

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to provide for fixation of individual responsibility of persons in authority with reference to national defence and development of the country."

The motion was adopted.

Shri Parashar: I introduce the Bill.

CONSTITUTION (AMENDMENT) BILL*

(Amendment of article 85) by Shri Prakash Vir Shastri.

श्री प्रकाशवीर शास्त्री : मैं प्रस्ताव करता हूँ कि भारत के संविधान में आगे संशोधन करने वाले बिल को पेश करने की अनुमति दी जाये ।

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India".

The motion was adopted.

श्री प्रकाशवीर शास्त्री : मैं बिल को पेश करता हूँ ।

CONSTITUTION (AMENDMENT) BILL*

(Omission of article 370) by Shri Prakash Vir Shastri.

श्री प्रकाशवीर शास्त्री : मैं प्रस्ताव करता हूँ कि भारत के संविधान में आगे संशोधन करने वाले बिल का पेश करने की अनुमति दी जाये ।

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

The motion was adopted.

श्री प्रकाशवीर शास्त्री : मैं बिल को पेश करता हूँ ।

Shri Raghunath Singh (Varanasi): We are unanimous in this matter.

PROTECTION OF CIRCUS EMPLOYEES BILL—contd.
by Shri Nambiar

Mr. Deputy-Speaker: The House will now proceed with the further consideration of the following motion moved by Shri Ananda Nambiar on the 10th April, 1964:

"That the Bill to protect the Circus employees by bringing them under the operation of the Industrial Disputes Act, 1947 and the Workmen's Compensation Act, 1923, etc., be taken into consideration."

Fifty-five minutes are left. Shri S. M. Banerjee may continue his speech.

Shri S. M. Banerjee (Kanpur): Sir, I rise to support the Bill moved by my hon. friend Shri Nambiar. This particular Bill had the support of all the Members who spoke. Mr. Alva, when he supported the Bill, mentioned in this House the pathetic story of those young boys and girls who are forced to work in a circus and about the treatment meted out to them.

It is really a tragedy in this country that those labour legislations which were passed in this House after so much of discussion, which according to me and according to the

workers gave relief to the working people of this country to some extent, are not applicable to the circus employees.

Recently, when the Russian Circus came here, I saw there one of the managers or the person who was managing the show of that circus in Kanpur. I put a question to him, "Don't you employ or don't you train the small boys and girls in your country for such acrobatic feats?" And he told us, "In our country we do not allow the young boys and girls or children to take part in circus unless their parents are also there". And there was a small girl whose parents, both the father and mother, were working in the circus, and they always used to safeguard the interests of that poor girl.

But in our country what happens? Those children are taken out from their homes and they are trained; and they are trained in such a harsh manner that they are beaten almost to death. My friend Shri Nambiar has brought certain glaring instances and he has proved by those facts, quoting from articles various statements, how these young boys and girls or children are treated by the circus authorities.

In the statement of objects and reasons to his Bill Shri Nambiar has clearly mentioned:

"The artistes and employees on whose labour, sweat and lives the success of circus depends are treated very badly. Children, even below 10 years of age, sometimes destitutes, are employed and given very harsh treatment and training and are kept in perpetual terror by some unscrupulous managers. Female employees are not looked after properly and there are a number of instances of extreme outrageous behaviour. Wages are also not properly paid.

Therefore, it is necessary to prevent such ill-treatment meted

out to a vast section of circus employees who trade upon their body, lives and existence. When progressive labour laws have been enacted to effect improvement in the working and living conditions of labour in general in this country after independence, it is undesirable to allow this ill-treatment to continue in an industry which employs more than 10,000 men, women and children."

For the proper education and for the entertainment of our sons and daughters we really want the circus industry to grow. There should be more circuses, because if it is a matter of sending our children to see films, we have no such film, or a very small number, in our country to which we can safely send our children. So, naturally, if we want entertainment we have to send them to some good circus, so that they may also develop their physical abilities and also enjoy the performances at the circus. My friend Shri Sheo Narain asks "Circus?" Perhaps he has not gone to a circus; I will send him.

Shri S. N. Chaturvedi (Firozabad): He has been a participant in the circus.

Shri S. M. Banerjee: Very good. Then he would be able to realise how bitterly he would have been treated when he was a child.

So I feel that we should give proper incentive to those artistes, and I expect that the Deputy Labour Minister who will reply to the debate will not quibble with words by saying that they are being paid compensation. I can quote several instances where no compensation has been paid. Permanent disability, loss of hand, loss of legs, internal haemorrhage, and so many cases I can quote where none has been given compensation. There are cases where pregnant women were asked to give acrobatic feats and

[Shri S. M. Banerjee]

that resulted in abortions and the death of the women. What will happen to those destitute and small children who really become a tool in the hands of the managers to earn money? Therefore, I humbly submit that all those artistes who are working in circus companies should get the benefit of all our labour laws, whether it is the Minimum Wages Act or the Provident Fund Act or the Workmen's Compensation Act or any other Act, which are applicable to other workers in the country.

With these words, I support this Bill and I congratulate Mr. Nambiar for bringing forward this piece of legislation. I request the hon. Deputy Minister of Labour to accept this Bill.

Shri Manoharan (Madras South): Mr. Deputy-Speaker, Sir, my hon. friend Mr. Nambiar has introduced the Protection of Circus Employees Bill.

Mr. Deputy Speaker: The hon. Member is not in his seat.

Shri S. M. Banerjee: He is speaking about circus!

Shri Nambiar (Tiruchirapalli): He wanted to be near the mike.

Shri Manoharan: Of course, I am not in a position to oppose the spirit of the Bill. I think it is my duty to bring to the kind attention of the House certain difficulties the circus management is undergoing. My hon. friend, Shri S. M. Banerjee, has pointed out so many things, the difficulties and the tribulations, from which the employees of the circus companies suffer. I must confess that I definitely support all the sentiments expressed by Mr. Banerjee as well as Mr. Nambiar. But as regards certain sections of the Bill which Mr. Nambiar wanted the House to accept, I am sorry to say I cannot openly accept

them. Personally speaking, Mr. Nambiar is noted for the genuine understanding and the correct appraisal of things and, what is more, his appreciation of files. Here in the Bill, he has stated that an employee of a circus establishment shall be treated as a workman within the meaning of section 2 of the Industrial Disputes Act, 1947 and he shall be entitled to all the rights, privileges and obligations thereof. Sir, as you know, the fate of circus purely depends upon the seasons. During the rainy seasons, circus is virtually finished and the management suffers a lot. They are driven from pillar to post. My hon. friend, Mr. Nambiar, suggested that boys below 5 years of age or 8 years of age should not be included in the circus company and all that. But, I hope, Mr. Nambiar knows fully well that the very art requires correct training, proper training, from early childhood, from the age of 5 years. If Mr. Nambiar wants through this Bill the complete abolition of circus, I can understand it. But on one hand, he wants the circus to grow because it is one of the cultural institutions of the country, and on the other he wants to introduce restrictions on the employees of the circus which will virtually paralyse the circus company. At the age of 5, proper training can be given because that is the age of flexibility. Therefore, the flexibility aspect should be taken into consideration. After 12 years or 14 years or 16 years, what will happen? Automatically, the muscles will get stiff and so the desired effect cannot be there. So, all these restrictions will virtually paralyse the circus company and the circus company cannot exist at all. Therefore, I cannot openly accept that aspect of the issue.

Mr. Nambiar's Bill wants to give compensation and Mr. Banerjee also pointed out that particular aspect of the matter. Of course, I have no objection at all to that.

Another thing that Mr. Nambiar has pointed out in his Bill is that the employees should be given the fullest liberty possible. So far as I am concerned, I am entirely for the liberty of the employees of the circus company but there is one fact which we should not forget and that is when the small kids at the age of 5 or 6 are completely entrusted to the circus management, they will have to treat them fraternally and they will have to see that they are nursed and groomed and that they are given proper training. Therefore, it is the duty of the circus management to see that morality prevails, responsibility prevails and discipline prevails all over. When the circus is moving from one place to another, automatically it is the duty of the management to take care of them. If they are allowed to go anywhere they like, then the circus company cannot flourish. These are certain things which we should not forget. It is not like a cinema. It should be treated on a different footing. It is a circus company which purely depends upon the personalities, the age of the employees and also on the climatic conditions and the vagaries of nature. Even in Soviet Russia, boys of 5 years or 6 years of age are given training. I mean what I say with the necessary significance. Probably Mr. Nambiar may not agree now because of so many other political considerations and so many other things. But the fact remains that they are given training even from the age of 5 or 6. I doubt very much whether what Mr. Nambiar has brought out in this Bill, including that particular section which says people above 12 years of age only should be included, will give enough fillip to the circus company to grow.

Another thing that I would like to point out is that our circus company is not looked after by the Government. In so many countries, circus companies are nationalised. Here it is not nationalised. To a certain extent,

after having understood the significance of nationalisation by our Government, I think it is better it is not nationalised though I am for nationalisation of anything. But here, on behalf of the Government, no incentive is given to the circus company and no subsidy is given to the circus company and also no financial help is given to the circus company. Nothing is coming from the Government, either from the Centre or from the States or from anywhere else. They are, therefore, purely depending on their strength for their development. Nobody wants to see the circus which is one of the cultural institutions of our country to grow. We should see that in the name of certain provisions or in the name of certain Bills the circus company is not paralysed. Therefore, I request the House, agreeing with certain provisions of Mr. Nambiar's Bill, that certain provisions which he wanted to include should be deleted completely from the Bill and to see that the circus company is thoroughly protected. In the name of certain provisions to the effect that this should not be done or should not be done and all that, the circus company should be paralysed. In conclusion I request the House to see that the circus company is protected and certain sections which Mr. Nambiar wanted to include should be deleted, and thereby to see that one of the important cultural institutions of our country is not disturbed or paralysed through hasty legislation.

Mr. Deputy-Speaker: Now, the hon. Deputy Minister of Labour.

The Deputy Minister in the Ministry of Labour and Employment (Shri R. K. Malviya): Mr. Deputy-Speaker, Sir . . .

Shri Kishen Pattnayak (Sambalpur): Is he the Minister for circus?

Mr. Deputy-Speaker: He is the Deputy Labour Minister.

Shri Yashpal Singh (Kairana): There is still plenty of time at your disposal. Some more Members could speak.

Mr. Deputy-Speaker: The hon. Deputy Minister wants about 20 to 25 minutes. Then, I have to give some time for Shri Nambiar also for reply. The debate on this Bill has to conclude by 3.30 p.m.

Shri R. K. Malviya: I am happy that my hon. friend Shri Nambiar has brought the grievances of the circus employees to the notice of the House. Probably, while moving the Bill for consideration, he did not know that as in the case of other employees in other industries, the employees in the circus industry also were very well protected. In his opening remarks he had stated that if these circus employees were found protected under the existing legislation, he would not press his Bill.

I shall proceed clause by clause and show how these employees are covered by the existing labour legislations and absolute protection is available to them as for the other employees.

Unfortunately, the circus employees are not organised. Only very recently, I think, a month or two back, for the first time, they had registered a union, and after registration, some of the circus employees came to the Ministry and ventilated their grievances.

I shall point out presently how the various clauses of the Bill are covered by the provisions of the existing Labour Acts, and I shall do so taking the clauses one by one.

Clause 3 of the Bill seeks to provide that an employee of the circus establishment should be treated as a workman within the meaning of section 2(S) of the Industrial Disputes Act, and he should be entitled to all rights, privileges and obligations thereof.

Section 2(S) of the Industrial Disputes Act reads as under:

"Workmen 'means' any person (including an apprentice), employed in any industry to do any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment are express or implied, and for the purpose of any proceeding under this Act in relation to an industrial dispute includes any such person who has been dismissed, or discharged or retrenched in connection with or as a consequence of that dispute or whose dismissal, discharge or retrenchment has led to that dispute."

The employees of the circus establishment would be covered by this definition and deemed as workmen for the purposes of the Act.

The term 'Industry' as defined by sub-section (j) of section 2 of the Industrial Disputes Act reads as under:

"'Industry' means any business, trade, undertaking or calling, service, employment, handicraft, or industrial occupation or avocation of workmen."

This definition has been put to scrutiny by courts on many occasions. Thus, the term has a very wide concept and would cover the circus establishment as well, for, a circus establishment would constitute a business or an undertaking or a calling of employers within the meaning of this clause. The distinguishing feature of an industry namely the production of goods or the rendering of services by the co-operation between capital and labour or between employer and employee in a direct manner would be satisfied in the case of the circus establishments. As such, these establishments would already fall within the scope of the Industrial Disputes Act, 1947. The question of extending this Act to the circus employees

does not, therefore, arise. If, however, any practical difficulty is experienced, Government would consider the matter further in consultation with the State Governments.

Shri Nambiar: If necessary, an amendment can be brought forward later.

Shri R. K. Malviya: The State Governments have enacted legislation to regulate the conditions of work in shops and establishments. The definition of the term 'establishment' embraces *inter alia*, theatre or other places of public amusement or entertainment, and includes such other establishments as the State Governments may by notification in the official gazette declare to be an establishment for the purpose of the Act. Thus, the State Governments are fully empowered to enforce the statutory provisions to regulate the conditions of the workers employed in circus companies, if it is necessary to do so.

The various objectives embodied in the draft provisions of clauses 4, 5, 6 and 7 of the Bill are already being achieved under the various Shops and Establishments Acts enacted by the State Governments. The provisions of the Bill are discussed below with reference to the Delhi Shops and Establishments Act. These Shops and Establishments Acts are there in every State, and it will not be possible for me within the short period to give details of every State enactment, but let us take the Delhi Shops and Establishments Act as the model Act and examine the provisions of this Bill in the light of that Act.

Clause 4 of the Bill provides that the management of the circus establishment should maintain a muster-roll, showing the names of all the employees employed in it either temporarily or permanently. Rule 14 of the Delhi Shops and Establishments Rules, 1954, provides that every employer shall maintain a register of employment and wages in Form G. particulars about hours of work,

interval for rest and meals, hours worked with the employees, overtime, casual or sick leave availed, privilege leave, remunerations due, deductions and payments of wages in respect of such employees are to be given.

Clause 4 of the Bill also provides that the muster-roll should be open to inspection by the labour inspector of the State Government in whose jurisdiction the circus establishment in then engage in private and public shows.

Shri S. M. Banerjee: Is circus not a Central subject? It is not a theatre.

Shri R. K. Malviya: It is an establishment for entertainment.

Section 35 of the Delhi Shops and Establishments Act provides that it shall be the duty of every occupier of a shop or establishment to provide for inspection of all accounts or records required to be kept for purposes of this Act and to give any further information in connection therewith as may be required.

Clause 5 (1) of the Bill provides that no employee of a circus establishment should be required to work in excess of 8 hours a day or 48 hours a week.

Section 8 of the Delhi Shops and Establishments Act, 1954, provides that 'no adult shall be employed or allowed to work about the business of an establishment for more than 9 hours on any day or 48 hours in any week and the occupier shall fix daily period of work accordingly'.

Shri S. M. Banerjee: That is true. But has he ascertained that inspectors who go to check whether somebody was working more than 8 hours do really check? What happens is that they are given a circus pass and they just sit inside and see the circus.

Shri R. K. Malviya: But the provision is there. If the inspector is not able to do his job properly, a complaint may be made and it will be looked into.

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Clause 5(1) of the Bill also provides that no circus employee shall be required to work in excess of 8 hours. Clause 5(1) of the Bill also provides that for every additional hour of work an employee should be paid an amount equal to double the normal rates treating it as an overtime work.

15.00 hrs.

Sections of the Delhi Shops and Establishments Act provides that 'any person employed on overtime shall be entitled to the remunerations for such overtime work at twice the rate of his normal remuneration calculated by the hour'. For purposes of calculating the normal hourly wage, the day shall be reckoned as consisting of 8 hours.

With regard to time, cl. 5(2) of the Bill provides that in the case of employees under training, the hours spent on training should be counted as hours of work. Sec.2 (7) of the Delhi Shops and Establishments Act defines employee as 'any person employed whether directly or indirectly, about the business of an establishment for the owner or occupier thereof, even though he receives no reward for his labour, and includes for the purpose of any matter regulated by this Act, a person discharge or dismissed whose claims have not been settled in accordance with this Act, and persons employed in any factory but not governed by the Factories Act, 1948'. According to this definition, the trainees can also be treated as employees and hence the provisions regarding hours of work etc. automatically apply to them.

Clause 5(3) of the Bill provides that the time spent by the employees on rehearsal exercises should be counted as duty hours. Sec. 2(14), of the Delhi Shops and Establishments Act defines 'hours of work' or 'working hours' as the time during the persons employed are at the disposal of the employer, exclusive of any interval allowed for rest and meals and 'hour worked' has a corresponding meaning.

Thus it will be seen that the interval allowed for rest and meals only is not treated as working hours and all other time during which the persons employed are at the disposal of the employer, including time spent on rehearsal exercises is to be treated as working hours.

Clause 6 of the Bill provides that an employee when not on duty should be free either to stay in his respective camp in the circus tent or to move about outside the tent without let or hindrance by the management. There is no specific provision in this regard in the Delhi Shops and Establishments Act but when the hours of work have been prescribed, the freedom of movement to the employees after duty is implied. Moreover, if the circus employers deny freedom of movement to the employees not on duty, they render themselves liable to action under the provisions of the Indian Penal Code relating to wrongful restraint and wrongful confinement (sections 339-342, IPC).

Cl. 7(1) of the Bill provides that no management should employ a child below 12 years of age. Sec. 2(2) of the Delhi Act defines 'child' as a person who has not completed his 12th year of age. This has been dealt with by other speakers also. Sec. 12 of the said Act provides that no such child shall be required or allowed to work whether an employee or otherwise, in any establishment notwithstanding that such child is a member of the family of the employer. Thus, an employer cannot even employ his own child in the industry.

Cl. 7(2) of the Bill provides that a circus establishment employing children in the age group of 12 and 18 years should do so after securing written consent from the parents of the said children and cl. 7(3) provides that monthly wages and allowances due to the said children should be sent to their parents every month after deducting the expenses for boarding and lodging as admissible under the terms of employment.

There are no similar provisions in the Shops and Establishments Act. The Factories Act also does not provide for such a thing. Therefore, it is not advisable to single out the circus employees for special treatment as envisaged in the Bill. When there is no provision, it is very clear. All labour legislation have to be on par. If employment of children is allowed in this case, as my hon. friend wants, then that provision may have to be made in other Acts—which is not desirable.

Sec. 2(34) of the Delhi Shops and Establishments Act defines young person as a person who is not a child and has not completed his 18th year of age. The young persons have been given protection by sections 13 and 14 of the said Act in regard to hours of work. Sec. 13 provides that no young person shall be required or allowed to work about the business of an establishment for more than 6 hours and that no young person shall be employed continuously for more than 3½ hours without an interval of at least ½ hour of rest for meals and spread over shall not exceed 8 hours of any day. Sec. 14 provides that no young person shall be allowed or required to work as an employee or otherwise in any establishment between 9 p.m. and 7 a.m. during the summer season and between 8 p.m. and 8 a.m. during winter season. Since circus is not excluded from an establishment, these provisions apply to the circus industry as well.

Clause 8 of the Bill provides that all employees should be entitled to 15 days casual leave and 30 days full leave every year.

Sec. 22 of the Delhi Act provides that every person employed in an establishment shall be entitled—(a) after twelve months of continuous employment, to privilege leave with full wages for a total period of not less than fifteen days; (b) in every year, to sickness or casual leave with wages for a total period not exceeding

twelve days. These are the provisions made for leave.

Clause 8 provides that a register showing the leave account should be maintained by every management and kept open for inspection by the Labour Inspector at any time during the normal working hours of the circus establishment.

The employers are required to maintain a register in Form 'G' under Rule 14 of the Act. This form contains adequate provision for the maintenance of accounts of casual or sickness leave.

Clause 9 of the Bill provides that if personal injury is caused to an employee by accident arising out of and in the course of his employment, his employer should be liable to pay compensation in accordance with the provisions of Chapter II of the Workmen's Compensation Act, 1923.

Persons employed in a circus drawing monthly wages not exceeding Rs. 500 are already covered by the Workmen's Compensation Act. vide item XXXII of Schedule II of the Act. There is no vagueness about this entry, and it affords complete protection of the Act to circus employees. The circus employers are already liable to pay compensation in accordance with the provisions of Chapter II of the Act.

Shri Nambiar has stated that he has got cases in which no compensation was given, and there is no possibility either. This fact has also been referred to by other hon. friends. If Mr. Nambiar or other friends bring these particular cases to our notice, the State Governments concerned can be asked to look into the matter.

There is one important privilege which has been given to the workers with regard to compensation. The shifting of a circus from one place to another does not mitigate the liability of the employers as the venue of proceedings under the Act is before the

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Commissioner for Workmen's Compensation, who has jurisdiction in the local area in which the accident occurred. This is section 21 of the Workmen's Compensation Act. But there is also provision for transfer of proceedings from one commissioner to another. Apart from this, the Act also provides that appearances or application to be made before a Commissioner may be made on behalf of the claimant by a legal representative, an official of a registered trade union, a Factory or Mines Inspector or any other authorised person. This is section 24 of the Act.

The Act already contains safeguards against squaring up the question of compensation, as section 17 provides that any contract or agreement whereby a workman (or in case of death, his dependants or any of them) relinquishes any right to compensation shall be null and void. It comes to this, that even if the employer settles the claim with the relatives or the dependants of the man injured or killed, that amount cannot be taken into consideration unless it is settled in the presence of the Commissioner, and if any amount has been paid, it becomes null and void and a second claim can be filed before the Commissioner for recovery of compensation.

Clause 10 of the Bill provides that payment of compensation in respect of an employee whose injury has resulted in death, should be made to his or her parents or next kin.

The mode of payment of compensation of a deceased worker is already laid down in the Workmen's Compensation Act. Section 8(1) of the said Act provides that no payment of compensation in respect of workmen whose injury has resulted in death shall be made otherwise than by deposit with the Commissioner and no such payment made directly by an employer shall be deemed to be a payment of compensation. Section 8(5) of the said Act also provides that compensation deposited in respect of a deceased workman shall apportioned among the

dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner be allotted to any one of the dependants.

Certain other points were also raised which are not covered by the Bill. The work of persons employed in a circus is no doubt of a hazardous nature, but this is the very reason for the existence of this industry. To ensure that the compensation is available in a mishap, the employees have already been brought within the purview of the Workmen's Compensation Act. It seems, however, that some safety measures compatible with the nature of the industry are taken by the companies, as it is in their own interest also to ensure maximum safety for their employees; otherwise, they will have to pay not only compensation, but also suffer from loss due to dislocation of programme.

This Ministry is not concerned with this subject. This is the concern of the State Governments. If specific cases of lawlessness are cited, they can be brought to the notice of State Governments, and they will definitely be asked to take action.

There was a point raised about the education of the circus employees. It was said that they are illiterate, they cannot know their wages. Shri Nambiar said that sometimes they are paid only Rs. 30 or Rs. 35 whereas the record shows Rs. 200 or Rs. 300. But the actual conditions are very different. It is not a fact that everybody in the circus industry is illiterate. There are other persons who can help the illiterate person. The only difficulty is that of organising the workers of the circus. I may submit that all these troubles which have been instanced by Shri Nambiar and other friends are due to the unorganised state of trade unions in the industry. Some of the circus employees had come to me. If Shri Nambiar or

others bring to our notice any complaints, I assure hon. Members and the House that we will look into the grievances.

The provisions of the Bill, as I have stated, are covered by existing legislation. The clarifications that I have offered, I think, should satisfy him, and I hope he will not press the Bill.

Dr. M. S. Aney (Nagpur): I want to ask one question of the hon. Minister. Circus consists not only of the employees and the employers, but the animals also. Is there anything in the law to see that the Prevention of Cruelty to Animals Act applies to the animals which are in the circus?

Shri Raghunath Singh (Varanasi): Shri Nambiar has forgotten it.

Dr. M. S. Aney: I would like to know if he has anything to say on that.

Shri R. K. Malviya: I think they are taken care of properly. Otherwise, the circus is going to lose the business.

Shri Brij Raj Singh (Bareilly): There is no point in thinking. Is it provided in the Bill or not?

Shri R. K. Malviya: Shri Nambiar has not made any mention about the animals.

Shri Nambiar: I am grateful to the hon. Deputy Minister of Labour for giving the reactions of the Government for every provision of the Bill. With regard to the applicability of the Delhi Shops and Establishments Act which he considers to be the model legislation for such purposes, he should see that such a legislation should be brought into being by all the States so that the same provisions may be available for the employees all over the country.

Shri R. K. Malviya: For clarification I say that every State has got this Act. I have taken the Delhi Shops and Establishments Act because if I argued about the other Acts, it will take a long time.

Shri Nambiar: If notifications are necessary for bringing this industry under such Act, that possibility may be examined and the States may be instructed to notify.

Shri R. K. Malviya: There is no necessity for any notification.

Shri Nambiar: then, I take it that the hon. Deputy Minister promises and assures that without even such notifications, it comes into operation, for which also I am thankful to him.

There has been some misunderstanding of what I said. It is not my intention that circus industry must be deprived of children. My point was that though children below 12 years of age were employed, there was no protection to them. For instance, destitute children from Kerala are brought and made to stay in tents which goes on shifting from place to place. What is the protection that law offers to these children? If hon. Deputy Minister feels that any provision of the existing law gives protection to them, I shall be the happiest. If you cannot protect them by law, you will have to ban the employment of such children below 12 years of age and protection should be given to children between 12-18 years of age. The hon. Minister said that he could not guarantee any protection to children below 12 years of age. There is a lacuna in that respect and it is for Government alone to decide how it could be removed.

Shri R. K. Malviya: There is some misconception in the mind of my hon. friend. The Employment of Children's Act definitely provides that children below 12 years should not be employed in any industry. My hon. friend can take advantage of that provision and also move for banning children below 12 years being employed in the circus industry.

Shri Nambiar: While what the Deputy Minister says is reassuring, I ought not to be accused that I am provoking some sort of an action

[Shri Nambiar]

whereby the circus industry will be at a disadvantage because it will be deprived of the service of children; I should not be attacked in that way. Mr. Manoharan said that this industry cannot have all its glamour, etc. if small children are not there to do feats. If what they are doing is illegal, as per what the hon. Deputy Minister says, that illegality must be stopped. If by doing so the industry is going to be affected adversely, Government should come to the rescue of that industry and to help them. I could suggest how Government could help them, just as, by exempting them from the operation of entertainment tax, by giving them other facilities. My purpose was never to do any harm to the industry and I made it clear. It is an industry which is built by the private sector and poor people had to suffer untold hardship to build an industry of that type and our circus industry is second to none, in any part of the world. That is a great achievement and this industry must flourish. Therefore, whatever lacuna is there, it may be removed so that these employees are protected.

The hon. Deputy Minister said that where compensation was not paid he would go through those cases brought to his notice and we shall certainly bring to his notice. But any lapses by way of time may be condoned by him.

Shri R. K. Malviya: The hon. Member has to apply to the Commissioner direct.

Shri Nambiar: We will represent these cases to the Labour Commissioner concerned. But there is the time factor. No circus employee knew that he was having the benefit of all the labour laws. Even I could not find out whether they would come under the provisions of these Acts. That difficulty should be removed and the employees should be helped. I am however satisfied with the reply given. But there is this difficulty.

Certain lacuna still remains in the labour legislation and the hon. Deputy Minister should bear with me if I press the Bill for a voice vote. I shall certainly bring the cases to his notice and shall offer my fullest co-operation in this respect.

Mr. Deputy-Speaker: The question is:

"That the Bill to protect the Circus employees by bringing them under the operation of the Industrial Disputes Act, 1947 and the Workmen's Compensation Act, 1923, etc. be taken into consideration."

The motion was negatived.

15.28 hrs.

SALARIES AND ALLOWANCES OF MEMBERS OF PARLIAMENT (AMENDMENT) BILL

(Amendment of sections 3 and 5) by Shri Raghunath Singh

Mr. Deputy-Speaker: I have to inform the House that the following communication dated the 23rd April, 1964 addressed to the Secretary, Lok Sabha has been received today from Shri Satya Narayan Sinha, Minister of Parliamentary Affairs:

"Having been informed of the subject matter of the Salaries and Allowances of Members of Parliament (Amendment) Bill, 1964 introduced by Shri Raghunath Singh in Lok Sabha, the President has been pleased to recommend under Article 117(3) of the Constitution, the consideration of the said Bill."

"I am to inform you that it is not proposed to advise the President to recommend the moving of amendments Nos. I and No. 4 sponsored by Shri C. H. Mohd. Koya and Shri M. K. Kumaran and Shri Kashi Ram Gupta to