

12.04 hrs

**WORKMEN'S COMPENSATION
(AMENDMENT) BILL***

The Minister of Supp'y in the Ministry of Economic and Defence Co-ordination (Shri Hathi): Sir, on behalf of Shri Nanda, I beg to move for leave to introduce a Bill further to amend the Workmen's Compensation Act, 1923.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Workmen's Compensation Act, 1923."

The motion was adopted.

Shri Hathi: Sir, I introduce the Bill.

12.05 hrs.

**INDIAN TARIFF (AMENDMENT)
BILL***

The Minister of International trade in the Ministry of Commerce and Industry (Shri Manubhai Shah): I beg to move for leave to introduce a Bill further to amend the Indian Tariff Act, 1934.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Tariff Act, 1934".

The motion was adopted.

Shri Manubhai Shah: I introduce the Bill.

**FOREIGNERS LAW (APPLICATION
AND AMENDMENT) BILL**

The Minister of State in the Ministry of Home Affairs (Shri Datar):

On behalf of Shri Lal Bahadur Shastri, I beg to move:

"That the Bill to apply the Registration of Foreigners Act, 1939 and the Foreigners Act 1946 to certain persons to whom they do not at present apply and further to amend the Foreigners Act, 1946 be taken into consideration."

The amendment of these two Acts has been necessitated by the declaration of the emergency. As the House is aware, these two Acts had been in force during the last war. Thereafter also, the main provisions have been in force. But when the Constitution was introduced in 1950, certain difficulties arose. Under the provisions of one of those Acts, it was open to the Government to intern or to arrest and detain a person on certain grounds mentioned in one of those Acts. Now, when the Constitution was introduced, a difficulty arose, namely that a person could be arrested or could be detained without trial only under certain conditions laid down in the Constitution. That was the reason why the particular provision in one of those Acts could not be availed of and actually it lapsed. That is circumstance which also has to be taken into account. Thereafter, as the House is aware, immediately after the passing of the Constitution, steps had to be taken for the introduction of and passing the Preventive Detention Act. That Act has been extended from time to time. It makes provision in a general way for arrest and detention of certain persons on certain conditions without a regular trial. The difficulty that at present has arisen is that the elaborate provisions of the Preventive Detention Act could not be applied to those cases with which we have to deal during the emergency. Therefore, it was considered necessary that for arrest and detention, some other provisions of a more or less summary na-

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[Shri Datar]

ture as they originally existed in one of those Acts should be introduced. One of the objects of the present amendment is to re-introduce in this Act the provisions relating to arrest and detention which naturally means internment. An hon. Member has suggested that there ought to be an amendment so far as internment is concerned. But, I should like to point out to him that in this case, the word detention includes internment. Therefore, the purpose of that amendment has also been covered. One of the objects thus is to re-introduce the provisions regarding arrest and detention without going through the elaborate provisions of the Preventive Detention Act. This is point No. 1.

The other point which is of a more important nature is regarding amplification of the definition of the word 'foreigner'. You are aware that the word 'foreigner' has been defined in certain respects and action can be taken against a foreigner. But, certain complications naturally have arisen. After the declaration of emergency, we have to be extremely careful about those who had been originally Chinese nationals but who have subsequently taken or have become citizens of India. In this connection, I would invite the attention of the hon. House to certain provisions of the Constitution and also the Indian Citizenship Act. So far as the Constitution is concerned, under article 5, it was open to some of those persons by reason of their domicile to become Indian citizens. Therefore, under article 5, a number of such Chinese persons who have been residing in India for a number of years and who are governed by article 5 of the Constitution have become Indian citizens.

Then, there are a few cases where after the passing of the Indian Citizenship Act where either by registration or by naturalisation, a few Chinese have become Indian citizens.

Therefore, the problem with which we are now concerned is what to do with these persons who have constitutionally become citizens of India, but whose loyalty to the original country has also to be taken into account, because it is likely to react adversely upon the security of the Indian nation.

That is the reason why you would find that here the definition of the expression 'foreigner' has been amplified, and I would invite your attention to clause 2 of this Bill. It reads thus:

"Notwithstanding anything contained in any other law for the time being in force, the provisions of the Registration of Foreigners Act, 1939, and the Foreigners Act, 1946 . . ."

—between themselves, these two Acts deal with all the questions including the registration and the regulation of the conduct of these persons—

" . . . and of the rules and orders made thereunder shall apply to . . ."

— and these words might be particularly noted—

" . . . and in relation to any person who or either of whose parents, or any of whose grand-parents was at any time a citizen or subject of any country at war with, or committing external aggression against, India or of any other country assisting the country at war with, or committing such aggression against, India, as they apply to and in relation to foreigners as defined for the purposes of those Acts."

Thus, you will find in short that the object of the present amendment is to treat such persons as foreigners for the purpose of taking necessary action against them under the foreig-

ners' laws. So far as these persons are concerned, they can be categorised, apart from those who come under the general expression 'foreigners', as those who have become Indian nationals, but who themselves or whose parents or grand-parents had been of Chinese origin. As a result of the provision of the Constitution, as I pointed out, some of them might have become Indian nationals. A few of them have become Indian citizens either by naturalisation or by registration.

With regard to all these persons, it becomes necessary that their conduct has to be regulated, and wherever necessary, they have to be properly controlled. That is the reason why on account of the constitutional position attached to these persons, it has become necessary, during the emergency of the war in particular, to treat these persons for all intents and purposes as foreigners, so that necessary action can be taken against them for the purpose of arrest and detention.

Under the Preventive Detention Act, there was a reference to the arrest of such persons, but such arrest could be only for the purpose of deporting them. After the declaration of emergency, there is no question of deporting these persons. That is the reason why the definition of the term 'foreigner' has been sufficiently amplified so that all such Chinese nationals would be included even though they have become the citizens of India. Advantage has also been taken to make the definition as comprehensive as possible so as to meet future contingencies. For that purpose, I would invite your attention to the further words in this clause, namely:

"or of any other country assisting the country at war with, or committing such aggression against, India, as they apply to and in relation to foreigners as defined for the purposes of those Acts."

Therefore, so far as this position is concerned, principally it applies to Chinese today, especially those Chinese who have become nationals of India whose conduct will have to be regulated in the interest of the safety and security of the nation. That is the reason why under the provisions of the proposed Bill it has been decided to extend or amplify the definition of the expression 'foreigner' to such persons as well so that for the purpose of taking action against foreigners under the law relating to them they will also be included in that category.

Further action is made clear in clause 3 itself. So far as clause 3 was concerned, formerly, as I pointed out, in view of the provisions of the Constitution, they could not be arrested and detained without trial. For that purpose, the Preventive Detention Act also was passed. But there the provisions were fairly elaborate. Certain special steps have to be taken and these steps might not be proper so far as the present emergency is concerned. That is the reason why power has been sought for the purpose of arresting and detaining or confining any foreigner including a foreigner who comes under clause 2 of the Bill.

Further, provisions have to be made for the purpose of interning them in a special camp or under certain other arrangements. That has been made clear in clause 3(b)(i):

"Any foreigner (hereinafter referred to as an internee) in respect of whom there is in force any order made under clause (g) of sub-section (2) of section 3, directing that he be detained or confined, shall be detained or confined in such place and manner and subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time by order determine."

[Shri Datar]

Then the definition regarding penal provision in regard to assisting an internee have been made further clear. We had already a definition, but it has been made further clear in view of the present emergency.

"No person shall knowingly assist an internee or a person on parole to escape from custody or the place set apart for his residence, or knowingly harbour an escaped internee or person on parole or give an escaped internee or person on parole any assistance...."

In clause 4, arrangements have been made regarding access to such camps where these persons will have to be kept. This is only more or less by way of clarifying what has been done in the Ordinance. As you are aware, an Ordinance had to be issued in this respect, and the present Bill has been brought forward in accordance generally with the provisions of the Ordinance.

These are the provisions of the Bill, so far as the definition of the expression 'foreigner' is concerned, so far as the power to arrest, detain or confine a person is concerned; even those persons, of the category I have explained, will have to be confined, when it becomes necessary, in the interest of the security of India. For that purpose, they have to be treated on the same footing as foreigners.

I move.

Mr. Speaker: Motion moved:

"That the Bill to apply the Registration of Foreigners Act, 1939, and the Foreigners Act, 1946, to certain persons to whom they do not at present apply and further to amend the Foreigners Act, 1946, be taken into consideration".

12.19 hrs.

STATEMENT ON SITUATION IN NEFA AND LADAKH

Mr. Speaker: Here the Prime Minister might make the statement that he had to make independently of any notice that was received. But I have said that I will take up that notice also, so that statement might contain other facts also, not in response to this notice. Therefore, we will hear the Prime Minister and then I will take up this notice.

Shri Hari Vishnu Kamath: You said the notice had been admitted.

Mr. Speaker: I did not say it had not been allowed.

Shri Hari Vishnu Kamath : May I read the notice?

Mr. Speaker: Let the statement be made. I will take that up if something additional has to be got, because it is on specific points, and the Prime Minister wanted to make a statement independently of that.

The Prime Minister, Minister of External Affairs, Defence and Atomic Energy (Shri Jawaharlal Nehru): Mr. Speaker, Sir, I have to give grievous news to this House. Both Walong and the Sela ridge in NEFA have fallen to the enemy. In the Chushul area fighting is proceeding.

In Walong, the enemy attacked on the 15th/16th night. This was a two-pronged attack. The battle continued till the morning of the 17th. The enemy succeeded in shelling this air field, which was the only source of supply to our forces. In the 17th afternoon, our troops started withdrawing to defensive positions in the rear.

In the Jung area, the enemy attacked our positions on the 17th November. Their attack was repulsed four