include "State Government". I have my reservations. I think she should take the legal advice, including Mr. Swamy's advice, and if she thinks that the word "State Government" must be specifically mentioned, it is not too late, she can move this amendment in the Rajya Sabha and bring it back to us necessary. I think the word "State Government" must be there.

There is another obvious error in parenthesis in Section 19. The exclusion is, expect the power under Section 22. "22" is obviously a printing mistake for 23 because 22 does not confer any power. I think the intention was to refer to either 21 or 23. Because 22 is only:

"The provisions of this Act and any rules made thereunder shall have effect notwithstanding anything inconsistent therewith."

That cannot be excluded while delegating power under Section 19. I don't know, I may be wrong; but I cannot understand it. It is either Section 21 or 23; the reference to Section 22 seems to be an obvious printing error. If she clarifies this I shall be grateful; if it is an error I think she should correct it.

SHRIMATI MANEKA GANDHI: It is an error and it has been corrected as 23.

PROF. RAMGANESH KAPSE (Thane): It stands corrected now.

SHRIMATI MANEKA GANDHI: The second point is that he has asked me to give an assurance which I think is valid enough.

I do give an assurance that public sector or State organisations created by the Government will not get exemption for the asking except under very very stringent cases.

SHRIP. C. THOMAS (Muvattupuzha): I want to ask one point Sir.

MR. CHAIRMAN: She has finished her reply. you could have asked earlier. Normally it is not allowed. Do you want to press for it?

SHRIP. C. THOMAS: I just wanted to submit because the word "incident" has been now inserted in place of "accident". I think the scope of the Act has become a bit wider in the sense that I was just reminded of an example.

A continuous injury has been caused to some people in my constituency. I shall just point out one incident which took place some years ago in a big factory. FACT, Cochin Division is a big factory, which falls within my constituency. The effluents from the factory are mixed in the river and it is causing great hardship to certain persons who are cultivating paddy in the nearby areas. Once this

[Sh. P.C. Thomas]

practice has started and is continuing, these people are being hit during every cultivation and they are sustaining a loss on every cultivation. I think, the new word which has been added, when it comes, should take into account such continuous losses also. If the Minister has that in mind, that will be well and good. If that is not there, then, I think, some modifications must be made to the Bill, so that such incidents do not occur again.

MR. CHAIRMAN: This is not the time for any modification of the Bill.

SHRI P. C. THOMAS: I appreciate the Minister for having brought forward this noble Bill. I appreciate her for another aspect which I have found in her, during the passage of the Bill. That is, of the amendments which were moved by the Members were adopted and were accepted. I think this is a good practice. I appreciate the Minister for this once again.

MR. CHAIRMAN: The question is:
"That the Bill, as amended, be passed".

The motion was adopted

SHRIMATI MANEKA GANDHI: I thank all the hon. Members.

MR. CHAIRMAN: Now, the House shall take up Chief Election Commissioner and other Election Commissioners (Conditions of Service) Bill. Shri Subramaniam Swamy.

17.17 hrs

CHIEF ELECTION COMMISSIONER AND
OTHER ELECTION COMMISSIONERS
(CONDITIONS OF SERVICE) BILL*

[English]

THE MINISTER OF COMMERCE AND
MINISTER OF LAW AND JUSTICE (SHRI
SUBRAMANIAM SWAMY): I beg to move:

"That the Bill to determine the conditions of service of the Chief Election Commissioner and other Election Commissioners and for matters connected therewith or incidental thereto be taken into consideration."

Sir, this Bill was introduced in the Lok Sabha on 31st May 1990. This House is aware that the President in his Address to the Joint Session of Parliament on March 12, last year, had referred to the determination of the Government to undertake wide range electoral reforms. This House is also aware that the former Prime Minister had convened on 9.1.1990, a meeting of the representatives of all political parties in Parliament to discuss matters relating to electoral reforms. On the basis of the broad consensus arrived at the said meeting, the former Government constituted a Committee drawing leaders of different political parties and also experts on electoral matters to examine in detail various aspects of electoral reforms. The Committee submitted its Report in April 1990. Most of the recommendations made by the Committee were accepted by the then Government and four Bills to give effect to the recommendations of the Committee were introduced in the two Houses of Parliament. The Chief Election Commissioner and other Election Commissioners (Conditions of Service) Bill, 1990 is one such Bill is now before this House.

The other three Bills, namely, the Constitution (Seventieth Amendment) Bill, 1990, the Constitution (Seventy-first Amendment) Bill, 1990 and the Representation of the People (Amendment) Bill, 1990 which were introduced in the Rajya Sabha are pending for consideration by that House except that the last Bill has now been referred to a Select Committee, by the Rajya Sabha and will come before the House very soon.

I will dwell upon the main proposals of the present Bill which is before the House for consideration. The Committee on Elec-

*Moved with the recommendation of the President.