

***The War Injuries (Compensation Insurance) Bill**

The Honourable Dr. B.R. Ambedkar (Labour Member) : Sir, I move:

“That the Bill to impose on employers a liability to pay compensation to workmen sustaining war injuries and to provide for the insurance of employers against such liability be referred to a Select Committee consisting of Sir Vithal N. Chandavarkar, Mr. N.M. Joshi, Mr. Jamnadas M. Mehta, Mr. D.S. Joshi, Mr. Ilooseinbhoy A. Lalljee, Khan Bahadur Mian Ghulam Kadir Muhammad Shabhan, Mr. C.C. Miller, Mr. K.L.C. Gwilt, Maulana Zafar Ali Khan, Mr. Yusuf Abdoola Haroon, Hajee Chowdhury Muhammad Ismail Khan, Mr. H. A. Sathar H. Easak Sait, Mr. Amarendra Nath Chattopadhyaya, Mr. R.R. Gupta and the Mover, that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five and that the Committee be authorised to meet at Simla.”

Mr. President (The Honourable Sir Abdur Rahim): Has the honourable member given the names ?

The Honourable Dr. B.R. Ambedkar : Sir, I will hand over the list now.

Mr. President (The Honourable Sir Abdur Rahim): The names ought to have been given earlier.

The Honourable Dr. B.R. Ambedkar : Sir, I do not think it would be necessary for me to take much time of the House in order to command this measure to the Honourable members. The main provisions of the Bill are three. The Bill seeks to give compensation to workmen who may become victims of war Induries ; secondly, the Bill seeks to make employers liable for such compensation; and thirdly, the Bill seeks to compel employers to insure against liabilities imposed upon them.

Now, taking the question of compensation, the point to which I wish to draw the attention of the House is that this Bill is a linked measure. It is linked to Workmen's Compensation Act. Now, Sir, the relationship

*Legislative Assembly Debates (Central), Vol. II, 31st March 1943, pp. 1649-51.

of this Bill to the War Injuries Ordinance to which I have made a reference is plain. As Honourable Members will recall, the War Injuries Ordinance, 1941, defines what is called the qualifying injuries. Those injuries are classified in that Ordinance. What the present Bill does is to adopt in the main the scope and limits of the qualifying injuries as has been defined in the War Injuries Ordinance. As to the question of relationship of the present Bill to the Workmen's Compensation Act that will be clear to the Honourable Members from the fact that the amount of compensation which has been fixed in this Bill for the victim of war injuries more or less follows the scale that has been fixed in the Workmen's Compensation Act.

Now, Sir, the reason for bringing this measure is this : After the War Injuries Ordinance was passed in 1941 a question was raised, a question which is of substance and if I may say so, of some importance and that question is whether the payment made to a workman who unfortunately happened to sustain what is called the qualifying injuries should be a sort of relief or should be compensation. The difference between relief and compensation is quite obvious. Relief is merely to help a person to get over the difficulties to which he might be reduced by reason of the incapacity which he suffers by a war injury and which prevents him from earning him normal wages. Compensation, on the other hand according to the terms of the Workmen's Compensation Act, seeks to make payment which compensates him fully for the loss which he incurs. When this question was raised a reference was made to the conditions that were prevailing in England and it was found that the British Parliament passed an enactment which is known as the War Injuries Miscellaneous Act of 1936. On examination of the provisions of this English Law it was found that the payments which were allowed under that Act amounted to compensation and not merely relief. Obviously the question arose whether it was not desirable for the Government of India to follow the principle which was laid down in this English statutes. Secondly, some of the employers, on their own accord after the passing of the War Injuries Ordinance of 1941, addressed a letter to the Government of India stating that from their point of view the provisions made in the War Injuries Ordinance were not sufficient for the maintenance of the morale of labour and that compensation should be paid in order that the labourers working in

disturbed areas may remain steady at that work. From both these points of view the Government of India accepted the principle of giving compensation to workmen in place of what was originally thought to be only relief.

On examining the provisions of the War Injuries Ordinance, it was found that at a level of about Rs. 24, the payments made under the War Injuries Ordinance constituted not only relief but also compensation. What is therefore necessary to do is to give the workman drawing a salary above Rs. 24 additional rebate which will make payments made to him amount to compensation; that is to say to supplement what he gets under the ordinance so that what he will get will also amount to compensation. This measure therefore is a measure which is a supplementary measure, which supplements the provisions of War Injuries Ordinance of 1941.

Having explained to the house the main provision, namely of compensation and how the Bill was linked up to the War Injuries Ordinance as well as to the Workmen's Compensation Act and having explained to the house the reason which led the Government of India to bring in this supplementary legislation, I will proceed to explain the second main provision of the Bill, namely to make the employer liable for such compensation. It might be said that while under the provisions of the War Injuries Ordinance, it was government which was undertaking the liability to pay relief, the Government also should undertake similar liability for making compensation to those to whom this present Bill applies. It is quite obvious that it is not possible for Government to undertake the liability which under the circumstances of the case may almost amount to anything because if India remains as it is, there may be no liability arising out of this. Or, if the situation worsens, the liability may be quite indefinite and having regard to the capacity of the Government of India, it is quite obvious that the Government cannot be asked to undertake such indefinite liability. Secondly, I do not think that much can be made of the fact that Government is not undertaking liability in this matter for it will be realised that whatever amount of compensation the employer may be called upon to pay under the liability which we are imposing upon him, it would no doubt be regarded as an admissible revenue expenditure

under E.P.T., and consequently in the main the burden would ultimately fall upon the Treasury.

I might also mention that while the Government of India is seeking to impose this liability upon the employers, the Government of India is not forgetting its own obligations to its own employees. Honourable members will find a clause there stating that this Bill does not apply to servants of the Crown or to employees of the Federal Railway. But that does not mean that these employees are not going to get the benefit similar to those which we are providing in this Bill. I should like to inform the House that the Federal Railways as well as the Government of India have informed their employees that they would be prepared to extend the provisions of extra pensions which are contained in the Civil Service Regulations and in the Statutory Rules governing the employment of railwaymen.

Now, Sir, the third provision which seeks to compel the employer to ensure the liability imposed upon him is, I claim to be, a very necessary and a very salutary provision. The object of making this provision is to ensure that the workmen at all time will get the compensation for which this Bill seeks to make provision. It may be, as the House may well realise, that if a factory is bombed or demolished, the assets of an employer are destroyed and if any provision of the sort that is sought to be made in this Bill is in existence, notwithstanding the benefit which the Act extends to the workmen, it may in the final analysis leave the workmen where they are without any opportunity of getting compensation which is provided for. Insurance therefore is guaranteed to the workman that in all circumstances the benefits which the Bill seeks to give him will be there for him, if he is so unfortunately situated as to receive the war injury. The working of the system will be somewhat as follows. The payment will be made by the employer to the employee in the first instance in regard to the terms of the Bill. The employer will be reimbursed out of an insurance fund which may be managed by the Government. The employer will contribute to this insurance fund the premium which will be settled at the end of the war when the total liability will be known. In the meanwhile, Government will be recovering advances from employers against the final premium which will be settled after the war. The quantum of advance will vary from quarter to quarter. In the first quarter the advance will not exceed

eight annas per 100 of the Wage bill. For subsequent quarters it will change depending upon the liability that may be outstanding. It may be that there have been no casualties in the preceding quarter. If that is so, it is obvious that no advances will be recovered from the employer. As I said, the advantage of the insurance scheme is that it ensures the workmen a payment, secondly the risk is distributed-safer areas which are not exposed to any attack will also be contributing towards the payment of compensation to workmen living and working in areas which have been attacked. Thirdly, the burden is proportionate because it is based upon the Wage bill of each employer.

It will therefore be seen, Sir, that the Bill is a very simple measure. I would also say that it is a non-controversial measure. The House would like to know that the idea of the Bill came from the Millowners Association in Bombay in the beginning of 1942. After the suggestion was sent to the Government of India, there was an informal conference held in April 1942 between the Secretary of the Labour Department, Sir Henry Richardson, Sir Frederic James, Mr. Haddow, Mr. Gwilt and Mr. Hooseinbhoj Lalljee. On their suggestion, the employers were consulted, two employers organisations were approached and two All-India organisations of Industrial employers have completely supported the measure. With regard to employers Federation, that organisation unfortunately was divided. One section is in favour, and the other is not. So far as labour representations are concerned, the Standing Labour Committee unanimously recommended this measure. I do not think that anything more is necessary to enable the house to understand fully the provisions of this Bill. Sir, with these remarks, I move.

*

*

*

***The Honourable Dr. B.R. Ambedkar :** Sir, I am glad to find such a general support accorded to the measure which I had the pleasure of moving this morning. The words of criticism which have emerged are indeed surprisingly few and most of them came from my Honourable friends, Mr. Miller and Mr. Joshi. My Honourable friend, Mr. Miller, said that it was necessary that the Government should give more information with regard to the measure. I shall always be glad to give him whatever information he wants if he would kindly let me

*Legislative Assembly Debates (Central), Vol. II, 31st March 1943, pp. 1659-61.

know the points which are troubling his mind. With regard to the other question which he raised, namely, that in his mind there appeared a certain discrimination between the rates we were paying under the War Injuries Ordinance and the rates we proposed to pay under the present measure, I fear he is labouring under a misapprehension because, as I tried to make out, the object of this measure is really to equalise the position of those who are covered by the War Injuries Ordinance and of those who are going to be covered by the present measure. As I pointed out, on examination of the rates we offered to the war injuries victims, we found that those who drew Rs. 24 and above only got relief and those who drew Rs. 24 and below got compensation. And what we propose to do now by this measure is to give compensation to those who stand above Rs. 24. Therefore, my Honourable friend will see that far from creating a position which will be called discriminatory, we are really equalising the position of all workmen to which both these measures are going to apply. I quite appreciate the point that my Honourable friend, Mr. Miller, made, namely, that this measure is restricted to a certain type of workmen or certain classes of workmen who are defined in clause 5. That is quite obvious from the provisions of the Bill itself. But, as I pointed out, having regard to two circumstances, firstly, that it is not possible for Government to undertake the liability of paying compensation to all workmen and, secondly, having regard to the fact that any scheme of insurance which Government can put forth must be administratively workable, it follows that Government cannot spread itself out to cover all sorts of workmen because, as I said, it would be too much of liability for Government to take and the scheme will become administratively unworkable. In order that we may run the insurance scheme, it is quite obvious that we must be able to locate an employer on whom we can definitely place the liability and from whom we can recover the premium. In the case of general population it is not possible to locate someone on whom this liability could be imposed and from whom the premium could be demanded. That is certainly the reason why we have been required to limit the scheme to certain classes of workmen who have been defined in clause 5. My Honourable friend, Mr. Miller, said that we have given no justification for confining our scheme to the classes of workmen who have been defined in clause 5. Some of the answers which I could

have given to him have already been given by my Honourable friend, Mr. Joshi, and I do not propose to repeat them. The answer really is to be found in the Statement of Objects and Reasons itself. The Statement of Objects and Reasons (paragraph 2) makes it clear that they are exposed to danger in factories and other industrial concerns. That, I submit, is as good a reason as any could be given for confining this measure to the classes of workmen who are defined therein. It cannot be denied that factories and industries are easy targets for enemy attack and the people working there are, therefore, more exposed to danger than the general population.

With regard to the question raised by the Honourable friend, Mr. Joshi, that this Bill does not apply to all workmen and he pointed out two particular cases in which he desired that the provisions of this Bill should be extended, namely, to the labourers working in Assam on tea plantations and seamen, are, no doubt, cases which require some particular answer. Now, Sir, my general answer to the criticism of Mr. Joshi, with regard to these two particular points is this, that Government is quite aware of what he has said and that is the reason why Government has introduced sub-clause (c) in clause 5, whereby Government has reserved to itself the power of extending the provisions of the Bill to other workmen employed in any employment. Government does not regard that the categories of workers defined are the final and that no occasion may arise to include others.

Dr. P.N. Banerjea : It is not exhaustive.

The Honourable Dr. B.R. Ambedkar : It is not exhaustive and, therefore, if a situation arises when it becomes clear to Government that the provisions of this Bill should be extended to workmen employed in other employments, Government will undoubtedly consider the matter.

With regard to the question of Assam, the only point I would like to make is this that, as I said, we are confining the measure to workmen who are living in what might be called exposed centres. To my mind and according to the information we have at present, it cannot be said that the tea plantations are exposed centres. If at any time the plantations do become exposed centres and subject to risk, there is no doubt about it that either Mr. Joshi may move in the matter or

Government will take notice and see that the provisions of this Bill are extended to the labourers in Assam.

With regard to the seamen, I think the matter was brought forward by the Commerce Department and I understand that there is a measure already in existence whereby a provision, if not of the same force, at any rate, analogous to the scheme that we are having, is already in existence. If my Honourable friend, Mr. Joshi, thinks that it is desirable that the Select Committee should examine and make some provision, if that provision is not incongruous with the main features of the Bill, I certainly will raise no objection for his considering the matter in the Select Committee.

My Honourable friend, Mr. Miller, referred to one or two clauses in the Bill. The first was sub-clause 5(3). To that I have given my reply that Government has deliberately introduced that sub-clause by way of caution because Government thinks that the expedience may arise whereby the provisions of this Bill may have to be extended.

The other section to which he referred was section 10 of sub-clause (3). His point of criticism was that by this provision Government proposes that if any balance is left out of the fund the excess will be paid into the general revenues. I understood Mr. Miller to say that this policy of the Government of India was not justified by the circumstances of the case. But if Mr. Miller will bear in mind the fact to which I have already referred, namely, that a good part of the money which will be paid as premia by the employers to this fund will come out of the E.P.T., then it is only proper that Government should be the residuary legatee of such balance. Sir, I have nothing more to say.

Mr. E.L.C. Gwilt (Bombay: European): May I ask a question from Honourable Member? He said in his opening speech that it is the Millowners' Association that initiated the scheme.

The Honourable Dr. B.R. Ambedkar: They made a suggestion.

Mr. E.L.C. Gwilt: Did not they also make a suggestion that any money left in the fund after the compensation is completely paid should be devoted to industrial research and if so, will my Honourable friend give consideration to that suggestion?

The Honourable Dr. B.R. Ambedkar: I have no memory, but I will look into the matter.

Mr. Chairman (Syed Ghulam Bhik Nairang): The question is :

“That the Bill to impose on employers a liability to pay compensation to workmen sustaining war injuries and to provide for the insurance of employers against such liability be referred to a Select Committee consisting of Sir Vithal N. Chandavarkar, Mr. N. M. Joshi, Mr. Jamnadas M. Mehta, Mr. D.S. Joshi, Mr. Hooseinbhoy A. Lalljee, Khan Bahadur Mian Ghulam Kadir Muhammad Shahban, Mr. C. C. Miller, Mr. E.I.C. Gwilt, Maulana Zafar Ali Khan, Mr. Yusuf Abdoola Haroon, Hajee Chowdhury Muhammad Ismail Khan, Mr. H.A. Sathar H. Essak Sait, Mr. Amarendra Nath Chattopadhyaya, Mr. R.R. Gupta and the Mover, that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be live and that the Committee be authorised to meet at Simla.”

The motion was adopted.

••