

Mr. Deputy-Speaker: These amendments are agreed to by this House. Let me take the next Bill.

Shri S. C. Samanta: May I propose that the Bill be passed?

Mr. Deputy-Speaker: Amendments are to be agreed to and passed here. That is the form that we adopt.

Let us proceed with the next Bill.

FACTORIES (AMENDMENT) BILL

(SUBSTITUTION OF SECTION 59)

Shrimati Renu Chakravartty (Basirhat): I had already made a part of my speech last time. My amendment to the Factories Act is a small one, whereby I seek to achieve one point. There are certain industries in which the number of hours the workers work is less than 48 hours and this is by agreement between the employers and employees arising out of the nature of the work there. An anomaly has emerged, namely, that in these particular industries if the employees work for 44, 45 or 46 hours a week, that is beyond the agreed level of 44 hours a week, the overtime allowance is not counted unless the worker works for more than 48 hours. That means that the worker who normally works there for 44 hours a week, will not be entitled to any overtime allowance if he is asked to work suddenly for an extra three hours. It is only after he has worked beyond 48 hours a week that the overtime allowance comes into play, and even then the hours beyond the limit of 48 are only allowed to count for overtime payment. Supposing he works for 49 hours, he will get overtime allowance for one hour. What should really be the position is that since he works for 44 hours normally, he should get overtime allowance for the extra number of hours he has put from 44 hours to 49 hours, that is, for five hours. I had also brought to the notice of the House that certain new developments have taken place and that the worker is today being asked to bear a heavier workload. New technical devices have been introduced whereby one man who used to attend to one loom is now expected to attend to 12 looms at a time.

[SHRIMATI SUSHAMA SEN *in the Chair*]

Because of these factors, because also of the fact that the worker should be allowed to work normally for a certain number of hours keeping his health in view, because also of the fact that the worker cannot work beyond a given number of hours in an industry without his rate of production decreasing, I would ask the House to consider whether it is not necessary to accept this small amendment which will allow those poor workers, who are today working for less than 48 hours by agreement between the management and the labour, the right that overtime should be counted beyond the norm specified and agreed to and not beyond the 48 hours limit, which is a flat rate as prescribed in the Factories Act.

Mr. Chairman: Motion moved:

“That the Bill further to amend the Factories Act, 1948, be taken into consideration.”

Shri N. B. Chowdhury (Ghatal): This amending Bill seeks only to plug a certain loophole which is there in the existing Factories Act, 1948. In this Act we find that there is no provision made for payment for overtime allowances to the workers when they work less than the hours provided by the statute. We find that due to technological developments and due to the peculiar conditions of work in certain industries, the workers cannot work for a very long time, cannot work for 9 hours a day or 48 hours a week. It is so because of the strenuous nature of the work or because of some peculiar conditions attached to those industries. We know that when workers have to stand near the boiler and to work in such conditions, the very nature of such work makes it difficult for them to work for longer hours. In these circumstances, even the management or the owners agree that there should be less number of working hours. But from time to time it becomes necessary because of the pressure of work or any commitment which has to be fulfilled by the management in order to abide by certain contracts etc., to ask the workers to work for a few more hours. Under such circumstances it is very necessary that there should be no bar under the existing Act for giving extra payment or allowances for this additional work. But in section 59 of the present Act,

we find that although there is provision for overtime payment, it has been stated there—

“Where a workman works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.”

It has been said that the workers will be entitled to overtime wages only if they work more than nine hours in a day or more than 48 hours in a week. But it does not provide for payment of overtime allowance beyond the hour agreed to between the management and workers, although it may be less than 48 hours a week. In order to remove this lacuna, it is necessary that we should make this change in the existing Act, and I think the Government should not find it difficult to accept this simple amendment.

Moreover, in view of the Second Five Year Plan and our scheme for rapid industrialisation, we think it very necessary that due to the latest techniques and the very strenuous nature of the work in certain industries, this lacuna in the existing Act should be removed.

One more point and I would finish. In the present world, many countries are trying to reduce the number of working hours and we should not make it a statutory obligation here that even in cases where the workers are asked to work for more than the period agreed to, they will not be entitled to any allowance. We should not put any bar in the way of paying more in cases where the workers are asked to work for more time than the agreed period.

With these words, I would request the hon. Minister to accept this simple motion so that in case of need overtime wages may be given to the workers.

Mr. Chairman: Does the hon. Deputy Minister want to reply?

The Deputy Minister of Labour (Shri Abid Ali): Yes.

The amending Bill seeks to change the basis on which the original Act is framed with regard to the working hours. She expects that ordinarily the working hours may be as have been provided in the Act. But in certain cases where there is an agreement made by pressure of trade union movement

or because of reasonableness of a good employer, the working hours may have been reduced. The Bill seeks to amend the Act to that extent that this agreement which has been entered into between the worker and the employer should again be amended by Parliament so that they may be paid overtime and the employer may be penalised.

Shrimati Renu Chakravarty: No.

Shri Abid Ali: It is so because another employer will be having 48 hours a week and will pay overtime allowance after 48 hours whereas this employer who has been reasonable will have to pay overtime although the workers are working less than 48 hours. Therefore, I oppose the Bill and would request the hon. Lady Member to withdraw the Bill. Otherwise, I will request the House to reject it.

The labour policy, I may submit, as enunciated in the Second Plan is based *inter alia* on the recognition that while labour legislation and the enforcement machinery set up under it, can provide a suitable atmosphere in which employers and workers have to function, the best solution to common problems can only be found by mutual agreement. As in the case of limitation of hours of work beyond those laid down in the Factories Act, Government consider that regulation of overtime wages for work over and above the period of work agreed to between workers and the management, had best be left to be negotiated and settled by means of collective bargaining, rather than be superimposed through legislative measures. The latter course is likely to endanger the very gains on the basis of which the Mover of the Bill seeks to achieve a further advance.

In leaving the parties concerned to arrive at an agreement based upon the principle of mutual consent, Government hope that, in this as in all other matters, both employers and workers will exercise moderation and a sense of duty as trustees for the country, with due regard to the general, as distinct from the individual, interests. The new society which we desire to build up on the basis of democratic partnership and co-operation demands new patterns of behaviour on the part of the two sides of industry, culminating in integration of purposes which though seemingly opposed or in conflict with one another,

[Shri Abid Ali]

should have one common interest, namely the well-being and welfare of the people.

Moreover, the Second Plan is based on 48 hours a week and if we accept the proposed amendment, the whole structure of the Plan would change. Therefore, I oppose the Bill.

Mr. Chairman: Does the hon. Member want to speak? Is she withdrawing?

Shrimati Renu Chakravarty: I am not going to withdraw. I knew from the very beginning that the Deputy Minister could not accept any Bill, however reasonable it may be, which came from our side. I had anticipated that. It is quite obvious that the remarks made by the Deputy Minister are also completely beside the point. He mentioned three points.

Firstly, he said that if we accepted this Bill we would be penalising the factory owner who had agreed to a lesser number of working hours than that had been specified.

Shri Abid Ali: A good employer.

Shrimati Renu Chakravarty: Or, you may say, an intelligent capitalist who has recognised that he could not squeeze out more work from his worker under those conditions if he wants production to go up and therefore, he has accepted lesser number of working hours. Therefore, he said, this would be penalising him.

My point was this. I had given many examples to show that it is not penalising. If the State is interested in keeping up production, it has to give up certain old ideas that one had about squeezing out production by giving more and more workload and trying to make the workers work for a larger number of hours. One has to take the modern outlook; even for production to go up, one cannot work beyond a certain norm. If you make the worker to work beyond that, then his working capacity goes down. Had you accepted this position, there would have been no question of penalising; the attitude would have been otherwise. What is the best method of keeping up production? In respect of those industries where the labour and management have agreed, that in the interest of the industry the worker cannot work beyond a certain number of hours—in those industries

at least, overtime should have been guaranteed beyond the agreed number of hours. There is no question as to whether the management has done this out of kindness or their own self-interest. The fact remains that certain norms have evolved in the course of their experience and that is the norm beyond which, if a man works, he should be given overtime allowance. That is my answer to his reference about penalisation.

The second point is about the voluntary nature of solving problems. Voluntary agreements, methods and behaviour are something to be welcomed everywhere. But if we depend upon such a behaviour entirely, there will be no need to have a legislative body and it can be done away with. We appeal to the people to be reasonable and do things on a voluntary basis. At the same time, we recognise the necessity for laws due to human weaknesses which try to make profit at the expense of a section that is economically weaker than the others. Therefore, we need these labour laws and as long as we recognise that, we do not look upon them as something that are harmful but rather as something which regulates industry and industrial relations they should be looked upon as adding to the national benefit. Therefore, this voluntary nature and all that sort of thing may be appealing, but it does not militate against the desire for having certain laws.

I cannot follow what he said about the Second Plan. How can it go against that? The amendments incorporated in this Bill are things which we have to accept if we really want to achieve greater productivity. One of the things which I have understood about labour policy, however much I may be opposed to certain principles which are being propagated by the Planning Commission regarding labour policy, is, that they have tried to say that we must see that production goes up. If it has to go up, I contend that it is necessary for us to recognise that in certain industries, where already both labour and management have accepted a lesser number of hours than the specified 48 hours, as the maximum which a man can normally do, he should be given overtime allowance when he works beyond that time because he needs nourishment, he needs rest, he needs leisure in order to be able to come back fresh and healthy to create more value and increase the production for the country's benefit.

That is why I feel that it would have been a national patriotic duty to accept this small amendment. But I realise that the Deputy Minister will find himself in a very awkward position if he were to accept a proposal of however reasonable character it may be when it comes from the Communist Members of the Opposition.

Shri Abid Ali: Not because of that, because it is not reasonable.

Mr. Chairman: The question is :

"That the Bill further to amend the Factories Act, 1948, be taken into consideration".

The motion was negatived.

PROCEEDINGS OF LEGISLATURES
(PROTECTION OF PUBLICATION) BILL

Shri Feroze Gandhi (Partapgarh Distt.—West *cum* Rae Bareilly Distt.—East) :
Madam, I beg to move :

"That the Bill to protect the publication of reports of proceedings of Parliament, State Legislatures and their Committees be taken into consideration."

I am conscious that I stand in special need of the indulgence of the House because I am aware that the great privilege which has fallen upon me of presenting the Bill to the House arises from no merit or talent that I possess but from the engaging whimsicalities of our parliamentary machinery. I am not the sort of back-bench Member who enjoys having thrust upon him the duty of somewhat tedious exposition from a script. I am rather the sort who enjoys descending upon the House at rather infrequent intervals—the sort of back-bencher who existed in more spacious days—to castigate a mischievous Minister and then retreating for several months. I am afraid, therefore, that it falls to me to request the indulgence of the House while I fulfil the very great privilege and duty of moving this second reading. This is not what I have to say. These are the words of Mr. N. H. Lever who moved the Defamation Amendment Act, 1952 in the British House of Commons. He too like me, Sir—I am sorry, Madam—was a private Member. . . .

Shri S. S. More (Sholapur) : Let us make a convention to call the Chair as 'Sir'.

Shri Feroze Gandhi: Like myself he too was a private Member and that shows that where matters of libel, slander and defamation are concerned, probably the private Members are usually summoned in all Parliaments. Madam, I am in need of greater indulgence of the House than Mr. Lever was for I am not a lawyer. This information may also help to raise my stock in the Treasury Benches (*An Hon. Member:* Question!) where lawyers are not very popular.

Shri Gadgil (Poona Central) : Half a dozen of them are lawyers.

Shri S. S. More: Bad lawyers are popular.

Shri Gadgil: Become Ministers.

Shri Feroze Gandhi: May I continue now?

Mr. Chairman: Yes, the hon. Member may continue.

Shri Feroze Gandhi: I would like to express my thanks to the Law Minister for all the help that he has so kindly given me in drafting the Bill. I would also like to thank the Federation of Working Journalists and all friends who have helped me and, if I may say so, inspired me to bring the Bill before the House.

The Bill is a simple one. It seeks to privilege the publication of proceedings of Legislatures and confers on those who desire to publish our proceedings immunity from all legal action. The privilege which is sought in the Bill is not an absolute privilege, it is a qualified privilege. The Federation of Working Journalists and the All India Newspaper Editors' Conference have also demanded the freedom to report the proceedings of Legislatures without fear of any legal action. The Commission on the Press has also recommended the amendment of Section 499 of the Indian Penal Code to that effect.

For the success of our parliamentary form of Government and democracy, and so that the will of the people shall prevail, it is necessary that our people should know what transpires